



# House Journal ACAIE

ASSOCIATION OF CORPORATE ADVISERS & EXECUTIVES



## Highlights

**5** How To Face Departmental Audit under GST – Legal Framework, Preparation & Approach  
— CA Mannu Kashliwal

**10** BRSR – structure and the role of Chartered Accountants  
— CA Kamal Garg

**27** Reassessment conundrum continues – After math in the light of recent decisions  
— CA Ramesh Patodia

**31** Corporate Finance using Blockchain Technology  
— CS Shreya Jain

**37** Code of Ethics, its Analysis & Overview of New Clauses  
— CA Nitika Bagaria



## CONTENTS

**3** Editorial

**4** President Speaks

**5** How To Face Departmental Audit under GST – Legal Framework, Preparation & Approach  
— CA Mannu Kashliwal

**10** BRSR – structure and the role of Chartered Accountants  
— CA Kamal Garg

**17** Important changes in GST w.e.f. Jan 01, 2022  
— CA Tarun Kr. Gupta

**20** Registration of Works contractor – the unsolved conundrum  
— Adv. Gaurav Gupta

**23** Section 129 of CGST Act, 2017 w.e.f. 01.01.2022 - Deciphered  
— Adv Ankit Kanodia, CA Akanksha Kedia & Jaya Shaw

**27** Reassessment conundrum continues – After math in the light of recent decisions  
— CA Ramesh Patodia

**31** Corporate Finance using Blockchain Technology  
— CS Shreya Jain

**33** The Law shall not Expect Performance of the Impossible  
— CA Sakshi Jhajharia

**35** Corporate Social Responsibility  
— CA Charmi Shah

**37** Code of Ethics, its Analysis & Overview of New Clauses  
— CA Nitika Bagaria

**41** Recent Updates in Direct Tax – Important Circulars, Notifications & Judicial Pronouncements  
— CA Ramesh Kumar Patodia & Mr. Nishant Kumar Sha

**45** Compliance Calendar and HC Judgement  
— CA Swapnil Jain

**47** How to Keep Your New Year's Resolution  
— Neha Jain

**48** Activities at a Glance

**49** Application Form for Membership

**51** ACAE Album

*Disclaimer – Views expressed in the article of this Journal are contributor's personal views and ACAE and its Editorial Board do not accept any responsibility in this regard. Although every effort has been made to avoid any error or omission in the Journal, ACAE and its Editorial Board shall not be responsible for any kind of loss or damage caused to any one on account of any error or omission which might have occurred.*

# Editorial



Dear Members,

Heartfelt Greetings to all!

“Try not to become a man of success but rather become a man of value”  
– Albert Einstein.

On this note I would like to extend my good wishes for the New Year to all the members and their loved ones.

I am filled with utter gratitude and it gives me immense pleasure to share the 2nd issue of ACAE house Journal.

As we start the New Year, let's get down on our knees to thank God we're on our feet. With a fond farewell to the old; let us welcome health, prosperity and happiness henceforth. May the brave leaders of our glorious nation, who have contributed towards the freedom struggle, inspire us to contribute in the nation building. On this note I would like to wish all of you a very Happy Republic Day.

Moving on, I would like to thank my fellow members and professionals for their contributions and fresh perspective on the subject matter of Corporate Law, Income Tax, GST, IBC and many more.

A New Year, a fresh start and infinite possibilities and opportunities to explore. Let us all make the best of it for the last year's words belong to the last year's language, and the next waits for another voice. Learning and growing should be our priority, we should reinvent and always stay in motion and success will come through.

I humbly seek your valuable comments and suggestions which will help and guide us for further improvement of the House Journal.

With Best regards

**CA ANUP KUMAR BANKA**  
*Chairman, House Journal Sub-Committee*  
akbanka.kol@gmail.com

## EDITORIAL BOARD

### Co-Chairmen



CA Shivani Shah



CA Hemand Kr. Lakhotia



CA Piyank Singhi



CS Anuj Saraswat



Adv. Ankit Kanodia



CA Vikash Kr. Banka



CA Swapnil Jain

### President



CA Vivek Agarwal

### Secretary



CA Sumit Binani



# President Speaks



Dear ACAE Family,

I wish you all a **VERY HAPPY AND PROSPEROUS NEW YEAR.**

Let us welcome 2022 with a motive of reengineering the process of our work so that we change ourselves with time as **Change is the only Constant.** We have learnt same as professionals and in last two year as we all have passed through turbulent times and learnt new ways to succeed.

At this juncture, when we have entered the third wave of pandemic, we hope that you and your family is safe. It is important for all of us to lead a fearless life and face the situation with determination and with adequate COVID protocols to overcome the same. We should face the fear with confidence since it is nothing but with belief that we shall make it through.

With the passing of each year in one's life, a person should work on evolving and making sure that we are not doing an assigned job in the same way as we used to do year before. We have the capabilities to evolve continuously. We can achieve this when we identify and involve ourselves in the activity which provides inner motivation to excel. This gives a sense of satisfaction. Once you are carrying on an activity with happiness and with deep belief in your ability to excel, it will lead to success.

We should remember that driving is not done by seeing the rear mirror, so we should look forward to this year and make it the best year of our life.

ACAIE has organised several VCM on Sec 148 and 148A in Direct Tax, Companies Act 2013 – 360 Degree, Code of Ethics and MS Excel, and several VCM on GST. These virtual events were conducted by eminent speakers across India with very good acknowledgement from members.

ACAIE has jointly organised India Gearing up for Cross Border Insolvency, Balancing Professionalism and Spiritualism and CA Big Bash 2021, we are happy to inform that ACAIE has won the CA Big Bash 2021.

ACAIE is regularly organizing its well conceptualized event of "Group Discussion" every week on a fixed date & time to promote knowledge and interactive skills amongst its members more particularly younger ones.

My sincere thanks go to the Editorial Board under the Chairmanship of **CA Anup Kumar Banka** for the Second House Journal of ACAIE during the year 2021-22 under my tenure as President.

All the members of Editorial Board deserve accolades and I thank them for their sincerity and dedication in bringing out this journal before you in such a short span of time.

**Let us all welcome 2022, by aiming to make this year as the best year of our life.**

Stay Safe and Healthy

With Warm Regards

**CA Vivek Agarwal**  
*President*



**CA Mannu Kashliwal**  
FCA  
mannu@hiregnage.com

# How To Face Departmental Audit under GST - Legal Framework, Preparation & Approach

## Introduction

The journey with GST that started in July 2017 has been like a roller coaster ride for all the stakeholders. GST was undoubtedly the biggest indirect tax reform in India on paper. The vision was of transformation of the mindset, best international principles, simplified, easy to comply law with least amount of intervention. It should have given an additional push to the trade & industry. However, the hurried implementation, poor drafting, 1000s of changes by way of notifications/ circulars, untested technology, no change management of worth have whittled down its advantages significantly.

Just when one thought that things were settling in after 4 difficult years, taxpayers have to now gear up for departmental audit and assessments. Due to Covid pandemic, the assessment were delayed however this delay has given them much due time for preparation and training and therefore they appear to come out stronger and better prepared than before. Considering that this is the first year when departmental audits are being conducted under GST, the periods covered are mostly FY 2017-18 and FY 2018-19.

The broad framework of departmental audit is provided in Section 65 of CGST Act, 2017 read with Rule 101 of CGST Rules, 2017. Further, CBIC has released GST Audit Manual 2019 and Manual for Quality Assurance Review & Audit Performance Index 2021 issued by the CBIC. Also, Trade Circular No. 13T of 2020 – General Procedure for GST Audit issued by the Commissioner of State Tax, Maharashtra has provided a detailed procedure and scope of

audit along with an indicative checklist of information required, and rights and duties of the dealer. Similarly, Karnataka GST authority vide Circular No. GST-14/2020-21 has laid down importance of IT tools in the course of audit.

The issuance of such guidelines indicate that tax authorities are gearing up for the audit and thus it is essential that tax payers too proactively start preparing for the same. The author has made an attempt in order to make readers understand the concept of department audit under GST along with best practices to handle the same.

## Relevant legal Provisions in the GST Act

The term has been derived from the Latin term '*interpretari*', which means

- Section 2(13) – Meaning of the term 'Audit';
- Section 2(85) – Meaning of the term 'Place of Business';
- Section 65 – Audit by Tax Authorities;
- Rule 101 – Departmental Audit;
- Section 71 – Access to the business premises of the taxpayer;
- Sec 35 read with Rule 56 – Maintenance of Accounts, Records & Documents.

## Audit by tax authorities

As per Section 2(13) of CGST Act, 2017. Audit means the examination of records, returns and other documents maintained or furnished by the registered person under this Act or the rules made thereunder or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to

assess his compliance with the provisions of this Act or the rules made thereunder.

As per Section 65(1) of the CGST Act, 2017, the Commissioner or any officer authorized by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed. The **period of audit** to be conducted under Sub-section (1) of Section 65 i.e., it shall be a financial year or multiplies thereof as per Rule 10(1) of CGST Act, 2017.

As per the definition under Section 2(13) of CGST Act, audit is conducted to ensure compliance with laws and regulations and **to help maintain accurate and timely financial reporting and data collection.**

**The audit by the department is conducted in following manner:**

1. The **Commissioner or any officer authorised by him**, by way of a **general** or a **specific order**, may undertake audit of **any registered person for such period**, at such frequency and in such manner as may be prescribed.
2. The officers referred to in sub-section (1) may conduct audit at the **place of business** of the registered person or in their **office**;
3. If letter sent by department for conducting audit is not replied, following actions may be taken:
  - Note sent to executive Commissionerate for taking appropriate action;
  - Inclusion in the Risk Parameters for future - To be identified for audit on priority;
  - Downgrading of the GST compliance ratings.
4. The audit shall be completed within a period of **three months** from the date of commencement of the audit.
5. If the commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, for the reasons to be recorded in writing, extend the period by a further period not exceeding six months.
6. Commencement of audit shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the place of business, (whichever is later).
7. During the course of audit, the authorized officer may require the registered person, —
  - To afford him the necessary facility to verify the books of account or other documents as he may require;

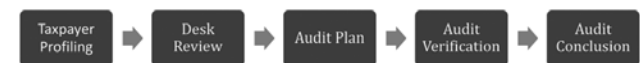
- To furnish such information as he may require and render assistance for timely completion of the audit.

8. On conclusion of audit, the proper officer shall, **within thirty days**, inform the registered person about findings, rights and obligations and the reasons for such findings in Form ADT 02. – **[Proper officer is AC/ DC].**
9. Where the audit results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilized, the proper officer may initiate action under section 73 or section 74 - **[Superintendent for Sec. 73 and Assistant Comm./ Deputy Comm. for Sec.74].**

### **Areas which the department may check**

- Nature of business and the revenue streams
- Books of accounts, records & Audited Financial statements (entity level and GSTIN level)
- Annual return (FORM GSTR-9)
- Reconciliation Statement (FORM GSTR-9C)

### **Methodology of GST Audit**



### **Steps involved in the GST Audit**

- 1) Auditee to be selected based on Risk Parameters
- 2) Auditee to be issued ADT 01 in 15 days prior to commencement of the audit.
- 3) Audit to commence at the premises of taxpayer or dept
- 4) Taxpayer to submit reply to the department
- 5) Department sends intimation in Form ADT-01A
- 6) Taxpayer submits the information sought
- 7) Department updates and sends its findings in Form ADT-01B
- 8) Audit concludes and ADT 02 is issued within 30 days
- 9) Notice u/s 73 or 74 is issued for recovery, if any.

### **Selection Criteria**

- Audit is sample selection driven, Criteria for selection to be as under:
  - ✓ Risk Based Selection v/s earlier turnover/ taxes paid basis selection
  - ✓ Theme Based Selection
  - ✓ Deferment for Accredited Taxpayers – 3 years from the date of last audit



- ✓ 20% cases to be identified based on the local risk parameters as under:
- ✓ Taxpayer did not provide/delayed in providing documents sought by the Audit Team;
- ✓ Inconsistency in filing of tax returns by the taxpayers;
- ✓ Taxpayer's return was previously investigated for evasion;
- ✓ Taxpayer received notices from other governmental entities;
- ✓ Quality of the Taxpayer's books and records not well-kept;
- ✓ Taxpayer has supplied goods on which there has been reduction in rate of duty, in order to examine the possibility of profiteering u/s 171 of the CGST Act, 2017;
- ✓ Higher incidence of supplies without issuance of e-way Bills have been noticed.

**Various Issues faced by taxpayers**

- Co-operating with the audit team and providing all the necessary information & documents called for;
- Keeping the entire information in an organized manner ready prior to the visit by the audit party;
- Seek adjournment if information/ documents not ready – MH Trade Circular;
- Identity of the each and every member of the audit team must be verified;
- Additional time to be requested if not clear/ not sure about any facts or law;
- Professional can be involved as an authorized representative to handle the audit and represent the taxpayer;
- Get pre-audit done internally / externally.
- Payment can be made under protest or under the right to contest - Areas of interpretation – Keeping the issue alive – waiting for the apex court judgment;
- Proper officer may issue a SCN, if no SCN issued, then file a refund application;
- If department asks for original documents – Make available on a sample basis backed by a CA certificate;
- Unofficial demands by the aggressive officers in the course of audits – Payment must not be demanded under coercion/ harassment - Gujarat High Court;
- Oral directions for payment/ reversals - Suggested to keep everything in writing – Submit a letter stating

the complete sequence of events with full facts & details;

- Type of replies given during the audit would help – It will make the foundation strong for future litigation;
  - Jurisdiction – General or specific orders, whether central or state - Below 1.5 Crore (90% to the state) & Above 1.5 Crore (50% by both) – Need to know who has the jurisdiction;
  - Anything incorrectly reported in the audit report – how to handle;
  - Already assessment completed, returns scrutinized, investigation carried out etc.;
  - If no audit objection raised on a particular matter in one year, then whether penalty payable for issue raised in the subsequent years or whether extended period of limitation cannot be invoked;
  - Rate of interest, whether payable @ 18% or 24%;
  - Whether interest is payable at gross or net value for tax payable in the course of audit;
  - Obtaining consultation from the department in the course of audit;
  - Advancing a personal hearing before the audit Commissionerate to explain the case;
  - Understanding the computation of the tax, interest and the evidences relied upon;
  - Availability of ITC for taxes paid under reverse charge in the course of audit;
  - Incorrect type of tax paid i.e., IGST is paid instead of CGST & SGST;
  - Extension for payment of tax/ payment of tax in maximum 24 installments;
  - Payment of tax liability in the course of audit by utilizing the ITC;
  - Tax, interest payable under audit, whether can be recovered from the customer;
- | Area | Particulars |
|------|-------------|
|------|-------------|
- Whether receiver can avail ITC on the liability detected and paid by the supplier as a part of audit and recovered from the recipient – It is not covered u/s 17(5) (i);
  - Substantial amount of data is being asked in the course of GST Audit especially the one that is already available with the department:
  - RCM on procurements from the unregistered persons:
  - ITC admissibility on account of mis-match between GSTR 2A vs GSTR 3B:

## Departmental Communication & Correspondences

- **Email** has got legal recognition – Registered Email-id, uploading on the portal -Sec. 169;
- **Telephone:** Not preferable mode of communication with the dept – non-evidence means of correspondence;
- **Letters from the dept:** the envelope cover should be retained as evidence for date of receipt.
- **Letters to dept:** All correspondences to the departmental officers be duly acknowledged and if not done, a copy to be sent by RPAD;
- **DIN to be quoted:** To be treated as invalid and deemed to have never been issued;
- **Visits by depts:** Visiting officers are required to record in the visit register with the purpose;

## Broad Areas of Verification by the department

<b>Registration</b>	<i>Details of directors, places of business, type of registration etc.</i>
<b>Outward Supplies</b>	<i>Levy, Classification, Rate of tax, Time of supply, Valuation, Exemption, Place of supply, Nature of Tax etc.,</i> Reconciliation with books
<b>Inward Supplies</b>	<i>Eligibility of credit, 2A reconciliation, Incorrect type of credit taken, Tax reversed by the supplier under CN, Reconciliation with books, 180 days payment, ITC availed beyond due date, Reversal of ITC etc.</i>
<b>Reverse Charge</b>	<i>Reconciliation with books, Paid in cash, Interest payment for delay, URD for first 3 months</i>
<b>Refunds</b>	<i>Eligibility, correctness of the claim, supporting documents etc.</i>
<b>Transitional issues</b>	<i>ITC transferred, Correctness &amp; calculations, Supporting documents etc, Taxability of spill over transactions</i>
<b>Procedural compliances</b>	<i>Manner of documentation maintained (Proper documentation &amp; systematic arrangement), Job work, E-way bill compliances etc.</i>

## Departmental Indicative list of records/ documents to be kept ready – Circular 13T of 2020

- Financial statement and reports – Balance sheet, tax audit report, Annual financial statement, Cost audit report, trial balance
- Inward-Outward supply summary statement
- RCM ledger and supportive documents

- Inward-Outward supply invoices
- Cancelled invoices due to any reason
- Goods return (inward and outward supply) register along with credit note/debit note details
- Inward supply Register (soft copy)
- Outward Supply register (soft copy)
- Zero rated supply register and supportive documents (commercial invoice, shipping bill, bill of lading, EGM, Bank realization certificate or inward remittance certificate etc.)
- Details of Exempted supply/Supply to SEZ dealer
- Refund claim/availment details if any (export of good and services, inverted duty structure etc. any type of refund claimed by dealer)
- TDS payment transactions if any
- TRAN-I details (details regarding credit carried forwarded from previous Act to GST Act)
- GSTR 2A-Mismatch, unmatched transactions details.
- E-way bill transactions month wise summary statement and corresponding register
- In case of services, FIRC (Foreign Inward Remittances), corresponding agreements, invoices Annual Maintenance Contract copies and corresponding invoices if any
- Details of advances received and tax payment for the same
- Other Income/ misc. income
- Reversal / reduction of ITC
- Scrap sales
- Details of exempted outward supply
- Details of zero rated supply
- Non-GST supply
- Job work details (inward and outward side)
- Credit ledger/Input tax credit availment summary (for Capital asset, liability, Refund claim, any other deduction)
- Cash ledger availment summary (for liability, RCM, any other deduction)
- Reversal of ITC within 180 days due to non-payment in 180 days.

## Key Accounts, Records & Documents to be maintained

- Ensure the following documents are kept in one file/ folder:



- ✓ Copy of Annual Report (Auditors Report, Tax Audit Report, Directors report, Financials including notes to accounts)
- ✓ All Periodical Returns (GSTR -1 & GSTR 3B)
- ✓ Working and Monthly Computations duly matched:
- ✓ Sales Register/Report (with Supporting Invoices), Classification Notes; product literature;
- ✓ Credit Note Register/Report
- ✓ ITC Statement – (with supporting Invoices) with Explanation Statement for eligibility – can be annual and Details of Reversal and its computation
- ✓ Reconciliation with Books Vs. GSTR- 1 Vs. GSTR 3B
- Annual Reports (GSTR – 9; GSTR 9C):
  - ✓ Workings and Supporting’s
  - ✓ Reconciliation with Books Vs. GSTR 9 Vs. 9C

#### Role of Professionals:

- A regular professional advice & review ensures compliance of the statutory provisions of the Act.
- Helping management in streamlining & strengthening business process of the entity by complying with the latest provisions of the statute.

- Prior to onsite visit of the tax officers, professionals can provide assistance in reviewing the documents/ information for submission with the authorities.
- Time to time discussions & timely submission of requisite documents/ information/ replies with the authorities.
- During onsite visit they represent client before the relevant officers by settling disputes, reducing uncertainty.
- Assistance in presenting the case before the department or the special auditors.

#### Conclusion :

“Prevention is better than cure.” If the assessee is ethical and diligent while interacting with the department, disputes would be reduced to a great extent. If any dispute arises in spite of his diligence, he should take necessary measures and resolve it. Interaction with the department is the key to avoid disputes with the department.

Finally, to summarize, audit by revenue can serve the purpose of keeping one record in order and getting a third party validation free of cost. A pre audit covering the aspects discussed in this article could go a long way to avoid disruptive audits and their resolution over period of time as well as issue of SCN at the end of the tunnel.

*For any feedback or queries, please write to [mannu@hiregnage.com](mailto:mannu@hiregnage.com)*

\* \* \* \* \*

**“In a conflict between the heart and the brain,  
follow your heart. ”**

**– Swami Vivekananda**



**“Somewhere inside all of us is the power to change  
the world.”**

**– Roald Dahl**



**CA Kamal Garg**

[B. Com (H), FCA,  
DISA (ICAI), M. Com]  
Insolvency Professional (IBBI)  
cakamalgarg@gmail.com

## BRSR – structure and the role of Chartered Accountants

Sustainability Reporting is an emerging discipline encompassing the disclosure and communication of an entity's non-financial - environmental, social, and governance (ESG) performance and its overall impact. Over the last few years, more and more entities are now preparing and disclosing their sustainability reports either under a mandate or voluntarily as per the reporting frameworks/ standards provided by standard-setting bodies/regulators. Sustainability reporting will only be beneficial if it is of sufficient quality and the market understands and trusts the framework. It is essential that sustainability reporting framework delivers information that is fair, balanced, understandable, transparent, consistent, and comparable.

On 5th May 2021, Security Exchange Board of India brought out amendments to the existing provisions of business responsibility report as enshrined in Regulation 34(2)(f) of SEBI-LODR. The amended provisions now call for discontinuation of the current reporting of business responsibility report (BRR) *after* the financial year 2021-22. The new report as "Business Responsibility and Sustainability Report" (BRSR) based on the ESG parameters. SEBI has specified the format for BRS reporting, vide its notification dated 10th May 2021. The aforesaid format which is broader than existing format for BRR is also coupled with the guidance note to enable companies to interpret the scope of disclosures required to be made in such report, i.e., BRSR.

### 1. Foundation stone for BRSR

There are various international and local frameworks used by organisations across the globe for their corporate sustainability reporting. In November

2018, the Ministry of Corporate Affairs (MCA) constituted a Committee on Business Responsibility Reporting for finalising Business Responsibility Reporting formats for listed and unlisted companies, based on the framework of the National Guidelines for Responsible Business Conduct' (NGRBCs)<sup>1</sup>. In August 2020, the Committee addressed various aspects and issues that could improve the quality and utility of disclosures and recommended Business Responsibility and Sustainability Reporting (BRSR) as an update on the existing Business Responsibility Reporting (BRR) to incorporate the current global practices in non-financial sustainability reporting based on the NGRBCs.

Through its 'Report of the Committee on Business Responsibility Reporting' (the Committee Report), the Committee recommended that BRR be rechristened BRSR, where disclosures are based on ESG parameters, compelling organisations to holistically engage with stakeholders and go beyond regulatory compliances in terms of business measures and their reporting.

As per SEBI's circular dated 10 May 2021, entities already preparing and disclosing sustainability reports based on internationally accepted reporting frameworks (such as GRI, SASB, Task Force on Climate-related Financial Disclosures (TCFD) or <IR> may cross-refer to disclosures made under these frameworks.

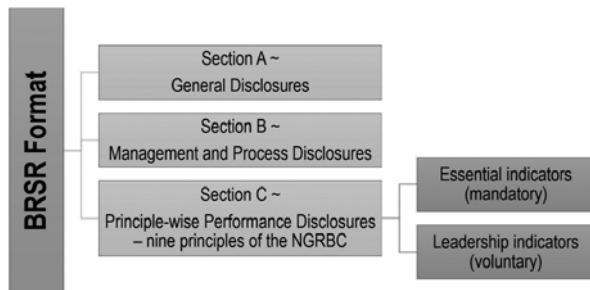
### 2. BRSR – the format configuration

In the current reporting under BRR, the reporting sections are five which has been reduced to three in the BRSR requirements. However, additional disclosures have been inserted in

each of these sections. In the new format of business responsibility and sustainability reporting, the disclosures relating to key performance indicators (KPI) under the specified principles are categorised under:

- (a) essential indicators which are mandatory; and
- (b) leadership indicators which are voluntary.

**BRSR – the format configuration**



A few of the key disclosures sought in the BRSR are highlighted below:

- a. An overview of the entity's material ESG risks and opportunities, approach to mitigate or adapt to the risks along-with financial implications of the same
- b. Sustainability related goals & targets and performance against the same

- c. Environment related disclosures covering aspects such as resource usage (energy and water), air pollutant emissions, green-house (GHG) emissions, transitioning to circular economy, waste generated and waste management practices, bio-diversity etc.
- d. Social related disclosures covering the workforce, value chain, communities and consumers, as given below:
  - i. Employees/workers: Gender and social diversity including measures for differently abled employees and workers, turnover rates, median wages, welfare benefits to permanent and contractual employees/workers, occupational health and safety, trainings etc.
  - ii. Communities: disclosures on Social Impact Assessments (SIA), Rehabilitation and Resettlement, Corporate Social Responsibility etc.
  - iii. Consumers: disclosures on product labelling, product recall, consumer complaints in respect of data privacy, cyber security etc.

**3. BRR vs. BRSR**

The comparison between erstwhile requirements of BRR can be compared with the new requirements of BRSR as follows:

Business Responsibility Report (BRR)		Business Responsibility and Sustainability Report (BRSR)	
Section		Details	
<b>A</b>	<b>General information about the company</b>	<b>General disclosures (details of additional disclosures)</b>	
	(i) CIN no of the company	(i)	<b>Details of the entity</b>
	(ii) Name of the company		Name, contact details – phone no, email address – reporting boundary i.e. standalone or consolidated (company should ensure consistency in reporting boundary across the report).
	(iii) Registered office of the company	(ii)	<b>Product / services</b>
	(iv) Website		Details of business activities, products and services sold by the company that account for 90% of the company's turnover. Individual contribution of such products / services to the total turnover also required to be disclosed.
	(v) Email id	(iii)	<b>Market served by the company</b>
	(vi) Financial year reported		Number of location (national and international) along with a brief description on types of consumers served.
	(vii) Sectors Sector(s) that the Company is engaged in (Industrial Activity Code-wise)	(iv)	<b>Employees</b>
	(i) List three key products /services that the company manufactures/ provides (as in balance sheet)		Total number of employees at the reporting period – in case of significant change from the beginning to the end, reasoning is required to be disclosed.
	(j) Total number of locations where business activity is undertaken by the company		Number of women and KMP in the board.
	(k) Markets served by the company – Local/ State/ National/International Corporate Social Responsibility required to be provided under the financial details of the company.		Trend of past three years relating to turnover rate of permanent employees.

		<p>(v) <b>Corporate Social Responsibility in the new report forms part of the disclosure.</b></p> <p>Following disclosures are not required in the new format</p> <ul style="list-style-type: none"> <li>- total spending on CSR as %age of Profit after tax.</li> <li>- list of activities under which CSR expenditure is incurred.</li> </ul> <p>(vi) <b>Transparency and disclosure compliance</b></p> <p>Disclosure required relating to complaints / grievances on any aspect of the National Guidelines of Responsible Business Conduct during the current year and previous year (Complaints could be from communities, investors, shareholders, employees, customers, value chain partners and others)</p> <p>(vii) <b>Overview of the company's material responsible business conduct issues</b></p> <p>Specific disclosure called for on "material responsible business conduct" and sustainability issues relating to environmental, social and governance (ESG) along with risk / opportunity to the company's business along with reasoning behind identifying the same – risk mitigation plan and the financial implications. (the companies to make qualitative disclosures – not to include quantitative forward looking information except in case of previous year where impact could be disclosed in terms of quantitative).</p>
<b>B</b>	<b>Financial details of the company</b>	<b>Management and process disclosures(details of additional disclosures)</b>
	<p>(i) Paid up capital</p> <p>(ii) Total Turnover – Revenue from operations</p> <p>(iii) Total profit after taxes</p> <p>(iv) Spending on Corporate Social Responsibility (CSR) as a %age of average profit for last 3 financial years</p> <p>(v) List of activities in which expenditure in 4 above has been incurred</p>	<p>The new format requires disclosures for companies to demonstrate structures, policies and processes put in place toward adopting National Guidelines on Responsible Business Conduct (NGRBC) principles and core elements. Some of the important additional disclosures amongst others are as under:-</p> <p>(i) <b>Policy and management process</b></p> <p>Company needs to disclose its confirmation that company's policy cover each principle and its core elements of the NGRBC and also disclose the web link where policies are disclosed.</p> <p>Name of the national/international codes/certifications/ labels / (such as Fairtrade, Rainforest Alliance, Stewardship Councils, Trustees) and standards such as SA 8000, OHSAS, BIS, ISO adopted by the company and mapped into the principles.</p> <p>Disclosures of goals / targets / specific commitments set by company specifying whether it is mandatory based on any legislation or voluntary.</p> <p>In case of mandatory goals / target, the details of relevant legislation to be disclosed.</p> <p>Performance against the specific commitments / goals / targets along with reasoning in cases where the goals / target are not met.</p>



		<p><b>(ii) Governance, leadership and oversight</b></p> <p>Disclosure of director's responsibility for the business responsibility report containing the highlights of ESG related challenges, targets and achievements.</p> <p>The statement should include overall vision and strategy of the company for short term / medium term / long term with respect to managing significant environmental and social impacts that the company causes / contributes to or that are linked directly to the company's activities / products / services.</p> <p>Organizational highest authority responsible for implementing and oversight of the business responsibility policies such as director of the board / committee of the board / committee of employees / senior management personnel.</p> <p>In case the committee is the highest authority, the disclosure of composition of the committee is required.</p> <p>Disclosure relating to independent audit / evaluation done by an external agencies of the working of company's policies. (new policy does not allow internal agency to conduct evaluation which was the case in the earlier BRR).</p>
<b>C</b>	<b>Other details</b>	
	<p><b>(i)</b> Does the Company have any Subsidiary Company/Companies?</p> <p><b>(ii)</b> Do the Subsidiary Company/ Companies participate in the BR Initiatives of the parent company? If yes, then indicate the number of such subsidiary company(s)</p> <p><b>(iii)</b> Do any other entity/entities (e.g. suppliers, distributors etc.) that the Company does business with, participate in the BR initiatives of the Company? If yes, then indicate the percentage of such entity/entities? [Less than 30%, 30-60%, More than 60%]</p>	-
<b>D</b>	<b>BR information</b>	
	<p>1. Details of the Director / Director responsible for implementation of the BR and BR Head</p> <p>2. Principle-wise as per National Voluntary Guidelines (NVGs) BR Policies BR Policies and coverage of NVG nine principles</p> <p>3. Governance related to BR</p>	-

E	Principle-wise performance	Principle-wise performance disclosures (details of additional disclosures)
	<p><b>PRINCIPLE 1:</b> Businesses should conduct and govern themselves with Ethics, Transparency and Accountability</p>	<p><b>PRINCIPLE 1:</b> Businesses should conduct and govern themselves with integrity and in a manner that is ethical, Transparent and Accountable Disclosure of description of training and awareness programmes on any of the principles held for the board of directors, KMPs, employees other than board members and workmen. Disclosure of fines / penalties / punishment / award / compounding fees paid / settlement amount paid in any proceeding against company and it's KMPs in the current year. The disclosure also need to include non-monetary penal provisions such as punishment / imprisonment. The disclosure is required to be made as per the provisions of regulation 30 of LODR on the basis of materiality. Disclosure relating to conflicts of interest of the directors and KMPs – number of complaints during the current year. Disclosure relating to corrective action taken / initiated / underway by the company on issues related to fine/ penalties/ action taken by regulators and law enforcing agencies on cases of conflicts of interest and corruptions. Disclosure of company's policy on anti-corruption /anti-bribery. Any disciplinary action taken by the company against director / KMPs against charges of corruption bribery – for the current year and also for previous year.</p>
	<p><b>PRINCIPLE 2:</b> Business should provide goods and services that are safe and contribute to sustainability throughout their cycle</p>	<p><b>PRINCIPLE 2:</b> Business should provide goods and services in a manner that is sustainable and safe Disclosure relating to percentage of R &amp; D / capital expenditure/ investment made by the company in specific technologies to improve environmental and social impacts of the company's products and processes against its total R &amp; D and capital expenditure investment – for the current year and previous year. Procedures in place for sustainable sourcing (if any) indicating the percentage of input sourced in a sustainable way. Company is required to state whether responsibility of a producer for the environmental sound management of the product until the end of its life (EPR) is applicable. If the answer is 'Yes" further disclosures on waste collection plan is in line with the ERP plan submitted to the pollution control board by the company. Disclosure relating to details of life cycle assessment (LCA) is applicable to any of the products / services of the company along with disclosures on significant social or environmental concerns and or risk arising from production or disposal of the products / services and the mitigation action taken by the company. Process put in place for safe collection / reuse / recycle and disposal of products at the end of life cycle separately for (i) plastic including packaging; (ii) e-waste; (iii) hazardous waste and (iv) other wastes.</p>
	<p><b>PRINCIPLE 3:</b> Businesses should promote the well-being of all employees</p>	<p><b>PRINCIPLE 3:</b> Businesses should promote the well-being of all employees including in their value chain Measures taken by company relating to wellbeing of the employees in the current year along with details for previous year.</p>

<p><b>PRINCIPLE 4:</b> Business should respect the interests of and be responsive towards all stakeholders especially those who are disadvantaged, vulnerable and marginalized</p>	<p><b>PRINCIPLE 4:</b> Business should respect the interests and be responsive to all its stakeholders Disclosure about the process in place for identifying key stakeholder groups of the company along with providing details relating to frequency of engagement with each stakeholders group Disclosure as to company's premises / offices – accessibility to differently abled employees / workers. Policy disclosure on equal opportunity policy pursuant to Rights of Persons Disabilities Act 2016 Mechanism for receiving complaints and addressing them for employees and workers including non-permanent employees and workers. Details of performance and career development reviews undertaken by the company and also confirmation these reviews are done with the knowledge of the employees. Details of corrective action taken by company / action underway for addressing the risk and concerns relating to health and safety practices and working conditions of value chain partners.</p>
<p><b>PRINCIPLE 5:</b> Business should respect and promote human rights</p>	<p><b>PRINCIPLE 5:</b> Business should respect and promote human rights Disclosure of training provided to employees / workers on company policies and human right issues for current year vis-à-vis previous year. Additional disclosures called for if the company is having a committee which is responsible to address the human right issues or issues caused or contributed to by the business. Disclosure of minimum wages paid to employees / workers (both for permanent and non-permanent) Disclosure of mechanism in place to protect the complainant from adverse consequences relating to discrimination and harassment cases.</p>
<p><b>PRINCIPLE 6:</b> Business should respect, protect and make efforts to restore the environment</p>	<p><b>PRINCIPLE 6:</b> Business should respect, protect and make efforts to restore the environment Specific disclosures are called for in respect of water withdrawal/ discharge inclusion source / destinations – example – surface water / ground water / third party water – for current year and previous year.</p>
<p><b>PRINCIPLE 7:</b> Business when engaged in influencing public and regulatory policy should do so in a responsible manner</p>	<p><b>PRINCIPLE 7:</b> Business when engaged in influencing public and regulatory policy should do so in a manner responsible and transparent Disclosure relating to details relating to trade and industry chambers / associations, the company is member of / affiliated to. Corrective action taken / being taken by company on any issue relating to anti-competitive conduct by the company based on adverse orders received by the regulatory authorities</p>
<p><b>PRINCIPLE 8:</b> Business should support inclusive growth and development</p>	<p><b>PRINCIPLE 8:</b> Business should promote inclusive growth and equitable development Disclosure required on social impact assessment (SIA) of projects undertaken by the company based on applicable law in the current year and also disclosure about projects for which ongoing rehabilitations and assessments is being undertaken by the company. Disclosure of preferential procurement policy in cases of purchases from supplies comprising marginalized / vulnerable groups.</p>

<p><b>PRINCIPLE 9:</b> Business should engage with and provide value to their customers and consumers in a responsible manner</p>	<p><b>PRINCIPLE 9:</b> Business should engage with and provide value to their customers in a responsible manner Disclosure called for on number of consumers complaints received during the current year –vis-s-vis previous year, data privacy, advertising, cyber security, unfair trade practices along with details relating to mechanism in place to receive complaint, respond complaint and feedback Policy of the company on cyber security and risk related to data privacy and the website link where the policy is displaced.</p>
---	--

**4. Role of Chartered Accountants in BRSR**

*“The focus on sustainable investing among equity market participants is expected to rise with more companies and countries implementing policies to meet ESG targets, particularly with respect to carbon emissions.....Stocks in Asia with high ESG scores on the MSCI are trading at a 40% premium to stocks with low ESG scores.....”*

*Livemint: 10th January, 2022<sup>2</sup>*

The Chartered Accountants can play a significant and integrated role in sustainability reporting in the following manner:

- i) Evaluating the systems, functions, operations and allied activities in the organisation to assess the ‘scope and boundary’ for BRSR requirements;
- ii) Guiding in synchronisation of disclosure requirements of financial reporting standards (Ind AS) (such as Ind AS 1, Ind AS 19, Ind AS, 24, Ind AS 37, etc.) with the disclosure requirements enshrined under BRSR – Section A to Section C;
- iii) Guiding in synchronisation of various regulatory and compliance requirements under the Companies Act, 2013 (such as CSR, Directors’ Report, etc.) with the disclosure requirements enshrined under BRSR – Section A to Section C;
- iv) Guiding in synchronisation of various regulatory and governance requirements under the SEBI-LODR (such as Audit Committee, Vigil Mechanism, Related Party Transactions, etc.) with the disclosure requirements enshrined under BRSR – Section A to Section C;
- v) Assisting the auditors (external or internal, as the case may be) in having a synchronised exchange of information vis-à-vis the audit function and the disclosure requirements enshrined under BRSR – Section A to Section C;

- vi) Assisting the investors and other users of financial statements by explaining and analysing the business impact on ‘triple bottom line’ (Profit, People, Planet) rather than merely on ‘bottom line’ (Profit);
- vii) Providing assurance on BRSR carried out by the companies. Though this is not mandatory as of now under BRSR but still Section ‘B’ asks a question viz., “Has the entity carried out independent assessment/ evaluation of the working of its policies by an external agency? (Yes/No). If yes, provide name of the agency.” Such assurance can be provided as per the principles of ISAE 3000.

**5. Conclusion**

SEBI was one of the early adopters of sustainability reporting for listed entities amongst its global peers. The filing of the BRR containing ESG (Environment, Social and Governance) disclosures was first introduced for listed entities in 2012. Since then, a number of developments have taken place. With the adoption of the Paris Agreement on Climate Change and UN Sustainable Development Goals, adapting to and mitigating climate change impact and transitioning to sustainable economies have emerged as major issues globally. The COVID pandemic has also accelerated the relevance of ESG considerations to investors resulting in increased awareness of investors and a shift towards sustainable investing. The same is reflected in the spurt in new launches of ESG themed mutual funds and growth in assets of such schemes, including in India. As ESG investing becomes more mainstream, disclosure requirements need to keep pace with this change and the BRSR is a significant step towards this direction.

<sup>1</sup> The existing format of BRR is based on ‘National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business’ (“NVGs”) issued by the Ministry of Corporate Affairs (“MCA”), Government of India.

<sup>2</sup> Source: <https://www.livemint.com/market/mark-to-market/esg-theme-for-stocks-to-accelerate-in-2022-11641747303323.html>

\* \* \* \* \*





**CA Tarun Kr. Gupta**  
Chartered Accountant  
tarunkrgupta@yahoo.com

## Important changes in GST w.e.f. Jan 01, 2022

The Government has notified certain changes in the procedural aspects of GST, apart from some rates in GST. The important changes in the procedural aspects of GST are as follows:

### 1. GST on service supplied by restaurants through e-commerce operators

The GST Council in its 45th meeting held on 17th September, 2021 had recommended to notify 'Restaurant Service' under section 9(5) of the CGST Act, 2017. Accordingly, the tax on supplies of restaurant service supplied through e-commerce operators shall be paid by the e-commerce operator. In this regard Notification No. 17/2021 dated 18.11.2021 had been issued. The Department has also issued a Circular regarding modalities of compliance to the GST laws in respect of supply of restaurant service through e-commerce operators (ECO). (Circular No. 167 / 23 /2021 – GST dt. 17th December, 2021). Further in light of the above, E-commerce operator and registered person would report taxable supplies notified under section 9(5) of CGST Act, 2017 as specified in the CBIC Circular No. 167/23/2021 dated 17.12.2021 and as per guidance on GSTN as follows:

- Supplies under 9(5) reported by ECO - Table 3.1(a) of GSTR-3B
- Registered person / Restaurant supplying through ECO - Table 3.1(c) along-with nil and exempted supply.

<https://www.gst.gov.in/newsandupdates/read/516>

### 2. Aadhaar authentication of registered person is mandatory for filing of Refund and Revocation of cancelled registration applications

Authentication of specified persons, as

per the constitution of the assessee, is now required for (i) filing of application for revocation of cancellation of registration, (ii) filing of refund application in FORM RFD-01; and (iii) refund under rule 96 of the integrated tax paid on goods exported out of India; w.e.f. Jan 01, 2022. The functionality in this regard had already been deployed on the GSTN portal w.e.f. January 06, 2021. The taxable person, who has not yet authenticated their Aadhaar, will have to go through this authentication process before filing the above applications.

### 3. Supply between a person, other than an individual, to its members or constituents or vice versa included in supply

Section 7 and Schedule II (serial no. 7) of the CGST Act, 2017 has been amended so as to say that any transaction between a person, other than an individual, to its members or constituents or vice versa, shall be included within the scope of supply; w.r.e.f. July 01, 2017. The amendment provides that it would have an overriding effect over the other statutes, any judgement, decree or order of any Court, Tribunal or Authority.

### 4. ITC availment in GSTR 3B restricted to details as furnished by the supplier

Section 16(2) has been amended to say that now ITC shall be restricted to the details uploaded by the supplier and available in form GSTR 2B. The relaxation of 5% under rule 36(4) is now no more available w.e.f. Jan 01, 2022.

Government has cleared a long pending confusion amongst assesseees as to whether one is eligible to avail ITC as per data populated in GSTR 2A or

GSTR 2B. The Government vide issue of a Notification and amending Rule 36(4) of the CGST Rules, 2017, has notified that the details available in GSTR 2B shall be eligible as ITC. (Notification No 40/2021 - Central Tax dated 29th December, 2021).

## **5. Seizure and Confiscation of goods and conveyances to be made into separate proceedings and Detention, Seizure and release of goods & conveyances in transit and Appeal before Appellate Authorities**

Finance Act 2021 has made amendment in the above explanation to exclude Section 129 and 130 of the CGST Act from its purview. Explanation 1(ii) of Section 74 of the CGST Act provided that where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under Section 73 or Section 74 of the CGST Act then the proceedings against all the persons liable to pay penalty under sections 122, 125, 129 and 130 of the CGST Act were deemed to be concluded. The said amendment has made seizure and confiscation of goods and conveyances in transit a separate proceeding from the recovery of tax.

The % of 100% tax and 100% penalty u/s 129 has been amended to 200% penalty. Further with this Notification, the proceedings of u/s 129 i.e. detention, seizure and release of goods and conveyances in transit have been delinked with the provisions of Section 130 i.e. confiscation of goods or conveyances and levy of penalty. Earlier only upon non-payment of tax and penalty u/s 129, proceedings u/s 130 was initiated. Now, the proper officer detaining or seizing goods or conveyance shall issue a notice within 7 days. Thereafter, he shall pass an order within 7 days from the date of service of such notice for payment of penalty. In case of non-payment, within 15 days of receipt of order, the goods or conveyance shall be liable to be sold or disposed of in such manner and time which will be prescribed to recover penalty payable.

The Government has also amended the CGST Rules and laid down the procedure for Auction instead of confiscation of goods or conveyance detailed or seized in transit. Applicable procedure and forms have been notified. The provision relating the manner of utilization of proceeds of sale of goods or conveyance has been changed to include the proceeds realized from the Auction sale also. The amendment has also been made to provide that if after utilization of specified amounts, and something remains balance then instead of direct payment of the said amount to the concerned person it would be credited in the electronic cash ledger (except where the person is not registered under GST laws). (Notification No. 40/2021 - Central Tax dated 29th December, 2021).

Appeal to Appellate Authority against detention, seizure and release of goods and conveyances in transit shall lie only after payment of 25% of penalty as pre-deposit.

## **6. Details of supplies and tax payable as declared in GSTR 1 to be assessed as Self-assessed tax**

The definition of self-assessed tax in section 75 has been amended to include the tax payable in respect of details of outward supplies furnished in GSTR 1 u/s 37, but not included in the GSTR 3B furnished u/s 39. This amendment now empowers the Government to issue demand notice on the basis of difference between GSTR 1 and not paid in GSTR 3B based on self-assessment system u/s 79 – Recovery of Tax.

Further to implement the provision and ensure that the taxpayers are not unduly harassed and they get an opportunity to explain the difference, the Government has issued an Instruction to this effect. The Instruction mentions that the proper officer may send a communication to the taxpayer to either pay the difference or explain the difference within a reasonable time. (Instruction no. 01/2022-GST dt. 7-1-22).

## **7. Provisional attachment in certain cases**

The scope of sections under which Provisional attachment can be done has been increased manifold to include all sections in Chapters XII (Assessment) (sections 59 to 64), Chapter XIV (Inspection, Search, Seizure and Arrest) (sections 67 to 72) and Chapter XV (Demands and Recovery) (sections 73 to 84). Earlier provisional attachment was allowed only for proceedings u/s 62, 63, 64, 67, 73 and 74. Further the scope of Provisional attachment has been increased to include that provisional attachment can also be done of a person who retains the benefit of a transaction and at whose instruction such transaction is conducted. This will enable the Government to provisionally attach assets of persons who are involved in the chain of fraudulent transactions and middlemen.

Applicable changes in the CGST Rules have now been notified to prescribe the procedure and forms for such provisional attachment. Notably the Rule has also been amended to specifically provide that the proper officer shall share the copy of the attachment order (i.e. Form GST-22) to the person whose property has been attached. Further, the specific manner for raising an objection against the provisional attachment order has also been provided (i.e. in Form GST DRC-22A). (Notification No. 40/2021 - Central Tax dated 29th December, 2021).

## **8. Filing of GSTR 1 not allowed if GSTR 3B has not been filed for preceding month**

A registered person shall not be allowed to furnish FORM

GSTR-1, if he has not furnished the return in FORM GSTR-3B for the preceding month. Earlier the restriction was for preceding two months which has now been reduced to just the preceding month.

This functionality will be implemented on the GST Portal shortly, after which the system will check the filing of preceding GSTR-3B before permitting to file GSTR-1 for the subsequent month. Taxpayers may kindly ensure timely filing of GSTR-1 and GSTR-3B in consonance with Rule 59 of CGST Rules, 2017 to avoid any inconvenience in this regard.

<https://www.gst.gov.in/newsandupdates/read/515>

### 9. Power to call for information

At present, the Commissioner has the right to demand data only by issuing a notification. However w.e.f. 1st January 2022, he shall now be empowered to direct any person to furnish information relating to any matter dealt with in connection with this Act, within such time, in such form, and such manner, as may be specified therein and the person shall be obliged to provide the information.

### 10. Submission of physical copies of Tax invoices by UIN holders for refund

The Government has amended CGST Rules with retrospective effect to provide that UIN agencies can submit a copy of the invoice duly attested by the authorised representative of the applicant along with the refund application in Form GST RFD-10 and seek refund in such cases where the UIN is not mentioned on the Tax Invoice. (Notification No. 40/2021 - Central Tax dated 29th December, 2021).

Apart from this, some amendments have also been done in section 152 - Bar on disclosure of information and section 168 - Power to issue instructions or directions.

### 11. Customs Tariff Of India 2022

The Tariff Unit, Customs Policy Wing, Central Board of Indirect Taxes and Customs, Government of India has issued the Customs Tariff Of India 2022 - The First Schedule to the Customs Tariff Act, 1975 as effective from 01-01-2022. The same can be accessed at <https://www.cbic.gov.in/htdocs-cbec/customs/cst2022-010122/cst-idx>. The Customs Tariff Of India 2022 can be downloaded at <https://www.cbic.gov.in/htdocs-cbec/customs/cst2022-010122/chap-1-98.pdf>. For ease of reference, the changes introduced in the Tariff of 2022 vis a vis 2021, have been highlighted in red in the document.

Please note that as per GST Notification No. 1/2017- CT (Rate) dated 28.06.2017, Explanation (iii) and (iv), "Tariff item", "sub-heading", "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading and Chapter

as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975). Further the rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification too.

### 12. CBIC issued Guidance Note on Correlation of Customs Tariff between 2021-2022 pursuant to changes in HSN codes as per HS-2022

CBIC has issued a correlation document (at 8 digit level) which presents the correlation between the tariffs at the 8-digit level documenting the manner in which the commodities covered by tariff of 2021 have been accommodated in the tariff of 2022. The new HS-2022 has around 351 amendments at 6 Digit level whereas India follows 8 digit classifications. For ease in co-relation between HS 2021 and HS 2022 at 8-digit level, The "Correlation code" is provided at each 8 digit entry to provide clear meaning and the change happened in HSN Codes as per HS-2022. The new (seventh) edition of the Harmonized System (HS) nomenclature, HS-2022, shall come into force from 1st January, 2022.

D.O.F. No. 524/11/2021-STO(TU) Dated December 20th, 2021

### 13. Advisory on Revamped Search HSN Code Functionality

A revamped & enhanced version of Search HSN Functionality has been launched on the GST Portal. The Search HSN functionality was earlier given as a measure of facilitation to the taxpayer to search the Technical Description of any particular HSN code of any goods and/or service used in the Trade, vis-a-vis HSN description in the Customs Tariff Act, 1975. However, there were many instances of goods and services where descriptions commonly used in Trade in common parlance i.e. Trade description differ from the Technical descriptions otherwise provided in the HSN descriptions of the Customs Tariff Act, 1975 and the abovesaid functionality. Thus finding the corresponding HSN codes vis a vis a common description was a bit challenging for the taxpayer. To overcome this challenge and to make the functionality user friendly, 'Search HSN' functionality has been revamped by linking it with e-invoice database and Artificial Intelligence tools. Kindly refer to the document for further details: [https://tutorial.gst.gov.in/downloads/news/advisory\\_on\\_search\\_hsn\\_code\\_functionality\\_final.pdf](https://tutorial.gst.gov.in/downloads/news/advisory_on_search_hsn_code_functionality_final.pdf)

<https://www.gst.gov.in/newsandupdates/read/518>

(Views expressed are personal. The author can be contacted at [tarunkgupta@yahoo.com](mailto:tarunkgupta@yahoo.com))

\* \* \* \* \*



**Adv. Gaurav Gupta**  
B. Com (H), SRCC, FCA,  
LLB, ISA (ICAI)

## Registration of Works contractor - the unsolved conundrum

Sustainability Reporting is an emerging Works contractor is one of the biggest contributors to the national growth which includes persons involved in building (both residential as well as commercial) construction, infrastructure creation (including roads, railways, dams etc) and many other structures which are paramount to the existence and growth of any nation. Equally important are the ancillary service providers and sub contractors who undertake part of the main contract. While Goods and Services Tax (“GST”) was introduced as a one nation one tax to all works contractors and most of the works contractors thought that now they can undertake works / contracts pan India without undergoing hassles of multiple registration and compliances in different states. They considered GST law as a liberator from multiplicity of compliances. The answer is both yes and no. The present article tries to unriddle the provisions relating to registration for a works contractor.

First, it is important to highlight that for all purposes of GST laws, the term ‘works contract’ has two inherent and imperative requisites – it should be in relation to “Immovable Property” and there should be transfer of property in execution of services. The Works Contracts has been defined in Section 2(119) of the CGST Act, 2017 as “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.” Thus, any work

undertaken on movable goods and service simplicitor (pure supplies of services) are outside the purview of Works contract. A works contractor in GST regime would be a supplier who is undertaking any of the specified works of any immovable property and such supply should involve transfer of property in goods. The principle of transfer of property by accreditation was explained by Blackburn, J., in *Appleby v. Myers* [1867] LR 2 CP 651 at p. 659: ‘Materials worked by one into the property of another become part of that property. This is equally true, whether it be fixed or movable property. Bricks built into a wall become part of the house; thread stitched into a coat which is under repair, or planks and nails and pitch worked into a ship under repair, become part of the coat or the ship.’”

One should also be sensitive to the fact that the supply of works contract can be interstate as well as intra state. Determination of the supply as inter or intra is a function of place of supply and location of supplier. If the two are in the same state, supply is intra state else inter state. Registration under GST statutes and, in particular, under Section 22 of the Central GST Act, 2017 (“CGST Act”) is required by every supplier in the State or Union territory **from where** he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees. There is no mention of premises in the section directly, however, the term “from where” innately points at a requirement of a premises in the State or Union territory. The corresponding and derivative provisions point at registration being granted qua premises and not qua person. Proviso

to Section 25(2) makes it further clear that a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business. To further the understanding, and in particular to a works contractor (who is a service provider as per clause 6(1) of Schedule II of the CGST Act, 2017), location of a supplier is linked to a place of business or some other place. Accordingly, the provision of a supply of service by a works contractor is linked to a place from where he makes such supply of service. Further, it is also important to separate the understanding of the phrase “from where” and the phrase “at which”. In other words, the provision of service at a place may not coincide with the place from where such supply is made. While the former is linked with performance of service, the latter is the place at which the supplier (works contractor) undertakes to provide such service. For eg., a works contractor having his office in Delhi can undertake to repair a building in Haryana. Thus, while the place of performance shall be the place where the services on any immovable property are actually performed like erection, repair, construction etc., the place from where such supply is undertaken shall mean the office of the works contractor from where he undertakes to provide such supply.

The next important thing to be understood is the place wherefrom such supply is undertaken. Place of business has been defined in Section 2 of the CGST Act, 2017 as under:

*(85) "place of business" includes—*

- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or*
- (b) a place where a taxable person maintains his books of account; or*
- (c) a place where a taxable person is engaged in business through an agent, by whatever name called;*

Thus, all places of a works contractor from where he carries his business or maintains his books of accounts or his agent's office shall be included in the purview of his place of business. In terms of carrying on his business, such place shall include warehouse, godown or office including administrative or corporate office or any place wherefrom or whereat he stores, receives or supplies goods. Thus, any place of business where he stores, receives or supplies goods or services or both shall be liable for registration. On a conjoint reading of the two sections (Section 2(85) and Section 22), it emerges that if there is no supply

of goods or services or both from a place of business such place would not be required to be registered under the GST statutes. Basis the above understanding, let's examine the requirement of registration in the following scenarios in case of a works contractor (of construction of building):

**a. Supplier undertaking mere supply of service:**

Many suppliers are merely supplying services like machining, repair, crane or heavy machine suppliers, security or labour contractors etc. Such person is not a works contractor and thus, his supply would not include supply or storage of goods. Thus, while he may station his labour at a place of performance, his supply would not be said to be supplied from such place and thus, such person does not require registration at their place of performance of services. They can undertake works across country without registration.

**b. Works contractor without storage of goods:**

In case a works contractor undertakes a contract in a state different from his registered state, however, while he transfers property in goods to the contractee but does not require storage of such goods. This can be cases where he undertakes concept of Just in time inventory procurement from nearby suppliers or where his goods are applied immediately on receipt at site for eg., works contractor engaged in supply and filling of ready mix concrete in construction site does not require storage, his goods are applied immediately on receipt and thus, there is no place where he stores and supply goods from. Thus, no registration is required by such works contractor in other states where they are performing their works.

**c. Works contractor with storage of goods in custody of contractee:**

There may be contracts where a works contractor requires storage of goods but such goods are stored on site and in custody of contractee. Thus, in such cases, goods cannot be said to be supplied to contractee first and independent of services. Accordingly, the holding of goods by the contractee is only on behalf of the contractor and thus, as an agent of the contractor. In the humble opinion of the author, the Contractor is receiving, storing and removing goods from a location outside the state of his registration and thus, such place would satisfy all conditions of being a place of business requiring registration. Even though the goods are not in physical custody of the contractor, it would be said to be in effective custody as their receipt and removal would be at his instructions. Any loss of such goods would only be ascribable to contractor as the property in such goods would only be passed on accretion to the property of the contractee.

**d. Works contractor with storage of goods in his own custody at site:**

Another category of contracts involve proper setting up of storage locations on site by the contractor where he is receiving, storing and removing goods in his own capacity. Such location would qualify as a place of business and thus, in the humble opinion of the author, such location where goods are received, stored and removed from require registration.

**e. Works contractor who has outsourced entire contract to a sub contractor:**

A works contractor can also sub contract the entire contract which he is liable to undertake in another state. In such scenario, there would be no place where he would receive, store or supply any goods or services in such another state as the entire activity would be undertaken by the sub contractor. However, in such cases, the person should factor possible full or partial (as the case may be) loss of Input tax credit on the supply as made by sub contractor.

The author would also like to discuss some advance rulings in context of the above discussions:

- a) In re **GEW (India) (P.) Ltd. [2021] 132 taxmann.com 139 (AAR - KARNATAKA)**, the applicant registered in Uttar Pradesh got a sub-contract work to be executed in Karnataka. He had no other registration other than Uttar Pradesh. The advance ruling was filed for seeking as to whether a separate registration is required under the state of Karnataka? The Ld. Authority held as under –

*“16. In the instant case, the applicant has only one principal place of business (Noida, UP) for which registration has been obtained and does not/intended to have any other fixed establishment other than the principal place of business, as admitted by the applicant. Therefore the location of the supplier itself is the principal place of business which is in Noida, Uttar Pradesh. Thus, there is no requirement for a separate registration in Karnataka for execution of the contract referred supra.”*

- b) In re **T & D Electricals [2020] 116 taxmann.com 390 (AAR – KARNATAKA)**, the applicant registered under GST as works contractor and wholesale supplier in Rajasthan was awarded a contract by a company to be executed at Karnataka. The applicant further submitted as fact that applicant herein does not have any premises in Karnataka as contractee will only provide temporary small space for office & store in their premises without any written documents. The advance ruling was sought for as to whether a separate registration was required

to be taken in Karnataka? It was ruled as under–

*“7.4 The first question is whether separate registration is required to execute the aforesaid contract in Karnataka State or not. **Section 22 of the CGST Act 2017 is relevant to registration and stipulates that every supplier shall be liable to be registered in the state from where the said supplier makes the taxable supply of goods or services or both, subject to the threshold limit of the aggregate turnover in a financial year.***

*7.5 In the instant case, the applicant intends to supply goods or services or both from their principle place of business, which is located in Rajasthan. **The applicant has only one principle place of business, for which registration has been obtained and does not have any other fixed establishment other than the principle place of business, as admitted by the applicant. Therefore the location of the supplier is nothing but the principle place of business which is in Rajasthan. Thus there is no requirement for a separate registration in Karnataka for execution of the contract referred supra.”***

In the above cases, it was held that no registration is required in another states as the supplier does not have any fixed establishment in such other state. It is important to note that every fact in the advance ruling is important and in above case the fact of storing goods at site is not presented and thus, in case of any change of facts / addition in facts, the advance ruling would become infructuous. In humble opinion of author, the above case is not applicable in all cases of works contract and every works contractor should carefully look into his own facts. In the latter case, the authority read the non-existence of premises of the contractor in literal terms and ignoring the fact that there is an office and warehouse of the contractor established in the premises of the contractee. Accordingly, in the humble view of the author, registration of such premises where goods and services are received and records are maintained, is mandatory under the CGST Act. Such registration may not be required for raising invoice to the contractee but even for receipt and removal of goods and / or services in context of such contract.

In conclusion, Works contract in GST is not a case simplicitor and so is their requirement of registration. A works contractor should not follow any advance ruling or precedence of earlier laws indiscriminately. One should consider his own facts, and law as applicable in such facts. Reading of mere headnotes or conclusion of a decision particularly an advance ruling can be fatal in many circumstances. One should determine his requirement of registration in particular to his facts.

\* \* \* \* \*

## Section 129 of CGST Act, 2017 w.e.f. 01.01.2022 - Deciphered



**Adv Ankit Kanodia**  
.....



**CA Akanksha Kedia**  
&



**Jaya Shaw**

### Introduction

Movement of goods with proper documents is a mandatory requirement under the provisions of section 68 of the CGST Act 2017.

Section 129 of the CGST Act 2017 gives power to the proper officers to detain goods and conveyance, impose penalty thereon if said goods are being transported in contravention of provision of the act or rules made thereunder.

Sec 129 of CGST act 2017 can be invoked by the department only when the goods are in transit and the person in charge of the goods failed to provide proper documents to the proper officer. As Section 129 is meant to check documentation for the goods in movement and conveyance in movement.

Before we deep dive in section 129, we must read section 68 which gives power to proper officer to inspect the goods in movement.

### Carrying of documents and devices by person in charge of a conveyance - Section 68(1) read with Rule 138 and 138A

- The person in charge of the conveyance carrying goods of consignment value exceeding Rs. 50,000/- (for intra state movement many states have other notified values) shall carry the documents and devices prescribed u/r 138A.

Rule 138A of the rules prescribes for below documents:

- (a) the invoice or bill of supply or delivery challan, and
- (b) Copy of e-way bill (hard copy or via RFID)
- (c) In case of imported goods, a copy of the bill of entry filed

by the importer of such goods and shall indicate the number and date of the bill of entry in Part A.

- The details of documents required to be carried by the person in charge of conveyance shall be validated in the prescribed manner.

### Interception and Verification u/s 68(3)

- Where any conveyance is intercepted by the proper officer at any place, PO may require the person in charge of the said conveyance to produce the documents prescribed and devices for verification, and the said person shall be liable to produce the documents and devices and also allow the inspection of goods.

When there is any document-deficiency, then consequences laid out in section 129 will immediately follow which provides for detention, seizure and release of goods and conveyances in transit.

However, not all contraventions of the provisions of the CGST Act or the rules made thereunder as applicable for detention and seizure :-

- Proceedings under section 129 of the CGST Act may not be initiated in case of minor mistakes like error in one or two digits/characters of the vehicle number or Invoice number, Pin Code, Name of consigner or consignee mentioned on E-way bill.

### Legal Provision

Sec 129(1) start with a non obstante clause which states, where **any person (may or may not be registered under this act)** in contravention of the act or rule made thereunder –

- Transports any goods or,

- Stores any goods while they are in transit (i.e., goods lying at transporters warehouse shall be covered by this section)

all such goods and conveyance used as a means of transport for carrying the said goods and documents relating to such goods and conveyance shall be liable for **detention or seizure**.

*No Goods or conveyance shall be detained or seized without serving an order of detention or seizure on the person transporting the goods.*

Such detained or seized goods shall be released on payment of penalty as mentioned below (effective from 1st January, 2022 vide N/No. 39/2021-Central Tax dated December 21, 2021)

Nature of Goods	Sec 129(1)(a) – Owner of goods comes forward for payment	Sec 129(1)(b) – Owner of goods does not come forward for payment	Sec 129(1)(c)
Taxable Goods	<b>Penalty equal to 200% of the tax payable on such goods</b>	Penalty equal to 50% of the value of the goods Or, 200% of the tax payable on such goods, <b>whichever is higher.</b>	Upon furnishing of security equivalent to the amount payable under clause (a) or clause (b) in such form and manner as may be prescribed. <i>However, the form has not been prescribed but section 67(6) read along with Rule 140(1) provides for security in the form of bank guarantee which can be furnished for release of goods.</i>
Exempted Goods	2% of value of goods or Rs 25,000 (each CGST & SGST) whichever is lower	5% of value of goods or Rs 25,000 (each CGST & SGST) whichever is lower	

## Procedure

Time limit for issuance of notice and passing of order u/s 129(3)

Proper officer must issue notice [Form GST MOV-07] **within 7 days from the detention of goods** specifying the penalty payable and he must pass an order i.e., **Penalty order [Form GST MOV-09] within 7 days from service of notice.**

Order of Penalty u/s 129(4)

Opportunity of being heard to be given to assessee before passing an order of Penalty, where penalty is payable on detention or seizure of goods or conveyance.

Payment of Penalty u/s 129(5)

Once penalty order is being passed then it must be paid as specified u/s 129(3) of CGST Act **Within 15 days from**

**the date of service of order.** Once the payment is made, proceedings under this section shall be deemed to be concluded.

Consequences of Non – Payment u/s 129(6)

If a taxpayer fails to pay penalty and time period of 15 days lapses then Proper officer is made eligible to sold and dispose of such detained or seized goods in such time period or in such manner as may be prescribed (u/r 144A), to recover the penalty payable u/s 129(3).

*Provided that the conveyance shall be released on payment by the transporter of penalty under sub-section (3) or one lakh rupees, whichever is less.*

*Provided further that where the detained or seized goods are perishable or hazardous in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.*

Right to Appeal

If penalty order has been passed u/s 129(3) of CGST Act, 2017, the taxpayer can go for appeal u/s 107(6) of CGST. Pre deposit for filing first appeal against e-way bills violations is 25% of the penalty imposed. The appeal shall be filed within a period of **3 months** from the date on which a copy of the order made by the Proper officer u/s 129(3) is received. **On conjoint reading of section 129(6) and 107(6), it is preferable/advisable to file appeal within 15 days to safeguard the interest of the appellant as recovery proceedings u/s 129(6) shall be initiated within 15 days from the receipt of penalty order.**

**Rule 144A—Recovery of penalty by sale of goods or conveyance detained or seized in transit.**

Empowering the Proper Officer (PO) to recover penalty by way of sale or disposal of the goods or conveyance so detained –

- If taxpayers fails to pay penalty u/s 129(1) within **15 days** from the date of receipt of order u/s 129(3), the PO shall proceed to sale/dispose the goods or conveyance by **preparing an inventory and estimating the market value of such goods or conveyance.**
- Goods or conveyance liable for sale shall be sold through auction (which includes e-auction). A notice (**FORM GST DRC-10**) shall be issued indicating the goods or conveyance to be sold and purpose of sale.
- Where the transporter or the owner pays the penalty after the time period mentioned in 144A (1) but before issuance of notice under sub-rule (2), the PO shall cancel the process of auction and release such goods or conveyance.
- The last day for submission of bid or the date of auction



shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (2).

- The proper officer may decide the pre-deposit amount for bidders to participate in the bid. The pre-deposit amount may be returned to unsuccessful bidders and the amount will be forfeited in case of failure of payment of full amount by successful bidders.
- A notice in FORM GST DRC-11 shall be issued for payment to be made within 15 days from the date of auction to the successful bidders.
- The PO shall issue a certificate in FORM GST DRC-12 for transfer of possession and ownership of goods/conveyance on payment of full amount by successful bidders.
- The PO shall cancel the process and proceed for re-auction where no bid is received or the auction is considered to be non-competitive due to lack of adequate participation or due to low bids.
- The proceedings for recovery of penalty under this rule shall be deemed to be stayed, where an appeal has been filed u/s 107(6). This shall not be applicable in respect of goods of perishable or hazardous nature.

where the detained or seized goods are **perishable or hazardous** in nature or are likely to depreciate in value with passage of time, the said period of fifteen days may be reduced by the proper officer.

#### Rule 154—Disposal of proceeds of sale of goods or conveyance and movable or immovable property

This Rule provide for **appropriation of proceeds** of sale of goods or conveyance and movable or immovable property, against the following **sequentially**:

- appropriated against the **administrative cost** of the recovery process
- appropriated against the amount to be recovered or to the payment of the **penalty payable under sub-section (3) of section 129**
- appropriated against any **other amount due** from the defaulter **under the GST Act** and the rules made thereunder.
- any balance, to be paid to the defaulter.** In case the person is registered under the Act, then the amount shall be credited to Electronic Credit Ledger; otherwise, the said amount shall be credited to the bank account of the person concerned.

where it is not possible to pay the balance of sale proceeds, to the person concerned **within a period of six months** from the date of sale of such goods or conveyance or such further period as the proper officer may allow, **such**

**balance of sale proceeds shall be deposited with the Fund (Consumer Welfare Fund).**

#### Brief comparison of section 129 up to 31/12/2021 and section 129 w.e.f. 01/01/2022

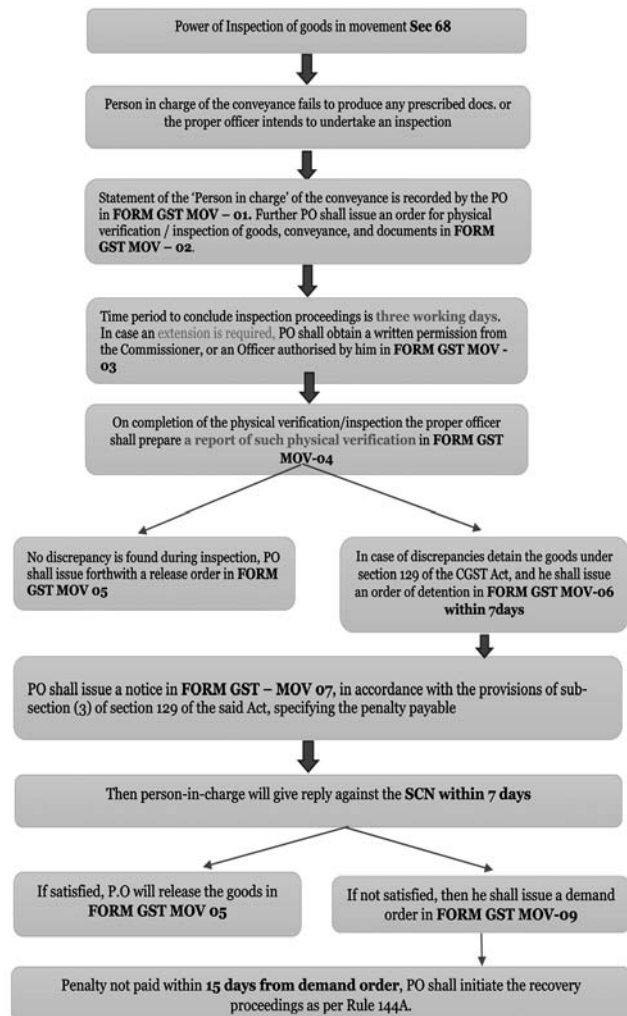
**Sec. 129(2) has been omitted:** There will not be any provisional release of goods on execution of bond or security, earlier it was allowed.

Earlier there was **no time limit** for issuance of notice and order.

For filing an **appeal**, Pre-deposit amount has been increased to **25% of the penalty imposed** and not limiting the same to 10% of the demand for general appeals.

Amended section 129(6) delinks the proceedings under section 129 from those under section 130 by providing in section 129 itself for the recovery of penalties by disposing of goods and conveyance.

#### **Procedure for interception of conveyances for inspection of goods in movement, and detention, release and confiscation of such goods and conveyances**



## Comments:

The Hon'ble Finance minister, in union budget 2021-22, proposed changes vide the Finance Bill, 2021, that amends the CGST Act w.r.t amendment in sec. 129. CBIC vide N/No. 39/2021- CT has notified the amendments w.e.f. January 01,2022.

Earlier provision was for payment of **100% Tax plus 100% penalty** under section 129 which is now amended and **enhanced to 200% penalty and tax is being withdrawn**. The amendment had ended the disputes over the payment of tax twice for the same transaction (first while detention and secondly while filing returns by the assessee). However, the new quantum of penalty seems to be very harsh as honest taxpayers who made some clerical error will be

charged 200% penalty at par with dishonest taxpayers.

*Also, Seizure of goods and conveyances in transit and confiscation of goods or conveyances u/s 129 and 130 respectively are now made as a separate proceeding from the recovery of tax from Section 73 and Section 74. This mean that even if the show cause notice issued to a taxpayer under Section 73 / 74 of the CGST Act is dropped / adjudicated, the proceedings under Section 129 / 130 pertaining to detention / confiscation of goods may still continue.*

---

A NOTE ON THE PROCESS OF DETENTION OF GOODS & CONVEYANCE U/S 129 OF CGST ACT, 2017 AND SECTION 130 OF THE CGST ACT, 2017 W.E.F. 01ST JANUARY, 2022

\* \* \* \* \*

## Dare to Be

When a new day begins, dare to smile gratefully.  
When there is darkness, dare to be the first to shine a light.  
When there is injustice, dare to be the first to condemn it.  
When something seems difficult, dare to do it anyway.  
When life seems to beat you down, dare to fight back.  
When there seems to be no hope, dare to find some.  
When you're feeling tired, dare to keep going.  
When times are tough, dare to be tougher.  
When love hurts you, dare to love again.  
When someone is hurting, dare to help them heal.  
When another is lost, dare to help them find the way.  
When a friend falls, dare to be the first to extend a hand.  
When you cross paths with another, dare to make them smile.  
When you feel great, dare to help someone else feel great too.  
When the day has ended, dare to feel as you've done your best.

Dare to be the best you can –  
At all times, Dare to be!

– Steve Maraboli



**CA Ramesh Patodia**  
ramesh.patodia@rkrr.in

## Reassessment conundrum continues – After math in the light of recent decisions

Ever since the Finance Act, 2021 was enacted, the substantial changes that were made in the manner of taxation relating to the reassessment have been subject matter of country wide debate. The Finance Bill 2022 is now set to be laid down before the Parliament on 1-2-2022 and the conundrum has continued.

Initially when the Chhattisgarh High Court in the case of Palak Khatuja Vs Union of India(2021) 438 ITR 622(Chhattisgarh) upheld the notices issued in terms of the power that was taken by the department by notifications extending the time limit for issuances of notices u/s 148 under the law prevailing up to 31st March 2021(hereinafter referred to as the Old Law), it was a dampener for all.

However, with the spate of recent decisions in the case of Bagaria Properties and Investment (P) Ltd Vs Union of India(2022) 134 taxmann.com 196(Cal), Man Mohan Kohli Vs AACIT(2021) 133 taxmann.com 166(Del), Ashok Kumar Agarwal Vs Union of India(2021) 131 taxmann.com 22(Allahabad), BPIP Infra Pvt Ltd Vs ITO (2021) 133 taxmann.com 48(Raj) and Manoj Jain Vs Union of India(2022) 134 taxmann.com 173(Cal), the notices issued under the old law have been quashed though with liberty to the AO to initiate fresh reassessment proceedings in accordance with the relevant provisions of the Act as amended by the Finance Act 2021 observing the due process of law.

The issue can be said to have been set at rest albeit for a while as the department has already challenged the decision of the Allahabad High court in Ashok Kumar Agarwal(Supra) before the Supreme court and ultimately the

final word has to come from the mouth of the Supreme Court.

Thus even though the issue regarding the validity of notices issued till 30th June, 2021 under the old law have been set at rest as above, still there are some intriguing issues that have perplexed the mind of the professionals and assessees. The present article examines those issues.

1. What happens to the fate of those notices which have been issued in a similar manner but the assessee in those cases did not file any writ petition before the High Court and have taken the normal assessment and appeal route?
2. In view of the fact, that SLP has been filed in Supreme Court, what is effect of the same on the assessee who had filed the Writ and the matter was decided in their favor?
3. In case of some assessee, Notices which were digitally signed on or before 31st March 2021 and sent by way of email, which emails were received by the assessee on 1st April, 2021 or thereafter ?
4. In case of some assessee, notices are dated within 31st March 2021 but were digitally signed after 31st March 2021 and were sent by email which have been received by the assessee after 31st March 2021?

Whether the notices as issued in Point 3 and 4 above are valid?

In order to examine the above issues, certain basic principles of common law have to be understood.

### **Binding force of decision of High Court**

In so far as the binding force of judicial

decision of a high court is concerned, the Bombay high court in the case of CIT Vs Thana Electricity Supply limited(1994) 206 ITR 727(Bom) explained doctrine of binding precedent also known as stare decisis in very clear words. The court on Page 734 observed that though there is no provision like article 141 which specifically lays down the binding nature of the decision of the high courts, it is a well-accepted legal position that a single judge of a high court is ordinarily bound to accept as correct judgements of courts of co-ordinate jurisdiction and of the division benches and of the full benches of his court and of supreme court. It is equally settled that the decision of one high-court is not a binding precedent on another high court. The Supreme court in the case of Valliama Champaka Pillai Vs Sivathanu Pillai AIR 1979 SC 1937 held that a decision of one high court at best can have a persuasive effect and not the force of binding decision on another high court. The court also following the decision of the Supreme court in the case of East India Commercial Co Ltd Vs Collector of Customs AIR 1962 SC 1893 observed that the law declared by the highest court in the state is binding on authorities or tribunals under its superintendence and they cannot ignore it.

Thereafter, the court having decided whose decision binds whom, examined what is binding and following the decision of Supreme court in the case of S.P. Gupta Vs President of India AIR 1982 SC 149 observed that it is only the ratio decidendi that has a precedent value. It is elementary that what is binding on the court in a subsequent case is not the conclusion arrived at in a previous decision, but the ratio of that decision, for it is the ratio which binds as a precedent and not the conclusion. A case is only an authority for what it actually decides and not what may come to follow logically from it.

Thus following the aforesaid decision of the Bombay High court, it can be concluded that the decisions as above by the various high courts in relation to the notice u/s 148 are valid within the territory of the respective high court and thus in the State of Chhattisgarh, even though there are judgements of other high courts which have not followed the decision in the case of Palak Khatuja(supra), the same will be binding on all in the State of Chhattisgarh . However, as far as other high courts are concerned which have not yet decided this issue, these high courts can choose to follow any of these high court decisions or decide otherwise.



### **Point 1- Assesseees who have not filed the Writ**

As far as those assesseees who have been issued similar notices, for them the ratio decidendi of the judgement of the high court in their state which has been pronounced the decision, will be binding on all including the department notwithstanding the fact that they may not have challenged the notice before the high court. Moreover, even if the matter has been decided against them, they can pursue before high authorities and the higher authorities are bound to follow the decision of the high court. Not only this, the demand if any as a result of the said notices cannot be enforced.

### **Point 2 – Assesseees who have filed the writ and the effect of SLP having been admitted in the Supreme Court**

Notwithstanding the fact that the Supreme court has admitted the SLP against the decision of the Allahabad high court as above, the decisions in favor of the assessee or against them as above will still be valid in the respective state until the matter is decided by the supreme court one way or the other and the department and/or assessee cannot claim that the matter is now before the supreme court and as such they are not bound to follow the same. See CIT Vs Desai Brothers Limited ( 1991) 189 ITR 88(Bom). Similar was held by the Bombay High court in the case of CIT Vs Godavari Sugar Mills Ltd (1992) 198 ITR 196(Bom) as there was no interim order from the supreme court whereby the operation of the order of high court was stayed.

### **Point 3 and 4**

Now coming to Point No 3 and 4 hereinabove, as far as law relating to notice u/s 148 is concerned, it is very clear that the law mandates that the notice must be issued within the limitation period as prescribed by the law and the service within the limitation period is not necessary. See R K Upadhyay Vs Shanabhai P Patel (1987) 166 ITR 163(SC).

Thus, the issue of notice is relevant and not the service of notice. In the instant case when. Physical notice has been digitally signed, whether it can be said to have been issued or not is to be seen. Again, a question arises whether when a notice which is digitally signed and sent by email, is it an electronic notice or a digitally signed physical notice.

It is appropriate to note that Section 5 of the Information

Technology Act, 2000 deals with Legal recognition of electronic signatures and states that where any law provides that information or any other matter shall be authenticated by affixing the signature or any document shall be signed or bear the signature of any person, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied, if such information or matter is authenticated by means of electronic signature affixed in such manner as may be prescribed by the Central Government.

Electronic signature is defined in Section 2(ta) of the Information technology Act, 2000 and includes digital signature.

Thus, a physical notice authenticated by digital signature is a valid authentication as per the provisions of the Section 5 as above. Not only this, as per Section 282A of the Income-tax Act, 1961 dealing with authentication of notices and other documents, the authentication has to be done as per Rule 127A and Rule 127A(1)(a) provides that every notice or other document communicated in electronic form by an income-tax authority under the Act shall be deemed to be authenticated - in the case of electronic mail or electronic mail message, if the name and office of such income-tax authority –

- A) Is printed on the email body, if the notice or other document is in the e-mail body itself; or
- B) Is printed on the attachment to the e-mail, if the notice or other document is in the attachment.

And the email is issued from the designated e-mail address of such income-tax authority.

Section 282A of the Act was inserted by the Finance Act, 2008 w.e.f. 1/6/2008 and the rationale behind the introduction states that *where any notice, or other document is required to be issued, served or given, it shall be deemed to have been authenticated if the name and office of a designated income-tax authority is printed, stamped or otherwise written thereon.*

A question arises whether authentication and signature of a notice are two different things and both are required or only authentication is sufficient without signature or vice versa.

In this regard as per Section 282A(1) of the Income-tax Act, 1961 *where this Act requires a notice or other document to be issued by any income-tax authority, such notice or other document shall be signed and issued in paper form or communicated in electronic form by that authority in accordance with such procedure as may be prescribed.*

The procedure prescribed is stated in Rule 127A as above.

Thus, on a reading of Section 282A(1) it is clear that every

notice has to be signed and once it is signed, the same can be issued in paper form or communicated in electronic form. It is only when the notice is communicated in electronic form that the provisions of Rule 127A regarding authentication must be complied with. Moreover, Section 282A(2) deals with authentication of a notice or document and states that *every notice or other document to be issued, served or given for the purposes of this Act by any income-tax authority, shall be deemed to be authenticated if the name and office of a designated income-tax authority is printed stamped or otherwise written thereon.*

Thus, it is clear that a notice is required to be signed as well as authenticated be it in paper form or electronic form and the signature can be physical or electronic as above and authentication can be done in the manner as specified in Section 282A(2) or Rule 127A(1) as above. Unless it is done, the notice cannot be said to have been authenticated as per Section 282A read with Rule 127A.

Now a question arises when a physical notice which is digitally signed and authenticated and sent by email be said to have been issued. Is it when the notice is digitally signed and authenticated in the manner laid down or when it is actually attached with the electronic mail and the mail is actually sent.

Section 13 of the Information Technology Act, 2000 in this regard deals with Time and place of dispatch and receipt of electronic record. As per Section 13(1), save as otherwise agreed to between the originator and the addressee, the dispatch of an electronic record occurs when it enters a computer resource outside the control of the originator.

However, Section 13 deals with dispatch. Whether dispatch in the context of Information Technology Act, 2000 can be equated with issue or service is to be seen.

The Gujarat High court in the case of Kanubhai M Patel (HUF) Vs Hiren Bhatt or his successors to office and others (2011) 334 ITR 25 (Guj) in the context of physical notices held that the expression “to issue” in the context of issuance of notices, writs and process has been attributed to send out, to place in the hands of the proper officer for service. The expression shall as used in Sections 149 would therefore have to be read in the aforesaid context. Thus when notices which have been signed on 31st March are sent to speed post center for booking only on 7th April, the court held that merely signing the notices on 31st March 2010 cannot be equated with issuance of notice as contemplated u/s 149 of the Act. The date of issue would be the date on which the same was handed over for service to the proper officer.

To take the controversy forward, it will also be appropriate

to refer to the decision of the Supreme Court in the case of Banarsi Devi Vs ITO(1964) 53 ITR 100(SC) where in the context of reassessment u/s 34 of the 1922 Act, the court observed that the expression “issued” and “served” are used as interchangeable terms and in the legislative practice of our country they are sometimes used to convey the same idea. The court also noted that the law did not provide any time for sending the notice and therefore the expression issued is not used in the narrow sense of sent. The court also noted that the word “issued” has been used in the narrow as well as wider sense. The court also noted that the dictionary meaning of the word Issued takes in the entire process of sending the notice as well as service thereof. Though this decision was in the context of 1922 Act but the same can be applied in the context of present controversy also as under the present law also, the issue of notice is important though service has to be made before the assessment is completed.

Taking a cue from the above decisions, it can thus be seen that sending and service are both covered within the meaning of issued and thus in the present case when the service is not important and it is only the issue which is important, the act of sending can be dissected from service and it can be argued that even if the notice is sent, it can be said to have been issued though it may not have been served.

Now in the context of an electronic service, the question arises when a notice can be said to have been sent. We can again refer to the provisions of Section 13(1) which deals with time and place of dispatch of electronic record and therefore it is only when the notice enters the a computer resource outside the control of the originator that the notice can be said to have been sent and thus issued and

not otherwise.

One can argue that the moment, the notice is prepared, digitally signed and authenticated in the manner as prescribed, it can be said to have been issued and the actual dispatch as per Section 13 is not necessary. The word dispatch in Section 13 is associated with service and not issue. However, taking cue from the decision of the Supreme Court in the case of Banarsi Devi (supra) and Kanubhai Patel(supra), that will be stretching the meaning of the word issued and cannot be said to have been sent. In my opinion this will not amount to an act of sending and it is only the act of dispatch as per Section 13 as above can be said to be sending and thus issued in the context of the Information Technology Act, 2000.

In the light of above, the notices which have been digitally signed within 31st March, 2021 but which have been received after 31st March, 2021 can be said to have been issued after the limitation period and challenge can be made to the act of issue of notice and not to the act of service of notice.

In case of those notices which have been digitally signed after 31st March, 2021 clearly the notice would be said to have been issued beyond 31st March 2021 and thus would be illegal assuming the limitation period expires on 31/3/2021.

In case of any such challenge, the relevance of Evidence Act, 1872 will be important including the decision of the Supreme Court in the case of Arjun Panditrao Khotkar Vs Kailash Kushanrao Gorantyal(2020) 7 SCC 1(SC) to ascertain the act of issuance of notice with the help of primary and secondary evidence as per Section 65A and 65B of the said Act.

\* \* \* \* \*

**Love and large-hearted giving, when added together, can leave deep marks. It is never easy to cover these marks, dear friends—never easy.**

**– O. Henry**



**CS Shreya Jain**  
shreyajain@sjaykishan.com

# Corporate Finance using Blockchain Technologies

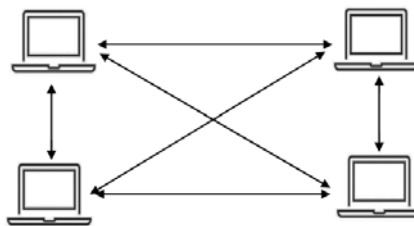
The realm of technology is developing at a much-needed accelerated rate in view of the recent changes happening across the globe.

The advancement technology is also getting infused in the corporate world gradually. A prime example of the same is the blockchain method. The author in this article discusses about the use of blockchain method in the corporate segment.

## Introduction

The blockchain method albeit being used extensively recently, dates to 1982 wherein, cryptographer David Chaum came up with the concept. It was however officially conceptualised by a pseudonym personality - Satoshi Nakamoto.

Blockchain methodology follows a protocol wherein a network of computers is voluntarily added to a group and are provided with the same existing list of records called blocks. Subsequently new records or blocks are added to the said block which creates a chain of blocks, hence the name – blockchain.



The structure is framed in such a manner that new blocks are added on top of the old blocks which does not per se alter the technology but only acts as a modification, thus makes the entire iteration difficult to alter and thereby retaining its authenticity. This technology can be and is being used in the financial segment given the “iron-

clad” protection and resistance against data tampering that is provided.

## Smart Contract

Smart contracts are contracts which are based on a programming language using the blockchain technology. The network of computers used in this format ensures verification, control and execution of an agreement. The computer network executes the action on a pre-determined conditions as stated in the terms of the contract written in the block by way of coding (commonly known as peer-to-peer distributed ledger system).

The contract is automatically executing when all such terms specified in the code are met with. Thus, instead of parties physically signing two sets of contracts, a smarter solution is developed using the said technology and avoiding the involvement of unnecessary intermediaries, thus operating on a peer-to-peer environment. The features comprise the following –

- Doing away the physical copies of the document.
- Once the transaction has happened, the same shall remain irreversible
- The user of the technology may remain anonymous but all the records get registered on the blocks.
- The terms and conditions of the contract cannot be altered by anyone including the owner or the creator.

## A secured way ahead

The risk factor is mitigated to some extent since smart contracts does away with the involvement of any

intermediaries and that once the code with respect to such contract is iterated, the same cannot be altered while traditional mode of contract could be altered easily since the same is executed physically and therefore easier to replace the documents.

Additionally, while the contracts which are executed physically faces challenges with respect to non-performance of the same, however, it is fundamentally impossible to execute a smart contract in case of non-performance since such contract is executed on a predetermined set of conditions (discussed later) which leads to avoiding such obstacle.

### Drafting of such contracts

Smart contract run on a set of program, therefore, the most likely scenario is that the person behind drafting of such contract may be technical experts who may not be well versed with the law.

On the contrary, the traditional contracts involved several professionals/ lawyers who were privy to the terms and legality of the contract which in this situation is unlikely. Thus, it shall be essential for the parties to the contract to ensure that the technician implementing such codes is aware about all the necessary details. Further, in view of the fact that such program once executed cannot be modified, it shall be essential to ensure that the coding of such program is full-proof from the beginning.

### Tenability in India

For a contract to be valid, the prominent test would whether such type of contract can be legally binding in terms of the Information Technology Act 2000 ("IT Act") and the Indian Contract Act 1872.

### Indian Contracts Act, 1872

The basis terms for a contract to be valid are –

- a. Offer and acceptance;
- b. Intention to create a legal obligation;
- c. Lawful consideration;
- d. Free consent of all the parties and
- e. Lawful object of the contract

The aforementioned is vital for a contract to be considered valid therefore, terms such as intention, offer, acceptance, consideration should be embedded in the code being executed in the blocks which shall render such contracts to be valid.

A basic iteration may compose if/else functionality when it comes to a contract. of the technology that is used. The

contract is executed only when all of the predetermined clauses as mentioned above are met with.

### Information Technology Act, 2000

Given that smart contracts are executed by means of technology, the involvement of any paper is done away with. therefore, in order to authenticate such contract the only means would be affixing of one's digital signature.

As per Section 2(p) of the IT Act, 2000 "digital signature" means authentication of any *electronic record by a subscriber by means of an electronic method or procedure*. The next question to be addressed is whether such use of digital signature a valid format when it comes to a contract?

The answer to the above is stated in Section 5 of the IT Act which recognizes the use of digital signature –

*"Where any law provides that information or any other matter shall be authenticated by affixing the signature or any document shall be signed or bear the signature of any person (hence, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied, if such information or matter is authenticated by means of digital signature affixed in such manner as may be prescribed by the Central Government."*

In furtherance to the above, the IT Act also gives legal recognition to the use of digital signature and electronic records.

Therefore, one may opine that the validity of a smart contract would not be tarnished just because the same is not executed on a piece of paper.

### Judicial enforcement

The enforcement of a smart contract may prove to be tricky in terms of its acceptance before the court of law.

The blockchain technology runs on a fundamental system which involves a network of computers. These computers may be located across the globe, therefore, raising complex questions relating to cross jurisdictional boundaries.

### Conclusion

With the advancement of technology in the corporate sector, it is about time to see what its impact in the corporate world shall be.

While India is mulling on the legality of cryptocurrency and the platform/ technology it is running on – blockchain method. It shall be rather interesting to see what the future holds in terms of paperless contracts and the acceptance of the same in the legal world.

\* \* \* \* \*





**CA Sakshi Jhajharia**  
sakshijhajharia97@gmail.com

## The Law shall not Expect Performance of the Impossible

Lex Non Cogit Ad Impossibilia means the law shall not expect performance of the impossible. The excuse of impossibility of performance cannot be sustained in case it is explicitly expressed in a contract, however, when it is provided by law, non-performance can be excused. It was observed by the Hon'ble Supreme Court in the case of **Industrial Finance Corporation of India Ltd. Versus Cannanore Spinning and Weaving Mills Ltd. Reported in 2002 (4) TMI 943 – Supreme Court** that though impossibility of performance is in general no excuse for not performing an obligation which a party has expressly undertaken by contract, yet when the obligation is one implied by law, impossibility of performance is a good excuse.

The maxim 'Lex Non Cogit Ad Impossibilia' is closely connected with the latin maxim 'Impotentia Excusat Legem', which means impossibility excuses the law and inability excuses the non-observance of the law. Impossibility is followed by inability of performance which subsequently leads to non-performance.

In the case of **State of Madhya Pradesh versus Narmada Bachao Andolan & Anr reported in 2011 (5) TMI 914 – Supreme Court**, the Hon'ble Supreme Court observed that when it appears that the performance of the formalities prescribed by a statute has been rendered impossible by circumstances over which the persons interested had no control, like an act of God, the circumstances will be taken as a valid excuse.

One of the classic examples understandable in the recent unprecedented times is that the Pandemic is rendered various operations impossible. For instance during the period of complete

lockdown, it was impossible for taxpayers to comply with hearing dates and other compliances. In fact, several taxpayers were in such a situation that it was impossible for them to make payment to their supplier within 180 days as stipulated in the second proviso of Section 16(2) of the Central Goods & Services Tax Act, 2017. Several relaxations were therefore given by the Government otherwise this maxim would squarely be applicable on all such defaults.

This legal maxim is applicable in every case whether it is a civil matter, criminal matter, taxation matter or even against any Court order if it is impossible to implement. In a very interesting recent case of, **State of Uttar Pradesh versus Inhuman Condition at Quarantine Centres and for Providing Better Treatment to Corona Positive 2021 (8) TMI 1128 – Supreme Court**, the Hon'ble Supreme Court noted the 'Doctrine of Impossibility'. It was held that the High Court should normally consider the possibility of the implementation of the directions given by it, and such directions which are incapable of being implemented should be avoided. The doctrine of impossibility would be equally applicable to Court orders as well.

In the case of **Life Insurance Corporation of India versus Commissioner of Income Tax 1996 (2) TMI 5 – Supreme Court**, the Hon'ble Supreme Court observed that in the surplus or deficit in any inter-valuation period relating to the Corporation which came to be formed only on the appointed day in 1956, this amount could not be reflected since it related to a period prior to the formation of the Corporation. The law does not contemplate or require the performance of an impossible act - lex

non cogit ad impossibilia.

The constitutional validity of Section 9 (2) (g) of the DVAT Act, 2004 was challenged to the extent that it required taxpayer to do the impossible. It placed an onerous burden on a bonafide purchasing dealer. What the Section requires the purchasing dealer to do is that after transacting with the selling dealer, somehow ensure that the selling dealer does in fact deposit the tax collected from the purchasing dealer and if the selling dealer fails to do so, undergo the risk of being denied the ITC. In the case of **Arise India Limited versus Commissioner of Trade and Taxes 2017 (10) TMI 1020 – Delhi High Court**, the Hon'ble Delhi High Court held as follows:

Applying the law explained in the above decisions, it can be safely concluded in the present case that there is a singular failure by the legislature to make a distinction between purchasing dealers who have bona fide transacted with the selling dealer by taking all precautions as required by the DVAT Act and those that have not. Therefore, there

was need to restrict the denial of ITC only to the selling dealers who had failed to deposit the tax collected by them and not punish bona fide purchasing dealers. The latter cannot be expected to do the impossible. It is trite that a law that is not capable of honest compliance will fail in achieving its objective. If it seeks to visit disobedience with disproportionate consequences to a bona fide purchasing dealer, it will become vulnerable to invalidation on the touchstone of Article 14 of the Constitution.

Analogous provision exists in the GST Law as well. Section 16(2)(c) of the CGST Act, 2017 imposes a condition on the recipient that ITC will be eligible only if the supplier has paid tax to the Government. This is an impossible condition to be imposed on the recipient as the Law provides no mechanism to find out whether the supplier has paid tax to the Government or not. Based on the above judgment and a plethora of others from the erstwhile regime, the constitutional validity of this provision is under challenge before various Courts across the country.

\* \* \* \* \*

**“We should know how to handle — not only how to handle success, how to handle the failures,” the great, late Indian politician, scientist and Bharat Ratna APJ Abdul Kalam said in one of his speeches.**

**He explains that one has to face numerous challenges in every aspect of life. And so, instead of making the problem their captain, one must become the captain themselves to defeat all odds and be successful.**

**“Those who dare to imagine the impossible are the ones who break all the human limitations... By breaking the limits of their imagination, they change the world,”**

**The former President of India, professor, aerospace engineer shares the four mantras to succeed in life: “I will have great aim; I will continuously acquire knowledge; I will do hard work; and I will persevere and succeed”.**



CA Charmi Shah

# Corporate Social Responsibility

## History

India has the world's richest tradition of Corporate Social Responsibility (CSR). The term CSR may be relatively new to India, but the concept dates back to Mauryan history, where philosophers like Kautilya emphasized on ethical practices and principles while conducting business. CSR has been informally practiced in ancient times in form of charity to the poor and disadvantaged. Indian scriptures have at several places mentioned the importance of sharing one's earning with the deprived section of society. We have a deep rooted culture of sharing and caring.

## Present Scenerio

Corporate Social Responsibility ("CSR") was for the first time introduced as a statutory obligation for companies by way of Companies Act 2013 under Section 135. Thereafter, the Companies (Corporate Social Responsibility Policy) Rules were notified on 27th February 2014 ("CSR Policy Rules, 2014")<sup>1</sup> to lay down the specifications and procedure to be followed by the companies while discharging their CSR obligations. The Ministry of Corporate Affairs (MCA) has amended the Companies (Corporate Social Responsibility Policy) Rules, 2014 through notification dated January 22, 2021 and notified the major changes in the Companies (Corporate Social Responsibility) Rules, 2014 ('the Rules') through the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 and have also notified provisions of Sub Section 5, 7 and 9 of Section 135 of Companies Act 2013.

With the notification of these amendments, the penal provisions for non-compliance of CSR provisions have come into force which changes the very nature of the CSR provisions. Earlier the

provisions provide that non-spending of the CSR amount was required only to be reported by the Company in the board's report of the Company.

Further, the amendment in the Rules are not just limited to the changes made in the CSR provisions, rather, it extends to make substantial changes in the implementation of the entire CSR activity. Infact, couple of fresh concepts have also been introduced in the Rules like registering of implementing agencies by filing e-form CSR-1 with the MCA, CFO certificate, mandatory impact assessment.

## Applicability

The provisions shall not affect the CSR projects or programs approved prior to the 01st day of April 2021.

## CSR Impact Assessment made mandatory

CSR Impact Assessment is the process of comprehending the impact that has occurred in the lives of the beneficiaries, where the project was implemented. This helps to understand the overall outcome and impact of the project from the eyes of the beneficiaries. The New Rules in the Companies Amendment Act have brought in some changes which show Government's encouragement towards the corporates to pursue impact assessment for their ongoing CSR projects.

The New Rules require all the implementing entities intending to undertake CSR activities to register themselves with the Central Government by filing form CSR-1 electronically for all CSR projects effective from 1st April, 2021. A unique CSR Registration Number will be generated for all companies submitting Form CSR-1. In this way, a list of all the participating entities is maintained by the Ministry of Corporate Affairs, which would increase the chances of timely

fulfillment of proposed activities. This past performance record of the implementing agencies can be referred to by the companies which will help them decide their engagement for future CSR activities.

The corporate social responsibility rules that were declared on 22 January, 2021 states that every company having an average CSR obligation of Rs 10 crore or more in the three preceding financial years, will have to undertake an impact assessment study of its projects, through an independent agency. Henceforth, each CSR project would be given a unique registration number upon submission of the Form CSR-1 which can be used to track the project.

Benefits of undertaking CSR Impact Assessment for any project:

- Helps to track, assess and report the progress of the sponsored project and undertake course corrections.
- Facilitates the CSR team to understand how each stakeholder has met the assigned responsibilities.
- Assists the plans of the CSR Committee and executes the activities in a transparent way.
- Assess the competency of implementing partners and plan future CSR projects based on their strengths

#### Introduction of new Provisions:

New Section 135(6) has been [inserted by Companies (Amendment) Act 2019,].Sec 135(6)says "Any amount remaining unspent pursuant to any ongoing project, undertaken by a company in pursuance of its CSR Policy shall be transferred by the company in the unspent CSR Account within a period of thirty days from the end of the financial year".

The amount transferred to the unspent CSR account shall be spent by the company in pursuance of its obligation towards the CSR Policy within a period of three financial years from the date of such transfer.

Where a company spends an amount in excess of requirement provided under sub-section (5) of section 135, such excess amount may be set off against the requirement to spend under sub-section (5) of section

135 up to immediate succeeding three financial years subject to the conditions that –

- (i) the excess amount available for set off shall not include the surplus arising out of the CSR activities, if any, in pursuance of sub-rule (2) of this rule.
- (ii) the Board of the company shall pass a resolution to that effect.

#### CARO

New clause has been inserted in CARO 2020, which requires

the auditor to report on whether unspent CSR amount has been transferred to:-

1. a fund as specified in Schedule VII (where no specific project has been carried out or assigned)
- or
2. a special designated bank account (related to any ongoing project)

#### Amendments to Companies Act 2013 – Schedule III:

Where the company covered under section 135 of the companies act, the following shall be disclosed with regard to CSR activities:-

- (a) amount required to be spent by the company during the year,
- (b) amount of expenditure incurred,
- (c) shortfall at the end of the year,
- (d) total of previous years shortfall,
- (e) reason for shortfall,
- (f) nature of CSR activities,
- (g) details of related party transactions, e.g., contribution to a trust controlled by the company in relation to CSR expenditure as per relevant Accounting Standard,
- (h) where a provision is made with respect to a liability incurred by entering into a contractual obligation, the movements in the provision during the year should be shown separately.

#### Penalty Clause:

From this amendment 2021, Penalty clause has been inserted. In case a company fails to disclose unspent amount in annual report on CSR, or/ and transfer unspent amount into fund specified in Schedule VII within specified time, or/ and transfer unspent amount relating to ongoing project into unspent CSR account within specified time, or/ and transfer amount remaining utilized in unspent CSR account after 3 years into fund specified in Schedule VII within specified time then penalty is liable.

A company in default shall be liable to a penalty of lower of the following amounts

- twice the amount required to be transferred by the company to the Fund specified in Schedule VII / Unspent Corporate Social Responsibility Account.
- one crore rupees.

Every officer of the company in default shall be liable to a penalty of lower of the following amounts

- one-tenth of the amount required to be transferred by the company to such Fund specified in Schedule VII/ Unspent Corporate Social Responsibility Account.
- two lakh.

\* \* \* \* \*



**CA. Nitika Bagaria**  
F.C.A, DISA(ICAI), Certified  
Concurrent Auditor, Certified  
GST Practitioner

## Code of Ethics, its Analysis & Overview of New Clauses

### Evolution of Code of Ethics:

The Information Technology revolution and globalization of economy have changed the world for ever and every profession is facing challenges in this era of tough competition. Accountability of any profession is crucial for its survival and prosperity.

The Ethics in contemporary terms is not a domain that has to be separate from the practical world, but is very much a part of it. It has to be inculcated in the habit and temperament of the individual, so that there is an overall culture of ethics; the force has to be strong enough to withstand any selfish motive or temptation.

It is in this spirit of things that the Institute of Chartered Accountants of India (ICAI) requires its members to comply with the principles of ethics while performing their duties. The ethics for Chartered Accountants have, therefore, been codified as ethical compliance has always been a philosophy of the profession. The members of the Institute, whether in practice or in service, are required to comply with the provisions of Code of Ethics.

Ethics is something which comes from within of an individual. But equally true is that the complexity which the world has acquired today has created need for a vigilant system of ethics for the professionals. In formulating the Code of Ethics for the profession, **the Institute** has always considered the motto ***"Pride of service in preference to personal gain" as a litmus test.***

The Council of Institute of Chartered Accountants of India (ICAI) brought the first edition of the Code of Ethics, then "Code of Conduct", in 1963. Since then, the Code has been constantly updated

from time to time to keep it relevant to the profession. The Eleventh edition of Code of Ethics, incorporated for the first time ever, the provisions of International Federation of Accountants (IFAC) Code of Ethics, thus complying with the membership obligation of ICAI towards IFAC. The two parts of the Code, one incorporating provisions of IFAC Code of Ethics, and the other based on the Chartered Accountants Act, 1949, compliment each other and together constitute perhaps one of the best Code for a profession.

Today, the members of the Institute are not restricted to professional assignments within the country or domestic employment opportunities. Further, even in the domestic domain, there are international clients and international perspectives. There is no denying the fact that the members have to keep abreast of what are the latest international developments. There is lot of research on ethics related issues done by International Ethics Standards Board for Accountants (IESBA).

Henceforth, the revised 12th edition Code of Ethics has come into effect from 1st July 2020.

This Revised 2019, Code of Ethics (ICAI) is based on the 2018 edition of Code of Ethics issued by International Ethics Standards Board for Accountants (IESBA).

1. The Code of Ethics for Professional Accountants (Including Independence Standards) ("Code of Ethics" or "the Code") sets out fundamental principles of ethics for professional accountants (hereinafter also called as "accountants"), reflecting the profession's recognition of its public interest responsibility. These principles establish the standard of behaviour expected of

a professional accountant. The fundamental principles are: integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour.

2. The Code provides a conceptual framework that professional accountants are to apply in order to identify, evaluate and address threats to compliance with the fundamental principles. The Code sets out requirements and application material on various topics to help accountants apply the conceptual framework to those topics.
3. In the case of audits, reviews and other assurance engagements, the Code sets out Independence Standards, established by the application of the conceptual framework to threats to independence in relation to these engagements.

### OVERVIEW ON CODE OF ETHICS:

COMPLYING WITH THE CODE, FUNDAMENTAL PRINCIPLES AND CONCEPTUAL FRAMEWORK:-

ALL PROFESSIONAL ACCOUNTANTS - SECTIONS 100 TO 199.

PART 2:- PROFESSIONAL ACCOUNTANTS in Service (SECTIONS 200 TO 299).

PART 2 IS ALSO APPLICABLE TO INDIVIDUAL PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE WHEN PERFORMING PROFESSIONAL ACTIVITIES PURSUANT TO THEIR RELATIONSHIP WITH THE FIRM.

PART 3 PROFESSIONAL ACCOUNTANTS IN PUBLIC PRACTICE (SECTIONS 300 TO 399).

INDEPENDENCE STANDARDS (PARTS 4A AND 4B) PART 4A – INDEPENDENCE FOR AUDIT AND REVIEW ENGAGEMENTS (SECTIONS 400 TO 899).

PART 4B – INDEPENDENCE FOR ASSURANCE ENGAGEMENTS OTHER THAN AUDIT AND REVIEW ENGAGEMENTS (SECTIONS 900 TO 999).

### Applicability of Code of Ethics on Chartered Accountants:-

The non-compliance of provisions of Code of Ethics will be deemed as violation of **Clause (1) of Part-II of second Schedule of the Chartered Accountants Act 1949** :-

PART-II OF SECOND SCHEDULE

Professional Misconduct in relation to **Members of the Institute generally**.

**A member of the Institute, whether in practice or not**, shall be deemed to be guilty of professional misconduct, if he:-

**Clause (1):** contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council:”

Thus, Code of Ethics has been made applicable to all the

Chartered Accountants whether is Practice or Service or in general.

Code of Ethics, 2009 has parts – “A” & “B”. Remains valid till 30.06.2020

“Part-A” based on provisions of IESBA Code as suitably incorporated.

“Part-B” based on domestic provision governing members Code of Ethics, (Revised 2019) or Volume – I revised counterpart of Part A – based on IESBA Code of Ethics, 2018. Effective w.e.f 01.07.2020

Code of Ethics Volume – II – revised counterpart of Part B – Effective w.e.f 01.07.2020

Updated relevant Disciplinary Case laws being issued as Code of Ethics Volume-III. Effective w.e.f 01.07.2020

It is the 1st time that Code of Ethics has been segregated in different volumes

**Code of Ethics (Revised 2019) (Volume – I) also issued as Guidelines of the Council. There is change in drafting from “should” to “shall”, and requirements are clearly demarcated**

### Overview of New Clauses of Code of Ethics (Revised 2019) or Volume - I

Some of the new requirements include:

Certain additional terms such as :-

**Public Interest Entity:-** in the context of application of certain independence provisions- Employment with an audit client, Long Association of personnel, Non-assurance services to Audit client,

**Key Audit Partner:-** in the context of partner rotation,

**Relative:-** as defined under the Companies Act, 2013 are reckoned if the client is a company while “immediate family” and “close family” are reckoned in case of other clients,

**NOCLAR:-** Responding to Non-Compliance of Laws and Regulations (NOCLAR).

**Section for Chartered Accountants in service** considering the fundamental and crucial role played by such accountants in the financial reporting supply chain and facilitating effective governance in organisations.

Enhanced description of inducements with a view to respond to continuing concerns about **bribery and corruption**.

Stronger independence provisions concerning **long association of personnel** (including partner rotation) with audit clients.

A more robust framework for **addressing a breach** of the

requirements of the Code.

Section dealing with **Management Responsibilities**:- The Code contains a description of activities that would, and would not, be generally regarded as a management responsibility and provides enhanced guidance.

Requirement **restricting** audit team members and Key Audit Partners from being **compensated for providing non-assurance services to audit clients**.

Requirements and applicable guidance addressing situations where, as a result of **a merger or acquisition, an entity becomes a related entity of an audit client**, to assist the Chartered Accountant in evaluating previous or current interests and relationships.

Provisions relating to **threats that are created by certain tax services**.

Requirement where the total gross annual professional fees from the audit client and its **related entities exceed 15% of the total fees** of the firm for two consecutive years.

Detailed **independence requirements** included for **assurance engagements**.

**Auditor rotation** requirements included under various local regulations.

#### Discussion on applicability of NOCLAR :-

##### [Sections 260 and 360]

**SECTION 260 :- Responding To Non-compliance With Laws And Regulations In Case Of Employment With Listed Entities.**

**SECTION 360:- Responding To Non-compliance With Laws And Regulations During The Course Of Audit Engagements Of Listed Entities.**

Due to the Covid-19 pandemic across the world, it was decided by the Council at its 393rd Meeting held on 30th June and 1st July, 2020 to defer the following:-

Responding to Non Compliance with Laws and Regulations (NOCLAR) (Sections 260 and 360),

Fees - Relative Size (Paragraphs 410.3 to R410.6) & Tax Services to Audit Clients (Sub-section 604) contained in Volume-I of Code of Ethics, 2019,

**The applicability of which was deferred earlier, be made applicable and effective from 1st April, 2022.**

##### A brief overview on Fees - Relative size

##### Paragraphs 410.3:-

All Audit Clients 410.3:-

A1 :- When the total fees generated from an audit client by the firm expressing the audit opinion represent a large proportion of the total fees of that firm, the dependence

on that client and concern about losing the client create a **self-interest or intimidation threat**.

A2 :- Factors that are relevant in evaluating the level of such threats include:

- The operating structure of the firm.
- Whether the firm is well established or new.
- The significance of the client qualitatively and/or quantitatively to the firm.

A3:- An example of an action that might be a safeguard to address such a self-interest or intimidation threat is increasing the client base in the firm to reduce dependence on the audit client.

A4:- A self-interest or intimidation threat is also created when the fees generated by a firm from an audit client represent a large proportion of the revenue of one partner or one office of the firm

A5:- Factors that are relevant in evaluating the level of such threats include:

- The significance of the client qualitatively and/or quantitatively to the partner or office.
- The extent to which the compensation of the partner, or the partners in the office, is dependent upon the fees generated from the client.

A6:- Examples of actions that might be safeguards to address such self-interest or intimidation threats include:

- Increasing the client base of the partner or the office to reduce dependence on the audit client.
- Having an appropriate reviewer who did not take part in the audit engagement review the work.

The details about the R410.4 to R410.9 would be discussed in detail in our next article.

#### **Meaning of Few Terms**

##### **Professional accountant**

An individual who is a member of the Institute of Chartered Accountants of India.

In Part 2, the term "professional accountant" refers to professional accountants in service.

In Parts 3, 4A and 4B, the term "professional accountant" refers to professional accountants in public practice and their firms.

##### **Professional accountant in service**

A professional accountant working in areas such as commerce, industry, service, the public sector, education, the not-for-profit sector, or in

**Professional accountant in public practice**

regulatory or professional bodies, who might be an employee, contractor director (executive or non-executive), owner-manager or volunteer.

Member of the Institute of Chartered Accountants of India who is in practice in terms of section 2 of The Chartered Accountants Act, 1949...

*The term “professional accountant in public practice” is also used to refer to a firm of professional accountants in public practice.*

**Noncompliance with laws and regulations (Professional Accountants in Service)**

Non-compliance with laws and regulations (“noncompliance”) comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:

- (a) The professional accountant’s employing organization;
- (b) Those charged with governance of the employing organization;
- (c) Management of the employing organization; or
- (d) Other individuals working for or under the direction of the employing organization.

This term is described in paragraph 260.5 A1 of Volume I

**Noncompliance with laws and regulations (Professional Accountants in Public Practice)**

Non-compliance with laws and regulations (“noncompliance”) comprises acts of omission or commission, intentional or unintentional, which are contrary to the prevailing laws or regulations committed by the following parties:

- (a) A client;
- (b) Those charged with governance of a client;
- (c) Management of a client; or
- (d) Other individuals working for or under the direction of a client. This term is described in paragraph 360.5 A1 of Volume I

The Ethics is the science of morals in human conduct. Moral principles and Rules of Conduct impose obligations and withdraw certain areas of conduct from free option of the individual to do as he likes. The professional ethics is based on morality and it interprets the compliance for the specific working of a particular profession in order to achieve the mission of building the best social environment. A distinguishing mark of the accountancy profession is acceptance of its responsibility to the public. The accountancy profession’s public consists of clients, credit guarantors, governments, employers, employees, investors, the business and financial community and others who rely on the objectivity and integrity of a professional accountant to maintain the orderly functioning of economic order. This reliance imposes a public interest responsibility

on the accountancy profession. Let us all work together to uphold our profession by following the best ethics and display the highest level of integrity, objectivity, confidentiality, professional competence & due care and best professional behaviour to the entire world.

\* \* \* \* \*

**Men, money, and materials cannot by themselves bring victory or freedom. We must have the motive-power that will inspire us to do brave deeds and heroic exploits.**

**– Subhas Chandra Bose**



# Recent Updates in Direct Tax – Important Circulars, Notifications & Judicial Pronouncements

Compiled by **CA Ramesh Kumar Patodia & Mr. Nishant Kumar Sha**  
ramesh.patodia@rkr.in; nishantkumarshah88@gmail.com

## A. Circular

### 1. Circular No. 20 of 2021 dated 25th November, 2021 – Guidelines under sub-section (4) of section 194-O, sub-section (3) of section 194Q and subsection (1-l) of section 206C of the Income-tax Act, 1961

This circular clarifies that the provisions of section 194Q of the Act does not apply in respect to those transactions where tax is collectible under section 206C [except sub-section (1H) thereof] of the Act. Since by virtue of sub-section (1A) of section 206C of the Act, the tax is not required to be collected for goods covered under sub-section (1) of the said section, it is hereby clarified that in such cases, the provisions of section 194Q of the Act will apply and the buyer shall be liable to deduct tax under the said section if the conditions specified therein are fulfilled.

### 2. Circular No. 21 of 2021 dated 28th December, 2021 – One Time relaxation for verification of all income tax-returns e-filed for the Assessment Year 2020-21 which are pending for verification and processing of such returns -

It has been decided by the Board to provide one-time relaxation for submission of ITR-V/e-Verification for resolving the grievances of the taxpayers associated with non-verification of ITRs for the Assessment Year 2020-21 and to regularize such ITRs which have either become non-est or have remained pending with Income-Tax Department for want of receipt of respective ITR-V Form or pending e-Verification. Therefore, in respect of all ITRs for Assessment Year 2020-21 which were uploaded electronically by the taxpayers within the time allowed under section 139 of the Act and which have remained incomplete due to non-submission of ITR-V Form/pending e-Verification, the Board, in exercise of its powers under section 119(2)(a) of the Act, hereby permits verification of such returns either by sending a duly signed physical copy of ITR-V to CPC, Bengaluru through speed post or through EVC/OTP modes as listed in para 1 above. **Such verification process must be completed by 28.02.2022.**

The Board has also relaxed the time frame for issuing the intimation as provided in second proviso to sub-section (1) of Section 143 of the Act and directs that such returns shall be processed by 30.06.2022 and intimation of processing

of such returns shall be sent to the taxpayer concerned as per the laid down procedure. In refund cases, while determining the interest, provision of section 244A (2) of the Act would apply. It is clarified that this relaxation would be applicable to all such returns which are verified during the extended period.

### 3. Circular No. 1 of 2022 dated 11th January, 2022 – Extension of timelines for filing of Income-tax returns and various reports of audit for the Assessment Year 2021-22

Type of Compliance (AY 2021-22)	Original Due Date	Extension vide Circular 9/2021	Extension vide Circular 17/2021	Extension vide Circular 1/2022
ITR u/s 139(1) of the Income Tax Act, 1961 (Assessee not subject to Audit)	31/07/2021	30/09/2021	31/12/2021	No Change
ITR u/s 139(1) of the Income Tax Act, 1961 (Assessee subject to Audit)	31/10/2021	30/11/2021	15/02/2022	15/03/2022
ITR u/s 139(1) of the Income Tax Act, 1961 (Assessee subject to Transfer Pricing Report)	30/11/2021	31/12/2021	28/02/2022	15/03/2022
Tax Audit Report	30/09/2021	31/10/2021	15/01/2022	15/02/2022
Transfer Pricing Report: u/s 92E of the Income Tax Act, 1961	31/10/2021	30/11/2021	31/01/2022	15/02/2022
Belated/ Revised ITR u/s 139(4)/139(5) of the Income Tax Act, 1961	31/12/2021	31/01/2022	31/03/2022	No Change

**Clarification 1** - The CBDT has clarified that the extension of due dates for filing of Income Tax Return shall not affect the provisions under Explanation 1 to section 234A (Interest for default in furnishing ITR), if amount of tax payable exceeds Rs. 1 lakh.

**Clarification 2** – Further, it has been clarified that in the case of a resident individual referred to in section 207(2),

i.e. senior citizen not having any income from business or profession, the tax paid by him u/s 140A within the original due date (without extension), shall be deemed to be the advance tax.

**4. Circular 2 of 2022 dated 19th January, 2022 – Clause (10D) of section 10 of the Income-tax Act, 1961 (the Act)** provides for income-tax exemption on the sum received under a life insurance policy, including any sum allocated by way of bonus on such policy subject to certain exclusions.

The Finance Act, 2021 amended clause (10D) of section 10 of the Act by inserting fourth to seventh provisos. Fourth proviso provides that, with effect from 01.02.2021, the sum received under a Unit Linked Insurance Policy (ULIP), issued on or after 01.02.2021, shall not be exempt under the said clause if the amount of premium payable for any of the previous years during the term of such policy exceeds Rs 2,50,000. Further, fifth proviso provides that if premium is payable for more than one ULIP, issued on or after 01.02.2021, the exemption under the said clause shall be available only with respect to such policies where the aggregate premium does not exceed Rs 2,50,000 for any of the previous years during the term of any of those policies. Sixth proviso provides that the fourth and fifth provisos shall not apply in case of sum received on death of the person.

Seventh proviso to the said clause (10D) also empowers the Central Board of Direct Taxes (Board) to issue guidelines, with the previous approval of the Central Government, in order to remove any difficulty which arises while giving effect to the provisions of the said clause. In exercise of the powers under this proviso, Board, with the previous approval of the Central Government, hereby issues the following guidelines.

Sum received including any sum allocated by way of bonus (hereinafter referred as “consideration”) during the previous year (hereinafter referred as “current previous year”) under any one or more ULIPs issued on or after 01.02.2021 (hereinafter referred as “eligible ULIP”) shall be exempt under clause (10D) of section 10 of the Act, subject to the satisfaction of other provisions of said clause.

## **B. Notifications**

### **Notification No. 136 of 2021 dated 10th December, 2021**

Rule 21AK. Conditions for the purpose of clause (4E) of section 10.- (1) The income accrued or arisen to, or received by, a non-resident as a result of transfer of non-deliverable forward contracts under clause (4E) of section 10 of the Act, shall be exempted subject to fulfilment of the following conditions, namely:-

(i) the non-deliverable forward contract is entered into

by the non-resident with an offshore banking unit of an International Financial Services Centre which holds a valid certificate of registration granted under International Financial Services Centres Authority (Banking) Regulations, 2020 by the International Financial Services Centres Authority; and

(ii) such contract is not entered into by the non-resident through or on behalf of its permanent establishment in India .

(2) The offshore banking unit shall ensure that the condition provided in clause (ii) of sub-rule (1) is complied with.

### **Notification No. 140 of 2021 dated 29th December, 2021**

Rule 16DD. Form of particulars to be furnished along with return of income for claiming deduction under clause (b) of sub-section (1B) of section 10A.—The particulars, which are required to be furnished by the assessee along with the return of income under clause (b) of sub-section (1B) of section 10A shall be in Form No. 56FF.

## **C. Judicial Pronouncements**

### **1. Anup Kumar Lakhota Vs Union of India through CBI**

*Forum – Jharkhand High Court*

*Date – 23rd December, 2021*

*Sub – Whether petitioner can be tried under the various section of Indian Penal Code and Prevention of Corruption Act in connection with the illegal transfer of PAN from Kolkata to Hazaribagh to get favourable order u/s 264 of Income-tax Act,1961 from PCIT Mr Tapas Kumar Dutta when the trial in the case of Mr Dutta is still going on ?*

This is a classic case where the petitioner and Mr Bishwanath Agarwal, Mr Santosh Shah were alleged to have planned transfer of PAN from Kolkata to Hazaribagh for the companies that either did not exist on the given addresses or had taken the premises on rent for only three months and never functioned or had any business/office activity on the so-called changed addresses of Ranchi/Hazaribagh, to get favourable set aside orders u/s 264 of Income-tax Act,1961 against orders passed u/s 143(3) in Kolkata towards huge additions made towards share capital at a huge premium and upon raid at the residence of PCIT, various incriminating documents including cash of more than Rs 3.715 crores was found and seized.

The court noted that there is prima-facie material to show that in the criminal conspiracy Sri Tapas Kumar Dutta, Principal Commissioner of Income Tax, Ranchi, Sri Arvind Kumar, Additional Commissioner of Income Tax, Ranchi; Sri Ranjit Kumar Lal, I.T.O. (Tech), Ranchi; Sri Subir Kumar Ganguly, Officer, Income Tax Ranchi; many businessmen,

chartered accountants and others were involved and it is not in dispute that investigation is still going on.

On these facts the court refused to interfere under Section 227 of CrPC on the basis of various decisions of Supreme Court of India, against the order of the trial court of CBI.

## **2. Kerala State Beverage Manufacturing & Marketing Corporation Limited Vs ACIT, Circle 1(1)**

*Forum – Supreme Court*

*Date – 3rd January, 2022*

*Sub – Whether surcharge on sales tax is liable to be disallowed u/s 40(a)(iib) of Income-tax Act, 1961.*

The Supreme Court of India allowing the appeal of the State Government undertaking by allowing the arguments of Senior Advocate S Ganesh that the 'fee' or 'charge' as mentioned in Section 40(a)(iib) is clear in terms and that will take in only 'fee' or 'charge' as mentioned therein or any fee or charge by whatever name called, but cannot cover tax or surcharge on tax and such taxes are outside the scope and ambit of Section 40(a)(iib)(A) and Section 40(a)(iib)(B) of the Act. A reading of preamble and Section 3(1) of the KST Act, make it abundantly clear that the surcharge on sales tax levied by the said Act is nothing but an increase of the basic sales tax levied under Section 5(1) of the KGST Act, as such the surcharge is nothing but a sales tax. It is also settled legal position that a surcharge on a tax is nothing but the enhancement of the tax. Thus while allowing the appeal on this point, another point regarding the gallonage fee, license fees etc was decided against the assessee.

## **3. Bharat Aluminium Co Ltd Vs Union of India & Ors**

*Forum – Delhi High Court*

*Date – 14th January 2022*

*Sub – Whether the requirement of giving opportunity of personal hearing while passing an assessment order u/s 144B is mandatory or directory and whether not granting the opportunity amounts to violation of principles of natural justice.*

The Delhi High Court in this case was dealing with a situation where huge addition resulting in demand of more than Rs 177 crores was made even though the show cause notice which was issued prior to the draft assessment order did not propose any addition. The appellant in this case represented by Senior Advocate Arvind Datar argued that it was obligatory on part of the department to issue final show cause notice before an addition is made and it was incumbent upon the Department to accord a personal hearing to the assessee where such a request was made under Section 144B(7) and failure to do so

would amount to violation of principles of natural justice as well as mandatory procedure prescribed in the Faceless Assessment Scheme under Section 144B of the Act. It was also argued that when power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and other methods of performance are forbidden.

The Court while rejecting the arguments of the department that insufficient opportunity cannot be said to be violation of principles of natural justice and the grant of personal hearing will frustrate the object of faceless assessment, held that the settled position in law is that where exercise of a power results in civil consequences to citizens, unless the statute specifically rules out the application of natural justice, the rules of natural justice would apply, including the right to personal hearing. Thus the assessment order passed was set aside with a direction to pass fresh order after proper opportunity.

This judgement will be helpful in all cases of faceless assessment where the personal hearing is denied and there is violation of natural justice.

## **4. Haldia Steels Limited Vs Union of India & Ors**

*Forum – Calcutta High Court*

*Date – 17th January 2022*

*Sub – Whether the revenue is bound to produce to record of service of show cause notices and draft assessment order and whether the court can take adverse view in case of non production of record of service.*

In an interesting case the single bench of Calcutta high court in this case was dealing with a case where order u/s 147 read with 144B was passed and Mr Abhratosh Mazumdar and Mr Avra Mazumdar appearing for the party contended that the show cause notice, the draft assessment order and the revised draft assessment order were not served on the assessee and the department's counsel also could not produce any evidence of such service by submitting that no records are maintained in the office regarding service of any show-cause notices, draft assessment or revised draft assessment upon the assesseees which is very strange as to how the respondent/Income Tax Department is working and taking advantage of this situation and the Court having no cooperation and assistance from the respondent/Income Tax Department, orders in favour of the assesseees/petitioners and prejudicial to the interest of department of revenue are being passed in several matters.

The Court on these facts quashed the assessment order with a liberty to the Assessing Officer concerned to serve a copy of the draft assessment and revised draft assessment upon the petitioner and proceed in accordance with law.

This judgement again highlights the latches and glitches

on part of department where the courts are coming to the rescue of assessees.

### **5. The Sirpur Paper Mills Limited & Another Vs Union of India & Two others**

*Forum – Telangana High court*

*Date – 18th January 2022*

*Sub – Whether notice u/s 143(2)/142(1) of the Income-tax Act, 1961 for the period before the order of the NCLT passing the resolution plan is valid even when a revised return is filed subsequently after the date of NCLT's order. Also can a different view be taken in view of the fact that brought forward loss is claimed to be carried forward to future years which are not covered by the order of the NCLT?*

The division bench of Telangana high court in this case was considering a case where the Notices u/s 142(1)/143(2) for AY 2017-18 were challenged under article 226 of the Constitution of India on the pretext that the proceedings for assessment in respect of the above year had lapsed in view of order of the NCLT having been passed on 19.7.2018. However, the department inter alia contended that as revised return was filed after 19.7.2018 and brought forward loss was claimed in the original return as well as

revised return to be carried forward to the future years, the department was within its right to scrutinise the said claim particularly in the light of the fact that the said losses would be adjusted against future profits and also the provisions of Section 79 of the IT Act, 1961. The Court however relying on Dena Bank (2000) 5 SCC 694(SC), Monnet Inspat (2018) SCC Online SC 984 and other decisions held that in view of NCLT's order all dues under the Act whether asserted or unasserted, crystallized or uncrystallized, present or future in relation to any period prior to the completion date shall stand extinguished and the corporate debtor shall not be liable to pay any amount against such demand. All assessments or other proceedings relating to the period prior to the completion date shall stand terminated and all consequential liabilities would stand abated. It further clarified that all notices proposing to initiate any proceeding against the corporate debtor in relation to the period prior to the date of the Tribunal's order and pending on that date shall stand abated and should not be proceeded against. Also in view of clear statement in the resolution plan, the corporate debtor is entitled to carry forward the unabsorbed and accumulated losses and to utilize such amounts to set off future tax obligations, though the department can verify such claims in the year in which the adjustment is claimed. The writ was thus allowed.

\* \* \* \* \*

**“Happiness is when what you think, what you say,  
and what you do are in harmony.”**

**– Mahatma Gandhi**



**“Talk to yourself once in a day, otherwise you may  
miss meeting an intelligent person in this world.”**

**– Swami Vivekananda**

# GST Compliance Calendar and High Court Judgement

Compiled by **CA Swapnil Jain**  
FCA, RV(IBBI), IP (IBBI)  
swapniljain88@gmail.com

## GST Compliance Calendar

Due Date	Return/Form	Category of Persons	Period
1-Feb-2022 till 30-April-2022	Opt-in / opt-out for QRMP Scheme	Persons having AT up to 5 Cr in PY	Apr-June 2022.
10- Feb-2022	GSTR-7	TDS Deductors	January 2022
	GSTR-8	TCS collectors	January 2022
11- Feb-2022	GSTR-1	Monthly Taxpayers	January 2022
13-Feb-2022	GSTR-6	Input Service Distributors	January 2022
	Monthly IFF	QRMP Taxpayers	January 2022
20-Feb-2022	GSTR 3B	Persons having AT more than 5 Cr in Previous FY	January 2022
	GSTR 5	Non Resident taxable Person	January 2022
	GSTR 5A	NRI, providing online information and database access or retrieval services to non-taxable person in India	January 2022
25-Feb-2022	PMT-06	Monthly tax payment under QRMP Scheme. Taxpayers have a choice to pay tax either, as per - A) Fixed Sum Method <u>or</u> B) Self-assessment basis subject to interest on short payment of taxes.	January 2022
28-Feb-2022	GSTR 9/9C	TP having AT>2cr but less than 5cr- GSTR 9 TP having AT> 5Cr, GSTR 9,9C	FY 20-21
	GSTR 11	Persons having Unique Identification Number	January 2022

\*AT= Aggregate Turnover

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

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

## High Court Judgement

<b>Citation:</b>	<b>2021 (12) TMI 834 - CALCUTTA HIGH COURT</b>
<b>In the matter of:</b>	M/S LGW Industries Limited &Ors. Versus Union Of India &Ors., Anmol Industries Ltd. &Anr. Versus Union Of India &Ors., Surya Alloy Industries Ltd. &Anr. Versus Union Of India &Ors., Raj Metal Industries & Anr. Versus Union Of India &Ors. And Victoria Global &Anr. Versus Union Of India &Ors.
<b>Name of the Authority:</b>	Calcutta High Court
<b>Matter in Dispute:</b>	Whether ITC can be denied to the purchaser due to retrospective cancellation of supplier and allegation of fake invoice by the department?

<b>Judgement of the Authority:</b>	<p>It cannot be said that that there was any failure on the part of the purchasers in compliance of any obligation required under the statute before entering the transactions in question or for verification of the genuineness of the suppliers in question.</p> <p>The WP was remanded to the GST authorities to consider afresh the cases on the issue of entitlement of benefit of input tax credit in question by considering:</p> <ol style="list-style-type: none"> <li>documents which the purchasers want to rely in support of their claim</li> <li>whether payments on purchases along with GST were actually paid or not to the suppliers</li> <li>whether the transactions and purchases were made before or after the cancellation of registration of the suppliers</li> <li>compliance of statutory obligation by the purchasers in verification of identity of the suppliers</li> <li>judgments of the Supreme Court and various High Courts which have been referred in this order</li> </ol> <p>If all the above are found to be in order, the benefit of ITC shall be granted to the purchasers.</p>
------------------------------------	---

<b>Citation:</b>	<b>2021 (12) TMI 1040</b>
<b>In the matter of:</b>	Infosys Limited Versus The Deputy Commissioner Of SGST (STU-3), Hyderabad
<b>Name of the Authority:</b>	Telengana High Court
<b>Relevant Section/ Rule:</b>	Section 54 read with Rule 92 of the CGST Act
<b>Matter in Dispute:</b>	Rejection of refund application filed u/s 54 of the CGST Act without giving an opportunity of being heard
<b>Judgement of the Authority:</b>	<ul style="list-style-type: none"> <li>✓ It is a clear legal mandate that if an application for refund is to be rejected, the same can only be done after giving the applicant an opportunity of being heard.</li> <li>✓ The expression 'opportunity of being heard' is not an expression of empty formality. It is a part of the well-recognized principle of audi alteram partem which forms the fulcrum of natural justice and is central to fair procedure</li> <li>✓ If there is violation of the principles of natural justice, then the High Court will invoke its extraordinary jurisdiction under Article 226 of the Constitution of India notwithstanding the availability of the alternative remedy of appeal.</li> </ul>

\* \* \* \* \*

**“The greatness of humanity is not in being human,  
but in being humane.”**

**– Mahatma Gandhi**



**Ms. Neha Jain**

Pranic Healing Instructor and  
Certified Pranic Healer  
nehajain@pranichealing.co.in

## How to Keep Your New Year's Resolution

New Year's resolutions are always fun. They are often easy to make but difficult to maintain! 5 ways to keep up your resolutions and not let them fizzle out!

### 1. Focus on the - Important Areas

Before you make any goals, you need to study and analyze your life. Go through your success and failures in the past year. Think about the reasons why you failed. Sometimes small changes can alter the whole situation. List them down and pick the most important tasks that need to be done. Focus on priorities!

*"Do not have too many objectives. One-pointedness is the key to success. Break one arrow at a time."* - GMCKS

Start from the most important and the most practical areas. Make it concrete and then move on to the next. By making small changes one after the other, you will get the chance of transforming your whole life in a matter of a year. Start with something you know you can hit. If you believe, it can be done it, you can do it!

Don't plan to win the marathon, if you have not started to walk yet!

### 2. Write Them - Down!

Written words have energy. If you write your goals down you are empowering your thoughts to materialize faster.

*"When you write something down, you tend to physicalize the thoughts."* - GMCKS

Give them creative designs, colors and excitement. Let them inspire you to work harder, whenever you see them. Put them as your desktop background. Make them your cellphone wallpaper.

### 3. Put a Starting Day & A Deadline

Unless you put a starting day for your tasks as well as a deadline, you won't take them seriously. Deadlines help you activate your will. They help you get things done! Without schedules and deadline, we tend to procrastinate.

Deadlines help you get organized and focused on what needs to be done.

### 4. Remove Your Doubts & Inner Obstacles

We are often the biggest obstacle towards our success. Just when everything is planned and ready to start, we begin to doubt. Can I do it? Is it a good resolution? Do I deserve it? What if things don't happen as I've planned? And next thing you know, you are not focused and determined anymore, because you have doubts.

*"You are your own limitation. If you think it cannot be done, it cannot be done. If you think it can be done, it can be done."* - GMCKS

Doubts weaken your energy and pull you back.

We need to constantly clear our mind from self-defeating self-sabotaging thoughts and inner obstacles. Pranic Psychotherapy is one of the most effective techniques dealing with these kind of inner noises and doubts.

### 5. Generate - Good Karma

You might have all the people and resources in the world, but you will not achieve your goals unless you are entitled to it. Karma is the result of past deeds that influence the future events in our life. Good karma is often known as good luck. If you want the universe to help you reach your targets, generate good karma in relation to what you want to achieve.

*"For it is in giving that we receive."* - Saint Francis of Assisi

If you want to quit addiction, help other people in their efforts to give it up.

If you want to lose weight, help others lose weight.

If you want to find a partner, help other people get better in their relationships.

If you want to get promoted, help your colleagues at their work.

It sounds paradoxical, but you need to give first, in order to receive!

If you follow the above, and you have enough good karma, you can accomplish what you have planned for!

\* \* \* \* \*

Prana World

## Activities at a Glance ...

Sl.No.	Date	Topics & Speakers
1.0	01.12.2021 (Virtual)	<b>Group Discussion on Role of Auditor in CSR Reporting.</b> Initiator : CA Charmi Shah, Mumbai. CA Priyank Singhi, Chairman - Group Discussions Sub-Committee.
2.0	05.12.2021 (Virtual)	<b>Deliberation on India Gearing up for Cross Border Insolvency organized by ACAIE, CFRGS, NUJS, IBC Laws, INSOL India, NCLT Kolkata Bar Association and IWIRC India Network.</b> Media Partner : Sanmarg and Digital Media Partner : Governance now. Guest of Honour : Prof. (Dr.) Nirmal Kanti Chakrabarti, Vice Chancellor, WB National University of Juridical Sciences. <b>Speakers</b> : Adv. Sumant Batra, Insolvency Lawyer and Ms. Vaneeta Patnaik, Assistant Professor (Law), Director CFRGS. <b>Moderator</b> : CS Adv. (Dr.) Mamta Binani, Insolvency Professional & Advocate.
3.0	08.12.2021 (Virtual)	<b>Group Discussion on Intricacies in Filing ITR and Tax Audit.</b> Initiator : CA Asim Prakash, Kolkata. CA Priyank Singhi, Chairman – Group Discussions Sub-Committee.
4.0	16.12.2021 (Virtual)	<b>VCM on GST, Topic : Constitutional aspects irt Mohit Minerals SC case. Speaker</b> : Adv. (CA) Ankit Kanodia, Kolkata. <b>Topic : Amending GST Returns through – analysis of Bharti Airtel SC. Speaker</b> : CA Raginee Goyal, Guwahati. CA Shivani Shah, Chairman – GST/Indirect Tax Sub-Committee.
5.0	18.12.2021 & 19.12.2021 (Bangur Avenue, Kolkata) :	<b>Outdoor Cricket Tournament - CA Big Bash 2021</b> – organized by BBD Bag Professional Study Circle Association under the captainship of CA Priyank Singhi. Six teams had participated – ACAIE, BBD Bag, DTPA, Salt Lake, VIP and Views Exchange. The tournament was inaugurated by Chief Guest, CA Ram Krishna Agrawal. Shri Sujit Bose, Hon'ble Minister of State (Independent Charge), Department of Fire & Emergency Services graced the event by his presence on the second day of the tournament. ACAIE was the winner of the Tournament, CA Priyank Singhi was adjudged Man of the Tournament and also Man of the Final.
6.0	21.12.2021 (Virtual)	<b>VCM on Companies Act 2013 – 360 Degree. Topic : Compliance covering all filings including delayed filings and condonation with ROC post incorporation. Speaker</b> : CS Ravi Varma, Kolkata. <b>Topic : Adjudication of Penalties Orders and Compounding Orders. Speaker</b> : CA Mohit Bhuteria, Kolkata. CA Mohit Bhuteria, Chairman - Corporate Laws Sub-Committee.
7.0	25.12.2021 (Maheshwari Vikash Parisad, Kolkata)	<b>Maluk Pithadeswar, Swami Shree Rajendra Das, Devacharya Ji Maharaj spoke on Balancing Professionalism and Spiritualism.</b> Organised by Association of Corporate Advisers & Executives, BBD Professional Study Circle Association, Central Kolkata Chartered Accountants Association, NCLT Kolkata Bar Association, South City Chartered Accountants Association, Views Exchange and VIP Road Chartered Accountants Association.
8.0	29.12.2021 (Virtual)	<b>VCM on Code of Ethics and MS Excel. Topic : Office Automation. Speaker</b> : CA K L Prashanth, Bengaluru. <b>Topic : Code of Conduct and Professional Ethics for CAs including Social Media. Speaker</b> : CA Aseem Trivedi, Indore. CA Mohit Bhuteria, Chairman - Corporate Laws Sub-Committee.
9.0	27.01.2022 (Virtual)	<b>VCM on (1) Expectations from Forensic Accountants (2) Role of Auditors and Forensic Accounting Standards. Speakers</b> : CA Satish Shenoy, Senior President, Corporate Management Audit, Aditya Birla Group, Mumbai and CA Deepa Agarwal, Associate Partner, S R Batliboi & Associates LLP, Delhi. CA Vivek Newatia, Chairman – Forensic Accounting & Audit Sub-Committee.
10.0	29.01.2022 (Virtual)	<b>VCM on Recent Amendments in GST from 1st January, 2022. Coverage : Detention, search and seizure, Impact of new 16(2)(aa) and 36(4), Impact on the provisional attachment after removal of 'pendency', The concept of mutuality after 7(1)(aa), GSTR-1 being declared as self assessed liability, Power of Commissioner to call for any information, Supreme Court Order on extension of limitation. Speakers</b> : Advocate Gaurav Gupta, Delhi and CA Abhay Desai, Vadodara. CA Shivani Shah, Chairman – GST/Indirect Tax Sub-Committee.
11.0	31.01.2022 (Virtual)	<b>VCM on (1) Recent Issues in Income Tax (2) Practical Issues in Tax Audit. Speakers</b> : CA Ayush Goel, Kolkata and CA Pramod Jain, Delhi. CA Anup Kr Sanghai, Chairman – Direct Tax Sub-Committee.



# APPLICATION FORM FOR MEMBERSHIP



## ASSOCIATION OF CORPORATE ADVISERS & EXECUTIVES

(Registered under the Societies Registration Act, 1860)

**An ISO 9001 : 2015 Certified Organisation**

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

Phone : +91-33-2210-7724 • Telefax : +91-33-4060-8353

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

**GSTIN : 19AAATA7029F1ZV**

2 pcs Pass Port Colour  
Photograph

### APPLICATION FORM FOR MEMBERSHIP

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

#### FOR OFFICE USE ONLY

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

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

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

*Chairperson*

*Membership Development Sub-Committee*

*General Secretary*

Dear Sir,

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

1. Name in Full (IN BLOCK LETTERS) : \_\_\_\_\_
2. Father's Name : \_\_\_\_\_
3. Date of Birth : \_\_\_\_\_
4. Academic and/or Professional Qualifications : \_\_\_\_\_
5. Occupation : \_\_\_\_\_
6. Name of the Concern with which associated : \_\_\_\_\_
7. GSTIN : \_\_\_\_\_
8. Designation : \_\_\_\_\_
9. CA/CS/ICWAI Membership No. : \_\_\_\_\_
10. Blood Group : \_\_\_\_\_ (Self) \_\_\_\_\_ (Spouse)
11. Date of Marriage : \_\_\_\_\_ Name of Spouse \_\_\_\_\_
12. Office Address : \_\_\_\_\_
13. Resident Address : \_\_\_\_\_

14. Telephone (Nos.) : (Off.) : \_\_\_\_\_ (Resi.) : \_\_\_\_\_ Fax : \_\_\_\_\_  
Mobile : \_\_\_\_\_ E-mail : \_\_\_\_\_

15. Address where Circular etc. should be sent :  Office  Residence  
I am/We are sending herewith Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ )  
by Cash/Cheque No. \_\_\_\_\_ Dated \_\_\_\_\_ Drawn on \_\_\_\_\_  
towards  Life Membership  General Membership.

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

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

\_\_\_\_\_  
*Signature of the Applicant*

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

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

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

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

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



**Outdoor Cricket Tournament - CA Big Bash 2021**

Organized by BBD Bag Professional Study Circle Association on 18th and 19th December 2021 at Bangur Avenue, Kolkata.  
ACAE won the Tournament – CA Priyank Singhi was adjudged Man of the Tournament and also Man of the Final



# Eastland Switchgears Pvt Ltd

Pan No. : AAACE5413 , GSTIN No. : 19AAACE5413C1Z4



**SwaiKa Center, Room No. 504, 5th Floor  
4A, Pollock Street, Kolkata – 700 001**



CARBON RESOURCES

*"INDIA'S PREFERRED ELECTRODE PASTE & CPC SUPPLIER"*



HAPPY NEW YEAR

ANDHRA PRADESH | ASSAM | BIHAR | JHARKHAND | WEST BENGAL | HONG KONG

HEAD OFFICE: Narayani Niwas, New Barganda, Giridih - 815 301, Jharkhand, India. M: +91 92040 69701 E: sales@carbonresources.in  
CORPORATE OFFICE: Sabrewal House, 55B Mirza Ghalib Street, Kolkata - 700 016, WB, India. M: +91 92040 69703 E: hr@carbonresources.in



# STEELWYN CORPORATION

An ISO: 2015 Certified Company



**We are manufacturer of Storage item :**

Slotted Angle Racks and Accessories  
Compactor (Optimizers), Multi Tier Racking System, Heavy Duty Rack, Mobile Racks, Medium Duty Racks, Mezzanine Floors, Industrial/Staff Lockers, Steel Almirah etc.

**Our product widely used on Railway, Power Plant, Steel Plant, Defence, Oil Exploration, Paper Industries, Food Industries, Warehouses & Educational Institute etc.**

**REACH US :**

Phone: 033 -2290-6390/ 2283-7873/ 4065-9166  
Mobile: 9830069601/9830090178 / 9874272583  
Website: www.steelwyn.com  
E-mail: steelwyn@steelwyn.com / steelwyn@gmail.com

**UST STEEL SAVE TREE**



# Kapadia Global Actuaries

We are happy to introduce you to  
Kapadia Global Actuaries,  
pioneers in Actuarial Solutions.

## ABOUT US !!!

- Trusted Brand for more than **40 Years**
- **3000+** Corporate Clients annually
- **Dynamic Relationship Support** Pan India
- Driven by **Quality, Professionalism & Timeliness**
- Standard Valuation Reports in **less than 48 hours**
- Valued an Entity with more than **15 lakh employees**
- Trusted Brand for more than **40 years**



## SERVICE PORTFOLIO !!!

### ACTUARIAL VALUATIONS

- Gratuity or End of Service Benefits
- All Kinds of Leaves or Compensated Absences
- Exempt Provident Fund Schemes
- Post-Retirement Medical Schemes
- Pension & Death Benefit Schemes
- Long Service or Incentive Plans
- Deferred Bonuses
- All other Employee Benefit Schemes

We look forward to contributing  
to your success story !!  
Thank you for considering us,

For More Informations Contact  
[www.kapadiaglobal.com](http://www.kapadiaglobal.com)

Follow Us! Thank You!



Our presence in India below as:

Mumbai | Ahmedabad | Bengaluru | Kolkata | Chennai | Pune | Hyderabad

### BEYOND ACTUARIAL VALUATIONS

- ESOP End to End Solutions
- Warranty & Other Liability Valuations
- Group Gratuity Trust Set up
- Group Gratuity Investment Advisory
- Group Insurance Design & Consulting
- Employee Benefit Scheme Designing
- Consulting to Life Insurance Companies
- Business Valuations & Other Financial Asset

Please feel free to write or connect  
with me on the below coordinates:

**Dharmesh Mehta**  
+91 94266 24453  
mdharmesh@kapadiaglobal.com  
**Jenil Shah**  
+91 98670 75522  
jenil@kapadiaglobal.com

[www.kapadiaglobal.com](http://www.kapadiaglobal.com)



<https://www.facebook.com/ACAEkolkata/>



<https://twitter.com/acaekolkata?s=09>



<https://www.youtube.com/c/AcaeKolkata>



<https://www.linkedin.com/company/acaekolkata>



Work is Worship

## **ASSOCIATION OF CORPORATE ADVISERS & EXECUTIVES**

An ISO 9001 : 2015 Certified Organisation

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

Phone : 91-33-2210-7724 / 91-33-4060-8353

E-mail : [info@acaekolkata.org](mailto:info@acaekolkata.org)

Website : [www.acaekolkata.org](http://www.acaekolkata.org)