



KSCAA[®]

Karnataka State Chartered Accountants Association (R)

NEWS BULLETIN

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36th KSCAA Annual Conference

Held on 1st & 2nd March **2024**



Jnanottimata

Transcendence Through Knowledge



From the President

My dear KSCAA members,



I express my gratitude to all the participants of the 36th Annual Conference, themed 'Jnanottirnata.' I am thrilled to announce the resounding success of the conference.

The delegate turnout exceeded our expectations, prompting us to close online registration a day before the event. Over 900 members registered for the conference. I extend my sincere thanks and humble appreciation to each individual for contributing to the success of this event. I attribute this achievement to the entire team of office bearers and Executive Committee members. I am grateful to God for blessing me with an exceptional team that assumed responsibilities, ensuring the tremendous success of this conference.

The panel discussions on Cooperative Society, Information Technology, Women as Organizational Leaders, and the CA Profession in Amrit Kaal underscored the importance of acquiring the right knowledge to excel in our field. The series on internal transformation by successful CAs in our profession, inspired many young chartered accountants, leading to a realignment of their perspectives. CA members and their families showcased their skills through folk dances, singing, and various cultural activities. The family event drew an attendance of over 1000 individuals.

I am equally enthusiastic about sharing this message, especially since International Women's Day is observed in March across many countries globally. This day serves as a recognition of women's achievements, irrespective of political, economic, and cultural disparities. While women's leadership has witnessed significant growth, it is imperative to address the challenges they continue to face in workplaces and social organizations.

It is noteworthy to share that CA Geetha A B has become the Chairperson of SIRC of ICAI, as a second Woman after a gap of 65 years. This accomplishment fills us with pride, particularly considering her journey began in KSCAA. Her advancement in the administrative hierarchy is not just a personal triumph but also a guiding inspiration for aspiring women CAs across various generations.

As Chartered Accountants, it is now our opportunity to participate actively and articulate our perspective on the Government of India's vision, Viksit Bharat@2047, aiming to transform India into a developed nation by 2047, marking its 100th year of independence. This vision encompasses multifaceted aspects of development, embracing economic growth, social advancement, environmental sustainability, and effective governance. Let us collaborate and collectively contribute our insights to this endeavour.

In February, Direct Tax Committee organised webinars on issues relating to Sec.43B(h) and Unwrapping issues on Taxation of Digital Transactions.

As said by Richard Branson,

"While it's important to celebrate success, it is equally crucial to stay hungry, stay humble, and keep aiming for the next summit. Success is not a destination; it's a continuous journey of growth and reinvention."

Now is the moment to concentrate on routine programs and provide members with relevant insights beneficial for their professional assignments.

We have scheduled programs and events in Direct Taxes and Bank Audit for the month of March. kindly stay connected with us through our Website and WhatsApp to actively participate in every event organised by KSCAA.

Wishing everyone a smooth and stress-free conclusion to the financial year.

Thank you,

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

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Disclaimer

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INCOME TAX UPDATES

A. ITAT Judgements

1. Hyderabad Tribunal has held that when payments to certain US concern made without deducting tax at source under section 195 but subsequently, a certificate issued under section 195(3) exempting said concern from TDS, in such circumstances, Assessing Officer is required to cause verification of certificate issued under section 195(3) and if it was found to be genuine, entire remittances that were made to said concern would be non-taxable so far as TDS was concerned. [FSL Projects Ltd [2024] 159 taxmann.com 496 (Hyderabad - Trib.)].
2. Bangalore Tribunal held that where assessee receives mobilization advance in one year but offered income on said advance in subsequent years, assessee was to be allowed TDS credit on said advance in relevant assessment year [Cicon Engineers (P.) Ltd. [2024] 160 taxmann.com 142 (Bangalore - Trib.)].
3. Raipur Tribunal held that Where CIT(E) rejected registration application of assessee-university on basis of deficiencies highlighted by CAG and in audit reports, though valid concerns were noted, impact of those deficiencies on university's objectives was not clearly established and therefore, case would be remanded to CIT(E) for reconsideration. [Guru Ghasidas Vishwavidyalaya [2024] 159 taxmann.com 716 (Raipur - Trib.)].
4. Amritsar Tribunal Held that when an assessee incurred construction cost of concrete bridge on culvert in front of his shop, since said bridge was essential to provide improved accessibility to shop to facilitate greater footfall and capital value addition in turn, said expenditure was capital in nature and would not become revenue expenditure merely for reason that it was incurred in connection with cost of improvement to promotion of business activities which ultimately resulted in efficiently carrying on day-to-day business. [Joginder Singh [2024] 159 taxmann.com 425 (Amritsar - Trib.)].
5. Mumbai Tribunal held that when assessee discharged onus and also established by additional evidence before Commissioner(Appeals) that it was director of company who was also major shareholder had been allotted shares and in remand report also, Assessing Officer had not drawn any adverse inference with respect to evidences submitted by assessee, therefore, Commissioner(Appeals) right in deletion of addition as identity, creditworthiness of person and genuineness of transaction had been established [Next Avenue Ventures (P.) Ltd. [2024] 160 taxmann.com 76 (Mumbai - Trib.)]
6. Mumbai Tribunal held that when show cause notice proposing penalty upon assessee did not specify as to under which limb of section 271(1)(c), penalty was to be levied upon assessee, notice itself was bad in law and consequently penalty levied was to be set aside[S. Sagar Enterprise [2024] 159 taxmann.com 774 (Mumbai - Trib.)]
7. Mumbai Tribunal held that once record are transferred to jurisdictional Assessing Officer on completion of assessment, jurisdictional Principal Commissioner assumes jurisdiction, therefore can exercise power under section 263 over order passed by faceless assessment unit [RDC Ventures [2024] 159 taxmann.com 395 (Mumbai - Trib.)]
8. Rajkot Tribunal held that in case assessee expired when assessment order was being framed and in absence of any specific statutory provision under Income-tax law which requires legal heirs to intimate Department about death of assessee, assessment order could not be held to be valid only for reason that legal heirs of deceased assessee had not informed about death of assessee, and thus, said assessment order could not be revised by taking recourse to 263 proceedings [Smt. Bhavnaben K. Punjani [2024] 159 taxmann.com 650 (Rajkot - Trib.)]
9. Delhi Tribunal held that in case of assessee entered into merchant agreement with various hotels for facilitating reservation/booking of hotel rooms through platform of assessee, however, assessee was merely compensating shortfall pursuant to agreement and no work had been carried out, therefore, assessee would not be liable for TDS under section 194C on minimum guarantee payments made to hotels [Oravel Stays (P.) Ltd. [2024] 159 taxmann.com 423 (Delhi - Trib.)]

10. Kolkata Tribunal held that Once resolution plan is approved by Adjudicating Authority, dues including statutory dues of Government or local authority, if not part of resolution plan, gets extinguished and no proceedings in respect thereof for a period prior to date of approval under section 31 can be initiated against corporate debtor, that is, assessee company including income tax proceedings and recovery of demand or giving effect of any order [Kohinoor Steel (P.) Ltd. [2024] 159 taxmann.com 571 (Kolkata - Trib.)]
11. Mumbai Tribunal held that where assessee claimed exemption under section 54F in respect of amount invested in a flat, however, Assessing Officer rejected said claim on ground that entire consideration for purchase of flat was not paid during relevant period, since assessee had filed additional evidence in form of share certificate and ledger of vendor to prove that entire consideration was paid, matter was to be remanded back for de novo consideration [Madan Mohan Mishra [2024] 160 taxmann.com 42 (Mumbai - Trib.)]
12. Delhi Tribunal held that Sums received on surrender of life insurance policy would be eligible for exemption u/s 10(10D) and it could not be taxed under section 28(vi) [Mihir Parikh [2024] 160 taxmann.com 141 (Delhi - Trib.)]
13. Rajkot Tribunal held that where assessee had advanced total loans/advances to outside parties, since assessee's own funds were more than interest free advances, no disallowance of interest paid on borrowings was to be made [Jasmatbhai Nanubhai Vidiya [2024] 160 taxmann.com 126 (Rajkot - Trib.)]
2. Kerala High Court held that where assessee had filed an appeal along with a stay petition against a recovery order, it was incumbent upon Judge to protect assessee from recovery proceedings until appeal or stay petition was resolved. [Chalakkal Antony Jose Valloor [2024] 159 taxmann.com 494 (Kerala)]
3. Delhi Highcourt held that where assessee company was charging lower rate of interest on loan extended to its wholly owned subsidiary and no addition had been made on that account in any of earlier years assessments, on same facts, Assessing Officer was not justified in making addition on account of lower rate of interest charged from AE [Uniparts India Ltd [2024] 160 taxmann.com 92 (Delhi)]
4. Calcutta High Court held that once source of cash deposit was disclosed and in respect of such cash deposit assessee was treated as accommodation entry provider and, accordingly, brokerage/commission on aforesaid cash deposit was determined as income of assessee for providing service in form of accommodation entry, addition made by Assessing Officer under section 68 was unsustainable [Pramod Sharma [2024] 160 taxmann.com 44 (Calcutta)].
5. Delhi High Court held that when on directions of Commissioner (Appeals), AO determined amount of refund to be paid to assessee, however, assessee was deprived of its right to get back refund till date on ground of inability of revenue to verify record to determine whether amount in question was paid to assessee or not, in absence of any fault being attributed to assessee, lack of verification by Assessing Officer of their own records could not be a ground to deny refund [Clix Capital Services (P.) Ltd. [2024] 160 taxmann.com 6 (Delhi)].

B. High Court Judgements

1. Bombay High Court held that when Assessing Officer issued reopening notice against assessee on ground that it had charged excessive share premium and nature of share application money received was not substantiated, since reasons recorded for reopening did not dispute that during year assessee had issued shares at premium and that Assessing Officer was only questioning excessive share premium but not doubting transaction itself whereby share premium had been received, impugned notice was merely on basis of change of opinion and was to be set aside and quashed [Godrej Projects Development (P.) Ltd. [2024] 159 taxmann.com 32 (Bombay)]
6. Madras High Court held that where assessee did not receive subsequent notices in reassessment proceedings as same were issued to an e-mail address which was not being used by assessee's accountant, impugned reassessment order passed without hearing assessee was to be set aside [SSPV Construction Consortium [2024] 160 taxmann.com 219 (Madras)]
7. Bombay High Court held that Assessing Officer cannot assume jurisdiction to make an assessment in name of non-existing entity (a dissolved company) [Jitendra Chandralal Navlani [2024] 159 taxmann.com 498 (Bombay)].

8. Rajasthan High Court held that It is mandatory for Assessing Officer to pass speaking order, taking into consideration not only material on record but also the reply filed [R.k. Buildcreations (P.) Ltd. [2024] 159 taxmann.com 475 (Rajasthan)].
 9. Bombay High Court held that where assessee had hired storage tanks of various parties for handling import of oil and paid them storage charges, since storage tanks in question did not qualify either as land or as building within meaning of section 194-I, payments in question were not liable for deduction of tax at source under provisions of section 194-I [B. Arunkumar Trading Ltd. [2024] 160 taxmann.com 164 (Bombay)]
 10. Patna High Court held that differentiation made by State between employees of Central and State Governments on one hand and other employees on other in section 10 (10 AA) is neither discriminating nor violative of article 14 of Constitution, therefore, a retired employee of State Bank of India could not claim parity with employees of Central and State Government [Purnendu Shekhar Sinha [2024] 159 taxmann.com 746 (Patna)].
 11. Bombay High Court held that validity of a notice must be judged on basis of law existing as on date on which notice was issued under section 148, which in instant case was 31-7-2022, by which time Finance Act, 2021 was already on statute and in terms thereof, no notice under section 148 for assessment year 2014-15 could be issued on or after 1-4-2021 based on first proviso to section 149, thus, in view of unamended section 149(1)(b) impugned reopening notice issued on 31-7-2022 was barred by limitation [Godrej Industries Ltd. [2024] 160 taxmann.com 13 (Bombay)].
- section 271C, since no reasonable explanation was furnished for such delay, penalty proceeding would be barred by limitation as per provision of section 275(1)(c) and liable to be quashed [Clix Capital Services (P.) Ltd. [2024] 159 taxmann.com 600 (SC)].
 3. Supreme Court held that SLP dismissed against order of High Court that where assessee-company had not commenced business of development of SEZ/Real estate and merely obtained loan from holding company which was utilized for investing in shares of subsidiary company, interest paid on loan could not be treated as expenditure incurred for purpose of business [Zuari Management Services Ltd. [2024] 160 taxmann.com 292 (SC)].
 4. Supreme court held that Review petition dismissed against order of Supreme Court wherein it was held that entire/whole amount of difference between Statutory Minimum Price (SMP) and Additional Price (SAP) fixed for sugarcane cannot be said to be an appropriation of profit, only component of profit worked out while determining final price can be said to be an appropriation of profit and rest of amount is to be considered as deductible expenditure [Sharad Sahakari Sakhar Karkhana Ltd. [2024] 160 taxmann.com 88 (SC)]
 5. Supreme Court has held that Sales Tax Subsidy is a Capital Receipt and not Revenue Receipt. [Sunbeam Auto (P.) Ltd. [2024] 159 taxmann.com 152 (SC)][30-01-2024]

C. Supreme Court Judgements

1. Supreme Court held that where assessee did not deduct tax at source on payment made to DTC, since payee had reflected said amount as its tax liability in its return, disallowance made under section 40(a)(ia) to be deleted [Shivaai Industries (P.) Ltd. [2024] 159 taxmann.com 388 (SC)].
2. Supreme court held that SLP dismissed against order of High Court that where there was delay of ten years in issuing show cause notice (SCN) under section 274 for initiating penalty proceedings under

D. CBDT Update

1. CBDT issues press release dated 26th february 2024 stating implementation of e-verification scheme-2021 - income tax department has identified certain mismatches between third party information on interest and dividend income, and income tax return (itr) filed by taxpayers - taxpayers can provide response on-screen functionality on compliance portal of e-filing website to reconcile mismatch - taxpayers are being informed of mismatch through sms and emails as per details available with income tax department.



CA. Sowmya C A

INDIRECT TAX UPDATES

As we approach the conclusion of the fiscal year, the journey since July 2017 has been nothing short of a roller-coaster ride. Reflecting on the past year, the portal has undergone substantial transformations, incorporating cutting-edge technological tools and data analytics and there has not been a single area which has not undergone change affirming that change is the only constant, poised to persist in the future. The growth in GST revenue stands out, achieving a remarkable 11.7% cumulative year-on-year increase. As we set foot into a new fiscal year, we need to learn to embrace change while also gearing up to face the challenges that await with a spirit of resilience and adaptability.

The Foreign Trade Policy had introduced an amnesty scheme for one-time settlement of default in export obligation with respect to EPCG/AA Authorisation holders. The payment for regularizing the default along with applicable interest must be made **before 31 Mar 2024**. The Karnataka “Karasamadhana” Scheme -V introduced by the State for recovery of excise dues vide Notification No. FD 03 PES 2023 dated 20 Jan 2024 is extended till **31 Mar 2024**.

The GST council is likely to clarify the applicability of GST to the Real Estate Regulatory Authority (RERA) which is covered under article 243G of the Constitution dealing with powers, authority and responsibilities of panchayats. The residential real estate sector is not eligible to avail Input Tax Credit (ITC) hence exclusion of RERA from the ambit of GST could bring savings both to developers and homebuyers. A definitive clarification will benefit this sector.

Due to non-constitution of the GST Appellate Tribunal (‘GSTAT’), presently, taxpayers do not have the opportunity of second appeal and are compelled to approach high court for relief thereby burdening High Courts. The Principal Bench of GSTAT, New Delhi and the 31 State Benches across the 28 States and 8 Union Territories has already been constituted and process for the selection of members is underway and the much-anticipated GST Appellate Tribunal may begin operations from mid of this new fiscal year to address matters arising from second appeals pertaining to GST beginning 01 Jul 2017.

On the legal front, the Supreme Court issued a notice to the Union Government, challenging the Delhi High Court’s Order which affirmed the constitutional validity of Anti-Profitteering provisions in the CGST Act, 2017 [M/s. Excel Rasayan Private Limited Versus Union Of India & Ors. 2024 (2) TMI 859 – SC Order]. The Delhi High Court has upheld Anti-Profitteering provisions and ruled that profiteered amount has to be calculated on a case-to-case basis, considering the peculiarities of each case and that the anti-profitteering provisions are not a “price-fixing mechanism” and do not violate Article 19 or Article 300A of the Constitution. However, it is the contention of the companies that there is no mechanism for determination of ‘Profiteering’ and they are manifestly arbitrary. Further, in the absence of any prescribed time period, the consequential price regulation is for an undefined period. It remains to be seen if Supreme Court will uphold the ruling.

Recent notifications, circulars and advisories issued during this month have been compiled below for an interesting read.

Recent Notifications :

- **Notification of “Public Tech Platform for Frictionless Credit” as the system for sharing of information by Common Portal**

Exercising its power under section 158A of the CGST Act, 2017, the Central Government, has notified “Public Tech Platform for Frictionless Credit” as the system with which information may be shared by the common portal based on consent under sub-section (2) of Section 158A. (*New Rule 163 of the CGST Rules was inserted with effect from 01 Oct 2023, which provided for Consent based sharing of information submitted in the Common Portal*).

“Public Tech Platform for Frictionless Credit” means an enterprise-grade open architecture information technology platform, conceptualised by the RBI as part of its “Statement on Developmental and Regulatory Policies” dated the 10 Aug 2023. This platform is developed by Reserve

Bank Innovation Hub, a wholly owned subsidiary of RBI. Its primary objective is to facilitate the seamless functioning of a broad credit ecosystem, ensuring digital access to information from diverse data sources. The platform serves as a convergence point for financial service providers and multiple data service providers, utilizing a standardized and protocol-driven architecture alongside an open and shared Application Programming Interface (API) framework.

(Notfn No. 6/2024-CT dated 22 Feb 2024)

Recent Advisories :

- **Enhanced E-Invoicing Initiatives & Launch of Enhanced <https://einvoice.gst.gov.in> portal**

The GSTN has announced the launch of the revamped e-invoice master information portal <https://einvoice.gst.gov.in> Key features of the revamped portal include PAN-based search functionality, Automatic publication of updated e-invoice exemption lists, a global search bar for comprehensive information access, a reorganized advisory, manual and FAQ section for easy information access, Daily ‘Invoice Reference Number (IRN) count statistics’, dedicated support for the e-invoice QR Code Verifier app, enhanced accessibility compliance, and an updated website policy. GSTN operates a total of six IRP portals through its partners and it has introduced an internal e-invoice comprehensive health dashboard to further enhance monitoring of the e-invoice ecosystem.

(GSTN update dated 21 Feb 2024)

- **Instances of delay in registration reported by some Taxpayers despite successful Aadhaar Authentication**

Pursuant to Rule 9 of the Central Goods and Services Tax (CGST) Rules, 2017, regarding the verification and approval of registration applications, it is hereby notified that if an individual undergoes Aadhaar authentication under sub-rule (4A) of rule 8 but is subsequently identified for detailed verification based on risk profile per rule 9(aa), the processing of their registration application will be completed within thirty days from the date of submission. Corresponding changes are planned to be made in the online tracking module in common portal to reflect these changes in the registration application processing mechanism.

(GSTN update dated 28 Feb 2024)

DGFT Circulars:

- **Relief in Average Export Obligation in terms of the para 5.17(a) of Hand Book of Procedures (HBP) of FTP, 2023**

To provide relief to exporters of those sectors where total exports in that sector/product group has declined by more than 5% as compared to the previous year, average export obligation for the year may be reduced proportionately to reduction in exports of that particular sector/product group during the relevant year as against the preceding year. Based on industry data, a list of product groups showing the percentage decline in exports during 2022-23 as compared to 2021-22 is issued as Annexure I to the policy circular. The exporter may approach the regional authorities to re-fix the Annual Average EO for EPCG Authorizations for the year 2022-23 accordingly. Reduction, if any, in the EO should be appropriately endorsed in the licence file of the Office of RA as also in the amendment sheet to be issued to the EPCG Authorisation holder.

(Policy Circular No. 10/2023-24 dated 22 Feb 2024)

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**Solution to Sudoku - 42
February - 2024**

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

BOOKS OF ACCOUNTS – GST LAW



CA. Annapurna Kabra

As per the provisions contained in Sec 35 of the CGST Act, 2017, every registered person shall keep and maintain a true and correct account of Production or manufacture of goods, Inward and outward supply of goods or service or both, Stock of goods, Input tax credit availed, Output tax payable and paid and such other particulars as may be prescribed. In case of multiple place of business, the accounts relating to each place of business shall be kept at such places of business.

- *In Kapilansh Dattu Udyog Pvt Ltd Vs CCE Nagpur (2013) 31 STR 50 (CESTAT Mumbai)* where assessee maintained proper records and books of accounts, it was held that there could be no suppression of facts. The suppression was not borne out by the records.
- The place of business under the GST law is a place where taxable person maintains his books of Accounts. In few instances, the time of supply is specified as the date on which payment is entered in his books of Accounts or entry in books of Account.
- The accounts may be maintained by the registered person in electronic form. Every owner or operator of godown or warehouse or any other place used for storage of goods and every transporter, shall maintain records of consignor, consignee and other relevant details.
- All the records maintained by a taxpayer shall be retained for a period of 72 months from the due date of furnishing annual return.
- In case of pending proceedings with respect to appeal, revision, investigation etc. books of accounts and other details pertaining to the matter shall be retained for one year. Such one year shall be counted after the final disposal of such appeal or revision or proceedings or investigation.
- However, the period shall be arrived at as one year after the final disposal of the proceedings or a period of 72 months, as per Sec 35, whichever is later.

D) Illustrative Records to be maintained by Taxpayers

- Goods or services imported and exported
- Supplies attracting payment of tax
- Supplies attracting payment of tax on reverse charge
- Stock of goods supplies/Received – opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed by way of gift or free samples including raw materials, finished goods, scrap and wastage thereof
- Monthly production accounts with quantitative details of raw materials or services used in the manufacture and quantitative details of the goods so manufactured including the waste and by products thereof.
- Quantitative details of goods used in the provision of each service, details of input services utilized and the services supplied
- Advances received, paid and adjustments made thereto- Refund vouchers, Receipt vouchers
- Details of tax payable, tax collected and paid, input tax, input tax credit claimed.
- Register of tax invoice, credit note, debit note, delivery challan issued or received during any tax period
- Name and complete addresses of suppliers/customers/recipients
- Complete addresses of the premises where the goods are stored by him, including goods stored in transit along with the particulars of the stock stored therein.
- Relevant documents viz- Invoices, bill of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers, refund vouchers and e way bills, etc

II) Illustrative Registers/Documents to be maintained by the Taxpayers...

Customer purchase order/ Sales order Register, Transport documents like Delivery Challan , E -Way Bill, Lorry Receipt, Insurance, Packing list documents Register , Banking Receipt Vouchers Register, Shipping Bills Register, Duty & tax paid challan Register, Stock Requisitions in case of Stock transfer Register, Returnable Gate Pass (RGP) Register, Invoice to/from job worker Register, Document Transferring Input Tax Credit (ISD) Register, Bill of lading/ Bill of Entry Register, Purchase Register, Sales Register, Debit Notes Register/Credit Notes Register, Expenses Register, Fixed Asset Invoices Register, GST payment challan Register, GSTR Filed Status Register, Financial Statements (Balance Sheet & P & L), Letter of Undertaking , if any, License Certificate, if any, Bonds, if any, Reconciliation of Electronic Credit Ledger statement and Advance Register.

III) Basic features in GST Software:

The GST Software must be configured to determine the supply as mixed or composite, To provide for tax rates to be applied accordingly for such supplies, to adjust the stock quantity in the books accordingly (for mixed supply), to review goods/capital goods sent on Job work, control process , Any impact on margin must be actually passed on to the customers and the same is regulated by law, Vendor selection plays crucial role, Since utilising credits are dependent on his compliances, Rating for every supplier are based on timely compliances & mismatches and ensure key information like user IDs and passwords are adequately secured

IV) Changes made in Form GSTR-1/IFF

- ✓ Various additional features have been added on GST portal
- ✓ The return dashboard has been reorganized and grouped into two sections
- ✓ Facility is separately given for add Record details and amend record details.
- ✓ The number count of documents is displayed on the various tiles with colour coding. The documents are categorized into Saved, Pending and Errored
- ✓ Recipient wise of records are also now available on the portal

- ✓ In case of addition of new records, Submit and Preview buttons will be disabled till a new summary has been generated after updating the records.

V) Creation of Master's facility in GSTR-1/IFF

- ✓ To enable faster data entry by the taxpayers and to reduce errors, 'My Master' facility is created on the portal.
- ✓ This facility helps taxpayers in saving details of their Recipients, Suppliers and the HSN code of the commodities they deal in
- ✓ Product Master and Supplier/Recipient Master are made available on the GST portal
- ✓ As a result of this new function, whenever a taxpayer enters data of a related field in GSTR-1 for which master exists, portal fetches details from the Master.
- ✓ A dropdown will be displayed on the key words entered therein. Upon selection, all the corresponding fields shall be entered automatically.
- ✓ Masters created offline by taxpayers can be uploaded on the portal through JSON, to update online Masters.

VI) Year End Reconciliations for (2023-2024) to be made with Books of Account

- ✓ Income disclosed in P&L account with the supplies declared in the Returns.
- ✓ Reconciliation of balance in Books of Accounts with Electronic Registers maintained by the GSTN.
- ✓ Outward supplies declared in GSTR 1 and GSTR 3B.
- ✓ Purchases as per Books of accounts with GSTR-2B. Input tax credit as per books of accounts with GSTR 2B statement. Based on the above reconciliation, the taxpayer will have an idea of the credits un-availed and follow up with the vendors/suppliers to file the respective GSTR 1.
- ✓ HSN wise summary with books of accounts
Reconciliation of RCM credit disclosed in GSTR 3B with the cash payments during the relevant period.
- ✓ Ensure the reversal of ineligible input tax credit if any and creation of liability and interest.

- ✓ Exports with remittances
- ✓ Write off Vs reversals
- ✓ E way bill with inward and outward supplies
- ✓ Re-availment of ITC upon payment made;
- ✓ Refund claims made
- ✓ Check if any reversals u/r 37, 38, 42 and 43 of the Rules, 2017 needs to be made during the period, to avoid further interest cost.
- ✓ Ensure provisions entries are passed as Input tax credit cannot be claimed without Invoice and also for the services availed from associated Enterprises inclusive of RCM.
- ✓ Ensure provision is made for any disputed liability along with interest if any.....

The taxpayer on demand, should produce the books of Accounts which is required to be maintained. If it is not maintained, the proper officer shall determine the tax payable as unaccounted goods/services. There is also the penalty specified under section 122(1) for failure to maintain the books of Accounts. Therefore, it is very relevant to maintain the books of Accounts as specified under the GST law.

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SUDOKU-43

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

Income Tax Savings Schemes

54EC



REC Capital Gains Bonds
5 years, 5% Annual Interest

80C

ELSS, PPF, Life Insurance

80CCD

National Pension Scheme

Fixed Income

Trust u/s 11(5)

Trust Deposits Eligible u/s 11(5)



RBI



Reserve Bank of India Bonds
7 years, Floating rate 8.05% Half-yearly Interest

FD NBFC



Mahindra FINANCE



Sovereign Gold Bonds

8 years, 2.50% Half-yearly Interest, Maturity 'Tax-free'

Growth Option

Mutual Funds

Large Cap / Mid Cap / Small Cap / Flexi Cap / ELSS Funds



For further information, please contact



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CA. Vikas Shenoy

HANDLING LITIGATION UNDER GST – PART I

It is common knowledge that the GST department, like any other department of the revenue, functions with an objective of maximising tax collection. Towards this end, the department is forced to adopt an approach that yields maximum revenue. Consequently, by virtue of this inherent compulsion and their zeal to execute the legislature's mandate as they deem fit, it is seen that the department always takes a pro-revenue position on tax matters. On the other hand, even after passage of seven years of implementation of GST, there are umpteen number of provisions that are not clear for anyone to understand or implement. Taxpayers are taking different tax positions on these matters as per their understanding backed by professional advises.

The above factors have invariably lead to a flush of litigation under GST, whereby both the taxpayer as well as the department are spending more of their time, effort and money on litigation. In this series we will delve into the elements of litigation under GST with a view to enabling the reader to understand and handle matters of GST litigation. In this first part, an attempt is made to ascertain an overall approach to be taken in handling litigation under GST.

End-to-end approach to litigation

A wise man has said that sometimes it is fine to lose the battles to win the war. A similar mindset is required for handling GST litigation, where irrespective of the result that would be obtained at the adjudication stage or at the First Appellate Authority ('FAA') stage, the end goal of obtaining a favourable decision at the appropriate stage should be borne in mind. In the chronology of litigation under GST, beginning with the adjudication proceedings preceding an Adjudication Order by the Proper Officer ('PO') and which may go up to the Hon'ble Supreme Court, the appropriate stage at which the taxpayer could get relief would differ for each case based on the facts and law involved.

In light of the above, it is relevant to note those provisions of law and jurisprudence that would help taxpayer to determine the appropriate stage where relief could be expected. For instance, section 75(7) of the

CGST Act, 2017 ('the Act') provides that the order to be issued by the PO cannot be on grounds other than on those grounds contained in the underlying notice issued to the taxpayer. This reference is made to drive home the point that it would benefit a taxpayer in the long run if he restrains from giving away any additional detail to the department at the pre-notice stage which could provide a basis for forming a ground that was otherwise not possible to be taken.

Similarly, in cases where challenge is sought to be made to any provision of the law as being *ultra vires* the Constitution, relief cannot be expected at the FAA and GSTAT level as only the judicial courts are able to strike down the provisions of law vis a vis the Constitution. In such cases it would be prudent to either directly approach the jurisdictional High Court on a writ petition or to take the appeal route by relying majorly on grounds other than those challenging the provisions yet without foregoing such grounds. In the latter approach, challenge to provisions may be taken up as the main ground at the High Court level.

Facts matter more than the truth

It is trite that the GST Appellate Tribunal ('GSTAT') is the final fact finding authority under GST. This is because the next appellate forums being judicial courts, they would not go into matters of fact but only interpret and apply the law to the facts that are already determined in arriving at their decisions. Further, in terms of Rule 112 of the CGST Rules, 2017 ('the Rules'), additional evidences may be produced in the appeal proceedings either before the FAA or the GSTAT only subject to certain conditions; and facts that are not backed by sufficient evidence may be discarded as conjecture. Therefore, it becomes significant to establish all relevant facts at the earliest stage of adjudication stage itself.

Often taxpayers and sometimes professionals are seen harping on their part of the submissions being the truth. It may be noted that in a trial there is no scope for truth to be the deciding factor unless it is presented as facts backed by sufficient evidence.

Based on the above, in the approach to litigation under GST, two things must be done by a taxpayer. One, establish all relevant facts at the earliest stage of the litigation process. Two, steer away from all other facts that are irrelevant to the matter at hand. This finesse in approach would not only result in keeping aside unnecessary arguments in the litigation process but also bring more clarity to the authorities/judges who are sitting in judgment of the case.

It may not be out of place to mention here that some taxpayers are also seen using irrelevant facts as distractions either to avoid discussion on the core issue or to confuse the other parties to the litigation. However, seldom has this approach benefitted the taxpayer in the longer game of litigation.

Technical grounds vis a vis Merits of the case

Generally, two extreme approaches are noticed in the matter of taking technical grounds and making submissions on merits. On the one hand, innocent taxpayers are seen making submissions merely to establish their truth that they have not done any wrong. On the other hand, there are taxpayers adopting an approach to merely challenge a notice or an order based on technical grounds. In most of these latter cases, it is conveniently forgotten that the courts entertain discussion on technical grounds only if it is made out in the submissions that the technical lapse has prejudiced the taxpayer.

Therefore, unless there is blatant violation of the mandate of law by the department and the same has prejudiced the taxpayer, it is wise to make submissions both on technical grounds and merits. Another factor for ascertaining the approach here would be the directive of Section 160(2) of the Act which requires the taxpayer to question the notice, order or any other communication at the first instance possible. This is referred to as the doctrine of acquiescence, as per which if a question is not raised when a wrong is being done, the same may not be questioned at a later stage.

As such, in cases where there are technical lapses by the department in issuing the notice, order or any communication, the taxpayer would do well in questioning the same in writing. The response from the department to such questioning by the taxpayer would play a pivotal role in further litigation proceedings.

Lack-lustre approach at the Pre-Notice Stage

For the reasons discussed in the opening paragraphs, the department would try and extract maximum possible details and information on the matter at hand before proceeding to issue a notice. The GST law methodically lays down the due process through which the department is allowed to gather such information. However, more often it is seen that information are sought to be gathered using coercion or by inducing fear without following the due process of law. This attitude of the department coupled with the innocent intention of the taxpayer to remain in the good books of the department is a perfect recipe for disaster so far as GST litigation is concerned. Succumbing to such tactics, taxpayers usually end up giving more information to the department than was necessary.

It must be understood that a Show Cause Notice ('SCN') is the foundation of any case based on which demand is proposed to be made. Thus, whatever communications are made prior to issuance of SCN would contribute to how the SCN is drafted and issued by the department. These pre-SCN communications include replies to notices in Form ASMT-10, DRC-01A, DRC-01B, DRC-01C or any other communication such as those pursuant to verification or inspection proceedings. In responding to these communications, while it must be taken care that details as required to be mandatorily provided under the law must be provided if due process of law has been followed, taxpayers must refrain from providing any excessive information. In some cases, no reply would be the best response.

To state simply, at pre-SCN stage a lack-lustre approach is best suited whereby only bare minimum submissions are made. It can be said that appearing ignorant at this stage is better than being ignorant.

Before we part

The intention of this first part of the series is to have an informed approach to handle litigation under GST. Once an overall approach is decided based on the factors discussed earlier, one may delve into the further course of action such as responding to notices, deciding upon the submissions to be made at each stage and the usage of appeal remedy etc. These discussions would be made in the succeeding parts of the series.

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DRAFT DISCLOSURE FRAMEWORK ON CLIMATE RELATED FINANCIAL RISKS, 2024



CA. Aditya Kumar S

Background: Climate-related risks are now considered as a significant risk. Climate-risk is one of the components of Environmental, Social and Governance ('ESG') risks that the entities are now dealing with. Apart from ensuring the business processes to be realigned or reengineered, increased reporting requirements on the advent of various reporting standards; the compliance is also increasing. The Reserve Bank of India on 28th February 2024 has issued 'Draft Disclosure Framework on Climate-Related Financial Risks, 2024' ('Framework') which is required to be complied with all scheduled commercial banks (excluding Local Area Banks, Payments Banks and Regional Rural Banks), certain categories of urban co-operative banks financial institutions like EXIM, NABARD, NaBFID, NHB and SIDBI and Non-Banking Financial Companies ('Regulated Entities' / 'RE')

The circular may be accessed at: <https://rbidocs.rbi.org.in/rdocs/Content/PDFs/DRAFTDISCLOSURE-CLIMATERELATEDFINANCIALRISKS20249FBE-3A566E7F487EBF9974642E6CCDB1.PDF>

This article attempts to summarize the contents of the aforesaid Framework.

Thematic Pillars of Disclosure:

1. **Governance:** Governance Process including how the Board of Directors consider and oversee the climate-related risks including risk management aspects of identifying, assessing, managing, mitigating, and monitoring.
2. **Strategy:** The strategy to mitigate the risks over short, medium and long term and its implications on business needs under different scenarios are to be discussed.
3. **Risk Management:** Risk Management process has gained more importance especially on the climate-related risks and how these are integrated into strategic and operational decision making process.
4. **Metrics and Targets:** Climate-related financial risks and opportunities including setting targets and measuring performance against it, Details of Scope 1, Scope 2 and Scope 3 Greenhouse Gas ('GHG') to be disclosed.

All the above are elaborated in the circular's Annexure and these are classified as (a) Baseline Disclosures and (b) Enhanced Disclosures; summary of which is tabulated here.

Thematic Pillar	Baseline Disclosure	Enhanced Disclosure
Governance	Details of Board of Members who are handling climate-risk, availability of policies and procedures, skills, and competencies to handle climate risk and delegation of powers on taking decisions.	Risk Management policies, processes, targets set and achieved, integrating internal functions for climate-related issues; compliance with any national or international standards.
Strategy	Description of how climate related issues impacts business model, revenue, cost, assets etc., and the definition of short, medium, and long term, impact of climate related financial risks and opportunities on the business model.	Impact of climate-related issues on financial position and financial performance for the year and in short, medium, and long term; how business model is resilient to the strategy, resources planning and management, climate risk mitigating efforts., targets set vs. achieved, transition plan, capital management and climate scenario analysis.
Risk Management	Impact of climate-related risk drivers on the credit risk, market risk, liquidity risk, and other operational and financial risks.	How Climate-related risks and opportunities are integrated and climate stress testing results.

Thematic Pillar	Baseline Disclosure	Enhanced Disclosure
Metrics and Targets	Regulatory disclosures, details of emission, use of science based initiatives including GHG emission under Scope 1, 2 and 3.	Scope 1, 2 and 3 emissions and methodologies adopted, details of emissions of value chain partners, financed emissions, details of physical and transition risks, capital deployed, how climate related considerations are factored into remuneration of whole time directors / CEO and other material risk takers and if so how much percentage of remuneration is indexed to such considerations.

Commencement:

Particulars	Governance, Strategy, and Risk Management	Metrics and Targets
SCB, AIFIs, Top and Upper layer NBFCs	FY 2025-26 onwards	FY 2027-28 onwards
Tier IV UCB's	FY 2026-27 onwards	FY 2028-29 onwards
Disclosure requirements for the other Regulated Entities shall be announced in due course.		

Validation and Disclosures: The above disclosures is subject to appropriate internal control assessments and is subjected to review by the Board of Directors or a Committee of the Board and included as part of the financial statements and on its website.

Author's Views:

Regulated Entities would now have to work on various factors including:

- 1. Realigning their governance structure** as required by the aforesaid draft framework. The Board of Directors would have to set up a committee to ensure the required support is given to the entities to bringing members with experience in climate risk mitigation strategies and sustainability reporting.
- 2. Risk Management aspects needs** to be reworked to bring in risks of climate-risks, enhanced reporting and compliance, etc., including identifying and mitigating risks. The regulated entities risk management governance i.e., from the risk management committee, the charter, the framework and how the risks are going to be identified and mitigated requires to realign to the regulatory requirements and stakeholder's expectations. Advent of Green Banking and Sustainability Financing options would also require regulated entities to relook at their risk management practices holistically.
- 3. Have the information pipeline ready for the quantitative and qualitative data** required for

reporting. Some or most of the information may not be available within the current information system; and hence there has to be a mechanism to collate the data over a period of time and validate the same before it can be used for reporting. The concerned process owners would have to be educated and awareness program needs to be conducted to include the critical data required for reporting on a periodical basis.

- 4. The Internal Control Framework** needs to be updated to include controls surrounding the information required for reporting. The Risk Control Matrix needs to be updated accordingly. The regulated entity's internal auditors can play a vital role in providing their advice and their assurance on the information used for the purposes of reporting.
- 5. The financial statements** may have some crucial information which may be referred to in the **climate-risk related disclosures** and vice-versa. Care must be taken to ensure that the disclosures in either of the reports are not contradictory to each other and lend them to be misstated.
- 6. Managerial remuneration** needs to be evaluated if there are regulated entities who have benchmarked the managerial remuneration to achieving specific goals. There must be consensus on the factors including whether the goals are achievable, who is going to validate the results, how is it comparable to the industry and peers etc.,

7. Information to be sought from **value chain partners** seems to be one big challenge. Regulated entities would have to liaise with their partners to get information required for reporting which they may or may not have. Hence efforts are required to bring in awareness and education on this subject and need for the regulated entities to disclose the same.
8. It is better for the regulated entities to draw reference from other reporting frameworks and ensure the requisite information is being kept ready or sufficient infrastructure is available to handle the enhanced reporting requirements in future including that of **'financed emissions'** i.e., the portion of GHG Emissions of an investee or counterparty attributed to the loans and investments made by an regulated entity to the investee or counterparty. These disclosures is expected to entail complex

calculations, use of an expert, adequate evidence to support the claim etc., which would be subject to regulatory scrutiny.

Conclusion: It appears that over a period of time the number of entities or industries which would be in the purview of reporting on sustainability or climate-risks is only increasing. Time for regulated entities to ensure the requirements are not just compliance by law but the way the stakeholders expect the business to be conducted and hence these are to be integrated as part of strategic and operational decision making process. Chartered Accountants have an opportunity here as either consultants or advisors or even assurance partners to ensure that the regulated entities deliver a quality report.

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Invitation to write articles

KSCAA invites Chartered Accountants and other subject experts to submit articles and share their expertise through KSCAA News Bulletin. The article may cover any topic covering auditing, finance, Tax laws, strategy, technology, Health, RERA, and so on. The authors can share the articles to info@kscaa.com.

Guidelines for Submission of Articles:

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- ✓ The article should be Original; it should not be published or posted elsewhere.
- ✓ As a policy, at KSCAA we believe in 'Zero Tolerance for Plagiarism' and any violation shall be construed seriously.
- ✓ The committee cannot assure the authors of immediate publishing of the article. A repository of articles would be maintained and accordingly published in the upcoming editions on an appropriate basis as decided by the committee.
- ✓ The article should be limited to 1,500 to 1,750 words. The Author is requested to exercise due care, diligence and professional judgement to restrict their article to the above-mentioned limits.
- ✓ The article should be submitted only in Word Document.

Ethics from Epics - 7



Vidura Neeti - the rich repository of wisdom CA Allama Prabhu M S

Part - 1

Vidura was renowned for his exceptional intellect and morality. Vidura Neeti refers to the piece of advice he gave to his half-brother Dhritrashtra, at a critical time. In order to fully appreciate, it is necessary to understand the context and the background that led him to impart his teachings.

Thirteen years later, all friends and well-wishers of Pandavas gather to celebrate the marriage of Abhimanyu and Uttara. Following the wedding ceremony, they all got together and discussed what to do next. Krishna led the discussions and it was concluded that Yudhishtira should necessarily seek his share of the kingdom as earlier agreed upon.

Since the intention of Duryodhana was not known to them, it was felt necessary to send a wise person to Hastinapura who could effectively convey the message.

A knowledgeable person was sent to express the thoughts, feelings and intentions of Pandavas, which were to demand either half of the kingdom and seek peace, or, if not, be ready for the great combat.

After hearing the messenger, Dhritrashtra assured that he would consult his court and would be sending the message through Sanjaya.

Dhritrashtra was worried about the war. He was afraid that Bheema would kill all of his sons, and that Yudhishtira would eventually rule the world. So, he used all of his wits, emotional coercion, and spiritual approaches in an attempt to avert the war.

Accordingly, Sanjaya was sent as the ambassador of Kauravas with discreet messages. The substance of the message being:

1. In seeking half of the kingdom, Yudhishtira has erred.
2. He ought to have asked for the Kingdom thirteen years ago rather than now!
3. Is it right to kill family members in a war for getting the kingdom?
4. Killing family members won't bring happiness and tranquillity. So, he ought to get over this craving and concentrate on getting Punya.
5. He should give up this idea and live out the rest of his days in a forest for the benefit of everyone on earth.
6. Yudhishtira was also charged with intentional cruelty motivated by self-interest.

Sanjaya conveyed the message against his desire, but in accordance with royal directives. Pandavas responded with a warning, rather than a message. Sanjaya was a righteous person; he was sad and upset that he was used as a tool to represent the sinful thoughts of Dhritrashtra and his sons.

It was night when Sanjaya returned to Hastinapura with the rejoinder. After meeting Dhritrashtra, with a tone of censure, he expressed his dissatisfaction over the unpleasant work assigned to him. He declared with a blunt tone that the King was unjust and his sons were sinners. He finished by saying that he would deliver the news at the Court Hall, the next morning. He took leave and abruptly left.

Dhritrashtra, who was already frightened, began to sweat and became ever more nervous as he considered the deadly consequences of the War and the eventual destruction of his sons.

Desperate and disappointed, unable to sleep, he sent words to Vidura, his lone friend and sole sanctuary. Vidura gives the King insightful counsel on moral principles, cultivating virtues, introspection and illumination. His teachings are not only for the King; but for everyone, appropriate for all ages and cultures, relevant for all generations and serving as a compass for anyone looking for moral guidance in their life.

Some of his thought-provoking teachings are outlined here.

1. Prudent living:

“Do that during the day
which may enable you
to pass the night in happiness;
do that during the eight months of the year
which may enable you
to pass the rainy seasons happily.
Do that during youth
which may ensure
a happy old age;
do that during your whole life
which will enable you
to live happily hereafter”

- Kamala Subramaniam, *Mahabharata*

2. On collection of Taxes:

This topic is extensively discussed and repeated in various scriptures. The author of Vidura Neeti, Shanthi Parva, and Chanikya Neeti uses the metaphor of a bee collecting honey from flowers to emphasize the need for pleasant and acceptable methods of tax collection.

Tax terrorism most likely existed in numerous kingdoms, at different times as well.

In this regard, here, we find one more relevant addendum.

पुष्पं पुष्पं विचिन्वीत मूलच्छेदं न कारयेत् ।
मालाकार इवारामे न यथाङ्गारकारकः॥

“Much like a florist who plucks flowers without uprooting plants, so should the king collect taxes without harming the people.”

3. Attribute of Sin, only to the Sinner:

एकः पापानि कुरुते फलं भुङ्क्ते महाजनः ।
भोक्तारो विप्रमुच्यन्ते कर्ता दोषेण लिप्यते ॥

“Several people may enjoy the fruits of a sinner.
Eventually, the sin gets attached to the one who commits it and others escape unhurt.”

A robber named Ratnakara lived in the forests. One day, Narada met him and questioned him about his way of living. He asked him why he is indulging in a sinful acts, like robbing the innocent people; for which Ratnakara replied that he is doing it for his family, to feed his dependents.

For which, Narada asked Ratnakara to inquire his family and dependents whether they will also share the sins that he is committing to take care of them.

Ratnakara asked each member of his family whether they were willing to share his sins. Nobody was prepared to share the sins of his wrongdoings.

This was a shocking revelation for Ratnakara.

Narada impressed upon him that the sin gets attached to the sinner alone and no one else.

Ratnakara gave up his acts of crime, and experienced a profound transformation. He lost himself in introspective thoughts and contemplation. With a sense of remorse, he meditated and performed penance for several years and became a fully transformed man.

Ratnakara became Valmiki, who composed Ramayana.

(to be continued..)

Source:

1. ಮಹಾಕವಿವಿಷಯಾಧ್ಯಾಯ ವಿದ್ವಾನ್ ಡಾ. ಎನ್. ರಂಗನಾಥ ಶರ್ಮ ಅನುವಾದಿತ ಕುಮಾರವ್ಯಾಸ ವಿರಚಿತ ವಿದುರ ನೀತಿ, ಪ್ರಕಟಣೆ: ಕನ್ನಡ ಸಾಹಿತ್ಯ ಪರಿಷತ್ತು
2. ಶ್ರೀ ಮತ್ತೂರು ಕೃಷ್ಣಮೂರ್ತಿರವರ ಅನುವಾದದ ವಿದುರ ನೀತಿ, ಪ್ರಕಟಣೆ: ಭಾರತೀಯ ವಿದ್ಯಾ ಭವನ, ಬೆಂಗಳೂರು
3. **Vidura Neethi** English Translation by Sri K.M. Ganguli

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Jnanottirnata

Transcendence Through Knowledge

36th KSCAA ANNUAL CONFERENCE 2024

1st & 2nd March 2024,
Bunts' Sangha Auditorium, Vijayanagar, Bangalore





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FINANCIAL REPORTING AND ASSURANCE



CA. Vinayak Pai V

KEY UPDATES

A. AS|Ind AS

1. EAC Opinion – Accounting treatment of pre-project expenses for which fund approval is pending (Ind AS)

The March, 2024 edition of the ICAI Journal has carried an Expert Advisory Committee (EAC) **Opinion-Accounting treatment of pre-project expenses for which fund approval is pending under Ind AS Framework.**

Background - A Company (100% subsidiary of Oil Industry Development Board (OIDB)), had the following accounting practice: the grant received by the Company from its shareholder (OIDB) was treated as income in the Statement of P&L (income recognised on accrual basis, i.e., to the extent of expenditure incurred irrespective of actual amount of grant receipt). Correspondingly, the amount of expenditure incurred out of that grant was shown as expenses in the P&L. The accounting policy w.r.t. revenue grant received from shareholders was followed for the sanctioned and disbursed grant of ₹ 19 crores from OIDB, however the liability for the unpaid invoices of ₹ 2.22 crore could not be provided in the absence of sanction of funds from MoPNG/GoI. The basic issues raised with the EAC was whether- the Company's accounting treatment for not making provision for expenses incurred in the books of account in the absence of fund source and not providing for liability for the same was in order and if not, what accounting/disclosure methodology would have been adopted by the Company w.r.t. such transaction and/or situation?

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

- The accounting treatment of **not recognising the liability in respect of expenses incurred** (but not approved) **is incorrect**, considering the accounting requirements of Ind AS (Ind AS 1 and Ind AS 37 specifically).
- The Company **should have recognised a liability** in respect of the pre-project expenses when the

pre-project activities are executed by the supplier of goods or services and as a result of which, a **present obligation arises** on the Company to pay cash to the supplier.

- Since the Company did not follow the above-mentioned accounting treatment, the same, if material, **should be rectified** in the current reporting period, considering it as an error, as per the requirements of Ind AS 8.

Link to the Opinion -

<https://resource.cdn.icai.org/79217cajournal-mar2024-34.pdf>

2. ICAI – Technical Guide on Preparation of Financial Statements under Cash Basis of Accounting

In February, 2024, the Institute of Chartered Accountants of India (ICAI) released a **Technical Guide on Preparation of Financial Statements under Cash Basis of Accounting**. The purpose of the Guide is to provide guidance for preparation of general-purpose financial statements of non-company entities under the cash basis of accounting. This includes the application of accounting principles pertaining to recognition, measurement, presentation and disclosure of various items of income and expenses, assets and liabilities in the financial statements in the context of cash basis of accounting.

Link to the Technical Guide -

<https://resource.cdn.icai.org/78907asb63134.pdf>

B. ASSURANCE

3. IAASB ED – ISA 240 (Revised), The Auditors Responsibilities Relating to Fraud in an Audit of Financial Statements

On 6th February, 2024, the International Auditing and Assurance Board (IAASB) issued an Exposure Draft (ED), **International Standard on Auditing 240 (Revised), The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements.**

The **key changes proposed** in the ED include: auditor's **responsibilities** relating to fraud in an audit is **clarified**; **emphasis on professional scepticism** to ensure auditor's remain alert to possible fraud and exercise professional scepticism throughout an audit; **strengthened identification and assessment of risks** of material misstatement due to fraud; clarifies response to fraud or suspected fraud identified during the audit; increased ongoing communication with management and those charged with governance about fraud; **increased transparency** about auditor's responsibilities and fraud-related procedures **in the auditor's report**; and **enhanced audit documentation requirements** about fraud-related procedures.

The ED is open for comments till 5th June, 2024.

Link to the ED –

<https://www.iaasb.org/publications/proposed-international-standard-auditing-240-revised-auditor-s-responsibilities-relating-fraud-audit>

4. ICAI – Revised SAs: SA 800, SA 805 and SA 810

On 7th February, 2024, the ICAI issued **three revised Standards on Auditing (SAs)**, namely **SA 800 (R)**, Special Considerations - Audits of Financial Statements Prepared in Accordance with Special Purpose Frameworks; **SA 805(R)**, Special Considerations - Audits of Single Financial Statements and Specific Elements, Accounts or Items of a Financial Statement; and **SA 810(R)**, Engagements to Report on Summary Financial Statements.

The revised standards apply to audits/engagements for financial years beginning on or after 1st April, 2024.

Link to the revised Standards -

<https://www.icaai.org/post/aasb-issuance-sa800-805-810-revised>

5. ICAI – Revised Implementation Guide - Reporting on Audit Trail

On 12th February, 2024, the ICAI released a **Revised 2024 edition** of the **Implementation Guide on Reporting on Audit Trail under Rule 11 (g) of the Companies (Audit and Auditors) Rules, 2014**. The revised edition includes a separate section of **Frequently Asked Questions (FAQs)** that covers various practical situations which may be faced by auditors while reporting under Rule 11(g).

Link to the revised Implementation Guide -

<https://resource.cdn.icaai.org/78922aasb63149.pdf>

6. ICAI – Guidance Note on Bank Audits (2024 edition)

On 14th February, 2024, the ICAI released the **2024 edition** of the **Guidance Note on Audit of Banks**. The Guidance Note is divided into two Sections (Section A - Statutory Central Audit and Section B - Bank Branch Audit). It contains various Appendices like illustrative formats of engagement letter, illustrative formats of auditor's report both in case of nationalized banks and banking companies, illustrative formats of management representation letter, the text of master directions, master circulars and other relevant circulars issued by the RBI.

Link to the revised Guidance Note -

<https://resource.cdn.icaai.org/78977aasb-gnab2024-b.pdf>

C. NFRA

7. Order u/s 132(4) – Bilcare Ltd. Audit

On 22nd February, 2024, the NFRA issued an order (No.005/2024) u/s 132(4) of the Companies Act finding the Engagement Partner (EP) of the Audit Firm that conducted the statutory audit of Bilcare Limited for F.Ys. 2015 to 2017 guilty of professional misconduct.

As per the Order, the financial statements of the Company were materially misstated due to **partial recognition of interest cost on borrowings classified as NPAs by the Banks** and non-recognition of interest costs. The EP **instead of issuing a modified opinion**, issued unmodified opinion and **referred the matter in an Emphasis of Matter (EoM) paragraph** in the Auditor's Report, which is in contravention of SA 706. The EP also **failed to obtain sufficient appropriate audit evidence to verify revenue**, which is an item fraught with fraud risk.

NFRA imposed a **monetary penalty of ₹3 lakhs** on the EP. In addition, the EP has been **debarred for 2 years**.

Link to the Order -

<https://cdn.bbsr.s3waas.gov.in/s3e2ad76f2326fbc6b56a45a56c59fafdb/uploads/2024/02/20240222692757146.pdf>

D. RBI

8. Monetary penalty imposed on a UCB for non-reporting of fraud

On 22nd February, 2024, the Reserve Bank of India (RBI) imposed a **monetary penalty** of ₹50,000 on

Hanamasagar Urban Co-operative Bank Ltd., Karnataka for non-compliance with the directions issued by RBI on **'Frauds in UCBs: Changes in Monitoring and Reporting mechanism'** read with the directions issued by RBI on 'Master Circular on Frauds-Classification and Reporting' and 'Reporting of Frauds on XBRL-FMR submission, FMR 2 discontinuation and introduction of FMR-3'. It may be noted that the RBI's statutory inspection with reference to the financial position of the bank [31st March, 2022], and examination of the Inspection Report, Risk Assessment Report revealed, inter alia, that the bank had not reported a case of fraud to RBI within the stipulated timeline.

Link to the Press Release -

https://www.rbi.org.in/Scripts/BS_PressReleaseDisplay.aspx?prid=57370

E. SELECT GLOBAL ENFORCEMENT ACTIONS/INSPECTION REPORTS

Enforcement Actions

9. Extracts from US PCAOB Inspection Reports of Audit Firms

On 6th February, 2024, the US Securities and Exchange Commission (SEC) announced settled accounting fraud charges against a Company providing cloud communications products and services. According to the SEC's order, two senior managers who led the Company's strategic customer contracts and key accounts department **orchestrated a fraudulent scheme to prematurely recognise revenue on service contracts**. Facing pressure to meet strict quarterly sales targets, the two senior managers **directed their employees to improperly recognize revenue on numerous contracts for which the Company had either not completed work or, in some instances, not even started work**. As a result of this misconduct and other accounting errors, the Company overstated its unaudited financial results for the second and third quarters of 2021 and its announced revenue guidance for the fourth quarter of 2021. The SEC determined not to impose civil penalties against the Company since it self-reported its accounting issues, cooperated extensively with the SEC's investigation, and undertook prompt remedial measures. [Release No. 2024-15]

10. PCAOB – Audit Firm imposed \$2 million penalty for violating quality control standards

On 20th February, 2024, the US Public Company Accounting Oversight Board (PCAOB) censured an

Audit Firm and imposed a **civil money penalty of \$ 2 million** on it for violating PCAOB rules and quality control standards.

The Audit Firm had accepted a substantial number of audit clients between 2020 to 2021, including hundreds of special purpose acquisition companies (SPACs), resulting in a significant increase in its issuer audit practice. The Firm added 273 new issuer clients in 2020 and another 157 new issuer clients in 2021. **As per PCAOB's Order, the Audit Firm's system of quality control failed to provide reasonable assurance that it would:** undertake only those **issuer engagements that it could reasonably expect to be completed with professional competence** and appropriately consider the risks associated with providing professional services in the particular circumstances; ensure that **partner workloads were manageable** to allow sufficient time for engagement partners to discharge their responsibilities with professional competence and due care; ensure that personnel were consulting with individuals within or outside the Firm, when appropriate, when dealing with complex issues; perform sufficient procedures to test estimates, including sufficiently evaluating the reasonableness of certain significant assumptions underlying the estimate; make all required communications to issuer audit committees; perform sufficient procedures to determine whether certain matters were critical audit matters (CAMs); and perform sufficient procedures to test journal entries. [Release No. 105-2024-010]

11. SEC – Charges Company with misleading investors about its Electric Vehicle (EV)

On 29th February, 2024, the US SEC charged a Company with misleading investors about the sales prospects of its flagship electric pickup truck (Endurance). According to the Settled Order, **the Company exaggerated the demand** for Endurance, claiming that the company had received more than 1,00,000 nonbinding 'pre-orders' for the vehicle from commercial fleet customers when most of the pre-orders came from companies that did not operate fleets or intend to buy the truck for their own use. The SEC's order also found that the Company misrepresented the timeline for delivering the EV by failing to account for production delays partially due to its inability to access many critical parts. Without admitting or denying the SEC's findings, the Company **agreed to a cease-and-desist order and disgorgement of \$25.5 million**. Also, the Company's **former auditor has been charged with violating auditor independence standards**.

The SEC stated that *“Exaggerations that misrepresent a public company’s competitive advantages distort the capital markets and foil investors’ ability to make informed decisions about where to put their money.”* [Release No. 2024-29]

Extracts from US PCAOB Inspection Reports of Audit Firms

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

Audit deficiency identified - With respect to **Revenue**, for which the Audit Firm identified a fraud risk: a) The Firm did not perform sufficient procedures to test certain revenue because the firm did not evaluate (i) whether the sales contracts included multiple performance obligations and (ii) whether revenue was recognized after the point in time at which control was transferred to the customer. The Audit Firm did not perform any procedures to evaluate whether the client’s sales contracts met the criteria for application of the practical expedient relating to the remaining performance obligations disclosure. [Release No. 104-2024-030]

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

Audit deficiency identified - The Audit Firm identified fraud criteria for journal entries and obtained a listing of all journal entries that met the criteria. The firm did not perform sufficient substantive procedures to test those journal entries, because it limited its procedures to certain journal entries, without having an appropriate rationale for limiting its testing to those journal entries. [Release No. 104-2024-028]

F. SELECT PUBLICATIONS

14. UK Financial Reporting Council (FRC) - *Views of Firms on Entry, Growth and Exit in the Markets for Smaller PIE Audits and non-PIE Audits.* [1st February, 2024] [https://media.frc.org.uk/documents/Views_of_firms_on_entry_growth_and_exit_in_the_markets_for_smaller_PIE_audits_and_non-PIE_audits.pdf]
15. International Federation of Accountants (IFAC) – *The State of Play: Sustainability Disclosure and Assurance, 2019-2022 Trends and Analysis.* [22nd February, 2024] [<https://www.ifac.org/news-events/2024-02/sustainability-reporting-and-assurance-practices-largest-global-companies-continue-mature-ifac-aicpa>]

16. International Accounting Standards Board (IASB) – *Summaries of Reports on Materiality.* [27th February, 2024.] [<https://www.ifrs.org/content/dam/ifrs/news/2024/summaries-of-nss-reports-on-materiality.pdf>]

G. WHAT THEY SAID...

“The benefits of global accounting standards are now largely taken for granted. However, the information needs of investors have continued to evolve. Today, the focus is on climate and broader sustainability factors. Similar to 20 years ago, the market lacked widely accepted capital market standards—with an alphabet soup of voluntary sustainability reporting initiatives in its place.

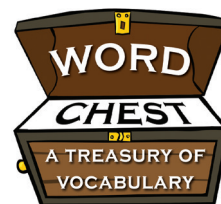
Given the success of IFRS Standards, many asked the IFRS Foundation to step in. Encouraged by the G20, the Financial Stability Board, IOSCO and our own Monitoring Board, we organised a global consultation which started by two questions: 1. Do we need global sustainability standards? and 2. Should the IFRS Foundation play a role?

The response to both questions was an overwhelming yes. So, we started to work, on the basis of this strong demand.”

- **Erkki Liikanen**, Chair of the IFRS Foundation Trustees [28th February 2024]

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Gazelle company

According to the original technical definition, a "gazelle company" is a high-growth company that has increased its revenue by at least 20% per year for four or more years, starting from a revenue base of at least \$100,000.

RERA 2016 - IMPORTANCE OF FINANCIAL YEAR END RECONCILIATION



CA. Vinay Thyagaraj

Wishing all our members and readers abundant success in their financial journeys, with ample opportunities for both wealth creation and preservation. May you find greater peace of mind and contentment in your financial endeavors. Here's to seeing all your financial aspirations manifest into reality!

1. As we embark on the new financial year of 2024-25, it's also time to conclude the books of accounts for the preceding financial period of 2023-24. Financial year end closure involves a series of essential tasks and activities that entities and promoters/professionals must undertake to adhere to legal, regulatory, and accounting/tax standards. It's a critical process for ensuring transparency, uniformity and accountability to all stakeholders involved.
2. One of the key objectives of RERA (Real Estate Regulatory Authority) is to foster transparency within the Real Estate Industry. Transparency has emerged as a fundamental aspect of economic operations, and this holds especially true for the real estate sector given its regulatory, economic, social, and environmental significance. While strides have been made in recent times, there remains a pressing need for further measures to enhance transparency within real estate markets and entities.
3. Digitalization plays a pivotal role in bolstering transparency, yet the real estate sector has been sluggish in embracing new technologies to streamline manual processes. Data accessibility remains disparate and inconsistent across various departments within organizations.
4. Recognizing transparency as an integral component of sustainability communication, and acknowledging the crucial role of digitalization in achieving it, numerous studies have delved into the perceptions of real estate entities regarding transparency enhancement in their interactions with stakeholders, including regulators, investors, lenders, customers, the market, and tax authorities. Additionally, these studies examine the integration of information and communication technology into their operational frameworks.

5. Through qualitative analyses, various groups have scrutinized sustainability reports published by real estate firms, which serve as vital repositories of non-financial information for stakeholders. Transparency predominantly manifests in corporate governance practices, as real estate entities increasingly prioritize maintaining transparent relationships with stakeholders and incorporating their expectations into their strategic approaches. Notably, research findings indicate a widening scope of transparency both within entities and in reports that include assurance statements.
6. The reporting being specific to industry, the regulators constantly monitoring the developments of the industry and the eco-system. Real estate is not an exception to it. Post RERA all the stakeholders of the real estate cognizant about the RERA registration, periodical updates, funds utilisation reporting, approval of modification of plans and specifications, approval for change of promoters in the project, compliances to the advertisement and adherence to terms of the agreement of sale.
7. RERA being the novel statute and regulators are notifying the various regulations, notifications etc based on their experiences, on government and stakeholders demand depending on the situation or circumstances that spew from time to time.

In this article, we would like to bring the important data points/details to be considered by the Real Estate entities (promoters of the real estate projects), advisors, professionals etc., considering the various aspects as mandated under RERA. The promoters and professionals shall consider and comply with the Regulatory Compliances to mitigate the risks -

1. Prior Registration of the project – Section 3
2. Financial management under RERA – Section 4
 - a. Quarterly update / Quarterly progress report – Section 11
 - b. Annual Audit under RERA – Section 4

3. Prior Registration of the project –

- a. Section 3(1) of the RERA Act 2016 mandates the prior registration of the real estate project (building or plotted) before sale, marketing, invitation, collection of advances -
 - i. It is important for the professionals to consider while verification, reporting and certification, whether the promoter has advertised or collected money prior to registration of the real estate project with the RERA Authorities.
 - ii. The registration details can be verified on Rera website <https://rera.karnataka.gov.in/projectViewDetails>
 - iii. Further the professionals can verify by looking at the bank account receipt, agreement of sale entered.
 - iv. The RERA authorities have levied penalty for advertisement or collection of money prior to RERA registration.
 - v. Further the promoter might have allotted the unit against the advance/borrowing. If so, further emphasis should be made and verify the transaction to satisfy and comply with Section 3(1) of the RERA Act 2016
 - a. Eg., Balance Sheet of 31st Mar 2023 showing balances under Borrowings or current liabilities. During 2023-24, unit is allotted against such borrowings.
 - b. Relevant documents to prove and satisfy the advances are converted to unit/flat advances post RERA registration.

4. Financial management under RERA – Section 4(2)(L)(D) of the RERA Act 2016 mandates the promoter of the real estate project to deposit 70% of the amount realised from the allottees to the project RERA designated bank account from time to time –

- a. The RERA designated bank account can be verified for each project at <https://rera.karnataka.gov.in/projectViewDetails>
- b. Verify the total sales register or collection register.
- c. Verify amount credited to project RERA designated bank account.
- d. Reconcile the collection and 70 % deposit. Any variances, collect the reasons for future references.
- e. Further verify and confirm that the realisation from sale of landowners units should also be deposited in RERA designated bank account.
- f. Refer RERA Bank Account directions 2020 and Karnataka RERA Regulations 2022 for details.
- g. Verify whether the promoter have collected the professional certificate of Engineer, Architect and Chartered Accountant Certificate for withdrawal of funds from the project RERA designated bank account from time to time in proportion to completion of the project works.
- h. Excess withdrawal at any point of time shall be recorded and reported if any

5. Compliance checklist and Reconciliation under RERA: preparation of reconciliation statements to ensure accuracy and completeness, as well as reconciling any discrepancies or differences between reports submitted with various stakeholders –

Sl. No.	Stakeholder/s	Reconciliation items
1.	RERA Authority – Mandatory Compliances under RERA Act 2016	Mandatory compliances under RERA – Post the Registration of Real Estate Project - <ol style="list-style-type: none"> a. filing of quarterly updates – b. RERA annual audit annual reports c. application for extension of end date – Section 6 d. further extension of end date of the project – Section 7 e. Reporting and modification of plan and specifications in the project – Section 14 f. Advertisement guidelines – Section 11 and Section 12 g. Liability or action against the orders passed by the Authority or Adjudication officer for the complaints filed under Section 31 / Sections 35 h. Liability or action against the orders passed by the Appellate Authority 43 i. Filing of Completion report

Sl. No.	Stakeholder/s	Reconciliation items
2.	Financial Institution / Bankers – Lenders	<ul style="list-style-type: none"> a. Arrive at the Drawing power based on the inventory or receivables b. Total number of Sold units / unsold / inventories in the project. c. Communication to the lenders for NOC from the lenders for the units sold and agreements entered. d. Receivables from the Sold units Vis-à-vis books of accounts e. Unsold inventory as per books of accounts and average value of the receivables from unsold inventory to cover the balance dues / outstanding loans or borrowings. f. Status of construction progress of the project. g. Provision of interest on borrowings. h. Disclosure of status of borrowing – in case of non-performing asset and providing the interest there on
3.	Goods and Services Tax - GST	<ul style="list-style-type: none"> a. Report / disclose of Percentage of completion of the project b. Total amount received/supply based on the agreement and GST discharged on the amount received or due. c. Reporting of RCM transaction and discharge of liability (Legal Fees, Development rights, transport expenses, purchases less than 80% etc) d. Availing the eligible Input Tax credit e. Satisfaction of 80 % criteria of registered GST purchases f. Discharge of unregistered GST purchases if any or lower than 80 % criteria g. Reversal of ineligible GST Input Tax Credits h. Reconciliation and allocation of GST incase of Mixed Development Project (Residential and Commercial) i. Taxation on Plotted development
4.	TDS deducted by the buyers @ 1 % U/s. 194 IA of Income Tax Act 1961	<ul style="list-style-type: none"> a. Reconcile the total receipt of money from the allottees. b. Check 26 AS whether 1 % has been credited against the receipt from the customers/allottees. c. If not, communicate the same to the allottees and insist them to remit and share the details. d. This will help the revenue reconciliation vis-à-vis TDS Credits
5.	Inventory Valuation – stock lying at the site or at yard	<ul style="list-style-type: none"> a. Physical verification of stock / inventory b. Construction materials lying at the site or yard c. 3rd party materials / equipment's at site
6.	Revenue Reconciliation	<ul style="list-style-type: none"> a. Recognition of revenue as per Accounting Standard and Tax Standards and reconciliation with the data as provided to RERA – i.e., realisation of money from the allottees vis-à-vis revenue recognised based on % of completion of the project
7.	Provision for the delay compensation (delay in delivery of the unit to the allottees – <ul style="list-style-type: none"> a. Based on Terms of the Agreement b. Based on the orders of the Authority or Adjudicating officer 	<ul style="list-style-type: none"> c. Provision of expenses for the delay compensation payable to the allottees as per the terms of the agreement and as per the RERA Act 2016 (SBI MCLR + 2% interest) – Section 13 read with K RERA Rules 8A d. Applicable GST payable compensation payable on such delayed delivery of the project e. TDS by the promoter on such provision of expenses
8.	Management Information System – MIS to Investors etc	<ul style="list-style-type: none"> a. Reconciliation of various values as per MIS and Books of Accounts

Registration Checklist (in case project registered during the FY 2023-24)	Estimated cost of Land As per RERA Registration	Estimated cost of Construction As per RERA Registration	Project RERA Designated Bank Account	Number of Inventory
Project RERA Registration Number and Project Name	Rs. XXXX	Rs. XXXX	1. Bank Name 2. Account Number 3. IFSC Code	XXX Units

RERA

Quarterly Updates	June 2023	September 2023	December 2023	March 2024
Due Date of Filing	15 th July 2023	15 th October 2023	15 th January 2024	15 th April 2024
Actual Filing Date	DD/MM/YYYY	DD/MM/YYYY	DD/MM/YYYY	DD/MM/YYYY
Architect Certificate - % of Completion	XX %	XX %	XX %	XX %
Value as per Engineer Certificate – in INR	Rs.XXXX	Rs.XXXX	Rs.XXXX	Rs.XXXX
CA Certificate -				
Construction cost incurred	Rs.XXXX	Rs.XXXX	Rs.XXXX	Rs.XXXX
Total Cost Incurred	Rs.XXXX	Rs.XXXX	Rs.XXXX	Rs.XXXX
Total % of Completion	XX %	XX %	XX %	XX %
Amount Eligible to withdraw	Rs.XXXX	Rs.XXXX	Rs.XXXX	Rs.XXXX
Actual withdrawn	Rs.XXXX	Rs.XXXX	Rs.XXXX	Rs.XXXX
Balance Available to withdraw				
Amount withdrawn is utilised for the project				
Observation / Remarks				
Annual Audit FY 2022-23	Due date of filing (Extended due date 31.12.2023)	Delay if any	Remarks / Observation	Details of CA

Note – there should be a separate Chartered Accountant for issuance of CA certificate in Form 4 and Form 7 (annual audit)

Advertisement	Mode Print – Hoarding, Newspaper, Social media, website, FM, Calls etc	RERA Registration Number as per RERA Guidelines	Remarks / Observation	
Date of Advertisement				
DD/MM/YYYY				

Acknowledging the discrepancies that may arise, we strongly advise promoters or professionals to maintain reconciliation statements meticulously. This proactive measure can safeguard them against any unforeseen notices from tax authorities in the future.

In conclusion, it is imperative for project promoters to provide consistent and uniform data to all stakeholders, aligning with the objectives outlined in the RERA Act 2016 and adhering to various statutory requirements.

Failure to do so may expose them to penalties or legal consequences for non-compliance. Moreover, professionals must diligently advise their clients in accordance with the provisions laid out in the RERA Act, Rules, Notifications, and Circulars to ensure full compliance and mitigate risks effectively.

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IPR AND PROTECTION IN INDIA RECOMMENDATIONS OF PARLIAMENTARY STANDING COMMITTEE (PART - XLIII OF IPR SERIES)



Adv. M. G. Kodandaram

In this article the evolving IPR eco system of India, focussing on the recommendations issued by the Parliamentary Standing Committee concerning the implementation of the National Intellectual Property Rights (IPR) policy are explored. Our objective is to provide readers with comprehensive inputs on the issues pertaining to development of IP as an asset, furnishing insights poised to assist and guide the enterprises and educational institutions in formulating informed decisions and strategic manoeuvres within this evolving realm.

Review of IP Regime in India

The Parliamentary Standing Committee on Commerce reviewed the IPR system in India and presented its findings to both houses of Parliament July 23rd, 2021. The report, which followed discussions with various stakeholders including government departments, industry bodies, and legal experts, highlighted the importance of **innovation and creativity** for a country's overall development. It emphasized the need for a strong IP framework that not only encourages innovation but also safeguards the interests of the society. The committee identified challenges such as low awareness about IPR, counterfeiting, piracy, and issues related to sectors like agriculture and pharmaceuticals and recommended many procedural and substantive ways to address the challenges faced in an effective manner.

The Committee observed that enhancing IPR protection leads to an increase in Foreign Direct Investment (FDI) and the inflow of foreign exchange also. It stated that a mere 1% improvement in copyright protection results in a substantial 6.8% increase in FDI. The Committee further noted that India lags behind countries like China and the USA in patent grants, largely due to insufficient spending on R&D, which is at a mere 0.7% of the GDP. To address this, the Committee recommended several measures, including allocating funds to government departments for research, offering incentives to private companies for research endeavours, and urging large

industries to allocate Corporate Social Responsibility funds towards research initiatives.

Another concern highlighted by the Committee is the low percentage of patents filed by domestic entities in India, which it attributed to a lack of awareness of IPR. Regarding the National IPR Policy, the Committee recommended reassessing the same in light of new innovation trends and identifying challenges in its implementation. It also suggested involving the state governments in the formulation of IPR policies. It emphasized the potential benefits of utilizing IP for financing, including enhanced financial innovation and increased availability of credit. To facilitate this, it recommended amending the Insurance Act to minimize monetary risks associated with infringement of IPR, devising a uniform system for valuing IP, enacting legislation to protect and establish standards for financing, and adopting risk-sharing policies with companies.

To combat counterfeiting and piracy, the Committee proposed stringent legislation, increased capacity for enforcement agencies, and the establishment of methods to estimate revenue loss from such activities. Additionally, it suggested labelling products as 'patent pending' to deter misuse and gain marketing advantages.

Regarding the IP Appellate Board, the Committee recommended reconsidering its abolition in 2021, citing potential increases in judicial pendency. The committee suggested measures to encourage patent registration, expedite patent applications, prioritize trademarks for export-oriented products, and enhance compliance. Additionally, it proposed incorporating internet and digital broadcasters' work under copyright licenses and establishing a separate framework for protecting trade secrets.

In response, the 'Government's action taken report' elaborated its performance in implementing the recommendations of the committee, some of which are listed in the forthcoming paras.

- (a) One of the key recommendations of the Committee was the introduction of a 'patent pending' label on products to recognize their authenticity and credibility. The government has engaged in consultations with stakeholders to incorporate this recommendation into the Patent Amendments Bill, thus empowering patentees to safeguard their products against IP crimes effectively.
- (b) Addressing the lack of awareness about IPRs among Indians, the Department has undertaken IPR training for MSME officers, rural outreach programs, and the establishment of the Cell for IPR Promotion and Management (CIPAM).
- (c) Recognizing counterfeiting and piracy as burgeoning threats to IPR, the government has emphasized capacity building of enforcement agencies and inter-departmental collaboration. Anti-piracy and anti-counterfeiting campaigns, along with the development of an IPR Enforcement Toolkit for Police, reflect the government's proactive stance in combating IP crimes.
- (d) The government has undertaken targeted initiatives to address sector-specific challenges, including expedited patent grants in the pharmaceutical sector and measures to tackle spurious drugs. Additionally, efforts to create awareness among farmers about plant variety protection reflect the government's commitment to safeguarding the rights of stakeholders across diverse sectors.

The government's proactive measures in response to the recommendations of the Parliamentary Standing Committee on Commerce demonstrate its commitment to strengthening the IPR regime.

Role of IP in Socio-Economic Development

In the ever-evolving landscape of global commerce, a robust IPR framework not only promotes industrial and socio-economic growth but also catalyses advancements in science and technology, enhances 'Ease of Doing Business'. IPR encompasses a multifaceted approach, addressing the generation, protection, and management of IP assets, alongside enforcement mechanisms and dispute resolution procedures. This requires safeguarding public interests amidst rapid industrial and technological expansion, thereby positioning the nation favourably on both domestic and international fronts.

Research indicates a direct correlation between IP and national GDP, as well as job creation. Studies conducted by the World Intellectual Property Organization (WIPO)

highlight that the copyright industry alone contributes significantly to GDP and employment figures, underscoring the economic value of robust IP protection measures. Furthermore, findings from the Organisation for Economic Co-operation and Development (OECD) demonstrate the positive impact of trademark, patent, and copyright protections on Foreign Direct Investment (FDI), emphasizing the pivotal role of IPR in attracting capital inflows.

A conducive business environment is essential for attracting domestic and foreign investments. Measures such as promoting fair competition, streamlining IP transactions, combating piracy, and counterfeiting, and expediting dispute resolution contribute significantly to this endeavour.

Empowering Creators and Innovators:

Central to India's IPR regime is the protection of creators' rights. This entails ensuring legislative compatibility with international agreements such as TRIPS, amending or enacting laws as necessary, and streamlining examination and prosecution processes. Heightened awareness across sectors further strengthens this aspect, fostering a conducive environment for innovation. As the world transitions into Industry 4.0, characterized by technological integration and innovation, a robust IPR regime becomes even more critical for strengthening initiatives like "Make in India" and "Aatma Nirbhar Bharat." A strong IPR regime is not merely a legal necessity but a cornerstone of India's socio-economic development strategy. By safeguarding IP and encouraging innovation paves the way for a brighter and more prosperous future on both domestic and global business fronts.

Holistic Approach for Innovation in MSMEs

In today's rapidly evolving business landscape, innovation is the cornerstone of success for MSMEs. These enterprises play a crucial role in driving economic growth, fostering employment opportunities, and enhancing competitiveness. However, the journey from idea conception to market realization is often fraught with challenges, especially for MSMEs lacking adequate resources and support. Recognizing the pivotal role of innovation in MSMEs, the Indian government has introduced the MSME-Innovative initiative, aimed at promoting incubation, IPR and design interventions to catalyse innovation across the sector.

The objective of the MSME-Innovative initiative is multifaceted. Firstly, it aims to foster a conducive ecosystem for innovation by providing comprehensive

support throughout the value chain – from ideation to commercialization. Through incubation facilities, MSMEs can nurture their ideas, receive mentorship, access resources, and refine their innovations into viable products or services. This nurturing environment not only accelerates the innovation process but also mitigates the risks associated with early-stage ventures, thereby increasing the likelihood of success.

Secondly, the initiative seeks to bolster the protection and commercialization of intellectual creations within the MSME sector. Intellectual property rights are pivotal in safeguarding innovations and providing MSMEs with a competitive edge in the market. By facilitating IPR services and awareness programs, the initiative empowers MSMEs to protect their inventions, designs, and trademarks, thereby incentivizing further innovation and investment.

Moreover, the MSME-Innovative initiative endeavours to cultivate a culture of innovation by fostering collaboration among industry stakeholders, academia, government institutions, and research laboratories. By facilitating knowledge sharing, networking opportunities, and collaborative projects, the initiative promotes cross-pollination of ideas, interdisciplinary research, and creative problem-solving. This collaborative approach not only enriches the innovation ecosystem but also enhances the collective capacity for tackling complex challenges and driving sustainable growth.

Furthermore, the initiative serves as a vital bridge between industrial/academic leaders and innovators, facilitating mentorship, knowledge transfer, and access to funding opportunities.

Key benefits under the MSME-Innovative initiative include financial support for incubation, design projects, and procurement of plant and machinery. MSMEs can avail themselves of financial assistance for up to 75% (Micro) and 60% (Small & Medium) of the total project cost, with the remaining portion borne by the enterprises. Additionally, special provisions are made for student projects, wherein 75% of the total project cost is contributed by the Government of India, up to a maximum of Rs. 2.5 lakhs.

By promoting incubation, IPR, and design interventions, the initiative empowers MSMEs to unleash their creative potential, develop cutting-edge solutions, and contribute to India's socio-economic development. India boasts a robust legal system, with courts consistently upholding the sanctity of IPR. However, challenges persist, particularly at the state level, necessitating improvements in commercial court functionality to curb illicit trade practices. Establishing alternative dispute resolution mechanisms and mediation cells can expedite resolution, particularly benefiting small and medium enterprises (SMEs) and startups. In the coming part the legal initiatives will be deliberated.

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IPR

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CA. Rajat Rashmi

THE POWER OF SERVICE

I chose this topic because this is reminiscent of the teachings of Bhagwad Geeta. Service appears to be a powerful tool for self growth. We all serve someone, one way or the other, but to know the value of service can make a big difference.

Our service is our best effort. To Gandhi it was India's freedom through non violence, to Martin Luther King Jr. it was equal civil rights for all people of the USA. To Marie Curie it was commitment to science, which resulted in the discovery of radium and its application to save lives of soldiers during world war II and ever since, to save lives. To Mother Teresa it was freedom from hunger and to Dr. Devi Shetty it is the timely treatment to save lives of heart patients. These are their services to fellow humans. They cannot live without it either, they are selfish in their approach to service.

We could argue that service is not selfless. There is a selfish need to spread a message to everyone around. It's a form of devotion, a fanatic submission to a cause. If we asked how these people manage to find their life's purpose, it may not be totally clear. But their journey after, is quite clear. They completely devoted themselves to the cause and did not look back, did not ask for returns, (they demanded returns, in the form of selfless service, from those who joined them in the cause), did not doubt themselves and did not stop.

Why should you as a chartered accountant read about service in its philosophical sense? Because you serve too. Because it's not about what we do but about how well we do it that really matters. And commitment to service is the tool for making things work.

Service is the strength of character and purpose in an individual to give their very best in all circumstances. The time that is spent in service of others is time well spent. Every culture in the world encourages service. To God, to fellow humans, to other species. In the end all service to others is the service to oneself, because it is fulfilling for those who serve. Serving is the highest form of leadership.

Even if we forget about the outcome of service, service

can be very rewarding. It creates a purpose over and above our own selfish purposes. Life can be very boring without a purpose. Often people have selfish purposes. There is nothing wrong with a selfish purpose, the only problem is, we don't get the benefit of 'the community' in selfishness. In selfish pursuits people feel left alone, ignored and even abandoned by others.

I do not wish to state that our personal needs are selfish. They are not. Money made in service of others is money well earned. In some professions there is a term coined: 'energy exchange'. It is the return for the energy spent in service. Because that way they are able to maintain balance and serve more and more people. Because money is the source of abundance. You know, the luxury lifestyle, exotic holidays and all? We need that too.

When I look around and see how little impact I have made to this world, I know the only way to leave a mark for myself is to dedicate to service for a cause that matters to me. Service which is untainted by greed. But I am not capable of dissolving my ego to that extent as yet. Does that mean I can't serve? Does that mean I am incapable of leaving a mark for myself? These are questions I keep asking myself.

Serving is not negotiable. Many people are doctors but there is one Dr. Devi Shetty. And listening to his interviews, I noted one single defining attribute: the desire to serve. He did make money while serving. It is the same in every profession and vocation. People who understand the power of service, also overcome the most trying of circumstances and reach the most incomprehensible height, from where they will never fall, because they did not leave a sea of corpses as they attained this greatness.

It is not easy, I admit, but if we could see the benefit of selfless service we could actually create an effortless life for ourselves. It cannot be imagined, especially if one is prone to needless worries. Let go of the mundane worries, and you will find that there indeed is such a life waiting for each one of us. Serving is not giving away

all we have, but experiencing the increase in our gifts, by sharing them with others.

If you are an artist you'd want to paint the best picture, and beauty is a service to the world. If you are a singer, your most beautiful song is a service. And the act only makes them better artists and singers.

There is one rider though. The greatest vanquisher of service is pride and arrogance and even worse, greed. I have known greed to hold me back from my best, merely because the amount being earned is not good enough, or the people being served are not important enough. That's such a poor way of making a living.

I learned that a better way to do it is when I tell myself, 'it does not matter what people pay me, or who it is I am serving, what I give back is going to be only class'. There is a risk attached here: people may take advantage of my skill without remunerating me sufficiently or appreciating my effort sufficiently. The payout of unfettered service is still extremely permanent and sooner than later balance will be achieved.

In a world where life and death keeps intermingling, the only place people finally go to is from life to the other side. We often forget that we may not want our last day of life to be spent in a twisted assessment of how much to perform, based on how much we are making. Wouldn't we want the last day of our lives to be 'whole and complete' in all respects? Yet how many of us can be sure of leaving this life so 'whole and complete'? Giving our fullest to every moment is a practice for that unique last moment. We cannot assume that that moment is in the distant future. It could be any moment. That mystery of ultimate end makes life so worth living. It's like an adventure ride that never stops rolling.

Service is the quality of work we do. We all work, but the sense of service refines our work over a wider period of time and makes us so much more real and applicable to the times we live in. We tend to achieve greater excellence over a period of time with a sense of service. And voila! We begin to become irreplaceable. And once we achieve that, we may even become a legend, and hope to leave an indelible mark on our fellow humans.

The legendary life is probably not for everyone. The question to ask is: can we live with the idea of excellence? Because if we can, there is no reason to adopt anything less, if we can't live with the idea of excellence, we need not worry. It's not as if we are being questioned for what we do. It is a choice.

Power of service is not about giving up anything, it is about asking for excellence. When we are excellent in what we do, we are just that and that makes us very powerful. It's when we are not seeking power that the most amount of power comes to us. That is the irony of life.

Therefore the Nobel laureates of the world are much more modest than few auto drivers. Isn't that true? I have tried hitching a ride on the autos. I don't blame them, the auto drivers have a shortage of hope and money and they are not proud of what they do. Is there any surprise that they are greedy and outright audacious? But if they knew the abundance they are capable of, they could transform themselves. I came across this video of an auto driver who keeps the latest newspapers and free wifi in the auto, now that is service, aren't we all seeking that auto driver?

People truly respect Sudha Murthy for her modesty. There is one photograph of hers which stands out, watching the shoes of temple goers. It's an image etched in my heart and mind. Such people create a class for themselves and people just follow them in their wake.

Imagine India without Gandhi? A country with as rich a culture as India still needed the service of Gandhi to claim back its glory. At no time does service go unnoticed. It is so visible that nothing is required to be done besides service itself.

The 'I have a dream' speech of Martin Luther King Jr, at Detroit Convention Centre in Washington was attended by over 250,000 people, at a time when there was no internet and cellphones. It was possible because of the service that he devoted himself to.

People in service of others do not fear death. Eventually many great people have been assassinated. But in their death they have stirred even more people towards their cause. They are ready to go the very next moment, because in every moment they give all that they have. A life lived so well can only be praised. And all of us have the desire to live such a life.

Look at the giants of the world - Gandhi, Lincoln, Mother Teresa, Einstein, Marie Curie, Maria Montessori, Krishnamurthy, Martin Luther King Jr, . . . What is common about all of them? They have served the world. They understood the power of service.

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IN PURSUIT OF TRUTH

(PART - III)



CA. Arun Chintopanth

Part II - Continued.....

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.

Self restraint, the last of the components of YAMA being discussed by us is also known as ASTEYA.

This quality in some measure overlaps that which was referred to earlier under the context of “abstaining from stealing.”

The expression “self restraint” is more or less self explanatory. It is referred to as voluntary control of senses.

Again, detachment or ‘Vairagya’ forms the core of self restraint. No vairagya – no self restraint.

With vairagya self restraint comes automatically and with self restraint comes character. A vairagee is forever a honoured person begetting respect and reverence.

Let me share this beautiful story that I once read:-

A King once asked his Minister “Who is a renunciate? Who is a Vairagi? Who is the person who practices

detachment?”. The Minister in order to please the King said “Sir what is there? There are so many Vairagis, so many renunciates, in your own Kingdom.” The King said, “I would like to meet one tomorrow morning”.

The Minister was now in a fix. He had to now look for one person. So, he caught hold of one unemployed youth and told him, “I will give you a bag of gold coins, you play act for me for one day. You act as a renunciate, as a vairagi. You sit under a tree and I will bring the King to you. And he may offer you something and may talk to you about something but pretend that you are a vairagi, you are a person of detachment and refuse to accept anything only for one day and I will give you a bag of gold”.

The youth was nervous and did not know whether to take it up as it was a tough job, but the bag of gold was very luring, was tempting; so he agreed. The next morning the youth went and sat under the tree and sure enough the Minister brought the King. Not only the King, the Queen, the Prince, the Princess and all the other Ministers came as an entourage to this tree. The Minister introduced the boy as a renunciate as a vairagi. The King was happy. He presented the youth with a tray full of gems, full of jewels, full of gold coins. The youth’s eyes lit up. He had never seen that much wealth before but then he realized, he remembered his brief and he said “Sir I am a renunciate, I am vairagi, I have no desire for these things. I don’t want it.”

The King was very pleased. Then the Queen came with a tray full of delicious food, all sorts of sweets, all kinds of food. The poor boy was so tempted, he had not eaten for four days. He was tempted to take the food, but he looked at the stern eyes of the Minister and he said “Thank you, your majesty I am a renunciate. I am practicing detachment; I am not interested in that.”

Then the Prince came and gave him something. But the same thing the boy repeated. The Princess came and gave something, but the boy again refused it saying that he was a renunciate.

The King was very much impressed. He said, “Here is a real renunciate. Here is a person who has really practiced Vairagya”. So, he fell prostrate before the boy and also asked his Queen, the Prince and the Princess also to prostrate before the boy. Seeing this the Ministers also prostrated and our friend the Minister also had to prostrate before this boy. The King went away quite pleased.

The next morning the Minister came running to the boy and said “Excellent work done! You have really saved my day! You really saved me from the King’s wrath. Here is the bag of gold that I promised you”. The youth said “No, thank you! I am a renunciate. I do not desire for it”. The Minister said “come on, come on, the show is over no need for any play acting anymore. I have come to give you your reward. You take it.” The boy again said, “I told you; I am practicing Vairagya and I am a renunciate. I don’t want it”. This time the Minister was irritated, he said “What is this you are playing with me? You don’t have to play with me. Take it. What are you talking about?”

The youth said “Sir, yesterday **I acted** as a Vairagi, as a renunciate and I had the entire royalty, the King, the Queen, the Prince, the Princess and all the Ministers including you falling at my feet and I realized that if by play acting as a renunciate, I had so much respect, what will happen to me if I am a real renunciate? If I really practice detachment? If I become a real Vairagi? I have therefore decided to become a Vairagi and I would not like to take it from you”.

Nice story is it not ?

With this, we have had a glimpse of what YAMA is about.

Let us move on to the second anga that is NIYAMA.

As mentioned earlier, both YAMA and NIYAMA lay the foundation for the further and higher steps toward SAMADHI.

While YAMA related to moral and prohibited actions, NIYAMA deals with discipline and constructive practices to be followed.

NIYAMA may be split up into five components:-

- i. Contentment
- ii. Purity
- iii. Austerity
- iv. Self study and
- v. Self surrender.

Contentment is a positive energy, not a negative feeling, or a state of helplessness as is generally prescribed. Contentment is to believe that we have more than we require. A contented life is like a river in spate enriching the banks as it flows. Not only we fill ourselves, but we wish to give to others since we have so much. It is like a fragrance. The more of it we spread, the more it grows.

There was this man who would be constantly praying for this or that; never showing contentment at what he would get.

Once God was fed up with this man. He said to the man “I shall grant you three requests. Make sure you choose them carefully because, having granted them I shall grant you nothing more.” The man said, "I want my wife to die so that I can marry a better woman." His wish was immediately granted.

At the funeral of the wife, the friends and relatives who had gathered began to recall the virtues of his wife. Some said what a good woman she was. Some spoke of her generous nature & so on. The man now thought he had been hasty in asking for this wish. So, he asked God to bring her back to life.

Having exhausted two boons, there was only one boon left. He did not know what to ask. So, he consulted his friends. Some advised him to ask for immortality. But what good was immortality, said others, if he did not have good health? And health if he had no money? And what good would money be if he had no friends?

This went on and on. Finally, out of exasperation he decided to ask God Himself. He said to God “you yourself tell me what to ask for.”

God laughed when he saw the man's predicament and said, "Ask to be content no matter what you get."

As Bhagawan Krishna tells Arjuna in the Bhagavad Gita:-

“Sukha Dukhe Samme Krutva
Labha Labhow, Jaya Jayau”.

i.e. to say we need to treat alike victory and defeat, gain and loss, pleasure and pain alike. The three pairs of opposites in this sloka are at three levels of our experiences. PAIN AND PLEASURE are at the “intellectual” level; GAIN AND LOSS at the “mental” level and CONQUEST AND DEFEAT are at the “physical” level. Lord Krishna says that one must learn to keep oneself in equilibrium in all these different

levels of existence.

That is contentment.

Moving on, we go to PURITY or SWACHA.

Purity can be:-

Purity of body

Purity of speech

Purity of surroundings

Purity of mind

Purity of emotions

Purity of body would be both external and internal.

External purity of body involves bathing, cleaning, wearing fresh clothes, not being contaminated with external filth etc.

External purity of body is also required in our actions. All our actions with the body should be gentle and pure.

Internal purity of body is in consuming satvic food. The character of a person to a great extent depends on the quality of his food intake also.

Purity of speech is in being gentle while speaking so as to not hurt any feelings.

It is said that all the things that come out of our body stinks and we have no control over them. The sweat, the Saliva, the excreta - these are things which come out of our bodies - stinking and we have no control over them.

It is not as if one can drink a bottle of perfume each night before going to sleep and thus the next morning nothing will stink. No. This is not possible. We have no control. The only thing that comes out of us and that can be controlled by us is speech. And therefore at least this must be pleasant. We should not add our speech to the other stinking things that come out of us.

The purity of surroundings is as important and as critical as our internal purity. Cluttered and shabby surroundings will have negative bearings on the psyche. It is not for nothing that the 'Swach Bharath' programme has been taken up in such earnestness.

Normally, we are indifferent to our surroundings, blaming the lack of cleanliness on the neighbours or the municipality. Each of us should realise that such purity of surroundings concerns each one of us, affecting our own well-being and therefore initiative should be taken in ensuring this.

The most difficult of these four categories of purity is the purity of mind.

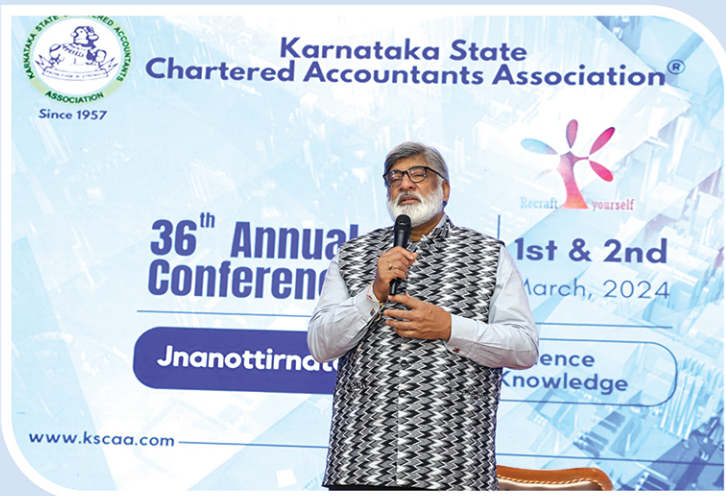
The mind is always wandering. It is tempestuous and cannot be stationary. It is very difficult to be focused with the mind.

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