



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

NEWS BULLETIN

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Recraft **yourself**

From the President

Dear Readers,



It is indeed a matter of pride and pleasure for me to share my thoughts through this column as the first woman and 51st President of KSCAA. I express my sincere gratitude and thanks for reposing your trust and confidence in me. It is heartening to have received so many compliments from well wishers all over the country. I express my thanks and I am confident that with all your wisdom, guidance and encouragement, and with the support of my team of office bearers and Executive Committee members, my predecessors, I will be able to achieve greater heights and glory for the profession and to the Association.

The theme for the new term 2023-24 is “Recraft Yourself”. As we know, humans are the only species to have this special gift of being able to introspect and change themselves. Our hands sculpt and chisels, and our mind gives the shape. As members of an open society, life throws lot of opportunities and choices. But those choices have to be made by us. As Buddha declared, “The mind is everything. What you think you become”.

The first step in recrafting is our inner conviction that we need to change. This is the toughest bridge to cross. It prefers to excuse and sway away from responsibilities and accountability. There must be a clear intent and inner call for action to recraft and should not be an escape mechanism or a coverup for existing failures. The inner conviction should release us from the inner prison that we lay trapped in.

The second step in recrafting is to decide how far from the tree should the apple fall. There is a general fear that, after certain years of professional practice, embarking on a new path is difficult. Should we stick to incremental changes or should we take a deep breath and jump into the big unknown? In many cases, a safe choice is a warm refuge. We end up sticking on to what we are familiar with, with minor changes. We often take a long run-up, but as we come closer to the line, we hesitate, and refuse to plunge into new terrain, do unfamiliar things, or build new skills.

I would like to draw reference of the words of S.S. Lewis, “You can't go back and change the beginning, but you can start where you are and change the ending.”

Based on this reference of “Recraft” and the first two steps, I would like to focus our activities for the year 2023-24 to be “from here to where?” To begin with, we wish to define a process for achieving these steps.

As part of this year's theme, “Recraft Yourself”, we will be using the template of 5 Ds, to achieve the same.

1. Discover - Mine the landscape for new opportunities
2. Deliberate - Prioritize, rank the opportunities
3. Determine - Pick your choices with help of a mentor and with available tools
4. Develop - Polish and sharpen your Mindset, Skillset and toolset.
5. Deliver – Actions speak louder than words.

Moving on, in my acceptance address at the AGM held on 18th August 2023, I had highlighted the focus areas, and the Annual Plan for 2023-2024 was placed before the members. I would like to reinforce a few of them here for the benefit of readers:

- 1) Using new age technology, the membership base would be broadened.
- 2) Every sincere attempt would be made to organise programs in the mofussil areas.
- 3) Legal cell: We are constituting a Legal Cell to provide legal assistance to our members in case of any professional disputes between members or with clients. The members would be offered free and fully confidential first consultation if the case is under review by ICAI – Disciplinary Committee. A panel of Legal and Code of Conduct & Ethics advisors are onboarded.
- 4) With an aim to attract young talent into our profession, Young Member Club is launched during the month. This will bring in more energy and make the association more vibrant in the years to come.

Events:

Exciting events are coming up in the month of September 2023. There is a Study Circle meeting on GST, lecture sessions on Audit, Court room series on GST and many more such events. Please keep a watch on our website and WhatsApp to participate in the meetings of your preference.

Before I sign off, let me share my gratitude to my teachers on the occasion of TEACHERS DAY whom I carry in my heart all the time, without whom no professional would have been shaped. It is said that it is a good student who introduces the teacher to the world. Let us be the good student of this profession and let's bring a great reputation to our teachers.

Thank you,
Best Regards,
CA Sujatha G
President.

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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

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Disclaimer

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INCOME TAX UPDATES

JUDICIAL UPDATES

ITAT

1. Where assessee made contribution to Turf Authorities of India for conducting an event, since payments were made before said event to meet expenses to conduct event, said contributions would not attract TDS.

(Mysore Race Club Ltd. v. ACIT) [141 taxmann.com 82 (Bangalore - Trib.)]

2. Where Assessing Officer while issuing intimation under section 143(1)(a) made adjustment on account of disallowance of payment made to club, since auditor had given details of payment made to various clubs during year under consideration which were in nature of subscription and had nowhere pointed that expenditure was disallowable, in such a situation, no adjustment with respect to disallowance payment made to club could have been made by Assessing Officer in intimation issued under section 143(1).

(Ansal Housing Ltd. v. DCIT) (153 taxmann.com 102 (Delhi - Trib.))

3. Where assessee-trust had substantially satisfied all conditions for availing benefit of exemption under section 11/12, exemption could not have been denied due to belated filing of audit report in Form No. 10B.

(Navbharat Charitable Trust v. ITO) (150 taxmann.com 311 (Surat-Trib.))

4. Where even though high rank officers of HUDA had absolute powers in terms of taking decision pertaining to any matter relating to assessee-club, in view of fact that surplus earned by it was to be expended for common benefits of club members or for carrying out objectives of club, benefit of mutuality was to be granted and, consequently, surplus fund earned by club could not be brought to tax.

(Income Tax Officer, Ward-2, Panchkula v. Gymkhana Club)[87 taxmann.com 333 (Chandigarh - Trib.)]

High Court

1. Where assessee a recreational club received certain sum as rent from a corporate member of club, for occupation of a portion of club premises, since subject transaction pointed towards applicability of principle of mutuality which was not taken into consideration by lower authorities, matter would

be remanded back to Tribunal for fresh decision by taking into account all disclosures of facts made before adjudicating authorities.

(Saturday Club Ltd. v. PCIT) (153 taxmann.com 370 (Calcutta)).

2. Recording of satisfaction note is pre-requisite and same must be prepared by Assessing Officer of searched person before he transmits record to other Assessing Officer who has jurisdiction over such other person under section 153C.

(PCIT v. Gali Janardhana Reddy)[454 ITR 467] (Kar)

3. Amendment to provisions section 43D as introduced by Finance Act, 2017, with effect from 1-4-2018, is retrospective in nature and, thus, assessee was required to tax interest on NPAs on receipt basis and not on accrual basis.

(PCIT v. Kangra Central Co-op Bank Ltd) [145 taxmann.com 357 (Himachal Pradesh)]

Supreme Court

1. Where there is no incriminating material unearthed during the search no addition is permissible for such years. Completed or unabated assessments can be reopened under section 147 or section 148. (PCIT v. Abhisar Buildwell P. Ltd)[454 ITR 212].
2. For claiming exemption under section 10(23C) (vi) the activity of the assessee must be solely for educational purpose. Finding that assessee earned profits at 67.81 % without depreciation and 44.48 % with depreciation, the assessee is not entitled to the exemption. (UOI v. Baba Banda Singh Bahadur Education Trust)[454 ITR 273 (SC)]

From CBDT

1. CBDT has inserted rule 13 and 13A and notified form Nos. 6C and 6CA under section 132(2) for the procedure for requisition of service.

(NOTIFICATION G.S.R. 630(E) [NO. 70/2023/F. NO. 370142/25/2023-TPL], DATED 28-8-2023).

2. CBDT notifies rule for determination of value of perquisite in respect of residential accommodation provided by employer.

(press release, dated 19-8-2023)

INDIRECT TAX UPDATES



CA. Sowmya C A

The 51st GST Council Meeting held on 2nd Aug 2023 led to recommendations for clarifying taxation in casinos, horse racing, and online gaming. Consequently, amendments were proposed in the CGST and IGST Acts through The CGST (Amendment) Bill, 2023 and The IGST (Amendment) Bill, 2023, which received presidential assent on August 18, 2023, the effective date of which is yet to be notified. Additionally, procedural changes were introduced through the CGST (Second Amendment) Rules, 2023. All these changes are proposed to be implemented from 1 Oct 2023. All these notifications, circulars, and advisories issued this month have been summarized for an interesting read in this article.

The 'Mera Bill Mera Adhikar' Scheme is launched by the government to encourage the generation and collection of GST bills by the public for commodities they purchase. It's available as a mobile app and in web portal. The scheme is open to the public and offers cash rewards ranging from Rs. 10,000 to Rs. 1 crore through monthly and quarterly draws. Presently rolled out in select cities, participants must register on the app, upload GST bills (B2C invoices, minimum Rs. 200), and can submit a maximum of 25 invoices per month to participate in the draw.

Recent Notifications:

- ◆ **Notification outlining a special procedure for the supply of goods by Composition Dealers through an E-commerce Operator (ECO), effective from 1 Oct 2023** - Under this procedure, Composition Dealers can supply goods via an ECO, however inter-state supply is not permitted. ECO must collect TCS for goods supplied through them and furnish details of supply in Form GSTR-8.

(Notfn No. 36/2023-CT dated 04 Aug 2023)

- ◆ **Notification outlining special procedure for supply of goods exempted from registration under Section 23(2) through Ecommerce operator Effective from October 1, 2023** – Supply of goods is permitted upon grant of enrollment number and

inter state supply is restricted. ECO is not required to collect Tax Collected at Source (TCS) under Section 52(1) but must report the outward supply details of these dealers in Form GSTR-8.

(Notfn No. 37/2023-CT dated 31 Jul 2023)

- ◆ **The Central Goods and Services Tax (Second Amendment) Rules, 2023** – with effect from 01 Oct 2023 issued vide Notification No. 38/2023 – CT dt. 04 Aug 2023 as under:

1. **Amendment to Rule 9** - The need for the registered person's presence during physical verification for registration has been eliminated.
2. **Amendment to Rule 25** - to align with amendment to rule 9 the requirement of presence of registered person at the time of physical verification of premises has been removed from rule 25.
3. **Amendment in rule 10A** - Furnishing of bank account details to be earlier of submission of monthly returns in GSTR1 or 30 days from grant of registration on the common portal.
4. **Amendment in rule 21A** - to provide for suspension of registration for failure to provide bank details as per rule 10A. Compliance with rule 10A revokes the suspension.
5. **Amendment in rule 23** - Time limit for application for Revocation of cancellation of registration increased to 90 days extendable by another 180 days with approval of Commissioner of Central Tax.
6. **Amendment in rule 43** - calculation of exempt supplies for reversal of ITC - Exempt supplies to exclude the value of supply of services by way of transportation of goods by a vessel from the customs station of clearance in India to a place outside India. Exempt supplies to include value of goods supplied from Duty Free Shops to arriving international passengers at airport terminals.

7. **Amendment in rule 46** - Updation of the State of recipient to be sufficient compliance in Tax Invoice for supply to OIDAR Services to unregistered recipients.
 8. **Insertion of rule 88D** - Intimation of differences in ITC reflected in GSTR2B and that availed in GSTR3B to be in Form GST DRC-01C. Difference indicated to be remitted with interest in Form DRC-03 or difference explained within 7 days failing which proceedings may be initiated under section 73/74.
 9. **Amendment to Rule 59(6)** - amended to include clauses (e) and (f):
No GSTR-1/IFF filing for future period if
 - i. DRC-01C intimation pending for payment or explanation
 - ii. Bank account details are not updated;
 10. **Amendment to Rule 64** - Suppliers of OIDAR services from outside India to non-taxable online recipients or registered persons in India must file GSTR-5A returns.
 11. **Amendment to Rule 67(2) to provide** that the details of tax collected at source under section 52(1) by an e-commerce operator shall be made available electronically to each of the registered suppliers.
 12. **Amendment to Rule 89** - allows refunds of advance tax paid during registration to casual and non-resident tax payers after the final return is filed with adjustments, including interest or additional amounts paid
 13. **Amendment in Rule 94 for sanctioning of interest on delayed refunds** - to exclude specific periods from interest calculation on delayed refunds: (a) Applicant's delay in responding to FORM GST RFD-08 notice beyond 15 days, (b) Time spent validating bank account details.
 14. **Amendment in Rule 96** - Refund of integrated tax paid on goods or services exported out of India - removal of two proviso(s) to Rule 96(2) on account of it being no longer relevant.
 15. **Amendment to Rule 108 & Rule 109:** Appeal to Appellate Authority to be filed electronically on the common portal and in case of manual submissions, a certified true copy of the order to be submitted within 7 days of the filing of appeal.
 16. **Insertion of Rule 138F** - Information to be furnished in case of intra-State movement of gold, precious stones, etc. and generation of e-way bills thereof where the goods' value exceeds Rs. 2 lakhs in Part A of FORM GST EWB-01 prior to commencement of movement of such goods.
 17. **Insertion of rule 142B** - Intimation of certain amounts liable to be recovered under section 79 of the Act in FORM GST DRC-01D and recorded in the Electronic Liability Register in Form GST PMT-01.
 18. **New Rule 162** - Procedure for Compounding of Offences –of CGST Rules, 2017
Amendment to exclude the requirement of co-operation of the applicant in the proceedings before the Commissioner. Further, new sub-rule (3A) has been inserted to prescribe the compounding amount for various offences.
 19. **New Rule 163** - Consent-based sharing: Information contained in GSTR1, GSTR3B, GST REG-01 of Registered Person will be shared upon consent from Supplier and Recipient with the requesting systems.
 20. **Amendment in Forms** - GSTR-3A, GSTR-8, GSTR9 and GSTR9C and Form GST RFD-01
- ♦ **Widening of territorial jurisdiction certain districts - Guntur, Tirupati and Visakapatnam vide amendment to Notfn. 2/2017.**
(Notification No. 39/2023- CT dated 4 Aug 2023)
 - ♦ Amendments in the CGST Act, vide amendments introduced in the CGST (Amendment) Bill, 2023 issued on 18 Aug 2023 (Yet to be notified) with respect to Actionable Claims:
 - **Amendment in section 24** - Compulsory registration for person engaged in supplying 'Online Money Gaming' from a place outside India to a person in India.
 - **Amendment in Schedule III** to exclude "specified actionable claims" and effectively making it a taxable Supply. The definition of Specified Actionable Claims is introduced vide 2(102A) of the CGST Act to include betting, casinos, gambling, horse racing, lottery and Online money gaming.
 - **Amendment in definition of Supplier** A proviso is inserted to section 2(105) of the CGST Act to include a person who supplies or facilitates supply of actionable claims to be deemed as a supplier of actionable claims.

- ◆ **Amendments in the IGST Act, vide amendments introduced in the IGST (Amendment) Bill, 2023 issued on 18 Aug 2023 (Yet to be notified)**
 - **Insertion of new section : 14A:** Special provision for supply of Online Money Gaming supplied by a person located outside taxable territory – IGST liability on Supplier
 - **Amendment in section 5 (Levy and collection):** amended to state that IGST on specific notified goods will now be levied and collected as an inter-State supply under section 5(1), rather than under the provisions of the Customs Tariff Act, 1975, read with section 12 of the Customs Act, 1962.
 - **Amendment in section 10(1) with inclusion of new clause (ca)** when goods are supplied to an unregistered person, the place of supply will be the location mentioned in the invoice. If no location is mentioned in the invoice, it will be the location of the supplier. Further, the explanation clarifies that recording of the name of State of the said person in the invoice shall be deemed to be recording of the address of the said person.

Recent Circulars:

- ◆ **Clarifications on GST levy in respect of the following goods where rates are rationalised:** The GST Rates have been rationalized to 5% on uncooked/un-fried extruded snack pellets, fish soluble paste, imitation zari thread or yarn and goods falling under HSN heading 9021 such as trauma, spine and anthroplasty implants. Supply of raw cotton, including kala cotton, from agriculturists to cooperatives, chargeable to GST @5% on the RCM. Further, clarified all the prevailing issues will be regularised on 'as is' basis.
(Circular No. 200/12/2023-GST dated 01 Aug 2023)
- ◆ **Clarifications regarding applicability of GST on certain services**
 - Services of a director in his private or personal capacity would not be taxable under RCM
 - Supply of food or beverages in a cinema hall if supplied as an independent restaurant service would be chargeable @5%. If the two are sold together as a composite supply, then GST at the rate applicable to the cinema exhibition service will be made applicable.

(Circular No. 201/13/2023-GST dated 01 Aug 2023)

Recent Advisories:

- ◆ **Biometric based Aadhaar Authentication for new registrations:**
A revised procedure for Aadhaar authentication for new registrants is made pursuant to revision in Rule 8 of the CGST Rules and planned to be rolled out in a phased manner. Select section of applicants will be chosen to undergo biometric-based Aadhaar authentication by visiting the GST Suvidha Kendra (GSK).
- ◆ **Electronic Credit Reversal and Re-claimed statement (ECRR) on GSTN Portal**
A new ledger, the 'Electronic Credit and Re-claimed Statement' (ECRR), is introduced on the GST portal, enabling taxpayers to track ITC reversals in Table 4B(2) for subsequent re-claim in Tables 4D(1) and 4A(5) starting from Aug 2023. Taxpayers can report cumulative ITC reversals for the ECRR ledger opening balance until Nov 30, 2023, with up to 3 amendments for corrections, enhancing the accuracy and consistency of ITC reversal and re-claim transactions.

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YAKTOON

Lest he gets upset, I told the client that a '**Qualified Opinion**' means an **opinion provided by a Qualified Professional**

By CA. Vinayak Pai



CA. Mahadev R

CA. Akshay M Hiregange

CLARITY ON ISD & CROSS CHARGE

Provisions in GST law

- Section 25(4) & (5) of CGST Act – A person who obtains or has to obtain GSTINs having presence in more than one State or at his volition obtains multiple registrations within a State, such GSTINs would be deemed to be distinct persons to each other.
- Section 7 r/w Schedule I clause 2 of CGST Act – Supply between distinct persons without consideration would be deemed to be a supply under GST. Valuation has to be done as per Rule 28.
- Section 20(1) of CGST Act – (1) The Input Service Distributor shall distribute the credit of
- Section 20(2) of CGST Act - The Input Service Distributor may distribute the credit subject to the following conditions.....

Disputes in the past -

- i. Whether Input Service Distributor (ISD) provisions were mandatory?
- ii. Cross charge liability whether applicable to only internally generated services or not?
- iii. Valuation to be considered w.r.t type & extent of expenses to be considered? (ex: salary)
- iv. Where ITC is fully eligible to the recipient GSTIN whether tax movement mandated?
- v. Can Cross charge be performed instead of ISD provision adherence?
- vi. Whether ineligible credits have to be transferred by way of ISD only?

Clarifications

Through Circular 199, some of the above issues have been resolved which have been detailed below.

- I. **Services received from 3rd parties** (e.g.: Software, medical insurance, auditor/professional fee, etc.)
 - a. Whether ISD is mandatory, or the option of cross-charge is available? – Option lies with the taxpayer. ISD provisions do not mandate transfer and suitable changes are suggested in the GST

law to make it mandatory prospectively. Note – This could be expected in the Finance Act 2024.

- a. If ISD registration was available, can I still opt for cross-charge? – No, ITC must then be distributed using ISD return Form GSTR 6 only. (For process refer to Rule 39)
- ## II. Internally Generated Services (ex: HR, admin, tax compliance team at HO)
- a. Where recipient GSTIN is eligible for full ITC, invoice value will be deemed to be the transaction value. Even if no invoice is raised, the invoice value is deemed to be Nil, and compliance is considered as met in this regard.
 - b. Where recipient GSTIN is not entitled to full ITC – The valuation as per Rule 28 must be considered, wherein the most plausible valuation would be cost + 10% wherein the Circular clarifies that salary/employee cost need not be considered in the cost.

Therefore, from the above disputes, the only question that remains unclear is how to transfer ineligible credits. Considering the intention and the manner of the Circular, the recipient of 3rd party vendor invoice w.r.t ineligible ITC can claim credit to the extent of cross-charge invoices wherein the recipient unit can disallow the ITC in their GSTIN.

Alternatively, where ISD is available, transfer ineligible credit by way of Form GSTR 6.

Way forward

- ♦ **Cross charge not performed for past years where ITC is not eligible** - option to discharge now along with interest for delay in payment of taxes and claim ITC can be explored.
- **Excess cross charge performed for past periods** - Where ITC accumulation is leading to working capital issues, credit note option could be explored for the period FY 2022-23 onwards. (Consider time limits 30th November/annual return filing date)
- **Performing cross charge despite no internally generated services** - Here as there is no liability by way of section 7 r/w schedule I, passing on ITC could

be disputed as done so in JSW Steel limited Orissa HC judgement.

- **Services provided to distinct persons outside India** - Would not be covered under export of services and could be held to be exempt supply as per NN 15/2018-ITR.
- **Services received from distinct/related persons outside India** - This could be deemed to be the import of services. If this was not done in the past, and ITC is eligible to the recipient unit in India, the benefit of NIL invoicing can be taken.
- **Circular applicability to related persons under GST** - This has not been clarified. The benefit of not considering employee costs is provided to persons under the same PAN without explaining the logic behind such exclusion. The possibility that employee costs/salaries must be considered for valuation may remain where ITC is not fully eligible. However, the benefit of ad-hoc value including 'Nil' valuation should be available where full ITC is eligible as Rule


28 applies to both distinct as well as related persons.

Conclusion

- Welcome move by the board in bringing clarity to their departmental officers and also relief for those under litigation on issues under ISD and cross-charge valuation.
- The AAAR in the matter of Columbia Asia, seems to have been overruled, as it is now accepted by way of Circular that, employee cost is not required to be added and NIL invoice is accepted.
- Vendors may continue to raise invoices to HO even if the utilisation is by other GSTIN(s).
- The above clarifications are in line with the FAQs issued by the CBIC for the banking sector etc.


Change in procedures may be looked at once ISD provisions in CGST law are modified.

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Karnataka State Chartered Accountants Association

Recraft yourself



GST Study Circle

Virtual mode



About

KSCAA is coming up with a comprehensive and meticulously structured program tailored for its members who aspire to specialize in GST as their primary area of practice. This program's framework encompasses various components, including scheduled study circle meetings, consistent group discussions, staying updated with legal developments, actively participating in monthly article contributions and delivering presentations within the study circle under the expert guidance of mentors.

Monthly discussion on Last Saturday between 3-5 pm

Investment for the program	Member : Rs. 3,600+ GST
	Non Members : Rs.4,500/- +GST

(Covering 12 discussions spanning over 12 months)
Limited to 50 participants

Climpse of Topics

Industry Specific issues, Interpretation of provisions, Reading of Financial Statements, GST impact on Income Tax Treatment and disclosures, and so on

Last date for Registration: 15th September 2023

Format of Study circle discussion

Team leader along with members will prepare and present on the allotted day. Topic will be shared in advance for preparation and study.

CA. Sujatha G, President

Indirect Tax Committee

CA. B L Subramanya, Chairman

CA. Sunil Bhandary, Secretary

Indirect Tax Committee

CA. Mukul Sringeri, Convener

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For Enquiry Contact +91 95357 15015 | For Online Registration Visit: www.kscaa.com

55th

Regional Conference of SIRC of ICAI



(Hosted by Ballari Branch of SIRC of ICAI)

Thursday & Friday, 12th & 13th October 2023

Priyadarshini Grounds, Opp Nandagokul Layout, Bye pass Road, Hosapete (Near Hampi), Karnataka




Scan for Location

INAUGURAL SESSION:

Chief Guest: Shri Siddaramaiah
Hon'ble Chief Minister, Govt. of Karnataka

Guests of Honour:
CA. Aniket Sunil Talati President, ICAI
CA. Ranjeet Kumar Agarwal Vice-President, ICAI

Technical Sessions

CA. Jatin Christopher Bengaluru

GST – Facing Litigation & Inspection

CA. Vinay Mruthyunjaya Bengaluru

An Overview of the Process & Benefits for MSME's under the INSOLVENCY & BANKRUPTCY CODE

Dr. Girish Ahuja New Delhi

Critical analysis of sections 9B & 45(4)

CA. Ameet Patel Mumbai

Technological Time Bomb in CA's Pocket – How does a CA deal with the impending cyclone in one's practice?

Eminent Resource Person

Professional Opportunities for SMPs

CA. M.P. Vijay Kumar Chennai

SMP as CFO of Small & Medium Businesses

CA. K. Gururaj Acharya Bengaluru

Financial Statements for SMEs – Non compliances observed

Eminent Resource Person

Common Errors in Financial Reporting

Delegate Fee* (Visit <https://sircconference.org> to Register online)

Limited Seats (First Come First Served basis)	Members	Non-Members	Scan QR Code for Registration
Up to 5th September 2023 (Early Bird Registration has been extended due to requests of many Members).	Rs. 4,500	Rs. 6,500	 <small>*18% GST Extra</small>
6 th Sep. to 25 th Sep. 2023	Rs. 5,500	Rs. 7,500	
26 th September 2023 onwards	Rs. 7,000	Rs. 9,000	
Spot	Rs. 8,000	Rs. 10,000	

Hampi Sightseeing on 14th October 2023

Registration Link: https://www.sirc-icai.org/forthcoming_programmes.php
 Helpline: Contact No: 9176826789, Email id: sircpe@icai.in

CA. Panna Raj S
Chairman, SIRC of ICAI

CA. A.V. Arun
Secretary, SIRC of ICAI



CA. Vinayak Pai V

FINANCIAL REPORTING AND ASSURANCE

KEY UPDATES A. AS/Ind AS

1. EAC Opinion – Recognition of interest on mobilisation advance against project contracts

The September 2023 edition of the ICAI Journal has carried an Expert Advisory Committee (EAC) Opinion – *Recognition of Interest on Mobilisation Advance against Project Contracts under IndAS Framework*.

Background – A Public Sector Enterprise awarded various contracts for execution of its capacity expansion project. Few of its vendors, per contractual clauses, had opted for **mobilisation advance** and the Company was **recovering interest from the vendor's running bills**. The opinion of the EAC was sought as to **whether the interest earned on mobilisation advance funded from internal accruals is required to be adjusted against project cost or recognised as interest income**.

A summary of **key takeaways** from the opinion:

- ♦ **Expenses or income arising from incidental operations** before or during the construction/development of PPE, **which are not necessary to bring the item of PPE to the location and condition necessary for it to be capable of operating in the manner intended by management, are recognised in the Statement of P&L**. (The test is not inextricable linking or direct nexus of the income to the project.)
- ♦ The EAC opined that in the extant case the **interest earned should not be adjusted against the expansion cost of the project**, but should be recognised in the Statement of P&L.

Link to the Opinion -

<https://resource.cdn.icai.org/75729cajournal-sep2023-8.pdf>

B. ASSURANCE

2. ICAI-Amendment to the 'Clarification Regarding Authority Attached to Documents Issued by the Institute' and Consequential Amendment to the 'Preface to the Standards on Quality Control, Auditing, Review, Other Assurance and Related Services'

On 19th August, 2023, the Institute of Chartered Accountants of India (ICAI) issued a Clarification, *Amendment to the 'Clarification Regarding Authority Attached to Documents Issued by the Institute'*. It also issued an amended *'Preface to the Standards on Quality Control, Auditing, Review, Other Assurance and Related Services'* to align the Preface with the changes made in the Clarification.

Key extracts from the 'Clarification Regarding Authority Attached to Documents Issued by the Institute':

Guidance Notes, though recommendatory in nature, are issued to assist professional accountants in implementing the Engagement Standards and the Standards on Quality Control issued under the authority of the Council. Guidance Notes are also issued to provide guidance on other generic or industry specific audit issues, not necessarily arising out of a Standard. Professional accountants should be aware of and consider Guidance Notes applicable to the engagement. A professional accountant who does not consider and apply the guidance included in a relevant Guidance Note should take reasonable and adequate care in performing the alternate procedures adopted by him to deal with the objectives and basic principles set out in the Guidance Note. In such situations, a professional accountant should also document the rationale in performing the alternate procedures. Similarly, while discharging his attest function, a member should examine whether the recommendations in a Guidance Note relating to an accounting matter have been followed or not. If the same have not been followed, the member should consider whether keeping in view the circumstances of the case, a disclosure in his report is necessary in accordance with Engagement Standards.

4. The 'Accounting Standards' and 'Standards on Auditing' issued by the Accounting Standards Board and the Auditing and Assurance Standards Board, respectively, establish standards which have to be complied with to ensure that financial statements are prepared in accordance with generally accepted accounting standards and that auditors carry out their audits in accordance with the generally accepted

auditing practices. They become mandatory on the dates specified either in the respective document or by notification issued by the Council.

Link to the amended Clarification and Preface -
<https://www.icai.org/post/aasb-announ-19082023>

3. CBDT Notification – New Form No. 3AE, Audit Report u/s 35D(4)/35E(6)

On 1st August, 2023, the Central Board of Direct Taxes (CBDT) vide Notification No. G.S.R. 579(E) notified the Income-tax (Fourteenth Amendment) Rules, 2023 that is effective 1st April, 2024. A **new Form No. 3AE, Audit Report u/s 35D(4)/35E(6)** has been substituted for the extant Form.

Link to the Notification -
<https://incometaxindia.gov.in/communications/notification/notification-54-2023.pdf>

C. NFRA

4. Orders u/s 132 (4) – Burnpur Cement Limited

The National Financial Reporting Authority (NFRA) issued three orders related to the statutory audit of Burnpur Cement Limited (BCL).

I. Order No. 026/2023 dated 1st August, 2023 finding the Engagement Quality Control Review (EQCR) Partner (F.Y.2017-18) guilty of professional misconduct. **The EQCR Partner** was imposed a **monetary penalty of ₹ 1 lakh**.

The EQCR partner was charged with: acceptance of the assignment to act as Engagement Quality Control Reviewer without ensuring eligibility in accordance with SQC1; failure to maintain documentation as per the requirements of SA 220 and SA 230; failure to review the work of the Engagement Team in a timely manner as per the requirements of SQC 1; and that the Independent Audit Report contained a Qualified Opinion in respect of recognition of Deferred Tax Assets and an Emphasis Of Matter in respect of Going Concern, but the audit file shows that the related working papers were not reviewed by the EQCR partner.

Link to the Order -
<https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc6b56a45a56c59fafdb/uploads/2023/08/2023080184.pdf>

II. Order No. 025/2023 dated 1st August, 2023 finding the Engagement Partner (EP) (F.Y. 2017-18) guilty of professional misconduct. **The EP** was imposed a **monetary penalty of ₹ 1 lakh**.

As per the Order, the Company had reported a loss of ₹ 45 crores for the year and had accumulated losses of ₹ 103 crores, which had resulted in erosion of its net worth. The company was highly debt ridden and was defaulting in payment of debts and had a negative working capital. Despite such poor financial condition, which could significantly affect the use of going concern basis, the Company prepared its financials based on going concern. The EP, without the requisite analysis to form an opinion in this regard, merely incorporated the matter under the Emphasis of Matter ('EOM') without considering if the matter required a qualified or adverse opinion.

Link to the Order -
<https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc6b56a45a56c59fafdb/uploads/2023/08/2023080169.pdf>

III. Order No. 029/2023 dated 21st August, 2023 finding the Audit Firm and the Engagement Partner (EP) of the firm that audited Burnpur Cement Limited for F.Y. 2018-19 guilty of professional misconduct. A **monetary penalty of ₹ 25 lakhs was imposed on the Audit Firm**. The EP was imposed a **monetary penalty of ₹ 5 lakhs** and has been **debarred for 5 years** from being appointed as an auditor.

As per the Order: the auditors merely included the going concern matter in the Emphasis of Matter without questioning the appropriateness of going concern assumptions by the management and without analysing whether a modified audit opinion was warranted; the financial statements were materially misstated due to failure to recognise provision/disclose contingent liability arising out of income-tax dispute and to recognise interest cost on borrowings classified as NPA; and the auditors failed to point out the misstatements in PPE.

Link to the Order -
<https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc6b56a45a56c59fafdb/uploads/2023/08/2023082114542841.pdf>

5. Order u/s 132 (4) – Bartronics India Limited

On 3rd August, 2023, the NFRA issued an order (No. 027/2023) u/s 132(4) of the Companies Act finding the Engagement Partner (EP) of the statutory audit firm that audited Bartronics India Limited for F.Y. 2013-15 (18 month period) guilty of professional misconduct. **The EP** was imposed a **monetary penalty of ₹ 5 lakhs** and has been **debarred for 10 years** from being appointed as an auditor.

As per the Order, the EP had committed professional misconduct by misusing the Emphasis of Matter (EOM) for covering up misstatements in the financial statements and including under the 'EOM' the matters that warranted consideration for modifying his audit opinion. Such matters included non-provision of interest on loans, doubtful capital advances, etc. In addition, NFRA's investigations have found other lapses in the Statutory Audit such as not reporting the failure of the Company to report under the Companies Act, 1956, wrong recognition of deferred tax assets, etc.

Link to the Order -

<https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc6b56a45a56c59fafdb/uploads/2023/08/2023080362.pdf>

6. Order u/s 132(4) – Tanglin Developments Limited

On 18th August, 2023, the NFRA issued an order (No. 028/2023) u/s 132(4) of the Companies Act finding the Audit Firm and the two Engagement Partners (EP) of the firm that audited Tanglin Developments Limited for F.Y.2019-20 guilty of professional misconduct. A **monetary penalty of ₹ 1 crore was imposed on the Audit Firm** apart from being **debarred for 4 years** and **the two EPs** were imposed a **monetary penalty of ₹ 5 lakhs each** and have been debarred for 5 years from being appointed as auditor.

NFRA's investigations, inter alia, revealed that the Auditors failed to meet the relevant requirements of the Standards on Auditing and provisions of the Companies Act 2013 and demonstrated a serious lapse and absence of due diligence. The Auditors failed to exercise professional judgement and scepticism where borrowings were used by the Company in fraudulent diversion of funds through its Group entities, given without any business rationale or agreement and the money ultimately moved to the promoters' entity. Total material and pervasive misstatements amounted to ₹ 4,476 crores, which the Auditors did not identify and report in their Independent Auditor's Report. The Auditors failed to report that Internal Financial Control over Financial Reporting was completely absent despite large scale evergreening of loans through structured circulation of funds and use of pre-signed blank cheques for diversion. They also tried to mislead NFRA by adding more documents to as well as altering the documents in their audit file which amounted to tampering with the Audit File.

Link to the Order -

<https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc6b56a45a56c59fafdb/uploads/2023/08/202308212014234658.pdf>

D. IFRS

7. IASB – Amendments to IAS 21: Lack of Exchangeability

On 15th August, 2023, the International Accounting Standards Board (IASB) issued *Lack of exchangeability* which **amends IAS 21, The Effects of Changes in Foreign Exchange Rates**. It addresses situations in which a currency is not exchangeable into another currency. Lack of Exchangeability amendment requires an entity to apply a consistent approach (**a two-step approach**) to assessing whether a currency is exchangeable into another currency and, when it is not, to determining the exchange rate to use and the disclosures to provide.

The amendments are effective for annual reporting periods beginning on or after 1st January, 2025. Early application is permitted.

Link to the Amendments -

<https://www.ifrs.org/projects/completed-projects/2023/lack-of-exchangeability-research/#published-documents>

E. SUSTAINABILITY REPORTING

8. IAASB Exposure Draft – Proposed International Standard on Sustainability Assurance 5000

On 2nd August, 2023, the International Auditing and Assurance Standards Board (IAASB) issued an **Exposure Draft (ED), Proposed International Standard on Sustainability Assurance (ISSA) 5000, General Requirements for Sustainability Assurance Engagements** and Proposed Conforming and Consequential Amendments to Other IAASB Standards. The ED is a **comprehensive stand-alone sustainability assurance standard suitable for any sustainability assurance engagements**. It will apply to sustainability information reported across any sustainability topic and prepared under multiple frameworks, **including IFRS Sustainability Disclosure Standards S1 and S2**. The proposed standard is profession agnostic, supporting its use by **both the professional accountant and the non-accountant assurance practitioners**.

The ISSA ED applies to all assurance engagements on sustainability information, except when the practitioner is providing a separate conclusion on a greenhouse gas (GHG) statement, in which case ISAE 3410 applies. It may be noted that for purposes of the ISSA ED, sustainability information is information about sustainability matters. An entity's disclosures about such matters may relate to several different topics (e.g., climate, labour practices, biodiversity) and aspects of topics (e.g., risks and opportunities, governance, metrics and KPIs).

Link to the ED -

https://ifacweb.blob.core.windows.net/public-files/2023-08/IAASB-International-Standard-Sustainability-5000-Exposure-Draft_0.pdf

F. USGAAP|ASSURANCE

9. FASB – Standard issued that improves Accounting for Joint Venture Formations

On 23rd August, 2023, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update No. 2023-05, **Business Combinations – Joint Venture Formations (Subtopic 805-60), Recognition and Initial Measurement**. The FASB has decided to require that a **Joint Venture apply a new basis of accounting upon formation and thereby recognize and initially measure its assets and liabilities at fair value** (with exceptions to fair value measurement that are consistent with the business combinations guidance). The amendments in this Accounting Standards Update do not amend the definition of a joint venture, the accounting by an equity method investor for its investment in a joint venture, or the accounting by a joint venture for contributions received after its formation.

The amendments are effective prospectively for all joint venture formations with a formation date on or after 1st January, 2025.

10. Financial Accounting Standards Board(FASB) – New Chapter of Conceptual Framework – Chapter 5, Recognition and Derecognition

On 30th August, 2023, the FASB issued a new chapter (**Chapter 5, Recognition and Derecognition**) to the *Conceptual Framework for Financial Reporting*. This new chapter to the **amended Statement of Financial Accounting Concepts (SFAS) No. 8** sets forth recognition and derecognition criteria and guidance on when an item should be incorporated into and removed from financial statements. It provides three criteria an item should meet to be recognised in financial statements. Those criteria are: 1) Definitions—The item meets the definition of an element of financial statements; 2) Measurability—The item is measurable and has a relevant measurement attribute; and 3) Faithful Representation—The item can be depicted and measured with faithful representation.

The new chapter also sets forth the concept that derecognition-the process of removing an item from financial statements of a reporting entity as an asset, liability, or equity-should occur when an item no longer meets any one of the recognition criteria.

G. OTHER USEFUL PUBLICATIONS

11. **UK FRC (Financial Reporting Council) – Key Facts and Trends in the Accountancy Profession**, 21st Edition. [14th August, 2023.] [https://www.frc.org.uk/getattachment/6bb377d8-a26d-4084-81b8-829c70e37347/Key-Facts-and-Trends-in-the-Accountancy-Profession-_August-2023.pdf]
12. **Institute of Internal Auditors - Tone at the Top**, Issue No. 118 – **A Watershed Moment in Sustainability Reporting**. [August 2023] [<https://www.theiia.org/globalassets/site/resources/research-and-reports/ton-at-the-top/2023/2023-7218-adv-2023-tatt---august-final.pdf>]

H. SELECT GLOBAL REGULATORY ACTIONS

13. **UK FRC – Sanctions against Audit Firm for wide-ranging audit failures including incorrect classification of Convertible Loan Notes**

On 18th August, 2023, the UK Financial Reporting Council (FRC) imposed a Regulatory Penalty of £90,000 on an Audit Firm. The FRC found that there were wide-ranging failings in respect of the audit of a listed entity. The most significant failing was in respect of the incorrect classification of Convertible Loan Notes, resulting in a material misstatement which was not identified by the Audit Firm until after the audit was completed and demonstrated a lack of quality control. [<https://www.frc.org.uk/news/august-2023/sanctions-against-mazars>]

14. **US PCAOB – Sanctions against Audit Firm for violation of PCAOB rules and standards**

On 8th August, 2023, the US Public Company Accounting Oversight Board (PCAOB) censured an audit firm and its managing partner, revoked the firm’s registration and imposed a civil money penalty of \$150,000 on the firm and the managing partner. This matter concerned violations of PCAOB rules and standards in connection with the audits of a company for 2018 and 2019. According to the PCAOB, the respondents failed to: (1) obtain sufficient appropriate audit evidence in auditing the valuation of goodwill and using the work of a specialist retained by the client; (2) timely assemble for retention a complete and final set of audit documentation; (3) communicate all required matters to the audit committee; and (4) obtain audit committee preapproval for tax services. [https://assets.pcaobus.org/pcaob-dev/docs/default-source/enforcement/decisions/documents/105-2023-021-ram-associates.pdf?sfvrsn=7c9d1aa5_4].

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IMPORTANCE OF ESG To MSME



CA. Aditya Kumar S

Background: In India, the Business Responsibility and Sustainability Report (BRSR) has two components viz., the essential indicators and leadership indicators. The leadership indicators largely would require reporting including that of the value chain partners which includes vendors, customers, Business partners etc., Companies who are required to present BRSR have either made an attempt to get the information from value chain partners or have chosen to use the exemption given from reporting in leadership indicators. These value chain partners constitute entities classified as MSME as well. Hence, there is a need for those MSME who have business with larger entities to provide information relevant for BRSR. What about those MSME who do not have any business with a larger entity and hence may argue that they need not worry about all this BRSR and reporting stuff. This article makes an attempt to throw light on why MSME should look at **Environment, Social and Governance (ESG)** aspects in their business. Not that ESG is new for us, many of us are following this unknowingly as well because of our culture, tradition, practice or as a good corporate practice.

How does MSME benefited from ESG :

1. **Mission and Vision:** Today's MSME are tomorrow's larger entities. It is time that MSME changes the way it is looked, reimagine the Brand and how it positions itself in the market. It is better to be prepared in advance and start positioning itself as 'to be' a bigger entity. ESG needs to be engrained in the vision and mission of the entity. The objective of an entity when includes the larger responsibilities towards ESG would help them to be a better corporate citizen, bringing more acceptability of their products, brand and business. The point of view is 'dream big' and see what needs to be done to grow to that scale and size.
2. **Financing :** ESG is one of the themes that potential investors are looking into and showing more interest. Investors are slowly showing more interest in entities or businesses who have adopted best practices including implementation of ESG related regulations. Banks and financial institutions bring

in products wherein the finance cost is indexed to the compliance with ESG Goals and other factors. Days are not far when the debt covenants include compliance with ESG norms and better the ESG rating better the chances of economical pricing of the finance.

3. **Vendor and Customer Relationship:** The ESG reporting requirements requires entities to report even on the impact on the value chain partners. As per SEBI's circular, the value chain shall encompass the top upstream and downstream partners of a listed entity, cumulatively comprising 75% of its purchases/sales (by value) respectively (Source: SEBI/HO/CFD/CFD-SEC-2/P/CIR/2023/122, dated 12 July 2023). The value chain disclosures as per the BRSR Core, shall be applicable to the top 250 listed entities (by market capitalization) from FY 2024-25 onwards, on a comply-or-explain basis. Based on a similar principle, these entities are required to obtain limited assurance from FY 2025-26 onwards. An organization's value chain encompasses the full range of an organization's upstream and downstream activities that convert input into output by adding value. It includes entities with which the organization has a direct or indirect business relationship and which either (a) Supply products or services that contribute to the organization's own products or services, or (b) receive products or services from the organization.

From a reporting perspective, would not the reporting entity like to report better ESG compliance across their value chain? An MSME who is part of the whole value chain analysis would be required to report to their vendor or customer, as the case may be. Unless they also align to the ESG goals; the key reporting requirements of the reporting entity would also be impacted and hence the reporting entity would strive to choose to partner with those entities who are aligned to ESG Goals and are part of their business overall ESG Goals.

4. **Risk Management:** Not all entities may have a robust risk management process especially considering the

environmental issues, social issues and governance aspects. If the existing risk management practices are improvised to include ESG aspects, it would lead to better risk management practices which can be benchmarked with the peers in the same industry and also would help the business to better manage the emerging risk and take mitigating action at an early stage.

5. **People Oriented:** Business ultimately serves people, directly or indirectly; whether they are employees, vendors, customers, business partners and the larger community. Business disrupting the life in a negative manner will always attract protests, legal suits and general push back from the community. In the past, we have seen even larger companies facing so much of disruption that the industry had to be relocated to another place or the project being discontinued. MSME business may take cues from the previous experience and ensure that their growth plan are always people oriented and steps are taken from an early stage to ensure that the 'humane touch' is not lost in the business objective. People's concern should be at the heart of every decision making.
- 6 **Transparency in Operations:** Bringing in transparency in operations would lead to building business of the future. Understandable that today the business may be managed by family or handful of shareholders or investors. As and when the business grows, the investor base and expectations also grows; in which case transparency and quality in governance would be the hallmark of the business. And the quality of governance can be inculcated in the DNA or the culture of the organization only from the early stages. MSME can start bringing in gradual changes required in governance structure over a period of time for achieving the long-term goal.
7. **Green Organization:** Entities are now looking into reducing carbon footprint, utilizing energy efficient assets, recycling, reducing wastage etc., and making their entity a greener organization. These initiatives would help in better utilization of resources, cost cutting or cost reduction opportunities, and relook at the business in a more environmentally friendly manner at different levels both operational and strategic.
8. **Be a Pioneer:** As given in the introductory para, the current ESG reporting requirements are for larger companies with criteria as indicated by SEBI being met; there is no bar in implementing the ESG Objectives in the business. MSME can demonstrate

their leadership in their respective business or geography etc., and in-turn influence their value chain partners also to get aligned. One act of an entity influences or triggers or motivates another entity and that is how the whole business community can grow together.

9. **Impact of EU Carbon Tax:** The EU is introducing the Carbon Border Adjustment Mechanism ('CABM') from 1st October 2023. India has sought exemption for its MSME from the EU carbon tax, as the levy would impact the domestic industry (steel, cement, fertilizer, aluminum and hydro-carbon products) in certain sectors.. Case of 'embedded emissions.: A product undergoes a manufacturing process which also includes the use of raw materials, labor and overheads. The Greenhouse Gas Emissions ('GHG') could happen at all stages:
 - (a) In the manufacture of raw materials, which is controlled by the Vendor.
 - (b) By the manufacturer, who controls the manufacturing process.
 - (c) At the transportation level – either for procuring raw materials or movement of finished goods, etc.,

Therefore, the 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 also their vendors, transporters, etc., i.e., including all the value chain partners. MSME is definitely part of the overall value chain and hence it becomes very important for them to ensure that they reduce GHG and contribute to lower the carbon tax impact.
10. **Government incentives and promotional schemes:** The Ministry of MSME, Government of India has issued Guidelines for the implementation of the Scheme for Technology and Quality upgradation support to MSMEs under the National Manufacturing Competitiveness Program. Major Activities under the scheme are as follows:
 - a. Capacity Building of MSME Clusters for Energy Efficient / Clean Development interventions and other technologies mandated as per the global standards.
 - b. Implementation of Energy Efficient Technologies (EET) in MSME Unites

- c. Setting up of Carbon Credit Aggregation Centres (CCA) for introducing and popularising clean development mechanism (CDM) in MSME clusters.
- d. Encouraging MSMEs to acquire product certification/licences from National/International bodies and adopt other technologies mandated as per the global standards.
- e. Study of Impact of the scheme, administrative and other miscellaneous items.

How should MSME align to ESG Goals?

1. Management should assess how ESG Goals can be aligned to their business including the roadmap to integrate into their long-term objectives.
2. To have a cross-functional team from different processes, to work on goal-setting project. Also, the team should be reporting to a separate committee of the Board (ESG Committee) and report to the Board on a quarterly basis the progress achieved. The 'tone at the top' needs to be set to set the wheel moving.
3. Do a 'materiality' test and identify key aspects of environmental, social and governance which could impact the business. 17 United Nations Sustainable Development Goals (9 Principles of National Guidelines of Responsible Business Conduct – NGRBC) to be analyzed with respect to the business and identify those which are pertinent and needs attention.
4. For each of the items identified as a 'material' item, critically examine what can the entity do to contribute to the overall objective – Establish Goals. Have data collection points required for reporting purposes.
5. Have a plan of action to meet the objectives and have measurable Key Performance Indicators(KPI) to monitor the progress. Align and benchmark the best practices with the peers within the same industry.
6. On the reporting front, have a dry run of the reporting on a quarterly basis to ensure that the process owners are familiar with the data that needs to be provided, the integrity of the data can be checked and validated and need be corrected, the information provided or disclosed in complete and accurate in all respects.

<https://www.outlookindia.com/business/india-seeks-exemptions-for-msmes-from-eu-carbon-tax-commerce-secy-news-295098> (last seen on 29 August 2023).

https://www.dcmsme.gov.in/schemes/TEQUP_Guidelines_latest.pdf (last seen on 27th August 2013).

7. Involve the auditors to review the information and seek their views/comments.
8. Appraise the management / Board of Directors on the progress of work and reporting requirements.
9. Continuously monitor the emerging reporting requirements and strive to see how the entity can source the information for reporting.

Conclusion: It is all about the vision of an entity to be seen as a leader in the future. The action required to fulfil the dream comes over a period of time through quality leadership, better governance and more importantly inspired to be the benchmark. MSME are the backbone of our economy and there is a great opportunity for them to contribute keeping ESG also in their action. As Chartered Accountants, we do need to advise MSMEs on the opportunities available for their growth.

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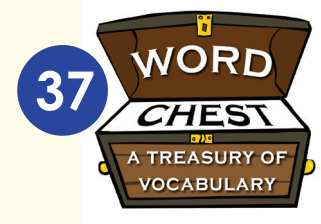
Obituary

KSCAA deeply mourns the sad demise of our beloved member



CA. V R Natarajan
on 18th August 2023

We convey our condolences and prayerful support to his bereaved family



Disposable Virtual Card

Customers can create disposable virtual cards for instant online transactions. These one-time payment cards are generated every time with new card details to protect users from online fraud.

IPR AND PROTECTION IN INDIA: TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS) AGREEMENT

(PART - XXXVII OF IPR SERIES)



Adv. M. G. Kodandaram

General Introduction

The TRIPS Agreement, within the World Trade Organization (WTO), holds immense importance for three key reasons: firstly, it fosters knowledge and innovation in international trade; secondly, it resolves intellectual property (IP) disputes; and thirdly, it safeguards the autonomy of WTO member nations in pursuing domestic objectives. The WTO, with 157 member nations, plays a crucial role in negotiating and executing international trade agreements, ensuring adherence to these agreements. TRIPS, serving as the legal framework for global connectivity, aims to establish fair and secure international trade arrangements, promoting trade, investment, and global living standards. Effective from January 1, 1995, in response to the growing significance of IP in commerce, it standardized global trade standards for Intellectual Property Rights (IPRs). Understanding TRIPS' vital global trade provisions is essential for establishing and protecting an entity's global IP rights.

The primary objectives of the TRIPS Agreement encompass reducing trade distortions and barriers, ensuring proper IPR protection without hindering legitimate trade. It seeks to promote technical innovation, technology transfer, and balance the rights and responsibilities of IP stakeholders to enhance social and economic well-being. The preamble underscores its mission: reducing trade impediments while promoting effective IPR protection without obstructing legitimate trade. The core purpose is to harmonize IP rules with trade practices to globally safeguard IP rights without obstructing international trade. The TRIPS Agreement also addresses IP rights owners' protection against infringements, including counterfeiting and other IP violations.

Salient Features of TRIPS

The TRIPS Agreement serves as a comprehensive and robust framework for safeguarding intellectual property (IP) standards within trade-related domains.

It encompasses all facets of IP, encompassing protection standards, enforcement measures, and mechanisms for resolving disputes. Organized into seven parts, it forms a holistic structure addressing the entire spectrum of intellectual property rights, fostering innovation, trade, and development while considering the broader public interest.

Part I: General Provisions and Basic Principles: This section establishes fundamental principles and objectives, setting minimum standards for IP protection that member nations must incorporate into their domestic laws. It emphasizes non-discrimination, protecting IP rights across all technological fields while preventing them from impeding legitimate trade.

Part II: Standards Concerning the Availability, Scope, and Use of IPRs: This segment delves into specific types of IP rights, including patents, copyrights, trademarks, industrial designs, geographical indications, and trade secrets. It defines their scope, duration, and granting conditions, encouraging equitable protection mechanisms.

Part III: Enforcement of IPRs: Focusing on effective IP protection, this part covers civil and administrative procedures, provisional measures, border controls to combat counterfeit goods, and criminal enforcement. It ensures that IP rights are not only granted but also vigorously enforced to deter infringement.

Part IV: Acquisition and Maintenance of IPRs: This section encompasses patent examination and granting procedures, opposition mechanisms, and the protection of undisclosed information or trade secrets. It underscores transparency, accountability, and procedural fairness throughout IP acquisition.

Part V: Dispute Settlement: With disputes over IPRs being inevitable, this part outlines procedures for resolving such disputes among member countries. It establishes processes for consultation, mediation, and panel proceedings, emphasizing the balance between IP protection and broader public policy concerns.

Part VI: Transitional Arrangements: This allows for the phased implementation of new standards, accommodating the diverse capabilities and needs of member nations.

Part VII: Institutional Arrangements: This part establishes the TRIPS Council within the WTO framework, responsible for monitoring agreement implementation and facilitating related discussions. It also includes final provisions like amendments, duration, and review mechanisms.

The TRIPS Agreement offers various benefits, including increased transparency in IP policies, bolstered international legal systems through WIPO, reduced trade conflicts related to IP, streamlined acquisition and exercise of IP rights, and an upsurge in patent applications in developing countries. It creates a balanced and uniform global framework for intellectual property protection, promoting innovation and trade while safeguarding broader societal interests.

International Patent Protection in TRIPS

International patent protection, as outlined in TRIPS, plays a crucial role in encouraging innovation, fostering R&D, and attracting investment. However, striking a balance between promoting innovation and ensuring access to essential knowledge remains an ongoing challenge. TRIPS provides certain flexibilities that enable member countries to address these concerns and meet their domestic needs effectively. Certain advantages are listed below for clear understanding.

- a) **Encouraging Research and Development (R&D):** Patent protection incentivizes businesses and inventors to invest in research and development. The exclusivity granted by patents allows inventors to recoup their investment and gain a competitive advantage, which fuels further innovation. This cycle of R&D spurs advancements in various fields, leading to technological progress and economic growth.
- b) **Attracting Foreign Investment:** Strong patent protection signals a secure environment for foreign investors. By safeguarding their intellectual property, businesses are more likely to establish operations in a country, leading to increased technology transfer and the creation of job opportunities. This foreign direct investment contributes to economic development and knowledge-sharing on a global scale.
- c) **Licensing and Technology Transfer:** Patents facilitate technology transfer through licensing agreements. Companies can license their patented

technologies to others, promoting the dissemination of knowledge and expertise. Such arrangements enable developing countries to access cutting-edge technologies, accelerating their growth and capacity to innovate.

Recognizing the need to strike a balance between innovation and access to knowledge, TRIPS includes several flexibilities that member countries can employ to address challenges related to patent protection:

- a) **Compulsory Licensing:** Under TRIPS, member countries can issue compulsory licenses for patented inventions in certain circumstances, such as public health emergencies or in cases of anti-competitive behaviour. This provision allows governments to ensure access to essential medicines and technologies while safeguarding public welfare.
- b) **Parallel Imports:** TRIPS permits member countries to allow parallel imports, enabling affordable access to patented products by importing them from countries where they are sold at lower prices.
- c) **Bolar Provision:** The Bolar provision allows generic drug manufacturers to conduct tests and gather data for regulatory approval before the patent on the original drug expires. This measure speeds up the availability of more affordable generic medicines once the patent protection expires.

By embracing the spirit of cooperation and understanding the diverse needs of member nations, international patent protection can truly fulfil its promise of advancing humanity through innovation while leaving no one behind.

International Copyright Protection in TRIPS

TRIPS addresses various aspects of IP, including copyright protection, with the primary objective of striking a balance between the interests of creators, consumers, and the global economy. International copyright protection, as enshrined in TRIPS, serves as a crucial framework for fostering creativity, encouraging innovation, and protecting cultural heritage. While it presents challenges in balancing the rights of creators with access to knowledge, the agreement provides flexibility for member countries to tailor their copyright laws to suit their unique circumstances.

- a) **Stimulating Creativity and Innovation:** Copyright protection provides creators, authors, and artists with the incentive to produce original works by granting them exclusive rights over their creations.

The assurance of commercial benefits encourages the creative process, leading to a diverse range of cultural expressions and technological advancements.

- b) **Preserving Cultural Heritage:** Copyright protection fosters the preservation of cultural heritage and traditional knowledge. By safeguarding folklore, traditional music, and indigenous art, copyright helps maintain cultural diversity and heritage in the face of globalization.
- c) **Economic Impact:** Copyright-intensive industries significantly contribute to the global economy, generating jobs and revenue. Strong copyright protection attracts investment in creative sectors, stimulates economic growth, and enhances the competitiveness of creative industries in the international market.

However, there are challenges in managing International Copyright Protection

- a) **Striking a Balance between Rights Holders and Users:** Balancing the rights of copyright holders with the interests of users, such as education, research, and access to information, is a delicate challenge. Overly restrictive copyright measures can limit the dissemination of knowledge and hinder educational opportunities.
- b) **Digital Age Challenges:** The rise of the internet and digital technologies has made it easier to reproduce and distribute copyrighted content. This has led to issues of online piracy, unauthorized distribution, and copyright infringement, making it challenging for copyright holders to protect their works effectively.
- c) **Access to Knowledge and Cultural Goods:** Strong copyright protection can sometimes hinder access to knowledge, particularly in developing countries. The cost of accessing copyrighted materials and the lack of localized content may limit educational and cultural opportunities for certain populations.

The following TRIPS Provisions guide the International Copyright Protection:

- a) **Minimum Standards:** TRIPS sets minimum standards for copyright protection, requiring member countries to implement a copyright regime that adheres to these standards. The agreement defines copyrightable subject matter, the rights granted to creators, and the duration of protection.
- b) **National Treatment:** TRIPS emphasizes the principle of national treatment, ensuring that foreign

creators are granted the same copyright protection as domestic ones in member countries. This measure fosters international cooperation and reciprocity among signatory states.

- c) **Digital Environment:** TRIPS acknowledges the challenges posed by the digital environment and requires member countries to provide legal protection and effective remedies against digital copyright infringement.

TRIPS allows member countries some flexibility to implement copyright protection in a manner that suits their specific needs and cultural contexts. This includes:

- a) **Fair Use and Fair Dealing:** TRIPS permits member countries to have exceptions and limitations to copyright protection, such as fair use and fair dealing provisions, which allow for the use of copyrighted material for specific purposes, such as education, criticism, or parody.
- b) **Public Domain and Traditional Knowledge:** TRIPS recognizes the importance of the public domain and traditional knowledge and emphasizes the need to preserve these resources. Member countries can adopt measures to ensure that these valuable cultural assets remain accessible to all.
- c) **Access to Medicines:** TRIPS also addresses the intersection of copyright with public health by allowing member countries to take measures to protect public health and ensure access to essential medicines.

By embracing the spirit of alliance and mutual understanding, international copyright protection in TRIPS can continue to promote cultural diversity, technological progress, and global economic growth in the rapidly evolving landscape of the digital age.

The impact of TRIPS in respect of other IPRs will be deliberated in the coming part.

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YOUNG MEMBERS CLUB



KSCAA launched Young Member Club (KSCAA_YMC) on 9th September 2023. CA Vijay Raja, Guru of 40,000+ students addressed the gathering of Young Chartered Accountants at Karnataka Lawn Tennis Club

Interview with CA. Vijay Raja

Welcome to the Young Member Club, CA Vijay Raja!! We look forward to an interesting, exciting discussion with you on the topic related to our KSCAA key theme for 2023-24, "Re-craft yourself". As part of the Discover series, we have launched the Young Members Club, to bring together bright, young CA talent and senior mentors to create and nurture the entrepreneurial spark in all practice areas of Accounts and Audit opportunities. Thank you, sir, and welcome.

Question : "What is the significance of joining a club of CAs under 35 years of age. What are the benefits we gain by becoming part of the KSCAA's Young Member Club?"

CA Vijay Raja : Fantastic! Good question. Let me explain this with a story. I wanted to learn chess, so I joined a chess coaching program. During my time there, on the first day, I played and lost. On the second day, I played and lost again. The third day, I lost once more. This losing streak continued for 44 days straight, and I started developing a sort of hatred towards my coach. I felt like the coach was inhuman and never allowed me to win, not even once to encourage me. So, I began to view him as a ruthless individual.

However, one day, on the 45th day, I finally won a game. The feeling I experienced was similar to the one I had when I received my CA results. This victory inspired

me to teach the coach a lesson. I had identified his weakness, and I wanted to challenge him to a match for 44 consecutive days because I had previously lost for that long. It made me feel good about myself.

As time passed, I realized something important. During those initial 44 days of continuous losses, my game was improving day by day, and I was becoming a better player. But after the 45th day, as I kept defeating him daily, I noticed that my ego was growing day by day, but there was no other personal growth happening. That's when it dawned on me: personal growth isn't just about defeating someone; it's about surrounding yourself with people who can guide you to higher levels. That's when real growth occurs.

So, it's crucial to consider the company you keep. As Buddha said, "Sangam, Sharnam, Gacchami." The YMC is a place where you can grow and move in the right direction. When you meet others, you realize how much you don't know, and that's the beauty of it. True growth is when you acknowledge how much you have yet to learn. KSCAA-YMC is a place for continuous learning and growth.

Question : After completing CA, we have two career choices - pursuing employment or starting our own practice. How can we decide which option is more suitable for us?

CA Vijay Raja : Let me illustrate it. For those who follow cricket, it's like comparing cricket players Sachin Tendulkar and M.S. Dhoni. We know both are absolutely great. You cannot say one is lower than the other or one is better than the other.

Sachin was an excellent player. He would go to bat, hit centuries, and come back. He is a God of cricket. However, he was an utter failure when he took up captaincy. In fact, he lost his batting form when he assumed the role of captain due to the pressure it brought. He was a miserable captain.

On the other hand, Dhoni, on average, scores 10 runs. But those 10 runs could come from just two balls. In the last two balls, he might score 10 runs, hitting a four and a six. However, what made him a great captain was the way he managed the entire team, knowing how to handle situations and what to take care of.

Whether employment is the right path or practice is the right path, there is nothing called right or wrong. Both are absolutely great. But what I should consider is whether I am in the right chemistry. You can achieve greatness in both employment and practice. So, I should assess my innate qualities to determine what suits me. For example, am I a person who believes in a daily routine? But if I am somebody who says, "Every day is a dance, and I don't know what move I will make today," I want to earn for the next 20 years, make money, and then go to Goa to relax. Then you know what I am talking about. Or if I say, in my dictionary, I don't have a word called retirement. I don't know the word called retirement. I used to tell this to my students, saying that retirement is a bad word because what will you do after retirement? I mean there is nothing right or wrong. I am not discussing what is right or wrong here. I am just trying to say it is about each one of us and our choices.

Question. What are the inherent qualities should we assess when making decisions about our ideal, successful and great career paths?

CA Vijay Raja : For this, a beautiful answer comes from Lord Krishna through Vedavyasa in Bhagavad Gita where he says, "What's my swadharma?" As long as I live my swadharma, I will continue to achieve greatness in whatever I am doing. So, what is my swadharma? I need to look at myself and see what my qualities are because my qualities will define where I should be placed.

Imagine I put Sachin Tendulkar in basketball; he would be a miserable failure. That's because he was in the wrong sport, in the wrong place. Similarly, for all of us.

Since I am talking about the Bhagavad Gita, Krishna selected Arjuna to deliver the entire discourse of 18 chapters. Oh, he had so many people around him to whom he could have preached the Bhagavad Gita, but he didn't. He gave it to Arjuna because he knew that among all of them, the best at what he did was always Arjuna. The way he could execute anything that was told, he was

the best executor. In our terminology, he was the best employee, like the CFO. So Krishna said, "I think he is the one I should choose because I know he can implement it the best." That's what Krishna said, and that's why it was given to Arjuna. We need an Arjuna, right? We still need an Arjuna to keep fighting. At the same time, we need a Krishna to guide. So we just have to see where we are. Am I the best in execution? Then I should be the Arjuna. So I need to find out what my qualities are.

Question: How can we recognize our passion and identify the areas of interest where we can thrive?"

CA Vijay Raja: I am human; I am bound to make mistakes. But am I creating the same mistakes again and again? If I am repeating the same mistakes, then I am making the wrong choice.

This question is similar to Arjuna asking Krishna, "How do I know what is my passion or swadharma?"

You can easily find out by asking yourself two questions: (1) Are you getting tired of what you are doing? (2) If you had all the money in the world, what would you do next?

I would like to explain this better through my personal experience. I visited an ENT Specialist for my throat pain. The doctor asked me, "Why? What happened?" I replied, "Maybe it's because of teaching." He then asked, "What's your teaching schedule?" I said, "7 to 9." He said, "2 hours of teaching shouldn't matter." Then I clarified, "No, it's from 7 am to 9 pm." The first sentence he told me was, "Tu pagal hai kya?" (Are you crazy?) That's when I realized that teaching doesn't make me tired. For the second question, my answer would be, "I will keep teaching.

In the initial years after completing CA, we all have to work, either in employment or practice, because the driving force is survival and recognition. You need recognition because that's when you will feel satisfied with your capabilities. There may be situations where you can't do your swadharma, and you may have to do something else for money. This is where psychologists suggest finding a hobby. If you like painting, then paint. If you like singing, then sing. If you feel like making pottery, go ahead. They recommend this because what you are working for or earning from may not be your swadharma, and that's okay. Not everyone may have the choice to do what they love for a living. Some have to work for a living and do something else to discover what truly energizes them.

Wishing you good luck and I congratulate the President and Team for this wonderful initiative KSCAA_YMC.

DEPOSIT OF BORROWINGS AMOUNT TO THE RERA DESIGNATED BANK



CA. Vinay Thyagaraj

ACCOUNT (70 % RERA ACCOUNT)

Deposit of Borrowings amount to the RERA Designated Bank Account (70 % RERA Account)

mortgage of the project land and utilisation for the same project development purposes.

Karnataka RERA Authorities have issued the new notification on 19th July 2023 with the Subject - Mandatory deposit of money into the RERA project designated bank account borrowed by the promoter by

Understanding of this notification and its relevance is very important to the Chartered Accountants and to the promoters of the Real Estate Project.

RERA

SI No	Paras / Clauses in the Notification	Understanding / Practices
1	Karnataka RERA has always worked towards bringing greater transparency, responsibility, accountability by issuing the various circular, notification which includes circular No 3/2019 dated 6 th Nov 2019 with respect to deposit of landowners 70 % collection to designated account and further the RERA Bank Account Directions 2020 dated 7 th Jan 2020 in order to comply with provisions of section 4(2) (1)(D) of the Act.	<p>This paragraph refers to the 2 important circular / Notification issued by this authority in the past -</p> <p>Circular No 3/2019 dated 6th Nov 2019 with respect to deposit of landowners 70 % collection to designated account – important contents of this circular include -</p> <ol style="list-style-type: none"> Landowner details shall be provided at the time of registration. Registration of the project including the Landowner share of units. Developer shall monitor and report the transactions done by the Landowner and comply with section 4(2)(1)(D) and K RERA rule 15. Deposit of 70% of money realised from the allottees of Landowner share into the RERA Account of the project as provided during the registration. Withdrawal of money from the account shall be based on % of completion of the project. The liability of the landowner shall be co-terminus and at par with the developer. Written agreement between landowner and promoter shall clearly specifies the rights and shares of each. Copy shall be uploaded on the RERA website for public viewing Joint affidavit by both Developer and the landowner is answerable to the claim regarding the title over the land Landowner to comply with the terms of the development agreement or joint venture agreement. <p>RERA Bank Account Directions 2020 dated 7th Jan 2020</p> <ol style="list-style-type: none"> Various formats of the Chartered Accountants Certificates are notified. Opening of the RERA Bank Account - name and nature of the bank account – bank account name shall contain the promoter’s name and the project name. Deposit of the amount into the RERA Bank account, realised from the allottees of the project Pass through charges and indirect taxes need not to deposit into 70 % bank account. Surplus money can be deposited into Fixed Deposit – No Lien Fixed Deposit Withdrawal of the money from the RERA Bank Account based on proportion to the percentage completion of the project. On completion, balance amount lying in the RERA Bank account can be withdrawn. Submission of Form 4 / Form 7 along with the Bank Statement of the RERA Account on quarterly basis. How to change the RERA Bank Account and process involved Power of RERA Authority on RERA Bank Account under the Act. <p>The above circular, direction is very important for the promoters and professionals to follow.</p>

SI No	Paras / Clauses in the Notification	Understanding / Practices																																												
2	<p>This authority has notified Form 4 (Chartered Accountants Certificate) and Form 7 (Audit of accounts of the project) report by a chartered accountant annually. On verification of these forms randomly, it is observed that the many promoters of the real estate project are borrowing money from the financial institutions / banks / others etc by mortgaging the project land and also the apartments / units in the project.</p>	<p>Form 4</p> <ol style="list-style-type: none"> is the Chartered Accountant Certificate. The promoter shall obtain this certificate for every withdrawal from the RERA Bank Account. The copy of these Form 4 shall be submitted to the Authority during Quarterly return filing. The form 4 contains the details of the project, estimated cost of the project and actual cost incurred. Further details of sold, unsold inventory and money agreed against the unit, money collected from the allottees are to be reported as annexure to the Form 4 The format of Form 4 is available on the Website of the RERA Authority Due date of filing the quarterly returns / updates are 15 days from end of each quarter (section 11 read with rule 15) <p>Form 7</p> <ol style="list-style-type: none"> Is the report on annual audit of accounts of the project. Report shall be obtained by the promoter within six months from the end of the financial year – i.e., by 30th September of each year Report format is available on the RERA Website. Chartered Accountant in practice shall certify the form 7. Chartered Accountant certifying form 4 shall be a different Chartered Accountant to certify form 7. <p>Form 7 contains various Tables and Annexures - https://taxguru.in/corporate-law/online-module-submission-form-7-annual-report-statement-accounts.html</p> <p>The promoter shall submit the form 7 within the due date. Failing which the penal provisions as per Section 60 may be invoked.</p> <p>These forms may be verified by the RERA Authority. In the notification, it is mentioned that the Authority has observed that the loan amount is borrowed for the project. Such information could be based on these certificates. Hence the promoter and the professionals shall take due care while obtaining and submission of Form 4 and Form 7.</p>																																												
3	<p>Further it is observed in few instances that the money <i>borrowed by mortgaging the project land and units in the project are not utilised for the purpose of the project.</i> It is evident from the details provided by the promoter and the certificates that total amount realised from the allottees <i>plus the total money borrowed by mortgaging the project land is not fully utilised for the purpose of land and construction.</i></p>	<ol style="list-style-type: none"> This paragraph mentions that the promoters are availed the loans or borrowings by mortgage of the Project Land and units in the project. Further the authority has observed in few instances. i.e., the authority has started verification of these Forms 4 and Form 7 submitted by the promoters after having certified by the Chartered Accountants While making application for grant of RERA registration, the promoter declares the estimated cost of the real estate project (estimated land cost + estimated construction cost). We presume that the 70 % of the total realisation shall be considered to arrive at the utilisation (against 100 % realisation) Further if the project land and units are not mortgaged, not created the encumbrance, then there are no requirements of depositing such borrowings into RERA Bank Account. E.g., for the sake understanding. <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th></th> <th></th> <th>Sceanario 1</th> <th>Sceanario 2</th> </tr> </thead> <tbody> <tr> <td></td> <td>100%</td> <td>70%</td> <td>70%</td> </tr> <tr> <td>Amount Realised from the allottees</td> <td>600</td> <td>420</td> <td>420</td> </tr> <tr> <td>Loan availed against mortgage</td> <td></td> <td>1,000</td> <td>1,500</td> </tr> <tr> <td>TOTAL</td> <td></td> <td>1,420</td> <td>1,920</td> </tr> </tbody> </table> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th></th> <th>Amount</th> <th>Incurrred</th> <th>Incurrred</th> </tr> </thead> <tbody> <tr> <td>Estimated Land Cost</td> <td>1,000</td> <td>1,000</td> <td>1,000</td> </tr> <tr> <td>Estimated Construction Cost</td> <td>2,000</td> <td>800</td> <td>800</td> </tr> <tr> <td>TOTAL</td> <td>3,000</td> <td>1,800</td> <td>1,800</td> </tr> </tbody> </table> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tbody> <tr> <td>Excess / (Short)</td> <td></td> <td>-380</td> <td>120</td> </tr> </tbody> </table> <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tbody> <tr> <td>Remark</td> <td></td> <td>Fully utilised</td> <td>Fully not utilised</td> </tr> </tbody> </table>			Sceanario 1	Sceanario 2		100%	70%	70%	Amount Realised from the allottees	600	420	420	Loan availed against mortgage		1,000	1,500	TOTAL		1,420	1,920		Amount	Incurrred	Incurrred	Estimated Land Cost	1,000	1,000	1,000	Estimated Construction Cost	2,000	800	800	TOTAL	3,000	1,800	1,800	Excess / (Short)		-380	120	Remark		Fully utilised	Fully not utilised
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Sl No	Paras / Clauses in the Notification	Understanding / Practices
DIRECTIONS Issued in the Notification		
4	That the promoter of the project shall deposit the entire amount borrowed for the purpose of the project into the designated account of the project (i.e., 70 % of the account as mandated under the Act) and the money so deposited shall be utilised and withdrawn only for the purpose of the development of the respective project.	<p>a. With this notification, the money borrowed against the project land or units shall be deposited into the RERA Bank Account (70 % Account)</p> <p>b. Money so deposited shall be utilised for the purpose of the development of the project.</p> <p>Comments -</p> <p>a. Once amount is deposited into 70 % RERA Bank Account, it requires the professional certificates of Engineers, Architects and a Chartered Accountant in practice to withdraw the money.</p> <p>b. Money shall be withdrawn based on proportionate percentage of completion of the works in the project.</p> <p>c. All the compliances as mandated U/s. 4(2)(1)(D) shall be applicable.</p>
5	In case the promoter borrows the money for the project and registered the project phase wise as per explanation to section 3(2) of the Act, the promoter shall bifurcate and apportion the amount towards various phases and report the same during the quarterly updates along with the Bank Statement or Chartered Accountants Certificate by way of Annexure.	<p>a. In case of large developments (e.g., project is having multiple towers or multiple buildings or multiple phases etc) the promoter can apply application to RERA phase-wise and obtain the RERA Registration phase-wise. For the purpose of RERA, each such registration shall be considered as a separate project and all compliances are applicable under RERA.</p> <p>b. It is essential to maintain the books of accounts based on the RERA registration (project wise) for better reporting and compliances. If not maintained, efforts shall be made to derive the cost incurred on a scientific basis and report the same in Engineer Certificate (form 6) and Chartered Accountants Certificate (form 4)</p> <p>c. In case of the borrowings made and same is utilised for the projects (multiple phases) one can allocate / apportion on various parameters –</p> <p>a. Based on actual utilisation of funds for the phase wise</p> <p>b. Based on % completion of the phases</p> <p>c. Based on cost incurred for each phase</p> <p>d. Any other phase as may be acceptable.</p> <p>d. Point to be noted that the CA shall certify such utilisation of funds for the project and same shall be submitted as Annexure to CA Certificate in Quarterly updates</p>
6	The lenders /bankers financial institutions shall also ensure to disburse such loans only to the designated rera account of the project. Such designated rera account details are published and available in the K RERA website for each registered rera projects.	<p>a. Lenders or bankers or financial institutions shall make note of this notification and give effect to the contents of the notification.</p> <p>b. Any further loan disbursement for the project, such amount shall be disbursed to 70 % RERA Bank Account only.</p> <p>c. Bankers can check the RERA Bank Account in the RERA authority website by entering the Project Registration number –</p> <p>https://rera.karnataka.gov.in/viewAllProjects</p>
7	The chartered accountant based on the books of accounts maintained and while issuing the certificates shall also report whether the amount borrowed for the purpose of the project has been deposited into the designated rera account or not.	<p>a. Chartered shall verify the books of accounts, whether any loans are disbursed for the project, if disbursed, whether, same is transferred to 70 % RERA Bank Account</p> <p>b. Collect 70 % RERA Bank account statement and verify the credit of such loan amount.</p> <p>c. If the loan amount is not credited to 70 % RERA bank Account, same shall be reported in the CA Certificate.</p>

SI No	Paras / Clauses in the Notification	Understanding / Practices
8	In case of the existing projects, where in the promoters have borrowed money for the purpose of the project and <i>not utilised any portion of such money to the respective project shall deposit the unutilised portion of money into the designated rera account with 3 months</i> from the date of this notification.	<p>a. In case the promoter unutilised the money for the specific project having borrowed by mortgage of project land or units of the project or used for any other project or any other business other than for the specific project, such amount shall be brought back to the 70 % RERA designated bank account with in three months from the date of this notification.</p> <p>b. Every borrowing arrangement is unique or different. The terms of the borrowing will differ from project-to-project</p> <p>Eg., borrowing made at Holding Company level and utilised at the subsidiary/ies</p> <p>Loan borrowed by mortgaging the project land and utilised completely for the different project.</p> <p>One should assess each situation, transaction and circumstances before reporting.</p>
9	The authority may call for any information or documents from the promoters by issuing a notice in order to enforce this notification.	

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Solution to Sudoku - 36 July 2023

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

SUDOKU-37

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

KSCAA

Welcomes New Members - July and August 2023

Sl. No.	Name	Place
1	Nitin Singhal	Bengaluru
2	Vijayalakshmi Rajamani	Bengaluru
3	Prakyath Shetty	Bengaluru
4	Swapnil	Mysuru
5	Jayaraj Munoth	Bengaluru
6	Felix John	Bengaluru
7	Prajwal Mp	Bengaluru
8	Shridevi	Bengaluru
9	Mukul Harinath Sringeri	Bengaluru
10	Santosh Kumar S	Bengaluru
11	Subhash Patil Gowdru Shivananda	Shivamogga
12	Pavan Mr	Bengaluru
13	Nilesh Sarada	Jodhpur
14	Prakash K	Bengaluru
15	Shantha Kumara B	Bellary
16	Sridhar Shetty	Bengaluru
17	Lingraj S Patil	Bengaluru
18	Hampanavar Basavaraja	Bengaluru
19	Jagdeep	Bengaluru
20	Manjunatha Sardar	Bellary
21	Nandeesh G S	Bellary
22	Naveen Raikar	Vijayanagara
23	R G Rajan	Chennai
24	Thejas K S	Shivamogga
25	Manish Bhansali	Gadag
26	Ganapati Hegde	Bengaluru
27	Santoshkumar S	Koppal
28	Venkatesh G	Bellary
29	Akhila Mallikarjun Tapashetti	Bellary
30	Anitha Gowdara	Vijayanagara
31	Gajaraj D	Bellary
32	Chandrashekhara Reddy M	Bellary
33	Apoorva Agarwal	Hyderabad
34	Chinnappa Sandeep	Bengaluru

Sl. No.	Name	Place
35	Lokesh C	Bengaluru
36	Manoj Kumar	Bengaluru
37	Swetha Srinivasan	Chennai
38	Pratik T	Bengaluru
39	Anmol Lohia	Bengaluru
40	Sujana H R	Shivamogga
41	A S Kumar	Chennai
42	Bhagyashree Narasinha Hegde	Siddapura
43	Mahesh Harishchandra Bandre	Pune
44	Vinay Chordia	Chennai
45	Sivaraman V	Chennai
46	Hari Kishan Kumar P Chhajer	Bengaluru
47	Dungar Chand U Jain	Madurai
48	G Kirankumar Reddy	Bengaluru
49	Kunal J Kotak	Hyderabad
50	Sulekha Pardeshi	Bengaluru
51	Utsav Gandhi	Bengaluru
52	Anandteerth J Korlahalli	Bengaluru
53	Priya Kini K	Bengaluru
54	Chandrakant	Vijaypur
55	Nekkanti Naga Surya Prakasa Rao	Visakapatnam
56	T G Arun	Mysuru
57	Rajendra M	Bengaluru
58	Rakesha Hosahalli Somashekara	Bengaluru
59	Prema Kumari S	Bhadravathi
60	Archana Jain	New Delhi
61	Balaji Grandhi	Bellary
62	Sunku Mahesh Sathvik	Bengaluru
63	Gadilingappa T	Bengaluru
64	Praveen Kumar	Coimbatore
65	Jayanth N Rao	Bengaluru
66	Niraja N	Bengaluru
67	Prishita Agarwal	Bengaluru



CA. Rajat Rashmi

THE SUPERPOWER OF MORNING RITUALS

The busy tax and audit seasons leave you and your team pressured and anguished. Is there a solution to the angst? Not everyday Chartered Accountants read an article on 'Rituals'. Before putting this piece aside, do give it a thought. All of you probably already have rituals in your daily lives. Consider this: 'Power of rituals' is now a research topic. Look up 'Google Scholar' and check out the voluminous number of papers written on this topic.

Your profession is prone to vagaries of external forces. your income depends on the Alpha earners of the market. Alpha earners are the big companies which rule the market and generate businesses for other businesses. Ups and downs are inevitable. Yet have you noticed that there are always some who do quite well no matter what? How do they stay on top of their games? It is not just luck for sure, it must be dedication.

Picture this: there is revenue crunch and work is not forthcoming. Challenging to keep the brain in rein, right? It constructs scenarios of complete disaster, unprovoked. How to keep those thoughts in check? Not just yours, your team's too.

You need a self mentoring device to inspire you and help you to take risks and think up new ideas even when nothing works. A professional creates new opportunities and turns the wind around. That takes self awareness, focus and consistency. Stress or boredom cannot be entertained. Situations can't hold you hostage!

What can you do to motivate yourself? The answer to that is contained in many self help books. In his book *Miracle Mornings*, Hal Elrod boldly calls them RITUALS. Rituals do not give results in a day or two. Not even a month or two. It's an entire lifetime of repetition without seeking results. You will not notice them making a difference. Over a long and consistent period of time, they re-engineer you and make you a resounding success - gradually but certainly.

Do rituals really work? Well, let us examine with another question.

Question: Which is the most successful organisation in the world?

Answer: Organised Religion. Ubiquitous and unchallenged, religions have grown with the growth of civilization. Every single person has a religion. Did you ever wonder why? Because every single one of them, helps harness the untapped potential of the 'human mind', through its practices and... RITUALS.

Psychologists are now realising the power of chanting. One leading psychologist in Bangalore told me that, if you chant a simple mantra over and over, when the mind is not at work, it helps you to calm your mind and even helps avoid Alzheimer later in life.

The Holy Geeta helps us gain control over our minds. It emphasises on doing and not attaching to our results, guiding us to control needless fantasies of loss or glory our minds concoct. Because over 2500 years ago, wise people understood that the brain is fickle and it keeps changing every so often based on fantasies of glory or loss.

How do we train the fickle minds? Through repetitive action. Because the mind is 'plastic', it is prone to inertia. If we leave it to rest it will insist on resting and if we make it work, it will insist on continuously working. Any Workaholics here? CAs have a reputation of being workaholics, because we attract that inertia to our plastic brains.

We are looking to strike a balance. An intelligent and energised mind and body. A ritual is a daily practice, which prepares our minds and bodies to function optimally. A daily maintenance process. Rituals should be practicable and short. Spending about 30 min to an hour a day on rituals is enough.

What ritual to follow? You could begin with the *Miracle Mornings' SAVERS*. 60 minute process, with 10 min of each activity. People who have followed these rituals assiduously, report that their lives transformed, their wealth skyrocketed and most importantly, their health and family relationships improved. Here are the SAVERS:

Solitude or meditation: There is no end to literature on the benefits of meditation. Many of us don't make time for it. But Meditation can save us hours of our time: just 5 to 10 minutes of meditation can make us effective for the entire day.

Affirmation: These are simple sentences I tell myself to motivate myself. For example: 'I manage my profession with great stewardship'. 'I value my team and treat them with respect'. Etc. Affirmations are like the mantras. They help us train our minds to think 'positive' and therefore makes us calm in trying situations.

Visualise: Visualisation makes success real, a NLP (Neuro Linguistic Programming) Tool. The Secret by Rhonda Byrne made it quite technical and clear how this works. Where is the time when the tax season is keeping you under reams of files? Right there under the reams of files, close your eyes and see yourself sailing out of them like a phoenix rising from ashes. None of those files hold a challenge as big as the challenge your minds hold for you.

Exercise: I don't even need to tell you that exercise is a must. Watching what you eat is included. Always aim to be healthy and happy. That ought to be top priority.

Read: Read a scripture. I read Geeta at present. Hope to graduate to reading the vedas. These scriptures have age old wisdom which have benefitted millions and there is a natural grounding impact of these books of knowledge. Geeta or Bible or Quran or Gurbani take your pick. Or pick up a motivational book instead.

Scribe or write: I follow Allen C Walter's writing ritual, also called the gratitude writing. It is a set of 5 things to write in the morning to prepare for the day and 3 in the evening to end the day with.

Morning:

What I will accomplish today? (To do list)

What I will do for others?

What I am grateful for? (10 things)

What others do for me? (Family or friends)

What I am happy about now? (Something that makes you feel happy at the moment.)

Evening:

How Well did I do, in accomplishing my goals today?

What have I done well, increased in value or got better at today?

If I wanted to be happier, what additional things would I be happy about?

Takes me 5 minutes in the morning and 5 in the evening.

You can make your own rituals. The challenge is to follow them every single day. The Rituals are meant to give you a start of the day with awareness and to end the day with an analysis and feedback session with yourself.

What these simple rituals do is to set you up for success. If on a particular day nothing of importance happens, still you will have done 6 positive things first thing in the morning. And these things have a way of catching up and enriching you.

Good luck!

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KSCAA REPRESENTATIONS

1. "Representation for extending the due date for submission of Co-Operative Societies' Audit reports for the financial year 2022-23"
2. "Representation Regarding Incorrect Processing Of Income Tax Returns Filed For The Ay 2023-24 [Denial Of Deduction Even In Cases Where It Has Not Been Claimed]"
3. "Representation Regarding Adjustments Of Demand By CPC Despite Assessments Pending Before Appellate Authorities"
4. "Representation Regarding Clarification on Admission of Indian Trusts as Partners in Limited Liability Partnership Firms ("LLP")"

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

Ethics from Epics - 1



Selfless Oath, Pointless Loyalty

CA. Allama Prabhu M S

Devavrata, who narrowly escaped infanticide because of his father's (Shanthanu) intervention, survived the adversity only to endure a series of agonies. Probably, the first 16 years of his life (with his mother Ganga) were the longest span of his life that he spent cheerfully.

He became proficient and mastered all forms of martial arts, Law and Administration. Vasishta, Brihaspati, & Parashurama were his Gurus.

1A. Oath of Celibacy

Strangely, Shantanu experiences infatuation in his late 40's!

He falls deeply in love with Satyavati, who agrees to marry him consequent only to her father's consent. But, her father, who was the Chief of the fishermen's tribe, came out with a sole condition that the heirloom to the Royal Throne should be Satyavati's son alone and no one else.

Shantanu was disappointed & dejected. Devavrata had already been crowned as Yuvaraja by him.

After coming to know the reason for his father's despondency, Devavrata goes to Satyavati's father and makes a dreadful vow:

"I shall not claim the throne. I shall remain unmarried; not beget an heir" He swears in witnessing divine celestial bodies. Because of his vow, Devavrata became Bhishma* !

Though he was effectively groomed to become the heir to the throne, he renounced his royal throne for the sake of the happiness of his father.

[*Bhishma**: Terrible, dreadful, frightful, fearful; Sentiment of terror (in rhetoric)]

Frail Vessel, filling again !

It gives me great joy to restart the series "Ethics from Epics", after a long gap of more than 10 years.

Great Joy: Because, I feel that God has been merciful in choosing me and giving me the opportunity to study the classics, comprehend, and learn new ideas that are woven into our great epics. This has helped me to think more clearly, improve my life, and become a better person to live on earth.

God has spoken to me through KSCAA & has thus ordered me to resume my humble work.

I recall the first poem from Gurudev Rabindranath Tagore's Gitanjali.

*"Thou hast made me endless,
such is thy pleasure,
this frail vessel thou emptiest again and again,
and fillest it ever with fresh life.*

*This little flute of a reed
thou hast carried over hills and dales,
and hast breathed through it
melodies eternally new.*

*At the immortal touch of thy hands,
my little heart loses its limits in joy and
gives birth to utterance ineffable.*

*Thy infinite gifts come to me
only on these very small hands of mine.*

*Ages pass, and still thou pourest,
and still, there is room to fill."*

And for the learned readers, I know that they have a magnanimous heart to pardon my errors (as they did earlier) & to accept my humble scribblings.

Allama Prabhu M S

Carrying out thy commands.

This was unexpected and gruesome for Shantanu. But, he could not change what had happened. Shantanu, who was King Mahabhishek in his previous birth, had divine powers too. He gave the boon of Ichhamarana to Bhishma, allowing him the privilege to choose the time/moment of his death.

2A. *Abduction of Princess:*

Two boys viz., Chitrangada & Vichitravirya, were born to Sathyavathi. A Gandharva killed Chitrangada in a fight. Vichitravirya was too young and Bhishma was constrained to rule the kingdom in his name.

A swayamvara was conducted by the king of Kashi, who did not extend an invitation to Hastinapura. This was considered an insult by Bhishma, who barged into the event and virtually abducted the 3 princes viz., Amba, Ambika & Ambalika.

Amba revealed that she was in love with Prince Shalva. Bhishma allowed her to go to Shalva, but the latter refused to marry her.

Now that he has defeated Shalva in battle, Amba insists that Bhishma to marry her. Bhishma vehemently rejected.

She sought the help of others, but no one could espouse her because of fear of Bhishma.

Amba came to the conclusion that Bhishma was to be blamed for her situation and harboured a bitter animosity for him.

Amba wanted to avenge her humiliation and thus did a penance. Shiva Mahadeva appeared and granted her wish but with a condition. Shiva said: "You will be the cause of Bhishma's death, but only in your next birth".

Amba immediately threw herself into the funeral pyre and was reborn as "Shikandi", reborn with the sole purpose of killing Bhishma.

After a few years, Vichitravirya also died, leaving behind two widows who had no children. Bhishma's oaths became futile.

3A. *Mute Spectator witnessing immodest acts:*

Dice-wise, Dice-vice, cunning Shakuni casts the Die for the final time and wins Draupadi in the wager. Dushyasana indulges in an atrocious act of dragging

Draupadi by her long plights into the Court Hall.

At the instance of Duryodana, he also attempts to disrobe her right in the Court Hall!

Krishna's grace rescues Draupadi.

Dhritarashtra, who got scared of the various oaths taken by the Pandavas to slay Duryodhana and his brothers, pacifies Draupadi and grants her a wish; using which, she debonds her five husbands from slavery.

Greed, Jealousy & selfishness – these venoms have their own degrees of potency.

Kauravas proposes the second game.

Dice were rolled again. Outcome was as expected by all !

Bhishma could not stop the game of dice played for the second time nor could avoid its unpleasant consequences.

4A. *Self Goal*

In Kurukshetra, when Bhishma was requested by Duryodhana to be the Commander-in-Chief, he set out certain conditions. One of them was not allowing Karna to engage in the battle when he was leading, despite knowing the truth that Karna was the eldest of the Kuru dynasty.

Bhishma was furiously destroying the Pandava Army, but he had made it quite clear to Duryodhana that he would not kill any of the Pandavas as they were dear to him just as much as he was.

That night, Yudhishtira & his brothers enter the tent of Bhishma and unwillingly and unhappily appeal to him that if they want to win the war, they have got to see him killed. They knew that none of them could defeat him.

Bhishma suggests the idea of making Shikandi appear before him on the battlefield. Bhishma had pledged to put down his weapons if a woman challenged him to a fight. Shikandi, when reborn, was first a woman and then became a man.

As preplanned, Shikandi emerges in the foreground and Bhishma lays down his bow. As they wait for this to happen, Shikandi and Arjuna both fire a number of arrows at Bhishma.

Finally, he lies down on a bed of arrows.

Cardinal blunders (ಮಹಾ ಪ್ರಮಾದಗಳು*) ?

1B. Oath was purely selfless, but?

There was no pressing need for Bhishma to instantly and impulsively commit and take the oath of celibacy and also to renounce his claim to the throne. A Formidable oath was taken against powerful natural impulses, & consciously disregarding the imperial bequest ! He should have waited for a few more days and consulted elders and sages about the Dharma Sukshma. Perhaps by then, Shantanu would have overcome his obsession and gained equilibrium and normalcy in his thinking.

Emotionally charged Impulsive decisions cause permanent damage.

Eventually, Bhishma's oath proved futile very soon.

2B. Swayamavara

Swayamvara is an opportunity given for the Princess to choose their life partners of their liking. Probably, the King of Kasi thought that Vichitravirya was too young to be invited and hence unfit to participate in the event.

Bhishma was merely upset over Hastinapura's exclusion from the ceremony. Disregarding all the sentiments and feelings of the father & the Princess, Bhishma abducted them and denied their natural birthright to select their desired spouse.

"A moment of Patience in a moment of Anger saves a thousand moments of Regret."

- Ali Ibn Abu Talib

3B. Asabhyate in Sabha Parva.

Vidhura denounces the heinous acts. Vikarna, one of the brothers of Duryodhana, created a sensation by arguing that as Yudhishtira had first lost himself in the wager just a moment before, he had no right to offer Draupadi for the final time.

*Pramada: A serious error in the behaviour of a person, having far reaching consequences.

(Jnanasagara CA S Krishna Swamy)

This was not endorsed by Bhishma; not even by Drona.

A woman was molested in public by a group of hooligans and, except for a few, no one had the moral courage to oppose it!

King was born blind & Queen had tied her eyes. How about their other senses, though?

Almost all the subjects were highly learned.

Were they all just a lump of living flesh, blind, deaf, and dumb?

The outrageous conduct of Dushyasana, acts of fatal atrocity and arrogance, should have been unequivocally censured by one and all, and more so by Bhishma, the great grandsire.

Because of the questionable inaction of Bhishma-Drona, Draupadi was almost disrobed in public.

Bhishma had all the rights to stop it and the responsibility to eschew it. After all, the kingdom was his alms to the successors.

But, he abstained to act, when he was required to act.

"Often injustice lies in what you aren't doing, not only in what you are doing. You can also commit an injustice by doing nothing "

-Marcus Aurelius

4B. Contentious Cabal

Bhishma was fighting a war and he was the Commander-in-Chief of Kauravas. But, he collides with the enemies and gives them ideas to banish him. Was that tenable?

Or was he disgusted because of the various acts of wickedness, greed, and selfishness of Duryodhana and Shakuni and wanted to put an end to it? He had all the time, suitable circumstances to make things right.

And finally, to whom did he remain loyal? To Hastinapura? To Pandavas? To Morality?

.....Contd.

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COURTROOM SERIES – 1 : Snapshot to the Cases on use of Scope of Definition Clause in a Statute and the Meaning of a word

CA Arpit Haldia

S. N.	Subject	Case	Held
1.	Use of Definition Clause	Nahalchand Laloochand P.Ltd vs Panchali Co-Op.Hng. Sty.Ltd on 31 August, 2010 (SC)	“Justice G.P. Singh in the ‘Principles of Statutory Interpretation’ (12th edition, 2010) says that the object of a definition of a term is to avoid the necessity of frequent repetitions in describing all the subject matter to which that word or expression so defined is intended to apply. In other words, the definition clause is inserted for the purpose of defining particular subject-matter dealt with and it helps in revealing the legislative meaning. However, the definitive clause may itself require interpretation because of ambiguity or lack of clarity in its language. In the ‘Construction of Statutes’ by Earl T. Crawford (1989 reprint) at page 362, the following statement is made: “the interpretation clause will control in the absence of anything else in the act opposing the interpretation fixed by the clause. Nor should the interpretation clause be given any wider meaning than is absolutely necessary. In other words, it should be subjected to a strict construction.”
2.	Definitions in statutes when beginning with, “unless there is anything repugnant in subject”	The Vanguard Fire And ... vs M/S. Fraser And Ross And Another 1960 AIR 971 (SC)	But s. 2 begins with the words " in this Act, unless there is anything repugnant in the subject or context " and then come the various definition clauses of which (9) is one. It is well settled that all statutory definitions or abbreviations must be read subject to the qualification variously expressed in the definition clauses which created them and it may be that even where the definition is exhaustive inasmuch as the word defined is said to mean a certain thing, it is possible for the word to have a somewhat different meaning in different sections of the Act depending upon the subject or the context. That is why all definitions in statutes generally begin with the qualifying words similar to the words used in the present case, namely, unless there is anything repugnant in the subject or context.
3.	Meaning of the Word not defined in the Statute	Maheshwari Fish Seed Farm vs T. Nadu Electricity Board And Anr on 16 April, 2004 (SC)	It is settled rule of interpretation that the words not defined in a statute are to be understood in their natural, ordinary or popular sense. According to Justice Frankfurter, "After all, legislation, when not expressed in technical terms, is addressed to common run of men, and is, therefore, to be understood according to sense of the thing, as the ordinary man has a right to rely on ordinary words addressed." (Wilma E. Addison v. Holly Hill Fruit Products, 322 US 607, at p.618). In determining, therefore, whether a particular import is included within the ordinary meaning of a given word, one may have regard to the answer which everyone conversant with the word and the subject-matter of statute and to whom the legislation is addressed, will give if the problem were put to him. (Principles of Statutory Interpretation by Justice G.P. Singh, Ninth Edition, 2004, p.95
4.	Perils of importing definition from statute	Maheshwari Fish Seed Farm vs T. Nadu Electricity Board And Anr on 16 April, 2004 (SC)	Suffice it to observe that the common parlance meaning of the term 'agriculture', in the context in which it has been used and is arising for determination before us, cannot be determined by reference to definition given in other statutes. This we say for more reasons than one. Firstly, none of the statutes referred to by Shri Iyer, the learned senior counsel, can be called statutes in pari materia. Secondly, it is common knowledge that the definition coined by the Legislature for the purpose of a particular enactment is often an extended or artificial meaning so assigned as to fulfill the object of that enactment. Such definitions given in other enactments cannot be freely used for finding out the meaning to be assigned to a term of common parlance used in an altogether different setting. And lastly, as Justice G.P. Singh points out in "Principles of Statutory Interpretation" (Ninth Edition, 2004, at page 163) "it is hazardous to interpret a statute in accordance with a definition in another statute and more so when such statute is not dealing with any cognate subject or the statutes are not in pari materia." The same view has been taken in the decision of this court in CIT, W.B. v. Benoy Kumar (supra) which we have extensively referred to earlier in this judgment.
5.	Perils of Dictionary Meaning	CGT vs. Getti Chettiar [1971] 82 ITR 599(SC)	A reading of this section clearly goes to show that the words "disposition", "conveyance", "assignment", "settlement", "delivery" and "payment" are used as some of the modes of transfer of property. The dictionary gives various meanings for those words but those meanings do not help us. We have to understand the meaning of those words in the context in which they are used. Words in a section of a statute are not to be interpreted by having those words in one hand and the dictionary in the other. In spelling out the meaning of the words in a section, one must take into consideration the setting in which those terms are used and the purpose that they are intended to serve.
6.	Definition of word from other statute no to be imported if not pari materia	Sri Jagatram Ahuja vs The Commissioner Of Gift Tax on 17 October, 2000 (SC)	We may state here itself that the words and expressions defined in one statute as judicially interpreted do not afford a guide to construction of the same words or expressions in another statute unless both the statutes are para-materia legislations or it is specifically so provided in one statute to give the same meaning to the words as defined in other statute. The aim and object of the two legislations, namely, the Gift-tax Act and the Estate Duty Act are not similar.



Photo Gallery



Court Room Series (Webinar)
Organized by the Indirect Taxes Committee
of KSCAA on 29th August 2023

Eloquent Professionals Meet
Installation Ceremony 2023 | Organized by
Leadership and Skill Development
Committee of KSCAA on 2nd September
2023.



Webinar on Disclosures, Disclaimers &
Observations in Tax Audit Report
Organized by the Direct Taxes Committee
of KSCAA on 6th September 2023.

Brainstorming session on Best Practices
followed in Legal Representations before
the Government Authorities | Organized by
the Representation Committee of KSCAA
at KSCAA Office, Bengaluru on 11th
September 2023.





KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (R) Executive Committee Members - 2023-24



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President



CA. Vijaykumar M Patel
Vice President



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CA. Praveen S Shettar
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CA. Mohammed Yusuf
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Representation
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Corporate & Allied Laws
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CA. Herambha Hegde
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Committee



CA. Deepak Jain
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Mofussil Members
Empowerment Committee and
Membership and Members
Services Committee



CA. Vishranth B L
Chairman
Media & Technology
Initiative Committee



CA. Pramod Srihari
Immediate Past President

50th Annual General Meeting - Photo Gallery

