

# KSCAA®



Since 1957

Karnataka State Chartered Accountants Association (R)

## NEWS BULLETIN

► Direct Tax ► Indirect Tax ► Financial Reporting ► IT  
► RERA ► IPR ► Corporate Law ► Health & Fitness

January 2023

Vol. 10, Issue 05

₹ 25/-

English Monthly

for Private Circulation only

## Digital Currency



**35<sup>th</sup> KSCAA**  
**ANNUAL CONFERENCE**  
**2023**

Friday, 17<sup>th</sup> March 2023 &  
Saturday, 18<sup>th</sup> March 2023

**Venue :** White Petals, Palace Grounds,  
Bengaluru.



Karnataka State



Chartered Accountants Association



@karnatakacaassociation



@kscaa\_ca



kscaa.com



Dear Readers,

Let me start my message by wishing you all a very happy 74th Republic Day. Its a pride for each one of us Indians on this remarkable day. This reposes new confidence on all of us which we are proud and happy. This was the day the constitution of India came into existence, apart from being one of the longest active constitution, it is also our proud moment that we see that the same constitution is standing the test of time among many occasions.

The government follows an annual tradition of hosting a Halwa ceremony to mark the final stage of the Union Budget-making process. The Halwa ceremony marks the commencement of the printing of Budget documents. We would shortly hear a new budget and expect the government to run a tight rope of managing the mammoth expectation of citizens and striving ahead to take India to a developed nation ranking. To bring on some facts, the geo political uncertainties, global monetary tightening, monetary tightening by central bank, rising government consumption spending are some of the many tricky points which budget should consider and ponder upon. Like in many complex problems, these may not have definitive solutions or propositions but the solutions are to be traded against each other and needs to be chosen based on the objective to be achieved.

On the Professional front, the results declared by ICAI saw some positive news with decent pass percentage and ICAI new syllabus includes some extremely relevant skill and knowledge to CAs. The need for an updated and abreast was long pending and our mother institute hopefully like always has lived to the expectation.

Let me mention about the new buzz word in the field of technology, 'ChatGPT'. It is a search engine optimized by Artificial intelligence and has kept some of us worrying on perishability of our jobs. In the curiosity, have also had the opportunity of asking few questions relating to tax and the answers are not perfect but not far from being perfect. The enormous data it can read, understand, and respond even creatively in seconds would keep one thinking that much of the mundane jobs would perish, if not soon but for sure.

35<sup>th</sup> KSCAA Annual Conference is planned on 17<sup>th</sup> and 18<sup>th</sup> of March 2023 at White Petals, Palace grounds. The whole team of KSCAA is excited to invite and welcome you all to the event, the technical committee has put in considerable amount of

research to bring in topic of relevance and unheard voices. We are also researching on members who have moved out of profession and worked extensively and would like to show case the same to you.

The most genius known human race and world-renowned scientist Albert Einstein said, "As far as the laws of mathematics refer to reality, they are not certain; and as far as they are certain, they do not refer to reality." One reason why mathematics enjoys special esteem, above all other sciences, is that its laws are certain and undisputable, the certain gets us security and dependability. But the intrinsic nature of numbers and mathematics is an inexperienced kid and borrows only from experience of others and data which are prevailing. The certainty of budget is outcome of data which are processed and putforth, the same would extensively differ based on the new circumstances. This must not be perceived that every data which we put across suffer the pain on uncertainty but the data which are prone to be tested extensively with volatile and uncontrollable environment infuses greater threat to credibility of data which inturn making it uncertain. Even at the professional front, frequent disruptions are challenging for professionals but it leaves little room for SMPs to survive but for updating and upskilling.

Let me wish you all a very Happy Makara Sankranti, a festival celebrated across the country by different names but coinciding on the similar understanding of transition of the Sun from the zodiac of Sagittarius.

Happy Reading!

Yours' faithfully,

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



## NEWS BULLETIN

January 2023  
Vol. 10 Issue 05  
No. of Pages : 36

### CONTENTS

#### DIRECT TAX

PROVISIONAL ATTACHMENT – HAS THE DEPARTMENT OVERSTEPPED A LINE	4
CA. Sachin Deshpande CA. Nikhilesh Cacarla	

CHALLENGES IN THE IMPLEMENTATION OF SECTION 194R OF THE INCOME TAX ACT, 1961	6
CA. Jayasree Vinnakota	

INCOME TAX UPDATES	9
--------------------	---

#### INDIRECT TAX

FREQUENT DEPARTMENT AUDIT OBSERVATIONS & RESPONSES	10
CA. Madhukar N Hiregange CA. Akshay M Hiregange	

CRUCIAL AMENDMENTS UNDER GST LAW	13
CA. Annapurna Kabra	

#### FINANCIAL REPORTING

FINANCIAL REPORTING AND ASSURANCE	15
CA. Vinayak Pai V	

#### IT

GOING DEEPER INTO INDIA'S CENTRAL BANK DIGITAL CURRENCY (CBDC)	18
CA. Narasimhan Elangovan	

#### RERA

KARNATAKA REAL ESTATE REGULATORY AUTHORITY (GENERAL) REGULATIONS, 2022	21
CA. Vinay Thyagaraj	

#### IPR

COPYRIGHT VIOLATIONS IN DIGITAL ENVIRONMENT	26
Adv. M. G. Kodandaram	

#### CORPORATE LAW

BOARD'S RESPONSIBILITIES ON ESG REPORTING	30
CA. Aditya Kumar S	

#### HEALTH & FITNESS

HAIR LOSS? DON'T BRUSH IT UNDER THE CARPET.	32
Maj (Dr) Manasa S J	

## KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)

### VISION

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

### MISSION

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

**MOTTO: KNOWLEDGE IS STRENGTH**

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

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

#### Disclaimer

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

# PROVISIONAL ATTACHMENT – HAS THE DEPARTMENT OVERSTEPPED A LINE



CA. Sachin Deshpande



CA. Nikhilesh Cacarla

The concept of 'Provisional Attachment' enshrined in Section 281B of the Income Tax Act 1961 ("the Act"), has been a shot-in-the arm at the disposal of the Income Tax department to protect their interests during the course of assessment or reassessment or penalty proceedings, depending on the case. This being said, given the lavish and, at times, irresponsible approach adopted by the department, it is unfortunate to note that the use of powers under this section has more often than not, resulted in causing detriment to the taxpayers leaving them susceptible and scampering to obtain justice. One such instance reared its head in the recent case of Xiaomi Technology India (P) Ltd. in TS-971-HC-2022(KAR) [referred to as "the Taxpayer" throughout], wherein the (ab)use of power by the department under Section 281B came to light.

To add to this, an element of political embargo also existed in the said case on account of the Taxpayer's home jurisdiction, which was also a factor in the unjust and impractical reasoning to attach the assets/ property of the Taxpayer. Thankfully, the Hon'ble Karnataka High Court ("Hon'ble HC") reinforced its presence in protecting the general taxpayers' bonafide interests and demonstrated that any act of (in)justice and haste without the application and spirit of the law shall be dealt with equal elan.

Let us dive into the brief facts of the case and the provisions of the law, below:

In verbatim - Section 281B states that – ***"Where, during the pendency of any proceeding for the assessment of any income or for the assessment or reassessment of any income which has escaped assessment or for imposition of penalty under section 271AAD where the amount or aggregate of amounts of penalty likely to be imposed under the said section exceeds two crore rupees], the Assessing Officer is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, he may, with the previous approval of the Principal Chief Commissioner or Chief Commissioner, Principal Commissioner or Commissioner, Principal Director General or Director General or Principal Director or Director, by order in writing, attach provisionally any property belonging to the assessee in the manner provided in the Second Schedule"***.

Emphasis supplied

The key terms that solicit attention are 'Assessing officer is of the opinion', 'pendency of any proceeding for the assessment/ reassessment', and 'by order in writing, attach provisionally any property'. The terms on which emphasis are laid upon may not ring any alarm from a layman reading, however the wide range of interpretational ambit that is available to the tax department is what causes prejudice to the taxpayers.

## Brief facts:

The Taxpayer is a supplier and distributor of Xiaomi products in India consisting of mobile phones, computers etc. The Taxpayer paid royalty to its group affiliates ie, Qualcomm and Beijing Xiaomi for technology and brand. During the scrutiny assessment proceedings for AY 2018-19, as the transaction invoked Transfer Pricing provisions, the Transfer Pricing Officer ("TPO") raised a dispute regarding these royalty payments and concluded the proceedings by passing an order adjusting the royalty payout. The subsequent assessment proceedings were also ongoing.

During the pendency of these proceedings, the Assessing Officer ("AO") passed an attachment order under 281B of the Act, provisionally attaching the Fixed Deposits ("FDs") of the Taxpayer, to the extent of INR 3,300 crores. In the said order, the AO had recorded reasons on the lines that due to the vast transaction value, resultant income addition and consequent tax liability, the FDs of the Taxpayer is required to be attached "for the purpose of protecting the interests of revenue".

Coming back to the political part, the Enforcement Directorate had also initiated proceedings on the Taxpayer banking on the regulatory laws to contest the royalty payouts and had seized the bank accounts/ FDs to the tune of INR 5,551 crores. As the Taxpayer approached the Hon'ble HC on this issue, the court had passed an interim order staying the seizure subject to the condition that the Taxpayer shall not make payments to its group, either by way of royalty or any other payment. This order was subsequently modified allowing the company to avail means like overdraft to remit payments to foreign entities, but not in the nature of royalty.

## Approaching the HC against the attachment order

With stay obtained on the action of the Enforcement directorate, the Taxpayer approached the Hon'ble HC against the Section 281B order seeking relief on the grounds of injustice and inappropriate application of the law. The Hon'ble HC upheld the plea made by the Taxpayer which was to quash the attachment order, by stating the following:

1. The attachment order is arbitrary and reflects a premediated conclusion, without recording an opinion that made it necessary to attach the property.
2. Anticipation or mere apprehension of huge tax demand is not sufficient for passing provisional attachment order.
3. The Taxpayer's inability to fulfill the tax demand was not demonstrated in the reasoning given therefore failing to meet the expression 'it was necessary to do so for protecting the interests of revenue';
4. The principle of "proportionality", which in the current scenario mandates the existence of a connection/ intertwining of need for attachment and the purpose it intends to secure, was not established/ demonstrated.
5. The AO, except for stating that he/ she is of the opinion that it was necessary to attach the FDs, did not provide a concrete or reasonable narrative for protecting the interests of the revenue.
6. No finding was recorded as to whether the Taxpayer was a habitual defaulter, or due to insufficient funds, no business etc., which was also necessary to capture.

In addition, adding on to the misery, the Hon'ble HC also observed that another basic premise being obtaining approval from the higher authorities before passing the attachment order was not explicitly instituted in the same. Due to the above legal infirmities, the attachment order was held to be illegal, arbitrary, contrary to law and therefore, pronounced to be quashed. Considering the above key aspects, the Hon'ble HC zeroed in at the root cause which resulted in a favorable outcome for the Taxpayer.

## Spurious approach in the midst of a settled principle

With the above facts and outcome, the other aspect that makes the case even more fearful for taxpayers was that the Hon'ble Supreme Court in the case of Radha Krishan Industries vs State of Himachal Pradesh [TS-168-SC-2021-GST] had analyzed and laid down the principles to be overseen while dealing with provisional attachment. Although the ruling was pronounced for the Goods and Services Tax regime, a brief overview of certain key points of the Hon'ble Supreme Court's observations are provided below:

1. An order of provisional attachment of taxpayer's property, including bank account is draconian in nature and the conditions prescribed by the statute for a valid exercise of the power must be strictly fulfilled;
2. The exercise of the above power must be preceded by the formation of an opinion that it is necessary to do so for the purpose of protecting the interest of the government revenue. This postulates a more stringent requirement than a mere expediency.
3. Before ordering a provisional attachment, the authority must form an opinion on the basis of tangible material that the taxpayer is likely to not satisfy the tax demand, if any.
4. The expression "necessary so to do for protecting the government revenue" portrays that it is necessary to show that the interests of the Revenue cannot be protected without provisional property attachment;

The Hon'ble Karnataka High Court in another matter [*Indian Minerals & Granite Co. [TS-6901-HC-2021 (K'taka)]*] involving broadly identical facts had analyzed and adopted the principles emanating from the Supreme Court ruling and provided its decision on similar lines. With the above squarely applicable judicial rulings, the Income Tax Department continued to play spoilsport and proceeded to pass a vaguely reasoned and desperate order that inflicts maximum damage to the Taxpayer without cognizance to the potentially punishing consequences awaiting the Taxpayer. Non-cognizance of rulings covering identical matters to a squarely similar case has become a norm for the department off late.

## Conclusion

As the Indian litigation landscape struggles from the catastrophic tremors created with the introduction of the faceless assessment and appeal regime, and the re-assessment proceedings' controversy, it is the immediate need of the hour for the government to realize that protecting the interests of the taxpayer is of paramount importance. To gain necessary acceleration needed to surmount the challenge of becoming a USD 5 Trillion economy, good faith and transparency are the ignition points to fuel the journey. Albeit national sovereignty is to be protected, corporate sovereignty should not be diluted.

Authors can be reached at :  
sachin\_sd@outlook.com &  
nikhileshcacarla@gmail.com

# CHALLENGES IN THE IMPLEMENTATION OF SECTION 194R OF THE INCOME TAX ACT, 1961 (PART - II OF TDS SERIES)



CA. Jayasree Vinnakota

In the previous article, rationale for introduction of section 194R, applicability etc., were deliberated. In this article, others aspects such as Value, timing and practical implications etc., are discussed.

## Rate of TDS under Sec194R and threshold limits

- ❖ Tax under Sec194R is deducted @10% if the value or aggregate value of such benefit or perquisite exceeds rupees twenty thousand during the financial year.
- ❖ *Threshold limit of Rs.20,000/- is calculated from 1.4.2022 but TDS deduction is applicable only on benefits/perquisites provided on or after 1<sup>st</sup> July 2022.*

*Effectively, if the value of benefits/perquisites provided during the period 1.4.22 to 30.6.22 already exceeds Rs.20,000/- then Sec194R is applicable on any benefit/perquisite provided on or after 1<sup>st</sup> July 2022.*

- ❖ Value of the benefit/perquisite –
- ❖ When not in cash, value shall be fair market value(FMV) as per question 5 of circular 12. However, neither the section nor circulars stated the mode of arriving at this FMV.
- ❖ Exception to FMV has been given in two cases, in the CBDT circular no.12-
  - In case the provider has purchased the benefit/perquisite, value would be such purchase value
  - In case the provider has manufactured the item provided, then the price charged to the customers would be value of such benefit or perquisite.

*However, in the multiple stages of supply chain price charged to the customers changes, it is a challenge to decide the right price to adopt in order to determine the value of the benefit or perquisite.*

- ❖ Sales discounts or Cash discounts or rebates allowed to customers from the listed retail price list, though considered as benefits, are excluded from the ambit of Sec194R – (Question 4 of Circular12)

*Department has given clarity with respect to the above discounts and “buy one-get one free” kind of schemes but extending the scope of Sec194R to free medical samples given to doctors, in the same FAQ-4, has brought in lot of furore and debate across the pharmaceutical industry.*

*Free medical samples given to doctors by the drug manufacturing companies are not meant for sale and they don't give rise to any benefit or perquisite to doctors. Benefit in general parlance means any advantage, income, profit, gain or improvement in condition but none of this criteria is met in the case of free medical samples received by doctors.*

*These samples are either distributed to poor patients or discarded after expiry. Considering the value of these samples as benefit or perquisite brings in notional income in the hands of doctors.*

*Also, it would be a huge compliance burden in tracking the value of samples supplied doctor-wise because tax needs to be deducted on crossing the threshold limit. Assuming that the value exceeds Rs.20,000/- during the financial year and when tax needs to be deducted, obtaining deductees' PAN might be practically difficult, as doctors may not be willing to share. Non-availability of PAN invokes Sec206AA and there can be a situation of application of TDS rate as per Sec206AB, in case of non-filing of earlier year tax return. When provisions of both the sections are applicable, then tax has to be deducted at higher of the two rates.*

*This practical difficulty might force doctors to deny free medical samples. When pharma companies or distributors choose to remit TDS out of their own pocket and when doctors' PAN is not available, then they would be pushed to remit TDS at a higher rate, by grossing-up the value of free medical samples.*

## Few other possibilities :

*A situation where, for the same payment there can be more than one deductee but each deductee falling under different TDS section. This can be elaborated with an illustration –*

*Let's say Company “A” gets into a contract with another company “B” for promoting sales of their newly manufactured product, in multiple states. “A” arranges*



stay and boarding of the employees of “B” who have to stay in different states, for performing such marketing support services. Consequently, “A” rents space from “C” for accommodating staff and gets into another contractual agreement with “D” for providing food catering services to all the staff. Thus, accommodation and food cost provided by A to the employees of B gives rise to a benefit in the course of rendering business activities of B. Hence, Sec194R is applicable on the value of this benefit (rent plus food cost less GST) provided by A to B. Simultaneously, TDS under Sec194I might be applicable on rent payments made by A to C (subject to Rs.2.4lacs p.a. threshold limit) and similarly TDS under Sec194C can be applicable on payments made to “D” towards food catering services.

**GST component has to be excluded:** Question 5 of Circular 12 clarifies that the GST component will not be included in the value of benefit or perquisite for TDS under Sec194R.

**Timing of TDS :** What should be the timing of TDS under Sec194R also assumes lot of importance. Whether benefit stands “provided” on the day of contract with “B” or at the time of entering into contract with “C” and “D” or when the employees actually commence stay and boarding?

Let’s say A enters into contracts with B, C & D in the month of August 2022 which would be effective for six months starting 1<sup>st</sup> Sep 2022. Assuming “A” makes entire contractual payment in advance to C and D, on 1<sup>st</sup> Sep 2022 itself, instead on a monthly basis, whether TDS under Sec194R needs to be deducted on 1<sup>st</sup> Sep 2022 ?

Sec194R states that deductor should ensure that tax has been deducted, “before providing benefit or perquisite”. From deductor’s side (here “A”) we can say that necessary arrangements have been made available to “B” w.e.f 1<sup>st</sup> Sep 2022, to engage the employees for work. Hence, whether or not payment is made in advance by “A” to “C and D”, TDS under Sec194R should be deducted @10%, on or before 1<sup>st</sup> September 2022, on the aggregate value of rent and food.

#### CBDT Circular No.18 of 2022

1. In order to mitigate the hardship of banks, One-time loan settlement or waiver of loan granted by specified banks and financial institutions is excluded from the purview of Sec194R, though such waiver gives rise to benefit or income to the borrower. This saves banks and financial institutions the cost of bearing tax in addition to the loss arising on loan settlements /waivers. It is however important to note that the exemption is only from deduction of tax under Sec194R but such income or benefit is still taxable in the hands of recipient under applicable provisions of the income tax Act.

2. Reimbursement of expenses to service provider by the service recipient falls under the purview of Sec194R if the expenses bills are in the name of service provider. Exception is given when the expenses are incurred as a pure agent as defined under GST valuation rules 2017.

Also, if the out-of-pocket expenses incurred by the service provider is included in the bill raised on the service recipient, then TDS under Sec194R is not applicable if tax is duly deducted by the latter under other applicable sections like Sec194C or Sec194J.

3. Any expenses incurred during dealer or business conference for a group of attendees and identifying expense to each participant might be practically difficult in order to comply with Sec194R. In such cases if the benefit or perquisite provider does not claim deduction of such expenses in calculation of taxable income, then there is no requirement to deduct tax under Sec194R. Consequently, benefit provider is not considered as assessee in default under Sec201 of the Act.

4. Embassy, High commission, legation, consulate and other specified international organizations are exempted from deduction of tax under Sec194R.

5. Circular clarifies that tax need not be deducted under Sec194R on issuance of bonus or right shares by a public company as defined under Sec2(18) of the Act, provided bonus or right shares are issued to all shareholders of the company.

However, clarity is required whether Sec194R is applicable – a) when bonus or right shares are issued by companies in which public are not substantially interested; b) when not issued to all shareholders; c) when issued only to select class of shareholders.

#### Few Indicative Impact Areas of Sec194R:

1. Freebies or gifts provided to various partners under any referral Program.
2. Incentives in the form of cash, electronics, jewellery, etc. given to any merchant or customer or social media influencer.
3. Free tickets to events or trips provided to any dealers, distributors, vendors or other business partners (including relatives of recipient) .
4. Advisory shares provided to any consultant. In cases where the value of advisory equity is subject to TDS under Sec194J then Sec194R should not be applicable, by virtue of **Circular : No. 720, dated 30-8-1995** which says that payment of any sum shall be liable for deduction of tax only under one section.

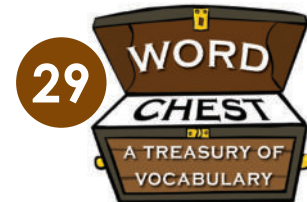
5. Sec194R is applicable on the reimbursements to consultant / service providers where the out-of-pocket expenses invoice is raised in the name of the service provider instead of service recipient. Expense invoice in the name of service provider establishes his liability to the expense and respective GST input credit also is allowed to him.
6. Bad debt write-off; trade debts settled with debtors. When the TDS amount cannot be recovered from the debtor then tax has to be grossed up and remitted for the purpose of Sec194R.
7. Compensation for termination of business contracts.
8. Portion of business conference expenses relating to leisure, overstay or prior stay, or cost of accompanying family members of participants. The stay of the participant to the business conference would not be considered overstay for the purpose of Sec194R, if such stay does not exceed a day immediately prior and a day immediately after the date of the conference.

### Concluding Remarks:

*It has been just six months since section 194R is made applicable, two sets of guidelines issued by CBDT raised unexpected issues, hence lot more clarity is awaited to avoid possible litigations. A PIL petition has already been filed with High Court by the Karnataka Drugs and Pharmaceuticals Association, Bangalore, with few other pharma companies, against treating free medical samples given to doctors as “freebies” and subjecting value of such samples to TDS @10% under Sec194R. Exhaustive list of benefits or perquisites should have been specified for Sec194R compliance, rather than giving a blanket inclusion. Many practical difficulties might crop up while implementing this section, hence businesses would certainly require two or three quarters more, to settle down with the lingering issues.*

**Author can be reached at :**

***jayasreevchaganti@gmail.com***



## SUDOKU-29

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

### Fintech word

#### Web 3.0

Web 1.0 and Web 2.0 are the first two generations of internet. Web 1.0 refers to “The read-only web” where majority of users were only content consumers (Ex: Myspace and Live journal).

Web 2.0 refers to “The read/write web” where users are the creators as well as the consumers (Ex: facebook, Instagram)

**Web 3.0** refers to “The read, write and own web” where users jointly own the internet and operate as a token-based economy. (Ex: Brave browser, IPFS and Filecoin). **Web 3.0** solves the issues of Web 2.0 such as centralization, single point of failure and Data Censorship. The applications of **Web 3.0** are built on blockchains and hence they inherit the properties of immutability and decentralization. Public blockchains are run by computers spread across the world and hence **Web 3.0** applications are safe from single point of failure and no single entity can own user’s data as they are stored on blockchains.



# INCOME TAX UPDATES

## DIRECT TAX NEWS ROUND UP JUDICIAL UPDATES

### ITAT

1. ITAT criticizes AO for ordering special audit just to get an extension of time to pass assessment order. (146 taxmann.com 115 (*Chandigarh - Trib.*))
2. Assessee sold a property and thereafter purchased a residential plot and constructed a residential house, claim of benefit under section 54 could not be disallowed only on ground that same was not claimed in IT return. (*ACIT v. Mayur Batra*)(145 taxmann.com 587 (*Delhi - Trib.*))
3. No TDS on salary/commission paid to partners. No disallowance u/s 40(b) if 'remuneration' paid to working partners is within the limit u/s 40(b)(v). (*ACIT v. Dhar Construction Co.*)(146 taxmann.com 81 (*GAUHATI*))
4. HC imposes fine of Rs. 25000 & simple imprisonment of 1 week on AO for wilful contempt of court with intent to harass the assessee. (*Prashant Chandra v. CIT*)(145 taxmann.com 496 (*Allahabad*))
5. No TDS liability on contractor for sum paid to port authorities on behalf of contractee for delay in import clearance. (*DCIT v. International Seaports (Haldia) (P.) Ltd.*)(145 taxmann.com 403 (*Kolkata - Trib.*))

### High Court

1. Where investment made out of assessee's own funds and not borrowed funds, section 14A is not attracted as no interest expenditure is directly or indirectly attributed to exempt income. (*PCIT v. PTC India Financial Services Ltd*)(449 ITR 309)
2. Loss sustained in unit covered by section 10B can be set off against other business income. (*PCIT v. Sandvik Asia Pvt. Ltd*)(449 ITR 312)
3. Where initiation of proceedings under section 263 by Principal Commissioner to disallow exemption claimed by assessee under section 10(38) was based on a proposal given by Assessing Officer and not on examination of record by Principal Commissioner, order passed under section 263 was vitiated. (*PCIT v. Reeta Lakhmani - [2022]* 145 taxmann.com 590 (*Jhar.*))

4. 10-year time limit for reassessment notice doesn't apply if assessee disclosed the facts in original assessment. (*Azim Premji Trustee Co. (P.) Ltd. v. DCIT*)(146 taxmann.com 58 (*Kar.*))

### Supreme Court

1. The SC had remanded the matter to HC for dismissing the writ petition in a casual and cursory manner, the order passed by it was non-speaking and non-reasoned order and nothing was discussed on merits at all. (*H.P. Diamonds India Pvt. Ltd v. DCIT & Other*)(449 ITR 163)
2. The reasons recorded after issuance of the reassessment notice and, thereafter, it could be seen that at the time when notice for assessment was issued, there was no subjective satisfaction. The HC had not committed any error in setting aside the reassessment proceedings. (*PCIT v. Tata Sons Ltd*)(449 ITR 166)
3. Bonus paid to directors disallowed on ground that payment was to avoid payment of DDT. (*SRC Aviation P. Ltd v. ACIT & Another*) (449 ITR 169)
4. Interest on delay in payment of tax cannot be waived on the reason that there is dispute before the authority. In this case the dispute was pending for resolution under MAP under DTAA between USA and India. (*Pioneer Overseas Corporation USA v. CIT (IT)*)(449 ITR 186)

### FROM CBDT

1. Clarification for the purposes of clause (c) of section 269ST of the income-tax act, 1961 in respect of dealership/distributorship contract in case of co-operative societies. (*Circular No. 25/2022*).
2. Exemption of Income of Specified Person from an Investment made in India - Specified Pension Fund. (*Notification No. S.O. 6103(E) [NO. 128/2022]*).
3. Instruction Regarding Standard Operating Procedure On Filing Of Appeals/Special Leave Petition (Slps) By Income Tax Department In Supreme Court And Related Matters. *Circular f.no. Dgit(s)-adg(s)-3/ e-FILING NOTIFICATION/ FORMS/2022/9227*
4. Deduction of tax at source in case of income under the head salary - income-tax deduction from salaries during financial year 2022-23. (*Circular no. 24/2022 [f. No. 275/15/2022-it(b)], dated 7-12-2022*)

\*\*\*\*

# FREQUENT DEPARTMENT AUDIT OBSERVATIONS & RESPONSES



CA. Madhukar N Hiregange



CA. Akshay M Hiregange

In the last few months, the number of departmental audits under GST has skyrocketed. 50,000 notices have been raised after scrutinising 1,00,000 taxpayers for the period ranging between FY 2017 to 2021. This is one more broken promise of trusting the taxpayer with promise of audits %age coming down. This has increased!! The compliant industries need to represent on basis of promissory estoppel.

We of course expected this earlier, a useful and brief article was written and published in the KSCAA journal of May 2022 titled "GST Notices & Possible Solutions". In this article we will speak about specific and repeated issues being raised by the department and possible responses/positions taxpayers could undertake.

Topics covered in May 2022 article	Topics covered in this article
Department Harassment Solutions	Reply on Equity held in Subsidiary
Common notices and possible solutions (other than those in the article)	Appeal on variance b/w GSTR 2A Vs GSTR 3B (July 17 to Sep 2019) & (Oct 2019 to Dec 2021)
Practical Difficulties in Litigation process	Grounds for ITC claimed under wrong tax head
Procedure when departmental contention is not valid	Reply against tax demanded under RCM U/S 9(4)
Process in accepting and replying to Notices	Reply against tax demanded under RCM from employee directors

## Our Comment:

- Equity shares fall under the terminology of securities.
- Securities is specifically excluded from the definition of 'goods' and 'services' under GST
- The contention that it is a deemed supply under Schedule I also would not hold good as section 7 specifically requires there to be a 'supply of goods or services or both'.
- Companies Act considers security as movable property (in this case goods) although in GST classification considered is HSN 997171 – Services of holding equity of subsidiary companies. GST is being demanded under RCM which can be disputed that the following service is not specifically listed in the notifications.
- Assuming a 5% of total value as Valuation under GST is inappropriate. As there is no open market value against the same, Value of Supply would fail eventually leading to a lack of 'supply under GST'.
- Article 265 of the Constitution does not allow the State to make unlawful levy or collecting tax unlawfully.

## Appeal on variance b/w GSTR 2A Vs GSTR 3B (July 17 to Sep 2019):

**Dept. Observation:** The ITC claimed in Form GSTR-3B for the period MMM-YYYY to MMM-YYYY is more than ITC in GSTR-2A

## Our Comment:

- Dispute the values disclosed in GSTR 2A as per notice and GST portal. Proposed merely based on surmises and assumption and reconciliation from source of an external data, which is not sustainable

## Some other common issues raised which can be legally disputed:

- RCM demand on GTO services - Specifically exempt vide NN 12/2017-CT(R). Important document – consignment note.
- General penalty for 9C late filing – Late fee u/s 47(2) not being disputed, although penalty u/s 125 being considered incorrectly. Waiver can be requested based on Section 126.
- Disallowing credits on employee related expenses – Other than specifically ineligible ITC u/s 17(5) other eligible credits being disputed incorrectly such as accommodation, travel expenses, etc..

## Reply on Equity held in Subsidiary:

**Dept. Observation:** The activity of holding the equity capital by a Holding Company in a subsidiary company to gain control over the affairs of the subsidiary Company is treated as a supply of services.

as per the decision of the *Supreme Court in the case of Oudh Sugar Mills v. UOI, 1978 (2) ELT 172 (SC)*. (Generally, variance detected).

- Dispute applicability of Rule 36(4) itself, which was made effective from 9<sup>th</sup> October 2019 prospectively.
- Dispute applicability of Rule without an authorizing Section in the GST Act. Section 16(2)(aa) was introduced w.e.f 1<sup>st</sup> January 2022 prospectively.
- Judgements passed by various High Courts stating that a bonafide taxpayer could not be penalized in any way for a default on part of the supplier to remit tax
- Emphasize of availability of valid tax invoices against eligible ITC and proof of payments made to such vendors.
- This has been considered by the Department and Circular No.183/15/2022-GST has been issued recently to allow the credit even though such credits are not reflected in GSTR 2A for the FY 2017-18 and FY 2018-19. However, the validity of the said circular needs to be tested as GSTR 2A was not applicable during the period covered in the circular.

#### **Appeal on variance b/w GSTR 2A Vs GSTR 3B (Oct 2019 to Dec 2021):**

**Dept. Observation:** The ITC claimed in Form GSTR-3B for the period MMM-YYYY to MMM-YYYY is more than ITC in GSTR-2A

#### **Our Comment:**

- Dispute the values disclosed in GSTR 2A as per notice and GST portal. Proposed merely based on surmises and assumption and reconciliation from source of an external data, which is not sustainable as per the decision of the *Supreme Court in the case of Oudh Sugar Mills v. UOI, 1978 (2) ELT 172 (SC)*. (Generally, variance detected).
- Emphasize adherence to ITC claimed being within ad-hoc limits allowed. (20%/ 10%/ 5%) prescribed as per Rule 36(4) and availability of valid tax invoices leading to eligible input tax credit.
- Dispute applicability of Rule without an authorizing Section in the GST Act. Section 16(2)(aa) was introduced w.e.f 1<sup>st</sup> January 2022 prospectively.
- Maharashtra State Circular [being a central law it is binding on all Dept.'s refer *Steel Authority of India Limited vs CC 2000 (115) ELT (SC)*] on obtaining CA certification of the supplier certifying the output transactions and tax paid thereon complies with the provision of section 16. One may argue that it cannot be said to be applicable and is also not sound as there are no provisions in the law supporting such clarification from the government.

#### **Grounds for ITC claimed under wrong tax head:**

**Dept. Observation:** IGST ITC as disclosed by supplier, incorrectly claimed as CGST & SGST by recipient

#### **Our Comment:**

- Rule 92(1A) allows for adjustment of pending demand against eligible refund application.
- Section 77 although pertains to outward supply, similar logic if applied along with above Rule, there would not be a need to follow SCN process.
- Being revenue neutral and will only result in unnecessary utilization of resources of the revenue & yield nothing in return.
- Without enabling IGST credit before demanding tax payments under CGST+SGST would tantamount to double taxation without authority of law. (Article 265 relied upon)
- As there is no unjust enrichment, a demand of this nature would affect the fundamental right to do trade, commerce, or business as per Article 19(1) (g) of the Constitution of India.

#### **Reply against tax demanded under RCM from employee directors:**

**Dept. Observation:** CBIC's Circular No. 140/10/2020 bases RCM liability against those TDS payments made u/s 194J of Income Tax Act, considering it to be a supply of service subject to GST

#### **Our Comment:**

- Non-applicability of GST on remuneration paid to whole-time/executive directors as they are employees of the entity as provided in form DIR-12 filed with the MCA. They are not non-executive directors. Sch III clause 1 specifically considers such activity as not a supply of service.
- Non-executive directors not performing in the capacity of a 'director' would not be liable to RCM under GST
- *Amrith Rameshchandra Shah Vs. UOI 2021-TIOL-583-HC-MUM-ST* wherein the Hon'ble HC stayed the show cause notice demanding service tax based on ITR data. The basis for proposing the demand on third party data is not proper and is liable to be set aside
- **Alternate plea - in case of *Jet airways India Ltd vs Commissioner of Service Tax, Mumbai - 2016 (44) S.T.R.465 (Tri-Mumbai)*, wherein the entire demand of service tax was set aside on the grounds of revenue neutrality, including the interest and penalty. The said judgement has been affirmed by Hon'ble Supreme Court [2017(7) GSTL J35 (Supreme Court)].**



## Reply against tax demanded under RCM u/s 9(4):

**Dept. Observation:** RCM unpaid for July to October 2017 u/s 9(4)

### Our Comment:

- Section 9(4) was exempted vide Notification 38/2017-CT(Rate). Therefore, the omission of the said exemption, mentioned in the original notification, has been deleted by the amending Notification No. 38/2017, dated 13.10.2017 and is therefore effective from the date of original notification dated 28.6.2017.
- Hon'ble Supreme Court in the case of *Vatika Township (2014-TIOL-78-SC-IT-CB)* wherein it was held that any beneficial amendment to the statute may be given benefit retrospectively.
- Alternate plea – As ITC would be eligible upon RCM payment, the observations is revenue neutral. Accordingly plead to drop such point.

### Some common terminologies that can be considered in replies:

- Specifically deny the allegations and substantiate your claim
- Notice issued does not contain DIN and thereby the notice is not valid.
- Non-speaking order - *Jay Jay Mills (India) Pvt Ltd Vs State Tax Officer 2020 (41) GSTL 304(Mad)*, wherein it was held that the statutory authority is bound to consider the claim made and pass a reasoned order.

- Where pre-consultation is mandated as per CBIC master circular and not followed, this can be highlighted. Reliance can be placed on *Gujarat High Court Decision in case of L and T Hydrocarbon Engineering Ltd (TS-146-HC-2022 (GUJ)-EXC)*

We hope this article having specific issues would help the taxpayers as a whole and reduce the quantum and issues converting into a show cause notice.

### Conclusion

The various issues highlighted above display various methods by which the department officials are unclear of tax laws, and some take it to the level of harassing genuine taxpayers. To ensure this trend does not back “rent seeking” the criterion for selection need necessarily to have reasonable reason to take up audit of any assessee.

Taxpayers unclear of erstwhile laws and jurisprudence may approach experts for their services to avoid high value SCNs and amounts being blocked through pre-deposits for years to come. Those professionals who understood the basics, may choose to get in depth knowledge to be able to provide valuable – well paid litigation services in GST.

Authors can be reached at :  
[madhukar@hiregange.com](mailto:madhukar@hiregange.com) &  
[akshay@hiregange.com](mailto:akshay@hiregange.com)

## Solution to Sudoku - 28 December 2022

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

### Moot Tribunal

- ★ Venue: Moot Court premises of National Law school
- ★ Date: 21st Jan 2023 (Saturday) 10:30 AM onwards
- ★ Bench to be presided by existing members of ITAT
- ★ The best performing team will be rewarded



#### Registration Fees

Before 30 November 2022	After 30 November 2022
KSCAA Members Rs - 9,000	KSCAA Members Rs - 10,000
Non KSCAA members Rs - 11,000	Non KSCAA members Rs - 12,500
+ GST	+ GST

Members below the age of 35 years to get 10% discount

**Enrol today and sharpen your skills for the future!**

**Only Limited Seats**

CA. Pramod Srihari, President  
CA. Deepak Chopra, Chairman

CA. Vijaykumar M Patel, Secretary  
CA. Nihillesh Cacarla, Convener

For Enquiry Contact  
+91 95357 15015

For Online Registration Visit:  
[www.kscaa.com](http://www.kscaa.com)

## Upcoming Event

# CRUCIAL AMENDMENTS UNDER GST LAW



CA. Annapurna Kabra

With the beginning of new wonderful year, the GST law also added various amendments which were made effective from start of 2023. The cluster of amendments is embraced by taxpayers wherein multiple circulars and notifications stimulated the procedures, clarifications for efficient administration of the GST law.

Primarily there was no mechanized procedure for claiming **Refund of GST by customers in case of cancellation of flats** especially in case of construction services. Generally, the construction contracts are long duration contracts and the time limit to issue credit note is regulated and accordingly customers were not refunded the GST component due to the restriction of time to issue of GST credit note. To avoid further concerns, the procedure has been specified for filing the refund application along with the supporting documents in RFD-01 by the customers. The separate application should be filed for different suppliers and should apply in the same state in which the supplier is registered, or else such person can obtain the temporary registration in the respective state. Where the time limit to issue the credit note is not expired, then in such instance the supplier can refund such taxes to the customer by issuing credit note. (**Circular No. 188/20/2022-GST**).

The requirement for matching of input tax credit (ITC) claimed in GSTR 3B with ITC available as per GSTR 2A/2B has always been argued as there is no such condition in law. The taxpayers who are contesting before the GST Authorities for the difference between **GSTR 2A and GSTR 3B** should opt for the benefit of input tax credit relating to mismatch for the financial year 2017-2018 and 2018-2019 under the GST law based on circular 183/15/2022. GSTR-2A could not be made available to the taxpayers on the common portal during the initial stages of implementation of GST. Therefore, the instructions are issued to the proper officer to verify the invoices/payment proof/ declaration from vendors/GSTR-1/GSTR 3B/CA certificate in case where differential input tax credit exceeds five lakhs. To avoid further litigations, the new rule 37A of the CGST rules has been introduced wherein the registered person should reverse the input tax credit in the event of non-payment of tax by the supplier within specified date and mechanism for re-availment of such credit if the supplier pays tax subsequently.

**The New Form GST DRC-01B** is introduced for **intimation to the taxpayer**, in the common portal, when there is difference

between liability reported by the taxpayer in FORM GSTR-1 and in FORM GSTR-3B for a tax period, where such difference exceeds a specified amount and/ or percentage, for enabling the taxpayer to either pay the differential liability or explain the reasons for the difference between GSTR-1 and GSTR-3B. It restricts furnishing of FORM GSTR-1 for a subsequent tax period if the taxpayer has neither deposited the amount specified in the intimation nor has furnished a reply explaining the reasons for the amount remaining unpaid. The taxpayer should be diligent in replying to such intimation to avoid the blocking of filing further Returns under GST law.

The **New Form GST APL-01/03W** has been introduced for the **withdrawal of the Appeal** which is filed before the Appellate Authority. The Appellant can state reasons like accepting the order of the adjudicating authority, acceptance of order of a higher Appellate Authority/courts on similar subject matter, rectification of mistakes/omission in the filed appeal, amount involved in appeal is less than the monetary limit fixed for appeal by the Board/Commissioner or can state any other reasons under the law. Where the final acknowledgement has been issued for the withdrawal of the appeal then it will be subject to the approval of Appellate Authority. The fresh appeal can be filed pursuant to such withdrawal of appeal, but it should be filed within the time limit as specified under GST law.

Certain entities/sectors have been exempted from mandatory generation of e-invoices. Basically, the exemption from generation of **e-invoices is for the entity as a whole** and is not restricted by the nature of supply being made by the said entity. For Example: A Banking Company providing banking services may also be involved in making supply of some goods, including bullion. The said banking company is exempted from mandatory issuance of e-invoice for all supplies of goods and services and thus, will not be required to issue e-invoice with respect to any supply made by it.

The clarification is issued on entitlement of Input Tax Credit for **transportation of goods to a place outside India** where place of supply is determined in terms of proviso to Section 12(8) of IGST Act. It is also clarified that the supplier of service shall report place of supply by selecting State code as '96- Foreign Country' from the list of codes in the dropdown menu available on the portal in FORM GSTR-1 and accordingly Input Tax Credit would be available.

Services by way of **Renting of Residential dwelling** for use as residence is exempted except where the residential dwelling is rented to a registered person. The exemption entry shall cover services by way of renting of residential dwelling to a registered person where (i) the registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence and (ii) such renting is on his own account and not that of the proprietorship concern.

The Proceedings conducted under **Insolvency and Bankruptcy Code (IBC), 2016**, also adjudicate the government dues pending under the CGST Act or under existing laws against the corporate debtor and it would be covered under the term 'other proceedings' in Section 84 of CGST Act. Therefore, in cases where a confirmed demand for recovery has been issued by the tax authorities for which a summary has been issued in FORM GST DRC-07/DRC 07A against the corporate debtor, and where the proceedings have been finalised against the corporate debtor under IBC **reducing the amount of statutory dues payable**, then the jurisdictional Commissioner shall issue an intimation in FORM GST DRC-25 for reducing such demand.

Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in **FORM GST APL-02** by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal. Where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of **FORM GST APL-01** and a final acknowledgment, indicating appeal number, shall be issued in **FORM GST APL-02** by the Appellate Authority and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal. Where the self-certified copy of the decision or order is not submitted **within a period of seven days from the date of filing of FORM GST APL-01**, the date of submission of such copy shall be considered as the date of filing of appeal.

The GST law is undergoing with lot of changes and all the taxpayers should make themselves aware of the new amendments and make sure that all the regulations are compiled in effective manner. It would be relevant to analyse the provisions which are to be given retrospective effect and which come into force prospectively. Some of the amendments has far reaching implications which may lead into unintended consequences or will give rise to litigations in time to come even though few amendments are leading into rationality in operation of the GST law....

Author can be reached at :  
annapurna@hskaadvisors.com

## Income Tax Savings Schemes

54EC



**REC Capital Gains Bonds**  
5 years, 5% Annual Interest

80C

**ELSS, PPF, Life Insurance**

80CCD

**National Pension Scheme**

## Fixed Income

Trust  
u/s 11(5)

**Trust Deposits Eligible u/s 11(5)**



RBI



**Reserve Bank of India Bonds**  
7 years, Floating rate 7.15% Half-yearly Interest

FD  
NBFC



**Mahindra FINANCE**



**Sovereign Gold Bonds**

8 years, 2.50% Half-yearly Interest, Maturity 'Tax-free'

## Growth Option

### Mutual Funds

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



For further information, please contact



Kiran Boal 98803 93743



wecare@wealthlab.co.in

**Achieve your financial goals with proper financial planning**



**WEALTH LAB** 



# FINANCIAL REPORTING AND ASSURANCE



CA. Vinayak Pai V

## KEY UPDATES A. AS | Ind AS

### 1. Exposure Drafts of amendments to Ind AS 1, Presentation of Financial Statements and Ind AS 116, Leases

On 30th December, 2022, the Institute of Chartered Accountants of India issued the following Exposure Drafts (ED):

- Amendments to Ind AS 1, *Presentation of Financial Statements – Classification of Liabilities as Current or Non-current and Non-current liabilities with covenants.*

The ED proposes amendments relating to the classification of liabilities as current or non-current to resolve apparent contradictions between paragraph 69(d) and paragraph 73 of Ind AS 1. The proposed amendments also specify that only covenants with which an entity must comply on or before the reporting date should affect the classification of a liability as current or non-current.

- Amendments to Ind AS 116, *Leases – Lease liability in a Sale and Leaseback.*

The ED proposes adding subsequent measurement requirements for sale and leaseback transactions, particularly in a leaseback that includes variable lease payments that do not depend on an index or rate-because these payments are excluded from 'lease payments'. The amendments require a seller-lessee to subsequently measure lease liabilities arising from a leaseback so that it does not recognise any amount of the gain or loss related to the right of use it retains.

Link to the Exposure Drafts -

<https://www.icai.org/post/exposure-drafts-of-amendments-to-ind-as-1-and-ind-as-116-for-comments>

### 2. EAC Opinion – Classification of PPE under refurbishment, depreciation thereon and its impairment

The January 2023 edition of the ICAI Journal has carried an **Expert Advisory Committee's (EAC) opinion** – Classification of PPE under refurbishment, depreciation thereon and its impairment. A summary of generic key takeaways from the opinion is summarised herein below:

- An item of PPE shall be derecognised only on disposal or when no future economic benefits are expected from its use or disposal. Where a Company intends to re-induct the plants after refurbishment, it cannot be considered that no future economic benefits are expected from their use (though after refurbishment only). Further, if there is no disposal of the plants, the said items of PPE cannot be derecognised, and these should continue to be recognised as PPE in the financial statements.
- If Ind AS 105, Non-current Assets held for sale and Discontinued Operations is not applicable, depreciation of the plants should cease only on the date the plants are derecognised. If derecognition conditions as per Ind AS 16 are not fulfilled, the depreciation on this ground should not cease.
- If PPE assets are not in operation due to various technical issues and are not in immediate use condition due to technical obsolescence arising from a change in the production process, these indicate that these assets may be impaired. Therefore, the same should be assessed by the Company for impairment of assets, as per the requirements of Ind AS 36, Impairment of Assets.

Link to the EAC Opinion –

<https://resource.cdn.icai.org/72521cajournal-jan2023-8.pdf>

### B. IFRS

### 3. IASB – Review of classification and measurement requirements relating to IFRS 9

On 21st December, 2022, the International Accounting Standards Board (IASB) published its **Project Report and Feedback Statement, Post-implementation Review (PIR): IFRS 9, Financial Instruments – Classification and Measurement.**

The PIR was carried to assess whether the effects of applying the new requirements of IFRS 9 for stakeholders are those that were intended. The report concludes that the classification and measurement requirements in IFRS 9 are working as intended.

The **IASB has identified research and standard-setting areas and has initiated a standard-setting project** focused on a company's assessment of the contractual cash flow characteristics of financial assets with ESG-linked features and

on electronic cash transfers as settlement of a financial asset or liability. It will also include improvements to disclosures of fair value changes relating to equity instruments that a company elects to present in 'other comprehensive income' (OCI).

Link to the Project Report and Feedback Statement -

<https://www.ifrs.org/content/dam/ifrs/project/pir-ifrs-9/pir-ifrs9-feedbackstatement-portrait-dec2022.pdf>

## C. RBI NOTIFICATION RELATED TO FINANCIAL REPORTING

### 4. Financial Statements Presentation and Disclosures Directions, 2021 - Disclosure of Material Items

On 13th December, 2022, the Reserve Bank of India (RBI) notified the *Reserve Bank of India (Financial Statements - Presentation and Disclosures) Directions, 2021 - Disclosure of material items*.

The notification **applies to all commercial banks** and contains the following instructions:

- i) Banks are required to disclose the particulars of all such items in the notes to accounts wherever any item under Schedule 5(IV)-Other Liabilities and Provisions-"Others (including provisions)" or Schedule 11(VI)-Other Assets-"Others" exceeds one per cent of the total assets.
- ii) Payments Banks to disclose particulars of all such items in the notes to accounts, wherever any item under Schedule 14(I)-Other Income-"Commission, Exchange and Brokerage" exceeds one per cent of the total income.
- iii) Invites attention to Clause 6 of Chapter IV of the Financial Statements – (Presentation and Disclosures) Directions, in terms of which more comprehensive disclosures than the minimum required are encouraged, especially if such disclosures significantly aid in the understanding of the financial position and performance of banks.

The above instructions are effective for disclosures in the 'Notes to the Annual Financial Statements' for Y.E. 31st March, 2023 and onwards.

Link to the notification-

<https://rbidocs.rbi.org.in/rdocs/notification/PDFs/913CFA16F69D9.PDF>

## D. ASSURANCE

### 5. ICAI Implementation Guide – SA 230, Audit Documentation (Revised 2022 Edition)

On 15th December, 2022, the ICAI released *'Implementation Guide to Standard on Auditing (SA) 230, Audit Documentation (Revised 2022 Edition)'*.

The revised edition of the Implementation Guide contains FAQs on SA 230, Checklist and Illustrative Working Paper Format.

Link to the Implementation Guide -

<https://resource.cdn.icaai.org/72414aasb58321.pdf>

### 6. 'What Makes a Good Annual Report and Accounts'

On 13th December, 2022, the UK Financial Reporting Council (FRC) released a publication, *What Makes a Good Annual Report and Accounts*, that sets out the FRC's view on the attributes of a good 'Annual Report and Accounts' from its perspective as an Improvement Regulator.

A **high-quality 'Annual Report and Accounts' (ARA)** complies with relevant accounting standards, laws and regulations, and codes; is responsive to the needs of stakeholders in an accessible way; and demonstrates the corporate reporting principles and effective communication characteristics outlined in the publication.

The principles identified in the publication **apply** irrespective of a **company's listing status, size or GAAP**. Each example covered in the publication demonstrates a particular characteristic of a high-quality ARA.

The publication **highlights improvement areas** and identifies illustrations of **better practice**, representing how company may improve its reporting quality.

Link to the Publication-

<https://www.frc.org.uk/getattachment/d3e86b16-22b6-4aa7-a6fe-1dc83657335f/What-Makes-a-Good-Annual-Report-and-Accounts.pdf>

### 7. IFAC – New Implementation Tool for Auditors on Identifying and Assessing Risks of Material Misstatement

On 15th December, 2022, the International Federation of Accountants (IFAC) released a new resource publication, *The Risk Identification and Assessment Process: Tips on Implementing ISA 315 (Revised 2019)* to help auditors implement International Standard on Auditing (ISA) 315 (R 2019), Identifying and Assessing the Risks of Material Misstatement.

ISA 315 (Revised 2019) is effective for audits of financial statements for periods beginning on or after 15th December, 2021.

The Implementation Tool **provides an overview of core concepts** and **explains new and previously existing requirements**. It also includes examples and emphasizes the scalability of the standard **with a focus on less complex entities**.

Link to the Implementation Tool -

<https://www.ifac.org/system/files/publications/files/IFAC-ISA-315-Material-Misstatement-Implementation-Tool-Auditors.pdf>

## 8. IAASB – FACT SHEET: QUALITY MANAGEMENT AND GROUP AUDITS

On 15th December, 2022, the International Auditing and Assurance Standards Board (IAASB) released a Fact Sheet, *ISA 220 (Revised) - Quality Management and Group Audits: Highlighting Certain Aspects of Interaction Between ISA 220 (Revised) and ISA 600*.

The Fact Sheet includes the **revised definition of engagement team and leadership and direction, supervision, and review responsibilities**.

The factsheet is aimed at assisting **group audits in which component auditors are involved**.

Link to the Fact Sheet -

<https://www.ifac.org/system/files/publications/files/IAASB-Fact-Sheet-quality-managment-group-audits.pdf>

## E. SUSTAINABILITY STANDARDS

### 9. ISSB describes sustainability concept and its articulation with financial value creation

On 13th December, 2022, the International Sustainability Standards Board (ISSB) that issues IFRS Sustainability Disclosure Standards, agreed how to describe sustainability and clarified that a **company's ability to deliver value for its investors** is inextricably linked to the stakeholders it works with and serves, the society it operates in, and the natural resources it draws on. This builds on the 'Integrated Reporting Framework' concepts.

Sustainability will be described in the ISSB's General Sustainability-related Disclosures Standard (S1) as the ability for a company to sustainably maintain resources and relationships with and manage its dependencies and impacts within its whole business ecosystem over the short, medium and long term. Sustainability is a condition for a company to access over time the resources and relationships needed (such as financial, human, and natural), ensuring their proper preservation, development and regeneration, to achieve its goals. By referring to this articulation of the value creation process, a company will be better placed to explain to its investors how it is working sustainably within its business ecosystem—addressing the impacts, risks and opportunities that can affect its performance and prospects—to ultimately deliver financial value for investors.

Link to the announcement -

<https://www.ifrs.org/news-and-events/news/2022/12/issb-describes-the-concept-of-sustainability/>

## F. USGAAP|SEC|PCAOB

### 10. PCAOB – Proposed new standard for the 'Auditor's Use of Confirmation'

On 20th December, 2022, the US Public Company Accounting Oversight Board (PCAOB) issued for public

comment, *Proposed Auditing Standard – The Auditor's Use of Confirmation, and Other Proposed Amendments to PCAOB Standards* to modernize the requirements for the auditor's use of confirmation. It includes principles-based requirements that would apply to all confirmation methods, including paper-based and electronic communications, and is intended to better integrate the PCAOB's confirmation standard with its risk assessment standards.

The key proposals in the proposed standard (Note: applies only to all audits conducted under PCAOB standards) are:

- New requirement regarding confirming cash held by third parties. It carries forward the extant requirement related to confirming accounts receivables.
- The use of negative confirmation requests alone does not provide sufficient appropriate audit evidence.
- Identifies situations in which the auditor should perform alternative audit procedures.
- Clarifies that there are certain activities in the confirmation process for which the auditor may not use internal auditors to provide direct assistance.

Link to the Exposure Draft-

[https://pcaob-assets.azureedge.net/pcaob-dev/docs/default-source/rulemaking/docket\\_028/2022-009-confirmation.pdf?sfvrsn=d3d14ede\\_2](https://pcaob-assets.azureedge.net/pcaob-dev/docs/default-source/rulemaking/docket_028/2022-009-confirmation.pdf?sfvrsn=d3d14ede_2)

### 11. USGAAP – FASB defers sunset date of 'Reference Rate Reform Guidance'

On 21st December 2022, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update No. 2022-06, *Reference Rate Reform (Topic 848) – Deferral of the Sunset Date of Topic 848*, extending the period USGAAP preparers can utilize the 'reference rate reform relief guidance'.

Extant Topic 848 included a sunset provision based on expectations when the LIBOR would cease being published, namely 31st December, 2022. In 2021, the UK Financial Conduct Authority (FCA) **delayed the intended cessation date** of certain tenors of USD LIBOR to 30th June, 2023. Accordingly, now the FASB has deferred the sunset date of USGAAP Topic 848 **to 31st December, 2024**, after which entities will no longer be permitted to apply the relief.

Link to the Accounting Standards Update-

<https://www.fasb.org/document/blob?fileName=ASU%202022-06.pdf>

Author can be reached at :  
[vinayakpaiv@hotmail.com](mailto:vinayakpaiv@hotmail.com)



# GOING DEEPER INTO INDIA'S CENTRAL BANK DIGITAL CURRENCY (CBDC)



CA. Narasimhan Elangovan

## Introduction

In the last article we understood the concept of Central Bank Digital Currency (CBDC) as digital version of a country's physical currency having the same value as that of physical currency. In India, CBDC have be classified into two broad types viz. general purpose or **retail (CBDC-R)** and **wholesale (CBDC-W)**. The retail CBDC would be potentially available for use by all viz. private sector, non-financial consumers and businesses while wholesale CBDC is designed for restricted access to select financial institutions. While Wholesale CBDC is intended for the settlement of interbank transfers and related wholesale transactions, Retail CBDC is an electronic version of cash primarily meant for retail transactions. This article explores more practical nuances of the e-RUPI.

## Features

The below are the key features basis on which the NPCI / RBI have proposed to roll out e-RUPI:

- e-RUPI voucher is an end-to-end digital solution to sponsor benefits and services to beneficiaries. e-RUPI can be issued by the sponsor with the support of Issuer banks.
- e-RUPI is a one-time and multiple time use contactless, cashless voucher-based mode of payment that helps users redeem the voucher without card, digital payments app, or internet banking access.
- e-RUPI is a person-specific and even purpose-specific digital voucher, which means these vouchers can be used by person (to whom the voucher is been given) for specific purpose.
- Beneficiary receives e-RUPI voucher on the mobile phone in the form of SMS/QR code.
- Beneficiary can redeem the e-RUPI voucher at any merchant center which is enabled for e-RUPI acceptance.



## Principles

Below are the principles based on e-RUPI shall operate:

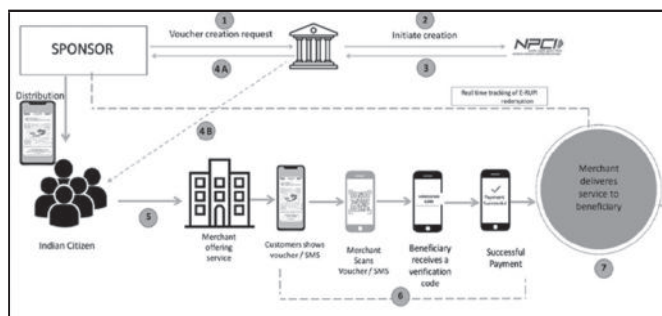
- e-RUPI voucher can be created or revoked on the request of the Sponsor (Government/Private Entities)
- The cap on the amount for e-RUPI vouchers is INR 1,00,000/- per voucher for Government schemes only. For Private entities, the limit of e-RUPI voucher is at INR 10,000/- per voucher.
- The e-RUPI voucher is allowed to redeem for P2M (Person to Merchant) purchases only. It can be accepted on all UPI merchant acceptance points, or at specific locations as per designed scheme, while issuance of such instrument.
- Every voucher is "digitally validated" on the redemption.
- The voucher issuance format will be digital only for e.g., QR code, SMS string etc. The Issuer Bank/Payer PSP may also send the communication for issuance of the e-RUPI voucher to the end beneficiary via another mode basis on the Sponsor request (digital mode only).
- The validity of the e-RUPI voucher shall be defined by the Issuer Bank/Payer Payment Service Providers (PSP) as per the use case (Max validity per voucher – 1 year).

## e-RUPI workflow

1. Corporate/Government Department (Sponsor) shares information (specify the fields like name, mobile no,

amount, expiry date, purpose of the voucher etc.) to issue e- RUPI to Issuer Bank.

2. Issuer Bank/Payer PSP initiates the request to generate e-RUPI to NPCI.
3. NPCI responds to Issuer Bank/Payer PSP with success confirmation.
4. Issuer Bank/Payer PSP confirms e-RUPI generation back to Corporate / Government Entity, to be further distributed to the beneficiary in the form of QR or SMS string by the Bank/Sponsor.
5. Beneficiary reaches merchant with e-RUPI redemption.
6. Merchants scan e-RUPI vouchers for validation, verify beneficiaries, and initiate redemption requests.
7. Post successful redemption confirmation, the merchant provides service to the beneficiary.



**Fig-1: e-RUPI Voucher workflow**

### Participants in e-RUPI ecosystem

<b>Issuer Bank/Payer PSP</b>
▪ Initiate the request to create e-RUPI voucher to NPCI.
<b>Acquiring Bank/Payee PSP</b>
▪ Shall provide facility/capability to designated merchants to accept the e-RUPI voucher for redemption.
<b>Designated Merchant</b>
▪ Are specific voucher acceptance points where e-RUPI voucher can be redeemed/used.
<b>Sponsor</b>
▪ Shall be the Corporate, State, and Union Government department, a business customer of the bank who shall request the bank for creation of e-RUPI voucher.
<b>e-RUPI Beneficiary</b>
▪ The person to whom the e-RUPI voucher is issued.

### Key differences between UPI and e-Rupi/CBDC

The following are the compilation of key differences between UPI and e-Rupi as understood from various RBI

discussions and opinions from Industry Leaders.

#### 1. No Bank account required for e-Rupi

To carry out payments through UPI, one needs to have a bank account, UPI ID. But for accessing the e-Rupi wallet, there will be no need to have such a bank account. With a retail CBDC, people should be able to transact without any bank involved (like physical cash) and it's a digital transfer from people to people direct minus a bank intermediary. It will have the same denominations as physical cash.

#### 2. Anonymity can be maintained

Transactions in digital rupee may offer the same anonymity as cash transactions. The RBI has asked lenders not to report low-value transactions made through the digital rupee. Once the retail CBDC is transferred to customer wallets, banks will not track or report these transactions. Currently, most cash transactions over Rs 50,000 require customers to disclose their permanent account number. While no limit has been set for digital rupee transactions, it is believed that retail transactions up to Rs 50,000 will not be reported. Transactions in excess of Rs 2 lakh will have to be reported for tax purposes. Experts suggest that the move will ensure the virtual currency will offer a similar degree of anonymity associated with paper money for business exchanges below a value threshold.

#### 3. No need for physical currency backup

UPI transactions are backed by physical currency. This means the payment will not go through if the user's bank account does not have enough funds. The e-rupee, however, can be used for digital payments in lieu of currency/cash. It is a legal tender in itself and need not necessarily be backed by physical currency unlike the UPI.

#### 4. Single handle for all

Depending upon the banks and platforms, the UPI handle or ID varies. Even linking two different platforms with the same bank account may generate different UPI ID, but such will not be the case for e-Rupi. The digital rupee will be operated by RBI and not by bank intermediaries like in the case of UPI where each bank has a different UPI handler. E-rupi will have a single public key (address).

#### 5. Transaction without a smartphone

Yet another major benefit of using the e-rupee is that it will allow offline transactions which can be carried out on feature phones, promoting its adoption in rural and remote areas as well. Since the e-rupee voucher will be shared with the beneficiary through an SMS or QR code. This will enable its use in rural and remote areas as well where internet connectivity can be a problem. And if it is in the form of an SMS, anyone without a smartphone can utilize it as well.

## e-RUPI Current Status

While this is under the initial phase, Dec 2022 definitely has seen some activities in this space. To begin with NPCI has tied up with more than 1,600 hospitals where e-RUPI can be redeemed currently. In the days to come the user base of e-RUPI is expected to widen, with even private sector using it to deliver employee benefits and MSMEs adopting it for Business to Business (B2B) transactions.

## e-RUPI Live Banks as of Dec 2022

S. N.	Bank Name	Is-suer	Ac-quir-er	Acquiring App / Entity
1	AU Small Finance Bank	✓		NA
2	Axis Bank	✓	✓	BharatPe
3	Bank of Baroda	✓	✓	BHIM Baroda Merchant Pay
4	Bank of India	✓		NA
5	Bank of Maharashtra	✓		NA
6	Canara Bank	✓	✓	Canara eRUPI Acquirer
7	Central Bank of India	✓		NA
8	Federal Bank	✓		NA
9	HDFC Bank	✓	✓	HDFC Business App & Ezetap
10	ICICI Bank	✓	✓	BharatPe and Pine Labs
11	IndusInd Bank	✓		NA
12	Indian Bank	✓	✓	IB Corporate Merchant
13	Indian Overseas Bank	✓		NA
14	Karnataka Bank	✓		NA
15	Karur vysya Bank	✓		NA
16	Kotak Bank	✓		NA
17	Paytm Payment Banks		✓	Paytm Business App
18	Punjab National Bank	✓	✓	PNB Merchant Pay
19	State Bank of India	✓	✓	YONO SBI Merchant
20	UCO Bank	✓	✓	BHIM UCO UPI
21	Union Bank of India	✓		NA
Total		20	10	11

## Partners Live on e-RUPI API Gateway Platform

#	Sponsor Name	Live On API Gateway Platform
1	National Health Authority	Yes
2	Odisha Government	Yes
3	Tripura Government	Yes

## Latest Statistics of Transactions of e-RUPI for the month of Dec 2022.

#	Use Case Name	Voucher Created Volume	Voucher Redeemed Volume
1	National Health Authority: AB-PMJAY	27,566	2,964
2	Madhya Pradesh Government: Agriculture Equipment Distribution	62	37
3	Haryana Government: Mobile Distribution	19	4
4	Tripura Government: Student Stipend	2	0
5	Madhya Pradesh Government: Cycle Distribution	3	3
Total		27,652	3,008

## Concluding Thoughts

While the above are merely indicative in nature, the actual reality could vary based on the progress, challenges and updates by RBI into the entire infrastructure or the system set up. It is to be noted that CBDC is aimed to complement, rather than replace, current forms of money and is envisaged to provide an additional payment avenue to users, not to replace the existing payment systems. In the days to come the user base of e-RUPI is expected to widen, with even private sector using it to deliver employee benefits and MSMEs adopting it for Business to Business (B2B) transactions. Only time will speak of its success story.

## Reference:

This is an article compiled from the Concept Note on Central Bank Digital Currency hosted at the RBI website, NPCI and the various publicly available research articles.

*Author can be reached at :  
narasimhan@ken-co.in*



# KARNATAKA REAL ESTATE REGULATORY AUTHORITY (GENERAL) REGULATIONS, 2022



CA. Vinay Thyagaraj

The real estate industry is governed by multiple laws viz., central, state and local / municipal laws. In spite of having many laws, the government realized that the real estate sector needs a comprehensive regulation and development to have orderly growth and attract the attention of the globe for investments etc.

With the efforts of various stakeholders viz., industry associations, NGO's, activist the Act is enacted by the central government as it falls in the concurrent list in Schedule 7 of the constitution of India. Hence new law is called The Real Estate (Regulation and Development) Act 2016, is completely effective from 1st May 2017.

The legislation has been envisaged to bring accountability and transparency in the sector for improving governance, for protecting the consumer interest and speedy mechanism for adjudication of disputes. The Act is expected to promote professionalism, standardization and orderly growth which will increase foreign/private investment in the sector. Act contains 10 chapters and 92 sections-

Sections	Provisions of the Act
1 – 2	Applicability and Definition
3 to 8	Real Estate Project Registration, Extension, Revocation of project
9 to 10	Real Estate Registration and functions
11 to 18	Functions, duties, obligations of the Promoter of the Real estate projects
19	Rights and Duties of the Allottees in the project
20 to 40	Establishment of Real Estate Regulatory Authority
41 to 42	Central Advisory Council
43 to 58	Establishment to Real Estate Appellate Tribunal
59 to 72	Offences, Penalties and Adjudication
73 to 78	Finance, Accounts, Audit and Reports
79 to 92	Miscellaneous

Sections	Effective from
2, 20 to 39, 41 to 58, 71 to 78, 81 to 92	Came into effect from 1 <sup>st</sup> May 2016
3 to 10, 11 to 19, 40, 59 to 70, 79 to 80	Came into effect from 1 <sup>st</sup> May 2017

The Act is wide enough to cover various aspects of the Real Estate Project to achieve discipline, standardization and transparency among various stakeholders viz.,

1. Mandatory **Registration** of Real estate project before advertisement, marketing or sale
2. Mandatory Registration of Real estate **agents**, who involve in marketing the real estate projects
3. Obtaining **Sanction** plans, NOC, approvals mandatory before launching of the real estate project
4. Ensuring the **legal** ownership of the project land
5. **Advertisements**, ethical and responsible practices
6. **Financial** management – utilization of funds, credibility and ability of the promoters
7. Standard and uniform legal agreements – **Agreement** of sale
8. Defect liability - **Quality** and warranty
9. **Title** guarantee of the Land
10. Proper communication, **consent** of the customers in case of modification in plans, specifications
11. Development of project with in **timelines** and as per the plan sanction
12. Mandatory obtaining of **completion** certificate from planning authority
13. Compensation in case of **delay** or non-adherence
14. Timely **payment** of dues by the allottees
15. Participation by the allottees – **possession**, association formation etc
16. Allottees liable to pay **Interest** in case of delay payment of installments

17. Complaint, Adjudication, Appeal and Dispute resolution.

18. Many more...

In order to achieve, the power is conferred in the Act under Section 20, the appropriate government (State/UT's) shall, within a period of one year from the date of coming into force of this Act, by notification, establish an Authority to be known as the Real Estate Regulatory Authority to exercise the powers conferred on it and to perform the functions assigned to it under this Act.

Accordingly, the State Governments has appointed the Authorities, known as RERA Authority. As per Section 20 (1) of the Real Estate (Regulation and Development) Act, 2016 (RERA Act), in Karnataka, Interim Real Estate Regulatory Authority was established on 14-July-2017 and was functioning till 06-March-2019. Vide Government notification No. DOH24RERA2017 dated 05- March-2019, the regular Karnataka Real Estate Regulatory Authority is established and functioning from 07-March-2019.

Further in exercise of the power conferred on it under 85(1) of the RERA Act, the Authority shall, within a period of three months of its establishment, by notification, make regulations, consistent with this Act and the rules made thereunder to carry out the purpose of this Act.

GOVERNMENT OF KARNATAKA has notified the REGULATIONS vide No. DOH 27 RERA 2019 dated 27th October 2022 and the details are as follows -

Title, commencement and application- (1) These regulations may be called the **Karnataka Real Estate Regulatory Authority (General) Regulations, 2022.**

They shall come into force on the date of their publication in the official Gazette (i.e., WEF 27th Oct 2022)

These regulations shall apply to all matters falling within the jurisdiction of the Authority in the state of Karnataka.

The details of the regulations (Reg) are as follows -

Reg. No	Regulation details	Details
1	Title, commencement and application	

Reg. No	Regulation details	Details
2	<p>Definitions</p> <p>(j) "Media" means and include newspapers, magazines, periodicals, journals, radio, television, internet and other social media platforms;</p> <p>(k) "No Lien Account" means a Bank Account without any third party rights or security interests;</p> <p>(l) "No Lien fixed deposit" means the fixed deposit without any third party rights or security interests;</p> <p>(n) "RERA Bank Account" means the separate Bank Account to be maintained by the promoter in the local branch of a scheduled bank, where the project is going on, as per sub-clause (D) of clause (1) of sub-section (2) of section 4 of the Act;</p>	Definitions are Defined from regulations 2(a) to 2(p) -
3	Formats of Certificates -	Authority has notified the various formats and details are as mentioned -
4	Language of the Authority	shall be Kannada and English
5	Seal and emblem	shall have its own official seal and emblem
6	Computation of time	shall be reckoned exclusive of the said day or of the day of the act or event from which the time runs and in case of holiday, it is next working day

Reg. No	Regulation details	Details
7	Meeting of the Authority	as and when necessary to transact its business, but not less than fourtimes in a year
8	Quorum for meeting of the Authority	minimum of one-half of the appointed members present, with minimum of two members
9	Minutes of meeting of the Authority	
10	Obligation of members at the meeting	
11	Procedure for scrutiny of complaint, reference and review petition	Form-N or Form-O to the K RERA Rules
12	Adjudication proceedings	
13	Authorised representative	
14	Collection of information	
15	Investigation	
16	Orders of the Authority	
17	Interim order	
18	Compliance of orders	
19	Certified copies of the order	
20	Inspection of records	
21	Destruction of records	
22	Continuance of proceedings after death, etc	
23	Effect of non-compliance	
24	Power to remove difficulties	
25	Saving of Inherent power of the Authority	
26	General power to amend or rectify	
27	Extension or abridgement of time prescribed	
28	Costs	
29	RERA Bank Account	

## Formats and reference of certificate Numbers in the Regulation -

Certificate Name	Certificate Format	Professional to issue the certificates	Reference
Post / Registration	Form - 1	Chartered Accountant	Regulation 3 (1)(i)
Post / Registration	Form - 2	Architect	Regulation 3 (1)(i)
Post / Registration	Form - 3	Engineer	Regulation 3 (1)(i)
Quarterly updates	Form - 4	Chartered Accountant	Regulation 3 (1) (ii)
Quarterly updates	Form - 5	Architect	Regulation 3 (1) (ii)
Quarterly updates	Form - 6	Engineer	Regulation 3 (1) (ii)
annual audit report	Form - 7	Chartered Accountant	Regulation 3 (1) (iii)
Change of the RERA Bank Account	Form - B1	Promoter Application	Regulation 3 (1) (iv)
Change of the RERA Bank Account	Form - B1-A	Chartered Accountant	Regulation 3 (1) (v)
Change of the RERA Bank Account	Form - B2	Issued by the existing Banker (70% RERA Account) – NOC	Regulation 3 (1) (vi)
Change of the RERA Bank Account	Form - B3	The proposed Banker to confirm transfer of funds to RERA Bank Account	Regulation 3 (1) (vii)
Change of the RERA Bank Account	Form - B4	Promoter	Regulation 3 (1) (viii)
Project extension	Form - F1	Project architect in practice	Regulation 3 (1) (ix) Certificate on status of work and pending work



Certificate Name	Certificate Format	Professional to issue the certificates	Reference
Project extension	Form - F2	Chartered Accountant in practice	Regulation 3 (1) (x)  Certificate on amount of funds incurred and balance fund required
Project extension	Form - F3	Project Engineer In Practice	Regulation 3 (1) (xi)  Certificate on status of work and pending work
Modification of the sanctioned plan	Form - M	Consent letter from the allottees	Regulation 3 (1) (xii)  Section 14 of the RERA act
application for change of project name	Form - U	Promoter	Regulation 3 (1) (xiii)  Application for change in Project Name
change of the promoter	Form - V	Promoter Application for change in promoter	Regulation 3 (1) (xiv)  Section 15 of the RERA act

**Important clauses in the regulations – professionals shall advise the promoters (clients) in order to comply with the regulations -**

1. Professionals engaged during the project registration shall not be removed (Designated chartered accountant, architect or engineer) without prior concurrence of the Authority
2. The chartered accountant certifying the progress of the registered real estate project for the purpose of withdrawal of amounts (FORM 4) from the RERA Bank Account shall be a different entity than the chartered accountant who is statutory auditor of the promoter's enterprise.

3. If the Form-7 issued by the statutory auditor reveals that any certificate issued by the chartered accountant, project architect or project engineer has false or incorrect information, the amount collected for a particular project has not been utilised for the project or withdrawals are not commensurate with the development of the project, the Authority shall, apart from taking action against the promoter under the Act, and rules and regulations made there under, shall also bring the matter to the concerned respective regulatory body of the said chartered accountant, architect or project engineer, for necessary penal action against them. (Here concerned regulatory body may be ICAI, CoA, IIE etc)
4. The sanctioned plans and lay-out plans, along with the specifications approved by the competent authority, shall be prominently displayed by the promoter at the project site and the registered office of the promoter. Non-compliance of this shall be deemed to be contravention under clause (a) of sub-section (1) of section 7 of the Act and shall be liable for penalty under section 61 of the Act

**Regulation 29 – RERA Bank Account – details**

1. The RERA Bank Account shall be a No Lien account
2. withdrawal from the account shall be in accordance with the provisions of the Act, rules and regulations made thereunder.
3. The amount withdrawn from the RERA Bank Account shall be utilised for the purpose of completion of the same real estate project.
4. However, there is no end use restriction on the amount which is withdrawn from the RERA Bank Account, in accordance with the provisions of the Act, rules and regulations made there under
5. A RERA Bank Account shall be opened before applying for registration and
6. Separate Bank account maintained for each of the registered project of the promoter,
7. A RERA Bank Account shall be opened at local branch of a scheduled bank, where the project is going on.
8. Details of the RERA Bank Account shall be submitted along with the project registration application.
9. It shall be required to suffix the term “RERA Designated account for name of the project, real estate project” with the name of the account holder.

**Illustration:** if the name of the promoter is M/s ABC Ltd and the name of the project is XYZ, then the name of the account shall be “ABC-RERA Designated Account of XYZ”.


10. Each project shall have only one RERA Bank Account. In case of multiple promoters, necessary contractual or legal arrangements shall be made by the principal promoter, who shall register the project, to ensure proper operation of the account (means landowners and developer to deposit the 70 % amount to RERA Designated bank account)
11. The promoter shall deposit seventy percent of the amount collected or realized from allottees (other than pass through charges and indirect taxes)
12. In case of project which is higher than the estimated value of sales revenue, **hundred percent** of the amount collected from the allottees (other than pass through charges and indirect taxes), shall be deposited in the RERA Bank Account
13. The money present in the RERA Bank Account may be kept in fixed deposit with the bank and such fixed deposit shall be No Lien Fixed Deposit and no loan shall be obtained against and no charge shall be created on such fixed deposit
14. In case of a fixed deposit being made from the money in the RERA Bank Account, the chartered accountant shall verify that there is no lien or charge on such fixed deposit.
15. The promoter and/or chartered accountant shall obtain the no lien or charge certificate in respect to such fixed

deposit from the bank once in every three months and submit the same as part of quarterly compliance return.

16. The promoter shall append copy of the RERA Bank Account pass book statement certified by chartered accountant to Form – 4, as part of the project quarterly return submission.
17. The promoter may change the RERA Bank Account from one bank to another bank only with prior permission of the Authority by making application
18. Power of the Authority: Upon revocation of the registration, the Authority may direct the bank holding the RERA Bank Account, to freeze or de-freeze the said account, to facilitate the remaining development works in accordance with the provisions of clause (c) of sub-section (4) of section 7 and section 8 of the Act.
19. The Authority may, in the interest of the allottees, enquire into the payment of amount out of RERA Bank Account.

**Conclusion** – promoters and professionals shall refer the RERA Act, Rules, notification along with these Regulations in order to comply with the provisions of the statute.

*Author can be reached at :  
vinay@vnnv.ca*



# Tally on Wheels

Cloud-Based AI Tool That Automates Audits For Financial Professionals

### FEATURES

- Automated Scrutiny Of Ledgers With Analysis Reports
- Cost Centre Analysis
- Detailed Annexure Of All Incomes And Expenses Vendor-wise
- Multi Entity Consolidation
- Auto-mapping Of Ledgers in Trial Balance
- Revised Schedule III Financials Auto Linked With Trial Balance
- Automated Ageing Analysis of Payable and Receivable
- Automated Ratio Analysis
- Customised MIS Reports
- Multi User role based permissions
- Add-ons to Tally ERP / Tally Prime


### UPCOMING FEATURES

- Integrated workings papers for 3CD, GSTR9 and 9C
- Reconciliation of TDS Returns filed vs Books of Accounts
- Difference between Audited Tally Data and Current Tally Data.
- Version Control Management

**Generate and analyse these Reports within minutes!**

**REDUCE YOUR TIME AND EFFORTS IN COMPLETING AN AUDIT PROCESS BY 90%**

Sign Up Here for a Trial Account



📞 +91 80888 03561    🌐 [www.tallyonwheels.com](http://www.tallyonwheels.com)    ✉ [support@tallyonwheels.com](mailto:support@tallyonwheels.com)

RERA

# INTELLECTUAL PROPERTY RIGHTS AND PROTECTION IN INDIA

## COPYRIGHT VIOLATIONS IN DIGITAL ENVIRONMENT

### (PART - XXIX OF IPR SERIES)



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

#### Copyrights in Digital World

The Indian Copyrights law provides rights to authors, actors, creators, and others who produce literary works, films, soundscapes, pictures, visuals, and other types of audio and video creations, including computer programming, that are original expressions. The rights vested with the authors /creators have been deliberated in detail in the earlier parts, while narrating Copyrights as an Intellectual Property. The copyright law has been providing a comprehensive protection to the owners by guarding against the possible copying as well as by enabling appropriate compensation in the form of damages, in cases of violation. However, in the present-day digital society, the violations of copyrights have become widespread, resulting in an alarming situation, where it is difficult to contain piracy. An attempt is made here to understand the nature of copyright violations in the cyber world and challenges faced in control and contain of such crimes.

The digital technology, being a 'global common' accessible to the entire population with little restrictions in place, has given way for rampant digital data / information exchange and the related activities between netizens residing in different physical locations and Nations. The increased volume of internet users around the world has threatened the rights of persons/users concerned, due to surge in cyber-crimes. These changed circumstances have given rise to an entirely new set of challenges to the IP enforcement agencies as the existing laws which are effective in pre-digital era, are no more useful in the cyber world.

Further, the copyright and other IP laws made by the Nations are territorial in nature, but the IP crimes committed on the digital mode are universal. The open participation by all without any obstruction or restrictions has driven the society into a peculiar situation where the IPRs require a different set of standards of protection to curb infringements and related harms at the hands of fraudsters. As on date, any digital copy could be shared with the whole world in a flash, and this has caused a huge injury to copyrights of

the owners. Further by showing complete disrespect to the moral values, the world's biggest copying and processing machines have turned out to be a paradise for the infringers. The perpetrators of crime, with scope for anonymous and pseudonymous application, exploiting the current technology, could cause damage to the economic returns of the owner. The victims may not be in position to know the whereabouts of the criminal or the place from where such wrongs are being committed. Even the law enforcing authorities are in a state of worry as the current laws do not assist them to safeguard the interests of the victims. In view of the changed circumstances, there is urgent need of proper protection for copyrights and other IP laws to enforce discipline, transparency, and accountability into the IP protection systems.

#### Copyright Violations in Cyber Society

As narrated, the electronic world has become a nexus of violation of copyright laws as digitalisation has made it considerably easy to copy, replicate and sell the works of an owner without her/his permission. Added to this, the detection of such infringements/ piracy has become arduous. Crimes such as downloading and uploading of a copyrighted material without any consent, creation of derivative works, hotlinking and software piracy are some of the examples of how infringement of copyrights are carried out in the digital era. In this part we will limit our discussions to the violations that are taking place in the virtual environment, diluting the legally vested copyrights.

The purpose of the copyright Act is to reassure, motivate, & encourage authors, composers, theatre actors, and filmmakers and others to develop works of authorship. Copyright is breached and violated when an unauthorised individual does something that breaches proprietor's rights and engages in sales, hiring, display, importation of copies, and other unauthorised content creations, which are illegal and unfavourable to the commercial interest of the author/ owner. The activities like downloading, uploading, or copy-pasting the contents on the online platform are very simple.



The existing copyright law grants the copyright owner the unique right to authorise the dissemination about his own protected content. However, if such protected content is on the internet, anyone can become an author because it is very easy to simply extract or steal and store the work without any kind of licence or approval from the owner, and to replicate the same to take credit for the effort, talent, and ingenuity. Copyright is threatened by the emerging digital presence, where the distribution of digitally copied files occur at jet speed and at little cost. Further the burden of proof for establishing the violations are on the copyright owners which is difficult to manage and prove legally in the Courts. Also, source of such violations on the internet, especially in the dark web, are difficult to identify. To isolate the culprit, followed by issue of notices to him to seek legal remedy for protection of violations of IP rights is an arduous task.

Infringement of Copyrighted works generally happens in two ways, namely 'direct infringement' and 'indirect infringement'. The 'direct infringement' involves unauthorised use or reproduction of copyrighted works. Direct infringement occurs when a person substantially reproduces, unconsciously copies or otherwise distributes, displays or authorises the infringement of copyrighted works without permission or authorisation. example: Copying of a movie and making it available for illegal downloading by others as an online torrent. The 'Indirect infringement' involves unauthorised dealings with copyrighted materials rather than directly infringing the works themselves. Indirect copyright liability is a term used to describe the liability imposed upon a defendant who is not the direct infringer, but whom the law holds liable for the damages which the copyright owner suffers. It could be either a "contributory infringement" or a "vicarious infringement". The Indirect infringements (both the contributory or vicarious infringements) have been a major consideration in cases regarding the use of digital information on the Internet. Contributory infringements happen when someone in knowing of the direct infringement of another and substantially participates in that infringement, such as inducing, causing, or materially contributing to the infringing conduct. Such substantial participation could also take the form of providing a device or service that facilitates the infringement if that device or service has no substantial use other than infringement. The vicarious infringement results when there has been a direct infringement and the vicarious infringer is able to control the direct infringer and benefits financially from the infringement.

### Digital Technology Bytes the Copyrights!

Generally, the copyright law extended to any type of creative product that is sufficiently permanent or stable so as a permit the creative work to be somehow perceived,

identified, reproduced, or communicated in another form for a "fixed" or permanent period. As against the traditional methods of recording works of expressions on paper, film, magnetic tape etc., (tangible medium), the digitization using Information communication technology (ICT) is totally different kind of expression. The technology at the initial stage, converts all words, images, sounds, graphics, and films into binary numbers, as either ones or zeros. These digitally stored works, ('bits' grouped in 'bytes'), being separated from their physical form, are later transmitted / transferred over to the networks. These digital bytes are finally reconstructed, by a reference to their binary value, to re-create the expressions by the users. The transformation in this mode is that one is no longer transferring the fixed expression of works (a book or license a video etc.,) in that form, but only the digital representation of those works, which are not copies in the traditional sense. This liberation of works from their form or media, calls for a change in the way that we protect and enforce IP rights and copyrights. At the instant of being digitalised, the various components of the copyright element gain the capability to be moulded into a variety of forms by way of linking, in-linking, and framing with practically no permissions required or aspired.

Also, most people tend to assume that any work that is available on the Internet suggests the implicit consent by the owner, for being reproduced, copied, or transmitted to others. The advancement of Digital Technology has opened up its flood gates to a wide range of possibilities in various areas like media, entertainment, communication, advertisements etc., The easy access to materials available on the Internet and ease at which the same can be replicated has posed a great concern for Copyright infringements.

### Copyrights in Websites

A website is a collection of publicly accessible, interlinked Web pages that share a single domain name. As per the Collins' dictionary 'A website is a set of data and information about a particular subject which is available on the internet.' Websites can be created and maintained by an individual, group, business or organization to serve a variety of needs / purposes. Normally a website consists of the following elements and each of such elements are susceptible to protection.

1. The content generally is in the form of texts, graphics, audio, or video files, which are protectable as literary, artistic and cinematographic works. This means that the creator of the content can prevent anyone from reproducing or distributing the contents without his consent.
2. The underlying source code or computer program is protectable as a literary work.

3. The layout of the Webpage or rather the “look and feel” of the website, if distinctive, is open to protection as a trade dress.

A website owner must ensure that he owns the copyrights in respect of all the above-mentioned elements. Copyright law presumes that anything created by an employee during employment belongs to the employer. Most website owners engage consultants/ software programmers to undertake a part of their website development programs. Unless the contract between the website owner and the consultant vests the copyrights in any materials so created in the owner, the said copyrights would vest with the consultant, who is then free to duplicate the software for another client. In the Internet industry, it is a novelty that sells and if that can be replicated by someone else, then the first owner is certain to lose.

### Challenges in Digital World

Some of the Infringements (Piracy) of Copyrights in Cyberspace could be the following acts-

- (i) **Downloading and Uploading** of copyrighted works without authorisation –This involves creating a copy or reproducing the copy of the material available on the internet, which might result in offence being committed. Similarly, if two or more programmes are compiled to create a derivative work then also such activities amount to infringement or violation of Copyright.

Downloading from the Internet, as the word itself suggest, means making permanent copies of the copyrighted work on the hard disk of the computer and this in a sense amount to a reproduction of the copyrighted work. Therefore, it is very important for a user, who wants to download a file or a software program, to read the instructions and the copyright notices attached to the files. It is quite possible that the author may permit you to download but may not permit further distribution or posting on the Internet through some other Web Site. Sites either encourage free download without any conditions or would ask the user to read the express license and choose to agree or not to agree.

Conversely, if a website owner needs to retain effective control over his material on the website, it is important that he expressly prohibit any download of such material since the download of any material carries with it the threat of it's being used for various commercial purposes, including the transmission or sale of such material to many other users.

- (ii) **Hot-linking of Copyrighted Works** - In computing, a hyperlink, or a link, is a digital reference to data that the users can follow or be guided by clicking. A hyperlink points to a whole document or to a specific element within a document. Such a Linking is one of the primary means through which Internet users can quickly and conveniently navigate through the numerous websites on the Internet. This process can also tend to violate the rights of a copyright owner. As linking is vital to the infrastructure of the Internet itself, a conflict between the right to free access to information on the Internet and its increased commercialization has increased.
- (iii) **Rights relating to Audio-video** - Copying an audio or video file through companies that are involved in Peer-to-Peer file sharing (P2P) of any digital music, without the consent/ license of the owner, shall also amount to a violation.

**Music Piracy** - The problems caused by free downloads are most acutely felt by the music industry since with current technology, it is very easy to compress music files into a download-enabling format known as MP3 etc.. Music files when converted to this format are easy to download and are amenable to massive copyright infringement. In fact, there is a case against MP3.Com Inc [ UMG recordings, Inc. v. MP3.COM, Inc. US District Court (2000 U.S. Dist. LEXIS 5761) (the organization responsible for introducing MP3 technology to the market) for this very reason. The UMG Recordings, Inc sued MP3.Com Inc. claiming that respondent had illegally built up a library huge number of albums that were copyrighted and had created a product that allowed users to hear music, on any computer from their own CD collections. The court found the fair use defence was inadequate because the repackaging of the recordings to facilitate their transmission through another medium was an insufficient basis for any legitimate claim of transformation. The defendant copied and replayed the entirety of the copyrighted works. The defendant's activities on their face invaded plaintiffs' statutory right to license their copyrighted sound recordings to others for reproduction. Judge granted partial summary judgment against MP3.Inc., holding that MP3.Com's argument that it was merely storing it's subscriber's CD's (for which they had already paid) and allowing them to listen to these CD's at their convenience, could not be construed as “fair use”. We have similar cases being contested/ litigated all over the world.

**Violations in Multimedia** - The concept of multimedia is extremely wide and encompasses categories of material such as text, sounds, audio, video, images, graphics, presentations, live videos of speech and performances etc.,

We have learnt that the Copyright protection is available to multimedia under literary (software program), artistic (images), cinematographic films (films or videos), dramatic (plays), sound recording (musical works) and photographs. Protection of rights of the creators and owners of the Copyrights become difficult due to the variety of rights available to them under the ambit of multimedia. Netizens involved in activities like Copying the works without the permission of the author, distributing multimedia products, creating prints of literary or artistic works without prior permission of the creators, Dubbing and selling, through any of multimedia products a sound recording without the prior permission are infringing acts of copyrights.

(iv) **Computer Software** - Software consists of a collection of computer programmes, procedure, documentation that perform tasks on a computer system. Software piracy is one of the major reasons for copyright infringements. It involves unauthorised copying, distributing of copyrighted software. Software Piracy involves:

(a) Creating a copy and selling it; b) Creating a copy and exporting the same; (c) Renting the software; (d) Selling of computer hardware machines with pre-installed or per-loaded pirated software; (e) Copying of software programs using CD-R technology.

(v) **Social Media** - Social Media platforms have become one of the prominent modes of connecting people across the globe. These platforms involve sharing of works which may be copyrighted. The widespread practice of sharing materials such as images, photographs on social media has resulted in gross infringements of copyrights. The false notion that all material posted on social media is free is a major cause of such infringements. Copyright violations on social media platforms can be in the form of:

(a) Re-posting, saving or sharing of works protected under Copyright; (b) Re-posting and claiming ownership or creation rights of already protected work; (c) Using the content available on the platform without the owner's prior permission.

### Protection of copyright as an IP

With the introduction of the technology, Copyright Act faces three major issues / setbacks that needs to be dealt with proper legal and technical protections.

(i) In digital era, there will be more and more infringements of copyrighted work online as the current Copyright Act does not provide effective measures to deal with

such infringement. Online infringements are difficult either to contain or to detect, along with continued public acceptance of digital copying. Thus, both the scenarios will make Copyright Law even more difficult to enforce.

(ii) The Act permits copying of the work for private use under the fair use doctrine. In view of these provisions, the netizens will be legally enabled to copy the copyrighted work for fair use, which could be published by such persons. This Indirectly facilitates unauthorized publication of such copied works online, which is difficult to be stopped.

(iii) Copyright Act provides narrow definition to the copyrighted work. The copyrighted work is not provided with any kind of online protection nor does such work is being provided online protection through timely and fair judicial pronouncements.

Thus, in the progressive digital era, with the users having too many options at their disposal, to record, to download and to transmit and distribute data of higher quality in less time there will be more infringements of copyrighted works at less cost, which will be very difficult to contain.

### Copyright Law Protection in Digital Regime?

The major concern with the Copyright Law in digital era is its enforcement. During the time when the Copyrights Act was being framed, digital era was not existing and therefore remedies pertaining to digital infringement were not in consideration. With the advancement of Virtual Portable Network and with tracing the infringement roots becoming even more difficult, it is high time we look forward for fair legal as well as technological and other possible solutions to protect IP rights in the ever-evolving cyber world. Further the public attitude can also become an obstacle in dealing with copyright infringements. Public across the world have become accustomed to using the copyrighted works without any ethics that are desirable. This is mainly because these pirated works are available to the public at minimal cost and sometimes even for free. Therefore, it is time to think of an alternate remedy to protect the copyrights and similar IP rights in the cyber era. In the coming part, the possible alternate solution to overcome IPR infringements will be deliberated.

---

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

---



# BOARD'S RESPONSIBILITIES ON ESG REPORTING



CA. Aditya Kumar S

## Background:

The Directors of the Company are required to give a Board's report on the various factors including financial summary, adequacy of internal financial controls, and specific matters covered under Companies (Accounts) Rules, 2014. Thanks to reporting of Business Responsibility and Sustainability Reporting ('BRSR') becoming mandatory for listed companies from the year 2022-23 (for top 1000 listed companies by market capitalization), the responsibility of the Directors have not only increased but also appears to have been widened. Further, The Companies Act, 2013 Section 166(2) of the Act states, "A director of a company shall act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, the community and for the protection of environment." The Board of Directors, need to be prepared for the reporting process and critically look at the role they play in the reporting process. Some of the key questions that are being discussed are only illustrative in nature and am sure the learned readers would be able to relate to many more queries and the Board needs to wear a thinking hat.

1. How prepared is our company in terms of reporting requirements? Do we have the right reporting responsibilities and internal reporting mechanism to facilitate the reporting?

*It is the responsibility of the Board for compliance with all the reporting requirements. Unless, there are specific people who are given the responsibilities and making them accountable; there could be last minutes challenges in the reporting requirement. Further, as a matter of good corporate governance, it is suggested that the Board identify a team responsible for BRSR reporting. It is the Board's responsibility to ensure that the delegation of reporting responsibilities is appropriate, effective, comprehensive and duly monitored periodically. Have we identified the right team to carry out the requisite assessment on requirement, action plan for implementing it and have a system to monitor the progress and report it. Essential to have a good ESG Governance framework.*

2. Is Environmental, Social, and Governance (ESG) yet to be embedded into your business goals and strategies?

*Companies will face pressure from various quarters to ensure that you are compliant. It would helpful if at every*

*step of making a long-term strategy include it's impact on environment and social aspects. It's time Board to rethink and be proactive in their approach. It is quite possible that time spent on embedding ESG in your strategic decision process could yield better results and higher ROI to the investors. Business decisions considering it's impact on ESG is more welcome. It could be decisions on sourcing raw materials from a sustainable source or staffing strategies that you adopt, each one of it will have implications on ESG reporting.*

3. Has the company integrated the BRSR with Risk Management process?

*Risks relating to Environment (Extended Producer Responsibilities, Effect of operations on nature and people, waste management, carbon footprint issues, etc.), Social (Inequalities in work place, work place infrastructure standards, Human Rights, etc.) and Governance Risks (Board diversity, Risk of corruption, reputational risks etc.) are part of the overall risk management process of the Company. The above three are just elements in the risk management process. Therefore, it is important for the Risk Management Team to also looking to the reporting requirements in BRSR which could have implications on the controls required for mitigating various risk including those beyond mere reporting. Do not consider ESG reporting separately, integrate it with Risk Management.*

4. Has somebody done an audit of BRSR and given an independent opinion?

*The whole report seems good, but has it been audited (though not mandatory). An audited report would lend credibility to the content. An independent review of the BRSR would help in identifying significant issues, possible misstatements and other errors. An independent audit would also look into the controls surrounding as to how the information was sourced, credibility of the source, validation, and risk mitigating factors to ensure that the data integrity is maintained throughout in the process.*

5. Has the Board considered enhanced legal / compliance view and it's implications?

*Given the fast development of ESG disclosures and data being out in the public domain, one can expect more litigation including a broad range of activities beyond just reporting. Possibly, action may be taken for being inconsiderate to environment or having policies which is*

not well accepted by the society / community in general, ESG litigation is a new practice area for legal advisors. This would reflect on the quality of the governance and hence essential to consider legal views in various aspects including drafting contracts, due diligence on acquisition of business, dispute resolution on cases filed by aggrieved side, etc., Hence, better to have your legal experts on board while making crucial ESG decisions or decisions that is expected to have a significant implications on ESG.

6. Is the remuneration aligned to company's ESG Goals?

Financial and operational metrics were always used as a benchmark to measure the performance based on which the remuneration was decided. The non-financial metrics including reducing greenhouse gas emission, improving occupational health and safety, are also now being included as one of the benchmarks to ensure that the organisation meets the ESG goals. To incentive the executives to achieve the targets the remuneration model is now being relooked to include keeping up with ESG requirements.

7. How would the rating agencies look at those companies who are giving better disclosures?

There is increased interest shown to rate the companies based on meeting ESG goals and the initiatives taken to be compliant. Since, the information is expected to be taken from the public domain like annual report, public announcements etc., the Directors have to be careful in ensuring the information given out is not incorrect. It is a situation wherein, the Company will be rated or ranked by various agencies and of course, it does impact the image, reputation, public perception of the company.

8. What standard of reporting to be used?

We agree that largely the ESG reporting is at its nascent stage now. In India, we have the reporting required by BRSR. We also have Global Reporting Initiative (GRI), International Sustainability Standards Board is about to issue new set of standards, Task Force on Climate Related Financial Disclosures (TCFD), etc., It would be a challenge to prepare reporting under multiple frameworks which would involve some sort of reconciliation or a matrix on how multiple-parameters of various reporting standards are met. ICAI has also constituted Sustainability Standards Board and standards of reporting in India would be issued in future which needs to be complied. The Corporate Sustainability Reporting Directive (CSRD) is the new EU legislation requiring all large companies to publish regular reports on their environmental and social impact activities. Non-EU companies with a significant presence in the EU or with securities on an EU-regulated market will become subject to new EU rules on sustainability disclosures. Hence, companies in India which may fall into this category would have

to ensure enough information is being collated and validated including information provided in all the places are uniform and consistent; and to ensure compliance in multiple economies.

9. How well you know your value chain partners?

Take example of Uyghur Forced Labor Prevention Act (UFLPA) which imposes a rebuttable presumption against imports from or linked to Xinjiang Uyghur Autonomous Region (XUAR). This effectively prohibits import into US certain products unless proved that it is free from forced labour or human rights abuses. Germany is expected to continue Supply Chain Act, which will require German companies with more than 3000 employees to use ensure protection of human rights in their business operations. The law requires audit of their suppliers etc., to ensure compliance. Similarly, France has French Duty of Vigilance Act against companies that did not perform adequate diligence on their supply chains. These are just some of the examples of laws being enforced across the world to protect the interests of the community. As a global business, the company should ensure 'Know Your Value Chain Partner'. (Source: [Top Three ESG Legal Issues to Watch in 2022 \(harvard.edu\)](#))

10. Where does the Company stand on it's maturity level of implementing ESG?

A very important question to answer. Are we at the stage where we just want to :

- It's a legal requirements, let's do what is required for compliance; or
- Let's see how practical it is to implement, let's do it;
- We see a business case in this, let's implement it;
- We are a business leader and we feel we should be the benchmark for others in the industry.

There is no better time and circumstance than this to start ESG and look at it beyond only compliance requirement. It is part of everybody's life now. We have a responsibility to give a better planet to live and a better community for our next generation.

Conclusion: These are just some of the aspects that the Board may like to look at when answering some of the questions on ESG implementation and it's usefulness in the current global scenario. There are many more questions that the Board would have to address when they go start their journey on ESG implementation and they see benefits deriving from the strategic shift and transformation of business.

**Author can be reached at :  
aditya@rgnprice.com**

# HAIR LOSS? DON'T BRUSH IT UNDER THE CARPET..



**Maj (Dr) Manasa S J**

**H**air is an important part of one's appearance. Having dense, black, bouncy, lustrous hair is considered aesthetically pleasing. We love styling our hair from time to time, for various occasions based on latest trends and enjoy the look. But when we notice them shedding, more than expected, it is quite distressing. Many of us ignore the problem in the beginning, wait for it to resolve spontaneously or try various remedies suggested by celebrities, youtube vloggers, insta influencers and google before deciding to consult a dermatologist. While it is harmless to postpone your consult most of the times, some types of alopecia can cause irreversible damage to hair roots and lead to permanent hair loss. Hence it is important for everyone of us to know some basics of hair fall.

What is hairloss?

Our scalp contains about 100,000 hairs. It is normal lose roughly 100 hairs every day. Any hairfall beyond this limit, gradually reducing the overall density of hair is called diffuse hair loss/ diffuse alopecia. Some people lose hair from particular areas of scalp and this type of hairloss is called patchy alopecia.

What are the causes of diffuse hairloss?

Both men and women tend to lose hair thickness and experience hairfall as they age. This type of hairloss is very common and called baldness/androgenetic alopecia. It is related to aging, heredity, changes in the hormone testosterone and not due to any disease.

Another important cause for diffuse hairloss is telogen effluvium. Hair tends to come out in handfuls after combing, shampooing and is seen following severe physical/ mental stress, vitamin deficiencies (dieting), recent infections, major surgeries, child birth and some medications. This is usually temporary and hair shedding decreases over 6 to 8 months.

Underlying systemic disorders like iron deficiency anemia, thyroid disorders and diabetes also cause excessive hairfall and need to be treated simultaneously for good results.

What are the causes of patchy hairloss?

Patchy hairloss is alarming and most of the times due to autoimmune causes. Timely treatment should be instituted to prevent permanent hair damage.

Do environmental factors play a role in hairloss?

Yes. Prolonged exposure to sunlight, hard water, polluted air and smoking seem to have a negative effect on hair as reported by patients. However scientific data on the same is scarce to draw any conclusions.

Do hairstyling products cause hairfall?

Yes. Bleaching, coloring, straightening, curling etc can cause hair breakage and hairfall.

Which food is good for hairloss?

Diet rich in iron, B-complex, essential fatty acids, calcium and Vit D is good for hairloss. You can add egg yolk, legumes, almond, walnuts, sunflower seeds, flax seeds, berries, apricots, fish, cooked liver, low fat dairy, leafy greens to your diet to reduce hairfall naturally.

Which hair oil is effective for hair growth?

This is a myth. Hair oil does not get absorbed by scalp. It will only work as a conditioner and make your hair strands look shiny. It doesn't have any effect on hairgrowth.

Which shampoo is good for hair growth?

Shampoo is meant to cleanse hair. It contains synthetic detergents to remove oil and dirt. The contact time of shampoos with hair is too brief to expect any clinical benefits as claimed by advertisements. Mild shampoos suitable for daily use and baby shampoos are recommended in those with excessive hairfall as they don't cause hair damage.

How is hair loss diagnosed?

It is diagnosed based on patient's history and few bedside tests like trichoscopy. Sometimes blood tests are done to assess underlying causes for hairfall such as anemia, vitamin deficiencies, thyroid disorders and hormonal problems.

How hair loss is treated and how long should one take treatment?

Treatment differs based on type and cause of alopecia. Biotin supplements and Minoxidil lotion are commonly used by majority of dermatologists for diffuse hairloss. Some patients with patchy alopecia might require monthly injections, and immunomodulators too. Treatment duration ranges from months to years; consult a qualified dermatologist for appropriate treatment.

Can I undergo hair transplantation for hair loss?

Not all patients with hairfall need hair transplantation. Tablets and lotions are effective in most instances. But men with advanced baldness can undergo hair transplantation, provided they completely understand the procedure, possible complications and need to continue treatment even after hair transplantation.

As someone rightly said, "A bald spot is like a lie, the bigger it gets the harder it is to cover up". Don't panic and self-medicate if you suffer from hairfall. Plenty of treatment options are available. Consult a qualified dermatologist if you care for your hair!

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



## KSCAA Welcomes New Members - November And December 2022

Sl.No.	Name	Place
1	Prashanth Patil	Bengaluru
2	Priyanka Srivastava	Bengaluru
3	Sneha P G	Sullia
4	Dipali P.	Mysuru
5	Jyoti Kothari	Bengaluru
6	Rajasekhar Setty R	Bengaluru
7	Niranjan A S	Bengaluru
8	Chandan B E	Siruguppa
9	Musanalli Raghavendra Reddy	Bengaluru
10	Alfred Avinash Domnic	Bengaluru
11	Abhishek Agarwal	Kolkata
12	Yash Mehta	Bengaluru
13	T Rohit Kumar	Bengaluru
14	Manish Jain	Bengaluru
15	Iranna Ninganna Gobbur	Kalaburagi
16	Kush H Singhi	Bengaluru
17	Sanjay Ganapati Hegde	Uttara Kannada
18	Bharath M Shetty Akkunje	Mangaluru
19	Aneesh K B	Mangaluru
20	Abhiram K S	Mangaluru
21	Pradeep Kumar S	Bengaluru
22	Vikas B	Bengaluru
23	Sathyamurthy S	Chikkaballapur
24	Samuel A Sundar	Kalkere
25	Rajkumar Annamalai	Bengaluru
26	Praveen Kumar R	Bengaluru
27	Panduranga Kamath H	Bengaluru
28	Gururaja Pavan	Bengaluru
29	Chandana	Tumakuru
30	Abhilash K	Tumakuru
31	Devraj R	Bengaluru
32	Chiranth Nagaraj	Bengaluru
33	Mathihalli Shetru Sarpabhushana	Vijayanagara
34	Jeevan Gopal	Bengaluru
35	Hemant Pai	Bengaluru
36	Basavaraj	Koppal

Sl.No.	Name	Place
37	Roshan Mascarenhas	Udupi
38	Abhilash Prathmesh Lapasia	Bengaluru
39	Thejaswini P R	Mysuru
40	Abhinandan H S	Bengaluru
41	Yashvant Muralidhar Nijagal	Bengaluru
42	Vikram S	Bengaluru
43	Sangeeta	Hubballi
44	Rajat Rashmi	Bangalore
45	Akarsh M	Bengaluru
46	Rahul Hooli	Kalaburagi
47	Chandahas S R	Bengaluru
48	Sreeja Kadiyampurath	Bengaluru
49	Shashikiran M	Bengaluru
50	Kishor Kumar H S	Doddaballapura
51	Gorani Dhaval Chhotalal	Bengaluru
52	Praveen R	Bengaluru
53	Naresh Peddineni	Guntur
54	Mohit Ashok Parmar	Bengaluru
55	Manjunatha T Shetty	Udupi
56	K N Vinay Kumar	Madanapalli
57	Amith Kumar	Bengaluru
58	Ritesh Subhash Gandhi	Kalaburagi
59	Rajkumar Patil	Kalaburagi
60	Koushel Jayanthi	Bengaluru
61	Kirit Laddad	Kalaburgi
62	Vinay Kumar G	Hospet
63	Sandeep Pai	Udupi
64	Prasad Shenoy	Shivamogga
65	L Hanumantha Reddy	Bengaluru
66	Yash Jain Katariya C	Bengaluru
67	Sudhindra M S	Bengaluru
68	Srividya V	Bengaluru
69	Naveen Kumar	Bengaluru
70	Bhushan Bhat	Hubballi
71	Ankush Kumar Jain	Bengaluru
72	Swasthik Shenoy T	Udupi
73	Sandeep R	Bengaluru

## KSCAA Welcomes New Members - November And December 2022

Sl.No.	Name	Place
74	Balaji Ramayanam	Bengaluru
75	Ashwan Iqbal Ahamed	Bengaluru
76	Sneha Kataria	Bengaluru
77	Saroja Bhat	Bengaluru
78	Sampath Shankar	Mangaluru
79	Nanda Kishore E R	Bengaluru
80	Khetaram Prakash	Bengaluru
81	Hariprasad Nayak	Udupi
82	Akshay Dhoka Jain	Bengaluru
83	Sudesh Mallya	Bengaluru
84	Shivayya Yammi	Bengaluru
85	Shivaramdas P	Bengaluru
86	Madesh Jayaraju	Bengaluru
87	Narasimharaju N	Bengaluru
88	Mallangi Ganga Pranay Kumar Reddy	Kadapa
89	Vasant Heramba Hegde	Bengaluru
90	Shubham Mehta	Bengaluru
91	Sairam V	Bengaluru
92	Ramachandra Shanbogue	Bengaluru
93	Pradeep Nayak	Udupi
94	Pavan Kumar	Udupi
95	Malathesha	Udupi
96	Kobbajji Vinayaka	Bellari
97	Kishore Kumar P N	Bengaluru
98	Dinesh Prabhu	Udupi
99	Dinesh Krishnamurthy Hegde	Bengaluru
100	Ganesh Suresh Vaijapur	Bagalkot
101	Bharati Venkatramana Bhat	Bengaluru
102	Thota Sharon Kumar	Vijayawada
103	Manoj N A	Bengaluru
104	Janardhan Ramachandra Hebbar	Bengaluru
105	Smitha Sailesh	Bengaluru
106	Ratna Sudha Jonnalagadda	Bengaluru
107	Praveena J C	Shimoga
108	Mithun Bc	Bengaluru
109	Jayaraja B C	Bengaluru

Sl.No.	Name	Place
110	Rakesh Jain	Bengaluru
111	Pavan Hegde	Udupi
112	Swati R K	Bengaluru
113	Rakshith Harihalli Shankar	Bengaluru
114	Neeta Agarwal	Bengaluru
115	Kavya P C	Mysuru
116	Herambha Hegde	Bengaluru
117	Satwik Nadgir	Bengaluru
118	Manju K	Mysuru
119	Chethana	Mysuru
120	Chandrashekar S J	Bengaluru
121	B V Mahesha	Mysuru
122	Prasanna Satyanarayana Hegde	Uttara Kannada
123	Mehul Ghisulal Jain	Bengaluru
124	Madhukumar M J	Hassan
125	P Saroj K Patro	Bengaluru
126	Venkatesh R	Bengaluru
127	Ashish	Bengaluru
128	Sourabh Garg	Delhi
129	Shaik Azeejulla Shafi	Bengaluru
130	Tharun Kothari	Mysore
131	Bhaskar Prudhvi Sainath	Bengaluru
132	Vishnu M.M	Bengaluru
133	Mili Shah	Bengaluru
134	Lakshmi Devananda	Bengaluru
135	Manjunatha K	Bellary
136	Gowrish K	Bengaluru
137	Raghavendar	Tirupur
138	Mohanambika N	Mysuru
139	Vidya Kini	Bengaluru
140	Kumar Ramachandran	Bengaluru
141	Gajesh Bhandari	Bengaluru
142	Sandeep Kumar P	Bengaluru
143	Avinasha H K	Bengaluru
144	Pannaga L Kanth	Bengaluru
145	Prakash R Shinde	Hubballi
146	Aishwarya R	Mysuru
147	Girisha	Bengaluru



KARNATAKA STATE  
CHARTERED ACCOUNTANTS ASSOCIATION®



# 35<sup>th</sup> KSCAA ANNUAL CONFERENCE 2023

Friday, 17th March 2023 &  
Saturday, 18th March 2023

*"Be part of the wave of change in the accounting  
profession and enhance your Brand value"*

Venue

White Petals, Palace Grounds, Bengaluru

PHOTO GALLERY



Intensive Training Programme on appeals before ITAT - Moot ITAT  
organized by Direct Tax Committee of KSCAA on 9th and 10th of January 2023.



# Drive into a safer 2023 with a new Volkswagen

Avail exciting benefits on the Virtus and Taigun



Price starts at  
₹11.55 lakh\*

Price starts at  
₹11.31 lakh\*

Award winning TSI engine across the range  
Acclaimed DSG transmission  
25.65 cm (10") Integrated touch screen infotainment system  
20.32 cm Fully digital instrument cluster  
Ventilated seats | Up to 6 airbags

Complimentary 4 years Service Value Package on Taigun^ and Virtus^

Taigun Topline MT at a special net price ₹14 79 900#

Virtus Topline MT at a special net price ₹14 44 900#

Attractive corporate and exchange benefits up to ₹30 000##

Exchange through  
**Das WeltAuto.**  
Certified Pre-Owned

**4EVER**  
CARE



Scan to  
know more

Call 1800 102 0909 [volkswagen.co.in](http://volkswagen.co.in)

Terms and conditions apply. \*Ex-showroom price. Images are for representation purpose. #Price mentioned is offer price of Taigun Topline MT (VIN 2022) and Virtus Topline MT (VIN 2022). ^Complimentary Service Value Package (SVP) applicable on all Taigun Variants (VIN 2022) and Virtus Highline MT, AT and Topline MT variants (VIN 2022). The SVP cannot be exchanged or redeemed for cash. No additional coupon/benefits applicable on this free 4-year SVP package. ##Maximum exchange benefit applicable on select variant and up to ₹30 000. Loyalty bonus is applicable on select variants and for individual customers only. Exchange and Corporate benefits at the sole discretion of authorised dealers only. 1% cess extra for Kerala. \*\*Forever Care includes 4 Year Standard Warranty, 4 Year Roadside Assistance and 3 Free Services - 1 000 kilometers, 7 500 kilometers and 15 000 kilometers service only labour charges are free. This offer cannot be clubbed with any other offer. Features and accessories shown may not be a part of standard equipment and are subject to change without prior notice. Actual car colour may vary. The dark shade on the glass is due to the lighting effect. To know more on the schemes, please visit your nearest Volkswagen dealership, or log on to [volkswagen.co.in](http://volkswagen.co.in)



Authorised Dealers: **Volkswagen Bangalore North:** Thanisandra: Mobile: 7032397999, Hebbal: Mobile: 7032397999, Richmond Road: Mobile: 7032397999; **Volkswagen Mysore Road:** Mobile: 9900053496; **Volkswagen Palace Cross:** Palace Cross: Mobile: 9686601249, Victoria Road (DWA): Mobile: 9900035187, Rajajinagar (Sales Point) 9900049174 / Hesaraghatta (Sales Point): Mobile: 9900049174; **Volkswagen Whitefield:** B. Narayanapura: Mobile: 9900010727, 9900021210; **Volkswagen Bangalore:** Hosur Road: Mobile: 9900091212, JP Nagar: Mobile: 9108089495; **Volkswagen Tumkur:** Sira Main Road: Mobile: 7032397999