



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

NEWS BULLETIN

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**36th KSCAA
ANNUAL CONFERENCE
2024**

Friday, 1st March 2024 &
Saturday, 2nd March 2024

Venue : Bunts' Sangha,
Vijayanagara, Bengaluru.

From the President

My dear KSCAA members,



In 2023, while the rest of the world faced challenges such as the Israel-Palestine conflict, high interest rates in the US, Banking sector under significant challenges, and a strong dollar, India experienced economic prosperity and it was a memorable year for India. As we say goodbye to 2023, let's welcome 2024 as a year of comprehensive growth in every aspect of life. Invest valuable time in nurturing meaningful relationships for a fulfilling year ahead.

In the pursuit of the goal "Recraft Yourself," emphasis should be placed on the "D" that stands for Deliberate. Attaining our objective requires prioritizing choices, and these choices are predominantly driven by two emotions called pain and pleasure. Indeed, a fundamental fact of life is that a disciplined process often involves pain and challenges, but it ultimately leads to fruitful outcomes. Persistence, dedication, and a commitment to ongoing hard work play crucial roles in navigating difficulties. Success often requires pushing through adversity with a resilient and determined mindset. As the saying goes, "Discipline is the bridge between goals and accomplishments"

Let's catch up on the recent events that are relevant to our profession:

1. Events within the professional sphere:

- The increasing sophistication of cyber attacks, facilitated by AI and automation, has elevated the threat level, placing India among the select group of nations most significantly impacted by ransomware.
- Parliament has passed The Parliament has approved the Bharatiya Nyay Sanhita, Bharatiya Nagrik Suraksha Sanhita, and Bharatiya Sakshya Bill, signaling a comprehensive overhaul of colonial-era criminal laws. This initiative encompasses revisions to contentious statutes like the sedition law and reinforces legal protections for women and minors.
- The BCAS's 75th year celebration, with the theme "Reimagine" Conference, hosted in Mumbai, saw the active participation of numerous members from Karnataka. The event offered valuable insights that are highly relevant to the current times, and it facilitated discussions on reimagining various aspects of our professional practice. Panel discussions delved into the comprehensive exploration of these ideas across different spheres.

2. Events at KSCAA:

- On December 5th, the Direct Tax Committee organised a program addressing the Income Tax implications related to the issuance of securities. The event was well-received and offered valuable insights
- The Residential RERA Practice Enabler program witnessed active participation from members across various districts of Karnataka. The event featured engaging group discussions, paper presentations by team leaders, and insightful perspectives from domain experts. The practical experiences shared by RERA Board members added an enriching dimension to the program.
- KSCAA collaborated with ASSOCHAM to host a program titled "Insolvency & Bankruptcy Conclave 2023." The event received a positive reception, marked by its success and was particularly beneficial for numerous insolvency professional practitioners.
- On December 22nd, the Women Empowerment Committee orchestrated an exclusive session for Chartered Accountants, focusing on untapped opportunities within the MSME sector for professionals.
- Sports & Cultural Meet was arranged on December 17, 2023, to commemorate Kannada Rajyotsava and promote indoor sports. The cultural and family-oriented activities fostered strong emotional bonds among the members.

3. Upcoming Event:

The Residential Refresher Course on GST is scheduled to be held on 2nd to 4th of February 2024.

Please stay connected with us through our Website and WhatsApp to actively participate in every event organised by KSCAA.

As I sign off, let's make a collective pledge to make every day of the upcoming 365 days count, to build our legacy, and together, let's contribute to shaping a new world..

Happy Reading!

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

I. CBDT Updates

1. CBDT issues guidelines Vide Circular No. 20/2023, dated 28-12-2023 for removal of difficulties and clarity has been provided on various issues pertaining to applicability of section 194-O of the Act in a multiple e-commerce operator model framework, such as the Open Network for Digital Commerce (ONDC). The Circular details several types of situations with examples & provides clarity on multiple issues.
2. CBDT vide NOTIFICATION G.S.R. 908(E) [NO. 105/2023/F.NO.370142/45/2023-TPL PART-I], DATED 22-12-2023 notified ITR Form 1 and ITR Form 4 for FY 2023-24 effective from 1st April 2024.

II. Judicial Pronouncements

A. Supreme Court Judgements

1. Supreme Court dismisses the SLP against the order passed by the High Court holding that reimbursement of service tax ought not to be included in aggregate of amounts specified in clauses (a) and (b) of section 44BB(2), as it is not an amount received by assessee on account of services provided by them in prospecting, extraction or production of mineral oils. [*Transocean Offshore International Ventures Ltd. [2023] 157 taxmann.com 203 (SC)[28-11-2023]*]
2. Supreme Court dismissed the SLP against the order passed by the High Court that where a reopening notice was issued upon assessee on ground that there was escapement of income on account of bank interest and cash deposits in two bank accounts of assessee, since assessee was granted registration under section 12AA and 3rd proviso to section 12A(2) strictly prohibits issuance of notice under section 148 in case of a trust for any year preceding assessment year, in which registration under section 12AA was granted, no action under section 147 could be taken and thus impugned notice was to be set aside. [*Prem Chand Markanda SD College for Women [2023] 157 taxmann.com 529 (SC)*]

3. Supreme Court dismissed SLP against order passed by High Court that amendment brought by way of Explanation 2 to section 37(1) by Finance Act, 2014, with effect from 1-4-2015 was prospective in nature and thus, CSR expenditure incurred prior to 1-4-2015 was to be allowed. [*Rites Ltd. [2024] 158 taxmann.com 78 (SC)*]

B. High Court Judgements

1. Madras High Court held that only such 'scrap' generated from either 'manufacturing activity' or from 'mechanical working of material' could be construed to be in contemplation of section 206C - Mere opening, breaking or uncorking of a liquor bottle by mere twisting seal in a liquor bottle will not amount to generation of 'scrap' from 'mechanical working of material' for purpose of section 206C - since empty bottles were neither 'scrap' nor a property of either assessee or bar licensee, assessee would not be liable to collect tax at source under section 206C(1) from bar licensees on account of sale of empty liquor bottles [*Tamil Nadu State Marketing Corporation Ltd. [2023] 157 taxmann.com 704 (Madras)*]
2. Madras High Court Held that when assessee co-operative society do not establish that they distributed cash benefits as mandated by State Government to its members as well as non-members in terms of guidelines of Reserve Bank of India, it could not be said that it was acting as business correspondents of the State Government and, thus, it would not be entitled for exemption from deduction of tax under section 194N. [*Chennimalai Siragiri Murugan Primary Handloom Weaver's Cooperative Society Ltd. [2023] 157 taxmann.com 636 (Madras)*]
3. Kerala High Court affirmed that Doctrine of promissory estoppel would not apply against the state in its governmental, public, or sovereign function except to prevent fraud or manifest injustice. It is also well settled that doctrine of promissory estoppel does not apply against legislative function of the Government. [*Getwell Medicare [2023] 157 taxmann.com 365 (Kerala)*]

4. Delhi High Court quashed reassessment notice as Assessing Officer failed to prove how figure of escaped assessment was determined [*Shashi Mohan Garg [2023] 157 taxmann.com 549 (Delhi)*]
 5. Gujrat High Court held that the exemption under section 11(1) and (2) shall not be denied on ground that along with return audit report was not filed, the same shall be allowed even in case if there is delay in filing the audit report, since audit report was filed at a later stage and same was available with Assessing Officer while the return was processed. Requirement of law was satisfied, and assessee was entitled to exemption. [*Association of Indian Panelboard Manufacturer [2023] 157 taxmann.com 550 (Gujarat)*]
 6. Rajasthan High Court held that assessee would be entitled for immunity from imposition of penalty under section 270A though proceedings against it were initiated for imposition of penalty in case where assessee withdrew its claim for deduction of education cess in view of insertion of sub-section (18) of section 155 before it came into force w.e.f. 1-4-2022 [*G R Infraprojects Ltd. [2024] 158 taxmann.com 80 (Rajasthan)*]
 7. Himachal Pradesh High Court held that claiming deduction under section 80IB(10) beyond period of limitation as per section 139(1) on account of delay in audit, deduction cannot be denied on ground of late filing of return, that assessee was entitled to claim specifically computed deductions, assessee should not be burdened with taxes which it was otherwise not liable to pay under law [*H.P. Housing & Urban Development Authority (HIMUDA) [2023] 157 taxmann.com 598 (Himachal Pradesh)*]
 8. Bombay High Court Quashed the demand notice, where during faceless assessment proceedings the Assessing Officer went ahead to conclude the assessment and served demand notice, while on the other hand the assessee is pursuing objections before Dispute Resolution Panel. AO was directed to await DRP's directions before passing assessment order, leading to quashing of notice of demand [*Renaissance Global Ltd [2023] 157 taxmann.com 621 (Bombay)*]
 9. Delhi High Court held that, a foreign company, making investment in shares in its Indian subsidiary, could not be treated as income as same was in nature of capital account transaction and would not give rise to any income [*Angelantoni Test Technologies Srl [2024] 158 taxmann.com 10 (Delhi)*]
 10. Bombay High Court held that Assessee is eligible for Interest refund of equalization levy amount on account of excess payment of such equalization levy [*Group M Media India (P.) Ltd. [2023] 157 taxmann.com 487 (Bombay)*]
 11. Delhi High Court Stated that when no assessment is pending on date of search and no incriminating material was found during search, fresh material / information received after date of search would not be sufficient to reopen assessment under section 153A [*Oxygen Business Park (P.) Ltd. [2023] 157 taxmann.com 175 (Delhi)*]
- C. ITAT Judgements**
1. Visakhapatnam ITAT held that there was no suppression of cash receipts by assessee when assessee has received payment in cash for sale of immovable property, and such cash has been deposited by assessee into bank account and assessee had also offered capital gains to tax, penalty was unsustainable in law under section 271D. [*Smt. Vijapurapu Sudha Rao [2023] 157 taxmann.com 669 (Visakhapatnam - Trib.)*].
 2. Raipur Tribunal confirmed that No addition could be made under section 68 treating cash deposit in bank account as unexplained cash credit on basis of entries in bank statement/pass book of assessee since a bank pass book or bank statement could not be considered to be a 'book' maintained by assessee for section 68 [*Kuldeep Jiwan Mahan [2023] 157 taxmann.com 532 (Raipur - Trib.)*]
 3. Chandigarh Tribunal held that Assessing Officer shall examine the return of income for subsequent year where assessee seeks set off of brought forward losses to take into consideration whether return of income for year of incurrence of losses of specified business has been filed within prescribed due date or not and then, take appropriate action as per law [*International Fresh Farm Products (India) Ltd. [2023] 157 taxmann.com 127 (Chandigarh - Trib.)*]

4. Delhi ITAT held that when sale consideration received by assessee on transfer of capital asset was equal to circle rate, reference made to Valuation Officer to find out fair market value of property was not justified [Akash Garg [2023] 157 taxmann.com 267 (Delhi - Trib.)]
5. Mumbai ITAT held that when company had sufficient own funds for giving interest-free deposit, disallowance of interest under section 36(1)(iii) cannot be made [PNP Maritime Services (P.) Ltd. [2023] 157 taxmann.com 517 (Mumbai - Trib.)]
6. Surat Tribunal held that when a trust files its Form 10B after filing return but before assessment/intimation under section 143(1) was made by revenue, benefit of exemption under section 11 could not be denied merely on account of delay in furnishing audit report [S.M.K.R Vashi High School [2023] 157 taxmann.com 702 (Surat-Trib.)]
7. The Delhi Tribunal held that the mere non deposit of amount in capital gain account scheme should not be the reason for denial of exemption under section 54 if the investment in the new asset is made duly within the prescribed timelines. [Sarita Gupta [2023] 157 taxmann.com 208 (Delhi - Trib.)].
8. Delhi Tribunal held that Assessing Officer's order should consist of DIN on body of order, not mentioning DIN number would result as invalidating Officer's order being treated as invalid and shall be deemed to have never been passed; subsequent separate communication of DIN would be a superfluous exercise [Harjeet Singh [2023] 157 taxmann.com 270 (Delhi - Trib.)]

Solution to Sudoku - 40 December - 2023

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

SUDOKU-41

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

INDIRECT TAX UPDATES



CA. Sowmya C A

The fiscal year 2023 has been a year of robust growth of about 12% y-o-y with a remarkable GST collection of about Rs. 14.97 lakh crore during Apr-Dec 2023 alone which has shown both stability and steady improvement in economic health. The number of registrations has doubled since its inception in Jul 2017, a significant increase in the tax base of approximately 1.4 crore registrations. In the State wise revenue growth this fiscal, Maharashtra is leading followed by Karnataka, Gujarat, and Tamil Nadu.

In a much-awaited development, the Government has permitted the non-SEZ units engaged only in IT/ITeS businesses to operate from demarcated non-processing areas of IT/ITeS SEZ. This is a welcome move and will help increase the occupancy levels of SEZs while also providing flexibility as well as access to SEZ's infrastructure to such non-SEZ IT/ITeS businesses. Further as a trade facilitation measure, the government is considering allowing filing of updated or revised returns under the goods and services tax (GST), a move expected to benefit taxpayers and bring down litigation under the GST regime. However, it requires detailed consideration by the law committee of the GST Council followed by the GST Council itself. This will further require a significant upgrade to the GST Network for its successful implementation.

Amidst growing litigation, it's raining Orders as adjudication has been completed for FY: 2017-18 under normal period of limitation. Again, a flurry of notices have been issued for FY: 2018-19 amidst limitation period setting for the said year towards mismatch in output tax, input credit, availment of excess credits, interest/ penalty on disputed tax payments. AI and data analytics alone have played a significant role in identifying these mismatches with minimal or no application of human mind in the issuance of these notices.

In another development, prominent food delivery apps have received GST demand notices worth more than Rs. 750 crore, alleging non-payment of GST on consumer delivery fees. Currently, food delivery platforms pay 5% GST on food orders. However, the GST authorities contend that food delivery is a service and liable to 18% GST. The GST Council is

expected to take this up and provide clarifications to address the ongoing controversy surrounding the taxation of delivery charges. Another pending issue requiring addressal by the department is with respect to leasehold land. The department has contended that the transfer of leasehold right is a 'service of tenancy', and the position of the companies is that this is a sale of immovable property. The present concern has now compounded across industries with proceedings being initiated years after the transaction been completed and accounts closed causing uncertainty and apprehension among companies. Recent notifications, circulars and advisories issued during this month have been compiled below for an interesting read.

Recent Notifications :

- **Extension of time limit for issuance of order under section 73 for the Financial Years 2018-19 and 2019-20:**

The time limit specified under sub-section (10) of section 73 for issuance of order is within three years from the due date for furnishing of annual return for the financial year to which tax not paid or short paid or of input tax credit wrongly availed or utilized. The time limit for the below mentioned financial years have been further extended as specified below, namely:–

Financial Year	Time period for issuing order u/s 73(10)	Extended time period for issuing order u/s 73(10)
2018-19	Up to 31.03.2024	Up to 30.04.2024
2019-20	Up to 30.06.2024	Up to 31.08.2024

(Notfn No. 56/2023-CT dated 28 Dec 2023)

- The Central Government, on the recommendation of the Goods and Services Tax Council, notified the Principal Bench of the Goods and Services Tax Appellate Tribunal (GSTAT) at New Delhi, with effect from 01 January 2024.

(F. No. A-50050/99/2018-Ad.1CCESSTAT(Pt.) dated 29 Dec 2023)

- **Judgment of the Hon'ble Supreme Court in the case of Northern Operating Systems Private Limited (NOS) not to be universally applied to**

all cases :

Subsequent to the judgment of the Hon'ble Supreme Court dated 19.05.2022 in the case of CC, CE and ST, Bangalore (Adj.) etc Vs. Northern Operating Systems Private Limited (NOS), proceedings have been initiated against taxpayers for the alleged evasion of GST on the issue of secondment under Section 74(1) of the Central GST Act, 2017. The matter has been examined by the Board and instructions have been issued to the field formation that the Hon'ble Supreme Court judgement in the case of NOS was based on a nuanced examination based on the unique characteristics of a specific arrangement with its overseas entity and not by relying on any singular test and it was held in the said case that the secondment of employees by the overseas group company to NOS was a taxable service of 'manpower supply' and Service Tax was applicable on the same. However, there may be multiple types of arrangements in relation to secondment of employees of overseas group company to the Indian entity each carrying distinct tax implications based on the specific contractual nature and associated terms and conditions. Therefore, the ratio in the NOS judgment should not be applied mechanically in all the cases and distinct factual matrix must be examined to determine taxability under GST and the applicability of the principles laid down by the Hon'ble Supreme Court's judgment in NOS case.

- Further, instruction has been issued to inform that section 74(1) of the Central GST Act cannot be invoked merely on account of non-payment of GST, without specific element of fraud or willful misstatement or suppression of facts to evade tax. Therefore, only in the cases where the investigation indicates that there is material evidence of fraud or willful misstatement or suppression of fact to evade tax on the part of the taxpayer, provisions of section 74(1) of CGST Act may be invoked for issuance of show cause notice, and such evidence should also be made a part of the show cause notice.

(Instruction No. 05/2023-GST dt. 13 Dec 2023)

Recent Advisories :

- Earlier, 2-factor authentication was made mandatory for taxpayers with an aggregate annual turnover (AATO) exceeding INR 100 crores effective from 21 August 2023. Further, the limit was again amended by reducing the AATO limit and extending the due date, with an effect to make the authentication to be mandatory for all

taxpayers with an AATO above INR 20 crore w.e.f. 1 November 2023. As per the latest NIC update, the authentication will be mandatory for all taxpayers with an AATO of INR 20 crore and above, effective from 20 November 2023. Taxpayers would need to provide one-time password (OTP) post entering user id and password, the OTP will be delivered to their Primary Authorized Signatory "Mobile number and E-mail id".

(GSTN update dated 14 Nov 2023 and 01 Dec 2023)

- **Extension of time limit for reporting of Electronic Credit Reversal and Re-claimed statement (ECRR) on GSTN Portal**

A new ledger, the 'Electronic Credit and Re-claimed Statement' (ECRR), was 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). The time limit to report cumulative ITC reversals for the ECRR ledger opening balance is extended until Jan 31, 2024, with up to 3 amendments for corrections, enhancing the accuracy and consistency of ITC reversal and re-claim transactions and any modification to the opening balance to be completed by 29 Feb 2024.

(GSTN update dated 29 Dec 2023)

- **Option for Forward Charge / Reverse Charge available on the portal for the GTA taxpayer**

Pursuant to Notification No. 06/2023-Central Tax (Rate), dated 26.07.2023, GTAs must declare their choice of GST payment mechanism (Forward Charge or Reverse Charge) for the upcoming FY: 2024-25. GSTN has enabled a new feature for the online filing of declaration of Annexure V and Annexure VI forms on the portal for the FY 2024-25 from 01.01.2024 to 31.03.2024. Existing and newly registered GTAs who manually filed Annexure V for FY 2023-24 with the jurisdictional authority can upload the acknowledged copy on the portal.

Declarations once made, continue to be valid for subsequent financial years unless changed by the Registered Person. The form can be accessed Services > User Services > GTA > Opting Forward Charge Payment/Reverse Charge Payment.

(GSTN update dated 01 Jan 2024)

- **New changes in GSTR-1; Table 14 and Table 15 are added in the GST Portal**

The GSTN added two new tables in GSTR-1 starting from January 2024 onwards for

Table 14 – Taxable supplies Made Through

E-Commerce Operators

Table 15 - Taxable outward supplies on which the e-commerce operator is liable to pay tax under Section 9(5) of the CGST Act

(GSTN Portal Update Jan 2024)

• Advisory on reporting of HSN code on the Portal

Pursuant to Notfn. 78/2020 dated 15 Oct 2020, it is necessary to provide atleast 6 digit HSN Code for all B2B and B2E transactions whose aggregate annual turnover is above Rs. 5 Crores and atleast 4 digit HSN Codes for turnover less than Rs. 5 Crores. The taxpayers are advised to make necessary changes in their systems while generating e-way bill through web and API systems. This validation will be implemented in the e-way bill system from 01 Feb 2024.

(GSTN Portal Update Jan 2024)

DGFT Notifications:


• Amendment in Import Policy with respect to Used IT Assets (laptops, desktops, monitors, printers) - SEZ to DTA

- Used IT Assets may be moved from SEZ to DTA without a Licence for restricted imports for the purpose of further use in their DTA operations only, provided that there is a minimum usage of 2 years in the SEZ area and that the goods are not older than 5 years from the date of manufacturing.
- Further, where a unit is closing down its SEZ, and re-locating to the DTA, the movement of the Used IT Assets from SEZ into DTA is allowed without Licence for Restricted Imports for assets not exceeding 5 years in age. Exceptions apply for Used assets that entered SEZ and made use of for less than 2 years.
- The relaxation for import from SEZ to DTA under condition 1 & 2 above, shall be applicable given that no exemption from any regulatory requirements (i.e., CRO, WPC, RoHS) was availed at the time of import of the Used IT Assets into the SEZ.
- Import of any Used IT Assets which do not fulfill the above-mentioned criteria shall be subject to a licence for Restricted Import










(Notification No. 56/2023-24 dated 01 Jan 2024)

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Income Tax Savings Schemes

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








Fixed Income

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



Growth Option









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For further information, please contact

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	 Marriage Plan	 Children's Education

WEALTH LAB

LEVY OF GST - HOSTELS?



CA. Annapurna Kabra

- There have been hue and cry about how the levy of GST on hostels would be viewed legally. Schedule II of the CGST Act, 2017 provides that leasing or letting out of a building for commercial or residential purpose shall be deemed to be a supply of service. The renting of residential dwelling for use as a residence is exempted under the GST law.
- The issue is whether hostels have to be treated as residential dwelling as students/working inhabitants use it for residential purpose and can claim the benefit of exemption or are liable for GST. The Courts in various instances have held that residence only connotes that a person eats, drinks and sleeps at that place and it is not necessary that he should own it.
- The Education Guide under Service Tax Law issued by CBIC state as 'Residential dwelling' has not been defined in the Act. It has therefore to be interpreted in terms of the normal trade parlance as per which it is any residential accommodation, but does not include hotel, motel, inn, guest house, camp-site, lodge, house boat, or like places meant for temporary stay.
- The Tax Rate Notification No. 11/2017-CTR dt. 28.06.2017 deals with Accommodation, food, and beverage services:
 - **The Explanation 4(xxxiv) of the Notification state that 'Hotel accommodation' means supply, by way of accommodation in hotels, inns, guest houses, clubs, campsites, or other commercial places meant for residential or lodging purposes including the supply of time share usage rights by way of accommodation. The different SAC for the accommodation services are as follows**
 - a. **99631:** Accommodation services: This group includes accommodation services provided for the purposes of leisure or business or others.
 - b. **99632:** Other accommodation services: This group includes accommodation services for persons for a longer period of time and also includes semi-permanent residence in boarding houses and residential clubs.
 - a. **996311:** Room or unit accommodation services: This service code includes accommodation services consisting of rooms or units, with or without kitchens & with or without daily housekeeping services, provided by Hotels, INN, Guest houses, Clubs & other similar establishments on a single or multi occupancy basis, for purposes of leisure or business or others. This service code does not include: - accommodation services at recreational and vacation camps, cf. 996313, - accommodation services for students in student residences, cf. 996321, - accommodation services in workers hostels or camps, cf. 996322.
 - d. **996321:** Room or unit accommodation services for students in student residences
 - e. **996312:** Camp site services
 - f. **996322:** Room or unit accommodation services provided hostels or camps or paying guests. This service code includes accommodation services for workers in worker's hostels or camps, usually on a short term or seasonal basis.
 - g. **996313:** Recreational and vacation camp services

Sl. No.	Heading	Description
7	Heading 9963 (Accommodation, food and beverage service)	(i) Supply of 'hotel accommodation' having value of supply of a unit of accommodation less than or equal to seven thousand five hundred rupees per unit per day or equivalent. ... (vi) Accommodation, food and beverage services other than (i) to (v) above

- h. 996329:** Other room or unit accommodation services.
- **Exemption Notification 12/2017 -CTR dt. 28.06.2017:**
 - **The Entry 12** under HSN 9963 or HSN 9972 of Tax Exemption Notification No 12/2017-CTR dt. 28.06.2017 includes the entry as “services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person”.
 - **The Entry 14 of Exemption Notification 12/2017** read as follows “*Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purpose, having value of supply of a unit of accommodation below or equal to one thousand rupees per day or equivalent.*” **The entry 14 of the Exemption Notification is omitted with effect from 18.7.2022.**
 - **Prior to the above omission, the Circular 32/06/2018-GST dt. 12.02.2018** was issued clarifying the exemption on hostel accommodation. The issue was whether hostel accommodation provided by trusts to students covered within the definition of charitable activities and thus, exempt under Sl. No. 1 of notification No. 12/2017-CT (Rate). It was clarified that Hostel accommodation services do not fall within the ambit of charitable activities as defined in para 2(r) of notification No. 12/2017-CT(Rate). However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt. Thus, accommodation service in hostels including by trusts having declared tariff below one thousand rupees per day is exempt. Therefore, hostel accommodation tariff below Rs. 1000/- per day was exempt from GST for a certain period **i.e. up to July 2022 and thereafter** it is reasoned that hostel rent will attract GST at 12%.
 - The urgings by the Tax Authority in few of the instances held that hostel accommodation is akin to hotel accommodation/commercial accommodation and not renting of residential dwelling and are liable to GST as the exemption of rupees one thousand exceeds per day is being removed.
- One school of thought is that in case of short-term rental of hostel is not renting of residential dwelling for use as residence, if the duration of the stay contracted with the occupant is for a short term viz., lesser than say 3 months, then it takes the colouration of ‘accommodation service’ covered under HSN 996311 (under the category of ‘other commercial/similar place’) and governed by Entry 7(i) of Rate notification taxable at 12%/18% accordingly depending on the consideration charged per day or equivalent. The hostels would fall within the ambit of ‘hotel accommodation’ if the same is commercial places and the HSN 996311 employs the term ‘other similar establishments’ to hotels, inn, guest house, and clubs.
 - The other school of thought is that hotels are the places which provide accommodation for short-term or casual basis and hostels cannot be held to be within the realm of HSN 996311 as the duration of renting is not for a short term. The hostels cannot be equated with the hotels as the duration of the stay in hotel is shorter and it is temporary accommodation whereas the duration of stay in the hostel is for long run. Whether the renting of hostel would be taxable at 18% under Entry 7(vi) of the rate notification being classifiable under HSN 996322 is also the litigated issue under the GST law.
 - ***In the case of Taghar Vasudeva Ambrish v. AAAR Bengaluru & Ors. 2022-VIL-110-Karnataka HC*** wherein the court categorically held that the students in a hostel undoubtedly use the hostel for residential purposes. The Extracts of the judgment: “14....Thus, it evident that the expression ‘residence’ and ‘dwelling’ have more or less the connotation in common parlance and therefore, no difference meaning can be assigned to the expression ‘residential dwelling’ and it cannot be held that the same does not include hostel which used for residential purposes by students or working women. 15.... Secondly, the residential dwelling is being used for the purpose of residence.” ‘Hotel accommodation’ includes ‘other commercial places meant for residential or lodging purposes’ within its ambit. The decision deals with the exemption of renting of entire residential dwelling by the landowner to hostel operator and not provision of hostel service by hostel operator to students / occupants.

- There are different views on the applicability of GST on renting of hostels. Few hostels are litigating and not offering GST based on the analysis of High court Judgement ***Taghar Vasudeva Ambarish case*** wherein the court categorically held that the students in a hostel undoubtedly use the hostel for residential purposes and which is exempted vide Entry 12 of Notification 12/2017 as a Residential dwelling for use as residence. Various advance Ruling has held that services by the hostels to the inhabitants are liable for GST like
- a. In the case of ***Srisai Luxurious stay Karnataka Advance Ruling 2023***, it is held that hostel rent paid by inhabitants does not qualify for exemption from GST as it is not residential dwelling. They have distinguished the residential dwelling from a hostel. The residential dwelling is an accommodation meant for permanent stay and does not include guesthouse, lodge or like places. The Ruling held that accommodation is not provided for the residential dwelling but it is the room which is shared by the unrelated people and invoices are raised based per bed on a monthly basis. The kitchen facility is not made available individually and cooking of the food is not allowed which is an essential factor to decide the permanent stay and accordingly it is held that hostels rent is not exempt from GST and liable to tax at 12% under the GST law.
- b. In the case of ***Arputha Womens Hostel Tamilnadu Advance Ruling 2023***, it is held that the services by way of providing hostel accommodation supplied by the Applicant are not eligible for exemption under entry 12 of Exemption Notification No 12/2017 dated 28.6.2017 and it falls into the entry of 7(vi) of the Notification 11/2017, Central Tax (Rate) dated 28.6.2017 as amended by notification No 20/2019 dated 30.9.2019. The activity of supply of inhouse food to the inmates of the hostel amounts to providing services in a composite manner and the hostel accommodation services provided by the applicant being the principal supply which is taxable at 18% is the tax rate for the composite supply provided by them.
- c. In the case of ***V S Institute & Hostel Private limited Uttar Pradesh Advance Ruling 2023***, it is held that hostel accommodation provided by the Applicant to the students for residential purposes charging less than 1000/- per day during the period up to 12.7.2022 is exempted under Sl No 12 and or 14 of the Exemption Notification No 12/2017 dated 28.6.2017. The hostel accommodation provided by the applicant to the students for residential purposes charging less than 1000/- per day during the period from 13.7.2022 is not exempted from tax under serial number 12 of the exemption notification 12/2017 dated 28.6.2017 as amended vide Notification No 4/2022 (Rate) dated 13.7.2022.
- d. In the case of ***Ms Deeksha Sanjay Karnataka Advance Ruling 2023***, It is held that the renting of residential dwelling to the students and working women for residential purpose along with the amenities and facilities such as food, furniture, appliance, cleaning, security, pest control, etc on monthly rental basis as provided by the applicant is not exempted under entry no 12 of Notification 12/2017 – Central Tax (Rate) dated 28.6.2017. The above services are covered under SAC 9963 and thus attract GST @12% in terms of entry number 7(i) of Notification No 11/2017 – Central Tax (Rate) dated 28.6.2017.
- The Government should bring out the clarity on the application of tax on services provided by the hostels to bring uniformity and to avoid the litigations under the GST law. The tax department have initiated the investigation of few of the institutions and have held that hostels are liable for GST and accordingly the exemptions are not applicable. The institutions should consider the risk and probable arguments against the contentions raised by the tax department for not allowing the benefit of exemptions for the services provided by the Hostels.

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FINANCIAL REPORTING AND ASSURANCE



CA. Vinayak Pai V

KEY UPDATES A. AS|Ind AS

1. EAC Opinion – Accounting treatment of Other Income under Ind AS

The January, 2024 edition of the ICAI Journal has carried an Expert Advisory Committee (EAC) Opinion – *Accounting treatment of other income (Bank Interest on Funds invested out of advance received from Ministry of Railways (MoR) termed as External Aided Project (EAP)) under Ind AS Framework*

Background –The Querist is a Company incorporated under the provisions of Companies Act, 2013, with the object to plan, design, develop, build, commission, maintain, operate and finance high speed rail services between two States. It is engaged in one and only activity, i.e., creation of self-constructed asset, i.e. the Project between the two states. During F.Y.22, the Company had ‘Other Income (Bank Interest on Funds invested out of advance received from MoR termed as EAP and out of share capital)’. The basic issue raised by the querist relates to the accounting treatment of interest income on funds invested out of funds received from MoF/MoR/GoI as EAP funds against a loan and classified under the head ‘Financial liabilities - non - current’.

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

- ♦ The interest income to the extent of the borrowing costs, calculated using the effective interest method should be adjusted against the said borrowing costs to be capitalised in the cost of the asset as per the requirements of Ind AS 23, Borrowing Costs. The excess/surplus interest income (if any) should be recognised in the Statement of Profit and Loss, as per the requirements of Ind AS 1, Presentation of Financial Statements read with Ind AS 107, Financial Instruments: Disclosures. Thus, the accounting treatment followed by the Company in respect of interest income on EAP funds is not appropriate.

- ♦ Since the Company did not follow the above-mentioned accounting treatment, the same should be rectified in the current reporting period, considering it as an error, as per the requirements of Ind AS 8, Accounting Policies, Changes in Accounting Estimates and Errors.

Link to the Opinion –

<https://resource.cdn.icai.org/78053cajournal-jan2024-29.pdf>

B. ASSURANCE

2. IAASB – New International Standard on Auditing for Audits of Financial Statements of Less Complex Entities (ISA for LCE)

On 6th December 2023, the International Auditing and Assurance Standards Board (IAASB) published *International Standard on Auditing for Audits of Financial Statements of Less Complex Entities (ISA for LCE)*. The ISA for LCE is a standalone global auditing standard designed specifically for smaller and less complex businesses.

The new auditing literature contents are: Preface to the ISA for LCEs; Fundamental concepts, General Principles and Overarching requirements; Audit evidence and documentation; Engagement Quality Management; Acceptance or Continuance of an Audit Engagement and Initial Audit Engagements; Planning; Risk Identification and Assessment; Responding to Assessed Risks of Material Misstatement; Concluding; Forming an Opinion and Reporting; and Audits of Group Financial Statements.

The standard is effective for audits beginning on or after 15th December, 2025 for jurisdictions that adopt or permit its use.

Link to the Standard and Basis for Conclusions -

<https://www.iaasb.org/publications/international-standard-auditing-audits-financial-statements-less-complex-entities>

3. IAASB Guidance for Assurance Practitioners – Referencing IFRS Accounting Standards

On 8th December, 2023, the IAASB issued a Guidance, ***Implications for IAASB Standards of the IFRS Foundation's recent updates to its Trademark Guidelines relating to Standards issued by the IASB*** to help stakeholders understand how to reference IFRS Accounting Standards to follow recent updates to the IFRS Foundation Trademark Guidelines. The updated IFRS Foundation guidelines require, inter alia, that International Accounting Standards Board (IASB) standards, including the International Accounting Standards (IASs) and International Financial Reporting Standards (IFRSs), **be referred to as 'IFRS Accounting Standards'**. The IAASB's new guidance clarifies how auditors or practitioners should refer to the IFRS Accounting Standards in their reports.

Link to the Guidance -

<https://ifacweb.blob.core.windows.net/publicfiles/2023-12/IAASB-Implications-for-IAASB-standards-from-IFRS-trademark-guidance.pdf>

4. ICAI Exposure Draft – Guidance Note on Audit of Banks (2024 Edition)

On 10th December, 2023, the Institute of Chartered Accountants of India (ICAI) issued an Exposure Draft (ED) of the *Guidance Note on Audit of Banks (2024 Edition)* for public comments. The ED was open for comments till 31st December, 2023.

Link to the Exposure Draft -

<https://resource.cdn.icai.org/77603aasb101223.pdf>

C. NFRA

5. Order u/s 132(4) – DHFL Audit

On 5th December, 2023, the National Financial Reporting Authority (NFRA) issued an order (No. 64/2023) u/s 132(4) of the Companies Act finding the Engagement Quality Control Review (EQCR) Partner of the Audit Firm that conducted the statutory audit of Dewan Housing Finance Corporation Limited (DHFL) for F.Y.2018 guilty of professional misconduct [**Monetary penalty of ₹5 lakhs and debarment for 5 years**].

NFRA's investigations, inter-alia, found:

- ♦ The audit documentation did not evidence objective evaluation, by the EQCR Partner, of the significant judgements made and the conclusions reached by the Engagement Partner in formulating the Audit Report. In the case of Public Interest Entities, an objective review is not possible by merely ticking a standard WP template as was done.

- ♦ SA 220 requires the EQCR Partner to discuss significant matters with the EP and review financial statements and the proposed Auditor's Report. The NFRA observed no such evidence in the Audit File.
- ♦ The EQCR Partner failed to objectively evaluate and question the EP when the EP failed to meet the relevant requirements of the SAs and violated the Act and the Code of Ethics in respect of several significant areas.

Link to the Order -

<https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc6b56a45a56c59fafdb/uploads/2023/12/202312061561878508.pdf>

6. Order u/s 132(4) – DHFL Audit

On 5th December, 2023, the NFRA issued an order (No. 63/2023) u/s 132(4) of the Companies Act finding the Engagement Partner (EP) of the Audit Firm that conducted the statutory audit of Dewan Housing Finance Corporation Limited (DHFL) for F.Y.2018 guilty of professional misconduct [**Monetary penalty of ₹5 lakhs and debarment for 10 years**].

NFRA's investigations, inter-alia, found:

- ♦ The EP failed to meet the relevant requirements of the SAs and violated the Act in respect of several significant audit areas.
- ♦ There was no evidence in the Audit File to establish the existence of legal appointment of any branch auditor [250 branches]. The EP relied on the illegally appointed branch auditor's reports, which were made in violation of SAs.
- ♦ In the absence of the audits of branches, the Independent Auditor's opinion on the financial statements is incomplete and invalid and void ab initio.
- ♦ The EP failed to obtain sufficient appropriate audit evidence regarding the entity's ability to continue as a going concern.

Link to the Order -

<https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc6b56a45a56c59fafdb/uploads/2023/12/202312062007647446.pdf>

7. Order u/s 132(4) – S. Kumars Nationwide Limited Audit

On 20th December, 2023, the NFRA issued an order (No. 65/2023) u/s 132(4) of the Companies Act finding the Engagement Partner (EP) of the Audit Firm that

conducted the statutory audit of S. Kumars Nationwide Limited (SKNL) for F.Y.2014 guilty of professional misconduct [**Monetary penalty of ₹5 lakhs and debarment for 10 years**].

NFRA's investigations, inter-alia, found:

- ♦ The EP failed to meet the relevant requirements of SAs and provisions of the Companies Act.
- ♦ The EP demonstrated serious lapses and absence of due diligence.
- ♦ The EP accepted the audit engagement despite owning the shares of SKNL through a company which was wholly owned by him and his family members and thereby violated applicable Laws and Standards relating to conflict of interest and independence.
- ♦ As per SA 705, if the effects of qualifications in the Independent Auditor's Reports are material and pervasive, the Auditor is required to give either an Adverse Opinion or Disclaimer of Opinion. Mere Qualified Opinion would not suffice in such cases. The Qualified Opinion [11 and 15 qualifications in stand-alone and consolidated financial statements, respectively] issued by the Auditor in this instance were not in conformity with SA 705.

Link to the Order -

<https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc6b56a45a56c59fafdb/uploads/2023/12/202312201285552750.pdf>

8. Audit Quality Inspection Reports of 5 Audit Firms

In December, 2023 [22nd and 29th], the NFRA released its **Inspection Reports of five Audit Firms** [Deloitte Haskins & Sells LLP; SRBC & Co. LLP; Price Waterhouse Chartered Accountants LLP; BSR & Co. LLP; and Walker Chandiook & Co. LLP – Inspection Reports 132.2-2022-02, 132.2.2022-01, 132.2-2022-04, 132.2-2022-03 and 132.2.2022-05 respectively].

NFRA had initiated audit quality inspections in December 2022. The overall **objective** of audit quality inspections is to **evaluate compliance of the Audit Firm/Auditor with auditing standards and other regulatory and professional requirements**, and the **sufficiency and effectiveness of the quality control systems** of the Audit Firm/Auditor, including: adequacy of the governance framework and its functioning; effectiveness of the firm's internal control over audit quality; and system of assessment and identification of audit risks and mitigating measures.

The Inspection Reports cover a) **Review of Firm-wide Audit Quality Control System** (including independence requirements, engagement continuance and risk assessment, leadership of the network, EQCR procedures, Integrity of audit documentation, sample selection methodology, internal inspection approach, audit documentation etc.) and b) **Review of individual Audit Engagement Files focusing on selected areas of audit**.

Link to the Inspection Reports –

<https://nfra.gov.in/document-category/inspection-reports/>

D. SUSTAINABILITY STANDARDS

9. ISSB – Amendments to SASB Standards

Following the consolidation of the Value Reporting Foundation (VRF) with the IFRS Foundation, the International Sustainability Standards Board (ISSB) is responsible for the maintenance and enhancement of the SASB Standards that serve as a source of guidance for applying **IFRS S1, General Requirements for Disclosure of Sustainability-related Financial Information**. The SASB Standards consist of 77 industry-based sustainability-related disclosure standards and include industry descriptions, disclosure topic summaries and associated reporting metrics to help entities identify and disclose sustainability-related risks and opportunities and provide material information to users of general-purpose financial reports. The climate-related disclosure topics and metrics in the SASB Standards were updated in June 2023 in connection with the issuance of **IFRS S2, Climate-related Disclosures**.

A Project, *International Applicability of the SASB Standards* was undertaken by the ISSB to enhance the international applicability of the non-climate-related metrics in the SASB Standards by identifying and revising associated jurisdiction-specific terms of reference that might limit their suitability in other jurisdictions. The methodology focused on enhancing the international applicability of the SASB Standards without substantially altering the intent or underlying concepts of any specific disclosure topic or metric or increasing the cost of implementation for existing preparers. By constraining the process to these limited objectives, the methodology involved a set of clearly defined procedural revisions to the SASB Standards' original content.

On 20th December 2023, the ISSB published updated SASB Standards in connection with the project to support the application of IFRS S1.

Link to the Updated Standards –
<https://sasb.org/standards/download/>

E. USGAAP

10. FASB Accounting Standards Update – Improvements to Accounting for and Disclosure of Certain Crypto Assets

On 13th December, 2023, the Financial Accounting Standards Board (FASB) published an Accounting Standards Update (ASU No. 2023-08), *Intangibles – Goodwill and Other – Crypto Assets (Subtopic 350-60) - Accounting for and Disclosure of Crypto Assets*. The amendments improve the accounting for certain crypto assets by requiring an entity to measure them at fair value each reporting period with changes in fair value recognized in net income. The amendments also require disclosure about significant holdings, contractual sale restrictions and changes during the reporting period.

The amendments in the ASU apply to all assets that meet specified criteria, namely: meet the definition of intangible asset; do not provide the asset holder with enforceable rights to or claims on underlying goods, services, or other assets; are created or reside on a distributed ledger based on blockchain or similar technology; are secured through cryptography; are fungible; and are not created or issued by the reporting entity or its related parties.

The amendments in the ASU are effective for all entities for fiscal years beginning after 15th December, 2024.

11. FASB Accounting Standards Update – Enhanced Income Tax Disclosures

On 14th December, 2023, the FASB issued an Accounting Standards Update (ASU No. 2023-09), *Income Taxes (Topic 740) – Improvements to Income Tax Disclosures*.

The amendments require that public business entities on an annual basis (1) **disclose specific categories in the rate reconciliation** and (2) **provide additional information for reconciling items that meet a quantitative threshold** (if the effect of those reconciling items is equal to or greater than 5 percent of the amount computed by multiplying pre-tax income/loss by the applicable statutory income tax rate). It also includes certain other amendments to

improve the effectiveness of income tax disclosures. For public business entities, the standard is effective for annual periods beginning after 15th December, 2024.

F. SELECT GLOBAL ENFORCEMENT ACTIONS / INSPECTION REPORTS

Enforcement Actions

12. SEC – Charges Company Founder and 3 companies with fraud

On 19th December, 2023, the US Securities and Exchange Commission (SEC) announced that it obtained a temporary asset freeze, restraining order, and other emergency relief against the CEO of a company and three affiliated US based entities of which he is the CEO in connection with an alleged multi-year scheme to inflate the financial performance metrics of his companies and key operating subsidiaries to defraud investors worldwide.

The complaint alleges that, since at least 2019, the CEO spearheaded a scheme to fabricate financial statements and other documents of the three entities and made and caused the entities to make material misrepresentations about their business operations and financial success in press releases, periodic SEC filings, and other public statements. For instance, the Company’s F.Y. 2022 Form 10-K reported a cash and cash equivalent balance of \$461.7 million in its subsidiary. Those same bank accounts allegedly had a combined balance of less than \$50. According to the SEC’s complaint, Defendants also fabricated the customer relationships that formed the basis of their purported businesses. [Release No. 2023-254]

Extracts from US PCAOB Inspection Reports of Audit Firms

13. Inspection report of an Audit Firm Headquartered in New York

Audit Deficiencies Identified– a) Audit Evidence: The Engagement Partner (EP) did not sufficiently review the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached, because the EP did not clear all review notes. Further, the EP reviewed audit programs in which certain steps (1) were signed off as having been completed when the related procedures were not documented in the work papers or (2) were inappropriately identified as being not applicable and thus not performed. b) **Financial Reporting Process**, for which the firm identified

a fraud risk: The Audit Firm did not reconcile the financial statements with the underlying accounting records and examine material adjustments made during preparing the financial statements. c) **Revenue and Related Accounts**, for which the Audit Firm identified a significant risk: It did not evaluate the appropriateness of the issuer's presentation of certain accounts related to revenue. In addition, the firm did not identify and evaluate a GAAP departure related to the issuer's omission of certain disclosures related to revenue, as required by GAAP. [Release No. 104-2023-190]

14. Inspection report of an Audit Firm Headquartered in London

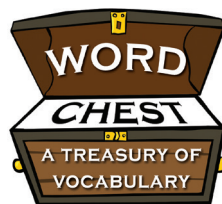
Audit Deficiencies Identified - Revenue: The Audit Firm did not sufficiently test the completeness of deferred revenue because the firm selected transactions for testing from items recorded as deferred revenue. [Release No. 104-2023-189]

G. SELECT PUBLICATIONS

15. International Accounting Standards Board (*IASB*) – *Project Summary: Extractive Activities*. [7th December, 2023.] [<https://www.ifrs.org/content/dam/ifrs/project/extractive-activities/projects-summary-extractive-activities-dec2023.pdf>]
16. International Federation of Accountants (*IFAC*) – *Understanding Whistleblower Protection: Laws, Practices, Trends and Key Implementation Considerations*. [8th December, 2023.] [<https://ifacweb.blob.core.windows.net/publicfiles/2023-12/IFAC-CPA-Canada-Whistleblower-Protection.pdf>]
17. International Federation of Accountants (*IFAC*) – *Building Trust in Sustainability Reporting: The Urgent Need for Integrated Internal Control*. [12th December, 2023.] [https://ifacweb.blob.core.windows.net/publicfiles/2023-12/Sustainability-Reporting-Internal-Control_0.pdf]
18. UK Financial Reporting Council (*UK FRC*) – *Tier 2 and Tier 3 Audit Firms – Audit Quality Inspection and Supervision*. [13th December, 2023.] [https://media.frc.org.uk/documents/Tier_2_and_Tier_3_Audit_Firms_-_Audit_Quality_Inspection_and_Supervision.pdf]
19. International Sustainability Standards Board (*ISSB*) – *Educational Material – Nature and Social Aspects of Climate-related Risks and Opportunities*. [14th December, 2023.] [<https://www.ifrs.org/content/dam/ifrs/supporting-implementation/ifrs-s2/issb-naturesocialaspectsofclimate-relatedrisks-dec2023.pdf>]
20. International Organization of Securities Commissions (*IOSCO*) – *Recommendations on Accounting for Goodwill*. [15th December, 2023.] [<https://www.iosco.org/library/pubdocs/pdf/IOSCOPD753.pdf>]
21. Public Company Accounting Oversight Board (*PCAOB*) – *Spotlight - Staff Priorities for 2024 Inspections and Interactions with Audit Committees*. [20th December, 2023.] [https://assets.pcaobus.org/pcaob-dev/docs/default-source/documents/2024-priorities-spotlight.pdf?sfvrsn=7c595fae_2]

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Lendtech -Lending tech or lending technology is a platform that utilizes data to offer lending at a digital level. It combines primary information, loan structures, and monitoring strategies to provide a unique lending experience. It uses AI and other tech strategies to evaluate the borrower's repaying capacity.

INTELLECTUAL PROPERTY RIGHTS AND PROTECTION IN INDIA IP ISSUES – LATEST DEVELOPMENTS IN INDIA (PART - XLI OF IPR SERIES)



Adv. M. G. Kodandaram

Look at India's IP Environment

In the dynamic global landscape of innovation and IP, in recent years, India has emerged as a key player, steadily making strides forward. With significant strengths in various indicators related to innovation, India's 60th rank out of 127 countries on the Global Innovation Index (GII) 2017 speaks volumes about its growing presence in the global research and development (R&D) arena.

India's performance on the GII reflects its prowess in innovation, particularly with a notable 14th rank in the presence of global R&D companies. The country surpasses many middle-income economies in science and engineering graduates, gross capital formation, Gross Expenditure on Research and Development (GERD) by businesses, and research talent. On the input side, India excels in the quality of scientific publications, growth rate of GDP per worker, high-tech and information and communication technology (ICT) services exports, creative goods exports, high-tech manufactures, and IP receipts on the output side. These strengths position India as a promising hub for innovation, leveraging its skilled manpower, raw materials, and cost-effective labour.

India's commitment to nurture innovation and strengthen its IPR ecosystem is evident in recent policy developments. The introduction of the New IPR policy reflects a balanced approach, considering the interests of innovators, businesses, and society at large. This policy aims to create an environment conducive to the growth of the IPR industry, addressing enforcement, protection, and promotion of IP, which needs to be utilised by the persons engaged in MSME sector. More details are going to be narrated in the next part.

To combat IP crimes, India has provided law enforcement agencies with an effective toolkit in the form of a checklist. This initiative not only serves as a practical guide for authorities but also signifies a proactive stance in safeguarding the rights of innovators

and creators. The emphasis on enforcement aligns with India's dedication to upholding the integrity of its intellectual property landscape.

Promoting a Culture of Innovation

In the article titled "Innovation as the Key Driver of Sustainable Agriculture and Future Food Security in the Developing World" (The Global Innovation Index 2017 Innovation Feeding the World- report) Mr. Chandrajit Banerjee, Director General, Confederation of Indian Industry observes: *"Despite the fact that India is one of the world's largest producers of food grain, the largest producer of milk, and its second largest producer of sugar, low-quality inputs such as low-grade seed, saline soil, inadequate irrigation, traditional farming methods (combined with small, scattered landholdings), restrictive access to formal credit, dependence on private moneylenders, and weak market linkages have long plagued its agriculture sector. To counter these challenges, a gradual infusion of tech-based tools such as digital remote sensing, geographic and price information systems, crop and soil health monitoring, and farm management platforms has taken place. These tools promise to rationalize processes and enhance efficiency, productivity, distribution, and access along the entire continuum of the food system from farm to fork and beyond."* These proposals and developments in the agricultural sector indicate huge scope for IP protection especially new inventions and patents. Similar opportunity exists in all business sectors including in cyber gadgets and services.

India's encouragement of innovators is evident in the expedited patent examination for those filing first in the country. This forward-looking approach not only promotes a culture of innovation but also sends a strong signal to the global community that India is serious about becoming a hub for IP creation and protection. By streamlining the patent examination process, India aims to attract and retain innovators, fostering a conducive environment for creativity. The country's achievements

in various global innovation indicators, coupled with recent policy initiatives, showcase a commitment to fostering an environment for innovation and IP creation.

With abundant resources, including raw materials, skilled labour, and a creative workforce, India is poised to claim its proportionate share in global trade through a strategic exploration of IPRs. As the nation moves forward with its vision of "*Creative India; Innovative India*," it is likely to make a lasting mark on the international map, contributing significantly to the global discourse on innovation and IP. The evolving IPR status of India signals not just a national endeavour but a global opportunity for 'collaboration, creativity, and progress'. India's journey in the global innovation landscape is one of promise, potential, and a commitment to shaping the future through intellectual prowess.

Recent Initiatives at IP Office

The India Intellectual Property Office (IPO) [<https://ipindia.gov.in/>] plays a crucial role in safeguarding IPRs and promoting innovation in the country. In recent years, the IPO has undertaken significant initiatives to enhance accessibility, streamline processes, and bolster infrastructure and human resources. The activities improved by the Indian IP office are discussed under the following heads: (A) Ease of Access; (B) Infrastructure and Human Resources Augmentation; (C) Transparency and Dissemination of Information; (D) Quality Monitoring.

(A) Ease of Access:

1. The IPO has introduced a user-friendly and comprehensive e-filing system that operates 24x7. This initiative aims to make the filing process more efficient and accessible to stakeholders, allowing them to submit applications at their convenience.
2. To facilitate seamless transactions, the IPO has implemented a comprehensive payment gateway. This ensures that users can make payments related to patents and trademarks easily and securely, contributing to a more streamlined application process.
3. The IPO has adopted electronic processing for both patent and trademark applications through specialized modules. This move not only enhances efficiency but also reduces the likelihood of errors, ensuring a smoother workflow for applicants.

4. To eliminate disparities in examination times, the IPO has implemented an auto-allocation system for patent applications. This ensures a fair and consistent approach across all patent offices, reducing the time taken for examination.
5. A 10% rebate on online filing has been introduced, incentivizing stakeholders to opt for electronic filing. This initiative has resulted in a substantial increase in online filing, from approximately 30% to an impressive 90%, showcasing the success of the incentive program.
6. Recognizing the need for prompt processing, the IPO now offers expedited examination services. This benefits applicants with urgent requirements, allowing them to receive faster decisions on their patent and trademark applications.
7. The IPO has introduced the issuance of certificates through email for both patents and trademarks. This not only reduces paperwork but also expedites the post-approval process, providing a more convenient experience for intellectual property rights holders.
8. MSMEs account for 45% of total industrial production and the total contribution of MSMEs to India's GDP is 38%. To encourage them to innovate and seek protection for their inventions, a 50 % fee reduction has been provided for MSMEs.
9. The operationalization of the Madrid protocol for international protection of trademarks provides the user the facility of protecting his trademark in 90 countries by filing a single application in one language with one set of fees filed at the Trademarks Registry. Till June 2015, 13,666 international applications designating India have been received at the Trademarks Registry, India.
10. India has been recognised by the World Intellectual Property Organization as the 17th International Search Authority and International Preliminary Examining Authority in the world. It began its operations in 2014 and till date, 758 international applications have been received and 575 reports issued. India prides itself on providing quality reports at the lowest cost among the international players like USPTO, EPO, JPO etc. At present it has been recognised as ISA/ IPEA for nationals of Republic of Iran.

(B) Infrastructure and Human Resources Augmentation:

1. To address the challenges of backlog and pendency, the IPO has initiated a recruitment drive for a large number of examiners and controllers. This is part of a modernization plan aimed at enhancing the workforce to efficiently handle the examination and disposal of applications.
2. In the Trademarks Registry (TMR), the IPO has successfully reduced the pendency in examination to less than one month. Similar efforts are underway in the patent examination domain, with a commitment to bringing the pendency to a manageable level by March 2019.
3. The IPO has invested in updating its Information and Communication Technology (ICT) infrastructure to meet the growing demand for computerization and IT-enablement. This ensures that the IPO can effectively handle the increasing workload and maintain a modernized approach to intellectual property administration.

(C) Transparency and Dissemination of Information:

1. The IPO has implemented an online real-time status tracking system that provides stakeholders with comprehensive file wrappers and e-registers. This includes information on renewals, assignments, and legal status, offering unprecedented transparency into the progress of IP applications.
2. Weekly Online Journals: In an effort to keep stakeholders informed, the IPO publishes online journals on a weekly basis. These journals provide updates on the latest patent and trademark applications, grants, and legal developments, contributing to a more transparent and informed intellectual property landscape.
3. The IPO offers a free public search facility on its comprehensive online database. This initiative enables users to access and search for relevant information on patents and trademarks, fostering openness and accessibility in the IP system.
4. Indian Patent Advanced Search System (InPASS), featuring full-text search capability, empowers users to search published and granted patents using various parameters such as title, application number, abstract, claims, and applicant or inventor names. This advanced search system enhances the efficiency of information retrieval, contributing to a more user-friendly experience.

5. The IPO ensures instant and transparent communication with applicants through email. This not only expedites the exchange of information but also establishes a direct and efficient channel for clarifications and updates.
6. For authentication purposes, the IPO has introduced QR-coded office communication. This innovative measure enhances the security and reliability of official communications, safeguarding against unauthorized alterations or forgeries.

(D) Quality Monitoring:

1. The IPO has developed dynamic utilities that aid in monitoring the quality of patents and trademarks. These tools contribute to a proactive approach in identifying and rectifying issues related to the quality of granted IP rights.
2. A feedback mechanism is available on the IPO's website, encouraging stakeholders to provide insights on their experiences with the IP application process. This feedback loop helps the IPO continually refine its processes and improve service delivery.
3. Regular stakeholders' meetings are conducted to solicit direct input and address concerns. These sessions provide a platform for open dialogue, allowing the IPO to understand industry needs and tailor its services accordingly.
4. The IPO conducts awareness and training programs on intellectual property rights (IPR). These initiatives not only enhance understanding among stakeholders but also contribute to maintaining high-quality standards in the IP ecosystem.
5. To ensure uniformity and accuracy in examination, the IPO has developed examination guidelines for specialized domains such as traditional knowledge, biotechnology, pharmaceutical-related inventions, and computer-related inventions.
6. The establishment of a dedicated cell to monitor the quality of work output demonstrates the IPO's commitment to maintaining high standards in intellectual property examination. This cell plays a crucial role in identifying and rectifying any lapses in quality.

The India Intellectual Property Office (IPO) has embarked on a series of transformative initiatives some of them as detailed above, aimed at enhancing accessibility, efficiency, and infrastructure. These

reforms reflect a commitment to modernization, efficiency, and accessibility. By leveraging technology, offering incentives for online filing, and bolstering human resources and infrastructure, the IPO is positioned to provide a more responsive and user-friendly intellectual property ecosystem.

National Intellectual Property Awareness Mission (NIPAM)

NIPAM is a flagship program aimed at imparting IP awareness and basic training, implemented by the Intellectual Property Office, the Office of Controller General of Patents, Designs and Trademarks (CGPDTM), under the Ministry of Commerce and Industry. The NIPAM has marked a significant achievement by successfully training one million students on Intellectual Property (IP) awareness ahead of its scheduled deadline of 15 August 2022. Launched on 8 December 2021, as part of the "Azadi Ka Amrit Mahotsav" celebrations, NIPAM has made commendable progress within a short span. The milestones Achieved includes:

1. NIPAM has trained a total of 1,005,272 participants, including both students and faculty. This accomplishment underscores the program's reach and impact on a diverse group of stakeholders in the educational ecosystem.
2. The program has extended its influence to 3,662 educational institutes across the country. This broad coverage emphasizes the inclusive nature of NIPAM, ensuring that IP education is disseminated across various institutions.
3. NIPAM has achieved a substantial geographic footprint, covering entire India. This widespread presence ensures that students from diverse cultural and regional backgrounds are exposed to the importance of intellectual property.

Having achieved the milestone of training one million students, the focus now shifts towards strengthening and expanding the NIPAM program. The objective is to nurture and encourage innovation and creativity, thereby contributing to the cultural and economic development of society.

DPIIT's Initiatives for Strong IP Regime

India, recognizing the pivotal role of intellectual property rights (IPR) for building a robust knowledge economy, has taken significant strides under the leadership of the Department for Promotion of Industry and Internal Trade (DPIIT) and some of the reforms are narrated to enable MSMEs to utilise these opportunities.

Streamlining Trademarks and Patents Processes: One of the key steps taken by the government involves a substantial reduction in the bureaucratic hurdles associated with trademark and patent registration. The cumbersome number of forms has been significantly streamlined to enhance efficiency and encourage more individuals and businesses to protect their intellectual assets. In trademarks, the reduction from 74 forms to just 8 signifies a substantial simplification, while for patents, a paradigm shift is evident with the elimination of all forms except for one.

Startup Ecosystem and IP: India's burgeoning startup ecosystem has been a focal point in the government's strategy to bolster innovation. An impressive milestone has been reached, with 80 startups being registered every day, a figure that positions India at the forefront globally. This influx of startups not only signifies economic dynamism but also emphasizes the increasing recognition and protection of IP as a fundamental component of business success.

Integration of IP in Education: Recognizing the importance of instilling a culture of intellectual property awareness from a young age, DPIIT has collaborated with the National Council of Educational Research and Training (NCERT) to include intellectual property education in school curricula. This proactive step ensures that future generations are well-versed in the principles of IPR, setting the stage for a more informed and innovative society.

Engagement with Educational Institutions: To further solidify the foundations of an intellectual property-centric culture, DPIIT has actively engaged with colleges across the country. This includes the establishment of 18 IPR chairs and the formation of 135 IPR cells, fostering an environment where academia and industry collaborate to advance knowledge and innovation.

IPR Initiatives by MeitY

The Ministry of Electronics and Information Technology (MeitY) has been at the forefront of promoting research and development (R&D) and nurturing innovation within the Information and Communication Technology (ICT) ecosystem. Recognizing the crucial role of Intellectual Property (IP) in safeguarding and commercializing innovations, MeitY has implemented various initiatives to create an ecosystem that supports the creation, protection, awareness, and commercialization of IP and IP Rights. One of the pivotal components of these initiatives is the dedicated division for IPR related support services,

aimed at spreading awareness, promoting IPR in the ICT domain, and establishing a robust infrastructure for a strong IPR ecosystem. Major IPR Initiatives by MeitY are:

1. **Centre of Excellence in Intellectual Property (CoE-IP):** MeitY has established the Centre of Excellence in Intellectual Property (CoE-IP) under the Technology Incubation and Development of Entrepreneurs (TIDE) 2.0 scheme, operated by the Center for Development of Advanced Computing (CDAC) Pune. The primary goal of CoE-IP is to assist innovators, startups, and Small and Medium Enterprises (SMEs) in understanding the value of IP, providing value-added services, and ensuring the adequate protection of intellectual assets. With a budgetary outlay of Rs.323.77 Lakhs over five years, CoE-IP aims to create a conducive framework for the identification, protection, and monetization of IPRs in the ICT sector.
2. **IPR Facilitation for MeitY R&D Societies and Grantee Institutions:** The Innovation and IPR Division of MeitY actively supports its R&D societies and grantee institutions in filing various types of IPRs, including patents, copyrights, designs, and trademarks. This support underscores MeitY's commitment to fostering a state-of-the-art R&D paradigm in the country and promoting the protection of intellectual assets generated within these institutions.
3. **Support for International Patent Protection in E&IT (SIP-EIT) – II for MSMEs and Technology Startup Units:** The SIP-EIT-II scheme is a MeitY initiative aimed at providing financial support to Micro, Small, and Medium Enterprises (MSMEs) and technology startups seeking global recognition for their intellectual property. This scheme encourages innovation and the establishment of a competitive advantage by supporting international patent filing in the Information Communication Technologies (ICT) sector. With a duration of five years and a mandate to support 200 international ICT patent applications, the scheme provides reimbursement of up to a maximum of Rs. 15 Lakhs per invention or 50% of the expenses incurred in filing a patent, whichever is less.
4. **Patent Analysis and Management System (PAMS):** To address the growing need for protecting IPR generated in India, MeitY, through CoE-IP, initiated the Patent Analysis and Management System

(PAMS) portal. PAMS serves as a Single Window Interface offering a range of value-added services, including prior art search services, invention analysis, IPR queries, landscape reports, and updates on IPR awareness programs and success stories. The portal is designed to provide precise information on IPR forms and their management, guiding stakeholders through the entire process from creation to licensing. For more information visit: www.ict-ipr.in

The above facilities of MeitY are more useful to MSMEs and start-Ups in the ICT sector, where more developments are happening. In the coming part, the new IPR Policy moving towards a balanced approach and its benefits to Indian business and economy will be deliberated.

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Stay Tuned for more details...

RERA - IMPORTANT DEFINITIONS AND REFERENCES IN ALL OTHER STATUTES



CA. Vinay Thyagaraj

2(l) Chairperson	2(m) – Commencement certificate	2(n) – Common areas	2(o) – Company
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Wishing everyone happy and new year 2024. Embrace the fresh start of 2024. Splash bold colors of passion, weave threads of courage, and paint dreams big and bright. This year, be your masterpiece. This year, believe in the magic within us and watch it work its wonders.

Since we started reading, learning, most of the statutes have defined the words or phrases. Earlier, definitions were called as interpretation clause e.g., in Indian Contract Act 1872 it is mentioned as interpretation clause instead of definitions. importance of definitions is can be stated as follows-

- ♦ **Clarity and precision:** Definitions eliminate ambiguity and ensure terms are interpreted consistently, preventing confusion and misapplication.
- ♦ **Legislative intent:** They act as a window into the lawmaker's vision, making it easier to apply the statute in accordance with their purpose.
- ♦ **Mitigating disputes:** By reducing ambiguity, definitions minimize the risk of legal challenges and costly litigation.
- ♦ **Consistency and effectiveness:** Clear definitions ensure the statute operates predictably and consistently, achieving its intended outcomes.
- ♦ **Fair enforcement:** Everyone involved in the legal system operates on the same

understanding, promoting equal and just application of the law.

- ♦ **Predictability:** Knowing the established meaning of key terms fosters confidence and facilitates efficient legal transactions.
- ♦ **Rule of law:** Definitions strengthen the foundation of the legal system by ensuring clarity and transparency in legislative pronouncements.

We have eloquently conveyed the significance of definitions in statutes. They are indeed the building blocks of legal certainty, shaping how the law is understood, applied, and ultimately upheld.

The Real Estate (Regulation and Development) Act, 2016 (RERA) is a comprehensive regulatory statute that governs the real estate sector in India. It provides unambiguous definitions for various terms related to real estate, ensuring consistency and clarity in the interpretation and application of the law.

The importance of RERA's definitions is further emphasized by the fact that other statutes, such as the Income Tax Act, GST, FEMA, and PMLA, rely on RERA for any definitions related to real estate. This ensures that there is a uniform understanding of these terms across different legal frameworks, which is crucial for harmonium and effective enforcement.

Below are the definitions defined in Section 2 of the Real Estate (Regulation & Development Act 2016 -

Sec	Definition	Sec	Definition	Sec	Definition
2(a)	Adjudicating officer	2(p)	Competent authority	2(ze)	Notification
2(b)	Advertisement	2(q)	Completion certificate	2(zf)	Occupancy certificate
2(c)	Agreement for sale	2(r)	Day	2(zg)	Person
2(d)	Allottee	2(s)	Development	2(zh)	Planning area
2(e)	Apartment	2(t)	Development works	2(zi)	Prescribed

Sec	Definition	Sec	Definition	Sec	Definition
2(f)	Appellate tribunal	2(u)	Engineer	2(zj)	Project
2(g)	Appropriate Government	2(v)	Estimated cost of real estate project	2(zk)	Promoter" means
2(h)	Architect	2(w)	External development works	2(zl)	Prospectus
2(i)	Authority	2(x)	Family	2(zm)	Real estate agent
2(j)	Building	2(y)	Garage	2(zn)	Real estate project
2(k)	Carpet area	2(z)	Immovable property	2(zo)	Regulations
2(l)	Chairperson	2(za)	Interest	2(zp)	Rule
2(m)	Commencement certificate	2(zb)	Internal development works	2(zq)	Sanctioned plan
2(n)	Common areas	2(zc)	Local authority	2(zr)	Words and expressions
2(o)	Company	2(zd)	Member		

Section 2(l)" Chairperson " means the Chairperson of the Real Estate Regulatory Authority appointed under section 21;The Chairperson is the head of the Authority (Real Estate Regulatory Authority). Appointment, qualification, term of office, salary and allowances, powers, removal, post-retirement are detailed from Section 21 to Section 27.

The Authority shall consist of a Chairperson and not less than two whole time Members to be appointed by the appropriate Government (Section 21)

Appointment, Qualification of Chairperson (Section 22) –

- The Chairperson of the Authority shall be appointed by the appropriate Government (State of Karnataka) on the recommendations of a Selection Committee consisting of the Chief Justice of the High Court or his nominee, the Secretary of the Department dealing with Housing and the Law Secretary, in such manner as may be prescribed.
- He shall have adequate knowledge of and professional experience of at-least twenty years in urban development, housing, real estate development, infrastructure, economics, technical experts from relevant fields, planning, law, commerce, accountancy, industry, management, social service, public affairs or administration
- Provided that a person who is, or has been, in the service of the State Government shall not be appointed as a Chairperson unless such person has held the post of Additional Secretary to the Central Government or any equivalent post in the Central Government or State Government.

Term of office of Chairperson and Members (Section 23)

- The Chairperson and Members shall hold office for a term not exceeding five years from the date on which they enter upon their office, or until they attain the age of sixty- five years, whichever is earlier and shall not be eligible for re-appointment.
- Before appointing any person as a Chairperson or Member, the appropriate Government shall satisfy itself that the person does not have any such financial or other interest as is likely to affect prejudicially his functions as such Member.

Salary and allowances payable to Chairperson and Members - (Section 24)

- As may be prescribed and shall not be varied during their disadvantage during the tenure.
- May relinquish his office by giving in writing, to the appropriate Government, notice of not less than three months.
- may be removed from his office in accordance with the provisions of section 26 of this Act.
- Any vacancy caused to the office of the Chairperson or any other Member shall be filled-up within a period of three months from the date on which such vacancy occurs.

Administrative powers of Chairperson (Section 25)

The Chairperson shall have powers of general superintendence and directions in the conduct of the affairs of Authority and he shall, in addition to presiding over the meetings of the Authority, exercise and discharge such administrative powers and functions of the Authority as may be prescribed.

Removal of Chairperson and Members from office in certain circumstances. (Section 26)

- (1) The appropriate Government may, in accordance with the procedure notified, remove from office the Chairperson or other Members, if the Chairperson or such other Member, as the case may be—
 - (a) has been adjudged as an insolvent; or
 - (b) has been convicted of an offence, involving moral turpitude; or
 - (c) has become physically or mentally incapable of acting as a member or
 - (d) has acquired such financial or other interest as is likely to affect prejudicially his functions; or
 - (e) has so abused his position as to render his continuance in office prejudicial to the public interest.
- (2) The Chairperson or Member shall not be removed from his office on the ground specified under clause (d) or clause (e) of sub-section (1) except by an order made by the appropriate Government after an inquiry made by a Judge of the High Court in which such Chairperson or Member has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Restrictions on Chairperson or Members on employment after cessation of office (Section 27)

- (1) The Chairperson or a Member, ceasing to hold office as such, shall not—
 - (a) accept any employment in, or connected with, the management or administration of, any person or organisation which has been associated with any work under this Act, from the date on which he ceases to hold office:

Provided that nothing contained in this clause shall apply to any employment under the appropriate Government or a local authority or in any statutory authority or any corporation established by or under any Central, State or provincial Act or a Government Company, as defined under clause (45) of section 2 of the Companies Act, 2013, which is not a promoter as per the provisions of this Act;
 - (b) act, for or on behalf of any person or organisation in connection with any specific proceeding or transaction or negotiation or a case to which the

Authority is a party and with respect to which the Chairperson or such Member had, before cessation of office, acted for or provided advice to, the Authority;

- (c) give advice to any person using information which was obtained in his capacity as the Chairperson or a Member and being unavailable to or not being able to be made available to the public;
 - (d) enter into a contract of service with, or accept an appointment to a board of directors of, or accept an offer of employment with, an entity with which he had direct and significant official dealings during his term of office as such.
- (2) The Chairperson and Members shall not communicate or reveal to any person any matter which has been brought under his consideration or known to him while acting as such.

Section 2(m) - "commencement certificate" means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the competent authority to allow or permit the promoter to begin development works on an immovable property, as per the sanctioned plan.

- a. Commencement Certificate is issued by the Authority, who has issued the Building Permit/plan or Layout plan.
- b. Each state/planning authority has a different practice of issuing the Commencement Certificate based on the building bye laws.
- c. E.g., BBMP issues Commencement Certificate once construction of Plinth of the building is complete and pillars are marked, however the Planning Authorities like BDA, BMRDA, BIAAPA etc., issue the Commencement Certificate along with the building plan sanction.
- d. Such commencement certificate shall be issued if only if the promoter constructs the project in accordance with the sanctioned plan.
- e. It is mandatory to obtain the commencement certificate in order to obtain the occupancy certificate on completion of the project.
- f. Professionals shall advise the promoters to obtain the commencement certificate without fail.
- g. *Further, following provisions are specifically mentioned in the RERA Act –*

- h. Section 4 (c) an authenticated copy of the approvals and commencement certificate from the competent authority obtained in accordance with the laws as may be applicable for the real estate project mentioned in the application, and where the project is proposed to be developed in phases, an authenticated copy of the approvals and commencement certificate from the competent authority for each of such phases;
- i. Section 11(1)(d) quarterly up-to-date the list of approvals taken and the approvals which are pending subsequent to commencement certificate;

Section 2(n) - "common areas" mean

- a. *the entire land for the real estate project* or where the project is developed in phases and registration under this Act is sought for a phase, the entire land for that phase;
 - b. the stair cases, lifts, staircase and lift lobbies, fire escapes, and common entrances and exits of buildings;
 - c. the common basements, terraces, parks, play areas, open parking areas and common storage spaces;
 - d. the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staffs or for the lodging of community service personnel;
 - e. installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and renewable energy;
 - f. the water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;
 - g. all community and commercial facilities as provided in the real estate project;
 - h. all other portion of the project necessary or convenient for its maintenance, safety, etc., and in common use;
1. Common Areas in the real estate projects are common to all the allottees in the project. Everyone will have common ownership in the Common Area based on either their undivided share in the land or to the Carpet Area/built up area/super built up area.
 2. However, every Allottee gets equal rights in use of these common Areas by the Allottees in the project.
3. The Definition of Common Area includes - the entire land for the real estate project. Further Section 17 of the RERA Act mandates that the Common Areas in the Project shall be conveyed to the Association of Allottees, which requires a Promoter not to transfer any Undivided Share in Land (UDS) to the individual Allottees in the Project but to the Association of Allottees, who in turn will have the right in the Land in common by virtue of becoming a member in the Association of Allottees.
 4. This practice brings standardisation in the business and practices, the practice of Association holding the entire project land helps the Allottees in case of redevelopment of the project during later years.
 5. To enable transfer of the common area as per Section 17 of the RERA Act 2016, the other allied statutes, including the Stamp Act, Karnataka Apartment Ownership Act 1972, etc., require the amendment.

6. *The Reference of common areas in the RERA Act 2016*

- a. *Section 2(zn) "real estate project"* means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto
- b. *Section 11(4)(a)* The promoter shall be responsible for all obligations, responsibilities and functions under the provisions of this Act or the rules and regulations made thereunder or to the allottees as per the agreement for sale, or to the association of allottees, as the case may be, till the conveyance of all the apartments, plots or buildings, as the case may be, to the allottees, **or the common areas to the association** of allottees or the competent authority, as the case may be:
- c. *Section 11(4)(f)* execute a registered conveyance deed of the apartment, plot or building, as the case may be, in favour of the allottee along with **the undivided proportionate title in the common areas to the association of allottees** or competent authority, as the case may be, as provided under section 17.

- d. *Section 14(1)* The proposed project shall be developed and completed by the promoter in accordance with the sanctioned plans, layout plans and specifications as approved by the competent authorities.
- e. *Section 14(2)* Notwithstanding anything contained in any law, contract or agreement, after the sanctioned plans, layout plans and specifications and the nature of the fixtures, fittings, amenities and **common areas, of the apartment**, plot or building, as the case may be, as approved by the competent authority, are disclosed or furnished to the person who agree to take one or more of the said apartment, plot or building, as the case may be
- f. *Section 14(2)(ii)* any other alterations or additions in the sanctioned plans, layout plans and specifications of the buildings or **the common areas within the project** without the previous written consent of at least two-thirds of the allottees, other than the promoter, who have agreed to take apartments in such building.
- g. *Section 17-*
- (1) The promoter shall execute a registered conveyance deed in favour of the allottee along with the undivided proportionate title in the common areas to the association of the allottees or the competent authority, as the case may be, and hand over the physical possession of the plot, apartment of building, as the case may be, to the allottees and **the common areas to the association of the allottees** or the competent authority, as the case may be, in a real estate project, and the other title documents pertaining thereto within specified period as per sanctioned plans as provided under the local laws:
 - (2) After obtaining the occupancy certificate and handing over physical possession to the allottees in terms of sub-section (1), it shall be the responsibility of the promoter to hand- over the necessary documents and plans, **including common areas, to the association of the allottees** or the competent authority, as the case may be, as per the local laws:
 - i. Provided that, in the absence of any local law, the promoter shall handover the necessary documents and plans, **including common areas, the association of the allottees or the competent authority**, as the case may be, within thirty days after obtaining the occupancy certificate.

h. *Section 19-*

- a. The allottee shall be entitled to claim the possession of apartment, plot or building, as the case may be, and the association of allottees shall be entitled to **claim the possession of the common areas, as per the declaration given by the promoter under sub-clause (C) of clause (I) of sub-section (2) of section 4**
- b. The allottee shall be entitled to have the necessary **documents and plans, including that of common areas**, after handing over the physical possession of the apartment or plot or building as the case may be, by the promoter.

To conclude, the appropriate government/authorities shall make necessary amendment in the respective statute and issue clarifications, enable the promoters to comply with section 17 of the RERA Act 2016

Section 2(o) - "Company" means a company incorporated and registered under the Companies Act, 2013 and includes—

- i. corporation established by or under any Central Act or State Act;
- ii. development authority or any public authority established by the Government in this behalf under any law for the time being in force;

Company means -

The Act expands the definition of company by way of including -

1. Any other corporation of Central or State government
2. Development authority or any public authority - eg., BDA, MUDA, BUDA etc.,
3. Section 69 (offences by the company's) of the RERA Act, the company includes Partnership Firm, association of individuals.

To conclude RERA's definitions is further emphasized by the fact that other statutes, such as the Income Tax Act, GST, FEMA, and PMLA, rely on RERA's definitions. This will ensure uniform understanding of these words across different legal frameworks, which is decisive for effective enforcement and compliance.

Few important due dates, notifications under RERA

1. Due date for filing the Dec 2023 Quarterly Updates under Section 11(1) read with Karnataka RERA Rule 15(D) is 15th January 2024.

- Inform the promoter to comply by filing within due date
- ### 2. Due date for filing Annual Audit under RERA (3rd proviso to refer section 4(2)(1)(D)) for the financial year 2022-23 was 30th Sep 2023. However, the Authority has notified extension upto Dec 2023. Further it is observed many of the promoters have still not filed the Annual Audit as on date also
- Inform the promoter to comply by filing on priority basis to avoid the penalties – Refer the website for further details

3. Authority has already levied the penalty for non filing the Annual Audit for the Financial year 2021-22 @ 0.5% of the Project cost –

- 443 projects already suffered the penalty order @ 0.5 % of the project costs
- The details of the penalty orders are published in the following link <https://rera.karnataka.gov.in/viewAllProjectOrders>
- It can be seen from the website the penalties are ranging from Rs.2,500/- to Rs.1.50 Crores Etc

Do advice the promoters to comply all provisions of RERA Act 2016. For more details visit RERA Website - <https://rera.karnataka.gov.in>

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Final Extension of Time for Submission of Annual Audit report as per Section 4(2)(I)(D) of the RERA Act, 2016 for the financial year ending 31st March 2023



KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (KSCAA) Direct Tax Committee presents webinar on **Rewind 2023: Unraveling Direct Tax Verdicts of 2023**. Deliberation on cases that impact daily professional practice.

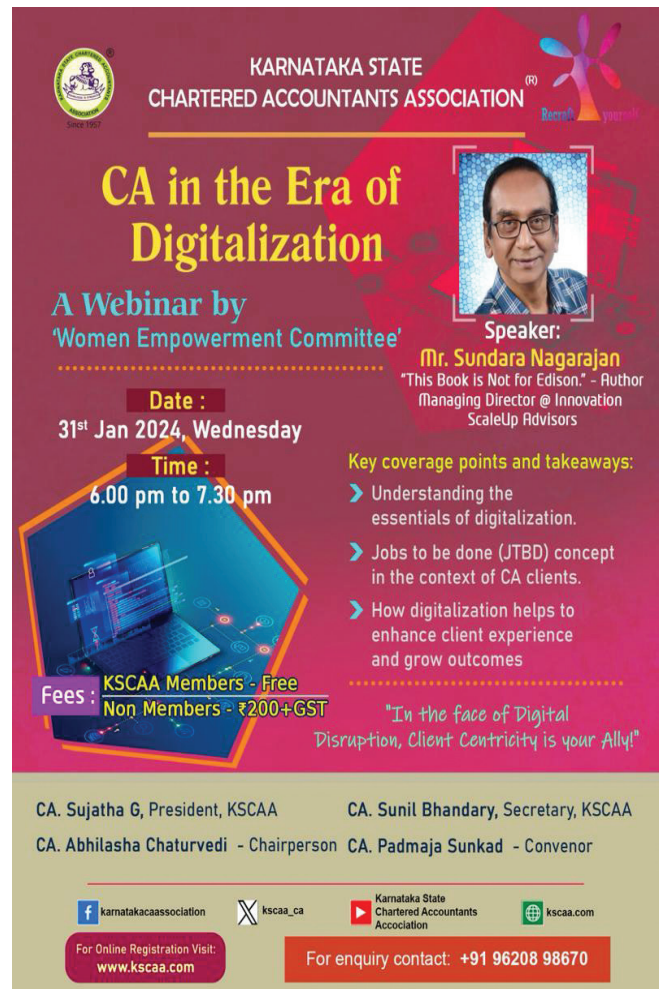
Speaker: CA. Naveen Khariwal

Date: 19-Jan-2024 [Friday]
Time: 5 pm to 7 pm

FREE for ALL

CA. Sujatha G, President, KSCAA | CA. Sunil Bhandary, Secretary, KSCAA
CA. Deepak Chopra - Chairman | CA. Vigesh Kanda - Convenor

For Online Registration Visit: www.kscaa.com
For enquiry contact: +91 95357 15015



KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION (KSCAA) 'Women Empowerment Committee' presents webinar on **CA in the Era of Digitalization**. A Webinar by Mr. Sundara Nagarajan, Author of 'This Book is Not for Edison'.

Date: 31st Jan 2024, Wednesday
Time: 6.00 pm to 7.30 pm

Fees: KSCAA Members - Free, Non Members - ₹200+GST

Key coverage points and takeaways:

- Understanding the essentials of digitalization.
- Jobs to be done (JTBD) concept in the context of CA clients.
- How digitalization helps to enhance client experience and grow outcomes

"In the face of Digital Disruption, Client Centricity is your Ally!"

CA. Sujatha G, President, KSCAA | CA. Sunil Bhandary, Secretary, KSCAA
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THE POWER OF SURRENDER



CA. Rajat Rashmi

Disclaimer: This article is not about whether or not to surrender an insurance policy. This article is about surrender to an idea, a thought, a guru, a phenomenon.

The most appropriate antonym of 'Surrender' is 'Cynicism'. Modern world is a cynical world. Every great idea in this world is refuted by at least one cynical naysayer. It's bound to be. With almost 7 billion minds, with as many diverse thoughts, this is certainly how it should be. But do you think this world can sustain 7 billion philosophies? There have to be some binding principles, else the world will fall apart.

Our minds are powerful, each one capable of more than can be imagined by anyone. Some important tasks for our minds, vital to our existence are: Thinking, Feeling and Wanting. Some of the most important thinking functions are: Memorising, Comprehending and Interpreting. These functions help us to live the continuity of life else we would all be living like Aamir Khan's Character in Ghajini. The movie where the protagonist couldn't remember anything beyond the previous 15 minutes.

- Memory helps to avoid mistakes made in the past,
- Comprehension helps to pick new ideas and connect them to those already there in our memories and
- Interpretation helps to learn things we have not yet experienced ourselves, it helps us to avoid making mistakes that others have made.

Our interpretations are biased. The Nobel Prize Winning work of Daniel Kahneman - Thinking Fast and Slow, has proven without doubt that our brains, in the process of interpreting, suffer from biases. These biases make our interpretations almost always debatable. Which means our interpretation of an incident may be totally different from those of every other person, present and witnessing. And we may all be right in our own way. To a cynic, 'Everyone is right' is such a sick idea to believe in. A cynic would rather believe: 'I am

right and everyone else is wrong'. Only problem is that such a thought process is a perfect backdrop for yet another fight, battle or a war. Don't we already have enough of that?

This article does not attempt to suggest that wars can be completely avoided. It's impossible for egos to dissolve to that extent in the foreseeable future. Though many of them can be avoided. A better way to look at our interpretations is to say: 'I may be wrong'. You'd be surprised at how often we can be proven wrong, no matter what we say. Because most of what we think we know, are just beliefs, based on a particular context. When the context changes, so does the belief. And humans are masters of belief. We can take lives for beliefs. Do I need to explain that? We want to control each other's minds and when we fail, we resort to a variety of unseemly actions.

Let's take an extreme example. We just assume that political borders can be understood. Imagine an alien asking us where the Taj Mahal is. In Agra? What is Agra? Agra is a city. So is it an island? No, it is landlocked. Really! So how do you demarcate? Is there some sign that will show me the entire Agra? From the sky the whole of Eurasia looks like one big city. It's not Agra for the aliens, it's planet earth for them. You have to tell them that Agra is in Eurasia, maybe the longitude and latitude to pinpoint the exact location, because from where they see the earth, that's something they can identify. To an alien Agra or New York or Paris are beliefs with no logical explanation. Because they may not even understand the need for naming cities and villages.

Unbeknownst to ourselves, we are entrenched in the modern belief system. For example, there is a body of research work in the area of 'Do souls Exist'. Whimsical researchers have gone to the furthest end of naivety to prove its existence or otherwise. Weighing people just before and after death. Under the assumption that if there is a soul it would have weight. Answer this question, why does a baby feel lighter when awake and

heavier when asleep? It's true. And if that is the case, is it not possible for a body to become heavier after death because life forces provide buoyancy to our bodies?

When we question things that are invisible to us we tend to become really foolhardy with our methods. I don't doubt the scientific methods. We must remember, even scientific discoveries are steeped in beliefs. Because belief is natural to us. Remember the Y2K problem? Took billions to resolve the 2 digit date mechanism when year 2000 approached, in the 60ies when the softwares were developed, year 2000 seemed incomprehensible. Or remember the logic behind the steady width of roads across the globe, resulting in its influence over the width of the rockets sent to space? Based on the width of two bulls / Horses who pulled the carts in the bygone times. There are things we do not question, even when it is logical to question.

If we are so good with believing, why are we afraid of believing? Why is it so difficult for us to surrender ourselves? Firstly surrender is scary, we may find we surrendered wrongly, to a wrong idea or a wrong person etc. Secondly we don't know who or what to surrender to. And thirdly we have not been taught how to surrender.

Before we go any further, let's ask the basics: Why is there a need to surrender? The problem is, non-surrender makes us extremely ordinary, reinventing the wheel. Humans have come a long way, reinventing the wheel will not take us far. Have you seen the extent of stress that prevails in people? What if I said that surrendering would alter that? Then it would sound like a powerful proposition, wouldn't it?

And so here are some things to understand about surrendering, I am taking the example of the rule of 3 or 6 to explain this:

1. You surrender to ideas that work and are easy to implement: for example - if you had a wise professional coach, she / he would introduce you to some unique principles like the rule of 3 or the rule of 6. If you have 3 things to do in a day chances are you'd do them all. If you had 6 primary goals in your life, you would cover life in its entirety. Such concepts have been built over a long period of time based on the natural learning and performance capacity of humans and they work. That is how humans are wired. So instead of going behind any number of things just focus on 3 or 6. You will notice

that you can chop all your targets down to 3 or 6. If you were to keep this number in mind, imagine how many of your problems will be solved? Number of things to assess about a new client, number of in depth questions to be asked in an interview. With this number you will design all of your work better. And it is a replicable and scalable idea.

2. Surrender is trust and trust is for the brave hearted: You are a brave heart. Aren't you? If you are unable to trust your team, you know what it can lead to. So trusting is important. Again a wise coach would ask you to create 3 methods in which to handle your team. Based on your own business / practice needs.
3. Surrender does not make you disadvantaged: Ask any great leader and you will learn that they have surrendered to so many different things, their mentors, their culture, unique ideas and to their commitments.
4. Surrender creates a purpose: If you are free of needless doubts, you can use that time to achieve something important. 3 or 6 things sound easy to achieve instead of going behind everything and anything. Imagine how much of your stress can be thrown out of the window, if you just rely on this. Try it for yourself.
5. Surrender makes you intelligent: Because then you can use your logic to connect things to the concept and ideas you have already surrendered to. For example if you are moving to a new office space, if you applied the rule of 6, you would make the transition easy by focusing on the most important 6 aspects of the move. The rest can be cared for by others who would also have their own rule of six which would complement yours.
6. Surrender is simplicity: Research shows that if there are too many choices people end up not choosing anything at all it is called the Choice overload Bias, because the human mind is capable of remembering 3 to 6 things at a time. So surrender allows for reducing the choices and making it easy for yourself.

And if you ask who or what to surrender to, I'd offer three things:

1. Surrender to Truth which are tried and tested: for example I surrender to the principles of Geeta. They are time tested and profound.

2. Surrender to your mentor or teacher or guide: Because they have your best interest in mind. I remember my mentee who was really taken aback when she wanted a solution from me and all I did was to ask her to find it for herself. Your coach helps you to find your own beliefs and faiths and ideas, because they help you to perform at your best.
3. Surrender to yourself: You know what is right for you no matter how many people disagree. If you follow your heart, you will be relieved of all conflicting thoughts that bother you.

way you are not stuck with other people’s ideas. With some exploration you will know what works for you and what does not. When to be cynical and when not to be cynical. When to make the rules and when to break them. Just remember your objective is to make yourself successful in what you do. So do not be cynical just for the sake of it. Be cynical if it helps. At all other times and in all other aspects of life just surrender.

Once we learn to surrender to our true selves, to truth and to the true nature of life, then we are not looking for approval. Then we just need a rod and a place to stand so we can move the world.

What not to do when surrendering?

Do not have blind faith. See how your beliefs work and make it into your own over the course of time. This

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IN PURSUIT OF TRUTH



CA. Arun Chintopanth

The emblem of the Institute of Chartered Accountants of India carries the motto :-

य एष सुप्तेषु जागर्ति

“Ya Yesha Supteshu Jagruti” is a line from a verse in the Kathopanishad. The sloka reads as follows:-

य एष सुप्तेषु जागर्ति कामं कामं पुरुषो निर्ममाणः ।
तदेव शुक्रं तद्ब्रह्म तदेवामृतमुच्यते ।
तस्मिँल्लोकाः श्रिताः सर्वे तदु नात्येति कश्चन । एतद्वै तत् ॥ ८॥

Loosely translated it means that the PARAMATMA keeps awake even as all others sleep i.e. go into final dissolution. By using this as a motto, an analogy is drawn by the Institute of Chartered Accountants of India to the role of Chartered Accountants as WATCH DOGS in having to be vigilant, aware and guarded at all times against financial irregularities.

At a much higher plane and dimension however, the sloka refers to that divine tattva that is knowledge itself and extremely pure that is the Brahma and that which is referred to in the scriptures as TRUTH.

Let us consider the question as to what exactly is denoted by this much used expression TRUTH.

TRUTH is said to be that Divine force that dwells in every individual's heart. That Divine Force is also called God. Gandhiji writes, “There is no difference between God and the truth.” "Satyam Parama Dhimahi" say the scriptures.

TRUTH is also said to be that which remains unchanged in the past, present, and future. It is unborn and immortal. The highest philosophy is to know that TRUTH and GOD are one and the same. That is why we call God or Narayana as Satyanarayana and the highest practice is to search for that TRUTH through one's thoughts, speech and actions.

Socrates was once told by the court in Athens, that he would not be put to death if he ceased talking about

truth. Socrates refused and he said, "That is my business. I cannot stop talking about truth. Just as I breathe, I talk about truth. It is my business."

Such is the greatness of this expression TRUTH.

This TRUTH or SAT goes by various other expressions such as:-

Satchidananda roopa

Jeevan Mukti

Kingdom of God

Self-Knowledge

State of Samadhi

Ananda maya kosha

and so on.

And the scriptures tell us that the ultimate goal of man is to reach this state of TRUTH.

A few questions now arise:-

1. WHY: Why should one pursue this object called TRUTH? If one is already leading a comfortable and dharmic life, then why would it be necessary to exert oneself in going after this TRUTH?

The answer lies in understanding that the entire creation is in a process of evolution. The whole creation is dynamic and evolving. We are told that we would have passed through 84 Lakhs of 'jivarasis' or life forms to have reached this state as humans. But this is not the end. Physically, may be; but the mind and intellect need to move on and evolve further and further. TRUTH is the highest form of such an evolution and hence man who is endowed with consciousness and thinking faculties must evolve towards this highest form. In not doing so man will be destined to remain where he is – like one caught up in a revolving door – “Punarahpi Jananam; punarati maranam.”

2. WHERE? : The next question would be as to where to seek this TRUTH? Where is it located?

Swamy Chinmayananda when asked this question during one of his talks remarked that the distance between us and TRUTH is the same as the distance between the garment that we wear and the fabric of that garment itself!

That is to say that TRUTH is within us and our quest must be inwards – not anywhere outside. The Upanishads endorse this when they say, “Tat twam asi” or “Aham Brahmasmi”.

3. HOW LONG?

How long would it take one to reach this TRUTH?

Bhagawan Krishna in the Bhagwad Gita says:

“Bahunanan janmanam ante gnanavam mam praptye”

i.e. to say that one would need multiple janmas (births) to reach this TRUTH.

This is not meant to deter the pursuit of TRUTH, but to emphasise that the journey must begin immediately, if not already begun, since it is a long and arduous one.

4. WHICH WAY?

How does one pursue the quest for TRUTH? Which is the direction in which one is to proceed?

Just as different rivers flow in different directions and finally merge with the ocean, so too in the case of TRUTH, many paths are available.

Different philosophers, spiritual leaders, schools of thought etc. have determined their own paths to this goal. The means are many but the end is the same.

Bhagawan Krishna mentions Bhakti yoga, Karma Yoga and Gnana Yoga in the Bhagwad Gita as means towards attaining the TRUTH.

Adi Shankara suggests the path of Satsang. He says:

“Sat-sangatve nissangatvam nissangatve nirmohatvam

Nirmohatve nishchala-tattvam nishchala-tattve jivanmuktih

Bhaja govindam bhaja govindam bhaja govindam mudha-mate”

Maharshi Patanjali in his yoga sutras refers to this TRUTH as the state of Samadhi and prescribes seven steps to this goal:-

1. Yama
2. Niyama
3. Asana
4. Pranayama
5. Pratyahara
6. Dharana
7. Dhyana

In my view, the path shown by Pathanjali would be relatively simpler to follow. We will consider these steps one by one in detail.

The first two steps namely Yama and Niyama lay the foundation to climb the remaining five steps that follow.

1 YAMA

Yama consists of following major components:-

- i. Non violence and harmlessness
- ii. Truthfulness and honesty
- iii. Abstaining from stealing
- vi. Non possessiveness
- v. Self restraint

All of us know what non violence is. Abstention from violence as a matter of principle is non violence.

Harmlessness is in being circumspect in our dealings with others to ensure that none is hurt. Hurt could mean tangible or even in intangible relationships.

There is a story of Buddha being once threatened with death by a bandit called Angulimala.

As a dying wish, Buddha said to the bandit: “Cut off the branch of that tree.”

One slash of the sword and it was done! “What now?” asked the bandit.

“Put it back again,” said Buddha.

The bandit laughed and said, “You must be crazy to think that anyone can do that.”

Budha replied: “It is you on the contrary who is crazy to think that you are mighty because you can wound and destroy. That is the task of children. The mighty know how to create and heal.”

Such is the effect of non violence and harmlessness. It is not a passive quality but a constructive one.

To develop non violence and / or harmlessness one needs to shed one quality while at the same time acquiring another.

The quality to shed is called Krodha or anger. Each of us possess this quality in different proportions. While eliminating this totally is rather difficult; and not desirable too, maintaining discretion and a balance can certainly be achieved.

Lord Rama was known for not succumbing to anger. He would not get angry. But it is not that he could not get angry. He used anger as a weapon against adharma.

When the sea God refused to oblige him despite many requests made good naturedly for some time, Sri Rama finally resorted to anger pulling out his bow from the quiver.

Swamy Chinmayananda says, “From the time I tamed my mind’s anger, I keep it carefully in my pocket. When I need it I take it out, use it and carefully keep it back in my pocket.”

A wonderful anecdote from the life of Sri Eknathji is told.

Eknathji was a Maharashtrian saint who was known for his good nature and his ability in not getting angry at all whatever the provocation.

As is normally the case, there were some in the town who were jealous of this reputation that Eknathji had. They wanted to disgrace him. They hired a man and promised to reward him richly if only he could make the Saint lose his temper.

Eknathji would go to the river every morning for a bath in the river before going for worship. One day, as he came out of the water, this hired man who was there spat on him. The Saint did not say anything but went back to the river, took another dip and came up. Once again the man spat on him. This went on being repeated. It happened for the third time, the fourth time, the fifth time, but it made not

a dent in the Saint's composure. Unperturbed, each time he went back to the river to have another dip.

The man would not tire at spitting at him, nor would Eknathji get angry at this man.

This went on for as many as 107 times! After having the 108th dip, as the Saint made his way to the Temple, the man's heart melted. He fell at the feet of the Saint and pleaded, "Forgive me. I implore you to forgive me. I have greatly sinned. I was told by some of the wealthy men of the town that if I could make you lose your temper, they would reward me richly. The temptation of a rich reward made me behave like a beast. Please forgive me."

The Saint smiled and said, "Forgive you for what? Today is a unique day in my life when I have had 108 dips in the sacred waters. I must actually be thankful to you for having given me such an opportunity."

To be continued

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Ethics from Epics - 5



Wisdom springs from the bed of arrows

CA Allama Prabhu M S

Part - 3

(Contd. from previous issue)

4. True friend of a man

I have included a few of Yudhishtira's brilliant responses from Yaksha Prashna, when he confronted Yama.

Who is the friend of a Traveler?

His companions

(Sarthaha: Merchant Travelers)

Who is the friend in his house?

His wife

Who is the friend of an ailing person?

Physician

Who is the friend of a dying person?

Charity (Daanam)

Who is a learned man?

One who is aware of his righteous duties

What is the most wonderful thing?

Day after day innumerable people are going to the abode of Yama. Yet the living believes that they are immortal and think that they shall live forever. Can there be a greater wonder?

(Ref: World's first Quiz Time-rapid fire session!

KSCAA News Bulletin, Sept 2012)

Yudhishtira was an abundant source of knowledge in and of himself. Despite his awareness of moral issues, he requests Bhishma for his considered opinion and seeks affirmation on many ethical considerations.

During the course of deliberation, Yudhishtira asks:

“Who is the true friend ?”

Bhishma replies:

“Man is born alone and he dies alone.

Alone he comes into this beautiful world and alone he must go when he leaves this world.

He has not a single companion in his march through this incident called life. Father, mother, sons, kinsmen, friends, preceptor turn away once a man is dead and go on with their work.

They have no more interest in the dead body. Only Dharma, righteousness, follows the body that has been abandoned by all.

That is the only friend of a man and that is the only thing a man should seek.”

(Mahabharata, Kamala Subramaniam)

The concept of righteousness deliberated herein transcends earthly concerns such as greed, ambition, and aspiration.

In changing times, one is obligated not to change the values (if he's following any at all). Many people prefer to take the easy way out while compromising some of their principles.

While times may change, moral principles never change. It can occasionally need to be customized to suit the requirements of time & finetuned, but its core form cannot be substantially modified or transformed.

Our culture has also placed a consistent focus on evaluating, stimulating, and propelling one's own intellect in order to live a better life, to be in particular an enlightened spiritual life.

(Sadly, most principles are either lost or disregarded nowadays.)

5. Preventive, Precautionary & Proactive measures of a king

A king ought to be able to hide the flaws in his realm.

He shouldn't be reluctant to reconcile with his more powerful opponents.

He ought to designate astute spies to uncover the undercover movements and vulnerabilities of his enemies and patiently wait his time to launch an offensive or to reach a diplomatic settlement.

He ought to appoint wise and honest men, rather than acolytes, as his officials and ministers. He shouldn't have complete faith or complete mistrust in them.

6. Discourse on Punishments

There should not be a common punishment for all classes of society. Offenders should receive punishment commensurate with the severity of their crime.

The impoverished should be punished with loss of liberty, while the wealthy should be monetarily penalised including seizure of their possessions.

Wicked and cruel behaviour ought to be dealt with by corporal punishment.

“If the educated commits a crime it will be unpardonable as they will be deemed to possess the culpable mental state. Generally, Lack of education and poverty are the factors responsible for a Crime. But this certainly does not mean that less educated people are more prone to do crimes. As the most serious financial frauds are all committed by the most educated one's or rather, I would prefer to call them Literates and not as Educated ones.”

Ref: *Electing the Crown Prince*, KSCAA News Bulletin- July 2012)

An interesting story goes like this:

A saint was doing Tapas under a neem tree. Narada met him. The saint inquired as to when he would attain Moksha.

Narada replied that each of his “*future birth (janma)*” is represented by the number of leaves on the tree and after that number of births he would attain salvation.

The saint looked up and noticed the innumerable leaves.

He became agitated immediately and exclaimed, “After so many years?!!!”

“So what's the use of performing penance now?”

He then abandoned tapas and walked out to live a normal life.

Taken aback by the Saints impulsive decision to abort his penance, Narada moved.

After a while, he came across another Saint who was doing Tapas under a large tamarind tree that had 5 times more leaves than the neem tree Same Query, same answer.

But the response was different !

The saint exclaimed with excitement:

“So, at some point in time, I will attain Moksha!”

I shouldn't miss the opportunity that God has graciously granted me.

I'll dedicate all of my time to meditate on him.” & he forthwith resumed his dhyana.

Philosophy, Philanthropy and Spirituality have been at the heart of our culture. The essence of spirituality is ingrained in our genes. Righteous Principles and Ethical values quoted in our epics are relevant for 21st Century and may be forever.

“There is a basic lesson of Indian history. Our people have always taken their moral standards from their rulers: the people have risen to great heights when they have basked in the glow of noble kings or leaders. The present generation is waiting for a leader who will make it relearn the moral values and who will inculcate in the people, as Gandhi did, a sense of the responsibilities which fall on every citizen of a free society.”

(Nani A Palkhivala in *We, the Nation The lost decades*)

(Concluded in the next issue)

Erratum: Dec 2023 issue -

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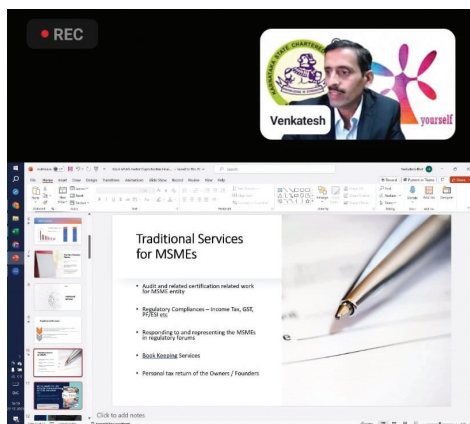
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