

The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)



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Happy 77th Independence Day Celebrations



TWO DAY CHARTERED ACCOUNTANTS' CONFERENCE

ON 11TH & 12TH
AUGUST 2023



PRAGJNANA PRAYATHNA

Conscious Attempts

CPE MEETINGS

- 77th Independence Day Celebrations
15th August 2023
- Study Circle Meeting
Katha Sangama – Recent Corporate Law Cases
23rd August 2023
- Study Circle Meeting
Start-up Structuring - Tax & Regulatory Aspects
16th August 2023
- Study Circle Meeting
Issue of Shares in Private Limited Company
30th August 2023
- Breakfast Meeting
CHAT GPT for CAs
19th August 2023
- Round Table – Interactive CFO's Meet
1st September 2023
- Dinner Meet
CPE Meeting 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)
22nd August 2023
- One Day Seminar on ICDS & Tax Audit
2nd 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
13th September 2023
- Breakfast Meeting
AQMM
16th September 2023
- Study Circle Meeting
Wealth Creation through Equities
20th September 2023



CPE :
12 hrs

Princess Shrine

Gate No. 9, Princess Academy, Palace Ground,
Joyamahal, Bengaluru

JOINTLY BY BELAGAVI, BALLARI, HUBBALLI,
KALABURGI, MANGALURU, MYSURU
AND UDUPI BRANCHES OF SIRC OF ICAI



Dear Professional Colleagues,

I wish you all a fantastic Independence Day !

This year is a special day all around the world, India is celebrating its 77th Independence Day to celebrate the true spirit of freedom and independence in the country and to pay our tributes to the countless freedom fighters those who stood tall & led to the Independence of India. They had shed their lives to free India in attaining the freedom for their future generations without worrying about their comfort and rest, a true sense of patriotism and nationhood in their hearts. The journey with freedom comes responsibility had our moments of brilliance and opportunities to self-introspect all along the journey the challenges posed by the digital era in enhancing the understanding of data analytical power. As the world becomes increasingly interconnected, learning how to navigate the vast sea of information efficiently has become a crucial skill. Let us fulfil our role of Partners in Nation Building, thus uplifting our society and country through upskilling and boost the profession to navigate & face the global evolving Technology. As an annual observance, we are celebrating the Independence Day on 15th August 2023 at 9.00 am at our Branch premises. I invite all Members of the Branch to kindly participate and rejoice the spirit of freedom.

A brief about July 2023 programs :

The more special occasion stepped into **75th year of ICAI – CA Day on 1st July 2023** a new beginning of our

profession, where CA. B.P. Rao, the Past President of ICAI, gave his informative address filled with rich experience which was an inspiration and motivation to all of us. **A first of its kind in its new beginning on this day, we had honoured 47 Senior Members of the profession who have completed 30 years of their Practice as on 30th June 2023.** The event was followed by Blood Donation Camp, Plantation of Saplings, and Cultural Programmes. Every event showcased the Branch's dedication to the holistic well-being of its Members. I thank all the members and students who participated in this special event. It is truly remarkable to witness the growth of the CA community in Bengaluru.

Half a Day Workshop on Discussion on Key considerations in Income Tax Return filing and importance of Tally 3.0 at Tumkur on 7th July 2023. **25** Members attended in this Workshop to get enriched from the deliberations by expert & experienced speakers, **CA. K. Kaushik Raj and Mr. Shanmukha C.G.**

Breakfast Meeting was organized on 8th July 2023 on MSME Registration benefits & Emerging trends in MSME funding. An eminent and expert Speaker **CA. Venkatesh Bhat** deliberated on the tangible funding and non-funding assistance available to MSMEs to **24** Members participated in this meeting.

Study Circle Meetings were conducted on 5th & 12th July 2023. I thank the Speakers **CA. K. Kaushik Raj and CS. Thirupal Gorige** for sharing their expertise in these Meetings.

The indoor Badminton Tournament was held on 15th July 2023 at Karnataka Badminton Association, Vasanthnagar, Bengaluru. I thank Mr. Abhishek Yeligar, Dharwad was the Chief Guest, a Professional and Champion Badminton Player and also the team Members for their team spirit. The events held by the Bengaluru Branch were diverse and engaging to the varied interests of our esteemed CA community and were also a witness to the strong bonds and friendships formed within the community.

The launch of New Scheme of Education and Training for the Chartered Accountancy course features a contemporary international curriculum, with a focus on Ethics, Technology and having 4 self-paced online Modules aligned with technology-enabled learning as advocated by the NEP,

2020. Practical training now includes a 2-year examination-free period and assessments through case scenario/ study-based MCQs at all levels. The Gazette notification and the announcement of the New Scheme can be found on the ICAI's website. Central Council Member's CA. Cotha S Srinivas, CA. Dayaniwas Sharma & CA. Prasanna Kumar D deliberated about this New Scheme to the budding CA Students on 15th July 2023 at our Branch.

Today, India is an essential part of the global supply chain and many foreign companies are expanding their startups and new generation business / services in India. To enrich the knowledge and professional competence of Members & get a deeper understanding on Direct Tax aspects & complexities involved in interpretation of FEMA, One Day Workshop on FEMA was organized on 22nd July 2023. I thank all the renowned Speakers, stalwarts CA. Himanshu Aggarwal, CA. Vivek Mallya, CA. Adv. B.G. Chidanand Urs & CA. Ravi Jain who shared their knowledge and insights in this program. 68 Members got benefitted through the same.

The months ahead – August & September 2023

The **Two Day Chartered Accountants' Conference** is fast approaching being organized by the **Bengaluru Branch of SIRC of ICAI on 11th & 12th August 2023 at Princess Shrine, Palace Grounds, Gate No.9, Princess Academy, Jayamahal, Bengaluru 560 006.**

The best of the speakers, are invited to present their papers in the field of Taxation, GST, Audit and allied laws, AQMM, Group Insolvency & Balancing interest of stake holders under the process of IBC including speakers on special topics relating to economy, Global opportunities & Future of CA Profession as well as Panel Discussions on various Issues in Real Estate under Income Tax Act, 1961 and Spiritual session would be roped in to deliver value additive talks. Details are posted elsewhere in this Newsletter.

The Auditing and Assurance Standards Board of ICAI is seeking comments from Chartered Accountants and other stakeholders to review the existing and emerging auditing practices worldwide. The due date for sharing the inputs / comments on the above is 25th August 2023 for the Exposure Drafts of 7 Standards (SQM 1, SQM 2,

SA 220 (Revised), SA 250 (Revised), SA 315 (Revised), SA 540 (Revised), SRS 4400 (Revised). In this regard, a **first of its kind, Bengaluru Branch has organized a Dinner Meet on Tuesday, 22nd August 2023 between 6.00 pm & 8.00 pm at Branch premises.** The discussion will be moderated by CA. Vinay K.S and the panel of experts in this Meet.

We request Members to kindly make it convenient to attend the meeting and share your valuable suggestions / comments which will have a bearing on the "Future of our Profession". **CPE – 2 Hrs. For more details, please visit. bangaloreicai.org.**

Breakfast Meeting is being organized on 19th August 2023. The details are given in the Calendar of Events.

To discuss industry challenges and find pivotal solutions that are needed to reach future finance vision, "**An Interactive CFO's Meet**" is being organized under the aegis of the **Committee for Members in Industry & Business (CMI &B) of ICAI Hosted by Bengaluru Branch of SIRC of ICAI on Friday, 1st September 2023.** This Interactive Meet shall serve as platform to bring together the CFOs and Business Leaders to share their experience and transformational change and an excellent opportunity to the delegates to learn about various newer trends and approaches being adopted by various businesses.

To improve the quality of reporting in tax audits and ensure adherence to the taxation laws, **One Day Seminar on ICDS & Tax Audit** is being organized on 2nd September 2023 at Branch Premises.

An immensely value-packed event that will put women change makers and role models under the spotlight, **A One Day Women CA's Conference** is being organized on 9th September 2023 at Chancery Pavillion.

Breakfast Meeting on AQMM is being organized on 16th September 2023. The details are presented elsewhere in this Newsletter.

With warm regards,

CA Divya S

Chairperson

Bengaluru Branch of SIRC of ICAI



CALENDAR OF EVENTS CPE MEETINGS FOR THE MONTH OF AUGUST 2023

DATE AND DAY	TOPIC / SPEAKER	TIME	STRUCTURED CPE CREDIT
11.08.2023 Friday & 12.08.2023 Saturday	Two Day Chartered Accountants' Conference <i>Hosted by : Bengaluru Branch of SIRC of ICAI</i> <i>Jointly Organized by Belagavi, Ballari, Hubballi, Kalaburgi, Mangaluru, Mysuru & Udupi Branches of SIRC of ICAI</i> Delegate Fees : Members – Rs.2,400/- Plus GST Non Members – Rs.5,000/- Plus GST <i>Details at Pg. No.17</i>	Princess Shrine, Gate No.9, Princess Academy, Palace Ground, Jayamahal, Bengaluru – 560 006 10.00 am to 6.00 pm	12 hrs
15.08.2023 Tuesday	77th Independence Day Celebrations	Vasanthnagar Bengaluru Flag Hoist: 9.00 am	—
16.08.2023 Wednesday	Study Circle Meeting Start-up Structuring - Tax & Regulatory Aspects CA. Amithraj N Delegate Fees : Members – Rs.100/- Plus GST	S. Narayanan Auditorium Vasanthnagar Bengaluru 6.00 pm to 8.00 pm	2 hrs
19.08.2023 Saturday	Breakfast Meeting CHAT GPT for CAs CA. Mohan R Lavi 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	2 hrs
22.08.2023 Tuesday	Dinner Meet CPE Meeting 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) Moderator : CA. Vinay K.S Panelists : CA. V. Balaji CA. Sunil Bhumralkar Delegate Fees : Members – Rs.250/- Plus GST Followed by Dinner	S. Narayanan Auditorium Vasanthnagar Bengaluru 6.00 pm to 8.00 pm	2 hrs

CALENDAR OF EVENTS

CPE MEETINGS FOR THE MONTH OF AUGUST & SEPTEMBER 2023

DATE AND DAY	TOPIC / SPEAKER	TIME	STRUCTURED CPE CREDIT
23.08.2023 Wednesday	Study Circle Meeting Katha Sangama – Recent Corporate Law Cases CS. J. Sundharesan Delegate Fees : Members – Rs.100/- Plus GST	S. Narayanan Auditorium Vasanthnagar Bengaluru 6.00 pm to 8.00 pm	2 hrs
30.08.2023 Wednesday	Study Circle Meeting Issue of Shares in Private Limited Company CA. J.K. Sharath Delegate Fees : Members – Rs.100/- Plus GST	S. Narayanan Auditorium Vasanthnagar Bengaluru 6.00 pm to 8.00 pm	2 hrs
01.09.2023 Friday	Round Table – Interactive CFO’s Meet <i>Organized by :</i> Committee for Members in Industry & Business (CMI&B) <i>Hosted by :</i> Bengaluru Branch of SIRC of ICAI	<i>Details will be uploaded on the website</i>	2 hrs
02.09.2023 Saturday	One Day Seminar on ICDS & Tax Audit <i>Organized by :</i> Bengaluru Branch of SIRC of ICAI Delegate Fees : Members – Rs.850/- Plus GST <i>Details will be uploaded on the website</i>	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	2 hrs
09.09.2023 Saturday	One Day Women CA’s Conference <i>Organized by :</i> Bengaluru Branch of SIRC of ICAI Delegate Fees : Members – Rs.900/- Plus GST <i>Details will be uploaded on the website</i>	Hotel Chancery Pavilion #135, Residency Road, Bengaluru – 560 025 10.00 am to 6.00 pm	6 hrs



CALENDAR OF EVENTS CPE MEETINGS FOR THE MONTH OF SEPTEMBER 2023

DATE AND DAY	TOPIC / SPEAKER	TIME	STRUCTURED CPE CREDIT
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	2 hrs
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	2 hrs
20.09.2023 Wednesday	Study Circle Meeting 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	2 hrs
27.09.2023 Wednesday	NO Study Circle Meeting	—	—

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

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ANGEL TAX: RECENT DEVELOPMENTS

CA. Srinivasa Rao T



Angel tax is a buzzword in the start-up ecosystem, garnering importance over the years as the number of start-ups/new entities in India, increased exponentially. Angel tax is applicable on infusion of share capital in Indian companies if shares are not issued at a prescribed value. Initially, at the time of its introduction in 2012, angel tax was applicable only to resident investors in India. Also, exemption/relief was provided to certain category of investors such as venture capital company or venture capital fund etc.

Following are the recent developments elucidated in this article.

- I. Expansion in the scope of section 56(2)(viib) to cover non-resident investors vide the Finance Act, 2023;
- II. Draft notification – Rule 11UA; and
- III. Notification No. 29/2023 and 30/2023 – Exemption/relief to certain class of persons.

I. **Expanded the scope to cover non-resident investors**

The intention of introducing the provisions of section 56(2)(viib) in the Income-tax Act, 1961 ('the Act') vide the Finance Act, 2012, was to prevent generation and circulation of unaccounted money through share premium received from resident investors, in a closely held company, in excess of its fair market value.

As per provisions of section 56(2)(viib) of the Act, where a company (not in which the public are substantially interested) receives from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares, as exceeds the fair market value (FMV), shall be chargeable to income-tax under the head 'Income from other sources'.

Further, Rule 11UA has been prescribed in the Income-tax Rules, 1962 ('the Rules') for the purpose of determination of FMV of unquoted shares. As per Rule 11UA, FMV of unquoted equity share for the purpose of section 56(2)(viib) of the Act, should be determined either as per Discounted Cash Flow Method ('DCF') or Net Asset Value method ('NAV') on the valuation date. In case of DCF method, the valuation shall be certified by merchant banker.

Recently, in the Finance Act, 2023, to eliminate the possibility of tax avoidance, the scope of provisions of section 56(2)(viib) of the Act has been expanded to cover non-resident investors. Therefore, the said amendment will make the provision applicable for receipt of consideration for issue of shares

from any person irrespective of his residency status.

However, it is important to note that non-resident investors shall also adhere to the provisions of Foreign Exchange Management (Overseas Investments) Rules 2022 ('FEMA'). As per the said Rules, the value of shares issued to non-resident investors shall be subject to a price arrived on an arm's length basis and the arm's length price shall be determined as per any internationally accepted pricing methodology, duly certified by a CA / merchant banker.

In the case of non-residents, there is a dichotomy between the provisions of valuation under the Rules and FEMA. The value determined as per FEMA may not be the same as FMV under the Rules. Therefore, if value determined under FEMA is more than FMV as per the Rules, it may be subject to unnecessary litigation due to differences in valuation rules under the two statutes.

In this regard, the Central Board of Direct Taxes ('CBDT') issued a draft notification dated 26 May 2023 to address the afore-cited valuation concerns faced by genuine non-resident investors and to provide relief/exemptions to certain persons.



II. Draft notification – Rule 11UA

The CBDT vide draft notification dated 26 May 2023 has proposed the following changes:

Proposed amendment	Applicability
Price at which equity shares are issued to a venture capital fund or venture capital company or a specified fund ('specified entities'), at the option of assessee, can be considered as FMV subject to the condition that the said issue of shares to specified entities was within period of 90 days of fresh issue.	Resident and Non-resident investors
Following 5 more methods are proposed to be prescribed for valuation of shares by a merchant banker: <ul style="list-style-type: none"> • Comparable Company Multiple Method; • Probability Weighted Expected Return Method; • Option Pricing Method; • Milestone Analysis Method; and • Replacement Cost Methods 	Non-resident investors
Price at which equity shares are issued to specified non-resident investors (notification no.29/2023), at the option of assessee, can be considered as FMV subject to the condition that the said issue of shares to specified non-resident investors was within period of 90 days of fresh issue	Non-resident investors
Date of valuation report of merchant banker cannot be more than 90 days prior to the date of issue of shares	Resident and Non-resident investors
Safe harbour threshold (10%) – Where consideration received from resident and non-resident shareholders does not exceed 10% of valuation price, issue price shall be deemed to be FMV	Resident and Non-resident investors

The existing methods in Rule 11UA of the Rules, such as DCF and NAV, will remain available to resident and non-resident investors for the purpose of determination of FMV.

III. Notification No. 29/2023 and 30/2023 – Exemption/relief to certain class of persons

The CBDT, vide notification nos. 29/2023 and 30/2023, has provided exemption/relief to the following class of persons from provisions of section 56(2)(viib) of the Act:

- Government and Government related investors
- Banks or entities involved in insurance business
- Following entities which are

residents of specified country (list of 21 countries) or specified territory;

- Registered with SEBI as Category-I FPI
- Endowment funds associated with a university, hospitals or charities
- pension funds created or established under the law of the foreign country or specified territory
- Broad Based Pooled Investment Vehicle or fund
- Start-up company, as recognized by the DPIIT, files a declaration in this regard.

In summary, valuation concerns under

provisions of section 56(2)(viib) of the Act and the FEMA are addressed to some extent in the draft notification. However, the following issues are remained unaddressed from the draft notification:

- Date of applicability:** Amendment to cover non-resident investors is applicable from 01 April 2023. There is no clarity on the date of applicability in the draft notification (i.e. either from 01 April 2023 or date of notification).
- Transitional period:** Where the shares are issued to non-resident investors between the period 01 April 2023 to till date, the question of whether they can claim safe harbour threshold/relief on date of valuation for valuation differences

is not addressed in the draft notification.

iii. Section 56(2)(x) of the Act: The question of applicability of section 56(2)(x) of the Act is debatable. The draft notification provides relief of 90 days for date of valuation report. However, for the purpose of section 56(2)(x) of the Act, Rule 11UA states that value of shares shall be determined on valuation date i.e. date on which property or consideration is received. Where the valuation dates are different

and FMV on date of issue of shares is more than value as on date of receipt of consideration, provisions of section 56(2)(x) of the Act may arise. There is no clarity/guidance on this in the draft notification.

iv. Valuation date vs date of valuation report: The proposed sub-rule 3 in Rule 11UA is worded as 'date of valuation report', where the sub-rule 2 in Rule 11UA is worded as 'valuation date'. Valuation date has been defined under Rule 11U. The said word

'date of valuation report' in sub-rule 3 seems to be a typo error and may be rectified in the final notification. Otherwise, it may lead to unnecessary litigation.

The CBDT has sought suggestions/comments on the draft notification. There is a chance that the above issues may be addressed in the final notification, and if they are not, the same may lead to unintended litigation.

Disclaimer: Views expressed by the author are personal.

**Bengaluru Branch of SIRC of ICAI is seeking articles from members
to publish in it's monthly newsletter/special compendium
discussing and analysing industries such as**

**Banking, Education, Fisheries, Garments, Healthcare, Information Technology,
Iron & Steel, Mining, Machine Tools, NBFC, Pharma, Rolling Mills,
Retail, Start-ups, Trading, Travel & Tourism, etc.**

It is recommended that the article highlight the following themes:

- 1. Contemporary issues that the industry faces and suggestions to tackle the same.**
- 2. Growth Potential. 3. Government incentives launched towards said industry.**
- 4. How a Chartered Accountant can add value to the industry in the capacity of a consultant, advisor or in Various Other Capacities.**

Articles submitted must be original work of the author.

Sources if used are to be cited accordingly.

Please send your article to:

blrprogrammes@icai.org; blrchairman@icai.org; blradmin@icai.org



GST PORTAL VS GST LAW

CA. Rajesh Kumar T R and CA. Ashika Agarwal



GST was introduced not only to provide a simplified tax structure, but also a systemic reform with a focus on transparency, efficiency and administration of taxes effectively. GST is also called as Technology driven law and its completely managed by Goods and Services Tax Network (GSTN). The GST portal is an online platform that serves as the central hub for all GST-related activities and services. It is a digital interface provided by the government to taxpayers and other stakeholders to comply with GST regulations.

Key functions of the GST portal include:

- GST Registration:** Facilitate Businesses to register for GST through the portal.
- Return Filing:** Regular taxpayers need to file periodic GST returns (GSTR-1, GSTR-3B, etc.) using the portal. While many other returns prescribed at different time intervals for various purposes to various tax payers.
- Payment of Taxes:** Taxpayers to make GST payments online through the portal.
- Invoice Uploading and Matching:** GSTN enables taxpayers to upload their invoices on the portal, and it also facilitates the matching of invoices between suppliers and recipients to prevent tax evasion.
- Input Tax Credit (ITC) Reconciliation:** GSTN aids in reconciling the Input

Tax Credit claimed by taxpayers with the details uploaded by their suppliers, ensuring accurate and seamless ITC utilization.

- Refunds and Claims:** GSTN manages the processing of refund claims submitted by taxpayers, ensuring timely disbursement of eligible refunds.
- Analytics and Reporting:** The organization collects and analyzes data from various GST filings to generate reports, insights, and trends, which are valuable for tax authorities and policymakers.
- Taxpayer Support and Grievance Redressal:** GSTN offers assistance to taxpayers through its helpdesk and support services. It addresses taxpayer grievances related to the GST portal and its functionalities.

Apart from the above GSTN portal serves as a channel for communication between taxpayers and tax authorities. Above list clearly indicates that GST is a technology driven law and GST portal is the mechanism in full filling the GST Compliance. This article is an attempt to trace where GSTN portal not fulfilling the intended features of the GST Law

- Limit on Addition of number of Promoters/Partners/Directors in REG-01:** As per the Company Law, there can be maximum of 15 directors in terms of Section 149(1) (b) in the private or public limited

company. It has also been provided a company can appoint more than 15 directors after passing a special resolution. In partnership firm or LLP, there is no maximum number limit. However, GSTN has put a limit i.e a maximum of 10 Promoters / Partners / Directors can be added in the Registration Application

Solution: While making the amendment in the registration application, annex the copy of the partnership deed or List of Directors as per ROC which makes this as the intimation of Promoters / Partners / Directors to the Proper officer.

- Surrender of Registration:** Normal/ Composition taxpayer have option to surrender their GST registration. However, registration taken for depositing TDS and TCS, don't have option to surrender their GST registration on the GST Portal.

Solution: A letter to jurisdictional officer stating that they are no longer providing the activities envisaged under sec 51 of Sec 52 hence the compliance for the same would not be done month over month, to address likely of a notice on a future date.

- Rectification ONLY Once:** Section 37(3) of the Act states that "Any registered person, who has furnished the details under

sub-section (1) for any tax period, shall, upon discovery of any error or omission therein, **rectify such error or omission in such manner as may be prescribed**, and shall pay the tax and interest, if any, in case there is a short payment of tax on account of such error or omission, in the return to be furnished for such tax period”

Provided that no rectification of error or omission in respect of the details furnished under sub-section (1) shall be allowed after the thirtieth day of November following the end of the financial year to which such details pertain, or furnishing of the relevant annual return, whichever is earlier.

Any error or omission in GSTR-1 can be rectified. Rectification to be done on or before 30th November of the following end of the financial year. No restriction is provided in the law as to the number of rectifications that can be made. Restriction ONLY relates to time limit for rectification.

However, on the GST Portal amendment can be done only ONCE. So even after amendment is made, if still the error or omission not fully corrected there, is no facility on GST Portal.

Solution: Intimate the officer about the discrepancies and proper care to be taken while filing GSTR-9/9C.

4. **Payment of tax is not prerequisite to file GSTR-3B:** Section 39(1) allows to file the return even without the payment of tax whilst the GST Common Portal does not allow to file the return without payment of tax.

Section 39(1) of the CGST Act, 2017 - Section dealing with filing of RETURN

“Every registered person, other than an Input Service Distributor or a non-resident taxable person or a person paying tax under the provisions of section 10 or section 51 or section 52 shall, for every calendar month or part thereof, furnish, in such form and manner as may be prescribed, a **return**, electronically, of inward and outward supplies of goods or services or both, input tax credit availed, **tax payable**, tax paid and such other particulars as may be prescribed, **on or before the twentieth day of the month succeeding such calendar month or part thereof.**”

Section 39(7) of the CGST Act, 2017 - Section dealing with filing of PAYMENT

“Every registered person, who is required to furnish a return under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (5), **shall pay to the Government the tax due as per such return not later than the last date on which he is required to furnish such return:**»

Section 75(12) of CGST Act, 2017

“(12) Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 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 section 79.**”

As per GST Law, the due date for return and payment of tax are prescribed independently. Further, also self-assessment is in terms of Section 39 by filing returns. Hence by virtue of provisions of Section 75(12) it is clear that there is a possibility of filing the returns even without payment of tax. Hence, payment of tax is not a pre-condition for filing of return. However, the payment of tax, as per GST portal working is in conjunction with filing of returns on the GST Portal. Thus, debit entry in electronic credit or cash ledger for return period is made when a registered person opts for setting off balance against tax liability at the time of filing of the return.

In view of the peculiar design and working of return filing functionality on GST portal, its affect the assessee in two ways:

- the fact of crediting tax amount in electronic cash ledger, by depositing the amount for the purpose of making the tax payments, even if deposited before the due date, cannot be said to have complied with the deadline of completion of payment unless the said amount is debited from the said electronic ledger (either cash or credit) The procedure of making debit entry is complete only when the return is filed. Resulting in demand of interest even on cash deposit lying in Electronic Cash Ledger before the due date. The demand of interest on the cash deposit available at the disposal of the Government seems patently unfair to the assessee
- the availment of ITC is also linked with GSTR-3B (not



going into dispute of availment of ITC is not linked to GSTR-3B), where returns have been filed belatedly after the time limit prescribed for availment of ITC, ITC is proposed to be disallowed by the department.

5. **Debit Notes/ Credit Notes:**

Section 34(1) and 34(3) of the GST Act provides for the circumstances when the Credit Note and Debit Note can be issued. One of circumstance is where the value of tax charged is found to exceed/less the tax payable in respect of such supply. Though, the Act provides for value of tax charged to raised Credit Note/ Debit Note, however, the while furnishing the detail in GSTR-1, furnishing of the taxable value is must in order to furnished the details of Credit Note/ Debit Note relating only to value of tax charged. Though for practical purpose, Rupee 1 is stated for the purpose the taxable value.

6. **Re-Credit of Electronic Credit Ledger**

a) **Excess Payment of Tax:**

Where taxpayer has made excess payment of tax against the tax required to be paid, they can file for refund. Problem arises where excess payment of tax is through Electronic Credit Ledger.

Rule 86(4A) provides that *"Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit*

*ledger by the proper officer by an order made in **FORM GST PMT-03**".*

As per serial no. 7 of the PMT-03, Officer is required to mentioned the debit entry number and date. As this detail is not auto-populating in their login, the Officer are unable to sanction the refund. Further, though it is stated that Form GST PMT-03 is *"Order for re-credit of the amount to cash or credit ledger on rejection of refund claim"* to be issued by the Proper Officer. But in GST Portal same is appearing at the taxpayer login for submission as *"Undertaking for Inadmissible Amount"*.

b) **Erroneous Refund Sanctioned:**

Rule 89(4B) of the CSGT Rules states that *"Where a registered person deposits the amount of erroneous refund sanctioned to him, -*

(a) *under sub-section (3) of section 54 of the Act, or*

(b) *under sub-rule (3) of rule 96, in contravention of sub-rule (10) of rule 96, along with interest and penalty, wherever applicable, through **FORM GST DRC-03**, by debiting the electronic cash ledger, on his own or on being pointed out, an amount equivalent to the amount of erroneous refund deposited by the registered person shall be re-credited to the electronic credit ledger by the proper*

*officer by an order made in **FORM GST PMT-03A**".*

Rule 89(4B) provides for re-credit in case where any excess or erroneous refund sanctioned to them in the specified cases had been paid back by them through DRC-03 either on their own or on being pointed by the tax officer. The Circular No. 174/06/2022-GST dated 6th July, 2022, prescribing manner of re-credit in electronic credit ledger using FORM GST PMT-03A.

Again, for this also, the department officer is not sanctioning as PMT-03A is not enable at their login.

7. **Refund arising pursuant to Order which is not uploaded on Portal:**

Where Order is not uploaded, Officer are not able to sanction the refund as while sanctioning the refund they need reference number which should auto-populate in their Login.

Thus, while the GST law itself makes no such stipulation, the GST Portal has snatched away the assessee's right to pay tax independently of filing of the monthly return, amendments and refund. Hence, these aspects require attention of the Government and the officials at GSTN to resolve these issues avoid unnecessary burden and litigation on the tax payers.

The authors can be reached at rajesh@vnnv.ca and ashika@vnnv.ca

Views expressed herein are purely of the authors and not ICAI. Article is based on the position of the GST Law and portal as on July 2023. ■

FLA RETURN – GUIDE TO ANNUAL COMPLIANCE UNDER FEMA



CA. Santhosha Kumar

The Foreign Exchange Management Act (FEMA) is a crucial legislation in India that governs the foreign exchange transactions and regulates cross-border investments. As part of FEMA compliance, Indian entities that have received foreign direct investment (FDI) or made overseas investments are required to file an annual return known as the FLA (Foreign Liabilities and Assets) return. In this article, we will provide a comprehensive guide on the filing of FLA returns under FEMA.

While the due date for filing the FLA return has already passed, it is crucial for late filers to understand the importance of compliance and transparency in reporting foreign liabilities and assets. By submitting a FLA return with accurate information and explanations for the delay, entities can demonstrate their commitment to fulfilling their regulatory responsibilities. Seeking professional guidance in this process can further ensure that the return meets the RBI's reporting guidelines effectively. The FLA return plays a vital role in maintaining a transparent financial ecosystem in India and contributing to the country's economic policies and decisions.

What is the FLA Return?

The FLA return is a mandatory annual filing requirement for Indian entities, including companies, limited liability partnerships (LLPs), and others, who have received FDI or made overseas

investments. It is filed with the Reserve Bank of India (RBI), the country's central banking institution responsible for regulating foreign exchange transactions.

Purpose of FLA Return

The FLA return aims to capture comprehensive data on the foreign assets and liabilities of Indian entities. It helps the RBI monitor and analyze the trends and patterns of cross-border investments in the country. The information collected through the FLA return assists policymakers in formulating appropriate strategies and policies to facilitate a conducive environment for foreign investments.

Who Needs to File FLA Return?

The following entities are required to file the FLA return:

Companies: All Indian companies that have received FDI or made overseas investments, irrespective of the percentage of foreign equity participation, must file the FLA return. This includes both listed and unlisted companies.

Limited Liability Partnerships (LLPs): LLPs that have received FDI or made overseas investments need to file the FLA return.

Others: Other entities such as partnership firms, trusts, societies, and proprietary concerns that have received FDI or made overseas investments are also required to file the FLA return.

Filing of FLA Return:

The FLA return is filed on a consolidated basis, i.e., it includes the financials of all subsidiaries, joint ventures, and associates of the Indian entity located outside India. **The reporting period for the FLA return is from April to March.** The return must be submitted by July 15th of each year, covering the previous financial year. If the entity's closing period is different from financial year, Information should be reported for the reference period only, i.e., April to March, based on the entity's internal assessment.

Filing Procedure for FLA Return:

Entities can submit the FLA return through the online web-based portal Foreign Liabilities and Assets Information Reporting (FLAIR) system, having address <https://flair.rbi.org.in/fla/faces/pages/login.xhtml>.

- To access the URL <https://flair.rbi.org.in/fla/faces/pages/login.xhtml>, any of the browsers viz, Internet Explorer, Google chrome, Firefox etc. can be used, as all of these would support this application.
- The entity has to register on the portal by clicking **Registration for New Entity Users**.
- The entity has to fill the details in the FLA user registration form, upload the documents mentioned (Verification Letter and Authority



Letter) and click submit to complete the registration.

- After successful registration, user id and default password will be sent to the authorized person's mail id. Using this user id and password, entities can login to the FLAIR portal and file the FLA Return.
- Once the data is prepared, the entity needs to log in to the FLAIR portal and fill in the FLA form online. The form consists of various sections and sub-sections that need to be filled accurately with the relevant financial data.
- After filling the form, the entity should validate the data to ensure accuracy and correctness. Once validated, the form can be submitted on the FLAIR portal.
- Upon successful submission, the entity receives an acknowledgment receipt with a unique identification number (UIN). The UIN serves as proof of filing the FLA return.
- **Please note:** The excel-based format and email-based reporting system has been replaced by the web-based format for submission of annual FLA return from **June 2019**.
- The entity must collect and consolidate the necessary financial data of its foreign assets and liabilities. This includes information on equity capital, loans, trade credits, guarantees, and other forms of external borrowings and investments.

Other Important points

When filing an FLA (Foreign Liabilities and Assets) return, in addition to the

basic information and documentation required, there are several other important points to consider. These points can vary based on the specific regulations and guidelines issued by the Reserve Bank of India (RBI) and the prevailing policies at the time of filing. However, here are some general aspects to keep in mind:

- **Foreign Assets and Liabilities:** Report all foreign assets and liabilities held by the reporting entity as per the prescribed format. This includes financial assets such as direct investments, portfolio investments, loans, and trade credits, as well as liabilities such as borrowings and trade payables.
- **Consolidation:** If you are a company that is required to prepare consolidated financial statements, ensure that the FLA return reflects the consolidated figures of all the group companies, including their foreign assets and liabilities.
- **Currency Conversion:** Convert all foreign currency amounts to Indian Rupees as per the prevailing exchange rates provided by authorized dealers. Use the appropriate rates for different categories of assets and liabilities.
- **Reconciliation:** Reconcile the FLA return figures with the audited financial statements of the reporting entity. Any significant discrepancies should be explained appropriately.
- **Supporting Documentation:** Maintain supporting documentation and records to substantiate the information reported in the FLA return. This may include bank statements, loan agreements,

investment certificates, etc. These documents should be readily available for reference and potential verification by the authorities, if required.

- **Authorized Signatory:** Ensure that the FLA return is signed by an authorized signatory of the reporting entity. The signatory should be duly authorized by the board of directors or other relevant governing bodies.
- **Use Unaudited Figures:** If audited figures are not available for filing the FLA (Foreign Liabilities and Assets) return in India, you can use unaudited financial statements or provisional figures to prepare and file the FLA return. Ensure that the unaudited figures are based on reliable and reasonable estimates and are prepared in accordance with applicable accounting standards.
- **Disclose the Nature of Figures:** When filing the FLA return, clearly indicate that the figures provided are unaudited or provisional. Include a note or explanation stating the nature of the figures and the reason why audited figures are not available.
- **Update the Return with Audited Figures:** Once the audited figures become available, you should revise the FLA return to reflect the actual audited figures. Follow the process for filing a revised FLA return, as mentioned earlier, when you have access to audited financial statements.
- **FLA return and Annual Performance Report (APR) for ODI** are two different returns

and monitored by two different departments of RBI. So, you are required to submit both the returns if these are applicable for your entity. For more information on APR, please refer to the Master Direction – Reporting under Foreign Exchange Management Act, 1999 on RBI's website.

- **Seek Professional Advice:** If you encounter difficulties in preparing the FLA return without audited figures or have specific concerns about the reporting requirements, it is advisable to consult with a qualified accounting professional or seek guidance from experts familiar with FLA compliance.

Alternative Investment Funds


AIF needs to register on the FLAIR portal like other entities as list above. Currently, there is no format for online filing of FLA return for AIF and hence, they need to send a mail requesting for the latest format after completing registration. FLA Team may send the excel based format for filling FLA return by AIF via mail to them. They need to fill the excel format and send through email. Email based acknowledgement form will be sent to them by FLA Team on receiving the filled-in FLA form.

Revised FLA returns

FLA returns cannot be revised unless an approval is received from Reserve

Bank of India for filing revised returns. Online request must be sent to RBI through FLA portal. Approvals are generally received after one working day. Entities can check the status of their request in "Multiple Year Enable Screen" under menu on the left corner. Once approved by DSIM, RBI, the entity can revise FLA return for selected year.

Online request for approval may be made by following below steps:

Visit <https://flair.rbi.org.in/fla/faces/pages/login.xhtml> → Login to FLAIR → Click on MENU tab on the left-hand side of the homepage → ONLINE FLA FORM → FLA ONLINE FORM → "Please click here to get the approval to fill revised FLA form for current year after due date /previous year" → select "Year" and click on  → Click "Request".

Your request status will be visible in the table below available on the screen.

Penalties for Non-Compliance:

Non-compliance with the FLA return filing requirements can attract penalties. The RBI has the authority to impose fines and take necessary enforcement actions against entities that fail to file the FLA return or provide false or misleading information. Non-filing of the return on or before due date (July 15 of every year) will be treated as a violation of FEMA and penalty clause may be invoked for violation of

FEMA as per Notification No. FEMA. 395/2019-RB dated October 17, 2019 and A.P. (DIR Series) Circular No.16 dated September 30, 2022.

Late Submission Fees

If FLA (Foreign Liabilities and Assets) return is delayed, the Reserve Bank of India (RBI) imposes a late submission fee for delays in filing the FLA return beyond the prescribed date of July 15 and may levy the LSF as a penalty for non-compliance.

The specific amount of the late submission fee and the period of delay after which the fee is imposed can be subject to changes based on the RBI's notifications and guidelines at the time of filing. Therefore, it's crucial to check the latest RBI circulars or notifications to know the exact amount and conditions for the LSF.

Conclusion:

Filing the FLA return is a crucial compliance requirement for Indian entities involved in foreign investments. By providing comprehensive data on foreign assets and liabilities, the FLA return helps in assessing the impact of foreign investments on the Indian economy. It is essential for entities to understand the filing obligations and adhere to the deadlines to ensure compliance with FEMA regulations and avoid penalties.

**BENGALURU BRANCH
OF SIRC OF
THE INSTITUTE OF CHARTERED
ACCOUNTANTS OF INDIA**
(Set up by an Act of Parliament)



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STUDENTS**

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CA Intermediate	Rs. 20,000/- for Both Groups Rs. 12,000/- for Single Group Rs. 5,000/- for Single Subject	Starting from 07 th Sep. 2023 for May 2024 Exams. (Morning Batch)	06.30 am to 09.30am (Morning) (Monday to Saturday) 07.00am to 01.30pm (Sunday)

Schedule for all the subjects will be announced in due course.

Registration Fees - Mode of payment: Cash / Online www.bangaloreicai.org

Email: blrstudentevents@icai.org | Website: www.bangaloreicai.org

Venue: ICAI Bhawan, 16/O, Miller's Tank, Bed Area, Vasanthanagar, Bengaluru -52

Note: Fees once paid will not be refunded.

**For further details /Queries
Pls call 080 - 4394 4868 /4876
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**CA. Divya S
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**CA. Manjunath M. Hallur
Secretary**

**Bengaluru Branch of SIRC of ICAI
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Tentative scheduled faculty may change due to non availability at that point of time
Timings 04.30pm to 07.30pm (Monday to Saturday) 07.00am to 1.30pm (Sunday)



REGISTRATION OPEN FOR FOUNDATION COACHING CLASSES FOR DEC. 2023 EXAMS - PHYSICALLY

Online
Registration
Now open!

Subject and dates	Faculty name	
BUSINESS CORRESPONDENCE AND REPORTING Date: 06.07.2023 to 14.07.2023	CA. MRIDUL AGARWAL	
PRINCIPLES AND PRACTICE OF ACCOUNTING Date: 15.07.2023 to 18.08.2023	CA. BALAJI NATARAJAN	
BUSINESS LAWS Date: 19.08.2023 to 29.08.2023	CA. PRASHANTH BHARADWAJ	
BUSINESS MATHEMATICS Date: 30.08.2023 to 14.09.2023	Mr. G. T. RAJASEKHARIAH	
BUSINESS ECONOMICS & BUSINESS AND COMMERCIAL KNOWLEDGE Date: 15.09.2023 to 10.10.2023	Mr. SHASHI KIRAN M.	
LOGICAL REASONING & STATISTICS Date: 11.10.2023 to 04.11.2023	CA. PUNITH KUMAR N.	

Fee Rs. 12,500/- for all Subjects	Registration Fees - Mode of payment: Cash / Online www.bangaloreicai.org
	Email: blrstudentevents@icai.org
	Note: Fees once paid will not be refunded. For further details /Queries Pls call 080 - 4394 4868 /4876 Mob: 9880007904

Venue: Bengaluru Branch of SIRC of ICAI

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**Bengaluru Branch of SIRC of
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Accountants of India**
(Set up by an Act of Parliament)



PRAGJNANA PRAYATHNA

Conscious Attempts



C P E :
12 hrs

TWO DAY CHARTERED ACCOUNTANT'S CONFERENCE

ON 11TH & 12TH
AUGUST 2023



Princess Shrine

Gate No. 9, Princess Academy, Palace Ground,
Jayamaharaj, Bengaluru

Day -1 Friday, 11th August 2023



PROGRAMME
SCHEDULE

9.00am to 10.00am	Registration
10.00am to 11.00am	Inauguration by the Chief Guest: Mr. M. Murali Chairman & Managing Director Shriram Properties Guest of Honour: CA. Pannaraj S Chairman - SIRC of ICAI Special Invitees: CA. B.P. Rao Past President, ICAI & CA. K. Raghu Past President, ICAI
11.00am to 11.30am	TEA BREAK
11.30am to 1.00pm	I Technical Session Global Opportunities & Future of CA Profession CA. K. Raghu Past President - ICAI
1.00pm to 1.30pm	Special Session
1.30pm to 2.30pm	LUNCH BREAK
2.30pm to 4.00pm	II Technical Session Handling of Show Cause Notices & Departmental Audits in GST CA. S. Venkataramani
4.00pm to 4.30pm	TEA BREAK
4.30pm to 6.00pm	III Technical Session - Panel Discussion Issues in real estate and search (23(5), 40A(3), 45(5A), 50C, 43CA, 54, 54F, 132, 132A, 132B, 147, 148, 148A, 149, 151, 269SS, 269T etc) Moderator : CA. Naveen Khariwal G Panelists : 1. CA. A Shankar, Senior Advocate 2. Shri. T. Suryanarayana, Senior Advocate 3. CA. Ashok Raghavan

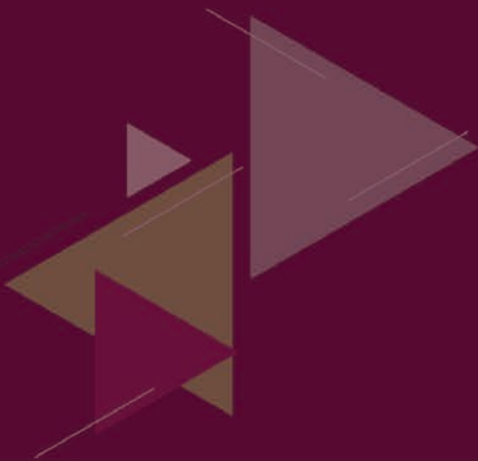


Day -2 Saturday, 12th August 2023



PROGRAMME
SCHEDULE

8.30am to 9.15am	BREAK FAST
9.15am to 10.00am	Spiritual Session / Motivational Session Shri. Vidya Vajaspathi Sathya Darshanacharya Dr. Pavagada Prakash Rao
10.00am to 10.30am	Key Note Address by Hon'ble Justice B.V. Nagrathna Judge of Supreme Court of India
10.30am to 11.30am	IV Technical Session Gadag to Bengaluru - Every CA needs Ring fencing CA. Guruprasad M
11.30am to 12.00noon	TEA BREAK
12.00noon to 1.30pm	V Technical Session Audit Quality Maturity Model CA. M.P. Vijay Kumar Past Central Council Member - ICAI Executive Director & Group CFO, Sify Technologies Ltd Member of International Accounting Standards Board's IFRIC
1.30pm to 2.30pm	LUNCH BREAK
2.30pm to 4.00pm	VI Technical Session Group Insolvency & Balancing interest of stake holders under the process of IBC Mr. Arjun K Perikal Advocate
4.00pm to 4.30pm	TEA BREAK
4.30pm to 6.15pm	VII Technical Session - Panel Discussion Issues in Income Tax Act, 1961 (Salary, House Property, Business, Capital Gains, Other Sources, Set off and carried forward of loss, clubbing provisions, deduction under Chapter VIA, assessment procedures, appeals and revisions, penalties etc) Moderator : CA. Naveen Khariwal G Panelists : 1. Hon'ble Dr. Justice Vineet Kothari Arbitrator & Senior Advocate, Supreme Court of India 2. CA. K.K. Chythanya, Senior Advocate 3. CA. H. Padamchand Khincha 4. CA. K.R. Pradeep



Day -2 Saturday, 12th August 2023



6.15 pm to 6.45 pm

Valedictory Session

Felicitation:

Past Chairmen, Bengaluru Branch
of SIRC of ICAI

Past Chairmen, SIRC of ICAI from Bengaluru

6.45 pm Onwards

Entertainment & Cultural Program

Chief Guest:

Mr. Shreyas, Film Actor

1. Light Music - Mr. Karthik & Team

2. Yakshagana

by Kalakadamba Art Centre, Bengaluru

Dr. RadhaKrishna Urala & Team

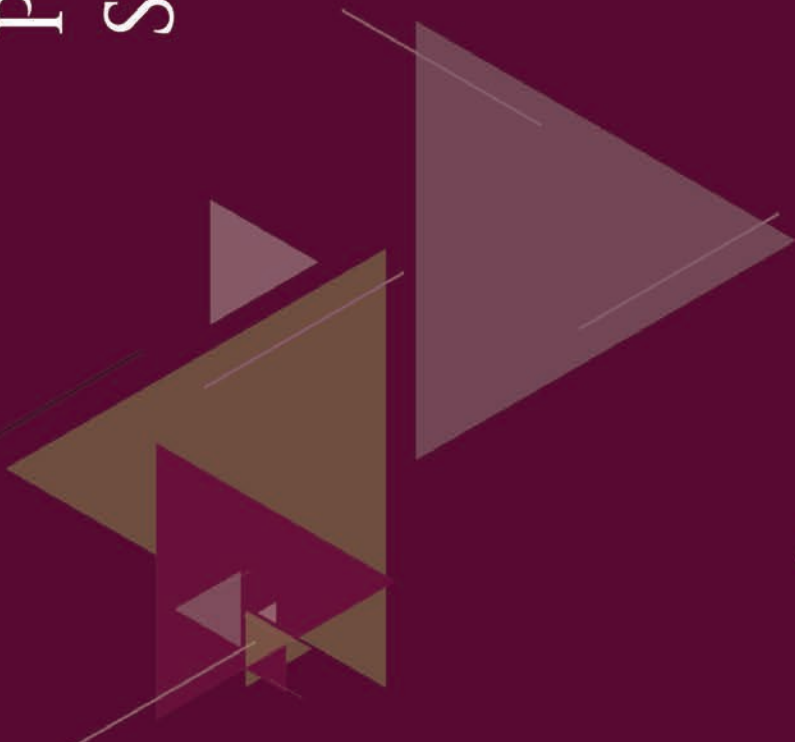
3. Ms. Aishwarya Rangarajan, Singer

4. Dance Group - 5678

Followed by Dinner

PROGRAMME
SCHEDULE

**TWO DAY
CHARTERED
ACCOUNTANT'S
CONFERENCE**





TWO DAY CHARTERED ACCOUNTANT'S CONFERENCE

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CA. Madiwalappa S. Tigadi	Belagavi	98443 04375
CA. Mallikarjun S Pise	Hubballi	89042 52421
CA. Mallikarjun Veeranna Mahantgol	Kalaburgi	90604 04444
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CA Raghunandan V	Mysuru	91489 67330
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Central Council Member
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CA. Geetha A. B.
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SIRC of ICAI

Ex-Officio Council Members 2022 - 2025

One Day Workshop on FEMA



Inauguration of the Workshop by lighting the lamp



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



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



CA. Himanshu Aggarwal



CA. Vivek Mallya



CA. Adv. B G Chidananda Urs



CA. Ravi Jain

Out Reach on New Syllabus



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CA. Dayaniwas Sharma
Central Council Member
ICAI



CA. Prasanna Kumar D.
Central Council Member
ICAI



CA. Vikas Oswal



Past Chairmen Birthday Celebrations



CA. B. Shivamohan



CA. Raveendra S Kore



CA. Ravindra Raj Bhandari



CA. T. R. Venkatesh Babu

Shuttle Badminton Tournament for CA's



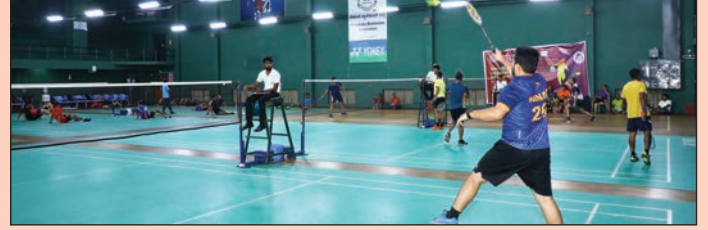
CA. Divya S, Chairperson
Bengaluru Branch of
SIRC of ICAI



Chief Guest
Mr. Abhishek Yeligar



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



61st Annual General Meeting



Breakfast Meeting



CA. Venkatesh Bhat

Study Circle Meetings



CA. K. Kaushik Raj



CS. Thirupal Gorige

Half Day Seminar on Key considerations in Income Tax Return at Tumkur



CA. K. Kaushik Raj