"Power is gained by sharing knowledge and not hoarding it"


# EMERGING THOUGHTS

## 11 January 2019

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**SURESH & CO.**

Chartered Accountants

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# Foreword

We are happy to release the third publication series "EMERGING THOUGHTS". As the name suggests, these updates are the emerging and constructive thoughts of article assistants (Interns undergoing Chartered Accountancy course). We, at SURESH & CO., have attempted to imbibe the habit of reading and updating one's knowledge library every single morning. The organisation has successfully implemented the concept of daily updates. This has been a beautiful journey of knowledge without any breaks. Many a times we ourselves have been surprised by the new learning opportunities that we got from these daily updates.

The main objective of this publication is to enable the article assistants of SURESH & CO., to think beyond their capabilities. It also helps the articles to improve their knowledge and climb the professional ladder and reach greater achievements.

Every day is a learning day at SURESH & CO., As an organisation we encourage all the budding professionals to share their views and opinions on various technical and non-technical aspects

The article assistants have various practical insights which help them understand the theoretical aspects in a more efficient way, and they are able to share the same with all of us in these series of update.

The intent behind these updates is imparting the skill of technical analysis and professional decision making of any case study/situation.

We at SURESH & CO., wanted to share these gems of infant thoughts as conceived by these young minds. It is to be noted that these updates may or may not have been reviewed by any senior or a technical expert and thus these should be used only to kindle thoughts in certain positive direction. Readers are advised to do further research and analysis on the topics which they find interesting. Professional advice should be sought before acting on any of the information contained in it.

*A candle loses nothing by lighting another candle.*

## Update – 61
## IND AS 115- Revenue from Contracts with Customers

**Ind AS 115 provides five core steps for recognizing revenue from contracts with various customers. The five steps prescribed are as follows:**

- Identify the contracts with a customer
- Identify the performance obligations in the contract
- Determine the transaction price
- Allocate the transaction price to the performance obligation in the contract
- Recognize revenue when the entity satisfies a performance obligation

1. **Identify the contracts with a customer:** The contract must create enforceable rights and obligations. An entity only accounts for a contract when it meets all of the following five specified criteria:

   - It has been agreed by its parties, who are committed to perform their respective obligations
   - it identifies each party's rights regarding the goods or services to be transferred
   - it identifies the payment terms; it has commercial substance
   - it is probable that the entity will collect the consideration to which it will be entitled in exchange for the goods or services that will be transferred to the customer.

2. **Identify the performance obligations in the contract**:

Goods/service capable of being distinct + Distinct within the context of the contract = Separate performance obligations

For example: if an entity sold a TV package that included a television and DVD player, these would be considered distinct goods because the television is capable of being used by the customer without the DVD player. Whilst the DVD player could not be used without the television, the customer could obtain an alternative television from another supplier or use their existing television.

3. **Determine the transaction price:**

The transaction price is estimated at inception, assuming the contract is fulfilled in accordance with its terms and customary business practices, and is not cancelled, renewed or modified.

4. **Allocate the transaction price to the performance obligations in the contract:**

When a contract comprises more than one performance obligation, the transaction price is allocated to each obligation on the basis of directly observable stand-alone selling prices (determined only at contract inception and not changed).

Two alternative approaches can be applied in the absence of a directly observable stand-alone selling price

- expected cost plus a margin
- a residual approach

**5. Recognize revenue when the entity satisfies a performance obligation:**

A performance obligation is satisfied over time if any of the following criteria are met

- Customer simultaneously receives and consumes the benefits provided by the entity's performance as the entity
- The entity's performance creates or enhances an asset that the customer controls as the asset is created or enhanced.

**The basic difference between Indian GAAP, IND AS 18/ IND AS 11 and IND AS 115**

| Sl NO | Basis of difference | Indian GAAP | IND AS 18/ IND AS 11 | IND AS 115 |
|---|---|---|---|---|
| **01** | Revenue recognition | AS 9 requires recognition of revenue when<br>- there is transfer of significant risks and rewards of ownership<br>- no significant uncertainty exists regarding the amount of consideration and<br>- At the time of performance, it is not unreasonable to expect ultimate collection.<br>Revenue from sale of goods is recognized when seller has transferred the property in the goods to the buyer for a consideration, which generally, would coincide with the transfer of significant risks and rewards of ownership.<br>Revenue from service transaction is usually recognized as the | Revenue from the sale of goods shall be recognized when all the following conditions have been satisfied:<br>- the entity has transferred to the buyer the significant risks and rewards of ownership of the goods<br>- the entity retains neither continuing managerial involvement to the degree usually associated with ownership nor effective control over the goods sold;<br>- the amount of revenue can be measured reliably;<br>- it is probable that the economic benefits associated with the transaction will flow to the entity; and | The core principle under Ind AS 115 is that the entity should recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the considerations to which the entity expected to be entitled in exchange for those goods or services. To achieve that core principles, the following steps are applied:<br>- Identify the contracts with a customer<br>- Identify the performance obligations in the contract<br>- Determine the transaction price<br>- Allocate the transaction price to the performance obligation in the contract<br>- Recognize revenue when the entity satisfies a |

| | | | | |
|---|---|---|---|---|
| | | services are performed either by the proportionate completion method or by the completed service contract method. | The costs incurred or to be incurred in respect of the transaction can be measured reliably. | performance obligation<br>Under Ind AS 115, an entity recognizes revenue if performance obligation is satisfied over time (i.e. using percentage of completion method) if certain criteria are met. If the prescribed criteria are not met, the entity is required to recognize revenue at a point in time at which it transfers control of the goods or service to the customer. An entity consider indicators for assessing the transfer of control, including<br>the entity has a present right to payment for the asset<br>the customer has legal title to the asset<br>the entity has transferred physical possession of the asset<br>the customer has the significant risks and rewards of ownership of the asset<br>the customer has accepted the asset |

**The effects of Ind AS 115 on various industries in brief are provided below:**

- **Telecom and Information Technology:** Where multiple deliverable are common place and current practice is mixed. Cell-phone businesses that account for a 'free' handset as a marketing cost will need to change this policy and instead allocate revenue based on relative standalone selling prices.

- **Construction contracts:** Where sale of materials and installation services may be accounted separately. Under the new standard, such contracts may have to be combined to determine percentage of completion.

- **Retail industry:** Accounting for rights of return, customer loyalty schemes and warranties could all be affected.

– Kiran M G

## Update 62
## SWIFT system and the PNB scam

Ever wondered how money is transferred by a bank from Indian branch to overseas branch; how funds are transferred by a person having account in SBI Bangalore branch to a person having account in HSBC US branch; what is the channel used by the banks to communicate such sensitive information and instructions?

Behind most international money and security transfers is the '**SWIFT system'**, a vast messaging network used by banks and other financial institutions to quickly, accurately, and securely send and receive information such as money transfer instructions.

**'SWIFT'** stands for the **S**ociety for **W**orldwide **I**nterbank **F**inancial **T**elecommunications, which is a cooperative society owned by its members. It is a messaging network that financial institutions use to securely transmit information and instructions through a standardized system of codes. The messages are sent via an encrypted channel to ensure that transactions remain secure.

As powerful as SWIFT is, keep in mind that it is only a **'messaging system'** – SWIFT does not hold any funds or securities, nor does it manage client accounts.

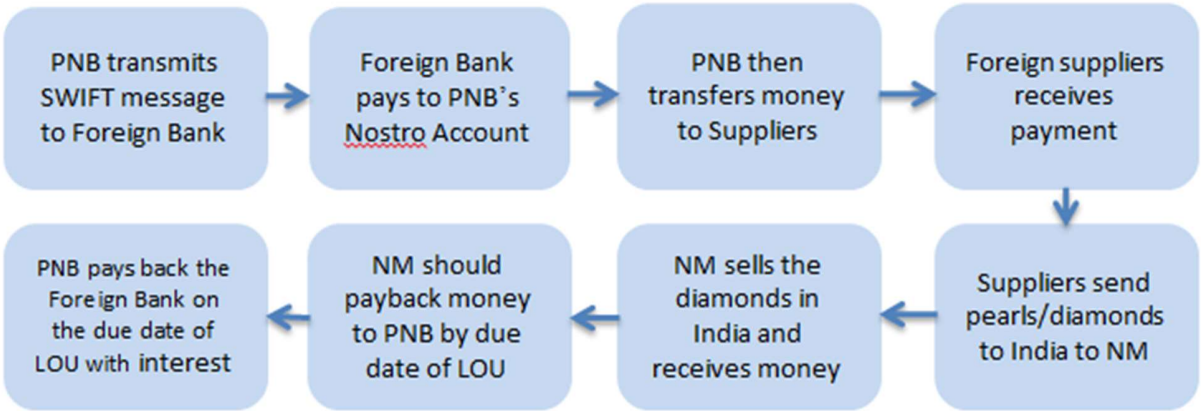
The robustness of the message format design used in SWIFT system, allows to provide services to the following: Banks, Brokerage Institutes and Trading Houses, Securities Dealers, Asset Management Companies, Clearing Houses, Depositories, Exchanges, Corporate Business Houses, Foreign Exchange and Money Brokers, etc. Every day, nearly 11,000 SWIFT member institutions in more than 200 countries send approximately 24 million messages on the network.

*So, what is the importance of this topic. When I tell that SWIFT system was used for committing* ***the $1.77 billion (over Rs 11,000 crore) scam*** *at Punjab National Bank (PNB) by Nirav Modi and his companies, it gains a lot of prominence.*

Before getting into the intricacies of the scam, let's understand the business and how a loan system works. Let's assume that there is some importer – let's call him Nirav Modi (NM). Assuming he wants to import pearls or diamonds and then sell them. The purchase requires a good amount of money; so, he approaches a bank, say Punjab National Bank (PNB).

PNB: We can give you a loan in INR at an interest rate of 10%
NM: No, that's too high a rate of interest for me. My purchases are in dollars, so can I get a loan in foreign currency?
PNB: Yes!
NM: But who will give me a foreign currency loan? Some bank abroad? They don't know me. They don't have any history of me, so why will they give me money?
PNB: We can help you in getting a foreign currency loan to buy diamonds, by giving a guarantee (In this case "Letter of Undertaking" (LOU)) on your behalf.
NM: You are my banker, so please help me get a loan from a foreign bank by issuing LOU.
PNB should normally say: If you want us to give a LOU for Rs. 100 cr., you need to give us security worth Rs. 100 cr. As collateral. (But PNB, for some strange reason, does not ask for collateral security from NM, and issues the LOU).
So now the foreign bank is ready to lend money to NM, because PNB has given guarantee in the form of a LOU.

Understanding the flow of transactions:




SWIFT – the banking message service. It's like a message written in stone, effectively that says PNB will pay in case of any default.

Nostro Account – the account that PNB maintains with banks abroad, where the other bank will send money meant for PNB customers.

At least, that's what was supposed to happen.
The Reality is **A Ponzi!**

- NM did not pay back at all to PNB.
- Instead, he asked a PNB official to open another LOU for the debt owed plus interest. (So if he had the initial LOU at $10 million, the second LOU is $11 million to cover the interest on the first. The money from the second LOU is used to repay the first LOU.)

It's just rolling over credit (Standard definition of a Ponzi scheme), and this continued for around 7 years (from 2011 to 2018).

Here's the Real Issue
PNB didn't have any collateral – Typically this would not be a problem. If PNB had done things right, they would have had collateral worth the amount of LOU, and they would have sold that collateral and paid the foreign bank.

**Manipulation of SWIFT system and weak controls:**

According to a report filed by the CBI, it is reported that the branch deputy manager at Brady House branch of PNB in Mumbai, Gokulnath Shetty, issued a series of fraudulent LoUs to overseas branches of Indian banks to provide credit to a group of jewelry companies associated with Nirav Modi. It was found that funds were siphoned off from the bank by employees who willfully manipulated SWIFT messaging system. Mr.Shetty, who was privy to the SWIFT password of the bank, sent messages on the network, with the connivance of a junior colleague.

The loophole in the software framework of the bank was the patchy implementation of its CBS and its non-linkage with SWIFT. Since both the systems were not integrated, employees were required to manually log SWIFT activity. This rendered transactions vulnerable to the wiles of rogue employees, who could choose not to log transactions, and unilaterally fudge records. A CBI official told that 150 fraudulent LoUs were issued under this scam.

**Food for thought:**

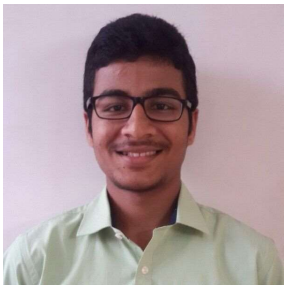
Did Employees Hide it? Was PNB Responsible, or was it a fraud?
Think about it – PNB's Nostro account with the other banks keeps getting big credits that add up to Rs.11,000 Cr. Will you not reconcile it in the accounting?
And the SWIFT messages. It's a specific kind of message. Why wouldn't PNB audit the SWIFT trail? Reconcile it with the core banking system?
Fee Income: Imagine 11,000 cr. Worth LOUs being renewed each year – that's upto Rs. 200 cr. In fees that was all hitting PNB's top line.

**Prevention in Future:**

In the present scenario, there is an urgent requirement of an integrated solution in Banks (especially in PSBs). The solution should be capable of integrating, collating and utilized data from various systems within a Bank like CBS, SWIFT, Trade Finance Module, Document Management System, Loan Origination System, etc.

**Auditors' responsibility:**
As an auditor, we should be aware of the following indicators to avoid such frauds:

| Sr. No. | Early Warning Indicators |
|---|---|
| 1 | Any LC/LOU issued has not been registered as an contingent liability in the books of Bank |
| 2 | LC/LOU issued or opened without getting adequate margins or security |
| 3 | LC/LOU issued to any related party (Beneficiary is a related party) |
| 4 | When the usance period (loan period) of LC/LOU is given above the industry average usance period for LC/LOU (Ideal period is 90 days) |
| 5 | High number of LC/LOU issued within a period of time |
| 6 | Rollover of LC/LOU without receiving additional security |
| 7 | Issuing of new LC/LOU without settling the previous LC/LOU to the same borrower |
| 8 | High outside remittances from NOSTRO apportioned for one borrower |
| 9 | High outside remittances from NOSTRO to a party not having credit line with the Bank |
| 10 | Any LC/LOU issued without the corresponding entry in CBS and a SWIFT message transmitted without the corresponding entry in CBS. |



– Harshad K Jain

## Update 63
## Amendment in Section 447 of The Companies Act, 2013

**What is Fraud:**

"fraud" in relation to affairs of a company or any body corporate, includes any act, omission, concealment of any fact or abuse of position committed by any person or any other person with the connivance in any manner, with intent to deceive, to gain undue advantage from, or to injure the interests of, the company or its shareholders or its creditors or any other person, whether or not there is any wrongful gain or wrongful loss;
(ii) "wrongful gain" means the gain by unlawful means of property to which the person gaining is not legally entitled;
(iii) "wrongful loss" means the loss by unlawful means of property to which the person losing is legally entitled.

**Section 447**

**Punishment for Fraud**

**Where fraud involves Rs.10 lakhs or 1% of the turnover of the company:**

Any person who is found to be guilty of fraud involving an amount of at least Rs.10 lakhs or 1% of the turnover of the company, whichever is lower shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to 10 years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud.

**When public interest is involved:**

Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than three years.

**Where fraud involves less than Rs.10 lakhs or 1% of the turnover of the company**

Where the fraud involves an amount less than Rs.10 lakhs or 1% of the turnover of the company, whichever is lower, and does not involve public interest, any person guilty of such fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to twenty lakh rupees or with both.

**Amendments**

c. The text highlighted relates to the amendment in Section 447 inserted by The Companies Amendment Act, 2017. The amendment is effective from 9th February, 2018.

**Wordings of the Act before the amendment:**

Without prejudice to any liability including repayment of any debt under this Act or any other law for the time being in force, any person who is found to be guilty of fraud, shall be punishable with the imprisonment for a term which shall not be less than 6 months but which may extend to 10 years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to 3 times the amount involved in the fraud.

**Certain points to be noted**

1. Any offense of fraud involving public interest is a non-compoundable offense (i.e., Payment of fine in lieu of imprisonment is not possible).

2. In general, an offense of fraud is a non-compoundable offense. However, an offense of fraud of an amount lesser than Rs. 10 Lakhs and not involving public interest, is a compoundable offense (i.e., Payment of fine in lieu of imprisonment is possible).

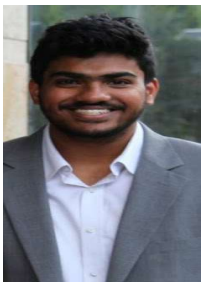
3. A simple way to interpret Compoundable Offense and Non-Compoundable Offense:

   - Where under any Section with penal provisions under The Companies Act, 2013, the word "and" is used, the offense is a Non-Compoundable Offense.
   For example, "shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud" (Example related to point 1 above).

   - Where under any Section with penal provisions under The Companies Act, 2013, the word "or" is used, the offense is a Compoundable Offense.
   For example, "fraud shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to twenty lakh rupees or with both." (Example related to point 2 above).

As per the provisions of Section 143(12) of The Companies Act, 2013, if an auditor of a company, in the course of the performance of his duties as auditor, has reason to believe that an offense involving fraud is being or has been committed against the company by officers or employees of the company, he shall immediately report the matter to the Central Government within such time and in such manner as may be prescribed.

Further, if any fraud by the company or any fraud on the company by its officers or employees have been noticed during the financial year by the auditor, amount and nature of such fraud should be stated in the audit report under Clause 3(x) of the Companies Auditor's Report Order, 2016.



– Srinivasan Ananthan

## Update 64
## Capital Gains Account Scheme, 1988

Section 54/54F of the Income Tax Act, 1961 provides for exemption from tax on Long Term Capital Gains. The exemption can be availed if the Long Term Capital Gains are invested in purchase of another house property either a year before or within two years from date of transfer, or used for construction of a house within three years of date of transfer. However, if as on the date of filing of Income Tax Returns for the year in which the sale took place, the assessee has not yet incurred the entire amount for the purchase/ construction of the house property, in such a case the assessee shall deposit the balance amount in **Capital Gains Account Scheme (CGAS)** within the due date of filing of Income Tax Returns.

**Note:** Where the assessee has invested the entire capital gains in the purchase or construction of another house property on or before the filing of Income tax returns, in such case, there is no requirement to deposit any amount in the Capital Gains Account Scheme.

a. **Procedure for opening an Account under the Capital Gains Account Scheme 1988-**

**Type of account**

Two types of accounts can be opened-

1) CGAS Savings Account (Account A) - Account A is a savings account scheme similar to a regular Savings Bank Account in any bank. The interest rate on such account is similar to the savings account. A passbook is issued reflecting the transactions such as deposit, interest credit and withdrawals. Withdrawal from such account is subject to regulations

2) CGAS Term Deposit Account (Account B) – Account B type is similar to the Fixed Deposit Scheme. The tenure for such account is maximum of 3 years (36 months). The interest rate applicable is same as Fixed Deposit. Also, the terms of withdrawal are aligned with the FDs, i.e. the pre-matured withdrawals attract penalty. Deposit certificate is issued which has the details such as principle amount, rate of interest, maturity period and maturity value.

Further, account B comes with 2 options:

**a) Cumulative:** The interest received is added to the principle and re-invested for the period remaining.

**b) Non-cumulative:** The interest earned is paid at regular intervals such as quarterly, half-yearly, yearly.

**Form of application**
An application to be made in Form A with the concerned bank.

**B. Procedure for Withdrawing funds from the Capital Gains Account Scheme 1988-**

To withdraw the funds under Capital Gains Account Scheme, an individual needs to make an application in writing to the 13tilized13d bank in the prescribed FORM-C mentioning the purpose of withdrawal. Further, the application for subsequent withdrawals shall be made in the prescribed FORM-D mentioning the reason for such withdrawal. The funds withdrawn shall be used only for the purchase or construction of house property within the time period specified.

**C. Procedure for Closure of the account under Capital Gains Account Scheme 1988-**

1) An application shall be made to the Assessing Officer in Form G for approval.

2) The application shall be made after payment of the tax on the balance amount in the Capital Gains Account Scheme which is utilized

3) On approval by the Income Tax officer, the acknowledgement in Form G shall be submitted in the Bank where the CGAS Account is made.

4) On approval by the Bank, the funds from the CGAS Account shall be released for withdrawal or transfer to another Account.

**Following documents to be submitted to the Income Tax Officer**

1) Form G duly filled in by the Assessee

2) Copy of Pass book/ account statement under CGAS

3) Copy of Income Tax Returns for the financial year in which the Capital Gains arose.

4) Copy of Tax Paid Challan at the applicable tax rates for the assessment year in which the Capital Gains Account was closed.

5) Annexure of Tax Calculation made at the applicable tax Rates.

**General Points**

1)No loans can be availed against Capital Gain Account Scheme term deposit or savings account.

2)The deposit certificate of such account cannot be offered as collateral or no charge can be created against such certificate.

3)Interest on such deposits is taxable in the hands of the Assessee.

4)This account type does not allow withdrawals for any purposes other than that stated under the scheme.

5)Accounts can be transferred from one branch to other. Switching of banks is not allowed.

6)Funds have to be 14tilized within 60 days of its withdrawal for the stated purpose.

**Exceptions**

Where the assessee has failed to deposit the amount in the Capital Gains Account Scheme within the due date of filing of Income Tax Returns, in such a case the exemption shall still be valid to the assessee, provided that

the assessee has already paid for the purchase/construction of property

**and**

has filed the Income Tax Returns with the due date specified u/s 139(4)- ( at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier)
Held in the case of

1) **Commissioner of Income-tax-II, Chandigarh Versus Ms. Jagriti Aggarwal**

2) **Karnataka High Court -Fathima Bai Vs. Income Tax Officer**

3) **S.R. Jeyashankar, C/o. M/s. Ramesh & Ramachandran Versus The Income Tax Officer**

The above procedure shall also apply for depositing the Capital Gains earned under Section 54B, 54D, 54F, 54G and 54GA of the income Tax Act, 1961.

– Amog N Nath

## Update 65
## Valuation of Property

**Property Valuation under the provisions of Income Tax Act, 1961.**

Before talking about any provisions, we shall discuss first about some general scenario which frequently happens in real life situations.

XYZ Private limited, entered into an "agreement to sell" with Mr. B to sell a residential property (stock in trade) for a consideration of Rs. 95lacs but the value as per Stamp valuation authority is Rs. 99.5 Lacs. In the general scenario, any person would sell the property at more than or equal to the value determined by valuation authority. But in the present case, Mr. A is selling the property at Rs.95 Lacs, which is less than the value determined by stamp value authority, and the differential amount would have been received by way of cash. To avoid this kind of transaction in the real estate sector, the Government had inserted Section 43CA effective from 1st day of April, 2014.

**As per the provision of Section 43CA (Consideration in case of land & building held as stock-in-trade):**

If the consideration received or receivable for the transfer of land or building or both (which are held as stock-in-trade) is less than the value adopted or assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, **the value so adopted or assessed or assessable shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration received or accruing as a result of such transfer.**

Accordingly, in our present case the Stamp duty value adopted is Rs. 99.5 Lacs, but the Sale Consideration is only Rs. 95 Lacs. In this regard, as per the above provision, the **Full Value of Consideration deemed to be considered is Rs. 99.5 Lacs.**

Further, there has been an **Amendment** to the above provision –
***Where the value adopted or assessed or assessable by the Stamp duty authority does not exceed one hundred and five per cent of the consideration received or accruing as a result of the transfer, the consideration so received or accruing as a result of the transfer shall, for the purposes of computing profits and gains from transfer of such asset, be deemed to be the full value of the consideration.***

According to the above amendment, in our present case, even though the value adopted by the authority i.e.99.5 Lacs (which is 104.74%) is more than the consideration received i.e Rs. 95 Lacs, then the **deemed value of consideration should be considered as 95 Lacs**. And not 99.5 Lacs.

Hence, the Taxable amount would be Rs. 95 Lacs and not 99.5 Lacs.

**Clarity on date on which the value as per stamp authority is to be considered in the above provision:**

Generally, the date of Agreement to sell (ATS)/Construction agreement (CA) and the date of Sale deed/Occupancy certificate (i.e., Transfer of ownership rights to buyer) would not be the same and hence the value as per Stamp valuation authority also would be different at the time of ATS/CA and Sale deed/OC.

**For Example –**

Mr. XYZ (Builder) entered into an "agreement to sell" on 2nd March, 2017 to sell a residential property which is under construction to Mr. B and the sale consideration is Rs. 95 Lacs. Mr. B paid an advance of Rs. 25 Lacs to Mr. XYZ on 2nd March, 2017 which is on the date of agreement to sell via NEFT (one type of ECS). The value as per Stamp duty Authority on the same date is Rs.1.02 Cr. Further, as on 12th February, 2018 the buyer got the Sale deed and registered the property on the same date for a value of Rs. 1.05 Cr (value as per the stamp duty authority as on 12th February, 2018).

With regard to the above example, the very first question that arises is which date is to be considered for the purpose of Determination of deemed value of consideration (i.e. Sale consideration or value as per Stamp duty Authority).

Section 50C clarifies that, the date of agreement may be considered as that date where the amount of consideration, or a part thereof, has been received by way **of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of the Agreement for transfer – *Amendment in AY 2019-20.* (Earlier it was other than cash).**

Accordingly, in our above Example, Mr. B has paid an advance amount **on the date of Agreement and as the same is par with the above provision, the date of Agreement can be considered** for the purpose of Determination of deemed value of consideration.

Hence, the value as per Stamp duty authority i.e., Rs.1.02 Cr on the **date of Agreement** is considered for the purpose of determination of deemed value of consideration.

**Note:** The above provisions are will apply if the asset is classified as Stock-in-trade (Business or Profession). If the asset i.e. Land or Building or both is classified as a Capital asset as per the provisions of Section 2(47) then Section 50C will be applicable instead of Section 43CA.

– Rekha A

## Update 66
## Capital gains in case of Specified agreements u/s 45(5A)

The definition of transfer includes arrangement or transactions made, where in any right over capital assets is handed over in execution of PART PERFORMANCE OF CONTRACT even though the legal title has not been transferred.

Hence, a new sub-section (5A) was inserted in Section 45 of the Income Tax Act, 1961, has been inserted with effect from 1st April, 2018, to provide that in case of an assessee being individual or HUF who enters into specified agreement for development of a project, **the capital gain arises in the previous year in which the certificate for the whole of completion or part of the project is issued by the competent authority.**

**Points to be noted in this regard:**

- **Meaning of Specified Agreement:** "Specified Agreement" means a registered agreement in which a person owning land or building or both, agrees to allow another person to develop a real estate project on such land or building or both, in consideration of a share, being land or building or both in such project, whether with or without payment of part of the consideration in cash.

- **Meaning of Full Value of Consideration:** Full Value of Consideration, for the purposes of section 48 means the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both in the project, as increased by the consideration received in cash, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

- **Competent Authority:** Competent authority means the authority empowered to approve the building plan or any other law time being in force.

However, it must be noted that the above sub-section shall not be applicable where the assessee transfers right over his share in the project on or before the date of issue of the said certificate of completion, and the capital gains shall be deemed to be the income of the previous year in which such transfer takes place and the provisions of this Act, other than the provisions of this sub-section, shall apply for the purpose of determination of full value of consideration received or accruing as a result of such transfer.

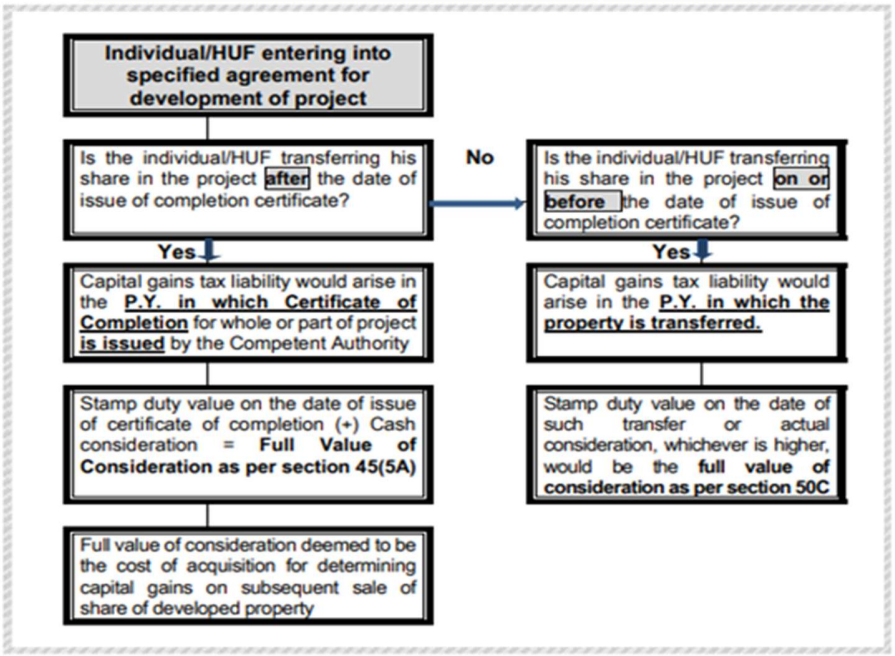
For example,

- If Mr. A (being the developer) enters into a specified agreement on 1st May 2018, with Mr. B (being owner of the land), to construct a building of 20 apartments, Mr. B's share being 2 apartments of such development. The construction got completed on 3oth June, 2021 and the Construction Completion Certificate was obtained by Mr. A on 31st July, 2021. The capital gains u/s 45(5A) would be taxable in the hands of Mr. B in the previous year 2021-22.
- Suppose, in the above example, Mr. B had transferred his share to Mr. C on 19th March, 2019, the capital gains would be taxable as the income of the previous year 2018-19.

**TDS u/s 194IC:**

Any person responsible for paying to a resident any sum by way of consideration, not being consideration in kind, under the agreement referred to in sub-section (5A) of section 45, shall at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to **ten per cent** of such sum as income-tax thereon.

**Summary of the update:**




– Rashmi Thite

## Update 67
## Claiming of Foreign tax credit

Assume a scenario where a taxpayer is a resident of Country **A** (**Residence Country**) and he is in receipt of income from Country **B** (**Source Country**). The Source Country withholds a portion of taxes on the income received by the taxpayer in that country. Further, the Residence Country, according to its tax laws, would tax the taxpayer on his worldwide income which would include income from the Source Country too.
This would result in the taxpayer getting taxed on his income twice **i.e. once in the Source Country and other in the Residence Country.** To avoid double taxation, we need to apply the provisions of Local Law along with **the Double Taxation Avoidance Agreement (DTAA)**.
**The concept of claiming deduction or credit of taxes paid in Source Country against tax liability in Residence Country is called Foreign Tax Credit.**

**The concept of FTC :**

As per the tax laws of India, section 90 and 91 of the Income-tax Act deal with the concept of FTC.

a) **Section 90** discusses claiming of FTC in a case where India has entered into a Double Taxation Avoidance Agreement (DTAA) with another country and such DTAA provides claiming of such FTC.

b) **Section 91** deals with claiming of FTC in scenarios where India has not entered into a DTAA with the country where the income arises for a taxpayer. Under these sections, if the taxpayer is a resident of India, and he has paid taxes outside India, he can claim a credit for such foreign taxes paid against his tax payable in India.

**Rules for claiming FTC have been notified under Rule 128 w.e.f 1.4.2017 which have helped clear out ambiguity around claiming of FTC, some of which have been briefly captured hereunder:**

a) FTC is to be allowed in the year in which the income corresponding to such tax has been offered or assessed to tax in India.

b) FTC shall be available against the amount of tax, surcharge, and cess payable under the Indian tax laws, **but not against interest, fee or penalty.**

c) FTC shall not be available if the foreign tax is a disputed one.

d) FTC is available even on tax payable under Section 115JB (Minimum AlternateTax).

e) FTC shall be the aggregate of the amounts of credit computed separately for each source of income arising from a particular country.

f) FTC shall be lower of, tax payable on such income under the Indian tax laws and the foreign tax paid.

g) FTC shall be determined by conversion of the currency of payment of the foreign tax at the **Telegraphic Transfer** Buying Rate on the last day of the month immediately preceding the month in which such tax has been paid or deducted**.**

**Documents required to be furnished for claiming FTC**

In accordance with Rule 128, in order to claim FTC, the taxpayer is required to file following documents on or before the due date of filing of return:

**1)A statement of -** a) Foreign income offered to tax
b) foreign tax deducted or paid on such income in Form No. 67.

**2)**Certificate or statement specifying the nature of income and the amount of tax deducted there from or paid by the taxpayer:
**a)** From the tax authority of the foreign country
**b)** from the person responsible for the deduction of such tax signed by the taxpayer.

**3)** Proof of the payment of taxes outside India.

**Form No.67:**

Form 67, as mentioned above, is a crucial document that has to be furnished in order to claim FTC by a taxpayer. It is also essential that it be furnished on or before the due date of filing return of income **under section 139(1) i.e. the original return of income.**

**Procedure for filing Form 67**

The CBDT vide notification no. 9/2017 dated 19 September 2017 has prescribed the procedure for filing Form 67 which have been enumerated here:

a) Form 67 is to be prepared and submitted online for taxpayers who are mandated to file their income tax returns electronically.
b) This form is available on the e-filing portal of the income tax department in the taxpayer's account.
c) Digital Signature Certificate (DSC) or Electronic Verification Code (EVC) is mandatory to submit Form 67.
d) Submission of Form 67 shall precede the filing of return of income. And this should be filed well within the filing due date.

**Filing and submission of Form 67**

a) Form 67 shall be available to all the taxpayers' logins. The taxpayer is required to login into the e-filing portal using their valid credentials. A link for filing the form has been provided under "E-file-Prepare and submit online forms (**Other than ITR)"**
b) Select Form 67 and the AY from the drop down.
c) Instruction to fill the form is enclosed along with Form 67. You can submit the completed form 67 by clicking on the 'submit' button. You can also save the form filled as a draft so that you can make some changes later and then submit it.

– Arun Kumar K L

## Update 68
## Tax Return of Deceased Person

It is a misconception that person's tax liabilities end with his life. Filing an income tax return (ITR) is mandatory if your income is taxable. But, it's not only the living who are required to pay their taxes. ITR for deceased person also needs to be filed in case where a person dies and had taxable income. On the death of the assessee, the income from his / her assets and the tax liability is transferred to his / her legal heirs. So, it becomes liability of legal heirs / representative to file the return on his behalf and such heirs can pay taxes in their representative capacity.

It is common that after the death of the taxpayer, family members often concentrate only on the debts, investments, savings accounts, insurance and transfer of estates of the deceased and ignore the taxation aspect.

***Procedure of filing ITR as representative of deceased assessee***

1) ***Get Legal heir certificate***

**how?** – any of the following shall be accepted as Legal heir certificate:

a. Legal heir certificate issued by a court or Local revenue Authorities
b. Surviving family member certificate issued by local revenue authorities
c. Registered WILL
d. family pension certificate, issued by State/Central Govt

2) ***Register on income tax website as legal heir***

According to section 159 of Income Tax Act 1961, the legal heir or representative is deemed assessee. Registration as a legal heir is must for e-filing of return on behalf of deceased person. He is required to upload legal heir certificate along with other documents like copy of Death Certificate, copy of the PAN Card of the deceased, self-attested PAN copy of the Legal heir.

3) ***Computation of income of the deceased***

The total earnings of the deceased during the year have to be bifurcated into two parts –

a. Income earned during the period of April 1 to the date of death shall be considered as deceased person's own and supposed to file return for this income in name of deceased assessee.
b. Income earned after the date of death till the end of the financial from the inherited asset shall be considered as legal heir's income and he would be liable to pay tax on this income.

4) After successful registration, the legal heir has to file the return on behalf of the deceased for income earned from the 1st April of the financial year till the date of death. The legal heir needs to log in to E-filing portal for online filing of the tax return using his own.

**Extent of liability of a legal representative:**

The liability of the legal heir would be limited to the extent of assets of the deceased which might come into his possession. Taxes if any payable on deceased persons' income does not go out of the legal heir's pocket.

**Claiming refund on behalf of deceased assessee:**

a) In case of refund of taxes, the refund can be received by the legal heir. The refund is usually bank account.
b) If deceased & legal heir hold Joint A/c – it would be convenient to receive amount.
c) In absence of Joint A/c – Nominee can operate the account
d) In absence of nominee – Legal heir can operate the account

**Key points to consider while filing ITR of a deceased assessee**

a. The tax must be payable on income earned from starting of the financial year (April 1) till the date of death.
b. The ITR of the deceased should be filed in the same format and time as for all other tax payers.
c. The legal representative gets the benefits of all the rebates and deductions that the deceased would have been eligible for.
d. Any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased;
e. Property of the deceased person inherited to his legal heir shall not be reported in the Income-tax return of the deceased person, because this transaction is not carried out as transfer for the capital gain purpose nor this will be reported in ITR of legal heir, as sec 56 does not apply to money or property received by way of inheritance.
f. If the total income of a legal heir, including the income of deceased person from the date of death, exceeds INR 50 lakhs, the heir shall be required to provide details of all Assets and Liabilities held by him at the end of the financial year in Schedule AL. These details shall include all assets and liabilities including the assets acquired by way of inheritance.

**Key points to consider while filing ITR of Legal heir**

***a) Tax on inherited property:***

Though no tax shall arise either in hands of a legal heir or deceased at the time of inheritance, capital gain tax liability arises in hands of a legal heir in case of subsequent sale of such property.
For computation purpose, Cost of acquisition shall be cost to previous owner & holding period shall be period of holding of inherited assets by the deceased.

***b) Carry forward and Set off of Deceased Person's Business loss:***

When a legal heir takes over in the business of his deceased by inheritance, he is entitled to carry forward the loss incurred by the previous owner. Period of carrying forward cannot exceed 8 immediately succeeding AY, from the year of loss.

**What to do with PAN of deceased?**

It is advised to surrender the PAN after filing ITR of deceased & payment/refund of tax, if any.

**Note:** In case the transfer of Assets of deceased couldn't be completed in that Assessment year or the WILL couldn't be processed further, **"Estate PAN"** shall be obtained in name of deceased person and ITR shall be filed in Estate PAN of deceased thereafter, till transfer of all assets and liabilities to legal heir.

– Sahana V

## Update 69
## Independence Day Special

On this joyous occasion of the 71st Independence Day, what better update can be shared today than India's fight for Independence? The fight, though long, was not in vain and in this update, I have tried to summarise India's fight for Independence in a short and simple manner highlighting the important events which has led to us celebrating 15th August as Independence Day.

**The Early Struggle**

The first war for Independence was started by the South Indian rulers. However, such attempts were futile as the Britishers used the policy of 'Divide and Rule' to overthrow the opponents and establish their might.

**Revolt of 1857**

The real war for independence started with the Revolt of 1857 also termed as the "First War of India's Independence". Though there were a series of incidents which led to the revolt, the catalyst for triggering Revolt of 1857 was "Greased Cartridges". These were cartridges made out of fat extracted from beef and pork and it was required by the soldiers to bite them before using the cartridges as a weapon. This did not go down well with the Hindu and Muslim soldiers within the ranks as it hurt their religious sentiments and also planted a seed of doubt that it was a ploy by the British to convert them to Christianity.

**Organised Movement**

The revolt instilled a sense of belief amongst the Indians leading to the creation of some sort of self-governance and rights for Indians. The increased demand for self-rights and governance led to the creation of the Indian National Congress in 1885. Works done by Swami Vivekananda and Rabindranath Tagore evoked a sense of nationalism amongst Indians.

**The rise of Nationalism**

Radical leaders like Bal Gangadhar Tilak started pushing for self-rule for Indians. The slogan "Swaraj is my birth right and I shall have it" managed to inspire and light the spirit of freedom amongst Indians. The arrival of Mahatma Gandhi played a huge role in India's Independence. The use of non-violence in making his cause heard proved to be a huge hit amongst the common men of the nation.

**Non – Cooperation Movement**

The national movement was building up and the "Jallianwala Bagh" incident only added fuel to fire in the fight for Independence. Non-Cooperation movement was the first big move towards Satyagraha under Gandhiji's leadership. The movement was a huge success till the time it was called off by Gandhiji in the wake of the Chauri Chaura incident in which 3 civilians and 22 civilians were killed.

**Revolutionary Movement and its role in Freedom Movement**

While leaders such as Mahatma Gandhi and Gopalkrishna Gokhale believed in the use of non-violence, young leaders believed in the use of violence to overthrow the British force. By 1924, Hindustan Republican Association was formed and leaders such as Chandrashekar Azad, Bhagat Singh, Ashfakulla Khan etc.. began involving themselves in various revolutionary activities such as the Alipore bomb conspiracy, Chittagong armoury raid, Kakori train robbery etc.

**Azad Hind Fauz**

Leaders like Netaji Subhash Chandra Bose quit the Indian National Congress and started forming an army to fight against the British. Thus, the Indian National Army was formed which managed to capture Andaman and Nicobar Islands with the help of the Japanese Army during the Second World War.

**Quit India Movement**

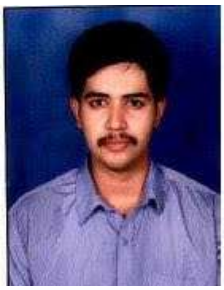
As the World War II progressed, the protest for an independent India intensified and thus the "Quit India Movement" was born. This was the most aggressive movement launched by the Indian National Congress under the leadership of Mahatma Gandhi. The movement came to an end in 1943 when the British government gave hints that it would concede to the demands of a separate nation.

**Partition and Independence of India**

Leaders such as Jawaharlal Nehru and Mahatma Gandhi were not in favour of a partition based on religion. However, communal clashes fastened the creation of a separate nation called Pakistan. The independence cum partition was offered by the British Cabinet Mission in 1946 and was accepted by the Indian National Congress as this was the only way in which India could gain Independence without a civil war.
The British government passed the Independence Act 1947 and on August 14 1947, Pakistan was declared as a free nation. A few minutes later, at 12:02 AM on 15th August 1947, India became a democratic nation much to the joy and relief of the entire nation.
Since Independence, there has been no looking back for India which has gone from strength to strength in almost every field of life and has risen from the ashes like the phoenix to become an emerging superpower nation in the 21st century.
A special mention to the Indian Army who have ensured that the attempts made by our neighbouring nations to conquer our country have been futile by showcasing tremendous amount of bravery and skill in overcoming the challenges thrown at them the most notable being the Kargil War 1965, Kargil War 1999 and most recently the Doklam standoff.

**Jai Hind!!!**

**Happy Independence Day!!**



– Abhishek S

## Update 70
## Sec.185 Loan to Directors etc.

Section-**185 of Companies Act, 2013** has been amended by Companies Amendment Act, 2017 w.e.f **07th May 2018**

**Effect of the amendment:**
Earlier as per this section i.e before the amendment no company could directly or indirectly extend any loan or give any guarantee or provide any security in connection with any loan to any of its **directors** or to **any other person in whom the director is interested**, except

a) to a managing or whole-time director
   i. as a part of the conditions of service extended by the company to all its employees **(or)**
   ii. pursuant to any scheme approved by the members by a special resolution
b) only in the case of a holding company to its wholly owned subsidiary company
   i. Provided that the above loans are utilized by the subsidiary company for its principal business activities.

But now as per this amendment any loan or guarantee or any security provided in connection with any loan can be advanced **to any other person in whom the director is interested** provided that

c) a special resolution is passed by the company in general meeting
d) the loans are utilized by the borrowing company for its principal business activities

Further the above two exceptions i.e "a)" and "b)" continues to prevail under the current amendment.
Explanation for the purposes of the expression "any person in whom any of the director of the company is interested" means —

1. any private company of which any such director is a director or member;
2. any body corporate at a general meeting of which not less than twenty-five per cent. Of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or
3. any body corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company.
   a. ~~any director of the lending company, or of a company which is its holding company or any partner or relative of any such director;~~
   b. ~~any firm in which any such director or relative is a partner;~~

Note: the above phrases which have been struck off relates to the provisions prevailing prior the notification of this section.

- Madan Gopal M P

## Update 71
## Amendment of Section 145A | Income Tax Act,1961

**Overview of Section 145A:**

Section 145A has limited application to the extent of "determination" of income under the head "Profit and gains from business or profession". It means the proposed section neither affects maintenance of books of accounts nor method of accounting regularly employed under section 145 of the Act. Further the said section has applicability while determining the income under the head "profit and gains from business or profession" meaning thereby the said section cannot be pressed into service while dealing with other heads of income.

**Amendment of Section 145A and insertion of 145B as per Finance Act 2018:**

**Section-145A ;** For the purpose of determining the income chargeable under the head "Profits and gains of business or profession –

a) **The valuation of inventory shall be made at lower of actual cost or net 27ealizatio value computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145**

Factors which contributed for amendment of 145A(i)
Para 24 of the ICDS states that in case of dissolution of a partnership firm or association of persons or body of individuals, not withstanding whether business is discontinued or not, the inventory on the date of dissolution shall be valued at **" Net realizable value"**

In a recent case law, The Chamber of Tax Consultants vs. UOI, the Delhi High court observed-
Section 145(2) has to be read down to restrict the power of the Central Government to notify ICDS that do not seek to override biding judicial precedents or provisions of the Act. The ICDS which overrule the provisions of the Act, the Rules thereunder and the judicial precedents applicable thereto, are struck down as ultra-vires the Act.

ICDS II pertaining to valuation of inventory eliminates the distinction between a continuing partnership business after dissolution from one which is discontinued upon dissolution. It is contrary to the decision of the Supreme court in Sakthi Trading Co wherein it was decided that if a firm is dissolved and its business is also discontinued the stock shall be valued as per the fair market value and if however, the firm is dissolved but the business of the firm is continued by some-one, then the stock shall be valued at lower of cost or NRV whichever is lower. It fails to acknowledge that the valuation of inventory in the books of the business which is continuing. ICDS II is held to be ultra vires the Act and struck down as such and hence has been amended that the valuation of inventory shall be made at lower of actual cost or net realizable value computed in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.

b) **The valuation of purchase and sale of goods or services and of inventory shall be adjusted to include the amount of any tax, duty, cess or fee (by whatever name called) actually paid or incurred by the assessee to bring the goods or services to the place of its location and condition as on the date of valuation.**

c) **The inventory being securities not listed on a recognized stock exchange, or listed but not quoted on a recognized stock exchange with regularity from time to time, shall be valued at actual cost initially recognized in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.**

d) **The inventory being securities other than those referred to in clause (iii), shall be valued at lower of actual cost or net realizable value in accordance with the income computation and disclosure standards notified under sub-section (2) of section 145.**

***Provided that the comparison of actual cost and net realizable value of securities shall be made category-wise for e.g. Equity shares, debentures, etc.***

**Taxability of certain income:**
**Section-145B**.

(1) Notwithstanding anything to the contrary contained in section 145, the **interest received** by an assessee on **any compensation or on enhanced compensation**, as the case may be, shall be deemed to be the income of the previous year in which it is received.
(2) Any **claim for escalation of price in a contract or export incentives** shall be deemed to be the income of the previous year in which reasonable certainty of its realization is achieved.
(3) The income referred to in sub-clause (xviii) of clause (24) of section 2 (Assistance in the form of **subsidy or grant** etc. **by the central or state government**) shall be deemed to be the income of the previous year in which it is received, if not charged to income-tax in any earlier previous year'.
***These amendments will take effect retrospectively from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-2018 and subsequent years.***

– Manasa T

**Update 72**
**Deduction on self generated asset | Income Tax Act,1961|**

Deduction /allowance for in-house developed intangible – items appearing under AS – 26 – Intangible Assets.

In today's world with technology riding the life and business,many startups comes up with various types of apps /softwares/tools.Today we try to understand the allowability of expenses incurred towards development of such apps.

Options available – Depreciation at 25%,depreciation at 40%,deduction under section 35 at 100%

1) Question on allowance at 25% as intangible – as per section 32 following are considered as intangible asset "Know-how ,patents,copyrights, trademarks,licences,franchises or any other business or commercial rights of similar nature."

Can software come under Know-how,patents,trademarks etc? – Primafacie it may be difficult to substantiate .Further as per section 32 ,there is a reference about "Acquisition" ,the question which needs to be answered here is whether in-house development can be considered in this extended definition.

2) Question on allowance of 40% - Item no.5 under Machinery and plant – computers including computer software

The app/tools/websites are generally software in nature and shall be eligible for deduction at 40%. However there could be issues as the definition for computer software in Appendix – I is not broad enough.

3) A twist in the case ,how about claiming as cost of research under section 35 at 100% during the year of expenditure. The people involved in developing the software are technical and there exist great amount of research and development in the course of building a software .

Each and every case needs to be carefully analysed before deciding on the section for deduction .

It is very important that proper decision shall be made in the year of expenditure during the course of WIP itself.

– Neha Sanklecha

## Update 73
## Private placement and Rights issue

Private Placement and Rights Issues are hotly debated topics for Companies. Companies get confused between the two while opting for further issue of shares.
(A private placement is a capital raising event that involves the sale of securities to a relatively small number of selected investors. Investors involved in private placements can include large banks, mutual funds, insurance companies and pension funds.

A rights issue is a dividend of subscription rights to buy additional securities in a company made to the company's existing security holders.)
Below is a glimpse of basic differences between private placement &rights issue:-

| Sl. No. | Basis of differences | Private Placement | Rights Issue |
|---|---|---|---|
| 1 | **Meaning** | It means any offer of securities or invitation to subscribe securities to a select group of person by a company other than by way of public offer | It means issue of shares to existing shareholders in proportion as the circumstances permit. |
| 2 | **Separate Bank Account** | Share application money is received in Separate Bank Account | No need for separate Bank Account in case of issue to the existing shareholders |
| 3 | **Valuation Report** | Valuation report is mandatory in case of Private Placement | Valuation report is mandatory only in case of issue to existing non-resident shareholder |
| 4 | **Shareholders' approval** | Shareholders' approval is required by way of special resolution. | No need to take approval of shareholders of the Company. Approval of Board is sufficient for right issue |
| 5 | **Minimum Subscription** | It must be of Rs. 20,000 of face value | No Minimum Subscription required |
| 6 | **Renounce the offer letter** | No such right is available for the shareholders. However rights for accept/reject the offer letter is available to the shareholders | Shareholders have rights to Renounce/accept/reject the offer letter within a minimum period of 15 days subject to the maximum of 30 days |
| 7 | **Refund of Share application money** | If the allotment is not made within a period of 60 days from the receipt of money then, the company shall repay the application money within next 15 days. Further, if the Company fails to repay that amount within the aforesaid period then it shall be liable to repay the amount with an interest @ 12% per annum from the expiry of 60 days. This application money will | If allotment is not made within a period of 60 days from the receipt of application money. However, there is no provision relating payment of interest @ 12% nor does it prescribe to repay within next 15 days (after the expiry of 60 days).This application money will be treated as deposit after the expiry of 60 days. |

| | | | |
|---|---|---|---|
| | | be treated as deposit after the expiry of 60 days. | |
| **8** | **Simultaneous issue of shares** | As per section 42 (3) of Companies Act, 2013 no fresh offer and allotment can be made unless allotment w.r.t any offer made earlier have been completed | There is no such provision in section 62(1)(a) (Rights Issue). |
| **9** | **Timeline** | Since this process involves Shareholders meeting, Valuation Report, etc, it takes more time to do a Preferential Issue. | Rights issue process take lesser time. |
| **10** | **Choosing of investors** | Company should go with existing shareholders | Allows the company to choose their own investors – this increases the chances of having investors with similar objectives to provide business advice and assistance, as well as funding |

- Rishabh Jain

## Update 74
## Key Audit Matters

**ICAI's Implementation Guide to "Standard on Auditing (SA)-701: Communicating Key Audit Matters in the Independent Auditor's Report"**

In 2016, the ICAI has issued a series of new/ revised standards on auditor's reporting comprising Revised SA 700, SA 705, SA 706, SA 260, SA 570 and a new SA 701, "Communicating Key Audit Matters in the Independent Auditor's Report".

SA 701 is mandatory in the case of audit of listed entities and casts a new reporting requirement on auditors of listed entities to communicate key audit matters in their audit reports. This Standard is also applicable in audit of unlisted entities in situations where law or regulation requires communication of key audit matters in the audit report. SA 701 is effective for audits of financial statements for periods beginning on or after April 1, 2018. SA 701 has strong inter-relationship with other elements of the audit report e.g. emphasis of matter/ other matter paragraphs, modified opinion, going concern aspect.

As a proactive measure, the AASB (**Auditing & Assurance Standards Board)** of ICAI has issued an Implementation Guide on SA 701 (Communicating Key Audit Matters in the Independent Auditor's Report)) for guidance of members in discharging their reporting responsibilities under this Standard in an effective manner, as under:

The Implementation Guide has been written in simple and easy to understand language and contains detailed guidance on various issues involved in this new reporting requirement. For ease of usage and understanding of the readers, the Implementation Guide has been written in a "Question – Answer" format containing frequently asked questions (FAQs) on SA 701 and responses to those questions.

The purpose of communicating key audit matters is to enhance the communicative value of the auditor's report by providing greater transparency about the audit that was performed. Communicating key audit matters provides additional information to users of the financial statements and auditor's report thereon to assist them in understanding those items that, in auditor's professional judgment, were most significant to the audit. Communicating key audit matters may also assist intended users in understanding the entity and areas of significant management judgment in the audited financial statements.

Communicating key audit matters in the auditor's report is in the context of having formed an opinion on the financial statements as a whole and does not constitute a separate opinion on individual matters. Communicating key audit matters in the auditor's report is not:

i. A substitute for disclosures in the financial statements that the applicable financial reporting framework requires management to make, or that are otherwise necessary to achieve fair presentation.
ii. A substitute for expressing a modified opinion when required by the circumstances of a specific audit in accordance with SA 705 (Revised).
iii. A substitute for reporting in accordance with SA 570 (Revised) when a material uncertainty exists relating to events or conditions that may cast significant doubt on an entity's ability to continue as a going concern.
iv. A separate opinion on individual matters.

SA 701 requires the communication of key audit matters in the auditor's report for audits of complete sets of general purpose financial statements of listed entities or when required by law or regulation.

Key audit matters are defined as those matters that, in the auditor's professional judgment, were of most significance in the audit of the financial statements of the current period. Key audit matters are selected from matters communicated with those charged with governance.

The auditor is required to communicate with those charged with governance the matters to be included in auditor's report. This communication is intended to make management and those charged with governance aware of the matters that auditor intends to communicate in the auditor's report, and to provide them with an opportunity to obtain further clarification when necessary. It may also enable management or those charged with governance to consider whether new or enhanced disclosures may be useful when these matters will be communicated in the auditor's report.

The auditor may provide those charged with governance a draft of the auditor's report to assist with these discussions. However, the final content of the auditor's report, which is also required to be communicated to those charged with governance, remains the auditor's responsibility.

From the matters that required significant auditor attention, the auditor determines matters which were of the most significance in the audit of the financial statements of the current period and therefore are KAMs. In most cases, KAMs will relate to significant or complex matters disclosed in the financial statements. Examples of KAMs might include valuation of goodwill and other long-term assets, valuation of financial instruments, difficult or unique aspects of revenue recognition, or accounting for significant acquisitions. KAMs are included in a separate section of the auditor's report with introductory language explaining the nature and intent of KAMs, including that the matters were addressed in the context of the audit as a whole and that the auditor does not provide a separate opinion on these matters.
It will be important for KAMs to be relevant and useful for investors and other users. To accomplish this, auditors must make sure that the information is as entity-specific as possible, and related to the facts and circumstances of the audit of the current period.

However, it remains the responsibility of management, with the oversight of those charged with governance, to communicate relevant information to users about entity and its financial performance, including providing adequate disclosures in accordance with the applicable financial reporting framework.

**Illustrative paragraph of key audit matters:**
Key audit matters are those matters that, in our professional judgment, were of most significance in our audit of the financial statements of the current period. These matters were addressed in the context of our audit of the financial statements as a whole, and in forming our opinion thereon, and we do not provide a separate opinion on these matters.

**Where should the placement of the key audit matters section be in the auditor's report?**
Generally, Key audit matters section is required to be placed after the Basis for opinion paragraph and before the Management responsibility paragraph. In case, 'Material uncertainty relating to going concern' section is required as per revised SA 570, then KAM section is placed after that section.

- Vishal Purohit

## Update 75
## A golden walking stick for senior citizen

A reverse mortgage can be a valuable retirement planning tool that can greatly increase retirees income streams by using their largest assets: their homes. A reverse mortgage allows homeowners to borrow against their home's equity, while still maintaining ownership of the home.

The best part about the reverse mortgage is that unlike conventional mortgages, there are no payments involved. Instead, the lender makes payments to the borrower either through a lump sum, monthly payments, or a line of credit.
The reverse mortgage is repaid when the borrower dies, permanently moves from the residence, or the property is sold. Instead of you paying the bank monthly and the equity in your home growing, the bank pays you monthly, and the equity may shrink. It is important to know that you must be senior citizen in order to qualify.

**How can Reverse Mortgage Benefit ?**
A reverse mortgage can be a powerful source of funding for individuals who need to increase their income to be comfortable in retirement. The largest personal asset most retirees possess is their home. In many cases, a retiree's home is paid off. A reverse mortgage increases income without increasing monthly payments and allows a retiree to stay in his or her home.
If you are at least 60 years and considering a reverse mortgage, the amount you will be eligible for is based on several things, most importantly, the value of your home, your age, and interest rates. You will be eligible for more money the older you are, the more your home is worth, and the lower current interest rates are.

**Loan eligible ( 34pprox..) of assessed value of Property**

| Age of the Borrower | Approx. % of Loan on the value of the Property |
|---|---|
| 60 – 70 Years | 45% |
| 71 – 75 Years | 50% |
| 76 – 80 Years | 55% |
| Above 80 Years | 60% |

**Negative aspects of Reverse Mortgages**
Among the negatives of a reverse mortgage are the costs involved. All mortgages have costs, but reverse mortgage fees, which can include the interest rate, loan origination fee, mortgage insurance fee, appraisal fee, title insurance fees, and various other closing costs, are extremely high when compared with a traditional mortgage. This cost is not paid out of pocket, but rolled into the loan.

Another potential issue to be aware of is the requirement to pay back the loan if you should permanently move out of the home. This may not sound like a problem now, but if you ever need to enter a full-time care facility, the loan would become due if you left your home for a year or more.

The final downside to the reverse mortgage affects your estate. The reverse mortgage will almost always decrease the equity in your home, which will leave less money to your heirs.

**Reverse Mortgage – Myths and Truths**

Misconceptions about reverse mortgages may cause homeowners to avoid consideration of these complex loans. Or, eligible seniors might proceed too hastily without realizing all the possible repercussions of their financial decisions. Here are a few wrong ideas and realities about this real estate option.

Myth: The lender takes title to the home.

Truth: You still retain ownership of your home. The reverse mortgage is only a lien against the property.

Myth: The loan can exceed the value of the property, sticking you or your heirs with a large bill when you eventually leave your home.

Truth: A reverse mortgage is a "non-recourse" loan, which means that you, your heirs, or your estate will never owe more than the appraised value of the home at loan maturity.

Myth: You can't get a reverse mortgage if you currently have a conventional mortgage.

Truth: Although this is true, you
can get a reverse if you use the proceeds to pay off your existing mortgage at close.

Myth: A reverse mortgage can cause you to be evicted from your home.

Truth: You leave your home when you choose. No one will force you from your home. The reverse mortgage is not due until your home is no longer your primary residence.

**Income Tax Act point of view**

**a.** Earnings received from reverse mortgage would not be treated as Income. Though mortgage of property under transfer of property act is treated as transfer, a new provision has been made under section 47(xvi) of the income tax act to provide that any transfer of capital asset in a transaction under notified reverse mortgage scheme will not be treated as transfer and shall not attract any taxable capital gains. Therefore, reverse mortgage would not amount to "Transfer" under the provision of Income Tax Act and money received as a loan will not attract any liability in account of Capital Gains.

**b.** A new provision u/s 10(43) of the income tax act has been introduced to clarify that any amount of loan, received either in lump sum or instalments under a notified reverse mortgage scheme shall be treated as exempt from income tax.

- Nandan M

## Update 76
## Insolvency and Bankruptcy Code 2016 - One stop solution for resolving insolvencies.

**Introduction:**

One of the major economic reform Code initiated by Government in 2015 and received the assent of the president of India on 28 May 2016.
There were multiple overlapping laws and adjudicating forums dealing with insolvency of companies and individuals in India, but those laws were not aligned with market realities, had several problems & inadequacy in itself, and as the overlapping powers was leading to delays and complexities in the process, to facilitate time bound business closure, to overcome challenges, a strong bankruptcy law was required, and their came a solution called **Insolvency and Bankruptcy Code 2016.**

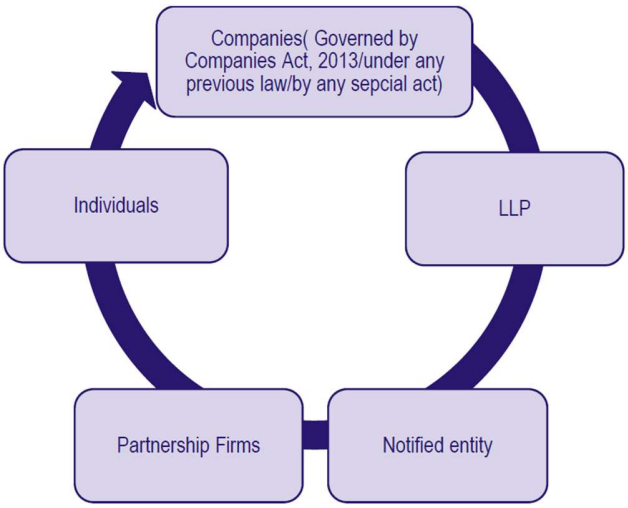
**What is Insolvency and Bankruptcy?**

- When an Individual or a company is not able to pay the debt in present or near future and the value of assets held by them are less than liability
- Insolvency in this Code is regarded as a "state" where assets are insufficient to meet the liabilities. If Untreated, Insolvency will lead to bankruptcy for non-corporates and liquidation for corporates.
- Typically, insolvency situations have two options – resolution & recovery or liquidation.

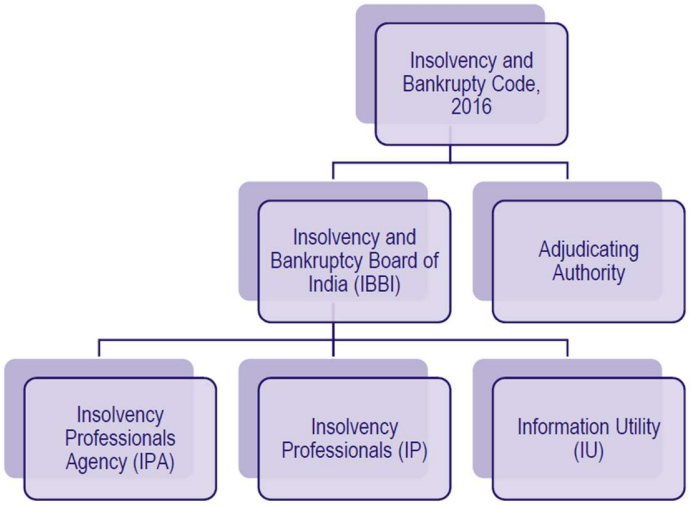
**Major purpose behind this Code:**

- To ensure Corporate & other business entities enjoy credit and at the same time creditor need not bear losses on account of default
- To bring all the insolvency cases under single Authority (Insolvency & bankruptcy Board of India - IBBI)
- To promote entrepreneurship
- To increase the availability of credit
- To fix the time limit for the cases to be resolved ( 180 days + 90 extended days)
- Civil courts cannot interfere anymore, now, it is either NCLT ( for Corporates) or DRT – Debt recovery tribunal (for non-corporates)

**Applicability of the Code:**



**Regulatory Mechanism:**




**Important Definitions:**

**Financial Creditor:** means any person (lending business) to whom a financial debt is owed.

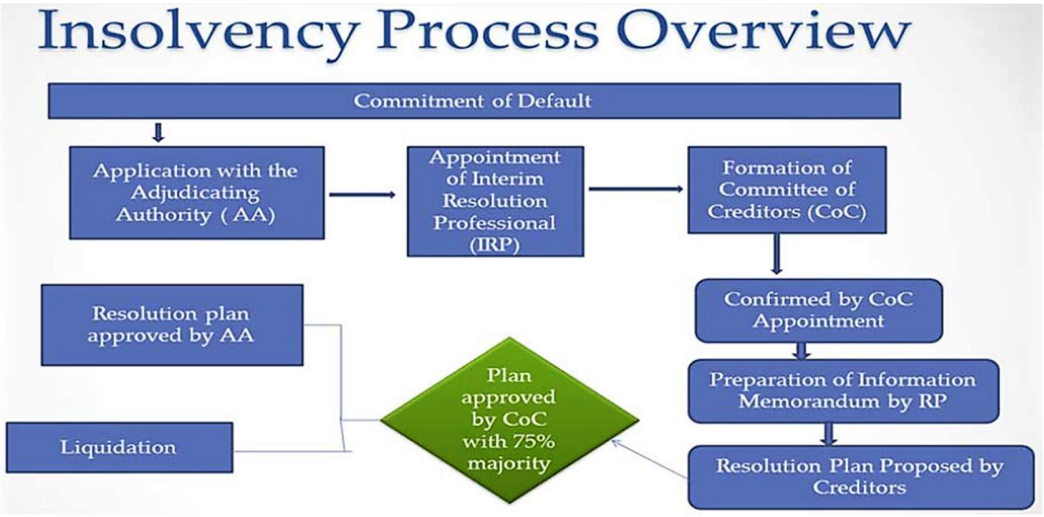
**Operational Creditor:** means a person (in normal course of business sells goods or services) to whom an operational debt is owed.

**Corporate Debtor:** means a person who owes a debt to any person.

**Adjudicating Authority**: NCLT (for Corporates) or DRT (Non corporates).

**Resolution professional**: Means a person appointed to conduct the corporate insolvency resolution process and includes an interim resolution professional.

**<u>Let's check out the Process Flow of Corporate Insolvency Resolution:</u>**



**1. Commitment of default**

The process of insolvency is triggered by non-payment of debt when it is due to be paid. The provisions shall be applicable only when the amount of the default is **one lakh rupees or more**. However, the Central Government may notify the minimum amount of default which shall not be more than **one crore rupees.**

**2. Now who can make an Application for Corporate Insolvency resolution at NCLT?**


**Financial Creditor** - may lodge an application before NCLT for initiating corporate Insolvency resolution against a defaulted corporate debtor along with the evidence of the default and in the application, He shall also mention the name of the interim resolution professional.
**Operational Creditor** - shall first send a demand notice and a copy of invoice to the corporate debtor and within 10 days of issue of the demand notice, the corporate debtor shall accept the existence of default from him or he shall provide the details of payments which is due to pay to the operational creditor, and if in case there is no such response from the defaulter, the operational creditor shall initiate corporate Insolvency resolution through application to NCLT.
**Corporate Debtor –** can also file an application before NCLT for initiating Corporate Insolvency resolution along with information relating to the books of account and other documents and shall also mention the name of the Interim Resolution Professional.

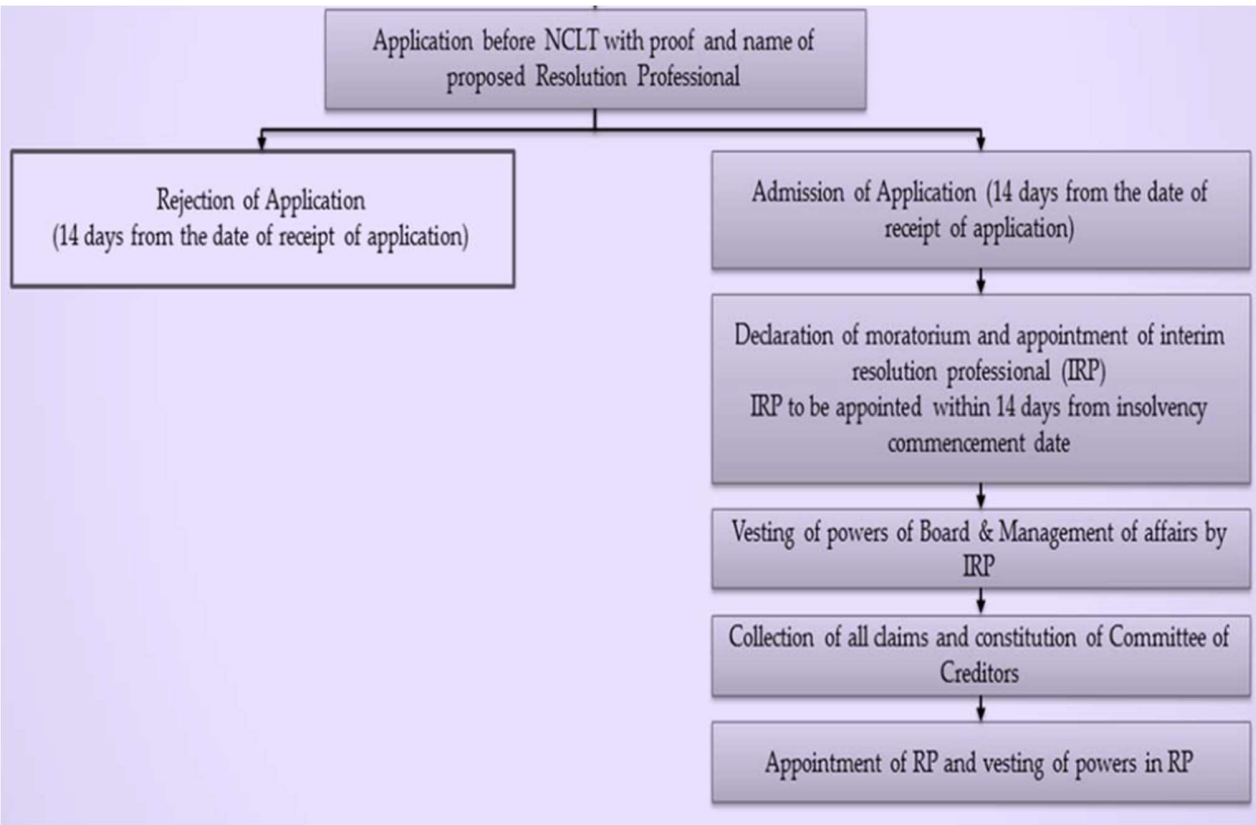
**3. Who cannot make an Application for Corporate Insolvency resolution?**
-A corporate debtor:

- Who is undergoing insolvency process or
- Completed insolvency process 12 months preceding date of making of the application, or
- In respect of whom the liquidation order has been made

-Financial creditor who has violated resolution plan approved 12 months before making of an application

**4. Adjudication: Admission or rejection of Application.**
The Adjudicating authority may accept or reject application within 14 days, and if the Adjudicating authority accepts (i.e., commencement date) the application, then Adjudicating authority shall appoint interim resolution professional (IRP) within 14 days from the commencement date and 180 days from then, the defaulted debtor has no right to sell or dispose off his assets or property.
Now the IRP has term of 30 days and within his time, he shall issue public notice of insolvency process and form the committee of creditors and conduct a first meeting with them, in this meet the majority (≥75%) of the creditors shall appoint IRP as a Resolution Professional (RP) or appoint a new RP.
And, this RP will take over the business of the defaulter and runs the show under Board of directors and Committee of creditors, so by this this we can say there is a shift in the control of debtor's business into the hands of creditors ; Now RP has a greater responsibility to obtain valuation of the entity and prepare

Information memorandum and a Resolution plan* and get it approved by the creditors(≥75%) and also report the Resolution plan to the board.
(*Resolution plan ;s a proposal agreed to by the Debtors and Creditors of an entity in a collective mechanism to propose a time bound solution to resolve the situation of insolvency)




**Next step:**

Now, The Resolution professional has obtained an approval from Creditors for the resolution plan, he shall submit/file the same plan to the Adjudicating Authority and the filing should be done before 270 days which includes 90 days of extended time.


**Order of Liquidation:**

If the resolution turns out to be an unsuccessful, Adjudicating authority finally orders for the liquidation of the defaulter business, mainly in following three cases:

1. Resolution plan is not filed by the resolution professional within the prescribed time (180 days/ 270 days, as the case may be)
2. If the Creditors, before resolution plan is filed, make a petition to Adjudicating authority to pass an order to liquidate the debtor business.

3. When Resolution plan is approved by Adjudicating authority, but the debtor has contravened the regulations of the plan, and any person (Creditor) is affected by that behaviour, then Liquidation is taken place.

**PS:** The **first** insolvency resolution order under this code was passed by NCLT in the case of **Synergies-Dooray Automotive Ltd** on 14 August 2017 and the **second** resolution plan was submitted in the case of **Prowess International Private Limited** represented by Advocate Akhilesh Kumar Shrivastava and Akash Sharma. The plea for insolvency was submitted by company on 23 January 2017. The resolution plan was submitted to NCLT **within a period of 180-day** period as required by the code, and the approval for the same was received on 2 August 2017 from the tribunal. The final order was uploaded on 14 August 2017 on the NCLT website.

- Dennis Lobo J

## Update 77
## Universal Account Number

The **Universal Account Number (UAN)** is a 12 digit number which is provided to each member of the Employees' Provided Fund Organisation (EPFO) through which he can manage his PF accounts. This number is issued by the Ministry of Employment and Labour under the Government of India. UAN will act as an umbrella for multiple member IDs allocated to an individual by different establishment. Adhar is mandatory for obtaining UAN number.

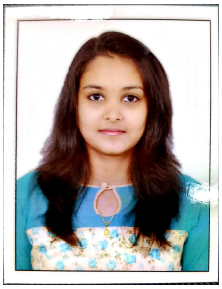
Earlier, when an individual joined a new organization, he was assigned a new PF account number. Thus, it was very difficult to get a proper estimate of the PF of members. And in case of any pay out issues, it was difficult to keep a track of activities. In order to reduce this problem, the UAN came into existence It enables linking of multiple EPF accounts allocated to a single member.

### UAN allotment and activation

• EPF members in respect of whom at least one contribution is received in or after Jan-2014 UAN is allotted by EPFO
•EPF members not having UAN & no contribution received in or after Jan-2014 can request EPFO to allot UAN.

### Change in employment

Every employee needs to submit a declaration in Form 11 when he/she takes up new employment in an organization which is registered under the *EPF Scheme* of 1952. This form contains basic information regarding an employee and it is mandatory for an employee to fill it upon joining an organization.



- Pragathi R

## Update 78
## Cryptocurrency

**What is Cryptocurrency and why is there so much hype around it?!**

A cryptocurrency is a digital or virtual currency designed to work as a medium of exchange. It uses cryptography to secure and verify transactions as well as to control the creation of new units of a particular cryptocurrency.

**Certain features that are unique to Cryptocurrencies:**

- Cryptocurrencies are limited entries in a database that no one can change unless specific conditions are fulfilled.
- It has no physical form and is not redeemable in another commodity like gold.
- In a decentralized network like Bitcoin, every single participant needs to do this job. This is done via the Blockchain – a public ledger of all transaction that ever happened within the network, available to everyone. Therefore, everyone in the network can see every account's balance.
- Every transaction is a file that consists of the sender's and recipient's public keys (wallet addresses) and the amount of coins transferred. The transaction also needs to be signed off by the sender with their private key. All of this is just basic cryptography. Eventually, the transaction is broadcasted in the network, but it needs to be confirmed first.

**What can you do with cryptocurrency?**

- Buy Goods
- Avail Services
- Works as an Investment
- Cryptocurrencies can be used to even pay for a college degree
- Accept as payment (for business)

**Legalities**

As cryptocurrencies are becoming more and more mainstream, law enforcement agencies, tax authorities and legal regulators worldwide are trying to understand the very concept of crypto coins and where exactly do they fit in existing regulations and legal frameworks.

With the introduction of Bitcoin, the first ever cryptocurrency, a completely new paradigm was created. Decentralized, self-sustained digital currencies that don't exist in any physical shape or form and are not controlled by any singular entity were always set to cause an uproar among the regulators.

**Most common cryptocurrencies**

- Bitcoin
- Ethereum
- Ripple

- Yavna Hariprasad

## Update 79
## Clarification - Conversion of Loan into Equity shares

With respect to conversion of loan into shares the Companies Act, 1956 was silent about, whether such conversion was to be considered as consideration for cash or consideration other than cash.

However in old British Spargo's case (1873) LR 8 Ch 407, it was held that allotment of shares by adjusting debt due is **"allotment for cash"**.

This also held good under the Companies Act, 1956 and the same had been accepted by ICAI. Hence conversion of Loan into Equity shares was considered as consideration for cash under the Companies Act, 1956.

However under the Companies act 2013, Form PAS-3 (Return of Allotment) clearly states that conversion of Loan into Equity shares is to be considered as consideration other than cash.

**Hence Conversion of Loan into Equity shares is to be considered as "consideration other than cash" under the Companies Act, 2013.**

- Darshan Jain

# Update 80
# Exchange Traded Funds

## Exchange Traded Funds(ETFs)

An ETF is a basket of stocks that reflects the composition of an Index, like S&P CNX Nifty or BSE Sensex. The ETFs trading value is based on the net asset value of the underlying stocks that it represents.These are index funds that mirror the composition of standard indexes such as the Nifty or Sensex; it may also include broad market, sectors, single countries or regions as well as fixed income. The ETF plan must explain the ETF's composition, identify other firms involved in the fund and describe how the fund will operate and how redemption will occur.

The first ETF in India, "Nifty BeEs (Nifty Benchmark Exchange Traded Scheme) based on Nifty 50, was launched in January 2002 by Benchmark Mutual Fund. It may be bought and sold like any other stock on NSE. Its symbol on NSE is "NIFTYBEES"

## Applications of ETFs

- **Efficient Trading:** ETFs provide investors a convenient way to gain market exposure viz. an index that trades like a stock. In comparison to a stock, an investment in an ETF index product provides a diversified exposure to the market. Depending on the index, investors may obtain exposure to countries/ markets or sectors.

- **Equitising Cash:** Investors with idle cash in their portfolios may want to invest in a product tied to a market benchmark like an index as a temporary investment before deciding which stocks to buy or waiting for the right price.

- **Managing Cash Flows:** Investment managers who see regular inflows and outflows may use ETFs because of their liquidity and their ability to represent the market.

- **Diversifying Exposure:** If an investor is not sure about which particular stock to buy but likes the overall sector, investing in shares tied to an index or basket of stocks provides diversified exposure and reduces stock specific risk.

- **Filling Gaps:** ETFs tied to a sector or industry may be used to gain exposure to new and important sectors. Such strategies may also be used to reduce an overweight or increase an underweight sector.

- **Shorting or Hedging:** Investors who have a negative view on a market segment or specific sector may want to establish a short position to capitalize on that view. ETFs may be sold short against long stock holdings as a hedge against a decline in the market or specific sector.

## Advantages of ETFs

- Buy and sell orders for traditional mutual funds are taken throughout the trading day but the transactions actually occur at the close of the market. It's at that point that the NAV is calculated (The sum of the closing day prices of all the stocks contained in the fund is divided by the number of shares in the fund.) ETFs trade continuously and allow an investor to lock in a price for the underlying stocks immediately.

- They provide investors a fund that closely tracks the performance of an index throughout the day with the ability to buy/sell at any time, whereby trading opportunities that arise during a day may be better utilized.

- ETFs are highly flexible and can be used as a tool for gaining instant exposure to the equity markets, equitising cash or for arbitraging between the cash and futures market.

- ETFs are economical to buy compared to most mutual funds. Annual fees are as low as .09% of assets compared to the average mutual fund fees of 1.4%. Discount brokerage options mitigate the transaction costs associated with trading ETFs.

- Deeksha A

## Update 81
## An insight on "The Fugitive Economic Offenders Bill, 2018

**What is the Bill?**

The Bill aims to stop economic offenders who leave the country to avoid due process. Offences involving amounts of ₹100 cr or more fall under the purview of this law.
Economic offences are those that are defined under the Indian Penal Code, the Prevention of Corruption Act, the SEBI Act, the Customs Act, the Companies Act, Limited Liability Partnership Act, and the Insolvency and Bankruptcy Code.

**Who is a 'fugitive economic offender'?**

According to Section 4 of the law, a 'fugitive economic offender' is "any individual against whom a warrant for arrest in relation to a scheduled offence has been issued by any court in India, who:

(i) leaves or has left India so as to avoid criminal prosecution; or
(ii) refuses to return to India to face criminal prosecution."

**What does the offender have to do?**

The Court will issue a notice to the person named a 'fugitive economic offender'. Within six weeks from the date of notice, the person will have to present themselves at "a specified place at a specified time". If the offender fails to do so, they will be declared a 'fugitive economic offender' and their properties as listed in the Director's application will be confiscated.

**What happens if a person is designated a fugitive economic offender?**

If the special court is satisfied that an individual is a fugitive economic offender, it can direct the Central government to confiscate the proceeds of the crime in India or abroad, whether or not such property is owned by the fugitive economic offender, and any other property or benami property in India or abroad that is owned by the fugitive economic offender. While the confiscation of property within India should not be a problem for the Centre, confiscating properties abroad will require the cooperation of the respective country. The fugitive economic offender will also be disqualified from accessing the Indian judicial system for any civil cases.

**The benefit of the bill:**

The bill is expected to re-establish the rule of law as the accused will be forced to return to India and face trial for his offences. This would also help the banks and other financial institutions to achieve higher recovery from financial defaults committed by such fugitive economic offenders, improving the financial health of such institutions.

- Sanchia Dias

## Update 82
## RUN (Reserve Unique Name)

The first and foremost step during an incorporation of a company is to reserve its name with MCA (Ministry of corporate affairs)

Earlier Form INC 1 was filed by the company to reserve its name.

However as per notification on Companies (Incorporation) Amendment Rules, 2018 dated 20th January 2018, effective from 26th January 2018, form INC 1 has been replaced with an **online web service** called **RUN (Reserve Unique Name).**

**Features of RUN**

- Auto check feature for detecting same name already exists.
- Only 2 names can be submitted (Earlier 6 names could be submitted in INC 1). Even during resubmission 2 names can be resubmitted.
- Only 1 resubmission is allowed
- Name applications will be processed by Central Registration Centre (CRC) under Approval mode. The name applied for will be subjected to a comprehensive check by the Central Registration (CRC) and thereafter approval or rejection, as the case may be, shall be communicated by e-mail to the applicant.
- Rs.1000 for each submission.There is no option of pay later challan in RUN. Applicant have to pay fees immediately after submission of form and payment challan shall be generated immediately.
- No DSC is required for applying for name.
- An approved name is valid for a period of
- (i) 20 days from the date of approval (in case name is being reserved for a new company) or (ii) 60 days from the date of approval (in case of change of name of an existing company.

- Namratha N

## Update 83
## Unclaimed ITC for FY 2017-18

**Arjuna (Fictional Character**): Krishna, as you know this is the 1st year of GST and people were not updated about GST, also there had been many changes since its implementation and keeping track of this was difficult. Amidst all these if any credit which is available is left out i.e unclaimed by taxpayers, then what should one do?

**Krishna (Fictional Character**): Arjuna, In GST Act, provisions in relation to claiming of the unclaimed **Input tax credit (ITC)** are given. As per Sec 16(4)of the CGST Act , "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 due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier."

**Arjuna:** Krishna, What does this provision mean?

**Krishna:** Arjuna, In this section it is specified that, if any ITC of a tax invoice remains unclaimed by the taxpayer, he can claim that ITC-

1) Before the due date of filing the return for September month of the next financial year i.e 20th October 2018 . **Or**

2) Before filing of the relevant annual return i.e 31st December 2018,

Whichever is earlier.

**Ex.** If a taxpayer forgets to claim ITC in relation to a purchase invoice dated 23rd Dec 2017, then in such case he can claim ITC in relation to this invoice ,any time before filing of annual return or filing any return on or before the return of September month .It is to be noted that this credit can be claimed in any return but before filing September month's return, As Annual return is not yet made available.

**Arjuna:** Krishna, what if the taxpayer do not claim the ITC even upto filing September month's Return?

**Krishna:** Arjuna, If the unclaimed ITC for the period July, 2017 to March, 2018 has not been claimed by the taxpayer upto filing of the return of September month, then it would lapse i.e to say cannot be claimed.After the return of September, 2018 has been filed, taxpayer would not be able to claim this ITC in any of the return filed afterwards.

**Arjuna:** Krishna, What the taxpayers need to do before filing the September months return in relation to unclaimed ITC?

**Krishna:** Arjuna, Taxpayer need to reconcile the Books of accounts and returns uploaded on the **GST portal** ,for the financial year 2017-18. Also taxpayer should download and match GSTR 2A for relevant period with their books to find out unclaimed credit if any. Discrepancies if any, may be adjusted in the return filed before September 2018 or in the September 2018 return.

**Arjuna:** Krishna, What lesson the taxpayer should take from this?

**Krishna**: Arjuna, prima facie the provision of Section 16(4) seems to be wrong. Because the annual return is not yet made available. If there is any addition or reduction of ITC over the period, then the best possible suggestion to correct the same is doing so upto filing of the annual return.

As it would become difficult to adjust the unclaimed ITC in the return of the September month. The government must grant time period for this adjustment, at least upto filing of the annual return

- Isha R

## Update 84
## Micro, Small and Medium Enterprises (MSME)

Micro, small and medium (MSME) sector has emerged as a highly vibrant and dynamic sector of the Indian economy. MSMEs are small sized entities, defined in terms of their investment. They are significantly contributing output, employment, export etc in the economy. They provide employment to a large number of unskilled and semi-skilled people

**CLASSIFICATION OF MSMEs**
The MSMEs are classified on the basis of the investment made in Plant and Machineries if they are operating in the manufacturing sector and investment in Equipments for service sector companies.

**Manufacturing Sector**

| ***Enterprise*** | ***Investment in Plant and Machinery*** |
|---|---|
| Micro Enterprise | Does not exceed ~25 lakhs |
| Small · Enterprise | More than ~25 lakhs but not more than ~5 crore ; |
| Medium Enterprise | More than ~5 crore but not more than ~1 0 crore |

**Service Sector**

| ***Enterprise*** | ***Investment in Equipments*** |
|---|---|
| Micro Enterprise | Does not exceed ~ 10 lakhs |
| Small · Enterprise | More than ~ 10 lakhs but not more than ~2 crore |
| Medium Enterprise | More than ~2 crore but not more than ~5 crore |

**FINANCING OF MSMEs**
MSMEs are engines of growth and employment generation in the country. This sector requires funding through Bank,SFC's,SIDBI,SIDC's etc for the following purposes:

1. Medium and long term loans to fund infrastructure.
2. Short term or Working Capital loans for day to day operations.
3. Seed capital or Risk Capital to supplement own funding
4. Bridge loans to meet shortfall at appropriate times.

**Process for setting up MSME:-**
1. Project Selection
2. Technology and Machinery
3. Arranging Finance
4. Unit Development
5. Udyog Aadhaar Memorandum (Simple form to be submitted)
6. Approvals
7. Clearances
8. Quality Certification

**BENEFITS OF MSME**

1 . Govt. Schemes initiated for MSME's

a. Employment generation schemes

b. Development of Khadi industries

c. Technology upgradation schemes

d. Marketing & Export promotion schemes, Etc…

2. Reservation policy for certain goods which are only to be produced by MSME's

3. Credit guarantee upto 50lakhs without collateral

4. Capital Aid for Technological upgradation by provding Interest free loans

5 .In Budget 2018, 3.3 Lakh Crore was set aside for MUDRA yogna is an institution set up by the government to provide funding to the non-corporate, non-farm sector income generating activities of micro and small enterprises whose credit needs are below Rs10Lakh.

- Harsh Jain

## Update 85
## Manual selection of returns for scrutiny

CBDT releases criteria for manual selection of returns for complete scrutiny for FY 2018-19. **(CBDT Instruction No. 04/2018 dt. 20th Aug 2018)**

**Things to know:-**

**What is scrutiny?**

Scrutiny in a wider sense means Inspection of a tax return.

**Why do Assessee get Scrutiny Notice?**

The IT Department sends the scrutiny notice every year to a large number of salaried individuals and businessmen who file their income tax returns. It does not mean that the assessee is found guilty of any charges; it is one of the action undertaken by the income tax team every year as a part of their routine check and yearly supervision. The basis for selecting the case for Scrutiny is either random basis (through Computer Aided Scrutiny Selection – popularly know as 'CASS') or if any of the below stated criteria's are satisfied by the assessee.

CBDT specifies the following **SIX scenarios** for manual selection of returns:

1.Cases involving addition in an earlier assessment year, on a recurring issue of law or fact -

- Exceeding Rs. 25 lakhs in eight metro charges at Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad, Kolkata, Mumbai and Pune while at other charges quantum of addition should exceed Rs 10 lakhs;
- Exceeding Rs 10 crore in transfer pricing cases; and where such an addition

i) has become final as no further appeal was/has been filed; or
ii) has been confirmed at any stage of appellate process in favour of revenue and assessee has not filed further appear; or
iii) has been confirmed at the first stage of appeal in favour of revenue or subsequently and further appeal of assessee is pending.

2.Cases pertaining to survey under section 133A of the Income-tax Act, 1961 (power of survey)

- Cases pertaining to survey under section 133A of the Income-tax Act, 1961 (Act) excluding those cases where books of accounts, documents etc.,were not impounded and returned income (excluding any disclosure made during the Survey) is not less than returned income of preceding assessment year. However, where assessee has withdrawn from disclosure made during the survey, such cases will not be covered by this exclusion.

3.Assessments in Search and Seizure cases

- Assessments in Search and Seizure cases to be made under Section(s) 153 A, 153 C, 158 B, 158BC & 158BD read with section 143(3) of the Act and also for return filed for assessment year relevant to previous year in which authorization for Search and Seizure was executed under section 132 or 132A of the Act.

4.Returns filed in response to Notice u/s 148 of the Act.

- The issue of a notice under section 148 of the Income tax Act, calling upon the Taxpayer to file a return of income for the year specified in the notice is the starting point of the Re-assessment proceedings.

5.Cases where registration/approval under various sections of the Act such as 12A, 35(1)(ii)/(iii), 10(23C) etc have not been granted or have been cancelled

- Cases where registration/approval under various sections of the Act such as 12A, 35(1)(ii)/(iii), 10(23C) etc have not been granted or have been cancelled/withdrawn by the Competent Authority, yet the assessees have been found to be claiming the exemption/deduction in the return.
- However, where such orders of withdrawal of registration/approval have been reversed/set-aside in appellate proceedings, those cases will not be selected under this clause.

6.Cases in respect of which information pointing out specific tax - evasion for the relevant year is given by any Government Department

- Cases in respect of which information pointing out specific tax - evasion for the relevant year is given by any Government Department/ Authority/ Agency/ Regulatory body.
- However, before selecting a return for scrutiny under this criterion, the Assessing Officer shall take prior administrative approval from concerned jurisdictional Pr CIT/Pr.DIT/CIT/DIT.

- Deeksha Namburi

## Update 86
## Understanding about Employee Stock Options Plan (ESOPs)

**Understanding about Employee Stock Options Plan (ESOPS):**
Almost all of you must have heard the stories of many drivers, office assistants and secretaries of Infosys becoming millionaire. This all could become possible due to a system of making such stake holders as stock holder of the company by granting them what is generally known as **ESOP (Employee Stock Options Plan)**. In this update, I intend to discuss various aspects related with ESOP.

**What is ESOP?**
ESOP is a system under which generally the employees are given a right to acquire shares of the company for which they are working. In some of the cases the foreign holding/subsidiary company also grants such options to the employees are granted some rights called as stock options to get shares of the company at free or at concessional rate, at a pre-determined price or the price to be determined on the prefixed method, as compared to the potential market rate.

**Why ESOPS are given?**
There are various reasons for which the employees are given such stock options. The phenomena of stock options is more prevalent in start up companies which cannot afford to pay huge salaries to its employees but is willing to share the future prosperity of the company. In such cases the employees are given the stock options as part of the compensation package. Moreover in some of the cases the employee is given such stock options which he can exercise in future date/s, in order to ensure long term commitment of the employee. So apartment from rewarding the employees with monetary gains, ESOP also help create a sense of belonging and ownership amongst the employees.

**Understanding Vesting date & Grant date:**
Under the ESOP Schemes the stock option is free when it is given to an employee. The terms and conditions on which employee can exercise his rights are spelt in the ESOP Scheme. The option given to the employee can be exercised after a certain lock in period, which is generally more than one year.

The right to exercise the option may get vested in the employee in the next future date/s. the dates on which the employee becomes entitled to exercise the right to acquire the shares is called as "Vesting date". The rights may vest fully or partially over the vesting period.

For example an employee is given 1000 options on 31st March, 2017 which can be exercised in phases like 20% on completion of one year, 30% on completion of second year and the balance on completion of third year from the date of such grant. So in the instant case the vesting dates for 200 options is 1st April, 2018, for 300 Shares it is 31st March 2019 and for balance 500 Shares it is 31st March 2010. The plan may stipulate same or different grant price or exercise price for such vesting. The grant price or the price at which the employee can buy the share from the company are generally fixed and is generally substantially lower than the prevailing market price of the shares in case the shares are listed.

Since the employee is given just an option without any obligation attached to it, it is not mandatory for the employee to exercise the option. The employee may decide to exercise the option or may decide to let the option lapse in case the prevailing price of the shares is lower than the exercise price. The employee is given a time period during which he has exercise the option failing which the vested rights may lapse. The date on which the employees exercise his option to buy the shares is known as 'Exercise Date'.

There are no cash outflow or taxation implications when the options are granted as well as when the options are vested in the employee.

**When to exercise option?**

It is not necessary for an employee to exercise the option once it vests with him. The employee can exercise the right within stipulated time period. When the employee should exercise the options is very important question from financial and taxation angle as well. Once the employee exercises the option, he has to pay for the shares at the price predetermined and thus causing cash outflow. In case the shares are not listed on stock exchange, the same cannot be liquidated and thus the money get locked till the shares get listed or the promotes offer you an exit option. Moreover there is taxation implication if you delay your exercise date because the holding period for capital gain purpose will start from the exercise date. So the decision has to be taken after having considered cash flow and taxation implications of such decision.

**The tax implications when exercising the option:**

The taxation of ESOP has a typical structure. It is taxed in two stages. First stage is when the employee exercises the option to buy the shares at the exercise price. The second stage is when the shares are in ultimately sold.

First Stage

As and when the options under the ESOPS are exercised, the difference between the exercise price and the value of the security is treated as perquisite in the hand of the employee. The employer is required to deduct tax at source on the employee exercising the option, treating the same as perquisite. The value of the shares allotted to the employee shall be the average of market price (average of highest and lowest) on the date the option is exercised in case the shares are listed on any stock exchange in India. In case the shares are not listed the fair market value of the same shall be as per the valuation certificate obtained from merchant banker. The certificate of valuation of shares should not be older than 180 days from the date of exercise of the option. Even if the shares are listed outside India, the company will have to obtain the certificate from Merchant banker as such shares treated as unlisted shares for ESOP purposes.

The tax implication when the shares acquired under ESOP are disposed off.

Now let us understand the second leg of the taxation of the ESOP shares i.e., when the employee actually sells the shares. The incidence of sale will attract capital gains tax. The gains can be either long term or short term depending on the period for which the employee has held the shares. The holding period requirement is different for listed shares as well as for unlisted shares. The listed shares shall become long term if held for more than one year. For unlisted shares the same shall become long term after 2 years.

**Taxation of Foreign ESOPs**

In case the ESOP are granted by Foreign Companies to Indian resident, the same would be taxable in India. Moreover the taxation provisions of the country of the company which grants the option as well the country of the company which grants the options as well the double taxation avoidance agreement shall have to be looked into for understanding the exact tax implication. Moreover the exemption of long term capital gains U/s 10(38) or concessional rate of 15% tax on short term capital gain in respect of such shares would not be available as these shares would not be sold on Indian stock exchanges as these are not likely to be listed in India.

- Manoj Kulkarni

## Update 87
## Amendment in sec 129(3) of the Companies Act 2013

While preparing the consolidated financial statements, the main concern was whether to include associate companies or not ?

**Before Amendment of the Act,**

Where a company has one or more subsidiaries, it shall, in addition to financial statements provided under subsection (2), prepare a consolidated financial statement of the company and **of all the subsidiaries**,in the same form and manner as that of its own which shall also be laid before the annual general meeting of the company along with the laying of its financial statement.

Amendment in sec 129(3) of the Companies Act 2013 as follows.

**As per Companies (Amendment) Act, 2017**

"Where a company has one or more subsidiaries or associate companies, it shall, in addition to financial statements provided under sub-section (2), prepare a consolidated financial statement of the company and **of all the subsidiaries and associate companies** in the same form and manner as that of its own and in accordance with applicable accounting standards, which shall also be laid before the annual general meeting of the company along with the laying of its financial statements.

**Explanation**

After the amendment, the concern gets addressed as the term associate companies is inserted in addition to the subsidiaries.
The consolidated financial statement of the company, its subsidiaries and associates should be in accordance with the applicable accounting standards and be laid before the Annual General Meeting.

- Rakesh K

## Update 88
## Expense capitalization

Here is a case law on capitilisation of expenses!
**DCIT vs M/s. Orient Ceramics & Inds. Ltd., ITA 1302 & 4459/Del/2009,**

Brief facts of the case are that the assessee company is engaged in the manufacturing of glazed white, colored and decorate ceramic wall/floor tiles at Sikandrabad, District Bulandshahr, UP. The company imported certain plant and machinery without payment of customs duty during the financial year 2001-02. Subsequently, during the impugned year, a dispute arose between the Customs department & the assessee and a show cause notice was issued for an amount of Rs.4,25,34,027/-
In the assessee's books, the assessee treated the said payment of customs duty as an advance payment and by way notes to account in the annual report, the same was disclosed as a contingent liability.
For computation of total income, the assessee capitalized the amount of Rs.4,25,34,027/- to plant and machinery and accordingly claimed depreciation under section 32, the depreciation amounted to Rs.98,38,748.The assessee contended that it paid the full amount of Customs duty of Rs.4,25,34,027/- and then filed an appeal against the demand. The company contends that it has capitalized all the expenses incurred to bring the asset into its present location & condition and accordingly claimed depreciation for the same.
The assessee also raised an alternate claim for allowance of the said payment as revenue expenditure under section 43B(a) of the act being the payment made on actual payment basis.
The AO not being satisfied with the claim of the assessee to capitalize the expense, observed that the payment of customs duty was not in connection with the acquiring of capital assets and therefore the same shall be considered as capital expenditure and requires to be capitalized but the capitalization of expenditure shall be allowed when the assessee would incur the liability to pay such amount.
In the present case, the assessee did not accept the liability for payment of such amount and has filed an appeal against the Customs authorities and the payment has been shown as an advance payment and treated as a contingent liability.
The AO also rejected the alternate claim of the assessee for allowing the custom payment as revenue expenditure under section 37 read with section 43B of the Act since expenditure was related to bringing an asset into existence and therefore, the same cannot be allowed as revenue expenditure.
The obligation to pay the excise duty arose during the impugned year and therefore, the liability to pay the amount had accrued to the assessee during the year itself and the said liability cannot be said to be contingent and cannot be said to be an advance payment. The order of the learned CIT(A) is a reasoned order, who has rightly accepted the contention and explanation of the assessee and has rightly allowed the claim of the assessee for capitalization of the payment of Excise duty amounting to Rs.4,25,34,027/- and has rightly directed the Assessing Officer to allow the depreciation on the said amount. We find no infirmity in the order of the learned CIT(A). Thus ground No.1 of the revenue is dismissed.
The queries relating to the timing of depreciation (i.e. deemed allowability of depreciation), amount of depreciation and disclosure of the same is litigatable.

- Srinidhi P Kumar

## Update 89
## Sarbanes-Oxley Act

**An insight on Sarbanes-Oxley Act**

Imagine a scenario where shareholders are losing huge money in stocks. There will be a catastrophic financial shake down that affects the economy of not only that country but also other countries because of Globalization. Some of the companies that enormously affected economies were Satyam, Enron, WorldCom, Mitsubishi Motors etc.

You must have heard about the corporate scandals that left the whole world with a shock at the beginning of the 21st century. The major scandals involved Enron Corp (considered one of the most innovative and successful companies in the United States in the early 21st century), telecommunication giant WorldCom, Global Crossing and Tyco International, to name a few. All these scandals created a sense of panic among the stakeholders which left a huge question mark on the reliability of public companies' financial reporting and audit firms on the quality of their work.

**Introduction of Sarbanes-Oxley Act**

This Act was introduced by the lawmakers to protect the interest of shareholders, employees and the public from accounting errors and fraudulent financial practices.

Sarbanes-Oxley Act, famously known as SOX is all about Corporate Governance and Financial Disclosure. SOX requires all financial reports to include an Internal Controls Report. This shows that a company's financial data is accurate and adequate controls are in place to safeguard financial data. Year-end financial disclosure reports are also a requirement. A SOX auditor is required to review controls, policies, and procedures during audit.

**SOX – Important provisions to be noted**

The Sarbanes-Oxley Act is arranged into 11 sections, or titles. Two sections to particularly note are Section 302 and Section 404.

**Sec 302***:* It pertains to "Corporate Responsibility for Financial Reports". The CEOs and CFOs must review all the financial reports and such reports are fairly presented and doesn't contain any misrepresentations. This section also throws light on responsibility of CEOs and CFOs for Internal Accounting Controls.

**Sec 404***:* It deals with "Management Assessment of Internal Controls" and requires companies to publish details about their internal accounting controls and their procedures for financial reporting as part of their annual financial reports(reference for Berkshire Hathaway has been attached). Section 404 requires corporate executives to personally certify the accuracy of their company's financial statements and makes them individually liable if the SEC(Securities Exchange Commission) finds violations.

**Impact on Auditing and Audit firms***:* Amongst many requirements, SOX requires independent auditors to review the companies' accountingpractices. It also created rules for details on the non-auditing services that a company's auditors can not perform during audits (similar to Sec. 144 of Companies Act, 2013). It also created the Public Company Accounting Oversight Board (just like National Financial Reporting Authority in India) that set standards and rules for audit reports. All accounting firms that audit public companies are required to be registered under the Board. The board further investigates and enforces compliance on the registered accounting firms.
(Quick Note: In India, there is a proposal that audit firms of listed entities to register with NFRA)

**Application of SOX**

Before starting the SOX audit, the auditor needs to identify the organization's business cycle and materiality. These series of steps help to perform a SOXaudit:

1. Identify significant accounts – start with financial statements and identify material accounts related to the cycle under review.
2. Identify the high-level business processes that are relevant for the cycle and define the sub-processes that fall under each process.
3. For each process, identify the control objectives and relevant financial statement assertions.
4. Meet with subject matter experts to document process flows and controls. Perform a walk through to validate your understanding of the processes and ensure controls are in place.
5. Identify control activities that meet the control objectives. Identify which of these controls are key controls – those that reduce the risk associated with a given process to an acceptable level.
6. Management provides its assertion about the adequacy of the controls through the testing of identified control activities. The external auditor performs an attestation on the controls and provides an opinion on management's assessment process.

**Reception**

Although the introduction of SOX protected the stakeholders' interest to bring their confidence back, many executives thought it is an unfair burden to the company due to the negligent acts of a few. They also felt it would hinder the competition and business growth as it proves to be taking lot of executive time with a huge cost burden for the company to comply with the Act.

On the other hand, some of the business leaders think that it helps in better financial practices which is what the stakeholders expects from a company. All this long it has been proved that the Act has helped the business to enhance the internal controls, standardizing the processes, improving documentation so that there is minimal room for frauds and errors. Studies have revealed that SOX increased investor's confidence.

- Sri Ganesh N R

## Update 90
## Insight on Khatha

**What is a Khatha?**

Khatha is essentially a revenue document, detailing the assessment of a property, recording details about the property such as size, location, person who is primarily liable to and so on for the purpose of payment of property tax.

It is one of the required documents in case you require a building license, trade license or loan from banks or any other financial institutions.

It is issued by Bruhat Bengaluru Mahanagara Palike (BBMP), the municipal corporation of Bengaluru, to properties that fall under its jurisdiction. But having a khatha does not confer ownership of the property on the individual in whose name the khatha is registered.

**How did 'A Khatha' and 'B Khatha' come into existence?**

Well in 2007, when BBMP came into being, 2 things were apparent:
1) There were many properties that fell under its jurisdiction that were illegal constructions
2) There was a need for a uniform taxation policy

Regarding the former, BBMP found that these illegal constructions were enjoying civic amenities without paying taxes. While regarding the latter, there was a need to consolidate the tax collection process to make it simpler which was earlier collected by 3 different bodies.

Now, the newly formed BBMP had the power to levy taxes on the aforementioned illegal constructions. The taxes collected from these properties were recorded in a register known in common parlance as B register and the khatha issued therein was known as a B khatha.

**A glimpse of A Khatha and B Khatha:**

**A-Khatha:**

An 'A' khatha document certifies that the relevant property taxes have been duly paid by the property owner to the BBMP. It also denotes that the property conforms to all building bylaws and government regulations regarding properties in Bengaluru.
The possession of A khatha document enables property owners to apply for building licenses, trade licenses, building plan approvals, and avail bank loans on the property. An A khatha certificate is also required if the owner wants to get involved in any kind of financial transaction involving the property.

**B-Khatha:**

'B khatha' document indicates that the property is illegal or semi-legal or is in violation of government regulations regarding properties in Bengaluru, even when the civic charges for the property have been cleared by the owner. BBMP holds the right to collect taxes from buildings constructed illegally, including buildings constructed in violation of bylaws, constructions carried out on revenue land, properties built on unauthorized layouts, buildings without completion or issuance certificates, etc. Such properties are listed by BBMP under the B khatha.

Having a B khatha document bars a property owner from applying for licenses from the government. An owner of a property having a B khatha document also cannot apply for loans on the property from the banks. But having a B khatha document does not prevent the property from being sold or bought by people.

**Advantages of owning an A Khatha property:**

'A khatha' property enables the owner to carry out construction on the site. The owner can opt for any commercial or domestic construction. The A khatha certificate can also be used to avail bank loans or loans from other financial organizations. Since A khatha is recognized as a valid document, property owners can easily make transactions such as resell or transfer ownership of the property.

**Differences between A Khatha and B Khatha properties:**

The following are some of the differences between an 'A' Khatha and a 'B' Khatha that should be known by any person who is willing to buy or sell a property:

- The A Khatha property holders can easily apply for water, electricity connections etc., whereas the B Khatha property holders cannot do the same.
- The bank can grant a loan only to the holders of A Khatha properties and not to the holders of B Khatha properties.
- Trade licenses are given only to A Khatha property holders whereas B Khatha property holders are deprived of this privilege.
- The 'A Khatha' properties are markedly reserved by the government and other bodies for certain amenities that cannot be enjoyed by the B Khatha property holders.
- Although, the B Khatha property holders pay their taxes on an equal level and amount as the A Khatha property holders, B Khatha still is considered a documentation of illegal properties and hence can claim no legal rights whatsoever.

**How to convert B Khatha to A Khatha?**

B khatha properties that have very little deviation from the accepted building laws and regulations can be converted to A khatha. The owner of a B khatha property can upgrade it to an A khatha by fulfilling certain criteria and following a few steps, such as:
**Step 1**: Convert the land from agricultural to non-agricultural use by applying for District Commissioner (DC) Conversion.
**Step 2**: Clear all property taxes due on the property till date as per the government norms.
**Step 3**: Obtain the khatha form from the BBMP office and fill in the details as required in the form.
**Step 4**: Gather all the required documents to be submitted along with the form.
**Step 5**: Pay BBMP Betterment Charges, which is the fee levied for converting from B khatha to A khatha and submit the filled-in form along with the tax receipts and the required documents to the Assistant Revenue Officer of the concerned area.
Generally, A khatha document is issued within a period of 4 to 6 weeks after the submission of the form and the relevant documents.

**Documents required for conversion of B Khatha to A Khatha:**

Property owners interested in converting their B khatha property to A khatha property must submit the following documents along with the form for conversion:

- Title deed
- Sale deed
- Copies of property tax receipts paid previously
- Order of conversion of the land from agricultural to non-agricultural use

- Proof of any improvement charges paid
- Occupancy certificate
- Blueprint showing the property's location
- Blueprint showing the property dimensions and other specifications of the property
- Khatha extract
- Any other document as required for the conversion.

Note: This is a mere insight on A Khatha and B Khatha. Also, there are many uncertainties regarding the exact classification of properties under the same.
Nevertheless, major differences have been compiled.

- Simran S Jain

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