

KSCAA®

Karnataka State Chartered Accountants Association (R)

NEWS BULLETIN

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April 2022
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BUSINESS RESPONSIBILITY AND SUSTAINABILITY REPORTING



34th KSCAA

ANNUAL CONFERENCE 2022



20TH AND 21ST MAY 2022
FRIDAY & SATURDAY

RAVINDRA KALA KSHETRA,
BENGALURU



Dear Reader,



The Annual Conference of KSCAA for the year 2022 is planned on 20th and 21st of May 2022 and this year theme is planned around areas which are beyond the conventional practice. This also resonates our thought and happening around the public accounting industry throughout the world, that there is dire threat of technological interruption into the field and our ability to adopt to these changes would decide on our relevance. The Chartered Accountants Act 1949 is now amended by the government to strengthen the lacunas which government thought was prevailing in the existing system, the opinions currently on this subject was quite high. While few claimed that it was written on wall for the way institute handles the matter and few against it were wary of the way the public opinion was sought to arrive at the conclusion, with little left for those involved in the affairs to show their cause. Now whatever may be the claim for and against, the Act has made its way into reality and I only hope our profession would pass the test of time and would leave up to the expected standard.

Let me wish you all great for the new financial year, every year is a reflection of things which we have not done, aspiration for things we wish to do and shed the bad habits, all this with what went through during past period.

Direct Tax

Executive developments:

- CBDT notifies Rule 21AAA to provide tax relief on income arising from foreign retirement funds
- CBDT notifies ITR forms applicable for Assessment Year 2022-23
- CBDT Consequences of non-furnishing of PAN applicable from 01-04-2023 if PAN becomes inoperative:
- CBDT extends due date of filing Form 10AB to seek registration/approval under Sec. 10(23C), 12A or 80G till 30th September 2022
- CBDT allows manual filing of Form no 3CF for an applicant seeking approval under Sec. 35

Judicial developments:

- ITAT Delhi : Subscription charges received by NR for providing its CRM portal services can't be taxable as royalty
- ITAT Delhi Interest on refund can't be said effectively connected with PE; taxable as per Article 11 of DTAA

Indirect Tax

As we close the financial year, it is important to note that the March month GST returns can be used to give effect to the corrections upon reconciling the figures for the year with Books. Ensure Books ITC is matching with returns and GSTR 2A. Year end reversals u/r 42 & 43 needs to be considered and effect to be given on comparing with provisional reversals made. Delay in reversing the credit would cost interest.

Finance Act 2022 has received President's assent and the Sec 38 amendments to CGST Act is in place without any modifications, which were urged. This requires a process to be set and overseen for robust matching of ITC with GSTR 2B and follow ups. Though the Act has received the assent of the Hon President, a notification enforcing applicability of said provisions is pending. Meanwhile, this

works the best time to suggest for dry run of the provisions to check readiness of businesses to adapt to the change in the pipeline!

IDT & DT committee's joint program on Joint Development arrangement concluded in Mar 2022 was a success with around 100 members participating in the unique and first physical-cum-virtual program by KSCAA. The topic has been and remains a trending one for the complexities and unique challenges it brings in.

Corporate and Allied Laws

➤ Extension / Deferment of the following Due dates:

- ✦ Implementation of Audit Trail software now shall be applicable from FY commencing on or after the April 1, 2023.
- ✦ CSR-2 extended up to May 31, 2022.
- ✦ The DGFT issued Notification No. 64/2015-2020 dated March 31, 2022 to extend the validity of the existing Foreign Trade Policy ("FTP") 2015-2020 till September 30, 2022 from March 31, 2022.
- ✦ The DGFT issued Public Notice No. 53/2015-2020 dated March 31, 2022 to extend the validity of the existing Hand Book of Procedures ("HBP"), 2015-20 till September 30, 2022.
- ✦ The National Credit Guarantee Trustee Company Limited (NCGTC) extended the Emergency Credit Line Guarantee Scheme (ECLGS) beyond March 2022, till March 2023.
- ✦ Applicability of below mentioned provisions further deferred till 30/09/22 by the ICAI :
 - ✓ Responding to Non-Compliance with Laws and Regulations (NOCLAR) [S. 260 & 360]
 - ✓ 2. Fees-Relative Size [Para 410.3 to R410.6]
 - ✓ Tax Services to Audit Clients [S 604]

The book 'Road less travelled' has a very interesting story, during a research experiment a marine biologist placed a shark into a large holding tank and then released several small bait fish into the tank. As you would expect, the shark quickly swam around the tank, attacked and ate the smaller fish. The marine biologist then inserted a strong piece of clear. She then put the shark on one side of the fiberglass and a new set of bait fish on the other. This time, however, the shark slammed into the fiberglass divider and bounced off. Undeterred, the shark kept repeating this behavior every few minutes to no avail. This experiment was repeated several dozen times over the next few weeks. Each time, the shark got less aggressive and made fewer attempts to attack the bait fish, until eventually the shark got tired of hitting the fiberglass divider and simply stopped attacking altogether. The marine biologist then removed the fiberglass divider, but the shark didn't attack. The shark was trained to believe a barrier existed between it and the bait fish, so the bait fish swam wherever they wished, free from harm. Let's not read, reiterate, and believe on happening of negative around us regarding profession and behave like the shark, but be mindful on how to train and equip ourselves to newer reality and build a better profession.

Happy Reading!

Yours' faithfully,

CA. Chandan Kumar Hegde A.

President

KSCAA®

NEWS BULLETIN

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KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)



KARNATAKA STATE
CHARTERED ACCOUNTANTS ASSOCIATION (R)

and



THE SOCIETY OF AUDITORS (REGD.), CHENNAI
JOINTLY PRESENTS VIRTUAL WORKSHOP ON FEMA



Day 1

CA Ruthvik Sanghvi
Understanding FEMA with emphasis on - NRI Taxation, LRS & Immovable Property
Date: April 20th, 2022 - Wednesday
Time: 4:30 pm - 6:00 pm



Day 2

CA Hardik Mehta
FEMA from Auditor's perspective
Date: April 21st, 2022 - Thursday
Time: 4:30 pm - 6:00 pm



Day 3

CA Tanvi Vora
FEMA - A discussion on FDI & ECB regulations
Date: April 22nd, 2022 - Friday
Time: 4:30 pm - 6:00 pm

WEBINAR
DETAILS

Delegate Fees for all three days - Rs.300 (inclusive of GST)

For Registration visit: www.kscaa.com

KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)

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CA Sathish M, Chairman - CORAL Committee

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CA. S. Krishnan

UNDERSTANDING A JUDGMENT

Introductory Remarks

1. The Income-tax Act 1961 (the Act) undergoes changes quite often in the sense that amendments are being made not only through Finance Acts but also through Taxation Amendment Acts. Various judicial authorities render orders/decisions interpreting various sections of the Act and sometimes the legislature also resorts to retrospective amendments to Income-tax Act consequent to decision of judicial authorities to get over such decisions. In most of the cases the decisions that are being reported in various journals and web sites pertain to old assessment years and the factual situation obtaining in the given case may pertain to a different assessment year wherein the provisions of the Act may have been different.

So, the professionals, especially Chartered Accountants, should equip themselves with the art of going through a judgment of a judicial authority to understand its implications to the case on hand vis-à-vis law and facts obtaining in the decision rendered. This suggestion is equally applicable while understanding the relevant sections of the Act.

With these few words this article has been coined by the author.

Important observations from the Supreme Court

- It is important to bear in mind the following observations of the Supreme Court in the case of **CIT v. Sun Engineering Works (P.) Ltd. [1992] 198 ITR 297/64 Taxman 442 –**

"It is neither desirable nor permissible to pick out a word or a sentence from the judgment of the Supreme Court divorced from the context of the

question under consideration and treat it to be the complete law declared by the court.

The judgment must be read as a whole and the observations from the judgment have to be considered in the light of the questions which were before the court. A decision of the Supreme Court takes its colour from the questions involved in the case in which it is rendered and, while applying the decision to a later case, courts must carefully try to ascertain the true principle laid down by the decision."

It is also advisable to remember the following words of Lord Denning in the matter of applying precedents which have become locus classicus:

[Refer to **Sarva Shramik Sanghatana (KV) v. State of Maharashtra [2008] 1 SCC 494** as quoted in para. 48 in the case of **CIT v. Happy Home Enterprises [2014] 51 taxmann.com 281 (Bombay)**]

"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

Two decisions have been digested in subsequent paras. -the first decision deals with as how the provisions have to read and understood and the second decision explains as to why the Tribunal was justified in dismissing the appeal of the Revenue.

Decision of the Delhi High Court in the case of Sanjay Sawhney v. Principal CIT [2020] 116 taxmann.com 701 (Delhi)

3. The Delhi High Court in this case held that “where the assessee succeeded before the Commissioner of Income-tax (Appeals) in ultimate analysis and was, thus, not an aggrieved party in Revenue's appeal, the Tribunal committed a mistake by not permitting the assessee (respondent before it) to support the final order of Commissioner of Income-tax (Appeals) by assailing the findings of Commissioner of Income-tax (Appeals) on issues that had been decided against him.”

The High Court was dealing with the term “thereon” as occurring in Section 254(1) of the Act and also the term “though he may not have appealed” as occurring in Rule 27 of the Income-tax (Appellate Tribunal) Rules, 1963.

Rule 27 of the Income-tax (Appellate Tribunal) Rules, 1963 embodies a fundamental principle that a Respondent who may not have been aggrieved by the final order of the Lower Authority or the Court, and therefore, has not filed an appeal against the same, is entitled to defend such an order before the Appellate forum on all grounds, including the ground which has been held against him by the Lower Authority, though the final order is in his favour.

The following observations made by the High Court at para. 19 of its judgment are worth noticing-

“The word ‘thereon’ used in Section 254 (1) of the Act, gives power to the Appellate Tribunal to pass such orders thereon as it thinks fit, implies that the tribunal would confine itself to the subject matter of appeal only. Under Rule 11 of the ITAT Rules, an appellant can, by leave of the Tribunal, urge or be heard in support of any ground not set forth in the memorandum of appeal, and the Tribunal, in deciding the appeal, would not be confined to the grounds set forth in the memorandum of appeal. This, however, does not mean that the Respondent is prevented from supporting the judgment on the grounds decided in his favour, or by assailing the aspect decided against him. Accepting the Department's submission would mean that subject matter of the appeal is circumscribed and is confined only to the grounds urged by the Appellant. Firstly, the subject matter of an appeal is not be

construed narrowly, as already observed above. Subject matter is “comprehended as to encompass the entire controversy between the parties which is sought to be got adjudicated upon by the Tribunal”. Secondly, if jurisdictional objection under Rule 27 is gone into by the Tribunal, albeit raised by resort to Rule 27, it cannot be said that the subject matter is expanded under the guise of the said provision. It cannot be said that Respondent is taking away benefit that could be said to have accrued in favour of the Appellant before the Tribunal. The jurisdictional question is not an independent issue that can be reversed only by way of an appeal or cross objection. We do not find any merit in the submission of the Department.”.

The High Court then went on to examine the legal position that would emerge from a plain reading of the provision in question and after examining the relevant provisions held as under-

“Therefore, arguably Rule 27 has a limited sphere of operation, but this cannot be whittled or narrowed down to the extent, the Revenue would like us to hold. We cannot read Rule 27 in a restrictive manner to hold that the said provision can only be invoked to support the order in appeal and while doing so, the subject matter of the appeal before the ITAT should be confined only to the extent of the grounds urged by the Appellant. To read Rule 27 in this manner would render the said rule redundant as the respondent before the Tribunal would, even otherwise be entitled to oppose the appeal and raise submissions in answer to the grounds raised in the appeal that are pressed at the hearing of the appeal. With this clarity, we do not find any merit in the submissions of the Revenue that the assessee had accepted order of CIT (A), or that the issue of maintainability had attained finality. We also do not find that by such an interpretation, the scope of Rule 27 is expanded or that it would be contrary to Section 253 (4), or that it would render the provision relating to cross objections redundant and otiose.”

Decision of the Calcutta High Court in the case of Principal CIT v. Suprabha Industries Ltd. [2022] 136 taxmann.com 259 (Calcutta)

4. The assessee-company received unsecured loan from its group companies during the assessment year 2012-13. The Assessing Officer accordingly passed assessment order. The Commissioner of Income-tax set aside the assessment order by invoking provisions of Section 263 of the Act on ground that Section 2(22)(e) of the Act would be applicable on loan received by assessee as same were deemed dividend and directed Assessing Officer to re-compute the assessee's income. The Tribunal vide its order dated 3rd May, 2019 in ITA No.541/Kol/2018 set aside the order of the Commissioner of Income-tax after observing that *"all the relevant details to ascertain the applicability of Section 2(22)(e) to the loan amount taken by the assessee-company during the year under consideration from VI Private Limited thus were either available on the record before the Assessing Officer or the same were called for by him during the course of assessment proceedings by raising specific queries and after applying his mind to the said details, a conscious decision was taken by him as regards the non-applicability of Section 2(22)(e) to the loan amount in question while completing the assessment under Section 153A/143(3) of the Act. In our opinion, it, therefore, cannot be said that there was an error in the order of the Assessing Officer in not making any enquiry or verification on the issue of applicability of Section 2(22)(e) to the loan amount in question as alleged by the ld. Principal CIT and the revision under Section 263 by the ld. Principal was not called for."* The Tribunal also noted in the said order that the assessee paid off loan with interest in the same year itself.

When the issue reached the High Court, the appeal preferred by the Revenue was dismissed by it holding that all issues were considered by the Assessing Officer at the time of completing the assessment and this fact was duly noted and considered by the Tribunal while dismissing the appeal of the Revenue.

The view that when the loan repaid in the same year would not clothe the tax department (the Commissioner of Income-tax) with revisionary powers under Section 263 of the Act is erroneous as there were other favourable points in favour of the assessee in this case as it had filed all the details at the time of assessment and that the Assessing Officer

took a conscious decision after considering all facts and documents filed before him.

In fact, though in one of the websites it has been stated that "no deemed dividend if unsecured loan taken from group company is paid back with interest in the same year" yet, it can be stated that this observation made in this website cannot be read in isolation without considering other facts of the case and no professional should be misguided by advising his client that provisions of Section 2 (22)(e) of the Act would not be applicable if the loan/advance taken by the substantial shareholder is repaid before the end of that previous year- the previous year in which such amount was received by such assessee.

Concluding Remarks

5. There is no – in fact there can be no- strait jacket formula for any given (ideal or otherwise) situation as factual happenings may differ and even one small difference in facts may completely alter the readymade answer situation. Basic principles taught to us indicate that before analysing a live situation and comparing it with an assumed situation or a decided case-law, first find out as to the facts based on which earlier case was decided and what are the facts obtaining in the live situation and what was the point of law then and what is the point of law now-by point of law what is meant is whether any higher authority has decided the case other way after earlier ruling was given or a decision has been given by a jurisdictional High Court now either way or has there been any amendment subsequent to date of last decision or is there any change in assessment year meaning thereby change in law? The point to be considered is – Any change in the thinking of the persons who matter most-the judicial authorities?

It has also to be understood that what is being expressed in blogs is only opinion but what is being given in real situation is what can be termed as "procedure" which has more value than opinion as the "procedure" to be adopted in an actual live case is normally/usually rendered after a deep study of facts presented and law applicable to the given situation.

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INTELLECTUAL PROPERTY RIGHTS AND PROTECTION IN INDIA

COPYRIGHTS – ELIGIBILITY AS AN IP

(PART - XX OF IPR SERIES)

IPR

IP for Growth

In this 'IPRs and protection in India' series, so far, the overview of IPRs, the importance of trademark, design, and Geographical Indications [GI], along with the need to protect the Traditional Knowledge [TK]) as a valuable IP asset, with emphasis on strengthening and consolidating the MSMEs, have been deliberated. The issues relating to exploiting the 'trademark' and 'designs' as strong IP tools for increased presence of the products and services in the market as well as the essence of Traditional Knowledge (TK) as a source of Indian ethos and the use of GI as a device to preserve and protect the traditional IP rights have been informed in detail. In all these issues the importance of owning, protecting, and pursuing the IPRs, to contribute to the profitability of the entities by using/ exploiting/ commercialising have been updated.

The MSME sector has a huge role in strengthening the Indian economy. To broaden the presence of the products across the globe, capture of the export market by such business entities are essential and of utmost importance. Many readers had requested for a comprehensive information about the goods export procedure to be followed for effecting exports from India. With a view to support such businesses entities, the basic preparations required to be made for exporting the products, like, issues relating to the selection of a product for exports, the preparations, and strategies to be adopted by the entities to accomplish an opportunity for export, the requisite documentation, Customs, and other Agency procedures to be followed and the various export incentives extended by government have been made known. The IPRs owned should be suitably employed for gainful entry and establishment of profitable contracts/ventures with the international trading parties. In such efforts, within and beyond the country, each of the IPRs have a unique contributory role. All such issues are narrated to enable export aspirants to understand and

employ the same in a suitable manner to reap success in the international markets.

In this part, another crucial IPR, namely the use of 'Copyright' as an IP by the MSMEs and related industries are being deliberated.

Copyright as an IP

Creativity is the keystone of human progress, and no civilised society can ignore the basic requirement of encouraging the same among the masses. Many creations of the individuals/ groups in the unorganised sector, especially in MSMEs, go unnoticed as such persons are, either not aware of such legal rights subsisting in their original works or do not intent to protect them as they feel it to be a cumbersome and difficult task. Such valuable creations are exploited by fraudsters to own, exploit and create unhealthy competition in the marketplace, where the creators are deprived of the fruits of their efforts. The Copyrights act 1957 read with Copyright rules 2013 provides for easier registration and required legal protection to the authors and the owners of creators.

As stated in the earlier part, the Copyright relates to expression of ideas in material form that includes Literary, Musical, Dramatic, Artistic, Cinematography work, Audio tapes & Computer Software, recognised as IP rights under the Copyright Act, 1957 (herein after 'act' for brevity). The Copyright ensures certain minimum safeguards of the rights of authors over their creations, thereby protecting and rewarding creativity which may lead to the economic and social development of the entity. The protection provided by the Act to the efforts of writers, artists, designers, dramatists, musicians, architects, photographers, and producers of sound recordings, cinematograph films, and architectures of computer software, creates an atmosphere conducive to creativity, which induces them to create more and motivates others also to create and contribute and thereby the society flourishes.

As already narrated in the opening part of this series, the Copyright is a bundle of rights that include rights of reproduction, communication to the public, adaptation, and translation of the work and the users have to pay agreed royalty or/and license fee etc., to the owner for use of such copyrighted works. The owner of the copyrights can also transfer the rights through assigning such rights to others.

No Copyright for ideas

It is important to note that the Copyright does not recognise rights in ideas or concepts. The Indian copyright law follows the fundamental rule of copyright law laid down in Trade Related Intellectual Property Rights (Article 9(2) of TRIPs) and WIPO Copyright Treaty (Article 2 of WCT), that copyright does not subsist in ideas and only protects the original expression of the ideas. Copyright also does not ordinarily protect titles by themselves or names, short word combinations, slogans, short phrases, methods, plots, or information. In other words, there is no Copyright protection subsisting in ideas, words, procedures, methods of operation or mathematical concepts as the copyright protects only the original expressions of the works in tangible form.

The Copyright generally means legal rights granted to the creators for their literary and artistic works, such as novels, poems, plays, reference works, newspapers and computer programs, databases, films, musical compositions, and choreography, paintings, drawings, photographs, sculpture, architecture, advertisements, portraits, landscape, fashion or event photography, maps, and technical drawings and similar expressions in original form. To receive the protection of copyright under the Act, one of the primary requisites is that such a work must be original.

We have learnt that it is not necessary to register a work to claim Copyright as such a right comes into existence as soon as the work is created. Though the Copyright subsists in a work by virtue of its creation, it is always recommended to register a copyright for better enforceability, as registered copyrights have more of copyright serves as prima facie evidence in a court of law with reference to any disputes relating to ownership of Copyright. To begin with we will deliberate on the eligibility conditions and rights conferred by law. The prescribed procedure for registering a copyright in India will be narrated in the later part.

Eligibility Criteria for Copyright

Originality is 'the bedrock principle of copyright' and 'the very premise of copyright law'. Any literary work is entitled to copyright protection if it is an "original literary" work. The word "original" is not defined in Act but has to be understood as a work that "owes its origin to the author". The word original does not mean original or inventive thought, but only that such work **should not be copied, but should originate from**

the author. An 'original' must be a "product of an exercise of skill and judgment", where 'skill' is "the use of one's knowledge, developed aptitude or practiced ability in producing the work" and judgment' is "the use of one's capacity for discernment or ability to form an opinion or evaluation by comparing different possible options in producing the work". The Indian copyright law mandates that not every effort or industry or expending of skill, results in copyrightable work, but only those, which create works that are somewhat different in character, involve some intellectual effort, and involve a minimum degree of creativity, be it a result of substantial or distinguishable variation and not a result of trivial variation. Such variation must be substantial in nature than merely trivial thus requirement of degree of originality is quantitative.

For copyright to subsist there must be an expression of ideas in a literary, dramatic, musical, or artistic work, or in subject matter other than works, such as in an audio-visual performance with all such work must be original. The work must be recorded in a 'material form' like, written down on paper or recorded by keystrokes saved on a computer or recorded on film or recorded on tape or recorded as software code saved on a computer or recorded digitally onto a device etc., There must be an author or artist who is eligible under the law to apply and seek for such rights. The major types of works protected under copyright act are: Literary Works, dramatic works, Musical works, artistic works, cinematic films, sound recording.

The Literary Works

The term 'Literary Works' includes the original or unique creation of literature, which can be in any form like a work of fiction, technical books or paper, biography, dramatics, thesis, script, research work, compilation, tables, and computer programmes including computer databases. It can be claimed regardless the style, quality, or literary merit of the work. Literary works include, but not limited to textbooks, poem, magazine, catalogue, letters, novel, dissertation, lyrics of song etc. However, there will be no copyright if the work is merely a collection of words, the collection of which involved no literary skill. In India, a computer program is treated as a literary work and is protected under that head.

In the Indian Copyright Act, there are no specific meanings attached to - tables, compilation, and databases, but these are copyrightable subject matter and are protected as literary work. To obtain copyright protection for a table, compilation including computer databases, the work must exhibit some creativity or originality in the selection or arrangement of the contents of the work. If the labour and skill required to make the selection and to compile the tables which form its items is negligible then no copyright can subsist in it. The selection of some common place tables in a pocket diary does not involve the exercise of any taste or literary judgment and such a

compilation does not constitute original literary work.

The 'Dramatic Work' and the 'Artistic Work'

The 'Dramatic Work' refers to a type of literary work which includes any arrangement of acting a play, or a part for recitation, or choreographing work or dumb show entertainment, a picturesque arrangement, or acting work based on a fixed writing work. The Dramatic works does not include any type of cinematograph films. Further A 'Musical Work' is a distinct work that does not include any sound or lyrics. Though the works related to sound recordings are dependent on the musical works, but for the protection of Musical Works, a separate application is required to be moved with the Copyright Office for the Registration of such musical work.

Another category of copyrighted product is the 'artistic works'. As per Section 2(c) of the Copyright Act, 1957, a protection of copyright in artwork subsists in an original artistic work comprising of *sculptures, paintings, cartoons, graphics, lithographs, etchings, drawings, plans, photography, diagrams, models of buildings, charts, buildings, maps, moulds, casts for sculptures and any other work of artistic craftsmanship*. Any work which is an original creation of an author or an owner, fixed in a tangible form, is capable of being entered into the Register of Copyrights, irrespective of the fact that whether such work possess any artistic quality or not.

Sound Recording and Cinematograph Film

A 'Sound Recording right' comprises of any work of sound recording irrespective of its storage medium. The songs which contain singers' voice with or without music, a recorded speech or an audio, or podcast are the examples of sound recording. In case the sound recording containing the music, the permission from the author of musical work is required to be obtained for the Copyright protection of such sound recording.

A cinematograph film is a work of visual recording together with the sound recordings accomplished by any process, whether digital or analogous, including the video films. It also includes visual recording in any medium and by any way of storing such visual recording. As per the definition of cinematograph films, every single recorded work with moving images or visuals will be considered a cinematograph.

Copyright for a computer programme

In the present cyber age and society, software plays a major role in everyday life as all netizens are dependent on digital technology for their day-to-day activities. The computer software is playing crucial role in the field of healthcare, education, banking etc. A lot of investment in the form of intellectual contribution, financial investment, effort, and time are made by the owners to develop the software but the same can be copied with minimal effort & cost by a fraudster.

Even governments are conducting the administration and governance activities through digital mode. Unauthorized use of the software causes huge damage to the business and the IPRs of the rightful owners of the software. Therefore, it is important that the creations expressed in digital form are protected from being copied in an illegal form.

As per the Section 2 (ffc) of the Act "computer programme" means a set of instructions expressed in words, codes, schemes or in any other form, including a machine readable medium, capable of causing a computer to perform a particular task or achieve a particular result. Section 2 (y) of the Act, extends protection to works, namely a literary, dramatic, musical or artistic work, a cinematograph film and a sound recording. Section 2 (o) "literary work" includes computer programmes, tables and compilations including computer Databases. Therefore, computer programmes/software squarely fall under the head of literary works and are entitled to copyright protection (provided they are original). A work may be registered as a computer programme under literary works if it is a subject matter of the aforesaid definition and qualifies the Protection and Registration prerequisites. For this purpose, applicant may apply for registration under Software Category (Not Literary Category), accompanied by the source and object code.

Similar to the automatic Copyright protection available to the owner in respect of other types of creations, the computer program/software also on its creation receive the rights from copying and therefore it is not mandatory to register the same with the Copyright office. However, certificate of registration of copyright serves as presumptive evidence in a court of law and therefore it is advisable to register the software.

Copyright Act gives the owner/copyright holder of the software the exclusive right to do or authorize the doing of any of the following acts: (a) the right to reproduce the work in any material form, including storing it in any medium by electronic means;(b) to issue copies of the work; (c) to make an adaptation or translation of the work; (d) to sell or give on commercial rental or offer for sale or commercial rental any copy of the computer program. If any person, without a license from the owner of copyright, does anything, the exclusive rights of which are granted to the owner of copyright as mentioned above then the same shall amount to infringement of copyright. Also, an act of infringement is committed by a person who makes for sale or hire or lets for hire or by way of trade, displays or offers for sale or hire or distributes for the purposes of trade, infringing copies of the computer program/software.

Copyrights for an APP

An **application program** (**application** or **app** for short) is a computer program designed to carry out a specific task other

than one relating to the operation of the computer itself, typically to be used by end-users. Eg., Word processors, media players, and accounting software. The APP are the familiar forms of software usually with a primary dynamic content, designed for user interaction and they come in a very wide variety of types for different usages /purposes. An App is a complete, self-contained computer program that is designed to perform specific tasks. It may be used directly or indirectly in a computer or handheld electronic device.

An App may be registered as a computer program under literary works under the Act [Section 2(o) “literary work” includes computer programmes, tables and compilations including computer databases.] For this purpose, applicant is required to submit an application for registration under software category, accompanied by the source and object code as provided under Rule 70 (5) of the Copyright Rules 2013. It is important to note that the registration will cover any screen displays generated by that program, provided that the computer program (code) generating the screen display is submitted by the applicant. Mere snapshots of screen display of an app are not eligible for copyright protection.

A website may be understood as a webpage or set of interconnected webpages, hosted, or stored on a server, and is made available online to members of public. Users can access the information and other underlying work on a website through various means such as scrolling webpages, using internal hypertext links or a search feature. Website usually consists of different rudiments which may be copyrightable subject matter that falls within any one of the classes of works set forth in Section 13 of the Act. The component parts of website can be in different form of digital files such as text, tables, computer programmes, compilations including computer databases (“literary works”); photographs, paintings, diagram, map, chart or plan (“artistic works”); works consisting of music and including graphical notation of such work (“musical works”); “sound recordings” and “cinematograph films”. Website as a whole is not subject to copyright protection. Generally, non-copyrightable content particular to websites may include but are not limited to ideas or future plans of websites, functional elements of websites, unclaimable material, layout and format or ‘look and feel’ of a website or its webpage; or other common, unoriginal material such as names, icons or familiar symbols. Applicant is required to submit a separate application for each component work/content appearing on a website.

Rights Under Copyright Act

The Copyright Act, 1957 confers copyright protection in the following two forms (i) Moral Rights of the author and (ii) Economic rights of the author.

Section 57 of the Act define the two basic moral rights of an

author viz., (i) Right of paternity and (ii) Right of integrity. The right to paternity is the right of the author to claim authorship over his work and have it attributed to him. The right to integrity permits the author to restrain or claim damages in the event of any distortion, mutilation, modification, or any other untoward act done to his work. Moral rights are rights that the creator of a work is automatically entitled to and which no one else can claim. The moral rights of work can even remain with the creator after their death. The moral right conferred upon an author of a work may be exercised by the legal representatives of the author. Unlike copyright, moral rights cannot be assigned (legally transferred). The existence of moral rights raises an important element in the negotiation and drafting of certain agreements.

The copyright subsists in original literary, dramatic, musical and artistic works, cinematographs films and sound recordings. The authors of copyright in the aforesaid works enjoy economic rights u/s 14 of the Act. It is important to note that the rights conferred under Copyright Act, 1957 are different depending upon the nature and purpose for which the IP is created.

A copyright holder in **literary, dramatic or musical work** has rights protected like- (i) to reproduce the work in any material form including the storing of it in any medium by electronic means; (ii) to issue copies of work to the public - this clause does not apply to copies which are already in circulation; (iii) to perform work in public or communicate to public; (iv) to make any cinematograph film or sound recording; (v) to make translation; (vi) to make adaptation of work; (vii) to do, in relation to translation or an adaptation of work, any of the aforesaid acts mentioned in clause (i) to clause (vi).

In respect of **artistic works** rights protected are- (i) to reproduce in any material form including depiction in two dimensions from three dimensions or vice versa; (ii) to communicate work to public; (iii) to issue copies of work to the public which are not already in circulation; (iv) to include the work in any cinematograph film; (v) to make any adaptation of the work; (vi) to do in relation to an adaptation of the work, any of the acts specified in clause (i) to (iv) above.

In respect of **sound recording** rights protected are – (i) to make any other sound recording embodying it; (ii) to sell or give on hire of offer for sale or hire, any copy of the film. It does not matter whether or not such copy was sold or given on hire on earlier occasions; (iii) to communicate the sound recording to public. In addition to the above the following moral rights are available to a copyright holder- (i) the right to decide whether to publish or not to publish the work; (ii) the right to claim authorship of a published or exhibited work; (iii) the right to prevent alteration and other actions that may damage the author’s honour or reputation, known as the right of integrity; (iv) to restrain or claim damages. All sound recording related

industries can use these rights in licensing their works to others against appropriate consideration in return.

In respect of **cinematograph film** rights protected are – (i) to make a copy of the film, including a photograph of any image forming part thereof; (ii) to sell or give on hire or offer for sale or hire, any copy of the film. It does not matter whether or not such copy was sold or given on hire on earlier occasions.; (iii) to communicate the work to public.

In respect of **computer programme**, the rights protected are – (i) to do any of the acts specified above in relation to literary work; (ii) to sell or give on commercial rental or offer to sale or for commercial rental any copy of the computer programme. However, such 'commercial rental' does not apply in respect of computer programmes where the programme itself is not the essential object of the rental.

The intellectual property rights granted under the software copyright include: The right to store the work in any electric method or even reproduce the work; Right of issuing copies of the work to the public; Right of displaying the software; Translation of the work in any format; Creation of adaptation of the work; Selling or renting the work for the required purposes. In case a group of individuals creates the software, the government grants all these rights to all of them.

Authorship and Ownership

The Copyright protects the rights of authors, i.e., creators of intellectual property. Ordinarily the author is the first owner of copyright in a work. In the case of a literary or dramatic work the author, i.e., the person who creates the work will be owning the rights. The ownership determinable under the law in respect of other types are: (i) In the case of a musical work, the composer. (ii) In the case of a cinematograph film, the producer; (iii) In the case of a sound recording, the producer; (iv) In the case of a photograph, the photographer (v) in relation to a cinematograph film or sound recording, the producer; and (vi) in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created. In the case of a government work, government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein. In the case of a work made or first published by or under the direction or control of any public undertaking, such public undertaking shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein.

In the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work in so far as the copyright

relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published, but in all other respects the author shall be the first owner of the copyright in the work.

Duration of Copyright Protection

The duration of copyright protection varies depending on the type of work. The term of protection for different kinds of works are as follows (i) Literary, dramatic, musical and artistic works – Life of the author plus 60 years from the beginning of the calendar year which follows the year in which the author dies; (ii) Cinematograph films – 60 years from the beginning of the calendar year which follows the year in which the cinematograph film was published; (iii) Sound recording – 60 years from the beginning of the calendar year which follows the year in which the sound recording was published.

The copyright is an assignable right. The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright or any part thereof. The mode of assigning shall be in writing signed by the assignor or by his duly authorised agent. It shall identify the specific works and specify the rights assigned and the duration and territorial extent of such assignment. It shall also specify the amount of royalty payable, if any, to the author or his legal heirs during the currency of the assignment and the assignment shall be subject to revision, extension or termination on terms mutually agreed upon by the parties.

The author of a work may relinquish all or any of the rights comprising the copyright in the work by giving notice in the prescribed form to the Registrar of Copyrights.

The MSMEs and various industries are deeply engaged in making intellectual creations of various copyrightable expressions /products in their day-to-day activities. Failure to recognise such copyrightable rights / assets and to act in the direction to protect them as their exclusive rights has made such entities lose their prominence in the business. Inaction by such entities, for reasons whatsoever, have caused negative impact on such industries, creating a dent in their incomes /profits, despite the valuable efforts in the creations in intellectual realms. In view of this prevailing situation, there is immediate need of identifying such rights by the MSMEs, initiate appropriate steps to own and commercialise such vested rights so that they earn the fruits of their efforts. The procedure for registration and other issues pertaining to copyright law will be deliberated in the coming part.

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CA. Kamal Garg

BRSR – STRUCTURE AND THE ROLE OF CHARTERED ACCOUNTANTS

In Focus

Sustainability Reporting is an emerging discipline encompassing the disclosure and communication of an entity's non-financial - environmental, social, and governance (ESG) performance and its overall impact. Over the last few years, more and more entities are now preparing and disclosing their sustainability reports either under a mandate or voluntarily as per the reporting frameworks/ standards provided by standard-setting bodies/ regulators. Sustainability reporting will only be beneficial if it is of sufficient quality and the market understands and trusts the framework. It is essential that sustainability reporting framework delivers information that is fair, balanced, understandable, transparent, consistent, and comparable.

On 5th May 2021, Security Exchange Board of India brought out amendments to the existing provisions of business responsibility report as enshrined in Regulation 34(2)(f) of SEBI-LODR. The amended provisions now call for discontinuation of the current reporting of business responsibility report (BRR) after the financial year 2021-22. The new report as "Business Responsibility and Sustainability Report" (BRSR) based on the ESG parameters. SEBI has specified the format for BRSR reporting, vide its notification dated 10th May 2021. The aforesaid format which is broader than existing format for BRR is also coupled with the guidance note to enable companies to interpret the scope of disclosures required to be made in such report, i.e., BRSR.

1. Foundation stone for BRSR

There are various international and local frameworks used by organisations across the globe for their corporate sustainability reporting. In November 2018, the Ministry of Corporate Affairs (MCA) constituted a Committee on Business Responsibility Reporting for finalising

Business Responsibility Reporting formats for listed and unlisted companies, based on the framework of the National Guidelines for Responsible Business Conduct' (NGRBCs)¹. In August 2020, the Committee addressed various aspects and issues that could improve the quality and utility of disclosures and recommended Business Responsibility and Sustainability Reporting (BRSR) as an update on the existing Business Responsibility Reporting (BRR) to incorporate the current global practices in non-financial sustainability reporting based on the NGRBCs.

Through its 'Report of the Committee on Business Responsibility Reporting' (the Committee Report), the Committee recommended that BRR be rechristened BRSR, where disclosures are based on ESG parameters, compelling organisations to holistically engage with stakeholders and go beyond regulatory compliances in terms of business measures and their reporting.

As per SEBI's circular dated 10 May 2021, entities already preparing and disclosing sustainability reports based on internationally accepted reporting frameworks (such as GRI, SASB, Task Force on Climate-related Financial Disclosures (TCFD) or <IR> may cross-refer to disclosures made under these frameworks.

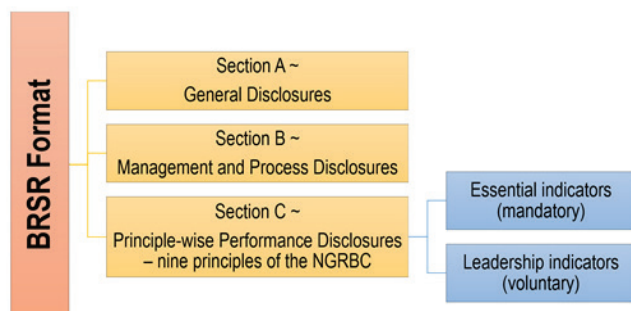
2. BRSR – the format configuration

In the current reporting under BRR, the reporting sections are five which has been reduced to three in the BRSR requirements. However, additional disclosures have been inserted in each of these sections. In the new format of business responsibility and sustainability reporting, the disclosures relating to key performance indicators (KPI) under the specified principles are categorised under:

¹The existing format of BRR is based on 'National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business' ("NVGs") issued by the Ministry of Corporate Affairs ("MCA"), Government of India.

- (a) essential indicators which are mandatory; and
- (b) leadership indicators which are voluntary.

BRSR – the format configuration



A few of the key disclosures sought in the BRSR are highlighted below:

- a. An overview of the entity's material ESG risks and opportunities, approach to mitigate or adapt to the risks along-with financial implications of the same
- b. Sustainability related goals & targets and performance against the same
- c. Environment related disclosures covering aspects such as resource usage (energy and water), air pollutant emissions, green-house (GHG) emissions, transitioning to circular economy, waste generated and waste management practices, bio-diversity etc.
- d. Social related disclosures covering the workforce, value chain, communities and consumers, as given below:
 - i. Employees/workers: Gender and social diversity including measures for differently abled employees and workers, turnover rates, median wages, welfare benefits to permanent and contractual employees/workers, occupational health and safety, trainings etc.
 - ii. Communities: disclosures on Social Impact Assessments (SIA), Rehabilitation and Resettlement, Corporate Social Responsibility etc.
 - iii. Consumers: disclosures on product labelling, product recall, consumer complaints in respect of data privacy, cyber security etc.

3. BRR vs. BRSR

The comparison between erstwhile requirements of BRR can be compared with the new requirements of BRSR as follows:

| Business Responsibility Report (BRR) | | Business Responsibility and Sustainability Report (BRSR) |
|--------------------------------------|---|--|
| Section | Details | |
| A | General information about the company | General disclosures (details of additional disclosures) |
| | (i) CIN no of the company (ii) Name of the company (iii) Registered office of the company (iv) Website (v) Email id (vi) Financial year reported (vii) Sectors Sector(s) that the Company is engaged in (Industrial Activity Code-wise) | i) Details of the entity Name, contact details – phone no, email address – reporting boundary i.e. standalone or consolidated (company should ensure consistency in reporting boundary across the report. (ii) Product / services Details of business activities, products and services sold by the company that account for 90% of the company's turnover. Individual contribution of such products / services to the total turnover also required to be disclosed. (iii) Market served by the company Number of location (national and international) along with a brief description on types of consumers served. (iv) Employees Total number of employees at the reporting period – in case of significant change from the beginning to the end, reasoning is required to be disclosed. |

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| | <p>Number of women and KMP in the board.</p> <p>Trend of past three years relating to turnover rate of permanent employees.</p> <p>(v) Corporate Social Responsibility in the new report forms part of the disclosure.</p> <p>Following disclosures are not required in the new format</p> <ul style="list-style-type: none"> – total spending on CSR as %age of Profit after tax. – list of activities under which CSR expenditure is incurred. <p>(vi) Transparency and disclosure compliance</p> <p>Disclosure required relating to complaints / grievances on any aspect of the National Guidelines of Responsible Business Conduct during the current year and previous year (Complaints could be from communities, investors, shareholders, employees, customers, value chain partners and others).</p> <p>(vi) Overview of the company's material responsible busi-</p> |
|--|--|

| | <p>ness conduct issues</p> <p>Specific disclosure called for on "material responsible business conduct" and sustainability issues relating to environmental, social and governance (ESG) along with risk / opportunity to the company's business along with reasoning behind identifying the same – risk mitigation plan and the financial implications. (the companies to make qualitative disclosures – not to include quantitative forward looking information except in case of previous year where impact could be disclosed in terms of quantitative).</p> |
|--|--|
| Section | Details |
| B | Financial details of the company |
| <p>(i) Paid up capital</p> <p>(ii) Total Turnover – Revenue from operations</p> <p>(iii) Total profit after taxes</p> <p>(iv) Spending on Corporate Social Responsibility (CSR) as a %age of average profit for last 3 financial years</p> <p>(v) List of activities in which expenditure in 4 above has been incurred</p> | <p>Management and process disclosures(details of additional disclosures)</p> <p>The new format requires disclosures for companies to demonstrate structures, policies and processes put in place toward adopting National Guidelines on Responsible Business Conduct (NGRBC) principles and core elements. Some of the important additional disclosures amongst others are as under:-</p> |

| | | |
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| | <p>(i) Policy and management process Company needs to disclose its confirmation that company's policy covers each principle and its core elements of the NGRBC and also disclose the web link where policies are disclosed. Name of the national /international codes / certifications /labels / (such as Fairtrade, Rainforest Alliance, Stewardship Councils, Trustees) and standards such as SA 8000, OHSAS, BIS, ISO adopted by the company and mapped into the principles. Disclosures of goals / targets / specific commitments set by company specifying whether it is mandatory based on any legislation or voluntary. In case of mandatory goals / target, the details of relevant legislation to be disclosed. Performance against the specific commitments / goals / targets along with reasoning in cases where the goals / target are not met.</p> <p>(ii) Governance, leadership and oversight Disclosure of director's responsibility for the business responsibility report</p> | <p>containing the highlights of ESG related challenges, targets and achievements. The statement should include overall vision and strategy of the company for short term / medium term / long term with respect to managing significant environmental and social impacts that the company causes / contributes to or that are linked directly to the company's activities / products / services. Organizational highest authority responsible for implementing and oversight of the business responsibility policies such as director of the board / committee of the board / committee of employees / senior management personnel. In case the committee is the highest authority, the disclosure of composition of the committee is required. Disclosure relating to independent audit / evaluation done by an external agencies of the working of company's policies. (new policy does not allow internal agency to conduct evaluation which was the case in the earlier BRR).</p> |
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| Section | Details | |
|--|----------------------------|---|
| C | Other details | |
| (i) Does the Company have any Subsidiary Company/Companies? | | |
| (ii) Do the Subsidiary Company/Companies participate in the BR Initiatives of the parent company? If yes, then indicate the number of such subsidiary company(s) | | - |
| (iii) Do any other entity/entities (e.g. suppliers, distributors etc.) that the Company does business with, participate in the BR initiatives of the Company? If yes, then indicate the percentage of such entity/entities? [Less than 30%, 30-60%, More than 60%] | | |
| Section | Details | |
| D | BR information | |
| 1. Details of the Director / Director responsible for implementation of the BR and BR Head | | |
| 2. Principle-wise as per National Voluntary Guidelines (NVGs) BR Policies BR Policies and coverage of NVG nine principles | | - |
| 3. Governance related to BR | | |
| E | Principle-wise performance | Principle-wise performance disclosures (details of additional disclosures) |
| PRINCIPLE 1: Businesses should conduct and govern themselves with Ethics, Transparency and Accountability | | PRINCIPLE 1: Businesses should conduct and govern themselves with integrity and in a manner that is ethical, Transparent and Accountable Disclosure of description of training and awareness programmes on any of the principles held for the board of directors, KMPs, employees other than board members and workmen. |

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| | <p>Disclosure of fines / penalties / punishment / award / compounding fees paid / settlement amount paid in any proceeding against company and it's KMPs in the current year. The disclosure also need to include non-monetary penal provisions such as punishment / imprisonment.</p> <p>The disclosure is required to be made as per the provisions of regulation 30 of LODR on the basis of materiality.</p> <p>Disclosure relating to conflicts of interest of the directors and KMPs – number of complaints during the current year.</p> <p>Disclosure relating to corrective action taken / initiated / underway by the company on issues related to fine/ penalties/ action taken by regulators and law enforcing agencies on cases of conflicts of interest and corruptions.</p> <p>Disclosure of company's policy on anti-corruption /anti-bribery. Any disciplinary action taken by the company against director / KMPs against charges of corruption bribery – for the current year and also for previous year.</p> |
| PRINCIPLE 2: Business should provide goods and services that are safe and contribute to sustainability throughout their cycle | PRINCIPLE 2: Business should provide goods and services in a manner that is sustainable and safe |

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| | <p>Disclosure relating to percentage of R & D / capital expenditure / investment made by the company in specific technologies to improve environmental and social impacts of the company's products and processes against its total R & D and capital expenditure investment – for the current year and previous year.</p> <p>Procedures in place for sustainable sourcing (if any) indicating the percentage of input sourced in a sustainable way.</p> <p>Company is required to state whether responsibility of a producer for the environment of the product until the end of its life (EPR) is applicable.</p> | <p>/ recycle and disposal of products at the end of life cycle separately for (i) plastic including packaging; (ii) e-waste; (iii) hazardous waste and (iv) other wastes.</p> |
| | <p>PRINCIPLE 3:</p> <p>Businesses should promote the well-being of all employees</p> | <p>PRINCIPLE 3:</p> <p>Businesses should promote the well-being of all employees including in their value chain</p> <p>Measures taken by company relating to well-being of the employees in the current year along with details for previous year.</p> |
| | <p>PRINCIPLE 4:</p> <p>Business should respect the interests of and be responsive towards all stakeholders especially those who are disadvantaged, vulnerable and marginalized</p> | <p>PRINCIPLE 4:</p> <p>Business should respect the interests and be responsive to all its stakeholders</p> <p>Disclosure about the process in place for identifying key stakeholder groups of the company along with providing details relating to frequency of engagement with each stakeholders group</p> <p>Disclosure as to company's premises / offices – accessibility to differently abled employees / workers.</p> <p>Policy disclosure on equal opportunity policy pursuant to Rights of Persons Disabilities Act 2016</p> <p>Mechanism for receiving complaints and addressing them for employees and workers including non-permanent employees and workers.</p> |
| | <p>If the answer is 'Yes' further disclosures on waste collection plan is in line with the ERP plan submitted to the pollution control board by the company.</p> <p>Disclosure relating to details of life cycle assessment (LCA) is applicable to any of the products / services of the company along with disclosures on significant social or environmental concerns and or risk arising from production or disposal of the products / services and the mitigation action taken by the company.</p> <p>Process put in place for safe collection / reuse</p> | |

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| | <p>Details of performance and career development reviews undertaken by the company and also confirmation these reviews are done with the knowledge of the employees.</p> <p>Details of corrective action taken by company / action underway for addressing the risk and concerns relating to health and safety practices and working conditions of value chain partners.</p> | <p>PRINCIPLE 6:</p> <p>Business should respect, protect and make efforts to restore the environment</p> | <p>PRINCIPLE 6:</p> <p>Business should respect, protect and make efforts to restore the environment Specific disclosures are called for in respect of water withdrawal / discharge inclusion source</p> |
| | | | <p>/ destinations – example – surface water / ground water / third party water – for current year and previous year.</p> |
| <p>PRINCIPLE 5:</p> <p>Business should respect and promote human rights</p> | <p>PRINCIPLE 5:</p> <p>Business should respect and promote human rights</p> <p>Disclosure of training provided to employees / workers on company policies and human right issues for current year vis-à-vis previous year.</p> <p>Additional disclosures called for if the company is having a committee which is responsible to address the human right issues or issues caused or contributed to by the business.</p> <p>Disclosure of minimum wages paid to employees / workers (both for permanent and non-permanent)</p> <p>Disclosure of mechanism in place to protect the complainant from adverse consequences relating to discrimination and harassment cases</p> | <p>PRINCIPLE 7:</p> <p>Business when engaged in influencing public and regulatory policy should do so in a responsible manner</p> | <p>PRINCIPLE 7:</p> <p>Business when engaged in influencing public and regulatory policy should do so in a manner responsible and transparent</p> <p>Disclosure relating to details relating to trade and industry chambers / associations, the company is member of / affiliated to.</p> <p>Corrective action taken / being taken by company on any issue relating to anti-competitive conduct by the company based on adverse orders received by the regulatory authorities</p> |
| | | <p>PRINCIPLE 8:</p> <p>Business should support inclusive growth and development</p> | <p>PRINCIPLE 8:</p> <p>Business should promote inclusive growth and equitable development</p> <p>Disclosure required on social impact assessment (SIA) of projects undertaken by the company based on applicable law in the current</p> |

| | |
|--|--|
| | <p>year and also disclosure about projects for which ongoing rehabilitations and assessments is being undertaken by the company.</p> <p>Disclosure of preferential procurement policy in cases of purchases from supplies comprising marginalized / vulnerable groups.</p> |
| <p>PRINCIPLE 9:</p> <p>Business should engage with and provide value to their customers and consumers in a responsible manner</p> | <p>PRINCIPLE 9:</p> <p>Business should engage with and provide value to their customers in a responsible manner</p> <p>Disclosure called for on number of consumers complaints received during the current year –vis-s-vis previous year, data privacy, advertising, cyber security, unfair trade practices along with details relating to mechanism in place to receive complaint, respond complaint and feedback</p> <p>Policy of the company on cyber security and risk related to data privacy and the website link where the policy is displaced</p> |

The Chartered Accountants can play a significant and integrated role in sustainability reporting in the following manner:

- (i) Evaluating the systems, functions, operations and allied activities in the organisation to assess the 'scope and boundary' for BRSR requirements;
- (ii) Guiding in synchronisation of disclosure requirements of financial reporting standards (Ind AS) (such as Ind AS 1, Ind AS 19, Ind AS, 24, Ind AS 37, etc.) with the disclosure requirements enshrined under BRSR – Section A to Section C;
- (iii) Guiding in synchronisation of various regulatory and compliance requirements under the Companies Act, 2013 (such as CSR, Directors' Report, etc.) with the disclosure requirements enshrined under BRSR – Section A to Section C;
- (iv) Guiding in synchronisation of various regulatory and governance requirements under the SEBI-LODR (such as Audit Committee, Vigil Mechanism, Related Party Transactions, etc.) with the disclosure requirements enshrined under BRSR – Section A to Section C;
- (v) Assisting the auditors (external or internal, as the case may be) in having a synchronised exchange of information vis-à-vis the audit function and the disclosure requirements enshrined under BRSR – Section A to Section C;
- (vi) Assisting the investors and other users of financial statements by explaining and analysing the business impact on 'triple bottom line' (Profit, People, Planet) rather than merely on 'bottom line' (Profit);

- (vii) Providing assurance on BRSR carried out by the companies. Though this is not mandatory as of now under BRSR but still Section 'B' asks a question viz., "Has the entity carried out independent assessment/ evaluation of the working of its policies by an external agency? (Yes/No). If yes, provide name of the agency." Such assurance can be provided as per the principles of ISAE 3000.

4. Role of Chartered Accountants in BRSR

"The focus on sustainable investing among equity market participants is expected to rise with more companies and countries implementing policies to meet ESG targets, particularly with respect to carbon emissions.....Stocks in Asia with high ESG scores on the MSCI are trading at a 40% premium to stocks with low ESG scores....."

Source: <https://www.livemint.com/market/mark-to-marketesg-theme-for-stocks-to-accelerate-in-2022-11641747303323.html>

5. Conclusion

SEBI was one of the early adopters of sustainability reporting for listed entities amongst its global peers. The filing of the BRR containing ESG (Environment, Social and Governance) disclosures was first introduced for listed entities in 2012. Since then, a number of developments have taken place. With the adoption of the Paris Agreement on Climate Change and UN Sustainable Development Goals, adapting to and mitigating climate change impact and transitioning to sustainable economies have emerged as major issues globally. The COVID pandemic has also accelerated the

relevance of ESG considerations to investors resulting in increased awareness of investors and a shift towards sustainable investing. The same is reflected in the spurt in new launches of ESG themed mutual funds and growth in assets of such schemes, including in India. As ESG investing becomes more mainstream, disclosure requirements need to keep pace with this change and the BRSR is a significant step towards this direction.

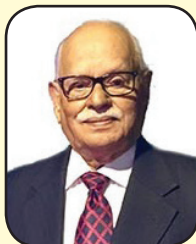
*Author can be reached at :
cakamalgarg@gmail.com*



Obituary



KSCAA deeply mourns the sad demise of our beloved



CA K. Purnachandra Rao (K.P. Rao)

Past Chairman, Bengaluru
Branch of SIRC of ICAI
expired on 07.04.2022



CA. Shivaprasada V

Convener of Media and Technology Initiative Committee
of KSCAA, expired on 13.04.2022



CA. Veerabhadrappe T V

Ex-auditor of the Association
expired on 14.04.2022



We convey our condolences and prayerful support to his bereaved family



34th KSCAA ANNUAL CONFERENCE 2022

20th & 21st MAY 2022
RAVINDRA KALA KSHETRA,
BENGALURU



**LOOKING FORWARD
TO MEET YOU AT THE
CONFERENCE**

CA. Chandan Kumar Hegde A
President

CA. Shivaprakash Viraktamath
Convenor

CA. Pramod Srihari,
Vice President and Chairman,
Conference Committee

CA. Vijaykumar M Patel
Convenor

CA. Sujatha G
Secretary

CA. Praveen S Shettar
Convenor



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Chartered Accountants
Association



kscaa.com

Friday, 20th MAY 2022

9.00 AM

Registration

INAUGURAL SESSION

10:00 AM

Inaugural by the **Chief Guest**

Shri. Basavaraj Bommai

Hon. Chief Minister, Government of Karnataka

Release of Souvenir & Publications

11:15 AM

Inauguration of Exhibition & Tea Break

FIRST TECHNICAL SESSION

11:45 AM

Recent changes in Taxation & FCRA related to Charitable or Religious Trust/ Institutions

CA. Dr. N Suresh

1:00 PM

Lunch Break

SECOND TECHNICAL SESSION

1:45 PM

Practice of Arbitration and Mediation: Innate Strength of CAs

Shri. M. Dhyan Chinnappa, Designated Senior Advocate

Additional Advocate General for State of Karnataka

THIRD TECHNICAL SESSION

3:00 PM

Business Succession: Role of CAs

Ms. Sonu Bhasin, New Delhi

Family Business Historian & Independent Director

4:00 PM

Tea Break

FOURTH TECHNICAL SESSION

4:15 PM

Panel Discussion -

The Future of Digital Assets in India : Crypto and Beyond

Eminent Speaker

6:00 PM

NOT TO MISS SESSION

ZEALOUS CAs : Transcending and above

Stories of successful CAs : A Sneak Peak



8:30 AM

Breakfast

SPECIAL SESSION

9:45 AM

Bharath to India to Bharath
Adv. J. Sai Deepak, New Delhi

11:00 AM

Tea Break

FIFTH TECHNICAL SESSION

11:15 AM

Panel Discussion -
Watching The Watchmen: Changing Role of Auditors
Moderator : CA. V Pattabhi Ram
Panelists : Dr. Neeti Shikha, Associate Dean at Indian School of Public Policy (ISPP)
CA. M P Vijaykumar, Past Central Council Member, ICAI
CA. Mohan Lavi, Partner, Eminent Speaker From Ministry of Corporate Affairs *

1:00 PM

Lunch Break

SIXTH TECHNICAL SESSION

1:45 PM

Panel Discussion on Search, Seizure & Survey Actions -
Income Tax, GST Law & Economic Offences
Moderator : CA. Sanjay Dhariwal
Panelists : Adv. Tarun Gulati, Mumbai
Shri. Udaya Holla, Designated Senior Advocate
Shri. A Sankar, Designated Senior Advocate

SEVENTH TECHNICAL SESSION

3:15 PM

Auditing Standards for Non-Corporate Entities
Eminent Speaker

4:00 PM

Tea Break

VALEDICTORY SESSION

4:15 PM

Chief Guest

FAMILY ENTERTAINMENT PROGRAM

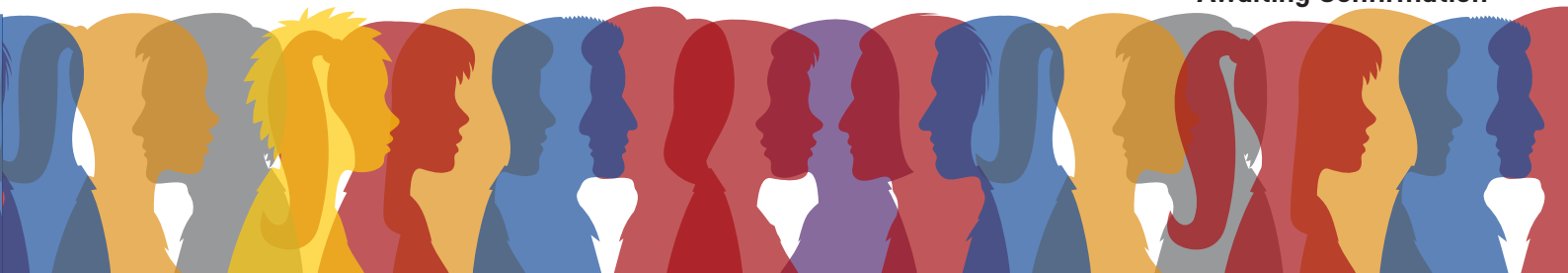
5:30 PM

Family Entertainment Program

8:30 PM

Family Theme Dinner

*Awaiting Confirmation



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CA. Srikanth Acharya G B
Adv. Vasanth Kumar J

CLASSIFICATION PUZZLE IN AND AROUND CBIC CIRCULAR 164 FOR ICE CREAM PARLOURS

In any indirect tax, classification is very vital. The same has very wide implications particularly in case of multi rate tax structure like GST as we are aware that classification of goods under CGST Act, IGST Act and respective SGST Acts have to be done in accordance with scheme of classification and HSN codes. Classification disputes may result in long drawn legal battles for the tax payer. It may also lead to huge liability in case of adverse decisions. Therefore, classification of goods should be done with utmost care. Greed to 'forcefully' classify the item under a heading carrying lower tax rate should be completely avoided.

What aspect should be seen for classification is multiple use of products, dichotomy between usage and key components, technical meaning vs common parlance vs trade parlance vs interpretation definition, specific use vs generic use, etc, are all ingredients or the classification dispute recipe. Around 49 countries use single rate and 28 use dual rates. Having single rate or fewer slabs appears to be the only solution for reducing classification disputes in India,"

Apart from above "Supply"- Single most important concept of Goods and Services Tax. Definition of Supply is the foundation upon which the entire law relied. Thus, there is a serious analysis of definition that should be clearly worded and left little space for ambiguity.

Recently in the 45th GST council meeting, it has been recommended that the "Ice-cream parlours, supplying manufactured ice-creams will be taxed at the rate of 18% GST". Further, the Circular 164 issued pursuant to the above meeting clarified that where ice cream parlours sell already manufactured ice-cream and do not cook/prepare ice cream for consumption like a restaurant, it is supplied ice cream as goods and not as a service, even if the supply has certain ingredients of service. Accordingly,

it is clarified that the ice cream sold by a parlour or any similar outlet would attract GST at the rate of 18%.

The above Circular has created the confusion in the Food and Beverages industry and the larger question that needs to be addressed is that whether ice cream parlours can constitute as a restaurant so as to provide restaurant services chargeable to optional GST at the rate of 5% as available in Notification 46/2017 CTR and Notification 20/2019 CTR or it is merely a sale of goods.

The terms "Restaurant", "Eating Joints", "Mess" or "Canteen" have not been defined under the act, Hence, one will have to look at the ordinary meaning of the said terms as understood in common parlance.

Oxford Dictionary defines the term "**Restaurant**"

as - a place where people pay to sit and eat meals that are cooked and served on the premises. University of Cambridge defines the same - as a place where meals are prepared and served to customers

Canteen is defined under Oxford Dictionary as - a restaurant provided by an organization such as a college, factory, or company for its students or staff. On similar lines the University of Cambridge defines the term as a place in a factory, office, etc. where food and meals are sold, often at a lower than usual price.

"Joint" has been informally defined by Oxford Dictionary as - An establishment of a specified kind, especially one where people meet for eating, drinking, or entertainment.

The University of Cambridge defines the term "Joint" as a bar or restaurant that serves food and drink at low prices.

On perusal of all the above definitions, what could commonly be drawn is that all the said terms refer to an establishment where people meet in order to eat or drink within a specified premise. It is a well-known

rule of construction that words in such entries had to be construed with reference to the words found in immediate connection with them. When two or more words which were capable of being understood in an analogous manner were coupled together, they had to be understood in the common analogous sense and not in the general sense.

Explanation to notification 20/2019 CT (rate)
"Restaurant service" means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied.

Ice cream Parlours: Sale of Goods or Rendering Services :-

To analyse and ascertain whether ice cream parlours are rendering a restaurant service or supply of goods, one needs to analyse the following two conditions:

- (i) The ice cream parlour is only providing take away service
- (ii) Other than the sale of ice-creams, the services like seating (exclusive or common seating like in food courts), customized ice cream, shakes etc are provided In the former condition, the transaction will amount to a mere supply of goods if there is no dine-in facility provided.

However, when such a facility is provided, the same is a Supply of Service and not only a sale/supply of goods. In the present recommendation given in the 45th GST council meeting, this reasoning is straight away neglected, because there has been no distinction between the Ice-cream parlours as in the two cases mentioned above. In that sense the ambiguity arises as the parlour providing restaurant services would be taxed at optional 5% or 18%.

The Circular states that ice-cream parlours do not do any sort of preparing. This may not be fully correct as the ice-cream parlours indulge in preparing activities like reducing large part into small parts, adding sauces, serving the ice-cream with a cherry and in a cone, etc. Preparing is a much wider term than 'Cooking'. In fact 'Cooking a dish' is a part of 'preparing a dish'. While ice-cream parlours may not cook a dish but they do prepare a

dish and serve. Further the provision of a seating space to customers and an ambience for socializing is value added services provided by the ice-cream parlours in addition of selling ice-creams. While accepting the fact that some service is involved, and still stating that ice-cream parlours supply goods and not services, the Circular may be going beyond the notification which requires a restaurant to provide 'any service' as a part of supply of food and beverage.

It is worth note to consider that no specific definition is provided under GST law, for what amounts to food and Beverages, what is Restaurant, Canteen and eating Joint in the absence which we may depend other definition available, Accordingly, the term "Restaurant, Eating Joints", "Mess" or "Canteen" has to be interpreted and understood on the common analogous sense i.e. a place where the customers are served with food at the tables to be consumed therein.

Oxford Dictionary defines the term "Restaurant"

as - a place where people pay to sit and eat meals that are cooked and served on the premises. University of Cambridge defines the same - as a place where meals are prepared and served to customers

Canteen is defined under Oxford Dictionary as - a restaurant provided by an organization such as a college, factory, or company for its students or staff. On similar lines the University of Cambridge defines the term as a place in a factory, office, etc. where food and meals are sold, often at a lower than usual price.

"Joint" has been informally defined by Oxford Dictionary as - An establishment of a specified kind, especially one where people meet for eating, drinking, or entertainment.

It also to be noted that the entry 7(i) of Notification 11/2017 CTR as amended 46/2017 CTR after the words Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink, where such supply or service is for cash, deferred payment or other valuable consideration **"provided by restaurant, eating joints" there is a word "including mess, canteen"**. The word "including" in this context suggest that the list given is not exhaustive as there is an intention of the legislature to widen the scope to include many other similar things. This view will also get support from the amending

Notification No. 13/2018-C.T. (Rate) dated 26.07.2013, which further amends the original Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017. The amended notification inserts Explanation I to serial no.7 column 3 item (i) reads as under:

"Explanation I. - This item includes such supply at a canteen, mess, cafeteria or dining space of an institution such as a school, college, hospital, industrial unit, office, by such institution or by based on a contractual arrangement with such institution for such supply, provided that such supply is not event based or occasional"

| Summary of Rate of Tax Classification Timeline Supply of Ice Cream parlour at Restaurant/Outlet | | | |
|---|--|--|--|
| Particular | From 1st July 2017 to 14th Nov 2017 | 15th Nov 2017 to 06th Oct 2021 | 07 Oct 2021 to As on Today |
| GST Rate | 18% | 5% | 18% |
| SAC Code | 996331 | 996331 | 210500 |
| Notification/Circular | 11/2017 CTR | 46/2017 CTR and 20/2019 CTR | 164/2021 |
| Entry of Notification and Para of Circular | [iv] of Sl. No. 7 | [i] of Sl. No. 7 | Para 4 of the Circular |
| Reason and Comments | Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink, where such supply or service is for cash, deferred payment or other valuable consideration, | Initially, restaurant services were liable to 18% GST. Thereafter it was recommended that all stand-alone restaurants, <u>irrespective of whether air conditioned or not, will attract 5% GST without ITC.</u> To give effect to such decision, a notification No. 46/2017- CTR was issued, as per which the GST rate applicable to services | It is clarified that where ice cream parlours sell already manufactured ice-cream and do not cook/prepare ice-cream for consumption like a restaurant, it is supply of ice cream as goods and not as a service, even if the supply has certain ingredients of service. |

| Summary of Rate of Tax Classification Timeline Supply of Ice Cream parlour at Restaurant/Outlet | | | |
|---|---|--|--|
| Particular | From 1st July 2017 to 14th Nov 2017 | 15th Nov 2017 to 06th Oct 2021 | 07 Oct 2021 to As on Today |
| | provided by a restaurant, eating joint including mess, canteen, <u>having the facility of air-conditioning or central air</u> eating in any part of the establishment, at any time during the year. | provided by restaurants, eating joint including mess, canteens etc. <u>was reduced to 5% subject to a condition that input tax charged on goods and services used in supplying the service has not been taken.</u> | Accordingly, it is clarified that ice cream sold by a parlor or any similar outlet would attract GST at the rate of 18%. |

To summarise in one view, Sale of Ice Cream by Ice Cream Parlours, is Supply of Food/Any other Article for Human Consumption Supplied by Eating Joint. Shall be classified as Composite Supply as per Section 2(30) r/w Deemed supply of services as per schedule II para 6(b). Ice Cream parlours supply, shall be squarely considered as Eating Joint and eligible for optional 5% GST rate scheme

Generally, a restaurant service would warrant services such as arrangements for seating, decor, music and dance, both live and otherwise, hostesses, liveried waiters and the use of fine crockery and cutlery, among others. The question arises if an ice cream parlour has all these facilities, would it still be considered as undertaking the supply of goods (i.e. ice cream) taxable at 18%?.

AAR for Reference in favour of Ice Cream Parlours:-

| AAR | Year | State | Observation |
|-------------------------------------|--------|-----------|---|
| M/s. Hatsun Agro Product Ltd. (AAR) | Sep-19 | Karnataka | The Ice Cream Made as per Customer order and served in IBACO outlets qualifies as Composite Supply and treated as supply of services, Hence, eligible for 5% GST rate |

| AAR | Year | State | Observation |
|-----------------------------------|--------|-----------|--|
| M/s. Venkateshwara Agencies (AAR) | Mar-20 | Telangana | Ice cream and ice cream allied products, milk shakes served in the parlour with or without adding ingredients like fruits or topping sauces according to the customer taste or requirements shall be classified as Restaurant services and eligible for 5% scheme entry 7[i] from 15th Nov 2017 to 30th September 2019 and entry 7[ii] from Oct-2019 onwards |

It seems that a narrow view may have been taken by the circular in holding that the supply of ice-creams by ice-cream parlours is not a 'service' but supply of 'goods'. The Circular may be amended in the light of the issues above or else it would be a big blow to the Ice-Cream Industry. Important to note that the Circular is a clarification and hence the impact on the GST Rates would be retrospective.

In a representation, ice cream manufacturers have requested that, "Board (Central Board of Indirect Taxes & Custom) may kindly take steps either to clarify that the GST rate of 18 per cent on supply of ice cream by ice cream parlours would have only prospective effect, and if necessary, to suitably amend relevant notification to apply the rate of 5 per cent GST for the period from July 01, 2017 till the date of the present clarification i.e., October 6, 2021."

They submitted that the Covid-19 pandemic has already pushed innumerable such persons out of business. "In such a situation, if the ice-cream parlours are coerced into paying the GST at 18 per cent for the past supplies with effect from July 1, 2017, most of them would go bankrupt and would be compelled to close down their businesses as most of such suppliers are small businesses," the representation said. People associated with ice cream industry said that GST at the rate of 5 per cent on retail sale was being collected till October 5 and afterwards according to clarification. However, they said that the clarification is giving an impression of applicability of 18 per cent GST from July 1, 2017.

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Achieve your Financial Goals with proper Financial Planning

Solution to Sudoku -19 March 2022

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



CA. Raghavendra C R
CA. Bhanu Murthy J S

INDIRECT TAX UPDATES

1. Educational Initiatives Pvt Ltd Vs UoI [2022] 137 taxmann.com 4 (Gujarat)[18-02-2022] /2022-TIOL-402-HC-AHM-GST

Background: The assessee engaged in the business of providing an examination tool [ASSET] for educational assessment of students of classes 3-10 in schools across India and outside India. The assessee applied for advance ruling with GST Advance Ruling Authority whether the services provided by them are eligible for exemption under entry 66(b)(iv) of the Not. No. 12/2017-CT (Rate) dated. 28.06.2017. The AAR held that they are eligible for exemption. However, on appeal by the revenue, the Appellate Authority for Advance Ruling (AAAR) held that the assessee is not eligible for exemption.

The High Court allowed the exemption observed as below:

- The phrase 'education' cannot be given a natural meaning by restricting it to the actual imparting of education to the students but should be given a wider meaning which would take within its sweep all the matters relating to imparting and controlling education.
- Examination is an essential component of education as it is one of the major means to assess and evaluate the skills of a candidate and the knowledge, whether it is at school test or High education such as university examination, professional entrance examination or any other examination.
- The basic nature of the ASSET service is an examination to be conducted by the Educational Institution (School) but outsourced to the Educational Initiatives (EI) (Assessee).

d) It is now well-settled that even in tax statutes, an exemption provision should be liberally construed following the object sought to be achieved if such provision is to grant incentive for promoting education or otherwise has some beneficial reason behind it.

e) The exemption notification should be given a literal meaning - The recourse to other principles or canons of interpretation of the statute should be resorted to only in the event the same gives rise to anomaly or absurdity.

2. Associate Décor Ltd. Vs. Deputy Commissioner of Commercial Taxes, [2022] 135 taxmann.com 137 (Karnataka)

The issue before the Court was whether, during the pendency of the Insolvency proceedings under the IBC, the GST department could initiate and conduct the adjudication proceedings. The Court referring to Section 14 of the IBC observed that given the specific embargo/bar contained in said Section 14, the proceedings initiated by the GST department deserve to be stayed/suspended/kept in abeyance till the conclusion of proceedings before NCLT and lifting of the moratorium and completion of Corporate Insolvency Resolution Process. The Court further observed that Section 60(6) of IBC excludes the entire period during which the moratorium is in force for time limitation to initiate or complete the proceedings.

3. Taghar Vasudeva Ambrish v. Appellate Authority for Advance Ruling, [2022] 135 taxmann.com 287 (Karnataka)

The owners of the building having residential rooms leased out the said property to a private

limited company to provide hostel accommodation to students and work professionals. The question before the Court was whether leasing such residential premises as a hostel would qualify for exemption as renting of a residential dwelling (entry 13 of the Notification No. 12/2017-CT(Rate) dated. 28.06.2017.

The Court allowing the exemption observed that in terms of the revised master plan 2015 for Bangalore city, buildings used as hostels for students and working women are considered residential dwellings. Further, in terms of the education guide issued under the erstwhile service tax provisions, the residential dwelling would mean accommodations which not meant for temporary stay like a hotel, motel, inn, guest house, etc. Therefore, the use of the building whether by the lessee or by any other person as a residential dwelling would be eligible for exemption.

4. **New Nalbandh Traders Vs. The state of Gujarat, 2022]** 136 taxmann.com 284 (Gujarat).

On the issue of blockage of credit in terms of Rule 86A of the CGST/State GST Rules, 2017, the High Court observed as below:

- The first pre-requisite is of the Competent Authority or the Commissioner having been satisfied based on the material available before him that blocking of ECL for the afore-stated reasons is necessary.
- The second pre-requisite is of recording the reasons in writing for such an exercise of the power.
- Unless both the above are satisfied, the blockage cannot be made. Any administrative power having quasi-judicial shades, which brings civil consequences for a person against whom it is exercised, must answer the test of reasonableness. It would mean that the power must be exercised fairly and reasonably by following the principles of natural justice.
- Although not expressly stated under Rule 86A, post decisional or remedial hearing would have to be granted to the person affected by the blocking of credit and the same shall be granted within two weeks from the date of the order of blocking.

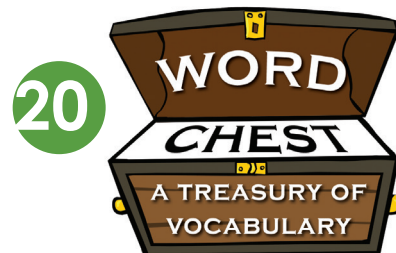
5. **Union of India vs. Bundl Technologies Pvt. Ltd , 2022]** 136 taxmann.com 112 (Karnataka)

Background: During the investigation by the investigation wing of the GST department (DGGSTI), at the insistence of the department, certain amounts were remitted through an electronic cash ledger. However, as no show cause notice was issued, the assessee claimed a refund of the amounts paid. However, the refund was rejected on the ground that the amounts are voluntarily paid by the assessee. The High Court, on the filing of Writ Petition, held that the right to claim a refund of the amounts paid is independent of the process of investigation.

In the Writ Appeal proceedings filed by the department, the Division bench of the Court upheld the order in the writ petition based on the following observations:

- The amounts remitted by the assessee are not voluntary payments in terms of Section 74(5) of the CGST/KGST Act, 2017;
- There is no delay in filing a writ or application for a refund by the assessee.

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bhanu@vraghuraman.in



Finance Tech Term of the Month:

Data management platform (DMP)

What is this?

A **data management platform** is a tool that facilitates the collation and management of data from various sources including first, second and third party audience data. Once collated, the combined data set can be segmented and pushed out across wider channels. DMPs are a core tool for digital marketing as the large data set allows for refined audience targeting. Examples of DMPs include Salesforce, Adobe Audience Manager and Oracle.



CA. Vinay Thyagaraj

RERA - CA CERTIFICATE FOR REGISTRATION AND IMPORTANCE

(PART - XI OF RERA SERIES)

The Real Estate Regulation and Development (RERA) Act, 2016 is considered one of the landmark legislations passed by the Government of India. Its objective is to reform the real estate sector in India, encouraging greater transparency, citizen centricity, accountability and financial discipline. This is in line with the vast and growing economy of India as in the future many people will be investing in the real estate sector.

1. RERA Act 2016 has given much importance to practicing professionals of Engineers, Architects and Chartered Accountants, relying on their professional work, and accordingly certificates are mandated under the Act. Those certificates are mandatorily obtained by the promoters of the real estate project on various occasions during the tenure of the development of the project.
2. In order to achieve the objectives of the RERA Act, this RERA Authority has issued various guidelines, notifications etc from time to time.
3. Many state RERA Authorities have mentioned to the CA members to take utmost care while issuing the certificates. As the Act has given much importance and relied on the independence and integrity of the CA members while discharging the professional work.
4. The RERA authorities have received communication from ICAI, New Delhi on the option of UDINo in the certificate formats accordingly most of the Authorities have made the UDINo mandatory on CA Certificates.

Recently Karnataka RERA has notified the new Chartered Accountant's Certificate format. This CA certificate shall be obtained by the promoter of the real estate project and submit the same along with an application for grant of RERA Registration.

The content and information of the certificate are meaningful and the reader of the certificate gets a sense of knowledge of the financial aspects of the real estate project.

The contents of the CA certificate format notified by Karnataka RERA Authorities is discussed in subsequent paragraphs considering the various requirement and critical aspects of this information –

| Sl No | Contents of the Certificate | Comment |
|-------|--|--|
| 1 | Name of the Chartered Accountant Certificate as notified by Karnataka RERA | Reg 1 |
| 2 | When to obtain this certificate | The promoter of the project shall obtain this Reg 1 certificate once the details of the project are ready and finalised |
| 3 | Who shall issue this CA Certificate | CA holding COP shall issue this Reg 1 CA Certificate |
| 4 | CA undertaking to issue the Chartered Accountants certificates as mandated U/s. 4(2)(L) (d) of the Real Estate (Regulation and Development) Act, 2016 read with Karnataka Real Estate (Regulation & Development Rules) 2017 to facilitate the promoter to withdraw the money from the RERA Designated bank account based on the percentage of completion of the Project. | This paragraph emphasizes that the CA issuing Reg 1 undertakes to issue CA certificates for withdrawal of money from the project bank designated account once the RERA grants the registration of the project. Such certificates are mandated under Sec 4(2) (L)(D) of the RERA Act Refer Note – 1 |

| Sl No | Contents of the Certificate | Comment |
|-------|---|--|
| 5 | <p>The Promoter of the proposed real estate project is an Individual/Partnership Firm / LLP / Company / Society / Others –</p> <p>I have verified the ownership document of the entity and present owners</p> | <p>CA shall collect the relevant ownership documents to know the present owners of the entity.</p> <p>This certificate brings out the details of the owners of the project, for the authority analyze or assess.</p> <p>CA may collect this information from the latest financial audited statement available or any other documents (PF deed, ROC records, membership register etc)</p> |
| 6 | Other KYC details of the Promoters | <ol style="list-style-type: none"> 1. Registration No 2. PANo 3. GST Reg No 4. List of Designated Partners in LLP 5. List of Directors in LLP |
| 7 | Total Value of the Assets as per latest Balance Sheet | <ol style="list-style-type: none"> 1. CA shall collect the latest balance sheet of the promoter. 2. This information may be for the purpose of assessing the total value of the Assets of the promoter. 3. |
| 8 | Total Net worth of the Promoter as per latest Balance Sheet | <ol style="list-style-type: none"> 4. CA shall collect the latest balance sheet of the promoter. 5. This information may be for the purpose of assessing the net worth of the promoter. 6. Authority may ask for additional information in case of the negative networth of the promoter. |

| Sl No | Contents of the Certificate | Comment |
|-------|---|--|
| 9 | <p>The project being developed is plotted development / group housing / villa project / commercial / mixed development / industrial project. The promoter has obtained necessary sanctioned plan from the competent authorities. The project address being _____</p> <p>(mention full address as mentioned in the sanctioned plan).</p> | <p>CA shall certify the type of project being developed by verifying the sanctioned plan.</p> <p>CA shall collect the details of the sanctioned plan copy and verify the project address and mention in this Reg 1 Certificate.</p> |
| 10 | <p>The promoter of the project has opened the RERA Designated bank account for the proposed project –</p> <ol style="list-style-type: none"> 1. Name of the Account Holder: 2. Designated Account Number: 3. Bank Name: 4. IFSC Code: 5. Branch Name: | <p>Collect the copy of passbook or statement and mention the details of the designated bank account of the project.</p> <p>CA shall mention and certify 70 % of account details for the purpose of Sec 4(2)(L)(D) of the RERA Act</p> <p>Refer Note - 2</p> |
| 11 | <p>The promoter has provided the details of the estimated cost of the real estate project. I / We have reviewed the estimated cost of the project and the details are as below. These values are based on the supporting documents provided by the promoter.</p> | <ol style="list-style-type: none"> 1. CA shall collect the details of estimated cost 2. Land cost 3. Development cost 4. Supporting documents like BOQ's, Engineer estimates shall be collected 5. Offsite cost, borrowing cost, administrative costs etc shall be collected and included as part of this paragraph <p>Refer Note – 3</p> |

| SI No | Contents of the Certificate | Comment |
|-------|---|---|
| 12 | The Promoter of the Project has borrowed money from the following parties for the purpose of real estate project being registered | In the initial paragraphs, capital contributions by the promoters has captured. In this paragraph debt, borrowing etc shall be mentioned In the case of NCDs, ECB's if any shall also be mentioned Such borrowings shall be directly related to the project (i.e., not related to corporate borrowings etc) |
| | The Promoter of the project is in compliance with the Section 3(1) of the RERA Act. | Further CA shall certify the Sec 3 compliance. i.e., CA shall verify and ensure that the promoter has not violated Sec 3(1) of the RERA Act. Sec 3(1) prohibits the promoter advertise, marketing, selling, an invitation to sell etc unless RERA Registration is obtained. It is an additional responsibility of the CA to ensure the money has not been collected directly or indirectly |
| | Notes to the certificate – 1. The details of CA mentioned on the website shall be the same CA, who undertakes to issue this certificate 2. Promoter shall not appoint or engage a new CA without obtaining the No Objection Certificate from this CA for the purpose of withdrawal of funds from the project bank account in accordance with Sec 4(2)(L)(d) of the RERA Act | |

| SI No | Contents of the Certificate | Comment |
|-------|--|--|
| | 3. CA shall issue this certificate in accordance with ICAI Standards | This means the details of CA associated with the project for the purpose of withdrawal of funds from the designated bank account is not further strengthened by bringing the clause, promoter not shall a CA during the tenure of the project. |
| | UDINo | Mandatory to mention on the CA Certificate |

Note – 1

- a. It is important to note that each Project shall have only one project designated bank account. Section 4(2)(I)(D) of the Act mandates 70 % of the money realised from the allottees of the project shall be deposited irrespective of whether the sold unit belongs to the land owner or builder in case of joint development agreements etc. Hence it is important for the professionals to understand the requirements under the Act and advice the promoters (Landowners and Developers) accordingly.
- a. The Chartered Accountant holding certificate of practice shall issue the certificate for withdrawal of funds in accordance with sec 4(2)(I)(D). Such certificates shall be issued only after obtaining the certificates of Engineer and Architect and assessing the content of those certificates and considering the information, correlating the same while issuing the certificate. Tamilnadu Real Estate (Regulation and Development) Rules 2017 mentioned-
 - i. the engineer shall certify that the items shown in the cost of construction is matching to the physical condition at the site of the real estate project;
 - ii. the architect shall certify that the physical condition at the site is built as per the sanctioned plan; and the chartered accountant shall certify the cost incurred on construction cost and land cost;

- iii. the chartered accountant shall also certify the proportion of the cost incurred on construction and land cost to the total estimated cost of the project

Note – 2

1. Post RERA various banks have come out with banking products for RERA. This will have 3 different Accounts -

- a. Master Collection Account - to deposit the 100 % Collections
- b. RERA 70 % Account - banker transfers 70 % of the money deposited automatically from 100 % Account
- c. 30 % Account - banker transfers 30 % of money deposited automatically from 100 % Account
 - i. End of the day there will be NIL balance in the 100 % collection account
 - ii. The 30 % Account may be used as an operating account by the promoter to make any payments to vendors etc.,
 - iii. RERA 70 % account will not have a Cheque facility. Based on % of completion the eligible amount will be transferred to either 30 % Account or any other operative account of the promoter
 - iv. In case the promoter borrows money from the banks / financial institutions, then the repayment of such borrowing happens out of 30 % account / amount.

Note – 3

The Estimated Cost of the Real Estate Project = Estimated Land Cost + Estimated development Cost

- a) Estimated Land Cost includes the cost of the land, rights acquired for additional construction by way of TDR / FSI etc, litigation or settlement amount, the amount remitted to clearance boards etc.,
- b) Estimated development cost includes - Onsite Costs, Off-Site Costs, Taxes, Borrowing Cost and any other costs associated in the development of the Real Estate Project

- c) Onsite Costs include all expenses related to the physical development of the project. Men, Materials, machinery, consultants fees etc
- d) Offsite Costs would include administrative costs, management costs, which may be direct costs or on allocation or apportionment basis in case of promoter developing multiple projects / multiple businesses
- e) Taxes/levies - any taxes or levies in relation to the development of the project. Eg., Labour Cess, ground rent, property taxes, any other taxes as may levy by the state government or statutory authorities, GST if it is considered as Cost etc
- f) Income Tax is shall not be part of the Cost of the Project.
- g) Marketing or sales cost are not part of the Estimated Cost - as it is not associated with the development of the project (it is associated with sales and marketing activities)
- h) Borrowing / Interest cost - for the purpose of development of the project. Such borrowing cost shall have direct nexus to the project (many a time promoter does borrow based on the project, however, borrowed funds are deployed other than for the project. In those scenarios, such borrowing costs shall not be considered as part of the project cost)
- i) Borrowing/interest cost on land also can be considered as part of land cost.
- j) Various states have given guidance on the estimated cost of Real Estate projects.

Conclusion - CA's or professionals intend practice, the promoters shall take the support of experts or professionals in the respective field and arrive at the estimated cost of the real estate project scientifically. Not to be casual about it, we have seen over the last 5 years that many promoters have suffered more penalties or are unable to withdraw the funds from the designated bank account etc for the erroneous value of the estimated cost of the real estate project.

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CA. Vinayak Pai V

FINANCIAL REPORTING AND ASSURANCE

1 UPDATES¹- Monthly Roundup

| | |
|-------------|--|
| AS Ind AS | <ul style="list-style-type: none"> ICAI Exposure Draft <ul style="list-style-type: none"> Amendments to Ind AS 117, Insurance Contracts: Initial Application of Ind AS 117 and Ind AS 109 – Comparative Information. SEBI Guideline <ul style="list-style-type: none"> Accounting by Mutual Fund Schemes in accordance with Ind AS – Requirements specified vide Circular No. SEBI/HO/IMD-II/DOF8/P/CIR/2022/12 dated 4th February, 2022. |
| Assurance | <ul style="list-style-type: none"> ICAI Announcements <ul style="list-style-type: none"> Guidelines for Conducting Distance/Remote/Online Peer Review. Peer Review Mandate – Roll Out [Coverage of more firms under the peer review process]. Peer Review Mandate – Declaration Form, Phase 1 [Firms falling under Phase 1 required to submit a declaration form by 31st March, 2022. Phase 1 covers firms which have undertaken Statutory Audit of enterprises whose equity or debt securities are listed in India or abroad as defined under SEBI (LODR) Regulations, 2015.] Deferment of certain Provisions of Volume-I of the Revised Code of Ethics, 2019 – The applicability of the following provisions namely: Responding to NOCLAR; Fees – Relative Size; and Tax Services to Audit Clients have been deferred for a further period of six months till 30th September, 2022. ICAI Guidance Note <ul style="list-style-type: none"> Guidance Note on Audit of Banks (2022 Edition). ICAI Publications: <ul style="list-style-type: none"> <i>Concept Paper on Estimating Discount Rates</i> in Valuation. LIBOR Transition – Valuation Guide. Concept Paper on <i>Inventory Valuation</i>. COSO <ul style="list-style-type: none"> Enterprise Risk Management Publication – Enabling Organizational Agility In an Age of Speed and Disruption. IAASB <ul style="list-style-type: none"> <i>First-time Implementation Guide: ISA 220 (Revised)</i>, Quality Management for an Audit of Financial Statements. |

| | |
|--|--|
| MCA SEBI | <ul style="list-style-type: none"> • Companies (Accounts) Amendment Rules, 2022 <ul style="list-style-type: none"> ◦ Form CSR-2 as addendum to Forms AOC-4, AOC-4 XBRL, AOC-4 NBFC (Ind AS) for F.Y. 2020-21 and onwards. [MCA Notification No. G.S.R. 107 (E) dated 11th February, 2022.] • SEBI Clarification <ul style="list-style-type: none"> ◦ Applicability of Reg.23 of SEBI (LODR) Regulations, 2015 in relation to Related Party Transactions. [Circular No. SEBI/HO/CFD/CMD1/CIR/p/2022/40 dated 30th March, 2022.] |
| NFRA | <ul style="list-style-type: none"> • Financial Reporting Quality Review (FRQR) Report <ul style="list-style-type: none"> ◦ Prabhu Steel Industries Limited for F.Y. 2019-20. |
| RBI | <ul style="list-style-type: none"> • RBI Notifications <ul style="list-style-type: none"> ◦ Prudential Norms on Income Recognition, Asset Classification and Provisioning Pertaining to Advances – Clarifications. ◦ Issue and Regulation of Share Capital and Securities – Primary (Urban) Co-operative Banks. ◦ Master Direction – Classification, Valuation and Operation of Investment Portfolio of Commercial Banks (Directions), 2021 – Amendment. |
| USGAAP Assurance | <ul style="list-style-type: none"> • PCAOB Publication <ul style="list-style-type: none"> ◦ Spotlight - Auditing Considerations Related to the Invasion of Ukraine. • FASB Accounting Standards Update <ul style="list-style-type: none"> ◦ Derivatives and Hedging (Topic 815) – Fair Value Hedging – Portfolio Layer Method. [ASU No. 2022-01.] ◦ Financial Instruments – Credit Losses (Topic 326) – Troubled Debt Restructurings and Vintage Disclosures. [ASU No. 2022-02.] |
| IFRS Sustainability Disclosure Standards | <ul style="list-style-type: none"> • Exposure Drafts <ul style="list-style-type: none"> ◦ IFRS S1, General Requirements for Disclosure of Sustainability-related Financial Information. ◦ IFRS S2, Climate-related Disclosures. |

¹ For January and February, 2022.

2 IFRS Sustainability Disclosure Standards – First two exposure Drafts Released

On 31st March, 2022, the International Sustainability Standards Board (ISSB) launched a consultation on its first two proposed IFRS Sustainability Disclosure Standards.

Exposure Draft of IFRS S1, General Requirements for Disclosure of Sustainability-related Financial Information sets out the overall requirements for disclosing sustainability-related financial information. This ED covers all significant sustainability-related

risks and opportunities aimed at providing stakeholders with a complete set of sustainability-related financial disclosures.

Exposure Draft of IFRS S2, Climate-related Disclosures sets out the specific requirements for the identification, measurement, and disclosure of climate-related financial information.

The Exposure Drafts are open for comments until 29th July, 2022. Upon release of the final standards, these will form a global baseline of sustainability disclosures aimed at meeting investor information needs related to Enterprise Value (EV) – the total value of a company

comprising the market value of its equity and net debt.

The ISSB believes that EV information is broader than information reported in the financial statements. It includes information about a company's impacts and dependencies on people, the planet and the economy when relevant to the assessment of the company's enterprise value.

3 FINANCIAL STATEMENT EXTRACTS - Net Income from publications and related activities

Extracts from the revenue recognition policies section of the Annual Report of the **IFRS Foundation** for the year ended 31st December, 2021 is provided below.

Net income from publications and related activities

Revenues are generated from the **sale of printed publications, subscription services, various licensing contracts and conference and speaking engagements**. The Foundation recognises revenue when it satisfies its performance obligations to customers. Revenue is measured based on the consideration specified in the contracts.

- Revenue from **printed publications** is recognised **when control of the publication is transferred to the customer, which occurs upon shipment**. Publications are paid for in advance of shipment.
- Revenue from **subscription services** is recognised **over the subscription period on a time-apportioned basis** because the services provide ongoing access to updated versions of IFRS Accounting Standards and other related content. Subscriptions are generally paid for in advance.
- The Foundation enters into **non-exclusive licensing contracts granting third parties rights to utilise** IFRS Accounting Standards and related content to provide various products and services. Consideration for these contracts is in the form of fixed fees payable in advance or arrears, or variable fees that are based on customers' sales and payable quarterly in arrears. Around 80% of contracts are for fixed fee contracts. Revenues for **fixed fee contracts** are recognised on a **time-apportioned basis over the term of the licence** because the contracts provide ongoing access to updated versions of IFRS Accounting Standards and other related content. Revenues for **variable fee contracts** are **recognised as the customers' sales**

occur.

- Revenues from **conferences and speaking engagements** are **recognised when the conference or other event occurs**.
- Customers are entitled to refunds or returns in accordance with statutory requirements, but such occurrences based on experience are expected to be infrequent and immaterial.
- Trade and other receivables include £232,000 (2020: £201,500) from licensing contracts. Publications revenue received in advance relates to subscription services and licensing contracts; the amount of £1,164,000 recognised at the beginning of the year has been recognised as revenue during the year, and the amount of £1,193,000 recognised at the end of the year is expected to be recognised as revenue in 2022. No further information is provided about remaining performance obligations at the end of the year that have an original duration of one year or less, as permitted by IFRS 15. **by this can be reached on: Contracts with Customers**
vinayakpaiv@hotmail.com

KSCAA Welcomes New Members March 2022

| SL. No | Name | Place |
|--------|-----------------------|-------------|
| 1 | Jai Kumar Shah | Bengaluru |
| 2 | Sukanya L | Bengaluru |
| 3 | Revathi P | Bengaluru |
| 4 | Rajasekhar Peta | Bengaluru |
| 5 | Gurram Kamalakara Rao | Bengaluru |
| 6 | Rohit Kedia | Bengaluru |
| 7 | Rahul Jayaram | Bengaluru |
| 8 | Shipra Gupta | Bengaluru |
| 9 | Gnanashekar R | Bengaluru |
| 10 | Vaibhav S Kangokar | Chikmagalur |
| 11 | Rahul R Gandhi | Bengaluru |
| 12 | Niranjan Alva | Bengaluru |
| 13 | Shekar Gehana | Bengaluru |



CA. Narasimhan Elangovan

AUDITING AUTOMATED ENVIRONMENT – UNDERSTANDING THE BASICS

(PART - I OF IT SERIES)

Introduction

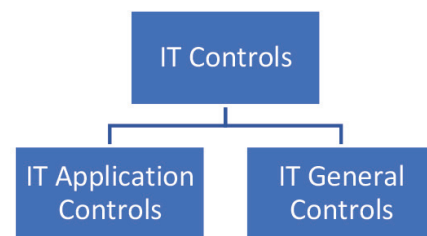
With increasing digitization and rapid adoption of technology, organizations have understood the need to enhance their cyber defenses, thanks to growing technology risks. This has resulted in organizations laying greater emphasis on their underlying Information and Technology Controls. While on one side, COVID-19 has accelerated the technology adoption, it has made also made virtual and hybrid working a reality. All these changes call for lines of defense to regularly review the risks pertaining to the underlying technologies and ensure it is within its appetite.

While the regulatory frameworks such as the RBI, SEBI or IRDA Guidelines, require organizations to periodical review these risks and report the same, it is equally important for all establishments to assess their “digital risk” in today’s era. Even a *kirana store* (your neighborhood grocer) who accepts digital payment via wallets or UPI is exposed to technological risks! From an audit perspective, the auditing standards require auditors to understand the underlying risks including the technological risks and take appropriate safeguard to assess those risks. Legislations like the Internal Control over Financial Reporting (part of the Companies Act, 2013), the Sarbanes Oxley Act, have mandated the management and auditors to comment on the design and effectiveness of internal controls. In this assessment often disregarded are the implications of technology and the technological risks. Financial Auditors also want to get comfort in the way the financial reports are being generated and if all information provided by entities (IPE) are generated after adequate checks and balances. All of these require technology to be designed and operate effectively. Thus, there is a need for auditing the

Technology Controls, also known as IT Controls.

These IT Controls can be Application specific or embedded within an application called as IT Application controls (ITACs) or could be pervasive across the organization or work behind the scenes of an application and are popularly referred to as IT General Controls (ITGCs).

ITGCs vs ITACs



IT General Controls (ITGC) [sometimes also referred to as General IT Controls (GITC)] are controls that apply to all systems, components, processes, and data for a given organization or IT environment. The objective of ITGCs are to ensure the proper development and implementation of applications, as well as the integrity of programs, data files, and computer operations, ensuring the access is restricted to those who are in need and to the extent which is required. ITGCs also give assurance that the underlying IT system produces accurate results and reliance can be placed on the output of the system. ITGC audits are normally done as part of financial statements audits to review the controls in place for the IT systems that have a direct effect on the financial statements. ITGC audits could also be performed independently to assess the accuracy and integrity of the output of any system. They could be mandated by virtue of any regulatory requirements, as a part of corporate restructuring or

due diligence exercise as well. ITGCs should be clearly distinguished from IT Application Controls (ITACs) which predominantly focus on the controls in built into any application such as input controls, limit checks, validation, and integrity checks etc. It is to be noted that Application controls often are embedded within the Business process controls, such as controls in built in Procurement to Pay (P2P) or Order to Cash (O2C) etc. and give assurance for the underlying business processes. To illustrate, assume an ERP has a feature where Invoices shall be automatically processed, on successful completion of 3-way match, i.e., only when the details as per Purchase Order, Goods Receipt Note and Invoice match or a Sales invoice can be raised only if the Sales Order matched with the Dispatch note, these are said to be Application Controls which ensure, the underlying business process, in this case the Procurement and Sales respectively, are in order. On the other end, it is equally important to ensure that person having access to enter the above data is restricted and ensure appropriate segregation of duties are in place to avoid conflicts. This is achieved by restricting access to appropriate personnel and regularly reviewing the access granted. These controls over access are examples of IT General Controls.

Case Study:

An organization has 4 IT Applications namely SAP R/3 as ERP, HRMS for HR and Payroll operations, KOTS for managing Procurement and BILLSYS for billing and receivable management. All of these are hosted within the organizations servers located at Head Office. These are standalone applications and are all integrated with the ERP. Each of them has different Databases and Operating Systems and are well networked across the organization.

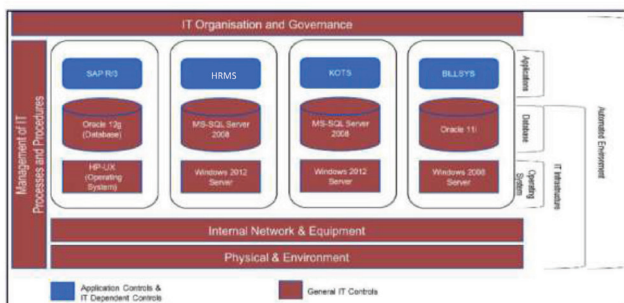


Fig 1: Illustration of the Organizations IT Environment and how IT Application Controls and General Controls operate

Given this set up, let us illustrate what could be the possible IT Risks:

1. Risk of unauthorized access into the systems and network
2. Risk of data loss or data theft
3. Risk of operating system vulnerabilities (say Manufacturer not giving support to outdated Operating Systems) or risk of default credentials not modified in database
4. Risk of unauthorized changes made to the Application or the Programs
5. Risk pertaining to application interfaces
6. Risk of unauthorized access to server room (physical environment)
7. Environmental risks such as Fire, Humidity, Air conditioning etc.
8. Risk of incorrect inputs given to the system owing to lack of mandatory checks and balances such risk of entering incorrect GST rate instead of not being chosen as a drop down or auto configured in BILLSYS
9. Risk of incorrect processing logic, say HRMS calculating the salary incorrectly or KOTS incorrectly recording the logic of 3-way match.
10. Risk of output generated incorrectly, say output not getting refreshed every time fresh entries are posted into the system, say the ERP is not generating the updated Profit and loss after passing audit adjustment entries.

In the above illustrations, risks 1 to 7 can be mitigated by ensuring appropriate IT General Controls are in place and risk 8 to 10 can be mitigated with appropriate IT Application Controls.

Concluding Thoughts

It is clear from the above that the role of IT controls is significant to get comfort on the underlying IT Infrastructure and to place reliance on the integrity, processing and accuracy of the processes and reports generated. The next interesting question as auditors is, how does one audit these controls? How can one ensure that the risks are under control? Well, let us explore them in our next article.

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CA. Pooja Gandhi

BEAT THE HEAT, THE YOGA WAY

The Summer is here!! You know what that means . . . big welcome to the New financial year, the New Finance Act, Bank Audits and the continued heat of meeting the Due Dates. nature too continues to bring in the warmest season of the Year.

While this is what summer has been all about, let's explore yoga to regulate the body temperature that also helps beat the DUE DATE HEAT most effectively. The human body has all its rescue systems in place to combat adverse conditions. All we need to do is put the body on SUMMER MODE for a little while in the morning and beat the heat through the day.

Yoga gives us ways to fight the heat with a few techniques like asanas (Poses), Pranayama (Breathing Exercises) and Dhyan (Meditation).

A few tips are shared below

The Body

EASY POSE (Sukhasana)



Easy pose is to sit in any comfortable position in a relaxing space for regulating, not just the heat, well . . . everything. Easy Pose will help you to relax your mind and body, calm

the nervous system, and let go of any intruding thoughts you might experience. Being able to sit in a posture easily and comfortably without much effort is the perfect pose to practice pranayama, a cooling meditation, or guided imagery.

Steps to practice EASY POSE

Find a comfortable seated position on your yoga mat, your bed, or in your meditation space

You will ideally sit here for some time so make sure to support your spine by sitting on a bolster (or a cotton pillow) or resting against a wall.

Inhale to lengthen your spine upwards and keep your shoulders stacked above your hips, relaxing your hands on your knees or your lap

Take a few deep breaths to relax your body and mind

Viparit Karni (Legs up the wall)



Legs Up the Wall is one of the best cooling asanas you can practice for your body. This pose alleviates stress and headaches, improves digestion, and reduces swelling. Legs Up the Wall sends blood to the core which gives a break to the heart from working hard to pump blood throughout the body. It slows down the heart rate and calms the mind.

Steps to practice Viparit Karni

Lie down on your back on your mat or bed

Bring your sit bones as close as you can to the wall. (Option to use a pillow or bolster to help support your lower back)

Lift your legs upward on the wall. Stack your ankles over the knees, and your knees over the hips.

Relax your legs should with the soles of your feet facing upwards (toes pointed towards you).

Forward Folding Asanas



Forward folds are a good way to cool off the body. Just by dropping your body forward, you will be relaxing your nervous system, and reducing your metabolic rate and body heat.



Asanas like Paschimothanasana, Janusirsasana, forward folded Baddhakonasana, Adhomukha Veerasana and the like immediately switch on the parasympathetic nervous system and so the body begins to cool off.



The Breath

Our bodies breathe predominantly through one nostril at any given point. This changes every 1.5 hrs in a healthy individual. When the body is breathing through the left nostril, the body cools down. Apart from left nostril breathing these breathing techniques are highly effective to beat the heat.

1. Sheetkari Pranayama

Join your teeth, and open your lips. Draw in an inhalation through the gaps of your teeth. As the air passes through the mouth, it cools down and as it enters the body, it cools down the body from the inside. Exhale through the nose. In a few minutes, the body temperature drops.

2. Sheetali Pranayama

Extend your tongue and curl it like a tube. Inhale slowly through your curled tongue. Close your mouth and lightly touch the tip of your tongue to the roof of your mouth. Exhale through the nose. This breath is said to cool the brain, reduce inflammation and fever, and purify the blood.

After practicing a few asanas and pranayama techniques conclude the practice with savasana.

The Mind, body & breath

Savasana I

Lie down on your back on a mat in a completely neutral and comfortable position. Let your toes turn out to the sides. Arms are away from the trunk with palms facing up. Close your eyes and relax your jaw, eyes, and forehead. Just rest. Let go of the breath. Let the thoughts pass through your mind like fish swimming past you in a lake.

Savasana II

Try lying belly-down for Savasana, allowing the core to connect to the mother earth. The cooling, grounding qualities of the earth relax the mind, breath and body, and alleviate tension in the abdomen. Stay in Savasana a bit longer to give the mind and body time to unwind, settle, and fully cool down.

In Savasana, invite cooling imagery to picture refreshing water streaming through your body from head to toe. This will regulate the body temperature faster.

Have a pleasant Summer time!

*The Author can be reached at :
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KEYWORD

8

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 ongoing business expenses not directly attributed to creating a product or service (8)

□ □ □ □ □ □ A □

- The re-renting of property by an existing tenant to a new third party for a portion of the tenant's existing lease contract (8)

□ U □ □ □ □ □ □

- The risk posed by an error or omission in a financial statement due to a factor other than a failure of internal control (12)

□ □ □ □ □ □ □ □ □ I □ □

- The ability to move liquid financial assets from a foreign country to an investor's country of origin (11)

□ □ □ □ □ □ □ □ □ L □

- A legal term that means to give or earn a right to a present or future payment, asset, or benefit (7)

□ E □ □ □ □ □

- A graphical representation of data in two-dimension, using colors to demonstrate different factors (7)

□ □ □ □ □ P □

sudoku-20

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

GUESS THE KEY WORD

The granting of a property right by a sovereign authority to an inventor.

□ □ □ □ □ □

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

Answers to "Key Word 7" (March 2022)

- Takeover, 2. Procurement, 3. Prospectus, 4. Assertion, 5. Synergy, 6. Contingency

Key Word : Merger

Credits: CA. Archana Sridhar

ADVERTISE WITH US

Get reach to over 3200+ members all over Karnataka

The News Bulletin will also reach various Government Departments & Ministries

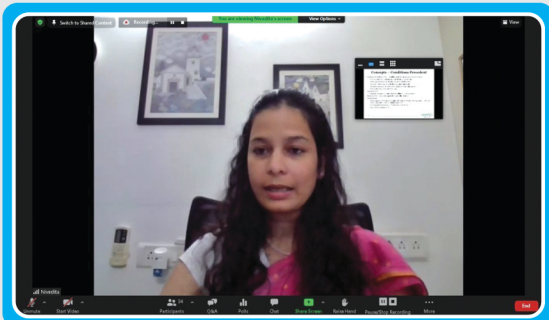
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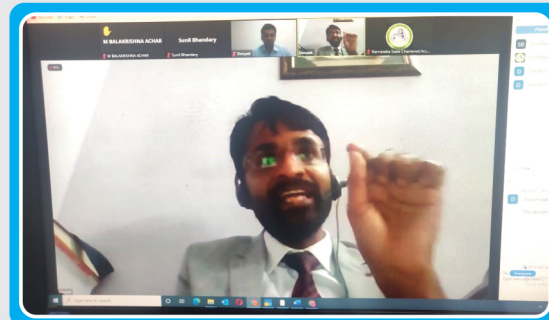
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For More Enquiries Contact
080-29552155 or write to us at info@kscaa.com

PHOTO GALLERY



Webinar on "Understanding Investment Agreements for Start-ups" by speaker Nivedita Nivargi, Advocate held on 12th March 2022



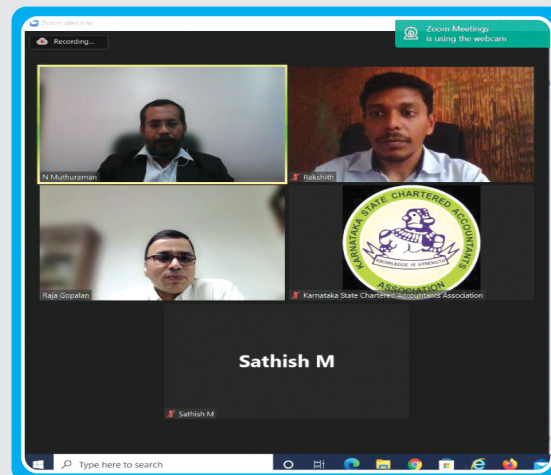
Webinar on "Response to Reassessment Notice u/s 148A of the Income Tax Act" by CA Kapil Goel held on 26th March 2022



Snapshots of session on "Joint Development Agreement - Income Tax and GST" by CA. Hanish S, CA. Rajesh Kumar T. R. and CA. Prashanth G. S. held on 29th March 2022 at VVN College, Bengaluru



Webinar on "Latest Ammendments in Schedule III " by speaker CA. Shankar Raman, held on 11th March 2022



Webinar on "SME Listing" by speaker Mr. Muturaman Natarajan held on 18th March 2022