

The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)



Bengaluru Branch of SIRC Newsletter

Volume 11 | Issue 7 | February 2023 | Pages : 22

English Monthly

For Private circulation only



UNION BUDGET 2023

- 30th Awareness Programme
"Analysis of Union Budget 2023"
2nd February 2023
- Study Circle Meeting
**Union Budget Special – PLI schemes,
An opportunity to support Prime Minister
Narendra Modi's vision of making India a Global**
8th February 2023
- Clause by Clause Discussion on
Union Budget 2023 – Direct Taxes
11th February 2023
- Study Circle Meeting
**Recent Amendments in GST Law including
Budget Amendments**
15th February 2023

JNANA VIKASA
■ ENDEAVOR TO EVOLVE ■ ENGAGE TO EXCEL

CPE MEETINGS

- Study Circle Meeting
Rule 88C of GST
22nd February 2023
- Half a Day
Seminar
24th February 2023
- Study Circle Meeting
Audit – Bridging the Expectation Gap
1st March 2023

- Study Circle Meeting
Practical Insights into Standards on Auditing
8th March 2023
- Breakfast Meeting
11th March 2023
- Study Circle Meeting
TDS Updates
15th March 2023
- Hands on Training on
Excel for Bank Branch Audit
18th March 2023
- One Day Seminar on
Bank Branch Audit
25th March 2023
- Study Circle Meeting
on GST
29th March 2023



Dear Professional Colleagues!!!

Chairman!!! Who leads from the front, caretaker of the branch, first person of the branch, so many other accolades for the selfless service. I was fortunate to serve in that designation.

Baton change is only a formality among the family members of the institute, the motto of the family is service. You can imagine how Geese in the sky fly in “V” shape and keep changing their front runner for effective and untiring migration. Even I am also in that juncture and I am getting ready to handing over the baton for continuous journey of service by giving way to new member and getting down with a satisfaction of serving members and students of our great institute with best of my abilities. I hope that I have tried to reach your expectations in all best possible manner and enjoyed the opportunity bestowed on me and I will cherish these moments in my entire life.

We in our journey as a Chairman, we always think that we are creating a history in our work that no one will cross beyond that milestone. But in reality the milestone what we have achieved will become a steppingstone of building a great institutions, so we should lay a foundation in such a manner that finishing should be ever shining, strong as basement stone and it should be a messenger of good deeds for future thought leaders of the institute. So that our efforts will succeed in building a strong legacy of service.

Service can't be quantified in any manner it is only felt by one who has served to the best of their ability and receiver who has felt happy about the service what he has received. I reserve this to show my sincere gratitude for the opportunity.

I express my deep sense of gratitude to all my senior members who stood as guiding force in all my endeavours, my team members (my strength) in the committee for their whole hearted support, Speakers and faculty for their unstinted support in knowledge building/sharing efforts among members and students, teaching and non-teaching staff of the branch enabling us to put a strong base and last but not the least all the members/friends directly or indirectly supported me by giving an opportunity to serve you all, I seek your continued support future also.

A brief up dation on events carried out in January 2023

To provide all solution within one roof and a platform for improving access to public resources, credit and marketing competitiveness as well as & also help our CAs fraternity and Startups for

future relationship, ICAI Startup Samvad was organized under the aegis of Committee on MSME and Startup on 19th January.

The ICAI Convocation **2022-2023** to Award Membership Certificates to newly enrolled Members was held on 24th January 2023.

To gain the experience of expert speaker's on Scrutiny of various returns under GST, we organized Two Day's Residential Workshop on Addressing Notices / Audits / Scrutiny / Other Litigation matter under GST Law at Infosys Ltd, Mysore on 27th & 28th January 2023.

To celebrate the Republic Day of our great Nation, the Chief Guest CA. Ashok Raghavan, Past Chairman – Bengaluru Branch of SIRC of ICAI hoisted our National Flag on 26th January 2023 and delivered a remarkable address to our fraternity and students on this special occasion.

The following Virtual Study Circle Meetings were held.

Foreign Direct Investment Latest Regulations by CA. Santhosh Kumar.

Audit Planning for effective audit by CA. J.K. Sharath.

Taxation of HUF, Trust & Family Settlement by CA. Sunil H Talati, Past President – ICAI.

Budget words and Phrases demystified by CA. K.S. Ravi.

Upcoming Programs for the month of February & March 2023

The 30th Awareness Programme "Analysis of Union Budget 2023" is being organized by the Bengaluru Branch of SIRC of ICAI on Thursday, 2nd February 2023 at Dr. B.R. Ambedkar Bhavan, Vasanthnagar, Bangalore.

On 8th February 2023: Updates on PLI Scheme – Post Budget.

On 15th February 2023: Recent Amendments on Budget updates on IDTC.

On 22nd February : Rule 88c of GST.

One Day **Seminar on Bank Branch Audit** is being organized on Saturday, the 25th March 2023 at Hotel Chancery Pavilion, Residency Road.

The details of all the programs are mentioned in our Calendar of events in this newsletter for your reference.

Endeavour to Evolve Engage to Excel

With warm regards,

CA. Srinivasa. T

Chairman

Bengaluru Branch of SIRC of ICAI



Legend's Corner

CA PROFESSION THE WAY FORWARD

CA. Nilesh S Vikamsey

Past President, ICAI



The Chartered Accountant ('CA') profession is expected to continue to be important and in-demand profession in the future. As businesses, organizations & Regulators continue to rely on reliable financial information, there will be a need to contribute by professionals who are trained in accounting and financial management.

One trend that may affect the CA profession is the increasing use of technology in the field. Many accounting tasks, such as preparing financial statements and analyzing data, can now be automated using technology. This will lead to changes in the way CA's work, but it will also create new opportunities for professional who are skilled in using these tools.

Another trend that will impact the CA profession is the increasing focus on sustainability and social responsibility. Many businesses and organizations are now looking for ways to operate in a more environmentally and socially responsible manner, and CA's will play an increasing role in helping them to do so. For example, CA's may be involved in developing and implementing sustainability strategies, or in reporting on the environmental and social impacts of a business.

Position of CA Practice:

Practicing CA's are skating on thin ice. Several scams like Satyam, DHFL and IL&FS has altered the image of profession in the eyes of society. Accelerated expectations from stakeholders and regulators has brought CAs in spotlight. National Financial Reporting Authority (NFRA) was set up to oversee the auditing profession. NFRA has come with few reports on Audit Quality Review (AQR) Reports and Financial Reporting Quality Review (FRQR) Report. These reports have pointed out I discrepancies with the audit quality leading to actions against CAs. Whilst many of these issues are entity specific, NFRA has also pointed out issues in the way Standards on Auditing, Code of Ethics & Companies Act are being interpreted by the profession. These interpretations by NFRA are at substantial variation to the profession's interpretations. Institute(ICAI) needs to interact with NFRA on the generic issues and reduce interpretation variances.

Government of India enforced stringent tax and other reforms which have impacted CAs in practice namely, merger of Banks, Insolvency and Bankruptcy Code (IBC), Goods and Service Tax (GST), Increased threshold for Tax audits etc.

These changes in regulatory framework reforms, technology changes have made changes in professional spectrum spanning to:

- Blossoming consulting opportunities rather than Compliance based practice
- Workforce mobility to the Tech Savvy Generation
- Small & Medium sized firms facing challenges of adoption of new technologies and people hiring and retention which emphasizes need for consolidation and re-structuring of the Practicing firms
- Notable changes with respect to reduced tax audit limits, elimination of GST audit impacting Small & Medium Practicing Firms
- Soaring demand / expectations of Client, Board to create competitive edge for companies has created pressure on CAs

Practice Management Statistics:

As per Annual report of Institute of Chartered Accountants of India, 42% of members hold full time certificate of practice (CoP) i.e., 1.46 lakhs approx. out of 3.51 lakhs members across India. The percentage of members with full time CoP have

reduced from 68% in the year 2003 which is 26% decrease over 2 decades.

The vast majority of practicing units are mainly sole proprietors or small partnerships of 2 to 4 partners.

Main problems and issues which are faced by firms in the office among others include low level of fees vis-à-vis staff salary or shortage; low realization rate of audit fees; finding new clients.

Challenges in Practice:

“Obstacles are those frightful things you see when you take your eyes off your goal.”

Balancing 3 S's i.e., Service to clients, Satisfaction of professionals working in the firms, and Success of partners or owners is the key for success of firms. A CA's ability to deliver value to client's depends on the skill set of professionals employed and the skill set of those professionals affects the choice of clients.

Key challenges faced by firms in practice includes economic, regulatory, technological, human capital, personal challenges. These challenges are described briefly as follow:

Economic Challenges:

- Rapidly increasing costs
- Inadequate projection of services Rendered (Value of assuring no material misstatement or of no major non-compliance in Taxation is not projected and made known to clients which results in accepting lower fees)
- Perceived Competitive environment

- Client loyalties are no longer as stable as earlier specially with the generation change (it's more of professional relationship)
- Retaining clients who are growing big is a challenge (if the firm does not grow)
- Traditional Areas of Practice like Audit, Tax etc 'appear' over-crowded
- Increasing cost of executing Assurance Functions (more time taken in compliance of Auditing & Accounting Standards, Regulatory expectations, increasing costs of Manpower, Technology etc) without corresponding increase in fees
- Lack of Billing Skills throws the smaller firms into the 'Vicious circle of Low Fees'

Regulatory Challenges:

- Income Tax reduced no. of Deductions / Exemptions, Simplification, faceless assessments & lesser no of scrutiny cases
- Professionals are prone to regulatory action (NFRA / SFIO / Disciplinary Proceedings/ Peer review / QRB / FRRB & other regulatory issues)
- Too many changes in Laws, Standards & Guidelines at alarmingly rapid speed (GST / Ind AS / ICDS / IBC / Company Law / NBFC)
- Series of due dates in GST Laws increasing time of compliance

Technological Challenges:

- Constant updations on technical front (unlearning and relearning – a big challenge)

- New technologies going to impact more in near future (Robotic Process Automation, Machine Learning, AI, Block Chain)
- Increasing use of technology is making the clients more independent and self-reliant
- Impact of technology on the Business Processes and Internal Control Processes
- Missing audit trail due to automation
- Understanding complex IT environments in which clients are functioning
- Increasing Threat to Data security / Privacy
- Knowledge is available at click of button!!!
- **Oxford University research on Susceptibility to computers** – Jobs relating to Accounting and Auditing has 94% probability of susceptibility

Human Capital Challenges:

- Reduced Staff Loyalty and High attrition
- Training and Practical Experience to team
- Stressed Relationships
- Salary expectations are very high
- Dilemma of retaining experienced resources – Increased Pay – With Fee levels not changed
- Lack of Managerial skills amongst staff
- Lack of patience among staff
- Preference for routine / mechanical work for many staff



- Challenge of availability good staff with Clients also increasing our work

Personal Challenges:

- Docile / Passive nature of CAs (accepting lower fees and delays)
- Greed to increase volume of work at any cost
- Inadequate / Improper communication skills to highlight oneself
- Society's perception – **Necessary Evil!! Since most services are mandated by law**
- Lack of time management (peak and nonpeak periods work at same fees)
- Not billing clients for telephonic, oral consultations which lawyers or doctors do
- Imbalance between knowledge and execution/ application skills
- Inability to keep pace with Technology changes
- Shift in practice from knowledge to Branding, Size, Organization, Management

Here we need to evaluate what future holds for us, losing relevance of traditional practice areas, mismatch in cost and fee, automation, unchained knowledge.

Practice Management Strategies:

1. Self-Evaluation:

Self-evaluation puzzle includes evaluation of whether member is technically sound, financial objectives, clarity of vision, pre-requisite practical experience.

Addressing this puzzle includes different options/ approaches like specialisation in one area,

working with the existing firm, work as retainer, join an existing firm and grow into partnership role.

2. Right Sizing & Positioning:

Right sizing includes positioning of firms as polyclinic which renders variety of professional services are boutique firms specializing in the services such as internal audit, statutory audit, international tax, GST, forensic, advisory firms etc.

3. Clientele and fees & billing:

Client can be acquired through speaking in public forums, word of mouth, knowledge sharing at social media, study circles, domestic or global networking, business development initiatives, empanelment's. While acquiring client's, compliance with ICAI code of ethics must be kept in mind.

Client rating based on fees per client, quality of client, potential growth of client, profile value. Pareto principle can be applied where 20% clients giving 80% revenue should be focused on. Once a practice unit grows it should look at C category clients periodically and give them up to juniors. This will create room for the firms to do lots of things mentioned in this presentation. Members can start working out man-hour rates, keep time sheets, develop policy of advance for non-audit assignments, invoice as soon as the assignment gets over.

Steve Jobs said "Get closer than ever to your customers. So close that you tell them what they need well before they realize it themselves."

Ingredients of Successful Practice:

Service first attitude will help to create wealth as the service is the seed of money. Create impactful proposals as the first impressions lasts and making presentations to client as part of your deliverables.

Do Value addition to client on an ongoing basis and document the value added suggestions given to client. Increase delegation of work as practice starts growing. Quote fees only after proper analysis work, time & man-power required.

Make products of services, render personalized services with broader exposure across Income Tax, GST etc. to give holistic solution, provide multidisciplinary services and challenging assignments.

Use of Social media to increase visibility, attend key events/webinar/conference, client engagement activities.

CA firms are greatly dependent on human capital. Hence management of human capital is key ingredient for success of the firm. These include building human capital, surviving people crisis, performance management systems, adequate learning & developments system, workforce management, talent management.

To sum up, firms should protect their intangibles such as human capital, client's satisfaction, own investment & fund management

abilities, knowledge & skills, health & happiness, enhancing quality of documentation, enhancing review mechanisms, internal succession planning, periodic & timely dialogue with client.

Growth Strategies:

Growth strategies in professional service firms often involve expanding the firm's services or client base. Some specific strategies that a professional service firm might consider include:

1. Diversification: Expanding the range of services offered to clients or targeting new types of clients.

Shift from traditional areas of audit, taxation to emerging areas such as valuation, ESG or sustainability reporting, RPA & digital accounting, Artificial Intelligence, Blockchain, Cloud Computing, IFC, System, process development etc.

2. Partnerships and alliances: Forming partnerships or alliances with other firms or organizations to offer a wider range of services or access new markets.
3. Mergers and acquisitions: Merging with or acquiring

other firms to expand the firm's capabilities or client base.

4. Marketing and branding: Promoting the firm and its services through marketing and branding efforts to attract new clients, within guidelines of ICAI.
5. Talent acquisition: Hiring top talent to help the firm deliver high-quality services and grow its client base.
6. Innovation: Developing new services or processes that set the firm apart from its competitors and make it more attractive to clients.
7. Domestic & International expansion: Entering new domestic & international markets to expand the firm's reach and client base.

It's important for professional service firms to carefully consider their growth strategies, as they may have different implications for the firm's resources, culture, and overall direction.

Growth drivers includes cost optimization, pooling of human resources, pooling of IT infrastructure, providing suit of services, branding and marketing, knowledge sharing.

In the era of everchanging technology, firms should make strategic decisions aligning with technology which includes human machine collaboration, use of software for documentation, audit etc.

Overall, the chartered accountant profession is likely to continue to be a vital and respected profession in the future, with opportunities for professionals who are able to adapt to changing conditions and embrace new technologies and approaches.

Achieving a good income statement result is a necessary condition for professional firm success, but it is far from a sufficient criterion. To have been judged a good year, a firm must not only achieve its volume and profit goals but do so in a way that both builds new skills and strengthens client relations.

Firms need to embark on new vision of moving from

- **Compliance to Consulting,**
- **Value protection to Value creation,**
- **Service provider to Solution provider,**
- **Size to Positioning.**

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Advt. material should reach us before 22nd of previous month.

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CA. SRINIVASA.T

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CALENDAR OF EVENTS

CPE MEETINGS FOR THE MONTH OF FEBRUARY 2023

DATE AND DAY	TOPIC / SPEAKER	TIME	STRUCTURED CPE HOURS
01.02.2023 Wednesday	NO Study Circle Meeting	—	—
02.02.2023 Thursday	30th Awareness Programme Analysis of Union Budget 2023 MODERATORS: CA. T. V. Mohandas Pai , <i>Chairman, Aarin Capital</i> <i>Chairman of Manipal Global Education Services, Bengaluru</i> CA. H. Padamchand Khincha <i>A Leading Corporate & International Tax Consultant</i> PANELISTS: CA. K. Ullas Kamath , <i>Founder – UK & Co., Bengaluru</i> Prof. Pulak Ghosh <i>Professor, Indian Institute of Management, Bengaluru</i> Mr. S.S. Naganand <i>Senior Advocate and Vice President - Bar Association of India, Delhi</i> Mr. R.K. Misra <i>Scholar – Carnegie India / Aspen Fellow</i> <i>Co-Founder – YULU, Co-Founder – Center for Smart Cities</i> <i>Co-Chair – ASSOCHAM, South Bengaluru</i> Delegate Fees : Members – Rs.100/- Plus GST	Dr. B.R. Ambedkar Bhawan, Vasanthnagar, Bengaluru 5.30 pm to 7.30 pm	2 hrs
08.02.2023 Wednesday	Study Circle Meeting Union Budget Special – PLI schemes, An opportunity to support Prime Minister Narendra Modi's vision of making India a Global CA. Gautam Pai Delegate Fees : Members – Rs.100/- Plus GST	Virtual 6.00 pm to 8.00 pm	2 hrs
11.02.2023 Saturday	Clause by Clause Discussion on Union Budget 2023 – Direct Taxes Speakers : CA. S. Ramasubramanian CA. K.K. Chythanya CA. H. Padamchand Khincha Delegate Fees : Members – Rs.1,250/- Plus GST	Jnana Jyothi Auditorium, Bengaluru 9.30 pm to 6.00 pm	6 hrs
15.02.2023 Wednesday	Study Circle Meeting Recent Amendments in GST Law including Budget Amendments CA. Annapurna D Kabra Delegate Fees : Members – Rs.100/- Plus GST	Virtual 6.00 pm to 8.00 pm	2 hrs
22.02.2023 Wednesday	Study Circle Meeting Rule 88C of GST CA. Aanchal Kapoor Delegate Fees : Members – Rs.100/- Plus GST	Virtual 6.00 pm to 8.00 pm	2 hrs

CALENDAR OF EVENTS

CPE MEETINGS FOR THE MONTH OF FEBRUARY & MARCH 2023

DATE AND DAY	TOPIC / SPEAKER	TIME	STRUCTURED CPE HOURS
24.02.2023 Friday	Half a Day Seminar <i>Details will be uploaded on the website</i>	Vasanthnagar Branch 2.00 pm to 5.30 pm	3 hrs
01.03.2023 Wednesday	Study Circle Meeting Audit – Bridging the Expectation Gap CA. S. Sundaresan Delegate Fees : Members – Rs.100/- Plus GST	Virtual 6.00 pm to 8.00 pm	2 hrs
08.03.2023 Wednesday	Study Circle Meeting Practical insights into Standards on Auditing CA. Chinnsamy Ganesan, Chennai Delegate Fees : Members – Rs.100/- Plus GST	Virtual 6.00 pm to 8.00 pm	2 hrs
11.03.2023 Saturday	Breakfast Meeting To be finalized Delegate Fees : Members – Rs.200/- Plus GST	Vasanthnagar Branch Breakfast : 7.30 am to 8.30 am Meeting : 8.30 am to 10.30 am	2 hrs
15.03.2023 Wednesday	Study Circle Meeting TDS Updates CA. Sandeep C Delegate Fees : Members – Rs.100/- Plus GST	Virtual 6.00 pm to 8.00 pm	2 hrs
18.03.2023 Saturday	Hands on Training on Excel for Bank Branch Audit CA. Venugopal G Delegate Fees : Members – Rs.500/- Plus GST	ICAI, 29/1, Race Course Road, Bengaluru 560 001 5.00 pm to 8.00 pm	3 hrs
22.03.2023 Wednesday	Holiday	—	—
25.03.2023 Saturday	One Day Seminar on Bank Branch Audit Organized by : Bengaluru Branch of SIRC of ICAI <i>Details at Pg. No.18</i>	Chancery Pavilion, #135, Residency Road, Bengaluru 560 025 9.30 am to 6.00 pm	6 hrs
29.03.2023 Wednesday	Study Circle Meeting on GST	Virtual 6.00 pm to 8.00 pm	2 hrs



RULE 88C OF CGST RULES, A CONTRAST TO RULE 86A

CA. Badrinath NR and CA. Karan Kumar



A. Background

R. 86 A of the Central Goods and Services Tax Rules, 2017 (for brevity, 'CGST Rules') empowers the Commissioner or the officer not below the rank of Assistant Commissioner authorised by the Commissioner to block input tax credit (for brevity, 'ITC') available in the electronic credit ledger **when there is reason to believe that the ITC available in the electronic credit ledger has been fraudulently availed or is ineligible.**

Now the Government has equipped itself with yet another provision - 'R. 88C', which has come into effect from 26.12.2022, aiming to further curb revenue leakage. Broadly, this is understood to have been introduced to arrest issuing of tax invoice/s for supplies and disclosing the details in Form GSTR-1¹ while not remitting the taxes on the same (by not disclosing the corresponding outward supplies in Form GSTR-3B²).

This article is an attempt to discuss the nuances of R. 88C.

B. R. 88C

Where the difference in tax liability, on account tax liability disclosed in Form GSTR-1 and tax remitted in Form GSTR-3B, is more than a certain threshold (*amount and percentage for the same are yet to be prescribed*), registered person shall be intimated of such difference in Part A of Form GST DRC-01B to either:

- (i) pay the differential tax liability along with interest³; OR
- (ii) explain the aforesaid difference in tax payable, electronically on GST Portal in Part B of Form GST DRC-01B, within period of 7 days of intimation.

Accordingly, where the registered person remits the tax, the proceedings will be closed. However, in the event where (i) the amount remains unpaid or (ii) no explanation / reason is furnished by the registered person or (iii) the explanation or reason furnished by registered person is not acceptable to the Proper Officer (for brevity, 'PO'), the differential amount (i.e. tax difference between Form GSTR 1

an Form GSTR 3B) can be recovered under S. 79⁴ of the CGST Act.

While the intent of the introducing this Rule is much appreciated, the implementation of the same and the experience of the registered persons will be the key to its success. While we wait to see the implementation, the questions that are raised and await answers are (i) has this provided unreasonable powers to tax administrators (ii) does it uphold the principles of natural justice. Some of the moot questions which are ringing in the minds of taxpayers and tax experts are discussed in ensuing paragraphs:

C. Source to R. 88C

Is there a specific S. empowering the Government to make such Rules? S. 164⁵ of the Central Goods and Services Tax Act, 2017 (for brevity, 'CGST Act') seems to be leading the way.

Nonetheless, it can also be read as follows – that the differential tax (payable) arising on account of tax liability disclosed in Form GSTR-1 and tax remitted in Form GSTR-3B would fall within the

1 Details of Outward Supplies of Goods or Services

2 Summary Return of Outward and Inward Supplies

3 Sec. 50 of CGST Act, 2017 – Interest on delayed payment of tax

4 Sec. 79 of CGST Act, 2017 – Recovery of tax

5 Sec. 164 of CGST Act, 2017 – Power of Government to make rules

meaning of the expression “Self-Assessed Tax” which is provided in Explanation to S. 75(12)⁶ of CGST Act. Accordingly, Explanation to S. 75(12) of the CGST Act, would then be considered as the enabling provision under the GST Law, to support introduction of R. 88C.

S. 75(12) Notwithstanding anything contained in S. 73 or S. 74, where any amount of self-assessed tax in accordance with a return furnished under S. 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of S. 79.

Explanation⁷ - For the purposes of this sub-S., the expression “self-assessed tax” shall include the tax payable in respect of details of outward supplies furnished under S. 37, but not included in the return furnished under S. 39.”

D. To ponder:

1. Form GST DRC-01B – is it an Intimation or a Notice?

Part A of Form GST DRC-01B is an **intimation** issued from the common portal for difference in tax liability exceeding certain threshold. Taxpayer is required to furnish reply (i.e., details of payment of differential tax liability) or explanations for non-payment of differential tax liability in Part B of the said Form.

⁶ Sec. 75(12) of CGST Act, 2017 – General Provisions relating to determination of tax

⁷ Inserted w.e.f 01.01.2022

2. Powers of the Proper Officers

Where no reply is furnished within 7 days of intimation OR if the explanation non-payment of differential tax liability is not satisfactory to the PO, R. 88C empowers the PO to directly invoke recovery (coercive) provisions under S. 79 of the CGST Act. Having said this, does the prescribed procedure require the PO to provide an opportunity of being heard to the taxpayer before invoking the recovery provisions; can additional time be sought to furnish the reply in Part B of Form GST DRC-01B; does the procedure require the PO to issue a speaking order or show cause notices before initiation of recovery proceedings? The answer appears to be a categorical NO.

NB: It would be interesting to refer to S. 75 of the CGST Act which provides for ‘General provisions relating to determination of tax’.

S. 75 (4) of the CGST Act provides that ‘An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.’

In the context of this provision, it would be interesting to note that the revenue in the case of B.M. Patel Writ Petition No.13652 of 2020 dated 19.01.2021 took a contention that there was no request received from the petitioner seeking a personal

hearing and in response to the show cause notice, a reply was filed setting forth an explanation to the proposals on the notice. The Hon’ble Madras High Court held that ‘it is only in cases where the explanation offered by the assessee is accepted that there is no necessity for personal hearing. In all other cases, it is incumbent upon the revenue to extend an opportunity of personal hearing to the petitioner’.

Having said that, the interplay of S. 75(4) with the provisions of R. 88C read with S. 79 will have to be tested.

3. Will the amount remitted be self-assessed tax?

Explanation to S. 75(12) of the CGST Act will give this amount the colour of “disputed tax” and must be subjected to adjudication proceedings. Accordingly, a possible rational approach by the PO (if reply furnished is not satisfactory) would be issuance of show cause notice under S. 73 or S. 74 of the CGST Act.

4. R. 88C – No Recourse to Appellate Mechanism

The procedure does not provide for issuance of any notice to show cause or even passing of a speaking order and hence, the question of appeal under S. 107⁸ of the CGST Act does not seem to be the next step, if aggrieved. What next? Knock the doors of High Court?

⁸ Sec. 107 of CGST Act, 2017 – Appeals to Appellate Authority



5. Double whammy for the Government!

S. 16(2)(c) provides that where the tax is not remitted by the supplier, the recipient of such goods / services is barred from claiming the same as input credit – resulting in (i) recovery of tax from the supplier under S. 79 AND (ii) disallow credit of ITC for the recipient under S. 16(2)(c). isn't this a case of unjust enrichment – recovery of tax from the supplier + disallowance of credit for the recipient? Apparently, NO; the Government is insulated from such provisions.

One should also read the proviso to S. 41(2) of the CGST Act – it provides for reavilment of credit by the recipient if the same is subsequently paid by the supplier. The question is, where the tax is recovered in terms of R. 88C read with S. 79, will it be deemed as

'paid by the supplier' to reavail in terms of S. 41(2)? While we believe the answer 'should' be YES, the question is how will the recipient become aware of the recovery.

As an extension to the above, what if the recovery of tax under S. 79 is challenged and is stayed? Will it still be treated as 'paid by the supplier'? While the principles of natural justice would say YES, in practice and till it is tested, the answer is most likely to be NO.

6. Shouldn't RECOVERY be an exception and not a rule

Not providing an opportunity of being heard; not required to be passing a speaking order and the next logical step not being the appeal mechanism, will put taxpayers to challenging times.

A clarificatory circular explaining the detailed documentation and

procedures to be followed and maintained by the proper officers would augur well for the taxpayer fraternity.

E. Note of caution to the taxpayers!

Any tax liability disclosed under Form GSTR-1 will be admitted tax liability by virtue of Explanation to S. 75(12) r/w R. 88C – therefore, taxpayers should ensure that the filing of GSTR 1s and 3Bs are only after due verification and that every difference between the two (if any) is clearly explained.

This article is written with a view to incite the thoughts of the readers. Different and disparate views and interpretation is not ruled out – it only makes the understanding better. Should you have a different view, please write to badrinath@sduca.com or karankumar@sduca.com.



भारतीय प्रबंध संस्थान बेंगलूर
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Advt.

FUNDING WINTER – EFFECT ON INDIAN STARTUPS

CA. Venkatesh Bhat



Even a casual reader of finance publications would have noticed the dominance of discouraging news about startups in 2022. A few themes kept appearing in headlines last year - employee layoffs, investors delaying capital infusion decisions, lower spends by startups in marketing, some startups getting valued lower than their previous funding rounds, etc. All these events of different startups and on different dates have one common underlying reason - drying up of capital flows or “Funding Winter”.

What is Funding Winter?

Funding winter means an extended period of reduced capital inflows to startups. This has been a global phenomenon throughout 2022 and expected to have an extended run in 2023 as well. Prior to funding winter, globally many startups were able to raise funds at increasingly higher valuations with relative ease. India being the third largest startup ecosystem in the world, these trends are reflected in the capital flows to India startups as well. A recent PwC report mentions a drop of 33% funding of Indian startups during 2022 in comparison to 2021.

The effect of funding winter has been more pronounced on late stage funding; early stage funding and relatively new sectors continued to attract capital flows in 2022.

What caused Funding Winter?

Investment cycles are a recurring economic phenomenon of the global economy. Businesses faced inflationary pressure for the last few quarters with soaring food, energy and commodity costs. Geopolitical factors such as Russia's war on Ukraine have created instability and uncertainty that are impacting large parts of the world. These prevailing macroeconomic and geopolitical conditions have caused a market slowdown and economic volatility. Recessionary trends have been forecast for 2023 which would impact the growth rates of businesses across multiple sectors. Cost of capital has been rising taking into account the various risk factors, leading to funding slowdown.

Venture Capitalists and PE Investors are not rushing into new deals; many prefer to invest in their existing portfolio where the business has progressed as per projected milestones. Most investors look for a clear path to profitability while investing.

According to data compiled by private market intelligence platform Tracxn Technologies, the number of unicorns in India nearly halved from 44 in 2021 to 23 in 2022; globally there is a 55% drop in the number of startups attaining valuation of One Billion dollars or more.

Why is there a dependence on global capital?

Common sources of funding for the startups can be from the own savings of the founders, Angel Investors, Venture Capitalists, Private Equity Funds, Strategic Investors, Debt funds from Banks and other financial institutions. The source depends on the size and the stage at which the startups are operating.

The Government of India launched the Startup India programme in 2016; January 16 is celebrated as national startup day. This initiative focuses on meeting multiple requirements of early startups, one of them being funding. Seed funding and Fund of Funds programmes support eligible startups mostly at an early stage. This initiative is apart from funding programmes of Indian financial institutions, many of whom have focused schemes for startups. In order to attract foreign capital, the Government of India has also relaxed FDI norms across sectors.

Despite the growth of an enabling Indian ecosystem for startups, a large part of the funding of Indian startups comes from global VC/ PE funding since this is the capital focusing on early and mid-stage growth and is unsecured in nature. Indian risk capital as well as institutional funding are not significant



enough to insulate the startup system from global investing trends.

What are the negative consequences of the funding winter on start ups?

Many startups have laid off employees and are refocusing on core businesses. There have been cuts of marketing spends between 30% to 60% in 2022 impacting pace of user acquisition. Those startups that necessarily require continuous capital injection to build businesses are most impacted. Strategic sale of part of business, and in some cases, distress sale is the only viable option for some startups to survive. Funding winter has also constrained the start-ups from pivoting into other business models when one business model has not earned the desired fruits.

Are there positive implications of funding winter on start ups?

Funding winter has given opportunity to the smaller startups to grow their business and market reach tremendously. Smaller startups are seeing growth in their businesses as the larger startups which were spending large amounts on marketing aspects are currently constrained by the funding winter. Early stage investing is relatively less impacted especially for those startups with deep technology.

On the other hand, funding winter is also helping the larger startups to re-organise themselves and relook at their business models. Marketing spends are becoming smarter and personalised; there is renewed focus on cost of

acquisition (CAC) of customers. Large teams are being reviewed frequently for more efficiency and efficacy. This is helping start-ups to strive for the execution stage from the idea stage.

History is replete with examples of business operations that run efficiently when faced with resource limitations. These businesses discover their path to the virtuous cycle of profitability -improving operational efficiencies & reducing cost of acquiring and retaining customers lead to increasing profit pool. Most of the companies that survived the major recessionary events (the great depression of 1930, DotCom burst of 2000, subprime crisis of 2009, COVID pandemic of 2019) performed well once they survived the difficult phase.

Question is, how should startups navigate these turbulent times of uncertainty and fund crunch?

Strategies to cope with funding constrained environment

Experts suggest a few tried and tested strategies for startups to survive the funding winter.

Firstly, investors will seek the startups that are able to demonstrate Balanced focus on growth and profitability. Startups need to demonstrate profitability in mature parts of business and take a calibrated approach to growth investment.

Secondly, market fitness of the product becomes more relevant than being an early player in a sector. Businesses need to listen to customers

continuously and adapt to changing market conditions.

Thirdly, startups would target cash optimisation in business processes. Strategies will include efficient working capital management, sticking to tried and tested marketing strategies & shorter experimentation periods for new ideas.

Startups that managed to raise money in the previous twelve months will adopt strategies that extend cash runway - postponing decisions that require large capital commitments and even renegotiating debt repayment commitments.

What would be the implications for CAs who advise startups?

In summary, funding winter will continue till global factors contributing to enhanced risk perception remain dominant. In the meantime, startups need to devise coping mechanisms to survive and exploit the market conditions. Startup founders need assistance in building and executing right strategies for acquiring capital which is appropriate to their stage of business and immediate priorities. This need can be effectively fulfilled by Finance Managers and advisors; they also need to assist startups in executing these strategies effectively. Finance managers and advisors should also advise the startups on the optimization of the spends, managing cash flows efficiently and increasing the runway.

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Time: **9.30 am to 6.00 pm**

6 hrs
CPE

TIMINGS	TOPICS	SPEAKERS
9.00am to 9.30am	REGISTRATION & NETWORKING	
9.30am to 10.00 am	INAUGURATION by the CHIEF GUEST	
10.00am to 11.30am	Bank Audit-Dwindling Opportunities and Growing Concerns	CA. Manohar P Gupta
11.30am to 12.00 noon	TEA BREAK	
12.00 noon to 1.30pm	a. Planning of Audit b. Compliance with Accounting Standards and Standards on Auditing c. Testing of Internal Financial Controls over Financial Reporting d. General Discussion on Audit of various areas - other than Advances including matters to be covered in LFAR	CA. Shyam Ramadhyani
1.30pm to 2.30pm	LUNCH BREAK	
2.30pm to 4.00pm	Data Analytics for LFAR Reporting	CA. Premnath D <i>Hyderabad</i>
4.00pm to 4.30pm	TEA BREAK	
4.30pm to 6.00pm	Audit of Advances	CA. P.R. Suresh

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CA Cotha S Srinivas
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