

# KSCAA®



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Karnataka State Chartered Accountants Association (R)

## NEWS BULLETIN

- ▶ Direct Tax ▶ Indirect Tax ▶ RERA
- ▶ Financial Reporting ▶ IPR ▶ Health & Fitness

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# TAX AUDIT



Contains Extraordinary General Meeting Notice



Dear Readers,

## From the President

I bring you greetings of Dussera festival in this month. May you all enjoy the season of festivity and my wishes for a meaningful Gandhi Jayanthi. It is really a month of celebration for all Indians when we overtake the UK to be the 5<sup>th</sup> largest economy in terms of GDP. The achievement is worth celebrating, but this accomplishment of US\$ 3.5 Trillion would be more joyful when the per capita also raises and all citizens are part of this growth journey. Also, Russia's recent exclusion from the bond market has paved a wave for India's global bond market which in turn would ease the capital requirement of the Indian market and entail a cheaper cost of capital as well. The current month is one of the busiest months for practicing Chartered Accountants and for those involved in financial reporting, I wish all of you a happy working.

Association currently has two immovable properties; one is a commercial office at SJP road, Bangalore and the other is a KIADB plot at Harohalli, Bangalore. Both assets are currently unused by the association and we welcome any suggestions to monetize both assets of the association.

Association is planning to conduct an Intense Residential Course on GST. We are planning to conduct this in Mysore and this is for all those who would like to expertise in GST. By allowing to participate in group discussions and case studies, we intend to create an environment of competence by conditioning and curating thinking in areas of GST. Please visit the association website for details about the course details.

The current year theme with the tagline 'create and complement' was designed with the intent to move creative thinking or what is known as design thinking as a problem-solving attempt to practice at the individual level. Also, the current order of growth is not to compete but to complement each other at the practice level and the association would also work on means to strengthen members to grow together. The six colours used in the theme are inspired by Edward de Bono idea of 'six Thinking Hats'. It depicts our move from vertical to lateral thinking in decision making and individualistic to collaborated effort of the existing team of the Executive committee.

Edward de Bono mentions about lateral thinking, the greatest fear of creative thinking is that we would fall being a victim of failure. Order is easy to follow, creativity starts very chaotic and requires one to stand the eyes of judgement. He mentions "Everyone has the right to doubt everything as often as he pleases and the duty to do it at least once. No way of looking at things is too sacred to be reconsidered. No way of doing things is beyond improvement." I wish all the members to move to newer areas, assume risk and succeed as well.

## News Roundup

### Direct Tax

#### From CBDT :

- ✓ CBDT notifies a list of documents to be submitted by an employee to claim exemption on the sum received for COVID-19 treatment.
- ✓ CBDT notifies books & other documents to be maintained by entities under Section 10(23C)/12A.
- ✓ CBDT amends Rule 17 & Form 10 providing accumulation of income by an entity approved u/s 10(23C).
- ✓ CBDT notifies Form 29D to get the refund of tax deducted under section 195.
- ✓ CBDT confirms that TCS provisions u/s 206C (1G) do not apply to Non-resident buyer who doesn't have PE in India.
- ✓ CBDT extends the time limit for furnishing of Form 67; Foreign Tax Credit (FTC) can be claimed at time of filing belated & updated ITR.

#### From Judiciary :

- ✓ HC justified reassessment as assessee didn't disclose receipt which was appearing in Form 26AS.
- ✓ Sum paid on cancellation of JDA agreement is deductible if same had nexus with assessee's construction project: HC.
- ✓ Loss suffered by writing off sum advanced is capital loss if assessee isn't engaged in money lending business: HC.
- ✓ HC slams IT Dept. for frequently violating principles of natural justice; imposes cost of Rs. 50 lakhs.
- ✓ No disallowance of Depreciation, if assessee didn't deduct tax on the sum paid towards purchase of capital assets: ITAT.
- ✓ Date of receiving SCN & holidays to be excluded while computing 7 days period to give response u/s 148A: HC.
- ✓ HC set-aside assessment order as notices were served in email-ids of erstwhile auditors & not in assessee's e-mail-id.

### Indirect Taxes

August has been an eventful month for the Country and Indirect taxes. The country is celebrating 75 years of independence with buoyant tax collections. The August month tax collections have been 1.43 lakh crores and the average collections under GST have remained a steady 1.4 lakh crores in the last 6 months.

Apart from this, certain noteworthy changes have been made to GST more specifically the disclosure requirements in Form GSTR-3B pertaining to supplies made through e-commerce operators and ITC & its bifurcation.

Apex Court had directed the Government to permit registered persons to file Transitional forms to claim the credits from the previous tax regime for a period of 90 days beginning from 1st September. However, this timeline has now been pushed to 1<sup>st</sup> October onwards.

1<sup>st</sup> October is also the date when e-invoicing shall be made mandatory for registered persons with aggregate turnover exceeding 10 crores in any of the financial years beginning 1<sup>st</sup> July 2017.

We, the chartered accountants must be at the forefront to educate and enable the taxpayers to be prepared and ready to implement these changes in the days to come.

Further, September month being the month of tax audits, I request all my professional brethren to be well versed with the GST-related amendments in the tax audit reports and be prepared to give appropriate and correct disclosures in the returns.

### Corporate and Allied Laws

The MCA department introduced the process of physical verification of the registered office of the company during the incorporation process. The new companies incorporated will be subject to Physical verification by the Registrar in the presence of two local witness. Also, the MCA has amended the Company rules to give the authority to the Registrar remove the name of a company from the register if he believes that the company is not conducting any business or operations based on the physical verification carried out in accordance with subsection (9) of section 12. The government has extended the tenure of the Company Law Committee formed in 2019 for examining and making recommendations to the government on various issues related to implementation of the Companies Act and Limited Liability Partnership Act, up to September 2023.

KSCAA shall always be ready to help members get acquainted with these new changes and resolve their queries.

Happy Reading !

Yours' faithfully,

**CA. Pramod Srihari**  
**President**





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## KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)

### VISION

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

### MISSION

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

**MOTTO: KNOWLEDGE IS STRENGTH**

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

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

### Disclaimer

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# ASK AN XPERT - SERIES I

## FAQs ON REPORTING REQUIREMENTS OF VARIOUS CLAUSES OF FORM 3CD

The season of income tax audit is here and so are the queries of professionals on various issues under income tax audit. KSCAA under its innovative series – Ask an Xpert – successfully concluded a session on ‘Issues under Income Tax Audit’ with the subject expert- Sri CA Prashant G.S. Several queries of all the participants on income tax audit were addressed by the speaker. Below are excerpts of some of the queries addressed by the speaker:

### Queries on 44AB, 44AD, 44ADA:

1. My assessee is a company running a nursing home with turnover / gross receipts of Rs. 65 lacs. Should the Company get its books of accounts audited u/s 44AB(b)?

A. The above query boils down to the question as to whether the company running a nursing home is carrying on profession or is it carrying on business activities. Attention of readers is invited to the order of Pune ITAT in the case of ***Insight Diagnostics and Oncological Research Institute (P) Ltd. (2004) 88 TTJ (Pune) 580*** where the Hon’ble ITAT had held that for a person to be engaged in a profession, personal skill is necessary. A company being an artificial person cannot be said to possess any personal skills. A company being an artificial person does not have a mind or a body and, therefore, cannot be engaged in any profession. It can neither have an intellectual skill or any manual skill. Even taking a broader and more comprehensive meaning of the term ‘profession’ one cannot extend the same to the case of an incorporated company as being capable of carrying of a profession. The skill involved in carrying out professional activity is predominantly mental or intellectual rather than physical or manual. It was therefore concluded in that case that the company cannot be required to get its books of accounts audited u/s 44AB(b) of the Act. In the context of nursing homes in following cases it has been held that medical practitioners running Nursing Home would be a case of a professional man carrying on business activity. Therefore, the activity of running a nursing home is a business activity and not profession:

- ***Dr. P. Vadamalayam v. CIT [1069] 74 ITR 94 (Mad.)***

- ***CIT v. Dr. V.K. Ramachandran [1981] 128 ITR 727 (Mad.)***
- ***CIT v. Upasana Hospital [1997] 225 ITR 845 (Kerala)***
- ***ITO vs ASHALOK NURSING HOME (P.) LTD [2006] 9 SOT 61 (Delhi) (URO)[19-05-2006]***

In the instant case, the assessee company running a nursing home with a turnover of 65 lacs is not required to get its books of accounts audited u/s 44AB of the Act.

2. I am a partner in a partnership firm receiving remuneration and interest on partner’s capital. I have no other business income. Can I opt for 44AD?

A. This query stands answered in a recent ruling of the Madras High Court in the case of ***Anand Kumar v. ACIT - [2020] 122 taxmann.com 252 (Madras)***. The Hon’ble High Court in this case has concluded that to avail the benefit of Section 44AD, assessee should establish that he is an eligible assessee engaged in an eligible business and such business should have a total turnover or a gross receipt. Remuneration and interest received by him from the partnership firm could not be treated as his turnover. Similarly, it would also not qualify for gross receipts. In the statement issued by the ICAI on the Companies (Auditors Report) Order 2003, the word ‘turnover’ has been defined to mean the aggregate amount for which sales are effected or services rendered by an enterprise. Admittedly, the assessee had not done any sales nor rendered any services but had been receiving remuneration and interest from the partnership firms which was already debited in the profit and loss account of the firms. Therefore, remuneration and interest could not be treated as a gross receipt. As section 44AD uses the words ‘total turnover’ or ‘gross receipts’ and it pre-supposes that it pertains to a sales turnover, no other meaning can be given to the said words. If it has done so, the purpose of introducing Section 44AD would stand defeated. Thus, it was concluded that the assessee was not eligible to opt for Section 44AD.



### Clause 1: Name of the assessee:

3. In case of proprietary concerns should the trade name of the business be reported or should the name of the proprietor be reported?
  - A. Under Clause 1 of Form 3CD, the tax auditor is required to report the name of the auditee. General expectation is that the name so reported should be the name as per the PAN records of the auditee. However, in case of proprietary concerns, it is advisable to report the name of the proprietor as well as the name of the proprietary concern. For instance, say Mr. X is a proprietor of M/s X Traders. Here recommended reporting under Clause 1 of Form 3CD would be: Mr. X, prop of M/s X Traders. The reporting of the name of the proprietary concern is insisted upon to make it clear to the reader of the audit report that the scope of the auditor's audit is restricted only to the business books and business activities of Mr. X. All activities of Mr. X in his personal capacity and activities outside the business books of Mr. X are beyond the purview of the tax audit.

### Clause 9: Firms / AOP

4. If there is a partner in a representative capacity, whose name should be mentioned under Clause 9(a) – the name of the beneficiary or the name of the representative?
  - A. Clause 9(a) of Form 3CD requires the auditor to report the names of the partners of the firm. A question that arises in professional minds is that in cases where the partner is represented by another person, whose name should be reported under clause 9(a)? To illustrate say, X Pvt Ltd represented by its director Mr. A is a partner in PQR & Co. In such case, the mandate under ICAI's guidance note is to report under Clause 9(a) the name of the partner in beneficial capacity – i.e., X Ltd and not the name of the director. As part of additional information, under observations (para 5 of Form 3CB) it may be disclosed that X Ltd, a partner in the partnership firm is represented by its director Mr. A.
5. If a minor is admitted to the benefits of a partnership firm, should he be listed in the list of partners in Clause 9(a)?
  - A. Under, partnership law, a minor can never be a partner in a partnership firm and can only be admitted to the benefits of the firm. Thus, under the general law, a minor is not a partner in a partnership firm. However, for the purpose of income tax law, the term partner u/s 2(23)(ii) of the I.T. Act means a partner as defined under the Partnership Act 1932 and includes a minor who is admitted to the benefits of the partnership firm. Thus, for the purposes of income tax law, a minor admitted to the benefits of a partnership firm is

also a partner and such partner needs to be reported under clause 9(a) of Form 3CD.

### Clause 13: Method of Accounting

6. Is it possible for an assessee to follow the cash system for accounting revenue and the accrual system for expenses?
  - A. No, an assessee has to chose between cash system and mercantile system of accounting. The hybrid system of accounting is not permitted under the law.

### Clause 14: Valuation

7. Assessee has followed the exclusive system of accounting. As tax auditor should I advise the assessee to redraw financial statements under inclusive system of accounting?
8. What reporting should be made in Form 3CD?
  - A. Inclusive system of accounting mandated under section 145A (read with ICDS 2) results in same volume of profits when computed under Exclusive system of accounting. That 'Exclusive system of accounting and inclusive system of accounting are revenue neutral' has been acknowledged in the following cases:
    - a. **Berger Paints India Ltd Vs. CIT 187 CTR 193 (SC)**
    - b. **Lakhanpal National Ltd Vs CIT 162 ITR 240 (Guj)**
    - c. **CIT vs Indo Nippon Chemicals Ltd. 261 ITR 275 (SC)**

Redrawing of trading account under inclusive system of accounts would have no bearing on the income and tax computation of the assessee. Such being the case, the entire exercise would only be academic and can certainly be avoided. However, appropriate disclosure to this effect must be made under the observations section of Form 3CA / 3CB

### Clause 21:

9. Are interests paid for delayed remittance of GST, PT, PF, etc to be reported as penalties paid under Clause 21(a)
  - A. Interest for delayed remittance of taxes in the above-referred statues are not penal in nature. These are in the nature of time compensation of money. Hence, these are neither required to be disallowed in the assessee's tax computation nor are they required to be reported under clause 21 of Form 3CD. Reference in this regard may be made to following cases:
    - **Lachman- das Mathuradas v. CIT [2002] 122 Taxman 828(SC)**
    - **CIT v. Mysore Electrical Industries Ltd. [1992] 196 ITR 884 (Kar.)**

**Clause 25: Profit chargeable to tax u/s 41 of the Act.**

10. A trade creditor's balance is long outstanding (more than 3 years) in the books of the auditee. Should this liability be reported under Clause 41?

A. What is taxable u/s 41 is any trading liability where there is remission / cessation. When liability is shown outstanding in the books of account, it amounts to acknowledging the debt in favour of creditors for the purposes of section 18 of the Limitation Act, 1963. Liability thus subsists and is enforceable in the courts of law. If a creditor's confirmation can be obtained, it can safely be concluded that there is no amount chargeable u/s 41 of the Act. Reference may be made to the following judicial pronouncements

a. **CIT Vs Chase Bright Steel Ltd 177 ITR 128 (BOM)**

b. **CIT V/s Shri Vardhman Overseas Ltd (2012) 343 ITR 408(Del).**

When debt becomes barred by time, the creditor would not be able to recover the amount by enforcing his right in Court. But the right will not come to an end nor will the liability cease. Section 41(1) is not attracted in such a case - Liquidator, Mysore Agencies (P.) Ltd. v. CIT [1978] 114 ITR 853 (Kar.).

**Conclusion:**

As was stated at the beginning, the above excerpts are just a few of the several questions answered at the KSCAA session. KSCAA is committed to organizing more such knowledge sessions under the series 'Ask an Xpert' for the benefit of its members. Stay connected for updates on more such sessions and do participate to have all your queries addressed on professional matters.

**KSCAA Welcomes New Members August & September 2022**

SL. NO	NAME	PLACE
1	Ramesh Kuruva	Bengaluru
2	Rahul S	Bengaluru
3	Kurubara Honnur Swamy	Ballari
4	Abhishek Murthy R	Bengaluru
5	Chetna	Bengaluru
6	Vishnu Acharya	Udupi
7	Sanjana Revankar	Bengaluru
8	Rani. N. R	Bengaluru
9	Akshata Anand Mathali	Bengaluru
10	Vinodraj R	Bengaluru
11	Ramkumar Hegde	Bengaluru
12	Nagaraj Vishwanath Hegde	Bengaluru
13	Supriya V	Bengaluru
14	Sujatha J	Bengaluru
15	Leena Kumari B	Bengaluru
16	Vikas Y	Bengaluru
17	Mohanakrishnan Shanmuga Sundar	Bengaluru
18	Santosh Shinde	Nidagundi

SL. NO	NAME	PLACE
19	Mamata Panda	Bengaluru
20	Teja M	Bengaluru
21	Shravanthi J	Bengaluru
22	Adarsh Upadhya	Bengaluru
23	Dinesh Kumar	Bengaluru
24	Apeksh C Shetty	Udupi
25	Deepak Chopra	Bengaluru
26	Poonam Pathak	Navi Mumbai
27	Nikhil G V	Bengaluru
28	Yedukondalu Yedida	Bengaluru
29	Vishal Govindprasad Poddar	Nashik
30	Akhil Kumar Somagattu	Bengaluru
31	Manohara B M	Bengaluru
32	H A Ramakrishna	Bengaluru
33	U M Ramesg Rao	Bengaluru
34	Sachidananda Ganapathi Bhatia	Bengaluru
35	Tellakula Sainath Suhaj	Bengaluru
36	Ashok Pincha	Bengaluru



# 47<sup>th</sup> GST COUNCIL – EXPENSE SIDE IMPACT



CA. Madhukar N Hiregange

CA. Akshay M Hiregange

The 47<sup>th</sup> GST Council recommendations touted as a mini-budget had a clear continuing intention of augmenting revenue and ensure clarity of revenue to States. It was notified along with various circulars in the first half of July 2022. In this article, we go through the impact of the changes on the expense side of the taxpayer and changes in processes to be complied by the taxpayers which may be required. In the sea of changes, taxpayers may not be clear as to the areas which are having a direct impact on their business.

Those changes impacting the outward supplies on rate change would ideally have been taken care of, although, the expense side is generally neglected. Here are few changes which may have an effect on the expense side:

1. Goods Transport Agent (GTA) services < Rs. 750/ consignee – Reverse Charge Mechanism (RCM) :
  - GST exemption has been removed w.e.f 18th July 2022 against GTA services provided to a single consignee not exceeding Rs. 750.
  - Therefore, either the recipient is liable under RCM, or the GTA service provider is liable under Forward Charge Mechanism (FCM).

**Note –**

- The GTA service provider is mandatorily required to mentioned on the invoice that the FCM option is being exercised. In the absence of the same RCM is liable.
  - Ensure availability of consignment note to identify if it is a GTA transaction.
  - Input Tax Credit (ITC) eligibility is subject to section 17 restrictions. (ex: utilized against exempt supply)
  - The exemption up to Rs. 1,500 per consignment was also removed w.e.f 18th July 2022.
2. RCM - Renting of residential dwelling:  
A long-standing exemption spanning even to the pre-GST period has been partially brought into the tax net, by including RCM liability on renting of residential dwelling to a registered person. This raises some pertinent queries such as:
    - Even when it is a B2B supply is RCM applicable? – Yes
    - If it is a commercial property is RCM applicable? – No, FCM
    - Whether employee reimbursements is liable to RCM?

– No, as rent in their name as used for employee’s personal residence

- Whether ITC can be restricted? – Yes, possibly when property used for non-business purposes.

3. RCM on renting of motor vehicle

Circular 177 provides clarity between HSN 9966 (renting of motor vehicle) and HSN 9964 (Passenger transport services).

HSN 9964 – Where transport services is provided for a specified route and destination and the passenger does not have control over the route, destination, etc. (ex: contract carriage from location A to location B and back). The cost of fuel may or may not be included in the price charged.

HSN 9966 – Where transport services is provided to a renter who has control over the route, destination. (ex: KM/basis renting of motor vehicle) The cost of fuel may or may not be included in the price charged.

RCM is applicable on HSN 9966 only. ITC against RCM paid would generally be ineligible as it is specifically covered in Section 17(5)(b).

*Note: Uber/Ola/airport taxi which are specifically notified under section 9(5), would charge GST on forward charge mechanism.*

4. Accounting Ineligible Credits:

With the change of the GSTR 3B table 4 (ITC) disclosures, the need to identify ineligible credit in the books as well as GSTR 2B has become a necessity. To this effect, the accounting treatment of such ineligible credits must change, i.e. the ITC portion in the expense must be separate allocated to an ‘Ineligible GST-ITC’ expense ledger for tracking and audit trail.

This would ease the disclosures in table 4.B.1,4.B.2 & 4.D.1 of the new GST returns which is yet to be practically implemented on the GST portal.

5. Requirement of robust ITC register:

An automated book of accounts, which can generate a comprehensive ITC register is the need of the hour. Some of the contents in the ITC register which will assist in maintaining track of ITC in books, ITC claimed in returns, deferred ITC, ineligible ITC, temporary ITC reversals, following up with vendors and providing information to auditors, professionals and government where required. Contents required may be:

- GSTIN of supplier and recipient
- Purchase order/Service order details
- Voucher no. (accounting link)
- Document type (invoice/CN/DN/Bill of supply/BoE)
- Document number and date (original doc no. & date in case of CN/DN)
- Goods/Service received date (to identify eligibility)
- HSN, description & tax rate
- Place of supply (in case of inter-State supply)
- Taxes, Taxable value & Pure agency value (if any)
- Utilization of credit – Taxable, Exempt, Common (where ITC reversal is applicable)
- Type of Credit – Eligible, Ineligible, Common
- GSTR 3B Claim month
- Vendor contact details (with escalation contacts)
- Vendor payment date
- GSTR 3B table disclosure

This report would also assist in automatic system ITC reconciliation exercise and help maintain track of ITC not claimed and would prove useful during vendor follow-ups for upload and subsequent payments.

In the long run, such reports would help categorize vendors based on their compliance level and help modify payment terms in a manner where credit would be claimed only after GSTR 2B reflection.

6. GSTR 9/GSTR 1-HSN:

The requirement to disclose HSN against GST outward supplies brings in a need to have effective tracking mechanism – ideally through the software and, periodic classification & rate verification which adds to an entities expense side. Based on recent advisory & notification:

- In GSTR 1 - Table 12 HSN summary – mandatory 6 digit HSN code to be provided.
- In GSTR 9 – HSN summary in table 17 – outward supplies
  - Where aggregate turnover in PFY > Rs. 5 crore – 6 digit HSN
  - Where aggregate turnover in PFY < Rs. 5 crore – 4 digit HSN

Note:

- Invoice u/r 46 of CGST Rules being raised for B2B, B2C, Exports have a different set of HSN disclosure requirements ranging between 8 digit to 4 digit HSN codes.
- You can search for applicable HSN code with description is the GST portal itself, path: Services > User Services > search HSN/ Service classification code

7. Vendor invoice acceptance:

**Registered vendors** – ensure acceptance of either of the two types of documents ONLY:

- E-invoice wherein QR code and e-invoice is raised
- Tax invoice having the declaration – “I/We hereby declare that though our aggregate turnover in any preceding financial year from 2017-18 onwards is more than the aggregate turnover notified under sub-rule (4) of rule 48, we are not required to prepare an invoice in terms of the provisions of the said sub-rule”.

**Unregistered vendors** – Obtain an additional declaration that they are not liable to be registered under the GST law as per the provisions laid down therein.

8. ITC reversal w.r.t duty credit scrips:

Through an insertion of an explanation to Rule 43 (applicable even to rule 42), sale of duty credit scrips need not be considered for the computation of ITC reversal as an exempt supply. This would reduce the ITC cost to those exporters of goods/services.

Tip - As the amendment has come through an ‘explanation’ the possibility of reading the law can be said to retrospective in nature, allowing a re-credit (by way of refund) of ITC reversed against such exempt supplies.

Along with the cost benefit analysis, the applicability of refund timelines may need to be verified.

9. Obligatory under law - eligible credit:

Section 17(5)(b) had 3 sub-clauses, wherein due to a typo in the GST law, sub-clauses (i) and (ii) were not eligible to ITC when it was provided based on an obligation under any law in force. This error has now been rectified vide Circular 172/2022.

Some common expenses now covered through the clarification – outdoor catering services, renting of motor vehicle (for female passengers beyond 8 pm) mandated under Factories Act/Rules, Employee Deposit Linked Insurance (EDLI) insurance mandated under PF Act.

10. Increase in various rates – Working Capital (WC) management:

Increase in rates of taxes, removal of exemptions, would lead to an increase in the value of goods/services. This is aided by restriction of certain refunds and credits in various scenarios. Even where credit is eligible, there would be an increase in working capital outflow where there is a time gap between payment and availment-cum-utilization of ITC.

**Conclusion**

The changes brought in July 2022 seems to be burdening the taxpayer but is moving towards the end goal of reducing exemptions and increasing the tax base to reach a position of rate rationalization. Although, in the process the immediate adverse impact to various businesses as well as the poor is being felt.

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# GST : TRANSITIONAL CREDIT- DON'T MISS THE OPPORTUNITY ....



CA. Annapurna Kabra

- GST Transitional laws contemplate seamless flow of tax credits on all eligible inputs and the input tax credits in TRAN 1 are the credits legitimately accrued in the GST transition.
- The due date contemplated under the GST laws, to claim the transitional credit was procedural in nature and it is a settled legal position that substantive input credits cannot be denied or altered on account of procedural grounds.
- The Hon'ble Supreme Court in the case of *Union of India vs. Filco Trade Centre Pvt. Ltd SLP(C) No. 32709-32710/2018*, directed the GST Authorities to activate GSTN portal for filing Trans-1 and Trans-2 and Trans-3 without technical glitches and such transitional credit should be reflected in electronic credit ledger.
- In the GST regime, the GSTN platform being newly implemented, it may not be justifiable to expect the users to back up digital evidence or the evidence cannot be called upon if genuine efforts were made by the taxpayer. Therefore, it is directed to the applicant to file the relevant form or revise the already filed form irrespective of whether the taxpayer has filed a writ petition before the High Court or whether the case of the taxpayer has been decided by the Information Technology Grievance Redressal Committee (ITGRC).
- GSTN is directed to open the common portal for filing concerned forms for availing transitional credits through Tran-1 and Tran-2 for two months i.e. October 2022 and November 2022 as four weeks was extended from September 2022 which was earlier directed. GSTN must ensure that there is no technical glitch during filing of the Trans credit forms.
- The concerned **officers will be given 90 days' time** to verify the authenticity of the transitional credit claim and pass appropriate orders thereon on merits after granting appropriate reasonable opportunity to the parties concerned. Thereafter, the transitional credit which is sanctioned is to be reflected in the electronic credit ledger.
- The Appropriate directions are released from the GST Authority for applying the transitional credit vide circular 180/12/2022-GST dated 9/9/2022 as follows:
  - a. The Applicant may file declaration in Form GST Tran-1/Tran-2 in Oct 2022/Nov 2022.
  - b. The Applicant may file a revised Tran-1/Tran-2 and the facility of downloading the earlier Tran-1/Tran-2 will be made available on the common portal.
  - c. The Applicant shall also upload on the common portal the pdf copy of the declaration in the format as specified in 'Annexure A' of the circular 180/12/2022 dated 9/9/2022.
  - d. The Applicant claiming credit in Table 7A of Form GST Tran-1 based on Credit Transfer Document (CTD) shall upload the **pdf copy** of Trans-3 as per Notification No 21/2017 dated 30.6.2017.
  - e. The Applicant cannot claim transitional credit filed in Table 5(b) and 5(c) of Form Tran-1 in respect of such C- Forms, F- Forms and H/I- Forms which have been issued after 27.12.2017.
  - f. The Applicant can file one consolidated Trans-2 instead of filing period wise and the tax period shall mention the last month of the consolidated period for which the claim is being made.
  - g. The Applicant should substantiate all the claim of transitional credit with requisite documents/records/returns/invoices for making available to the concerned tax officers at the time of verification.
  - h. There is no option of revising Trans-1 and Trans-2 which is filed during the tax period of Oct 2022 and Nov 2022.
  - i. The applicant is required to take utmost care and precaution while filing or revising Tran-1/Tran-2 and thoroughly check the details before filing his claim on the common portal.
  - j. The applicant ensures the correctness of all the details in Form Tran-1/ Tran-2 before clicking the submit button as the form gets frozen, and no further editing of details is allowed in the Form.
  - k. In case the adjudication/ appeal proceeding is pending before the Authority, the appropriate course as suggested in circular would be to pursue the said

adjudication/ appeal and not filing the transitional form based on the circular.

- l. The applicant may be required to produce the requisite documents/ records/ returns/ invoices in support of their claim of transitional credit before the concerned tax officers for verification of their claim.
- m. The declaration as filed by the applicant will be verified with substantive evidence by the concerned tax officers and after verification will pass the appropriate reasonable order.
- n. The transitional credit allowed as per the order passed by the Jurisdictional tax officer will be reflected in the electronic credit ledger of the applicant on the common portal.
  - The procedure for transferring the erstwhile input tax credit like Service tax/VAT/Central Excise credit to GST credit has been provided in the Transitional Section and Rules of the GST law (Chapter XX of CGST Act and Chapter XIV of CGST Rules).
  - The taxpayers must review the books of Accounts and supporting evidence like Invoices, returns, documents etc to claim the benefit of transitional credit in accordance with the provisions of the GST law.
  - The facility of filing will not be available in case if they have already filed the Trans-1 and the transitional credit is credited to electronic credit ledger. In case if the Trans-1 is filed but due to technical glitch if it is not credited to electronic

credit ledger than in such scenario Trans-1 can be filed.

- In case if the Trans- 1 is applied for part amount of transitional credit and some part of transitional credit is not applied then in such scenario, the trans-1 can be filed with the substantial evidence.
- In case the transitional credit is availed in Form 3B by the applicant and if the department has not initiated any adjudication proceedings, then such input tax credit can be reversed by declaring in Part B of Annexure A and by intimating the department, the applicant can avail this facility of filing the claim of transitional credit without any interest. If the transitional credit is pending for adjudication or under litigation, then the applicant cannot claim the credit.
- The above are illustrative instances and there are various such practical instances and the Author believe that the department should issue further clarifications considering various practical instances, scenarios and the glitches in the GSTN Portal to avoid further litigations and proceedings under the GST law.

**Author can be reached at :  
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# FINANCIAL REPORTING AND ASSURANCE



CA. Vinayak Pai V

## KEY UPDATES [August, 2022.]

### AS | IndAS

#### ICAI WITHDRAWS 'GUIDE TO REPORTING ON PROFORMA FINANCIAL STATEMENTS (PURSUANT TO THE SEBI (ISSUE OF CAPITAL AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2009)'

- On 4<sup>th</sup> August, 2022, the Institute of Chartered Accountants of India (ICAI) announced the **withdrawal** of the *Guide to Reporting on Proforma Financial Statements (Pursuant to the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009)* issued in October, 2012.
- The decision to withdraw the Guide is because it is no longer relevant as it was based on old SEBI Regulations and also considering that **SAE 3420, Assurance Engagements to Report on the Compilation of Pro Forma Financial Information included in a Prospectus** provides sufficient guidance for practitioners who undertake engagements to certify/report on proforma financial statements included in a prospectus.
- **Link to the announcement:**  
<https://www.icai.org/post/withdrawal-of-the-guide-to-reporting-on-proforma-financial-statements>

#### EAC OPINION: 'STOCK OF TRACKS'- PPE OR INVENTORY?

- The September, 2022 issue of the ICAI journal carries an Expert Advisory Committee (EAC) opinion related to classification of 'Stock of Tracks' (CWIP or Inventory?).
- The opinion is in the context of the related facts applicable to the facts of the case on which the EACs opinion was sought. The basic issue raised in the query relates to the accounting treatment of 'stock of tracks' held by the reporting entity (Ind AS), which is surplus material for one of the metro projects but is being held for consumption in other projects.
- The gist of the EACs opinion was that **classification of an item as 'inventory' depends on its intended primary use for an entity**. In the extant case, the 'stock of track' is neither held for sale in the ordinary course of business; nor it is in the process of production for such sale; nor in the form of materials or supplies to be consumed in the production process or in the rendering of services. Therefore, the same does not meet the definition of 'inventories'. The stock of tracks is surplus for the time being at the site of one project and is awaiting its use in another project. However, this does not change its basic nature of the materials acquired for construction/creation of an item of PPE and therefore, is an expenditure on capital assets which are in the process of construction or completion. Accordingly, the same should be classified under 'capital work in progress'.
- **Link to the Opinion-**  
<https://resource.cdn.icai.org/71359cajournal-sep2022-9.pdf>

#### FRRB COMMENTS – NON-COMPLIANCES OBSERVED IN IndAS FINANCIAL STATEMENTS PERTAINING TO COMPONENTS OF PROFIT AND LOSS

- FRRB comments on non-compliances observed in IndAS financial statements pertaining to components of Profit and Loss are reported in the September, 2022 ICAI journal.
- The observations relate, *inter alia*, to employee benefits – PF contribution to a Trust, classification of borrowings as compound financial instruments, interest on prematurity of fixed deposits, etc.
- **Link to the Comments –**  
<https://resource.cdn.icai.org/71375cajournal-sep2022-25.pdf>

**Assurance**
**IAASB – FAQs ON REPORTING GOING CONCERN MATTERS IN THE AUDITOR’S REPORT**

- On 1<sup>st</sup> August, 2022, the International Auditing and Assurance Standards Board (IAASB) issued a non-authoritative Frequently Asked Questions Publication that addresses common questions related to reporting going concern matters in the auditor’s report.
- The publication, *FAQs-Reporting Going Concern Matters in the Auditor’s Report*, specifically focuses on the use of and interrelationship of the **Material Uncertainty Related to Going Concern and Key Audit Matters** sections, and the **Emphasis of Matter paragraphs**, in an auditor’s report prepared in accordance with the International Standards on Auditing (ISAs 570, 701 and 706).
- **Link to the FAQs - <https://www.ifac.org/system/files/publications/files/IAASB-Going-Concern-Frequently-Asked-Questions.pdf>**

**ICAI ISSUES EXPOSURE DRAFT OF COMPENDIUM OF SOCIAL AUDIT STANDARDS (SASs)**

- On 5<sup>th</sup> August 2022, the Sustainability Reporting Standards Board of ICAI issued an **exposure draft (ED)** of a **Compendium of Social Audit Standards**.
- **Background:** On 25<sup>th</sup> July, 2022, SEBI vide notification [F. No. SEBI/LAD-NRO/GN/2022/90] inserted **Chapter X-A, Social Stock Exchange** in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations 2018. The chapter **applies to ‘Not for Profit Organizations’ (NPOs)** seeking to only get registered with a Social Stock Exchange/ seeking to get registered and raise funds through a Social Stock Exchange and to ‘For Profit Social Enterprises’ seeking to be identified as a Social Enterprise. Social Stock Exchange is defined as “*a separate segment of a recognized stock exchange having nationwide trading terminals permitted to register Not for Profit Organizations and/ or list the securities issued by Not-for-Profit Organizations in accordance with provisions of these regulations.*”
- As per the aforesaid notification, ICAI has been entrusted with the responsibility of being **Self- Regulatory Organization for regulating the profession of social auditors**.
- The **ED** of the **Compendium of Social Audit Standards** contains:
  1. **Draft Preface** to Social Audit Standards.
  2. **Draft Framework** for Social Audit Standards.
  3. **Draft Social Audit Standards (SASs):**
    - i. **SAS 100, Eradicating hunger, poverty, malnutrition and inequality.**
    - ii. **SAS 200, Promoting health care including mental healthcare, sanitation and making available safe drinking water.**
    - iii. **SAS 300, Promoting education, employability and livelihoods.**
    - iv. **SAS 400, Promoting gender equality, empowerment of women and LGBTQIA+ communities.**
    - v. **SAS 500, Ensuring environmental sustainability, addressing climate change including mitigation and adaptation, forest and wildlife conservation.**
    - vi. **SAS 600, Protection of national heritage, art and culture.**
    - vii. **SAS 700, Training to promote rural sports, nationally recognised sports, Paralympic sports and Olympic sports.**
    - viii. **SAS 800, Supporting incubators of Social Enterprises.**
    - ix. **SAS 900, Supporting other platforms that strengthen the non-profit ecosystem in fundraising and capacity building.**
    - x. **SAS 1000, Promoting livelihoods for rural and urban poor including enhancing income of small and marginal farmers and workers in the non-farm sector.**
    - xi. **SAS 1100, Slum area development, affordable housing and other interventions to build sustainable and resilient cities.**
    - xii. **SAS 1100, Slum area development, affordable housing and other interventions to build sustainable and resilient cities.**
    - xiii. **SAS 1200, Disaster management, including relief, rehabilitation and reconstruction activities.**
    - xiii. **SAS 1300, Promotion of financial inclusion.**

	<ul style="list-style-type: none"> <li>xiv. <b>SAS 1400</b>, <i>Facilitating access to land and property assets for disadvantaged communities.</i></li> <li>xv. <b>SAS 1500</b>, <i>Bridging the digital divide in internet and mobile phone access, addressing issues of misinformation and data protection.</i></li> <li>xvi. <b>SAS 1600</b>, <i>Promoting welfare of migrants and displaced persons.</i></li> </ul> <p>4. <b>Glossary</b> of Terms.</p> <p>5. Appendix – <b>NITI Aayog’s SDG India Index Indicators.</b></p> <ul style="list-style-type: none"> <li>• <b>Link</b> to the Exposure Draft-<a href="https://resource.cdn.icai.org/71191srsb57193.pdf">https://resource.cdn.icai.org/71191srsb57193.pdf</a></li> </ul>
MCA   SEBI	<p><b>COMPANIES (ACCOUNTS) FOURTH AMENDMENT RULES, 2022</b></p> <ul style="list-style-type: none"> <li>• On 5<sup>th</sup> August, 2022, the Ministry of Corporate Affairs (MCA) notified amendments to the <b>Companies (Accounts) Rules, 2014</b> vide Notification No. G.S.R. 624 (E). The amendments are as follows:</li> <li>• <b>Rule 3 (1)</b>  <p><b>Extant Rule</b> - The books of account and other relevant books and papers maintained in electronic mode shall remain accessible in India so as to be usable for subsequent reference.</p> <p><b>Amended Rule</b> - The books of account and other relevant books and papers maintained in electronic mode shall remain accessible in India, <b>at all times</b>, so as to be usable for subsequent reference.</p> </li> <li>• <b>Proviso to Rule 3 (5)</b>  <p><b>Extant Rule</b> - Provided that the back-up of the books of account and other books and papers of the company maintained in electronic mode, including at a place outside India, if any, shall be kept in servers physically located in India <b>on a periodic basis.</b></p> <p><b>Amended Rule</b> - Provided that the back-up of the books of account and other books and papers of the company maintained in electronic mode, including at a place outside India, if any, shall be kept in servers physically located in India <b>on a daily basis.</b></p> </li> <li>• Insertion of additional clause in Rule 3 (6) related to intimation to the Registrar (on an annual basis at the time of filing financial statement):  <p>“(e) where the service provider is located outside India, the name and address of the person in control of the books of account and other books and papers in India.”</p> </li> <li>• <b>Link</b> to the Notification - <a href="https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTcyO-DIyOTI0&amp;docCategory=Notifications&amp;type=open">https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTcyO-DIyOTI0&amp;docCategory=Notifications&amp;type=open</a></li> </ul>
CBDT	<p><b>INCOME-TAX (24<sup>TH</sup> AMENDMENT RULES), 2022 – BOOKS OF ACCOUNTS</b></p> <ul style="list-style-type: none"> <li>• On 10<sup>th</sup> August, 2022, the Central Board of Direct Taxes (CBDT) vide Notification No. G.S.R. 622(E) <b>inserted rule 17AA</b> in the Income-tax Rules, 1962. The rule relates to ‘<b>Books of accounts and other documents to be maintained</b>’ by every fund or institution or trust or any university or other educational institution or any hospital or other medical institution which is required to keep and maintain books of account and other documents under clause (a) of tenth proviso to clause (23C) of section 10 of the Act or sub-clause (i) of clause (b) of sub-section (1) of section 12A of the Act.</li> <li>• <b>Link to the notification-</b> <a href="https://incometaxindia.gov.in/communications/notification/notification-94-2022.pdf">https://incometaxindia.gov.in/communications/notification/notification-94-2022.pdf</a></li> </ul>
IFRS	<p><b>IFRS FOUNDATION COMPLETES CONSOLIDATION WITH VALUE REPORTING FOUNDATION</b></p> <ul style="list-style-type: none"> <li>• On 1<sup>st</sup> August, 2022 the IFRS Foundation announced the completion of the consolidation of the <b>Value Reporting Foundation (VRF) into the IFRS Foundation</b>, which follows the commitment made at COP26 to consolidate resources of leading global sustainability disclosure initiatives to support the IFRS Foundation’s new International Sustainability Standards Board’s (ISSB) work to develop a comprehensive global baseline of sustainability disclosures.</li> </ul>



	<ul style="list-style-type: none"> <li>The VRF's SASB Standards serve as a key starting point for the development of the <i>IFRS Sustainability Disclosure Standards</i>, while the <i>Integrated Reporting Framework</i> provides connectivity between financial statements and sustainability-related financial disclosures.</li> <li><b>Link</b> to the announcement – <a href="https://www.ifrs.org/news-and-events/news/2022/08/ifrs-foundation-completes-consolidation-with-value-reporting-foundation/">https://www.ifrs.org/news-and-events/news/2022/08/ifrs-foundation-completes-consolidation-with-value-reporting-foundation/</a></li> </ul>
USGAAP Assurance	<p><b>PCAOB SIGNS AGREEMENT WITH CHINESE AUTHORITIES, PCAOB TO GET ACCESS TO SELECT, INSPECT AND INVESTIGATE IN CHINA</b></p> <ul style="list-style-type: none"> <li>On 26<sup>th</sup> August 2022, the Public Company Accounting Oversight Board (PCAOB), USA signed a statement of protocol with the China Securities Regulatory Commission and Ministry of Finance of China as the <b>first step</b> towards <b>opening access for the PCAOB to inspect and investigate registered public accounting firms</b> headquartered in <b>mainland China and Hongkong</b>.</li> <li><b>Link</b> to the release - <a href="https://pcaobus.org/news-events/news-releases/news-release-detail/pcaob-signs-agreement-with-chinese-authorities-taking-first-step-toward-complete-access-for-pcaob-to-select-inspect-and-investigate-in-china">https://pcaobus.org/news-events/news-releases/news-release-detail/pcaob-signs-agreement-with-chinese-authorities-taking-first-step-toward-complete-access-for-pcaob-to-select-inspect-and-investigate-in-china</a></li> </ul> <p><b>FASB EXPOSURE DRAFT – ACCOUNTING FOR INVESTMENTS IN TAX CREDIT STRUCTURES USING THE PROPORTIONAL AMORTIZATION METHOD</b></p> <ul style="list-style-type: none"> <li>On 22<sup>nd</sup> August, 2022, the Financial Accounting Standards Board (FASB) issued an Exposure Draft (ED): <i>Investments - Equity Method and Joint Ventures (Topic 323) – Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method</i>.</li> <li>The amendment to Topic 323 of USGAAP is intended to permit reporting entities to account for investments made primarily for the purpose of receiving income tax credits and other income tax benefits consistently.</li> <li>The amendments would permit reporting entities to elect to account for their tax equity investments, regardless of the program from which the income tax credits are received, using the proportional amortization method if specified conditions are met.</li> <li><b>Link</b> to the Exposure Draft - <a href="https://www.fasb.org/page/getarticle?uid=fasb+Media+Advisory+08-22-22">https://www.fasb.org/page/getarticle?uid=fasb Media Advisory 08-22-22</a></li> </ul>

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## EXTRAORDINARY GENERAL MEETING NOTICE

Notice is hereby given to the members of the **Karnataka State Chartered Accountants Association (R)** that the Extraordinary General Meeting of the Association will be held at 3.30 PM on Saturday, the **24<sup>th</sup> of September, 2022**, at **Karnataka State Chartered Accountants Association, No 67, 1<sup>st</sup> Floor, West of Chord Road, 2<sup>nd</sup> Stage, Mahalakshmpuram, Bengaluru – 560 086** to transact the following business:

**AGENDA:**

- To confirm the minutes of the Extraordinary General Meeting of the Association held on the 25<sup>th</sup> of August, 2022.

By order of the Executive Committee

Sd/-

**CA. Vijaykumar M Patel**  
Secretary

Place: Bengaluru

Date: 07<sup>th</sup> September 2022

**NOTES:** In the event of change of rules relating to restriction or otherwise due to prevailing pandemic by the government, alternative arrangement shall be updated and communicated by the association through its website.

# RERA AUDIT 2022

## (PART - XVI OF RERA SERIES)



CA. Vinay Thyagaraj

Real Estate (Regulation and Development) Act 2016 is a transformation legislation for the Real Estate Industry. Courageous and radical provisions are included in the Act. It is hard to accept the various provisions of the Act, having practiced and followed the business without regulators over 70 years.

We call the real estate industry the second largest contributor to the GDP, taxes, employment, however there were very limited checks and balances in terms of various business practices.

Post RERA, it is inevitable for the industry, promoters or stakeholders to practice and comply with the provisions of Act, Rules, Regulations, Circulars or notifications.

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

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

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

- (a) 3<sup>rd</sup> Proviso – Provided also that the promoter shall get his accounts audited within six months after the end of every financial year by **a chartered accountant in practice**, and shall produce a statement of accounts duly certified and signed by such chartered accountant and it shall be verified during the audit that the amounts collected for a particular project have been utilised for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.

Annual Audit under RERA Act	<b>RERA Act – 3<sup>rd</sup> proviso to sec 4(2)(1)(D)</b>	<ol style="list-style-type: none"> <li>1. Amounts collected from Allottees for a particular project have been utilised for the same project and</li> <li>2. the withdrawal has been in compliance with the proportion to the % of completion of the project</li> <li>3. Compliance to the provisions of RERA Act</li> </ol>
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CERTIFICATE FORMAT NOTIFIED By RERA Authorities –

### ON THE LETTER HEAD OF CHARTERED ACCOUNTANT

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

(refer 3<sup>rd</sup> proviso to sec 4(2)(1)(D) of RERA Act)

To

NAME of the Project &

ADDRESS OF PROMOTER

**SUBJECT:** Report on Statement of Accounts on project fund utilization and withdrawal by [Project/ Promoter] for the period from DD/MM/YYYY to 31/03/2022 with respect to RERA Regn. Number \_\_\_\_\_

1. This certificate is issued in accordance with the provisions of the **Real Estate (Regulation and Development) Act, 2016** read along with the XXXX State Real Estate (Regulation and Development) Rules, 2017.
2. I/We have obtained all necessary information and explanation from the Promoter, during the course of our audit, which in my / our opinion are necessary for the purpose of this certificate.
3. I/We hereby confirm that I/We have examined the prescribed registers, Books of Accounts and documents and the relevant records of [Project / Promoter] for the period ended 31<sup>st</sup> March 2022 and hereby certify that:
  - i. M/s. \_\_\_\_\_ (Promoter of the Project) have completed \_\_\_\_\_% of the project titled \_\_\_\_\_ (Name of the Project) RERA Regn.No. \_\_\_\_\_ dated DD/MM/YYYY located at \_\_\_\_\_ (full address)

- ii. **Amount collected** from Allottees during the year ended 31/03/20XX for this project is Rs. \_\_\_\_\_ and amounts collected from Allottees from inception of project to till date (i.e., 31/03/20XX) is Rs. \_\_\_\_\_
  - iii. **Amount withdrawn** during the year for this project from Project Bank Account is Rs. \_\_\_\_\_ and total amount withdrawn from inception to till date from Project Bank Account is Rs. \_\_\_\_\_
4. I/We certify that, I/we have considered the various professional certificates i.e., Chartered Accountant Certificates, Engineer Certificate, Architect Certificates issued from time to time for withdrawal of money based on % of completion of work.
  5. I/We certify that the [Name of Project and Promoter] has utilized the amounts collected for \_\_\_\_\_ project only for this project and the withdrawal from the designated bank account(s) of the said project has been in accordance with the proportion to the percentage of completion of the project.

Observation and Qualification of CA –

NIL

Or

- Promoter of the project has withdrawn in excess of eligible amount from Project Bank Account Rs. \_\_\_\_\_
- Promoter of the project has not utilized (diverted) the monies drawn from Project Bank Account Rs. \_\_\_\_\_

For XYZ & Co

Chartered Accountant

Signature of Chartered Accountant / Designation

(ICAI Membership Number.....)

Firm Name and ICAI Reg No

\_\_\_\_\_

Name

Address

Place:

Date

UDINo -

**Note –**

1. Different states prescribed a format of report along with instructions.
2. This report shall be issued by a Chartered Accountant holding Certificate of Practice.
3. Chartered Accountant shall collect project financial, non-financial information from the promoter.
4. Collect estimated cost of project, escalation if any and details there on.

5. Chartered Accountant to collect and consider all professional certificates issued from time to time for withdrawal of project.
6. CA while certifying the amounts finds any deviation from the provisions of the Act, Rules, Regulations, Circulars or Orders, the same need to be listed here.
7. The example could be, the amount realized from the allottees is deposited in another account. In that case, what is the amount deposited in another account.
8. If the amount has been drawn in excess of what has been permitted under CA certificate (Form-4), how much money has been overdrawn.
9. Funds have been diverted to other projects or for other purposes, need to be reported.
10. Architect (Form-5) or Engineer (Form-6) certificate is not obtained or if there are any differences.
11. Plan sanction is upto 8th floor, and the architect certificate and also engineer certificate show about the work completed upto 10 floor and the expenses incurred on additional two floors without sanction need to be quantified and reported – Section 14 of the RERA Act to be complied with.
12. This certificate shall be submitted to authorities and is a public document. It could be made available for viewing at the portal of the regulators in the respective states. The comments in this note are purely a matter of interpretation and not binding on any regulatory authorities. Therefore, there can be no assurance that the regulatory authorities will not take a position contrary to our comments or views.

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

- (a) Promoter to maintain the financial information and other information relating to real estate project.
- (b) Provide such information to Chartered Accountant professionals to obtain RERA Audit Report on annual basis.
- (c) Submit this report to authority online or offline.
- (d) Reconcile the receivables, received, utilized and balance money in bank account as on 31-03-2022.
- (e) Follow best practices / Standard Operating practices.
- (f) The cost of the project as per RERA has to be reconciled as per books for Audit and compliance under other statutes like GST, Income Tax, ROC etc.
- (g) Maintain and update books of accounts from time to time.
- (h) Maintenance of data as per RERA project wise in books of accounts (rather company or project wise) for better and easy reconciliation between various statuses.
- (i) Take support of consultants and experts to understand the importance, implementation as per statute.



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

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

**4. Best Practices –**

- (a) The Promoter may have appointed external professionals to obtain certificates from time to time, consult the same professional who had issued the earlier professional certificate – handover those certificates to RERA Auditor.
- (b) The RERA Audit report must be in conformity with assurance standards issued by the ICAI.
- (c) RERA Audit Report to be backed up with adequate documentation by way of Management Representation letter and the basis of preparing such certificates.

In case the regulators suggest a format later or issue any clarification in this regard, the above-suggested template may suitably be aligned.

**5. RERA Audit – Challenges**

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

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

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

**7. FAQ's**

SI No	Query	Provisions under the Act / solution
1	Is Audit and Report based on entities or based on RERA Registration basis?	The promoter shall get his books of accounts audited for each registered project separately, even if, those projects are registered on phase wise manner.
2	Responsibility of the Audit	The promoter shall engage / appoint a Chartered Accountant holding certificate of practice to carry out the audit. The responsibility to get the audit done is cast on the promoter.
3	Time limit to get the audit of accounts of the project	The promoter shall obtain the annual audit report within six months after the end of every financial year.

Sl No	Query	Provisions under the Act / solution
4	Any specific requirement of a chartered accountant	The auditor shall be a chartered accountant in practice.
5	How to arrive at the Estimated cost of the land	<p>The estimated cost of the land –</p> <p>The land cost means acquisition cost/purchase cost or value of land reckoned on basis of the value of the land as ascertained on the basis of guidance value in accordance with the Section 45-B of the Karnataka Stamp Act 1957 relevant on the date of registration of the real estate project whichever is higher - (Rule 5(1) of Karnataka RERA Rules, 2017)</p> <p>All other related expenses like TDR, FSI acquisition, premium payment, etc are based on the actual cost paid for which necessary support is provided.</p> <p>Interest cost on the borrowings done to purchase the land or to incur any related payment of premium etc to the Competent Authority has been included.</p>
6	How to arrive at the Estimated cost of the construction	<p>The estimated cost of construction –</p> <ul style="list-style-type: none"> <li>Karnataka RERA Rule 5(2) defines – the cost of construction shall include all such costs, incurred by the promoter towards on-site and off-site expenditure for the development of the real estate project including payment of taxes, fees, charges, premiums, interest, etc to any competent Authority or statutory Authority</li> </ul>

Sl No	Query	Provisions under the Act / solution
6		<p>of the central or state government including interest paid or payable to any financial institution, etc.</p> <ul style="list-style-type: none"> <li>Wherever, the apportionment of the cost has to be done as per the policy of the company between different projects, the same has been done accordingly.</li> <li>The policy document for apportionment shall be prepared by the promoter for common expenses.</li> </ul>
7	Total Estimated Cost of the Project	Total Estimated Cost of the Project = Estimated cost of the land + Estimated cost of construction.
8	Where to submit the audited accounts and report thereon	Promoter has to upload such reports and audited accounts online portal along with September Quarterly Updates.
9	Non-compliance	Authority may issue a show cause notice and may invoke penalty Section 61 of the RERA Act
10	Format of Report	The annual report on the statement of accounts to be issued in Format as notified by the Authority (K RERA – Form 7)
11	Who should sign the Audited accounts and issue the report	Form 7 shall be certified and signed by the chartered accountant who is the statutory auditor. The Chartered Accountant issuing form 7 should be a different entity that the CA who has issued certificate in form 4 for the purpose of withdrawal of amounts from the separate RERA Designated Account.

Sl No	Query	Provisions under the Act / solution
12	Different Bank Account for Pass-Through Charges	The promoter may operate a different bank account for the Pass-through Charges, Taxes collected like VAT, Service Tax, SGST, CGST & any other taxes.
13	Amount Incurred - Reference of MahaRERA -	<p>Reference of MahaRERA -</p> <p>1. Regulation 2 (v-a) - Definition of "incurred"</p> <p>Regulation 2 (v-a) was inserted vide Amendment dated 3<sup>rd</sup> October 2019. It defined the term "incurred". The term "incurred" was defined through circular no. 7/2017 dated 4<sup>th</sup> July, 2017 and it was subsumed by Amendment dated 3<sup>rd</sup> October 2019.</p> <p>The definition of the term "incurred" has two major components -</p> <p>a. The amount of product or services that the promoter has received for the real estate project should have created a debt in favour of a seller or supplier and</p> <p>b. It shall also include the amount of product or service received against the payment</p> <p>c. Advances to suppliers</p>
14	Deposit of 100 % in case of balance realisation is less than the amount required to complete the project	Where the estimated receivables of the ongoing project is less than the estimated cost of completion of the project, then 100% of the amount to be realized from the allottees shall be deposited in the said "RERA Designated Bank Account"

Sl No	Query	Provisions under the Act / solution
15	What does mean Till <u>Date of the Project</u>	Amount collected / withdrawn "TILL DATE" for the Project will be 70% of the Total Amount Collected from the Allottees from INCPETION of the PROJECT To 31 <sup>st</sup> March 2022.
16	Can Authority extend the timelines for obtaining the report of Audit of Accounts	"NO" because the time limit has been specified in the RERA Act & so it's outside the purview of the authority. It can only be done through an amendment to the act. However, the authority has the power to waive the penalty, if any applied due to non-filing of report within the due date.
17	Any other details to be uploaded along with CA report/certificate	Yes, Project audited accounts shall be uploaded along with a report. The Authorities may prescribe the format. Bihar RERA Regulations prescribes audited accounts along with directors reports to be submitted.
18	Is any guidance or book available for reference	Yes, please refer ICAI Publication on RERA. Very good publication and covered all aspects of RERA
19	Will these certificates be accessible to other statutory agencies or department	Yes, in recent days, GST department has issued show cause notice based on the estimated cost of the project as declared in RERA Application. Hence, it is important to reconcile the financial information between various statutes., RERA, GST, Income Tax, Data submitted to lenders, etc.

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



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

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

**Conclusion** - The Audit of Accounts under RERA extends and requires the auditor to verify and report on all applicable provisions under the Act, Rules etc., the RERA authority's may notify the different format to include other provisions for the purpose of RERA Audit The Author is a practicing Chartered Accountant, one can reach the author on [vinay@vnm.ca](mailto:vinay@vnm.ca) for further clarifications

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*Authors can be reached at :*  
***vinay@vnm.ca***

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## SUDOKU-25

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

### Answers to "Key Word 12" (August 2022)

1. Collusion, 2. Bankruptcy, 3. Lapse, 4. Altcoin, 5. Swap,  
6. Pro Rata

**Key Word : SURETY**

*Credits: CA. Archana Sridhar*

# INTELLECTUAL PROPERTY RIGHTS AND PROTECTION IN INDIA

## PATENTS- SUPPORT SYSTEM (PART - XXV OF IPR SERIES)



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

### Drafting a Patent Claim

The purpose of Patent application is to provide an accurate and detailed explanation of the invention clearly describing the inventor's creation and highlighting the claims that require patent protection. Patent Application drafting is not merely an art as it also requires adequate knowledge of technology, wherein the applicant is able to express the principles like (i) state of Art relating to the field of invention; (ii) problems/shortcomings in the prior art to deal with the problem adequately; (iii) the manner in which the new invention remedies the problems pertinent with the prior art; (iv) the working embodiments of the invention; (v) the technical facets of the invention need to be protected (Claims).

The Process of Patenting an invention involves considerable time and costs to the seeker. From the date of filing of the application till the grant, there is a long duration involving extensive procedures which have been explained in the previous part. When a patent application is filed, the patent office issues a receipt containing date of filing or priority date of the application. From that date, the product or process for which patent has been applied for, can be marked as "patent pending" or "patent applied for" as a warning or a notice, informing that a patent has been applied for in India. The advantage of such marking is that (i) it helps to avoid innocent infringements; (ii) it also encourages patentees to give notice to the public that the article is patented. The claim drafting should normally be done in consultation with experts in the field. The Karnataka State Council for Science and Technology (KSCST) established in the premises of Indian Institute of Science (IISc), Bangalore has been serving this cause since 1975. An introduction about the activities of this organization is provided in the following part to help the Academies, Entrepreneurs, Start-ups and Industries and all patent seekers.

### Patent Information Center of KSCST

KSCST Recognized as an Autonomous Organization of the Department of Science and Technology, Government of Karnataka and it maintains close linkages with Government Departments, R & D and academic institutions, NGOs and Industries.

With an objective to build robust IP ecosystem by disseminating the knowledge on IPRs among Educational Institution, Universities, startups and individual innovators, the Patent Information Centre (PIC) of Karnataka State Council for Science and Technology (KSCST) has been established in the year 2005. The KSCST has set up IP cells in universities/ colleges and regularly conduct awareness programs, workshops and handholding activities on prior art search, patent drafting and filing, copyright, trademark, design searches and similar IP support activities. It provides necessary impetus to commercialization of products / services in collaboration with the startups.

In recent years, the PIC has reached more than 20000 beneficiaries through lectures, consultations and webinars on IPRs. The patent cell has facilitated/ supported/ assisted more than **700 IPR filings** and conducted more than 100 prior art searches. The team ably lead by Mr. H Hemanth Kumar, Principal Investigator and Executive Secretary, with Mr Vivek Anand Sagar, IP consultant and Mr Nagarjun, Project Associate are instrumental in energizing the IP ecosystem in institutions and start-ups.

KSCST by entering into an MOU with Cell for IPR Promotion & Management (CIPAM) has set up WIPO - Technology Innovation Support Center (TISC) in February 2020. In this center KSCST provides prior art search facility **free of cost to faculty, students, and inventors**. The reports help the inventor to find out the novelty of his/her invention and its eligibility to file patent application. The Facilities Offered at TISC are (a) Training in searching databases; (b) On-demand searches (novelty, state-of-the art, and infringement); (c) Technology and competitor monitoring; (d) Basic information on industrial property laws; (e) Industrial property management and strategy; (f) Basic information on technology commercialization and marketing. Further, this center provides support in (i) access to online patent and non-patent (scientific and technical) resources; (ii) access to industrial property-related publications; (iii) assistance in searching and retrieving technology information. KSCST associated IP cells have filed more than 650 provisional/ regular patent applications in last 4 years.



Further to encourage the Academies and startups in the field of IPR, KSCST invited applications for IP Awards and Rewards 2021 under the chairmanship of Prof. T Ramakrishna, Professor, NLSIU with team members Dr. Sarsija Padmanabhan, Patent Agent and WIPO Tutor, Mr. H Hemanth Kumar, Executive Secretary, KSCST and the Author. A total of twelve awards and citations were presented under the categories of Best IP Cell, Best Faculty, Student and Startup for the patents. All the stake holders including MSMEs and young entrepreneurs, are requested to make use of this facility to create strong IPs.

### Role of Patent Office

As patent granted are private rights, the owner is responsible for commercializing the same, either himself or through licensee. All patent applications are kept secret up to eighteen months from the date of filing or priority date, whichever is earlier. The information relating to the patent application under section 11A are published online in the Patent office Journal issued on every Friday, which is accessible to the public worldwide. The Patent office Journal also contains information relating post grant publication, restoration of patent, notifications, list of non- working patents and public notices issued by the Patent Office. The Patent Office journal is available free of cost on patent office site i.e., [www.ipindia.gov.in](http://www.ipindia.gov.in). This will help the applicant to attract potential user or licensee. The patent office also compiles and updates a list of patents which are lapsed / ceased in India.

Patent infringement proceedings can only be initiated after grant of patent in India but may include a claim retrospectively from the date of publication of the application for grant of the patent. Infringement of a patent consists of the unauthorized making, importing, using, offering for sale, or selling any patented invention within India. Under the Indian Patent legal system only a civil action can be initiated in a Court of Law. A suit for infringement can be defended on various grounds including the grounds on which a patent cannot be granted in India and based on such defence, revocation of Patent can also be claimed. The Patent Office has no role beyond the grant of patent. As a facilitation measure, the patent office provides platform to perform a search free of cost on Indian Patent database consisting of published patent applications and granted patents. The said database is available on Patent Office website as **in PASS** <http://ipindiaservices.gov.in/publicsearch>. The website also contains innovative tools under **DYNAMIC UTILITIES** which gives information about the patent applications at various stages of processing

### Parliamentary Standing Committee Report

The Parliamentary Standing Committee on Commerce, in its 161<sup>st</sup> report, presented on July 23<sup>rd</sup>, 2021, reviewing the IPRs regime, among others, emphasized the need to establish a robust and an effective IPR regime that encourages and incentivizes innovation and creativity along with securing

collective interest of the society. It also observed that the state governments could play an instrumental role in evolving a strong IPR regime by formulating their own strategies and policies within the broad framework of India's policy on IPR, to spur the economic development by encouraging foreign exchange inflow, increasing productivity and generation of employment opportunities in the country. The Committee recommends the government to increase the spending on R&D activities by allocating specific funds on R&D in each Department/ Ministry. It recommends the government to provide incentives to private businesses and companies for undertaking R&D activities which would be a proactive step in augmenting research capabilities of the country.

The report stated that lack of awareness about IPRs amongst Indians is responsible for the low share of patents filed by domestic entities vis-à-vis foreign entities and in view of this situation, the innovators and creators in the country are being denied the benefits of IPRs including the generation of revenues and gains from the creation of their products. The Committee recommends that a holistic approach should be taken by the department for disseminating awareness amongst MSMEs, small businessmen, traditional artisans and craftsmen located in remote areas and providing them insights about creation, ownership, and protection of their IPRs.

As per the data published, India has witnessed increase in the filings of patent application in the past years owing to more innovation, expansion of more areas under IPR and filing of patents by foreign nationals. The number of patents filed in India rose to 66,440 in the financial year 2021-22 as against 42,763 patents filed in 2014-15, posting an increase of over 50 per cent in a span of seven years. Grant of patents in 2021-22 surged to 30,074, which is nearly five times increase when compared with 2014-15 when the total number of patents granted was 5,978. *"India achieved yet another milestone in the context of IP innovation ecosystem, wherein for the first time in the last 11 years, the number of domestic patent filing has surpassed the number of international patent filing at Indian patent office,"* reports the ministry of Commerce and Industry. Therefore, the Committee recognized the requirement of expediting the process of patenting, for which they suggested increasing the number of qualified and trained official involved in the process of patenting and hiring officials from research organizations as experts on deputation for a reasonable period of time. It recommended for necessary initiatives to be undertaken to boost IP financing.

### Scheme for Facilitating Startups IP Protection (SIPP)

The said scheme was launched in 2016 to encourage and facilitate IPR protection by Startups and the same has been extended up to March 2023. The Scheme is implemented by the office of CGPDTM and provides facilitators to start ups for filing and processing of their applications for patents, designs and trademarks. Professional charges of the facilitators are



reimbursed by the office of CGPDTM as per provisions under SIPP scheme Under this scheme, the Central Government shall bear the entire fees of the facilitators for any number of patents, trademarks or designs that a Startup may file, and the Startups shall bear the cost of only the statutory fees payable. The Startups shall be provided an 80% rebate in filing of patents vis-a-vis other companies. This will help them pare costs in the crucial formative years. For more details visit <http://www.ipindia.nic.in/SIPP.htm>

### Patent for a Software

Software is a set of instructions that commands the operation of a system and are intangible in nature. Due to this different nature, the software falls outside the category of any traditional goods. However, a software technology invention, that could be concluded as a process or a product, can seek patent rights under Indian patent law. As narrated in the earlier parts, the software, as a literary work, can also be protected under copyright Act, by disclosing the source codes. As the patent laws award a much stronger right to an invention, it is recommended to have a patent application filed in case the invention is patentable.

Software can typically be defined as a set of instructions in codes used to operate computers or execute a particular pre-programmed task. A software patent may include patenting a code, a user interface, libraries or algorithms. If the computer program leads to a technical effect, it is considered as patentable. In other words, the mere expression of the methods and programming codes is copyrightable, whereas the software's technical effect and operational part are patentable.

In general, novelty, non-obviousness and industrial usage are the criteria for granting patent to any invention. However, the computer software and algorithms fall in a different category. Patent laws create an exception with scientific discoveries, mathematical formulae, and algorithms. Computer programs are considered as a form of applied mathematics. In India, software is not directly patented but it can be granted patent if it is attached with novel hardware, an invention which is unique and capable of industrial use. However, computer software is eligible for a patent grant if it is not a business method, mathematical method or algorithm. Additionally, according to section 3(k), it is also essential to show that hardware forms an essential part of the invention and the software. The Computer Related Inventions, 2013 (CRI guidelines, 2013) released on June 28, 2013 may be referred for more details.

Ferid Allani v. Union of India (2019 SCC Online Del 11867) is a landmark judgment that examined the patentability of software in India. The petitioner, Ferid Allani, had filed a patent application for a method and a device for accessing information sources and services on the web. The Indian Patent Office rejected the application because the invention was a computer program as per section 3(k) and that the device lacked novelty

and an inventive step. Upon appeal, the Delhi High Court held that the patentability of computer-related inventions will have to be examined based on the presence of "technical effect and/or technical contribution". If the invention demonstrates a technical effect or a contribution, it is patentable despite being a computer program.

Patenting software may come with several economic benefits. The patent for software can be licensed, which may significantly increase the valuation of small tech start-ups. Patenting software would also encourage innovation. Since patenting comes with several monetary benefits, inventors may actively try to develop new types of software.

### IPR Initiatives by MeitY

The Ministry of Electronics and Information Technology (MeitY) recognizing the need for the protection of IP as a vital component of innovation and scientific advance, has made significant strides in forming a conducive ICT-IPR ecosystem for creation, protection, awareness and commercialization of IP and IP Rights. Some of the major initiatives of the division are i) Establishment of Centre of Excellence in IP; (ii) Providing IP Facilitation Support to MeitY Societies and Grantee Institutions; (iii) Providing Financial Support to Startups and SMEs for International Patent Filing through SIP-EIT Scheme; (iv) IPR Awareness through Financial Support to Industry Bodies and Academia; (v) Providing Help-Desk services for IPR; (vi) Creation of IPR Awareness through Digital Media.

Centre of Excellence in Intellectual Property (CoE-IP) is one such initiative which was envisioned with the objective of helping innovators, startups and SMEs to understand the value of intellectual property (IP), offer value added services and ensure adequate protection of the IPRs. The aim of the project is to encourage the growth of IP in ICT by way of creating a conducive framework for identification, protection and monetization of IPRs. For more information [visit: www.ict-ipr.in](http://www.ict-ipr.in)

### Support International Patent Protection in Electronics and IT (SIPEIT)

This scheme provides financial support for patent protection to MSME units to encourage innovation and recognizing the value of Global IP along with providing growth opportunities to the Information and Communication Technology in Education (ICTE) sector. Any MSMEs registered under MSME development Act 2006 can apply.

For patent reimbursement, the eligibility conditions are (i) The applicant should have already filed a patent application; (ii) The invention must be in Electronics /ICT sector; (iii) The application must be accompanied by a prior art search report; (iv) The patent application should be processed by an Indian patent attorney having at least 5 years' experience in handling international patent applications. Expenses incurred

in International Patent Protection will be reimbursed (total reimbursement will not exceed Rs 15 Lakhs or 50% of the total expenses, whichever is less). Applicants desirous of applying under the scheme need to fill-up the form online available at DeitY website or ICT-IPR portal i.e., <http://www.ict-ipr.in/sipeit/registration>

### Compulsory Licensing

The patentee shall have exclusive rights over his invention for a period of 20 years, and he/she can exclude others from making any use of his patented product. It is important to note that the patent is not an absolute right, but it is subject to certain restrictions / conditions stipulated in the law. Some of the general exceptions are - Government Use of Patent; Experimental & Research purpose; Teaching purpose; Distribution of drug or medicine by government in dispensary, hospital or other medical institutions rendering public service or on behalf of the government etc.,

To ensure the fair supply of patented invention/ goods, a compulsory license to make use of a patented product may be given to a third party by the Authorities. Compulsory licenses are authorizations given to a third-party by the Controller General to make, use or sell a particular product or use a particular process which has been patented, without the need of the permission of the patent owner. At any time after the expiration of three years from the date of the sealing of a patent, any person interested may make an application to the Controller of Patents for grant of compulsory license of

the patent, subject to the fulfilment of following conditions, i.e.(i) the reasonable requirements of the public with respect to the patented invention have not been satisfied; or (ii) that the patented invention is not available to the public at a reasonable price; or(iii) that the patented invention is not worked in the territory of India. Further, compulsory licenses can also be issued suo motu by the Controller under section 92, pursuant to a notification issued by the Central Government if there is either a "national emergency" or "extreme urgency" or in cases of "public non-commercial use".

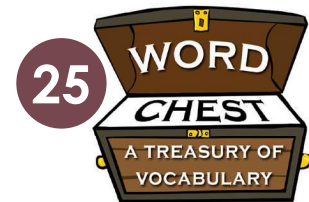
The Controller, if satisfied that the reasonable requirements of the public with respect to the patented invention have not been satisfied or that the patented invention is not available to the public at a reasonable price, may order the patentee to grant a licence upon such terms as he may deem fit. The grant of compulsory license cannot be claimed as a matter of right, as the same is subject to the fulfilment of above conditions and discretion of the Controller of Patents. Further, judicial recourse is available against any arbitrary or illegal order of the Controller of Patents for grant of compulsory license.

In the coming part, the role of trade secrets as a tool to safeguard the business interests will be deliberated.

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## Solution to Sudoku - 24 August 2022

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



**Finance Tech Term of the Month:**

*Decentralised Finance (DeFi)*

**What is this?**

*Decentralised Finance (DeFi)* is one of the emerging technological evolutions for providing financial services without traditional centralised intermediaries and relies upon blockchain protocols for financial services. In simple terms, DeFi participants are part of a global peer-to-peer network built on a public blockchain where assets represented in the network can be transferred automatically (via the smart contracts). It can create a open, global and transparent financial system and also pose risks due to lack of intermediaries as regulatory "entry points".

# HEART BURN/ ACID REFLUX



**Dr. Kaushik Subramanian**

Every one of us at some point in life would have experienced a burning sensation in the chest region which we attribute to either the “extra masala “in the food or “acidity”. Every house does have a “gastric” medication in the medicine closet which we pop and move on with life making a mental note to eat less spice next time (to no avail). Few people (on the wrong side of 40s) end up in the emergency rooms of the hospital fearing the worst (a heart attack).

Is the so-called “gastric” just a result of excess spice/ alcohol or does it require more of our attention? Let us try to understand the crux of the problem.

## 1. What is Acid reflux?

Acid reflux or GERD(Gastro Esophageal Reflux Disease) as it is medically known, is a constellation of symptoms occurring primarily due to acid content in the food pipe (esophagus).

## 2. What is the esophagus/ food pipe?

It is a muscular tube connecting the throat to the stomach. It merely serves as a conduit and does not have any role in digestion per se.

## 3. What is the acid that we are talking about?

Acid is normally produced in the stomach which helps to break down the food making it easier to digest.

## 4. Why doesn't the acid affect the stomach?

The stomach has a special lining/coating which protects it from the harmful effects of the acid. The esophagus does not have this coating and hence when exposed to acid from the stomach causes symptoms.

## 5. What are the symptoms?

Majority of the patients experience a burning sensation in the chest region, usually after a heavy meal which gets worsened by bending forwards. Some also report aching sensation radiating to the upper back between the shoulder blades.

Bitter taste in the mouth, abdominal bloating, excessive belching, frequent clearing of the throat, and sensation of something stuck in the throat are also commonly seen.

Change in voice and unrelenting asthma could also be due to an undiagnosed GERD!

## 6. Why does it burn in the region of the heart? Is something wrong with the heart? Does it affect the

## heart?

The food pipe is situated behind the heart in the center of the chest and hence is confused with a heart problem. Pain in a heart attack usually gets worse with physical activity and is known to radiate to the left arm. Severe sweating and shortness of breath can also point to a heart ailment.

## 7. Why does the acid go into the esophagus?

Normally the junction between the esophagus and the stomach has a valve (lower esophageal Sphincter) which is like an elastic drawstring and opens when food comes from above and remains closed at other times preventing food from going back up.

When the elastic valve becomes loose, the closed state doesn't seal the passage completely and hence acid from the stomach finds its way up into the esophagus.

## 8. Why does the valve become loose?

Most common causes include excessive consumption of tea/ coffee. Alcohol and tobacco usage. Citric foods and Chocolates can worsen the symptoms.

## 9. How is it diagnosed?

It can be diagnosed with a fair amount of certainty based on symptoms of presentation alone. However, an endoscopy is usually done to look at and document the amount of damage and to rule out other causes of GERD like a hernia. Small subset of patients also require a manometry / 24 hour pH monitoring studies.

## 10. How serious is this condition? Should I be scared?

It depends on the amount of reflux. Most patients have a small amount of reflux which in itself is not very concerning. If large volume of food and contents are going back into the food pipe, it will require immediate attention.

## 11. Can I develop cancer due to this?

Persistent reflux over a long period of time (> 20 years) is known to cause changes in the lining of the food pipe which can turn cancerous. Occasional and short periods of symptoms do not turn into cancer.

## 12. What are the treatment options?

Most patients do well with lifestyle changes and non-surgical treatment. For those select few who have a



large volume of regurgitation or have a hiatal hernia surgical management will be required.

Medications to neutralize the acid, increase sphincter tone and pro motility agents are usually prescribed.

**13. What are the lifestyle modifications I should do?**

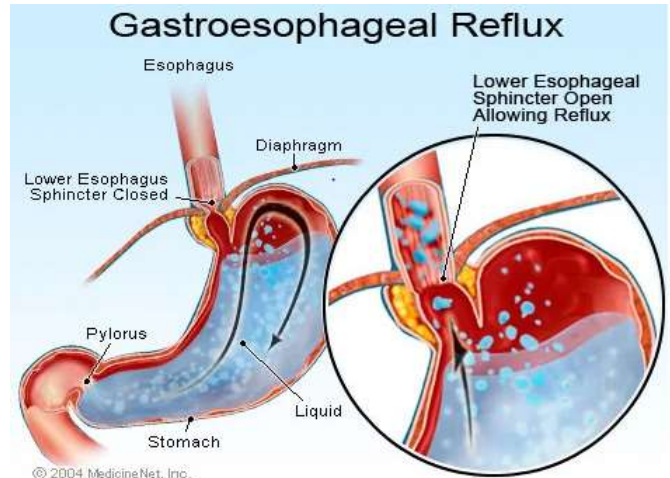
- Smaller frequent meals
- Avoid the food which worsen your symptoms
- Avoid lying down for at least 2 hours after any meal
- Head end elevation while sleeping
- Avoid tobacco and alcohol consumption
- Maintain good posture (avoid slouching)

**14. Should I continue to take these medications lifelong?**

Usually, No. Most do well with lifestyle modifications and appropriate treatment during excessive symptoms.

**15. What will happen if I leave it untreated?**

Persistent acid damage to the lower regions of the food pipe can result in scarring and problems in swallowing at a later date. And as mentioned previously, a risk of cancer also exists.



Knowing all of these helps. But it is always safer to seek professional help in case of any symptoms. There are many other subtle signs of heart disease which can be missed out if you self-medicate.

Better Safe Than Sorry!

*The Author is a Consultant - Surgical Gastroenterology and GI Oncology at Spandana Heart and Super Speciality Centre & be reached at :  
kaushik1886@gmail.com*

**Income Tax Savings Schemes**

<b>54EC</b>	REC	<b>REC Capital Gains Bonds</b> 5 years, 5% Annual Interest
<b>80C</b>		<b>ELSS, PPF, Life Insurance</b>
<b>80CCD</b>		<b>National Pension Scheme</b>

**Fixed Income**

<b>Trust u/s 11(5)</b>	<b>Trust Deposits Eligible u/s 11(5)</b> <small>HDFC, LIC, ICICI, SBI, PNB, YES, IDBI, Axis, IndusInd, Federal Bank, Citibank, Standard Chartered, HSBC, Citicorp, Citibank, Standard Chartered, HSBC, Citicorp</small>
<b>RBI</b>	<b>Reserve Bank of India Bonds</b> 7 years, Floating rate 7.15% Half-yearly Interest
<b>FD NBFC</b>	<b>BAJAJ FINSERV, Mahindra FINANCE</b>
	<b>Sovereign Gold Bonds</b> 8 years, 2.50% Half-yearly Interest, Maturity 'Tax-free'

**Growth Option**

**Mutual Funds**  
Large Cap / Mid Cap / Small Cap / Flexi Cap / ELSS Funds


For further information, please contact

☎ **Kiran Boal 98803 93743** ✉ **wecare@wealthlab.co.in**

<b>Achieve your financial goals with proper financial planning</b>	<ul style="list-style-type: none"> <li>Tax Savings</li> <li>Home Plan</li> <li>Wealth Protection</li> <li>Marriage Plan</li> <li>Wealth Creation</li> <li>Retirement Plan</li> <li>Life / Health Insurance</li> <li>Children's Education</li> </ul>
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**WEALTH LAB**

Adv.



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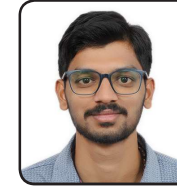
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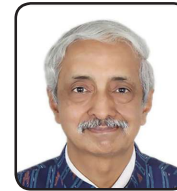
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# PHOTO GALLERY



**“Ask an Expert” Series on Income Tax Audit with CA. Prashanth G S. at Vasavi Vidyaniketan Auditorium, Basavanagudi, Bengaluru.**

## Extraordinary General Meeting - Photo Gallery







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Direct Tax Committee



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Committee



CA. Chandan Kumar Hegde A  
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### 49<sup>th</sup> Annual General Meeting - Photo Gallery

