



Bengaluru Branch of SIRC of ICAI

Institute of Chartered Accountants of India

(Set up by an act of Parliament)

SOUTHERN INDIA CHARTERED ACCOUNTANTS STUDENTS ASSOCIATION

SICASA, BENGALURU

SICASA News Letter

BEPS 2.0

August-2022



<https://bangaloreicai.org/>



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Bangalore Branch of SIRC of ICAI

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***“Believe you can and
you’re halfway there”***

-Theodore Roosevelt

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CHAIRMAN'S MESSAGE||



Dear Students

Greetings!!!

“Have an attitude of Gratitude”

Never forget your parents are the source of your existence; also never forget your gurus who molded your future. Whatever you are today or tomorrow is the efforts and dreams of your parents.

This attitude should become key ingredient of your life and reach the pinnacle of success

***Endeavour to Evolve
Engage to Excel***

**CA Srinivasa.T
Chairman
Bangalore Branch of SIRC of ICAI**

SICASA CHAIRPERSON'S MESSAGE ||

Dear Students,

August has been one more eventful month for SICASA. First, we participated in the 75th Independence Day celebration at the Branch. More than 150 students were present for the flag hoist.

The celebrations continued with "PARVAAH", the performing arts competition. Personally, it was exciting to see so many talented budding CAs. Many of them participated in multiple events! I can only say that there is no dearth of talent in CAs, and they are not geeks! Sports or Arts, this army of CA students is ever ready to showcase their talent. Kudos to all of them, and my hearty congratulations to the winners of various competitions. We also distributed the prizes to the "**Game of Medals**" (Sports Day) winners on the same day.



September is approaching, so the exams are getting closer, and all those appearing for the November 2022 exams must be focusing on the preparations for the exams. Please plan and prepare well. Preparation is the key, and that does not mean you spend 16-18 hours studying. It is the quality that matters and not the quantity. Abraham Lincoln said - "*If I had eight hours to chop down a tree, I'd spend six hours sharpening my axe.*" That is the importance of planning and preparation.

September is the '**SEASON**' for us Chartered Accountants. Audits under the Companies Act and Income-tax audits are due. Use the Season to your best. Spend more time reading the relevant acts and guidance notes, understand the subjects in depth and master them. This will help you in the final exams and also lays a solid foundation for your professional journey.

Yearn, learn and Earn! Earn need not be financial; it could be your CA degree or the respect you earn through your work. All that is possible only if you Yearn and Learn.

Have an exciting month of learning!

Kavitha Paramesh

**SICASA Chairperson
Bengaluru Branch of SIRC of ICAI**

DECODING THE LEGAL JARGONS||

Subpoena

- (Written order)



A subpoena is a formal **written order** that requires a person to appear before a court, or other legal proceedings (such as a Congressional hearing), and testify, or produce documentation.

Essentially, a subpoena, which literally means '**under penalty**', requires one to inform under oath (testify) on the facts that are at issue in a pending case. A subpoena is typically requested by an attorney on behalf of the court and issued by a court clerk, **notary public** or justice of the peace. A subpoena may be served on an individual either through personal delivery, email, certified mail or even by reading it out aloud. It is also called a writ or administrative summons. A subpoena cannot be ignored as it is a court order and a failure to respond to it may be punishable as **contempt of court**.

Criminal and civil attorneys use subpoenas to obtain information that may bolster their client's case. If a witness is served with a subpoena but does not appear in court on the specified date, the attorney who had initiated the subpoena can ask for the court for an adjournment to another date to buy more time to contact the witness. Alternately, the attorney may request a warrant from the court to be issued for the witness's arrest due to failure to appear in court.

There are **three types** of subpoenas:

1. A **witness subpoena** is a court order that requires someone to appear in court on a certain date and testify as a witness.
2. A **subpoena duces tecum** is a court order that requires the subpoenaed individual to produce evidence such as documents or records at a specified time and place in a court hearing. This is usually part of the pre-trial discovery process.
3. A **deposition subpoena** is a court order requiring a person who is a third-party—not a party to a lawsuit—to provide copies of records and/or appear at a deposition to answer questions asked by one of the parties involved in the lawsuit.

REVAMPED OVERSEAS INVESTMENT

- Released on 22nd August 2022

BACKGROUND

The Government of India, in consultation with the RBI, to promote **ease of doing business**, and to bring more clarity and transparency in undertaking Overseas Investments has notified the Foreign Exchange Management (Overseas Investment) Rules, 2022 (ODI Rules) and Foreign Exchange Management (Overseas Investment) Regulations, 2022 (ODI Regulations). The RBI has also issued the Foreign Exchange Management (Overseas Investment) Directions, 2022.

The New ODI Regime is effective from the date of release and Existing ODI made in accordance with the Erstwhile ODI Regime shall be deemed to have been made under the New ODI Regime.

ODI and OPI

1. Overseas Direct Investments is defined as

- Investment in unlisted equity capital of a foreign entity, or
- Subscription to Memorandum of Association of foreign entity; or
- Investment in 10% or more of the paid-up equity capital of a listed foreign entity or
- investment with control where investment is less than 10% of the paid-up equity capital of a listed foreign entity

2. Overseas Portfolio Investments is defined as investment, other than ODI, in foreign securities, but not in any unlisted debt instruments or any security issued by a person resident in India who is not in IFSC;

- redeemable/ optionally convertible instruments are considered as debt;
- Investment in units of investment fund overseas (regulated) to be considered as OPI

OVERSEAS INVESTMENT BY RESIDENT INDIVIDUAL

1. ODI or OPI shall be subject to overall ceiling under LRS [**unless otherwise provided in the Schedule** – refer acquisition *via Gift or Inheritance*]
2. ODI is not permissible in a foreign entity where such foreign entity
 - a. Engaged in Financial Services Activity **and**
 - b. Resident Individual has control in foreign entity and that foreign entity has subsidiary or step down subsidiary



3. Exception to above conditions, where investment is made
 - a. Inheritance
 - b. acquisition of sweat equity shares
 - c. minimum qualification shares for holding management position in a foreign entity
 - d. acquisition of shares/ interest under Employee Stock Ownership Plan or Employee Benefits Scheme

INVESTMENT BY INDIAN ENTITY IN OVERSEAS ENTITY ENGAGED IN FINANCIAL SERVICES ACTIVITY

- a. Indian entity not engaged in financial services activity in India may make ODI in a foreign entity, which is directly or indirectly engaged in financial services activity (except banking or insurance) provided the Indian entity has posted net profits during the preceding three FY.

- b. Indian entity engaged in financial services activity allowed to invest in overseas financial services entity if inter-alia it has obtained approval as may be required from the regulators of such financial services activity, both in India and the host country/ jurisdiction, as the case may be – Overseas Investment by banks and non-banking financial institutions regulated by the RBI shall be subject to the conditions laid down by the RBI.
- c. Foreign entity shall be considered to be engaged in the business of financial services activity if it undertakes an activity, which if carried out by an entity in India, requires registration with or is regulated by a financial sector regulator in India.

OPI BY AN INDIAN ENTITY

- a. Indian entity (listed/ unlisted) may make OPI which shall not exceed 50% of its net worth
- b. An unlisted Indian entity may make OPI only by way of subscribing to rights issue/ bonus issue or capitalization or swap of securities or merger, demerger, amalgamation or any scheme of arrangement

OVERSEAS INVESTMENT IN IFSC BY PERSON RESIDENT IN INDIA

- a. Person resident in India may make Overseas Investment in an IFSC in India within limits provided in OI Rules
- b. Where applicable, approval by the financial services regulator concerned shall be decided within 45 days from the date of application, failing which, there shall be deemed approval
- c. Indian entity [not engaged in financial services] may undertake ODI in an IFSC engaged in financial services, without meeting net profit criteria
- d. a person resident in India may make contribution to an investment fund or vehicle set up in an IFSC as OPI;

- e. a resident individual may make ODI in a foreign entity, including an entity engaged in financial services activity, (except in banking and insurance), in IFSC if such entity does not have subsidiary or step down subsidiary outside IFSC where the resident individual has control in the foreign entity.

OTHER KEY ASPECTS

Financial commitment/Guarantee

- a. No enabling provision to allow Indian Party to utilize the net-worth of its Indian subsidiary/ holding company
- b. With respect to further financial commitment - AD bank shall not facilitate any outward remittance/further financial commitment by a person resident in India towards a foreign entity until any delay in reporting is regularised by paying applicable late submission fees
- c. Dispensed with the requirement of approval for issuance of corporate guarantees to or on behalf of second or subsequent level step down subsidiary; holding/ subsidiary Company can provide guarantee – to be utilized against own limit of the holding/ subsidiary company

Pledge

Indian party may pledge equity capital of the foreign entity outside India or charge on Indian entity assets or charge on assets of foreign entity outside India for fund/ non-fund based facility for:

- a. any foreign entity outside India – value of pledge/ amount of facility, whichever is less shall be reckoned as financial commitment – Indian entity itself – no amount shall reckon as financial commitment
- b. ECB utilized for ODI to be reckoned for financial commitment entirely or in excess of amount of pledge/charge, as the case may be.

OPI by Alternative Investment Funds ('AIF')

Any investments by AIFs shall be treated as OPI

BASE EROSION AND PROFIT SHIFTING||

- (BEPS 2.0)

INTRODUCTION

On 29 January 2019, the OECD released a policy note regarding new proposals to combat the BEPS activities of multinationals, which commentators labeled "BEPS 2.0". In its press release, the OECD announced its proposals had the backing of the U.S., as well as China, Brazil, and India.

The BEPS 2.0 represents the "first substantial renovation of the international tax rules in almost a century" and is expected to have far-reaching impact on many 'tax-friendly' countries and MNEs.

TWO-PILLARS

The BEPS 2.0 package consists of two parts, which is also called the two pillars:

- (a) Pillar One is focused on profit allocation and nexus; and
- (b) Pillar Two is focused on a global minimum tax.

Pillar One – Profit allocation and nexus

Pillar One addresses the demand of developing countries of taxing income in the country from where revenues are sourced whether or not there is a PE. It introduced the concept of Significant Economic Presence in its domestic laws, which applied to sales in India from non-tax-treaty countries. India also introduced Equalisation Levy to tax digital transactions. Once Pillar One comes into effect, these unilateral measures will need to be withdrawn. This has been committed to by India. But this still leaves a number of open questions: Pillar One applies to large MNCs.

BEPS 2.0 AND BEYOND: tax challenges of digital economy



Pillar two- Global minimum tax

Pillar two deals with profits in low-tax jurisdictions. It will certainly impact structures involving location of IPs in countries like Ireland. It will call for closer scrutiny of entities operating in the UAE. It will call into question jurisdictions like the Netherlands. It will call into question holding company profits in low-tax jurisdictions. It will require Indian firms to relook at related-party transactions. Provisions that deal with how profits are derived from transactions in low-tax jurisdictions are fairly complex and are a subject in themselves.

Broadly, the Globe (Global Anti-Base Erosion Rules), as these provisions are called, have different facets. The first is the Income Inclusion Rule, which broadly envisages that income that is taxed at a lower rate in a jurisdiction will be taxed on the difference at the head office on a top-up basis; second, the Undertaxed Payments Rule, which seeks to deny deductions in respect of such income; third, the Subject to Tax Rule, which seeks to deny tax treaty benefits and imposes an additional withholding tax where a payment is subject to nil or nominal tax in the payee country; and fourth, the Switch-over Rule, which switches from exemption to credit method where there is a PE. The OECD has come up with detailed guidelines on the way forward. That said, the proof of the pudding is in the eating and the proof of the outcome of Pillar Two will be in its implementation.

CONCLUSION

Giving an overview of what is happening around the globe and how countries and companies are responding to the new tax rules, one of the panelists said that though a political agreement has been received from 137 countries, the framework still needs to be delivered on a country-by-country basis. There is likely to be a significant amount of policy change due to BEPS Pillar Two.

National Updates

Exchange rate policy seeks to prevent excessive volatility: Das

MUMBAI: The Reserve Bank of India's monetary policy will "remain watchful, nimble-footed and calibrated", RBI governor Shaktikanta Das said on Monday. "RBI remains committed to supporting the market with two-way operations, as warranted, in line with the revised liquidity management framework. RBI will also strive to ensure stable money market conditions, the smooth conduct of the primary auctions in G-secs and facilitate the orderly evolution of the yield curve," he said. Das also made it clear that RBI is in the market on a day-to-day basis, and the RBI's exchange rate policy is aimed at preventing excessive volatility of the Indian rupee and anchoring expectations around the depreciation of the rupee.

<https://www.livemint.com/economy/exchange-rate-policy-seeks-to-prevent-excessive-volatility-das-11662400578810.html>

Stock Radar: Breakout from inverse Head & Shoulder pattern could take this tea & coffee maker towards fresh 52-week high

Tea and coffee maker **Tata Consumer Products** rose nearly 4 per cent in a week, and about 10 per cent in a month, which helped the stock breakout from the neckline from an inverse Head & Shoulder pattern, suggesting that bulls are here to stay. The stock, with a market capitalisation of more than Rs 76,000 crore, hit a 52-week high of Rs 889 on 7th September 2021 but failed to hold on to the momentum. It bounced back after hitting a low of Rs 650 on 7th March 2022. It formed a double bottom pattern on the daily charts and staged a smart bounce back. It found resistance consistently around 800-815 levels in August. The stock finally staged a breakout from an inverse head and shoulder pattern in September, suggesting that bulls could well take the stock higher towards 900 levels.

<https://economictimes.indiatimes.com/markets/stocks/news/stock-radar-breakout-from-inverse-head-shoulder-pattern-could-take-this-tea-coffee-maker-towards-fresh-52-week-high/articleshow/93981622.cms>

Adani Group cites reduced debt load to rebut overleveraged view

The Adani Group said its companies have reduced their debt burden, as the empire backed by Asia's richest person sought to rebut a report saying its finances had become stretched. Using figures that differed from those cited by CreditSights in the report last month, the Indian conglomerate said the leverage ratios of its companies "continue to be healthy and are in line with industry benchmarks." "The companies have consistently de-levered," with the net debt to Ebitda ratio declining to 3.2 times from 7.6 times in the last nine years, the conglomerate said. The statement on Monday comes after CreditSights, a Fitch Group unit, termed the empire built by billionaire Gautam Adani "deeply overleveraged" due to an expansion that "pressurized its credit metrics and cash flows."

<https://www.livemint.com/companies/news/adani-group-cites-reduced-debt-load-to-rebut-overleveraged-view-11662373935795.html>

Aviation ministry pushes to increase airlines' loan limit under ECLGS

Alarmed by the weak financial state of Indian airlines, the civil aviation ministry is pushing to enhance the credit limit to them under the government's Emergency Credit Line Guarantee Scheme (**ECLGS**).

Civil aviation secretary **Rajiv Bansal** last week wrote to the **finance ministry**, asking that under the scheme, airlines be allowed to avail of additional debt of up to 100% of their outstanding credit, subject to a cap of Rs 1,500 crore.

Reasoning why an enhanced credit line is important for airlines, Bansal said an unprecedented rise in jet fuel price and devaluation of the rupee against the dollar had increased their operating cost.

<https://economictimes.indiatimes.com/industry/transportation/airlines/-aviation/aviation-ministry-pushes-to-increase-airlines-loan-limit-under-eclgs/articleshow/94011158.cms>

Vijay Mallya hasn't deposited \$40million ordered by court, Supreme Court told

NEW DELHI: Vijay Mallya has not deposited the \$ 40 million (₹318 crore) that he secretly transferred to his children which led the Supreme Court to sentence the liquor baron to four months in jail in a contempt case in July this year, the top court was told on Monday. The debt recovery officer of the Bengaluru-based debt tribunal told the court that Mallya hadn't complied with the Supreme Court's July 11 order that gave him four weeks to deposit the \$40 million with the recovery officer.

A bench of Chief Justice of India (CJI) Uday Umesh Lalit and justice S Ravindra Bhat directed the matter to be listed for hearing on September 12.

<https://www.hindustantimes.com/india-news/vijay-mallya-hasn-t-deposited-40million-ordered-by-court-supreme-court-told-101662395012191.html>

International Updates

European markets close lower as Russia halts gas flows; autos stocks fall nearly 5%

European markets closed lower on Monday as investors ponder economic risks in the region, reignited by concerns about the energy supply from Russia. The pan-European Stoxx 600 provisionally ended down 0.6%, having recouped some of its earlier losses. Autos plunged 4.8% to lead losses as most sectors and major bourses slid deep into negative territory. Oil and gas stocks bucked the downward trend to add 2% as prices spiked once more.

The sharp downward moves for risk assets came after Russia's state-owned energy giant Gazprom announced that gas flows to Europe via the Nord Stream 1 pipeline would be halted indefinitely, citing additional repair requirements. The euro fell sharply while European gas prices soared.

<https://www.cnbc.com/2022/09/05/european-markets-open-to-close-data-earnings-and-news.html>

NBFC, banks to sell bonds worth more than ₹30,000 crore this week

HDFC will issue 10-year NCDs worth ₹10,000 crore and HDFC Bank will float AT1 bonds worth ₹3,000 crore. Bonds worth over ₹30,000 crore issued by banks and non-banking financial companies (NBFCs) are set to hit the market later this week, as they seek to raise funds at lower interest rates ahead of a possible rate hike this month, according to two investment bankers. A majority of the bonds will be issued by NBFCs and will have tenures of five years and above, they said. HDFC will issue 10-year non-convertible debentures (NCD) worth ₹10,000 crore, HDFC Bank will float additional tier 1 bonds worth ₹3,000 crore and Small Industries Development Bank of India is expected to issue 42-month bonds worth ₹4,000 crore.

<https://www.livemint.com/industry/banking/nbfc-banks-to-sell-bonds-worth-more-than-30-000-crore-this-week-11662402182093.html>

Oil producer group OPEC+ surprises energy markets with a small production cut

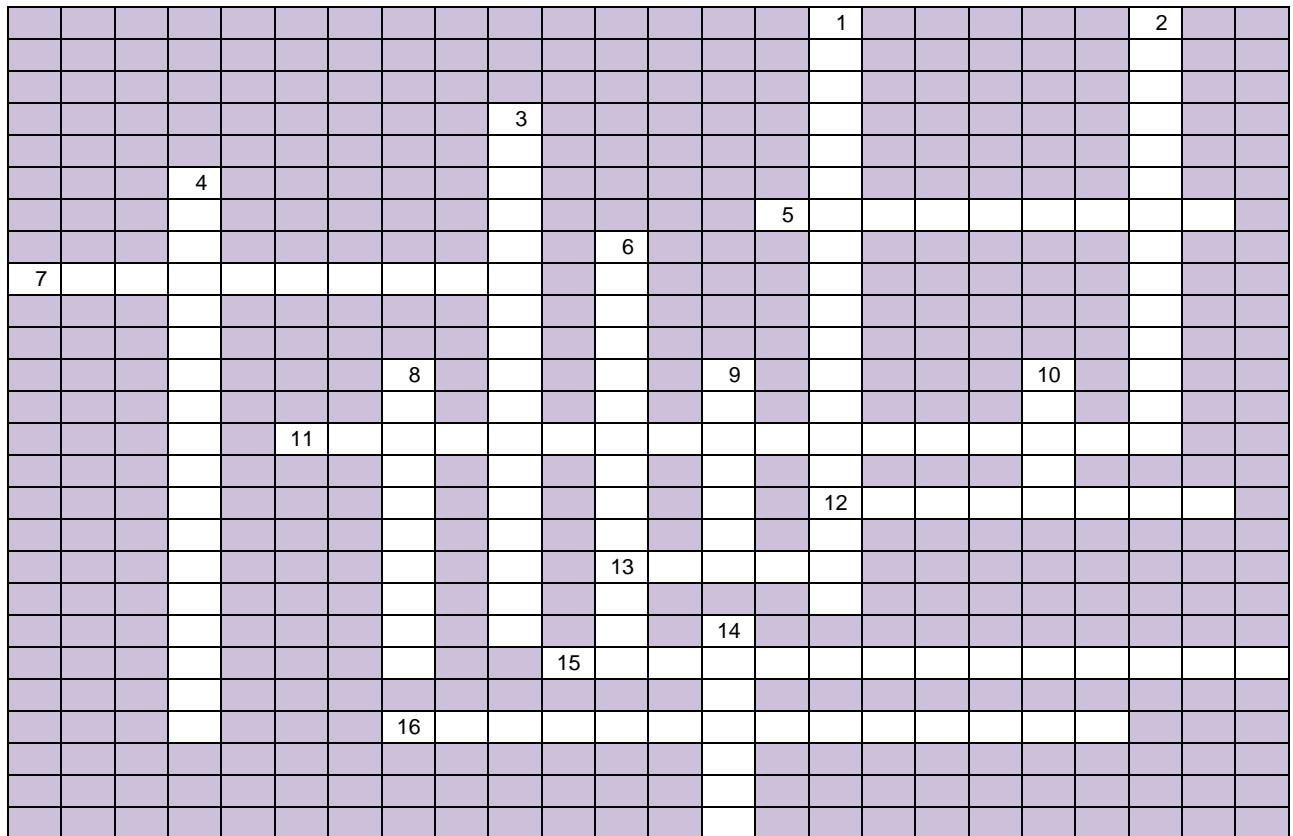
A group of some of the world's most powerful oil producers on Monday agreed on a small output cut from next month, surprising energy markets at a time of considerable turmoil.

OPEC and non-OPEC partners, an influential energy alliance known as OPEC+, decided to cut production targets by about 100,000 barrels per day from October.

Energy analysts had broadly expected the group to stay the course with its production policy. Last month, OPEC+ agreed to raise oil output by just 100,000 barrels per day. The minuscule boost was widely interpreted as a rebuff to U.S. President Joe Biden after his visit to Saudi Arabia to ask the OPEC kingpin to pump more to cool prices and help the global economy.

<https://www.cnbc.com/2022/09/05/oil-opec-surprises-energy-markets-with-a-small-production-cut.html>

CROSSWORD



Across

- 5.** Account classification for anything that is owed by a business
- 7.** One who is concerned with the design of the system of records, the preparation of reports based upon the recorded data, and the interpretation of the reports.
- 11.** An unwritten promise by a customer to pay at a later date for goods sold or services rendered.
- 12.** Account classification for the owner's financial rights to the assets of a business
- 13.** Account classification for anything of value that is owned
- 15.** A book of original entry in which business transactions are recorded in chronological order.
- 16.** A business owned by one person

Down

- 1.** Financial reports that summarize the financial condition and operations of a business
- 2.** An unwritten promise to pay creditor's for property such as merchandise, supplies or equipment purchased on credit, or for services received on credit.
- 3.** The number of times the average inventory has been sold or used up (turned over) during a period.
- 4.** $\text{Assets} = \text{Liabilities} + \text{Owner's Equity}$
- 6.** The difference between the total debits and the total credits in an account.
- 8.** The act of planning, recording, analyzing, and interpreting financial information
- 9.** The normal balance for liabilities
- 10.** The normal balance for assets.
- 14.** An inflow of assets as a result of selling a product or providing a service

GALLERY



75th Independence day Celebration at ICAI Bhawan Vasanthnagar, Bengaluru.



Flag Hoist on the 75th Independence day



Inauguration of the Cultural Event



Token of gratitude to the chief guest CA Viswanth by the Chairman CA Srinivasa T with the SIRC member and other Managing Committee members

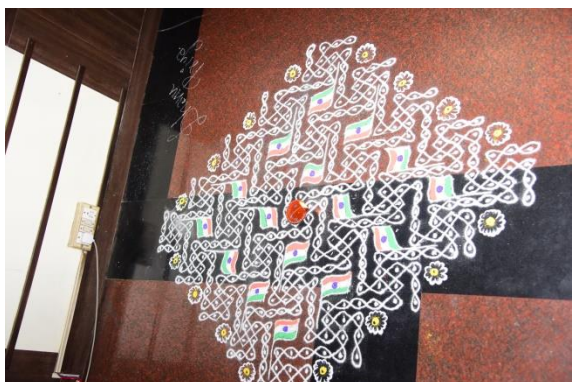
Gist of Cultural event PARVAAH – 2022



Token of appreciation to CA Divya Bhat for being a judge at Parvaah-2022.



Token of appreciation to Bengaluru Vidhwan Dattatri for being a judge at Parvaah-2022



Token of appreciation to CA Padmaja for being a judge at Parvaah-2022



Token of appreciation to CA Babitha G for being a judge at Parvaah-2022.



Token of appreciation to CA Haripriya for being a judge at Parvaah-2022.





SICASA Speakers Forum 199th Meet



**Congratulations
to the newly
elected SICASA
Speakers Forum.
All the very
best!!**



SICASA Speakers Forum 200th Meet at ICAI Bhawan, Vasanthnagar Bengaluru

Gist of 18th State Level Conference held in Bengaluru

