



SURAT BRANCH OF WIRC OF ICAI

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Celebration of 51st year of the

E - Newsletter

SURAT BRANCH

MAY 2022

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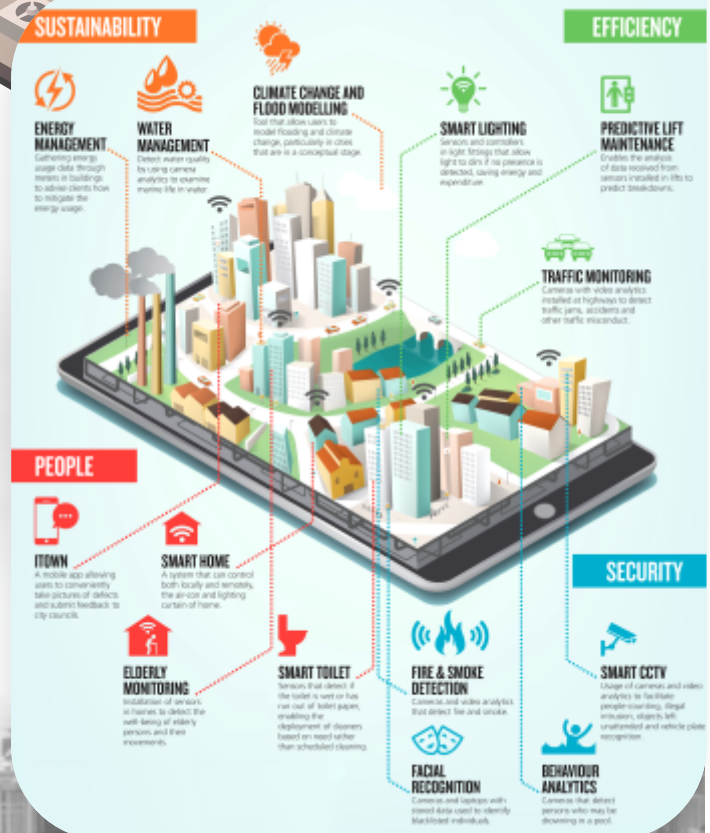
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LET'S
MAKE A
**SMART
CITY
SURAT**



ICAI Partner in Nation Building

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SURAT BRANCH OF WIRC OF ICAI



SURAT BRANCH OF WIRC OF ICAI



Dear Professional Colleagues,

Wishing you a very Happy New Financial Year 2022-23

This year our theme is UNITED WE CAN where C Stands for CREATE a large vision for the Profession to ACHIEVE milestones together and NURTURE the members of the profession. Surat Branch of WIRC of ICAI will continue to be on the leading edge with our theme and has launched program GYAN GANGA to Nurture and Encourage members to participate in CPE Programs. Surat Branch of WIRC of ICAI organises various Seminars, Workshops and Lecture Meetings for imparting Continuous Professional Education and to share the knowledge and build an environment for constructive discussions and fellowship amongst the members.



GYAN GANGA

Wealth of Knowledge is the Most Precious Wealth

All the members of Surat Branch of WIRC of ICAI are invited to be a part of GYAN GANGA program by paying ONE TIME REGISTRATION FEES and enjoy all the upcoming eligible programs of Surat Branch for Free or at a Subsidised rate.

FEATURES

- Will cover series of lectures on specific topics catering to the needs of the membership.
- Topics will be of the relevance to the profession and will also have topics on new sunrise avenues in the profession.
- Practical imparting of knowledge will be part of such program and learning through interaction.

BENEFITS

- One time single registration Fees and can attend all the eligible CPE programs of the year 2022-23
- The registered members will get separate communications from Surat Branch of WIRC of ICAI for all the eligible programs and Branch Newsletter or communication will bear indication as GYAN GANGA.
- Presentation and Study Material provided by the faculties pertaining to all eligible programs will be sent on email address of the registered members.

IMPORTANT POINTS

1. Period of Registration from 01/04/2022 to 31/03/2023
2. Last Date for Registration is 30/06/2022.
3. Physical attendance is necessary for entitle of CPE Hours Credit.
4. Surat Branch of WIRC of ICAI will provide minimum of 40 CPE hours of free seminars / webinars for the registered members of GYAN GANGA. Whereas, programs organised by parenting bodies or committees of ICAI including International / Domestic Residential Refresher Course (RRC), National/Regional/Sub-Regional Conferences and Workshops will be provided at subsidized registration fees, if applicable.

Fees For Registration

Cheque may be drawn in favour of
"SURAT BRANCH OF WIRC OF ICAI"

Online payment through Surat Branch of WIRC of ICAI

website – www.surat-icai.org

Fees Rs. 2,000/- + GST



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From Chairman's Desk:

Dear Professional Colleagues,

With a great pleasure I would like to acknowledge and admire your enthusiasm and active participation in the seminars and events in the month of April-2022 and I expect the same kind of response in the upcoming events from you all.

I firmly believe in the power of unity and I am confident that Surat branch managing committee united team members will definitely achieve their set goals for the betterment of our profession and society at large. The summer is almost at its peak. Temperature is very high in our city also. Let us take proper care of self, family, near and dear ones. As a precaution, please have plenty of nourishing fluids to maintain your metabolism. Kind request to make a habit of storing some water out in your backyard, balcony or rooftop for birds to help them survive this blistering heat.

I suggest you all to get maximum benefit of social media in spreading positive messages to public. There are so many emerging opportunities in the profession around us. Please be care full and avoid to support any negative messages for the profession or for the country. Members , in this new era so many experts survey on accountancy states that accountants role is likely or very likely to change due to technology. So kindly keep yourself updated with the new tools of technology to grab the upcoming challenges with the spirit of "Learn, unlearn and relearn" in tune with time and be capable in converting all challenges into opportunities.

Surat branch has planned so many programmers for its members in the coming time. I expect the overwhelming support in the form of active participation and co-operation from all the members of our Surat city.

Thanking you,

Kindly reach out to us on official Branch :-

✉ suratbranchgroup1@gmail.com

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Best wishes and regards

CA. Nikesh Kothari
Chairperson



From Editorial Desk:

“Success is not final, failure is not fatal: it is the courage to continue that counts.”

– Winston Churchill

Dear Members of Surat Branch,

Greetings of Foundation Day of Gujarat!!

The Month of April was over with bank audits and financial year-end planning, with various due dates approaching in upcoming months, a meticulous planning & scheduling will be required for completion of work on time with least pressure on both mind and body become health is wealth. Educate your clients about due dates, make them value their time and your time as well.

The pace with which the technology is advancing, it is evident that the CA's has to become more advance in terms of technology to enable themselves to serve the clients with higher quality. Alike Surat who has become SMART City by adoption of newer trends and technological advancements, we Chartered Accountants of Surat should also grasp this opportunity by becoming knowledge experts in newer domains in order to serve not only clients based at Surat but rather compete on global level.

For enhancement of knowledge to Member at large, Surat branch is planning to organize various lecture series, Courses, Workshops and Conferences on various interesting topics, so it is requested to all the members of Surat branch to participate as much as they can.

This Newsletter includes insights on Recent Amendments in Schedule III of Companies Act, Knowledge Series on Ins. AS, Assessment under Income Tax, Know Financing & Bill Discounting TReDS, Residential Status under FEMA, Difference between Capital expenditure & Capitalized expenditure Due Dates for the month of May-2022, Upcoming CPE Programme by Surat Branch.

Let's learn together, Grow together, Shine together and Succeed together and take a pledge to make Surat branch reach newer heights in alignment with our theme of this year “United WE CAN”.

I urge all the Members of Surat Branch who are willing to contribute for E-newsletter, Kindly share your insights on topics of your choice with us on surat@icai.org.

Happy to Serve!! Happy Learning!!

CA Shailesh Lakhankiya

Chairman

Editorial Committee



Assessment Under Income - Tax Act

In last two article we discussed about what is assessment and started to discuss various type of assessment, wherein self-assessment and summary assessment are covered. As per chronological order now it is turn for scrutiny assessment under section 143(3) under Income Tax Act, which we are going to discuss into this article.

iii) Scrutiny assessment u/s.143:

Scrutiny assessment also called regular assessment, which is carried out under the provision of sub section (3) of section 143. Case is selected under the provision of sub section (2) of section 143.

As per subsection (2) "Where a return has been furnished under section 139, or in response to a notice under sub-section (1) of section 142, the Assessing Officer or the prescribed income-tax authority, as the case may be, if, considers it necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not under-paid the tax in any manner, shall serve on the assessee a notice requiring him, on a date to be specified therein, either to attend the office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return:

Provided that no notice under this sub-section shall be served on the assessee after the expiry of three months from the end of the financial year in which the return is furnished."

Which return select for scrutiny?

Return filed under section 139 or in response to 142(1) are subject to selection for scrutiny. That means no notice under this section to be issued for selection of scrutiny in case of assessee who has not filed return of income at all and no assessment to be made under 143(3) in such cases.

Who select for scrutiny?

Notice for selection of scrutiny shall serve by Assessing Officer or the prescribed income-tax authority. As per section 2(7A) "Assessing Officer" means the Assistant Commissioner or Deputy Commissioner or Assistant Director or Deputy Director or the Income-tax Officer who is vested with the relevant jurisdiction by virtue of directions or orders issued under sub-section (1) or sub-section (2) of section 120 or any other provision of this Act, and the Additional Commissioner or Additional Director or Joint Commissioner or Joint Director who is directed under clause (b) of sub-section (4) of that section to exercise or perform all or any of the powers and functions conferred on, or assigned to, an Assessing Officer under this Act;

Word "the prescribed income-tax authority" has been inserted when section is reconstituted by finance 2016 and later on by notification no. 25/2021, dtd.: 31/03/201 notify that the Assistant Commissioner of Income-tax/Deputy Commissioner of Income-tax (NaFAC) having her / his headquarters at Delhi, to act as the 'Prescribed Income-tax Authority' for the purpose of sub-section (2) of section 143.

When it is select for scrutiny?

When it is necessary or expedient to ensure that assessee has not understated the income or - has not computed excessive loss or - has not under-paid the tax in any manner,

The two relevant words 'necessary' and 'expedient' are came in to discussion in case of Om Trading Co. v Second ITO 188 ITR 641. The word 'expedient' is more comprehensive and would cover a wider range than 'necessary'. The circumstances warranting 'expediency' are incapable of precise formulation. In the context of the practical measures taken under section 143 for summary assessments and the faith reposed in the assessee, the word 'expediency' would cover a case for selective scrutiny of the return, solely to act as a deterrent measure to prevent filing of incorrect returns.



If we broadly speak, scheme of limited scrutiny were introduced from Finance Act 2002, and make amendment as and when require year by year. CBDT now a days issued guideline for selection of cases under scrutiny. Cases were selected by CASS (Computer Aided Scrutiny Selection) according to guidelines issued by CBDT. Selection guidelines basically divided into two parts, 1 is for compulsory scrutiny and 2 is for random selection through CASS with specific criteria who cover basic three condition i.e. understated income or excessive loss or under paid tax, as mentioned above.

Example for compulsory selection for scrutiny:

- 1) Cases pertaining to survey u/s.133A of the Income Tax Act subject to specific exclusion.
- 2) Cases pertaining to search and seizure u/s.153A, 153C r.w.s. 143(3) of the Income Tax Act.
- 3) Cases in which notice u/s. 148 of the Income Tax Act has been issued.

Example for random selection for scrutiny through CASS:

- 1) Sources for Cash deposit
- 2) Sources for investment in property
- 3) Sources for introduction of capital
- 4) Verification Unsecured loan
- 5) Verification of Capital gain
- 6) Verification of deduction against income from other sources
- 7) Verification of expenditure of personal nature
- 8) Verification of import/ export transaction
- 9) And many more instances

How select for scrutiny?

It is mandatory to serve a notice under this subsection to assessee regarding selection of case for particular assessment year. Merely issuance of notice cannot empower assessing officer to carried out assessment u/s.143(3). Notice must be actually and valid served on assessee within time.

In case of *RatanlalTiku v CIT* 97 ITR 553 it is held that issuing and serving a valid notice under section 143(2) is a precondition and is mandatory.

What is the time limit of notice to be serve?

Notice to be served with in three month from the end of financial year in which return is filed. Before 01/04/2021, it is six month.

In case of *CIT v Luna Diamonds Ltd* 281 ITR 1 it is held that burden was upon the revenue to prove that the notice under section 143(2) was served with in prescribed time. If the revenue failed to prove about service of the notice, then assessment order is not valid.

Notice in faceless assessment era:

As per latest amendment for faceless assessment by insertion of section 144B, notice for selection of cases under section 143(2) is also to be served under faceless scheme. And notice placing in the assessee's registered account; or sending to the registered email address of the assessee or his authorised representative; or uploading an authenticated copy on the assessee's Mobile App, and followed by a real time alert; is treated as notice duly issued and served.



Can assessing officer called for further details / information?

Provisions of section 143(1) is very wide, where in return of the assessee is to be verified with all aspects in case of complete scrutiny or some limited aspects to cross check with specific information or to verify genuineness of specific claim or deduction in case of limited scrutiny. Therefore AO asks assessee to produce requisite information to complete assessment by issuing notice under section 142(1). It is responsibility of the assessee to submit relevant information and evidence in support of their claim or to justify its transactions because provisions of section 143(1) end with "any evidence on which the assessee may rely in support of the return". Therefore primary burden is on assessee to prove genuineness of its return or claim or transaction questioned.

Order to be passed u/s.143(2)

After gathering information called for and after hearing such evidence produced by the assessee, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

What is relevant material?

In regards to relevant materials on record in case of *Mohammed Hayat v CIT* 5 ITC 159 it is held that AO must not act arbitrarily but must obtain materials and base his decision on the materials before him.

It is also pointed out in case of *Gurumukh Singh v CIT* 12 ITR 393 that though the AO has very wide power and is not fettered by technical rules of evidence and pleadings, there is one overriding restriction on his judgement and that is that he must act honestly on the material, however inadequate, before him and not vindictively, capriciously or arbitrarily.

While making assessment under this section AO is not entitled to make a pure guess without any evidence or any material at all as discussed in *Dhakeshwari Cotton Mills Ltd v CIT* 26 ITR 775.

However it is stated in *Homi v CIT* 41 ITR 35 that no hard and fast rule can be laid down by the court to define the sort of material on which the estimation of income of the AO should be based. The material available on hand may not be direct evidence but it may be circumstantial evidence. Some times it is direct nexus between transaction or income, some times it is corroborative, depend on case to case and facts.

Materials on hand may not necessarily that origin of the materials belong to assessee. In case of *CST v Esufali* 90 ITR 271 honourable court viewed that from one proved or admitted incident of suppression of income the department may be entitled to infer that there were other similar incidents.

However AO has to justify his act properly as discussed in case of *Dhakeshwari Cotton Mills Ltd v CIT* 26 ITR 775 that if the AO proposes to make an estimate in disregard of the evidence oral or documentary, led by the assessee, he should in fairness disclose to the assessee the material on which he is going to ground that estimate.

Other points of assessment we discussed in next article.

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AMENDMENTS TO PROVISIONS OF INCOME ESCAPING ASSESSMENT WITH REVISED TIME FOR ISSUE OF NOTICE

Introduction

There has been experience in the past that notice u/s 148 used to be issued simply on any kind of information received by the AO, or on the recommendation of other authorities/agencies without applying his own mind as to whether material available before him had a live link with the escapement of income and consequently with formation of belief. It was also felt that objections raised by the assessee against reasons recorded or on formation of belief were used to be brushed aside by the AO on frivolous grounds or simply by passing a non-speaking order. As a result, the reopening used to be quashed by the appellate authorities on various grounds such as there is non-application of mind by the AO, notice u/s 148 is issued on borrowed satisfaction, there is no live link between material available on record and formation of belief, or there were issues on limitation not considered by the AO. Thus, to simplify and strengthen the reopening, the Finance Act, 2021 introduced a new section 148A after section 148, apparently for the purposes of ensuring opening of completed assessment on sound footings. To achieve this aim, the legislature has not only incorporated the principles laid down by Hon'ble Apex Court in GKN Driveshafts (India) Ltd. v. ITO1 but also made it necessary for the AO to seek approval of senior authority before deciding to issue notice u/s 148 so that technical issues involved in reopening are taken care of. In the process, certain other interesting sub provisions have been introduced whereby the earlier scheme of reopening of the assessment has been completely done away with and is substituted with the new scheme. For instance the concept of "reason to believe" has been substituted with a much milder term "suggests" for the quality of satisfaction that the AO has to record now. The limitation of time period is reduced to 3 years at one end and expanded to 10 years on the other end. The competent authority for approving the action of AO is changed to "specified authority" who can only be PCIT and PCCIT and not JCIT.

In this article we will discuss one part of the new scheme of reopening of assessment i.e. the procedure to be carried out prior to issuance of notice u/s. 148 of the Act for reopening the assessment under the amended law and will try to cull out certain fresh concepts that would in future be at the doors of courts. Suffice to state that the new provisions will only increase the litigation and not reduce it. Section 147 of the Act has been amended and is an enabling clause for reopening the assessment of the assessee only if any "income chargeable to tax" has escaped assessment. However, the said provision is subject to the conditions and the procedure to be fulfilled u/s. 148 to section 153 of the Act.

Section 148 is amended to include that a notice for reopening the assessment can only be issued after proceedings u/s. 148A are carried out and order u/s. 148A(d) is passed. Various High Courts have already held that a notice issued u/s. 148 of the Act without following the due process of section 148A is a nullity as held by Allahabad High Court, Delhi High Court, Rajasthan High Court, Madras High Court and lately the Bombay High Court in the case of Tata Communications Transformation Services Limited v. ACIT bearing Writ Petition no. 1334 of 2021, order dated 29/03/2022.

So, what is this section 148A and how does it provide safeguard to assessee against wrongful reopening. Let's discuss the various limbs of said section 148A to cull out why courts have treated it as a mandatory jurisdictional provision and not merely a directory procedural provision.

The said section has four sub sections laying down the procedure to be followed before the order u/s. 148A(d) can be passed. It further provides for four exceptions through a proviso. The process starts with a notice and culminates into an order. The said provision includes all the essentials of a valid proceeding like issuance of show cause notice, opportunity of hearing to assessee, recording of reasons, speaking order and approval of higher authority. Therefore, it's a self-sufficient code.

Section 148A: Safeguards to Assessee The captioned section is added to codify the requirement of providing the copy of information to assessee that suggests escapement of chargeable income, and to further seek objections of the assessee before a formal notice u/s. 148 for reopening is issued. The idea is that in the event of any incorrect or



irrelevant reasons the process of reopening u/s. 148 is not carried out. This is aimed at reducing litigation. However, the manner in which this provision is worded, it's bound to lead to much more and new litigation.

Sub section (a) has been added to ensure that enquiry is made by the AO on the information before proceeding ahead with the notice u/s. 148. This aspect of "enquiry before notice" has been introduced so as to ensure that the AO is not operating on "borrowed information" but also applying his own mind to check whether income chargeable to tax has escaped assessment. Therefore, the receipt of "information" by the AO is succeeded by enquiry with respect to the said "information" as per section 148A(a). This means that the legislature realises and recognises that all the "information" received by the AO may not be either correct or complete or relevant. Moreover, all information may not lead to a conclusion of escapement of income. As a safeguard, the approval of specified authority is required before carrying out further enquiry. Therefore, the enquiry is at all required for the alleged information, cannot be decided solely by the AO. The possible questions which will be answered by judiciary are:

- Whether the AO was bound to carry out enquiry before proceeding ahead with the process of reassessment or whether it's a discretionary or directory provision?
- Whether the approval to be granted by the Specified Authority is an administrative act or a judicial / quasi-judicial act. Accordingly, whether such an approval can be challenged as mechanically issued?
- Whether the AO is duty bound to provide all material to the assessee as a consequence of enquiry, wherever such enquiry is carried out?
- Whether the enquiry is to be conducted only with respect to the "information" received or whether it can spill into other areas not forming part of such information?
- Can assessee request the AO to carry out enquiry u/s. 148A(a) on additional details supplied by Assessee?

Sub section (b) is the first interaction between the AO and the assessee in the entire scheme of reassessment. The AO issues a notice to the assessee inviting him to show cause why notice u/s. 148 should not be issued reopening the assessment. Along with the said notice the AO is required to provide the "information" on the basis of which the entire proceedings have commenced. The said notice is to be issued on the basis of:

- (i) information suggesting escapement of chargeable income; and
- (ii) result of enquiry conducted as discussed in sub section (a) above.

Therefore, the provision provides an opportunity of hearing to the assessee to rebut the information and the material collected in the enquiry by the AO. If such information is incorrect or incomplete then the AO is duty bound to drop further proceedings. Thus, it's a big safeguard with the assessee against wrongful notices u/s. 148 of the Act. The said notice is to be issued for a period not less than 7 days and not more than 30 days. However, such notice can be challenged on the ground that:

- a) the period specified in the notice is less than 7 days and hence, invalid.
- b) the notice is not accompanied by the "information" which suggests the escapement of income and therefore there is nothing to rebut.
- c) the details of enquiry conducted have not been provided to the assessee.
- d) the background "material" for alleged information and collected in enquiry is not provided to the assessee for rebuttal.
- e) Copy of approval by specified authority is not provided.

The said provision is the most important provision for the assessee as he gets to know the entire case against him and he gets an opportunity to place his side of rebuttal and arguments even before reopening of assessment takes place. Ideally, a detailed submission covering challenge to all the facets is desirable.

Sub Section (c): The said sub section obliges the AO to consider the reply of the assessee in response to show cause



notice. It's strange that the legislature had to devote a separate sub section to compel the AO to consider the reply of the assessee. The Author believes that even without the said sub section, the AO is duty bound to consider the reply of the assessee else the opportunity of hearing as mandated under sub section (b) will become an empty formality. Moreover, the subsequent sub section (d) already covers the obligation of the AO to decide the matter on the basis of reply filed by the assessee. Hence, it's not clear as to what more sub section (c) is adding to the process. Maybe by using this sub section the Assessee can request the AO to conduct enquiry under sub section (a).

Sub section (d): The said sub section is the culmination of the pre reopening process under section 148A. The said sub section provides for an order to be passed by the AO on the show cause notice issued under section 148A(b). The preconditions of the said order are:

- a) prior approval of the specified authority.
- b) to decide on the basis of the "material" available on record as well as the reply of the assessee.
- c) the order to be passed within one month from the end of the month in which the reply of the assessee is received in response to SCN.

A perusal of the above precondition reveals that the "information" which suggests the escapement of income is merely a starting point of further proceedings. However, it cannot be the basis of the order u/s. 148A(d). Thus, the above procedure and intention cannot be diluted by the AO by merely stating that information is received on "insight portal". He is required to go beyond that information. It's a beginning and not the end in itself for concluding escapement of income. To that extent the proceedings under section 148A is a quasi judicial proceedings and not merely an administrative exercise.

In the event of challenge by the assessee, the onus will be on the AO to prove that he actually carried out an enquiry in the matter. He is absolved from requirement of enquiry only where the said process is ousted in the exceptions enumerated in proviso to section 148A which are all related to search and seizure operations. And to that extent the phrase "if required" as appearing in sub section (a) of section 148A is to be restricted accordingly. Even if the AO decides not to carry out enquiry he must record reasons for the said decision which will be open to judicial review because such enquiry is an essential safeguard for the assessee.

The said order is in the nature of a judicial order as it has to dispose of the objections of the assessee in a reasoned manner. It's an order against which no appeal is prescribed and hence the only remedy is the writ under Article 226 of the Constitution before the jurisdictional high court. The said order is akin to the order disposing of the objections under the erstwhile law of reopening. Therefore, all the following grounds can be raised for the challenge:

- non speaking order;
- Approval of specified authority not obtained or such approval mechanically granted; – Material not provided before passing the order;
- The said order is time barred.

Requirement of Approvals:

The entire process of the pre notice enquiry under section 148A of the Act is laden with the approvals of the specified authority. The approval required from Specified Authority are as under:

- a) before carrying out enquiry under section 148A (a); and
- b) before order is passed under section 148A(d).

Thus, the process of prior approvals is an inbuilt safeguard for assessee. That's why approval is only from PCIT and PCCIT /CCIT and not of JCIT. It has been judicially held in a number of cases that the approvals by the authorities are not to be granted mechanically but there has to be complete application of mind. In case of challenge the authorities will have to prove that the process of approval was properly carried out. The jurisprudence on the manner of approval is



already well laid down by the tribunals and high courts following the decision of apex court in the case of Chugamal Rajpal. The said jurisprudence will equally apply to the approvals under section 148A(a) and 148A(d).

Issuance of notice under section 148 of the Act:

Pursuant to the Order under section 148A(d) of the Act, the Ld. Assessing Officer shall serve the assessee with a Notice under section 148 of the Act asking the assessee to file their return of Income. As per amended section 148 of the Act, the Ld. Assessing Officer has to serve a Notice under section 148 of the Act along with a copy of the order passed under section 148A (d) of the Act. The Notice issued under section 148 of the Act should mention that the same has been issued after obtaining the requisite sanctions. However, no such approval shall be required where the Ld. Assessing Officer has passed an order under section 148A(d) of the Act stating that it is a fit case to issue a Notice under section 148 of the Act.

Time limit for issue of notice u/s 148 in certain cases, thereby widening scope of reassessment

As per the provisions of section 149, no notice for reassessment u/s 148 could be issued after three years till ten years unless the Assessing officer has in possession books of accounts/documents/evidence which reveal that income chargeable to tax exceeding fifty lakh rupees represented in form of an asset has escaped assessment.

The time limit for issue of notice u/s 148 to provide that a notice under section 148 can be issued after three years till ten years where the Assessing Officer has in his possession books of account/documents/evidence which reveal that the income chargeable to tax, represented,

- a. in the form of an asset; or
- b. expenditure in respect of a transaction or in relation to an event or occasion; or
- c. an entry or entries in the books of account,

which has escaped assessment amounts to or likely to amount to fifty lakh rupees or more.

Therefore, apart from income represented in form of asset, even income represented by way of expenditure in respect of transaction/event/occasion or by way of entry in books of account, amounting more than fifty lakh rupees, notice can be issued after period of three years from the end of relevant assessment year.

Further to the above, a new sub-section (1A) in section 149 to provide that notwithstanding anything contained in above provisions, where the income escaped assessment is represented in the form of asset or expenditure for event/occasion and the investment in such asset or expenditure for such event/occasion has been made/incurred, in more than one previous years, notice under section 148 shall be issued for every such assessment year separately, within the period of ten years.

Therefore, in a case, where the investment made in an asset or expenditure made for an event/occasion is below prescribed limit of fifty lakhs in a year but collectively considering all years where such investment or expenditure is made, exceeds the threshold, then, assessment for each such year can also be reopened, despite individually, being lower than the given limit.



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Knowledge Series on Ind AS / AS / Audits

Dear Professional Colleagues,

In this article, I will be sharing Knowledge Series on the topics like Indian Accounting Standards (Ind AS), Accounting Standards and Auditing Standards etc. In the 1st article we will be discussing the applicability of Ind AS and Key changes in Revised Schedule III.

1. Roadmap to Ind AS

MCA has provided the roadmap for adoption of Ind AS, accordingly Ind AS is applicable to:

- All listed Companies (except for Companies listed on SME Exchanges)
- Companies in the process of Listing
- Unlisted Companies with Net worth of 250 Crores or more

Ind AS will also be applicable to the Holding, Subsidiary, Associate and JV of the Company to whom Ind AS is applicable as per above defined criteria.

Company can also voluntarily adopt Ind AS even if not falls under the above criteria. However, once a Company has started reporting under Ind AS, it cannot change to reporting as per previous laws.

Brief on Ind AS 101

Ind AS 101 prescribes the accounting principles for first-time adoption of Ind AS. It lays down various 'transition' requirements when a company adopts Ind AS for the first time, i.e., a move from Accounting Standards (Indian GAAP) to Ind AS.

Conceptually, the accounting under Ind AS should be applied retrospectively at the time of transition to Ind AS. However, to ease the process of transition, Ind AS 101 has given certain exemptions from retrospective application of Ind AS. Some of these exemptions are voluntary in nature and some are mandatory in nature. One of the important exemption is Deemed cost exemption where Ind AS 101 permits an entity to measure items of PPE, investment property, intangible assets and investments in subsidiaries/associates/JV on the date of transition at either FV or their Carrying amount in accordance with previous GAAP and use this amount as a measure of their deemed cost.

Date of Transition to Ind AS:

The beginning of the earliest period for which an entity presents full comparative information under Ind AS in first Ind AS financial statements i.e. For Financial Year 2022-23 the transition date will be April 1, 2021.

An entity shall prepare and present an opening Ind AS Balance Sheet at the date of transition to Ind ASs. This is the starting point for its accounting in accordance with Ind AS. All the Ind AS adjustments from events and transactions before the date of transition to Ind AS shall be recognised directly in retained earnings as at April 1, 2021. In the year of adoption we have to present Opening Balance Sheet as at April 1, 2021 as well along with Balance Sheet as at March 31, 2022 and 2023.

First time adoption disclosures:

Detailed disclosures on the First time adoption of Ind AS including reconciliation of Equity and Profit or loss from previous GAAP to Ind AS are required in the annual financial statements.

2. Key changes in Revised Schedule III:

Ministry of Corporate Affairs has amended the Schedule III of the Companies Act, 2013. Amendments have been made in all three divisions i.e. Division I, Division II and Division III. These amendments are effective from April 1, 2021. Here we will discuss amendments in Division I which is applicable to companies following Indian GAAP. Even though we are discussing Division I but requirement in Division II is more or less similar to Division I.



S. No.	Heading	Amendments in Schedule III
1.	Rounding Off	Earlier Rounding off of figures in the financial statement was optional but now the same is mandatory.
2.	Promoters Shareholding	Shares held by Promoters at the end of the year are required to be disclosed as below: <ol style="list-style-type: none"> 1. Promoter Name 2. No. of Shares 3. % of total shares and 4. % Changes during the year
3.	Short term borrowings	Under the head "Short-Term Borrowings", current maturities of Long term borrowings shall be disclosed separately.
4.	Trade Payables	Ageing schedule has to be given in the following buckets: <ul style="list-style-type: none"> - Less than 1 Year - 1 to 2 years - 2 to 3 years - More than 3 years Notes: <ol style="list-style-type: none"> 1. Ageing for undisputed and disputed balances are to be given separately. 2. Ageing has to be computed from due date of payment however if due date is not available then from the date of transaction. 3. Unbilled dues shall be disclosed separately.
5.	Property, Plant and Equipment	Word "Tangible Assets" has been substituted by the word "Property, Plant and Equipment".
6.	Other Non-Current / Current Assets	Security Deposit are required to be disclosed separately on the face of the Balance Sheet.
7.	Trade Receivables	Ageing schedule has to be given in the following bucket: <ul style="list-style-type: none"> - Less than 6 Months - 6 Months to 1 Year - 1 to 2 years - 2 to 3 years - More than 3 years Notes: <ol style="list-style-type: none"> 1. Ageing for undisputed and disputed balances are to be given separately. 2. Ageing has to be computed from due date of payment however if due date is not available then from the date of transaction. 3. Unbilled dues shall be disclosed separately.
8.	Siphoning of funds	Where the company has not used the borrowings from banks and financial institutions for the specific purpose for which it was taken at the balance sheet date, the company shall disclose the details of where they have been used.
9.	Title deed for Immovable properties	Where title deed of any immovable property is not in the name of the Company, then following disclosure has to be given: <ul style="list-style-type: none"> - Description of item of property - Gross carrying value - Title deeds held in the name of - Whether title deed holder is a promoter, director or relative of promoter / director or employee of promoter/director - Property held since which date - Reason for not being held in the name of the company



10.	Revaluation of PPE	Where the Company has revalued its Property, Plant and Equipment, the company shall disclose as to whether the revaluation is based on the valuation by a registered valuer as defined under rule 2 of the Companies (Registered Valuers and Valuation) Rules, 2017.
11.	Loans or Advances	Where Loans are given to promoters, directors, KMPs and the related parties (as defined under Companies Act, 2013), which are either repayable on demand or without specifying any terms or period of repayment then following disclosure will be made: - Amount of loan or advance in the nature of loan outstanding - Percentage to the total Loans and Advances in the nature of loans
12.	Capital-Work-in Progress (CWIP) and Intangible Assets under Development	Ageing schedule for CWIP and Intangible Assets under Development has to be given in the following bucket: - Less than 1 Year - 1 to 2 years - 2 to 3 years - More than 3 years Note: Ageing is to be given for "Projects in progress" and "Projects temporarily suspended"
13.	Capital-Work-in Progress (CWIP) and Intangible Assets under Development	For CWIP / Intangible Assets under Development, whose completion is overdue or has exceeded its cost compared to its original plan, following CWIP / Intangible Assets under Development completion schedule shall be given, Project to be completed in: - Less than 1 Year - 1 to 2 years - 2 to 3 years - More than 3 years Note: Details of projects where activity has been suspended shall be given separately.
14.	Benami Property	Where any proceedings have been initiated or pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and rules made thereunder, the company shall disclose the following: a) Details of such property, including year of acquisition, b) Amount thereof c) Details of Beneficiaries d) If property is in the books, then reference to the item in the Balance Sheet e) If property is not in the books, then the fact shall be stated with reasons f) Where there are proceedings against the company under this law as an abettor of the transaction or as the transferor then the details shall be provided g) Nature of proceedings, status of same and company's view on same
15.	Quarterly Stock Statements	Quarterly stock statements filed by the Company with Bank are required to be reconciled with books of account. If the same is not in agreement with books of account, then reconciliation and reason for material discrepancies has to be provided in Financial Statements.
16.	Wilful Defaulter	Where any proceedings have been initiated or pending against the company for holding any benami property under the Benami Transactions (Prohibition) Act, 1988 (45 of 1988) and rules made thereunder, then Date of declaration as wilful defaulter and Details of defaults (amount and nature of defaults) are required to be disclosed.
17.	Relationship with Struck off Companies	Where the company has any transactions with companies struck off under the Companies Act, then the Company has to disclose following: - Name of struck off Company - Nature of transactions with struck-off Company (Investments in securities, Receivables, Payables, Shares held by struck off company, Other outstanding balances) - Balance outstanding - Relationship with the Struck off company, if any, to be disclosed



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18.	Registration of charges or satisfaction	Where any charges or satisfaction yet to be registered with ROC beyond the statutory period, details and reasons thereof shall be disclosed.
19.	Compliance with number of layers of companies	Where the company has not complied with the number of layers prescribed under clause (87) of section 2 of the Act read with the Companies (Restriction on number of Layers) Rules, 2017, the name and CIN of the companies beyond the specified layers and the relationship or extent of holding of the company in such downstream companies shall be disclosed.
20.	Ratios	<p>Following Ratios to be disclosed:-</p> <ul style="list-style-type: none"> - Current Ratio - Debt-Equity Ratio, - Debt Service Coverage Ratio - Return on Equity Ratio - Inventory turnover ratio - Trade Receivables turnover ratio - Trade payables turnover ratio - Net capital turnover ratio - Net profit ratio - Return on Capital employed - Return on investment <p>Note: The company shall explain the items included in numerator and denominator for computing the above ratios. Further explanation shall be provided for any change in the ratio by more than 25% as compared to the preceding year.</p>
21.	Compliance with approved Scheme(s) of Arrangements	Where any Scheme of Arrangements has been approved by the Competent Authority in terms of sections 230 to 237 of the Companies Act, 2013, the Company shall disclose that the effect of such Scheme of Arrangements have been accounted for in the books of account of the Company 'in accordance with the Scheme' and 'in accordance with accounting standards'. Any deviation in this regard shall be explained.
22.	Utilisation of Borrowed funds and share premium:	<p>Where company has advanced or loaned or invested funds (either borrowed funds or share premium or any other sources or kind of funds) to any other person(s) or entity(ies), including foreign entities (Intermediaries) with the understanding (whether recorded in writing or otherwise) that the Intermediary shall:</p> <ol style="list-style-type: none"> a) directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the company (Ultimate Beneficiaries) or b) provide any guarantee, security or the like to or on behalf of the Ultimate Beneficiaries <p>the company shall disclose the following: - - date and amount of fund advanced or loaned or invested in Intermediaries with complete details of each Intermediary</p> <ul style="list-style-type: none"> - date and amount of fund further advanced or loaned or invested by such Intermediaries to other intermediaries or Ultimate Beneficiaries alongwith complete details of the ultimate beneficiaries - date and amount of guarantee, security or the like provided to or on behalf of the Ultimate Beneficiaries - declaration that relevant provisions of the Foreign Exchange Management Act, 1999 and Companies Act has been complied with for such transactions and the transactions are not violative of the Prevention of Money-Laundering act, 2002 <p>Where a company has received any fund from any person(s) or entity(ies), including foreign entities (Funding Party) with the understanding (whether recorded in writing or otherwise) that the company shall :</p> <ol style="list-style-type: none"> (i) directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the Funding Party (Ultimate Beneficiaries) or (ii) provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries, <p>the company shall disclose the following: - date and amount of fund received from Funding parties with complete details of each Funding party</p> <ul style="list-style-type: none"> - date and amount of fund further advanced or loaned or invested other intermediaries or Ultimate Beneficiaries alongwith complete details of the other intermediaries' or ultimate beneficiaries - date and amount of guarantee, security or the like provided to or on behalf of the Ultimate Beneficiaries - declaration that relevant provisions of the Foreign Exchange Management Act, 1999 and Companies Act has been complied with for such transactions and the transactions are not violative of the Prevention of Money-Laundering act, 2002.



23.	Profit and Loss	In Statement of Profit and Loss, wording “Total Revenue” has been replaced by “Total Income”
24.	Undisclosed income	The Company shall give details of any transaction not recorded in the books of accounts that has been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961 (such as, search or survey or any other relevant provisions of the Income Tax Act, 1961), unless there is immunity for disclosure under any scheme and also shall state whether the previously unrecorded income and related assets have been properly recorded in the books of account during the year.;
25.	Corporate Social Responsibility (CSR)	<p>Following disclosure for CSR has to be given:</p> <ul style="list-style-type: none"> - amount required to be spent by the company during the year - amount of expenditure incurred - shortfall at the end of the year - total of previous years shortfall - reason for shortfall - nature of CSR activities - details of related party transactions, e.g., contribution to a trust controlled by the company in relation to CSR expenditure as per relevant Accounting Standard - where a provision is made with respect to a liability incurred by entering into a contractual obligation, the movements in the provision during the year shall be shown separately.
26.	Crypto Currency	<p>Where the Company has traded or invested in Crypto currency or Virtual Currency during the financial year, following disclosures are required to be made:</p> <ul style="list-style-type: none"> (a) profit or loss on transactions involving Crypto currency or Virtual Currency (b) amount of currency held as at the reporting date, (c) deposits or advances from any person for the purpose of trading or investing in Crypto Currency/ virtual currency.

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Residential Status under FEMA:

In the previous article, we have discussed about the basics of FEMA. Now, we will discuss about the Residential Status under FEMA law.

- Two laws, where determination of residential status is most relevant, are Income-tax Act, 1961 (ITA) and Foreign Exchange Management Act, 1999 (FEMA). We often mix the definition under these two laws which creates a confusion. Determining the residential status under both the laws will help to understand the issues better. But most important is to understand the purpose of determining the residential status under these laws because FEMA and ITA have different purposes.
- Applicability of provisions of FEMA are based on the residential status of a person, i.e. a person resident of India has more liberty under FEMA as compared to a NRI as per FEMA or Person resident outside India. Therefore, to check the extent of applicability of FEMA provisions, it is important to first check the residential status as per FEMA for a person. Here NRI as per FEMA means “an individual resident outside India who is a citizen of India”
- The residential status under FEMA not decided at the end of the year or particular time. It is an ongoing process. It is relevant for determining whether the individual can undertake a particular transaction at a particular time or he can not undertake a transaction. So, determination of residential status becomes very relevant from the point of view that one should not enter into a transaction which is not allowed to be undertaken by that particular type of a person. For example, a person wants keep deposit in NRE and FCNR accounts in India. Now, this NRE and FCNR accounts are allowed to be opened only by NRI (Non-Resident Indian). So, only NRI can keep deposits in NRE or FCNR Account. Indian Resident cannot keep the deposit in NRE and FCNR accounts. Take other example, if a person wants to borrow from a lender in Europe, there are several restrictions on resident. Whereas, if an NRI want to borrow, being a non-resident of India, he can borrow very freely. Hence it is very relevant to know the residential status at the time of doing transaction as it is not practical for a person to wait for the year to complete and then to know whether he can do a transaction or not.

There are three types of residential status in FEMA. They are as under:

Status	Common parlance term	Descriptions
Person Resident in India (PRI)	Resident	As per section 2(v) of the Foreign Exchange Management Act, 1999 (explained hereinafter)
Person Resident but not Permanently Resident in India (PR-NPR)	Not Permanently Resident	Specific terminology / definition is given to provide relief from undue hardship faced by certain type of people who come to India for employment for a period which does not exceed three years. For example, Explanation to Schedule III of Current Account Rules defines it as under:



		<p><i>“a person resident in India on account of his employment or deputation of a specified duration (irrespective of length thereof) or for a specific job or assignment; the duration of which does not exceed three years, is a resident but not permanently resident.”</i></p> <p>Reference is also made in Regulation 5 of Foreign Exchange Management (Remittance of Assets) Regulation and FEM (Possession and Retention of Foreign Currency) Regulation, 2015.</p>
Person Resident outside India (PRO)	Non-Resident	As per Section 2(w) of the Act, “Person Resident outside India” means a person who is not resident in India.

- Section 2(v) of the Foreign Exchange Management Act, 1999 talks about the residential status. If we want to broadly divide the definition, it is predominantly divided in three forms of entity.
 - Individual
 - Other person or body corporate-registered/incorporated
 - Unincorporated entity
- Individual:**
- As far as individual is concerned, his residential status as per the act is determined on the basis of number of days of his stay in India. That is the primary condition through which a person shall be considered to be the person resident in India (PRI). So, under FEMA residential status is important and not the citizenship. The person may or may not be citizen of India, he can still be “Person Resident in India” (PRI)
- Section 2(v) clause (i) talks about the residential status of an individual. It is like-
 - a person residing in India for more than one hundred and eighty-two days during the course of the preceding financial year but does not include—
 - a person who has gone out of India or who stays outside India, in either case—
 - for or on taking up employment outside India, or
 - for carrying on outside India a business or vocation outside India, or
 - for any other purpose, in such circumstances as would indicate his intention to stay outside India for an uncertain period;
 - a person who has come to or stays in India, in either case, otherwise than—
 - for or on taking up employment in India, or
 - for carrying on in India a business or vocation in India, or
 - for any other purpose, in such circumstances as would indicate his intention to stay in India for an uncertain period;



- As per Section 2(v) of FEMA, 1999, any individual shall be considered as resident under FEMA if he resides in India for more than 182 days during the course of the preceding financial year.
 - Cases where person stay in India more than 182 days during preceding financial year, still shall not be considered resident in India as per FEMA.
1. Where a person has gone outside India or stay outside India for the aim of employment outside India, or carrying out any business or vocation outside India, or where his intention to remain outside India for an uncertain period is indicated. He will not be treated as resident in India as per FEMA even if he stays in India for more than 182 days during the previous year.
 2. Where a person has come to India or stays in India for purpose other than for the aim of employment in India, or for the purpose other than the purpose of carrying out any business or vocation in India, or and for the purpose other than his intention to remain in India for an uncertain period is indicated. He will not be treated as resident in India as per FEMA even if he stays in India for more than 182 days during the previous year.

Therefore, it is clear that FEMA considers the purpose of staying in India or outside India as a major factor to determine the residential status of individuals under FEMA instead of the number of days of stay. Citizenship is not the relevant criteria for determining the residential status under FEMA law.

There is distinction between 'stay' and 'reside'. 'Stay' means physical presence in India while 'reside' indicates permanency. Thus, even if an airplane pilot 'stays' in India for more than 182 days during his transit travel, it cannot be said that he 'resides' in India.

For example-Miss Sofia is an air hostess with the British Airways. She flies for 12 days in a month and thereafter takes a break for 18 days. During the break she is accommodated in a 'base', which is normally the city where the airways are headquartered. However, for security consideration, she was based on Mumbai.

During the financial year, she was accommodated in Mumbai for more than 182 days. What would be her residential status under FEMA?

Here, miss Sofia stayed in India at Mumbai base for more than 182 days in the preceding financial year. She is however employed in UK. She has not come to India for employment, business or circumstances which indicate her intention to stay for uncertain period.

Under section 2(v) exception (B), such persons are not considered as Person Resident in India (PRI) even if their stays exceed 182 days in the preceding financial year. Thus, while miss Sofia might have stayed in India for more than 182 days, she cannot be considered to be PRI. If, however she has been employed in Mumbai Branch of British Airways, then she will be considered as Person Resident in India (PRI).

RBI has through A.P. (DIR Series) Circular No. 45 dated 8th December, 2003 clarified that students studying overseas stay abroad for more than 182 days in preceding financial year and their intention to stay outside India is for an uncertain period and hence, will be treated as "Person Resident outside India (PRO)".

Onus to prove: - Onus is on the individual to prove his residential status, if it so questioned by any authority. It is determined by the operation of the law and RBI does not determine the residential status of any person.

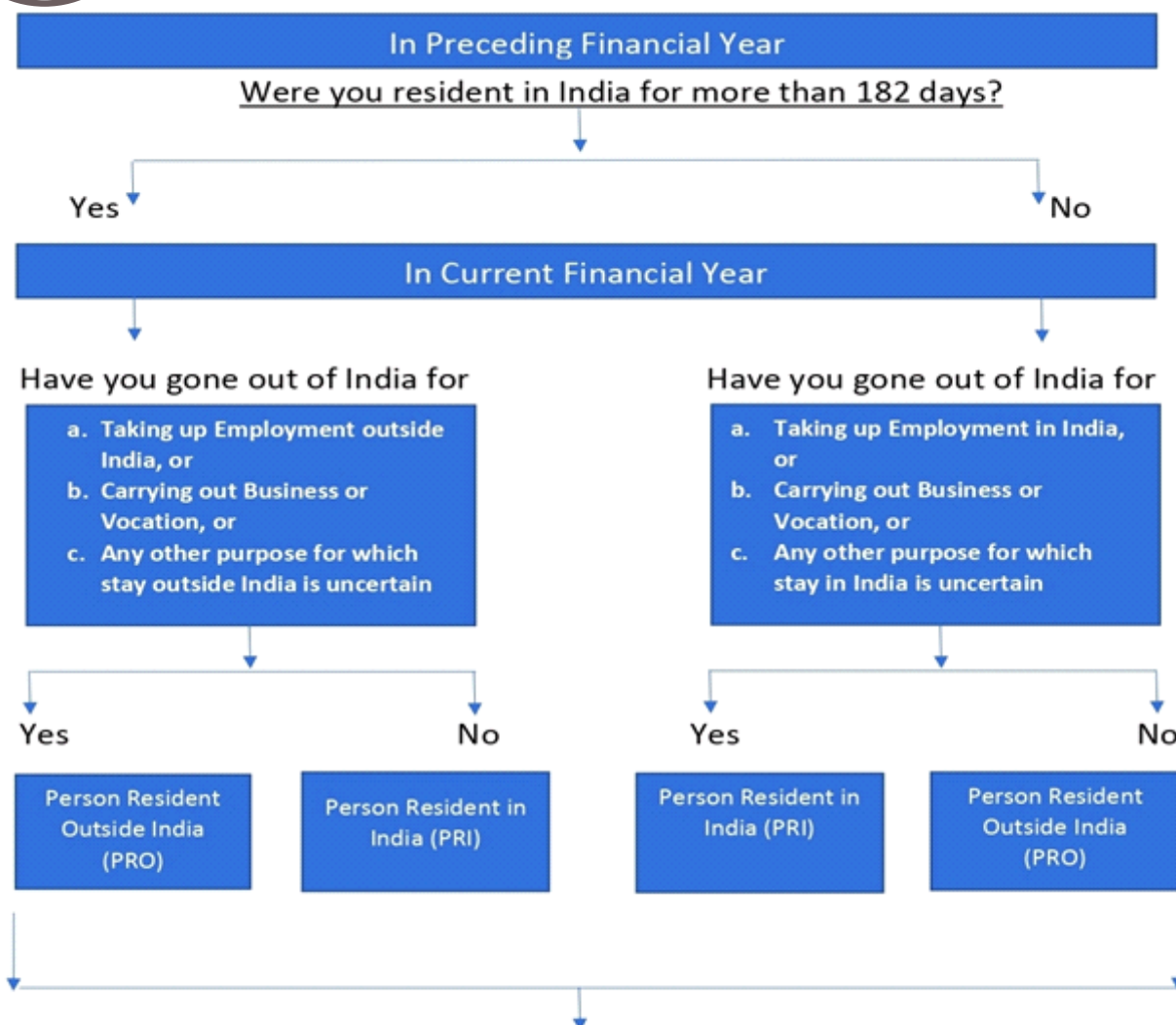
- Following are the few examples and diagram of determination of residential status under FEMA:



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Country to which person belongs	Stay in India during preceding financial year	Purpose of living in or outside India	Residential status under FEMA
A person of Indian Origin	250 days	Left India in current year for the purpose of <i>vacations</i> outside India for 200 days.	Person Resident in India - As person has stayed for more than 182 days during preceding year; and he has no intention of staying outside India for uncertain period.
Person of Indian Origin	365 Days	Left India during current year for the purpose of employment	Person resident outside India - Despite his stay for a complete year during preceding FY. He has left India for the purpose of employment. Therefore, <i>from the date of his departure</i> from India, he shall be considered as "Person resident outside India (PROI)"
Person of India Origin	30 days	Staying in India as on date.	Person resident outside India : As very first condition of staying in India for more than 182 during preceding financial year is not satisfied
Person from any other Country	200 Days	Staying in India for the purpose of tourism for 365 days	Person Resident outside India : First condition of stay in India for more than 182 days during the preceding year is satisfied. However, he has come to India neither for the purpose of employment nor business and he also has no intention of staying in India for an uncertain period.
Person from any other Country	200 Days	Staying in India for the purpose of employment	Person Resident in India as both the conditions are satisfied.
Person from any other Country	NIL	Came to India during current year for the purpose of employment	Person Resident in India though first condition of staying in India for more than 182 days during the preceding year is not satisfied but condition (a) of limb (B) of the exception is satisfied.
Person from any other Country	NIL	Came to India during current year for the purpose of tourism for 15 days.	Person Resident outside India as both the conditions are not satisfied.



Residential Status in Current Financial Year

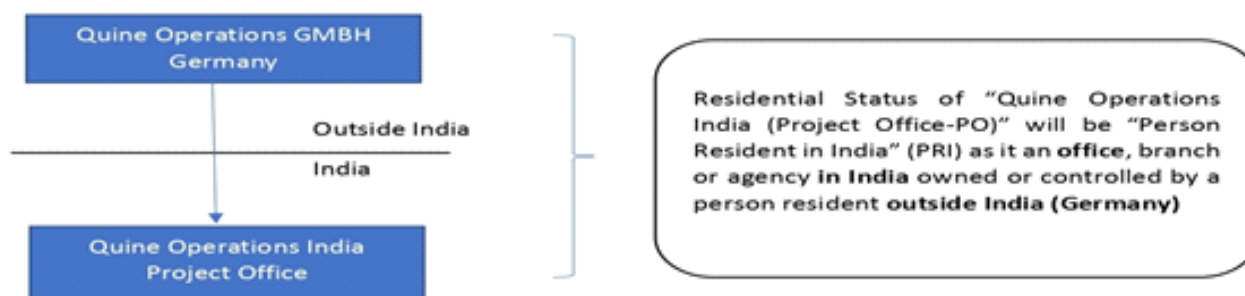
The residential status of an individual under Income Tax and FEMA can be differentiated as under:

Particulars	Scenario under Income Tax Act, 1961	Scenario under FEMA, 1999
Situation	Mr. Rajesh is leaving India for the purpose of employment on 1 st November, 2020	
No. of days of stay in India in FY 2020-21 (1 st April-2020 to 31 st March-2021)	214	Not relevant
No. of days of stay in India in FY 2019-20 (1 st April-2019 to 31 st March-2020)	Not relevant	365 (Relevant only up to 31 st October, 2020)
Residential status in India for FY 2020-21	Resident	Person Resident in India (PRI) up to 31 st October, 2020. Person Resident outside India (PRO) from 1 st November, 2020.



Status checking	Residential status is checked at the time of filing of your Income Tax Return (ITR)	Residential status is checked at the time of every financial transaction.
Criteria of checking	Residential status is decided based on the stay of an individual in India.	Residential status is decided based on the purpose of the stay along with days of stay.
Conclusion	Individual, for a particular year, can have only one residential status under Income Tax Act, 1961	Individual, can have dual residential status under FEMA, 1999.

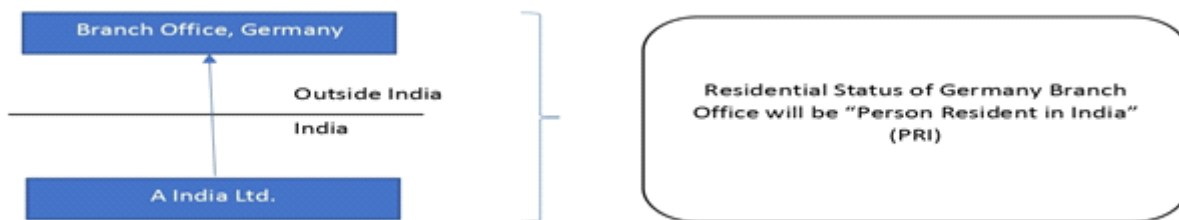
- **Other Persons & Body Corporate:** The section describes that a person or body corporate registered or incorporated in India is a Person Resident of India (PRI). As soon as the company or LLP/partnership firm or any person like AOP, HUF etc. is incorporated/gets registered in India, it becomes the person resident in India (PRI). For example, a foreign company opens a subsidiary company in India which is duly incorporated as per Companies Act, 2013. Therefore, such subsidiary company shall be considered as “Person resident in India”. The term “person” is defined in section 2(u) of the Act.
- **Unincorporated entity:**
 - a. An office, branch or agency in India owned or controlled by a person resident outside India:
- Various foreign company set ups a project office in India for the specific purpose and limited period. Such project office shall be considered as “Person Resident in India”





B. An office, branch or agency outside India owned or controlled by a person resident in India:

- If an Indian company opens any branch outside India then such branch shall be considered as “Person Resident in India”.



However, if an Indian company set ups a subsidiary company outside India then it shall not be considered as “Person Resident in India” as the same is a body corporate and not the office, branch or agency.

The term 'owned' and 'control' has not been defined in the Act. But as per FDI policy,

- An entity is considered as “owned” by resident Indian citizens if more than 50% of the capital in it is beneficially owned by resident Indian citizens and/or Indian companies, which are owned and controlled by resident Indian citizens.
- “Control” shall include the right to appoint a majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.

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The Difference Between Capital Expenditure & Capitalized Expenditure

A small business distinguishes between items purchased for the short term and longterm expenditures, both in accounting and in taxes. Capital expenditures are business improvements, upgrades or expansions. capitalized expenditure is primarily a tax term, reflecting depreciation for loss of value over a period of years. Confusion arises when capital expenditures become capitalized expenditures for tax purposes, as these are long-term business improvements requiring depreciation over several years.

Capitalized or Expensed

The business owner must choose to capitalize or expense business costs each tax year. "Expensing" costs allows you as owner to take the entire purchase off your current business tax return. You can claim as expenses those purchases that last only for the year or that do not improve the business for the future. The Internal Revenue Service requires you to capitalize expenditures or depreciate expenses that have business benefits for the future. Property with a useful life greater than a year is depreciated for federal tax purposes over the life expectancy of the property, with a percentage of depreciation allowed each year.

Expenses

The business owner deducts low-value items or items with a year or less of useful life as a business expense in the year of purchase. These items are "expensed" or written off in the year you incur the expense with no depreciation allowed for future years. Books updated annually are expenses; reference books usable over a period of years may be depreciated.

Capital Expenditure

A capital expenditure is money spent on buildings, machinery or equipment as an investment to increase efficiency or production. Capital expenditures are items purchased that will have future benefits for the business and that add value to the business for future years. The IRS requires that the business tax return reflect depreciation of capital expenditures, with distribution of the tax write-off over a period of years. You "capitalize" capital expenditures when you list them on your tax return and depreciate them.

Capitalized Expenditure

The IRS requires the business owner to delay the tax deduction on some items, filing for depreciation of large expenses as a capitalized expenditure. You may claim three, five or seven years and deduct 33 percent, 20 percent or 14 percent each year until your item is fully depreciated. You capitalize the expenditure in journal entries as well, and each tax year, adjust the journal entry to reflect the depreciation for the year. Repairs may be capitalized expenses in 2011 as the IRS has modified the rules for expensing and capitalizing repairs. Required capitalized expenditures for repairs now include upgrades, improvements, enhanced value, betterment or repairs that extend the useful life or adapt the property to a new use.



CA. Jay Mehta



Know Financing & Bill Discounting TReDs – Trade Receivable Discounting System for MSMEs

TReDS stands for Trade receivable discounting system. It is an electronic platform provided by RBI for facilitating the financing / discounting of trade receivables of Micro, Small and Medium Enterprises (MSMEs) through multiple financiers. To decrease the financing concerns faced by MSMEs in India, RBI introduced the concept of TReDS in 2014, an institutional mechanism for financing trade receivables on a secure digital platform. The trade receivables can be due from corporate/ companies and other buyers such as individual, trust, including Government Departments and Public Sector Undertakings (PSUs).

There are three participants under TReDs i.e. MSME Sellers, Corporate or other buyers and the financiers. Under TReDs mechanism only MSMEs can participate as seller. Corporates, Government Departments, PSUs and any other entity can participate as buyers and Banks, NBFC – Factors and other financial institutions are permitted by the Reserve Bank of India (RBI), to participate as financiers.

Illustrative Outline of Process flow under TReDS

Corporate and other buyers, including Government Departments and Public Sector Undertakings, send purchase order to MSME seller (outside the purview of the TReDS). MSME seller delivers the goods along with an invoice. There may or may not be an accepted bill of exchange depending on the trade practice between the buyer and the seller (outside the purview of the TReDS). Thereafter, on the basis of either an invoice or a bill of exchange, the MSME seller creates a 'factoring unit' (which would be a standard nomenclature used in the TReDS for an invoice or a bill on the system) on TReDS. Subsequently, the buyer also logs on to TReDS and flags this factoring unit as 'accepted'. In case of reverse factoring, this process of creation of factoring unit could be initiated by the buyer. Supporting documents evidencing movement of goods etc. may also be hosted by the MSME seller on the TReDS in accordance with the standard list or check-list of acceptable documents indicated in the TReDS. The TReDS will standardise the time window available for buyers to 'accept' the factoring units, which may vary based on the underlying document – an invoice or bill of exchange. The TReDS may have either a single or two separate modules for transactions with invoices and transactions with Bills of Exchange, if so required. In either case, all transactions routed through TReDS will, in effect, deal with factoring units irrespective of whether they represent an invoice or a bill or exchange.

Factoring units may be created in each module as required. Each such unit will have the same sanctity and enforceability as allowed for physical instruments under the "Factoring Regulation Act, 2011" or under the "Negotiable Instruments Act, 1881. The standard format / features of the 'factoring unit' will be decided by the TReDS – it could be the entire bill/invoice amount or an amount after adjustment of tax / interest etc. as per existing market practice and as adopted as part of the TReDS procedure. However, each factoring unit will represent a confirmed obligation of the corporate and other buyers, including Government Departments and PSUs, and will carry the following relevant details – details of the seller and the buyer, issue date (could be the date of acceptance), due date, tenor (due date – issue date), balance tenor (due date – current date), amount due, unique identification number generated by the TReDS, account details of seller for financier's reference (for credit at the time of financing), account details of buyer for financier's reference (for debit on the due date), the underlying commodity (or service if enabled).

The TReDS should be able to facilitate filtering of factoring units (by financiers or respective sellers / buyers) on any of the above parameters. In view of the expected high volumes to be processed under TReDS, this would provide the necessary flexibility of operations to the stakeholders. The buyer's bank and account details form an integral feature of the factoring unit. The creation of a factoring unit on TReDS shall result in automatic generation of a notice / advice to the buyer's bank informing them of such units. These factoring units will be available for financing by any of the financiers registered on the system. The all-in-cost quoted by the financier will be available on the TReDS. This price can only be viewed by the MSME seller and not available for other financiers. There will be a window period provided for financiers to quote their bids against factoring units. Financiers will be free to determine the time-validity of their bid price. Once accepted by the MSME seller, there will be no option for financiers to revise their bids quoted online.



The MSME seller is free to accept any of the bids and the financier will receive the necessary intimation. Financiers will finance the balance tenor on the factoring unit. Once a bid is accepted, the factoring unit will get tagged as “financed” and the funds will be credited to the seller's account by the financier on T+2 basis (T being the date of bid acceptance). The actual settlement of such funds will be as outlined under the Settlement section. Once an accepted factoring unit has been financed by a financier, notice would be sent to buyer's bank as well as seller's bank. While the buyer's bank would use this information to ensure availability of funds and also handle the direct debit to the buyer's account on the due date in favour of the financier (based on the settlement obligations generated by the TReDS), the seller's bank will use this input to adjust against the working capital of the MSME seller, as necessary (the TReDS procedures may, if necessary, also indicate that the proceeds of the accepted and financed factoring units will be remitted to the existing working capital / cash credit account of the MSME seller). If agreed by members, the TReDS may also provide the option to members, whereby the financiers would take direct exposure against the buyers rather than through their bankers.

On the due date, the financier will have to receive funds from the buyer. The TReDS will send due notifications to the buyers and their banks advising them of payments due. The actual settlement of such funds will be as outlined under the Settlement section. Non-payment by the buyer on the due date to their banker should tantamount to a default by the buyer (and be reported as such as per regulatory procedures prescribed from time to time) and enable the banker to proceed against the buyer. Any action initiated in this regard, will be strictly non-recourse with respect to the MSME sellers and outside the purview of the TReDS. These instruments may be rated by the TReDS on the basis of external rating of the buyer, its credit history, the nature of the underlying instrument (invoice or bill of exchange), previous instances of delays or defaults by the buyer with respect to transactions on TReDS, etc. The rated instruments may then be further transacted / discounted amongst the financiers in the secondary segment. Similar to the primary segment, any successful trade in the secondary segment will also automatically result in a direct debit authority being enabled by the buyer's bank in favour of the financier (based on the settlement obligations generated by the TReDS). In parallel, it will also generate a 'notice of assignment' intimating the buyer to make the payment to the new financier. In the event that a factoring unit remains unfinanced, the buyer will pay the MSME seller outside of the TReDS. In order to meet the requirements of various stakeholders, the TReDS should ensure to provide various types of MIS reports including intimation of total receivables position, financed and unfinanced (to sellers); intimation of outstanding position, financed and unfinanced with details of beneficiaries and beneficiary accounts to be credited (for buyers); total financed position for financiers; etc. Similarly, data on unfinanced factoring units in the market should also be made available by the TReDS. The system should also generate due date reminders to relevant parties, notifications to be issued to bankers when a factoring unit is financed, notifications to be issued to buyers once a factoring unit related to their transaction is traded in the secondary segment, etc.



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Recent Amendments in Schedule III of Companies Act

Dear Readers,

Recent amendments in Schedule III of companies Act would require lot of pain and effort from auditors to disclose and report all the details which has been asked. Article has incorporated amendments applicable to Division I companies and which is important in the context of our practice. Amendments included is not exhaustive. Article contains only synonym of amendments and for better understanding and more clarity kindly refer guidance note. Amendments made in Caro, 2020 is not included.

Here are the lists of amendments which we believe is important to note:-

- Figures in financials have to be rounded off to nearest Hundreds/Thousand/ Lakhs as the case may be and cannot be disclosed in full.
- Line Item Non-Current Asset now has cosmetic change and now it includes Intangible Asset and word Tangible Asset is replaced with Property Plant and Equipment.
- Non-Current Liabilities will now include Lease Liabilities.
- Apart from shareholding in excess of 5%, we need to disclose shareholding by promoters. Definition of promoter needs to be interpreted as given under section 2(69) of the Act. Above change will lead to disclosure of shareholding of even 1% if it is held by promoter.
- Current maturity of long-term debt will now be classified under short term borrowings.
- Ageing of Trade Payables into Less Than 1 year, 1-2 Years, 2-3 Years, More Than 3 Years needs to be given. It needs to be further classified into MSME, Others, Disputed Dues MSME and Disputed Dues- Others, we can add two more column "Unbilled" and "Not due" before ageing column to match the figure of total creditors.
- We need to prepare two tables for Fixed Asset Schedule, one for current year and one for last year or any other suitable method which shows all the particulars for both the year towards PPE. Separate presentation of change in amount due to revaluation of Tangible Fixed asset also need to be continued, irrespective of change is 10% or more.
- Security Deposit will now be classified under Other Non-Current Asset instead of Long Term Loan and Advances.
- Ageing of Trade Receivables into Less Than 6 months, 6 months to 1 year, 1-2 Years, 2-3 Years, More Than 3 Years needs to be given. It needs to be further classified as given in guidance note. We can add two more column "Unbilled" and "Not due" before ageing column to match the figure of total debtors.
- Company has to disclose where borrowing from bank and financial institutions has been used if it is not used for specific purpose for which it has been taken at balance sheet date. If board thinks any of other than PPE, Intangible Asset and non-current investment do not have value on realization in the ordinary course of business at least equal to its stated amount, the fact need to be stated.
- In case of revaluation of property, plant and equipment the company will disclose whether it is valued by registered valuer as defined under Companies (Registered Valuers and Valuation) Rules, 2017.
- Details of Immovable properties (other than the cases where the company is lessee and lease are executed in favor of lessee) whose title deed is not in the name of company are required to be given.
- Details of amount in respect of loans or advances in the nature of loan either repayable on demand or without specifying terms or period of repayment granted to promoters, directors, key managerial person's and related parties to be disclosed. Whether advance is in the nature of loan would depend on fact of the case, advance according to normal practice of company would not be classified as a loan.
- Ageing of capital work in progress needs to be given in less than a year, 1-2 Years, 2-3 Years, More than 3 years. Disclosure is not required at project level. Ageing will be determined based on its initial recognition to the date of



balance sheet. Details to be given for CWIP whose completion is overdue or has exceeded its cost compared to its original plan. Assessment will be done at reporting date. Project where activity is suspended is also to be disclosed separately.

- Where Company has borrowing on the basis of security of current asset, whether quarterly returns or statements filed are in agreement with books. If not reconciliation and reasons for discrepancies. One need to be very cautious while certifying stock statement because in case where difference is found in stock value submitted to financial institutions and as mentioned in books of account as at year end, we may need to justify the basis on which stock statement was certified earlier. Disclosure to be made if company has borrowing at any point of time during the year.
- Disclosure needs to be given with respect to transaction/relationship with struck off companies. Even if yearend balance is NIL, we need to disclose the transaction if undertaken during the year. For this we may filter all the transaction with companies and on the basis of Company's CIN, can check on MCA Portal or may avail facility of few service providers who give details in this regard.
- Specified analytical ratios need to be given. Items which are considered as numerator and denominator should be consistent for the periods presented and with the industry practice. If any change is made in current period in relation to any item in numerator and denominator for any ratio then it has to be changed for comparatives also and note needs to be added to explain change and reason for change.
- Word Total Revenue has been replaced with Total Income.
- Except in case of finance company, revenue from operation will separately include revenue from grants and donation (Relevant in case of section 8 company).
- Where Company has traded/invested in crypto currency/virtual currency disclosure of profit/loss on transaction involving crypto currency/ virtual currency. Amount of currency held as at reporting date., deposit or advances from any person for the purpose of trading or investing in crypto /virtual currency.



CA Rajiv Mehta

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Important Due Dates for the Month of May

Due date	Relevant Period	Form Type/Particulars	Applicability
INCOME TAX RELATED			
07.05.2022	Apr-22	Challan No. ITNS-281	Payment of TDS/TCS deducted /collected in April 2022.
15.05.2022	Mar-22	TDS Certificate	The due date for issue of the TDS Certificate for tax deducted under Section 194IA in the month of March 2022
15.05.2022	Mar-22	TDS Certificate	The due date for issue of the TDS Certificate for tax deducted under Section 194IB in the month of March 2022
15.05.2022	March 2022	TDS Certificate	The due date for issue of the TDS Certificate for tax deducted under Section 194M in the month of March 2022
15.05.2022	Apr-22	Form No. 24G	The due date for furnishing of Form 24G by an office of the Government where TDS/TCS for the month of April 2022 has been paid without the production of a challan
15.05.2022	Quarterly	Filing of TCS Statement	Quarterly statement of TCS deposited for the quarter ending March 31, 2022
15.05.2022	Apr-22	Form No. 3BB	The due date for the furnishing statement in Form no. 3BB by a stock exchange in respect of transactions in which client codes have been modified after registering in the system for the month of April 2022
30.05.2022	Apr-22	TDS Challan-cum-statement	The due date for furnishing of challan-cum-statement in respect of tax deducted under section 194-IA, 194 IB, 194M
30.05.2022	4th quarter of FY 2021-22	TCS Certificate	Issue of TCS certificates for the 4th Quarter of the Financial Year 2021-22
30.05.2022	FY 2021-22	Form No. 49C	Submission of a statement by a non-resident having a liaison office in India for the financial year 2021-22
31.05.2022	January to March 2022	Form 24Q (TDS Return for Salary)	Quarterly Statement for TDS on salaries
31.05.2022	January to March 2022	Form 26Q (TDS Return for Payments to Foreigners)	Quarterly statement of TDS deposited (for the payment to a non-resident not being a company, foreign company, and persons who are not ordinarily resident) for the quarter ending March 31, 2022
31.05.2022	January to March 2022	Form 27Q (TDS Return for Professional Fees)	Quarterly Statement for TDS on professional fees, interest payments, etc.
31.05.2022	—	TDS Return by trustees	TDS Return for tax deducted from contributions paid by the trustees of an approved superannuation fund
31.05.2022	FY 2021-22	Form 61A	The due date for furnishing of statement of financial transaction as required to be furnished under sub-section (1) of section 285BA of the Act with respect for the financial year 2021-22
31.05.2022	The calendar Year 2021	Form 61A	The due date for e-filing of annual statement of reportable accounts as required to be furnished under section 285BA(1)(k) (in Form No. 61B) for the calendar year 2021 by reporting financial institutions
31.05.2022	FY 2021-22	PAN Application	Application for allotment of PAN in case of a non-individual resident person, which enters into a financial transaction of Rs. 2,50,000 or more during FY 2021-22 and in case of a person being managing director, director, partner, trustee, author, founder, Karta, chief executive officer, principal officer or office bearer of the person referred to in Rule 114(3)(v) or any person competent to act on behalf of the person referred to in Rule 114(3)(v) and who hasn't allotted any PAN



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Due date	Relevant Period	Form Type/Particulars	Applicability
ROC RELATED			
30.05.2022	FY 2021-22	LLP Form 11	An annual statement for submitting details of the business of the LLP and its partners for the FY 2021-22
31.05.2022	FY 2020-21	CSR- 2	Every company covered under the provisions of sub-section (1) to section 135
GST RELATED			
10.05.2022	Apr-22	GSTR 8	GSTR-8 is a return to be filed by the e-commerce operators who are required to deduct TCS (Tax collected at source) under GST
11.05.2022	Apr-22	GSTR 1	Taxpayers have an aggregate turnover of more than Rs. 1.50 Crores or opted to file a Monthly Return
13.05.2022	Apr-22	GSTR 1 IFF (QRMP)	GST return for the taxpayers who opted for the QRMP scheme (Optional)
13.05.2022	Apr-22	GSTR 6	Input Service Distributors
20.05.2022	Apr-22	GSTR 5 & 5A	Non-Resident Taxpayers and ODIAR services provider
20.05.2022	Apr-22	GSTR 3B	The due date for GSTR-3B has an Annual Turnover of more than 5 Crores
25.05.2022	For all Quarterly filers	GST Challan	GST Challan Payment if no sufficient ITC for April (for all Quarterly Filers)

Recently Extended Dates				
Old Due Date	Revised Due Date	Period	Form Type/Particulars	Applicability
30.04.2022	31.05.2022	-	UDIN Updation at IT Portal	Audited Cases

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☎ 93278 03912



CA. Atit D. Shah



Event Snap Shot



IDC Meeting with CCM CA. Rajkumar Adukia Sir along with Branch Staff



IDC Meeting with CCM CA. Rajkumar Adukia Sir



Vice Chairman CA. Arun Narang, Secretary CA. Dushyant Vithlani, along with MCM CA. Preetesh Shah Meeting with Hon'ble. CCIT Surat Mrs. Kavita Bhatnagar



RCM CA. Ishwar Jivani & Chairman CA. Nikesh Kothari felicitate CCM CA. Rajkumar Adukia Sir



MCM CA. Shailesh Lakhankiya felicitate our Speaker Shri. Ajit Shah Sir



Event Snap Shot



Treasurer CA. Ashwin Bhauwala Falicitate & MCM CA. Chimpu Lapsiwala Falicitate our Speaker CA. Bhinag Tejani



Treasurer CA. Ashwin Bhauwala Falicitate our Speaker Shri. Ganesh Shetty



Meeting with AIFTP and SGITBA Chairman and other office bearers



On the Dias Secretary Surat Branch CA Dushyant Vithlani with AIFTP Secretary General and AIFTP Vice President



Secretary Surat Branch CA. Dushyant Vithlani with Eminent Guests



Event Snap Shot

SCPL - 7 Team Photo





Event Snap Shot

SCPL - 7 Team Photo





Event Snap Shot

SCPL - 7 Team Photo





Event Snap Shot



Mens Cricket SCPL - 7 Winners Team Surat Super Giants
Captain CA. Vivek Lakhani



Mens Cricket Runner Up Team CA Fighters
Captain CA. Deep Uppadhyay



Friendly Match with SGCCI



Mens Cricket Final Match both the Team with
Sponcers and MCM Surat Branch



Female Team



Event Snap Shot



Mens Cricket Tournament Inauguration Ceremony



Mens Cricket Winner Captain CA. Vivek Lakhani
SURAT SUPER GIANTS with Sponsors & MCM Surat Branch



Winning Team of Womans Cricket Tournament



Library & Reading Room Facility at Branch

Dear Professional Colleague,

The Surat Branch of WIRC of ICAI with great pleasure announces the opening of Reading Room/Library at our Branch Premises for our CA Students to enable them for studying in a Positive and Healthy environment and stay connected to the Branch as well. The Reading Room/Library is fully Air Conditioned and provides a Hygienic and positive environment to our Students of Surat City and will facilitate them in their learning journey.

Library Fees:

- Monthly - 499/-
- Quarterly - 1299/-
- Half Yearly - 2499/-
- Yearly - 4999/-

With Best wishes from :

CA Manthan Chawat

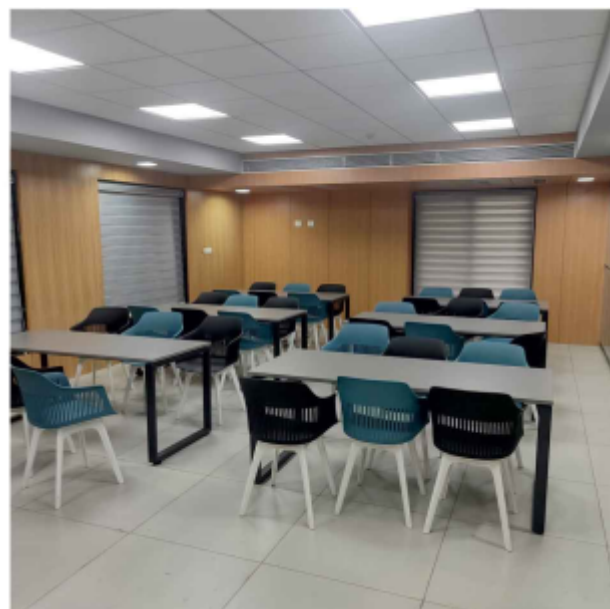
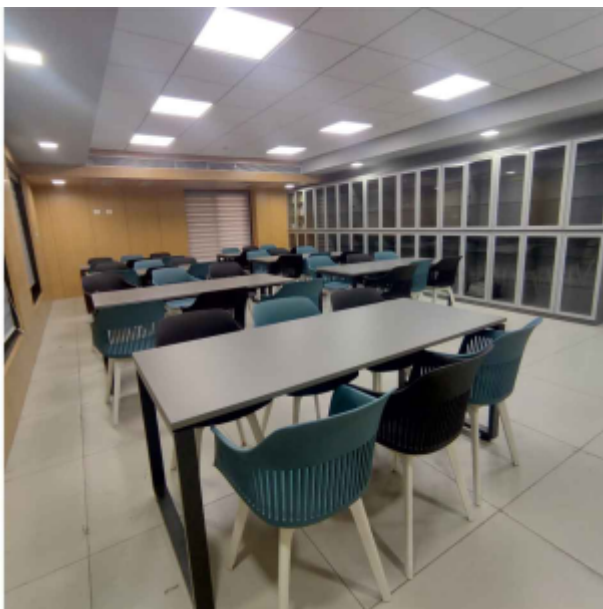
Chairman

(Library & Reading Room Committee)

CA Shailesh Lakhankiya

Co - Chairman

(Library & Reading Room Committee)





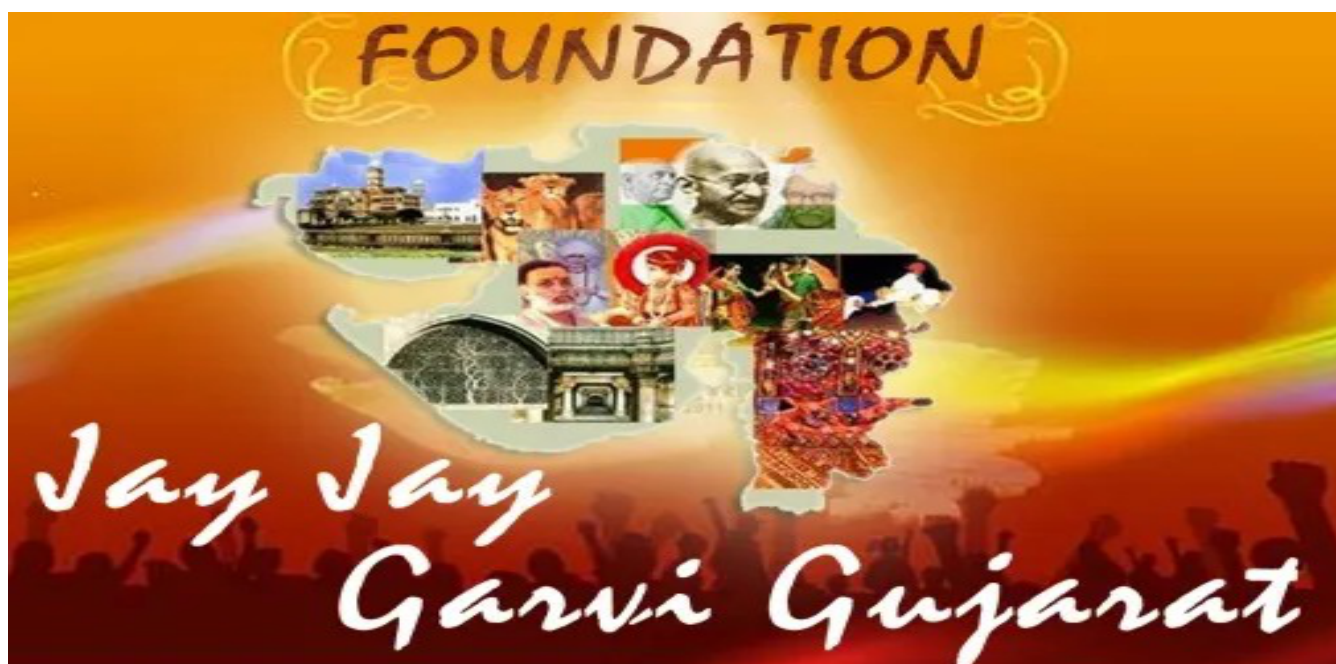
SURAT BRANCH OF WIRC OF ICAI



Managing Committee Meeting Attendance

Sr. No.	Name	Meetings Date			
		26-02-2022	16-03-2022	01-04-2022	21-04-2022
1	CA. Nikesh Kothari - Chairperson	Present	Present	Present	Present
2	CA. Arun Narang - Vice Chairperson	Present	Present	Present	Present
3	CA. Dushyant Vithlani - Secretary	Present	Present	Present	Present
4	CA. Ashwin Bhauwala - Treasurer	Present	Present	LOA	Present
5	CA. Shailesh Lakhankiya - MCM	Present	Present	Present	Present
6	CA. Manthan Chawat - MCM	Present	Present	Present	Present
7	CA. Preetesh Shah - MCM	Present	Present	LOA	Present
8	CA. Chimpu Lapsiwala - MCM	LOA	Present	LOA	Present
9	CA. Joni Jain - MCM	Present	Present	LOA	Absent

GUJARAT FOUNDATION DAY - 1ST MAY



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(Set up by an Act of Parliament)



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Professional Development
Committee of ICAI

Hosted by

Surat Branch of
WIRC of ICAI

13-14 AUGUST 2022
SATURDAY - SUNDAY

VENUE

Platinum Hall, SIECC Campus, Nr. Khajod Crossing,
Althan Road, Surat

Fees : Upto 31/07/2022

Members Rs. 2250/- (incl. GST)

Gyan Ganga Members Rs. 1950/- (incl. GST)

Fees : From 01/08/2022

Members Rs. 2500/- (incl. GST)

Gyan Ganga Members Rs. 2200/- (incl. GST)

For Registration Visit / Scan QR Code



www.surat-icai.org

Kindly register at the earliest.

For More Information Contact

+91 9510582383 | 0261- 3506373





SURAT BRANCH OF WIRC OF ICAI



CPE Program Planning (May-July)

Type of Program	Program	Faculty
Half Day Program	Future of Artificial Intelligence in Accounting	Eminent Speakers
Half Day Program	Amendments in Limited Liability Partnership	Eminent Speakers
Half Day Program	Importance of MSME in development of Indian Economy	Eminent Speakers
Half Day Program	National Small Industries Corporation (NSIC)	Eminent Speakers
Half Day Program	Practice Automation	Eminent Speakers
Half Day Program	Changes in Income Tax Return (ITR)	Eminent Speakers
Half Day Program	Open House (Direct Tax)	Eminent Speakers
Half Day Program	Open House (Indirect Tax)	Eminent Speakers
Half Day Program	Arbitration & Conciliation	Eminent Speakers
Half Day Program	Mock Tribunal	Eminent Speakers
Lecture Series	Gujarat RERA (Starting May)	Eminent Speakers
Lecture Series	How to Handle Litigations under GST	Eminent Speakers
Lecture Series	Insolvency & Bankruptcy Code	Eminent Speakers
Lecture Series	GST Mega Conclave	Eminent Speakers
Lecture Series	Interpretation of Statutes	Eminent Speakers
Lecture Series	Start Up (Spread across the year)	Eminent Speakers
Lecture Series	BPO/KPO Work	Eminent Speakers
Full Day Program	Financial Reporting Review Board (FRRB)	Eminent Speakers
Morning	Cycling for Smart Digital Surat	-

Note: Half Day Program - 2-3 Hours Program
 Full Day Program - 6 hours Program
 Lecture Series - 2-3 Hours Program on Continuous 5-6 days

Vishal Madhavani

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Sameer Madhavani

☎ 98252 88968



E N T E R P R I S E

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



36th REGIONAL CONFERENCE OF WIRC at Pune

Theme: Future Ready CA Venue: Buntara Bhavana, Baner, Pune

Fees: Rs 1,500/- + GST (Upto 10th May 2022) | Fees: Rs 2,000/- + GST (After 10th May 2022) | Time : 10 am to 6 pm
CPE : 12 hours

Day 1

Friday,
3rd June, 2022

Guest of Honour


CA (Dr.) Debashis Mitra
President - ICAI


CA Aniket Sunil Talati
Vice-President - ICAI

Future Fit CA professionals


CA Amarjit Chopra
Past President ICAI

Panel Discussion: Are We Future Ready ?


CA Rajesh Shukla
IDT Head, Tata Motors


CA Vinit Teredesai
CFO, Mindfree, Bangalore


Mr. Yogesh Zope
Group CIO & CTO,
Bharat Forge Group


Mr. Tapan Singhel*
Bajaj Insurance


CA Sagar Shah
Partner
EY India
Moderator

International Tax - Changing Landscape


CA T. P. Ostwal

India Advantage in Current Global Scenario


Dr. Ajit Ranade
Vice Chancellor- Gokhale Institute of
Politics & Economics

Panel Discussion: Thinking Beyond Borders- Offshore Opportunities


CA Anant Govande
Director,
Offshore Accounting
& Taxation Services


CA Sitesh Thadhani
Director Finance Operation,
Amazon India


CA Anil Phadtare
Head of Finance
Operations and
Country Controlling,
Vodafone Group


CA Sachit Nayak
CFQ/MD,
Eaton India (Group)


CA Prakash Hamirwasia
SKP
Moderator

Top





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