



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

NEWS BULLETIN

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36th KSCAA ANNUAL CONFERENCE

2024

Recraft yourself

*Follow the Discover, Deliberate, Determine,
Develop, Deliver process to recraft your profession*

Join Us

Date: March 1st & 2nd, 2024

Time: 09.00 AM

Venue:

Bunts Sangha Auditorium, Beside Attiguppe Metro Station,
Vijayanagar, Bangalore



From the President

My dear KSCAA members,



In the pursuit of the goal "Recraft Yourself," the annual conference theme has been designed. The theme of the 36th Annual Conference is "Jnanottirnata" meaning Transcendence through knowledge. At the conference, we come together not merely to exchange information, but to delve into the profound realm of wisdom that elevates our understanding and capabilities. The emphasis has been given to networking, exchanging new areas of opportunities with professional colleagues, fostering collaboration and professional successes.

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

1. Events within the professional sphere:

- Our Hon'ble Finance Minister presented her 6th consecutive Budget 2024. She abstained from introducing populist measures and maintained existing tax rates for both Direct and Indirect taxes.
- Our professional body, ICAI is under the leadership of new torchbearers CA Rajeet Kumar (EIRC) as President and CA Nanda Charonjit Singh (NIRC) for the year 2024-25.

2. Events at KSCAA:

- On 10th January, the Technology Committee hosted a program focused on practice management tools. This marks the First webinar ever organized by this committee in the history of KSCAA.
- On 19th January, Direct Tax Committee organised a program centred around case study based deliberation on the judgments that impact daily professional practice. This event was distinctive as it encompassed direct tax verdicts from the year 2023.
- On 20th January, KSCAA- Eloquent Professional celebrated its 150th weekly Meeting, a forum dedicated to honing members skill in public speaking and leadership qualities. This program is held every Saturday between 5pm-7pm at KSCAA office, Rajaji Nagar. We warmly welcome guests to join this program and be part of Team KSCAA.
- On 25th January, Co-operative & NPO committee convened an interactive meeting with the Souharda Federation. The members of the committee from various districts of Karnataka actively expressed

their views and key issues, including the rise in audit fees and other relevant matters, were raised and discussed.

- On 28th January 2024, a Cricket Tournament was organized. Approximately 10 teams from across Karnataka participated in the event, generating momentum and allowing members to channel their sporting energy.
- On 30th January, Corporate Law Committee organised a program focused on MCA Compliance Calendar for Companies and LLPs. This session received a significant response, driven by recent amendments particularly those concerning the compulsory dematting of shares and various compliance related issues in the ROC forms.
- On 31st January, Women Empowerment Committee hosted a webinar on the role of CAs in the era of Digitisation. The chosen topic was highly relevant to the current landscape of CA practice.
- The RRC on GST provided a platform for intense learning through case laws and presentations. All the mentors deserve appreciation and recognition for committing more than 12 hours a day for two days, dedicating their valuable time to enhance the knowledge of participants.

3. Upcoming Event:

Please block your calendar for 1st and 2nd March, 2024, as KSCAA's Annual Conference is scheduled to take place at Bunt Sangha Auditorium, beside Attiguppe Metro Station.

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

Looking forward to seeing all of you on the day of conference.

Happy Reading!
Best Regards,
CA. Sujatha G
President

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. From CBDT

1. CBDT notifies for the purposes of exemption u/s 10(46) - 'Bellary Urban Development Authority' (PAN AAALB0037A), an Authority constituted by the State Government of Karnataka. (NOTIFICATION S.O. 40(E) [NO. 1/2024 F. NO. 300196/26/2021-ITA-I], DATED 2-1-2024).
2. CBDT notifies for the purposes of exemption u/s 10(46) - 'Karnataka State Rural Livelihood Promotion Society' (PAN AACAK0581H), a body constituted by the Government of Karnataka. (NOTIFICATION S.O. 41(E) [NO. 2/2024/ F. NO. 300196/20/2019-ITA-I], DATED 2-1-2024).
3. CBDT notifies for the purposes of exemption u/s 10(46) - Madhya Pradesh Professional Examination Board, Bhopal (PAN- AAAGP1792B), a Board constituted by the Madhya Pradesh Government. (NOTIFICATION S.O. 42(E) [NO. 3/2024/ F. NO. 300196/29/2022-ITA-I], DATED 2-1-2024).
4. The CG hereby notifies activity of investment in a financial product by the non-resident, in accordance with a contract with such non-resident entered into by a capital market intermediary, being a Unit of an IFSC, where the income from such investment is received in the account of the non-resident maintained with the Offshore Banking Unit of such IFSCe, as referred to in sub-section (1A) of section 80LA. (NOTIFICATION S.O. 66(E) [NO. 4/2024/F. NO. 370142/48/2023-TPL], DATED 4-1-2024)
5. CBDT notifies for the purposes of exemption u/s 10(46) - 'Karmayogi Bharat (PAN: AAJCK2949L), a Company incorporated under Section 8 of the Companies Act, 2013 with 100% equity shared owned by the President of India i.e. Government of India. (NOTIFICATION S.O. 79(E) [NO. 7/2024/F. NO. 196/12/2023-ITA-I], DATED 5-1-2024).
6. Explanatory Notes To The Provisions Of The Finance Act, 2023. (CIRCULAR NO. 1/2024 [F.No. 370142/38/2023], DATED 23-1-2024).
7. CBDT makes rules to amend the Income-Tax Rules, 1962 for ITR 6. (NOTIFICATION G.S.R. 64(E) [NO. 16/2024/F.NO. 370142/49/2023-TPL], DATED 24-1-2024).

8. CBDT makes rules to amend the Income-Tax Rules, 1962 for ITR 2, ITR 3 and ITR 5. (NOTIFICATION G.S.R. 83(E) [NO. 19/2024/ F. NO. 370142/47/2023-TPL], DATED 31-1-2024)
9. CBDT extends the time limit for processing of the return u/s 143(1) filed for AY 2020-21. (ORDER F. NO. 225/132/2023/ITA-II, DATED 31-1-2024)
10. CBDT notifies income tax return forms for the assessment year 2024-25 well in advance. (PRESS RELEASE, DATED 2-2-2024)

II. Judicial Pronouncements

A. Supreme Court

1. Sales tax subsidy received by assessee-company would be treated as a capital receipt and not revenue receipt. (PCIT v. Sunbeam Auto (P) Ltd) (159 taxmann.com 152).
2. SLP dismissed against order of High Court that where issue whether amount of grant-in-aid was capital receipt or a revenue receipt was a debatable issue, penalty under section 271(1)(c) could not be imposed. (CIT v. Gurdaspur Cooperative Sugar Mills (P) Ltd.) (159 taxmann.com 7).
3. SLP dismissed against order of High Court that where Commissioner had not recorded any reason for assessee-trust's failure to meet conditions outlined in clauses (i) to (v) of section 80G(5), and no objection was raised regarding genuineness of activities of trust, denial of approval under section 80G solely due to lack of significant charitable activity as per its objects would be unjustifiable. (CIT (E) v. Gangadeen Niranjana Lal Data Charitable Trust) (159 taxmann.com 208).
4. SLP to be dismissed against impugned order of High Court wherein it was held that where assessee had claimed depreciation on leased assets and such claim was backed by material on record, penalty under section 271(1)(c) could not be imposed merely because claim of depreciation was not acceptable in law. (PCIT-2 v. Indusind Bank Ltd.) (158 taxmann.com 575)

B. High Court

1. Where a non-resident declared capital from sale of debt instrument and claimed exemption under article 13(4) of Indo-Singapore DTAA and a certificate of Singapore authority provided that income from Foreign exchange transaction will be taxable in Singapore then provision of Article 24 will not be applicable. (*CIT(IT) v. Citicorp Investment Bank (Singapore) Ltd.*)(457 ITR 203)(*Bom.HC*)
2. UPS which is being used to prevent data loss was a part of computer and department without factual foundation and nothing on record to suggest that it was used for running other than computer is not valid and entitled to a higher rate of depreciation of 60%. (*PCIT v.Nestle India Ltd.*) (457 ITR 216) (*Delhi HC*).
3. Where the assessee is filing ITR under the new PAN in the capacity of sole proprietor and initial notice issued in the name of erstwhile firm does not amount to concealment of particulars by assessee. (*Rajinder Nath Kapoor v. ITO and Another*) (457 ITR 225) (*Delhi HC*)
4. Where an expenditure is incurred for obtaining a leasehold right from the government on a concessional rate shall be treated as intangible asset and eligible for depreciation over the period. (*Bangalore International Airport Ltd. v. DCIT and Another*) (457 ITR 229)(*Karnataka HC*)

C. ITAT

1. Non-renewal of contract does not mean termination and, therefore, compensation received by assessee-employee on non-renewal of contract with employer was by way of mutual agreement and, thus, same was not taxable under section 28(ii). (*Ms. Padma Rao v. CIT*) (159 taxmann.com 30) (*Delhi - Trib.*).
2. Where assessee along with other co-owners had purchased a land and thereafter established a partnership firm with same co-owners and entered into a development agreement with said firm to develop land into 18 bungalows, this clearly established motive, intention and interest of assessee in doing real estate business, thus, profit earned by assessee was to be treated as business income and not LTCG as claimed by assessee. (*Bhanuprasad Maganlal Patel v. DCIT*)(158 taxmann.com 426) (*Ahmedabad - Trib.*).

3. Where assessee claimed exemption under section 54F in respect of a building constructed by him, since said building was predominantly used for religious purposes namely Mosque, Orphanage School and Staff quarters, and therefore, it did not fit within definition of residential house as contemplated under section 54F, assessee was not entitled to any relief under section 54F. (*ACIT v. Iqbal Ali Khan*) (158 taxmann.com 377) (*Hyderabad - Trib.*)
4. Where assessee entered into a Joint Development Agreement and a General Power of Attorney with M/s. Plasma Developers Ltd and as per those agreements assessee transferred 62% of land in exchange for 38% of developed area to be constructed over time, resulting in an envisaged built-up area of 75,818 sq.ft , transaction between assessee and Plasma Developers Ltd, constituted a transfer u/s. 2(47)(vi), liable to capital gain. (*K.P. Muhammed Ali v. ITO*) (159 taxmann.com 11) (*Cochin - Trib.*).



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CA. Sowmya C A

INDIRECT TAX UPDATES

Finance Minister Nirmala Sitharaman presented the Interim Budget for 2024-25 in Parliament on February 01, 2024. The theme for the budget has been moving towards a futuristic India guided by the principle of 'Reform, Perform and Transform'. The interim budget was along the expected lines with no major announcements and a revalidation of the focus areas being Infrastructure, Make in India and People Welfare. In line with this, the budget focused on the four major pillars which are empowering youth, women and the poor, supporting agriculture and promoting green growth. Though a full budget is expected on July 24 after the formation of the new government, this financially prudent and optimistic interim budget sets a path for the country's sustainable growth and moving towards a Viksit Bharat 2047.

The budget has not introduced any changes in the Tax rates. According to the Finance Bill 2024, an amendment has been proposed for mandatory Input Service Distributor registration of an office which receives invoices for common input services. Presently companies adopt either ISD or Cross Charge mechanism at their discretion for distribution of credit and the proposed amendment is set to clarify the position and clear any ambiguity. This requirement will become mandatory from the date of its notification in the official gazette. Further, to monitor the production of specific products such as Pan Masala, Tobacco, Hookah, etc. a specialized procedure is mandated for manufacturers of these goods. Notification no. 4/2024-CT dated 5th Jan 2024 issued in this regard outlines the prescribed forms for submission and the procedure. Noncompliance entails a penalty of Rs. 1 lakh per machine, with potential seizure and confiscation. The confiscation can be averted if the penalty is paid, and registration of the machine occurs within 3 days of the penalty order.

While the time limit to issue show cause notices under Section 73 for FY: 2017-18 and FY: 2018-19 is officially over under the normal period of limitation, a spate of notices has been issued in the last month for a wide range of issues ranging from credit mismatch to secondment of employees along with interest and penalty for the said period.

The government is continuously employing intense technology-based risk profiling to detect tax evasion. As per the Press Release published by CBIC dated 07 Jan 2024, the sustained drive against non-existent taxpayers has led to the detection of 29,273 bogus firms involved in suspected Input Tax Credit (ITC) evasion of Rs. 44,015 crores across the country since May 2023. To strengthen the registration process, the government has implemented biometric-based Aadhar authentication. Additionally, it has instituted various measures to counteract tax evasion, including but not limited to sequential filing, system-generated reconciliation notices for disparities in tax liability between GSTR1 and GSTR3B, scrutiny of Input Tax Credit (ITC) mismatches, and the application of data analytics and risk parameters. These measures are designed to expeditiously identify instances of fraudulent registrations and proactively prevent tax evasion.

On the legal front, the Supreme Court is set to address a challenge by a group of online gaming companies against the imposition of 28% GST on the full value of a bet placed in view of the matter pending before several high courts and the likelihood of contradictory judgements. In a recent development, the Supreme Court has dismissed the appeal from the tax department and upheld the decision of the Calcutta High Court by refusing to interfere in the Hon'ble decision of the Calcutta High Court upholding that input tax credit cannot be denied due to supplier's default to pay tax. This is a welcome decision and serves as a significant relief for taxpayers facing analogous mismatch notices and engaged in legal disputes. (Suncraft Energy Private Limited & Ors. - 2023 (12) TMI 739 - SC ORDER).

In another notable judgement of the Bombay High Court in the case of M/s. Hong Kong and Shanghai Banking Corporation Ltd. Vs. Union of India 2023 (11) TMI 965 - Bombay High Court, the petitioner after depositing a certain sum under protest, subsequently pursued its claim by submitting a proper refund application. The court held that the mere act of depositing an amount under protest does not automatically confer legality to the levy, nor does it result in the appropriation of the

deposited amounts as a lawful levy. Consequently, the department lacks the authority to retain such amounts and is obligated to facilitate their refund. Recent notifications, circulars and advisories issued during this month have been compiled below for an interesting read.

Recent Notifications :

➤ **Rescinds the Notification No. 30/2023-CT, dated the 31st July, 2023 - Special procedure to be followed by a registered person engaged in manufacturing of the goods**

The Notfn. No. 30/2023-CT which prescribed new reporting requirements to manufacturers of, Pan Masala and certain types of Tobacco products such as Details of Packing Machine, Inputs register, productions register, and special monthly statement, to be submitted on the common portal is withdrawn.

(Notfn No. 3/2024-CT dated Jan 05, 2024)

➤ **Central Government notifies special procedure by a registered person engaged in manufacturing of certain goods**

New notification issued prescribing reporting requirements for manufacturers of, Pan Masala and certain types of Tobacco products in Form SRM-I, SRM-II and SRM-III for furnishing details of Packing Machine, Special Monthly Statement, Chartered Engineer Certificate respectively, to be submitted on the common portal effective 01 Apr 2024. Form SRM-1 requires the submission of details regarding the packing machines employed for filling and packaging such products. Regular monthly statement in SRM-2 containing details of inputs used and the final goods produced by the manufacturer of goods specified in the Schedule.

(Notfn No. 4/2024-CT dated Jan 05, 2024)

Recent Advisories :

➤ **Advisory on Payment through Credit Card (CC)/ Debit Card (DC) and Unified Payments**

To facilitate the taxpayer registered under GST with more methods of payment, two new facilities of payment have now been provided under e-payment in addition to net banking.

The two new methods are Cards viz. Credit Card (CC) and Debit Card (DC) namely Mastercard, Visa, RuPay, Diners(CC only) of any Indian bank and Unified Payments Interface (UPI).

(GSTN update dated 19 Jan 2024)

➤ **Mandatory Bank Account Details Submission as per law:**

All registered taxpayers are required to furnish details of their bank accounts/s within 30 days of the grant of registration or before the due date of filing GSTR-1/IFF, whichever is earlier.

- Failure to furnish the bank account within the stipulated time will result in suspension of registration
- Intimation in FORM REG-31 will be issued to the Taxpayer and the taxpayer will be debarred from filing any further GSTR-1/IFF.
- Automatic revocation upon furnishing bank details in response to REG-31
- Registration may be cancelled upon non-furnishing of bank details beyond 30 days of intimation.

(GSTN update dated 23 Jan 2024)

➤ **New interface for Notices and Additional Notices**

◆ **Notices and Orders tab will include notices/orders pertaining**

to registration, amendment, cancellation, revocation and other communications

Automated notices to return defaulters in Form GSTR-3A

Automated notices relating returns module comprising GSTR-01B and GSTR-01C

Summary of assessment orders in Form DRC-07 where proceedings were offline

◆ **Additional Notices and Orders to include**

Notices / Orders about Advance Ruling, Appeal, Assessment/Adjudication, Audit, Enforcement, Prosecution and Compounding, Recovery, LUT etc.

(GSTN update dated 18 Jan 2024)

DGFT Notifications:

➤ **Clarification regarding Import Policy Provisions for Laptops, Tablets, All-in-one Personal Computers and Ultra Small Form Factor Computers, Servers under HSN 8471**

Pursuant to DGFT Notification No. 23/2023 dated 03rd August 2023 read with Notification No. 26/2023 dated 4th August 2023 and Notification No. 38/2023 dated 19th October 2023 and Policy circular no. 6/2023- 24 dated 19.10.2023, whereby Import of certain specified IT

Hardware was 'Restricted'. It has been clarified that "Only the import of Laptops, Tablets, All-in-one Personal Computers, Ultra small form factor Computers and Servers falling under HSN 8471 is 'Restricted' and import should be allowed against a valid Import authorisation only for above five item categories. The given Import Restriction does not apply to any other goods such as Desktop Computers, etc. under tariff head 8471".

(Policy Circular No. 09/2023-24 dated 12 Jan 2024)

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sowmya.whitefield@gmail.com

Solution to Sudoku - 41 January - 2024

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

1. Representation Regarding Processing of Updated Return Filed Under Section 139(8A) of The Income-Tax Act, 1961
2. Representation Regarding Disallowance Under Section 43B(h) Of The Income-Tax Act, 1961

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

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)**
  
 ICI Home Finance  SUNDARAM HOME

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

FD NBFC  **BAJAJ FINSERV**  **Mahindra FINANCE**

 **Sovereign Gold Bonds**
8 years, 2.50% Half-yearly Interest, Maturity 'Tax-free'

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INDIRECT TAXES - RECENT JUDICIAL PRONOUNCEMENTS



CA. Bhanu Murthy J S
CA. Raghavendra C R

1. BT (INDIA) PVT. LTD. Vs UNION OF INDIA (2023) 13 Centax 89 (Del.)

Background: The Petitioner filed refund claims under Rule 5 of Cenvat Credit Rules, 2004 on account of export of services. The respondent department issued deficiency memos in the year 2019. The respondent rejected the refund on the ground that the services provided would not qualify as export of services as the same is in the nature of intermediary services. In this background the order rejecting the refund is contested for the honorable High Court.

Held: The High Court allowing the petition observed as below:

- a. Deficiency memo is limited to intimate shortcoming or supplement documentation that must accompany a claim for refund. The deficiency memos cannot be viewed as substitute for show cause notice.
- b. Where the assessee self-assesses the returns proceeding on the basis that output services rendered by it would qualify as an “export of service” and therefore it is not exigible to service tax and once self-assessed return is duly accepted, the same could not be modified or varied by an authority while considering application for refund. As the said self-assessment returns remained untouched and not questioned by authorities either in terms of Sections 72 or 73 of Finance Act, 1994, hence, refund of Cenvat Credit is liable to be granted.
- c. The phrase ‘determination’ mentioned in Rule 5(1) of Cenvat Credit Rules, 2004 is confined to quantification of refund allowable in accordance with formula prescribed therein and the same shall not be read in aid of recognizing power of assessment being available to be exercised while considering claim for refund.

- d. Applicability of principles of consistency: In the background of the fact that the refund on very same nature of services were allowed for earlier period, the Court relying on the decision of the Supreme Court in the case of Radhasoami Satsang, Soami Bagh, Agra v. Commissioner of Income Tax 2 (1992) 1 SCC 659 observed that where , nature and ambit of services rendered by petitioner across separate assessment periods remained unchanged, unless a “fundamental aspect common to different assessment years has come to be altered’, taxing authorities would be bound by view already taken and it would in any case be impermissible for them to take contrarian views with respect to an identical set of facts.

2. Leyla Mohmoodi vs Additional Commissioner of Customs, (2023) 13 Centax 291 (Bom.)

Issue: Issue before the Hon’ble High Court was whether the Customs department could sell / dispose of the gold jewellery seized from the petitioner, without notice to the petitioners, and even before an order of confiscation under Section 111 of the Customs Act, 1962 is passed.

Held: The High Court held that the sale or disposal of the jewellery seized without notice to the party or without passing confiscation order is illegal and unconstitutional and consequently directed the Customs department to restore to petitioners, equivalent amount of gold and / or to compensate petitioners by making payment of amounts equivalent to market value of said gold. Further, the court observed as below:

- a. Prior to goods being confiscated, rights in the goods, the corporeal ownership of the goods remain with the owner of the goods and such rights do not stand vested and/or transferred in favour of the Customs department / Government;

- b. Procedure adopted to dispose of such seized valuable commodities shall withstand test of law and more particularly, constitutional requirement of reasonableness, non-arbitrariness, fairness and transparency as enshrined in Article 14 of Constitution. Which is not being followed in the present case.
- c. Show cause notice which was issued proposing confiscation of the seized goods, in effect was meaningless as gold jewellery itself was not available for confiscation.
- 3. Tvl. Kalyan Jewellers India Ltd. vs. Union of India (2024) 14 Centax 146 (Mad.):**

Background: Issue before the High Court was whether Gift vouchers issued by the Petitioner would attract levy of GST?

The “Gift Vouchers” are sold both in its retail outlets as well as through online portals by engaging the services of third-party service providers. These vouchers have specified validity time and the same could be redeemed for the purpose purchasing merchandise at various outlets.

Held: In this background the Court held that :

- a. Gift Voucher/Card” is therefore an “actionable claim” and in terms of Schedule III read with Section 7 actionable claims are neither supply of goods nor supply of services. Consequently, issue of vouchers are not liable to GST.
- b. Where the “Gift Voucher/Card” is issued for an identified goods/ merchandise, tax is payable notwithstanding the fact that only a part of the sale consideration is/was received by the petitioner in advance at the time of issuance of the “Gift Voucher/Card”.
- c. However, where “Gift Voucher/ Card” was issued for any unspecified goods to be purchased on a future date from a whole range of products/goods/merchandise offered for sale by the petitioner, tax is payable on such “goods” or “merchandise” only at the time of sale i.e. at the time of redemption of “Gift Voucher/Card” in view of Section 12(4)(b) of the CGST /State GST enactments.

- 4. Reckitt Benckiser India Private Limited Vs UoI,[2024]158 Taxmann.com 675(Dellhi)**
Validity of Anti profiteering provisions

In a batch of petitions challenging the constitutional validity of anti profiteering provisions contained in Sec. 171 of the CGST Act read with the relevant rules, the Delhi High Court upheld the validity of the said provision, on the basis of the observations:

- a. The intent of the said provision is to provide a measure where the tax reduction benefit as a result of introduction of GST should be passed on as a commensurate reduction in price. Therefore, the said provision falls within the law making power of the Parliament in terms of Article 246A.
- b. The said provisions of Section 171 lays out clear legislative policy and does not delegate any essential legislative function;
- c. Merely on account of possible arbitrary exercise of power under the anti-profiteering mechanism by way of enlarging the scope of the proceedings beyond the jurisdiction or on account of not considering the genuine basis of variations in other factors such as cost escalations on account of which the reduction stands offset, skewed input credit situations etc., the provisions itself cannot be struck down. However, the remedy for the such arbitrary exercise of power is to set aside such orders on merits of each case.
- 5. Jeena & Company Vs. Union of India, (2024) 15 Centax 55 (Mad.)**
- Background:** Director General of Foreign Trade [DGFT] has issued license to the petitioner under section 9 of Foreign Trade Development and Regulation Act, 1992 [FTDR Act] and thereby issued SEIS Scrips [Service Exports from India Scheme] to the petitioner who sold the same to the third parties and the third parties had also availed the benefit by using the said Scrips for the purpose of payment of import duty at the time of import of goods. The Directorate of Revenue Intelligence, issued show cause notice in terms of the provisions of Section 28 AAA of the Customs Act, 1962, alleging that Scrips were obtained by the petitioner from Director General of Foreign Trade [DGFT] by wilful misstatement and suppression of facts.

The show cause notices were challenged on the ground that the DRI does not have jurisdiction to invoke provisions of Section 28AAA supra as the DGFT has not cancelled the scrips.

Held: The Court observed that the DGFT is the proper authority to issue license under section 9 of Foreign Trade Development and Regulation Act, 1992 and to issue SEIS Scrips. While so, after considering the eligibility and fulfilment of other terms and conditions, DGFT have issued the Scrips to the petitioner. As till date, DGFT has not initiated any steps to cancel the license issued by them and consequently the DRCI cannot assume the jurisdiction in terms of Section 28 AAA supra, for the purpose of recovery of the customs duty, until otherwise the DGFT has taken any action for cancellation of the scrips.

6. Satyam Auto Components Pvt Ltd Vs UoI 2024-TIOL-66-HC-P&H-GST

Background: On account of technical grounds, the petitioner submitted an application for correction of Form GSTR-1, which has been rejected by the respondent-department. Moreover, the time

of revising the Form GSTR-1 has got expired on 31.03.2019 and the petitioner had approached GST Help Desk. It was submitted by the petitioner that without making correction in Form GSTR-1, they could not get refund under the Central GST Act, 2017. Therefore, the petitioner filed the Writ Petition before High Court seeking a writ in the nature of mandamus directing the respondents to allow the petitioner to correct the details filled in Form GSTR-1 for the month of December, 2017.

Held: Hon'ble Punjab and Haryana High Court allowed the Writ Petition and permitted that petitioner to re-submit the corrected Form GSTR-1 for the aforesaid period and directed the respondent-department to receive the application(s) manually and thereafter, the corrected Forms and details will be uploaded by the Department on the web portal. Further it was held that the directions given by the Court is to be carried out within a period of four weeks by the respondent-department.

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SUDOKU-42

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Obituary

*KSCAA deeply mourns the sad demise of
our beloved past president*



CA. Venkatesh D R
past president (1998-99)
on 22.01.2024

**We convey our deepest condolences to the
bereaved family**



CA. Mahadev R
CA. Akshay M Hiregange

GST - YEAR END CHECK POINTS

Another year goes by with various changes in the GST law, multiple judiciary decisions which impact the interpretation of law and the manner of filing GST returns. A taxpayer now is expected to ensure his compliance well in advance to avoid possible departmental interventions which could ultimately lead to demand of taxes including interest and penalties through SCN including harassment.

In this article, we have highlighted 60+ GST checkpoints that one may consider for the financial year end, i.e. March 2024 as a safeguard.

Compliances on the GST portal

1. File application for / renewal of LUT for FY 2024-25 - applicable for supplies to SEZ and export transactions.
2. Any person who wishes to opt for composition scheme for financial year 2024-25 should file form CMP-02 on the common portal on or before 31st March 2024
3. A registered person who has opted for composition scheme for FY 23-24 should file FORM GSTR-4 on or before 30th April 2024
4. Time limits to apply for QRMP scheme to opt-in or opt-out by 30th April 2024
5. Filing Annexure V & VI to opt for FCM/RCM for GTA supplies for FY 2024-25 by 15th March 2024.

Reconciliations for FY 2023-24

6. Outward supplies as per books must be matched with GST returns (Books vs GSTR-1 Vs GSTR-3B). This may help indicate if any amendments are required to be made to GST returns. [Turnover + Taxes incl. RCM]
7. Rate wise reconciliations – Books Vs GSTR 1 (incl. tax ledgers vs 3B for RCM).
8. Reconciliation of balance of credit and cash as per GST portal with balance appearing in books. Variance indicates monthly entry error, or possible missed out/excess claimed ITC.
9. GSTR 2B Vs ITC Register (books) - Invoice-level tracking of eligible and ineligible ITC in books of accounts and reconciliation to ITC disclosures in GSTR 3B for the FY. Spillover transactions to be specifically tracked.

10. Identification of pending ITC (as per books & GSTR 2B) – Optimize ITC claim, follow up with vendors where required for updating/amending their GSTR 1.
 11. Verification of credits temporarily reversed, and action taken, i.e. claimed, or considered as permanently ineligible.
 12. Verification whether RCM paid matches to RCM ITC claimed? (other than ineligible ITC)
 13. HSN consolidated thru GSTR 1 Vs Books value [T/o + Taxes]
 14. Ensure that Electronic Credit Reversal & Recredit Statement has been updated which appropriate data.
 15. E-way bill reconciliation with GSTR 1. In case EWB not required against supply, document reasons for the same.
 16. Reconciliation of E-Invoices issued during the year viz a viz tax invoices generated. E-invoices required even for GST credit notes & GST debit notes.
 17. Books inventory Vs physical inventory - assess if ITC reversal to be required or may indicate accounting lapse + missed out ITC.
 18. Obtain confirmation from Customers that ITC has been reversed against CNs raised. Alternatively, can be part of tax clauses in agreement/MoU etc.
- Most of the above checks would also prove useful while preparing Annual returns in Form GSTR 9 & 9C due in December 2024 for FY 2023-24.

Outward (liability)

19. Verify if any GST DN / CN should be issued for any value short/excess charged or any sales returns by the customer. Time limit applicable only for CN (latest by 31st October). Verify agreement clauses on discounts to be provided and requirement to issue CN.
20. Verify compliance of section 18(6) for transfers/sale of Plant & Machinery (P&M). Consider valuation check in case of related party transactions.
21. Verify supply of old vehicles including possibility of payment of GST only on profit margin in terms of noti.no.8/2018-CT.
22. Review of tax utilization entries passed in books of accounts vis a vis electronic liability ledger.

23. Reviewing the debtors ageing report - Tax implication on customers, i.e. their ITC would not be eligible until payment + MSME non-compliance (useful for realization).
 24. Review of outstanding amounts towards export of services and in case of goods where refund claims are being made.
 25. Amendments to GSTR 1 – Changing the outward supplies from B2C to B2B or the type of tax – Passing on the credit to the customers before time limit. (can issue standard instruction - changes not accepted beyond FY end)
 26. Update details correctly where recipient/ECO are liable to pay the tax. Correct disclosures are key to avoid disputes with department.
 27. Ensure tax liability against receipt of advances (services) and adjustment thereof to derive at unadjusted advances [recently clarified refund voucher in GSTR-1 Adv Adj.]
 28. Cross charge to distinct person and related parties for supply of common services
 29. Verify CGST/SGST paid instead of IGST and vice-versa. Understand if sec 77 (CGST Act) / sec 19 (IGST Act) would be applicable (no interest implication).
 30. Verify Income from other sources – if any liable/not liable under GST. Tax position to be clear [Ex: employee recoveries not payable recently clarified; Incentive Vs Discounts; GST liable on Interest charged for delayed receipts]
 31. Verify expenses credited in books of accounts which may indicate income accounted as part of expenditure. Verify and ensure applicable GST on the same.
 32. Ensure GSTR 1 matches GSTR 3B. In case of mismatch ensure reply to DRC-01B notice is done within 7 days. Periodic check of portal for notices necessary.
 33. Exports proceeds e-BRC receipt within 9 months can be verified (linked to FEMA). If not eligibility of ‘zero-rated supply’ questionable.
 34. Standard terms in contracts to avoid future disputes:
 - ♦ ITC w.r.t Credit note (if any) issued would be considered as reversed.
 - ♦ We are in compliance with GST laws.
- Inward (ITC)**
35. Timing of availing credit - receipt of goods/service+ Sec 16, RCM credits, credit on advances ineligible etc.
 36. Rule 37 – Check for ITC reversal required on account of non-payment within 180 days or reclaim of any ITC in respect of supplies for which payment has been made. [Recently clarified ITC reversal in table 4B]
 37. Rule 37A – Check (in GSTR 2A) whether vendors have filed their GSTR 3B. This will help satisfy S16(2)(c) of the CGST Act. Where not filed, ITC must be temporarily reversed and can be reclaimed once GSTR 3B is filed by the vendor (irrespective of time limit)
 38. Expense + ITC not accounted – identified through GSTR 2B.
 39. Check if any reversal required against purchased goods rejected and returned or other credits to the expense ledgers (ensure the impact of the same has been considered in GST returns). Verify against vendor CN reflecting in the GSTR 2B.
 40. Ensure vendor CNs reflecting in GSTR 2B are correct, and ITC is reversed against the same. If not communicate with taxpayer to amend/rectify such details in GST returns.
 41. Accounting of credit where details are not reflected in GSTR 2B – Deferred input account – re-evaluate before October of coming year and consider charge to vendor and passing of as expenses.
 42. Rule 42 – Impact of annualized ITC reversal in case of exempted as well as taxable supplies to be considered (re-computation) [Ensure ‘exempt supply’ is correctly taken in line with S17(3), R43 explanation and R45(4) explanation]
 43. Rule 43 computation for capital goods as per formula. If performed like R42 impact to be analyzed.
 44. To verify the correctness of accounting treatment of capital assets prior to closure of books, to optimize input tax credits. [Building Vs P&M; Motor Vehicles eligibility; civil works w.r.t P&M Vs other civil works – capex?]
 45. To verify whether ITC has been reversed on entries passed due to writing off inventories, assets, theft, samples, destruction, obsolete, etc.
 46. Verify compliance with ISD provisions. Where not done, whether cross charge can be complied to ensure procedural lapse only can be examined. [Refer Circular 199/2023]
 47. Credit - CGST/SGST availed as IGST or vice versa, must be rectified within the time limit.
 48. Credit availed in a different GSTIN of the same assessee (PAN), to be rectified.

49. Re-verify ITC masters and conditions used for classification of eligible ITC. Ensure not incorrectly classified under ineligible ITC.
50. Ensure GSTR 2B is higher than ITC claimed in GSTR 3B. In case of mismatch ensure reply to DRC-01C notice is done within 7 days of issue. Regularly go through the portal to identify such notices.
51. Import of goods-BOE Vs ICEGATE Vs GSTR 2B – Check periodically to ensure no missed out.
52. Ensure E-invoice is available for procurements. If not, declaration from vendor that E-invoicing provisions are not applicable/exempt to be maintained.
53. For procurements from unregistered persons, suggest obtaining a declaration from vendor that he is below the threshold limit/exempt from GST registration. (with PAN)

RCM

54. Accounting of entries passed for transactions covered under reverse charge. Some systems do not allow compound entry in direct expenses (Ex: Freight RCM).
55. RCM liability on foreign associated enterprises based on provision entry in books.
56. Analyze GST provisions by verifying expenses:
 - o Freight & transportation Payments (even if under 5%, ITC eligible)
 - o Residential dwelling by commercial entities
 - o Advocate Payments - Legal Expenses
 - o Security services (not applicable when provider is body corporate)
 - o Renting of motor vehicle from non-body corporates (refer sl 15 in GST Circular 177/09/2022 for clarity). Analyse the difference between renting of vehicle and passenger transportation services. Liability arises only in case of renting.
 - o Import of services (with or without consideration) (useful sources - Form 27Q & Form 15CA/CB)
 - o Sponsorship/Advertisement & marketing
 - o Fees & licences to various Governments (by CG/SG/LA only, various exemptions available in NN 12/2017-CTR)
57. Analyze GST on Section 9(4) expenses – Real estate sector only.

Note - GST returns for a FY can be amended with above corrections/deletions or modification latest by 30th November 2024, i.e. October 2024 GST returns.

Others

58. Filing of application for refund claims. Time limit to be considered.
59. Stay updated on the GST portal for notices/dept. communications. Ignoring the same could amount to gross consequences.
60. Ensure mobile no. & email ID on GST portal is functional and valid to avoid miscommunications.
61. Ensure Aadhar authentication is completed on the GST portal.
62. Track status of goods sent on job work or goods sent on approval whether all the goods have been received back within the due time period. (1+1 yr inputs/ 3+2 years CG). If not received in time, the invoice must be raised appropriately.
63. Verify year-end accrual/provision entries for transactions with related parties and evaluate the GST implications. (import of service possibility)
64. HSN 6-digit level – mandatory requirement from 01.04.2021. Ensure correctness and display in tax invoice. (T/o > Rs. 5 cr)
65. Obtaining GST registration in other States where supplies are made. Compliance with concept of fixed establishment, supply, etc.
66. Interest to be paid on utilization of ITC only, that too at 18% p.a.
67. Tax paid under protest (pre-notice/dept. visit); ITC reversed under protest – ensure documentation of letter of protest.
68. Documentation of notices, letter cover, replies/responses (mail + RPAD) in a separate correspondence file.
69. Maintain data of inward, outward, RCM, EWB, documents (tax invoice, e-inv, vouchers, etc.) for 6 years from annual return due date of FY (ex: for FY 23-24 6 years from 31-12-2024).

Conclusion

The burden of proof is directly proportional to GST compliance now. Better compliance is, the easier it is to provide information, avoid/dispute departmental notices and ensure the taxpayer can focus on his business. Additionally, taxpayers are expected to ensure their vendor compliances alongside their own. This would require the implementation of strong internal controls, implementation of technology, introduction of an indirect tax SOP and regular training and update to the GST compliance team.

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OFFENCES AND PENALTIES UNDER RERA ACT 2016



CA. Vinay Thyagaraj

The Real Estate (Regulation and Development) Act, commonly known as RERA, legislation enacted in 2016 to regulate the real estate sector and one of the objects is to protect the interests of homebuyers. One of the key provisions of RERA is, requirement for real estate promoters to ensure transparency and accountability.

The real estate sector plays a catalytic role in the infrastructural development in the country. Currently, the Consumer Protection Act, 1986 exists as a forum for the buyers in the real estate market. The recourse, however, is only curative and not the preventive measure, further it does not adequately address all the concerns of both the allottees and the promoters. Therefore, there is a need for regulating the real estate sector today.

The RERA attempts to balance the interests of consumers and promoters by imposing certain responsibilities on both.

The preamble to RERA says that it is a welfare legislation and its paramount duty is to protect the interests of consumers of the real estate sector. It also envisages to promote, regulate and boost investment into the sector. The RERA has been introduced in the public interest of the consumers and in order to address existing shortcomings of the system

Compliances under RERA is to ensure the funds collected from homebuyers are being utilized and are in line with the progress of the development / construction project. These compliances help the stakeholder to get the confidence and ensure that the promoters are completing their projects within the stipulated timelines.

RERA Act 2016, Chapter VIII deals with Offences, Penalties and Adjudication –

| SECTIONS & DETAILS |
|--|
| 59: Penalty for non-registration under section 3 of the RERA Act 2016 |
| 60: Penalty for contravention under section 4 |
| 61: Penalty for contravention other provisions of the Act |
| 62: Penalty for non-registration and contravention under section 9 and section 10 |
| 63: Penalty for failure to comply with orders of Authority by promoter |
| 64: Penalty for failure to comply with orders of Appellate Tribunal by promoter |
| 65: Penalty for failure to comply with orders of Authority by real estate agent |
| 66: Penalty for failure to comply with orders of Appellate Tribunal by real estate agent |
| 67: Penalty for failure to comply with orders of Authority by allottee |
| 68: Penalty for failure to comply with orders of Appellate Tribunal by allottee |
| 69: Offences by companies |
| 70: Compounding of offences |
| 71: Power to adjudicate |
| 72: Factors to be taken into account by adjudicating officer |

Karnataka RERA Authorities have initiated the penalties under various section of RERA Act 2016 for noncompliance to the provisions of RERA Act 2016 or non-adherence to the orders of the RERA Authority and collected the penalties. Following are the instances of penalties levied -

1. Violation of Section 3 – Prior Registration of Real Estate Project - marketing, collection of money before RERA Registration, the authority has levied penalties after issuing the Show Cause

Notices to the promoters. The penalties are ranging for 1 % to 10 % of the Real estate Project

2. Non-Compliance of Section 4 of the RERA Act 2016 –

a. Non-Deposit / short deposit of money realised from the allottees of the project. Non-Compliance of Section 4(2)(L)(D) of the RERA Act 2016 read with RERA Bank Account Directions 2020.

- b. Change of Bank RERA designated bank account** without prior approval of RERA Authority - Section 4(2)(L)(D) of the RERA Act 2016 mandates the promoter to open, maintain the RERA designated bank account. Such RERA designated bank account shall be intimated along with RERA Registration. The promoter shall obtain prior permission for changes in RERA designated bank account. Failing which the authority may levy the penalty.
- c. Non-Submission of Quarterly Update** - Section 11 read with Karnataka RERA Rule 15 D mandates the promoters to submit the Quarterly progress report with in 15 days from the end of the respective quarters. The Authority has levied Rs.20,000/- per quarter per month delay for the period up to Dec 2019. Many promoters have remitted penalty's ranging from Rs.20,000/- to Rs.35,00,000/-
- d. Non-Submission of Annual Audit Report** under RERA – Section 4(2)(L)(D) of the RERA mandates the promoters to obtain and submit the Annual Audit under RERA Act 2016 with in due date / extended due dates. Further the authority has notified Form 7 (new format of Audit Report) and provided sufficient time to promoters to submit the Annual Audit Report for the Financial Year 2021-22. Show Cause notices were issued for the non-filing of the Annual Audit Report. Finally, the authority has levied the penalty of 0.5 % of the estimated project cost as penalty in the Month of Dec 2023.

- e. Failure to Mention the RERA Registration number** in the advertisement - Section 11 mandates the promoters of the real estate projects to mention the RERA Registration number on all the advertisement materials etc., the authority has levied the penalty for not mentioning of the RERA Registration.
3. Further the Authority has a power to levy the penalty for any other non-compliances under the RERA Act 2016
4. Further the authority is collecting the penalty's before they consider and approve any new registration, extension, change application of the promoter or the group etc.
5. Penal action may be initiated by the Authority against professionals who have issued certificates for withdrawals or audits which are not in compliance with the Act, Rules, Regulations, Circulars, orders etc.

The Authority, in addition to taking penal actions as contemplated in the Act and the Rules, shall also take up the matter with the concerned regulatory body of the said professionals of the architect, engineer or chartered accountant, for necessary penal action against them, including dismemberment, if the forms 4/5/6/7 issued by the professionals reveals that:

- any certificate issued by the project architect, engineer or the chartered accountant has false or incorrect information and
- the amounts collected for a particular project have not been utilized for the project and
- the withdrawal has not been in compliance with the proportion to the percentage of completion of the project

Summary of the Penalty levied for non-submission of Annual Audit for the FY 2021-22 is as follows –

| Penalty | Number of Projects | Total Penalty Levied |
|--------------------|--------------------|----------------------|
| < 1 Lacs | 143 | 66,88,171 |
| > 1 and < 10 Lacs | 205 | 7,28,50,286 |
| > 10 and < 25 Lacs | 52 | 8,47,50,491 |
| >25 and < 50 Lacs | 24 | 8,43,62,281 |
| > 50 Lacs Lacs | 16 | 15,55,10,928 |
| Grand Total | 440 | 40,41,62,157 |

to conclude the penalties under RERA are very high, the Act empower the RERA Authorities to levy the penalty's upto 10 % of the Estimated Cost of the project. The promoters and professionals shall understand the importance and timelines for submission of documents or details to comply various provisions of the Act.

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Source - <https://rera.karnataka.gov.in/viewAllProjectOrders>

KSCAA ಕ್ರೀಡಾ ಹಬ್ಬ SPORTS & CULTURAL MEET 2023

Held on 2nd, 9th and 17th December 2023 & 28th January 2024



KSCAA ಕ್ರೀಡಾ ಹಬ್ಬ SPORTS & CULTURAL MEET 2023

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KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION

AskNxpert !

Experience the Unique Conference

36th KSCAA Annual Conference
Date: 1st & 2nd March 2024
Venue: Bunt Sangha Auditorium, Vijayanagar, Bengaluru

- Dedicated desks to address queries on direct taxes, Indirect taxes, Companies Act/FEMA
- Subject matter experts will address the queries of the participants on real time basis
- Focus to resolve and guide members in practical aspects

More than 700 CAs have already registered. Register Soon !

For Registration : @kscaa.com | 9535715015

AskNxpert !

Date: 01-03-2024, Friday

| Time | Topic |
|----------------|---|
| 11:15 to 11:45 | RERA - Issues in Real Estate (Regulation and Development) Act |
| 12:00 to 12:30 | FEMA - Issues under Foreign Exchange regulations |
| 1:45 to 2:15 | GST Real Estate issues |
| 2:30 to 3:30 | Technology - Zoho: Practice Management Software |
| 4:00 to 4:30 | Issues under Income tax |

Date: 02-03-2024, Saturday

| | |
|----------------|--|
| 9:30 to 10:00 | Co-op Societies - Issues in audit of Co-operative societies |
| 11:15 to 11:45 | Companies Act - Issues in Secretarial compliances |
| 12:00 to 12:30 | GST - Issues in notices, limitation, jurisdiction, service of notices/orders |
| 1:45 to 2:15 | Issues under Income tax |

For Registration : @kscaa.com | 9535715015

KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION

36th KSCAA Annual Conference
Date: 1st & 2nd March 2024
Venue: Bunt Sangha Auditorium, Vijayanagar, Bengaluru

HEALTH CHECKUP

By **Narayana Health**

At KSCAA conference Date: 2nd March 2024
Timings: 10am to 1pm

- Doctor consultation
- ECG (electrocardiogram)
- Echo (on doctor advice)
- BP check
- Orthopedic consultation
- BMD (Bone mineral density) test

Register at: **KSCAA.COM**

Free for Conference registered members

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KARNATAKA STATE CHARTERED ACCOUNTANTS ASSOCIATION

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**

FREE for ALL

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

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

FINANCIAL REPORTING AND ASSURANCE



CA. Vinayak Pai V

KEY UPDATES

A. AS|Ind AS

1. EAC Opinion – Accounting treatment of similar leasehold assets held by group entities with different functional currencies and consolidation thereof

The February, 2024 edition of the ICAI Journal has carried an Expert Advisory Committee (EAC) Opinion – *Accounting treatment of similar leasehold assets held by parent and subsidiary company with different functional currencies and consolidation thereof under IndAS framework.*

Background - A public limited company, which is a wholly owned subsidiary of a listed public sector company, is in the business of exploration and production of oil and gas and other hydrocarbon related activities outside India (functional currency is the US Dollar and presentation currency is Indian Rupee). Both the parent and subsidiary acquired adjacent pieces of land from a State Development Authority on perpetual lease which were capitalised as leasehold asset at the time of Ind AS transition. **In respect of similar items of asset**, the subsidiary and parent carry their respective leasehold lands **at different carrying values** despite same acquisition costs in transaction currency. This **difference is due to determination of historical costs of said assets in different functional currencies.** The basic issues raised with the EAC are whether- (i) in case of non-monetary items, where the transaction currency (INR) is same as presentation currency (INR) but is different from functional currency (USD), translation of such non-monetary items first from transaction currency (INR) to functional currency (USD) at transaction date and then from functional currency (USD) to presentation currency (INR) again at reporting date is required as per Ind AS provisions; and (ii) in the light of provisions of Ind AS 116 and Ind AS 21, the subsidiary has correctly accounted for its part of leasehold land in its financial statements and has provided adequate disclosure in respect of the same.

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

- ♦ The translation of leasehold/RoU assets held by the subsidiary (having a different functional currency from the presentation and transaction currency), first from transaction currency (INR) to functional currency (USD) at the transaction date and then from the functional currency (USD) to presentation currency (INR) at the reporting date in its separate financial statements is in accordance with the requirements of Ind AS 21, The Effects of Changes in Foreign Exchange Rates.
- ♦ The RoU land of the subsidiary shall appear in the consolidated financial statements of the Parent after translating its value in functional currency (viz., USD) into presentation currency of Parent Ltd. (viz., INR) using the exchange rates at the date of the balance sheet.

Link to the Opinion –

<https://resource.cdn.icai.org/78787cajournal-feb2024-28.pdf>

B. ASSURANCE

2. IAASB Exposure Draft – Narrow scope amendments to ISQMs, ISAs and ISRE 2400

On 8th January, 2024, the International Auditing and Assurance Standards Board (IAASB) launched a consultation process on proposed narrow scope amendments to achieve greater convergence with the International Ethics Standards Board for Accountants' (IESBA) International Code of Ethics for Professional Accountants (Including Independence Standards). The Exposure Draft (ED), *Proposed Narrow Scope Amendments to: International Standards on Quality Management (ISQMs); International Standards on Auditing (ISAs); and International Standard on Review Engagements 2400 (Revised), Engagements to Review Historical Financial Statements*, has the following key objectives: 1) they would align the definitions and requirements in IAASB standards with the new definitions for publicly traded and public interest entities in the IESBA Code; and 2) they would

extend the applicability of the existing differential requirements for listed entities to meet heightened stakeholder expectations regarding audits of public interest entities (PIE).

The **key proposed revisions** include extending the scope of the entities included under the ISQMs and the ISAs such that they will be subject to engagement quality reviews; providing transparency in the auditor's report on specific aspects of the audit, including auditor independence, communicating key audit matters, and the engagement partner's name; and communicating with those charged with governance to help them fulfill their responsibility overseeing the financial reporting process.

The ED is open for comments till 8th April, 2024.

Link to the ED –

<https://www.iaasb.org/publications/proposed-narrow-scope-amendments-isqms-isas-and-international-standard-review-engagements-2400>

C. RBI

3. Guidelines on appointment/re-appointment of Statutory Auditors of State Co-operative Banks and Central Co-operative Banks

On 15th January, 2024, the Reserve Bank of India (RBI) issued ***Guidelines on Appointment/Re-appointment of Statutory Auditors of State Co-operative Banks (StCBs) and Central Co-operative Banks (CCBs)*** that is effective 1st April, 2024. All StCBs and CCBs are required to submit application for prior approval of RBI before 31st July of the reference accounting year, in accordance with the guidelines.

It may be noted that StCBs and CCBs are required to obtain prior approval of the RBI for appointment, re-appointment, or removal of Statutory Auditor as per Section 30(1A) of the Banking Regulation Act, 1949, w.e.f. 1st April 2021. The current guidelines have been issued by RBI in exercise of its powers under the BR Act, to StCBs and CCBs, on appointment, re-appointment or removal of Statutory Auditors and other related matters.

The Guidelines include the procedural aspects; eligibility criteria of statutory auditors; independence of auditors; review of performance of statutory auditors; tenure and rotation; audit fees and expenses etc.

Link to the Guidelines -

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12599&Mode=0#AN1>

D. NFRA

4. Order u/s 132(4) – Reports u/s 80JJA of Income-tax Act – Quess Corp Ltd.

On 3rd January, 2024, the National Financial Reporting Authority (NFRA) issued an Order (No. 001/2024) u/s 132 (4) (c) of the Companies Act, 2013, finding the CA, who issued reports u/s 80JJA of the Income-tax Act to Quess Corp Ltd. [F.Ys. 2019, 2020 and 2021], guilty of professional misconduct and imposed a **monetary penalty of ₹50 lakhs**. NFRA's investigations, inter-alia, revealed that the CA failed to exercise due diligence and obtain sufficient information before issuing reports under the Income-tax Act.

Link to the Order –

<https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc6b56a45a56c59fafdb/uploads/2024/01/202401042092955420.pdf>

5. Order u/s 132(4) – Seya Industries Ltd. Audit

On 5th January, 2024, the NFRA issued an order (No.002/2024) u/s 132(4) of the Companies Act finding the Engagement Partner (EP) of the Audit Firm that conducted the statutory audit of Seya Industries Limited for F.Y.2019 and 2020 guilty of professional misconduct.

The NFRA initiated investigation into the professional conduct of the statutory auditors pursuant to information received from SEBI about non-compliance with accounting standards by the Company; misreporting in the financial statements; and non-cooperation by the statutory auditor. Despite repeated reminders, the EP did not submit the requisite documents and information sought by NFRA. The Order concludes that the **failure of the EP to cooperate with NFRA is a 'professional misconduct'** u/s 132(4) of the Companies Act, 2013 r.w. Clause 2 of Part-III of the first schedule of the Chartered Accountants Act, 1949.

NFRA imposed a **monetary penalty of ₹20 lakhs** on the EP. In addition, the EP and the Audit Firm have been **debarred for 10 years**.

Link to the Order -

<https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc6b56a45a56c59fafdb/uploads/2024/01/202401091408053562.pdf>

6. Order u/s 132(4) – SRS Real Infrastructure Ltd. Audit

On 8th January, 2024, the NFRA issued an order (No.003/2024) u/s 132(4) of the Companies Act finding the Engagement Partner (EP) of the Audit Firm that conducted the statutory audit of SRS Real Infrastructure Limited for F.Y.2018 guilty of professional misconduct.

The Order finds that the EP failed to meet the relevant requirements of Standards on Auditing (SAs) in respect of several significant areas including: failure to demonstrate sufficiency and appropriateness of audit work in virtually every aspect of the audit; failure to evaluate fraud risk in revenue recognition; failure to analyse going concern assumption despite continuing and increasing losses, negative operating cash flows and defaults in repayments of borrowings; failure to perform physical verification/alternative audit procedures w.r.t. inventories; and a Qualified Opinion was issued when a Disclaimer of Opinion was warranted.

NFRA imposed a **monetary penalty of ₹3 lakhs** on the EP and he has been **debarred for 3 years**.

Link to the Order -

<https://cdnbbsr.s3waas.gov.in/s3e2ad76f2326fbc6b56a45a56c59fafdb/uploads/2024/01/202401092094974712.pdf>

E. SUSTAINABILITY REPORTING

7. IFRS Foundation Publication – Interoperability considerations for GHG emissions when applying GRI Standards and ISSB Standards

On 18th January, 2024, the IFRS Foundation and the Global Reporting Initiative (GRI) jointly published a new analysis and mapping resource: *Interoperability considerations for GHG emissions when applying GRI Standards and ISSB Standards*. The publication illustrates the areas of interoperability a company should consider when measuring and disclosing Scope 1, Scope 2 and Scope 3 greenhouse gas (GHG) emissions in accordance with both GRI 305: Emissions and IFRS S2 Climate-related Disclosures.

According to the IFRS Foundation, the requirements in GRI 305 and IFRS S2 demonstrate a high degree of alignment and companies that already disclose Scope 1, 2 and 3 GHG emissions using the GRI Standards will be well positioned to report information about GHG emissions in accordance with IFRS S2.

Link to the Publication -

<https://www.ifrs.org/content/dam/ifrs/supporting-implementation/ifrs-s2/interoperability-considerations-for-ghg-emissions-when-applying-gri-standards-and-issb-standards.pdf>

8. IESBA Exposure Drafts – New Ethical Benchmark for Sustainability Reporting and Assurance

On 29th January, 2024, the International Ethics Standards Board for Accountants (IESBA) issued two Exposure Drafts (ED) namely, *International Ethics Standards for Sustainability Assurance (including International Independence Standards) and Using the Work of an External Expert*.

The first ED propose a clear framework of expected behaviors and ethics provisions for use by all sustainability assurance practitioners regardless of their professional backgrounds, as well as professional accountants involved in sustainability reporting. The goal of these standards is to mitigate greenwashing and elevate the quality of sustainability information.

The second ED proposes an ethical framework to guide professional accountants or sustainability assurance practitioners, as applicable, in evaluating whether an external expert has the necessary competence, capabilities and objectivity to use that expert's work for the intended purposes.

Link to the EDs -

<https://www.ethicsboard.org/news-events/2024-01/iesba-launches-public-consultation-new-ethical-benchmark-sustainability-reporting-and-assurance>

F. SELECT GLOBAL ENFORCEMENT ACTIONS/INSPECTION REPORTS

Extracts from US PCAOB Inspection Reports of Audit Firms

9. Inspection report of an Audit Firm Headquartered in Sao Paulo, Brazil

Audit Deficiencies Identified– a) Revenue: The Client used multiple information-technology (IT) systems to initiate, process, and record transactions related to revenue. In its testing of controls over revenue, the Audit Firm tested various automated and IT-dependent manual controls that used data and reports generated or maintained by the IT systems that depended on effective IT general controls (ITGCs). As a result of the following deficiencies in the Audit Firm's testing of

ITGCs, it's testing of these automated and IT-dependent manual controls was not sufficient.

The Audit Firm selected for testing a change management control over certain IT systems that consisted of the recording of non-emergency changes in the client's ticketing system and the review and approval of such changes. The Audit Firm did not perform procedures to test, or test any controls over, the completeness of the population of changes from which it made its selections for testing.

b) Journal Entries, for which the Audit Firm identified a fraud risk - The Audit Firm identified manual journal entries that met certain fraud criteria. However, it did not select any of the manual journal entries and other adjustments for testing that met the identified fraud criteria. [Release No. 104-2024-006]

10. Inspection report of an Audit Firm Headquartered in Portland

Audit Deficiency Identified – Loans: The Audit Firm used confirmations to test the existence of loans. The sample size did not provide sufficient appropriate audit evidence because it was based on a level of reliance on other substantive procedures that was not supported given the nature and scope of those other substantive procedures. In addition, the Audit Firm used negative confirmations to substantively test the existence of certain types of loans. The use of negative confirmations did not reduce the audit risk to an acceptable level because the population of such loans was not comprised of many small balances. [Release No. 104-2024-005]

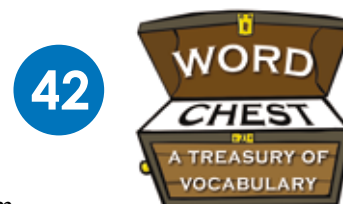
11. Inspection report of an Audit Firm Headquartered in New Delhi

Audit Deficiency Identified - Cash and Cash Equivalents: The Audit Firm selected for testing a control that consisted of the Client's review of bank reconciliations. The Audit Firm did not evaluate the review procedures that the control owner performed, including the procedures to identify items for follow up and the procedures to determine whether those items were appropriately resolved. [Release No. 104-2024-004]

G. SELECT PUBLICATIONS

- International Federation of Accountants (IFAC) – *Educating Accountants for a Sustainable Future – A Literature Review of Competencies, Educational Strategies, and Challenges for Sustainability Reporting and Assurance*. [10th January, 2024.] [<https://ifacweb.blob.core.windows.net/publicfiles/2024-01/IFAC-sustainability-education-literature-review.pdf>]
- UK Financial Reporting Council (FRC) – *Thematic Review: Reporting by the UK's Largest Private Companies*. [31st January, 2024.] [https://media.frc.org.uk/documents/Reporting_by_the_UKs_largest_private_companies_ijQVWVu.pdf]

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Robo-advisor

A robo-advisor (also sometimes spelled as roboadvisor) is a digital platform that provides automated, algorithm-driven financial planning and investment services with little to no human supervision. A typical robo-advisor asks questions about your financial situation and future goals through an online survey. It then uses the data to offer advice and automatically invest for you.

Other common designations for robo-advisors include "automated investment advisor," "automated investment management," and "digital advice platforms."

The best robo-advisors offer easy account setup, robust goal planning, account services, and portfolio management. Additionally, they offer security features, comprehensive education, and low fees.

IPR AND PROTECTION IN INDIA NEW IPR POLICY MOVING TOWARDS A BALANCED APPROACH

(PART - XLII OF IPR SERIES)



Adv. M. G. Kodandaram

Top of from Advancing Innovation

India's IPR Policy adopted on 12.5.2016 as a vision document to guide future development of IPRs in the country, serves as a pivotal framework for nurturing innovation, protecting intellectual assets, and driving economic growth. The policy has seven objectives designed for creating an environment that encourages innovation and creativity by providing stronger protection and incentives for inventors, artists, and creators. The Policy, with its strategic steps represents a comprehensive approach to protect IP, and to ensure the economic and cultural benefits are accessible to all segments of society. By promoting awareness, stimulating the creation of IP, fortifying legal frameworks, modernizing administration, encouraging commercialization, strengthening enforcement mechanisms, and investing in human capital, the policy sets the stage for a vibrant and inclusive IP landscape.

IPR Awareness - Outreach and Promotion

The first objective is “IPR Awareness - Outreach and Promotion”. This aims to create widespread awareness about the economic, social, and cultural benefits of IPRs across all segments of society. The steps involved are:

- i. Launching nation-wide promotional campaigns to enhance awareness about the advantages of IPRs is a foundational step. These campaigns target both rights-holders and the public, emphasizing the value of IP.
- ii. Developing an environment that encourages creativity and innovation is crucial. This involves collaboration across public and private sectors, research and development centers, industry, and academia, aiming to generate protectable IP that can be commercialized.
- iii. Recognizing the diversity of IP generators and holders, Inclusivity in outreach especially in rural and remote areas, are essential. This objective involves reaching out to less-visible contributors to the IP landscape, ensuring that the benefits of IPRs are extended to all corners of the country.

The next objective namely “the Generation of IPRs” focuses on stimulating the creation of IPRs by tapping into diverse talent pools and conducting targeted programs. This aims to harness the vast talent pool of scientific and technological experts engaged in research and development. This involves creating an environment conducive to the generation of IP assets.

Emphasizing areas of national priority is crucial. This involves creating incentives and mechanisms for businesses to invest in research and innovation. The policy recognizes the importance of ensuring that the benefits of the IPR regime reach all inventors, particularly Micro, Small, and Medium Enterprises (MSMEs), start-ups, and grassroots innovators.

The third objective, “the Legal and Legislative Framework” focuses on ensuring a robust legal framework that balances the interests of rights owners with the larger public interest. This involves continuous refinement and adaptation to align with evolving challenges and opportunities.

The subsequent objective regarding “Administration and Management” aims to modernize and strengthen service oriented IPR administration. The IPOs are tasked with making their operations more efficient, streamlined, and cost-effective. Given the expanding workload and technological complexity, the focus is on enhancing user-friendliness by providing value-added services to the user community.

Commercialization of IPR and Enforcement

The next objective, “Commercialization of IPR” focuses on deriving value from IPRs through efficient and profitable commercialization and marketing. Efforts are directed towards realizing the better economic rewards for the owners of IP rights through their efforts. This involves creating avenues for the financial value of IPRs to be captured.

The “Enforcement and Adjudication” objective focuses on strengthening the enforcement and adjudicatory mechanisms to combat IPR infringements. Building respect for IPR among the public and sensitizing inventors

and creators on measures for protection and enforcement of their rights is essential. The policy emphasizes building the capacity of enforcement agencies at various levels, including strengthening IPR cells in State police forces. This is to ensure a robust and proactive **approach to enforcement**.

Identifying and undertaking measures to check counterfeiting and piracy is a priority and this involves adopting technological solutions and collaborating with various stakeholders to address these challenges effectively. Regular IPR workshops and colloquia for judges are organized to facilitate effective adjudication of IPR disputes. This ensures that the judiciary is well-informed and equipped to handle intellectual property-related cases.

The policy advocates for adjudicating on IPR disputes through specialized commercial courts. Additionally, exploring Alternative Dispute Resolution (ADR) mechanisms is considered to streamline dispute resolution processes. The Delhi High Court IPR Division Rules, 2022 is one such effort.

Delhi High Court IPR Division Rules, 2022

With the publication of the Delhi High Court IPRs Division Rules, 2022, a significant development during February 2022, the legal landscape surrounding IPR in India underwent a revolutionary transformation. Further, the High Court of Delhi Rules Governing Patent Suits, 2022 were also published in the Official Gazette. These rules, designed to govern all IPR-related lawsuits, cases, procedures, and disputes within the Intellectual Property Division (IPD) of the Delhi High Court, mark a crucial step towards enhancing the efficiency and effectiveness of the legal framework surrounding intellectual property matters.

The newly published rules encompass a wide range of IPR subject matters, cases, processes, and disputes, setting the stage for a comprehensive and standardized approach to handling intellectual property litigation. According to the stipulations outlined, the term "IPR subject matters or cases or processes or disputes" encompasses not only initial proceedings, but also appellate and other IPR-related actions filed before the IPD.

Human Capital Development

The last objective viz., Human Capital Development focuses on strengthening and expanding human resources, institutions, and capacities for teaching, training, research, and skill-building in IPRs. The policy aims to develop a pool of IPR professionals and experts in various spheres, including policy and law, strategy development, administration, and enforcement. The

objective is to increase the generation of IP assets in the country and their utilization for development purposes. This involves harnessing the full potential of IPRs for economic growth with the help of a reservoir of experts.

India's IPR Policy, with its clearly defined objectives and strategic steps, sets the stage for a dynamic and innovative intellectual property ecosystem. By stimulating the creation of IP, ensuring a robust legal framework, modernizing administration, promoting commercialization, strengthening enforcement mechanisms, and investing in human capital development, the policy addresses the multifaceted dimensions of intellectual property. Through these objectives, the policy aims not only to protect the rights of inventors but also to propel India into a position of global leadership in innovation, technology, and economic development.

IPR Policy Implementation - Achievements

As India continues to position itself as a global leader in innovation and creativity, the implementation of these objectives will play a pivotal role in shaping the nation's intellectual property ecosystem.

This has led to the following achievements: -

- i. **Strengthening of Institutional Mechanism:** The administration of all IPs has been transferred to Department of Industrial Policy and Promotion, to enable an integrated approach and synergy between them.
- ii. **Clearing Backlog/ Reducing Pendency:** Augmentation of technical manpower, have resulted in drastic reduction in pendency in IP applications. The patent applications pending for examination have reduced from 1,97,934 as on 31.3.2016 to 1,39,274 as on 31.10.2018. As regards trademarks, the number has come down from 2,59,668 to 32,619 in the same period. Automatic issuance of electronically generated IP certificates has been introduced.
- iii. **Increase in patent Filings:** Patent filings have increased by nearly 7% in the first 8 months of 2018-19 vis-à-vis the corresponding period of 2017-18. Trademark filings have increased by nearly 28% The WIPO has reported a record 31.6% surge in patent applications by Indians in 2022. This increase, the highest globally, not only signifies a substantial uptick in India's inventive prowess but also underscores the country's commitment to create an environment that nurtures and celebrates innovation.

Prime Minister Narendra Modi responded to a WIPO report by stating that the increase in patent applications in India shows the growing inventive spirit of the country's youth and is a very good

indication for the years to come. He lauded this landmark moment, underlining the innovation mindset of the nation that will power its journey to be a US\$5 trillion economy.

- iv. IP Process Re-engineering: Patent Rules, 2003 has been amended to streamline processes and make them more user friendly. Expedited Examination of patents is now permitted on certain grounds.
- v. Creating IPR Awareness: IPR Awareness programs have been conducted in over 200 academic institutions, including rural schools through satellite communication, and for industry, police, customs and judiciary. Content on IPRs has been included in the NCERT curriculum of Commerce stream. In conjunction with WIPO, 6 TISCs have been established in various institutions across different states.
- vi. Awareness initiatives and Programs for stakeholders with an intent to inculcate importance of protecting their IPR at an early stage in the business development cycle. National Intellectual Property Awareness Mission (NIPAM), a flagship program to impart IP awareness and basic training in educational institutes. National Intellectual Property (IP) Awards are conferred every year to recognize and reward the top achievers comprising individuals, institutions, organizations and enterprises, for their IP creations and commercialization.
- vii IPR Enforcement Toolkit for Police: An IPR Enforcement Toolkit have been prepared to assist police officials in dealing with IP crimes, in particular, Trademark counterfeiting and Copyright piracy.
- viii. Technology Innovation Support Centres (TISC) have been set up in various Central and State Universities and State Council for Science & Technology across the country for supporting IPR education, boosting IP filings and enhancing IP commercialization.

India's rank in the GII Report issued by WIPO has improved from 81st in 2015 to 57th place in 2018. State Governments have been approached to establish IPR Cells in various academic institutions. IPR Cells have been established in 41 universities across different States. In addition, 'Institution Innovation Councils' (IICs) have been set up in more than 1000 Higher Education Institutions (HEIs) through the Innovation Cell at AICTE under the Ministry of HRD.

Other Activities Under National IPR Policy

The other activities undertaken under the National IPR Policy include-

improving the procedural requirements in processing of applications to speed up grant and disposal.

- i. improvement in functioning and performance of IP Offices as well as streamlining workflow processes.
- ii. Scheme for Facilitating Start-Ups Intellectual Property Protection (SIPP) to encourage filling of Patent applications by Startups.
- iii. Reduction in filing Fees for Start-ups, MSMEs, and educational Institutes to encourage Patent filling.
- iv. Expedited Examination for certain category of applicants, such as Start-ups, small entities, women inventors for expeditious grant of Patents.
- v. Patent Facilitation Programme has been revamped to scout patentable inventions and provide full financial, technical and legal support in filing and obtaining patents.
- vi. Automation and re-engineering of IP procedures including Online filing of applications for grant of IPRs.
- vii. IPR-helpdesks are available at all IPO locations. Internal quality control mechanism in IPO has been strengthened.
- vii. Commercialization of IP: Income tax deduction allowed on income received through royalty on patents.

It is imperative that all types of enterprises, ranging from Micro, Small, and Medium Enterprises (MSMEs) to large industry and business establishments as well as the educational institutions in the country, to be mindful of the emerging positive IP ecosystem. Actively recognizing and seizing the opportunities presented by this evolving landscape is crucial for the stake holders / entities to play an active role in raising the growth of India as an economic powerhouse. In the forthcoming article, a comprehensive discussion will unfold, focusing on recommendations of the Recommendations of Parliamentary Standing Committee on implementation National IPR policy followed by the recent developments within legal framework and judgements that have significant implications for businesses and institutions navigating the dynamic realm of IP. The aim is to provide a thorough understanding of the evolving legal landscape surrounding IP, offering insights that can guide enterprises and educational institutions in making informed decisions and strategic moves in this ever-changing environment.

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IN PURSUIT OF TRUTH

(PART - II)



CA. Arun Chintopanth

Last time I had mentioned ‘anger’ as a quality to be shed in order to develop “non violence and harmlessness” which is the first component of YAMA.

I had also mentioned that while shedding the quality of anger, we need to acquire another quality. This is compassion.

Normally, we associate compassion with sympathy. Actually, compassion is in having empathy. Simply put, empathy means putting oneself in the shoes of the other person and actually experiencing the feelings of that other person. Whereas sympathy may stop with pity, empathy involves engaging oneself in another person’s suffering.

I am reminded of the story of a very wealthy lady living a normal but solitary life. She would contribute to the usual charities and would not refuse any good cause.

This lady had a gardner. He was an old man who had a peculiar habit. Soon after his duty each evening he would go to the village and attend to the sick and needy. He would help them in whatever way he could. He would nurse them, cook for them, feed them and so on.

In due course the old gardner died and soon after his old lady employer too died. When the old lady went to heaven she found to her shock her own old gardner occupying a much superior position than herself in heaven. Quite peeved she approached God and said, 'Don't you believe that I have done more charities than my own gardner? How could he get a more superior position than me. After all what charities could the old poor man have done?'

God smiled and said: “The difference, my dear, is in that you had sympathy; but your gardner had empathy”.

Thus do we develop “non violence and harmlessness” by shunning anger and inculcating a spirit of compassion.

The second component of YAMA is “truthfulness and honesty”. Also referred to as SATYA which perhaps can be said to be a more comprehensive expression,

SATYA or a lack of it includes exaggeration, pretence, equivocation and certainly lying.

Indulging in these may give us some superficial satisfaction but ultimately will cause us mental and emotional strain.

There is an anecdote of a great Guru who went to a town which had a resident called Seth Dunichand who was a rich and arrogant man. Dunichand went to this Guru and said “I am a very powerful and wealthy man. I wish to be of service. Whatever you wish I can fulfill”.

This man thought he was indispensable and that he could also do anything because of his wealth and position.

The Guru took out a sewing needle and giving it to Dunichand he said, "keep this very carefully and return it to me after your death." Dunichand merely took it and went his way. After he went home he realised that he could not return the needle after his death. So he went back to the Guru and said, "you must be joking with me. Forgive me but take back the needle for I shall not be able to clear the debt later. How could I take the needle with me beyond death?"

The Guru replied, "If you cannot take such a small thing as this needle when you die, how will you take the millions of rupees and the power that you have amassed?"

All of us in some form or the other engage in such forms of pretense and exaggeration. This incident of Dunichand should be a deterrent. One should develop humility to overcome pretense and exaggeration.

Hanuman was a great but humble person. He was a great grammarian, he was a great litterateur, he was great warrior, and he was capable of defeating everybody. Yet he had the humility to call himself, “Daso hum Kosalendresia”. i.e. to call himself just a dasa of Sri Rama.

The next component of Yama is “abstaining from stealing” i.e. to say that one should not lay claim on

anything that is not belonging to him or her. Such things may be tangible or even intangible like for eg. Intellectual property.

Readers may have heard a talk on TEDEX of a foreigner who was in India to teach a course on leadership.

The speaker, in his talk, describes the way he left his wallet in the taxi on the way to his hotel and how the taxi driver was honest enough to return it intact.

In his own words : “I became a little cynical. I went from hopeful to sceptical to cynical. I started thinking the worst of people. And of course I said well, my wallet is gone. But at 2 in the morning, the hotel called and said that the driver was back to the hotel with the wallet. So I get dressed and I run downstairs and the man meets me and the bellman translates for me. And I get my wallet and everything is in my wallet. Everything. My passport, my money, my credit cards, it’s all there.”

The speaker further goes on to say that his repeated attempts to reward the driver for his honesty were turned down.

When coaxed further to accept the reward, the speaker mentions that the driver “became a little visibly angry, and said “I told you, no.” “ I didn’t bring you your wallet because I wanted reward.” “I brought you your wallet because it’s your wallet.”

This is an example of not craving for something that does not belong to us. Any such craving in us will undoubtedly result in catastrophe.

Bhagawan Krishna in the Bhagwad Gita says : “Kama esa Kroda esa Rajoguna Samudbhavaha”.

The question that now arises is HOW?

How does one get over this craving that we have for things that may not even belong to us?

The answer to this question as recommended by the scriptures is in developing “Viveka” or discrimination.

Adi Sankara says “Nitya anitya vastu vivekaha”. Thus at every step there must be discrimination between -

What is right and what is wrong

What is truth and what is untruth

What is temporary and what is permanent

What is good and what is bad

What is eternal and what is transient

What is synthetic and what is parasynthetic
and so on.

All living beings have an inborn quality of viveka – including animals, birds and plants.

If we give a piece of meat and a piece of stone to a dog, he will select the meat. If we give a banana and a piece of paper to a monkey, the monkey will select the banana. All living beings have this sense of discrimination but we as human beings have an intellect to go beyond the animal instincts of discrimination. We need to use our intellect to build a higher level of discrimination. We as human beings are given the intellect, the freedom to choose. It is not in just choosing what is comfortable or pleasant to us but in choosing the right thing. It may be an uncomfortable thing, it may be an unpleasant thing, but so long as it is the right thing it must be chosen.

Two important expressions are found in the Upanishads to facilitate this power of Viveka. They are SHREYAS and PREYAS.

The former denotes all that is good and the latter denotes all that is pleasant. All that is pleasant need not be good and all that is good need not be pleasant.

The Upanishad shloka goes on to say that blessed is he who between them chooses the good alone; but he who chooses what is pleasant loses the true end. When one chooses 'Sreyas' it not only brings happiness to the practitioner but also contributes to the well being of the people around him. To such a person 'truth' or 'peace' reveals itself.

Thus the simple procedure to develop conscious discrimination or Viveka is to choose ‘Sreyas’ and follow its principles.

Normally, we would rather pursue the path of preyas because that is best suited to our minds conditioned to pleasure. Choosing sreyas would mean not only abandoning the conditioned mind but to break through new paths.

Some examples of preyas leading to destruction that come to mind are such as moths being attracted to light only to burn itself; Fish getting attracted to bait resulting in its own destruction;

Thus, looking for sreyas will lead us to Viveka which in

turn will douse the inherent craving for things that we have in us resulting in this quality of “abstaining from stealing.”

The fourth quality that YAMA gives us is “non possessiveness”. This is called APARIGRAHA.

It is normally our tendency to accumulate possessions – it can be wealth, property, power etc. This happens because of our attachment to material things and worldly goods.

Thus the villain of this piece is attachment. The mind of attachment knows no bounds. It goes on becoming more and more greedy. The panacea for this state of mind of attachment is naturally detachment.

Detachment does not mean sitting in a dark corner with no interest in anything.

By detachment we understand that though living in this world and enjoying things, nothing is ours forever. All the things of the world are meant for us to enjoy, we have the right to use them but we have no right of ownership.

In short we can have possessions but should not become possessive.

There is a lovely story :-

Once a simple Sadhu entered a small Kingdom and sat under a tree. He stayed there and gradually passers by would seek his blessings and guidance on various matters.

Soon, the King got to know about this Sadhu who had been sitting under the tree and helping his subjects.

Desiring to see the Sadhu, the King rode to the Sadhu one morning. He paid his obeisance and said, “why are you sitting under this tree day and night, why don’t you come to my palace; I will provide a suitable place for you to reside in.”

The King thought that the Sadhu being a Sadhu would simply reject this offer.

But the king was shocked. The Sadhu immediately accepted the invitation. He not only accepted the invitation but told the king to get a Chariot to go to the Palace. The King could not go back on his word. He called for the golden chariot. When the Chariot arrived, the Sadhu asked for proper clothes; He told the king that he could not possibly sit in such a grand chariot

with just a loin cloth. So expensive clothes were got. The Sadhu wore these clothes and got onto the Chariot. During the drive, the Sadhu behaved as if he was the King – waving to people, smiling, gesticulating etc.

At the Palace, the King took the Sadhu to the room meant for him. The Sadhu rejected the room. He wanted a grander room with better facilities. This was also provided. And when it came to food, the same thing happened. The Sadhu needed most lavish food.

This went on for a number of days and eventually the king was exasperated. He went up to the Sadhu and asked him, “What is the difference between you and me ?. You claim yourself to be a Sadhu and yet are living like a King.”

The Sadhu said, “come with me early tomorrow morning and we will go riding on the horse for a long distance”. The next morning just the two of them rode away. As they entered the forest, the Sadhu stopped. He removed all his rich clothes; He wore his loin cloth again and told that King – “Here you take back all your things. I don’t need these, but tell me, would you be able to do the same? Can you detach yourself from the material things and get away like I have just done?”

The King was dumb struck. Naturally he could not do so. He could not leave his Kingdom, his family, his possessions.

The Sadhu smiled and told the King, “This is the difference between you and me. Both of us enjoyed possessions. However you are possessive of the possessions while I am not. While you cannot live with your possessions, I can. Learn to enjoy possessions but do not become possessive”.

The last component of YAMA is “self restraint” which we will take up next.

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Ethics from Epics - 6



CA Allama Prabhu M S

Wisdom springs from the bed of arrows

Part - 4

(Contd. from previous issue)

“The author of the Mahabharata has not established the necessity of physical warfare; on the contrary he has proved its futility. He has made the victors shed tears of sorrow and repentance, and has left them nothing but a legacy of miseries.”

- Mahatma Gandhi, *Young India*, 06.08.1931,
The essence of Hinduism

100 Sprouts of Jealousy!

The seeds of jealousy were sown very early.

When Gandhari got pregnant, even after two years, she did not deliver. In the meantime, Kunti gave birth to Yudhishtira. Gandhari did not tolerate this. Out of social pressure and mainly out of jealousy, she became furious and began pounding her belly, resulting in a large ball of flesh emerging from her womb. Vyasa divided the flesh into 100+1 pieces and with his special powers virtually gave life.

Gandhari had unconsciously implanted jealousy right from the growth of the fetus. Furthermore, Dhritarashtra, fanned the flame of envy without control. Shakuni watered the poison tree which eventually yielded toxic fruits.

Following Pandu's death, Rishis requested Kunti to move to Hastinapura, the rightful home of the Children.

For nearly 15 years, Duryodhana was the sole master of the entire Kingdom, lived happily with all comforts, luxuries, conveniences and fineries. It is very likely that he was unaware that Yudhishtira, his elder brother, even existed. Even his great-grandfather, Bhishma, thought him the sole heir to the monarchy.

Yudhishtira, when he came to Hastinapura, was now regarded as a sole rival to the throne.... and his rage extended beyond sibling rivalry. Duryodhana was unable to accept the reality and harbored anger and hostility toward Pandavas, particularly Bheema.

The existence, rise and popularity of the Pandavas was too much even for Dhritarashtra to accept, rather tolerate. The Lakshagriha episode in Varanavata, (the Palace of Wax/Lac), unfolded with Dhritarashtra's full knowledge.

Undue aspirations overwhelmed prudence and evolved into untamed greed.

The distinction between aspiration and greed was never made either by the father or by the son. At every stage, neither was fair to Pandavas.

Bhishma was helpless in several of the instances.

Or did he choose to see nothing and say nothing at all?

Mysterious !

Every character and each instance in the Mahabharata impart a valuable lesson on life!

Very likely that one would find a mirror image of himself/herself/friends/kins in this vast canvas.

Death – the gracious liberator !

“We don't get to choose our time.

Death is what gives life a meaning...to know your days are numbered...”

-The ancient one in *Doctor Strange* (Marvel Studios)

Is there an auspicious moment to die that ensures heaven (despite of the nature of the deeds-evil or good)?

Does suffering on the bed of arrows earn a place in heaven?

After his death, Bhishma had unconditional passage to heaven; he could've chosen to die any day, any moment. But why did he choose to wait till Uttaranayana Punyakala?

Isn't this grief and suffering enough for now?

Was this waiting a penance? If so, Why? For what?

Or, this intentional interregnum itself furthermore a self-inflicted punishment?

Did he survive long enough only to see the ruin of his grandchildren, relatives, loved ones, and friends?... and as well as 18 Akshohini army?

As he waited for his time, what was he thinking about?

The Impulsive decision's he made? His actions? His inactions?

He would have surely remembered the moment Dushyasana grabbed Draupadi's plaits and his attempt to strip down, her frantic shouts, and his own immobility.

Was there self-reproach?

What about the taunts he levelled at Karna, even though he knew that the latter was the eldest son of the Kuru dynasty? Just before the great war, he proposes a condition that either he or Karna should fight.

Karna visits Bhishma when he was in the bed of arrows. There, Bhishma makes it clear that his public denunciation was only intended to curb his misguided faith in Duryodhana, and that only because of Karna, Duryodhana intensified his enmity with Pandavas.

Finally, for 44 days, the lineage of wisdom and the legacy of knowledge were transferred to Yudhishtira, and eventually to the entire world!

Towards self-actualisation..

In the same timeline as Yudhishtira, there was also Duryodhana!

And also the splendid *Shanthi Parva!*

While the rest of the world struggled to meet their physiological needs, finding safe refuge, seeking

love and striving to preserve their self-esteem, our ancestors (5000+ years back) had surpassed all these stages and reached the top of the hierarchy i.e, self-actualisation (Ref. Prof. Abraham Harold Maslow's *Hierarchy of Needs*)

Is everything written in Shanthiparva or other ancient scriptures ever-tenable and infallible?

Mahatma Gandhi answers:

“Let us not deceive ourselves into the belief that everything that is written in Sanskrit and printed in Shastras and has any binding effect upon us. That which is opposed to the fundamental maxims of morality, that which is opposed to trained reason, cannot be claimed as Shastra no matter how ancient it may be.

Whatever falls from Truth should be rejected, no matter wherever it comes from, and therefore the burden lies on the shoulders of that person who upholds a practice which is inconsistent with Truth.

I reject as interpolations everything in the Smritis or other writings that is inconsistent with truth and non-violence or other fundamental and universal principles of ethics (the true foundations of all religions).

A brahmana who considers himself superior to any single creature of God ceases to be a knower of Brahma. If we are children of the same God, how can there be any rank among us?”

- Mahatma Gandhi, *Young India* (1927-28),
The essence of Hinduism

As an endorsement, we have KuVemPu, the great Kannada poet, writing:

ಹಿಂದಿನ ಋಷಿಗಳು
ಮಾನವರೇ ನಮ್ಮಂತೆ
ಅವರ ಶಾಸ್ತ್ರವು
ಅವರ ಕಾಲಕ್ಕೆ ಮಾತ್ರ
ಕಾಲಕ್ಕೆ ತಕ್ಕಂತೆ ದೇಶಕ್ಕೆ ತಕ್ಕಂತೆ
ನಮ್ಮ ಹೃದಯವೇ
ನಮಗೆ
ಶ್ರೀ ಧರ್ಮ ಸೂತ್ರ

“Ancient sages
were humans, like us;
what they said
was their saga.

Relevant to the time,
relevant to the land,
our legacy should heed
the will of our hearts,
which should take the moral lead.
(Shri Dharma Sutra)”

MAIN SOURCE: The Mahabharata, Shanthi Parva, by Manmatha Nath Dutt Shastri, 1903 edition, downloaded from:

<https://indianculture.gov.in/rarebooks/mahabharata-shanti-parva>

& more information from

<https://www.wisdomlib.org/hinduism/book/mahabharata-sanskrit/d/doc1016508.html>

Expressing heartfelt gratitude to *Padmashree T N Manoharan.*

A little fish can only be grateful to the ocean for accommodating it and letting it swim in its realm.

His special comments go beyond just adding value to my little article. His point of view is relevant for all times and all places and the analysis illustrates the subtler distinction between greed and aspiration. The comparison of flowing water and a standing mountain reveals a great deal about his depth of spirituality and his cognitive capabilities to convey a profound concept in a very simple manner.

I can only be grateful to his insightful opinions, which have greatly expanded my own perspective.

- CA. Allama Prabhu

Author can be reached at:
prabhu_allama@yahoo.com

“Wise opines . . .”



The article titled “Ethics from Epics” authored by CA Allama Prabhu is a treatise on significance of values to be nurtured and practised by us.

By sheer vision, competence and hard work one may reach the top but to sustain integrity is inevitable. Otherwise, the fall would be mighty and fatal.

We should embrace “*aspirations*” and not “*greed*”. Without aspirations, life would be purposeless and uninteresting. At the same time, if aspiration is transformed into greed, it can be destructive to our growth and peace of mind. The guilt emanating from greed would ever haunt our conscience.

In my humble view, there are two distinct aspects that differentiate ‘*Aspiration*’ and ‘*Greed*’.

Firstly, anyone in pursuit of his or her aspiration is expected to adhere to ethical path by respecting the basic rule that the means should be as good as the end. Whereas if greed is the driving force to such pursuit, then it is difficult to resist temptation to fulfil desires by hook or crook unmindful of breaching the value system. Secondly, in aspiration, any outcome would be accepted with contentment. While in greed, even if one gets what was targeted, the heart would not be satisfied but would seek more (*Dil mange more*).

General advice given- to come up in life or stay relevant in profession or career path is to adapt to changing times.

But this dictum applies to knowledge & skills, approach & methods but not to Ethics. For instance, evolution of technology and digital era demands adaptability. But ethics of life remain constant at all times. So, be dynamic to change with emerging trends of life but be consistent and static in practising virtues of life. Be it the 15th century or 21st century or 30th century, laws may change but the fundamental ethical values governing life always remain unaltered.

Therefore, *when it comes to trends of lifestyle, you may flow with the current like water but when it comes to following Ethics, stand firm like a mountain.*

No one ever gets lost on a straight road.

Warm regards,

T.N. Manoharan

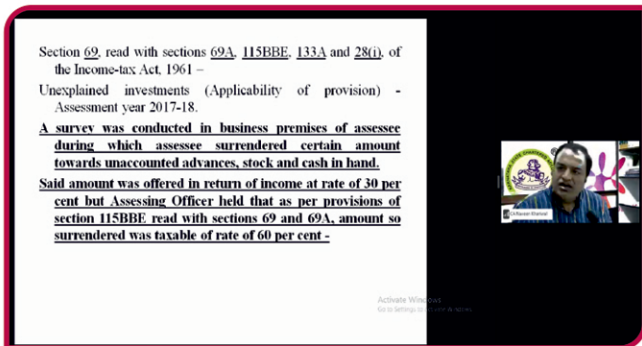
KSCAA Welcomes New Members November & December - 2023 & January - 2024

| Sl. No. | NAME | PLACE |
|---------|-----------------------------|----------------|
| 1 | Clevan Assis Dias | Bengaluru |
| 2 | Krithikka L | Bengaluru |
| 3 | Praveen M | Bengaluru |
| 4 | Mahalakshmi S | Bengaluru |
| 5 | Sharanabasappa | Bengaluru |
| 6 | Ronak N Doshi | Bengaluru |
| 7 | B Sai Chaitanya | Bengaluru |
| 8 | Manikanth Shreekanth Tekkur | Sirsi |
| 9 | Vishwas Karantha K S | Shivamogga |
| 10 | Pramod Udupa | Thirthahalli |
| 11 | Gorakati Poornima Reddy | Tadipatri |
| 12 | Vinit S Malani | Bengaluru |
| 13 | R C Sachin | Tirupur |
| 14 | Voorra Sairam Prakash | Andhra Pradesh |
| 15 | Sudhanshu Karn | Bengaluru |
| 16 | Thanzil K I M | Bengaluru |
| 17 | Rudresh B M | Bengaluru |
| 18 | Poornima Ganesh | Bengaluru |
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| 20 | Mary Asha | Bengaluru |
| 21 | Rajesh S | Pollachi |
| 22 | Nagaraja D | Hosapete |
| 23 | Ashwin Kumaar P | Chennai |
| 24 | Rutu M Doshi | Bengaluru |
| 25 | Anil H S | Bengaluru |
| 26 | Sai Akash Balayya Sansuddi | Hubballi |

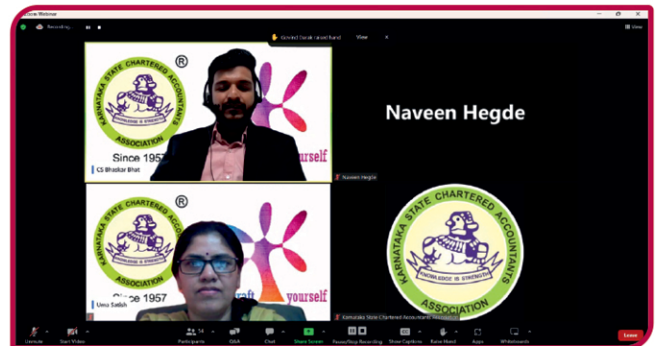
| Sl. No. | NAME | PLACE |
|---------|-----------------------------|-----------|
| 27 | Rohit Ranjith Kkummar | Bengaluru |
| 28 | Mayurkumar Ashokkumar Patel | Bengaluru |
| 29 | Karthik M V | Bengaluru |
| 30 | Bharath Bhushan D V | Bengaluru |
| 31 | Atluri Bujji Nagendra Kumar | Bengaluru |
| 32 | Ashok Kumar Sivapragasam | Trichy |
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| 35 | Gagann Nadig | Bengaluru |
| 36 | Vishal S Rao | Bengaluru |
| 37 | Sachin S | Bengaluru |
| 38 | Manish Gupta | Bengaluru |
| 39 | Nirmal Krishnamurthy | Bengaluru |
| 40 | Naga Venkata Dheeraj Kunala | Bengaluru |
| 41 | Mohit Kumar N | Bengaluru |
| 42 | Sarika Singrodia | Bengaluru |
| 43 | Rahul Bajaj | Nasik |
| 44 | Shwetha N | Bengaluru |
| 45 | Rahul Pansari | Bengaluru |
| 46 | Madhu Kumar S | Bengaluru |
| 47 | Sharma Kushal Ramlal | Bengaluru |
| 48 | Santhosha K N | Bengaluru |
| 49 | Manil S R | Bengaluru |
| 50 | Harshad S Patel | Bengaluru |
| 51 | Pothinindi Chandu | Bengaluru |



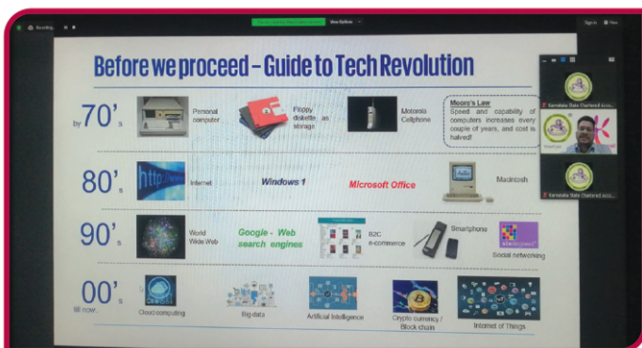
Photo Gallery



Virtual session on Rewind 2023: Unraveling Direct Tax Verdicts of 2023
Organized by the Direct Tax Committee of KSCAA on 19.01.2024



Virtual Session on MCA Compliances Calendar for Companies and LLPs
Organized by the Corporate and Allied Laws committee of KSCAA on 30.01.2024.



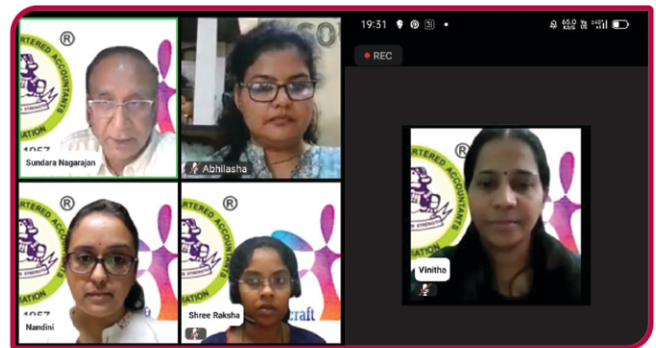
Webinar on Unwrapping the issues on taxation of Digital Transaction
Organised by Direct Tax Committee of KSCAA on 13.02.2024



Webinar on 43B(h) Unveiled: From Confusion to Clarity in Expenses Disallowance
Organized by the Direct Tax Committee of KSCAA on 09.02.2024



Eloquent Professional Meetings on Saturdays at the KSCAA Office
Organized by the Leadership and Skill Development Committee of KSCAA



Webinar on CA in the Era of Digitalization | Organized by the Women Empowerment Committee of KSCAA on 31st January 2024



GST Intensive Residential Course
Organised by Indirect Tax Committee of KSCAA from 2nd to 4th February 2024



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36th KSCAA ANNUAL CONFERENCE 2024



Jnanottirnata
Transcendence Through Knowledge

Friday, 1st March 2024

Saturday, 2nd March 2024

9:00 AM Registration

INAUGURAL SESSION

- 10:00 AM Inaugural Address by Chief Guest*
Guest of Honour
Shri. A S Kiran Kumar, Former Chairman, ISRO
Smt. C Shikha, IAS, Commissioner, Department
of Commercial Taxes, Govt. of Karnataka.
Release of Souvenir and Publications
- 11:15 AM Inauguration of Exhibition & Tea Break

FIRST TECHNICAL SESSION

- 11:45 AM Panel Discussion - CA Profession in Amrit Kaal
Moderator : CA P R Ramesh, Hyderabad
Panelists : Prof. R. Narayana Swamy, Member, NFRA
CA Kamlesh Vikamsey, Mumbai
CA Amarjit Chopra, Past President, ICAI

CA TALK

- 12:45 PM Journey Within : A Transformative Experience
CA H Padamchand Khincha
- 1:00 PM Lunch Break

SECOND TECHNICAL SESSION

- 1:45 PM Panel Discussion - AI Enabled Prompt Engineering
in Accounting & Auditing
Moderator : CA Narasimhan Elangovan
Panelists : CA Anand Jangid
CA Pattabhi Ram V, Chennai

THIRD TECHNICAL SESSION

- 2:45 PM Panel Discussion - Practical issues and
Challenges in Co-Operative Audit
Eminent Speakers and Co-Operative Audit
Department Officials

4:00 PM Tea Break

FOURTH TECHNICAL SESSION

- 4:15 PM Chanakya's Wisdom : Elevating CA profession
through ancient strategies
Dr. Radhakrishnan Pillai, Mumbai,
Renowned Author

8:30 AM Breakfast

SPECIAL SESSION

- 9:45 AM Zen in Chaos : Nurturing Happiness and
Health Amidst Life's Challenges
Dr. Devi Prasad Shetty, Chairman & Founder,
Narayana Health

11:00 AM Tea Break

CA TALK

- 11:15 AM Journey Within : A Transformative Experience
CA Sarika Jain, IRS, DCTI, Mumbai

FIFTH TECHNICAL SESSION

- 11:30 AM Panel Discussion : Transformative
Influence of Women in Organizational Development
Moderator : CA Roopa Venkatesh
Panelists : CA Sandhya Sriram, CFO Narayana Health
CA Aparna C Iyer, CFO Wipro
Ms. MV. Roopa, Scientist, ISRO,
Mrs. Jeyasree Ravi, Founder, Palam Silks

CA TALK

- 12:45 PM Journey Within : A Transformative Experience
CA Chetan Venugopal
- 1:00 PM Lunch Break

SIXTH TECHNICAL SESSION

- 1:45 PM Panel Discussion - Fiscal Fusion : Integrating
crossroads of IT, GST, Accounts and Audit
Moderator : CA Sanjay Dhariwal
Panelists : Adv. Narendra Jain
CA Jain Christopher
CA K Gururaj Acharya

3:15 PM Tea Break

CULTURAL PROGRAM & VALEDICTORY SESSION

- CA Family Cultural Program
Family Entertainment Program Performance by Barfi India
Family Theme Dinner

*Awaiting confirmation