

# KSCAA®

Karnataka State Chartered Accountants Association (R)

## NEWS BULLETIN

- ▶ CARO 2020 ▶ Reading of FS - GST ▶ Reasons to believe - GST
- ▶ SCN - GST ▶ RERA audit ▶ Cyber Threat Intelligence ▶ IPR

September 2021

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▶ Karnataka State Chartered Accountants Association

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# PURCHASE VS CONSTRUCTION





Dear Reader,

I'm happy to write my first message for the Association as the President, let me begin by wishing you all a happy Ganesh Chaturti and Teachers' Day. This profession has drawn principles which has revered, celebrated and respected the seniors as their teachers, and I seek their guidance in discharge of my function as the President. I would seek your co-operation and

extend my office open to all those who want to seek and suggest the ideas to the Association for the betterment of fraternity.

This year our theme is 'ACT – Aspire, Connect and Transcend', the triad in the theme is Aspire, Connect and Transcend. Aspire is to believe in the dreams. The social world needs us to connect, which is the core of anyone's or an organizations' success in this dynamic world. We aspire by connecting physically or through common ideas and the resultant outcome is to transcend. The aspiration is an individual choice, whereas connecting with others is for common good, the result is to transcend all in the process. Igniting element is to Act, which is when the engine starts to roll to transcend.

The month of September which was otherwise a month of Audit has now been postponed due to pandemic, especially this has also aggravated and hampered by poor implementation of IT site. The Association has registered its lease cum sale deed of its site at Harohalli and I invite anyone who has projects and prospects to monetize this land for the betterment to contact me or the office.

The country has seen some spectacular performance by the Indian sportsman and athletes in Tokyo Olympics, the medal tally by the contingent in Paralympics 2021 is such an encouraging sight to watch. By promoting the contingent in Paralympics, India has showed the grit and belief of the inclusive environment which the country stands for.

## News Roundup

### Direct Tax

While Infosys has been put on notice to deliver a glitch-free portal, here are the updates on the direct tax front which kept the Income Tax professionals busy

- ✓ Tax dispute settlement scheme, VsVs, that remained in force for over 1.5 years has resulted in 132,353 settled cases (no. of Form 1 filed) involving disputed tax amount of Rs.99,756 crores (as per the declaration filed). The due date for payment of the amount determined in Form 3 is extended to 30.09.2021 (no change in the date for payment with additional amount i.e 31.10.2021)
- ✓ SOP issued for penalties under Faceless Penalty Scheme
- ✓ Form 10-IG & Form 10-IH, relevant to section 10(4) and 115AD, introduced
- ✓ Insertion of rule 10RB AND FORM NO. 3CEEA (relevant to section 115JB)
- ✓ The draft notification containing the proposed rules with respect to the retrospective amendment to section 9, is placed in public domain for comments.
- ✓ Due dates extended for various forms under the IT Act & under section 3 of the VSVS in the Press Release, dated 29-8-2021
- ✓ Rules & form (Form 12BBA) for furnishing of declaration and evidence of claims by specified senior citizen under section 194P have been notified.
- ✓ Shri G.S Pannu, Vice President ITAT has been appointed as Officiating President of ITAT
- ✓ Cases, where there is difficulty in ITBA and non-PAN persons, are now being allowed to be taken up by the jurisdictional AO instead under faceless regime. CBDT also notified procedure for handling such assessments

### Indirect Tax

GST collection for July 2021 stands at 1,16,393 crores as the economy is bouncing back to normalcy. The revenues of July 2021 are 33% higher than the GST revenues in the same month last year.

With GST law evolving day by day, it raises a question - When will the positions settle? Delay in setting up Tribunals (after 4+ years of GST!) has been the root cause for many to knock doors of High Courts for immediate resolution. Running cost of Pre-deposit for appeal makes writ jurisdiction a natural choice.

While umpteen judgments on levy of GST on ocean freight, interpretation of exemption entries, vires of rules, ITC matching have been favoring the assessee, its immediate application requires a conscious decision making to do. Possibility of these positions to unsettle in subsequent appeal proceedings before High Courts / Supreme Court has a bearing on decision making for business.

Our professional brothers have to be abreast with happenings at Indian Judicial Fora so as to advise clients and help their decision making. Our new team is committed to help members be updated on this front with a host of knowledge series in the pipeline.

On the compliance front, it is good to note that our Government has recognized the hardship in filing returns during pandemic and extending the amnesty scheme for returns from July 2017, with a late fee capping. Government has also addressed the issue of suo motto cancellation of registrations by providing a window for filing revocation applications to revive the registrations.

With clogging of assessment of legacy commercial tax matters, Karnataka Government has extended the time limit under Karasamadhana Scheme.

### Corporate Law

- ✓ The Ministry of Corporate Affairs has recently issued the Companies (Appointment and Qualification of Directors) Amendment Rules, 2021. In accordance with the Notification dated August 19, 2021, MCA has amended Rule 6(4) of Companies (Appointment and Qualification of Directors) Rules, 2014 dealing with 'Compliances required by a person eligible and willing to be appointed as an independent director'. The amendments have the effect of extending coverage of persons who can be appointed as Independent Director without passing online proficiency self-assessment test.

The gist of the amendment is as follows:

#### 1. Substitution of clause (B) of first proviso of rule 6(4):

Person in the pay scale of Director or equivalent or above in any Ministry or Department (earlier it was restricted to Ministry of Corporate Affairs, Ministry of Finance or Ministry of Commerce and Industry or Ministry of Heavy Industries and Public Enterprises), of the Central Government or any State Government, and having experience in handling,-

- (i) the matters relating to commerce, corporate affairs, finance, industry or public enterprises; or
- (ii) the affairs related to Government companies or statutory corporations set up under an Act of Parliament or any State Act and carrying on commercial activities.

#### 2. Insertion of second proviso in Rule 6(4):

Following persons having experience of 10 years can be appointed without passing online proficiency self-assessment test:

- a. an Advocate of a Court; or
- b. a Practicing Chartered Accountant; or
- c. a Practicing Cost Accountant; or
- d. a Practicing Company Secretary,

- ✓ MCA has amended the Companies (Specification of definitions details) Third Amendment Rules, 2021 vide Notification dated 5th August 2021. In the Companies (Specification of definitions details) Rules, 2014, in clause (h) of sub-rule (1) of rule 2, the following explanation is inserted, namely:- "Explanation.- For the purposes of this clause, electronic based offering of securities, subscription thereof or listing of securities in the International Financial Services Centres set up under section 18 of the Special Economic Zones Act, 2005 (28 of 2005) shall not be construed as 'electronic mode' for the purpose of clause (42) of section 2 of the Act."

*Benjamin Franklin Once said "Tell me and I forget. Teach me and I remember. Involve me and I learn"* is a beautiful quote which reminds us of the beautiful system which peaks when we collaborate teach and learn. Tell me is a superficial way of passing the information, whereas teaching and involving are conscious way of passing on the knowledge, which blossoms to all who are involved in the process. Who else knows the benefit of this quote than a CA, who passes through the stage of learning through involvement.

Happy Reading!

Yours' faithfully,

CA. Chandan Kumar Hegde A  
President

# KSCAA®

## NEWS BULLETIN

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## KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)

### VISION

- KSCAA shall be the trusted and value based knowledge organisation providing leadership and timely influence to support the functional breadth and technical depth of every member of CA profession;
- KSCAA shall be the nucleus of activity, amity and unity among members aimed at enhancing the CA profession's social relevance, attractiveness and pre-eminence;
- KSCAA shall in the public interest, be a proactive catalyst, offering a reliable and respected source of public statement and comments to induce effective laws and good governance;
- KSCAA shall be the source of empowerment for leadership and excellence; disseminating knowledge to members, public and students; building a framework for new opportunities and partnerships that enhance life in the community and beyond; encouraging highest ethical standards and professional integrity, in realization of India global leadership vision.

### MISSION

- The KSCAA serves the interests of the members of CA profession by providing new generation skills, amity, unity, networking and leadership to strengthen the professional capabilities, integrity, objectivity, social relevance, standards and pre-eminence of India's Chartered Accountants nationally and internationally through; becoming gateway of knowledge for Chartered Accountants, students and public; helping members add value to their customers/employers by enhancing their professional excellence and services; offering a reliable and respected source of public policy advice and comments to bring about more effective laws and policies and transparent administration and governance.

### MOTTO: KNOWLEDGE IS STRENGTH

KSCAA welcomes articles & views from members for publication in the news bulletin / website.

email: [journal@kscaa.com](mailto:journal@kscaa.com) | Website: [www.kscaa.com](http://www.kscaa.com)

#### Disclaimer

The Karnataka State Chartered Accountants Association does not accept any responsibility for the opinions, views, statements, results published in this News Bulletin. The opinions, views, statements, results are those of the authors/contributors and do not necessarily reflect the views of the Association.



CA. Parthasarathy Sudarsanam  
CA. Udupi Vikram

# REPORTING REQUIREMENTS UNDER CARO, 2020

## Background:

The Ministry of Corporate Affairs issued the Companies (Auditor's Report) Order, 2020 (CARO 2020/ Order) on 25<sup>th</sup> February 2020. The Order was initially applicable for audits of Financial Year 2019-20 and onwards but subsequently its applicability was deferred twice by one year. Now, the Order would be applicable for audits of Financial Year 2021-22 and onwards vide the order S.O. 4588(E), dated 17<sup>th</sup> December 2020.

The Order contains several significant changes and several new reporting requirements vis-à-vis earlier Order i.e. CARO 2016. Number of clauses has increased to 21 from the existing 16, the Institute has issued a Guidance note detailing the audit procedures to be performed in respect of CARO 2020 <https://resource.cdn.icai.org/60117aasb48979-a.pdf>

A snapshot of changes:

- Special clause applicable for Consolidated Financial Statements (CFS)
- Consolidating auditor to consider the remarks / qualifications made by component auditors
- CARO 2020 requires more reporting requirements from auditors, hence more details to be collected.
- New reporting for cases involving a working capital sanction/ limit in excess of Rs. 5 Crore: Whether quarterly returns/ statements filed with banks or financial institutions are in agreement with the books of account.
- Reference to "fixed assets" has been replaced with "property, plant and equipment".
- Clause 3(vii)(a) has been amended to include the statutory dues relating to Goods and Service Tax.
- Auditor must comment on transactions with promoters and / or related parties on the loans granted or advances in the nature of loans either repayable on demand or without specifying any terms or period of repayment, reporting on the aggregate amount and percentage.

- Reintroduction of commenting upon Internal Audit system

Reproduced below is the amended CARO report. The amendments are highlighted in italics for easy reference.

## CARO, 2020

- (i) (a)
- (A) whether the company is maintaining proper records showing full particulars, including quantitative details and situation of *Property, Plant and Equipment*;
- (B) *whether the company is maintaining proper records showing full particulars of intangible assets*;
- (b) whether these *Property, Plant and Equipment* have been physically verified by the management at reasonable intervals; whether any material discrepancies were noticed on such verification and if so, whether the same have been properly dealt with in the books of account;
- (c) whether the title deeds of all the immovable properties (*other than properties where the company is the lessee and the lease agreements are duly executed in favour of the lessee*) disclosed in the financial statements are held in the name of the company, if not, provide the details thereof in the format below:-

Description of property	Gross carrying value	Held in name of	Whether promoter, director or their relative or employee	Period held - indicate range, where appropriate	Reason for not being held in name of company*
-	--	-	-	-	*also indicate if in dispute



- (d) whether the company has revalued its Property, Plant and Equipment (including Right of Use assets) or intangible assets or both during the year and, if so, whether the revaluation is based on the valuation by a Registered Valuer; specify the amount of change, if change is 10% or more in the aggregate of the net carrying value of each class of Property, Plant and Equipment or intangible assets;
- (e) whether any proceedings have been initiated or are pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and rules made thereunder, if so, whether the company has appropriately disclosed the details in its financial statements;
- (ii)
- (a) whether physical verification of inventory has been conducted at reasonable intervals by the management and whether, in the opinion of the auditor, the coverage and procedure of such verification by the management is appropriate; whether any discrepancies of 10% or more in the aggregate for each class of inventory were noticed and if so, whether they have been properly dealt with in the books of account;
- (b) whether during any point of time of the year, the company has been sanctioned working capital limits in excess of five crore rupees, in aggregate, from banks or financial institutions on the basis of security of current assets; whether the quarterly returns or statements filed by the company with such banks or financial institutions are in agreement with the books of account of the Company, if not, give details;
- (iii) whether during the year the company has made investments in, provided any guarantee or security or granted any loans or advances in the nature of loans, secured or unsecured, to companies, firms, Limited Liability Partnerships or any other parties, if so,-
- (a) whether during the year the company has provided loans or provided advances in the nature of loans, or stood guarantee, or provided security to any other entity [not applicable to companies whose principal business is to give loans], if so, indicate-
- (A) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and guarantees or security to subsidiaries, joint ventures and associates;
- (B) the aggregate amount during the year, and balance outstanding at the balance sheet date with respect to such loans or advances and
- guarantees or security to parties other than subsidiaries, joint ventures and associates;
- (b) whether the investments made, guarantees provided, security given and the terms and conditions of the grant of all loans and advances in the nature of loans and guarantees provided are not prejudicial to the company's interest;
- (c) in respect of loans and advances in the nature of loans, whether the schedule of repayment of principal and payment of interest has been stipulated and whether the repayments or receipts are regular;
- (d) if the amount is overdue, state the total amount overdue for more than ninety days, and whether reasonable steps have been taken by the company for recovery of the principal and interest;
- (e) whether any loan or advance in the nature of loan granted which has fallen due during the year, has been renewed or extended or fresh loans granted to settle the overdues of existing loans given to the same parties, if so, specify the aggregate amount of such dues renewed or extended or settled by fresh loans and the percentage of the aggregate to the total loans or advances in the nature of loans granted during the year [not applicable to companies whose principal business is to give loans];
- (f) whether the company has granted any loans or advances in the nature of loans either repayable on demand or without specifying any terms or period of repayment, if so, specify the aggregate amount, percentage thereof to the total loans granted, aggregate amount of loans granted to Promoters, related parties as defined in clause (76) of section 2 of the Companies Act, 2013;
- (iv) in respect of loans, investments, guarantees, and security, whether provisions of sections 185 and 186 of the Companies Act have been complied with, if not, provide the details thereof;
- (v) in respect of deposits accepted by the company or amounts which are deemed to be deposits, whether the directives issued by the Reserve Bank of India and the provisions of sections 73 to 76 or any other relevant provisions of the Companies Act and the rules made thereunder, where applicable, have been complied with, if not, the nature of such contraventions be stated; if an order has been passed by Company Law Board or National Company Law Tribunal or Reserve Bank of India or any court or any other tribunal, whether the same has been complied with or not;
- (vi) whether maintenance of cost records has been specified by the Central Government under sub-section (1) of section 148 of the Companies Act and

whether such accounts and records have been so made and maintained;

(vii)

(a) whether the company is regular in depositing undisputed statutory dues including *Goods and Services Tax*, provident fund, employees' state insurance, income-tax, sales-tax, service tax, duty of customs, duty of excise, value added tax, cess and any other statutory dues to the appropriate authorities and if not, the extent of the arrears of outstanding statutory dues as on the last day of the financial year concerned for a period of more than six months from the date they became payable, shall be indicated;

(b) where statutory dues referred to in sub-clause (a) have not been deposited on account of any dispute, then the amounts involved and the forum where dispute is pending shall be mentioned (a mere representation to the concerned Department shall not be treated as a dispute);

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

(ix) (a) whether the company has defaulted in repayment of loans or other borrowings or in the payment of interest thereon to any lender, if yes, the period and the amount of default to be reported as per the format below:-

Nature of borrowing, including debt securities	Name of lender*	Amount not paid on due date	Whether principal or interest	No. of days delay or unpaid	Remarks, if any
	*lender wise details to be provided in case of defaults to banks, financial institutions and Government.				

(b) whether the company is a declared wilful defaulter by any bank or financial institution or other lender;

(c) whether term loans were applied for the purpose for which the loans were obtained; if not, the amount of loan so diverted and the purpose for which it is used may be reported;

(d) whether funds raised on short term basis have been utilised for long term purposes, if yes, the nature and amount to be indicated;

(e) whether the company has taken any funds from any entity or person on account of or to meet the obligations of its subsidiaries, associates or joint ventures, if so, details thereof with nature of such transactions and the amount in each case;

(f) whether the company has raised loans during the year on the pledge of securities held in its subsidiaries, joint ventures or associate companies, if so, give details thereof and also report if the company has defaulted in repayment of such loans raised;

(x)

(a) whether moneys raised by way of initial public offer or further public offer (including debt instruments) during the year were applied for the purposes for which those are raised, if not, the details together with delays or default and subsequent rectification, if any, as may be applicable, be reported;

(b) whether the company has made any preferential allotment or private placement of shares or convertible debentures (fully, partially or optionally convertible) during the year and if so, whether the requirements of section 42 and section 62 of the Companies Act, 2013 have been complied with and the funds raised have been used for the purposes for which the funds were raised, if not, provide details in respect of amount involved and nature of non-compliance;

(xi)

(a) whether any fraud by the company or any fraud on the company has been noticed or reported during the year, if yes, the nature and the amount involved is to be indicated;

(b) whether any report under sub-section (12) of Section 143 of the Companies Act has been filed by the auditors in Form ADT-4 as prescribed under rule 13 of Companies (Audit and Auditors) Rules, 2014 with the Central Government;

(c) whether the auditor has considered whistle-blower complaints, if any, received during the year by the company;

(xii)

- (a) whether the Nidhi Company has complied with the Net Owned Funds to Deposits in the ratio of 1: 20 to meet out the liability;
- (b) whether the Nidhi Company is maintaining ten per cent. unencumbered term deposits as specified in the Nidhi Rules, 2014 to meet out the liability;
- (c) *whether there has been any default in payment of interest on deposits or repayment thereof for any period and if so, the details thereof;*
- (xiii) whether all transactions with the related parties are in compliance with sections 177 and 188 of Companies Act where applicable and the details have been disclosed in the financial statements, etc., as required by the applicable accounting standards;
- (xiv)
- (a) *whether the company has an **internal audit system** commensurate with the size and nature of its business;*
- (b) *whether the reports of the Internal Auditors for the period under audit were considered by the statutory auditor;*
- (xv) whether the company has entered into any non-cash transactions with directors or persons connected with him and if so, whether the provisions of section 192 of Companies Act have been complied with;
- (xvi)
- (a) whether the company is required to be registered under section 45-IA of the Reserve Bank of India Act, 1934 (2 of 1934) and if so, whether the registration has been obtained;
- (b) *whether the company has conducted any Non-Banking Financial or Housing Finance activities without a valid Certificate of Registration (CoR) from the Reserve Bank of India as per the Reserve Bank of India Act, 1934;*
- (c) *whether the company is a Core Investment Company (CIC) as defined in the regulations made by the Reserve Bank of India, if so, whether it continues to fulfil the criteria of a CIC, and in case the company is an exempted or unregistered CIC, whether it continues to fulfil such criteria;*
- (d) *whether the Group has more than one CIC as part of the Group, if yes, indicate the number of CICs which are part of the Group;*
- (xvii) *whether the company has incurred **cash losses** in the financial year and in the immediately preceding financial year, if so, state the amount of cash losses;*
- (xviii) *whether there has been any **resignation of the statutory auditors** during the year, if so, whether the auditor has taken into consideration the issues, objections or concerns raised by the outgoing auditors;*
- (xix) *on the basis of the **financial ratios**, ageing and expected dates of realisation of financial assets and payment of financial liabilities, other information accompanying the financial statements, the auditor's knowledge of the Board of Directors and management plans, whether the auditor is of the opinion that no material uncertainty exists as on the date of the audit report that company is capable of meeting its liabilities existing at the date of balance sheet as and when they fall due within a period of one year from the balance sheet date;*
- (xx)
- (a) *whether, in respect of other than ongoing projects, the company has **transferred unspent amount** to a Fund specified in Schedule VII to the Companies Act within a period of six months of the expiry of the financial year in compliance with second proviso to sub-section (5) of section 135 of the said Act;*
- (b) *whether any amount remaining unspent under sub-section (5) of section 135 of the Companies Act, pursuant to any ongoing project, has been transferred to special account in compliance with the provision of sub-section (6) of section 135 of the said Act;*
- (xxi) *whether there have been any **qualifications or adverse remarks by the respective auditors** in the Companies (Auditor's Report) Order (CARO) reports of the companies included in the **consolidated financial statements**, if yes, indicate the details of the companies and the paragraph numbers of the CARO report containing the qualifications or adverse remarks.*
- In the first part of our article as produced above, we have only covered the changes in CARO reporting. We would cover the clause-by-clause analysis and recommended audit procedures in the upcoming parts of our article.

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#### KSCAA REPRESENTATIONS:

- Representation seeking rationalisation of empanelment norms for the appointment of "financial statements auditor" in Urban Local Bodies (ULBs)  
REF: RFP No. 30733 DMA 06 KMDS 2021-22

**For full text of above representation,  
please visit: [www.kscaa.com](http://www.kscaa.com)**

## KSCAA Welcomes New Members August 2021

Sl No	Name	Place
1	Yashaswini K	Bengaluru
2	Shivaprakash M Arali	Bengaluru
3	Vithal Prakash Gutti	Dharwad
4	Vamsi Krishna Boyapati	Bengaluru
5	Ankur Goel	Bengaluru
6	Yogesh Kumar J Chajjer	Bengaluru
7	Pavan Jain S	Bellary
8	Bhuvanesha B	Bengaluru
9	Ankit L Mehta	Bengaluru
10	Shambhumoorthy B	Bengaluru
11	Shalini Jain	Bengaluru
12	Gururaaja Shetty	Tumkur
13	Ashish Mahendraprasad Jindal	Ahamedabad
14	N. Ravisankar	Coimbatore
15	Vidya Mahesh Bhat	Bengaluru
16	Sannareddy Mithilesh Sai	Telangana
17	Immadisetty Venkata Sai Kiran	Andhra Pradesh
18	Arup Dasgupta	Kolkata
19	Sripriya	Chennai
20	S Krishnan	Chennai
21	Lakshman Vankadara	Ramnagar
22	Aditya Kumar S	Bengaluru
23	Venkatasubramanian	Chennai
24	Shankara Narayanan	Chennai
25	Venkata Krishna Kotari	Bengaluru
26	V Varadha Reddy	Bengaluru
27	S. Raja	Chennai
28	Veena L Kunthe	Harihara
29	Rajeev Hegde	Bengaluru

Sl No	Name	Place
30	Panduranga	Bengaluru
31	Ganesh Viswanathan	Bengaluru
32	Lakshmi N K	Bengaluru
33	Sachin V Hegde	Bengaluru
34	Hareesha Shetty	Mangalore
35	Arvind Athreya Cadambi	Bengaluru
36	Gayathri Panch	Bengaluru
37	Shridhar Venktramana Bhat	Uttara Kannada
38	Sharath Banad Rudrappa	Davanagere
39	Suhas Devaraj	Bengaluru
40	Indira S	Bengaluru
41	Nitesh Rajgopal Sarda	Shahabad
42	Kishore Kumar Pahuja	Udaipur
43	Gayathri B V	Australia
44	Sai Shravan Bandri	Ballari
45	Pracheta Manchali	Mysore
46	Ishwari A. Gudagunti	Bagalkot
47	Geethu P B	Bengaluru
48	Ajasab	Kalaburgi
49	Gajendra Choudhary	Bengaluru
50	Vinay J. Dsoshi	Bengaluru
51	Vandana K. Mehta	Bengaluru
52	Jaswanth Singh	Bengaluru
53	Vinitha G	Bengaluru
54	Sathyan H M	Bengaluru
55	Nagireddy Venkata Prathap Reddy	Bengaluru
56	Suneela Voleti	Bengaluru
57	Ajoy Kumar Sharma	Bengaluru
58	Sujith Kumar A	Bengaluru





CA. Madhukar N Hiregange  
CA. Akshay M Hiregange

# READING OF FINANCIAL STATEMENTS UNDER INDIRECT TAXES

Indirect Tax

With the removal of CA/CMA mandatory audits under GST and the beginning of GST departmental audits, it is important that a chartered accountant can support the client during their self-certification. Being aware of the various issues/clarifications that can be obtained by reading the Audited Financial Statements (AFS) is an important tool in assisting the client. In this article, we aim to provide some insights on important areas to focus upon, areas not having a bearing under indirect taxes and value additive indicators.

Utility of reading AFS correctly:

1. Integral part of 'Desk Review' function – informed about client and industry before first meet.
2. Indicators to verify indirect tax compliance/non-compliance
3. Clarification on queries without disturbing the client
4. Indicators of areas that need to be considered outside of AFS
5. Enhanced services during GST reviews, GSTR 9 & 9C filing assistance.

AFS Areas not having IDT Impact

1. Reserves & Surplus	2. Bad debts written off / back
3. Interest Income (borrowings)	4. Provisions against expenses
5. Finance costs	6. Other statutory dues payable
7. Loans & Advances (assets)	8. Cash Flow Statements / balances
9. Depreciation & Amortization	10. Forex gain/loss
11. Majority of employee benefits	12. Change in inventory
13. Deferred tax	14. Earnings per Share

Indicators from Balance Sheet (BS) with Notes

Balance sheet & Notes	GST Impact
Share holding	GST liability & ITC impact w.r.t merger/de-merger/transfer; Registration in portal – Amend & Signing (change in signatory)
Gratuity	ITC eligible on gratuity insurance as it is not life/health insurance
Govt. Grants	Other than CG/SG, consideration received in form of grants/subsidy would be liable under GST. (Ex: NGOs/ NPOs)
Trade payables	Rule 37 - 180 days ITC reversal provision can be verified.  ITC to be reversed and re-claimed upon payment.  Note: Rule not applicable w.r.t Retention money unpaid.
Current liabilities	GST not applicable on mobilization advance.  GST applicable on advance against services only (not goods)
Property, Plant & Equipment	1. Land & Buildings: Additions – GST eligible on ancillary; Deletions – ITC reversal (common credits)  2. Plant & Machinery (others): Additions – ITC eligibility incl. civil structures/ construction; Deletions – S18(6)  3. Motor Vehicles: Additions – ITC eligibility check; Deletions – Margin method/full rate liability.  Note: Rule 43 – ITC reversal w.r.t Capital Goods used for taxable + exempt supply. (Computational challenge)

Balance sheet & Notes	GST Impact
Intangible assets	Cross charge implications if multiple GSTINs.  Absence of asset/expense may indicate related party transaction.
Trade Receivables	Decision to raise credit note before September month GSTR3B due date following the financial year (only due to deficiencies)  Note: Option of Refund against write-off of non-receivables – Payment from customer and valuation can be said to be linked, and if payment fails, transaction fails. (disputable)
Inventories	1. Imports: Possible Customs/FTP benefits to be explored 2. Related party purchase: Valuation check 3. Write-off/disposals: Raw material – ITC reversal, semi/FG – ITC eligible (as used for business – disputable) 4. Scrap/Further supply: Classification & Rate applicability 5. Loss: ITC reversal may be required for abnormal loss only
GST dues & Balance with govt. authorities	1. Indicates - interest & possible SCN/ demand on past dues 2. Identify - Status, accumulation reason & re-claim to bank
Other current assets	1. Type of incentives (Ex: MEIS), possible GST on scrip sale 2. Time of supply implication

Indicators from Profit & Loss (PL) with Notes

Profit and Loss & Notes	GST Impact
Revenue from operations (goods / services)	1. Levy, valuation, classification, Time & Place of Supply verification 2. Exempt supplies/certain Sch III items – ITC reversal impact Other indicators: E-invoice/PLI scheme

Profit and Loss & Notes	GST Impact
Other Income (identify goods / services only)	Levy, valuation, classification, Time & Place of Supply verification  Non-GST supplies/Sch III items for GSTR 9 disclosure.
Segment reporting	1. SEIS, MEIS/RODTEP benefits realized against exports. 2. Imports - FTA between countries, CEPA and can also be explored.
Employee benefit expenses	1. Sch III no GST. (incl. ex-pat salary) 2. ITC eligibility to be verified (ex: insurances, necessity goods like water, medicine, gifts, recreational/business trip, etc.)
Conveyance	1. Women employee travel beyond 8:30 pm – stat. obligation ITC eligible (in KA) 2. 13-seater + vehicles – ITC eligible 3. Goods vehicle – ITC eligible 4. Reimbursements – RCM liability
Power & fuel	Table 5 GSTR 3B – inward – exempt & non-GST supply disclosure
Freight	1. GTA (agency) vs GTO (operator – exempt and not under RCM) 2. FCM vs RCM (5% vendor beneficial if credit ineligible)
Rent	1. ITC eligibility (different state billing - ineligible) 2. Residential – exempt – even if recovered from employees
Repairs & Maintenance/ Building expenses	1. Motor Vehicle: Depends on vehicle eligibility 2. Premises: Eligible 3. Plant & Machinery: Eligible
Communication costs & Bank charges	ITC eligible but GSTIN missed in Tax Invoices – Internet, Telephone, bank's issued invoice (not statement)

Profit and Loss & Notes	GST Impact
Food & Beverages (F&B)	Factory – mandatory eligible as per Factories Act/Rules. Water eligible. Other F&B ineligible
Professional fee	1. ITC eligibility 2. Possible RCM on import of services
Legal fee	1. RCM & ITC 2. Non-advocates/non-legal activity considered under this head for RCM incorrectly.
Rates & Taxes; Subscriptions	1. RCM on CG/SG/LA services not being exempt (ex: Leased line license from Ministry of Telecom). Verification of supplier and transaction if liable. 2. Subscriptions - Import of services – Form 27Q/Credit card forex payments
CSR	Possibility to claim ITC subject to general ineligibility. Helps increase social expenses, positive for India.
Other common costs (Ex: IT Costs)	Requirement of ISD to transfer credit to GSTINs utilizing such services.
Profit/Loss of sale of FA	1. Motor Vehicle: Margin/full value liability 2. Section 18(6) – 5% per quarter reduction requirement. 3. WDV block concept can be adopted instead of date of sale.
Related Party disclosures	1. Classification of goods/services 2. Valuation supply-wise 3. ITC eligibility
RPT - Directors	RCM liable on directors sitting fees/ any other services rendered in the capacity of director.

### Other Inferences & Areas outside AFS

Few important areas being part of the Notes to Accounts but not part of BS / PL is:

- **Foreign currency transactions** – Indicates:

- o Possible RCM liability on Import of services (obtain Form 27Q for verification).
- o ITC eligibility against Import of Goods & RCM payments
- o Refund issues due to non-receipt of forex (FIRC/e-BRC)
- o FTP & Customs benefits on outward forex. (Exemptions, SEIS, RoDTEP, MOOWR)
- **Contingent Liability** – Indicates:
  - o Possible liability which may have GST impact when transaction is with related party (ex: corporate guarantee)
  - o Disputed payments which may be liable under RCM (ex: Govt./related expenses)
- **Pending Disputes** – Indicates:
  - o Areas of contention, and ability to provide an independent view on the dispute under indirect taxes - Reason for dispute, value, status can be identified.
- **Other areas outside AFS**
  - o RCM on purchases from unregistered persons (Jul – Oct 2017)
  - o ITC on import of goods received free of cost (Delivered Duty Paid)
  - o Refund eligibility on Exports without receipt of forex. (Ex: Samples)

### Conclusion

Professionals may need to have a simple commentary to resolve some doubts about the inferences provided in this article. The self-certification of Form 9C by the taxpayer would need the ability to identify issues and provide solutions. In the process of doing so, value addition to clients is also possible by the professional. Interpreting and analyzing a Financial Statement keeping in mind GST, Customs, FTP rules and regulations, helps to also focus on critical areas, reduces costs & client interaction and therefore results in overall client satisfaction. This article would be useful for qualified, assistants and articles engaged in GST compliance.

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CA. Annapurna D Kabra

## REASONS TO BELIEVE - GST

- The term '**Reasons to believe**' is not defined under the GST law. It may be understood by the interpretation of legal meaning pronounced by various court under different tax laws. As per Section 26 of the IPC, 1860, "A person is said to have 'reason to believe' a thing if he has sufficient cause to believe that thing but not otherwise.
- Reason to believe consist of two words i.e., '**reasons**' mean cause or justification and the word '**believe**' means to accept as true or to have faith in it. Therefore, there must be justification for it and belief is the result of the mental exercise based on information received.
- The Courts in the case of **Sheth Brothers v JCIT** reported in 251 ITR 270 (Guj), wherein settled legal position has been summarized what the "reasons to believe" includes as under:
  - (a) There must be material for the belief.
  - (b) The circumstances must exist and cannot be deemed to exist for arriving at an opinion.
  - (c) The Reason to believe must be honest and not based on the suspicion, gossip, rumor, or conjecture.
  - (d) The Reasons referred to must disclose the process of reasoning by which he holds the "reasons to believe" and change of opinion does not confer the jurisdiction to reassess.
  - (e) There must be nexus between the material and the belief and
  - (f) The reasons referred to must show application of mind by the officer.
- There are specific provisions under the GST law which prerequisite '**Reasons to believe**' to make it operative and functional. If the proper officer has reason to believe that a composition dealer has wrongly availed the benefit under the composition scheme, then after taking recourse to show cause notice and adjudication, he can direct such person to pay all the taxes which he would have paid under the normal scheme along with interest and penalty as applicable.
- Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled, he shall issue a notice to such person in FORM GST REG-17, requiring him to show cause, within a period of 7 working days from the date of the service of such notice, as to why his registration shall not be cancelled.
- The Proper officer can restrict the utilization of credit which is already availed if there are *Reasons to believe* that such input tax credit has been fraudulently availed or is ineligible. The circumstances under which the restrictions can be imposed are:
  - A.** If the Input tax credit has been availed based on valid documents issued by non-existent supplier or by person not conducting any business from the registered place of business or if credit is availed without receipt of goods/services or the tax in relation to credit availed by recipient is not paid to the Government
  - B.** The Registered person availing the Input tax credit has been found non-existent or not conducting any business from the registered place of business and is not in possession of valid documents.
- If the supplier has availed the credit fraudulently then proper officer cannot have the reason to believe that the recipient of the goods or services has also indulged in the fraudulent activity. The reasons to believe shall not be arbitrary but should be exercised in judicial manner to avoid litigations and hardship to taxpayers.
- If there is difference in GSTR 1 and GSTR 3B or GSTR-2A and GSTR-3B, then it cannot be the reason to believe for blocking the electronic credit ledger. Though



the formation of opinion may be subjective, but it must be based on material on record. It cannot be arbitrary, unreliable, or whimsical.

- Rule 86A provides that **Reasons** for blocking of credit should be recorded in writing by the commissioner or officer authorized but it does not mandate such officer to intimate such reasons to the taxpayer whose credit ledger has been blocked. Several registered persons have noticed that their electronic credit ledgers are blocked without any intimation. This issue was challenged in Gujarat High Court in case of **M/s Mili Enterprises v. Union of India 2021 -VIL-476-GUJ** on the contention that notice was not served and the reason for blocking the credit is not stated. The officer should have valid reason to believe to invoke Rule 86 A for blocking the input tax credit.
- If the Proper officer has **Reasons to believe** that a place of business or any other place is to be visited for the purposes of inspection or search or seizure, then he shall issue an authorisation in **FORM GST INS-01...** The words "where the proper officer has reasons to believe" in section 67 of the Act suggest that the belief must be that of an honest and reasonable person based upon the relevant reasonable grounds and the officer may act on direct or circumstantial evidence but not on mere suspicion, gossip, or rumour. It has been held by the Supreme Court in **Sheonath Singh's (Income Tax)** case, that the Court can examine the materials to find out whether an honest and reasonable person can base his reasonable belief upon such materials although the sufficiency of the reasons for the belief cannot be investigated by the Court.
- To ensure that these provisions are used properly, effectively and the rights of taxpayers are also protected, it is stipulated that inspection, search or seizure can only be carried out when an officer, of the rank of Joint Commissioner or above, has reason to believe the existence of such exceptional circumstances. The Inspection can be carried out only if he *has reasons to believe* that the person concerned has done one of the following actions:
  - Suppression of any transaction relating to supply of goods or services or stock in hand.
  - Claimed excess input tax credit.
  - Contravention of any provisions of the Act or the Rules to evade tax.

- Transporting or keeping goods which escaped payment of tax or manipulating accounts or stocks which may cause evasion of tax.
- Goods liable to confiscation or any documents/books/record/things, which may be useful for or relevant to any proceedings, are secreted in any place then all such places can be searched.....
- The search and seizure provisions cannot be invoked unless there are strong reasons for taking such drastic action. The belief of the concerned authority should be based on some actionable material that he has had an opportunity to peruse. The High Court in case of **RJ Trading Company Vs Commissioner of CGST 2021-TIOL-1552-HC-DEL-GST** state that the officers concerned should bear in mind that the search and seizure power conferred upon them is an intrusive power which needs to be wielded with utmost care and caution. The legislature has consciously stipulated this power by inserting the controlling provision, i.e., "reasons to believe".
- The "Reason to believe" is a higher level of state of mind. It controls the exercise of powers under the said provisions. It is purely subjective satisfaction of the proper officer who initiates proceedings against the taxpayers. In many instances, the proper officers are issuing notices without citing the reasons, so moreover the reasons to believe shall be recorded for issuing notice and for establishing the opinion of the proper officer, though it may not be expressly provided under the GST law.
- The reasons to believe should be recorded and in many instances the proper officer must record reason to believe though it is not necessary to communicate to the taxpayers. The principles shall be applicable for all the provisions where the legislatures have been granted 'reasons to believe' powers to the officers.
- Basically, the officer must have tangible reason and cannot initiate the proceedings without any tangible and valid reasons. Therefore, the Author believe that in many instances the notices are issued without any tangible reasons, and it can be argued or challenged if the belief is not based on material evidence/documents.

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CA. B L Subramanya

# SHOW CAUSE NOTICE – THE BEDROCK OF YOUR CASE!

## Executive Summary of the Article:

An attempt is made through this article to come out with key points one shouldn't miss addressing in Show Cause Notice - the bedrock of one's case. Cautious consideration of these aspects would aid the litigation journey of the case.

## Introduction

It is a relief that we are (slowly) returning to normalcy after a strict lockdown imposed to break the chain. Alongside this, The GST authorities are also returning to train their guns on the Tax Payers. Spike is seen in cases taken up for audit and investigation. Follow ups are rigorous and (few) propositions raised are daunting.

It's time to pull up our socks and attend the (flurry of) show cause notices (SCN/s) underway!

## All about SCN

### Leading to SCN...

Before the authority issues a notice to show cause, an information/evidence gathering exercise is to be done by the authorities through one or more of the below available powers,

- (i) **Scrutiny of Returns** and related particulars furnished by the GST registered Persons.
- (ii) **Audit** of Books and records maintained under GST and under other laws for the time being in force.
- (iii) **Special Audit** got done from a Chartered Accountant or a Cost Accountant nominated by the Commissioner to verify records of a registered person, considering the nature and complexity of the case.
- (iv) **Inspection & Search** places of business
- (v) **Inspection of Goods in movement**
- (v) **Summons** to give evidence and produce documents

Each of the above powers can be exercised by the officer of a designated rank or with the prior approval of officer of designated rank. To choose out of the above, as per the provisions of the law, is the discretion of the officer concerned having regard to the facts of the case.

Upon gathering details, authorities would proceed to propose the demand by issue of a SCN seeking an explanation on the issues raised.

### Some points to consider in SCN...

Provisions of Demand and Recovery are set out in Chapter XV to GST Act. Section 73 deals with determination and issue of show cause notice for demand of tax/input tax for reasons other than fraud, willful misstatement or suppression of facts. Section 74 deals with cases involving fraud, willful misstatement and suppression of facts.

It is the **Proper Officer** who has to issue the show cause notice as per Section 73/74. For this purpose, circular 3/2017 and circular 31/2018 needs to be referred. Circular 31/2018 also provides for the monetary limits and the rank of officer against such limits, who could exercise the powers of issuing SCN and order. If the officer issuing the notice is not the proper officer, then the SCN lacks the jurisdiction and needs to be challenged.

Notice should contain the details of **relied upon documents** / details, reason for arriving at a particular conclusion, clearly set out the ingredients for invoking extended period of limitation u/s 74.

Jurisprudence developed over years requires SCN to be issued out of a thorough **reasoning than on surmise** and expects to be without arbitrariness. In this context, it is worth to visit the SC judgments in the case of **Oryx Fisheries Pvt. Ltd. v. Union of India — 2011 (266) E.L.T. 422 (S.C.)** where it was said

*"It is obvious that at that stage the authority issuing the charge-sheet, cannot, instead of telling him the charges,*

*confront him with definite conclusions of his alleged guilt. If that is done, as has been done in this instant case, the entire proceeding initiated by the show cause notice gets vitiated by unfairness and bias and the subsequent proceeding becomes an idle ceremony."*

It is onerous on the authorities to provide an **opportunity of being heard** before adjudicating the matter covered by SCN. This stands on the principle; **no one can be a judge in his own case**. Non provision of personal hearing is held a serious violation and proceedings are set aside for its violation of Article 14 - Equality. Few landmark judgments in this regard is –

- Menaka Gandhi vs Union of India 1978 AIR 597
- Umanath Pandey v. State of UP [2009] 12 SCC 40-43

Courts have gone ahead to also mention that the opportunity of being heard should be real, reasonable and effective. The same should not be for name sake. **It should not be a paper opportunity**, in the case of **n CIT v. Panna Devi Saraogi [1970] 78 ITR 728 (Cal.)**.

Courts have reiterated that when certain procedures are prescribed in the law, it should be followed in the manner prescribed. Rule 142(1) requires certain notices to be uploaded electronically. Since the notices were served on email and not uploaded electronically, those were held invalid by the Madhya Pradesh High Court in **Shri Shyam Baba Edible Oils Vs Chief Commissioner and another in W.P. No.16131/2020**

In **M/S. Metrolite Roofing Pvt. Ltd vs The Dy. Commissioner of Central Taxes and others**, Kerala High Court has made the proceedings invalid for not issuing the personal hearing record post completion of hearing stating that the procedure was devised to address compliance of natural Justice.

Section 160(2) of the Act creates a bar on **questioning the service** of notice / order at a subsequent stage, if it was acted upon initially. So, the first of the grounds is on the service of notice, if not served as per the provisions of the law.

**Limitation for issue** of SCN is pivotal to ascertain the validity of show cause notice. Section 73 notice needs to be issued at least 3 months prior to the time limit for issuance of order. Time limit for issue of order u/s 73 is 3 years from the due date for filing Annual return for relevant period. Section 74 notice needs to be issued at least 6 months prior to the time limit for issuance of order. Time limit for issue of order is 5 years from the due date for filing Annual Return

for relevant period. Such limitation, however, doesn't apply for issue of SCN where taxes are collected and not paid.

**Interesting to note** - Government always **Extends** the due date for filing Annual Return but **waives late fee** for other returns (till now). Extension of due date means extension of time for assessment u/s 73 / u/s 74 of the Act. No doubt it is a new law and even the revenue is in the same train, (un)/ learning and needs time to take its position.

Voluntary compliance by paying missed tax/ineligible ITC and interest, either on own or on being pointed by the officer, before issuance of SCN or within 30 days of issue of SCN, is rewarded with **waiver of penalty and non issuance of SCN** for cases not involving ingredients like fraud etc.,.

If the issue involves fraud, then to obtain such immunity, the amount of tax, interest and 15% penalty needs to be paid before issuance of notice or 25% penalty within 30 days of service of notice. Or the proceeding will be considered as closed if the tax, interest and 50% penalty is paid within 30 days of issue of order. This would best suit a situation where the mistake is inadvertent and would also help in concluding the issue. But the tussle is between officer's inclination towards Section 74(5) and taxpayer's towards Section 73(5) (for obvious reasons).

Deeming fictions have always been (highly) favoring revenue to support their stance. One such explanation finds place in Section 74 where they explain **Suppression** to mean

Non-declaration of facts or information required to be declared in return, statement, report or any other document furnished

Failure (i.e. a subjective and revenue biased term) to furnish any information on being asked for in writing by the proper officer.

This casts a burden on the registered person to declare everything required under the Act/rules (even beyond the best of his knowledge?). It is important to note that invoking extended period of limitation is the Peril of non declaration.

In contrast with laws hitherto, there is a **limit of 3 for adjournments** allowed (if sufficient cause is shown) in SCN proceedings. So, due care needs to be taken and only for a compelling reason, adjournment should be sought.

Some of the potential GST issues for which SCNs are being issued, requiring caution in exercising appropriate action, are:

- Difference between GSTR 2A & GSTR 3B
- Taxability of Ocean Freight on Import

- Non payment to vendors within 180 days
- Classification and Rate of Tax on various goods
- ITC reversal u/s Rule 42 & Rule 43 for real estate sector
- GST exemption on Annuities for Construction of Roads
- Resident Welfare Associations exemption of up to Rs. 7,500/-
- Supplies between related/distinct persons
- Charge of GST on Personal Guarantee provided by Director to Company

#### Conclusion:

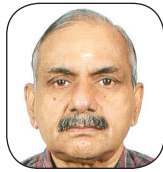
SCN forms the basis for revenue's case and becomes imperative on the taxpayer not leave any stone unturned to venture into all possibilities of challenging the notice to start the litigation journey. Recent Judicial Pronouncements along with relevant ones from erstwhile laws could be of avail in understanding and defending the case.

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### Lucky Winners of KSCAA Membership Drive 2021

Sl No.	Name	Place
1	Bhuvanesha B	Bangalore
2	Ankit L Mehta	Bangalore
3	Gururaaja Shetty	Tumkur
4	Ashish Mahendraprasad Jindal	Ahamedabad
5	Immadisetty Venkata Sai Kiran	Andhra Pradesh
6	Sripriya	Chennai
7	Lakshman Vankadara	Ramnagar
8	Indira S	Bangalore
9	Kishore Kumar Pahuja	Udaipur
10	Nagireddy Venkata Prathap Reddy	Bangalore





CA. Krishnan S

# ARE THE TERMS PURCHASE AND CONSTRUCTION SYNONYMOUS?

In Focus

## 1. Introducing Remarks

A judge made law, also known as stare decisis or case law, is the legal rule, ideal, or standard that is based on the past decisions of other judges in past cases, instead of laws made by an elected, legislative body

Judges, through the rules of precedent, merely discover and declare the existing law and never make 'new' law. A judge makes a decision, 'not according to his own private judgment, but according to the known laws and customs of the land; not delegated to pronounce a new law, but to maintain and expound the old one'.

However, although judges have traditionally seen themselves as declaring or finding rather than creating law, and frequently state that making law is the prerogative of Parliament, yet there are several areas in which they clearly do make law.

One such area is interpreting provisions of sections 54 and 54F of the Income-tax Act (the Act) liberally by enlarging the term "purchase" to include "construction" also so far as acquiring the new capital asset (residential property) within one year prior to transfer of old capital asset is concerned.

This article centres around such an interpretation placed by various judicial authorities.

## 2. Provisions of section 54/54F of the Act

Section 54(1) Subject to the provisions of sub-section (2), where, in the case of an assessee being an individual or a Hindu undivided family the capital gain arises from the transfer of a long-term capital asset being buildings or lands appurtenant thereto, and being a residential house, the income of which is chargeable under the head

"Income from house property" (hereafter in this section referred to as the original asset) and the assessee has within a period of one year before or two years after the date on which the transfer took place **purchased**, or has within a period of three years after that date constructed, one residential house in India then, instead of the capital gain being charged to income-tax as income of the previous year in which the transfer took place.

The provisions of section 54F are similar with regard to the period of one year prior to sale of old capital asset.

## 3. Forerunner in this direction

3.1 The Karnataka High Court in the case of **CIT vs. J.R. Subramanya Bhat [1987] 165 ITR 571** held that "the date of the commencement of construction of the new building was immaterial. Since the assessee had constructed the building within (*the then period of*) two years from the date of sale of the old building, he was entitled to relief under Section 54 of the Act."

### 3.2 Note of caution

However, if the house is complete before the sale of old capital asset the assessee would not be entitled to any exemption as was held by the Gujarat High Court in the case of **Smt. Shantaben P. Gandhi vs. CIT [1981] 129 ITR 218**

3.3 Cases wherein Subramanya Bhat's (supra) was followed

- (i) **CIT vs. H.K. Kapoor [1998] 234 ITR 753 (All)-** Held that commencement of construction of new building before sale of old building was immaterial.

(ii) **Asstt.CIT v. Subhash Sevaram Bhavnani [2012] 23 taxmann.com 94(Ahd-ITAT)**-Held that where construction commenced at any time before transfer of old house and was completed after transfer within the three-year time-limit the assessee was entitled to benefit of deduction of entire amount under Section 54 of the Act

(iii) **CIT vs. Bharti Mishra [2014] 41 taxmann.com 50 (Del)** held that the assessee could claim benefit under the said section provided the assessee had within a period of three years after the date of sale of the original asset, constructed a residential house. It is not stipulated or indicated in the section that the construction must begin after the date of sale of the original/old asset.

(iv) The ITAT Bangalore Bench in the case of **R.M.M. Athreya v. ITO [IT Appeal No. 467 (Bang) of 2013, dated 26<sup>th</sup> September, 2014]** held that "We are not concerned when the payments were made, because mere payments do not entitle an assessee to say that he has acquired the property. The appointed date is the date when the transaction of purchase is to be considered as a transfer within the meaning of Section 2(47) of the Act between the assessee who claims exemption under Section 54 of the Act and the vendor who has sold the property namely the new asset. In the present case, the new asset can be termed to be acquired either in May, 2008 when possession was given to the assessee or 15-10-2009 when ultimate sale deed was registered in favour of the assessee. The transfer as per Section 2(47) of the Act for purchase of the new asset would be considered as taken place in May, 2008 or 15-10-2009, it cannot be considered from the date when the assessee merely agreed to purchase a flat."

It is interesting to note that payment made to the builder, in this case, was considered as purchase of property as against the nomenclature of construction which helped the assessee in claiming exemption for having acquired the property within 1 year of sale of old property. Had the payment made to the builder been treated as construction then the assessee would

have lost exemption, as the house was completed prior to sale of old capital asset, as held by the Gujarat High Court in the case of Smt. Shantaben P. Gandhi (supra). The old capital asset was sold on 1<sup>st</sup> September, 2008.

#### 4. Important decision from the Madras High Court

The Madras High Court in the case of **C. Aryama Sundaram vs. CIT [2018] 407 ITR 1** held that not only cost of construction of new property incurred after sale of old property would be eligible for exemption under Section 54(1) of the Act, but also cost of land on which new property was constructed, even if such land had been purchased three years prior to sale of old property.

#### 5. Other cases of relevance

5.1 The ITAT Ahmedabad Bench in the case of **Dy. CIT vs. Radhakant M. Tripathy [IT Appeal No.136 (Ahd.) of 2011, dated 21<sup>st</sup> February, 2014]** held that payment made towards purchase of land and construction within 1 year prior to date of sale of old capital asset was eligible for exemption under section 54F of the Act.

5.2 The ITAT Delhi Bench in the case of **Yashodhar Kumar Jain vs. Asstt. CIT [IT Appeal No. 1449 (Delhi) of 2012 dated 3<sup>rd</sup> June, 2016]** restricted the deduction to payment made within 1 year of sale of old capital asset as against full deduction claimed by the assessee which included payments made more than prior to date of transfer of old capital asset. It is to be noted that there was no representation from the assessee's side.

#### 6. What is the date of acquisition of new capital asset?

In the case which arose before the Karnataka High Court in **M.George Joseph vs. Deputy CIT in ITA No. 238 of 2015- Assessment Year 2009-10-Date of Judgment 12<sup>th</sup> July, 2021** the daughter of the assessee had entered into an agreement for purchase of a flat on 30.12.2006 with a builder. On 21.08.2008, the assessee transferred his shares in the company on which Long Term Capital Gain was offered. Thereafter, under an agreement, on 18.03.2009, the flat was transferred in the name of the assessee and thereafter a registered sale deed was executed in favour of the assessee on 28.03.2011. The assessee had acquired

the residential property viz., *the flat under an agreement to sell in respect of undivided land and an agreement to build, thus, the instant case was a case of construction of a residential house*. The sale deed was executed in favour of the assessee within a period of three years from the date of transfer of shares i.e., on 28.03.2011, prior to three years from the date of transfer of shares i.e., 21.08.2008. Based on these facts the High Court went on to hold that "Therefore, the authorities under the Act ought to have examined the claim of the assessee whether or not the assessee had constructed a residential house within a period of three years from the date of transfer of original property. It is also pertinent to note that exemption under Section 54 of the Act is dependent on the date of acquisition of the property and not on the date of payment made in respect of such property. It is also noteworthy to mention that to claim an exemption under Section 54F of the Act, it is not necessary that the same sale consideration should be used for construction of a new house property. It is also noteworthy that Section 54F of the Act is a beneficial provision, which has been enacted with an object to promote investment in housing and enable the assessee to save tax on capital gains. It is a well settled rule of interpretation that benevolent provision should be interpreted liberally bearing in mind the object for which the provision is enacted. Thus, from narration of aforementioned facts, it is evident that the assessee had complied with the conditions stipulated under Section 54F of the Act and was entitled for exemption. Therefore, the finding recorded by the tribunal that since, payments were made prior to one year before the date of transfer of shares and therefore, the assessee is not entitled to claim exemption under Section 54F of the Act cannot but be termed as perverse."

#### 7. Analysis of the distinction between purchase and construction

The distinction between purchase and construction was well explained by the Mumbai Bench of ITAT in the case of **Farida A. Dungerpurwala vs. Income-tax Officer [2014] 52 taxmann.com 527 (Mumbai Trib.)** wherein the Tribunal, in this case, held that the booking of a flat which is going to be constructed by a builder should be considered as a case of "construction of flat" and it cannot be equated with purchase and construction of a flat in contradistinction to purchase of a house within

the stipulated time of one year prior to date of transfer would not qualify for exemption under Section 54 of the Income-tax Act (the Act). The exemption was thus denied.

#### 8. Concluding Remarks

Though the 1922 Act did not make any distinction between purchase and construction, provisions of Section 54 and Section 54F of the Act made a departure and clearly distinguished a purchase of property from construction of property. Circular Nos. 471 dated 15-10-1986 and 672 dated 16-12-1993 have also clarified that acquisition of a flat by an allottee under the Self-Financing Scheme (SFS) of the Delhi Development Authority (D.D.A.) amounts to construction by the D.D.A. on behalf of the allottee. It is to be stated that no word or phrase has ever been used in the Act for a purpose for which it is not intended. Whenever the Legislature has chosen to define a term, it has done so in no uncertain manner—for example, while defining the term "child" in section 2(15B) of the Act it has done so clearly by stating that "child", in relation to an individual, includes a step-child and an adopted child of that individual. But though both the terms "purchase" and "construction" are used in 54(1)/54F(1) of the Act denoting different periods after transfer of residential property, but only purchase within one year before transfer is used and nowhere does construction find a place here along with purchase. The term "construction" finds a place immediately with an extended period of 3 years after transfer as against a period of 2 years in the case of purchase. When various Courts have liberally defined the term "construction" for the purpose of extending the period from 2 to 3 years for investment purposes doesn't it stand to reason that both the terms "purchase" and "construction" have not been used in the same sense rendering same meaning?

It is therefore earnestly requested that as this issue is not free from doubt and a specific answer with regard to purchase or construction has to be rendered by means of an amendment to the provisions of Sections 54 and 54F of the Act by way of necessary Explanation.

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CA. Vinay Thyagaraj

# AUDIT OF ACCOUNTS UNDER RERA

(PART - V OF RERA SERIES)

RERA

Any business or ventures shall forecast, plan the financial aspects while conceptualisation and shall consider the various associated risks and costs thereon. This Industry is not an exception to that. Being the real estate project development takes place over number of years and various risks of availability of timely finance, political unrest, government policies, government regulations, availability of materials, men, market etc impact the feasibility and profitability of the project.

Hitherto (prior RERA) most of the promoters were used to start a project without comprehending various costs associated for development of the project, they used to realise during the development that project may not be financially viable and results in loss or distress. E.g, Borrowing costs in case of low sales, compensation to the Allottees in case of delay in delivery of the project, changes in government levies apart from escalation in material, labour costs etc.,

One of the concerns of the Real Estate Industry is the collection of money from allottees, utilisation of such collected money for the purpose which was collected and utilise the collected money and enable the promoters to complete the development of the project and deliver the units to the buyers. This discipline is in built in The Real Estate (Regulation and Development) Act 2016. One of inbuilt provision under RERA Act is Annual Audit of Accounts of Project.

In this Article, the author covered the various aspects of Audit of Accounts of registered RERA projects –

1. Legislative Framework – Reference of RERA Audit in Act and State Rules
2. Certificate Format Notified by RERA Authorities
3. Responsibility of the promoters of the Real Estate Project.
4. Documentation and verification of records for issuance of RERA Audit Report by Chartered Accountant

5. Best Practices to be followed
6. RERA Audit – Challenges
7. RERA Audit – tip to professionals
8. FAQ's
9. Penal action in case not in compliance with the Act, Rules, Regulations, Circulars, orders etc.

## 1. Legislative Framework – Reference of RERA Audit in Act and State Rules

- (a) Certificate by a Chartered Accountant is to be issued with set of objects and intentions with an intent to express the independent professional opinion or state the facts based on the information, explanation, documents received from the promoter.
- (b) Proviso to Section 4(2)(l)(D) of RERA Act having reference and requirement of CA Certificate – which is reproduced below –
- (c) 2<sup>nd</sup> Proviso – Provided further that the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a **Chartered Accountant in practice** that the withdrawal is in proportion to the percentage of completion of the project:
- (d) 3<sup>rd</sup> Proviso – Provided also that the promoter shall get his accounts audited within six months after the end of every financial year by a **Chartered Accountant in practice**, and shall produce a statement of accounts duly certified and signed by such Chartered Accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project



- (e) Karnataka RERA Rule 4(2) (c) having reference and requirement of CA Certificate – which is reproduced below –
- (f) Status of the project (extent of development carried out till date and the extent of development pending) including the original time period disclosed to the allottee for completion of the project at the time of sale including the delay and the time period within which he undertakes to complete the pending project, which shall be commensurate with the extent of development already completed, and this information **shall be certified** by an engineer, an architect and a **Chartered Accountant in practice**

Annual Audit under RERA Act	RERA Act – 3 <sup>rd</sup> proviso to sec 4(2)(I)(D)	1. Amounts collected from Allottees for a particular project have been utilised for the same project and 2. the withdrawal has been in compliance with the proportion to the % of completion of the project 3. Compliance to the provisions of RERA Act
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**CERTIFICATE FORMAT NOTIFIED By RERA Authorities –**

**ON THE LETTER HEAD OF CHARTERED ACCOUNTANT**

**ANNUAL REPORT ON STATEMENT OF ACCOUNTS under RERA Act**

(refer 3<sup>rd</sup> proviso to sec 4(2)(I)(D) of RERA Act)

To

NAME of the Project &

ADDRESS OF PROMOTER

**SUBJECT:** Report on Statement of Accounts on project fund utilization and withdrawal by [Project/ Promoter] for the period from DD/MM/YYYY to 31/03/2021 with respect to RERA Regn. Number \_\_\_\_\_

1. This certificate is issued in accordance with the provisions of the Real Estate (Regulation and Development) Act, 2016 read along with the XXXX State Real Estate (Regulation and Development) Rules, 2017.

2. I/We have obtained all necessary information and explanation from the Promoter, during the course of our audit, which in my/our opinion are necessary for the purpose of this certificate.

3. I/We hereby confirm that I/We have examined the prescribed registers, Books of Accounts and documents and the relevant records of [Project / Promoter] for the period ended 31st March 2021 and hereby certify that:

i. M/s. \_\_\_\_\_ (Promoter of the Project) have completed \_\_\_\_\_% of the project titled \_\_\_\_\_ (Name of the Project) RERA Regn. No. \_\_\_\_\_ dated DD/MM/YYYY located at \_\_\_\_\_ (full address)

ii. Amount collected from Allottees during the year ended 31/03/20XX for this project is Rs. \_\_\_\_\_ and amounts collected from Allottees from inception of project to till date (i.e., 31/03/20XX) is Rs. \_\_\_\_\_

iii. Amount withdrawn during the year for this project from Project Bank Account is Rs. \_\_\_\_\_ and total amount withdrawn from inception to till date from Project Bank Account is Rs. \_\_\_\_\_

4. I/We certify that, I/we have considered the various professional certificates i.e., Chartered Accountant Certificates, Engineer Certificate, Architect Certificates issued from time to time for withdrawal of money based on % of completion of work.

5. I/We certify that the [Name of Project and Promoter] has utilized the amounts collected for \_\_\_\_\_ project only for this project and the withdrawal from the designated bank account(s) of the said project has been in accordance with the proportion to the percentage of completion of the project.

Observation and Qualification of CA –

NIL

Or

Promoter of the project has withdrawn in excess of eligible amount from Project Bank Account Rs. \_\_\_\_\_

Promoter of the project has not utilized (diverted) the monies drawn from Project Bank Account Rs. \_\_\_\_\_

RERA

For XYZ & Co

Chartered Accountant

Signature of Chartered Accountant / Designation

(ICAI Membership Number.....)

Firm Name and ICAI Reg No

\_\_\_\_\_

Name

Address

Place:

Date

UDINo -

**Note –**

1. Different states prescribed format of report along with instructions.
2. This report shall be issued by a Chartered Accountant holding Certificate of Practice
3. Chartered Accountant shall collect project financial, non-financial information from the promoter.
4. Collect estimated cost of project, escalation if any and details there on
5. Chartered Accountant to collect and consider all professional certificates issued from time to time for withdrawal of project.
6. CA while certifying the amounts finds any deviation from the provisions of the Act, Rules, Regulations, Circulars or Orders, the same need to be listed here.
7. The example could be, the amount realized from the allottees is deposited in another account. In that case, what is the amount deposited in another account
8. If the amount has been drawn in excess of what has been permitted under CA certificate (Form-4), how much money has been overdrawn
9. Funds have been diverted to other projects or for other purposes, need to be reported.
10. Architect (Form-5) or Engineer (Form-6) certificate is not obtained or if there are any differences.
11. Plan sanction is upto 8th floor, and the architect certificate and also engineer certificate show about the work completed upto 10 floor and the expenses

incurred on additional two floors without sanction need to be quantified and reported – reference of Section 14 of the RERA Act to be complied with

12. This certificate shall be submitted to authorities and is a public document. It could be made available for viewing at the portal of the regulators in the respective states. The comments in this note are purely a matter of interpretation and not binding on any regulatory authorities. Therefore, there can be no assurance that the regulatory authorities will not take a position contrary to our comments or views.

## 2. Responsibility of the promoters of the Real Estate Project –

- (a) Promoter to maintain the financial information and other information relating to real estate project
- (b) Provide such information to Chartered Accountant professionals to obtain RERA Audit Report on annual basis
- (c) Submit this report to authority online or offline.
- (d) Reconcile the receivables, received, utilized and balance money in bank account as on 31-03-2021
- (e) Follow best practices / Standard Operating Practices
- (f) The cost of the project as per RERA has to be reconciled as per books for Audit and compliance under other statutes like GST, Income Tax, ROC etc
- (g) Maintain and update books of accounts from time to time
- (h) Maintenance of data as per RERA project wise in books of accounts (rather company or project wise) for better and easy reconciliation between various statutes
- (i) Take support of consultants and experts to understand the importance, implementation as per statute

## 3. Documentation and verification of records for issuance of RERA Audit Report by Chartered Accountant

- (a) Accounting records – updated books of accounts
- (b) Copy of application filed for registration of project under RERA Act to know the details filed by the promoter to obtain the registration
- (c) Details of calculations considered to arrive

at estimated cost of project – Land Cost and Construction Cost

- (d) All project related documents like land documents, sanctions, clearances, NOC's – to know the cost incurred in obtaining the Sanctions, NOC's
- (e) Amount incurred towards acquisition of land or Transferrable Development Rights / Additional FSI etc
- (f) All bank statements of RERA project account and other bank accounts, where in money is deposited by the promoter
- (g) Statement of allottees / customers, list of agreement of sales entered, advances received, balance receivables etc
- (h) Money collected from allottees, 70 % deposit made to RERA project bank account
- (i) All government fees challahs for all clearances etc
- (j) All development expenses bills, vouchers, invoices for both onsite and offsite expenditures
- (k) Advance paid for supply of materials or services vouchers, references etc
- (l) Variance to estimated cost of the project compare with actual incurred and reasons there on
- (m) Certificates of Engineer, Architect and CA for withdrawal of money based on % of completion of construction
- (n) Project Loan or other loan statements
- (o) Interest calculation / attribution or allocation towards the respective RERA project based on utilisation of funds (in case of single loan borrowed by the entity and made use for multiple project – Term loan or Overdraft).
- (p) Indirect taxes / GST paid from time to time – reconciliation / assurance
- (q) TDS made by buyers @ 1 % – reconciliation / assurance

#### 4. Best Practices –

- (a) The Promoter may have appointed external professionals to obtain certificates from time to time, consult the same professional who had issued the earlier professional certificate – handover those certificates to RERA Auditor
- (b) All the RERA Audit report must be in conformity

with assurance standards issued by the ICAI.

- (c) RERA Audit Report to be backed up with adequate documentation by way of Management Representation letter and the basis of preparing such certificates. In case the regulators suggest a format later or issue any clarification in this regard, the above-suggested template may suitably be aligned.

#### 5. RERA Audit – Challenges

- (a) Sufficient Knowledge of Act and Rules –Both promoter and professionals
- (b) Information filled during registration is erroneous – what stand will u take
- (c) Record / data / expenses maintenance
  - a. RERA Project wise
- (d) Allocation of common expenses RERA project-wise
  - a. Basis of allocation
  - b. Loan availed and interest apportionment to RERA project-wise
- (e) Reconciliation at various stages and different records
- (f) Clarity on the statute, being new to all
- (g) In case of single RERA registration – information from Landlord and compliance there on under RERA (being a Co- Promoter)

#### 6. RERA Audit – tip to professionals

- (a) Don't be biased on the information and report
- (b) Don't be under the influence of Promoters / others
- (c) Don't be casual on report / certification
- (d) Collect sufficient documents / information before issue of report
- (e) If you don't know, ask others
- (f) If you are not sure – report it
- (g) Certificates issued may become public documents and amenable under RTI

## 7. FAQ's

Sl No	Query	Provisions under the Act / solution
1	Is Audit and Report is based on entity based on RERA Registration basis?	The promoter shall get his books of accounts audited for each registered project separately, even if, those projects are registered on phase wise manner.
2	Responsibility of the Audit	The promoter shall engage / appoint a Chartered Accountant holding certificate of practice to carry out the audit. The responsibility to get the audit done is cast on the promoter
3	Time limit to get the audit of accounts of the project	The promoter shall obtain the annual audit report within within six months after the end of every financial year
4	Any specific requirement of a chartered accountant	The auditor shall be a chartered accountant in practice
5.	How to arrive at Estimated cost of the land	<p>Estimated cost of the land –</p> <p>The land cost means acquisition cost / purchase cost or value of land reckoned on basis of the value of the land as ascertained on the basis of guidance value in accordance with the Section 45-B of the Karnataka Stamp Act 1957 relevant on the date of registration of the real estate project whichever is higher - (Rule 5(1) of Karnataka RERA Rules, 2017)</p> <p>All other related expenses like TDR, FSI acquisition, premium payment etc are based on the actual cost paid for which necessary supporting are provided. Interest cost on the borrowings done to purchase the land or to incur any related payment of premium etc to the Competent Authority has been included.</p>

Sl No	Query	Provisions under the Act / solution
6.	How to arrive at Estimated cost of the construction	<p>Estimated cost of construction –</p> <ul style="list-style-type: none"> <li>Karnataka RERA Rule 5(2) defines – the cost of construction shall include all such costs, incurred by the promoter towards on-site and off-site expenditure for the development of the real estate project including payment of taxes, fees, charges, premiums, interest etc to any competent Authority or statutory Authority of the central or state government including interest paid or payable to any financial institution etc</li> <li>Wherever, the apportionment of the cost has to be done as per the policy of the company between different projects, the same has been done accordingly.</li> <li>The policy document for apportionment shall be prepared by the promoter for common expenses.</li> </ul>
7	Total Estimated Cost of the Project	Total Estimated Cost of the Project = Estimated cost of the land + Estimated cost of construction
8	Where to submit the audited accounts and report thereon	Promoter has to upload such reports and audited accounts online portal along with September Quarterly Updates
9	Non compliance	Authority may issue a show cause notice and may invoke penalty Section 61 of the RERA Act
10	Format of Report	The annual report on statement of accounts to be issued in Format as notified by the Authority (K RERA – Form 7)



Sl No	Query	Provisions under the Act / solution
11	Who should sign the Audited accounts and issue the report	Form 7 shall be certified and signed by the chartered accountant who is the statutory auditor. The Chartered Accountant issuing form 7 should be a different entity that the CA who has issued certificate in form 4 for the purpose of withdrawal of amounts from the separate RERA Designated Account.
12	Different Bank Account for Pass Through Charges	The promoter may operate a different bank account for the Pass through Charges, Taxes collected like VAT, Service Tax, SGST, CGST & any other taxes
13	Amount Incurred - Reference of MahaRERA -	Reference of MahaRERA - 1. Regulation 2 (v-a) - Definition of "incurred" Regulation 2 (v-a) was inserted vide Amendment dated 3 <sup>rd</sup> October 2019. It defined the term "incurred". The term "incurred" was defined through circular no. 7/2017 dated 4 <sup>th</sup> July, 2017 and was at it is subsumed by Amendment dated 3 <sup>rd</sup> October 2019. The definition of the term "incurred" has two major component - 0. The amount of product or services that the promoter has received for the real estate project should have created a debt in favour of a seller or supplier and α. It shall also include the amount of product or service received against the payment β. Advances to suppliers
14	Deposit of 100 % in case of balance realisation is less than the amount required to complete the project	Where the estimated receivables of the ongoing project is less than the estimated cost of completion of the project, then 100% of the amount to be realized from the allottees shall be deposited in the said "RERA

Sl No	Query	Provisions under the Act / solution
		Designated Bank Account"
15	What does mean Till / <u>Date of the Project</u>	Amount collected / withdrawn "TILL DATE" for the Project will be 70% of the Total Amount Collected from the Allottees from INCPETION of the PROJECT To 31 <sup>st</sup> March 2021.
16	Can Authority extend the timelines for obtaining the report of Audit of Accounts	"NO" because, the time limit has been specified in the RERA Act & so it's outside the purview of the authority. It can only be done through an amendment to the act. However, the authority has the power to waive of the penalty, if any applied due to non-filing of report within the due date.
17	Any other details to be uploaded along with CA report/certificate	Yes, Project audited accounts shall be uploaded along with report. The Authorities may prescribe the format. Bihar RERA Regulations prescribes audited accounts along with directors reports to be submitted.

#### 8. Penal action may be initiated by the Authority against professionals who have issued certificate for withdrawals or audit which are not in compliance with the Act, Rules, Regulations, Circulars, orders etc.

The Authority, in addition to taking penal actions as contemplated in the Act and the Rules, shall also take up the matter with the concerned regulatory body of the said professionals of the architect, engineer or chartered accountant, for necessary penal action against them, including dismemberment, if the form 4/7 issued by the Chartered Accountant reveals that:

- any certificate issued by the project architect, engineer or the chartered accountant has false or incorrect information and
- the amounts collected for a particular project have not been utilized for the project and
- the withdrawal has not been in compliance with the proportion to the percentage of completion of the project

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CA. Vinayak Pai V

# FINANCIAL REPORTING AND ASSURANCE

## 1. UPDATES: Monthly Roundup<sup>1</sup>

AS   Ind AS	<ul style="list-style-type: none"> <li>ICAI Exposure Drafts: <ul style="list-style-type: none"> <li>Revised <b>Accounting Standard (AS) 105</b>, Non-current Assets Held for Sale and Discontinued Operations.</li> <li>Revised <b>Accounting Standard (AS) 36</b>, Impairment of Assets.</li> </ul> </li> <li>ICAI <b>Exposure Drafts of Guidance Notes (GNs)</b>: <ul style="list-style-type: none"> <li>GN on <b>Division I – Non Ind AS Schedule III</b> to the Companies Act, 2013.</li> <li>GN on <b>Division II – Ind AS Schedule III</b> to the Companies Act, 2013.</li> <li>GN on <b>Division III – NBFCs that are required to comply with Ind AS Schedule III</b> to the Companies Act, 2013.</li> </ul> </li> </ul>
Assurance	<ul style="list-style-type: none"> <li>International Ethics Standards Board for Accountants (<b>IESBA</b>) Exposure Draft: <ul style="list-style-type: none"> <li>Proposed <b>Quality Management-related Conforming Amendments to the Code</b>.</li> </ul> </li> </ul>
MCA   SEBI	<ul style="list-style-type: none"> <li>FAQs on Corporate Social Responsibility. [MCA General Circular No. 14/2021 dated 25<sup>th</sup> August, 2021.]</li> </ul>
RBI	<ul style="list-style-type: none"> <li>Notifications: <ul style="list-style-type: none"> <li>Guidelines for Implementation of the Circular on <b>Opening of Current Accounts</b> by Banks.</li> <li><b>Resolution Framework for Covid-19 Related Stress</b> – Financial Parameters – Revised Timelines for Compliance.</li> <li><b>Prudential Norms for Off-Balance Sheet Exposure of Banks</b> – Restructuring of Derivative Contracts.</li> <li><b>Master Direction on Financial Statements</b> – Presentation and Disclosures.</li> </ul> </li> </ul>
NFRA	<ul style="list-style-type: none"> <li><i>Audit Quality Review (AQR) Report in respect of Statutory Audit done by an Audit Firm of Jaiprakash Associates Limited for FY 2017-18. [27th August, 2021.]</i></li> </ul>
IFRS	<ul style="list-style-type: none"> <li>IASB <b>Exposure Drafts</b>: <ol style="list-style-type: none"> <li><b>Subsidiaries without Public Accountability</b>: Disclosures (ED/2021/7.)</li> <li><b>Initial Application of IFRS 17 and IFRS 9</b> - Comparative Information (ED/2021/8.)</li> </ol> </li> </ul>
USGAAP	<ul style="list-style-type: none"> <li>FASB Accounting Standards Update (ASU) No. 2021-06. Amendments to following Topics: <ul style="list-style-type: none"> <li>Topic 205 – Presentation of Financial Statements;</li> <li>Topic 942 – Financial Services – Depository and Lending; and</li> <li>Topic 946 – Financial Services – Investment Companies</li> </ul> </li> </ul>

<sup>1</sup>Updates for the month of August 2021.

## 2. Case Study: Ind AS 115 – Revenue Recognition

### About the Company:

Company A has revenue streams from sale of goods and services in the specialist safety, environmental technologies and health markets. The company prepares and presents its general purpose financial statements using the Indian Accounting Standards (Ind AS) Framework.

### Ind AS Revenue Recognition Principle:

As per Ind AS 115, Revenue from Contracts With Customers, revenue is recognised to depict the transfer of control over promised goods or services to customers in an amount that reflects the amount of consideration specified in a contract with a customer, to which the entity expects to be entitled in exchange for those goods or services.

Revenue Recognition Aspects specific to the Company:

In Company A's judgement, **in most sales, there is no contract** until such time as the Company satisfies its performance obligation, at which point the contract becomes the supplier's purchase order governed by the Company's terms and conditions. Where there are Master Supply Arrangements (MSA), these are typically framework agreements and do not contain clauses that would result in a contract forming under Ind AS 115 **until a Purchase Order (PO) is issued by the customer.**

Revenue represents **sales, net of estimates for variable consideration**, including **rights to returns, and discounts**, and excluding Goods and Services Tax. The amount of variable consideration is not considered to be material to Company A. The transaction price is allocated to each performance obligation on a relative standalone selling price basis.

**Performance obligations are unbundled** in each contractual arrangement **if they are distinct** from one another. There is **judgement** in identifying distinct performance obligations where the product could be determined to be a system, or where a combination of products and services are provided together. For most of the Company's activities the performance obligation is judged to be the component product or service rather than the system or combined products and services. The contract price is allocated to the distinct performance obligations **based on the relative standalone** selling prices of the goods or services.

The **way in which** the Company **satisfies its performance obligations** varies by business and may be on:

- a) Shipment

- b) Delivery

- c) as services are rendered, or

- d) on completion of services

depending on the nature of product and service and terms of the contract which govern how control passes to the customer.

**Revenue is recognised** at a **point in time** or **over time** as appropriate.

Where the Company offers **warranties that are of a service nature**, revenue is recognised in relation to these performance obligations over time as the services are rendered. In the Company's judgement, the associated performance obligations accrue evenly across the contractual term and therefore revenue is recognised on a **pro-rated basis** over the length of the service period.

In a small number of instances, **products are** determined to be **bespoke in nature**, with no alternative use. Where there is also an enforceable right to payment for work completed, the criteria for **recognising revenue over time** is deemed to have been met. Revenue is recognised on an **input basis** as work progresses. Progress is measured with reference to the actual cost incurred as a proportion of the total costs expected to be incurred under the contract. This is not a material part of Company A's business as for the most part, **where goods are bespoke in nature**, it is the company's judgement that the product can be broken down to **standard component parts with little additional cost and therefore has an alternate use**, or there is no enforceable right to payment for work performed. In these cases, the judgement is made that the requirements for recognising revenue over time are not met and **revenue is recognised when control of the finished product passes to the customer.**

### 3. Financial Statement Extracts: Auditor Reporting of a Key Audit Matter – Impact of Covid-19

Herein below are provided extracts from the audit report of a listed company related to Impact of Covid-19.

#### Key Audit Matter

#### The Impact of Covid-19

*The outbreak of Covid-19 continued to impact the Company during the year ended 31st March, 2021 although the trading impact was more significant in the first half of the year. Management has considered the impact of the pandemic on both the company and the company's financial statements. Primarily, these*

considerations related to the estimate of expected credit losses on accounts receivable balances. **There is a risk that the financial impact arising from Covid-19 which has been recorded by management is inadequate.**

#### How our audit addressed the Key Audit Matter

- In advance of the year end and throughout the course of the audit we have **continued to assess the risks arising from the COVID-19 pandemic**. These considerations have included areas where significant additional audit effort may have been needed as well as those which could have resulted in a material financial impact on the performance and position of the Company for the year ended 31 March 2021.
- We have **not identified any other matters**, which **had not already been identified by management**, which present a risk of material misstatement to the

financial statements as a result of the pandemic.

- Whilst the majority of our work has had to be performed remotely, **we have not encountered any significant difficulties in performing our work or in obtaining the required evidence to support our audit conclusions.**
- We have also **reviewed the disclosures in the financial statements** in respect of the impact of COVID-19 and concluded that these are appropriate.

Based on the work performed, as summarised above, we have concluded that the Group's conclusions in respect of the impact of COVID-19 are appropriate.

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CA. Vikas Kamath

# CYBER THREAT INTELLIGENCE – THE WHAT AND WHY ...

## Introduction:

### What is a Threat

A Threat in cyber or a cybersecurity parlance is an act with a malicious intent to compromise an individual's data (a negative event) or with a potential to harm a system by exploiting the vulnerabilities. Cyber threats resulting in an attack can be with an aim to gain unauthorized access, damage, disrupt, or steal an IT asset, to gain privileged access to computer networks, intellectual property, or any other form of sensitive data. Most of the common Cyber threats can include phishing attacks, password theft, virus or malware attacks, DoS, corporate espionage, social engineering to name a few. The different types of threats can be broadly categorized as natural and man-made (accidental and deliberate).

### What is Intelligence in Security

Gathering discrete bits of information that enables organizations to either prevent or mitigate any type of cyber-attacks by studying the information collected from various sources and then putting them together to make a coherent image, on potential threat to data or systems or applications. The information collected should point out on the usage of different tools and techniques that might have been deployed by the malicious attacker during exploitation. Based on the information collected and analyzed, it should help in identifying known vulnerabilities, come up with a dynamic plan to prevent or mitigate attacks by using similar tools and techniques by that of a perpetrator. Simply put, security intelligence is the process of collecting relevant information to protect an organization resources from external and internal threats.

### What is Cyber Threat Intelligence:

Cyber Threat intelligence or simply threat intelligence is the proactive process of gathering information from various

sources of an organization systems and processes that may be at risk due to minimal or inadequate controls in place and the likelihood of getting these vulnerabilities exploited. This data is then analyzed to gain better insights about the potential threats, it can help build effective defense mechanisms to mitigate the risks that could damage or compromise the systems.

For most of the organizations, few of the trending threats may be uncontrollable or challenging or impossible to identify during the initial assessment phase. However, some of the attacks can be circumvented due to pre-existence of strong defense mechanisms. The primary purpose of this type of security is to keep organizations informed of the risks of targeted attacks and advanced persistent threats, and how to proliferate the countermeasures to protect against them. There must be some proactive approaches each tech expert need to be prepared with, for instance:

- All the cyber security team members are trained via blogs, podcasts, professional associations, conferences so on and so forth, about the current trends in cybersecurity so that they can swiftly include different types of tools and techniques used in exploiting a threat and the implementation of the 'responses' against each of them
- Perform threat assessments at regular intervals to assess, the existing design and environment, the severity and impact on the systems, if compromised; and choose the best approach to protect the system against a specific threat
- Wear the hat of a hacker while conducting penetration testing by modeling real-world threats to discover vulnerabilities

### Why Threat Intelligence:

This should enable organizations to proactively build

and implement security defense mechanisms or tighten existing controls, to avoid or mitigate any security breaches on systems or data. This security paradigm should be an essential component with access to the external insights on threat actors and modus operandi to build a strong defenses to avert potential breaches. These preventive measures can help save lot of efforts from monetary losses to loss of reputation and goodwill.

In recent times, it has been observed that different types of attacks on couple of reputed organization's systems have increased and that too at an alarming pace. Organisations need to continuously monitor the emerging security threat trends in the market and be vigilant and predict emerging security issues on the organization's IT architecture. To quote a few most common breaches that available in the public domain -

1. The Solar Winds breach
2. The improper deployment of software updates leads to Malware Infection costing Maersk \$300 Million
3. Increase in Targeted attacks and APT's
4. Ransomware attacks increased by 7x (including that of Accenture's case; and Poly Network, a platform that looks to connect different blockchains so that they can work together)

### How to create a well-thought-out defense:

Organizations can initiate a Cyber threat intelligence program by creating a consolidated feed from different sources, instead of acting on individual feeds. During the consolidation time, it can also be clustered in different schemas based on its characteristics. The defense mechanisms can be under one or in combination with other variants -

- a. Robust Security Architecture. What systems and programs that are currently in place together with the inbound and outbound controls? How effective are they? What measures can be added? What tools are available to educate employees about the current architecture?
- b. Network Segmentation. Segmentation or zoning can potentially limit the risk in a network in two important ways. Segmentation reduces the number of threats, and isolates network, thereby, giving better control. A more secure design is preferred to use multiple segments. For instance, since the web

server has to be exposed to the public, that server should not contain other sensitive or functions on it; or residing on the same segment such as user authentication or access to the database rather deploy authentication servers

- c. Develop Strong defenses via IDS, IPS, rules in a Firewall, to avoid various ways adversaries attempt to get their code running on the target systems
- d. Run Threat assessment. How much is too much? Plan threat assessment at regular intervals on any changes in environments, process, people and evaluating the results of the outcome
- e. Effective Patch Management. Ensure that all the relevant systems, embedded systems are updated with all relevant patches. The patch must be pilot tested thoroughly in a standalone environment before mass roll-out to check its ill-effect if any
- f. Policy updates. Each of the relevant security policy should undergo critical review at designated intervals. Solicit responses from the IRT lead/members, Pen testers, on their recommendations on potential amendments to the relevant policy document or any of the SoP's based on their 'lessons learnt'
- g. Policy exceptions. The exceptions to any of the security policies should not be more than it core objectives. All the policy exceptions should be critically reviewed to check if that needs favorable revision to avoid unfavorable impact, due to changes in the environment, people or process
- h. Emerging Technologies. Whether we can adopt any of the emerging technologies to enhance security? How secure are the new technologies that are currently in place? Whether they can fit into the existing system architecture? Where are these technologies applied – on-premises, virtual server, cloud?
- i. Log Management. Insufficient logging and monitoring, coupled with missing or ineffective integration with incident response systems, allows attackers to further spread muscle, maintain persistence, penetrate into more systems, and tamper or destroy data or make systems unavailable
- j. AI-based technologies. There has been significant rise of AI-based technologies to provide

actionable insights to security experts to make informed, forward-leaning assessment with speed and accuracy. Investing in AI not only allows organizations to automate tasks proactively and flawlessly, but it can also enable an automated system that can look for and discover attacks individually. If not identified early, exploited devices could not only become a channel for malicious code, but group of compromised devices could work in concert to target victims via the DoS or DDoS types or even via the remote code execution type of attack

- k. Organization's security team can come-up with various schemes to list out and document various malicious activities and methodologies, such as the MITRE ATT&CK framework. Its implementation should help understand the threat "fingerprints," or tactics, techniques, and procedures (TTPs), provided by threat-intelligence sources, these are then fed into the AI-based systems to enable them to understand the attack patterns and develop strategies to interrupt such attacks by anticipating and shutting down the attack sequence
- l. Discourage unlicensed software installation. There can be a simple initiative to remove the local admin rights from the end-user devices. This can have dual impact, first, avoid and restrict unsolicited download of malwares and second, prevent removal

of organization's initiated softwares meant from security perspective

- m. Keep the team members' knowledge up to date with all the latest technological advancements. Also encourage subscription to blogs, webinars to understand and share the latest and greatest usage of tools and techniques and different lines of defenses.

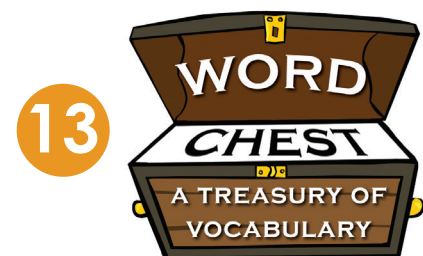
### Conclusion:

Threat intelligence enables organizations to initiate measures to mitigate against the threats by taking more of a Reactive than a Proactive approach using predictive capabilities. During this process organizations also improves on its security posture and alerts on the potential threats coming its way. Another important outcome of the iteration would be that it not only helps prevent incoming threats but also helps mitigate the vulnerabilities present in the existing environment. This exercise must be dynamic and recurring in nature and has no room for a static or shouldn't be considered as a one-time exercise. Lastly, this iteration must be as frequent as possible depending on the size of the organization.

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## Solution to Sudoku -12 August 2021

1	4	6	3	7	9	2	8	5
2	7	5	8	4	6	1	9	3
8	9	3	2	1	5	7	4	6
7	2	4	1	9	3	5	6	8
3	1	9	6	5	8	4	2	7
6	5	8	4	2	7	9	3	1
4	3	1	7	6	2	8	5	9
5	6	7	9	8	4	3	1	2
9	8	2	5	3	1	6	7	4



### Finance Tech Term of the Month:

#### PropTech

#### What is this?

**Property technology** (also known as **PropTech**, **prop-tech**, and **real estate technology**) is the application of information technology and platform economics to real estate markets.

Some goals of real estate technology include reducing paperwork as well as making transactions quicker, more efficient, and more secure.



**Adv. M. G. Kodandaram, IRS**  
*Assistant Director (Retd.)*

# INTELLECTUAL PROPERTY RIGHTS AND PROTECTION IN INDIA EFFORTS TO GENERATE AND POPULARISE THE GIs -(PART - XIII OF IPR SERIES)

## GI protection - Combined efforts

In the previous parts, the salient features of the GI Act and the existing challenges in preparation of an application seeking protection under GI Act has been deliberated in detail. All the traditional products of plant origin (ex: agriculture based products like coffee, areca nuts, flowers), processed foods and goods, having cultural identity (food, toys), manufactured goods with unique skills of community etc., are required to be brought under the protective umbrella of GI Act, so that Traditional Knowledge (“TK”), being the inherited wealth of the indigenous community are protected, preserved and commercialized for improving the living standard of community and strengthening the economy of the country. As narrated in the previous part, the preparations of an application for an effective GI claim involve specialized approach, such as, in-depth study of historical background of the product, scientific aspects of processing together with knowledge in law and commerce etc., and such tasks require time consuming efforts and huge funds to cull out the necessary evidences, documents and to test and document the traditional procedures to attain the desirable quality. These efforts, therefore, require a positive and in-evitable support from the educational institutions, co-operative societies, industrial houses etc., along with financial support from all, including the Governments. In this part of the article, the role of the government and other stakeholders, in conjunction with announced schemes are discussed so that all concerned, including MSMEs could plan and participate in these efforts to create successful enterprises. The various opportunities available as well as required to be provided for exploration and commercialising GI as an IP and the efforts by the union government and

various state governments including Karnataka state to strengthen GI are deliberated in the following part.

## The Jharkhand Experiment

It has been observed and emphasized that educational institutions and similar stake holders, should do hand holding of the TK community, in respect of matters and issues relating to (i) identification of Product that could be considered for protection as a GI, (ii) making an application and (iii) involvement in the process of registration and obtaining the required GI protection for such products of TK. One such effort made by the Government of Jharkhand, with the support from an educational institution, which has been narrated in the following part, deserves to be appreciated as it has yielded results in this endeavor.

The Government of Jharkhand, with the objective of promoting the protection of Intellectual Property (IP) assigned the task to the National Law School of India University (NLSIU), Bengaluru, for developing a conducive IPR ecosystem, which included the guidance in establishment of Intellectual Property Rights Centre for MSMEs. One of the crucial activities undertaken by the new establishment is to provide assistance in identifying the TK that could be processed to obtain rights as GI, which has to be further followed up by collection of necessary and essential inputs / evidences / narrations for filing of application for registration of the GI. For enabling this activity, the NLSIU established an IP Project Centre in Jharkhand which started its functions in August, 2019.

On examination and analysis of the information obtained from District coordinators in respect to potential GIs, the IP team identified fourteen (14) various traditionally



originated products as prospective GI products and selected them for further processing. The list consisted of nine handicraft goods such as Sohrai Khovar Painting (Hazaribagh), Pyatkar Paintings (E.Singhbhum), Tusser Silk of Jharkhand, Mandar (Musical Instrument), four agricultural products such as Chiraunji Seeds (medicinal), Laah (Lac) Ranchi Papaya; and one food product namely Devghar Peda (Devghar).

The team to start with was assigned the job of obtaining GI for the goods viz., “Sohrai-Khovar Painting of Hazaribagh” of Jharkhand. After an in-depth study, the team under the guidance of DR. T. Ramakrishna, Chair Professor and Chairperson, Post-Graduate and Doctoral Council, NLSIU, gathered the necessary evidences from numerous sources to prove the historical origins. After understanding the details of process used to create the art, the cultural importance and the skill involved etc., an application was filed before the GI registrar in August 2019. Normally the processing of GI application requires the time of nearly two to three years before granting of IP rights and in some cases it has even gone up to even eight years. It is refreshing to mention here that the application made for GIs filed by the NLSIU lead Jharkhand IP team on behalf of Sohrai Kala Mahila Vikas Sahyog Samiti Limited, Sanskriti Centre, Dipugarha, P.O- Hazaribagh, 825 301, Jharkhand, India in respect of Sohrai-Khovar Painting of Hazaribagh (handicraft) in August 2019 has been granted the GI tag on 12.05.2020, within the record time of 9 months of application, that too after passing through different stages of hearing and other pleadings by the granting Authorities.

Similarly, the team by further extensive research and conducting surveys has made another application for recognizing “Pyatkar Painting” of Jharkhand as a GI. After a thorough study of the background and usage, the application has been filed before the GI Registrar of India at Chennai in the month of October, 2020. In this regard further proceedings of GI registry office are expected to commence soon. There is some delay due to administrative difficulties faced due to COVID-19 pandemic. In respect of other 12 other identified prospective GI the due process making the requisite application is on and is stated to be in the final stages of completion. This clearly indicates the effect of the efforts by an educational institution in restoration of the TK of

the nation, by joining with Government. This should be treated as one of the best practices to be adopted and to be followed by other states also.

### Publication of Sohrai-Khovar Painting

The requisite details of the ‘Sohrai-Khovar Painting’ application published in GI journal No. 129 of January 10, 2020 [page 29] is one of the standard methods that needs to be followed by others in making similar applications, as it took just 9 months to obtain the necessary protection. Certain extracts of the publication are reproduced for ease of reference.

**G.I. APPLICATION NUMBER – 658** and Application Date: 23-08-2019

*The Application is made by Sohrai Kala Mahila Vikas Sahyog Samiti Limited at Sanskriti Centre, Dipugarha, Post:- Hazaribagh, 825 301, Jharkhand, India for Registration in Part A of the Register of **Sohrai-Khovar Painting** under Application No. 658 in respect of Painting falling in Class – 16 is hereby advertised as accepted under Sub-section (1) of Section 13 of GI Act, 1999.*

**A) Name of the Applicant :** Sohrai Kala Mahila Vikas Sahyog Samiti Limited; **B) Address :** ....P.O- Hazaribagh, 825 301, Jharkhand, India.; **C) Name of the Geographical Indication:** SOHRAI-KHOVAR PAINTING; **D) Types of Goods:** Class 16 – Painting;

**E) Specification:** *Sohrai-Khovar Painting is a ritualistic tribal painting with distinct features, traditionally being practiced mainly in mural art form in the region of Hazaribagh district (State of Jharkhand), and is also being made on other canvases too including paper and cloths, with same distinctive traditional features being practiced by women of different local tribes, and some other communities. Sohrai- Khovar painting is a profusion of lines, dots, animal figures and plants, often representing religious iconography.*

*“Sohrai” is a local festival whereas “Khovar” is a nuptial chamber designed and decorated to bless the newly married couple. In local traditional practice during Sohrai festival and in Khovars –made in local marriages, ritualistic mural paintings are being made on the walls, such paintings are distinct in nature and due to events in which it is being practiced it is being referred as Sohrai-Khovar painting.*

**Form of handicraft:** Painting; **Artisans:** Local tribal women in the region of Hazaribagh; **General Characteristics** - Monochromatic and Coloured both- (In case of coloured murals (Distinctness by the use of limited number of colours) - Geometric symbols, drawings of local flora and fauna, symbolic designs or patterns like **Pashupati** (lord of animals) **Purainpat** (forest of lotuses). - Depiction of drawings are normally borderless - Drawings are mostly non-narrative.

The following narration as an authentic evidence to prove the Historical proof of the origin in the application clearly evidence the efforts of the IP team that clinched the GI label for the subject paintings.

“D H E Sunder, a British officer of erstwhile British India in the “Final report of the survey and settlement of the Palamau government estate, Palamau district, in Chotanagpur, Bengal, Seasons 1894-95 to 1896-97” describing the rituals of marriage ceremonies being practiced in adjoining region writes: “..... Two baskets are then brought and the bride and bridegroom step on one and then on the other and so enter a hut, **the walls of which are painted with circles called Kohbar.**”

Sarat Chandra Roy, who is also known as the father of Indian Anthropology, the first Indian ethnographer, and as the first Indian anthropologist, in his famous book “The Oraons of Chota Nagpur: Their History, Economic Life, and Social Organization”, published in 1915, has referred the following picture depicting a outer wall of the house of a Oraon of this region showing the drawings made over the wall, which can easily be identified as Sohrai-Khovar painting as it has drawing of “Purainpat”, the making of which is still a distinguished prevalent practice in their drawings of Sohrai-Khovar painting by local tribals.

S.C Roy, as the editor of pioneering Journal of Antropology in India, Man of India, in an edition of 1921, recording about the practice this wall painting among Ho tribes of Chotanagpur (Hazaribagh is the part of old Chotanagpur region) under the title “Ethnographic notes and queries”, writes: William George Archer, who wrote as W. G. Archer, served as a British civil servant in nearby areas and was an art historian, and later become a museum curator of prestigious Victoria and Albert Museum, London, along with his wife Mildred Archer who was also an Art Historian of high reputa had published their first known

publication in Axis magazine of London which was a well known abstract publicising magazine of contemporary art as “Santhal Painting” in year 1936. The pictures published by them under the title “Santhal Painting” with their background in form of abstract is the depiction of mural paintings being drawn in adjoining areas of this region on mud walls. The geometric designs, drawings of elephant and woman in their published picture of murals of nearby areas can still be correlated with the prevalent art practice of Sohrai-Khovar painting.

Further describing the uniqueness of such painting imbedded in their traditions, they mention: “With their common style the paintings form part of tribal stock, developed by family sensibilities and matured by repetition.”

For further details the original journal may be referred.

### Award of GI to Sohrai Tribal Art

The Times of India heralded the news of obtaining the GI status for the **Sohrai-Khovar Painting** (Sohrai tribal art) by the state of Jharkhand in the following words:

**Ranchi: Hazaribag’s iconic Sohrai tribal art gets GI tag**  
May 14, 2020, 12:05 IST RANCHI:

On Tuesday received the GI tag for the iconic Sohrai-Kohvar art form from the GI Registry headquarters in Chennai. Mainly practiced by women of remote villages in district, these traditional and ritualistic paintings, made with only naturally available soils of different colours in the area, adorn homes made of mud or brick.

A is a symbol used on products that have a specific geographical location and possess qualities unique to that place of origin. With this status, no state or country can lay claim over the origin of Sohrai-Kohvar art. The recognition, a first for any product from the state, will help 360 tribals showcase this 5,700 year old art form on national and international platforms and boost their income. Tribal women generally use Sohrai-Kohvar technique to decorate the walls of their homes during harvest and marriage season. Kohvar (koh means cave and var depicts a couple getting married) is generally associated with marriages, whereas celebrates harvest and fertility.

Ranendra Kumar, director of Tribal Research Institute in Ranchi, said, “It is a matter of great pride for the entire

state and art aficionados, that the traditional painting form has been granted a GI tag. The art form may be more aptly called folk painting rather than a tribal art form. The recognition will give economic and social boost to SohraiKohvar experts.” Hazaribag DC Bhuvanesh Pratap Singh said he expects a surge in the number of tourists and students to Hazaribag once after the lockdown is lifted. “Art enthusiasts will visit the district, particularly areas where these paintings are made, to learn the unique technique. The recognition will have a great impact on the income and social status of tribals engaged in the practice.”

The recognition is the result of two years of hard work. In 2018, the then DC Ravi Shankar Shukla collaborated with Satyadeep Singh, a professor at National Law School of India University (NLSIU) in Bengaluru, to pursue a GI tag for the dying art form. Sohrai Kala Mahila Vikas Sahyog Samiti Limited, a cooperative of the artists practicing this art form, said, made an official application for it in August 2019. While processing GI tag applications usually take five to six years, but the managed to get the recognition in just nine months.

I happen to speak to Dr. Satyadeep Singh of NLSIU, who expressed the various challenges faced by them in bringing life back to the art which is losing its base. *“Physical literature survey was the most difficult part as there is no evidence easily accessible about the genesis of the subject Art. Procedure for application requires certain things to be proved apart of uniqueness- like History, earlier documentary evidence, (British period and earlier). In case of these tribal areas hardly people took so much pain to work upon and document these in the earlier period. Here tribal languages did not have script so they do not have any written literature. In case of Jharkhand in almost all products, we had to struggle for documentary evidence. Luckily for us, a couple of British officer Mr. W G Archer who worked in these areas has recorded few things and no one thereafter has referred to origin. In case of our First GI - Sohrai Khovalar - we had to gather one art magazine of 1936 -Axis from London by the help of the one of my friends there.”* I always feel that this type of ventures carried out are commendable and are real research work which helps the tribal to protect their Traditional Knowledge.

## GI Policy by Government of Karnataka

The State of Karnataka has come out, for the first time in India, with an exclusive policy for the protection of Geographical Indications. The GI policy aims to formulate an integrated programme for development of infrastructure, strengthening of the marketing and development of skills of Artisans/ Units/ Industries, working on Geographical Indications (GI's) related to GI products in the State. The vision document expresses initiation of appropriate measures to create awareness about the significance of GIs among the Public. It has vouched that the necessary efforts will be made to identify new and prospective GIs and to encourage stakeholders for obtaining new registration, maintain brand Karnataka's status as numero uno in the country; to provide marketing support to the artisans/ units/ Industries engaged in the production of GI-related products; to support capacity building/ skill development across the GI space and to facilitate Part B of the GI Register, namely the authorized users and to motivate the genuine artisans/ growers/ producers to register as an Authorized User to gainfully and legally use the craft/ crop/ trade.

The GI Policy aims to promote Karnataka as the GI Hub of India. A number of initiatives and programs like road-shows, investment promotion programs, Global Investor and Business Meets/ Summits, Vendor Development Programs, etc., are planned to be organized as part of this exercise on a regular basis. It is proposed to leverage programs in Departments other than Commerce and Industries, like Department of Horticulture & Agriculture, Bangalore Bio, Agricultural Business Meets and other related summits to promote GIs from the State. The Visvesvaraya Trade Promotion Centre (VTPC) is the designated Nodal Agency of Government of Karnataka for the promotion of Exports, International Trade and Special Economic Zones, under the aegis of the Department of Industries & Commerce. VTPC is also a dedicated agency for WTO and IPR activities. The following measures, incentives and schemes are proposed to promote registered GIs, help in post GI marketing and branding efforts, identification of new and potential GIs for registration and commercialization of the product, for the economic development of the producers and persons involved in the value chain.



- (i) Setting up of GI Facilitation Centre (GIFC) to promote GIs from Karnataka, whose role includes
  - (a) Research Studies/ Market Assessment;
  - (b) Specialized Training/ Sensitization Programs;
  - (c) GI Filings and Post GI Marketing, Branding, Commercialization effort;
  - (d). Liaise with GI facilitators;
  - (e) Authorized User (Part B) of GI Register: Facilitate and drive the Authorized User base across the various GIs in Karnataka;
  - (f) Facilitate/ sensitize matters pertaining to GI Infringements.
- (ii) Support for new and prospective GI filings from the State: to provide a fillip in this direction, the State would subsidise the Statutory Registration Fee levied by the GI Registry, Govt. of India, up to 100% with respect to Part B Registration (Authorized Users).
- (iii) Showcasing and Infrastructure Development Scheme: to promote GI Tourism and would entail the coordination of the registered proprietors/ various Departments that are the filers of GIs, with Tourism Department to publicize the GI products in the GI Tourism map across the State. The scheme would also provide a thrust to tagging with Traditional Knowledge (TK) and Traditional Cultural Expressions (TCEs).
- (iv) Publicity Scheme: GI documentary and publicity materials like short films, online advertisements (maximum 60 seconds), print booklets/ flyers/ brochures, wall paintings, gift items, exhibition materials (display in airport/ railway station/ Metro Rail/ Bus Stand/ online sales) to showcase the GIs.
- (v) Branding and Commercialization Scheme: to conduct an Annual IP Commercialization and Showcase Event in different places to highlight the achievements of the GI clusters and to bring together all GI stakeholders for networking purposes.
- (vi) Market Development Assistance Scheme: Stalls of GI products will be set up at all 103 airports.
- (vii) Participation in Domestic Exhibition/ International Exhibition/Trade Fairs

- (viii) Digital Platform Scheme: to act as a platform to display the GIs produced in the State of Karnataka. In addition, smaller events may be conducted to give recognition and highlight the achievements of the GI stakeholders in the State of Karnataka.
- (ix) Cluster Centric GI Scheme: as a community benefit from harnessing common advantages with respect to infrastructure facilities, modernization, machinery, design, quality, testing, training, display, sales centre, etc., it is proposed to setup a Cluster Centric GI scheme for the GIs of the State. The scheme would be modelled on the lines of the cluster development, MSE CDP scheme of the Government of India. Mysuru, with its largest number of GIs in Karnataka and perhaps the world, would be modelled as a GI hub of the state.

Sector-wise number of GIs in Karnataka		
Sl no	Category of GI	Number of GI existing
1	Agriculture	22
2	Handicrafts	20 GIs
3	Manufactured Goods	3GIs
4	Food Stuff	1
Total		46

For more details please refer the GI policy document published by Government of Karnataka. All the MSME enterprises, Industries, Academies and similar stake holders may plan to join hands with the above measures of the State Government.

In the coming part, the role of the VTPC, Karnataka and other organisations in strengthening the GI environment of India and measures put in place by the Government of India will be deliberated.

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# DIABETES - THE EVOLVING PANDEMIC : THE INDIAN BURDEN

Diabetes is a major public health problem that is approaching epidemic proportions globally. Worldwide, the prevalence of chronic, noncommunicable diseases is increasing at an alarming rate. Prevalence of diabetes has been gradually increasing during the last few decades. International Diabetes Federation (IDF) estimates that nearly 500 million people worldwide are currently living with diabetes, a number that is projected to increase by a further 30% in 2045. Alarmingly an equal number of people are suffering from Impaired Glucose Tolerance (IGT), a predecessor to an even worse diabetes pandemic in the future. Diabetes, together with its host of micro- and macro-vascular complications are a common cause of morbidity, reduced quality of life and premature mortality. It is estimated that nearly 10% of the global all-cause mortality (20–99 years age group) is attributable to diabetes.

Diabetes is the fourteenth largest cause of Disability Adjusted Life Years (DALYs) worldwide. In addition, diabetes has been responsible for at least US\$ 760 billion dollars in direct health expenditure in 2019. The indirect costs and economic impact of the associated premature mortality is likely to be even higher, increasingly straining developing economies around the world.

India is the largest and most populous developing country in the South Asian region. Type-2 diabetes has rapidly developed into a major public health problem in India. South Asian ethnicity, Indians are at an increased risk of developing diabetes in comparison to other ethnic groups, with a much more aggressive natural history and a higher degree of complications. India has experienced a sharp increase in the prevalence of diabetes and pre-diabetes in the past few years. In 2019 an estimated 77 million Indians were living with diabetes, with an estimated prevalence of 8.9% among adults according to the International Diabetes Federation (IDF). India has become the country with the 2nd largest diabetes population, with 1 in 6 adults with diabetes in the world coming from India. India currently has a population of 1.37 billion (17.5% of the world's population). India has a large diaspora population, spread across 146 countries thereby it is likely to have a wider impact on global health, economy and society.

Urbanization has been associated with pro-diabetic and obesogenic lifestyle behaviours. Nutritional transition occurring in urban environments, has been pivotal in understanding the increased risks of over nutrition and related conditions such as overweight/obesity and diabetes. A systematic review on physical activity among South Asian

adults, also demonstrated higher levels of physical inactivity among urban residents. Epidemiological transition in South Asian countries has resulted in higher availability of processed foods, more purchasing power and a shift from traditional whole grain diets to over-consumption of energy dense food. India has been no exception from these rules, with rapid urbanization leading to a transition into non-communicable diseases such as diabetes. Rough estimates show that the prevalence of diabetes in rural populations is one-quarter that of urban population for most Indian sub-continent countries.

India is a federal union comprising 28 states and 8 union territories. Health is a state subject in India, with the state budget contributing two-thirds towards overall government spending on health care. Previous studies have shown wide variations in the overall prevalence of diabetes across the different states and union territories of India, with the highest rate of increase being observed in less developed low epidemiological transition level states.

High prevalence of diabetes makes it an important comorbidity in patients with COVID-19. There is evidence of increased incidence and severity of COVID-19 in patients with diabetes. COVID-19 could have effect on the pathophysiology of diabetes. Blood glucose control is important not only for patients who are infected with COVID-19, but also for those without the disease. There has been a steep rise in New onset of Diabetes requiring Insulin for their control especially after the Second Covid wave, this has been attributed to the Virus affecting directly the Beta cells of Pancreas and partly due to the Steroids being used as a vital tool in the management of Covid. The double whammy of COVID and Diabetes has been a wake up call for all of us specially during the second wave. Diabetic patients presented with severe illness and the requirement for hospitalization and risk of mortality was significantly higher in diabetic patients. RSSDI (Research Society of Study of Diabetes in India), has started a new nationwide Campaign Defeat Diabetes from 1<sup>st</sup> July 2021, with tagline Test, Track & Treat, aiming to do early screening of larger population, track and Treat the necessary individuals so as to have optimum Glycemic controls and better quality of life.

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# KEYWORD 1

## Instructions

- From the given clues, find the words in connection with it.
- In each word so derived, the letter highlighted in color box should be noted.
- Such letters derived from each word helps in forming the final Key-Word

- A type of financial contract whose value is dependent on an underlying asset, group of assets, or benchmark (10)

■ ■ ■ ■ ■ ■ T ■ ■ ■ ■

- A security that pays for an infinite amount of time (10)

■ ■ R ■ ■ ■ ■ ■ ■ ■ ■

- A group of digital security methods that rely on biological or physiological attributes and that are used to prevent data breaches such as credit card hacks or unauthorized logins (10)

■ ■ O ■ ■ ■ ■ ■ ■ ■ ■

- An individual is said to be .....when they attempt to found and build a company from personal finances or the operating revenues of the new company (13)

■ ■ ■ T ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

- A legal ruling or judgment, usually final, but can also refer to the process of settling a legal case or claim through the court or justice system (12)

■ ■ ■ ■ ■ ■ C ■ ■ ■ ■ ■ ■ ■

- Digital currencies not backed by real assets or tangible securities (14)

■ ■ ■ ■ ■ ■ ■ ■ U ■ ■ ■ ■ ■ ■ ■ ■

## sudoku-13

		5	6	1				3
				9			1	4
	8					9		
	4		9				5	2
3	5				2			
		8	3					
5	1		4		7			
6							4	

## GUESS THE KEY WORD

The difference between two prices, rates or yields (6)

■ ■ ■ ■ ■ ■

Answers will be published in next month's News Bulletin.

## Answers to "Cross Word 12" (August 2021)

### Across

1. Heatmap, 2. Nominee, 3. RFP, 4. Rona, 5. ABC, 6. Exempt, 7. Sector

### Down

1. Honararium, 8. ALM, 9. Monerize, 10. Prepayment, 11. IAS, 12. SCM, 13. Paytm, 14. Pert

Credits: CA. Archana Sridhar

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### Full Page Colour

Outside Back Cover ₹ 25,000/-\*

Inside Back Cover ₹ 20,000/-\*

Inside Colour ₹ 16,000/-\*

\* Plus 5% GST

### Inside Black & White

Full page ₹ 12,000/-\*

Half page ₹ 6,000/-\*

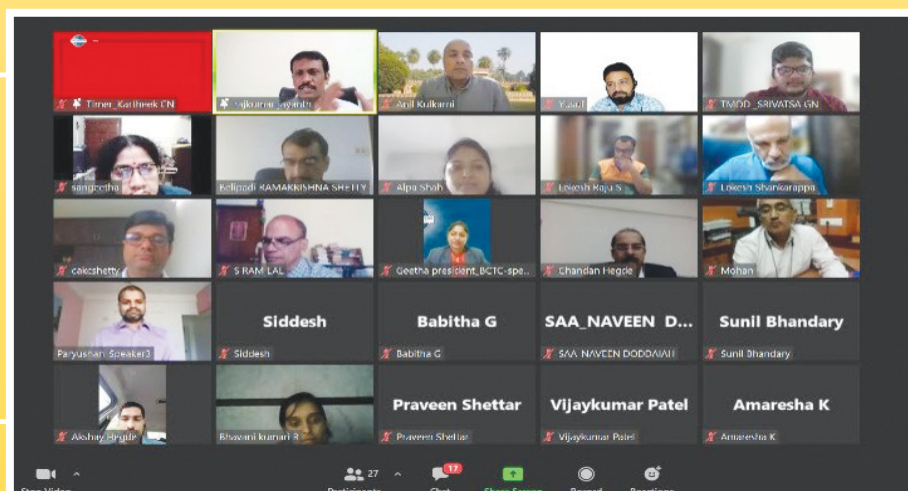
Quarter page ₹ 4,000/-\*

For More Enquiries Contact  
**080-29552155** or write to us at [info@kscaa.com](mailto:info@kscaa.com)



**Karnataka State Chartered Accountants Association  
jointly with What Next Theme for Professionals  
organised a free webinar on "Common issues faced  
on the New Income Tax Portal and possible solutions  
with live Q&A" by speaker CA. Naveen Khariwal on  
21<sup>st</sup> August, 2021**

**63<sup>rd</sup> Eloquent Professionals Joint Meeting  
with BCTC on 4<sup>th</sup> Sept 2021**



**Webinar on Social Media  
for Practicing CAs  
by Mr. Himanshu Singh  
held on 11<sup>th</sup> September, 2021**