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NEWSLETTER

VASAI BRANCH OF WIRC

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

FEBRUARY 2024



Happy
Shivaji
Jayanti



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 Managing Committee of Vasai Branch showing faith and trust on me and I will assure all the members that the entire committee will work for betterment of the Members & Students and to build image of our branch.

The team which has completed its term under the dynamic leadership of CA. Amit Agarwal has brought laurels to Vasai Branch in the last one year. The benchmarks set by all Officer Bearers of 2023-24 are very high and I wish that with support of all the members of our team and the members of Vasai Branch we will touch new high in this year.

This year our branch awarded 2nd Best WICASA Award at National Level after 8 years and 2nd Best Branch & WICASA at Regional level in the large branch category. We are glad to inform you that Vasai Branch is thankful to all members, students and staff for their support & Cooperation.

February is the month of change and budget lays down the very foundation for the change in tax laws. Due to upcoming election of Lok Sabha, interim budget has been presented by the H'ble Finance Minister of India. Our branch having facility of live screening of the budget for the members and more than 50 participants attended the program.

In the month of February, Vasai Branch successfully organized Box Cricket Tournament i.e. Professional Mukabala whereas SGST, Doctor(s), Advocates, Police Department, Chartered Accountants etc has been participated. We congratulate (CA) & Doctor team being a Winner and Runner up of the tournament. We are also happy to announce that Vasai Branch Team is the winner of the Box Cricket Tournament organized by WIRC lead by Sushil Vertak & team.

Vasai Branch also held interactive meet with newly qualified chartered accountants in the month of February whereas our leaders have guided and interacted with them. More than 100+ students has participated in the program.

Importantly, ICAI has changed torch bearers & elected CA. Shri Ranjeet Kumar Agarwal as President of ICAI and CA. Shri Charanjot Singh Nanda as Vice President of ICAI. At WIRC also, we have a New Chairman - CA. Shri. Ankit Rathi, Vice Chairman – CA. Shri Rahul Parikh, Secretary – CA. Gautham Lath, Treasurer – CA. Pinki Kedia and WICASA Chairman – CA. Piyush Chandak. Vasai Branch congratulates all new torch bearers of ICAI and WIRC & Vasai Branch will touch new high by guidance of the new torch bearers. It was also proud movement for us that our Vasai Branch Past Chairman Ankit Rathi elected as Chairman of the WIRC and Vasai Branch has welcomed him.

Festivals play a significant role in our lives by making us more large-hearted and accepting. I extend my warm wishes to you on Maha Shivaratri and Holi. In the month of March Vasai Branch celebrating Woman's Day and to honour this occasion, Vasai branch organising various activities like Box cricket tournament, Women's Run & Seminar at Vasai Branch on 2nd & 3rd March, 2024.

Before I sign off, with all humility I assure you that the entire managing committee will not leave a single stone unturned to put our branch and the profession at new pedestal. With the support & experience of all the seniors and passion & energy of young professionals, we will scale new heights in years to come.

"Take up one idea. Make that one idea your life-think of it, dream of it, live on that idea. Let the brain, muscles, nerves, every part of your body be full of that idea, and just leave every other idea alone. This is the way to success"-Swami Vivekananda

CA Tarun Prakash Dhandh
Chairman
Vasai Branch of WIRC of ICAI

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Sub Committee
Vasai Branch of (WIRC)
2024 - 25

	WICASA Committee	Taxation Committee	Library Committee	Newsletter Committee	CPE Committee	Information Technology Committee	Members in Industry
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Vice - Chairman	–	CA Lokesh Kothari	CA Brajendra Talesara	CA Amit Agarwal	CA Giriraj Bang	CA Aba Parab	CA Shrikrishna Purohit



Upcoming Events

Sr No	Date & Day	Time & Fees	Name of the Seminar, Lecture Meeting & Events etc.	Topic	Speaker	Venue	CPE Hours
1	17-03-2024 Sunday	10 am to 5:00 pm Rs 500/- Plus GST,	Bank Branch Audit	1. L FAR 2. Verification of Advances 3. Audit planning and Certification 4. Panel Discussion	1. CA Nilesh Ramesh Joshi 2. CA Nitesh Jain 3. CA Digambar Bhikaji Pednekar 4. CA. Pankaj Tiwari	Vasai Branch of WIRC of ICAI, Bhayandar West	6 Hours
2	04-03-2024 to 16-03-2024	2:00 pm to 5:00 pm Per Paper Rs 100/-	Mock Test Series I Intermediate & Final	-----	-----	Vasai Branch of WIRC of ICAI, Bhayandar West	
3	16-03-2024 Saturday	Rs 10/- Nomination Fees	WICASA Election	-----	-----	Vasai Branch of WIRC of ICAI, Bhayandar West	
4	31-03-2024 Sunday	-----	-----	-----	-----	Vasai Branch of WIRC of ICAI, Bhayandar West	3 Hours



Building Trust: Ethical Branding for Chartered Accountants



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Chartered Accountants (CAs) are the cornerstone of financial health and stability, navigating complex financial scenarios for individuals and businesses alike. In a world saturated with marketing messages, establishing a strong, ethical brand is crucial for CAs to differentiate

themselves and build trust with potential clients by keeping in mind the guidelines issued by alma mater **Institute of Chartered Accountants of India**.

The ethical brand is a symbiosis of two concepts: ethics and brand. It uses brand as a foundation and powers it with some moral principles and standards, combining the best qualities and attributes of two worlds.

What is the need of Branding?

- In the Accounting Industry, differentiation extends beyond the range of services to the manner in which they are delivered.
- Personalizing the client experience to mirror your brand's values and approach is key to standing out in a competitive market. This tailored approach not only fosters client loyalty but also paves the way for positive reviews and sustained client relationships.
- Furthermore, showcasing your expertise through your brand's tone and messaging is vital. Whether it's through marketing materials or direct client interactions, consistent brand voice communication is essential in building trust and establishing familiarity with your audience. Moreover, a brand transcends being merely a business asset; it is an integral part of the community.
- Actively engaging in local events and initiatives enhances your brand's visibility and demonstrates a commitment to the community's values and needs.

Balancing Professionalism and Visibility:

The traditional image of professional services often limits self-promotion strategies. However, ethical branding isn't about aggressive marketing; it's about strategically building a strong reputation known for its commitment to ethical and professional standards.

Key principles for ethical branding in the world of Chartered Accountancy:

1. Adhere to Professional Codes:

Always prioritize the codes of conduct laid out by your governing body. Avoid exaggerated claims, disparaging comments about competitors, or misleading information.

2. Cultivate Expertise and Thought Leadership:

Demonstrate your knowledge and expertise by authoring articles, participating in relevant forums, and engaging in public speaking opportunities within the boundaries of professional conduct. Share insights on industry trends, address client concerns, and offer valuable educational content.

3. Build Authentic Connections:

Engage with potential clients through valuable content, not aggressive solicitation. Participate in industry events, network strategically, and build genuine connections with individuals and businesses who might benefit from your services.

4. Focus on Client Success Stories:

Showcase your commitment to client success by sharing anonymous testimonials and case studies that highlight the positive impact of your work. Prioritize client confidentiality and ensure you have written consent before sharing any testimonials.

5. Transparency is Key:

Be open and transparent about your services, fees, and areas of specialization. Clearly communicate your approach and values to establish a sense of trust and reliability.

6. Leverage Social Media Ethically:

Utilize social media platforms to connect with relevant audiences, share valuable content, and participate in industry discussions. Avoid self-promotion and focus on providing valuable information and insights.

7. Invest in Continuing Education:

Highlight your commitment to continuous development by keeping your certifications and skills up-to-date. Share relevant workshops, courses, or certifications you've completed to demonstrate your dedication to professional growth.

8. Prioritize Community Involvement:

Demonstrate your commitment to societal well-being by participating in charitable initiatives or pro bono work within the boundaries of your ethics code. This showcases your personal values and strengthens your reputation.

Ethical branding isn't just about marketing; it's about weaving your expertise, values, and commitment to the profession into a narrative that resonates with potential clients. By adhering to ethical principles and building trust through valuable content and genuine interactions, CAs can establish themselves as trustworthy and reliable partners for individuals and businesses seeking financial guidance.

ICAI HAS ESTABLISHED A CODE OF ETHICS FOR CAS, WHICH OUTLINES THE FUNDAMENTAL PRINCIPLES OF ETHICAL BEHAVIOUR.

Five Principles around which whole topic revolves are:-



- **Integrity:** CAs must be straightforward and honest in their professional and business relationships.
- **Objectivity:** CAs must not allow bias, conflict of interest, or undue influence to compromise their professional judgment.
- **Professional Competence and Due Care:** CAs must maintain their professional knowledge and skills and exercise due care in performing their duties.
- **Confidentiality:** CAs must respect the confidentiality of information acquired during their work and only disclose such information with proper and specific authority.
- **Professional Behavior:** CAs must comply with relevant laws and regulations and avoid any conduct that discredits the profession

Two major platforms for Ethical Branding :-

1. LinkedIn Branding:-

In today's digital world, LinkedIn branding is crucial for professionals seeking to **advance their careers**. It acts as your **online professional portfolio**, allowing you to:

- **Establish credibility and expertise:** Showcase your skills, experience, and achievements to potential employers and collaborators.
- **Increase visibility:** Get noticed by recruiters and industry professionals, expanding your network and potential opportunities.
- **Position yourself as a thought leader:** Share valuable insights and engage in industry conversations, demonstrating your knowledge and passion.
- **Build meaningful connections:** Connect with like-minded individuals, fostering valuable professional relationships that can open doors in the future.

By investing in your LinkedIn branding, you take control of your **professional narrative**, shaping how the world perceives your skills

and value, ultimately propelling your career forward.

2. Website Branding

A strong website brand is crucial for Chartered Accountants (CAs) in today's competitive landscape.

1. **Builds Trust and Credibility:** A professional, well-designed website with clear branding elements (consistent logo, fonts, colors) portrays a sense of **legitimacy and expertise**, crucial for building trust with potential clients.
2. **Stands Out from the Crowd:** A well-branded website helps CAs **differentiate themselves** from competitors, highlighting their **unique selling points** (specializations, experience, client testimonials) and attracting clients seeking specific services.
3. **Enhances User Experience (UX):** A user-friendly website with intuitive navigation and clear information architecture **improves user experience**, allowing potential clients to easily find the information they need and fostering a positive impression.
4. **Positions CAs as Thought Leaders:** Websites provide a platform for CAs to showcase their **expertise** through blog posts, articles, or white papers, establishing their **thought leadership** within the industry and attracting clients seeking informed guidance.
5. **Generates Leads and Inquiries:** A well-optimized website with clear calls to action (contact forms, appointment booking) can effectively **generate leads and inquiries**, translating online visitors into potential clients.

Therefore, investing in website branding is essential for CAs to **build trust, differentiate themselves, attract clients, and establish their expertise** in the competitive financial services landscape.

For more details regarding website formation, you can refer Council Guidelines for Advertisement, 2008 to align your website as per the guidelines issued by Institute of Chartered Accountants of India.





GST Refund on Export of Goods



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INTRODUCTION: -

The aim of Indian government is to increasing the output and quality of export from India in pursuance to the "Make in India" policy. Indian government also provide the many incentives to the exporters to boost export in India and in

addition to incentives, government also provide many benefits as far GST is concerned. Like Refund of GST in export of goods or Service.

CATEGORY OF EXPORT: -

1. Export of goods.
 - Direct Export.
 - Deemed Export. (Will discuss in different article).
 - Export throughout Customer. (Will discuss in different article).
 - Export to Nepal & Bhutan. (Will discuss in different article)
2. Export of Service.

In this article we will be discussed about Direct export of goods and refund of GST on such direct export of Goods.

ZERO RATED SUPPLY (U/s 16 of IGST Act, 2017): -

- 1) "Zero rated supply" means any of the following supplies of goods or services or both, namely
 - (a) Export of goods or services or both or
 - (b) Supply of goods or services or both for authorised operation (Inserted wide Finance Bill 2021) to a Special Economic Zone developer or a Special Economic Zone unit.

In Addition to this Section 147 of CGST Act, 2017 considered certain supplies as Deemed Export, which means Deemed export also eligible for zero rated supply.
- 2) Credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply subject to Section 17(5) of CGST Act, 2017 i.e., Negative List.
- 3) **A registered person making zero rated supply shall be eligible to claim refund of unutilized input tax credit on supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder,**

subject to such conditions, safeguards and procedure as may be prescribed.

Provided that the registered person making zero rated supply of goods shall, in case of non-realization of sale proceeds, be liable to deposit the refund so received , to the extent of non-realization of sales proceeds, under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances, in such manner as may be prescribed. (Whole Paragraph was substitute by finance Act, 2021) (Read with rule 96B of CGST Act, 2017).

Period of realization of foreign exchange as per FEMA 1999 is as per RBI Guidelines and as per RBI foreign exchange should be received within NINE Months from the date of Export.

- 4) **The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify.**
 - a) **Class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid.**
 - b) **A class of goods or services which may be exported on payment of integrated tax and the supplier of such goods or services may claim the refund of tax so paid.**

(Inserted wide Finance bill 2021)

Zero-rated supply does not mean that the goods and services have a tariff rate of '0%' but the recipient to whom the supply is made is entitled to pay '0%' GST to the supplier.

In other words, as it has been well discussed in section 17(2) of the CGST Act, 2017 that input tax credit will not be available in respect of supplies that have a '0%' rate of tax. However, this disqualification does not apply to zero-rated supplies covered by this section.

TREATMENT OF EXPORT UNDER GST LAW: -

As per the Section 7(5) of IGST Act, 2017 Export is treated as Inter-State Supply and IGST charge on Export.

REFUND FOR ZERO RATED SUPPLY: -

An Exporter dealing in Zero Rated supply under GST can claim a refund as per following Options.

- 1) Export without payment of IGST under Bond/LUT and Claim Refund of ITC.
- 2) Export with payment of IGST and Claim Refund of IGST Paid.

However, following specified goods cannot be exported with payment of IGST and hence such goods can be exported



compulsorily without payment of IGST under Bond or LUT. (As per Notification No. 01/2023 – Integrated Tax_31.07.2023) (Applicable from 01.10.2023).

Sr No.	HSN Code	Description of Goods
1	2306 90 20	Pan masala
2	2401	Unmanufactured tobacco (without lime tube) bearing a brand name
3	2401	Unmanufactured tobacco (with lime tube) bearing a brand name
4	2401 30 00	Tobacco refuse, bearing a brand name
5	2403 11 10	Hookah/ or 'gudaku' tobacco bearing a brand name
6	2403 11 10	Tobacco used for smoking 'hookah' or 'chilam' commonly known as 'hookah' tobacco or 'gudaku' not bearing a brand name
7	2403 11 90	Other water pipe smoking tobacco not bearing a brand name
8	2403 19 10	Smoking mixtures for pipes and cigarettes
9	2403 19 90	Other smoking tobacco bearing a brand name
10	2403 19 90	Other smoking tobacco not bearing a brand name
11	2403 91 00	"Homogenised" or "reconstituted" tobacco, bearing a brand name
12	2403 99 10	Chewing tobacco (without lime tube)
13	2403 99 10	Chewing tobacco (with lime tube)
14	2403 99 10	Filter khaini
15	2403 99 20	Preparations containing chewing tobacco
16	2403 99 30	Jarda scented tobacco
17	2403 99 40	Snuff
18	2403 99 50	Preparations containing snuff
19	2403 99 60	Tobacco extracts and essence bearing a brand name
20	2403 99 60	Tobacco extracts and essence not bearing a brand name
21	2403 99 70	Cut tobacco
22	2403 99 90	Pan masala containing tobacco 'gutkha'
23	2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', bearing a brand name
24	2403 99 90	All goods, other than pan masala containing tobacco 'gutkha', not bearing a brand name
	3301 24 00, 3301 25 10, 3301 25 20, 3301 25 30, 3301 25 40, 3301 25 90	Following essential oils other than those of citrus fruit namely: (a) Of peppermint (Mentha piperita); (b) Of other mints: Spearmint oil (ex mentha spicata), Water mint oil (ex mentha aquatica), Horsemint oil (ex mentha sylvestris), Bergamot oil (ex mentha citrate), Mentha arvensis

EXPORT OF GOODS OR SERVICE UNDER BOND OR LUT RULE 96A (OPTION 1):-

Any registered person availing the option to supply goods or services for export without payment of integrated tax shall furnish, prior to export, a bond or a Letter of Undertaking in FORM GST RFD-11 to the jurisdictional Commissioner, binding himself to pay the tax due along with the interest specified under sub-section (1) of section 50 within a period of,

- 1) Fifteen days after the expiry of three months or such further period as may be allowed by the Commissioner from the date of issue of the invoice for export, if the goods are not exported out of India. (I.e. Goods should be exported within three months from the date of Export Invoice.)
- 2) Fifteen days after the expiry of one year, or such further period as may be allowed by the Commissioner, from the date of issue of the invoice for export, if the payment of such services is not received by the exporter in convertible foreign exchange [or in Indian rupees, wherever permitted by the Reserve Bank of India].

Where the goods are not exported within the time specified in above rule and the registered person fails to pay the amount mentioned in the said sub-rule, the export as allowed under bond or Letter of Undertaking shall be withdrawn forthwith and the said amount shall be recovered from the registered person in accordance with the provisions of section 79 (Recovery of Tax).

The export as allowed under bond or Letter of Undertaking withdrawn in terms of above rule shall be restored immediately

when the registered person pays the amount due.

Rule 96A also applied in respect of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit without payment of integrated tax.

Registered person making zero rated supply of goods shall, in case of non-realization of sale proceeds, be liable to deposit the refund so received, to the extent of non-realization of sales proceeds, under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 for receipt of foreign exchange remittances, in such manner as may be prescribed. (Whole Paragraph was substitute by finance Act, 2021) (Read with rule 96B of CGST Act, 2017).

Period of realization of foreign exchange as per FEMA 1999 is as per RBI Guidelines and as per RBI foreign exchange should be received within NINE Months from the date of Export.

Formula: -

Section 16(3) of the IGST Act gives the option to an exporter to claim refund either as ITC by making export without payment of tax through LUT, as below

"A registered person making zero rated supply shall be eligible to claim refund of unutilized input tax credit on supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed"

The manner and the calculation for determining the amount of eligible refund of accumulated ITC for Exports made without payment of tax is prescribed in rule 89(4) of the CGST Rules, 2017.

The formula is reproduced below Rule 89(4): -

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Where,

- (A) "Refund amount" means the maximum refund that is admissible.
- (B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period.
- (C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking.
- (D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely: -

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of



services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period.

- (E) “Adjusted Total turnover” means the turnover in a State or a Union territory, as defined under sub-section (112) of section 2, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period.
- (F) “Relevant period” means the period for which the claim has been filed.

Substituted (W.E.F 23.10.2017) by Notification No. 75/2017 – Central Tax_29.12.2017.

Where,

- (A) “Refund amount” means the maximum refund that is admissible.
- (B) “Net ITC” means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both.
- (C) “Turnover of zero-rated supply of goods” means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both.
- (D) “Turnover of zero-rated supply of services” means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely: -

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period.

- (E) “Adjusted Total turnover” means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding,
- the value of exempt supplies other than zero-rated supplies and
 - the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both, if any, during the relevant period.
- (F) “Relevant period” means the period for which the claim has been filed.

Further Substituted by Notification No. 16/2020 – Central Tax_23.03.2020.

In rule 89, in sub-rule (4), for clause (C), the following clause shall be substituted, namely: -

- (C) “**Turnover of zero-rated supply of goods**” means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both.

Illustration of amended definition of Turnover of zero-rated supply of goods.

Suppose a supplier is manufacturing only one type of goods and is supplying the same goods in both domestic market and overseas. During the relevant period of refund, the details of his inward supply and outward supply details are shown in the table below:

Net admissible ITC = Rs. 270

Outward Supply	Value per unit	No of units supplied	Turnover	Turnover as per amended definition
Local (Quantity 5)	200.00	5.00	1,000.00	1,000.00
Export (Quantity 5)	350.00	5.00	1,750.00	1500 (1.5*5*200)
Total			2,750.00	2,500.00

The formula for calculation of refund as per Rule 89(4) is:

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Turnover of Zero-rated supply of goods (as per amended definition) = Rs. 1500

Adjusted Total Turnover= Rs. 1000 + Rs. 1500 = Rs. 2500 [and not Rs. 1000 + Rs. 1750]

Net ITC = Rs. 270

Refund Amount = Rs. (1500*270)/2500 = Rs. 162

Thus, the admissible refund amount in the instant case is Rs. 162.

ISSUE ALL ABOUT:-

There are discrepancies between the Invoice Value and value in the shipping bill/bill of export and hence required clarity on which one should be adopted as export value for the purpose of refund. This has been clarified in **circular no. 37/11/2018-GST dated 15/Mar/2018**.



and further reiterated in the Master Circular 125/44/2019 dated 18/Nov/2019 that the lower of the two is to be considered in the numerator for calculating the refund. Para 9 of circular no. 37/11/2018-GST dated 15/Mar/2018 is reproduced below: -

Discrepancy between values of GST invoice and shipping bill/ bill of export: It has been brought to the notice of the Board that in certain cases, where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The matter has been examined and it is clarified that the zero-rated supply of goods is effected under the provisions of the GST laws. An exporter, at the time of supply of goods declares that the goods are for export and the same is done under an invoice issued under rule 46 of the CGST Rules. The value recorded in the GST invoice should normally be the transaction value as determined under Page 5 of 8 section 15 of the CGST Act read with the rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill / bill of export.

During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be sanctioned as refund.

Whereas this clarification has created further ambiguity amongst the taxpayers and the tax officers on two matters: -

- There are two values reflecting in the Shipping Bills – (1) the invoice value based on the terms of shipment and (2) FOB value. If the terms of shipment are CIF, C&F etc., the invoice value and the FOB value will differ. In such a case, which value to consider as Shipping Bill Value – invoice value or FOB value?
- Which value to be considered as export value for the purpose of the calculation of Adjusted Total Turnover – whether the value determined in the numerator as 'Turnover of Zero rated supply of goods' or the value as declared in the returns filed for the relevant period?

As per export promotion policy of the Government, all export benefits under the Foreign Trade Policy (FTP) shall always be at FOB value, in order to eliminate discrimination due to different incoterms followed by various exporters merely attributable towards cost of freight, insurance, etc. and to create a level playing field.

With only internal communications given to the officers in this regard, refund applications were processed by adopting FOB value as Turnover of Zero-rated supply of goods and the difference being rejected, without any such rules prescribed in this regard then.

However, the same has been later ratified by inserting an explanation to rule 89(4) of the CGST Rules 2017 vide **Notification No. 14/2022-CT dated 05.07.2022**. The exact explanation is reproduced below: -

Explanation.: - For the purposes of this sub-rule, the value of goods exported out of India shall be taken as

- (i) The Free on Board (FOB) value declared in the Shipping Bill or Bill of Export form, as the case may be, as per the Shipping Bill and Bill of Export (Forms) Regulations, 2017. OR
- (ii) The value declared in tax invoice or bill of supply, whichever is less.

However, the second question on which value to be considered as export value for the purpose of the calculation of Adjusted Total Turnover – whether the value determined in the numerator as 'Turnover of Zero-rated supply of goods or the value as declared in the returns filed for the relevant period – remained unanswered.

Meanwhile, when a similar question aroused post substitution of Rule 89(4)(C) vide **Notification No. 16/2020-CT dated 23.03.2020** imposing restriction on the export value limited to 1.5 times the value of like goods domestically supplied, **Circular 147/03/2021-GST, dated 12.03.2022** has clarified the manner of calculation of Adjusted Total Turnover in terms of Zero-rated turnover (export turnover) being determined as per amended rule 89(4)(C). The exact extract from para 4 of Circular 147 is reproduced below:

Accordingly, it is clarified that for the purpose of Rule 89(4), the value of export/ zero-rated supply of goods to be included while calculating "adjusted total turnover" will be same as being determined as per the amended definition of "Turnover of zero-rated supply of goods" in the said sub-rule.

EXPORT OF GOODS WITH PAYMENT OF IGST RULE 96 (OPTION 2):-

The shipping bill filed by an exporter of goods shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when,

- 1) The person in charge of the conveyance carrying the export goods duly files a departure manifest or an export manifest or an export report covering the number and the date of shipping bills or bills of export.
- 2) The applicant has furnished a valid return in **FORM GSTR-3B**
- 3) The details of the relevant export invoices in respect of export of goods contained in **FORM GSTR-1** shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.

Upon the receipt of the information regarding the furnishing of a valid return in **FORM GSTR-3B**, as the case may be from the common portal, the system designated by the Customs or the proper officer of Customs, as the case may be, shall process the claim of refund in respect of export of goods and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.



SEARCH (RAID) & SEIZURE UNDER INCOME TAX ACT, 1961



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Search & Seizure action by the income tax department popularly referred to as “**RAID**” involves through ‘looking for’ or ‘seeking out’ through an inspection of a building , office, place , vehicle.

Basis or grounds for Search & Seizure;

Search and Seizure team after taking authorisation and approval from concerned income tax authority can conduct search operation in the assessee’s premises.

Basis for search and seizure : Authorisation for search and seizure can be conducted if the income tax department, in consequence of information in his possession, has reason to believe that,

Section: 132(1)(a) – (i) summons u/s 131(1) or (ii) notice u/s 142(1), was issued to produce or cause to produced any books of accounts, or other documents which has been wilfully omitted or failed to produce such books of accounts as required by such issued summons or notice to assessee.

Section: 132(1)(b)- any person to whom summons or notice has been issued, will not or would not produce any books of accounts which will be useful or relevant to any proceedings undertaken under the income tax act, 1961.

Section: 132(1)(c)- any person who is in possession of any money, bullion, jewellery or any other valuable things and these assets represent either wholly or partly the income or property which has not been disclosed by the person concerned for the purposes of this act.

The officer who is authorised for conducting search is referred to as Authorised officer. The authorisation is done by issuing a search warrant in **Form 45**.

Clauses (a) , (b) , (c) of section 132(1) spell out the circumstances under which the authorising authority may issue a warrant of search. In order to attract clause (c) there must be information with authority relating to two matters;

1. That any person is in possession of money, etc.
2. That such money, etc represents either wholly or partly income or property which has not been or would not be, disclosed for the purposes of the act.

Reasons For Income Tax Raids:

The Income Tax Department can conduct raids on individuals or groups for a wide range of reasons. The most pertinent of these are outlined below:

- Where the department has gathered evidence substantiating that an assessee is in possession of income or assets that

have not been disclosed, and where the amount of tax that would be normally paid on such income or assets exceeds Rs 1 crore.

- Where the department has received verification of lavish expenditure at weddings or marriages
- Where the department has gathered data or information that has been put together from the perusal of tax assessment files and records that have passed through the process of verification
- Where the department has gathered information received from any party with an intimate relation with the assessee in question such as a member of the assessee’s family, a business partner, an employee etc. This information is subject to independent questioning on the part of the Income Tax department.
- Where the department has gathered evidence of the manipulation of any of the following:
 - o Books or ledgers showing accounting details and transactions
 - o Any documentation or records
 - o Any invoices
 - o Any vouchers
 - o Any bills
- Where the department has gathered evidence of the possession of substantial amounts of income held with the following:
 - o The assessee
 - o At banks or financial institutions
 - o At the residence of the assessee
 - o At any business property
 - o At lockers held in banks or financial institutions
 - o At the residence of any member of the assessee’s family
 - o At the residence of any business partner of the assessee
 - o At the residence of any employee of the assessee
- Where the department has gathered information showing that the following items are not accounted for in the books of account or balance sheets of the assessee:
 - o Cash
 - o Assets
 - o Jewellery
 - o Bank balances
 - o Investments



- o Shares
- Where the department has gathered evidence of any hawala activities and transactions that have taken place within the functioning of any business
- Where the department has gathered evidence of the assessee making investments in benami or 'non titled' property
- Where the department has gathered evidence of undisclosed sums of money and investments held with banks under the name of the assessee or any of his or her family members, business associates, relatives etc
- Where the department has gathered evidence of any undisclosed amounts that have been omitted or have been withheld during the time of declaration of turnover with regards to the Goods & Service Tax Department.
- Where the department has gathered evidence of a large amount of sundry creditors every year, despite of the non-existence of any such organisation, company or individual.
- Where the department has gathered evidence of any discrepancies or anomalies in the submission of stock quantities, inventory, sales production etc
- Where the department has gathered evidence of any discrepancies or anomalies with regards to the personal accounts of the assessee in question, wherein the accounts show large amounts of loans or cash appearing consistently and on a continuous basis every year
- Where the department has gathered evidence of the non-filing of income tax returns by the assessee for a single year or multiple years
- Where the department has gathered evidence of persons or individuals in possession of many Permanent Account Numbers (PAN), who file income tax returns from different locations around the country, and who declare large sums of income
- Any other reason that may be deemed valid or confidential by the Income Tax Authorities, or in specific cases dealing with evasion of tax across state borders.

Rights Of An Assessee During An Income Tax Raid:

An assessee who has been suspected of tax evasion or concealment of undisclosed property can exercise the following rights as per law in the event of a raid conducted by the income tax authorities:

- The authorised officers conducting the raid are duty bound to allow or permit two individuals from the local area to stand as independent witnesses
- If assessee under suspicion are children, they must be permitted to leave for school, although their bags may be checked by the income tax officers
- The assessee can exercise his or her right to inspect the search warrant as well as confirm the identity of the authorised income tax officer present
- The assessee under suspicion can also insist that only authorised female tax officers shall be allowed to search the female family members of the assessee
- The assessee is required to provide a statement at the time the raid is being carried out, or after the raid has been concluded. Should he or she not provide a statement, it will be considered as an act of silence, and could have an adverse effect on proceedings
- If the assessee is a woman, who as per custom does not make public appearances, then she can exercise her right to not appear before the search party consisting of authorised income tax officers
- The assessee can exercise his or her right to avail of a medical assistance should the need arise
- The assessee can also exercise his or her right to eat meals at standard meal times.



Startup Valuation Challenges



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Start-ups are either in idea stage or have short operating history with little or no revenue and high operating losses. While valuing these companies, the easiest of the puzzle to solve is - determining the Beta, cost of equity, researching valuations of comparable companies, deriving valuation multiples, etc. However, the more difficult part is determining answers to various subjective questions like - how innovative the business model/product or service offerings is, how strong is the team, will the company survive as a going concern, etc. As a result, the traditional methods of determining the cash flow, discount rates, valuation multiples may lead to erroneous and biased valuations.

CHARACTERISTICS OF A START-UP

At the onset it is important to define a start-up and understand the difference between start-up and a small business. There is no dictionary definition but the following definition captures the essence of it -

"A start-up is a young company founded by one or more entrepreneurs to develop a unique product or service and bring it to market"

Start-ups focus on disrupting markets and driving top-line at a fast pace. Small businesses, on the other hand, often set their goals on long-term, stable growth in an existing market. The key difference is the growth intent behind the business. Some of the common characteristics of start-ups are outlined hereunder.

1. Little history with negligible revenues and high operating losses

Start-ups have limited or no history. The operational data available would be for one or two years or even less than a year. Revenues may be zero with high operational expenses largely towards setting up of business, resulting into operational losses

2. Intent to become a large company in shorter period

From day 1, the intent of the start-up is to grow into a large disruptive company. The entrepreneur believes that the idea he/she is working on will disrupt the market and thereby capture a large market share in a short period of time.

3. High Failure Rate

A report by IBM Institute for Business Value and Oxford Economics found that 90% Indian start-ups fail within the first five years, lack of innovation being the main reason.

4. Flexibility

A start-up is very dynamic and ready to adapt to the adversities that may arise during the course of business. They readily tailor their product/services to meet customer requirement in order to create a sustainable business model.

VALUATION CHALLENGES

Discounted cash flow and relative valuation are the two methods which are extensively used for valuation of companies. However, when the same methods are used for start-ups, we encounter the following challenges.

DCF Valuation

For DCF valuation - estimation of cash flows, discount rate and terminal value are the key inputs. Given the characteristics of start-ups, estimation of these inputs is always challenging.

Estimation of cash flow

The first step in estimation of cash flows is to use the historical financial statements to determine the revenues and profitability of the firm. However, the past financial statements may not be available or may not give any relevant information in case of start-ups. The lack of history on revenue means that we will not be able to use the same to estimate the future revenues. Similarly, it would not be possible to determine the future earnings as the start-up would be reporting losses. As a result, we would have to depend on the management projections and the biases these numbers possess.

Discount rate Determination

The traditional CAPM model which we use for determination of cost of equity focuses only on market risk i.e. the risk that cannot be diversified. However, this would not be true for a start-up. For a start-up there is lot of firm specific risk which needs to be accounted for. Hence the cost of equity which we may calculate using the CAPM model, will not be commensurate with the risk of investing in a start-up.

Terminal value

Terminal value typically accounts for most of the value of start-ups (may be more 100% of the value) and hence determination of terminal value is very critical. For determining terminal value one of the most important assumptions is stable growth rate of the firm. When a start-up will achieve stable growth and whether the start-up will make to stable growth rate stage given higher failure rate of start-up are the key questions. The standard practice of projecting for 5 years and then assuming a stable growth rate for terminal value calculation may lead to wrong estimation.

RELATIVE VALUATION

Given the challenges in DCF valuation, sometimes relative valuation is considered or a mix of DCF and relative valuation is considered. Using relative valuation has its own share of challenges. Some of key issues faced while using relative valuation are outlined in the following paragraphs.



What companies do we use as comparable?

We would need companies in similar business and age profile for relative valuation. In markets like India, there are not many young start-ups which are listed. Using mature companies in similar industry is not advisable as the risk return matrix and the growth projections are likely to be very different. What multiples to use?

Even if we find comparable companies, use of relative valuation multiple may not be useful. The historical revenues are insignificant and typically the companies report huge operational losses. Hence, estimation of valuation using popular multiples like Price to Sales, Price to book value, EV/EBITA, Price to Earnings, etc. may not be possible or may not yield the correct estimate of value.

How long the start-up will survive?

Finally, the larger question that remains is will the start-up be able to survive for long term?

Hence, under both DCF and relative valuation we encounter very similar problems in estimating the value of the start-up. However, it does not mean that we cannot estimate the value of the start-up using these traditional methods. We would now demonstrate how we can use DCF to value a start-up.

USING DCF FOR VALUING START-UP

The following discussion on DCF method assumes that the reader is well versed with the standard DCF approach for valuation and hence the focus is not on the actual workings but on the variations. Wherever necessary, formulas have been provided.

Estimating the cash flows

One of the first steps is to estimate the cash flows. Instead of just projecting the revenue and the profitability of the firm, one needs to get into details of the business and estimate the revenue and corresponding operational expenses. There are two approaches -

- **Top down approach** This starts with a look at the total available market (TAM) and then determines the serviceable available market (SAM) i.e. the market that can be served by the start-up given its geographic reach and product/service. From SAM, we determine the market share the company can capture over the projection years. Thus, industry estimates are taken as starting point and narrowed down into revenue projections for the start-up.
- **Bottom up approach** - Estimating projections by starting with number. of customers/capacity and working up to revenue.

Both approaches have their pros and cons and the best method would depend upon the type of business being valued and the available data. Typically, the top down approach may result into a very optimistic projections which may be unrealistic. Typically, start-ups submit projections which use top-down approach. Validating these projections using a bottom-up approach may result into more realistic projections.

One other important factor to consider is what should be the period of projection? Sometimes it is difficult to project for immediate years

given the uncertainty around the start-up, then projecting later years would be all the more difficult. There is no correct answer to this and the valuer has to take a call depending on his comfort with the forecast period. However, the forecast period should be of such duration that the firm captures significant market share and the future growth post the forecast period should be stable and not exponential. This would mean forecast period of 5 to 10 years or till the period it is expected to go for IPO.

ESTIMATION OF DISCOUNT RATE

As discussed earlier, the prevalent CAPM method to determine the discount rate is not correct as it does not take into account the firm specific risk and also because the investors may not be well diversified. The important parameter to determine is Beta.

Estimation of Beta

Take average of the Beta of the publicly traded firms which are in similar business and then unlever the average beta to arrive at the unlevered beta for the start-up. Now calculate correlation of the sector with the total market and then divide the unlevered beta with correlation.

Illustration

- Average beta of listed peers = 1.3
- Average Debt equity ratio of the sector = 30%
- Tax rate = 30%
- Unlevered Beta = $1.3 / \{(1 - 0.30) * 0.30\} = 1.07$
- Average correlation with total market = 0.50
- Total Beta = $1.07 / 0.50 = 2.14$

The Beta is now an appropriate one and is commensurate with the risk of investing for an undiversified investor.

Estimation of Cost of Capital

Cost of equity can be easily computed using the CAPM model. The above adjust Beta is unlevered Beta, and hence we will have to lever it with the target debt to equity ratio. Typically, start-up does not have debt and hence the cost of equity will be equal to the cost of capital. For start-ups which have debt on books, we can use the book debt to equity-ratio of the start-up or the average debt to equity ratio of listed peers. Cost of debt will the interest rate on the bank loan.

ESTIMATION OF TERMINAL VALUE

Terminal value is always a significant portion of the total value as start-ups have small or negative cash flows in the initial years and hence its proper estimation is very critical. Generally, we assume the start-up as a going concern. However, certain start-ups may have limited contract periods or operating license and hence the cash flows would not be perpetual. In such cases, we have the following two options:

We estimate how long the cash flows would continue in future and then calculate their present value to arrive at the terminal value

A more appropriate/conservative approach would be to estimate the salvage value of the business at the end of the forecast period.



The salvage value would be the terminal value in this case.

Adjusting for survival

As discussed earlier, 90% of start-ups in India fail and hence it is important that this factor is taken into account. The above terminal value is based on the assumption that the start-up would survive. One of the prevalent methods is to hike up the discount rate. But a better method would be to assume the probability of start-up survival based on the sector data or macro-economic data.

Recently a study was conducted by Rajeswari Sengupta and Manish Singh of the Indira Gandhi Institute of Development Research using MCA data to analyse the status of all new firms formed in India over 1981- 2011, and their survival over time. They found that on an average, roughly 50% of new firms registered in India survived for more than 20 years and on considering alldormant firms as inactive □ the data suggested that more than 45% of new- born firms survive in India.

If sector wise data for survival is available, we can use that probability or otherwise we use the survival rates of Indian firms in general. Also, depending upon the status of the start-up and the strength of promoters, the above survival rate can be adjusted upwards or downwards.

The following formula can be used for adjusting for survival rate -

*Value = PV of Cash flows of the year * survival probability*

Value at the end of each period is estimated by multiplying the PV of that year with the survival probability. The survival probability increases over a period of time as the firm grows and hence, we can start with lower probability in the initial years (first 2-3 years) and then increase the survival probability in the later years.

CONCLUSION

Valuing start-up is a very challenging exercise given the short or negligible operating history, lack of data and uncertainty around the future of business. Typically, we see very high discount rates and forward multiples being used to take care of these challenges. However, what we have tried here is to use the most common valuation method i.e. DCF and address the challenges by integrating some additional inputs in the DCF methodology. The challenge would still be to estimate some of these inputs and it is easier said than done. But with some best estimates/guesstimates for these inputs with the help of research, the valuation we would arrive at will still be a more realistic valuation for the business.

Valuation is more of an art than science. Science is well established and widely practised but an analyst or valuer adds value to the process to make the right guesses and making the best estimates. Once the variable estimates are in place, the science takes over and the job is done.





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1. Surcharge @ 12 is payable by a domestic company if the total income exceeds.
 - A. Rs. 10 lakhs
 - B. Rs. 1 crore
 - C. Rs. 10 crore
 - D. None of the above
2. Surcharge @ 7 is payable by a domestic company if the total income exceeds.
 - A. Rs. 10 lakhs
 - B. Rs. 50 lakhs
 - C. Rs. 1 crore
 - D. Rs. 10 crores.
3. Surcharge of 15% is payable by an individual where the total income exceeds:
 - A. Rs. 7,50,000
 - B. Rs. 8,50,000
 - C. Rs. 1,00,00,000
 - D. None of the three
4. Additional surcharge (health and education cess) of 4 per cent is payable on
 - A. Income tax
 - B. Income tax plus surcharge
 - C. Surcharge
 - D. None of the three
5. Surcharge of 15% is payable by an Hindu Undivided Family where the total income exceeds:
 - A. Rs. 7,50,000
 - B. Rs. 8,50,000
 - C. Rs. 1,00,00,000
 - D. None of the three.





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OATH CEREMONY OF VASAI BRANCH OFFICE BEARERS-28.02.2024



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