



Gurugram Branch of NIRC

The Institute of Chartered Accountants of India

Chartered Accountant | e-NEWSLETTER

JUNE 2018 | VOLUME 1

Chairman's Message

Dear Professional Colleagues and Students,

June is a month to welcome the monsoon. Everyone looks expectantly to the arrival of rains to give them respite from the scorching summer heat of Gurugram. However, we are yet to see a regular downpour that can bring cheers for everyone. The monsoon plays a very important role in Indian economy and a good monsoon will help in improving the market sentiments. We pray rain god and hope for a good monsoon season ahead.

When I speak of passion, I mean the powerful feeling of enthusiasm we all have inside of us. When we are enthusiastic and proud of the work we do, the better equipped we'll be to overcome the many obstacles that will surely arise in our professional life. Also, the more enthusiasm we have, the more inclined we are to work harder at improving ourselves. Ensuring we are passionate about our work will provide us with both, a meaningful career as well as excellent financial opportunities. It is passion which differentiates between the ordinary and the extra ordinary.

During the past month we have been able to conduct Seminars for members on various topics. The most important event of the past month was the organisation of the Two Days Conclave on Taxation, Important Aspects in context of Financial Reporting and Auditing which was of immense value to the participants. We have also organized "National CA Students Talent Search-2018 for our students.

Our branch is also going to host "Certificate Course on Forensic Accounting and Fraud Detection" for members on 12th, 18th, 19th, 24th, 25th, 31st Aug and 1st Sep 2018 at Gurugram, conducted by ICAI, details are available at our site www.icaigurgaon.org.

We are trying to develop a close association with the members and with this vision we feel that we can have a closely knit family in which everything will go peaceful and there is a peaceful coexistence between nature and humanity. In the coming month also we have planned for a number of programmes so I will request you to go through the forthcoming programme overleaf.

I would like to take this opportunity to sincerely thank all the contributors for sending the updates and sparing their precious time for the cause of the profession. In order to make the newsletter more resourceful, we need your support by way of contribution of updates, useful suggestions, etc. All feedbacks, suggestions and grievances are always welcome. You can mail me that at gurgaon@icai.org.



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INDEX

03 | How to overcome S.197 imbroglio?
05 | IFRS 17 (Lease Accounting & Reporting)
08 | The Power of Crowd Funding for Indian Start-Ups
09 | GST Audit – A Professional challenge

11 | Appeals, Review and Revision in GST
14 | Ease of Doing Business in India
17 | Certificate Course on Concurrent Audit of Banks
18 | Certificate Course on "Forensic Accounting and Fraud Detection"

19 | Glimpses
24 | Corporate tie-up



Dear Professional Colleagues,

The monsoon is just set in and it will bring respite from the scorching heat. Its also time to look towards our environment and plant trees to observe World environment Day. The holy month of Ramzan has also begun and my sincere prayers to the almighty to take our country to its golden era.

Communication, as we all know, is the lifeline of the organisation. Towards this, the e-Newsletter is an important means. We made a research to review the efficacy of this means. We found, leave apart the content, we are possibly not able to make all members read this e-Newsletter. The reasons are many. One step towards correcting this situation is to ensure that we have, for all the members; their respective updated contact details and mailing addresses including email IDs. I request you all to please take this trouble to check with Branch office on phone or on email or by written letters these details to ensure these are updated. I know this is an onerous task but my plea to all as this would help me reach you with ease and ensure close coordination amongst all of us. The same will enable all our CA Students to look for any information with a click of mouse.

The branch is always active in organizing various Conferences, Seminars and similar programmes to facilitate Continuous Professional Education and to offer a platform for interaction among Members to share and benefit from mutual diverse experiences and vision.

Gurugram Branch is open to new ideas and programs. So all members are requested to give suggestions and contribute your thoughts. We are trying to bring in all the novel programs. But your suggestions and ideas will encourage us. It is rightly said by Mahatma Gandhi "Live as if you were to die tomorrow, Learn as if you were to live forever." So let's all continue the process of learning, unlearning and relearning.



Manish Goyal

CA. Manish Goyal
(Secretary)
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The recent decision by the Bombay High Court in *Tata Teleservices (Maharashtra) Limited v Dy CIT (TDS) and others (2018) 402ITR384* is a stern reminder to the department to follow the rule book in the course of issue of certificate of lower deduction u/s 197 to an assessee who has losses in their business. In this case the assessee filed returns declaring loss in the preceding four assessment years and further therefore made a submission that there would be no assessable profit for the assessment year 2018-19 in view of the carried forward losses. Based on these facts the assessee submitted an application for NIL deduction certificate under sections 194 , 194A , 194C , 194-I , 194H and 194J respectively.

In the initial course a certificate of NIL deduction was granted but later after about five months such certificate was cancelled stating that the financial condition of the assessee was such that any future tax payable might not be recoverable from the assessee and that there was an outstanding tax demand of Rs. 6.90 crores payable by the assessee.

The only course available to the assessee therefore in this case was a petition to Commissioner (Administration) u/s 264 who happens to be the person who gave the concurrence to such cancellation. Hence the assessee chose to approach the High Court in this case. Brushing aside revenue objection and finding such course as justified the Court held that the revision, i.e., alternative remedy would in fact be from "Caesar to Caesar." Therefore, in such a case an alternative remedy would be a futile/empty formality and not an efficacious remedy. It further drew attention to *Ram and Shyam Co. v. State of Haryana [1985] 3 SCC 267* in precedence to their own ruling in *Larsen and Toubro Ltd. v. Asst. CIT (TDS) [2010] 326 ITR*

514 that an order passed under section 197 of the Act, is amenable to revision under section 264 of the Act.

The High Court observed that Section 197 is a facility to an assessee who may not be liable to tax, to have the benefit of not having tax deducted at source on his behalf being made completely nugatory. The High Court held that section 197 confer a right upon an assessee to apply for nil/lower rate of withholding tax under section 197 of the Act and at the same time it provides for an obligation upon the Assessing Officer to grant the same, if the conditions specified therein are satisfied. Further it held that the order passed under section 197 of the Act is an order which is a quasi judicial order and must be supported by reasons.

The Court also held that the issuing authority has no power to review the certificate except that it can cancel it from future date subject however to the fact that there is a change in the facts as existing on the date of issue and as existing when the impugned order for cancellation is passed. As in this case there was no change in facts the impugned order for cancellation therefore in Court's view did not hold any justification.

Also the so called outstanding demand stood covered by its own case in another assessment year. More so the order seeking to cancel the certificate was a non-speaking order as it did not consider the assessee's submissions as regard to outstanding demand position. Further it was found that no reasons were recorded by the officer before cancellation.

The High Court finally also held that the principles of natural justice is further compromised in this case since the Department if it were to cancel the certificate on the ground that a particular aspect(like outstanding demands) had not been considered before taking a decision to cancel the certificate already granted, it must have satisfied the requirement of



natural justice by giving a copy of the same to the assessee and heard the assessee on it before taking a decision to cancel the certificate.

On the basis of this ruling now one can question any order u/s 197 on following counts:

1. Whether the procedure governed by principles of natural justice is followed by him?
2. Whether he has passed a speaking order?
3. Whether the officer considered only existing / estimated liability and not past demands that are under litigation or covered demands?
4. Whether the officer has strictly followed rule 28AA conditions?
5. Whether the AO did record reasons for any

rejection or cancellation?

6. Whether the cancellation, if any is made applicable only from the date of order of cancellation?

Thus one must never compromise on any situation and counter all arguments in work and ethics and make the officer follow the rule book. Procedurally following safeguards should be employed:

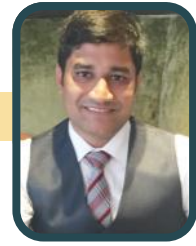
1. Submit application in present pan jurisdiction only at Aayakar Seva Kendra (ASK) counter.
2. File maximum details and supporting with application.
3. File all additional documents and details only at ASK instead in Ward/Circle office.

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In January 2016, IASB issued another important and long-discussed standard: IFRS 16 Leases that will replace IAS 17. As we know that under IAS 17, lessees needed to classify the lease as either finance or operating. However if the lease was classified as operating, then the lessees showed neither asset nor liability in their balance sheets and it was considered as an off BS items but just showing the lease payments as an expense in profit or loss. However some operating leases were non-cancellable, and therefore, they represented a liability (and an asset) for the lessees. This liability was hidden from the readers of the financial statements, as it was not presented anywhere. Though some disclosures in the notes to the financial statements were mandatory but not sufficient to compare the financials of the entity who capitalize the similar lease as finance lease. The purpose of new IFRS 16 to removes this discrepancy and puts most leases on balance sheet.

SNO	Category	IAS 17	IFRS 7
1	Focus	The focus is on who bears the risks and the rewards of the lease	The focus is on who has the right to use the asset
2	Recognition of Lease	Finance leases are recognized as assets and operating leases are recognized as expenses	All leases are recognized as assets except few exception.
3	Accounting treatment	The accounting treatment of operating leases is less complex than the treatment of finance leases and the volume of operating leases is predominantly higher than that of finance leases. So, currently, accounting departments have a lower volume of the challenging calculations to make	As all leases will be treated under the same accounting treatment, accounting departments will have a higher volume of complex amortization calculations to perform.
4	Comparison	It is difficult to compare company's financial statements (FS) who lease with those who buy	Improved comparability and transparency on BS. FS users can clearly see the effect of operating lease and have a useful basis for comparability with the other companies
5	Split of Rent / Lease charges	Do not need to split services charges (AMC) with rent as both go to P&L in case of operating lease	We need to split AMC charges with rent so that we can do separate accounting.

IFRS 16 is effective for reporting periods beginning on or after 1 January 2019. Earlier application is permitted, but only in conjunction with IFRS 15. This means that an entity is not allowed to apply IFRS 16 before applying IFRS 15. The date of initial application is the beginning of the annual reporting period in which an entity first applies IFRS 16. So lets go through the IFRS 16 in detail.

IFRS 16 defines a lease as a contract, or part of a contract, that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration. At first sight, the definition looks straightforward. But, in practice, it can be challenging to assess whether a contract conveys the right to use an asset or is, instead, a contract for a service that is provided using the asset.

For example, an entity might want to transport a specified quantity of goods, in accordance with a stated timetable, for a period of five years from A to B by rail. To achieve this, it could either rent a number of rail cars or it



could contract to buy the transport service from a freight carrier. In both cases, the goods will arrive at B – but the accounting might be quite different!

Leases are different from service contracts: a lease provides a customer with the right to control the use of an asset; whereas, in a service contract, the supplier retains control.

IFRS 16 states that a contract contains a lease if:

- There is an identified asset; and
- The contract conveys the right to control the use of the identified asset for a period of time in exchange for consideration.

An asset can be identified asset either explicitly or implicitly. If explicit, the asset is specified in the contract (for example, by a serial number or a similar identification marking); if implicit, the asset is not mentioned in the contract (so the entity cannot identify the particular asset) but the supplier can fulfil the contract only by the use of a particular asset. In both cases there may be an identified asset. In any case, there is no identified asset if the supplier has a substantive right to substitute the asset. Substitution rights are substantive where the supplier has the practical ability to substitute an alternative asset and would benefit economically from substituting the asset.

A contract conveys the right to control the use of an identified asset if the customer has both the right to obtain substantially all of the economic benefits from use of the identified asset and the right to direct the use of the identified asset throughout the period of use.

As a simple illustration, let me come up with a small example:

Imagine you want to rent some space in the warehouse for storing your goods. You'd like to enter into a 3-year rental contract. The owner of

that warehouse offers 2 options to you:

1. You will occupy a certain area of XY cubic meters, but the specific place will be determined by the owner of the warehouse, based on actual usage of the warehouse and free storage.
2. You will occupy the unit no. 13 of XY cubic meters in the sector A of that warehouse. This place is assigned to you and no one can change it during the duration of the contract.

Both contracts look like lease contracts, and indeed, in both cases, you would book the rental payments an expense in profit or loss under older IAS 17. However from IFRS 9 perspective:

- The first contract does not contain any lease, because no asset can be identified.

The reason is that the supplier (warehouse owner) can exchange one place for another and you lease only certain capacity. Therefore, you would account for rental payments as for expenses in profit or loss.

- The second contract does contain a lease, because an underlying asset can be identified – you are leasing the unit no. 13 of XY cubic meters in the sector A.

Therefore, you need to account for this contract as for the lease and it means recognizing some asset and a liability in your balance sheet. This was a very simplified illustration to make you aware of this and it's by no means exhaustive – but you get a point.

Further under new IFRS 16, you need to split the rental or lease payments into lease element and non-lease element, because you need to:

- Account for a lease element as for a lease under IFRS 16 (if it meets the criteria in IFRS 16); and
- Account for a service element as before, in most cases as an expense in profit or loss.



From our example above: let's say you took the option 2 and you pay CU 10,000 per year. This payment includes the payment for rental of the unit no. 13 and its cleaning once per week.

Therefore, you need to split the payment of CU 10,000 into lease element and cleaning element based on their relative stand-alone selling prices (i.e. for similar contracts when got separately).

You find out that you would be able to rent out similar unit in the warehouse next door for CU 9,000 per year without cleaning service, and you would need to pay CU 1,500 per year for its cleaning.

Based on this, you need to:

- Allocate CU 8,571 ($CU\ 9,000 / (CU\ 9,000 + CU\ 1,500)$) to the lease element and account for that as for the lease; and
- Allocate CU 1,429 ($CU\ 1,500 / (CU\ 9,000 + CU\ 1,500)$) to the service element and in this case, probably recognize it in profit or loss as an expense for cleaning.

Not an easy thing, especially when the stand-alone selling prices are not readily available.

Another biggest change is that lessees (those who take an asset under lease) do not need to classify the lease at its inception and determine whether it's

finance or operating.

The reason is that IFRS 16 prescribes a single model of accounting for every lease for the lessees. Very shortly:

- Lessee needs to recognize a right-of-use asset and corresponding liability in its statement of financial position.
- An asset shall be depreciated and a liability amortized over the lease term.

This model is very similar to the accounting for finance leases under IAS 17. There are 2 exceptions from this rule. (a) Lease of assets for less than 12 months (short-term leases) & (b) Lease of assets of a low value (such as computers, furniture etc.). Accounting for leases by lessors almost does not change, so they can continue in the same way.

Thus we can say that new lease standard will have significant impact on the companies heavily working with operating leases. The financial indicators of these companies can substantially change, because new assets and liabilities are coming to the balance sheet. Also, many lessees will have a hard time to set up a system of gathering and analyzing enough information to satisfy new requirements.

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As the name suggests, crowd-funding revolves around raising funds from the 'crowds' for various purposes. Though traditionally the principles of crowd-funding were used primarily as medium of donations in times of need (sickness, stricken by natural calamities, poverty, etc.), avenues for crowd-funding have now multiplied manifold with start-ups looking forward to developing efficient strategies around it. With more and more young Indians coming up with innovative ideas to start their new ventures, crowd-funding could prove to be a blessing for young entrepreneurs with limited connections, networks or angel investors.

Crowd funding for start-ups can be broadly classified as two types:

Reward based: This is a traditional form of funding, where investors get rewards in return for their investment. This is popular amongst product-based start-ups, where investors can pre-purchase products that venture aims to produce.

Equity based: Relatively newer way of funding, this helps investors become shareholders by acquiring shares in proportion to the investment. This is a good proposition for service-based start-ups where investors may not be potential customers of the venture.

Crowd-funding in the West has had several positive impacts on new businesses and can certainly be considered as the next big avenue to raise funds for start-ups. Some good outcomes of crowd-funding observed in the west are:

Super-fast funding: Traditional practices of receiving funds from angel investors, bank loans have proven to be time-consuming and often expensive, however through crowd-funding, funds have often been raised within a month or two.

Disruptive Lending: Crowd funding has changed the way entrepreneurs are building start-ups, by connecting common people to businesses.

Just-in-time (JIT) feedback: Crowdfunding helps businesses realise and fine-tune to the expectations of potential customers even before launching their business. As a simple fact, people will invest only if they believe in the outcome.

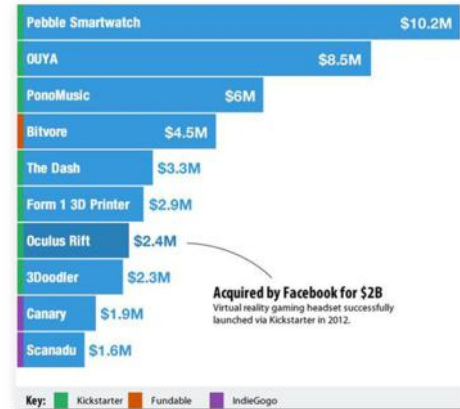
Reduces future marketing efforts: Collecting funds through crowd-funding is directly proportional to how well the venture (product/service) has been marketed, efficient social media marketing plays a critical role in crowd-funding, and these efforts pay well once the business is up and running.

Helps create a larger fan following: Crowd funding helps connect business with people eagerly investing in it, and thereby even promoting it. Businesses launched via crowdfunding have statistically had larger customer base in comparison to traditional businesses that are funded by debts or angel investors.

Globalisation: While via normal funding channels, entrepreneurs often approach local banks or investors, with crowd funding platforms there are no territorial boundaries,

there by a business will automatically have global investors/ shareholders and customers.

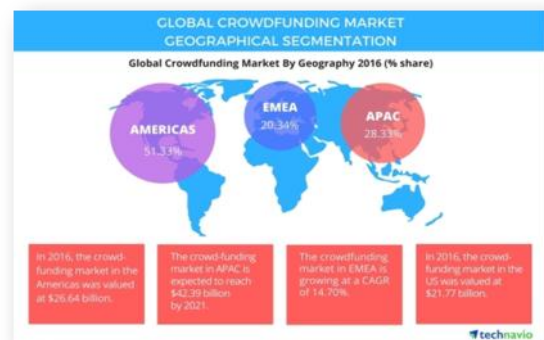
Some famous global examples of start-up success stories funded by crowd funding can be seen in the chart below:



These start-ups were launched on platforms like Kickstarter, Fundable, Indiegogo, and are classic examples of how effective business campaigning, pre-launch marketing strategies and viable platforms for crowd funding can help start-ups raise the required funds, develop sustainable business, furnish enthusiastic eco-system of shareholders, and have keenly interested customers as stepping stones for successful enterprise.

Closer home, Swiggy (food delivery start-up) - winning the best start-up of the year in the past - had raised (\$155 million) funds using crowd funding.

The image below shows the Global Crowdfunding Market in 2016, with a prediction of 17% CAGR (compounded annual growth rate) globally from 2017-2021, with APAC (Asia Pacific) expected to drive the major part of the growth - thereby giving Indian start-ups a new direction to focus their strategic endeavours.



In summary, crowdfunding has certainly taken the global start-up market by a storm, however a start-up must consider various legal (considering section 67 of Indian Companies Act 1956) and rational aspects to launch a successful crowd-funding campaign.



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GST Audit –A Professional challenge

“Audit” – Section 2(13) of the CGST Act/SGST Act

“Audit” means the examination of records, returns and other documents maintained or furnished by the registered person under the GST Acts or the rules made there under or under any other law for the time being in force to verify the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and to assess his compliance with the provisions of the GST Acts or the rules made there under.

Three types of audits are prescribed under the GST laws:

1. To be done by a chartered accountant or a cost accountant;
2. To be done by the commissioner or any officer authorized by him in terms of Section 65 and 66 of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 and Section 2 of UTGST Act, 2017.
3. The Special Audit- To be conducted under the mandate of Section 66 of CGST Act, 2017 read with Rule 102 of CGST Rules, 2017.

Relevant Provisions of GST Laws:

Section 35(5) of the CGST/SGST Act. :

Every registered person whose turnover during a financial year exceeds the prescribed limit [Rs 2 Crore by Rule 80(3) of CGST Rules 2017] shall get his accounts audited by a chartered accountant or a cost accountant and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 of CGST Act 2017 and such other documents in such form and manner as may be prescribed.

Section 44(2) of the CGST Act 2017:

Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under section 44(1) of CGST Act 2017 along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return

furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

Rule 80(3) of CGST Rules 2017, Every registered person whose aggregate turnover during a financial year exceeds two crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C', electronically through the common portal either directly or through a facilitation centre notified by the Commissioner.

1. Audit by a Chartered Accountant or a Cost Accountant

Section 35(5) of the CGST Act/ SGST Act read with Rule 80(3) of the CGST/SGST Rules, 2017

Every registered person whose turnover during a financial year exceeds the prescribed limit of Rs. 2 Crore shall get his accounts audited by a Chartered Accountant or a Cost Accountant.

The term “turnover” mean “aggregate turnover”.

The term “aggregate turnover” has been defined as under vide Section 2(6) of the CGST Act/SGST Act:

“Aggregate Turnover” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess

Preparation for GST Audit :

First financial year in the GST Regime ended on 31.03.2018 and GST Audit shall be conducted for the first time. So, plenty of preparation is required both on the part of GST Auditor and GST Assessee. In case of Statutory Audit and Tax Audit (u/s 44AB of the Income Tax Act), the main focus of the auditor is on the financial records. On the other hand, the scope of GST



Audit is wider than scope of audit under Income Tax Act, 1961. It is important that while conducting the statutory and Tax Audit, one should must take care the various provisions of GST Acts/Rules [including various mandatory records to be maintained], requirements of reporting and source of information, understanding the nature of business of the concerned assessee. Since there were number of Notifications, Circulars & orders issued during the year 2017-18, so one should have much take care while conducting the GST Audit.

Section 44 – Annual Return (CGST ACT)

(1) Every registered person, other than an Input Service Distributor, a person paying tax under section 51 or section 52, a casual taxable person and a non-resident taxable person, shall furnish an annual return for every financial year electronically in such form and manner as may be prescribed on or before the thirty-first day of December following the end of such financial year.

(2) Every registered person who is required to get his accounts audited in accordance with the provisions of sub-section (5) of section 35 shall furnish, electronically, the annual return under sub-section (1) along with a copy of the audited annual accounts and a reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement, and such other particulars as may be prescribed.

Here, we have to complete and file Statutory and Tax Audit up to due date i.e. 30/09/2018 or as applicable. Other sides GST Audit Report have to complete and file up to the due date as per Sec 44 of CGST Act i.e. 31/12/2018. Even due date is 31/12/2018, but important is here we have to make sure our self that all the provisions has complied by the assessee before completing the statutory and Tax audit. If some where difference, it will impact on professional certification/report. So we have to take care all GST provision during statutory and Tax Audit.

Following are the various steps and checklist which a GST Auditor may take in connection with GST Audit.:

1. To check the Aggregate Turnover of the assessee as per the Section of 2(6) of CGST Act.

2. To check whether Accounts and records has been maintained & kept as per the provision of Section 35 of the CGST Act.
3. To check and verify that the whether Supply as per Section 7 of CGST Act alongwith Schedule I & II, considered in returns.
4. To ensure that transaction covered under Schedule III of the Act have not been taken in the return as part of Aggregate Turnover.
5. To check, in case of Composite and Mixed supply, the tax liability has been determined as per Section 8 of the CGST Act.
6. To verify that tax liability under RCM u/s 9(3) & 9(4) (upto 12/10/2017) of the CGST Act has been determined and paid accordingly.
7. Refer the notification for exemption and for change of rate during the audit periods. There are frequently notifications, circulars orders and trade notices etc. issued during the year 2017-18.
8. To check and verify that the liability to pay tax on goods and service computed and paid as per Section 12 of CGST i.e. time of supply of Goods & Services.
9. Another most important to check & verify the correct place of supply in term of Section 10-13 of the IGST Act. The place of supply determined the destination of tax and accordingly allocation of tax made to different states.
10. To ensure that value of outward and inward supply determined as per Section 15(1) & (2) of CGST Act.
11. Another important part of Audit that whether input tax credit has been taken as per the Section 16 of CGST Act and determined of tax credit in certain cases and reversal there of as per rule 42 of Input Tax Credit Rules.

On conclusion, GST Audit is another challenge & professional opportunity for us. Being a partner in Nation Building, it is our professional duty to help and complete the purpose of induction of this new chapter.



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Introduction

Tax laws broadly impose two types of obligation :
 a) Tax related b) Procedural related. Some times there are situation of actual and perceived non compliance. If difference in views persist , it result into disputes that need to be resolved. There may be different view and opinion on one subject , therefore it is likely that taxpayer may not be agree on “adjudication order” passed by the tax officer. It is also possible that department may not agree with the adjudication order in some cases. That is why GST Law has provided channel of appeal to both sides. Appeal is statutory right. The Act also provide that if proper officer under the CGST , SGST and UTGST ACT has passed the order, appeal, review or revision against the said order shall lie with the proper officer of the Act .

Should every appeal be made to both CGST & SGST authorities?

No. As per the CGST & SGST/UTGST officers are empowered to pass orders. As per the Act, an order passed under CGST will also be deemed to apply to SGST. However, if an officer pass order under CGST , any appeal/review/ revision/ rectification against the order will lie only with the officers of CGST. Similarly, for SGST, for any order passed by the SGST officer the appeal/ review/revision/rectification will lie with the proper officer of SGST only.

Appellate Mechanism

A taxpayer aggrieved by the order of adjudicating authority can file a appeal with Appellate Authority [AA]. Appeal must be against a order

of adjudicating authority.

Channel of Appeal is shown below;



Can all decisions be appealed against?

No. Appeals cannot be made for the following decisions taken by a GST officer-

1. An order to transfer the proceedings from one officer to another officer
2. An order to seize or retain books of account and other documents; or
3. An order sanctioning prosecution under the Act; or
4. An order allowing payment of tax and other amount in installments

A person unhappy with any decision or order passed against him under GST by an adjudicating authority can appeal to the First Appellate Authority.

If they are not happy with the decision of the First Appellate Authority they can appeal to the Appellate Tribunal, then to High Court and finally Supreme Court

First Appeal with Appellate Authority: [Section - 107 of CGST Act,2017]

1. Appeal shall be filed with in three months from the date of communication of said order.
2. Commissioner at his own or request from commissioner of state or UT can review the order and apply to Appellate Authority within 6 months from the date of communication of



the said order.

3. Before filing the first appeal by the appellant, the following payment need to be paid;
4. Amount of tax, interest, fee and penalty as agreed by appellant from the impugned order.
5. A sum equal to 10% of the remaining amount of tax in dispute.
6. The AA will dispose of the appeal within period of one year from the date of filing.

Form of Appeal to Appellate Authority----> GST APL-01

Form of Appeal to Appellate Authority----> GST APL - 03 [in case of Review or revision order]

Power of Revisionary Authority [Section 108 of CGST Act,2017]

1. Revisionary authority at his own motion or request from commissioner of state or UT can call for examine the order passed under this act or under SGST or UTGST by any officer subordinate to him if the same is erroneous, improper or prejudicial to the interest of revenue. This may also on the observation of CAG also. RA can pass order which he may think proper including addition , deletion and annulling the order.
2. Revisionary authority can not exercise his power in the following cases;
 - a. Where the order has been in any four type of appeals as mentioned above
 - b. If the period of six months has been expired or three year have been expired after passing the order sought to be revised .
 - c. The order has already been taken in revision.
 - d. The order has already been passed.

Provided that RA may passed an order sub section -1, where any point has not been taken in appeal.

Appeal to Appellate Tribunal [Section 112 of CGST Act, 2017]

1. Any person aggrieved by order of Appellate Authority or Revisionary Authority of CGST, SGST or UTGST Act file appeal to Appellate Tribunal within 3 months from the date of order communicated.
2. Appellate Tribunal can refuse to accept the appeal if the amount under appeal does not exceed Rs. 50000. Amount of appeal may be of Tax, input credit or the amount of any fees or penalty.
3. Appellate tribunal may accept the appeal within three months after the expiry of initial three months under point no.1.
4. On receipt of the notice that appeal has been filed under this section, the party against whom the appeal has been filed , may move an memorandum of cross objection within 45 days from the date of receipt of notice, against any part of the order . Such memorandum shall be disposed by Appellate Tribunal as it was appeal in due course.
5. No appeal shall be filed unless the appellant has ;
 - Paid tax, interest ,fees and penalty in full from the impugned order as admitted by him.
 - Paid 25% of the remaining amount in dispute of the impugned order.
6. Appearance by Authorized Representative means the following person ;



- a. His relative or regular employees
- b. Advocate entitle to practice
- c. Chartered Accountant, cost accountant or company secretary who hold certificate of practice.
- d. Retired officer of commercial tax department of any state or UT who has not worked below the post of Grade-B Gazetted officer for not less than two years.

Form of Appeal to Appellate Tribunal- GST APL -05

Form of Appeal to Appellate Tribunal- GST APL -06 [in Case of Cross objection]

Form of Appeal to Appellate Tribunal- GST APL -07[Appeal of AT by Department]

Appeal to High Court [Section-117 of CGST Act,2017]

1. Appeal to the High Court shall be filed within 180 days from the date of order of the appellate tribunal has been received by the aggrieved person. HC can accept the appeal even after the said period if satisfied that there was reasonable cause for not filing the appeal.
2. Appeal filed in High Court shall be heard by bench of not less than two judges.

Form of Appeal to Appellate Tribunal- GST APL -08

Appeal to the Supreme Court [Section -118 of the CGST Act,2017]

Appeal to the Supreme Court Shall lie ;

- A. Against the order of Appellate tribunal [National or Regional Bench]
- B. Against the of order of High Court

Steps of appeals under GST

Appeal level	Orders passed by....	Appeal to	Sec-tions
1st	Adjudicating Authority	First Appellate Authority	107
2nd	First Appellate Authority	Appellate Tribunal	112
3rd	Appellate Tribunal	High Court	117
4th	High Court	Supreme	118

----- Disclaimer :

The contents of this article are solely for information and knowledge and does not constitute any professional advice or recommendation. Author does not accept any liability for any loss or damage of any kind arising out of this information set out in the article and any action taken based thereon.



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Ease of Doing Business in India

A. What is Ease of Doing Business

It is an index published by the World Bank. It is an aggregate figure that includes different parameters which define the ease of doing business in a country.

B. How can we compute this

It is computed by aggregating the distance to frontier scores of different economies. The distance to frontier score uses the 'regulatory best practices' for doing business as the parameter and benchmark economies according to that parameter.

For each of the indicators that form a part of the statistic 'Ease of doing business,' a distance to frontier score is computed and all the scores are aggregated. The aggregated score becomes the Ease of doing business index.

Indicators for which distance to frontier is computed include construction permits, registration, getting credit, tax payment mechanism etc.

In a Nutshell, Ease of doing business means easiness in below parameters.



C. Ease of Doing business in India

Governments at worldwide recognize the economic and political benefits of improved business regulation. Business regulation can enable new ideas to come to life. For ex- when a software engineer realizes that he can develop a better and less-expensive product than is currently available, he may choose to start his own company to develop the idea and it can only be possible in an economy where the rules governing Start-ups are accessible, transparent and predictable.

Conversely, in an economy where business regulation is cumbersome or ambiguous, he may be less willing to start his own company. In this case, the economy forfeits a new entrepreneur as well as the associated capital investment and job creation.

Initiatives taken by Indian Government to facilitate Ease of Doing Business in India for both domestic as well as foreign entrepreneurs' are-

Implementation of the Goods and Services Tax- This leads to reduction of manufacturing costs due to lower burden of taxes and less tax compliance and a simplified tax policy for MNCs as well as small traders.

Introduction of RUN Service- Government started a Reserve Unique Name service to facilitate reserving a company name without need to fill any form and use DSCs.

On the occasion of 69th Republic Day
 Government of India makes
"Starting a Business eASIER"

NOW YOU CAN INCORPORATE YOUR
COMPANY WITH
Zero FEE

RUN RESERVE UNIQUE NAME SERVICE LAUNCHED
 • Reserving a Company name is now child's play
 • No need to file a form Or use DSC

DIN NOT REQUIRED
 PRIOR TO FILING
 SPICE e-FORM





- **Make in India and Digital India** – It reduces the burden faced by domestic manufactures from the imported foreign products. Digital India have paved the way for a cashless economy and reduced payment based difficulties by increasing the count of payment mechanisms.
 - **Insolvency and Bankruptcy Code** – It leads to revival of Sick Companies in India.
 - **Setting up of investor-centric hub-** Government has announced investor-centric hub-and-spoke based online single window model for providing clearances and filing compliances.
 - **Less set up period** - Government has also targeted to reduce the number of days required to set up a business in India to 4.
 - **No Affidavit needed** - Government has also done away with the requirement of the affidavit from the applicants of the defence industry. A maximum timeline of 12 weeks has been finalised by the Ministry of Home Affairs for grant of security clearance on industrial licence applications.
 - **Insurance Bill** - Insurance reform bill has been passed in Parliament which allows more Foreign Direct Investment in the sector.
 - **Relaxation to Private Companies** - Government allowed 39 exemptions for private companies licensed to set up businesses under international financial services centres (IFSC) such as allowing them to make investments through more than two investment companies. The government also waived transaction taxes and stamp duty for IFSCs.
 - **Setting up of NIIF** - Government has set up National Investment and Infrastructure Fund (NIIF) with the aim to attract investments from both domestic and international sources for infrastructure development in commercially viable projects. The corpus of the NIIF is proposed to be Rs 40,000 crore (\$6 billion) wherein the government will invest 49%.
 - **FIPB Abolishing** - In a bid to reduce red-tapism, the government abolished the Foreign Investment Promotion Board (FIPB) which used to scrutinise foreign investment proposals. The proposals are now cleared by departments concerned.
 - **Reduced Documentation** - Number of documents needed for foreign trade have reduced.
 - **PAN becomes simpler** - Allotment of PAN and TAN cards has been simplified and CIN/ Corporate Identity Number has been included as proof of identity for corporates.
 - **Online platform for statutory payments** – Government has made available online payment of ESIC, EPF via 56 accredited banks and elimination of NOC for establishing new electricity connection.
- Steps for Industrial & Labour law compliances**
- **Registration** - Registration process for EPFO and ESIC are now fully online on real-time basis. Also there is no cost for registration.
- Common Registration Service started on the e-biz Portal of DIPP under 5 Central Labour Laws viz. EPFMP Act, ESI Act, Building & Other Construction Workers (Regulation of Employment & Conditions of Service) Act, Contract Labour (Regulation & Abolition) Act, Inter-State Migrant Workmen (Regulation of Employment & Conditions of Service) Act.
- **Shram Suvidha Portal** - Unified Web Portal 'Shram Suvidha Portal' has been launched to



bring transparency and accountability in enforcement of labour laws and ease complexity of compliance.

- **Returns** - Single Online Common Annual Return under Central Labour Acts has been made operational on Shram Suvidha Portal since 24th April 2015 to facilitate filing of simplified Single Online return by the establishments instead of filing separate Returns. Starting of Common Electronic Return cum challan for EPFO and ESIC.
- **Simplification of Registers and Forms** - Ministry of Labour & Employment has notified "Ease of Compliance to maintain Registers under various Labour Laws Rules, 2017" on 21st February 2017 which has in effect replaced the 56 Registers/Forms under Central Labour Laws and Rules made thereunder in to 5 common Registers/Forms. This will save efforts, costs and lessen the compliance burden by various establishments. The Ministry has also simultaneously undertaken to develop a software for the 5 common Registers.

- **Conclusion**

The foundation of Doing Business is the notion that economic activity benefits from

clear and coherent rules, clarify property rights and facilitate the resolution of disputes. Rules should also further amended to enhance the predictability of economic interactions and to provide contractual partners with essential protections against arbitrariness and abuse.

The Indian Government has taken various path breaking initiatives and keep on announcing such Business eASIERs norms in order to make India a

"Investment as well as Manufacturing hub"

The combined efforts of Government and Business eminent's made India to ranked in top 100 nations as measured by World Bank in 2018.

DB 2018 Rank	Economy	DTF Score
1	New Zealand	86.55
2	Singapore	84.57
3	Denmark	84.06
4	Korea, Rep.	83.92
5	Hong Kong SAR, China	83.44
100	India	60.76



323rd Batch of the Certificate Course on "Concurrent Audit of Banks"

Respected Members,

It gives us immense pleasure to inform you that Gurugram Branch of NIRC of ICAI is going to host "Certification Course on Concurrent Audit of Banks" on 7 & 8, 14 & 15 and 21 & 22 at Gurugram in July, 2018 being organized by Internal Audit Standards Board, ICAI.

Details for Certification Course on Concurrent Audit of Banks : [\(Click Here\)](#)

Registration Link for Certification Course : [\(Click Here\)](#)

Participation Fees:

Members are requested to get enrolled at the earliest as the seats are limited.

Online Payment Link- Members born on or after 01.01.1988 : [\(Click Here\)](#)

Online Payment Link- Members born before 01.01.1988 : [\(Click Here\)](#)

Fees Details	Non-metro Cities	Metro Cities
For Members of ICAI born before 01.01.1988	Rs. 14,750 (Rs. 12,500 per participant +18% GST)	Rs. 17,700 (Rs. 15,000 per participant +18% GST)
For Members of ICAI born on or after 01.01.1988*	Rs. 11,800 (Rs. 10,000 per participant +18% GST)	Rs. 14,160 (Rs. 12,000 per participant +18% GST)

*I. Chartered Accountant up to the age of 30 years on 1st January of every calendar year will be considered as Young Member i.e. Members born on or after 1.1.1987 will be considered as young member for calendar year 2017 and the date will automatically be revised every year viz. for calendar year 2018 it will be taken as maximum 30 years on 1.1.2018 i.e. members born on or after 1st January 1988 and so on.

II. The members who are suffering from permanent disability of 50% and above be treated at par with young members and all those concessions which are available to the young members may be extended to such members provided such member is not a partner in a firm.

Course Chairman	Course Co-ordinator
CA. Anil Satyanarayan Bhandari	CA. Rakesh Kumar Agarwal
Chairman, Internal Audit Standards Board of ICAI	Chairman, Gurugram branch of NIRC of ICAI

For Registration, please contact: Contact no. : 9654346350, 9999565491 Email id: gurgaon@icai.org



Respected Members,

It gives us immense pleasure to inform you that Gurugram Branch of NIRC of ICAI is going to host "Certification Course on Forensic Accounting and Fraud Detection" starting from 12th August 2018 to 1st September 2018 at Gurugram, conducted by ICAI.

Registration Link for Certification Course : [\(Click Here\)](#)

Participation Fees:

Members are requested to get enrolled at the earliest as the seats are limited.

Introduction

Forensic Accounting is the specialty practice area that describes engagements which result from actual or anticipated frauds, disputes or litigations. Forensic Accounting, Fraud Detection & Prevention specialization is in increasing demand considering increasing incidents of cyber-crimes and frauds. It is the practice of utilizing accounting, auditing, CAATs/ Data Mining Tools, and investigative skills to detect frauds/ mistakes. The Government bodies , PSU's , Insurance sector, Banks, Investigating agencies as well as many medium-sized and boutique firms have specialist forensic accounting departments engaging Forensic Auditors.

Course Duration

Seven full days with a prerequisite to undergo E-Learning of 17 hours and 30 minutes minimum. (One can learn sitting at Home/ Office)

CPE Hours

Total 20: 15 CPE Hours shall be granted to all the participants those who have attain 90% of attendance in the Classes. Remaining 5 CPE Hours shall be given after successful passing the Assessment Test

Course Fees

Rs. 23,600/- (20000+ 18%GST) per delegate payable Online. E-learning is included in the FAFD Fees, there is no need to pay Rs. 590/- separately.

Registration

Please make the payment and register to the course by providing payment and contact details at the following link: [Click Here to Register](#)

Course Scheme

- Course Classes duration is Seven days with a prerequisite to undergo E-Learning of 17 hours and 30 minutes. (One can learn, sitting at Home/Office).
- 2 Module tests. One for E Learning on First day of class and one on 7th day. (20 Marks each)
- Every Participant will have to submit of one Research paper (min. 10 pages) with PPT, two forensic audit reports within two weeks after completion of the Course (60 Marks).
- A final assessment test of 100 Marks which will be held on quarterly basis.
- The fees for the course is Rs.23600/- (20000+ 18%GST) per participant and registration is allowed only through online mode.
- 15 CPE Hours shall be granted to all the participants those who have attain 90% of attendance in the Classes. Remaining 5 CPE Hours shall be given after successful passing the Assessment Test.

Passing Requirement

- 40 Marks for two Module Tests + 40 Marks for two Forensic Audit Report + 20 Marks for Research Paper & PPT (TOTAL- 100 Marks).
- Candidates have to secure 50% marks in their Module Test and Project Work (i.e. 50 Marks in total out of 100) to get eligible for appearing in the Assessment Test. Hence passing of the Module Tests and the Project Work is the precondition for appearing in the FAFD Assessment Test.
- 100 marks for FAFD Assessment Test.
- The minimum marks required for passing FAFD Assessment Test is 50% i.e. 50 marks out of 100.
- The Minimum Attendance Criteria is 90%.
- In case the candidate is securing marks less than 50% in Project Work and Module Test (together) due to which he / she is not able to get eligible to appear for FAFD Assessment Test then the Candidate may be allowed to re-submit the Project only (i.e. two Forensic Audit Report + Research Paper & PPT) with the re-submission fee (Fee shall be announced soon). The Topic may be same or a new Topic can be requested by the Candidate.



Seminar on “Important Aspects in context of Financial Reporting and Auditing”



Topic : “Important Aspects in context of Financial Reporting and Auditing”

Audience : Members

Speaker : CA. Sanjay Vasudeva, CA. Amit Mitra & CA. Anil Sharma

Date & Day : 12th May 2018, Saturday





Two Days Conclave on Taxation on 18th & 19th May 2018
Audience : Members; Speaker : CA. Atul K. Gupta, CA. Sanjay Agarwal, CA. Naveen Garg, CA. Ashish Chaudhary & CA Pramod Jain





“National CA Students Talent Search 2018”



Topic : “National CA Students Talent Search 2018”

Audience : Students

Date & Day : 27th May 2018, Sunday





“National CA Students Talent Search 2018”



Topic : “National CA Students Talent Search 2018”

Audience : Students

Date & Day : 27th May 2018, Sunday





SAG Infotech Pvt. Ltd. having its registered office at Plot No 495, Above Bank of Baroda, Raja Park Gali No 5, Near AC Market, Raja Park, Jaipur – 302004, Rajasthan, India.

And

Gurugram Branch of NIRC of ICAI having its registered office at 60A, 3rd Floor, Sector-18, Gurugram, 122001, Haryana.

WHEREAS, SAG Infotech Pvt. Ltd. is a reputed IT Company AND WHEREAS, Gurugram Branch of NIRC of ICAI, is an branch of NIRC of Chartered Accountants.

In this Regard. Upon successful implementation of the arrangement, both parties are interested to work together for a mutually beneficial and strategic alliance in respect of the benefit of Chartered Accountants of Gurugram Branch of NIRC of ICAI.

NOW THEREFORE THIS MOU WITNESSETH AS FOLLOW CONDITIONS:

- 1. The objective of this MoU is primarily to establish a fruitful association with Gurugram Branch of NIRC of ICAI and SAG Infotech Pvt. Ltd.**
- 2. SAG Infotech Pvt. Ltd.'s Genius software, primarily used by Chartered Accountants, is used for Taxation purpose and very popular software across India and available at an MRP of 10,000 (Exclusive Taxes).**
- 3. SAG Infotech Pvt. Ltd, is willing to provide this said product with name of Genius to all Chartered Accountants, under Gurugram Branch of NIRC of ICAI, with a discount of 50%. Therefore, all Chartered Accountants, under Gurugram Branch of NIRC of ICAI exclusively get this software with name of Genius at Rs. 5,000 (Exclusive Taxes).**
- 4. Gurugram branch will share this understanding with its members through suitable means.**
- 5. SAG Infotech Pvt. Ltd. will treat each Chartered Accountant, under Gurugram Branch of NIRC of ICAI, as an individual customer of Company and all conditions which are applicable to any other customer will be applicable to them as well. (Separate Document of Customer Guidelines/Conditions is attached).**



Overview of 'Lite Bite Foods' and Validity

'Lite Bite Foods' is one of the largest & most dynamic Food & Beverage retail company in the country, with over 14 core brands & 6 Franchise brands under its umbrella. We have 95 operational outlets in India, Bangkok, Singapore, Abu Dhabi, Dubai & United States of America & with a plan of opening 31 new outlets company aims to become one of the largest Food & Beverage players in India by 2016. Currently we have a strong presence in Malls, High Streets, Airports, Multiplexes, Office complexes, Hotels and other high footfall locations.

Our awarded hero brands are Punjab Grill, Zambar, Fresco Co, Asia 7, Street Foods By Punjab Grill, Baker Street, Artful Baker, Pino's, Flamez & Roasted, Naashto, American Tandoor, Savour (Outdoor Catering Brand), Clink, Bottoms Up. We also run Franchise stores of Subway, KFC, Pizza Hut, Burger King, and Café Istanbul.

We invite all are members to avail this opportunity at their restaurants.

The Terms and Conditions offered will be as follows:

1. Fine Dining Restaurants & Casual Dining Restaurants will offer 15% discount on food & soft beverage. The restaurant covered under this policy will be:
 - a) Punjab Grill
 - b) Asia Seven
 - c) Zambar- Coastal Kitchen
 - d) Fresco
 - e) Bottoms Up
2. Quick Service Restaurants will offer 10% discount on food. The restaurant covered under this policy will be:
 - a) Baker Street
 - b) Pino's
 - c) Street Foods by Punjab Grill
 - d) Subway
 - e) Asia Seven Express
 - f) Zambar Express

Other applicable Conditions:

- All Discount OFFER(s) are NOT applicable on Festivals and Public Holidays.
- All Discount applicable on Saturdays and Sundays also.
- Discounts are only applicable on showing valid Membership Card/CA logo visiting card at the time on Dining.
- The menu prices at Outlets are subject to change without any prior notice.
- The conditions mentioned on the menu are applicable.



- Taxes and other Govt. levies are applicable.
- No other offers, exemptions or discount schemes can be clubbed with this corporate offer.
- Discounts are not applicable on Hard drinks & MRP products.
- Discount are not applicable at Airport/ railway/ Metro outlets.
- Mode of Payment-Cash / Credit Cards.

S.No	Outlet Name	Location	Outlet Landline No.	Address
1	ASIA 7	Ambience Mall	0124-4665571	Shop No. 318, 3rd Floor, Next to Food Court, Ambience Mall, Gurugram.
2	BAKER STREET	Ambience Mall	0124-4665567	Shop No.16, Food Union, 3rd Floor, Ambience Mall, Gurugram.
3	FRESC CO	Ambience Mall	0124-4665572	Shop No. 317, 3rd Floor, Next to Food Court, Ambience Mall, Gurugram.
4	PINO'S	Ambience Mall	0124-4665495	Shop No. 14, 3rd Floor, Food Union, Ambience Mall, Gurugram.
5	PUNJAB GRILL	Ambience Mall	0124-4665478	Shop No. 319, 3rd Floor, Next to Food Court, Ambience Mall, Gurugram.
6	SF by PG	Ambience Mall	0124-4665513	Shop No. 02, 3rd Floor, Food Union, Ambience Mall, Gurugram.
7	SF by PG	MGF Metropolitan Mall	0124-4222238	Shop No. 05, 3rd Floor, Food Court, MGF Metropolitan Mall, Gurugram.
8	SF by PG (Delivery Only)	Udyog Vihar	0124-4236633	Plot - 317 Udyog Vihar Phase - 4 Gurugram
9	SUBWAY	Ambience Mall	0124-4665515	Shop No. 04, 3rd Floor, Food Union, Ambience Mall, Gurugram.
10	SUBWAY	DT Mega Mall	0124-4015577	3rd Floor, Food Court, DT Mega Mall, Gurugram.
11	SUBWAY	Cyber Green	0124-4016962	Ground Floor, Food Court, Cybergreen Tower, DLF Phase-III, Gurugram.
12	SUBWAY	Fortis Hospital	0124-4039728	Fortis Hospital Sector 44, Gurugram Haryana
13	ZAMBAR	Ambience Mall	0124-4665639	Shop No. 310, 3rd Floor, Next to Food Court, Ambience Mall, Gurugram.
14	ZAMBAR	Cyber Hub	91-8130450438	Ground Floor, Cyber Hub, Cyber City, Gurugram

Gurugram Chartered Accountants, a newsletter owned by Gurugram Branch of NIRC of ICAI is normally published in the first week of every month. Non Receipt of any issue should be notified within one month. Articles in interest of profession and management skills are welcome. Views expressed by contributors are their own and may not be in concurrence with Gurugram Branch of NIRC of ICAI and the branch does not take any responsibility of views expressed by contributors. Gurugram Branch is not responsible in any manner of any result of the action taken on the basis of advertisements published in the newsletter. Rights & copying of articles or write ups is not allowed without permission of Editorial Committee.



Feedback & Suggestions

Gurugram Branch will be happy to receive the feedback from you regarding the seminars/workshops and other activities organized by branch.

You may please send feedback at-

Gurugram Branch of NIRC of ICAI requests the members & students to come forward & share the articles (Professional & other) to be published in the upcoming newsletter. The submissions may be sent to itticaigurgaon@gmail.com with the subject line (Article Newsletter).

Regarding	Email	Subject line
Seminars/Workshops	icaigurgaon@gmail.com	Sub: Seminar_____
Others	icaigurgaon@gmail.com or arunaggarwalca@gmail.com	Feedback_____

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