

KSCAA®

Karnataka State Chartered Accountants Association (R)

NEWS BULLETIN

► DRP ► RERA ► Financial Reporting
► Cess under Taxation ► IPR ► AI in Audit

October 2021

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▶ Karnataka State
Chartered Accountants Association

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CARO - Companies Audit Report Order





Dear Reader,

Let me wish you all a very happy Dussera and wishes for a joyful celebration of festivity. The festival signifies the victory of good over evil. It was the day when Goddess Chamundeshwari killed the demon Mahishasura. Nadahabba, festivities began with the Vijayanagar kings as early as the 15th Century. The festival played a historical role in the 14th-century

Vijayanagara Empire, where it was called *Mahanavami* and the festivities are shown in the relief artwork of the outer wall of the Hazara Rama temple of Hampi. KSCAA successfully conducted the plantation of saplings in its KIADB plot at Harohalli. It was immensely satisfying event to secure the site for which our past presidents toiled hard to secure.

With restriction on Pandemic opening, the Global rating agency Moody's Investors Service changed the rating outlook of Indian economy to "stable" from "negative", as the downside risks from negative feedback between the real economy and financial system are receding. However rising inflation and faster pace of vaccination are still determinant to the India's economic growth story in coming days.

Recent issue on NFRA has raised scathing concerns on the sudden change of mind in the regulators, it is also the right time to consciously look for a national level independent CA forum to deliberate on topics which can have lasting pains in profession. Last date for submission to respond to NFRA Consultation Paper on Statutory Audit and Auditing Standards for Micro, Small and Medium Companies is 10th Nov 2021. NFRA has invited comments on 4 specific questions listed in Section 4 of the Consultation Paper, request members to send in their response to comments-tac.paper@nfra.gov.in.

If you have an idea which benefits the members at large, please mail the same to president@kscaa.com. We would be happy to peruse the same.

News Roundup

Direct Tax

Judicial developments:

- ✓ SC - Date of order and not its receipt, should be considered for limitation u/s 263.
- ✓ Bombay HC: Error of issuing reassessment notice in name of entity which had ceased to exist can't be corrected u/s 292B:
- ✓ HC of Delhi & Bombay HC quashed faceless assessment order as show-cause-notice cum draft assessment order wasn't served on assessee

Executive developments:

- ✓ Modification in *Faceless Appeal Scheme, 2020 (FAS)*: In a matter before the Supreme Court, Additional Solicitor General submitted that CBDT is having a second look on FAS and sought a period of three months as it may require change of law
- ✓ CBDT prescribes conditions to claim relief on offshore indirect transfer of Indian Assets by issue of draft rules on 28-08-2021. The Board has prescribed specified conditions to claim the above relief. After examining the stakeholder comments on the draft rules, the CBDT has notified the final rules vide Notification No. GSR 713(E), dated 01-10-2021.
- ✓ CBDT further extends time limit to process refund claimed ITRs filed up to AY 2017-18 to 30-11-2021
- ✓ CBDT extends validity of TP Safe Harbour rules till Assessment Year 2021-22

Indirect Tax

On the Indirect tax front, September has been a very eventful month, the first physical GST Council meeting since Covid-19 took place and many important decisions have been taken up. On the tax collection front too, the gross collections has been Rs.1.17 lakh crores signifying that the trade is limping back to normalcy. Many clarifications have come out and multiple rate change notifications effective from 01st October, 2021 has been issued. In order to ensure it's members are kept abreast with the latest happenings in the Indirect front, KSCAA has planned various activities and one such activity is to update the members on recent changes on real time basis by sharing with them 1-2 pager update through KSCAA's social media platforms. I sincerely hope this helps professional brethren.

Corporate and Allied Laws

Extension of time for holding Annual General Meeting

- ▶ The Central Government in the wake of difficulties faced by companies due to Covid-19 and consequent lockdowns, extends the due date for holding of Annual General Meeting for the Financial Year ended 31.03.2021 for a period of two months beyond the due date by which companies are required to conduct their AGMs for the Financial Year 2020-21 ended on 31.03.2021 in terms of third proviso to sub-section (1) of section 96 of the Companies Act, 2013.

Extension of last date of filing of Cost Audit Report

- ▶ MCA vide its General Circular No. 15/2021 dated 27.09.2021 extends the last date of filing of Cost Audit Report. Accordingly, in case of a company which has got extension for holding Annual General Meeting under section 96(1) of the Companies Act, 2013 the e-form CRA-4 may be filed within the timeline provided under the proviso to rule 6(6) of the Companies (Cost Records and Audit) Rules, 2014.

Time limit of generating UDIN from 15 days to 60 days

- ▶ The firms in order to establish policies and procedures for the timely completion of assembly of audit files are required to follow Standards on Quality Control (SQC 1) on retention period of Engagement Documentation (Working Papers). In this regard, ICAI with an aim to align the time limit for generating UDIN with the Standards on Auditing (SA) and Standard on Quality Control (SQC) has decided that the time limit of generating UDIN would be 60 days from the date of the signing of certificates/reports/document instead of 15 days henceforth.

Conclusion

As Mahatma Gandhi said, 'Live as if you were to die tomorrow learn as if you were to live forever meaning' – learning urges people to acquire knowledge, this is the greatest treasure one can possess. Learning is not something you get bored of, rather it is something you take in. Let us continue to learn, share and enjoy the journey.

Happy Reading!

Yours' faithfully,

CA. Chandan Kumar Hegde A
President

KSCAA®

NEWS BULLETIN

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CONTENTS

DIRECT TAX

DISPUTE RESOLUTION PANEL – TIME TO BID GOODBYE	4
CA. Nikhilesh Cacarla	
CA. Sachin Deshpande	

RERA

PROMOTER UNDER RERA ACT 2016 – WIDENED SCOPE	6
CA. Vinay Thyagaraj	

INDIRECT TAX

INDIRECT TAX UPDATES	11
CA. CA Raghavendra C R	
CA. Bhanu Murthy J S	

LATEST AMENDMENTS UNDER GST	13
CA. G. B. Srikanth Acharya	
Adv. Vasanth Kumar J	

IN FOCUS

REPORTING REQUIREMENTS UNDER CARO, 2020 AND RECOMMENDED AUDIT PROCEDURES	20
CA. Parthasarathy Sudarsanam	
CA. Udupi Vikram	

TAXATION

CESS – THE ONLY WATER WHEN THE WELL RUNS DRY	25
CA. Sandeep Jhunjunwala	

FINANCIAL REPORTING

FINANCIAL REPORTING AND ASSURANCE	27
CA. Vinayak Pai V	

IPR

IN INDIA EFFORTS OF GOVERNMENT OF KARNATAKA TO POPULARISE GI PRODUCTS	30
Adv. M G Kodandaram	

IT

ARTIFICIAL INTELLIGENCE IN AUDITING	35
CA. Narasimhan Elangovan	

HEALTH & FITNESS

POST COVID -19 SYNDROME	37
Dr. T Surendra Bhat	

BRAIN TEASERS

42

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 | Website: 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. Nikhilesh Cacarla
CA. Sachin Deshpande

DISPUTE RESOLUTION PANEL – TIME TO BID GOODBYE

It is said that every action has an equal and opposite reaction. Following this law, in the world of Indian Income Tax, instigation was the action and resolution was the reaction, which should have been the natural case. However, our Income Tax landscape is known to be an exception to certain basic principles and one such exception was the aforesaid chain of action and consequent reaction. Under the Income Tax law, a dispute/ assessment instigated was not met with reasonably immediate resolution due to the sheer size and issues involved across the country. Couple this with the existing load faced by judicial authorities, the disposal rates were close to negligible.

Getting their heads together trying to resolve this and bring about a paradigm shift in the existing scenario, the Government in 2009 had introduced a fairly simple amendment and constituted the Dispute Resolution Panel (“DRP” or “the Panel”). At that time, which would speed up the litigation scenario in India and improve the economy’s outlook. However, little did it know that this amendment would lead to a cascading effect over the next decade.

The constitution of the DRP was a welcome move undertaken by the Government at a time wherein battling the hurdles of litigation was a long drawn for process and bled the economic as well as administrative resources of MNEs. In order to restore normalcy in the process of scaling the doors of law, the DRP was constituted by the Finance Act 2009 with the objective of speeding up the litigation process along with ensuring that taxpayers have a expeditious resolution of disputes before a seasoned forum of experts. The DRP was constituted by a 3-member panel, all in the ranks of Commissioner of Income Tax (“CIT”), having profound tax knowledge. Further, the Panel was constituted in 3 locations across India namely – Delhi, Mumbai and Bengaluru, each catering to the respective zones.

Fueling the fire was the notification of Section 144C of the Income Tax Act, 1961 (“the Act”) which was the enabling provision for DRP. The process was simple, the intention was clear, and the result was certain:

- Eligible Assessee could approach the DRP within a stipulated time limit, upon receipt of a “Draft Assessment Order”
- Objections were to be filed as per the prescribed Rules before the Panel.
- Hearings were solicited wherein detailed arguments and submissions were called for, and,

- Within 9 months from the month in which Draft Assessment Order (“DAO”) was issued, the DRP would pass its directions wherein detailed analysis and way forward was provided to the Assessing Officer (“AO”) for completing the assessment.

The uniqueness of the DRP’s constitution is that the proceedings before the Panel is mere a extension of assessment proceedings to resolve the tax litigation at the initial levels even before approaching higher appellate forums.

In line with the expectation for all good things, the introduction of DRP led to substantial changes in the tax litigation landscape in India, releasing potentially large cases from the doors of the Tribunals, speedy resolution of fairly complex matters and other attributes. However, as the saying goes, all good things must come to an end and the same had applied to the DRP as well wherein a not so significant amendment in the Finance Act 2016 had resulted in a significant implication for taxpayers as well as the tax department.

Finance Act 2016 had omitted Section 253(2A) of the Act which had erstwhile provided powers to the Tax Department to appeal before the Income Tax Appellant Tribunal (“ITAT”) against the directions of DRP, should the same be prejudicial to the department’s interest. This omission meant that the Tax department could not contest against the DRP’s directions before the ITAT which in turn had resulted in the “Dispute Resolution Panel” turning into “Dispute Revival Panel”.

Post amendment, the immediate after effect was that the DRP, which up until then had dealt with cases on merits and issued directions on the face value of a case, has changed its stance and proceeded to issue directions which were purely mechanical and at times, illogical, being totally oblivious to the hardships/ complexities faced by taxpayers on their direct tax issues. This was done to the protect the Tax Department’s interest which was curtailed by the Finance Act 2016. Although, the change in stance by the DRP may not be ultra-vires from a legal point of view, the intention was clearly defeating the purpose of the law.

As the years passed by, the above amendment in 2016 opened several other hurdles for taxpayers that was a direct result of the lackluster approach of the DRP’s functioning. A few notable issues, on a general note, still prevalent as of date are provided below:

Increased caseload on Commissioner of Income Tax (Appeals) and Income Tax Appellate Tribunal

As explained earlier, the DRP constituted 3 CITs who would independently evaluate the matter and provide directions to the AO. Given the above change in stance, the taxpayers chose to stick to the traditional means of filing appeals before the Commissioner of Income Tax (Appeals) ["CIT(A)"], seek disposal at the earliest possible timeline and approach the Income Tax Appellate Tribunal ("ITAT"), for final resolution since the orders of the jurisdictional ITAT would be binding on the CIT(A).

This resulted in a surge of cases filed before the CIT(A) and subsequently before the ITAT, thereby creating a backlog of cases on the already burdened quasi-judiciary bodies. Further, most of the taxpayers had transfer pricing issues contested before DRP and since transfer pricing being a niche subject matter, required a lot of technical and practical understanding of the subject before providing the remedy, created additional burden on the appellate authorities since vast majority of CIT(A)s and ITAT bench members are not well versed with the law causing substantial delays. To illustrate, matters as old as AY 2007-08 are pending for disposal before the CIT(A) and ITAT which essentially implies 11 years of assessments passed by without any finality.

Enhancement of variations

Another exquisite power granted to DRP was that they could confirm, annul or enhance the variations made by the AO in the DAO thereby providing a shot in the arm for the Panel to selectively scrutinize issues and direct the AO to adjust these transactions as well, resulting in an increased cash tax outflow, before approaching the ITAT. Moreover, the AO is bound to follow the directions and complete the assessment without providing any further opportunity of being heard to the assessee. Although this topic has been litigated in the past as to whether the DRP has powers to enhance variations which were not forming part of the draft order, there have been a slew of rulings with the latest being the Delphi TVS case wherein the Madras High Court ruled the issue in favor of the department/ Panel¹.

Existential crisis

As mentioned earlier, the DRP has always been viewed as an extension of the AO, since the very reason of constituting the Panel was to provide directions to the AO to complete the assessment in an efficient manner. On the other hand, the constitution of the Panel and their powers were akin to the CIT(A) albeit not in a real sense. In doing so, certain issues like grant of stay in demand which has been dealt with by CIT(A), were never contested before the DRP. This has created an existential issue wherein certain issues which could be possibly disposed of by the DRP have always been given the slip. On a holistic view, DRP's powers were restricted to provide the directions relating to primary tax

disputes. The consequential impact/ issues arising out of primary tax disputes which has greater influence on the interest of the tax payer is ignored and this made the DRP proceedings incomplete.

Unfavorable precedents

The directions issued have always been used as a precedent for years under consideration for the same taxpayer as well for the Panel themselves wherein, the exact directions and illustrations have been replicated without considering the merits or facts of the case. This has created additional burden on taxpayers wherein certain logically accepted matters in the area of Transfer Pricing like grant of proportionate adjustment, economic adjustment, tax credits and similar contentions have not been entertained despite having ITAT rulings in favor of the taxpayers. The situation has been so dire that covered matters in a taxpayer's own case has also not been given cognizance to by the Panel and the age old directions, which at times border on the lines of absurdity, have been replicated without any due consideration. In the present tax litigation world, DRP proceedings is viewed as a shortcut path to reach ITAT without expecting any relief on the disputed matters.

Therefore, the above issues has invited criticism from various stakeholders questioning the existence/ of DRP and whether the Panel is in its twilight.

This thought leads us to the Finance Act 2021 wherein the government moved to scrap the Settlement Commission, formed under 245B of the Act, with effect from 1st February 2021. The Settlement Commission, although was a forum running on a different tangent, was an authority which aimed at addressing the disputes arising under the umbrella of direct taxes and providing an amicable solution to taxpayers. The Government's move to scrap the Settlement Commission and constituting a dispute resolution committee for small and medium taxpayers has raised questions as to whether it is time to pull the plug on the DRP, which over the past half a decade, has turned to be a dark horse in the assessment/ appeal hierarchy of the Indian Income Tax system.

In the current age of faceless appeals and the intention of having the ITAT covered under the faceless regime would lead to complications and unwanted misery to taxpayers wherein trivial issues have traveled all the way to the ITAT for resolution. Hence, a move to bring down the curtains on the DRP would indeed be a bold but may be the one which is needed in order to progress in a new direction with renewed hope.

Is it the right time for the Government to pull up the socks and do so? Only time will tell..!

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¹ Delphi TVS Diesel Systems Ltd TS-472-HC-2021(MAD)-TP



CA. Vinay Thyagaraj

PROMOTER UNDER RERA ACT 2016 – WIDENED SCOPE

(PART - V OF RERA SERIES)

The real estate sector plays an important role in fulfilling the need and demand for housing and infrastructure in the country. Real estate Industry contributes the 2nd highest GDP to the country next to agriculture. It employs a large number of skilled, unskilled resources. While this sector has grown significantly in recent decades, it has been largely unregulated, with absence of professionalism, accountability, standardisation and lack of adequate, speedy consumer protection. Though the Consumer Protection Act, 1986 is available as a forum to the buyers in the real estate market, the recourse is only curative and is not adequate to address all the concerns of buyers and promoters in that sector. The lack of standardisation has been a constraint to the healthy and orderly growth of industry. Therefore, the need for regulating the sector has been emphasised in various forums.

In common parlance the person carry on the business of real estate be called as builder, developer etc. In this article, we would like to discuss and deliberate how RERA Act has brought in / defined/ included the various stakeholders as promoters and their responsibility under RERA Act 2016.

Definition under RERA – Section 2(zk) "promoter" means,

- (i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or
- (ii) a person who develops land into a project, whether or not the person also constructs

structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or

- (iii) any development authority or any other public body in respect of allottees of—
 - (a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or
 - (b) plots owned by such authority or body or placed at their disposal by the Government, for the purpose of selling all or some of the apartments or plots; or
- (iv) an Apex State Level Co-operative Housing Finance Society and a Primary Co-operative Housing Society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or
- (v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or
- (vi) such other person who constructs any building or apartment for sale to the general public.

Explanation.—For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sells apartments or plots are different persons, both of them shall be deemed to be the promoters and shall be

jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made there under;

Definition of promoter is wide and covers all types of Promoters viz., developer, builders, GPA Holder, coloniser, contractor, Land owner in the Real Estate Project. Hence, any person who develops and sells is included within the definition of a Promoter.

Objective of the Act is to include any such person who has right or gets right in the real estate project to enter into a contract of sale with allottees and collect money thereon is responsible for delivery and meet the obligations.

The common question encountered are :

1. Is Landowner a promoter ?

Ans - Yes, the words “causes to be constructed” in the definition of a Promoter brings the Landowner within the ambit of definition of a Promoter. Landowner is the person causing construction of the project, who may give the rights to a developer by way of granting development rights, GPA etc.,

All such persons are jointly responsible to the Allottees in the project.

2. Is Housing Society a Promoter ?

Yes and No - One should understand the role of Housing Society to answer this question. If the Housing society collects money from its members towards a plot or apartment, then the Housing Society is a Promoter and all obligations under the Act should be complied with by such a Housing Society.

If the Housing society facilitates the transaction through a builder or contractor by identifying, negotiating etc., on behalf of its members (without collection of money from its members towards such a plot or apartment) then, the Housing society would be acting as an Agent.

Hence, one should understand the role of Housing Society by its functions, responsibility to its members etc., to conclude whether it is acting as a Promoter or a Agent.

Government bodies like Development Authorities, Housing Boards etc, whoever promote the real estate projects are also included in the definition of Promoter.

In the Application for Grant of Registration, applicant should provide details of all promoters in the real estate project and their respective shares in the project.

Maharashtra, Karnataka, Goa have clarified by way of circulars and notifications to confirm and include the landowner as part of the application for grant of registration.

Karnataka RERA – Circular No /K RERA / 3/2019 dated 31.10.2019

Goa - No 11/35/2017-DMA/3390(A) dated 13th Feb 2018

MahaRERA - Secy/File No 27/538/2017 dated 4th Dec 2017 - Circular No 12/2017

MahaRERA - Circular No 13/2017 dated 4th Dec 2017

Practical Cases and judicial pronouncements –

Important aspects under RERA between the landowner and developer under joint development agreement -

- a) The RERA Act does not differentiate the landowner or developer. Both are having same responsibility and obligations towards the allottees in the project.
- b) The agreement between landowner or developer (JDA) defines their roles and responsibility. Hence all possible clauses shall be incorporated while drafting JDA, to name few -
 - 1) Who is responsible for RERA Registration, Quarterly updates, Annual Audit Compliances, Advertisement Compliances.
 - 2) How to open the RERA Designated project Bank Account – who are the signatory to the Bank Account / operation.
 - 3) How to collect money from allottees, mandatory depositing of 70 % into RERA designated bank account including sale proceeds of Landowner units in the project.
 - 4) How to operate the RERA designated bank account to protect the interest of both (landowner and developer)

- 5) Withdrawal of money from the RERA designated bank account, distribution of money so withdrawn between landowner and developer based on the proportion completion of the project.
 - 6) Utilisation of money withdrawn for the Project purpose only.
 - 7) Delay in delivery of the possession of the units to the allottees.
 - 8) In case of noncompliance, if penalty levied, who will responsible and comply with it.
 - 9) All other compliances under RERA -
- c) Caselaw on landowner is a developer - **Tupe Developers & Ors. v. Bhansali Infotech LLP & Ors.**

Housing Society and the Developer –

It is common practice that the Housing Society's are registered in order to facilitate purchase of the plots/houses to their members.

Prior to RERA Act 2016, housing societies use to collect the money from their members even before identification of land, builder etc. The money so collected would be advanced for the purpose of procurement of land or payment of advances to the builders. Can this holds good post RERA regime -

The definition of Promoter includes - an Apex State Level Co-operative Housing Finance Society and a Primary Co-operative Housing Society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings;

Post RERA Practice shall be –

- a) Housing Society's shall collect money in accordance with Section 3 of the RERA Act 2016. i.e., only after Registration of Real Estate Project with the RERA Authorities.
- b) Means, the Housing society shall invest their own money in identifying the land, obtaining necessary approvals or plans till obtaining RERA Registration, post that, permitted to collect advance from their members.
- c) Money so collected shall be used for the specific project.

- d) If society doesn't have sufficient money, then they may enter into agreement with the builder and facilitate the transaction to their members. In that situation, Housing Society shall register themselves as Real Estate Agent under RERA in accordance with Section 9 and Section 10 of the RERA Act.
- e) The provisions of RERA shall be applicable to all housing co-operative society's collected money from their members.

The person provides the property on Lease is also a promoter

- a) The RERA Act 2016 shall be applicable to the Property developed on the Lease Land. It is common practice in few states that the builder obtain land from the government on long lease basis. In turn development of the land into building/apartment etc. Ultimately, these buildings be allotted to the customers on a long lease basis (viz., 30 years / 60 years etc).
- b) The intention of the legislature while enacting the provisions of the RERA Act is to protect those persons who have invested substantial amounts in the real estate Hence, they are required to be called as 'consumers' or 'Allottees' and if they are excluded The definition of 'Allottee' and thereby from the protection given under the Act, by giving restrictive meaning to the term 'Allottee', it would be a case of unjust enrichment on part of the appellant and the very object of the Act would stand frustrated. The remedy provided to the 'Allottees' under Section 18 of the Act can be available against the 'Lessor' because the definition of 'Promoter' under Section 2(zk) of the Act will also include the 'Lessor'.
- c) Well known case Law pertaining to Lease Land and RERA- **Lavasa Corporation Unlimited.**
- d) Further Section 11(4)(C) of the Act includes the promoter shall be responsible to obtain the lease certificate, where the real estate project is developed on a leasehold land, specifying the period of lease, and certifying that all dues and charges in regard to the leasehold land has been paid, and to make the lease certificate available to the association of allottees;

- e) With these conversation, one can reasonably conclude that the Lease property's where in substantial cost of land and building is collected would cover under the provisions of the RERA Act 2016.

Is the assignee in a real estate project is a promoter?

Let us understand the statement with an Example –

- M/s. Crazy Developers Private Limited obtained apartment project sanctioned plan from planning authority. To meet the development cost for the real estate project M/s. Crazy Developers has assigned 50 apartments (being 40% of units in the project) to Mr. Zenith for a consideration, collected full consideration and executed the Assignment agreement.
- Mr. Zenith, being the assignee of the 50 apartments in the project started marketing and promised amenities and facilities to the customers as promised by M/s. Crazy Developers Private Limited. However, M/s. Crazy Developers Private Limited could not provided the promised amenities and facilities in the project.
- The buyers / allottees whoever purchased from Mr. Zenith seeking compensation for non-delivery of amenities and facilities in the project by the builder.
- Legal Provisions under RERA Act 2016 –
- Section 2(zk) "promoter" means,— a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees;
- Case Law pertaining to assignee is a promoter - **Samruddhi Developers v. Kiran Vasanf Verekar & Ors.**
- It was inter alia held by the Bombay High Court that Section 15(2) of the Act read with definition of "promoter" under Section 2(zk) of the Act clearly mentions that promoter includes his assignees and is required to independently comply with all the pending obligations of the original promoter under the provisions of the

Act and the rules and regulations made there under as well as comply with the pending obligations under the agreement for sale entered into between the respondent developer with the allottees on transfer or assignment of a project.

- Hence, assignee in the project shall be aware of the provisions of RERA Act 2016 and his obligations towards the allottees in the project.

LENDERS (Bankers or Financial Institutions) AS PROMOTERS UNDER RERA –

- The Haryana Real Estate Regulation Authority ("HRERA") in the matter of **Deepak Chowdhary Vs PNB Housing Finance Ltd. & Ors. ("Supertech Hues case/ Order")** (Order dated 11.9.2020 in Complaint case no. 2145 (earlier 2031) of 2020.
- This Order will have implications on banks and other financial institutions, which provide loan or credit facilities to real estate projects, the conflict between the rights of such banks and financial institutions vis-à-vis the rights of allottees of such projects.
- Though the HRERA has mentioned in the Order that "it is not against the right of the lender to auction / sell the Project", it has concurrently attempted to balance between the lenders' right to pursue actions under the SARFAESI and the interests of allottees, and has stated the fact that the interests of allottees cannot be subservient to the interests of the lenders. While proceeding to treat the lenders as promoters under RERA (even though for a limited purpose), the HRERA has also affixed the liability on the lenders to ensure proper utilization of the loan funds.
- Also relied on the Hon'ble Supreme Court's judgment in the matter of **Bikram Chatterjee v. Union of India ("Amrapali")**[3], to hold that "in the event of diversion of funds, banks cannot be allowed to sell the flats/apartment and deprive the allottees, and that the rights of the allottees are not subservient to the rights of the banks, and therefore, in case of failure of the banks to ensure that the funds were applied for the purpose they were granted, banks cannot be allowed to supersede the rights of the allottees".

- e) In summary – the lender or financial institutions become the promoter in case of take over the real estate project on default of non-payment of borrowings of the builder/promoter and would be obligated to secure the interests of home buyers/ allottees.
- f) In the event a developer defaulted in repayment loans to a banker / financial institution and if the institution propose to auction the mortgaged real estate project / property, then the banks / institution shall seek prior written approval from RERA Authorities to protect the interest of the allottees.

Development Manager of the Real Estate Project is a promoter –

- a) Under the Development management model, large realty firms step in as development managers for smaller developers and landowners, in return for a share of the revenue, share of profit or a management fee.
- b) Maharashtra regulatory authority has specifically asked all partners involved in a project to be called co-promoters if revenues are shared between them. This move is likely to force developers to relook at the model because of the added regulatory risks, according to builders and consultants.
- c) The recent judgment of the Maharashtra Real Estate Regulatory Authority, (“MahaRERA”) on March 5, 2021 in **Gauri Thatte & ors. vs. Nirmal Developers & ors. (“Order”)**. By interpreting the definition of ‘promoter’ under Section 2(zk) of the Real Estate (Regulation and Development) Act, 2016 (“RERA”), MahaRERA included a development manager appointed under a DMA within the definition of ‘promoter’ for the purpose of refund of principal amounts along with interest to the allottees (“**Complainants**”) for the delay in construction and possession of their flats. MahaRERA also directed the development manager to be added as a ‘promoter’ on the webpage of the project.
- d) The Complainants had booked apartments in ‘Mumbai Dreams — Olympia C & D’ (“Project”) in Mulund West, Mumbai, being developed by Nirmal Developers. The developer had appointed Lucrative Properties Private Limited (“Development Manager”),

a subsidiary company of Shapoorji Pallonji Private Limited (“**SPPL**”), as the development manager for the Project. There was delay in giving possession of the flats and completion of the Project. Accordingly, the Complainants moved MahaRERA claiming refund of their amounts along with interest under RERA stating date of possession of the Project were false. The Complainants prayed that Nirmal Developers and Dharmesh Jain (“**Promoters**”) and SPPL be held liable for refund of the amounts, on the ground that SPPL was a promoter as per Section 2(zk) of the RERA.

- e) Inclusion of Development manager as a promoter may cause builders to re - examine their scope as a development management agreement and include the necessary applicable clauses in the agreement between the promoter and development manager.

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CA. CA Raghavendra C R
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INDIRECT TAX UPDATES

Important decisions

1. UoI Vs VKC Footsteps India Pvt Ltd., 2021-TIOL-237-SC-GST

Issue before the Hon'ble Supreme Court was whether refund accumulated input tax credit on account of inverted tax structure would be limited only for credit on inputs or would the credit of input services would also be eligible.

Considering the provisions of Section 54 and Rule 89, the Court held that the credit of tax paid on services cannot be considered for the refund. The Court observed that the clause (ii) of the first proviso to Section 54(3) is not merely a condition of eligibility for availing of a refund but a substantive restriction under which a refund of unutilized ITC can be availed of only when the accumulation is relatable to an inverted duty structure, namely the tax on input goods being higher than the rate of tax on output supplies and consequently there is no disharmony between Rule 89(5) on the one hand and Section 54(3). Further, it was observed that explanation (a) to Rule 89(5) in defining 'Net ITC' to mean ITC availed on inputs (goods) is entirely in line with the main provision, Section 54(3).

Further, considering the anomalies in the formula, Hon'ble Supreme Court strongly urged GST Council to reconsider the formula and take a policy decision regarding the same.

2. HEC India LLP Vs CGST & CE, 2021-TIOL-1904-HC-MAD-GST

The petitioner challenged the action of blocking the 'electronic credit ledger' by the department by

invoking powers under Rule 86A of the CGST Rules, 2017.

In this connection, the High Court held that, recording of reasons to believe that the credit of input tax available in the electronic credit ledger has been fraudulently availed or the assessee is ineligible to avail credit on account of anyone of the contingencies in clauses (a) to (d) of Rule 86A(1), is a pre-requisite to block the credit ledger. In the absence of any reason, which has been recorded, the invocation of power under Rule 86A should be held to be unauthorised, illegal and without jurisdiction. The Court held that, though the said rule does not expressly provide for such procedure, for an effective representation to be made, the assessee is entitled to know the reasons, based on which the power under Rule 86A was invoked.

3. Gandhi International Vs Asstt.Commissioner (CT) 2021-TIOL-1819-HC-MUM-GST

Assessee challenged the provisional attachment of bank account under Section 83 of CGST Act, 2017 on 9.11.2020, on the ground that the provisions were wrongly invoked as there was no pending proceedings on that date.

Based on the counter affidavit filed the revenue, the Court held that the as on the date of provisional attachment, there was no investigation pending and only on 3rd December 2020, certain investigations were carried out. Holding that the provisional attachment in challenge is illegal, it was observed that provisional attachment cannot be initiated merely on the basis that certain investigations are carried out against another person.

4. A.P. Refinery (P.) Ltd. Vs. State of Uttarakhand [2021] 130 taxmann.com 307 (Uttarakhand)

Goods were confiscated on the ground that the e-way bill expired by the time the said vehicle, which carried the goods, was intercepted and detained. On challenge the to the said confiscation and also the provisions of Section 129 & 130 of CGST/ State GST Act, 2017, the High Court quashed the order of confiscation and observed that before invoking the provisions of Section 130 for confiscation, there should be a very strong base to proceed for confiscation. Mere suspicion is not sufficient to invoke the provision of the confiscation. Moreover, the petitioner should be given an opportunity of being heard according to the intent of the Legislature before passing the confiscation order as mentioned in sub-section (4) of Section 130. As there was no opportunity was given to the assessee, the orders are bad in law.

5. Madurai Kamaraj University Vs Joint Commissioner, 2021-TIOL-1812-HC-MAD-ST

Issue before the Court was whether services of providing affiliation to its affiliated institutions by

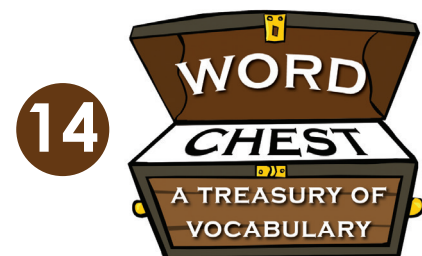
the petitioner university can be treated as a taxable service.

The Court, quashing the demand of service tax on the university, held that affiliation activity is an integral part of imparting education for any student for getting qualified to get a qualification like degree or diploma. The college cannot independently function without the affiliation of the University. Therefore, for the purpose of providing the services of education, both, the university as well as the college concerned, who get affiliated to the university, cannot be separated. The word "educational institution", which is exempted from service tax, cannot denote only the college affiliated to the university, but, it includes the university. Without the university, college cannot impart education on its own.

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Solution to Sudoku -13 September 2021

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



Finance Tech Term of the Month:

HyperLedger

What is this?

Hyperledger is a global enterprise blockchain project that offers the necessary framework, standards, guidelines, and tools to build open source blockchains and related applications for use across various industries.

Using the available components under the Hyperledger umbrella, a business can apply various modular blockchain solutions and services to significantly improve the performance of their operations and the efficiency of their business processes.



CA. G. B. Srikanth Acharya
Adv. Vasanth Kumar J

LATEST AMENDMENTS UNDER GST

Following are the rate notifications issued giving effect to the recommendations made in the 45th GST Council meeting held on 17th September 2021

Taxable Services - Notification No.06/2021-CT (Rate) dated 30th September 2021 amends the Notification No. 11/2017 dt.28/06/2017 which deals with levy of tax on supply of services, by substitution, omission and inserting of following words, letters, figures and entries.

Insertion – Sl.No.3, item (iv) clause (g) after the figures and letter “12AA” figures and letter “or 12AB” is inserted.

Comment: - The said entry provides lower rate of tax i.e., 12% on supply of works contract service to an entity registered U/s.12AA of IT Act, 1961. Due to change in registration procedure under Income Tax Law from Section 12AA to 12AB, this amendment has been made.

Omission and Substitution – in Sl.No.17, omission of item (i) and substitution to item (ii)

Comment: - Item (i) deals with levy of tax on temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) of goods other than IT Software, which was taxable at the rate of 12%, whereas item (ii) deals with in respect of IT Software, which is taxable at the rate of 18%. With the above amendment the difference between other than IT Software and IT Software has been removed and liable to pay tax at 18%.

Insertion – in Sl.No.26 item (ica) is inserted

Comment: - New entry provides levy of tax at 18% on job work in relation to manufacture of alcoholic liquor for human consumption. With this amendment it is made clear that the job work relating to alcoholic liquor cannot be equated with food products.

Omission and Substitution – in Sl.No.27, omission of item (i) and substitution to item (ii)

Comment: - Item (i) deals with levy of tax at 12% on printing of goods falling under chapter 48 or 49, where only content is supplied by the publisher and physical goods belongs to the publisher. By omission of this entry, the said services are now classifiable under item (ii), which deals with levy of tax at 18% on different kinds of services, such as other manufacturing services, publishing, printing & reproduction and material recovery, which are liable to tax at the rate of 18%.

Substitution – in Sl.No.34 item (iii) and (iiia) is substituted

Comment: - Item (iii) levy of tax at 18% on admission to amusement parks including theme parks, water parks, joy rides, merry-go rounds, go carting and ballet.

Item (iiia) levy tax at 28% on admission to entertainment events or access to amusement facilities including exhibition of cinematograph films, casinos, race club, any sporting event such as Indian Premier League and the like

The amendment clarifies the confusion on applicable rate of tax on admission to various amusement parks whether taxable at 18% or 28%. With this amendment admission to various amusement parks is liable to tax at the rate of 18%.

Substitution – Sl.No.38, in Explanation, for the figures and letter “234 of Schedule I, the figures, letter and word “201A of Schedule II” are substituted.

Comment: - Basically entry 38 levy tax on works contract services relating to renewable energy projects such as bio-gas plant, solar power etc.,

The said entry has to be read along with explanation to entry 201A of II Schedule, which provides splitting of works contract service involving supply of goods and supply of service into 70 : 30 ratio i.e., 70% of value shall be deemed to be sale of goods, liable to tax at the rate of 12% and 30% of value shall be deemed to be supply of service, liable to tax at the rate of 18%.

Splitting of contract is effective from 01/01/2019 vide Notification No. 24/2018-CT Rate, Dated: 31/12/2018. However, this can be availed for the transactions for the period from 1/1/2017 to 31/12/2018 as clarified by GST Council [Refer Circular No.163/19/2021-GST-Dt 06/10/2021]

Exempted Services - Notification No.07/2021-Central Tax (Rate) Dated 30/09/2021 amends the Notification No. 12/2017, Dt 28/06/2017, which deals with exemption of services.

Insertion - Sl.No.1, after the figures and letters “12AA” the word, figures and letters “or 12AB” is inserted

Comment: - The said entry provide exemption on services provided by entity registered U/s. 12AA of the IT Act, 1961 by way of charitable activities. Due to change in registration procedures under Income Tax Law from Section 12AA to Section 12AB, this amendment has been made.

Insertion - Sl.No.9AA, after the words “hosted in India” the words “whenever rescheduled” in inserted

Comment: - The said entry provide exemption on services related to the events under FIFA and its subsidiaries directly or indirectly for conducting Women’s World Cup 2020 in India. The said event got postponed due to Covid-19 pandemic. The said amendment provides exemption whenever it is conducted.

Insertion of new entry 9AB – The new entry provide exemption on services related to the events under AFC and its subsidiaries directly or indirectly for conducting Women’s Asia Cup 2022 in India.

Insertion - Sl.No.9D & 13, after the figures and letters “12AA” the word, figures and letters “or 12AB” is inserted

Comment: - Entry 9D provide exemption on services related to old age home provided by entity registered U/s. 12AA of the IT Act, 1961 to its residents (aged about 60 years or more).

Entry 13, provide exemption on services related to renting of precincts of a religious place meant for a general public by an entity registered U/s. 12AA of the IT Act, 1961.

Due to change in registration procedures under Income Tax Law from Section 12AA to Section 12AB, these amendments have been made.

Substitution – Sl.No. 19A & 19B for the figures “2021” the figures “2022” is substituted

Comment: - The said entries provides exemption for transportation of goods by an aircraft or vessel from customs station of clearance in India to a place outside India. The said exemption extended upto 30/09/2022

Omission of entry 43

Comment: - The said entry provided exemption to the Indian Railways Finance Corporation on leasing of rolling stock assets including wagons, coaches, locos to Indian Railways. With this omission the said service is made taxable.

Insertion of new entry 61A

Comment: - The new entry provide exemption on services by way of granting National Permit to a goods carriage, which was taxable earlier. As per section 88 of Motor Vehicle Act, National Permit and license shall be issued by a State Regional Transport Authority (RTO).

Insertion - Sl.No.72, after the words “for which” the figures, symbol and words “75% or more of the” are inserted

Comment: - The said entry provide exemption for training programme to the CG, SG & UT administration, where total expenditure is borne by CG, SG & UT administration. Now the said exemption is available even if Govt. funds 75%.

Insertion - Sl.No.74A & 80, after the figures and letters “12AA” the word, figures and letters “or 12AB” is inserted

Comment: - Entry 74A provide exemption for rehabilitation professional services by an entity registered U/s. 12AA of the IT Act, 1961.

Entry 80, provide exemption on services relating to training or coaching in recreational activities by a charitable entity registered U/s. 12AA of the IT Act, 1961.

Due to change in registration procedures under Income Tax Law from Section 12AA to Section 12AB, these amendments have been made.

Insertion of new entry 82B – The new entry provide exemption on admission to the events organized under AFC Women’s Asia Cup 2022.

Goods Rate of Tax - Notification No.08/2021-Central Tax (Rate) Dated 30/09/2021, amends Notification No.1/2017, Dt 28/06/2017 by reducing and increasing rate of tax on the following goods

Sl No.	Description of Goods	HSN CODE	Sl No, Sch ref & Not. No	Old rate upto 30-09- 2021	Sl No, Sch ref & Not. No	New rate w.e.f 01-10- 2021
1	Tamarind seeds meant for any use other than sowing	1209	Sl No. 86 of Not. No. 2/2017	0%	Sl No. 71A [Sch I] Not. No. 1/2017	5%
2	All ores and concentrates [other than slag, dross (other than granulated slag), scalings and other waste from the manufacture of iron or steel; slag, ash and residues (other than from the manufacture of iron or steel) containing metals, arsenic or their compounds; other slag and ash, including seaweed ash (kelp); ash and residues from the incineration of municipal waste]	26 [other than 2619, 2620, 2621]	Sl No. 138 [Sch I] Not. No. 1/2017	5%	Sl No. 453 [Sch III] Not. No. 1/2017	18%
3	Iron ores and concentrates, including roasted iron pyrites.	2601	Sl No. 139 [Sch I] Not. No. 1/2017	5%	Sl No. 26C [Sch III] Not. No. 1/2017	18%
4	Manganese ores and concentrates, including ferruginous manganese ores and concentrates with a manganese content of 20% or more, calculated on the dry weight.	2602	Sl No. 140 [Sch I] Not. No. 1/2017	5%	Sl No. 26D [Sch III] Not. No. 1/2017	18%
5	Copper ores and concentrates.	2603	Sl No. 141 [Sch I] Not. No. 1/2017	5%	Sl No. 26E [Sch III] Not. No. 1/2017	18%
6	Nickel ores and concentrates.	2604	Sl No. 142 [Sch I] Not. No. 1/2017	5%	Sl No. 26F [Sch III] Not. No. 1/2017	18%

Sl No.	Description of Goods	HSN CODE	Sl No, Sch ref & Not. No	Old rate upto 30-09- 2021	Sl No, Sch ref & Not. No	New rate w.e.f 01-10- 2021
7	Cobalt ores and concentrates.	2605	Sl No. 143 [Sch I] Not. No. 1/2017	5%	Sl No. 26G [Sch III] Not. No. 1/2017	18%
8	Aluminium ores and concentrates.	2606	Sl No. 144 [Sch I] Not. No. 1/2017	5%	Sl No. 26H [Sch III] Not. No. 1/2017	18%
9	Lead ores and concentrates.	2607	Sl No. 145 [Sch I] Not. No. 1/2017	5%	Sl No. 26I [Sch III] Not. No. 1/2017	18%
10	Zinc ores and concentrates.	2608	Sl No. 146 [Sch I] Not. No. 1/2017	5%	Sl No. 26J [Sch III] Not. No. 1/2017	18%
11	Tin ores and concentrates.	2609	Sl No. 147 [Sch I] Not. No. 1/2017	5%	Sl No. 26K [Sch III] Not. No. 1/2017	18%
12	Chromium ores and concentrates.	2610	Sl No. 148 [Sch I] Not. No. 1/2017	5%	Sl No. 26L [Sch III] Not. No. 1/2017	18%
13	Bio-diesel supplied to Oil Marketing Companies for blending with High Speed Diesel	3826	Sl No. 80A [Sch II] Not. No. 1/2017	12%	Sl No. 186 [Sch I] Not. No. 1/2017	5%
14	Bio-diesel (other than bio-diesel supplied to Oil Marketing Companies for blending with High Speed Diesel)	3826	Sl No. 80A [Sch II] Not. No. 1/2017	12%	Sl No. 80A [Sch II] Not. No. 1/2017	12%
15	Waste, Parings and Scrap, of Plastics.	3915	Sl No. 187A [Sch I] Not. No. 1/2017	5%	Sl No. 101A [Sch III] Not. No. 1/2017	18%
16	Following renewable energy devices & parts for their manufacture (a) Bio-gas plant (b) Solar power based devices (c) Solar power generating system (d) Wind mills, Wind Operated Electricity Generator (WOG) (e) Waste to energy plants / devices (f) Solar lantern / solar lamp (g) Ocean waves/tidal waves energy devices/ plants (h) Photo voltaic cells, whether or not assembled in modules or made up into panels	84, 85 or 94	Sl No. 234 [Sch I] Not. No. 1/2017	5%	Sl No. 201A [Sch II] Not. No. 1/2017	12%

Sl No.	Description of Goods	HSN CODE	Sl No, Sch ref & Not. No	Old rate upto 30-09- 2021	Sl No, Sch ref & Not. No	New rate w.e.f 01-10- 2021
	“Explanation: If the goods specified in this entry are supplied, by a supplier, along with supplies of other goods and services, one of which being a taxable service specified in the entry at S. No. 38 of the Table mentioned in the notification No. 11/2017-Central Tax (Rate), dated 28th June, 2017 [G.S.R. 690(E)], the value of supply of goods for the purposes of this entry shall be deemed as seventy per cent. of the gross consideration charged for all such supplies, and the remaining thirty per cent. of the gross consideration charged shall be deemed as value of the said taxable service.”;					
17	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres; box files, letter trays, and similar articles, of paper or paperboard of a kind used in offices, shops or the like.	4819	Sl No. 122 [Sch II] Not. No. 1/2017	12%	Sl No. 153A [Sch III] Not. No. 1/2017	18%
18	Plans and drawings for architectural, engineering, industrial, commercial, topographical or similar purposes, being originals drawn by hand; hand-written texts; photographic reproductions on sensitised paper and carbon copies of the foregoing.	4906 00 00	Sl No. 127 [Sch II] Not. No. 1/2017	12%	Sl No. 157A [Sch III] Not. No. 1/2017	18%
19	Unused postage, revenue or similar stamps of current or new issue in the country in which they have, or will have, a recognised face value; stamp-impressed paper; banknotes; cheque forms; stock, share or bond certificates and similar documents of title (other than Duty Credit Scrips).	4907	Sl No. 128 [Sch II] Not. No. 1/2017	12%	Sl No. 157B [Sch III] Not. No. 1/2017	18%
20	Transfers (decalcomanias).	4908	Sl No. 129 [Sch II] Not. No. 1/2017	12%	Sl No. 157C [Sch III] Not. No. 1/2017	18%
21	Printed or illustrated postcards; printed cards bearing personal greetings, messages or announcements, whether or not illustrated, with or without envelopes or trimmings.	4909	Sl No. 130 [Sch II] Not. No. 1/2017	12%	Sl No. 157D [Sch III] Not. No. 1/2017	18%
22	Calendars of any kind, printed, including calendar blocks	4910	Sl No. 131 [Sch II] Not. No. 1/2017	12%	Sl No. 157E [Sch III] Not. No. 1/2017	18%

Sl No.	Description of Goods	HSN CODE	Sl No, Sch ref & Not. No	Old rate upto 30-09- 2021	Sl No, Sch ref & Not. No	New rate w.e.f 01-10- 2021
23	Other printed matter, including printed pictures and photographs; such as Trade advertising material, Commercial catalogues and the like, printed Posters, Commercial catalogues, Printed inlay cards, Pictures, designs and photographs, Plan and drawings for architectural engineering, industrial, commercial, topographical or similar purposes reproduced with the aid of computer or any other devices.	4911	Sl No. 132 [Sch II] Not. No. 1/2017	12%	Sl No. 157F [Sch III] Not. No. 1/2017	18%
24	Rail locomotives powered from an external source of electricity or by electric accumulators	8601	Sl No. 205A [Sch II] Not. No. 1/2017	12%	Sl No. 398A [Sch III] Not. No. 1/2017	18%
25	Other rail locomotives; locomotive tenders; such as Diesel electric locomotives, Steam locomotives and tenders thereof	8602	Sl No. 205B [Sch II] Not. No. 1/2017	12%	Sl No. 398B [Sch III] Not. No. 1/2017	18%
26	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604	8603	Sl No. 205C [Sch II] Not. No. 1/2017	12%	Sl No. 398C [Sch III] Not. No. 1/2017	18%
27	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, track liners, testing coaches and track inspection vehicles)	8604	Sl No. 205D [Sch II] Not. No. 1/2017	12%	Sl No. 398D [Sch III] Not. No. 1/2017	18%
28	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)	8605	Sl No. 205E [Sch II] Not. No. 1/2017	12%	Sl No. 398E [Sch III] Not. No. 1/2017	18%
29	Railway or tramway goods vans and wagons, not self-propelled.	8606	Sl No. 205F [Sch II] Not. No. 1/2017	12%	Sl No. 398F [Sch III] Not. No. 1/2017	18%
30	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof.	8607	Sl No. 205G [Sch II] Not. No. 1/2017	12%	Sl No. 398G [Sch III] Not. No. 1/2017	18%
31	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing.”;	8608	Sl No. 205H [Sch II] Not. No. 1/2017	12%	Sl No. 398H [Sch III] Not. No. 1/2017	18%

Sl No.	Description of Goods	HSN CODE	Sl No, Sch ref & Not. No	Old rate upto 30-09- 2021	Sl No, Sch ref & Not. No	New rate w.e.f 01-10- 2021
32	Pens [other than Fountain pens, stylograph pens] "Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens; stylograph pens and other pens; duplicating stylos; pen holders, pencil holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading 9609."	9608	Sl No. 232 [Sch II] Not. No. 1/2017	12%	Sl No. 447 [Sch III] Not. No. 1/2017	18%

Exempted Goods - Notification No.9/2021-CT(Rate) amends the exemption Notification No. 2/2017 Dt 28-06-2017 for supply of goods.

Substitution - Sl 86. The said entry exempt supply of "Seeds, fruit and spores, of a kind used for sowing"

The amendment inserts the explanation as "this entry does not cover seeds meant for any use other than sowing";

The substitution by way of inserting explanation was not required, as previous entry itself clarifies that seeds used for sowing were alone exempted.

RCM on Goods - Notification No. 10/2021 – CT (Rate) amends the Notification No. 4/2017 dt. 28/06/2017, which deals with levy of tax under Reverse Charge Mechanism U/s. 9(3) of CGST Act, 2017.

Insertion of Sl.No.3A. The said entry prescribes levy of tax under RCM on supply of essential oils other than those of citrus fruit namely, (a) of peppermint, (b) of other mints, from un-registered person to registered person at the rate of 18% under entry no. 56 of III Schedule, Notification No. 1/2017, Dt 28/06/2017, classified under chapter heading 3301.

Lower Rate of Tax on Goods - Notification No. 11//2021 – CT (Rate) amends the Notification No. 39/2017, Dt 18/10/2017, which prescribes the lower rate of tax on certain intra-State supply of goods.

Substitution – Sl.No.1 substituted with entry (a) & entry (b)

Earlier entry prescribes GST at 5% on supply of food preparations put up in unit containers intended for

free distribution to economically weaker sections of the society under Govt. programme, subject to furnishing a certificate to be obtained from concerned authority.

With the latest amendment supply of Fortified Rice Kernel (Premix) ICDS or similar scheme approved by Govt. is also covered for 5% rate of tax.

Extension of Concession Rate on Goods - Notification No.12/2021 – CT (Rate) exempts and reduce the rate of tax on supply of Covid-19 treatment drugs falling under chapter heading 30, for the period from 1/10/2021 to 31/12/2021

Nil rate for Tocilizumab & Amphotericin B

5% rate for Remdesivir, Heparin (anti-coagulant), Itolizumab, Posaconazole, Infliximab, Bamlanivimab & Etesevimab, Casirivimab & Imdevimab, 2-Deoxy-D-Glucose, Favipiravir

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ATTENTION

KSCAA intends to rationalise the bye-laws / constitution documents to increase the efficiency and efficacy of the administrative and financials conduct of the association.

We request members to send us the points which according to you should be the areas of amendment including suggestions if any.

Kindly send us the suggestion to president@kscaa.Com by 15th of November 2021.



CA. Parthasarathy Sudarsanam
CA. Udupi Vikram

REPORTING REQUIREMENTS UNDER CARO, 2020 AND RECOMMENDED AUDIT PROCEDURES

This article is shared in parts, bringing out additional, modified requirements and a clause which has been dispensed with.

The current article covers the **additional and new clauses under CARO 2020 up to clause ix**

In Focus

Relevant Audit Considerations	Audit Procedures	Reporting and Documentation
Intangible assets: Whether the company is maintaining proper records showing full particulars of intangible assets <i>Paragraph 3(i)(a)(B)]</i>		
<ul style="list-style-type: none"> This clause requires the auditor to comment as to whether the company is maintaining “proper records” showing full particulars of intangible assets. AS 26 defines the term “Intangible Asset” as an identifiable non-monetary asset, without physical substance, held for use in the production or supply of goods or services, for rental to others, or for administrative purposes. Proper records: The Order does not define as to what constitutes ‘proper records’. In general, however, the records relating to intangible assets should contain, inter alia, the following details: <ul style="list-style-type: none"> sufficient description of the intangible asset and controls around capitalisation; situation; original cost, residual value; year of purchase, date of put to use and useful life; adjustment for revaluation or for any increase or decrease 	<ul style="list-style-type: none"> Intangible assets, inter alia, can be of the following types: <ul style="list-style-type: none"> Customer-based intangible assets; Marketing-based intangible assets; Contract-based intangible assets; Technology-based intangible assets; or Artistic-based intangible assets. The Intangible assets may in the form of following: <ul style="list-style-type: none"> Narratives; Standard Operating Procedure (SOP) – e.g., with respect to capitalisation process of research and development expenses in specific industries such as pharmaceuticals, automobiles, information technology, etc.; Specific transaction reports or ledgers in enterprise resource planning platforms; Any other structured form of management information system. Intangible assets may also include: Customer list, trademark, formula, license, patents, algorithms, domain names, employment contracts, franchise etc. 	<ul style="list-style-type: none"> The auditor while reporting under this clause should consider: <ul style="list-style-type: none"> Self-generated intangible assets to the extent permitted by relevant accounting standards and their classification. Acquired intangible assets and their classification Auditor may consider the following evidences for commenting in report: <ul style="list-style-type: none"> Identification: Patents, trademarks and designs may be identifiable by purchase agreements / letters granting patent and by registration references. Location/situation: Name of branch / division where asset is located. <i>It is difficult to assess the situation for an intangible asset. However, auditor may consider the Legal jurisdiction areas, which includes the following:</i>

Relevant Audit Considerations	Audit Procedures	Reporting and Documentation
<ul style="list-style-type: none"> in cost and date of revaluation, if any; rate(s)/basis of amortisation; amortisation for the current year and accumulated amortisation; particulars regarding impairment; particulars regarding sale, discard etc. The auditor may have to consider the applicable documentation requirements of intangible assets as laid down in, inter alia, Copyright Act, 1957, Patents Act, 1970, Trade Marks Act, 1999, Designs Act, 2000, Information Technology Act, 2000 and so on. Illustrative list of information, documents/records showing particulars of intangible assets. Documents, registers, records may be in the form of hard copies / printed materials or available in digital medium. The same may be in the form of: <ul style="list-style-type: none"> Narratives; Standard Operating Procedure (SOP) – e.g., with respect to capitalisation process of research and development expenses in specific industries such as pharmaceuticals, automobiles, information technology, etc.; Specific transaction reports or ledgers in enterprise resource planning platforms; Any other structured form of management information system. 	<ul style="list-style-type: none"> For the acquired intangible assets in the form of customer list/loyalty, etc, the auditor should examine the acquisition documents (outright purchase agreement/amalgamation agreement/ court order etc.) In cases where the details regarding allocation of cost over identified units of assets are not available, it would have to be made by an analysis of the purchases and the disposals of the preceding years. Among the difficulties which may be faced could be: <ul style="list-style-type: none"> (i) records for some of the years may not be available; (ii) the description in the records may not be complete; (iii) details of disposals may not have been properly recorded; (iv) subsequent additions to an existing asset may have been shown as a separate asset; and so on. The management, in consultation with the auditor, should make the best effort possible under the circumstances to identify the cost of each asset. In doing so, reasonable assumptions or approximations may be made, where necessary. For example, when details of disposals are not available, it may be assumed that the asset sold is the asset which was acquired earliest in point of time. Similarly, when the individual cost of a large number of small items is not available, one can estimate the cost of each item and pro-rate the total cost in the proportion of the estimated cost of the item to the aggregate estimated cost. 	<ul style="list-style-type: none"> Patents registered: worldwide or restricted areas URL of the website Mining rights Import license Agreement books/registers: detailed commercial agreements with respect to intangible assets, e.g., license agreements Quantity of the intangible assets per category / classification, i.e., number of units. This would be relevant for items like standard computer software where more than one unit may have been acquired. Original cost details. (for self-generated assets, cost of development). Date on which the asset becomes available for use by the company with documentary evidence. Subsequent expenditure on the asset that is included in its carrying amount, along with the date of incurrence of the expenditure. Register of amortization: containing, inter alia, amortisation period (or rate of amortisation), amount of amortisation for the period, amount of accumulated amortisation as at the beginning and end of the period. Impairment Register/Record: particulars of impairment loss (if any) and any reversal of such impairment loss– date, amount for the period and accumulated amount as at beginning and end of period. Impairment indicators may also be documented. Retirement & Disposal Book: particulars of retirement, sale, transfer, disposal of intangible assets, if any. Record of registration: name of registration authority and date of registration, period of validity of registration and date of expiry of registration.

Relevant Audit Considerations	Audit Procedures	Reporting and Documentation
		<ul style="list-style-type: none"> Records/registers of litigations involving intangible assets which may assist in tracing an intangible asset belonging to the entity which is subject of any unauthorised access, use or disposal by another party. Where intangible asset register is not maintained by the company, it is a serious documentation and control lacuna. This should be mentioned by the auditor while reporting under this clause.

Property, plant, and equipment – Revaluation:

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.

Paragraph 3(i)(d)]

<ul style="list-style-type: none"> As per the requirements of this clause, the auditor must report on whether the company during the year has revalued its PPE (including right of use assets) or intangible assets or both and whether the revaluation is based on the valuation by a registered valuer. Revaluation of assets is the process by which the carrying value of such assets is adjusted upwards or downwards in response to major changes in its fair market value. The process of revaluation may be carried out at sufficient regularity such that the carrying amount does not differ materially from the fair value. 	<ul style="list-style-type: none"> Reporting under this clause will cover both upward and downward revaluation under revaluation model. It may be noted that for the purpose of reporting under this clause, revaluation shall not include: <ul style="list-style-type: none"> Fair valuation of PPE upon first time adoption of Ind AS. Remeasurements (i.e., changes in value due to interest or foreign exchange rates). Changes to ROU assets due to lease modification as per Ind AS 116. Aspects to be considered by Auditor: The Act and the Companies (Registered Valuers and Valuation) Rules, 2017, inter alia, set out the nature and duties 	<ul style="list-style-type: none"> As per the requirements of this clause, the auditor must report on whether the company during the year has revalued its PPE (including right of use assets) or intangible assets or both and whether the revaluation is based on the valuation by a registered valuer. The details of revaluation to be disclosed: The auditor while reporting under this clause should review the disclosure requirements for revalued assets as per the applicable financial reporting framework (viz. AS / Ind AS) The auditor also needs to specify the amount of change, if change is 10% or more in the aggregate of the net
<ul style="list-style-type: none"> It may be noted that reporting under this clause would be limited to revaluation model since under cost model, revaluation is not permitted. Revaluation need not be performed every year or in every reporting period. Principles laid down in AS 10 (revised) / Ind AS 16 may be referred by the auditor. Revaluation model allows both downward and upward adjustment in value of an asset while cost model 	<ul style="list-style-type: none"> of registered valuer under the Act, which broadly include the following: <ul style="list-style-type: none"> Date of revaluation carried out by the company. Name of the registered valuer or firm who carried out the valuation exercise, place and date of valuation report. Membership/license number of the registered valuer (registered valuer are to be registered with the Insolvency and Bankruptcy Board of India). 	<ul style="list-style-type: none"> carrying value of each class of PPE or intangible assets. The auditor while reporting under this clause must consider the requirements of Section 247 of the Act - "Valuation by Registered Valuers". As part of audit documentation under SA 230, "Audit Documentation", the auditor may also retain a copy of the valuation report carried out by such registered valuer.

Relevant Audit Considerations	Audit Procedures	Reporting and Documentation
<p>allows only downward adjustment due to impairment loss. Hence, for the purpose of reporting under this clause, there may be cases of:</p> <ul style="list-style-type: none"> Upward revaluation and/or Downward revaluation <p>• It shall be noted by the auditor that using the work of registered valuer does not tantamount to using the work of an auditor's expert as laid out in SA 620, "Using the Work of an Auditor's Expert". However, the auditor shall consider the principles enunciated in SA 500, "Audit Evidence", regarding using the work done by a management's expert.</p>	<ul style="list-style-type: none"> Review of valuation report issued under Rule 8 of the aforesaid Rules, by such registered valuer. Methods and significant assumptions applied in estimating fair values. Extent to which fair values were determined directly or estimated. Accounting treatment of revaluation surplus. 	
<p>Example:</p> <p><i>The Company has land at three places and has revalued all the three. Out of the three, one is situated in a prime location and has been upward revalued by 130% and the others are revalued at 105%. This revaluation has increased the net block of whole class of land by 8%.</i></p> <p><i>Auditor need not to comment on the change since, at the overall level the % change is not more than 10%.</i></p>		
<p>Benami property:</p> <p>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</p> <p>Paragraph 3(i)(a)(e)]</p>		
<ul style="list-style-type: none"> Details of proceedings initiated or pending regarding benami property to be disclosed. It may be noted that this clause refers to Benami Transactions (Prohibition) Act, 1988. The name of the aforesaid Act has been changed to Prohibition of Benami Property Transactions Act, 1988 in the year 2016. Therefore, for the purpose of reporting under this clause reference should be made to Prohibition of Benami Property Transactions Act, 1988 (as amended in 2016). For the meaning of the relevant terms, reference has to be made to Prohibition of Benami Property Transactions Act, 1988 and rules made there under. <p>https://prsindia.org/files/billsActs/actsParliament/2016/the-benami-transactions-(prohibition)-amendment-act,-2016.pdf</p>	<ul style="list-style-type: none"> Section 24(1) of the Prohibition of Benami Property Transactions Act 1988 by the Initiating Officer during the year and/ or any proceedings are pending against the company before the Initiating Officer/ Adjudicating Authority/ Appellate Tribunal/ High Court/ Supreme Court during any of the preceding financial years. Appropriate disclosures: Shall include nature of property, carrying value of the property in the books of account, status of proceedings before the relevant authority, consequential impact on the financial statements and/ or the liability that may arise in case the proceedings are decided against the company. Events post balance sheet date: Where the proceedings are initiated post balance sheet date but before the signing of the auditor's report, the auditor should consider the requirements of SA 560, "Subsequent 	<ul style="list-style-type: none"> The duty of the auditor under this clause is to report: <ul style="list-style-type: none"> Whether any proceedings have been initiated or are pending against the company for holding any benami property under the Prohibition of Benami Property Transactions Act, 1988 and rules made thereunder. If so, whether the company has appropriately disclosed the details in its financial statements. Depending on the merits of the case, the auditor is also required to evaluate whether the liability is required to be disclosed as "contingent liabilities" or whether provisions are required to be made. It may be noted that reporting under this clause is limited to the adequacy of disclosure in the

Relevant Audit Considerations	Audit Procedures	Reporting and Documentation
<ul style="list-style-type: none"> “benamidar” means a person or a fictitious person, as the case may be, in whose name the benami property is transferred or held and includes a person who lends his name; (as per section 2(10) of the aforesaid Act.) The Initiating Officer (IO), as the name indicates is an authority who initiates the proceedings under the aforesaid Act. As per section 2(19) of aforesaid Act, the IO is the Assistant/ Deputy Commissioner of Income Tax. Chapter IV of the aforesaid Act deals with the provisions relating to attachment, adjudication, and confiscation of property involved in benami transaction. "property" means assets of any kind, whether movable or immovable, tangible or intangible, corporeal or incorporeal and includes any right or interest or legal documents or instruments evidencing title to or interest in the property and where the property is capable of conversion into some other form, then the property in the converted form and also includes the proceeds from the property; (as per section 2(26) of the aforesaid Act.) The auditor shall ensure compliance with the requirements of SA 250, “Consideration of Laws and Regulations in an Audit of Financial Statements” and the requirements relating to litigation and claims given in SA 501, “Audit Evidence-Specific Considerations for Selected Items”. 	<p>Events” for the purpose of reporting under this clause.</p> <ul style="list-style-type: none"> Following procedures may be performed by auditor to obtain details of proceedings: Auditor may enquire management and obtain Management representation regarding proceedings. Review of legal expense, rates & taxes ledger in books: This gives auditor an idea of litigations. Review of Minutes of board meeting, audit committee meeting, and etc.: This gives an auditor any reference to proceedings, if any. 	<p>financial statements and to cases where proceedings are initiated with the company being treated as a benamidar. The reporting is not applicable where the notice is received by the company as a beneficial owner.</p>

In the second part of our article as produced above, we have only covered extensively clause by clause analysis of the audit procedures and reporting and documentation of CARO. Remaining part of the clauses will be covered in upcoming series.

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CA. Sandeep Jhunjhunwala

CESS – THE ONLY WATER WHEN THE WELL RUNS DRY

Spin-off incomes earned with minimal effort are usually cherished as icing on the cake. The populace with regular employment and moonlighting would certainly approve of the importance of having two sources of income. Sovereigns also apply the same rationale. While the primary source of revenue for the Government is taxes, additionally, a 'cess' may be levied to earn extra income. The Hon'ble Apex Court in India had opined that the term 'cess' is commonly employed to connote a tax with a purpose, or a tax allocated to a particular thing. For instance, the Swachh Bharat Cess was levied to invest in the Swachh Bharat Mission for a clean India and there was a nationalistic pride associated with paying this cess for such a purpose. A question that often comes to one's mind is what is the difference between a tax and a cess? Also, what prevents the Government from setting aside a specific amount from the tax revenues for these purposes? One can iron out these questions by contemplating on pointers that differentiate a cess from tax - cess can ensure the amount collected is spent towards a particular cause by specific legislation; the scope and quantum of cess can be better controlled by the States without causing significant disruption in the industry on account of change in normal tax rates that may be warranted on account of any additional funds required; and cess levies usually do not face significant resistance by the public or in the legislative assemblies as they are usually for funding good causes.

With the introduction of the Goods and Services Tax ("GST") in 2017, the taxation landscapes changed overnight. Most of the cesses introduced by various Governments were subsumed within GST and a promise of 'One Nation One Tax' became the catchphrase of the country's latest indirect tax regime. In the past, a similar

premise was employed by the Government at the time of introducing VAT with three rate structures across all states. It was promised that GST would be different from the VAT regime due to creation of GST Council which would collectively decide the rate for Central and State Governments. This worked well for the base slab rates under the GST regime but upon scratching underneath the surface, one could find that there is still scope for states to implement special levies and the effective GST rates are not as sacrosanct as one could have expected.

One such unilateral levy by a State is already in force since June 2019 in the state of Kerala and domestic supplies are liable to a one percent cess to facilitate redevelopment of the State on account of a flood that occurred in 2018. It was not just the levy of a cess, which was not creditable in the GST credit cycle, but registered persons were also required to file a separate state-specific return for reporting the same. These levies were carried out with the blessing of the GST Council which sparks off an interesting question as to whether other States will also be given a leeway to levy a cess for stumbling blocks that may appear in their overall local level development. The global pandemic brought unprecedented losses to the economy which led most industry experts to anticipate a 'COVID Cess' to create a new well as the old ones run dry. This idea was even officially raised by the Government of Sikkim in the 45th GST Council Meeting. However, the idea was turned down with a promise to provide additional compensation to subdue the State's grief. On the flip side, States within their powers can provide capricious exemptions for the State GST component such as exemption for movie tickets of 'Uri: The Surgical Strike' by the Uttar Pradesh Government which led to a rate differential between two states for the same service.

Given the above, it appears that it is only a matter of time before the States start seeking the levies of various cesses and the GST Council may have to give in to the pressure leading us back to the issues faced under the VAT regime. It is anticipated that the GST Council would provide clarity on the extent of any cess that can be levied by a State within the confines of the law to prevent cascading of taxes by parallel levies.

On the other hand, as far as one can recollect, allowability of 'cess' as a deduction under the Income Tax Act, 1961 ("IT Act") has always been a matter inclined to contention and continues to stand the test of time, revived through new judgements passed by various judicial bodies in India. To begin with, the word 'cess' was first cited alongside tax and rates under Section 40(a)(ii) of the Income-tax Bill, 1961, as introduced in the Parliament. However, the word was consequently omitted in the IT Act by the Select Committee and hence the expression found no place in the final text of the provision which reads as "any sum paid on account of any rate or tax levied on the profits or gains of any business or profession shall not be allowed as deduction while computing the income chargeable under the head profits and gains of business or profession". The removal was subsequently mentioned in the CBDT Circular¹ stating that the word 'cess' had been explicitly deleted and only taxes paid are to be disallowed from AY 1962-63 onwards. The term 'tax' is defined as income tax chargeable under the provisions of the IT Act and on conjoined reading with Section 40(a)(ii), it may be construed that income tax paid shall not be allowed as a deduction while computing income of the taxpayer. However, the term income tax has not been defined under the IT Act. Nonetheless, the question as to whether the word 'cess' would be considered as any rate or tax levied and accordingly not be allowed as a business expenditure remains debatable.

Conversant with the issue at hand, various Courts and Tribunals have tried to disentangle the dispute around cess and have laid down dependable principles. As stated above, the Apex Court held that the term 'cess' can also mean an assessment or levy, therefore, depending on the context and purpose of levy, cess may not be a tax, and

could be inferred as a fee². Pursuant to this, various High Courts³ have sought shelter through Section 40(a)(ii) of the IT Act verbatim, and have ruled in favour of the taxpayer stating that cess cannot be disallowed under this section and deduction claimed by taxpayers for payment of cess should be permitted. The Courts noted that an acceptance of contention of disallowance would amount to reading something into the text of the provision which is otherwise not found. Most verdicts also draw reference to the Circular stating that the effect of such omission is to be interpreted as such, since the section does not include cess, consequently, any cess whenever paid in relation to business, should be allowable as deductible expenditure. Nonetheless, every path has its puddles and since this is an unsettled matter, a divergent view has also been taken by the Courts while dealing with specific facts in few cases. These rulings have interpreted cess as tax, keeping in view the mechanism by which cess is levied ie, by charging it over and above income tax and surcharge, hence making it an essential element of income tax itself.

In essence, it appears that there is a catena of recent judicial precedents⁴ to support the deductibility of cess, including the State levied, non-creditable cess, under Section 37(1) of the IT Act. However, one should keep in mind that this issue is still open for contention given the conflicting decisions in the past and unless either the Apex Court or the legislature brings in clarification, litigation on the subject matter cannot be entirely ruled out.

With inputs from CA. Arshita Khetan and CA. Tarun Daga.

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¹ No. 91/58/66-ITJ(19), dated May 18, 1967

² *State of West Bengal vs Kesoram Industries Ltd & Others* [2004]

³ *Sesa Goa Ltd vs JCIT (Bombay HC)* [117 taxmann.com 96], *Chambal Fertilisers and Chemicals Limited vs JCIT (Rajasthan HC)* [107 taxmann.com 484]

⁴ *Gloster Ltd vs ACIT (Kolkata ITAT)* [125 taxmann.com 223], *Metropolis Healthcare Ltd vs DCIT (Delhi ITAT)* [129 taxmann.com 171]



CA. Vinayak Pai V

FINANCIAL REPORTING AND ASSURANCE

1. UPDATES: Monthly Roundup¹

AS Ind AS	<ul style="list-style-type: none"> ICAI Exposure Drafts: <ul style="list-style-type: none"> Ind AS 12, Income Taxes - <i>Deferred Tax related to Assets and Liabilities arising from a Single Transaction.</i>
Assurance	<ul style="list-style-type: none"> ICAI Announcement <ul style="list-style-type: none"> Aligning the Time Limit of Generating UDIN from 15 Days to 60 Days. IAASB Release <ul style="list-style-type: none"> <i>Audits of Less Complex Entities Consultation : Supplemental Guidance on Auditor Reporting and Mapping Documents.</i> COSO Guidance <ul style="list-style-type: none"> Enterprise Risk Management - <i>Realize the Full Potential of Artificial Intelligence.</i>
NFRA	<ul style="list-style-type: none"> Consultation Paper – Statutory Audit and Auditing Standards for Micro, Small and Medium Companies (MSMCs). Regulatory Impact Assessment – Revision of Existing Accounting Standards. Audit Quality Review (AQR) Report – Statutory Audit of <i>IL&FS Transportation Networks Limited</i> for FY 2017-18. Financial Reporting Quality Review Report – KIOCL Limited for FY 2019-20.
RBI	<ul style="list-style-type: none"> Notifications: <ul style="list-style-type: none"> Tokenisation – Card Transactions: Permitting Card-on-File Tokenisation Services. Large Exposures Framework – Credit Risk Mitigation for offsetting non-centrally cleared derivative transactions of foreign bank branches in India with their Head Office. Use of any Alternative Reference Rate in place of LIBOR for interest payable in respect of export/import transactions.
IFRS	<ul style="list-style-type: none"> IASB's Request for Information <ul style="list-style-type: none"> Post-implementation Review of IFRS 9 – Classification and Measurement. IFRIC Tentative Agenda Decisions <ul style="list-style-type: none"> IAS 7, Statement of Cash Flows – Demand Deposits with Restrictions on Use. IFRS 9, Financial Instruments – Cash Received via Electronic Transfer as Settlement for a Financial Asset.
USGAAP	<ul style="list-style-type: none"> FASB's Proposed Accounting Standards Update (ASU) <ul style="list-style-type: none"> Topic 820, Fair Value Measurement – Fair Value Measurement of Equity Securities Subject to Contractual Sale Restrictions.

¹Updates for the month of September 2021.

2. Case Study: Audit – Management Override of Internal Controls through Manual Journals to Revenue

About the company: Company X, a listed company (thereby an Ind AS preparer) is a direct marketer of promotional

products (i.e., merchandise that is custom printed with the logo or name of an organisation with the aim of promoting a brand, service, product or event).

Revenue Stream and Accounting Policy: The activity from which Company X derives revenue is the sale and delivery of promotional products. Customer orders typically include several different product lines. Individual order lines are separately priced, have separately agreed delivery dates, and are capable of being used or enjoyed by the customer on their own, separately from any other order lines included in the overall customer order.

Company X considers each order line to constitute a separate performance obligation. Revenue is recognised at a point in time upon delivery and acceptance by the customer as this is when control of the goods has transferred. The price for each order line is fixed at the time of order, inclusive of any discounts given. Revenue is shown net of discounts, credits, refunds and indirect tax. The value of credits and refunds is determined using the expected value methodology based upon historical experience of refunds/credits issued and levels of revenue. Payment terms vary by customer but are generally either payment with order or within 30 days of delivery.

Internal Control Risk: Company X's **investors typically focus** on its revenue performance which, together with the management reward and incentive schemes, being based on revenue percentage growth and underlying operating profit targets, create an incentive for management to manipulate revenue recognition.

The performance of Company X has been significantly impacted by the COVID-19 pandemic. Investor focus has shifted to assessing the recovery of Company X. Targets for management rewards and incentive schemes were unattainable as a result of the pandemic and as such no bonus has been paid to the Executive Directors based on current year performance.

There is a **risk that management may override controls to intentionally misstate revenue transactions through inappropriate manual journal entries** and consequently underlying operating profit. Overstating revenue and therefore operating profits **could be to report an improved recovery** to the market. Understating revenue and therefore operating profits could be to **meet targets for management rewards and incentive schemes in the next financial period**.

Audit Procedures: Response to the Risk - The statutory auditors **identified, documented and confirmed** their **understanding** of X's **revenue recognition policies** and **assessed the design and operational effectiveness of key controls** over the revenue process.

They **performed testing to validate a sample** of revenue transactions extracted from the sales invoicing system to revenue recorded and reconciled in the general ledger.

The auditors performed data analytics testing over the entire revenue process from revenue recognition through to invoice settlement. Where the postings did not follow their expectation, they investigated outliers and tested such entries to assess their validity by agreeing the transactions back to source documentation.

The auditors **tested manual journal entries posted to revenue accounts**, applying **parameters** designed to identify entries that were not in accordance with expectations. These included analysing and selecting journals for testing which appeared unusual in nature due size, preparer or being manually posted as there is greater opportunity to record fictitious entries than with automated journal and therefore outside the normal course of business. The auditors also **introduced unpredictability** into the manual journal testing and corroborated such journals to source documentation to confirm that the entries supported the revenue recognised and that the entries were valid.

3. Financial Statement Extracts: Going Concern

Herein below are provided extracts from the audit report of a listed company related to Going Concern.

Going concern

Whilst the COVID-19 pandemic has had a major impact on trading volumes, the Board considers that the Company's strategy, competitive position, and business model remain entirely relevant and, indeed, have proved to be resilient and agile under stress. In addition, capital spend has been minimised and dividend payments have been temporarily halted. The Board considers that the key factor that would prejudice the liquidity and going concern of the Group would be a significant additional decline in demand.

A **'base case'** was developed for the purposes of financial modelling. The commercial underpin to this model is the Board's view that whilst its products market has contracted in 2020, its recent experience is that market demand has remained resilient across the product range and customer base. The base case started with current order volumes at around 60% of pre-pandemic 2019 levels, with further improvement continuing throughout the assessment period. This base case shows improving financial results, an accumulating cash balance and no liquidity concerns.

An **alternative 'distressed' forecast** was then produced to model the effects on the Group's liquidity of a downside

scenario based on severe, but plausible, demand assumptions. This model assumed a significant deterioration in demand patterns beginning in January 2021, with order volumes for the full year dropping back to around 50% of 2019 levels. Marketing and direct costs were flexed in line with revenue, but other payroll and overhead costs remained at 2020 levels with some allowance for inflationary increase. This distressed model involved periods of demand significantly below the actual experience of the second half of 2020 and was intended to simulate continued elevated levels of COVID-19 infections with associated regional lockdowns and no immediate benefit from mass vaccination, resulting in sustained diminished corporate demand in a downsized promotional products market.

Even under the severe stress built into the distressed model, the Group retains sufficient liquidity throughout the assessment period. This liquidity is in the form of cash balances. In addition, there are further mitigating actions that the Group could take, including further cutting marketing costs and reducing headcount, that are not reflected in the distressed forecast but would, if required, be fully under the Group's control.

The modelling in both the base case and distressed scenarios shows the maintenance of positive cash balances throughout the assessment period and, as such, there is no current requirement to utilise the facilities or intention to secure any additional facilities.

Based on the assessment outlined above, the Directors have reasonable expectations that the Company will have adequate resources to continue to operate. Accordingly, they continue to adopt the going concern basis in preparing the financial statements.

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KSCAA REPRESENTATION:

- 1) Representation on Erroneous Intimations issued u/s 143(1)(a) of the Income Tax Act, 1961 to J B Mohapatra, Hon'ble Chairman of the CBDT dated 7th October, 2021

*For full text of above representation,
please visit: www.kscaa.com*

KSCAA Welcomes New Members September 2021

Sl. NO.	NAME	PLACE
1	Gowri Manjunath	Bengaluru
2	Sowmya Kamath M	Mangaluru
3	Sudeep N	Bengaluru
4	Sindhu D Mahenderkar	Bengaluru
5	CA Phaniraj N V	Bengaluru
6	Vishvini Kashyap	Bengaluru
7	Poonacha S S	Bengaluru
8	Vijayalaxmi Chagal	Raichur
9	Ritu Mathran	Bengaluru
10	Sushanth Hegde	Bengaluru
11	B V Vinay Kumar	Bengaluru
12	K Somanna	Bengaluru
13	Manasa M J	Bengaluru
14	K Ashish Kumar	Mysore
15	Sunke Venkata Narasaiah	Bengaluru
16	Mahesh Hindi	Gadag
17	Adarsha P G	Mangaluru
18	Pradeep Mogaveera G	Bengaluru
19	Kaushik R	Bengaluru
20	Ganesh Joshi	Bengaluru
21	Ca Shreyank S Shetty	Bengaluru



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

INTELLECTUAL PROPERTY RIGHTS AND PROTECTION IN INDIA EFFORTS OF GOVERNMENT OF KARNATAKA TO POPULARISE GI PRODUCTS (PART - XIV OF IPR SERIES)

As deliberated in the earlier parts, there is immediate requirement for all the concerned to support the process of strengthening the Traditional Knowledge, so that it is protected from the commercial exploits at the hands of the fraudsters. In this important endeavor, the efforts of the educational institutions, by joining hands with Government and the local Traditional Knowledge holders, to identify, process and register the dying Knowledge as Geographical Indications so as to protect and preserve them as legal assets for the welfare of the community have been informed. More of such efforts are needed to be under taken by similarly placed stake holders, the trade Associations and the Industrial houses. In this regard, the Government of Karnataka has come out in a unique way, through a specific policy, awarding much required support for the protection of GIs in the state. Karnataka is the first State in the country to have an exclusive GI Policy released in May'2019. The Visvesvaraya Trade Promotion Centre (VTPC), a Government of Karnataka organisation has been mandated as the nodal agency for the facilitation and promotion of GIs from Karnataka and to manage and monitor the implementation of the GI policy. In the following paragraphs, the efforts initiated by VTPC in promotion of GIs are narrated with an intention to enable the existing MSMEs and the new entrepreneurs to make best use of the available opportunity.

About Visvesvaraya Trade Promotion Centre (VTPC),

VTPC is the key agency for the promotion of international trade from the State, functioning under the aegis of the Department of Industries & Commerce, Government of Karnataka. Since its inception (1965), the Centre has been

at the forefront in handholding and facilitating budding exporters and to make a mark in the field of international trade, through various Programmes, Schemes, Policies, Incentives and concessions. VTPC provides necessary momentum in development of new entrepreneurs and helps in representing the grievances and issues in the business and commerce to the right Authorities. VTPC facilitates State, National and International level trade fairs and exhibitions to MSME's, artisans, and other stakeholders across State. It recognizes excellence in export performance of exporters by conferring State Export Excellence Awards. It conducts sensitization and incisive training programs frequently on matters relating to exports, innovation, management, entrepreneurship, international trade and IPR landscape. The objective of the organization is to provide a stable and sustainable environment for both service and merchandise exports in international trade in line with National policy, Promote diversification of State's export basket by assisting various sectors in the state to gain global competitiveness.

In support MSMEs, one of the popular programme of VTPC is the *Sarthak Scheme*, which aims to provide a unified platform for addressing the critical challenges faced by the sector with respect to Finance, Marketing, Technology, etc. The scheme, announced by Government of Karnataka in its Industrial Policy for 2020-25, is to provide a single platform for relevant information to the MSME sector, create structures for the quality procurement of raw materials, provide easy access to credit, working capital, facilitate access to technology, analytics and introduce the concept of revolving fund to tide over the lean period. The VTPC along with union Government

has identified and proposed five districts namely *Shivamogga, Hubballi-Dharwad, Bidar, Ramanagara, and Mysuru* to establish Export Development Centers on a pilot basis. The Joint Directors of the District Industries Centres (JD,DIC) are made responsible for carrying out the functions pertaining to awareness generation, e-commerce facilities for businessmen, artisans, and other groups, support manufacturers to sell their products online, set up local logistics facilities through Post Office / Courier, encourage Buyer-Seller Meets, international trade exhibitions, among others. A MOU is inked with Amazon Global Selling to position the Artisans and other MSMEs products in the global market. First & Last mile connectivity in the State is being undertaken by India Post. Various meetings are being conducted with the artisans and other MSMEs for on boarding of their products on Amazon and Foreign Post Offices. The MSME sector may derive benefits from the said schemes. Sixteen of the GI products belong to the handicrafts category and the state Government plans to help out artisans in this segment. Under ODOP (one district one product) export scheme formation of Industry clusters to manufacture and source locally well known products are being planned.

Efforts of VTPC in strengthening the GIs

The state of Karnataka, as earlier informed, has 46 GIs Registrations spread across Handicrafts, Horticulture / Agriculture, Manufactured Goods and Food Stuff categories in its hold. Karnataka is an unparalleled leader in this Traditional wealth as it consists of variety of products like *Dharwad Peda, Mysore silk, Appemidi Mango and Coorg Green Cardamom, Mysore Sandal Soap, Sandalwood Oil, Mysore Rosewood Inlay, Bidriware, , Kinhal Toys, Bangalore Blue Grapes, Mysore Traditional Paintings*, etc. Karnataka has the maximum GI share, constituting 12.45% of the India's total of 370 registered GIs. The huge number of GI tags helps the State to maintain its uniqueness. Not only does it help in preserving the heritage, but also promotes the culture and flavour of individual cities and towns while emphasizing on biodiversity. From April 2018 till date a total number of seven products from the Karnataka have obtained the GI tag. They are *Kolhapuri Chappal, Coorg Arabica Coffee, Chikmagalur Arabica Coffee, Bababudangiris Arabica Coffee, Sirsi Supari and Gulbarga Tur Dal* (Agricultural

Karnataka). To add to the number, there are some more of them waiting for GI tags approval at the registry. Since Karnataka is one of the leading states in the country having registered more GI crops (22 as on date), more incentives for the export of GI Crops and the processed agricultural products from GI Crops is essential to boost the exports of GI crops.

As on date, there are total 399 registered Authorized Users base in the Karnataka and rigorous efforts are being made by VTPC to increase the authorized user base. For this purpose diagnostic Studies across certain GI clusters have been conducted, which include *Udupi Sarees, Udupi Mattu Gulla Brinjal, Udupi Jasmine, Mysore Traditional Paintings, Ganjifa Cards of Mysore and Bidriware*. It has also played vital role in filing of applications for new GI products. As a part of its Intellectual Property Rights (IPR) Initiatives, VTPC conducts periodically a wide range of sensitization and in-depth training programs for stakeholders across academic institutions, startups/ entrepreneurs and Industries. The topics encompass the various IP tool kits across the facets of IP creation, protection, commercialization, enforcement, etc., besides sessions on entrepreneurship and innovation tailored to the needs of the audience.

Some of the Facilitation and Promotional activities for encouraging GIs include (i) Setting up of two Karnataka Pavilion at the Airport one at the domestic terminal and the other at the upcoming international terminal at T2 to showcase state's GI products and other heritage products; (ii) Set up an Experience Zone at the ground floor of VTPC's building to showcase and brand GI tagged products of Karnataka; (iii) One time grant of 50% not exceeding INR 5 Lakh on expenditure incurred in the establishment of IP cells and technology transfer centers (TTCs) at recognized educational institutions; (iv) One time grant of 50% not exceeding INR 10 Lakh on expenditure incurred in the establishment of IP promotion & facilitation hubs at trade bodies/industry associations; (v) Expenditure incurred for filing of a non-provisional patent application is subsidized to an extent of 75% and not exceeding INR 1 Lakh for each application. Besides the above, the VTPC in association with Karnataka State Council for Science & Technology (KSCST) has facilitated the launch of many IP Cell at various educational institutions.

Annual report published by VTPC

The Annual report 2020-21 published by VTPC has listed the initiatives undertaken as per the GI policy, some of which are extracted for reference, for participation and use by all stake holders.

- (i) The Department for Promotion of Industry and Internal Trade (DPIIT), GOI, Chair on IPR & CIPRA, NLSIU, Bangalore, in association with GI Registry had organised a Virtual Round Table on “GIs: Protection and Promotion in India” on 20th August 2020. Managing Director VTPC representing Karnataka addressed the stakeholders on 'Geographical Indications: Taking Forward' and highlighted the role of VTPC as Nodal Agency in its efforts to boost the GI space.
- (ii) VTPC represented Karnataka in the meeting held on 19th August 2020 by DPIIT, with various e-commerce companies and State officials to discuss the promotion of GI products. At the meeting it was suggested that there is an imminent need to develop a mechanism that encourages local participation through Self Help Groups and local cooperatives for facilitating the partnership with e-Commerce platforms with rural artisans/craftsmen engaged with GI tagged products. The meeting arrived at some key action plans which include executing an aggregator model for beneficiaries at the State / District level in collaboration with State Emporiums, industry associations and interest groups at local level. This besides, capacity building and training of artisans for ecommerce enablement, identification of products which have potential for sale through ecommerce and digital forums were also identified as key areas for promotion.
- (iii) Virtual Stakeholder Consultation was organised under DPIIT on 6th October 2021, on draft guidelines for permitting the use of GI logo and tagline wherein VTPC represented the meeting from Karnataka. Few action points identified based on deliberations include organising awareness drives to familiarise those concerned in the value chain of a GI

product about the benefits of registering as an Authorised User. After driving the message of benefits of registering as Authorised User, GI logo and tagline on the GI products may be made mandatory, it was suggested that formation of association of stakeholders of GI products needs to be encouraged.

- (iv) The meeting of GI Stakeholders on 28th October 2020, was a part of the initiative formed to undertake a study for identifying problems faced by exporters of products with a GI tag. VTPC participated in this meeting which was attended by various GI stakeholders, Facilitators, State Government bodies, and those concerned on the subject. Some of the issues discussed included the lack of awareness of the benefits of Authorised User Registration, lack of HS code specifically for GI products, etc.
- (v) Series of meetings were held between the Department of I&C and Bangalore International Airport Team, under Senior Government Representatives from Commerce & Industries Department on the subject of setting up of Karnataka Pavilion which would house an exclusive GI bay at the upcoming Terminal 2 at Bangalore International Airport. A total of 3 hot spots have been identified where high visible GI products would be showcased. Karnataka Tourism, KSHDCL, Ayush are some of the other key departments that would be part of the initiative which aims at providing an effective platform to artisans to showcase their products in domestic and international markets.
- (vi) In the GI Festival of India (GIFI) organised by the Confederation of Indian Industry (CII) between 9 Jan to 8 Feb 2021, large number of GI tagged pan India products were showcased, with the objective to connect consumers and producers. The GI products displayed with the purpose of enabling leverage and promotion of GIs on a single platform and help to enhance the economic standards and livelihood of the rural community. Intellectual Property Office India was the Institutional Partner, besides United States Patent and Trademark Office (USPTO),

the International Partner and Amazon being the Program Partner at this significant event. During the festival the VTTC facilitated the artisans with 19 virtual stalls which had representation of various GIs of Karnataka. The textile weaves included *Molkalmuru Sarees, Mysore Silk, Ilkal Sarees, Udupi Sarees, besides Navalgund Dhurries*. Coffees and Spices of Karnataka were represented by Coffee Board of India and Spices Board respectively. This besides several GI products in the Handicrafts classification represented at the Festival included *Channapatna Toys & Dolls, Kinhal Toys, Bidriware, Mysore Traditional Paintings, Ganjifa Cards of Mysore, Mysore Rosewood Inlay, Sandur Lambani Embroidery and Kasuti Embroidery*. Some of the GI crops represented included *Udupi MattuGulla Brinjal and Kamlapur Red Banana, besides Dharwad Pedha* in the food stuffs category.

(vii) As part of its ongoing efforts in registration of Authorised Users across various GI tagged products of the State, VTTC facilitated Authorised User Registrations for artisans of GI products like *Bidriware, Kolhapuri Chappals, Kinhal Toys, Channapatna Toys, Mysore Traditional Paintings, Mysore Rosewood Inlay* among others. Such efforts in respect of other GI products are on.

(viii) **The VTTC undertook Diagnostic Studies of few GI Clusters including** *Mysore Traditional Paintings, Ganjifa Cards of Mysore, Bidriware, Mysore Rosewood Inlay, Udupi Saree, Udupi MattuGulla Brinjal and Udupi Jasmine*. The objective was to chart a roadmap for the GIs through a SWOT analysis of each GI cluster.

Similar initiatives are being continued by the organisation in the coming years which could be followed by the stake holders by visiting the portal

<https://vttc.karnataka.gov.in/english>

Products with GI tags on postal covers

Bengaluru blue grapes, the Devanahalli pomelo (chakkota) and Bengaluru rose onions among many Karnataka products that to have GI (geographical indication) tags

appeared on special postal covers. Special covers on GI products are a part of the postal department's contribution to the **Atmanirbhar Bharat mission**. *Silk, sandal soap and agarbatti from Mysuru, coffee from Kodagu, Chikkamagaluru and Baba Budangiri, embroidery from Sandur, jasmine from Hadagali, Appemidi mango, Kinhal toys, Byadgi chilli and areca nut from Sirsi* are among the GI products from the state to have special postal covers. "We want to show the outside world some of the amazing products our state produces. A person sitting in Kashmir might not know what *Navalgund durries or Byadgi chillies* are, but with postal covers like these, we can spread the word," said the press note issued by the postal authorities. The covers are designed by the postal department, often in collaboration with those promoting the products. Each postal cover has a picture and name of the product on the front, and a small write-up at the back. The covers can be exhibited at domestic and international airports to raise awareness about local products and also sold to philately enthusiasts.

Fragrance of Karnataka coffee

In India, coffee is stated to be cultivated in about 4.54 lakh hectares by 3.66 lakh coffee farmers, of which 98% are small farmers. Coffee cultivation is mainly done in the southern states of India with shares, of Karnataka – 54%; of Kerala – 19%; of Tamil Nadu – 8%. Coffee is also grown in the non-traditional areas like Andhra Pradesh and Odisha (17.2%) and North East States (1.8%). India is the only country in the world where the entire coffee cultivation is grown under shade, hand-picked and sun dried. India produces some of the best coffee in the world, grown by tribal farmers in the Western and Eastern Ghats, which are the two major bio-diversity hotspots in the world. Indian coffee is highly valued in the world market and sold as premium coffee in Europe. The recognition and protection that comes with GI certification will allow the coffee producers of India to invest in maintaining the specific qualities of the coffee grown in that particular region. It will also enhance the visibility of Indian coffee in the world and allow growers to get maximum price for their premium coffee.

The following seven popular traditional coffees grown and processed in India have bagged GI tag from the registry.

- (1) Monsooned Malabar Arabica Coffee (Agricultural / Karnataka & Kerala);
- (2) Monsooned Malabar Robusta Coffee (Agricultural / Karnataka & Kerala);
- (3) Coorg Arabica Coffee (Agricultural / Karnataka);
- (4) Wayanaad Robusta Coffee (Agricultural / Kerala);
- (5) Chikmagalur Arabica Coffee (Agricultural / Karnataka);
- (6) Araku Valley Arabica Coffee (Agricultural / Andhra Pradesh & Odisha);
- (7) Bababudangiris Arabica Coffee (Agricultural / Karnataka).

Few more are in the process of getting the GI registration. From the list it could be seen that out of the seven GIs granted, five belong to state of Karnataka.

The Department for Promotion of Industry and Internal Trade, Government of India in a press note dated 29th March 2019 on the GI awarded to five varieties of Indian coffee announced as under: The Coorg Arabica coffee is grown specifically in the region of Kodagu district in Karnataka. The Wayanaad Robusta coffee is grown specifically in the region of Wayanad district which is situated on the eastern portion of Kerala. The Chikmagalur Arabica coffee is grown specifically in the region of Chikmagalur district and it is situated in the Deccan plateau, belongs to the Malnad region of Karnataka. The Araku Valley Arabica coffee can be described as coffee from the hilly tracks of Visakhapatnam district of Andhra Pradesh and Odisha region at an elevation of 900-1100 Mt MSL. The coffee produce of Araku, by the tribals, follow an organic approach in which they emphasise management practices involving substantial use of organic manures, green manuring and organic pest management. The Bababudangiris Arabica coffee is grown specifically in the birthplace of coffee in India and the region is situated in the central portion of Chikmagalur district. Selectively hand-picked and processed by natural fermentation, the cup exhibits full body, acidity, mild flavour and striking aroma with a note of chocolate. This coffee is also called high grown coffee which slowly ripens in the mild climate and thereby the bean acquires a special taste and aroma. The Monsooned Malabar Robusta Coffee, a unique

specialty coffee from India, was given GI certification earlier.

To boost the promotion of Indian coffees, the coffee Board has introduced corporate gift boxes containing high quality GI and other regional specialty coffees in all overseas events. Coffee Board supplied corporate gift boxes to Indian Embassies in many countries. The region-specific GIs will increase the credibility and visibility of Indian coffees in the international market which will further boost export earnings. Initiatives are being taken for increasing the authorized user & users of GI Coffees, which brings more commercial profit on sale of the GI tagged Coffees. The Board participated in overseas exhibitions / trade fairs for promoting the brand image of Indian Coffee in key export destinations. There are many local brands of coffee being sold all over India. Suitable branding and franchise creation in this sector, will further the cause of exports in coffee.

Conclusion

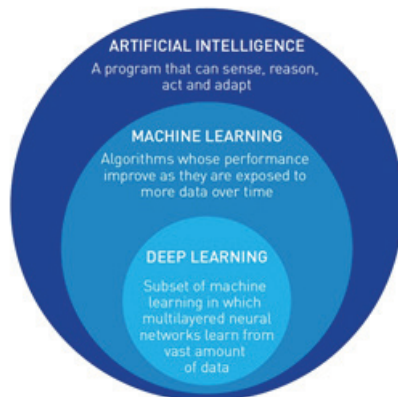
The above narrations and observations clearly establish that GIs can help the community of producers to differentiate their products from other competing products in the market and build goodwill around their products, attracting a higher value. GI is an effective mechanism for socio-economic development, especially in the rural areas. The effective management of these potential resources would add to the economic prosperity, enhance the livelihoods and provide entrepreneurial opportunities at the grass root level. GI products, if properly branded and commercialized, would promote GIs and similar products. The GI clusters, which aids in cost reduction, are going to fetch a higher value in the national and international markets. In this regard the various supporting schemes heralded by the Union Government will be deliberated in the coming part.

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CA. Narasimhan Elangovan

ARTIFICIAL INTELLIGENCE IN AUDITING



Artificial Intelligence (or AI for short) is the simulation of human intelligence by machines. Machine learning is a subset of artificial intelligence that can learn automatically through experience and exposure to data. These sound like fancy statements but what is AI really?

Simply put AI is statistics on steroids. It is a powerful tool that allows us to deal with huge quantities of data and be reasonably assured that the inferences drawn are accurate. AI has proven to be useful in a variety of areas like medicine, driverless cars, speech recognition, and of course in audit.

Key Applications of AI in Audit

The following are the domains where one could use AI in audit:

a. Helping you understand the behavior / pattern

AI is good at digesting large amounts of data quickly and identifying patterns or finding anomalies or outliers in that dataset. The objective is to identify whether a given data point fits within an existing pattern or if it is an outlier or anomaly. An example could be, identifying transactions which are more than 3 to 4 times of the average or standard deviation.

b. Digging deeper

AI can help in discovering unknown patterns, which

perhaps the human mind may not have thought of. It can run multiple simulations on the data thereby making it more probable or likely to identify newer trends. It can perform macro and micro analysis there by helping you to dig deeper. A classical instance would be using AI in fraud detection patterns and using it real-time to prevent frauds.

c. Automating Routine Tasks

The boring and monotonous comparisons and reconciliation of data can be automated with a lot of rules and little bit of intelligence, thanks to AI. Most of our work in audit including performing of operating effectiveness testing, compliance and substantive procedures can be automated. It can also help in automating time-consuming documentation processes.

d. Performing risk analysis

With growing volumes in data, it is increasing becoming a challenge to analyze the entire population for doing risk assessments. AI comes to the rescue. With built in intelligence AI solutions can reveal how unusual sales reversals occur post month or quarter end for specific locations or specific accounts. Using these insights auditors can change the processes deployed in audit.

e. Predicting

AI powered with statistical models can help in identifying patterns which are likely to follow in the days to come. These act like early warning signals and help prevent possible frauds or lapses in internal control systems.

f. Analyze structured and unstructured data

Most of the current audits are focused on analyzing the structured data. However, AI powered solutions analyze the complete volume of structured and unstructured data that come from financial records by parsing data in detail.

A few practical use cases

- Reviewing of Contracts - The most common use case of AI in audit procedures is contract reviews such as leases. With the help of AI, an auditor can continuously analyze a larger number of contracts in real-time.

Using AI, auditors can automatically extract data from contracts with tools such as Natural Language Processing (NLP) and identify relevant clauses for accounting treatment such as lease commencement date, payment amount, renewal, and termination options and so on. Thanks to these findings, auditors can evaluate and assess risks in the contract more effectively.

- Spotting material misstatements in general ledger - Factors such as the large volume of data, insufficient time and inherent limits of internal control systems and accounting, have limited auditors to have to be content with the “reasonable assurance” motto. Auditors examine a subset of data rather than the entire data set hence the risk of material misstatement increases.

Use of machine learning improves the testing of ledger data by analyzing the entire dataset in a short period of time to identify material misstatements based on risk analysis rather than traditional audit rules. This allows AI-based tools to flag transactional data based on how far they differ from the standard set allowing for the spotting of patterns and anomalies within unstructured data with ease, a feat that was previously difficult at best, if not impossible.

- Automating expense audits - Another area where AI automates an audit process is with expenses. AI-powered tools can help businesses to detect duplicates, out-of-policy spendings, incorrect amounts, suspicious merchants or attendees, and excessive spending.

Benefits of AI in Audit

- Reduces the workload on auditors: Auditors do not have to go-back-forth for asking questions to the client as much as in traditional audit.
- Reduction of cost: Using AI reduces the cost involved in manual hours of research and analysis.
- Audit Quality: Good AI systems continuously learn and adapt to datasets so that they can better detect anomalies as more data is processed. Therefore, use of AI/machine learning increases

the audit quality.

- Enhance focus: Using AI to power audits can help auditors focus on key aspects which require more attention and thereby target key risks.

Limitations of AI

Powerful as it is, AI is still just a tool for use. AI is not a magic box that will supplant human beings from all areas of their usefulness. The truth is that AI needs humans significantly more than humans need AI.

AI may be able to scan through terabytes of data at speeds unthinkable for humans, but it is not able to interpret this data and draw meaningful conclusions. It may be able to identify patterns that we would miss but it is incapable to understanding the meaning behind those patterns and its implication in real life. At the end of the day, AI is only as powerful as the person using it.

How to get started?

While much has been spoken on how AI can move the work of audit, the real question is where does one get started? Below are a few tools and solutions which are worth exploring:

- Botkeeper can automate accounting power by Machine Learning.
- iManage can review 1000s of contracts and extract specific requirements using AI.
- Home grown company, Zoho's ZIA is an AI assisted tool which can bring in automated analysis of data and acts as a second pair of eyes. It can be used extensively in Zoho Books and Zoho Analytics
- mindbridge.ai is analytics powered by AI and can help you demystify the complicated numbers and assess risk
- Not to forget, Microsoft Excel's “Ideas” now called as “Analyze Data” uses AI to provide interesting, automated insights.
- teachablemachine.withgoogle.com helps you have fun with AI

Conclusion

We have seen the many wonderful uses that AI can have in the field of auditing. We have also seen why AI by itself is insufficient in many important ways. This leads us to an obvious conclusion. The greatest results are achieved when AI is used to augment the capabilities of humans and facilitate our actions.

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Post Covid -19 SYNDROME

Covid 19 is slowly coming down, but a lot of people who suffered from Covid 19 illness are suffering from post Covid problems, this can happen even in mild cases of Covid 19. Some pretty miserable symptoms including debilitating headaches, extreme fatigue, body ache, etc. It is found that the people who have recovered from Covid 19 will experience symptoms that linger, even after testing negative for the virus. These people are sometime referred as Covid long-haulers which is now established by experts as post Covid syndrome and they have suffered few weeks or in some cases for few months after recovering from Covid 19 illness. Yet, we don't know how long it persists but these people get benefits from specialized care and regular follow up.

Most common symptoms of post Covid 19 are fatigue, breathing difficulty, cough, joint pain, backache, chest pain, neurological symptoms like inability to concentrate and impaired memory, known as Brain fog, loss of taste and or smell, sleep issues etc. We don't really know how long this persists but for sure the symptoms can last for at least 6 months or longer in few cases. Manifestations of these symptoms are interesting somewhat unique, for instance MRI Scan shows myocarditis (an inflammation of the heart muscle) in some of these people indicating that heart muscle can remain inflamed several months even if heart related symptoms were not prevalent during their illness. The cause and the long-term consequence of these lingering symptoms are still unclear, but it can certainly impact the quality of life. Right now we don't expect any severe impact such as ongoing organ damage. This is not exclusive to severe Covid 19 illness patient who are hospitalized, but can occur even in mild Covid 19 illness and people self-treated at home. These people will benefit from specialised care as their lingering symptoms continue to affect their daily life and quality of life. Presently we don't know how many people can get affected by this, but roughly on an average 10 % of the people will develop post Covid syndrome. High risk group like people above 50 years of age, People who had suffered severe illness, people who have associated

under lying illness like hypertension, Diabetes, cardio Pulmonary disease and obesity, may suffer more.

Covid 19 recovery Clinics has been formed to deal these cases as they are new, unique and diverse. In view of this, it is better to prevent from getting sick. Remember the golden preventive measures. Which is to stay for long time among us to reduce the spread of this dreaded illness, Physical distancing, wearing proper Mask, avoiding long crowd and gatherings. Practicing round the clock a good hand hygiene and avoid touching the face. As this Covid 19 virus can damage lungs, heart, brain and other organs which increases the risk of long term health problems. Post Covid a lot of people end up feeling exhausted for a while. They can't get up to the exertional level. As they have before, but it is quite confusing whether this issue is due to lung or cardiac problems. So, it is recommended to consult physician or cardiologist at the earliest. Lung fibrosis is most common effect post Covid 19. This condition required support of home oxygenation even after discharge and recovery. Some time it can cause cardiac health problem together called corpulmonale. Pulmonary thrombo embolism is another pulmonary issue.

Brainfog, head ache, Difficulty in concentration, memory problems, Mood changes, anxiety fatigue, Sleep disruption. These maybe due to post traumatic stress disorder (PTSD) according to new report. Neurological monitoring of all the cases of Covid 19 irrespective of severity from Asymptomatic to mild severe for post Covid neurological syndrome. As the life of Covid 19 is quite short it is very difficult to recognise post Covid symptoms or signs of on its effect on other organ / system. According to a survey 44 % of fully recovered patents have worsen quality of life, 78 % of remaining patent show heart problem according to German doctors, 55% of the patents display neurological symptoms even after 3 months after initial infection. With this in mind it is difficult to speculate about consequence of Covid 19. Counselling about post Covid 19 life style changes, Good

nutrition, proper relaxation techniques vaccination , prevention ect ... or a must.

Yoga and breathing excercises too as a bigger role in post Covid 19 patents.

Economic, Social, Jobs are also important areas of concern in these post Covid 19 people and as to be attended on priority basis.

In a lighter Vein.....

Life is like a Visiting card

Wife is like a memory card

Husband is like an ATM card

Padosan is like a Greeting card

Sali is like a beautiful card

Girl friend is like a debit card

Mother and father are like a pan card

Sala is like a Pharzi Card

Child is like an identity card

Friend is like an adhar card

(Which is useful everywhere)

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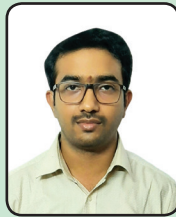
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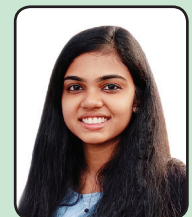
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Member



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Member



CA. Varun Gore
Member

KEYWORD

2

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

- The extent to which a firm's operations are funded by lenders versus shareholders—in other words, a measure of a company's financial leverage (7)

G

- A facility in which something is deposited for storage or safeguarding or an institution that accepts currency deposits from customers such as a bank or a savings association (10)

O

- The use of small amounts of capital from a large number of individuals to finance a new business venture (12)

F

- One company owns a controlling stake in a number of smaller companies all of whom conduct business separately and independently (12)

C

- A series of algorithms that endeavors to recognize underlying relationships in a set of data through a process that mimics the way the human brain operates (13)

U

- An act of revising one or more of a company's previous financial statements to correct an error (11)

N

sudoku-14

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

GUESS THE KEY WORD

An invitation to bid for a project or accept a formal offer such as a takeover bid

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

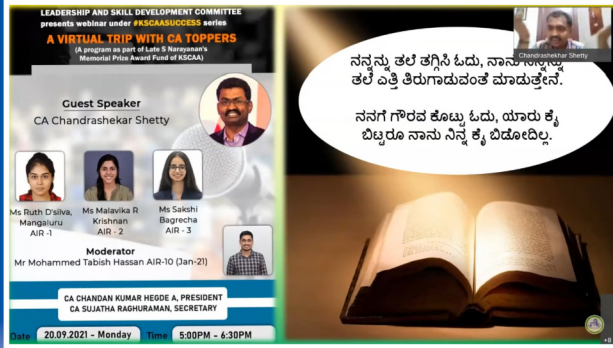
Answers to "Key Word 1" (September 2021)

- Bootstrapping, 2. Perpetuity, 3. Biometrics, 4. Cryptocurrency, 5. Adjudication, 6. Derivative, 7. Spread

Key Word : SPREAD

Credits: CA. Archana Sridhar

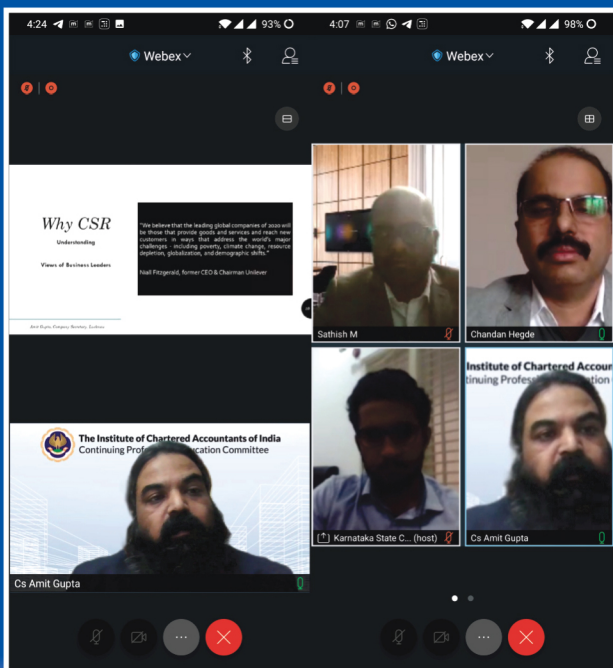
Photo Gallery



Webinar on A Virtual Trip with CA Toppers with young achievers CA. Ruth D'Silva, CA. Malavika R and CA. Sakshi Bagrecha moderated by CA. Mohammed Tabish Hassan and honoured by Guest Speaker CA. Chandrashekar Shetty held on 20th September, 2021



Snapshot of Eloquent Professionals Meet held on 18th September, 2021.



Webinar on Demystifying the Latest Developments in Corporate Social Responsibility under the Companies Act, 2013 by speaker CS. Amit Gupta held on 24th September, 2021



Snapshots of KSCAA's event on occasion of Gandhi Jayanthi by Donating / Planting a Sapling in Harohalli site on 2nd October, 2021



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48th Annual General Meeting - Photo Gallery

