

Accountants' Library

Newsletter

For Private circulation only

November 2022 Issue



President's Address

Dear Professional Colleagues,

I am extremely happy to communicate with you through this first Newsletter of our Library in my tenure as its President. I am extremely thankful to the Chairman of the Newsletter Sub-Committee of our Library C.A. Amitava Banik and his complete team without whose dedication we could not have brought out this edition of the Newsletter. I also thank C.A. Arupa Banik for her immense contributions.

I am sure that this edition of the Newsletter which consists not only of various updates on different laws & regulations but also carries a compendium of recent case laws will help us update ourselves and will also serve as a Ready Reckoner to fall back to whenever required.

While change has been the only constant, the speed of change has never been so fast as we witness these days. Time has come when Firms having specialised partners in different areas of Profession and Multi-Disciplinary Firms will grow very fast and the ones not willing to partner will almost perish. Professionals having multiple specialisations and especially the ones well-versed with technology will have a cutting edge over others. Firms focusing on creating value through its services under one umbrella will be in greater demand. Firms focusing on Audit need to quickly check its Audit Quality Maturity Model and upgrade itself with the help of the implementation guide issued by ICAI in this regard. The ICAI is also changing its Code of Ethics and other policies keeping in mind the changing business and economic environment and the international requirements. While on one side, the traditional practice is losing its value, newer areas of practice are growing very fast in value. Greater use of technology all over the world has also opened up an interesting way of practice whereby we can provide services to entities all over the world. While the risk of not willing to change is at its highest, the premium to flexibly accustom with change is also at its highest point now. I wish that the members of our Library quickly adapt to the changes and pledge to continuously adapt to the newer unseen environment so as to reach greater heights. The Library will organise various workshops and programmes to ensure that the members are always updated with changes. The Library will also publish Newsletters regularly to serve this cause.

All efforts are being made to make the Newsletters more informative and relevant. We look forward to your feedback to further improve our functioning.

With warm regards,

C.A. Debayan Patra

President, Accountants' Library



From the Editor's Desk

Dear Professional Colleagues,

I am pleased to present before you the November 2022 issue of the Newsletter on behalf of the members of the Accountants' Library. It contains recent significant Legal Updates: Direct, Indirect Tax, Companies Act 2013 and Other Regulatory matters; a write up contributed by Arupa Banik, Chartered Accountant- Financial Statements: Looking through the lens of Ind AS 1: Presentation of Financial Statement and a Compendium of recent Case Laws. Further it introduces the Committee Members- 2022-2023. Besides, it offers the highlights of some of the activities that our Accountants' Library has undertaken in the last months.

I am particularly proud of the accomplishments of our distinguished members of the Institute and we are happy to disseminate the information to the wider audience. I appeal to you personally to write to me about your own or fellow members' achievements and/or success stories of other batch mates and friends that you know of. Your efforts will help us showcase these accomplishments to the wider Chartered Accountant community. I further appeal before my distinguished professional colleagues to contribute articles for the upcoming issues of the

newsletter, making it a platform for exchange of knowledge, expertise, ideas and brainstorming sessions!

As a body of Chartered Accountants, through Accountants' Library, we are firmly engaged in the processing of working out concrete plans. We remain committed to the goal of increasing accessibility to quality higher education through the use of cutting-edge educational and practical knowledge imparted by our Institute.

At the close, I would like to thank the members for spending their valuable time to pen down messages for this edition, giving their valuable inputs and suggestions to chalk out the structure of the Newsletter; the editorial board for its untiring effort in spending countless hours perfecting the contributions; the supervisors and mentors for working behind the scenes and the contributors who are integral to this effort.

Last but definitely not the least, gratitude is due to you, dear reader, who has made the most valuable contribution-your time!

This would not have been possible without the dedication and hard work of our Accountants' Library's administrative staff, students and members. I thank you all for your efforts and look forward to your continued support!

Happy Reading!

With Regards,

C.A. Amitava Banik

Hony. General Secretary Accountants' Library and
Chairman, Newsletter Sub-Committee

Accountants' Library

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Legal Updates: Direct, Indirect Tax, Companies Act 2013 and Other Regulatory matters

Direct tax (Income Tax)

- **Income-tax (26th Amendment) Rules 2022:**
 - Rule 40G and Form 29D prescribed for filing refund claim under Section 239A of the Income-tax Act 1961 of the tax deducted and paid to the credit of Central Government under section 195.

(Notification No. 98/2022, dt 17th August, 2022)

- **Applicability of Section 206C(1G):**
 - Tax collection at source provisions under the captioned section (TCS @5% of tour program package) not applicable buyer who is non-resident in India and does not have a Permanent Establishment in India.
- **Income-tax (27th Amendment) Rules 2022:**
 - Due Date to furnish Form 67 (for claiming Foreign tax Credit) extended to “on or before end of the assessment year, relevant to the previous year in which foreign income has been taxed in India and the return for such assessment year has been furnished within the time specified under section 139(1) and section 139(4)”.
 - In case of an updated return, the time limit to file Form 67 is before filing the return.

(Notification No. 100/2022 dt 18th August 2022)

- **Additional Guidelines for removal of difficulties under section 194R(2) of the Income-tax Act 1961:**
 - Section 194R requires a person responsible for providing any benefit or perquisite to a resident to deduct tax at source at 10% of the value or aggregate of the value of such benefit or perquisite.
 - Additional guidelines issued to provide clarification on issues to remove difficulties in implementation of section 194R

(Circular No. 18/2022, dt 13th September, 2022)

- **Income-tax (31st Amendment) Rules, 2022:**

- Rule 12AD inserted in the Income-tax Rules
- It specifies that the modified return of income to be furnished by a successor entity to a business reorganization (as referred to in section 170A) shall be in Form ITR-A and verified in the manner specified therein.

(Notification No. 110/2022, dt 19th September, 2022)

- **Income-tax (32nd Amendment) Rules 2022-insertion of Rule 132:**

- For the purpose of section 40(a)(ii), it is inserted that the term “tax” shall be deemed to have always included “surcharge” or “cess”. Thus, any deduction claimed for cess or surcharge shall not be available.
- Section 155(18) empowers the assessing officer (AO) to recompute total income for such previous years in which cess or surcharge was claimed, treating the same as “under-reported income” to be subject to penalty.
- The claim shall not be deemed to be considered as under-reported income if an application is made to that extent by the assessee to the AO.
- Rule 132 inserted prescribing the manner of making the application before the AO.

(Notification No. 111/2022, dt 19th September, 2022)

- **Extension of timeline for filing audit reports and furnishing return of income for AY 2022-2023:**

- Due date of furnishing various audit reports extended from 30th September 2022 to 7th October 2022.

- Due date to file return of income under section 139(1) which was 31st October 2022 in case of assesses referred in clause (a) of Explanation 2 to section 139(1) to 7th November 2022.

(Circular No. 19/2022 dt 30th September, 2022 and Circular No. 20/2022 dt 26th October 2022)

- **Income-tax (32nd Amendment) Rules 2022:**

- The definition of 'non-reporting financial institution' as defined under Rule 114F amended.
- Section 285BA talks about reporting requirements by a "non-reporting financial institution" that is responsible for registering, and maintaining books of account or other documents containing a record of any reportable account.
- The definition of 'non-reporting financial institution' has been amended to provide that:
 - a) a financial institution with a local client base;
 - b) a local bank; and
 - c) a financial institution with only low-value accounts.shall be termed as a non-reporting financial institution only in case of any U.S. reportable account.
- Further, the Board has also amended the definition of 'Treaty Qualified Retirement Fund' to make it USA country-specific.

(Notification No. 112/2022, dt 7th October, 2022)

- **CBDT designates CIT(Appeals) to deal with the appeals arising under section 246A and section 248 of the Income-tax Act 1961 falling under the Faceless Appeal Scheme, 2021:**
 - Commissioner of Income-tax (Appeals) as specified having their headquarters at places specified shall exercise powers and perform the functions in respect of appeals arising under section 246A and 248 filed in specified cases (International taxation) and falling within the jurisdiction of specified Income-tax authorities.

(Notification No. 113/2022, dt 13th October, 2022)

- **Specified persons notified under section 10(23FE) of the Income-tax Act 1961 by Central Government:**
 - The following are notified as “specified persons” for the purpose of the said clause in respect of investment made by it in India on or after 13-10-2022 and 14-10-2022 respectively but on or before 31-03-2024, subject to fulfillment of certain conditions:
 - 2589555 Ontario Limited;
 - Norges Bank on Account of the Government Pension Fund Global.

(Notification No. 114/2022 dt 13th October, 2022 and Notification No. 115/2022, dt 14th October, 2022)

- **Revised Guidelines issued for compounding of offences under the Income-tax Act 1961:**
 - Changes made with respect to compoundable offences under section 276.
 - Applicant being convicted with imprisonment for less than two years now made compoundable.
 - Discretion available with competent authorities also suitably restricted

(Press Release, dt 17th September 2022)

- **Order under section 119 of the Income-tax Act, 1961-Extension of time limit to file Form ITR-A:**

- Time limit to file modified returns in Form ITR-A under section 170A extended to 31st March 2023.
- Successor companies can now have adequate time to furnish modified returns where order of business reorganization of the competent authority was issued between 1st April 2022 to 30th September 2022.

(Order dated 26th September 2022)

- **Constitution of Collegium-Explanation to section 158AB of the Income-tax Act 1961:**

- Collegium to be constituted for the purpose of deciding deferment of appeals before the Appellate Tribunal or the jurisdictional High Court by the AO under section 158AB.
- Collegium to comprise of three members who are officers of the rank of Principal Commissioner of Income-tax or Commissioner of Income-tax (CIT).

(Order dt 28th September 2022)

- **Extension of due date to file Form 26Q for the second quarter of FY 2022-23:**

- Due date of filing Form 26Q (TDS return for non-salary transactions) for the second quarter of FY 2022-23 extended from 31st October 2022 to 30th November 2022.

(Circular No. 21/2022 dt 27th October 2022)

GST:

- **Instructions (GST Investigation):**

- Guidelines issued for arrest and bail in relation to offences punishable under the CGST Act 2017 (Instruction No. 2/ 2022-23, dt 17th August 2022)
- Guidelines issued on issuance of summons under section 70 of the CGST Act 2017 (Instruction No. 3/ 2022-23, dt 17th August 2022)
- Guidelines issued for launching of prosecution under the CGST Act 2017 (Instruction No. 4/ 2022-23, dt 1st September)
- **Filing/revising of TRAN-1/TRAN-2:**
 - Guidelines for filing/revising TRAN-1/TRAN-2 issued in terms of Order of the Hon. Supreme Court in the case of Union of India vs. Filco Trade Centre Pvt Ltd.

(Circular No. 180/12/2022-GST, dt 9th September 2022)

- **Amendments made vide Finance Act 2022-made effective from 1st October, 2022:**
 - Provisions of sections 100 to 114 of the Finance Act 2022 shall come into force.
 - Exceptions: Clause c of section 110 and Section 1111 of the Finance Act 2022.

(Notification No. 18/2022-CT dt 28th September 2022)

- **Amendment in CGST Rule 2017**
 - Amendments made to rules 21, 36, 37, 38, 42, 43, 83, 85, 89 and 96 of the CGST Rules 2017.
 - Rules 69, 70, 71, 72, 73, 74, 75, 76, 77 and 79 omitted.
 - Forms GSTR-1A, GSTR-2 and GSTR-3 omitted from respective rules thus doing away with the two-way communication process in return filing.

(Notification No. 19/2022-CT dt 28th September 2022)

- **Withdrawal of Notification No. 20/2018-CT dt 28-03-2018**

- Notification stating the specified persons who can make application for refund of tax paid by it on inward supplies of goods or services or both to the jurisdictional tax authority, in form and manner as prescribed before expiry of eighteen months from last date of the quarter in which such supply was received-rescinded w.e.f 1st October 2022.

(Notification No. 20/2022-CT dt 28th September 2022)

- **Clarifications on time limit**

- Pursuant to Notification No. 18/ 2022-CT, clarifications made about changes in time limits for certain compliances.

(Press release, dt 4th October 2022)

Customs:

- Courier Imports and Exports (Electronic Declaration and Processing), Second (Amendment) Regulations, 2022 have been issued for facilitating e-commerce exports of jewellery. *(Notification No.81/ 2022-Customs (N.T) dt. 23-09-2022).*
- Clarification issued on amendments in Scheme for Remission of Duties and Taxes on Exported Products. *(Circular No.231/2022-Customs dt.26-09-2022)*
- Clarification issued on amendments in Rebate of State and Central Taxes and Levies Scheme.*(Circular No. 22/2022-Customs dt 26-09-2022).*

The Companies Act 2013

- **Incorporation Rules amended:**

- The Companies (Incorporation) Third amendment Rules, 2022 notified by MCA.
- Rule 25B inserted describing manner of physical verification of a company's registered office.

- Physical verification of the registered office shall be conducted by ROC in presence of two local independent witnesses.
- If required, assistance from police may be sought.

(Notification No. G.S.R.643(E) dated 18th August, 2022)

- **Amendment of Forms STK1, STK 5 and STK 5A:**

- Captioned Forms amended by MCA.
- ROC can issue notice for removal of name of company if it is found that it is not carrying on business or operations from the registered office, as revealed during physical verification of its registered office carried out under section 12(9).
Accordingly, Form STK 5 and Form STK 5A (i.e Public Notice by ROC) amended.

(Notification No. G.S.R. 658 (E), dated 24th August 2022)

- **Enhanced disclosures on acceptance of deposits-Amendment of Forms DPT-3 and DPT-4**

- Companies (Acceptance of Deposits) Rules 2014 amended.
- Auditor to submit declaration regarding deposits with E-Form DPT-3.
- Enhanced disclosures to be made in the amended forms.

(Notification dated 24th August 2022)

- **Revised Forms for Director's KYC notified:**

- Erstwhile forms amended with new DIR-3 KYC and DIR-3-KYC.
- A new entry inserted in the form capturing "jurisdictional police station" in the address details of directors.

(Notification No. GSR 662(E), dated 29th August 2022)

- **Scope of small companies broadened:**

- Definition of “Small Company” amended by increasing maximum threshold for paid up share capital to from Rs. 2 crores to Rs. 4 crores and turnover from Rs. 20 crores to Rs. 40 crores.
- Thus, more companies would fall under the ambit of “Small Company”, reducing compliance burden.

(Notification No. G.S.R. 700(E), dt 15th September 2022).

- **Constitution of CSR Committee for Companies having balance in “Unspent CSR Account”:**

- Companies (Corporate Social Responsibility Policy) Amendment Rules 2022 notified by MCA.
- A Company having any amount in its “Unspent CSR Account” shall constitute a CSR Committee.
- Companies can also undertake CSR activities through a registered public trust or a specified registered society (exempted under specified sub clauses of Section 10(23C) of Income-tax Act 1961).
- CSR Reporting format also modified.

(Notification No. G.S.R. 715(E), dt 20th September 2022).

- **Clarification of mandating Companies to round off figures appearing in financial statements:**

- MCA mandated companies to round off figures in financial statements depending on their total income.
- It is clarified that the companies providing absolute figures in e-forms i.e. AOC-4 shall not be treated as incorrect certification by professionals.

(Clarification by MCA, dt 26th September 2022)

- **Due date for filing e-form DIR-3 KYC and web-form DIR-3 KYC WEB extended:**
 - Filing of the above-mentioned forms extended by MCA to 15th October, without late fees.

(Circular No. 09/2022 dt 28th September 2022)

ICAI Updates

- **External Confirmation from third party vendors:** ICAI has advised that auditors are to directly seek confirmation from concerned banks in cases where banks avail services of third-party vendors. This is due to the fact that confirmations from third party vendors may not be authentic or complete. (7th September 2022)
- **Enabling of withdrawal functionality of Form 15CB at e-filing portal** (10th September 2022)
- **Mandatory evaluation of audit quality maturity of firms using AQMM Rev v 1.0:** From 1st April 2023, firms auditing a listed entity or bank other than a cooperative bank (except multi-state cooperative banks) or an insurance company are mandatorily required to evaluate their audit quality maturity using Audit Quality Maturity Model Revised Version 1.0 (AQMM Rev v 1.0) (13th September 2022)
- **Applicable due date of certain deferred provisions of Vol-I of Code of Ethics, 2019:** The deferred provisions namely-responding to NOCLAR, Fees-Relative Size and Tax Services to Audit Clients will be applicable from 1st October 2022 (29th September 2022).
- **Multipurpose Empanelment Form (MEF) for 2022-23:** Forms had been hosted at www.meficai.org. The due date for submitting the Form had been extended till 15th November 2022 (6th October 2022, 21st October 2022 and 10th November 2022)

- **Use of designation "Chartered Accountant" or prefix "CA" by members while expressing views on professional/non-professional matters publicly including on social media:** Members advised that it is not appropriate to post contents/comments on social networking website(s) using words/caricatures which are derogatory or not in conformity with dignity of the profession or result in negative portrayal of the profession. Therefore, it is advised to strictly avoid posting such contents/comments with the designation of "chartered accountant" or prefix "CA". (22nd October 2022)
- **Guidance Notes and Exposure Drafts released:**
 - Exposure Draft on Standard on Sustainability Assurance Engagements (SSAE)- 3000-SRSB (12th September 2022)
 - Exposure Draft of AS 113, Fair Value Measurement (19th September 2022)
 - Technical Guide on Audit of Charitable Institutions under section 12 A of the Income-tax Act 1961 (22nd September 2022)
 - Exposure Draft: Third edition of the IFRS for SMEs Accounting Standard (10th October 2022)
 - Guidance Note on Report under Section 92E of the Income-tax Act 1961 (25th October 2022)

Index for other Regulatory Updates (covering SEBI, FEMA and RBI)

SEBI

- Conditions for investment in overseas investee companies by Alternative Investment fund (AIF)/ Venture Capital Funds (VCFs). (*Circular No. SEBI/HO/AFD-1/POD/CIR/P/2022/108, dt 17th August 2022*).
- Validation of transfer instructions by Depositories before executing actual transfer of securities. (*Circular No. SEBI/HO/MIRSD/DOP/P/CIR/2022/119, dt 19th September 2022*).
- Replacement of name of Karta of Hindu Undivided Family (HUF) with a new Karta in the event of death of the former. (*Circular No. SEBI/HO/MRD/MRD-POD-2/P/CIR/2022/114*)
- Extension of “Two-Factor-Authentication” for subscription transactions in the units of Mutual Funds. (*Circular No. SEBI/HO/IMD/IMD-IDOF1/P/CIR/2022/132, dt 30th September 2022*)
- Inclusion of Mutual Fund transactions in the scope of “Demat Debit and Pledge Instruction (DDPI).” (*Circular No. SEBI/HO/MIRSD/MIRSD-POD-1/P/CIR/2022/137, dt 6th October 2022.*)

FEMA and RBI

- *Restrictions on Liberalised Remittance Scheme (LRS) funds brought in. (Amendment made in para 16 of Master Direction-Liberalised Remittance Scheme (LRS), dt 24th August 2022).*
- “Alert list” of entities not authorized to deal in FOREX (*Press Release 2022-23/835, dt 7th September, 2022*)
- Release of results of annual census on Foreign Liabilities and Assets of Indian Direct Investment Entities by RBI (*Press Release Nos 2022-23/909 and 2022-23/912 dated 22nd September, 2022*).
- Uniformity in imposition of Late Submission Fees (LSF) for reporting delays in Foreign Investment (FI), External commercial Borrowings (ECBs) and Overseas Investment

related transactions. [A.P. (DIR SERIES 2021-22) Circular No. 16 dt 30th September 2022)]

- Concept note on Central Bank Digital Currency (CBDC) for India released by RBI [*Press Release No. 2022-23/1012 dt 7th October, 2022*]
- Standard Operating Procedure (SOP) for Inter-operable Regulatory Sandbox [*Press Release No. 2022-23/1030 dt 12th October, 2022*].
- Review of Prudential Norms-risk weights for exposure to Corporates and NBFCs in terms of paragraphs 5.8.1 of Master Circular-Basel III Capital Regulations [*Notification No. RBI/2022-23/125 DOR.STR.REC.71/21.06.201/2022-23, dt 10th October 2022*]
- Disclosure of Divergence in asset classification and provisioning- RBI (Financial Statements-Presentation and Disclosures) Directions, 2021 [*Notification No. RBI/2022-23/130 DOR.ACC.REC.No.74/21.04.018/2022-23, dt 11th October 2022*]

Financial Statements: *Looking through the lens of Ind AS 1:* *Presentation of Financial Statement*

Arupa Banik

Chartered Accountant

A brief Introduction

A key standard on Auditing issued by the Auditing and Assurance Standard Board (AASB) is SA 200: Overall Objectives of an Independent Auditor-which lays down the independent auditor's overall objectives and responsibilities when conducting an audit of financial statements. Independence of an auditor has always been an indispensable feature for all audit assignments and the same received a further impetus during the 21st World Congress of Accountants (WCOA), where the Hon'ble Finance Minister in her keynote address stressed upon the independence of Chartered Accountants as "extremely important and significant for the trust and integrity of financial statements". This in turn leads us to a pertinent question-*What entails Financial Statements?*

Broadly, section 2(40) of the Companies Act 2013 states that "Financial Statements" in relation to a company includes-

- i. A Balance sheet at the end of the financial year;

- ii. A Profit and Loss Account or an income and Expenditure Account for the financial year;
- iii. Cash Flow Statement for the financial year (optional for one person company, dormant company, small company and private start-ups)
- iv. Any explanatory note annexed or forming a part of the above-mentioned documents.

The objective behind preparation and presentation of financial statements is to provide information about the financial position, performance and cash flow of an enterprise that is useful to a wide range of users in making economic decisions.

While obtaining reasonable assurance about whether financial statements as a whole are free from material misstatements, it is of paramount importance for a Chartered Accountant to be aware of the technicalities behind the preparation and presentation of financial statements, as elucidated in Ind AS-1: Presentation of Financial Statement, which inter alia give detailed guidance on the structure and content of the financial statements.

General Features of Financial Statements

- **True and Fair view and Compliance with Ind AS:**
 - The financial statements should entail faithful representation of the effects of transactions, other events and conditions in accordance with the definitions and recognition criteria for assets, liabilities, income and expenses.
 - An entity whose financial statements comply with Ind ASs shall make an explicit and unreserved statement of such compliance in the notes.
 - An entity cannot rectify inappropriate accounting policies either by disclosure of the accounting policies used or by notes or explanatory material.
- **Going Concern:**
 - An entity shall prepare financial statements on a going concern basis unless management either intends to liquidate the entity or to cease trading, or has no realistic alternative but to do so.

- **Accrual Basis:**
 - An entity shall prepare its financial statements, except for cash flow information, using the accrual basis of accounting.
- **Materiality and Aggregation:**
 - Each material item should be presented separately.
 - Immaterial items should be aggregated with other items.
- **Offsetting:**
 - An entity shall not offset assets and liabilities or income and expenses, unless required or permitted by an Ind AS.
- **Frequency of reporting:**
 - Complete set of financial statement shall be presented annually and if not the reason for longer or shorter period and fact that the statements are not fully comparable must be disclosed.
- **Consistency:**
 - Financial statement must be prepared and classified as in the previous period unless an Ind AS requires change or another presentation would be more appropriate because of change in nature of entity's operation.
- **Comparative Information:**
 - This information from previous period must be disclosed for all numbers in financial statement and also narrative and descriptive information when relevant.

Structure and Content of Financial Statements

- **Identification:**

IND-AS applies to financial statement and not to other information in the same published document. Therefore, an entity must clearly distinguish the financial Statement from other information and identify following:

- Name of the reporting entity
- Whether financial statements are of an individual entity or a group of entities
- Period covered by the set of financial statement or notes.
- Presentation Currency
- Level of rounding off used.

- **Balance Sheet:**

Ind AS 1 specifies that the following items, as a minimum, are presented on the face of the balance sheet:

- **Assets:** Property, plant and equipment; investment property; intangible assets; financial assets; investments accounted for using the equity method; biological assets; deferred tax assets; current tax assets; inventories; trade and other receivables; and cash and cash equivalents
- **Equity:** Issued capital and reserves attributable to the parent's owners; and non-controlling interest
- **Liabilities:** Deferred tax liabilities; current tax liabilities; financial liabilities; provisions; and trade and other payables
- **Assets and liabilities held for sale:** The total of assets classified as held for sale and assets included in disposal groups classified as held for sale; and liabilities included in disposal groups classified as held for sale in accordance with Ind AS 105, 'non-current assets held for sale and discontinued operations.
- **Current/Non-current distinction:** Assets and liabilities can be presented by classifying in current and non-current items or they can be presented in the order of liquidity if it is reliable or more relevant.

- **Statement of Profit and Loss:**

Items to be presented in the Statement of Profit and Loss include the following:

- All items of income and expense and includes each component of other comprehensive income classified by nature.
- Additional line items or sub-headings are presented in this statement when relevant to an understanding of the entity's financial performance.
- Any item of income or expense is not presented as extraordinary item in the statement of profit and loss or in the notes.
- The expenses are classified in the statement of profit and loss based on the nature of expense.

- **Other Comprehensive Income (OCI):**

- The Statement of OCI includes the following:
 - ✓ Changes in revaluation surplus;
 - ✓ Actuarial gains and losses on defined benefit plans;
 - ✓ Gains and Losses arising from financial statement of foreign operations;
 - ✓ Gains and losses from investment in equity instruments designated at fair value through OCI;
 - ✓ The effective portions of gain and loss on hedging instruments in a cash flow hedge;
 - ✓ Gains and losses on financial assets measured at fair value through OCI;
 - ✓ The amount of change in fair value that is attributable to the changes in the liability's credit risk;
 - ✓ Changes in value of time, value of options and forward elements of forward contract.
- Line Items within other comprehensive income are required to be characterised into two categories:

- ✓ Those that could subsequently be reclassified to Profit or Loss.
- ✓ Those that cannot be reclassified to Profit or Loss.
- An entity presents each component of other comprehensive income in the statement either as:
 - ✓ net of its related tax effects, or
 - ✓ before its related tax effects, with the aggregate tax effect of these components shown separately.
- An entity needs to also disclose reclassification adjustments relating to components of other comprehensive income.

- **The Statement of Change in Equity:**

The information to be presented are:

- Total comprehensive income attributable to owners and non-controlling interest.
- Effect of retrospective application or restatement.
- Reconciliation between the amount of equity at beginning and end of period.
- Disclosing the changes in equity arise from Statement of Profit and Loss, OCI, other owner's transaction.

- **Statement of Cash Flows:**

This is covered by IND AS 7: Statement of Cash Flows (to be explored in subsequent newsletters).

- **Notes to Financial Statement:**

Notes provide information additional to the amounts disclosed in the 'primary' statements. They include:

- Accounting policies;

- Critical accounting estimates and judgements;
- Disclosure of assumption made and sources of estimation used in preparing financial statements;
- Additional information useful to users understanding/decision making to be presented;
- Information that enables users to evaluate the entity's objectives, policies and processes for managing capital;
- Required information about puttable financial instrument classified as equity.
- Dividend proposed and cumulative dividends not yet recognised.
- Other disclosure includes information of entity such as: legal form, address of registered office, nature of operations or principal activities.

Concluding remarks:

What sets apart IND AS 1 from other accounting standards is that it sets the basic premises for presentation of financial statements-giving adequate guidelines for their structure and minimum requirements for their contents. Whereas other standards are dedicated to specific issues, IND AS 1: Presentation of Financial Statements encapsulates the overall framework of financial statements, making it a ready reference for all accounting professional. A perusal of the standard would equip the auditors and their team to be well-versed with the technicalities and minimum content that financial statements of any company should entail.

Compendium of Case laws

Income-tax

Tribunal Decisions:

- **eBay Singapore Services (P.) Ltd. v. Deputy Commissioner of Income-tax (IT), [2022] 143 taxmann.com 78 (Mumbai - Trib.) [03-10-2022]**
 - Brief facts:
 - Assessee filed application seeking stay on tax and interest demand raised in assessment order passed under section 143(3).
 - Assessing Officer(AO) disposed off stay application by directing assessee to pay requisite tax, as per Board's instruction, which was 20 per cent of outstanding demand as per notice under section 156.
 - Ruling:
 - Whether where AO took a view that in terms of CBDT instructions, 20 per cent of demand was to be paid by assessee and balance demand could, by implication, be stayed during pendency of first appeal, such a computation of 20 per cent was to be with respect to total disputed demand, and not with respect to outstanding demand specified under section 156 - Held, yes.

- Whether, thus, matter was to be remanded to Assessing Officer for limited purposes of verification whether 20 per cent of disputed demand was paid, and if so, pass an appropriate order granting stay to assessee on such conditions as deemed appropriate - Held, yes.
- **Samira Constructions (India) Ltd vs. Deputy Commissioner of Income-tax, Central Circle-6(2), [2022] 144 taxmann.com 150 (Mumbai - Trib.)(06-10-2022]**
 - Ruling
 - Unsecured loans taken in cash and repaid with interest in cash and the genuineness of loan taken and interest paid thereon is not challenged. Hence, no addition can be made under section 36(1)(iii) where the interest has not been debited to Profit and Loss Account but has been capitalised as preoperative expenses.
 - AO directed to work out the figure of proportionate interest disallowance considering the figure of assessee's own fund. It is further directed that no addition to income on this ground can be made, the only effect of this working to be done by AO will be on the amount of interest capitalised by the assessee and carried to Balance-Sheet.

High Court Decisions:

- **National Dairy Development Board v. Additional Commissioner of Income-tax, [2022] 143 taxmann.com 282 (Gujarat)[12-10-2022]**
 - Brief facts:
 - Assessee-corporate was created by National Dairy Development Act.

- Assessee filed return and claimed deduction under section 36(1)(viii) on ground that it was a provider of long term finance for agricultural and industrial development.
 - AO denied said claim on grounds that notification declaring assessee as a financial institution was issued on 23-2-2004 which fell in subsequent assessment year.
 - Assessee contended that advances provided to industry engaged in milk producing were to be construed as an industrial undertaking.
 - Ruling:
 - Whether amount of expenditure relatable to 'agricultural development' under section 36(1)(viii) would not include or extend by taking within its sweep dairy or animal husbandry activity and, thus, providing long term finance for industrial or agricultural development to various dairy cooperations could not be covered as long term finance extended for agricultural or industrial development - Held, yes
-
- **Chandran Somasundaram v. Principal Director of Income-tax, [2022] 145 taxmann.com 6 (Madras)**
 - Ruling:
 - Where assessee challenged searches conducted under section 132 and consequential proceedings thereafter, culminating in passing of assessment orders and it was found that revenue had recorded cogent reasons for initiation of search which was based on information in possession with revenue, validity of search proceedings was to be upheld.

- Files relating to the recording of 'information' contained narration of 'information' leading to 'reasons to believe' and 'reasons to suspect' that have been recorded by authorities. Sufficiency or veracity of same is not a matter for review by Court and thus challenge to validity of the search was to be rejected.
- **Commissioner of Income-tax v. MAC Public Charitable Trust, [2022] 144 taxmann.com 54 (Madras)**
 - Ruling:
 - The principles laid down in various decided cases while expounding the concept of lifting the corporate veil, especially in cases relating to tax evasion, and in cases where public interest and policy are sought to be defeated by fraud, are squarely applicable to the present appeals where while the Assessee Trusts are controlled by common trustees and are in indeed sister Trusts, this Court may be constrained to lift the veil to see the real beneficiaries and the object of the donations by relatives/friends of parents as quid pro quo for admissions into the Assessee educational institutions as well as the other Assessees who are not educational institutions.
 - On lifting the veil, it was clear that the modus operandi adopted by the Assessee Institutions and Trusts were with the twin objectives of circumventing/violating the provisions of the Capitation Fee Act of Tamil Nadu as well as evading tax while seeking tax exemption under the corporate veil of being different and distinct entities receiving funds from each other for purely charitable purposes.

Supreme Court decisions:

- **Checkmate Services (P.) Ltd v Commissioner of Income-tax-1, [2022] 143 taxmann.com 178 (SC)**
 - Ruling:
 - With respect to Employees' contribution [to Provident Fund (PF) and Employees Provident Fund (EPF)], whether there is a marked difference between nature and character of assessee-employer's contribution and amounts retained by assessee from out of employee's income by way of deduction wherein one is liability to be paid by employer and second is deemed income as per section 2(24)(x) which is held in trust by assessee-employer, thus, said marked difference was to be borne while interpreting obligation of assessee-employer under section 43B - Held, yes.
 - Whether non obstante clause under section 43B could not apply in case of amounts which were held in trust as was case of employee's contribution which were deducted from their income and was not part assessee-employer's income, thus, said clause would not absolve assessee-employer from its liability to deposit employee's contribution on or before due date as a condition for deduction - Held, yes
- **Deputy Commissioner of Gift-tax v. BPL Ltd, [2022] 143 taxmann.com 222 (SC)**
 - Ruling
 - Whether expression 'quoted share' as per rule 2 in case of an equity share means a share which is quoted on any recognised stock exchange with regularity from time to time and where quotation of such shares is based on current transactions made in ordinary course of business - Held, yes
 - Assessee-company transferred certain shares of public limited companies to its sister concerns - However, these shares being promoter quota shares were under a lock-in-period – AO held that lock-in-period would not affect

transfer of shares and proceeded to determine value of shares as per section 4(1)(a) by taking into consideration valuation which was prevailing in stock exchange - High Court held that since shares transferred in question were in promoter's quota which were prevented from being traded in stock exchange during lock-in-period, same could not be subject-matter of quotation in stock exchange and could not fall within definition of quoted shares.

- Whether since shares in lock-in period were not quoted in any recognized stock exchange with regularity from time to time and there was no current transactions relating to these shares made in ordinary course of business, it would not be possible to have quotation based upon current transactions made in ordinary course of business - Held, yes - Whether, thus, valuation of shares in lock-in-period would be made by taking into account limitations/restrictions and such valuation was to be treated as market value - Held, yes
- **New Noble Educational Society v. Chief Commissioner of Income-tax, [2022] 143 taxmann.com 276 (SC)**
 - Ruling:
 - Whether interpretation of section 10(23C) is that trust or educational institution must solely exist for object of educational activity only and not for profit - Held, yes –
 - Whether requirement for educational charitable institution, society or trust seeking approval under section 10(23C) is to 'solely' engage itself in education or educational activities and not engage in any activity of profit which are unrelated to education - Held, yes

- Whether where institutions provide their premises or infrastructure to other entities, trusts, societies etc., for purposes of conducting workshops, seminars or even educational courses (which concerned trust is not actually imparting) and outsiders are permitted to enrol in such seminars, workshops, courses etc., then income derived from such activity cannot be characterised as part of education or 'incidental' to imparting education - Held, yes.
 - Whether where objective of institution appears to be profit-oriented, such institutions would not be entitled to approval under section 10(23C); however, where surplus accrues in a given year or set of years per se, it is not a bar, provided such surplus is generated in course of providing education or educational activities - Held, yes
 - Whether while considering applications for approval under section 10(23C), Commissioner is not bound to examine only objects of institutions, to ascertain genuineness he is also free to call for audited accounts or other such documents for recording satisfaction where society, trust or institution genuinely seeks to achieve object which it professes - Held, yes
 - Whether registration of trust or charities is obligatory under State or local laws and concerned trust, society, other institution etc. seeking approval under section 10(23C) should also comply with provisions of such State laws, this would enable Commissioner or concerned authority to ascertain genuineness of trust, society etc. - Held, yes
- **Assistant Commissioner of Income-tax (Exemptions) v. Ahmedabad Urban Development Authority, [2022] 143 taxmann.com 278 (SC)**
 - Ruling:

- An assessee advancing general public utility cannot engage itself in any trade, commerce or business, or provide service in relation thereto for any consideration-However, in the course of achieving the object of general public utility, the concerned trust, society, or other such organization, can carry on trade, commerce or business or provide services in relation thereto for consideration, provided that the activities of trade, commerce or business are connected to the achievement of its objects of GPU; and the receipts do not exceed the quantified limit.
- For achieving a general public utility object, if the charity involves itself in activities, that entail charging amounts only at cost or marginal mark up over cost, and also derive some profit, the prohibition against carrying on business or service relating to business is not attracted - if the quantum of such profits do not exceed 20% of its overall receipts.
- Amounts charged by statutory authorities, corporations, statutory regulatory authorities for their public activities cannot be treated as commercial receipts-However, if the amounts collected are significantly higher than the costs incurred, it can be treated as commercial income.
- Tax exemption for professional bodies like ICAI- bodies which regulate professions and are created by or under statutes which are enjoined to prescribe compulsory courses to be undergone before the individuals concerned is entitled to claim entry into the profession or vocation, and also continuously monitor the conduct of its members do not ipsofacto carry on activities in the nature of trade, commerce or business, or services in relation thereto-However, this is subject to the caveat that if the assessing authorities discern that certain kinds of activities carried

out by such regulatory body involved charging of fees that are significantly higher than the cost incurred (with a nominal mark-up) or providing other facilities or services such as admission forms, coaching classes, registration processing fees, etc., at markedly higher prices, those would constitute commercial or business receipts.

GST

High Court decisions

- **Poonamchand Saran v. Union of India, [2022] 144 taxmann.com 85 (Rajasthan)**
 - Brief facts: Registration of assessee was cancelled on ground that hardcopy of appeal was not submitted in time and on other hand, in case of another assessee, registration was cancelled on ground that appeal was not filed against cancellation order.
 - Ruling:
 - Whether cancellation of registration was depriving assessee's opportunity of doing business and earning livelihood and was violative of Article 21 of Constitution of India - Held: In absence of GST registration, business cannot be carried out and same would deprive assessee of their livelihood which amounts to violation of right to life and liberty as enshrined in Article 21 of Constitution of India.
 - Impugned order cancelling registration was to be set aside - Assessee was to be directed to file appeal against cancellation of registration within 10 days before competent officer.
 - Appeals were to be decided excluding bar of limitation.

- **R. P. Buildcon (P.) Ltd. v. Superintendent, CGST & Central Excise-Circle-I, [2022] 144 taxmann.com 108 (Calcutta)**
 - Brief facts: Anti-evasion wing and Range Office have issued notice for certain financial years for which GST audit proceedings were initiated but not completed - Writ petition had been filed to quash said notices- Department contended that Range office and Anti evasion wing had initiated proceedings without knowing that audit proceedings had commenced.
 - Ruling:
 - Department was directed to complete audit proceedings and not to proceed further with impugned notices issued by Anti evasion wing and Range Office for same period.
 - Department was also directed to issue show cause notice and to pass order after granting opportunity of personal hearing.
 - Order passed by Single Judge Bench was to be quashed.
- **Kishan Lal Kuria Mal International v. Union of India, [2022] 144 taxmann.com 107 (Delhi)[06-10-2022]**
 - Issue: Whether refund of IGST paid on export of goods was available during transitional period of July to September, 2017 when higher rate of drawback was availed?
 - Ruling:
 - Department was to be directed to grant refund of IGST paid on goods exported during transitional period.
 - Refund was to be granted after deducting differential amount of duty drawback, if said differential amount had not already been returned by assessee.

- Interest of 7 per cent was to be paid on such refund from date of shipping bill till date of actual refund.
 - Department was entitled to verify extent of duty drawback availed and whether any drawback/Cenvat credit of Central Excise and Service Tax component was availed in respect of exports made.
 - Petition was to be allowed.
- **L'Oreal India (P.) Ltd. v. Union of India, [2022] 143 taxmann.com 131 (Delhi)**
 - Ruling: Where petitioner had not only collected excess base prices from his customers after reduction in rate of tax but also compelled them to pay additional GST and thereby failed to grant commensurate reduction in prices, he had acted in contravention of provisions of section 171(1) and thus was to be directed to deposit principal profiteered amount after deducting GST imposed on net profiteered amount in six equated instalments.
 - **Durga Raman Patnaik v. Addl. Commissioner of GST (Appeals), [2022] 143 taxmann.com 283 (Orissa)**
 - Ruling: Odisha HC upholds fundamental right to carry on business under Art 19(1)(g). It allowed revival of GST registration cancelled for non-filing of GSTRs for 6 consecutive months.

Reference:

- <https://www.taxmann.com/research/direct-tax-laws/caselaws>
- <https://www.taxmann.com/research/gst/caselaws>

Library News

Events held as on date:

- Meeting of Committee of Management of Accountants' Library held on Friday , 16th September 2022.
- Committee of Management in its meeting held on Wednesday 12th October, 2022.
- “Bijoya – Deepawali” Get Together on Friday , the 4 November, 2022.
- Meeting of Committee of Management of Accountants' Library on Wednesday, the 16th November, 2022
- Awareness programme on Registration of Charitable Institution on Tuesday 22nd November 2022, conducted by officers of PCIT (Exemption) and moderated by C.A. Amitava Banik.
- Seminar:

Date	Topic	Speakers
10 th Novemeber 2022	Changes in Code of Ethics, Income Tax issues in relation to Charitable Trust and Important Changes in GST	C.A. Debayan Patra, C.A. Ramesh Kr. Patodia and C.A. Arup Dasgupta

Photo Gallery: Glimpses from various events





















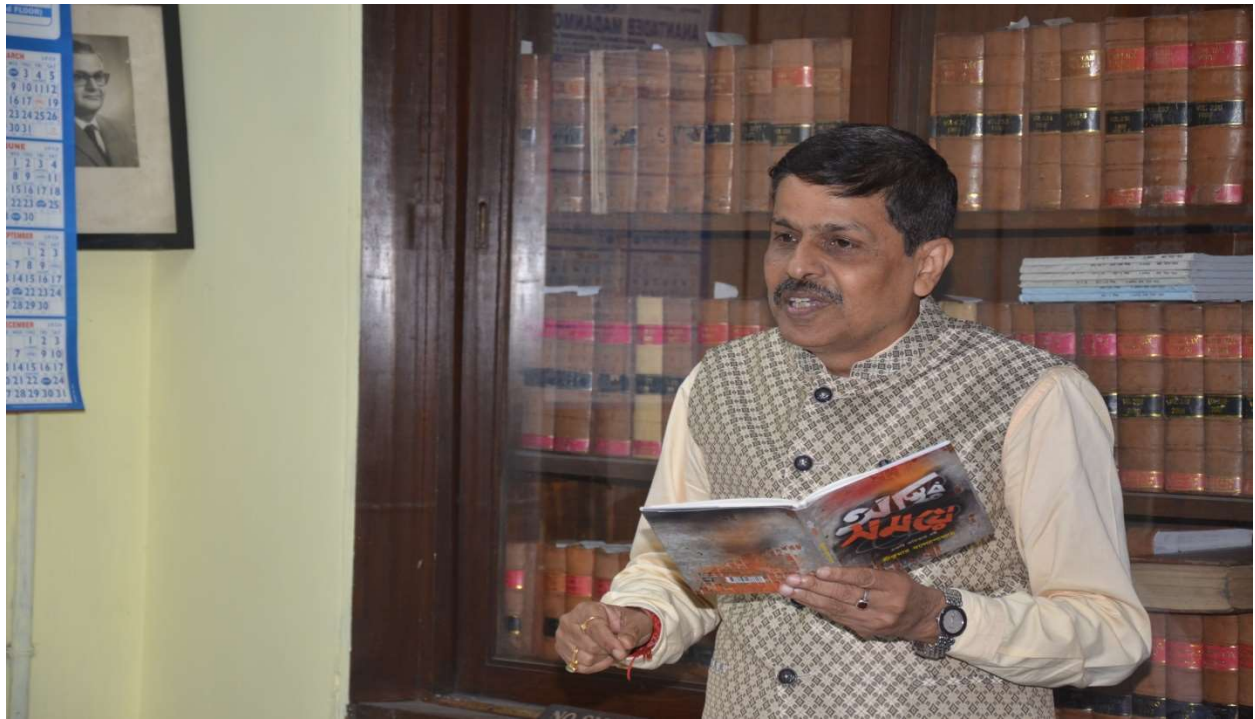






















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