




KSCAA[®]
Karnataka State Chartered Accountants Association (R)

NEWS BULLETIN

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AUDIT



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

Dear Readers,



The International Monetary Fund (IMF) released its latest World Economic Outlook report, projecting that the Indian economy will grow by 5.9 per cent in the current fiscal year, making it the fastest-growing economy in the world. Nonetheless, the organization also warned that disruption in the financial system could have a detrimental effect on overall global growth. As chartered accountants, we play a vital role in supporting and strengthening the Indian economy. Let us continue to work diligently and uphold the highest standards of professionalism and ethics. Current state election has serious repercussions on the economy, the state election are generally more connected to cadres and citizens which encourages the parties to offer more freebies, While these freebies may seem attractive to voters in the short term, they often have a detrimental impact on the economy in the long term. Freebies put a strain on the government's finances and can lead to a widening fiscal deficit. This, in turn, can lead to inflation, a decrease in investment, and a decline in the overall health of the economy. Also, offering freebies can create a culture of dependency among voters, who may come to expect such handouts in every election cycle. This can lead to a situation where political parties are forced to offer even more freebies in order to remain competitive, further exacerbating the strain on the government's finances. In contrast, a more sustainable approach to economic development would be to focus on policies that promote growth and job creation. Such policies would include investments in infrastructure, education, and healthcare, as well as creating an environment that is conducive to business and entrepreneurship. This would not only create employment opportunities but also increase the tax base, thereby providing the government with more resources to invest in public goods and services.

The upcoming audit season is just around the corner, and we need to be prepared. As chartered accountants, we must ensure that we are up to date with all the latest regulatory requirements and guidelines. We must also be diligent in our work and maintain the highest levels of integrity and professionalism. Let us work together to ensure that the audit season is a success for all of us. The National Financial Reporting Authority (NFRA) has been actively working to improve the quality of audit reports in India. In recent months, the NFRA has issued orders against auditors for various deficiencies and non-compliances. As chartered accountants, we must take note of these orders and ensure that we maintain the highest levels of professionalism and ethics in our work. It is also the time for the profession to

show resilience and quality and win confidence and trust of all the stakeholders.

KSCAA along with other six sister associations have come forward to conduct 'Direct Tax home Refresher Course -4' to be addressed by nations best speakers on various topics.

The Karnataka State Chartered Accountants Association (KSCAA) is organizing a Regional residential Course on growth mindset in Bandipur from 26th to 28th May 2023. The course is open to all members and will be conducted by renowned expert in the field of Behavioural Science. The course will cover the topics like What is growth mindset? The benefits of growth mindset, risk ability, Collaboration, Risk taking, out of the box thinking, accountability and resilience.

"Individuals who believe their talents can be developed (through hard work, good strategies, and input from others) have a growth mindset. They tend to achieve more than those with a fixed mindset (who believe their talents are innate gifts). This is because they worry less about looking smart and they put more energy into learning." - Carol Dweck, Professor of Psychology at Stanford University. The concept of growth mindset was popularized by Carol Dweck in her book "Mindset: The New Psychology of Success". According to Dweck, individuals with a growth mindset believe that their abilities can be developed through hard work, persistence, and a willingness to learn from mistakes. They are more likely to embrace challenges, see failures as opportunities for growth, and believe that they can improve their skills and knowledge over time. In contrast, individuals with a fixed mindset believe that their abilities are largely innate and cannot be changed. They are more likely to avoid challenges, give up easily in the face of obstacles, and see failures as a reflection of their inherent limitations. As a result, they may be less likely to take risks or push themselves to develop new skills or knowledge. KSCAA has also curated a program on the same logic, by promoting the belief that talents can be developed through hard work and learning, the association can foster a culture of continuous improvement, innovation, and resilience. This will allow members to embrace new challenges, seek out opportunities for professional development, and view setbacks as opportunities for growth.

Happy Reading!

Yours' faithfully,

CA. Pramod Srihari
President

KSCAA®

NEWS BULLETIN

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KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R)

VISION

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

MISSION

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

MOTTO: KNOWLEDGE IS STRENGTH

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

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

Disclaimer

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INCOME TAX UPDATES FOR THE MONTH OF APRIL 2023

DIRECT TAX NEWS ROUND UP JUDICIAL UPDATES

ITAT

1. Where revenue passed manual revisionary order and later communicated through intimation letter, DIN intimation letter along with manual revisionary order would not fulfil requirements mandated by CBDT circular and thus, order passed under section 263 would be invalid and deemed to have never been issued. [149 taxmann.com 287 (Kolkata - Trib.)]
2. Mandatory filing of return u/s 139(1) to claim deduction u/s 10AA of the Act was brought into statute vide Finance Act, 2023. In the absence of specific provision in AY 2018-19, claim of assessee through late filing of return was allowed. [149 taxmann.com 472 (Delhi - Trib.)]
3. No Sec. 263 revision to disallow Sec. 35(2AB) deduction that is allowed after verifying necessary certificates/ approval. [149 taxmann.com 296 (Chennai - Trib.)]
4. Assessee can't question faceless proceedings after participating by claiming lack of technological expertise. [149 taxmann.com 299 (Madras)]
5. Where assessee-company sold scrap without collecting TCS, since, Form no. 27C was submitted by assessee although belatedly before Commissioner (TDS) and as there was no time-limit provided in section 206C(1A) to furnish declaration in Form no. 27C by buyers, delay in filing said declaration to prescribed authority would not be ground to deny benefit to assessee. [149 taxmann.com 291 (Rajkot - Trib.)]

High Court

1. Additional depreciation could be carried forward and allowed in subsequent year following previous year in which plant and machinery were put to use. [149 taxmann.com 281 (Jharkhand)]
2. Sec. 206C(1A) provides no time limit to make a declaration in Form 27C collected from buyers. [149 taxmann.com 291]
3. Where a notification issued by CBDT is only a formality once approval is granted by government order of tribunal deleting disallowance need not be interfered with by

disallowing the deduction u/s 80-IA(4)(iii) of the Act. [450 ITR 564(Kar)]

4. Contract between hospital and doctors which shows that it is not of a nature of master and servant therefore remuneration not taxable as salary. [450 ITR 568(Mad)]
5. Loss under head of income exempt from tax cannot be set off against taxable income taxable income which clearly differentiates the scope of chapter III and VI. [450 ITR 618 (Ker)]

Supreme Court

1. Term "any expenditure" in Section 37 includes losses incurred in the course of business and incidental to it. Any loss incurred by an assessee for an unlawful purpose or prohibited by law cannot be deducted as an expenditure under Explanation 1 to Section 37. [149 taxmann.com 416 (SC)].
2. If no incriminating material is found during the search, the AO cannot make any additions to the completed/ unabated assessments. The AO can only re-open these assessments under Sections 147/148 of the Act, subject to the fulfillment of the conditions mentioned under those sections. [149 taxmann.com 399]
3. Income earned from sale of shares should be treated as 'income from business' for purpose of computation of deduction under clause (b) to section 80-HHC(3). [149 taxmann.com 329 (SC)]

From CBDT

1. Central Government hereby approves National Institute of Design, Ahmedabad under the category of 'University, College or Other Institution' for 'Scientific Research' for the purposes of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961, read with rules 5C and 5E of the Income-tax Rules, 1962. (NOTIFICATION S.O. 1831(E) [NO. 23/2023/F.NO. 203/07/2022/ITA-II], DATED 21-4-2023).
2. Cost Inflation Index for FY 2023-24 is notified to be 348. [NOTIFICATION S.O. 1692 (E) [NO. 21/2023/F.NO. 370142/5/2023-TPL], DATED 10-4-2023].
3. Central Government vide powers u/s 10(46) exempts CBSE of specified income vide notification s.o. 1690(e) [no. 20/2023/F.NO.196/19/2014-ITA-I], dated 10-4-2023.

How To HANDLE GST NOTICE



CA. Venugopal Gella

CA. Rajesh Kumar T R

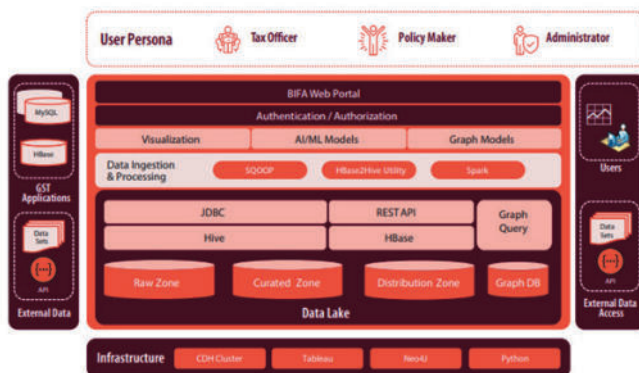
In the recent times there has been a considerable increase in the number of GST notices. This is on account of

- Audit conducted and concluded by department
- Mis match in the various information furnished by the Tax payer to the GST and other Authorities / forms including Income Tax returns.
- Data analytics being performed by the department on fake invoicing/fake ITC claim cases, and others.

These litigations would likely to increase owing to confusing and poor quality of Advance rulings, biased decision by Assessing officer and delay in adjudication process i.e. Pending Tribunals to setup and no judgements / precedents.

Infact Phase one and two of the GSTN system implementation was focussed on building the core functionalities needed by taxpayers and officers. With the core functionalities being in place, GSTN's next focus was to leverage the data available to generate actionable insights using a combination of BI tools and AI/ML-based models to help improve compliance, detect/prevent fraud, and support policymakers. Phase-3 of GST system implementation was aimed to design and develop an advanced analytics platform for Central and State Tax Authorities and policymakers.

GSTN formed a Business Intelligence and Fraud Analytics (BIFA) unit in March 2019.



It is also imperative a Taxpayer has to invest on sufficient intelligence and tools to avoid mistake in filing of returns, avoid delays in filing to avoid system driven notices.

Primary notice would be served when a registered person fails to furnish a return under section 39 or section 44 or section 45, in form 3A which requires him to furnish such return within fifteen days. Non-compliance of the above or erroneous compliance would result into additional assessment related procedures.

Show cause notice (SCN) is a document served by department to provide an opportunity to noticee to explain with reasons in writing or personally as to why particular course of action proposed to be taken against him should not be taken against him. No person can be proved guilty without giving an opportunity of being heard. It is a basic and absolutely necessary part of proceedings in every statute including tax statutes like GST. The spirit and principles of Article 14 (Supra) is fleshed out in the provisions of statutory provisions requiring sending of show cause notices to hear the noticee before taking the proposed action.

A Taxpayer has to be aware different type of Assessments are covered from (Sec 59 to 64 of CGST Act) and Audit under (Sec 65-66 of CGST Act) while Demand and Recovery is in Sec 73 to 84 under CGST Act.

Common Reasons for Number of notices has been issued by the department on various ground such as:

- ITC Mismatched: GSTR-2A vs GSTR-3B
- Output Mismatched: GSTR-1 vs GSTR-3B
- Payment of Interest
- Non-filing/ Delay filing of Return
- Inconsistent GSTR-1 and E-way Bill portal entries
- Claiming an ineligible GST refund or claiming it incorrectly
- Tax evasion, etc
- Where a business is liable but has failed to obtain GST Registration

For different lapses/ deficiencies, different procedures/forms have been prescribed to be followed by the Proper Officer and the Taxpayer. The procedures are also prescribed for time limit within replies to be done and action by officer

Indirect Tax

when no replies furnished, or such replies are not agreeable to officer.

The drafting of a reply to SCN is a real art which is honed with regular conscious practice of drafting and reading of statutes and judicial pronouncements. To determine how a reply is made to a departmental notice, it is important to understand what the intention and purpose behind issuance of notice and what elements it should be present in a valid notice, as the absence of any of the basic and key elements, the notice so issued could fall foul of principle of natural justice and therefore could vitiate the entire proceedings initiated. Accordingly, when a notice is received, one needs to examine whether all the key elements are present and file a reply suitably. Following are the key points the taxpayer needs to keep in consideration whenever he is saddled with any Notice -

1. Validity of Notice:

a. Section under which Notice is issued:

- i. Different section has been specified for various types of lapses/ deficiencies. Verified the section quoted and allegation made are in consonance with each other.
- ii. Specific Form has also been prescribed for each and every proceeding.
- iii. Section read with rules specifies the step/ procedure to be followed by the Proper Officer before issuing and after issuance of notice. Ensure the same is adhered.

b. **Proper Officer/ Jurisdiction:** Act provides for the proper officer who are authorised to issue notices under various section. Notice issued beyond jurisdiction will be invalid. Circular No. 1/2017-CT, 3/2017-CT and 31/05/2018 have specified the proper officer under various sections and their powers.

c. **Time Limit to Issue Notice:** The tax authorities have time limit fixed for their actions. No tax demand can be raised beyond 5 years calculated from the due date of filing of annual returns, even if tax evasion is apparent.

d. **Vague Notice:** Has the authority has made references in the notice to those jurisdictional facts which are *sine qua non* and therefore they must exist before an authority could exercise jurisdiction in a matter? *Seek clarification before replying. DO not assume anything.*

e. Form / format in which such notice is issued:

Refer to the section number under which the notice is issued, and the title of the form are they the one prescribe in the law. If there is any demand made is DRC-1 Issued under rule 142(1)(a) having the content of notice indicating it to be an intimation to the taxpayer to pay the amount within so and so time frame, else recovery proceedings u/s 79 shall be initiated. Generally intimation should be issued in form DRC-1A part A seeking the response in Part B.

f. **Relied Upon Documents:** check for the reference made if any documents/ supporting alleged in the notice. Seek for a copy of the documents before furnishing the final reply.

g. **Serving of the Notice:** Sec 169 of the Act has specified the modes of service of notice, do verify on the mode and dates. Check whether same contains a DIN and validate the same on CBIC portal. Concept of DIN is currently mandatory for the notices served by Central Tax officers.

o **Hand-delivery of the notice** to the taxpayer or his representative directly or through a *messenger or courier*; or

o **By registered mail, speed mail**, or courier with acknowledgement, addressed to the taxpayer's last known place of business; or

o Communication via the email address; or

o Making it available **after logging in to the GST portal**; or

o By **publication in a regional newspaper** distributed in the taxpayer's area based on the last known residential address.

- If none of the above methods is used, affix it in a **prominent location** at his last known business or residence. Suppose the tax authorities do not think this is reasonable. In that case, they can post a **copy on the notice board** of the office of the concerned officer or authority as a last resort.

The taxpayer is not required to act on the notice or communication if it is received in a manner other than that specified by GST law from time to time.

2. Allegation/ Deficiency/ Lapse:

a. Check on evidence or information and grounds to issue notice.

- b. Always verify the correctness of the deficiencies/allegation made in the notice.
- c. Cross check on the Numbers quantified and the dates mentioned do a vouching of all the financial values and other references.

3. Your Reply to Notice:

- a. **Form:** As stated, that the proper officer had issued notice in a specified Form, Taxpayer also need to reply in the specific Form specified under GST Act,
- b. **Cause of action:** Exact provision of law that has been contravened by the violation and the course that the law prescribes to be taken in view of the said violation due to the action of taxable person.
- c. **Tax Position:** Reply should clearly state whether allegation made is accepted or disputed,
- d. **Concise or Detailed:** Reply is an art and no specific mandate. It is always recommended to be silent and not detailed out when not required. There is no requirement to add case laws and try to educate the officers. Being simple and straight with lucid English would be more appreciable approach.
- e. **Disagreement:** Wherever contents are disputed, Taxpayer should specifically reason out why the allegation made by the officer is incorrect.
- f. **References:** Section relied upon, or any Notification relied upon for defence should also be quoted and enclosed with reply
- g. Substantiate your facts with supporting documents, reconciliation statements, etc,
- h. **Prayer:** Most important point of any reply is final submission of what you expect the authority to do. Instead of merely mentioning that this notice is bad or not in accordance with the law, but relief you are seeking to be expressly spelt.

4. Time Limit for filing the reply of objections or compliance to notice:

- a. Act read with rules provides for time limit to reply to notices, make sure same is adhered.
- b. Reply to notices needs to be submitted online on Govt Portal (Plz give the portal address for better understanding).

5. Personal Hearing:

- a. Taxpayer can seek for hearing before the Officer and present their case and clarify the doubts if any.

- b. During personal hearing if there is any additional points/case laws or evidence or certificates which were not furnished earlier can also be given.
- c. During the personal hearing highlight, the important points in addition to the reply already made. If required additional written submission can also be given.
- d. Insist upon taking note of the documents and evidences newly given on record.

Guidelines for Drafting Replies: Taxpayer shall assess their willingness to take risk and willingness to fight for the case and detailing in the replies. Following are the points to be considered before drafting of the replies.

- Drafting
 - Brief rebuttal as to different aspects in opening paragraphs
 - Questioning Jurisdiction / Authority of the notice /validity of the notice
 - Headings under which the submissions on merits to be made
 - Headings under which the submissions on computation, limitation, interest and penalties
 - Conclusion with prayer
 - Documents enclosed in support of the arguments
- Questioning
 - Whether there is any issue of constitutionality in the matter
 - Whether the facts of the case are properly understood in the notice
 - Whether the classification of goods / services is brought out correctly
 - Whether any other alternative classification
 - Whether there is any discussion in GST Council on the same
 - Whether there is any circular issued to clarify the doubt.
 - Whether the issue is due to industry practice and universally followed throughout the industry.
 - Whether there are any conflicting judgements in the past.
 - Whether the industry/Dept has made any

representation to Govt. seeking clarification

- Whether there are any decided cases in the same or similar matters
- Whether the Valuation is adopted properly
- Whether the computation of tax is given in the notice is Correct
- Whether Cum-tax benefit is given
- Whether ITC can be claimed on the same
- Whether the provisions invoked in notice for demand of interest is proper
- Whether the provisions invoked in notice for demand of penalty is proper
- Whether there is proper reasoning given in notice to levy penalty
- Whether the default in payment is due to technical lapse without intention to evade the payment of tax

Along with the reply to SCN provide all the relevant evidences in support of the grounds taken in the SCN.

Other Points:

- Order would become final if not appealed.
- Appeal not filed within due dates and extended period permitted, the order becomes final. No power to condone delay.
- Mere filing of appeal will not alter the liability confirmed in the order, unless stayed or reversed in appeal.
- Order *non-est* if passed without jurisdiction
- Order not final if matter was remanded

The above points are illustrative but not exhaustive; the reply may change on case-to-case basis and completely depending upon the factual situations. Law favors the vigilant.

*Authors can be reached at :
venu@vvnv.ca & rajesh@vvnv.ca*

Karnataka State Chartered Accountants Association

PREPARATORY FRAMEWORK FOR AN IPO BY PRIVATE LIMITED COMPANY

<ul style="list-style-type: none"> *Preparatory Framework for IPO of Private Company ✦ Conversion of Private Limited Company to Public Limited Company; ✦ Committee Composition for IPO; ✦ Policies Required for the purpose of IPO * Overview of IPO Journey for SMEs 	<ul style="list-style-type: none"> * Basic understanding of IPO on main Board ✦ Parties, Agreements involved in an IPO eligibility Criteria for an IPO ✦ Management activities for an IPO ✦ KPI's, Prefiling of offer document ✦ Experiences sharing & insights into practical solutions * Analysing Industry Trends for IPO
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CS CA Pracheta M. Mysore:
Conversion, Policies and SME Listing



CS Parvati KR
Basic Understanding of IPO on Main Board

DATE	TIME	VIRTUAL MODE	NO FEES
16.05.2023	4.00pm to 6.30pm		

CA. Pramod Srihari, President CA. Vijaykumar M Patel, Secretary

WOMEN EMPOWERMENT COMMITTEE

CA. Babitha G, Chairperson CA. Abhilashaa Chaturvedi, Convener

CORPORATE AND ALLIED LAWS COMMITTEE

CA. Prabhava P Hedge, Chairman CA SANTOSH RAJ S, Convener

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Karnataka State Chartered Accountants Association

Along with

Bombay Chartered Accountants' Society
All India Federation of Tax Practitioners (CZ)
Association of Chartered Accountants, Chennai
Chartered Accountants Association, Ahmedabad
CA Association of Jalandhar
The Chartered Accountants Study Circle, Chennai
Hyderabad Chartered Accountants

DIRECT TAX HOME REFRESHER COURSE – 4

Online Webinar
15th May, 2023 to 27th May 2023

Date	15th, 17th, 22nd, 24th, 26th May 2023 – 3.30 pm to 7 pm and 27th May 2023 - 10.00 am to 2.00 pm
Venue	Virtual Mode – Zoom Platform
Fees	Members Rs.1950/
Registration Link	www.kscaa.com

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PLOTTED DEVELOPMENT- GST



CA. Annapurna Kabra

- With effect from GST implementation, there are confusions on applicability of GST on sale of plots by developer to his customer whether before development, or during development or after development. The process of developing a plot of land by providing amenities such as sewage line, water line, electricity line, land levelling, and common facilities viz. road and streetlight etc. are preparatory part of the activity of construction of whatever structure that is proposed to be constructed on that piece of land. The activity of development of land involving offer of plots for sale to its customers with an assurance of development of infrastructure/amenities, lay-out approvals etc. is liable to tax or not are the discussion issues in the following paras. This article provides an insight into the provisions related to development of plot under GST law.
- The term plot is not defined under the GST law and as per Section 2(8) of *KTCPA 1961*, the “plot” means a continuous portion of land held in one ownership and as per Section 2 (10) of *KTCPA 1961* “reconstituted plot” means a plot which is in any way altered by the making of a town planning scheme and the term “altered” includes the alternation of ownership.
- Section(1c) of *KTCPA 1961* define the ‘development’ with its grammatical variations, means the carrying out of building, engineering, mining, or other operations in, on, over or under land or the making of any material change in any building or land, or in the use of any building or land and includes sub-division of any land. The plots are sold to the customers with divided/undivided share in the land. The sale of plots is essentially sale of land wherein the conveyancing of the title is done by the landowner to the customer.
- The plot development means the activity of development undertaken on plot from the time permission is taken u/s 15(1) of *KTCPA, 1961* from the planning authority granted in the form of commencement certificate till completion certificate is granted by the planning Authority. As per Section 26(2) of *KTCPA, 1961* the activities from commencement to completion includes laying out or re-laying out of land, filling up or reclamation of low-lying, swamp or unhealthy areas or levelling up of land, lay-out of new streets or roads, Reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets, green belts and dairies, transport facilities and public purposes of all kinds, drainage inclusive of sewerage, surface or sub-soil drainage and sewage disposal and lighting and water supply.
- With reference to section 2(b) of Bangalore Development Authority (BDA) Act, 1976, the ‘amenity’ includes road, street, lighting, drainage, public works, and such other conveniences as the Government may, by notification, specify to be an amenity for the purposes of this Act. As per section 30 of BDA Act 1976, after street formed has been duly levelled, paved, metalled, flagged, channelled, drained and sewerred, street shall thereupon vest with planning authority/ corporation. With reference to section 15 of BDA 1976, the reservation of not less than fifteen percent of the total area of the layout for public parks and playgrounds and an additional area of not less than ten percent of the total area of the layout for civic amenities.
- The reference of the provisions of the allied laws are required to analyse the implication of GST on plotted development. The Schedule III of the Act deals with the activities or transactions which shall be treated neither as a supply of goods nor a supply of services. Vide Entry No. 5 of third schedule define sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building. The sale of land is kept outside the purview of GST. ***The issue is whether the sale of plots is liable to tax under the GST or can be treated as sale of land under Third Schedule?***
- The following services as defined in Entry 5(b) of Second Schedule are treated as supply of services. “The construction of a complex, building, civil structure, or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier is supply of service” ***Whether plotted development can be treated as construction services under GST law...?***
- As per entry 3(i)(ia)(ib)(ic)(id)(if(i)) of Notification 3/2019 includes construction of affordable/ other than affordable residential ‘apartments’ / commercial ‘apartments’ in a RREP/ REP which commences on or after 1st April, 2019 intended for sale to a buyer, wholly

or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. As per section 2(e) of RERA Act "apartment" means whether called block, chamber, dwelling unit, flat, office, showroom, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, [in a building] or [on a plot of land], used or intended to be used for any residential or commercial use such as residence, office, shop, showroom or godown or for carrying on any business, occupation, profession or trade, or for any other type of use ancillary to the purpose specified. **The issue is whether the definition of apartment includes plot.....?**

- **The issue of applicability on sale of developed plot was clarified vide circular No 177/09/2022 TRU dated 3rd August 2022 as follows....** The Representation has been received for clarification regarding applicability of GST on sale of land after levelling, laying down of drainage lines etc. As per serial no 5 of Schedule III of the Central Goods and Services Tax Act, 2017, 'sale of land' is neither a supply of goods nor a supply of services, therefore, sale of land does not attract GST. Land may be sold either as it is (virgin land) or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land is also sale of land and is covered by Sr. No. 5 of Schedule III of the Central Goods and Services Tax Act, 2017 and accordingly does not attract GST (in line with Gujrat HC decision). However, it may be noted that any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services. Recently the Karnataka Advance Ruling Authority has issued the ruling for plotted development as follows....
- a. In case of Rabia Khanum KAR ADRG 31/2022 dated 8.9.2022, Applicant will be developing the land as per regulations of the District Town and Country Planning Act. He enters into an agreement of sale with prospective buyers towards sale of individual sites. The agreement does not bifurcate the cost of land and development charges. The development works become the property of the authorities and are not sold or transferred to any individual. The transfer of the ownership of the said plots will happen under the Transfer of Property Act. Based on circular **177/09/2022 TRU dated 3rd August 2022** it was held that GST is not applicable for the consideration received on sale of plots and GST is not applicable for the advances received towards sale of plots. The AAAR, Karnataka, in the matter of **M/s. Ms.**

Rabia Khanum [KAR/AAAR/02/2023 dated February 14, 2023] has upheld the advance ruling passed by AAR, Karnataka and held that the amounts received by the assessee due to the consideration, advance received on the sale of small plots which have the development work are not taxable under GST. Therefore, the sale of land developed by the assessee falls under the scope of the term "sale of land" as mentioned in Entry 5 of Schedule III of the Central Goods and Services Tax Act, 2017, hence it is not taxable.

- b. The AAR in case of M/s Godrej Properties Limited KAR ADRG 19/2023 dated 26.4.2023 held that....
- the Applicant is not liable to GST on sale of plot and basic infra structure development charges, if the booking of plot, receipt of consideration and agreement for sale is entered and sale deed is executed after the release certificate.
- the Applicant is liable to GST on other common amenities and facilities charges if the booking of plot, receipt of consideration and agreement for sale is entered and sale deed is executed after the release certificate.
- the Applicant is not liable to GST on sale of plot and basic infra structure development charges, if the booking of plot, receipt of consideration and agreement for sale is entered prior to release certificate and sale deed is executed after the release certificate.
- the Applicant is liable to GST on other common amenities and facilities charges if the booking of plot, receipt of consideration and agreement for sale is entered prior to release certificate and sale deed is executed after the release certificate.
- If the sale price is a consolidated price, then charges proportionate to common amenities and facilities charges are applicable to GST.

The advance ruling is binding only in respect of the matter referred and it has no precedent value. Therefore, with reference to the circular and advance ruling, it can be analysed that the sale of plots including basic infrastructure charges by developer to his customers before the development or during the development or after development shall be exempt from GST. There should be clarification on various aspects of plotted development in case of Joint development agreement between the landowner and developer under the different models entered by such taxpayers.

**Author can be reached at :
annapurna@hskaadvisors.com**

GST PRE-AUDIT ADVANTAGES & UPDATES



CA. Madhukar N Hiregange

CA. Akshay M Hiregange

They say, 'A good doctor cures the disease, but a great doctor cures the cause'. Identifying the root cause of non-compliance and putting in place controls and checkpoints is key to the growth and sustainability of any organisation. In this article we focus on certain advantages taxpayers can obtain through pre-departmental audits conducted by competent professionals.

Advantages of Audit

Area	Activity	Advantage
Revenue	<ul style="list-style-type: none"> Verify classification & tax rate Study income not subjected to tax Ensure tax not paid against incentives (discounts), employee recoveries (w/o margin) Valuation check + agreement adherence Documentation – E-INV, proof of outward supply 	<p>Reduces surprisingly high demands.</p> <p>Also, reduces interest implication.</p>
ITC	<ul style="list-style-type: none"> Verify ITC report from software – data captured and displayed correctly? Verify eligibility of ITC Deferred ITC – study the ability to withhold/recover taxes paid to vendors Documentation – sec 16 conditions, proof of inward supply 	<p>To ensure ITC is claimed within timelines prescribed.</p> <p>To avoid incorrect ITC claim which could lead to high demands incl. interest & penalty.</p>

Area	Activity	Advantage
RCM	<ul style="list-style-type: none"> Study liability and decide appropriate rate of tax (ex: GTA) RCM on import of services study (incl. those w/o consideration & associated enterprises) Whether ITC eligible & claimed? Past period liability + ITC 	<p>Enable compliance and ensure optimum benefit claimed.</p> <p>Restrict interest implications.</p>
E-way bill	<ul style="list-style-type: none"> Inward – Maintain along with GRN to dispute and fake ITC allegations. Outward (supply) – Match with IN/OUT register. Verify inventory impact. Ensure documentation also available for sales returns. Outward (other than supply) – Ensure document raised as per Rule 55 contents. (+ Form ITC 04?) 	<p>Useful when burden of proof is on the taxpayer.</p> <p>Avoids penalty u/s 122 or 125.</p>

Area	Activity	Advantage
Reconciliation	<ul style="list-style-type: none"> Confirm GST payable is paid through GSTR 3B or DRC-03 GSTR 1 Vs GSTR 3B GSTR 2B Vs GSTR 3B Confirm ITC where eligible entirely claimed GSTR 9C vs Books (turnover & taxes) 	<p>Ability to prove no lapses in tax compliance by way of mismatch.</p> <p>Also, reduces interest implication.</p>
Others	<ul style="list-style-type: none"> Refund application correctness and formula check Maintain all communications with dept. officials. A tracker of cases raised, activity performed, status, persons involved. Keep envelope covers + letters and responses sent against the same (with acknowledgement) 	<p>Documentation for posterity.</p> <p>When employee attrition is high, avoids confusion and data loss. Reduces harassment by dept.</p>
GST Portal	<ul style="list-style-type: none"> Business details are up to date Authorized signatories (min. 2) Places of business up to date Notices/Demands (if any) Taxpayers' communications Reco ECrL ledger balance with books 	<p>Details in GST portal is updated and appropriate.</p> <p>Dept. cannot dispute procedural lapses either.</p>

Others

- Amendments in GST law –
 - Rate notifications – Study change in rate against specific HSN. Follow Section 14 for application of rate change. Ensure tax masters are updated.
 - Other notifications – New rules may be implemented or changes in process and procedures may be implemented. One must stay updated to ensure compliance is not missed due to negligence.

- Circulars – Stay updated with Dept. position on various issues. Circulars are binding on the dept. but not on taxpayers, i.e. if a Circular is not well reasoned and goes beyond the corners of the GST law, it can be said to be void ab-initio.
- Case laws – As GST is an emerging area, various acts & rules are being challenged and settled positions are arising. Similarly, Service tax, Excise & VAT related cases, having similar provisions on GST would help set the precedent and help in understanding intention of the law. Using settled principles of the past may help in disputing cases in the present. (such as levy, valuation, ITC, classification have a plethora of SC decisions)

Conclusion

GST audits by dept. could lead to demand of taxes along with a hefty interest and penalty. Ensuring a proactive internal audit by GST experts would help understand various non-compliances, how to deal with past issues and implement checks and balances to avoid future non-compliances.

Authors can be reached at :
madhukar@hnaindia.com &
akshay@hnaindia.com

Solution to Sudoku - 32 April 2023

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

INDIRECT TAX UPDATES – MAY-2023



CA. Sowmya C. A.

As we begin the new financial year 2023-24, the year passed has been eventful with a number of changes in the indirect tax laws particularly in GST. A total of 3 council meetings were held where some significant developments including relating to GST Tribunal for dispute resolution has been deliberated and adopted by the council. In this issue, we bring to you, the recently released notifications, highlights of the Foreign Trade Policy, 2023 notified most recently.

From CBIC & DGFT

• Commerce and Industry Minister Piyush Goyal unveils Foreign Trade Policy 2023

Key Highlights of the same as below:

- The Foreign Trade Policy does not contain a sunset clause and is intended to remain in force without temporal limitation. Any changes would be on need based
- New foreign trade policy will encourage international trade settlements in Indian rupee. This is a significant move aimed at making Indian Rupee global currency.
- New FTP to move from incentives to remission of taxes and duties
- FTP introduces amnesty scheme for one-time settlement of default in export obligation: Interest capped to 100% of Basic Customs Duty and no interest on Additional Customs Duty and SAD.
- Value limit for exports through courier services increased to Rs 10 lakh from Rs 5 lakh per consignment:
- FTP 2023 to encourage e-commerce exports which is expected to grow to USD 200-300 bn by 2023
- Advance Authorization/DFIA/EPCG would continue
- Lower Threshold limits for Star Exports house
- Focus on Merchant Trading (buying from third country and selling to third country without touching the boarders).

- District Export Promotions committee to facilitate exports headed by DC of the district coordinated by the Regional Office of DGFT.
- Entire lifecycle of the authorization shall become paperless including all redemption applications to be paperless.
- Marketing Assistance Incentive (MAI Scheme) for marketing, capacity building and technological services.
- Benefits of Self-Ratification Scheme for fixation of Input-Output Norms extended to 2 star and above status holders in addition to Authorised Economic Operators at present.

• CBIC initiates phase wise implementation of ECL in Customs effective from 1 April 2023

The Customs Electronic Cash Ledger (ECL) functionality is envisaged in Section 51A of the Customs Act, 1962. It provides an enabling provision whereby the importer, exporter or any person liable to pay duty, fees etc., under the Customs Act, has to make a non-interest bearing deposit into ECL for the purpose of payment. With this, all payments to customs will be routed through the ECL. The Customs (Electronic Cash Ledger) Regulations, 2022 (ECLR) notified vide No. 20/2022-Customs (N.T) dated 30.03.2022 governs the manner of operationalization of ECL and related aspects. The statutory provision came into force on 01.06.2022. Deposits under ECL provision require the person to be registered at ICEGATE portal and to create an ECL Account. In addition to importers/exporters (IECs), the customs brokers, couriers who are making payments on behalf of the importers/exporters are also enabled in ECL. Eventually, all e-payments are planned through ECL through phased implementation of the same.

(Circular No. 09 /2023-Customs dated 30 March 2023)

• DGFT notifies amnesty scheme for one time settlement of default in EO by AA and EPCG authorisation holders

Coverage:

- Authorisations issued under FTP 2009-2014 till 31 March 2015.

- Authorisations issued under FTP 2004-2009 and before, whose EO period was valid beyond 12 August 2013

Benefits:

- The EO default can be regularised on the payment of all customs duties exempted in proportion to the unfulfilled EO. Based on evidence of payment, EODC certificate will be issued
- Maximum interest is capped at 100% of such duties exempted.
- No interest is payable on the portion of additional customs duty and special additional customs duty.
- The defaulters interested in availing the scheme must register on the DGFT website and file a separate application before 30 June 2023.
- The payment of exempted customs duties and interest should be made before 30 September 2023 for availing the scheme.
- The cases already adjudicated or pending adjudication, either original or in appeal, can also be regularised under the scheme.
- The cases under investigation or adjudicated for fraud, misdeclaration, or unauthorised diversion of material and/or capital goods, will not be eligible under the scheme.
- The CENVAT credit or refund of the above amounts paid will not be available.

(Public Notice No. 2/2023 dated 1 April 2023)

• Updated Appendices & Aayat Niryat Forms Notified

In exercise of powers conferred under paragraph 1.03 and 2.04 of the Foreign Trade Policy, 2023, the Director General of Foreign Trade hereby notified the Appendices & Aayat Niryat Forms. The updated Appendices & Aayat Niryat Forms is made available in the website of DGFT (<https://dgft.gov.in>).

(Public Notice No. 10/2023 dated 26 Apr 2023)

• Amendment under Interest Equalisation Scheme in respect of UIN

An UIN (Unique Identification Number), valid for a financial year shall be required to be generated which unique to a specific bank. If a scheme beneficiary desires to take advantage of the benefits of the scheme from multiple banks, a new UIN must be generated and provided for each bank.

(Trade Notice No. 04/2023-24 dated 21 Apr 2023)

Recent Notifications under GST Laws:

- **Notification No. 14/2017 – Central Tax dated 01 Jul 2017 amended with the insertion of entry 8A to the table wherein Additional Assistant Director, Goods and Services Tax Intelligence or Additional Assistant Director, Goods and Services Tax or Additional Assistant Director, Audit can exercise power of ‘Superintendent’**

(Notfn No. 01/2023 -CTR dated 04.01.2023)

- **Late fee for delayed filing of Form GSTR4 (Annual Return for Composition Scheme) for the period Jul 2017 to Mar 2022 but furnish the same between 01 Apr 2023 and 30 Jun 2023,**

o No late fee where tax payable is Nil

o late fee capped to Rs. 500 in other cases

(Notfn No. 02/2023 -CTR dated 31.3.2023)

- **Application for revocation of cancellation of registration which is cancelled on or before the 31 Dec 2022 due to non-filing of returns within time period allowed under section 30 of the CGST Act or whose appeal or application for revocation has been rejected on account of failure to adhere to the time prescribed under the said section;**

o To be applied within 30 Jun 2023

o Revocation is to be filed only after filing all the returns along with payment of tax, interest, penalty and late fee up to the effective date of cancellation of registration. No further extension of the time period for filing an application in this regard.

(Notfn No. 03/2023 -CTR dated 31.3.2023)

- **Insertion of new clause 4A in Rule 8 - Procedure for Aadhaar authentication and Bio metric verification of the applicants.**

o The said procedure shall be **deemed** to come into force on 26th Dec 2022. When filing Form GST REG-01 for applying GST registration, Aadhaar authentication is required for verification and the date of submission of application shall be the date of authentication of the Aadhaar Number or 15 days of submission of part B of the application whichever is earlier and for certain category of applicants, biometric verification and physical verification of documents at a facilitation centre to complete the said GST registration process.

(Notfn No. 04/2023 -CTR dated 31.3.2023)

- **Amendment of clause 4B in Rule 8 – Exemption from applicability of proviso to clause 4A of Rule 8**

The Central Government on the recommendations of the Council, by notification specify the States or Union territories wherein the proviso to sub-rule (4A) shall not

apply which prescribes biometric and physical verification of documents for certain risk category registrations identified as such by the system.

(Notfn No. 05/2023 -CTR dated 31.3.2023)

- **Procedure for Assessment of Non-Filers of returns- Where a valid return is not furnished within 30 days of Best judgement Order or on before 28 Feb 2023;**

- o The assessment shall be withdrawn if Returns furnished on or before 30th Jun 2023;
- o Along with the payment of applicable interest u/s 50 and late fees.
- o Irrespective of whether appeal against the said has been filed and decided or not;

(Notfn No. 06/2023 -CTR dated 31.3.2023)

- **Late Fees for filing GSTR 9 (Annual Return – Normal Taxpayers)**

- o Late fees Revision from FY 2022-23 Onwards:

Aggregate turnover upto Rs. 5 crores in the relevant financial year	Rs. 50 per day subject to a maximum of 0.04% of Turnover
Aggregate turnover more than Rs. 5 crores and upto Rs. 20 crores in the relevant financial year	Rs. 100 per day subject to a maximum of .04% of Turnover
Aggregate turnover of over Rs. 20 crores in the relevant financial year	Rs. 200 per day subject to a maximum of 0.5% of Turnover

- o One time amnesty for late Fees - restricted to INR 20,000/-, if GSTR 9 for the FY 2017-18, 2018-19, 2019-20 and 2021-22 are filed between 01st Apr 2023 to 30th June 2023.

(Notfn No. 07/2023 -CTR dated 31.3.2023)

- **Filing of Final Return in Form GSTR-10**

- o Final Return GSTR 10 to be filed in the case of cancellation of registration Suo moto or otherwise
- o If the said return is filed between 1st April 2023 and 30th June 2023, the Late fee is restricted to Rs. 1000/-

(Notfn No. 08/2023 -CTR dated 31.3.2023)

- **Extension of Time Limit for issuance of order u/s 73(9) by a proper officer to determine the amount of tax, interest or penalty payable by taxpayers. The extension of the time limit shall be as under:**

- o FY 2017 – 18 - Up to 31st Dec 2023
- o FY 2018 – 19 - Up to 31st Mar 2024
- o FY 2019 – 20 - Up to 30th Jun 2024

(Notfn No. 09/2023 -CTR dated 31.3.2023)

Recent advisories under GST Laws:

- **New facility to verify document Reference Number (RFN) mentioned on offline communications issued by State GST authorities**

With respect to offline communication (i.e. one which is not system-generated) sent by the State GST tax officer, a new facility for Reference Number (RFN) generation by State tax officer and verification by taxpayer has been provided. Under this feature, the State Tax office can generate a RFN for the physically generated correspondence sent to the taxpayer, which can be validated by the taxpayer (both pre-login and post-login). To verify a Reference Number mentioned on the offline communications, navigate to Services > User Services > Verify RFN option and provide the RFN to be verified. This facility is for offline correspondence issued by State GST authorities and for documents issued by Central GST officers, CBIC DIN facility will continue to be used.

(GSTN update dated 28 Apr 2023)

- **Advisory on Bank Account validation**

The functionality for bank account validation is now integrated with the GST System and this is to ensure that bank account provided by tax payer is correct. The bank account validation status can be seen under the Dashboard→My Profile→Bank Account Status tab in the FO portal. Tax Payers will also receive the bank account status detail on registered email and mobile number immediately after the validation is performed for his declared bank account.

(GSTN update dated 24 Apr 2023)

- **Time limit for Reporting Invoices on the IRP Portal**

It has been decided by the Government to impose a time limit of 7 days for reporting of the invoice on the IRP portal for taxpayers with AATO greater than or equal to 100 crores. This rule will apply to all document types for which IRN is to be generated. Thus, once issued, the credit / Debit note /Invoice, IRN will have to be generated within 7 days of issue. This is with effect from 1 May 2023 (Notification pending)

(GSTN update dated 13 Apr 2023)

Author can be reached at :
sowmya.whitefield@gmail.com

FINANCIAL REPORTING AND ASSURANCE



CA. Vinayak Pai V

KEY UPDATES A. AS|Ind AS

1. EAC Opinion – Preparation of Statement of Profit and Loss in a non-revenue generation organisation

The May 2023 edition of the ICAI Journal has carried an Expert Advisory Committee (EAC) opinion – *Preparation of Statement of Profit and Loss in a non-revenue generating organisation*.

A summary of generic key takeaways from the opinion is summarised herein below [Background - The querist, a Corporation (a special purpose vehicle), was incorporated under the Companies Act for the execution of an 'East-West Metro Corridor Project'. The revenue services are undertaken by the Metro Railway of the city and no revenue is earned by the Corporation]:

- ♦ The Companies Act, 2013 specifically requires that the Board of Directors of a company shall lay at every AGM, financial statements for the financial year. Financial statements, as defined in the **Companies Act, 2013** and the 'complete set of financial statements' as explained in **Ind AS 1**, essentially include a statement of P&L for the period. **No exemption or relaxation has been given to any entity in respect of the preparation of the Statement of P&L on any account.**
- ♦ The EAC is of the view that the **Corporation is required to prepare Statement of P&L every financial year irrespective of whether it is earning profits or losses and that there is no revenue or income being recognised in the Statement of P&L.**

Link to the Opinion-

<https://resource.cdn.icai.org/73863cajournal-may2023-7.pdf>

2. RBI – Framework for Acceptance of Green Deposits - Disclosures in Annual Financial Statements

The Reserve Bank of India (RBI) has established a *Framework for Acceptance of Green Deposits* by Regulated Entities. This framework is effective 1st June, 2023. [Notification No. RBI/2023-24/14 DOR.SFG.REC.10/30.01.021/2023-24 dated 11th April, 2023.]

Regulated Entities under the Framework are **Scheduled Commercial Banks**, including Small Finance Banks (excluding RRBs, Local Area Banks and Payments Banks) and **All Deposit taking NBFCs registered with RBI, including HFCs.**

The Green Deposits Framework requires REs that have raised green deposits to **make appropriate disclosures in their Annual Financial Statements** on the **portfolio-level information** regarding the **use of the green deposit funds**, a summary of which is provided below:

Disclosure - Portfolio-level information on the use of funds raised from green deposits

- ♦ Total green deposits raised.
- ♦ Total Green Deposit funds allocated (under nine categories, including renewable energy, energy efficiency, clean transportation etc.).
- ♦ Amount of Green Deposit funds not allocated.
- ♦ Details of the temporary allocation of green deposit proceeds pending their allocation to the eligible green activities/projects.

Link to the Notification -

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12487&Mode=0#AN2>

B. ASSURANCE

3. ICAI Technical Guide - Disclosure and Reporting of KPIs in Offer Documents

On 6th April, 2023, the Institute of Chartered Accountants of India (ICAI) issued a *Technical Guide on Disclosure and Reporting of Key Performance Indicators (KPIs) in Offer Documents*. It guides practitioners in reporting requirements relating to **KPIs disclosed under the 'Basis for Issue Price' section of the offer documents** in case of IPO in India in accordance with SEBI (ICDR) Regulations, 2018. The Technical Guide is **also applicable to issuer companies** for disclosing the KPIs in the offer documents. It may be noted that ICDR Regulations require the KPIs to be certified by professionals (statutory auditors or chartered accountants or firm of chartered accountants or cost accountants).

Link to the Guide -

<https://resource.cdn.icai.org/73533aasb59362.pdf>

4. ICAI Announcement – Acceptance of certain assignments by the Concurrent Auditor of Bank Branches

On 9th April, 2023, the ICAI provided the following *clarifications w.r.t. the acceptance of certain assignments by the concurrent Auditor* of bank branches:

- ♦ **LFAR** – A Branch Concurrent Auditor can undertake the assignment of LFAR only with respect to Branches which are not subject to Statutory Audit. W.r.t. Branches subject to Statutory Audit, the LFAR assignment shall be undertaken by the Statutory Auditor.
- ♦ **Miscellaneous certification** - The Concurrent Auditor/Internal Auditor may undertake the assignment of certification for a Bank branch only if the certificates are addressed to the Bank's management.
- ♦ **Certification of audited financial statements** - The Concurrent Auditor/Internal Auditor can neither perform Statutory Audit of the financial statements of a Bank Branch nor certify them as audited financial statements.

Link to the Announcement -

<https://www.icaai.org/post/acceptance-of-certain-assignments-by-the-concurrent-auditor-of-bank-branches>

5. IESBA – Final Revisions to the International Code of Ethics for Professional Accountants

On 11th April, 2023, the International Ethics Standards Board for Accountants (IESBA) released final revisions to the *International Code of Ethics for Professional Accountants (including International Independence Standards (IIS))* to increase the Code's robustness further and expand its relevance considering rapid technological advancements and accelerating digitalization.

The revisions, which were informed by extensive fact-finding and stakeholder outreach: strengthen the Code in **guiding the mindset and behaviour of professional accountants when they use technology**; provide **enhanced guidance fit for the digital age** in relation to the fundamental principles of confidentiality and professional competence and due care; and **strengthen and clarify the IIS** by addressing the circumstances in which firms and network firms may or may not provide a technology-related non-assurance service to an audit/assurance client.

The revisions to the IIS will be **effective for audits/reviews of financial statements** for periods beginning on or after **15th December, 2024**.

Link to the Pronouncement -

https://ifacweb.blob.core.windows.net/public-files/2023-04/IESBA_Technology_related_Revisions_to_the_Code_final_2.pdf

6. IAASB Exposure Draft – Proposed ISA 570 (Revised), Going Concern

On 26th April, 2023, the International Auditing and Assurance Standards Board (IAASB) issued an Exposure Draft, *Proposed ISA 570 (Revised), Going Concern*. The proposed revisions aim to:

- ♦ Promote consistent practice and behaviour and facilitate effective responses to identified risks of material misstatement related to going concern,
- ♦ Strengthen the auditor's evaluation of management's assessment of going concern, including reinforcing the importance, throughout the audit, of the appropriate exercise of professional scepticism, and
- ♦ Enhance transparency with respect to the auditor's responsibilities and work related to going concern where appropriate, including strengthening communications and reporting requirements.

Link to the Exposure Draft -

<https://ifacweb.blob.core.windows.net/public-files/2023-04/IAASB-Proposed-Standard-Going-Concern.pdf>

C. RBI

7. RBI – Provisioning for standard assets by Primary (Urban) Co-operative Banks – revised norms under 4-tiered regulatory framework

Urban Co-operative Banks (UCBs) have been categorised by RBI into four Tiers (Tier 1 to 4) for regulatory purposes (Circular dated 1st December, 2022). The current standard assets provisioning norms for UCBs are based on the earlier categorisation of UCBs into Tier I and Tier II (as defined in para 4 of Circular No. UBD.CO.LS.Cir.No.66/07.01.000/2008-09 dated 6th May, 2009).

Now, the RBI vide Notification No. RBI/2023-24/18DOR.STR.REC.12/21.04.048/2023-24 dated 24th April, 2023 has **harmonised the provisioning norms for standard assets applicable to all categories of UCBs**, irrespective of their Tier, in the revised framework.

The standard asset provisioning norms applicable to Tier I, Tier 2, Tier 3 and Tier 4 UCBs under the revised framework are:

- ♦ Direct advances to **agriculture and SME** sectors – **0.25%**
- ♦ Advances to **commercial real estate (CRE)** sector – **1.00%**
- ♦ **Commercial real estate-residential housing (CRE-RH)** - **0.75%**
- ♦ **All other** advances – **0.40%**

The erstwhile Tier I UCBs, which are currently maintaining standard asset provision of 0.25% on 'all other loans and advances' are permitted to achieve the provisioning requirement of 0.40% in a staggered manner by 31st March, 2025. The revised norms come into effect from the date of the circular.

Link to the Notification –

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12491&Mode=0>

8. Monetary penalty imposed on The Karnataka State Co-operative Apex Bank Ltd.

The RBI vide order dated 11th April, 2023, imposed a monetary penalty of ₹23.23 lakh on The Karnataka State Co-operative Apex Bank Ltd., for non-compliance with the RBI (KYC) Directions, 2016 and 'Membership of Credit Information Companies (CICs)' directions.

As per the order, the statutory inspection of the bank conducted by NABARD with reference to the bank's financial position as on 31st March, 2020 revealed, inter alia, that during F.Y.2019-20, the bank did not (i) undertake risk categorization of customers; (ii) put in to use any robust software as a part of effective identification and reporting of suspicious transactions; and (iii) submit data to all the four CICs regularly. After considering the bank's replies, the RBI concluded that the charge of non-compliance with the aforesaid RBI directions was substantiated.

Link to the Order –

<https://rbidocs.rbi.org.in/rdocs/PressRelease/PDFs/PR720F0D46478CB543DEBCC17DA1B6BBFBAA.PDF>

D. NFRA

9. NFRA Order u/s 132(4) of the Companies Act – Coffee Day Global Ltd.

The NFRA vide order No. NF-23/14/2022 dated 12th April, 2023 in the matter of Coffee Day Global Limited (CDGL), imposed a **monetary penalty of ₹ 1 crore on the Statutory Audit Firm and debarred it for 2 years** from being appointed as auditors. It also imposed monetary penalties on the firm's 3 CAs and debarred them for 5 years.

NFRA's investigations inter alia revealed that the CDGL's Auditors for the F.Y.2018-19 failed to meet the relevant requirements of SAs and provisions of the Companies Act and demonstrated a serious lack of competence. They failed to evaluate their potential conflict of interest and failed to maintain their independence from audit client by having audit and non-audit relationships with a large number of Group companies and the promoters' family members; made an attempt to deceive NFRA by adding more documents to as well as altering the documents in their audit file which amounted to tampering with the Audit File and failed to

exercise professional judgement and scepticism during audit of the transactions.

Link to the Order -

<https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc-6b56a45a56c59fafdb/uploads/2023/04/2023041290.pdf>

10. NFRA Order u/s 132(4) of Companies Act – Amalgamated Coffee Estate Limited (MACEL)

The NFRA vide order No. NF-23/14/2022 dated 13th April, 2023 in the matter of Mysore Amalgamated Coffee Estate Limited (MACEL) imposed a **monetary penalty of ₹ 5 lakhs on the Engagement Partner (EP)** of the statutory Auditor and **debarred the auditor for 5 years**.

NFRA's investigations inter alia revealed that the MACEL's Auditor for the F.Y.2018-19 failed to meet the relevant requirements of SAs in several significant aspects and demonstrated a serious lack of competence. The EP failed to exercise professional judgement and professional scepticism during audit of fraudulent borrowing of ₹ 4,076 crores from Banks and Related Parties and the use of such borrowed funds for fraudulent diversion of ₹ 3,858 crores to personal accounts of promoters, their relatives, entities controlled by them and other related parties. The EP falsely reported that MACEL had an effective system of 'Internal Financial Control over Financial Reporting' despite the complete absence of the same as pre-signed blank cheques were used for the diversion of funds and fraudulent understatement of related party balances.

Link to the Order -

<https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc-6b56a45a56c59fafdb/uploads/2023/04/2023041369.pdf>

11. Other NFRA Orders in April 2023 (u/s 132(4) of the Companies Act)

Extracts from various other NFRA orders issued in April 2023 u/s 132(4) of the Companies Act:

- ♦ “The Engagement Partner was charged with failure to adhere to the responsibilities relating to audit documentation as required by SA 230 read with para 75 of SQC1, which requires preparation of audit documentation on a timely basis, documentation of the nature, timing and extent of audit procedures such as who performed the audit procedures, when such audit procedures were performed, who reviewed the audit work, what discussion of significant matters took place with management & TCWG etc. and the assembly of the audit file within 60 days after the date of the auditor's report.”
- ♦ “The dismal quality of audit in this engagement can be gauged from the failure of the EP to evaluate the

company as a going concern, to prepare and document the audit working papers, and to critically assess the audit indicators related to the suspected fraud in the company etc. Instead of being an exercise of application of professional skill and care expected of an auditor of a PIE, this audit had generated into a futile exercise of simply collecting and filing reams of photocopies of documents of routine nature in the audit work paper files.”

- ♦ “The audit failures include the EPs failure to plan the audit and understand the entity and its environment, failure to determine the materiality and performance materiality, failure to identify and communicate with the TCWG, failure to evaluate the arm’s length pricing for the related party transactions that amounted to 54% of the total sales, failure to obtain sufficient appropriate audit evidence regarding the existence and condition of inventory that constituted over 36% of the balance sheet, failure to obtain confirmation of balances from debtors and creditors that accounted for over 60% and 29% respectively of the balance sheet, failure to report the non-provisioning for trade receivables that accounted for nearly 23% of the trade receivables, and failure to determine the appointment of Engagement Quality Control Reviewer (EQCR).”

E. SUSTAINABILITY REPORTING

12. ISSB – Prioritises climate-related disclosures and provides transitional relief

On 4th April 2023, the International Sustainability Standards Board (ISSB) decided that it would **complement its package of transitional reliefs to support companies applying the ISSB’s first two Standards—S1 (General Requirements) and S2 (Climate)**. The relief will enable companies to focus initial efforts on ensuring they meet investor information needs around climate change in the first year of reporting using the ISSB Standards. **Full reporting on sustainability-related risks and opportunities beyond climate, need to be reported from the second year.**

Under the **package of reliefs for the first year**, companies using the ISSB Standards **need not**: provide **disclosures about sustainability-related risks and opportunities beyond climate-related information**; provide annual sustainability-related disclosures **at the same time** as the related financial statements; provide **comparative information**; **disclose Scope 3 greenhouse gas emissions**; and use the Green House Gas Protocol to measure emissions, if they are currently using a different approach.

Link to the Announcement-
<https://www.ifrs.org/news-and-events/news/2023/04/issb-decides-to-prioritise-climate-related-disclosures-to-support-initial-application/>

F. OTHER USEFUL PUBLICATIONS

13. **IFRS Foundation – Annual Report 2022.** [4th April, 2023.] [<https://www.ifrs.org/content/dam/ifrs/about-us/funding/2022/ifrs-foundation-annual-report-2022.pdf>]
14. **US Public Company Accounting Oversight Board (US PCAOB) – Spotlight: Staff Priorities for 2023 Inspections.** [17th April, 2023.] [https://assets.pcaobus.org/pcaob-dev/docs/default-source/documents/priorities-spotlight.pdf?sfvrsn=5c104095_2]
15. **UK Financial Reporting Council – Audit Committees and Assurance: Conversation Starters.** [19th April, 2023.] [<https://www.frc.org.uk/investors/assurance-related-questions-for-investors>]
16. **The Institute of Internal Auditors – Global Perspectives and Insights: Fraud.** [21st April, 2023.] [https://www.theiia.org/globalassets/site/content/articles/global-perspectives-and-insights/2023/gpi_fraud_parts_1-3.pdf]
17. **International Ethics Standards Board for Accountants (IESBA) – Database of Public Interest Entity Definitions by Jurisdiction.** [27th April, 2023][https://ifacweb.blob.core.windows.net/publicfiles/2023-04/Final%20Database%20of%20PIE%20Definitions%20by%20Jurisdiction_6.pdf]

G. GLOBAL REGULATORY ACTIONS

18. US PCAOB

On 11th April, 2023, the US PCAOB vide Release No. 105-2023-002 censured a registered public accounting firm headquartered in Singapore, revoked its registration and imposed a US\$ 50,000 civil money penalty. The PCAOB imposed these sanctions on the Audit Firm for the following violations w.r.t. an audit pertaining to 2017:

- ♦ The Audit Firm failed to assemble for retention a complete and final set of audit documentation by the documentation completion date, as required by AS 1215, Audit Documentation.
- ♦ It violated PCAOB Rule 3211, Auditor Reporting of Certain Audit Participants since it did not timely file required Form APs in connection with the Audit and Restatement Audit.
- ♦ The Audit Firm violated PCAOB quality control standards because, during the time it was conducting the Audit, the Firm did not have policies and procedures relating to performing audits under PCAOB standards. In addition, the Firm did not have sufficient policies and procedures related to the monitoring of its quality control system as required by PCAOB standards.

19. UK FRC

- A) On 13th April, 2023, the UK Financial Reporting Council (FRC) issued a Final Settlement Decision Notice under the Audit Enforcement Procedure (AEP) and imposed sanctions against an Audit Firm and its Engagement Partner (EP) in relation to the statutory audit of the financial statements of a client for 2016.

The following sanctions were imposed on the Audit Firm: a financial sanction of £1,250,000; a published statement in the form of a severe reprimand; and a declaration that the FY2016 Audit report signed on behalf of the Audit Firm did not satisfy the Relevant Requirements. A financial sanction of £50,000 was imposed on the EP.

The Audit Firm and the EP admitted eight breaches of Relevant Requirements in relation to two areas of the Audit: intercompany transactions and year end intercompany balances; and accuracy of the cost of inventory and year-end inventory balances. The Company's FY2016 financial statements included multiple material misstatements in relation to these two areas. The breaches included failures in the design and performance of audit procedures, failures to adequately review and critically assess the audit evidence obtained, failure to document the audit work and failures by the Respondents to apply professional scepticism.

- B) On 26th April, 2023, the UK FRC issued a Final Settlement Decision Notice under the Audit Enforcement Procedure (AEP) and imposed sanctions against an Audit Firm and its Engagement Partner (EP) in relation to the statutory audit of the financial statements of a client for 2020.

The following sanctions were imposed on the Audit Firm: a financial sanction of £1,750,000; a published statement in the form of a severe reprimand; and a declaration that the FY2016 Audit report signed on behalf of the Audit Firm did not satisfy the Relevant Requirements. A financial sanction of £75,000 was imposed on the EP.




The Audit Firm and EP admitted breaches of Relevant Requirements relating to the audit of inventory existence including the requirements to plan and perform an audit with professional scepticism, to prepare sufficient audit documentation and to design and perform audit procedures to obtain sufficient appropriate audit evidence.

Author can be reached at :
vinayakpaiv@hotmail.com

Income Tax Savings Schemes

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


Fixed Income

Trust u/s 11(5)	Trust Deposits Eligible u/s 11(5) 
RBI	 Reserve Bank of India Bonds 7 years, Floating rate 7.15% Half-yearly Interest
FD NBFC	
	Sovereign Gold Bonds 8 years, 2.50% Half-yearly Interest, Maturity 'Tax-free'



Growth Option







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For further information, please contact

 **Kiran Boal 98803 93743**
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REVOCATION OF RERA REGISTRATION - THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 - SECTION 7



CA. Vinay Thyagaraj

RERA Real Estate (Regulation and Development) Act, 2016, was enacted by the Parliament of India with the aim of regulating and promoting the real estate sector in India. The Act came into effect on May 1, 2016, and was implemented across the country on May 1, 2017.

The primary objective of RERA is to protect the interests of homebuyers and to promote transparency and accountability in the real estate sector. The RERA Act empowers the state to establish a regulatory authority to oversee the functioning of the real estate sector and to ensure that real estate stakeholders adhere to the rules and regulations set forth in the Act.

As we are all aware that Section 3(1) of the RERA Act 2016 mandates the prior registration of Real Estate Project before marketing, sales, invitation, collection of advances from the prospective customers etc. Most of the States / UT's have established and appointed the Regulatory Authority's. More than 1 Lac Real Estate projects have registered across India.

In earlier articles, I have deliberated on various provisions includes Registration, periodical compliances, financial management, agreement of sale, modification of plan, transfer of projects, completion of the project etc.,

In this article, let us understand the Revocation of RERA Registration and its impact thereon.



Section 7 of the RERA Act empowers the RERA Authority to revoke the RERA registration on receipt of complaint or suo motu or on the recommendation of the competent authority after being satisfied that –

- The promoter makes default in doing anything required by or under this Act or the rules or the regulations made thereunder,
- The promoter violates any of the terms or conditions of the approval given by the competent authority,
- The promoter is involved in any kind of unfair practices or irregularities.
- The promoter indulges in any fraudulent practices

Reference	Provision	Provisions	Details
Section 7(1)(a)	Default in doing anything required by or under this Act or the rules or the regulations thereof	<ol style="list-style-type: none"> Failure to utilise the funds received for the real estate project (funds diverted or mis-utilised) – Section 4(2)(L)(D) Failure to deliver the possession of the real estate project within the specified time or as extended time as per agreement of sale entered into with the allottees Failure to deliver the possession of the real estate project as per agreement of sale entered with the allottees 	<p>These provisions are mandatory under the RERA Act -</p> <ol style="list-style-type: none"> The defaults of the promoter results in jeopardizing the rights of the allottees in the project. The defaults of the promoter may result delay in completing the development works in the project

RERA

Reference	Provision	Provisions	Details
		<ul style="list-style-type: none"> d) Failure to enter into Agreement of Sale – Section 13 e) Failure to obtain the allottees consent before modification of sanctioned plan and specifications (Section 14) f) Failure to obtain the allottees consent before transfer of rights and liabilities in the project. g) Failure to comply with the orders of the Authority h) Failure to perform or comply with Section 11 of the Act 	
Section 7(1)(b)	Violates any of the terms or conditions of the approval given by the competent authority	<ul style="list-style-type: none"> a) Construction of the project not in accordance with the plans sanctioned b) The construction is hazardous or causes the risk to the environment or inhabitants 	<p>Every real estate project requires approval from the competent authorities.</p> <ul style="list-style-type: none"> a) Which includes planning authorities like Urban Development, DTCP, Municipalities etc b) Approval given by statutory authorities like Fire department, Environmental department, Coastal authorities etc
Section 7(1)(c)	Involved in any kind of unfair practices or irregularities	<p>Statement in writing or by visible representation, which -</p> <ul style="list-style-type: none"> a) Falsely represents that the service is of particular standard or grade <i>E.g., platinum green building or LEED Certified buildings, Energy Star buildings, and Naturally Occurring (or "Zero") Net Buildings.</i> b) Represents that the promoter has approval or affiliation which such promoter does not have – <i>Eg., member of international Real Estate Federation or group</i> c) Makes a false or misleading representation concerning the services <i>E.g., free maintenance for 3 years</i> 	<p>Unfair practice means, a practice which, for the purpose of promoting the sale or development of any real estate project, adopts any unfair method or unfair or deceptive practices.</p> <p>Indulge in unfair marketing.</p>
Section 7(1)(d)	Indulges in any fraudulent practices	Indulges in any fraudulent practices with an intention to defraud the allottees or other stakeholders of the real estate project.	<p>Fraudulent practices may include -</p> <ul style="list-style-type: none"> a) Ponzi schemes b) Multi-level marketing c) Buy back guarantee schemes d) Guaranteed Returns on investments (without having any financial planning)

The Maharashtra Real Estate Regulatory Authority (MahaRERA) has revoked the registration of projects being investigated in the Kalyan RERA scam for allegedly submitting fake commencement certificates for "unfair trade practices," and has ordered that their designated bank accounts associated with the projects be frozen.

Karnataka RERA has published the list of the revoked projects under the following link - <https://rera.karnataka.gov.in/viewAllWithdrawnProjects>

1. If the RERA Authority decides to revoke the registration of a real estate project, it shall send a notice to the promoter stating the reasons for revocation and give the promoter an opportunity to be heard. If the promoter fails to satisfy the RERA authority with the bona fide intention or evidence, the authority proceeds to pass the necessary revocation of the registration of real estate projects granted under section 5 of the RERA Act.
2. Further, the RERA Authority may, instead of revoking the RERA Registration, permit to remain in force subject to such further terms and conditions as it thinks fit to impose in the interest of the allottees and any such terms and conditions so imposed shall be binding upon the promoter.

3. The Authority Upon revocation of the RERA Registration –
 - a. Shall debar the promoter
 - b. Shall specify the promoter's name in the list of the defaulters – BLACKLISTING
 - c. Shall inform to all other state RERA authorities
 - d. Freeze the Bank Account of the RERA designated bank account
 - e. Any other directions in the interest of the allottees or public interest

Conclusion – the revocation RERA registration of the project having far reaching effect on the promoter. The promoter may not be able to continue or carryout any further real estate projects in the state and other states (blacklisting of the promoter). Hence it is important to understand the importance of the various provisions under RERA and adhere from time to time.

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

MCA UPDATES

The Central Government tweaked Anti-money laundering law to include role of CAs, CS, cost accountants now under PMLA. All client transactions done by CAs, CS and CMAs under the five broad categories of financial transactions for clients are brought under the anti-money laundering law namely- buying and selling of immovable property; managing of client money, securities or other assets; management of bank, savings or securities accounts; organisation of contributions for the creation, operation or management of companies; and creation, operation or management of companies, limited liability partnerships or trusts, and buying and selling of business entities.

The Ministry of corporate affairs is set to introduce 30 new online forms for statutory filings under the Companies Act by the end of July, marking the final leg of the transition to an artificial intelligence (AI)-enabled corporate reporting regime including the critical Form AOC-4 and MGT-7.

The MCA has made effective Centre for Processing Accelerated Corporate Exit (CPACE) from May 1st for Companies keen to exit their business for quick regulatory clearance replacing the existing process of striking off of Companies and related forms.

INTELLECTUAL PROPERTY RIGHTS AND PROTECTION IN INDIA INTERNATIONAL ISSUES RELATING TO COPYRIGHTS (PART - XXXIII OF IPR SERIES)



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

IPRs in International Scenario

In the previous part, we have learnt about the avenues available for patent holders to obtain international recognition so that their patents could be protected in the required countries where business is conducted or proposed. As already deliberated, the IPRs are built around National laws and such rights granted are limited to the country of origin/ filing only. For additional protection in different countries, the methods that could be followed by a patent holder has been narrated in the earlier article. Similarly, the international practices and protections available in respect of copyrights are elaborated in this article.

Unlike patents, copyright is easy to obtain but unfortunately, much easier to infringe and remain unpunished. In India, the Copyright comes into existence as soon as a work is created, and no formality is required to be completed for acquiring such rights. Generally, all over the world, the acquisition of copyright is automatic, as it does not mandate registration under the relevant law. However, it is desirable that the author applies and seeks certificate of registration of copyright as it serves as prima facie evidence in a court of law with reference to dispute relating to ownership. The rights granted under Indian Copyright Act 1957 read with Copyright Rules 2013 and the types and the means of protection available for the owners for protection of his/her rights have been deliberated in the earlier parts, which could be referred. The inadequacies of copyright laws for extending protection of rights in the digital world also have been separately narrated. The cyberlaws also have failed to contain the computer crimes including crimes involving IP infringements and violations across the globe.

International Copyrights

The concept of international copyright law does not exist as the Copyright law is territorial in scope and application. Protection against unauthorized use of

work in a country will depends on the national laws of that country. However, certain international copyright treaties and conventions have simplified the process of granting protection to foreign copyright holders. This has allowed the creators and the content owners in different countries to enjoy exclusive rights over their work across the world.

Each country in the world has its own set of copyright laws. However, the flexibility that most countries enjoy in adjusting and enforcing their own laws is limited by a set of international treaties. Copyrights generally persist in literary, artistic, dramatic, and cinematographic works, which through digital technology, can be disseminated globally, instantaneously in a flash with least cost. Hence, the National copyright laws need to address the growing concern of protecting “foreign works” under their national system and recognizing international copyrights.

Intellectual property cannot be covered in the territories in which it is not registered. It is also difficult or not feasible to apply and obtain IP rights in every country. However, many International Conventions have addressed this need of a uniform, global system to ensure international protection of copyrights. The national laws of various countries on copyright may vary to a certain degree. Therefore, it is proper and appropriate, to establish global norms, to understand the policy to be followed by every member country when dealing with international copyright issues. *The “International copyright”* must be understood as a method that must treaded by the owners as well as the national governments, so that it will protect an author’s creations throughout the world.

Arrangements for International Copyright Protection

As stated above many countries offer protection to foreign works under certain conditions, which have been greatly simplified by international copyright treaties and conventions. *In 1999, the International Copyright Order* was formulated in India to protect

the authors/owners of the foreign copyright works and enforce protections beyond the national limits. In India, rights under copyright Act for international extensions are regulated by the supplementary laws, namely the International Copyright Order, 1999.

The Copyright Act of 1957 do not define the term 'foreign works' or 'international copyright' in the Act. However, section 2(l) of the Act defines the 'Indian work' as a literary, dramatic, or musical work where- *'(i) the author of which is a citizen of India; or (ii) which is first published in India; or (iii) the author of which, in the case of an unpublished work is, at the time of the making of the book, a citizen of India. Hence, we can presume that works other than Indian Works fall under the category of 'Foreign Works'.*

Sections 40 to 43 of the copyright Act treats the Foreign Works of the countries mentioned in the International Copyright Order, 1999 as if they were Indian Works, also giving the Central Government power to restrict the rights of foreign authors under certain circumstances. Copyright protection of foreign works in India, achieved through Chapter IX (titled as international copyrights) of the Copyright Act, 1957 and the International Copyright Order, 1999, are available to only those of the countries indicated in the Schedule of the Order *ibid*. Such listed countries are eligible to avail the copyright protection and it is deemed to exist throughout the territory of India.

Section 40 of the Act enables the Central Government to extend copyright to foreign works by publishing an Order in the Official Gazette. The International Copyright Order contains the conditions and formalities for foreign works and a schedule which list out the countries that are eligible for copyright protection in India. The Central Government can extend any or all provisions of the Copyright Act to the works falling under the following categories, thus treating them in a manner as if they were Indian Works, *'(a) Works published in any territory outside India to be treated in a manner as if they were first published in India; (b) Unpublished works whose authors at the time of making the work were subjects or citizens of a foreign country to be treated in a manner as if the authors were Indian citizens. (c) With respect to the domicile of an author in any territory outside India, the Copyright Act will apply to him as if his domicile were in India (d) Any work whose author at the date of the first publication of the work was a subject or citizen of a foreign country, or who was dead at the time of the first publication and a subject or citizen of a foreign country, the Copyright Act will apply to him as if he were an Indian citizen at that date or time'.*

However, this protection accorded by the Indian Government is dependent on the protection accorded by the concerned foreign country to the works of Indian authors. For this purpose, the Copyright Act, 1957 empowers (Section 42) the Central Government to retract any protection or right extended to a foreign work if it is not satisfied that the country of origin of such foreign work has not taken enough steps to protect the works of Indian authors.

The foreign works are treated as if they are Indian works. However, the term of protection accorded in India shall be the same extended to Indian Works and should not exceed the term of protection accorded in the country of origin. This is in consonance with the principle of 'National Treatment'. The term of copyright protection awarded under the national laws across the world differ. To have a uniform approach for the purposes of limitations of time, the following norms are agreed. *'The term of copyright protection in India shall not exceed the term of protection accorded in the country of origin of the foreign work. Also, the term of protection accorded by the foreign country should not exceed the term of protection accorded by India'.*

The enjoyment of the rights accorded by the Copyright Act of 1957 shall be subject to the fulfilment of the formalities and conditions prescribed by the International Copyright Order, 1999. The Copyrights Act further empowers the Union Government to retract or restrict the rights of such foreign works, whose authors are not Indian and not domiciled in India, first published in India when it feels that the concerned country has not reciprocated the protection given by the Indian government by not giving adequate protection to the works of Indian authors. Similarly, section 42A applies to foreign broadcasting organizations and performers which are incorporated in such foreign country or are subjects or citizens of such foreign country and not domiciled in India. Every order made by the Central Government under these provisions shall, as soon as may be after it is made, be laid before both Houses of Parliament (Section 43 of the copyright act) and shall be subject to such modifications as Parliament may make during the session in which it is so laid or the session immediately following.

International Copyright Conventions

After independence, the *Copyright Act 1957* was the first IP legislation passed by the Indian Parliament. The principal act has been amended six times so far and the recent one being the Copyright (Amendment) Act 2012. To secure protection to Indian works in foreign

countries, India has become a member of the following international conventions on copyright and neighbouring (related) rights:

- i. Berne Convention for the Protection of Literary and Artistic works. (Convention of 1886 (modified in 1971 at Paris),
- ii. Universal Copyright Convention (UCC) 1951.
- iii. The Rome Convention of 1961- the Convention for the Protection of Producers of Phonograms against Unauthorised Duplication of their Phonograms.
- iv. Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties.
- v. Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement.
- vi. WIPO Copyright Treaty(WCT).

The copyright conventions/agreements/treaties are focused on the principle that the original creativity or works of the mind, which is the subject matter of protection under copyright law, should be disseminated and distributed regardless of their national borders. The countries that have either ratified, accepted, or acceded to the above-mentioned Conventions and listed in the copyright order, are eligible to avail protection under the Copyright Act, 1957. The relevance of the stated conventions in brief are narrated in the following part.

The Berne Convention for the Protection of Literary and Artistic Works addresses the protection of works as well as the rights of their authors. The Convention requires protection for all creative works in a fixed medium to be automatic. This means that no registration or deposit must be made with a government copyright office to have copyright protection. There are, however, voluntary government registration systems where the copyright owners can register their works, to obtain certain rights and benefits especially in cases of copyright infringement. The fundamental principles on which the copyrights are recognised under the convention are as follows:

- (i) Principle of National Treatment – Works originating in one of the Contracting States (i.e., Works the author of which is a national of such a State or works first published) must be given the same protection in each of the other Contracting States as the latter grants to the works of its nationals.

- (ii) Principle of ‘Automatic’ Protection’ – It means that such national treatment shall not be depending on any formality, i.e., Protection must not be conditional upon compliance with any formality.

- (iii) Principle of ‘Independence’ of Protection – It means that the enjoyment and exercise of the rights in a protected work in a specific country is independent of the existence or nonexistence of protection in the country of origin or any other country.

As India is a signatory to the Berne Convention, copyright protection is available to Indian authors/creators in several countries around the world, even if the work was first published in India. Any work which falls under the categories of literature, drama, music, art, cinematography, sound recordings qualify for copyright protection. The work sought to be copyrighted must be original; however, the work doesn't need to have some original thought or idea. The law is only concerned about the originality of the expression of thought.

Universal Copyright Convention: The UCC covers the author's works who is a national or domiciliary of the country that is a member of these treaties, or the works first published in a member country or published within 30 days of first publication in a Berne Union country may claim protection under them. Under the UCC, any formality in national law must be satisfied using a notice of copyright in the form and position specified in the UCC. The *UCC notice must consist of the symbol © (C in a circle) accompanied by a year of its first publication and the name of the copyright proprietor.* This notice must be placed in such a manner to give reasonable notice of the claim to copyright.

Rome Convention: *Performers* such as actors, musicians, singers, dancers, and those who perform literary or artistic works) are protected against individual acts to which they have not consented, such as broadcasting and communication to the public of a live performance. *Producers of the phonograms* have right to authorize or prohibit the direct or indirect reproduction of their phonograms. In Rome Convention, “phonograms” mean any exclusively aural fixation of sounds of a performance or other sounds. *Broadcasting organizations* have right to authorize or prohibit certain acts, namely the rebroadcasting of their broadcasts, the fixation of their broadcasts and the reproduction of such fixations.

Trade-Related Aspects of Intellectual Property Rights (TRIPs): The said agreement was signed by India in the year 1996. It is administered by (WTO) World Trade Organization. The agreement, among others, includes the number of provisions related to the enforcement of IP rights. An exclusive article narrating the impact of TRIPs on the Indian IP system are planned in the coming part. The principle embedded declares that the national laws must make the effective enforcement of IP rights possible and describe how implementation should be addressed in detail.

Copyright of nationals of countries who are members of the Berne Convention for the Protection of Literary and Artistic Works, Universal Copyright Convention and the TRIPs Agreement are protected in India through the International Copyright Order. A list of such countries is at Appendix- IV.

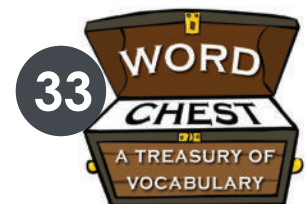
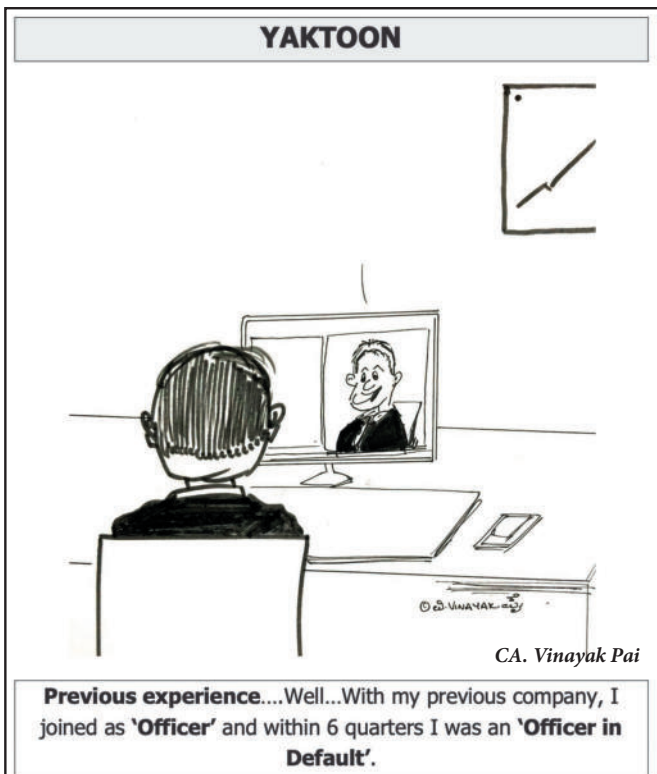
The WIPO Copyright Treaty (WCT) is a special agreement under the Berne Convention that deals with the protection of works and the rights of their authors in the digital environment. The WCT mentions two subject matters to be protected by copyright: (i) computer programs, whatever the mode or form of their expression; and (ii) compilations of data or other material ("databases"), in any form, which, by reason of the selection or arrangement of their contents, constitute intellectual creations.

As to the rights granted to authors, apart from the rights recognized by the Berne Convention, the Treaty also grants: (i) the right of distribution; (ii) the right of rental; and (iii) a broader right of communication to the public.

The Treaty obliges Contracting Parties to provide legal remedies against the circumvention of technological measures (e.g., encryption) used by authors in connection with the exercise of their rights, and against the removal or altering of information, such as certain data that identify works or their authors, necessary for the management (e.g., licensing, collecting and distribution of royalties) of their rights ("rights management information"). The Treaty obliges each Contracting Party to adopt, in accordance with its legal system, the measures necessary to ensure the application of the Treaty. In particular, each Contracting Party must ensure that enforcement procedures are available under its law so as to permit effective action against any act of infringement of rights covered by the Treaty. Such action must include expeditious remedies to prevent infringement as well as remedies that constitute a deterrent to further infringement.

The international efforts for seeking extended IP rights around the world will be further deliberated in the coming part.

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



RegTech

RegTech Regulatory technology, sometimes known as **RegTech**, is the use of information technology within the financial services industry to enhance the regulatory processes. Within **RegTech**, the main functions include compliance, reporting, and regulatory monitoring amongst others. **RegTech** largely consists of companies using cloud computing technology to help comply with financial regulations more efficiently and cost-effectively.



AUDIT TRAIL UNDER THE COMPANIES ACT, 2013



CA. Kamal Garg

1. Introduction

The Ministry of Corporate Affairs ("MCA"), in its endeavour to fortify the integrity of financial reporting had amended the Companies (Accounts) Rules, 2014 ("Accounts Rules") requiring companies to ensure that the accounting software used to maintain books of accounts has the following features and attributes:

- recording audit trails for each & every transaction;
- logging the edits made to the book of accounts along with the date when such an edit was made; and
- ensuring that the audit trail cannot be disabled.

For this purpose, the following proviso had been inserted in Rule 3(1) of the Accounts Rules vide the Companies (Accounts) Amendment Rules, 2021, w.e.f. 1-4-2021:

"Provided that for the financial year commencing on or after the ¹[1st day of April, 2023], every company which uses accounting software for maintaining its books of account, shall use only such accounting software which has a feature of recording audit trail of each and every transaction, creating an edit log of each change made in books of account along with the date when such changes were made and ensuring that the audit trail cannot be disabled."

Further, the Companies (Audit and Auditors) Rules, 2014 ("Audit Rules") had also been correspondingly modified and clause (g) was inserted to Rule 11 of the aforesaid rules. The auditors herein are now required to report, as part of the auditor's report, as to whether, the accounting software used by the company being audited has the feature of recording audit trail (edit logs), the audit trail feature was operational throughout the financial year and had not been tampered with and such audit trails have been retained for the period as statutorily prescribed. Rule 11(g) as inserted by the Companies (Audit and Auditors) Amendment Rules, 2021, w.e.f. 1-4-2021, is reproduced below:

"Whether the company, in respect of financial years commencing on or after the 1st April, 2022, has used such accounting software for maintaining its books of account which has a feature of recording audit trail (edit log) facility

and the same has been operated throughout the year for all transactions recorded in the software and the audit trail feature has not been tampered with and the audit trail has been preserved by the company as per the statutory requirements for record retention."

Applicability

Responsibility of	Relevant Provision	Applicability Date and Remarks
Management of the Company	Proviso to Rule 3(1) of the Companies (Accounts) Rules, 2014	<p>Applicability Date: 1st day of April 2023</p> <p>Remarks: This requirement was inserted by the Companies (Accounts) Amendment Rules 2021 vide notification G.S.R. 205(E) dated 24th March 2021 w.e.f. 1st April 2021. Then this was substituted for 1st day of April 2022 by the Companies (Account) Second Amendment Rules 2021 vide notification G.S.R. 247(E) dated 1st April 2021 and again substituted for "1st day of April 2023" by the Companies (Account) Second Amendment Rules, 2022 vide notification G.S.R. 235(E) dated 31st March 2022.</p>
		It may be noted that this new requirement for companies has been prescribed under the proviso to Rule 3(1) of the Companies (Accounts) Rules, 2014 requiring

¹ Substituted for "1st day of April, 2022" by the Companies (Accounts) Second Amendment Rules, 2022, w.e.f. 31-3-2022. Earlier said quoted words were amended by Companies (Accounts) Second Amendment Rules, 2021, w.e.f. 1-4-2021.

Responsibility of	Relevant Provision	Applicability Date and Remarks
		companies, which use accounting software for maintaining their books of account, to use only such accounting software which has audit trail feature. This requirement for companies was initially made applicable for financial year commencing on or after April 1, 2021. However, its applicability has been deferred two times and this requirement is finally applicable from April 1, 2023.
Statutory Auditor of the Company	Rule 11(g) of Companies (Audit and Auditors) Rules, 2014	Applicability Date: 1st day of April 2022 Remarks: This requirement was initially made applicable for the financial year commencing on or after the 1st day of April 2021 vide notification G.S.R. 206(E) dated March 24, 2021. However, the applicability was deferred to financial year commencing on or after April 1, 2022, vide MCA notification G.S.R. 248(E) dated April 1, 2021.

1. On which entities audit trail requirements is applicable

The reporting requirements have been prescribed for audit of financial statements prepared under the Act. Accordingly, auditors of all class of companies including section 8 companies would be required to report on these matters. As per the Companies (Registration of Foreign Companies) Rules, 2014, the provisions of “Chapter X of the Act: Audit and Auditors” and Rules made there under apply, mutatis mutandis, to a foreign company as defined in the Act. Accordingly, the above reporting requirements would be applicable to the auditors of foreign companies as well. In simple words, as per the Companies Act 2013, these requirements shall be applicable to the following companies, including the companies that are managed by State and

Central Government, NGOs who are receiving funds from various stakeholders:

- All Public and Private Limited Companies
- One Person Companies (OPCs)
- Companies owned by Government of India
- State Government Companies
- Not-for-Profit Companies/Organization [Section 8 companies]
- Nidhi Companies

The following entities hence don't fall under the purview of the audit trail rule:

- Individuals
- Proprietorship concerns
- Partnership firms
- Limited Liability Partnership
- HUFs/ AOPs/ BOI
- Cooperative Societies
- Societies registered under Societies Act, 1860
- Trusts

2. Manual book keeping and audit trail

The requirements of audit trail are applicable to the extent a company maintains its records in the electronic form by using an accounting software. Thus, where the books of account are entirely maintained manually – the assessment and reporting responsibility under Rule 11(g) will not be applicable and accordingly, same would need to be reported as statement of fact by the auditor against this clause.

3. Standards on Auditing w.r.t. audit-trail consideration

Various Standards on Auditing (SAs) may have to be contemplated by the auditors while reporting for the usage of audit-trail compliant software by the companies. Such as:

Relevant SAs		Audit Trail connection
SA 200	Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with Standards on Auditing	Rule 11(g) of casts responsibility on the auditor in terms of reporting on audit trail by making a specific assertion in the audit report under the section 'Report on Other Legal and Regulatory Requirements'.

Relevant SAs		Audit Trail connection
SA 210	Agreeing the Terms of Audit Engagements	While formularising letter of engagement, the reporting about audit trail and access to various underlying electronic records thereto should be clearly specified
SA 220	Quality Control for an Audit of Financial Statements	Evaluating the integrity of the principal owners, key management and those charged with governance of the entity. This will assist in deciding whether to continue an existing engagement, and when considering acceptance of a new engagement with an existing client.
SA 230	Audit Documentation	Recording the identifying characteristics of the audit trail compliant software
SA 240	The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements	Audit Procedures Responsive to Assessed Risks of Material Misstatement Due to Fraud at the Assertion Level such as auditor may choose to use computer-assisted audit techniques to gather more evidence about data contained in significant accounts or electronic transaction files.
SA 250	Consideration of Laws and Regulations in an Audit of Financial Statements	Statutory requirements for record retention vis-à-vis audit trail
SA 260	Communication with Those Charged with Governance	The auditor may confirm that those charged with governance have the same understanding of the facts and circumstances relevant to specific transactions or events

Relevant SAs		Audit Trail connection
SA 265	Communicating Deficiencies in Internal Control to Those Charged with Governance and Management	In determining whether the auditor has identified one or more deficiencies in internal control, the auditor may discuss the relevant facts and circumstances of the auditor's findings with the appropriate level of management. This discussion provides an opportunity for the auditor to alert management on a timely basis to the existence of deficiencies of which management may not have been previously aware. Certain identified significant deficiencies in internal control may call into question the integrity or competence of management. For example, there may be evidence of fraud or intentional non-compliance with laws and regulations by management, or management may exhibit an inability to oversee the preparation of adequate financial statements that may raise doubt about management's competence. Accordingly, it may not be appropriate to communicate such deficiencies directly to management.
Revised SA 299	Joint Audit of Financial Statements	Identify division of audit areas and common audit areas amongst the joint auditors that define the scope of the work of each joint auditor

Relevant SAs		Audit Trail connection
SA 300	Planning an Audit of Financial Statements	Ascertain the nature, timing and extent of resources necessary to perform the engagement.
SA 315	Identifying and Assessing the Risks of Material Misstatement Through Understanding the Entity and Its Environment	Evaluating the risks arising say due to inadequate access controls over automated records, including controls over and review of computer systems event logs
SA 320	Materiality in Planning and Performing an Audit	Materiality and audit risk are considered throughout the audit. The auditor obtains reasonable assurance by obtaining sufficient appropriate audit evidence to reduce audit risk to an acceptably low level. The risk of tampering audit trail or non operation of software throughout the year may impact assessment of materiality
SA 330	The Auditor's Responses to Assessed Risks	Dealing with the risks arising say due to inadequate access controls over automated records, including controls over and review of computer systems event logs
SA 402	Audit Considerations Relating to an Entity Using a Service Organisation	Many entities outsource aspects of their business to organisations that provide services ranging from performing a specific task under the direction of an entity to replacing an entity's entire business units or functions. This Standard on Auditing (SA) deals with the user auditor's responsibility to obtain sufficient appropriate audit evidence when a user entity uses the services of one or more service organisations

Relevant SAs		Audit Trail connection
SA 450	Evaluation of Misstatements Identified During the Audit	Misstatements may result from an inaccuracy in gathering or processing data from which the financial statements are prepared.
SA 500	Audit Evidence	Audit evidence includes both information contained in the accounting records underlying the financial statements and information obtained from other sources.
SA 505	External Confirmations	Audit evidence obtained as a direct written response to the auditor from a third party (the confirming party), in paper form, or by electronic or other medium could be helpful in corroborating audit trail.
SA 510	Initial Audit Engagements – Opening Balances	This Standard on Auditing (SA) deals with the auditor's responsibilities relating to opening balances when conducting an initial audit engagement. In addition to financial statement amounts, opening balances include matters requiring disclosure that existed at the beginning of the period, such as contingencies and commitments.
SA 520	Analytical Procedures	Analytical procedures also encompass such investigation as is necessary of identified fluctuations or relationships that are inconsistent with other relevant information or that differ from expected values by a significant amount. This could be helpful in corroborating audit trail.

Relevant SAs		Audit Trail connection
SA 530	Audit Sampling	The application of audit procedures to less than 100% of items within a population of audit relevance such that all sampling units have a chance of selection in order to provide the auditor with a reasonable basis on which to draw conclusions about the entire population.
SA 540	Auditing Accounting Estimates, Including Fair Value Accounting Estimates, and Related Disclosures	The measurement objective of accounting estimates can vary depending on the applicable financial reporting framework and the financial item being reported. The degree of estimation uncertainty affects, in turn, the risks of material misstatement of accounting estimates, including their susceptibility to unintentional or intentional management bias.
SA 550	Related Parties	The auditor has a responsibility to perform audit procedures to identify, assess and respond to the risks of material misstatement arising from the entity's failure to appropriately account for or disclose related party relationships, transactions or balances in accordance with the requirements of the framework. The accounting records may be modified to conceal RPTs and such modification is nothing but tampering of audit trail

Relevant SAs		Audit Trail connection
SA 560	Subsequent Events	Respond appropriately to facts that become known to the auditor after the date of the auditor's report, that, had they been known to the auditor at that date, may have caused the auditor to amend the auditor's report.
SA 570	Going Concern	When performing risk assessment procedures as required by SA 315, the auditor shall consider whether events or conditions exist that may cast significant doubt on the entity's ability to continue as a going concern. In so doing, the auditor shall determine whether management has already performed a preliminary assessment of the entity's ability to continue as a going concern. The accounting records may be modified to substantiate the management's assessment about going concern and such modification is nothing but tampering of audit trail
SA 580	Written Representations	Take written representations as to the management's assertions. It is the management, who is primarily responsible for ensuring selection of the appropriate accounting software for ensuring compliance with applicable laws and regulations (including those related to retention of audit logs).

Relevant SAs		Audit Trail connection
SA 600	Using the Work of Another Auditor	Relevant for the main auditor while reporting on the consolidated financial statements after considering the audit report of subsidiaries, JVs and associates.
SA 610	Using the Work of Internal Auditors	Relevant for the main auditor while evaluating the internal auditor's findings w.r.t. audit trail
SA 620	Using the Work of an Auditor's Expert	Relevant for the main auditor while evaluating say the system auditor's findings w.r.t. audit trail

4. Meaning of expression 'all transactions recorded in the software'

The [Implementation Guide]² on Reporting under Rule 11(g) issued by Auditing and Assurance Standards Board of the Institute of Chartered Accountants of India, stipulates that:

- The expression 'all transactions recorded in the software' would refer to all transactions that result in change to the books of account. For example, creation of a user in the accounting software may be construed as a transaction in the software. However, creating a user account in the accounting software would not change the records of books of account as defined in Section 2(13) of the Act whereas adding a new journal entry or changing an existing journal entry will be construed as a change made in books of account.
- Giving due cognizance to the definition of "books of account" as envisaged under Section 2(13) of the Act and Rule 3 of the Account Rules which provides for the management responsibilities for maintenance of books of account and other relevant books and papers maintained in electronic mode, the auditor would be expected to check whether the audit trail is enabled for such transactions which result in a change to the books of account.

5. Open Issues

Though the Implementation Guide (*supra*) has clarified many issues but the aforesaid guidance has still not provided comprehensive guidance on the following matters, namely:

- a) Difference in financial years for accounting (FY 2023-24) and auditing (FY 2022-23) – a conundrum

- b) Audit trail for books of accounts or accounting software
- c) Whether need to assess appropriateness of audit trail may arise retrospectively
- d) Accounting Software – one for books of accounts and another for financial statements
- e) Consolidated financial statements
- f) Using the accounting software which is supported by service providers
- g) Internal controls and audit approach for assessing the appropriateness of audit trail vis-à-vis Section 143(3)(i) of the Companies Act, 2013
- h) Retention of audit trail
- i) Audit trail operated throughout the year for all transactions recorded in the software
- j) Management's Responsibility and Directors' Report
- k) Risk assessment in IT environment

The extant and the forthcoming audit period is going to have glaring challenges both for the auditor as well the auditee. The 'audit trail' is going to be tested over the 'time trail'.

² Source: <https://resource.cdn.icaai.org/73438aasb59254.pdf?fm=pdf>

Author can be reached at :
cakamalgarg@gmail.com

KSCAA REPRESENTATION

Representation to The commissioner of Commercial Tax on glitches and erratic behaviour of the recently developed website.

For full text of above representation,
please visit : www.kscAA.com

CARBON BORDER ADJUSTED MECHANISM



CA. Aditya Kumar S

Background: “In this world nothing is certain, but death and taxes”, the words of Benjamin Franklin seems to be true. Various innovative methods are explored to tax and garner revenue to the government at different points of time. In India, Income Tax and Goods and Service Tax are the two biggest forms of taxes amongst others. Well, we now see Carbon Tax being levied in various countries. A carbon tax is a tax levied on the carbon emissions required to produce goods and services. Carbon taxes are intended to make visible the “hidden” social costs of carbon emissions, which are otherwise felt only in indirect ways like more severe weather events.¹ This is also another way to discourage non-efficient use of resources and those which could further deteriorate the environment.

Countries which have Carbon Tax or similar taxes: There are close to 23 countries who have implemented carbon taxes or similar in nature starting from Finland in 1990, Norway and Sweden in 1991, Denmark in 1992 and others followed. India does have shades of Carbon taxes levied for example Green Cess in Goa, Eco Tax on Vehicles in Mussoorie, etc.,

The European Union (‘EU’) introduced ‘Carbon Border Adjusted Mechanism’ (‘CBAM’) for goods entering their borders. The CBAM aims to reduce or bridge the gap between cheaper imports and domestic goods, especially from those economies who have disregard to environment. CBAM is expected to have negative impact on any country’s exports of metals such as iron, steel, aluminum, etc., and later extend it to polymers, chemicals, fertilizer, even electricity. EU proposes 20% to 35% on select imports in from 2026, which would increase the cost of exports and hence would impact the competition. EU importers² will buy carbon certificates as CBAM certificates, corresponding to the carbon price that would have been paid, had the goods been produced

¹ https://en.wikipedia.org/wiki/Carbon_tax

² https://assets.ey.com/content/dam/ey-sites/ey-com/en_in/topics/tax/2021/ey-carbon-border-tax-adjustment-everything-but-not-tax.pdf

under the EU’s carbon pricing rules. Conversely, once a non-EU producer can show that they have already paid a price for the carbon used in the production of the imported goods in a third country, the corresponding cost can be fully deducted for the EU importer. The price of CBAM certificates is expected to be updated on a weekly basis, unlike the price of EU allowances which changes based on auctions.

The Scope of CBAM include imports from non-EU countries, those who have participated in Emission Trading System (ETS) and countries generating electricity in and imported from countries that wish to integrate their energy market with EU.

Indian Scenario: India is one of the largest emitters of CO₂ after China and the United States. This is expected to increase over a period because the country is growing and there is growing demand for energy to augment the requirements of increasing infrastructure and other facilities. At the same time, India is also putting its efforts to contribute to Green Energy initiatives with the National Action Plan on Climate Change, the National Solar Mission and the Clean Energy Fund also including to meet the international commitments like the Paris Agreement. One hand we are looking for more energy and, on another hand, we are also trying to see how our growth is not compromised because of traditional energy source constraints and hence looking out for new and sustainable energy sources (exciting space to be in, actually). Schemes like Perform Achieve and Trade (PAT) by the Govt. of India will help to achieve energy efficiency targets.

Excerpts from Annual Reports:

Jindal Steel Power Limited³: Carbon-Neutral economy - Government is taking steps to make Steel sector carbon neutral. It is looking for projects for coal gasification and converting coal into chemicals. With steep rise in

³ <https://www.indiafoline.com/company/jindal-steel-power-ltd/management-discussions/20287>

input prices, Indian products are unable to compete in global environment. With the proposed Carbon Border Adjustment Mechanism (CBAM) or the EU Carbon Tax the costs will rise further.

Vedanta Iron and Steel Limited: While currently Vedanta does not have a large EU market, however, if the CBAM price comes into picture, and if our intensity remains the same then the landed cost of aluminium could nearly double for VAL. This is excluding the transportation and other import costs. This has a potential to make the product uncompetitive for the EU market. However, as per our Net Zero commitment and strategy we aim to reduce the GHG intensity of our aluminium and iron & steel by more than 80% thereby reducing impact of CBAM.

JSW Steel Limited: As one of the leading producers of steel in India, it is important for JSW Steel to adopt technologies and low carbon pathways that are compatible with the goals of the Paris Agreement. This is why when it comes to the assessment of transition risks, JSW Steel is currently considering the use of the International Energy Agency's (IEA) Stated Policy Scenario (STEPS) and Sustainable Development Scenario (SDS) which consider the 2oC limiting goal of the Paris Agreement. With these scenarios, JSW Steel is currently exploring the various policy, market, technology, and reputational risks and opportunities that are likely to be associated with various climate-related elements such as upcoming climate-related regulations (e.g., EU CBAM), market trends (e.g., increased demand for low carbon steel) and a transition towards low carbon technologies (e.g., increased use of hydrogen as a fuel), amongst others.

Not only the large industries, but MSME involved in the similar business or in the value chain of the above would be impacted.

How CBAM will impact India?

The impact of CBAM would vary for each geography depending on the kind of economic and trade laws they have with EU, whether they are predominantly manufacturing driven or service, dependence on foreign market etc., As far as India is concerned, it is growing to be one of the prominent trading players with EU and therefore should also consider CBAM impact on

⁴ <https://www.vedantalimited.com/img/homepage/TCFD-FY2022.pdf>

⁵ <https://www.jsw.in/groups/sustainability-framework-measuring-success-climate-change>

its business and economy. Indian companies have the risk of being not competitive and thereby lose the global market. For now, there are few products covered or sector but, in the future, it could add up to more sectors as well. Apart from EU, other geographies like US are also considering similar mechanisms, and therefore we need to see the issue from a broader perspective. Companies are increasingly adopting Science Based Targets to reduce emissions sync to Paris Agreement further initiatives like India Hydrogen Alliance etc., would act like a catalyst in helping the industry to be more competitive and sustainable.

How should business be ready for CBAM?

Here we can make business more sustainable by bringing in innovative technologies and adopting cleaner energy. Suggested that we have the following steps:

1. Have an insight into business including what kind of exposure the business has in these geographies and possible exposure in the future depending on the current business plan.
2. Include this exposure also as part of strategic risk which could impact business in the long run and integrate with risk management policies of the entity.
3. Need to review the existing processes and evaluate how much carbon footprint is being generated out of the current activity. It could be beyond core manufacturing activity also. Though there are host of tools available online which may be used but then always better to take help of an expert in ensuring that all the activities are covered holistically.
4. Once we have the carbon footprint ready, we now must have a strategy to reduce the same and possibly use:
 - a. Green energy.
 - b. Looking into restructuring the activities to reduce the current carbon footprint.
 - c. Consider use of alternative supplies or materials to replace the current ones.
 - d. Can there be a rejig of the manufacturing process?

- We also need to look at what our supply chain is doing and those with possible 'embedded emissions' (see box) in the input for the manufacture.

Case of 'embedded emissions.: A product undergoes a manufacturing process which also include the use of raw materials, labor and overhead. The Greenhouse Gas Emissions ('GHG') could happen at all stages:

- In the manufacture of raw materials, which is controlled by the Vendor.
- By the manufacturer, who controls the manufacturing process.
- At the transportation level – either for procuring raw materials or movement of finished goods, etc.,

Therefore, emission of GHG at every level of production and in the value, chain is considered for calculating the emissions which are included in the production process. Hence, the business now needs to investigate the GHG of not only their own manufacturing or production process, but their vendors, transporters, etc., i.e., including all the value chain partners.

- Lot needs to be done at the value chain partner level, including educating, and bringing awareness in them as to how critical are there operations in the entire business cycle, partner with them to see what best can be done to reduce the carbon footprint at each stage and agree upon certain goals to be achieved which would be monitored closely.

There are also regulations which would require imports into the EU subject to the CBAM with a special authorization and be made by an authorized CBAM declarant who normally be the person performing other import obligations prior to release for free circulation in the EU. Companies would have to ensure that they have satisfactory import arrangements in the EU to comply with these requirements further to maintenance of records of embedded emissions and carbon footprint and duly verified by an accredited agency. We do see increase in documentation, compliance and processes involved going forward which business must include in their planning process as well.

Professional Opportunities:

- Carbon Footprints – Support the business to identify the source of carbon footprint, collate the information

and analyze the data across the entity which includes the entity's activities and its' value chain partners.

- Advise on the GHG Accounting and Reporting standards to the extent applicable.
- Preparation of Environmental Reports including energy usage, energy mix, consumption of water and other resource, climate risk mitigation, supporting decision making to create long term value.
- Advising the client on disclosure of climate-related information required by law.
- Review of the entity's governance system to ensure they are aligned to the climate change and reporting risks including making the right strategy, identifying key performance indicators and steps to be taken to achieve them and participate actively in risk management aspects.
- Advise on various Government led initiatives and explore how industry can use them to their advantage and achieve their objectives.

Conclusion: The impact of these type of arrangements would impact the international trade and business and could also influence the geo-political relationship between various countries. The rules of the international business could be redrawn. But then business should continue since it has its own responsibilities towards its stakeholders including the people and country, and hence should tune up itself to the new regime and look at how best the adversity can be looked into as an opportunity.

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

DUE DATES FOR THE MONTH OF MAY 2023

1	2	3	4
5	6	7	8
		1. Income Tax : TDS Payment, April 2023 2. FEMA - ECB-2, April 2023	
9	10	11	12
	1. GST - GSTR-7 & GSTR-8, April 2023	1. GST - GSTR-1, April 2023	
13	14	15	16
1. GST - GSTR IFF, April 2023		1. ESI & PF payment, April 2023 2. Issue of TDS Certificate 194-IA, March 2023 3. Issue of Annual TDS Certificate on rent above 50,000 pm : 194IB, March 2023 4. Issue of TDS Certificate - 194M, March 2023 5. Quarterly Statement of TCS, Jan - March 2023	
17	18	19	20
			1. GST - GSTR 5 & 5A, April 2023 2. GST - GSTR 3B April, 2023
21	22	23	24
25	26	27	28
1. GST - PMT- 06 : Deposit of GST of April 2023 under QRMP Scheme.			1. GST - GSTR-11 : Return for April by persons with Unique Identification Number (UIN).
29	30	31	
	1. LLP Form 11, FY 2022-23 2. Companies - FC-4 & PAS-6 3. Income Tax - Form 26QB / 26QD / 26QE / 27D, April 2023	1. Income Tax - Form 61A / 61B / 26QF / 10BD / 24Q / 26Q / 27Q	

KSCAA Welcomes New Members - March & April 2023

Sl. No.	Name	Place
1	Ashok Kumar	Bengaluru
2	Apoorva S Jain	Bengaluru
3	Madhusudan V	Bengaluru
4	Puneeth B K	Hassan
5	K Gopikaa	Bengaluru
6	Sathvik Janardhan	Bengaluru
7	Veeral Arvind Jainw	Bengaluru
8	Uttam Kumar B	Bengaluru
9	Rahul R Kothari	Bengaluru
10	Neeraj Agarwal	Bengaluru
11	N Murali Mohan	Bengaluru
12	Jayanth Gowda K R	Bengaluru
13	N Udhaya Ravi	Bengaluru
14	Puneeth Kumar L	Bengaluru
15	Sagar Shetty	Udupi
16	Sai Raghavendra Sumanth T	Bengaluru
17	Prashanth Y N S	Bengaluru
18	Ujwal J S	Bengaluru
19	Bharath Natarajan	Bengaluru
20	Shashi Kumar C G	Bengaluru
21	Anil Kumar	Bengaluru
22	Maniteja Maridi	Bengaluru
23	Dilip Kumar Sumit	Bengaluru
24	Pallineni Sreenivasulu	Bengaluru
25	Kalyanasundaram Subbalakshmi	Bengaluru
26	Abhishek Madhava Acharya	Udupi
27	K M Ranjith	Bengaluru
28	Suresh Choudhary	Bengaluru
29	Raviteja Bunga	Bengaluru
30	Ruchi Agrawal	Bengaluru
31	Darshan Bhat	Bengaluru

SUDOKU-33

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



Karnataka State Chartered Accountants Association



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Leadership & Skill Development Committee

CA. Siddharth Javali - Chairman CA. Herambha Hegde - Convenor





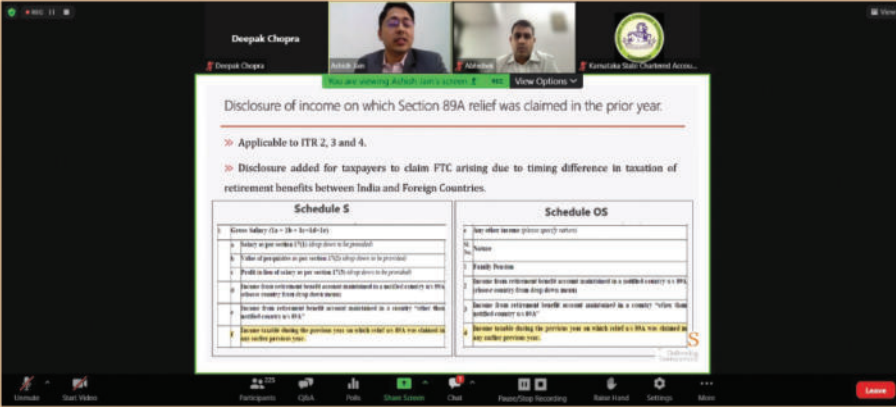
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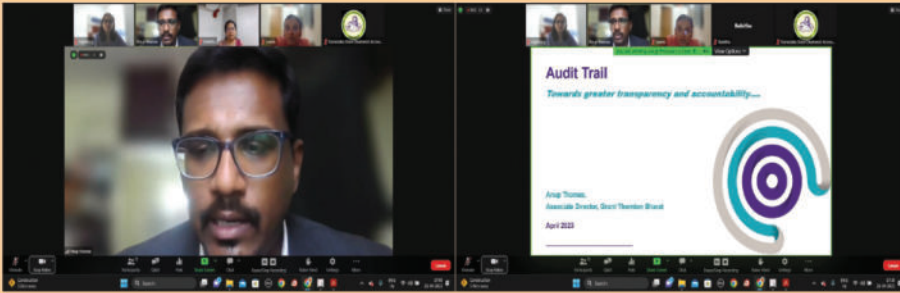
Photo Gallery



KSCAA Shorts | Webinar on Changes in Income Tax Returns for AY 23-24 conducted on 14-04-2023 | organised by Direct Tax committee of KSCAA



Eloquent Professionals Meetings held on Saturdays at KSCAA office



KSCAA Shorts | Webinar on Analysis of Audit Trail conducted on 21-04-2023 organised by Women Empowerment committee of KSCAA

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- Assist in generation of HSN wise reporting in Table 17 of GSTR 9.
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- Creative and Divergent thinking.

Price

For KSCAA Members	Before 14 th May	After 14 th May
Members below 35 years Age	14000	15000
Members above 35 years Age	15000	16000

Delivery Methods

- Real life Case Studies of professions.
- Story Telling & Theatrical Plays.
- Self-Introspection and immersions.
- Self-Presentations and team work.



Place: Vivid Earth Resorts, Bandipur
Dates: 26th to 28th May 2023

CA. Pramod Srihari
President

CA. Vijaykumar M Patel
Secretary

Leadership & Skill Development Committee

CA. Siddharth Jawali
Chairman

CA. Herambha Hegde
Convenor