

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

(SET UP BY AN ACT OF PARLIAMENT)

HYDERABAD BRANCH (SIRC)



E-NEWSLETTER JUNE 2025

TABLE OF CONTENTS

CHAIRMAN COMMUNIQUE

3

GLIMPSES - MAY EVENTS

• PEER REVIEW (WOMEN'S STUDY CIRCLE MEETING) OC & MCS VALEDICTORY SESSION	10
• MAJOR AMENDMENTS OF FINANCE BILL 2025	11
• COMMITTEE FOR MEMBERS IN PRACTICE (CMP)	12
• MSC VALEDICTORY SESSION	13
• CASH TRANSACTIONS & PENALTIES: UNDER-REPORTING, MIS REPORTING, AND OTHER PROVISIONS	14
• REVERSE CHARGE MECHANISM UNDER GST (GST SCM)	15
• ASSESSMENT & RIGHTS IN SEARCH & SEIZURE CASE	16
• TAXATION OF RESTRICTED STOCK UNITS (RSUS) FOR INDIVIDUALS	17
• REASSESSMENT & REVISION PROCEDURES - SECTIONS 148, 263 & 264	18
• BEYOND THE BALANCE SHEET	19
• SEMINAR ON TAXATION OF SALARIES COVERING ESOPS	20
• INTERNATIONAL TAXATION - DRAFT ASSESSMENT (SEC. 144C) & COMPOUNDING OF OFFENCES GUIDELINES	21
• FILING OF TDS RETURNS, FILING OF INCOME RETURNS	22
• SUCCESSION PLANNING: WILLS, HUFs, TRUSTS - PRACTICAL ISSUES & STRATEGIES	23
• FILING OF OTHER INCOME TAX FORMS AND REPORTS	24
• RERA - PRACTICES AND PROCEDURES- WORKSHOP	25
• LIMITATION UNDER IT ACT	26
• ITR-7 FILING: LATEST EXEMPTIONS & COMMON MISTAKES	27
• INCOME COMPUTATION AND DISCLOSURE STANDARDS (ICDS)	28
• TAXATION OF REAL ESTATE: SEC 50C, JDA - SEC 45(5A) & GST IMPLICATIONS	29

ARTICLES - KNOWLEDGE SHARING

• UNDERSTANDING P.O.E.M FOR UAE-BASED ENTITIES UNDER INDIAN TAX LAW	30
• RELAXATIONS/ EXEMPTIONS FROM ACCOUNTING STANDARDS IN FINANCIAL STATEMENTS OF NON-COMPANY ENTITIES	33
• HARNESSING THE SYNERGIES BETWEEN PSYCHOLOGY AND FORENSIC AUDITING USING ARTIFICIAL INTELLIGENCE	40
• ADDRESSING PROBLEMS ASSOCIATED WITH DEVELOPING AND MAINTAINING AN FAR (FIXED ASSET RECORD)	48
• SECTION 74A OF CGST ACT, 2017	53
• A PRACTICAL GUIDE ON COMPANY VALUATION UNDER VARIOUS VALUATION APPROACHES	60
• APPEALS, SURVEY, SEARCH & SEIZURE UNDER INCOME TAX ACT 1961	66
• CASE LAW SUMMARY - INDIRECT TAXATION - MAY '25	69

FROM THE CHAIRMAN



CA. A CHINNA SITA RAMI REDDY
CHAIRMAN

CHAIRMAN'S COMMUNIQUE

Dear Professional Colleagues,

I begin this communicate by recalling the profound words of Swami Vivekananda:

"The gift of knowledge is a far higher gift than that of food and clothes; it is even higher than giving life to a man, because the real life of man consists of knowledge."

As we return from the summer break, I trust you all have had the opportunity to spend valuable time with

your families, recharging with renewed energy. For our members in industry and corporate roles, this has also likely been a period of intense engagement - preparing for Audit Committee meetings, Board discussions, and Annual General Meetings.

Programmes Conducted – May 2025

A series of professional development programmes and workshops were successfully conducted during May 2025, aimed at enhancing the skills and knowledge of our esteemed members.

- Seminar on Networking Guidelines (Women's Study Circle)
- Seminar on Major Amendments of finance bill 2025 (New Direct Tax Study Circle 2025-2026)
- Seminar on Income Tax Act
- Seminar on Reverse Charge Mechanism under GST
- Assessment Procedure for Search & Seizure cases, Search & Seizure – "Rights and Duties"
- Seminar on Taxation of Restricted Stock Units in the hands of individuals
- Reassessment procedures and practices (148), Revisions - when and How - 263 & 264
- Beyond the Balance Sheet (Stories, strategies, and skills for the evolving CA)
- Seminar on Taxation of SALARIES Covering ESOPS
- International taxation - Draft Assessment u/s. 144C, Compounding of offences - related guidelines
- Filing of TDS Returns, Filing of Income Returns
- Succession Planning - Wills, HUFs & Private Trusts - Practical Issues and Effective, Succession Strategy
- Filing of Other Income Tax forms and Reports
- RERA - practices and procedures- workshop
- Limitation under IT Act
- Seminar on Unlocking ITC: A Section-wise Analysis of Eligibility and Restrictions under GST
- Income Computation and Disclosure Standards (ICDS)
- Seminar on Taxation of Real Estate Transactions 50C & JDA - 45(5A), GST ON JDA

FROM THE CHAIRMAN

World Environment Day – June 5, 2025

World Environment Day is observed globally as a reminder of our shared responsibility to nurture and protect our planet. It is an opportunity to rededicate ourselves to creating a cleaner, healthier, and sustainable environment.

In 2022, the campaign hosted by Sweden carried the theme: “Only One Earth”, emphasizing the need to “Live Sustainably in Harmony with Nature.” As professionals, let us commit to advocating and practicing eco-conscious behavior—whether through reducing pollution, promoting cleanliness, or spreading awareness in our circles. Let us breathe cleaner air and inspire others in the pursuit of a greener planet.

International Yoga Day – June 21, 2025

Recognizing the ancient wisdom and holistic health benefits of yoga, the Branch will be organizing a special International Yoga Day event on June 21st, led by a renowned yoga expert.

We encourage all members to join, along with their spouses and children. Remember—“Health is Wealth”—and yoga is one of the best practices for maintaining physical well-being and mental clarity in our often-hectic professional lives.

MSME Day – June 27, 2025

June 27th marks the United Nations MSME Day, observed globally since 2017. This year’s theme is: “Achieving the Sustainable Development Goals (SDGs) and an economy that is greener and fairer, requires resilient and flourishing MSMEs everywhere.”

Micro, Small, and Medium Enterprises (MSMEs) play a pivotal role in driving inclusive and sustainable economic growth in India. They also offer vast professional opportunities for our members.

In recognition of their importance, the Branch is organizing a dedicated MSME Awareness Programme on June 27th. We invite all members to actively participate and contribute to the discourse.

Eid al-Adha (Bakrid) – June 7, 2025

One of the most significant festivals in the Islamic calendar, Eid al-Adha commemorates Prophet Ibrahim's unwavering faith and devotion. It is a celebration of sacrifice, compassion, and unity. We extend warm wishes to all our members and their families who observe this sacred festival.

Professional Enlightenment and Continuing Education

June is set to be a programme-rich month, with several Continuing Education initiatives lined up for our members. These sessions will cover diverse professional topics aimed at enriching our knowledge and expanding our perspectives. Stay tuned for updates via our website and member circulars.

Let us continue to accumulate knowledge, stay physically and mentally healthy, and add value to our profession through learning, service, and dedication.

CA. Chinna Sita Rami Reddy A
Chairman
Hyderabad Branch of SIRC of ICAI

MEET THE TEAM!

MANAGING COMMITTEE (2025-26) OF HYDERABAD (SIRC)



CA. A Chinna Sita Rami Reddy
(Chairman)



CA. Girdhari Lal Toshniwal
(Vice- Chairman)



CA. Rama Rao Karumanchi
(Secretary)



CA. S N Harshavardhan Reddy
(Treasurer)



CA. Mukkara Sai Charan Reddy
(Chairman - SICASA)



CA. Gonugunta Murali
(Co-Chairman - SICASA)



CA. Uppalapati Saran Kumar
(Committee Member)



CA. Shailesh Khandelwal
(Committee Member)



CA. Kumar Pal Tated
(Committee Member)

EX- OFFICIO COUNCIL MEMBERS (2025-26)



CA. Dayaniwas Sharma
(Central Council Member)



CA. Muppala Sridhar
(Central Council Member)



CA. Bhanu Narayan Rao Y V
(Treasurer - SIRC)



CA. Chengal Reddy R
(Member - SIRC)



CA. Deepak Ladda
(Member - SIRC)



CA. Mandava Sunil Kumar
(Member - SIRC)



CA. Yarra Tirupathaiah
(Member - SIRC)

SUB - COMMITTEES

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CA. Shailesh Khandelwal
CA. A Chinna Sita Rami Reddy
CA. Seelam Naga Harshavardhan Reddy
CA. Gonugunta Murali
CA. Srikanth Bhakkad
CA. Manu Sharma

Chairman
Member Ex-Officio
Member
Member
Member Co-opted
Member Co-opted

HYDERABAD (SIRC)

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CA. Seelam Naga Harshavardhan Reddy
CA. Gonugunta Murali
CA. Akshaye Surana
CA. Komal Chhajed

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Member Ex-Officio
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Member
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CPE COMMITTEE

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NEWSLETTER COMMITTEE

CA. Shailesh Khandelwal
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Member Ex-Officio

INFORMATION TECHNOLOGY (IT) COMMITTEE

CA. Uppalapati Saran Kumar
CA. A Chinna Sita Rami Reddy

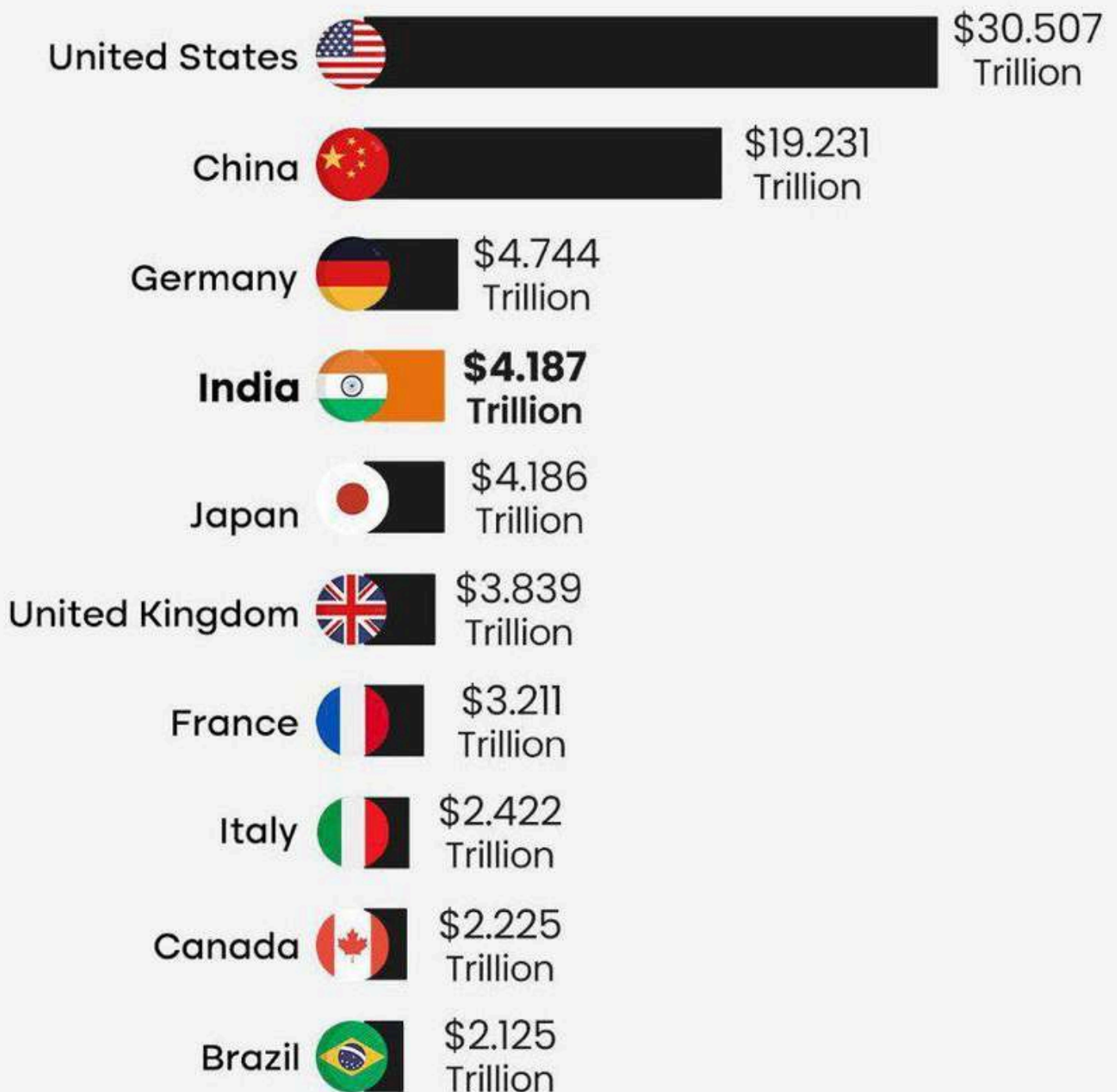
Chairman
Member Ex-Officio

LIBRARY COMMITTEE

CA. Rama Rao Karumanchi
CA. A Chinna Sita Rami Reddy

Chairman
Member Ex-Officio

India Powers Past Japan – 4th Largest Economy in the World!



Source: IMF's World Economic Outlook (April, 2025)

CERTIFICATE COURSE ON UAE CORPORATE TAX @ COE, HYDERABAD

COMMENCING ON JUNE 12TH



The Institute of
Chartered Accountants of India
(Set up by an Act of Parliament)



Organised by: Committee on International Taxation of ICAI

Certificate Course on UAE Corporate Tax- 4th Physical Batch in India (CoE-Hyd)

Hosted by:
CoE-Hyderabad of ICAI

Rs 15000
plus
18% GST

Dates
12th to 29th
June, 2025

12,13,14,15,19,20,
21,22,27,28 &
29 June, 2025

Timings
10.00 AM
to
05.30 PM

Total **30** CPE hours

*Dates are tentative and subject to change as per circumstances

Venue: Centre of Excellence, ICAI Bhawan

Plot No.10 & 11, Financial District, Gachibowli, Hyderabad



CA. Charanjot Singh
Nanda
President, ICAI



CA. Prasanna
Kumar D
Vice-President, ICAI



CA. Sanjay Kumar
Agarwal
Chairman, CITAX



CA. Chandrashekhar
Vasant Chitale
Vice-Chairman, CITAX



CA. Sridhar
Muppala
CCM & Course Director

Objective and Features:

The Course aims to facilitate the members in Industry as well in practice by providing updated knowledge in the area of UAE Corporate Tax in a systematic manner.

25 CPE Hours
on completion
of training
with necessary
attendance

5 CPE Hours
shall be granted
only after
passing the
assessment
test

Expert
faculties with
rich experience

Multiple choice
questions for
each day of
lecture

Background
material
is provided

Course Coverage:

01

Taxable Income
and Tax &
Expense
deduction (UAE
CT)

02

Taxable
Persons and
Person's Not
Covered by
UAE CT

03

Double
Taxation &
Residential
Status, Relief
from Double
Taxation

04

PE & POEM,
Taxation of
Partnerships

05

Thin-
Capitalization
Norms &
Taxation of
FZP

06

Offset of tax
losses &
Group
taxation

07

Corporate
Reorganizations
&
Administration

08

Overview of
Articles of
OECD MC
(Articles- 6, 11,
12, & 13)

09

Overview of
TP, Selection
of TP Methods,
Documentation
and Drafting

10

Comparability
Analysis

11

Overview of
BEPS, BEPS
Action Plans
8-10

12

Dealing with
Controversies,
Potential
challenges in
UAE CT and
TP, MAP
and APA

Note: Registration of members will be
done on first-come-first-served basis

Note: Cancellation charges i.e. 10% of gross fee paid, will be applicable in case
the cancellation request is placed by the participant before starting of batch. No
fee will be refunded after the commencement of the batch.

For more details please mail at citax@icai.in or call at 0120-3045923/9515378026

Payment Link



<https://learning.icai.org/committee/citax-ccuae-phy-coe-hyd4th/>



The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)



Organized by: **Committee on MSME & Startup, ICAI**

Hosted by: **WIRC of ICAI**



ICAI MSME & STARTUP CONCLAVE 2025



26-27
JUNE 2025



HOTEL SAHARA STAR
MUMBAI

12 CPE HOURS

MSME FATHOM
Operations
Accounting
Finance
Marketing
Tech Support
Human Resource



REGISTER NOW



<https://tinyurl.com/MSME-FATHOM>

- ✓ Knowledge Dissemination
- ✓ Startup Pitching
- ✓ Real time handholding

- ✓ Grievance Redressal
- ✓ Exhibition Opportunity
- ✓ Free Helpdesks

INTERNATIONAL MSME DAY 2025 27TH JUNE

ICAI MSME MAHOTSAV 2025

एक दिन MSME के नाम - CAs MSME की सेवा में!

Also organising ICAI MSME Mahotsav 2025 - Celebration across ICAI Branches

Visit your nearest ICAI branch to explore mutually rewarding MSME-CA partnership!

Walk-in
Support &
Advisory

HelpDesks
by
SIDBI, NSIC,
CAs, DIC,
Banks

Govt
Schemes &
Subsidies

Free
Udyam
Registration

Free
Consultation
by CAs

Program Goals:

- ✓ Connect with 1,00,000+ MSMEs
- ✓ Empower MSMEs with Insights, Resources & Expert Advice
- ✓ Strengthen CA-MSME partnership
- ✓ Reinforce ICAI as pillar of MSME growth

For any query, contact us at: ✉ msconclave@icai.in | msme@icai.in ☎ 011-30110569



PEER REVIEW (WOMEN'S STUDY CIRCLE MEETING)



RESOURCE PERSONS: CA. MANISHA DUBEY, CA. ANKITHA SONI



MAJOR AMENDMENTS OF FINANCE BILL 2025 EFFECTIVE FROM 1ST APRIL, 2025 (DIRECT TAX STUDY CIRCLE MEETING)



RESOURCE PERSON: CA. DEEPAK LADDA, MEMBER SIRC



COMMITTEE FOR MEMBERS IN PRACTICE (CMP)



**RESOURCE PERSON: CA. MADHUKAR NARAYAN HIREGANGE,
CHAIRMAN COMMITTEE FOR MEMBERS IN PRACTICE (CMP)**

➤➤➤ MCS VALEDICTORY SESSION ➤➤➤



The MCS Valedictory Session was a joyful end to an important journey for CA students. It included inspiring talks, sharing of experiences, and certificate distribution. Students expressed how the course helped improve their confidence, communication, and teamwork skills. The session ended with smiles, group photos, and lasting memories.



CASH TRANSACTIONS - PROVISIONS AND PENALTIES, PENALTIES FOR UNDER REPORTING & MIS REPORTING AND - OTHER PENALTIES



RESOURCE PERSONS: CA. MADHUSUDHAN AGARWAL, CA. KUMAR PAL TATED

REVERSE CHARGE MECHANISM UNDER GST (GST SCM) & MIS REPORTING AND - OTHER PENALTIES



RESOURCE PERSON: CA SANCHIT MODI



ASSESSMENT PROCEDURE FOR SEARCH & SEIZURE CASES, SEARCH & SEIZURE - "RIGHTS AND DUTIES" PROVISIONS AND PENALTIES, PENALTIES FOR UNDER REPORTING & MIS REPORTING AND - OTHER PENALTIES



RESOURCE PERSONS: CA. HARI AGARWAL, SHRI. MOHAN KUMAR



TAXATION OF RESTRICTED STOCK UNITS IN THE HANDS OF



RESOURCE PERSON: CA. PANKAJ KUMAR TRIVEDI

REASSESSMENT PROCEDURES AND PRACTICES (148), REVISIONS - WHEN AND HOW - 263 & 264



RESOURCE PERSONS: CA. LAXMIKANTH RATHI, CA. SRINARAYAN TOSHNIWAL

BEYOND THE BALANCE SHEET (STORIES, STRATEGIES, AND SKILLS FOR THE EVOLVING CA) >>>



RESOURCE PERSONS: CA. BOSU KANCHARLA, CA. NISHANT GUPTA AND CA. PRANEETH NARAHARI



SEMINAR ON TAXATION OF SALARIES COVERING ESOPS



RESOURCE PERSON: CA. PANKAJ KUMAR TRIVEDI



INTERNATIONAL TAXATION - DRAFT ASSESSMENT U/S. 144C, COMPOUNDING OF OFFENCES - RELATED GUIDELINES



RESOURCE PERSONS: CA. ARUN RAJPUT, CA. KUMAR PAL TATED



FILING OF TDS RETURNS, FILING OF INCOME RETURNS



RESOURCE PERSONS: CA. RITESH MITTAL, CA. MOHIT BANG



SUCCESSION PLANNING - WILLS, HUF & PRIVATE TRUSTS - PRACTICAL ISSUES AND EFFECTIVE, SUCCESSION STRATEGY



RESOURCE PERSON: CA. ABHISHEK MURALI

➤➤➤ FILING OF OTHER INCOME TAX FORMS AND REPORTS ➤➤➤



RESOURCE PERSON: CA. RAJENDRA PRASAD TALLURI

➤➤➤ RERA - PRACTICES AND PROCEDURES- WORKSHOP ➤➤➤



RESOURCE PERSON: CA. SIVANAVEEN KUNISETTY



LIMITATION UNDER IT ACT



RESOURCE PERSON: CA. RAJESH CONDOOR

EXEMPTIONS - LATEST AMENDMENTS AND COMMON MISTAKES IN FILING ITR-7



RESOURCE PERSONS: SRI THORAT SURAJ RAOSAHEB, IRS, DEPUTY COMMISSIONER OF INCOME TAX (EXEMPTIONS) SRI V.S. MURTY, INCOME TAX OFFICER (EXEMPTIONS)

INCOME COMPUTATION AND DISCLOSURE STANDARDS (ICDS)



RESOURCE PERSON: CA. K. LEELA KRISHNA MOHAN



SEMINAR ON TAXATION OF REAL ESTATE TRANSACTIONS 50C & JDA - 45(5A), GST ON JDA



RESOURCE PERSONS: CA. BHANU NARAYAN Y V, CA. HITESH JAIN



CA SHAILESH KHANDELWAL

UNDERSTANDING P.O.E.M FOR UAE-BASED ENTITIES UNDER INDIAN TAX LAW

Introduction

In the era of globalization, many Indian promoters and businesses are incorporating entities in foreign jurisdictions, particularly in tax-friendly locations like the United Arab Emirates (UAE). However, the Indian Income Tax Department closely monitors whether these foreign entities are genuinely managed from outside India or merely incorporated abroad for tax avoidance purposes.

The concept of "Place of Effective Management" (POEM) was introduced in Indian tax law to assess the true control and management location of a foreign company. If POEM is determined to be in India, the foreign company will be considered a resident and taxed on its global income in India.

This article demystifies the POEM provisions with special focus on UAE-based companies, integrates the critical turnover threshold of Rs. 50 crore.

POEM: Definition and Legal Background

As per Explanation to Section 6(3) of the Income Tax Act, 1961:

"Place of Effective Management" means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

The CBDT issued detailed guidelines via Circular No. 6/2017 and Circular No. 8/2017 to operationalize POEM, providing a two-step test for determining the location of effective management.

Applicability Threshold: Turnover Limit of Rs. 50 Crore

As per CBDT Circular No. 8/2017:

POEM provisions shall not apply to a foreign company having total turnover or gross receipts of Rs. 50 crore or less in a financial year.

Implication: Even if a company is controlled from India, if its turnover is Rs. 50 crore or less, POEM provisions do not apply, and it is not treated as an Indian tax resident.

The Two-Step POEM Determination Test

Step 1: Is the company engaged in Active Business Outside India (ABOI)?

To qualify as ABOI, all the following conditions must be met:

- Passive income (e.g., interest, dividends, royalty, rent) is not more than 50% of total income.
- Less than 50% of total assets are located in India.
- Less than 50% of total employees and payroll expenses are in India.

Step 2: Determine the place where key management and commercial decisions are made

- If the company has ABOI and the board of directors is making decisions outside India: POEM is outside India.
- If the company lacks ABOI or key decisions are controlled from India, regardless of where the board meets: POEM is in India.

Example 1: Active Business | Turnover > Rs. 50 Crore | POEM Outside India

- XYZ LLC, UAE (Trading business)
- Turnover: Rs. 80 crore
- Board and staff in UAE; strategic decisions made locally
- Indian investor with 40% equity, no operational role

Conclusion: Company has ABOI and decisions are outside India. POEM is outside India. Non-resident.

Example 2: Passive Holding Company | Turnover < Rs. 50 Crore | POEM Not Applicable

- XYZ LLC, UAE (Passive income from Indian shares)
- Turnover: Rs. 20 crore
- No office or staff in UAE; Indian directors control everything

Conclusion: POEM technically in India. But turnover < Rs. 50 crore. POEM provisions not applicable. Non-resident.

Example 3: Fake Substance | Turnover > Rs. 50 Crore | POEM in India

- XYZ LLC, UAE (Advisory services)
- Turnover: Rs. 65 crore
- UAE office on paper only; Indian promoters control ops and decisions

Conclusion: No real substance in UAE. Decisions from India. POEM is in India. Resident.

Example 4: Real Business and Good Governance | Turnover > Rs. 50 Crore | POEM Outside India

- XYZ LLC, UAE (Food product exports)
- Turnover: Rs. 100 crore
- UAE directors and team manage business
- Indian shareholder passive

Conclusion: ABOI test passed. Effective decisions made in UAE. POEM is outside India. Non-resident.

Example 5: Indian-Controlled Shell | Turnover < Rs. 50 Crore | POEM Not Applicable

- XYZ LLC, UAE (Software services)
- Turnover: Rs. 40 crore
- No UAE office; operations and clients managed by Indian team

Conclusion: POEM would be in India, but turnover < Rs. 50 crore. POEM provisions not applicable. Non-resident.

Red Flags That May Trigger POEM in India

- Emails showing Indian promoters directing UAE board
- Board minutes signed abroad but drafted in India
- All financial and business decisions executed from India
- UAE director is a nominee, not active
- No real staff or contracts executed in UAE
- Strategic emails and IP logs originate from India

Best Practices to Avoid POEM Risk

- Hire real staff in UAE
- Maintain genuine commercial substance
- Ensure board meetings are meaningful and decisions are made abroad
- Avoid backdoor control by Indian promoters
- Keep documented trails to support UAE-based management

Example	Turnover	Substance	POEM Location	POEM Applicable?	Residential Status
1. Trading biz (UAE)	Rs. 80 Cr	Real UAE ops	Outside India	Yes	Non-resident
2. Holding co	Rs. 20 Cr	India-controlled	India	No	Non-resident
3. Fake setup	Rs. 65 Cr	No UAE ops	India	Yes	Resident
4. Export co	Rs. 100 Cr	Full UAE mgmt	Outside India	Yes	Non-resident
5. Shell co	Rs. 40 Cr	Indian ops	India	No	Non-resident

POEM is a powerful anti-abuse tool in Indian tax law and must be carefully considered when structuring foreign entities, especially in UAE where many Indian promoters operate.

While the Rs. 50 crore turnover exemption offers relief to small entities, companies crossing this threshold must demonstrate genuine overseas management and control to avoid Indian tax residency.

Professional documentation, real commercial substance, and operational autonomy from India are key to mitigating POEM risk.

Always consult a qualified tax advisor before structuring or operating a UAE entity with Indian links.



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shailesh@skauditors.com



CA ALKA ZANWAR

RELAXATIONS/ EXEMPTIONS FROM ACCOUNTING STANDARDS IN FINANCIAL STATEMENTS OF NON- COMPANY ENTITIES

Criteria for classification of Non-Company Entities:

For the purposes of applicability of Accounting Standards, Non-company entities are classified into two categories, viz., Micro, Small and Medium Sized Entities (MSMEs) and Large entities as per the revised criteria considered by the ICAI Council, at its 433rd meeting, held on August 13-15, 2024 which was announced on 08/11/2024.

Micro, Small and Medium Sized Entity (MSME) means a non-company entity:

- whose equity or debt securities are not listed or are not in the process of listing on any stock exchange, whether in India or outside India;
- which is not a bank, financial institution or an insurance company;
- whose turnover (excluding other income) does not exceed two hundred and fifty crore rupees in the immediately preceding accounting year;
- which does not have borrowings in excess of fifty crore rupees at any time during the immediately preceding accounting year; and
- which is not a holding or subsidiary of an entity which is not a micro, small and medium-sized entity.

Any non-company entity that is not a MSME is a Large Entity.

The terms Level II, Level III and Level IV entities used in Accounting Standards shall now be read as 'Micro, Small and medium-sized entities,' and Level I entity shall be read as a 'Large' entity.

MSME definition here as per ICAI may differ in some cases from the MSME definition as per the MSMED Act 2006.

As per the Guidance Note, the auditors are required to examine the compliance with the AS while discharging their attest function.

Applicability of Accounting Standards:

The revised scheme for applicability of

WHAT DEFINES A MSME FOR NON-CORPORATE ENTITIES?

- Not Listed on Stock Exchange
 - Not a Bank, FI, or Insurance Co.
 - Turnover \leq 250 Crore
 - Borrowings \leq 50 Crore
- Independent Entity



MSME



LARGE ENTITY

Large Entity:
Any Non-MSME Entity

Accounting Standards to Non-company entities shall come into effect in respect of accounting periods commencing on or after April 1, 2024, which is as under:

The Accounting Standards issued by the ICAI as on April 1, 2024 and such standards as issued from time to time, are applicable to Non-company entities subject to the relaxations and exemptions in the announcement.

Large Entities are required to comply with all the Accounting Standards.

For MSME non-company entities, the Accounting Standards are subject to the following relaxations and exemptions:

A) Complete exemptions are available to MSME for the following Accounting Standards:

1. AS 3 – Cash Flow Statements
2. AS 17 – Segment Reporting
3. AS 20 – Earnings per share
4. AS 24 – Discontinuing Operations
5. AS 18 – Related party disclosure – Not applicable if the Previous year turnover does not exceed rupees 50 Cr and borrowings are not in excess of 10 Cr
6. AS 28 – Impairment of Assets - Not applicable if the Previous year turnover does not exceed rupees 50 Cr and borrowings are not in excess of 10 Cr

B) Relaxations/exemptions from certain requirements available to MSME for the following accounting standards:



(i) AS 10–Property, Plant & Equipment Disclosure

MSMEs may not comply with Paragraph 87 relating to encouraged disclosures:

- The carrying amount of temporarily idle property, plant and equipment.
- The gross carrying amount of any fully depreciated property, plant and equipment that is still in use;
- For each revalued class of property, plant and equipment, the carrying amount that would have been recognized had the assets been carried under the cost model.
- The carrying amount of property, plant and equipment retired from active use and not held for disposal.

(ii) AS 11–The Effects of Changes in Foreign Exchange Rates

MSMEs may not comply with Paragraph 44 relating to encouraged disclosures of Objectives of Foreign Currency Risk Management Policy

To manage risks to the budgeted costs and revenues from the adverse impact of currency fluctuations

To reduce the Rupee Cost of the Company's foreign currency payables by selective hedging of exposures

To achieve results better than what would result from a passive, automatic 100% hedge policy

To reduce the cost of funding by raising foreign funds directly or through approved instruments

To reduce transaction costs and bank exchange margins.

(iii) AS 15–Employee Benefits

MSMEs may not comply with the following paragraphs:

Recognition, Measurement, Presentation & Disclosure Exemption

Para 11 to 16 Short-term accumulating compensated absences which are non-vesting (i.e., not entitled to cash payment for unused entitlement on leaving)

Para 46 & 139 Discounting of amounts that fall due more than 12 months from the balance sheet date

Para 50 to 123 and 129 to 131

Accounting for defined benefit plans and other long-term employee benefits. However, such entities shall follow the following:

- Provide for accrued liability
- May use other rational methods (e.g. a method based on the assumption that such benefits are payable to all employees at the end of accounting year) (actuarial determination of liability using the Projected Unit Credit Method is not mandated) to determine such liability.

(iv) AS 19–Leases

MSMEs may not comply with the following paragraphs:

1. Disclosures by Lessee for finance leases

Para 22 (c), (e) and (f):

(c) Reconciliation and period-wise classification of total of future MLPs and PVs:

a reconciliation between the total of minimum lease payments at the balance sheet date and their present value. In addition, an enterprise should disclose the total of minimum lease payments at the balance sheet date and their present value for each of the following periods:

- (i) not later than one year;
- (ii) later than one year and not later than five years;
- (iii) later than five years

(e) The total of future minimum sublease payments expected to be received under non-cancellable subleases at the balance sheet date

(f) General description of the terms of significant leasing arrangements, including but not limited to the following:

- (i) the basis on which contingent rent payments are determined;
- (ii) the existence and terms of renewal or purchase options and escalation clauses.
- (iii) restrictions imposed by lease arrangements, such as those concerning dividends, additional debt, and further leasing.

2. Disclosures by Lessee for operating leases

Para 25 (a), (b) and (e)

(a) Period-wise total of future MLPs expected to be received under non-cancellable leases: the total of future minimum lease payments under non-cancelable operating leases for each of the following periods:

- (i) not later than one year;
- (ii) later than one year and not later than five years;
- (iii) later than five years;

(b) the total of future minimum sublease payments expected to be received under non-cancellable subleases at the balance sheet date;

(e) a general description of the lessee's significant leasing arrangements including, but not limited to, the following:

- (i) the basis on which contingent rent payments are determined
- (ii) the existence and terms of renewal or purchase options and escalation clauses; and
- (iii) restrictions imposed by lease arrangements, such as those concerning dividends, additional debt, and further leasing.

3. Disclosures by Lessor for finance leases

Para 37 (a), (f) and (g)

(a) Reconciliation and period-wise classification of total gross investment in the lease and PV of MLPs:

a reconciliation between the total gross investment in the lease at the balance sheet date, and the present value of minimum lease payments receivable at the balance sheet date. In addition, an enterprise should disclose the total gross investment in the lease and the present value of minimum lease payments receivable at the balance sheet date for each of the following periods:

- (i) not later than one year;
- (ii) later than one year and not later than five years;
- (iii) later than five years

(f) a general description of the significant leasing arrangements of the lessor; and

(g) accounting policy adopted in respect of initial direct costs.

4. Para 38.

Exemption to also disclose the gross investment less unearned income in new business added during the accounting period, after deducting the relevant amounts for cancelled leases.

5. Disclosures by Lessor for Operating Leases

Para 46 (b), (d) and (e)

(b) Period-wise total of future MLPs expected to be received under non-cancellable leases: the future minimum lease payments under non-cancellable operating leases in the aggregate and for each of the following periods:

- (i) not later than one year;
- (ii) later than one year and not later than five years;
- (iii) later than five years;

(d) general description of the lessor's significant leasing arrangements; and

(e) accounting policy adopted in respect of initial direct costs.

(v) AS 22–Accounting for Taxes on Income

as defined in the **Para 4.4**

Current tax is the amount of income tax determined to be payable (recoverable) in respect of the taxable income (tax loss) for a period.

With recognition as per **Para 9**

Tax expense for the period, comprising current tax and deferred tax, should be included in the determination of the net profit or loss for the period.

Measurement as per **Para 20**

Current tax should be measured at the amount expected to be paid to (recovered from) the taxation authorities, using the applicable tax rates and tax laws.

Presentation and disclosure as per Para 27-28

27. An enterprise should offset assets and liabilities representing current tax if the enterprise:

(a) has a legally enforceable right to set off the recognized amounts; and

(b) intends to settle the asset and the liability on a net basis.

28. An enterprise will normally have a legally enforceable right to set off an asset and liability representing current tax when they relate to income taxes levied under the same governing taxation laws and the taxation laws permit the enterprise to make or receive a single net payment.

(b) Transitional Provision:

On the first occasion when an MSME avails this

exemption, the accumulated Deferred Tax asset/ liability appearing in the financial statements of immediate previous accounting period shall be adjusted against opening revenue reserves/ owner's funds.

(vi) AS 26–Intangible Assets

MSMEs may not comply with the following paragraphs:

Para 90(d)

The financial statements should disclose the following for each class of intangible assets, distinguishing between internally generated intangible assets and other intangible assets:

A reconciliation of the carrying amount at the beginning and end of the period showing:

(iii) impairment losses recognized in the statement of profit and loss during the period (if any)

(iv) impairment losses reversed in the statement of profit and loss during the period (if any)

(a) MSMEs shall comply with the following requirements of AS 22 for Current Tax only while the deferred tax is exempt

as defined in the **Para 4.4**

Current tax is the amount of income tax determined to be payable (recoverable) in respect of the taxable income (tax loss) for a period.

With recognition as per **Para 9**

Tax expense for the period, comprising current tax and deferred tax, should be included in the determination of the net profit or loss for the period.

Measurement as per **Para 20**

Current tax should be measured at the amount expected to be paid to (recovered from) the taxation authorities, using the applicable tax rates and tax laws.

Presentation and disclosure as per Para 27-28

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(a) has a legally enforceable right to set off the recognized amounts; and

(b) intends to settle the asset and the liability on a net basis.

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(b) Transitional Provision:

On the first occasion when an MSME avails this exemption, the accumulated Deferred Tax asset/ liability appearing in the financial statements of immediate previous accounting period shall be adjusted against opening revenue reserves/ owner's funds.

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A reconciliation of the carrying amount at the beginning and end of the period showing:

(iii) impairment losses recognized in the statement of profit and loss during the period (if any)

(iv) impairment losses reversed in the statement of profit and loss during the period (if any)

Para 98

An enterprise is encouraged, but not required, to give a description of any fully amortized intangible asset that is still in use.

(vii) AS 28—Impairment of Assets

(a) MSME is given the following Measurement Exemption-

Allowed to measure the 'value in use' on the basis of reasonable estimate thereof instead of computing the value in use by present value technique. Accordingly, the related paragraphs in AS 28 like discount rate etc. shall not be applicable.

Further, such an entity need not disclose the information required by paragraph 121(g) of the Standard.

(b) MSMEs may not disclose the following information:

Para 121

If an impairment loss for an individual asset or a cash-generating unit is recognized or reversed during the period and is material to the financial statements of the reporting enterprise as a whole, an enterprise should disclose:

(c) For an individual asset:

(ii) the reportable segment to which the asset belongs, based on the enterprise's primary format (as defined in AS 17, Segment Reporting)

(d) for a cash generating unit (CGU):

(i) Description of CGU

(ii) the amount of the impairment loss recognized or reversed by class of assets and by reportable segment

Para 123

An enterprise is encouraged to disclose key assumptions used to determine the recoverable amount of assets (cash-generating units) during the period.

(viii) AS 29—Provisions, Contingent Liabilities and Contingent Assets

MSMEs may not comply with the following paragraphs

Para 66

For each class of provision, an enterprise should disclose:

(a) the carrying amount at the beginning and end of the period;

(b) additional provisions made in the period, including increases to existing provisions;

(c) amounts used (i.e. incurred and charged against the provision) during the period; and

(d) unused amounts reversed during the period.

Para 67

An enterprise should disclose the following for each class of provision:

(a) a brief description of the nature of the obligation and the expected timing of any resulting outflows of economic benefits;

(b) an indication of the uncertainties about those outflows. Where necessary to provide adequate information, an enterprise should disclose the major assumptions made concerning future events, as addressed in paragraph 41; and

(c) the amount of any expected reimbursement, stating the amount of any asset that has been recognized for that expected reimbursement.

Additional Requirements:

- An MSME which avails the exemptions or relaxations to disclose with a note the fact that it is a MSME and that it has complied with the prescribed standards.
- Level upgrade to Large Entity—To forego exemptions/relaxations no more applicable from CY, need not revise PY comparative

- Level downgrade to MSME—Cannot claim new exemptions/relaxations for 2 consecutive years
- Foregoing exemptions/relaxations—The fact to be disclosed by way of a note, comply with relevant standards
- Partially foregoing exemptions/relaxations— should disclose the specific standards for which exemptions were taken and should not be misleading the financial statement users.
- In case MSME enters into any transaction in relation to amalgamation, jointly controlled operations and assets, interests in joint ventures, such entity shall have to apply the requirements of relevant standards AS 14, AS 27.
- In case Non-Company Entity's, though not required, but elects to prepare and present Consolidated Financial Statements for Subsidiaries, Associates or Joint Ventures and Interim Financial Statements, such entity shall have to apply the requirements of relevant standards such as AS 23, AS 27, AS 25.

This Guidance Note on Financial Statements of Non-Corporate Entities is relevant for the purpose of preparation of the financial statements of the above mentioned Non-Corporate Entities unless any formats/principles are specifically prescribed by the relevant Statute or Regulator or any Authority, e.g., formats have been prescribed for Trusts under Maharashtra Public Trust Rules, 1951, Autonomous Bodies under Government of India are required to compile their accounts in a uniform format of accounts as prescribed by Government of India, Ministry of Finance, Guidance has been specifically given by ICAI (e.g., Educational Institutions, Political Parties, NPOs, etc.). It may be

clarified that Limited Liability Partnerships (LLPs) form of entities are scoped out of this Guidance Note.

ACCOUNTING STANDARDS (AS): APPLICABILITY CHECKLIST		Non - Company Entities	
		Large	MSME
AS 1	Disclosure of Accounting Policies	Y	Y
AS 2	Valuation of Inventories	Y	Y
AS 3	Cash Flow Statements	Y	N
AS 4	Contingencies and Events Occurring After the Balance Sheet Date	Y	Y
AS 5	Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies	Y	Y
AS 6	Depreciation Accounting	N	N
AS 7	Construction Contracts	Y	Y
AS 8	Accounting for Research and Development	N	N
AS 9	Revenue Recognition	Y	Y
AS 10	Property, Plant and Equipment	Y	Partly
AS 11	The Effects of Changes in Foreign Exchange Rates	Y	Partly
AS 12	Accounting for Government Grants	Y	Y
AS 13	Accounting for Investments	Y	Y
AS 14	Accounting for Amalgamations	Y	N
AS 15	Employee Benefits	Y	Partly
AS 16	Borrowing Costs	Y	Y
AS 17	Segment Reporting	Y	N
AS 18	Related Party Disclosures	Y	N *
AS 19	Leases	Y	Partly
AS 20	Earnings Per Share	N	N
AS 21	Consolidated Financial Statements	Listed	N
AS 22	Accounting for Taxes on Income	Y	Partly
AS 23	Accounting for Investments in Associates in Consolidated Financial Statements	Listed	N
AS 24	Discontinuing Operations	Y	N
AS 25	Interim Financial Reporting	N	N
AS 26	Intangible Assets	Y	Partly
AS 27	Financial Reporting of Interests in Joint Ventures	Listed	N
AS 28	Impairment of Assets	Y	N *
AS 29	Provisions, Contingent Liabilities and Contingent Assets	Y	Partly

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CA BHAVANA MUPPARAPU

HARNESSING THE SYNERGIES BETWEEN PSYCHOLOGY AND FORENSIC AUDITING USING ARTIFICIAL INTELLIGENCE



Executive summary:

The convergence of psychology and forensic auditing forms a powerful alliance in detecting, understanding, and more importantly, preventing financial fraud. Forensic auditing uncovers financial misconduct through detailed examination of records and operations. Forensic psychology adds value by analysing the human behaviour, cognitive biases, and motivations that drive fraudulent actions, enabling not only detection but also prevention of fraud.

Psychological techniques such as behaviour profiling, deception detection through micro-expressions and speech analysis, cognitive bias assessment, and evaluation of risk-taking and accountability avoidance help forensic auditors identify fraudulent patterns early. This interdisciplinary approach sharpens investigators' ability to predict and deter financial crimes by understanding the perpetrators' mindset.

enhances these capabilities by automating the analysis of vast financial datasets, behavioural monitoring, and suspicious communication detection using machine learning and natural language processing. AI-driven predictive models integrate psychological insights to flag potential fraud risks proactively and support robust decision-making. Technologies like robotic process automation and computer vision further streamline audits and document verification, increasing accuracy and efficiency.

Successful cases such as Satyam, Enron, and Bernie Madoff highlight how combining forensic auditing with psychological analysis reveals crucial behavioural red flags and motivations behind white-collar crimes. Looking forward, advanced AI applications—including neuroscience insights, VR/AR simulations, and behavioural economics—promise to revolutionize corporate fraud prevention and legal strategies.

Artificial Intelligence (AI) exponentially

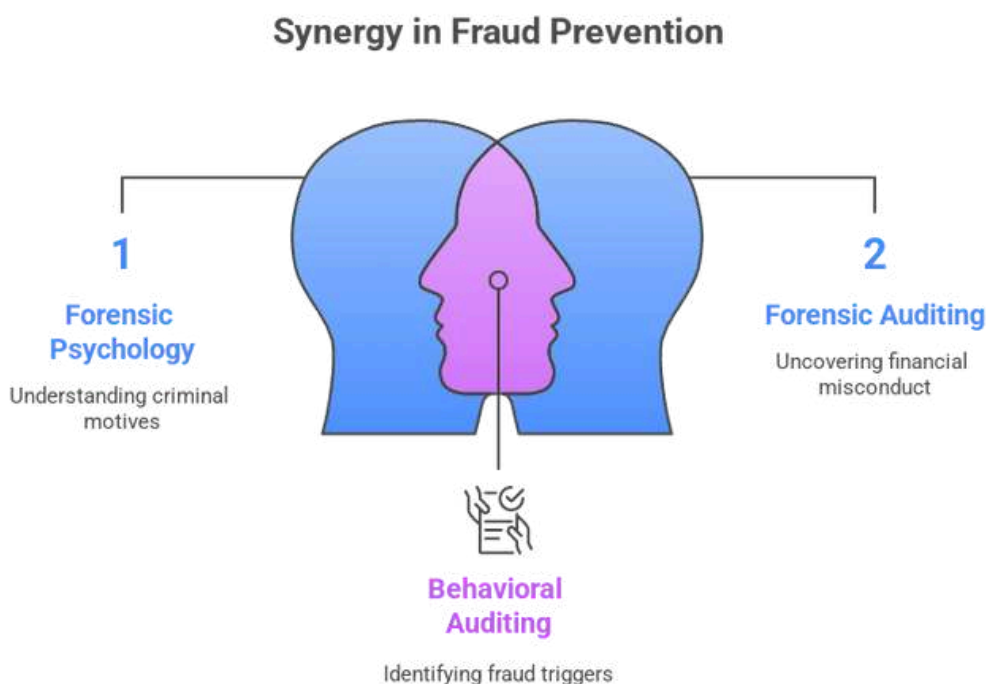
In summary, blending forensic psychology with auditing, augmented by AI, creates a comprehensive fraud prevention framework that improves detection, mitigates risk, and fosters ethical corporate environments, ultimately safeguarding financial integrity and transparency.

Harnessing the synergies between psychology and forensic auditing using AI

The Institute of Chartered Accountants of India (ICAI) defines forensic audit as an examination and evaluation of a company's financial records and operations to investigate suspected financial misconduct, such as fraud, embezzlement or diversion of funds. It aims to uncover evidence that can be used in legal proceedings. It is essentially an investigative process that leverages accounting and auditing knowledge to uncover financial irregularities.

While there are many disciplines in forensic audit like fraud investigation, financial statement analysis, digital forensics, expert witnessing, forensic psychology etc., forensic psychology is one of the most important branches because unlike others, it can not only be used to detect but also to prevent fraud.

Forensic accounting and psychology may seem like separate disciplines - one rooted in numbers and financial analysis, the other in human behaviour and cognitive processes. However, when these fields converge, they create a powerful synergy that enhances financial investigations, fraud detection, and legal proceedings. The integration of forensic accounting and psychology enables professionals to uncover financial misconduct, understand criminal motivations, and strengthen litigation strategies based on which financial crimes may also be predicted and prevented.



The Role of Psychology in Financial Investigations:

In a study conducted by Nicholas Rule and Nalini Ambady, researchers passed on images of CEOs of twelve companies and asked the participants to rate those CEOs based on their pictures. Their ratings accurately correlated to the level of profit the CEO's company made. This indicates the importance of facial expressions and behaviour analysis under psychology.

Psychology, particularly forensic psychology and behavioural economics, plays a crucial role in financial investigations. It helps experts analyze the motivations behind fraudulent behaviour, assess the cognitive biases influencing financial decisions, and predict the actions of individuals involved in financial misconduct. As financial crimes grow in complexity, the collaboration between forensic accountants and psychologists will become increasingly indispensable. Several emerging trends and advancements indicate how this interdisciplinary approach will evolve in the future.

Understanding psychological principles enables investigators to identify deception, recognize manipulation tactics, and assess the credibility of statements made by suspects and witnesses. Further, it also helps prevent future occurrence of financial frauds. Some of the psychological techniques used in financial investigations are as follows.

- 1. Behavior profiling**—assessing personality traits and risk appetite to identify potential fraudsters.
- 2. Deception detection**—analyzing speech patterns, microexpressions, eye movements and other nonverbal cues during interviews.
- 3. Cognitive bias analysis**—studying biases like over confidence, sense of entitlement,

exhibition of narcissist traits, rationalization, self-explanations, loss aversion and other denial tactics.

- 4. Excessive secrecy, concealment and avoidance of accountability** - Fraudsters often exhibit unusual secrecy regarding their financial dealings. They may restrict access to financial records, avoid answering to direct questions about transactions, delay or resist financial audits, oversight and compliance checks.

- 5. Unusual risk-taking behavior**—Fraudsters often display a reckless approach to financial decisions, engaging in high-stakes financial manipulation, which is usually driven by over confidence about not being caught.

- 6. Psychological Persuasion & Manipulation Analysis** - Understanding how fraudsters convince victims or manipulate financial systems.

- 7. Justification & self-elucidation** - Fraudsters often convince their own conscience to think what they are doing to be necessary or acceptable. Some common rationalisations are "I am just borrowing money, and I'll pay back later," "Everyone manipulates financial data to some extent," "Nobody is fully honest", "My company deserves this," etc.

- 8. Sudden lifestyle changes or financial surplus** - A clear warning sign of financial fraud is when individuals suddenly exhibit lavish spending habits that do not align with their earnings. This may include purchase of expensive luxury goods, vehicles or immovable property, engaging in high profile investment and excessive gambling, frequent holiday trips or expensive travel etc.

- 9. Defensive responses** - During forensic investigations, fraudsters often exhibit hostile or evasive behaviour when confronted with i

regularities. Signs of such responses include aggressive denials or over explaining financial discrepancies or attempting to shift the blame to other vulnerable people.

10. Stress & guilt indicators - Evaluating behavioural responses to financial pressure and ethical dilemmas by asking mock scenario-based questions.

11. Negotiation & interrogation techniques - Using psychological strategies to extract truthful confessions and valuable information.

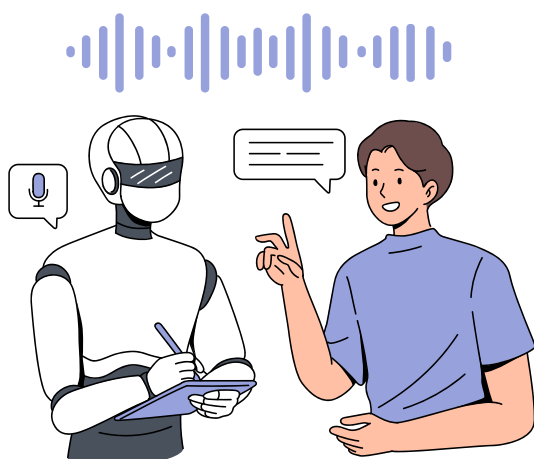
12. Ethical decision-making studies - Researching corporate cultures to prevent fraudulent tendencies before they emerge. By training forensic auditors and financial professionals to identify these behavioural traits, organizations can

- Strengthen fraud detection mechanisms before financial crimes escalate
- Implement psychological screening methods to identify risks at a very early stage
- Preventing financial fraud before their occurrences

Areas of intersection of Forensic Accounting and Psychology

1. Fraud detection and prevention

By applying psychological insights to forensic accounting, investigators can identify behavioural red flags indicative of fraudulent activity.



For instance, fraudsters often exhibit psychological tendencies like excessive risk-taking, unethical decision-making, and rationalization of dishonest behaviour. Recognizing these patterns allows professionals to develop more effective fraud prevention strategies.

2. Criminal profiling in financial / white collar crimes

Psychologists assist forensic accountants in profiling financial criminals by studying their behavioural patterns, motivations, and risk-taking tendencies. White-collar criminals often exhibit traits such as narcissism, deceitfulness, and impulsivity, which psychologists may analyze to anticipate fraudulent actions thereby preventing them.

3. Interviewing and Interrogation Techniques

Forensic accountants and investigators rely on psychology to conduct effective interviews and interrogations. Psychological techniques such as building rapport, detecting micro expressions, and analysing speech patterns, body language, eye movement etc., help professionals evaluate the truthfulness of statements and elicit crucial information from suspects and witnesses.

4. Ethical Decision-Making and Corporate Governance

Behavioural psychology informs ethical decision-making in corporate environments by assessing how individuals weigh financial incentives against moral considerations. Companies may use psychological principles to design policies that encourage ethical behaviour, reduce the likelihood of financial misconduct, and promote a transparent organizational culture.

Case precedents

The following are some case precedents where the interplay of psychology and forensic audit can be witnessed, which has led to the identification and prosecution of fraudsters.

-
- In the Enron Scandal in USA (2001), forensic experts traced fraudulent accounting practices, including off-the-books partnerships used to hide debt. This case highlighted corporate culture issues, where executives exhibited excessive risk-taking and unethical decision-making, driven by greed and pressure to maintain stock prices.
 - In the Bernie Madoff Ponzi Scheme in USA (2008), forensic investigators uncovered how Madoff manipulated financial statements to sustain his fraudulent investment scheme. This investigation was backed by personality analysis where Madoff's behaviour reflected traits of narcissism and deception, using charm and trust-building tactics to manipulate investors.
 - In the Satyam Scandal in India (2009), forensic audit procedures led to the discovery that the company's founder, Satyam Ramalinga Raju, had fictitiously inflated profits and assets to mislead investors. The behavioural analysis in this case revealed how the co-founder rationalized his fraudulent actions, showing signs of cognitive dissonance and overconfidence in sustaining the deception.
 - In the Winsome Diamonds Banking Fraud in India (2013), forensic investigators traced loan defaults worth thousands of crores, revealing systematic fund diversion. This case demonstrated how financial criminals use manipulation and persuasion to gain trust and evade scrutiny.
 - In Punjab National Bank fraud in India (2018), experts identified fraudulent issuance of Letters of Undertaking (LoUs) by Nirav Modi and Mehul Choksi to secure overseas credit where the fraudsters exploited cognitive biases in banking officials, such as trust in established clients and reluctance to challenge authority.

These cases illustrate how forensic accounting and psychology work together to detect fraud, analyze criminal behaviour, and strengthen legal proceedings.

The Power of Combining Both Disciplines

By integrating forensic accounting and psychology, investigators can not only trace financial fraud but also understand why perpetrators act the way they do. This combination allows experts to predict and prevent financial misconduct more effectively.

Use of Artificial Intelligence (AI) to apply psychological techniques in fraud prevention

Financial fraud is becoming increasingly sophisticated, requiring forensic accountants and auditors to deploy advanced tools for prevention and detection. Traditionally, financial audits focused on examining transaction records and compliance with financial regulations.

With the advent of Artificial Intelligence in every field across the globe, all the industries have revolutionised their operations, leveraging automation thereby enhancing efficiency and decision-making process. Forensic accounting and audit is no exception to this.

Integration of AI and psychology brings a revolutionary approach, enhancing fraud detection mechanisms and providing insights into financial misconduct. AI enables high-speed fraud analysis and simulation techniques, while psychology helps forensic auditors assess human behaviour, deception, and fraud risk profiles. Combined application of these disciplines not only enables early detection of a fraud and mitigation of losses but also reduces fraud occurrences and strengthens integrity.

The following are some of the AI based methods that can be used to anticipate and thereby prevent financial crimes.

1. Artificial Intelligence & Behavioural Analytics in Fraud Detection

AI-driven forensic accounting tools are revolutionizing fraud detection. These advanced systems can process vast amounts of financial data, recognizing suspicious transactions in real time. When combined with behavioural psychology insights, AI models can predict fraud risks based on psychological profiles, transaction history, and decision-making patterns of individuals. This predictive capability allows financial institutions and regulatory bodies to proactively intervene before fraud escalates.

2. AI-Based Behavioural Monitoring for Fraud Prevention

AI enhances deception detection by automating behaviour analysis and comparing interview responses with known deception patterns. AI tracks employee financial behaviour using psychological fraud models, identifying risk-prone individuals before fraud occurs. Behavioural monitoring systems alert auditors when an employee exhibits deceptive tendencies.

3. Virtual and Augmented Reality in forensic investigations

Future forensic investigations may utilize virtual and augmented reality (VR/AR) tools to reconstruct financial fraud scenarios, allowing forensic accountants and psychologists to simulate fraudulent behaviours and decision-making pathways. These immersive technologies can enhance courtroom presentations, making forensic evidence more accessible to juries and legal professionals.

4. Machine Learning for Fraud Detection

Machine learning algorithms analyse vast financial datasets, identifying patterns linked to fraudulent activities. These models continuously learn from financial transactions, improving fraud detection accuracy over time.

5. Natural Language Processing (NLP) for Fraudulent Communication Analysis

NLP analyses financial reports, emails, and contracts, detecting fraudulent intent based on deceptive language cues, inconsistent statements, and manipulative communication tactics. Key analysis methods include detection of over-promising language in financial statements, identifying deception markers in loan applications or investment proposals, recognizing avoidance behaviours in fraud suspects through written communication.

6. Robotic Process Automation (RPA) for Automated Audit Reviews

RPA automates repetitive auditing tasks, such as invoice checks, transaction verifications, and compliance monitoring, reducing human intervention and increasing fraud detection accuracy. Further, AI-powered computer vision scans invoices, financial documents, and signatures, identifying altered records, manipulated entries, or forged approvals in financial statements

7. AI-Driven Predictive Analytics for Financial Risk Assessment

Predictive modelling tools that combine forensic accounting data and psychological risk factors will allow governments and financial institutions to create crime maps identifying areas or industries that are prone to financial misconduct. Predictive models use AI to assess fraud risks, analysing transaction behaviours to detect anomalies before fraudulent activities occur. Techniques include machine learning algorithms identifying financial fraud hotspots, behavioural



psychology models evaluating high-risk individuals, mapping industry-specific fraud vulnerabilities based on historical trends etc. This innovation enables regulatory bodies to focus on enforcement efficiently, reducing financial crime at a system level.

8. Neuroscience and Cognitive Bias Identification

Future investigations may incorporate neuroscience research to further understand the psychological aspects of fraud. Studies on cognitive biases such as overconfidence, risk aversion, and moral disengagement will aid forensic accountants in anticipating fraudulent behaviours. By mapping brain activity and decision-making processes, investigators can refine fraud prevention strategies and corporate risk assessments.

9. Enhanced Psychological Profiling of White-Collar Criminals

As data science evolves, forensic psychologists will have access to more extensive behavioural analytics, enabling refined criminal profiling techniques. These profiles will not only help law enforcement apprehend suspects but also provide corporations with tools to assess employees' ethical decision-making tendencies during hiring and training.

10. Behavioral Economics in Corporate fraud prevention policies

Many organizations are investing in behavioural economics to redesign incentive structures and employee training programs that discourage fraudulent behaviour. By applying psychological principles to workplace policies, companies can minimize ethical loopholes and encourage transparent financial practices in their corporate culture

11. Strengthening Psychological and Financial Literacy in Regulatory Frameworks

Governments and financial regulatory bodies are increasingly acknowledging the importance of psychological literacy in forensic accounting which is why psychology is now recognised as one important branches of forensic accounting. Future policies may be expected to mandate psychological training for financial investigators, enhancing their ability to detect deception, assess behavioural risk factors, and improve fraud prevention strategies by use of AI based database that helps in providing several hypothetical situations for mock sessions.

12. Cross-Disciplinary Training and Certification Programs

As collaboration between forensic accountants and psychologists becomes more prevalent, educational institutions and professional organizations may develop specialized certification programs. With the help of AI, the course curriculum can be framed in such exhaustive manner that these programs will equip professionals with expertise in both fields, fostering investigative teams with comprehensive skills to address modern financial crimes.

13. AI-Augmented Ethical Training for Fraud Prevention

Companies use AI-driven VR training simulations based on psychological models to educate employees on fraud prevention. Examples of training modules are behavioural nudges reinforcing ethical decision-making, AI-powered fraud detection role-playing scenarios, psychological resilience training to prevent financial misconduct under pressure etc.



Other AI driven fraud prevention strategies include deep fake detection that will identify manipulated financial records and deepfake-generated investment fraud schemes, AI-Driven juror psychology analysis in financial crime litigation where Psychologists and AI will collaborate to predict juror decision-making, optimizing legal strategies for prosecuting financial crimes based on behavioural insights.

Conclusion

The psychology behind fraud detection is just as important as financial auditing techniques in forensic investigations. By recognizing behavioural warning signs in fraudsters, forensic auditors can prevent financial fraud before it causes major losses. As forensic auditing evolves, psychology-based fraud prevention strategies will play a critical role in corporate governance, risk management, and financial transparency. The combination of artificial intelligence and psychology in forensic auditing is transforming fraud prevention. AI enhances fraud detection through data-driven analysis, while psychology provides human behaviour insights, helping forensic auditors detect deception, assess fraud risk, and predict misconduct before it occurs. As AI-driven behavioural fraud monitoring evolves, organizations will strengthen corporate ethics, reduce financial fraud, and build more transparent financial systems.



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CA TULASI S SASTRI

ADDRESSING PROBLEMS ASSOCIATED WITH DEVELOPING AND MAINTAINING AN FAR (FIXED ASSET RECORD)



We usually ask the following questions to assess the quality of a Fixed Asset Record:

Is an FA register available? Does it contain individual asset level details? Can we track the original purchase records like Purchase Order and vendor Invoice with the help of the register? If an asset is to be retired or scrapped, is it possible to identify its original cost, accumulated depreciation and WDV? Does the FAR contain Gross Block Value of the assets and the date of addition? Does the sum of Gross Block Value of all assets in a category match with corresponding value in the Fixed Asset Schedule, as included in the Financials? How up to date is the FA register? Is the location of each asset recorded somewhere in the system, and inter location movements are captured? How up to date is the data? Can we conduct a random verification of select assets? How is depreciation calculated? Can we verify the authenticity of the workings?

Records normally exist to meet the financial reporting requirements at an organization level and for computation of depreciation for taxation purposes. But when it comes to answering the above questions, organizations fail to reach the last mile in many aspects, unless adequate attention has been paid to these requirements from day one.

Practical problems associated with fixed asset record, and how they were addressed in a software services organization, which had grown from 3,000 employees to 27,000 employees, are narrated in this article.

This is covered under 3 sub-headings 1. Creating FAR from the scratch. 2. Adding an Off-shore Development Center – Major Capitalization Exercise and 3. Keeping track (location) of assets where significant movement was taking place for operational reasons.

1. Constructing FAR from the scratch

This organization started operations as a single location and progressively added new units. The accountant responsible for preparation of financials was maintaining certain statements on fixed assets, relating to opening balance, additions during the year, deletions and closing balance for each category at gross value level, to help in preparation of accounting schedules for balance sheet, depreciation charge for P&L, and to provide information required for filing tax returns. Since the company was filing unit (location) wise Income statements for taxation purposes, asset related information, was also at unit level to enable calculation of depreciation charge. When the organization was small, detailed asset record was not a priority. Individual locations were keeping manual registers, containing asset level information.

Since location-wise asset category-wise year-wise total values were available, an attempt was made to match these values with the sum of individual assets under each category. Differences noticed were adjusted by distribution of the amounts over all other assets at the same location. Thus, we were able to arrive at original cost or Gross Block of assets under each location, asset category-wise and year-wise.

Entire data for all location put together was taken as input in the ERP's test database to create the necessary fixed asset record. Next step in the exercise was to generate depreciation charge for each year and depreciation provision at the end of each year. In the manual environment, depreciation was calculated on asset totals in relevant blocks. In the ERP, depreciation calculations are carried out at individual asset level and are added up to arrive at group total. In the test database, when the year-wise depreciation calculations were carried out using the ERP process,

depreciation charge for many locations did not match with what was actually recorded in the financials for the respective years. Reason for the mismatch was inaccuracy in the date of addition as recorded in the asset level file created, as well as approximations in individual cost of assets, where accurate details were not available. Let us see an example to appreciate the issue better.

For the Year 2000 (Calendar Year).
Opening Balance (Original Cost) of Machinery & Plant..... Rs 100 million
Rate of Depreciation (Straight line Method) 10% per annum.

Additions during the year as per the individual asset records created:

1st April 2000 Rs 12 million

1st July 2000 Rs 12 million

Total Rs 24 million.

Depreciation Charge for the year as per financial statements: Rs 11.2 million

Let us workout depreciation charge as per asset record:

Depreciation on Opening Balance (10% on 100).....Rs 10 million

Balance to match with depreciation charge towards additions: Rs 1.2 million.

Individual working for each addition:

Addition of 1st April 2000:

Rs 12 million....10% of 12 million X 9 / 12 = Rs 0.9 million

Addition of 1st July 2000:

Rs 12 million.... 10% of 12 million X 6 / 12 =Rs 0.6 million

Total.....Rs 1.5 million.

This does not match with corresponding depreciation charge in the financials of Rs 1.2 million. To match the individual asset level information with financials, in depreciation calculations, a new term called “Mean Date of Addition” has been introduced. By inserting an additional column in the individual asset records, this date has been included, for all the assets added in the year in a category, which has been used for calculating depreciation charge. It had no other significance. In the example above, Mean Date of Addition is worked out as under:

1.2 (depreciation charge for additions according to Financials) / 2.4 (full year's charge for the additions) X 365 = 182.5 days. In other words, it is the 1st of July 2000 for both the additions in the year.

Such a mean date of addition used for depreciation charges automatically generated total depreciation for all the assets, which matched with the corresponding figure in the financials.

If we are required to construct an FAR or fill gaps for an ongoing organization, above example provides adequate clues.

2. Adding an Off-shore Development Center – Major Capitalization Exercise

The organization embarked upon major capital expenditure to build a 4,000 seat capacity Development Center at a cost of Rs 250 crores.



A Project Cost Estimate was made with adequate details creating various cost centres to pool the expenditure concerned. As payments were being made, they were all getting included under CWIP with relevant Cost Centre reference. The project was completed, and Development Center was inaugurated. We had the task of capitalizing the entire expenditure in the books and making additions to the FAR. It became a daunting task. Large part of the payments was lying as advances to vendors, and as and when their bills were certified, approved values were being transferred to CWIP. Many bills were still to be received. And CWIP was an ocean.

Purchase Order based Accounting.

Decomposing what was in CWIP to produce the fixed asset record was not feasible. Concerned Project Manager kept track of the project through various purchase orders released. All the expenses incurred on the project were pooled purchase orders-wise.

We classified payments into 3 categories

- Direct Purchase Orders
- Indirect Purchase Orders
- No Purchase Orders.

Direct purchase orders are those which get translated into an asset, part of an asset or a group of assets and could be traced to the assets created.

Indirect purchase orders are those which could not be directly identified with an asset, nevertheless, are used for bringing the asset into existence. For example, Cement, Steel and cables. There may be payments made without issuing any purchase orders.

Actual cost incurred against each purchase order was ascertained by the project manager, and suitable provisions were made at PO level, after adjusting advances released. No purchase order expenses, and Indirect Purchase Order costs were allocated on the Direct Purchase Orders on an equitable manner.

Dummy Fixed Asset Register

At this stage a Dummy Fixed Asset Register was created with all the assets created including different floors of the building, right up to workstations and assets placed in each workstation. Workstation-wise plan and numbering all the workstations was an integral part.

Transfer of value from Purchase Orders to Fixed Assets

Based on the relationship between the direct Purchase Orders and assets created, value was transferred to individual assets. We got an FAR with suitable asset-ids and tags to enable tracing the assets from FAR at a future date

3. Keeping track (location) of assets where significant movement was taking place for operational reasons.

Initially FAR was on the following lines:

1	2	3	4	5	6	7	8	9	10
Sl. Nbr	Asset ID	Asset Description	Date of Purchase	Purchase Order Nbr	Original Cost - Rs.	Depreciation To date	WDV	Asset Location	Remarks

ERP used by the organization provided for a Unitization process as an offshoot of Accounts Payable process, where a number of assets of uniform cost, say 50 desktops were purchased, Unitization process enabled distribution of procurement cost at individual level and created an asset ID for each asset, to which location was added after installation. But as the organization was growing, FAR with all its columns was becoming too large, asset location updates were cumbersome.

Splitting the FAR into two. A simple solution to this complex problem:

We realized that that FAR contained two types of information.

- Permanent information like asset description, Purchase Order details, Original Cost and date of Capitalization.
- Dynamic information like Accumulated Depreciation and WDV, which change with mere elapse of time, and location changes as and when assets are shifted from place to place.

Where are Original Cost, Accumulated Depreciation and WDV required?

When financials are prepared Asset category-wise details on these lines are required to be reported in the Fixed Asset Schedule. Individual asset level Original Cost, Accumulated Depreciation and WDV are required when an asset is being written off or disposed of to record profit or loss on such disposal. We also need to retire such assets from the books, which means necessary edits to the FAR. Since this is not a day-to-day activity, information relating to WDV need not be reported all the time, but should be preserved in the system, to be available when required.

Keeping the above in mind, we could split the FAR into two, as FAR 1 and FAR 2 on the following lines.

FAR 1

2	3	4	5	6	7
Unique Capitalization Number	Asset Description	Date Of Purchase	Purchase Order Number	Original Cost	Number Of Assets

Unique Capitalization Number (UCN):

Broadly, every receipt on a day gets one UCN. This is a system generated number, through which it would know Asset Category, Date of Capitalization, Original Cost and the number of uniform assets procured. If the assets have different individual purchase cost, they would have different UCNs. In the above example of 50 desktops purchased, there would be one UCN and consequently one line item in FAR 1.

1	2	3	4	5	6
Sl. Nbr	Unique Capitalization Number	Asset Description	Asset ID	Asset Location	Remarks

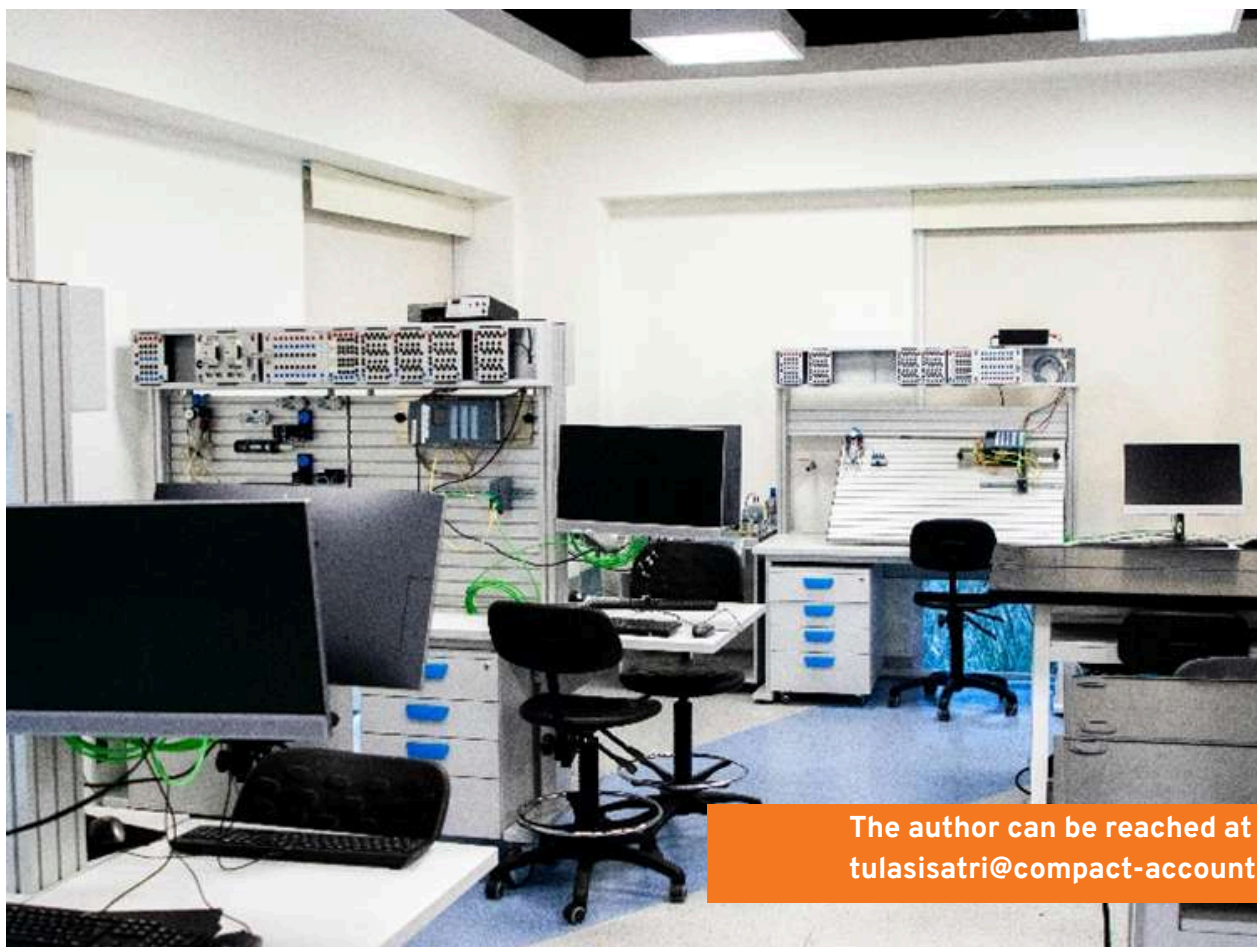
FAR 2

In FAR 2, 50 desktops will have 50-line items, each carrying a distinct Asset ID. As and when an asset moves from one location to another, FAR 2 gets updated and FAR 1 is not touched. If an asset is written off or disposed of, FAR 2 gets updated. System will pick up the details through UCN, and necessary edits to Original Cost, Accumulated Depreciation and WDV are carried out in FAR 1.

FAR 2 could be conveniently used for physical verification. We could also plan random verification of some assets at a location, to assess the quality of FAR.

Key takeaways from this article

- Mean Date of Addition to manage depreciation workings
- Purchase Order based Accounting for Major Capitalization Projects and
- Splitting FAR into 2 with Unique Capitalization Number acting as a link.



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CA SATISH SARAF

SECTION 74A OF CGST ACT, 2017

The Sky never changes; it is the cloud that is changing - Swamy Vivekananda

Introduction:

In continuation to my latest article, the present article focusses on understanding Section 74A of Central Goods & Services Tax Act, 2017 (CGST Act) and similar Section in the State Goods & Services Tax Acts, an attempt is made to understand the same without comparison with parallel Sections and keeping aside the old baggage. The above quote of Swamy Vivekananda is true with respect to Section 74A of CGST Act, the object remains the same (sky) and a new section is brought in the statute (cloud).

Section 74A of CGST Act:

Section 74A of CGST Act is titled as **“Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to Financial Year 2024-25 onwards”**, this section is inserted by Finance (No. 2) Act, 2024 and the same is notified effective from 01-11-2024 by Central Tax Notification No: 17/2024, Dt: 27-09-2024. It is very clear from the title of the section that, this section is applicable from Financial Year 2024-25 onwards, i.e., 01-04-2024 onwards, the same is stated in Section 74A(12) of CGST Act.

Applicable Rule & Forms:

The proper officer invoking the provisions of Section 74A for determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason must follow the procedure laid down in Rule 142 of Central Goods & Services Tax Rule, 2017 (CGST Rules), the relevant forms prescribed in Rule 142 of CGST Rules, which are relevant to Section 74A are as follows.



Form	Purpose
Form GST DRC - 01	Summary of Show Cause Notice
Form GST DRC – 01A	Intimation of tax ascertained as being payable under section 74A(8) / 74A(9)
Form GST DRC – 02	Summary of Statement U/s. 74A(3)
Form GST DRC – 03	Intimation of payment made voluntarily or made against the show cause Notice or statement or intimation of tax ascertained through FORM GST DRC-01A
Form GST DRC – 03A	Application for adjustment of the amount paid through FORM GST DRC-03 against the order of demand
Form GST DRC – 04	Acknowledgement of payment made voluntarily.
Form GST DRC – 05	Intimation of conclusion of proceedings
Form GST DRC – 06	Reply to the Show Cause Notice
Form GST DRC – 07	Summary of the order
Form GST DRC – 08	Summary of Rectification / Withdrawal Order

Who can invoke Section 74A:

The provisions of Section 74A of CGST Act can be invoked only by a “Proper Officer”, the term Proper Officer is defined in the CGST Act in Section 2(91); the definition is "proper officer" in relation to any function to be performed under this Act, means the Commissioner or the officer of the central tax who is assigned that function by the Commissioner in the Board; this term is defined in Telangana Goods & Services Tax Act, 2017 (TGST Act) in Section 2(91) as “Proper officer” in relation to any function to be performed under this Act, means the Commissioner or the officer of the State tax who is assigned that function by the Commissioner.

Central & State Governments have issued notifications notifying the proper officers under the respective statutes and that notified proper officer can invoke the provisions of Section 74A apart from these notifications, one must look into the judicial pronouncements in this regard.

When to invoke Section 74A:

Section 74A(1) starts with, when it ‘appears’ to the proper officer that ‘person chargeable with tax’ is liable to pay GST in the situations specified in this section. The term ‘appears’ and ‘person chargeable with tax’ are not defined in Central or State GST Acts, in my view the word ‘appears’ to be denoted as ‘prima facie’ or ‘when it is evident on record’ and the phrase ‘person chargeable to tax’ to be denoted as ‘taxable person’ which has been defined in the statute. Is proper officer is required to record how, where and when it is ‘apparent’ that the person chargeable with tax has evaded the tax etc., there is no much jurisprudence is available for the word ‘appears’, which can be deliberated much.

What are specified situation covered under this section:

Specified situation covered under this section are four and they are as follows:

- 1.The person chargeable with tax has not paid tax;
- 2.The person chargeable with tax has short paid tax;
- 3.The person chargeable with tax has received erroneous refund;
- 4.The person chargeable with tax has wrongly availed or utilized Input Tax Credit.

Proper officer can invoke this section when it appears to him that any one or more or all the above specified situations, this section cannot be invoked for any other situation other than state above. Upon insertion of this section, the discrimination of invoking separate sections for cases involving Fraud, Misstatement or Suppression to evade tax or cases not involving Fraud, Misstatement or Suppression, is eliminated. It does not mean that discrimination is removed but it continues in various sub-sections of this section.

Issue of Notice and / or Statement U/s. 74A:

Issue of Notice:

Proper Officer for the above specified



situations must issue a Notice (in general practice it is termed a Show Cause Notice (SCN) but this sections it is termed as Notice) on his own ascertainment or in case of excess distribution of ITC by ISD in terms of Section 21 or default in payment of TDS in terms of Section 51(7) or upon Scrutiny of Returns in terms of Section 61 or as result of Audit in terms of Section 65 or as a result of Special Audit in terms of Section 66 or for difference of ITC in GSTR-2B and availed in GSTR-3B in terms of Rule 86D of CGST Rules or for recovery of erroneous refund in terms of Rule 86B of CGST Rules or for recovery of credit wrongly availed in terms of Rule 121 of CGST Rules.

In Section 74A(1), the phrase used “requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable there on under Section 50 and a penalty leviable under the provisions of this act or rules made thereunder” in my view this phrase makes it clear that, in the absence of “tax” a notice for determining interest & penalty cannot be issued, but in general practice both the Central & State GST Departments are adopting this practice, which is against the intent of legislatures.

Proviso to Section 74A(1), imposes restriction on the proper officer to issue notice where the amount involved for issue of Notice is less than Rs. 1,000/- (Rupees One Thousand Only) with respect to specified situations as stated above.

It is implied that, issue of Notice for amount involved is less than Rs. 1,000/- is restricted or not permitted, corresponding levy of Interest and Penalty is also restricted or not permitted.

The proper officer while issuing the Notice must follow the general provisions for determination of tax as specified in Section 75 of CGST Act, and follow the procedure and

forms prescribed in Rule 142 of CGST Rules. The proper officer is expected to discharge quasi-judicial powers vested in him or her. The proper officers generally divide the charges / allegations / averments against the taxable person in para graphs and they are expected to provide the specific provisions of law which have been violated by the taxable person, the quantum of tax payable, the amount of interest payable and the quantum of penalty payable to be specified without fail. It is very important that, the proper officer invoking the penalty provisions shall provide reasons, and must establish on record the violations, contraventions and why such penalty is imposed.

Issue of Statement in lieu of Notice:

In terms of Sub-Section 3 & 4 of Section 74A, where a proper officer has issued Notice U/s. 74A(1) for a particular Tax Period or Financial Year for the specified situation and it appears to him that, the same specified situation is applicable to the person chargeable with tax for the subsequent period, in such situation the proper officer is required to issue a Statement in lieu of Notice. Issue / services of Statement is treated as issue / service of Notice.

In case the specified situations and reasons are different for different Tax Periods or different Financial Years, and are not the same, the proper officer has to issue / serve different Notices and issue of Statement does not suffice for subsequent Tax Period or Financial Year.

Time Limit for issue of Notice & Order under Section 74A:

As the reason being insertion of Section 74A into the statute is to bring uniform time limits with respect to cases involving fraud etc. or non-fraud etc. cases. Time limits for issue of Notice and Order in terms of this section are as under.

Time Limit for issue of Notice (SCN):

In terms of Section 74A(2), notice is required to be issued within forty-two (42) months from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilized and in case of erroneous refund, within forty-two (42) months from the date of erroneous refund.

Time limit for issue of Notice U/s. 74A for the Financial Year 2024-25 is – due date for Annual Return U/s. 44 is 31-12-2025 (assuming) plus 42 months from 31-12-2025, will be 30-06-2029.

Notice issued after 30-06-2029 for the Financial Year 2024-25 is time barred with respect to tax not paid or short paid or input tax credit wrongly availed or utilized. In case of erroneous refund, forty-two months to be calculated from the date of refund. Practically, looking into this mathematics, time limit for the month of April, 2024 is 63 months and for March, 2025 is 51 months.

Time Limit for Issue of Order (OIO):

As per Section 74A(7), proper officer shall pass orders as specified in Section 74A(6) with in twelve (12) months from the date of issue of Notice U/s. 74A(2). The word ‘issue of order’ signifies that order to be communicated to the person chargeable with tax because passing of order without communications is not completion of passing of order.

Extension of Time Limit for issue of Order:

As per proviso to Section 74A(7), in case the proper officer is unable to pass order within one year from the date of issue of Notice, the Commissioner or an officer authorized by commissioner, who is senior in rank to the proper officer and not below the rank of Joint commissioner, empowered to extend maximum six (6) months; where the proper

officer has to approach commissioner or officer authorized by commissioner before expiry of time limit specified in Section 74A(7); commissioner or an officer authorized by commissioner has to record reasons for extension before grant of extension.

Quantum of levy of Interest:

Section 50 of CGST Act is invoked along with issue of Notice under this section. Any delay in payment of taxes or reversal of ITC etc. the person chargeable to tax is liable to pay interest under Section 50(1) or 50(3) of CGST Act. The rate of Interest payable is 18% per annum for the period of delay. Generally, amount of Interest levied is not quantified in the Notice or Order issued under this Section but an allegation will be made for liability for interest because, Interest is payable for the period of due date till the actual payment, the calculation of quantum is possible upon actual payment of tax demanded in the Notice or Order.

Quantum of levy of Penalty:

The maximum quantum of penalty imposable under this section is prescribed in Section 74A(5), this sub section divides the quantum into two, the same is discussed below.

Cases involving Fraud, misstatement, or suppression to evade tax:

Penalty will be equivalent of tax due, or ITC wrongly availed or utilized, or erroneous refund.

Cases not involving Fraud, misstatement, or suppression:

(i) Penalty will be 10% of tax due, or ITC wrongly availed or utilized, or erroneous refund or (ii) rupees ten thousand, whichever is higher.

An important aspect to note, for any offence the penalty is imposed under this section and for the same offence once again penalty under other sections cannot be imposed. Penalty specified above is subject to certain time limits

and response of the person chargeable with tax, the same are discussed in subsequent paragraphs.

Reduction in quantum of levy of Penalty:

The means of reducing the quantum of levy of penalty are specified in sub-section 8 & 9 of Section 74A, these two sub-sections divide various time lines into five, the same are discussed below.

Cases not involving Fraud, misstatement, or suppression:

(i) No penalty and Notice will not be issued provided the person chargeable with tax has paid the Tax and Interest on his own ascertainment or as ascertained by the proper officer before issue of Notice, the same is informed to the proper officer in writing.

(ii) No penalty and proceedings will be concluded provided the person chargeable with tax has paid Tax and Interest within sixty (60) days of issue of Notice, the same is informed to the proper officer in writing.

Cases involving Fraud, misstatement, or suppression to evade tax:

(i) Notice will not be issued in case the person chargeable to tax has paid Tax, Interest and 15% of Tax as penalty before issue of Notice on his own ascertainment or as ascertained by the proper officer before issue of Notice, the same is informed to the proper officer in writing.

(ii) Proceedings will be concluded provided the person chargeable with tax has paid Tax, Interest and 25% of tax as Penalty within sixty (60) days of issue of Notice.

(iii) Proceedings will be concluded provided the person chargeable with tax has paid Tax, Interest and 50% of tax as Penalty within sixty (60) days of issue of Order.



Reduction of Penalty Vs. Self-assessed Tax:

In terms of Section 74A(11) particularly cases not involving fraud, mis-statement or suppression, the reduction or waiver of penalty in terms of Section 74A(5)(i) / Section 74A(8) is not applicable for Self-Assessed Tax or any amount collected as tax but not paid within thirty days from the due date for payment.

Response of person chargeable with tax:

Submission / uploading response to the Notice a most challenging task and it requires knowledge of General Law, GST Law, Legal and understanding of business and facts of the case and much more. In my view, the most challenging task is reply to Notice because, from adjudication till the Hon'ble Supreme Court i.e., at all stages, the response is the basis for Mitigating or Litigating the case. There are various approaches of preparing reply to the Notice, some focus on Law and some focus on facts, in my view both have to be presented / discussed to make it complete and comprehensive reply. Reply to Notice to be submitted in Form GST DRC-06 at common portal and as a good practice, physical copy to be submitted before the adjudicating officer after uploading at common portal along with proof of submission.

All Allegations / averments / charges made in the Notice are acceptable to person chargeable with tax, it is always better to pay tax, Interest, and applicable penalty if any to close the matter, so as to minimize or avoid penalties within the time limits as discussed above. Payment of Tax, Interest & Penalty to be informed to the adjudicating officer for his next course of action for closure of Notice and issue appropriate orders for closure.



Some or few of the Allegations / averments / charges made in the Notice are acceptable to person chargeable with tax, it is always better to pay tax, interest, and applicable penalty to arrest the interest and levy of maximum penalty to the extent it is acceptable as per the time limits discussed above, for the remaining Allegations / averments / charges shall be contested, the same is discussed in the next few paragraphs.

The person chargeable with tax must contest each allegation / averment / charge made in the Notice whichever are not agreeable to him or her. Contest must be made from legal angle as well as facts point of view. Legal contest must be supported by well-established legal jurisprudence like jurisdictional issues, principles of natural justice, articles of Constitution of India, provisions of GST Law and allied Laws etc. Factual contest must be supported by documents / evidence / data etc.

The person chargeable with tax must demand for 'personal hearing', during the personal hearing the law and facts to be discussed and explained to the proper officer, which will help in mitigating the issues, which may result into favorable order. It is always better to submit or record contentions in brief at the time of personal hearing, which will help both the taxpayer and department.

After submission of response to Notice, the department must give opportunity of personal hearing, and the taxpayer is empowered with right to ask for three adjournments. The Central GST Department is giving three alternative days in the notice for personal hearing and washing their hands. In true spirit the adjournments to be granted upon concurrence by the taxpayer and department, next date of personal hearing to be decided upon request of the taxpayer and for such adjourned date, no notice of personal hearing is required.

Passing of Orders by Proper Officer:

In case the taxpayer has made payment of Tax, Interest, and applicable Penalty if any, either before issue of Notice or after issue of Notice and the same is intimated to the proper officer before passing orders, the proper officer has to drop the allegations / averments / charges made in the Notice, and any allegations / averments / charges contested by the taxpayer, the same to be dealt as stated in the subsequent para.

The proper officer after duly considering the response submitted by the taxpayer, discussions and explanations provided during the personal hearing, taking into account the judicial pronouncements and documents, evidences and data provided by the taxpayer, shall pass a speaking, reasoned and judicious order within the framework of GST Law. The proper officer has to ensure that he passes the orders within the statutory limitation and within the extended limitation, the order is

served on the taxpayer, otherwise the order is hit by limitation and it becomes infructuous.

In the past on several occasions the courts have set aside or quashed the orders passed by the proper officer on various grounds such as without jurisdiction, without following the principles of natural justice, without giving proper reasons for confirming the demand, confirming the demand beyond charges alleged in the Notice and so on. The proper officer must take due and proper care in passing the orders such that the same should stand to the test of law / judiciary.

Remedies after issue / receipt of order:

After passing of orders by the proper officer, the taxpayer is aggrieved by the same has various options for remedy and similarly Department has multiple options. Department feels that the orders passed by the proper officer are prejudicial to the interest of revenue, they can opt to file appeal before the first appellate authority or can take up the matter for revision by higher officer than the proper officer. Taxpayer can file a rectification application for minor and clerical errors in the order, or can file appeal before the appellate authority or can file writ before the Supreme Court / High Court. All these options or alternatives to be selected carefully basing on the facts and situations of the matter.

Conclusion:

The subject matter (sky) has not changed but the section and content changed (cloud). Notice under this section cannot be issued for the period prior to 01-04-2024, in case the proper officer issuing Notice for the continues period covering prior to this date and after this date, must issue two separate Notices one under Section 73 / Section 74 (period prior to 01-04-2024) and another Notice under Section 74A (for the period on or after 01-04-2024).

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CA MIHIR DINESH SHAH

A PRACTICAL GUIDE ON COMPANY VALUATION UNDER VARIOUS VALUATION APPROACHES

VALUATION

Introduction

In our previous article, "A Glimpse of Valuation: Perspectives for Chartered Accountants," we explored the foundational concepts of valuation, regulatory frameworks, and the three primary approaches—Cost, Market, and Income.

As practicing Chartered Accountants, we frequently encounter scenarios requiring the application of these approaches across various engagement types, from statutory compliance to strategic advisory. Here we will be discussing generally accepted valuation approaches only.

This follow-up article delves deeper into the specific methodologies within each valuation approach, providing practical examples to illustrate their application. While theoretical knowledge forms the backbone of valuation practice, the ability to select and implement the appropriate methodology in real-world scenarios distinguishes seasoned valuation professionals.

1. Cost Approach Methodologies

1.1 Replacement Cost Method

The Replacement Cost Method determines value by calculating the cost to replace an asset's service capability. This involves estimating the current cost of acquiring or constructing an equivalent asset, then adjusting for physical deterioration and functional or economic obsolescence.

Formula:

$$\text{Replacement Cost New} - \text{Physical Deterioration} - \text{Functional Obsolescence} - \text{Economic Obsolescence} = \text{Fair Market Value}$$

Practical Example:

ABC Manufacturing Limited is considering acquiring XYZ Engineering Works, a manufacturing facility with specialized equipment. The primary assets include:

- Land: ₹2.5 crores (current market value)
- Building: Original cost ₹5 crores (15 years old with 40-year useful life)
- Machinery: Original cost ₹4 crores (8 years old with 20-year useful life)

Step 1: Calculate replacement cost new:

- Land: ₹2.5 crores (current market value)
- Building: Current replacement cost ₹7.5 crores
- Machinery: Current replacement cost ₹6 crores

Step 2: Apply physical deterioration:

- Building: ₹7.5 crores $\times (15/40) = ₹2.81$ crores deterioration
- Machinery: ₹6 crores $\times (8/20) = ₹2.4$ crores deterioration

Step 3: Apply functional obsolescence:

- Building: ₹0.5 crores (outdated design features)
- Machinery: ₹0.8 crores (technological advancement in newer models)

Step 4: Apply economic obsolescence:

- Overall economic obsolescence of ₹0.7 crores due to industry overcapacity

Valuation Calculation:

- Land: ₹2.5 crores
- Building: ₹7.5 - ₹2.81 - ₹0.5 = ₹4.19 crores
- Machinery: ₹6 - ₹2.4 - ₹0.8 = ₹2.8 crores
- Total value before economic obsolescence: ₹9.49 crores
- Economic obsolescence: ₹0.7 crores
- Final valuation: ₹8.79 crores

1.2 Net Asset Value (NAV) Method

The Net Asset Value method calculates a company's fair value by adjusting its balance sheet assets and liabilities to their current market values.

Formula:

Fair Market Value of Assets - Fair Market Value of Liabilities = Fair Market Value of Equity

Practical Example:

Consider PQR Trading Limited with the following book values as of March 31, 2024:

Balance Sheet Item	Book Value (₹ crores)	Fair Market Value (₹ crores)
Land & Building	10.0	18.5
Plant & Machinery	7.5	6.2
Investments	3.0	4.5
Inventory	5.2	4.8
Receivables	8.5	7.8
Cash & Equivalents	2.3	2.3
Total Assets	36.5	44.1
Long-term Debt	8.0	8.0
Current Liabilities	7.5	7.5
Contingent Liability	0.0	1.2
Total Liabilities	15.5	16.7
Net Assets	21.0	27.4



NAV Analysis:

- Book value of equity: ₹21.0 crores
- Fair market value of equity using NAV: ₹27.4 crores
- Value enhancement: 30.5%

The substantial difference between book value and fair market value primarily stems from the appreciation in land and building values, partially offset by depreciation in plant and machinery and receivables. The NAV method also captures a previously unrecognized contingent liability of ₹1.2 crores, which must be considered in the overall valuation.

2. Market Approach Methodologies

2.1 Comparable Company Multiple Method (CCMM)

This method derives value by comparing the subject company's financial metrics with those of similar publicly traded companies, using multiples such as P/E, EV/EBITDA, or P/B.

Formula:

Value = Relevant Financial Metric × Appropriate Multiple

Practical Example:

ABC Pvt. Ltd., a mid-sized software development company, is being valued for a potential acquisition. The company reported:

- Revenue: ₹50 crores
- EBITDA: ₹12 crores
- PAT: ₹8 crores
- Net worth: ₹35 crores

Comparable listed companies in the same sector show the following multiples:

Company	EV/Revenue	EV/EBITDA	P/E	P/B
DEF Ltd.	2.8	11.5	16.8	3.5
GHI Systems	3.2	12.2	18.5	4.2
PQR Solutions	2.5	10.8	15.2	3.0
XYZ Tech	3.0	11.9	17.6	3.8
Average	2.88	11.6	17.03	3.63

Valuation Calculation:

- Revenue Multiple: ₹50 crores × 2.88 = ₹144 crores
- EBITDA Multiple: ₹12 crores × 11.6 = ₹139.2 crores
- PAT Multiple: ₹8 crores × 17.03 = ₹136.24 crores
- Net Worth Multiple: ₹35 crores × 3.63 = ₹127.05 crores

Weighted Average Valuation:

Assuming weighting factors based on relevance to the industry:

- Revenue Multiple (20%): ₹144 crores × 0.2 = ₹28.8 crores
- EBITDA Multiple (40%): ₹139.2 crores × 0.4 = ₹55.68 crores
- PAT Multiple (30%): ₹136.24 crores × 0.3 = ₹40.87 crores
- Net Worth Multiple (10%): ₹127.05 crores × 0.1 = ₹12.71 crores

Final Weighted Valuation: ₹138.06 crores

Adjustments for Private Company Discount:

Since Sunway Technologies is a private company, we apply a marketability discount of 15%.

Final Valuation after Discount: ₹138.06 crores × (1 - 0.15) = ₹117.35 crores

2.2 Comparable Transaction Method (CTM)

This method determines value based on actual transaction prices of similar companies in recent acquisitions or mergers.

Formula:

Value = Relevant Financial Metric × Transaction Multiple

Practical Example:

ABC Pharmaceuticals Ltd., a generic drug manufacturer, is being valued for a potential sale. The company reports:

- Revenue: ₹85 crores
- EBITDA: ₹17 crores
- PAT: ₹10 crores

Recent transactions in the pharmaceutical sector include:

Target Company	Deal Size (₹ crores)	Revenue Multiple	EBITDA Multiple	PAT Multiple
DEFMediCure Labs	210	2.1	10.5	18.2
GHI PharmaTech	340	2.3	11.8	19.5
PQR GenericPlus	175	1.9	9.8	17.6
XYZ BioSciences	280	2.2	11.2	19.0
Average	-	2.13	10.83	18.58

Valuation Calculation:

- Revenue Multiple: ₹85 crores × 2.13 = ₹181.05 crores
- EBITDA Multiple: ₹17 crores × 10.83 = ₹184.11 crores
- PAT Multiple: ₹10 crores × 18.58 = ₹185.8 crores

Weighted Average Valuation:

Assuming industry-specific weighting:

- Revenue Multiple (20%): ₹181.05 crores × 0.2 = ₹36.21 crores
- EBITDA Multiple (50%): ₹184.11 crores × 0.5 = ₹92.06 crores
- PAT Multiple (30%): ₹185.8 crores × 0.3 = ₹55.74 crores

Final Weighted Valuation: ₹184.01 crores

Strategic Premium Consideration:

The valuation may be adjusted upward by 10-25% if the target company possesses unique patents, proprietary technologies, or market access advantages that would create synergistic value for potential acquirers.

3. Income Approach Methodologies

3.1 Discounted Cash Flow (DCF) Method

The DCF method calculates business value by discounting projected future cash flows to their present value using an appropriate discount rate that reflects the company's risk profile.

Formula:

Present Value = $\sum [CF_t / (1 + r)^t] + [Terminal Value / (1 + r)^n]$

Where:

CF_t = Cash flow in period t

r = Discount rate

n = Number of periods

Terminal Value = $[CF_{n+1} / (r - g)]$

g = Long-term growth rate

Practical Example:

PQR Greenfield Renewables Ltd., a solar energy company, is being valued using the DCF method. The company's projected free cash flows (after adjustment for non cash items) for the next five years are:

Year	Free Cash Flow (₹ crores)
1	12.5
2	15.8
3	19.2
4	22.5
5	25.0

Step 1: Calculate Weighted Average Cost of Capital (WACC)

- Risk-free rate: 7%
- Market risk premium: 6%
- Beta: 1.2
- Cost of equity: 7% + (1.2 × 6%) = 14.2%
- Cost of debt (after tax): 8%
- Capital structure: 70% equity, 30% debt
- WACC: (14.2% × 0.7) + (8% × 0.3) = 12.34%

Step 2: Calculate the present value of projected cash flows

Year	Cash Flow (₹ crores)	Discount Factor $(1 / (1 + 12.34\%)^t)$	PV of Cash Flow (₹ crores)
1	12.5	0.8901	11.13
2	15.8	0.7923	12.52
3	19.2	0.7053	13.54
4	22.5	0.6278	14.13
5	25.0	0.5589	13.97
Total PV of explicit cash flows:			65.29

Step 3: Calculate terminal value

- Year 5 cash flow: ₹25 crores
- Long-term growth rate: 5%
- Terminal value = ₹25 crores × (1 + 5%) / (12.34% - 5%) = ₹356.68 crores
- PV of terminal value = ₹356.68 crores × 0.5589 = ₹199.35 crores

Step 4: Calculate enterprise value

- Enterprise value = PV of explicit cash flows + PV of terminal value
- Enterprise value = ₹65.29 crores + ₹199.35 crores = ₹264.64 crores

Step 5: Calculate equity value

- Less: Outstanding debt = ₹85 crores
- Plus: Cash and cash equivalents = ₹12 crores
- Equity value = ₹264.64 crores - ₹85 crores + ₹12 crores = ₹191.64 crores

Sensitivity Analysis: The sensitivity analysis illustrates how minor changes in assumptions can significantly impact valuation outcomes—an important consideration for practitioners.

Discount Rate	Growth Rate	Enterprise Value (₹ crores)
11.34%	4%	281.52
11.34%	5%	310.68
12.34%	4%	245.78
12.34%	5%	264.64
13.34%	4%	216.42
13.34%	5%	229.87

3.2 Capitalized Earnings Method

This method is appropriate for mature businesses with stable earnings and is calculated by dividing the normalized earnings by a capitalization rate.

Formula:

Value = Normalized Earnings / Capitalization Rate

Where: Capitalization Rate = Discount Rate - Long-term Growth Rate

Practical Example:

DEF Hotels Ltd., an established hospitality company with a stable business model, is being valued. The company's financial data reveals:

- Current year's PAT: ₹8.5 crores
- Adjusted for non-recurring items: +₹0.7 crores
- Normalized earnings: ₹9.2 crores

Step 1: Determine capitalization rate

- Discount rate (WACC): 14%
- Long-term growth rate: 4%
- Capitalization rate: 14% - 4% = 10%

Step 2: Calculate company value

- Value = ₹9.2 crores ÷ 10% = ₹92 crores

Step 3: Apply control premium or discount

- Assuming a control premium of 20% for a controlling interest acquisition
- Final value = ₹92 crores × 1.2 = ₹110.4 crores

4. Hybrid and Special Situation Methodologies

4.1 Sum-of-the-Parts (SOTP) Valuation

For conglomerates or companies with distinct business segments, SOTP applies different valuation methodologies to each segment based on its specific characteristics.

Practical Example:

Diversified Industries Ltd. operates in three distinct sectors:

1. Manufacturing Division

- EBITDA: ₹25 crores
- Comparable EV/EBITDA multiple: 8.5x
- Segment value: ₹25 crores × 8.5 = ₹212.5 crores

2. Real Estate Holdings

- Market value of properties: ₹175 crores
- Outstanding property-related debt: ₹65 crores
- Segment value: ₹175 crores - ₹65 crores = ₹110 crores

3. Technology Services Division

- Projected 5-year DCF value: ₹95 crores

SOTP Calculation:

- Combined segment values: ₹212.5 crores + ₹110 crores + ₹95 crores = ₹417.5 crores

- Less: Corporate overhead (capitalized): ₹15 crores
- Less: Net corporate debt: ₹45 crores
- Equity value: ₹357.5 crores

There are many other valuation methods other than the mentioned above, used for valuation which are based on factors viz Industry, stage of the company, purpose of valuation, size of the company, ownership etc.

Practical Considerations for Chartered Accountants

1. Selecting the Appropriate Methodology

The choice of valuation methodology should be guided by:

- Nature of the Business: Capital-intensive, service-oriented, growth phase, or mature
- Available Information: Quality and reliability of financial projections
- Purpose of Valuation: M&A, financial reporting, tax compliance, or dispute resolution
- Industry Standards: Sector-specific valuation norms

2. Addressing Information Constraints

Practitioners frequently encounter scenarios with limited information:

- Incomplete Historical Data: Apply reasonability checks and benchmarking
- Unreliable Projections: Develop independent forecasts based on historical trends and industry benchmarks
- Private Company Comparable: Apply appropriate illiquidity discounts

3. Documentation and Reporting

Comprehensive documentation is essential for defensible valuations:

- Methodology Justification: Clearly articulate the rationale for chosen methods
- Assumption Documentation: Detail all critical assumptions with supporting evidence

- Sensitivity Analysis: Disclose the impact of key variable changes
- Limitation Statement: Acknowledge constraints and their potential impact

Conclusion

Valuation practice demands both technical proficiency and professional judgment. As Chartered Accountants, our role extends beyond mechanical application of methodologies to delivering insightful analysis that informs strategic decision-making.

The multitude of valuation approaches discussed in this article underscores that valuation is indeed both science and art. While mathematical rigor forms the foundation, the practitioner's experience, industry knowledge, and judgment ultimately determine the quality and reliability of the valuation opinion.

In an increasingly complex business environment, valuation professionals must continuously expand their toolkit while maintaining the highest standards of independence and ethical conduct. Through rigorous methodology selection, thoughtful application, and transparent reporting, we fulfill our mandate to protect stakeholder interests and advance the credibility of the valuation profession.

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HARI AGARWAL, FCA

APPEALS, SURVEY, SEARCH & SEIZURE UNDER INCOME TAX ACT, 1961

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1. Assistant Commissioner of Income-tax Vs SRS Mining 2023] 154 taxmann.com 346 (SC)/[2023] 294 Taxman 604 (SC)

i. Section 142(2A) of the Income-tax Act, 1961 - Special audit (General) - Assessment years 2014-15 to 2017-18 - High Court by impugned order held that though special audit report issued by CA under section 142(2A) to (2D) is not binding on revenue, however, reasons for discarding it have to be recorded by Assessing Authority after proper discussion and same cannot be discarded summarily - Whether notice was to be issued in SLP filed by revenue against impugned order of High Court - Held, yes [In favour of revenue]

ii. Section 132 of the Income-tax Act, 1961 - Search and seizure (Authorizations for search) - Assessment years 2014-15 to 2017-18 - High Court by impugned order held that authorization for search should be of competent authority and it is on satisfaction of authority that search warrant can be issued and it can be only of Competent Officer - Whether notice was to be issued in SLP filed by revenue against impugned order of High Court - Held, yes [In favour of revenue]

iii. Section 153C, read with section 153A, of the Income-tax Act, 1961 - Search and seizure -

Assessment of any other person (Validity of search) Assessment years 2014-15 to 2017-18 - High Court by impugned order held that material collected pursuant to search jointly conducted against three persons and firm would not be required to be dealt with under section 153C, but would be under section 153A; however, if material collected in search against such person was used against other person, then proceedings could be taken under section 153C and not under section 153A - Whether notice was to be issued in SLP filed by revenue against impugned order of High Court - Held, yes [In favour of revenue]

iv. Section 69A, read with section 153C, of the Income-tax Act, 1961 - Unexplained moneys (Additions to income) - Assessment years 2014-15 to 2017-18 - High Court by impugned order held that where assessment against yard owners was completed under section 153C and Assessing Officer had assessed income with addition of income in hands of yard owners and at same time, same material was used against assessee firm, though prior to it he was satisfied that material found from search belonged to yard owners, addition of income in hands of assessee firm was not justified -

Whether notice was to be issued in SLP filed by revenue against impugned order of High Court - Held, yes [In favour of revenue]

2. AMC Corporation v. Income-tax Officer - [2025] 173 taxmann.com 137 (Gujarat)

Where Assessing Officer issued a notice under section 148A(b) in name of assessee-firm which was already dissolved with effect from 1-4-2017 for reason that firm had carried out transaction of certain amount which were not disclosed and no return of income was filed by said firm, in view of such undisputed fact about dissolution of partnership firm, impugned notice under section 148A(b) as well as order under section 148A(d) would not be tenable and same were to be quashed and set aside -

3. Principal Commissioner of Income-tax Vs. Rohit Karan Jain [2025] 173 taxmann.com 184 (Gauhati)

Section 153A, read with section 4, of the Income-tax Act, 1961 - Search and seizure - Assessment in case of (Conditions precedent) - Assessment year 2014-15 - A search was conducted at residential premises of assessee -

In his statement recorded on oath under section 132(4), assessee had admitted fact of routing unaccounted income of family by way of pre-arranged long term capital gain in regular books of account of assessee -

Assessing Officer invoked proceedings under section 153A and further passed an assessment order making addition to income of assessee - It was noted that above said statement was retracted by assessee -

Commissioner as well as Tribunal, after carefully scrutinizing material collected by Assessing Officer, had recorded a finding of fact that other than retracted statement no other evidence/material was relied upon by Assessing Officer to invoke addition -

Commissioner (Appeals) and Tribunal were of view that said piece of evidence, i.e. retracted statement could not be termed as incriminating material -

Whether no addition can be made in respect of completed assessments in absence of any incriminating material found during search under section 132 or requisition under section 132A - Held, yes - Whether, accordingly, impugned addition was to be deleted - Held, yes [In favour of assessee]

4. Gautham Chand Jain Vs. Assistant Commissioner of Income-tax [2025] 173 taxmann.com 172 (Madras)

Section 69A, read with section 115BBE, of the Income-tax Act, 1961 - Unexplained moneys (Search and seizure) - Assessment year 2021-22- During search conducted in residence and office premises of assessee, a sum of Rs.85 lakhs in cash was seized -

Assessee gave sworn statement declaring that seized amount was received as commission - Thereafter, show cause notice was issued to assessee, asking him to explain why excess money should not be considered as unexplained money under section 69A - However, assessee did not even respond to show cause notice -

Assessing Officer made assessee liable to pay 60 per cent of undisclosed income as tax under section 115BBE read with section 69A - It was noted that barring statement of assessee declaring income by way of commission, no other information disclosing source of income as required under section 69A was given -

Whether mere declaration that seized amount was received as commission without an explanation about source with supporting material would attract section 69A and tax liability under section 115BBE - Held, yes [In favour of revenue]

5. Aakruti Ketan Mehta vs. National Faceless Assessment Centre
[2025] 173 taxmann.com 265 (Mumbai - Trib.)

Section 151, read with section 148, of Income-tax Act, 1961 - Income Escaping Assessment - Sanction for issue of notice (Competent authority) - Assessment year 2016-17 - Assessee filed return of income on 21-7-2016 which was later revised -

Assessing Officer issued notice under section 148 on 9-4-2021, i.e., after amendment of reassessment provisions by Finance Act, 2021 -

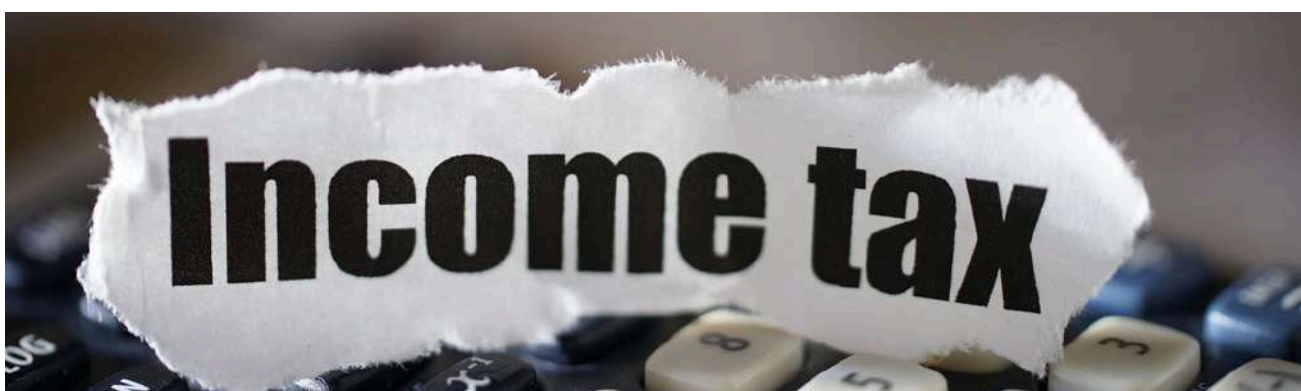
Assessing Officer subsequently treated said notice as deemed notice under section 148A(b) and issued fresh notice under section 148A(b) dated 20-5-2022 -

Assessing Officer passed order under section 148A(d) on 30-6-2022 with approval of Principal Commissioner -

Whether as per amended section 151 read with 148A(d), since more than three years had elapsed from end of relevant assessment year, approval should have been obtained by Assessing Officer from Principal Chief Commissioner/Principal Director General/Chief Commissioner/Director General, and not Principal Commissioner - Held, yes - Whether therefore, impugned reassessment was bad in law and liable to be quashed - Held, yes [In favour of assessee]

6. Shilpa Shetty Kundra vs. DCIT
[2025] 173 taxmann.com 342 (Mumbai - Trib.)

Section 272A, read with section 142, of the Income-tax Act, 1961 - Penalty - For failure to answer question, sign statements (Sub-section (1)(d)) - Assessment year 2020-21 - Assessing Officer levied penalty under section 272A(1)(d) in respect of non-compliance of notices issued under section 142(1) - However, in subsequent assessment order passed under section 143(3), Assessing Officer had expressed satisfaction with compliances made by assessee - Whether since Assessing Officer himself had deemed to have condoned non-compliance by assessee on earlier occasions, penalty under section 272A(1)(d) could not be imposed - Held, yes - Whether, therefore, impugned penalty was to be set aside - Held, yes [In favour of assessee]



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CA SHILPI JAIN

CASE LAW SUMMARY INDIRECT TAXATION – MAY '25

Case 1 - No general penalty where late fee is payable

*TVL. Jainsons Castors & Industrial Products
- 2025 (2) TMI 1000 - Madras High Court*

Facts:

- Petitioner failed to file the annual GST return on time.
- Late fee as per section 47 is paid.
- Revenue imposed late fee u/s 47 and general penalty u/s 125.

Decision:

- In the event of non-filing of the return, petitioner can be called up on to pay the late fee in terms of section 47 of the Act, which is an independent provision dealing with any default or belated filing of return.
- General penalty would apply in the event no penalty is separately provided in this act.
- In the present case, penalty was imposed in the form of late fee u/s 47.
- Therefore, general penalty of Rs. 50,000/- towards CGST and SGST is not correct and the same is set aside.

Comments:

Late fee stands in the same footing as penalty. Both these are levied to act as a deterrent. Though, the department has been considering late fee and penalty as different, and

proceeded to demand a general penalty of Rs. 50,000 for small non-compliances like late filing of returns as well.

Once the law prescribes a specific penal consequence (being late fee in the present case), general penalties under section 125 cannot be demanded.

Similar analogy can be used for cases where there is delay in filing of any of the returns GSTR-1, GSTR-3B, GSTR-6, etc. where late fee is already prescribed and paid. Any such general penalty demanded and paid in addition to late fee can be claimed as refund within 2 years. Though if this is paid as arising out of an order for which the date of appeal has expired, the issue has attained finality and cannot be re-opened.

Case 2 - Refund of Compensation Cess is eligible in case of export without payment of tax

*Patson Papers Private Limited - 2025 (5)
TMI 1343 Gujarat High Court*

Facts:

- Petitioner is engaged in the business of manufacturing and selling dyes, chemicals etc.
- Petitioner has purchased coal on payment of GST and Compensation Cess (CC) for use in manufacturing process.

- Finished goods (FG) are exported with payment of IGST. These goods are not liable to CC.
- Petitioner has applied for the refund of unutilized ITC of CC which has been rejected.

Decision

- Petitioner has paid IGST on the goods exported. However, there was no liability to pay any CC as the FG is exempt from such levy.
- Reliance placed on para 42 of the Circular No.125/44/2019 dated 18-11-2019 is misplaced because the said circular was issued clarifying the eligibility to claim refund of unutilized ITC of CC on input, where the exported product is NOT LEVIABLE to CC.
- Present is the case where levy exists but there is exemption from CC.
- When the Petitioner has paid the IGST on the export and refund is claimed, they would not be able to utilize ITC of CC as it is not payable.
- Petitioner would be entitled to refund of the unutilized ITC on CC paid on purchase of coal utilized for the purpose of manufacture of goods which are exported.

Comments

- All cases of export of goods without payment of tax where the taxpayer also has accumulated CC credit during the period of export – refund can be claimed. Exporters to review and apply for refund accordingly.
- In the present case the circular is not invalidated but it has been held that the reliance placed on the circular in the

present case where CC is exempt, is not correct. This is because the circular does not explicitly clarify the eligibility of refund of CC in case of goods exempt from CC.

- Supply of goods which are leviable to GST (i.e. other than petrol, aviation fuel, liquor for human consumption, etc.) would also be supplies that are leviable to CC.
- However, only a few of these supplies are liable to CC as notified, since the government has considered levying CC only on certain luxury and sin goods. Other goods are exempt from payment of CC.
- What emanates from the above decision is that, in case of export of goods that are not liable to CC, the clarification in the above referred circular does not apply since the said circular covers clarification in respect of goods that are not leviable to CC (i.e. petrol, aviation fuel, liquor for human consumption, etc.).
- It also brings another point that GST taxes and CC have to be looked separately and independently to identify their treatment under the law.
- In a situation of export of goods where there is an exemption from IGST, credit and refund is still eligible when exported without payment of tax. In the same manner while an export is made without payment of CC (irrespective of the fact that IGST is paid on such export), it should be regarded as an export done without payment of CC. This is how CC and IGST have to be analysed independently.
- Once the export is made without payment of CC, refund of CC should also be eligible as an export under LUT.
- This decision very clearly highlights the need for one to understand and note the difference between non-leviability and exemption.
- Another aspect to note is that one should only consider what has been clarified in the circular and should not deduce what has not been explicitly clarified therein.



Case 3 - Withholding of Refund Not Permissible in the absence of any proceedings

**M/S. K-NXT Logisticx Private Limited 2025
(5) TMI 1436 - Delhi High Court**

Facts:

- Petitioner is engaged in rendering freight forwarding services to various clients in India and abroad.
- Petitioner filed a refund claim, later Show Cause Notice was issued.
- Assistant Commissioner, Central Tax GST rejected refund claim by passing an order.
- This order was challenged by the Petitioner before the Appellate authority. The Appellate authority allowed the refund claim. Petitioner repeatedly made representations to get the amount of refund released.
- However, the refund amount was not paid but withheld by the department by passing an order to the extent that the refund will be withheld until finality of the proceeding before the Tribunal and Courts.
- There was no appeal filed challenging the Appellate authority's order by the department till date.
- The department contended that, they exercised powers under section 54(11) of the CGST Act, 2017 to withhold the refund after the appellate order, citing potential loss to revenue.

Decision:

- Court held that, the position u/s 54(11) ibid has been recently considered by the Court in Shalender Kumar in W.P.(C) 3824/2025, where it was held that
 - a) Withholding u/s 54(11) in the first place is permitted when an order directing a refund is subject matter of a proceeding which is pending either in appeal or any other proceeding under the Act

b) The refund having been permitted by the Appellate Authority and no order in review having been passed, the Department cannot hold back the refund.

- Based on the above settled legal position Court held that, opinion of the Department cannot be relied upon on a stand-alone basis, without any challenge to the order by the Appellate Authority.
- It is directed that the refund amount be released in favour of the Petitioner along with statutory interest.

Comments:

- Until the GSTAT becomes functional, cases where refund orders have been passed in favour of the appellant by Appellate Authority, it is up on the department to release the refund amount along with interest, as applicable.
- Such refund cannot be withheld on the premise that the department is looking at appealing against the refund order which is favourable to the taxpayer.
- Cases where such refunds are withheld, taxpayers can consider filing a Writ.
- Also, taxpayers should claim interest on delayed refund since it is clearly provided for u/s 56 of the CGST Act



Case 4: Intermediary requires existence of 3 parties, representation and facilitation

Columbia Sportswear India Sourcing Pvt. Ltd. vs Union of India & Ors [TS-421-HC(KAR)-2025-GST],

Facts:

Petitioner is engaged in the export of services to clients outside India. It entered into “Buying Support Services Agreements” with Columbia Sportswear Company, a corporation organized under the laws of the USA (Recipient).

The agreement provides that the Petitioner would:

- Assist the Recipient in identifying possible sources for procurement.
- Ensure product conformity to Recipient’s requirements with respect to type, quality, delivery deadlines, financing and insurance.
- Coordinate with vendors for delivery to designated ports.
- Provide production schedules and facilitate direct orders from the Recipient to manufacturers.
- Coordinate between Recipient and suppliers, survey markets, identify and visit factories, advise on materials, monitor production progress, track shipments, ensure compliance with timelines and quality, and assist with legal reviews and documentation.

Other aspects of service agreement:

- Petition shall not have the authority to represent and bind Recipient directly vis-à-vis manufacturers.
- Petitioner would take all decisions in relation to purchase of Manufactured Products and would place purchase orders directly on manufacturers.
- The compensation is based on operating costs plus a mark-up, with the fee invoiced monthly in USD.

Revenue treated the services as falling under

the definition of “intermediary” and denied refund of unutilized Input Tax Credit (ITC).

Decision:

- The Court noted the below regarding the legal position w.r.t. intermediary:
 - The existence of 3 parties being a triangular relationship irrespective of whether the 3rd party is identified in the agreement
 - Even if there are 3 parties, one should clearly see whether the agreement casts an obligation on the service provider to act on someone else's behalf in respect of such supply and only then it would be an intermediary services.
 - If there is no scope for the service provider to act on behalf of the service receiver, then the agreement is one on principal to principal basis where services are provided on own account.
 - Sub-contracting of services is not intermediary service
- Petitioner is not an intermediary in the present case for the following reasons:
 - There are only two persons in the subject agreements
 - Petitioner renders services on its own account and it does not enable supply between the foreign recipient and the third parties
 - The acts of the petitioner are that of an independent contractor
 - Petitioner does not represent or bind the foreign client in the course of executing its services.
 - The foreign recipient is free to choose from whom he would procure and the Petitioner’s recommendations are not final and binding on it.
 - Petitioner cannot also represent that it is doing something on behalf of the foreign recipient.
 - The host of services rendered by the petitioner is more akin to business support services to enable efficient

- procurement of garments and a continuing business relationship rather than enabling procurement of orders on a commission basis.
- Services provided by Petitioner is export of services.
- Refund of IGST together with interest as applicable within 3 months was ordered.

Comments:

In spite of clarifications issued and various decisions on the intermediary services, time and again department alleges that services

- provided by taxpayers are intermediary services in order to reject refund claims.
- This decision once again lays down a number of principles and guidelines to assess whether services are intermediary.
- Existence of 3 parties being the most important along with aspects of representing another and facilitating supplies – all together can mean existence of intermediary services.
- Every agreement or arrangement should be analysed from this perspective whether the services are intermediary in nature.



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