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NEWSLETTER

VASAI BRANCH OF WIRC

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

FEBRUARY 2023

HAPPY
Women's
Day



Happy
Holi



CHAIRMAN'S COMMUNICATION

Dear Members,

As I communicate with all of you after taking the charge as Chairman of Vasai Branch of WIRC of ICAI, I extend my warmest gratitude to all of you for providing me with this opportunity to serve the members and in turn serve the profession. I am thankful to the members of the Managing Committee of Vasai Branch for reposing their faith in me.

The team which has completed its term under the dynamic leadership of CA. Shri Sorabh Agrawal has brought laurels to Vasai Branch in the last one year. The benchmarks set by all Officer Bearers of 2022-2023 are very high and I wish that with support of all the members of our team

and the members of Vasai Branch we will try to match it.

Like every year this year also we have submitted Yearly Activity reports to WIRC on time as per their criteria to become eligible for Best Branch. We are glad to inform you that Vasai Branch have been recognised for the Letter of Appreciation for Branch under the large Branch Category for 2022-23 and Vasai WICASA of WIRC has been selected for the Highly Commendable Branch of WICASA under Large Branch Category for 2022-23. Thanks for your support & Cooperation.

February is the month of change and budget lays down the very foundation for the change in tax laws. Importantly, ICAI has changed torch bearers and elected CA. Shri Aniket Sunil Talati as President of ICAI and CA. Shri Ranjeet Kumar Agarwal as Vice President of ICAI. At WIRC also, we have a New Chairman - CA. Shri Arpit Jagdish Kabra, Vice Chairman – CA. Shri Hitesh Manharlal Pomal, Secretary – CA. Shri Sourabh Ajmera, Treasurer – CA. Shri Ketan Saiya and WICASA Chairperson – CA. Smt. Pinki Kedia.

We are glad to inform you that the branch had Felicitated Newly Qualified CA on 4th February, 2023, and Public Meeting on Union Budget 2023. On 23rd February, 2023 Vasai Branch organized a Seminar on TDS Overview with Recent Changes at Vasai Branch Premises in the Loving Memories of CA. Shri Sunil Patodia.

The next month is a busy one for Chartered Accountants as there are time barring assessments, advance tax dues and also the fraternity gearing up for Bank Branch Audits. Above all, March is also month of colours and with a hope that we enjoy Holi in eco-friendly manner, I take this opportunity to wish all the members a very Happy Holi.

In the month of March Vasai Branch is organizing Woman's Day Celebration inspired by the theme "SHAKTI" on 4th March & 5th March, 2023. Bank Branch Audit is one of the most important subjects for all the CA's, to understand the intricacies of Bank Branch Audit we are organizing a Seminar on Bank Branch Audit on 19th March, 2023. Vasai Branch is publishing a publication on Bank Branch Audit.

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Knowledge is power and as we know, through the newsletter Vasai Branch has regularly spread maximum knowledge with the members and students community. Given the frequent changes in corporate and tax laws, we are launching annual series of articles by experts on GST, Companies Act, Capital Markets, Valuations and Forensic Audit. Moreover, monthly quiz is also being launched on various topics of professional interest which can help members to gain conceptual clarity on complex topics. 'Certificate of Appreciation' will be given to the top three winners of quiz every month. We seek suggestions to enrich features of our newsletter. Maximum members are requested to come forward and contribute for this noble cause by sharing their knowledge.

"Always bear in mind that your own resolution to succeed is more important than any other". - Abraham Lincoln

CA. Amit Agarwal
Chairman
Vasai Branch of WIRC of ICAI

MANAGING COMMITTEE

CA. Amit Agarwal Chairman	9821374485
CA. Tarun Dhandh Vice Chairman	9833506461
CA. Daya Bansal Secretary	8976074320
CA. Shrikrishna Purohit Treasurer	9049224706
CA. Aba Parab WICASA Chairman	9892862548
CA. Sorabh Agrawal Immed. Past Chairman	9930357066
CA. Lokesh Kothari Committee Member	8108484120
CA. Giriraj Bang Committee Member	9004465822
CA. Brajendra Talesara Committee Member	9987506138
CA. Shweta Jain (Immed. Past Secretary-WIRC & EX-Officio)	9920737198
CA. Ankit Rathi (RCM & Branch Nominee)	9029059911
CA. Hrudayesh Pankhania (RCM & Branch Nominee)	9969393191

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THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA (SET UP BY AN ACT OF PARLIAMENT)

OUR TORCH BEARERS



CA. ANIKET SUNIL TALATI
President, ICAI



CA. RANJEET KUMAR AGARWAL
Vice President, ICAI



CA. ARPIT KABRA
Chairman - WIRC

VASAI BRANCH OF WIRC OF ICAI MANAGING COMMITTEE MEMBERS 2023-24



CA. AMIT AGARWAL
Chairman



CA. TARUN DHANDH
Vice Chairman



CA. DAYA BANSAL
Secretary



CA. SHRIKRISHNA PUROHIT
Treasurer



CA. ABA PARAB
WICASA Chairman



CA. SORABH AGRAWAL
Immediate Past Chairman



CA. LOKESH KOTHARI
Committee Member



CA. GIRIRAJ BANG
Committee Member



CA. BRAJENDRA TALESARA
Committee Member



CA. SHWETA JAIN
RCM & Ex Officio



CA. ANKIT RATHI
RCM & Ex Officio



CA. HRUDYESH PANKHANIA
RCM & Ex Officio





Upcoming Events

Date & Day	Time & Fees	Topic(s)	Speaker(s)	Branch Committee Member (Chief Co-ordinator)	Co-Ordinators
04/03/2023 05/03/2023 Saturday & Sunday	9:00am to 6:00pm 10:00am to 2:30pm Rs. 590/- (Incl. GST) 3hrs CPE	Women's Day Celebration "Inspired by Shakti" 04/03/2023 One Day Picnic at Royal Garden Resort 05/03/2023 Alive, Strive and Thrive Building an effective virtual Practice & Work from Home	 Mrs. Pinnky Rajgarhiya CA Tanvi Panchal	CA Daya Bansal	CA Poojal Jajal CA Priyanka Jaju CA Karishma Keshri CA Taruna Vaishnav CA Mayuri Jain CA Kinjal Chheda
05-03-2023	4:00pm to 7:00pm	Holi Celebration	-	CA Aba Parab	
10/03/2023 to 12/03/2023	12:00pm to 4:45pm 8:00am to 12:15pm Rs. 16750/- (Incl. GST) 8hrs CPE	Residential Refresher Course - RRC at Indore (Mahakal) 10/03/2023 GST On Real Estate Sector Office Practice Management 11/03/2023 Stress Management Retirement Planning	 CA Kalpesh Shah CA Hareesh Mehta CA Alpesh Shah CA Aniket Padhye	CA Bajendra Talesara	CA Bharat Majethia CA Anadi Bhave CA Kunal Mody
19-03-2023	9:30am to 5:00pm Rs. 590/- (Incl. GST) 6hrs CPE	Full Day Seminar on Bank Branch Audit Audit Planning and Documentation LFAR Audit of Advances IRAC Norms Pannel Discussion	 CA Abhijit Sanzgiri CA Bhupendra Mantri Eminent Speaker CA Pankaj Tiwari Eminent Speaker	CA Tarun Prakash Dhandh	CA Manoj Khemka CA Ashok Kumawat CA Kavita Bohra



Sub Committee Vasai Branch of WIRC of ICAI

	Taxation Committee	Library Committee	Newsletter Committee	CPE Committee	Information Technology Committee	Members in Industry
Chairman	CA. Giriraj Bang	CA. Brajendra Talesara	CA. Sorabh Agrawal	CA. Shrikrishna Purohit	CA. Aba Parab	CA. Lokesh Kothari
Vice Chairman	CA. Shrikrishna Purohit	CA. Aba Parab	CA. Lokesh Kothari	CA. Daya Bansal	CA. Giriraj Bang	CA. Brajendra Talesara
Members	CA. Amit Agarwal	CA. Amit Agarwal	CA. Amit Agarwal	CA. Amit Agarwal	CA. Amit Agarwal	CA. Amit Agarwal
	CA. Tarun Dhandh	CA. Tarun Dhandh	CA. Tarun Dhandh	CA. Tarun Dhandh	CA. Tarun Dhandh	CA. Tarun Dhandh
	CA. Daya Bansal	CA. Daya Bansal	CA. Daya Bansal	CA. Aba Parab	CA. Daya Bansal	CA. Daya Bansal
	CA. Aba Parab	CA. Shrikrishna Purohit	CA. Shrikrishna Purohit	CA. Sorabh Agrawal	CA. Shrikrishna Purohit	CA. Shrikrishna Purohit
	CA. Sorabh Agrawal	CA. Sorabh Agrawal	CA. Aba Parab	CA. Lokesh Kothari	CA. Sorabh Agrawal	CA. Aba Parab
	CA. Lokesh Kothari	CA. Lokesh Kothari	CA. Giriraj Bang	CA. Giriraj Bang	CA. Lokesh Kothari	CA. Sorabh Agrawal
	CA. Brajendra Talesara	CA. Giriraj Bang	CA. Brajendra Talesara	CA. Brajendra Talesara	CA. Brajendra Talesara	CA. Giriraj Bang
Co-opted Members	CA. Krutik Shah	CA. Kunal Mody		CA. Vaibhav Patil	CA. Sushil Vartak	CA. Mayuri Jain
	CA. Khushal Mehta	CA. Manoj Khemka		CA. Ami Shah	CA. Praveen Sharma	CA. Vijendra Jain
	CA. Abhishek Rathi	CA. Jignesh Shah		CA. Prem Suthar	CA. Kalpesh Agarwal	CA. Navin Mehta



Tax Column



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Question I along with my wife and two sons and their families are staying in a residential house on tenancy basis. The tenancy right is in my name. The Land Lord is now compensating us on surrender of tenancy rights for Rs.20 crore. I just want to know the income tax implications ? I am

going to buy three flats, one for myself and one each for my two sons.

Answer Tenancy right is a capital asset. Therefore, consideration received on surrender of tenancy right is subject to capital gain tax. It seems, you have been staying there for more than three years. Therefore, the entire capital gain would be in the nature of Long Term Capital Gain.

Under section 54F of the Income Tax Act, if you do not have more than one residential house on the date of surrender of tenancy right, then you can make investment in buying one residential flat to avail the capital gain tax exemption. You propose to buy three flats which you can do but the exemption will be restricted to only one residential house. The balance amount will be considered as Long Term Capital Gain even though you have invested in two more residential houses.

However, if you induct your two sons as a part of the agreement as tenant as they have occupation right and you bifurcate the compensation of Rs.20 crore in three parts amongst three of you, then the capital gain will arise in the hands of all three of you and then all the three can buy one residential house each and enjoy entire capital gain exemption.

Question I am a promoter and director of one closely held company. The company had business activity upto the assessment year 2015-16. Thereafter the company did not carry out any business activity and even not complied the requirements of ROC, Income Tax, etc. As a result, the ROC has struck-off the name of the company. The company has no asset and even no bank account. I received a notice from the Tax Dept regarding reopening of assessment year 2015-16 proposing an addition of Rs. 2 crore. Could you explain what are the consequences as I don't have any details?

Answer If the company is officially struck-off and the master data of ROC clearly shows that the company is struck-off, then the Tax Dept cannot start any reassessment proceedings against a non-existing company. Therefore, you have to first inform the Tax Dept about the struck-off of the company with evidence.

However, the Tax Dept may write to ROC to revive the company to enable the Dept to pass an order and raise a demand. On letter from the Dept, the ROC will revive the company. On revival, the Income Tax Officer will pass an order demanding tax liability which you can contest on law point before the appellate authorities. If the demand is finalized subsequently, then the dept can recover the demand from the director of the company under section 179 of the Income Tax Act. This process is also disputable but since you are the director you have to fight legal issues.

Question I do share trading where in some cases I take delivery while in some cases I purchase and sale shares on the same day. What would be the treatment on profit or loss on these transactions in my Income Tax Return ?

I do trading in derivative also. There also I make substantial profit. How this derivative profit will be taxed in my hands ?

Answer Share trading in purchase and sale of shares would be taxed as Short Term Capital Gain or Long Term Capital Gain, if you take delivery of the shares and then sale it. Short Term Capital Gain will be taxed at 15% and Long Term Capital Gain will be taxed at 10%.

Profit or loss arisen on intraday share transactions are in the nature of speculative transactions and it will be taxed as speculative profit / loss. Speculation loss can be set-off only against speculation profit.

Derivative transactions are in the nature of business transactions. Therefore, any loss or profit arisen on these transactions will be treated as Business Loss / Business Income which could be available for set-off against other Business Income or Loss

Question I am an individual and holding a Power of Attorney for Mr. A which authorize me to sale immovable property belonging to Mr. A. During the financial year 2020-21 I have sold the property belonging to Mr. A as a Power of Attorney holder. In the sale agreement my PAN was mentioned as the agreement was entered between the purchaser and myself as Power of Attorney holder.



Since I am not the owner, I did not disclose capital gain in my Return of Income for assessment year 2021-22. However, the Assessing Officer has completed my assessment for assessment year 2021-22 by taxing the entire sale consideration as my income since in the registered documents my PAN was given and my name was mentioned as seller. Whether the action of the Assessing Officer is correct in accordance with the law ?

Answer Under the Income Tax Act, income on sale of asset accrues to the owner of the asset and accordingly it is taxable in their hands. Power of Attorney holders are not the owners both legally and beneficially but they have been granted authority by the owner to convey the property to a third party.

The Courts have held consistently that the holders of Power of Attorney does not become owner of the property by virtue of an irrevocable Power of Attorney. Therefore, the Assessing Officer is apparently wrong in taxing income in your hand as you are not the owner of the property. Now you have to file an appeal against the action of the Assessing Officer for further relief. You can also refer the decision of the Supreme Court reported in 340 ITR 1, and Karnataka High Court reported in 382 ITR 179 where it has been held that income cannot be taxed in the hands of Power of Attorney holders.

Also you can also draw attention of the department that Mr. A has disclosed capital gain in his Return therefore taxing capital gain in your hand amount to double taxation.



How Tax haven Countries are used for Tax Evasion



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There was a great need and importance to stop malicious practices of tax evasion. To combat the same, government of various countries have come forward to act accordingly and has formed and amended their treaties and agreements with other countries in order to protect the economy and revenue interest of their country.

In the year 2015 OECD (Organization for economic co-operation and development) has published the report with introduction of BEPS (Base erosion and profit shifting). These are commonly known as Action plans which were issued with an intention to curb the tax evasion practices, improving transparency and tax certainty.

Till date 15 Action plan has been introduced so far,

As the name i.e. BEPS itself defines that refers to tax planning strategies that exploits gaps and mismatches in tax rules to make profits disappear for tax purposes or to shift profits to locations where there is little or no real activity but the taxes are low which results in little or no tax, in other words tax evasion through proper tax planning by using the tax haven countries.

Now coming on to main topic i.e. how tax havens have been used as a device for tax evasion,

Most of the companies majorly MNCs set up their subsidiary companies in the tax haven countries so that they can shift out their profits in such countries so as to avoid paying tax or pay tax at lower rates as compared to other countries where tax rates are high. They carry maximum of their sales transaction through tax havens and try

to incur huge expenditure in the country where tax rates are high so that they can lower their profits and can avoid to pay tax.

But in today's scenario tax evasion practice has created challenges for the developing nations for example India.

Tax evaders setup their companies in tax haven countries like Singapore, Switzerland etc.

Let us better understand the mechanism by way of example;

Suppose there were two associated Companies namely Laxminarayan and sons Ltd (Holding co. registered in india) and the other one is Pushp kumar sahu and associates (Subsidiary Company) incorporated in Singapore. Both are associated enterprises within the meaning of section 92A of Income Tax Act, 1961

Holding company i.e. Laxminarayan and sons ltd shifts it major revenue or in other words place it's international sale transactions through it's subsidiary company so that profit can be shifted to other company which results in lower tax liability, as tax rates are higher in India as compared to Singapore.

Morover, both the companies have planned to present maximum profits in Singapore and less profits in India by applying following tax planning like,

- 1). Pushp kumar sahu and associates will provide loan to Laxminarayan and sons ltd at high rates so that the said holding co. will have more debit expenses which will ultimately result in decrease in profits and on the other hand subsidiary co. will enjoy more profits in the form of earned interest from it's holding co. thus resulting in low tax or zero tax.

This type of practice has been eradicated and countered by the government of India by introducing the section 94B in the Income tax Act, 1961 in lines of the Action plan 6 of BEPS Report given by OECD.





Faceless Appeal Scheme



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The tax department has introduced faceless appeal to prevent incidences of harassment or other misconduct by the tax authorities.

The NFAC shall serve as the nodal agency and interaction between the National e-Assessment Centre (NeAC) or the

Assessing Officer (AO), the appellant, or any other person, and the Appeal Units (AU). The NFAC will serve as the central authority and will be granted the jurisdiction to facilitate e-appeal proceedings and decide the appeal. Accordingly, any contacts between the appellant or the NeAC/Assessing Officer and the AU shall be conducted only through the NFAC.

The Faceless Appeal Scheme will not be applicable for following Income-tax proceedings :-

- Search and seizure
- Serious fraud, major tax evasion,
- International tax division case
- The Black Money Act

and other sensitive issues.

The functions and procedures of taxpayers and the NFAPC will remain largely the same during and after appellate proceedings, as they do in the 'physical hearing' environment.

Furthermore, with regard to the internal functioning and procedures of the NFAPC and its various units, these will be similar to faceless assessment proceedings. The entire process of an appeal, from the communication of notice, questionnaire, verification, enquiry filing of additional grounds, admission of additional evidence, penalty proceedings for non-compliance of notices and rectification proceedings. And finally, communication of the appellate order will be online, will dispense with the need for any physical interface between taxpayers and their authorized representatives and the Income-tax authorities.

The CBDT has implemented a new appeal named "Faceless Appeal Scheme 2021" on December 28, 2021, in order to correct the problems and include the adjustments sought by taxpayers

Faceless Appeal Centres

For the purposes of this Scheme, the Board may set up-

- (a) National Faceless Appeal Centre to facilitate the conduct of e-appeal proceedings in a centralised manner; and
- (b) Appeal units, as it may deem necessary to facilitate the conduct of e-appeal proceedings by the Commissioner (Appeals).

Procedure in appeal.—

Step 1 the National Faceless Appeal Centre shall assign the appeal to a Commissioner (Appeals) through an automated allocation system;

Step -2 On assignment of an appeal, the Commissioner (Appeals):-

- (a) May condone the delay in filling appeal
- (b) Shall send a notice to appellant for file his submission through NFAC
- (c) may through the National Faceless Appeal Centre obtain such further information, document or evidence from the appellant
- (d) may through the National Faceless Appeal Centre obtain a report of the Assessing Officer either directly or through the National Faceless Assessment Centre, as the case may be, on grounds of appeal or information, document or evidence furnished by the appellant;

Step : 3 the appellant or any other person, as the case may be, shall furnish a response to the notice referred to in sub-clauses (b), (c) or (f) of clause (ii), within the date and time specified therein, or such extended date and time as may be allowed

Step : 4 the appellant may file additional grounds of appeal to the Commissioner (Appeals) through the National Faceless Appeal Centre, in such form, as may be specified by the National Faceless Appeal Centre, specifying

- (a) the Commissioner (Appeals) shall, through the National Faceless Appeal Centre, send the additional ground of appeal to the Assessing Officer either directly or through the National Faceless Assessment Centre,
- (b) the Assessing Officer, either directly or through the National Faceless Assessment Centre, as the case may be, shall furnish their comments,
- (c) the National Faceless Assessment Centre, as the case may be, shall send such comments to the Commissioner (Appeals),
- (d) the Commissioner (Appeals) shall, after taking into consideration the comments, if any, received from the Assessing Officer either directly or through the National Faceless Assessment Centre, as the case may be,—
 - (A) if is satisfied that the omission of additional ground from the form of appeal was not wilful or not unreasonable, admit such ground; or
 - (B) in any other case, not admit the additional ground, for reasons to be recorded in writing in the appeal order passed under clause (x);

Step -5 the appellant may furnish additional evidence, other than the evidence produced by him during the course of proceedings before the Assessing Officer either directly or through the National Faceless Assessment Centre,



Step – 6 where the additional evidence is furnished,—

- (a) the Commissioner (Appeals) through the National Faceless Appeal Centre shall send the additional evidence to the Assessing Officer either directly or through the National Faceless Assessment Centre,
- (b) the Assessing Officer either directly or through the National Faceless Assessment Centre, as the case may be, shall furnish the report,
- (c) the National Faceless Appeal Centre, on receipt of the report from the Assessing Officer either directly or through the National Faceless Assessment Centre,
- (d) the Commissioner (Appeals) may, after considering the additional evidence and the report, if any, furnished by the Assessing Officer either directly or through the National Faceless Assessment Centre,
- (e) the Commissioner (Appeals) shall, if he admits such evidence, before taking such evidence into account in the appellate proceedings, prepare a notice to provide an opportunity through the National Faceless Appeal Centre to the Assessing Officer either directly or through the National Faceless Assessment Centre, as the case may be, to examine such evidence or to cross-examine such witness, as may be produced by the appellant,
- (f) the Assessing Officer shall either directly or through the National Faceless Assessment Centre, as the case may be, furnish the report,
- (g) the National Faceless Appeal Centre shall send the report furnished by the Assessing Officer, either directly or through the National Faceless Assessment Centre, as the case may be, to the Commissioner (Appeals)
- (h) the Assessing Officer, either directly or through the National Faceless Assessment Centre, as the case may be, may request the Commissioner (Appeals) through the National Faceless Appeal Centre to direct the production of any document or evidence by the appellant, or the examination of any witness, as may be relevant to the appellate proceedings;
- (i) the Commissioner (Appeals) for the purpose of making enquiries in the appeal proceedings as referred to in sub-clause (e) of clause (ii) or where the request referred to in sub-clause (h) is received, may, if it deems fit, prepare a notice –
 - Directing the appellant to produce such document or evidence, as it may specify; or
 - for examination of any other person, being a witness;and send such notice to the National Faceless Appeal Centre;
- (j) the National Faceless Appeal Centre shall serve the notice referred to in sub-clause (i) upon the appellant or any other person, being a witness,
- (k) the appellant or any other person, as the case may be, shall furnish his response to the notice on the basis of application

made in this behalf, to the Commissioner (Appeals) through the National Faceless Appeal Centre; the National Faceless Appeal Centre, on receipt of response from the appellant or any other person, as the case may be, shall send such response to the Commissioner (Appeals)

Step -7 where the Commissioner (Appeals) intends to enhance an assessment or a penalty or reduce the amount of refund,

- (a) the Commissioner (Appeals) shall prepare a show-cause notice containing the reasons for such enhancement or reduction,
- (b) the appellant shall, within the date and time specified in the notice or such extended date and time as may be allowed on the basis of application made in this behalf, furnish his response to the National Faceless Appeal Centre;
- (c) where a response is furnished by the appellant, the National Faceless Appeal Centre shall send such response to the Commissioner (Appeals), or where no such response is furnished, inform the Commissioner (Appeals) accordingly.

Step -8 :- The Commissioner (Appeals) shall, prepare in writing, an appeal order in accordance with the provisions of section 251 of the Act stating the points for determination, the decision thereon and the reason for decision; and send such order after signing the same digitally to the National Faceless Appeal Centre along with the details of the penalty proceedings, if any, to be initiated therein;

Step -9 :- the National Faceless Appeal Centre shall upon receipt of the order, they will communicate the Order to :-

- (a) Appellant
- (b) Principal Chief Commissioner or Chief Commissioner
- (c) Principal Commissioner or Commissioner
- (d) Assessing Officer
- (e) where initiation of penalty has been recommended in the order, serve a notice on the appellant calling upon him to show cause as to why penalty should not be imposed upon him under the relevant provisions of the Act;

Compulsory to allow a personal Hearing if requested :-

Regarding granting requests for a personal hearing, the word “may” has been substituted by “must” in the new policy. Thus, it would be obligatory for the Commissioner (Appeals) to grant a personal hearing if a taxpayer requested one during an e-proceeding.

No need to send a recommendation to NFAC to initiate penalty proceedings

Under the erstwhile scheme, for any non-compliance with any notice, direction or order, the Appeal Unit was required to send a recommendation to the NFAC to initiate penalty proceedings. The new scheme has removed the requirement to send such a recommendation. The Commissioner (Appeals) has been authorized to send a notice to the appellant through the NFAC to initiate any penalty proceedings.



Section 65 of CGST Act, 2017- Audit by GST Department



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Introduction

GST is a trust based taxation regime wherein the assessee is required to self-assess his tax liability without any intervention of tax officials. A tax regime which focuses on self-assessment has to put in place a robust audit mechanism

also. In the union budget 2021, the honorable union finance minister made a proposal to scrap the GST Audit under section 35 of CGST Act, 2017 which results in an increase in scope of audit conducted by the GST authorities on the basis of various risk parameters. It is to be noted here that a registered person cannot request for an audit under section 65. It depends on the risk based audit selection system.

Brief background of Section 65 CGST Act, 2017 read with Rule 101 of CGST Rules, 2017.

The commissioner or any other person authorized by him may undertake audit of a registered person for a financial year or a part thereof or a multiples thereof. The audit of a registered person may be conducted at the place of business of the registered person or department office. The registered person shall be informed by way of notice in the form of ADT-01 not less than 15 days before the conducting of such audit.

The proper officer verifies the documents on the basis of which books of accounts are maintained, returns, statement, correctness of turnover, exemption and deduction claimed, rate of tax, ITC availed and utilized, refund and other relevant issues and record the observation in his audit notes. The proper officer shall finalize the audit findings after the due consideration given to reply furnished by the registered person.

The audit shall be completed within a period of three months from the date of commencement of audit, provided such period can be extended up to a further period of maximum 6 months. Such commencement of audit shall be the date on which records and other documents made available or actual institution of audit at the place of business, whichever is later.

On the conclusion of audit the proper officer within 30 days share the final findings with the registered person in the form of ADT-02 and where the audit conducted results in detection of tax liability the proper officer may initiate action under Section 73 or 74.

Actions NOT to be followed by proper officer

- Audit is not to be undertaken in unstructured manner;
- Surprise visit is not permitted under this section;
- Spot recovery of demand under department audit is not permitted.

Actions to be followed by proper officer

- Registered person shall be informed at least 15 days prior to visit and audit cannot continue for more than 9 months;
- Only information that is not available in the GST pro/prime portal (Portal for government officials) must be called for;
- A copy of audit report even if no discrepancy found should be sent to taxpayers;
- Pre-notice consultation before issuance of show cause notice.

Approach followed by the Audit officer

The audit approach followed by the officers is very constructive, ethical, professional and not only pro-revenue. Even the taxpayers have been allowed sufficient time to produce its books of accounts, other documents and reconciliation statements before the authorities through mail/physical submission. Taxpayers are allowed to submit their explanation before the finalization of observations and consequential actions and the audit officer examines the explanation regarding all the disputes before taking the final view.

Practical difficulties faced by taxpayers in respect of Penalty

Since the 5 years of rollout, GST has been coming out of various shortcomings on account of lack of clarity on provisions, confusions, matching or mismatching of ITC etc. In one of the major challenges, there is one major issue related to reflection of invoices on GSTR-2A/2B portal. Earlier this facility was introduced for facilitation purpose only, which was later on became mandatory to avail eligible ITC. Similarly there were many interpretational issues that still exist in respect of eligibility of ITC in the course of furtherance of business, blocked credit, RCM on ocean freight etc.

Section 73 belongs to the bonafide mistakes where the penalty of 10% is levied only after issuance of demand order whereas under section 74 penalty 15% is levied even before the issuance of show cause notice which will further increase up to 100% depending upon stages of proceedings.

On the basis of audit findings, the department is levying the penalty under section 74 on all of their findings without going through the actual intent of the registered person, which becomes a genuine hardship for honest taxpayers in the form of additional financial burden on account of penalty.





GST Implication on Recovery Agent Service



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DEFINITION

Agent: - As per Section 2(5) of CGST Act, "Agent" means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of

supply or receipt of goods or services or both on behalf of another.

However, the term "Recovery Agent" has not been defined in the GST Law and hence the term "Recovery Agent" can be derived from the general parlance used in the industry ie Agent, covers a person who is carrying the business of recovery of debt on behalf of another person.

SAC CODE

998592:- Collection agency services.

GST RATE

18%

REVERSED CHARGED

As per Section 9(3) of CGST Act, following service has been specified under RCM i.e. recipient of service needs to pay GST under RCM.

Type of Service:- Services supplied by a recovery agent to a banking company or a financial institution or a nonbanking financial company.

Service Provider:- A recovery agent.

Service Recipient:- A banking company or a financial institution or a non-banking financial company, located in the taxable territory.

From the above provision it is concluded that if the recovery agency service provided to Banks & NBFC & financial Institute only covers under RCM and if such service provided to other than Banks, NBFC, Financial Institution covered under forward charge mechanism.

INPUT TAX CREDIT

Section 17(2) of CGST Act, 2017 Provides that if registered person engaged in business of taxable supply (Including Zero Rated supply) as well as Exempt supply then such registered person can take ITC restricted to such taxable supply only.

Further Section 17(3) talks about exempt supply which include the supply of service on which the recipient is liable to pay tax on RCM basis.

Hence Recovery agency service is covered under Exempt service and thus registered person can not avail the ITC attributed to such exempt service.

GST ON INPUT SERVICE OR SUB-CONTRACT SERVICE INCREASE THE COST TO RECOVERY AGENT

For providing Recovery agency service registered person may avail various input service as well as sub-contractor service. These suppliers or sub-contractors render recovery agent's service to recovery Agent, who in turn renders such service to the its clients who are Banks, NBFCs or Financial Institution. In the course of rendering services to the recovery agents, such sub-contractors levy GST under forward charge on their service because their services are supplied to recovery agent and not to Banks, NBFCs, or Financial Institutions.

When, the Recovery Agent, in turn, bills its clients, i.e., Banks, NBFCs or Financial Institutions, GST cannot be levied because the same is covered under Reverse Charge Provisions as discussed above. Consequently, in terms of Sub-section 3, of Section 17, the outward supply of services of Recovery Agent becomes exempt supply.

In terms of Sub-section 2 of Section 17, the Recovery Agent is not eligible to take the Input Tax Credit of the GST charged to it by its sub-contractors because the output services of the Recovery Agent are treated as exempt supplies. This results in a situation where such GST charged by the sub-contractors of the company becomes a cost for the company. In order to maintain its profitability, the Recovery Agent is constrained to increase the price of outward supplies of its Services rendered to the Banks, NBFCs or Financial Institutions, to the extent of GST charged to it by the sub-contractors.

DOUBLE TAXATION (I.E. TAX ON TAX)

Case 1:- The clients of the Recovery Agent i.e. the Banks, NBFCs or Financial Institutions are required to pay the GST on the Recovery Agent's services under Reverse Charge provisions. Consequently, they would pay GST @ 18% on a service value which includes the GST charged by the sub-contractors of the company.

Hence here we can see that Banks, NBFCs and Financial Institution pay Tax on Tax.

Case2:- Further Section 17(4) specified that Banks, NBFCs, or Financial Institutions who are engaged in supply of services by way of accepting deposit, extending loans or advance have option to either comply the provision of section 17(2) OR avail 50% of the eligible ITC and balance 50% shall lapsed.

Thus, Banks, NBFCs or Financial Institutions suffer a double impact of higher input costs as a result of,

1. The increased cost of the company due to unabsorbed GST levied by the sub-contractors on their services to the company. AND
2. The higher GST paid on the increased cost which is not entirely available as Input Tax Credit to the Banks, NBFCs or Financial Institutions due to restrictions set in Section 17(4).



It is natural that the Banks, NBFCs or Financial Institutions would have to increase the price at which they render services to their clients or customers to absorb the higher input costs.

Hence here we can see another example of Tax on tax due to RCM.

REGISTRATION

As per Section 22 of CGST Act, 2017 Every supplier shall be liable to be registered under this Act in the State or Union territory from where he makes a **TAXABLE** supply of goods or services or both, if his **aggregate turnover** in a financial year exceeds the threshold limit as specified below,

I) For supplier engaged exclusively “Supply of Goods” (Including exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.)

(a) **Normal State:-**

Telangana & Puducherry:- Rs.20 Lakhs.

Other State:- Rs.40 Lakhs.

(b) **Special Category State:-**

Manipur, Mizoram, Nagaland, Tripura:- Rs.10 Lakhs.

Arunachal Pradesh, Meghalaya, Sikkim, Uttarakhand:- Rs.20 Lakhs.

Assam, Himachal Pradesh, Jammu and Kashmir:- Rs.40 Lakhs.

(c) Supplier engaged in making supplies of “Ice cream and other edible ice, whether or not containing cocoa (2105 00 00)”, “Pan masala (2106 90 20)”, “All goods, i.e. Tobacco and manufactured tobacco substitutes (24)”

Normal State:- Rs.20 Lakhs.

Special Category State:-

Manipur, Mizoram, Tripura, Nagaland:- Rs.10 Lakhs.

Jammu & Kashmir, Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim, Uttarakhand:- Rs.20 Lakhs.

II) For supplier engaged exclusively “Supply of Service” or “Goods & Service”

(a) **Normal State:-** Rs.20 Lakhs.

(b) **Special Category State:-**

Manipur, Mizoram, Tripura, Nagaland:- Rs.10 Lakhs.

Jammu & Kashmir, Arunachal Pradesh, Assam, Himachal Pradesh, Meghalaya, Sikkim, Uttarakhand:- Rs.20 Lakhs.

DISCLAIMER

This is strictly my personal opinion. Above discussion cannot be considered as our professional or legal advice. Users shall consider legal provisions or take advice from experts before taking action on it.





Extension of Time for filing of 45 company



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Extension of Time for filing of 45 company e-Forms, PAS-03 and SPICE + Part A in MCA 21 Version 3.0 without additional fee -reg.

Due to change in way of filing in Version-3, including fresh process of registration of users on MCA-21 and process of stabilization of 45 forms launched with effect from 23.01.2023, and after considering various representations, in continuation of General Circulars No.

- 1/2023 dated 09.01.2023 and 03/2023 dated 07.02.2023, it has been decided to allow further additional time till 31.03.2023 for filing of these forms which are due for filing between 07.02.2023 and 28.02.2023, without additional fees, to the stakeholders.
- Further, Form PAS-03 which was closed for filing in Version-2 on 20.01.2023 and launched in Version-3 on 23.01.2023, and whose due dates for filing fall between 20.01.2023 and 28.02.2023, can also be filed without payment of additional fees till 31.03.2023.
- Further, reservation period for the names which are reserved under sub-section (5) of section 4 of the CA 2013 is extended by a further period of 20 days. The resubmission period under rule 9 of Companies (Incorporation) Rules, 2014 falling between 23.01.2023 and 28.02.2023, is also extended by 15 days.

***The Ministry of Corporate Affairs (MCA) was released the Second Set of Company Forms on the MCA21 V3 portal, on January 23, 2023 comprising of total 46 forms. ***

LIST OF 46 COMPANY FORMS TO BE ROLLED OUT:

1. DIR-12: - Particulars of appointment of directors and the key managerial personnel and the changes among them
2. DIR-11: - Notice of resignation of a director to the Registrar
3. DIR-3: - Application for allotment of Director Identification Number
4. DIR-3C: - Intimation of Director Identification Number by the company to the Registrar DIN services
5. DIR-5: - Application for surrender of Director Identification Number
6. DIR-6: - Intimation of change in particulars of Director to be given to the Central Government
7. INC-12: - Application for grant of License to an existing company under section 8

8. INC-18: - Application to Regional Director for conversion of section 8 company into any other kind of company
9. INC-20: - Intimation to Registrar of revocation of license issued under section 8
10. INC-20A: - Declaration for commencement of business
11. INC-22: - Notice of situation or change of situation of registered office
12. INC-23: - Application to the Regional Director for approval to shift the Registered Office from one State to another state or from jurisdiction of one Registrar to another Registrar within the State
13. INC-24: - Application for approval of Central Government for change of name
14. INC-27: - Conversion of public company into private company or private company into public company or Conversion of Unlimited Liability Company into Limited Liability Company
15. INC-28: - Notice of Order of the Court or any other competent authority
16. INC-4: - One Person Company - Change in Member/ Nominee
17. INC-6: - One Person Company - Conversion form
18. MGT-14: - Filing of Resolutions and agreements to the Registrar under section 117
19. MR-1: - Return of appointment of managing director or whole-time director or manager
20. MR-2: - Form of application to the Central Government for approval of appointment or reappointment and remuneration or increase in remuneration or waiver for excess or over payment to managing director or whole-time director or manager and commission or remuneration to directors
21. NDH-4: - Form for filing application for declaration as Nidhi Company or updation of status by Nidhis.
22. PAS-3: - Return of Allotment
23. SH-7: - Notice to Registrar of any alteration of share capital
24. SH-11: - Return in respect of buy-back of securities
25. SH-8: - Letter of Offer
26. SH-9: - Declaration of Solvency
27. NDH-1: - Return of Statutory Compliances
28. NDH-2: - Application for extension of time
29. NDH-3: - Return of Nidhi Company for the half year ended
30. GNL-3: - Particulars of person(s) charged for the purpose of subclause (iii) or (iv) of clause 60 of section 2



31. PAS-6: - Reconciliation of Share Capital Audit Report (Half-yearly)
32. MGT-3: - Notice of situation or change of situation or discontinuation of situation, of place where foreign register shall be kept
33. PAS-2: - Information Memorandum
34. DIR-9: - Report by the company to Registrar for disqualification of Directors
35. DIR-10: - Application for removal of Disqualification of Directors
36. AOC-5: - Notice of address at which books of account are maintained
37. FC-1: - Information to be filed by foreign company
38. FC-2: - Return of alteration in the documents filed for registration by foreign company
39. FC-3: - Annual accounts along with the list of all principal places of business in India established by foreign company
40. FC-4: - Annual Return of a Foreign company
41. GNL-2: - Form for submission of documents with the Registrar
42. GNL-4: - Addendum to form
43. MSC-1: - Application to ROC for obtaining the status of dormant company
44. MSC-3: - Return of dormant companies
45. MSC-4: - Application for seeking status of active company
46. RD-1: - Form for filing application to Regional Director





Company or LLP which is best option??



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As a businessman, a person is always confused whether one should go for a company or a LLP. In this article we have given a comparison which can help one to take an appropriate decision

Particulars	LLP	Company
Formation process	Step by step so multiple forms to be filed	Everything compiled in one form
Time period involved in formation	20-30 days	7-15 days
Connectivity between director and shareholder	Designated partners are only contributors	Director and shareholder can be two different persons
contribution	With each increase in contribution, a new addendum to LLP agreement needs to be made, registered and filed before the ROC	Authorised capital can be increased at one instance and then intimate to roc whenever shares are issued
Audit	Tax audit applicable if t/o > 10 crore or on meeting specific conditions related to cash receipts and cash payments LLP audit applicable if t/o above 40 lakhs	Tax audit applicable if t/o > 10 crore or on meeting specific conditions related to cash receipts and cash payments Statutory audit applicable irrespective of T/o
Compliance under ROC	2 forms to be filed every year	2 forms to be filed every year
Disclosure related to Loan given or taken	No such specific disclosure required under law	DPT 03 to be filed on an annual basis
Tax rate	30% plus cess and surcharge	22% -25% plus cess and surcharge
Removal of profit	No tax as tax already paid by LLP	To be taken as dividend and tax to be paid by individual on the same
Remuneration to directors	Limitation under the income Tax act	No such limitation
Depreciation	To be calculated as per the Income Tax Act	To be calculated as per the Income tax act as well as companies act and deferred tax is to be computed
Conducting AGM	No such requirement	To be governed as per companies act
Presentation of books of accounts	Normal as applicable to a partnership firm	To be governed as per the accounting standards and format given by governed
Cost of formation	Comparatively less than that of company	Higher than of LLP
Investment	Only a partner can invest	Can avail investment by issuing shares
Immediate compliance on formation	No	Immediate appointment of auditor, additionally every appointment of auditor to be notified.
KYC	All Designated partners are required to update their KYC on an annual basis	All directors are required to update their KYC on an annual basis
MSME Disclosure	No formal return to be filed	A MSME return needs to be filed with ROC on a half yearly basis



Internal Audit



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Internal Audit plays a vital role in bringing organizations to the next level through identification of the improvement opportunities. It is no longer considered as a tick in the box activity but rather a key pillar which helps organizations drive stability, good governance and stay

policies driven. The role of internal audit is to provide independent assurance that an organization's risk management, governance, and internal control processes are operating effectively.

As Internal Audit reports to senior leadership, it is only appropriate that its activities are directed by that CEO or Board of Directors through its Audit Committee. Members of Internal Audit must be independent of internal politics and unbiased to provide leadership with an objective source of information. Under the direction of the Audit Committee, Internal Audit works with management to systematically review control activities over critical systems and processes.

An internal audit may be used to assess an organization's performance or the execution of a process against a number of standards, policies, metrics, or regulations.

Area Covered By Internal Auditor :-

- (a) Business's internal controls
- (b) Corporate governance
- (c) Accounting
- (d) Financial reporting
- (e) IT general controls. Etc

Internal audits may also entail evaluating the effectiveness/efficiency of critical business operations such as supply chain management. Those individuals working in Internal Audit are called internal auditors. Internal auditors may cover all areas of an organization or specialize based on their skill-sets.

Why Internal Audit conducted

The internal audits is to identify weaknesses within the organization's processes and control environment internally therefore ,they can be fixed as quickly as possible to prevent harm to the organization or its stakeholders.

Accordingly, the internal audit plan for an organization should be driven on a risk basis or, in other words, be designed to examine those areas that present the greatest risk to the company. The internal audit plan should also include a component of the strategic needs of an organization. Similarly, each internal audit purpose should be aligned with the audit plan.

- **Insightful:** Internal Auditor has access to the complete business understanding, and connect between different departments. For any irregularity noticed in any of the department, it becomes easy for an internal auditor to showcase the impact on the relevant departments/ processes.
- **Improves efficiency of operations:** By objectively reviewing the operations of the company in line with company's pre-defined policies and procedures, any exception to the same is acted upon.
- **Helps in risk assessment and evaluation:** An internal auditor helps in prioritizing the company's risks and focus areas in consultation with the management. With this methodology, Internal Audit focuses on key areas which are interest to the business.
- **Assesses Business Controls:** Periodic Internal Auditing keep a check on the overall control environment of the business. Internal Auditors keeps a check by asking the relevant questions. What is the rationale behind obtaining loss orders? What benefit is business achieving by doing cost overrun on some projects?
- **Ensures Compliance with laws and regulations:** Regularly performing internal audits keeps an eye on the compliance to the relevant laws and regulations. It helps organizations remains compliant to the prevalent obligations and ensures good legal health.

Scope of Internal Audit

- **Risk Assessment:** With a view to evaluate risks, Internal Auditors scrutinize the risk management processes, internal controls, and governance processes. After a detailed report, auditors share the report with the senior management.
- **Monitoring Emerging Risks:** Internal Auditors plays a key role by providing foresight of the upcoming risks by early identification. They discuss the risk report with management to ensure its relevance to the business.
- **Achievement of Business Objectives:** Internal Auditing process ensures continuous review of compliance with company's policies and procedures making company's operations complying with pre-defined set of goals.
- **Cost Control Management:** Internal Auditing ensures a check over losses, cost and scale of operations. Auditing monitors company's accounting practices and statistical reviews ensures its genuineness.

Hence, failure of conducting schedule based internal audit result companies into excessive cost run, regulatory non-compliances and potential deterrent.

Type of Internal Audits

- **Compliance Audit** evaluate compliance with applicable statutory and other laws, regulations, policies, and procedures.



- Some of these regulations may have a significant impact on the company's financial well-being.
- **Environmental Audits assess** the impact of a company's operations on the environment. They may also assess the company's compliance with environmental laws and regulations.
 - **Internal Financial Audits** may be performed to recalculate internal financial reporting related to the business overall, budgets, capital assets, or projects. These may also be performed to check the validity and accuracy of billing, expenditures, or expense reimbursements.
 - **Information Technology Audits** evaluate information systems and the underlying infrastructure to ensure the accuracy of their processing, the security and confidential customer information or intellectual property. They will typically include the assessment of general IT controls related to logical access, change management, system operations, and backup and recovery.
 - **Operational Audits** assess the organization's control mechanisms for their overall efficiency and reliability.
 - **Performance Audits** evaluate whether the organization is meeting the metrics set by management in order to achieve the goals and objectives set forth by the Board of Directors.





Internal Audit and Forensic Audit



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Introduction

In order to maintain successful and efficient business operations, internal audit and forensic audit are two essential aspects of the total auditing process.

While forensic audit is focused at looking into suspected fraud or financial misbehaviour within a company, internal audit concentrates on verifying compliance with internal policies, procedures, and regulations. The significance of these two types of audits will be covered in detail, along with their distinctions.

Importance of Internal Audit

Internal auditing is an unbiased, impartial assurance and consultation process intended to enhance an organization's performance. Professionals with extensive knowledge of the organization's operations, policies, and procedures carry out internal audits.

An internal audit's main objective is to give management an independent assessment of the company's internal control procedures, risk management procedures, and governance procedures.

Organizations benefit greatly from internal audits because they can spot inefficiencies, waste, or duplication of work as well as places where controls can be reinforced to reduce risks. Moreover, internal audits can aid in ensuring the reliability and accuracy of a company's financial statements, thereby boosting investor confidence.

Importance of Forensic Audit

A forensic audit is the process of looking at financial records to gather data that may serve as **evidence in court** or other legal proceedings. On the other side, forensic audit is a specialised form of audit that focuses on looking into any financial malfeasance or fraud within a business. Basic Principal of Forensic audit is "**DISTRUST THE OBVIOUS**" In response to accusations of financial irregularity, such as embezzlement, bribery, or money laundering, forensic audits are frequently carried out.



It is impossible to exaggerate the value of forensic audit, particularly in the current business environment when fraudulent actions are on the rise. The financial health and reputation of a firm can be greatly affected by fraudulent

acts, which are easier to spot and avoid using forensic audit.



This is an example of "DISTRUST THE OBVIOUS". Don't believe what you see

Differences Between Internal Audit and Forensic Audit

While forensic audit and internal audit have some similarities, they also differ significantly in a number of important ways.

Purpose:

- IA - Internal audits are conducted primarily to assess and enhance the efficiency of an organization's internal controls, risk management, and governance procedures and also mandated by law statutes.
- FA - The purpose of a forensic audit, in contrast, is to look into possible financial malfeasance or fraud within a business.

Scope:

- IA - The scope of internal audit is extensive and includes all facets of an organization's activities, including those that are pertaining to finances, operations, and compliance.
- FA - On the other hand, forensic audit has a more limited scope and solely focuses on particular areas connected to probable fraud or financial malfeasance.

Timing:

- IA - In internal audits are regularly carried out, often once a year or quarterly
- FA - While forensic audits are carried out on an as-needed basis in response to specific claims of fraud or financial irregularities.

Conclusion

In conclusion, forensic audit as well as internal audit are crucial steps in the whole auditing process. While forensic audit assists firms in identifying and preventing fraudulent activity, internal audit assists organisations in evaluating and improving their internal controls, risk management, and governance procedures. Although there are some similarities between the two, each's scope and objectives are very different. Organizations may use internal audit and forensic audit more effectively to enhance their overall operations and financial health by being aware of the differences between the two types of audits.



Social Stock Exchange – Emerging Opportunity



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'Return on Investment' used to be the key criteria for financial investors while taking a final call on deployment of funds in any new projects till the last century. However, over last few decades a new breed of investors called 'Impact Investors' have been actively supporting projects with social angle even with lesser returns. These investors are active across the globe, particularly in developing countries. Trend is still evolving and as a logical extension, Social Stock Exchanges (SSE) have been introduced across several countries over last couple of decades. Brazil took the lead to launch this concept in 2003 by setting up first SSE with an intention to change the culture of charity to social investments. Subsequently, several countries viz. Singapore, Canada, United Kingdom, Kenya, South Africa, Portugal, Germany, etc established SSE with their own models. In Canada, SSE is an online platform, called Social Venture Connection, that allows social organisations to raise funds for the positive social and environmental sustainability. In Kenya, SSE helps to social non-profits organisations, NGOs, and other institutions to raise funds for social causes. The United Kingdom's SSE has helped several social enterprises to raise capital for healthcare solutions, clean energy projects and affordable housing upto Euro 400 million per year. Singapore also established a highly successful model in 2013, which is also known as 'Impact Investment Exchange' due to average impact investment of \$40 million per year.

Social Stock Exchange can be aptly regarded as a vital link between social enterprises and impact investors, especially institutional investors, who invest their money for social causes, welfare of society and environment sustainability. Prevailing model of SSE operates similar to normal stock exchange in different countries by facilitating the listing, trading as well as settlement of securities in order to provide liquidity to the investors. However, the emphasis of the listed organisations on SSE is usually social welfare as well as environment sustainability rather than enjoying capital gains or profits. Though SSEs focus on social value maximisation, it does not essentially mean that social enterprises will never generate any yields at all. Without earning profitability, no organisation can sustain, be it commercial or social enterprise. Therefore, a minimum return is always expected for protecting interests of the stakeholders in social enterprises and this factor is also taken into due consideration while implementing the model of SSE.

India has always been committed to accomplish sustainable development goals by 2030 set by United Nation but for this

achievement, substantial investment would be needed over next few years. In view of ongoing economic crisis after Covid-19 outbreak, it may not be possible for the government to endlessly provide funds and even private sector would have several limitations at their end. Hence, there has always been a need to strengthen social sector enterprises besides encouraging them to undertake various projects for development of the country. In India, social ecosystem is extremely diverse which offers an unique opportunity to social enterprises to identify innovative solution of many social challenges in the field of rural health services, environment protection, education, skill development, etc. However, it was observed that several social enterprises had been struggling because of scarcity of funds and many of them even failed to meet the sustainable development goals due to which there had been a strong need to have SSEs even in our grand nation.

Social Stock Exchange in India

India could not stay away from this emerging concept of SSE for long and finally, it had found its mention in the union budget speech of 2019-20 when Hon'ble Finance Minister proposed to set up social stock exchange to raise the capital needs of social sectors involved in social welfare. Then SEBI, the capital market regulator had constituted a working group to suitably formulate SSE model and also, devise a framework for listing of securities issues by social enterprises. In India, the basic motive behind establishment of SSE would be listing of social enterprises so that they can systematically raise more funds in the form of capital from the general public, corporate houses as well as philanthropists and utilise it properly for addressing various social challenges.

India has joined the elite list of around a dozen countries having SSEs when SEBI recently gave formal permission to National Stock Exchange and Bombay Stock Exchange for introducing social stock exchange as a separate segment. Rules related to SSEs have already been notified by SEBI in July 2022. In India, SSE identifies the following two forms of social enterprises that are engaging in the activity of creating positive social impact and that meets primacy of their social intent:

- A. Not-for-profit organization (NPO)
 - a. Charitable Trust
 - b. Charitable Society



- c. Company registered u/s 8 of Companies Act, 2013
- d. Any entity specified by SEBI
- B. For profit social enterprise (FPE)
 - a. Company operating for Profit
 - b. Body corporate operating for Profit

Primary Eligibility Criteria

For determining primacy of social intent, any entity ~ whether NPO or FPE, it has to meet all three criterions mentioned under Regulation 292E(2) of the SEBI ICDR Regulations, 2018. Briefly, these criteria require that the entity must indulge in activities prescribed under Regulation 292E(2)(a), and that the entity must target underserved or less privileged population segments or regions which have recorded lower performance in the development priorities of central or state governments.

Moreover, in order to be recognised as a social enterprise, the entity need to exhibit that 67% of its activities qualifying as eligible activities to the target population shall be demonstrated by either of the following:

- i. Minimum 67% of its revenue of the immediately preceding 3 years average of revenues comes from providing eligible activities to members of the target population;
- or
- ii. Minimum 67% of the immediately preceding 3 years average of expenditure has been incurred for providing eligible activities to members of the target population;
- or
- iii. members of the target population to whom the eligible activities have been provided constitute minimum 67% of the immediately preceding 3 years average of the total customer base and / or total number of beneficiaries.

However, it is to be noted that corporate foundations, political or religious organizations or activities, professional or trade associations, infrastructure, and housing companies, except affordable housing, are not eligible to be identified as a social enterprise. Further, following social enterprises are not eligible to raise funds through SSEs if:

- 1) any of its promoters, promoter group or directors or selling shareholders (in case of for profit social enterprise) or trustees are debarred from accessing the securities market by SEBI;
- 2) if any of the promoters or directors or trustees of the Social Enterprise is a promoter or director of any other company or social enterprise which has been debarred from accessing the securities market by SEBI;
- 3) if the social enterprise or any of its promoters or directors or trustees is a willful defaulter or a fraudulent borrower;
- 4) If any of its promoters or directors or trustees is a fugitive economic offender;

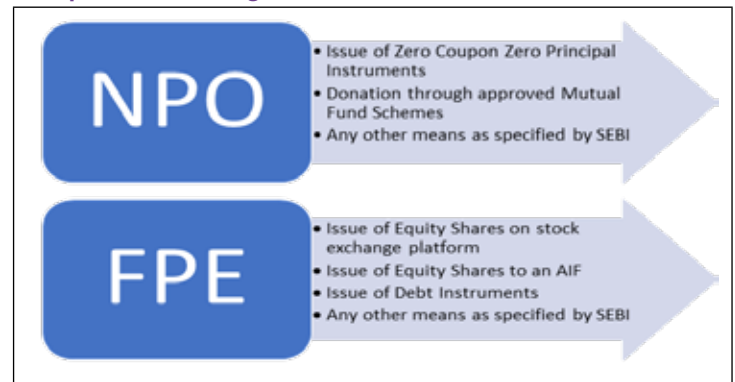
- 5) if the social enterprise or any of its promoters or directors or trustees has been debarred from carrying out its activities or raising funds by the Ministry of Home Affairs or any other ministry of the Central Government or State Government or Charitable Commissioner or any other statutory body

SEBI has prescribed the following eligibility criteria for NPOs to register on SSE vide its circular dated September 19, 2022:

- Mandatory age of NPO as 3 years
- Valid 80G registration
- Valid certificate u/s 12A / 12AA / 12AB of the Income Tax Act,
- Minimum INR 50 lakhs as annual spending
- Minimum INR 10 lakhs of fund in the past year

Further, SSEs have been permitted by SEBI to prescribe additional requirements in order for NPO to register on it.

Multiple Fund Raising Avenues



It is not essential for NPOs which are registered with SSEs under regulation 292F of the ICDR Regulations to seek listing, however it shall mandatorily seek registration with a SSE before it raises funds by using the platform of SSE. NPO may choose to register on a Social Stock Exchange and not raise funds through it. It can also continue to raise funds through any other means. After registration on SSEs, NPOs may raise funds through any of the following instruments:

- Issuance of Zero Coupon Zero Principal Instruments
- Donations through Mutual Fund Schemes
- Any other means as specified by SEBI

On the contrary, FPE need not register with Social Stock Exchange before it raises funds through SSE, but it has to comply with all provisions of SEBI ICDR Regulations, 2018 and AIF Regulations (as applicable for its fund-raising modes) before it can raise funds through SSE. In the normal course, FPE may raise funds through any of the following mechanisms:

- Issue of Equity Shares (On Main Board, SME Platform or innovators growth platform of stock exchange as the case may be)



- Issue of Equity Shares to an Alternative Investment Fund including Social Impact Fund
- Issue of Debt Instruments
- Any other means as specified by SEBI

There are different platforms of stock exchanges viz. Main Board, SME Platform, Innovators Growth Platform, etc and if FPEs issue equity shares on any of them then they shall also need to comply with the eligibility criteria for the respective platform as mandated under SEBI ICDR Regulations, 2018. Similarly, for alternate options like issuance of equity shares to AIFs, issuance of debt securities etc. would require compliance under respective SEBI Regulations.

Retail investors have been permitted to invest only in securities offered by FPE under the Main Board. In all other cases, only institutional investors as well as non-institutional investors would be able to invest in securities issued by social enterprises. However, given the tremendous opportunities offered by our grand nation, there is no doubt that NPOs and FPEs should certainly be able to attract larger pool of investors to raise money with the help of SSEs for undertaking various social projects in the larger interests of citizens of our grand nation.

Emerging Opportunity for Chartered Accountants

No NPO or FPE has been listed on SSEs in India and things are at a nascent stage but future is extremely bright for social enterprises with the launch of SSEs. Similarly, concept of 'Impact Investment' is still evolving and the investors are yet to make up their minds about the relationship between returns and social impact, especially on whether sacrificing either of them will improve the other. If social

contribution is also considered alongwith profitability by business enterprises then life can automatically become a celebration for everyone.

While some investors, especially family foundations and charities, are ready to settle for a lower rate of return if they achieve the desired impact, others are aiming at achieving commercial returns with icing of social benefits. Potential investors need to understand that impact investing will require precise due diligence and attention to measuring results with the help of experienced professionals. Given the expertise of Chartered Accountants in finance domain, they can certainly assist the investors across all stages of the given project.

Moreover, with increasing awareness, charitable trusts and other eligible entities may also like to tap this emerging opportunity in future for creating value for all stakeholders. Given the strong bonds shared by Chartered Accountants with such organisations since inception, there is an unique opportunity for Chartered Accountants to help them for raising resources by using newly launched SSE platforms. Besides fund raising, various services related to accounting, book keeping, audits, assurance, risk management, trust advisory, legal compliance, taxation, list compliance etc would be needed by listed enterprises and needless to mention, Chartered Accountants are best placed to pro-actively assist them. Every successful listing on SSEs can be immensely helpful for the social cause and also directly contributing for the nation building exercise.

Afterall, Helen Keller has rightly said – “Alone we can do little; together we can do so much.”





Drafting of Valuation Report



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Valuation report is the last deliverable to the client by the valuer. It must be kept in mind that valuation report by itself is not much, but valuation is. The report is the medium to convey client the valuation done by the valuer.

Valuation report should be created cautiously as it the medium of delivering services to the client. A valuation report should be the ambassador of valuer's work and his professional skill and expertise. A well drafted report not only serves the purpose of conveying the valuation mentioned in it, but also creates the goodwill in the mind of readers about the valuer and his firm.

Valuation report is the foremost tool to differentiate and highlight the high quality of work done by a valuer.

Points to Keep in Mind for Drafting a Professional Valuation Report:

1. Executive Summary

Executive summary of the report would provide a bird's eye view to the reader of the report. The reader of the report who have very little or no time to go through the report, find it very useful and are happy to grasp the valuer's perspective from the summary itself. Summary should be drafted in a manner where all the important points are covered, and trivial ones are kept out.

2. Scope/ Deliverables delivered through the report

It is very important to specify to the readers of the report that what are the clear deliverables presented, which were agreed in the scope of work of the engagement letter. Clients would usually cross verify the completeness of service by comparing the scope provided in engagement vis-à-vis deliverables provided in the valuation report. Other stakeholders will find the information useful in grasping the entire hold of the report when deliverables are clearly mentioned.

3. Assumptions taken while carrying out valuation:

It is very important for a reader to understand as to what are the assumptions taken while preparing the valuation report. Assumptions provide the framework under which the valuation premise is held valid. Without mentioning the assumptions, a valuer would leave the report to the mercy of reader's interpretation and a reader, from a different background may perceive a completely different meaning of the report and the valuation.

4. Timelines in terms of valuation date, report generation and submission date:

Timelines here would have several meanings. Many a times, valuation is done a date and the report would come out much later. May a time, it may also happen that, when the valuation is carried out discounting the future to present, the timelines will have a significant impact on the overall valuation itself. Providing timeline

would give appropriate perspective to the reader of the report for sound understanding of the same.

5. Milestones, in case of long-term assignment

Business Valuation is a long-term assignment. Valuers are needed frequently to evaluate various factors of business to provide their opinion. Many times, because the government insist on them and many other times because they are a business need. In such cases, it is important for the valuer to disclose the milestone adhered to in the interim or continuing report provided by him.

6. Approach(es) of Valuation

There are three popular approaches usually followed for the purpose of carrying out valuation. They are:

- Market Approach
- Income Approach &
- Cost Approach

It is important for the reader of the report to know as to which approach was followed by the valuer to arrive at proper valuation. It will enable the reader to determine the course of action to be followed.

7. Valuation Method Applied

There are several methods used by valuers in arriving at valuation. One of the key hallmarks of a professional valuer is that he will disclose the method of valuation used in the report itself. It displays the kind of transparency and professionalism the valuer has. Also, the method used has relevance to stakeholders and can also be used for the purpose of justification in the court of law.

8. Key inputs used in report:

There are several factors which drive the valuation. Many key inputs like timing of cash flows, required rate of return and tenure of cash flows play a vital role in arriving the value of asset or business in consideration. It is important for valuer to provide this information to give clarity to the reader of the report. The reader's opinion about valuation can be affirmed if the key inputs are provided beforehand.

9. The estimates / projections used in the report:

When valuation is based on future, it is imperative for a valuer to rely on projections and estimates. These projections and estimates form the very basis on which the valuation is carried out. These are more mandatory things which must go in the report for report to make any sense at all.

These points mentioned here are illustrative. There are many more things that go into a valuation report and some of the above can also be removed from it on a case-to-case basis. Valuation, being a scientific art, the liberty of choosing the parts of the report completely lie with the valuer concerned.

Disclaimer : This article is compiled for academic purpose only. The views presented here are personal. The professional should refer International Standard on Valuation, ICAI Valuation Standard and relevant regulations. The intention here is to attract attention of the reader towards importance of the report and its ingredients.





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Direct Tax

- In which of the following cases, the benefit of indexation is not available
 - LTCG u/s 112A
 - Sovereign Gold Bond redeemed on maturity
 - Sovereign Gold Bond transferred before maturity
 - NSC maturity?
 - B and C
 - A only
 - A and D
 - Or ALL
- Under which head Remuneration received by a partner from a LLP firm is taxable?
 - Income from other sources
 - Capital Gain
 - Business / Profession
 - Non of the above
- Amongst the following which activity will be taxable?
 - Profits & gains of any insurance business
 - Income from specific services provided by carried on by a co-operative society. Trade, professional or similar association.
 - The profits and gains of any banking business carried on by a co-operative society.
 - All of the above
- Which of the following payment received from Sukanya Samriddhi scheme is. are Exempt?
 - Interest
 - Maturity amount (withdrawals)
 - Both (a) & (b)
 - None of the above
- Any sum received by an Individual as a member of HUF from the income of HUF shall be.
 - Partly taxable
 - Fully exempt u/s 10(2)
 - Fully taxable u/h "IFOS"
 - Fully Taxable u/h Salary.

Indirect Tax

- Any gift made by an employer to an employee shall we considered as supply. What is the limit prescribed for the same?
 - Less than or equal to 50000
 - More than 50000
 - Exactly 50000
 - 50000 and above
- Which is the exception for not bringing back of goods send for job work?
 - Tools
 - Moulds and dies
 - Jigs and fixtures
 - All of the above
- Mr. Amit, a practicing Chartered Accountant purchased 3 laptops each having tax elements of Rs. 40,000 in his firm name. two laptops he utilized in his office whereas one laptop he gifted to his sister. What is the amount of ineligible ITC?
 - Rs.40,000
 - Rs.50,000
 - Rs.75,000
 - Rs. 80,000.
- Mr. Amar, a registered person omitted to take the ITC of the Jan 2022 Month. He filled the GST annual return on 15 July 2022, by when he could have availed the ITC?
 - 15 July 2022
 - 20 Oct 2022
 - 30 Sep 2022
 - 30th November 2022.
- Niteshkumar Spices Pvt. Ltd. a Rajasthan based pan masala manufacturer, has started garment trading within the same PAN . His threshold of Rs. 20 LAKH is crossed but is expected to be below Rs.80 lakh in the current financial year. Can he opt for composition scheme?
 - Yes
 - No
 - Maybe
 - None of the above



Scan to Answer



Seminar on Union Budget 2023 organized by the Vasai Branch of WIRC of ICAI on 4th February, 2023 at Vasai Branch Premises.



Felicitating CA. Vimal Punmiya with a Memento (L-R): CA. Piyush Chhajjed (CCM), CA. Tarun Dhandh (Vice Chairman), CA. Vimal Punmiya (Speaker), CA. Sorabh Agrawal (Immediate Past Chairman), CA. Amit Agarwal (Chairman).



Audience presented for the Seminar



Felicitating CA. Hrudyes Pankhania with a Memento (L-R): CA. Bhanwar Borana (Guest of Honour), CA. Lokesh Kothari (Committee Member), CA. Hrudyes Pankhania (RCM & Branch Nominee), CA. Amit Agarwal (Chairman), CA. Piyush Chhajjed (CCM), CA. Sorabh Agrawal (Immediate Past Chairman).



Felicitating CA. Bhanwar Borana with a Memento (L-R): CA. Tarun Dhandh (Vice Chairman), CA. Shrikrishna Purohit (Treasurer), CA. Aba Parab (WICASA Chairman), CA. Guatam Lath (RCM), CA. Bhanwar Borana (Guest of Honour), CA. Piyush Chhajjed (CCM), CA. Hrudyes Pankhania (RCM & Branch Nominee), CA. Sorabh Agrawal (Immediate Past Chairman), CA. Daya Bansal (Secretary).



Felicitations of Newly Qualified CA's organized by the Vasai Branch of WIRC of ICAI on 4th February, 2023 at Vasai Branch Premises.



Felicitations of Newly Qualified Chartered Accountant by CA. Piyush Chhajjed (CCM) and CA. Dinesh Nahar



Felicitations of Newly Qualified Chartered Accountant by CA. Daya Bansal (Secretary) and CA. Gautam Lath (RCM)



Felicitations of Newly Qualified Chartered Accountant by CA. Sorabh Agrawal (Immediate Past Chairman), CA. Bhanwar Borana (Guest of Honour), CA. Piyush Chhajjed (CCM)



Felicitations of Newly Qualified Chartered Accountant by CA. Amit Agarwal (Chairman), CA. Tarun Dhandh (Vice Chairman), CA. Daya Bansal (Secretary), CA. Aba Parab (WICASA Chairman).



Felicitation of Newly Qualified CA's organized by the Vasai Branch of WIRC of ICAI on 4th February, 2023 at Vasai Branch Premises.



Felicitation of Newly Qualified Chartered Accountant by CA. Tarun Dhandh (Vice Chairman), CA. Amit Agarwal (Chairman), CA. Daya Bansal (Secretary), CA. Aba Parab (WICASA Chairman).



Felicitation of Newly Qualified Chartered Accountant by CA, Shrikrishna Purohit (Treasurer), CA. Tarun Dhandh (Vice Chairman), CA. Daya Bansal (Secretary), CA. Aba Parab (WICASA Chairman).



Group Photo of Newly Qualified CA's with Managing Committee Members.



Vasai Branch have been recognised for the Letter of Appreciation for Branch under the large Branch Category for 2022-23 and Vasai WICASA of WIRC has been selected for the Highly Commendable Branch of WICASA under Large Branch Category for 2022-23.





Physical Seminar on TDS Overview with Recent Changes organized by the Vasai Branch of WIRC of ICAI on 4th February, 2023 at Vasai Branch Premises.



Inauguration ceremony (L-R): CA. Sandeep Jain (Past Convenor Bhayander CPE Study Circle), Vijendra Jain (Past Secretary), CA. Giriraj Bang (Immediate Past Secretary), CA. Tarun Dhandh (Vice Chairman), CA. Amit Agarwal (Chairman), CA. Paras Nath (Speaker), CA. Lokesh Kothari (Committee Member), CA. Aba Parab (WICASA Chairman), CA. Daya Bansal (Secretary).



Bouquet presented to CA. Paras Nath (Speaker) by CA. Amit Agarwal (Chairman), (L-R): CA. Tarun Dhandh (Vice Chairman), CA. Giriraj Bang (Immediate Past Secretary), CA. Daya Bansal (Secretary), CA. Paras Nath (Speaker), CA. Amit Agarwal (Chairman), CA. Aba Parab (WICASA Chairman), CA. Lokesh Kothari (Committee Member).



Felicitations of CA. Paras Nath (Speaker) with Memento by CA. Nikunj Bangariya (Past Convenor Bhayander CPE Study Circle), (L-R): CA. Daya Bansal (Secretary), CA. Paras Nath (Speaker), CA. Nikunj Bangariya (Past Convenor Bhayander CPE Study Circle), CA. Amit Agarwal (Chairman), CA. Aba Parab (WICASA Chairman).



Audience presented for the Seminar.



Media Coverages

वैभव सत्ता
मुंबई, मंगलवार, 21 फरवरी 2023

सीए अमित अग्रवाल बने वसई ब्रांच ऑफ डब्ल्यूआईआरसी ऑफ आईसीएआई के अध्यक्ष

वसई ब्रांच ऑफ डब्ल्यूआईआरसी ऑफ आईसीएआई की वर्ष 2023-24 कार्यकारी वर चयनमें सीए अमित अग्रवाल का चयन किया गया।

वसई ब्रांच ऑफ डब्ल्यूआईआरसी ऑफ आईसीएआई की वर्ष 2023-24 कार्यकारी वर चयनमें सीए अमित अग्रवाल का चयन किया गया।

DIGITAL प्रवासी संदेश
मुंबई, मंगलवार, 21 फरवरी 2023

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NBT नवभारत टाइम्स

सीए अमित अग्रवाल बने वसई ब्रांच ऑफ डब्ल्यूआईआरसी ऑफ आईसीएआई के अध्यक्ष

प्रवासी संदेश टीम।

वसई ब्रांच ऑफ डब्ल्यूआईआरसी ऑफ आईसीएआई की वर्ष 2023-24 कार्यकारी वर चयनमें सीए अमित अग्रवाल का चयन किया गया।



संकेत कोटगरी, सीए गिरिजा बंग, सीए इन्दिरा शर्मा सहित कार्यकारी वर चयनमें शामिल हुए सभी सदस्य।

वसई ब्रांच की वर चयनमें एक से ज़्यादा का संकलन किया।

वसई ब्रांच की वर चयनमें एक से ज़्यादा का संकलन किया।

ICAI वसई ब्रांच की कार्यकारीणी गठित



निरु, मीरा-भाईदर : आई ब्रांच ऑफ डब्ल्यूआईआरसी ऑफ आईसीएआई की वर्ष 2023-24 कार्यकारी वर चयनमें सीए अमित अग्रवाल का चयन किया गया।

प्रातःकाल
मुंबई, मंगलवार, 21 फरवरी 2023

अमित वसई ब्रांच के अध्यक्ष

वसई ब्रांच ऑफ डब्ल्यूआईआरसी ऑफ आईसीएआई की वर्ष 2023-24 कार्यकारी वर चयनमें सीए अमित अग्रवाल का चयन किया गया।

मस्तुवेदना
मुंबई, मंगलवार, 21 फरवरी 2023

दुरु की महानसर्गिया परिवार की बेटी दया बंसल वसई ब्रांच ऑफ डब्ल्यूआईआरसी ऑफ आईसीएआई की सचिव बनी



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