



The Institute of Chartered Accountants of India
Alwar Branch of CIRC of ICAI

E-NEWSLETTER 2nd Edition

आज़ादी का अमृत महोत्सव

75th
CHARTERED
Accountant DAY
1 July 2023

*We the
Chartered Accountants
Pledge to Contribute
in the Nation's
Development.*

Amiya.



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Alwar Branch of CIRC of ICAI

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CA Pushp Palawat
Chairman



Respected Professional Colleagues and Students,

I am honored to address you through this newsletter as the Chairman of the Alwar Branch of the Institute of Chartered Accountants of India (ICAI). It gives me immense pleasure to connect with you and share our collective journey of excellence and growth.

I would like to extend my heartfelt gratitude to all our members for their unwavering support and active participation in our activities. Your engagement is the driving force behind our success, and your commitment to continuous learning is truly commendable. As we move forward, I encourage each one of you to actively engage with our branch, share your insights, and participate in our endeavors. Together, we can elevate the profession and contribute to the growth and progress of our region.

I look forward to coming months with impactful initiatives, meaningful interactions, and mutual growth. Let us continue to strive for excellence and contribute to the advancement of our profession.

Thank you, and best wishes to all.

Best Regards,

CA Pushp Palawat

Chairman,

Alwar Branch of CIRC of ICAI.

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CA Nitin Gupta
Secretary



Dear Members,

Warm greetings from the Alwar Branch of the Institute of Chartered Accountants of India (ICAI)!

It is with great pleasure that I present to you the latest edition of our Newsletter, focused on the esteemed profession of Chartered Accountancy. As the Secretary of the Alwar Branch, CIRC of ICAI, I take immense pride in sharing the knowledge and achievements of our talented members and highlighting the significant contributions made by Chartered Accountants in the field of finance and accounting.

In this issue, we delve into various facets of the profession, showcasing the versatility and expertise of our members & students. Our aim is to provide a platform that not only informs and educates but also inspires and encourages professionals and aspiring Chartered Accountants alike. We have carefully curated a range of articles, covering diverse topics such as financial reporting, taxation, audit, ethics, and professional development.

Our Newsletter serves as a conduit for sharing the latest developments in the accounting world, both at the national and international levels. We offer valuable insights into emerging trends and best practices, enabling our readers to stay ahead in their professional journeys.

Moreover, we highlight the accomplishments of our members, who have made significant contributions to their respective fields. Their success stories serve as a testament to the rigorous training and expertise that the Chartered Accountancy qualification provides. We take great pride in celebrating their achievements and sharing their experiences to inspire the next generation of Chartered Accountants.

As the Secretary of the Alwar Branch, I would like to express my gratitude to our dedicated team, contributors, and the editorial board for their unwavering commitment to producing a Newsletter of the highest quality. Their tireless efforts have ensured that this publication continues to serve as a valuable resource for our readers.

I encourage you to explore the articles, case studies, and updates within this Newsletter, and I trust that you will find them both informative and engaging. We welcome your feedback and suggestions to further enhance our future editions.

On behalf of the Alwar Branch, CIRC of ICAI, I extend my heartfelt thanks to all our members, students, readers, and well-wishers for their continued support. Together, let us strive for excellence in the field of accountancy and contribute towards building a strong financial ecosystem.

Wishing you a fulfilling and successful professional journey.

With Warm Regards

Nitin Gupta

Secretary

Alwar Branch of CIRC of ICAI





Know Your Ethics

1. What are the Fundamental Principles which a Professional Accountant is required to comply?

As per paragraph R110.2 of Volume-I of the Code of Ethics, a professional accountant shall comply with the following fundamental principles set out in Paragraph 110.1 A1:

- a) Integrity
- b) Objectivity
- c) Professional Competence and Due Care
- d) Confidentiality
- e) Professional Behaviour

2. What is the Conceptual Framework?

It is a framework, appearing under Section 120 of Volume-I of the Code of Ethics that sets out requirements and application material, including a conceptual framework, to assist accountants in complying with the fundamental principles and meeting their responsibility to act in the public interest. Such requirements and application material accommodate a wide range of facts and circumstances, including the various professional activities, interests, and relationships that create threats to compliance with the fundamental principles. In addition, they deter accountants from concluding that a situation is permitted solely because that situation is not specifically prohibited by the Volume-I of the Code of Ethics.

The conceptual framework specifies an approach for a professional accountant to:

- a) Identify threats to compliance with the fundamental principles.
- b) Evaluate the threats identified, and
- c) Address the threats by eliminating or reducing them to an acceptable level

3.What is the Conceptual Framework for Independence?

Professional accountants are required to apply the Conceptual Framework while performing Audit and Review or Assurance engagements other than Audit and Review. The Volume-I of the Code of Ethics requires firms to comply with the fundamental principles and be independent. Parts 4A & 4B of Volume-I of the Code of Ethics sets out specific requirements and application material on how to apply the conceptual framework to maintain independence when performing such engagements. The conceptual framework set out in Section 120 applies to independence as it does to the fundamental principles set out in Section 110.

4.What are the threats involved while complying with the fundamental principles?

Threats involved while complying with the fundamental principles fall into one or more of the following categories:

- a) Self-interest threats.
- b) Self-review threats.
- c) Advocacy threats.
- d) Familiarity threats.
- e) Intimidation threats.

5.What are the measures available to Professional Accountants in case conflict of interest arises?

As per Paragraph R210.4 of Volume-I of Code of Ethics, a professional accountant shall not allow a conflict of interest to compromise professional or business judgment. A professional accountant shall take reasonable steps to identify circumstances that might create a conflict of interest. Such steps shall include identifying:

- a) The nature of the relevant interests and relationships between the parties involved; and
- b) The activity and its implication for relevant parties.

A professional accountant shall remain alert to changes over time in the nature of the activities, interests, and relationships that might create a conflict of interest while performing a professional activity. Further, it is

generally necessary to disclose the nature of the conflict of interest and how many threats created were addressed to the relevant parties, including to

the appropriate levels within the employing organization affected by a conflict; and obtain consent from the relevant parties for the professional accountant to undertake the professional activity when safeguards are applied to address the threat.

When addressing a conflict of interest, the professional accountant is encouraged to seek guidance from within the employing organization or from the Institute, legal counsel or another accountant.

6. What are the precautions to be exercised by a Professional Accountant in Preparing or Presenting Information?

As per the requirement of paragraph R220.5 of Volume-I of the Code of Ethics, preparing or presenting information might require the exercise of discretion in making professional judgments. The professional accountant shall not exercise such discretion with the intention of misleading others or influencing contractual or regulatory outcomes inappropriately. As per paragraph 220.5 A1.5 of Volume-I of the Code of Ethics, examples of ways in which discretion might be misused to achieve inappropriate outcomes include:

- Determining estimates, for example, determining fair value estimates in order to misrepresent profit or loss.
- Selecting or changing an accounting policy or method among two or more alternatives permitted under the applicable financial reporting framework, for example, selecting a policy for accounting for long-term contracts in order to misrepresent profit or loss.
- Determining the timing of transactions, for example, timing the sale of an asset near the end of the fiscal year in order to mislead.

- Determining the structuring of transactions, for example, structuring financing transactions in order to misrepresent assets and liabilities or classification of cash flows. Selecting disclosures, for example, omitting or obscuring information relating to financial or operating risk in order to mislead.

7. What are the factors to be considered by the Professional Accountant while relying on the work of others?

As per requirement of paragraph R220.7 of Volume-I of the Code of Ethics, a professional accountant who intends to rely on the work of others, either internal or external to the employing organization, shall exercise professional judgment to determine what steps to take, if any, to fulfil the responsibilities. Factors to consider in determining whether reliance on others is reasonable include:

- The reputation and expertise of, and resources available to, the other individual or organization.
- Whether the other individual is subject to applicable professional and ethical standards.

Such information might be gained from prior association with, or from consulting others about, the other individual or organization.

8. What are the actions that might be appropriate for a professional accountant, when information with which he is associated is misleading?

As per the requirement of paragraph R220.8 of Volume-I of the Code of Ethics, when the professional accountant knows or has reason to believe that the information with which the accountant is associated is misleading, the accountant shall take appropriate actions to seek to resolve the matter which includes:

1. Discussing concerns that the information is misleading with the professional accountant's superior and/or the appropriate level(s) of management within the accountant's employing organization or those charged with governance and requesting such individuals to take appropriate action to resolve the matter. Such action might include:

- i. Having the information corrected.
 - ii. If the information has already been disclosed to the intended users, inform them of the correct information.
2. Consulting the policies and procedures of the employing organization (for example, an ethics or whistle-blowing policy) regarding how to address such matters internally.

If the accountant continues to have reason to believe that the information is misleading, the following further actions might be appropriate provided that the accountant remains alert to the principle of confidentiality:

- Consulting with the Institute, internal or external auditor of the employing organization, or the legal counsel.
- Determining whether any requirements exist to communicate to third parties, including users of the information or Regulatory and oversight authorities.

If after exhausting all feasible options, the professional accountant determines that appropriate action has not been taken and there is reason to believe that the information is still misleading, the accountant shall refuse to be or to remain associated with the information.

9. What are the circumstances that create threats when a Professional Accountant has financial Interest?

As per paragraph 240.3 A1 of Volume-I of the Code of Ethics, Professional accountants might have financial interests or might know of financial interests of immediate or close family members that, in certain circumstances, might create threats to compliance with the fundamental principles. Financial interests include those arising from compensation or incentive arrangements linked to financial reporting and decision-making.

Examples of circumstances that might create a self-interest threat include situations in which the professional accountant or an immediate or close family member:

- Has a motive and opportunity to manipulate price-sensitive information in order to gain financially.
- Holds a direct or indirect financial interest in the employing organization and the value of that financial interest might be directly affected by decisions made by the accountant.
- Is eligible for a profit-related bonus and the value of that bonus might be directly affected by decisions made by the accountant.
- Holds, directly or indirectly, deferred bonus share rights or share options in the employing organization, the value of which might be affected by decisions made by the accountant.
- Participates in compensation arrangements that provide incentives to achieve targets or to support efforts to maximize the value of the employing organization's shares. An example of such an arrangement might be through participation in incentive plans which are linked to certain performance conditions being met.

10. What are the safeguards available to a Professional Accountant in Public Practice in respect of Custody of Client Assets?

As per Section 350 of Volume-I of the Code of Ethics, a professional accountant in public practice entrusted with money or other assets belonging to others shall:

- a. Comply with the laws and regulations relevant to holding and accounting for the assets.
- b. Keep the assets separate from personal or firm assets.
- c. Use the assets only for the purpose for which they are intended; and
- d. Be ready at all times to account for the assets and any income, dividends, or gains generated, by any individuals entitled to that accounting.

11. Whether a member in practice will be liable if he is grossly negligent in the conduct of his professional duties?

Yes, as per Clause (7) of part I of the Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he does not exercise due diligence or is grossly negligent in the conduct of his professional duties.

12. Whether a member in practice will be the liable case where he was alleged to have signed two balance sheets on two different dates for the same financial year, the first one with a clean report and the second one with a qualified report?

Yes, the action of the member in signing two balance sheets on two different dates for the same financial year will constitute professional misconduct under Clause (7) of Part I of Second Schedule to the Chartered Accountants Act, 1949, which states that a member in practice shall be deemed to be guilty of professional misconduct, if he is grossly negligent in the conduct of his professional duties.

13. Whether a member in practice will be liable if he fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion?

Yes, as per Clause (8) of Part I of the Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion.

14. Whether a member in practice will be liable if he fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances?

Yes, as per Clause (9) of Part I of the Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances.

15. What constitutes “generally accepted audit procedure” for the purpose of Clause (9) of Part I of Second Schedule to the Chartered Accountants Act, 1949?

The expression “generally accepted audit procedure” would depend upon the facts and circumstances of each case, but guidance is available from the various pronouncements of the Institute issued from time to time by way of Quality Control and Engagement Standards, Statements, General Clarifications, Guidance Notes, and Technical Guides, Practice Manuals, Studies and Other Papers.

16. Whether a member in practice will be held liable for failing to keep moneys of the client in a separate banking account or to use such moneys for purposes other than they are intended for?

Yes, as per Clause (10) of Part I of the Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct, if he fails to keep moneys of his client other than fees or remuneration or money meant to be expended in a separate banking account or uses such moneys for purposes other than they are intended for.

17. Can a Chartered Accountant receive his professional fees in advance partly or in full?

Yes, as such there is no bar in the Chartered Accountants Act, 1949 or in the Chartered Accountants Regulations, 1988 as well as Code of Ethics for taking the professional fees in advance.

18. Whether a member of the Institute will be liable if he contravenes any of the provisions of the Chartered Accountants Act, 1949 or the Chartered Accountants Regulations, 1988 or the Guidelines issued by the Council?

Yes, as per Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, a member in practice shall be deemed to be guilty of professional misconduct if he contravenes any of the provisions of the Chartered Accountants Act, 1949 or the Chartered Accountants Regulations, 1988 made thereunder or any guidelines issued by the Council.

19. Whether a member of the Institute in practice is required to maintain books of accounts?

Yes, in the exercise of the powers conferred by Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, the Council of the Institute has issued Council General Guidelines, 2008, Chapter V of which specifies that a member of the Institute in practice or the firm of Chartered Accountants of which he is a partner shall maintain and keep in respect of his/its professional practice, proper books of accounts including the following:-

- (i) a Cash Book
- (ii) A Ledger.

20. Is there any ceiling on the number of tax audit assignments that can be taken up by a member in practice?

Yes, in the exercise of the powers conferred by Clause (1) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, the Council of the Institute has issued Council General Guidelines, 2008, chapter VI of which specifies that a member of the Institute in practice shall be deemed to be guilty of professional misconduct, if he accepts, in a financial year, more than the specified number of tax audit assignments under Section 44AB of the Income Tax Act, 1961. The number specified for tax audits is 60.

21. Where a Firm of Chartered Accountants has more than one partners, how many tax audits can be signed by one partner on behalf of other partners?

As per Chapter VI of the Council General Guidelines, 2008, in the case of the Firm of Chartered Accountants in practice, the specified number of tax audit assignments means tax audit assignments per partner of the firm, in a financial year. The paragraph 6.1.7 of Chapter VI of Council General Guidelines, 2008 clarifies that the limit on the number of tax audit assignments per partner in a CA Firm may be distributed between the partners in any manner whatsoever. However, it should be in accordance with the Standards on Quality Control (SQC) 1: Quality Control for Firms that Perform Audits and Reviews of Historical Financial, and Other Assurance and Related Services Engagements.

22. Whether the audits conducted under Section 44AD, AADA and 44AE of the Income Tax Act, 1961 shall be taken into account for the purpose of reckoning the specified no. of tax audit assignments?

No, as per Chapter VI of Council General Guidelines, 2008, the audits conducted under Section 44AD, 44DA and 44AE of the Income Tax Act, 1961 shall not be taken into account for the purpose of reckoning the “specified number of tax assignments”.

23. Whether a Chartered Accountant is permitted to accept appointments as auditor of a concern while he is indebted to the firm or has given any guarantee or provided any security in connection with the indebtedness of any third person to the concern?

Yes, in the exercise of the powers conferred by Clause (1) of Part – II of the Second Schedule to the Chartered Accountants Act, 1949, the Council of the Institute has issued Council General Guidelines, 2008, Chapter X of which specifies that a member of the Institute in practice or a partner shall be deemed to be guilty of professional misconduct if he accepts appointment as auditor of a concern while he is indebted to the concern or has given any guarantee or provided any security in connection with the indebtedness of any third person to the concern, for limits fixed in the statute and in other cases for amount exceeding Rs. 1,00,000. The Council decided that for the purpose of Chapter X of the Council General Guidelines, 2008, the term “auditor” shall not include internal auditor, concurrent auditor or an auditor giving report to the Management. In other words, the provision relating to criteria/limit of indebtedness shall apply only to statutory audits.

24. Whether “indebtedness” for the purposes of Chapter –X of Council General Guidelines, 2008 include loan taken by the member against a Fixed Deposit?

Yes, “indebtedness” for the purposes of Chapter –X of Council General Guidelines, 2008 includes loan taken by a member against Fixed Deposit. Accordingly, it is not permissible for him to accept audit assignment of a bank in case he has taken loan against a Fixed Deposit held by him in that bank.

25. Whether a member in practice can become an agent of a Life Insurance Company?

As per Appendix (9) of Chartered Accountants Regulations, 1988, a member of the Institute in practice is generally permitted to hold of Life Insurance Agency License for the limited purpose of getting a renewal commission.

26. Whether a member in practice can become an agent of a Non-life Insurance Company?

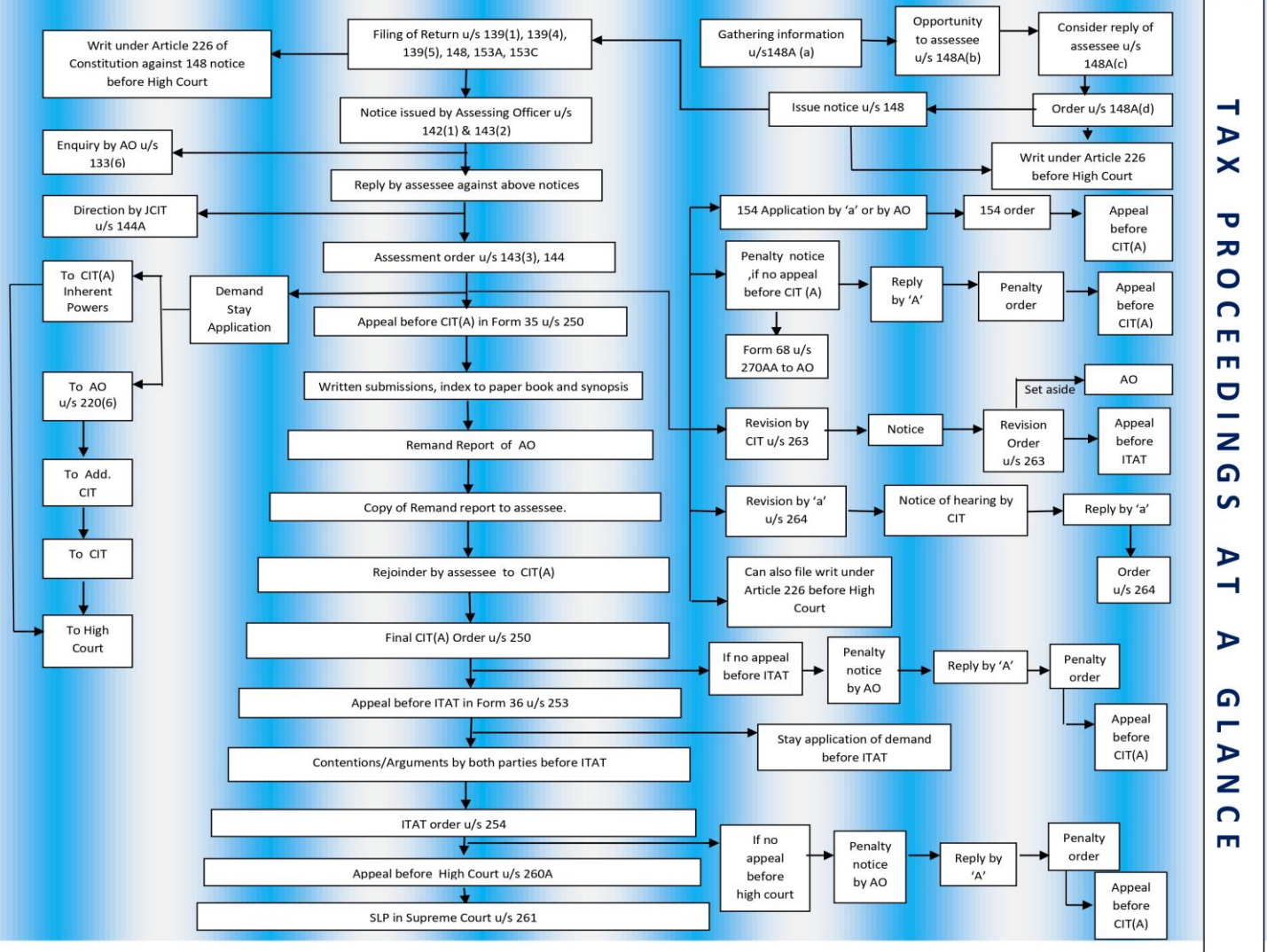
Pursuant to Section 2(2) (iv) of the Chartered Accountant Act, 1949, the Council has passed a resolution permitting a Chartered Accountant in practice to render an entire range of “Management Consultancy and other Services” in mentioned serial no. (xxvi) Insurance Financial Advisory Services under the Insurance Regulatory & Development Authority Act, 1999 including Insurance brokerage (not including Insurance Agency).



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Tax Proceedings at a Glance



Alwar Branch of CIRC of ICAI



List of Notification under Central GST (Rate) issued between 01-04-2023 to 30-06-2023

Number	Date	Subject	Download
05/2023- Central Tax (Rate)	09-May- 2023	Seeks to amend notification 11/2017- Central Tax (Rate) dated 28.06.2017 so as to to extend last date for exercise of option by GTA to pay GST under forward charge.	Click here to view notification

List of Income Tax Notification issued between 01-04-2023 to 30-06-2023

Number	Date	Subject	Download
46/2023	26-06- 2023	Transfer Pricing (ALP) Variation Tolerance Limits AY 2023-24	Click here to view notification
45/2023	23-06- 2023	Income-tax (Eleventh Amendment) Rules, 2023 - Charitable, religious, educational institutions and / hospitals - Various rules towards procedure of filing of application for approval u/s 10(23C), 12A and 80G and related form, amended / modified.	Click here to view notification
44/2023	23-06- 2023	U/s 35(1) (iii) of IT Act 1961 - Central Government approves M/s Patanjali Yog Peeth Nyas, Delhi	Click here to view notification
43/2023	21-06- 2023	New Tax Regime u/s 115BAC in respect of Individuals, HUF and others as Amended by Finance Act, 2023 - Various changes made in corresponding rules for income taxable as Salary and for Depreciation in case of Business or Profession income - Introduction of FORM 10-IEA for exercising to option or withdrawing from the option u/s 115BAC - Income-tax (Tenth Amendment) Rules, 2023	Click here to view notification
42/2023	15-06- 2023	Special courts u/s 280A of IT Act and section 84 of the Black Money Act - Designates the Courts in the State of Jharkhand accordingly	Click here to view notification
41/2023	14-06- 2023	Control of Notified Subordinate Officer under Income-Tax Authorities - Seeks to amend Notification S.O. 359, dated the 30th March, 1988	Click here to view notification

40/2023	14-06-2023	Effect to the e-Appeals Scheme, 2023 - Prescribed income tax authorities shall exercise the powers and perform functions to facilitate the conduct of e-appeal proceedings, in respect of such persons or classes of persons or incomes or classes of income or cases or classes of cases, with respect to appeals covered under section 246	Click here to view notification
39/2023	12-06-2023	Cost Inflation index for the Finance Year 2023-24 - Seeks to amend Notification 44/2017 dated 5th June 2017	Click here to view notification
38/2023	12-06-2023	Manner of disposal of application for advance ruling - In case difference of opinion between the members, decision will be taken by Majority with the help of Third Member - e-advance rulings (Amendment) Scheme, 2023	Click here to view notification
37/2023	12-06-2023	Signing of Application for Advance Ruling - The condition of mandatory digital signature has been done away with - Income-tax (Ninth Amendment) Rules, 2023	Click here to view notification
36/2023	07-06-2023	Pension fund, namely, 2743298 Ontario Limited specified for sub-clause (iv) of clause (c) of the Explanation 1 to clause (23FE) of section 10 of IT ACT.	Click here to view notification
35/2023	31-05-2023	Income-tax (Eighth Amendment) Rules, 2023 - Exemption to buyers of PSU shares during selloff under strategic disinvestment	Click here to view notification
34/2023	30-05-2023	Deduction u/s 80G - Provisional approval shall be effective from the assessment year relevant to the previous year in which such application is made - Income-tax (7th Amendment) Rules, 2023	Click here to view notification
33/2023	29-05-2023	e-Appeals Scheme, 2023	Click here to view notification
32/2023	29-05-2023	Income-tax (Sixth Amendment) Rules, 2023 - Implementation of Changes made by Finance Act, 2023 - First appellate authority being Joint Commissioner (Appeals) [JCIT(A)] with the Commissioner (Appeals) CIT(A)	Click here to view notification

31/2023	24-05-2023	Exemption from income tax - Leave encashment by the employees other than an employee of the Government - Specifies Rs. 25,00,000 as maximum amount received as leave encashment for the purpose of section 10(10AA)	Click here to view notification
30/2023	24-05-2023	Angle Tax - Start-ups Recognized by DPIIT - Provision of section 56(2) (viib) of IT Act 1961, shall not apply to consideration received by a company for issue of shares that exceeds the face value of such shares in the case of Startup, subject to conditions - Supersession Notification 13/2019 dated 5th March 2019	Click here to view notification
29/2023	24-05-2023	Angle Tax - Investment in start-ups from 21 countries - Provision U/s 56(2) (viib) of IT Act 1961 shall not apply in respect of Exemption from any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares - Central Government notifies class or classes of persons	Click here to view notification
28/2023	22-05-2023	Calculation of Net winnings from online games during the previous year, for the purposes of section 115BBJ - New Rule 132 inserted - TDS Form 16, certificate amended - various TDS Returns / statements amended - Income-tax (Fifth Amendment) Rules, 2023	Click here to view notification
27/2023	16-05-2023	Central Government hereby Notifies the Scheme namely the Mahila Samman Savings Certificate, 2023.	Click here to view notification
26/2025	10-05-2023	Exemption from specified income U/s 10(46) - notifies 'Food Safety and Standards Authority of India', New Delhi an Authority established by the Ministry of Health and Family Welfare, Government of India	Click here to view notification
25/2023	10-05-2023	Exemption from specified income U/s 10(46) - notifies 'Pune Metropolitan Region Development Authority' constituted by the state government of Maharashtra	Click here to view notification
24/2023	03-05-2023	Agreement between the Government of the Republic of India and the Government of the Republic of Chile for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes	Click here to view notification

23/2023	21-04-2023	Expenditure on Scientific research u/s 35(1) (iii) of IT Act 1961 - Central Government approves 'National Institute of Design, Ahmedabad under the category of 'University, College or Other Institution' for 'Scientific Research'.	Click here to view notification
22/2023	17-04-2023	'Maharashtra Electricity Regulatory Commission' - commission established by the State Government of Maharashtra - Specified income arising to that Commission - Seeks to amend Notification 34/2020 dated the 23rd June, 2020	Click here to view notification
21/2023	10-04-2023	Cost Inflation Index as applicable from Financial Year 2017-18 i.e., Assessment Year 2018-219 - Seeks to amend Notification 44/2017 dated 5th June, 2017	Click here to view notification
20/2023	10-04-2023	Exemption from specified income U/s 10(46) - notifies Central Board of Secondary Education, Delhi a Board constituted by the Central Government.	Click here to view notification
19/2023	10-04-2023	Exemption from specified income U/s 10(46) - Central Board of Secondary Education, Delhi a Board constituted by the Central Government Notified.	Click here to view notification
18/2023	10-04-2023	Exemption from specified income U/s 10(46) -'Greater Noida Industrial Development Authority' an Authority constituted by the state government of Uttar Pradesh notified.	Click here to view notification
17/2023	06-04-2023	CBDT specifies the jurisdictions - Seeks to amend Notification 78/2018 dated the 5th November, 2018	Click here to view notification
16/2023	01-04-2023	Exemption from specified income U/s 10(46) -'Bhadohi Industrial Development Authority' an Authority constituted by the state government of Uttar Pradesh, Notified	Click here to view notification



CA Ashok Agarwal
M.N. 409102



All About Form 15CA and Form 15CB

If you are paying a non-resident, you must know about Form 15CA and Form 15CB of Income Tax. These forms are required to ensure that the correct amount of tax is deducted and deposited to the government. Form 15CA is an online declaration you are required to submit before making the payment. Form 15CB is a certificate from a Practicing CA, who verifies the payment details and Certify that tax deducted (if required) is as per the provision of The Income tax Act and rules.

Section 195 of the Income-tax Act, 1961

As per Section 195 of the Income Tax Act 1961, any individual or entity responsible for making payment to a non-resident, which includes a foreign company, must deduct income tax at the applicable rate prior to the payment being made.

The remitter must also submit an undertaking in Form 15CA, which provides details of the payment being made to the non-resident. Furthermore, a certificate in Form 15CB, attested by a chartered accountant, is required for payments exceeding INR 5 lakh. This certificate provides details of the nature of the payment, the tax rate applied, and the amount of tax deducted.

Importance of Form 15CA and Form 15CB

Form 15CA and Form 15CB are necessary forms that must be submitted under the Income Tax Act, 1961, for any payments made by a resident to a non-resident.

Form 15CA is a declaration made by the person making the payment. In contrast, Form 15CB is a certificate issued by a Chartered Accountant (CA), ensuring that the provisions of the Income Tax Act and the Double Taxation Avoidance Agreement have been complied with.

Both these forms are essential for ensuring timely and accurate reporting of any payments made to non-residents and for ensuring that taxes are collected on time.

Form 15CA

What is Form 15CA?

Form 15CA is a declaration of remitter and is used as a tool for collecting information in respect of payments which are chargeable to tax in the hands of recipient non-resident. This is starting of an

effective Information Processing System which may be utilized by the Income Tax Department to independently track the foreign remittances and their nature to determine tax liability.

Authorised Dealers/ Banks are now becoming more vigilant in ensuring that such Forms are received by them before remittance is affected, since now as per the revised Rule 37BB, a duty is casted on them to furnish Form 15CA (received from the remitter) to an income-tax authority for the purpose of any proceedings under the Income-tax Act.

Income Tax Department has now created online facility to file information. Thus the Form 15CA is required to be filed online with the tax department. After that, proof of online submission should be printed out. This copy is required to be given to the Bank as a proof of tax clearance from the tax department.

Form 15CB

As mentioned above, Form 15CB is a certificate issued by a CA under Section 195(6) of the Income Tax Act, 1961, for making payments to non-residents or foreign companies. It is used to verify that the payment being made complies with the provisions of the Income Tax Act and DTAA, if any, between India and the foreign country. Certain details are required from Form 15CB at the time of filing Form 15CA.

Applicability of Form 15CA and Form CB

Form 15CA and 15CB are applicable for making foreign remittances under India's Income Tax Act 1961. The applicability of these forms depends on the nature and amount of the remittance.

- Form 15 CA and Form 15 CB are not required for remittances that are not chargeable to tax.
- Only Part D of Form 15CA will be submitted if remittance is covered under a specific exemption list.
- Only Part A of Form 15CA will be submitted if remittance is less than ₹ 5 Lakh in a financial year.
- Form 15CB and Part C of Form 15CA are to be submitted if the remittance exceeds ₹ 5 Lakh.
- Part B of Form 15CA income tax will be submitted if the remittance exceeds ₹ 5 Lakh and a certificate has been obtained under Section 195(2)/195 (3)/197 of the Income Tax.

How many parts of Form 15CA?

Form 15CA is separated into 4 parts, and each part has to be submitted based on the different structure of the remittance.

Part A

If the remittance is chargeable to tax and its total is not more than ₹ 5 Lakh, then Part A of Form 15CA has to be filled.

Part B

If the remittance exceeds ₹ 5 Lakh and a certificate has been obtained from the Assessing Officer under Section 197/195(2)/195 (3) of the Income Tax.

Part C

If the remittance exceeds ₹ 5 Lakh and is taxable under Income Tax Act, and certificate in form 15CB has been obtained from a chartered accountant.

Part D

If the remittance is covered under a specific exemption, Part D of Form 15CA has to be submitted.

When is Form 15CA not required?

- Form 15CA is not required when the remittance is made per the specified payment list in Rule 37BB of Income Tax Rules.
- When the individual making the remittance does not require Reserve Bank of India approval according to Section 5 of the Foreign Exchange Management Act (FEMA), 1999.
- Form 15CA is also not required when the remittance is exempted from tax under the Income Tax Act or a relevant tax treaty.
- When an individual and the aggregate amount make the remittance during the financial year does not exceed five lakh rupees, and the remittance is not for a foreign tour or payment for the purchase of any foreign asset.
- When an individual makes the remittance to pursue education abroad, the amount does not exceed the limit prescribed by the RBI.

When is Form 15CB not required?

- Form 15CB is not required when the remittance is not taxable in India.
- If the remittee's country of residence considers the income taxable and the remittance is sent to that country.
- Form 15CB is not necessary if the total remittances during the fiscal year do not surpass Rs. 5,00,000.
- When an individual makes the remittance and is not for a foreign tour or payment for the purchase of any foreign asset, the amount does not exceed the limit prescribed by the RBI.
- When an individual makes the remittance to pursue education abroad, the amount does not exceed the limit prescribed by the RBI.

Specified payments where Form 15CA/15CB is not required

There are at least 28 types of foreign remittances where you do not require any submission of Form 15CA or Form 15CB. As per Income Tax (Fourteenth Amendment) Rules, 2013, No reporting in Form 15CA and 15CB is to be made in case of the following nature of foreign remittances since October 2013 has been provided in Rule 37BB.

List of payments where Form 15CA / 15CB is not required

Purpose code as per RBI	Nature of Payment
S0001	Indian investment abroad -in equity capital (shares)
S0002	Indian investment abroad -in debt securities
S0003	Indian investment abroad -in branches and wholly owned subsidiaries
S0004	Indian investment abroad -in subsidiaries and associates
S0005	Indian investment abroad -in real estate
S0011	Loans extended to Non-Residents
S0202	Payment- for operating expenses of Indian shipping companies operating abroad.
S0208	Operating expenses of Indian Airlines companies operating abroad
S0212	Booking of passages abroad -Airlines companies
S0301	Remittance towards business travel.
S0302	Travel under basic travel quota (BTQ)
S0303	Travel for pilgrimage
S0304	Travel for medical treatment
S0305	Travel for education (including fees, hostel expenses etc.)

S0401	Postal services
S0501	Construction of projects abroad by Indian companies including import of goods at project site
S0602	Freight insurance – relating to import and export of goods
S1011	Payments for maintenance of offices abroad
S1201	Maintenance of Indian embassies abroad
S1202	Remittances by foreign embassies in India
S1301	Remittance by non-residents towards family maintenance and-savings
S1302	Remittance towards personal gifts and donations
S1303	Remittance towards donations to religious and charitable institutions abroad
S1304	Remittance towards grants and donations to other Governments and charitable institutions established by the Governments.
S1305	Contributions or donations by the Government to international institutions
S1306	Remittance towards payment or refund of taxes.
S1501	Refunds or rebates or reduction in invoice value on account of exports
S1503	Payments by residents for international bidding”.

The Contents of Form 15CA and Form 15CB

Form 15CA/15CB is segregated into sections based on various situations. The applicant needs to go through the form and fill in the proper details in the relevant section:

Parts of Form 15CA

Form 15CA has four parts based on the amount of remittance and the requirement of other certificates or orders under the Income Tax Act.

- Part A is for remittances up to Rs 5 Lakhs during the financial year that are taxable.
- Part B is for remittances exceeding Rs 5 Lakhs during the financial year that are chargeable to tax, and an order/certificate under Section 195(2)/197/195(3) of the Income Tax Act has been obtained from the Assessing Officer.
- Part C is for taxable remittances exceeding Rs 5 Lakhs during the fiscal year, and a certificate in Form 15CB must be obtained from a Chartered Accountant.
- Part D is for remittances that are not chargeable to tax under the provisions of the Income Tax Act.

Various parts of Form 15CB

- Part A includes details of the remitter, the beneficiary, and the nature of the remittance.
- Part B: This part requires the Chartered Accountant (CA) to verify whether the provisions of the Income Tax Act and the Double Taxation Avoidance Agreement have been complied with and to provide the details of the relevant sections and articles.
- Part C requires the CA to certify that the information provided in the form is true and correct.
- Annexure: This is an optional annexure to the form, which can be used to provide additional information or details.

Details required for filing the forms

To file Form 15CA and 15CB, the following details are required:

- **PAN of the remitter and the beneficiary:** The Permanent Account Number (PAN) of the remitter must be provided but the PAN of beneficiary is not mandatory.
- **Amount of the remittance:** The remittance amount must be provided in Indian Rupees and foreign currency.
- **Nature and purpose of the remittance:** The nature and purpose of the remittance must be specified, such as payment for services, royalty, or dividends.
- **Relevant sections and articles of the Income Tax Act and DTAA:** If applicable, the relevant sections and articles of the Income Tax Act and Double Taxation Avoidance Agreement (DTAA) must be specified.
- **Bank details:** The bank details of the remitter and the beneficiary, including the bank name, branch, and account number, must be provided.
- **Certificate from a Chartered Accountant (Form 15CB):** If a certificate in Form 15CB is required, details such as the name and membership number of the Chartered Accountant, the date of issuance of the certificate, and the details of the remittance must be provided.

How to file Form 15CA and 15CB Online ?

Form 15CA

Form 15CA income tax can be filled by login through the Income Tax e-filing portal and verified by electronic verification code(EVC) and digital signature. Before e-filing Form 15CB, you must add your CA under authorized partners menu. This is a one-time appointment to be made every Financial Year.

Process to add chartered accountant:

- First, you must add your Chartered Accountant's membership number. This is a unique identification number issued by ICAI to every CA.
- Select 'Authorised Partners' tab, and click 'My Chartered Accountant' from the drop-down menu.
- You will be redirected to a page 'My Chartered Accountant(s).' Click on the 'Add CA' option.
- You will be prompted to add the 'Membership Number of the CA.' You can enter it manually or use the search option to find it in the ICAI database. Ensure you enter the correct number, as it cannot be changed later.
- Click on 'Add,' and you will be required to give a 'Confirmation.' You can review the details of the CA and click on 'Confirm' to proceed.
- A message will display 'Request for adding CA has been submitted successfully, it is pending for acceptance by the CA.' The CA will receive an email notification about your request and will have to accept it within 15 days. Once the CA accepts your request, he/she will be added as your authorized partner, and you can view his/her details on the portal.

The process of e-filing Form 15CA income tax

- Log in through the e-filing portal of the Income Tax Department using your PAN and password.
- Go to the e-File tab and select Prepare and Submit Online Form (Other than ITR).
- Select Form No. 15CA from the drop-down menu and enter the assessment year and PAN of the remitter.
- Fill in the details in Part A, B, C, or D of the form as applicable and click on Submit.
- A confirmation screen with a transaction ID and acknowledgment number will appear. You can also download the form as a PDF file for your records.

Form 15CB

Before filing Form 15CB, you must add your CA using the process explained for Form 15CA.

- After adding CA as your authorized partner, Form number 15CB will be entered next.
- After adding the CA, the next steps will be completed by your CA.
- Download Form 15CB utility from (.xml file) the download page
- After downloading the .xml file, it can be prepared offline.
- Selecting the “e-File” option, click on the “Upload Form” button, and fill in the below details:
 - PAN of the remitter
 - PAN of the CA
 - Form Name – 15CB
 - Filing Type – Original
- Next, the prepared .xml file will be uploaded and generated through Utility.
- The DSC Management Utility needs to be downloaded as well. This is needed in uploading the Digital Signature File for the submission to be complete in all respects.
- Click on the “Submit” button and wait for the Success page.
- View the form:
- Once Form 15CB is uploaded and successfully submitted by the CA, the assessee may log in and view the form right under the “Worklist” tab by selecting the “For Your Information” button.

Penalty for not filing Form 15CA-15CB

The penalty for not filing or late filing of Form 15CA-15CB is Rs. 10,000 per instance.

CA Ashok Agarwal

M.N. 409102

Mobile No. 9314349240

E- Mail Id:- caashok_alwar@yahoo.com



Important advisory by GSTN on Online Compliance Pertaining to Liability / Difference Appearing in R1 – R3B (DRC-01B) dated 29-06-2023

- a. It is informed that GSTN has developed a functionality to enable the taxpayer to explain the difference in GSTR-1 & 3B return online as directed by the GST Council. This feature is now live on the GST portal.
- b. The functionality compares the liability declared in GSTR-1/IFF with the liability paid in GSTR-3B/3BQ for each return period. If the declared liability exceeds the paid liability by a predefined limit or the percentage difference exceeds the configurable threshold, taxpayer will receive an intimation in the form of DRC-01B.
- c. Upon receiving an intimation, the taxpayer must file a response using Form DRC-01B Part B. The taxpayer has the option to either provide details of the payment made to settle the difference using Form DRC-03, or provide an explanation for the difference, or even choose a combination of both options.
- d. To further help taxpayers with the functionality, a detailed manual containing the navigation details is available on the GST portal. It offers step-by-step instructions and addresses various scenarios related to the functionality. The link is stated below:

[Click here to download detailed advisory](#)



CA Rahul M Agarwal
M.N. 416206



About the Scheme:

- Name: Muhyamantri Laghu Udhdyog Prohtasahan Yojna. (MLUPY)
- Objective: This scheme has been launched with the objective of providing subsidized loans through financial institutions to facilitate the establishment of enterprises for Manufacturing, Service and Trading or to Expand/ Diversify/ Modernize old business so as to create new opportunities of employment in the Rajasthan state
- Duration: 17 December 2019- 31 March 2024

Loan Provisions under MLUPY:-

1. The rate of interest subsidy depends upon the loan amount which is as follows:

S. No.	Maximum Loan Amount	Rate of Interest Subsidy
1	Upto Rs. 25 Lacs	8%
2	Rs. 25 Lacs- Rs. 5 Crores	6%
3	Rs. 5 Crores- Rs. 10 Crores	5%

2. Under the scheme, for the purpose of establishing new business for:-

- Manufacturing and Service loan amount of maximum Rs. 10 crores can be provided.
- For trading purpose, whether wholesale or retail, maximum loan amount would be Rs. 1 crores.

3. For the purpose of Expanding/ Diversifying/ Modernizing old business loan amount of maximum Rs. 1 crores can be provided.
4. For the purpose of acquiring land, maximum 25% of the total loan amount would be eligible for interest subsidy.
5. For the purpose of manufacturing or service, loan can be taken in only term loan form or composite form (term loan + CC)
6. For the purpose of trading, loan can be taken in only term loan form, composite form (term loan + CC) or only in CC form (maximum Rs. 25 lacs in this case).
7. In composite loan maximum :-
 - 40% CC Limit is allowed for Manufacturing and Service sector.
 - For Trading sector, maximum 75% CC Limit is allowed in composite loan.
8. The maximum limit of the project cost, comprising of the loan amount and the entrepreneur's own contribution will be up to the maximum limit of investment mentioned for the small enterprise as per the definition of MSME.
9. 100% subsidy of interest would be given for loan upto Rs. 1 lac to Bunkars holding Bunkar Card.
10. 100% subsidy of interest would be given for Loans up to Rs.3 lakh for Hastshilpi/Dastkar/Shilpi Card holders
11. No Collateral security deposit will be required for loans up to Rs.10 Lakh
12. If the rate of interest payable on bank loan is equal to or less than the interest rates mentioned above i.e 8%,6%, 5% as the case may be, then 100% interest subsidy will be payable
13. The subsidy is available for a period of 5 years. Loan can be taken for a higher period but subsidy period is maximum for 5 years.
14. Moratorium period can be taken maximum for 6 months. In moratorium period also, subsidy will be available.

Loan Conditions under MLUPY:-

- The loan amount can be used only for the purpose for which the loan is sanctioned.
- Interest subsidy will be provided only if the loan is repaid in time by the enterprise.
- If the loan account is regularized over a period of time after the loan account falls into the NPA category, the interest subsidy for the said period will also be given, which will be subject to the conditions of the loan approval order
- 18% penal interest will be chargeable along with the paid interest subsidy if the interest subsidy is availed in the scheme by the ineligible unit.

Eligible Person:

- Proprietor: must be 18 or above 18 years of age.
- Self Help Groups: must be registered in any department of state government.
- Society, Partnership Firm, L.L.P., Company: must be registered as per applicable laws.
- Micro and Small enterprises as defined under MSMED Act

Ineligible Person:

- A person whose any family member has been benefited from Capital Subsidy/Interest Subsidy scheme of central/ state government in last 5 years.
- A person whose any family member has defaulted to a financial institution/ bank.

*Family means- husband, wife, minor child

Eligible Activity:

The purpose of loan can be any activity relating to Manufacturing, Service or Trading industry. The benefit is available to a new enterprise or old enterprise going for Expansion/ Diversification/ Modernization

Ineligible Activity:

- Manufacturing or Trading of Meat, Alcoholic and Drugs and Intoxicating substances.
- Explosive Products.
- Transport Vehicles whose on-road price is more than 10 Lacs.
- Non- recyclable polythene and plastics hazardous to environment.
- Those products/ activities banned by Central Government/ State Government from time to time.
- Agriculture and related activities (animal husbandry, bird farming, Fisheries)
- Mining, Real Estate related activities
- Coaching institutes and Coaching related activities.
- Non Profit Organization viz NGO or Trust.

MLUPY Loans through Financial Institutions:-

Under the Mukhyamantri Laghu Udyog Protsahan Yojana, loans will be provided through financial institutions like:-

- Nationalized Commercial Bank
- Private Sector Scheduled Commercial Bank
- Scheduled Small Finance Bank
- Regional Rural Bank
- Rajasthan Financial Corporation
- SIDBI
- Urban Co operative Bank

MLUPY PLAN IMPLEMENTATION AGENCY

- The implementation of this scheme will be done through the District Industries Centers functioning in the districts under the Industries Department
- Office of the Commissioner Industries will be the nodal agency for implementation and supervision of the scheme at the state level

Important documents of Mukhyamantri Laghu Udhog Protsahan Yojana:-

- Copy of Aadhaar Card
- Passport size photo
- Copy of Education Qualification Marksheet/Certificate
- Copy of caste certificate
- Other Documents* : Self Certified Project Report

Process of applying in Rajasthan Chief Minister's Small Industries Promotion Scheme

- First of all you have to visit the official website of SSO Rajasthan Online Application

Rajasthan Single Sign On v1.0.0
One Digital Identity for all Applications

English | हिन्दी

G2G APPS
216

G2C/ G2B APPS
144

IDENTITIES
19985044

Login **Registration**

Digital Identity (SSOID/ Username)

Password

3 8 5 3 2 2 Enter Captcha

Login

[I Forgot my Digital Identity \(SSOID\). Click Here](#)

[I Forgot my Password. Click Here](#)

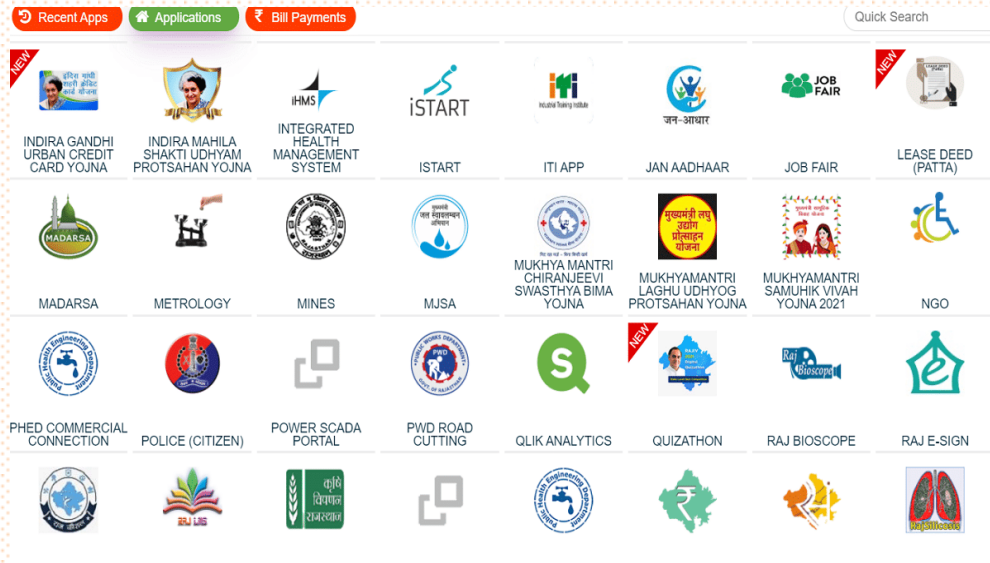
This website uses "Cookies" to give you the best and most personalized experience and to improve the site performance. "Cookies" are simple text files which safely resides on your computer. आपकी सर्वोत्तम एवं संबंधित अनुभव देने एवं साइट के बेहतर सम्पादन के लिए यह वेबसाइट 'कुकीज़' का उपयोग करती है। 'कुकीज़' एक टेक्स्ट फाइल है जो कि आपके कंप्यूटर पर ही सुरक्षित रहती है।

Please ensure that Mobile No./ Email ID/ Bhamashah ID/ Jan Aadhaar ID/ UID is u

Site designed, developed & hosted by Department of Information Technology & Communication, Government of Rajasthan
Helpdesk Details | Website Policies | Password Policy | FAQ | Sitemap

15

- If you are already registered on the portal then you have to login by entering the login credentials.
- After logging in, you have to click on the Rajasthan Chief Minister's Small Industries Promotion Scheme Icon.



- After this the application form will open in front of you.

- You have to fill all the information asked in this application form carefully.
- Now you have to attach all the important documents.
- After that you have to click on the submit button.
- In this way you will be able to apply for this scheme.

CA RAHUL M AGARWAL

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Email-carahulm@hotmail.com



CA Gaurav Gupta
M.No. 419364



Cyber Security Issues and Challenges in India

Cyber Security plays an important role in the field of information technology. Securing the information have become one of the biggest challenges in the present day. Cyber security can be a useful term but tends to defy precise definition. It is also sometimes inappropriately conflated with other concepts such as privacy, information sharing, intelligence gathering, and surveillance. In this paper the management of risk to information systems is considered fundamental to effective cyber security. The risks associated with any attack depend on three factors: threats (who is attacking), vulnerabilities (how they are attacking), and impacts (what the attack does). The government role in cyber security involves both securing government systems and assisting in protecting non-government systems.

However, in the context of cyber security prevention it needs more attention to resolve difficult long-term challenges relating to design, incentives, consensus, and environment.

In this paper the Management of Cyber security Risks, government role and Long-Term Challenges are discussed.

1. INTRODUCTION

The information technology (IT) industry has evolved greatly over the last half century. Continued, exponential progress in processing power and memory capacity has made IT hardware not only faster, but also smaller, light, cheaper, and easier to use. The original IT industry has also increasingly converged with the communications industry into a combined sector commonly called information and communications technology (ICT). This technology is ubiquitous and increasingly

integral to almost every facet of modern society. ICT devices and components are generally interdependent, and disruption of one may affect many others.

The act of protecting ICT systems and their contents has come to be known as cybersecurity. A broad and arguably somewhat fuzzy concept, cybersecurity can be a useful term but tends to defy precise definition. It is also sometimes inappropriately conflated with other concepts such as privacy, information sharing, intelligence gathering, and surveillance. However, cybersecurity can be an important tool in protecting privacy and preventing unauthorized surveillance, and information sharing and intelligence gathering can be useful tools for effecting cybersecurity.

The management of risk to information systems is considered fundamental to effective cybersecurity. The risks associated with any attack depend on three factors: threats (who is attacking), vulnerabilities (the weaknesses they are attacking), and impacts (what the attack does). Most cyberattacks have limited impacts, but a successful attack on some components of critical infrastructure (CI)—most of which is held by the private sector—

could have significant effects on national security, the economy, and the livelihood and safety of individual citizens. Reducing such risks usually involves removing threat sources, addressing vulnerabilities, and lessening impacts.

The federal role in cybersecurity involves both securing federal systems and assisting in protecting nonfederal systems. Under current law, all federal agencies have cybersecurity responsibilities relating to their own systems, and many have sector-specific responsibilities for CI. On average, federal agencies spend more than 10% of their annual ICT budgets on cybersecurity.

1.1 The Concept of Cyber security:

Over the past several years, experts and policy makers have expressed increasing

concerns about protecting ICT systems from cyberattacks—deliberate attempts by unauthorized persons to access ICT systems, usually with the goal of theft, disruption, damage, or other unlawful actions. Many experts expect the number and severity of cyberattacks to increase over the next several years ¹. The act of protecting ICT systems and their contents has come to be known as cyber security. A broad and arguably somewhat fuzzy concept, cyber security can be a useful term but tends to defy precise definition. It usually refers to one or more of three things:

- A set of activities and other measures intended to protect—from attack, disruption, or other threats— computers, computer networks, related hardware and devices software, and the information they contain and communicate, including software and data, as well as other elements of cyberspace.
- The state or quality of being protected from such threats.
- The broad field of endeavor aimed at implementing and improving those activities and quality.

It is related to but not generally regarded as identical to the concept of information security, which is defined in government law as protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide-

- A. Integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;
- B. Confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;
- C. Availability, which means ensuring timely and reliable access to and use of information.

Cyber security is also sometimes conflated inappropriately in public discussion with other concepts such as privacy, information sharing, intelligence gathering, and surveillance. Privacy is associated with the ability of an individual person to control access by others to information about that person. Thus, good cyber security can help protect privacy in an electronic environment, but information that is shared to assist in cyber security efforts might sometimes contain personal information that at least some observers would regard as private. Cyber security can be a means of protecting against undesired surveillance of and gathering of intelligence from an information system. However, when aimed at potential sources of cyberattacks, such activities can also be useful to help effect cyber security. In addition, surveillance in the form of monitoring of information flow within a system can be an important component of cyber security.

2. MANAGEMENT OF CYBER SECURITY RISKS

The risks associated with any attack depend on three factors: threats (who is attacking), vulnerabilities (how they are attacking), and impacts (what the attack does). The management of risk to information systems is considered fundamental to effective cyber security.

2.1 What Are the Threats?

People who perform cyberattacks generally fall into one or more of five categories: criminals intent on monetary gain from crimes such as theft or extortion; spies intent on stealing

classified or proprietary information used by government or private entities; nation-state warriors who develop capabilities and undertake cyberattacks in support of a country's strategic objectives; —hacktivists who perform cyberattacks for nonmonetary reasons; and terrorists who engage in cyberattacks as a form of non-state or state-sponsored warfare.

2.2 Final Stage.

2.2 What Are the Vulnerabilities?

Cyber security is in many ways an arms race between attackers and defenders. ICT systems are very complex, and attackers are constantly probing for weaknesses, which can occur at many points. Defenders can often protect against weaknesses, but three are particularly challenging: inadvertent or intentional acts by insiders with access to a system; supply chain vulnerabilities, which can permit the insertion of malicious software or hardware during the acquisition process; and previously unknown, or zero-day, vulnerabilities with no established fix.

2.3 What Are the Impacts?

A successful attack can compromise the confidentiality, integrity, and availability of an ICT system and the information it handles. Cyber theft or cyber espionage can result in exfiltration of financial, proprietary, or personal information from which the

attacker can benefit, often without the knowledge of the victim. Denial-of-service attacks can slow or prevent legitimate users from accessing a system. Botnet malware can give an attacker command of a system for use in cyberattacks on other systems. Attacks on industrial control systems can result in the destruction of the equipment they control, such as generators, pumps, and centrifuges.

Most cyberattacks have limited impacts, but a successful attack on some components of critical infrastructure (CI)—most of which is held by the private sector—could have significant effects on national security, the economy, and the livelihood and safety of individual citizens. Thus, a rare successful attack with high impact can pose a larger risk than a common successful attack with low impact.

Reducing the risks from cyberattacks usually involves (1) removing the threat source (e.g., by closing down botnets or reducing incentives for cybercriminals); (2) addressing vulnerabilities by hardening ICT assets (e.g., by patching software and training employees); and (3) lessening impacts by mitigating damage and restoring functions (e.g., by having back-up resources available for continuity of operations in response to an attack).

3. GOVERNMENT ROLE

The government role in cyber security involves both securing government systems and assisting in protecting non-government systems. Under current law, all government departments have cyber security responsibilities relating to their own systems, and many have sector-specific responsibilities for CI. National Cyber Security Policy is a policy framework by Department of Electronics and Information Technology (Deity), Ministry of Communication and Information Technology, Government of India. It aims at protecting the public and private infrastructure from cyber-attacks. The policy also intends to safeguard "information, such as personal information (of web users), financial and banking information and sovereign data". This was particularly relevant in the wake of US National Security Agency (NSA) leaks that suggested the US government agencies are spying on Indian users, who have no legal or technical safeguards against it. Ministry of Communications and Information Technology (India) defines Cyberspace is a complex environment consisting of interactions between people, software services supported by worldwide distribution of information and communication technology.

The National Cyber Security Policy of India 2013 is suffering from various shortcomings and limitations as per various studies and researches. Despite the declaration of the policy, India is still not cyber prepared. The policy has also not been implemented till the month of November 2014 (till 21 November 2014).

The cyber security challenges in India would increase further and immediate action is required in this regard. The proposed initiatives like National Cyber Coordination Centre and National Critical Information Infrastructure Protection Centre (NCIIPC) of India could prove useful in strengthening Indian cyber security and critical infrastructure protection in India.

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- To create an assurance framework for design of security policies and promotion and enabling actions for compliance to global security standards and best practices by way of conformity assessment (Product, process, technology & people).

- To strengthen the Regulatory Framework for ensuring a SECURE CYBERSPACE ECOSYSTEM.
- To enhance and create National and Sectoral level 24X7 mechanism for obtaining strategic information regarding threats to ICT infrastructure, creating scenarios for response, resolution and crisis management through effective predictive, preventive, protective response and recovery actions.
- To improve visibility of integrity of ICT products and services by establishing infrastructure for testing & validation of security of such product.
- To create workforce for 5,00,000 professionals skilled in next 5 years through capacity building skill development and training.
- To provide fiscal benefit to businesses for adoption of standard security practices and processes.
- To enable Protection of information while in process, handling, storage & transit so as to safeguard privacy citizen's data and reducing economic losses due to cybercrime or data theft.
- To enable effective prevention, investigation and prosecution of cybercrime and enhancement of law enforcement capabilities through appropriate legislative intervention.

3.2 Existing Counter Cyber Security Initiatives

On the recommendations of ISTF the following initiatives have been taken:

- 1) Indian Computer Emergency Response Team (CERT-In) has been established to respond to the cyber security incidents and take steps to prevent recurrence of the same.
- 2) Public Key Infrastructure (PKI) has been set up to support implementation of Information Technology Act and promotes use of Digital signatures.
- 3) Government has been supporting R&D activities through premier Academic and Public Sector Institutions in the country.

Some of the other initiatives that can be taken:

a. National Informatics Centre (NIC).

A premier organization providing network backbone and e- governance support to the Central Government, State Governments, Union Territories, Districts and other Governments bodies. It provides wide range of information and communication technology services including nationwide communication Network for decentralized planning improvement in Government services and wider transparency of national and local governments.

b. Indian Computer Emergency Response Team (Cert- In)

Cert-In is the most important constituent of India's cyber community. Its mandate states, 'ensure security of cyber space in the country by enhancing the security communications and information infrastructure, through proactive action and effective collaboration aimed at security incident prevention and response and security assurance

c. National Information Security Assurance Program (NISAP).

This is for Government and critical infrastructures, Highlights are:

- (a) Government and critical infrastructures should have a security policy and create a point of contact.
- (b) Mandatory for organizations to implement security control and report any security incident to Cert-In.
- (c) Cert-In to create a panel of auditor for IT security.
- (d) All organizations to be subject to a third party audit from this panel once a year.
- (e) Cert-In to be reported about security compliance on periodic basis by the organizations.

4. LONG-TERM CHALLENGES

The executive-branch actions and proposed legislation are largely designed to address several well-established near-term needs in cyber security: preventing cyber-based disasters and espionage, reducing impacts of successful attacks, improving inter-sector and intra-sector collaboration, clarifying federal agency roles and responsibilities, and fighting cybercrime. However, those needs exist in the context of more difficult long-term challenges relating to design, incentives, consensus, and environment (DICE):

Design: Experts often say that effective security needs to be an integral part of ICT design. Yet, developers have traditionally focused more on features than security, for economic reasons. Also, many future security needs cannot be predicted, posing a difficult challenge for designers.

Incentives: The structure of economic incentives for cyber security has been called distorted or even perverse. Cybercrime is regarded as cheap, profitable, and comparatively safe for the criminals. In contrast, cyber security can be expensive, is by its nature imperfect, and the economic returns on investments are often unsure.

Consensus: Cyber security means different things to different stakeholders, with little common agreement on meaning, implementation, and risks. Substantial cultural impediments to consensus also exist, not only between sectors but within sectors and even within organizations.

Environment: Cyberspace has been called the fastest evolving technology space in human history, both in scale and properties. New and emerging properties and applications—especially social media, mobile computing, big data, cloud computing, and the Internet of things—further complicate the evolving threat environment, but

they can also pose potential opportunities for improving cybersecurity, for example through the economies of scale provided by cloud computing and big data analytics.

5. Federal role:

The federal role in cybersecurity involves both securing federal systems and assisting in protecting nonfederal systems. Under current law, all federal agencies have cybersecurity responsibilities relating to their own systems, and many have sector-specific responsibilities for CI. More than 50 statutes address various aspects of cybersecurity.

The following diagram is a simplified schematic diagram of major agency responsibilities in cybersecurity. In general, the National Institute of Standards and Technology (NIST) develops standards that apply to federal civilian ICT under the Federal Information Security Modernization Act (FISMA), and the Office of Management and Budget (OMB) is responsible for overseeing their implementation. The Department of Defense (DOD) is responsible for military ICT, defense of the nation in cyberspace, and, through the National Security Agency (NSA), security of national security systems (NSS), which handle classified information. NSA is also part of the Intelligence Community (IC). The Department of Homeland Security (DHS) has operational responsibility for protection of federal civilian systems and is the lead agency coordinating federal efforts assisting the private sector in protecting CI assets. It is also the main federal focus of information sharing for civilian systems through its National Cybersecurity and Communications Integration Center (NCCIC). The Department of Justice (DOJ) is the lead agency for enforcement of relevant laws.

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6.CONCLUSIONS

Although the government has ambitious plans to raise cyber connectivity. There has a boom in e-commerce, and many activities related to e-governance are now being carried out over the Internet. As we grow more dependent on the Internet for our daily life activities, we also become more vulnerable to any disruptions caused in and through cyberspace. The rapidity with which this sector has grown has meant that governments and private companies are still trying to figure out both the scope and meaning of security in cyberspace and apportioning responsibility. The cyberspace holds the fifth place in common space and it is vital to have co ordinations and cooperation among all nations regarding cyberspace.

The need of cyberspace and its exploitation is growing rapidly. The cyberspace is becoming important area for large number of terrorists to attack on crucial information infrastructure. The existing laws are inefficient to restrain the cybercrimes and, thus urging a need to modify the existing laws through which these activities can be put on a check. There is a need of international cooperation of nations to crack down the efficiency on cybercrime, thereby ensuring a development of the internet cybercrime is not limited to states of boundaries, thus it requires a universal collaboration of nations to work together to reduce the ever growing threats and risk to a manageable level.

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TDS Rate Applicable for FY 2023-24 or AY 2024-25

Section	Deductee*	Nature of transaction	Threshold Limit (Rs)	TDS Rate
192	R, NR	Payment of salary	Basic exemption limit of employee	Normal Slab Rates
192A	R, NR	Premature withdrawal from EPF	50,000	10% Budget 2023: TDS rate for EPF withdrawals without a PAN number is now 20%, from the previous maximum marginal rate
193	R	Interest on securities	Debentures- 5,000 8% Savings (Taxable) Bonds 2003 or 7.75% Savings (Taxable) Bonds 2018- 10,000 Other securities- No limit	10% Budget 2023: Exemption of TDS on interest from listed debentures has been removed. Therefore, tax has to be deducted on interest on such specified securities.
194	R	Payment of any dividend	5,000	10%
194A	R	Interest from other than interest from securities (from deposits with banks/post office/co-operative society)	Senior Citizens- 50,000 Others- 40,000	10%
194A	R	Interest from other than interest on securities u/s 193 and interest from banks/post office/co-operative society.	5,000	10%

		For e.g., interest from friends and relatives		
194B	R, NR, FC	Income from lottery winnings, card games, crossword puzzles, and other games of any type	Aggregate income from lottery winnings, card games, crossword puzzles etc- 10,000 Online Gamine- Refer 194BA	30%
194BA	R, NR, FC	Income from online games	Nil	30%
194BB	R, NR, FC	Income from horse race winnings	10,000 Aggregate winnings during a financial year not single transaction	30%
194C	R	Payment to contractor/sub-contractor:-	Single transaction- 30,000 Aggregate transactions- 1,00,000	
		a) Individuals/HUF		1%
		b) Other than Individuals/HU		2%

194D	R	Insurance commission to:		
		a) Domestic Companies	15,000	10%
		b) Other than companies	15,000	5%

194DA	R	Income for the insurance pay-out, while payment of any sum in respect of a life insurance policy.	100,000	5%
194E	NR, FC	Payment to non-resident sportsmen/sports association	No limit	20% *This rate shall be increased by applicable surcharge and 4% cess
194EE	R, NR	Payment of amount standing to the credit of a person under National Savings Scheme (NSS)	2,500	10%
194F	R, NR	Payment for the repurchase of the unit by Unit Trust of India (UTI) or a Mutual Fund	No limit	20%
194G	R, NR, FC	Payments, commission, etc., on the sale of lottery tickets	15,000	5%
194H	R	Commission or brokerage	15,000	5%
194-I	R	Rent:		
		194-I(a) Rent on plant and machinery	240,000	2%
		194-I(b) Rent on land/building/furniture/fitting	240,000	10%
194-IA	R	Payment in consideration of transfer of certain immovable property other than agricultural land.	5,000,000	1%
194-IB	R	Rent payment by an individual or HUF not covered u/s. 194-I	50,000 per month	5%
194-IC	R	Payment under Joint Development Agreements (JDA) to Individual/HUF	No limit	10
194J	R	Any sum paid by way of fee for professional services	30,000	10%

194J	R	Any sum paid by way of remuneration/fee/commission to a director	30,000	10%
194J	R	Any sum paid for not carrying out any activity concerning any business;	30,000	10%
194J	R	Any sum paid for not sharing any know-how, patent, copyright, etc.	30,000	10%
194J	R	Any sum paid as a fee for technical services	30,000	2%
194J	R	Any sum paid by way of royalty towards the sale or distribution, or exhibition of cinematographic films	30,000	2%
194J	R	Any sum paid as fees for technical services, but the payee is engaged in the business of operation of the call center.	30,000	2%
194K	R	Payment of any income for units of a mutual fund, for example, dividend	No limit	10%
194LA	R	Payment in respect of compensation on acquiring certain immovable property	250,000	10%
194LB	NR, FC	Payment of interest on infrastructure debt fund to Non-Resident	No limit	5% *This rate shall be increased by applicable surcharge and 4% cess
194LC	NR, FC	Payment of interest for the loan borrowed in foreign currency by an Indian company or business trust against loan agreement or the issue of long-term bonds	No limit	5%

194LC	NR, FC	Payment of interest for the loan borrowed in foreign currency by an Indian company or business trust against the issue of long-term bonds listed in IFSC	No limit	4%
194LD	NR, FC	Payment of interest on bond (rupee-denominated) to FII or a QFI	No limit	5%
194LBA(1)	R	Certain income distributed by a business trust to its unitholder	No limit	10%
194LBA(2)	NR, FC	Interest income of a business trust from SPV distribution to its unitholders	No limit	5%
194LBA(2)	NR, FC	Dividend income of a business trust from SPV, in which it holds the entire share capital exempt the capital held by the government, and distribution to its unitholders	No limit	10%
194LBA(3)	NR	Rental income payment of assets owned by the business trust to the unitholders of such business trust	No limit	30%
194LBA(3)	FC	Rental income payment of assets owned by the business trust to the unitholders of such business trust	No limit	40%
194LBB	R, NR	Certain income paid to a unitholder in respect of units of an investment fund	No limit	10%
194LBB	FC	Certain income paid to a unitholder in respect of units of an investment fund	No limit	40%

194LBC	R	Income from investment in securitisation fund received to an individual and HUF	No limit	25%
194LBC	R	Income from investment in securitisation fund received to a domestic company	No limit	10%
194LBC	FC	Income from investment in securitisation fund received to a foreign company	No limit	40%
194LBC	NR	Income from investment in securitisation fund received to NRI	No limit	10%
194M	R	Certain payments by Individual/HUF not liable to deduct TDS under Section 194C, 194H, and 194J	5,000,000	5%
194N	R, NR	Cash withdrawal exceeding a certain amount	Co-operative society: 3 Crore Others: 1 crore	2%
194N	R, NR	Cash withdrawal in case person not filing ITR for last three years and the original ITR filing due date expired	- 20 lakh to 1 crore	2% 5%
194O	R	Payment for the sale of goods or provision of services by the e-commerce operator through its digital or electronic facility or platform.	-1 crore	*If cash is withdrawn by a co-operative society the limit shall be Rs 3 Crore instead of Rs 1 Crore
		Payment of pension or interest to specified senior citizens of age 75 years or more	500,000	1% 5% in case PAN is not furnished
194P	R		Basic exemption limit of senior citizens or super senior	Normal tax slab rates

194N	R, NR	Cash withdrawal in case person not filing ITR for last three years and the original ITR filing due date expired	- 20 lakh to 1 crore - 1 crore	2% 5% *If cash is withdrawn by a co-operative society the limit shall be Rs 3 Crore instead of Rs 1 Crore
194O	R	Payment for the sale of goods or provision of services by the e-commerce operator through its digital or electronic facility or platform.	500,000	1% 5% in case PAN is not furnished
194P	R	Payment of pension or interest to specified senior citizens of age 75 years or more	Basic exemption limit of senior citizens or super senior citizens	Normal tax slab rates
194Q	R	Payments for the purchase of goods	5,000,000	0.10%
194R (Refer notes)	R	Perquisite or benefit to a business or profession	20,000	10%
194S (Refer notes)	R	TDS on the transfer of virtual digital assets	Specified Persons- 50,000 Others- 10,000	1%
195	NR	Income on investments made by NRI citizen	No limit	20%
195	NR	Income by way of LTCG referred to in section 115E in the case of NRI	No limit	10%

195	NR, FC	Income by way of LTCG under section 112(1)(c)(iii)	No limit	10%
195	NR, FC	Income by way of LTCG under section 112A	No limit	10%
195	NR, FC	Income by way of STCG under section 111A	No limit	15%
195	NR, FC	Any other income by way of LTCG	No limit	20%
195	NR, FC	Interest payable on money borrowed by the government or Indian concern in foreign currency	No limit	20%
195	NR, FC	Income from royalty payable by the Indian concern or the government, for the copyright in a subject referred in the first proviso of section 115A or computer software referred to in the second proviso of section 115A	No limit	10%
195	NR	Income from royalty payable by government or Indian concern in pursuance of an agreement on matters included in the industrial policy	No limit	10%

195	FC	Income from royalty payable by government or Indian concern in pursuance of an agreement on matters included in the industrial policy	No limit	50%
		If the agreement for such royalty payment is entered in between 31st March 1961 and 1st April 1976		
195	FC	Income from royalty payable by government or Indian concern in pursuance of an agreement on matters included in the industrial policy If the agreement for such royalty payment is entered after 31st March 1976	No limit	10%
195	NR	Income from technical fees payable by government or Indian concern in pursuance of an agreement on matters related to industrial policy	No limit	10%
195	FC	Income from technical fees payable by government or Indian concern in pursuance of an agreement on matters related to industrial policy	No limit	50%

		If the agreement for such payment is entered in between 29th February 1964 and 1st April 1976		
195	FC	Income from technical fees payable by government or Indian concern in pursuance of an agreement on matters related to industrial policy If the agreement for such payment is entered after 31st March 1976	No limit	10%
195	NR	Any other income	No limit	30%
195	FC	Any other income	No limit	40%
196B	NR, FC	Income (including LTCG) from units of an offshore fund	No limit	10%
196C	NR, FC	Income (including LTCG) from foreign currency bonds or GDR of an Indian company	No limit	10%
196D	NR, FC	Income (excluding dividend and capital gain) from Foreign Institutional Investors.	No limit	20%

206AB	R	<p>Payment to non-filers, i.e. those who have not filed their income tax return in the last year</p> <p>Budget 2023: Non-filers do not include:</p> <ul style="list-style-type: none"> - People who are not required to file their ITRs - NRs who do not have a PE in India 	No limit	<p>- 2 times the rate given in the Income Tax Act or Finance Act or</p> <p>- 5%, whichever is higher</p>
206AA	R, NR, FC	TDS rate in case of Non availability of PAN	No limit	Rates specified above or 20%, whichever is higher



TDS Rates for Non-Residents u/s 195 of Income Tax Act, 1961

CONTENT

S.N o.	Nature of Payment	Co.	Others
1	Long Term Capital Gains u/s 115E	NA	10%
2	Other Long Term Capital Gains (excluding u/s 10(33), 10(36) & 10 (38))	20%	20%
3	Short Term Capital Gains u/s. 111A	15%	15%
4	Investment income from Foreign Exchange Assets	NA	20%
5	Interest payable on moneys borrowed or debt incurred in Foreign Currency	20%	20%
6	Royalty & Fees for technical services u/s. 115A		
	- Agreement 1st June, 1997 to 31st May, 2005	20%	20%
	- Agreement on or after 1st June 2005	10%	10%
7	Winnings from Lotteries, Crossword Puzzles and Horse Races	30%	30%
8	Any Other Income	40%	30%

Type of Payment	Surcharge	Rate	Education Cess (4.00%)
Payment to Non-Residents (other than Cos)	Upto 1cr	Nil	Yes
	> 1 Crore	15%	
Payments to Foreign Co.	Upto 1cr	Nil	Yes
	> 1 Crore	2%	
	> 10 Crores	5%	



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Tax Deduction at Source (TDS) under GST

Introduction

Goods and Service Tax has been proved to be an incremental revenue tax regime. GST has resolved various problems such as eliminating cascading effect of taxes, multiplicity of rates as its ideology is 'One Nation, One Tax', mitigated the interpretational issues, non-admissibility of credit, etc. As outlined, GST has been revenue generating and TDS is one of its aspects.

Tax Deduction at Source is one of the Procedure under which certain percentage is deducted by the recipient while making payment to the supplier of goods or services or both. Applicability of TDS increases the tax base as well as assists in keeping the trail of the transactions.

Tax Deduction at Source (TDS)

1. Provision under Goods and Service Tax Act, 2017

Section 51 of CGST Act, 2017 states that following persons (**herein after referred as 'Deductor'**) are mandated to deduct tax at source @ 2% (CGST 1% + SGST 1%) when payment made or credited to the supplier (**herein after referred as 'Deductee'**) where **Value of Supply under a contract** exceeds Two lakhs Fifty thousand (250,000):

- a. a department or establishment of Central Government or State Government; or
- b. local authority; or
- c. governmental agencies; or
- d. Persons notified vide notification no. 33/2017-

- i. An authority/ Board/ Body setup by an act of Parliament or State legislature or established by any Government with 51% or more participation by way of equity or control to carry out any function;
- ii. Society established by Central Government or the State Government or local authority under societies registration act, 1860.
- iii. Public Sector Undertakings.

2. **Registration**

As per **section 24 clause (vi) of CGST Act, 2017** person liable to deduct tax under section 51 is mandatorily required to obtain GST registration irrespective of threshold mentioned under GST regulations. TDS registration can be obtained on the basis of Tax Deduction and Collection Account Number (TAN) issued under Income Tax Act.

3. **Depositing Tax to Government**

Every deductor shall deposit the amount so deducted with Government **within 10 days after the end of the month** in which such deduction was made. If deductor fails to deposit the amount within prescribed time he shall pay interest in accordance with **section 50(1)** in addition to amount deducted.

4. **TDS Return and Certificate**

As per **Rule 66** of CGST Act, every deductor is required to furnish a return in **FORM GSTR 7** and the details so furnished shall be electronically made available to deductee in **FORM GSTR 7A** along with certificate. On the basis of certificate issued in GSTR 7A deductee shall be eligible to claim credit of tax deducted in his Electronic Cash Ledger.

Following details shall be furnished by Deductor in **GSTR 7 –**

- a. GSTIN of Deductee
- b. Amount paid to Deductee
- c. Amount of Tax deducted at source (Integrated tax, Central tax, State/UT tax)
- d. Amendments to TDS details pertaining to earlier tax period and other particulars as prescribed.

5. Penalty for Non-filing of Return

If GSTR 7 is not filed within the time limit prescribed per day penalty of Rs. 100 CGST and Rs. 100 SGST shall be leviable where the amount of penalty cannot exceed Rs. 5000. There is no penalty for late filing of IGST.

6. Refund of Amount Deducted

In case if there is any excess or erroneous deduction, the deductor or deductee shall be refunded in accordance with provisions of section 54 of CGST Act, 2017. Provided no refund shall be granted to deductor, if amount deducted has been credited to Electronic Cash ledger of deductee.

7. Cases where TDS is not required to be deducted

Where the location of supplier and the place of supply is in a State or Union territory which is different from State or Union territory of registration of recipient.

Let's understand the above situation in following manner –

- a. When Supplier, place of supply and location of recipient are in same state or union territory it shall be an intra-state supply. In such case the amount deducted would be in form CGST and SGST and the recipient can take credit without any obstruction.

- b. When Supplier and place of supply is different from location of recipient then recipient won't be able to take credit as deduction would be in CGST and SGST due to intra-state supply.

Example: Complete understanding of TDS

Person A (deductee) having GST registration in state of Maharashtra enters into a contract to supply certain goods to Person B (deductor) also having registration in Maharashtra for an amount of Rs. 450,000. Person B executes the payment in two instalments i.e. Rs. 170,000 and Rs. 280,000. Following shall be the responsibility of Person B.

Responsibility of Person B –

- a. To obtain GST registration as Tax Deductor whether or not separately registered under this Act.
- b. To deduct tax @ 2% at time of both the instalments because tax it is to be deducted by considering the total value of supply. Hence in this case TDS shall be Rs. 3400 and Rs. 5600 at respective payment of instalment.
- c. Person B shall deposit the amount deducted within 10 days from end of the month in which the deduction was made.
- d. Filing of GSTR 7 on GST portal.

(Provided, Person B is specified person as per section 51 and deduction shall be made on amount exclusive of central tax, state tax, union territory tax, integrated tax and cess).

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E Invoicing under GST: Biggest reform to curb TAX EVASION

The concept of GST e-invoice generation system has been taken into consideration for the reduction in GST evasion. The reduction in GST Evasion can be curb through mandating E invoicing is that GST authorities shall have the real time access to information uploaded by taxpayers on common portal and chances of generation of fake invoices shall be reduced.

GST e-invoicing in India will become mandatory for all businesses with an annual turnover of over INR 5 Cr. starting August 1, 2023 as per Notification No. 10/2023–Central Tax dated May 10, 2023. If your annual turnover falls under the 6th wave of e-Invoicing in India than registered person is required to issue an E Invoice having valid IRN code. This is a significant step towards formalizing India's small businesses and reducing tax evasion.

With the adoption of GST e-invoicing, businesses will be better equipped to synchronize their sales data and simplify input tax credit claims, ultimately contributing to a broader GST base and greater transparency in the taxation system. The Indian government has mandated that businesses with an annual turnover exceeding INR 5 Cr. adopt e-invoicing for all business-to-business (B2B) transactions under the Goods and Services Tax (GST) regime starting from August 1, 2023.

This reduces the previous threshold from INR 10 Cr and aims to formalize small businesses, which form the backbone of the Indian economy.

The GST Network's technology providers have been instructed to update the portal's capacity by the end of July 2023 to avoid any glitches.



History of e-invoicing being implemented under GST:

CBIC has implemented e-invoicing in phases to ensure uniformity and interoperability within the GST ecosystem. Here are the phases of implementation and their respective turnover thresholds:

- ✓ ***Phase 1 (from October 1, 2020): E-invoicing became mandatory for B2B transactions for registered person with a turnover of INR 500 Cr.***
- ✓ ***Phase 2 (from January 1, 2021): The turnover threshold for mandatory e-invoicing was lowered to INR 100 Cr.***
- ✓ ***Phase 3 (from April 1, 2021): The threshold was further revised to INR 50 Cr.***
- ✓ ***Phase 4 (from April 2022): E-invoicing became mandatory for businesses with a turnover exceeding INR 20 Cr.***
- ✓ ***Phase 5 (from October 2022): E-invoicing became mandatory for businesses with an annual turnover of INR 10 Cr.***

Apart from this it must be noted that relaxation has been given to certain class of assessee that are:

1. SEZ units (CBIC Notification No. 61/2020)
2. Financial institution including NBFC, Insurance Companies
3. GTA (Goods Transport Agency)
4. Passenger Transport Service.
5. Supplying services by way of admission to the exhibition of cinematographic films in multiplex services
6. Persons registered in terms of Rule 14 of CGST Rules (OIDAR)

The common portal for generation of e-invoice is '<https://einvoice1.gst.gov.in>'. All the registered users under GST who wish to generate IRN need to register again on E-invoice system separately using GSTIN. Once GSTIN is entered, the system sends an OTP to his registered mobile number registered with GST Portal and after authenticating the same, the system enables him to generate his/her username and password for the E-invoice system. After generation of username and password of his/her choice, he/she may proceed to make entries to generate IRN. However, if the user was already registered on the e-way bill portal, he need not register again on the e-invoice system. User can use EWB login credentials to login at e-invoice system.

Applicability of E invoice is on following documents:

1. TAX INVOICES
2. DR/CR NOTES
3. EXPORT INVOICES

Documents Exempt From E-Invoicing

1. Delivery challans
2. Bill of supply
3. Financial or commercial credit note or debit note
4. Bill of entry
5. ISD invoices

Transactions Exempt From E- Invoicing

1. Any Business-to-Consumers (B2C) sales
2. Nil-rated or non-taxable or exempt B2B sale of goods or services
3. Nil-rated or non-taxable or exempt B2G sale of goods or services
4. Imports, high sea sales, and bonded warehouse sales

5. Free Trade & Warehousing Zones (FTWZ)

6. Supplies under reverse charge covered under Section 9(4) of the CGST Act

A taxpayer can continue to print his invoice as being done presently with logo. E-Invoicing system only mandates all taxpayers to report invoices on IRP in electronic format. Under the electronic invoicing system, an identification number is issued against every invoice by the Invoice Registration Portal (IRP) with a QR Code. The IRP is managed by the GST Network (GSTN). All invoice information gets transferred from the Invoice Registration portal to the GST portal and the e-way bill portal on real-time basis. Therefore, it eliminates the need for manual data entry while filing GSTR-1 return as well as generation of part-A of the e-way bills, unless any errors of any nature occur in any of the invoices or documents, which may not get suitably attended in auto population of data at other portal.

A GST invoice is considered valid only with a valid IRN. IRN need not be printed on e-invoice, it is already embedded in QR Code. An invoice/document number which was reported and obtained IRN, cannot be used again, if not cancelled within 24 hours. Digital signature (DSC) of supplier not required while reporting e-invoice to IRP, whereas, the uploaded invoice data will be digitally signed by IRP.

At present, e-invoice provisions are not applicable to B2C (Business to Consumer) transactions. However, a seller is required to display a dynamic QR code on B2C invoices w.e.f 01-12-2021. The purpose of introducing this feature is to enable and encourage digital payment facility for all B2C supplies in the economy.

Business to Consumer (B2C) Supply means supply of goods or services or both by a registered person in GST to an unregistered person/ consumer in GST chain.

If there is a mistake, incorrect or wrong entry in the e-invoice, then it cannot be edited or corrected. Only option is to cancel that invoice/IRN and report a new document (with new number) and generate a fresh IRN. An e-Invoice once generated can neither be amended nor be cancelled partially.

The IRN can be cancelled as such completely within 24 hours and generated again if any mistake is found. However, if the connected e-way bill to the E-Invoice is active or verified by any officer during transit, cancellation of IRN thereafter will not be permitted even within 24 hours. Any attempt to cancel e-invoice thereafter, cannot be done on the IRN. If E-invoice is not cancelled within 24 hours, but invoice or document stands cancelled, the same may need to be reported as cancelled on the GST portal before the returns are filed.

With effect from 15/07/2023 2 - Factor Authentication shall be made mandatory for all the taxpayers having AATO above INR 100 Cr.

2- Factor Authentication for e-Way Bill and e-Invoice System :

To enhance the security of e-Way Bill/e-Invoice System, NIC is introducing 2- Factor Authentication for logging in to e-Way Bill/e-Invoice system. In addition to username and password, OTP will also be authenticated for login.

There are 3 different ways of receiving the OTP. You may enter any of the OTP and login to system. The various modes of generating OTP are explained below:

1. SMS: OTP will be sent to your registered mobile number as SMS.
2. On 'Sandes' app: Sandes is a messaging app provided by government so that you can send and receive messages. You may download and install the Sandes app on your registered mobile number and receive the OTP in it.
3. Using 'NIC-GST-Shield' app: 'NIC-GST-Shield' is a mobile app provided by e-Way Bill /e-Invoice System, so that OTP can be generated by using the app. This app can be downloaded only from the e-Waybill / e-Invoice portal from the link 'Main Menu2-Factor Authentication. Install NIC-GST-Shield'. Download, install and register this app on your registered mobile number. You should ensure the time displayed in the app should be in sync with e- Waybill / e-Invoice system. On opening the app,

OTP is displayed. You may enter this OTP and continue the authentication. The OTP gets refreshed after every 30 seconds. You will not require internet or any dependency on mobile network for generating the OTP on this app.

Registration for 2-Factor Authentication:

On logging to e-Waybill System go to Main Menu◊ 2 Factor Authentication and confirm the registration. Once confirmed, the system will ask OTP alongwith username and password. The OTP authentication is based on individual user accounts. The sub users of GSTIN will have separate authentication depending on their registered mobile number in the e-Way Bill/ e- Invoice System. Once you have registered for 2 Factor authentication, then the same is applicable for both e-Way bill and e-Invoice system.

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IMPORTANT JUDGMENT, RULING OF MAY 2023

- 1. Show Cause Notice (SCN) of Rs.21,000 crores issued by the Revenue department to Gameskraft Technologies (P.) Ltd is quashed being illegal, arbitrary, and without jurisdiction.**

The Honorable High Court of Karnataka has quashed the biggest-ever SCN issued by the revenue department is illegal, arbitrary, and without jurisdiction in the case of M/s Games kraft Technologies (P.) Ltd. V. Directorate General of Goods Services Tax Intelligence (WRIT PETITION No. 19570 OF 2022 C/W WRIT PETITION Nos. 22010 OF 2021, 18304 OF 2022, 19561 OF 2022, 20119 OF 2022 AND 20120 OF 2022) dated May 11, 2023. The Court ruled that the games like rummy, whether played online or physically, with or without stakes, are considered as games of skill, and wagering contracts are recognized as part of the business under Section 2(17) of the CGST Act, 2017. However, this does not mean that lottery, betting, and gambling are synonymous with games of skill. Games of skill are not considered taxable under Entry 6 of Schedule III, which applies to games of chance such as lottery, betting, and gambling. Taxation of games of skill falls outside the scope of the term “supply” according to Section 7(2) of the CGST Act, 2017 read with Schedule III.

- 2. Can a vague show cause notice be issued to the taxpayer without communicating the relevant information and material?**

No, the Honorable High Court of Madhya Pradesh in the case of M/s Durge Metals V. Appellate Authority and Joint Commissioner State Tax (WRIT PETITION NO. 6124 OF 2020) dated May 10, 2023 has ruled that Since the show cause notice issued to the taxpayer was vague to extent of not communicating relevant information and material, same was to be quashed with liberty to the competent authority to proceed in the matter in accordance with the law.

3. Is it necessary to issue a notice under Section 61 of the CGST Act, 2017, before initiating the proceedings under Section 74 of the CGST Act, 2017?

No, the Honorable High Court of Allahabad in the case of Nagarjuna Agro Chemicals (P.) Ltd. V. State of U.P. (WRIT TAX NO. 336 OF 2023) dated May 15, 2023, has held that the non-issuance of notice under Section 61 of Central Goods and Services Tax Act does not affect the validity of proceedings initiated under Section 74, therefore, proceedings of revenue were considered valid and the assessee was permitted to avail remedy of appeal.

4. Can the transported goods which were intercepted and detained, be released on furnishing of the bank guarantee or payment in cash of 200% of tax?

Yes, the Honorable High Court of Madras in the case of Haresh Kumar V. Assistant Commissioner(ST) (W.P.NO. 14628 OF 2023) dated May 05, 2023, has held that Where assessee transported a consignment of goods that was intercepted and detained on ground that supplier, from whom assessee purchased goods had wrongly passed on Input Tax Credit and assessee filed a statutory appeal before Appellate Authority after payment of 25 percent of disputed penalty, goods were to be released on furnishing Bank Guarantee or payment in cash of 200 percent of tax.

5. Whether the order for provisional attachment of bank account would cease to be operative after the expiry of the statutory period of one year?

Yes, the Honorable High Court of Delhi in the case of M/s Merlin Facilities (P.) Ltd. V. Union of India (W.P.(C) NO. 5931 OF 2023, CM APPL. NOS. 23273-23274 OF 2023) dated May 08, 2023, has ruled that the Operation of an order provisionally attaching bank account would cease to be operative after the expiry of the statutory period of one year as per Section 83(2) of the CGST Act, 2017.

6. Can the assessee be deprived of the statutory benefit of stay under Section 112(9) of CGST Act, 2017 due to non-constitution of the GST Appellate tribunal?

No, the Honorable High Court of Patna in the case of Ritesh Infratech (P) Ltd. V. Union of India (CIVIL WRIT JURISDICTION CASE NO. 5316 OF 2023) Dated

April 24, 2023, has held that assessee could not be deprived of the statutory benefit of stay under section 112(9) of CGST Act, 2017 due to non-constitution of GST Appellate Tribunal and recovery of balance amount was to stay subject to deposit of 20 percent of the remaining amount of tax in dispute in addition to the amount earlier deposited under section 107(6) of the Act.

7. Is the recipient of service allowed to seek the Advance Ruling?

Yes, the Honorable High Court of Calcutta in the case of Anmol Industries Ltd.V. West Bengal Authority for Advance Ruling, Goods and Services Tax (M.A.T. NO. 630 OF 2023I.A. NO. CAN 1 OF 2023) Dated April 21, 2023, has held that the appellants/assessee being registered under GST were entitled to maintain an application for advance ruling, even though they were recipients of services, as ruling sought on the applicability of an exemption notification fell within the scope of section 97(2)(b).

8. Is the taxpayer allowed a refund of IGST on ocean freight, since the Notification No. 8/2017-IT (Rate) dated 28.06.2017 and Notification No. 10/2017-IT (Rate) dated 28.6.2017 have already been declared ultra-vires?

Yes, the Honorable High Court of Gujarat in the case of Etc Agro Processing (India) (P.) Ltd. V. Union of India(R/SPECIAL CIVIL APPLICATION NO. 1204 OF 2021) dated April 26, 2023, has held that the Assessee-company has paid IGST on ocean freight charged by foreign vessel provider to overseas supplier for transportation of goods upto customs clearance destination in India on basis of Notification No. 8/2017-IT (Rate) dated 28.06.2017 and Notification No. 10/2017-IT (Rate) dated 28.6.2017 since the impugned notifications have already been declared ultra vires, competent authority was directed to refund IGST collected on ocean freight.

9. Can the refund application filed u/s 77 of CGST Act,2017 be rejected on the grounds of limitation?

No, the Honorable High Court of Jharkhand in the case of Gajraj Vahan (P.) Ltd. V. State of Jharkhand (W.P.(T) NO. 1801 OF 2021) Dated May 10, 2023, has held that the application for a refund under section 77 for the payment made in the wrong head cannot be rejected on the grounds of limitation because circular bearing no. 162/18/2021 read with notification no. 35/2021-Central Tax, dated

24.09.2021 provide for the extension of limitation of refund in case of wrong deposit.

10. Can the application for the refund of accumulated ITC be rejected without giving the opportunity for a hearing?

No, The Bombay High Court in the case of M/s. Knowledge Capital Services V. Union of India (WRIT PETITION NO. 61 OF 2023) dated March 29, 2023, has held that refund of accumulated credit under Section 54(3) of the CGST Act cannot be rejected when the Petitioner was neither given the opportunity to clear deficiencies in its application for the refund nor given any hearing. The Court also held that format for issuance of Deficiency Memo as well as SCN is already prescribed by the CGST Rules and by attaching a file in a non prescribed format, the revenue did not adhere to the procedure envisaged under the Rules. Further, the objections raised by the revenue were in nature of deficiencies in the application and did not warrant issuance of SCN. Accordingly, the Court quashed the refund rejection Order and restored the refund application to be processed as per the procedure laid down in Rule 92 of the CGST Rules.

11. Whether ITC can be claimed during the revocation of canceled GST registration?

Yes, the Honorable Rajasthan High Court in the case of M/s R.K. Jewelers v. Union of India (D.B. CWP No. 4236 of 2023 dated April 26, 2023) has held that the cancellation of the registration effected on the ground of non-filing-of GST return, could be revoked and the assessee can claim Input Tax Credit ("ITC") when the department considers the issue of revocation of such canceled GST registration. Further held that the assessee shall be entitled to lodge its claim for availing of ITC in respect of the period from the cancellation of the GST registration till the GST registration is restored.

12. Is the opinion formed by the Commissioner under Section 83 of CGST Act, 2017 based on credible material having a live link with the formation of opinion?

Yes, the Honorable High Court of Delhi in the case of Sidhivinayak Chemtech (P.) Ltd. V. Principal Commissioner, CGST (W.P.(C) NO. 17547 OF 2022) Dated April 21, 2023, has held that the Formation of opinion by the Commissioner under Section 83 of CGST Act, 2017 should be based on credible material having live

link with the formation of opinion. Bank accounts could not be attached on mere suspicion. Moreover, the Assets of a person falling under Sub-section (1A) of Section 122 of CGST Act, 2017 can be attached only by a Commissioner who exercises jurisdiction in respect of said taxable person. The term 'Commissioner' as used in Section 83 of CGST Act, 2017 would necessarily refer to the Commissioner who exercises jurisdiction under the CGST Act in respect of 'the taxable person'.

13. Employee services from branch office to head office, and vice versa to attract 18 pc GST: AAR The Authority for Advance Ruling (AAR),

Karnataka in the case of Profisolutions Pvt Ltd has held that the services provided by employees of a company's branch office to its head office and vice versa located in different states would be liable to 18 percent GST. The AAR observed that under GST law supply of services between two registrations of the same person in the same state or in different states attracts tax. "Services, including services of common employees of a person, provided by the branch office to head office and vice versa, each having separate GST registration, will attract GST liability".

14. Can the Refund application be rejected due to the absence of physical signatures on documents?

No, the Honorable Rajasthan High Court in the case of M/s Medicamen Biotech Ltd. v. Union of India (D.B. CIVIL WRIT PETITION NO. 2604 OF 2023) dated April 10, 2023, has held that where the requisite declarations/undertakings under Rules 89(2)(d) and 89(2)(e) of Central Goods and Services Tax Rules, 2017 were digitally authenticated by authorized signatory of assessee in manner prescribed under Rule 26 ibid, refund of GST paid on supplies made to SEZ unit/developer could not be denied merely on ground that such declarations/undertakings were not physically signed by assessee due to oversight before scanning and attaching them with refund application. The High Court observed that Rule 26 provides e-signature as a valid method for authentication. GST law nowhere mandates the physical signing of documents. Hence, the Revenue cannot insist on the same basis as administrative instructions. The Court held that administrative instruction cannot bar the claim of refund when statutory requirements are fulfilled.

15. Whether there is any liability to pay Service Tax on liquidated damages collected from vendors?

No, The CESTAT, Chennai in the case of M/s. Bharat Heavy Electricals Limited v. The Commissioner of G.S.T and Central Excise [Service Tax Appeal No. 41500 of 2019 dated April 26, 2023] held that recovery of liquidated damages from the defaulting party cannot be said to be towards any service since the purpose of imposing damages is to ensure that the defaulting act is not undertaken or repeated. Relying on the case of, South Eastern Coalfields Ltd. v. Commissioner of Central Excise and Service Tax, Raipur [2020 (12) TMI 912 –CESTAT, New Delhi] wherein the Hon’ble bench has analysed the scope and ambit of sections 65B (44), 66E (e) and 67 (1) of the Finance Act, 1994 and also analysed various decisions of the Hon’ble Supreme Court and thereafter, concluded that the view of the Principal Commissioner therein that the penalty amount, forfeiture of earnest money deposit and liquidated damages received by the Appellant therein towards “consideration” for “tolerating an act” as being amenable to Service Tax under Section 66E (e) of the Finance Act, was not sustainable. Held that the recovery of liquidated damages or penalties from another party cannot be considered as payment for any specific service. The imposition of compensation or penalty is intended to prevent or deter the defaulting party from repeating the same offense, and it cannot be regarded as payment for tolerating the defaulting party’s conduct.

16. When there is no mens rea, can the extended period of limitation be invoked?

No, The CESTAT, Kolkata in M/s. Bhootpurva Sainik Kalyan Sangh v. Commissioner of Central Excise & Service Tax (Service Tax Appeal No. 566 of 2011 dated May 11, 2023) held that there should be a misread to evade payment of service tax for the demand of service tax and penalty beyond the period of

limitation. Held that there is no evidence brought on record to substantiate the claim that the Appellant has suppressed the taxable value from the department as there should be misread to evade payment of service tax, therefore, the SCN issued for an extended period is not valid. Hence, the demand for service tax and

interest is confirmed, and the penalty imposed under section 78 of the Finance Act 1994, in the impugned order cannot be upheld due to ground of limitation

17. Whether the development fees collected by the airport on behalf of the airport authority is chargeable to service tax?

No, the Honorable Supreme Court in the case of Central GST Delhi – III v. Delhi International Airport Ltd (Civil Appeal No. 8996 of 2019 dated May 19, 2023) held that neither is there any compulsion to levy development fee nor is the collection conditional upon its deposit in the government treasury. Observed that development fees, collected under Section 22A of the AAI Act are statutory exactions and not fees or tariffs, as was contended by the Union of India and there is a distinction between the charges, fees, and rent etc., collected under Section 22 of the AAI Act and the User Development Fee (“UDF”) levied and collected under Section 22A of the AAI Act. Noted that, The UDF collected by the Respondent is to bridge the funding gap of project cost for the development of future establishment at the airports, there is nothing on record to show that any additional benefit has accrued to passengers, visitors, traders, airlines, etc., upon levy of the UDF during the period in question. Held that there is neither any compulsion to levy development fee nor is the collection conditional upon its deposit in the government treasury. However, the absence of these features, in this court opinion, does not render UDF any less a statutory levy. Held no Service tax leviable on the UDF, being a statutory levy.

18. Whether the Writ Petition is maintainable before the High Court, considering the availability of the appellate remedy under Section 107 of the CGST Act?

No, The Hon’ble Orissa High Court in the case of Twisha Educational Private Limited v. Addl. CT & GST Officer (W.P (C) No.11358 of 2023 dated May 01, 2023) directed the assessee to file an appeal before the appropriate authority under Section 107 of the Central Goods and Services Tax Act, 2017 (“the CGST Act”), as assessee claims that the GST authorities attached their bank account without issuing any prior notice. The Court has advised the assessee to pursue their remedy through the established appellate process rather than seeking relief through a writ petition. Further, the Court dismissed the writ petition on the

basis that the petitioner has an alternative remedy available through the appellate process.

19. Whether the demand of interest and penalty is liable to stay in the absence of the GSTAT?

Yes, the Honorable Orissa High Court in Prafulla Kumar Sahoo v. Commissioner of CT & GST Odisha, Baniyakar Bhavan & Ors. (W.P.(C) No. 15842 of 2023 & I.A. No. 7254 of 2023 dated May 17, 2023) had stayed the demand of penalty and interest raised by the Revenue Department, during the pendency of writ petition, subject to the condition that the assessee deposits the entire amount of tax demanded within a period of 15 days since the assessee wanted to avail the remedy under the provisions of law by approaching GST Appellate Tribunal ("GSTAT"). Noted that, in case the Petitioner wants to avail the remedy by preferring to appeal before the GSTAT, the Petitioner would be liable to pay 20% of the disputed tax for consideration of its appeal. If the Petitioner wants to avail the remedy under the provisions of law by approaching GSTAT, which has not yet been constituted, the amount of penalty and interest demanded shall remain stayed during the pendency of the petition, subject to the condition that the Petitioner deposits the entire amount of tax demanded within a period of 15 days.

20. Whether Revenue Department can continue the attachment of bank accounts for several years under Section 83 of the CGST Act?

No, the Honorable Madras High Court in the case of Nitesh Jain Mangal Chand v. The Senior Intelligence Officer (W.P. No. 18776 of 2022 dated April 3, 2023) held that, delay in issuing the Show Cause Notice ("SCN") cannot justify the continuation of the attachment under Section 83 of the Central Goods and Services Tax Act, 2017 ("the CGST Act"), which is itself provisional in nature. Observed that Section 83 of the CGST Act cannot be deployed continuously for several years to protect revenue and it must be resorted only to ensure that the Revenue Department is issuing notice and finalizing proceedings in a time-bound fashion. Held that the delay of nearly four years in issuing the SCN cannot be a reason to continue attachment under Section 83 of the CGST Act, which itself is

provisional in nature. Link to download the judgment – Delay in issuing SCN cannot justify continuation of provisional attachment for several years

21. Rent on Accommodation buildings located outside the boundaries of religious places are chargeable to GST

The AAR, Gujarat, in the matter of M/s. Nandini Ashram Trust [Advance Ruling no. GUJ/GAAR/R/2023/18 dated April 26, 2023] ruled that since the assessee was providing accommodation to pilgrims outside the boundary of the temple and the rooms rent charged was INR 1000 thus, the exemption sought was not available. Stated that, as in terms of Sr. no. 13(b) of Notification No. 12/2017-Central Tax (Rate) dated June 28, 2017 (“ the Services Exemption Notification”), the exemption is for the activity of renting of precincts of a religious place meant for the general public, which is owned or managed by an entity registered as a charitable or religious trust under section 12AA of the IT Act or a trust or an institution registered under sub-clause (v) of clause (23c) of section 10 of the IT Act or body or an authority covered under clause (23BBA) of section 10 of the IT Act. Ruled that the Applicant is liable to pay GST at the rate of 12%. Since, the premise is not owned by the Ambaji Temple Trust but by the Applicant, which was rented to pilgrims and is located outside the boundary of the temple. Accordingly, the Applicant will be liable to be registered if the aggregate turnover in a financial year exceeds INR 20 Lakhs.

22. Traders of second-hand gold in the form of lumps or irregular shapes cannot avail GST chargeable under the margin scheme

The AAR, Karnataka, in the matter of M/s. White Gold Bullion Pvt. Ltd. [Advance Ruling no. KAR ADRG 20/2023 dated May 15, 2023] ruled that purchasing second-hand gold in the form of jewelry/parts of jewelry, from unregistered individuals and selling to registered / unregistered dealers, after melting in the form of lumps / irregular shapes of gold will not get the benefit of the changeability of GST on the margin difference between the sale price and purchase price as stipulated in Rule 32(5) of the Central Goods and Services Tax Rules, 2017 (“the CGST Rules”). Held that gold jewelry is a distinct category of an article having distinct characteristics and is not the same as gold lumps, as the melting of gold jewelry into gold lumps changes the characteristics of the articles and thus results in a change in the classification of the article. Since the

processing done by the Applicant changes the nature of goods, they are not eligible to avail of the benefits of Rule 32(5) of the CGST Rules. Further held that the Applicant purchasing second-hand gold in the form of jewelry/parts of jewelry, from unregistered individuals and selling to registered / unregistered dealers, after melting the same, in the form of lumps / irregular shapes of gold cannot pay GST on the margin difference between the sale price and purchase price as stipulated in Rule 32(5) of the CGST Rules and the HSN Code for Old Gold Jewelry is 7113 and after melting into gold lumps or irregular shapes of gold, the HSN Code is 7108.



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DECODING THE CONUNDRUM OF SECTION 16(4) UNDER GST: **A COMPREHENSIVE ANALYSIS**

1. Introduction

The Goods and Services Tax (GST) Act, 2017 is a landmark legislation that has the potential to transform the Indian economy. The Act has been hailed as a major step towards economic integration and simplification of the tax regime. However, there are some challenges that need to be addressed in order to ensure the success of the GST regime. There is a need to address the concerns of the business community. Among others, one such challenge is the application of Section 16(4) which is proving to be a major burden for the business community at large. Many businessmen owing to various reasons could not comply with the provision and hence are now facing huge demand notices. In this article, an attempt shall be made to analyse the provisions of Section 16(4) of the **CGST Act, 2017** and to test its validity.

Section 16 :- Eligibility and condition for taking input tax credit

- (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.*

- (2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any input tax in respect of any supply of goods or services or both to him unless,-

(a)		he is in
(a)		the details of
(b)		he has received
		Explanation-.....
	(i)	where the goods
	(ii)	where the services
(b)		the details of
(c)		subject to the
(d)		he has furnished

Provided that

Provided further that

Provided also that

- (3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961 (43 of 1961), the input tax credit on the said tax component shall not be allowed.

- (4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the thirtieth day of November following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier:**

Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.

On a plain reading of the above provisions, it is apparent that taking of Input Tax Credit (ITC) is subject to various conditions enumerated from Sub-Sections (1) to (4). Section 16(4) imposes a condition upon the Registered Tax-Payer (RTP) wherein it is stated that ITC cannot be taken in respect of any invoice or debit note for supply of goods or services or both after the Thirtieth day of November (as amended vide notification No. 18/2022) following the end of financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier. Thus, a limitation is sought to be imposed on the claiming of eligible ITC. However, there are certain grounds on which validity of Section 16(4) is required to be tested. In this article, an attempt shall be made to critically examine and test those arguments and grounds.

Analysis of the Provisions of Section 16 w.r.t. Section 16(4)

Section 16(1) which grants eligibility to take ITC, before allowing any such benefit, speaks about “*subject to such conditions and restrictions as may be prescribed*”. Thus, conditions and restrictions as may be enumerated in the Rules and manner prescribed in Section 49 should be followed to take a

valid ITC. Some additional conditions are also prescribed in the Act which are also required to be followed to maintain the validity of ITC. Now the issue which is required to be considered is that whether it is after following these rules and provisions that the ITC becomes a vested right of the RTP and gets protection from Article 300A of the Constitution of India which gives Right of Property to every citizen or is it after compliance with Section 16(2) only that ITC becomes a vested right and that the other conditions are post vesting conditions.

Argument 1: Section 16(2) is a Non-Obstante Clause So It Overrides 16(4):

A plain reading of all the sub-sections of Section 16 makes it amply clear that Section 16(1) is an enabling provision which gives right to any registered taxpayer to the credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business. However, Section 16(2), (3) & (4) are restrictive provisions which lists out certain mandatory conditions which are required to be followed to take the credit of input tax credit as allowed under Section 16(1). Non-Compliance with these conditions shall make the ITC ineligible and the same cannot be taken.

Further, Section 16(2) starts with a non-obstante clause i.e. ***“Notwithstanding anything contained in this section....”*** wherein it says that any RTP is required to follow certain conditions mentioned from Section 16(2)(a) to 16(2)(d) to be eligible for the credit of ITC which is allowed under Section 16(1).

Again, Section 16(3) (*which is not non-obstante clause*) reads that in case the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961 (43 of 1961), the input tax credit on the said tax component shall not be allowed. This is again a restrictive provision which limits the scope of Section 16(1).

Further more, Section 16(4) (*which is not a non-obstante clause*) reads that a RTP shall not be entitled to take ITC if the same is not taken within the time limit specified in the section.

Thus, a conjoint reading of the entire section presents the following picture:

- a) Section 16(1) is an enabling provision which gives right to any registered taxpayer to take credit of input tax.
- b) Section 16(2) is a restrictive section under which he is required to comply with certain conditions, failing which the credit of ITC shall not be allowed to him.
- c) Section 16(3) is again a restrictive section which mentions that if depreciation under Income Tax Act, 1961 is claimed on ITC portion of assets specified therein, ITC cannot be allowed for that portion.
- d) Section 16(4) requires RTP to follow a time limit to take ITC. Thus, it is also a restrictive section limiting the scope of the enabling Section 16(1).

Now one school of thought holds the belief that since Section 16(2) starts with a non-obstante clause, it overrides all the other provisions of the section and resultantly Section 16(4) becomes otiose.

In this connection there has been a plethora of judicial precedents as under:

- a) State of West Bengal v. Union of India AIR 1963 SC 1241
- b) Union of India v. G.M. Kokil AIR 1984 SC 1022
- c) Chandavarkar Sita Ratna Rao v. Ashalata S. Guram [1986] 4 SCC 447
- d) Vishin N. Khanchandani v. Vidya Lachmandas Khanchandani [2002] 123 Taxman 227
- e) ICICI Bank Ltd. v. SIDCO Leathers Ltd. [2006] 67 SCL 383 (SC)
- f) Central Bank of India v. State of Kerala [2009] 4 SCC 94
- g) State Bank of West Bangal v. Union of India [1964] 1 SCR 371
- h) S. Raghunath v. State of Karnataka [1992] 1 SCC 335
- i) G. Varadarajulu v. State of Tamil Nadu [1998] 4 SCC 231
- j) Aswini Kumar Ghose v. Arabinda Bose, (1952) AIR SC 369
- k) Amar Jewellers Ltd. Assistant Commissioner of Income-Tax, [2022] 137 taxmann.com 249 (Gujarat)

In Principles of Statutory Interpretation, 9th Edition by Justice G.P. Singh Chapter V, Synopsis IV at pages 318 and 319, it is written as under:

A non-obstante clause is generally appended to a section with a view to give the enacting part of the section, in case of conflict, an overriding effect over the provision in the same or other Act mentioned in the non- obstante clause. It is equivalent to saying that inspite of the provisions or Act mentioned in the non-obstante clause, the provision following it will have its full operation or the provisions embraced in the non-obstante clause will not be an impediment for the operation of the enactment or the provision in which the non-obstante clause occurs.

From the above it can be derived as follows:

- a) Statutes should be interpreted in light of their entire text, and exception clauses or non obstante clauses should not be interpreted in isolation from the main enacting provision.
- b) The purpose of the non-obstante clause must be ascertained with which the legislature has inserted it.
- c) Non-obstante clause is employed to give overriding effect to some contrary provision but not complimentary provisions.
- d) It is enacted to give the enacting part of the section in case of conflict an overriding effect over the provision of the Act or the contract mentioned in the non-obstante clause.
- e) A non-obstante clause must be given effect to, to the extent the Parliament intended and not beyond the same.

From a conjoint analysis of the above judicial precedents, the language of Section 16 and the principles of interpretation of statutes as enumerated above, it is clear that the non-obstante clause in Section 16(2) does not in any manner limit the operation of Section 16(3) or Section 16(4) as they are not contradicting, rather they all being restrictive provisions, are basically complementing each other and are limiting the scope and operation of Section 16(1). The basic intent of the overriding effect of Section 16(2) is to diffuse any misuse of the enabling provision contained in Section 16(1) and to specify certain conditions that shall ensure that the credit is taken as per the scheme of the Act and after following proper conditions, rules and regulations. The legislature does not seem to intend that Section 16(4) be made otiose by the application of Section 16(2).

However, one more school of thought in this matter is that the non-obstante clause does not only override the contrary provisions in Section 16, but anything and everything contained in the entire section. So, Section 16(4) is also overridden even if it is complementing. In this context, it is to be mentioned that when there seems to be a conflict between two provisions of the same Act, a harmonious construction of the two becomes ***sine qua non*** to ensure reflection of the true intention of the legislature. In the instant case, it is very apparent that both are restrictive provisions and thus there is no overlap between the two and it cannot be said that Section 16(2) overrides the other provisions of the section in its entirety. A harmonious construction of the two provisions leads to the conclusion that they are both intended to promote the same goal, which is to ensure that ITC is available to businesses to the extent that it is used in the course or furtherance of their business. An interpretation that would completely divulge the provision from the intent of the legislature would be contrary to the principle of harmonious construction.

Arguments For Case Laws Generally Quoted

In ***Eicher Motors Ltd. and Anr vs Union of India and Ors. Etc, (1999) 152 CTR (SC) 273***, the Hon'ble Supreme Court of India considered MODVAT Credit as an 'indefeasible right'.

However, it must be understood that this indefeasible right as stated by the Hon'ble Court is created only once the same gets vested and not before that. Once a right gets vested, it cannot be taken away by any authority and then it becomes indefeasible. Any infringement by any person or authority on such rights, can be interfered by the court.

Now it is to be determined whether compliance with Section 16(2) itself makes ITC a vested right. As per the above analysis, it can be concluded that it is

the combined compliance to all the conditions of Section 16 followed by other provisions of the law which makes the ITC a vested right. After following these conditions if any additional conditions are subsequently imposed on the RTP, it shall get protection from Article 300A of the Constitution of India.

The Hon'ble Supreme Court of India in [ALD Automotive Pvt. Ltd. Vs The Commercial Tax Officer & Ors.](#), (2019) 13 SCC 255, held as under:

“32. The input credit is in nature of benefit/ concession extended to dealer under the statutory scheme. The concession can be received by the beneficiary only as per the scheme of the Statute.”

“The conditions under which Input Tax Credit is to be given are all enumerated in Section 19 as noticed above. The condition under which the concession and benefit is given is always to be strictly construed. In event, it is accepted that there is no time period for claiming Input Tax Credit as contained in Section 19(11), the provision become too flexible and give rise to large number of difficulties including difficulty in verification of claim of Input Credit. Taxing Statutes contains self-contained scheme of levy, computation and collection of tax. The time under which a return is to be filed for purpose of assessment of the tax cannot be dependent on the will of a dealer.”

The Apex Court in the case of [M/S. TVS Motor Company Ltd. vs The State of Tamil Nadu And Others](#), 2018 Latest Caselaw 763 SC, read as under:

“After discussing certain judgments of this Court and other High Courts, the High Court has observed that the legal position was that right to claim ITC is not a vested right or an indefeasible right. It is a benefit conferred under the Act in certain contingencies and subject to conditions prescribed in the statutory scheme. Therefore, it is open to the State Legislature to provide for conditions

and restrictions while extending the concession. Likewise, it was also necessary for any assessee to claim input credit to fulfill those conditions.”

It can be inferred from the above judgements that ITC eligibility must follow certain conditions, rules and regulations and without it, it does not vest on any RTP. In the instant case, mere compliance with Section 16(2) does not make ITC a vested right for any RTP as it is one among the many conditions for ensuring eligibility of ITC.

Further, it is often argued that in the case of ALD Automotive Pvt. Ltd., Section 19(11) of Tamil Nadu Value Added Tax Act, 2006 are *Pari Materia* to Section 16(4) and thus it is already ruled by the Hon’ble Apex Court against the RTP. In this context, a careful reading of both the provisions makes it amply clear that the language is different in both the provisions i.e. Section 16(4) and Section 19(11). Let us analyse the same:

Section 19(11) of the Tamil Nadu Value Added Tax Act, 2006 reads as under:

11) In case any registered dealer fails to claim input tax credit in respect of any transaction of taxable purchase in any month, he shall make the claim before the end of the financial year or before ninety days from the date of purchase, whichever is later.

An analysis of the same reflects that the language, facts and background of both the legislations are different and thus the same cannot be considered as *pari materia*.

Argument 2: Section 16(4) reads about taking ‘take’ credit:

Section 16(1) uses the words “entitled to take credit”, Section 16(2) uses the words “entitled to the credit” and Section 16(4) uses the words “entitled to take input tax credit”.

It is important to observe the words “take credit” in the above sections to make a proper understanding of the legislation.

In [Union of India v. Bharti Airtel Ltd.](#), [2021] 131 taxmann.com 319 (SC), the Hon’ble Apex Court read as under:

“33. As per the scheme of the 2017 Act, it is noticed that registered person is obliged to do self-assessment of ITC, reckon its eligibility to ITC and of OTL including the balance amount lying in cash or credit ledger primarily on the basis of his office record and books of accounts required to be statutorily preserved and updated from time to time. That he could do even without the common electronic portal as was being done in the past till recently pre-GST regime. As regards liability to pay OTL, that is on the basis of the transactions effected during the relevant period giving rise to taxable event. The supply of goods and services becomes taxable in respect of which the registered person is obliged to maintain agreement, invoices/challans and books of accounts, which can be maintained manually/electronically. The common portal is only a facilitator to feed or retrieve such information and need not be the primary source for doing self-assessment. The primary source is in the form of agreements, invoices/challans, receipts of the goods and services and books of accounts which are maintained by the assessee manually/electronically. These are not within the control of the tax authorities. This was the arrangement even in the pre-GST regime whilst discharging the obligation under the concerned

legislation(s). The position is no different in the post-GST regime, both in the matter of doing self-assessment and regarding dealing with eligibility to ITC and OTL. Indeed, that self-assessment and declarations would be any way subject to verification by the tax authorities. The role of tax authorities would come at the time of verification of the declarations and returns submitted/filed by the registered person.

34. Section 16 of the 2017 Act deals with eligibility of the registered person to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business. The input tax credit is additionally recorded in the electronic credit ledger of such person under the Act. The “electronic credit ledger” is defined in section 2(46) and is referred to in section 49(2) of the 2017 Act, which provides for the manner in which ITC may be availed. Section 41(1) envisages that every registered person shall be entitled to take credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.

35. As aforesaid, every assessee is under obligation to self-assess the eligible ITC under section 16(1) and 16(2) and “credit the same in the electronic credit ledger” defined in section 2(46) read with section 49(2) of the 2017 Act. Only thereafter, section 59 steps in, hereunder the registered person is obliged to self- assess the taxes payable under the Act and furnish a return for each tax period as specified under section 39 of the Act. To put it differently, for submitting return under section 59, it is the registered person who has to undertake necessary measures including of maintaining books of accounts for the relevant period either manually or electronically. On the basis of such primary material, self-assessment can be and ought to be done by the assessee about the eligibility and availing of ITC and of OTL, which is reflected in the

periodical return to be filed under section 59 of the Act.”

Thus, the Hon’ble Apex Court has observed that it is the books of accounts which is the primary material on which self-assessment is done. The input tax credit is additionally recorded in the electronic credit ledger under the Act. It held that the common portal is only a facilitator to feed or retrieve such information and need not be the primary source for doing self-assessment. The primary source is in the form of agreements, invoices/challans, receipts of the goods and services and books of accounts which are maintained by the assessee manually/electronically.

Analysis of Other Sections of the Act to Ascertain its Meaning:

Section 16(1) has divided the concept of taking ITC into two parts. One is “*entitled to take credit of input tax*” and the other is “*shall be credited to the electronic credit ledger of such person*”. Thus, it has separated the process of taking of ITC in books from the process of getting it credited in the electronic credit ledger of such person. In this context, the provisions of other sections of the Act requires a thorough reading:

Section 41 :- Availment of input tax credit

41.(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

The same bifurcation as mentioned above has also been made in Section 41(1) as mentioned above which mentions that ITC shall be availed as self-assessed in the return filed and then shall be credited to the Electronic Credit Ledger.

Section 43A. Procedure for furnishing return and availing input tax credit –

(1) Notwithstanding anything contained in sub-section (2) of section 16, section 37 or section 38, every registered person shall in the returns furnished under sub-section (1) of section 39 verify, validate, modify or delete the details of supplies furnished by the suppliers.

From a bare reading of Section 43A, it reveals that ITC is availed by furnishing return. Thus, filing return is a means to avail ITC and not to take ITC.

(It is to be mentioned that Section 43A has been Omitted by the Finance Act, 2022, w.e.f. 1-10-2022. However, the same has been included by us in our analysis so as to understand the intent of the law from the words used in other sections of the Law.)

Further, time of supply for output liability ascertainment is basically dependent on the date when the same is taken in books of accounts i.e. either invoice is issued, payment is received etc. For output liability, reporting the same in returns is just an additional compliance. Thus, when output liability is due on the basis of it being taken in books and records, the same should be the intent of the legislature when it is dealing with the concept of ITC.

It is apparent that both taking ITC and crediting the same in electronic credit ledger with the help of returns are entirely different concepts. It is the books of accounts wherein the ITC is first taken, then it is availed in return filed and

then credited in Electronic Credit Ledger in portal. Thus, it is a three staged process and entitlement is decided in the first stage itself i.e. taking of credit which is done in the books of accounts.

Thus, it is clear that crediting ITC in the Electronic Credit Ledger is just an additional requirement and not the primary vesting condition. It is the taking of credit in books of accounts which is the primary vesting condition.

The basic intent behind introducing the GST Law was to ensure seamless flow of credit and to avoid cascading effect of taxes. If we try to match this intent with the use of words “*take credit*”, it is observed that it duly matches with this basic intent wherein only basic and logical impediments are created on the way of taking of ITC by any RTP. Any deviation from the same would ultimately lead towards defeating this very provision.

Further, Section 17(5) reads as under:

(5) Notwithstanding anything contained in sub-section (1) of section 16 and sub-section (1) of section 18, input tax credit shall not be available in respect of the following, namely:

Section 17(5) is again a restrictive provision which lists out certain situations wherein ITC shall not be available, and it is again a non-obstante clause. If we carefully observe the language of the section, it overrides only two sections i.e. Section 16(1) and Section 18(1). If we go through the text of these two sections, they both are enabling sections i.e. they give the entitlement i.e. “*entitled to take credit*” to any RTP. Thus, a careful reading of this section reveals that Section 16(1) is perceived to be an enabling section and 16(2) is not perceived to be an enabling section, rather it only lists out situations under

which ITC shall not be available, rather being made available. It also means that compliance of all the conditions of Section 16(2) alone shall not give any vested right to take ITC. If conditions are complied, it will just not be an impediment in the way of earning of ITC by the RTP.

It is the books of accounts of any taxpayer wherein the ITC is first taken and the Ledgers in the common portals are only additional facilitators. The law should not intend to create a situation wherein after a time lapse Output Liability is considered to be valid and payable, but ITC disallowed even though it is duly recorded in books of accounts and the fact is proved by the RTP. Thus, the conclusion very amply depicts the intent of the law wherein it says that ITC must be recorded in the books of accounts of the assessee within a specified time period. If it is not recorded even in the books of accounts within that time, the ITC shall lapse and cannot be claimed.

3. Does Section 16(2)(aa) have any relation with Section 16(4)

One issue that is cropping up w.r.t. the time limit specified in Section 16(4) wherein the same is applied to the provisions contained in Section 16(2)(aa). Section 16(2)(aa) reads as under:

Section 16(2)(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in statement of outward supplies and such details have been communicated to the recipient of such invoice debit note in the manner specified under section 37;

Thus, the section read with applicable rules requires any RTP to claim ITC only when the same is reflected in his GSTR-2B i.e. after the supplier of goods furnished the invoices in the GSTR-1 filed by him. Now there is a school of thought that this reflection in GSTR-2B of the RTP should be within the time

limit specified u/s 16(4). Thus, even if the RTP has taken ITC in his books within the four corners of Section 16(4), he is being barred from claiming ITC only due to the default committed by a third person who is not in control of the RTP. Thus, it does not appear logical to think that the legislature would intend to punish the RTP due to a procedural default committed by some other person. Further, when taking of credit is the primary requirement of the section, it cannot be interpreted in a manner to defeat the very intent of the law.

4. Returns filed under Amnesty Notifications Are Subject to Section 16(4)

There is another issue wherein ITC is being sought to be disallowed when filing returns pursuant to release of amnesty notifications by the CBIC. [Notification No. 3/2023-Central Tax dated 31-03-2023](#) read as under:

In exercise of the powers conferred by section 148 of the [Central Goods and Services Tax Act, 2017](#) (12 of 2017) (hereinafter referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies that the registered person, whose registration has been cancelled under clause (b) or clause (c) of sub-section (2) of section 29 of the said Act on or before the 31st day of December, 2022, and who has failed to apply for revocation of cancellation of such registration within the time period specified in section 30 of the said Act as the class of registered persons who shall follow the following special procedure in respect of revocation of cancellation of such registration, namely:-

- a) the registered person may apply for revocation of cancellation of such registration upto the 30th day of June, 2023;
- b) the application for revocation shall be filed only after furnishing the returns due upto the effective date of cancellation of registration and after payment of any amount due as tax, in terms of such returns, along with any amount

payable towards interest, penalty and late fee in respect of the such returns;

- c) no further extension of time period for filing application for revocation of cancellation of registration shall be available in such cases.

Vide above notification, the CBIC has allowed any registered person whose registration has been cancelled and who has failed to get his revocation application filed within the time limit specified under the applicable provisions of the law, to file their revocation applications within 30th June, 2023. However, it specifies that before filing such application the following conditions needs to be complied:

- a) All due returns upto the date of furnishing of returns needs to be filed
- b) Due taxes should be paid

This notification which is in the form of an amnesty scheme declared by the CBIC allows a RTP to file all his returns, if any pending since the inception of the law and make due payment of taxes. Pursuant to this, he may get his cancellation revoked and continue his business. It does not anywhere specify that the ITC shall be barred by Section 16(4). Further, when it is allowing to file returns from July, 2017, it is also allowing to claim ITC which is also allowed while filing of returns. The words used in the notification are “....*after payment of any amount due as tax*”. The words “*amount due*” shall have to be read with the provisions of Section 59 which relates to Self-Assessment of Taxes. ITC is first taken in books of accounts, then the taxes are self-assessed and ITC is availed though filing of returns and then the same gets credited to the Electronic Credit Ledger.

If the legislature would have intended to disallow the availment of ITC after taking the same, it would have made the ITC column inactive in GSTR-3B in such cases. This would cause huge injustice to the taxpayers who are complying with the law after the release of the amnesty notification and paying due taxes after claiming their hard-earned ITC and paying applicable interest and late fee. The intent of legislature seems to be clear that Section 16(4) in such cases shall not be applicable as the ITC has already been taken in the books of accounts by the RTP. Thus, the contention that ITC cannot be claimed in filing returns does not seem to stand any valid grounds.

The legislature shall never intend to take away a substantive right earned by the taxpayer u/s 16(1), by imposing a harsh procedural condition which may cause the entire purpose of the enactment of the new law being defeated. Thus, ITC entitlement which is a substantive right of any RTP and is earned after compliance with a plethora of other stringent conditions cannot be intended to be taken away by a procedural defect.

Conclusion:

From the above discussion, it may be concluded that the legislative intent behind inserting Section 16(4) can never be to take away the ITC which is made eligible by following the broad scheme of the law. It will never intend to take away from one hand what it gives from another. It only intends to ensure that the ITC should be taken in a timely manner and within a specified time limit in the books of accounts of the RTP. The operation of the Non-Obstante clause is also discussed in detail and it appears that the same does not override Section 16(4) in any manner. The issue of Section 16(4) is already under judicial scrutiny in the following cases among many others:

- [Surat Mercantile Association v. Union of India,](#)
- [2021] 124 taxmann.com 342 (Gujarat)

- Shri Kumaran Construction Co. v. Union of India, [2021] 124 taxmann.com 291 (Jharkhand)
- Trimurthy Sales Corporation v. Union of India, [2021] 124 taxmann.com 300 (Jharkhand)
- Arjundas Construction Corporation and Another vs. The Union of India [TS(DB)-GST-HC(CAL)-2020- 695], 25- 11-2020
- **Rainbow Infrastructure Private Limited vs. Assistant Commissioner, State Tax, Goods and Service Tax, Barrakpore Zone** [TS(DB)-GST-HC(CAL)-2020-691]
- Balachandra Yallappa Salabhavi [TS(DB)-GST-HC(KAR)-2020-589]

It is the wisdom of the Hon'ble Courts that a final view on the same can be taken. But we can only hope that undue hardship to business units and specially MSMEs be avoided by the Government, by taking necessary corrective steps/ clarifications even before any judgement comes up and give relief to many innocent tax collectors/ agents of the Government (Registered Tax Payers) which will ultimately lead to a situation of creation of good faith in the broader business community.

Disclaimer: The above expressed views, interpretations made and conclusions arrived at are purely the personal views of the author. The possibility of other views on the subject matter cannot be ruled out. So, the readers are requested to check and refer relevant provisions of statute, latest judicial pronouncements, circulars, clarifications etc. before acting on the basis of the above write up. The author shall not responsible in any manner.

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Power of Consistency

"Success doesn't come from what you do occasionally, it comes from what you do consistently"

The power of consistency can be incredibly transformative in achieving our goals and making progress towards the things that matter to us. As a CA Aspirant, our consistent efforts matter a lot in the process of achieving our goal, to be a Chartered Accountant. In the minimum time duration of Chartered Accountant Course i.e. around 5 years.

We have to be consistent in our efforts whether it's our studies or during articleship period from day one we enroll in this course until we clear our final exam, becoming a member of ICAI.

So most often we break this chain of being consistent and it happens with everyone. It doesn't matter whether it's a rank holder student or a student who cleared CA exam with good marks. So the question here is, why does it happen? The foremost reason is we rely too much on MOTIVATION. No doubt, motivation is indeed necessary to get us up and move ahead whenever we are stuck somewhere. But once the wheels start rolling and gain momentum after two to three days, it soon slows down and it itself dies quickly because it's temporary. The biggest substitute of motivation is knowing the 'WHY' behind our every action that is POMO (Pleasure Of Missing Out). We should have clarity in our mind - why we are doing anything and why we are missing anything, awareness of these makes our journey somewhat smooth.

Achieving a goal only changes your life for the moment. We think we need to change our results, but the results are not the problem. What we really need to change are the systems that cause those results. It is well said "Fix the inputs and the output will fix themselves automatically"

I am concluding with this note- Anyone can work hard when they feel motivated. It's the ability to keep going when work isn't exciting that makes the difference

KEEP LEARNING, KEEP
Growing

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Role of Articleship in CA

In the present era of cut-throat competition in almost all spheres of life, it is imperative for every person to be a true professional in their respective field. We have seen numerous students who do not take their articleship seriously. Well, reaching the CA Articleship places you at the second last step of becoming a professional CA practitioner. So, going wrong is not even an option.

Here, through this article, I'll be sharing with you the importance of Articleship as it not only helps to clear the CA final exams but also helps to build a bright career. Articleship training supports the structure of Chartered Accountant by giving them practical experience of every aspect either in accounts, taxation or audits. The purpose is to provide both theoretical and practical skill to acquire the qualities and intellectual skills of a professional.

Practical training gives a disciplined attitude for hard work. It develops the necessary skills for the application of theoretical knowledge to a practical situation. Article-ship during the CA course reminds us of the saying-

“Practice makes a person perfect.”

The most important caliber during training is the effective utilization of limited time between work and study. Being into the place of work also makes one aware of all the situations and happenings, which also suggest the ways of taking decisions and the manner of reactions in unexpected situations. It helps in developing communication skills to communicate fluently with clients and society. The first learning from CA Articleship should be teamwork. It also enhances the leadership qualities of an individual.

Articleship is the only period to get a chance to learn on various aspects. This helps to get a chance to meet with the top management of companies, create a network with the senior people which is hard to get in initial years. It not only gives great exposure but also helps in learning about the office etiquettes. The office is not composed of work only, it also considers punctuality, physical appearance, work hours etc. all together. There are infinite advantages of regular and sincere Articleship which cannot be explained in words. As a trainee, they can enhance their understanding of an organization, a better view of business functions, working environment, methods and so on. Hence, **Articleship is considered as the part and parcel of CA students' life** and the importance of this practical training cannot be underrated in any case while pursuing CA course.

Now, the question that usually comes in the mind of every CA student is how to manage Articleship with our studies & coaching classes. And this question can be answered by the skill of managing things in the short span of time. This also helps to learn the managing of time which in turn would make you a good manager. The saving of time can be done by opting coaching for the necessary subjects and preferring to self-study theoretical topics like Audit.

It has been said that if you can manage your time during Articleship, you can manage anything. As, to manage self-study, coaching, office, audit, meetings, deadlines, work pressure, family time and so many things, and all such at an early age is not an easy task. Hence, if you can manage such things properly, believe me that you have learned the skill of management.

The Articleship experience is not less important than clearing the CA exam. A proper Articleship provide great exposure to get a great job. This can be better understood in facing an interview for the job. All companies have a heavy preference for students who have done proper training as they can be put on the job from the first day. So, ***Remember, if you sweat more at the time of training, you will have to bleed less in the battle. "Choice is yours"***

Definitely, you have to handle the stress but more than that you will get to learn an infinite number of things.

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The importance of audience analysis in speech delivery

In this article, I am going to wring out the gravity of congregation scrutiny in articulation.

In other words, through this article I am going to express my views regarding the importance of audience analysis in speech delivery.

From the above two statements, which one do you think was simpler? Statement 1 or 2 Well clearly statement 2 is much simpler, without any unnecessary jargons and easy to understand.

This example sums up the essence of my topic, ' Right audience, right words, right impact'.

Speech delivery is an art of communication and persuasion that involves sharing ideas, thoughts, and knowledge. Our experiences clearly signify how a well presented and structured speech can change the course of nations and influence the actions of individuals.

However, the key to an effective speech cannot be underestimated i.e., Audience analysis.

Audience analysis is the act of gaining insights into the composition, characteristics, needs and expectations of the audience that helps the speaker to tailor their message, style, and approach to connect with the listeners on a deeper level.

Audience analysis is mainly of 4 types:

- 1. Demographic analysis** based on demographics of audience such as age, gender, education etc
- 2. Situational analysis** focusing on situational factors such as size of audience, physical setting for speech, the occasion of speaking etc

3. Psychographic analysis looks at things such like values, beliefs, and attitudes of the audience.

4. Multicultural Analysis focuses on cultural sensitivity and inclusivity in the audience with regards to different value systems and behavioural patterns.

The meaning of audience analysis makes it clear that its importance cannot be overstated.

Firstly, audience analysis is a catalyst in achieving goals, the main aim of a public speech or presentation is mostly to persuade, inform or entertain the audience and if you dive straight without any understanding of the target then it is likely to hinder your success.

By analysing the audience, you can mould your message in such a way that it aligns with your goals.

For e.g. During our freedom struggle the main goal of our freedom fighters was to instil a feeling of patriotism among the people and this was well achieved by Mahatma Gandhi as he found a thing of common interest and made it a symbol of unity, Salt. His message was conveyed in the simplest and most straight forward manner reaching to literates and illiterates, lower class and upper class, rich and poor people alike.

Audience analysis also helps in making an audience centric speech or presentation. When you know your audience well, you can frame your content in a way that is more relevant and relatable to them. The audience profile lets you decide on the specific narrative structure, language, tonality, communication style, openings to hook the audience, etc.

We cannot discuss this topic without bringing the launch of original Apple iPhone in 2007 by Steve Jobs, this speech was a major force in bringing iPhones

to the limelight. Steve Jobs beautifully used his knowledge about the type of audience he was addressing and their likes and dislikes. He emphasised on points such as touchscreen, camera, the ability to take screenshots, iPhone's media player, conference calls, the points that he knew was of significance for his customers and revolutionary for the global audience.

How much the audience will connect to the words of speaker also depends upon the understanding of speaker about the audience being addressed.

When you connect with your audience on a personal level, they are more likely to engage with your message, trust your authority on the topic, and remember what you have said long after the presentation is over.

We all have seen how our political leaders present themselves as a common man and how celebrities try to be more relatable to the masses making them more likable in the public eye.

To convey a message or to persuade your audience to act on a certain topic, it is important to keep your audience engaged throughout your speech.

They lean in. They nod their heads. They might even laugh at your jokes. They become invested in your message because they feel like you are speaking directly to them. This interaction helps create a more dynamic and engaging environment, making your speech more effective in conveying your message.

For e.g. How teachers are finding more interesting and engaging ways to teach topics by using charts, pictures, animations, and videos.

And lastly in this day and age where every information is readily available and every public interaction is present on internet for open criticism being mindful regarding the sentiments of audience is of utmost importance and audience analysis helps the

speaker to structure his speech in harmless way and avoiding any controversy or chaos.

We all are aware of the ban culture that is going in movie industry nowadays where each word said by the movie cast is dissected and debated this makes it necessary for such individuals to give regards to the audience and their feelings.

In the end I want to say that audience analysis has always been an integral part of public speaking and its importance has never been more than now and will continue to rise.

We are seeing startups emerging around the idea of audience analysis, it being used from marketing to politics, from my 81-year-old Dadi watching Shiv Purana to my 4-year-old nephew enjoying Coco melon.

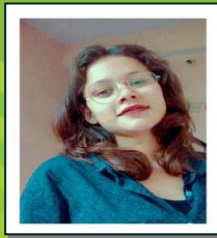
There is an element of audience analysis present in all such scenarios and I too have used it for this article, I hope it reaches you.

Thank you

By

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Stand out from crowd as a CA Student

Standing out as a CA student can be challenging, given the level of competition in the field. However, there are various ways to distinguish yourself. With the right mindset and strategies, you can set yourself apart from the crowd. Here are some tips on how to stand out as a CA student:

Develop strong skill set required in your field :

As a CA student, you must have a strong foundation in accounting and finance. This is the most basic yet neglected aspect to students. "Don't limit yourself to books." You should step out of your comfort zone and Focus on developing your technical skills by attending related webinars, solving practice papers, and reading relevant books. Your main aim is to pass the exams but don't forget you are preparing to become the most competitive professional.

Develop a strong work ethic towards your goals :

Work ethics are not just only for professionals. As a student it's your duty to respect your work (study). Set achievable goals for yourself and work hard to achieve them. Be disciplined with your studies, and make sure to stay organized and focused. Result is the aggregate of your daily little efforts. It also protects you from burn out . While aiming for the exams don't forget your daily achievements that would add up to your success.

Explore and participate in extracurricular activities :

Participating in extracurricular activities such as sports, music, or arts can help you develop soft skills such as leadership, teamwork, and communication, which are highly valued in the professional world, "explore your different expertise".

It gives you the advantage of being seen in the crowd when you are leading in different fields. While studying for hours can be overwhelming , it helps you to relax and improve your mental and physical health. Seek opportunities on your own and ask for them.

Build your niche from the start :

Focusing on a particular area of expertise such as taxation, auditing, or financial planning can help you develop a niche and stand out as an expert in that field. Students may find it easy because it can be achieved only by giving a little more attention to your favorite subjects. "It's never too late to start something new" Additional courses in related or different fields such as finance, accounting, or business management can help you develop and sharpen additional skills and knowledge, which can give you an edge over others.

Networking:

Attending industry events, seminars, and conferences can help you network with professionals in the field, which can give you valuable insights to set your direction and open up career opportunities. Professionals out there are willing to help but you have to reach out to them first. Networking with the same level of competitors gives you guidance and support. " a healthy competition gives you motivation" This will help you to build relationships, learn more about the profession, and potentially open up job opportunities in the future.

Maintain a strong online presence:

This is also part of networking. Creating an online profile on platforms such as LinkedIn and Internshala can help you showcase your skills and experience to potential employers. Additionally, sharing your views on industry-related topics can help you establish yourself as a thought leader in the field. It helps you to reach out to the top-notch leaders of the world and show your interest to contribute to the community.

Stay up-to-date:

Keeping up with the latest industry trends and developments can help you stay ahead of the curve and demonstrate your knowledge and expertise.

Stay updated with the latest changes in the syllabus, amendments to the law, and other relevant information. The professional industry of CA's is constantly evolving. Read industry publications, attend seminars, and participate in online forums to follow up with the latest developments.

Improve your communication skills:

Communication is a critical skill for any professional, and it's especially important for CA students. Work on your verbal and written communication skills, and practice presenting your ideas in a clear, concise manner.

Self-assessment :

Analyze your performance and identify the areas where you are lagging. Make a list of the topics you find challenging and prioritize them. You can seek help from the mentors and teachers. Finding your faults and mistakes is the most effective way to improve quickly and efficiently. Self-assessment and improvement are the basic formulas to improve consistently. In conclusion, standing out as a CA student requires hard work, dedication, and a commitment to professional development. It requires a combination of academic excellence, soft skills, and industry knowledge and can be a bit more challenging but the future of CA students is bright and promising. By following these tips, you can build a strong foundation for a successful career and your own identity.

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TATA Group IPO after 19 years

There was a buzz in the Stock market that TATA group is coming up with its first public listing after nearly 19 years. So here are all the facts and figures you need to know about the TATA IPO.

Tata Technologies, a subsidiary of Tata Motors, has filed a draft red herring prospectus with



market regulator Securities and Exchange Board of India (SEBI) on 9th March to launch an Initial Public Offer (IPO). This Public Issue by the engineering and product development company is completely an Offer For Sale (OFS) by its existing promoters and Shareholders.

If Tata Technologies Public Offer succeeds, it would be the first public listing by Tata group in over 19 years. After TCS listed in 2004, no other Tata company has made a debut on the domestic bourses.

About Tata Technologies

Tata technologies is a global engineering services company and leading provider of product development and digital solutions to global original equipment manufacturers, with a strong presence over 25 countries. Its clientele includes a diverse range of industries such as automotive, aerospace , industrial machinery,

construction and healthcare. Apart from parent Tata Motors Ltd. And Jaguar land Rover, the Pune headquartered firm counts Airbus SE and Honda Moto Co. Ltd. as among its clients.

Issue Details

The IPO consists of pure OFS of upto 95.71 million shares, with Tata motors offering up to 81.13 million shares, Alpha TC Holding pte offering up to 9.72 million shares, and Tata Capital Growth Fund I offering up to 4.86 million shares.

As per the current shareholding pattern, Tata Motors owns 74.69% stake in Tata technologies, while Alpha TC holdings Pte and Tata Capital Growth Fund I hold 7.26% and 3.63%, respectively, in the company.

JM financial ltd. , BofA securities, and Citigroup Global markets india Pvt Ltd are the lead managers to the IPO.

The shares of the company are proposed to be listed on both NSE and BSE.

Significance of IPO for Tata Motors

"The IPO is expected to receive good response from investors due to the big name Tata being attached with the public issue. For Tata Motors, Tata Technologies IPO is going to bring cash flow as they acquired Tata Technologies shares at Rs 7.40 per share," according to brokerage Profitmart Securities. By selling equity stake in Tata Technologies, Tata Motors will be able to improve its finances and reduce its debt. Tata Motors has cumulatively invested Rs 224.1 crore in Tata Technologies. Tata Motors



has struggled over the years due to losses at its Jaguar Land Rover (JLR) unit and poor financial performance of its domestic business. The company reported a net loss in the last four consecutive years since 2018-19.

ock market experts advised retail investors, who wish to apply for TATA technologies IPO, to start accumulating TATA motors share as the auto stock is expected to remain in uptrend in near term.

Ms. Shruti Gupta
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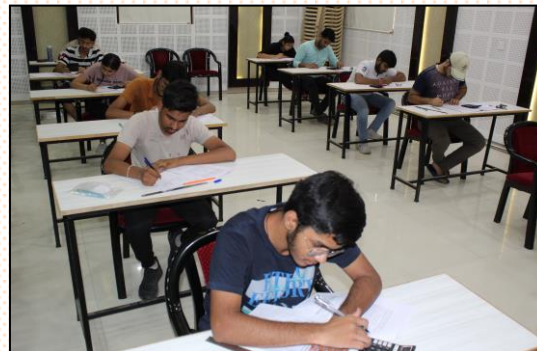


Photographs

Round Table Discussion on Audit Trail under Companies Act



Mock Test Series for the students





Photographs

Workshop on GST



Workshop on Accounting Standards





Photographs

Hon'ble Union Cabinet Minister visite at Alwar CA Barnch





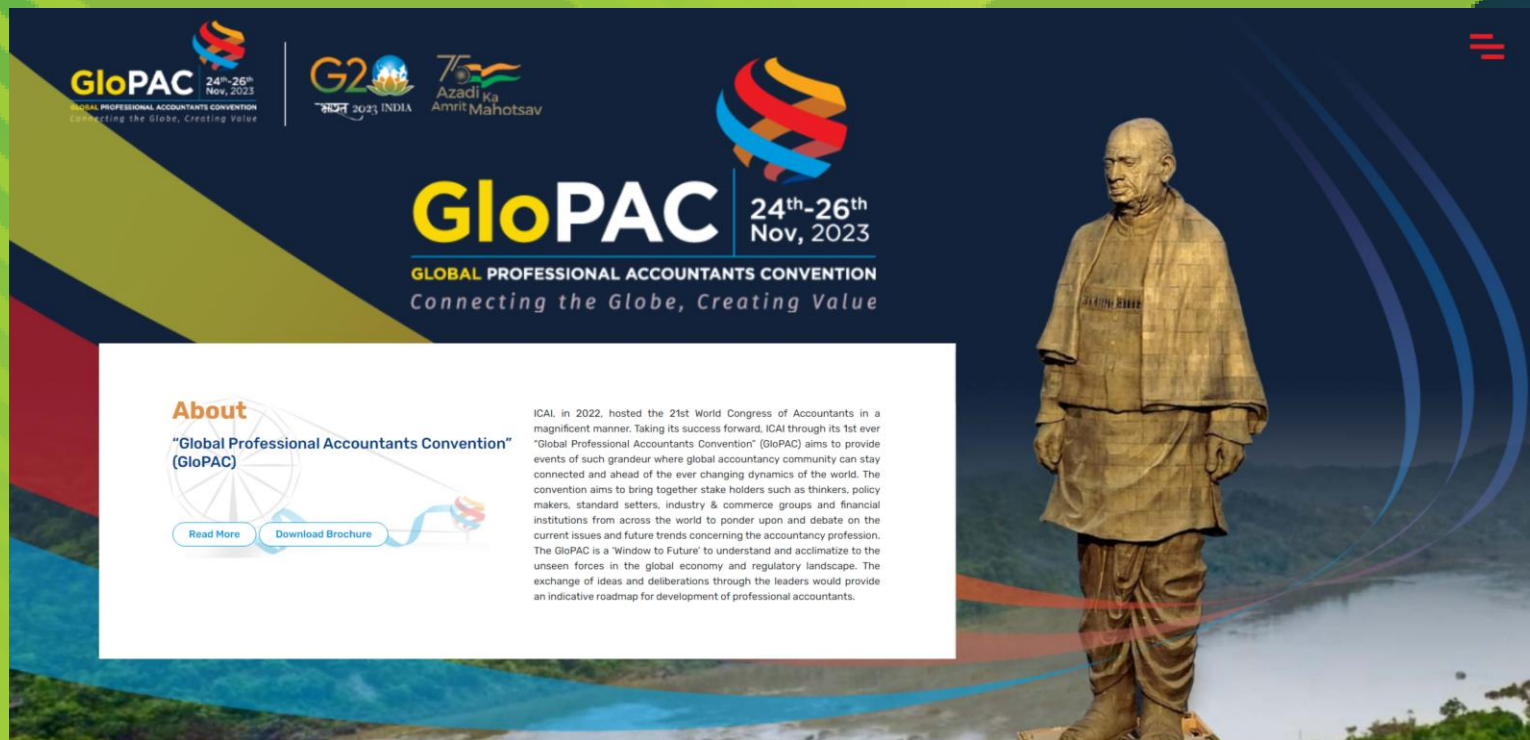
Photographs

Educational Tour



International Yoga Day





About

"Global Professional Accountants Convention" (GloPAC)

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ICAI, in 2022, hosted the 21st World Congress of Accountants in a magnificent manner. Taking its success forward, ICAI through its 1st ever "Global Professional Accountants Convention" (GloPAC) aims to provide events of such grandeur where global accountancy community can stay connected and ahead of the ever changing dynamics of the world. The convention aims to bring together stake holders such as thinkers, policy makers, standard setters, industry & commerce groups and financial institutions from across the world to ponder upon and debate on the current issues and future trends concerning the accountancy profession. The GloPAC is a "Window to Future" to understand and acclimatize to the unseen forces in the global economy and regulatory landscape. The exchange of ideas and deliberations through the leaders would provide an indicative roadmap for development of professional accountants.

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