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Karnataka State Chartered Accountants Association (R)

NEWS BULLETIN

► RERA ► MFN ► Branded Goods - GST
► ESG ► IPR ► Financial Reporting

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**"IS GOOD GOVERNANCE
A RIGHT OF THE CITIZEN
OR NOT"**



In Memory of Late
Shri. CA. H B M Murugesh



By Hon'ble Justice
Shri. N Santosh Hegde

Dear Readers,



This is the 12th message of my term and probably the last one as well. It is a proud moment for us to see India termed as fastest growing Asian economy, in the Asian region in 2022-23, according to analysts at Morgan Stanley. They expect India's Gross Domestic Product (GDP) growth to average 7 per cent during this period – the strongest among the largest economies – and contributing 28 per cent and 22 per cent to Asian and global growth, respectively. However, the concern of inflation is also gripping India, and the RBI Governor also stated that inflation is a primary concern. The Reserve Bank of India announced renewed rate hikes in the August 2022 Monetary Policy committee review. The repo rate was hiked by 50 bps to 5.40 per cent. Seeing the development, we see RBI making fine balance between inflation and growth.

On the professional front, it was delightful to see the date of filing return not getting postponed after many years. The former governments had postponed the original dates in pretext of some or other reason, but now we have some certainty and integrity to these dates. Also, the new schedule III and CARO cast humongous responsibility on the auditor and the company, hence request my professional colleague to exercise caution and diligence.

I am happy to have led the association during the period of turbulence and I have added whatever I can in my power and limits to improve the association. The association today requires to be financially strong, and I strongly feel and hope to that our association would soon have a building of its own.

News Roundup

Direct Tax

Executive developments:

- ✓ **CBDT notifies books & other documents to be maintained by entities under Section 10(23C)/12A :** The CBDT has notified new Rule 17AA prescribing books and other documents to be kept and maintained by entities under clause 10(23C) or section 12A. The books of accounts and other documents may be kept in written form or in electronic form or in digital form. They shall be kept and maintained for a period of 10 years from the end of relevant year.
- ✓ **CBDT reduces time limit to verify ITR from 120 days to 30 days for returns filed on or after 01.08.2022.**

Judicial developments:

- ✓ **Punjab & Haryana HC :** Writ cannot be filed to seek extension of last date to make payment under Vivad se Vishwas Scheme.
- ✓ **SC :** Revised ITR cannot be filed to convert original return into loss return in absence of any omission/mistake.

Indirect Tax

The month of July 2022 has been a very eventful month for GST. 1st July has been celebrated as GST Day and it has been 5 years since the law has been made effective and the journey has been a roller coaster ride. The total GST Collections for the month of July has been Rs.1.49 lakh crores which has been the second highest till date.

CBIC has issued various clarifications, notifications concerning rate of GST and amendment to few rules.

Few of the changes are welcomed by Trade and Industry. E-Invoicing has been made applicable to all registered persons with turnover greater than 10 Crores, this shall be made effective from 1st October 2022. It is important that the trade is updated with this new dispensation effective in a few months as it impacts day to day invoice issuance.

Further GSTR-9 & 9C has been enabled for FY 2021-22.

It is important for us to be updated with these changes and accordingly advise the clients to implement.

Corporate and Allied Laws

Company Law

The Ministry of Corporate Affairs is launching first set of Company Forms on **MCA21 V3 portal**. These forms will be launched on 31st Aug 2022 at 12:00 AM. Following forms will be rolled-out in this phase : “DIR3-KYC Web, DIR3-KYC E-form, DPT-3, DPT-4, CHG-1, CHG-4, CHG-6, CHG-8 & CHG-9”.

To facilitate implementation of these forms in V3 MCA21 portal, stakeholders are advised to note the following points:

- I. Company e-Filings on **V2 portal will be disabled from 15th Aug 2022 12:00 AM** for the above 9 forms. All stakeholders are advised to ensure that there are no SRNs in pending payment and Resubmission status.
- II. Offline payments for the above 9 forms in V2 using Pay later option would be stopped from 07th Aug 2022 12:00 AM. Stakeholders are requested to make payments for these forms in V2 through online mode (Credit/Debit Card and Net Banking).

Reserve Bank of India

The Indian economy appears to see the downside risks emanating from a weaker than expected global growth trend, supply-side-driven commodity price shock, faster than warranted tightening of financial conditions as per a recent report by Morgan Stanley. The impact of Russia's invasion of Ukraine has aggravated the challenges of taming the inflation and ensuring a strong economic recovery.

The Reserve Bank of India has been very watchful of all the developments which are taking place and is trying to play a balancing act to keep the economy afloat. There has been a slew of measures taken by the Central Bank in this regard.

Snapshot of recent key decisions taken by RBI

- **NRIs can pay now pay for bills in India directly** - The Reserve Bank of India has enabled Non-Resident Indians (NRI) to pay bills in India directly. Now cross-border inward payments through Bharat Bill payment system (BBPS) has been enabled. Earlier, payments through BBPS were only available to customers in India. The BBPS is an interoperable platform for standardised bill payments.
- **The Reserve Bank of India vide press release – 2022-2023/635 dated 2nd August 2022 has constructed a composite Financial Inclusion Index (FI-Index)** to capture the extent of financial inclusion across the country, in consultation with the concerned stakeholders including the Government. The value of FI Index for March 2022 stands at 56.4 vis-à-vis 53.9 in March 2021, with growth witnessed across all the sub-indices.
- **The Monetary Policy Committee (MPC)** recently raised the repo rate by 50 basis points (bps) to 5.40 percent in a bid to tame persisting high inflation. With this, the overall rate hike in three successive policy meets has now gone to 140 basis points, in line with the global trend of monetary policy tightening to cool off inflation.

In a few days from now we will be celebrating our 75th Independence Day (Azadi Ka Amrit Mahotsav) and let us all hope our economy will be able to sustain the global onslaught and emerge victorious in fulfilling the dream of our Hon'ble Prime Minister in becoming a 5 trillion-dollar economy.

We are the byproduct of our thoughts, if we think we are weak then we are weak, we are strong if we start to think we are strong. This is not a saying but even biologically our serotonin increases with confidence and positivity. Even Swami Vivekananda says “Watch your thoughts: Whatever you think, that you will be. If you think yourselves weak, weak you will be; if you think yourselves strong, strong you will be.” Let us resolve to build a strong and confident fraternal profession.

Happy Reading!

Yours' faithfully,

CA. Chandan Kumar Hegde A.

President

KSCAA®

NEWS BULLETIN

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KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)

VISION

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

MISSION

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

MOTTO: KNOWLEDGE IS STRENGTH

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

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CA. Raghavendra C R
CA. Bhanu Murthy J S

INDIRECT TAX UPDATES

1. Commissioner of Service Tax Vs Quick Heal Technologies Ltd, Civil Appeal No. 5167 of 2022-Supreme Court [Reported in 2022 SCC OnLine SC 976]

Issue: Whether supply of Quick Heal brand Antivirus Software along with the license key/product code, either online or on replicated CDs/DVDs through the dealers/distributors to the end customers in India is liable for service-tax under Section 65(105)(zzzzz)(iv) or Section 66E(d) of the Finance Act, 1994 under the head "Information Technology Software Service"?

Held: Sale of software is not liable to service tax for the following reasons:

- i. **Tata Consultancy services Vs State of Andhra Pradesh (2005) 1 SCC 308 ("TCS case")** does not distinguish between canned/ branded / un-customized software on the one hand and un-canned / un-branded / customized software on the other. They would both be 'goods' subject to sales tax if it could be said that they were capable of abstraction, consumption, and use and whether they can be transmitted, transferred, delivered, stored, possessed, etc.
- ii. As per Article 366(29A)(d), "a tax on the transfer of the right to use any goods for any purpose" would indicate that the tax is not on the 'delivery' of the goods used [the ingredients to constitute 'delivery' were laid down in **BSNL Vs Union of India, (2006) 3 SCC 1**], but on the transfer of the right to use goods regardless of when or whether the goods are delivered for use. It is sufficient if the transferee has effective or general control over the goods. The approvals, concessions, licences, and permits

in relation to goods would be available to the user of goods, even if such licences or permits are in the name of the owner (transferor) of the goods. [Relied on: **20th Century Finance Corporation Ltd Vs State of Maharashtra (2000) 6 SCC 12**].

- iii. A contract cannot be vivisected or split into two. Once a lump sum has been charged for the sale of CD (as in the case on hand) and sale tax has been paid thereon, the revenue thereafter cannot levy service tax on the entire sale consideration once again on the ground that the updates are being provided. It is, in substance, one transaction of sale of software and once it is accepted that the software put in the CD is "goods", then there cannot be any separate service element in the transaction.
 - iv. The moment the user is put in possession and full control of the software, it amounts to a "deemed sale" under Article 366(29A)(d) which would not attract service tax.
 - v. **M/s Infotech Software Dealers Association Vs Union of India 2010 (20) STR 289 (Mad)**, which had held that supply of packaged antivirus software to the end user by charging license fee as per the end user license agreement amounts to service and not sale, was overruled.
- ### 2. Pradeep Goyal Vs Union of India [2022] 141 taxmann.com 64 (SC)

Implementing the system for electronic (digital) generation of a Document Identification Number (DIN) for all communications sent by the State Tax Officers to taxpayers and other concerned persons would be in the larger public interest and enhance good governance. It will bring transparency and

accountability to the indirect tax administration, which is so vital to efficient governance.

The Union of India / GST Council is to issue advisory / instructions/ recommendations to the respective States regarding the implementation of the system of electronic (digital) generation of a DIN in the indirect tax administration, which is already being implemented by the States of Karnataka and Kerala.

3. All India Haj Umrah Tour Organizer Association Mumbai vs UOI [2022] 140 taxmann.com 562 (SC)

Background: The Haj pilgrimage can be undertaken by pilgrims in India through Haj Committee or HGO or PTO (Private Organization). With respect to this issue, two entries of exemption notification, under erstwhile service tax provisions, are dealt with:

- a. Para 5(a) of the Mega Exemption Not. No. 25/2012-ST provides an exemption to services provided by specified organizations in respect of a religious pilgrimage facilitated by the Ministry of External Affairs. One such specified organization is the Committee or State Committee as defined in Section 2 of the Haj Committee Act, 2002.
- b. Para 5(b) of said Notification provides exemption on services by a person by way of conduct of any religious ceremony.

It is the contention of the Petitioners that the exemption from service tax is provided only to the Haj Committee which is a recognized organization and not to the HGO or PTO's, which also provide the same services as the Haj Committee. The exemption entry granting exemption to Haj Committee alone is challenged to be discriminatory and violative of Article 14.

Issue: Whether services provided by Haj Group Organizers (HGOs) & Private Tour Operators (PTOs) are liable to pay service tax on service rendered by them to Haj pilgrims for the Haj pilgrimage?

Held: The Hon'ble Supreme Court discussed the applicability of the two exemption entries as under:

- a. **Place of supply in respect of services provided by HGO:** In terms of Rule 8 of the POPs Rules, 2012, the location of the service recipient shall be the place of provision of service. Thus, the location of the recipient of service is the place of residence of pilgrims, which is in India.
- b. **Scope of Entry 5(b):** The services exempted under Para 5(b) of exemption notification is services rendered by way of conduct of any religious ceremony. The exemption is with respect to the person who is providing services. The notification does not say that service provided to the service receiver to enable him to conduct a religious ceremony, has been exempted i.e., HGO's cannot be said to render any service by way of conducting of religious ceremony. HGO's are facilitating pilgrims to perform the religious ceremony.
- c. **Scope of Entry 5(a):** The services exempted under Para 5(a) is for services rendered by specified organizations, inter-alia, including the Haj Committee in respect of a religious pilgrimage. The decision of Dilip Kumar has been followed to state that the exemption is with respect to pilgrimage services provided by a specified organization and not any other organization. If the intention was to provide an exemption to any other organization, then the notification should have specifically provided so. Held that when there is no ambiguity in the entry then the strict interpretation rule is to be applied.
- d. **Whether services provided in the form of a single package can be bifurcated to claim an exemption for some part of the services:** It was argued that a certain portion of services say accommodation, catering, etc. will be provided outside India and the rest of the portion of services say air booking, making foreign exchange available, etc. are rendered In India. Thus, the services that are provided outside India can be bifurcated and claimed as an exemption. It was held that once the consideration is received for service as a whole

then part of a package cannot be picked up for invoking exemption.

- e. As regards the issue of discrimination:** The Haj Committees are statutory bodies working under the control and supervision of the Government. It is an agency and instrumentalities of the State and the money collected by Haj Committee forms part of the Central Haj Fund. On the other hand, there are no onerous duties attached to HGOs and they earn profit by rendering service to Haj pilgrims. The Government has no control over HGOs. Held that there is an intelligible differentia for this classification.

Note: The Hon'ble Supreme Court made an observation that the exemption entry 5(a) and 5(b) of Mega Exemption Notification continues to be exempt even under GST law. Therefore, it can be inferred that the above decision holds good even in the context of GST law.

4. **Union of India & Anr. v. Filco Trade Centre Pvt. Ltd. & Ors., 2022-TIOL-57-SC-GST**

The Supreme Court while hearing the batch of petitions challenging the decisions of the various High Courts on the issue of the permitting filing or revision of TRAN-1 / TRAN-2 returns after the due date, Hon'ble Supreme Court issued the following direction:

1. Goods and Service Tax Network (GSTN) is directed to open the common portal for filing concerned forms for availing Transitional Credit through TRAN-1 and TRAN-2 for two months i.e. w.e.f. 01.09.2022 to 31.10.2022.
2. Considering the judgments of the High Courts on the then prevailing peculiar circumstances, any aggrieved registered assessee is directed 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 Information Technology Grievance Redressal Committee (ITGRC).

3. GSTN has to ensure that there is no technical glitch during the said time.
 4. The concerned officers are given 90 days thereafter to verify the veracity of the claim/transitional credit and pass appropriate orders thereon on merits after granting an appropriate reasonable opportunity to the parties concerned.
 5. Thereafter, the allowed Transitional credit is to be reflected in the Electronic Credit Ledger.
 6. If required GST Council may also issue appropriate guidelines to the field formations in scrutinizing the claims.
- 5. Sri Sri Engineering Works Vs Deputy Commissioner [2022] 140 taxmann.com 303 (Telangana)**

Background: Telangana VAT Act was amended vide Telangana Value Added Tax (Second Amendment) Act, 2017 after TVAT Act was repealed by Telangana GST Act, 2017, to increase the time limit to revise the assessment.

Issue: Constitutional validity of the said Telangana Value Added Tax (Second Amendment) Act, 2017 is under challenge.

Held:

- i. Parliament intended to avoid the multiplicity of taxes by subsuming different types of indirect taxes in a single tax GST.
- ii. In terms of the Constitution (101st Amendment) Act, 2016, Telangana Value Added Tax Act, 2005 ("TVAT Act") was repealed by Telangana GST Act and State could only levy tax under TVAT Act for a window period of one year or till VAT Act was amended or repealed.
- iii. However, vide TVAT (Second Amendment) Act, 2017, the State of Telangana introduced certain provisions in the TVAT Act extending the limitation period to enable the initiation of fresh proceedings, such as revision.
- iv. Reliance was placed on judgments on other

High Courts which had decided on identical issues – Baiju A.A. Vs State Tax Officer [2020] 114 taxmann.com 567 (Kerala); Reliance Industries Limited Vs State of Gujarat 2020 82 GSTR 32 (Guj); and M/s Pankaj Advertising Vs State of UP (2020) 73 GSTR 235 (All).

Accordingly, it was held that TVAT (Second Amendment) Act, 2017 was thus unconstitutional being devoid of legislative competence.

6. DPJ Bidar – Chincholi (Annuity) Road Project (P.) Ltd. Vs. UOI [2022 140 taxmann.com 465 Kar]

Background:

- a. Initially, concessionaires for road constructions were allowed to collect tolls. Such toll collection was exempt from GST. However, as a policy decision, the NHAI took over toll collection and an agreed amount of annuity was paid in lieu of toll. Subsequently, it was proposed in the GST Council meeting that annuity should be treated at par with toll charges and therefore be exempt from GST. Pursuant to such recommendation, CBIC issued Notification-32/2017-CT(R), whereby annuity paid for providing service by way of access to a road or bridge is exempted.
- b. Thereafter, the GST council in the 43rd GST Council meeting issued clarifications that annuity paid as deferred payment for construction of roads/ highways was not exempted unlike annuity in lieu of tolls. Based on such clarification, CBIC issued a circular clarifying that access to roads or bridge falling under SAC 9967 is exempted but service by way of construction of road falls under 9954. Therefore, consideration for the construction of roads paid as an annuity is taxable.

Issue: Whether an annuity paid for the construction of roads is covered under Notification No. 33/2017-CT(R) and the subsequent clarification by the GST council and Circular issuing such clarification is contrary and liable to be set aside.

Held:

- a. The Hon'ble Karnataka High Court held that the initial GST Council meeting and pursuant notifications clearly held that the entire annuity being paid to the petitioners towards the construction and maintenance of roads is exempt from GST. Impugned Circular is contrary and overrides the notifications. If the government is desirous of altering the same, it should issue a fresh notification and not a circular.
7. **M/s. Rajiv Gandhi University of Health Sciences v. Principal Additional Director General & Ors., W.P No.57941/2018 Kar. HC. Decided on the 26th Day of July 2022. [reported in 2022-TIOL-1069-HC-KAR-ST]M/s. Bangalore University v. Principal Additional Director General**

Background: Petitioner-University is a statutory university set up under an Act of the State Legislature that has received affiliation fees, fines/penalties from the affiliated colleges, and also received the rents from certain buildings rented out on the university premises. The Respondent Department issued a show cause notice proposing to demand the service tax on the affiliation charges, penal charges for delayed payment of affiliation charges and rents received.

Held: The Court held that the collection of affiliation fees and fines/penalty for affiliation services by the University is for imparting education and the university being an educational institution, the said activity is not taxable in terms of Section 66D (1) of the Finance Act, 1994, till 2016 and such activities are exempt from service tax in terms of exemption notification from 2016 onwards.

The Court further held that rents received by the University are ancillary for the effective running of the University in furtherance of imparting education and this has to be considered as incidental to providing educational services and is naturally bundled in the ordinary course of business in terms of Section 66F (3) of the Finance Act, 1994 and hence the rents are also exempted

once the principal services are exempt.

8. Railsys Engineers Pvt Ltd Vs Additional Commissioner of Central Goods and Services Tax 2022-TIOL-1050-HC-DEL-GST

Issue: Petitioner has assailed the Order-in-Appeal, the SCN, and the order cancelling the registration of the petitioners inter alia on the ground that it was not signed.

Held: As per Section 169(1)(d) of the CGST Act, the order is to be made available on the common portal. That does not suggest that the orders need not be signed. At the least, the respondents/revenue should have appended digital signatures on the SCN as it has grave implications for the assessee.

9. Vodafone Idea Limited vs UOI [2022] 140 taxmann.com 327 (Bombay)

Background: Vodafone Idea Limited provide telecom services, inter-alia, it provides services in the nature of International Inbound Roaming Services (IIR) and International Long Distance (ILD) Services to Foreign Telecom Operators (FTOs).

Issue: Vodafone-Idea Limited filed a refund application under section 54 of the CGST Act, 2017 for GST paid on the export of services rendered by it. The refund claim of the Petitioner was rejected on the ground that the place of supply of services i.e., IIR and ILD services is in the State of Maharashtra and does not qualify to be export of services.

Arguments: Vodafone Idea Limited by virtue of IIR and ILD services provides a facility to the person who is traveling from abroad to use the telecom services from the same service provider with the same contact number so that his/her connection with the outside world will not be interrupted. To provide these services, Vodafone Idea entered into an agreement with Foreign Telecom Operators (FTOs) and receive the consideration for service in convertible foreign exchange.

Revenue contended that the services are supplied to the customer of FTO and not FTO as such.

Therefore, the place of service is contended to be in India as the customers of FTO make calls within the territory of Maharashtra and not outside India.

Held: As per the terms of the agreement, Vodafone Idea is obligated only to FTO and the consideration is payable by FTO in convertible foreign exchange and there is no mention of any agreement with the subscriber or customer of FTO. It would be practically impossible for Vodafone to have a contract with the subscriber of FTO. The recipient of service is FTO and not the customer of FTO. Therefore, the services would qualify as export.

10. TPI Advisory Services Pvt. Ltd. v. The Commissioner of Central Tax, MANU/KA/2614/2022

Background: The Appellants raised certain invoices for the period April 2017 to June 2017 and remitted Service Tax. However, because of certain business reasons, they were required to revise the invoice during the GST period and consequently, they had to issue credit notes for the earlier invoice and remit GST.

The issue which came up before the High Court was whether the appellant is eligible for the refund of service tax paid by them on account of cancellation of the invoice.

Held: The Court held that it is admitted fact that both service tax, as well as GST, has been paid by the assessee on the same transaction. Therefore, it was held that the rejection of the refund claim is untenable and the refund shall be granted with statutory benefits.

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TAX ON BRANDED TO PRE-PACKAGED AND LABELLED COMMODITY UNDER GST LAW

Indirect Tax

Pursuant to the recommendations of the 47th GST Council Meeting held on 28th and 29th June 2022, the sale of goods (specified) under registered brand & un-registered brand, which were liable to tax and exempted (subject to condition) respectively, got amended vide Notification No.06/2022 (CTR) Dt: 13/7/2022, where the sale of pre-packaged and labelled goods are brought under the taxable net.

Applicability of Legal Metrology Act, 2009

Legal Metrology Law applies to all transactions of any weight or measure. It applies to the manufacturer, retailer, wholesaler, trader, repairer of any weight or measure, importer or packer of any goods related to weight or measure.

Meaning of Pre-Packaged and Labelled

Notification No. 06/2022 (CTR) Dt: 13/7/2022, mentions that the meaning of the expression "pre-packaged and labelled" should be understood as defined under section 2(l) of Legal Metrology Act, 2009, which defines "pre-packaged commodity" to mean a commodity which without the purchaser being present is placed in a package of whatever nature, whether sealed or not, so that the product contained therein has a pre-determined quantity.

It is important to note that Though the Legal Metrology Law, defines the term "label", for the purpose of GST, the label meaning is not relevant. Notification only refers to the definition of the expression "pre-packaged commodity".

Further, the amended notification also mentions that the commodity in which the package is,

(a) pre-packed; or

(b) a label is securely affixed thereto

is required to bear the declarations under the provisions of the Legal Metrology Act 2009 and the rules made thereunder.

A collective understanding of the expressions "pre-packaged and labelled commodity" means not all packaged commodities are liable to tax under GST, but the packaged commodities which require to bear declarations as prescribed under LMA attract GST.

- More precisely if goods (specified) are pre-packed and declaration is required under LMA, GST is applicable.
- If goods (specified) are pre-packed and declaration is not required under LMA, GST is not applicable.
- If goods are sold in loose, GST is not applicable.

Legal Position on declaration under LMA

Section 18 of LMA read with Rule 6 of Legal Metrology (Packaged Commodities) Rules 2011, stipulates the declarations that are mandatory to be made on every package. However, Rule 3(a) of LMPC states that declarations are not required for (i) packages of commodities containing quantity more than 25 kg or 25 litres; (ii) package commodities meant for institutional/ industrial consumers, and (iii) cement fertilizers & agricultural farm produce sold in bags above 50 Kg.

Further Rule 26 of LMPC provides for exemption in respect of the following packages;

- (i) If the net weight or measure of the commodity is 10g or 10ml or less, if sold by weight or

measure (not applicable to tobacco and tobacco products); and

- (ii) package containing fast food items packed by the restaurant;

Contradictory Clarification by GoM

It is important to note that, Legal Metrology Law, prescribes declarations separately for retail packages and wholesale packages i.e., Rule 6 falling under Chapter II deals with packages intended for retail sale. Rule 24, falling under Chapter III deals with wholesale packages. The exemption provided for packages containing more than 25 Kg or 25 litres is applicable for retail packages and not for the wholesale package.

However, GoM vide FAQ, Dt: 17/07/2022 at Sl. No.4 clarified that such exemption is applicable for the wholesale package, even though Rule 24 mandates declaration. Therefore, the question arises whether clarification issued under FAQ which overrides Notification as well as provisions under LMA can be relied upon or not.

However, based on the Clarification issued based on FAQ, Dt: 17/07/2022 following inference can be drawn on liability to pay tax and exemption on pre-packaged and labelled commodity

Situation	GST Applicability
Sale from distributor/ wholesaler to retailer	Exempt
Sale from retailer to consumer	Exempt
Note: 50 Kgs in case of agricultural produce	
Goods Sold in LOOSE	
Sale from manufacturer to distributor/ wholesaler	Exempt
Sale from distributor/ wholesaler to retailer	Exempt
Sale from retailer to consumer	Exempt
Industrial & Institutional Consumers	
Supply of goods to Industrial or Institutional Consumers irrespective of quantity	Exempt

Situation	GST Applicability
Package containing LESS THAN OR UPTO 25 Kgs	
Sale from manufacturer to distributor/ wholesaler	Taxable at 5%
Sale from distributor/ wholesaler to retailer	Taxable at 5%
Sale from retailer to consumer	Taxable at 5%
Package containing MORE THAN 25 Kgs	
Sale from manufacturer to distributor/ wholesaler	Exempt

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DISSECTING THE MOST FAVOURED NATION CLAUSE

1. What is Most Favoured Nation (MFN) Clause?

- 1.1. MFN clause under a treaty / Double Taxation Avoidance Agreement allows a contracting state to provide treatment “no less favourable” to another contracting state than the treatment they provide under the other treaties. As per this clause, a contracting state agrees to accord to the other contracting state a beneficial treatment, in line with the similar beneficial treatment that it has accorded to the other third states. Therefore, where a contracting state (say, Country “A”) has entered into a convention/agreement/protocol with another contracting state (say Country “B”) and thereafter the contracting state (Country “A”) has entered into another agreement with a third country (say Country “C”) with a lower rate of tax or more restricted scope such –

a. Lower rate or

b. Restricted Scope

shall be provided for in that convention/agreement/protocol on the said items of income with the first contracting state (i.e., country “A” & “B”) subject to the conditions as specified in the protocol.

2. Objective/Principle of MFN –

- 2.1. The objective of the MFN clause is to provide the impetus to free trade and promote non-discrimination in terms of trade or taxability of income. MFN clause has thus become a significant instrument of economic liberalization in the investment area. While MFN is a standard of treatment that has been linked by some to the principle of the equality of States, the prevailing view is that an MFN obligation exists only when

a treaty clause creates it. In the absence of a treaty obligation (or for that matter, an MFN obligation under national law), nations retain the possibility of discriminating between foreign nations in their economic affairs.

3. Origin of MFN –

- 3.1. MFN treatment has been a central pillar of trade policy for centuries. It can be traced back to the twelfth century, although the phrase seems to have first appeared in the seventeenth century. MFN treaty clauses spread with the growth of commerce in the fifteenth and sixteenth centuries. The United States included an MFN clause in its first treaty, a 1778 treaty with France. In the 1800s and 1900s, the MFN clause was included frequently in various treaties, particularly in the Friendship, Commerce, and Navigation treaties. MFN treatment was made one of the core obligations of commercial policy under the Havana Charter where Members were to undertake the obligation “to give due regard to the desirability of avoiding discrimination as between foreign investors”. The inclusion of MFN clauses became a general practice in the numerous bilateral, regional, and multilateral investment-related agreements which were concluded after the Charter failed to come into force in 1950.

4. Implementation of MFN Clause –

- 4.1. It is important to bear in mind that the implementation of a Most Favoured Nation clause is not always homogenous. There is a different way in which such an MFN clause can be implemented. A different situation is discussed below –

a. Only Upon Negotiation –

India-Switzerland DTAA requires fresh negotiations for giving effect to the MFN clause in the protocol. This is due to the following protocol between India-Switzerland DTAA –

“If after the date of signature this Amending Protocol, India under any Convention, Agreement or Protocol with a third State which is a member of the OECD, restricts the scope in respect of royalties or fees for technical services than the scope for these items of income provided for in Article 12 of this Agreement, then Switzerland and India shall enter into negotiations without undue delay in order to provide the same treatment to Switzerland as that provided to the third State.”

b. Through Diplomatic Channel –

In the India-Philippines tax treaty, the MFN clause provides that the treaty partners inform the other party so that the matter is appropriately reviewed through diplomatic-channels so that the existing provisions can be brought on par with more generous tax treatment in the source jurisdiction. The protocol of the treaty is given below –

“With reference to Articles 8 and 9 if at any time after the date of signature of the Convention the Philippines agrees to a lower or nil rate of tax with a third State the Government of the Republic of the Philippines shall without undue delay inform the Government of India through diplomatic channels and the two Governments will undertake to review these Articles with a view to providing such lower or nil rate to profits of the same kind derived under similar circumstances by enterprises of both Contracting States.”

Note: This para of the protocol which is applicable to MFN clause provides for a lower/nil rate only but not for restriction of scope. Therefore, diplomatic intervention for application is not required if there is a less restricted scope provided under the treaty.

c. Apply through the treaty itself –

In the India-Swedish treaty, the protocol clause does

not prescribe anything that is required to be done to give the effect of MFN status as the same rate or same scope as extended to any other OECD country “shall also apply” under this treaty. This is similar to the India-Netherlands treaty.

5. Interpretation of MFN Clause –

5.1. MFN Clause is usually found in protocols. Let us understand this with the following cases –

Case 1: Where there is a benefit of lower/nil rate of tax (India – Switzerland treaty with India – Slovenia treaty).

a. Provision of Article 10 of India – Switzerland Treaty

“1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 percent of the gross amount of the dividends.”

.....

b. The MFN clause as per protocol on DTAA with Switzerland :

“In respect of Articles 10 (Dividends), 11 (Interest) and 12 (Royalties and fees for technical services), if under any Convention, Agreement or Protocol between India and a third State which is a member of the OECD signed after the signature of this Amending Protocol, India limits its taxation at source on dividends, interest, royalties or fees for technical services to a rate lower than the rate provided for in this Agreement on the said items of income, the same rate as provided for in that Convention, Agreement or Protocol on the said items of income shall also apply between both Contracting States under this Agreement as from the date on which such Convention, Agreement or Protocol enters into force”

c. Provision of Article 10(2) of India - Slovenia Treaty

However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- 5 percent of the gross amount of the dividends if the beneficial owner is a company that holds directly at least 10 percent of the capital of the company paying the dividends;
- 15 percent of the gross amount of the dividends in all other cases.

d. Analysis of India – Switzerland Treaty with India – Slovenia Treaty

In the above-given para a to c under para 5.1, specifically related to dividends payment from India to Switzerland, the India-Switzerland DTAA prescribes a withholding of 10%, yet as India, has entered into DTAA with another member country of the Organization for Economic Cooperation and Development (OECD) wherein India limits its tax deduction at source (“TDS”) to a lower rate than the once agreed between India and Switzerland, then from the date such agreement comes into force, the rates or scope contemplated in such other treaty shall apply to India-Switzerland DTAA. Though India-Switzerland prescribes a withholding rate of 10%, as India has entered into DTAA with other OECD member Countries being Slovenia (or Lithuania or Colombia) wherein tax rate on dividend income was agreed at a lower rate of 5%, owing to the MFN clause, the lower withholding rate shall also apply to any dividend income under India-Switzerland DTAA.

Table showing the applicability of MFN clause in India-Switzerland treaty read with India-Slovenia treaty:

Particulars	India - Swiss DTAA	As per India Switzerland Treaty 29.12.1994	Applying MFN clause 5 of the Protocol*	Agreement with Third Country after India - Swiss DTAA
Dividends*	Article 10	10%	5%	India – Slovenia
Interest	Article 11	10%	10%	10%
Royalties/ FTS	Article 12	10%	-	-

*India-Swiss DTAA. It is assumed that the beneficial owner is a company that owns more than 10 % of the capital of the paying dividends and in other cases, it will be 15%.

Case 2 – where there is a benefit of restricted scope (India-Sweden treaty read with India-Portuguese treaty)

a. Provision of Article 12 of the India-Sweden Treaty

As per Article 12 of the India-Sweden treaty transaction with respect to “Royalties and Fees for Technical Services” shall be taxed at the rate not more than 10% of the gross amount of the royalties or fees for technical services. As per Article 12(3)(b) of the India-Sweden DTAA, the meaning of ‘fees for technical services’ are given as below –

“payment of any kind in consideration for the rendering of any managerial, technical or consultancy services including the provisions of services by technical or other personnel but does not include payments for services mentioned in Articles 14 and 15 of this convention.”

b. MFN Clause as per the Provision of India-Sweden Protocol

The Protocol to India-Swedish Tax Treaty with reference to Articles 10, 11, and 12 is given below –

"In respect of Article 10 (Dividends), 11 (Interest), and 12 (Royalties and Fees for technical services) if under any convention, agreement or protocol between India and a third state which is a member of OECD, India limits its taxation at source on dividends, Interest, royalties or fees for technical services to a rate lower or a scope more restricted than the rate or scope provided for in this convention on the said items of income, the same rate or scope as provided for in that convention, agreement or protocol on the said items of income shall also apply under this convention".

c. Analysis of India – Sweden Treaty

As per the above Article in para “a” and the protocol in para “b” in case 2 we can see that a lower rate of 10 % or a more restricted scope with respect to the ‘fee for technical services’ shall be applicable provided India enters into another agreement with a member of OCED for such lower rate of restricted scope.

d. Provisions of India – Portuguese Treaty

Now as per the India – Portuguese Treaty in Article 12(4), ‘fee for included services’ means –

“payment of any kind, other than those mentioned in articles 14 and 15 of this convention, to any person in consideration of the rendering of any technical or consultancy services (including through the provisions of services of technical or other personnel) if such services:

- a. are ancillary and subsidiary to the application or enjoyment of the right, property, or information for which a payment described in paragraph 3 is received; or
- b. make available technical knowledge, experience, skill know-how or processes or consist of the development and transfer of a technical plan or technical design which enables the person acquiring the services to apply the technology contained therein.”

e. Analysis of India-Sweden Treaty with India-Portuguese Treaty

- It is to be noted here that the India-Portuguese tax treaty was entered into after the India-Swedish tax treaty and the India-Portuguese tax treaty provides for a more restricted scope of ‘fees for technical services’ in as much as it adopts the ‘make available’ clause which restricts the taxation of fees for technical service.
- The India-Sweden treaty does not provide any provision for “make available”.
- As per the India-Portuguese treaty “fee for included services” shall be taxed only such ‘make available’ technical knowledge, experience, skill, know-how or process or consist of the development and transfer of a technical plan or technical design which enables the person acquiring the services to apply the technology contained therein.
- Therefore, applying the India-Swedish treaty in light of the India-Portuguese treaty, the liability to deduct tax will arise in the contracting state only when there is a ‘make available’ knowledge.

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ESG AND FINANCIAL REPORTING

ESG

Background: Business Responsibility and Sustainability Reporting ('BRSR') is applicable for Top 1000 listed companies by market capitalization from the year 2022-23 which covers various aspects of Environment, Social and Governance (ESG) aspects. The BRSR requires companies to report on steps taken to indicate the level of preparedness and steps taken to make the business more sustainable. SEBI has given a format in which the reporting is required to be done. However, companies may give more information based on their obligations to investors on reporting of ESG, listing obligations in another geography, as a good governance practice, benchmarking with global peers, etc., The reporting requirement cannot be done in isolation considering the implications it has on business process, risk management, financial reporting, organisation hierarchy etc., this article focuses on how ESG reporting would impact the financial reporting or vice-versa.

Impact on Financial Reporting: ESG reporting brings out various aspects of business which directly or indirectly has implications on the financial reporting aspects. Similarly, there would be certain disclosures made in the financial statements, which may have implication on the ESG reporting. Therefore, one has to be careful in drafting both the reports and ensure consistency in reporting. Similarly, there are implications in the reporting of risk management, corporate governance, and other information discussed in the annual report which needs to be suitably addressed. This article aims to highlight some of the implications in the financial reporting:

Tangible / Intangible Assets: *Property, Plant and Equipment – Accounting of depreciation, impairment loss etc.,*

Companies have significant investments in Plant & Machineries (including Right to Use Assets) especially,

those which are in nature of exploration, production, emitting carbon dioxide and other gases etc., need to be looked into for the estimates in useful life and assumptions made for impairment of asset. If the Company has committed for net-zero carbon emission by say 2035, and the useful life of the assets given is say 30 years, it is quite likely that these assets would have to be retired by 2035 which is less than the originally estimated life of 30 years from today. Hence, there is a case that these assets are likely to be disposed off much before their estimated useful life and therefore there is a need to change the estimated useful life of the asset. Similarly, where there would be significant decrease in market prices for emission intensive asset due to change in business globally, lower customer preference, contractual or statutory obligations, decreased performance, etc., this makes a case for impairing the asset. Therefore, the overall value of the asset, as indicated in the financial statements, would be impacted.

Goodwill – Goodwill typically arises when consideration paid to acquire a business is more than its fair value. Various factors would have been considered at the time of acquisition of business to arrive at the fair value. Goodwill is expected to be tested for impairment and loss be provided. The impairment computation would also be influenced by the factor as to whether the business is 'sustainable' over a period of time and whether the returns that was envisaged would be realised or not. There is a good chance that Goodwill on acquired business may have to be impaired if the expected returns do not meet the value it is expected to fetch.

Decommissioning liabilities / Remediation liabilities – Considering the importance given to sustainable business, one can expect more expenditure in term of clean-up costs (Principle 6 of BRSR), consulting costs. Engineering costs, post-remediation costs etc., Hence, the cost of decommissioning liability is also expected to

increase, leading to increase in provisions.

Similarly, there are third-party claims, extended producer responsibilities (Principle 2 of BRSR) rehabilitation claims, business interruption claims etc., which needs to be considered in financial reporting.

Companies should also look out for adequate disclosure of capital & other commitments in the Notes to Accounts where there are firm commitments to acquire or having capital expenditure on ESG related activities.

Employee Benefits: Of late, compensation of managerial personnel is indexed to achievement of ESG goals. (Source: Big Oil CEOs have personal reason to focus more on less fossil fuels (cnbc.com), More companies linking executive pay to ESG targets - Capital Monitor). This brings in complexities in accounting of employee benefits especially when there are long term goals to be achieved. What kind of assumptions would have to be considered while making provisions? What would be the view of the Actuaries and how will they consider this impact on the valuation of various employee benefits would be an experience. Research has found that FTSE 100 companies have increased linking compensation linked to ESG Goals. (FTSE 100 firms increasingly linking ESG goals with executive pay | The Actuary). Therefore, there would be increased need to understand how the future of employee benefits would unfold and the financial reporting challenges it throws up. Similarly, organisation need to look into the termination benefits arising out of discontinuation of a plant, automation of large process which was done manually and was not all that safe, etc., and ensure appropriate accounting of such benefits.

Business Combinations and Restructuring: Inorganic growth has been one of the strategies of corporates to grow and achieve their objectives. Acquisitions can also be a tool to meet the ESG goals or metrics. Contingent Consideration is defined as, “Usually, an obligation of the **acquirer** to transfer additional assets or **equity interests** to the former owners of an **acquiree** as part of the exchange for control of the **acquiree if specified future events occur or conditions are met**. However, contingent consideration also may give the acquirer the right to the return of previously transferred consideration if specified conditions are met.” Business combinations can have clauses relating to achieving certain climate-related goals

and the consideration linked to achieving such goals. The payment of contingent consideration could be to the acquirer or to third party as well, requiring differential accounting treatments at the time of recording the acquisition and later at the time of settlement of the liability.

Restructuring of business: Examples including disposing of a business, discontinuing a component or a line of business, etc., to bring in efficiencies of production, cost reduction, tax benefits, etc., In emission intensive industries where there are certain strategic decision is taken to dispose off a unit / business considering regulatory requirements on pollution control, changes in consumer behaviour to have more sustainable products, etc., the reporting aspects to be considered:

- Would this impact reporting of operating segments, thereby the disclosure would undergo a change and the way the business is valued or perceived to provide value would also undergo a change.
- Would this require disclosure of discontinued operations, in which case reporting of such impact on the revenue, profitability, cash flows, net worth of the entity;
- Classification of Assets / disposal group as ‘held for sale’ and thereby writing it down to lower of cost and fair value less cost of sales.

Contingencies and Provisions: Companies would have to evaluate whether there are legal, contractual or even constructive obligations that may arise from an entity’s actions which require provision or disclosure in the financial statements. Considering the actions that may be required to be taken there could be probability of outflow of resources embodying economic benefits and therefore would have to be recognised to settle the obligations. There could be cases where there are possible obligations which are yet to be confirmed that may require disclosure as contingent liabilities.

Financial Instruments: The growing accounting complications in ESG related financial instruments has also IASB to discuss on the its implications in IFRS 9. Post-implementation Review of IFRS 9 by IASB also had one of the topics on impact of ESG linked features to financial assets (Source: AP3B: Contractual cash flow

characteristics assessment—ESG-linked features (ifrs.org) . The complications in accounting arising more in terms instruments wherein the interest rate is adjusted depending on the borrower achieving pre-determined ESG goals that are specific to the borrower. For example: adjustments to the contractual interest rate ranging between 2.5 to 10 basis points, social and governance targets related to employee gender and ethnic diversity, and to increase the percentage of employee shareholders etc., The points considered during the above review included:

- a. Whether the investment in such bonds are to be treated as financial assets that have contractual cash flows that are SPPI (Solely for the purpose of Principal and Interest) and hence to be measured at amortised cost (considering the fact that the instrument provides interest over a period of time and that the issuer of such financial instruments would also measure it as financial liability at amortised cost);
- b. There were views that to measure at fair value through profit or loss would not be appropriate considering that changes in interest rate and credit risk needs to be considered than the risk associated with ESG linked features. ESG linked features are new and the challenges arising out of fair valuation of such features.

- c. The respondents to the post-implementation review considered disclosure to be critical in providing useful information about the entities exposure to ESG-linked risks arising from financial instruments.

From the lender's side as well, there are diverse views including whether ESG risks are to be considered in the overall credit risk management process. How would the bankers / lenders consider the margin on ESG linked features for short-term or long-term loans, and whether the ESG linked feature is an embedded derivative. These are some of the questions that the accounting fraternity and financial reporting standards setters are debating to provide some guidance going forward.

Conclusion: Well, the above are just some of the financial reporting implications that one may have to consider when reporting aspects in BRSR vis-à-vis the financial statements and there would be many more of such areas where there is interplay between the two reports. In my view, there will be a new wave in the financial reporting world considering increased awareness ESG reporting requirements which our fraternity to look at a whole new professional opportunity and also increased responsibility from reporting perspective.

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Is GOOD GOVERNANCE A RIGHT OF THE CITIZEN OR NOT

Special Feature

1. 'Action Aid', an organization espousing the cause of good governance, in its Resource Book titled "Good Governance" published in 2004 traces the international thinking and the state came into sharp focus in the aftermath of World War II. While democracy was touted as the 'greatest good for the greatest number' it was often reduced to 'the will of the majority'. Carried to extremes, this majoritarian will, can lead to cruel repression of minorities as was witnessed in Nazi Germany prior to the genocide. Horrified at the depths to which 'rule of law the majority' could sink if it was not based on democratic values of equity and justice, the United Nations came out with the Universal Declaration of Human Rights. This set forth in detail the minimum obligations of the states to all persons at all times. Neither the will of the majority, nor greatest good for the greatest number, could override these principles."
2. In the above background, the above resource book describes the Governance as combination of three major components; that of process, content and deliverables. The process of governance includes factors such as transparency and accountability. Content includes values such as justice and equity. Governance cannot be all process and values. It must ensure that the citizens, especially the poorest, have the basic needs and have a life with dignity. A dictatorship that delivers basic needs to the citizens is no doubt better than a dictatorship that does not, but it is not good governance. Similarly, regular elections alone do not translate into 'good governance'. Rule of law that is transparent, but unjust is certainly not 'good governance'. It is only when all these three conditions are fulfilled that governance becomes 'good governance'.
3. Good governance implies an administration that is sensitive and responsive to the needs of the people and is effective in coping with emerging challenges in society by framing and implementing appropriate laws and measures. It includes strict rules of accountability. It could be centered on community groups or individuals and based on a notion of rights as inherently comprising duties. Rulers must be strictly bound by generally accepted norms and controlled by institutions to enforce those.
4. India fought for its independence not only from foreign domination and to regain its sovereignty but also to be governed by itself. It wanted a Government of the people, by the people and for the people. Under the Indian Constitution people who administer the country have a special status. They have been recognized as the 'Executive'. The executive, the legislature and the judiciary form three main pillars of our Constitution.
5. The Constitution of India envisages an Independent Executive. Its connection with the Legislature is only through the Cabinet. The duties and powers to be exercised by the executive are governed by the Transaction of Business Rules made under Articles 77 and 166 of the Constitution. The executive can be broadly divided as political executive i.e. the cabinet and the bureaucrats who should administer the country at various levels in their hierarchy. To give good governance or administration the Constitution provides for separate administrative

services both at the Centre and at the State levels. The members of the bureaucracy are selected with prescribed educational qualification and through competitive examination, thereafter they are trained in the art of public administration. While the political executive, which is the cabinet is selected from the elected representatives and for them no educational qualification or experience is prescribed. They come to the legislature through elections and no being appointed to the cabinet as Minister becomes the political executive. Obviously, this type of dual executive system is adopted by the Indian Constitution with a view to give 'the Executive a people friendly look. In their own areas political executives and bureaucrats have to work independently. But political executive by their presumed popularity has acquired excessive dominance by misusing the transaction of Business Rules. If these Rules were to be used only for the object for which they are incorporated in the Constitution, then the bureaucrats would have been the true administrators and would have been instrumental in providing good administration which is a fundamental right of the citizens of India. The idea that constitutional frames did not intend Articles 77 and 166 to be used for political dominance in governance, is clear from the fact that no qualification was fixed for Members of the Legislature and Cabinet.

6. Over the years political dominance in the guise of representing people's will has overshadowed the importance of bureaucracy. This dominance because of which good governance has suffered.
7. Lack of good governance was perceived by the country as far back as in 1960's itself. Therefore, an Administrative Reforms Commission was constituted which in its report submitted in 1966 among other recommendations also recommended the creation of an Indian type of Ombudsman called 'Lokpal' at the Center and Lokayukta at the States level. However, till date no Lokpal is appointed. For the first time in the Country, Karnataka State Legislature passed the Karnataka Lokayukta Act, in 1984 and brought it to force in 1986. Though not all, some other States have followed this step. Need for the existence of this institution is reiterated

by the II Administrative Reforms Commission in its Report made in the year 2007, which officially indicates that maladministration still continues.

8. Good Governance can be provided by public servants only if they realize that they are not of the people, but they are only servants of the people and that they owe a duty to the people. For this they will have to follow certain principles of 'Raj Dharma'. The ingredients of 'Raj Dharma' is enumerated in a Report prepared by Lord Nolan of U.K which is known as 'Standards in public life'. This report though prepared with reference to governance in Great Britain, the same is ipso facto applicable to governance in India.
9. Lord Nolan has laid down seven principles of Public Life and they are:-

"Selflessness i.e.,

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity, i.e.,

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organizations that might influence them in the performance of their official duties.

Objectivity, i.e.,

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability, i.e.,

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness, i.e.,

Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty, i.e.,

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership, i.e.,

Holders of public office should promote and support these principles by leadership and example.”

The above principles were accepted by the Hon’ble Supreme Court of India in its judgment in the case of Vineet Narian V/s. Union of India (AIR 1998 SC 889). While accepting the above principles, the Supreme Court stated:

“These principles of public life are of general application in every democracy. And one is expected to bear them in mind while scrutinizing conduct of every holder of a public office. It is trite that the holders of public offices are entrusted with certain powers to be exercised in public interest alone and, therefore, the office is held by them in trust for the people. Any deviation from the path of rectitude by any of them amounts to be a breach of trust and must be severely dealt with instead of being pushed under the carpet. If the conduct amounts to an offence, it must be promptly investigated and the offender against whom a prima facie case is made out should be prosecuted expeditiously so that the majesty of law is upheld and the rule of law vindicated. The adverse impact of lack of probity in public life leading to a high degree of corruption is manifold. It also has adverse effect on foreign investment and funding from the International Monetary Fund and the World Bank who have warned that future aid to underdeveloped countries may be subject to the requisite steps being taken to eradicate

corruption, which prevents international aid from reaching those for whom it is meant.”

So said the Apex Court in the above cited case.

10. In the case of State of Assam V/s. P.C. Mishra (AIR 1966 SC 430), the Supreme Court stated that:

“It is incumbent for each occupant of every high office to be constantly aware that the power invested in the high office he holds is meant to be exercised in public interest and only for public good, and that it is not meant to be used for personal benefit or merely to elevate the personal status of the current holder of that office. Constant awareness of the nature of this power and the purpose for which it is meant would prevent situations leading to clash of egos and the resultant fall out detrimental to public interest”.

11. There is no doubt, under the Indian Constitution, the executive, both political and bureaucratic are very powerful organs. Still they should always bear in mind their obligation to the people, as also the prophetic words “Be you ever so high, the law is above you”.

12. Having analyzed these guidelines to the administration for good governance, let me consider whether the above principles laid down by Lord Nolan are followed by the Administration in the present day context. The Public perception is that there is lack of ethics and good governance both are the center and at the State. Reasons may be many and this lack is felt not only by the common man, but also by the people holding very high office. For example, none other than the then Hon’ble Prime Minister of this Country, on 15th April 2007 addressing the 2006 batch of IAS probationers stated, (see Deccan Herald dated 16/5/2007) and I quote “the barriers of administrative and political corruption should be tackled by the upcoming bureaucrats and quality of governance be improved at all levels to build an India ‘worthy of our dreams’. If there are barriers, there are barriers in our country, in our good governance, in our governance processes, it is a fact there is lot of corruption, both

at the political level and at the administrative level. We must take it head on.”

13. Thereafter, the very same Prime Minister inaugurating the conference of CBI stated that there is very large scale corruption, even in high places and many big fish are escaping and they should be caught and severely punished at the earliest. Obviously, the said Hon'ble Minister was talking about the corruption in Governance. These words of the Hon'ble Prime Minister are certainly not complimentary and he was certainly speaking with all responsibility. His words indicate that apart from lack of good governance, there is corruption in the administration.
14. When one speaks of corruption and maladministration, it is not a question of degree or percentage of corruption in administration. But it is about the lack of probity which is the foundation of good governance.
15. The then the Governor of Karnataka Shri T. N Chaturvedi, who was a bureaucrat himself, in his last Republic Day address said “Corruption is not merely a dirty word. It describes a dirty act. We need to have a policy of zero tolerance towards all acts of corruption. We need to assert that there is no difference between a small act of corruption and major instances of malfeasance. There is no such thing as petty corruption – there is corruption, per se. It is necessary to strike at the very roots of corruption, for if we allow its tentacles to grow we will be firmly in its grip, with no way out. This is a very real danger. Corruption in any walks of life can corrode, decay and annihilate our democratic system. We can ignore or minimize its evil effects at our own risk. Corruption and unrefuted allegations of misuse of power for self and pelf do shake the faith of ordinary citizens in our democratic system.”
16. The views expressed by the Hon'ble Prime Minister of the Country and the then the Chief Executive of the State are truly reflecting the perception of the common man also.
17. The said Hon'ble Prime Minister has spoken, the then Governor of the State has spoken, many

leaders holding high political offices have spoken about corruption. But who amongst them will bell the cat. Certainly they cannot expect an ordinary citizen to take steps to bring about this change without there being a will on the part of the people in Governance to tackle corruption. It is one thing to talk of corruption and maladministration and another to act against it, but what action the people at the helm of affairs taking to stem this rot? The Country does not need to be reminded time and again about this evil. The Country wants to know what is being done about it.

18. Having understood that there is corruption in administration, both political and bureaucratic, let me recapitulate at least one instance of corruption which must have affected directly the economy of the country and indirectly the rights of an ordinary man. In a reported news item in Times of India it is seen that out of very many lakhs of crores released by the Government of India for eight national schemes, it is reported by none other than the CAG that at least a sum of Rs. 51,000 crores allocated to these schemes have not been accounted for. Imagine a sum of Rs.51,000 crores in one year only out of 8 schemes being siphoned. There are hundreds of such scheme of both the Center and States, then how much money earmarked for the poor must have been siphoned off. It is a matter of public knowledge that in the year 1986 the then Prime Minister reported to have stated that out of every rupee earmarked for the benefit of the citizen, only 15 paise reaches the beneficiary. Thereafter, another top leader of a National Party has reportedly stated that the amount so spent has come down to 10 paise only. This almost means that it is only 10% of its expenditure on an ordinary citizen, if so where does the balance of 90% go. Put conversely if 90% of the budget amount reaches the ordinary man, guess what would be the benefit poor will get. If we apply this factual statement made by the then Prime Minister of India, at least to the amount allocated for the benefit of the ordinary citizens of India in the annual budget of the Central Government, then you will notice the magnitude of corruption. It is said that towards

revenue expenditure, the annual budget provided about 8,97,2332 crores of rupees annually for the ordinary citizens of India, out of this as per the Late Prime Minister only 15% reaches the beneficiary and 85% of that amount goes unaccounted. This single factor will show the effect of corruption on good governance. It is because of this type of governance, even after 75 years of independence and 72 years of democracy, the poor has remained poor and the rich has become richer. If one has to see the effect of corruption on governance, one has to go to public offices and try to seek an interview with a public servant and experience whether it is possible to get an interview with a public servant at any hierarchy without pocketful of money to bribe or political backing to get the work done. If one makes an audit of the time spent by the bureaucrats in every level of their work, I am sure that the said report will show that most of the time the bureaucrats are not in their designated places, but are in so-called meetings with the political bosses. India, which boasts of largest democracy in the world which is supposed to be ruled by the Government of the people, seems to have lost the true meaning of the word 'democracy'.

19. Let me try to find out briefly the cause of this malice. Our Constitution contemplated an independent legislature, executive and judiciary. Over the years, for the reasons well-known the Legislature and Bureaucracy seems to have merged into one group like the conjoined twins, one supported by the other. If our Constitutional organ, like the executive, is independent and honest, there could be no political corruption and vice-versa. If there is corruption as stated by the then Hon'ble Prime Minister and as I believe it to be true, then it is because of the collective greed of the elected representatives and Bureaucracy.
20. Has the Government made any efforts whatsoever to fight corruption, is the moot question. Originally when Indian Penal Code was drafted, it contained a provision against almost all crimes that was drafted, it contained a provision against almost all crimes that was perceived by the Society which included

corruption. When a particular crime grows out of proportion, the Legislature make special laws to fight the same like Anti-Terrorist Act, Offences against Women, etc. In 1947 itself the Government of that time perceived that the corruption had reached a stage which required a special law other than the Penal Code to deal with it. Hence, the Prevention of Corruption Act, 1947 was codified. With the tremendous growth in corruption and number of people involved in corruption, one would have expected the law makers to make stricter anti-corruption Laws. Alas, that did not happen. But what has happened on 23rd December 2008 is something unbelievable while approving 17 Bills in 12 minutes, the Indian parliament approved an amendment to Prevention of Corruption Act, which would have literally nullified the powers of the prosecuting agency. I ask a question to the law makers since 1947 to December 2008, has corruption reduced, so that it became necessary for the law to be diluted rather than making it stringent.

21. One of the commonest method by which the bureaucrat could be made subservient or even corrupted is by way of 'transfer'. Today, Government servants are used to cushy postings which is a gift of political bosses. Transferring officials is not and should not be the prerogative of political bosses. It is the most potent weapon by which you can control the honest bureaucrat or reward dishonest one. I strongly believe that the power of transfer should be vested with the bureaucracy itself and politicians should not have any role to play in it. Way back in 2007 itself I had written to the administrative Reforms Commission about the evils of transfer in the hands of political bosses. But nothing seems to have happened except reproducing my letter in one of its report.
22. Transparency and accountability are other factor which makes or mars good governance. Unfortunately both are lacking in spite of Right to Information Act coming into force.
23. Good Governance requires foresight and master planning. Administration should be able to

foresee natural calamities and provide measures in advance to face such calamities. But today, as is well said any calamity is a boon to large section of governance. Cynics say in a democracy people get the Government they deserve. I do not believe in it. May be in life many events happen over which we may not have any control. But in a democracy many changes can be achieved if people fight for it collectively. According to me, good governance is our fundamental right. Collective voice for this will have its own effect. Everyone should raise their voice about it. If that happens, one day in future I am sure good governance will be the rule of the day. No, doubt, an eternal vigilance is the price one has to pay in democracy and that eternal vigilance should be a collective one.

24. Very often when I deliver lectures to the students who are graduating, I am fond of quoting a stanza from the Gurudev Rabindranath Tagore's Nobel Prize winning Gitanjali. In the context of today's address, I have emboldened myself to modify that Gitanjali in the following words to express my views on today's democracy.

"Where the mind is without fear and every head is held high;

Where knowledge is free;

Where the country will not any more break into fragments of hate based on religion, caste and language;

Where words of politicians come from the depth of truth;

Where arms of administration stretch towards the needy and deprived not to fleece them but to help them.

Where heart of politicians and administrators work towards fulfilling the promises enshrined in our Constitution;

Into that heaven of freedom our Mother India should awake for its next Independence Day."

(With profound apologies to Gurudev Tagore)

I am confident all the above are achievable with the application of honesty and accountability in administration.

*Special Speech delivered in the memorial lecture of
KSCAA's beloved Past President
Late. Shri. CA. H B M Murugesh*

KSCAA Welcomes New Members August 2022

Sl.No	Name	Place
1	Padmaja Vikas Sunkad	Bengaluru
2	Gopikrishna B	Manvi
3	Sumit Raibagi	Ilkal
4	Surender Jangir	Bengaluru
5	S Ragunathan	Bengaluru



CA. Vinayak Pai V

FINANCIAL REPORTING AND ASSURANCE

1. KEY UPDATES [For June and July 2022.]

AS | Ind AS

• ICAI Publication – Educational Material on IndAS 34, *Interim Financial Reporting*

- o On 4th July 2022, the Institute of Chartered Accountants of India (ICAI) released **Educational Material** to provide guidance in the form of **Frequently Asked Questions (FAQs)** on **practical issues** that preparers and auditors of Ind AS financial statements face in applying **Ind AS 34**.
- o Ind AS 34 prescribes the minimum content of an interim financial report and prescribes the principles for recognition and measurement in complete or condensed financial statements for an interim period.
- o The FAQs, inter-alia cover: When does the standard apply? making use of estimates in preparing interim financial statements; and should a 3rd balance sheet be presented in the interim financial report when there is a change in an accounting policy either voluntarily or due to initial application of an Ind AS?
- o **Link** to the Educational Material:
<https://resource.cdn.icai.org/70876asb56847.pdf>

• ICAI's Technical Guide on Financial Statements of Non-Corporate Entities

- o The ICAI issued a **Technical Guide** on **Financial Statements of Non-Corporate Entities** on 1st June 2022.
- o The guide deals with the applicability of accounting standards to non-corporate entities and **prescribes the format of the financial statements for Non-corporate Entities** (Sole proprietorship firms, HUFs, Partnership Firms, AOPs, BOIs, Resident Welfare Associations, Society, Trust, Statutory Corporations, Autonomous Bodies and Authorities and any form of organization that is engaged fully or partially in any business or professional activities unless their activities are fully charitable in nature). LLPs are scoped out of this Technical Guide and a separate Guide for LLPs has also been issued. (Refer to the following update).
- o The Guide contains chapters on Financial Statements, Balance Sheet, Statement of Profit and Loss, Cash Flow Statement, and Formats of **Financial Statements** for Non-Corporate Entities in addition to **Illustrative Financial Statements**.
- o The Technical Guide is relevant for the purpose of preparation of the financial statements of Non-Corporate Entities unless any formats/principles are specifically prescribed by the relevant Statute or Regulator or any Authority.
- o **Link** to the Technical Guide
<https://resource.cdn.icai.org/70614asb56545.pdf>

• ICAI's Technical Guide on Financial Statements of Limited Liability Partnerships (LLPs)

	<ul style="list-style-type: none"> o The ICAI issued a Technical Guide on Financial Statements of LLPs on 27th June 2022. o The objective of the Technical Guide is to deal with the applicability of Accounting Standards to LLPs and to prescribe formats of their financial statements. o The Guide contains chapters on Financial Statements, Balance Sheet, Statement of Profit and Loss, Cash Flow Statement, and Formats of Financial Statements for LLPs in addition to Illustrative Financial Statements. o Link to the Technical Guide: https://resource.cdn.icai.org/70861asb56826.pdf
Assurance	<ul style="list-style-type: none"> • Exposure Draft (ED) of Revised Guidance Note on Tax Audit u/s 44AB of the Income-tax Act, 1961 <ul style="list-style-type: none"> o On 5th July 2022, the ICAI issued this ED aimed at providing guidance for audits to be conducted for Assessment Year 2022-23. o The ED discusses the law relevant for A.Y. 2022-23. o The size of the Guidance Note in the ED has been contained in this revised edition. The comment period for the ED closed on 20th July 2022. o Link to the ED: https://resource.cdn.icai.org/70897dte56864ed.pdf • ICAI Publication: The Emerging Role of Auditors and CFOs in Addressing Risk Management: A New Perspective <ul style="list-style-type: none"> o This publication of the Research Committee of ICAI released on 5th July 2022 encapsulates the findings of its research study aimed to bring out the emerging and changing role of auditors and CFOs in understanding the risk management systems of their organization and provide assurance that how the risks are being managed effectively in an organisation. o The publication covers a review of literature, conceptual framework, research methodology, results and analysis, recommendations and policy implementations. o Link to the Publication: https://resource.cdn.icai.org/70889research56859.pdf • Guidance Note on The Companies (Auditor's Report) Order, 2020 (Revised 2022 Edition) <ul style="list-style-type: none"> o On 14th July 2022, the ICAI released a revised edition of the Guidance Note on CARO, 2020. o The revision was warranted due to the MCA notification dated 24th March 2021 that amended Schedule III to the Companies Act, 2013, requiring various disclosures in financial statements some of which corresponded to the reporting requirements of CARO 2020. Link to the revised GN: https://resource.cdn.icai.org/70956aasb56965.pdf • Exposure Draft (ED) of Guidance Note on Report u/s 92E of the Income-tax Act, 1961 (Transfer Pricing) (Revised 2022 Edition) <ul style="list-style-type: none"> o On 18th July 2022, the ICAI issued the ED of the revised edition of the Guidance Note on Transfer Pricing Report that incorporates changes to the extent of amendments made by the Finance Act, 2022. o The comment period for the ED closed on 1st August. 2022. o Link to the ED: https://resource.cdn.icai.org/70974citax-ed-section92e.pdf • IAASB: First-Time Implementation Guide to ISA 315 (Revised 2019), Identifying and Assessing the Risks of Material Misstatement <ul style="list-style-type: none"> o The International Auditing and Assurance Standards Board (IAASB) issued an Implementation Guide to ISA 315, <i>Identifying and Assessing the Risks of Material Misstatement</i> on 27th July 2022 to help stakeholders understand and apply the revised ISA 315 as intended.

- o Link to the Guide:
<https://www.ifac.org/system/files/publications/files/IAASB-ISA-135-first-time-implementation-guidance.pdf>

MCA | SEBI

• **Company Law – National Financial Reporting Authority Amendment Rules, 2022**

- o The MCA vide notification No. G.S.R.456(E) dated 17th June 2022 has amended the National Financial Reporting Authority Rules, 2018.
- o **Rule 13, Punishment in case of non-compliance** stands substituted as follows:
 - **Extant Provision:** *If a company or any officer of a company or an auditor or any other person contravenes any of the provisions of these rules, the company and every officer of the company who is in default or the auditor or such other person shall be punishable as per the provisions of section 450 of the Act.*
 - **Amended Provision:** *Whoever contravenes any of the provisions of these rules, shall be punishable with a fine not exceeding five thousand rupees, and where the contravention is a continuing one, with a further fine not exceeding five hundred rupees for every day after the first during which the contravention continues.*
- o Link to the notification:
<https://www.mca.gov.in/bin/ebook/dms/getdocument?doc=MTI1NDg0NzI1&docCategory=Nofifications&type=open>

NFRA

• **Audit Quality Review (AQR) Report**

- o The NFRA released an AQR dated 22nd June 2022 in respect of the **Statutory Audit** done by an Audit Firm of **Infrastructure Leasing & Financial Services Limited (IL&FS)** for F.Y. 2017-18.
- o The findings on violations by the audit firm covered in the report, *inter-alia* relate to the violation of auditor's independence norms; lapses in the audit of investments, loans, and advances, revenue from operations, failure to comply with basic audit requirements, and failure to comply with quality control norms.
- o Link to the AQR:
<https://nfra.gov.in/sites/default/files/AQRR%20ILFS.pdf>

• **Financial Reporting Quality Review (FRQR) Report**

- o The NFRA released an FRQR dated 20th July 2022 in respect of ISGEC Heavy Engineering Limited (Ind AS) for F.Y. 2019-20.
- o Key observations include:
 - Deficiencies in implementing Ind AS 109, Financial Instruments relating to impairment loss allowance.
 - Not making the required disclosure in accordance with Ind AS 19.
 - Corporate guarantees that should have been accounted for as financial guarantees per Ind AS 109 were not so accounted for.
 - The company acquired another overseas company through one of its wholly-owned subsidiaries but failed to disclose it in the Consolidated Financial Statements in accordance with Ind AS 103 Business Combinations.
- o Link to the FRQR: <https://nfra.gov.in/sites/default/files/FRQR%20ISGEC.pdf>
- **NFRA order u/s 132(4) of Companies Act, 2013**

- o NFRA issued an order (no. NF-20012/1/2022 u/s 132 (4) dated 20th June 2022) in respect of a **show-cause notice (SCN)** issued to a **CA** in relation to the statutory audit of **Prabhu Steel Industries Limited** for F.Y.2019-20.

	<ul style="list-style-type: none"> The CA has been charged with professional misconduct and the following sanctions were imposed: <ul style="list-style-type: none"> Monetary penalty of ₹ 1 lakh. Debarment for 1 year from being appointed as an auditor or internal auditor or undertaking any audit in respect of financial statements or internal audit of the functions and activities of any company or body corporate. Link to the order: https://nfra.gov.in/sites/default/files/Order%20under%20Section%20to%20CA%20Gulshan%20Jham.pdf 														
RBI	<ul style="list-style-type: none"> Provisioning for Standard Assets by NBFC - Upper Layer (NBFC-UL) <ul style="list-style-type: none"> The RBI has issued Notification No. RBI/2022-23/61DOR.STR.REC.40/21.04.048/2022-23 dated 6th June 2022 related to provisioning for standard assets by NBFC-ULs. The Guideline is effective from 1st October 2022. NBFCs classified as NBFC-UL shall maintain provisions in respect of 'standard' assets at the following rates for the funded amount outstanding: <table border="1"> <thead> <tr> <th>Category of Assets</th><th>Rate of Provision</th></tr> </thead> <tbody> <tr> <td>Individual housing loans and loans to SMEs</td><td>0.25%</td></tr> <tr> <td>Housing loans extended at teaser rates</td><td>2.00%, which will decrease to 0.40% after 1 year from the date on which the rates are reset at higher rates (if the accounts remain 'standard')</td></tr> <tr> <td>Advances to Commercial Real Estate – Residential Housing (CRE - RH) Sector</td><td>0.75%</td></tr> <tr> <td>Advances to Commercial Real Estate (CRE) Sector (other than CRE-RH)</td><td>1.00 %</td></tr> <tr> <td>Restructured advances</td><td>Restructured advancesAs stipulated in the applicable prudential norms for restructuring of advances</td></tr> <tr> <td>All other loans and advances not included above, including loans to Medium Enterprises</td><td>0.40%</td></tr> </tbody> </table> Since NBFCs with a net worth of ₹ 250 crores or more are required to comply with IndAS, they shall continue to hold impairment allowances as required under Ind AS, subject to the prudential floor as prescribed under Paragraph 2 of the Annex to the circular DOR (NBFC).CC.PD. No.109/22.10.106/2019-20 dated 13th March 2020. The above-mentioned provisions shall, however, be included in the computation of the prudential floor, but shall not be reckoned for calculating net NPAs. Link to the Notification: https://rbidocs.rbi.org.in/rdocs/notification/PDFs/NOTI61BBAF63FB732E4C46A8149975C0481D34.PDF 	Category of Assets	Rate of Provision	Individual housing loans and loans to SMEs	0.25%	Housing loans extended at teaser rates	2.00%, which will decrease to 0.40% after 1 year from the date on which the rates are reset at higher rates (if the accounts remain 'standard')	Advances to Commercial Real Estate – Residential Housing (CRE - RH) Sector	0.75%	Advances to Commercial Real Estate (CRE) Sector (other than CRE-RH)	1.00 %	Restructured advances	Restructured advancesAs stipulated in the applicable prudential norms for restructuring of advances	All other loans and advances not included above, including loans to Medium Enterprises	0.40%
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IFRS	<ul style="list-style-type: none"> IASBs Project Report and Feedback Statement – PIR of IFRS 10, 11 and 12 <ul style="list-style-type: none"> On 20th June 2022, the IASB published a Project Report and Feedback Statement – Post Implementation Review (PIR) of IFRS 10, Consolidated Financial Statements, IFRS 11, Joint Arrangements and IFRS 12, Disclosure of Interests in Other Entities. The objective of the PIR was to assess the effects of the requirements in the three standards on users of financial statements, preparers, and auditors. Link to the Project Report: https://www.ifrs.org/content/dam/ifrs/project/pir-10-11-12/pir-ifrs10-12-fbs-june2022.pdf IASB sets out its 2022-26 Priorities 														

- o On 29th July 2022, the IASB published its Third Agenda Consultation Feedback Statement and Snapshot that outlines its priorities for the next five years (2022-26).
- o The 3 main strategic priorities are as follows:
 - Maintaining the strategic direction and balance of its activities while increasing slightly efforts to develop digital financial reporting and improving the understandability and accessibility of IFRS accounting standards.
 - Progress on current projects.
 - Add Intangibles, Statement of Cash Flow, and Climate-related Risk in financial statements to the work plan.
- o Link to the Statement:
<https://www.ifrs.org/content/dam/ifrs/project/third-agenda-consultation/rfi-third-agenda-consultation-2021.pdf>

USGAAP | Assurance

- **PCAOB – New Requirements for Lead Auditor’s Use of Other Auditors**
 - o PCAOB Release No. 2022-002 dated 21st June 2022.
 - o Working with other auditors involves challenges that could lead to misunderstandings about the nature, timing, and extent of the other auditors’ work and can reduce audit quality. Now, the PCAOB has adopted amendments to its auditing standards (AS 1015, AS 1105, AS 1201, AS 1215, AS 1220, and AS 2101) aimed at strengthening requirements that apply to audits involving multiple audit firms.
 - o Link to the Release:
https://pcaob-assets.azureedge.net/pcaob-dev/docs/default-source/rulemaking/docket042/pcaob-other-auditors-adopting-release-6-21-2022.pdf?sfvrsn=c3712668_2
- **FASB Invitation to Comment (ITC) – Accounting for Government Grants**
 - o FASB issued the ITC on 13th June 2022 dealing with ‘Accounting for Government Grants by Business Entities’ – *Potential Incorporation of IAS 20, Accounting for Government Grants and Disclosure of Government Assistance*, into the United States Generally Accepted Accounting Principles.
 - o The key question raised for stakeholders in the ITC relates to – *Should the FASB consider incorporating IAS 20 as it relates to government grants into authoritative USGAAP literature?*
- **FASB Accounting Standards Update (ASU): Fair Value Measurement (Topic 820) – Fair Value Measurement of Equity Securities Subject to Contractual Sale Restrictions**
 - o The FASB issued ASU No.2022-23 on Topic 820 (Fair Value Measurement) of USGAAP on 30th June 2022.
 - o The ASU clarifies the Guidance in Topic 820 when measuring the fair value of equity security subject to contractual restrictions that prohibit its sale and introduces new disclosure requirements for such related equity securities.

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CA. Vinay Thyagaraj

ALLOTTEES UNDER RERA - RIGHTS AND DUTIES OF ALLOTTEES - (PART - XV OF RERA SERIES)

Real Estate (Regulation and Development) Act 2016 (RERA Act) is a transformational statute with the objective to REGULATE and DEVELOP the real estate industry.

Friends, as we are all aware the Real Estate Sector is the second largest industry after agriculture. Real Estate contributes a considerable % to GDP of the country, Direct and Indirect Taxes, and Employment (skilled and unskilled), and the requirements and existence of this industry would be everlasting.

The RERA Act has an inbuilt provision/regulation/direction to the stakeholders with respect to action or activities of the real estate business viz. when to launch the project (on receipt of plan sanction and RERA Registration), financial management (money collection, deposit, withdrawal, and utilisation), quality and assurance on the product (defect liability and insurance), promotional activities (the veracity of advertisement), form and contents of legal documents (allotment, agreement, sale deed), delivery of the product (conveyance, handover), compensation (for delay of delivery and breach of agreement), alternative resolution, speedy dispute resolutions (timely disposal of complaints), penal provisions for non-compliance to the provisions of the statute.

The Stakeholders of the industry means and includes landowner, builder, developer, banker, financial institutions, lenders, customers, vendors, suppliers, service providers, professionals (engineer, architects, chartered accountants, advocates), etc

Each stakeholder plays a vital and important role under RERA. In this article, the importance of Customers/buyers of real estate is deliberated.

Under RERA, the customer/buyer/purchaser is collectively called an Allottee. Sec 2(d) of the RERA Act defines "Allottee" in relation to a real estate project, means the person to whom a plot, apartment, or building, as the

case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfers or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent.

CHAPTER IV of the RERA Act provides for RIGHTS AND DUTIES OF ALLOTTEES in the project. The details of the same are summarised in a tabular manner -

Details	Rights of the Allottees
The allottee shall be entitled to obtain	the information relating <ol style="list-style-type: none"> 1. to sanctioned plans, layout plans along with the specifications, approved by the competent authority and 2. such other information as provided in this Act or the rules and regulations made thereunder or the agreement for sale signed with the promoter
The allottee shall be entitled to know	the stage-wise time schedule <ol style="list-style-type: none"> 1. of completion of the project, 2. including the provisions for water, sanitation, electricity and 3. other amenities and services as agreed to between the promoter and the allottee in accordance with the terms and conditions of the agreement for sale
The allottee shall be entitled to claim	The allottee shall be entitled to <ol style="list-style-type: none"> 1. claim the possession of the apartment, plot, or building, as the case may be, and 2. the association of allottees shall be entitled to claim the possession of the common areas

Details	Rights of the Allottees
The allottee shall be entitled to <u>claim the refund</u> of the amount paid along with <u>interest</u>	<ol style="list-style-type: none"> 1. if the promoter fails to comply or 2. is unable to give possession of the apartment, plot, or building, as the case may be, in accordance with the terms of the agreement for sale or 3. due to discontinuance of his business as a developer on account of suspension or revocation of his RERA registration
The allottee shall be entitled to <u>have</u>	<ol style="list-style-type: none"> 1. the necessary documents and plans, including that of common areas, after handing over the physical possession of the apartment or plot or building

Details	Duties of the Allottees
Every allottee who has entered into an agreement for sale shall be <u>responsible</u> to	<ol style="list-style-type: none"> 1. make necessary payments 2. in the manner and 3. within the time as specified in the agreement for sale and 4. shall pay at the proper time and place - <ol style="list-style-type: none"> a. the share of the registration charges, b. municipal taxes, c. water charges, d. electricity charges, e. maintenance charges, f. ground rent, and g. other charges, if any
The allottee shall be <u>liable</u> to pay interest	<ol style="list-style-type: none"> 1. at such rate as may be prescribed (maximum of SBI MCLR +2%) 2. for any delay in payment towards any amount or charges to be paid as per the agreement for sale
Every allottee shall <u>participate</u>	<ol style="list-style-type: none"> 1. towards the formation of an association or society or cooperative society of the allottees, or a federation of the same

Details	Duties of the Allottees
Every allottee shall take physical <u>possession</u>	<ol style="list-style-type: none"> 1. within a period of two months of the occupancy certificate issued for the said apartment, plot, or building
Every allottee shall <u>participate</u>	<ol style="list-style-type: none"> 1. towards the registration of the conveyance deed of the apartment, plot, or building

In case of a complaint filed by the promoter on the allottee for failure to perform their duties or as per terms of the agreement, the Authority or Appellate Tribunal may pass necessary orders based on the facts and merits of the case directing the Allottee to comply. If the Allottees fail to comply with such orders, then the punitive provisions under the Act are attracted.

RERA Act has a provision to penalise the Allottees if they fail to comply with the orders of the Authority or Appellate Tribunal. The details of the contravention and the quantum of penalty or imprisonment are summarised in the table below -

Reference in the Act	Provision	Contravention and Quantum of Penalty
Section 67	Penalty for failure to comply with <u>orders of Authority</u> by the allottee	<ol style="list-style-type: none"> 1. If any allottee fails to comply with or contravenes any of the orders, decisions, or <u>directions of the Authority</u> 2. shall be liable to a penalty 3. for the period during which such default continues, 4. may cumulatively extend up to <u>five percent</u> of the plot, apartment, or building cost, 5. as the case may be, as determined by the Authority.
Section 68	Penalty for failure to comply with <u>orders of Appellate Tribunal</u> by the allottee	<ol style="list-style-type: none"> 1. If any allottee, fails to comply with, or contravenes any of the orders or <u>directions of the Appellate Tribunal</u>, 2. he shall be punishable

Reference in the Act	Provision	Contravention and Quantum of Penalty
		with <u>imprisonment</u> for a term which may extend <u>up to one year</u> or
		3. with a fine for every day during which such default continues, which may cumulatively extend up to <u>ten percent of</u> the plot, apartment, or building cost, as the case may be, or
		4. <u>with both</u>

Few points based on the judicial pronouncement –

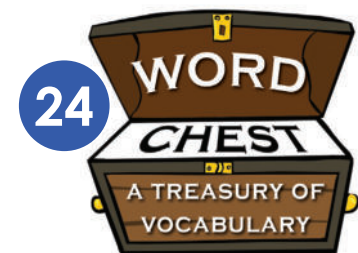
Details	Outcome and reference of Judgement
Will Lessee come under the definition of 'allottee'	1. Yes, a lessee is an allottee. All provisions are applicable 2. Lavasa Corporation's Brookview project at Lavasa City

Conclusion - With the introduction of the RERA Act, the Act has given rights to the allottees and also the duty to perform in relation to the transaction with the promoter. This will enable the promoter to implement and allottees to follow the uniform, standard practices.

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

Solution to Sudoku - 23 July 2022

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



Finance Tech Term of the Month:

Ripple

What is this?

Ripple is a technology that acts as both a cryptocurrency and a digital payment network for financial transactions. It was first released in 2012 and was co-founded by Chris Larsen and Jed McCaleb. Ripple's main process is a payment settlement asset exchange and remittance system, similar to the SWIFT system for international money and security transfers, which is used by banks and financial middlemen dealing across currencies.

Ripple transactions use less energy than bitcoin, are confirmed in seconds, and cost very little, whereas bitcoin transactions use more energy, take longer to confirm, and include higher transaction costs.



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

INTELLECTUAL PROPERTY RIGHTS AND PROTECTION IN INDIA PATENTS- PROCEDURE FOR REGISTRATION

(PART - XXIV OF IPR SERIES)

As deliberated in the earlier parts, 'Patent' is an exclusive right granted by the Government to the inventor to create, sell, use, and import the product or process, as well as the right to prevent others from doing so for a limited period. The eligibility criteria and other preparations required for making a patent application have also been discussed. The mandated procedure to be followed to make an application for a patent and the procedure followed by the Patent Office to consider the grant of a patent is narrated in this part.

Filing of a Patent Application

A Patent Application in India can be filed, either alone or jointly, by any person claiming to be true and the first inventor or by any person being the assignee of the person claiming to be true and first inventor(s). However, in instances of assigning it is necessary to produce the proof of assignment along with the application. The application could be filed by the legal representative of any deceased person or assignee also. The application could be filed online by visiting <https://ipindiaonline.gov.in/epatentfiling/goForLogin/doLogin>.

The patent application can be also filed in offline mode, by submitting the hard copies of the mandated information to the respective Patent Office. The patent offices at (i) Chennai receives the application from the States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu, and the Union Territories of Pondicherry and Lakshadweep; (ii) Mumbai from the States of Maharashtra, Gujarat, Madhya Pradesh, Goa and Chhattisgarh and the Union Territories of Daman and Diu & Dadra and Nagar Haveli; (iii) New Delhi from the States of Haryana, Himachal

Pradesh, Jammu and Kashmir, Punjab, Rajasthan, Uttar Pradesh, Uttaranchal, Delhi and the Union Territory of Chandigarh; and in patent head office at (iv) Kolkata from the rest of India. The fee for filing an offline Patent Application is 10% more compared to online registration. Further, the web-based utility of the official Indian Patent Office provides a comprehensive way for **filing online Patent applications using the prescribed form(s)**. Authentication is done through the Digital Signature Certificate (DSC) mode. It also facilitates payment of fees electronically through a payment gateway and therefore it is advisable to file applications online.

As per Section 7 of the Patents Act, "Every application for a patent shall be for one invention only and shall be made in the prescribed form and filed in the patent office." To file a Patent application in India the steps to be followed and the processing of the application by the Patent office involve the events like filling and applying the prescribed patent application; Publication of invention by the patent office after 18 months; Pre Grant-Opposition/Representation by any person; Request by an applicant for examination; Examination by patent office and Grant or Refusal of a patent; Publication of Grant of a patent; Post Grant Opposition to the grant of a patent; Final decision by Controller. The salient aspects of the above events are narrated in the following paras.

Step 1: Prior Art Search of the Invention – This is very much essential to find out whether the product or process in question is patentable or not. The objective of the search is to find the closest "prior art" or existing invention to the proposed invention. The search further aids to determine the invention's novelty and non-obviousness features.

and helps in drafting the specification in a comprehensive manner. The prior search report spares the inventor a lot of time, effort, and money as it assists him to decide whether to pursue the patent application or not. As stated earlier, the services of a patent agent or patent attorney may be taken to determine the patentability of the invention.

Inventors are enthusiastic and often disclose their inventions to the public even before filing for a Patent, which must be totally avoided. One of the critical conditions for getting a Patent is that the invention must be novel, as on the date of filing. It is reiterated that in order to maintain strict confidentiality of the invention, never disclose, publish or make the invention available to the public till the Patent application is filed. When the patent application is filed through the agent/attorney, as an abundant precaution, it is advisable to have a Non-Disclosure Agreement with him, before initiating discussions on the invention.

Step 2: Preparation of the Specification: Section 10 of the Patents Act prescribes the Contents of specifications, which is the most important phase of the patent application, as it defines the invention and states the claims for which protection is sought. Preparing an effective patent application requires a fair understanding of the patent law as well as the technology involved. Every specification, whether provisional or complete, shall describe the invention, with a title sufficiently indicating the subject matter to which the invention relates. Drawings may be incorporated as a part of the specification.

The law requires that every specification shall, (a) fully and particularly describe the invention and its operation or use and the method by which it is to be performed; (b) disclose the best method of performing the invention which is known to the applicant and for which he is entitled to claim protection; and (c) end with a claim or claims defining the scope of the invention for which protection is claimed. Writing a patent as a project report and filing it to the patent office would be the wrong way, as it may result in the loss of the potential to patent. A patent specification generally contains the information arranged under the following heads: 1. Title of the invention; 2. Field of the invention; 3. Background of the invention with regard to the drawback associated with known art; 4. The object of invention; 5. Statement

of the invention; 6. A summary of invention; 7. A brief description of the accompanying drawing; 8. A detailed description of the invention with reference to drawing/examples; 9. Claim(s) sought; and 10. Abstract. The specification should be the applicant's most complete attempt at describing and defining the invention and should generally be a self-contained document with respect to the invention.

Step 3: Form and Fee: The mandated documents required for Patent Registration in India are: (i) the Application form (Form 1); (ii) The provisional or complete specification. If a provisional specification is filed, the entire specification must be filed within 12 months (Form 2); (iii) drawings (if necessary); (iv) The invention's abstract; (v) Information and undertaking indicating the number, filing date, and current status of each foreign patent application (if any exist) (Form 3); (vi) Priority document (if the priority date is claimed) in convention applications, when directed by the Controller Declaration of inventorship and the provisional specification is followed by the complete specification, or in convention/PCT national phase applications (Form 5); (vii) Attorney/ patent agent- if filed through any, authorization (Form 26); (viii) details of Fees paid. The other important form is Form 28 - if the applicant is claiming small business or startup status. The inventor must pay the prescribed government fee. For details of the Forms required to be filed and the fee to be remitted under The Patents Rules, 2003 are accessible @ <https://ipindia.gov.in/form-and-fees.htm>

As per Section 39 of the Patent Act, 'no person resident in India shall, except under the authority of a written permit sought and granted by the Controller, make or cause to be made any application outside India for the grant of a patent for an invention. This is called Foreign Filing Permission (FFP), and this is usually granted by the Controller within 21 days. This is required not only for foreign filing but also for filing a PCT application. The principal rationale behind this provision is to safeguard National Defense and Security etc., If the invention is relevant for defence purposes or atomic energy, the Controller shall not grant permission for foreign filing without the prior consent of the Central Government. However, this provision is not applicable to non-residents. If a resident makes an application for the grant of a patent in contravention of section 39, he shall be punishable with imprisonment for a term which may extend to two years or with fine, or

with both. Therefore, it is important to either file a patent application in India first or take FFP from the Controller of Patents, before initiating foreign filing.

The Form 28 to be submitted by a small entity /startup/ educational institution [See rules 2 (fa), 2(fb), 2(ca), and 7] **is reproduced here for ease of reference. In the coming part the benefits available under the various Government schemes to this category of enterprises to encourage them are being deliberated, for which submission of this declaration is an essential requirement.**

FORM 28 THE PATENTS ACT, 1970 (39 of 1970) AND THE PATENTS RULES, 2003 TO BE SUBMITTED BY A SMALL ENTITY /STARTUP/ EDUCATIONAL INSTITUTION [See rules 2 (fa), 2(fb), 2(ca) and 7]	
1	<p>Insert name, address and nationality.</p> <p>I/We applicant/ patentee in respect of the patent application no or patent no hereby declare that I/we am/are a small entity in accordance with rule 2(fa) or a startup in accordance with rule 2(fb) or an educational institution in accordance with rule 2(ca) and submit the following document(s) as proof:</p>
2	<p>Documents to be submitted</p> <p>i. For claiming the status of a small entity:</p> <p>A. For an Indian applicant: Evidence of registration under the Micro, Small and Medium Enterprises Act, 2006 (27 of 2006).</p> <p>B. In case of a foreign entity: Any other document.</p> <p>ii. For claiming the status of a startup</p> <p>A. For an Indian applicant: Any document as evidence of eligibility, as defined in rule 2(fb).</p> <p>B. In case of a foreign entity: Any other document.</p> <p>iii. For claiming the status of an educational institution</p> <p>A. For an Indian applicant: Any document as evidence of eligibility</p> <p>B. In case of a foreign educational institution: Any other document.</p>
3	<p>To be signed by the applicant(s) / patentee (s) / authorized registered patent agent.</p> <p>The information provided herein is correct to the best of my/our knowledge and belief. Dated thisday of 20...</p>

4	Name of the natural person who has signed.	Signature
---	--	-----------------

Step 4: Follow Timelines:

Keep the timelines in mind if a provisional specification is being filed first. A timeline of one year is provided to the applicant. In case the applicant fails to file their complete specification/ application within this timeline, the application will lapse. Some of the important timelines to be followed in pursuing a patent application are as follows:

Task	Timeline
Complete Specification' after a 'Provisional Specification'	Within 12 months of the date of filing of the Provisional Specification.
National Phase application	Within 31 months of the priority date
Convention application	Within 12 months of the priority date
Divisional application	Any time before the grant of the parent application
Application for a patent of addition	Any time during the term of the parent application
Publication of an application by IPO	On or after the expiry of 18 months from the filing date or the priority date, whichever is earlier.
Request for early publication	Any time after the filing of the complete specification but before the expiry of 18 months from the filing date or the priority date.
Publication after a request for early publication is filed	Within one month of the filing of the request
Request for examination	Within 48 months from the filing date or the priority date, whichever is earlier.
Request for expedited examination	Within 48 months from the filing date or the priority date, whichever is earlier.
Filing response to examination report	Within 6 months from the date of issuance of the examination report.

Step 5 – Publication of the Patent Application: Section 11A of the Patents Act, 1970 deals with Publication of the Patent Application. The patent application is automatically published 18 months after filing. If one does not want to

wait until the 18-month, the person can submit a request for an early publication using Form 9 and paying the prescribed fees. The patent journal published regularly could be accessed by visiting the url@ <https://search.ipindia.gov.in/IPOJournal/Journal/Patent>

Step 6 - Request for an Investigation: Patent prosecution refers to everything that happens with a patent application before it is granted. Within 48 months of the filing date or priority date, the inventor/applicant must file a request for inspection. This 'Request for Examination' (RFE) has to be submitted using Form 18 along with the requisite fee. After receiving this request, the controller assigns your patent application to a patent examiner, who conducts searches to determine if the invention is patentable. The examiner then produces the patent application's First Examination Report (FER). Prior arts that are comparable to the claimed invention and any objections expressed about the invention's patentability criteria are often included in the initial examination report presented to the controller by the examiner. The inventor/patent applicant will receive the same examination report, along with objections if any. Section 11B of the Patents Act, 1970 deals with the request for an investigation. The patent application is reviewed only when a request for examination is received. In case the applicant or any other interested person does not make a request for examination of the application for a patent within the said period the application shall be treated as withdrawn by the applicant.

Step 7: Express/ Expedited Patent Examination: The Patent Rules have provisions for expedited examination also if the applicant desires to accelerate the patent grant for his invention. After filing a patent application, the request for examination is required to be filed with the Indian Patent Office, in order to put an application for the examination. The request for examination can be filed within 48 months from the earliest priority date of the first mentioned patent application on payment of the prescribed official fee.

In India, applications are examined in the order of filing the request for examination. Therefore, a request for examination of a patent shall be filed soon as possible. Also, even if the Request for Examination is filed before the publication of the application, it is taken up for examination only after publication. Therefore, in many cases specifically ordinary applications filed, a Request for early publication in Form 9 shall also be filed so

that Indian Patent Office can take up the application for examination. Normally, a patent application gets published after 18 months after the earliest priority date. However, if a request for early publication is filed under Rule 24A and on Form 9 then the application is published within one month of making such a request.

Step 8 - Responses to the Objections: After the First Examination Report (FER) is issued, the Applicant is given an opportunity to meet the objections raised in the report. The Applicant must comply with the requirements within 12 months from the issuance of the Report, failing which the application is treated to have been abandoned by the applicant. After the removal of objections and compliance with requirements, the patent is granted and notified in the Patent Office Journal.

Step 9 - Pre-grant and Post-grant Opposition.

The Patent Act provides a mechanism that allows the public to raise objections against the grant of a patent by filing an opposition with the Patent office. The objection could be raised by anyone, before the grant or after the grant of Patent by the Controller.

Pre-grant Opposition: As per this mechanism, the opponent can challenge a pending application prior to the grant of a patent. A representation for pre-grant opposition can be filed by any person under Section 11A of the Patents Act, within six months from the date of publication of the application or before the grant of patent. The grounds on which the representation can be filed are provided under Section 25(1) of the Patents Act. The purpose of this provision is to act as a defensive shield that verifies the validity of the application before the actual grant of patent rights. As per Rule 55 of the Patent rules, all representations for opposition must be made in Form 7A of the Act to the Controller General of Patents. If the statement is found to have merit, the Examiner shall send a notice to the applicant. The applicant is then required to submit his own statement and evidence, if any, within a 3-month time frame from the date of the notice. The Controller considers the statements and issues a speaking order, which may (a) lead to the grant of the patent, or (b) refusal of the patent or (c) seek amendment of the patent specification or other documents after which the patent can be granted.

Post-grant opposition: Similarly a person, if he finds the grant of patent to an applicant is not as mandated in the patent law, can also file post-grant opposition within

twelve months from the date of publication of the grant of patent in the official journal of the patent office.

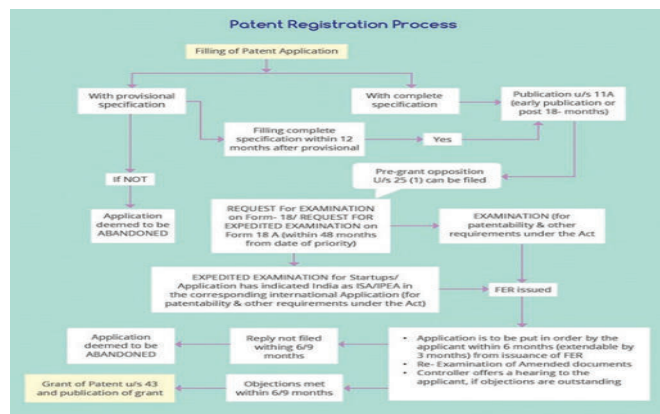
Some of the grounds for filing pre-and post-grant opposition could be, the Patent wrongfully obtained; Prior publication of the invention; The invention was publicly known or publicly used in India before the priority date; The invention is obvious and does not involve any inventive step; the subject of any claim is not an invention within the meaning of this Act, or is not patentable under this Act; Insufficient disclosure of the invention or the method by which it is to be performed; That the complete specification does not disclose or wrongly mentions the source and geographical origin of biological material used for the invention etc.,

Step 9 – Patent Grant: Once it is determined that the application meets all patentability conditions, it will be considered for an award and the patent is granted to the inventor/applicant with the seal of the patent office. The recognition of the patent is announced in the patent journal also. The Patent Office Journal, which is published every Friday, contains information on the patent application.

Step 10 – Patent Renewal: The patent holder must pay an annual renewal fee to keep their patent valid. It is important to note that a patentee has to renew the patent every year by paying the renewal fee, which can be paid every year or in a lump sum.

The patent can be renewed for a maximum of 20 years from the date it was initially filed. Even though the patent application procedure is lengthy and complicated, it is critical in the long run. The complete outline might take anything from 3 to 5 years. The Indian Patent Office, on the other hand, is employing new examiners and modernizing its offices to process patent applications more quickly. The procedure was designed to ensure that the innovator receives credit for his idea. It also assures that no one else may claim ownership of the innovation. The legal rights you have with your patent can prohibit rivals from profiting from your creation. You can even sue such people and demand damages for exploiting your idea without your permission.

The process of the grant of patent in India can also be understood from the following flow chart:



Patent Application with Biological Material: Patent applications for inventions containing biological materials must fully and particularly describe such use of biological materials in the specification. In instances where the subject biological material is not available to the public, such material must be deposited with a designated Depository Authority. on or before the date of filing of the complete patent specification. In India, there are three recognized international depositories of microorganisms namely (1) Microbial Type Culture Collection and Gene Bank (MTCC), Chandigarh; (2) Microbial Culture Collection (MCC), Pune; (3) National Agriculturally Important Microbial Culture Collection (NAIMCC), Uttar Pradesh.

The Process of Patenting an invention is time-consuming, very exerting, and involves considerable costs to the seeker. The patent process though tedious, once the claims are approved and the patent is granted, will be highly rewarding to the applicant concerned. Some more important aspects to be noted in this journey will be narrated in the coming part. The encouragement made available, by the State and Central Government in the form of various schemes and incentives will also be deliberated. The services rendered by Institutions like Karnataka State Council for Science and Technology (KSCST) for a person in quest of patent prosecution will be narrated. The MSMEs and young entrepreneurs should make use of these opportunities, create strong IPRs and get enriched themselves and participate in Building a strong economy for the Nation.

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mgkodandaram@gmail.com

ಕರ್ನಾಟಕ ರಾಜ್ಯ ಸಹಕಾರ ಸಂಘಗಳ ಲೆಕ್ಕಪರಿಶೋಧನಾ ನಿರ್ದೇಶಕರ ಕಛೇರಿ

ನಂ.17, "ಜಯನಿವಾಸ", ಶಂಕರಮಠ ರಸ್ತೆ, ಬಸವನಗುಡಿ, ಬೆಂಗಳೂರು-560004.



ಸಹಕಾರ ಸಂಘಗಳ ಲೆಕ್ಕಪರಿಶೋಧನಾ ಇಲಾಖೆಯು ರಾಜ್ಯದಲ್ಲಿರುವ ಸಹಕಾರ ಸಂಘಗಳ ಲೆಕ್ಕಪರಿಶೋಧನೆಗೆ ಅರ್ಹ ಸನ್ನದು ಲೆಕ್ಕಪರಿಶೋಧಕರುಗಳ ಹೆಸರು ಮತ್ತು ಫರ್ಮ್‌ಗಳನ್ನು ನೋಂದಣಿ ಮಾಡಿ ಪ್ಯಾನಲ್ ನಿರ್ವಹಿಸುತ್ತಿದೆ. ರಾಜ್ಯದಲ್ಲಿರುವ 44,767 ಸಹಕಾರ ಸಂಘಗಳ ಲೆಕ್ಕಪರಿಶೋಧನೆಯನ್ನು ಪ್ರತಿವರ್ಷ ಅಗಸ್ಟ್ 31 ರೊಳಗಾಗಿ ಪೂರ್ಣಗೊಳಿಸಬೇಕಿರುತ್ತದೆ. ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ರಾಜ್ಯದಲ್ಲಿ ಸನ್ನದು ಲೆಕ್ಕಪರಿಶೋಧಕರಾಗಿ ಕಾರ್ಯನಿರ್ವಹಿಸುತ್ತಿರುವವರು ತಮ್ಮ ಹೆಸರು / ಫರ್ಮ್‌ಗಳನ್ನು ನಿರ್ದೇಶಕರು, ಸಹಕಾರ ಸಂಘಗಳ ಲೆಕ್ಕಪರಿಶೋಧನಾ ನಿರ್ದೇಶಕರ ಕಛೇರಿ, ಇಲ್ಲಿ ನೋಂದಾಯಿಸಿಕೊಳ್ಳಲು ಅರ್ಜಿಯನ್ನು ಇಲಾಖೆಯ ವೆಬ್‌ಸೈಟ್ (sahakaradarpana.kar.nic.in)ನಿಂದ ಪಡೆದು, ಭರ್ತಿಮಾಡಿ ಕೆಳಕಂಡ ದಾಖಲೆಗಳ ಸ್ಕ್ಯಾನ್ ಪ್ರತಿಯನ್ನು ಅರ್ಜಿಯೊಂದಿಗೆ ಲಗತ್ತಿಸಿ ಇ-ಮೇಲ್ (ddca-audit-ka@nic.in) ಗೆ ಕಳುಹಿಸಲು ಕೋರಿದೆ.

Eligibility Criteria: Chartered accountants / firms within the meaning of Chartered Accountants Act 1949, having minimum 03 years experience and functioning knowledge of Kannada.

List of Documents to be produced along with application form:

Individual Chartered Accountants / Personal Practice:*

1. Certificate of Membership
2. Certificate of practice
3. Document Pertaining Kannada Knowledge
4. Member card (downloaded from icai website)
5. RBI Unique code document (If applicable)
6. DISA Certificate(if available)

Proprietary Firm:*

1. Certificate of Membership
2. Certificate of Practice
3. Document Pertaining Kannada Knowledge
4. Firm Registration Certificate
5. Latest Firm Constitution Certificate (downloaded from icai website)
6. RBI Unique code document (If applicable)
7. DISA Certificate(if available)

Partnership Firm (All Partners Documents):*

1. Certificate of Membership
2. Certificate of Practice
3. Document Pertaining Kannada Knowledge
4. Notarized Partnership deed
5. Firm Registration Certificate
6. Latest Firm Constitution Certificate (downloaded from icai website)
7. RBI Unique code document(If applicable)
8. DISA Certificate(if available)

*All the documents must be attested with seal.

*For further details contact 080-26610326, 080-26604493

KEYWORD

12

Instructions

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

- A non-competitive, secret, and sometimes illegal agreement between rivals which attempts to disrupt the market's equilibrium (9)
 O
- A legal proceeding initiated when a person or business is unable to repay outstanding debts or obligations (11)
 N
- The removal or expiration of a privilege, right, or policy due to the passage of time or some sort of inaction (5)
 P
- All cryptocurrencies other than Bitcoin and Ethereum (ETH). They come in several types based on what they were designed for (7)
 I
- A derivative contract through which two parties exchange the cash flows or liabilities from two different financial instruments (4)
 A
- A Latin term used to describe a proportionate allocation (7)
 O

sudoku-24

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

GUESS THE KEY WORD

An organization or person that assumes the responsibility of paying the debt in case the debtor policy defaults or is unable to make the payments (6)

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

Answers to "Key Word 11" (July 2022)

- Six Sigma, 2. Appropriation, 3. Risk Averse, 4. Volatility, 5. Default, 6. Accretion

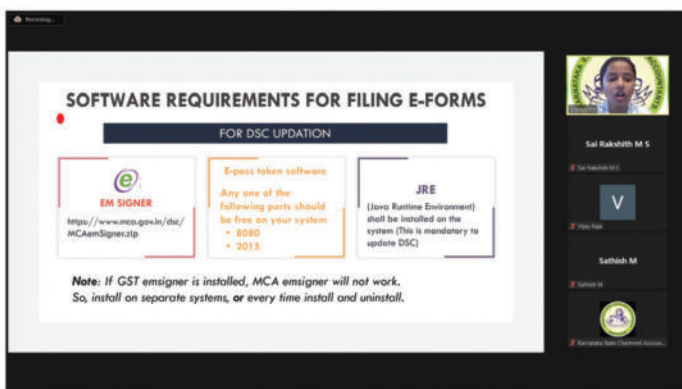
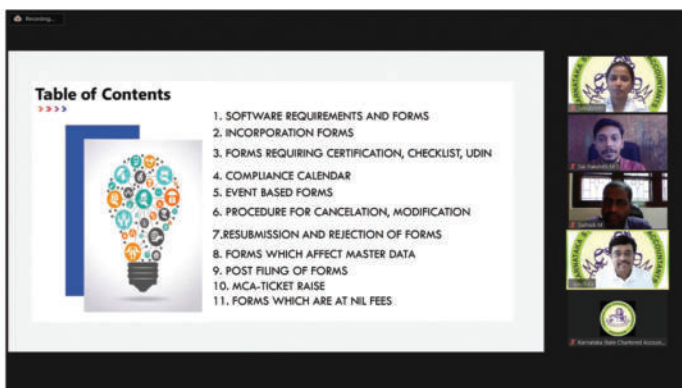
Key Word : FACTOR

Credits: CA. Archana Sridhar

PHOTO GALLERY



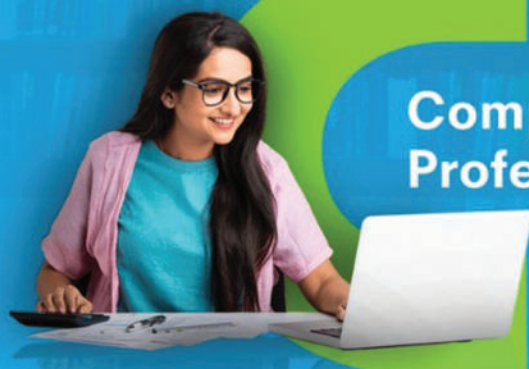
Webinar on 'Changes post 47th GST Council Meeting - Issues and Resolution'
by CA. Dr. Arpit Haldia on 04 Aug 2022.



Webinar on "Filing of Company and LLP forms with MCA" by CA. Vijay Raja and CA. Srilakshmi held on 13th August 2022



Session on 'Companies Act Revised Schedule III & CARO 2020'
by CA Gururaj Acharya on 09 Aug 2022



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MY CORPORATE DECISION

Identify applicable and relevant compliance obligations under multiple statutes

REGISTRATIONS & APPROVALS

Compilation of registrations and approvals required under applicable laws & by-laws

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- Basis of compliances i.e., one time, date based, event-based or ongoing
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- Identify the regulatory impact of corporate actions to avoid penalties
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- Two Years: 4000
- Three Years: 5000

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- Multiple user access
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