# KSCAA®

Karnataka State Chartered Accountants Association (R)

# NEWS BULLETIN

▸ Indirect Tax ▸ Direct Tax ▸ Financial Reporting
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KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION ®
KNOWLEDGE IS STRENGTH
Since 1957


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# 35th KSCAA ANNUAL CONFERENCE 2023

17th March 2023, Friday &
18th March 2023, Saturday
White Petals, Palace Ground
Bengaluru

Create & Complement

Karnataka State Chartered Accountants Association | @karnatakacaassociation | @kscaa_ca | kscaa.com

Dear Readers,

The month of March is a very exciting month for the Executive Committee of KSCAA as we would like to meet and greet many CAs from across the state in the conference. The 35th KSCAA Annual Conference is on the 17th and 18th of March 2023 at White Petals, Palace grounds. The current year's theme is 'Order and Chaos'. The whole team of KSCAA is excited to invite and welcome you all to the event. We are introducing a series of 'Ask an Xpert' in the conference where members have the opportunity to ask any doubt on topics provided to the speaker and get the doubts clarified, this is a priceless service and opportunity to members where their queries on day-to-day operations/law can be clarified by experts. An organization of this sort needs humongous sacrifice and there are many gems amongst us, there are multiple stories that are not told and known, and to commensurate this we are releasing a book of all the previous events, stories and suggestions of past presidents and secretaries in the conference. We are also researching members who have moved out of the profession and worked extensively and would like to showcase the same to you.

At the professional level, the much-anticipated end of an era of bank audits is at the threshold. I personally believe that the recent RBI circular was the last nail in the coffin that ends the Branch Bank audits. The MCA site has been a cause of pain to many professionals for the smooth functioning of their office work. It claimed to be more technologically faster, relevant and effective but once more there seems to be ineffective testing. The pain of poor testing adds to the inefficiency of the professionals which in turn adds to the cost. The ICAI has mandated an Audit Quality Maturity Model (AQMM) for a certain category of audit firms. This would enable the firms to be quality conscious and move as compete with peers of international firms. This was formed to develop framework for Audit Quality, to work on key elements of Audit Quality, to develop Audit Quality Maturity Model, and to develop and promote Audit Quality Indicators. The conscious effort to qualify the AQMM, would lead the firms more competitive and strengthen the profession of the audit.

The world today is moving into recession and there is danger awaiting the economy of many countries throughout the world, the fragile and vulnerable countries are exposed starkly compared to those who are strong on fundamentals. World leaders today have shown confidence in the Indian story, they believe that we would reap the benefit of demographic dividends and strong domestic consumption as well. They say this generation would live in two India, one before amritkaal and second in amritkaal, which would see India rise to and walk in the corridor of global power.

Today, KSCAA is not restricted as a state organization but has a reach of members from across the country and the number of memberships which is constantly on rise from outside the state is testimony for the same. Today, it is one of the largest, eventful, and resourceful organizations in the country. Members from across the country attend the programs of KSCAA and have beneficiary of it.

Happy Reading !

Yours' faithfully,

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

# NEWS BULLETIN

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# KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)

## VISION

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

## MISSION

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

**MOTTO: KNOWLEDGE IS STRENGTH**

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

**Email: journal@kscaa.com | Website: www.kscaa.com**

# Financial Year End - GST Checkpoints


CA. Madhukar N Hiregange
CA. Akshay M Hiregange

A stich in time saves nine! In this present landscape where distrust begets distrust, it is better that the taxpayer has ensured his compliance well in advance of possible departmental interventions in the future which could ultimately lead to a SCN or harassment.

In this article, we have highlighted 50 GST checkpoints that one may consider for the financial year end i.e., March 2023 as a safeguard.

***Reconciliations***

1. Outward supplies as per books and GST returns (Books vs GSTR-1 vs GSTR-3B). This may help indicate if any amendments are required to be made in GST returns. *[Turnover + Taxes]*
2. Rate wise reconciliations – Books Vs GSTR 1 (incl. tax ledgers vs 3B for RCM)
3. Reconciliation of balance of credit and cash as per GST portal with balance appearing in books. Variance indicates monthly entry error, or possible missed out/ excess claimed ITC.
4. GSTR 2B Vs ITC Register (books) - Invoice-level tracking of eligible and ineligible ITC in books of accounts and reconciliation to ITC disclosures in GSTR 3B for the FY. Spill over transactions to be specifically tracked.
5. HSN consolidated thru GSTR 1 Vs Books value *[T/o + Taxes]*
6. E-way bill reconciliation with GSTR 1. In case EWB not required against supply can be specifically confirmed.
7. Books inventory Vs physical inventory - assess if ITC reversal to be required, or may indicate accounting lapse + missed out ITC.

Most of the above would also prove useful while preparing Form GSTR 9 & 9C due in December 2023.

***Outward** (liability)*

8. Verify if any GST DN / CN should be issued for any value short/excess charged or any sales returns by the customer. Time limit applicable only for CN (latest by 31$^{st}$ October). Verify agreement clauses on discounts to be provided and requirement to issue CN.
9. Verify compliance of section 18(6) for transfers/sale of Plant & Machinery (P&M). Consider valuation check in case of related party transactions.
10. Review of tax utilization entries passed in books of accounts vis a vis electronic liability ledger.
11. Reviewing the debtors ageing report - Tax implication on customers, i.e. their ITC would not be eligible until payment + MSME non-compliance (useful for realization).
12. Amendments to GSTR 1 – Changing the outward supplies from B2C to B2B or the type of tax – Passing on the credit to the customers before time limit. (can issue standard instruction - changes not accepted beyond FY end)
13. Ensure tax liability against receipt of advances (services) and adjustment thereof to derive at unadjusted advances *[recently clarified refund voucher in GSTR-1 Adv Adj.]*
14. Cross charge to distinct person and related parties for supply of common services
15. Verify CGST/SGST paid instead of IGST and vice-versa. Understand if sec 77 (CGST Act) / sec 19 (IGST Act) would be applicable (no interest implication).
16. Verify Income from other sources – if any liable/not liable under GST. Tax position to be clear [Ex: employee recoveries not payable recently clarified; Incentive Vs Discounts; GST Interest on delayed payments receipts]
17. Reconciliation of E-Invoices issued during the year vis a vis tax invoices generated.
18. Standard terms in contracts to avoid future disputes.
19. ITC w.r.t Credit note (if any) issued would be considered as reversed.
20. We are in compliance with GST laws.

***Inward** (ITC)*

21. To verify whether ITC has been reversed on entries passed due to writing off inventories, assets, theft, samples, destruction, obsolete, etc.

22. Rule 37 – Check for ITC reversal required on account of non-payment within 180 days or reclaim of any ITC in respect of supplies for which payment has been made. [Recently clarified ITC reversal in table 4B]
23. Timing of availing credit - receipt of goods/service+ Sec 16, RCM credits, credit on advances ineligible etc.
24. Accounting of credit where details are not reflecting in GSTR 2B – Deferred input account – re-evaluate before October of coming year and consider charge to vendor and passing of as expenses.
25. Rule 42 – Impact of annualized ITC reversal in case of exempted as well as taxable supplies to be considered (re-computation) [Recently clarified duty scrips not be considered as exempt supply for such computation incl. rule 43]
26. Rule 43 computation for capital goods as per formula. If performed like r42 impact to be analysed.
27. To verify the correctness of accounting treatment of capital assets prior to closure of books, in order to optimize input tax credits. [Building Vs P&M; Motor Vehicles eligibility; civil works w.r.t P&M Vs other civil works – capex?]
28. Check if any reversal is required against purchased goods rejected and returned or other credits to the expense ledgers (ensure the impact of the same has been considered in GST returns)
29. Verify compliance with ISD provisions. Where not done, whether cross charge can be complied to ensure procedural lapse only can be examined.
30. Credit - CGST/SGST availed as IGST or vice-versa.
31. Credit availed in a different GSTIN of the same assessee (PAN)
32. Eligibility of ITC – re-verify ITC masters and conditions used for classification.
33. Vendors credit note reflected in GSTR 2B requiring reversal of Input tax credits [Recently clarified, such CN to auto-populate in 4.A.5 (net), tracking and verification is harder]
34. Import of goods-BOE Vs ICEGATE Vs GSTR 2B – Check periodically to ensure no missed out.

***RCM***

35. Accounting of entries passed for transactions covered under reverse charge. Some systems do not allow compound entry in direct expenses (Ex: Freight RCM).
36. Analyze GST provisions by verifying expenses:
    - o Freight & transportation Payments (recently FCM @ 5% allowed)
    - o Residential dwelling by commercial entities w.e.f 18.7.22 (48th Council meet – personal not liable)
    - o Advocate Payments - Legal Expenses
    - o Security services (not applicable when provider is body corporate)
    - o Renting of motor vehicle from non-body corporates (refer sl 15 in GST Circular 177/09/2022 for clarity)
    - o Import of services (with or without consideration) (useful sources - Form 27Q & Form 15CA/CB)
    - o Sponsorship/Advertisement & marketing
    - o Fees & licences to various Governments (by CG/SG/LA only, various exemptions available in NN 12/2017-CTR)
37. Analyze GST on Section 9(4) expenses – Real estate sector only

***Note*** *– GST returns for a FY can be amended with above corrections/deletions or modification latest by 30th November 2023, i.e. October 2023 GST returns.*

***Others***

38. File application for / renewal of LUT for FY 2023-24
39. Any person who wishes to opt for composition scheme for financial year 2023-24 should file form CMP-02 on the common portal on or before 31st March 2023
40. A registered person who has opted for composition scheme for FY 22-23 should file FORM GSTR-4 on or before 30th April 2023
41. Filing of application for refund claims. Time limit to be considered for the purpose of filing of refund application in view of SC decision on extension of time limit
42. Track status of goods sent on job work or goods sent on approval whether all the goods have been received back within the due time period. (1+1 yr inputs/ 3+2 years CG)
43. Verify year-end accrual/provision entries for transactions with related parties and evaluate the GST implications. (import of service possibility)
44. HSN 6 digit level – mandatory requirement from 01.04.2021. Ensure correctness and display in tax invoice. (T/o > Rs. 5 cr)
45. Obtaining GST registration in other States where supplies are made. Compliance with concept of fixed establishment, supply, etc.
46. Interest to be paid on utilisation of ITC only, that too at 18% p.a. (applicable tax head wise)

47. Tax paid under protest (pre-notice/dept. visit); ITC reversed under protest – ensure documentation of letter of protest.
48. Documentation of notices, letter cover, replies/ responses (mail + RPAD) in a separate correspondence file.
49. Maintain data of inward, outward, RCM, EWB, documents (tax invoice, e-inv, vouchers, etc.) for 6 years from annual return due date of FY (ex: for FY 22-23 6 years from 31-12-2023).

***Conclusion***

GST compliance now, more than ever before requires a higher level of attention. Taxpayers are expected to ensure their vendor compliances alongside their own. This would require implementing strong internal controls, implementation of technology, introduction of an indirect tax SOP and regular training and update to the GST compliance team.

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## Solution to Sudoku - 30 February 2023

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

# Indirect Tax Updates – February-2023

**CA. Sowmya C. A.**

The month of February-23 witnessed two important events bringing many progressive changes in the Indirect tax laws. One being the Union Budget 2023 and the other being the 49th GST Council meeting. Number of notifications, circulars, amendments are expected in the implementation of these key decisions. Below are few major changes implemented/proposed.

**From CBIC & DGFT**

- No GST levy on any authority or body set-up by Government including National Testing Agency for conduct of entrance examination for admission to educational institutions for the limited purpose of providing services by way of conduct of entrance examination **(Notification No. 01/2023 -CTR dated 28.2.2023)**
- Exemption extended to Courts and Tribunals from RCM liability in respect of services supplied by them. **(Notification No. 02/2023 -CTR dated 28.2.2023)**
- GST rates reduced on Pencil Sharpener from 18% to 12% and on Jaggery of all types including Cane Jaggery (gur), Palmyra Jaggery, Khandsari Sugar, Rab from 18% to 5% if sold pre-packaged and labelled otherwise exempted. **(Notification No. 03/2023 -CTR dated 28.2.2023)**
- MEIS and SEIS has been phased out and on the verge of final closure and pending applications will be re-examined, personal hearing extended before rejecting the case. **(FTP Policy Circular No. 46/2015-20 dated 20.2.2023).**
- Amendment to Form A to be maintained by the warehouse licensee of the receipt, handling, storage and removal of the warehoused goods with insertion of a column in the Form for Ex-bond BOE /shipping bill. **(Customs Circular No. 04/2023-Customs dated 21.2.2023)**
- Time limit of 45 days prescribed for antecedent verification of application for warehousing license **(Customs Circular No. 05/2023-Customs dated 21.2.2023).**

**GST Council Proposals (49th Meeting)**

- GST Council adopted the report of the group of ministers on the constitution of GST Appellate Tribunal (GSTAT) with certain modifications. The chairperson has been authorized to finalise the same.
- No capacity-based levy for commodities like pan masala, gutkha and chewing tobacco. Exports of such commodities to be allowed only against LUT with consequential refund of accumulated ITC.
- No separate IGST on data logger or tracking device affixed on a container used in import/export.
- No compensation cess on coal rejects supplied to and by a coal washery, arising out of coal on which compensation cess has been paid and no ITC been availed by any person.
- Time limit for making an application for revocation of cancellation of registration to be increased from 30 days to 90 days. Where the registered person fails to apply for such revocation within 90 days, the time period may be extended by the Commissioner or person authorized by him for a further period, not exceeding 180 days. Amnesty scheme for past cases.
- One time relaxation scheme for conditional deemed withdrawal of assessment orders passed under section 62 in past cases. Amendment to Section 62 of CGST Act, 2017 to extend timelines under sub-section (2) thereof from the present 30 days to 60 days, extendable by another 60 days, subject to certain conditions.
- Rationalization of late fee for Annual Return for Registered Persons having turnover of upto Rs. 20 crores and one time Amnesty scheme by way of conditional waiver/reduction of late fee.
- In case supplier or recipient is outside India, Section 13(9) of the IGST Act, removed to provide

for 'Place of supply' of transportation of goods to be place of recipient of services (and not the destination of the goods).

*The above are recommendations of the GST Council and the same will be given effect to through issuance of relevant circulars, notifications/law amendments which alone will have the force of law.*

**Union Budget 2023 – 24 - Key Indirect Tax proposals – Yet to be notified**

- No ITC will be available on the GST paid on expenses incurred towards goods and/or services for CSR activities provided under the obligation of Companies Act 2013.
- There is a provision to restrict filing of monthly returns, annual return and reconciliation statement maximum within a period of three years from the due date of filing of the relevant return/statement.
- Merchant Trade, in-bond sales, and high-seas sales to be no-supply w.e.f. July 1,2017, and no refund for taxes paid on the same in past.
- In case of the supply of services by way of transportation of goods to a place outside India (including by mail or courier), the place of supply shall be the
  - *Location of recipient (if the recipient is registered under GST)*
  - *Location at which such goods are handed over for their transportation (if the recipient is unregistered)*
- The value of the supply of warehoused goods before clearance for home consumption, merchanting trade & High Sea Sales, will form part of the exempted turnover for the purpose of ITC reversal.
- Relief to persons providing fully exempt supplies from obtaining GST registration (retrospective amendment proposed w.e.f. 1 July 2017).
- It is proposed to extend the composition scheme to persons supplying goods through E-Commerce Operators subject to TCS.
- Definition of OIDAR services enlarged to include services involving any level of human intervention and / or automation.
- The definition of 'non-taxable online recipient' has been widened to include 'any unregistered persons receiving OIDAR services located in the taxable territory'.
- Offences such as tampering evidences, failure to supply information, and obstructing GST officials will be decriminalized.
- The threshold for initiating prosecution proceedings will be increased to INR 2 crore from INR 1 crore.
- Penal provisions will be inserted for E-Commerce Operators for contravention by unregistered persons supplying goods/services through such E-Commerce Operators.

**Customs and Central Excise**

- Specified exclusions carved out to the validity of conditional exemptions (up to 31 March falling immediately after two years from the date of such grant) have been proposed to continue without any sunset period.
- Time limit of 9 months (extendable by 3 months) provided for disposal of applications before settlement commission. If an order is not passed within this time, then the proceedings will stand abated, and adjudicating authority shall have to dispose the application.
- Amendments have been made in customs and central excise duty rates, particularly for electronics, chemicals, drugs, precious metals, CNG, automobiles, agricultural and marine products.

**Central Sales Tax**

- CESTAT will succeed the existing Central Sales Tax Appellate Authority and the AAR. All cases pending before the erstwhile authorities will be transferred to CESTAT.

**Karnataka State Budget Proposal**

- Amnesty Scheme – **"Karasamadhana"** Proposed in the State Budget. Notification containing rules, timelines, forms, waiver etc., awaited.
- Proposal to increase Professional Tax applicability on Salaried class – Existing limit of Rs. 15,000/- per month for applicability of PT increased to Rs. 25,000/- per month.

**Significant Judicial Pronouncements:**

- Cancellation of GST registration of petitioner for non-filing of returns and non-submission of reply to SCN within 7 days as SCN not received by the petitioner – Order set aside on violation of principles of natural justice - **M/s. Meerarch Construction vs. Union of India-2023 (2) TMI**

934 - Allahabad High Court

- The provisional attachment would cease to have any effect after the expiry of the period of one year from the date of the said order in terms of section 83(2) of the CGST Act - M/s. VKS Industries vs. Commissioner, Central Excise and CGST- 2023 (2) TMI 725 - Delhi High Court.
- Proceedings under section 74 for alleged illegal availment of ITC - writ filed apprehending arrest - Protection extended under section 438 of Cr.P.C and anticipatory bail granted subject to furnishing of personal bond for the disputed tax amount - Kishan Murari Gupta and 2 Others Versus State Of U.P 2023 (2) TMI 432 - Allahabad High Court.
- Petitioner faced incarceration for more than a year, however no determination of tax liability and no issuance of SCN, therefore, Court deems it fit and proper to grant regular bail to the petitioner-Harsimranjot Singh Bambhi vs Superintendent Preventive Central Goods & Services Tax 2023 (3) TMI 57 - Punjab and Haryana High Court.

The Appellate Authority for Advance Ruling upheld the Advance Ruling pronounced for non-allowance of input tax credit on vouchers and subscription packages purchased from third party vendors and given to customers with a view to increase footfall in their application. *Myntra, an Indian fashion e-commerce giant is engaged in the selling of fashion and lifestyle products through its portal. The company had placed an application for advance ruling to understand if they can avail input tax credit on purchase of vouchers and subscription packages to be made available to customers participating in their loyalty program. The Advance Ruling authority had disallowed credit on the grounds that that the vouchers are 'gifts' given to the customers and hence ineligible for credit in terms of Section 17(5)(h) of the CGST Act.* **2023 (3) TMI-107 - Appellate Authority for Advance Ruling, Karnataka – M/s. Myntra Designs Pvt. Ltd.**

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# Karnataka Professional Tax Law -2023

CA. Annapurna Kabra

Several Minor Acts like Luxury Tax, Entertainment Tax, Betting and Gambling Tax, Entry Tax, etc are subsumed under GST law except Karnataka Professional Tax laws. The dealer should comply with the provisions of Professional Tax laws in Karnataka irrespective of his registration status under the GST law.

The Karnataka Government in its state budget 2023 proposed to bring relief in the tax exemption limit for payment of Professional tax. The increase in limit from Rs. 15000/- to Rs. 25000/- is welcome amendment for the employees. The Karnataka Tax on Profession, Trades, Calling and Employments (KTPTCE) (Amendment) Bill 2023 introduced in Karnataka Fifteenth Legislative Assembly to amend certain clauses of KTPTCE Act 1976. *This Act may be called as KTPTCE Act 2023 and will come into force from 1st day of April 2023.*

As per **Article 265**, no tax shall be levied or collected except by authority of law. A tax is a compulsory extraction of money by a public authority for public purposes enforceable by law. The power to tax is an incident of sovereignty. As per Article 265, not only levy but also the collection of a tax must be under the authority of some law.

**Article 246** of the Constitution deals with the distribution of legislative powers as between the Union and the State Legislatures, with reference to the different lists in the 7th Schedule of the Constitution. List I or the Union List includes subjects over which the Union shall have exclusive powers of legislation. Example: Custom duty. List II or the State List comprises subjects over which State Legislatures have exclusive powers of legislation. Example: State tax and duties, List III or the Concurrent List gives concurrent powers to the Union Parliament and the State Legislatures.

As per **Article 248** of the Constitution, the residuary power of legislation belongs to Union Parliament. Such power includes the power of making any law imposing a tax not mentioned in either of those lists. ***Entry 60 of List-II includes states/ other local authority in a State authorized to levy a tax on professions, trades, callings and employment.***

**Article 276** states that Notwithstanding anything contained in article 246, **no law** of the legislature of a state relating to taxes for the benefit of the state or a municipality, district board, local board or other local authority therein in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.

Profession tax is levied under the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976. The Profession Tax shall be paid by every person exercising any profession or calling or is engaged in any trade or holds any appointment, public or private as specified in the Schedule to the Act. However, no tax is payable by persons who have attained age of sixty years. Also, no tax is payable for holding any Profession for less than 120 days in the year.

"The ***"Person"*** means any person who is engaged in any profession, trade, calling or employment in the State of Karnataka and includes a Hindu Undivided Family, firm, company, corporation or other corporate body, any society, club or association, so engaged but does not include any person who earns wages on a casual basis. Every branch of a ***Proprietary concern***, firm, company, corporation or other corporate body, any society, club, or association is treated as separate person for the purpose of tax liability".

Prior to the amendment the definition does not include the proprietary concern and therefore its branches need not pay the additional professional tax. The levy of professional tax is on profession, trades, callings, and employments and not based on the establishments of branch in the state. [Karnataka bank ltd V/s State of Andhra Pradesh & Others]. Now with the amendment, the scope is extended and accordingly the branches of proprietary concern will be liable for professional tax.

The following definition will be incorporated in the Karnataka Professional Tax law as follows: **As per Section 2(aa) "Agent" means a person who acts on behalf of another person in the course or furtherance of business. As per section 2(ab) "Assessment" for the purposes of this Act, means determination of tax liability under this Act and includes self-assessment, reassessment, and best judgment assessment".**

***Employer's liability to deduct & pay tax on behalf of employees:*** "As per section 2(f) the '**employer**' is defined as a person under whom one or more employees are working deriving an amount by way of salary or wages on regular basis. The person or officer responsible for making such disbursement of salary or wage, head of the office or a manager are also considered as employer. As per section 2(j), the **'Salary' or 'wage'** includes pay or wage, dearness allowance and all other remunerations received or receivable by any person including any amount received by way of arrears of salary or bonus by whatever name called whether payable in cash or kind and includes perquisites and profits in lieu of salary as defined in section 17 of the Income Tax Act, 1961. If the bonus is received in part, then it will be spread over the twelve months of the year or to the months it particularly relates to. The tax payable by any person earning salary or wage (on regular basis), shall be deducted by his employer from the salary or wage payable to such person before it is paid to him, and such employer, irrespective of whether deduction is made or not while paying salary or wage be liable to pay tax on behalf of all such persons".

**Return and Payment of tax Sec 6:** The Return to be filed by employer on behalf of employees in Form 5 yearly within 60 days from the expiry of a year. The Return to be filed by employer on behalf of employees in Form 5A monthly within 20 days from the expiry of the month. The Return to be filed in Form 4A by every enrolled person annually. The Penalty for non-filing of returns for an employer Rs. 250/- Every enrolled person has to make the payment of the PT annually within 30 days from the end of financial year. All the payments over and above Rs. 5000/- has to be made electronically. Payment of tax has to be made by the employer on behalf of employees within 20 days from the end of the month or quarter as applicable to him. The payment of tax by other enrolled persons must be made within 30 days from the end of the relevant Financial Year.

**Section 9: Assessment of Escape Assessment :** *In making the assessment, the assessing authority is satisfied that escape from assessment was due to wilful non-disclosure of information or attempting at evading the tax by the employer or the person direct such employer or the person to pay in addition to the tax assessed, a penalty one hundred percent of the tax* ***(earlier not exceeding one and half times the tax)*** *so assessed.*

**Section 10: Payment of tax (and filing of return) by enrolled persons and deduction of tax in the case of certain enrolled persons:** *If default is committed in the payment of tax deducted beyond ten days after the period specified, such persons shall be liable to pay interest at 1.5% per month (earlier it was 2%) of the amount of tax due for each month or part thereof for a period for which the tax remains unpaid.*

**Interest u/s Sec 11 and Penalty u/s Sec 12:** *If an employer or an enrolled person does not deduct the tax or fails to pay the tax deducted or fails to pay the tax as required under the Act, he shall be liable to pay simple interest at 1.50%* **(earlier 1.25%)** *per annum of the amount of tax due. If the registered employer or enrolled person has defaulted payment of tax under this act without any reasonable cause penalty equal to 10%* **(earlier not exceeding 50%)** *of amount of tax due can be charged. Therefore, the Penalty for non-payment of tax by enrolled person and registered employer with interest at rate of 1.50% per month and Penalty equal to 10% of the tax amount due.*

**The following are liable to pay Professional Tax**

The total amount payable in respect of any one person to the state or to any one municipality, district board, local board, or other local authority in the state by way of taxes on professions, trades, callings and employments shall not exceed two thousand and five hundred rupees per annum. Every person carrying on a profession or calling engaged in any trade holding an appointment (public or private) employed in any manner in the state specified in the second column of the schedule shall be liable to pay at the rate mentioned in the corresponding entry in the third column of the schedule.

***Schedule (Section 3(2)): Rates of taxes on Profession, trades, callings and Employments***

| Sl. No | Class of Persons | Rate of tax |
|---|---|---|
| (1) | (2) | (3) |
| 1 | *Salary or wage earners whose salary or wage or both, as the case may be, for a month is Rs. 25,000-00 and above* | *Rs. 200 per month* |
| 2 | *Persons registered or liable to be registered under the Karnataka Goods and Services Tax Act, 2017* | *Rs. 2,500 per annum* |
| 3 | *Self-employed persons engaged in Professions, Trades, Callings and Employments, with a standing in profession for more than 2 years, including Legal practitioners, Consultants, Agents, Chartered Accountants and Actuaries, Engineers, Health care professionals, Estate Agents or Brokers, Beauty parlours, dry cleaners and interior decorators, Journalists and Advertisement agencies, providing entertainment using Dish Antenna Cable TV, Computer Institutes selling time, Computer Training Institutes / Driving Institutes / Technical Training Institutes, Astrologers, Astro palmists, Numerologists, Vaastu consultants and Faith healers.* | *Rs. 2,500 per annum* |

| Sl. No | Class of Persons | Rate of tax |
|---|---|---|
| (1) | (2) | (3) |
| 4 | *Horse owners and the trainers, Jockeys, Directors, Actors and Actresses (Excluding Junior Artists), Owners of Oil Pumps and Service stations, gas stations, electric charging stations, Owners of Nursing homes, Hospitals, Diagnostic centres, Clinical laboratories and X-ray clinics, other than those run by the Central Government, State Government and local bodies, Owners of Gymnasium and Fitness centres.* | *Rs. 2,500 per annum* |
| 5 | *Educational Institutions and Tutorial Colleges or Institutes other than those run by the Central Government, State Government, and local bodies.* | *Rs. 2,500 per annum* |
| 6 | *Employers of establishments defined under the Karnataka Shops and Commercial Establishments Act, 1961, employing more than five employees* | *Rs. 2,500 per annum* |
| 7 | *Licensed dealers of liquors, Money lenders licensed under the Karnataka Money Lenders' Act, 1961, Individuals or institutions conducting chit funds* | *Rs. 2,500 per annum* |
| 8 | *Owners of transport vehicles (other than auto rickshaws) run on their own or through others under permits granted under the Motor Vehicles Act, 1988 (Central Act 59 of 1988); Goods transport agencies (GTA) and Transport contractors including forwarding and clearing agents.*<br>*Explanation- For the purposes of this entry Goods Transport Agency or GTA means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.* | *Rs. 2,500 per annum* |
| 9 | *Co-operative Societies registered under the Karnataka Co-operative Societies Act,1959 (Karnataka Act 11 of 1959) and engaged in any profession, trade or calling.* | *Rs. 2,500 per annum* |
| 10 | *Companies registered under the Companies Act, 2013 (Central Act 18 of 2013) and engaged in any profession, trade or calling; Banking companies as defined in the Banking Regulations Act, 1949 (Central Act 10 of 1949) Explanation.- For the purpose of this entry, 'banking companies' shall include any bank whose operations are governed by the provisions of the Banking Regulation Act,1949 (Central Act 10 of 1949)* | *Rs. 2,500 per annum* |
| 11 | *Persons other than those mentioned in any of the preceding entries who are engaged in any profession, trade, calling or employment and who are paying tax under the Income Tax Act, 1961 (Central Act 43 of 1961)* | *Rs. 2,500 per annum* |
| 12 | *Persons other than those mentioned in any of the preceding entries who are engaged in any profession, trade, calling or employment with a minimum of two years of standing and who are not exempted by Notification issued by the State Government from time to time.* | *Rs. 2,500 per annum* |

Primarily prior to the amendment bill 2023, the schedule consisted of 74 entries under section 3(2) of the KTPTCE Act 1976. With the proposed amendment it will be streamlined further to 12 entries covering the macro heads of the schedule and reducing the intra head concerns between the entries which existed prior to the amendment. The following are the explanations to the schedule which are discussed existed prior to the amendment and post to the amendment under the Professional Tax laws.

**Explanation I:**

**Prior to Amendment** Notwithstanding anything in this Schedule, where a person is covered by more than one entry in the Schedule the highest rate of tax specified under any of those entries shall be applicable in his case.

**After Amendment Notwithstanding anything in this Schedule, where a person is covered by more than one entry in the Schedule, tax is payable under any one of such entries.**

As the rate of tax amount remain same in the above entries, the tax can be payable in any of the entries.

**Explanation II**

**Prior to Amendment:** For purposes of determining the liability and the rate of tax in terms of Serial Number 15 in this Schedule, the higher number of workers and / or employees and / or employees at any time during the year shall be reckoned as the basis.

**After Amendment: For the purposes of determining the liability of tax, in terms of Serial No. 4 in this Schedule, the higher number of workers and / or employees at any time during the year shall be reckoned as the basis.**

**Explanation III.**

**Prior to Amendment** - For the purposes of Serial No. 16 of this Schedule where the oil pump or service station is held on lease by a lessee, such lessee shall be deemed to be the person liable under the Act.

**After Amendment- For the purposes of this Schedule where any asset or business is held on lease by a lessee, such lessee shall be deemed to be the person liable under the Act.**

The scope of explanation has been widened and it covers any entry in the schedule where the lessee shall be deemed to be liable for professional tax in case the asset or business is held on lease by a lessee.

**Explanation IV–**

**Prior to Amendment:** No tax shall be levied under this Act on any firm except when it is engaged in any profession, trade or calling specified in Serial Numbers 2(a)(iii), 3(a)(iv), 5(iii), 6(a)(iii), 6(b)(iv), 7(a)(iii), 8, 8(i), 10(iv), 11(i), 11(ii)(b), 11(iii), 13(d), 15(iv), 16, 17, 18(ii), 19(i), 20(b), 21, 22, 27(b), 29(a), 29(b)(i), 31, 32(b), 34, 37, 40, 41(a), 42, 43, 44, 45, 46(d), 47, 49(b), 51(a), 52, 53, 54, 55, 56, 60, 61, 62,1 [64, 66, 69(i), 70(i), 71(i), 72(i) and 73]1of the Schedule.

**After Amendment: No tax shall be levied under this Act on any partner of a firm which is engaged in any profession, trade or calling if the tax is paid by such firm.**

The above amendment will avoid complexities where there was issue to pay professional tax in case if there are more than two partners in a partnership firm. Therefore, each partner liable to pay Rs. 1000/- each. To avoid such anomalies, the amendment has been brought wherein irrespective of the number of partners or if he is partner in other firm, there will be no levy of tax on partners if the firm has paid the Professional Tax.

**Explanation V:**

**Prior to Amendment:** No tax shall be levied under this Act on any partner of a firm, which is engaged in any profession, trade or calling specified in Explanation IV above.

**After the Amendment:** Notwithstanding anything contained in the Schedule, every additional place of a person enumerated in any item of the Schedule shall be deemed to be a separate person for the purpose of levy of profession tax specified in the schedule and nothing in this explanation shall be applicable in case of additional places of business which are exclusively used as godown for storing goods."

In case of *Suresh Enterprises Bangalore V/s State of Karnataka 71 KLJ 734 (Tri) (DB)* it was held that Godowns are meant for storing goods cannot be undersigned as branch and tax cannot be demanded under the Karnataka tax on professions, trades, calling and stamp, Act 1976 (2011) 71 KLJ 734 (Tri) (DB). Therefore, godowns will not be treated as additional place of business if such godowns are used only for the purpose of storage.

The Karnataka Government also proposed to announce the karasamadhana scheme which will resolve the tax related disputes in commercial tax department and collects the arrears promptly without any litigations. The scheme is trying to entail waiving of interest and penalties to those making full payment of tax arrears on or before October 30th 2023. The Notification for Kara Samadhana scheme is awaited and accordingly it will be effective from the notified date.

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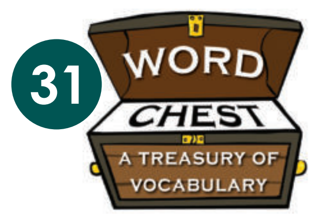


***Decentralized Physical Infrastructure Networks (DePIN)***

- ***Decentralized Physical Infrastructure Networks (DePINs)*** *use blockchain networks and tokens to create and incentivise the deployment and use of value-generating physical infrastructure(charging, telecoms, decentralized storage, compute etc.).* ***DePINs*** *rely on a decentralized network and community, not a centralized backend and company, for transactions and business logic.*

*The advantages of* ***(DePIN)*** *are,*

- ***(DePIN)*** *crowdsources the development of physical infrastructure and can scale faster compared to traditional companies with fraction of cost.*
- *Traditional infrastructure projects runs with a centralized entity dictating the terms and conditions for who can join in and what they can do,* ***DePINs*** *are open, democratic, and more accessible.*
- *Besides being permissionless and open,* ***DePINs*** *are also censorship-resistant, with no centralized gatekeeper capable of denying access to a specific party based on nothing but their whim.*

# INCOME TAX UPDATES

Direct Tax

**JUDICIAL UPDATES**

**ITAT**

1. Where assessee, deriving income under head salary and interest income, had failed to deposit return of income under section 139 however filed same in response to notice issued under section 148, since assessee paid self-assessment tax along with interest on 19-3-2015, impugned interest levied under sections 234A, 234B and 234C beyond said date, till date of completion of assessment i.e. 29-11-2018, was to be deleted.

   *(ITA No. 181 (RJT.) OF 2022)*

2. Interest payment on delayed deposit of Income Tax, whether TDS or otherwise, is not an allowable expenditure.

   *(ITA No.387 (KOL.) OF 2021)*

3. Where assessee claimed deduction in respect of expenditure incurred under head food and beverages, since no bills and vouchers have been maintained by assessee for aforesaid expenditure same was rightly disallowed by lower authorities.

   *(ITA. 03 (PAT.) OF 2017)*

4. In terms of rule 37BA(3)(i), benefit of TDS is to be given for assessment year for which corresponding income is assessable, therefore, where assessee received rental income on 31-3-2020, benefit of TDS had to be allowed in assessment year 2020-21 even though tenant inadvertently reported same in assessment year 2021-22.

   *(ITA No. 529 (PUNE) OF 2022)*

**High Court**

1. Submissions of draft assessment order proposing variation to returned income must be submitted to the DRP and also the order passed on remand. Failure to do so is an incurable defect.

   (PCIT v. Appollo Tyres Ltd.)(449 ITR 398)(Kar. HC)

2. Where Assessing Officer had no subjective satisfaction while issuing notice of reopening and reopening on part of Assessing Officer was essentially on audit party opinion and not on basis of his own conviction was not justified

   (147 taxmann.com 283 (Gujarat))

3. CIT(A) cannot decide assessee's appeal ex-parte merely because of failure to attach grounds of appeal at the time of filing memo of appeal in Form No. 35.

   (147 taxmann.com 357 (Bombay))

4. TRC issued by other country is to be accepted as the basis for benefits under DTAA. AO can't go behind the Tax Residency Certificate issued by another country & issue re-assessment notice to determine issues of residence status, treaty eligibility and legal ownership.

   (146 taxmann.com 569 (Delhi))

**Supreme Court**

1. Law declared by court to be applied for AYs in question, which were before the court and were decided. Wherever the appeals decided against the department, matter to be treated as final.

   *(ACIT(E) v. Ahmedabad Urban Development Authority) (449 ITR 389)*

2. Where an appeal is made to High Court the territorial jurisdiction is within the same state the assessing officer who passed the order is located.

   *(CIT v. Balak Capital Pvt. Ltd.) (449 ITR 394)*

3. Purchase and Sale of Shares where the holding period and frequency of transaction is short the income is to be considered as business income.

   *(Equity Intelligence India Pvt. Ltd. vs.ACIT) (449 ITR 396)*

**From CBDT**

1. CBDT notifies "Insolvency and Bankruptcy Board of India" for exemption u/s 10(46) of the Income-tax Act, 1961.

   *(Notification No.09/2023/F.No.300196/39/2021-ITA-I)*

2. CBDT vide Income-Tax (Third Amendment) Rules, 2023 substitutes rules 16CC and 17B and Form nos. 10B and 10BB.

   *(NOTIFICATION G.S.R. 118(E) [NO. 7/2023) [F. NO.370142/47/2023-TPL]*

3. Procedure for remedial action in cases where revenue audit objection is accepted.

   *(CIRCULAR F. NO. 246/06/2023-A&PAC-I-79, DATED 16-2-2023)*

4. CBDT notifies income tax return forms for the assessment year 2023-24.

   *(press release, dated 15-2-2023)*

5. CBDT notifies "Centralised Processing Of Equalisation Levy Statement Scheme, 2023"

# Financial Reporting And Assurance

**CA. Vinayak Pai V**

## KEY UPDATES

### A. AS | Ind AS

**1. ICAI Exposure Drafts – Guidance Notes on Financial Statements of Non-corporate Entities and Limited Liability Partnerships**

On 7th February, 2023, the Institute of Chartered Accountants of India (ICAI) issued **Exposure Drafts** of ***a) Guidance Note on Financial Statements on Non-Corporate Entities and b) Guidance Note on Financial Statements of Limited Liability Partnerships*** to further ensure that the formats of financial statements are followed to achieve standardisation and enhance the quality of the financial reporting by the in-scope entities.

It is proposed that the Guidance Notes will be effective immediately upon its date of issuance and **would supersede** a) the ***Technical Guide on Financial Statements of Non-Corporate Entities*** and b) the ***Technical Guide on Financial Statements of Limited Liability Partnerships.*** It may be noted that these Technical Guides were issued by ICAI in June 2022 to deal with applicability of Accounting Standards and recommending formats of the financial statements. ICAI has now **proposed to prescribe the formats for the presentation of financial statements** of these entities **in the form of Guidance Notes.**

The Exposure Drafts of the Guidance Notes are open for comments till 8th March, 2023.

**Links** to the Exposure Drafts -

**https://resource.cdn.icai.org/72925asb58675nce.pdf**

**https://resource.cdn.icai.org/72926asb58675llp.pdf**

**2. EAC Opinion – Accounting treatment for advance payment made towards way leave charges as part of laying city gas distribution network**

The March 2023 edition of the ICAI Journal has carried an **Expert Advisory Committee's (EAC) opinion** – ***Accounting treatment for advance payment made towards way leave charges as part of laying city gas distribution network*** (Ind AS). A summary of generic key takeaways from the opinion is summarised herein below:

- The issue raised relates to the classification of advance payment made towards way leave charges for laying the city gas distribution network. [In the context of this case, the querist Company must enter into way leave agreements with Railways for 10 years by paying upfront payment on specified terms. Way leave charges are charged by Indian Railways for allowing occasional or limited use of its land by a party for a specified purpose like passage, access to private houses and establishments, and laying underground pipelines.]
- The EAC opined that the **prepayments** made towards way leave charges **should be accounted for as 'right-of-use' asset** per the requirements of Ind AS 116, Leases based on the reasonings that include:

  The permission to use underground space is explicitly specified in the contract/agreement along with the specific dimensions (path, width, etc.) and is physically distinct from the remainder of the land (e.g., area on the surface of the land). Thus, **an identified asset exists** as per Ind AS 116.

  The Railways has the right of substitution only on the occurrence of a specified event in future (namely, Northern Railway executing new works), substitution right is not substantive because it does not give the supplier the practical ability to substitute the asset throughout the period of use. Thus, as per the requirements of Ind AS 116 (paragraph B15), **the supplier does not have the substantive right to substitute the asset throughout the period of use.**

**Link** to the Opinion -

**https://resource.cdn.icai.org/73105cajournal-march2023-11.pdf**

**3. C&AG Report – Ind AS impact on State Public Sector Enterprises**

A ***Report of the Comptroller and Auditor General of India (C&AG) on State Public Sector Enterprises for the year ended 31 March 2021*** tabled on 28th February, 2023

(Government of Rajasthan), delves into the Financial Performance of State Public Sector Enterprises, Oversight Role of CAG, Corporate Governance and Implementation of Indian Accounting Standards (Ind AS) in Government Companies.

An extract from the report w.r.t. Ind AS is provided herein below.

*"Adoption of Ind AS resulted in changes in the financial reporting framework, **increased use of fair valuation** as against historical cost valuation and **greater focus on substance than the legal form.** Audit analysis of selected 10 Government Companies indicated that adoption of Ind AS had negative cumulative impact on profit after tax (₹ 199.62 crore), revenue (₹ 94.99 crore), total assets (₹ 569.68 crore) and net worth (₹ 434.64 crore) as disclosed in the financial statements of the Government companies. The cumulative impact of adoption of Ind AS did not include impact on total assets of two Government Companies (RSGL and RSGSML) as these companies did not disclose the impact in their Ind AS compliant financial statements.*

***Major changes carried out** pertained to fair valuation of assets/liabilities as against historical cost valuation, changes in method of recognition of revenues, accounting of deferred tax, impairment of financial assets, adjustment of prior period items, amortization of intangible asset, adjustment in capital work in progress, de-recognition of proposed dividend and adjustment of depreciation for spares and major inspection. The changes disclosed in the financial statements of SPSEs should be given due consideration while assessing the performance and financial position of the concerned SPSEs."*

**Link** to the Report –

**https://cag.gov.in/en/audit-report/details/118082**

**B. NFRA**

### 4. Financial Reporting Quality Review Report (FRQRR) of a listed entity

On 23rd February, 2023, the National Financial Reporting Authority (NFRA) released an FRQRR (Report No. NF-20011/51/2021) of PSP Projects Limited (a listed IndAS financial statement preparer) for F.Y. 2019-20 that it undertook based on statistical sampling approach.

Key observations in the report include:

- **Disclosure of the initial measurement policy with respect to Trade Receivables not in accordance with IndAS 109**, Financial Instruments.
- **Failure to make impairment allowance using Expected Credit Loss (ECL) approach,** as required by IndAS 109 in respect of 'Contract Assets' and 'Other Financial Assets' such as deposits with banks and other deposits.
- **Disclosure made in relation to Credit Risk Exposure of its Financial Instruments is not in accordance with the requirements of IndAS 107** as it does not give information of the provision matrix used for computing impairment loss allowance for Trade Receivables and the credit risk grades used for managing the credit risk of Other Financial Assets.
- The **full particulars of the terms and conditions of the loans to related parties have not been disclosed** in the Financial Statements as per requirements of Section 186(4) of the Companies Act, 2013 and Schedule III of the Companies Act, 2013.
- **Non-adherence to the disclosure requirements of IndAS 115, Revenue from Contracts with Customers** which requires the Company to disaggregate revenue.
- Not adequately complying with the disclosure requirements of Fair Value of the Financial Instruments, as required by Ind AS 107.

**Link** to the FRQRR -

**https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc-6b56a45a56c59fafdb/uploads/2023/02/2023022411.pdf**

**C. ASSURANCE**

### 5. IAASB – New technology-focused FAQ

On 8th February, 2023, the International Auditing and Assurance Standards Board (IAASB) released a non-authoritative support material, ***Frequently Asked Questions (FAQs) On Investigating Exceptions and Relevance of Performance Materiality when using ATT,*** to help address certain issues about investigating exceptions and the concept of performance materiality when performing audit procedures using automated tools & techniques (ATT).

The ATT referred to in the publication assumes a certain functionality, operation, and output in its use to perform audit procedures, which may not be relevant for all ATT (e.g., in the case of more complex or advanced technologies than those anticipated in the publication).

**Link** to the Publication –

**https://www.ifac.org/system/files/publications/files/IAASB-Technology-FAQ-Investigating-Exceptions-Materiality.pdf**

### 6. IESBA – Revision to International Code of Ethics for Professional Accountants – Independence requirements for Group Audits

On 28th February, 2023, the International Ethics Standards Board for Accountants (IESBA) released revisions to the ***International Code of Ethics for Professional Accountants (including International Independence Standards)*** to address holistically the various independence considerations in an **audit of group financial statements.** The revisions also deal with the independence and other implications of the changes made to the definition of an engagement team in the Code to align with changes to the definition of the same term in the IAASB's International Standards on Auditing (ISAs) and International Standards on Quality Management (ISQMs). The revisions, inter alia, strengthen and clarify the independence principles that apply to: Individuals involved in a group audit, including those within, or engaged by, firms that audit components within a group; specify the need for, and content of, appropriate communication on independence matters between the group auditor firm and component auditor firms participating in the group audit; amend the definitions of the terms 'engagement team' and 'audit team' in the Code to recognize the different and evolving engagement team structures, and address the implications of those definitional changes.

The pronouncement will be effective for audits of financial statements and group financial statements for periods beginning on or after 15th December, 2023, with early adoption permitted.

**Link** to the Announcement -

***https://www.ethicsboard.org/publications/final-pronouncement-revisions-code-relating-definition-engagement-team-and-group-audits***

### 7. CBDT Notification - Amendment to Audit Reports in Form No. 10B and 10BB

The Central Board of Direct Taxes (CBDT) vide Notification No. 7/2023 [F. No.370142/47/2023-TPL]/GSR 118(E) dated 21st February, 2023 issued the ***Income-tax Amendment (3rd Amendment) Rules, 2023,*** amending thereby the audit report requirements applicable to charitable institutions.

The salient aspects of the amended rules are summarised herein below:

- **Rule 16CC substituted** - The audit report of a fund/ institution/ trust/university or other educational institution/hospital or other medical institution which is required to be furnished under clause (b) of the tenth proviso to clause (23C) of section 10 shall be in Form No. 10B where a) the total income exceeds ₹ 5 crores during the previous year; or b) has received any foreign contribution during the previous year; or c) has applied any part of its income outside India during the previous year. In other cases, the audit report shall be in Form No. 10BB.
- **Rule 17B substituted.**
- **The Annexure to the Auditor's Report (Form No. 10B)** namely the 'Statement of Particulars' contain **amended reporting requirements** including particulars related to Registration Details, Management, Objects, Commencement of Activities, Advancement of General Public Utility, TDS on receipts, Voluntary Contributions, Application of Income, Specified Violation, etc.
- **Amended reporting requirements related to Audit Report in Form No. 10BB.**

The Rules come into force from 1st April, 2023.

**Link** to the Notification –

***https://incometaxindia.gov.in/communications/notification/notification-7-2023.pdf***

## D. RBI

### 8. RBI Notification– Disclosures for State Co-operative Banks and Central Co-operative Banks

On 20th February, 2023, the Reserve Bank of India (RBI) notified (vide Notification No. RBI/2022-23/181 DOR.ACC.REC. No.103/21.04.018/2022-23) that the ***Reserve Bank of India (Financial Statements – Presentation and Disclosures) Directions, 2021 (Master Direction),*** hitherto applicable to Commercial Banks and Primary Urban Co-operative Banks ***would now also be applicable to State Co-operative Banks and Central Co-operative Banks.***

**Link** to the Notification –

***https://rbidocs.rbi.org.in/rdocs/notification/PDFs/RCBSDISCLOSURE1D84ED21F5E74893B2E1B83E-BE915996.PDF***

### 9. RBI Notification– Asset Reconstruction Companies - Ind AS accounting for management fees

According to the RBI, some Asset Reconstruction Companies (ARCs) have been recognising management fees in their IndAS financial statements even though the said fee had yet to be realised for more than 180 days. To address such prudential concerns arising from continued recognition of unrealised income by ARCs, the RBI vide Notification No. RBI/2022-23/182 DOR.ACC.REC. No.104/21.07.001/2022-23 dated 20th February, 2023, has decided that **ARCs preparing their financial statements as per Ind AS, shall reduce the following amounts from their**

**net owned funds while calculating the Capital Adequacy Ratio and the amount available for payment of dividend:**

a) Management fee recognised during the planning period (i.e. a period not exceeding six months allowed for formulating a plan for realisation of financial assets acquired for the purpose of reconstruction) that remains unrealised beyond 180 days from the date of expiry of the planning period;

b) Management fee recognised after the expiry of the planning period that remains unrealised beyond 180 days of such recognition; and

c) Any unrealised management fees, notwithstanding the period for which it has remained unrealised, where the net asset value of the Security Receipts has fallen below 50 per cent of the face value.

Further, **ARCs must now disclose information on the ageing of the unrealised management fee recognised** in their books in a specified format as part of the Notes to Accounts in the annual financial statements.

The above applies to all ARCs preparing their financial statements as per Ind AS.

**Link** to the Notification –

***https://rbidocs.rbi.org.in/rdocs/notification/PDFs/INDIANACCOUNTINGSTANDARDS8C7C436D-851D46A4A9B2B9276DF02ECD.PDF***

## E. SUSTAINABILITY STANDARDS

### 10. G20 focuses on launch of ISSBs inaugural standards

The G20 Finance Ministers and Central Bank Governors met in Bengaluru on 24th-25th February, 2023 and have published a summary of discussions. **On sustainability, the meeting summary** noted the G20:

**Looks forward to the early finalization of standards by** the International Sustainability Standards Board **(ISSB) for climate-related financial disclosures,** and its work beyond climate.

The FSB, in coordination with the ISSB and IOSCO, is **to prepare a report on the progress of jurisdictions and firms on climate-related financial disclosures by October, 2023.**

It may be noted that following international policy and market demand, the ISSB is developing-in the public interest-standards that will result in a high-quality, comprehensive global baseline of sustainability disclosures focused on the needs of investors and the financial markets. Its initial two standards, covering general requirements and climate, will be issued towards the end of Q2 2023.

**Link** to the Announcement carried by IASB-

***https://www.ifrs.org/news-and-events/news/2023/02/g20-focuses-on-launch-of-issbs-inaugural-standards/***

### 11. ICAI – Framework for Social Audit Standards

On 4th February, 2023, the Institute of Chartered Accountants of India (ICAI) issued a ***Framework for Social Audit Standards*** that defines and describes the elements and objectives of a social audit performed by social auditors.

The **Framework applies to social audit** (i.e., social impact assessment of project/ program of social enterprises) **to be conducted by social auditors using the principles given in Social Audit Standards (SASs).** It may also be applied to any other engagement conducted by a social auditor e.g., impact assessment as required under the Companies (CSR Policy) Amendment Rules, 2021 or similar assignment.

This Framework applies from the date of its hosting on ICAI website (4th February, 2023) and is mandatory.

**Link** to the Framework –

***https://resource.cdn.icai.org/72912icai-sas-new.pdf***

## F. OTHER USEFUL PUBLICATIONS

**12. UK Financial Reporting Council (FRC) publication – Thematic Review: IFRS 9 Banking Audit Methodology and its Application. [24th February, 2023]**

***https://www.frc.org.uk/getattachment/fc878772-9347-47c5-8930-4de5388925fd/IFRS-9-Banking-Audit-Methodology-and-its-Application-(February-2023).pdf***

**13. National Financial Reporting Authority's (NFRA) Annual Performance Report 2021-22. [6th February, 2023]**

***https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc6b56a45a56c59fafdb/uploads/2023/02/2023020717.pdf***

**14. ICAI – A Primer on the Concept of Social Stock Exchange. [10th February, 2023]**

***https://resource.cdn.icai.org/72981srsb58814.pdf***

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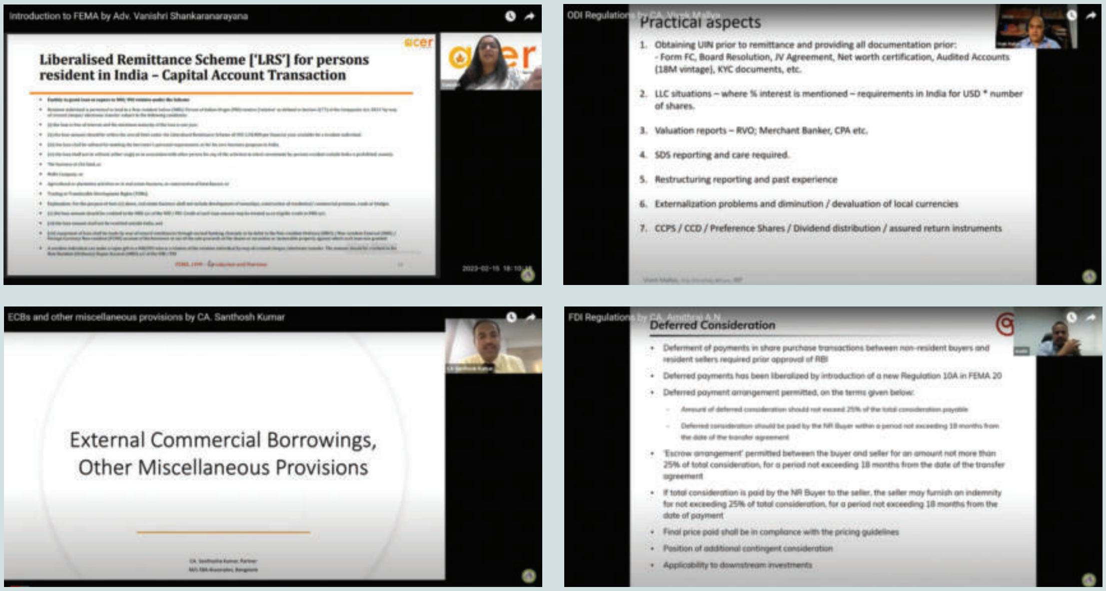
# Photo Gallery




*FEMA Workshop ( Virtual Mode) held on 15th to 23rd February 2023 by Corporate and Allied Laws Committee*


*Workshop ( Virtual Mode) on revisiting basics of GST- From the lens of today's maturity held during the month of February 2023 organised by IDT Committee of KSCAA.*

## *ACHIEVEMENTS*

*We congratulate and extend our heartfelt wishes to CA. Panna Raj on being appointed as Chairman of SIRC of ICAI and CA. Geetha A B as Vice-chairperson of SIRC of ICAI.*

*CA. Panna Raj*
*Chairman of SIRC of ICAI*

*CA. Geetha A B*
*Vice-chairperson of SIRC of ICAI*

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# AskNXpert

17th Mar Friday

| Timings From | Timings To | Area | Topic | Subject Expert |
|---|---|---|---|---|
| 11:15 | 12:00 | GST | Handling GST Audit & GSTR 2A Vs 3B issues | CA Vijay Singh, Bangalore<br>CA Abhishek Agarwal, Kolkatta |
| 12:00 | 12:45 | RERA | Real Estate (Regulation and Development) Act | Speaker consent being received |
| 01:45 | 02:30 | FEMA | ODI and Current and Capital account transactions | Speaker consent being received |
| 03:00 | 03:45 | Income Tax | Domestic Taxation | CA Suman Lunkar, Bangalore<br>CA Tata Krishna, Bangalore |
| 04:15 | 05:00 | GST | ITC – Eligible/Ineligible | CA Kuber Hundekar, Bangalore<br>CA Spudarjunan, Kochi |
| 05:15 | 06:00 | Income Tax | International taxation | CA Krishna Upadhya S, Bangalore |

18th Mar Saturday

| Timings From | Timings To | Area | Topic | Subject Expert |
|---|---|---|---|---|
| 10:15 | 11:00 | Income Tax | Coporate taxation | CA Sudheendra BR, Bangalore |
| 11:00 | 11:45 | GST | Rule 42/43 ITC Reversals<br>Place of Supply for Goods/Services | CA T N Raghavendra, Bangalore<br>CA Saradha Hariharan, Chennai |
| 12:00 | 12:45 | GST | Issues in GST Appeal - provisions/ procedure & Exemptions under GST | CA Annapurna Kabra, Bangalore<br>CA Shankara Narayanan V, Chennai |
| 01:45 | 02:30 | Income Tax | Issues in income tax forms and returns | CA Prerana Chopra, Bangalore |
| 03:00 | 03:45 | FEMA | Foreign Direct Investments | Speaker consent being received |

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# Promoter's Functions And Duties Under RERA Act 2016

CA. Vinay Thyagaraj

Real Estate (Regulation and Development) Act, 2016, which is a central legislation in India that seeks to regulate the real estate sector and promote transparency and accountability in the sector.

In the context of RERA, a promoter refers to any person, who develops or constructs real estate projects for the purpose of sale to the public. The promoter is responsible for obtaining all necessary approvals and permissions for the project, and for ensuring that the project is completed in accordance with the approved plans and specifications issued by the planning authority.

Under RERA, the promoter is required to register the real estate project with the RERA authority before advertising, marketing, or selling any apartments or plots in the project. The promoter is also required to provide certain information, affidavits and documents related to the project, such as the project details, approvals, layout plans, and timelines for completion, at the time of registration.

In addition, the promoter is required to maintain a separate bank account for each project, and to deposit 70% of the funds realised from buyers into this bank account. This is to ensure that the funds are used only for the development of the project, and to prevent diversion of funds.

RERA also provides for penalties and other consequences in case of non-compliance with its provisions, including imprisonment and fines.

Section 11 of the RERA Act specifically provides for the Functions and duties of the promoters. These duties are mandatory in nature.

| Section | Provision | Provision | Author inputs |
|---|---|---|---|
| 11(1) | On receipt of registration certificate, promoter shall update/enter the details on the website for the public viewing | a) RERA registration number<br>(b) quarterly up-to-date<br>I. the list of number and types of apartments or plots, as the case may be, booked;<br>II. the list of number of garages booked;<br>III. the list of approvals taken and the approvals which are pending subsequent to commencement certificate;<br>IV. status of the project; and<br>(c) such other information and documents as may be specified by the regulations made by the Authority | It is important for the promoters to submit the details quarter on quarter basis within the due date as provided in the Rules.<br>Non submission of Quarterly updates / Quarterly returns attracts penalty U/s. 60 of the RERA Act.<br>The penalty may extend to 5 % of the cost of Real Estate Project |
| 11(2) | Advertisement or prospectus issued or published by the promoter | (a) Shall mention prominently the website address of the Authority,<br>(b) RERA registration number obtained from the Authority | It is important for the promoter to mention these details without fail. The authorities have issued various guidelines with respect to advertisement and size of the fonts to be used etc. Registration numbers shall be Prominently visible on the advertisement. |

| Section | Provision | Provision | Author inputs |
|---|---|---|---|
| 11(3) | The promoter at the time of the booking and issue of allotment letter shall be responsible to make available to the allottees | (a) sanctioned plans, layout plans,<br>(b) specifications, approved by the competent authority,<br>(c) the stage wise time schedule of completion of the project,<br>(d) provisions for civic infrastructure like water, sanitation and electricity. | The promoter shall provide the details to the allottees while issuance of allotment letter.<br>It is recommended to obtain and keep a copy of the letter or make a paragraph in the allotment letter that the details and documents related to the project are provided to the allottees and obtain the acknowledgement from the allottees. |
| 11(4) | (a) The promoter shall be responsibilities for all obligations till the conveyance of all the apartments or plots and common areas to the association - | (a) As per the Act, Rules and notifications issued by the Authority<br>(b) As per the terms of agreement for sale entered with the allottees<br>(c) To the association of the allottees<br>Note – the structural defect or any other defect shall be as per sec 14(3) of the Act, Viz., 5 years from the date of possession. | |
| | (b) responsible to obtain | (a) the completion certificate or<br>(b) the occupancy certificate, or both, as applicable<br>(c) make it available to Allottees and to the association | RERA Act made it mandatory for the promoter to obtain the completion certificate from the planning authority stating the project is completed in accordance with the plan sanctioned.<br>Further, the authority made it mandatory to submit and upload these certificates online on the portal of the authority. |
| | (c) responsible to obtain | The lease certificate, where the real estate project is developed on a leasehold land | Specifying the period of lease, and certifying that all dues and charges in regard to the leasehold land has been paid, and to make the lease certificate available to the association of allottees |
| | (d) responsible for providing | maintaining the essential services, on <u>reasonable charges,</u> till the taking over of the maintenance of the project by the association of the allottees; | Essential services include water, electricity, sanitation, safety and security to the assets.<br>It is important to note that the provision mentioned the charges as reasonable towards the maintenance. Reasonability is always subjective. |
| | (e) responsible for | <u>enable the formation</u> of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same, under the laws applicable.<br>(in case of absence of local laws, the association shall be formed with in 3 months of majority allotments in the project) | Association is for the purpose of maintenance of common areas or common assets in the Real Estate Project.<br>Act mandates the promoter to enable the formation of the association. Viz., it is the duty of the allottees to |

| Section | Provision | Provision | Author inputs |
|---|---|---|---|
| | | | come forward, volunteer to form the association |
| | (f) responsible for | (a) execute a registered conveyance deed of the apartment, plot or building in favour of the allottee along with the undivided proportionate title in the common areas to the association of allottees or competent authority, as the case may be, as provided under section 17 of this Act | It is important to note and understand the method of conveyance of the common areas to the association of the allottees.<br><br>State shall notify the method of conveyance to comply with the provisions of Section 17 of the RERA Act |
| | (g) pay all outgoings until he transfers the physical possession of the real estate project to the allottee or the associations of allottees | (a) Land Cost<br>(b) Ground Rent<br>(c) Municipal Taxes<br>(d) Water<br>(e) Electricity charges<br>(f) Maintenance charges<br>(g) Mortgage loan, interest<br>(h) Any other liabilities | This provision makes it clear that the promoter continues to incur the expenses or liabilities till he transfers the physical possession of the real estate project. Hence it is recommended that the promoter shall handover the possession on completion of the project to avoid the financial burden or liability of the project. |
| | (h) After enter into agreement with the allottees | The promoter shall not create any mortgage on such apartment or plot or building | |

| Section | Provision | Provision | Author inputs |
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| 11(5) | The promoter may cancel the allotment only in terms of the agreement for sale | Provided that the allottee may approach the Authority for relief, if he is aggrieved by such cancellation and such cancellation is not in accordance with the terms of the agreement for sale, unilateral and without any sufficient cause | |
| 11(6) | The promoter shall prepare and maintain all such other details as may be specified, from time to time, by regulations made by the Authority. | | |

Apart from above table, following are the other obligations or mandatory compliances under RERA Act 2016

| Section | Provision | Provision | Author inputs |
|---|---|---|---|
| 3 | Prior Registration of Real Estate Project | Section 3 of the RERA Act mandates the promoter to register the real estate project before market, advertise, sale, collection of advance etc | The promoter or professionals should understand the scheme of the project before filing an application for grant of the RERA registration. |
| 4(2)(L)(D) | Bank Account opening, depositing, withdrawal of funds | Section 4(2)(L)(D) of the Act mandates the promoter to<br>a. Open the Rera designated bank account in scheduled bank<br>b. Deposit minimum 70% of the money realsied from the allottees in the project | Financial management under RERA is a mandatory and non-compromise provision under RERA.<br><br>The promoters and the professionals shall read and understand the Act, Rules and Bank Account directions 2020 and other notifications |

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| | | c. Withdrawal of money so deposited based on the % of completion of the project after obtaining the professional certificates of Engineer, Architect and a Chartered Accountant in practice | issued by the Authority with respect to bank account and financial management of the project.<br>Section 60 of the Act may be invoked by the RERA Authority for non-compliance, the penalty for such non-compliance may be extended upto 5 % of the estimated real estate cost |
| 4(2)(L)(D) | Annual Audit of Accounts under RERA | $3^{rd}$ provision to section 4(2)(L)(D) of the RERA Act 2016 mandates the Annual Audit of Accounts of the Real Estate Project. Same shall be conducted within 6 months from the end of the financial year. | The authorities has notified the form and manner such annual audit certificates shall be obtained from the Chartered Accountants in practice.<br>Many states have invoked the penal provisions for non-submission of Annual Audit of Accounts reports to the RERA Authorities. |
| 13 | Agreement of Sale | The promoter shall enter the agreement of sale as per the format notified by the RERA Authorities.<br>The RERA Act 2016 further states that the promoter shall not collect more than 10 % of the unit cost without entering into the Agreement of sale. | Pre RERA the promoters used to enter into agreement of sale by collecting 15 % to 30 % of the unit consideration.<br>RERA brought the standardisation and restriction of collection more than 10 % Further the promoters shall follow the format as notified by the state RERA Authorities. Most of the clauses in the agreements<br>are NON-NEGOTIATE |

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| | | | clauses. The promoter shall not modify or change or delete mandatory clauses in the agreement |
| 14 | Adherence to sanctioned plans and project specifications by the promoter | The project shall be developed and completed by the promoter in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities.<br>Any additions and alterations in the sanctioned plans, layout plans and specifications and the nature of fixtures, fittings and amenities described therein in respect of the apartment, plot or building, as the case may be, which are agreed to be taken, without the previous consent of that person and any other alterations or additions in the sanctioned plans, layout plans and specifications of the buildings or the common areas within the project without the previous written consent of at least $2/3^{rd}$ of the allottees. | For the purpose of this clause, the allottees, irrespective of the number of apartments or plots, as the case may be, booked by him or booked in the name of his family, or in the case of other persons such as companies or firms or any association of individuals, etc., by whatever name called, booked in its name or booked in the name of its associated entities or related enterprises, <u>shall be considered as one allottee only</u> |
| | Defect Liability Period (DLP | In case any<br>a) structural defect or<br>b) any other defect in<br>i) workmanship,<br>ii) quality or<br>iii) provision of services or<br>iv) any other obligations | |

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| | | of the promoter as per the agreement for sale is brought to the notice of the promoter within a period of five years by the allottee from the date of handing over possession, | it shall be the duty of the promoter to rectify such defects without further charge, within thirty days, and in the event of promoter's failure to rectify such defects within such time, the aggrieved allottees shall be entitled to receive appropriate compensation in the manner as provided under this Act.<br><br>Promoters and professionals shall consider the additional cost due to DLP as part of project cost |
| 15 | Obligations of promoter in case of transfer of a real estate project to a third party | The promoter shall not transfer or assign his majority rights and liabilities in respect of a real estate project to a third party without obtaining prior written consent from $2/3^{rd}$ allottees, except the promoter, and without the prior written approval of the Authority | In case of the promoters transferring the project or rights in the project. Mandatory consent from the allottees and approval from the authority.<br><br>These are prior approval.<br><br>Guidelines and online application is available to comply with the provisions |
| 16 | Obligations of promoter regarding insurance of real estate project. | Promoter shall obtain<br>1. construction insurance policy<br>2. title insurance policy | Promoter shall pay the premium of the insurance and transfer the same to the allottees or association of allottees |
| 17 | Transfer of title - The promoter shall | (a) execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority,<br>(b) hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and the common areas to the association of the allottees or the competent authority,<br>(c) other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws | The state shall pass proper statute and procedure to convey the common areas to the association of the allottees. |

Further the penalty and prosecution related to the non-compliance of the Act with respect to functions and obligations of a promoter are in accordance with the Section 59, 61, 63 and Section 69 of the Real Estate (Regulation and Development) Act 2016 read with rule 45 of the Karnataka Real Estate (Regulation and Development) Rules 2017. The quantum of penalty proposed in the Act ranges from 5 % to 10 % of the estimated cost of the real estate project.

To conclude the RERA Act has considered the various aspects of the Real Estate and made promoters responsible or obligated to follow / comply with the same.

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# Intellectual Property Rights and Protection in India IP Support Measures

## (Part - XXXI of IPR series)

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

### IP as a Profit-Making Business Tool

For meeting the needs of the domestic market of goods and services, the production, sales, and supply chain are largely dependent on MSMEs. This sector generates huge employment Opportunity as it focuses principally on production by masses. They facilitate Industrialisation in rural and remote parts of the Country. They play an important role in India's economy. The series of these articles clearly indicate that the creation of an IP is an asset to the business entity, as it can provide better profit, if properly pursued, created, used(commercialised), and protected.

In a competitive market, it is crucial to legally protect one's 'IP and its associated assets' to establish oneself. Recognition of IPs like 'Brand' plays a key role in any business that aims to expand itself. Similarly, if an MSME aspires to expand its business, it should inevitably consider investing in protecting its IPs as it comes with numerous advantages. This may include protecting a trademark, copyrights, or patents rights, from the early stage itself. Upon legally registering their IP, MSME owners may also license, sell, assign, or franchise their IP for monetary considerations /benefits. Protecting an MSME's IP gives the owner an exclusive right over the use of such IP. If any other entity attempts to use the same in an unauthorized manner, various legal remedies are available to the owner for protection of their IP. Protecting an MSME's IP is an effective strategy to set it apart from other businesses in a particular industry. The presence of IP will thus help the entity to preserve an edge over the competitors, which is crucial for the growth and expansion of the business pursuits.

Furthermore, this protection of an MSME's IP can later translate into an asset for their business. For instance, if an MSME comes up with an innovation that has been patented, then they may disclose the innovation, obtain patent rights, and license the same to investors who may be interested in investing in such business.

The importance of having a registered trademark in attracting and retaining the faith of the consumers for better profitability have already been explained. The other IP products like copyrights, designs etc., make the business entity move towards better profit. MSMEs, in the journey of creating innovations, brand images etc., require proactive initiatives as well as initial investments. For small entities, startups, and new entrepreneurs to create, manage and protect these IP assets, suitable financial and administrative supports are essential. The Central Government and all State Governments are extending financial and administrative support to MSMEs and startups for these activities. In the following part some of such initiatives are detailed for the benefit of MSMEs.

### 'Make in India' Campaign

On recognizing the Importance of MSMEs for the Indian economy, the Union and the State Governments have introduced several programs /schemes that are specifically knitted to encourage them. The **'Make in India'** program is one such initiative that has been in place to encourage development of MSMEs as well as incubation of start-ups in India to expand and enter the global market with better support and goodwill of the Government. The objective of the 'Make in India' campaign is to facilitate investment, foster innovation, enhance skill development, **protect intellectual property** & build best in class Manufacturing Infrastructure. This initiative is based on the following four pillars, which have been identified to give boost to entrepreneurship in India, not only in manufacturing but also other sectors.

**Pillar 1 - New Processes:** 'Make in India' recognizes 'ease of doing business' as the single most important factor to promote entrepreneurship. Several initiatives have already been undertaken to ease business environment. The aim is to de-license and de-regulate the industry during the entire life cycle of a business.

**Pillar 2 - New Infrastructure:** Availability of modern and facilitating infrastructure is a very important requirement for the growth of industry. Government intends to develop industrial corridors and smart cities to provide infrastructure based on state-of-the-art technology with modern high-speed communication and integrated logistic arrangements. Existing infrastructure to be strengthened through upgradation of infrastructure in industrial clusters. Innovation and research activities are supported through fast paced registration system and accordingly infrastructure of Intellectual Property Rights registration set-up has been upgraded.

**Pillar 3- New Sectors:** 'Make in India' has identified 25 sectors in manufacturing, infrastructure and service activities and detailed information is being shared through interactive web-portal and professionally developed brochures. FDI has been opened in Defence Production, Construction and Railway infrastructure in a big way.

**Pillar 4- New Mindset:** Industry is accustomed to see Government as a regulator. 'Make in India' intends to change this by bringing a paradigm shift in how Government interacts with industry. The Government will partner industry in economic development of the country. The approach will be that of a facilitator and not regulator. The Make in India program has been built on layers of collaborative effort.

**MSME Innovative Scheme**

The Ministry of MSME has started a new scheme named as **'MSME Innovative Scheme'.** This is a new concept for MSMEs with a combination of innovation in incubation, design intervention and by protecting IPR in a single mode approach to create awareness amongst this sector. This scheme will be an amalgamation of the **Incubation, Design and IPR Schemes** available to eligible entities. The new schema is about India's innovation and give motivation to them to become MSME Champions. This will act as a hub for innovation activities facilitating and guiding development of ideas into viable business proposition that can benefit society directly and can be marketed successfully.

The objectives of the MSME Innovative schemes are: (i) To promote all forms of innovations in the complete value chain from developing ideas into innovative applications through incubation and design interventions. (ii) To provide appropriate facilities and support for development of concept to market, design competitiveness and protection & commercialization of Intellectual creations for MSME sector. (iii) To promote a culture of innovation and creative problem solving through knowledge sharing and collaboration amongst Industry, Academia, Government institutions, Research laboratories etc. (iv) To serve as a connecting link between industrial/academia leaders and innovators, to encourage new product development and handholding. (v) To focus on developing affordable innovations that can benefit many people and at the same time being commercially viable and sustainable.

Any person as an individual or MSME, having the innovative ideas is eligible to avail the benefits of this scheme. The person should have innovative sort of idea which can be converted into prototype and further in business activity. The person is being called *'Incubatee'*. **There is no qualification bar to become incubatee.** However, MSME should have valid Udyam Registration (UM) and individual should have Aadhar card number. The person (incubatee) should get attached with any 'Host Institute' (HI) for nurturing of their idea in 'Business incubator' (BI) being set up by HI. A Host Institute is an Institute which set up Business Incubator and provides the Infrastructural and technical facilities for nurturing of new innovative ideas. Institutions such as Technical Colleges, Universities, other Professional Colleges/Institutes, R&D Institutes, NGOs involved in incubation activities, MSME-DIs/ Technology Centres or any Institute /Organization of Central/State Government may apply for HI and set up a Business Incubator (BI). A specific place/workshop located in HI having facilities for nurturing of idea of Incubatee is called Business Incubator. Host Institutes will set up Business Incubator (BI) and provides the space, equipment, lab and all the auxiliary support to the incubatee to nurture his ideas for the business activities. Eligible institutes can apply through online and submit details along with supporting documents.

In this scheme financial support up to Rs. 15.00 lakh to HI for nurturing of an idea is offered. Financial support upto Rs. 1.00 cr. to HI for procurement of plant and machinery for BI to strengthen their technology related R & D activities will be offered. The person (incubatee) should get attached with any Host Institute (HI) for nurturing of their idea in Business incubator (BI) being set up by HI. Project Monitoring and Advisory Committee (PMAC) headed by DC(MSME) is the final authority for approving proposal as per guidelines of scheme. The proposals may be filed using the URL https://my.msme.gov.in/inc/

**Support to 'Design Component'**

To bring the Indian manufacturing sector the much desirable Design expertise, the *'Design component scheme'*, has been announced to provide a common platform for all stake holders. It aims to provide expert advice and cost-effective solution on real time design problems for new product development, its continuous improvement and value addition in products. The Design scheme will help MSMEs to avail advice on all aspects of design and solve their design-related issues. The specialised advice will be provided by experienced designers for new product development as well as enhancing existing product portfolio.

The Design scheme is divided in two major parts, viz., Design Projects and Design Awareness Programme. (a) 'Design Project' advice is to facilitate MSMEs to develop new design strategies and or design related products through interventions and consultancy and (b) Design Awareness Programme is to create general awareness and sensitization about the value and power of design for businesses through seminars, talks, workshops etc. The purpose of these activities is to sensitize MSMEs about the usage of design/ innovation in various facets of their industry. The financial assistance offered in Design Component scheme are: (a) Design Project - Financial assistance under this activity will be utilised for engagement of design consultants for design interventions and expenses pertaining to development of prototype/product. For the design projects approved for any MSME, 75% (Micro) and 60% (Small & Medium) of the total project cost will be contributed by GOI up to a maximum of Rs. 40 lakh and the remaining project cost will be borne by MSMEs and deposited to the Implementing Agency (IA). (b) Student Project - This component supports design work of bona-fide students by providing financial assistance up to Rs. 2.5 lakh. For the student design projects approved for any MSME,75% of the total project cost will be contributed by GOI up to a maximum of Rs. 2.5 lakh and the remaining project cost will be borne by MSME and deposited to the Implementing Agency (IA). The beneficiary unit(s) must be a registered micro, small or medium enterprises as per the definition in MSMED and should have a valid UAM or Udyam Registration. The proposals/ application could be uploaded on the portal https://innovative.msme.gov.in under the respective schemes.

### IPR Component

As already deliberated the IPRs would play an important role in the business environment, like, in protecting the brand image/logo through trademark registrations, protecting inventions with the help of patents, and protecting appealing designs by legally registering the design, thus granting a level of exclusivity to MSME in the dynamic marketplace. The objective of the **IPR Component** scheme is (a) to improve the IP culture in India with the following interventions (b) To enhance the awareness of Intellectual Property Rights (IPRs) amongst the MSMEs and to encourage creative intellectual endeavour in Indian economy;(c) To take suitable measures for the protection of ideas, technological innovation and knowledge-driven business strategies developed by the MSMEs for their commercialization and effective utilization of IPR tools. Various schemes for the benefit of MSMEs, by the Ministry of Micro, Small & Medium Enterprise, GOI are made available online, which includes: (i) Reimbursement for Patent; (ii) Reimbursement for GI; (iii) Reimbursement for Trademark; (iv) Reimbursement for Design Patent;(v) For registration as IPFC.

The other activities supported by GOI includes: (a) Establishment of Intellectual Property Facilitation Centres (IPFCs). (b) Reimbursement for registration of Patent, Trademark, Geographical Indications (G.I.), Design through IPFCs. A Grant of up to Rs. 1 crore would be provided to an IPFC in milestone-based (three or more) instalments. The reimbursement amount for Patent / GIs / Trademarks / Design under the scheme are as follows: (i) Indian Patent: Upto Rs. 1.00 Lakh (ii) Foreign Patent: Upto Rs. 5.00 Lakh (iii) GIs: Upto Rs. 2.00 Lakh (iv) Trademarks: Upto Rs. 0.10 Lakh (v) Design: Upto Rs. 0.15 Lakh. For the Patent /GIs/ Trademarks / Design Reimbursement application may be made using online portal https://innovative.msme.gov.in/Home/IprIndex

### IP Facilitation Centres (IPFCs)

With the advent of intellectual property regime in India, both Central and State Governments have initiated the schemes, policies, and programmes for extending assistance to the educational institutions, government organizations, start-up in protecting their intellectual property work across the country. Some of these schemes and programmes work with the assistance of professional IP practitioners who are empanelled in respective departments, programme or schemes while others provide monetary assistance to start-ups, inventors, institutions etc. Ministry of MSME has set up IP Facilitation Centres (IPFCs) for the aforesaid purpose. IPFC was created to provide, (a) general advisory about IPRs, (b) services as IP protection, IP awareness & training, counselling, and advisory, (c) services for patent searches, patent drafting, patent prosecution, facilitation in commercialization of inventions etc., (d) to identify a panel of professional IP attorney/ IP consultants and fix a fee structure for consulting them for professional services.

### Start-Ups IP Protection (SIPP)

To protect and promote Intellectual Property Rights (IPR) of Startups and to encourage innovation and creativity among them, GOI has launched a Scheme named as Start-**Ups Intellectual Property Protection (SIPP)** in the year 2016. The scheme facilitated startups in filing and processing of their patent, design or trademark application through the assistance of IP Facilitators, whose fee was borne by the Office of the Controller General of Patents Designs and Trademarks, Department for Promotion of Industry and Internal Trade, Government of India. After its successful implementation resulting in a significant increase in IP fillings by Startups the Scheme has extended for a period of three years till 31st March 2023. The scheme also aims to nurture and mentor innovative and emerging technologies among startups.

The SIPP is envisaged to facilitate protection of Patents, Trademarks and Designs of innovative and interested start-ups. Startups in India can avail patent, trademark, and design services by paying them only required statutory fees. The professional fees has been excluded. The Government would bear such professional fees for the services related to procuring the IPR to the advocates or trademark agents in charge of handling the IPR process. Startups can avail of a complete start-to-end array of services under this SIPP scheme, including general advice, assistance in drafting applications, preparing and filing responses to examination reports, appearing at hearings, contest opposition and ensuring the final disposal of the IPR application. For effective implementation of the scheme, the DPIIT has empanelled several facilitators, who are required to provide IPR related services to Startups. As per the Scheme, facilitators will not charge anything from a Startup. For more details visit https://ipindia.gov.in/SIPP.htm

**Patent Facilitation Programme (TIFAC)**

Technology Information, Forecasting and Assessment Council (TIFAC) is an autonomous organization under Department of Science & Technology mandated to access the state-of-art technology and to formulate a technology vision for development of technology in emerging technological areas in India. Patent Facilitation Programme (PFP) of Department of Science and Technology has established Patent Facilitating Cell (PFC) at TIFAC with an aim to create awareness and training programme on IPR in the country, to extend assistance on protecting IPRs to the inventors from Govt. organizations, Central and State Universities, evolving policies at the national level and providing technical input to the government on IPR related issues. The patent and IP applications are drafted and filed through IP firms on the panel of TIFAC and the cost for these filings is borne by Department. For necessary assistance visit **https://www.tifac.org.in/index.php/programmes/admin-finance/patent-facilitation-center2**

**SIDBI Technology Innovation Fund (SRIJAN):** Need for developing national capabilities to innovate and create business opportunities in emerging technological areas has been acutely felt as there continues to be a dearth of early-stage funding for commercialization of innovations by MSMEs due to higher risks of investment in un-proven technologies. Thus, major proportion of the available early-stage funding gets invested in relatively low risk opportunities based on proven technologies, thereby restricting innovations from reaching the market. SIDBI in collaboration with TIFAC has initiated the TIFAC – SIDBI Technology Innovation Fund (SRIJAN) scheme. This scheme intends to support MSMEs towards development, up-scaling, and commercialisation of innovative technology-based projects. The programme is aimed at identification, assessment of technology innovations and to facilitate scaling up by industries particularly MSMEs. Technical assessment is carried out by TIFAC while SIDBI carries out the financial appraisal. The collaborative programme of TIFAC & SIDBI launched on November 01, 2010, aims at facilitating development, demonstration and scaling-up (commercialization) of technology innovation projects pertaining to new product or process development to encourage and promote development of capabilities in MSMEs to innovate and to bring high-risk innovations to the market for opening up opportunities for business linked with innovations. For more details visit **https://www.tifac.org.in/index.php/programmes/admin-finance/sidbi**

**ATMA:** Recently Assessment of Technology Maturity for Atmanirbharta (ATMA) for Evaluation of the maturity level of technologies and create a National technology portfolio has been initiated. In this programme, TIFAC would provide handholding support in making business plans, mapping market potential, scouting, obtaining regulatory approvals, and conducting pilot/field tests to enhance technical and economic viability for commercialization also. This assessment could also serve as an important feeder to various government funding and facilitating programmes as well as VCs/ Seed Fund, etc.

**KIRAN-IPR:** TIFAC is conducting 'Knowledge Involvement in Research Advancement through Nurturing (KIRAN-IPR)' scheme which aims at mainstreaming the **women having qualification in science & technology who have not been able to pursue their career due to domestic compulsions.** It prepares such women knowledge force towards self-employment by providing on the job training in the area of IPR. The one-year programme is open to scientists having qualifications in science/engineering/ medicine or allied area.

**National Research Development Council (NRDC)**

National Research Development Council (NRDC) was established by GOI with primary objective to promote, develop and commercialize the technologies, inventions, patents, processes emanating from various R&D institutions or universities and is presently working under Department of Scientific & Industrial Research. Intellectual Property Facilitation Centre (IPFC) at NRDC is a joint initiative of NRDC and MOMSME which aims to promote awareness among entrepreneurs and MSMEs in India, they organize training programmes on IPR and provide services in assistance and guidance in registration of Copyright, Design, Trademark, Patents and GIs. For Patents, they provide pre-filing services, prior art search, patent filing support with provisional specification and support for further proceedings and post grant. Application for patent can be done on the official website of NRDC.

**Biotechnology Patent Facilitation Cell**

Department of Biotechnology works under Ministry of Science & Technology and provides services in the areas of research, infrastructure, generation of human resource, popularization of biotechnology, promotion of Biotech Industries, establishing centres of excellence. Department of Biotechnology established Biotechnology Patent Facilitation Cell (BPFC) with an aim to provide awareness cum facilitation mechanism to create awareness about IPRs among scientists and researchers. As per the policy of DBT, all patent applications shall be filed in the name of DBT, and host institution and it does not have any financial or commercial interests in the patent. The application form for patent is given on the official website.

**Patent Assistance Funding Scheme (BIRAC)**

Biotechnology Industry Research Assistance Council (BIRAC) is not-for-profit public sector enterprise set up by Department of Biotechnology as an Interface agency to strengthen and empower Biotech enterprise to undertake strategic research and Innovation. Patent Assistance Funding Scheme was started to step up efforts to engage Biotech entrepreneurial ecosystem and to provide assistance for Intellectual Property protection. BIRAC offers to provide IP and technology management services to SME's, Startups, academia and Indian Biotech Industry. BIRAC empanelled technically competent, experienced and financially sound IP & technology transfer firms who could provide assistance for Patent search, filing and drafting.

Patenting & Technology Transfer for Harnessing Innovations (BIRAC) scheme was launched by BIRAC to promote the Innovation ecosystem in India and also to enable the commercialization of technology, it offers IP and Technology Management Services to Startups, SME's and academia. This program is for all the grantees funded by BIRAC. it offers (a) Patent searches; (b) Patent Drafting, filing and prosecution; (c) Patent/technology landscaping;(d) Technology management. Re-imbursement for expenses towards IP expenses shall be decided by the IP & Technology Management Advisory Committee and shall be permissible as per the rate approved by BIRAC for different IP related services. BIRAC will not have any ownership in the filed patents, it will be in the name of host institution/company but there will be benefit sharing on commercialization of the product.

**Role of Facilitators in Implementation of Scheme:**

For effective implementation of the scheme, a list of facilitators has been empanelled by the Controller General of Patents, Designs and Trademarks ("CGPDTM") which will help startups in preparing and filing of the application under the scheme. A startup willing to file application under the Scheme can directly contact any of the facilitators available. The updated list of facilitators can be viewed at http://www.ipindia.nic.in/Facilitators-Patents.htm

**Karnataka Startup Policy 2022**

Recently the Karnataka Government heralded the Karnataka Startup Policy for the next five years, from 2022 to 2027, with a focus on ensuring that the State plays an integral role in galvanizing the startup community at the National and international level through its inclusive and tech-enabled innovation ecosystem supported by a strong talent base and entrepreneurial spirit. The startup policy proposes sweeping changes for startups in arguably the biggest startup hubs in India, fostering the growth of thousands of startups in the process. Ranked the 'Best Performing' state by the DPIIT in the State Startup Ranking 2021, Karnataka is looking to consolidate its position at the top of the startup hub / chain in India with the new policy.

The overarching aim of the Policy is to position Karnataka as the 'Champion State' for startups by adopting a holistic approach towards strengthening the startup ecosystem through compendious and equitable strategic interventions across key pillars of support, viz. funding, incubation, infrastructure, mentoring, acceleration, R&D and Industry linkages.

The vision as stated in the policy document is, *'To play a vital role in creating an enabling environment across the State for nurturing startups throughout their business lifecycle and make Karnataka a global innovation hub for startups'.* The stated Policy 2022-27 is based on the following seven objectives.

1. Strengthening of infrastructure set up in government institutions.
2. Supporting the startup ecosystem, with an increased focus on startup hubs 'Beyond Bengaluru'.
3. Inculcating innovation and entrepreneurial skills in students.
4. Facilitating innovative technology solutions in social governance sectors.
5. Supporting the creation and development of incubation. Acceleration infrastructure as key enabler.
6. Facilitating funding avenues for Institutional investors and angel investors.

Karnataka Innovation and Technology Society (KITS) is the nodal agency to promote the startup ecosystem in the State and is responsible for facilitating implementation of various schemes, programs, interventions of the policy and any new initiatives required for the growth of the startup ecosystem in the State. Karnataka Startup Cell Constituted under the aegis of KITS, is an initiative to promote and facilitate the startup ecosystem. The Cell acts as a single point of contact for information on various incentives and offerings, government sponsored events, K-tech ecosystem hubs including COEs, TBIs, CIFs, Incubators and facilitates Industry mentor connect, investor network, etc. The Startup Cell also enables networking through outreach and awareness activities such as participation in International Trade Shows/ Exhibitions events, etc. For the developing a more holistic inclusive Startup ecosystem in the State, the Startup Cell shall be further strengthened during this policy period. Karnataka Digital Economy Mission (KDEM) as Facilitator KDEM is a Section 8 Company (not-for-profit) with equity participation by both Industry and Government of Karnataka (Department of Electronics, IT, BT and S&T). KDEM has been setup to promote digital industry growth by providing hand-holding services and suggesting policy initiatives to be taken up by the State. KDEM, with dedicated program verticals for Startups and Beyond Bengaluru, has taken several initiatives to promote and facilitate the startup and innovation ecosystem in the State. KDEM will continue to support the Department in implementation of various startup initiatives. For more details visit- https://startup.karnataka.gov.in/docs/Startup_Policy_Karnataka.pdf

More of such supporting schemes have been announced and in place by all state Governments also. The eligible entities and persons may explore and get benefitted from such schemes /incentives offered for supporting the MSME Industrial establishment and development in India.

As per the economic survey presented during Budget 2023 in the parliament, India's exports of both goods and services have been exceptionally strong so far in the year 2021-22. Merchandise exports have been above US$30 billion for eight consecutive months in 2021-22, despite many pandemics related global supply constraints. As the Indian business expands it is necessary to protect the IP assets around the globe. In this regard it is necessary to understand the important modalities to be adopted to expand the IP protection across the globe. The further parts of the series are going to be devoted to IP protection measures available in International IP environment so that the Indian IP and the owners play a vital role in accelerating the global trade.

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**YAKTOON**

The Board insists that **'the financial statements are free from material misstatement'....** would be a fair statement to include in the audit report. According to them, **the only line item in financials that is free from misstatement is 'materials'**

IPR

# Introduction To Sustainable Finance

CA. Aditya Kumar S

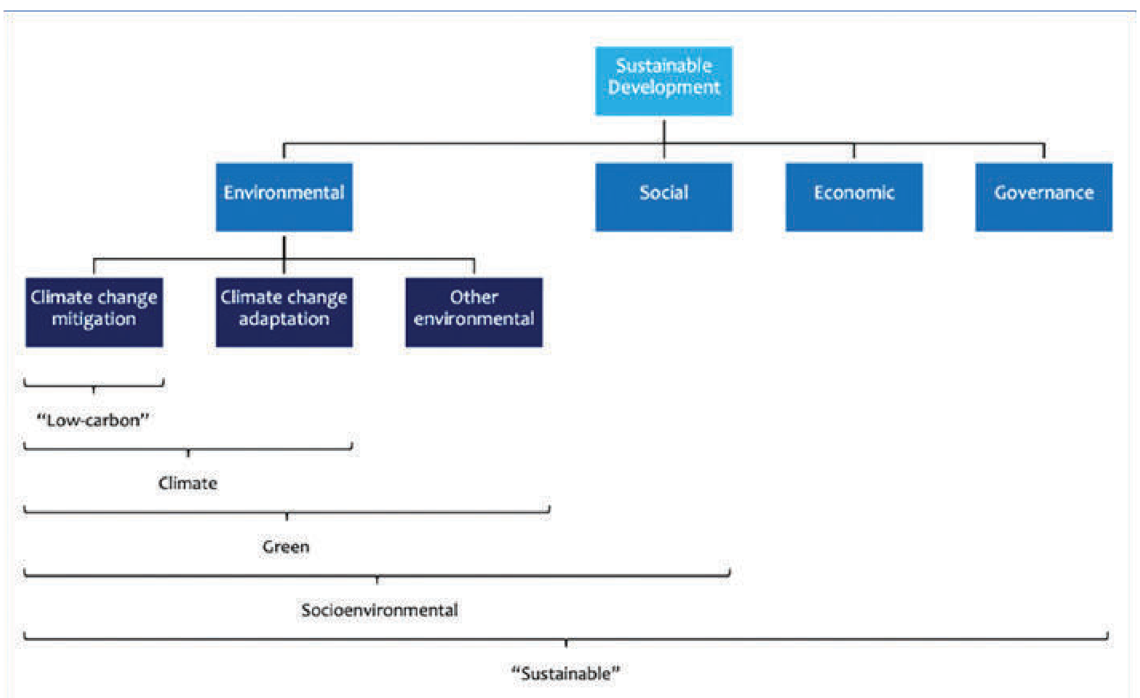
**Background:** There is so much of growing awareness among the community on making our practices more ESG (Environment, Social and Governance) friendly and aligned to the global best practices. Having a sustainable business is a long-term vision and a sound business strategy. Finance is one of the foremost requirements to ensure business transformation. The Government and various other financial institutions are backing this initiative and is making an eco-system which is sensitive to the business sustainability requirements and 'sustainable finance' is one of those initiatives.

The objective of this article is to introduce to the concept of sustainable finance, innovative financial instruments that has been in the market, the accounting related challenges, the Indian scenario of sustainable finance and what are the opportunities available to chartered accountants, in a very brief manner.

**Sustainable Finance:** Sustainable developments requires changes in the deployment and relative value of financial assets and their relationship to the creation, stewardship, and productivity of real wealth. Sustainable financial system is one that creates, values, and transacts financial assets in ways that shape real wealth to serve the long-term needs of inclusive and environmentally sustainable economy.[1]

The financial system, across the world, has witnessed its own share of ups and downs including crisis like business depression, scams impacting the markets, government regulations, geo-political issues impacting the decision making, etc., and there are lot of reforms that are introduced to bring in stability in the financial system. The financial system impacts every business and individual, in more ways than one, and hence its important to ensure that any reforms that are being made are for the best interests of both business and individuals.

Sustainable financing is a broader segment than financing only for climate change program. It includes even social, economic and governance reforms as well, which is presented here with in a diagram:




*Source: Source: Definitions and Concepts: Background Note, UNEP, 2016.*

[1] *https://www.greenfinanceplatform.org/sites/default/files/downloads/resource/The_Financial_System_We_Need__Aligning_the_Financial_System_with_Sustainable_Development.pdf*

**United Nations Environment Program:** The United Nations Environment Program (UNEP) Inquiry into the Design of a Sustainable Financial System was established in 2014 to explore how to align the existing financial system with sustainable development and had three core questions viz.,

- Why? – under what circumstances should measures be taken to ensure that the financial system takes fuller account of sustainable development?
- What? – what measures have been and might be more widely deployed to better align the financial system with sustainable development?
- How? – How can such measures best be deployed?

UNEP has also drawn experience from various international engagements on topics such as green bonds, value-based banking, human rights, etc., Economics across the world are trying to ensure that their current financial system also includes right number of factors for a sustainable economy over a period and achieve the goals of either the UNSDG and other initiatives to integrate sustainability in every facet of economy.

**Negative and Positive Sustainable Finance:**

Any financing facility comes with risk assessment of the project and other parameters.

- Negative Sustainable Finance – This type of financing typically investigates non-financial performance metrics across various categories. Negative screening also eliminates investments or lending in business such as tobacco, alcohol, gambling, fossil fuels, weapons, etc., or with poor human rights records or not good environmental practices. For instance, the California Public Employees' Retirement System (CalPERS)—one of the largest and most influential institutional investors, with assets of more than $345 billion in 2019—has divested from several industries and countries over the years. In 2002, CalPERS decided to exclude tobacco companies from its portfolio, in part because smoking could lead to higher healthcare costs for its members.[1]
- Positive (Integrated) Sustainable Finance – These are also called as Socially Responsible Investment. This category typically looks at achieving 'Double Delta' that means creating an impact by providing finance to areas which support UN Sustainable Development Goals and high potential impact companies.

**Sustainable Finance Categories**

The following categories of financing could be through negative financing or positive financing:

1. Green Finance: Provides capital to address climate related issues or possibly divest from companies that perpetuate the climate crisis.
2. Green Investments – Investments focusing on companies working on environmentally beneficial projects including conservation of natural resources, renewable energy, energy efficiency, circular economy etc., These could be through Bond issued by government authorities, international financial institutions, etc.,
3. Green 'Transition' Bonds typically are issued to decarbonizing projects.
4. Social Finance is financing enterprises that address a social market failure in the provision of welfare in sectors such as health, education, and employment (positive / integrated) or divests from companies that increase inequality of perpetuate social welfare failures (negative / exclusionary).
5. Governance (stakeholder) finance – Investments in companies that adhere to international standards of employee welfare or better governance norms including employee representation on the management or divestment from those companies which do not have a transparent corporate governance norm.

**Innovative Financial Instruments**

Traditionally, the investments are either in the form of Equity or Debt or even in Quasi-Equity. The method of repayment could be over a period and indexed to performance or meeting certain milestones, etc.,

a) Green loans and bonds – These are like plain vanilla loans, except that these are meant exclusively for finance or refinancing the environmentally friendly initiatives.

b) Structured instruments linked to green indices – the contractual cash flows are linked to a green index that is not specific to a party to the contract, such as Euronext CDP Environment World EW Index.

c) Loans with ESG features – the interest rate of these loans is linked to pre-determined ESG targets that are specific to the borrower. The interest rate of such loans is adjusted to the performance of ESG targets.

**Accounting of Financial Instruments involving ESG features[2]**

*Derivative accounting:* Measurable and verifiable KPI on ESG goals are critical. Currently, ESG features are difficult to value due to lack of observable information crucial to developing accounting principles to facilitate sustainability reporting. As stated in International Swaps and Derivatives Association paper, "KPIs need to be accurately defined in order to have a legal certainty over how they operate and impact cashflows and so they can be objectively verified. This will enhance the credibility of Sustainability Linked Derivatives (SLD) and the sustainability-lined market as a whole". There is also a view that reduction of interest on meeting sustainability metrics or interest dependent on CO2 emissions etc., could be an embedded derivative (an embedded component with a host contract) and hence needs to be separated and accounted for as a separate financial instrument. On the other hand, As noted

[1] *https://www.newyorklifeinvestments.com/assets/documents/lit/esg/positive-and-negative-approaches-guide-to-sustainable-investing.pdf*

[2] *https://www.isda.org/a/JvTgE/Accounting-Analysis-for-ESG-related-Transactions-Sept-2021.pdf*

in IFRS 9 (Para BA.5), the definition of a derivative refers to a non-financial variable that are not specific to a party to the contract and hence there is an argument that ESG related non-financial variables should not be considered as a derivative instrument. The subject matter is being discussed at various forums including accounting regulators over the world.

*Sustainable linked loans and assessment of Solely Payments of Principal and Interest (SPPI):* **In accordance with IFRS 9 (Para B.41.7A), in case of loans, the contractual cash flows that meet the SPPI** criteria are to be recognized at amortized cost method since

'interest' is consideration for the time value of money and credit risk associated with the amount lent. Whether meeting the ESG features, fall within the definition of SPPI is itself discussed at IASB and since the credit risk of a customer cannot be linked to the ESG feature on the interest rate; however it may have an effect on the contractual cash flows in which case if the test of SPPI fails, the loan needs to be classified as fair value through profit and loss (FVTPL); which would then impact the bank's financial statements (accounting through FVTPL (changes in fair value of an asset) vis-à-vis accounting through amortized cost method (accounting as interest income).

The Staff Paper of IFRS of July 2021[3] discusses with accounting requirements of the above instruments as part of Post-Implementation Review of IFRS 9 – Classification and Measurement (Paper Topic: Feedback on financial assets with sustainability linked features) and which was concluded in December 2022. [4]

The accounting world is also looking at the sustainability finance as a new product which would require equally financial reporting standards in future and how this may be linked to the sustainability standards of reporting.

Landscape of Sustainable Finance in India 2022[5]

a) Under the Paris Agreement, India requires approximately INR 162.50 Lakh Crores from 2015 to 2030; to achieve Panchamrit targets (adding 500 GW of non-fossil-based fuel capacity, meeting 50% of energy needs through non-renewable sources).

b) The Reserve Bank of India in July 2022 has released a ' Discussion Paper on Climate Risk and Sustainable Finance' giving overview of climate related risk and its unique characteristics as applicable to regulated entities, broad guidance on appropriate governance, strategy to address climate change risks, risk management structure to effectively manage them from a micro-prudential perspective, how this would impact stress testing and climate scenario analysis, financial disclosures and reporting requirements.[6]

c) Economic Survey 2021-22 of the Govt. of India's budget indicated that RBI would set up a new unit 'Sustainable Finance Group' (SFG) within Department of Regulation to effectively counter related risks and for leading the regulatory initiatives in the areas of sustainable finance and climate risk. In January 2021, a Task Force on Sustainable Finance has been set up by the Department of Economic Affairs, Ministry of Finance, Govt. of India which defined the framework for sustainable finance in India, establishing pillars for a sustainable finance roadmap, suggesting draft taxonomy of sustainable activities and a framework of risk assessment by the financial sector.

d) SEBI has also issued framework on Disclosure requirements for issuance and listing green bonds.[7]

e) In January 2023, the RBI sold GoI Sovereign Green Bonds for Rs.8,000 Crores.[8]

f) Financial institutions like SIDBI has Green Finance Scheme, Companies like Tata Power ($320m)[9], Vedanta ($250), JSW Cement (INR 400 crores)[10] have raised sustainable finance from various multi-national banks and overseas financial institutions. Meanwhile SBI has ESG Financing Framework under which it intends to issue green, social, sustainability bonds and loans and use the proceeds to finance or refinance, in whole or in part, existing or future projects that are expected to create positive environmental and social impact in India. [11]

**Role of Chartered Accountants[12]**

**A. Leadership and Business Strategy**

a) Understand and help the management to integrate ESG factors in decision making.

b) Make financial impact and business case at project level or for specific issues.

c) Help create a vision that supports sustainability and business resilience.

d) Communicate with investors on sustainability initiatives of the entity.

e) Connect to non-finance team and share the thought process of the finance and accounting on capturing non-financial data required for reporting and decision making.

f) Assess the impact on the financial statements on non-compliances with legal, social, environmental issues and provide a scenario analysis to the management.

3 *https://www.ifrs.org/content/dam/ifrs/meetings/2021/july/iasb/ap3b-pir-ifrs-9-cm-feedback-on-financial-assets-with-sustainability-linked-features.pdf*

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

5 *https://www.climatepolicyinitiative.org/publication/landscape-of-green-finance-in-india-2022/*

6 *https://www.rbi.org.in/Scripts/PublicationsView.aspx?id=21071*

7 *https://www.sebi.gov.in/sebi_data/meetingfiles/1453349548574-a.pdf*

8 https://www.rbi.org.in/scripts/BS_PressReleaseDisplay.aspx?prid=55100

9 *https://economictimes.indiatimes.com/industry/energy/power/tata-power-raising-320m-in-sustainability-linked-loans/articleshow/93759709.cms?from=mdr*

10 *https://www.business-standard.com/article/companies/jsw-cement-secures-rs-400-cr-as-sustainability-linked-loan-from-mufg-bank-122100300279_1.html*

11 *https://sbi.co.in/documents/17836/26664754/240123-ESG+Financing+Framework+-+Second+Party+Opinion+from+Sustainalytics.pdf/65c08e88-e485-f060-cd57-ed0523c50869?t=1674551948079*

12 *https://www.ifac.org/system/files/publications/files/IFACJ3441_Accounting_for_sustainability_FINALWEB.pdf*

**B. Management, Operations and Accounting**

a) Develop accounting approaches, measurement, and disclosure requirements.

b) Embedding ESG in management accounting and lifecycle assessment.

c) Including ESG success factors in KPI measurement

d) Setting up of internal controls required for ESG reporting.

e) Participate in decision making for reducing carbon footprint, procuring energy efficient assets,

f) Help entity in financial planning including availability of sources of finance, tax credits, etc.,

**C. Communications, Reporting and Disclosure**

a) Preparation of Integrated Annual Report

b) Advisory on appropriate oversight and controls over non-financial data.

c) Benefits of reporting and compliance with various ESG reporting standards.

d) Obtaining assurance on the ESG reporting aspects.

**Conclusion:**

The Sustainable Finance is a space much to be watched for not only new professional opportunities but also for the business, there are new ways of financing. It appears that the sustainable finance and allied subjects would be one of the factors to be considered in business including strategic decision making, restructuring, mergers & acquisitions, and various other aspects.

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## MCA Updates For The Month

Since the transition of MCA-21 portal from Version 2 (V2) to Version 3 (V3), companies have been facing several glitches on the online portal impacting their reporting compliances. Considering the technical issues due to migration the MCA through its General Circular No. 04/2023 has extended the deadline for filing of 45 (forty-five) Company e-forms launched with effect from January 23rd, 2023 (due for filing between February 7th, 2023, and February 28th, 2023) until March 31st, 2023, at no additional cost.

MCA through its General Circular No. 05/2023 has allowed the physical filing of certain forms due to be filed on the MCA-21 portal between February 22nd, 2023, to March 31st, 2023.

## SUDOKU-31

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

# KSCAA Welcomes New Members - January and February 2023

| Sl.No. | Name | Place |
|---|---|---|
| 1 | Rajesh Puttaswamappa | Mysuru |
| 2 | Vinod M Bagade | Bengaluru |
| 3 | Swapnil Jain | Kolkata |
| 4 | Manjunath H P | Bengaluru |
| 5 | Prathik N P | Bengaluru |
| 6 | Vinitha Abhishek Baldota | Bengaluru |
| 7 | Mukul C P | Tumakuru |
| 8 | Mahendra | Shivamogga |
| 9 | Shilpa G B | Tumakuru |
| 10 | Sridhar K | Bengaluru |
| 11 | Karnati Sivanjaneya Reddy | Kadapa |
| 12 | Anuja Malani | Bengaluru |
| 13 | Jayanth Nagisetty | Poddatur |
| 14 | Ramesh M S | Bengaluru |
| 15 | Ankush P Shetty | Bengaluru |
| 16 | Konnanur Lakshminarasimha Jayanth | Bengaluru |
| 17 | Lokesh P | Bengaluru |
| 18 | Chidananda C H | Tumakuru |
| 19 | Swetha S V | Udupi |
| 20 | Manjunath Sompur | Koppal |
| 21 | Krishna Sreenivasan | Bengaluru |
| 22 | Manjunatha K N | Bengaluru |
| 23 | Shahava Syed | Bengaluru |
| 24 | Rajashekar Vaddatti | Bengaluru |
| 25 | Nithin Hebbar | Bengaluru |
| 26 | Harsha R Ghaligi | Bengaluru |
| 27 | Govind Subramanya Bhat | Bengaluru |
| 28 | Ajay Venkatesh Hande | Bengaluru |
| 29 | Rajashekar M | Malur |

# Obituary

*KSCAA deeply mourns the sad demise of our beloved*

**CA. Mallesha Kumar**
*Sub - Committee Member of KSCAA & Treasurer of Udupi Branch of SIRC of ICAI*
Expired on 06.03.2023

**We convey our condolences and prayerful support to the bereaved family.**

# APPEAL

**CA. Mallesha Kumar** (Age 40 years), member of Udupi Branch and Sub-committee Member of KSCAA passed away due to brain hemorrhage on 6th March 2023. He was serving as the Treasurer of the Udupi Branch of SIRC of ICAI. The entire CA fraternity is saddened by his departure. Even though he has left us physically, he will always be in our thoughts and prayers. He is survived by his parents, wife and two daughters aged 5 and 2 years.

We appeal to all CAs to contribute their mite to the noble cause of forming a fund to be handed over to his wife to the future needs of educating his two young daughters and in the trying times of personal crisis which no one had foreseen. The contribution may be made to following Trust.

| | |
|---|---|
| Name of the trust | Vilas Charitable Trust |
| Account number | 0651101056966 |
| Bank name and address | Canara Bank, Collector's Gate, Mangalore |
| IFSC code | CNRB0000651 |
| PAN | AABTV6615R |
| MICR Code | 575015005 |

Any contribution made to the trust is eligible for a deduction under section 80G of the Income Tax Act. The necessary receipts will be generated and will be sent to the contributor. While sending the contribution please fill the following Google form and share your PAN and other details so that the same can be incorporated in the receipt of the trust. Google form Link: https://forms.gle/RsWhTe3Lvu1BZF5Y9

In anticipation of a positive response from you.

Yours Sincerely,

Co - ordinators :
**CA. Pradeep Jogi**
**CA. Lokesh Shetty**

# 35th Annual Conference Agenda

## Friday, 17th March 2023

**9.00 AM** **Registration**

### INAUGURAL SESSION

**10.00 AM** Inaugural Address by the Chief Guest*
**Chief Guest**
**Dr. Vijay Sankeshwar,** MD, VRL Group.
**Guest of Honour**
**Shri. Prashanth Prakash,** Partner Accel
Release of Souvenir and Publications

**11.15 AM** Inauguration of Exhibition & Tea Break

### FIRST TECHNICAL SESSION

**11.30 AM** Panel Discussion - Business Fraud and Extent of Accountability for Auditors
Moderator
**CA. Sandeep Shah, Mumbai**
Panelists
**Adv. Chidananda Urs B G**
**CA. Mohan R Lavi**
**CA. Sharath Kumar, Hyderabad**

### PEP TALK

**12.45 PM** Effective ways to use RTI in Taxation
**CA Manish Sachdeva, Faridabad**

**1.00 PM** **Lunch Break**

### SECOND TECHNICAL SESSION

**1.45 PM** Pillar Two - Global Minimum Tax - Overview and Impact
**CA. Rohit Kumar S**

### THIRD TECHNICAL SESSION

**3.00 PM** The Science and Art of Negotiation
**Prof. S. Raghunath,** IIMB

### CA TALK

**3.45 PM** Sharing an Inward Transformational Experience
**CA. Vittal Rangan**, Renowned Carnatic Violinist

**4.00 PM** **Tea Break**

### FOURTH TECHNICAL SESSION

**4.15 PM** Panel Discussion on Direct Taxes
Moderator
**CA Abhishek Goenka**
Panelists
**CA. H. Padamchand Khincha**
**CA. P. V. Srinivasan**
**Sr. Adv. K. K. Chythanya**

## Saturday, 18th March 2023

**8.30 AM** **Breakfast**

### SPECIAL SESSION

**9.45 AM** Navigating the Intersection of Money, Professionalism and Ethics in Profession: A Dharma Based Approach
**Shri. N. Venkataraman**
Additional Solicitor General, GOI

**11.00 AM** **Tea Break**

### CA TALK

**11.15 AM** Sharing an Inward Transformational Experience
**CA. Padmavathy S**, Member ITAT, Bangalore

### FIFTH TECHNICAL SESSION

**11.30 AM** Panel Discussion on FinTech Revolution: Opportunities and Challenges in the Changing Landscape
Moderator
**CA. Sarthak Ahuja**, New Delhi
Panelists
**CA. Yogesh Agarwal**, Founder Onsurity
**Shri. Srinivas Jain,** Mumbai

### CA TALK

**12.45 PM** Sharing an Inward Transformational Experience
**CA. Sanjay Dhariwal**

**1.00 PM** **Lunch Break**

### SIXTH TECHNICAL SESSION

**1.45 PM** Panel Discussion On
The Good, Better & Best? - Road Ahead for GST
Moderator
**CA. Venkataramani S**
Panelists
**Shri. D. P. Nagendra Kumar**, Former Member CBIC & Special Secretary, GOI
**CA. N R Badrinath**
**Sr. Adv. Vikram Huilgol**
**Sr. Adv. G. Shivadass**

**3.15 PM** **Tea Break**

### CULTURAL, VALEDICTORY & FAMILY ENTERTAINMENT PROGRAM

**3.30 PM** CA Family Cultural Program
**Chief Guest :**
Hon'ble Justice Sri. S. N. Satyanarayana
Performance by Beat Gurus
Family Theme Dinner

| | | DELEGATE FEES* *Excluding GST |
|---|---|---|
| CA | On or before 20.02.2023 | 2,500 |
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