



Accountants' Library

Newsletter

For Private circulation only

December 2022 Issue



President's Address

Dear Professional Colleagues,

Wishing you all a very Happy New Year

May the New Year Usher in Good Health, Happiness & Success.

In line with the legacy of the Library, the commitment to disseminate knowledge by way of organising Seminars & Conferences continues. I am very happy to inform that the Accountants'

Library CA CPE Study Circle of EIRC of ICAI is organising the 39th Annual Conference on 20th & 21st January, 2023 which also happens to be our 1st Two Day Annual Conference. The theme of the Conference is '**Capacity Building: Be Future Ready**'.

The complete details of the Conference are given at the following link:

<http://bit.ly/3GFkVUD> and the registration link for the same is <https://bit.ly/3WJAbX>.

The Conference will be a witness to many path breaking discussions and deliberations. I look forward to your participation in the Conference.

“One important key to success is self-confidence. An important key to self-confidence is preparation.” – Arthur Ashe

In line with the above quote, the Library is dedicated to preparing its members for the future in these fast changing days.

The Newsletters published so far have been well received by the Membership. All efforts are being made to make the Newsletters informative and relevant. In this regard, I must complement the Chairman of the Newsletter Sub-Committee of our Library C.A. Amitava Banik and his complete team. I also thank C.A. Arupa Banik for her immense contributions.

We look forward to your feedback to further improve our functioning.

With Warm Regards,
C.A. Debayan Patra
President
Accountants' Library



World Congress of Accountants (“WCOA”) 2022 – 21st Edition

WCOA also known as the “Olympics of Accountancy profession is one of the most celebrated global event under the leadership of international Federation of Accounts (IFAC). Enabling Professionals from all over The World to deliberate upon current issues & trends in the profession. This year ICAI had the privilege to host this symposium from 18th -21st Nov 2022 at Jio World Convention Centre, Mumbai in hybrid mode. The 21st edition of WCOA witnessed the highest even participation who joined hands (Physically & Virtually) to make the event a magnanimous Success.

The WCOA had around 40 sessions spanning over 4days- convening topical matters brilliantly deliberate by international & national visionaries with the universal theme of “Building Trust Enabling Sustainability”- The Convention brought out the responsibility of the A/c. Profession in building trust to facilitate the overall growth of communities, businesses & society while working towards the goal of building a sustainable & resilient economy to the future.

The fact that India wasted this prestigious event for the first time ever (since 1904), testimony to the fact that it is being globally acknowledged as an Accounting HUB. –Opening a wide range of opportunities before us. Few of the members of our Accountants' Library were at Mumbai to attend this ground symposium and have been very kind to their valuable experiences with us.



Members Speak...

“I was totally amazed to see the arrangements, size and overall program of world Congress.I feel proud that I was present in this life time event vis a vis mix with hundreds of professional brothers.Thanks to ICAI and president CA. Debasis Mitra who took the initiative.I am proud that ICAI president was also our library president..”

C.A. Tushar Kanti Basu

“It was indeed a wonderful experience, a great learning. Looking forward to many such great experiences.”

C.A. Neha Khandelwal

“It's really a wonderful experience how modern practice to be performed with the help of modern technology and others. Sharing and gathering of huge experience globally. The stalls were too good to visit where every one should feel some wonderful flavour.”

C.A. Himadri Pradhan

“Awesome eventGreat Networking PlatformEvent to be remembered life long.”

C.A. Purva Mittal

“Our Alma Mater ICAI at its best. Lifetime experience indeed.”

C.A. Chiranjib Das

“Excellent source of knowledge gathering. Enjoyed the huge and massive assemble of members of ICAI and international delegates all over from the World! Wonderful success stories of industry stalwarts were also fascinating and so very inspiring! Overall an unforgettable 4 days!. ”

C.A. Animesh Mukhopadhyay

“It was ocean of accountants.. made me feel to be humble enough and to open for new ideas , concepts and larger platform where we can find our tiny place and put our endeavor to provide value to our society.. ”

C.A. Dipak Kunar Mitra

“It was a lifetime experience to see around 7 thousand. CAs assembled from all over the world under one roof. The grandeur, quality of speakers and the quality of content well designed. The exhibition along with the MSME bus in it was spectacular. That was a chance to meet various CAs to know their style of functioning and learn from them. I hope to see this again in our life in India. All credit to Mr Debasish Mitra and all council members. ICAI The real partner in nation building.. ”

C.A. Mihir Kumar Sahu

“After seven (7) days, from 15th to 22nd November,2022, in Olympic of CA profession, 21st WORLD CONGRESS OF ACCOUNTANTS 2022, held at JIO WORLD CONVENTION CENTRE at Finance capital of India - Mumbai, I was back✈️ to Kolkata on 22.11.2022.

It was indeed a unique experience, in a life time opportunity.

- At JWCC, largest Convention centre of the world & enjoyed world's largest passenger lift carrying 200+ passengers at one go
- Program was attended physically by 6000+ Indian CAs and 800+ CAs from 103 countries of the world & 10,000+ virtual delegates from 103 countries
- 42 sessions by 140+ speakers, inclu.FM, Om Birla, Gautam Adani, Nilesh Shah, Swami Ramdeo, Anupam Kher, Swami Gyan Vatsal and many more
- Met with almost all Past Presidents ICAI, CCMs, RCMs from all 5 RCs, visited WIRC office bldg.
- Met with some CA friends and colleagues after 25-30 years
- Live Cultural evenings by Sonu Nigm, Shibani Akhtar, Shibani Kashyap, Leslie Levis, Shaimak Davar and various dance troops.
- Visited more than 100 stalls at pavilion of WCOA, grabbed some prizes for correct quiz entries, wobble head and many more.
- Visited Siddhivinayak, Mahalaxmi and Mumbadevi Temples, Hotel Taj and Gateway of India, Juhu and sea link, enjoyed Maharaja special Thali at Oberai Mall, Anchaviyo Resort at Plalghar.
- Above all, the hospitality and food arrangement by Jio were above par. CONGRATULATIONS to President, Vice President, CCMs, ICAI Officers & staff for their untiring efforts. ”

C.A. Hari Ram Agarwal

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

Direct tax (Income Tax)

- **Notified for the purpose of exemption under section 10(46) of the Income-tax Act 1961:**

The following assesseees have been notified for the captioned purpose with respect to specified income arising subject to the satisfaction of conditions laid therein from Financial Year 2022-23 to Financial Year 2026-27:

- HP Electricity Regulatory Commission;
- Kerala State Electricity Regulatory Commission.

(Notification No. 116/2022 and 117/2022, dt 19th October, 2022)

- **Notified under section 35(1)(iii) of the Income-tax Act 1961:**
 - Krea University, Sricity, Chittoor, A.P, approved under the category of “University, College or other Institution’ for research in “Social Science or Statistical Research” for the purpose of the aforesaid provision and is applicable from AY 2023-24 to AY 2027-28.

(Notification No. 118/2022, dt 28th October, 2022)

- **Notified under section 10(23FE) of the Income-tax Act 1961:**
 - Pension Fund “Teacher Retirement System of Texas” notified as specified person for the purposes of the aforesaid provision in respect of eligible investment made by it in India on or after 31st October 2022 but on or before 31st March 2024, subject to fulfillment of conditions.

(Notification No. 119/2022 dt 31st October 2022)

- **Notification of Special Courts in Himachal Pradesh (“HP”) under section 280A of the Income-tax Act 1961:**

- In exercise of powers under the above section, r.w section 84 of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act 2015, specified courts of H.P, Shimla designated as Special Courts

(Notification No. 120/2022, dt 11th November, 2022)

- **Amendment in posts of Income-tax authorities pertaining to Faceless Assessment Proceedings:**

- Amendment made pertaining to reversion/deployment and re-designation of existing posts of Income-tax Authorities to facilitate the conduct of Faceless Assessment Proceedings under section 144B.

(Notification No. 121/2022, dt 14th November, 2022)

- **Amendment in jurisdiction of Income-tax:**

- Amendments specified by CBDT pertaining to changes in jurisdiction of Income-tax authorities.

(Notification No. 122/2022, dt 14th November, 2022)

- **Amendment with respect to specifying chain of command of Income-tax authorities:**

- Specified amendments made pertaining to revision/deployment and redesignation of existing posts specifying chain of command/hierarchy therein.

(Notification No. 123/2022, dt 14th November, 2022)

- **Amendment with respect to specifying jurisdiction of Income-tax authorities:**

- Specified amendments made pertaining to specification of jurisdiction of certain Income-tax authorities. Changes made in specified jurisdiction of Mumbai region.

(Notification No. 124/2022, dt 14th November, 2022)



- **Condonation in delay in filing Form 10A:**

- Central Board of Direct Tax ("CBDT") condoned the delay in filing Form 10A upto 25th November 2022 in respect of certain provisions of section 12A/section 10(23C)/section 80G/section 35.

(Circular No. 22/2022, dt 1st November, 2022)

- **Explanatory Notes to the provisions of the Finance Act 2022:**

- Circular explaining the substance of the provisions of the Finance Act 2022 relating to direct taxes released.

(Circular No. 23/2022, dt 13th October, 2022)

- **Draft common Income-tax Return-request for inputs:**

- Proposed draft aims to revamp the return filing approach in line with international practices.
- A common ITR is proposed to be introduced by merging existing returns, except ITR 7.
- ITR 1 and ITR4 to co-exist with the new proposed ITR form.
- In this regard inputs requested from stakeholders and general public.

(Press Release, dt 1st November 2022)

- **Setting up units under sub-section (3) of section 144B of the Income-tax Act 1961:**

- CBDT made specified amendments with respect to setting up of units under section 144B(3)

(Order, dt 14th November 2022)



Good and Service Tax (“GST”):

- **Extension of due date for filing Form GSTR-3B:**

- Due date for furnishing return under section 39(1) read with rule 61(1)(i) of CGST Rules, 2017 i.e., Form GSTR-3B for month of September extended to 21st October 2022.

(Notification No. 21/2022-CT dt 21st October 2022)

- **Amendment in Form GSTR-9:**

- Para 7 of the instructions pertaining to Form GSTR-9 amended to incorporate the extended date of 30th November 2022 as the due date.

(Notification No. /2022-CT, dt 15th November 2022)

- **Clarification on refund-related matters:**

- Notification No. 14/2022 CT dt 5th July 2022 issued to amend formula to calculate refund of unutilized input tax credit (“ITC”) in case of inverted duty structure. Instant circular clarifies that the new formula to be applicable in case of refund applications filed on or after 5th July 2022.
- Notification No.9/2022 CT (R) dt 13th July 2022 issued to place restriction on refund of unutilized ITC on account of inverted duty structure in case of certain goods
The restriction imposed by the said notification to be applicable in respect of all refund applications filed on or after 18th July 2022.

(Circular No. 181/13/2022-GST dt 10th November 2022)

- **Guidelines to verify Transitional Credit**

- As per decision of the Hon’ble Supreme Court in case of Union of India vs Filco Trade Centre Pvt Ltd, common portal opened for filing prescribed forms for availing transitional credit through TRAN-1 and TRAN-2 for two months from 1st October 2022 to 30th November 2022 for aggrieved assesseees.

- Declaration in Form GST TRAN-1/TRAN-2 filed/revised by applicant shall be subjected to necessary verification by concerned officers.
- The guidelines for verifying the same issued through the instant circular.

(Circular No. 182/14/2022-GST dt 10th November 2022)

- **Memorandum issued by Central Government**

- Modification effected in membership of Law Committee.

(Memorandum dated 17th October 2022)

- Clarification provided about handling Investigation matters.

(Memorandum dated 19th October 2022)

- **Clarifications on time limit**

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

(Press release, dt 4th October 2022)

Customs:

- The Project (Import) Regulations, 1986 amended vide Project Imports (Amendment) Regulations, 2022.

(Notification No. 54/2022-Customs dt 19th October 2022)

The Companies Act 2013

- **Applicability of the Companies Act 2013 to Financial Products, Services or institutions in an International Financial Services Centre (“IFSC”):**

- Specified provisions of the Companies Act 2013 to apply with modifications, exceptions or adaptations to financial products, services or institutions in an IFSC

(Notification No. S.O. 5160E, dt 4th November 2022)



ICAI Updates

- **Certificates issued by Peer review Board to Practice Units without an end date:**
 - For Certificates issued till 16th April 2015 without mention of an end date, the same shall be deemed to be 31st December 2022.
 - Practice Units issued certificates without a validity dated mentioned to get Peer Review of their firms initiated on or before 31st December 2022 to maintain continuity of existing Certificates.

(Announcement dt 10th November 2022)

Index for other Regulatory Updates (covering SEBI and NFRA)

SEBI

- Face value of debt security and non-convertible redeemable preference shares reduced from Rs. 10 lakhs to Rs. 1 lakh.

(Circular No. SEBI/HO/DDHS/P/CIR/2022/00144, dt 28th October 2022).

- Unlisted INVITs can no longer carry private placement of units.

(Notification No. SEBI/LAD-NRO/GN/2022/101, dt 9th November 2022).

- Registration fees for FPI category I &II reduced to USD 2,500 and USD 250.

(Notification No. SEBI/LAD-NRO/GN/2022/99, dt 9th November 2022)

- SEBI (LODR)(Sixth Amendment) Regulations containing amendment to provisions pertaining to independent directors, financial statements, draft scheme of arrangement and fees thereof made effective from 14th November 2022.

(Notification No. SEBI/LAD-NRO/GN/2022/103, dt 14th November 2022)

NFRA

- Auditing and Accounting Standards Circular-Non-accrual of interest on borrowings by Companies in violation of Ind AS.

(Circular No. NF-25011/5/2022-O/o Secy-NFRA dt 20th October 2022)

- Introduction of NFRA Audit Quality Inspections

(Guidelines posted by NFRA on its website dt 11th November, 2022).



Books of Accounts: The “means to an end”

Arupa Banik

Chartered Accountant

A brief Introduction

Books of accounts have always been an integral part of a business concern, whether corporate as well as non-corporate. They are the building blocks and may be referred to as the “*means to an end*” to accomplish the goal of preparation and presentation of financial statements. The last issue of this Newsletter contained an article titled: *Financial Statements: Looking through the lens of Ind AS 1: Presentation of Financial Statement* and thus a follow up article on books of accounts seems to be the most appropriate for the benefit of our readers.

The definition, scope and manner of maintenance of books of accounts have been spelled out in various Indian Legislations. These provisions are crucial and must be understood by the relevant stakeholders to ensure compliance as well as efficiency in day-to-day operations. We shall proceed to understand these provisions from the following perspectives:

- i. From the perspective of The Companies Act 2013;
- ii. From the perspective of The Income-tax Act 1961 and rules thereunder
- iii. From the perspective of the Central Goods and Service Tax Act 2017 and rules thereunder.

From the perspective of the Companies Act 2013

The term “Books of Accounts” have been defined under section 2(13) of the respective Act to include records maintained in respect of:

- All sums of money received and expended;
- All sales and purchases of goods and services;
- The assets and liabilities and
- Certain prescribed items of cost.



While the books of accounts should be kept at the Registered Office, however the same may be kept at such other place in India, as may be decided by the Board of Directors upon filing Form AOC-5.

The Books of accounts should be maintained for atleast eight years, immediately preceding a financial year. In case an inspection has been ordered, the Central Government may direct that the Books of accounts may be kept for a longer period.

- The directors of a company (or authorized persons in case of a subsidiary company) can inspect the books of accounts at business hours. The respective Act also lays down the list of persons who shall be responsible for maintenance of the books of accounts. They are as follows:
- The Managing Director;
- The Whole time Director;
- The Chief Financial Officer;
- Any other competent and reliable person as may be authorized by the Board of Directors.

Any non-compliance by the aforementioned persons can attract a fine of not less than Rs. 50,000 that may extend to Rs. 5,00,000.

Note: The aforesaid provisions also apply to foreign companies with respect to their business in India.

From the perspective of the Income-tax Act 1961

The Income Tax Act 1961 has specified the books of accounts that are required to be maintained for the purpose and in the prescribed manner under section 44AA and Rule 6F. Some important aspects from the respective Act is discussed below:



▪ Who is required to maintain books of accounts?

Books of accounts/accounting records have to be maintained if the gross receipts are more than Rs. 1,50,000 in 3 preceding years for an existing profession. This also applies to a newly set up profession whose gross receipts are expected to be more than Rs. 1,50,000.

The accounting records to be kept have been prescribed in Rule 6F. The below professions are required to maintain Books of accounts/accounting records:

- Legal
- Medical
- Engineering
- Architectural
- Accountancy
- Technical consultancy
- Interior decoration
- Authorized representative — A person who represents another person for a fee before a tribunal or any authority constituted under any law. It does not include an employee of the person so represented or a person who is carrying on the profession of accountancy.
 - Film artist — This includes a producer, editor, actor, director, music director, art director, dance director, cameraman, singer, lyricist, story writer, screenplay or dialogue writer and costume designers.
 - Company secretary.
 - A freelancer pursuing any of these listed professions and your gross receipts are more than Rs. 1,50,000, these rules shall apply to you.

If the gross receipts of the Professions listed above are not more than Rs 1,50,000 in any one or more of the preceding 3 years for an existing profession or for a newly set up profession whose gross receipts are expected to be not more than Rs 1,50,000 – the professional is not required to



maintain books of accounts as per section 44AA. In such a situation, a professional has to maintain books of accounts which would enable the AO to compute the taxable income of the professional from them.

▪ Books specified under Rule 6F of the Income-tax Act 1961:

Rule 6F of the respective Act provides a list of books of accounts to be kept at the head office or each of the offices. The list is elucidated below:

- Cash book: A record of day-to-day cash receipts and payments which shows cash balance at the end of the day or at best at the end of each month and not later.
 - A journal according to mercantile system of accounting: A journal is a log of all day-to-day transactions. It is a record, in accounting terms, where total credits equal total debits, when we follow the double entry system of accounting i.e. each debit has a corresponding credit and vice versa.
 - A ledger where all entries flow from the journal, has details of all accounts, this can be used to prepare the financial statements.
 - Photocopied bills or receipts issued, which are more than Rs 25.
 - Original bills of expenditure incurred, which are more than Rs 50.
 - Daily cash register with details of patients, services rendered, fees received and date of receipt (*in case of a person carrying on medical profession - physicians, surgeons, dentists, pathologists, radiologists, etc*).
 - Details of stock of drugs, medicines, and other consumables used (*in case of a person carrying on medical profession - physicians, surgeons, dentists, pathologists, radiologists, etc*).
- Retention period and penalty provisions

Each year's books must be kept for a period of six years from the end of that year.

Failure to maintain books of accounts may attract a penalty of Rs 25,000 as per the provisions of section 271A of the respective Act. Relief from penalty provisions may be granted for reasonable cause.

- Cases where Books of Accounts are not required to be kept:
 - i. Where the income does not exceed Rs 1,20,000 or total sales, turnover or gross receipts are not more than Rs 10,00,000 in all preceding three years.
 - ii. In the case of a newly set up profession or business the same rule as the point above applies when income is expected to be less than Rs 1,20,000 or sales, turnover or gross receipts are expected to be less than Rs 10,00,000.

Note: Others must maintain books of accounts and other documents which may enable the Assessing Officer to calculate their taxable income as per the Income Tax Act. No specific records are prescribed.

- iii. For Professions and Businesses covered under the Presumptive Taxation Scheme under section 44AD and 44AE.

Note: For assesseees to whom Presumptive Taxation Scheme applies, in the following cases, it becomes pertinent to maintain books of accounts as specified in section 44AA and have them audited under section 44AB:

- *Taxpayers claiming income from business to be lower than the presumed income calculated under section 44AE or*
- *A taxpayer who wishes to shift from presumptive taxation under section 44AD or section 44ADA to normal taxation in cases where the income exceeds the basic exemption limit of Rs 2,50,000.*
- iv. In the case of a taxpayer whose turnover was less than Rs 25,00,000, but have total income above the maximum amount not chargeable to tax.

- Audit of accounts

Chartered Accountants are compulsorily required to audit accounts of the following classes of persons:

- A person carrying on Business: If total sales, turnover or gross receipts are more than Rs. 1,00,00,000.

- A person carrying on Profession: If gross receipts are more than Rs. 50,00,000
- A person covered under presumptive income scheme under section 44AD or 44ADA: If income of the business/profession (in case of section 44ADA) is lower than the presumptive income calculated as per section 44AD or section 44ADA and the person's total income is more than the maximum income which is exempt from tax.
- A person covered under presumptive income scheme section 44AE: If income of the business is lower than the presumptive income calculated as per Section 44AE.

From the perspective of Goods and Services Tax [under Central Goods and Services Tax (“CGST”) Act 2017]

The upkeep and maintenance of books of accounts and records by every registered person at his principal place of business (as mentioned in the certificate of registration) is elucidated in section 35 of the CGST Act 2017, read with the Rules thereof. Accordingly, all registered persons are required to maintain the following accounts on a true and correct basis:

- i. Production or manufacture of goods;
- ii. Inward or outward supply of goods or services;
- iii. Stock of goods (Stock register);
- iv. Input tax credit availed (Electronic credit ledger);
- v. Output tax payable and paid;
- vi. Such other particulars as may be prescribed under Rule 56 of the CGST Rules 2017

Note: Particulars prescribed under Rule 56 of the CGST Rules 2017:

- Goods or services imported or exported;
- Supplies attracting payment of tax on reverse charge along with relevant documents, (including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers, refund vouchers and e-way bills) ;
- Accounts of stock in respect of goods received and supplied – containing particulars of opening balance, receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and balance of stock including raw materials, finished

goods, scrap and wastage thereof (these details need not be maintained by a composition dealer);

- *Advances received, paid and adjustments made thereto;*
- *Tax payable on reverse charge basis;*
- *Tax payable, tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period (Not applicable to composition dealer);*
- *Names and complete addresses of suppliers from whom he has received the goods or services or to whom he has supplied the goods or services, as may be applicable; and*
- *Complete addresses of the premises where the goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.*

▪ Special cases

The Rules also prescribes certain specific particulars that must be maintained by persons engaged in prescribed activities or services, as illustrated in the table below:

Persons	Particulars
Agent (Rule 56(11))	Particulars of authorization received by him from each principal (like description, value and quantity (wherever applicable) of goods or services received on behalf of every principal; particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal; details of accounts furnished to every principal; and tax paid on receipts or on supply of goods or services effected on behalf of every principal.
For registered manufacturer (Rule 56(12))	Monthly production account showing quantitative details of raw materials or services used; quantitative details of the goods so

	manufactured and quantitative details of the waste and by products.
Supplier of service (Rule 56(13))	Quantitative details of goods used in provision of services details of input services utilized and services supplied
Works contract service (Rule 56(14))	Names and addresses of the persons on whose behalf the works contract is executed; Description, value and quantity (wherever applicable) of goods or services received for the execution of works contract; Description, value and quantity (wherever applicable) of goods or services utilized in the execution of each works contract; Details of payment received in respect of each works contract; Names and addresses of suppliers from whom he has received goods or services.
Custodian of goods (Rule 56(17))	Clearing and forwarding agent or the carrier of goods shall maintain true and correct records in respect of such goods handled by him on behalf of the registered person.
Transporter (Rule 58)	GSTIN of registered consignor/consignee; goods transported; goods delivered; goods stored in transit by him.
Owner or operator of a warehouse or godowns (Rule 58)	Accounts related to that period for which goods remain with him; Details of dispatch, movement, receipt and disposal of goods.

- Other provisions with respect to books of accounts or records
 - Manner of maintenance: Records may be maintained in electronic form, authenticated digitally. Proper electronic back-up of records is to be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within reasonable period of time. Registered person, on demand, should be able to provide the details of such files, passwords of such files and explanation for codes used where necessary, for access.

- Correction to entries in records or accounts: Entry in the register, accounts and documents shall not be erased, effaced or overwritten. Incorrect entries (except those of clerical nature) should be scored out under attestation and thereafter, the correct entry shall be recorded. Further, where the registers and other documents are maintained electronically, a log of every edited or deleted entry shall be maintained
- Audit of accounts: Every registered person whose aggregate turnover during a financial year exceeds the prescribed limit of Rs.2,00,00,000, shall get his accounts audited by a chartered accountant or a cost accountant and shall submit to the proper officer
 - a copy of the audited annual accounts,
 - a copy of the audited statement of accounts,
 - the reconciliation statement (duly certified, in FORM GSTR-9C) reconciling the value of supplies declared in the annual return with the audited annual financial statement,
 - such other documents in the form and manner as may be prescribed.

Exemption from audit of books of accounts is available to to the Central Government, State Government, local authority whose books of accounts are subject to audit by the Comptroller and Auditor General of India or an auditor appointed for auditing the accounts of local authorities under any law for the time being in force.

- Retention of books of accounts: Every registered person is required to mandatorily retain the books of accounts and other records until the expiry of seventy two months (six years) from the due date for filing of Annual Return for the year. Where registered party is a party to appeal or revision or any other proceeding before the Appellate Authority, or investigation for an offence under this act, in such case, he shall retain the books of accounts and other records for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or until the expiry of 72 months from the due date of filing of Annual Return for the year pertaining to such accounts and records, whichever is later. Where any disputes are involved, then records must be maintained until final disposal of those matters.

- **Consequences for non-compliance:** Where the registered person fails to account for the goods and/or services in accordance with Section 35(1), the proper officer shall determine the amount of tax payable on the goods and/or services that are not accounted for, as if such goods and/or services had been supplied by such person, and the provisions of Sections 73 or 74 (demand-related provisions) shall apply for determination of such tax.
- **Penalty for falsification of accounts:** In case of any kind of falsification of accounts or records, penalty, being higher of the amount of tax evaded or Rs. 10000 to apply. Imprisonment of six months or fine or both shall apply to registered persons committing or abetting in such act.

Concluding Remarks

The fact that maintenance of Books of Accounts by a business concern has been mandated by certain key legislations governing the activities of business in India, it has become imperative for entities to adhere to the same. The provisions of the respective Acts, as may be applicable to it has to be borne in mind so as to be compliant with the facets of law. In this regard, Chartered Accountants, being business consultants, should be mindful of these provisions so that they can advise their clients on the books of accounts or records to be mandatorily maintained. Similarly, as auditors, Chartered accountants should be aware of the minimum set of accounts to be maintained by business entities, which should be verified from time to time, to achieve the ultimate objective of conducting an audit of financial statements.

Thus, it is evident that books of accounts and records are instrumental in drawing up the financial statements of entities, as well as provides transparency to the stakeholders to understand the day-to-day operations of the business entities. It should therefore be free from errors (inadvertent or otherwise) and should be maintained strictly keeping in mind the statutory guidances.



Compendium of Case laws

Income-tax

Tribunal Decisions:

- **Karabi Dealers (P.) Ltd. v. Principal Commissioner of Income-tax, [2022] 144 taxmann.com 174 (Kolkata - Trib.) [02-11-2022]**
 - Brief Facts:
 - Assessee's case was selected for scrutiny assessment through CASS on ground that assessee made large investments in unlisted equities and had low income in comparison to high investment.
 - Assessing Officer ("AO") after being satisfied with submissions made by assessee accepted return of income and passed assessment order.
 - Subsequently, Principal Commissioner invoked section 263 and remanded matter to Assessing Officer to verify issue.
 - It was noted that there was discrepancy emanating from notings made in order sheet and submissions made by assessee on 21-9-2017 claiming that he had produced bills and vouchers to claim substantial amount of expenses.
 - Also as per records, hearing of assessment was concluded on 19-9-2017 whereas all relevant explanations related to issue of limited scrutiny formed part of assessee's submissions dated 21-9-2017
 - Ruling:
 - Whether since there was no entry in order sheet in assessment proceedings of aforesaid submission, Assessing Officer had failed to conduct required verification and examination and had not applied his mind before passing assessment order - Held, yes.
 - Whether thus, revisionary order passed by Principal Commissioner was to be upheld - Held, yes

- **Assistant Commissioner of Income-tax, Circle-2(1) v. Sri Mathikere Ramaiah Seetharam Gokula House, [2022] 145 taxmann.com 123 (Bangalore - Trib.) [07-11-2022]**
 - Brief Facts
 - A development agreement (DA) was entered into between assessee and developer.
 - Pursuant to said agreement refundable security deposit was given to assessee which was later adjusted proportionally against advances.
 - As per DA revenue earned from sale, lease, license of area was covered under project and was shared between assessee and developer.
 - Assessee offered said share of revenue received as per DA as income taxable under head capital gain in year in which flats were received in favour of buyers.
 - Assessing Officer held that advances received from prospective buyers were to be held as business income on ground that there was significant transfer of risks and rewards of flats.
 - Ruling
 - It was noted that development agreement was contractual and commercial in nature and assessee merely gave right to developer to enter into property for purpose of construction.
 - Whether control and physical possession of property was vested with owner i.e. assessee till same was sold to prospective buyers, thus, transfer under section 2(47) could not have been invoked - Held, yes
 - Whether since refundable deposits and advances were received consequent to this development agreement, it could not be said that any income accrued to assessee and advances could not be taxed as capital gains or business income - Held, yes

High Court Decisions:

- **Commissioner of Income-tax, TDS v. Mewar Hospital (P.) Ltd, [2022] 145 taxmann.com 437 (Rajasthan) [01-11-2022]**
 - Ruling:
 - With respect to Fees for professional or technical services (Doctors, payments by hospital) - Assessment year 2018-19 - Whether where assessee-hospital engaged doctors on retainership, retainer fee paid by assessee to doctors would be subject to TDS under provisions of section 194J - Held, yes
- **Molasi Primary Agricultural Cooperative Credit Society Ltd. v. Income Tax Officer, [2022] 145 taxmann.com 222 (Madras) [04-11-2022]**
 - Ruling:
 - The scheme of TDS also allows, by way of an application under Section 197, for a payee to seek the remedy of deduction at nil/lower rate under various provisions of the Act. However, Section 194N is conspicuous by its absence therein, and does not figure in the list of provisions mentioned in section 197. The intention is clear, that compliance with the requirement of Section 194 N is non-negotiable except in line with the specific exceptions stipulated in the section.
 - Cash withdrawals from bank account by Primary Agricultural Credit Co-operative Societies are not exempt from TDS u/s 194N unless exempted by Notification issued under 4th proviso to section 194N. Petitioner societies at liberty to apply to Central Government for issue of exemption notification under 2nd Proviso to section 194N The petitioners may approach the competent authority in the Government seeking relief from the application of Section 194N of the Act. As per business allocation rule, Central Government for tax purposes is Finance Minister of India. Hence, any request may be in the name of the Finance Minister with copy to CIT ITA CBDT North Block who would process such requests.'

- Writ petitions filed by Primary Agricultural Credit Co-operative Societies seeking exemption for their cash withdrawals from bank from TDS u/s 194N, are accordingly dismissed.
- **Deepak Kapoor v. Principal Commissioner of Income-tax, [2022] 145 taxmann.com 5 (Delhi) [09-11-2022]**
 - Ruling:
 - Assessee submitted documentary evidences in form of will, gift deed, order passed by court, agreement to sell, calculation of capital gains and certificate under section 197 to prove genuineness of amount paid by him as settlement to his sisters towards disputed property which was acquired by him by will of his father and gift deed executed by his mother.
 - Assessing Officer based on such evidences allowed settlement amount as deduction while computing capital gains.
 - It was now impermissible for AO to seek reopening of assessment on mere change of opinion to review its decision regarding fair market value of Property or deduction on account of amount paid by assessee to his sisters, thus, impugned reopening notice issued under section 148 was liable to be set aside.
- **Principal Commissioner of Income-tax v. Conwood Medipharma (P.) Ltd, [2022] 145 taxmann.com 549 (Delhi)[10-11-2022]**
 - Brief Facts:
 - Assessee is engaged in business of equity trading, derivatives trading and real estate investment, filed Income-tax Returns ('ITR') declaring an income of Rs. 42.43 crores.
 - On scrutiny, assessment order was passed making an addition of Rs. 10.21 crores on ground that there was difference between funds received and source of income as per books of account which was not disclosed by assessee in its return.

- AO rejected books of account declared by assessee on ground that they were not reliable.
- Commissioner (Appeals) allowed appeal of assessee, holding that addition was not sustainable in view of documentary evidences already available on record.
- It was further held that Assessing Officer failed to make any sincere effort regarding aforesaid addition and same was made only on basis of doubt, suspicion, conjecture or surmises without affording proper opportunity of being heard to assessee which was in violation of principles of natural justice.
- Tribunal concurred with findings in order of Commissioner (Appeals)
- Ruling:
 - On appeal, it was found that Tribunal and Commissioner (Appeals) had returned concurrent findings of fact and deleted addition made by AO on account of difference in receipts shown in financial statements of assessee and credit entries appearing in bank account of assessee.
 - Further, revenue had not placed any material on record to contradict aforesaid concurrent finding of facts returned by Tribunal and Commissioner (Appeals).
 - Whether therefore, said concurrent findings could not be interfered with - Held, yes.
- **Murali Krishna Chakrala v. Deputy Director, Directorate of Enforcement, [2022] 145 taxmann.com 248 (Madras) [23-11-2022]**
 - Ruling
 - Form 15CB requires CA to certify nature of foreign remittance for TDS deductibility purpose based on documents submitted by client without requiring him to go into the genuineness of documents submitted by client.
 - On a perusal of Form No. 15CB, it is clear that a Chartered Accountant is required to only examine the nature of the remittance and nothing more. The Chartered Accountant is not required to go into the genuineness or otherwise of the documents submitted by his clients. This could be compared with the

legal opinion that are normally given by panel lawyers of banks, after scrutinizing title documents without going into their genuinity.

- A Panel Advocate, who has no means to go into the genuinity of title deeds and who gives an opinion based on such title deeds, cannot be prosecuted along with the principal offender. Applying the same analogy, we find that the prosecution of CA Murali Krishna Chakrala, in the facts and circumstances of the case at hand, cannot be sustained.

Supreme Court decisions:

- **Singapore Airlines Ltd. v. Commissioner of Income-tax, [2022] 144 taxmann.com 221 (SC) [14-11-2022]**

- Ruling:

- Whether section 194H does not distinguish between direct and indirect payments and both would fall under Explanation (i) to provision in classifying what may be called a commission and, thus, factum of exact source of payment would be of no consequence to requirement of deducting TDS - Held, yes
- Whether section 194H is to be read with section 182 of Contract Act and if a relationship between two parties as culled out from their intentions as manifested in terms of contract between them indicate existence of a principal-agent relationship as defined under section 182 of Contract Act, then definition of 'commission' under section 194H stands attracted and requirement to deduct TDS arises - Held, yes.
- Assessee-airlines executed passenger sales agency (PSA) agreements with travel agents in terms of which they would supply blank tickets to travel agents and would pay them standard commission on published fare of tickets sold by them - However, travel agents also charged additional amount over and above net fare i.e., supplementary commission.

- Assessee deducted tax at source on amount of standard commission, but did not make deduction on supplementary commission on ground that it would not fall within ambit of section 194H.
- Whether accretion of supplementary commission to travel agents was an accessory to actual principal-agent relationship and in such a commercial arrangement, benefit gained by an agent would be incidental to and would have reasonably close nexus with responsibilities that were entrusted to it by principal air carrier and, thus, such incidental benefits or actions would come under ambit of relationship, subject to any express limitations articulated in contract itself or under Contract Act - Held, yes .
- Whether given that information regarding supplementary commission was available to airlines and these amounts were incidental to transaction by which flight tickets were sold on behalf of air carriers and was for their benefit, airlines could not have absolved themselves of liabilities under IT Act attached to accrual of that additional portion of income by agent - Held, yes.
- Whether thus, difference between actual fare and net fare as being a 'supplementary commission' was liable to deduct TDS - Held, yes.
- Whether where travel agents had already paid income tax on supplementary commission, there could be no further recovery of shortfall in TDS owed by assessee, however, interest might be levied under section 201(1A) and thus, Assessing Officer was to be directed to compute interest payable by assessee for period from date of default by them in terms of failure to deduct TDS, till date of payment of income tax by travel agents - Held, yes.
- Assessee-airlines deducted tax at source on amount of standard commission, but did not make deduction on supplementary commission on ground that it was in nature of discount and would not fall within ambit of section 194H. There were contradictory pronouncements by different High Courts in ensuing years which

clearly highlights genuine and bona fide legal conundrum that was raised by prospect of section 194H being applied to supplementary commission.

- Whether there was clearly an arguable and 'nascent' legal issue that required resolution and, hence, there was 'reasonable cause' for assessee air carriers to have not deducted TDS at relevant period - Held, yes.
 - Whether penalty proceedings against assessee under section 271C to be quashed - Held, yes
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- **Assistant Commissioner of Income-tax v. Kerala State Beverages Manufacturing and Marketing Corporation Ltd., [2022] 145 taxmann.com 513 (SC) [16-11-2022]**
 - Brief facts
 - Assessee-company, engaged in wholesale and retail trade of beverages, had debited its profit and loss account with respect to amount of surcharge on sales.
 - Assessing Officer made disallowance of such surcharge under section 40(a)(iib)
 -
 - Ruling:
 - Supreme Court held that surcharge on sales tax was introduced only as an increase in tax payable and such increase could not be equated with 'fee or charge' and thus surcharge on sales tax or turnover tax paid by assessee-company was not 'fee or charge' coming within sweep of section 40(a)(iib).
 - Whether since no case for reviewing said impugned order was made out, instant review petition filed by revenue was to be dismissed - Held, yes

- **Commissioner of Income-tax-23 v. Mansukh Dyeing and Printing Mills, [2022] 145 taxmann.com 151 (SC) [24-11-2022]**
 - Ruling:
 - Where pursuant to reconstitution of assessee-partnership, assets of assessee were revalued and revalued amount was credited to partners accounts in their profit-sharing ratio, credit of assets revaluation amount to capital amounts of partners could be said to be in effect distribution of increase in value of assets.
 - Also newly inducted partners had huge credits to their capital accounts immediately after joining partnership which was available to partners for withdrawal, in view of said facts assets so revalued and credited into capital accounts could be said to be 'transfer' which would fall in category of 'otherwise' and provisions of section 45(4) would be applicable in instant case.

GST

High Court decisions

- **Bimal Kothari v. Assistant Commissioner (DSGST) [2022] 145 taxmann.com 86 (Delhi)**
 - Brief facts:
 - Registration certificate was cancelled on ground that business was not being carried out from registered place of business after carrying out physical verification of place of business.
 - Assessee had submitted application notifying change of place of business and same was also highlighted in reply to notice.
 - Ruling:
 - Though registration was cancelled after carrying out physical verification of place of business, Proper Officer in terms of Rule 25 failed to issue notice to assessee mandating his presence at time of verification.

- Verification report generated after carrying out physical verification was not uploaded on common portal in Form GST REG-30 within 15 days from date of such verification.
- Order cancelling registration was not sustainable. Department was to be directed to restore registration and give assessee eight weeks to upload returns for period registration stood cancelled.
- **Simon India Ltd. v. CT and GST Officer, Cuttack-II Circle [2022] 145 taxmann.com 485 (Orissa)**
 - Brief facts:
 - Statutory time period to complete audit and issue of final audit report i.e., three months had expired.
 - Petition was filed to quash draft audit report and final audit report - HELD:
 - Ruling:
 - Draft audit report and final audit report were issued on same day.
 - Time period of 30 days was not given to assessee to file reply to draft audit report.
 - Final audit report was to be set aside.
 - Despite giving 30 day time to file reply to draft audit report, same would be time-barred.
 - Commissioner was directed to extend time for completion of audit within further period of 6 months.
 - Extension was granted otherwise it would render whole audit exercise futile.
- **Genpact India (P.) Ltd. v. Union of India**
 - Brief facts:
 - Petitioner was a Business Process Outsourcing service provider located in India.
 - Petitioner entered into a Master Services Sub-Contracting Agreement (MSA) with Genpact International (GI) located outside India.

- GI was providing services to its clients for commission - Additional Commissioner CGST (Appeals) held that services provided by petitioner were in nature of "Intermediary Services" as per section 2(13) of IGST Act and did not qualify as "export of services" and thereby rejected refund claim of un-utilized ITC used in making zero rated supplies of services without payment of IGST.
- Ruling:
 - MSA entered between petitioner and GI was clearly for purpose of sub-contracting services to petitioner by GI and did not in any manner indicate that petitioner was acting as an "intermediary" so as to fall within scope and ambit of definition of "intermediary" under section 2(13) of IGST Act.
 - It was evident that petitioner was providing services which had been sub-contracted to it by GI.
 - Main contractor i.e. GI was receiving commission from its clients for main services that were rendered by petitioner pursuant to arrangement of sub-contracting.
 - Petitioner had no direct contract with customers of GI nor was petitioner liaisoning or acting as an "intermediary" between GI and its Customers.
 - Therefore, Respondent-department had erred in holding petitioner to be in a principal-agent relationship with GI.
 - Petitioner was not 'intermediary' and thus, refund claim of un-utilized Input Tax Credit (ITC) used in making zero rated supplies of services without payment of IGST was to be allowed excess base prices from his customers after reduction in rate of tax but also compelled them to pay additional GST and thereby failed to grant commensurate reduction in prices, he had acted in contravention of provisions of section 171(1) and thus was to be directed to deposit principal profiteered amount after deducting GST imposed on net profiteered amount in six equated instalments.

- **Bharti Airtel Ltd. v. State of U.P**

- Brief facts:

- Detention of goods for not filling up Part-B of e-way bill.
- Goods were released on furnishing security and subsequently certain amounts were paid.
- Tax was demanded and penalty imposed by adjudication order and the same upheld by impugned appellate order.

- Ruling:

- Department is empowered to initiate proceedings under Section 73 or Section 74 of CGST Act read with Section 122 if owner of goods does not come forward to pay penalty under Section 129.
- Tax liability has been determined and penalty imposed under Section 129 of CGST Act in the present case.
- Section 129 does not provide for such determination.
- Determination of tax due can be made only under Section 73 or Section 74.
- Impugned orders are not sustainable as proceedings having been undertaken determining tax liability and imposing penalty only under Section 129.
- Amount paid for release of goods directed to be refunded to petitioner.

Reference:

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

Library News

Events held

Date	Event Description	
2nd December, 2022	Six Hours CPE Program	
	Topics:	Speakers:
	Auditing Standards Covering Audit Report and Documentation	CA. Vivek agarwal
	Various Schemes for MSMEs	CA. Swati singhania
	MSMEs Funding	CA. Ajay singhal
	Start-Up-A 360° View	CA. Rishi khator
13th December, 2022	75th Anniversary Celebration of the Accountants' Library held at the Library Room in Aaykar Bhavan, Esplanade	
29th December, 2022	Six Hours CPE Program	
	Topics:	Speakers:
	Assessment & Appeals under Income Tax	CA. Ayush Goel
	Decoding Audit Quality Maturity Model	CA. Vivek Agarwal
	Valuation under various provisions of Income Tax	CA. Manish Gadia

Photo Gallery: Glimpses from various events

Interactive Session with Income-tax Officers held on 22th November



Six Hours CPE Program held on 2nd December, 2022





75th Anniversary Celebration held on 13th December



12 CPE

ACCOUNTANTS' LIBRARY
CHARTERED ACCOUNTANTS CPE
STUDY CIRCLE OF EIRC OF ICAI

39th Annual Conference

CAPACITY BUILDING
BE FUTURE READY

20th and 21st January, 2023

Ashutosh Birth Centenary Hall
Behind Indian Museum (Opp. MLA Hostel)
27, Jawaharlal Nehru Rd, Kolkata - 700016



Accountants' Library
"Aaykar Bhawan"
P-7, Chowringhee Square
Kolkata-700069
e-mail: acclibrary@yahoo.com
Website: www.accountantslibrary.org