The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)

Bengaluru Branch of SIRC & Newsletter

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Jnauguration of TWO DAY CHARTERED ACCOUNTANTS' CONFERENCE



TAX AUDIT



135, Residency Road, **7** Bengaluru – 560 025 10am – 5.30pm

One Day Seminar on Audits under Income Tax Act 2rd September 2023

Study Circle Meeting SBO Declarations 6th September 2023

One Day
 Women CA's Conference
 9th September 2023

Study Circle Meeting Importance of Internal Audit for SMEs

CPE MEETINGS

- 13th September 2023
- Breakfast Meeting
 AQMM
 16th September 2023
- Investor Awareness Program
- Wealth Creation through Equities 20th September 2023
- Study Circle Meeting Recent Developments in Transfer Pricing 4^e October 2023
- Round Table Interactive CFO Meet 6th October 2023
- Breakfast Meeting NFRA Observations in Auditing Standards 7th October 2023
- Study Circle Meeting The Digital Personal Data Protection Act 2023 11th October 2023
- Study Circle Meeting 18th October 2023
- Study Circle Meeting 25th October 2023
- One Day Seminar on Search, Survey & Seizure 28th October 2023



Dear Professional Colleagues,

t's the month of Financial Statements and Audit Reports! We are already in the race of fulfilling our responsibilities and it's the most exhilarating month for Chartered Accountants - the need of the hour to complete the Tax Audit assignments and submit the Audit Report before due date i.e., 30th September 2023. The emerging trends on accounting happening in the world of technology especially with AI getting closer to us, it is easier and simpler to embrace them. The advancements in technology and digital transformation like Automation, Artificial Intelligence and data analytics necessitate that the profession must equip with the requisite skills to navigate this evolving landscape. It is imperative that Chartered Accountants should keep abreast the advancements and deliver in these new developments and challenges.

A brief about August 2023 programs:

The Two Day Chartered Accountants Conference with the theme **"Pragjnana Prayathna" held**

on 11th & 12th August 2023 at Princess Shrine, Palace Ground hosted by Bengaluru Branch of SIRC of ICAI jointly organized by Belagavi, Ballari, Hubballi, Kalaburgi, Mangaluru & Udupi Branches of SIRC of ICAI stands out as a memorable event and was well appreciated by all the participants for its focus on knowledge enrichment on handpicked topics. More than 1,200 Members participated in the event. I thank the Chief Guest – Mr. M. Murali, Chairman & Managing Director, Shriram Properties and the Guest of Honour - CA. Pannaraj S, Chairman of SIRC of ICAI, Past Presidents of ICAI - CA. B.P. Rao & CA. K. Raghu. Also, I thank CA. Cotha S Srinivas, Central Council Member of ICAI & CA. Geetha A.B, Vice Chairperson of SIRC of ICAI and all the knowledge drivers of this Conference viz. the Speakers, the Managing Committee Members of all branches of Karnataka, the Sponsors, the Delegates, all the Past Chairmen of Bengaluru Branch of SIRC of ICAI, and all Contributors who made this Conference a significant feather-inthe-cap of our tenure.

The Managing Committee Members of Bengaluru Branch hoisted the flag on **15th August on the occasion of 77th Independence Day Celebrations** at Vasanthnagar Branch Premises.

Dinner Meet CPE Meeting conducted on 22nd August 2023 for Comments on Exposure Drafts of 7 Standards (SQM1, SQM2, SA 220 (Revised), SA 250 Revised, SA 315 Revised, SA 540 Revised, SRS 4400 Revised. I thank Moderator CA. Vinay K.S and the Panelists – CA. V. Balaji & CA. Sunil Bhumralkar for accepting our Invitation **(Contd. on page 5)**



77th Independence Day Celebrations







Breakfast Meeting



CA. Mohan R Lavi

Dinner Meet Panel Discussion for Comments on Exposure Drafts of 7 Standards



Moderator : CA. Vinay K S





Panelists : CA. Sunil Bhumralkar, CA. V. Balaji

Study Circle Meetings



CA. Amithraj N



CA. J. K. Sharath



CS. J. Sundharesan

ICAI Orientation Programme for Newly Qualified CAs



Inauguration of Orientation Programme by lighting the lamp



Chief Guest CA. Durgesh Kumar Kabra Chairman, CMI & B



CA. Cotha S Srinivas Central Council Member, ICAI



CA. Geetha A B Vice Chairperson SIRC of ICAI



CA. Rahul Saria



CA. Ram M



CA. Vankataramanan



Felicitation to Chief Guest, CA. Durgesh Kumar Kabra



Participants

SICASA - CA Students National Talent Search - 2023



Chief Guest, CA. Pannaraj S CA. Tuppad Virupakshappa Muppanna Chairman - SIRC of ICAI SICASA - Chairman







Chairperson's Communique ...

(Contd. from page 2)

in a short notice period for covering the vast topic was challenging to the Speakers. This interaction was very good, useful and has been appreciated by all the Members in this discussion.

We had a Breakfast Meeting on 19th August 2023 by an expert and eminent Speaker CA. Mohan R Lavi on CHAT GPT for CAs a talk of the world. 95 Members were benefitted from the deliberations therein.

Study Circle Meetings were conducted on 16th, 23rd & 30th August 2023. I thank the Speakers CA. Amithraj N, CS. J. Sundharesan & CA. K.K. Sharath for deliberating their expertise in these meetings.

Campus Orientation Program was organized on 20th August 2023 at our Branch to provide employment opportunities to freshly qualified graduates and looking for prospects in career growth.

The months ahead – September & October 2023

As the tax audit season has already commenced, a One Day Seminar on **Tax Audit under Income Tax Act** is being organized by Bengaluru Branch of SIRC of ICAI on Saturday, 2nd September 2023 at Branch premises. Expert and experienced Speakers will be addressing on the practical and critical issues at the said Seminar. One Day Women's Conference is being organized on 9th September 2023 at Hotel Chancery Pavilion. The details are presented elsewhere in this Newsletter.

Breakfast Meeting on AQMM is being organized on 16th September 2023.

An Interactive CFO's Meet is being organized under the ageis of the Committee for Members in Industry & Business (CMI & B) of ICAI Hosted by Bengaluru Branch of SIRC of ICAI on 6th October 2023 at Welcome Hotel, ITC Hotels, Next to Hosmat Hospital, Bengaluru.

Breakfast Meeting on NFRA is being organized on 7th October 2023.

One Day Seminar on Search, Survey & Seizure is being organized on 28th October 2023. The details of the above said programs are presented elsewhere in this Newsletter.

Though September is a very busy month for us, it is also a month of Festivals. Let us celebrate Ganesh Chaturthi Festival with all the fervour and spirit. Wish you all very happy festival celebrations.

With warm regards,

CA Divya S Chairperson Bengaluru Branch of SIRC of ICAI



DATE AND DAY	TOPIC / SPEAKER	ТІМЕ	STRUCTURED CPE CREDIT
02.09.2023 Saturday	One Day Seminar on Audits under Income Tax Act Organized by : Bengaluru Branch of SIRC of ICAI Delegate Fees : Members – Rs.850/- Plus GST Details at Pg. No.: 29	S. Narayanan Auditorium Vasanthnagar Bengaluru 10.00 am to 6.00 pm	6 hrs
06.09.2023 Wednesday	Study Circle Meeting SBO Declarations CS. Vivek Hegde Delegate Fees : Members – Rs.100/- Plus GST	S. Narayanan Auditorium Vasanthnagar Bengaluru 6.00 pm to 8.00 pm	A hrs
09.09.2023 Saturday			6 hrs
13.09.2023 Wednesday	Study Circle Meeting Importance of Internal Audit for SMEs CA. Ranganayakulu Boyapati Delegate Fees : Members – Rs.100/- Plus GST	S. Narayanan Auditorium Vasanthnagar Bengaluru 6.00 pm to 8.00 pm	3 ¹ 2 2 2 hrs 5
16.09.2023 Saturday	Breakfast Meeting AQMM CA. Jaideep Trasi Delegate Fees : Members – Rs.250/- Plus GST	S. Narayanan Auditorium Vasanthnagar Breakfast : 7.30 am to 8.30 am Meeting : 8.30 am to 10.30 am	3 2 3 2 hrs
20.09.2023 Wednesday	Investor Awareness Program Wealth Creation through Equities CA. Rudra Murthy B.V Delegate Fees : Members – Rs.100/- Plus GST	S. Narayanan Auditorium Vasanthnagar Bengaluru 6.00 pm to 8.00 pm	hrs h



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September 2023 **7**



DATE AND DAY	TOPIC / SPEAKER	TIME	STRUCTURED CPE CREDIT
	1		
11.10.2023 Wednesday	Study Circle Meeting The Digital Personal Data Protection Act 2023 CA. Narasimhan Elangovan Delegate Fees : Members – Rs.100/- Plus GST	S. Narayanan Auditorium Vasanthnagar Bengaluru 6.00 pm to 8.00 pm	hrs h
	1		
18.10.2023 Wednesday	Study Circle Meeting Delegate Fees : Members – Rs.100/- Plus GST	S. Narayanan Auditorium Vasanthnagar Bengaluru 6.00 pm to 8.00 pm	2
25.10.2023 Wednesday	Study Circle Meeting Delegate Fees : Members – Rs.100/- Plus GST	S. Narayanan Auditorium Vasanthnagar Bengaluru 6.00 pm to 8.00 pm	2
	,		
28.10.2023 Saturday	One Day Seminar on Search, Survey & Seizure Organized by : Bengaluru Branch of SIRC of ICAI Delegate Fees : Members – Rs.850/- Plus GST	Details will be uploaded on the website. 10.00 am to 6.00 pm	6 hrs hrs
			(

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Branch	Inside back	₹ 30,000/-	Half page	₹ 10,000/-	
			Quarter page	₹ 5,000/-	SUB EDITOR : CA. MANJUNATH M HALLUR
e-Newsletter	Advt. material	should reach us b	pefore 22nd of pre	evious month.	

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IFRS 17 INSURANCE CONTRACTS – A QUICK INTRODUCTION



September

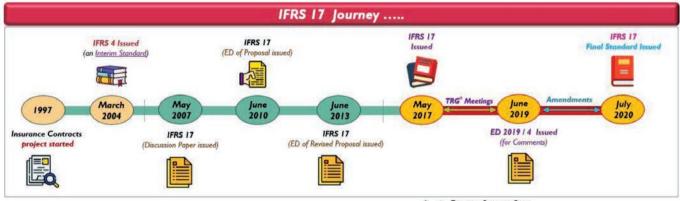
2023

9

CA. Anjani Khetan

FRS 17 *Insurance Contracts* is a relatively new Standard dealing with accounting for insurance contracts. The Standard represents the culmination of more than 20-year project by the International Accounting Standards Board (IASB) to improve the comparability of companies that issue insurance contracts. The new Standard supersedes and replaces the existing literature on insurance contract accounting (viz. IFRS 4), which was issued by the international accounting body as an interim Standard.

Globally, the Standard is effective for annual reporting periods *beginning on or after 1 January 2023* - with earlier application permitted as long as IFRS 9 (*Financial Instruments*) is also applied. The following chart captures more than 20 years of journey for the development of IFRS 17 – culminating into notification of the final Standard in July 2020:





The new Standard is designed to achieve the goal of a consistent, principle-based accounting for insurance contracts, and requires insurance liabilities to be measured at a *current fulfilment value*. It seeks to provide a more uniform measurement and presentation approach for all insurance contracts. IFRS 17 also seeks to ensure a more transparent method for the issuer of insurance contracts to recognize profits *during the period of provision of insurance services*.

Further, IFRS 17 is expected to have significant effect on modelling, data collection, processes, systems, technology solutions, investor relations and financial reporting of the entities applying the Standard and will fundamentally change the accounting and the presentation of profits for all entities that *issue* contracts within the scope of the Standard. The *issuers of insurance contracts* will need to use consistent measurement models based on current assumptions at a more granular level. Both the Income Statement and Balance Sheet will undergo a fundamental change.

It is worth mentioning that IFRS 17 applies to the following categories of insurance contracts:

- 1. Insurance and reinsurance contracts *issued* by an insurer;
- 2. Reinsurance contracts held by an insurer; and
- 3. Investment contracts with discretionary participation features (DPF) *issued* by an insurer, provided the insurer also issues insurance contracts





It is pertinent to recall that insurance contracts combine features of both a financial instrument and a service contract. In addition, many insurance contracts generate cash flows with substantial variability over a long period, especially in life insurance business.

Accordingly, with a view to provide useful information about these features, IFRS 17 seeks to:

- combine (a) current measurement of the future cash flows with (b) the recognition of profit over the period that services are provided under the contract;
- present insurance service results (including presentation of insurance revenue) separately from insurance finance income or expenses; and
- require an entity to make an accounting policy choice of whether (a) to recognize all insurance finance income or expenses in profit or loss <u>or</u> (b) to recognize some of that income or expenses in Other Comprehensive Income (OCI).

Some of the key principles and requirements underlying IFRS 17 are as follows:

A. An entity needs to identify those contracts under which it accepts significant insurance risk from another party (the policyholder) by agreeing to compensate the policyholder if a specified uncertain future event (the insured event) adversely affects the policyholder (because such contracts meet the definition of an insurance contract under IFRS 17 – as shown in the below chart:

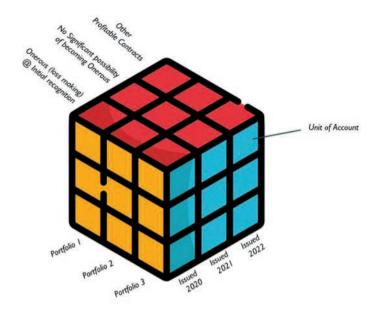


- adversely affects the policyholder
- B. An entity is required to divide and aggregate the contracts into groups of insurance contracts that it will recognize and measure. Such level of aggregation is required to be accomplished on the basis of (a) portfolio of contracts with similar risk that are managed together (b) profitability (a minimum of three profitability groups) and (c) Cohorts (that are not more than one year apart).

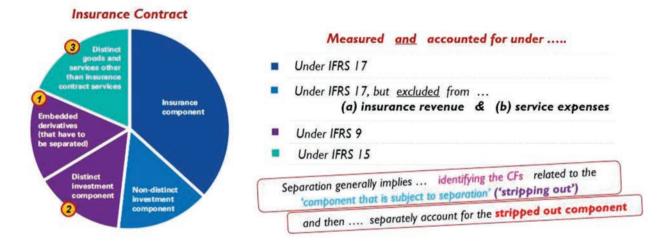
Put differently, an entity is required to identify portfolios of insurance contracts, which comprise contracts that are subject to similar risks and are managed together. Each portfolio of insurance contracts issued shall be divided into a minimum of three profitability groups, viz. (a) contracts that are onerous at initial recognition, if any (b) contracts that, at initial recognition, have no significant possibility of becoming onerous subsequently and (c) the remaining contracts in the portfolio. In this context it is pertinent to note that the entity is not permitted to include contracts issued *more than one year apart* in the same group (annual cohort requirement). This is depicted in the below chart:

- C. An entity is required to separate *from* the insurance contracts the following *non-insurance components*:
 - i. specified embedded derivatives (that are not closely related to the host contract),
 - ii. distinct investment components; and
 - iii. distinct performance obligations





These separated out non-insurance components are accounted for under other applicable IFRSs such as IFRS 9 and IFRS 15, as depicted in the below chart:



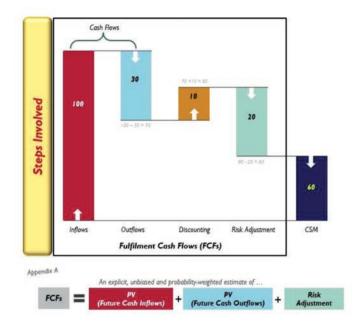
- D. An entity is required to recognize and measure groups of insurance contracts at:
 - ✓ a *risk-adjusted* present value of the future cash flows (known as *Fulfilment Cash Flows*) that incorporates all of the available information about the fulfilment cash flows in a way that is consistent with observable market information; plus (if this value is a liability) <u>OR</u> minus (if this value is an asset)
 - ✓ an amount representing the *unearned profit* in the group of contracts (the *Contractual Service Margin*);







This is illustrated in the below chart:



- E. An entity is required to recognize the profit from a *group of insurance contracts <u>over the period</u> the entity provides <i>insurance contract services* (in line with how the entity is released from risk). However, if a group of contracts is loss-making at the inception (or becomes loss-making at a later point in time), then the entity recognizes the loss *immediately*
- F. An entity is required to present *separately* the following:
 - insurance revenue (excluding receipt of any investment component),
 - insurance service expenses (excluding repayment of any investment component); and
 - insurance finance income or expenses
- G. And, an entity discloses information that enable the users of financial statements to *assess the effect* that contracts within the scope of IFRS 17 have on the (a) financial position, (b) financial performance and (c) cash flows of an entity.

As alluded to in the earlier paragraphs, under the IFRS 17 *General Measurement Model (GMM)* - at initial recognition - an entity is required *to measure* a group of contracts as sum total of:

(a) the amount of fulfilment cash flows (FCF)

which comprise of (i) probability-weighted estimates of future cash flows, (ii) an adjustment to reflect the time value of money and the financial risks associated with those future cash flows *and* (iii) a risk adjustment for non-financial risk;

and

(b) the Contractual Service Margin (CSM) - representing unearned profits.

Put differently, under IFRS 17 General Measurement Model (GMM), an entity is required to calculate insurance contract liabilities as the *expected present value* of "future insurance cash flows" - with a provision for *non-financial risk*. The discount rate to compute such present value will reflect *current time value of money* adjusted for financial risk. Accordingly, if the *risk-adjusted expected present value of future cash flows* would produce a gain at the time a contract is recognized, the model would also require recognition of a *Contractual Service Margin (CSM)* - to offset such Day 1 Gain. The contractual service



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margin so recognized would be <u>released</u> to insurance revenue over the life of the contract – by employing the concept of what the Standard calls as *Coverage Unit*. This is illustrated in the following chart:



On subsequent measurement, *the carrying amount* of a group of insurance contracts at the end of each reporting period – under GMM Model - shall be the sum total of (i) the *liability for remaining coverage* and (ii) the *liability for incurred claims*. The liability for remaining coverage comprises of (a) the FCFs related to future services and (b) the CSM of the group at that date. The liability for incurred claims is measured as the FCF *related to past services* allocated to the group at that date.

For short-duration insurance contracts (generally not exceeding one year), insurers are permitted to use a simplified method – known as the *Premium Allocation Approach (PAA)*. Accordingly, under IFRS 17, an entity *may* simplify the measurement of the *liability for remaining coverage* of a group of insurance contracts using the Premium Allocation Approach – *provided that*, at initial recognition, the entity reasonably expects that doing so would produce a reasonable approximation of the General Model, or the coverage period of each contract in the group is one year or less.

Likewise, if an insurance contract includes a participation feature (wherein the entity *shares* the performance of underlying items with policyholders in an extent that the remaining profit of the insurer has the character of a contractual fee) – then IFRS 17 requires a specific accounting approach to applied to such participating contract (defined as 'insurance contracts with direct participation features'). The approach that is required to be applied to such *insurance contracts with direct participation features* is referred to in IFRS 17 as the *Variable Fee Approach (VFA)*.

So far as transition to IFRS 17 is concerned, an entity is required to apply the Standard retrospectively *unless impracticable*, in which case entities have the option of using either the modified retrospective approach or the fair value approach.

As can be seen from the above – the new insurance accounting standard is a complete game changer and will have far-reaching consequences for issuers of insurance contracts - not only in respect of modelling, data collection, processes, systems but, more importantly, it will profoundly change the presentation of profits by such entities.



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FUTURE OF AUDIT: THE TRANSFORMATION AGENDA & ITS IMPACT OF TECHNOLOGY ON ECONOMIC GROWTH

CA. Saurabh Goenka

Introduction

In the heart of India's financial world, auditing has always been our compass, guiding us towards trust and clarity. But now, with the digital age in full swing, this compass is pointing in new directions. The audit profession, a cornerstone of India's financial infrastructure, is undergoing a metamorphosis. As technology reshapes industries, the audit sector is not immune. The digital age presents both challenges and opportunities. This article delves deeper into the evolving landscape of audit in India, the transformation agenda, and the profound impact of technology on economic growth.

<u>1. The Evolving Landscape of Audit</u> in India

Historically, the audit process in India was characterized by manual verifications, physical ledgers, and a reliance on traditional methods. However, the digital revolution is redefining this narrative.

Automation & AI: Automation tools and artificial intelligence (AI) are revolutionizing audit procedures. Routine tasks are now automated, allowing auditors to focus on intricate issues, thereby increasing efficiency and enhancing the accuracy of the audit process.

Data Analytics: Advanced data analytics tools enable auditors to sift through vast amounts of data at unprecedented speeds. This transformation has made the traditional sampling method obsolete, paving the way for a more holistic review and quicker identification of anomalies.

Regulatory Evolution: Regulatory bodies, like the Institute of Chartered Accountants of India (ICAI), are in a constant state of evolution, updating standards to align with global practices. This proactive approach ensures the audit profession remains relevant and consistently adds value to stakeholders.

2. The Transformation Agenda: Beyond Conventional Boundaries

The transformation agenda for the audit profession in India transcends mere technological adoption. It signifies a holistic shift in mindset, approach, and strategy.

Risk-based Auditing: The modern auditor is evolving from a generic approach to a risk-centric strategy. This paradigm shift emphasizes areas with higher risks, ensuring they receive meticulous scrutiny.

Continuous Auditing: The era of real-time data access has ushered in the possibility of continuous audits. This proactive approach allows for the immediate identification and rectification of issues, ensuring businesses remain compliant and agile.

Stakeholder Engagement: The future auditor is not just a verifier but an advisor. Enhanced stakeholder engagement will see auditors guiding businesses on best practices, ensuring preparedness for unforeseen challenges.

3. Pioneering Tools Reshaping the Audit Landscape

In the rapidly evolving world of technology, several tools and platforms

are emerging as game-changers in the audit domain:

ChatGPT: This advanced language model can assist auditors in sifting through vast amounts of textual data, understanding intricate financial narratives, and even predicting financial trends based on historical data. Its capabilities are transforming the way auditors interact with and analyze data.

Llama 2: Recently, Meta made a significant move by releasing the code for its innovative AI large language model, Llama 2, for free. This model is comparable to ChatGPT in its capabilities and offers businesses the opportunity to build customized chatbots. The opensource nature of Llama 2 has sparked an ethical debate over AI control and safety. While it challenges the dominance of ChatGPT, it also emphasizes the importance of data privacy and security. The open-source nature of such tools can drive innovation by allowing a broader group of developers to build with new technology. However, it also raises concerns about potential misuse, especially when sensitive data is involved.

Blockchain Technology: Immutable and transparent, blockchain can revolutionize transaction verifications, making audits more transparent and tamper-proof.

The release of Llama 2 by Meta has been a topic of significant discussion. While companies like Google and OpenAl have been protective of their Al technologies, Meta's decision to





make Llama 2's code accessible has been seen as a game-changing move. This has allowed companies to leverage Llama 2's capabilities to build their own customized chatbots, potentially challenging the dominance of tools like ChatGPT.

However, the open-source nature of such tools also brings forth concerns about data privacy and potential misuse. We will discuss this in depth in the next point.

<u>4. The Data Privacy Conundrum: A</u> <u>Word of Caution</u>

While technology offers a plethora of benefits, it also brings forth challenges, especially in the realm of data privacy. Open-source tools, despite their advantages, can be susceptible to data leakages.

Open Source Vulnerabilities: While tools like ChatGPT and Llama 2 offer advanced capabilities, being open source, they might be prone to external threats. It's imperative to ensure that sensitive data is adequately protected when using such platforms.

Enhanced Security Protocols: Auditors must adopt enhanced security protocols, including encryption and multi-factor authentication, to safeguard data. Regular security audits and vulnerability assessments can further fortify data protection mechanisms.

Educating Stakeholders: It's not just about implementing security measures. Stakeholders, from top management to employees, must be educated about potential risks and best practices to ensure data privacy.

For instance, after Meta released its first Llama model for research use, it was leaked on platforms like 4Chan, where it was used to create chatbots that propagated hateful content. Such incidents underscore the importance of responsible AI development and deployment.

Meta has taken steps to address these concerns by refining its model for safety, emphasizing the importance of transparent discussions, and being responsive to addressing potential threats. The company believes that refining and releasing technology in the open can lead to the development of more responsible AI tools.

In conclusion, while tools like ChatGPT and Llama 2 offer transformative capabilities for the audit sector, they also highlight the importance of responsible use, data privacy, and the ethical considerations surrounding open-source AI technologies. As the audit landscape continues to evolve, professionals must strike a balance between leveraging advanced tools and ensuring data security and ethical use.

5. Technology's Profound Impact on Economic Growth

The symbiotic relationship between technology-driven audits and India's economic growth cannot be understated.

Enhanced Trust: Accurate, timely, and technology-driven audits amplify investor confidence. A transparent financial ecosystem encourages investments, driving capital inflow and propelling economic growth.

Operational Efficiency: Technologydriven audits offer insights beyond compliance. They can spotlight operational inefficiencies, guiding businesses towards cost savings and profitability enhancements.

Job Creation & Evolution: The narrative isn't about job displacement due to automation but job evolution. The audit profession will burgeon with roles specializing in data management, Al interpretation, and more, leading to diverse job opportunities.

6. The Road Ahead: Embracing the Future with Caution

As we stand on the precipice of this technological revolution, the audit profession in India finds itself at a defining moment. The tools and technologies we've discussed are not mere enhancements; they represent a fundamental shift in how we approach and understand auditing. But with great power comes great responsibility.

The integration of AI models like ChatGPT and Llama 2, while transformative, also serves as a reminder that we must tread carefully. As auditors, our primary duty is to uphold the trust placed in us by stakeholders. In a world where data is the new currency, safeguarding its integrity is paramount. We must ensure that while we embrace the future, we do so with a keen awareness of the ethical implications and potential pitfalls.

Moreover, as technology continues to evolve at a breakneck pace, there's a pressing need for continuous learning and adaptation. The auditor of tomorrow needs to be tech-savvy, data-driven, and ethically grounded. They must be equipped not just with the knowledge of the latest tools, but also with the wisdom to use them judiciously.

In conclusion, the future of auditing in India is not just about leveraging technology; it's about doing so with purpose and foresight. It's about understanding that at the heart of every algorithm, every piece of data, is a story—a story of a business, its people, and its place in our economy. The confluence of technology and audit is not just a trend but a necessity. It promises to redefine the audit profession and play a pivotal role in shaping India's economic trajectory in the coming decades, but it must be approached with caution and responsibility.

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PANDORA BOX: AVAILMENT OF GST CREDIT WHEN SUPPLIER DEFAULT IN PAYMENT OF TAXES

CA. Bimal Jain

nput Tax Credit (ITC) is a crucial concept in Goods and Services Tax (GST) system, which is a value-added tax system, implemented in many countries, including India. ITC allows businesses to claim credit for the taxes that they have paid on the purchase of goods or services that are used in the course or furtherance of their business.

The concept of seamless flow of ITC ensure that businesses do not pay tax on tax and helps in reducing the overall tax burden on the final customer. However, there are certain conditions and restrictions associated with claiming ITC in GST Law, such as ensuring that the goods or services are used for taxable supplies with maintenance of proper documentation and compliance requirements thereof.

In GST, Chapter V of the Central Goods and Services Tax Act, 2017 **("the CGST Act")**, covers the concepts related to ITC viz, eligibility, conditions, and restrictions etc.

"Sec 16.(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless,—

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed;

¹[(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37];

(b) he has received the goods or services or both.

²[Explanation.-For the purposes of

2 Substituted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f 01-02-2019 before it was read as "Explanation.-For the purposes of this clause, it shall be deemed that the registered person has received the goods where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—

- (ii) where the goods are delivered by the supplier to a recipient or any other person on the direction of such registered person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise.
- (ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.]

³[(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted];

(c) subject to the provisions of section 41 ⁴[or Section 43], the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input



¹ Inserted vide The Finance Act, 2021 dated 28-03-2021 w.e.f. 01-01-2022

by way of transfer of documents of title to goods or otherwise;"

³ Inserted vide The Finance Act, 2022 w.e.f. 01-10-2022

⁴ Omitted vide The Finance Act, 2022 w.e.f. 01-10-2022

tax credit admissible in respect of the said supply; and

(d) he has furnished the return under section 39:

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be **s**[paid by him along with interest payable under section 50], in such manner as may be prescribed:

Provided also that the recipient shall be entitled to avail of the credit of input tax on payment made by him ⁶[to the supplier] of the amount towards the value of supply of goods or services or both along with tax payable thereon.

According to Section 16(1) of the CGST Act, the registered taxpayer can avail ITC of goods and services, which are used or intended to be used in the course or furtherance of his business.

- 5 Substituted vide The Finance Act, 2023 dated 31-03-2023 w.e.f. 01-10-2023 before it was read as, "added to his output tax liability, along with interest thereon"
- 6 Inserted vide The Finance Act, 2023 dated 31-03-2023 w.e.f. 01-10-2023

Moreover, Section 16(2) of the CGST Act pens down certain conditions to be fulfilled by the registered person in order to avail ITC of goods or services.

Specifically, clause (c) of Section 16(2) of the CGST Act states that the recipient will only be able to avail ITC, only when supplier has deposited the tax with the Government.

Thus, even if the purchasing dealer has paid the amount of tax to the supplier and satisfied all specified conditions of Section 16(2) of the CGST Act, no credit will be available to the buyer, till the time, tax so collected by the supplier is deposited to the Government.

The issue of not allowing the ITC to the buyer is carry forwarded from the Pre GST to GST regime. In Pre-GST regime, the Hon'ble Supreme court in the case of **Commissioner of Central Excise**, **Jalandhar v. M/s. Kay Kay Industries [Civil Appeal No. 7031 of 2009, dated August 26, 2013]** held that credit to the buyer cannot be denied mere on the ground that the supplier has not paid the taxes to the government.

Further, the Hon'ble Delhi High Court in the case of *Arise India Limited and Ors v. Commissioner of Trade & Taxes, Delhi and Ors [W.P.(C) 6093 of 2017 dated October 26, 2017]* discussed the issue at length and held that it is an impossible task for the buyer to determine which seller has collected but not deposited the tax to the Government. Moreover, the Hon'ble Supreme court has dismissed the SLP filed by the Revenue without discussing the case on merit.

Though, legal jurisprudence was in favour of taxpayers in the Pre-GST

Regime except one of judgment by Hon'ble Bombay High Court in *Mahalaxmi Cotton Ginning Pressing and Oil Industries, Kolhapur v. The State of Maharashtra & Ors. [Writ Petition No. 33 of 2012 dated May 11, 2012]* wherein credit was denied to the bona fide buyer where one of the dealers has defaulted in the chain of transaction of sales with regard to the payment of sales tax to the government.

The practice of denying credit for nonpayment of taxes by a supplier is unfair and inimical to the bona fide buyers and put the legit taxpayer in a trouble while completing the ongoing process of collecting taxes by the authorities.

More fire to the issue of denial of ITC in GST Regime:

Recently, the Hon'ble Patna High Court in the case of *M/s. Aastha Enterprises v. State of Bihar [CWJ 10395 of 2023 dated August 18, 2023]* held that, ITC is in the nature of a benefit/concession and not a right extended to the assessee under the statutory scheme. The ITC to purchasing dealer will depend not only upon the collection of tax by the seller but also the due payment of such taxes to the Government and the burden of proof lies with the purchasing dealer to substantiate that the tax collected by the supplier has been paid to the government by the supplier.

The facts of the case were as follows:

M/s. Aastha Enterprises ("the **Petitioner")** purchased goods from the supplier and paid the taxable value along with the tax amount to the supplier. However, the supplier did not deposit the tax amount to the government. The

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Petitioner claimed the ITC of the of the said tax amount and was of the view that since, the tax has been paid to the supplier thus, the Petitioner is eligible to avail ITC.

The Revenue Department vide the assessment order dated May 25, 2022 (**"the Assessment Order"**) denied the ITC to the Petitioner on the ground that the Petitioner has not followed the condition stipulated under section 16(2) of the CGST Act. Thus, not eligible for such credit.

Aggrieved by the Assessment Order, the Petitioner filed a writ before the Hon'ble Patna High Court and contended that the credit in the hands of purchasing dealer cannot be denied where he has paid the tax and has availed the ITC based on tax invoices issued by the supplier and further on the basis of judgement of Hon'ble Madras High Court in the case of Sri Vinayaga Agencies v. The Assistant Commissioner [WP Nos. 2036 to 2038 of 2013] dated January 29, 2013 and M/s D.Y Beathel Enterprises v. The State Tax Officer [(Data Cell) dated February 24, 2021] argued that proceeding initiated against the Petitioner, who have already paid the tax, would result in double taxation in the hands of Petitioner.

The Hon'ble Patna High Court:

- Observed that, the claim of ITC raised by the Petitioner cannot be sustained when the supplier has not paid the tax amount to the Government, despite collection of tax from the Petitioner.
- Relied upon the judgement of Hon'ble Supreme Court in the

case of The State of Karnataka v. M/s Ecom Gill Coffee Trading Private Limited [Civil Appeal No. 230 of 2023 dated March 13, 2023] wherein it was held that to sustain a claim of ITC on purchases, the purchasing dealer would have to prove the genuineness of transactions by furnishing the details. Mere production of tax invoices would not be sufficient to claim ITC.

- Noted that, the burden of proof lies with the purchasing dealer to substantiate that the tax collected has been paid to the government by the supplier. This requirement underscores the statutory compliance aspect and safeguards the integrity of ITC claims. The court maintained that this condition cannot be viewed in isolation, it is an essential prerequisite for enjoying the benefit of ITC.
- Considered the judgement of *M/s D.Y. Beathel Enterprises v. The State Tax Officer [W.P.(MD) Nos. 2127 of 2021 dated February 24, 2021]* wherein the Hon'ble Madras
 High Court held that when the seller has collected tax from the purchasing dealer, the omission on the part of the seller to remit the tax in question should be viewed very seriously and strict action ought to have been initiated against the seller.
- Opined that, the statutory levy and the benefit of ITC conferred on the purchasing dealer depends not only upon the collection of taxes by the seller but also the due

payment of taxes by the seller to the Government.

Held that, when the supplier fails to comply with the statutory requirement, the Petitioner cannot claim ITC and the remedy available to the Petitioner is only to proceed for recovery against the seller.

Our submission on above judgment:

The judgement issued by the Hon'ble Patna High Court will result in a more stringent process for claiming ITC. The legitimate recipients will face a dual dilemma. While they have already fulfilled their tax obligations to the supplier, they will be unable to avail the ITC, not being paid by the supplier and thereby, said transaction not being auto populated in GSTR-2B, ultimately causing a financial strain on their business operations.

Relevant changes effective from October 01, 2022 on stated GST Credit:

The Finance Act, 2022 amended the Section 41 of the CGST Act, which is made applicable prospectively from October 01, 2022, which read as follows:

41. (1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

(2) The credit of input tax availed by a registered person under sub-section (1) in respect of such



supplies of goods or services or both, the tax payable whereon has not been paid by the supplier, shall be reversed along with applicable interest, by the said person in such manner as may be prescribed:

Provided that where the said supplier makes payment of the tax payable in respect of the aforesaid supplies, the said registered person may reavail the amount of credit reversed by him in such manner as may be prescribed.

Now, on combined reading of Section 41 and 16(2)(c) of the CGST Act, it reveals that the purchasing dealer need to reverse credit along with interest if *tax payable whereon has not been paid by the supplier* to the government.

Further, it is worth noting that, since, Section 41(2) of the CGST Act is amended prospectively, therefore, the Revenue department should not ask recipient to reverse the ITC for fault of the supplier of non-payment of taxes for the period prior to October 01, 2022 rather raise demand proceedings against defaulting supplier only.

In this regard, the CBIC vide Notification

26/2022 dated December 26, 2022 inserted a new Rule 37A of the CGST Rules, 2017, which states the following:

If the supplier does not pay taxes through GSTR 3B by 30th September, following the end of relevant financial year, then, such ITC as availed by recipient is to be reversed by 30th November through GSTR 3B following the end of financial year in which the input tax credit in respect of such invoice or debit note has been availed.

And there would be interest implication @ 18% PA if such credit which is alleged as wrongly availed and utilised.

Further, recipient can re-avail such credit without any time limit conditions upon payment of taxes done by the defaulting supplier.

Way forward:

In order to overcome the challenges faced by bona fide buyer, it is recommended to <u>"know the supplier"</u> before and/ or during any business transaction. It is advisable to the businesses to exercise heightened vigilance when engaging with suppliers by checking exemplary parameters:

• Whether the supplier's GSTIN is

active or not,

 Whether the supplier regularly files correct GST returns on time or not, making payment of taxes on time, etc.

Further, purchasing dealer should also add an extra layer of security by incorporating specific indemnity clauses in purchase orders pertaining to ITC availability, if disputed on account of any fault on the part of supplier.

(Author can be reached at info@a2ztaxcorp.com)

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September 2023 **19**



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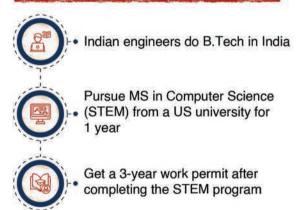
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(Set up by an Act of Parliament)

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FOR CA FINAL STUDENTS FOR NOV. 2023 EXAMS

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Online Registration Now open!

Subject and dates		Faculty name	
Paper-3: Advanced Auditing and Professional Ethics Date: 17 th , 18 th , 19 th & 20 th Sept. 2023		CA. VIKAS OSWAL	
Paper-2: Strategic Financial Management Date: 21 st , 22 nd , 23 rd & 24 th Sept. 2023		CA. CHINMAYA HEGDE All-India Rank Holder	
Paper-1: Financial Reporting Date: 1 st , 2 nd , 3 rd & 4 th Oct. 2023		CA. MURALI NAGARAJ All-India Rank Holder	
International T	t Tax Laws and axation ^h & 8 th Oct. 2023	CA. DURGESH SINGH	
Paper-7: Indire Date: 9 th , 10 th , 1	ct Tax Laws 1 th & 12 th Oct. 2023	Shri. A. S. HARIHARA KUMAR, CHENNAI	
	I Groups: Rs. 6000/-	Registration Fees - Mode of payment: Cash / Online www.bangaloreicai.org	
Fee for CA Final Course	II Groups: Rs. 4000/-	For further details please contact: Tel: 080 - 4394 4868 /4876 Mob: 9880007904 Email: <u>blrstudentevents@icai.org</u> Please Note: 1) Fees once paid will not be refunded.	
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CA. Manjunath M. Hallur

Secretary

CA. Divya S Chairperson





CA. ASHWINI K Paper-3: Cost & Management Accounting Dates: 18th, 19th & 20th Sept. 2023 Timings: 10am to 5.pm



CA. PRASHANTH BHARADWAJ Paper-4: Taxation - Direct Tax Laws Dates: 21st & 22nd Sept. 2023 Timings: 10am to 5.pm



CA. VENKATA KRISHNA KOTHARI Paper-4: Taxation -Indirect Tax Laws Dates: 23rd & 24th Sept. 2023 Timings: 10am to 5.pm



CA. VIKAS OSWAL Paper-6: Auditing and Assurance Dates: 25th, 26th, 27th & 28th Sept. 2023 Timings: 10.am to 5.pm

RAPID REVISION COURSE SCHEDULE

CA. ANAND P JANGID Paper-7: Enterprise Information Systems & Strategic Management Dates: 29th, 30th Sept. 1st & 2nd Oct. 2023 Timings: 10.am to 5.pm

CA. KALESHWARA PRASAD Paper-5: Advanced Accounting Dates: 3rd, 4th, 5th & 6th Oct. 2023 Timings: 10.am to 5.pm



CA. CHINMAYA HEGDE All-India Rank Holder Paper -8: Financial Management & Economics for Finance Dates: 7th, 8th & 9th Oct. 2023 Timings: 10.am to 5.pm Registration Now open! Help line ! For further details /Queries Pls call 9880007904

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Both Groups : Rs. 9000/-

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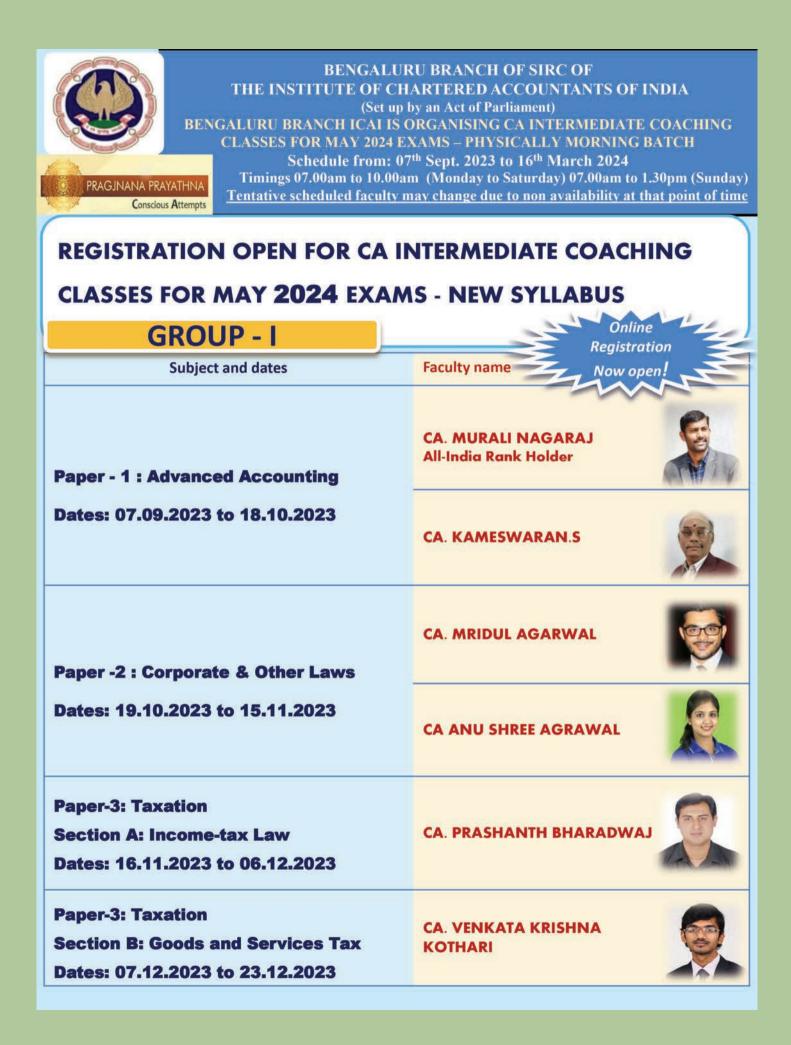


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GROUP - II	
Subject and dates	Faculty name
Paper-4: Cost and Management	CA. PUNITH KUMAR N
Accounting Dates: 24.12.2023 to 28.01.2024	CA. NARENDRA KUMAR B
Paper-5: Auditing and Ethics Dates: 29.01.2024 to 18.02.2024	CA. VIKAS OSWAL
Paper-6A: Financial Management Dates: 19.02.2024 to 04.03.2024	CA. CHINMAYA HEGDE All-India Rank Holder
Paper-6B: Strategic Management Dates: 05.03.2024 to 16.03.2024	CA. ANAND P JANGID

Course		Fees	Timings
	Rs. 20,000/-	for Both Groups	07.00am to 10.00am
CA Intermediate	Rs. 12,000/-	for Single Group	(Monday to Saturday)
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Registration Fees - N	Aode of payme	nt: Cash / Online <u>www.bangalo</u>	oreicai.org
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	Divya S rperson	CA. Manjunath M. Ha Secretary	llur





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ANNOUNCEMENT

Bengaluru Branch of ICAI is Organising Mock Test Series – I for CA Final & Intermediate Students for Nov. 2023 Examination

Please note: - Answer Key corresponding to each Mock Test Paper will be uploaded post 48 hours of Mock Test Paper completion.

	Date	Fi	nal New Course			Intermediate New Course	Time
	05.09.2023	Final Paper-1:	Paper-1: Financial Reporting Paper-2: Strategic Financial Management			Intermediate Paper-1: Accounting	2 PM - 5 PM
	06.09.2023	Final Paper-2:				Intermediate Paper-2: Corporate and Other Laws	
	08.09.2023	Final Paper-3:	Advanced Auditing	and Professio	onal Ethics	Intermediate Paper-3: Cost and Management Accounting	
	09.09.2023	Final Paper-4	Corporate and Econ	omic Laws		Intermediate Paper-4: Taxation	
	11.09.2023	Final Paper-5: Evaluation	Strategic Cost Mana	gement and F	Performance	Intermediate Paper-5: AdvancedAccounting	
	12.09.2023	Final Paper-7:	Direct Tax Laws a	Direct Tax Laws and International Taxat		Intermediate Paper-6: Auditing and Assurance	
	13.09.2023	.09.2023 Final Paper-8:Indirect Tax Laws			ntermediate Paper-7: Enterprise Information Systems & Strategic Management		
	14.09.2023					Intermediate Paper-8: Financial Management & Economics for Finance	
	Fee Stature fo	or Intermediate &	Final Mock Test.				- J.
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Sir	ngle Subject	Rs. 100/-	Single Subject	Rs. 100/-	Vasanth Nag	ar, Bangalore - 52.	
			CA. Divya S Chairperson			CA. Manjunath M Hallur Secretary	

One Day Seminar on Audits under Income Tax Act

Organised by Bengaluru Branch of SIRC of ICAI

On Saturday, 2nd September 2023



September

2023

29

Venue: S. Narayanan Auditorium, Vasanthnagar, Bengaluru

Time: **10.00 am to 6.00 pm**

TIMINGS	TOPICS	SPEAKERS
10.00am to 11.30am	Audit Report under Income Tax Act – Form 10B and Form 10BB	CA. N.R. Rani
11.30am to 12.00 noon	TEA BREAK	
12.00 noon to 1.30 pm	Legal issues in Tax Audit	CA. Deepak Chopra
1.30pm to 2.30 pm	LUNCH BREAK	
2.30pm to 4.00 pm	Key Amendments relevant for Tax Audit	CA. Sumeet Khurana
4.00pm to 4.30 pm	TEA BREAK	
4.30pm to 6.00 pm	Practical issues in Tax Audit	CA. Shiv Shankar T.R

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Women CA's Conference

Organised by Bengaluru Branch of SIRC of ICAI



On Saturday, 9th September 2023

Venue: Chancery Pavilion, # 135, Residency Road, Bengaluru – 560 025

Time: 10.00 am to 5.30 pm

TIMINGS	TOPICS	SPEAKERS
9.30 am to 10.00 am	REGISTRATION	
10.00 am to 11.00 am	INAUGURATION by the Chief Guest Mrs. Lakshmi Ravindra Hebbalkar Hon'ble Minister of Women and Child Development, and Disau Government of Karnataka	bled and Senior Citizens Empowerment
11.00 am to 11.15 am	TEA BREAK	
11.15 am to 12.15 am	Intrapreneurship – unleashing your entrepreneurial spirit at work	CA. Sandhya Sriram
12.15 pm to 1.30 pm	Panel Discussion on Women Empowerment – Breaking the glass ceiling – ways to go about this	Moderator: CA. Aarti Raote Panelists: CA. Amrita Srikanth CA. Meena S Rao CA. Naina Matta
1.30 pm to 2.15 pm	LUNCH BREAK	
2.15 pm to 3.15 pm	2.15 pm to 3.15 pm GST	
3.15 pm to 4.00 pm Simple ways of balancing your beautiful life and your work		Dr. Padmakshi Lokesh
4.00 pm to 4.15 pm	TEA BREAK	
4.15 pm to 5.30 pm	Stand up Comedy	CA. Arun Sriram

CA. Divya S CHAIRPERSON Bengaluru Branch of SIRC of ICAI **CA. Geetha A B** VICE CHAIRPERSON SIRC of ICAI **CA. Manjunath M Hallur** SECRETARY Bengaluru Branch of SIRC of ICAI

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TWO DAY CHARTERED ACCOUNTANTS' **CONFERENCE**





Nada Geethe



Invocation Ms. Pavithra Intermediate Student



Welcome Address by CA. Divya S, Chairperson Bengaluru Branch of SIRC of ICAI

CA. Cotha S Srinivas

Central Council Member, ICAI



Address by the Chief Guest, Mr. M. Murali Chairman & Managing Director Shriram Properties



CA. Geetha A B Vice Chairperson, SIRC of ICAI



Guest of Honour CA. Pannaraj S Chairman, SIRC of ICAI



CA. Pramod R Hegde Vice Chairman, Bengaluru Branch of SIRC of ICAI



Special Invitees - Past President's - ICAI from Karnataka

CA. B.P. Rao Past President of ICAI



CA. Manjunath M Hallur Secretary, Bengaluru Branch of SIRC of ICAI



CA. K. Raghu Past President of ICAI



CA. Kavitha Paramesh Treasurer, Bengaluru Branch of SIRC of ICAI



Release of Souvenir of the Conference

Felicitation to the Chief Guest



Felicitation to the Guest of Honour

Felicitation to the Special Invitees



360 degree Panoramic View of Participants



TWO DAY CHARTERED ACCOUNTANTS' CONFERENCE



CA. S. Venkataramani



Moderator - CA. Naveen Khariwal G., Panelists - CA. A. Shankar, Senior Advocate, CA. Ashok Raghavan Shri. T. Suryanarayana, Senior Advocate





Shri. Vidya Vachaspathi Sathya Darshanacharya Dr. Pavagada Prakash Rao



Address by the Hon'ble Justice B.V. Nagrathna Judge of Supreme Court of India





Felicitation to Hon'ble Justice B.V. Nagrathna Judge of Supreme Court of India



CA. Guruprasad M

CA. M.P. Vijay Kumar Past Central Council Member ICAI



Mr. Arjun K Perikal Advocate



Panelists - CA. K.R. Pradeep, CA. K.K. Chythanya, CA. H. Padamchand Khincha Hon'ble Justice Vineet Kothari Arbitrator & Senior Advocate, Supreme Court of India and Moderator - CA. Naveen Khariwal G.



Felicitation to Past Chairmen, SIRC of ICAI







CHARTERED ACCO

Felicitation to CA. Dr. I.S. Prasad, Immediate Past President -FKCCI



TWO DAY CHARTERED ACCOUNTANTS' CONFERENCE

Felicitation to Past Chairmen of Bengaluru Branch of SIRC of ICAI



















TWO DAY CHARTERED ACCOUNTANTS' **CONFERENCE**

Entertainment - Cultural Program





Mr. Shreyas K Manju Film Actor



Ms. Aishwarya Rangarajan Singer



Dance Group – 5678



Light Music – Mr. Karthik & Team



Yakshagana by Dr. Radhakrishna Urala & Team Kalakadamba Art Centre, Bengaluru



Felicitation to Ms. Aishwarya Rangarajan, Singer



CA. Tuppad Virupakshappa Muppanna, SICASA - Chairman



Felicitation to CA.Divya S., Chairperson, Bengaluru Branch of SIRC of ICAI



Felicitation to CA. Sandhya P Nagar, Master of Ceremony





Bengaluru Branch Staff Members

Bengaluru Branch of SIRC News Letter English Monthly Printed, Published & Edited by Editor CA. Divya S, Chairperson, on behalf of Bengaluru Branch of SIRC of ICAI, No.16/O, 'ICAI Bhawan', Millers Tank Bed Area, Vasantnagar, Bengaluru-560052, Karnataka Tel: 080 - 4394 4868 / 876, Mob: 96069 13003 / 004, www.bangaloreicai.org e-mail : bangalore@icai.org Printed at: Jwalamukhi Mudranalaya Pvt. Ltd., No.14, Industrial Town, West of Chord Road, Rajajinagar, Bangalore-560010, Ph: 080 29911971, e-mail : info@jwalamukhipress.com

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