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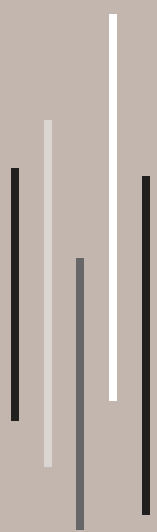
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# From the President

*Dear Members,*

As we welcome the New Year, I extend my warmest wishes for your continued professional success and well-being in 2026. This New Year is befittingly marked by a Centenary Special issue on "**Evolution of Accounting and Auditing**". It aptly reflects the evolution of CTC from being a body focused on taxation to one that now covers the multifarious areas that our professional members deal with. In today's dynamic Indian economy, the rapid expansion of the corporate sector has elevated the importance of accounting, auditing, and governance. Along with these growing areas of professional practice, regulatory oversight from SEBI & NFRA on corporates and members has also intensified. This issue appropriately addresses these issues as well as the "expectation gap" between practitioners and regulators. At times, the practitioners' and regulators' perceptions of ground realities are not entirely in harmony with each other. This is where I believe that CTC will play a pivotal role. As a body of enlightened and committed professionals, CTC is only interested in ensuring that a balanced 360° perspective of regulation and governance is arrived at. Over the years, CTC has earned respect for making practical and knowledgeable suggestions to the direct and indirect tax authorities and the Finance Ministry. I am confident that representations from CTC shall carry similar weight with regulators such as RBI, SEBI, NFRA, and IRDAI. I invite our members to share with the CTC team any such issues, operational difficulties faced, and other suggestions that deserve the attention of the authorities. CTC is committed to taking up all such matters in a balanced and informed manner.

**Upcoming Programs**

January promises to be an exciting month with three major events, viz:

- Indirect Tax RRC at Agra,
- FEMA RRC at Nashik and
- The Shatabdi Summit in Mumbai.

The Shatabdi Summit scheduled for the end of the month will deal with an array of contemporary subjects. Each of these events is uniquely structured, covering different areas of law and practice, and will hugely enrich the participants. Apart from the learnings that such programs provide, each of these conferences serves as an excellent platform to interact with our fellow members, whereby every participant gains. This networking facilitates experience sharing (in an open and informal manner), guidance from seniors, and practical solutions that are difficult to put down on paper. It is this bonding amongst members that has made us a part of the close-knit CTC family. I look forward to interacting with many of you at these events, as the respective committee members and office bearers will be personally present.

**Centenary Initiatives**

Last month, in keeping with my agenda announced at the inauguration of the centenary year, the Council approved detailed rules for setting up branches of CTC. Groundwork in this regard is already done, and I am hopeful that we will have 4 to 5 branches of CTC established within this financial year. I am happy to report that other initiatives chalked out for the Centenary year are also progressing well. As reported earlier, our Learning Center is functioning effectively, and some members have already taken advantage of using this infrastructure by hiring it for their internal

training and workshops. Other members are welcome to use this infrastructure at very nominal charges, as our Study Meetings/Committee Meetings leave us ample unutilised time.

**Fundraising – Appeal for Donations**

Since we invested a fair amount in equipping this state-of-the-art Learning Center and also spent towards our ambitious Centenary programs, we have also embarked on an effort to replenish our corpus by seeking donations. I am delighted to report that less than 1% of our membership has, to date, voluntarily contributed more than Rs. 30 Lakhs as donations. This is indeed heartening, but **we need broader participation.** I therefore renew my appeal to members to **contribute as *'Gurudakshina'* to CTC**, such a sum as you feel fit. You will appreciate that sustaining and running a truly knowledge-oriented body for over a century takes more than good intentions. CTC needs to be backed by a solid financial foundation. Some of you may have missed my earlier request, or due to the pressure of work, despite best intentions, this may have remained pending. I urge you to act NOW so we may strengthen the Chamber for tomorrow.

**Mid-Year Review**

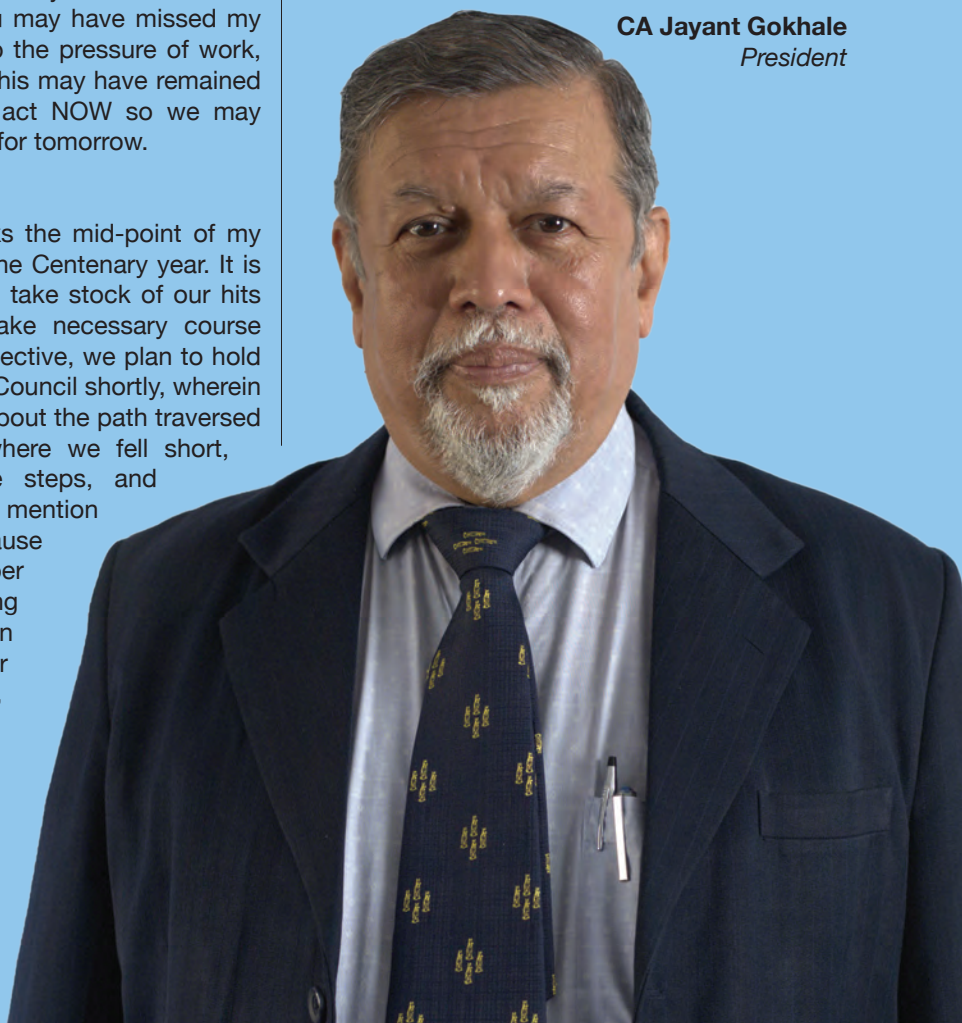
The new year also marks the mid-point of my innings as President of the Centenary year. It is therefore a good time to take stock of our hits and misses, and to make necessary course corrections. With this objective, we plan to hold a special meeting of the Council shortly, wherein we shall take feedback about the path traversed so far, identify areas where we fell short, decide upon corrective steps, and recalibrate our targets. I mention this specifically because eventually, every member of the Council is working towards the common purpose of each of our members. Therefore, the feedback from you needs to be honest, and where warranted, critical. Where any deficiency has come to your notice, we would greatly appreciate your constructive criticism and suggestions for action to remedy the situation. The feedback that we receive from you is critical to our success. In fact, it is only when we receive some response that we are reassured that our efforts are taken note of, whether positively or otherwise.

**Closing Thoughts**

I therefore sign off with optimism for what lies ahead. With your active participation, thoughtful feedback, and generous support, CTC will continue to uphold its legacy as an organisation fostering knowledge, integrity, and professional excellence. I wish you a fantastic year ahead and seek your comments, suggestions, donations, and enrolment for the Shatabdi Summit. Together, let us continue to make this Centenary year truly memorable.

Regards,

**CA Jayant Gokhale**
*President*



# From the Editor's Desk

*My Brothers and Sisters,*

"Accounting is not just about counting beans; it's about making every bean count."

***- William Reed***

*Wish you all a Happy and Successful 2026!*

As we step into a new calendar year of professional dialogue and reflection, the accounting and auditing professions stand at a crossroads—one shaped by centuries of tradition and the relentless momentum of innovation. In this month's issue, we bring to you reflections on the evolution of accounting and auditing, seeking to understand not only how these disciplines have changed, but also what these changes mean for practitioners. The journey is not merely one of technical advancement, but of deepening professional values, expanding responsibilities, and the enduring quest for public trust.

The roots of accounting trace back to ancient civilisations, where rudimentary record-keeping underpinned commerce and governance. From the clay tablets of Mesopotamia to the double-entry systems of Renaissance-period Italy, accounting has always been more than numbers—it is the language of business, a means of communicating value, stewardship, and accountability. Auditing, meanwhile, emerged as a natural counterpart, an independent assessment to assure the reliability of those records. Together, these disciplines have long served as pillars of trust in economic activity.

Yet, as societies have grown more complex, so too have the demands placed upon accounting and auditing professionals. The industrial revolution brought about new forms of enterprise, necessitating more sophisticated financial reporting and controls. The twentieth century saw the rise of regulatory frameworks, standard-setting bodies, and the globalisation of capital markets. These developments transformed the accountant from bookkeeper to strategic advisor, and the auditor from checker to guardian of integrity.

Today, the pace of change is unprecedented. Digital technologies (if such a word exists)—from cloud computing to artificial intelligence—are reshaping every aspect of our work. Automation has streamlined routine processes, freeing professionals to focus harder on analysis, interpretation, and judgment. Data analytics enable us to uncover patterns and risks that were previously hidden, enhancing the value of both financial and non-financial reporting. Meanwhile, the rise of integrated reporting and sustainability accounting reflects a broader understanding of value—one that encompasses not just financial performance, but social and environmental impact.

For auditors, technology offers both promise and challenge. Automated testing and continuous monitoring increase efficiency and coverage, but they also require new skills and a rethinking of traditional audit methodologies. Cybersecurity, data privacy, and resilience have become critical areas of concern. Auditors must now balance their roles as independent examiners with a collaborative approach to risk management, working alongside information technology experts, compliance officers, and business leaders.

The evolution of the accounting (and that includes auditing) profession is, therefore, not just technical; it is ethical. The public's expectations have grown in step with our capabilities. Scandals and crises, whether corporate or governmental, have underscored the importance of transparency, accountability, and professional scepticism. Regulators have responded with more stringent standards and oversight, but the ultimate responsibility lies with each one of our (chartered) accountant brethren, who are the profession's core and also, torch bearers. It is our duty to uphold the principles of integrity, objectivity, and competence, regardless of the tools at our disposal. Needless to add, the call of duty is equally applicable to all professionals who are the Chamber's members.

Interprofessional collaboration is more vital than ever. Accountants and auditors do not operate in isolation; our work intersects with law, finance, information technology, and management. As business models evolve and regulatory environments shift, we must cultivate partnerships that transcend traditional boundaries. Only through dialogue and shared learning can we address the complex challenges of today's global economy, from climate risk to digital disruption, from ethical dilemmas to stakeholder engagement.

The future of accounting and auditing will be defined by our ability to adapt, to innovate, and to lead with purpose. Professional development must keep pace with change, embracing lifelong learning and interdisciplinary approaches. The next generation of professionals will require not only technical proficiency but also critical thinking, communication skills, and a strong ethical compass. Our professional bodies, including our Chamber, have a key role to play in guiding this transition, setting standards (obviously not formal, as that is the role of the ICAI, but moral and ethical) that reflect both the realities of modern practice and the enduring values of the accounting profession.

This month's issue, another Centenary Year Special Issue, deals with 'Evolution of Accounting and Auditing'. This has well-written articles from a galaxy of esteemed accounting professionals. My sincere gratitude to CA Sanjiv Chaudhary, my very respected senior and former Central Council Member, ICAI, for taking this issue from thought to finish. My thanks to CA Ameya Kunte, Chairman, Journal Committee, and the Journal Committee members for coming out with this issue. I am sure this issue will delight all of you as you traverse memory lane and, at the same time, give you enough thoughts for serious introspection.

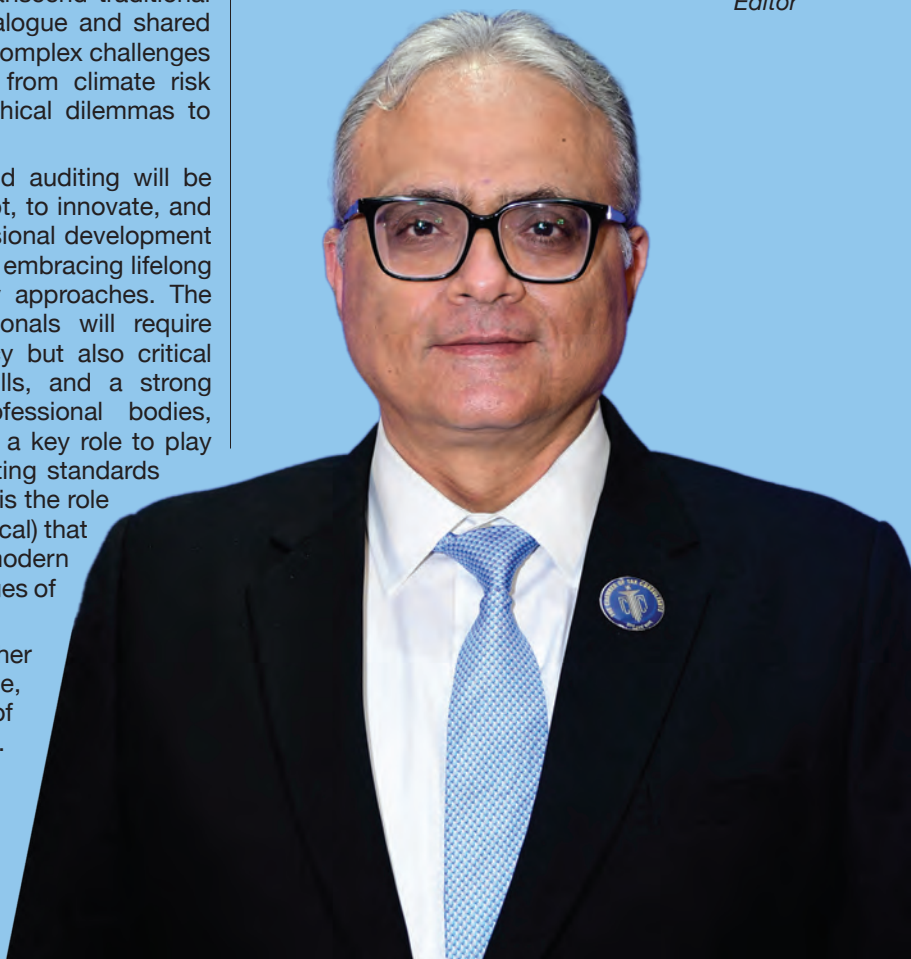
The New Year brings hope, excitement, and a renewed sense of purpose. Let us all delve into our work this year with responsibility, industry, and determination.

This quote from Abraham Lincoln sums up my resolution for the year 2026, and I thought I would share this with you also.

***"I do the very best I know how – the very best I can; and I mean to keep on doing so until the end."***

Jai Hind!

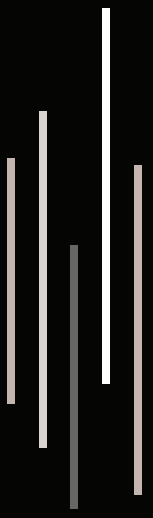
**Anish M Thacker**
*Editor*



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# Standard Setting & Regulation in Accounting and Auditing: Institutional Design, Governance Considerations and the Way Forward - A Discussion Paper

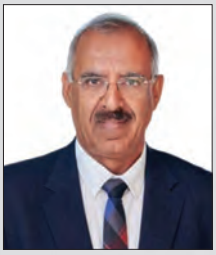
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**Amarjit Chopra**



**Sanjiv Chaudhary**

## Overview

*India's accounting and auditing regulatory framework has evolved substantially since the enactment of the Chartered Accountants Act, 1949. From a unified model of professional self-regulation under the Institute of Chartered Accountants of India (ICAI), the system has progressively incorporated statutory oversight mechanisms, culminating in the establishment of the National Financial Reporting Authority (NFRA) under the Companies Act, 2013.*

*This article examines a fundamental institutional design question arising from this evolution: whether the functions of standard setting and enforcement should be vested in the same body or undertaken by separate institutions? Tracing the Indian regulatory journey and drawing on broad international practice, the article highlights the conceptual distinction between principle-based standard formulation and certainty-driven enforcement.*

*While functional separation may enhance objectivity, independence, and public confidence, it also presents challenges relating to expertise, cost, coordination, and the risk of over-regulation. In India's diverse and complex professional ecosystem, these considerations require careful calibration.*

*Rather than advocating a specific model, the article calls for informed public debate and periodic reassessment of the regulatory architecture, emphasising role clarity, institutional coordination, proportional regulation, and coherent appellate mechanisms. Such reflection is essential to sustaining trust in financial reporting and audit quality as India's economy and capital markets continue to grow.*

## Introduction

A robust accounting and auditing framework is fundamental to sound economic governance. It underpins the credibility of financial reporting,

strengthens investor confidence, and supports efficient capital allocation. As economies grow in scale and complexity, the expectations from such frameworks also evolve, with greater emphasis on independence, transparency, consistency, and protection of public interest.

ICAI has been the principal institution responsible for regulating the accounting and auditing profession in the country.

One of the enduring questions in this context, both globally and in India, relates to institutional design: Should the functions of standard setting and enforcement be vested in the same statutory body, or should they be undertaken by separate and independent institutions?

This is not a new question, nor does it admit a simple or universal answer. Different jurisdictions have adopted different models, shaped by historical evolution, legal traditions, market maturity, and institutional capacity. Each model reflects trade-offs between professional expertise, regulatory independence, efficiency, and accountability.

This article seeks to examine this issue in the Indian context. It briefly traces the evolution of India's accounting and auditing regulatory framework, identifies areas where structural overlaps exist, and highlights key considerations relevant to the debate on the separation of roles. The article does not seek to advocate any specific institutional model or to assess the performance of any regulator. Its objective is to encourage informed reflection and constructive dialogue on how India's regulatory architecture can continue to evolve, keep pace with the changes, and in a manner that best serves the public interest.

## Evolution of Accounting and Auditing Regulation in India

### ICAI's Foundational Role

Since the enactment of the Chartered Accountants Act, 1949, the Institute of Chartered Accountants of India (ICAI) has been the principal institution responsible for regulating the accounting and auditing profession in the country. Over the decades, ICAI has been entrusted with a comprehensive set of responsibilities, including:

- Enrolment of students and conduct of professional examinations
- Grant of membership and certificates of practice
- Approval of firm names and maintenance of professional records
- Issuance of Accounting Standards, Auditing Standards, and Ethical Standards
- Issuance of Statements, Guidance Notes, and Interpretations on technical matters
- Enforcement of professional standards through a disciplinary mechanism

The QRB was envisaged as an independent body to review the quality of services rendered by members of the profession.

As the profession expanded and the economy diversified, ICAI introduced quality-focused initiatives such as the Peer Review mechanism and Continuing Professional Education (CPE) requirements. For a considerable period, ICAI functioned as a unified professional regulator, combining education, standard setting, interpretation, and enforcement.

This model was consistent with global practice in the mid-twentieth century and reflected the need




to build professional capacity and credibility in a developing economy.

## Introduction of Statutory Oversight

### NACAS and Statutory Recognition of Accounting Standards

A significant institutional development occurred with the Companies (Amendment) Act, 1999, which accorded statutory recognition to the Accounting Standards. This amendment led to the establishment of the National Advisory Committee on Accounting Standards (NACAS).

Under this framework:

- ICAI continued to formulate Accounting Standards.
- NACAS reviewed the standards and advised the Central Government.
- The Central Government notified the standards under the company law.

This marked the first formal distinction between technical standard formulation and statutory prescription, introducing an element of external oversight while retaining ICAI's central technical role.

## Quality Review Board (QRB)

Further evolution took place through the 2007 amendment to the Chartered Accountants Act,1949, which resulted in the creation of the Quality Review Board (QRB). The QRB was envisaged as an independent body to review the quality of services rendered by members of the profession. It was to be chaired by a government-nominated official, with a majority of members independent of the ICAI Council.

While the QRB represented a step towards enhanced oversight, certain structural aspects—such as its funding mechanism—highlighted the practical challenges involved in designing oversight bodies that balance independence, expertise, and operational feasibility.

## Establishment of NFRA: A Structural Shift

### NFRA under the Companies Act, 2013

A more fundamental shift occurred with the notification of Section 132 of the Companies Act, 2013, effective from 1 October 2018, leading

to the establishment of the National Financial Reporting Authority (NFRA).

NFRA was entrusted with responsibilities including:

- Recommending Accounting and Auditing Standards to the Central Government for notification
- Monitoring and enforcing compliance with such standards

NFRA was conceived as an independent statutory regulator, funded by the Government and not governed by an elected professional body.

- Conducting inspections of audit firms auditing specified classes of companies
- Initiating disciplinary proceedings against auditors and audit firms, either suomoto or based on references from regulators or the Government

NFRA was conceived as an independent statutory regulator, funded by the Government and not governed by an elected professional body. Its creation significantly altered the regulatory landscape, particularly in relation to audits of listed companies and other public interest entities.

## The Current Regulatory Architecture

As matters stand today, India's accounting and auditing ecosystem operates under a shared and layered regulatory framework:

- ICAI continues to develop Accounting, Auditing, and Ethical Standards and regulates auditors of non-specified companies and non-corporate entities.
- NFRA reviews and recommends standards for notification and undertakes enforcement actions in respect of auditors of specified companies.
- Sectoral regulators such as SEBI and RBI, along with the Ministry of Corporate Affairs, investigative agencies, and courts, also play important roles in monitoring compliance and adjudication.

This architecture reflects India's attempt to balance professional self-regulation with independent statutory oversight. At the same time, it introduces overlaps in standard setting, interpretation, and enforcement, which merit careful consideration from the perspective of institutional design.

## The Core Issue: Standard Setting versus Enforcement

### Conceptual Distinction

Standard setting and enforcement serve distinct but complementary purposes:

- Standard setting seeks to develop coherent, principle-based frameworks that permit professional judgement and adaptability across varied economic circumstances.
- Enforcement seeks certainty, consistency, and uniform application, often requiring definitive interpretations and deterrent mechanisms.

When the same institution is responsible for drafting standards, issuing interpretations, and adjudicating compliance, certain structural tensions/conflicts may arise—whether in practice or in perception.

## Areas of Potential Conflict/Tension

Some of the considerations often discussed in this context include:

- Risk of self-review, where an institution evaluates compliance with standards it has itself framed



- Perceived constraints on independence in enforcement
- Divergence between the intent of principle-based standards and rule-based enforcement outcomes
- Stakeholder uncertainty when interpretations differ across authorities

These considerations do not imply institutional inadequacy. Rather, they highlight the importance of clarity of roles, safeguards, and accountability mechanisms, particularly in matters involving high public interest and expectations of stakeholders.

## International Practice: Broad Observations

Globally, there is no single uniform model governing the relationship between standard setting and enforcement in accounting and auditing. Jurisdictions have adopted frameworks suited to their legal traditions, market maturity, and institutional capacity. However, certain broad patterns may be observed.

In many developed economies (like the USA, UK, Australia, etc.), conscious efforts have been made to distinguish the functions of standard formulation from regulatory oversight and enforcement, particularly for entities of significant public interest. This distinction is achieved either through separate institutions or through strong internal safeguards, external oversight, and transparent accountability structures.

The underlying rationale is not merely institutional separation, but the preservation of objectivity, independence, and public confidence, especially where enforcement actions require interpretation of principle-based standards. At the same time, most jurisdictions recognise the importance of close coordination between standard setters and regulators to ensure technical soundness and practical enforceability.

> India's framework reflects a hybrid approach, combining professional expertise with statutory oversight.

India's framework reflects a hybrid approach, combining professional expertise with statutory oversight. The question, therefore, is not one of conformity with any particular international model,

but whether the existing architecture optimally balances independence, expertise, efficiency, and public interest in the Indian context.




## Advantages of Functional Separation

Advocates of separating standard setting and enforcement often point to several potential benefits:

- Reduced conflict of interest and enhanced perceived independence
- Greater objectivity in enforcement outcomes
- Increased public confidence in financial reporting and audit quality
- Clearer accountability structures
- Alignment with globally accepted governance principles

These considerations assume particular relevance in environments characterised by deep capital markets and widespread public participation.

## Countervailing Considerations

At the same time, functional separation is not without challenges:

- Potential dilution of technical expertise in enforcement
- Higher regulatory and compliance costs
- Duplication of effort and overlapping compliance requirements
- Risk of over-regulation
- The possibility of rigid enforcement undermining the intent of principle-based standards

For a diverse economy such as India's, these factors warrant careful balancing, and it is possible to have meaningful resolutions to the factors as stated above.

## India's Contextual Complexity

India's professional ecosystem is characterised by scale and diversity. Professionals serve entities ranging from micro enterprises to large, listed companies. Regulatory transitions—such as a company moving into the public-interest category—may result in changes in applicable standards, interpretations, and enforcement authorities, creating operational and compliance challenges.

Further, professional members may be answerable to multiple authorities depending on the nature of their assignments. This raises legitimate questions relating to efficiency, consistency, proportionality, and certainty in regulation.

## Conclusion and Way Forward

India's accounting and auditing regulatory framework has evolved significantly over the past seven decades, reflecting economic growth, increasing market complexity, and heightened public interest expectations. The establishment of the National Financial Reporting Authority represents a deliberate policy choice towards enhanced statutory oversight, particularly for public interest entities.

India's professional ecosystem is characterised by scale and diversity.



At the same time, the coexistence of multiple institutions involved in standard setting, interpretation, and enforcement brings to the fore important institutional design considerations. The issue is not one of institutional intent or capability, but of how responsibilities are best structured to promote independence, consistency, proportionality, and trust.

Rather than approaching this as a binary choice between professional self-regulation and statutory control, India may benefit from a calibrated and evolutionary approach, guided by the following principles:

- Clear functional demarcation between standard setting, interpretation, and enforcement, supported by transparent articulation of roles
- Single-point disciplinary oversight for professional members, with inputs from sectoral regulators routed through a coordinated mechanism
- Strong institutional coordination among ICAI, NFRA, and other regulators to minimise duplication and conflicting interpretations
- Proportional regulation, recognising differences between public interest entities and other enterprises
- Robust and consistent appellate mechanisms to ensure fairness, predictability, and jurisprudential coherence

Periodic review of the regulatory architecture, informed by experience and stakeholder feedback, would help ensure that the framework remains responsive to changing economic realities without sacrificing stability.

This article does not propose a definitive institutional model. It seeks to underscore that clarity of roles, avoidance of structural conflicts, and alignment with globally accepted governance principles—adapted to Indian realities—are essential to sustaining confidence in financial reporting and audit quality.

As India continues its journey towards becoming a major global economic power, continued reflection on the design and effectiveness of its accounting and auditing regulatory framework is both timely and necessary, in the larger public interest.

# Evolving Expectations of Stakeholders from Auditors in the Present Environment
## (India-Centric Perspective)

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**Dolphy D'Souza**


### Overview

*The role of auditors in India has evolved significantly from traditional financial statement verification to a broader public-interest function driven by governance failures, regulatory reforms, and rising investor sophistication. Stakeholders now expect auditors to act as critical gatekeepers of trust, providing assurance not only on compliance but also on governance quality, internal controls, fraud risks, and management judgment. Shareholders demand greater transparency, independence, and accountability, reinforced through enhanced audit reporting such as Key Audit Matters. Regulators—including NFRA, SEBI, and RBI—increasingly view auditors as pillars of market discipline, emphasizing professional skepticism, robust documentation, and early-warning signals, supported by stronger enforcement mechanisms. The government regards high-quality audits as essential for investor confidence, economic growth, and the credibility of Indian capital markets.*

*At the same time, experience shows that accounting failures are typically systemic, involving management, boards, audit committees, and promoters, rather than auditors alone. Sustainable audit quality, therefore, requires a holistic governance approach, balanced and outcome-oriented regulatory oversight, and respect for professional judgment. As expectations expand to technology-enabled audits and ESG assurance, aligning stakeholder demands with a resilient, purpose-driven audit ecosystem will be crucial to maintaining trust and attracting future talent.*


### Introduction

The role of auditors has undergone a profound transformation over the last two decades. Traditionally perceived as independent professionals whose primary responsibility was to express an opinion on whether financial statements present a true and fair view, auditors today operate under far broader and more




demanding expectations. High-profile corporate failures, increasing market complexity, rapid technological change, and heightened regulatory scrutiny have fundamentally reshaped what stakeholders expect from the audit profession.

In India, these changes have been particularly pronounced following major governance failures and the subsequent regulatory overhaul under the Companies Act, 2013, the establishment of the National Financial Reporting Authority (NFRA), and tighter oversight by regulators such as SEBI and the RBI. Against this backdrop, shareholders, regulators, and the government increasingly view auditors not merely as reporters on historical financial information, but as critical gatekeepers of trust in the capital markets.

This article examines how the expectations of key stakeholders—shareholders, regulators, and the government have evolved in the present environment, with a global context but a clear focus on India.

## Global Context: From Watchdogs to Gatekeepers

Globally, the audit profession has been shaped by major corporate scandals such as Enron, WorldCom, Wirecard, and Carillion. These events exposed limitations in traditional audit approaches and widened the so-called "expectation gap" between what auditors are required to do under standards and what stakeholders believe auditors should do.

Internationally, regulators and standard setters have responded by:

- Strengthening auditor independence norms and restricting non-audit services. - Enhancing audit reporting through Key Audit Matters (KAMs).
- Increasing focus on professional skepticism, fraud risk assessment, and going-concern evaluations.
- Subjecting audit firms to rigorous inspections and enforcement actions.

India has mirrored many of these global developments, but with additional layers driven by its own institutional realities, market maturity, and history of governance failures.

## Shareholders' Evolving Expectations

### 1. Beyond Compliance: Assurance on Governance and Integrity

Indian shareholders—particularly minority and retail investors—now expect auditors to act as the first line of defense against managerial excesses and financial misreporting. The expectation is no longer limited to compliance with accounting standards, but extends to:

- Detection of material frauds and related-party abuses.

Indian shareholders—particularly minority and retail investors—now expect auditors to act as the first line of defense against managerial excesses and financial misreporting.

- Early warning signals on aggressive accounting practices.
- Robust evaluation of internal financial controls.

While auditing standards clarify that auditors provide reasonable assurance and not a guarantee against fraud, shareholders increasingly expect auditors to demonstrate heightened professional skepticism, especially in promoter-driven companies where conflicts of interest are common.

**2. Transparency Through Audit Reporting**

The introduction of Key Audit Matters under SA 701 has significantly changed how shareholders read audit reports. Investors now expect:

- Entity-specific, insightful explanations of significant audit risks.
- Clear articulation of management judgments and estimates.
- Meaningful communication rather than boilerplate language.

In India, where financial literacy among retail investors is improving, audit reports are increasingly scrutinized as an important source of independent insight into a company's risk profile.

**3. Auditor Independence and Accountability**

Shareholders are also more sensitive to auditor independence. Long audit tenures, high non-audit fees, and close relationships with management are viewed with skepticism. The mandatory rotation of auditors under the Companies Act, 2013, reflects this expectation.

At the same time, shareholders increasingly support regulatory action against audit failures, expecting auditors to be held personally and institutionally accountable for lapses.

## Regulators' Evolving Expectations

**1. Auditors as Pillars of Market Discipline**

For regulators such as SEBI, RBI, and NFRA, auditors are integral to the stability and credibility of the financial system. Regulatory expectations now include:

- Strict adherence to auditing standards and ethical codes.
- Robust documentation to demonstrate audit quality and professional judgment.
- Willingness to challenge management and, where necessary, issue modified opinions.

The regulatory stance has clearly shifted from a principles-based trust model to an enforcement-driven oversight model.

**2. NFRA and the New Enforcement Paradigm**

The establishment of NFRA marks a watershed moment for the Indian audit profession. Unlike earlier self-regulatory mechanisms, NFRA has: - The power to inspect audit firms and individual auditors. - Authority to impose significant monetary penalties and debarments. - A mandate to improve audit quality in the public interest.

Regulators now expect auditors to internalize the possibility of ex-post scrutiny of their judgments, particularly in areas involving fraud, related-party transactions, and going concern.

The regulatory stance has clearly shifted from a principles-based trust model to an enforcement-driven oversight model.

**3. Early Warning and Regulatory Coordination**

Regulators increasingly expect auditors to serve as an early warning mechanism. This is evident in enhanced reporting requirements, such as:

- Reporting on internal financial controls.
- Obligations under CARO to comment on specific risk areas.
- Communication with audit committees and, in certain cases, regulators.

In regulated sectors like banking and NBFCs, auditors are expected to align closely with supervisory objectives, without compromising independence.

High-quality audits are seen as a public good that reduces the cost of capital and enhances trust in Indian corporates.

## Government's Evolving Expectations

### 1. Auditors as Instruments of Public Interest

From the government's perspective, auditors play a crucial role in safeguarding public interest, particularly where companies have systemic importance, public shareholding, or access to public funds.

The Companies Act, 2013, explicitly positions auditors as watchdogs, with enhanced duties, liabilities, and penalties. Provisions relating to fraud reporting under Section 143(12) underscore the expectation that auditors actively contribute to corporate accountability.

### 2. Supporting Economic Growth and Investor Confidence

The government also views audit quality as essential to India's broader economic objectives:

- Attracting foreign investment.
- Deepening capital markets.
- Strengthening India's reputation as a credible investment destination.

High-quality audits are seen as a public good that reduces the cost of capital and enhances trust in Indian corporates.

### 3. Building Domestic Audit Capacity

Another important expectation is the development of strong domestic audit firms capable of handling large and complex audits. Policy discussions around audit firm networks, competition, and resilience reflect a governmental desire to avoid over-dependence on a few large global firms while maintaining audit quality.

## Technology, ESG, and the Future of Audit Expectations

### 1. Technology and Data Analytics

Stakeholders increasingly expect auditors to leverage technology—data analytics, continuous auditing tools, and AI—to enhance audit effectiveness. In India, where companies are rapidly digitizing, auditors are expected to keep pace with complex IT environments and cyber risks.

In this regard, the big firms see technology not just as a tool for auditors, but as a catalyst for transforming the audit process into a more efficient and insightful practice. The big firms have been using data analytics to process a large volume of data and get meaningful insight into



data integrity and identification of fraud areas, for example, in the case of telecom service providers and e-commerce entities.

The big firms have the benefit of leveraging global expertise for conducting local audits, particularly in the case of cyber audits, review and audit of IT control systems, use of data analytics, and application of AI to the audit process.

AI and machine-learning models flag transactions that deviate from normal patterns, such as duplicate payments, round-number invoices, or transactions processed outside normal business hours. A simple set of good questions on any of the LLM models can provide meaningful insights into a company, for example, meaningful insights into questions or concerns raised by analysts and responses provided by management. A repeated question on why management holds a large cash balance or why receivables are high, with no coherent explanation from management, may indicate areas of fraud for further investigation by the auditor.

**2. ESG and Non-Financial Assurance**

With the introduction of Business Responsibility and Sustainability Reporting (BRSR) in India, expectations from auditors and assurance providers are expanding beyond financial information. While statutory auditors' roles in ESG assurance are still evolving, stakeholders increasingly expect auditors to bring rigor, consistency, and credibility to sustainability disclosures.

## Systemic View of Accounting Irregularities: Beyond the Auditor

While auditors occupy a critical position in the financial reporting ecosystem, recent experience in India and globally demonstrates that accounting irregularities are rarely the result of a single point of failure. They are typically manifestations of deeper, systemic breakdowns involving management, promoters, boards of directors, internal control functions, and gatekeepers such as auditors.

An excessive focus on auditors' alone risks oversimplifying complex governance failures. Management prepares the financial statements; promoters often exert significant influence in Indian corporate structures; boards and audit committees are entrusted with oversight; and independent directors are expected to act as custodians of minority shareholder interests. Auditors function within this ecosystem and rely substantially on information, representations, and tone at the top. Consequently, stakeholder expectations are increasingly shifting towards a more holistic accountability framework, where failures are examined across the entire governance chain rather than being attributed solely to auditors.

This ecosystem-based perspective is particularly relevant in India, where concentrated ownership, promoter dominance, and informal influence structures can significantly affect financial reporting outcomes. Excessive auditor-bashing is counter-intuitive and may push the profession on a downhill journey.

## Multi-Disciplinary Firms and the Challenge of Cross-Referrals

The emergence of large multi-disciplinary firms offering audit, tax, consulting, and advisory services under a single brand has introduced a new layer of complexity to auditor independence. While such structures can deliver efficiencies and specialized expertise, they also heighten concerns around:

An excessive focus on auditors' alone risks oversimplifying complex governance failures.

- Cross-referral incentives between audit and non-audit service lines.
- Subtle commercial pressures on audit teams to preserve broader client relationships.

- Perceived dilution of the auditor's role as an independent examiner.

In the Indian context, regulators and shareholders are increasingly wary of situations where audit engagements become a gateway for selling higher-margin non-audit services, whether within the same firm or through network entities. The expectation is not merely formal compliance with independence rules, but demonstrable independence in substance.

Fee negotiations driven primarily by cost considerations undermine the very assurance that stakeholders seek from the audit process.

Audit committees and independent directors are therefore expected to exercise heightened vigilance in approving non-audit services, scrutinizing fee structures, and ensuring that the audit function remains insulated from commercial considerations.

## Competition, Audit Fees, and the Risk to Audit Quality

Intense competition within the audit market, particularly at the mid-tier and smaller firm levels, has placed downward pressure on audit fees. While competition is essential for market efficiency, excessive fee compression can have unintended consequences:

- Reduced audit hours and resource deployment.
- Over-reliance on junior staff.
- Compromised depth of audit procedures.

Stakeholders increasingly recognize that audit quality has a cost. Independent directors and audit committees are therefore expected to ensure that audit fees are reasonable, transparent, and commensurate with the size, complexity, and risk profile of the entity. Fee negotiations driven primarily by cost considerations undermine the very assurance that stakeholders seek from the audit process.

In India, where statutory audits often coexist with extensive regulatory and reporting requirements, the expectation is that boards actively resist a "lowest-fee-wins" approach and instead prioritize audit quality and professional competence.

## Auditor Rotation and the Role of Independent Directors

Mandatory auditor rotation was introduced in India to strengthen independence and reduce familiarity threats. However, the effectiveness of rotation depends significantly on how the transition process is managed.

Best governance practice suggests that, at the time of rotation:

- Independent directors and audit committees should lead the engagement process with incoming auditors.



- Interactions should be structured, transparent, and free from undue management influence.
- Commercial and operational pressures should not drive auditors to accept positions that are inconsistent with the law or accounting standards.

In practice, management-led negotiations during auditor appointments or reappointments can create subtle pressure on incoming auditors to accommodate aggressive accounting positions or legacy practices. Stakeholders increasingly expect independent directors to act as a counterbalance, ensuring that auditor appointments reinforce, rather than weaken, financial reporting discipline.

Mandatory auditor rotation was introduced in India to strengthen independence and reduce familiarity threats.

**NFRA and Audit Committees**

The National Financial Reporting Authority (NFRA) has underscored the importance of strengthening communication and collaboration between statutory auditors and audit committee members to enhance audit quality and corporate governance. NFRA's *Auditor-Audit Committee Interaction Series* highlights that two-way communication is essential for audit committees to effectively fulfill their oversight role, particularly concerning complex areas such as accounting estimates, judgments, expected credit losses, and related party transactions.

NFRA encourages audit committees to proactively engage auditors by asking pertinent questions on risk assessment, audit strategy, material assumptions, and the methods applied in evaluating key accounting judgments, rather than passively receiving information. This includes deeper dialogue on deferred tax assets and liabilities and ensuring clarity around management's judgments that significantly impact financial statements.

Furthermore, NFRA's guidance emphasizes the role of audit committees in monitoring the identification, disclosure, and fraud-related risks of related party transactions, urging both auditors and committees to adopt a vigilant, sceptical approach to such areas and promote transparency and regulatory compliance.

Overall, NFRA's recommendations aim to foster a structured, transparent, and continuous dialogue between auditors and audit committees, enabling stronger oversight, improved risk identification and mitigation, and higher confidence in financial reporting. These actions by NFRA will further strengthen the governance systems and shift the focus from an "auditor-only" approach to making the entire governance chain responsible for generating reliable financial statements and reporting on internal controls and fraud. It would also strengthen the hands of the auditors, who often find themselves alone and lonely in challenging management judgments or raising concerns that require strong audit committee support and oversight.

## Regulatory Oversight and the Problem of Multiple, Overlapping Reviews

There is broad agreement that enhanced audit oversight—particularly through NFRA inspections—has contributed positively to audit quality in India. NFRA's inspection regime has improved discipline, documentation standards, and awareness of accountability across the profession. From a stakeholder perspective, this represents a meaningful step forward.

However, an emerging concern is the proliferation of overlapping and duplicative audit file reviews by multiple regulators and oversight bodies, which risks undermining efficiency without proportionate gains in audit quality.

For instance, in the case of a US-listed Indian company, audit working papers may be subject to review by:

- ICAI's peer review or quality review mechanisms;
- NFRA inspections;
- The US Securities and Exchange Commission (SEC) or the PCAOB;
- Internal quality reviews by the local audit firm;
- Global or network-level reviews mandated by international firm policies.

While each of these reviews has a legitimate mandate, their cumulative effect can be significant. Excessive and repetitive reviews consume substantial audit firm resources, divert senior audit attention, and encourage a compliance-driven mindset focused on defensive documentation rather than substantive audit judgment.

## Reorienting NFRA Reviews Toward Audit Outcomes

As India's primary audit regulator for public interest entities, NFRA is uniquely positioned to shape audit behaviour. A growing expectation within the profession is that NFRA reviews should be outcome-oriented rather than form-driven.

The central question of any inspection should be whether the auditor was reasonably satisfied that:

- the financial statements present a true and fair view;
- significant risks of material misstatement were appropriately identified and addressed; and
- the likelihood of an audit failure was acceptably low, based on the work performed.

In this context, inspection focus should be directed toward critical areas of judgment and documentation, such as fraud risk assessment, management override, related-party transactions, going concern evaluations, and significant estimates. These are the areas where audit failures typically originate and where regulatory scrutiny adds the greatest value.

There is a concern that reviews that extend into minor technical or stylistic documentation deficiencies, akin to certain aspects of SEC-style comment reviews, may be highly inefficient in the Indian context. Such nit-picking rarely correlates with audit failures, yet significantly increases the compliance burden and encourages auditors to optimise files for inspection rather than for audit quality.



The core objective of independent audit reviews is not merely to identify technical deficiencies ex post, but to prevent audit failures ex ante by reinforcing professional skepticism, risk focus, and sound judgment. NFRA inspections that remain anchored to this objective will enhance credibility and effectiveness, while avoiding

the unintended consequences of excessive formality.

From a stakeholder perspective, the evolving expectation is therefore not simply "more scrutiny", but better-coordinated, risk-based, and outcome-oriented oversight. Greater coordination between regulators, reliance on primary inspectors, and recognition of equivalent overseas inspections could significantly enhance efficiency without compromising audit quality.

In the Indian context, achieving the right balance between robust oversight and operational efficiency will be critical to sustaining audit quality, retaining talent in the profession, and ensuring that regulatory scrutiny strengthens—rather than distracts from—the ultimate goal of preventing audit failures.

From a stakeholder perspective, the evolving expectation is therefore not simply "more scrutiny", but better-coordinated, risk-based, and outcome-oriented oversight.

## Making the Audit Profession Attractive and Sustainable for the Next Generation

An often-overlooked stakeholder in the evolving audit ecosystem is the next generation of professionals. In recent years, there has been growing concern—both in India and globally—that many talented young professionals are actively avoiding careers in audit. Long hours, high regulatory pressure, fear of personal liability, and a perception that the role has become overly compliance-driven have all contributed to this trend.

This development has serious long-term implications. Audit quality ultimately depends on the profession's ability to attract, retain, and motivate high-calibre individuals who are capable of exercising judgment, skepticism, and ethical courage.

### Reframing Audit as a Purpose-Driven Profession

At its core, auditing is a profession anchored in public interest, trust, and market integrity. Regulators, firms, and professional bodies need to articulate this purpose more clearly. Young professionals are more likely to engage with audit when it is positioned not merely as a statutory obligation, but as a critical societal function that safeguards investors, employees, and the broader economy.

### Reducing Fear-Driven Compliance Culture

An environment dominated by retrospective scrutiny, overlapping inspections, and personal penal consequences can inadvertently discourage professional judgment and innovation. To make the profession attractive, oversight frameworks must strike a balance between accountability and psychological safety. Young auditors should be encouraged to ask difficult questions, challenge management, and document sound judgment—without operating in constant fear that reasonable decisions will later be penalised with hindsight.

### Exposure to Technology, ESG, and Business Insight

Audit can be made significantly more engaging by integrating:

- Advanced data analytics and technology-driven audit tools;
- Greater involvement in understanding business models, risks, and controls;
- Exposure to emerging areas such as ESG reporting, sustainability assurance, and integrated reporting.

In India, where companies are rapidly digitising and sustainability reporting is gaining

prominence through BRSR, auditors have a unique opportunity to operate at the intersection of finance, technology, and governance.

The big firms have successfully integrated technology in their audit process; however, the larger audit profession in India needs to buck the comfort of status-quo approaches and embrace innovation at scale.

### Role of Firms, Boards, and Regulators

Making audit attractive is not solely the responsibility of audit firms. Boards, audit committees, regulators, and professional institutes all have a role to play by:

- Supporting reasonable timelines and fees that allow quality work and learning;
- Recognising and valuing audit as a judgment-based profession, not a clerical exercise;
- Encouraging mentorship, structured learning, and exposure to complex issues early in careers.

Unless the profession consciously addresses these concerns, there is a risk that audit becomes increasingly procedural, defensive, and unattractive—ironically undermining the very audit quality that heightened regulation seeks to achieve.

## Toward a More Effective and Balanced Audit Oversight Framework

As stakeholder expectations rise, there is an increasing need to recalibrate how audit quality is assessed, enforced, and improved. Experience in India and globally suggests that the quantity of oversight is not a substitute for the quality of outcomes.

A more effective framework would include:

1. **Clear allocation of primary inspection responsibility**

   For large public-interest entities, one regulator should act as the lead inspector, with other regulators placing calibrated reliance on that work where mandates overlap. This would reduce duplication while preserving regulatory sovereignty.

2. **Risk-based inspections over checklist-driven reviews**

   Oversight should focus on areas most closely associated with audit failures—fraud risk assessment, going concern judgments, related-party transactions, and management override—rather than exhaustive reviews of form and documentation.

3. **Feedback loops that improve future audits**

   Inspection findings should be framed not only as enforcement tools, but also as learning mechanisms that help audit firms improve methodology, training, and professional judgment.

4. **Recognition of audit committees and independent directors as governance anchors**

   Regulators and standard setters increasingly recognise that sustained audit quality depends as much on strong audit committees as on strong auditors. Expectations from



independent directors—in relation to auditor appointment, remuneration, independence, and rotation—should therefore be explicitly reinforced.

5. **Preserving the space for professional judgment**

   Excessively punitive or fragmented oversight can unintentionally encourage risk aversion and defensive auditing. A mature regulatory environment must allow auditors to exercise informed judgment without fear that reasonable decisions will be second-guessed purely with hindsight.

6. **Regulators should avoid excessive focus on a few large firms,** at the cost of ignoring the profession as a whole. Whilst the large firms conduct the largest number of audits, the focus should be on improving the profession as a whole, rather than merely disciplining the large firms.

> Experience in India and globally suggests that the quantity of oversight is not a substitute for the quality of outcomes.

## Conclusion: Rebuilding Trust, Balance, and Purpose in the Audit Ecosystem

The evolving expectations of stakeholders from auditors reflect a deeper transformation in how societies seek to safeguard trust in capital markets. In India, this transformation has been accelerated by governance failures, regulatory reforms, and rising investor sophistication. Auditors today are no longer viewed merely as reporters on historical numbers, but as essential gatekeepers within a complex governance ecosystem.

At the same time, it is increasingly evident that audit quality cannot be strengthened in isolation. Sustainable improvement requires a system-wide approach—one that recognises the shared responsibilities of management, promoters, boards, audit committees, regulators, and auditors. Excessive focus on any single participant, whether auditors or regulators, risks missing the structural causes of failures.

Regulatory oversight, particularly through NFRA, has played a constructive role in raising standards. The next phase of evolution lies in outcome-oriented, risk-based, and well-coordinated supervision that prioritises the prevention of audit failures over retrospective, form-driven scrutiny. Efficient oversight, respect for professional judgment, and clarity of regulatory purpose are essential to maintaining both audit quality and operational sustainability. NFRA should also not lay more than required emphasis on the big accounting firms, but rather strive to improve the audit quality in the audit profession as a whole.

Equally critical is the future of the profession itself. If auditing becomes synonymous with fear, compliance fatigue, and hindsight-driven penalties, it will struggle to attract the talent required to meet rising stakeholder expectations. Conversely, positioning audit as a purpose-driven, intellectually challenging profession—supported by fair remuneration, strong governance, technological innovation, and balanced regulation—can restore its appeal to the next generation.

Ultimately, the credibility of financial reporting in India will depend not only on stricter rules or tougher inspections, but on trustworthy institutions staffed by capable, motivated professionals operating within a balanced governance framework. Aligning stakeholder expectations with this broader objective will be key to ensuring that auditing continues to serve the public interest in an increasingly complex and demanding environment.

# Evolution of Financial Reporting in India

## A historical and regulatory perspective, with implications for standards and the Chartered Accountant profession

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**Kunal Kapur**



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### Overview

*Financial reporting in India begins with an early, contract-driven phase where reporting was shaped by the entity's internal documents like articles, lender covenants, and commercial custom, with limited public disclosure. It then traces how accounting standards gained statutory recognition—first through amendments around 1999 and later under the Companies Act, 2013—moving compliance from voluntary guidance to a notified legal requirement. As India liberalised and capital markets deepened, the standard-set expanded from roughly fifteen to nearly thirty-nine, addressing consolidation, related parties, impairment, financial instruments, and fair value measurement. A parallel conceptual change replaced the idea of statements being 'true and correct' with the broader obligation to present a 'true and fair view', elevating substance over form. The article also contrasts India's principles-based orientation (aligned with IFRS/Ind AS) with the more rules-driven texture of US GAAP. Finally, it explains how Ind AS convergence reshaped the chartered accountant's role, increasing demands for valuation, analytics, governance, and judgment-intensive assurance.*

### Introduction

Financial reporting in India has undergone a long and complex evolution shaped by legal reform, economic development, professional maturity, and global integration. Across successive phases, the focus widened from keeping accounts for owners to communicating performance and stewardship to investors, lenders, and society. In its earliest form, accounting served a limited stewardship function and was governed largely by private contracts and commercial customs. Over time, it has transformed into a comprehensive, statutory, and principles-based framework intended to provide decision-useful information to investors, creditors, regulators, and




other stakeholders. This transformation mirrors India's journey from a colonial and protectionist economy to a liberalised and globally connected marketplace.

In modern economies, financial reporting performs a critical public-interest function.

This evolution was shaped by foreign investment and capital-market deepening, by changing corporate forms and funding sources, and by the need for comparability and faithful representation in published statements. The story is therefore not only about accounting techniques and principles, but also about law, enforcement, professional judgement, and the impact of capital market evolution. The discussion traces the journey—from early joint-stock practices to statutory recognition, standard-setting expansion, 'true & fair' as a governing concept, the rise of principles-based standards, and convergence with IFRS.

In modern economies, financial reporting performs a critical public-interest function. Capital markets rely on transparent and comparable financial information for efficient allocation of resources. Lenders use financial statements to assess credit risk and solvency. Regulators depend on them for supervision, enforcement, and policy formulation. Governments rely on accounting information for taxation and macroeconomic planning. In India, the increasing scale of corporate operations, dispersion of shareholding, and cross-border business activities have significantly expanded expectations from financial reporting.

This article maps the evolution of financial reporting in India through six connected shifts in law, practice, and professional judgment.

## The early phase of financial reporting lacked explicit statutory recognition

Financial reporting in India did not originate as a comprehensive statutory or public-interest mechanism. Its early evolution was closely tied to the development of corporate forms, colonial legal influences, and private commercial arrangements. Until well into the twentieth century, accounting and reporting were primarily viewed as internal or bilateral matters between owners, managers, and lenders, rather than as instruments of transparency for a wider group of stakeholders.

During the colonial period, company regulation in India was modelled largely on English Company Law. British accounting traditions exerted a strong influence, particularly the doctrines of historical cost, conservatism, and prudence. Disclosure was minimal and focused on protecting capital rather than providing comprehensive information about performance and financial position.

In the earliest corporate forms, reporting expectations were often embedded in internal governing documents such as articles, partnership deeds, and lender covenants rather than in a mature disclosure statute. The Joint-Stock Companies Act, 1857, required the accounts to be examined and the correctness of the balance-sheet to be ascertained by auditors, who were to certify that it contained a 'true account' of capital, liabilities, property, and assets. Though initially focused on verification and custodianship, the framework planted the seeds for the evolution of accounting thought and regulation—progressively building toward today's comprehensive financial reporting architecture.

ICAI professionalised accounting practice through the regulation of the profession, examinations, and ethical standards.

## Statutory Recognition through various Company Law Provisions

The Indian Companies Act, 1913, strengthened reporting by coupling periodic accounts with a clearly articulated auditor's reporting duty. Section 145 of the Indian Companies Act, 1913, required the auditor to report to members and to state whether the balance-sheet exhibited a 'true and correct view' of the company's affairs. The phrase signaled that accuracy against records and conformity with books were central, and it framed the auditor as an independent verifier for shareholders. At the same time, the law still relied heavily on prescribed forms and schedule-driven disclosure, leaving limited space for management judgment about economic substance.

The establishment of the Institute of Chartered Accountants of India (ICAI) in 1949 marked an important institutional development. ICAI professionalised accounting practice through the regulation of the profession, examinations, and ethical standards. However, in its early years, ICAI guidance lacked statutory backing and relied largely on voluntary compliance.

With the Companies Act, 1956, India moved closer to the modern idea that financial statements are a public communication tool rather than an internal record. Section 211 of the Companies Act, 1956, required the balance sheet and profit and loss account to give a 'true and fair view', linking reporting to an overall impression and not merely to book accuracy. The Companies Act, 1956, anchored format and disclosure through Schedule VI, thereby combining a qualitative objective with a structured presentation discipline. This 'true and fair' obligation became the backbone against which standards, notes, and directors' responsibilities would later be interpreted.

The growth in formal standards mirrors India's economic and corporate complexity. ICAI's Accounting Standards Board (constituted in 1977) has, over the years, issued and revised standards to harmonise diverse practices. A decisive statutory turn came with reforms around 1999 and the subsequent run-up to the Companies Act, 2013.

Section 211(3C) was inserted in the Companies Act, 1956, by the Companies (Amendment)



Act, 1999. Section 211(3C) of the Companies Act 1956, defined "accounting standards" as "The expression 'accounting standards' means the standards of accounting recommended by the Institute of Chartered Accountants of India constituted under the Chartered Accountants Act, 1949 (38 of 1949)…". Amendments inserted required that the company's financial statements 'shall comply with the accounting standards', and mandated disclosure of deviations, reasons, and financial effects where standards were not followed.

ICAI's Accounting Standards Board (constituted in 1977) has, over the years, issued and revised standards to harmonise diverse practices.

The reforms created institutional machinery—such as the National Advisory Committee on Accounting Standards (NACAS)—to advise the Government on accounting standards. The Companies Act, 2013, consolidated the framework by requiring financial statements to comply with standards notified under section 133 of the Companies Act, 2013, with standard-setting routed through the National Financial Reporting Authority (NFRA), which was once constituted.

### The expansion of accounting standards from about fifteen to nearly thirty-nine in response to economic transformation

Seen end-to-end, the evolution of financial reporting in India is a move from form to substance, from local practice to global comparability, and from periodic bookkeeping to continuous accountability.

The Companies (Amendment) Act, 1999, brought mandatory requirements to follow 15 accounting standards, which were prescribed by ICAI until 1 April 2000. Accounting Standard 16, Borrowing costs, was applicable starting 1 April 2000, and over time, Indian GAAP expanded to cover segment reporting, related party disclosures, consolidation, impairment, and other standards. Later, the Ind AS regime began with 39 standards notified in 2015, reflecting the need to address group structures, fair value measurements, accounting of financial instruments, complex revenue arrangements, and more rigorous disclosure expectations.

Presentation formats of financial statements were prescribed by introducing revised Schedule VI to the Companies Act 1956, effective 1 April 2011. Subsequently, presentation formats of financial statements under the Ind AS framework were introduced through the Companies Act, 2013.

### From "True & Correct" to "True & Fair": meaning and consequences

As discussed earlier, the Joint-Stock Companies Act, 1857, required the accounts to be examined and the correctness of the balance-sheet to be ascertained by auditors, who were to certify that it contained a 'true account' of capital, liabilities, property, and assets.

Increasing reliance on estimates and judgment highlighted the limitations of the earlier notion of financial statements presenting a "true and correct" view.

Increasing reliance on estimates and judgment highlighted the limitations of the earlier notion of financial statements presenting a "true and correct" view. Absolute correctness is unattainable in areas such as depreciation, impairment, provisions, and valuations. Recognising this reality, Indian law and practice gradually embraced the concept of a "true

and fair view." The Companies Act, 1956 was amended to require a true and fair view of the financial statements.

The conceptual shift from 'true and correct' to 'true and fair' is more than a change in wording: it changes what compliance means. 'True and correct' can be read as a demand for correctness against records; 'true and fair' asks whether the statements as a whole convey an unbiased and not-misleading picture. Modern commentary notes that the switch was intended to avoid a narrow view that accounts are acceptable if they are merely arithmetically accurate. In practice, this elevates judgment about substance over form and gives auditors a lens to challenge selective presentation even when individual numbers reconcile.

This conceptual shift significantly elevated the responsibility of preparers and auditors. Management must now assess whether compliance with standards adequately reflects economic reality, and auditors must evaluate financial statements as a whole rather than focusing on isolated compliance checks.

The expansion of accounting standards also coincided with a shift in the nature of information demanded by users of financial statements. Investors and analysts increasingly sought information about risks, future prospects, and the sustainability of earnings rather than merely historical performance. This demand required accounting standards to move beyond transaction recording towards capturing underlying economic phenomena.

Convergence with IFRS through Ind AS has raised the bar on judgment, disclosures, and governance, while simultaneously supporting access to global capital. For the profession, the consequence is a redefinition of competence: tomorrow's accountant must combine technical mastery with analytics, risk thinking, and advisory capability—so that reporting serves not just compliance, but trust and value creation.

## India's adoption of a principles-based accounting approach by convergence with IFRS through Ind AS in contrast with the rule-based framework of US GAAP

This 'substance-first' orientation aligns with the principles-based character of IFRS and, by design, of Ind AS. Principles-based standards set broad recognition and measurement objectives and require professional judgement to apply them to diverse transactions—supporting consistency and faithful representation. By contrast, US GAAP is often described as more rules-based and prescriptive, with detailed guidance for many specific fact patterns. The principles-based approach can better adapt to innovation, but it also demands stronger governance, documentation of judgments, and consistent enforcement to prevent opportunistic interpretation.



India opted for convergence with IFRS rather than full adoption. India's IFRS convergence programme through Ind AS illustrates both ambition and pragmatism. The MCA notified the Companies (Indian Accounting Standards) Rules, 2015, and laid down a phased roadmap, beginning with voluntary adoption from April 2015 and mandatory application in phases from April 2016 to April 2017, based largely on net worth and listing status.

India's convergence approach reflects pragmatic

recognition of domestic realities. Full adoption of IFRS without modification could have conflicted with existing legal and regulatory requirements. Ind AS, therefore, incorporates limited carve-outs while preserving alignment with core IFRS principles. This approach balances global comparability with national considerations.

Professional guidance described the change as a 'seismic shift' because it introduced fair value, effective interest, extensive disclosures, and more estimate-driven measurement. The transition significantly improved global comparability and transparency. Auditors and audit committees consequently had to invest in training, systems, and controls to manage transition adjustments and to explain the impacts to markets.

The transition to Ind AS also altered the timing and volatility of reported earnings. Fair value measurement and expected credit loss models introduced greater responsiveness to economic conditions. While this improved relevance, it also increased earnings volatility and required stakeholders to adapt their interpretation of financial results.

From a regulatory perspective, IFRS convergence strengthened India's credibility in global capital markets. Financial statements prepared under Ind AS are more readily understood by foreign investors, reducing information asymmetry and the cost of capital for Indian entities.

## Consequential Impact of the Evolution of Financial Reporting on the Services and Skillsets of Professional Accountants

IFRS convergence fundamentally transformed the role of chartered accountants in India. Traditional services centered on audit and tax compliance have expanded to include valuation, financial instruments advisory, mergers and acquisitions, risk management, and strategic advisory.

Audit in an Ind AS environment has become more judgment-intensive, requiring evaluation of complex estimates, models, and assumptions. Professional skepticism and ethical judgment have become even more critical. Audit quality has become increasingly dependent on judgment, skepticism, and interdisciplinary knowledge. Auditors must evaluate complex estimates, assess management assumptions, and understand valuation techniques. This has increased the importance of continuous professional education and ethical standards.

The establishment of NFRA represents recognition that financial reporting and audit serve a public-interest function. Regulatory oversight complements professional self-regulation and reinforces accountability, particularly for entities of systemic importance.

The transformation of financial reporting has had a profound impact on the accounting profession in India. The role of chartered accountants has expanded from traditional compliance functions to encompass strategic advisory, valuation, risk management, and financial modelling.

Auditors must evaluate complex estimates, assess management assumptions, and understand valuation techniques.

Professional accountants are now expected to engage with business strategy, understand industry dynamics and assess future risks.

Looking ahead, financial reporting in India will continue to evolve in response to technology, sustainability reporting, and integrated reporting frameworks such as Business Responsibility and Sustainability Reporting (BRSR). The role of accountants will increasingly shift from record-keepers to interpreters of economic reality and strategic advisors. Digitalization, data analytics, sustainability reporting, and integrated reporting frameworks will further expand the scope of corporate reporting. In this environment, the professional accountant's role will increasingly shift from record-keeper to interpreter of economic reality and trusted advisor.

# Fair Value Measurement versus Historical Cost:
## A Contemporary Perspective

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**Dr Anand Banka**



**Jyoti Gupta**

### Overview

*The convergence of Ind AS with IFRS has transformed Indian financial reporting, shifting from a historical cost bedrock to a model where fair value gains prominence for certain assets like financial instruments and in business combinations. However, even in Ind AS, cost dominates PPE, intangibles, and inventories.*

*Historical cost endures due to its objectivity, earnings stability, tax alignment, and practicality amid India's market depth limitations, yet it risks irrelevance amid volatility and inflation. Fair value evolves from pre-2011 arm's-length definitions to Ind AS 113's exit-price, market-participant framework, featuring principal markets, highest-and-best-use principles, and a three-level hierarchy prioritising observable inputs.*

*A "fully fair-valued balance sheet thought" experiment highlights current realities—e.g., Tata Steel's shift to fair value for subsidiaries—revealing deliberate policy mixes driven by business models and governance. Practical hierarchy challenges, especially Level 3 judgements, underscore relevance-reliability tensions, with disclosures serving as governance levers for transparency, uncertainty, and comparability.*

*Strategic questions challenge CFOs on policy coherence, valuation independence, and risk integration, while future trends like AI analytics, ESG assets, and deeper markets promise to redefine fair value's role in capital allocation and stewardship.*

### Introduction

The convergence of Indian Generally Accepted Accounting Principles (IGAAP) with IFRS has not just changed numbers on the face of the balance sheet; it has altered how performance, risk, and stewardship are perceived in boardrooms and capital markets. The long-standing tension between historical cost and fair value has now become a practical design choice in every set of financial statements, with significant consequences for volatility, governance, and investor trust.

There is a growing dichotomy: cost/ amortised cost methods are still viewed as more reliable,

yet for several asset classes – especially equity investments and land – fair value is clearly more relevant. The result is a mixed measurement model, which works in practice but deserves a more deliberate strategy from preparers, auditors, and regulators.

Historical cost has been the bedrock of Indian accounting.

## From Historical Cost to a Mixed Measurement World

### The historical cost foundation

Historical cost has been the bedrock of Indian accounting. Assets and liabilities have always been recorded at the amount of cash or cash equivalents paid or received, adjusted over time for depreciation, amortisation, or impairment.

Investors continue to value historical cost because:

- It is objective and verifiable, anchored in documented transactions and less vulnerable to bias.
- It produces more stable earnings and balance sheets, which are attractive for lenders, regulators, and rating agencies.
- It aligns closely with tax rules and other statutory frameworks, reducing friction between books and law.

Yet, in an environment of rapid market movements, technological disruption, and inflation, purely cost-based figures can become progressively less decision-useful. Historical cost often undervalues current economic value and may even obscure emerging risks and opportunities.

## Concept and Evolution of Fair Value

Under the legacy accounting standards, until the year 2011, fair value was defined as:

*"Fair value is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction."*

This was used selectively, mainly for revaluations and current investments, and lacked a consistent, market-based framework. It did not specify whether the value should be based on the entry price or the exit price, nor did it require an explicit use of market participant assumption.

Ind AS 113 fundamentally reshaped this notion, defining fair value as -

*"The price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date."*

It is a market-based, not entity-specific, measurement, emphasising exit price and current economic conditions.

The standard introduces:

- A unified, principle-based framework applicable across all Ind ASs.
- The concepts of principal or most advantageous market and highest and best use for non-financial assets.
- A three-level hierarchy that prioritises observable over unobservable inputs.

Fair value aims to enhance relevance by reflecting current expectations about future cash flows discounted at current market rates.

This moved Indian reporting from a primarily entity-specific, transaction-based view to a more market-oriented, forward-looking perspective.

Fair value aims to enhance relevance by reflecting current expectations about future

cash flows discounted at current market rates. It allows users to better assess stewardship, risk exposure, and the timing and uncertainty of future cash flows.




## What Really Sits at Fair Value Today?

### A thought experiment: a fully fair valued balance sheet

CFOs often debate fair value in abstract terms. It helps to visualise what would actually change if the entire balance sheet were at fair value.

- Current assets, except inventories, are already close to fair value in most Indian balance sheets; many companies explicitly disclose that carrying amounts approximate fair value.
- Equity investments (other than in subsidiaries, associates, and JVs) are mandatorily at fair value under Ind AS 109.

### What is largely not at fair value today?

- Property, plant and equipment (PPE): Ind AS 16 allows a revaluation model, but market practice in India strongly favours the cost model.
- Investments in subsidiaries, associates, and joint ventures in separate financial statements: these can be measured at cost or fair value, and some large corporates have recently started using the fair value option for subsidiaries, though this is not yet mainstream.

  Recently, Tata Steel Limited, in its Annual Report for the Financial Year 2024-25, disclosed the following in its Notes:

  *However, given these fundamental changes and fast evolving business landscape, and to provide more timely visibility into the performance of invested capital and reflect the true value of its subsidiaries, during the quarter and year ended March 31, 2025, the Company has voluntarily changed its accounting policy in keeping with the provisions of Ind AS 8 "Accounting Policies, Changes in Accounting Estimates and Errors" to measure its equity investments in subsidiaries in the standalone financial statements from cost less impairment as per Ind AS 27 "Separate Financial Statements" to fair value through other comprehensive income as per Ind AS 109 "Financial instruments" with retrospective effect.*

  *As the investments in the European business are long-term in nature and strategic for the Company, therefore, the Company has opted under Ind AS 109, to reflect the changes in fair value through Other Comprehensive Income. This allows the Company to keep the changes in fair value of investments in these long-term strategic assets distinct from the underlying financial performance of the Company's regular business activities in the relevant period.*
- Inventories: measured at the lower of Cost and Net Realisable Value (NRV), deliberately not at full fair value to avoid front-loading profits before sale.

This leads to the key strategic question: is the current mix of cost and fair value the result of deliberate policy choices aligned with business models, or simply a path-dependent outcome driven by legacy, tax, and volatility concerns?

## How Fair Value Actually Works under Ind AS

### Application and hierarchy

Ind AS 113 applies across multiple standards, including financial instruments (Ind AS 109), investment property (Ind AS 40), agriculture (Ind AS 41), and business combinations (Ind AS 103). It requires entities to maximise the use of observable inputs and minimise reliance on unobservable inputs, thereby trying to enhance the reliability of fair value estimates.

Ind AS 113 applies across multiple standards, including financial instruments (Ind AS 109), investment property (Ind AS 40), agriculture (Ind AS 41), and business combinations (Ind AS 103).

The fair value hierarchy is central:

- Level 1: Unadjusted quoted prices in active markets for identical items.
- Level 2: Other observable inputs, such as quoted prices for similar assets, interest rates, and yield curves.
- Level 3: Unobservable inputs, reflecting the entity's own assumptions about market participant views.

In practice, it is Level 3 that tests governance, not valuation theory.

## Why Historical Cost Still Dominates in India

Even after Ind AS, historical cost (or amortised cost) remains the default for a wide swathe of items:

- PPE (Ind AS 16): Cost model is the norm; revaluation is rare.
- Intangibles (Ind AS 38): Revaluation is permitted only when there is an active market, which is uncommon.
- Inventories (Ind AS 2): Lower of cost and NRV, with cost determined using historical methods such as FIFO or weighted average.
- Leases (Ind AS 116): Right of use assets, subsequently measured similarly to the underlying PPE.
- Many financial assets and liabilities (Ind AS 109): Measured at amortised cost where the business model is hold to collect and cash flows are solely payments of principal and interest.
- Provisions (Ind AS 37), employee benefits (Ind AS 19), and share capital and reserves: Essentially cost-based or best estimate frameworks.

**The reasons are grounded in Indian realities:**

- Market depth and data: Many asset classes (specialised PPE, unlisted equity, certain real estate) lack deep, transparent markets, making fair value estimation difficult and sometimes unreliable.
- Governance and enforcement: Historical cost is perceived as a safeguard against earnings management, especially where valuation governance and enforcement are still evolving.
- Cost benefit: Developing and maintaining robust valuation models, documentation, and controls is resource-intensive, particularly for entities outside the top tier.

For many operational and long-term assets, this pragmatic reliance on historical cost is likely to continue.

For many operational and long-term assets, this pragmatic reliance on historical cost is likely to continue.




## Disclosure: Where Fair Value Becomes a Governance Tool

Ind AS 113's disclosure regime is often treated as a compliance checklist, but for boards and CFOs, it is actually a powerful governance lever. The key disclosure objectives are to:

- Enhance transparency around the extent of fair value use, techniques applied, and judgements made.
- Facilitate comparability by revealing the level within the hierarchy for each recurring fair value measurement.
- Explain measurement uncertainty, particularly through quantitative information on significant unobservable inputs, sensitivity analyses, and Level 3 roll forwards.
- Highlight transfers between levels and changes in valuation techniques, making shifts in risk or methodology visible over time.

Used well, these disclosures can:

- Force internal discipline over model selection, input justification, and documentation.
- Provide audit committees with a structured lens to challenge management estimates.
- Help investors and lenders distinguish between robust valuations and those based on fragile assumptions.

The challenge is cultural: shifting disclosures from a statutory burden to an integral part of risk and performance discussions.

## Comparative Lens: Where Each Basis Fits Best

The key is not to "pick a winner" between historical cost and fair value, but to consciously match measurement basis with asset characteristics, business models, and stakeholder expectations.

Illustratively:

- Historical cost works best where assets are held for long term use, cash flows are more contractual than market-linked, and markets are thin or unreliable.
- Fair value is more informative where assets are held for trading or sale, values are highly

sensitive to market variables, or where exit values matter more than usage.

Ind AS already embodies this mixed approach; the real question is whether each entity's specific policy choices are intentional, well-explained, and periodically re-examined.

## Strategic Questions for CFOs and Audit Committees

The fair value vs historical cost debate has moved from the classroom to the boardroom. The most valuable conversations now are not about definitions, but about consequences. Thought-provoking questions for leadership include:

- Does the current measurement mix faithfully reflect the economic reality of how assets and liabilities are managed and monetised?
- Are Level 3 fair values supported by independent governance, or do they reverse engineer desired outcomes (e.g., impairment avoidance, covenant comfort)?
- Is the organisation as invested in valuation governance (models, independent review, documentation) as it is in accounting policy debates (P&L vs OCI, classification)?

The fair value vs historical cost debate has moved from the classroom to the boardroom.

- Do disclosures and sensitivity analyses actually influence internal risk discussions, or are they prepared solely for external compliance?
- As markets deepen and technology improves, which asset classes should migrate towards fair value, and which should intentionally remain at cost with enhanced disclosure?




## Looking Ahead: Fair Value in a More Digital, Data-Rich India

Thought leaders – including global bodies and academics – increasingly view fair value not as a destination, but as a moving frontier that will be reshaped by technology, regulation, and stakeholder expectations.

Likely trends:

- Wider use of advanced valuation analytics, AI, and big data to support fair value estimation for complex and illiquid assets.
- Evolving guidance as new asset classes (digital assets, ESG-linked instruments, carbon credits) emerge and require tailored fair value frameworks.
- Greater integration with sustainability and integrated reporting, where notions akin to fair value may be applied to environmental and social capital.
- Raising the bar on documentation and comparability.

In this environment, the winning finance functions will be those that treat measurement choices as part of capital allocation, risk, and strategy – not merely as technical accounting decisions.

# How the Legal Structures (in Audit Entities) have Evolved Over Time, Competitive Landscape

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**Vikas Kumar**

## Overview

*The structural evolution of audit firms in India has been shaped by regulatory reforms, institutional initiatives, and increasing exposure to global competition. This article examines the transition of Indian audit entities from traditional proprietorship and partnership models to more formal organisational forms such as LLPs, domestic networks, and multidisciplinary structures. It evaluates whether these structural developments have enabled Indian firms to achieve scale, governance maturity, and global competitiveness comparable to international professional services firms.*

*The article identifies a persistent fragmentation within the Indian audit ecosystem, despite sustained efforts by the ICAI, the MCA, and the Government to facilitate collaboration. The article also discusses the emerging debates on MDP structure and private equity participation within the broader context of professional independence and institutional resilience.*

*The article also captures key pointers and suggestions being discussed within the CA fraternity on scaling Indian firms globally, which need policymakers' attention. It concludes that while institutional efforts have laid a foundational framework, the profession now faces the critical task of aligning structural reform with execution, governance, and long-term vision.*

*I believe that the challenge before Indian audit firms is no longer professional competence, but converting collective strength into institutional scale, governance, and global credibility.*

## Introduction

The Indian accounting and audit profession has evolved through a rich and complex journey, it has undergone a quiet but significant transformation over the past several decades. From the era of small proprietorships and conventional partnerships to today's more structured LLPs, Networks, and emerging Multi-Disciplinary Partnerships (MDPs), the profession

has steadily moved towards larger, institutionally stronger, and more capability-driven models. The evolution of legal structures in audit practice mirrors the broader transformation of India's economic and regulatory landscape. The story is not merely about organisational formats; it is about how the profession has repeatedly adapted to business complexity, economic expansion, globalisation, and public expectations of quality and independence.

Historically, the audit firms in India operated through traditional proprietorship & partnerships structures, informal and personality-driven structures. These firms have served a relatively stable, domestically oriented corporate sector. But as the economy liberalised, businesses scaled, capital markets deepened, and global investors entered India, demand for scale, specialisation, technology, and institutional governance increased. Internationally, large audit firms evolved into multidisciplinary partnerships (MDPs), network structures, and multi-jurisdictional professional enterprises backed by sophisticated governance frameworks. India, meanwhile, continued to operate under Partnership Acts drafted in 1932 and regulatory models designed for a much simpler business environment.

The evolution of legal structures in audit practice mirrors the broader transformation of India's economic and regulatory landscape.

Over the last decade, however, the regulatory stance has shifted. The MCA, ICAI, NFRA, NITI Aayog, and various committees have explicitly recognised India's fragmented audit ecosystem as a bottleneck, and a series of initiatives have been launched to encourage consolidation, networking, multidisciplinary capabilities, and eventual global competitiveness.




## The Historical Journey - From Sole Proprietorships to Partnerships

For most of the post-independence period, the Indian accounting profession remained defined by sole proprietorships and small partnership firms. The reasons were cultural, economic, and regulatory. Traditional partnership structures limited the number of partners, liability remained unlimited, and succession planning was informal. Professional services were relationship-driven, often dependent on personal networks, and clients themselves were restrained in size and complexity.

The Partnership Act, 1932 was designed for small professional practices and not for multi-office, multi-partner organisations. Control was concentrated, capital accumulation was restricted, and partners often preferred autonomy over institutionalisation. Mergers were rare; collaboration was informal. The notion of a unified national firm was more aspirational than practical.

Meanwhile, global firms evolved differently. They transitioned into massive global networks connected by common brand, methodologies, governance, technology, and risk management systems. Their growth was fuelled by the expansion of multinational clients and by structures flexible enough to integrate consulting, tax, advisory, and industry-specific expertise

The gap widened through the 1990s and early 2000s, the era in which India had seen globalization, technology rise and competitive open market. While Indian professionals were world-class, the firms they operated in were structurally incapable of scaling and Big 4 drastically acquired the talent pool and fragmented specialized firms through enabling local affiliates & strategic mergers.

Even today, based on public data and ICAI submissions, fewer than 100 firms have more than 20 partners. The ecosystem is not only fragmented, it is hyper-fragmented. Most firms specialise narrowly or operate regionally, limiting their ability to serve large corporates. As a result, the Big 4 and their affiliate networks captured a disproportionate share of large corporate audits, advisory services, and multinational engagements.

> The Partnership Act, 1932 was designed for small professional practices and not for multi-office, multi-partner organisations.

The fragmentation is not due to lack of talent; it arises from structural constraints. Indian law historically discouraged incorporation, limited liability, external capital, structured governance, and multidisciplinary collaboration. In this context, the introduction of LLPs, was the first significant legal evolution in decades.

## The Shift to LLPs - A Milestone in Firm Institutionalisation

The introduction of the Limited Liability Partnership (LLP) Act in 2008 was arguably the most important structural reform for the accounting profession since the creation of the ICAI. LLPs allowed firms to move beyond unlimited liability while retaining partnership style




flexibility. For the first time, CA firms in India could protect partners' personal assets, ensure continuity of the firm, and build systems of governance more aligned with larger institutions.

This shift was meaningful for several reasons. First, LLPs enabled firms to attract younger partners, allocate capital more fairly, and institutionalise processes around profit sharing, partner admissions, and succession. Second, LLPs allowed national-scale branding and multi-office integration. Third, they improved the ability to invest in technology, training, consulting capabilities, and quality management systems.

Yet, LLPs did not fully bridge the gap with global firms. Restrictions on ownership, absence of external capital, inability to create complex organisational structures, and limitations on multidisciplinary services prevented firms from evolving into global equivalents. The LLP structure was a step forward, but only the first step. As LLPs helped reduce fragmentation, but did not catalyse consolidation at the scale required. The profession needed deeper reforms.

> The introduction of the Limited Liability Partnership (LLP) Act in 2008 was arguably the most important structural reform for the accounting profession since the creation of the ICAI.

## The Rise of Parallel Entities - Tax, Consulting, and Advisory Firms Outside the Audit Practice

A particularly interesting evolution is the rise of parallel consulting entities, often separate from the audit partnership but operating under a similar brand family. Unlike global firms where consulting and audit arms are ring-fenced within a unified governance model, Indian regulations impose stronger restrictions on auditors providing non-audit services. To overcome these constraints, CA firms in India began forming separate consulting, management advisory, and technology services entities operating alongside the audit practice.

Some of these entities are registered with ICAI under the MCS framework; others operate as companies, LLPs, or even proprietorships outside ICAI's purview. This model allows firms to build capabilities in GST, strategy consulting, valuations, due diligence, and IT advisory without violating independence norms. While this has enabled growth, it has also created organisational complexity. Multi-entity structures often struggle with governance consistency, brand positioning, risk management, and quality control.

CA firms in India began forming separate consulting, management advisory, and technology services entities operating alongside the audit practice.

Interestingly, this mirrors a global trend. Even the Big 4 have moved through periods of restructuring separating consulting arms and now experimenting with partial separation. The Indian ecosystem, however, lacks unified regulatory guidance on permissible structures, investment models, and cross-entity supervision.

## New Structures - Domestic Networking Models and Multidisciplinary Partnerships (MDPs) - Promise, Progress, and Practical Challenges

ICAI introduced Networking Guidelines in the year 2005 and were proactively revised by the Institute twice in 2011 and 2021 respectively. According to latest revision (2021) there are following models;

*A. Alliance Model*- An informal collaboration framework where participating firms retain complete legal and operational independence, without common branding or pooled revenues, while enabling referral-based cooperation, knowledge sharing, and capacity enhancement within ICAI's ethical and professional boundaries.

*B1. Network Model*- A structured association of independent firms operating under a common network identity, with prescribed governance, quality control mechanisms, and shared professional standards, while preserving individual firm ownership, profit autonomy, and separate client contracts.

*B2. Network Lead Firm Model*- A centralised network structure led by a designated lead firm responsible for client engagement, quality oversight, and coordination, enabling seamless delivery of large, multi-location assignments while member firms contribute execution support under unified standards.

The provisions of the Chartered Accountants Act, 1949, and the Chartered Accountants Regulations 1988, as amended in 2021, permit the members of the ICAI to form multi-disciplinary partnership (MDP) firms. Recognising the need for integrated services in a modern economy, the MDP framework has been re-introduced which permits CAs to partner with Company Secretaries, Cost Accountants, Advocates, Engineers, Architects, and other specified disciplines.

MCA and DPIIT committees endorsed this model, treating MDPs as a pathway to Indian "Big

Firms". Yet, implementation has been slow, and not much has happened. Regulatory boundaries, ownership requirements, and the lack of clarity on cross-disciplinary liability created hesitation as different professionals are governed by different statutory bodies.

The ICAI formed the Committee for Aggregation of CA Firms (CACAF) in 2024-25 with a mission to promote strategic reforms within the industry.

The ICAI formed the Committee for Aggregation of CA Firms (CACAF) in 2024-25 with a mission to promote strategic reforms within the industry. The committee has been tasked with implementing a framework that aligns CA firms with global standards.

In 2024, this committee introduced Guidelines on merger and de-merger of CA firms to encourage consolidation of smaller firms into bigger units to achieve the scale of Operations. In the same year, it also introduced LLP aggregation guidelines, which establish a framework for two or more existing Chartered Accountant LLPs to form a new, larger "parent LLP" by allowing mergers of LLPs and pooling resources to enhance their scale and competitiveness.

India has frameworks, but not the enabling environment for those frameworks to flourish at scale. India's policy direction is modern, but its market structure remains fragmented.

## Existing Scenario- Fragmentation in Numbers - Why India Struggles to Build National-Scale Firms

Despite the shift toward LLPs and the emergence of more structured governance models, the underlying composition of India's audit ecosystem remains overwhelmingly fragmented. A recent Economic Times analysis (October 2025) underscores this reality starkly: out of more than 100,000 CA firms in India, nearly 73% are sole-proprietorships, and most of the other firms comprise just two to ten partners.

This pyramid structure with tens of thousands of small firms at the base and an almost invisible cluster of large firms at the top clearly demonstrates that although LLPs provided a modern legal vehicle, they did not translate into widespread consolidation or scale.

Fragmented Ecosystem (October 2025 - Economic Times Article)

| Partners | No. of Firms | % of Firms | Total Workforce | % of Workforce |
|---|---|---|---|---|
| 1 | 72,696 | 72.55% | 73,365 | 40.00% |
| 2-10 | 26,983 | 27.00% | 83,192 | 45.00% |
| 11-20 | 392 | 0.39% | 8,808 | 5.00% |
| 21-50 | 54 | 0.05% | 5,385 | 3.00% |
| 50-168 | 13 | 0.01% | 12,892 | 7.00% |
| **Total** | **100,138** | **100.00%** | **183,642** | **100.00%** |

Note: Workforce includes both partners and paid assistants

The ecosystem is overwhelmingly composed of small firms. Over 90% of CA firms have one or two partners; fewer than 100 firms (including the network of Big 4) have more than 20 partners. In comparison, the Big 4 globally have partner counts in the thousands and annual revenues exceeding USD 35–60 billion.

Multiple studies and committee reports indicate that fragmentation affects:

- **Audit Quality:** Smaller firms lack technology, training, bandwidth, peer supervision, and exposure to complex audits.
- **Competitiveness:** Large corporates, global investors, and multinationals prefer firms with national scale and multidisciplinary teams.
- **International Presence:** Indian firms struggle to build global footprints due to scale limitations.

- **Talent Retention:** young CAs prefer larger firms for specialisation, mobility, and structured career paths.
- **Technology Adoption:** It is difficult for smaller firms to invest in data analytics, AI tools, risk management systems, and global platforms.

The fragmentation is not a failure of professionals; it is a failure of the structural environment. While ICAI has introduced networking guidelines, MDPs, quality control standards, etc., these reforms are relatively recent and still maturing. Senior practitioners frequently note that India has "excellent talent but inadequate institutions."




## Regulatory Vision & Efforts - ICAI, MCA, and Government Efforts to Build Large, Globally Competitive Indian Firms

Over the past decade, there has been a clear convergence: both the profession and the government recognise the need for Indian firms that can stand alongside global institutions.

The MCA's Working Group on Audit Firms (2023–24) explicitly articulated that India requires large, well-governed, technology-enabled, multidisciplinary Indian professional firms capable of serving domestic and global clients. ICAI, in multiple communications, including its networking guidelines and MDP frameworks, has emphasised strengthening Indian CA firms.

Several regulatory, government, and policy initiatives reflect this vision:

- Launch of MDP structures to allow integrated professional services.
- Seek public opinions on improving these structures and existing laws with a clear agenda of establishing a globally competitive institution. (MCA's office memo dated 17th Sep. 2025).
- Forming an aggregation committee (CACAF-ICAI), Revisions in Networking Guidelines to promote consolidation and national branding. (ICAI Networking guidelines- 2021, 2024) Also, drafting a guideline for forming overseas networks. (ICAI's exposure draft- June 2025)
- Strengthened Quality Management Standards (SQC-1 replaced with QMS-1 & 2) to elevate firm-level governance.
- Introducing Audit Quality Maturity Model (AQMM Version 2.0) to enhance audit quality.
- Mandatory peer review, UDIN, and audit trail rules to raise audit quality.
- Capacity building through ICAI Centres of Excellence.

ICAI, in multiple communications, including its networking guidelines and MDP frameworks, has emphasised strengthening Indian CA firms.

- Government interest in building "Indian Big Firms", reflected in MCA speeches, CAG discussions, and NITI Aayog consultations.
- Multiple Government agencies and others have started framing or seeking public

opinions on improving empanelment policies and RFP rules, which will boost JVs and give preferences to Indian CA firms.

The government's rationale is straightforward: the Indian economy is now USD 3.7 trillion and projected to reach USD 7 trillion by 2030. A large economy cannot depend disproportionately on a handful of global networks for audit and assurance. Domestic firms must scale, consolidate, and modernise to provide quality, independence, and innovation.

A large economy cannot depend disproportionately on a handful of global networks for audit and assurance.

This is why practitioners are optimistic about the government's renewed focus on unified regulation across professions, rationalisation of constraints that inhibit scale and private equity participation, and various other measures. If policy momentum continues, the next decade could see the emergence of 6–8 large Indian firms with national and international footprints.

## Emerging Discussions: Private Equity, Scale, Norms and the Future Competitive Landscape

The conversation around Private Equity (PE) investment in audit firms represents a paradigm shift. Globally, PE has played a role in helping consulting and advisory firms scale, though audit remains restricted due to independence considerations. In India, PE discussions reflect a realistic understanding: scaling requires capital for technology, risk management, cybersecurity, AI platforms, specialised training, and overseas expansion.

If structured carefully with ring-fencing of audit functions, PE could help Indian firms mature into institutional entities. However, concerns around independence, governance, and conflict management must be addressed through strong regulatory safeguards.

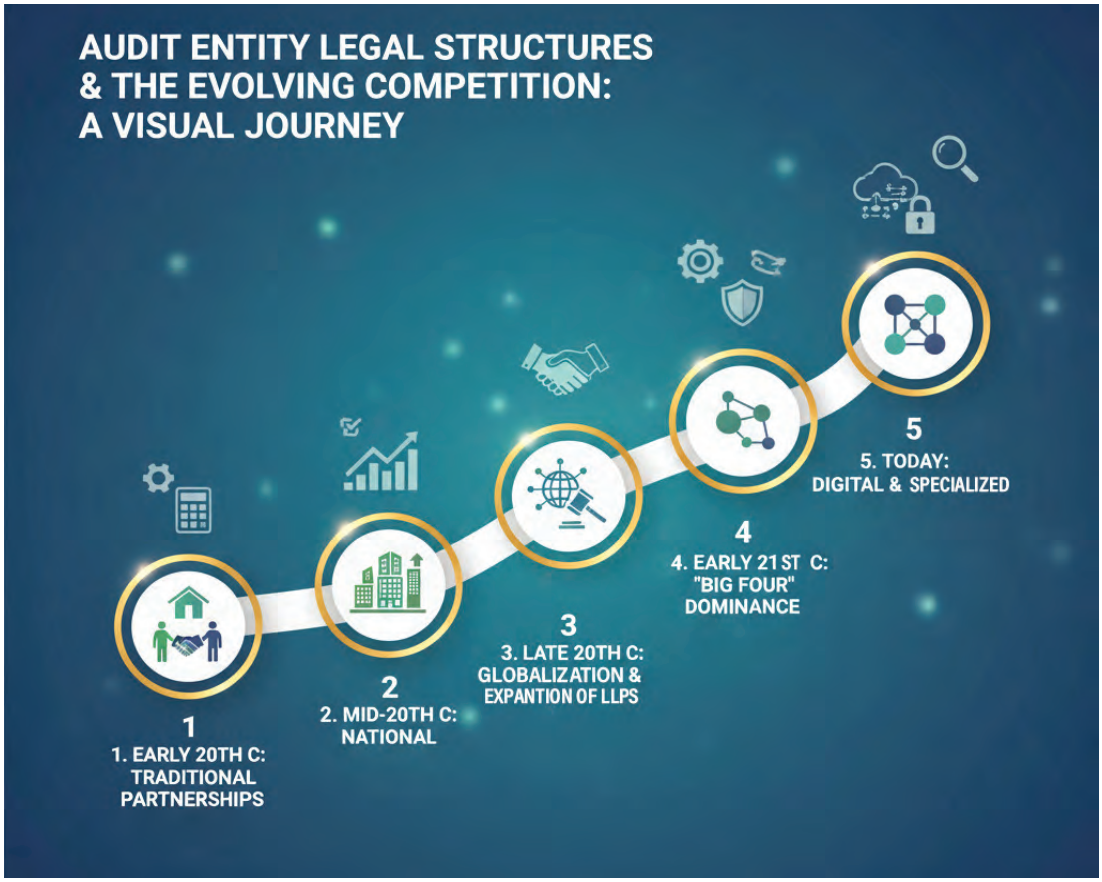
The following topics or suggestions get discussed among the fraternity for real growth, which need attention by the policy makers:

- Mandatory peer review and AQMM evaluations for MDPs, raising audit and advisory quality to global benchmarks.
- SEBI, being the regulatory body for listed companies, should define the minimum eligibility criteria for CA firms carrying out the statutory audit of listed companies. This could be on a similar pattern like made by RBI, CAG, IRDAI for entities in their domain. The eligibility norms could be separate for the top 1000 listed companies and other listed companies. In similar lines, the quality standards and conflict of interest norms should be stringent for CA firms providing services to public interest entities as compared to other CA firms.
- Joint audits – The government should look



at the possibility to mandate joint audits for large public interest entities, maybe for the top 1000 listed companies initially, and thereafter up to the top 5000 listed companies in phases. The Reserve Bank of India, IRDA, and CAG have already implemented the joint audits for entities under their domain with great success.

- ICAI or some designated institution to facilitate common technology, software, and AI capabilities at shared cost to mid-size Indian CA firms.
- Engagement / Collaboration with reputed educational institutions such as IITs, NITs, IIMs, and ICAI to enhance the technological capabilities of Indian CA firms.
- Government / PSU tenders should have tender conditions that allow mid/large-sized Indian firms to participate in the same.
- Promote Indian Audit & Consulting firms through the free trade agreement. Inclusion of large Indian CA firms in global trade/ bilateral/ economic forums.
- Government/ ICAI to make efforts in getting the qualification of CAs of ICAI recognized in as many countries. (Without residency or additional local internship experience or other conditions).
- There should be no restrictive covenants written or otherwise on the auditor's name; rather, the same may be based on the capacity of the firm, which may be defined.
- Change in the definition of 'Local' content, including the clarification that "organization



is associating itself with a firm/company registered in India, whose economic interest and control lies within India, and they shall not be paying any royalty/brand/technology fees to entities operating out of India". This will ensure that only those entities whose economic interest, as well as control, lies in India shall be able to participate in the bids.

- The audit fees paid by various companies in India are below market. NFRA or any other regulator may devise a minimum audit fee to be charged based on various criteria for entities of public interest. These criteria should consider location, turnover, borrowings, complexity, nature of operations, etc., based on expected man-days to be spent on the same.
- Advertising & solicitation bans – Big 4 firms build global brands through visibility, thought leadership, and marketing, while Indian firms were not allowed to build a brand, which made them anonymous. Refine the rules relating to the same.

## Conclusion-"Synergy, The need of hour"

The evolution of legal structures of audit firms in India is a story of progress, persistence, and unrealised potential. From partnerships to LLPs, from informal collaboration to formal networks, from single-discipline practices to multidisciplinary aspirations, the profession has come a long way. Yet fragmentation persists; not due to lack of vision, but due to structural, regulatory, and economic limitations that are only now being actively addressed.

Today, India stands at an inflection point. MCA, ICAI, and other regulators recognise the need for large, globally competitive Indian firms. The frameworks, MDPs, LLPs, networking guidelines, and quality standards are generally in place. The missing link is the enabling environment: capital access, cross-professional harmonisation, liability reforms, norms supporting the creation of larger firms, and a governance architecture that supports scaling. These frameworks also need to be made clearer, explicit, and forward-looking.

If the next decade brings alignment between policy and practice, India could see the rise of firms capable of auditing global multinationals, leading consulting transformations, and contributing meaningfully to the global professional services ecosystem. The vision of Indian Big Firms, long discussed, is finally looking to be within reach. Our mindset is changing, and we have at least started looking at the larger picture.

Today, India stands at an inflection point. MCA, ICAI, and other regulators recognise the need for large, globally competitive Indian firms.

As we mark the centenary of The Chamber of Tax Consultants, it is fitting to acknowledge how far the profession has come and how transformative the coming years could be. The next 100 years will belong to institutions that combine professional integrity with scale, technology, multidisciplinary depth, and global ambition. The foundation has been laid. The moment now calls for bold structural evolution, regulatory collaboration, and professional leadership. The changes done now would shape the future of the CA profession in India for times to come.

Concluding with a final thought from the **Rig Veda-**

॥ संगच्छध्वं संवदध्वं | सं वो मनांसि जानताम् ॥

॥ समानी व आकूतिः समाना हृदयानि वः |
समानमस्तु वो मनो यथा वः सुसहासति ॥

May we move in harmony, speak in one voice;
let our minds be in agreement;

May our intentions and aspirations be alike, so that a common objective unifies us all.

॥ जय हिन्द ॥

# Raising the Bar for Group Audits: Risk-Based Approach and Enhanced Collaboration under ISA 600 (Revised)

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**Aniruddha Godbole**



**Labdhi Shah**

## Overview

*The article discusses the significant changes introduced by ISA 600 (Revised) - Special Considerations—Audits of Group Financial Statements (Including the Work of Component Auditors), which governs audits of group financial statements. As global business structures become more complex, group audits often involve multiple auditors across jurisdictions. The revised standard, effective for audits from December 2023, shifts towards a risk-based approach. Auditors must now focus on areas with the highest risk of material misstatement, ensuring efficient audit procedures. The standard emphasizes active oversight, robust communication, and collaboration between group and component auditors, with clear responsibilities for planning, execution, and completion phases. In the Indian context, several of these updates are consistent with NFRA's recent observations, particularly regarding insufficient collaboration and oversight between principal and component auditors. The revised approach demands greater accountability, transparency, and documentation, aiming to enhance audit quality and public trust in group financial statements. Ultimately, ISA 600 (Revised) is positioned as a commitment to excellence, ensuring that group audits reflect the realities of today's interconnected business environment.*

## Introduction

Corporate India today is interconnected with the global environment, and no longer operates in isolation. As a result of increased collaborations, cross-border transactions and operations across multiple jurisdictions, it is quite common for Indian corporates to have multiple subsidiaries, joint ventures and associates ('a Group'). For such a Group, the consolidated financial statements become a more relevant and appropriate measure.

Given the geographical separation and various other considerations, it is not possible to have one single firm of auditors to audit all the components of a Group, and it is common for large Groups to appoint an auditor for the parent

company and then appoint multiple other auditors for various entities within the Group. As a result, it is important for us to understand the key concepts of group audits, which involve auditors operating across multiple jurisdictions and reliance by the parent company auditor on the work performed by various component auditors.



As global business structures grow more complex, the International Standard on Auditing - Special Considerations—Audits of Group Financial Statements (Including the Work of Component Auditors) (ISA 600) has undergone significant revision in December 2023. This update marks a paradigm shift in audit methodology, introducing a risk-based approach and aiming to strengthen audit quality through enhanced oversight and collaboration.

In India, SA 600 'Using the work of another auditor', continues to govern group audits under existing standards. However, the National Financial Reporting Authority (NFRA), through its circular NF-25013/2/2023 dated 03 October 2024, has shared its observations about the audit of Group Financial Statements (GFS). The NFRA's key observations highlight significant gaps in group audit practices, including inadequate coordination between principal and component auditors, over-reliance on component auditors' reports without sufficient scrutiny, insufficient review of component auditors' work papers, and the evaluation of the competence of component auditors. Having regard to some of these concerns, the ICAI Council approved a revised SA 600 in December 2025, clarifying the roles and accountability parameters for both the principal and the other auditor. The updated standard now awaits review by NFRA and the Ministry of Corporate Affairs.

In India, SA 600 'Using the work of another auditor', continues to govern group audits under existing standards.

## Why This Matters

As global business structures become more complex, expectations for audit quality rise. The revised ISA 600 and NFRA's clarifications set a new benchmark for group audits in India, demanding consistency, accountability, and a commitment to public interest. Auditors and companies alike must adapt to these evolving standards to ensure that group financial statements truly reflect the reality of today's dynamic business environment.

## Enhancing Group Audit Practices: Planning, Execution, and Completion under ISA 600 (Revised)

ISA 600 (Revised), by promoting transparency, accountability, and collaboration, addresses long-standing issues such as role ambiguity and inadequate communication. This revision

aims for higher audit quality, ensuring that group audits meet global expectations.

ISA 600 (Revised), Special Considerations—Audits of Group Financial Statements (Including the work of component auditors) is an extension and revised version of ISA 600. Effective for audits of group financial statements for periods beginning on or after December 15, 2023, the key objectives of ISA 600 (Revised) are identifying and evaluating the risk of material misstatement in group financial statements and performing appropriate audit procedures in response to the assessed risks, with its emphasis on active engagement and involvement with other auditors participating in the group audit. This includes clear communication regarding the scope and timing of their work, as well as a thorough assessment of their findings.

ISA 600 (Revised), Special Considerations—Audits of Group Financial Statements is an extension and revised version of ISA 600.

Our endeavor in this article is to discuss how ISA 600 (Revised) reshapes the group audit process. We will focus on three critical phases of a group audit —planning, execution, and completion— and examine how the revised standard elevates professional responsibilities, risk assessment practices, and audit quality expectations.

### (I) Risk-Based Planning - How ISA 600 (Revised) Transforms Component Selection in Group Audits

ISA 600 (Revised) replaces the traditional "significant/not significant" classification with a risk-based approach. Auditors need to adopt a holistic view, identifying risks across the entire group and focusing audit work on elements that represent material risks, rather than performing full scope audits of entire components simply because they meet size thresholds.

#### Understanding the Group and Its Components

The process begins with a comprehensive understanding of the group's structure, business activities, environment, and risk profile. Components are defined flexibly as any entity, business unit, function, or activity included in the group financial statements.

#### Risk Assessment Drives Audit Focus

The group auditor identifies and assesses risks of material misstatement at both the Group and component levels. Key factors influencing risk include:

- Complexity of operations
- Significant transactions, estimates, or unique local risks.
- History of misstatements
- Regulatory environment

Component auditors may assist in risk assessment, especially where they have direct knowledge of local risks or business practices.

#### Selecting Components for Audit Work

Once the group auditor has mapped the risks across the Group, the group auditor applies professional judgment to determine which components require audit procedures. The



decision is guided by two primary considerations:

- Significance: Components that are financially significant to the consolidated financial statements must be included in the audit scope. In India, listed entities are required to comply with SEBI's circular (CIR/CFD/CMD1/44/2019) dated March 29, 2019, which mandates that the parent and its significant components—collectively covering at least 80% of consolidated revenue, assets, and profits—be subject to audit procedures.
- Risk Profile: Beyond size, the group auditors must evaluate components based on complexity, unusual transactions, susceptibility to fraud, or other elevated risk factors. Components with unique risks or significant estimates warrant targeted or additional audit attention, even if they are not financially large.

**Materiality considerations**

Materiality in group audits is a layered concept—set at both the group and component levels—group materiality guides the overall audit of consolidated financial statements, while lower component materiality addresses aggregation risk across individual entities. The group auditor communicates these thresholds to component auditors and may tailor materiality for specific accounts or disclosures and revise them as needed to ensure that the aggregate effect of misstatements does not compromise the reliability of the group financial statements.

Active oversight of component auditors is not just a compliance exercise; it is a proactive, risk-based process that underpins the credibility of group audit opinions.




**(II) Execution: Active Oversight of Component Auditors and ensuring sufficient coverage**

Active oversight of component auditors is not just a compliance exercise; it is a proactive, risk-based process that underpins the credibility of group audit opinions. The revised standard places clear responsibility on the group engagement partner and team to direct, supervise, and review the work of component auditors. Before relying on a component auditor's work, the group auditor must:

- Assess independence and ethical compliance: Obtain written confirmation that the component auditor understands and will comply with relevant ethical and independence requirements.
- Evaluate competence and capabilities: Consider the component auditor's experience, training, and regulatory environment.
- Ensure access and communication: Confirm ability to review documentation and maintain two-way interaction.

Active oversight into practice will include the following:

- Clear instructions: The group auditor provides comprehensive instructions outlining the

scope of work for component auditors. These instructions specify identified risks of material misstatement, significant accounts, the planned audit approach, materiality thresholds, and reporting requirements. For reference, please see the Annexure, which details the key contents and deliverables expected when collaborating with component auditors.



- Ongoing communication and two-way interaction: Regular meetings including active participation in Risk assessment and planning discussions, calls, visiting offices, where required, and written updates, including expectations, responsibilities, and timelines, ensure alignment and timely identification of issues.
- Review of work: The group auditor reviews key audit documentation, especially on high-risk areas and significant judgments.
- Escalation and resolution: Any concerns about the adequacy of work, independence, or competence are addressed promptly, with additional procedures performed if necessary.

**Ensuring sufficient coverage**

Achieving sufficient audit coverage in group financial statements is a critical objective for group auditors. The process begins with robust scoping—identifying which components require audit procedures—and is followed by a careful evaluation of the remaining financial information to assess whether all material risks are addressed, and no significant misstatements go undetected.

**Tailoring the Scope of Audit Work**

The nature, timing, and extent of audit work at each component are customised to address identified risks of material misstatement (RMM). In response to the assessed risks of material misstatement, the group auditor may determine the following scope of work to be appropriate at a component. The group auditor coordinates with component auditors to ensure procedures align with the risk profile and significance of each component.

- Audit the entire financial information Audit evidence needs to be obtained on all or a significant proportion of a component's financial information to respond to the assessed risks of material misstatement of the group financial statements or there is a pervasive risk of material misstatement of the group financial statements due to the existence of events or conditions at the component that may be relevant to the group auditor's evaluation of group management's assessment of the group's ability to continue as a going concern.
- Specific classes of transactions, account balances, or disclosures that are material or high-risk. For instance, A holding company owns a subsidiary that only holds real estate assets. The group auditor focuses audit procedures on property valuation and related disclosures, rather than seeking a full-scope audit of that subsidiary.
- Specific audit procedures: Perform limited procedures to address particular assertions or risks (e.g., valuation of claims, existence of assets). A component in a high-risk jurisdiction is subject to litigation. The group auditor requests the component auditor to perform specific procedures on the existence of legal claims and provisions, ensuring coverage of this unique risk.

**Evaluating remaining financial information**

After scoping and assigning procedures to significant and high-risk components, the auditor

must evaluate the remaining financial information—accounts and disclosures not directly covered by detailed audit procedures. The goal is to ensure that the aggregate risk of material misstatement in the remaining financial information is acceptably low. If the auditor determines that there is a reasonable possibility of material misstatement in the remaining financial information, the auditor selects additional components or accounts for further procedures until sufficient coverage is achieved.

The goal is to ensure that the aggregate risk of material misstatement in the remaining financial information is acceptably low.

**(III) Review of audit evidence to support the group auditor's opinion**

A central pillar of ISA600R is the review of work performed by component auditors—a process that ensures the group auditor obtains sufficient appropriate audit evidence to support the group audit opinion. The review of component auditors' work is a dynamic, risk-based process—not a checklist. It demands active oversight, robust communication, and thorough documentation. By embracing these principles, audit teams can deliver high-quality group audits and uphold professional standards.

**Key Principles for Reviewing Component Auditors' Work**

The group auditor's responsibility does not end with assigning work—it extends to evaluating the sufficiency and appropriateness of audit evidence obtained from component auditors. This is a cornerstone of ISA 600 (Revised) and demands active involvement. Key responsibilities include:

- Reviewing Communications: The group auditor examines reports and memoranda from component auditors, focusing on key findings, misstatements, control deficiencies, and compliance with ethical requirements.
- Discussing Significant Matters: Any significant issues or unresolved matters are discussed directly with the component auditor or relevant management to clarify implications.
- Assessing Adequacy of work: The group auditor evaluates whether the work performed is adequate, considering the nature, timing, and extent of procedures.
- Reviewing Additional Documentation: For high-risk or material components, the group auditor may review further documentation to ensure all significant judgments and risks are addressed.
- Aggregating Misstatements: All misstatements identified by component auditors are aggregated, and their impact on the group financial statements is evaluated.
- Professional Skepticism: Throughout, the group auditor must maintain professional skepticism, especially when inconsistencies or significant risks arise.
- Communicate with Governance: The group auditor must provide an overview of the planned scope and timing of the group audit, discussing any concerns about audit quality or limitations in scope, reporting identified or suspected fraud, and sharing significant deficiencies in internal control, including those found by component auditors, to ensure transparency and effective oversight of the audit process.



## Conclusion

ISA 600 (Revised) requires a shift in group audit practices, raising the bar for audit quality and accountability at every stage of the audit process. By embedding a risk-based approach, the standard ensures that audit resources are strategically focused on areas posing the greatest risk to group financial statements.

For auditors, this means adopting a proactive and analytical mindset—investing more time in planning, oversight, and competence checks, expanding risk assessments, designing audit work, and rigorously evaluating the work of component auditors. Active oversight, robust documentation, and two-way communication are now essential to support the group auditor's opinion and demonstrate compliance.

For companies, the revised standard underscores the importance of transparency, collaboration, and timely communication throughout the audit process.

For companies, the revised standard underscores the importance of transparency, collaboration, and timely communication throughout the audit process. Management must be prepared for deeper engagement with auditors, especially regarding risk identification, component selection, and the consolidation process.

Ultimately, ISA 600 (Revised) is not just about compliance. It is a commitment to excellence in audit quality, designed to strengthen public trust by ensuring that group financial statements present a true and fair view in today's interconnected business environment.

**Annexure –Key Contents of a typical Group audit instruction (GAI)**

The key deliverables listed below are the illustrative requirements when working with component auditors, and additional items may be needed based on engagement-specific considerations (similar requirements will also be necessary for limited reviews).

| **Illustrative documents** | **Key Content** |
|---|---|
| Group Audit Instructions | • Overview of audit scope, standards, and changes from prior periods. |
| | • Key dates and milestones for audit deliverables. |
| | • Background, significant changes, accounting policies, legal structure, and known control deficiencies. |
| | • Ethics and independence requirements |
| | • Request for details of professional experience. |
| | • Planned meetings, visits, and deliverables required from component auditors, |
| | • Confirmation of cooperation and review documentation. |

| | |
|---|---|
| | • Detailed instructions on audit scope, significant accounts, risks, fraud, unusual transactions, management override, financial reporting, intercompany balances, related parties, going concern, laws/regulations, litigation, controls (including entity-level), centralized services, experts, internal audit, service organizations, materiality, subsequent events. |
| | • Formats for audit reports and statutory requirements. |
| | • Confirmation of audit files, documentation, and retention requirements |
| Group Audit Instructions Confirmation | • Formal acknowledgment by component auditors of receipt and understanding of instructions. |
| Ethics and Independence Confirmation (Initial and Final) | • Information about breaches of relevant ethical requirements, including identified breaches of independence provisions. |
| Planned Audit Procedures | • Planned audit procedures to identify risks. |
| | • IT layers and Automated controls |
| Planning Highlights Memorandum | • Matters relevant to risk assessment of group financial statements. |
| | • Significant accounts/disclosures and relevant assertions |
| | • Planned audit procedures. |
| | • Significant unusual transactions |
| | • Related parties and related party transactions |
| | • Journal entries and other adjustments (management override) |
| | • Going concern considerations |
| | • Design of responses to identified risks |
| | • Entity-level controls |
| Early Warning Memorandum | • Significant risks or issues identified early in the audit. |
| | • Matters involving the selection, application, and consistency of accounting principles, including related disclosures. |
| | • Potential obstacles or concerns affecting audit progress. |
| | • Recommendations for immediate action or escalation |
| | • Deficiencies/Misstatements |
| Clearance Memorandum | • Confirmation of compliance with group audit instructions and scope of work |
| | • Communication of significant outstanding or unresolved matters |

| | |
|---|---|
| | • Reporting of significant risks, unusual transactions, and related party matters |
| | • Disclosure of significant changes in risk assessments and modifications to audit procedures |
| | • Deficiencies/Misstatements |
| | • Findings affecting the consolidation or combining of accounts. |
| | • Identified or suspected non-compliance with laws, fraud, or illegal acts |
| | • Indicators of possible management bias |
| | • Matters communicated to component management or those charged with governance. |
| | • Exceptions noted in written representations |
| | • Disagreements with component management |
| | • Results of specified audit procedures and final analytical procedures |
| | • Testing of journal entries and other adjustments |
| | • Going concern considerations |
| | • Litigation, claims, and assessments |
| | • Consultations made during the audit |
| | • Information relevant to key audit matters |
| | • Analytical review workpapers |
| | • Disclosure of subsequent events |
| Summary of Audit Misstatements | • List of identified misstatements (corrected and uncorrected) |
| | • Quantitative and qualitative impact on group financial statements |
| | • Management's response and proposed adjustments |
| Summary of Control Deficiencies | • Details of internal control weaknesses found during the audit. |
| | • Assessment of their impact on financial reporting |
| | • Recommendations for remediation |
| Subsequent Events Memorandum | • Identification and evaluation of events occurring after the balance sheet date |
| | • Impact assessment on financial statements and audit opinion |
| Audit Documentation Confirmation | • Confirmation that all required audit documentation has been completed and retained. |

# Global Trends in Financial Reporting

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**Amit Borkar**



**Rahul Matmari**

## Overview

*Global financial reporting is undergoing significant change, and India's accounting profession is at an inflection point. Investor demand for comparability, connectivity, and credible assurance is driving significant changes across financial reporting standards. We'll look at some of the amendments that have already been applied internationally and are expected to be relevant for entities in India.*

*Also, imagine a batsman who presents a 'modified average' score to the outside world, excluding the score every time they were beaten by a tricky ball. Similarly, Management-defined Performance Measures (MPMs) allowed companies to tell a 'curated' story, often stripping out unexpected costs to highlight an 'underlying' profit. The result was a statistical nightmare for investors trying to compare players on an uneven field.*

*IFRS 18 ushers in the biggest reporting change in years, reshaping the statement of profit or loss to improve comparability and communication. It introduces defined subtotals—'operating profit' and 'profit before financing and income taxes'—and organizes results into five categories: operating, investing, financing, income taxes, and discontinued operations.*

*The standard also aims to provide assurance on management-defined performance measures by requiring reconciliations, explanations of the calculation, and the purpose of such measures. Ind AS 118 (the Indian equivalent of IFRS 18) is proposed to take effect on April 1, 2027, including the removal of the 'by nature only' carveout. This means that entities in India will have to re-evaluate how they present the statement of profit and loss from the quarter ending June 30, 2027.*

*Targeted amendments to IFRS 9 and IFRS 7 (effective 2026) clarify recognition and derecognition using settlement-date accounting- this would affect many entities and would mean almost the end of bank reconciliation statements as we know them.*

*IFRS 19 offers reduced disclosures for subsidiaries without public accountability whose parents report under IFRS- it is voluntary and aims to cut costs while preserving usefulness.*




## IFRS 18 and Ind AS 118 - Presentation and Disclosure in Financial Statements

### Why was IFRS 18 introduced?

IFRS 18 responds to stakeholder feedback that:

- statements of profit or loss vary in structure and content- IFRS 18 adds defined subtotals to the statement of profit or loss, making companies' financial performance easier to compare and providing a consistent starting point for investors' analysis.
- measures defined by management are useful to investors, but companies might not explain how these measures are calculated and why they are used- IFRS 18 requires companies to disclose information about management-defined performance measures, which increases discipline over their use and transparency about their calculation.
- investors would like to see information more appropriately grouped (aggregated or disaggregated) in the financial statements- While this is a less significant change, IFRS 18 sets out requirements on whether information should be in the primary financial statements or the notes and provides principles on the level of detail needed to improve effective communication of information.

IFRS 18 replaces IAS 1 and was issued by the International Accounting Standards Board in April 2024 and is applicable to IFRS reporters from January 1, 2027. In India, Ind AS 118 is proposed to be applicable from April 1, 2027.

## Key changes brought in by IFRS 18

### Newly defined subtotals in the statement of profit or loss

IFRS 18 requires companies to report 'operating profit' and 'profit before financing and income taxes'. These subtotals provide a consistent structure for the statement of profit or loss, thereby improving comparability between companies. What this means is that the profit and loss would now contain five distinct categories:

- operating category
- investing category
- financing category
- income taxes and
- discontinued operations

### Why 'Operating profit'?

The IASB noted that 'Operating profit' is one of the most commonly presented subtotals in financial statements. In the IASB's sample of 100 companies, 61 companies presented a measure labelled operating profit (or similarly labelled subtotal, such as profit from operations), using at least nine different definitions.

IFRS 18 requires companies to report 'operating profit' and 'profit before financing and income taxes'.

The IASB determined that the requirement in IFRS 18 for all companies to present a consistently defined operating profit subtotal will provide useful information about financial performance and give investors a consistent starting point for their analyses.

IASB has also amended IAS 7, Statement of Cash Flows, which now requires companies to use the operating profit subtotal as the starting point for reporting cash flows from operating activities using the indirect method.

### Why 'Earnings before interest and tax'?

The requirement in IFRS 18 for companies to present the subtotal of profit before financing and income taxes is expected to provide useful information to investors about the company's performance before the effect of its financing.

Profit before financing and income taxes serves a similar purpose to a subtotal for earnings before interest and tax (EBIT), which investors use to compare the financial performance of companies with varied financing structures. EBIT is commonly used for screening and ratio analysis, and as a starting point for forecasting cash flows. EBIT is sometimes used interchangeably with operating profit. Companies that use EBIT also vary in their presentation and disclosure of it.




IFRS 18 defines profit before financing and income taxes rather than EBIT and requires most companies to present this subtotal in the statement of profit or loss. The IASB expects investors to use this subtotal in the way they currently use subtotals, such as EBIT, that seek to represent the performance of companies before financing and income taxes.

### Management-defined performance measures (MPMs)

Many companies report alternative performance measures or non-GAAP measures in public communications, such as in the annual report and in the investor call presentations. When those measures meet the definition of MPMs, IFRS 18 requires companies to disclose reconciliations between those measures and subtotals listed in IFRS 18 or totals or subtotals required by IFRS Accounting Standards. MPMs are subtotals of income and expenses used in public communications to communicate management's view of an aspect of the financial performance for the company as a whole.

A company is required to provide disclosures for MPMs in a single note, including:

- a reconciliation between the measure and the most directly comparable subtotal listed in IFRS 18 or total or subtotal specifically required by IFRS Accounting Standards, including the income tax effect and the effect on non-controlling interests for each item disclosed in the reconciliation;
- a description of how the measure communicates management's view and how the measure is calculated;
- an explanation of any changes in the company's MPMs or in how it calculates its MPMs; and
- a statement that the measure reflects management's view of an aspect of financial performance of the company as a whole and is not necessarily comparable to measures sharing similar labels or descriptions provided by other companies.

Many entities disclose earnings before interest, taxes, depreciation, and amortization (EBITDA) as a measure of profit in the annual report and in the investor meeting. Considering the presentation of new defined subtotals in the profit and loss, entities would have to evaluate whether they would continue to disclose EBITDA or whether they would disclose operating profit before depreciation, amortization, and impairments (OPDAI).

### Enhanced requirements for grouping (aggregation and disaggregation) of information

IFRS 18 sets out requirements to help companies determine whether information about items should be in the primary financial statements or in the notes and provides principles for determining the level of detail needed for the information. IFRS 18 also includes requirements for the presentation of operating expenses in the statement of profit or loss, disclosure of specified expenses by nature, and further information on items grouped together and labelled 'other'.

Many entities disclose earnings before interest, taxes, depreciation, and amortization (EBITDA) as a measure of profit in the annual report and in the investor meeting.

### Principles for grouping (aggregation and disaggregation) of information

According to investors, the way companies group information in financial statements does not always provide the information they need for their analysis—for example, some information is not shown in enough detail, while other information is obscured with too much detail.

IFRS 18 gives guidance for companies on grouping transactions and other events into the line items in the primary financial statements and information disclosed in the notes. These principles generally require companies to:

- aggregate items that share characteristics, and disaggregate items that have different characteristics;
- group items in a way that does not obscure material information or reduce the understandability of the information presented; and
- place items in the primary financial statements and the notes to fulfil their complementary roles.

### How are expenses presented in the operating category?

IFRS 18 requires a company to present expenses in the operating category in a way that provides the most useful structured summary of its expenses. To do so, a company will present in the operating category expenses classified based on:

- their nature—that is, the economic resources consumed to accomplish the company's activities, for example, raw materials, salaries, advertising costs; or
- their function—that is, the activity to which the consumed resource relates, for example, cost of sales, distribution costs, and administrative expenses.

IFRS 18 requires companies to classify expenses in a way that provides the most useful information to investors, considering, for example:

- what line items provide the most useful information about the important components or drivers of the company's profitability; and
- what line items most closely represent the way the company is managed and how management reports internally?

Some companies might decide that classifying some expenses by nature and other expenses by function provides the most useful structured summary of their expenses.




## India-specific considerations

Currently, paragraph 99 of Ind AS 1 requires that an entity shall present an analysis of expenses recognised in profit or loss using a classification based on the nature of the expense method. In this method, an entity aggregates expenses within profit or loss according to their nature (for example, depreciation, purchases of materials, employee benefits, and advertising costs), and does not reallocate them among functions within the entity. This method is simple to apply because no allocations of expenses to functional classifications are necessary. Ind AS 1 currently does not allow companies to present the Statement of profit and loss by function.

> Some companies might decide that classifying some expenses by nature and other expenses by function provides the most useful structured summary of their expenses.

Ind AS 118 seeks to remove this carveout, which would mean that entities in India will now have to evaluate which method would provide the most useful information to investors. For example, a manufacturer would have to evaluate whether:

- the main drivers of profitability are costs for raw materials and employment, and therefore, presenting operating expenses 'by nature' provides the most useful structured summary, or
- the main driver of profitability is cost of sales, which also provides relevant margins to management- in which case the entity determines that presenting in the operating category of the statement of profit or loss, expenses classified by their function, provides the most useful structured summary of expenses

A removal of this carveout in India in the proposed Ind AS 118 will also have to be accompanied

by an amendment to Division II of Schedule III, as 'Part II- Statement of Profit and Loss' of Schedule III currently requires companies to present expenses by nature.

## Settlement date accounting- Amendments to the classification and measurement of financial instruments (IFRS 9 and IFRS 7)

On 30 May 2024, the IASB issued targeted amendments to IFRS 9, 'Financial Instruments', and IFRS 7, 'Financial Instruments: Disclosures'. The amendments respond to recent questions arising in practice, and include new requirements that impact all corporate entities. These new requirements will apply from 1 January 2026 for IFRS preparers.

The amendments clarify the date of recognition and derecognition of a financial asset or financial liability, as set out below:

Essentially, the IASB clarified that 'settlement date accounting' applies to the derecognition and recognition of financial assets and financial liabilities.

- Financial assets should be recognised on the date the entity becomes party to the contractual provisions of the instrument,
- Financial assets should be derecognized on the date the rights to cash flows expire or the asset is transferred,
- Financial liabilities should be recognised on the date the entity becomes party to the contractual provisions of the instrument and
- Financial liabilities should be derecognized on the settlement date (that is, the date the liability is extinguished or otherwise qualifies for derecognition)

The amendments provide an optional exception relating to the derecognition of a financial liability. An entity that applies the exception is permitted to derecognise a financial liability at an earlier date if the cash transfer takes place through an electronic payment system and specific conditions are met.

The conditions for the exception are that the entity making the payment does not have:

- the practical ability to withdraw, stop, or cancel the payment instruction;
- the practical ability to access the cash; or
- significant settlement risk.

This exception does not apply to other payment methods, such as cheques, and must be elected on a system-by-system basis.

Essentially, the IASB clarified that 'settlement date accounting' applies to the derecognition and recognition of financial assets and financial liabilities.

The amendments impact how entities account for cash transfers using common payment methods. For example, consider this situation (where both entities X and Y below have a reporting date on March 31st):

- Entity X who sells goods on credit to its customer, entity Y.
- Thirty days following the sale, entity Y pays its outstanding amount using an electronic payment system featuring an automated settlement process that completes in three business days.
- On March 30th, entity Y initiates the transaction to settle its debt.
- By April 1st, the cash is deposited into entity X's bank account.

The amendments clarify that:

- Entity Y derecognises its trade payable and cash on April 1st, and
- Entity X derecognises its trade receivable and recognises cash also on April 1st.



In other words, the cash transfer is accounted for by both the paying entity and the receiving entity on the settlement date.

Entities that might be impacted by the amendments include, for example, entities that:

- receive or make payments using payment methods that are not instantaneous (such as payment methods that use an automated settlement process that completes in three business days);
- apply 'trade date accounting' (that is, accounting for the cash transfer at the date when the transaction is initiated instead of at the effective settlement date); or
- have cash 'in transit' over the reporting period end date.

While this would have a limited impact on entities in India (as real-time gross settlement transactions are typically settled instantaneously), there could be an impact on entities in the case of non-instantaneous cross-border payments and in the case of payments by cheques.

The amendments to classification and measurement of financial Instruments- Ìnd AS 109 and Ind AS 107 have been approved by the Institute of Chartered Accountants of India and are expected to become applicable from April 1, 2026, on approval by the National Financial Regulatory Authority and on notification of the amendments by the Ministry of Corporate Affairs.

## IFRS 19, Subsidiaries without Public Accountability: Disclosures

In May 2024, the International Accounting Standards Board (IASB) issued IFRS 19, Subsidiaries without Public Accountability: Disclosures, to simplify the preparation of subsidiaries' financial statements.

IFRS 19 works alongside other IFRS Accounting Standards. An eligible subsidiary applies the requirements in other IFRS Accounting Standards except for the disclosure requirements and instead applies the reduced disclosure requirements in IFRS 19.

> The disclosure requirements in IFRS 19 are a reduced version of those set out in other IFRS Accounting Standards.

IFRS 19's reduced disclosure requirements balance the information needs of the users of eligible subsidiaries' financial statements with cost savings for preparers. IFRS 19 is a voluntary standard for eligible subsidiaries.

A subsidiary is eligible if:

- it does not have public accountability; and
- it has an ultimate or intermediate parent that produces consolidated financial statements available for public use that comply with IFRS Accounting Standards.



An entity has public accountability if:

- its equity or debt instruments are traded in a public market, or
- it holds assets in a fiduciary capacity (for example, banks and insurance companies)

The disclosure requirements in IFRS 19 are a reduced version of those set out in other IFRS Accounting Standards. IFRS 19 will simplify reporting systems and processes for companies, reducing the costs of preparing eligible subsidiaries' financial statements, while maintaining the usefulness of those statements for their users.

The exposure draft of the draft Ind AS 119, Subsidiaries without Public Accountability: Disclosures, has been published by the Institute of Chartered Accountants of India and is currently open for comments. The proposed effective date of the standard in India is for annual reporting periods beginning on or after April 1, 2027.

## Disclosures about Uncertainties in the Financial Statements

Climate change is a topic in which investors and other IFRS stakeholders are increasingly interested because of its potential effect on companies' business models, cash flows, financial position, and financial performance. Most industries have been, or are likely to be, affected by climate change and efforts to manage its impact. However, some companies, industries, and activities will be affected more than others.

In November 2025, the IASB issued Disclosures about Uncertainties in the Financial Statements, which added illustrative examples to the guidance accompanying several IFRS Accounting Standards. The objective of those examples is to illustrate how an entity applies the requirements in the Standards to report the effects of uncertainties in its financial statements.

Although these examples do not change requirements in the IFRS Accounting Standards, they provide additional insights into how to apply the disclosure requirements in the IFRS Accounting Standards. Depending on how an entity has applied and considered the consistency between financial and non-financial reporting in the past, the impact of these examples, and whether they result in additional disclosures, might differ.

## Conclusion

As the world moves through volatile, uncertain waters with geo-economic fragmentation, the users of financial statements seek transparency from companies. These changes (or proposed changes) to the accounting standards are moving in the right direction to achieve that objective. Further, as India adopts these changes almost at the same time as the rest of the world adopts these changes, it gives the message to the world that our companies can play this match on a level playing field!

# Relevance of Ind AS for the Small & Medium Practitioners

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**Vishal Doshi**

## Overview

*The article explores the relevance and implementation of Indian Accounting Standards (Ind AS), which are largely converged with IFRS, in the Indian context. It outlines the phased roadmap for Ind AS adoption, beginning in 2016–17, and explains why India opted for convergence rather than full IFRS adoption, citing differences in legal, regulatory, and economic environments. Key deviations include terminology changes, removal of optional treatments, and carve-outs such as recognition of bargain purchase gains in OCI or capital reserve instead of profit or loss. The article also highlights practical challenges in first-time adoption under Ind AS 101, including data collection, valuation adjustments, system changes, and regulatory alignment. For Small and Medium Practitioners (SMPs), Ind AS holds growing importance due to expanding client coverage, advisory opportunities, and future readiness as banking and insurance sectors transition to Ind AS. It emphasizes the need for SMPs to scale up through training, technology upgrades, specialized teams, and client education. Overall, the article underscores Ind AS as a strategic imperative for practitioners, balancing global harmonization with India's unique economic and regulatory realities.*

Implementation of Indian Accounting Standards (Ind AS) began in 2016-17 in India with the Ministry of Corporate Affairs (MCA), in 2015, notifying the Companies (Indian Accounting Standards), Rules 2015, which stipulated the adoption and applicability of Ind AS in a phased manner, impacting large listed and unlisted companies based on net worth criteria. Ind AS standards are largely harmonized with IFRS, moving away from Indian GAAP (Generally Accepted Accounting Principles) towards fair value and balance sheet emphasis. The roadmap for implementing Ind AS is outlined below:



| 1st Ind AS Financial Year | Categories of Companies covered |
|---|---|
| 2015-16 | Voluntarily - any company can apply Ind AS for its financial statements. |
| 2016-17 | Companies other than Banking, NBFC & Insurance<br>a) Listed - with Networth ₹ 500 Cr. or more<br>b) Unlisted with Networth ₹ 500 Cr. or more<br>c) Parent, Subsidiary, Associates, and JVs of the above entities |
| 2017-18 | Companies other than Banking, NBFC & Insurance<br>a) All listed companies not covered in Phase 1<br>b) Unlisted companies with Networth ₹ 250 Cr. or more |
| 2018-19 | a) Insurance companies*<br>b) All Scheduled Commercial Banks (except Regional Rural Banks (RRBs) and Urban Cooperative Banks (UCBs)) **<br>c) NBFCs with Networth ₹ 500 Cr. or more |
| 2019-20 | a) NBFCs - all Listed NBFCs not covered in the above Phase<br>b) Unlisted NBFCs with a net worth of ₹ 250 or more |

* In January 2020, IRDAI deferred the implementation of Ind AS for the insurance sector until the finalization of IFRS 17 by the IASB. Before that, in June 2017, IRDAI had deferred implementation of Ind AS for the insurance sector for 2 years from 2018-19 to 2020-21. IFRS 17 has been finalised by the IASB and is applicable from January 1, 2023.

Ind AS 117 (Insurance Contracts) has been notified by India's Ministry of Corporate Affairs (MCA) on August 12, 2024, and is effective from April 1, 2024, primarily for non-insurance companies. Ind AS is yet to become applicable to Insurance companies.

**In March 2019, RBI deferred implementation of Ind AS for Banks until further notice. Before that, in April 2018, RBI had deferred Ind AS implementation for Banks for 1 year from 2018-19 to 2019-20.

## Why Ind AS - Why not directly adopt IFRS?

India decided to implement IFRS by converging with them through Ind AS, instead of adopting them. The Institute of Chartered Accountants of India (ICAI) had released a "Concept Paper on Convergence with IFRSs in India" in 2007 which was the first step in this direction with the object of exploring (i) the approach for achieving convergence with IFRSs, and (ii) laying down a road map for achieving convergence with IFRSs, with a view to make India IFRS-compliant.

India decided to implement IFRS by converging with them through Ind AS, instead of adopting them.

***As per the Concept Paper:*** In general terms, 'convergence' means to achieve harmony with IFRSs; in precise terms, convergence can be

considered "to design and maintain national accounting standards in a way that financial statements prepared in accordance with national accounting standards draw an unreserved statement of compliance with IFRSs". In this context, attention is drawn to paragraph 14 of International Accounting Standard (IAS) 1, Presentation of Financial Statements, which states that financial statements shall not be described as complying with IFRSs unless they comply with all the requirements of IFRSs. It does not imply that financial statements prepared in accordance with national accounting standards draw an unreserved statement of compliance with IFRSs only when IFRSs are adopted word-for-word. The IASB accepts in its 'Statement of Best Practice: Working Relationships between the IASB and other Accounting Standards-Setters' that "adding disclosure requirements or removing optional treatments does not create non-compliance with IFRSs. Indeed, the IASB aims to remove optional treatments from IFRSs." Thus, for the purpose of this Concept Paper, 'convergence with IFRSs' means adoption of IFRSs with the aforesaid exceptions, where necessary.

Adoption of IFRS, as they were, i.e., without any modification, was not practicable. Therefore, ICAI opted for convergence rather than outright adoption, aiming to keep Ind AS as closely aligned with IFRS as possible, while introducing departures only where absolutely necessary. Convergence was preferred over adoption due to the following reasons:

***Legal & regulatory environment:*** Certain legal and regulatory requirements in India differ from those under IFRS, necessitating deviations in Ind AS, e.g., changes in terminology used in law, such as 'statement of profit and loss' in place of 'statement of comprehensive income' and 'balance sheet' in place of 'statement of financial position'.

***Economic environment:*** A country's economic environment significantly influences the accounting standards applicable to its



enterprises. India's economic environment differs significantly from the assumptions underlying IFRS, which has influenced the formulation of Ind AS. One notable example is IAS 40, Investment Property, which provides the option to follow the fair value model for property valuation. This option has not been permitted under Ind AS because the Indian property market lacks sufficient depth and breadth to ensure reliable and consistent determination of fair values. In the absence of a robust and transparent valuation framework, reliance on fair value could lead to distortions in financial reporting. Consequently, Ind AS adopts a cost-based model for investment property, reflecting the practical realities of the Indian market while maintaining alignment with the broader principles of IFRS wherever feasible.

***Prevailing accounting practices in the country:*** IFRS 3, Business Combinations, require that any gain arising from a bargain purchase be recognized in profit or loss. Under current Indian practice, such gains are recorded in the capital reserve, which forms part of Equity rather than being presented in the Statement of Profit and Loss. Recognizing these gains in profit or loss, as per IFRS 3, would effectively result in the inclusion of unrealized gains, since they are determined based on the fair value of the assets acquired. To address this concern and maintain prudence in financial reporting, Ind AS incorporates a carve-out from IFRS 3 by requiring that such

gains be recognized in other comprehensive income and accumulated in equity as capital reserve, unless there is no clear evidence for the underlying reason for classification of the business combination as a bargain purchase, in which case, it shall be recognised directly in equity as capital reserve. This approach reflects India's preference for conservative accounting treatment while still aligning broadly with the principles of IFRS.

***Ensuring comparability:*** Wherever considered appropriate, optional treatments prescribed under IFRS have been removed, keeping in view the Indian environment, to bring about comparability. For example, IAS 7, Statement of Cash Flows, allows non-financial entities the option to classify interest paid and interest or dividends received as operating cash flows. Ind AS 7 removes this flexibility and mandates classification of interest paid under financing activities and interest and dividends received under investing activities. Similarly, while IAS 7 permits dividends paid to be shown as operating cash flows, Ind AS 7 requires them to be presented under financing activities. It is noteworthy that once IFRS 18 becomes effective, this difference will cease to exist.

The Institute of Chartered Accountants of India (ICAI) plays a proactive role in ensuring that India's accounting concerns are represented on the global stage.

The Institute of Chartered Accountants of India (ICAI) plays a proactive role in ensuring that India's accounting concerns are represented on the global stage. To achieve this, ICAI regularly engages with the International Accounting Standards Board (IASB), facilitating dialogue on issues where international standards may not align with India's legal, regulatory, or economic environment. These interactions help ensure that India's unique requirements are appropriately considered during the development and revision of IFRS. By maintaining this collaborative relationship, ICAI not only safeguards the relevance of accounting standards for Indian enterprises but also contributes to the global standard-setting process, promoting harmonization while respecting local realities.

## Conceptual issues and distinction with IFRS

IASB's 'Statement of Best Practice: Working Relationships between the IASB and other Accounting Standards-Setters' issued in the year 2006 makes it clear that if a country wants to add a disclosure that is considered necessary in the local environment, or removes an optional treatment, this will not amount to non-compliance with IFRS Standards. Therefore, under Ind AS, certain changes are not considered as carve-outs, viz.:

- Changes in terminology in line with the terminology used in Indian law, e.g., components of Financial Statements
- Removal of optional treatments prescribed under IFRS Standards keeping in view Indian environment to bring about comparability, e.g., IAS 1 allows option for presentation of statement of profit or loss, namely, (i) in a single statement, profit or loss and other comprehensive income presented in two sections or (ii) 2 different statements, a separate statement of profit or loss which shall immediately precede the statement presenting comprehensive income which shall begin with profit or loss. Ind AS 1, Presentation of Financial Statements, allows only the single statement approach.

The ICAI, while undertaking the process of convergence with IFRS Standards, strives to keep departures to a minimum and discusses these differences with the IASB from time to time. Following the implementation of Ind AS,



certain carve-outs have been reviewed and subsequently withdrawn in light of new IFRS standards:

**a) Ind AS 17 – Leases: Straight-lining of operating lease rentals**

Initially, Ind AS 17 included a carve-out requiring lease rentals under operating leases to be charged to the statement of profit and loss on a straight-line basis over the lease term, unless payments were structured to increase in line with expected inflation to compensate the lessor. With the introduction of Ind AS 116, Leases, corresponding to IFRS 16, this carve-out was eliminated.

**b) Ind AS 18 – Revenue: Accounting for real estate developers**

Under IAS 18 and IFRIC 15, agreements for the construction of real estate were treated as sales of goods, with revenue recognized upon transfer of significant risks and rewards of ownership. Ind AS 18 excluded IFRIC 15 from its scope on such agreements, and ICAI issued a separate guidance note for Ind AS-compliant entities. However, with the issuance of Ind AS 115, Revenue from Contracts with Customers, aligned with IFRS 15, this carve-out was withdrawn.

Conceptual issues and differences from IFRS Standards (carve-outs[1] and carve-in) as well as other changes in Ind AS vis-a-vis IFRS that do not result in carve-outs are available in the Publication: Ind AS: An Overview available at the link: https://resource.cdn.icai.org/75317asb60889.pdf

## Ind AS 101 - first time adoption - methodology and challenges

Ind AS 101 First-time Adoption of Indian Accounting Standards applies only once—when an entity transitions to Ind AS and prepares its first Ind AS financial statements.

The methodology for first-time adoption under Ind AS 101 is based on the core principle of retrospective application, supplemented by specific mandatory exceptions and optional exemptions to address practical challenges.

1 *Carve-out in Ind AS 1, Presentation of Financial Statements, (and consequential amendments to Ind AS 10, Events After the Reporting Period) will be removed with respect to Classification of long-term loan arrangements in case of breach of loan covenants, from annual reporting period beginning on or after April 01, 2026.*

Common issues encountered during this process include difficulties in data collection, substantial adjustments to asset valuations, and ensuring compliance with various regulatory requirements.

The general principle of Ind AS 101 is to apply all Ind AS as if they had always been in place. The methodology for First-Time adoption can be as follows:

- **Determine the Date of Transition:** This is the beginning of the earliest period for which an entity presents full comparative information under Ind AS in its first Ind AS financial statements.

Ind AS 101 First-time Adoption of Indian Accounting Standards applies only once—when an entity transitions to Ind AS and prepares its first Ind AS financial statements.

- **Prepare an Opening Ind AS Balance Sheet:** This balance sheet is the starting point for all subsequent accounting under Ind AS. On this date, an entity must:
  - Recognize all assets and liabilities whose recognition is required by Ind AS.
  - Derecognize items as assets or liabilities if Ind AS does not permit such recognition.
  - Reclassify items that were recognized under previous GAAP (IGAAP) as a different type of asset, liability, or equity component under Ind AS.
  - Apply Ind AS in measuring all recognized assets and liabilities.
- **Use Consistent Accounting Policies:** The same accounting policies must be applied in the opening Ind AS Balance Sheet and throughout all periods presented in the first Ind AS financial statements.
- **Provide Extensive Disclosures and Reconciliations:** The entity must explain how the transition affected its reported balance sheet, financial performance, and cash flows. This includes:
  - Reconciliation of its equity under previous GAAP to equity under Ind AS at the date of transition and at the end of the latest period presented in the entity's most recent annual financial statements under previous GAAP.
  - Reconciliation of the total comprehensive income for the latest period presented in the entity's most recent annual financial statements under previous GAAP.

The first-time adoption of Ind AS under Ind AS 101 presents several practical challenges for entities and auditors, some of which are highlighted below:

- **Data Collection and Systems:** Gathering historical data required for retrospective application can be time-consuming and challenging, often requiring changes to existing IT and accounting systems.
- **Estimates:** Entities cannot use hindsight to create or revise estimates made under previous GAAP, only adjusting for differences in accounting policies or errors. This requires careful documentation of past estimates.
- **Asset Valuation:** Significant adjustments may arise from differences in valuation methods for items like Property, Plant, and Equipment (PPE), investments, and intangible assets, especially when moving from a cost model to a fair value model or vice versa (if permitted by exemptions).
- **Financial Instruments:** Classification, measurement (e.g., using the effective interest method), and impairment of financial instruments under Ind AS 109 present complex issues, often requiring significant effort to determine credit risk since initial recognition.



- **Mandatory Exceptions & Optional Exemptions:** Deciding on and consistently applying the various mandatory exceptions (e.g., derecognition of financial assets, hedge accounting, non-controlling interests) and optional exemptions (e.g., deemed cost for PPE, business combinations, cumulative translation differences) is a key challenge that significantly impacts the financial statements.
- **Regulatory Alignment:** Ensuring alignment with other regulatory frameworks, such as direct and indirect tax laws or banking regulations, adds another layer of complexity to the transition process.

For Small and Medium Practitioners (SMPs), the implementation of first-time adoption is most likely to arise in the following situations:

- Unlisted companies crossing the net-worth threshold and becoming mandatorily Ind AS compliant.
- Where standalone financials of Subsidiaries / associates / JVs of Ind AS-compliant parent companies were earlier under AS.
- Companies planning IPOs, strategic investments, or overseas funding are adopting Ind AS voluntarily.
- Group restructuring, mergers, or acquisitions, where Ind AS reporting becomes necessary.
- Banks and Insurance will transition to Ind AS.

In practice, SMPs often encounter Ind AS 101 through transition assignments, restatement work, and audit support roles, before full-scale Ind AS audits.

## Relevance of Ind AS for Small and Medium Practitioners (SMPs)

Ind AS holds significant relevance for Small and Medium Practitioners, even though many of their current clients may not yet fall under its mandatory applicability. This relevance can be understood across multiple dimensions:

1. **Expanding Client Coverage**

   Ind AS applies to listed companies and certain unlisted companies based on net worth thresholds. SMPs increasingly provide services to subsidiaries, associates, joint ventures, and group entities of Ind AS–compliant companies, which require Ind AS–aligned financial information. Additionally, start-ups and high-growth companies often adopt Ind AS voluntarily to enhance global comparability and attract investors.

Ind AS holds significant relevance for Small and Medium Practitioners, even though many of their current clients may not yet fall under its mandatory applicability.

2. **Advisory and Transition Opportunities**

   The implementation of Ind AS creates opportunities for SMPs to offer specialized advisory and consultancy services. These include GAAP-to-Ind AS transition adjustments, impact assessments, and formulation of accounting policies tailored to Ind AS requirements.

3. **Career and Practice Growth**

   Expertise in Ind AS strengthens an SMP's

technical depth and professional standing. It enhances marketability and credibility, enabling practitioners to compete effectively with larger firms in niche areas such as valuation-related accounting, financial instruments, and business combinations.

4. **Future Readiness**

   As the banking and insurance sectors move toward Ind AS implementation, SMPs equipped with Ind AS knowledge will be well-positioned to serve these industries, ensuring long-term growth and sustainability of their practice.

Scaling up for Ind AS adoption is a strategic necessity for SMPs. The following are some practical steps SMPs can take to build capability and remain competitive:

1. **Invest in Training and Skill Development**

- Conduct structured training programs for partners and staff on Ind AS concepts, including complex areas like financial instruments, fair value measurement, and business combinations.
- Leverage ICAI's resources, online courses, and certification programs to ensure technical proficiency.

2. **Build Specialized Teams**

- Create dedicated Ind AS advisory teams within the firm to handle transition assignments, restatements, and compliance reviews.
- Encourage specialization in niche areas such as valuation, hedge accounting, and revenue recognition.

3. **Collaborate and Network**

- Form alliances with valuation experts, IT consultants, and larger firms for knowledge sharing and joint engagements.
- Participate in ICAI forums and industry groups to stay updated on evolving standards and best practices.

4. **Upgrade Technology and Processes**

- Implement robust accounting software capable of handling Ind AS requirements, including fair value adjustments and complex disclosures.
- Automate reconciliations and reporting to improve efficiency and accuracy.

5. **Develop Advisory Services**

- Position the firm as a trusted advisor for GAAP-to-Ind AS transition, impact assessment, and policy formulation.
- Offer end-to-end solutions, including training for client teams and assistance with regulatory filings.

6. **Focus on Future Readiness**

- Prepare for the upcoming Ind AS implementation in banking and insurance sectors by building domain-specific expertise.
- Stay informed about global developments like IFRS 18 and their impact on Ind AS.

7. **Educate Clients**

- Conduct workshops and webinars for clients to explain the benefits of Ind AS adoption, such as improved investor confidence and global comparability.
- Provide tailored transition roadmaps for businesses planning IPOs or overseas funding.



# Taking a Leap in Corporate Reporting:

## The Focus Areas for the Future

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Dr Avinash Chander



Archana Bhutani

### Overview

*Corporate reporting continues to evolve in response to regulatory requirements, business models, technological advancement, and rising stakeholder expectations. While quality and transparency of information has strengthened over the years, emerging challenges now require a new phase of transformation. The article outlines key focus areas shaping this next leap.*

*A major upcoming change is enhanced presentation and disclosures, with proposed Ind AS 118 (converged with IFRS 18) set to overhaul profit and loss classification and impose clearer rules on management defined performance measures. IFRS 19/Ind AS 119 aims to reduce disclosures for eligible subsidiaries. Long standing complexities in business combinations under common control persist. Regulatory attention on goodwill impairment, related party transactions underscore the need for robust governance and disclosures. Banks and insurers also need to focus on readiness for upcoming ECL and insurance accounting changes. The global agenda includes addressing concerns about newer asset types and usage models, internally generated intangible assets.*

*Sustainability reporting continues to mature, and stakeholders will also expect a tighter linkage between climate-risk narratives and the measurement/disclosure in the financial statements.*

*The profession is expected to strengthen fraud and going concern auditing standards and focus on technology driven audits.*

*Overall, the theme of balancing ease of doing business while maintaining quality of reporting will shape the regulatory agenda. Companies and auditors will need to invest in capabilities to meet evolving expectations and maintain trust in financial reporting.*

Over the recent decades, the financial reporting framework has witnessed significant transformation driven by convergence, the growing complexity of business, contemporary business transaction models, and rapid technological advancement. The implementation

of Ind ASs (converged with International Financial Reporting Standards (IFRS)) has improved transparency, comparability, and investor confidence. At the same time, emerging technologies, including cloud accounting and AI-driven analytics, climate risks, and heightened expectations from auditors, are further reshaping the financial reporting ecosystem. While a lot has been achieved, these developments require us to enter into yet another phase of evolution of the financial reporting requirements, with a focus on a range of matters, including core accounting issues (such as internally generated intangible assets), connectivity of financial reporting with sustainability reporting, and digital reporting. This article discusses some of these emerging areas of interest.

## Enhancing transparency in financial statements through presentation and disclosures

Clear, comprehensive disclosures are essential to build trust in financial reporting and enable informed decision-making.

Clear, comprehensive disclosures are essential to build trust in financial reporting and enable informed decision-making. However, there has been a tension between the need for more information to meet the demands of transparency and the disclosure overload, which makes the financial statements cluttered and difficult to navigate and identify what is important. Prescribing "better disclosures" rather than "more disclosures" can help achieve the balance.

The financial statements for the year ending 31 March 2026 will inter alia require new supplier finance disclosures (Ind AS 7/Ind AS107) and disclosures relating to pillar two rules for global minimum tax (Ind AS 12). While these are limited amendments to meet the information requirements resulting from new forms of transactions and income-tax rules, a fundamental shift in the presentation requirements for the statement of profit and loss is on the anvil. The IASB has issued several new standards in the last decade. These standards have focused on recognition and measurement, such as revenue recognition and leases, but have very little to improve presentation requirements. IFRS 18 addresses this gap and improves the way information is communicated in the financial statements, with a focus on financial performance. Key impact of IFRS 18 includes (a) introduction of three new subtotals in the statement of profit or loss – operating, investing, financing and the main business activity will drive the classification of income and expenses; (b) disciplined and transparent approach to the reporting of management defined performance measures ('non-GAAP' measures) in the financial statements and (c) aggregation/disaggregation requirements. IFRS 18 is applicable for annual reporting periods beginning on or after January 1, 2027. India is expected to converge with the new standard after following the due process. ICAI has already issued an exposure draft of the corresponding Ind AS 118 and recommended the standard to the NFRA. This will also entail a significant revision of the Schedule III disclosure requirements.

IFRS 19, Reduced Disclosure Standard for Subsidiaries Without Public Accountability, also offers eligible subsidiaries a way to manage the problem of over-disclosure. It specifies reduced disclosure requirements that an eligible entity (a subsidiary that does not have public accountability and has a parent that prepares consolidated accounts under IFRS) is permitted to apply instead of the disclosure requirements in other IFRS Accounting Standards. The standard applies to an annual reporting period beginning on or after 1 January 2027. ICAI has recently issued an exposure draft of Ind AS 119 corresponding to IFRS 19 for public comments. The proposed draft limits the relaxations to




eligible subsidiaries only; the associates and joint ventures (who are required to apply Ind AS by virtue of having a parent qualifying for the Ind AS framework) have not been extended similar relaxations.

***On the watch list:*** The proposed standard Ind AS 118 will have a fundamental impact on the presentation and disclosures, while proposed Ind AS 119 will provide some disclosure relief to eligible entities. Application of Ind AS 118 will come with its own set of interpretation issues and implementation challenges – more specifically relating to classification of income and expenses. Companies will need to assess the impact, update systems and policies, and ensure appropriate stakeholder communication. The IASB projects on disclose business combination, goodwill, and impairment (discussed below) are also expected to result in additional disclosures.

## Debate over internally generated intangible assets: should these stay "off the books"?

Few topics better capture the disconnect between book value and market value than internally generated intangibles — software, algorithms, brands, and other IP assets are increasingly driving the enterprise value but are often not recognised as assets; these are instead expensed. The stakeholders' feedback indicates that the financial statements are not providing their users with enough information about intangible items and that there is a lack of comparability between entities growing organically and through acquisitions, coupled with the gap between an entity's market capitalisation and the book value of its net assets. Also, the newer asset types and usage models (e.g., AI models, cloud computing, and crypto assets) have resulted in a growing need to revisit the standards to address the related application issues.

While stakeholder discussions indicate strong support to address the application issues relating to new asset types and models, the debate on internally generated intangible assets has seen a mixed response. The absence of information in financial statements about unrecognised internally generated intangible assets affects perceptions of the usefulness of, and confidence in, the financial statements. If investors have information about them in financial statements, they will attempt to price them. Some support changes to accounting standards to maintain value relevance of financial statements, while there are others who support sufficient information to be presented by requiring additional disclosures that explain how intangibles create value, how expenditures are split between maintenance and development, etc.

The absence of information in financial statements about unrecognised internally generated intangible assets affects perceptions of the usefulness of, and confidence in, the financial statements.

On the watch list: In 2024–2025, the International Accounting Standards Board (IASB) decisively moved intangible assets to the research work plan. As a starting point, it is expected to cover potential changes to the definition of an intangible asset, related guidance, and some aspects of recognition requirements.

## Business Combinations Under Common Control (BCUCC): A Gap that Won't Disappear

Group reorganizations and transfers between entities within the group continue to be common. Comprehensive IFRS guidance has still not materialized. To address the gap, India included specific requirements in Ind AS 103, Business Combinations. While the requirements were well-intended, the outcome has been mixed. The nature of BCUCC varies - some are similar to business combinations, while others may not have economic substance. The application of the requirements has resulted in unintended accounting outcomes. This continues to be a challenging area to address since a single method may not be appropriate for all BCUCC transactions. The IASB acknowledged this and issued a discussion paper discussing the acquisition method and book value method for different types of BCUCC. However, after years of research and a 2020 discussion paper, the IASB closed the BCUCC project in April 2024, concluding that a global solution would not yield sufficient benefits relative to cost, and that investor information needs vary too widely across jurisdictions.



On the watch list: The absence of a global standard has led to a patchwork of national approaches. The Indian solution also comes with its own significant challenges, and there are open issues relating to accounting by the transferor. Given that the IASB project has been closed, it is an opportune time for the regulators (either in India or at a regional level (e.g., AOSSG)) to take the lead in addressing this gap, which otherwise continues to persist and grow.

## Disclosures to address some gaps that otherwise continue to persist

The current "impairment-only" model for goodwill has raised concerns about impairment losses being recognized "too little, too late". Despite these concerns, the IASB has tentatively decided to retain the impairment-only model, concluding that there is no compelling evidence that reintroducing amortization would improve financial reporting. Thus, the issues of timeliness and subjectivity in goodwill accounting remain largely unaddressed. One can therefore expect continued scepticism about the financial reporting in this area.

Related party transactions continue to be under the lens. While regulators have moved to a principle-based governance model, the opaque and/or complex nature of related party transactions represents a continuing challenge. Regulatory focus in terms of approvals, enhanced disclosures, and strict penalties will continue to be important from a governance perspective. To navigate regulatory concerns, companies should continue to focus on establishing a strong governance framework, appropriate documentation, and comprehensive disclosures.

## Ind AS for regulated sectors

Banks in India were initially scheduled to implement Ind AS from April 1, 2018, but this has been deferred multiple times. Changes have been

made to accounting for investments by banks to take it closer to Ind AS 109. The key issue that has delayed implementation is the expected credit loss (ECL) model of provisioning. Recently, as a part of the Statement on Developmental and Regulatory Policies, RBI has proposed the implementation of the ECL model (though not fully aligned with Ind AS 109), moving away from the current regulatory incurred loss provisioning approach. Banks currently prepare a pro-forma ECL provision statement (with certain differences from Ind AS 109). As per the Governor's Statement dated October 1, 2025, the requirements of ECL are proposed to be made applicable from 1st April 2027, and to absorb the one-time impact, a glide path till March 31, 2031, is proposed to be provided. This can significantly impact the provision for credit losses to be recognised by the banks.

Ind AS 117 implementation for insurers was put on hold by the MCA, allowing them to continue to use Ind AS 104 until the IRDAI notifies its own roadmap (though the standards have already become applicable for non-insurers and companies with insurance-like contracts). As per recent press articles, the IRDAI Board has approved the adoption of Ind AS 117 with effect from April 2026. Insurers will need to assess the impact, update actuarial models, systems, and policies, and ensure appropriate stakeholder communication.

## Sustainability Reporting: Will India March Towards the Global Standards?

Two years after launching IFRS S1 and IFRS S2, the ISSB's agenda has shifted from design to implementation. Adoption is gaining traction, and as of mid 2025, at least 16 jurisdictions had adopted or set timelines for the adoption of these standards.

India's sustainability reporting landscape has also matured. This has been driven primarily by SEBI's Business Responsibility and Sustainability Reporting (BRSR) framework (which is a significant upgrade from the earlier BRR regime). The framework has been mandatory for the top 1,000 listed companies (by market capitalisation) since FY 2022–23. With effect from FY 2023-34, SEBI also introduced the BRSR Core, an assurance-backed set of ESG indicators applicable in a graded manner for such listed entities.

India's regulatory approach to reasonable assurance for BRSR reporting has evolved significantly over the recent period. Concerns have been expressed about compliance burden, data readiness, and the need for a phased, practical approach. While initially there was a

Two years after launching IFRS S1 and IFRS S2, the ISSB's agenda has shifted from design to implementation.

requirement to provide "assurance" (reasonable assurance) for BRSR Core, taking cognisance of the concerns, SEBI has replaced it with "assessment or assurance" from FY 2024 25, giving companies the flexibility to choose the level of reliability. SEBI also relaxed value chain assurance requirements – these were applicable on a 'comply or explain' basis with effect from FY 2024-25, with assurance requirements applicable from FY 2025-26. However, these have been made voluntary from FY 2025-26, replacing the "comply or explain" rule. For the top 250 listed entities, assessment/assurance of these value chain disclosures becomes voluntary from FY 2026-27, providing a gradual path for applicability. Certain other relaxations have been made.

***On the watch list:*** India is adjusting to the BRSR framework, which is largely considered to meet the requirements of the stakeholders. While reasonable assurance seems to be the long-term ambition, the short-term focus seems to be on ease of reporting, supported by credible third-

party assessments and strengthening ESG data infrastructures. The future direction seems to be that BRSR may continue as the Indian reporting framework, but with gradual evolution (rather than wholesale replacement) to achieve greater alignment with IFRS Sustainability Standards.

## Bridging Sustainability and Financial Accounting: Climate-Related Risks in Financial Statements

Material climate impacts belong not only in sustainability reports but also in the financial statements. Accounting Standards require entities to reflect climate effects on impairment, provisions, decommissioning, credit risk, and significant judgements. For example, transition risks affect assumptions used in impairment and useful lives; physical risks drive provisions and expected credit losses; and disclosures could be required about uncertainty and announced strategies where effects are material. There is growing investor scrutiny of how climate scenarios feed into cash flow projections, discount rates, and resilience disclosures in notes. Concerns have been expressed about information relating to the effects of climate-related risks in the financial statements being sometimes insufficient or being inconsistent with information provided outside the financial statements.

There is growing investor scrutiny of how climate scenarios feed into cash flow projections, discount rates, and resilience disclosures in notes

In November 2025, the IASB issued Disclosures about Uncertainties in the Financial Statements, which added illustrative examples to the guidance accompanying several IFRS Accounting Standards. The objective of those examples is to illustrate how an entity applies the requirements in the Standards to report the effects of uncertainties (not just those arising from climate-related risks but broadly) in its financial statements.

***On the watch list:*** There will be a focus on better articulation of uncertainties in the financial statements. Tighter linkage between climate-risk narratives and the measurement/disclosure in the financial statements (including how "no impact" conclusions are reached).

## Fraud: Raising the Bar on Auditor Responsibilities

The fraud risk factors have been evolving, and business environments have grown more complex. This has been coupled with changing public expectations about the role of the auditor in fraud detection and audit quality challenges that have become increasingly apparent in recent years, especially in view of some of the high-profile corporate failures. This has led to regulatory and public pressure for stronger fraud-related requirements.

In July 2025, IAASB issued ISA 240 (Revised), which strengthens and clarifies the auditor's responsibilities relating to fraud. The revised standard embeds a "fraud lens" into risk assessment, sharpens responses to identified risks (including technology-enabled testing and journal entry analytics), and enhances transparency in auditor reports, particularly for listed entities. It becomes effective for periods beginning on or after December 15, 2026, aligned with ISA 570 on the going concern.

Beyond the global standard, UK regulators are also considering convergence with revised ISA 240 and ISA 570 while retaining UK specific legal context. The PCAOB, meanwhile, has flagged fraud as a strategic priority in inspections and agendas, and fraud also remains a mid-term project focus.

The recent corporate failures have also brought going concern reporting into the limelight.




In response to this and heightened stakeholder expectations, the revised ISA 570 (effective for periods beginning on or after 15 December 2026) strengthens the auditor's procedures for evaluating management's assessment of an entity's ability to continue as a going concern.

***On the watch list:*** Given India's approach of convergence with international standards, one expects that the revised requirements with more prescriptive expectations will be incorporated in the audit methodology in India in the near future. Several changes in the revised ISA 240 and ISA 570 are clarificatory or extensions of existing requirements, such that implementing them early does not conflict with the fundamental core concepts of the current standards. To the extent the changes are clarificatory or best practice enhancements, auditors can leverage these to strengthen their audit approach early, especially in areas that have been under regulatory scrutiny

## Technology in Audits: Data-Driven Assurance

Technology is no longer a mere add-on in the audit process; it is fundamentally influencing how audits are planned, performed, and documented. Regulators are also discussing how technology reshapes audit evidence. In the past, audit has relied heavily on sampling. Now, with advanced data analytics and AI tools, entire data populations can be analysed to detect patterns, anomalies, and outliers more reliably and influence a shift from sampling to data analysis.

IAASB's fraud and going concern revisions implicitly expect more data-driven audit responses (journal entry anomaly detection, enhanced retrospectives on estimates, and systematic linkage between risk assessment and test design) while maintaining proportionality for less complex entities.

On the watch list: It is anticipated that standard setters will consider the reliability of AI-assisted audit procedures and issue guidance on the use of AI and advanced analytics as part of audit methodology. Thus, the future of audit may involve more technology-assisted analysis and quality control updates, and incorporate data analytics into core audit evidence frameworks.

## Non-compliance With Laws and Regulations (NOCLAR)

Given the overlap with fraud responsibilities, NOCLAR remains a sensitive but important area, especially in sectors exposed to complex regulatory requirements.

The PCAOB's NOCLAR proposal faced strong opposition from various stakeholders. The proposal would have covered all ranges of non-compliance—intentional or unintentional—from direct financial statement fraud to other non-compliances that could reasonably have a material effect on the financial statements. The auditors' responsibilities would have included

identifying whether there are instances of NOCLAR that have or may have occurred. The feedback led the Board to pause finalisation in late 2024 and issue staff guidance that re-articulated existing auditor responsibilities.

At the International Ethics Standards Board for Accountants (IESBA), there is at present no major overhaul under discussion; focus is on integration and application of the existing framework with newer ethical and assurance standards on sustainability.

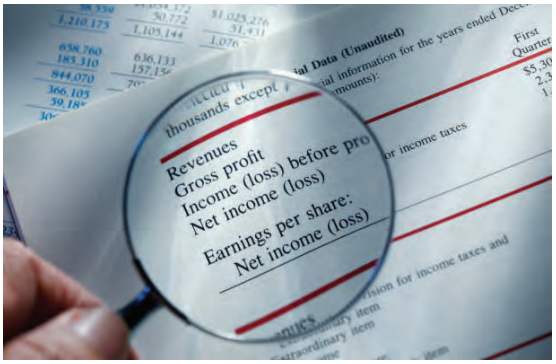
While there may not be a sweeping expansion of auditors' responsibilities, ICAI has recently approved changes to its NOCALR requirements. The criterion of listed entities with a net worth of ₹250 crores has been removed, and NOCLAR provisions have been made applicable to all listed entities and their material subsidiaries (aligning it more closely with IESBA requirements, which apply regardless of the nature of the entity). Provision of imminent breach has also been included which essentially requires a chartered account to exercise professional judgement and determine whether proceed with disclosure to an appropriate authority if the chartered accountant becomes aware of an actual or intended conduct that the account has reason to believe would constitute an imminent breach of a law or regulation that would cause substantial harm to investors, creditors, employees or the general public.

> Technology is no longer a mere add-on in the audit process; it is fundamentally influencing how audits are planned, performed, and documented.

On the watch list: The changes to ICAI's NOCLAR requirements are expected to come into force on April 1, 2026. The heightened responsibilities will require professionals to strengthen documentation and evidence gathering, exercise enhanced professional scepticism, and develop a clear escalation protocol.

## Way forward

Regulators and standard setters are continuously reviewing the financial reporting requirements to keep them relevant, capture what drives enterprise value and risk today, and simplify where necessary to ensure feasibility. This may require ongoing improvements as well as fundamentally reshaping some existing requirements. The IASB is currently in the process of conducting its Fourth Agenda Consultation, which will determine its technical strategy and work plan for the period beginning in 2027. Participation in the process can help make it more relevant for India. Similarly, regulators in India may also consider undertaking a consultative approach on the agenda and focus on proactive issuance of the requirements rather than as a response to certain incidents. Overall, the theme of balancing ease of doing business while maintaining the quality of reporting will shape the regulatory agenda. For preparers and auditors alike, the next few years will require investment in capabilities - resources, data, analytics, processes, and disclosures - to meet the requirements. Auditors will additionally need to ensure that the audit evidence can withstand regulatory scrutiny. Organizations that start efforts early will not only manage compliance more efficiently but also build trust with investors and stakeholders.



# Changing Role of the Auditor: From Watchdog to Professional Skeptic in a Technology-Driven Audit Environment

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**Raghavendra GS**

## Overview

*The article examines the transformation of the auditor's role from a traditional "watchdog" to a professional exercising heightened skepticism in a complex, technology-driven environment. Historically, auditors relied heavily on management representations, intervening only when clear red flags appeared. This reactive approach was suitable for simpler business structures but proved inadequate as globalization, complex financial instruments, and sophisticated fraud schemes emerged.*

*High-profile corporate failures such as Enron, WorldCom, Wirecard, Carillion, and Toshiba exposed the dangers of over-reliance on management and insufficient challenge of audit evidence. These scandals reshaped stakeholder expectations and led to major regulatory and professional reforms, including the Sarbanes-Oxley Act, the establishment of the PCAOB, and stronger International Standards on Auditing. Central to these reforms is professional skepticism—an attitude of questioning, critical evaluation of evidence, and constant alertness to fraud risks.*

*The article highlights how auditing standards such as ISA 200, ISA 240, and ISA 570 formally embed skepticism into audit planning, fraud assessment, and going-concern evaluations. It also explores the growing role of artificial intelligence, data analytics, and automation in auditing. While these technologies enhance efficiency and risk detection by analyzing entire data populations, they cannot replace human judgment.*

*Ultimately, the article argues that effective auditing today requires a balance between advanced technology and professional skepticism. Auditors must critically evaluate both financial data and the tools used to analyze it, ensuring technology strengthens—rather than replaces—the skeptical mindset essential to audit quality and credibility.*

## "Trust, but Verify"

The role of the auditor has undergone a fundamental transformation over the last few decades. Traditionally, auditing was grounded

in the principle best summarized as "trust, but verify." Auditors relied significantly on management representations and internal records, intervening only when inconsistencies or obvious red flags emerged. However, increasing corporate failures, complex financial instruments, globalization, regulatory scrutiny, and rapid technological advancements have altered stakeholder expectations.

Today, auditors are no longer perceived as passive guardians of financial integrity but as active professionals expected to apply professional skepticism, robust judgment, and technological competence. The shift from the metaphor of the auditor as a "watchdog" to one exercising heightened professional skepticism reflects this evolving responsibility.

Auditors relied significantly on management representations and internal records, intervening only when inconsistencies or obvious red flags emerged.

Here, we explore how the profession has changed and the role that professional skepticism, the impact of AI and automation, and the continued importance of compliance with auditing standards play in a dynamic environment.

The classical view of auditing was famously articulated by Lord Denning, a 20th-century British judge, who described the auditor's role as that of a "watchdog and not a bloodhound." This analogy emphasized that auditors were not expected to actively hunt for fraud or misconduct but to exercise reasonable skill and care in examining financial statements. Under this approach:

- Verifying the truth of records was central, with auditors conducting tests on the financial statements and performing reconciliations.
- Management's honesty was presumed, and auditors were not expected to investigate further unless something significant raised suspicion.
- The auditor's responsibility was limited to reasonable assurance, not providing a guarantee of accuracy. This meant auditors were accountable for identifying material misstatements but were not required to detect fraud.

In this paradigm, auditors focused on compliance with accounting principles and arithmetical accuracy rather than deep investigative procedures. The watchdog was expected to bark when something seemed obviously wrong, but was not tasked with uncovering fraud that was hidden behind complex structures.

While appropriate in a simpler business environment, the watchdog model proved insufficient as corporate structures, transactions, and financial instruments became more complex. A watchdog is inherently reactive and passive. It observes from a distance and responds only when a visible disturbance occurs.

However, modern corporate frauds are not obvious and easy to detect. They often involve:

- Sophisticated financial manipulation that hides discrepancies within large volumes of data.
- Collusion among management and other personnel makes fraud detection more difficult.
- Complex accounting estimates and interpretations of accounting standards.
- Use of complex financial products (e.g., derivatives, special-purpose entities) that are not easily understood by the general public or even auditors without specialized knowledge.

A purely passive auditor risks overlooking material misstatements that are deliberately concealed. In these complex and rapidly changing environments, auditors can no longer sit back and wait for fraud to surface. Instead, they need to engage in more rigorous, proactive examination.

High-profile corporate scandals fundamentally reshaped perceptions of audit responsibility.

Cases such as Enron and WorldCom in the early 2000s exposed serious deficiencies in audit quality, independence, and skepticism. These scandals demonstrated that auditors who did not actively question management or challenge their assumptions could easily become complicit in corporate deception.

More recent failures, such as Wirecard (2018) and Carillion (2017), further demonstrated how over-reliance on management representations and insufficient challenge of audit evidence can lead to catastrophic outcomes.

In the Wirecard scandal, the company falsely reported significant cash balances, which were confirmed by fabricated bank statements. Despite audit procedures that followed standard practice, the auditor missed several red flags, such as:

- Unusual banking transactions with companies in jurisdictions known for high financial secrecy.
- Lack of clarity regarding who held the cash and why it was located in specific foreign accounts.

A more skeptical approach, questioning why these balances were held in certain regions, verifying confirmations through more secure channels, and performing additional procedures, could have flagged inconsistencies earlier.

These failures triggered:

- Regulatory reforms such as the Sarbanes-Oxley Act in the US, which mandated more stringent auditing standards and improved internal control processes.
- Strengthening of auditing standards to focus on fraud detection and professional skepticism.
- Greater emphasis on internal controls and risk assessment procedures.

As a result, professional skepticism is now seen as a core attribute for auditors, reflecting a proactive and dynamic approach to risk assessment.




## Emergence of Professional Skepticism

Professional skepticism represents a fundamental departure from the traditional watchdog mindset. It is not merely a personal trait but a professional obligation embedded in auditing standards worldwide. Professional skepticism is defined as an attitude that includes:

- A questioning mind, where auditors challenge assumptions and do not blindly trust information provided by management.
- Alertness to conditions that may indicate possible misstatements, whether due to fraud or error.
- Critical assessment of audit evidence, recognizing that evidence can be contradictory or incomplete, and that management bias or fraud is always a possibility.

This approach requires auditors to challenge management assumptions, recognize the possibility of bias, and remain vigilant throughout the audit process.

Unlike the watchdog concept, which was derived from legal interpretation, professional skepticism is now a codified requirement in modern auditing frameworks.

Corporate scandals, such as Enron, WorldCom, Wirecard, and others, dramatically reshaped the landscape of auditing and financial reporting.

These events revealed significant weaknesses in the auditing profession's ability to detect fraud and manage risk, especially when auditors took management's word for granted without sufficient scrutiny. As a result, regulatory bodies and professional organizations introduced several frameworks to address these issues and reinforce professional skepticism.

Unlike the watchdog concept, which was derived from legal interpretation, professional skepticism is now a codified requirement in modern auditing frameworks.

**1. Sarbanes-Oxley Act (SOX) – 2002**

Origin: In response to high-profile accounting scandals like Enron and WorldCom, the United States passed the Sarbanes-Oxley Act (SOX) in 2002. This act was designed to restore investor confidence by addressing issues of corporate governance, auditing practices, and financial transparency.

- Section 404 – Internal Controls: SOX Section 404 requires public companies to establish and maintain an adequate internal control structure for financial reporting. These controls must be regularly tested, and auditors must assess the effectiveness of the company's internal control systems. Auditors are now responsible for verifying internal controls, ensuring that potential errors, fraud, or misstatements are not overlooked.

  SOX reinforced the independence of auditors by placing restrictions on the types of non-audit services they can provide to audit clients (e.g., tax advisory, consulting). This prevents conflicts of interest where auditors might feel compelled to turn a blind eye to fraudulent activities to maintain a lucrative client relationship.
- Creation of the Public Company Accounting Oversight Board (PCAOB): SOX established the PCAOB to oversee the audits of public companies. The PCAOB conducts regular inspections of audit firms, reviewing their compliance with SOX standards and assessing their procedures for detecting fraud. Regular inspections by the PCAOB ensure that auditors adhere to high standards of quality and accountability. These inspections encourage auditors to maintain professional skepticism and rigorously challenge management's assertions during audits.

**2. International Standards on Auditing (ISAs)**

The International Federation of Accountants (IFAC) and the International Auditing and Assurance Standards Board (IAASB) developed a set of global standards known as the International Standards on Auditing (ISAs) to improve audit quality and ensure that auditors applied professional skepticism consistently across borders.

Indian Audits must meet global quality standards. In India, the Auditing and Assurance Standards Board (AASB) set up under ICAI has the responsibility to review international practices and adapt them to the Indian legal and business environment. There is mention of professional skepticism in many of those. Some of it is listed below.

- SA 200 – Overall Objectives of the Independent Auditor: SA 200 requires that auditors plan and perform audits with professional skepticism. This means auditors must approach the audit with a questioning mind and a critical assessment of the evidence, especially in areas prone to bias, misstatement, or fraud. This explicit requirement has forced auditors to engage more deeply with management's assertions and actively challenge financial data, especially in areas where there is significant judgment or estimation involved (e.g., revenue recognition, goodwill impairment, etc.).
- SA 240 – The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements: ISA 240 provides detailed

guidance on how auditors should approach the risk of fraud. It underscores that auditors should remain alert to the risk of fraud, even in the absence of explicit red flags, and should not rely on management's assurances alone. It also distinguishes between Fraud and Error. SA 240 emphasizes that the auditor must keep up a questioning mind. They cannot accept documents and statements as 100% authentic without critical evaluation.

- Fraud Detection Emphasis: Auditors are expected to consider the possibility of fraud at every stage of the audit process and take proactive steps to identify any fraudulent activity, regardless of management's reputation or prior honesty. This standard forces auditors to be more skeptical and proactive in fraud detection. For example, auditors must consider the fraud triangle (pressure, opportunity, and rationalization) in their risk assessments and design audit procedures that specifically address the possibility of fraud. Beware that management can override and bypass controls.

- SA 570 – Going Concern: This standard emphasizes the auditor's role in assessing a company's ability to continue as a going concern. Auditors must exercise skepticism when management makes claims about the company's future viability, especially when external factors (e.g., declining revenues, financial instability) suggest otherwise. Auditors must challenge management's assumptions, assess whether the company's plans are realistic, and consider the adequacy of disclosures related to going concern risks. Do not simply take management's forecasts at face value. Professional skepticism here helps prevent situations where auditors fail to detect looming corporate insolvencies. Material uncertainty exists, sometimes disclosed, sometimes not.

### 3. The Fraud Risk Framework – COSO Framework

The Committee of Sponsoring Organizations of the Treadway Commission (COSO) developed a fraud risk management framework to help organizations prevent, detect, and respond to fraud. The framework stresses the importance of creating a strong control environment, which includes management oversight, ethical behavior, and the establishment of anti-fraud programs with the right governance structure.

COSO advocates the implementation of fraud prevention programs and detection mechanisms that include both automated tools and manual checks. It also suggests using forensic tools and data analytics, including computer-assisted audit techniques (CAATs), to flag suspicious activities in large datasets.

### 4. Use of Data Analytics and Artificial Intelligence in Auditing

The increasing complexity of business operations and financial transactions has driven auditors to adopt data analytics and artificial intelligence (AI) tools to enhance audit quality and fraud detection.

The use of advanced data analytics allows auditors to examine entire populations of transactions, rather than relying on sample-based testing. This improves the accuracy and thoroughness of audits, especially in identifying irregularities and fraud. Data analytics tools can highlight trends, outliers, and patterns that would not be apparent through traditional audit methods. Auditors can leverage these tools to



identify areas of higher risk or financial anomalies that may warrant deeper investigation.

AI-powered tools allow auditors to use predictive analytics to anticipate future financial trends and identify potential risks before they materialize. Predictive models can give auditors insights into potential future financial misstatements, enabling them to take preemptive actions. Professional skepticism is enhanced as auditors no longer simply react to past data but actively analyze future risks.

The integration of AI and data analytics into auditing provides auditors with enhanced tools to detect fraud and assess risk. While these technologies increase the speed and effectiveness of audits, auditors must still apply human judgment and skepticism to ensure that the results of AI models are interpreted correctly and that no critical data is overlooked.

## Professional Skepticism in a Technology-Driven Audit Environment

AI-powered tools allow auditors to use predictive analytics to anticipate future financial trends and identify potential risks before they materialize.

Today's audit is characterized by artificial intelligence, automation, and advanced data analytics. The nature of professional skepticism is evolving. While technology enhances audit efficiency and depth, it also introduces new risks where the auditor needs to apply professional skepticism in a more sophisticated and disciplined way.

In a technology-driven environment, complex systems can obscure errors or fraud behind layers of automated processes. One should validate management representations and continue probing unusual patterns.

Tools such as data analytics allow auditors to examine entire populations of transactions, not just samples. AI and machine learning can also help identify anomalies, trends, and risks more quickly than traditional methods. Robotic process automation (RPA) can perform repetitive audit procedures with speed and consistency.

Technology can sometimes unintentionally weaken professional skepticism if auditors place excessive trust in automated tools. Auditors should not assume that system-generated results are accurate without sufficient validation. Algorithms may be based on flawed data, inappropriate assumptions, or biased models. Additionally, complex IT environments such as cloud computing and integrated enterprise systems may also make it difficult for auditors. Without skepticism, auditors may fail to question whether technology is working in the manner it should.

In a technology-driven audit, professional skepticism requires auditors to critically assess not only financial information but also the tools used to analyze it. Auditors must evaluate the reliability of data sources, test system controls, and understand the logic behind algorithms and analytical models. Auditors should question why an anomaly exists and whether the parameters used are appropriate. Skepticism also involves corroborating technology-based evidence with other forms of audit evidence.

Technology can't replace professional judgment. Auditors must interpret results, decide which risks are significant, and determine appropriate audit responses. Auditors will need strong critical thinking skills and must understand information systems. Continuous training is essential so auditors can remain skeptical users of technology rather than passive recipients of its outputs.

A technology-driven audit environment requires a careful balance between leveraging technological capabilities and maintaining professional skepticism. Auditors should trust technology as

a powerful tool, but not unquestioningly. Auditors must do their fact-finding and questioning until they are certain.

Professional skepticism also remains fundamental to audit quality. In a technology-driven audit environment, skepticism must extend beyond financial data to include the systems, algorithms, and processes that generate audit evidence. If this is done right, it shall enhance both the effectiveness and credibility of the audit. Ultimately, technology will only strengthen and not replace the skeptical mindset that underpins it.

## Case Studies of Fraud Uncovered through Professional Skepticism

Auditors have increasingly relied on professional skepticism to uncover significant fraudulent activities in the corporate world. Here are a few key case studies illustrating how skepticism led to the discovery of fraud and misconduct:

### 1. Enron Scandal (2001)

One of the most notorious corporate frauds in history, the Enron scandal involved the company's use of off-balance-sheet entities to hide debt and inflate profits. The auditors failed to apply the necessary skepticism when reviewing Enron's financial statements.

Despite red flags, such as large amounts of debt hidden in special-purpose entities (SPEs), Auditors continued to endorse Enron's financial reports. The auditor failed to independently verify the financial health of the company, despite being aware of the complexity and scale of the transactions.

Had the auditors questioned the integrity of the SPEs and investigated the flow of funds more rigorously, the magnitude of the fraud could have been identified earlier. The failure was attributed to a lack of professional skepticism, as the auditors blindly accepted management's explanations of the financial structure.

### 2. WorldCom Scandal (2002)

In the WorldCom scandal, the company overstated its earnings by capitalizing normal operating expenses, which inflated assets by over $11 billion. The auditors missed the signs of fraud for a long time, failing to challenge WorldCom's accounting practices despite discrepancies in their financial statements.

When the fraud was eventually uncovered by internal whistleblowers, the role of the external auditors was scrutinized. If professional skepticism had been applied, the auditors would have questioned WorldCom's accounting policies and scrutinized the basis for capitalizing operating expenses.




### 3. Wirecard Scandal (2020)

The Wirecard scandal involved the German payment processing company Wirecard AG, which falsely reported having cash balances of approximately €1.9 billion in trustee accounts that didn't exist. This misstatement was only discovered when the company's auditors became increasingly skeptical about the bank confirmations they received, which were eventually found to be falsified.

The auditors, having grown skeptical of management's explanations and the quality of evidence provided, started to dig deeper into the company's financial records. Investigations

revealed that Wirecard had fabricated the existence of assets in the accounts of third-party trustees.

Although the fraud was detected, it was too late for investors, and the company declared insolvency. The fraud highlighted the importance of independent verification, especially when handling international financial transactions in jurisdictions with weaker regulatory frameworks.

**4. Carillion (2017)**

Carillion, a UK-based construction giant, collapsed in 2017, owing over £1 billion to creditors. Auditors had signed off on Carillion's financial statements for years, despite warning signs. Carillion's financial statements were riddled with misleading assumptions about contracts and overstated assets. The company had also engaged in aggressive accounting practices, such as accelerating revenues and understating liabilities.

In such circumstances, Auditors must exercise sufficient professional skepticism. Question the validity of Carillion's aggressive revenue recognition or its risk assessment on major contracts, the validity of Carillion's cash flows, and such. Basically, be even more skeptical about all the assumptions underlying its business model.

**5. The Toshiba Accounting Scandal (2015)**

In the case of Toshiba, a leading Japanese conglomerate, it was revealed that the company had been involved in a massive accounting scandal involving the overstatement of profits by approximately $1.2 billion over several years. The scandal came to light after a new CEO, who was skeptical of the company's financial practices, ordered an internal investigation.

Despite multiple audits, the auditors failed to uncover the accounting manipulations. The company's management had used aggressive accounting methods to hide losses, and auditors failed to sufficiently challenge these assumptions.

The failure to critically question the company's accounting policies was a major oversight. The scandal underscored the importance of maintaining professional skepticism, particularly in large organizations where management may have an inherent bias towards achieving financial targets.

**6. The Satyam Scandal (2009)**

Also known as India's Enron. The fraud came to light after about a decade. What started as a small manipulation grew significantly. Over 90% of the cash balance shown on the balance sheet was non-existent. A professional skeptical auditor would have challenged management representations and the falsified bank statements. Further, independently verified the bank balances.

This led to mandatory roles around rotation of auditors, stricter rules around independent directors, and, of course, setting up the NFRA, a new independent regulator.

## Are Auditors alone responsible? What is the role of TCWG then?

The Board of Directors and the Audit Committees are Those Charged With Governance (TCWG). We all know TCWG is ultimately responsible for the oversight of the financial reporting process. The board of directors may not have all the time, but Audit committees must invest time and ask the right questions. Also, how much can Auditors RELY on TCWG? That is important too. Here, they need to balance trust and professional skepticism. Trust but verify.

TCWG, too, could be relying on external Auditors to confirm management statements, and if everything is done in accordance with the accounting standards, if internal controls are in place.

In reality, TCWG is responsible for the preparation of statements and maintaining internal controls. Auditors only express an opinion. However, they both must exercise full diligence and cannot neglect their duty in terms of challenging the accounting assumptions, accounting estimates, and internal controls.

Auditors are required to separately communicate

these specific matters to TCWG. ISA 260 emphasises this structured communication between the two. Auditors have to remain objective and unbiased, and TCWG can enquire with Auditors if the company's risk management and reporting activity is in line with Industry standards. Auditors' findings help TCWG drive effective governance internally.

## Role of AI and Data Analytics

As we talk about professional skepticism in Auditing, we must talk about the tools and the levers. AI is one such tool and is a massive game-changer.

Artificial intelligence (AI), machine learning, and advanced data analytics have transformed audit methodologies. These tools enable auditors to:

- Analyze entire populations rather than relying on sampling.
- Identify anomalies and unusual patterns within large datasets that may not have been evident with traditional methods.
- Perform predictive and trend analysis, helping auditors foresee potential risks.

However, while AI can aid in detecting potential fraud or errors, it is still a detection tool; it cannot replace the auditor's ability to critically evaluate evidence, interpret context, and make informed judgments.

## Human Judgment and Skepticism in an AI World

AI is fundamentally a detection tool; it identifies patterns and anomalies. Human auditors, however, are responsible for:

- Interpreting results: Understanding the implications of AI-generated findings.
- Investigating root causes: Not just accepting the system's output but questioning the context behind it.
- Drawing conclusions: Ensuring that the evidence aligns with the audit objectives and makes sense within the broader business context.

Auditors must remain vigilant and skeptical, even when AI tools indicate "low-risk" results. They must consider the limitations of AI, including the risk of algorithmic bias and over-reliance on automated systems. Therefore, while AI enhances audit effectiveness, human skepticism remains critical for drawing valid conclusions.

## From Watchdog to Professional Skeptic in a World of Tech

The evolution of auditing reflects broader changes in business, technology, and societal expectations. The traditional "watchdog" concept, rooted in legal precedent, is no longer sufficient. Modern auditing demands active inquiry, professional skepticism, and continuous vigilance.

Auditors are now expected to challenge management, assess risks critically, and adapt to technological advancements. The Enron, WorldCom, Wirecard, Carillion, and Toshiba scandals underscore the importance of skepticism in the auditing process, demonstrating how failure to challenge assumptions can lead to catastrophic outcomes.

Artificial intelligence enhances audit effectiveness, but it does not replace human judgment. Ultimately, AI may assist in detection, but human skepticism is essential for the conclusion. In a world of increasing complexity and uncertainty, auditors must justify the trust placed in them by stakeholders, not by passive observation, but by informed, skeptical, and professional judgment.



# Double Entry of Paap & Punya

## *How Ancient India Shaped the Logic of Modern Bookkeeping*

***– Devdutt Pattanaik***


### Synopsis

*Ancient Indian temples, guilds and merchants practised balanced accounting centuries before Europe. From bahi khata to Jain manuals, here's how India's paap–punya philosophy shaped the logic behind double-entry bookkeeping.*


The idea that every financial transaction has two sides is old in India. Long before the Venetian merchants of the 15th century formalised double-entry bookkeeping, Indian traders, guilds and temples had developed parallel practices that reveal the same mental model of balance and reciprocity. The evidence is scattered across inscriptions, manuals and community traditions, offering a glimpse of a sophisticated commercial culture that connected India to Arabia, Persia, East Africa and Southeast Asia.

The earliest hints appear in temple inscriptions of south India from the Chola period. Between the 10th and 12th centuries, thousands of stone records from Thanjavur, Kanchipuram and Chidambaram list income and expenditure in careful paired entries. A donation of land or grain is matched with obligations to supply oil for lamps or rice for feeding Brahmins. Every inflow implies an outflow. This is not yet a double entry, but the logic is unmistakable. Temples functioned as banks, endowments and credit institutions, and their accounts reveal a desire for balance and continuity.

By the 12th century, merchant guilds such as Ayyavole 500 and Manigramam, mentioned in inscriptions from Karnataka, Tamil Nadu and Sri Lanka, operated across the Indian Ocean. Their charters speak of loans, interest rates and repayments. Though their actual books have not survived, the records indicate parallel account keeping. One tablet from Barus in Sumatra (circa 1088 CE) refers to guild members contributing to a shared fund and drawing upon it proportionately. For every contribution there was an entry elsewhere that acknowledged the corresponding right to withdraw.

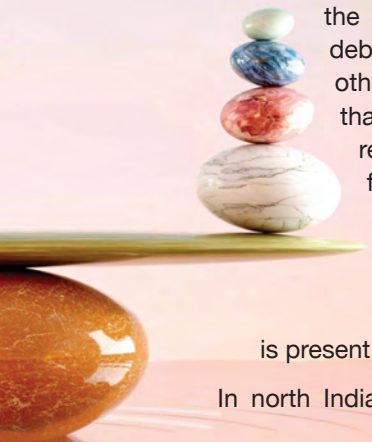
In the trading towns of western India, a more explicit system emerged. Gujarati and Rajasthani merchant communities developed the bahi khata tradition. The account books of the Mahajan and Sarraf communities, still used today, follow a structure that can be traced back at least to the 13th century, inferred from references in regional texts and family archives. Transactions were recorded in roja (daybook) and transferred to khata (ledger). Jama indicated what came in. Kharach indicated what went out. Every jama had a corresponding kharach somewhere else. On Diwali, the new





accounting year began only after books were balanced, a ritual that symbolised good fortune and honest dealing.

The clearest textual evidence comes from the Jain clerical manual Lekhapaddhati, dated between the 13th and 15th centuries, preserved in Gujarat, attributed to the Brahmin minister Hemadri Suri who served in Yadava-Seuna courts of Deogiri. This manual explains how to draft financial letters and business contracts. It describes methods where the creditor's record and debtor's record reflect each other. Scholars have noted that these mirror entries reveal the conceptual foundation of double entry. There is no use of the Venetian debit-credit terminology, but the twin record structure is present.



In north India, from the 16th century Mughal period, we find references to 'tijori khata' and 'roznamcha' books. Abul Fazl, in the Ain-i-Akbari (late 16th century), refers to the meticulous accounts kept by revenue officers and merchants. The paired terms jama (credits) and udhar/kharach (debits) appear in many documents of the period, indicating the widespread use of matching entries in finance and taxation.

Across India, community accountants known as Patwari, Kanakku Pillai and Modh Baniyasi developed procedures that ensured that every receipt had a corresponding issue. These traditions are older than European influence, rooted in local commerce. Archaeological finds of palm leaf account books from Kerala and Sri Lanka, dated to the 14th and 15th centuries, show the same dual-column layouts, though the exact dating varies.

When Luca Pacioli published his Summa in 1494, codifying European double entry, the Indian Ocean was already alive with Gujarati, Arab and Persian traders. Methods travelled with people. India did not invent the Venetian system, but Indian practices show that the mental model of double entry - that value always moves between two points - was part of India's commercial life centuries earlier.

Historians overlook the fact that mathematical ideas have roots in philosophy. The number zero that originated in India had its roots in the Buddhist notion of Shunya. The concept of infinity that also originated in India had its roots in the Hindu notion of Ananta. The idea of debit and credit can be traced to Jain ideas of paap and punya, and to snake and ladder of Indian board games. You cannot give something unless someone receives something. That's how double entry originated.

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# Shri T N Manoharan

## *Elevating the Profession in Times of Challenge and Change*

**Late Shri Thotala Narayanaswamy Manoharan** (1956–2025) was a distinguished Chartered Accountant whose professional life reflected ethical leadership, institutional responsibility, and service to the public interest. After completing his studies in commerce, he qualified as a Chartered Accountant in 1983, laying the foundation for a career that would extend far beyond conventional practice.

Shri Manoharan began his career in audit, taxation, and advisory services, becoming known for his clarity of thought and ability to navigate complex regulations. His credibility grew nationally as he took on leadership roles that influenced policy and governance frameworks for accountants, auditors, and regulators.

### Leading the Profession with Integrity

During his tenure as President of the Institute of Chartered Accountants of India (ICAI) in 2006–07, Shri Manoharan emphasized professional self-regulation, ethical discipline, and public accountability. His leadership reaffirmed the profession's commitment to independence, rigorous education, and principled practice amid heightened scrutiny of financial systems.

### Restoring Confidence in Corporate Financial Reporting

Shri Manoharan's influence extended into governance as he was appointed by the Government of India as a special director on the board of Satyam Computer Services following a major corporate fraud. He played a crucial role in protecting stakeholder interests and overseeing the company's restructuring, emphasizing truthful financial reporting, system integrity, and governance reform—key issues for accounting and auditing.

### Recognition and Broader Professional Impact

In recognition of his outstanding contribution to the profession and corporate governance in India, Shri T N Manoharan was awarded the Padma Shri in 2010, becoming the first practicing Chartered Accountant to receive the honour.

Alongside his leadership and governance roles, he made significant contributions to professional education. As the author of several books for Chartered Accountancy students, he played an important role in shaping conceptual understanding and ethical awareness among future members of the profession.

Beyond authorship, he served in advisory and leadership roles across financial institutions and regulatory bodies, and remained actively engaged in mentoring professionals and students, helping bridge the gap between technical knowledge and real-world judgment.

### Enduring Influence on the Accounting Profession

Shri T N Manoharan's contributions encompassed professional leadership, governance reform, and educational mentorship. He showed that the value of the accounting profession lies in upholding truth and strengthening governance for the public interest. His work highlighted the critical role Chartered Accountants play in building and preserving trust in financial systems.

# Supreme Court



Keshav B Bhujle

**Pride Foramer S.A. v. CIT: (2025) 481 ITR 1 (SC): 2025 SCC OnLine SC 2268: Dated 17/10/2025:**

*Business deduction — Business expenditure — Depreciation — Carry forward and set-off :- (a) Condition precedent for relief — Assessee should demonstrate that it was carrying on business in India during relevant period; (b) Assessee, a non-resident, awarded contract in India up to 1993 and a fresh contract in 1998 — High Court held — No permanent establishment existing in interregnum — Assessee not maintaining any office in India — No contract under execution during period in question — No business carried on in year in question — Set off of expenses and depreciation not allowable — Supreme Court held — During interregnum, assessee having continuous business correspondence with Oil and Natural Gas Corporation with regard to hiring of manpower services for drilling — Failure to obtain contract by itself not determining factor — Various acts aimed at carrying on business in India though not fructifying in procuring a contract — Wrong to infer assessee was not carrying on business — Assessee entitled to deduction of business expenditure against income from tax refunds — Assessee entitled to carry forward unabsorbed depreciation from earlier years; (c) Non-resident — Whether could be said to carry on business in India — No provision requiring non-resident company to have permanent office within country to be chargeable to tax on any income accruing in India; (d) Business — Whether subsisting — Business going through transition but capable of revival in proper circumstances — Not a complete cessation of business but mere lull in business: Ss. 4, 5(2), 9(1)(i). 32(2), 37 and 71 of ITA, 1961: A.Y. 1996-97, 1997-98 and 1999-2000:*

The appellant is a non-resident company incorporated in France and is engaged in oil drilling activities. In 1983, the appellant was awarded a ten-year contract for drilling operations in

offshore Mumbai from 1983 till 1993. Thereafter, the appellant was awarded another drilling contract in October 1998, which came to be formalised in January 1999. In the interregnum, i.e., during the relevant assessment years, though no drilling contract was awarded, the appellant carried on business correspondence with the Oil and Natural Gas Corporation from its office at Dubai and headquarters in France, and had also submitted a bid for oil exploration in 1996. During this period, the appellant undertook various expenditures, including administrative charges, audit fees, etc., with the intention of carrying out its business activities as well as realising tax refunds from the Income-tax Department.

For the relevant assessment years, the appellant filed its return showing "nil" income. The only income credited was under the head "Income from business" on account of interest received on Income-tax refunds amounting to Rs. 1,69,57,395 for the A.Y. 1996-1997, Rs. 5,49,628 for the A.Y. 1997-1998, and Rs. 11,29,957 for the A.Y. 1999-2000. Against this, business expenditures aggregating to Rs. 2,50,000, Rs. 5,55,152, and Rs. 11,29,957, respectively, were claimed as deductions, and the appellant also claimed a set-off against unabsorbed depreciation on furniture and fixtures brought forward from earlier years.

The Assessing Officer disallowed the deduction of business expenditure as well as carry forward of unabsorbed depreciation on the ground that the appellant was not carrying on any business during the relevant assessment years. The findings of the Assessing Officer were upheld by the Commissioner of Income-tax (Appeals).

The Income-tax Appellate Tribunal reversed the findings of the Commissioner of Income-tax (Appeals), holding that a temporary lull in the business for whatever reason cannot be termed as cessation of business. It proceeded to hold as follows:

> "6… In the present case, undoubtedly, after 1992-1993, the assessee did not have any business activity. However, there is enough evidence on record to suggest that the assessee had not completely gone out of business. Copies of correspondence dated 1996 with the Oil and Natural Gas Corporation show that the assessee was in constant touch with the Oil and Natural Gas Corporation for the supply of manpower in respect of expert key personnel for deep water drilling, and a tender in this regard was in fact submitted in September 1996. This proves that even after the completion of the earlier contract in 1993, the assessee was contemplating bidding for another contract. The efforts of the assessee finally culminated in a firm contract being awarded to it in 1998, which was formalised in 1999. A copy of the said contract is on record. As held by the Bombay High Court in the case of *Hindustan Chemical Works Ltd. v. CIT* [(1980) 124 ITR 561 (Bom); 1979 SCC OnLine Bom 315.], there is a marked distinction between 'lull in business' and 'going out of business'. A temporary discontinuance of business may, in certain circumstances, give rise to an inference that a business is going through a lean period of transition, and it could be revived if proper circumstances arise. In the present case, the period between 1993 and 1998 was one of such temporary discontinuance, which can be termed as a 'lull in business'. Thus, when the intention of the assessee was never to go completely out of business, it cannot be concluded that the assessee had discontinued its business. To our mind, it makes no difference if the correspondence was by the Dubai office of the assessee or by its office in France, as was one of the contentions of the learned Departmental representative. In fact, in the accounting year 1995-1996, the assessee had also paid consultancy charges to follow up the aforesaid Oil and Natural Gas Corporation bid. Further, the receipts from this contract were offered for taxation in the assessment year 2002-2003 as reflected by the copy of the statement of total income placed on record. ……. It is not well appreciated by the authorities below that

whether there is a permanent establishment in India or not, has to be determined as per the provisions of the relevant Double Taxation Avoidance Agreement. As per the Double Taxation Avoidance Agreement, the assessee may not have a permanent establishment in India, but that does not necessarily lead to the conclusion that the assessee is not in business. The assessee can be in business, depending upon the facts and circumstances of the case dehors' the permanent establishment which we do find in the present case. Thus, considering all the facts and circumstances of the case, we hold that the assessee was in business during the period relevant to the assessment year in question."

In the light of such finding that the appellant had not ceased to carry on business, the Tribunal though holding income on account of interest on tax refunds was chargeable under the head "Income from other sources" and not "Income from business", allowed set off of the expenses on account of administrative charges, legal professional fees undertaken by the appellant as business expenses from "income from other sources" u/s. 71 of the Act. For similar reason unabsorbed depreciation from previous years was allowed u/s. 32(2) of the Act.

The Uttarakhand High Court allowed the appeal filed by the Revenue. The High Court, while agreeing with the proposition that a mere lull in the business does not mean that the assessee had ceased to do business in India, reversed the finding of the Income-tax Appellate Tribunal, holding as follows [ Page 25 of 317 ITR.] :

"… when the assessee has neither permanent office, nor any other office in India, nor any contract was in execution during the relevant period, it cannot be said that they were in business in India. As such, it cannot be said that the assessee was entitled to set off as claimed by it under section 71 of the Act."

*[CIT v. Pride Foramer S.A.*; (2009) 317 ITR 18 (Uttarakhand): 2009 SCC OnLine Utt 1415:]

The Supreme Court allowed the appeal filed by the assessee and held as under:

"i) Having heard learned counsel for the parties, we are of the opinion that the moot issue which falls for our consideration is:

"Whether, in the facts of the case, the appellant can be said to have been carrying on business during the relevant period, so as to avail of deduction of business expenditure u/S. 37(1) read with section 71 of the Act, and carry forward unabsorbed depreciation of previous years u/s. 32(2) of the Act ?"

ii) It is evident that to avail of the benefit of the aforesaid provisions, the appellant had to demonstrate that it was carrying on business in India during the relevant period. While the Tribunal was of the view that mere failure to procure a business contract or maintain a permanent establishment in India was not a sine qua non to demonstrate the assessee's intention to carry on business, the High Court held to the contrary and disallowed the claim of the appellant

iii) In the present case, the appellant, a non-resident company, had been awarded ten years' drilling contract by the Oil and Natural Gas Corporation in 1983. The contract continued till 1993. Thereafter, the appellant failed to procure another contract till October 1998. But ample materials have been placed on record to show that during the interregnum, the appellant had continuous business correspondences with the Oil and Natural Gas Corporation with regard to hiring of manpower services in respect of expert key personnel for drilling in deep waters and had even unsuccessfully submitted a bid in 1996.

iv) Whether failure to procure the drilling contract with the Oil and Natural Gas Corporation was owing to the appellant's disinterest in carrying on business during the relevant period and amounted to cessation of business or not must be construed from the

appellant's conduct. If such conduct, from the standpoint of a prudent businessman, evinces an intention to carry on business, mere failure to obtain a business contract by itself would not be a determining factor to hold that the appellant had ceased its business activities in India. *[CIT v. Vikram Cotton Mills Ltd.* (1988) 169 ITR 597 (SC); 1988 Supp SCC 442; 1988 SCC (Tax) 456; 1987 SCC OnLine SC 788, para 15.]

v) The Tribunal rightly noted that a business going through a lean period of transition, which could be revived if proper circumstances arose, must be termed as a lull in business and not a complete cessation of the business.

vi) Continuous correspondences between the appellant and the Oil and Natural Gas Corporation with regard to the supply of manpower for oil drilling purposes and its unsuccessful bid in 1996 demonstrate various acts aimed at carrying on business in India, which unfortunately did not fructify in procuring a contract.

vii) In this factual backdrop, the High Court erred in holding that the appellant was not carrying on business as it had no subsisting contract with the Oil and Natural Gas Corporation during the relevant period.

viii) The other issue on which the High Court misdirected itself was to infer that, as the appellant did not have a permanent establishment and corresponded with the Oil and Natural Gas Corporation from its foreign office, it cannot be said to carry on business in India. This view is wholly fallacious and contrary to the very scheme of the Act, which does not require a non- resident company to have a permanent office within the country to be chargeable to tax on any income accruing in India.

ix) A combined reading of the charging provisions u/s. 4 and section 5(2) of the Act read with section 9(1)(i), makes it amply clear that a non-resident person shall be liable to pay tax on income which is deemed to accrue or arise in India. Under section 9(1)(i), income accruing or arising, directly or indirectly, through or from any business connection in India is deemed to accrue or arise in India and is accordingly chargeable to tax as business income under section 28 of the Act. None of these provisions makes it mandatory for a non-resident assessee to have a permanent establishment in India to carry on business or have any business connection in India. The issue of "permanent establishment" may be relevant for the purposes of availing of the beneficial provisions of the Double Tax Avoidance Agreement (DTAA) between India and France, which is not a relevant consideration for the purposes of this case.

x) In an era of globalisation whose life blood is trans-national trade and commerce, the High Court's restrictive interpretation that a non-resident company making business communications with an Indian entity from its foreign office cannot be construed to be carrying on business in India is wholly anachronistic with India's commitment to sustainable development goal relating to "ease of doing business" across national borders.

xi) For the aforesaid reasons, we allow the appeals and set aside the judgment and order of the High Court. The orders passed by the Income- tax Appellate Tribunal are revived, and the Assessing Officer is directed to pass fresh assessment orders for the relevant assessment years in terms of the Income-tax Appellate Tribunal orders.

"Honest differences are often a healthy sign of progress."

***— Mahatma Gandhi***

# High Court


Jitendra Singh


Radha Halbe


Harsh Shah

## Rajesh Gupta v. ACIT [2025] 181 Taxmann.com 866 (Delhi)

*Search and seizure - section 132B of the Income Tax Act 1961 - Application of seized or requisitioned assets - provision of section 132B(4) is directory in nature as non-release of seized jewellery/gold within 120 days entailed consequences in nature of interest to be paid.*

### Facts:

The residential premises of the assessee were subjected to a search and seizure action under Section 132 of the Act. During the search, the gold and jewellery were seized. The assessee made an application to the AO to release the seized gold/jewellery as per the provisions of section 132B of the Act. The assessee in his application submitted that the seized gold/jewellery was disclosed in the Income Tax and Wealth Tax Returns, and it was incumbent upon the revenue to release the seized jewellery within 120 days from the date of search. The AO rejected the application of the assessee by observing that the assessee failed to provide any documentary evidence to satisfy the worth of the jewellery/gold.

The assessee, being aggrieved by the action of the AO, approached the Hon'ble Delhi High Court under Article 226 of the Constitution of India for the release of seized jewellery.

### Ruling of the High Court:

Hon'ble Delhi High Court rejected the petition of the assessee by observing that the plea of the assessee that the period of 120 days in second proviso to section 132B(1)(i) is mandatory in nature cannot be accepted in view of provision of section 132B(4) as non-release of seized jewellery/gold within 120 days entailed consequences in nature of interest to be paid. Further, the second proviso to section 132B(1)(i) would get attracted only after the AO determines liability and concludes that the nature and source of acquisition of seized assets had been explained by the assessee. Thus, no direction could be given for the release of gold/jewellery in proceedings under Article 226 of the Constitution, particularly when the AO is seized of the matter.

## Accost Media LLP v. Dy. CIT [2025] 181 Taxmann.com 298 (Bom.)

Appellate Tribunal - Section 254 of the Income Tax Act 1961 - Rectification of mistake apparent from the record - limitation for filing a rectification application starts from the date on which copy of order sought to be rectified was served upon assessee. [Rule 34A of the Income-tax Appellate Tribunal Rules]

### Facts:

The assessee filed an application on 16.07.2025 under section 254(2) of the Act before the Appellate Tribunal for rectification of the order dated 10.12.2024 passed under section 254(1) of the Act. The registry of the Appellate Tribunal issued a notice to the assessee that the application filed by the assessee was belated by 15 days. The assessee responded to the said notice and explained that the order of the Appellate Tribunal was served on 24.03.2025 and therefore, the application filed by the assessee is within the limitation. Ultimately, the application of the assessee was rejected by the Appellate Tribunal vide order dated 13.10.2025 on the ground that the same is time-barred.

The assessee, being aggrieved by the order of the Appellate Tribunal, challenged the same before the Hon'ble Bombay High Court by way of Writ Petition.

### Ruling of the High Court:

Hon'ble High Court was pleased to allow the writ petition filed by the assessee by observing that when Rule 34A is read with Rule 9, it is clear that, along with the application for rectification filed under Section 254(2), the assessee has to furnish 2 copies of the order, at least one of which is a certified copy. It is impossible for the assessee to approach the Tribunal under section 254(2) without being supplied a copy of the order. Once this is the case, it can hardly be contended that the application filed by the assessee is time-barred. This is said because a copy of the order was furnished only on 24.03.2025, and therefore, the miscellaneous application [under section 254(2)] filed on 16.07.2025 is well within 6 months from the said date.

## Jigishaben Minesh Patel v. ACIT [2025] 181 Taxmann.com 684 (Guj.)

*Search and seizure - Section 132 of the Income Tax Act 1961 - assessee discharged tax liability by availing the benefit of DTVSV - declaration of the assessee accepted by issuing the Form No 5 - detention of jewellery seized of assessee on pretext of liability of another person - unjustified.*

### Facts:

The assessee's premises were subjected to a search action on 02.12.2015 under section 132 of the Act. During the course of the search, gold and diamond jewellery were found, and certain jewellery was seized from lockers jointly held by the assessee and her mother-in-law. Pursuant to the search, proceedings under Section 153(A) of the Act were initiated. The assessment for assessment year 2016-17 was framed by making additions on account of unexplained jewellery on both substantive and protective bases in the hands of the assessee and her mother-in-law. On appeal, the first appellate authority held that additions made on presumption in the ratio of 50:50 ownership were invalid and recorded categorical findings regarding the ownership of the seized jewellery. Consequent to this, the appeal effect order quantified the addition in the hands of the assessee. Subsequently, the assessee opted for settlement under the Vivad Se Vishwas Scheme and paid the determined amount of Rs.72,241, and the declaration was accepted by the issuance of Form-5. The assessee filed an application before the competent authority for the release of jewellery. However, the AO did not release the seized jewellery on the grounds of a subsisting demand in the case of the assessee's mother-in-law.

The assessee, being aggrieved by the action of the AO, approached the Hon'ble Gujarat High Court under Article 226 of the Constitution of India.

### Ruling of the High Court:

Hon'ble Gujarat High Court allowed the petition of the assessee by observing that the assessee had discharged the entire tax liability relating to unexplained jewellery and the declaration under Vivad Se Vishwas Scheme was accepted by issuance of Form-5. Thus, the AO cannot continue to detain the seized jewellery on ground of a tax demand of the joint locker holder, and the jewellery is liable to be released.

## Akasaki Technology (P.) Ltd. v. Pr. CIT [2025] 181 Taxmann.com 325 (Delhi)

*Appeal - Commissioner (Appeals) - Section 251 of the Income Tax Act 1961 - Powers - CIT(A) cannot set aside the assessment and remand the matter to AO without deciding the jurisdictional issues raised before it. [Sec. 147 of the Act]*

### Facts:

The assessee filed its return of income for the AY 2012-13, declaring a total income of Rs. 48.51 lakhs. The assessee's case was reopened under section 147 after recording the satisfaction and reasons for reopening and obtaining necessary approval from the competent authority. Notice under section 148 was served on 31.03.2019 through the ITBA portal. The assessee responded to the said notice vide letter dated 26.04.2019 and also requested to furnish the reasons for reopening of the assessment. The AO furnished the reasons on 09.09.2019. A notice under section 142(1) was issued to the assessee, to which the assessee duly complied with. The AO finalised the assessment vide order dated 24.12.2019 by making an addition of Rs. 8.38 crores. Being aggrieved by the assessment order, the assessee challenged the same before the Commissioner (Appeals). Before the first appellate authority, the assessee had raised a ground that the AO had not issued a mandatory notice under section 143(2) of the Act prior to initiating the assessment proceedings. Hence, the assessment order passed by the AO is bad in law. The Commissioner (Appeals) set aside the assessment vide order dated 25.10.2024, with a direction to the AO to frame the assessment order afresh after giving adequate opportunity to the assessee to be heard. The assessee, being aggrieved, challenged the order passed by the first appellate authority before the Appellate Tribunal. The Appellate Tribunal, however, upheld the order of the Ld. CIT(A).

The assessee, being aggrieved by the order of the Tribunal, filed an appeal before the Hon'ble Delhi High Court under section 260A of the Act. Before the Delhi High Court, the assessee contended that the CIT(A) erred in setting aside the order of assessment and restoring the matter back to the file of the AO with a direction for fresh adjudication, thereby again granting an opportunity to the AO to remove the infirmities in the assessment order which was otherwise a nullity on the ground that the AO had failed to issue mandatory notice under Section 143(2) of the Act.

### Ruling of the High Court:

Hon'ble Delhi High Court was pleased to allow the appeal of the assessee by observing that the CIT(A) without dealing with the submissions, has primarily by observing that the assessee had submitted that the assessment order was passed under Section 144 of the Act without issuing notice under Section 143(2) of the Act, has remanded the matter back to the AO. There is no finding of the CIT(A) on the said aspect inasmuch as it ought to have come to the conclusion whether such a notice had in fact been issued, if not, what is the effect, and also, as no valid order under Section 144 of the Act was passed, the matter could not have been remanded back to the AO. Since an infirmity has arisen at the level of the CIT(A), who was exercising jurisdiction under Section 251 of the Act, the issue raised needs to be decided by the CIT(A) and not by the AO.

# TRIBUNAL


Nikhil Mutha


Viraj Mehta


Kinjal Bhuta

## Kalpataru Projects International Ltd. v. DCIT [I.T.A. No. 5962 to 5965 and 6112/MUM/2025 dated 24/12/2025] (Mumbai Tribunal) (AY 2013-14 to 2017-18)

*Section 37(1) – Disallowance of purchases cannot be sustained in absence of incriminating material when purchases are linked to executed business projects*

### FACTS:

The Assessee, Kalpataru Projects International Ltd. (Kalpataru), is engaged in infrastructure and power transmission projects, etc., and had a subsidiary, M/s JMC Projects India Ltd. (JMC), which incurred certain purchase and subcontract expenses in FY 2012-13. JMC later merged into the Assessee company w.e.f. 01/04/2022. A search was conducted on the Kalpataru Group of companies in August 2023, nearly ten years after the relevant year under consideration. Based on statements of the present employees of JMC and a field enquiry showing that some vendors were not found at their old addresses, the Assessing officer (AO) reopened the assessment and disallowed purchases of INR 2.70 crore made by JMC from five parties as non-genuine under section 37(1) of the Income-tax Act, 1961, though no incriminating material was found in such search been carried out. The CIT(A) accepted that projects were executed and corresponding revenues were not doubted, but still sustained 12.5% disallowance on an ad-hoc basis even after substantiating the transactions with substantive evidences which included purchase orders, ledgers, invoices, delivery challans and payment confirmations through verifiable banking channels been placed on record. The Assessee appealed to the Hon'ble Mumbai ITAT/ Tribunal.

### HELD:

The Hon'ble ITAT held that statements recorded in the year 2023 only showed a lack of familiarity of current employees with old transactions and could not prove bogus purchases, especially when no incriminating material was found during the search. Field enquiries conducted after a decade were also held unreliable by the Hon'ble ITAT. It further held that since the materials and services were used in executed projects wholly and exclusively for business purposes and the revenues were accepted by the lower authorities, the entire impugned disallowance made under section 37(1) had no basis.

Further, the Hon'ble ITAT held that the AO's reliance on the decision of the Hon'ble Bombay High Court in *PCIT v. Drisha Impex Pvt. Ltd* (2025) (173 Taxmann.com 571). was not applicable and factually distinguishable, since in the assessee's case the reassessment was initiated only on the basis of statements of employees recorded during search, and there was neither any allegation nor any material to suggest that JMC was a beneficiary of accommodation entries; instead, the five impugned vendors had a consistent and continuing business relationship with JMC hence accordingly, the said decision had no application to the facts of the assessee's case. The ad-hoc 12.5% disallowance was without legal basis. On aforesaid basis, the Hon'ble ITAT deleted the entire addition for all years.

## Vanraj Ranchhoddas Merchant (through Legal heir Harshit Merchant) v ITO [I.T.A No. 5234/Mum/2025 dated 29.12.2025] (Mumbai Tribunal) (AY 2011-12)

*Section 50C - Special provision for full value of consideration cannot be applied to Transfer of Life Interest / Limited Rights in Immovable Property*

### Facts:

The assessee, being an Individual, filed his return for AY 2011–12 declaring income of ₹4,70,660, which was processed under section 143(1). The assessment was later reopened under section 147 on the ground that the assessee had transferred his interest in an immovable property for ₹28,00,000, whereas the stamp duty valuation was higher. The assessee held a 20% undivided beneficial interest in a trust property at Colaba, Mumbai, out of which he assigned 10% to his nephew vide a registered deed dated 09.01.2010. The Assessing Officer invoked section 50C by adopting the stamp duty value, rejecting the assessee's contention that only a life interest was transferred. The CIT(A) upheld the applicability of section 50C but directed the adoption of the lower DVO value of ₹80,04,300. Aggrieved by the order, the assessee carried the matter in appeal before the Tribunal.

### Held:

The Tribunal held that the assessee had transferred only a life interest in the trust property and not the land or building itself, as the assignment deed expressly restricted the transfer to such a life interest and did not convey the corpus or ownership of the property. A life interest was held to be a limited, determinable, and non-heritable right, legally distinct from ownership or leasehold rights. The Tribunal noted that the CIT(A) had relied on decision of the Hon'ble Bombay High Court in *Vidharbha Veneer Industries Ltd. (In Liquidation) v. ITO* (ITA No. 34 of 2022 dated 1 April 2025) to apply section 50C; however, the same was distinguished on the ground that it dealt with transfer of leasehold rights and not a personal life interest. Applying the principle that a deeming provision must be strictly construed, the Tribunal held that section 50C applies only to the transfer of land or a building and cannot be extended to the transfer of limited rights or a life interest therein. Reliance was placed on the judgment of the Hon'ble High Court of Karnataka in *V.S. Chandrashekar v. ACIT* 432 ITR 330 to hold that section 50C does not apply to the transfer of rights in land. Accordingly, the invocation of section 50C was held to be unsustainable, and the addition made thereunder was deleted.

## Shri Nitin Bhatia v. ITO [ITA no. 1472/Hyd/2025 (Hyderabad Trib.) (AY: 2018-19)]

*Section 54: Purchase of new residential house within two years – new property purchased within 2 years – Non-deposit in CGAS only procedural – Deduction cannot be denied*

## Facts:

During the relevant previous year, the assessee sold a residential house property vide registered sale deed dated 14.12.2017 for a total consideration of Rs.3,70,00,000. The long-term capital gain on the said transfer was computed at Rs.1,33,83,234, out of which the assessee's share at 50% worked out to Rs.66,91,617. The assessee had entered into an Agreement of Sale dated 02.03.2018 for the purchase of a new residential house for a total consideration of Rs.4,44,00,000 and had made payments aggregating to Rs.44,40,000 towards the new residential house up to the due date of filing the return u/s. 139(1). The balance amount was subsequently paid through a housing loan and own funds. The registered sale deed of the new residential house was executed on 24.10.2019, i.e., within two years from the date of transfer of the original residential house. The assessee claimed a deduction of the entire long-term capital gain u/s. 54. The AO allowed the deduction u/s. 54 for the amount actually paid by the assessee up to the due date of filing the return under section 139 (1), i.e. Rs.44,40,000. The balance deduction was not allowed, contending that the assessee had not deposited the said amount in the Capital Gain Account Scheme ("CGAS") in accordance with section 54(2). The CIT(A) upheld the addition made by the AO.

## Held:

Before the Hon'ble Tribunal, the AR reiterated the entire facts and that the registered sale deed was executed on 24.10.2019, which is within 2 years from the date of transfer. The substantive condition u/s. 54(1) was complied with, and that the deposit in CGAS u/s. 54(2) is only procedural and directory in nature and cannot override the substantive provision contained u/s. 54(1) . The AR also relied on the legislative intent behind section 54, which is to promote housing and alleviate genuine hardship, and therefore, a liberal interpretation consistent with the object of the provision should be adopted. DR submitted that the provisions of Section 54(2) are mandatory and the assessee was required to deposit the amount in CGAS.

The Hon'ble Tribunal held that section 54(2) cannot be read independently or in isolation, and it comes into operation only when the assessee fails to comply with the substantive requirement u/s. 54(1). Compliance with section 54(1) is mandatory and substantive, whereas the conditions u/s. 54(2) are procedural and directory in nature. Once the assessee has invested the capital gain in a new residential house within the period stipulated under section 54(1), the benefit of deduction cannot be denied merely for non-compliance with section 54(2). It was held that the assessee had purchased a new residential house within two years from the date of transfer of the original residential house, the entire deduction u/s. 54 should be allowed. Reliance was placed on the decision of the Hon'ble Madras High Court in the case of *Venkata Dilip Kumar v. CIT* (419 ITR 298).

# M/s. KDP Infrastructure Private Limited v. DCIT [ITA no. 1094/Del/2024 (Delhi Trib.) (AY: 2012-13)]

*Section 69: Bogus purchases alleged based on investigation wing report – Purchases recorded in books – No unrecorded investment – Invocation of section 69 unsustainable*

## Facts:

A search and seizure operation was conducted in the group cases of the assessee. Subsequently, the case was reopened based on information received from the Investigation Wing alleging bogus purchases from M/s. Bhiwani Enterprise. The AO alleged that M/s. Bhiwani Enterprise was an entry provider, as no business activity had been carried out by the said entity. It was further alleged that the assessee failed to establish the genuineness of the purchases, and accordingly, an addition was made u/s. 69.

## HELD:

During the proceedings before the Hon'ble Tribunal, a report was sought from the AO on the issue of the invocation of an incorrect section; however, the AO reiterated that the addition was on account of bogus purchases u/s. 69. Referring to the reasons recorded for reopening, the Hon'ble Tribunal noted that the AO was aware, at the stage of reopening itself, that the issue pertained to alleged bogus purchases. The purchases were treated as bogus solely on the basis of the Investigation Wing report, bank account transactions, and the failure of the proprietor to respond, without any independent examination of the books of account of the assessee.

The Hon'ble Tribunal held that when the AO specifically invokes provisions forming part of sections 68 to 69C, each such provision casts a different onus on the assessee. For the purpose of section 69, what is material is that the assessee is found to have made investments which are not recorded in the books of account. However, in the case of alleged bogus purchases, there was no case of any investment made by the assessee that was not recorded in the books. If inventory is to be treated as an "investment", there must be some examination of stock to allege and establish a discrepancy in stock or inventory, which was absent in the present case. It was further held that the onus u/s. 69 is to explain the nature and source of investment, which, in the facts of the present case, admittedly arose from purchases recorded in the books of account. There was no allegation that the source of such purchases was outside the books or that the books maintained by the assessee lacked veracity so as to indicate that the purchases could not have been made out of known sources reflected therein. Accordingly, the Tribunal held that the invocation of section 69 requires a specific factual foundation, and the contention of the department that mere quoting of a wrong section does not prejudice the assessee does not assist its case. The AO was required to demonstrate how any other deeming provision was attracted, which was not done. The appeal of the assessee was accordingly allowed.

## DCIT v. Jaslok Hospital and Research Centre [ITA No. 4351/Mum/2025 dated 30.12.2025] (Mumbai Tribunal) (AY 2009-10)

*Section 153 – Retrospective extension of Special Audit beyond subsisting statutory period - Assessment Barred by Limitation*

## FACTS:

The assessee, a public charitable trust running a hospital, filed a revised return claiming exemption under Section 11, declaring nil income. The Assessing Officer (AO) denied the exemption, alleging the trust's activities did not qualify as charitable under Section 2(15), citing earlier denial of approval under Section 10(23C)(vi) and alleged billing/accounting discrepancies, making substantial additions. On appeal, the assessee argued an additional ground that the assessment was time-barred, claiming the special audit report and subsequent assessment exceeded the statutory period. The key legal issue is whether the assessment under Section 143(3) was barred by limitation due to invalid extensions for furnishing the special audit report. Resolving these hinges on whether the extensions granted were legally valid and their impact on computing the time limit for completing the assessment.

## HELD:

The Tribunal, upon a careful application of the statutory framework and settled judicial principles, held that the assessment framed under section 143(3) was barred by limitation and consequently void ab initio, there being no legally sustainable extension for submission of the special audit report beyond the permissible period. It was observed that the reliance placed by the Learned Commissioner (Appeals) on an alleged further extension was devoid of statutory sanction since it retrospectively enlarged the time. This conclusion finds authoritative support

in the decision of the Co-ordinate Bench in ACIT v. Nexus Feeds Limited & Ors. (ITA Nos. 86 to 92 & 94/Viz/2021 dated 23.01.2023) wherein it was unequivocally held that any extension of time for completion of a special audit must be granted within the subsisting statutory period, and that an extension sought or granted after the expiry of such period is legally ineffectual. Relying on the judgment of the Hon'ble Supreme Court in *Shreyans Industries Ltd* (2016 (4) SCC 769) the Bench reiterated that upon expiry of the limitation period, a valuable right accrues in favour of the assessee and the jurisdiction of the revenue authorities to proceed further stands extinguished. Accordingly, any assessment founded on an invalid and time-barred special audit report was held to be void ab initio.

## Estate of Vandravan P Shah v. ACIT [ITA No. 5401, 5402 & 5403/ Mum/2024.] (Mumbai Tribunal) (AY 2011-12, AY 2012-13 and AY 2017-18)

*Section 159 & 168– Reassessment proceedings initiated and completed in the name of a deceased person- sustained*

### Facts:

A search under section 132 was conducted in the case of M/s Navjeevan Charitable Trust, which revealed that the trust was engaged in providing accommodation entries by way of bogus donations eligible for deduction under section 35AC . The Assessee was identified as one of the beneficiaries having allegedly made a donation of INR 50 lakhs. On the basis of this information, the Assessing Officer ("AO") issued notice dated 28/03/2018 under section 148 . Subsequently, the Authorised Representative informed that the Assessee died on 06/02/2013. During the reassessment proceedings, verification under section 133(6) was attempted but the notice was returned unserved. Accordingly, the Assessee was required to establish the genuineness of the deduction claimed under section 35AC , which the Assessee failed to do, and the AO passed the reassessment order disallowing the said deduction. During the appellate proceedings before the Commissioner of Income-tax (Appeals) ["CIT(A)"], the assessee challenged the jurisdiction on the ground that reassessment proceedings had been initiated in the name of a deceased person. It was contended that since AY 2013-14, the assessee was represented by "the Estate of Late Shri Vandravan P. Shah" having a separate PAN and therefore the assessment could have been validly completed only in the name of the estate. The CIT(A) rejected the objections and sustained the reassessment. Further appeal was filed before the Hon'ble ITAT in the name of the Estate of Late Shri Vandravan P. Shah.

### Held:

The Hon'ble Mumbai ITAT noted that the Assessee died on 06/02/2013, whereas the years under consideration were AY 2010-11 and AY 2012-13, which relate to periods prior to the death of the Assessee. The Hon'ble Tribunal held that the estate of a deceased person comes into existence only upon death and therefore cannot represent income relating to a period prior to death. The Hon'ble Tribunal distinguished between sections 159 and 168 and held that income earned prior to death is assessable in the name of the deceased through the legal representative under section 159, whereas income earned after death is assessable in the hands of the estate under section 168. The Hon'ble tribunal observed that any contrary interpretation would defeat the legislative demarcation between the two provisions. Relying on the decision of the Hon'ble Bombay High Court in *Arvind Bhogilal v. CIT* [1976] 105 ITR 764, the Hon'ble ITAT sustained the reassessment proceedings. It further held that since the reassessment was correctly framed in the name of the deceased through the legal representative, the appeal ought to have been filed in the same capacity. As the appeal was filed in the name of the Estate of Late Shri Vandravan P. Shah, the same was held to be not maintainable and was dismissed.

## M/s. Trifecta Projects Pvt. Ltd. vs. DCIT [ITA no. 918/Bang/2025 (Bangalore Trib.) (AY: 2020-21)]

*Section 271AAB: Search penalty – Disallowance of expenses under sections 40A(3) and 37 not based on incriminating material – Not "undisclosed income" as defined – Penalty u/s 271AAB not automatic – Show cause notice not specifying limb also defective – Penalty deleted.*

### FACTS:

A search u/s. 132 was conducted on 05/02/2020 and the case was selected for scrutiny assessment. The AO disallowed the cash expenses u/s. 40A(3) for the payments were made in excess of Rs. 20,000. The AO had also disallowed the revenue expenditure, alleging it to be capital expenditure. The assessee had accepted additions to buy peace with the department. The AO had treated the said disallowances as undisclosed income, warranting penalty u/s. 271AAB . Subsequently, penalty notice u/s. 271AAB was issued alleging that the assessee had undisclosed income based on the search conducted. The assessee submitted that the disallowance of the cash expenses and the revenue expenditure could not be treated as undisclosed income since the said expenses were reflected in the financial statements and therefore penalty u/s. 271AAB should not be levied. The assessee also submitted that the notice u/s. 271AAB does not specify under which limb the offence was committed. The AO was not satisfied with the reply and levied penalty. The CIT(A) also confirmed the penalty levied by the AO.

### HELD:

Before the Hon'ble Tribunal, the AR submitted that the disallowances could be treated as undisclosed income, and the said additions were not made based on the result of the search conducted in the premises of the assessee. The penalty u/s. 271AAB is not automatic when the search has been conducted, and additions were made. The DR relied on the order of lower authorities.

The Hon'ble ITAT held that the disallowance u/s. 40A(3) and revenue expenditure, treating it as capital expenditure, were not based on the search action conducted by the Revenue. The expenditures were reflected in the books of accounts, and nothing was suppressed by the assessee, it was held that the disallowance was only based on technical reasons. Therefore, the provision of section 271AAB would not be applicable. Section 271AAB mandates that there should be an undisclosed income to impose a penalty under the said provision. The Hon'ble Tribunal further held that the AO had not mentioned under which limb the penalty u/s. 271AAB has been proposed. Reliance was placed on the judgment of *Sushil Kumar Paul* [ITA no. 2274/Kol/2019], *Ashok Bhatia* [ITA no. 869/Ind/2018], and *Aparna Agarwal* [(2019) 105 taxmann.com 233 (Jaipur Trib.)]. The appeal was allowed, and the penalty was deleted.




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# Case Law Update



**Dr Sunil Moti Lala**

## PERMANENT ESTABLISHMENT

### DCIT, IT v. Progress Rail Locomotive Inc. (Formerly Electro Motive Diesel Inc.) (2025) 181 taxmann.com 287 (SC)

***Revenue's SLP dismissed against the order of Hon'ble HC w.r.t nonexistence of PE. (India – US DTAA)***

Hon'ble SC dismissed Revenue's SLP against the order of Hon'ble HC, holding that :

(i) a subsidiary would be deemed to be a PE only if it satisfied the test as laid down in articles 5(1), 5(2), 5(4), and 5(5).

(ii) where the Indian subsidiary of the assessee, a US company, was not a mere conduit created for the business interests of the assessee, it could not be said that Fixed Place PE had come into being.

(iii) mere fact that assessee, a foreign company, standing in shoes of parent company, deemed it appropriate and expedient to exercise a degree of managerial oversight over its wholly owned Indian subsidiary, same would not result in a Service PE coming into existence and visit of employees of parent company, their interaction with employees of Indian subsidiary, discussion on subjects of mutual concern or interest would not amount to rendering of a service.

(iv) in order to fall within the scope of Article 5(4), it is imperative for revenue to have found that the Indian subsidiary not only stood conferred with authority to conclude contracts but also that it, in fact, habitually engaged in acting in discharge of that authority.

(v) reassessment notice was liable to be quashed -where on the basis of survey, it was alleged that assessee, a US company had an office in Noida and Varanasi and on basis of statement of employees of said office and Varanasi branch, it was concluded by AO that assessee had a 'Virtual projection' and PE in India in form of its subsidiary and reassessment was initiated- since neither emails, communication trails or for that

matter statement of employees could lead to conclude that business of assessee was managed by Indian subsidiary and thus opinion as formed by revenue was wholly perverse and untenable. **[SLP dismissed against *Progress Rail Locomotive Inc. v. DCIT, IT* [2024] 163 taxmann.com 52 (Delhi)]**

## CIT (IT) v. EXL Service.com Inc - (2025) 181 taxmann.com 874 (DEL)

***No PE under Article 5 - where assessee, a US company, entered into a service agreement with its Indian subsidiary for the provision of internet and voice-based customer care and back-office services - and the Indian entity had no authority to conclude contracts on behalf of the assessee (India – USA DTAA)***

Assessee, a US company, was providing business process outsourcing solutions, including transaction processing services and internet/ voice-based customer care services, to its clients located in the USA and the UK. It entered into a service agreement with its Indian subsidiary, under which the Indian entity provided internet and voice-based customer care services and back-office operations to customers of the assessee. AO held that the assessee had established a PE in India under Article 5 of the DTAA and that its income was taxable in India. The Hon'ble HC noted that it was not the case of Revenue that employees of the assessee company furnished services in India, nor was any material brought on record to show secondment of employees. Further, the Indian entity had no authority to conclude contracts on behalf of the US enterprise, and all customers were located outside India. It was thus concluded that the assessee did not have a PE in India under Article 5 of the DTAA. ***[EXL Service. Com INC v. Asstt. DIT* [2023] 157 taxmann.com 678 (Delhi-Trib) affirmed.]**

## CIT (IT) v. Clifford Chance PTE Ltd - (2025) 181 taxmann.com 254 (DEL)

***Where the assessee, a Singaporean company, engaged in the business of legal advisory services, had only rendered services to its Indian clients for 44 days, excluding vacation, business development days, and common days, it did not meet 90 days criteria to constitute a service PE in India during the relevant year. Further, the concept of Virtual Service PE could not be read into the DTAA ( India -Singapore DTAA)***

Assessee, a Singaporean company, provided legal advisory services to Indian clients partly through two employees who visited India, who were present in India for 120 days. AO held that the assessee had a service PE in India owing to the physical presence of its employees in India, as the aggregate duration of provision of services by the assessee exceeded 90 days. The Hon'ble HC upheld the order of the Tribunal wherein it was held as per the provisions of Article 5(6)(a), the actual performance of services in India by employees physically present in country is necessary to constitute service PE and that since assessee had only rendered services to its clients for 44 days, excluding vacation, business development days and common days, it did not meet 90 days criteria to constitute a service PE in India. Another issue that was raised by the Revenue was that there existed a Virtual Service PE in India on the ground that even when the employees were not physically present in India, services continued to be rendered virtually, for more than 90 days.

The Hon'ble HC noted that Article 5(6)(a) of the DTAA reads "An enterprise shall be deemed to have a permanent establishment in a Contracting State if it furnishes services within a Contracting State through employees or other personnel." It

held that the words "within a Contracting State" and "through employees or other personnel" contemplate rendition of services in India by the employees of the non-resident enterprise, while mandating a fixed nexus, a physical footprint within India. The term 'within' has a certain territorial connotation, and in the absence of personnel physically performing services in India, there can be no furnishing of services 'within' India. A plain reading of the whole provision would thus reveal that it is such rendition of services by employees present within the country (and not virtually) which would constitute a service permanent establishment. Accordingly, the Revenue's appeal was dismissed. ***[Clifford Chance PTE Ltd. v. ACIT* [2024] 160 taxmann.com 424 (Del - Trib.) Affirmed, *ABB FZ-LLC v. DCIT* [2017] 83 taxmann.com 86 (Bengaluru – Trib.), *Verizon Communications Singapore Pte Ltd. v. ITO* [2013] 39 taxmann.com 70 (Madras), *Hyatt International Southwest Asia Ltd. v. ADIT* [2025] 176 taxmann.com 783 (SC), *AB LLC and BD Holdings LLC v. The Commissioner of the South African Revenue Services Tax Court Johannesburg*, Case No. 13276, decided on 15.05.2015, and *Spain v. Dell Tribunal Supremo*, STS 2861/2016; Case No. 1475/2016, dated 20-06-22016 distinguished]**

## LM Wind Power AS v. ACIT (IT) - (2025) 180 taxmann.com 758 (DEL-TRIB)

***In the absence of any material being brought on record by Revenue w.r.t Existence of Fixed Place PE or Service PE, commission income earned by Danish Co (assessee) - Not taxable in India (India-Denmark DTAA)***

Assessee, a Denmark-based company, was engaged in the manufacturing of rotor blades for wind turbine generators. It entered into global framework agreements with global customers outside India, and after finalizing the global framework, forwarded relevant agreements to its other group companies. LM India, having manufacturing capacity, based on global framework agreements, supplies directly to the subsidiaries of global customers in India. Assessee provided sales support services to LM India and received commission at a rate of 6% of sales made by LM India to Indian subsidiaries of global customers. Assessee claimed that the said commission was not taxable in India as it had no business connection/PE in India and all activities were performed outside India. However, AO held that LM India constituted the assessee's Fixed Place PE in India and treated sales commission as attributable to such PE. The Hon'ble Tribunal held that since global framework agreements were finalized outside India with global customers outside India, and there was no material brought on record by the revenue that the relevant agreement was finalized in India, the commission income was not taxable in India. Further, since there was no material brought on record with regard to a fixed place of business or service PE or any employee of the assessee company having visited India to execute any of the contracts or utilize a place of business in India, the assessee could not be treated as having a PE or business connection in India. Consequently, the commission was not taxable in India.

**Note: Also see case no 9 under Royalty**

## UK GRIDS SOLUTIONS LTD v. DCIT (IT) - (2025) 180 taxmann.com 388 (DEL-TRIB)

***Where the assessee, a UK tax resident, executed only offshore supply contracts and had no role in onshore activities performed by its Indian associate, in the absence of a PE, no business profits could be attributed thereto. (India -UK DTAA)***

Assessee, a UK tax resident, was engaged in designing, engineering, manufacturing, and supplying electrical equipment. It was awarded a contract by PGCIL for the offshore supply of goods for setting up a 3000 MW HVDC Terminal Package. A single turnkey contract was divided into three contracts: (i) offshore supply (executed by the assessee); (ii) onshore supply; and (iii) onshore services (the latter two awarded to its Indian associate GETDIL India). Assessee claimed that it had no role in onshore activities. AO held that the assessee had an installation PE, a fixed place PE, and a dependent agent PE in India, and attributed business profits to the alleged PE under India–UK DTAA.DRP upheld AO's findings, recording that the factual and legal matrix was broadly similar to assessment year 2020-21. In AY 20-21 the Hon'ble Tribunal had held that Indian group company GETDIL acted independently, had its own workforce and receipts, suffered tax in India, and had no authority to conclude contracts and hence could not constitute DAPE – thus, following its own order in the asseesee's case, the Hon'ble Tribunal concluded that the assessee did not have any PE/DAPE in India. ***[UK Grid Solutions Ltd. v. Dy. CIT*** **[2024] 160 taxmann.com 694 (Del - Trib.) – followed]**

## ALSTOM TRANSPORT SA v. DCIT (IT) - (2025) 181 taxmann.com 248 (DEL-TRIB)

***Where assessee, a French company, under composite contracts for train control and signalling systems, effected offshore supply of equipment and services with title and risk passing outside India and no fixed place or installation PE was established in India for relevant years, profit attribution regarding offshore receipts did not arise, and both offshore supply and related design transactions were not taxable in India in absence of a PE. (India – France DTAA)***

Assessee, a French company, executed composite contracts for train control, signalling, and telecommunication systems with DMRC and BMRCL as part of multi-member consortia. For relevant years, the assessee reported receipts from offshore supply of equipment and spare parts (not offered to tax in India) and offshore designing/other services (initially offered, later claimed as not taxable). AO taxed receipts from both offshore supply and offshore designing/ services by holding assessee had a PE in India, relying on orders/directions for AY 2010-11. The Hon'ble Tribunal noted that the invoice referred to FOB delivery, title in goods, and risk was transferred to the buyer at the port of origin of consignment, i.e., outside India, and the responsibility of installation and erection of equipment and spares onshore was with the Indian consortium member, payment for which was received by the Indian Company in INR. Further, the scope of work of the assessee was limited to the offshore supply of equipment and spares, and the assessee was not the consortium leader. Since revenue had failed to establish any fixed place PE/installation PE of the assessee in India in the impugned assessment year, the question of profit attribution to any PE in respect of receipts of offshore supply of equipment and spares by the assessee did not arise.

> "A great man is different from an eminent one in that he is ready to be the servant of society."
>
> ***— Dr. B. R. Ambedkar***

# BUSINESS PROFITS

## DIT v. American Express Bank Ltd - (2025) 181 taxmann.com 433 (SC)

***Section 44C applies to 'head office expenditure' regardless of whether it is common expenditure or expenditure incurred exclusively for Indian branches- Matter remanded to Tribunal to verify whether the disputed expenditures qualified as "head office expenditure".***

The assessee was a non-resident banking company engaged in the business of providing banking-related services. It claimed deduction under section 37(1) for expenses incurred at the head office directly in relation to the Indian branches. The AO disallowed the claim and limited the deduction to 5 per cent of the gross total income by applying section 44C. CIT(A) affirmed the decision of the AO. The Hon'ble Tribunal allowed the appeal of the assessee by relying upon the decision of the Bombay High Court in *CIT v. Emirates Commercial Bank Ltd.* [2003] 263 ITR 1 (Bom.). The Hon'ble HC dismissed the revenue's appeal. On Revenue's further appeal, the Hon'ble SC held that for an expenditure to be brought within the ambit of Section 44C, two broad conditions must be satisfied: (a) the assessee claiming deduction must be a non-resident; and (b) expenditure in question must strictly fall within the definition of 'head office expenditure' as provided in the Explanation to Section. If both conditions are met, then Section 44C, being a non-obstante provision, will apply regardless of whether its principles contravene Sections 28 to 43A respectively. Assessee's argument that Section 44C cannot restrict deductions that are otherwise allowable under Section 37(1) was held to be misplaced. If the expenditures meet the above two conditions, Section 44C governs the quantum of allowable deduction. However, for an expenditure to qualify as 'head office expenditure' within the meaning of Explanation to Section 44C, AO has to be satisfied of the following three ingredients: (i) First, expenditure must be incurred outside India. (ii) Secondly, expenditure must be like executive and general administration, i.e., a broad genus. (iii) Thirdly, said executive and general administration expenditure must fall within specific species enumerated in clauses (a), (b), and (c), or expressly prescribed under clause (d). It does not matter whether the expense was a common expense or an expense exclusively for the Indian branch. Clause (c) of Section 44C allows for the computation of head office expenditure on an actual basis, wherein all the head office expenditure that is attributable to the business in India is taken into account. A plain reading of the clause in no way indicates that the legislature envisaged taking into account only 'common' head office expenditure while excluding 'exclusive' head office expenditure incurred for the Indian Branch. Thus, there is no doubt that the words 'attributable to' in the context of clause (c) would include both common and exclusive expenditure. Further, if the Parliament had intended to restrict the scope of clause (c) only to common or shared expenses, it would have employed specific language to that effect. Since from a bare perusal of the orders of the lower authorities, it was not clear whether the nature of these expenditures was subjected to the rigorous scrutiny required to conclusively place them within the definition of 'head office expenditure' under the Explanation, the Hon'ble SC remanded the matters to the Hon'ble Tribunal for the limited purpose of verifying whether the disputed expenditures satisfied the tripartite test necessary to qualify as "head office expenditure "under the Explanation to section 44 C. ***[CIT v. Emirates Commercial Bank Ltd.*** **[2003] 262 ITR 55/[2004] 134 Taxman 682 (Bombay) (para 71) disapproved; order of Bombay High Court in *DIT (IT) v. American Express Bank Ltd.* [IT Appeal No. 1294 of 2013, dated 1-4-2015] set aside]**

## MITSUI & COMPANY Ltd. v. DCIT, IT - (2025) 181 taxmann.com 350 (DEL-TRIB)

***Issue as to whether guarantee fees (received by Japanese Co (assessee) from Indian companies in connection with guarantee given by assessee to certain banks for loans taken by those companies) is business income and thus not taxable in the absence of a PE – Remanded by Tribunal with the direction that in any case the same could not be taxed at more than 10% as done in earlier year ( and not @ 40% as taxed by AO by treating it as Other Income) (India – Japan DTAA)***

Assessee, a Japanese company, was engaged in the business of providing loans and guarantees and assuming debt. During the relevant AY, the assessee received guarantee fees from its two Indian subsidiaries in connection with a guarantee given by the assessee to a bank for a loan taken by its subsidiaries. AO considered the amount received on account of guarantee fees as taxable @ 10 per cent as interest invoking Article 11. CIT(A), however, held that guarantee fees were liable to tax in the hands of the assessee as 'other income' under Article 22 and enhanced tax rate in respect of income from guarantee fees from 10 per cent to 40 per cent. The Hon'ble Tribunal held that since the issue as to whether guarantee fee income was business income in case of assessee had not been examined and considered both by AO and CIT(A), the matter was to be remanded back to AO to examine the same. It further directed that in the event the guarantee income fell within the meaning of business income, then the same would not be chargeable to tax, in the absence of PE in India, under Article 7. However, it further clarified that since in the preceding year, said income had been consistently taxed @ 10 per cent, following the principle of consistency, the guarantee fee at best could be taxed at a rate of 10 per cent in view of the rule of consistency. ***[Johnson Matthey Public Ltd. Company v. DCIT*** **(IT)- [2017] 88 taxmann.com 127 (Del - Trib.),** ***Capgemini SA v. DCIT (IT)*** **[2016] 72 taxmann.com 58 (Mum) and** ***CIT v. Pepsico India (P) Ltd.*** **[IT Appeal No. 167 of 2023, dated 16-4-2024] followed;** ***Tricentis Gmbh v. DCIT, IT*** **[2024] 169 taxmann.com 57 (Del - Trib.) and** ***Ge Hydro France v. DCIT*** **[IT Appeal No. 1881 (Delhi) of 2023, dated 6-11-2024] distinguished]**

## Nippon Koei Co Ltd. v. ADIT - (2025) 180 taxmann.com 763 (HYD-TRIB)

***Disallowance of expense reimbursements relating to HO in the hands of the Indian Branch of foreign co-– Matter remanded***

Assessee, a foreign company with an Indian branch, faced the disallowance of expense reimbursements relating to the Head Office staff due to a lack of evidence. The Hon'ble Tribunal held that since the assessee provided supporting documents before DRP and there was no specific adjudication, the matter required remand for fresh adjudication after giving due opportunity to the assessee.

# DIVIDENDS

## Colorcon Asia (P) Ltd. v. ADIT - (2025) 181 taxmann.com 301 (BOM)

***Where the assessee, an Indian company, paid a dividend to its UK parent company, since such payment was like a dividend covered under the definition of 'dividend'***

***under article 11 and section 115-O, the assessee was entitled to restrict DDT on dividends distributed by it to its UK parent company to 10 per cent under article 11.(India – UK DTAA)***

Assessee-company, a wholly owned subsidiary of a UK company, paid a dividend to its UK parent company and discharged Dividend Distribution Tax (DDT) under section 115-O. Since cumulative dividend payout exceeded Rs. 100 crores, the assessee sought an advance ruling to restrict the tax rate on dividends distributed or distributable to its UK parent company to 10 per cent under Article 11 of the DTAA. BFAR held that DDT paid by the assessee was outside the scope of DTAA and rejected the assessee's claim. The Hon'ble HC held that DDT is a tax on dividend income of shareholders and, being an additional income-tax, falls within the ambit of Article 2 of DTAA and Entry 82 of the Union List. Further, dividend paid by assessee to its UK parent company was covered under the definition of 'dividend' under article 11(3) and, once article 11 stood attracted, India as source State could tax such dividend only subject to restriction under article 11(2). In view of section 90(2), provisions of DTAA, being more beneficial, were required to prevail over section 115-O and levy of DDT in excess of 10 per cent was contrary to the DTAA. Assessee was thus entitled to restrict the tax rate on dividends distributed to its UK parent company to 10 per cent, with liberty to the Department to gross up tax in accordance with law. ***[Union of India v. Tata Tea Co. Ltd*** **[2017] 85 taxmann.com 346 (SC) followed-*DCIT v. Total Oil India (P.) Ltd.* [2023] 149 taxmann.com 332 (Mum-Trib) (SB) and *Godrej & Boyce Mfg. Co. Ltd. v. Dy. CIT* [2010] 194 Taxman 203 (Bom) distinguished-Ruling dated 27/06/2024 passed by the Board for Advanced Rulings - I, New Delhi in Unique No. of cases: AAACC2281Q/2019/0020/0306 (Old No. L AAR/446/2019) set aside]**

## SAP India (P) Ltd. v. ADIT - (2025) 180 taxmann.com 550 (BANG-TRIB)

***Assessee not entitled to claim refund of DDT paid (by it in respect of dividends paid to foreign shareholders) in excess of the rate under Article 10 (India – Germany DTAA)***

Assessee claimed that the dividend distribution tax was calculated originally at a rate of 20.56% and dividends were paid to its foreign shareholders, but as per the DTAA impugned tax rate should have been 10% and, therefore, excess tax paid should be refunded to the assessee. The Hon'ble Tribunal held that since DDT paid u/s 115O by the assessee to non-resident shareholders is not governed by Article 10 of India–Germany DTAA, the assessee was neither entitled to 10% rate nor a refund of excess DDT. ***[DCIT v. Total Oil India (P.) Ltd.*** **[2023] 149 taxmann.com 332 (Mum - Trib.) (SB) followed]**

## Florida Retirement System v. ACIT, IT - (2025) 181 taxmann.com 232 (MUM-TRIB)

***Where the assessee, a non-resident, received dividend income on its investments in ADR/GDR whose underlying assets were equity shares of Indian companies, since such dividend income had already suffered tax in the manner contemplated by section 115AC and 196D, the addition made in respect of such dividend income could not be sustained.***

Assessee, a non-resident, was an investor in ADR/GDR whose underlying assets were equity shares of Indian companies. During the year, it received dividend income in respect of such ADR/GDR investments. It had placed on record tax vouchers evidencing that tax under section 196D had been withheld. However, credit for such tax, having been initially recorded in the name of the depository bank, did not automatically flow into the Form

26AS of the assessee. AO, and thereafter DRP, proceeded to treat dividend income as taxable in the hands of the assessee without granting credit for tax deducted thereon, solely for the reason that credit was not visible in Form 26AS and that formal requirements of rule 37BA had not been complied with by third parties. The Hon'ble Tribunal held that dividend income on ADR and GDR had already suffered tax in the manner contemplated under section 115AC and 196D and, therefore, addition on this account could not be sustained. Further, substantive right to credit for tax deducted flowed from section 199 read with section 205, and procedural framework of rule 37BA could not be construed as a barrier to that right where assessee had demonstrated, through vouchers, confirmations and other evidence, that tax had been deducted on its income and had not been claimed elsewhere. Therefore, additions made in respect of ADR and GDR dividends were unsustainable both on the merits of taxability and on the denial of credit for tax deducted at source.

# ROYALTY

## Emirates Telecommunications Group Company (Etisalat Group) v. DCIT (IT) – (2025) 181 taxmann.com 189 (SC)

***Revenue's SLP dismissed against the order of the High Court, holding that payments made to non-resident telecom operators by the assessee, for providing interconnect services and transfer of capacity in foreign countries was not chargeable to tax as royalty***

The Hon'ble SC dismissed the above SLP as there was a gross delay in filing the SLP, and the reasons assigned for seeking condonation of delay were neither satisfactory nor sufficient in law to condone the delay, and thus, the SLP filed by the revenue was dismissed on ground of delay as well as on merits. **[SLP dismissed against *DCIT(IT) v. Emirates Telecommunication Group Company* [2025] 181 taxmann.com 658 (Kar); *DCIT(IT) v. M.I. Ltd.* [SLP (C) Diary No.27624 of 2025, dated14-7-2025 followed]**

## LG Electronics India (P.) Ltd. v. DIT, IT – (2025) 180 taxmann.com 915 (DEL)

***Where assessee obtained global advertising and promotional rights, including a non-exclusive right to use ICC and event marks under an agreement with GCC Singapore, consideration attributable to right to use such marks constituted 'royalty' within meaning of section 9(1)(vi) read with article 12 of the DTAA, and apportionment of one-third of total consideration as royalty (taxable at DTAA rate) and balance as advertisement expenditure was valid (India -Singapore DTAA)***

Assessee-company, along with LG group entities, had entered into a Global Partnership Agreement with Global Cricket Corporation (GCC), a Singapore company, appointing LG as Global Partner for ICC events. Under the agreement, the assessee acquired advertising and promotional rights (including display of LG Marks at specified sites at venues) and a right to use ICC/Event Marks in or on advertising material throughout the licensed territory defined as the world. Assessee filed an application under Section 195 seeking a certificate to remit consideration for the same without deduction of tax. DDIT rejected the application, holding that consideration was in the nature of royalty for the acquisition of rights to exploit the commercial potential of ICC events, and tax withholding at

10% on the gross amount for the entire contract was ordered. On revision under Section 264, DIT, recorded that the assessee conceded to an element of use of ICC trademark and found that the agreement comprised two elements, i.e., booking of advertising space and right to use ICC/Event Marks. He apportioned 2/3rd of said consideration towards advertisement and 1/3rd towards the right to use marks as royalty within Section 9(1)(vi) read with Article 12, and withholding at 15% on the royalty portion was directed. Consequent to the filing of a writ petition, the Hon'ble HC held that since payments made by the assessee were for acquiring rights as per the agreement between the assessee and GCC in India to pursue the commercial interest of the assessee to boost its brand image in India, such transactions were taxable in India. Further, it held that since the definition of royalty includes consideration of the right to use a mark and a substantive right to use marks was created by virtue of agreement, consideration paid by the assessee to GCC was liable to be characterised and taxed in India as 'royalty'. Also, the apportionment of 1/3rd of the payment as royalty (with the balance 2/3rd treated as advertisement) was held to be justified. ***[Formula One World Championship Ltd. v. CIT, IT* and *DIT v. Sheraton International Inc.* [2009] 178 Taxman 84 (Delhi) distinguished]**

## Qualys Inc v. CIT, IT – (2025) 181 taxmann.com 498 (KAR)

***Where assessee, a US co, had offered software payment income to tax only on a provisional basis, with a clear note reserving its right to seek refund depending on the Supreme Court's decision on the software royalty issue, rejection of the revision application after the Supreme Court's decision in Engineering Analysis Centre of Excellence (P) Ltd v. CIT [2021] 125 taxmann.com 42 (SC) was unsustainable, and the matter was liable to be remanded for fresh consideration. (India -USA DTAA)***

Assessee filed its return of income for the relevant year, offering income from software payments to tax in India, but expressly reserved the right to seek relief depending on the Supreme Court's decision in Engineering Analysis Centre of Excellence (P) Ltd v. CIT on the software royalty issue. Return was processed, and intimation/notice under Section 143(1) was issued. Subsequently, the Hon'ble Supreme Court in *Engineering Analysis Centre of Excellence (P.) Ltd. v. CIT* [2021] 125 taxmann.com 42 (SC) held that such payments were not taxable as royalty. Assessee filed a revision application under section 264 seeking revision of the intimation and refund. Revision was rejected on the grounds that the assessee had voluntarily offered income to tax, had not challenged taxability before any forum, and was not a party to the Supreme Court judgment. The Hon'ble HC held that in notes appended to the return, the assessee had categorically stated that in the event the assessee filed a revision application, the respondent would pass an order in favour of the assessee and the assessee would be entitled to seek a refund of tax paid by him. The impugned order rejecting the revision application deserved to be set aside. Further, it was permissible for the assessee to seek judgment on the basis of the Apex Court decision in Engineering Analysis Centre of Excellence (P.) Ltd., even though the assessee was not a party to said order/ proceedings. However, since the claim of the assessee seeking revision of notice/intimation issued under section 143(1) had been summarily rejected without adverting to the merits of the petition and claim for refund of tax paid by the assessee, the matter was remitted back to the revenue for reconsideration afresh in accordance with law. **[*Engineering Analysis Centre of Excellence (P.) Ltd v. CIT* [2021] 125 taxmann.com 42 (SC) followed]**

## Cognizant Technology Solutions India (P.) Ltd. v. CIT – (2025) 180 taxmann.com 822 (MAD)

***Payments to a US company for availing services of International Private Leased Circuits (IPLC) for AY 2003-04 & 04-05 – Not Royalty- Disallowance u/s 40(a)(i) - discriminatory and not applicable in terms of article 26(3). (India -USA DTAA)***

Assessee-company, engaged in the business of software development and export, made payments to a foreign-based company, namely, Sprint USA, for availing the services of International Private Leased Circuits (IPLC). AO held that payment made by assessee to Sprint USA for use of undersea cables would constitute 'royalty' within the meaning of section 9 and, thus, the same would be subject to tax deduction at source under section 195. Consequently, he disallowed the said payments u/s 40(a)(i). The Hon'ble HC noted that while determining taxability in cases where payment has been made to a non-resident, the definition of the term 'royalty' as contained in DTAA can be a determinative factor, unless provisions contained in the Act, to the contrary, are more beneficial to the assessee. It held that, thus, amendments which were made by the Finance Act, 2012 in section 9(1)(vi) by inserting Explanations 4, 5, and 6 would not come to the aid of the revenue for the impugned AYs 2003-04 & 04-05; and thus, payment made by assessee to Sprint USA would not constitute royalty. Further, the question of law (whether, by virtue of the non-discrimination clause in Article 26(3) of the DTAA, disallowance under Section 40 in respect of payments to Sprint USA for IPLC for failure to deduct tax at source is impermissible as compared to payments to residents) was answered in favour of the assessee and against the revenue. **[*Engineering Analysis Centre of Excellence Pvt. Ltd v. CIT* [2021] 125 taxmann.com 42 (SC), *Asia Satellite Telecommunications Private Limited v. DIT* [2011] 9 taxmann.com 168 (Delhi), *CIT v. Herbalife International India (P) Ltd* [2016] 69 taxmann.com 205 (Delhi), and *CIT v. Mitsubishi Corporation India (P) Ltd* [2024] 159 taxmann.com 539 (Delhi) followed]**

## Asia Satellite Telecommunications Company Ltd. v. ACIT, IT – (2025) 181 taxmann.com 687 (DEL-TRIB)

***Where the assessee, a Hong Kong resident, provided satellite transponder capacity to Indian customers using satellites and infrastructure located outside India, with no equipment or presence in India, the fee received for providing satellite transmission services did not fall within the definition of royalty under Article 12 (India - Hong Kong DTAA)***

Assessee, a tax resident of Hong Kong, was engaged in the business of providing satellite transponder capacity to customers across the world, including India. Assessee's customers uplinked encrypted signals through their own uplink facilities to the assessee's satellites located outside India. Satellite transponders amplified and downlinked signals over the satellite beam area, and intended recipients decrypted and transmitted signals using their own equipment. Assessee received fees from Indian customers for providing satellite transmission services. AO treated receipts as 'process royalty' and 'equipment royalty' under section 9(1)(vi) and article 12 of the DTAA. The Hon'ble Tribunal held that the said fee received for providing satellite transmission services did not fall within the definition of royalty under Article 12 of the DTAA and, section 90(2) being applicable, such receipts were not taxable in India in view of the beneficial treaty provisions. **[*DIT v. New Skies Satellite BV* [2016] 68 taxmann.com 8 (Del) and *Engineering Analysis Centre of Excellence (P.) Ltd. v. CIT* [2021] 125 taxmann.com 42 (SC) followed]**

## Anuvu UK Operations Ltd. v. DCIT, IT - (2025) 181 taxmann.com 515 (DEL -TRIB)

***Where assessee, a UK-based company, supplied in-flight entertainment (IFE) content to Indian airlines without transferring any copyright, reproduction or distribution rights, fees received by assessee from the Indian airline were not in the nature of royalty under Article 13 and would not be taxable in India. [India-UK DTAA]***

Assessee, a UK-based company, was engaged in the business of providing content for the in-flight entertainment (IFE) system to Indian airlines. AO treated fees received by assessee from Indian airline for provision of content for IFE system as 'royalty' under section 9(1)(vi) and article 13 of India-UK DTAA and brought the same to tax in India. It was noted that the Hon'ble Tribunal in the assessee's own case for the earlier assessment year held that the assessee was merely providing copyrighted content and there was no transfer of reproduction or distribution of rights, and thus, the payment made for such software would not fall within the meaning of royalty under DTAA. **[*Anuvu UK Operations Ltd. v. ACIT (IT)* [2025] 178 taxmann.com 455 (Delhi - Trib.) followed]**

**NOTE: Also see case no 1 under FEES FOR TECHNICAL SERVICES**

## Telstra Singapore Pte Ltd v. DCIT, IT – (2025) 181 taxmann.com 404 (DEL -TRIB)

***Where the assessee, a tax resident of Singapore, provided bandwidth services to Indian customers, receipts from such services were not taxable as royalty either under section 9(1)(vi) or under article 12(3) [ India–Singapore DTAA]***

Assessee, a Singapore company, was engaged in providing digital transmission of data through International Private Leased Circuits (IPLC) and Multiprotocol Label Switching (MPLS) to facilitate high-speed data connectivity (bandwidth services) to Indian customers. AO treated receipts from Indian customers for the provision of bandwidth services outside India as equipment/process royalty under section 9(1)(vi) and Article 12(3) of India–Singapore DTAA. Following the decision of the coordinate bench in the assessee's own case in the earlier year, the Hon'ble Tribunal held that receipts from provision of telecommunication connectivity/bandwidth services (IPLC, MPLS, etc.) to Indian customers were not taxable as royalty income either under section 9(1)(vi) or Article 12(3) of India–Singapore DTAA. **[*Telstra Singapore Pte. Ltd. v. Dy. CIT* [2024] 162 taxmann.com 843 (Del-Trib.) followed]**

## NUNHEMS NETHERLANDS B.V. v. ACIT, IT – (2025) 181 taxmann.com 497 (DEL-TRIB)

***Where assessee, a Netherlands-based company, provided marker analysis and Double Haploid testing services to Indian AE using scientific expertise that had commercial value for plant variety breeding, payments for such services constituted royalties under section 9 & Article 12(4) [India–Netherlands DTAA]***

Assessee, a Netherlands-based company engaged in improving vegetable varieties and solutions, received a certain sum from its Indian AE (Nunhems India) for testing services relating to the improvement of plant varieties. Testing services comprised of marker analysis and Double Haploid ('DH') Services performed at the assessee's R&D facilities in the Netherlands. Indian AE sent seeds/leaves for testing, and results were shared electronically through a common software portal. Assessee filed a return declaring NIL income,

claiming receipts from Nunhems India as non-taxable. The Hon'ble Tribunal noted that all the information of scientific experience from conversion of seed into DH plant and extraction of seed from that DH plant, was captured in Test Report which was shared with Indian AE and consideration paid to assessee was not merely for access to software, but for information and knowledge developed out of technology and scientific experience imparted by assessee to Nunhems India. It held that since the assessee was supplying information in the form of scientific experience which had commercial ramifications to Indian AE in breeding plant variety, consideration for marker analysis and Double Haploid testing services rendered to Nunhems India was taxable in India as 'royalties'. **[*CIT v. Amazon Web Services, Inc* [2025] 174 taxmann.com 1188 (Delhi), *CIT v. RELX Inc* [2024] 160 taxmann.com 109 (Delhi), and *Diamond Services International (P.) Ltd. v. Union of India* [2008] 169 Taxman 201 (Bom) distinguished]**

**Note: Also see case no. 2 under FEES FOR TECHNICAL SERVICES**

## LM Wind Power AS v. ACIT (IT) - (2025) 180 taxmann.com 758 (DEL-TRIB)

***Where the assessee, a Denmark resident, received royalty from LM India for licensing technology, production rights, and trademark without there being any PE or effective connection of royalty to a PE in India, such royalty could not be taxed as business income under section 44DA.***

Assessee, a tax resident of Denmark, entered into a Know-How Transfer Agreement with LM India, under which the assessee was to receive royalty at 5% of LM India's turnover for the license of patented and non-patented technology and production rights for LM 60.0P rotor blades, and license of LM trademark and distribution rights. During the year assessee received a certain sum and offered it to tax in India under section 115A, asserting the absence of PE/effective connection. AO invoked section 44DA on the basis that LM India constituted the assessee's Fixed Place PE in India and that royalty was effectively connected with such PE, referring to a Master Service Agreement (MSA) as playing a substantial role in generating know-how, and taxed royalty as business income under section 44DA. The Hon'ble Tribunal held that since there was no PE and particularly there was no connection for granting a patented license for technology and production rights or trade mark connected to PE in India, there was no avenue to apply provisions of section 44DA. Therefore, royalty received by assessee from LM India was taxable as royalty under section 115A and not as business income under section 44DA.

**Note: Also see case no 4 under PERMANENT ESTABLISHMENT**

## Asia Today Ltd v. ADIT (IT) - (2025) 181 taxmann.com 839 (MUM-TRIB)

***Where assessee, a Mauritius-based telecasting company, granted a non-exclusive satellite broadcasting licence of Hindi feature films to an Indian licensee, without transferring any copyright or conferring any right of editing, modification, reproduction or exploitation, payment received therefor was not liable to be characterized as royalty, since no copyright was parted with, and consequently such consideration was not taxable as royalty either under section 9(1)(vi) (Explanation 2) or Article 12 [India–Mauritius DTAA]***

Assessee, a foreign telecasting company incorporated in Mauritius and holding a tax

residency certificate thereof, was engaged in the business of acquiring, owning, and licensing rights in cinematographic films, including Hindi feature films produced and censored in India. It entered into an agreement dated 7-4-2003 with UKT, an Indian proprietary concern, granting a non-exclusive satellite broadcasting licence for 100 Hindi feature films to be telecast on all channels of ETV Network in India for a limited period of two years and six months from the date of delivery of each film, for a total consideration of ₹1 crore. AO treated the said consideration as 'royalty' under section 9(1)(vi) and Article 12 of India–Mauritius DTAA and taxed it at 15 per cent. Assessee contended that it had merely granted non-exclusive broadcasting rights without transferring any copyright or conferring any right to reproduce, modify, edit, alter or commercially exploit films, and that broadcasting rights were distinct from copyright; further, that consideration relating to cinematographic films stood excluded from definition of royalty under Explanation 2(v) to section 9(1)(vi). The Hon'ble Tribunal held that since assessee had granted only non-exclusive broadcasting rights of feature films to licensee, without parting with any copyright or granting any right of editing, modification, reproduction or exploitation of films, payment received for such broadcasting rights could not be characterized as 'royalty' for use of copyright under Explanation 2 to section 9(1)(vi) or Article 12(3) of India–Mauritius DTAA

**IQVIA v. DCIT (IT) - (2025) 181 taxmann.com 290 (MUM-TRIB)**

***Subscription fees from Indian customers received by Swiss Co (assessee) for providing access to online pharmaceutical market research reports without having any PE in India -Not Taxable as Royalty/ FTS under Act /article 12 (India- Switzerland DTAA)***

Assessee, a Swiss company, provided market research reports on the pharmaceutical sector through an online platform. It entered into agreements granting customers a non-exclusive, non-transferable licence to access standard modules. It received subscription fees from Indian customers and claimed it as business income not taxable in India in the absence of a PE. AO treated subscription fees as Royalty/ FTS.DRP concluded that receipts constituted Royalty under Article 12(3) as consideration for use or right to use scientific work or for information concerning industrial, commercial, or scientific experience. Following the order of the coordinate bench in assessee's own case for earlier assessment years, the Hon'ble Tribunal held that subscription fees received by assessee from Indian customers for access to online pharmaceutical market research reports was not taxable either as 'Royalty' under section 9(1)(vi) read with article 12(3) of India–Switzerland DTAA nor as 'Fees for Technical Services' under section 9(1)(vii) read with article 12(4) of the DTAA. Consequently, the addition in respect of subscription fees was deleted. **[*Iqvia AG (foreign company) v. DCIT (IT)* [IT Appeal No. 667 (Mum.) of 2022, dated 20-3-2023] followed]**

## FEES FOR TECHNICAL SERVICES

**Anuvu UK Operations Ltd. v. DCIT, IT - (2025) 181 taxmann.com 515 (DEL -TRIB)**

***Where the assessee, a UK-based company, supplied in-flight entertainment (IFE) content to Indian airlines, since no technical knowledge, skill, or know-how was made available***

***to the recipient, the fees received by the assessee from the Indian airline would not qualify as fees for technical services under Article 13 (India-UK DTAA)***

Assessee, a UK-based company, was engaged in the business of providing content for the in-flight entertainment (IFE) system to Indian airlines. AO treated fees received by assessee as fee for technical services under section 9(1)(vii) and brought the same to tax in India. Following the order of the coordinate bench in assessee's own case for earlier assessment year, the Hon'ble Tribunal held that since there was no transfer of any knowhow or technical knowledge by assessee to airlines, receipts by assessee for providing IFE content did not fall within definition of FTS under article 13 of the DTAA, and consequently the impugned addition made by AO was deleted. **[*Anuvu UK Operations Ltd. v. ACIT (IT)* [2025] 178 taxmann.com 455 (Delhi - Trib.) followed]**

**Note: Also see case no 6 under ROYALTY**

## NUNHEMS NETHERLANDS B.V. v. ACIT, IT – (2025) 181 taxmann.com 497 (DEL-TRIB)

***Where assessee, a Netherlands-based Co, received reimbursement of IT support services from the Indian AE on a cost-to-cost basis without markup, and those services were routine, recurring, and did not make available any technical knowledge or skill to the recipient, such receipts were not taxable as fees for technical services under Article 12(5) ( India-Netherlands DTAA)***

Assessee, a Netherlands company, received a certain sum from Nunhems India as reimbursement for IT support services. Under a Master Service Agreement, TCS Netherlands provided end-to-end IT support, including IT infrastructure services, data center services, cyber security, applications, and maintenance of business suite applications. Nunhems India raised tickets to the IT helpdesk; TCS Netherlands resolved issues; TCS invoiced the assessee; and the assessee recharged costs to group affiliates, including Nunhems India, on a cost-to-cost basis without markup.AO treated said receipts as FTS under section 9(1)(vii) and Article 12 of DTAA. The Hon'ble Tribunal noted that technology used in rendering IT support services was not being transferred for further use of the Nunhems group. It held that since assessee received reimbursement of IT support services from Indian AE on cost-to-cost basis without any markup and services rendered by assessee were routine in nature and were provided on recurring basis and assessee never 'made available' any skills, know-how, knowledge, experience, etc. known to recipient of service to equip him to independently perform technical function himself in future, without help of service provider, receipts on account of reimbursement of IT support services were not liable for tax as FTS under Article 12(5) of India–Netherlands DTAA. **[*CIT (IT)-1 v. Bio-Rad Laboratories (Singapore) PTE. Ltd.* [2023] 155 taxmann.com 646 (Delhi), *IT v. RELX Inc* [2024] 160 taxmann.com 109 (Delhi), *DIT (IT) v. A.P. Moller Maersk* [2015] 63 taxmann.com 303 (SC), *Rackspace, US Inc. v. Dy. CIT, International Taxation* [IT Appeal No. 1634 (Mum.) of 2016, dated 29-5-2019] followed]**

**Note: Also see case no 8 under ROYALTY**

## Myntra Inc. v. ACIT, IT - (2025) 181 taxmann.com 538 (DEL-TRIB)

***Provision of Manpower support services by US based company (assessee) to Flipkart - Not FTS under Article 12 (India – USA DTAA)***

The assessee, a US company, provided

manpower support services to Flipkart, and the AO treated receipts as fees for technical services under section 9(1)(vii) and article 12(4) of the DTAA. The Hon'ble Tribunal held that in the absence of any finding that the assessee transferred technology, know-how, or skill, the 'make available' condition was not satisfied, and such receipts were not taxable in India. **[*International Management Group (UK) Ltd. v. CIT* [2024] 164 taxmann.com 225 (Del) followed]**

## Myntra Inc. v. ACIT, IT - (2025) 181 taxmann.com 538 (DEL -TRIB)

***Amount received by a U.S. company (assessee) from an Indian company, PhonePe - Claimed by assessee as reimbursement of costs and thus not taxable, but treated as FTS by the AO u/s 9 and article 12 – Matter remanded by Tribunal (India -USA DTAA)***

Assessee, a company incorporated in the USA, received amounts from the Indian company, PhonePe, which were stated to be reimbursement of manpower-related costs. AO treated receipts as fees for technical services under section 9(1)(vii) and article 12(4) of DTAA. Assessee contended that there was no secondment of employees, that employees were based in the USA and services were rendered in the USA, and that receipts were mere reimbursements without mark-up under a cost reimbursement agreement. The Hon'ble Tribunal held that since the assessee had taken inconsistent stands before the Tribunal and lower authorities and the relevant facts required verification, the matter was to be restored to the file of the AO for de novo adjudication.

## Toshiba Corporation v. DCIT, IT - (2025) 181 taxmann.com 244 (DEL -TRIB)

## Toshiba Energy System & Solutions Corporation v. DCIT, IT 181 taxmann.com 619 (DEL-TRIB)

***Reimbursements received by the Japanese company from the Indian group entities towards salaries paid to seconded employees – Not FTS u/s 9 (vii) and Article 12(4).( India -Japan DTAA)***

The assessee, a Japanese tax resident, received reimbursements from Indian group entities towards salaries paid to seconded employees. AO treated said receipts as FTS under section 9(1)(vii) and Article 12(4) of the DTAA. The Hon'ble Tribunal noted that the assessee established, through documentary evidence, an employee–employer relationship with Indian entities and payment of salaries. Further, as evident from FORM 16 available on record, tax under the Act had also been deducted on payment of salaries. The Hon'ble Tribunal, thus, concluded that such receipts constituted mere reimbursement and not fees for technical services and, therefore, fell outside the ambit of FTS taxable in India.

## Roop Auto Motives Ltd v. DCIT - (2025) 181 taxmann.com 352 (DEL-TRIB)

***Payments to overseas parties for segregation/rework of goods abroad (by an Indian assessee engaged in manufacturing and export of auto components) – Not FTS under the Act***

Assessee, engaged in manufacturing and export of auto components, made payments to overseas parties for segregation/rework of goods abroad. Assessee did not deduct TDS on these payments. The AO treated segregation/rework charges as 'fees for technical services' (FTS) under section

9(1)(vii), held the assessee liable to deduct TDS, and disallowed expenditure for non-deduction of tax.CIT(A) deleted the disallowance, holding that activities were routine segregation/rework and did not involve specialised or high technical services. The Hon'ble Tribunal held that since activities carried out by third parties for rework and segregation did not require any specialised or high technical skill and were predominantly standardised performed either manually or mechanically on basis of predetermined standards and did not involve any new scientific process, the said segregation/rework charges could not be treated as FTS under the Act and thus, disallowance was rightly deleted by the CIT(A).

## CA(Singapore) PTE Ltd v. ACIT, IT - (2025) 181 taxmann.com 516 (MUM-TRIB)

***Where assessee, a Singapore based company, provided ancillary support and maintenance services linked to distribution and sale of software licences to Indian entities and such services were not of a 'make available' nature but were ancillary to main product sales per agreement, consideration received could not be taxed in India as FTS under section 9 read with article 12 ( India–Singapore DTAA)***

Assessee, a Singapore based company, was engaged in business of distribution of computer software products related services and specialised services. During the relevant AY, the assessee had received a sum from its operations in India, which were claimed to be exempt as the assessee had no PE in India, and the consideration for the same was received in its bank accounts maintained outside India.AO noted that ancillary support services were billed separately. He, accordingly, treated said amount as a fee for technical services (FTS) under Article 12 of DTAA and thus, taxable in India. It was noted that the assessee was having an obligation to maintain already available software in respect of new releases or versions and had to make available its active support. The Tribunal held that the said services provided could not be stated to be in the nature of 'make available'. Since technical support and maintenance had to be given by the assessee, which were ancillary to the sale of product services and were already covered in the agreement, said services could not be treated as FTS.

## DCIT (IT) v. Alibaba.com Singapore Ecommerce (P.) Ltd – (2025) 180 taxmann.com 876 (MUM-TRIB)

***Where assessee, a Singapore-based company, provided Indian customers with access to an online platform, limiting its role to maintaining a standard electronic facility and not offering specialised or exclusive technical services, subscription receipts could not be characterised as fees for technical services under section 9 or India–Singapore DTAA and thus were not taxable in India.***

Assessee, a Singapore resident company, operated a global online platform enabling small and medium enterprises, including those in India, to list products and maintain online storefronts. In India, the assessee appointed its Indian subsidiary as a non-exclusive, principal-to-principal reseller for the sale of subscription facilities. Indian subsidiary undertook authentication and verification of subscriber details through third-party agencies, and based on the number of authenticated subscribers, placed requisitions with the assessee and remitted subscription fees. Upon verification and payment, subscribers were provided access to upload business information, display products, and interact with buyers. AO treated subscription receipts and reimbursements as Fees for Technical Services and made additions. Following the order of the coordinate bench in the assessee's own case for earlier years, it was held that services rendered were merely for

displaying/storing subscriber data and limited to the provision of a standard e-commerce platform for the advertisement of products and services. Arrangement was for the provision of a standard facility and not for rendering any technical, managerial, or consultancy services within the meaning of section 9(1)(vii) read with Explanation 2. There was no human involvement or constant human endeavour in rendering services. Hence, subscription receipts were held to be not like Fees for Technical Services. **[*CIT, IT v. Alibaba. Com Singapore E-Commerce (P.) Ltd.* [2023] 152 taxmann.com 110 (Bom) followed]**

### IQVIA v. DCIT (IT) - (2025) 181 taxmann.com 290 (MUM-TRIB)

***Subscription fees from Indian customers received by Swiss Co (assessee) for providing access to online pharmaceutical market research reports without having any PE in India -Not Taxable as Royalty/ FTS under Act /article 12 (India- Swiss DTAA)***

**See case no 11 under Royalty**

## CAPITAL GAINS

### iShares Core MSCI Emerging Markets ETF v. DCIT, IT - [2026] 182 taxmann.com 30 (Mum- Trib.)

***Brought-forward long-term capital loss arising from non-grandfathered transactions could not be set off against long-term capital gains exempt in India under Article 13(4) (India–Mauritius DTAA)***

Assessee, a Mauritian entity, earned long-term capital gains from the sale of shares acquired prior to 1-4-2017, which were exempt in India under Article 13(4) of the DTAA. AO adjusted the brought-forward long-term capital loss against such exempt gains. The Hon'ble Tribunal held that long-term capital gains exempt under DTAA did not form part of total income and thus could not be adjusted against brought-forward long-term capital loss. Such loss was to be set off only against taxable long-term capital gains from non-grandfathered transactions. **[*Bay Capital India Fund Limited v. ACIT* [IT Appeal No.4475 (Mum) of 2023, dated 20-6-2024] and *Matrix Partners India Investment Holdings, LLC v. Dy. CIT* [2025] 173 taxmann.com 727 (Mum - Trib.) followed]**

## DEPENDENT PERSONAL SERVICES

### Informatica Business Solutions (P.) Ltd. v. JCIT – (2025) 181 taxmann.com 422 (BANG-TRIB)

***Where the assessee deployed employees to Indonesia and routed salary and service fee payments through an Indonesian entity without deducting tax at source, and lower authorities treated the assessee as the real employer and disallowed such payments, the matter was required to be remanded for fresh examination of the secondment agreement, invoices, and the nature of the relationship between those employees and the assessee company. (India – Indonesia DTAA)***

Assessee, a wholly owned subsidiary providing software development, ITeS, and marketing support services to its AE, deployed certain employees to Indonesia. To obtain work/entry permits and

meet local legal requirements, it entered into an arrangement with PT Business Intelligence Technologies (Indonesian entity), which sponsored permits/visas, paid local salaries and social security outflows to seconded staff, and charged a service fee. In FY 2013-14, the assessee incurred a certain sum towards these payments routed through an Indonesian entity without deducting tax at source. AO examined the secondment agreement and invoices, noted that the assessee bore all costs, that payments to seconded employees were made through an Indonesian entity, which charged a 15% service fee, and that seconded employees remained under the assessee's control and would revert to it. Treating assessee as real employer and holding that tax should have been deducted on salaries paid abroad (as the same would be taxable in India under Article 15 of the DTAA), AO made a disallowance under section 40(a)(iii). DRP sustained disallowance for failure to deduct tax. The Hon'ble Tribunal, after noting that DRP had not considered the agreement and written submissions placed before it, remanded the matter to the AO for fresh examination.

# FOREIGN TAX CREDIT (FTC)

## ACIT v. Bahwan Cybertek (P.) Ltd. – (2025) 181 taxmann.com 231 (Chennai -TRIB)

***Where the assessee received a dividend from its Omani subsidiary, it was entitled to FTC even though no tax was actually paid in Oman, and the tax authorities could not demand separate confirmations or impose requirements not specified in the DTAA (India – Oman DTAA)***

Assessee received a dividend from its Omani subsidiary and offered it to tax in India under section 115BBD. No FTC was claimed in the return since no tax was actually paid in Oman due to the exemption there. During assessment, the assessee claimed FTC under article 25(4) read with article 11 of India–Oman DTAA, for taxes that would otherwise have been payable in Oman. The Hon'ble Tribunal held that once clarification is issued by Omani tax authorities, it applies to all taxpayers in respect of dividend income earned in Oman, and each taxpayer is not expected to obtain a clarification/letter as to the intention behind taxability/nontaxability of dividend income. Income-tax authorities cannot direct an assessee to comply with any special requirement where there was none for the purpose of affording credit which is explicitly provided under the Treaty or import 'general' or 'special' conditions when such a requirement has not been specifically laid down in the DTAA. Therefore, the assessee was entitled to FTC in India on dividend income received from its Omani subsidiary, even though no tax was actually paid in Oman. **[*PCIT v. Krishak Bharti Co-operative Ltd.* [2023] 154 taxmann.com 318 (SC) and *Kemwell (P.) Ltd. v. Asstt. CIT* [2019] 106 taxmann.com 196 (Bang - Trib.) followed]**

## DCIT v. Malvinder Mohan Singh – (2025) 181 taxmann.com 495 (DEL -TRIB)

***Claim of FTC could not be denied when Form 67 and revised return were both filed within the time permitted u/s 139(4)***

Assessee filed his return of income and claimed FTC.AO noted the FTC claim but did not allow credit for tax paid in Singapore. CIT(A) allowed the claim, recording that Form 67 had been filed on 22-12-2017, and a revised return was filed on 29-8-2018, both within the time permitted under section 139(4). The Hon'ble Tribunal upheld the order of the CIT(A) and dismissed the Revenue's appeal

## Mekala Rakesh Reddy v. DCIT – (2025) 181 taxmann.com 688 (HYD -TRIB)

***FTC cannot be denied for the delay in filing Form-67, as filing of Form-67 is merely a procedural requirement***

Assessee filed its return and disclosed income derived from the UK. Assessee claimed FTC under sections 90/90A with respect to income derived from the UK and already taxed in the source country. AO declined the assessee's claim on the ground that the assessee had not filed Form 67 within the due date as per the mandate of law. The Hon'ble Tribunal held that filing of Form-67 was merely a procedural requirement and credit for the same could not be summarily declined merely because the assessee had delayed filing of Form-67. **[*Duraiswamy Kumaraswamy v. PCIT* [2023] 156 taxmann.com 445 (Madras) *Gaurav Singh v. ITO* [2024] 158 taxmann.com 350 (Jabalpur - Trib.), *NICDC Neemrana Solar Power Ltd v. DCIT* [2025] 171 taxmann.com 653 (Del - Trib.), *42 Hertz Software India (P) Ltd v. ACIT* [2022] 139 taxmann.com 448 (Bang - Trib.) and *CIT v. G. M. Knitting Industries (P.) Ltd.* [2016] 71 taxmann.com 35 (SC) followed]**

## Kumar Gaurav Sharma v. ITO - 2025) 181 taxmann.com 294 (PUNE -TRIB)

***FTC cannot be denied merely because Form 67 was filed belatedly, since it was available at the time of processing the return u/s 143(1)***

Assessee, resident in India, claimed foreign tax credit for salary taxed in both India and the USA, but filed Form 67 after the due date. Since filing of Form 67 is a procedural/ directory requirement and Form 67 was already available with the AO at the time of processing the return under section 143(1), the Hon'ble Tribunal directed the AO to allow FTC after due verification of Form 67 in accordance with law. **[*Duraiswamy Kumaraswamy v. PCIT* [2023] 156 taxmann.com 445(Madras), *Rameshwar Dnyaneshwar Bandewar v. ITO* [IT Appeal No. 2402/PUN/2024, dated 23-12-2024], *Samiran Arunkumar Dutta v. DCIT* [IT Appeal No. 1195/ PUN/2024 dated 14-8-2024], and *Nandkumar Chandra v. ITO* [IT Appeal No. 2329/PUN/2024, dated 23-12-2024], *Sandeep Damodar Jadhav v. ITO* [IT Appeal No. 76/PUN/2025, dated 21-3-2025] followed]**

# NON-DISCRIMINATION

## Cognizant Technology Solutions India (P.) Ltd. V. CIT – (2025) 180 taxmann.com 822 (MAD)

***Payments to a US company for availing services of International Private Leased Circuits (IPLC) for AY 2003-04 & 04-05 – Not Royalty. Disallowance u/s 40(a)(i) - discriminatory and not applicable in terms of article 26(3). (India -USA DTAA)***

**Note: Also see case no 4 under ROYALTY**

"Integrity and transparency make a business sustainable."

***— Ratan Tata***

# GST
## Recent Judgments and Advance Rulings


Naresh K Sheth


Jinesh Shah

## A. DECISIONS BY SUPREME COURT

### State of Karnataka v. Taghar Vasudeva Ambrish [2025] 181 taxmann.com 199 (SC)

#### Facts and issues involved:

The respondent No. 1 before the Court is the co-owner of a residential property situated in Bangalore. The property consists of 42 rooms. It is a four-story building with a terrace and a common area. On 21.06.2019, the respondent No. 1, along with the other co-owners, executed a lease deed in favour of M/s DTwelve Spaces Private Limited (the lessee). The lessee, in turn, leased out the residential property as a hostel to provide long-term accommodation to students and working professionals, with the duration of stay ranging from 3 months to 12 months.

The Central Government, by way of Notification No. 9/2017–Integrated Tax (Rate) dated 28.06.2017, granted exemption from payment of goods and services tax in respect of services which include renting services which are provided with respect to residential dwelling for use as a residence.

With a view to seeking clarification with regard to eligibility to claim exemption on the rent received, the respondent No. 1 preferred an Advance Ruling application in the prescribed form under Section 97 of the IGST Act before the AAR. The AAR, vide ruling dated 23.03.2020, held that the services of renting of residential dwelling for use as a residence do not fall under Entry 13 of the Exemption Notification. It held that the lessee, being a company, is not itself using the premises in question and therefore GST was required to be charged.

Aggrieved, the respondent filed an appeal under Section 100 before the AAAR. By order dated 31.08.2020, the AAAR upheld the AAR's decision holding that the rented property was a hostel building and more akin to sociable accommodation than a residential dwelling, and that the exemption notification applies only when

the residential dwelling is used as a residence by the tenant.

The respondent thereafter filed Writ Petition No.14891 of 2020 before the High Court. The High Court allowed the writ petition, holding that Entry 13 of Notification No. 9/2017 clearly and unambiguously grants exemption for services of renting a residential dwelling for use as a residence, and that leasing residential premises as hostels to students and working professionals does not attract GST.

Being dissatisfied with the judgment and order passed by the High Court, the revenue preferred an appeal to the Honorable Supreme Court.

## Respondent's submissions:

Respondent vehemently opposed the appeals and submitted that no error, not to speak of any error of law, could be said to have been committed by the High Court in passing the impugned judgment and order. It was submitted that the respondent had let out the subject residential property to a lessee who is an aggregator and has set up a unique business model beneficial to students and working professionals. Respondent pointed out that the lease deed was entered into on 16.06.2019 and that the total rent paid from June 2019 to June 2022 was Rs. 1,12,38,200, on which total IGST liability at the rate of 18% worked out to Rs. 20,22,876. He further brought to the notice of the Court that from 2022, IGST is being paid at 18% pursuant to an amendment to Entry 13 of the Exemption Notification, which came into effect from 18.07.2022.

According to the respondent, the contention advanced on behalf of the revenue that exemption should be denied because the lessee, being a company, was not itself using the residential property deserves to be outright rejected, as acceptance of such submission would amount to rewriting Entry 13 as "services by way of renting of residential dwelling for use as residence by the lessee".

It was submitted that the High Court, after due consideration of all relevant provisions, reached a plausible conclusion requiring no interference under Article 136 of the Constitution of India.

## Discussions by and Observations of the Supreme Court:

The court observed that the only question for consideration was whether GST at the rate of 18% was payable on the rental amount paid by the lessee to the respondent No. 1.

The Court first addressed whether the subject property could be termed as a "residential dwelling". It was noted that the term "residential dwelling" is not defined under the GST laws. Under the erstwhile Finance Act, 1994, the CBIC Education Guide dated 20.06.2012 explained the term to mean any residential accommodation, excluding hotel, motel, inn, guest house, lodge, houseboat, or similar places meant for temporary stay.

The Court noted that prior to GST, service tax was levied only on the renting of commercial properties. Under GST, while renting of residential properties was brought within the taxable ambit, the Central Government issued Notification No. 9/2017 granting exemption to renting of residential dwellings for use as residence.

The Court referred to the judgment of the Bombay High Court in Bandu Ravji Nikam, which held that hostel accommodation is residential in nature and cannot be treated as commercial merely because charges are recovered. Reference was also made to the meaning of "Residence" and "Dwelling" as provided in the Concise Oxford English Dictionary and Black's Law Dictionary.

The Court rejected the submission of the revenue that the exemption is unavailable since the lessee sub-leased the premises. It held that Entry 13 does not mandate that the lessee must itself use the property as a residence and that any such interpretation would add a condition not provided in the notification. The Court held that the ultimate use of the property remained unchanged, namely, use for residence by

students and working professionals. Levy of 18% GST would ultimately be passed on to them, defeating the legislative intent of the exemption.

Further, the court noted that Entry 13 was amended w.e.f. 18.07.2022 to deny exemption where a residential dwelling is rented to a registered person. Further, an explanation was inserted w.e.f. 01.01.2023 clarifying availability of exemption where renting is in personal capacity for own residence. The Court held that the revenue, through the appeals, was attempting to give retrospective application to the 2022 amendment, which is impermissible.

### Decision of the Supreme Court:

In view of the aforesaid discussion, the Court concluded that there was no reason to interfere with the judgment and order passed by the High Court. Consequently, the appeals were dismissed.

## DECISIONS BY HIGH COURT:

### Auroglobal Comtrade (P.) Ltd. v. Joint Commissioner Goods and Service Tax and Central Excise [2025] 181 taxmann.com 813 (Orissa)

### Facts and issues involved:

Petitioner applied in Form GST RFD-01 on 04.07.2024, for a refund of ₹14,80,02,002 as "Refund of Input Tax Credit on Export of Goods and Services without Payment of Integrated Tax" for the period of April 2022 to March 2023. A pre-refund Show Cause Notice in Form GST RFD-08 was issued on 30.07.2024, alleging a short shipment of 3,840 MTS of iron ore fines valued at ₹2,61,21,422.22, thereby proposing only a proportionate refund. The petitioner accepted a partial inadmissibility of ₹25,56,052 in Form GST RFD-09. Following this, the Assistant Commissioner issued a Refund Sanction-cum-Speaking Order in Form GST RFD-06 on 23.08.2024, granting a refund of ₹14,54,45,950/- (comprising ₹7,27,22,975/- each for CGST and OGST).

However, the Commissioner of GST and Central Excise passed a Review Order on 20.02.2025 under Section 107(2) of the GST Act, directing a departmental appeal on the grounds that the refund was erroneously granted. This appeal (Form GST APL-03) was subsequently dismissed by the Additional Commissioner (Appeals) on 07.08.2025, affirming the refund on its merits.

Despite this appellate finality, the Joint Commissioner issued a Demand-cum-Show Cause Notice (DSCN) in Form GST DRC-01 on 25.09.2025, followed by a Summary SCN on 28.10.2025, seeking to recover the same ₹14,54,45,950/- refund u/s 73, along with consequential interest and penalties.

### Petitioner's submissions:

Petitioner contended that the SCN dated 25.09.2025 was legally unsustainable because the self-same issue of refund eligibility had already been adjudicated and affirmed by the Appellate Authority in the departmental appeal. They argued that, as per Section 107(16) of the CGST Act, 2017, the order passed by the Appellate Authority is final and binding on all the parties, subject only to specific revisions by higher forums which had not occurred. The petitioner asserted that the Department was attempting to nullify the effect of Order-in-Appeal through a subordinate authority, which constituted a flagrant violation of statute and ignored the principles of judicial discipline. They maintained that the Joint Commissioner was estopped from raising the same issue relating to the refund after the Appellate Authority had already decided the matter in favour of the assessee.

### Respondent's submissions:

Respondent Department argued that the Show Cause Notice dated 25.09.2025 was independent of, and has no nexus with, the outcome of the departmental appeal. They contended that the SCN was issued to give effect to the Commissioner's Review Order dated 20.02.2025 and that the two proceedings operate in distinct statutory fields. The Department further stated that the Appellate Order dated 07.08.2025, which upheld the refund, was presently under verification/scrutiny for the purpose of examining its acceptability or filing further appeal before GSTAT.

### Discussions by and Observations of the High Court:

The court observed that the department's attempt to initiate a Section 73 proceeding on the same grounds already decided in an appeal was unwholesome, arbitrary, in excess of jurisdiction, and whimsical. It noted that the Commissioner's Review Order was an administrative decision, whereas the Order-in-Appeal was a quasi-judicial decision that must be respected by subordinate authorities. The court emphasized that the principles of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities. Further, the court found that the Joint Commissioner had overstepped his jurisdiction by attempting to set the Appellate Order at naught, which is prohibited under the self-contained Code of the GST Act. Furthermore, the Court applied the doctrine of issue estoppel and res judicata, stating that when a judicial determination reaches finality, the parties are precluded from showing the existence of a particular state of facts contrary to that decision. The initiation of recovery proceedings for the refund of ₹14,54,45,950 is tainted and inexplicable, given that the refund had been affirmed on merits by a superior appellate authority. The Department cannot use Section 73 as a "subterfuge" to circumvent an unfavorable appellate order.

### Decision of the High Court:

The court allowed the writ petition and set aside the Demand-cum-Show Cause Notice dated 25.09.2025 and the Summary Show Cause Notice dated 28.10.2025

## Era Infra Engineering Ltd. v. Joint Commissioner CGST Delhi South Commissionerate [2025] 181 taxmann.com 698 – Delhi High Court

### Facts and issues involved:

The petitioner company was engaged in the construction business. Due to financial difficulties, it was admitted into the Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code, 2016, on an application filed by Union Bank of India under section 7. During CIRP, an Interim Resolution Professional (IRP) was appointed, later confirmed as Resolution Professional (RP). Claims were invited from all creditors, including Government authorities. GST Department filed its claim of approx. ₹4,02,30,448, which was later crystallised at ₹1,94,26,381. GST registration of the company was cancelled during this period. Subsequently, the National Corporate Law Tribunal (NCLT), Delhi, approved the Resolution Plan on 11th June 2024, and new management took over the company.

Despite this, the Department issued Show Cause Notices and Orders-in-Original in November 2024 for FY 2017-18, 2018-19, and 2019-20, substantial GST demands with interest and penalty. Accordingly, the petitioner approached the High Court.

### Petitioner's Submissions:

Petitioner contended that once the Resolution Plan is approved under Section 31 of the IBC,

all earlier claims stand frozen and only those included in the plan survive. Any tax dues relating to periods prior to approval of the resolution plan stand extinguished if not specifically provided in the plan.

**Reliance was placed on:**

- *Ghanashyam Mishra & Sons (P.) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd* [2021] 126 taxmann.com 132 (SC)/(2021) SSC Online SC 313 has held that no claims/ dues may be entertained after the approval of the Resolution plan.
- *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta* [2019] 111 taxmann.com 234 (SC)/(MANU/ SC/1577/2019) observed that the Resolution Applicant should not suddenly be burdened with undecided claims.

It was argued that since the GST Department had already participated in CIRP and filed its claims, it could not subsequently reopen, quantify again, or raise fresh demands, nor could the new management be burdened with past liabilities.

## Discussions by and Observations of the High Court:

The High Court examined the scheme of IBC and the relevant Supreme Court decisions. It was observed that Section 31 of IBC clearly provides that a resolution plan approved by NCLT is binding on all stakeholders, including Central and State tax authorities. The Court referred to Ghanashyam Mishra, where the Supreme Court held that all claims not forming part of the approved plan stand extinguished. No proceedings can continue for such past dues after approval.

The Court also referred to Sundaresh Bhatt v. CBDT & Customs, noting that Authorities may only determine dues for CIRP purposes, but cannot independently initiate recovery outside the IBC process.

The Court thus held that since the GST Department had participated in CIRP and lodged its claim, it could not subsequently raise further demands for the pre-CIRP period. Further, saddling the new management with historic liabilities would defeat the object of IBC, which aims at the revival of the distressed company.

## Decision of the High Court:

The writ petition was accordingly allowed.

# Raghuvansh Argo Farms Ltd. v. State of U.P. [2025] 181 taxmann.com 835 – Allahabad High Court

## Facts and issues involved:

Petitioner, engaged in the supply of agricultural goods and areca nuts, was regularly maintaining books of accounts and filing GST returns. A survey was conducted on 22.01.2019, pursuant to which a notice under Section 74 was issued in Form DRC-01 dated 07.04.2021. The petitioner filed detailed replies along with supporting documents, including GSTR filings, invoices, e-way bills, ledgers, and bank statements. Another notice dated 13.05.2022 with a reminder was also replied to. However, without granting any opportunity of personal hearing, an adverse order dated 31.05.2023 was passed, later affirmed in appeal. The petitioner then challenged both orders before the High Court.

## The core issues arose in two aspects:

1. Whether proceedings u/s 74 could be sustained when the show-cause notice and orders did not record any finding of fraud, wilful misstatement, or suppression of facts?
2. Whether State GST authorities possessed jurisdiction when the petitioner claimed to fall under Central GST jurisdiction, and no cross-empowerment notification was produced?

Allegations of circular trading were also raised by the Department on the basis of survey findings.

### Petitioner's Submissions:

Petitioner contended that the entire proceedings were without jurisdiction, as it fell under the jurisdiction of the CGST Commissioner, Division III, Range XVI, and there was no recommendation of the GST Council or notification authorising State GST authorities to proceed. According to the petitioner, only one notification existed for cross-empowerment, that too limited to refund matters under Section 54.

On merits, it was urged that Section 74 could not be invoked in the absence of any allegation or proof of fraud, wilful misstatement, or suppression of facts. The notice merely alleged circular trading without supporting material, despite transactions being duly recorded in GSTR-1, GSTR-2A, GSTR-3B, and bank statements.

The petitioner explained specific transactions with suppliers and customers, showing that purchases and sales were covered by invoices, e-way bills, bilty and payment through banking channels. It was argued that once such documents existed, no adverse inference could be drawn merely because toll plaza receipts or weighbridge slips were not produced, particularly when the GST law prescribed no such requirement.

It was also emphasized that proceedings initiated against one of the suppliers had already been set aside by the competent authority and therefore could not form the basis of action against the petitioner.

### Discussions by and Observations of the High Court:

The Court examined the scheme of Section 74 and reiterated that the provision can be invoked only in situations involving fraud, wilful misstatement, or suppression of facts leading to wrongful availment of ITC. These foundational elements, according to the Court, were jurisdictional in nature. It was observed that neither the show-cause notice nor the assessment order contained any specific, evidence-based finding on fraud or suppression. Once these essential ingredients were missing, the proceedings themselves became unsustainable.

On jurisdiction, the Court noted that the petitioner had specifically pleaded the absence of cross-empowerment and asserted Central jurisdiction. The revenue failed to place any notification or material to justify the assumption of authority by the State GST officer. Consequently, the exercise of power was found to be without jurisdiction.

The Court further recorded that the petitioner's purchases and sales were duly reflected in GSTR filings, supported by invoices, e-way bills, bilty, ledgers, and payments through banks, and all such records were brushed aside merely on the basis of survey observations. The proceedings against one supplier having been dropped, an adverse inference against the petitioner was also unjustified.

The Court additionally observed that toll plaza receipts were not mandated under the GST law and their absence could not, by itself, discredit otherwise supported transactions.

### Decision of the High Court:

The writ petition was accordingly allowed.

## Modi Packers v. Superintendent [2025] 181 taxmann.com 732– Delhi High Court

### Facts and issues involved:

The Petitioner obtained GST registration with effect from 1st July 2017 under the name M/s Modi Packers, a sole proprietary concern of Mr. Mohit Modi. A show cause notice dated 5th April 2023 was issued calling upon the Petitioner to show cause as to why the GST registration ought not to be cancelled on the ground of fraud, wilful misstatement, or suppression of facts. The Petitioner filed a reply to the show cause notice on 12th April 2023 and provided the proper registered address of the concern, which had been changed

earlier. The Petitioner also provided the operational address; however, no physical inspection was conducted at the new address.

Thereafter, the order of cancellation dated 27th May 2023 was passed without reference to or consideration of the averments made in the reply. The said order cancelled the GST registration retrospectively with effect from 3rd July 2017.

The Petitioner filed an appeal against the order dated 27th May 2023, which was dismissed on the ground of being barred by limitation.

## Petitioner's Submissions:

The Petitioner submitted that he is still in business and wishes to restore the GST registration number and is also willing to file returns and pay late fees and penalties.

It was further submitted that the show cause notice dated 5th April 2023 did not contemplate retrospective cancellation of registration. Despite this, the GST registration was cancelled retrospectively by the order dated 27th May 2023.

## Discussions by and Observations of the High Court:

The High Court observed that the order of cancellation dated 27th May 2023 is absolutely silent upon the reasons for retrospective cancellation of the GST registration. Further, the show-cause notice did not contemplate retrospective cancellation at all.

The Court also noted that the cancellation order does not deal with any of the contentions raised by the Petitioner in the reply to the show cause notice.

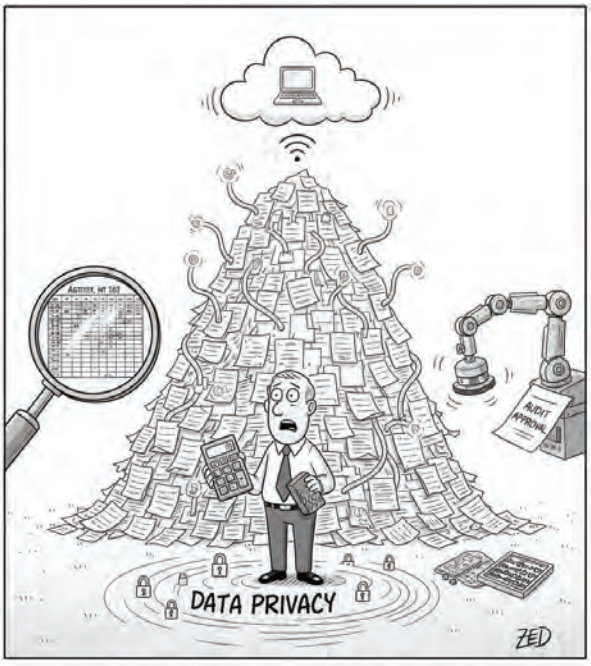
The Court reiterated that retrospective cancellation not mentioned in the show cause notice cannot be given effect to by the impugned order, relying on its earlier decisions in:

- *Subhana Fashion v. Commissioner Delhi Goods and Service Tax* [2024] 168 taxmann.com 107 (Delhi)
- *Balaji Industries (Vipin Kumar) v. Principal Commissioner CGST Delhi North Commissionerate* [2024] 166 taxmann.com 653 (Delhi)
- *Ridhi Sidhi Granite and Tiles v. State of U.P.* [2024] 160 taxmann.com 191 (Allahabad)

## Decision of the High Court:

The cancellation order dated 27th May 2023 was set aside, and the GST registration of the Petitioner was restored, with the following directions:

1. Petitioner shall be given access to the GST portal within one week.
2. By 15th January 2026, the Petitioner shall file all up-to-date returns along with late fees, penalty, etc., if any.
3. The Department is free to take any action in respect of any other violation.




ACCOUNTING TODAY: MORE POWER, LESS
I BEG TO DIFFER!

# Service Tax



Rajiv Luthia



Keval Shah

## M/s. Vengad Resorts & Retreats Ltd. v. Union of India & Ors. 2025 (12) TMI 1466 – Kerala High Court (Division Bench)

### Facts of the Case:

The petitioner, M/s. Vengad Resorts & Retreats Ltd. is a public limited company engaged in operating an amusement park in the State of Kerala. The activities carried out by the petitioner include providing admission and access to various amusement and entertainment facilities within the park.

The State Government, in exercise of its powers under Entry 62 of List II of the Seventh Schedule to the Constitution, levied entertainment tax on the petitioner under the Kerala Local Authorities Entertainments Tax Act, 1961. The tax was imposed on the entire consideration collected from customers for admission to and enjoyment of the amusement facilities.

Under the Finance Act, 1994, "admission to entertainment events or access to amusement facilities" was initially included in the Negative List of services under Section 66D(j) and was therefore not exigible to service tax. However, by the Finance Act, 2015, Section 66D(j) was omitted with effect from 1 June 2015, following which the Union sought to levy service tax on the very same activity.

Aggrieved by the levy, the petitioner challenged the constitutional validity of the service tax demand on the ground of lack of legislative competence of Parliament. The writ petition was dismissed by the learned Single Judge, who held that service tax and entertainment tax operated in different fields by applying the aspect theory. The petitioner preferred an intra-court appeal before the Division Bench of the Kerala High Court.

### Issues Involved

The principal issue before the Court was whether the levy of service tax under the Finance Act, 1994 on admission to or access to amusement facilities is constitutionally valid when the activity is already taxed by the State under Entry 62 of List II (taxes on luxuries, including entertainments and amusements), or whether such levy amounts

to an unconstitutional encroachment upon the legislative powers of the State.

## Arguments of the Petitioner

The petitioner, M/s. Vengad Resorts & Retreats Ltd. assailed the levy of service tax on access to amusement facilities on the grounds of constitutional invalidity, lack of legislative competence, and impermissible overlap of taxing powers. The principal submissions were as follows:

### 1. Exclusive Legislative Competence of the State under Entry 62, List II

The petitioner contended that Entry 62 of List II of the Seventh Schedule expressly authorises State Legislatures to levy taxes on luxuries, including entertainments and amusements. This entry constitutes a specific taxing entry, conferring exclusive jurisdiction on the State.

It was argued that the State of Kerala has exercised this power by enacting the Kerala Local Authorities Entertainments Tax Act, 1961, which governs the levy and collection of tax on entertainments and amusements. Consequently, the entire field of taxation relating to amusement parks stands occupied by State legislation, leaving no scope for parliamentary intervention.

### 2. Entertainments Tax Act as an All-Inclusive Levy

The petitioner submitted that the Kerala Entertainments Tax Act is a complete code. The definitions of "admission," "entertainment," and "payment for admission" under the Act are wide and comprehensive, covering:

- Admission as a spectator or participant;
- Admission for the purpose of amusement; and
- Any payment made as a condition for attending or continuing to attend the entertainment.

Thus, the tax is levied not merely on physical entry, but on the entire experience of entertainment or amusement, including the service element inherent in such activity.

It was emphasised that even where the tax is levied on a lump-sum or alternative basis (as in the case of amusement parks), the levy remains traceable to Entry 62 and covers the entire consideration received from customers.

### 3. Impermissible Invocation of Residuary Power under Entry 97, List I

The petitioner argued that Entry 97 of List I, which confers residuary legislative power on Parliament, can be invoked only in respect of matters not enumerated in Lists II or III.

Since taxes on entertainments and amusements are specifically enumerated under Entry 62 of List II, Parliament cannot resort to Entry 97 to impose service tax on the same activity. Allowing such a levy would render the constitutional distribution of taxing powers nugatory and defeat the federal scheme.

Reliance was placed on constitutional jurisprudence holding that residuary power is truly residual and cannot be used to trench upon a field expressly reserved for the States.

### 4. Doctrine of Pith and Substance Favouring the State List

Invoking the doctrine of pith and substance, the petitioner submitted that the true nature and character of the levy under the Finance Act, 1994, when applied to amusement parks, is taxation of entertainment itself.

Merely describing the levy as a "service tax" cannot alter its essential character. The Court must examine the real substance of the tax, its object, and its practical effect. When so examined, the levy was indistinguishable from the entertainment tax already imposed by the State.

Therefore, the impugned service tax amounted to a direct encroachment upon the State's exclusive taxing domain.

### 5. Inapplicability of the Aspect Theory

The petitioner strongly opposed the application of the aspect theory. It was submitted that the theory applies only where a single transaction involves clearly separable and distinct aspects, each capable of being independently taxed.

In the case of amusement parks, there is no separable service aspect independent of entertainment. The provision of access, rides, and facilities is inseparable from the entertainment itself. Consequently, both the State and the Union were seeking to tax the same aspect of the transaction, namely, entertainment/amusement.

The petitioner distinguished decisions where dual levies were upheld (such as broadcasting or professional services cases) on the ground that those cases involved multiple discernible aspects, unlike the present case.

### 6. Absence of Machinery to Segregate a Service Component

It was further argued that the Finance Act, 1994, contains no machinery provisions to identify or segregate any alleged "service element" from the composite activity of providing amusement.

Without statutory mechanisms to bifurcate the consideration, the levy of service tax necessarily operates on the gross amount charged, which is already subjected to entertainment tax by the State. This reinforces the conclusion that the service tax levy is constitutionally unsustainable.

### 7. Federal Balance and Constitutional Scheme

Finally, the petitioner emphasised that permitting the Union to levy service tax on activities squarely falling under Entry 62 of List II would upset the federal balance envisaged by the Constitution.

The constitutional scheme requires a clear demarcation of taxing powers between the Union and the States. Allowing the Union to tax entertainment under the guise of service tax would effectively nullify the State's exclusive authority under Entry 62.

## Arguments of the Respondent

The respondents (Union of India and tax authorities) defended the levy of service tax on admission to and access to amusement facilities, contending that the impugned levy was constitutionally valid, within parliamentary competence, and did not encroach upon the taxing powers of the State. Their submissions were advanced along the following lines:

### 1. Distinct Nature of Service Tax vis-à-vis Entertainment Tax

The respondents argued that service tax and entertainment tax operate in different legislative fields. While entertainment tax is levied by the State on the event or activity of entertainment, service tax is imposed on the service rendered by the service provider to the recipient for consideration.

According to the respondents, the activity of providing access to amusement facilities involves the rendering of a service—such as maintenance of infrastructure, operation of rides, safety arrangements, and facilitation of customer experience—which is distinct from the entertainment itself. Therefore, the levy of service tax targets a different subject matter.

### 2. Parliamentary Competence under Entry 97, List I

It was contended that Parliament is fully competent to levy service tax under its residuary taxing power in Entry 97 of List I of the Seventh Schedule to the Constitution.

The respondents submitted that service tax is not expressly enumerated in either List II or List III, and hence falls within the residuary domain of Parliament. The mere fact that the same transaction may also be subjected to entertainment tax by the State does not, by itself, denude Parliament of its power to levy service tax on the service component of the activity.

### 3. Valid Consequence of Deletion from the Negative List

The respondents emphasised that until 1 June 2015, "admission to entertainment events or access to amusement facilities" was excluded from service tax by virtue of its inclusion in Section 66D(j) of the Finance Act, 1994 (Negative List).

Once Parliament consciously deleted this entry by the Finance Act, 2015, the activity became taxable as a service. The respondents argued that this legislative choice reflected Parliament's intent to subject such activities to service tax and could not be challenged merely because the States were already levying entertainment tax.

### 4. Application of the Aspect Theory

A central plank of the respondents' submissions was the reliance on the aspect theory. It was argued that a single transaction can possess multiple aspects, each capable of being independently taxed by different legislatures without violating constitutional limits.

The respondents submitted that:

- The entertainment aspect of the activity is taxed by the State under Entry 62 of List II; and
- The service aspect—namely the provision of facilities and amenities for consideration—is taxed by the Union under the Finance Act, 1994.

They relied on judicial precedents where dual levies were upheld on the basis that different aspects of the same transaction were subjected to tax by different authorities.

### 5. No Encroachment on State Legislative Powers

The respondents contended that the levy of service tax does not amount to trenching upon the exclusive powers of the State Legislature. According to them, Entry 62 of List II should be interpreted narrowly as empowering States to tax entertainment or luxury as such, and not to exclude the Union's power to tax services associated with such activities.

It was submitted that incidental overlap in fact does not translate into overlap in law, and that as long as the Union levy can be traced to a constitutionally permissible source, it cannot be invalidated merely because the same transaction is subjected to State taxation.

### 6. Nature of Levy Determined by Legislative Intent, Not Measure

The respondents argued that the measure of tax (such as gross receipts or ticket price) cannot determine the nature of the tax. Even if service tax is calculated with reference to the same consideration that forms the basis for entertainment tax, the subject of taxation remains different.

They submitted that similarity in valuation or quantification does not render the levy unconstitutional, as the nature of the service tax continues to be a tax on services rendered.

### 7. Support from Judicial Precedents

The respondents placed reliance on earlier Supreme Court decisions upholding service tax levies on activities that were also subjected to State levies, particularly where courts had recognised the validity of taxing different aspects of the same transaction.

They argued that the learned Single Judge had correctly relied upon such precedents and rightly upheld the levy by applying the aspect theory.

### 8. Preservation of the Fiscal Autonomy of Parliament

Finally, the respondents submitted that striking down the service tax levy would unduly restrict Parliament's fiscal powers and undermine the settled principle that service tax is a distinct and constitutionally recognised levy, falling within the Union's legislative domain.

They contended that the Finance Act, 1994, represents a valid exercise of parliamentary power and that the impugned levy should therefore be sustained.

## Decision of the Hon'ble Court

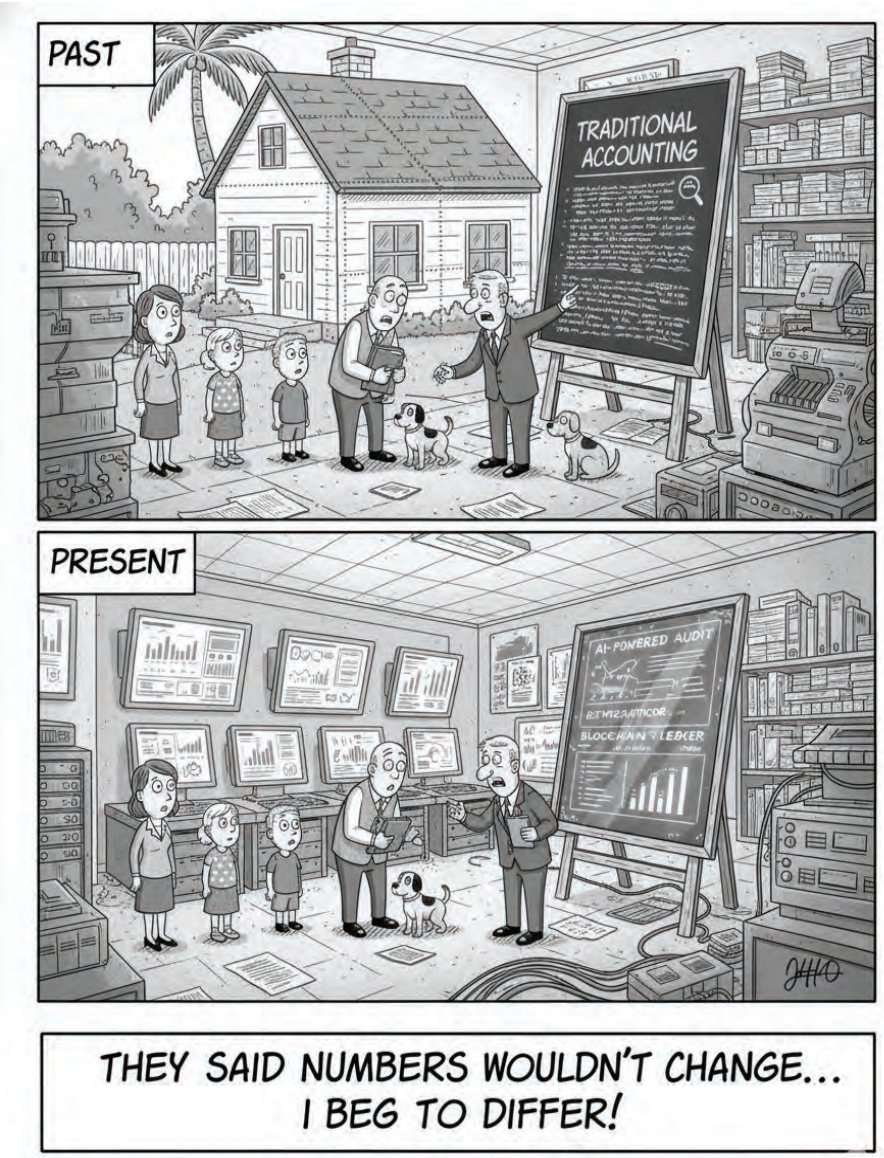
The Division Bench of the Kerala High Court allowed the appeal and set aside the judgment of the learned Single Judge.

The Court held that on applying the doctrine of pith and substance, the dominant nature of the activity carried out by the petitioner was clearly entertainment/amusement, which squarely falls within the scope of Entry 62 of List II. The Kerala Entertainments Tax Act provides for an all-inclusive levy on admission as well as on the enjoyment of entertainment, thereby occupying the entire field of taxation.

The Court observed that Entry 97 of List I can be invoked only where a subject is not covered under Lists II or III. Since taxation of entertainments and amusements is expressly provided for under Entry 62 of List II, Parliament lacked legislative competence to impose service tax on the same aspect.

The Court rejected the application of the aspect theory, holding that, unlike cases involving broadcasting or professional services, there was no distinct or separable aspect involved in the present case. The same aspect of entertainment/amusement was sought to be taxed by both the Union and the State, resulting in unconstitutional overlap.

Accordingly, the Court declared that the levy of service tax on access to amusement facilities under the Finance Act, 1994, was unconstitutional, and allowed the appeal in favour of the petitioner.



# Case Law Update



**Makarand Joshi**

## IBC

### In the matter of Rado Rexine Co. Limited – Petitioner v. Raksha Supreme Camouflage Private Limited Respondent at National Company Law Tribunal - New Delhi Bench dated 12 November 2025

#### Facts of the case:

On December 6, 2012, Rado Rexine Co. Limited, the Petitioner - Operational Creditor/OC, entered into a rent agreement with the Raksha Supreme Camouflage Private Limited, the Respondent - Corporate Debtor/CD, to lease a portion of Industrial Plot No. 132, Sector 25, Ballabgarh, Faridabad, which included plant, machinery, and equipment.

The lease was renewed multiple times over the years. On April 13, 2018, the lease was renewed for five years at a monthly rent of Rs. 3,00,000 + GST with a 5% annual hike.

On September 14, 2020, the rent was reduced to Rs. 1,50,000 + GST due to the business slowdown during the COVID-19 pandemic. On April 3, 2024 - the latest agreement fixed the rent at Rs. 3,30,000 + GST per month.

The OC alleged that while the CD cleared invoices until April 1, 2018, it failed to make regular payments thereafter.

The OC claimed a total operational debt of approximately Rupees One Crore Fifteen Lakh, i.e., Rs. 1,15,61,184 (including interest).

The debt was based on monthly lease rental invoices issued from April 2018 to August 2024.

The OC provided evidence that the CD repeatedly admitted the liability.

The CD issued, signed, and stamped “Balance Confirmation of Accounts” for every financial year from 2018-2019 through 2022-2023.

On July 16, 2024, the accounts department of the CD shared a ledger confirming an outstanding balance of approximately Rupees One Crore Six Lakh, i.e., Rs. 1,06,66,016, as of June 2024

On July 18, 2024, the CD sent a letter specifically acknowledging the total outstanding debt and requesting a 6-month grace period to clear it.

On August 8, 2024, the OC issued a statutory Demand Notice under Section 8 of the Insolvency and Bankruptcy Code, 2016 (IBC/Code).

The OC submitted evidence of delivery via Speed Post and email; however, the CD neither replied to the notice nor paid the dues within the 10-day statutory window.

The petition was filed u/s 9 of the IBC by OC against CD to initiate the Corporate Insolvency Resolution Process (CIRP) due to a default in payment of dues arising from a lease agreement.

## Arguments of the Petitioner:

The CD repeatedly acknowledged the debt through signed balance confirmations for financial years 2018-2019 through 2022-2023.

The CD had availed Input Tax Credit (ITC) on the GST deposited by the OC, thereby effectively admitting the lease arrangement.

While the lease deeds were unregistered, the creditor argued they remain admissible for collateral purposes such as proving the landlord-tenant relationship and the nature of possession.

It was contended that no dispute regarding the condition of the premises was raised prior to the Demand Notice.

## Arguments of the Respondent:

It was claimed that the lease deeds were mandatorily registrable under Section 107 of the Transfer of Property Act, 1882, and Section 17 of the Registration Act, 1908. Further, it was argued that non-registration, by virtue of Section 49 of the Registration Act, 1908, rendered the deeds inadmissible as evidence for proving the terms of the lease or enforcing any claim arising therefrom.

Also, claimed the premises were unfit for use due to severe waterlogging since the 2020 lockdown, a fact they allegedly communicated to the Petitioner.

It was also argued that the claim had been exaggerated to meet the Rs. One crore threshold prescribed for initiating proceedings under IBC.

## HELD:

Citing the Supreme Court's decision in M/s Paul Rubber Industries Private Limited vs. Amit Chand Mitra & Anr., the Tribunal held that even an unregistered lease deed can be relied upon for "collateral purposes," including to establish the existence of debt and default.

Even disregarding the lease agreements, the Tribunal found sufficient independent evidence of debt, including the CD's signed balance confirmations and email correspondence exchanged between 2019 and 2024.

The plea of a "pre-existing dispute" regarding repairs was dismissed as shallow, as the CD failed to produce any prior communication or documentary evidence demonstrating that such concerns were raised before issuance of the demand notice.

The Tribunal confirmed that the operational debt exceeded the ₹1 crore threshold prescribed under the IBC. The application was also held to be within limitation, with the timeline having been duly extended by multiple balance confirmations and the CD's letter dated July 18, 2024, and accordingly, CIRP was initiated against the CD.

> "The integrity of financial reporting is the backbone of a democratic economy."
>
> — ***Nani A. Palkhivala*** *(Renowned jurist and tax expert)*

# Companies Act 2013

## In the matter of M/s. Nuventure Connect Private Limited. v. Registrar of Companies, Ernakulam, NCLT Kochi bench order dated 11th December 2025

### Facts of the case:

Nuventure Connect Private Limited (hereinafter called the company/petitioner) filed an appeal before the Honourable National Company Law Tribunal (NCLT) Kochi bench under Section 59 read with Section 88 of the Companies Act, 2013 (The Act), seeking rectification of its Register of Members.

The Company claimed that 3,000 equity shares of ₹10 each, originally held by one promoter-director, were transferred in April 2019 to Ms. Thankam Ancheri Rappai through a duly executed share transfer deed and a board resolution passed by circulation.

Due to an alleged inadvertent administrative lapse, the resolution was not ratified in the subsequent board meeting, and the transferee's name was not entered in the Register of Members.

As a result, all statutory filings, including annual returns, continued to reflect the shares in the name of the transferor.

The omission came to light only in May 2025 after a legal notice from the transferee, following which the company ratified the earlier resolution and approached the Tribunal for rectification.

However, the said petition by the company for rectification of the register of members is objected to by the Registrar of Companies (ROC)

### Petitioner's contentions:

The petitioner company argued that:

- The share transfer was validly executed, duly approved by the board, and supported by payment of consideration through banking channels.
- The failure to enter the transferee's name in the Register of Members was described as a bona fide and procedural omission, without any mala fide intent.
- Section 59 of the Act provides a statutory mechanism to correct such omissions where the name of a member has been left out without sufficient cause.
- Valuation or subsequent increase in the company's net worth was irrelevant for rectification under Section 59 of the Act, especially in the case of a closely held private company.
- The delay and mismatch in dates of payment and execution of the transfer deed were explained as commercially acceptable and not fatal to the validity of the transfer.

### Respondent's arguments:

The respondent, Registrar of Companies, Ernakulam, contended that:

- The genuineness of the alleged share transfer is questionable, particularly for the reason that the consideration was paid several months before the date of the transfer deed.
- The transferee's name was never reflected in annual returns over multiple years, resulting in incomplete and misleading statutory disclosures under Section 92 of the Act.
- Serious doubts were raised regarding the authenticity of the share transfer deed, pointing out visible overwriting and alteration in the date fields.

- Neither the company nor the alleged transferee asserted any shareholder rights for several years, which cast suspicion on the transaction.
- The company appeared to be using Section 59 of the Act proceedings to retrospectively regularise statutory non-compliances and avoid penal consequences.

## NCLT`s Contention:

After hearing both parties and going through all the records, it was noted that the:

- Maintenance of the Register of Members is a statutory duty of the company itself, and failure to maintain such register in accordance with Sections 88 and 92 of the Act would attract statutory consequences.
- The Appellant, due to its own omissions and inaction, failed to maintain the statutory register and further failed to furnish the requisite information to the Registrar of Companies as mandated under law.
- The Appellant had approached the Tribunal to rectify the register of membership retrospectively from the date of the alleged transfer, which could not be granted in view of Section 59 of the Act and the specific clauses of the Articles of Association.

## HELD:

It was categorically observed that if the averments of the Appellant were accepted, it would exhibit that the Appellant has approached this Tribunal to circumvent the provisions of Section 92 and to bypass the penal provisions of the Act, which practice was held to be "liable to be snubbed."

On examination of the share transfer deed, the Tribunal found that the document was "shrouded in suspicious circumstances", noting visible tampering and overwriting in the month and year portions of the date of execution and date of transfer.

The Tribunal clarified that, even if both the transferor and transferee have no dispute, it is the duty of the Tribunal to examine the genuineness of the alleged transaction and that documents cannot be accepted at face value.

In proceedings under Section 59, the Tribunal must "meticulously verify the authenticity of documents" and that its role is "not limited to rubber stamping the documents", but to ensure transparency, accountability, and fairness in corporate affairs.

The alleged transferee never asserted any right as a shareholder for several years, was not issued notices of any general meetings, and approached the Company only through a legal notice shortly before filing the appeal, which created serious doubt regarding the transaction.

In view of the inconsistencies in documents, prolonged inaction, suspicious alterations, and lack of procedural compliance, the Tribunal concluded that no relief could be granted under Section 59 of the Act, and accordingly, the case was dismissed.




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# FEMA
## Updates and Analysis



Hardik Mehta



Tanvi Vora

**In this article, we have discussed recent amendments made in FEMA through Notifications, Circulars, Master Directions, Press Notes & Press Releases.**

## A. Update through Circulars and Notifications

### RBI liberalizes export and import of Indian currency with Nepal and Bhutan

RBI has amended Regulation 8 of the FEMA (Export and Import of Currency) Regulations, 2015 by substituting it in its entirety vide Notification No. FEMA 6 (R)/(4)/2025-RB dated 28 November 2025. Under the earlier framework, export or import of Indian currency to and from Nepal and Bhutan was restricted, particularly for denominations above ₹100. Also, there were no nationality-based restrictions on the export or import of currency, and the provisions applied uniformly to citizens of all countries.

The revised provision now permits persons, other than citizens of Pakistan and Bangladesh, to take or bring Indian currency notes to and from Nepal or Bhutan, allowing any notes in denominations up to ₹100 with no cap and notes in denominations above ₹100 subject to an overall cap of ₹25,000 per individual.

It continues to permit carrying of Nepalese and Bhutanese currency notes across the India–Nepal and India–Bhutan borders. This provision does not have any nationality-based restrictions.

To operationalise the amendment, RBI has issued A.P. (DIR Series) Circular No. 18 dated 8 December 2025, which supersedes the earlier A.P. (DIR Series) Circular No. 24 of 20 March 2019 and amended Foreign Exchange Management (Export and import of Currency) (Amendment) Regulations, 2025.

***Notification No. FEMA 6(R)/(4)/2025-RB dated 28th November 2025 and A.P. (DIR Series) Circular No. 18 dated 8th December 2025***

***(Comments: From a practical standpoint, the combined effect of the notification and the circular removes long-standing ambiguity, facilitates legitimate cross-border travel and small-value transactions, and ensures regulatory certainty while retaining safeguards through nationality-based restrictions and monetary limits.)***

# Best of the Rest



Rahul Hakani



Niyati Mankad

## Tarachandra v. Bhawarlal & Anr. – Judgment Dated December 19, 2025, [2025 INSC 1485]

*Madhya Pradesh Land Revenue Code, 1959—Sections 109, 110, 111—Mutation of acquisition of right—Application based on Will—Maintainability—Held: An application for mutation under Section 110 of the 1959 Code based on a Will cannot be rejected at the threshold, as there is nothing in the 1959 Code proscribing acquisition of rights in land through a Will. Mutation is only for fiscal purposes and does not confer title. In a case of a serious dispute regarding the validity/genuineness of the Will, the Tahsildar has no competence to decide the dispute, and parties should approach the Civil Court. Where no serious dispute is raised by any legal heir, mutation based on a Will should not be denied.*

### Facts:

The recorded tenure holder, Roda alias Rodilal, died on November 6, 2019. The Appellant, claiming to be a legatee under a registered Will dated May 1, 2017, applied for mutation under Section 110 of the M.P. Land Revenue Code, 1959. The First Respondent filed an objection, claiming possession over one survey number based on a written sale agreement executed by the deceased. The Tehsildar ordered mutation in favour of the Appellant, subject to the determination of rights in the pending civil suit. The first Respondent's subsequent Appeals to the Sub-Divisional Officer (SDO) and the Commissioner were dismissed. The first Respondent then filed a Misc. Petition before the High Court under Article 227 of the Constitution. The High Court set aside the revenue authorities' orders and directed mutation in the names of the deceased's legal heirs under the Hindu Succession Act, 1956, subject to the outcome of the civil suit. The Appellant then filed the present Appeal.

### Issues Involved:

1. Whether an application for mutation under the M.P. Land Revenue Code, 1959, based on a Will, can be rejected at the threshold?
2. Whether the High Court, in the exercise of its supervisory jurisdiction under Article 227 of the Constitution of India, was correct in

setting aside the revenue authorities' order allowing mutation based on a registered Will, when the objection was raised by a third party claiming through an unregistered sale agreement, and no legal heir had raised a dispute regarding the Will?

## Held:

The Supreme Court allowed the Appeal and set aside the High Court's judgment, restoring the revenue authorities' orders. The Court concluded that the High Court erred by interfering with the mutation orders. The Court relied on the full bench decision of the High Court in Anand Choudhary v. State of Madhya Pradesh and Others [2025 SCC OnLine MP 977] and noted that:

- An application for mutation based on a Will cannot be rejected at the threshold as the M.P. Land Revenue Code, 1959 (1959 Code) and the 2018 Niyam do not prohibit the acquisition of rights through a Will.
- Mutation proceedings are summary and administrative in nature, and a mutation entry does not confer any title, being purely for fiscal purposes.
- In cases of a serious dispute (like the validity of a Will or competence of the testator) between private parties, the Tehsildar is not competent to decide and the parties must approach the Civil Court, as per a reading of Sections 109, 110, and 111 of the 1959 Code.
- The Court distinguished the objection of the first Respondent, noting that none of the deceased's legal heirs had disputed the registered Will. The first Respondent's claim was based on an unregistered sale agreement without a decree of specific performance.
- The mutation order of the revenue authorities, which was made subject to regular civil proceedings, did not contain any jurisdictional error or legal infirmity to warrant interference under Article 227 of the Constitution of India.
- The Court also considered its earlier decision in Jitendra Singh Vs. State of MP and Others and clarified that the observation that a party claiming title based on a Will has to approach the Civil Court should not be taken as a law proscribing mutation based on a Will, especially where legal heirs raise no dispute.

## Dilip Mehta v. Rakesh Gupta & Ors. - Judgment Dated November 18, 2025 Passed in Civil Appeal No. 013798 of 2025 [SLP(C) No. 27806 of 2023]

*Legal Services Authorities Act, 1987 ("LSA Act"), Ss. 21, 22E — Lok Adalat Award — Challenge to - The sole remedy to challenge a Lok Adalat award (by a party or a third party) is a Writ Petition under Arts. 226/227 of the Constitution. A civil suit or objections in execution proceedings (Or. XXI R. 101 CPC) are not maintainable as the Executing Court lacks the jurisdiction to set aside the award. High Court erred by dismissing the Writ Petition based on the parallel remedy in execution.*

## Facts:

Appellant (a purchaser via a 2016 sale deed) challenged a 2022 Lok Adalat compromise decree for specific performance, to which he was not a party, alleging fraud and collusion. He filed objections in the execution court (Or. XXI R. 101 CPC) and, concurrently, a Writ Petition in the High Court. The High Court dismissed the Writ Petition, holding that the issues of title and fraud could be adjudicated by the Executing Court, especially since objections were already filed.

### Issue Involved:

Whether the High Court was justified in declining the Writ Petition against the Lok Adalat decree on the ground that the Appellant had already filed objections (alleging fraud) before the Executing Court, treating it as an efficacious alternative remedy?

### Held:

The Supreme Court allowed the Appeal, setting aside the High Court's judgments. Sections 21 and 22E of the LSA Act mandate that a Lok Adalat award is final, binding, and is not Appealable or subject to collateral challenge in any suit, application, or execution proceeding. As held in State of Punjab v. Jalour Singh [(2008) 2 SCC 660] and Bhargavi Constructions v. Kothakapu Muthyam Reddy [(2018) 13 SCC 480], the only remedy to challenge an award is a Writ Petition under Articles 226/227. The Court held that the Executing Court (Or. XXI Rr. 97, 99, 101 CPC) cannot annul the Lok Adalat award or sit in judgment over its validity; its role is limited to execution. Filing defensive objections in execution cannot be treated as an election of remedy barring the Writ Petition. The matter was remanded to the High Court for adjudication on its merits.

## Chandan Pasi & Ors. v. The State of Bihar – Judgment Dated December 1, 2025 [2025 INSC 1371]

*Criminal Procedure Code, 1973—S. 313—Object and Scope: Examination of Accused: The ultimate test for compliance with S. 313 CrPC is to inquire and ensure whether the accused got the opportunity to say their piece, which is based on the cardinal principle of natural justice, audi alterum partem. Putting only bare and general allegations to the accused, resulting in omnibus denials, constitutes an abject failure on the part of the court to comply with the basic tenets of law, as it cannot be said to be putting every material circumstance to the accused. Non-compliance with the Section may cause prejudice to the accused and impede the process of arriving at a fair decision.*

### Facts:

The Appeals arose from a judgment of conviction and order of sentence passed by the Trial Court and affirmed by the High Court of Judicature at Patna. A total of six persons, including the three Appellants (Chandan Pasi, Pappu Pasi, and Gidik Pasi), were sentenced to life imprisonment under Section 302/34 of the Indian Penal Code, 1860, among other concurrent sentences. The case was based on an incident on March 31, 2016, where the accused persons allegedly surrounded the informant's family and assaulted the informant's father, Ghughali Pasi, with a katta, causing his death. A seventh accused was dealt with as a juvenile. Before the Supreme Court were three of the six convicts.

### Issue Involved:

Whether there was non-compliance with the requirements of Section 313 of the Code of Criminal Procedure, 1973 (CrPC)?

### Held:

The Supreme Court allowed the Appeals, setting aside the concurrent conviction against the Appellants and remanding the matter back to the concerned Trial Court. The Court found an "abject failure" on the part of the Trial Court in complying with the basic tenets of law under Section 313 CrPC. The Appellants' statements were "carbon copies of each other," and only two questions directly related to the sequence of events were asked, which were "as general as can be," leading to an "omnibus denial".

This failure to put every material circumstance to the accused violates the "non-negotiable requirements of a fair trial," where the accused must have the opportunity to answer each and every allegation against them on their own. The Court's conclusion relied upon the scope and object of Section 313 CrPC, which mandates putting all incriminating evidence to the accused to provide them an opportunity to explain such circumstances, as delineated in:

- Sanatan Naskar v. State of W.B. [(2010) 8 SCC 249], which emphasized that the object is to establish a direct dialogue with the accused and that the process is not a mere formality.
- Indrakunwar v. State of Chhattisgarh [2023 SCC OnLine SC 1364], which held that the process is based on the cardinal principle of natural justice, audi alterum partem, and non-compliance may cause prejudice.
- Raj Kumar v. State (NCT of Delhi) [(2023) 17 SCC 95], which underscored the duty of the Trial Court to put "each material circumstance... specifically, distinctively and separately" to the accused. This was subsequently approved by a bench of three-Judges in Aejaz Ahmad Sheikh v. State of U.P. and Another [2025 SCC OnLine SC 913].

The remand is limited to the cases of the three Appellants and is to recommence from the stage of recording the Section 313 CrPC statements, to be completed within four months.

## Abhishek Gupta v. Dinesh Kumar & Ors. – Judgment Dated December 3, 2025 [2025 INSC 1406]

*Allahabad High Court Rules, 1952 — Chap. VIII, R. 5 — Special Appeal — Maintainability — Non-party to Writ Petition: Where an Appeal is preferred with an application for leave to Appeal by a non-party to a Writ Petition under Article 226, who demonstrates that the order under challenge is prejudicial to his interest or adversely affects him or is binding on him, the bar created by Rule 5 must yield to the foundational principles of natural justice and the maxim ubi jus, ibi remedium (where there is a right, there is a remedy).*

### Facts:

Respondent No. 1 (Dinesh Kumar) had his fair price shop license revoked, and the license was subsequently allotted to the Appellant (Abhishek Gupta). The revocation was challenged by Respondent No. 1 in a Writ Petition before the Allahabad High Court. Crucially, the Appellant, Abhishek Gupta, who had been granted the license, was not impleaded as a party to the Writ Petition. A Single Judge allowed the Petition, setting aside the revocation and requiring Respondentno. 1 to be reinstated as the licensee. Sensing the loss of his license, the Appellant filed an intra-court Appeal (Special Appeal) against the Single Judge's order. The Division Bench dismissed the Special Appeal as not maintainable based on Chapter VIII Rule 5 of the 1952 Rules, leading the Appellant to approach the Supreme Court.

[Rule 5 of Chapter VIII of the Allahabad High Court Rules, 1952, broadly allows a Special Appeal from a judgment of a Single Judge, but bars such an Appeal against an order passed by a Single Judge in the exercise of Writ jurisdiction (Article 226 or 227) where the order relates to a judgment, order, or award of a Tribunal, Court, or statutory authority acting under certain Central or U.P. Acts, especially those concerning matters in the State or Concurrent List.]

### Issues Involved:

1. Whether the Special Appeal filed by the Appellant (a non-party to the original Writ Petition) against the order of the Single

Judge was maintainable, despite the express bar contained in Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952?

2. Whether the statutory bar under Rule 5 must be relaxed when the Single Judge's order, passed in the exercise of jurisdiction conferred by Article 226 of the Constitution, adversely affects the rights of a party who was not impleaded or heard before the Single Judge?

## Held:

The Supreme Court set aside the judgment of the Division Bench and restored the Special Appeal of the Appellant for hearing on the merits. The Court held that a narrow interpretation of Rule 5 of Chapter VIII of the 1952 Rules would result in a travesty of justice by denying a remedy to an adversely affected party who was not heard. The Rule must be interpreted to advance "access to justice." The bar in Rule 5 must yield to the foundational principles of natural justice and the legal maxim ubi jus, ibi remedium (where there is a right, there is a remedy). The court relied upon its earlier decisions in Smt. Jatan Kanwar Golcha v. Golcha Properties (P) Ltd. [AIR 1971 SC 374] and State of Punjab v. Amar Singh [AIR 1974 SC 994], emphasizing that an Appeal, with the leave of the court, is maintainable by a non-party who demonstrates that the order is prejudicial to his interest or adversely affects him.

## Suvej Singh v. Ram Naresh And Ors. – Judgment Dated December 9, 2025 [2025 INSC 1405]

*U.P. Revenue Code, 2006 — Ss. 30 & 38 — Correction of revenue map — Scope.*

Once correction of a revenue map has been finally adjudicated under the U.P. Land Revenue Act, 1901, the same issue cannot be reopened under S. 30 of the 2006 Code in the absence of any error or omission. S. 30 does not permit alteration of location of land or reopening of settled rights under the guise of correction. Remand based on misinterpretation of S. 30 held unsustainable.

## Facts:

The private Respondents sought correction of the revenue map in respect of Plot No. 22, claiming alteration in the location of Plot No. 22/3. An earlier application under Section 28 of the U.P. Land Revenue Act, 1901, was dismissed by the Collector on 27-5-1998 on the basis of a Commission's report showing possession of the Appellant over Plot Nos. 22/1 and 22/2 and of the Respondents over Plot No. 22/3. The dismissal was affirmed by the Additional Commissioner on 4-9-2001, attaining finality. After a lapse of about 17 years, the Respondents again filed an application under Sections 30/38 of the U.P. Revenue Code, 2006, seeking correction of the map. The said application was dismissed by the Additional Collector on 15-1-2020, and the dismissal was upheld in Appeal on 25-4-2023. The High Court, however, set aside both orders and remanded the matter for fresh consideration.

## Issues Involved:

1. Whether an application under Section 30 of the U.P. Revenue Code, 2006 can be used to reopen and alter the location of land when the issue of correction of the revenue map had already attained finality under the U.P. Land Revenue Act, 1901?

2. Whether the High Court was justified in remanding the matter despite concurrent findings that no error or omission existed in the revenue records?

3. Whether such remand amounted to misinterpretation of Section 30 of the Code and resulted in avoidable multiplicity of litigation?

Held:

The Supreme Court held that Section 30 of the U.P. Revenue Code, 2006, obliges the Collector

to maintain maps and field books and to correct errors or omissions, but does not confer power to reopen settled disputes or to change the location of a plot. The use of the word "also" in Section 30 clarifies that correction is ancillary to maintenance and not a substantive power to unsettle final adjudications. The issue of correcting the map had attained finality in 2001 and could not be reagitated after 17 years. The High Court misread Section 30 and wrongly ordered remand, thereby generating unnecessary litigation. Reliance placed on Satyadhyan Ghosal v. Deorajin Debi [AIR 1960 SC 941] was held inapplicable. The Court reiterated the principle against unnecessary remands, relying on M.C. Mehta v. Union of India [(1999) 6 SCC 237], State of U.P. v. Sudhir Kumar Singh [(2021) 19 SCC 706] and Krishnadatt Awasthy v. State of M.P. [2024 SCC Online SC 493]. The impugned High Court order was set aside, and the Appeal was allowed.

## Jyoti Sharma v. Vishnu Goyal & Anr.; Judgment Dated September 11, 2025 [2025 INSC 1099]

*Eviction - In an eviction suit, ownership of the premises need not be proved with the rigour of a title suit - A tenant inducted by the landlord and paying rent for long cannot dispute the landlord's or successor's title - A probated Will confers legal sanctity and cannot be rejected on conjectures - Attornment proved by acceptance of rent and registered notice; concurrent findings ignoring material evidence held perverse.*

### Facts of the Case:

The disputed shop was let out in 1953 by Ramji Das to the father of the defendants, who carried on a grocery business. After his death, the defendants continued the tenancy. Ramji Das executed a Will dated 12-05-1999 bequeathing the shop to his daughter-in-law (plaintiff) and died on 07-08-1999. The plaintiff sought eviction and recovery of arrears of rent from January 2000 on grounds of default and bona fide requirement for expansion of the family sweets business run in the adjacent premises. The defendants denied the plaintiff's title, questioned the Will, and disputed attornment. The trial court dismissed the suit; the dismissal was affirmed in the Appeal and the second Appeal.

### Issues Involved:

(i) Whether the plaintiff established a landlord-tenant relationship and ownership sufficient for eviction.

(ii) Whether the tenant could dispute the title of the original landlord after a long-standing tenancy.

(iii) Whether the absence of formal attornment or acknowledgment defeated the plaintiff's claim.

(iv) Whether suspicion cast on the Will by the courts below was legally sustainable.

(v) Whether a bona fide requirement for expansion of business was proved.

### Held:

The Court held that in eviction proceedings, ownership need not be proved with the rigour required in a title suit, and the tenant was estopped from disputing Ramji Das's title after entering possession under his lease and paying rent for over half a century. Reliance was placed on the relinquishment deed (Exh. P-18) and admitted payment of rent. The Will could not be disbelieved on conjectures; moreover, its probate conferred legal sanctity. Attornment stood established through acceptance of rent and registered notice, raising a presumption of service. The courts below ignored material evidence and returned perverse findings. A bona fide need for expansion of the family business was proved. Orders of all courts were set aside; eviction and recovery of arrears were decreed, with six months' time granted subject to an undertaking.

# THE CHAMBER NEWS



**Mehul Sheth**



**Ankit Sanghavi**

Important events and happenings that took place online/ physical between December 1, 2025, and December 30, 2025 are being reported as under:

## ADMISSION OF NEW MEMBERS

The details of new members who were admitted in the Managing Council Meeting held on December 17, 2025 are as under:

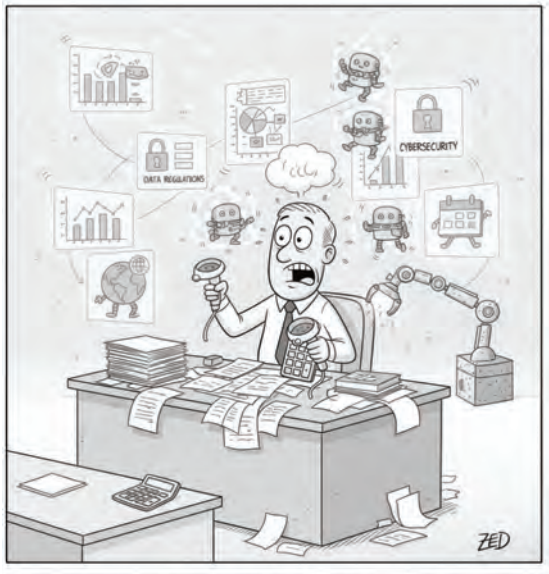
| Type of Memberships | No. of Members |
|---|---|
| Life Member | 7 |
| Ordinary Member | 5 |
| Half-yearly - Ordinary | 9 |
| Digital Membership | 5 |
| Student Member | 6 |
| Associate | 0 |
| Total | 32 |

## PAST PROGRAMMES

| Sr. No. | Date | Topics | Speakers |
|---|---|---|---|
| **Indirect Taxes** | | | |
| 1 | 03.12.2025 | Study Circle - Key Issues and Practical Challenges under GST in the Real Estate and Infrastructure Industry | CA Shilpi Jain<br>**Mentor:**<br>CA Badrinath NR |

| | | | |
|---|---|---|---|
| **Direct Taxes** | | | |
| 1 | From the 1961 to the 2025 Act: A Comparative and Interpretative Study<br>Jointly with IMC Chamber of Commerce & Industry and Bombay Chartered Accountants Society | | |
| a | 06.12.2025 | Background - Section 6 and Section 9; Savings Clause and Repeals & Transition provisions | Sr Adv Saurabh Soparkar |
| b | 09.12.2025 | Business Income/ Capital Gains/ IFOS - and set- off of losses provisions | CA Jimit Devani |
| c | 11.11.2025 | Charitable Trusts | CA Gautam Nayak |
| d | 13.12.2025 | TDS / Exemptions and deductions | CA Bhaumik Goda |
| e | | Assessment & reassessment + appeals | CA Jagdish Punjabi |
| 2 | 23.12.2025 | Recent Important Decisions Under Direct Tax | CA Sailee Gujarathi |
| **Members' Development & Outreach** | | | |
| 1 | 06.12.2025 | The Turf Cricket Triangular League Cricket Tournament - Jointly with GSTPAM & MCTC | |
| 2 | 12.12.2025 | Lecture meeting on The World in 2026 and Beyond – Jointly with BCAS | Mr. Sundeep Waslekar |
| **Commercial & Allied Laws** | | | |
| 1 | 09.12.2025 | Webinar on C3: Corporate Compliance Catchup (under the framework of the Companies Act, 2013) | CS Raj Kapadia |
| 2 | 16.12.2025 | The 4 Cs: Crafting Care in Commercial Contracts | Adv. Bhumesh Verma |
| **Digital Connect** | | | |
| 1 | 10.12.2025 | How taxing is the DPDP Act and Rules! [Digital Personal Data Protection Act, 2023 & Digital Personal Data Protection Rules, 2025] | CA Mini Gupta |
| **Delhi Chapter** | | | |
| 1 | 11.12.2025 | Recent issues on International tax - MLI & GAAR perspective | **Chairman –**<br>Mr. G.S. Pannu<br>**Panelist –**<br>Gaurav Singhal<br>CA Dhurv Sanghavi<br>**Moderator** –<br>CA Atul Puri |

| | | | |
|---|---|---|---|
| 2 | 24.12.2025 | Judgements of the Supreme Court on the Income tax / International tax, pronounced in CY 2025 | **Chairman-** Mr. G.S. Pannu<br>**Panelist -** CA Gaurav Jain<br>CA S. Sriram<br>**Moderator –** Adv Anmol Sinha |
| **Study Circle & Study Group** | | | |
| 1 | 12.12.2025 | Analysis of Sections 68 to 69D of the Income Tax Act | CA Jadgish Punjabi |
| **Student** | | | |
| 1 | 13.12.2025 | Interactive E-Workshop on GST Annual Returns (GSTR-9 & GSTR-9C) | CA Sumit Jhujhuwala |
| 2 | 20.12.2025 | 3rd National The Chamber of Tax Consultants Indirect Tax Moot Court Competition, 2025-26 - Preliminary Round | |
| | 21.12.2025 | 3rd National The Chamber of Tax Consultants Indirect Tax Moot Court Competition, 2025-26 - QF & SF Round | |
| **International Taxation** | | | |
| 1 | 19.12.2025 | Study Circle - Recent Updates to ORCD Model Convention, 2025 | CA K. Prasanna |

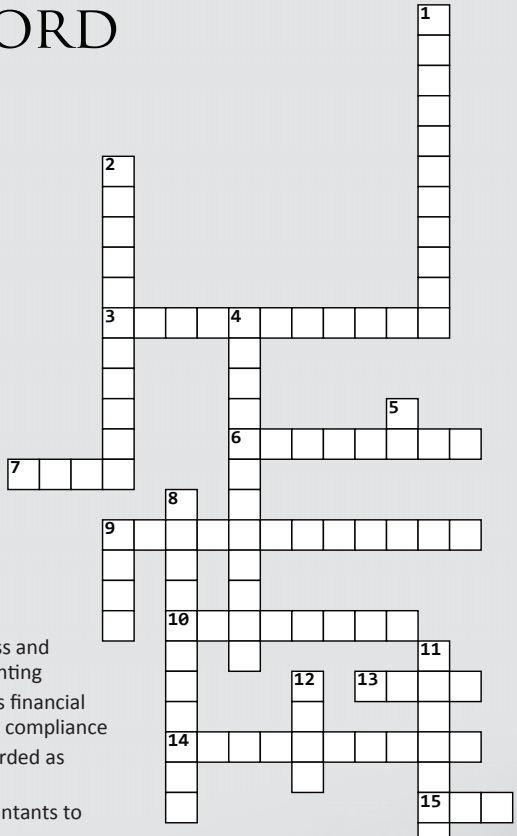



ACCOUNTING TODAY: TOO MANY BOTS IN THE SYSTEM.
I BEG TO DIFFER!




ACCOUNTING TODAY: VIRTUAL REALITY IS NO ESCAPE.
I BEG TO DIFFER!

# Crossword



## Across

3. Concept ensuring fairness and absence of bias in accounting
6. Profession that examines financial records for accuracy and compliance
7. Pacioli Italian monk regarded as the father of accounting
9. Principle requiring accountants to exercise caution
10. Financial statements prepared at the end of an accounting period
13. Body regulating chartered accountants in India
14. Historical period when accounting evolved alongside trade and commerce
15. Computerised system that transformed modern accounting

## Down

1. System of record-keeping developed by Luca Pacioli in 1494
2. Ancient civilisation known for early accounting records on clay tablets
4. Indian legislation governing the accounting and auditing profession
5. Technological innovation enabling real-time accounting data
8. Audit opinion indicating no material misstatements
9. Framework governing professional conduct and ethics
11. Branch of accounting focused on internal decision-making
12. Standard-setting body for international accounting standards

**Scan to check the Answers**



# DAY 1
Friday
# 30TH
January 2026

**9.00 am – 10.00 am**
**Registration & Breakfast**
A warm welcome to the day with registrations and a networking breakfast to kick-start meaningful conversations.

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**10.00 am – 10.20 am**
**Inaugural Session**
Setting the vision, purpose, and expectations for a day of insights, dialogue, and thought leadership.

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**10.20 am – 11.00 am**
**India – Path to a USD 5 Trillion Economy**
A visionary address on India's economic journey, growth drivers, policy initiatives, and the road ahead.

Speaker: **Eminent Personality**

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**11.00 am – 11.30 am**
**Networking & Tea Break**
A refreshing pause to reconnect, exchange ideas, and build professional relationships.

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**11.30 am – 1.00 pm**
**The Triple Lens: Accounting, Tax & FEMA in the Capital Market Maze** *(Including Investments in Companies Outside India)*
An integrated perspective on capital market transactions, decoding complexities across accounting standards, taxation, FEMA, and overseas investments.

Panelists: • **CA Jayesh Gandhi** • **CA Vishal Gada**

Moderator: **CA Anil Sathe**

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**1.00 pm – 2.00 pm**
**Networking and Lunch-Break**
An opportunity to network informally with peers and speakers over lunch.

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**2.00 pm – 3.00 pm**
**Start-ups Unplugged: Beyond Valuations & Ventures**
An unfiltered conversation on the start-up ecosystem, focusing on real-world challenges, compliance, funding dynamics, and long term sustainability.

Panelists: • **CA Sujal Shah** • **CA Anand Bathiya** • **Mr. Runal Dahiwade**

Moderator: **CA Ninad Karpe**

**3:00 PM – 4:00 PM**
**Bulls, Bears & Beyond: The Capital Markets Dialogue**
An expert-led dialogue on market cycles, investor sentiment, emerging trends, and the future direction of capital markets.

Panelists: **Mr. Raamdeo Agrawal,** *Chairman & Co-Founder, Motilal Oswal Financial Services Ltd* • **Mr. Madhusudan Kela**, *Founder, MK Ventures & Eminent Faculties*

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**4:00 PM – 4:30 PM**
**Networking & Tea Break**
A mid-afternoon networking break to refresh, reflect, and reconnect with peers.

---

**4:30 PM – 5:45 PM**
**Related Party Transactions – Nuances**
*(Covering Domestic & International Tax, Indirect Tax, Corporate Law & SEBI Reporting)*
A deep dive into the evolving regulatory and reporting landscape of related party transactions, encompassing domestic and international taxation, indirect taxes, corporate law, and SEBI compliance requirements.

Panelists: **CS Savitri Parekh** • **CA Yogesh Thar**

Moderator: **CA Apurva Shah**

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**5:45 PM – 6:45 PM**
**AI: Friend, Foe and Future?**
A thought-provoking discussion on how artificial intelligence is reshaping professions, unlocking efficiencies, and redefining the future of work.

Panelists: **Mr. Pallav Chaturvedi,** *Deloitte & Eminent Faculties*
Moderator: **CA Jiger Saiya**

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**7:00 PM Onwards**
**Dinner**
A relaxed networking dinner to conclude the conference on a convivial and engaging note.

Centenary Conference 30-31 JAN. 2026 | Hotel Sahara Star Mumbai

100 शताब्दी SUMMIT

**Programme Highlights**

# DAY 2
Saturday
# 31ST
January 2026

**9:00 AM – 10:00 AM**
**Breakfast**
Begin the day with a relaxed breakfast and informal networking with fellow delegates and speakers.

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**10:00 AM – 11:00 AM**
**Institutionalizing the Tax Practice**
A strategic discussion on building scalable, sustainable, and professionally managed tax practices in a rapidly evolving regulatory environment.

Panelists: **Sr. Adv. Nishith Desai** • **CA Dinesh Kanabar**

Moderator: **CA Vaibhav Manek**

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**11:00 AM – 11:45 AM**
**GST @8: Learning Curves & Leapfrogs**
Reflecting on eight years of GST—key learnings, persistent challenges, and opportunities to leapfrog into a more efficient tax regime.

Panelists: **Mr. Deepak Garg,** *Ex. IRS, Sr. Executive VP, RIL* • **Mr. Rohan Shah,** *Sr. Advocate*

Moderator: **CA A. R. Krishnan**

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**11:45 AM – 12:00 PM**
**Networking & Tea Break**
A mid-morning pause to refresh, network, and exchange perspectives with peers

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**12: 00 Noon – 1:30 PM**
**From Private to Public: Professional's Critical Role in IPOs**
An end-to-end exploration of the IPO journey, highlighting the pivotal role of professionals in governance, compliance, valuation, and market readiness.

Panelists: **Mrs. Deena Mehta,** *Director – Asit C Mehta Financial Services Ltd.* • **Mr. Bhavesh Shah,** *MD, Head – Investment Banking, Equirus* • **Mr. Sudhir Bassi,** *Executive Director – Khaitan & Co.* **& Eminent Faculty**

Moderator: **CA Hasmukh Dedhia**

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**1:30 PM – 2:15 PM**
**Networking & Lunch Break**
Connect, collaborate, and unwind over lunch with industry leaders and colleagues

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**2:15 PM – 3:45 PM**
**Succession Planning – Trust, Transparency & Tax**
An insightful session on succession frameworks, balancing family dynamics, governance structures, and tax-efficient wealth transition.

Panelists: **Dr. (CA) Anup Shah** • **Adv. Bijal Ajinkya**

Moderator: **Mr. Girish Venkatraman**

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**3:45 PM – 4:45 PM**
**In Conversation with a Legend**
An exclusive, candid conversation with A Legend sharing wisdom, experiences, and lessons from distinguished professional journeys.

Panelists: **Eminent Personality**

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**4:45 PM – 5:00 PM**
**Closing Ceremony**
Summing up key takeaways, acknowledgements, and reflections as the conference draws to a close.

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**5:00 PM – 5:45 PM**
**Networking & Hi-Tea**
End the day with informal networking over hi-tea.

# Let's Connect!

**For Details and Registration, please visit our website**

**https://ctconline.org/upcoming-events**

*Note : The above schedule/topic is subject to changes, if circumstances so warrant.*

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