ACAE Annual Conference 2023

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THE ECONOMIC TIMES

संकल्प सृजन और सिद्धि

Saturday | 26 August, 2023
Taj Bengal, Kolkata | 10.00A.M to 5.30P.M

Association of Corporate Advisers & Executives
An ISO 9001 : 2015 Certified Organisation
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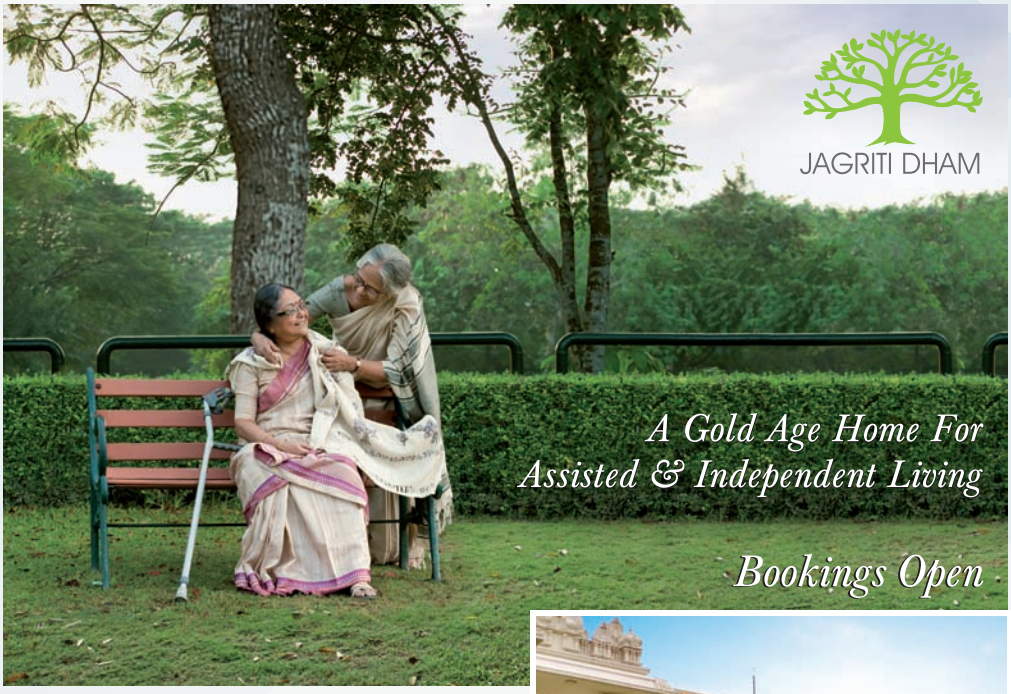

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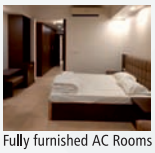
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Contents

संकल्प सृजन और सिद्धि

Programme 05

Editorial 06

Message from Chairman, Annual Conference Committee 07

Message from President, ACAE 08

Message from President ICAI 09

Message from President ICSI 10

Message from Vice President, ICAI 11

Message from Chairman, EIRC of ICAI 12

About ACAE & Our Publications 13

Activities at a Glance 14

Executive Committee – 2023 20

Past Presidents – ACAE 22

Annual Conference 2023 Committee 23

Chief Guest & Guest of Honour 25

Speakers' Profiles 26

Titles of Articles

Transforming Financial Landscape: How Chatgpt Empowers by *Sanjib Sanghi* 32

Ring Fencing Malad To Kolkata: by *Guru Prasad* *34*

Intelligent Continuous control Monitoring : Reimaging Continuous Audit by CA *Anand Prakash Jangid* *39*

Credit exposed to time limit in section 16(4) – is it really a lost cause? *by CA Jatin Cristopher* *42*

Unravelling India's GST Odyssey from Past to Future *by CA Manish Raj Dhandharia* 46

Circulars on GSTR-2A vs 3B mismatch- Agree to disagree? *by CA Mannu Kashliwal* *49*

"Unveiling the Hidden Asset: The Power of Networking for Chartered Accountants" *by CA Shilpi Sharma & CA Sakshi Jhajharia* *54*

Understanding the Controversy Surrounding Cash Seizure under Section 67(2) of the CGST Act, 2017 *by CA. Shivani Shah* *58*

Synopsis of the Circulars issued post 50th GST Council Meeting *by CA. Tarun Kr. Gupta* *60*

India as the world's largest economy-a pipedream or an achievable reality *by Debajyoti Ray Chaudhuri* *66*

Pokémon Go and Welfare Policy *by Reetika Khera* *70*

A Promising Route for Offshore Investment - Family Investment Fund in GIFT IFSC *by Zeel Jambuwala, Urjavi Shah, Dhairya Chaniyara- FIF* *72*

Future of Audit: The Transformation Agenda *by P R Ramesh* *76*

Views and information expressed and provided in this book are the views and information of the representative contributor, ACAE does not take any responsibility for the contents of the articles

Programme

संकल्प सृजन और सिद्धि

10.00 AM TO 11.00 AM	**INAUGURATION**
	Chief Guest: **Dr. C. V. Ananda Bose***, Hon'ble Governor of West Bengal Guest of Honour: **CA. Ranjeet Kr Agarwal**, Vice President,Institute of Chartered Accountants of India, Delhi
11.00 AM TO 11.45 AM	**Future of Work: Emerging Technologies**
	The conference will emphasize the need for upskilling and reskilling the work force to equip them with the necessary competencies to thrive in a technology-driven world. Speaker: **CA. Sachin Chitlange,** Vice President-Finance Transformation & Business Analytics, Capgemini India, Mumbai
11.45 AM - 12.30 PM	**Jurisprudence: Litigation under Taxation**
	Participants will gain insights into the jurisprudential principles that govern taxation laws, such as equity, certainty, fairness, and the rule of law, and how they have evolved over time through judicial interpretations Speaker: CA. Ajay Bahl, Co-Founder and Managing Partner, AZB & Partners, Mumbai
12.30 PM TO 1.30 PM	**Panel : India at 2030**
	Panel discussion serves as an inclusive platform for stakeholders to collec tively envision and chart a path for India's future growth and development, fostering collaboration and inspiring actions that will shape a prosperous and sustainable India by the year 2030. **Moderator: CA. (Dr.) Debashis Mitra,** Immediate Past President, ICAI, Delhi **PANELISTS:** **CA. Dilip B. Desai,** Chairman of DHC International & Desai Haribhakti Consulting, Mumbai **CA. Sanjay Banka,** CFO, Senco Gold Ltd, Kolkata **Mr. Manish Panchal,** Strategic Thinker, Business Leader, Investor, on Advisory Board of several companies, Mumbai **Ms. Reetika Khera,** Professor (Economics), Narendra and Chandra Singhi Chair Professor, IIT Delhi
1.30 PM TO 2.15 PM	**LUNCH BREAK**
2.15 PM TO 3.00 PM	**ARE WE MONKEYS WITH MANY MASTERS**
	In this eye-opening session, explore the regulatory pressure faced by Professionals due to the involvement of multiple bodies like Disciplinary Committee, NAFRA, RBI, ED, and SEBI. Understand the Opportunity, chal lenges and threats this brings, such as increased compliance requirements and accountability. **Speaker: CA. A P Singh,** Vice President, Lions Clubs International
3.00 PM - 3.45 PM	**Success story of start-ups**
	CA. Namita Thapar, CEO of Emcure Pharmaceuticals, Pune
3.45 PM - 5.30 PM	**DOUBLE YOUR PROFITS**
	Start putting your business & profession on Auto-Pilot (Work One Day a week) & Double your Profits. Over 21,000 Business Owners & Professionals have used these systems for the last 20 Years to Double their Profits & put their business on Autopilot. **Speaker: Mr. Rahul Jain**, Business Coach, Founder Director of Business Coaching India LLP, Delhi

संकल्प सृजन और सिद्धि

Editorial

Dear Friends and Seniors,

We are delighted to share our flagship Souvenir on the occasion of the Annual Conference of our beloved association ACAE for the year 2023. The theme for the conference is quite apt for both new age and veteran professionals alike – 'Sankalp, Srijan aur Siddhi' i.e. Resolution, Creation and Achievement.

Achievement: A Journey of Milestones Achievement is the culmination of resolution and creation—an embodiment of the sweat, tears, and relentless effort poured into a chosen endeavour. The journey towards achievement is marked by incremental milestones that serve as testament to one's dedication and progress.

On this note, the articles in this publication have been aggregated from multiple areas of professional interests including economics, artificial intelligence, audit, GST, corporate governance, information technology etc. These articles are aimed at updating professionals with the latest developments and making them aware of future expectations.

To part with – "Where resolution meets creation, achievement becomes our legacy."

From,

Editorial Board

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संकल्प सृजन और सिद्धि

Message of the Chairman, ACAE Annual Conference

Esteemed Guests, Distinguished Speakers, and Honoured Delegates,

I extend a warm and proud welcome to each one of you at this esteemed annual conference, organized by the Association of Corporate Advisers and Executives. Under the theme of "संकल्प, सृजन और सिद्धि," (Resolve, Innovate, and Excellence), we embark on a journey that promises to shape the course of our professional lives in the most impactful way.

Our Association, a community of dedicated professionals, stands as a beacon of expertise and camaraderie in the corporate world. Today, in the presence of this illustrious gathering, we find ourselves at the crossroads of innovation and evolution. This conference is not merely an event; it is a convergence of minds, a confluence of ideas, and a celebration of the relentless pursuit of excellence that defines our journey.

The theme of "संकल्प, सृजन और सिद्धि," resonates deeply with the essence of our pursuits. The resolve to overcome challenges, the courage to break new ground, and the commitment to attain excellence have been the guiding principles of our association. Innovation, the driving force of progress, takes center stage as we delve into the latest trends, emerging technologies, and significant methodologies. As we delve into the various technical sessions, I am confident that Our nation's accomplished speakers, representing diverse fields, will share their insights across various technical sessions. Their expertise is bound to enrich our understanding, empower our decisions, and guide us toward unparalleled excellence.

As we engage in this intellectual discourse, I encourage you to make the most of opportunities for interaction, networking, and collaborative ideation. The connections fostered during these days can extend beyond the conference walls, cultivating a community that thrives on shared knowledge and collective advancement.

I express heartfelt gratitude to the organizing committee, our sponsors, and partners for their unwavering support that has transformed this vision into reality. Their dedication has paved the way for this congregation of brilliant minds. I extend my profound gratitude to The Economics Times for powering this event. Their support not only underscores the importance of our endeavours but also reinforces the collaborative spirit that propels industries forward.

In conclusion, let us embrace the spirit of resolve, innovate with unwavering determination, and strive for nothing less than excellence in all our endeavours. May this conference be a guiding light that illuminates our path toward a brighter future for our association and the broader corporate ecosystem.

Thank you, and I eagerly anticipate the enlightening sessions that lie ahead.

Warm regards,

CA Jitendra Lohia

Chairman, ACAE Annual Conference

संकल्प सृजन और सिद्धि

Message of the President, ACAE

Ladies and gentlemen,

Welcome to ACAE's Annual Conference 2023. Our theme, "संकल्प, सृजन और सिद्धि, translates to "Resolution, Creation, and Accomplishment." It reminds us of our potential for greatness through **determination**, creativity, and hard work. Determination drives success, urging us to persevere despite challenges. With unwavering resolve, we conquer any obstacle., **Creativity** adds vibrancy, igniting innovation and joy., **Hard work** unlocks success, demanding consistent effort.

ACAE's 60+ year history includes top-notch technical programs and awards. This year, we broadened it, with unconventional sessions and collaborations. Topics span from business and economics to culture, and wellness. Some of the highlights were –

Sessions on Various Business Verticles:

- Session on Brand Building & Marketing – A Wasteful Expenditure or a Wise Investment
- Discussion on Indo-Bangladesh Economic Out look: Speaker : Dr. Atiur Rahman, G-20 Sherpa (Economic Advisor) to Bangladesh Prime Minister & Former Governor of Central Bank of Bangladesh

Joint Programs with other Organisations :

- ACAE jointly with The Institute of Internal Auditors India, on Benefits of Certified Internal Audit and IIA India Membership.
- ACAE jointly with Calcutta Chamber of Commerce organized a Special Session on Importance of Cyber Security in the Growing Digital Interface

Subject Based our Flagship Programs

- 3 days Workshop on Professional Opportunities in Customs and Allied Laws (Advisory & Litigation)
- Capital Market Conclave – 2023 with Theme : Defining Contours for Growth Capital – Startups to Capital Markets
- 10 Days 20 Hours Certificate Course on GST (Advanced Level) in association with All India Federation of Tax Practitioners (EZ); Indirect Tax Professionals Forum, Kolkata and Society for Tax Analysis and Research

Fellowship Events

- **Bijoya & Diwali Meet**. Games, Lucky Draw & Gifts, Dinner, Dance, Fun Fiesta, Live Music etc at Silver Spring Club
- **Residential Seminar** – One night/Two Days. Topic : Discussion on Professional Development and Growth at TAKI
- **Picnic cum Excursion Trip.** Activities : Extensive Farm Tour, Cow Feeding and Milking, Ghee Bilona, Sapling Plantation, Honey Extraction, Vermicomposting and more.
- **International Excursion** Tour 6 Nights/Seven days to Gabala and Baku (Azerbaijan)

Joint efforts with organizations enhance our reach. Flagship programs cover customs, markets, taxes, and technology. Fellowship events strengthen bonds. This year we took this "संकल्प" to do things differently. We had a mega membership drive for which we also put a stall at the Regional Conference organized by EIRC of ICAI depicting our Infrastructure and benefits of being member of ACAE and added more than 150 members to our association. I thank contributors, speakers, committee members, and partners.

Special appreciation to editorial and executive teams for successfully publishing 5 House Journals excluding this one during the year. As my tenure nears the end, I'm grateful for their support.

In conclusion, let us embrace resolutions, ignite creativity, and work towards our dreams. Let's embark on this transformative journey of ""संकल्प, सृजन और सद्धि" together!

Best regards,
CA P.D. Rungta
President, ACAE

Message of the President, ICAI

In the present era when modern civilization is on the march, technology and expertise must go hand in hand. With the multifaceted knowledge that we possess as a Chartered Accountant, we can help business organizations to face the challenges and manage the competition strategically. But to keep up with the changes that are happening at an unprecedented rate, it is necessary to brush up on the skills at times whenever needed.

My heartiest congratulations for organizing this Annual Conference on 26th August 2023 at Kolkata. The theme for the year is "संकल्प, सृजन और सिद्धि," which is very apt for the professionals. Chartered Accountants (CAs) play an indispensable role in India's economic growth, governance, leading the country towards sustainable economy and therefore there are high expectations from stakeholders. CAs as experts in the whole gamut of factors driving businesses, economy, and finance work closely with the government, industry, and other stakeholders on various issues to ease out challenges and build a favourable growth ecosystem.

The Conference aims to keep the delegates abreast with the contemporary topics and recent developments which are of significant importance.

I appreciate the endeavor of all the office-bearers of the Association for their efforts in organizing this Conference.

I am sure that the delegates will find the conference knowledge enriching and true to its objective.

I wish grand success to the conference.

CA Aniket Talati
President, ICAI

संकल्प सृजन और सिद्धि

Message of the President, ICSI

I extend my best wishes to the Association of Corporate Advisers & Executives for their Annual Conference scheduled to be held on 26th August 2023 at Taj Bengal, Kolkata.

I am sure that the theme of the Conference "संकल्प, सृजन और सिद्धि,", would provide an outline for devising ideas and pathways in building capacities and holding insightful discussions at the Conference.

Your membership strength of around 1400 eminent professionals and your collaboration in the institution of the first annual corporate awards, the "ET Bengal Corporate Awards" in West Bengal in association with The Economic Times, speaks volumes of your contribution to the Corporate Sector in Bengal.

I am hopeful that the conference will give a platform to the corporates as well as the professionals to reflect on their role as enablers in fuelling inclusive growth for developing a Self-Reliant Nation.

My best wishes to all for an enriching learning experience.

CS Manish Gupta

President, The ICSI

Message of the Vice-President, ICAI

It is often said that Change is the only phenomenon that is inevitable. Therefore, being prepared for the upcoming challenges through upgrading our capabilities is the best strategy for success and growth. It is the need of the hour that we resolve to acquire knowledge and make optimal use of the same through cutting-edge technological frameworks such as Artificial Intelligence, blockchain, cloud computing, etc.

The Institute of Chartered Accountants of India (ICAI) has taken a significant interest in implementing the technology advancements that are occurring around the world. In order to help its members serve the stakeholders in the best way possible, ICAI has also been making earnest efforts to ensure that they are always acquiring new information and increasing their awareness of all significant laws, rules, reforms, and amendments that are implemented from time to time.

ICAI has been quite conscious of updating its curriculum consistently. Recently, ICAI has also launched its New Scheme of Education and Training whereby Information Technology (IT)and Ethics have been integrated into the core subjects at the level of Final Examination as per the recommendations of CRET.

I am happy to note that the Annual Conference 2023 is being organised on the theme "संकल्प, सृजन और सिद्धि," on 26th August 2023 at Kolkata. This conference will serve as a suitable forum for the fraternity to exchange knowledge and viewpoints on current issues.

I would like to take this opportunity to congratulate the organisers for their dedicated efforts in organising this Conference.

I hope the conference is a tremendous success and that the attendees gain a lot.

CA Ranjeet Kumar Agarwal

Vice-President, ICAI

संकल्प सृजन और सिद्धि

Message of Chairman, EIRC of ICAI

Dear Delegates,

I am delighted to extend my warmest greetings to all of you on the occasion of the Annual Conference, themed 'Sankalp, Srijan aur Siddhi'. As the Chairman of EIRC of ICAI, it fills me with immense pride to witness the coming together of distinguished minds and passionate professionals, united in their pursuit of excellence and progress in the field of accountancy.

'Sankalp, Srijan aur Siddhi' reflects the essence of our profession – the power of determination, the art of innovation, and the taste of success. These three pillars form the foundation upon which we build our careers and contribute to the growth of our organisations and the nation. It is through resolute determination that we set our goals, charting the course to achieve new heights of success. With creativity and innovation, we sow the seeds of progress, bringing transformative ideas to life. And through perseverance and dedication, we realise our aspirations and taste the sweet fruit of accomplishment.

Our profession is not just about numbers and financial statements; it is about impacting lives, driving economic growth, and fostering trust in the financial ecosystem. As we gather at this conference, let us remember the immense responsibility we carry as accountants and auditors. Our work goes beyond just crunching numbers; it extends to being guardians of transparency and integrity. Together, we play a pivotal role in building a robust financial framework that nurtures the dreams and aspirations of countless individuals and businesses.

I urge each one of you to embrace the spirit of collaboration and knowledge-sharing during this conference. It is through learning from one another and fostering a culture of continuous improvement that we can collectively rise to new heights. As we listen to distinguished speakers and engage in insightful discussions, let us be receptive to fresh perspectives and innovative ideas that can reshape the future of our profession.

I also want to take this moment to express my gratitude to the organising committee and everyone involved in making this conference a reality. Your dedication and hard work have brought us together on this significant occasion, and I am confident that the knowledge and connections formed here will have a lasting impact on each one of us.

Let us remember that the journey of 'Sankalp, Srijan aur Siddhi' is an ongoing one, fuelled by our commitment to lifelong learning and ethical practices. As we leave this conference, let us carry with us the inspiration to excel, the courage to innovate, and the determination to achieve great heights in our careers and beyond.

Once again, I extend my best wishes to all the participants and organisers of this remarkable event. May 'Sankalp, Srijan aur Siddhi' guide us on the path of success and inspire us to make a positive difference in the world.

With warm regards,

CA Debayan Patra

Chairman, Eastern India Regional Council

Institute of Chartered Accountants of India

संकल्प सृजन और सिद्धि

About ACAE

Association of Corporate Advisers & Executives (ACAE), the oldest professional body in Kolkata, was established in the year 1960. Members of ACAE have a diverse profile and include professional practitioners, corporate executives, industrialists and businessmen. The membership strength is more than 1500. ACAE has become a premier institution of excellence and learning in the field of accounting, taxation, legal, corporate matters and finance.

ACAE has been organizing conferences, conclaves, summits, symposia, seminars, workshops, group discussions, lecture meetings, memorial lectures, debates and panel discussions on a regular basis to keep its members updated on all the issues of professional interest.

ACAE programmes had been addressed by Late Jay Prakash Narayan, Political visionary, Late Shri Somnath Chatterjee, Statesman and Former Speaker of Lok Sabha, Bharat Ratna Late Shri Pranab Mukherjee, Hon'ble Former President of India, Shri Keshari Nath Tripathi, Former Governor of West Bengal, Dr. Arvind Panagariya, then Vice Chairman of NITI Aayog, Dr. Amit Mitra, Finance Minister, Government of West Bengal, Dr. Sambit Patra, National Spokesperson-BJP, Shri Sachin Pilot, Shri B K Birla, Shri Y C Deveshwar, Shri B M Khaitan, Shri R S Agarwal, Shri Sanjiv Goenka, Shri Harshavardhan Neotia, Shri T. V. Mohandas Pai, Shri. M J Akbar, Shrimati Meenakshi Lekhi, Shri J K Mittal, Sr. Advocate, Supreme Court of India, Dr. Partha Sarathi Shome, Advisor to Ministry of Finance, Shri Anurag Singh Thakur, former Minister of State for Finance & Corporate Affairs, Govt. of India, Shri Babul Supriyo, former Minister of State for Environment, Forest & Climate Change, Shri Piyush Goyal, Minister of Commerce & Industry, Govt. of India – to name a few noted and eminent personalities of India.

ACAE has initiated and established the first annual corporate awards in West Bengal in association with The Economic times, popularly known as "ET Bengal Corporate Awards" which has recognized achievement of Corporate Bengal for the past nine years.

Our state of the art office infrastructure, which is in the heart of the city, was inaugurated in July 2011 by Dr. Amit Mitra, Hon'ble Finance Minister, West Bengal. We have recently acquired a new office in the same building for the benefit of our members and students.

CA Niraj Kr Harodia

General Secretary

Our Publications:

संकल्प सृजन और सिद्धि

Activities at a Glance

ACAE 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

Bijoya & Diwali Meet on Saturday, 29th October, 2022 at The Spring Club Kolkata

"Lecture Meeting on (1) Facing the Faceless – Assessment and Appeal and (2) Doctrine of Precedent (How to tackle conflicting decisions of Courts and Tribunals) on Friday, 6th January, 2023

"Lecture Meeting on Financial Literacy on Monday, 16th January, 2023

" 3Panel Discussion on Section 194R of the Income-tax Act and Lecture Meeting on NBFC Regulatory Framework and Regulatory Developments on Thursday, 19th January, 2023

"Lecture Meeting on Intellectual Property – Various Rights and Legal Agreement that are essential for business on Friday, 20th January, 2023

Seminar on Union Budget 2023 on Friday, 3rd February, 2023 at Rotary Sadan, Kolkata
Convenor CA. Anup Kr Banka, Speakers Prof. (Dr.) Suman K Mukerjee, Shri Utsav Parekh, CA. K R Sekar, CA. Rohini Aggarawal and Dy. Convenor CA. Niraj Kr Harodia"

"Felicitation programme organised by EIRC of ICAI along with all Study Circles on Tuesday, 21st February, 2023 at Kala Mandir, Kolkata

संकल्प सृजन और सिद्धि

(L-R) Immediate Past President-ACAE CA. Vivek Agarwal, Moderator Mr. Somenath Chatterjee, Panelist Mr. Yatish Kumar, Curator CA. Sunil Goenka, President-ACAE CA. P D Rungta, Panelists Mr. Bhaven Kamdar, Mr. Abhishek Rungta and Mr. Harish Agarwal.

Past President-ACAE CA. Anup Kr Sanghai presenting a Memento to Panelist – Direct Tax CA S S Gupta.

Past President-ACAE CA. Rakesh Jain presenting a Memento to Panelist – Indirect Tax CA Vikash kumar Banka

ACAE Cricket Team led by CA. Priyank Singh won the Final – Silver of the Championship.

Picnic cum Excursion Trip to Organic Farmhouse, Birohi on Sunday, 22nd January, 2023

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.

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.

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.

Meet and Greet Programme for ACAE Women Members on Saturday, 12th November, 2022 at ACAE, S S Agarwala Committee Room - Meet & Green Programme in progress

"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."

Residential Seminar on Saturday & Sunday, 17th & 18th December, 2022 at Hotel Sonar Bangla, Taki - Presentation of Mementos to Speakers CA. Arun Kr Agarwal and CA. Sushil Kr Pransukhka

Residential Seminar on Saturday & Sunday, 17th & 18th December, 2022 at Hotel Sonar Bangla, Taki - Discussion on Professional Development and Growth in progress

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

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.

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.

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.

4CPE Hours Lecture Meeting on Office Automation and Audit Documentation for SMEs on Wednesday, 28th December, 2022 at ACAE, Emami Conference Hall - (R-L) Speakers CA. Hemant Kr Nahata and CA. Sanjib Sanghi along with Convenor CA. Anup Kr Banka.

संकल्प सृजन और सिद्धि

Executive Committee

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1991-92	Mr. R. N. Rustagi
1992-93	Mr. P. R. Ramesh

Year	Name
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1994-95	Mr. Kashi P. Khandelwal
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संकल्प सृजन और सिद्धि

Our Chief Guest

His Excellency Dr. C.V. Ananda Bose

H.E. Dr. C. V. Ananda Bose is a politician and retired Indian Administrative Service officer, currently serving as the Governor of West Bengal. H.E. Dr. Bose is an eminent civil servant, management guru, housing expert, innovator, writer and orator. H.E. Dr. Bose holds a Ph.D from BITS Pilani and M.A in English Language and Literature from Kerala University. A prolific writer and columnist, H.E. Dr. Bose has brought out 350 publications including 50 books in English, Malayalam and Hindi consisting of novels, short stories, poems and essays. He has represented India in the European Council for Nuclear Research (CERN), Geneva and International Fusion Energy Organisation, ITER, France. He was Chairman of the Atomic Energy Education Society. H.E. Dr. Bose has been the recipient of 33 International and National awards for his outstanding contributions in different fields. Described by Kerala Government as 'Lord of Ideas' and former Prime Minister Dr. Manmohan Singh as 'inspired civil servant', he is widely acknowledged as 'Man of Ideas'.

Our Guest of Honour

CA Ranjeet Kumar Agarwal

CA. Ranjeet Kumar Agarwal is the current Vice-President of the Institute of Chartered Accountants of India (2023-24). He is a practicing Chartered Accountant since last 24 years. Mr. Agarwal is an expert in Professional Ethics and he as the Chairman of the Ethical Standard Board of ICAI, was instrumental towards bringing the revised Code of Ethics after a gap of 10 years and implemented the New Code of Ethics considered to be the guiding light for the accounting profession. Under his dynamic leadership as the Chairman of Committee for Members in Industry& Business (CMI &B) in 2022, both the Campus Placement Programmes for Newly Qualified Chartered Accountants and Experienced CAs secured an unprecedented success and witnessed the participation by highest number of recruiters and secured the largest number of offered vacancies. He has also chaired Tax Audit Quality Review Board (TAQRB) of the ICAI. His accomplishments at International Front include his recent appointment as the Technical Advisor to the Board member of SAFA. Mr. Agarwal is a passionate leader and firmly believes in the inclusive development of the society.

संकल्प सृजन और सिद्धि

Speakers' Profiles

CA Sachin Chitlange

Mr. Sachin Chitlange is a Chartered Accountant and IIMC alumni. Currently he heads the Finance Transformation function as part of the Capgemini finance wherein he handles transformation and Data Analytics for India and Group Entities. Prior to Capgemini, Mr. Chitlange worked with Infosys on ERP and consulting assignment for 7 years serving clients across the world. He is a dynamic professional with over 22 years of experience in the areas of Finance Transformation, and Business Analytics. Mr. Chitlange is also an avid writer and speaker at various CFO conferences. His articles have been regularly published in Silicon India, CA journal and he is also a visiting faculty with IIM Kolkata and on the body of CMIB committee of ICAI.

CA Ajay Bahl

CA. Ajay Bahl is the Co-Founder and Managing Partner of AZB & Partners, Advocates and Solicitors. Mr. Bahl is also a qualified Chartered Accountant. He has over 35 years of experience and advises corporates, domestic and international, and their promoters in a wide area of advisory, transactional, litigation and compliance needs. He has served as an independent expert on behalf of the Government of India on matters of accounting and tax issues before the International Court of Justice at the Hague. He has served and currently serves as an expert member on various committees, including the Eshwar Committee on reform of direct taxes, the Company Law Committee for amending and decriminalising the law, the Expert Committee for drafting legal framework for allowing VCC structure in the IFSCs, the Government-CII Task Force on Ease of Doing Business' to work towards improving business climate in the country on a sustained basis, among others, constituted by the Government of India.

संकल्प सृजन और सिद्धि

Speakers' Profiles

CA (Dr.) Debashis Mitra

A professional with strong academic leaning, CA. (Dr.) Debashis Mitra, was elected as the President of The Institute of Chartered Accountants of India (ICAI) for the year 2022-23. Serving his third term in the Council of ICAI, he has been serving the accounting profession for more than thirty-four years. Dr. Mitra, a senior practicing member, is also a Cost Accountant, Company Secretary, holds a Master's degree in Commerce, Law graduate and a qualified Information Systems Auditor. With keen interest in academic research, he is a Ph.D. on the topic "A Critical Study of Select Indian GAAP, US GAAP & IAS / IFRS". A persuasive and intense trainer, he is renowned for his interactive deliberations in International Financial Reporting Standards (IFRS) and Corporate Laws. A seasoned strategist and leader to the core, he is the former President of Rotary Club of Calcutta, the oldest running Rotary Club in Asia, as well as former National President of The Institute of Internal Auditors (India).

CA Dilip B. Desai

CA. Dilip B. Desai is the Founder and Chairman of DHC International & Desai Haribhakti Consulting. Mr. Desai is among the very few professionals in our country whose unique insights on regulatory provisions and accounting principles have often become the law and practice at a later point in time. He is an acclaimed thought leader and visionary in his field for more than three decades. In addition to being a prolific speaker, he has also been associated with the ICAI, leading chambers, IIMs, Management and National law schools in various capacities. At the historical World Congress of Accountants 2022 held for the first time in India in 118 years, Mr. Dilip B Desai delivered the keynote address on "Igniting Innovation in Global Professional Landscape".

संकल्प सृजन और सिद्धि

Speakers' Profiles

CA Sanjay Banka

Mr. Sanjay Banka is a Fellow Member of The Institute of Chartered Accountants of India and The Institute of Company Secretaries of India. He is also a member of the Chartered institute of Securities and Investment (London), Indian Council of Arbitration and All India Management Association. He has over 30 years of Experience in Indian and Global Conglomerates in Telecom, Retail and Infrastructure Sector. Mr. Banka enjoys strategic as well as operational Finance and has exposure in Driving Business Growth, Strategic Finance, Financing (Debt & Equity), M&A, Taxation, Audit, Risk &b Governance and Compliance Management. He also enjoys writing, singing, music and travelling; a regular speaker at Professional Forum as Finance and Industry. He has also authored books for USPC Civil Services Exam for an NCR based NGO as part of his social contribution.

Mr. Manish Panchal

Mr. Manish Panchal is an Executive Director – Investment Banking Business at EQUIRUS Capital a leading Merchant Banker of India. Mr. Panchal has overall 32 years of experience with equal mix of Industry and Strategy and Operation Consulting.

His area of expertise is Strategy Development, Operationalizing Strategy Execution (Organic & Inorganic), M&A, Turnaround Management and Operation Excellence by putting People – Process – Structure – Governance in place. Mr. Panchal is the Author of the book titled 'DEFINE YOUR ORBIT' featuring unique concept of 'Hierarchy of Aspirations'. On Social Front he is a Founding Trustee of Aaji Care Sevak Foundation, focused on Geriatric Care Skilling for Marginalized Women and Youth.

संकल्प सृजन और सिद्धि

Speakers' Profiles

Ms. Reetika Khera

Ms. Reetika Khera is a professor of economics at the Indian Institute of Technology Delhi, where she currently holds the Narendra and Chandra Singhi Chair. During 2018-2020 she was an associate professor at the Indian Institute of Management, Ahmedabad. She received her MA and PhD in economics from the Delhi School of Economics and studied at the University of Sussex for her MPhil. In 2020, Ms. Khera was awarded the Malcolm Adiseshiah Award for distinguished contributions to development studies. She has been involved in research and advocacy related to social policy issues, including the National Rural Employment Guarantee Act and the National Food Security Act. She has published in academic peer reviewed journals in India and internationally, national dailies in English and had a column in Hindi at Dainik Bhaskar. She is the editor of two books "The Battle for Employment Guarantee" and "Dissent on Aadhaar".

CA A. P. Singh

CA. A. P. Singh is currently serving as the International 2nd Vice President of Lions Clubs International (world's largest service club organization) He is also a qualified Chartered Accountant based out of Kolkata, India who has been practicing since 1984. For the past 20 years, he has been engaged primarily with advising and representing professional accountants in regulatory, legal and disciplinary matters. His clients include firms of professional accountants, including those that are member firms of the world's biggest accounting networks. He has been called to provide and comment upon High Power Group established by Government of India for regulation of Professional Chartered Accountants, Company Secretaries and Cost Accountants in India. He has also been called upon to present papers and conduct sessions to promote current changes in regulatory and disciplinary issues applicable to professional accountants.

संकल्प सृजन और सिद्धि

Speakers' Profiles

CA Namita Thapar

CA. Namita Thapar, one of India's leading businesswomen, is the CEO of Emcure Pharmaceuticals, an Indian multinational pharmaceutical company based in Pune, Maharashtra. She is one of the titular sharks on the popular TV show "Shark Tank". Ms. Thapar is an MBA graduate from the Fuqua School of Business and a Chartered Accountant from ICAI. She serves as a Board Member on the India Regional Advisory Board of Fuqua School of Business, as a trustee on TiE Mumbai Board of Trustees, and is also an active member of Young Presidents Organization. Ms. Thapar is a recipient of various prestigious corporate awards such as The Economic Times '40 under Forty' award, Barclays Hurun Next Gen Leader recognition, Economic Times 2017 Women Ahead List, World Women Leadership Congress Super Achiever award. She also leads Incredible Ventures Ltd, an education company that teaches entrepreneurship to 11-18 years' olds.

Mr. Rahul Jain

Mr. Rahul Jain is the pioneering force in the world of Business Coaching in India and the visionary founder of Business Coaching India aka BCI. With an impressive background in engineering and an MBA, Mr. Rahul boasts over 25 years of invaluable hands-on experience, having worked with esteemed companies such as Tata Motors before venturing into entrepreneurship. Over the past two decades, Mr. Rahul has left an indelible mark on the business landscape by conducting transformative Business Coaching workshops for more than 21,000 SME business owners. His impact extends across diverse industries, including Manufacturing, IT, Distribution, Retail, Architecture, Hospitality, Biotechnology, Travel, Import & Export, Event Management, and various Service Providers like Lawyers and CA firms. His coaching expertise transcends sectors, making him a sought-after Business Coach for businesses of all kinds.

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Articles

TRANSFORMING FINANCIAL LANDSCAPE: HOW CHATGPT EMPOWERS ACCOUNTANTS

SANJIB SANGHI
- Chartered Accountant

INTRODUCTION:

To keep ahead of the competition in the fast-paced and data-driven world of finance, accountants should embrace technological advancements. ChatGPT, an enhanced language model developed by OpenAI, is one such finance sector breakthrough. ChatGPT comprehends and reacts to human queries using artificial intelligence and natural language processing. This post will enlighten us in understanding ChatGPT's rise in the financial industry, the challenges accountants faced before it was put into use, and how ChatGPT is transforming accounting practises to support accountants in their everyday job.

CHATGPT AND ITS RISE IN THE FINANCIAL SECTOR:

ChatGPT's rise in the financial sector can be related to its capacity to manage a great deal of financial data and comprehend complex financial terms. Financial professionals desired AI-powered solutions for dealing with the growing demand for personal and real-time financial services. ChatGPT's language processing skills have turned it into a valuable tool for accounting professionals, enabling them to interact with data fluidly as well as efficiently, evaluate complex accounting situations, and provide competent financial advice to clients.

The Evolution of Chatbots from T9-Era and GPT-1 to ChatGPT.

1. PROBLEMS FACED BY ACCOUNTANTS BEFORE CHATGPT

Prior to the implementation of ChatGPT in accounting, accountants faced a number of issues that hampered their efficiency and accuracy:

- Time-consuming Data Analysis: Accountants were required to spend significant time manually analysing financial data resulting in decision-making delays.
- Limited Real-Time Information Access: Accessing the most recent financial regulations, tax laws, and accounting standards was difficult, making it difficult to assure compliance and provide appropriate advice to clients.
- Difficult Customer Support: Accountants struggled to provide customer service at all times, leading to delayed responses to client enquiries and concerns.
- Expertise Constraints: Smaller accounting firms and individual accountants faced limitations in accessing specialized expertise in niche financial areas.
- Difficulty in Interpretation: Understanding complicated financial data and providing useful insights to customers and stakeholders required a high level of knowledge.

2. BENEFITS OF CHATGPT FOR ACCOUNTANTS

ChatGPT offers a myriad of benefits that empower accountants to excel in their profession and navigate the complexities of financial management with ease.

- Efficient Data Analysis: Quickly analyse large amounts of financial data. It can perform complex computations and analyse financial accounts, freeing up experts' time to focus on strategic decision-making.
- Real-Time Insights: This function aids in making timely informed decisions, ensuring compliance with developing norms, and capitalising on opportunities in a volatile financial sector.
- Improved Accuracy: Reduce errors, resulting in more credible financial accounts and data-driven suggestions.
- Time-Saving: By automating tedious and time-consuming operations like data input and basic computations, accountants can reclaim crucial time.
- Enhanced Collaboration: Professionals can collaborate to develop ideas, share insights, and seek solutions, resulting in a more unified and productive work environment.
- Accessibility and simplified reporting: ChatGPT's natural language comprehension makes financial insights and reporting more accessible to a broader audience.

CONCLUSION

Accounting has been influenced by the introduction of ChatGPT, allowing accountants to embrace new opportunities and overcome traditional difficulties. Accountants can use ChatGPT's language processing capabilities to do real-time data analysis, personalised financial advice, and on-demand information retrieval. ChatGPT improves customer support and overall efficiency by being available 24 hours a day, seven days a week. Accountants are enabled to flourish in their positions by using the power of AI and ChatGPT, delivering superior financial services and creating growth for their clients and enterprises. ChatGPT will remain a crucial tool in the accountant's inventory as the AI landscape evolves, shaping the future of financial services with its intelligent and intuitive features.

संकल्प सृजन और सिद्धि

Articles

RING FENCING MALAD TO KOLKATA

GURU PRASAD
- Partner Guru & Jana.

THE PROFESSION, OUR PROFESSION

Over the decades we have been a pillar in the economic and social fragment of our India. The tax compliance happens because of a CA and so does the litigation. An audit gives clarity to financials, and that is how India becomes one of the largest exchanges in the world. The demands on the profession, the onus on the professional, and the dependence of the stakeholder on us have been unprecedented. It appears that if anything right is going on in the economy it is the role of a Chartered Accountant, and even if something happens wrong, the paintbrush is happy to rub it against the CA.

THE CHANGE IN OUR ROLE

Hitherto a CA was an auditor. He was at best a Tax preparer or a tax planner. Yet a few could be at the border of doing wrong, and that brings a taint on the entire august profession. Historically a CA also has been pivotal in advice to any organisation. But the digital world, sparked upon by VUCA [volatile, uncertain, complex, and ambiguous] business environment has triggered a host of regulatory changes and stances.

THE DIGITAL SPACE

Business models changes, delivery models changed. Sampling changed to data analytics, sampling gave way to 100% verification through technology. Digital space paved way for breaking geographical barriers, they got in newer regulations like POEM, or the way the transfer pricing regulations gathered mass, or the depth of the GST to every part of rural India opened a plethora of opportunities for Chartered accountants. Along with opportunities, came an array of risks, in different colours and intensity. The risks have no caste nor creed, but it seems to be higher on the doors of Members in Practice.

Thus, the most fundamental role exhibited by these traditional accountants was in jeopardy, taken over by the digital interface by computer-based software. Too many who were taken by surprise, were technically unprepared and relying on the traditional competence that was about to be challenged in a big way. This digital world produced vast technological innovations in both products, services and processes attempting to extinct the unprepared professionals like what happened to the dinosaurs. The faceless scrutiny, digitisation of court process, the new form of physical cash would make our audit process for currency cash redundant. So,

there is a lot of newness, but instead of new approaches of appreciating the professional, it has now gathered enough momentum to blame the profession.

THE NEW VUCA

Our profession is not just impacted by VUCA, it is impacted by a new VUCA which has given birth to new regulators like NFRA, SEBI regulations, Disciplinary cases with new process. The advent of NoClar, the amendments in May 2023 of PMLA, and the bias of regulators gives us another VUCA which is independent of business models.

The SA 530 on sampling is important, every 'I' has to be dotted and every 't' has to be dashed. Yet, the new tools of data analytics, new tools of review of data are the order of the day. Data analytic tools like advanced excel, python, R, Zing etc need to be used. In a way it appears increase of cost, in the other stretch it could be decrease of cost of audit, as the manpower involved is lower, and comfort gained is higher. We are heading towards the days of 100% data, over sampling. Technology tools like data snipers and data crawlers could help. New tools in the west like bill.com, ramp, billdesk or the one which is global from India like Zoho could help in IFC process, IFC walk through. Data sniper is a good tool to review documents and there are manylike these.

Analytical study

"Analytical procedures" means the analysis of significant ratios and trends, including resulting investigation of fluctuations and relationships that are inconsistent with other relevant information or which deviate from predicted amounts. The purpose of this AAS is to establish standards on the application of analytical procedures during an audit. The Standards on Auditing 520 (SA), accordingly, deals with the auditor's use of analytical procedures as substantive procedures ("substantive analytical procedures"), and as procedures near the end of the audit that assist the auditor when forming an overall conclusion on the financial statements. The use of analytical procedures as risk assessment procedures is dealt with in SA 315. SA 330 includes requirements and guidance regarding the nature, timing, and extent of audit procedures in response to assessed risks; these audit procedures may include substantive analytical procedures

The AAS/SA is effective for all audits relating to accounting periods beginning on or after April 1, 1997.

Today there are many tools like Assure AI, auditor desk which does the analytical dash-boarding for us, and there is enough easy to use SAAS applications which could drive the profession in a more comfortable zone than hitting in the dark in the traditional sampling tests.

Schedule III Risks

Schedule III or Ind AS financials almost appears as prose than a financial statement in a few instances. The volume of data disclosures seems insurmountable. Doing it through a method of review, experience, could find an instance where a "single note" is missing amidst a pile of thousands of documents. A listed company financials almost seems a colossal document of data, and the human eye could miss a line or two unintentionally. The Registrar of companies could charge out notices armed with AI and ML which web crawls through our mirage of words.

It is best to use well administered audit tools which could convert a trial balance to a schedule III. It is the role of the directors to draft the balance sheet, but it is possible in today's technology to carve out another set of mirror financials, and a compare tool could throw out the differences.

Risks of confirmation of balances

Audit confirmations are a laborious process, but an important step too. The risk of not taking audit confirmations can be vital, block chain technology-based transactions are so easy to confirm, yet the balances, debtors confirmations, etc still rule the roost. Confirmation of balances could be an important audit tool for "ring fencing" us. Confirmations.com, firmway, circit could be good ways to look at this area.

Data Risk

The data we handle in today's world could range from an amazon voucher to a testament of an individual. It could range from a simple cash certificate to a confidential succession plan. Accountants have so much data of a client and security of this is most important.

As CA does payroll, PF, PT and ESI services come under compliances.

India does not have a specific law to protect an employee's right to privacy. However, right to privacy is included as a **fundamental right** as an extension of the right to life and personal liberty under Article 21 of the Indian constitution *(Justice K. S. Puttaswamy (Retd.) & Anr. vs. Union Of India & Ors. (2017))*. The information technology Act 2000, The Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011 itself casts so much responsibility on professionals.

This is only a small example of data, while the data in our possession is worth a lot.

To protect this data, several measures of ring fencing are advocated. There could be data breaches, data loss, data misuse, data manipulation the risk squarely rests on the shoulder of a CA. Even if he is in a stand-alone desktop or one of the best clouds in the world, in the world of internet, everything needs protection.

How does a professional ring fence himself against these threats? The data is required for a good tax practice, audit practice or any engagement. You could use any of these views for your data privacy.

Enable Multi factor authentication in all your applications, every application has this facility, and it is easy to enable

Hardware firewalls could be most important, Cisco, Sophos could be some examples. Similarly, software-based firewalls like Clear OS, POF sense could be helpful.

A good quality Anti virus package for each and every machine at your office like Sequirite, Maccaffe, Sophos could help.

Your server space could be a good space of AWS, Azure would be an ideal location, and GCP too, just storing in open drop boxes, google drive, gmail id without domain names could be not a good option

Role as director simpliciter

The ethical standards board explains that the director simpliciter is the person who stays in India for at least 182 days and attends the board meetings. He does not receive remuneration.

He is paid for attending the board meeting. A CA in practice is a director simpliciter and not a whole-time director

The directors had a professional revenue stream to be directors in companies. It is cast in stone that proper diligence, review, opinions, insurance would be the foundation of such services.

The PMLA notification dated 3rd May 2023 defines a "relevant person" as someone authorized to conduct transactions on behalf of their clients. This definition includes Chartered Accountants (CA), Company Secretaries (CS), and Cost Accountants (CMA). The term "firm" mentioned in the notification refers to any entity that falls within the parameters assigned by the Income-tax Act, 1961 in Section 2(23)(i).

Does it mean a CA stops this service, or rather, due to this provision of law take precautions and increases the revenue potential of being a director. The method of due diligence, the method of obtaining KYC, dash-boarding could be a solution, which could open doors for a lucrative professional approach. A CA in a board would add credibility, governance, better compliance of law, and confidence to the Board. Yet, there are risks, provisions of PMLA are itself draconian, there could be major worries in terms of regulatory risks, penalties, prosecutions could be difficult to comprehend for a professional in practice. However, certain measures like the below could mitigate these risks, it could be a ring fence for such cases. It is pertinent to mitigate these risks through several methods like illustrated below:

1. KYC tools are available, it is better data is stored in these tools for validation. Even a simple Aadhar validation could be an important tool.
2. There are software SAAS applications like Probe 42, Kompany, Zuaba Corp, Tofler could be some applications which could give enough data of the prospective companies. A simple request to apply for a CIBIL of the companies and its directors.
3. Foreign enterprises could have Dun & Bradstreet, Zoominfo, IQVIA, global database, could give you enough information of foreign entities.
4. Legal case status in the government portal like ecourt services, government portal which throws out district court cases, sessions cases, high court cases, AIR online, the status of each case. These are searchable based on company names, company officials and the like. These steps help in a deeper diligence protocol to accept engagements of professional board. An independent director's role is extremely professionally satisfying, it is financially rewarding and the respect for the professional is high, however, people desist being independent directors due to regulatory risks.
5. Appropriate insurance, appropriate dash-boarding of all compliance of the companies, having exceptional compliance tools could be the answer for these. There are several ERP tools for compliances, and these could give the independent director the confidence, depth of understanding, and clarity on the correctness of the rules.

Risks of holding Digital signatures

It has become a norm, which could be very risky. Holding digital signatures of clients as a member in practice could be wrong, and misuse of the same could be disastrous. Therefore, many methods to ring fence the risk could be: use shared screens to affix the signature or advice the clients. Alternatively, a more liberal, yet not very prudent method could win in the

guise of practicality, where proper power of attorney and authorisation documentation could be the key. This coupled with an audit trial-based tools for use of the signatures, or secretary of passwords with zoho vault, or tools like 'last pass' 'roboform', 'keeper' could help.

Timing risks in the digital world

A digital footprint can trace back smallest events and happenings. Your computer drive could be deciphered to get into the smallest details and everything what you deleted can be retrieved. The only ring fence which one could urge fellow brethren is to ensure that all transactions, verifications happen online, one time. No backdating, no later documentation process, should be in vogue. Starting an audit on a date post collecting the engagement letter is important. Establishing an audit trial that the financials were prepared by the company is important. Email is a legacy of your life, everything and anything can be connected, connected the past dots could create disaster in professional life. The only ring fence available for digital space is to 'be on time every time', no space of doing documents on a prior date should be ever encouraged or practiced. UDIN has a time gap to be affixed, but it is better to get the UDIN on the same day when the auditor completes the audit, and not use the window period to generate UDIN, such acute discipline measures would go a long way in protecting the Chartered Accountant.

GST returns, tax returns filed from the IP address of the CA firm is itself a risk. This could be mitigated by ensuring the data flow is through the client laptops, and through proper channels. Similarly, client acceptance procedures are very important, simple tools like google forms or Microsoft forms, which have a date stamp is vital to show, that adequate steps were indeed taken to accept clients.

This prologue only sensitizes professionals to walk on the path of confidence rather than sulk in the sense of fear. The direction must be deep caution, abundant care, professional approach, tech driven process, legal documentation in place. Every document has to have a place, and every place has a reach with appropriate authorization should be our motto. Your work speaks, but it is time, your work is documented. Your intelligence is shown, we have proved to the world enough, but the direction of intelligence has to be in constructive areas.

Let ring fencing take the professionals to render better services, while protection of our homes is taken care of too.

संकल्प सृजन और सिद्धि

Articles

Intelligent Continuous control Monitoring : Reimaging Continuous Audit

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Evolution of CCM/ Genesis

Breaking news in the front cover of the newspaper flashed "A British Bank goes bust, declared insolvency" underneath was a line tagged which read "Founded in 1972, British merchant bank held an account belonging to the Queen" in 1995. A person single handed made the bank broke. No, it wasn't overnight, it was manipulated over a period. From 5 years from the great fall there goes another scam "The America's most Innovative Company" was manipulating the revenues for six long years. It's more than 25 years now, since the incident, what has the industry learnt? "Complacency the greatest risk! Are there any takeaways from the lesson learnt? Answer is a big "No", there were many scams succeeding it and still ticking!

The history of scams and the time taken to unearth it, set pace to the heralding of the new concept called Continuous Control Monitoring (CCM). We can ponder on what is CCM and things it can do!

What is CCM?

CCM is a technology-based solution/ergonomic solution to continuously monitor processes and help customers to transition from traditional sample-based testing models to economical and effective monitoring of full population. CCM empowers and enables the first line in their smooth performing of their operations, while retaining transparency and audit trail. The trail in turn, allows the second and third line of defence to monitor first line activities, thus eliminating redundancies in testing and associated costs. CCM can be used in variety of **sectors** like **Retail, FMCG, Health, Construction, IT etc.**

The Fourth Industrial Revolution

We stand on the brink of the revolution that will shake the fundamental existence of the way be carry on things. The first industrial revolution used water and steam power to mechanise production. The second industrial revolution used electric power to create mass production. The third used electronics and information technology to an automated production. **The fourth industrial revolution**, a digital revolution which is not merely a continuation of the third but a distinct one, in terms of velocity, scope and the system impact occurring since the middle of the

last century. It's a fusion of technologies that is blurring the lines between the physical, digital, and biological spheres. Compared to the previous industrial revolutions, the Fourth is evolving **exponential rather than at a linear pace**. Its not only about smart and connected machine and systems, but the scope is much wider from **nanotechnology to quantum computing.**

Inexorable shift from simple digitization to innovation based on combinations of technologies

Artificial Intelligence is one of the key technologies in the sweeping transformation of the economy apart from the Interest of Things (IoT), which connects the physical and the digital worlds, Co-bots specially designed to interact physically with humans in collaborative environments, Big data allows changing data into information, a massive data management and interpretation for business purpose and finally 3D -4D printing which can develop prototypes.

Impressive progress has been made during the recent years, driven by exponential increases in computing power and by the availability of vast amount of data, from software used to discover new drugs to technology which can predict and learn with the trend of data.

Indeed, across all industries, there is clear evidence that the technologies that underpin the Fourth Industrial Revolution are having a major impact on businesses. In addition, they lower the barriers for businesses and individuals to create wealth, altering the personal and professional environments of workers. The newer technologies make durable and resilient assets, while data and analytics are transforming how they are maintained. This revolution is forcing companies to re-examine the way they do business.

Nexus between Emerging technologies and CCM?

The emerging technologies along with it brings the rising risks, changing regulations and compliance costs which pushes to ponder on solution to the organisation. Organisations are looking at maturing their control environment from reactive model to more real time continuous monitoring techniques, which CCM bridges the gap perfectly.

CCM helps the business to ensure that its policies, procedures, cross system transactions and operational controls are operating effectively, efficiently and achieving their function continuously because "Trust is not a control, Trust but verify!"

How does a CCM work?

Based on a pre- defined rule set by the management, CCM technology identifies the transactions as anomalies which exceeds the threshold and produces a report of exceptions. These exceptions would be reviewed by more than one reviewer and if they are not reviewed within a specified time, it would be escalated to an escalated reviewer and finally closed by an independent reviewer and archived for future reference.

Today enterprises are moving from **rule-based exception reporting CCM solutions** to solution which provides **actionable insights**, in terms of **dynamic dashboards**, centralised monitoring, management reports like understanding of data, costs, ratios, insights, trends, behaviour, which will enable a behavioural enterprise-wide change and prevention of fraud internal and external party. The solution should be developed and maintained keeping in mind the importance of ensuring completeness and accuracy of the dashboards and reports used by various users of

this solution. This will include business operations (First line of defence), management (Second line of defence) and auditors (Third line of defence).

Birth of Intelligent CCM

AI powered CCM intakes simulation data to train a Machine Learning (ML) model to make real time predictions possible throughout the data in review. Using ML, CCM becomes an Intelligent CCM as it not only predicts but learns over the period with enormous variety of transaction the business produces by anticipating anomalies and identifying red flag transactions.

Myth busted on CCM's

1.Reserved for big corporations

So are **AI powered CCM's are not only for huge conglomerates** but on other hand it will have profound impact on SME's while on big companies it will average out.

2. Huge amount of data required - Most of the ML/AI algorithms needs 50,000-1,00,000 data points to create a model and data silos is less in SME's as unlocking is easier whereas in big corporations the logic is quite complex.

3. Almighty - SME owners understand their business in totality, while big corporations have only part understanding of the business. Better business understanding and defined metrics leads to better models.

4.Too Pricey - The tools and cloud has taken the cost barrier too. There are many open-source **ML models** available from A**pache Mahout, Cortex using Python and Tensorflow, Gradio, H2O, Spark MLlib and Pytorch Lighting** to name some. Even if sufficient data is not available, ML can significantly increase the diversity of data available to training models without the need to collect new data using **data augmentation** techniques like **SMOTE or SMOTE NC**. For unstructured data such as images and text, the augmentation techniques vary from simple transformations to neural network generated data, based on the complexity of the application.

Takeaways

Traditional exception reporting CCM's have given way to **New Era CCM's**

Doesn't require complex test. Funda is "Keep it simple"

ML Models are very affordable with open-source tools.

Involve the business users early.

CCM is not almighty. To build a value based CCM requires proper insight of the business problem.

Use of storyboards and Dashboards to communicate

Way forward

Today, organizations are focused on optimizing processes and improving customer engagement. As CCM continues to be influenced by innovative technologies, it is vital for organizations to evaluate the role those digital communications can have on business transformation and the ultimate future of work. This maturity model provides a framework for that evaluation.

The technologies such as machine learning & AI, teamed with CCM can be powerful duo to help predicting, identifying potential anomalies in the real time and appears to a more dynamic solution and can be the new torch bearers of the CCM's primary goal.

संकल्प सृजन और सिद्धि

Articles

Credit exposed to time limit in section 16(4) – is it really a lost cause?

CA JATIN CRISTOPHER

Introduction

Heart-breaking! That credit claimed in belated returns is sought to be denied where the delay is beyond the time limit in section 16(4) of CGST Act. It is 'this manner of reading' this provision that has brought great angst to taxpayers facing barrage of mindless notices and mind-numbing demands. Taxpayers are crying hoarse that this is unjust and parading their innocence or bona fides, not sure which is it is after Ecom Gill decision. And then there's a decision of AP High Court in Thirumalakonda Plywoods where the sheet anchor of every taxpayer's argument against credit forfeiture – a ubiquitous non obstante clause will promised to tide over any hurdle that time limit may assert – was demolished citing that both these provisions have their respective sphere of influence and nothing in section 16(2) will save credit that is bound to be forfeited if returns are filed after the time set in section 16(4). Now this loss of all hope – that credit would somehow be saved from forfeiture – needs some examination to exist if there is really no hope at all for taxpayers facing financial ruin all due to routine compliance gone awry.

Two situations

There could be one situation where all returns are filed but a given tax invoice is omitted from being considered while claiming credit during the year or after the extended time allowed in section 16(4) – let's call this 'stale credit', that is, credit that is totally omitted in all of the permitted returns. And another situation where returns were filed belatedly even beyond the time allowed in section 16(4) but all tax invoices were considered for claiming credit – let's call this 'belated credit', that is, credit claimed in belated returns. Question that arises for consideration is whether forfeiture in section 16(4) affects 'stale credit' or 'belated credit'.

Affirmative action

Registered Person who 'does not desire' to claim input tax credit is (only now since earlier 2023) required to claim all the credit appearing in GSTR2B and reverse some of them in GSTR3B (in a specified table and row) to declare that desire. Prior to this refinement (in manner of filing GSTR3B returns), all that Registered Person had to do was refrain from claiming any credit in this return and allow time to lapse and thereby make known that the said extent of credit is not desired by Registered Person. It is this form of affirmation that manifests the desire (actually, decision) to avail said extent of credit or not.

As a result, Registered Person was only required to claim credit to the extent required and do nothing at all in respect of the rest. And in the new GSTR3B returns, extent of credit to be claimed should not more than that flowing from GSTR2B and the rest will still lapse by expiration of some duration of time. Limitation is essential for the preservation of any remedy in every law. Allowing limitation to pass by expiration of time allowed is an essential aspect of affirmative action by the same principle of law. Every specie of legal rights are forfeited by either expressly declaring forfeiture or allowing limitation to run out its course.

Remediation of infraction

Delay beyond limitation is incurable if it is not to render limitation illusory. Delay involves non-compliance with or infraction of a statutory duty. Such infraction of law cannot be overlooked, if this duty is mandatory. Every infraction of statutory duty is met with a penalty measured as a factor of the subject matter of compliance involved, such as, quantum of tax to be discharged. In GST, penalty and late fee are two separate remedies. If penalty is for belated compliance then imposition of late fee would be double whammy. And if penalty is for non-payment of tax by filing those returns, then penalty is not for delay in filing said returns. Actionable cause for penalty is non-payment of tax and actionable cause for delay in filing returns is late fee.

Delay in filing returns must be set right, that is, this infraction also needs remediation. Without remediation, infraction will remain and render the duty (to file returns) optional because tax cannot be excused even if returns were to never be filed at all. And if requirement to file returns in GST is not optional, imposition of late fee is the prescribed remedy in law. When returns are filed with applicable late fee, and the Common Portal accepts the said returns as valid, the infraction of this statutory duty due to delay stands remedied and puts Registered Person back in the place where she would have been had there been no delay at all. Restitution (and not overlooking delay) is the reason for payment of late fee. And with delay remedied, there remains nothing more to fuss about credit v. belated credit, they are now all the same.

Internal validation

Legislature leaves clues to statutory construction within the statute and a discerning eye will locate and unlock the meaning of expressions by validating them from within. GST law is rife with such clues to internal validation. If there are two provisions that appear to be in conflict with each other, then one of them must just make way for the other to prevail and operate so that the object of the statute is fulfilled than let this conflict frustrate that object entirely. If this were a reliable guide to validation then here are two such clues that merit consideration:

a. Credit cannot not be claimed until all goods (or services) are fully delivered to Recipient-Claimant of credit on inward supply(ies), says section 16(2)(b). But section 16(4) permits claim of credit only when such claim is made not later than a certain date following the end of financial year in respect of tax invoices issued in that financial year. And rule 55(5) mandates that tax invoice be issued right-away, that is, when dispatch commences in case an extended delivery schedule is involved. There are other instances such as maintenance contract or insurance, in case of services, where tax invoice is mandated to be issued long before supplies are complete. Now, Registered Person is left in an impossible position – if credit is delayed until so goods or services are fully delivered then credit will stand forfeited due to 'this manner of reading' section 16(4) and if credit were to be claimed within the

time specified in section 16(4), then credit will have been claimed in contravention with section 16(2)(b);

b. Clubs and associations were brought to tax by no less than a retrospective amendment to the definition of 'supply' by insertion of section 7(1(aa) and to overcome the declaration in Calcutta Club & Ors. It means GST was not payable from 1 Jul 2017 by clubs and associations and consequently not eligible to claim credit by operation of section 17(2). And for that matter, not required to even be registered under section 22 approved in section 23. When this retrospective amendment came to be notified from 1 Jan 2022, clubs and associations were liable from Jan 2022 to discharge dues but all the way from Jul 2017. When Legislature thought it fit to make a retrospective amendment in the mother of all sections – section 7 – in this law, the imminent forfeiture of credit due to non-filing of returns with a claim for admissible credits due to lawful non-registration, cannot be overlooked. Retrospective amendment imposing output tax liability takes within its fold the need for a corresponding amendment, 'this manner of reading' section 16(4), would inflict a double whammy by denying admissible credit due to no fault of these newly inducted taxpayers.

To relegate these instances to oversight would be uncharitable and patent error in view of prevailing jurisprudence that Legislature is presumed to be aware of extant provisions of law at the time of making any new law. And the line of longstanding jurisprudential authorities on this principle make it clear that there the absence of 'saving clause' in section 16(4) cannot be oversight or lethargy in law-making. And the explanation reconciling these instances of conflict with section 16(4) is obvious and would suffice to state that only stale credits will be forfeited and not belated credits.

External validation

Government's own interpretation of this law in the course of its administration cannot be such that administrative action in one provision cause frustration of the interpretation of another provision. Administrative construction must be harmonious and not abrasive. This offers external valuation of the meaning to be ascribed to correlative statutory provisions so as to showcase harmonious interpretation by Government during administration, and here are two instances:

a. When registration is restored by Appellate Authority, it is a declaration that decision of subordinate Officer to cancel registration was not proper. Due to time taken in deciding this relief, taxpayer was impeded from filing returns and claiming admissible credits during this interval of time. And if 'this manner of reading' section 16(4) were to reliable, then taxpayer will suffer by forfeiture of credit due to decision of Proper Officer that is declared improper. After all, restoration of registration must restore status quo ante and if it does not, then appellate remedy is more unjust than improper cancellation of registration;

b. When Registered Person goes into CIRP proceedings under Insolvency law, Resolution Professional is required to obtain new GSTIN and claim credits addressed to Corporate Debtor (Registered Person) without any grievance about identity of Claimants-Registered Person, much less within the time limit in section 16(4). And in case of transfer of business by Registered Person as a going concern, credits claimed by Transferor-Registered Person flow in terms of rule 41 but those that remain to be claimed also flow to Transferee-

Registered Person since liability is joint and several under section 85. To truly avail authority to recover dues from successor-in-interest under section 93 and even when such liability is determined after demise or cessation of Registered Person, does not authorize innocuous denial of admissible credit in arriving at net demand.

No statutory provisions can suffer disharmonious construction and when express conciliatory provisions do not exist, extant provisions need to be interpreted such that they further the purpose of the statute and not hinder their implementation. And where no such eventualities operate, belated credits must be admitted to be as good as any other. After all, input tax credit is output tax prepaid, because credit it able to settle obligations to deposit amounts collected as tax by discharging only the net to the Government.

Extraneous validation

There is yet another instance of great importance which can bring about the undoing of this law of 'this manner of reading' section 16(4) were to be insisted. This is where output tax was exempt and self-assessment availing this exemption also enjoyed the approval of Courts and later came to be overturned by Apex Court, such taxpayers would be inflicted with twice the burden – once, with the demand for output tax and once again, due to denial of benefit of admissible credit – had those Courts not joined in the interpretation adopted by taxpayer.

There's no saving clause in section 16(4) for such eventualities even when it is necessary, akin to the one in section 18(1)(d) which allows credit on exit from exemption regime (by express withdrawal of exemption notification) in respect of tax-paid inventory held in stock without having claimed credit during currency of exemption. If section 18(1)(d) can survive without a non obstante clause in it or any subservience in section 16(4), it only means that 'this manner of reading' section 16(4) is impoverished construction of statutory language. Without labouring to reconciling what seems to be a menacing gap in legislation, suffice to state that resolution will result follow when section 16(4) is applied to stale credits and not to belated credits.

Conclusion

It would be remarkable to observe what is referred throughout as 'this manner of reading section 16(4)' where credit claimed in belated returns are considered to be time barred in the face of so many instances of validation that compel 'yet another and most plausible manner of reading' this provision. What makes it even more remarkable is that notices are coming thick-and-fast, when a simple direction could avoid the mounting litigation and bring relief to taxpayers. But then, not everything will receive attention on "as is" basis and thoughtful consideration of GSTAT is not too far away. Taxpayers should not despair – credit exposed to limitation under section 16(4) is not at all a lost cause – and taxpayers should focus on keeping their demands alive, because remedy is already in the law and will rescue taxpayers soon!

संकल्प सृजन और सिद्धि

Articles

Unravelling India's GST Odyssey from Past to Future

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Introduction

"Change is the law of nature". What is meant by this saying is that changes are bound to happen and these changes help us evolve. In the context of the indirect tax regime, various indirect taxes such as sales tax, excise duty, VAT etc. were imposed before GST was finally introduced. The transition has not been smooth and there have been various obstacles in the way. In this article, an attempt has been made to analyse this evolution through the cycle of resolution, creation and achievement i.e., **Sankalp, Srijan and Siddhi**.

Determining the Creation – How GST came into play?

The idea of Goods and Services Tax (GST) was initiated in the year 2000 by the Kelkar Task Force but it was only in July 2017 that the concept was constitutionally and legally imbibed in the Indian economy. The aim was to unify the multiple indirect taxes, to prevent the cascading effect and introduce a 'one nation, one tax' policy.

The legislature knew that introducing a tax that was simultaneously levied by the Centre as well as states was not going to be easy. As apprehended, there was reluctance among the producing states. Resultantly, GST compensation cess was introduced for an initial period of five years, which has been extended by another five years to compensate for the loss of revenue. Another apprehension among the states was the lack of decision-making power since the Centre would also be involved. This problem was solved by constitutionally forming the GST Council.

The GST Council is one of the most unique creations which reflects Indian federalism, as never in history it has so happened that a special Council was formed to discuss the matters relating thereto. In this regard, it is also imperative to mention the judgment of **Union of India v. Mohit Minerals (P) Ltd. [(2022) 10 SCC 700],** wherein the Hon'ble Supreme Court highlighted the pooled sovereignty that has come into existence as a result of the introduction of GST. Despite the sufficient powers of all the states to not be bound by the recommendations of the GST Council, all the states continue to function harmoniously and uniformly.

Achieving the Milestones - A Step towards future-ready India

Widening the Scope of Transactions

One of the major achievements of introducing GST was the subsuming of all the erstwhile taxes. This has simplified the levy of tax by bifurcating the transactions into either goods or services.

There is no overlapping of transactions and hence, tax is levied on one point of incidence. This has opened more avenues for the Department from where GST can be levied and collected, thereby multiplying the revenue base. A precise example of this would be the taxing of online gaming platforms and cryptocurrency. Though the GST Council has recommended 28% GST on online gaming, the industry may challenge the levy itself as it may cause a significant impact on the industry. In the case of Gameskraft Technologies Private Limited v. DGGI, the show cause notice issued prior to the aforesaid recommendation was challenged, it would be interesting to see the impact of the amendment in the Law.

All these instances show how the ambit of GST is not merely limited to conventional goods and services but it has also been interpreted to include the new-age transactions involving virtual transactions.

Setting New Benchmarks of Revenue Collection

Corollary to the previous point, the increased revenue base has significantly helped the Government in increasing its revenue collection. The monthly records of the Government show that collection has been on a continuous surge and is slowly moving towards a collection of nearly rupees two lakh crores of revenue being generated every month. This milestone can be owed to the electronic filing of returns and matching of ITC as per GSTR-2B, which have made it nearly impossible for the assessees to escape the filing of return and depositing of tax.

For fiscal year 2022-23, out of the total revenue of the Indian Government amounting to Rupees 24 Lakh Crores, Rupees 18 Lakh Crores accrued from GST. This shows the heavy dependency of the Indian Government on GST as a crucial source of revenue.

Fostering Unity in Diversity - Uniform Applicability

In the previous section, we discussed how the introduction of GST has fostered cooperation between the Centre and states and is reflective of the federalism in the Indian constitutionalism. Not only that, the law has also developed a sense of unity in diversity. This can be seen from the uniform applicability of laws throughout the nation. Despite the differences in trade practices, customs and geographical features, all the state governments have continuously tried to bind themselves with the system of GST. To exemplify, the textile industry mainly prominent in Gujarat was severely affected by the enactment of GST, yet the state continues to maintain uniformity in all the matters concerning them.

Role of Courts and Formation of GSTAT

For the longest time since the introduction of GST, the judiciary has played an active role in resolving disputes relating to GST. whether it be the availability of transitional credit or availment of input tax credit or classification disputes, the role of courts has been crucial. The jurisprudence surrounding GST has majorly been developed by the rulings of the High Court and the Supreme Court. As a result, there was certainty among the taxpayers and they were able to adopt a specific tax approach and plan their business strategies accordingly.

Nevertheless, one cannot deny the fact that haphazard implementation of GST also added to the burden of taxpayers. An effective redressal mechanism is the need of every legal system, however, the same was missing in the GST regime for the longest time. The unreasonable show-cause notices increased the contingent liabilities of companies due to the ongoing proceedings, negatively affecting their financial statements. On the other hand, smaller businesses do not even

have the resources to approach courts, affecting their businesses too.

After much waiting, the GST Appellate Tribunals (GSTAT) are finally being constituted pursuant to the curing of the defects in their constitution by requisite amendments in the CGST Act. This will provide relief to the taxpayers as they will no longer be required to approach the higher courts for matters not involving significant amounts. It may also reduce the litigation costs of the Government and the long-pending issues can finally be expected to settle. Formation of these Tribunals is again, one of the greatest achievements of the Government because of its unique composition consisting of two judicial members, a technical member (Centre) and a technical member (State). Yet the question remains – when will these tribunals finally come into effect?

Advancing towards Artificial Intelligence - Pathway to Better Tax Compliances and Adjudication

The last and one of the most progressive changes in the indirect tax regime relates to the use of artificial intelligence (AI) by the Government in the tax setup. It is not unknown that in the income tax domain, AI is already being used by the Department to verify the returns of taxpayers and also send automatic show-cause notices in cases of certain discrepancies. This has reduced manual labour as well as the chances of any corruptive practice by multiple folds.

Realizing the same, the Government has come up with Project ADVAIT (Advanced Analytics in Indirect Taxes) with a "threefold objective of enhancing Indirect Tax revenue, increasing taxpayer base, and supporting data-driven tax policy". As per the Press Release dated March 27, 2023, AI will be used to identify tax evasion, generate specific reports and recognise patterns of different entities. It can be said that the use of AI in GST will act as a catalyst in ensuring adequate tax compliance by the taxpayers.

However, it is crucial to understand the effect that AI can have on the tax adjudication/ legal system if not used appropriately. AI is at its nascent stage and it has undoubted potential when tapped correctly. However, just like programmed tools and software can only work 'with' human brains to be productive and truly useful, AI also cannot be considered to be the replacement of the mind which invented it. This discussion becomes relevant where AI starts getting used at an advanced level. Till the time discrepancies and notices are being issued using the tools, and taxpayers are afforded sufficient opportunity of hearing, AI can prove to be a revolutionary asset. It is too early to comment upon its sentimental value and capability.

Consider an example wherein a person due to extreme financial crunch filed his returns belatedly. After an adjudication order, interest and penalty was imposed on such a taxpayer. While the Law provides for imposition of penalty and penal actions, judgments are delivered on several factors weighing the degree of contravention, repercussions of imposition of penalty and arguments presented by the respondent. How far AI would be able to understand cases involving humans is an unknown area of thought, and its advancement and applicability in the adjudication/ judicial system would be interesting to observe.

Concluding Remarks

GST has become a cornerstone of the Indian economy by being the biggest source of revenue for the Indian Government. In the last six years, it has successfully crossed various obstacles that came in its way to reach its present form. Its evolution would undoubtedly prove to be a significant benchmark for the development of the Indian legal system.

संकल्प सृजन और सिद्धि

Articles

Circulars on GSTR-2A vs 3B mismatch- Agree to disagree?

CA MANNU KASHLIWAL, GUWAHATI

Introduction

Recently CBIC has released two important circulars pursuant to GST Council decisions in order to provide clarification to deal with ITC mismatch of GSTR 3B vs GSTR 2A which was a longstanding issue for taxpayers at large due to flood of departmental scrutiny notices on the very issue. While these circulars aim to bring much-needed clarity to taxpayers and tax administration, concerns have arisen due to questions about their legal validity and potential implications. This article critically examines the significance of these circulars and dissects the ongoing dialogue regarding their true intentions.

These circulars could be perceived as an attempt to retroactively validate actions that were initially taken without a clear legal foundation. The ethical dilemma thus emerges: Are these circulars genuinely designed to provide relief, or do they inadvertently legitimize potentially unjust actions of the past? Let us find out.

First of all, let's discuss the provisions of the law to understand this better.

Until 31st December 2021, taxpayers had to comply with only four conditions of Sec 16(2) of the CGST Act as under:

a. The recipient is in possession of the tax invoice or debit note issued by the supplier.

b. Recipient has received goods or services or both

c. Supplier has paid the taxes to the Government

d. Recipient has filed his returns

From FY 2017-18 to FY 2020-21 till 31st Dec 2021, the recipient was required to satisfy only these four conditions to avail input tax credit.

Though Rule 36(4) of the CGST Rules 2017 was inserted from **9th October 2019**, where the credits were restricted in excess of 20% of the eligible credits appearing in GSTR 2A which are not uploaded by the suppliers. This limit was further reduced to 10% from 01.01.2020 and then 5% from 01.01.2021. Effective 01.01.2022 the rule was amended removing the option to avail the input tax credit in excess. **The question now is whether Rule 36(4) is constitutionally valid? Can a Rule restrict the credits to which the Act does not give power?** CGST Act lays down only four conditions to avail input tax credits and nowhere the Act restricts the credits based on matching with GSTR-2A at least until 31st December 2021. Further, the **Hon'ble Supreme Court in the case of Bharti Airtel Ltd**[1] clearly said that GSTR 2A is only a facilitator for reference purpose and

taxpayers have to avail the input tax credit on a self-assessment basis.

Issuance of Circular 183 – applicable for the period 01.07.2017 to 08.10.2019

Now, when the legality of such notices issued by the deptt on the basis of Rule 36(4) vis-à-vis Section 16(2)(c) ; were challenged before the judiciary and numerous judgment came in favour of the tax payer ; then the CBIC played a perfect hand by issuing Circular No. 183/15/2022 dated 27.12.2022 wherein they have attempted to legitimise the mismatch notices already issued and further unsettle a settled position of law. The circular provides that when the taxpayer has fulfilled all the four conditions of section 16(2) as mentioned above, however, if the ITC is not reflected in their GSTR 2A, the proper officer should consider the following for fulfilment of condition mentioned in Section 16(2)(c):

Exceeds Rs. 5,00,000

- Recipient to produce a certificate w.r.t concerned supplier from the CA or CMA, certifying that supplies in respect of the said supplier has actually been made and tax on such supplies has actually been paid in GSTR-3B.

Upto Rs. 5,00,000

- Recipient to produce a certificate from the concerned supplier to the effect that supplies has actually been affected to the registered person and tax in resepect of such supplies has actually been paid in GSTR-3B

However, the circular covers only the bonafide errors that have been committed by the vendors in reporting during the period FY 2017-18 & 2018-19 cited as under:

S No.	GSTR-3B filing status	GSTR-1 filing status
	Filed	Not filed
	Filed	Filed but supply remained unreported
	Filed	Filed but supply reported as B2C
	Filed	Filed but supply reported under wrong GSTIN

Further, it may be noted that for the period FY 2017-18 as per proviso to Section 16 (4) of CGST Act, the aforesaid relaxations shall not be applicable to the claim of ITC made in the FORM GSTR 3B return filed after the due date of furnishing return for the month of September, 2018 till the due date of furnishing return for March, 2019 if supplier had not furnished details of the said supply in his FORM GSTR 1 till the due date of furnishing FORM GSTR 1 for the month of March, 2019. Further, the above circular will apply only to the ongoing proceedings in scrutiny/audit/investigation, etc for FYs 2017 18 and 2018 19 and not to the completed proceedings.

Now, the moot questions are-

- How can a CA or CMA verify whether the supplies have actually been made and taxes have been paid belongs only to such invoices? What if tax paid via DRC-03?
- What if the situation doesn't fall under any of the above four categories but supplies were made, and taxes were rightly paid?

- What if the supplier refuses to co-operate?

Given the complexity and dynamism of the practical business scenarios in the current day context, even CAs and CMAs at times might not be in a position to certify that impugned supplies have actually been made by the supplier to the registered persons and tax on the said supplies have been paid by the supplier in FORM GSTR -3B owing to the non-availability of sufficient data, reluctance from the supplier of the registered persons for providing relevant records for verification in the absence of any statutory mandates, etc.

Albeit the said circular restricted its clarification only to FY 2017-18 and 2018-19, Karnataka High Court in the case of **Wipro Limited[2],** pronounced that since the circular contemplates rectification of bonafide and inadvertent mistakes made by the parties in the transaction, though the circular specifically refers only to FY 2017-18 and 2018-19, since errors of mismatch of 2A vs 3B was identical also in relation to FY 2019-20, by adopting a judicial oriented approach, the assessee would even be entitled to the benefit of the circular for FY 2019-20. Considering the above jurisprudence given by the Karnataka HC, the trade and industry were expecting a centralized and uniform relief from the council per se. However, the benefit given by the council was nothing but an additional encumbrance by infusing the certification condition to the already allowed ITC under rule 36(4).

Issuance of Circular 193 – applicable for the period 09.10.2019 to 31.12.2021

Further, CBIC vide **Circular No. 193/05/2023-GST dt. 17.07.2023** provided clarification to deal with the discrepancies between the amount of ITC availed by the registered persons in their Form GSTR-3B and the amount as available in their Form GSTR-2A during the period from 01.04.2019 to 31.12.2021 as under -

- Since rule 36(4) came into effect from 09.10.2019 only, the guidelines provided by Circular No. 183/15/2022GST dated 27th December 2022 shall be applicable, in toto, for the period from 01.04.2019 to 08.10.2019.
- In respect of period from 09.10.2019 to 31.12.2019, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December 2022 shall be applicable for verification of the condition of clause (c) of sub-section (2) of Section 16 of CGST Act subject to the condition that availment of Input tax credit in respect of invoices or debit notes, the details of which have not been furnished by the suppliers shall not exceed 20 percent of the eligible credit available in respect of invoices or debit notes the details of which have been furnished by the suppliers in GSTR 1 or using IFF.
- Similarly, for the period from 01.01.2020 to 31.12.2020 the guidelines shall be applicable subject to a 10% limit.
- And, for the period from 01.01.2021 to 31.12.2021 the guidelines shall be applicable subject to 5% limit.
- W.e.f. 01.01.2022, no ITC shall be allowed for the period 01.01.2022 onwards in respect of a supply unless the same is reported by his suppliers in GSTR 1 or using IFF (i.e., as per GSTR-2B only).
- Further, the condition of Rule 36(4) will be cumulatively applicable for the following period and ITC shall be adjusted on cumulative basis:
    - February to August, 2020 (Notification No. 30/2020-CT dated 03.04.2020)

- April to June, 2021 (Notification No. 27/2021-CT dated 01.06.2021)
-

From 01.04.2019 to 08.10.2019	ITC based on Certificate (as per Circular 183/15/2022, without any upper limit as Rule 36 (4) was not there)
From 09.10.2019 to 31.12.2019	ITC as per GSTR 2A plus CA Certificate for max. 20% of GSTR-2A
From 01.01.2020 to 31.12.2020	ITC as per GSTR 2A plus CA Certificate for max. 10% of GSTR-2A
From 01.01.2021 to 31.12.2021	ITC as per GSTR 2A plus CA Certificate for max. 5% of GSTR-2A
From 01.01.2022 onwards	As per GSTR-2B [as Section 16 (2) (aa) introduced]

Note – The instructions will apply only to the ongoing proceedings in scrutiny/ audit/ investigation, etc. for the period 01.04.2019 to 31.12.2021 and not to the completed proceedings.

Let's make it simpler with examples:

Tax period 09.10.2019 to 31.12.2019

- Total amount of ITC available in GSTR-2A = Rs. 1,000
  Total amount of ITC availed in GSTR-3B = Rs. 2,000
  As per rule 36(4), the assessee can avail ITC only up to Rs. 1000*1.2 = Rs. 1200
  Thus, applying Circular 193, the assessee has to obtain relevant certificate for excess ITC of Rs. 200.

Tax period 01.01.2020 to 31.12.2020

- Total amount of ITC available in GSTR-2A = Rs. 1,000
  Total amount of ITC availed in GSTR-3B = Rs. 2,000
  As per rule 36(4), the assessee can avail ITC only up to Rs. 1000*1.1 = Rs. 1100
  Thus, applying Circular 193, the assessee has to obtain relevant certificate for excess ITC of Rs. 100.

Tax period 01.01.2021 to 31.12.2021

- Total amount of ITC available in GSTR-2A = Rs. 1,000
  Total amount of ITC availed in GSTR-3B = Rs. 2,000
  As per rule 36(4), the assessee can avail ITC only up to Rs. 1000*1.05 = Rs. 1050
  Thus, applying Circular 193, the assessee has to obtain relevant certificate for excess ITC of Rs. 50.

This circular fails to provide the benefit of ITC availed over and above the limit prescribed under Rule 36(4) of CGST Rules as applicable (i.e., ITC in excess of 20%/10%/5%) during the said period shall not be admissible even if the requisite certificate as prescribed in Circular No. 183/15/2022-GST dated 27.12.2022 is submitted by the registered person or even in cases where all the

conditions of Section 16 are satisfied. Thus, the assesses shall always have the right to contest the demand by questioning the legal sanctity of the circular on the basis of provisions of law and catena of settled judicial pronouncements.

Some points to ponder:

- It is uncanny that both the circulars itself accepts that it cannot used for interpretation of laws.
- It seems both the circulars 183 and 193 has only been issued to legitimize the earlier actions of the department and a desperate attempt to validate the matching concept based on Rule 36(4) prior to insertion of Section 16(2) (aa).
- Further, after issuance of Circular 183 which was in one way a beneficial circular for taxpayers; the actual need of the industry considering the sloppy implementation of the system was to extend the benefit to the entire ITC not reflected in 2A. There seems to be no real impact/difference when the benefit could be given for FY 17-18, 18-19, 19-20 (up to 09.10.2019) but not to balance 19-20, 20-21 & 21-22 (up to 31.12.2021).
- The only reason which one can understand from issuance of Circular 193 is that the revenue does not want to self-admit or liberalize the validity of the condition imposed through Rule 36(4). Further, when rule 36(4) per se had allowed the eligibility of the ITC to the extent of the ad hoc availment for the respective periods, imposing another condition of getting requisites certificates even for such portion is nothing but an atrocious act.
- The revenue authorities in most of the ongoing proceedings have denied the eligibility of the credit based on difference between GSTR-2A and GSTR-2B on a financial year basis, the circular clarifies for tax period basis (which is inferred to be monthly) since para 6 of the circular 193 specifies the cumulative benefit only for the COVID period. This would create a new sect of dispute.
- The constitutional validity of the impossible condition foisted through section 16(2)(c) in several High Courts across the country. Impeding such a condition through a circular in the guise of benefit is not legally tenable.
- It is settled law that the Circulars only bind the authorities and not the taxpayer. In fact, Sec. 168(1) of the CGST Act, 2017 pursuant to which the given Circular has been issued authorizes the issuance of the Circular only to the departmental officers. Hence the taxpayers shall have the right to contest the demands if they are unable to produce the requisite certificates.

Conclusion

Both Circulars 183 and 193 are undeniably steps toward resolving the long-standing challenge of ITC mismatches, offering comfort to taxpayers, and facilitating informed decision-making by field officers. However, the conundrum of legal validity versus administrative convenience persists. While taxpayers seek clarity and protection from arbitrary actions, the solution requires more than just administrative circulars. Further, the discourse surrounding the circulars that they are merely issued to validate past actions serves as a reminder of the need for a transparent and legally robust taxation structure. Striking a balance between administrative guidance and legal provisions is crucial for ensuring clarity, fairness, and accountability in GST administration.

संकल्प सृजन और सिद्धि

Articles

"Unveiling the Hidden Asset: The Power of Networking for Chartered Accountants"

CA SHILPI SHARMA

CA SAKSHI JHAJHARIA

"Building a network is like exercising; you may not see results right away, but it's an investment that pays off immensely in the long run." – By Nicole Williams

There's an apt saying which goes, 'network is net worth'. In a hyper-connected world, the value of one's network goes beyond mere numbers and spreadsheets. It represents a web of relationships, collaborations, and opportunities that can elevate one's personal and professional trajectory. Just as financial assets contribute to an individual's wealth, a robust and well-nurtured network contributes to their overall worth.

Whether you're searching for a job, applying for an internship, seeking clientele, or even looking for your perfect match, your network will always come to your help!

In today's dynamic business world, the role of a Chartered Accountant (CA) extends beyond number crunching and financial analysis. In this context, networking has emerged as an essential tool for CAs to excel in their careers.

Networking in the CA Context

Networking, in the professional sense, refers to the deliberate and strategic process of building and nurturing relationships with individuals within and outside one's industry. Networking opens doors to a world of opportunities that might otherwise remain hidden. It would give you a competitive edge in your field.

For Chartered Accountants, networking goes beyond mere social interaction; it involves creating connections that can provide value, insights, opportunities, and support.

Think of a group of 5 Chartered Accountants, who are connected to each other closely. They all have their own expertise with diverse fields of work. While one practices in taxation, the other is an insolvency professional, the third specialises in forensic auditing while the other two are into corporate law and financial due diligence respectively. Imagine the synergy they can derive from this network! When two brains / masterminds with same passion collaborate, wonders are created!

A modern Chartered Accountant is not just a financial expert but also an advisor, strategist, and communicator. Networking assists CAs in acquiring a broader perspective on industry trends, regulatory changes, and business dynamics, allowing them to offer more informed guidance to their clients or organizations.

Benefits of Networking for Chartered Accountants:

1. Staying Abreast of Regulatory Changes: The financial landscape is in a constant state of flux due to changing regulations and compliance requirements. Networking provides CAs with access to experts who can provide timely updates on regulatory changes, helping them stay compliant and advising their clients accurately.

2. Professional Development and Learning: Through networking events, workshops, seminars, and conferences, CAs can engage in continuous learning and professional development. The Institute of Chartered Accountants of India has within its network several study circles which keep organising and facilitating such events and conferences. Professionals may not just go there with an objective of learning but also to grow their professional network.

3. Mentorship: Building a network allows you to connect with experienced individuals who can serve as mentors. Their guidance and insights can help you navigate challenges, make informed decisions, and avoid common pitfalls.

4. Enhanced Communication Skills: Effective networking hones communication skills, which are crucial for CAs. The ability to convey complex financial information in a clear and concise manner is essential when dealing with clients, colleagues, or stakeholders.

Visibility and Personal Branding: A strong network can contribute to a CA's visibility within the industry. Engaging in thought leadership, sharing insights, and actively participating in professional forums can establish a positive personal brand, enhancing credibility and trustworthiness. Imagine your name being your brand/ tag! Isn't it amazing?

6. Job and Career Advancement: Many job opportunities are never publicly advertised but are instead filled through referrals and recommendations. Networking increases your visibility within your industry, making you a more likely candidate for these "hidden" job openings. Additionally, networking can help you climb the career ladder by connecting you with decision-makers and influencers.

Strategies for Effective Networking:

Set your goal: Before embarking on a networking journey, CAs should clarify their goals.

Whether it's expanding client base, staying updated on industry trends, or seeking mentorship, having clear objectives helps in targeting the right connections and opportunities.

Attend Relevant Events: Industry conferences, seminars, workshops, and webinars provide platforms for networking. These events bring together professionals with shared interests, creating opportunities for meaningful interactions.

However, networking does not end with attending such seminars. Rather, a good network comprises of individuals who stay connected and mutually learn from each other. Suppose you attend a conference, or a seminar and you meet 3 new people. Each one of them belong to diverse backgrounds, like nutritionist, social worker and a finance enthusiast. It is not practically possible to remember all such names and in future be able to re-collect their profession. What should be done in such a case?

Ideally one must save contact numbers/ store visiting cards with a short detail of where they met, what topic resonates with such individual or which profession they belong to. This helps in recollecting old acquaintances as well as such short interactions. 5-7 minutes is all that it takes!

Online Networking: In the digital age, online platforms such as LinkedIn and WhatsApp communities offer extensive opportunities for networking. CAs can join professional groups, participate in discussions, and connect with professionals worldwide.

Quality over Quantity: It's not about collecting a vast number of business cards but about forming genuine connections. Focus on building a few meaningful relationships rather than spreading thin.

Follow Up and Stay Engaged: After initial interactions, follow up with contacts to maintain the connection. Sharing relevant articles, insights, or even just a quick message to check in can keep the relationship alive. Do you remember all your classmates even though you have spent years sitting in the same classroom? Definitely not. Reason? Not staying connected!

Offer Value: Networking is a two-way street. Providing value to your connections by sharing knowledge, making introductions, or offering assistance can strengthen relationships.

Diversify Connections: Network within and outside the accounting profession. Interacting with professionals from related fields can broaden perspectives and offer fresh insights.

Potential Pitfalls and How to Avoid Them:

Superficial Relationships: Networking is not about collecting contacts for self-serving purposes. Building genuine relationships based on mutual respect and shared interests is key.

Ignoring Online Presence: In today's digital world, neglecting an online presence, especially on platforms like LinkedIn, can hinder opportunities for virtual networking.

Lack of Follow-Up: Initiating connections without proper follow-up can lead to missed opportunities. Regular communication is crucial to maintaining and nurturing relationships.

Overcommitting: While networking is important, overcommitting to events and engagements can lead to burnout. Balance is essential.

Neglecting Existing Relationships: Effective networking doesn't mean focusing solely on new connections. Nurturing existing relationships is equally important.

Effective Networking Practices on Social-Media:

Consistent Engagement: Regularly engage with connections and followers by sharing valuable content, commenting on posts, and responding to comments on your own posts. This helps in building and maintaining professional connections and relationships.

Thoughtful Content Sharing: Share articles, case studies, and insights relevant to the accounting profession to establish yourself as a knowledgeable and valuable resource.

Professional Profile: Maintain a professional and up-to-date profile across all social media platforms, emphasizing your expertise and experience as a CA.

Connect Strategically: While quantity matters, quality is paramount. Connect with professionals who align with your goals, interests, and areas of expertise.

Conclusion:

For Chartered Accountants, professional networking is a multifaceted endeavour that extends beyond in-person interactions to encompass the digital realm. Utilizing a combination of traditional methods, cutting-edge tools, and appropriate social media platforms can empower CAs to create a robust and far-reaching network. By nurturing your network, you create a mutually beneficial ecosystem that can contribute to your success and the success of those around you.

"The more extensive your network, the more valuable you are." – By Thomas Power

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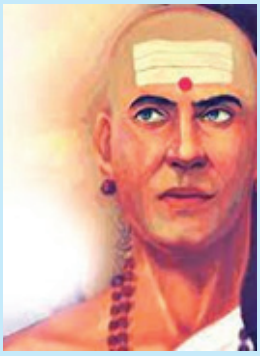

Sankalp, Srijan and Siddhi"

Chanakya was asked
" HOW TO ACHIEVE OUR GOALS"
He said these are 4 steps

- Do goal setting (Sankalp)
- Take advice and blessings of teachers and experts (Anugrah)
- Plan your resources (Shakti)
- Stop not till you achieve your goals (Siddhi)

संकल्प सृजन और सिद्धि

Articles

Understanding the Controversy Surrounding Cash Seizure under Section 67(2) of the CGST Act, 2017

CA. SHIVANI SHAH

The Indian tax landscape is a realm of constant evolution, and the Goods and Services Tax (GST) framework introduced in 2017 has been no exception. One crucial aspect of this framework, Section 67(2) of the CGST Act, has sparked debates across various High Courts of India. This provision empowers designated officers, often not below the rank of Joint Commissioner, to conduct searches and seizures when they have reasonable grounds to suspect the presence of goods subject to confiscation or pertinent documents and items.

However, a pertinent question looms: Can cash be lawfully seized under the purview of Section 67(2) of the Act? Delving into the complexities of this question unveils a nuanced interplay of legal interpretations.

Section 67(2) underlines three key elements:

- **Documents**
- **Books**
- **Things**

A meticulous analysis of Section 67(2) indicates that the scope of seizure is confined to goods liable for confiscation or items, documents, or books that might be "useful for or relevant to any proceedings under this Act." Evidently, cash doesn't fall within the classification of goods. Additionally, labeling cash as a "Thing" relevant to GST proceedings is a debatable proposition. The statute highlights that the seized items should be retained only as long as necessary for examination and any inquiry or proceedings under the Act.

Importantly, cash doesn't fit the descriptions of either "Documents" or "Books." Therefore, the crux of the matter lies in determining if cash qualifies as a "Thing" within the parameters of Section 67(2) and can be subject to seizure during GST-related search operations.

A significant legal precedent hails from the judgment of the Hon'ble Kerala High Court in the case of Shabu George Gigi Mathew (2023 VIL 197 KER). This ruling firmly declares that cash cannot be categorized as a "Thing" under Section 67(2) of the Act. The court's reasoning emphasizes that cash isn't considered part of the petitioner's stock-in-trade and thus cannot be subsumed under the definition of "Thing." The court also dismissed the notion that unaccounted cash justifies confiscation by GST officers.

The case escalated to the Supreme Court through a special leave petition filed by the Revenue.

However, the Apex Court upheld the Kerala High Court's stance, reinforcing the interpretation that cash doesn't align with the Act's language on seizure.

Contrarily, the Hon'ble Madhya Pradesh High Court in the matter of Kanishka Matta v. UOI (Writ Petition No. 8204/2020) diverged in opinion. This court ruled that cash can indeed be deemed a "Thing" and is therefore susceptible to confiscation under Section 67(2) of the Act. The court reasoned that the term "Thing" should be broadly construed to encompass objects with proprietary or valuable rights, including cash.

Adding to the complexity, the Delhi High Court, in the case of Arvind Goyal (W.P.(C) 12499/2021), opined that cash doesn't qualify as a "Thing" and consequently cannot be seized.

In the author's view, the authority to search and seize is a formidable power, demanding strict adherence to statutory provisions and conditions. Given that cash doesn't fulfill the criteria of being a "Thing," it's the author's standpoint that cash isn't liable for confiscation during a search under Section 67(2) of the GST Act.

The controversy surrounding this issue underscores the ongoing evolution of GST regulations and the need for definitive legal clarity in this domain. As interpretations vary, the question of whether cash can be seized under Section 67(2) of the CGST Act continues to challenge legal minds and shape the landscape of taxation in India.

Top issues for the profession

What's keeping accounting's leaders up at night

1. The impact of Blockchain, AI and automation
2. Keeping up with technology in general
3. Adapting to non-stop change
4. The ongoing staff shortage
5. The evolution/revolution of the audit

Source: Accounting Today Research

संकल्प सृजन और सिद्धि

Articles

Synopsis of the Circulars issued post 50th GST Council Meeting

CA. Tarun Kr. Gupta
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The 50th GST Council Meeting was held on 11th July, 2023 in New Delhi, under the chairpersonship of the Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman. Some of the important clarifications issued by the Government based on the recommendations of the GST Council are as follows:

Clarification on charging of interest under section 50(3) of the CGST Act, 2017, in cases of wrong availment of IGST credit and reversal thereof (Circular No. 192/04/2023-GST)

It has been clarified that in the cases where IGST credit has been wrongly availed and subsequently reversed on a certain date, there will not be any interest liability under sub-section (3) of section 50 of CGST Act if, during the time period starting from such availment and up to such reversal, the balance of input tax credit (ITC) in the electronic credit ledger,

under the heads of IGST, CGST and SGST taken together, has never fallen below the amount of such wrongly availed ITC, even if available balance of IGST credit in electronic credit ledger individually falls below the amount of such wrongly availed IGST credit. It has also been clarified that the credit of compensation cess cannot be taken into account while considering the balance of electronic credit ledger. This issue had come up since the amount of input tax credit available in electronic credit ledger, under any of the heads of IGST, CGST or SGST, can be utilized for payment of liability of IGST.

Clarification to deal with difference in Input Tax Credit (ITC) availed in FORM GSTR-3B as compared to that detailed in FORM GSTR-2A for the period 01.04.2019 to 31.12.2021 (Circular No. 193/05/2023-GST)

Pursuant to the Circular no. 183/15/2022-GST dated 27th December, 2022, it had been clarified that one could avail ITC even if the same had not been auto-populated in GSTR 2A, subject to production of tax payment certificates from the supplier and complying with the other conditions. This was applicable for the FYs 2017-18 and 2018-19 only. However the Hon'ble Karnataka High Court, in the matter of Wipro Limited India Vs Assistant Commissioner of Central Taxes Writ Petition No. 16175 of 2022 (Date of Judgement/Order : 06/01/2023), had held that in case of identical errors, the benefit of the Circular should also be available for 2019-20. The judgment had thus paved the way for seeking benefit of the Circular not only for 2017-18 and 2018-19, but for other years too, in cases where the issues are identical. The Department has also taken note of this and issued a Circular extending the same benefit for the period 01.04.2019 to 31.12.2021.

It has been clarified that:

Since rule 36(4) came into effect from 09.10.2019 only, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be applicable, in toto, for the period from 01.04.2019 to 08.10.2019.

In respect of period from 09.10.2019 to 31.12.2019, rule 36(4) permitted availment of ITC to the extent not exceeding 20% of the eligible credit available in GSTR 2A. Accordingly, the guidelines provided by Circular No. 183/15/2022-GST shall be applicable only for verification of ITC availed upto 20% of the eligible credit available in GSTR 2A. The excess, if any, needs to be anyways disallowed as per rule 36(4). The Circular cannot save the ITC availed in excess of the 20%. E.g. if ITC availed in GSTR 3B is Rs. 1,50,000/- and ITC as per GSTR 2A is only Rs. 1,00,000/- the Circular can save ITC only upto Rs. 1,20,000/- i.e. an additional Rs. 20,000/- and the balance 30,000/- is anyways required to be reversed as per rule 36(4). Similar provisions will be applicable for the period from 01.01.2020 to 31.12.2020 to the extent of 10% and for the period from 01.01.2021 to 31.12.2021 to the extent of 5%.

The relaxation provided during COVID for the period February to August, 2020 wherein ITC was to be adjusted on cumulative basis for the said months in the return for September 2020 and for the period April to June, 2021 wherein ITC was to be adjusted on cumulative basis for the said months in the return for June 2021 shall be available.

The Circular has been issued as clarificatory in nature and shall be available to the ongoing proceedings in scrutiny/ audit/ investigation/ adjudication/ appeal, etc. for the period 01.04.2019 to 31.12.2021 but not to the completed proceedings.

Clarification on TCS liability under Sec 52 of the CGST Act, 2017 in case of multiple E-commerce Operators (ECOs) in one transaction (Circular No. 194/06/2023-GST)

It has been clarified that in a situation where multiple ECOs are involved in a single transaction, the compliances u/s 52 including collection of TCS, is to be done by the ECO who finally releases the payment to the supplier.

It has also been clarified that in a situation where multiple ECOs are involved in a single transaction and the supplier is an ECO itself, the compliances u/s 52 including collection of TCS, is to be done by the ECO who releases the payment to the supplier ECO.

Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period (Circular No. 195/07/2023-GST)

It has been clarified that where the manufacturer provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, no further GST is chargeable. It has also been clarified that these supplies cannot be considered as exempt supply and accordingly, the manufacturer, is not required to reverse the ITC. Further, if any additional consideration is charged by the manufacturer from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.

The 50th GST Council Meeting was held on 11th July, 2023 in New Delhi, under the chairpersonship of the Union Finance & Corporate Affairs Minister Smt. Nirmala Sitharaman. Some of the important clarifications issued by the Government based on the recommendations of the GST Council are as follows:

In cases where the distributor provides the replacement of parts and/ or repair services to the

customer on behalf of the manufacturer and does not charge from the customer, no GST is applicable. However, if any additional consideration is charged, then GST will be payable on such supply with respect to such additional consideration.

If the distributor raises a claim of his charges/ cost of parts to the manufacturer, it has to be done with GST and the manufacturer will be eligible to avail ITC. Alternatively the manufacturer can issue a credit note to the distributor with GST and the distributor will have to reverse the ITC for the value of parts.

In cases of extended warranty, in case the same is issued at the time of original sale of the vehicle, the consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly. However if the extended warranty is sold anytime after, GST will be applicable depending on the nature of the contract (i.e. whether the extended warranty is only for goods or for services or for composite supply involving goods and services).

1. Clarification on taxability of shares held in a subsidiary company by the holding company (Circular No. 196/08/2023-GST)

It has been clarified that in the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.

2. Clarification on refund related issues (Circular No. 197/09/2023-GST)

Pursuant to the Circular no. 183/15/2022-GST dated 27th December, 2022, it had been clarified that one could avail ITC even if the same had not been auto-populated in GSTR 2A, subject to production of tax payment certificates from the supplier and complying with the other conditions. This was applicable for the FYs 2017-18 and 2018-19 only. However the Hon'ble Karnataka High Court, in the matter of Wipro Limited India Vs Assistant Commissioner of Central Taxes Writ Petition No. 16175 of 2022 (Date of Judgement/Order : 06/01/2023), had held that in case of identical errors, the benefit of the Circular should also be available for 2019-20. The judgment had thus paved the way for seeking benefit of the Circular not only for 2017-18 and 2018-19, but for other years too, in cases where the issues are identical. The Department has also taken note of this and issued a Circular extending the same benefit for the period 01.04.2019 to 31.12.2021.

It has been clarified that:

(i) Since rule 36(4) came into effect from 09.10.2019 only, the guidelines provided by Circular No. 183/15/2022-GST dated 27th December, 2022 shall be applicable, in toto, for the period from 01.04.2019 to 08.10.2019.

(ii) In respect of period from 09.10.2019 to 31.12.2019, rule 36(4) permitted availment of ITC to the extent not exceeding 20% of the eligible credit available in GSTR 2A. Accordingly, the guidelines provided by Circular No. 183/15/2022-GST shall be applicable only for verification of ITC availed upto 20% of the eligible credit available in GSTR 2A. The excess, if any, needs to be anyways disallowed as per rule 36(4). The Circular cannot save the ITC availed in excess of the 20%. E.g. if ITC availed in GSTR 3B is Rs. 1,50,000/- and ITC as per GSTR 2A is only Rs. 1,00,000/- the Circular can save ITC only upto Rs. 1,20,000/- i.e. an additional Rs. 20,000/- and the balance 30,000/- is anyways required to be reversed as per rule 36(4). Similar provisions will be applicable for the period from 01.01.2020 to 31.12.2020 to the extent of 10% and for the period from 01.01.2021 to 31.12.2021 to the extent of 5%.

(iii) The relaxation provided during COVID for the period February to August, 2020 wherein ITC was to be adjusted on cumulative basis for the said months in the return for September 2020 and for the period April to June, 2021 wherein ITC was to be adjusted on cumulative basis for the said months in the return for June 2021 shall be available.

(iv) The Circular has been issued as clarificatory in nature and shall be available to the ongoing proceedings in scrutiny/ audit/ investigation/ adjudication/ appeal, etc. for the period 01.04.2019 to 31.12.2021 but not to the completed proceedings.

3. Clarification on TCS liability under Sec 52 of the CGST Act, 2017 in case of multiple E-commerce Operators (ECOs) in one transaction (Circular No. 194/06/2023-GST)

(i) It has been clarified that in a situation where multiple ECOs are involved in a single transaction, the compliances u/s 52 including collection of TCS, is to be done by the ECO who finally releases the payment to the supplier.

(ii) It has also been clarified that in a situation where multiple ECOs are involved in a single transaction and the supplier is an ECO itself, the compliances u/s 52 including collection of TCS, is to be done by the ECO who releases the payment to the supplier ECO.

4. Clarification on availability of ITC in respect of warranty replacement of parts and repair services during warranty period (Circular No. 195/07/2023-GST)

(i) It has been clarified that where the manufacturer provides replacement of parts and/ or repair services to the customer during the warranty period, without separately charging any consideration at the time of such replacement/ repair services, no further GST is chargeable. It has also been clarified that these supplies cannot be considered as exempt supply and accordingly, the manufacturer, is not required to reverse the ITC. Further, if any additional consideration is charged by the manufacturer from the customer, either for replacement of any part or for any service, then GST will be payable on such supply with respect to such additional consideration.

(ii) In cases where the distributor provides the replacement of parts and/ or repair services to the customer on behalf of the manufacturer and does not charge from the customer, no GST is applicable. However, if any additional consideration is charged, then GST will be payable on such supply with respect to such additional consideration.

(iii) If the distributor raises a claim of his charges/ cost of parts to the manufacturer, it has to be done with GST and the manufacturer will be eligible to avail ITC. Alternatively the manufacturer can issue a credit note to the distributor with GST and the distributor will have to reverse the ITC for the value of parts.

(iv) In cases of extended warranty, in case the same is issued at the time of original sale of the vehicle, the consideration for such extended warranty becomes part of the value of the composite supply, the principal supply being the supply of goods, and GST would be payable accordingly. However if the extended warranty is sold anytime after, GST will be applicable depending on the nature of the contract (i.e. whether the extended warranty is only for goods or for services or for composite supply involving goods and services).

5. Clarification on taxability of shares held in a subsidiary company by the holding company (Circular No. 196/08/2023-GST)

It has been clarified that in the activity of holding of shares of subsidiary company by the holding company per se cannot be treated as a supply of services by a holding company to the said subsidiary company and cannot be taxed under GST.

6. Clarification on refund related issues (Circular No. 197/09/2023-GST)

(i) Refund of accumulated input tax credit under Section 54(3) on the basis of that available as per FORM GSTR 2B – It has been clarified that for refund applications for the tax period January 2022 onwards, refund of accumulated input tax credit under Section 54(3) will be on the basis of those invoices available as per FORM GSTR 2B and not as per GSTR 2A.

(ii) Manner of calculation of Adjusted Total Turnover under sub-rule (4) of Rule 89 of CGST Rules - It has been clarified that the value of goods exported out of India to be included while calculating "adjusted total turnover" will be same as being determined as per the Explanation inserted in the said sub-rule (4) of rule 89 of CGST Rules vide Notification No. 14/2022-Central Tax dated 05.07.2022.

(iii) Clarification in respect of admissibility of refund where an exporter applies for refund subsequent to compliance of the provisions of sub-rule (1) of rule 96A - It is clarified that in cases of delay in export of goods or delay in realisation of export proceeds, on actual export of the goods or as the case may be, on realization of payment in case of export of services, the said exporters would be entitled to refund of unutilized input tax credit in terms of sub-section (3) of section 54 of the CGST Act, if otherwise admissible. It has also been clarified that the said exporter would be entitled to claim refund of the integrated tax so paid earlier on account of goods not being exported, or as the case be, the payment not being realized for export of services, within the time frame. However no refund of the interest paid in compliance of sub-rule (1) of rule 96A shall be admissible.

7. Clarification on issue pertaining to e-invoice (Circular No. 198/10/2023-GST)

It has been clarified that Government Departments or establishments/ Government agencies/ local authorities/ PSUs, registered solely for the purpose of TDS as per provisions of section 51 of the CGST Act, are to be treated as registered persons under the GST law. Accordingly, e-invoices are required to be issued for the supplies made to such Government Departments or establishments/ Government agencies/ local authorities/ PSUs, etc.

8. Clarification regarding taxability of services provided by an office of an organisation in one State to the office of that organisation in another State, both being distinct persons (Circular No. 199/11/2023-GST)

(i) Manner of distribution of third party services procured by the Head Office for itself and/ or for Branch Offices – It has been clarified that in such cases, the Head Office has an option to distribute ITC in respect of such common input services by following the Input Service Distributor (ISD) mechanism.

(ii) Value of internally generated services of Head Office provided to Branch Offices – In case of valuation of internally generated services provided by Head Office to its Branch Offices and where the Branch Office is entitled to avail full ITC, the value as declared in the Tax Invoice (including Nil) shall be the value acceptable for this purpose, irrespective of the fact whether cost of any particular component of such services, like employee cost etc., has been included or not in the value of the services in the invoice. It has also been clarified that even if full ITC is not available to be availed by the Branch Office, the cost of salary of employees of the HO, involved in providing the said service, is not mandatorily required to be included while computing the taxable value of the supply of such services.

9. Clarification regarding whether services supplied by director of a company in his personal capacity such as renting of immovable property to the company or body corporate are subject to Reverse Charge mechanism (Circular No. 201/13/2023-GST)

It has been clarified that services supplied by a director of a company or body corporate to the company or body corporate in his private or personal capacity such as services supplied by way of renting of immovable property to the company or body corporate are not taxable under RCM. Only those services supplied by director of company or body corporate, which are supplied by him as or in the capacity of director of that company or body corporate shall be taxable under RCM in the hands of the company or body corporate.

10. Clarification regarding whether supply of food or beverages in cinema hall is taxable as restaurant service (Circular No. 201/13/2023-GST)

It has been clarified that supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as (a) the food or beverages are supplied by way of or as part of a service, and (b) supplied independent of the cinema exhibition service. However where the sale of cinema ticket and supply of food and beverages are clubbed together, and such bundled supply satisfies the test of composite supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema which is the principal supply.

Disclaimer: The views expressed herein are of the author and does not constitute professional advice. Viewers are advised to refer to the original Circular for reference and seek professional assistance for interpreting the Circulars. The author can be contacted at tarunkrgupta@yahoo.com or 9830124482 (M).

संकल्प सृजन और सिद्धि

Articles

India as the world's largest economy-a pipedream or an achievable reality

DEBAJYOTI RAY CHAUDHURI

"If we don't change, we don't grow. If we don't grow, we aren't really living."

– Anatole France (novelist and Nobel laureate)

It is well documented that only a couple of centuries back, India was the largest economy in the world. Subsequently, with the colonisation by the western countries and in the wake of the Industrial Revolution in Western Europe, there was a dramatic change in the fortunes of our country and its people. With independence came high hopes, there were some achievements on food security and in the development of institutions and infrastructure like steel plants, dams, airports, rail network etc. However, the tag of developing country was to stay with us for decades and the country was also dependent on international development aid for many years. All through this time, issues of hunger, malnourishment of our people continued to haunt us, and the nation was heavily dependent on imports for oil and other essential commodities and manufactured goods. There was a foreign exchange crisis in 1991 when the country had to pledge its gold reserves to raise foreign currency resources. With the reforms of 1991 came liberalisation, global investment started coming into the country, through Foreign Direct Investment (FDI) and Foreign Portfolio Investment (FPI) flows, helping increase our foreign currency reserves. The real change in the economy came with digitalisation and with the transformation of our IT services industry into global scale, the latter also helping to increase employment and adding to the reserves of foreign currency.

As per recent news reports India is now the 5th largest economy in the world. While many parts of the developed world are facing challenges of high inflation and low economic growth, India is seen to be a bright spot, our country has not only overcome the challenges posed by the pandemic of COVID 19 but has also bounced back well with well-directed policies towards poverty and hunger alleviation and also encouraging investment led growth. It is now poised to become the third largest economy and some reports even say that in fifty years it could well become the largest economy in the world.

One of the drivers of India's growth is the Digital Public Infrastructure (DPI) which is now widely regarded as one of the best in the world. It all started with Aadhaar, which created a digital identity for every India. The Jan Dhan accounts gave every Indian a bank account, but it was made possible through online Aadhaar enabled KYC. However, full benefit of a bank account and Aadhaar could be realized through affordable internet facility. Since the initial days, the

cost of data has come to the extent that it is one of the lowest in the world. The three are often known as JAM (Jan Dhan, Aadhaar, Mobile). While the success of UPI is well known it was made possible only through JAM. Further innovations have developed on this, Digi locker dispenses with physical copies of documents like Driving license, PAN Card. It started with Aadhaar, now at least one state government has said that it will only issue digital version of Driving License.

India has many huge strides in digital payments. There are QR codes everywhere and even the smallest street vendor has one. There are anecdotes of a person getting his shoes polished and paying by UPI. A big advantage of digital payment is that it leads to formalization of economy as all receipts get reflected in the books of the merchant who is selling the merchandise. This coupled with other big reform of GST has given a big impetus to growth. GST is not just the simplification and unification of taxes. It's a brand-new IT enabled, data base of taxpayers and their receipts/payments related to supply of goods and services. It is a force multiplier; it made compliance simpler by dispensing with multiple taxes, but above all, it ensures all receipts are recorded in books. By giving visibility to sales, it helps banks assess WC requirements of their customers. It does make credit available to those, especially in the MSME segment who may not have the sophistication and the band width to maintain duly audited books of accounts, but can show sales receipts in their bank accounts which can then be confirmed with the GST data base. The market has realized this aspect of the GST data base, so there are tools available today which can assess an entity's credit worthiness based on its records in the GST. Such tools enhance availability of credit to the sectors which need it the most, which in turn drives the wheels of the economy.

A digital economy is not just about payments. Digital documents stored in a central repository like Digi locker cannot be lost or destroyed by fire or even floods which often wreak havoc in vast swathes of our country. Digital documents are easy to access, refer to and immune to being counterfeited. It also adds to convenience and ease of doing business. Digi Yatra uses face recognition technology to facilitate entry into high security areas like airport dispensing with the requirement of physical and duly stamped boarding pass. By doing away with the requirement of paper it is also environment friendly.

The benefits of a central repository of information and now quite evident. Digi locker ,for example dispense with requirement of carrying physical documents. However, contract execution in the country is still physical. While many states have facilitated digital stamp duty procurement, the execution of contracts is largely physical. At best, the document executed in hard copy, is preserved in digital form. However, this has its drawbacks. In the absence of the original, the scanned or digital version cannot be used for any legal proceedings. In this 'digital version', the genuineness of the document cannot be verified, it can also be altered so its authenticity can always be held in doubt.

Keeping in view the above drawbacks in the conventional way of executing contracts, NeSL has introduced its Digital Documentation Execution (DDE) of contracts. As contracts are required to be stamped as per the laws enacted by the respective state governments, NeSL has taken approval from each state government to permit real time procurement of stamp duty through an API. When documents are to be executed, the text in the form of a PDF document comes to NeSL through an API, NeSL procures the stamp duty, the two are affixed and then executed by

the parties to the agreement. NeSL's DDE supports multiple parties to an agreement and the document is presented sequentially for execution. The benefits are immense, the parties do not need to be physically present at one place, signature has to be affixed only once through a DSC or Aadhaar-OTP based E-sign. NeSL's DDE is paperless, the executed documents are stored in NeSL's repository and on execution, a copy is immediately available to the signatories to the agreement.

A document executed stored in digital form does not require physical storage in a Safe Deposit Facility and is also protected from loss by way of theft, fire or any natural calamity like earthquake or flood. Moreover, the authenticity of a digitally executed document can be easily established as its not amenable to fraud or forgery. It is also accessible and in case of corporates, access can easily be provided for due diligence for the purposes of initiating insolvency proceedings or an M&A activity.

NeSL's DDE supports all kinds of documentation requirements whether its for financial contract of banks/NBFCs or operational contracts pertaining to supply of goods or services. NeSL however does a three-point regulatory check prior to enabling execution of documents on the NeSL DDE platform. Firstly, it should be permitted under the provisions of the Insolvency Bankruptcy Code (IBC) or permitted by our regulator, Insolvency and Bankruptcy Board of India (IBBI). Secondly, it should be permitted by the respective state governments under the notifications issued to enable use of the NeSL's DDE platform for digital document execution. Finally, it should also be permitted under the provisions of the Information Technology Act, 2000. Thes regulatory checks are done by NeSL to ensure that the purpose of obtention of documents, which is, its enforcement in a Court of Law is fulfilled.

NeSL has also launched the eBG platform, which addresses all the disadvantages of the traditional mode of issuance of a Bank Guarantee (BG). NeSL's e-BG reduces the time required in issuance of a BG and the BG becomes available almost immediately to the beneficiary who can access it on completion of a simple process of registration. Besides reduction in time and increased convenience, NeSL's e-BG reduces the possibility of a fraudulent BG being in circulation. As all e-BGs are available for access and download to authorized persons, the authenticity of a BG can easily be established.

NeSL's DDE is now gaining popularity with more than 2.5 million transactions being executed till date. It is agnostic to the type of loan or deposit product and even the customer segment. While most of the DDE transactions pertain to the individual segment, an interesting trend is the that even documentation pertaining to SME loans is happening on NeSL's DDE portal. It has also been enabled on the 'Jan Samarth' portal, so it's compatible with the smallest of loans related to credit linked government schemes. A few banks are also using it for execution of documents pertaining to large corporates. Similarly, the users of NeSL's DDE are across the financial services sector like banks, NBFCs, HFCs etc.

A product which has still not completely been covered by NeSL's DDE is the mortgage by deposit of tittle deeds. While the government has made the necessary amendments in the IT Act to facilitate this, the use case for digital execution of such an instrument is still to be fully established as the tittle deeds still need to be physically delivered to the bank. Moreover,

in many states the MODT document requires registration, still some parts of process can be digitized, and NeSL is working towards that.

Operational contracts are also another area where there is huge potential for digitization of contracts. It is already permitted in a few states and NeSL is closely working with other state governments to secure the necessary approvals. The executed contracts would be stored on the NeSL portal and available for access, view and download to authorized users. As this segment is diverse, NeSL can make its infrastructure available to partners who can provide the last mile connectivity to actual users. These partners are identified through a process of due diligence and subjected to various checks and safeguards.

Another area where digitalization can make a difference is the adoption of Electronic Medical Records (EMR). There are two parts to this. Firstly, making this available to the medical professionals themselves at large hospitals so that patient records can be easily accessed, referred and appropriate diagnosis and treatment solutions arrived that. Here some work has been done and the facility is available in some form, especially at large hospital chains. However, it is also important to make reports and treatment plans available to the patients themselves. While many healthcare providers now make this available on their app or website, but the ideal solution would be to have a common portal where record and reports across all hospitals and diagnostic centres can be accessed in a secure manner. The healthcare industry needs to work towards this and NeSL would be happy to examine and provide a solution.

With a responsibility of execution and storage of information including documents, NeSL would like to assure its users about the safety and confidentiality of information. As an information Utility regulated by the provisions of the IBC, NeSL has, as on date, more than 3.37 crore of records amounting to a debt of more than Rupees 200 trillion. Our Regulator, IBBI has therefore provided for the manner in which the information, including documents are to be accepted, the validation to be conducted before acceptance and storage has to be done to ensure accessibility at all times, privacy and confidentiality. IBBI also provides for the shareholding patten, constitution of the Board and manner of appointment of the Managing Director (MD) to ensure that Corporate Governance of the highest standards. Finally, NeSL is promoted by banks, insurances companies and other financial sector entities. Its Governing Board comprises of eminent persons. As it's an IT company, it has a Technology Committee to advise on Technology related matters, with the Chairman of the Technology Committee being on the Board of Directors.

The future looks exciting, India seems well poised to take its well-deserved pole position in the global community, a position it has occupied in the past for many years. However, it can happen only if we have a blueprint and plan towards this with a broad consensus on issues like economic reforms and digitalization, across the political spectrum. It is also presumed that any such plan would have targeted measures towards poverty alleviation and making full use of the demographic dividend in our favour. NeSL is determined to not only participate in this huge opportunity but also play an important role in making this happen, with the benefits flowing to all our stakeholders.

संकल्प सृजन और सिद्धि

Articles

Pokémon Go and Welfare Policy

REETIKA KHERA

I spent January-March this year reading about the rise of the welfare state in other parts of the world, especially in England. An important thread in my reading was around the evolution of a consensus - fragile and difficult though it may have been - across conflicting sections of society e.g., between the Conservatives, Liberals and Labour Party (The Five Giants, Nicholas Timmins).

One factor, among many, was the Second World War (WW2). In the case of England it brought home the fact that when the bombs fell, they would not distinguish between the rich and the poor and that they were all in it together. Another side plot related to the consensus and the WW2, was that on 1 September, 1939 a few days before England declared war, 3.5 million children were billeted to safer places (No Time to Wave Goodbye, Ben Wicks). This meant that poor London kids went to live with posh families in the rural England and so on. Kids who refused to drink milk, because they had seen a cow being milked and thought it was urine. Kids unaccustomed to using toilets would pee on the carpets of posh ladies and so on. The rich encountered the conditions of the poor for the first time, and to some extent, this helped them develop empathy towards their condition. The hostile atmosphere in which the debate on a welfare state in India is conducted is quite striking. The lack of empathy is among the powerful elite is bewildering – e.g., most recently, viewers/ readers accused media of "politicizing the issue" when they reported on the Dalit atrocities. I wondered about this lack of empathy among Indians who have 'made it'. One reason, I feel, is that they are shielded from the brutal realities of the daily life of a large part of the population. We live in our busy bubbles. Media, with TRPs and corporate control breathing angrily down their collars, are not adequately able to perform the role of information sharing. Social media, which can potentially be more democratic, sadly is not in the reach of ordinary folks. Last year, reading "No Place to Hide" by Glenn Greenwald, I was struck by a remark about Edward Snowden. He says that for Snowden (and apparently for others in his generation) video games have played an important role in the development of their moral compass. When Pokémon Go, a 'location-based, augmented reality game' where players are alerted to virtual characters near them, using GPS, hit the headlines I wondered: couldn't the developers send privileged Indians out of their air-conditioned bubbles to explore what the ordinary Indian's life is like. Couldn't the characters be hiding in the bastis rather than the malls of Delhi, forcing players to wait for a DTC bus, and to walk among basti residents as they queue for water supplies. Or

maybe, Ivysaur could be under one of Delhi's flyovers so players can see the variety of people and activities flyovers shelter.

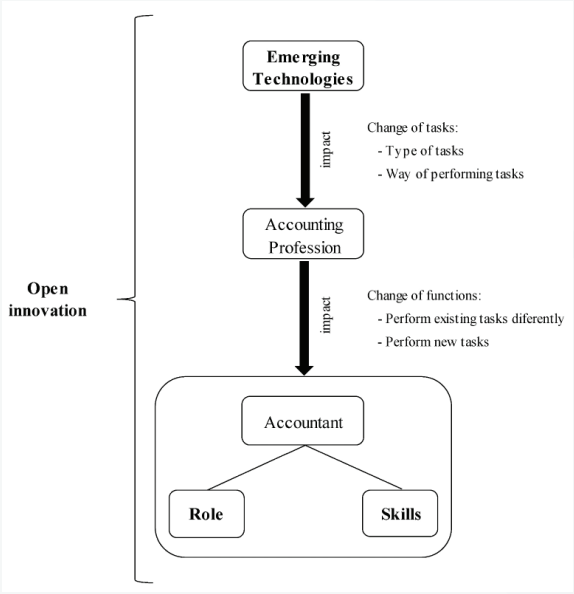
How about a judge (who is hooked to Pokemon) be dragged to a Public Distribution System (PDS) outlet so he can see how his aadhaar-related orders are being violated and see how instead of reducing corruption in the PDS, biometric authentication can open the door to corruption.

Couldn't Charmander appear in the local anganwadi where, say, in Odisha, children are fed eggs and provided some pre-school education.

In Uttar Pradesh, could Zigzagoon hide at the local government school where the player shows up to see a teacher pacing his classroom with a cane in his hand or where a Dalit child is unnecessarily thrashed. What if Pumpkaboo and Gourgeist were to sit in a field levelled by labourers working on NREGA, so that the player may know that 'digging holes' can be productive work in some contexts? Let Butterfree hide at the local PDS outlet in Madhya Pradesh or Chhattisgarh in the week that rations are distributed.

The possibilities are endless!

The experiences listed here are very mixed – sometimes and in some places government interventions work and in other places they might be a disaster. Many members of the online troll armies, feel embittered and cheated as 'tax payers'. As the trolls try to swell their armies in search for Pikachu, they may have a chance to see that in fact sometimes their tax money is put to good use. And who knows - things are wrong, they may be able to engage in more constructive ways? Could Pokémon Go do for us in contemporary India, what the billeting of kids did for England during the Second World War?



Articles

A Promising Route for Offshore Investment - Family Investment Fund in GIFT IFSC

ZEEL JAMBUWALA, URJAVI SHAH, DHAIRYA CHANIYARA- FIF

In the last few months, Gujarat International Finance Tec-City International Financial Services Centre ('GIFT IFSC') has gained significant traction as a popular jurisdiction for making overseas investment by Indian families. As a concept, an International Financial Services Centre (IFSC) is a dedicated territory on Indian soil in a Special Economic Zone which offers state-of-the-art infrastructure, fiscal incentives and regulatory framework comparable to that provided by other offshore jurisdictions for e.g. Dubai International Financial Centre in Dubai, Luxembourg Financial Centre in Luxembourg etc. The concept of IFSC has been introduced in India with a view to bring financial services activities currently being undertaken from offshore jurisdictions to India. GIFT City in Gandhinagar, Gujarat has been approved as India's first IFSC.

The units in IFSC shall be regulated by IFSC Authority ('IFSCA') which was established in April 2020 to exercise powers earlier vested with different regulators such as Reserve Bank of India, Securities and Exchange Board of India, Insurance Regulatory Development Authority of India and Pension Fund Regulatory Development Authority of India.

The concept of Family Investment Fund ('FIF') was introduced under the IFSCA (Fund Management) Regulations, 2019 ('FME Regulations') to promote setting up of family offices in IFSC. As per the said regulations, a FIF means a self-managed fund (in the form of company / Limited Liability Partnership ('LLP') / contributory trust) that pools money only from a "single family" for the purpose of investment. For this purpose, "single family" includes a group of individuals who are the lineal descendants of a common ancestor and includes their spouses and children. Further, entities such as sole proprietorship firm, partnership firm, company, LLP, trust or a body corporate, in which an individual or group of individuals of a single-family exercises control and directly or indirectly holds substantial economic interest (viz. at least 90% economic interest in the form of shareholding in case of company, profit-sharing in case of firm / LLP and beneficial interest in case of trust) are also considered as part of "single family" for making investment in FIF.

Until the erstwhile overseas investment regime, unlisted Indian entities were not permitted to make portfolio investments abroad directly and such investment was only permitted by resident individuals and listed companies subject to applicable thresholds. However, with the introduction of the Foreign Exchange Management (Overseas Investment) Rules, 2022 ('FEMA OI Rules') from 22 August 2022, in addition to resident individuals and listed companies, unlisted Indian entities have also been permitted to invest in units of any investment fund or vehicle set up in IFSC as portfolio investment to the extent of 50% of their net-worth. Pursuant

to this relaxation, Indian families are exploring setting up of Family Investment Funds (FIF) in GIFT IFSC as a means of making portfolio investments abroad.

Overview of Family Investment Fund

FIF in GIFT IFSC is required to be registered with IFSCA as an Authorised Fund Management Entity under the FME Regulations and with SEZ authority. A FIF is required to have a minimum corpus of USD 10 million within a period of 3 years from the date of obtaining certificate of registration. It may borrow funds or engage in leveraging activities as per their risk management policy. As per a recent circular issued by IFSCA, Fund Management Entities ('FMEs') in IFSC are obligated to reporting norms for disclosing information pertaining to portfolio, leverage / borrowing, funds raised etc. on a half yearly basis. It shall also be mandatory for a FIF to designate a principal officer for overall activities of the FIF including but not limited to fund management, risk management and compliance. The principal officer is required to be based out of IFSC and should meet the experience / qualification criteria prescribed in FME Regulations.

Who can invest / set-up a Family Investment Fund in GIFT IFSC?

Resident individuals belonging to a single family (as explained above) are permitted to invest in the FIF up to a maximum amount of USD 250,000 per financial year per individual family member under the Liberalised Remittance Scheme ('LRS'). An Indian entity, whether listed or otherwise, is permitted to invest in the FIF as Overseas Portfolio Investment as per Schedule V of FEMA OI Rules up to a maximum of 50% of its net worth as per its last audited balance sheet. There is no restriction on non-resident individual family members or non-resident entities belonging to a single family investing in the FIF. While there is no express prohibition in the regulations for FIF, similar to the case of an Alternative Investment Fund ('AIF'), it is important to note that FIFs with funds pooled in by residents may be permitted to invest in securities in IFSC or outside India and the FIFs with funds pooled in by non-residents may be permitted to invest in securities in IFSC or in India. Therefore, for all practical purposes, a family with both resident and non-resident family members and / or entities may be required to set up different FIFs if it is desired to invest in Indian securities.

What are the permissible investments in which FIF can invest?

FIF is permitted to invest in a broader range of products which includes financial assets such as shares, derivatives etc., physical assets such as real estate, art etc. and other investments such as interest in LLPs. A detailed list of the permissible investments permitted as per FME Regulations is as follows –

- Securities issued by the unlisted entities;
- Securities listed or to be listed or traded on stock exchanges in IFSC, India or foreign jurisdictions;
- Money market instruments;
- Debt securities;
- Securitised debt instruments, which are either asset backed or mortgage-backed securities;
- Other investment schemes set up in the IFSC, India and foreign jurisdiction;

- Derivatives including commodity derivatives;
- Units of mutual funds and AIFs in India and foreign jurisdiction;
- Investment in LLPs;
- Physical assets such as real estate, bullion, art, etc.; or
- Such other securities or financial product /assets or instruments as specified by the IFSCA.

Taxation and other costs relating to FIF

Entities set-up in GIFT IFSC shall be treated as tax residents in India for the purpose of Income-tax Act, 1961 ('IT Act') and are offered 100% tax holiday for income earned by such entities from the business for which they have been set-up for 10 consecutive years out of 15 years starting from the year of receipt of permission. If it can be demonstrated that the income earned by the FIF is business income, then such tax holiday should be available for the FIF. Upstreaming of profits realised by a FIF incorporated as a company to the shareholders in the form of dividend shall be subject to tax in the hands of the shareholders. However, upstreaming of profits by a FIF incorporated as LLP, partnership firm or trust to its partners, beneficiaries shall not be subject to additional tax in the hands of the partners, beneficiaries, as the case may be. Non-resident shall be subject to tax at 10% on dividend payment by FIF set up as a company in IFSC, subject to treaty benefit, if any.

In addition to this, FIFs set up as a company which have opted for concessional tax regime shall not be subject to minimum alternate tax. FIFs set up as LLPs / partnership firms claiming the benefit of tax holiday shall be subject to a concessional alternate minimum tax of 9%. Further, Goods and Services Tax shall not be levied on services availed from service providers (such as wealth managers, portfolio managers etc.) in IFSC. Transaction costs are also significantly lower while transacting on exchanges set up in IFSC as there is no levy of stamp duty, securities transaction tax and commodities transaction tax.

FIFs shall be mandatorily required to incur the following statutory costs for obtaining registration and running the FIF in IFSC –

- A one-time application fee for setting up of FIF of USD 2,500
- A one-time fee for registration as authorised FME of USD 15,000
- Annual recurring fee post obtaining certificate of registration amounting to USD 2,000

What makes FIF so popular among family offices?

Family Investment Fund is the latest buzzword for family offices in India and with good reason.

Regulatory leverage

The concept of FIF facilitates overseas investment beyond USD 250,000 per financial year as otherwise available in case of direct investment under LRS. Unlisted entities otherwise not permitted to make portfolio investments abroad directly are also permitted to invest in FIF as Overseas Portfolio Investment as per the FEMA OI Rules. Under the FEMA OI Rules, an Indian entity desirous of making Overseas Direct Investment in a financial services entity abroad is required to have a 3-year profitability track record. However, such requirement is done away with for investment in FIF by an Indian entity. Further, there is no requirement of repatriation of

unutilized funds back to India within 180 days as in case of other LRS remittance.

Operational efficiencies

FIFs have the flexibility of deploying funds in a broader range of investment products including unlisted debt securities, derivatives, real estate etc. which are otherwise not permitted under LRS. FIFs could be self-managed or managed by engaging external wealth managers / portfolio managers resulting in greater convenience for the family members to focus on their core competence, if desired. The operational cost of setting up a FIF is relatively lower as compared to setting up of family office in overseas jurisdictions such as Singapore, UAE, Luxembourg etc.

In conclusion, the notion of FIF is an attempt to attract families in India to set-up shop in IFSC instead of popular overseas jurisdictions such as Singapore, UAE, Luxembourg etc. and to prevent capital outflows out of India. The FIF is an extremely effective means of achieving global diversification by investing in securities and physical assets such as real estate, art etc. all over the world by family offices. GIFT IFSC offers unparallel opportunities to families looking to invest overseas in the form of a possible 10 year tax holiday; various regulatory leverage for investments made via GIFT IFSC; reduced cost of setting-up and maintenance as compared to offshore jurisdctions. Further, the evolving ecosystem of prominent wealth managers, investment advisers, funds, banking players along with regulations codified by a single regulator and favourable foreign exchange control regulations / tax implications paints a very promising future of IFSC being one of the key financial services hub globally

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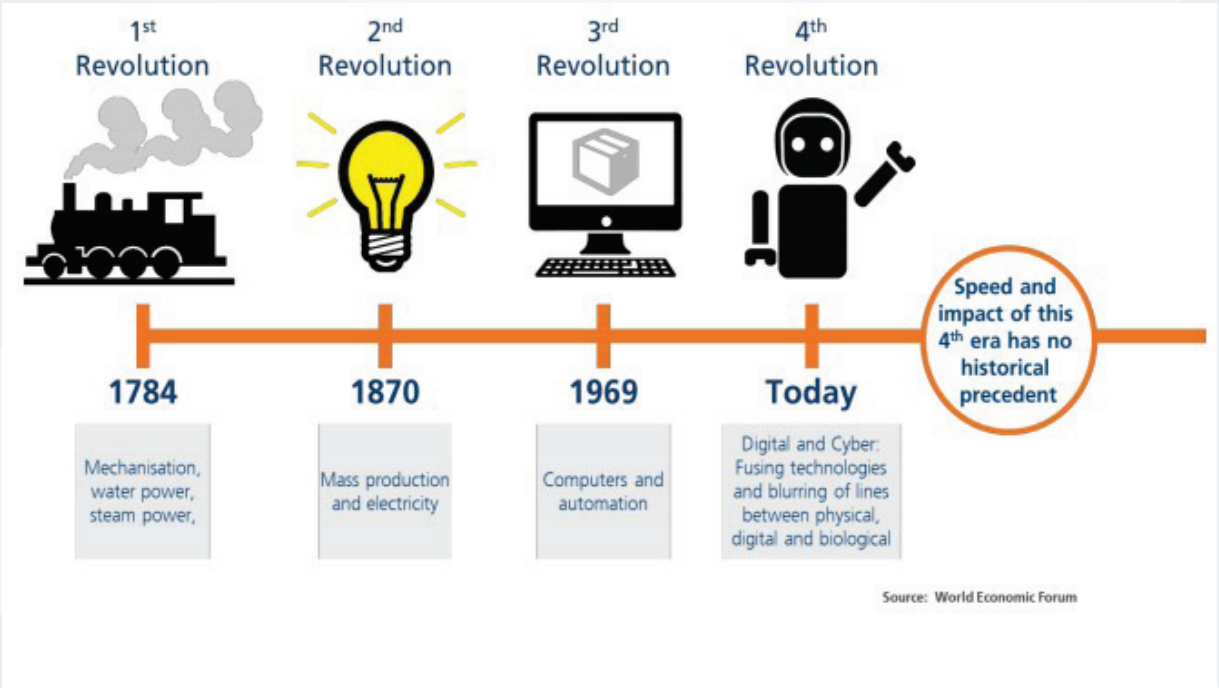


Articles

FUTURE OF AUDIT: THE TRANSFORMATION AGENDA

P R RAMESH
- Chartered Accountant

BACKGROUND:

The audit profession is as old as civilisation itself, but its relevance is being questioned today, perhaps more strongly than ever before. This article is an attempt to identify the root causes for the erosion of confidence in the audit function and actions required to transform this profession particularly in the context of India's growth and the aspiration of the Indian Auditing Profession to be the world leader.

Having been part of the audit profession for over four decades my views may be somewhat biased in favor of the profession though I have tried to be impartial in my assessment of the state of the profession and the actions required to transform the audit function.

Auditing limited companies, made mandatory around a hundred years before, was always a check on the so-called 'principal/agent problem' inherent in the corporate form of business. As Adam Smith once pointed out, "managers of other people's money could not be trusted to be as prudent with it as they were with their own".

After more than seven decades of statutory recognition in India, the auditing profession is in the twilight zone transitioning from one era to another. There is a general feeling of concern, angst and helplessness. Critics of the profession believe there has been a significant delay, while hardcore loyalists passionately believe that its past glory is intact, if not enhanced and spoken glowingly about the profession's contribution to nation building. The loyalists allege that a lot of criticism (including from its members) is biased and incorrect. I personally believe the condition of the audit profession world over and in our country is not as bad as the critics point it, nor is it as sparkling as loyalists profess it to be.

Whatever be the reality, it is time for introspection and taking corrective steps to make the audit function "fit for he future". To determine the appropriate steps, we begin by:

- Understanding the present situation, i.e., the current state
- Analysing the trends, challenges, headwinds and tailwinds, and
- Evaluating and considering the impact of external and internal factors.

CURRENT STATE

Ever since the dawn of the 21st century, the world has been plagued by several corporate failures, from Enron, Worldcom, etc., to the more recent Carillion in UK and Wirecard in Germany. In many of these, there are allegations of governance failures, frauds and audit failures.

Closer home in our country, too, we have witnessed failures and frauds in financial services entities and other companies in the business of technology, steel, jewellery, real estate, construction, etc.

Whilst laying the blame at the feet of the audit profession for what could be business failures and not necessarily audit failures may be inappropriate, it cannot be denied that in some cases, the auditors have failed to detect large craters in the balance sheet and not just holes in the balance sheet. A senior Indian Government official rightly remarked: "we don't expect auditors to find a needle in a haystack, but surely their duty extends to finding the elephant in the room!"

Some concerns arising out of these failures are:

World's most prominent companies with the best systems, reputed auditors, high profile boards collapsing suddenly overnight under the weight of shoddy accounting and auditing with no warning signals.

- Poor corporate governance
- Lack of ethical behavior
- Savings and retirement plans evaporating – in many cases, overnight
- Investors experiencing complete erosion of the value of their investments
- Erosion of credibility of oversight and enforcement actions
- Auditors missing glaring signs

Tim Steer, in his book titled "The Signs Were There" states "....the dives in share prices and the company disasters that resulted in bankruptcy could have been predicted by a little more than a browse through the annual reports if you know where to look.....the warning signs are regularly there in the form of accounting shenanigans or other clear signs that the business is changing direction for the worse, or that excellent results are being reported only because of one-off and non-recurring items. Often these red flags are either not seen or are ignored by investors and other stakeholders.

Tim Steer further states in the context of the failure of Carillion in the UK, "the collapse in January 2018 of Carillion, which had received enormous amounts of public money as one of the UK government's favourite construction and support service companies, is just one in a long line of corporate disasters where even a cursory look at the balance sheet by anyone with a smattering of financial training would have evoked a feeling of dejavu and the realisation that the company was heading for a fall".

In his Review Report on quality and effectiveness of audit, Sir Donald Brydon stated: "The quality and effectiveness of audit has become an increasingly contested issue .....Audit is not broken, but it has lost its way and all the actors in the audit process bear some measure of

responsibility.

Regulators, too, have expressed similar sentiments. These statements correctly reflect the state of the auditing function in India and the rest of the world. What are the causes? What should be done to fix it? What is the future? I will deal with these later in the article, as we must first also consider the trends, challenges, headwinds and tailwinds, if any, impacting the audit function.

TRENDS, CHALLENGES AND HEADWINDS

The future of auditing, if done the way it is presently, is indeed bleak, given the developments in technology and other changes in regulations, headwinds, etc. The audit function was designed in another century. Built to last, as the saying goes. It was not built to withstand rapid, radical change. A twentieth-century system cannot function forever and effectively in the 21st century.

So what is the conclusion? Has our audit function, which I was a part of for over four decades, suddenly decayed or have the audit professionals become cowboys or toxic? The answer is a firm 'NO'. We are transitioning from another era and are undergoing the labor pains of a new birth. It will involve a lot of transformation effort with changes in mindset, skillset and toolset.

No one can predict the future. We are not soothsayers. Of course, one thing is certain and that is "change". We can no longer function as in 1949 or in the way we have been doing so far. Disruption of the audit function is a certainty. It is not about 'whether', but 'when'. Unfortunately, it can happen faster than we can expect or anticipate as it is not just 'change' which is happening but "exponential change".

The Auditing profession is in a remarkable state of flux. In less than two decades, the way in which audit professionals work and what they will do will change radically. We saw auditors adapt during the pandemic, which for the first time demolished many myths. We are already witnessing many challenges, some of which we never imagined would happen after 73 years. Some examples are:

- Disappearance of branch audits
- Remote physical verification
- "Audit from home"
- Same services being provided by other professionals
- Moves to eliminate audits of smaller entities
- Audits of sustainability reports and integrated reporting

Although everyone would be impacted, the unfortunate part is that the changes will impact the audit function earliest.

Even if we cannot predict the future, we need to be able to observe, understand trends, read the tea leaves correctly and smell the coffee brewing. No purpose will be served by criticizing or ignoring or resisting some of the developments. We need to understand the principles which are driving them.

As the saying goes, "We cannot direct the wind, but we can adjust the sails"

Some of the drivers of this change are:

- Technology
- Liberalisation
- Exclusivity
- Convergence
- Corporatisation of professions will briefly explain each of these.

Technology

We are told the average desktop computer will have the same processing power as the human brain which neuroscientists tell us is 1016 calculations per second.

By 2050, according to Ray Kurzweil, the average desktop machine will have more processing power than all of humanity combined.

Technology is growing exponentially in that it more than doubles in power while dropping in price on a regular basis. Moore's Law is a classic example.

The developments in storage, speed of processing, connectivity, IOT, Big Data, Analytics, Robotics, Artificial Intelligence, etc. will undoubtedly disrupt what services are required, how services will be rendered, who will deliver the services, where services will be rendered and how services will be priced. The audit function cannot be immune to the disruption and will need to transform and adapt if it has to remain relevant and effective.

Liberalisation

As our country continues to liberalise and dismantle bottlenecks in doing business, we will witness decreases in attest requirements and more reliance on self-certification. The audit profession cannot seek legislations which are akin to 'employment guarantee programmes'. The profession should earn its existence by creating a compelling need for audit services and delivering quality similar to other businesses or professions that have more number of persons dependant and operate in highly competitive environments where price, value and quality of service are some of the criteria which determines who succeeds.

Exclusivity

Alongside liberalisation we will witness actions to eliminate monopolies and eliminate exclusivity. This will further be facilitated by developments in technology which obviate the need for dependence on external professionals but will also shape environments functioning on sophisticated technologies where the traditional professional trained in a significantly manual environment would become extinct. If audit continues to be a relevant function and is expected to use technology and operate in complex technology environments designed by tech professionals questions would be asked as to why technology companies which designed such systems should not be eligible to audit those systems with the help of "techies" and other professionals proficient in accounting. After all, audit is about verifying data, exercising judgements and drawing conclusions. We may not wish that this happens but audit professionals

who, perhaps, number 150,000+ in a population of 1.4 billion should justify their exclusivity to provide audit services.

Convergence

Increasingly we are witnessing a thirst for bundled services like a departmental store or a shopping centre. We have already discussed the impact of technology on the audit function and if we consider the increasing need for involvement of specialists in forensic, tax, valuations, technology, etc. in rendering audit services will mean that audit service providers will not only have to partner with other service providers but perhaps will have to house those skill sets under their roof. What will then be the identity of the audit firm? What changes are required in the regulations?

Corporatisation of professions

We have seen how audit services cannot be provided without the involvement of other service providers and the rapidly changing identity of an audit firm. Further, the need to invest in technology to render audit services and to house the specialists who will be involved will require huge investments. When I began my career more than four decades ago, the audit partner who attested the financial statements was a well-versed individual who was not only a specialist in audit but in corporate laws, taxation, valuation, etc. and there seldom was a need for involving anybody else. The changes we are witnessing in other professions, for example, the medical profession where the delivery of medical services has shifted from individuals to multi-speciality institutions, and the investment required in building state-of-the-art facilities has resulted in the creation of a corporate form of organisations with the investors/financiers not being exclusively from the medical profession. The audit profession needs to introspect about this and seriously consider allowing financial and other strategic partners in audit firms.

FUTURE OF AUDIT: THE ESSENTIAL BUILDING BLOCKS

Let us come back to what needs to be done. We need to address and change:

- The why and what of audit
- Who does the audit
- How audit is done and, finally
- The output of the audit

We will need to address the perception of audit quality as well as the substance of audit quality

To succeed in this, we must:

- Be willing to accept the present state instead of being in a denial mode.
- Introspect and identify the root causes.
- Identify possible actions with a clearly visualised end.
- Be willing to transform (which is the most difficult of all) and, above all,

- Develop the ability to implement and swiftly embrace change.

would classify my suggestions into seven buckets or silos:

- Purpose
- Structural factors
- Environmental factors
- Execution of audit
- Output factors
- Oversight and evaluation
- Other factors – frequency, timelines, fees, etc.

Purpose

Too long has the audit profession taken shelter behind the words "True and Fair" and the auditing standards which it wrote for itself and about which the users have little knowledge or care about. Any extra "asks" by the users have been rebuffed and rationalized as "Expectation Gap".

If this rationalisation were to continue the 'gap' would widen and the audit profession and its users would be so far apart that audit services would become unnecessary and irrelevant. If the users' expectation is that audit should address fraud, the profession must take appropriate steps to incorporate this in their audit approach. If the users' expectation is that the audit should provide some form of assurance of the continuance of the entity in future, the auditor (who is the expert) should be willing to advance a few steps in this direction to meet the expectation.

Sir Donald Brydon, in his Review Report states: "the purpose of an audit is to help establish and maintain deserved confidence in a company, in its directors and in the information for which they have responsibility to report, including the financial statements".

Our honourable Prime Minister, Shri Narendra Modi, in November 2019, said: "We must challenge the frauds. Both internal and external auditors need to find innovative methods to catch frauds. We need to encourage the core values of auditors for the same".

Clearly, there is a case for revisiting the purpose of the audit. The sooner the profession addresses this, the faster it will prevent further erosion of confidence in the audit function.

Root causes

A survey conducted by IFIAR some time ago identified a number of causes for poor quality. Some of these are:

- Failure to maintain/monitor independence.
- Failure to evaluate non-audit services.
- Deficiencies in auditing accounting estimates, internal control testing, audit sampling, revenue recognition, group audits, etc.
- Inadequate training and learning of audit professionals.
- Audit quality is not considered in performance assessment.

- No timely supervision and review.
- Insufficient depth of Engagement Quality Control Review (EQCR).

Inspections by regulators have frequently pointed out the above as root causes of audit failures.

Besides poor audit quality, there is an allegation that the audit profession has put 'self interest' above 'public interest'.

The Building Blocks

The essential building blocks for the transformation of the Audit function are summarised in the table below:

Due to constraints of space, I will deal with some of the elements in the building blocks.

Structural Factors	Environmental Factors	Execution of Audit
• Profile of the Profession • Audit Market Profile • Choice and Concentration • Size of the Firms • Auditor Appointment • Auditor Compensation • Auditor Independence • Multi-disciplinary firms	• Corporate Financial Reporting Eco-system • Internal Audit System • Independent Directors, Audit Committee, Boards • Proxy Advisors, Credit Rating Agencies • Regulators and Regulations	• Responsibility • Audit Procedures • Tools & Technology used • Evaluation of Audit test Results

Output Factors	Oversight & Evaluation	Other Factors
• Mandatory Communication to Audit Committee • Audit Report • Form • Type • Reporting to Regulator • Enhancements • Management Letter • Group Audit	• EQCR • Evaluation of Auditor's performance by Audit Committee • Inspection of Audit engagements by Regulators • Peer Reviews, Quality Review Board reviews, etc.	• Responsibility • Frequency • Timelines • Transparency

STRUCTURAL FACTORS

Profile of the Profession and Audit Market profile

Every profession should have a profile consistent with the constituency it serves. Our country's rapid expansion since liberalisation has created a situation where the audit market profile is inconsistent with the size of businesses and industries. There are a large number of sole proprietorships and very small firms involved in rendering audit service. With increasing

complexity and investments required in technology and audit tools, these firms will find it exceedingly difficult to render audit service and pass regulators' scrutiny of their work. Size enables strength and resilience. There is an urgent need for consolidation.

Choice and Concentration

Although the concentration in the Indian Audit Market is not as high as it is in many countries in the western world, yet it is not low enough to provide clients with a sufficiently wide choice. A number of suggestions have been made to address this, including auditor rotation, joint audits, etc., but these do not solve the problem. Rotation does not solve the problem, for the audits would continue to be rotated within the select few, And in some cases, the rotation would be a disincentive for an audit firm to invest in specialised resources required for a particular industry.

A joint audit is also proposed as a solution to widening professional opportunities and address concentration. In some banks, there are more than six joint auditors. The reality is that this only fragments the audit market and does not build firms of the size required to address concentration. Also, divided responsibility leads to divided accountability and impairs audit quality. If this argument is extended it means that appointing a hundred auditors for a large business would deliver better quality than a single firm carrying out the audit. Imagine if we were to have a law which mandatorily requires joint surgeries (by more than one surgeon) to enhance the quality of the surgeries and also provide opportunities for all practising surgeons!

Auditor appointment and Auditor independence

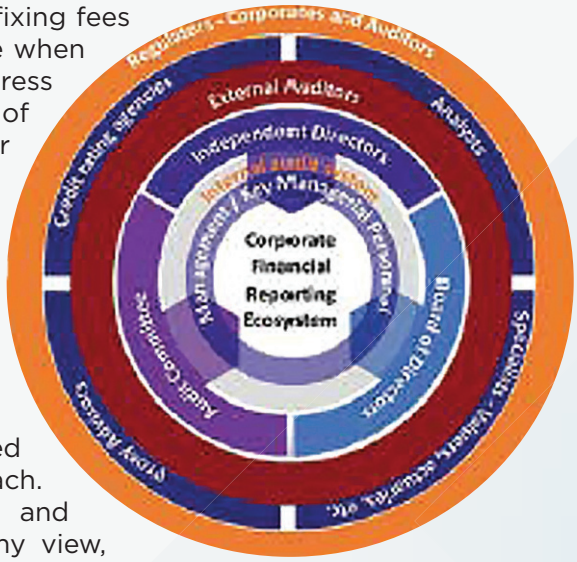
Appointment of auditors by an independent authority is often promoted as the panacea for the audit failures. This is on the mistaken belief that addressing auditor independence will miraculously enhance audit quality as it proceeds on the assumption that auditors are more likely to be compromised if appointed by the company they audit. If true, this is a sad reflection of the members of the audit profession. I do not believe that the manner of appointments have been the cause for audit failures including the recent failures in India and that we should amend the appointment process merely to deal with a few toxic professionals. In reality, besides independence and absence of nexus with the auditee, audit quality depends on a number of factors including size or the firm, quality and experience of audit professionals, ability to deploy the resources required to do a high-quality audit, audit methodology, auditor's toolkit, etc.

There have been other proposals like (1) prohibiting auditors from providing non-attest services to their audit clients and (2) requiring audit firms to separate their non-audit businesses to create an "audit only" firm. While there is some merit in the former proposal as the audit firm has the rest of the market to render non-attest services, creating 'audit only' firms considerably weakens the audit firm and impairs delivery of quality audits.

Auditor's compensation

If audits are to be carried out effectively by deploying experienced professionals using state-of-the-art tools and involving specialists then auditors have to be well compensated. Audit fees are presently very low in our country and this is further split into fragments by dividing amongst several joint auditors. Fixing of the audit fees by a regulator is not the solution. Entities vary by size, complexity, geographical spread, level of technology, nature of businesses, etc. and fees cannot be fixed or vary with reference to the results or any component of the financial statements.

Equally, the audit profession must recognize that fixing fees on an 'hourly rate' model is flawed in a digital age when millions of transactions can be analysed by a mere press of a button using digital tools. Increasingly buyers of audit services will look for 'value delivered' rather than pay for the cost of input. Too often we have witnessed auditors seeking fee increases based on cost increases without delivering 'incremental value' or making efforts to reduce their input costs by using technology. Unfortunately, audit is not considered a 'premium' service and the enthusiasm to pay high fees is limited.



Multi-disciplinary firms

Audit in today's complex and technology dominated environment requires a multi-disciplinary approach. This would be more efficient if the resources and capabilities are under one roof. The future, in my view, is multi-disciplinary firms and the profession should allow unlimited sharing of resources with non CAs even if it means that the CA firm is dominated or led by a non-CA. The bogey of difficulty in taking action when audit failures happen is often cited as an argument against multi-disciplinary firms whereas regulations can be shaped to take action against erring firms or erring professionals, whatever be their profession.

ENVIRONMENTAL FACTORS

Corporate Financial Reporting and Audit Ecosystem

The audit function cannot alone deliver quality audit. It is influenced and facilitated by the entire Corporate Financial Reporting System. The Financial Reporting and Audit Ecosystem comprise of many participants, each having a very distinct role in ensuring the veracity of financial information and ultimately the efficient functioning of the capital markets. These participants (see graphic below) include:

1. Preparers of financial information – Management, including key managerial personnel
2. Internal monitoring mechanism – internal auditors
3. Corporate governance – audit committee, independent directors, board of directors
4. External auditors
5. Other stakeholders – credit rating agencies, analysts, proxy advisors, specialists such as valuers and actuaries
6. Regulators
7. And last but not least, the users of financial reports – shareholders, lenders, other stakeholders, potential investors, etc.

Any deficiencies in the role played by any one or more of these participants could lead to sub-optimal functioning of the entire ecosystem.

In addition to the components and participants in the financial reporting ecosystem, there are also influences on the financial reporting ecosystem, which have an effect, both positive and negative, as they drive the behaviour of the participants. These, too, need to be reviewed and, if necessary, re-calibrated to produce the desired effect. Some of these are:

- Provisions of various laws which deal with the roles, responsibilities and accountability of the participants in the ecosystem.
- Penalty and prosecution provisions in the various laws.
- Role and process of investigative agencies.
- Multiplicity and overlapping investigative/regulatory agencies.
- Whistleblower mechanisms.
- Standards – accounting standards, auditing standards, secretarial standards, internal audit standards, etc.

Internal Audit System

The internal audit function plays an important role in assisting the board in providing assurance on the effectiveness and efficiency of the risk management, internal control and governance process in the company. It also plays a complementary role in facilitating external audit quality.

In order to improve the internal audit function:

- Internal audit should be subject to regulation and oversight just as the statutory audit.
- Minimum qualifications for the internal auditor should be prescribed, including membership of a professional body or the Institute of Internal Auditors.
- Internal auditors, too, should be accountable for their work.
- Education and training needs of internal auditors should be addressed, including continuing professional education requirements, as well as focus on skills of the future.

Other environmental factors

Some of the other suggestions to improve the reporting environment and supporting the audit function are discussed below:

CEOs and CFOs play a very critical role in financial reporting. Not only are they signatories to the financial system, but also acknowledge and confirm their responsibility for the financial statements being free of fraud and error. They are, in effect, the architects of all business transactions and reporting. Currently, there are term limits and rotation requirements for external auditors and Independent Directors but no term limits for internal auditors, CEOs and CFOs. We must critically examine if term limits and reappointment rules should be extended to these individuals too.

MCA, SEBI or NFRA should set up a data science department that will focus its efforts on the review of the financial statements and filings to detect reporting, disclosure and audit failures. The principal goal of the department should be the detection and prosecution of violations involving false or misleading financial statements and disclosures. The department should also focus on identifying and exploring areas susceptible to fraudulent financial reporting and should include the ongoing review of financial information and the use of data analytics.

A practical public document should be brought out detailing the various deficiencies, frauds, and misstatements noticed by ROC, SFIO, NFRA, etc. This would help corporates, auditors, regulators and other users.

EXECUTION OF AUDIT

Let me first begin with 'who' does the audit as audit quality is also influenced by who performs the audit. I believe the current model is flawed.

Audit procedures are significantly carried out by trainees or fresh graduates. To expect them to discover frauds or interpret visible signals of misreporting or failure is similar to a medical student carrying out a surgery and the busy eminent surgeon coming in at the end when the sutures are to be done. Our experienced and qualified auditors spend disproportionately less time compared to that of trainees either because they are too busy or that spending more hours increases the cost of audit and erodes audit profitability. A first step towards correcting this is to ensure that articleship with specific focus on specialisation should begin only after passing the CA exam.

Having briefly dealt with who does the audit, I will touch upon the "how" of audit.

The audit has, over the years, moved away from a "thinking audit" to an "inking audit". The focus has shifted to documenting the processes rather than effectively carrying out the processes.

Auditors seem to have lost their sense of smell. The focus on testing and reliance on internal controls through walk-throughs, etc., has diluted the effectiveness of audit. There is more emphasis on the correctness of the accounting and the disclosures rather than the propriety and genuineness of the transactions. With this and the sampling methods where a speck of the entire population is tested to form conclusions, the auditors seem to be losing their sight or vision too. Sampling methods, howsoever scientific, dilute audit quality. With the use of technology, it is today possible to scan the entire population, focus on outliers, identify questionable patterns, etc. It is time the auditing standard on "Sampling" is revised. It is also time the audit profession uses technology extensively. Additionally, disclosure in the audit report of the sampling methodology used may be considered.

Sir Donald Brydon, in his Review Report, recommended that auditors be required to undergo initial and ongoing periodic training in forensic accounting and fraud awareness. In my view, every audit team should include a forensic specialist.

Yet another issue is the focus of audit. Auditors today are rarely able to walk into a client's office with an expectation of what they should be seeing. Instead, audit today is about verifying what is presented rather than confirming expectations. I am reminded about the Sherlock Holmes story about "the dog that did not bark". The analytical review procedures carried out by auditors generally analyse the information presented to them. That too, the focus is on analysing variances beyond certain predetermined thresholds and documenting the reasons. The absence of changes in expenses or income when there should be a change is happily ignored. A case of not probing why "the dog did not bark"!

OUTPUT FACTORS

The Auditor's Report

IRead with interest the dipstick survey carried out by BCAJ in May 2021, seeking views on the

format, size, utility, components and other contents of the Statutory Auditors' Report. I was alarmed and disappointed when 83.6% of auditors responded 'Yes' to the question – "In your opinion, will additional reporting requirements prescribed in CARO 2020 be onerous and will increase responsibilities for the auditors (evergreening of loans, going concern, reporting on defaults, etc.)?" Are we so concerned about the increase in responsibilities? Isn't this what is expected of an auditor? Should we not focus on these matters in our audit and report our findings for the benefit of users, including regulators? It would appear that getting an auditor to do more work to bridge the 'expectation gap' is more difficult than getting a tooth extracted by a dentist!

Another shocking response to the survey is by 59% of auditors having > 5 years' experience who responded "Somewhat, but needs improvement" to the question "Do you believe there is adequate, emphatic and clear guidance covering situations for auditors on preparing/issuing Audit Report? This response should have woken up the professional body and resulted in swift corrective action.

I, personally believe, "sunshine is the best disinfectant". Over the years, I have witnessed the profession resisting any changes to the bland, template-driven audit report. This is strange as the only visible output of the audit to the users is the audit report and if anything can influence the perception of audit quality, it is the audit report. Most audit reports are similar, if not identical, barring minor differences due to the recent inclusion of Key Audit Matters. Does this mean audit quality in all cases is uniform? It is time we brought out into the open the information on what and how the auditor has performed the audit, when the audit commenced, when it ended, the number of hours spent by each category of audit personnel, the number of qualified professionals involved in the audit, the time spent by the audit partner, the use of audit tools, the sampling methodology and the number of items tested, independent external confirmations obtained and the results thereof, experts consulted, errors the auditors found, materiality, etc. rather than the bland statements that the audit has been done in accordance with the auditing standards (written by the auditors themselves only known to and understood by only them)!

Audit reports contain lengthy statements pointing out the roles and responsibilities of management and boards, limitations of the audit and clearly describing the auditor's responsibility. Has these deterred regulators and investigative agencies? Have auditors been absolved of the blame? Users of audit reports see these cautionary statements with the same disdain as smokers see the statutory warnings in cigarette packs which state "cigarette smoking is injurious to health"!

CONCLUSION

The future of "audit" is bleak, and there are dark clouds on the horizon. I have great respect for the audit profession and sympathy for they are being attacked from all sides – intense competition, unremunerative prices for their services, inability to attract talent to the audit function, demanding clients and society, disruptions due to technology, intense regulatory scrutiny, pursued by multiple investigative agencies for the same work, etc. I am confident that this, too, shall pass but that depends on how the profession addresses some of the matters

highlighted in this Article.

The need for a thorough overhaul and transformation is urgent. The issues need to be brought out into the open, for discussion and debate and should not be only within the walls of the Council Hall of ICAI. Wisdom also resides outside the hallowed Council Hall! We cannot forever continue to be in denial mode and hope the present glory (or distrust) would continue. Regulators like NFRA, RBI, SEBI, IRDA, etc. provide a useful role and show us the mirror. We may not like the reflection but let us not throw stones at the mirror. Instead, let us address the image reflected. I have just written a few thoughts in view of space limitations. I have many more thoughts, which are for another time.

We must not attempt any quick fixes or band-aids,

or address the issues on piecemeal basis. Code of Ethics, AQMM, UDIN, etc. are some examples of positive actions which are piecemeal and do not move the needle. Such fixes are like changing the dress on a mannequin and hoping it transforms into a live human being!

The future of audit is in our hands only, and I am confident the Audit Profession will reshape itself to be one of the premier professions in our country's journey to be the third largest economy. We can hardly claim to the partners in nation-building without rebuilding the Audit Profession. Perhaps, what we need is a Review similar to one by Sir Donald Brydon in UK. Let me list some of the questions for debate:

Need for economies of scale – the importance of consolidation of SMPs.

- Declining interest in an accounting career and its effect on the future of auditing.
- Trend of questioning authority by the lay public. Experts are no longer thought to be beyond criticism or scrutiny.
- The rise of NFRA and the end of disciplining by peers –some of NFRA's orders indicate that the auditors did not know the accounting or auditing standards.
- The days of government-mandated work are over –need to justify the value of work.
- Recent developments in law enforcement e.g., tax fraud, shell companies and rising demands on accountants and auditors.
- How should education change – curriculum, selection of students, exams, training, lifelong learning.
- Audit reports in a language that a reasonably intelligent and earnest user can understand.
- What kind of competition would the audit face?

It is said that people change, not when they see light, but when they feel the heat. I am hopeful my fellow professionals effect the changes swiftly without measuring the transformation action on the 'popularity' scale.

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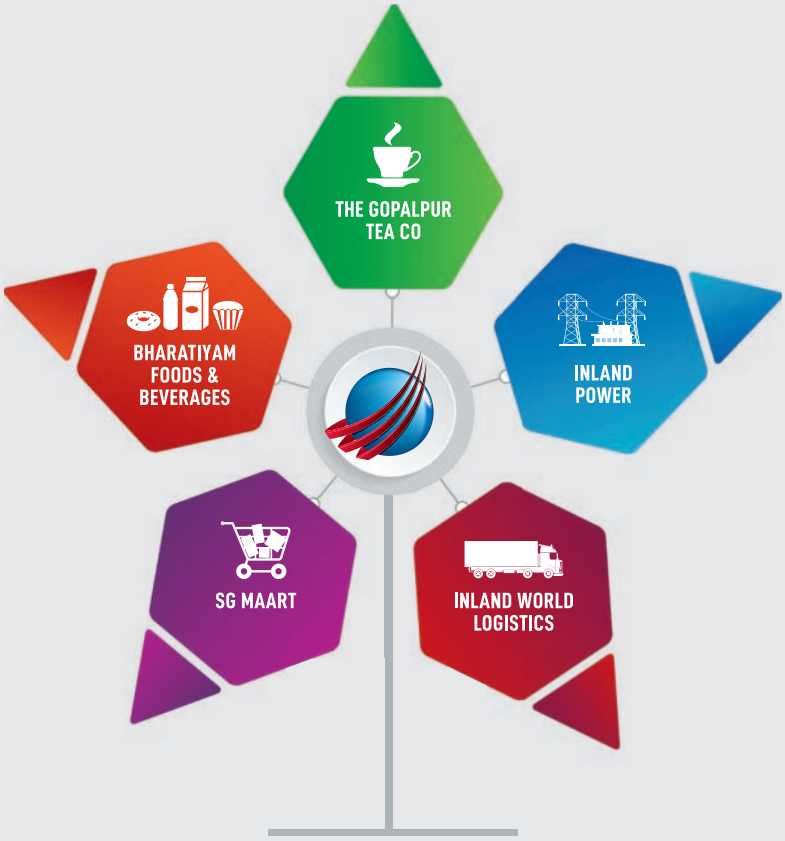

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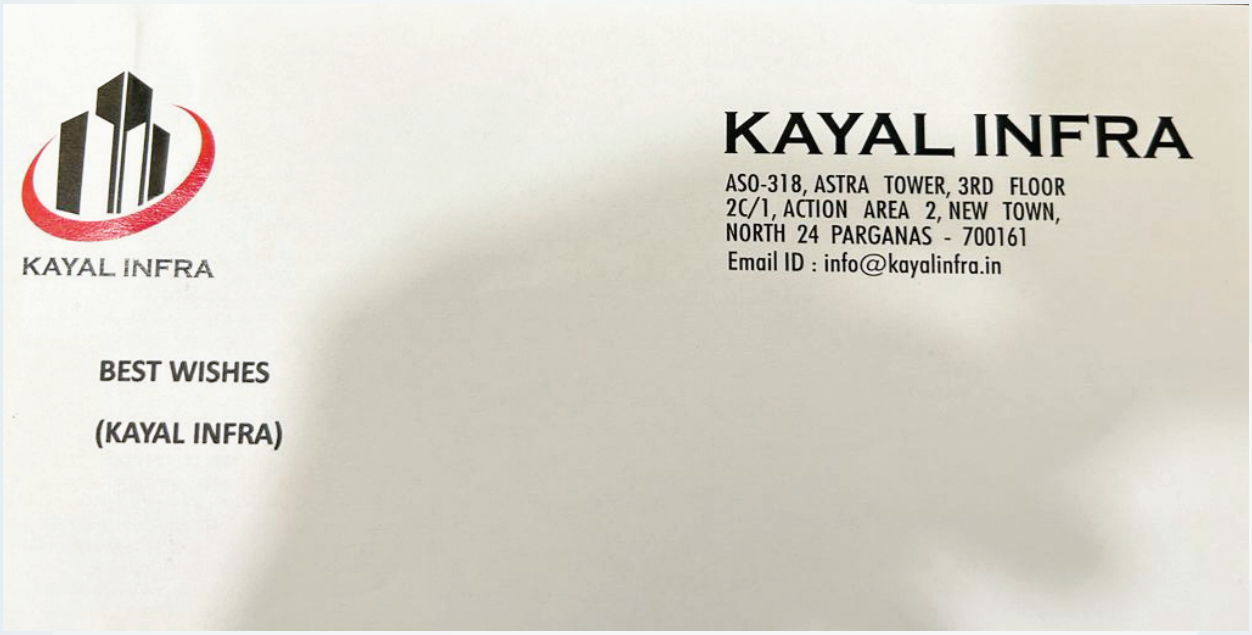

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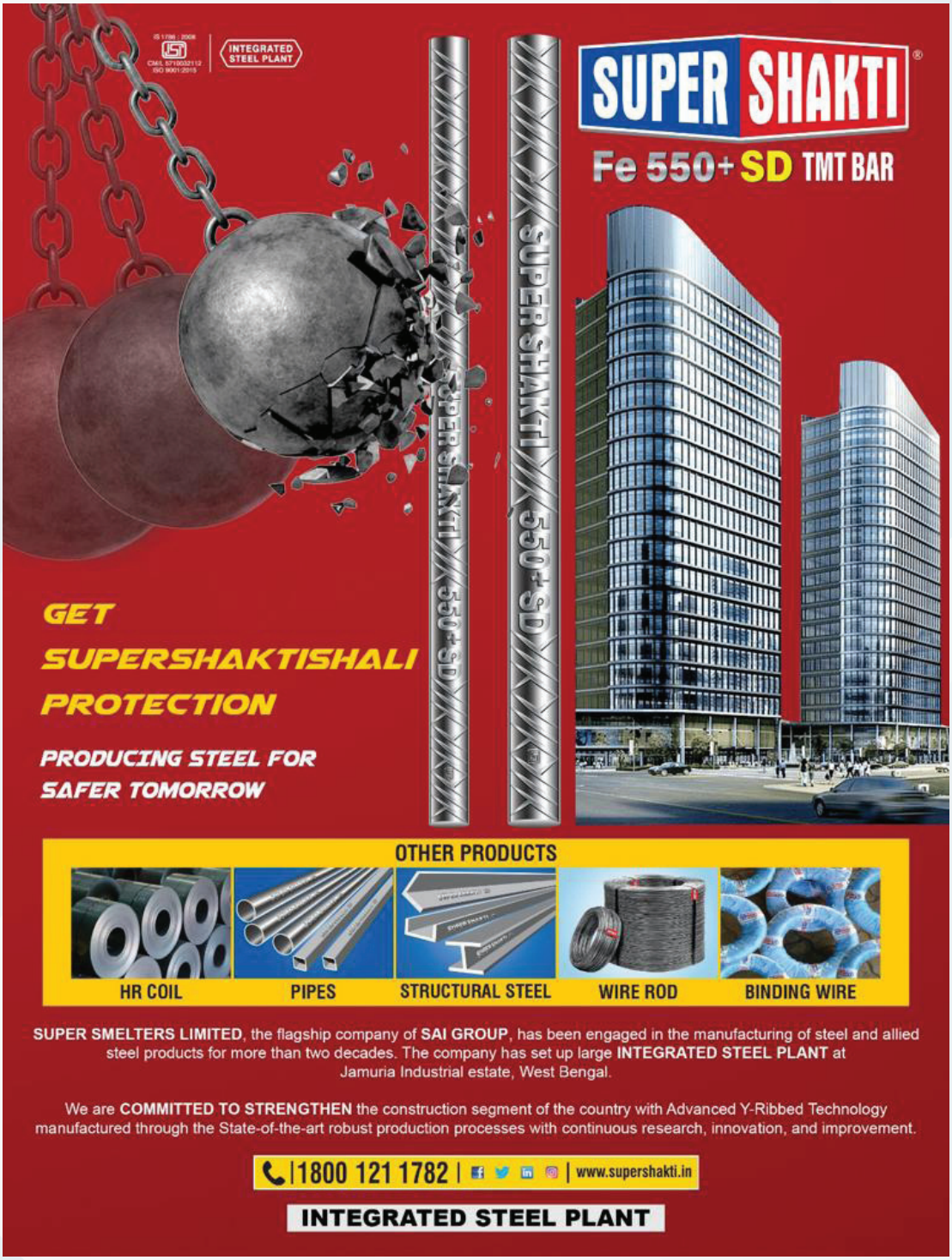
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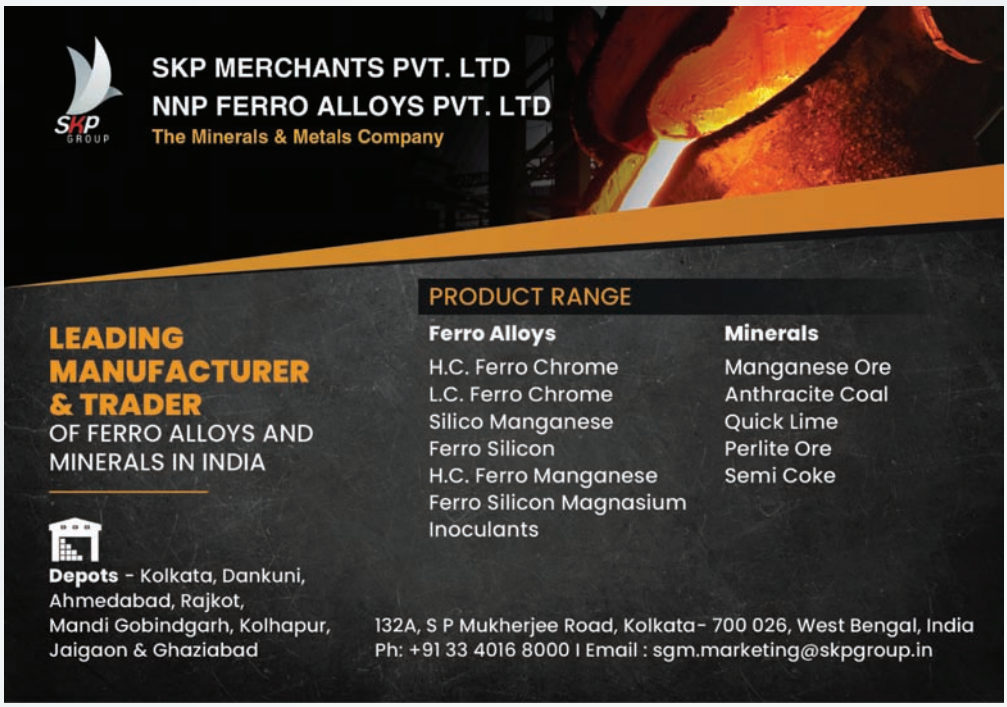

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Bengal Energy Limited (BEL) was incorporated in 2007. It has put up a state of art Low Ash Metallurgical coke plant with 0.6 million capacity in Kharagpur- West Mednipur along with all infrastructures facility including private railway siding. The commercial production of the plant started in 2010 and achieved to utilize 95% of its capacity.

Bengal Energy Limited is constantly progressing under the leadership of Mr. Om Prakash Jalan, Chairman & Managing Director. BEL's improvement in overall performance is reflected in its increase in turnover year after year. In Financial Year 2021 -2022 the turnover was Rs. 2459 Crore as against the turnover of Rs. 934 Crore in Financial Year 2010-2011 i.e 163% increase during a short span of time.

After managing the coke operation successfully over a decade, BEL is entering into Iron & Steel making sector under the leadership of Mr. Om Prakash Jalan. Our steel plant facilities will be implemented in three phases. First phase will include Pig Iron along with the Sinter making facility and Pallett Plant and also Ferro Alloys Plant. The installation of DRI Plant is planned for second phase and rolling mill facility will be installed during final phase. The commercial production of the first phase will start from the Financial Year 2023-2024.

The customer list of BEL's current coke business contains all big corporate in Iron & Steel Sector in Eastern part of India, to name the few such as Tata Steel Limited, Tata Metaliks Limited, SAIL, KIC Metaliks Limited, Jindal Steel and Power Limited and we are receiving recognitions for persistency in quantity and quality supply of coke as well.

Our product is not only established in the domestic market, we have received humongous response for our product in the international market as well. With our dedicated team effort, we have been catering to Steel Plant's fuel requirements in countries such as Japan, Brazil, Australia, Indonesia, Vietnam, Philippines, amongst others. Our overseas Buyer's, amongst others include Nippon Steel Corporation Japan , CSN Brazil.

Bengal Energy Limited considers all its employees, people living around the plant and all other associates as larger family. It is vividly taking necessary steps on social welfare measures, safety, health and education thereby also improving the livelihood of the people associated with us.

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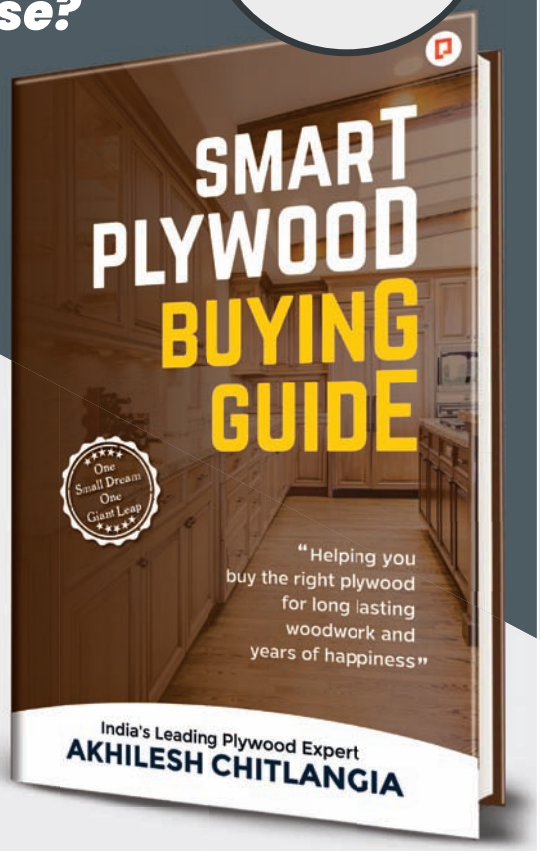

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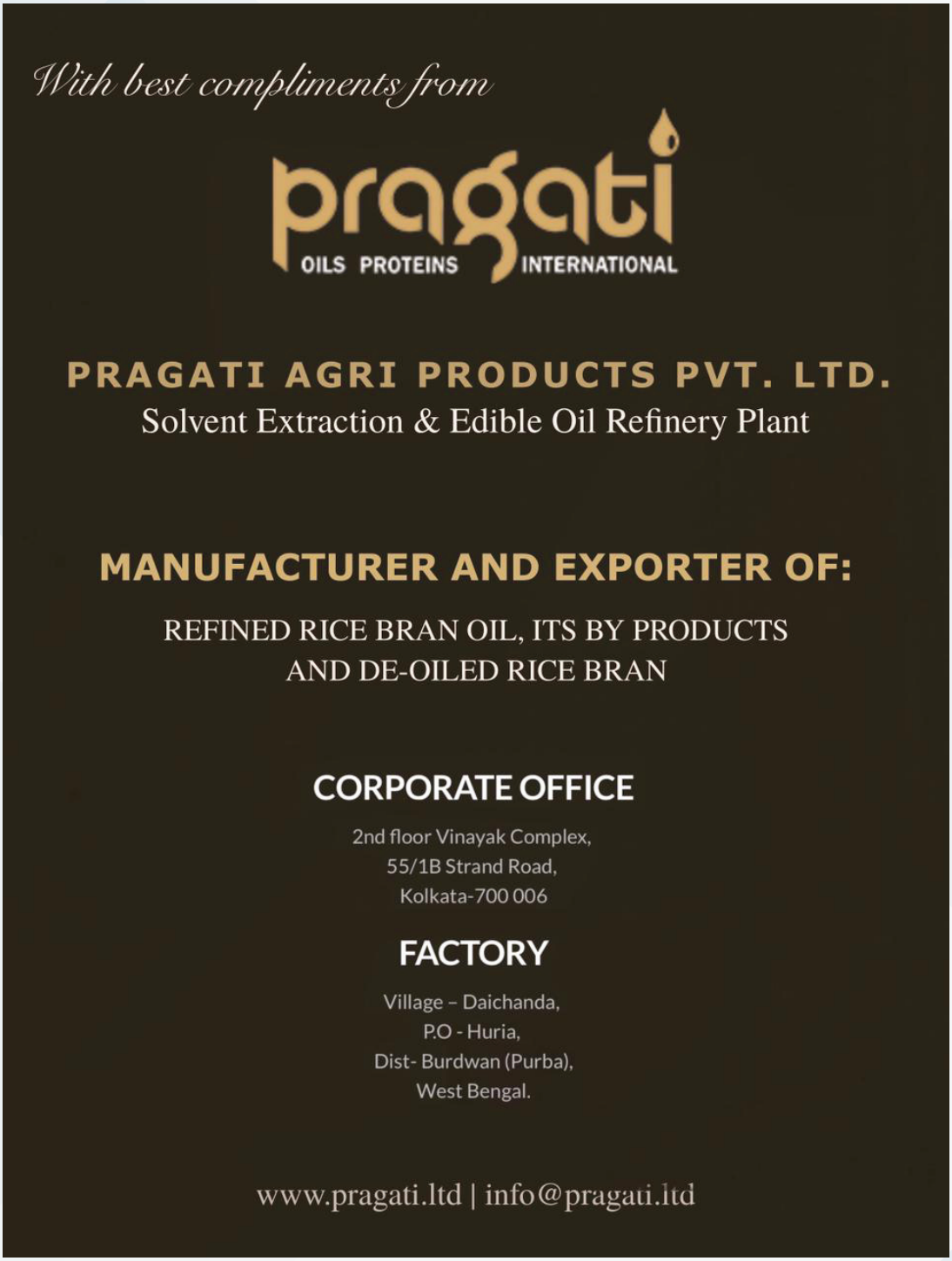
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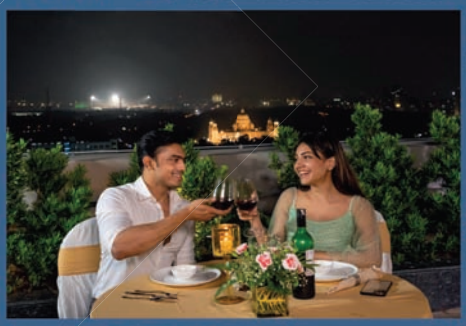

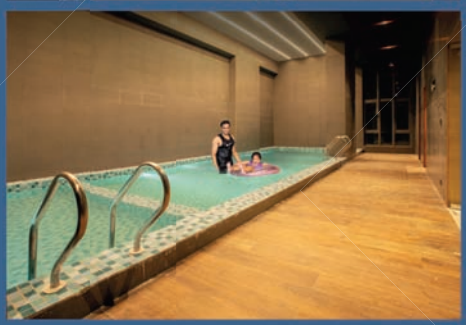

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