



# House Journal ACAIE

ASSOCIATION OF CORPORATE ADVISERS & EXECUTIVES



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# Editorial



Dear Members,

The Indian economy is prospering with the inflow of investments from all over the world. It is a bright shining star amidst the turmoil being faced by most of the largest economies in the world. With a stable economic and fiscal policy and an abundance of skilled manpower, the affinity towards investments in our economy seems growing with each passing day. The dream of 'Make In India' is slowly and steadily turning out to be a reality. The year 2023 brings with it immense expectations that the economy's true potential would be unleashed, and the Indian growth story would be depicted in red letters.

With the advancement of the economy, there has been a continuous evolution of new business processes and techniques. The evolution of the financial and legal systems becomes the need of the hour to cater to these new systems and processes. This demands radical change and constant adaptation by professionals to stay relevant and ready to grab new professional opportunities. Hence, the role of the professionals is also expected to reach its pinnacle in the days to come. However, the only way to achieve the true potential of one's profession is to constantly read, update and implement new techniques and requirements in one's own field.

On this note, it gives me immense pleasure and honour to bring forth the first journal under the aegis of the ACAIE Executive Committee for the year 2022-23. The forefront of this year's agenda for the ACAIE Executive Committee is to strengthen our membership base and connect more than ever with the youth and women. In an attempt to further this objective, we have encouraged young speakers and writers to contribute towards our association as a platform for their professional development and overall growth of the profession.

Now, I would like to thank all the contributors to the articles in this journal for enriching all the readers with their knowledge and sharing their research material with us. Further, it would be unjustly on my part if I don't thank my editorial board who have worked tirelessly to improve the quality of this journal and get this issue released in a very short time frame. Finally, I would like to express my gratitude towards all our loyal readers who form the strength and inspiration of our work towards the journal.

Happy reading!!!

With best regards

**CA SHUBHAM KHAITAN**

*Chairperson, House Journal Sub Committee (Publication Group)*

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# President Speaks



Dear ACAIE Family,

Season's Greetings to you all!!!

This is my first communication through this platform, I am very thankful to the Editorial Board under the Chairmanship of CA Shubham Khaitan for the first journal in the year 2022-23 under my tenure as President. I congratulate all the members of the Editorial Board and thank them again for their sincere and active role in coming out with this Journal in such a short notice.

We are pleased to inform you that during this period ACAIE has finally started to organize wholly physical events. After a period of almost 2 years, we have started to organise physical group discussions. We have seen excellent turnouts and increased participation. I was pleasantly surprised when 26 members 52 Pax turned out in excellent numbers for the trip to Taki, organised on 17th and 18th of December, 2022. However, the virtual and semi-virtual meetings, discussions etc. have their own place in involving more members, and we are of the opinion that these shall continue concurrently in the near future.

ACAIE has a rich legacy of noted professionals, advocates, industrialists and businessmen taking leading roles and furthering the objectives of the organisation. In order to keep building on this legacy, we would need more and more members to join our organisation. It is my pleasure to invite all the non-members who wish to be associated with us, to join this prestigious organisation. I would also invite all my fellow members to join my hands in this mission to get as many non-members on board as possible.

ACAIE is regularly organizing its well conceptualized event of "Group Discussion" to promote knowledge and interactive skills amongst its members more particularly younger ones. I would also like to take this platform to invite suggestions from all of you. Please feel free to drop in any advice or proposal regarding any of the programmes that we organise here at ACAIE.

Finally, I would like to take this opportunity to wish all the members and their families a very Happy New Year 2023. May each day of the New Year bring you luck, joy, happiness and prosperity.

With warm regards

**CA PRAMOD DAYAL RUNGTA**  
*President*





### Executive Committee 2022-2023

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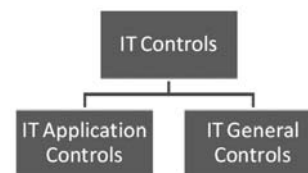
# Auditing Automated Environment - Understanding the Basics

## Introduction

With increasing digitization and rapid adoption of technology, organizations have understood the need to enhance their cyber defenses, thanks to growing technology risks. This has resulted in organizations laying greater emphasis on their underlying Information and Technology Controls. While on one side, COVID-19 has accelerated the technology adoption, it has made also made virtual and hybrid working a reality. All these changes call for lines of defense to regularly review the risks pertaining to the underlying technologies and ensure it is within its appetite.

While the regulatory frameworks such as the RBI, SEBI or IRDA Guidelines, require organizations to periodically review these risks and report the same, it is equally important for all establishments to assess their "digital risk" in today's era. Even a *kirana* store (your neighborhood grocer) who accepts digital payment via wallets or UPI is exposed to technological risks! From an audit perspective, the auditing standards require auditors to understand the underlying risks including the technological risks and take appropriate safeguard to assess those risks. Legislations like the Internal Control over Financial Reporting (part of the Companies Act, 2013), the Sarbanes Oxley Act, have mandated the management and auditors to comment on the design and effectiveness of internal controls. In this assessment often disregarded are the implications of technology and the technological risks. Financial Auditors also want to get comfort in the way the financial reports are being generated and to know if all information provided by entities (IPE) are generated after

adequate checks and balances. All of these require technology to be designed and operated effectively. Thus, there is a need for auditing the Technology Controls, also known as IT Controls.



These IT Controls can be Application specific or embedded within an application called IT Application controls (ITACs) or could be pervasive across the organization or work behind the scenes of an application and are popularly referred to as IT General Controls (ITGCs).

## ITGCs vs ITACs

IT General Controls (ITGC) [sometimes also referred to as General IT Controls (GITC)] are controls that apply to all systems, components, processes, and data for a given organization or IT environment. The objective of ITGCs is to ensure the proper development and implementation of applications, as well as the integrity of programs, data files, and computer operations, ensuring the access is restricted to those who are in need and to the extent which is required.

ITGCs also give assurance that the underlying IT system produces accurate results and that reliance can be placed on the output of the system. ITGC audits are normally done as part of financial statements audits to review the controls in place for the IT systems that have a direct effect on the financial statements. ITGC audits could also be performed independently to assess the accuracy and integrity of the



output of any system. They could be mandated by virtue of any regulatory requirements, as a part of corporate restructuring or due diligence exercise as well.

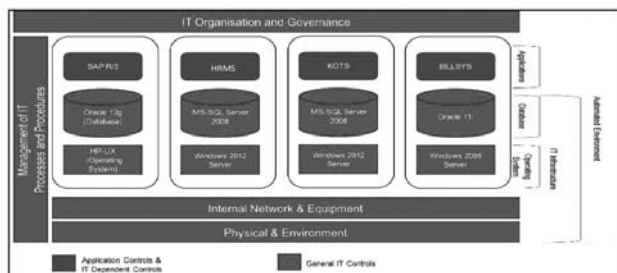
ITGCs should be clearly distinguished from IT Application Controls (ITACs) which predominantly focus on the controls inbuilt into any application such as input controls, limit checks, validation, and integrity checks etc. It is to be noted that Application controls often are embedded within the Business process controls, such as controls inbuilt in Procurement to Pay (P2P) or Order to Cash (O2C) etc. and give assurance for the underlying business processes.

To illustrate, assume an ERP has a feature where invoices shall be automatically processed, on successful completion of 3-way match, i.e., only when the details as per Purchase Order, Goods Receipt Note and Invoice match or a Sales invoice can be raised only if the Sales Order matches with the Dispatch note, these are said to be Application Controls which ensure, the underlying business process, in this case the Procurement and Sales respectively, are in order.

On the other end, it is equally important to ensure that person having access to enter the above data is restricted and ensure appropriate segregation of duties are in place to avoid conflicts. This is achieved by restricting access to appropriate personnel and regularly reviewing the access granted. These controls over access are examples of IT General Controls.

## Case Study:

An organization has 4 IT Applications namely SAP R/3 as ERP, HRMS for HR and Payroll operations, KOTS for managing Procurement and BILLSYS for billing and receivable management. All of these are hosted within the organizations servers located at Head Office. These are standalone applications and are all integrated with the ERP. Each of them has different Databases and Operating Systems and are well networked across the organization.



**Fig 1:** Illustration of the Organizations IT Environment and how IT Application Controls and General Controls operate

Given this set up, let us illustrate what could be the possible IT Risks:

1. Risk of unauthorized access into the systems and network
2. Risk of data loss or data theft
3. Risk of operating system vulnerabilities (say Manufacturer not giving support to outdated Operating Systems) or risk of default credentials not modified in database
4. Risk of unauthorized changes made to the Application or the Programs
5. Risk pertaining to application interfaces
6. Risk of unauthorized access to server room (physical environment)
7. Environmental risks such as Fire, Humidity, Air conditioning etc.
8. Risk of incorrect inputs given to the system owing to lack of mandatory checks and balances such risk of entering incorrect GST rate instead of not being chosen as a drop down or auto configured in BILLSYS
9. Risk of incorrect processing logic, say HRMS calculating the salary incorrectly or KOTS incorrectly recording the logic of 3-way match.
10. Risk of output generated incorrectly, say output not getting refreshed every time fresh entries are posted into the system, say the ERP is not generating the updated Profit and loss after passing audit adjustment entries.

In the above illustrations, risks 1 to 7 can be mitigated by ensuring appropriate IT General Controls are in place and risk 8 to 10 can be mitigated with appropriate IT Application Controls.

## Concluding Thoughts

It is clear from the above that the role of IT controls is significant to get comfort on the underlying IT Infrastructure and to place reliance on the integrity, processing and accuracy of the processes and reports generated. The next interesting question as auditors is, how does one audit these controls? How can one ensure that the risks are under control? Well, let us explore them in our next article.

\* \* \* \* \*





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## Chartered Accountants : Partners in Nation Building

**“At the stroke of the midnight hour, when the world sleeps, India will awake to life and freedom”**– extract from Tryst with destiny speech by Shri Jawahar Lal Nehru

Seventy-Five years ago on August 15, 1947, when our nation broke the shackles of colonial rule, it marked the beginning of a new journey. This journey continues to date and every moment of hard work by fellow nationals helps the journey move a step closer to its destination: the journey of building India ‘Sone ki Chidya’ again.

In the quote above, the urge for countrymen to rise to the occasion is apparent. The phrase, ‘awake to life’ could have been a reference to a lot of things. A possible reference could be to avoid complacency and get into action effectively immediately as the task on hand requires a plethora of activities over decades to come with independence only being the cornerstone for the mission and not an end in itself.

Let us take a moment to delve into the state of mind of decision-makers of newly independent India on August 15, 1947. The list of activities to be actioned upon would have ranged from sensitive issues like framing the Constitution to govern approximately 34 Crore countrymen to serious issues like protecting the national borders. The issues would have easily outnumbered the resources required to resolve them and thus decision makers would have had to prioritize the deployment of resources for resolving the issues at hand.

The fact that The Institute of Chartered Accountants of India was set up on July 1, 1949, under The Chartered Accountants Act, 1949, preceding the adoption and coming into force of

the Indian Constitution (November 26, 1949, and January 26, 1950, respectively) speaks volumes about the vision of the then decision makers for Chartered Accountants: Partners in Nation Building.

It requires tremendous collective and continuous effort on part of each and every citizen to effectively build a nation. In my personal view, Trust alone can ensure the long-term continuity of tremendous and collective efforts.

Chartered Accountants, in their capacity as formulators of Accounting framework Audit professionals, continue to give a splendid contribution in ensuring trust in financial statements and other critical information which are major considerations for any investor (domestic or foreign) trying to make an informed decision. Chartered Accountants also play an active role in augmenting household savings by spreading awareness about the need for long-term investments and avenues for investments. Thus, Chartered Accountants contribute positively to the country’s GDP by inculcating the habit of thrift and investment planning as a part of daily life.

Additionally, Chartered Accountants help the government in generating forex inflows by attracting Foreign Direct Investments (FDI) from Foreign Institutional Investors (FII)/Foreign Portfolio Investors (FPI) both in Primary and Secondary markets. In Primary markets, Chartered Accountants play a crucial role in vetting offer documents like Red Herring Prospectus (RHP) concerning financial information and historical financial statements. On the other hand, in Secondary markets, valuation reports from Chartered Accountants help determine correct valuations, especially in light of the



increased interest in Indian start-ups by FPIs/FIIs.

Our current Prime Minister Shri Narendra Modi has also emphasised the 'Trust' that a Chartered Accountants 'signature' carries (Prime Minister's address to CA Community on Chartered Accountants Day 2017).

Indian population has increased from 34 Cr. at the time of independence to approximately 140 Cr. as per recent estimates. To ensure the smooth functioning of the Indian economy, over the years, various enactments have been introduced. Among other enactments, The Income Tax Act, 1961 and Integrated/Central/State Goods and Service Tax Act 2017 are key to the Central and State government's revenue collection. Chartered Accountants in their personal capacity as well as through The Institute of Chartered Accountants of India have played a pivotal role in drafting and post-roll out amendment of such key legislations. Thus helping the Government build a robust financial ecosystem to ensure the flow of funds for nation-building.

On the other hand, since the inception of these legislations, Chartered Accountants have played the role of planning, facilitating and ensuring compliance with the law for individuals and businesses alike. This has been one of the factors that have bestowed upon individuals and businesses a high degree of ease of doing business (India EDB 2020 ranking: 63 up from 142 in 2015; Ease of Paying Taxes being 1 of 10 parameters for Ease of Doing Business ranking by World Bank) which has, in turn, ensured progress for business and profession and in turn for the nation.

While the role of a Chartered Accountant in nation-building as a professional in practice is evident, the role of Chartered Accountants not in practice i.e. Industry professionals or Entrepreneurs has been phenomenal as well. As of April 1, 2022, the total strength of CA in practice was 43.7%

meaning 56.3% of total Chartered Accountants are Industry professionals or Entrepreneurs.

The Reserve Bank of India has mandated All Scheduled Commercial Banks in India, vide notification RBI/2016-17/304 DBR.Appt.No.BC.68/29.67.001/2016-17 dated May 18, 2017, to appoint only qualified Chartered Accountant as Chief Financial Officer (CFO) as a CFO has to play a crucial role in strengthening and sustaining the banks' risk governance framework. This stance from the banker to banks speaks volumes about the contribution of Chartered Accountants in Industry and thereby towards nation-building.

Chartered Accountants' role in the private sector has been phenomenal as well. Corporate Planning and analysis teams of most large corporations include Chartered Accountants. Chartered Accountants in their capacity as finance controllers, work closely for project evaluation of business functions. Be it huge capital investments for capacity building or marketing spending for brand building, business functions today depend upon financial models developed by Chartered Accountants for decision-making. Smarter corporate decisions in turn would lead to faster economic growth in the country.

The importance of Chartered Accountants as partners in nation-building was also highlighted by Former President of India Dr A. P. J. Abdul Kalam's address 'Chartered Accountants: Partners in National Development' at the ICAI's international conference on the accounting profession in New Delhi. Dr Kalam concluded his address by insisting Chartered Accountants consider their mission is the mission of the "National Economic Development." May his blessings continue to drive the fraternity of Chartered Accountants: Partners in Nation Building.

\* \* \* \* \*

**"Everybody wants to be famous, but nobody wants to do the work. I live by that. You grind hard so you can play hard. At the end of the day, you put all the work in, and eventually it'll pay off. It could be in a year, it could be in 30 years. Eventually, your hard work will pay off."**

**— Kevin Hart**



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## E-Invoicing A way Forward

This year on 1st Oct 2022, the GST E invoice Portal maintained by NIC celebrated the 2nd Anniversary of GST E invoice implementation. The GST Council, in its 37th meeting held on 20th September 2019, approved the introduction of an electronic invoice ('e-invoice') in GST in a phased manner. Accordingly, steps have been initiated to introduce 'e-invoicing' for reporting Business to Business (B2B) and export invoices. GST Council, in its 39th meeting, held on 14th March 2020, further recommended certain classes of registered persons to be exempt from issuing e-invoices. The first phase started with the requirement to generate an E-invoice for the registered person having an aggregate Turnover of more than Rs 500 crore. Presently, e-Invoicing is mandatory for taxpayers with an annual turnover of more than Rs.10 crores from 1st October 2022. It is expected that this limit of aggregate turnover may be reduced to Rs 5 crore and further to Rs 1 Crore.

Now the question arises, is this system of e-Invoicing beneficial for small taxpayers having turnover between 1 crore to 10 crore? Are they ready for

the implementation of GST E-Invoice?

The last two years have witnessed that GST E Invoice Portal worked smoothly and there was a smooth implementation of the GST E-invoice system. To resolve the various queries and problems from time to time various FAQs were issued and available at <https://einvoice1.gst.gov.in/>

No doubt that after implementation of an E-invoice for the registered person having a turnover between 1 crore to 10 crores they have to learn and interface with a new website and learn how to generate an E-invoice and its applicability, but they will get the benefit of the auto-population of outward supplies in their GSTR 1. Thus E-invoice will save time and build accuracy.

Many developed and developing countries have implemented the system of GST E-invoice and as per an EY survey in France in 2016, it had been seen that E invoices save time and cost.

Below is the sequence of various relevant Notifications issued for E-invoicing till time:

Notification No.	Date	Subject
60/2020	30.07.2020	Central Goods and Services Tax (Ninth Amendment) Rules, 2020 New form substituted for GST INV-01 (i.e. notified revised Schema/format for e-invoice)
61/2020	30.07.2020	Amended notification 13/2020 Dt. 21-3-2020 Special Economic Zone units also excluded from e-invoicing mandate Aggregate Turnover of registered persons (required to prepare invoice in terms of Rule 48(4)) enhanced to Rs. 500 Cr.



Notification No.	Date	Subject
70/2020	30.07.2020	the words “a financial year” in notification 13/2020 Dt. 21-3-2020 substituted with “any preceding financial year from 2017-18 onwards.” Invoices for exports were also included.
72/2020	30.07.2020	In rule 46, after clause (q), below clause is inserted: “(r) Quick Reference code, having embedded Invoice Reference Number (IRN) in it, in case invoice has been issued in the manner prescribed under sub-rule (4) of rule 48.” In rule 48, in sub-rule (4), below proviso was inserted: “Provided that the Commissioner may, on the recommendations of the Council, by notification, exempt a person or a class of registered persons from issuance of invoice under this sub-rule for a specified period, subject to such conditions and restrictions as may be specified in the said notification.” In rule 138A, for sub-rule (2), below sub-rule was substituted: “(2) In case, invoice is issued in the manner prescribed under sub-rule (4) of rule 48, the Quick Reference (QR) code having an embedded Invoice Reference Number (IRN) in it, may be produced electronically, for verification by the proper officer in lieu of the physical copy of such tax invoice.”
73/2020	01.10.2020	Seeks to notify a special procedure for taxpayers for issuance of e-Invoices in the period 01.10.2020 - 31.10.2020.
88/2020	10.11.2020	Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 100 Cr from 01st January 2021.
5/2021	08.03.2021	Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 50 Cr from 01st April 2021.
1/2022	24.02.2022	Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 20 Cr from 01st April 2022.
17/2022	01.08.2022	Seeks to implement e-invoicing for the taxpayers having aggregate turnover exceeding Rs. 10 Cr from 01st October, 2022.

## GST E Invoice Generation Process

- Taxpayers will continue to create their GST invoices on their own Accounting/Billing/ERP Systems
- These invoices will now be reported to ‘Invoice Registration Portal (IRP)’
- On reporting, IRP returns a signed e-invoice with a unique ‘Invoice Reference Number (IRN)’ and a QR Code.
- Then, the invoice can be issued to the receiver (with QR Code)
- A GST invoice will be valid only with a valid IRN.

## Latest Features available at Portal

- Single sign-on for invoice and e-way bill
- Enhanced security with two-factor authentication
- Web and mobile user-friendly tools
- Mobile app to verify QR code and DSC
- Prediction of tax collection based on AI

E-invoice system is a step toward digital India and it will help to reduce the menace of fake invoicing and will bring transparency in the economic ecosystem.

\* \* \* \* \*

**“You must not lose faith in humanity. Humanity is an ocean; if a few drops of the ocean are dirty, the ocean does not become dirty.”**

**— Mahatma Gandhi**



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# The Rule of Ejusdem Generis

## Introduction and Concept

Courts often take the aid of different rules of interpretation to understand the true intent of the legislature. One such aid is the legal maxim 'ejusdem generis'. The term 'ejusdem generis' is a Latin term which means 'of the same kind'. The rule of ejusdem generis implies that when some specific words of the same genus or category are followed by certain general words, then such general words should be construed as belonging to the same genus or category.

The aim of this rule is two-fold. First, it helps in giving a wider import to the provision when the legislature intends to include multiple subjects but it is not practical to enumerate every subject. Second, it also restricts the meaning to the context, thereby defining its scope and preventing it from becoming vague and being misused.

Maxwell states that, "*But the general word which follows particular and specific words of the same nature as itself takes its meaning from them, and is presumed to be restricted to the same genus as those words*". Further, according to Craies, the rule can be invoked only when there is a distinct genus or category and the particular words belong to the same category and not of widely differing characters.

Hence, the doctrine can be taken as an aid to interpretation when the meaning and scope of a general word is not clear which can be interpreted in the context of its preceding words which belong to the same category.

## Evolution of the Doctrine

In the United States of America, the maxim gained importance quite early in time. In **William Bend v. Jesse Hoyt [38 US 263 (1839)]**, the assessee was

under a belief that he had imported cotton gloves (exempted) rather than silk hose (taxable). Later, he contended that he was not liable to pay any tax on the same claiming exemption. The US Supreme Court applied the doctrine of ejusdem generis to uphold the liability of the assessee to pay customs duty on silk hose which was classified under hosiery and could not fall within cotton fabric.

Further, in **Tillmans & Co v. SS Knutsford Ltd [(1908) 2 KB 385]**, Lord Farewell explained the applicability of the maxim to hold that "*when there is a clear category followed by words which are not clear, unambiguous general words, it would violate rule of construction to strike out and render unmeaning two words which were presumably inserted for the purpose of having some meaning*".

## Recognition in the Indian Legal System

Even prior to independence, the rule of ejusdem generis was recognized by the Indian Courts in many cases including **Chhajju Ram v. Neki [1922 SCC OnLine PC 11]**. Here, the Privy Council held that, in Order XLVII, Rule 1 of Civil Procedure Code, 1908, the words 'any other sufficient reason' should be analogous to the words preceding it, thereby recognizing the principle of ejusdem generis.

Pursuant to independence, the rule continued to be of vital importance as an aid to interpretation and construction. In the case of **Amar Chandra Chakraborty v. Collector of Excise, Govt. of Tripura [(1972) 2 SCC 442]**, the Hon'ble Supreme Court laid down five essential conditions which must be fulfilled to enable the applicability of the doctrine. These conditions are as follows:



1. The statute, which is in dispute, must contain an enumeration of specific words.
2. These specific words should form a class or category.
3. The class or category should not be exhausted by the enumeration.
4. A general term should follow these specific words.
5. There should not be a distinct legislative intent.

Recently, in **BHEL v. Globe Hi-Fabs Ltd. [(2015) 5 SCC 718]**, the Supreme Court held that while applying the rule of ejusdem generis, one must be cautious enough to not limit the general provision by application of rule if the same defeats the purpose of legislation. In such cases, purposive construction should be applied rather than merely applying the rule.

## Relevance in the Indirect Tax Regime

The rule of ejusdem generis has been crucial in the interpretation of taxation statutes. More often than not, the legislative intent of provisions as well as the classification of goods and services are disputed by both assessee and Revenue. In such situations, the rule of ejusdem generis comes to aid when certain specific words follow a general term. Hereafter, certain decisions pertaining to the erstwhile regime as well as the current regime are discussed to understand the relevance of the doctrine in the indirect tax arena.

### Erstwhile Regime

In the case of **Siddeshwari Cotton Mills (P) Ltd. v. Union of India [(1989) 2 SCC 458]**, the Supreme Court was concerned with the interpretation of the term 'any other process' in Section 2(f)(v) of the Central Excises and Salt Act, 1944. The term was preceded by expressions such as bleaching, dyeing, printing, rubberizing etc. Assessee was engaged in the plain calendering of cotton fabrics and thereby claimed exemption from the said category. The Supreme Court came to the conclusion that the specific words denoted a chemical process on the process which created a lasting change on the fabric and hence, 'any other process' should be construed accordingly by application of ejusdem generis. However, the same was not the case in the process used by the assessee since it did not cause any chemical change which had a lasting effect.

**Asstt. Collector of Central Excise v. Ramdev Tobacco Co. [(1991) 2 SCC 119]** is another landmark case where the term 'other legal proceeding' in Section 40(2) of the Central Excises and Salt Act, 1944 was in question. The Supreme Court applied the rule of ejusdem generis to conclude that

the term should be read with its preceding terms 'suit' and 'prosecution' and hence, such proceeding should only be initiated in a court of law and not by any other authority.

Similarly, in **Grasim Industries Ltd. v. Collector of Customs [(2002) 4 SCC 297]**, where the issue related to classification of activity of the assessee, the Court held that the rule can be taken aid of, in only those cases where the meaning is not clear. Further, the general word should be followed after certain particular words belonging to the same category, which was not the case in the present issue. Hence, the rule was found to be inapplicable in the case.

### GST Regime

In **Konkan LNG (P.) Ltd., In re [(2020) 120 taxmann.com 26 (AAAR-MAHARASHTRA)]**, AAAR Maharashtra ruled that the term 'plant and machinery' should be read ejusdem generis and be used in conjunction with each other. Accordingly, it held that the breakwater wall cannot be considered as plant and machinery but rather as a civil structure.

Similarly, in **Swan LNG (P.) Ltd., In re, [(2022) 139 taxmann.com 490 (AAAR-GUJARAT)]**, AAAR held that the term 'other civil structures' should take colour from preceding words 'land' and 'building'. Resultantly, the LNG jetties constructed over the sea by assessee would fall under the category of civil structure.

In the case of **Mayank Jain [(2020) 122 taxmann.com 59 (AAAR-MAHARASHTRA)]** and **Airbus Group India (P.) Ltd., In re [(2022) 135 taxmann.com 277 (AAAR-KARNATAKA)]**, AAAR held that ejusdem generis cannot be applied to the definition of intermediary under Section 2(13) of the Integrated Goods and Services Act, 2017. It held that the phrase 'broker, agent or any other person, by whatever name called' cannot be restricted to include only those persons in nature of broker or agent and has to be given a wider import.

### Conclusion

The doctrine of ejusdem generis serves as an important tool for the courts to provide appropriate meaning to the provision and understand its true boundaries. It helps in giving a wide scope but also restricts its ambit at the same time to ensure purposive interpretation. Further, the rule has been of much aid in cases of provisions concerning indirect tax, especially when a dispute arises as to the classification or taxability of goods or services.

*Disclaimer: All views expressed above are personal and do not represent any organization or group.*

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# Gameskraft Case: Is Rummy a Game of Skill or Chance?

## Introduction

With the advent and growth of technology, new legal issues have started to arise in the tech arena, one of which is taxability. Disputes often arise as to whether a game is that of skill or chance and accordingly, the tax liability is affected. In this context, it is pertinent to note that a game might involve both skill and chance, but the test is that of dominance i.e., if the game is predominantly skill-based, though also involving some sort of chance, it shall be considered as a game of skill. To exemplify, many card games including Teen Patti, involve an element of skill, however, the outcome of these games is majorly dependent on the chance, thereby being considered as a game of chance. However, the game of cricket itself predominantly is a game of skill even though it also contains the element of chance.

Recently, a writ petition was filed by a famous online game hosting platform before the Karnataka High Court, **Gameskraft Technologies Private Limited v. Directorate General of Goods and Services Tax Intelligence [WP 18304/2022]**, against the demand of the GST Department, considering rummy as a game of chance rather than skill. The demand amounted to a whopping Rs 21,000 crores, which is the highest demand since the inception of GST. It will be interesting to see the fate of the case.

## Brief Background of the Case

### Facts

The petitioner Gameskraft Technologies Private Limited runs an online gaming platform and rummy constitutes more than 96% of the games played. During the impugned period of 2017-2022, the petitioner has earned an income of

Rs. 4000 crores, as against the demand notice issued by the GST Department amounting to Rs. 21000 crores. The demand notice issued by the Revenue states that the games hosted by the petitioner on its platform are in the nature of betting and is an actionable claim. Further, by taking aid of the rules of valuation under Rule 31A of CGST Rules, the demand has been computed based on the bet amount as against the platform fee charged by the petitioners at the rate of 28%. Resultantly, a writ petition was filed by Gameskraft Technologies to quash the demand and also provide for interim relief to stay the demand till final adjudication.

### Issues

Whether the games hosted by the petitioner on its platform are exigible to GST?

## Contentions of Parties

### Petitioner

1. The demand is without the authority of law since it was not issued by the proper officer.
2. There is no supply of actionable claim as any actionable claim is only between parties and the petitioner is not involved.
3. Even if it is assumed that there is a supply of actionable claim, still no demand would arise since it is not taxable under CGST Act if not related to betting, gambling or lottery.
4. Games played on the platform are games of skill and hence, cannot amount to betting.
5. Impugned notice is contrary to law since the issue of taxability of online games has been referred to by the GST Council for consideration.



6. Impugned demand is violative of Articles 14, 19 and 21.

## **Respondent**

1. The contention regarding lack of jurisdiction on the part of the Officer is incorrect in view of the Notification dated 01.07.2017 and Corrigendum dated 28.07.2019 issued by the respondents.
2. The petition is premature and liable to be dismissed.
3. The petition prays to scuttle the due process of law and hence, should not be maintainable.
4. Absence of any recommendation by the GST Council cannot restrict the Revenue from exercising its powers under the law.

Very recently, an Intervention Application was filed by E-Gaming Federation, while the writ is pending before the High Court, to become a party in the matter. It contended that its members have a direct interest in the outcome of the case and hence, it should be considered as a necessary party to the case.

## **Key Issues**

### **Whether rummy is a game of skill or chance?**

Though various High Courts previously dealt with the question, it was only in the case of **State of A.P. v. K. Satyanarayana, [(1968) 2 SCR 387]**, that the Hon'ble Supreme Court first decided upon the issue of whether rummy is a game of skill or chance. It held that all card games would always have an element of chance involved because of the distribution of shuffled cards. However, one cannot infer from it that this makes it a game of chance. The Court held the game to be predominantly that of skill because the game of rummy requires a player to memorise the fall of cards, proper holding of cards and discarding them, which requires skill. This case was further affirmed by a three-judge Bench of the Supreme Court in **K.R. Lakshmanan (Dr) v. State of T.N. [(1996) 2 SCC 226]**. In this case, the Court had held that gambling involves a game of chance and rummy being a game of skill would not qualify as gambling.

Though these judgments were passed more than twenty-five years ago and date back to the time when technology was not advanced enough to involve games such as online rummy, yet they are relied on by the Supreme Court and the High Courts till date. The cases cannot be distinguished merely because they do not cover the online versions of the game since the rules, by and large, remain the same even in online rummy.

### **Whether there is any supply of actionable claim?**

An actionable claim under Section 2(1) of the CGST Act

derives its meaning from Section 3 of the Transfer of Property Act which states:

*"actionable claim means a claim to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge of moveable property, or to any beneficial interest in moveable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent."*

It is pertinent to mention that before the game begins, the winning amount is deposited in a separate escrow account to safeguard the money of the winner and it is only through this escrow account that all the transactions concerning deposits and withdrawals happen. In this aspect, it can be just to infer that such an amount is an actionable claim for the winning person against the gaming platform. Recently, the Hon'ble Bombay High Court in **Gurdeep Singh Sachar v. Union of India [2019 SCC OnLine Bom 13059]**, came to a similar conclusion where the applicability of GST on online games was concerned. A similar ratio was also given by the Punjab & Haryana High Court in **Varun Gumber v. Union Territory of Chandigarh [2017 SCC OnLine P&H 5372]**.

Hence, the contention of the petitioners may not be upheld by the High Court considering the fact that the amount is deposited in an escrow account. Nevertheless, this would not result in any tax liability on the petitioners as Entry 6 of the Third Schedule of the CGST Act provides that actionable (other than lottery, betting and gambling) shall not be considered as a supply of either goods or services and hence, shall not be taxable. Rummy, being held by the Supreme Court as a game of skill not falling within the ambit of betting or gambling, would make it an actionable claim, not exigible to GST.

## **Applicability of tax on two events**

### **GST on platform fee**

The explanatory notes for Heading 998439 of SAC titled 'Other on-line content n.e.c.' states:

*"This service code includes games that are intended to be played on the Internet such as role-playing games (RPGs), strategy games, action games, card games, children's games; software that is intended to be executed on-line, except game software; mature theme, sexually explicit content published or broadcast over the Internet including graphics, live feeds, interactive performances and virtual activities; content provided on web search portals, i.e. extensive databases of Internet addresses and content in an easily searchable format; statistics or other information, including streamed news; other on-line content not included above such as greeting cards, jokes, cartoons, graphics, maps."*

Note: Payment may be by subscription, membership fee, pay-per-play or pay-per view.

This service code does not include:

- software downloads, cf. 998434
- on-line gambling services, cf. 999692
- adult content in on-line newspapers, periodicals, books, directories, cf. 998431”

Heading 998439 imposes GST @ 18% on any payment made by the players to play the online games such as card games or action games whether by way of subscription, membership or any other way. This, however, excludes games in the nature of gambling. Thus, rummy, being a card game, shall fall under this heading and the platform fees charged by Gameskraft shall be taxable at 18%. More importantly, these game hosting platforms are predominantly providing a platform to its users to connect and play games and hence, it seems more rational to levy tax on the platform fees.

#### **GST on the bet amount**

Rule 31A(3) states:

*“The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator”*

Heading 999692 titled ‘Gambling and betting services including similar online services’ states:

“This service code includes:

- i. on-line gambling services
- ii. on-line games involving betting/gambling.
- iii. off-track betting,
- iv. casino and gambling house services
- v. gambling slot machine services
- vi. other similar services”

Rule 31A(3) of the CGST Rules, 2017 combined with Heading 999692 provides that online games which involve betting or gambling will attract GST at the rate of 28% on the bet amount. Nevertheless, this above discussion already makes it clear that online rummy shall not be considered betting or gambling since it is a game of skill. Additionally, levying tax on such an amount would be unreasonable as this amount still rests with the player himself and discharging tax liability on this amount would signify ‘a tax on the wallet’ of the taxpayer. Hence, the business of Gameskraft shall not attract any GST on the bet amount.

#### **Conclusion**

It would be interesting to see the verdict of the Court in this matter. Moreover, with the growth of more tech-based platforms, taxability issues in such areas will only increase and litigation is bound to occur in the near future on such transactions. Furthermore, an increased tax burden on these taxpayers, by levying tax on bet amount may not reap any benefits since it will lead to a situation of grey market which might effectively reduce the collection of the Revenue.

\* \* \* \* \*

**“It is more important that innocence be protected than it is that guilt be punished, for guilt and crimes are so frequent in this world that they cannot all be punished.**

**But if innocence itself is brought to the bar and condemned, perhaps to die, then the citizen will say, ‘whether I do good or whether I do evil is immaterial, for innocence itself is no protection,’ and if such an idea as that were to take hold in the mind of the citizen that would be the end of security whatsoever.”**

**— John Adams**





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## GST on Digital Overseas Transactions

With expanding facilities for trade and commerce and with modern technologies supporting more complicated transactions, cross-border transactions are increasing. While GST has been implemented internationally as a consumption-based tax, the tax impact is easy to understand. The determination of such place of consumption is termed and defined independently by countries involved in an overseas transaction and thus, sometimes an entity finds itself enmeshed in tax under the laws of both countries.

### What is Digital Transaction?

A digital transaction is a seamless system involving one or more participants, where transactions are effected without the need for cash. A digital transaction involves a constantly evolving way of doing things where financial technology (fintech) companies collaborate with various sectors of the economy to meet the increasingly sophisticated demands of the growing tech-savvy users.

Chances are that you've already participated in such a transaction. For instance, if you've purchased an item and the sales associate rang you up using an iPad rather than a cash register, you were part of a digital transaction.

Going digital provides great benefits for companies. Digital transactions save time and money, resulting in a better bottom line. Customer experiences are also enhanced.



### Types of Digital Transaction

- Direct Debit
- Wire transfers
- Online card payments
- Contactless card payments
- Digital wallets
- Peer-to-peer apps

### Advantages and Disadvantages of Digital Transaction

ADVANTAGES	DISADVANTAGES
FAST AND EFFICIENT	PASSWORD THREATS
CONVENIENT	ENCRYPTION COST
REACHING GLOBALLY	TRANSACTION COST
MORE SECURE	TECHNOLOGY ILLITERACY
GOOD TRACKING	LOSS OF CARDS
CASH FLOW MONITORING IN REAL TIME	PASSWORD THREATS
VARIETY OF PAYMENT MODES	

### HOW DOES GST IMPACT THESE TRANSACTIONS?

#### What is Supply?

Supply has been defined in Section 7 of the CGST Act which is an inclusive definition and includes almost everything except for the transactions mentioned in Schedule III.

However, there are two conditions to be fulfilled for a transaction to be considered as a supply under GST:

1. Consideration
2. Furtherance of Business

The definition of supply also states that some transactions specified in Schedule I will also be treated as supply even if made without consideration.

Relevant extract of the definition is as under

#### **"Section 7 of CGST Act**

For the purposes of this Act, the expression - "supply" includes-

- (b) import of services for a consideration whether or not in the course or furtherance of business;
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration;

#### **Schedule I**

- (4) Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business."

From the above definition, it can be concluded that Import of Service even if made with no reference to business will be a supply as per GST Law. Further, as per Sl. No. 4 of Schedule I, import of Service from a related person without consideration will also be a supply provided it is for business purpose. This has been done to capture and to stop tax evasion.

#### **What is Export?**

Section 2(5) of IGST Act

"export of goods" with its grammatical variations and cognate expressions, means taking **goods out of India to a place outside India**;

Section 2(6) of IGST Act

"export of services" means the supply of any service when,-

- (i) the **supplier** of service is **located in India**;
- (ii) the **recipient** of service is **located outside India**;
- (iii) the **place of supply** of service is **outside India**;
- (iv) the **payment for such service** has been received by the supplier of service in **convertible foreign exchange** or in Indian rupees wherever permitted by the Reserve Bank of India; and
- (v) the **supplier of service and the recipient of service** are **not merely establishments** of a distinct person in accordance with Explanation 1 in section 8;

Hence it is clear that anything which is sent outside India will fall under the definition of export. But in case of service merely receipt of proceeds from outside India will not classify it as an export. It has to fulfil all the conditions mentioned above to be qualified as export.

#### **What is Import?**

Section 2(10) of IGST Act

"import of goods" with its grammatical variations and cognate expressions, means **bringing goods into India from a place outside India**;

Section 2(11) of IGST Act

"import of services" means the supply of any service, where-

- (i) the **supplier** of service is **located outside India**;
- (ii) the **recipient** of service is **located in India**; and
- (iii) the **place of supply of service is in India**;

From the above definition it is clear that what is brought into India from outside the territorial waters will be treated as Import of goods.

However, for Import of service three conditions have to be fulfilled

1. Supplier must be located outside India
2. Receiver must be within India
3. Place of Supply must be within India

#### **Inter State or Intra State Supply?**

Section 7 (IGST Act)

- (4) Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce
- (5) "Supply of goods or services or both,-
  - (a) when the supplier is located in India and the place of supply is outside India;
  - (b) to or by a Special Economic Zone developer or a Special Economic Zone unit; or
  - (c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce."

Hence all supplies (whether goods or services) having place of supply outside India (Exports) will be treated as Inter State Supply.

However, supply of services imported into India will also be treated as Inter State Supply.

#### **Place of Supply (Section 13 of IGST)**

Section 13 of IGST Act defines place of supply provisions in case of cross border transactions which is as follows:

##### **General Rule – Location of Recipient**

- (2) The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services:

**Provided** that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

##### **Specific Rules**

- (3) The place of supply of the following services shall be the **location where the services are actually**

*performed, namely:-*

- (a) services supplied **in respect of goods** which are required to be **made physically available** by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:

*Provided that when such services are provided from a **remote location** by way of electronic means, the place of supply shall be the **location where goods are situated** at the time of supply of services:*

*Provided further that **nothing contained in this clause shall apply** in the case of services supplied in respect of goods which are **temporarily imported into India for repairs** or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process;*

- (b) services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the **physical presence of the recipient** or the person acting on his behalf, with the supplier for the supply of services.
- (4) The place of supply of services supplied directly in relation to an **immovable property**, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, shall be **the place where the immovable property is located or intended to be located**.
- (5) The place of supply of services supplied by way of **admission to, or organisation** of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation, shall be the **place where the event is actually held**.
- (6) Where any services referred to in sub-section (3) or sub-section (4) or sub-section (5) is supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory.
- (7) Where the services referred to in sub-section (3) or sub-section (4) or sub-section (5) are supplied in

more than one State or Union territory, the place of supply of such services shall be taken as being in each of the respective States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

- (8) The place of supply of the following services shall be the **location of the supplier of services**, namely:-
- (a) services supplied by a **banking company**, or a financial institution, or a non-banking financial company, **to account holders**;
- (b) **intermediary services**;
- (c) services consisting of **hiring of means of transport**, including yachts but excluding aircrafts and vessels, up to a period of one month.
- (9) The place of supply of services of **transportation of goods**, other than by way of mail or courier, shall be the place of **destination of such goods**.
- (10) The place of supply in respect of **passenger transportation services** shall be the place where the **passenger embarks on the conveyance** for a continuous journey.
- (11) The place of supply of services **provided on board a conveyance** during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the **first scheduled point of departure** of that conveyance for the journey.

## Is Registration under GST Mandatory?

As per Section 24 of CGST Act some categories of persons are specified to be compulsorily registered in India even if their threshold limit is not exceeding the specified limits. The provision is contained in Section 24 of the CGST Act which states as under:

“Section 24

- (i) person making Inter-state taxable supply
- (iii) persons who are required to pay tax under RCM
- (x) every electronic commerce operator
- (xi) every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person;”

Reference is drawn to Notification No. 10/2017 – Integrated Tax (Rate) which prescribes the supplies which attract GST



under RCM:

S.No.	Category of Supply of Services	Supplier of service	Recipient of Service
1	Any service supplied by any person who is located in a <b>non-taxable territory</b> to any person other than non-taxable online recipient.	Any person located in a non-taxable territory	Any person located in the taxable territory other than non-taxable online recipient

*“non-taxable online recipient” means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory*

Hence, it is clear from the above provisions that if a person imports services from outside India then he has to discharge his liability under RCM and pay tax accordingly if he is a registered person and not a non taxable online recipient.

In relation to import of goods, the goods have to be cleared from the customs authority for home consumption and the Bill of entry is being issued by the department after discharging all the liabilities including IGST before removal of goods. Hence, GST under RCM is not applicable in this case.

On conjoint reading of the above provisions, it may be concluded that Import of Service is liable under RCM and as per section 24, a person who pays GST under RCM has to compulsorily take registration.

Further, there is also a provision regarding compulsory registration in case of Inter State supply which includes Export of goods and services. However, the GST council through **Notification No. 10/2017 (IGST)**, exempted mandatory registration for the persons making inter-state supply of **services until** the aggregate turnover crosses the threshold limit.

However, the aforesaid exemption is not available to suppliers making inter-state supplies of goods. Hence, exporters of goods are mandatorily required to register under GST.

### Online information database access and retrieval (OIDAR Services)

#### What is OIDAR?

*“Section 2(17) (IGST) “online information and database access or retrieval services” means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic*

*services such as,–*

- (i) *advertising on the internet;*
- (ii) *providing cloud services;*
- (iii) *provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;*
- (iv) *providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;*
- (v) *online supplies of digital content (movies, television shows, music and the like);*
- (vi) *digital data storage; and*
- (vii) *online gaming;*

Anything which involves minimum human effort to retrieve information and provide access to anything online through internet will be covered under the definition of OIDAR services.

Place of supply in case of OIDAR Services is defined in section 13(12) which is defined as below:

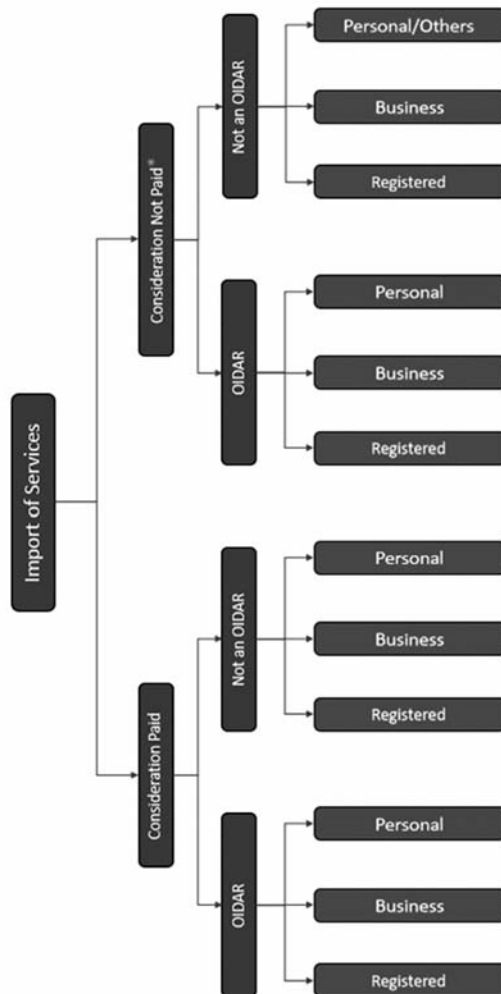
- (12) *The place of supply of **online information and database access or retrieval services** shall be the location of the recipient of services.*

For the purposes of place of supply, person receiving such services shall be deemed to be located in the **taxable territory**, if any two of the following non-contradictory conditions are satisfied, namely:-

- (a) the location of address presented by the recipient of services through internet is in the taxable territory;
- (b) the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;
- (c) the billing address of the recipient of services is in the taxable territory;
- (d) the internet protocol address of the device used by the recipient of services is in the taxable territory;
- (e) the bank of the recipient of services in which the

account used for payment is maintained in the taxable territory;

- (f) the country code of the subscriber identity module card used by the recipient of services is of taxable territory;
- (g) the location of the fixed land line through which the service is received by the recipient is in the taxable territory.



\* Applied as per Schedule 1 (Entry 4)

## Registration

As specified above, as per section 24(xi) of the CGST Act, suppliers of OIDAR services are mandatorily required to obtain registration under GST if the said services are provided to a person other than registered person.

## Special Provision regarding payment of taxes under IGST Act

Section 14 of the IGST Act prescribes special provision for payment of tax by a supplier of online information and database access or retrieval services. –

- (1) On supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, the supplier of services located in a non-taxable territory shall be the person liable for paying integrated tax on such supply of services:

Provided that in the case of supply of online information and database access or retrieval services by any person located in a non-taxable territory and received by a non-taxable online recipient, an intermediary located in the non-taxable territory, who arranges or facilitates the supply of such services, shall be deemed to be the recipient of such services from the supplier of services in non-taxable territory and supplying such services to the non-taxable online recipient except when such intermediary satisfies the following conditions, namely:-

- (a) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;
  - (b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;
  - (c) the intermediary involved in the supply does not authorise delivery; and
  - (d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.
- (2) The supplier of online information and database access or retrieval services referred to in sub-section (1) shall, for payment of integrated tax, take a single registration under the Simplified Registration Scheme to be notified by the Government:

Provided that any person located in the taxable territory representing such supplier for any purpose in the taxable territory shall get registered and pay integrated tax on behalf of the supplier:

**Provided** further that if such supplier does not have a physical presence or does not have a representative for any purpose in the taxable territory, he may appoint a person in the taxable territory for the purpose of paying integrated tax and such person shall be liable for payment of such tax.

### GST on Crypto Currencies?

There is a lot of confusion till date that whether the sale and purchase of crypto currencies are liable to GST or not? The Government has shown some interest in these transactions and it appears that the taxability of these transactions will be looked into and decided accordingly.

However, till date there are several open questions with respect to crypto currencies:

- Whether Goods or Services – Could be both, clarity awaited
- Whether Import – May or may not be
- Whether it is a supply or not – May or may not be
- Whether GST exempt or taxable – Either of two situations are possible

Transaction	Possible GST Implication
Purchase of crypto on payment of Indian Rupee or Foreign Currency	As cryptos may be classified as good, the seller of cryptos may be liable to discharge GST liability for the sale of cryptos

Transaction	Possible GST Implication
Services provided in connection with sale or purchase or exchange of cryptos	Supply of services in connection with the purchase, sale or exchange of cryptos for a consideration, charged as a service fee, liable to GST e.g., services provided by a crypto exchange
Cryptocurrency mining	Cryptocurrency mining may be treated as a supply of service since it generates cryptocurrencies and involves rewards and transaction fees. GST may be payable by the miner on transaction fees or rewards.

### Conclusion

Nowadays digital transactions are only a click away and with improvement in technology and ease of payments, the graph of overseas transactions is moving towards an increasing trend. However, the growth of such transactions, and the desire of common people to cope up with ongoing trends, may lead to serious trouble for the people who enter into such transactions with limited knowledge of the implications of law.

\* \* \* \* \*

**You cannot change the world,  
But you can present the world with one improved person - Yourself.  
You can go to work on yourself to make yourself  
Into the kind of person you admire and respect.  
You can become a role model and set a standard for others.  
You can control and discipline yourself to resist acting  
Or speaking in a negative way toward anyone for any reason.  
You can insist upon always doing things the loving way,  
Rather than the hurtful way.  
By doing these things each day, you can continue on your journey  
Toward becoming an exceptional human being.**

— Brian Tracy





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## Capital Market Update Dec., 2022

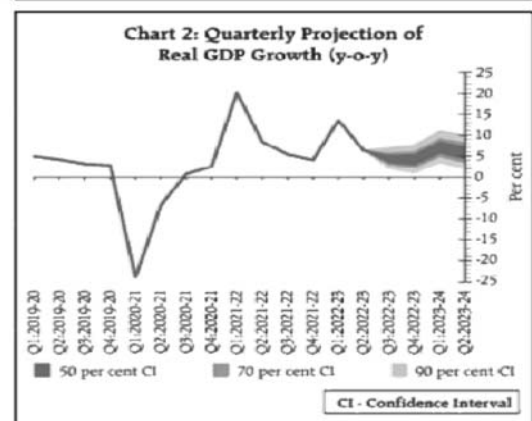
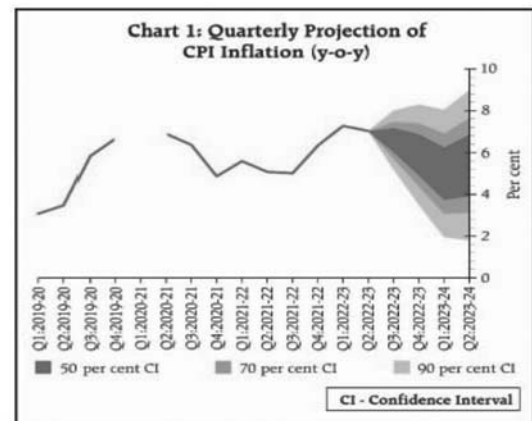
### Summary:

IMF said that while the global economy is facing a slowdown, India is slated to become one of the fastest-growing major economies in 2022 and 2023. Indian economic activity is showing resilience against the backdrop of the Global slowdown. RBI again hiked the repo rate by 0.35% to 6.25% to address inflation. Climate conference COP 27 was concluded in Egypt with some developments in finance and mechanism to achieve environmental targets. Markets were bullish and jumped around 10% in the last two months.

Key Merger and Acquisition include Asahi Songwon Colors Ltd. acquiring bulk pharmaceutical (API) manufacturer Atlas Life science. In this transaction, Vora Corporate Finance acted as financial advisor to Atlas Life science and Asahi Songwon Colors Ltd. And, Zoomcars merged with a Special Purpose Acquisition Company (SPAC) called Innovative International Acquisition Corp (There is a small note on SPACs).

### Economic Update:

- The Reserve Bank of India (RBI) in its monetary policy meeting held on December 7, 2022, has yet again hiked the repo rate by 0.35%. This is the fifth consecutive repo rate hike since May of this year. The repo rate will go up from 5.9% to 6.25%.
- Indian economic activity is showing resilience and GDP in Q2FY23 was 6.3% y-o-y. However Global economy may lose momentum as countries tighten financial conditions to fight the rising cost of livelihood because of food and energy price shocks and shortages.
- After about 2 years, India's exports turned negative -16.6% in October, mainly due to the global demand slowdown. Imports rose 6% because of crude oil, cotton, fertilizer & machinery.
- US Feds have sharply been increasing resulting in the depreciation of all major currencies worldwide. The rupee too has been depreciating. About 67% of the decline in reserves during the current financial year is due to valuation changes arising from an appreciating US dollar and higher US bond yields.



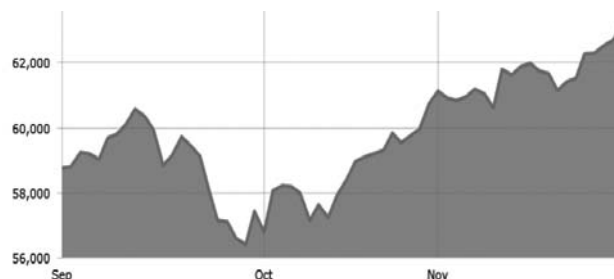
**COP27:**

- The 2022 United Nations Climate Change Conference (UNFCCC), more commonly referred to as the Conference of the Parties of the UNFCCC, or COP27, is the 27th United Nations Climate Change conference for governments to agree on steps to limit global temperature rise, it was held and concluded in Sharm el-Sheikh, Egypt with following key developments.
- Climate Finance was, as expected, a key part of COP27. The final agreement highlights that US\$4 to \$6 trillion a year needs to be invested in renewable energy until 2030 – including investments in technology and infrastructure – to reach net-zero emissions by 2050. However, the Annex II (rich) countries legally obliged to give \$100 Bn per year to climate funds have made far smaller contributions. This would hamper implementation in (poor) countries like Africa and other parts of the global south like Pakistan.
- Private Finance: There is a surge of interest from companies and major investors, like investment banks, and hedge funds, in adopting sustainable portfolios, and trillions of dollars are waiting to be unlocked, however right mechanisms are still awaited.
- A "loss and damage" fund was agreed upon for the first time for funding vulnerable countries to rescue and rebuild the physical and social infrastructure of countries devastated by extreme weather. However, there was no agreement on how the finance for this fund would be arranged.
- India's Net Zero Plan: India came out with the target to achieve net zero by 2070, as it promised in COP26. In the COP27 India deliberated upon the mechanism to achieve the target. India also promised to meet its 50% energy demand from renewable sources of energy.

**Trends in Secondary Markets:**

- The BSE Sensex was up by 5,672.73 points or 9.88% at 63,099.65 from 30th Sept to 30th November and NIFTY was up by 1664 points or 9.73% at 18,758.35.
- The domestic equity market remained bullish despite global cues remaining unfavourable due to monetary tightening and the possibility of a global recession. Markets ignored inflation and chose to focus on the long-term potential of India's story.

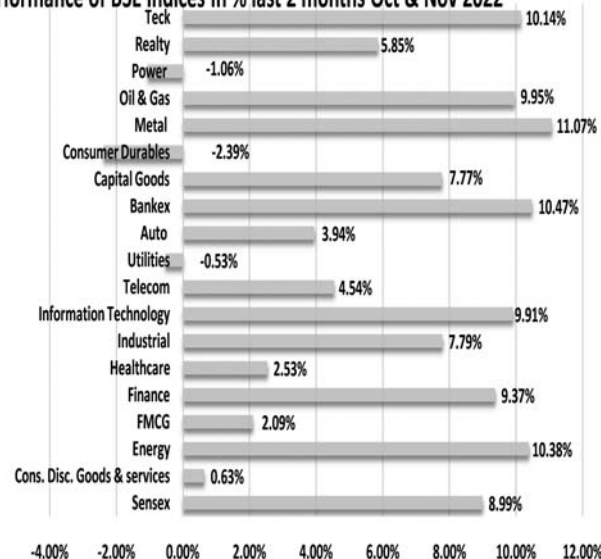
- In October, FPIs bought shares worth nearly Rs 8,430 Crore against net selling of Rs 13,405 Crore in September. FPIs made a significant comeback in November with a net investment of Rs 36,329 Crore.
- Earnings growth in Q2 FY 23 was led by BFSI, automobiles and telecom. Banks are doing well because of surging credit, rising interest rates and significantly reduced NPAs.



Equity Markets	Sept-22	Nov-22	% Change
BSE Sensex	57,426.92	63,099.65	9.88%
Nifty 50	17,094.35	18,758.35	9.73%
BSE 500	23,642.46	25,406.76	7.46%
BSE Healthcare	23,340.50	23,945.61	2.59%
BSE IT	27,488.42	30,511.10	10.99%
BSE FMCG	16,180.06	16,525.65	2.13%
BSE Metal	18,015.22	20,257.70	12.45%

**Primary Market Update:**

There were 9 main board IPOs in November against 2 in October and 3 in September 2022 as markets stayed bullish. There were 2 SME IPOs in November as against 12 SME IPOs in October and 7 SME IPOs in September 2022.

**Performance of BSE Indices in % last 2 months Oct & Nov 2022**

Particulars	Sept-22	Oct-22	Nov-22
<b>I. Equity Issues</b>	<b>6,839</b>	<b>2,909</b>	<b>13,445</b>
a. IPOs (i+ii)	2,414	1,257	10,078
i. Main Board	2,125	809	9,974
ii. SME Platform	289	447	104
b. FPOs	0	0	0
c. Equity Rights Issues	298	162	1,651
d. QIPs/PPs	607	500	0
e. Preferential Allotments	3,519	991	1,716
<b>II. Debt Issues</b>	<b>83,088</b>	<b>36,751</b>	<b>77,431</b>
a. Debt Public Issues	602	2,052	867
b. Private Placement of Debt	83,088	34,699	76,563
<b>Total Funds Mobilized (I+II)</b>	<b>89,926</b>	<b>39,660</b>	<b>90,876</b>

## Mergers and Acquisitions (M&A) and Private Equity (PE) key deals:

### MA: Asahi Songwon Colors acquires Atlas Life Science to enter API business:

#### Transaction:

- Asahi Songwon Colors Limited ("Asahi"), a market leader in the Indian pigments industry, announced the acquisition of Atlas Life Sciences Pvt. Ltd. ("Atlas"), a manufacturer of Active pharmaceutical ingredients (APIs).
- Asahi signed a definitive agreement to acquire a 100% equity stake in Atlas. The acquisition of shares under first tranche i.e. 78% stake in Atlas is completed on April 18, 2022 for an all-cash consideration of Rs. 48 Crores.
- Balance 22% stake in ALSPL will be acquired in two tranches (11% each) before March, 2025 with Consideration based on performance.
- The acquisition includes a fully operational WHO GMP certified manufacturing facility in Odhav, Ahmedabad, a R&D facility, a corporate office, and a 15,000 Sq. Mt. land parcel in Chhatral with EC permission for 32 products, for future expansion.
- Vora Corporate Finance along with its associate Crystal Path Capital Advisors acted as financial advisors to Atlas Life science Pvt. Ltd. and Asahi Songwon Colors Ltd. in this transaction.

#### About Atlas Life Science:

- Incorporated in 2004, Atlas is a manufacturer of API and Bulk Drugs. API are the substances in drugs that are responsible for the beneficial health effects experienced by consumers.
- Atlas is a leading manufacturer of Anti-convulsant, Anti-psychotic and Anti-diabetic APIs. Atlas is the market leader in India in Pregabalin drugs.
- Atlas has 80 member team and a strong focus on R&D with 10 products in the pipeline. It has a WHO GMP-certified manufacturing facility in Odhav, running at

optimum capacity.

- Atlas's turnover in FY22 was Rs. 120 Crore with EBITDA of Rs. 8.64 Crore and Profit of Rs. 4.34 Crore.

#### About Asahi Songwon Colors Ltd.:

- Asahi is a leading manufacturer in the Indian Pigment industry.
- The company manufactures full range of blue pigments including blue crude. Recently, the company has also ventured into manufacturing yellow and red (AZO) pigments. More than 70% of business of company is from exports to global MNC's.
- The company operates via its two manufacturing facilities at Vadodara and Bharuch, Gujarat.
- Asahi Songwon is listed on BSE exchange. Company's turnover in FY22 was Rs. 405 Crore with EBITDA of Rs. 41 Crore and Profit of Rs. 24 Crore.

#### Rationale:

- Mr Gokul Jaykrishna, CEO of Asahi, said that the acquisition is to add a new growth lever and create significant value by leveraging combined capabilities and unlocking synergies in API and Bulk drug business.
- Mr Jagdish Sheth, MD of Atlas, was looking to pass the business to capable hands as he is over 75 years of age and did not have succession planning.
- The deal includes a 15,000 Sq. Mt. land parcel in Chhatral, Ahmedabad with EC permission for 32 products. Asahi plans to establish a new plant with European accreditation on the vacant land parcel to backwards integrate the existing products and introduce newer high-value products.
- Asahi hopes to more than double the existing EBITDA margins by backward integration.
- Asahi had been looking for potential inorganic growth for the last two to three years as it had been financially a very strong company with blue pigment being a good cash cow. However, pigments are a stable business and for a 10 to 15-year horizon, Asahi saw fit to diversify into the API segment.

#### API segment:

- API segment has become exciting in the deals space lately, as against generics.
- While earlier Chinese players dominated API markets with price competition, many environmental curbs are placed on them due to their widespread pollution. At the same time, global players are de-risking their supply chains with the china plus one strategy. Indian Government has also started the Atmanirbhar initiative to reduce outside dependence.
- API sector has seen several M&A and PE deals in the last couple of years like Advent PE fund acquiring Zandu Chemicals & RA Chem pharma, Rossary Biotech acquiring Tristar and Unitop, PAG and CX partners acquiring the majority in Anjan Drugs, to name a few.



### M&A Strategy:

- In M&A, companies need to think in terms of long-term strategic goals. Promoters need to ask where they see their company 15 or 25 years down the line and whether the acquisition is part of the company's long-term vision.
- Time and again capital markets have also demonstrated that they are less concerned with the valuations of the acquisition, or whether the valuation multiple was one or two points north or south, rather investors have rewarded long-term strategic actions.
- Asahi Songwon's stock price jumped 5% on the announcement of the deal.

### M&A: Zoomcar Merges with Innovative International Acquisition Corp

#### Transaction:

- The Proposed Transaction between Innovative and Zoomcar is structured as a merger of an Innovative subsidiary a publicly traded Special Purpose Acquisition Company (SPAC) and Zoomcar.
- The Proposed Transaction values Zoomcar at an implied pro forma enterprise value of approximately \$456 million.
- The merged entity will be listed on the NASDAQ Stock Exchange, with its name changed to Zoomcar Holdings Inc.

#### About Zoomcar:

- Founded in 2013 and headquartered in Bengaluru, India, Zoomcar is an online platform that allows users to book self-drivable cars for short or long trips on a rental basis.
- Zoomcar is the leading marketplace for car sharing across India, Southeast Asia and the MENA region, with over 25,000 cars currently available to guests using its platform.

#### About Innovative International Acquisition Corp.:

- Innovative is a blank check company commonly referred to as a Special Purpose Acquisition Company (SPAC) incorporated as a Cayman Islands-exempted company to effect a merger, share purchase or similar business combination with one or more businesses.
- Innovative conducted a successful IPO in October of 2021, in which it raised \$235 million with an investment thesis to find an acquisition target in the sectors of consumer technology, healthcare, information technology services and enterprise software as a service.

#### Rationale:

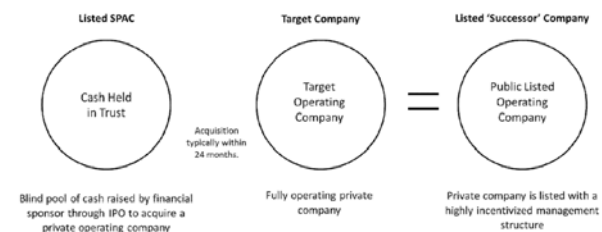
- Zoomcar will use proceeds from the transaction with Innovative to accelerate technology development and new market entry while also continuing to invest in growth across existing markets.
- Zoomcar is backed by several PE funds and family offices including Sequoia Capital, Mahindra & Mahindra, and

Ford Motors amongst others and had raised \$92 million equity in a series E round by Stern Aegis Ventures last year (Nov 2021) to a total fundraising of over \$300 million.

- This merger will make Zoomcar a publically traded company with common stock on NASDAQ at an enterprise value of \$456 Million.

#### About SPAC:

- SPACs - Special Purpose Acquisition Companies—are publicly-traded investment vehicles that raise funds via an initial public offering (IPO) to complete a targeted acquisition.



#### Mechanism:

- SPACs are also known as "Blank Check Companies", shell corporations listed on the stock exchange.
- SPACs raise funds largely from public investors for the specific purpose of M&A and with a set timeframe of 18 to 24 months.
- If SPAC does not merge within the timeline, then it will be liquidated and all the funds will be returned.

#### Performance:

- In 2019, SPAC IPOs raised \$13.6 billion in 2019, more than four times the \$3.5 billion they raised in 2016. Interest in SPACs increased in 2020 and 2021, with as much as \$83.4 billion raised in 2020 and \$162.5 billion in 2021. As of March 13, 2022, SPACs have raised \$9.6 billion. In 2020, SPACs accounted for more than 50% of new publicly listed U.S. companies.
- Some of the better-known companies to have become publicly listed by merging with a SPAC are digital sports company DraftKings; aerospace company Virgin Galactic; energy storage innovator QuantumScape; and real estate platform Opendoor Technologies.

#### Benefits of SPAC:

- SPACs allow acquired (target) companies to go public without going through the traditional IPO Process, often at better terms than traditional IPO would.
- SPAC founders can create additional SPACs.
- SPACs offer faster capital-raising relative to private fund-raising. The accelerated execution and liquidity timeline is typically within 24 months from IPO to M&A.

**Acknowledgements:** RBI Bulletin ([www.bulletin.rbi.org.in](http://www.bulletin.rbi.org.in)), SEBI ([www.sebi.gov.in](http://www.sebi.gov.in)), NSE ([www.nseindia.com](http://www.nseindia.com)), BSE ([www.bseindia.com](http://www.bseindia.com))

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## Special Valuation Branch (SVB) under Customs - Valuation for Goods imported from Related Parties

### Introduction:

Special Valuation Branch (SVB) is a special unit of the Customs department which is specializing in investigating the transactions which are entered into by an importer based out in India and a supplier based in foreign country who have a relationship like joint ventures, partnerships, holding-subsidiary etc. which could possibly influence the price of the transaction entered. The main task of the special valuation branch is to verify that the relationship has not influenced the terms and conditions of the transaction and in turn the transaction value between the parties. Apart from the investigation of special relationship cases, SVB also handles more complicated cases of additions or deletions with respect to transaction value that has been declared by the importers under Rule 10(1)(c) or Rule 10(1)(d) or Rule 10(1)(e) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

### Requirement of Special Valuation Branch as special unit:

Import and Export transactions are the starting point for this special institution to be formed wherein the valuation mechanism adopted by the importer might be in terms of agreement not in line with the market scenario and some beneficial position as to importer and the other party might be adopted by the importer and due to this reason Customs department has issued Circular No. 1/98 dated 01.01.1998 making the Special Valuation Branch as a functional institution for the cases involving transactions between the related parties.

Both the circulars were issued upon the Customs Valuation (Determination of Price of Imported Goods) Rules, 1988 which has been now superseded by the

Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Previously there were some stringent provisions in relation to regular renewals, provisional assessments, procedural parts which were complex in terms of great time-consuming process & burdensome work which has been now streamlined and as per Circular No 05/2016 dated 9th February 2016.

The transactions undertaken by related parties differ from situation to situation where the transaction value might be impacted due to the relationship involved between the two parties. The definition of related parties changes from each law or statutory provision like in income tax, company law, accounting standards, SEBI, Goods and Services tax, and even in Customs. Hence whenever the relationship gets attracted by that particular provision of law, we need to go back to the provisions and check the relevant other facts of the provision with respect to either valuation, assessment, & other parameters and relevant adjustment with respect to such pricing would be required. We now analyze the meaning of the related party as referred to in Customs law.

### Meaning of Related Parties:

The relationship needs to be examined with respect to the definition of related party under Rule 2(2) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 which is supplied here –

“(2) For the purpose of these rules, persons shall be deemed to be “related” only if –

- they are officers or directors of one another’s businesses.
- they are legally recognized partners in business.

- iii. they are employer and employee.
- iv. any person directly or indirectly owns, controls, or holds five per cent or more of the outstanding voting stock or shares of both of them.
- v. one of them directly or indirectly controls the other.
- vi. both of them are directly or indirectly controlled by a third person.
- vii. together they directly or indirectly control a third person; or
- viii. they are members of the same family.

Explanation I. - The term "person" also includes legal persons.

Explanation II. - Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire, howsoever described, of the other shall be deemed to be related for the purpose of these rules, if they fall within the criteria of this sub-rule."

#### **Investigations that can be undertaken by Special Valuation Branch:**

Every importer while importing goods need to make a declaration as to whether the supplier and buyer in India are related parties or not. If the answer to the above is affirmative, then it would be very important to see whether this relationship has influenced the price or not. Particularly in these cases, SVB investigation would be required, and the transaction needs to be sent for review and enquiry.

Further, the trigger point for the investigation to be initiated by SVB is the first consignment coming from the foreign country during the import of the goods by the importer from the related party which he needs to submit the declaration along with the bill of entry and questionnaire in Annexure A. The investigation under SVB can also be initiated under unrelated party transactions where in following is the nature of the transaction –

- **Royalties and license fees:** Royalties and license fees related to the imported goods that the buyer is required to pay, directly or indirectly, as a condition of the sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable. *[Rule 10(1)(c) of CVR, 2007]*
- **Subsequent resale or disposal:** The value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues, directly or indirectly, to the seller. *[Rule 10(1)(d) of CVR, 2007]*
- **Other connected payments:** All other payments actually made or to be made as a condition of sale of the imported goods, by the buyer to the seller, or by the buyer to a third party to satisfy an obligation of the seller to the extent that such payments are not

included in the price actually paid or payable. *[Rule 10(1)(e) of CVR, 2007]*

#### **Exceptions where investigations under SVB are not required:**

Due to the long durational process involved in the investigation of the related party transaction, SVB investigations in the following cases should not be initiated looking at the revenue implications –

- a. Imports involving samples and prototypes from related suppliers,
- b. Imports from foreign suppliers where duty chargeable (including additional duty of Customs etc.) is unconditionally fully exempted or nil,
- c. Any import transaction wherein the value of the imported goods is less than Rs. 1 Lakh but cumulatively these transactions do not exceed Rs. 25 Lakhs in a financial year.
- d. Any additions that are sought under Rule 10(1)(a) or Rule 10(1)(b) of CVR, 2007 as that should be taken care by normal appraising groups.

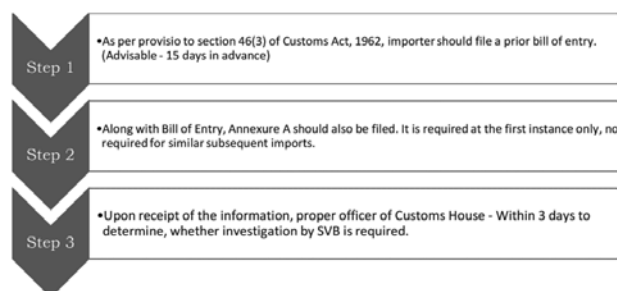
Wherever the investigation by SVBs is not required, the Customs house shall issue a reference number to the importer and the risk management division to indicate that the transaction has been analyzed from the viewpoint of SVB enquiries and it has been decided not to refer the same for the investigation.

#### **Locations and Jurisdiction of SVB Units:**

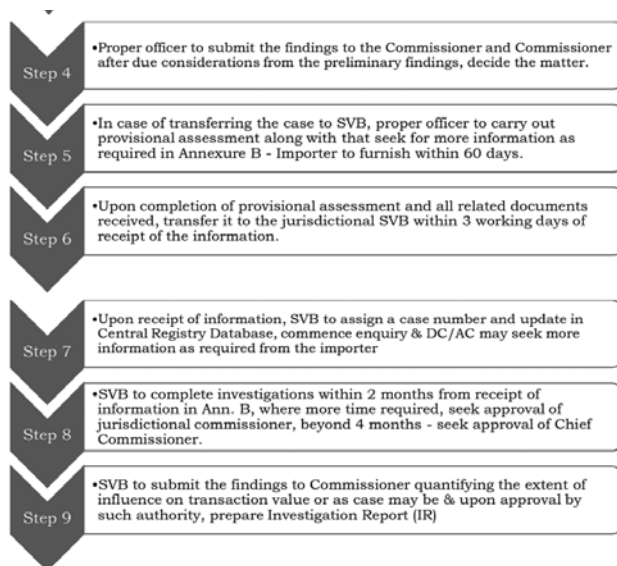
The Special Valuation Branches are currently functional at the following Customs location houses i.e., Bengaluru, Chennai, Kolkata, Delhi, Mumbai. Further, the jurisdiction of SVB would entirely be dependent on the corporate or registered office of the importer, whichever is nearby and convenient to the importer.

The importer is given free hand to choose which SVB he wants to approach for the cases which require investigation by the SVB. Once a particular import transaction has triggered investigation at one SVB, then the same needs to be communicated by the customs houses to other SVBs as well for better compliance of the process involved.

#### **Procedure for investigation under SVB:**







## Finalization of Assessment:

Upon receipt of the Investigation report from the Special Valuation branch, there could be two scenarios which could affect the assessment –

- Declared Value is found confirming to Rule 3:** Where the declared value as per Bill of Entry has been found confirming to the relevant rule of the CVR,2007 – the provisional assessment done by the customs houses shall be considered the final assessment and accordingly it must be finalized.
- Declared Value is found not confirming to Rule 3:** Where the declared value as per Bill of Entry is found to be influenced by the relationship or such case as may be applicable, the proper office of the customs house shall issue a show cause notice to the importer within 15 days of the receipt of the Investigation Report (IR) from the Special Valuation Branch (SVB).

Wherever the imports have been cleared through multiple locations, the jurisdictional commissioner shall after consulting with other locations, make a proposal for appointment of common adjudicating authority for the matter and after providing enough opportunity to the importer, pass a combined order quantifying the extent of influence on the declared transaction value.

## Concept of Extra Duty Deposit / Revenue Deposit:

As per Circular No. 01/98 dated 01.01.1988, there was a duty called extra duty deposit which was applicable in cases where the documents sought for are not provided to the relevant authorities failing for which the higher extra duty deposit shall be leviable. However, in the circular issued in 2016, the board has reviewed the levy and has clarified that no security in form of extra duty deposit shall be obtained from the importers, but if the importer fails to

provide the information within 60 days of such requisition, security deposit at a higher rate of 5% shall be imposed by the commissioner which shall be valid for the period of 3 months.

Also, where the documents are not provided by the importer for an additional 60 days, then the commissioner in charge of such investigation may adopt to use such provisions of the customs act for obtaining such documents/information. But in no case, the imposition of such deposit shall exceed 3 months as discussed above. Importers are free to choose if such a deposit is to be made through cash deposit or through bank guarantee.

## Key judicial precedents on valuation of related party transactions:

- Mere relationship is not sufficient for denial of transaction value, it must be established that the relationship has influenced the price***

The transaction price between the two parties must be influenced by their relationship in order to question the valuation of such a transaction. The rejection of transaction value can only be done after due verification and undertaking the exercise as to what influenced the price and cogent reasons to be recorded for such price not being the sole consideration. **[CCE V. Sanjivani Non-Ferrous Trading (P) Ltd., [2019 (365) E.L.T. 3 (S.C.)]**

- Burden of proof for proving that the value in question is not appropriate is in the hands of the department***

The burden of proof for proving that the value in question is not appropriate is in the hands of departments and if departments fail in that, the benefit of doubt goes to importer. For proving the transaction value being influenced by relationship, relevant comparable proof needs to be taken which incorporates adjustments as to the price with respect to declaration made by supplier in his exporting country, but not relying on the fact that how such declaration was procured with.

Non-reliance of document submitted by the appellant for value of similar supplier for same goods is not acceptable. The department had relied on some declaration made by a foreign supplier without seeing the fact that supplier had enhanced the value in that foreign country to get more incentive benefit offered by that country. Fact to be considered by the authority and hence strict rules of evidence do not apply to adjudication proceedings though adjudicating officer has to examine the probative value of documents on which reliance is placed. **[Commissioner of Customs, Calcutta V/S South India Television (P) Ltd. [2007 (214) E.L.T. 3 (SC)]]**

- **Commodity price fluctuation in the international market must be taken into consideration**

The transaction value agreed by both the parties cannot be questioned merely on the basis that there is an increase in prices in the international market between the time of contract and actual shipment of the product as there was no collusion between the parties, as well the payment was received within the same terms under which the contract was entered into and there was actually no misstatement or undervaluation and the case was also not falling under any of the criteria as mentioned under Rule 4(2) of the Customs Valuation Rules, 1988. The Department as well cannot rely on or take base the prices, which are almost a month after the actual date of contract, as the product dealt with is highly fluctuating in the international market. **[Commissioner of Customs, Vishakhapatnam V/S Aggarwal Industries Ltd. [2011 (272) E.L.T. 641 (S.C.)]]**

- **Arbitrary addition of value cannot be made especially when importer provides complete cost & margin details**

Department enhanced the value of imports on the ground that the sale price of the goods in India was exorbitantly higher than the declared value. The value was enhanced subject to a 20% allowance for profit margin. The importer contested such enhancement and submitted that the selling price in India was inclusive of the costs of transport, insurance, storage, and taxes. Enhancement was set aside as the Tribunal opined that the department had failed to accurately ascertain the cost of the goods at the hands of the importer namely post-importation expenditure and the price at which the imported goods were sold. It was held that post-importation expenses supported by documentary evidence must necessarily be considered to arrive at the cost price and the department's method of fixing 20% as the importer's profit margin based on the sale price of the goods was held to be improper. **[IMCD GROUP B.V. INDIA Versus COMMISSIONER OF CUS. (IMPORT), MUMBAI 2014 (301) E.L.T. 259 (Tri. - Mumbai)]**

- **Agreement with the related parties must be considered as a whole including addendums entered therein**

Price of the transaction when such price is actually paid and duly payable by such procurer of product or item, such price should be accepted as transaction value. When addendum to memorandum of agreement was entered into by the parties for reduction in the value of such product, such addendum needs to be accepted and cannot be questioned on the ground that memorandum of agreement do not contain such provision for price variation. **[Chaudhary Ship Breakers V/S Commissioner of Customs, Ahmedabad [2010 (259) E.L.T. 161 (S.C.)]]**

- **Extraordinary circumstances must be taken into consideration while arriving at a value**

The price list given by a foreign supplier or manufacturer cannot be taken as proof of evidence for transaction being influenced by the relationship as it excludes the extraordinary circumstances wherein heavy discounts might be provided by the supplier for stock clearance or products which are not getting sold. Even Sec. 14(1) of the Customs Act, 1961 merely covers the "ordinary" situation and it excludes "extraordinary or special" circumstances where in the value as per transaction value needs to get accepted by the officer basis the original facts of each assessee. **[Eicher Tractors Ltd. V/S Commissioner of Customs, Mumbai [2000 (122) E.L.T. 321 (S.C.)]]**

#### Conclusion:

Overall, the impact of the investigation by the special valuation branch will be defined by how the agreement or contract between the parties involved in the transactions is concerned and the complexity & time consumption would be dependent on that fact. Additionally, with relation to the interpretation of the term royalties & license fees, it would be important to see how these impact the transactions and whether the same can be connected with the respective transactions and not be treated as separate transaction.

*Views expressed are strictly personal and cannot be considered as a legal opinion in case of any query. For feedback or queries email us at yash@hiregange.com or ravikumar@hiregange.com*

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**"What is law? Is it what is on the books, or what is actually enacted and obeyed in a society? Or is law what must be enacted and obeyed, whether or not it is on the books, if things are to go right?"**

**— Bernhard Schlink**



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## Succession Planning through Private Trusts

The biggest challenge being faced by Indian promoter families is that of succession. In contrast to a professionally managed enterprise, where succession is more a matter of meritocracy, a wide spectrum of interpersonal issues come into play in the case of family-run businesses.

A well-planned structure, which can ease the issues surrounding family succession, is therefore the need of the hour. It is also important to lay down a clear succession plan for the family wealth, in order to ensure that such wealth is protected, preserved, and passed on to future generations in an intended manner.

### Wills – Use and limitation

Traditionally, a will has been generally employed as a means of managing succession issues. In common parlance, a will is a legal declaration of a person's (the testator's) wishes regarding the disposal of his or her property after death. A will can be amended as many times as desired and, as per the law, the most recent will of the testator prevails. Furthermore, the transfer of property under a will does not attract stamp duty.

However, a will also has below mentioned inherent limitations:

- A will can only be operational after the death of the testator
- Since assets under a will are transferred only on the demise of the owner, they were subject to estate duty under the Estate Duty Act, 1953, which was abolished in 1985. Although estate duty is currently not on the statute, there have been apprehensions about its reintroduction
- Disposition under a will is not automatic but takes place through the probate process

- The probate process is prone to litigation

Giving due consideration to the above limitations of wills, more and more families are now adopting a family trust structure for their succession and estate planning, since such trusts help to mitigate the shortcomings of a will considerably.

### Private Trusts

A private family trust offers a lot of flexibility and ease for effective control and management and facilitates smooth transfer of wealth over generations. Its importance is further amplified given the anticipated re-introduction of inheritance tax.

#### A. Basic Structure

A trust is a legal arrangement that is made between the author of the trust and the trustee for the benefit of the beneficiary. A trust typically involves three parties – the settlor, who is also known as the author of the trust, the trustee, and the beneficiary. A trust is created when the settlor hands over any property to the trustee, which is to be used and employed for the benefit of the beneficiary.

#### B. Trust Deed

A Trust deed, as an instrument, is similar to an agreement and contains clauses similar to an agreement between two parties, in this case, the settlor and trustee, however, which would have implications for the beneficiaries. Thus, the trust deed becomes a document of prime importance, since it lays out the essential framework for the governance, control, and management of family businesses and wealth across generations.

A Trust deed would cover the

following aspects:

- Information regarding the relevant parties and Trust property
- Rights, powers (and restrictions thereon), duties, liabilities and disabilities of Trustees, including the procedure for their appointment, removal, resignation or replacement and minimum/maximum number of Trustees
- Rights, obligations and disabilities of beneficiaries, including the powers and procedure for addition and/or removal of beneficiaries, including the person who would be entitled to exercise such powers
- Terms of extinguishment of the Trust
- Alternative dispute resolution, etc.

### C. Type of Private Trust

Usually, when a property is settled into a private Trust for the purpose of succession planning, it is done through an irrevocable transfer, i.e., the settlor does not retain or reserve the power to reassume the Trust property/ income or to transfer it back to himself. Thus, once the assets are settled in an irrevocable Trust, the property no longer belongs to the settlor or the transferor, i.e., it belongs to the Trust. A revocable trust can be revoked (cancelled) at any time by its settlor, while an irrevocable trust will continue until the term of the trust expires.

Further, based on the distribution pattern adopted by a Private Trust, it may be classified as either a specific (also called determinate) or a discretionary Trust. If the Trust deed provides a list of beneficiaries specifying their beneficial interest, it would be a specific Trust. On the other hand, if the Trust deed does not specify any beneficiary's share, but empowers someone (usually the Trustees) to determine such share, it is considered as a discretionary/ indeterminate Trust.

The tax and regulatory implications of different types of trusts vary, thus, such a determination becomes important when conceptualizing a private trust structure, for its effective and efficient functioning

### D. Key aspects of taxation of Private Trust

Key aspects of taxation of Private Trust under the Income Tax Act, 1961 ("IT Act") are given below:

#### 1. Settlement of a Trust

##### Taxation of the settlor

Section 47(iii) of IT Act contains a specific exemption for any capital gains that may be considered to arise to the settlor on transfer of capital to an irrevocable Trust. Therefore, the settlor should not

be liable to any tax on settlement of the irrevocable Trust.

#### Taxation of beneficiaries

Any contribution from a family member to a trust that has been created for the benefit of such family member's relatives will not attract any tax implications and have been carved out from the purview of the provisions of section 56(2)(x) of IT Act.

#### 2. Income earned by a Trust

Broadly, a specific Trust's tax is determined as an aggregate of the tax liability of each of its beneficiaries on their respective shares (unless the Trust earns business income). A discretionary Trust, on the other hand, is generally taxed at the maximum marginal rate applicable to the type of income earned by the Trust. The additional tax on dividends earned from domestic companies (as provided u/s. 115BBDA) would also apply.

Once taxed, the income should not be taxed once again when distributed to the beneficiaries.

#### 3. Distribution of assets/termination of a Trust

There are no specific provisions under the IT Act dealing with dissolution of Trust/ taxability on the distribution of assets of the Trust.

Since a Trust holds property for the benefit of the beneficiaries, when the properties are distributed/ handed over to the beneficiaries, it should not result in any income taxable under the IT Act for them.

Since the Trust does not receive any consideration at the time of distribution, no capital gain implications ought to arise. In the past, tax authorities have attempted to treat a Trust as an AOP, and apply the provisions of section 45(4) of the IT Act on dissolution of a Trust. However, the Hon'ble Bombay High Court has held that Trustees cannot be taxable as an AOP, and therefore, the provisions of section 45(4) are not applicable.

Hence, the distribution to the beneficiaries at the time of termination of the Trust or otherwise ought not to result in any tax liability.

### E. Implications under other Regulations

Depending on the kind of property settled into a Trust, implications under various other provisions may also arise:

#### 1. Shares of a listed company

It is increasingly popular to settle business assets, in the form of shares of listed companies into



a Trust. A family may decide to put part or all of their holding into a single Trust or multiple Trusts, depending on their specific needs. The key consideration is whether this triggers any implications under the regulations framed by the Securities and Exchange Board of India ('SEBI'), notably the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 ("Takeover Code"). Under the Takeover Code, if there is a substantial change in shareholding/voting rights (direct or indirect) or change in control of a listed company, the public shareholders are supposed to get an equal opportunity to exit from the company on the best terms possible through an open offer. Certain exceptions have been carved out, whereby, upon compliance with certain conditions, the open offer obligations would not be applicable.

There are arguments that may be taken as to why the Takeover Code ought not to have an implication, especially since there is no change in control. However, in the absence of specific exemptions, especially in the context of transfer to a newly set-up Trust or a Trust, which does not already own shares in the listed company for at least three years, as a matter of precaution, several families approached SEBI for seeking a specific exemption. SEBI has, subject to certain conditions or circumstances being met, generally approved such transfers to a Trust, albeit with safeguards built in.

### 2. Immovable property

Immovable properties in which family members are residing or those acquired for investment purposes may also be transferred to a Trust. However, typically, stamp duty would be levied on any such settlement of immovable property, which becomes a major deterrent. Often, residential property is gifted to individual members, since, in states such as Maharashtra, the stamp duty on gifts to specified relatives is minimal; such exception is not available for transfer to a Trust even if the beneficiaries are such specified relatives.

As there is no stamp duty on assets transferred through a Will, it becomes a more commonly used means of migrating large immovable properties held by individuals. However, this could lead to a

potential estate duty liability, as it would only pass on the demise of the owner. Thus, apart from the concerns around the ownership of the property or any friction between family members, the trade-off between immediate stamp duty outflow and potential future estate duty outflow would need to be considered. In case properties are not held directly by individuals but through entities, the ownership of the entity itself may be transferred to the Trust. In such case, stamp duty implications, if any, are likely to be significantly lower than that which would have arisen on transfer of the immovable property itself.

Family wealth may include intangible rights in the properties, such as development or tenancy rights, which are not transferable without the approval of the landlord/owner of the property. Depending on how such rights are held and whether such approval is forthcoming, a decision may need to be taken if they ought to be settled into the Trust.

### 3. Assets located overseas

Increasingly, many families hold assets overseas, be it in the form of shares (strategic or portfolio investments) or immovable property. For any such assets to be transferred to a Trust, or if any of the family members are non-residents, not only would the provisions of the Foreign Exchange Management Act, 1999 need to be considered, but also the laws of the country where the assets are located.

As is evident, finalising a trust document requires a profound forethought to ensure smooth and seamless transition of a family's wealth and business over generations, without frustrating the individual desires and wishes of the family members. Such a document needs to be tax-efficient and compliant with the regulatory scenario. It is also important to ensure that the deed offers enough flexibility to adapt to the ever-changing socio-economic and business circumstances. Above all, however, it needs to be simple to understand, so that it can be effectively implemented, and so that its mettle is not lost amongst legal verbiages and uncertainties which accompany the passage of time and advancement of technology.

\* \* \* \* \*

**There is nothing impossible to they who will try.**

**— Alexander the Great**



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## The Cycle of the Stock Market

The bull market creates weak investors, weak investors create a bear market, the bear market creates smart investors, smart investors create a bull market... and the bull market creates weak investors.

This is the cycle of the stock market. There is a close relationship between the investors and the markets (bull or bear).

### So, how does the bull market create weak investors?

Most new investors come into the market during a bull run. The majority of these new investors do not conduct any research, work purely on "tips" and the availability of some capital is the only skill they have. Here is my quote for every new investor "If money is the only skill you have, then very soon you will go broke".

During a bull market, making money becomes very easy, as at that time there is momentum in the market. It's like the "spring season", everybody is optimistic, there are more investors, and there is more money chasing a few scrips, as we know the market is very illiquid.

Mid-cap & small caps have at least 5000 scrips. Most of those 5000+ scrips are illiquid. There is action in only close to 200 scrips. Large amounts of money are chasing the lesser supply of stocks. So, whatever you buy, goes up and there is always a new buyer at the next level. This is the trend in the Stock Market. Therefore, everyone is making money. For eg, you bought a scrip at 100, you want to sell at 150, and there is a buyer at 150. The stock is now at 200 and he/she wants to sell at that price, there is another buyer ready to buy at 200 because of the euphoria, optimism, momentum and liquidity in the market.

So, the new investors coming into the markets for the first or second time, feel they are really smart. The moment they make money in one scrip, they will book profits and buy another scrip. What they don't realize is that during this time the other scrip has also risen 20-30% or may have doubled. Again, they will make money. So, they feel they are getting good at this and are smart investors and feel that they have made money because of the skills they possess. In fact, in bull markets, people do not make money because of their skills, but rather, because of the momentum and optimistic environment that exists in the market that is favouring them. Therefore, fundamentally they remain weak.

Ultimately, this euphoria of buying a stock at 100, selling at 150, buying another share at 300 selling at 350, buying other shares at 500 selling at 600, will end, as there won't be any buyers left, as the smart investors will realize that there is no fundamentals or value left in this market and they will sell. So, this is how the euphoria is made by the weak investors which eventually converts into a bear market. This is the cycle. Every euphoria is followed by a crisis.

Now, out of the investors who made money in the bull market but lost money in the bear market, the smarter ones will sit down and analyze their mistakes and actions. Therefore, my quote "Bear market is the biggest teacher". The smart ones learn from their past and follow a "dos & don'ts" list and therefore are better prepared for the next bull run and therefore become smarter. Now, this smart investor analyses the value, fundamentals and price of the share and is looking to buy the scrip at a cheaper price.

Now, this set of smart investors will create another bull market, hence completing the cycle.

\* \* \* \* \*



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# Reply to Notice of reversal of Input Tax Credit when the supplier has not paid tax

## Introduction:

One of the burning issues which is often been litigated in the GST since its inception is the **reversal of Input Tax Credit by the recipient due to non-payment of output tax liability by the supplier.**

As per **Section 16(2)(c) of the CGST Act**, one of the conditions to claim Input Tax Credit (ITC) is that the output tax collected by the supplier from the recipient in respect of the supply has actually been paid to the Government Exchequer, either

- In cash, or
- Through the utilisation of admissible ITC

However, several Show Cause Notices (SCNs) are being issued by the GST Department to the recipient of supply for the recovery of output tax liability in the form of reversal of Input Tax Credit (ITC) upon default in payment of such tax by the supplier to the government.

## Grounds of Defense:

Since this is a litigated issue, it becomes important to understand the grounds of defence that may be taken when replying to such SCNs. Such grounds are as follows:

### (A) Decisions of the Hon'ble Supreme Court and several Hon'ble High Courts:

#### (1) The decision of the Hon'ble Madras High Court:

It may be noted that reliance may be placed on the judgment of the **Hon'ble Madras High Court in the case of M/s D.Y. BEATHEL ENTERPRISES VERSUS THE STATE TAX OFFICER (DATA CELL), (INVESTIGATION WING COMMERCIAL TAX BUILDINGS, TIRUNELVELI,**

**(2021).** In the above judgment, given the facts of the present case, the said Court held that the Department **could not demand GST from the recipient without first examining the supplier and initiating recovery action against the supplier** for the amount of output tax liability defaulted since the order demanding entire tax liability from the buyer would be in **contravention of the principle of natural justice.**

#### (2) The decision of the Hon'ble Chhattisgarh High Court:

It is imperative to note the judgment of the **Hon'ble CHHATTISGARH High Court in the case of M/s. BHARAT ALUMINIUM COMPANY LIMITED VERSUS UNION OF INDIA AND OTHERS (2021)**, where it was held that *"the petitioner has come out with the purchases made, but it did not tally/ match with 2A ITC shown by the seller meaning thereby the seller may not have filed return to remove the same. When the physical verification was offered to be made by the petitioner it was not accepted. It is stated that for the recovery of like nature from the buyer, the action can only be available in the exceptional circumstances."*

#### (3) Supreme Court judgement in Union of India Vs Bharti Airtel Ltd. & Ors (2021)

As per the said Supreme Court Judgement, GSTR-2A/GSTR-2B have been termed only as **enablers and facilitators or facilities** and for **procedural facilitation** in aiding to fulfil the primary obligation of the registered taxpayer of self-assessment of output tax liability and Input Tax Credit, therefore, **the right to claim Input Tax credit should not be rejected in case such credit doesn't appear in GSTR-2A/GSTR-2B.**

The relevant extracts from the text of the Judgement to substantiate the above-mentioned point are provided hereunder:

**“22. The functions or features provided in the common electronic portal of auto matching and auto populating of the record of the supplier and the recipient and vice versa are only a facility made available to the registered person.”**

**“46. Form GSTR-2A is only a facilitator for taking an informed decision while doing such self-assessment.”**

#### **(4) Decision of the Hon’ble Calcutta High Court:**

Reliance may be placed on the judgment of the Hon’ble Calcutta High Court in the case of **M/S LGW INDUSTRIES LIMITED & ORS. VERSUS UNION OF INDIA & ORS., ANMOL INDUSTRIES LTD. & ANR. VERSUS UNION OF INDIA & ORS., SURYA ALLOY INDUSTRIES LTD. & ANR. VERSUS UNION OF INDIA & ORS., RAJ METAL INDUSTRIES & ANR. VERSUS UNION OF INDIA & ORS. AND VICTORIA GLOBAL & ANR. VERSUS UNION OF INDIA & ORS.** In the above judgment, it may be noted that in case of default of payment of tax by the seller, the recovery shall not be made from the recipient in case all the following conditions are adequately fulfilled, (1) All the purchases and transactions in question **are genuine and supported by valid documents**, (2) Transactions in question were made **before the cancellation of registration** of the suppliers, (3) **Payments on purchases in question along with GST were actually paid to the suppliers**, (4) Fulfilment of compliance of statutory obligation by the recipient in the **verification of the identity of the suppliers**.

#### **(5) Decisions of the Hon’ble Delhi High Court:**

It is imperative to take cognizance of the judgment of the **Hon’ble Delhi High Court in the case of ON QUEST MERCHANDISING INDIA PVT. LTD., SUVASINI CHARITABLE TRUST, ARISE INDIA LIMITED, VINAYAK TREXIM, K.R. ANAND, APARICI CERAMICA, ARUN JAIN (HUF), DAMSON TECHNOLOGIES PVT. LTD., SOLVOCHEM, M/S. MEENU TRADING CO., & MAHAN POLYMERS VERSUS GOVERNMENT OF NCT OF DELHI & ORS. & COMMISSIONER OF TRADE & TAXES, DELHI AND ORS., (2017)**, since the aforementioned judgments have put forth a few pertinent principles such as:

- Treatment of both the parties, the guilty purchaser and the innocent purchaser at par is a violation of **Article 14 of the Constitution**.
- In this case, the purchaser has been asked to do **something that is impossible**, i.e., to predict or anticipate that the selling dealer may or may not deposit the tax collected to the Government.
- ITC cannot be denied to the recipient in the absence of

any material evidence in the hands of the Department **of collusion** between the supplier and the recipient to **defraud the Department**.

- So long as the purchasing dealer, at the time of entering into the transaction with the selling dealer, has **taken all the necessary steps to verify that the selling dealer has a valid registration and a valid tax invoice**, he cannot be reasonably expected to keep a track of whether the selling dealer has indeed deposited the tax so collected.

#### **(6) The decision of the Hon’ble Bombay High Court and Doctrine of Impossibility:**

It is significant to note the judgment of **the Hon’ble Bombay High Court in the case of “INDIAN SEAMLESS STEEL AND ALLOYS LTD. VERSUS UNION OF INDIA**, wherein the Doctrine of impossibility was upheld and it was mentioned that **“it is also a well-settled principle of law that the law does not compel a man to do that which he cannot possibly do and the said principle is well expressed in legal maxim “lex non-cogit ad impossibilia” which is squarely attracted to the facts and circumstances of the present case.”**

Since the recipient cannot be expected to keep a track of whether the selling dealer has indeed deposited the tax so collected and therefore, the benefit of ITC ought not be denied to the recipient taxpayer on account of the default of the supplier.

#### **(7) The decision of the Hon’ble Punjab and Haryana High Court:**

It may be noted that reliance may be placed on the judgment of the **Hon’ble Punjab and Haryana High Court in the case of Gheru Lal Bal Chand Vs. The state of Haryana, (2011)**.

As per the said judgment, the necessity of the **differentiation between honest and dishonest taxpayers** has to be acknowledged by the law. In the aforesaid case, it was held that the Law **cannot anticipate a possibility of a virtually impossible eventuality** and it puts forward the principle that the liability can be fastened to a person who either **acts fraudulently or has been a party in collusion** with the offender. Law ought not to put an onerous responsibility on the innocent taxpayer otherwise, the law may not pass the test of validity considering the touchstone of **Articles 14 and 19** of the Constitution of India.

#### **(8) Decisions of the Hon’ble Calcutta High Court and Hon’ble Delhi High Court and violation of Article 14 of the Constitution of India:**

It is significant to note the judgment of the **Hon’ble High Court of Delhi in the case of Bharti Telemedia Ltd. Vs. Union Of India & Ors. (Delhi High Court) W.P.(C) no 6293/2019 and the judgments of Hon’ble Calcutta High**



*Court in the case of M/S. LGW INDUSTRIES LTD & ORS., RAJ METAL INDUSTRIES & ANR., VICTORIA GLOBAL & ANR., SURYA ALLOY INDUSTRIES LTD. & ANR., M/S. TASHI AIR PRIVATE LTD. & ANR. VERSUS UNION OF INDIA & ORS. (2021)*, wherein a writ petition was filed challenging the constitutional validity and vires of section 16(2)(c) of the CGST Act, 2017 and the petitioner/assessee challenged on the ground that section 16(2)(c) of the CGST Act, 2017 is ultra-virus and violative to Article 14 of the Constitution of India. It was held that the Department has been vested with all the powers to recover any revenue lost owing to non-payment of taxes by defaulting suppliers, therefore, the ITC cannot be denied to the recipient for the default on the part of the supplier.

## (9) The decision of the Hon'ble Madras High Court:

It is to be noted that reliance may be placed on the judgment of the *Hon'ble Madras High Court in the case of M/s. Shri Ranganathar Valves Private Limited v. Assistant Commissioner (CT), (FAC), Velandipalayam Assessment Circle, Coimbatore*, wherein it was held that *"This issue has been dealt with in the case of ASSISTANT COMMISSIONER (CT), PRESENTLY THIRUVERKADU ASSESSMENT CIRCLE, KOLATHUR, CHENNAI VERSUS INFINITI WHOLESALE LTD. [2016 (9) TMI 1431 - MADRAS HIGH COURT] wherein it has held that Input Tax Credit cannot be disallowed on the ground that the seller has not paid tax to the Government when the purchaser is able to prove that the seller has collected tax and issued invoices to the purchaser. As such, restriction of the amount of Input Tax Credit on this ground, cannot be sustained and requires re-consideration."*

## (10) The decision of the Hon'ble Supreme Court:

It is imperative to note the judgment of the *Hon'ble Supreme Court in the case of COMMISSIONER OF CENTRAL EXCISE, JALANDHAR VERSUS M/S. KAY KAY INDUSTRIES, (2013)*, wherein it was held that *"When all the conditions precedent had been satisfied, to require the assessee to find out from the departmental authorities about the payment of excise duty on the inputs used in the final product which have been made allowable by the notification would be travelling beyond the notification, and in a way, transgressing the same - This would be practically impossible and would lead to transactions getting delayed."*

## (B) Press Release dated 4.05.2018 issued by the Central Board of GST Council and Minutes of the 28th GST Council Meeting dated 21.7.2018:

Reliance may be placed on the Press Release dated 4.05.2018 (Refer to page 1 of said Press Release), wherein it was announced that – *"No automatic reversal of credit: There shall not be any automatic reversal of input tax credit from buyer on non-payment of tax by the seller. In case of default in payment of tax by the seller, recovery shall be made from the seller however reversal of credit from buyer shall also be an option available with the revenue authorities to address exceptional situations like missing dealer, closure of business by supplier or supplier not having adequate assets etc."*

## (C) GSTR-1, GSTR-2 and GSTR-3 kept in abeyance and no full-proof mechanism on GST Portal for purchase invoice-level matching and acceptance:

Due to the suspension of GSTR-2 and GSTR-3 and the introduction of GSTR-3B, the recipients have no full-proof mechanism to confirm whether their suppliers are discharging the correct output tax liability. Therefore, the conundrum still stands as to how a recipient of supply may ensure that the supplier has actually paid the output tax liability collected from him that corresponds to the Input Tax Credit claimable by such recipient since no such purchase invoice-level matching and acceptance was made available or functional. The expectation that the recipient ought to monitor the actual payment of GST collected by each of their vendors is not only onerous but also impractical and impossible.

Since there is no window or facility available in the hands of the recipient to ascertain whether his supplier's supplier has discharged his output tax liability, the requirement of the burden of proof as provided u/s 155 of CGST Act, to ascertain the fulfilment of the condition to claim ITC as laid out u/s 16(2)(c) by such an innocent recipient is onerous, unjust and practically impossible.

## (E) Violation of Article 300A of the Constitution of India:

The recipient may invoke the defence of violation of his constitutional right by virtue of Article 300A of the Constitution of India i.e. *No person shall be deprived of his property save by the authority of law.*

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# The India Inspired Story as India Assumes G20 Presidency

## Background:

The Group of Twenty (“G20”) was founded in the year 1999 as a forum for the Finance Ministers and Central Bank Governors to discuss global economic and financial issues.

The G20 was upgraded to the level of Heads of State/Government in the wake of the global economic and financial crisis of 2007 and in 2009 was designated the “premier forum for international economic cooperation”.

The G20 Summit is held annually under the leadership of a rotating Presidency.

The G20 initially focused largely on broad macroeconomic issues, but it has since expanded its agenda to inter-alia include trade, climate change, sustainable development, health, agriculture, energy, environment, climate change, and anti-corruption.

G20 comprises nineteen countries (i.e. Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Republic of Korea, Mexico, Russia, Saudi Arabia, South Africa, Turkey, United Kingdom and United States) and the European Union.

## The G20 members represent about two-thirds of the world’s population

In addition to the regular International Organisations (United Nations, International Monetary Fund, World Bank, World Health Organization, World Trade Organization, International Labour Organization, The Financial Stability Board and The Organisation for Economic Co-operation and Development) and Chairs of Regional Organisations (AU, African Union Development Agency AUDA-NEPAD and Association of South Asian Nations), India, as G20 Presidency, will

be inviting International Solar Alliance, The Coalition for Disaster Resilient Infrastructure and Asian Development Bank as Guest IOs.

The G20 Presidency steers the G20 agenda for one year and hosts the Summit.

The Group does not have a permanent secretariat. The Presidency is supported by the Troika – previous, current and incoming Presidency. During India’s Presidency, the troika will comprise Indonesia, India and Brazil, respectively.

## 1st December 2022 to 30th November 2023

India has assumed the presidency of the G20 since 1st December 2022 for a year and shall chair over 200 meetings that aim to secure global economic growth and prosperity.

The Prime Minister of India Sri Narendra Modi said as follows on India assuming the presidency of the G20 –

*“India will assume the G-20 Presidency for the coming year. Our agenda will be inclusive, ambitious, decisive and action-oriented. We will work to realise all aspects of our vision of ‘One Earth, One Family, One Future.’”*

The Central Government has said that India will, in the true spirit of Vasudhaiva Kutumbakam (the world is one family), seek to find pragmatic global solutions for the well-being of all.

The presidency of the G20 does not come with any formal power. But ‘influence’ can allow India to turn the discussion in the direction it prefers.

It would be essential for India to make full use of this opportunity and focus on global good, world welfare, peace and unity, sensitivity towards the

environment and sustainable development.

India assumes the presidency of G-20 at a time when the world is facing a host of challenges ranging from an accelerating climate crisis, food and energy crisis to the Ukraine-Russia war and other geopolitical problems.

## The G20 Countries:

Serial No	Country	GDP (In Trillion Dollars – 2021)	Economic Growth	Global Trade	Trade in Merchandise	Trade in Services
1	Argentina	0.49	G20 Nations constitute 86.24% of Global GDP.	G20 Nations constitute 62.48% of Global Trade.	91% contribution to Global Merchandise Trade.	77% contribution to Global Services Trade.
2	Australia	1.54				
3	Brazil	1.61				
4	Canada	1.99				
5	China	17.73				
6	France	2.94				
7	Germany	4.22				
8	India	3.17				
9	Indonesia	1.19				
10	Italy	2.10				
11	Japan	4.94				
12	Republic of Korea	1.80				
13	Mexico	1.29				
14	Russia	1.78				
15	Saudi Arabia	0.83				
16	South Africa	0.42				
17	Turkey	0.82				
18	United Kingdom	3.19				
19	United States	23				
20	European Union	17.09				

## India's G20 Priorities:

- **Green Development, Climate Finance & Lifestyle for Environment (LiFE).**

The opportunity to lead G20 comes at a time of compounding existential threat, with the COVID-19 pandemic having exposed the fragilities of our systems under the cascading impacts of climate change. In this regard, climate change is a key priority for India's presidential Presidency, with a particular focus towards not only climate finance and technology, but also ensuring just energy transitions for developing nations across the world.

Understanding that the issue of climate change cuts across industry, society, and sectors, India offers the world LiFE (Lifestyle for Environment) - a behaviour-

based movement that draws from our nation's rich, ancient sustainable traditions to nudge consumers, and in-turn markets, to adopt environmentally-conscious practices. This ties closely with India's G20 theme: 'Vasudhaiva Kutumbakam' or 'One Earth. One Family. One Future.

- **Accelerated, Inclusive & Resilient Growth.**

India's G20 Presidency collides with the crucial midpoint of the 2030 Agenda. As such, India acknowledges the detrimental impact of COVID-19, which changed the current decade of action into a decade of recovery. In line with this perspective, India wants to focus on recommitting G20's efforts to achieving the targets laid out in the 2030 Agenda for Sustainable Development.

- ***Accelerating progress on Sustainable Development Goals (SDGs).***

An accelerated, resilient and inclusive growth is a cornerstone for sustainable development. During its G20 Presidency, India aims to focus on areas that have the potential to bring structural transformation. This includes an ambition to accelerate integration of MSMEs in global trade, bring in the spirit of trade for growth, promote labour rights and secure labour welfare, address global skills gap, and build inclusive agricultural value chains and food systems etc.

- ***Technological Transformation & Digital Public Infrastructure.***

As G20 Presidency, India can foreground its belief in a human-centric approach to technology, and facilitate greater knowledge-sharing in priority areas like digital public infrastructure, financial inclusion, and tech-enabled development in sectors ranging from agriculture to education.

- ***Multilateral Institutions for the 21st century.***

India's G20 priority will be to continue pressing for reformed multilateralism that creates more accountable, inclusive just, equitable and representative multipolar international system that is fit for addressing the challenges in the 21st century.

- ***Women-led development.***

India hopes to use the G20 forum to highlight inclusive growth and development, with women empowerment and representation being at the core of India's G20 deliberations. This includes a focus on bringing women to the fore, and in leading positions, in order to boost socio-economic development and achievement of SDGs.

India is expected to focus on bridging the digital divide, essentially in developing countries. Bridging such a divide will help bring more benefits from digital technologies and transformation to every country.

Digital technologies and solutions can also be used to fight against global poverty and climate change. India must also showcase its unique model of digital public infrastructure and start-up ecosystem during various G-20 meetings.

Against the backdrop of the raging Russia-Ukraine war, India will strive to bring all warring parties on a single platform to see the common good. India's role would be to engage the countries in the group and

strike a consensus. Unanimity in resolution will go a long way in not just ushering in world peace, but also help resolve the energy crisis for global welfare. The divisiveness has to be reduced to tackle the challenges facing the planet like economic growth, indebtedness of countries, meeting sustainable development goals and climate targets.

India will attempt to bring terrorism back on G-20 agenda. International cooperation and a robust system to fight terror financing and economic crime is the crying need of the hour. India has a crucial role to play with the world's biggest economies in mitigating such risks. A global effort has to be made to share the sharing of terror funding information through formal and informal means. India has to build on its counter-terrorism narrative and chalk out an action plan to combat terrorism because terrorist acts have ripple effect on the economy. It not just causes market uncertainty, but also causes disruptions in economic growth.

### **Conclusion:**

Building on the idea propagated by India's age-old spiritual traditions, G20 presidency will function around the principles of the universal sense of one-ness – 'One Earth, One Family, One Future' – based on the adage Vasudhaiva Kutumbakam, meaning 'that all of the world, universe or reality is one'.

**One Earth :** heal the planet by encouraging sustainable and environment-friendly lifestyles based on Indian traditions.

**One Family :** promote harmony within the human family by depoliticizing pertinent supply chains of food, fertilizers, and medicines. This is done with the aim to prevent humanitarian crises due to geo-political tension.

**One Future :** encourage honest conversations among the most powerful nations of the world regarding core issues of climate change and mitigation of risks posed by weapons of mass destruction to enhance global security.

This idea is drawn from the ancient Sanskrit text of the Maha Upanishad and seeks to reaffirm the value of all lifeforms - humans, animals and microorganism and their interconnectedness with each other and the planet Earth.

India's Presidency is all about human-centric globalisation and is expected to have large-scale impact on the intergovernmental policy formulations and discussions that will influence the New World order and set the global post-pandemic economic agenda.

\* \* \* \* \*



# Compliance Tracker

**Important due dates during the period January 2023 to March 2023**

Compiled by **CA Siddhant Jajodia & CA Devarshi Bhuwalka**

Due Date	GST (Monthly)	GST (Quarterly)	Income Tax	Others	Period
7-Jan-23			TCS Payment		Dec-22
7-Jan-23			TDS Payment		Dec-22
11-Jan-23	GSTR-1 Monthly Return				Dec-22
13-Jan-23		GSTR-1 Quarterly Return			Oct-Dec 2022
14-Jan-23			194IA Certificate		Nov-22
15-Jan-23			TCS Return		Oct-Dec 2022
15-Jan-23				ESI Return	Dec-22
15-Jan-23				PF Payment	Dec-22
15-Jan-23				PTAX Employee Payment	Dec-22
20-Jan-23	GSTR-3B Monthly Return				Dec-22
22-Jan-23		GSTR-3B Quarterly Return for Category 1 States			Oct-Dec 2022
24-Jan-23		GSTR-3B Quarterly Return for Category 2 States			Oct-Dec 2022
30-Jan-23			194IA Return		Dec-22
30-Jan-23			TCS Certificates		Oct-Dec 2022
31-Jan-23			TDS Return 24Q		Oct-Dec 2022
31-Jan-23			TDS Return 26Q		Oct-Dec 2022
7-Feb-23			TCS Payment		Jan-23
7-Feb-23			TDS Payment		Jan-23
11-Feb-23	GSTR-1 Monthly Return				Jan-23
13-Feb-23		GSTR-1 IFF			Jan-23
14-Feb-23			194IA Certificate		Dec-22
15-Feb-23			TDS Certificates 26Q		Oct-Dec 2022
15-Feb-23				ESI Return	Jan-23
15-Feb-23				PF Payment	Jan-23
15-Feb-23				PTAX Employee Payment	Jan-23
20-Feb-23	GSTR-3B Monthly Return				Jan-23

Due Date	GST (Monthly)	GST (Quarterly)	Income Tax	Others	Period
25-Feb-23		GSTR-3B Monthly Payment			Jan-22
2-Mar-23			194IA Return		Jan-23
7-Mar-23			TCS Payment		Feb-23
7-Mar-23			TDS Payment		Feb-23
11-Mar-23	GSTR-1 Monthly Return				Feb-23
13-Mar-23		GSTR-1 IFF			Feb-23
15-Mar-23			Advance Tax		FY 2022-23
15-Mar-23				ESI Return	Feb-23
15-Mar-23				PF Payment	Feb-23
15-Mar-23				PTAX Employee Payment	Feb-23
17-Mar-23			194IA Certificate		Jan-23
20-Mar-23	GSTR-3B Monthly Return				Feb-23
25-Mar-23		GSTR-3B Monthly Payment			Feb-23
30-Mar-23			194IA Return		Feb-23

**GST Category 1 States** - Chhattisgarh, Madhya Pradesh, Gujarat, Dadra and Nagar Haveli and Daman and Diu, Maharashtra, Karnataka, Goa, Lakshadweep, Kerala, Tamil Nadu, Puducherry, Andaman and Nicobar Islands, Telangana and Andhra Pradesh.

**GST Category 2 States** - Jammu and Kashmir, Ladakh, Himachal Pradesh, Punjab, Chandigarh, Uttarakhand, Haryana, Delhi, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha.

\* \* \* \* \*

**When Things go wrong, as they sometimes will,  
When the road you're trudging seems all uphill,  
When the funds are low and debts are high,  
And you want to Smile but have to sigh.  
When care is pressing you down a bit,  
Rest, if you must, but don't you quit.**

— Extract of the poem 'Don't Quit' by Edgar A. Guest

## Activities at a Glance ...

### ASSOCIATION OF CORPORATE ADVISERS & EXECUTIVES

Sl.No.	Date	Topics & Speakers
1.0	19.10.2022 (ACAIE, S S Agarwala Committee Room)	<b>Group Discussion on CSR under Companies Act 2013 including Recent Amendments.</b> Initiator : CS. Alpana Agrawal, Kolkata. Observer : CS. Hansraj Jaria, Kolkata. CA. Ayush Jain, Chairperson – Group Discussions Sub-Committee.
2.0	29.10.2022 (Zion, The Spring Club, Kolkata)	<b>Bijoya &amp; Diwali Meet. Games, Lucky Draw &amp; Gifts, Dinner, Dance Floor, Fun Fiesta, Live Music etc.</b> CA. Niraj Kr Harodia, Chairperson – Fellowship Sub-Committee.
3.0	01.11.2022 (The Spring Club, Kolkata)	<b>The No Holds Barred Open House Interactive Session on Brand Building &amp; Marketing – A Wasteful Expenditure or a Wise Investment.</b> Speaker Panelists : Mr. Srish Agrawal, Founder & CEO, A1 Future Technologies, Mr. Abhishek Banerjee, Founder & CEO, TIGONIS, Mr. Gagan Sachdev, Director & CEO, Bodyline Sports, Mr. Anish Agarwal, Co-Founder & CEO, TABLT, Ms. Chaity Ghosh, Founder Director, Phreedom4Ever, Moderator : Mr. Ritwik Mukerhee, Renowned Business Journalist. Curated by : Mr. Sunil Goenka, Co-Founder, Nova Realtime Solutions LLP.
4.0	02.11.2022 (ACAIE, S S Agarwala Committee Room)	<b>Group Discussion on GSTR-9 and GSTR-9C.</b> Initiator : CA. Siddhant Jajodia, Kolkata. Observer : CA. Vikash Kr Banka, Kolkata. CA. Ayush Jain, Chairperson – Group Discussions Sub-Committee.
5.0	09.11.2022 (Business Lounge, The Spring Club, Kolkata)	<b>Open House Discussion on Indo-Bangladesh Economic Out look.</b> Joint programme with Calcutta Chamber of Commerce. Speaker : Dr. Atiur Rahman, G-20 Sherpa (Economic Advisor) to Bangladesh Prime Minister & Former Governor of Central Bank of Bangladesh in conversation with Mr. Ritwik Mukerhee, Renowned Business Journalist. Curated by : Mr. Sunil Goenka, Co-Founder, Nova Realtime Solutions LLP.
6.0	09.11.2022 (ACAIE, S S Agarwala Committee Room)	<b>Group Discussion on Fast Track Mergers – A Practical Approach.</b> Initiator : CS. Urvi Sanghvi, Kolkata. Observer : CS. Sneha Khaitan. CA. Ayush Jain, Chairperson – Group Discussions Sub-Committee.
7.0	12.11.2022 (ACAIE, S S Agarwala Committee Room)	<b>Meet and Greet Programme for ACAIE Women Members.</b> CA. Rashmi Chhawchharia, Chairperson – Ladies Wing Sub-Committee.
8.0	16.11.2022 (ACAIE, S S Agarwala Committee Room)	<b>Group Discussion on Impact of recent Supreme Court Judgement on Charitable Trusts.</b> Initiator : CA. Anup Kr Sanghai. CA. Ayush Jain, Chairperson – Group Discussions Sub-Committee.
9.0	19.11.2022 (Kala Mandir, Kolkata)	<b>Power of Thoughts &amp; Emotions – Reversing Diseases with your Mind.</b> In conversation with Mr. Karan Kakkad. Presented by Reverse Factor. Community Partner : Association of Corporate Advisers & Executives.
10.0	26.11.2022 (ACAIE, S S Agarwala Committee Room)	<b>Panel Discussion on The Takeaways from 21st World Congress of Accountants.</b> Panelists : CA. Indu Chatrath, Kolkata; CA. Arun Kr Agarwal, Kolkata, CA. Rishi Khator, Kolkata, CA. Anup Kr Sanghai, Kolkata, CA. Jitendra Lohia, Kolkata. Moderator : CA. Kamal Nayan Jain, Kolkata. CA. Anup Kr Sanghai, Chairperson – 21st World Congress of Accountants Sub-Committee.
11.0	07.12.2022 (ACAIE, S S Agarwala Committee Room)	<b>Group Discussion on Facing the Faceless Assessments and Appeal.</b> Initiator : CA. Ayush Goel, Kolkata. CA. Ayush Jain, Chairperson – Group Discussions Sub-Committee.
12.0	14.12.2022 (ACAIE, Emami Conference Hall)	<b>Session on Foreign Trade Policy on Export including RodTEP and Production Linked Incentive Scheme (PLI Scheme).</b> Speaker : CS. Anindita Chatterjee, Mumbai. CA. Tarun Kr Gupta, Chairperson – GST Group-Theme Conclave & Related Programmes Sub-Committee.
13.0	17.12.2022 & 18.12.2022 (Hotel Sonar Bangla, Taki)	<b>Residential Seminar – One night/Two Days. Topic : Discussion on Professional Development and Growth.</b> Speakers : CA. Arun Kr Agarwal and CA. Sushil Kr Pransukhka. CA. Vasudeo Agarwal, Chairperson – Residential Seminar Sub-Committee.

Sl.No.	Date	Topics & Speaker
14.0	21.12.2022 (ACAIE, Emami Conference Hall)	<b>Discussion on Women's Hygiene &amp; Sustainable Lifestyle. Speaker :</b> Ms. Anupriya Chowdhary, Career Counselor and Coach, Kolkata. CA. Rashmi Chhawchharia, Chairperson – Ladies Wing Sub-Committee.
15.0	23.12.2022 & 24.12.2022 (Biswa Bangla Convention Centre, Kolkata)	ACAIE had put up a Stall (No.2) at the 47th Regional Conference of EIRC of ICAI.
16.0	28.12.2022 (The Spring Club, Kolkata)	<b>View Point Circa 2023 - A Moderated Panel Discussion on The Possible Scenario of Opportunities &amp; Growth for Business &amp; Professionals. A joint programme with Calcutta Chamber of Commerce. Panelists :</b> Mr. Kishan Kumar Kejriwal, Chairman, MCKV Group of Institutions; Mr. Kamal Nayan Jain, Partner, K N Jain & Co.; Mr. Rajesh Agarwal Jindal, Head, Equity Research, Aum Capital Market Pvt. Ltd.; Ms. Sujata Chatterjee, Owner, Twirl.Store; Mr. Ritwik Mukherjee, Renowned Business Journalist & Analyst; Mr. Manoj Gupta, Managing Director, Pharma Impex Laboratories Pvt.Ltd.; <b>Moderator :</b> Mr. Srish Kumar Agrawal, Founder & Owner, A1 Future Technologies Pvt. Ltd. <b>Curated by:</b> Nova Realtime Solutions LLP.
17.0	29.12.2022 (ACAIE, S S Agarwala Committee Room)	<b>Group Discussion on Recent Amendments in Liquidation Process. Initiator :</b> CA IP Rachna Jhunjhunwala, Kolkata. CA. Ayush Jain, Chairperson – Group Discussions Sub-Committee.

## Activities at a Glance ...

### ACAIE CHARTERED ACCOUNTANTS CPE STUDY CIRCLE OF EIRC OF ICAI

Sl.No.	Date	Topics & Speakers
1.0	13.10.2022 (ACAIE, Emami Conference Hall)	<b>3 CPE Hours Lecture Meeting on NOCLAR (Non Compliance with Laws and Regulations, w.e.f. 1st October, 2022) and Recent Amendment in GST. Speakers :</b> CA. Ranjeet Kr Agarwal and Adv. Ankit Kanodia. CA. Vivek Newatia, Chairperson, Accounts & Audit Group – Theme Conclave & Related Programmes Sub-Committee and CA. Tarun Kr Gupta, Chairperson – GST Group-Theme Conclave & Related Programmes Sub-Committee.
2.0	25.11.2022 (ACAIE, Emami Conference Hall)	<b>2 CPE Hours Lecture Meeting on Charitable and Religious Trust – Analysis in the light of recent Supreme Court Decision. Speaker :</b> CA. Ramesh Kr Patodia. CA. Anand Kr Tiwari, Chairperson, Direct Tax Group – Theme Conclave & Related Programmes Sub-Committee.
3.0	05.12.2022 (ACAIE, Emami Conference Hall)	<b>2 CPE Hours Lecture Meeting on Practical Aspects and Important Changes in GSTR-9 and GSTR-9C. Speaker :</b> CA. Anup Kr Luharuka, Kolkata. CA. Tarun Kr Gupta, Chairperson – GST Group-Theme Conclave & Related Programmes Sub-Committee.
4.0	27.12.2022 (ACAIE, Emami Conference Hall)	<b>4 CPE Hours Lecture Meeting on Audit Quality and Startups. Topic : Startups Issues and Opportunities. Speaker :</b> CA. Rishi Khator, Kolkata. <b>Topic : Audit Quality Maturity Model. Speaker :</b> CA. Vivek Agarwal, Kolkata. CA. Vivek Newatia, Chairperson – Accounting and Auditing Group-Theme Conclave & Related Programmes Sub-Committee.
5.0	28.12.2022 (ACAIE, Emami Conference Hall)	<b>4CPE Hours Lecture Meeting on Office Automation and Audit Documentation for SMEs. Topic : Office Automation. Speaker :</b> CA. Sanjib Sanghi, Kolkata. <b>Topic : Audit Documentation for SMEs. Speaker:</b> CA. Hemant Kr Nahata, Kolkata. CA. Vivek Newatia, Chairperson – Accounting and Auditing Group-Theme Conclave & Related Programmes Sub-Committee.
6.0	30.12.2022 (ACAIE, Emami Conference Hall)	<b>2CPE Hours Lecture Meeting on Code of Ethics. Speaker :</b> CA. Ranjeet Kr Agarwal, Kolkata.





# ASSOCIATION OF CORPORATE ADVISERS & EXECUTIVES

(Registered under the Societies Registration Act, 1860)

**An ISO 9001 : 2015 Certified Organisation**

6, Lyons Range 3rd Floor, Unit - 2, Kolkata - 700 001

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E-mail : info@acaekolkata.org • Website : www.acaekolkata.org

GSTIN : 19AAATA7029F1ZV

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## APPLICATION FORM FOR MEMBERSHIP

To  
The General Secretary,  
Association of Corporate Advisers & Executives  
6, Lyons Range, 3rd Floor, Unit - 2  
Kolkata - 700 001

### FOR OFFICE USE ONLY

Date of Receipt \_\_\_\_\_

Membership Approved on \_\_\_\_\_

Membership No. Allotted \_\_\_\_\_

Chairperson

Membership Development Sub-Committee

General Secretary

Dear Sir,

Please **ENROL** me / us as a **LIFE / GENERAL MEMBER** of the Association. I / We agree to abide by the Memorandum and Rules & Regulations of the Association.

1. Name in Full (IN BLOCK LETTERS) : \_\_\_\_\_
2. Father's Name : \_\_\_\_\_
3. Date of Birth : \_\_\_\_\_
4. Academic and/or Professional Qualifications : \_\_\_\_\_
5. Occupation : \_\_\_\_\_
6. Name of the Concern with which associated : \_\_\_\_\_
7. GSTIN : \_\_\_\_\_
8. Designation : \_\_\_\_\_
9. CA / CS / ICWAI Membership No. : \_\_\_\_\_
10. Blood Group : \_\_\_\_\_ (Self) \_\_\_\_\_ (Spouse)
11. Date of Marriage : \_\_\_\_\_ Name of Spouse \_\_\_\_\_
12. Office Address : \_\_\_\_\_
13. Resident Address : \_\_\_\_\_
14. Telephone (Nos.) : (Off.) : \_\_\_\_\_ (Resi.) : \_\_\_\_\_ Fax : \_\_\_\_\_  
Mobile : \_\_\_\_\_ E-mail : \_\_\_\_\_
15. Address where Circular etc. should be sent : ☐ Office ☐ Residence  
I am / We are sending herewith Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_)  
by Cash / Cheque No. \_\_\_\_\_ Dated \_\_\_\_\_ Drawn on \_\_\_\_\_  
towards ☐ Life Membership ☐ General Membership.

Place: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of the Applicant

Proposed By : Name: \_\_\_\_\_

ACAIE Membership No. : \_\_\_\_\_ Signature: \_\_\_\_\_

Seconded By : Name: \_\_\_\_\_

ACAIE Membership No. : \_\_\_\_\_ Signature: \_\_\_\_\_

- NOTES :**
1. Fee for Life Membership Rs. 11,800/- (for individuals only) (inclusive of GST)
  2. Fee for General Membership :
    - a) Annual Subscription Rs. 8850/- and Admission fees Rs. 8850/- (For Firm and Body Corporate) (inclusive of GST)
    - b) Annual Subscription Rs. 1770/- and Admission fees Rs. 1770/- (for individual) (inclusive of GST)
    - c) Annual Subscription will be half, if Membership Commences after 30th September of the year in which the membership is approved.
  3. Cheques should be drawn in favour of **Association of Corporate Advisers & Executives**.

**You can also fill the form online at :**  
<https://acaekolkata.org/acaemembership>

## Sub-Committees for the year 2022-2023

Segment	GROUP	SUB-COMMITTEES	CHAIRPERSON	CO-CHAIRPERSON	MENTOR
1	Sub_Acct & Audit	<b>Coordinator</b>	<b>CA Vivek Newatia</b>		
1	Sub_Acct & Audit	Theme Conclave & Related Programs	CA Vivek Newatia	CA Swati Singhanian CA Shiv Khemka	CA Vivek Agarwal
1	Sub_Acct & Audit	R&D Publication	CA Vivek Newatia	CA Shiv Ratan Barasia	CA Rakesh Jain
1	Sub_Allied Laws	Miscellaneous / Allied Laws R&D Publication	CS Rahul Parasrampur	CA Ratan Kumar Banka CA Arun Kumar Gupta	CA Kamal Nayan Jain
2	Sub_Corp.Law	<b>Coordinator</b>	<b>CA Mohit Bhuteria</b>		
2	Sub_Corp.Law	Theme Conclave & Related Programs	CA Mohit Bhuteria	CS Arun Kumar Khandelia	CA H K Agrawal
2	Sub_Corp.Law	R&D Publication	CA Mohit Bhuteria	CA Rahul Losalka	CA Rishi Khator
2	Sub_Corp.Law	Deptt. Coordination & Representation	CA Mohit Bhuteria	CS Ranjeet Kumar Kanodia	CS S M Gupta
3	Sub_Direct Tax	<b>Coordinator</b>	<b>CA Ramesh Kumar Patodia</b>		
3	Sub_Direct Tax	Theme Conclave & Related Programs	CA Anand Kumar Tiwari	CA Shital Khemka	CA Madhav Prasad Sureka
3	Sub_Direct Tax	R&D Publication	CA Ramesh Kumar Patodia	CA Jitesh Kumar Gutgutia CA K M Tibrewala	CA Anup Kumar Sanghai
3	Sub_Direct Tax	Deptt.Coordination & Representation	CA Ramesh Kumar Patodia	CA Mukesh Kumar Jhawar	Adv Arvind Agrawal
4	Sub_GST	<b>Coordinator</b>	<b>CA Vikash Kumar Banka</b>		
4	Sub_GST	Theme Conclave & Related Programs	CA Tarun Kumar Gupta	CA Surabhi Bohra	CA Arun Kumar Agarwal
4	Sub_GST	R&D Publication	CA Shivani Shah	CA Anup Kumar Luharka	CA Arun Kumar Agarwal
4	Sub_GST	Deptt.Coordination & Representation	CA Shubham Khaitan	CA Rajeev Kumar Agarwal	CA Arun Kumar Agarwal
5	Sub_IBC	<b>Coordinator</b>	<b>CA Sumit Binani</b>		
5	Sub_IBC	Theme Conclave & Related Programs	CA Sumit Binani	CS Rahul Parasrampur	CA Ram Ratan Modi
5	Sub_IBC	R&D Publication	CA Sumit Binani	CA Swati Singhanian	CA Jitendra Lohia
6	Semi_Industry	<b>Coordinator</b>	<b>CA Vikash Kumar Banka</b>		
6	Semi_Industry	Program with Industry	CA Priyank Singhi	CA Prakash Patwari	CA Vivek Agarwal
6	Semi_Industry	Theme Conclave [Real Estate]	CA Vikash Kumar Banka	CA Shivani Shah	CA Rishi Khator
6	Semi_Industry	Theme Conclave [Capital Market]	CA Ranjeet Kumar Agarwal	CA Vikash Kumar Banka	CA Vasudeo Agarwal
6	Semi_Industry	Theme Conclave [IT]	CA Vikash Kumar Banka	CA Sanjib Sanghi	CA Jitendra Lohia
6	Semi_Industry	Theme Conclave [Start up]	CA Swati Singhanian	CA Priyank Singhi	CA Rishi Khator
7	Conference	<b>Coordinator</b>	<b>CA Sumit Binani</b>		
7	Conference	Annual Conference	CA Jitendra Lohia	CA Ram Ratan Modi	
7	Conference	Memorial Lecture	CA Sumit Binani	CA Tarun Kumar Gupta	
7	Conference	ET Bengal Corporate Awards	CA Jinesh S Vanzara	(1) CA Anand Chopra (2) CA Kamal Nayan Jain (3) Advocate Arvind Agrawal	
8	Programs	<b>Coordinator</b>	<b>CA Shubham Khaitan</b>		
8	Group Discussion	Group Discussions	CA Ayush Jain	CS Rahul Parasrampur	CA Anup Kumar Sanghai





## SUB-COMMITTEE

Segment	GROUP	SUB-COMMITTEES	CHAIRPERSON	CO-CHAIRPERSON	MENTOR
8	Study Circle	ACAE Chartered Accountants' Study Circle-EIRC	CA Anup Kumar Banka (Convenor)	CA Niraj Kumar Harodia (Dy Convenor)	
8	Study Circle	ACAE Company Secretaries Study Circle	CS Rahul Parasrampur	CA Anup Kumar Luharuka	
8	Publication	House Journal	CA Shubham Khaitan	CA Ayush Jain CA Devarshi Bhuwalka CS Rahul Parasrampur CA Sakshi Jhajharia CA Shivani Shah CA Siddhant Jajodia CA Tarun Kr. Gupta CA Vikash Banka	CA H K Agrawal
9	Youth	<b>Coordinator</b>	<b>CA Shivani Shah</b>		
9	Z_Student	Students Development	CA Pushp Deep Rungta	CA Vikash Kumar Banka	CA Vivek Agarwal
9	Z_Women	Ladies Wing	CA Rashmi Chhawchharia	CA Swati Singhania CA Neha Chhawchharia	CS Mamta Binani
9	Z_Youth	ACAE Gen - Next	CA Gopal Kumar Khetan	CA Ankit Loharuka	CA Vivek Agarwal
10	Membership	<b>Coordinator</b>	<b>CA Priyank Singhi</b>		
10	Membership	Members- Co-ordination & Service	CA Priyank Singhi	CA Gourav More CA Mayur Agrawal	CA Kamal Nayan Jain
10	Membership	Membership Growth / Database Management	CA Anup Kumar Luharuka	CA Prakash Patwari	CA Kamal Nayan Jain
11	Fellowship	<b>Coordinator</b>	<b>CA Niraj Kumar Harodia</b>		
11	Fellowship	Residential Seminar: One / Two Night	CA Vasudeo Agarwal	CA Indu Chatrath	CA Vasudeo Agarwal
11	Fellowship	International Residential Seminar	Adv Arvind Agrawal	CA Madhav Prasad Sureka	CA Vasudeo Agarwal
11	Fellowship	Fellowship: Diwali, Picnic, Holi	CA Niraj Kumar Harodia	CA Rikky Agrawalla	CA Vasudeo Agarwal
11	Fellowship	Sports	CA Priyank Singhi	CA Harsh Satish Udesi CA Alok Jain	CA Vasudeo Agarwal
11	Fellowship	Comm. for 21st World Congress of Accountants	CA Anup Kumar Sanghai	CA Niraj Kumar Harodia	
12	Office admin	<b>Coordinator</b>	<b>CA Tarun Kumar Gupta</b>		
12	Office admin	Public Relations & Press & Media / Social Media	CA Tarun Kumar Gupta	CA Gopal Kumar Khetan	CS S M Gupta CA Ramesh Kumar Patodia
12	Office admin	Nomination	CA Vivek Agarwal	CA P D Rungta CA Sumit Binani	
12	Office admin	Infrastructure	CA Anand Chopra	CA R S Jhavar CA Jinesh S Vanzara	
12	Office admin	Legal Compliances	CA Tarun Kumar Gupta	CA Arun Kumar Agarwal	CA Sanjay Bhattacharya
12	Office admin	Finance	CA Kamal Nayan Jain		
12	Office admin	Vision Development	CA Jinesh S Vanzara	Advocate Arvind Agrawal	

## ACAE OFFICIALS

<b>Ms. Niti Dasgupta</b>	4060 8353	98305 55232
<b>Mr. Amitava Mishra</b>	2210 7724	98740 74194
<b>Mr. Sital Chatterjee</b>	2210 7724	93394 18687
<b>Mr. Ajoy Mishra</b>	2210 7724	74308 71260
<b>Mr. Debdatta Sardar</b>	2210 7724	83360 16855





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19/1 Camac Street, Shakespeare Sarani, Kolkata - 700017



## *ACAIE Bijoya & Deepawali Meet at a Glance ...*

Saturday, 29th October, 2022 at The Spring Club, Kolkata





## ACAE at a Glance ...

**Open House Interactive Session on Brand Building & Marketing - A Wasteful Expenditure or a Wise Investment on Tuesday, 1st November, 2022 at The Spring Club, Kolkata**



Panelists : Mr. Srish Agrawal, Mr. Abhishek Banerjee, Mr. Gagan Sachdev, Mr. Anish Agarwal, Ms. Chaity Ghosh and Moderator: Mr. Ritwik Mukherjee along with CA. P D Rungta, President-ACAE and others

**Open House Discussion on Indo-Bangladesh Economic Outlook - a joint programme with Calcutta Chamber of Commerce on Wednesday, 9th November, 2022 at The Spring Club, Kolkata**



Speaker : Dr. Atiur Rahman, G-20 Sherpa (Economic Advisor) to Bangladesh Prime Minister & Former Governor of Central Bank of Bangladesh in conversation with Mr. Ritwik Mukherjee, renowned Business Journalist

**Panel Discussion on The Takeaways from 21st World Congress of Accountants on Saturday, 26th November, 2022 at ACAE, Emami Conference Hall**



Panelists : CA. Indu Chatrath, CA. Arun Kr Agarwal, CA. Rishi Khator, CA. Anup Kr Sanghai, CA. Jitendra Lohia and Moderator : CA. Kamal Nayan Jain sharing their thoughts and views in the Panel Discussion

**Meet and Greet Programme for ACAE Women Members on Saturday, 12th November, 2022 at ACAE, S S Agarwala Committee Room**



Meet and Greet Programme in progress

**Session on Foreign Trade Policy on Export including RodTEP and Production Linked Incentive Scheme (PLI Scheme) on Wednesday, 14th December, 2022 at ACAE, Emami Conference Hall**



On the dais (L-R) CA. P D Rungta, President-ACAE, CA. Tarun Kr Gupta, Chairperson, GST Group-Theme Conclave & Related Programs Sub-Committee, Speaker CS. Anindita Chatterjee, Mumbai and CA. Surabhi Bohra, Co-Chairperson, GST Group-Theme Conclave & Related Programs Sub-Committee



## Residential Seminar on Saturday & Sunday, 17th & 18th December, 2022 at Hotel Sonar Bangla, Taki



Discussion on Professional Development and Growth in progress



Presentation of Memento to Speaker CA. Arun Kr Agarwal



Presentation of Memento to Speaker CA. Sushil Kr Pransukhka



Group Photograph

## ACAIE Stall No. 2 at the 47th Regional Conference of EIRC of ICAI on Friday & Saturday, 23rd & 24th December, 2022 at Biswa Bangla Convention Centre, Kolkata



## Discussion on Women's Hygiene & Sustainable Lifestyle on Wednesday, 21st December, 2022 at ACAIE, Emami Conference Hall



On the dais (L-R) CA. Rashmi Chhawchharia, Chairperson-Ladies Wing Sub-Committee, Speaker : Ms. Anupriya Chowdhary, Career Counselor & Coach and CA. Surabhi Bohra, Moderator

## View Point Circa 2023 - A Moderated Panel Discussion on The Possible Scenario of Opportunities & Growth for Business & Professionals - a joint programme with Calcutta Chamber of Commerce on Wednesday, 28th December, 2022 at The Spring Club, Kolkata



(L-R) Moderator : Mr. Srish Kr Agarwal, Panelists Mr. Rajesh Agarwal Jindal, Mr. Manoj Gupta, Mr. Kishan Kr Kejriwal, Mr. Kamal Nayan Jain, Mr. Ritwik Mukherjee, Ms. Sujata Chatterjee along with CA. P D Rungta, President-ACAIE



## ACAE CA Study Circle at a Glance ...

**3CPE Hours Lecture Meeting on NOCLAR (Non Compliance with Laws and Regulations, (w.e.f 1st October, 2022) and Recent Amendments in GST on Thursday, 13th October, 2022 at ACAE, Emami Conference Hall**



On the dais (L-R) Speaker : Adv. Ankit Kanodia, Convenor : CA. Anup Kr Banka, Speaker : CA. Ranjeet Kr Agarwal and Dy. Convenor : CA. Niraj Kr Harodia

**2CPE Hours Lecture Meeting on Practical Aspects and Important Changes in GSTR-9 and GSTR-9C on Monday, 5th December, 2022 at ACAE, Emami Conference Hall**



Q&A Session in progress. (L-R) Convenor : CA. Anup Kr Banka, CA. Tarun Kr Gupta, Chairperson-GST Group, Theme Conclave & Related Programmes Sub-Committee, Speaker : CA. Anup Kr Luharuka and Dy. Convenor : CA. Niraj Kr Harodia

**4CPE Hours Lecture Meeting on Office Automation and Audit Documentation for SMEs on Wednesday, 28th December, 2022 at ACAE, Emami Conference Hall**



On the dais (R-L) Speakers : CA. Hemant Kr Nahata and CA. Sanjib Sanghi along with Convenor : CA. Anup Kr Banka

**2CPE Hours Lecture Meeting on Charitable and Religious Trust - Analysis in the light of recent Supreme Court Decision on Friday, 25th November, 2022 at ACAE, Emami Conference Hall**



CA. Sanjay Bhattacharya presenting a Memento to Speaker CA. Ramesh Kr Patodia

**4CPE Hours Lecture Meeting on Audit Quality and Startups on Tuesday, 27th December, 2022 at ACAE, Emami Conference Hall**



On the dais (L-R) Convenor : CA. Anup Kr Banka and Speakers : CA. Vivek Agarwal and CA. Rishi Khator

**2CPE Hours Lecture Meeting on Code of Ethics on Friday, 30th December, 2022 at ACAE, Emami Conference Hall**



Speaker : CA. Ranjeet Kr Agarwal, Central Council Member of ICAI, giving his deliberations



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