

THE ORACLE

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From the desk of the Chairman

CA. Gautham Pai D.
Chairman – ICAI Mangaluru



Dear Member

Greetings of the day

As December unfolds, we are filled with anticipation for the year ahead, with 2024 bringing its own promise of growth, opportunities, and achievements. Looking back at this year, we can proudly say that it has been a fulfilling journey, especially with the remarkable events we've experienced in November.

Our outreach programs in Udupi and Shivamogga were a success, with a Half-Day Seminar and a One-Day Workshop bringing valuable insights to our members. The AICA Level 1 Certificate Course was another key highlight, drawing great participation and interest. Additionally, the Study Circle Meeting on Capital Markets and the Half-Day Seminar on Penalties under the Income Tax Act were well-received, providing enriching content for our members.

November also saw a milestone event – the International Study Tour to Nepal. This unique opportunity not only allowed us to participate in insightful sessions, but also to engage in an interactive meeting with the Hon'ble President of ICAN. The tour was a delightful experience, with the added joy of exploring Nepal alongside the families of our members.

As we approach the end of the year, December holds special significance. Our flagship event, the National Conference on December 12th & 13th at the Indiana Convention Centre, Mangaluru, promises to be a grand gathering, bringing together experts and members for a knowledge-packed experience. We also look forward to the 3rd batch of the AICA Level 1 Certificate Course, ensuring continuous learning and growth within our community.

Additionally, as this is the last month for CPE credits, the branch is fully committed to organizing events that cater to the professional development of our members.

Let's continue to engage, learn, and grow together as we close out the year and step into 2025 with renewed enthusiasm and purpose.

Changes and Compliances in GSTR 9 & 9C-FY 2023-24



CA. Akshay Hiregange

Introduction

Action of departmental audits may impact the landscape of annual return filing. Considering the various changes in the GST law in the past year, this article aims to provide clarity on the filing of annual returns (Form GSTR 9) and reconciliation statement (Form GSTR 9C) along with required reconciliations, best practices, advanced issues & solutions and tips as applicable for financial year (FY) 2023-24.

Due date – 31st December 2024. The due date is not expected to be extended this year.

Reconciliations required:

1. Turnover - Audited Financial Statements (AFS/Books) vs Table 5A (consider all GSTINs)
2. Table 5N Vs Table 17 – As table 17 is now mandated, this reconciliation could be an internal check mechanism.
3. Outward taxes – Liability as per Books Vs Liability as per GSTR 3B + DRC-03 (if any) [ensure RCM liability is included]
4. Outward taxes – Rate wise liability as per workings Vs Rate-wise Liability as per books
5. GSTR 1 Vs GSTR 3B (This will help update GSTR 9 easily)
6. Inward taxes – Credit as per books Vs Credit as per GSTR 3B to identify excess claim of ITC, if any and missed out ITC to claim before 30th November 2024 through October 3B returns.
7. Closing balance [Cash + Credit] – Books Vs GST portal (consider all GSTINs)
8. Verify and provide for Spill over transactions of previous FY and maintain tracker for next FY
9. Identify rectification and modifications done beyond 30th November timeline. (Revised from 20th September).

Note: Perform invoice level reconciliations - A very beneficial exercise to taxpayers, which will help not only in the process of filing the annual returns but also to identify the errors and provide info to department in the future.

Form GSTR 9 – Annual Returns

1. Table 4G1 - Supplies on which e-commerce operator is required to pay tax as per section 9(5) – inserted from FY 23-24 onwards. Source of info - GSTR 1 - table 15 & table 3.1.1.i - GSTR 3B.
2. Table 5C1 - Supplies on which tax is to be paid by e-commerce operators as per section 9(5) – inserted from FY 23-24 onwards. Source of info - - GSTR 1 table 14(b) & table 3.1.1.ii - GSTR 3B.
3. Wordings + Formula correction in table 5N due to above changes.
4. Table 8A will depict ITC as per table 3(I) of Form GSTR 2B – from FY 2023-24 onwards (not GSTR 2A anymore). In line with s16(2)(aa) r/w Rule 36.
5. Period changes where applicable & Inclusion of GSTR 1A where applicable (along with GSTR 1). Although GSTR 1A was practically introduced only in FY 2024-25.

The relaxations that remain from the past are as follows:

6. Table 4 - Amendments, credit notes and debit notes cannot be shown as net figures in B2B, B2C, etc. now. Table 4I to 4L to be disclosed separately from FY 21-22
7. Table 5 - Exempted & Nil-rated can be consolidated in 'Exempted' column or shown separately. Table 5F - Non-GST to be shown separately from FY 21-22 onwards
8. Table 17 - HSN outward details mandated from FY 2021-22 onwards. (GSTR 1 consolidated data can be used for table 17)
9. HSN disclosures to be performed at 6-digit level (when T/o > Rs. 5 crore) and 4-digit level (when T/o < Rs. 5 crore for B2B only)
10. Clarification that disclosures in GSTR 1 tables 9A, 9B & 9C must be disclosed in table 10 & 11 of GSTR 9.
11. Table 5 - Amendments, credit notes and debit notes can be shown as net figures in table 5.
12. Table 6 - ITC bifurcation into 'inputs'/'input services' not mandatory, total value can be consolidated under 'Inputs'. From FY 2019-20 - under 'Inputs' & 'Capital Goods'.
13. Table 6 - May consolidate ITC under RCM from registered and un-registered persons under registered persons' table.
14. Table 7 - All ITC reversals may be consolidated under Table 7H, although TRAN reversals to be shown separately.
15. Part V - Reversal/Availment of ITC in previous year may not be filled (T12 & T13)
16. Table 15, 16 & 18 - Refund details, Info on inward supplies & deemed supply, HSN inward details remain optional.

Clarification on Outward Supply disclosures:

17. Outward supply of FY 22-23 disclosed in GSTR 3B of FY 23-24, where shown in GSTR 9 FY 22-23 in table 10 or table 11 – Should not form part of table 4 or 5 of GSTR 9 FY 23-24. [short/excess taxes paid in 22-23 adj. in 23-24]
 - Reason – already disclosed and reconciled in GSTR 9 & 9C of FY 22-23
 - Impact – Table 9 of GSTR 9 FY 23-24 would show this variance (not compensatory in nature)
18. Credit Note raised in FY 22-23 disclosed in GST returns of FY 23-24, where shown in GSTR 9 FY 22-23 table 4 – Should not form part of table 4 or 5 of GSTR 9 FY 23-24.
 - Reason – already disclosed and reconciled in GSTR 9 & 9C of FY 22-23
 - Impact – Table 9 of GSTR 9 FY 22-23 (> tax payable), in FY 23-24 (< tax payable) would show this variance (compensatory in nature)

ITC disclosure in GSTR 9:

- ITC of FY 23-24 claimed in FY 23-24 – part of table 6B
 - ITC of FY 22-23 claimed in FY 23-24 but in 2B of FY 23-24 – part of table 6B
 - ITC of FY 22-23 claimed in FY 23-24 and in 2B of FY 22-23 – part of table 6M/6B with table 8 adj. (verify Table 13 of FY 22-23)
 - ITC of FY 23-24 claimed in FY 24-25 and in 2B of FY 23-24 – part of table 8C & table 13
 - ITC of FY 23-24 claimed in FY 24-25 but in 2B of FY 24-25 – part of table 13 only
- Table 6M may comprise of the following:
- Form ITC-01 / ITC-02 (conversion from composition scheme / transfer due to sale, merger, etc.)
 - ITC of FY 22-23 (in GSTR 2B of that period) but ITC claimed in GSTR 3B of 23-24.
 - ITC temporarily reversed, re-claimed and permanently reversed/claimed. (double disclosure in GSTR 3B compensated once in 6B and once in 6M).
 - Credits claimed under protest, i.e. ITC claimed and reversed in GSTR 3B.

The above disclosures may result in a temporary variance in table 6J although table 6O shows NIL variance. Alternatively, taxpayers may consider disclosing such ITC as inputs/capital goods in table 6B, and corresponding difference that arises due to such difference can be adjusted in table 8C during the table 8 GSTR 2B reconciliation.

Considering the changes in reporting of ITC under GSTR-3B, wherein ITC is claimed in Table 4.A.5 and then reversed under Table 4.B.1 or 4.B.2 could lead to inaccurate disclosure in table 6B of GSTR 9. This would lead to incorrect reconciliations in table 8 when compared with GSTR 2A. The same has been displayed by way of an illustration below:

Assume data as per GSTR 3B for FY 2023-24 as follows:

Table 4.A.5 – IGST – Rs. 1 lakh ; CGST/SGST – Rs. 2 lakh each

Table 4.B.1 – IGST – Rs. 0.15 lakh ; CGST/SGST – Rs. 0.30 lakh each Table 4.B.2 - IGST – Rs. 0.20 lakh ; CGST/SGST – Rs. 0.50 lakh each

Net ITC as per Table 4C – IGST – Rs. 65,000 ; CGST/SGST – Rs. 1,20,000

| Table No. | Particulars | Integrated Tax | Central Tax | State/ UT Tax |
|-----------|--|-----------------|-----------------|-----------------|
| 6A | Total amount of input tax credit availed through FORM GSTR-3B (sum total of Table 4A of FORM GSTR-3B) | 1,00,000 | 2,00,000 | 2,00,000 |
| 6B | Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) | 65,000 | 1,20,000 | 1,20,000 |
| 6M | Any other ITC availed but not specified above <i>[ITC reversals 4.B.1 & 4.B.2 claimed and reversed – total]</i> | 35,000 | 80,000 | 80,000 |
| 6O | Total ITC availed | 1,00,000 | 2,00,000 | 2,00,000 |
| 7C | Reversal as per Rule 42 <i>[from 4.B.1]</i> | 10,000 | 20,000 | 20,000 |
| 7D | As per Section 17(5) <i>[from 4.B.1]</i> | 5,000 | 10,000 | 10,000 |
| 7H | Other Reversal <i>[from 4.B.2]</i> | 20,000 | 50,000 | 50,000 |
| 7J | Net ITC available for utilization | 65,000 | 1,20,000 | 1,20,000 |
| 8A | As per GSTR 2B <i>(minimum assumed)</i> | 1,00,000 | 2,00,000 | 2,00,000 |
| 8B | Inward supplies (other than imports and inward supplies liable to reverse charge but includes services received from SEZs) | 65,000 | 1,20,000 | 1,20,000 |
| 8D | Difference | 35,000 | 80,000 | 80,000 |
| 8E | ITC available but not availed | 20,000 | 50,000 | 50,000 |
| 8F | ITC available but ineligible | 15,000 | 30,000 | 30,000 |

Note – Where GSTR 2B figures are higher than values as per table 6A - the differential balance may be considered in table 8E/8F (lower value may indicate credit notes raised by vendors but not accepted by recipient)

Important information:

- Taxpayers need not file annual return in FORM GSTR-9/9A for FY 2023-24 if their aggregate annual turnover is up to Rs. 2 crores. (If 9 not filed, 9C not required)
- Taxpayers having turnover more than Rs. 5 crores are required to file GSTR 9C. Therefore, those persons between Rs. 2 crore & Rs. 5 crores need not file Form GSTR 9C but require filing GSTR 9.
- Liability as per table 4 (incl. Adjustments in table 10 & 11) must be considered as final liability (as per books) irrespective of liability disclosed in GSTR 3B + Form DRC-03 during the FY.
- Time period for transactions of previous year disclosed in next financial year until specified period means details disclosed for FY 2023-24 up to 30th November 2024.
- Department may dispute difference in table 6J of GSTR 9, one must ensure invoice level reconciliation is available and table 7J matches to ITC claimed in GSTR 3B.
- Payments to be made through Form DRC-03. Utilization of ITC as per the CGST Rules is restricted, although, it can be disputed based on interpretation arising from section 49(4) r/w Rule 86(2). Additionally, the GST portal also allows such ITC utilization.
- As ITC claim and matching of credit is being checked via GSTR 2B Vs GSTR 3B vide Form DRC-01C, any notices raised based on table 8 disclosure of GSTR 9 would not seem relevant and appropriate anymore.

Form GSTR 9C – Reconciliation Statements –:

1. Table 5B – Turnover reconciliation – Unbilled Revenue at the beginning of the year can be merged and disclosed in table 5O.
2. Other Turnover reconciliations from table 5C to 5N – Must be disclosed separately and cannot be clubbed under Table 5O. Earlier, relaxation was available till FY 2021-22 as single disclosure in table 5O.
3. Table 12B & 12C – No more optional, mandated to disclose such ITC details.
4. New rate of 6% (3% CGST & 3% SGST) included in respective tables (applicable for Brick Manufacturing)
5. Table 14 – Remains optional to fill expense wise ITC claim details (this may also be available from disclosure in clause 44 of Tax Audit Form 3CD)

Note-1: Pre-requirement to 9&9C – all GSTR 1 & GSTR 3B for FY 2023-24 must be filed
Note-2: Form GSTR 9 & GSTR 9C – once filed cannot be revised. (suggested to file together)

Advanced Issues & Solutions

1. Credit Note disclosures – The wordings in table 4 of GSTR 9 is confusing as the heading is transactions for the year, whereas, CN raised against invoices above leads to an interpretation where CNs raised in the next financial year (within timelines) could be considered. In our view, CNs raised in next financial years must be disclosed in such period as it is not a transaction of the previous financial year.
2. Tackling Deferred ITC ledgers – After the restriction on ITC claim based on GSTR 2B reflection, many eligible ITC may not have been claimed and maintained in deferred ledgers. The disclosures for the same must be considered in Table 13 of GSTR 9 to the extent claimed in 1st Apr- 30th Nov 24 period. In GSTR 9C - Table 12A to include entire ITC as per books, table 12C can be matched with GSTR 9 table 13 figures. Similarly additional disclosures in the next financial year would be in table 6B/6M of GSTR 9, and Table 12B of GSTR 9C.
3. Table 8C Vs Table 13 in GSTR 9 - The reasons for differences would be: Table 13 consists of ITC on imports & inward supplies liable to reverse charge which must not be disclosed in 8C. Also, goods/services in transit would need to be disclosed in table 8C but not in table 13. (those invoiced earlier, but goods/services received in next tax period)

4. Table 8K analysis – ITC to be lapsed does not specifically mean that such ITC will be reduced from electronic credit ledger directly. This is only an indication to the dept. of the extent of ITC available on record to assessee but unclaimed.

5. Negative ITC in table 4C of GSTR 3B – The negative ITC (meaning tax liability) in table 4C of Form GSTR 3B will ensure in table 9-GSTR 9 such amount is considered in tax paid although such values would not reflect automatically and therefore, it may need to be added in table 7H and also in table 9 (tax payable) to ensure reconciliation. This would also impact similar disclosures in table 9 of GSTR 9C. Alternatively, reasons for variance in table 9 can be maintained without any such adjustments.

6. Table 7E vs Table 9 of GSTR 9C – Although this is not a mandated reconciliation, this check ensures that the taxable value as per books (considered rate wise) matches to the taxable value as reconciled in the previous tables. Ensure that table 9 of GSTR 9C is filled only as per books irrespective of disclosure in GSTR 3B or GSTR 9.

Best Practices & Tips:

1. Maintain 9 & 9C workings with links to all the relevant data. Avoid keyed-in workings.

2. Maintain separate details of ITC claimed, reversed, and re-claimed if the taxpayer fulfils the conditions mentioned u/s 16.

3. In case of amendments, outward register to be maintained with original values, so that it will be helpful while table 4 & 5 of GSTR 9.

4. Invoice level GSTR 2B Vs ITC as per books reconciliation is to be performed for Table 8 disclosure in GSTR-9.

5. Credits as per books – unclaimed due to non-matching with GSTR 2B. Pass as expense in books of accounts of FY 2023-24 and verify option of recovery from continuing vendors.

6. Providing an “Annual GST - Management Report” which may consist of the following:

- ☑ Folder with final workings and filed Form GSTR 1, 3B, GSTR 9 & 9C for the FY.
- ☑ Reconciliations for the FY – Outward, Inward & RCM – birds eye view
- ☑ Reasons for variances and action taken (summarily)
- ☑ Where additional liability was noticed – summary details + payment documentation
- ☑ Suggestions on internal accounting/processes/reporting going forward

Conclusion

The activity of filing Form GSTR 9 & 9C with the recent changes has become more complex although it is expected to show the final values (with corrections if any) for a financial year appropriately. The department is also using this as a document for scrutiny. Therefore, putting in place procedures to ensure accurate data capture and reporting is imperative. Availing the services of expert professionals may help resolve various non-compliances made inadvertently and also gain insights into data documentation and availability.

Suggestions or feedback at mahadev@hnaindia.com or akshay@hnaindia.com

Principles of natural justice and Sections 73 and 74 of the CGST Act, 2017:



CA. Rajani

Natural justice, it has been said, is only "fair play in action."

Lord Morris of Borth-y-Gest, in *Wiseman v. Borneman* (H.L.(E.))

Principles of natural justice have evolved over time, and although lacking in statutory definition, are inexorable in invocation and application. The phrase is used to refer to these dictats collectively - justice should not only be done but seen to be done, no party should be condemned unheard, one cannot be a judge in his own case, and final orders must be speaking orders. In the words of the Hon. Supreme Court (in the case of *A. K. Kraipak & Ors. Etc vs Union Of India*), "the aim of the rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice", by entitling the taxpayer to representation and rationale. In the course of their evolution, these principles have taken up (more than) their fair share of real estate in court judgements, including these -

- The landmark case of *Mrs. Maneka Gandhi v. Union of India*, where the Supreme Court held - "The audi alteram partem rule is not cast in a rigid mould and judicial decisions establish that it may suffer situational modifications. The core of it must, however, remain, namely, that the person affected must have a reasonable opportunity of being heard and the hearing must be a genuine hearing and not an empty public relations exercise."
- ... and the case of *Madhyamam Broadcasting Limited v. Union of India*, where they were eloquently encapsulated by the Apex Court- "The judgment of this Court in *Maneka Gandhi* (supra) spearheaded two doctrinal shifts on procedural fairness because of the constitutionalising of natural justice. Firstly, procedural fairness was no longer viewed merely as a means to secure a just outcome but a requirement that holds an inherent value in itself. [...]. Secondly, natural justice principles breathe reasonableness into the procedure. While situational modifications are permissible, the rules of natural justice cannot be modified to suit the needs of the situation to such an extent that the core of the principle is abrogated because it is the core that infuses procedural reasonableness."

In tax, and in specific, the early stages of tax litigation, natural justice hinges on the rule of "audi alteram partem" – Latin for "listen to the other side." Time and again, contemplations of the justifiability of regulatory action have come back to this "opportunity of being heard." Seven years on, as the goods and services tax regime steps into litigation, businesses find themselves face to face with inquiries, allegations, and ultimately, demands. A notice to show cause is usually the most

impactful part of these proceedings, and this article attempts to contextualise principles of natural justice, particularly audi alteram partem, with reference to Sections 73 and Section 74 of the CGST Act, which govern the determination of taxes due for periods until financial year 2023-24. Section 74A streamlines provisions for demand and recovery, and is effective for financial year 2024-25 and onwards.

While the procedures laid out in Sections 73 and 74 are comparable, they address different circumstances – while Section 73 allows action to right inadvertent lapses (to err is human, after all), Section 74 allows the Revenue to proceed against intentioned avoidance and evasion. (“by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax.”)

Comparable provisions include those -

- Requiring service of a notice to show cause against imposition of unpaid taxes, interest and penalty,
- Permitting service of a statement of taxes due on the same grounds, and deeming it as a notice to show cause, and
- Offering the taxpayer an opportunity to discharge obligation before service of notice, based on self-assessment or intimation from the officer; and relief in the form of (limited) conclusion of proceedings, reduction in or waiver of penalty otherwise imposable, in the event of such prompt discharge.
- Empowering the proper officer to issue an order after considering any representation made by the taxpayer, within the limitation period specified under either section, determining the amount of tax, interest and penalty due from the person.

While the show-cause notice is issued along with a summary in Form GST DRC-01, the statement of taxes due may be served along with a summary in Form GST DRC-02. If issued, the intimation of tax payable to facilitate prompt discharge is issued in Form GST-DRC-01A, sometimes referred to as the “pre-show cause notice”. It is important to note at this juncture that while a notice to show cause is mandatory, tax authorities are allowed discretion in the service of a pre-show cause notice, by way of the phrase “the PO shall...”, making way for “the PO may...” in Rule 142(1A), in the year 2020. Proceedings under Sections 73 or 74 are most commonly the unfavourable culmination of scrutiny of returns under Section 61, or an audit by tax authorities conducted under Section 65. While the law mandates service of a notice seeking explanation in a scrutiny of

returns (notice in Form ASMT-10, response in Form ASMT-11), it only empowers the tax officer to offer an opportunity to the taxpayer to explain before finalization of findings in an audit.

A notice to show cause may, therefore, very well prove to be a taxpayer’s only shot at representation before appeals, and “fair play”, so to say, on part of the taxman, therefore assumes absolute importance. Section 75 of the CGST Act is the law’s first obstacle to draconian decision-making, requiring all of these –

- An opportunity of hearing, on request, and in all cases where adverse decisions are contemplated,
- Consideration of a request for adjournment for good and sufficient reason, on up to three separate occasions,
- A “speaking” order, i.e., an order that sets out relevant facts and the basis of his decision.
- An order that does not overreach, i.e., an order that does not invoke grounds or amounts beyond those indicated in the show-cause notice.

A taxpayer, then, is amply protected by law, enjoying an entitlement to be warned, to be heard, and to have his arguments be turned down only for reason. And while there is an obligation for the taxpayer to be aware of and exercise his rights, all “opponents” may not play fair, requiring the referee – or the Court(s) – to step in. October, 2024 has seen a series of instances where the Courts have stepped in and cried foul, and a brief round-up is presented here -

- High Court of Orissa, in Ganni Ajay Dora v. Chief Commissioner of CT and GST – 29/10/2024

“Considering petitioner was unwell and under medical treatment at the time notices referred to in impugned order regarding the appeal were served upon him, we are inclined to interfere. Impugned order is set aside and quashed only on the ground that petitioner appears to have been prevented from prosecuting his appeal.”

- High Court of Gauhati, in Udit Tibrewal vs. State of Assam – 25/10/2024

Context - there was no proper and prior Show Cause Notice prescribed under sub-section [1] of Section 73 of the Assam Goods and Services Tax Act, 2017 and the petitioner was only served with a Summary of Show Cause Notice in Form GST DRC-01.

Held - “The Summary of the Show Cause Notice in GST DRC-01 is not a substitute to the Show Cause Notice to be issued in terms with Section 73 [1] of the Central Act as well as the State Act. [...] Under such circumstances, initiation of the proceedings under Section 73 against the petitioners in the instant batch of writ petitions without the Show Cause Notice is bad in law and interfered with.”

- High Court of Delhi, in Motilal and Sons v. Assistant Commissioner DGST Ward – 23/10/2024

“As is manifest from the above, all that the competent authority has chosen to observe is that the reply has not been found to be satisfactory. Since the order impugned is bereft of any reasoning, it is rendered unsustainable. Accordingly, we allow the present writ petition and quash the impugned order dated 20 August 2024. The competent authority shall now proceed to dispose of the SCN afresh and bearing in mind the observations made hereinabove.”

- High Court of Madras, in Kandasamy Sivaprakash vs. Assistant Commissioner (ST) – 22/10/2024

“As far as this case is concerned, without providing an opportunity of personal hearing to the petitioner, the first respondent has passed the impugned assessment order. Therefore, this Court is of the opinion that the impugned assessment order passed by the first respondent is liable to be quashed and it is just to afford an opportunity of personal hearing to the petitioner to put forth his case.”

- High Court of Kerala, in Elsy Joy vs. Deputy Commissioner of State Tax – 22/10/2024

“It is clear from Ext.P2 that the petitioner was given time till 21.07.2023 to reply to the show cause notice. Ext.P4 order appears to have been passed on 11.07.2023, even before the time for filing a reply had expired. Therefore, on this short ground, Ext.P4 order is liable to be set aside. The fact that the petitioner had filed an appeal against Ext.P4 is no ground to refuse relief to the petitioner as the original order was clearly issued in violation of principles of natural justice.”

In the absence of principles of natural justice, the administration of indirect tax law would fall short of being just, resulting in inordinate harm to business – and that is not a price that it can afford to pay. That said, it is important to remember that there is an unavoidable obligation on part of the registered person to be conscientious and ensure compliance with the procedure stipulated for scrutiny. While the judiciary has deliberated the essence of these principles at length, it has also created limits. In its judgement in the case of Sohan Lal Gupta (Dead) Thr. L.Rs. & Ors vs Smt. Asha Devi Gupta, for instance, the Supreme Court held –

“The principles of natural justice, it is trite, must not be stretched too far.”

“[...], a party has no absolute right to insist on his convenience being consulted in every respect. The matter is within the discretion of the arbitrator and the Court will intervene only in the event of positive abuse.”

More recently, the Delhi High Court reiterated the importance of utilizing these opportunities granted (although in a case under the Arbitration and Conciliation Act, 1996) -

Commencement of Business & Verification of registered office under the Companies Act, 2013



Gaurav Pingle, Practising Company Secretary, Pune
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Commencement of business is an important provision introduced in the Companies Act, 2013, with an objective of weeding out shell entities or non-operational business. This provision was earlier there in the statute i.e. Companies Act, 2013. However, the said provisions were omitted by an Amendment Act and the again introduced in the Act. Under the Companies Act, 1956, the said provisions of commencement of business was applicable to only public companies and private companies which are subsidiaries of public companies. In this article – there is reference to the provisions of commencement of business and verification of registered office of the company.

Commencement of Business:

A company incorporated after November 2, 2018 and having a share capital shall not commence any business or exercise any borrowing powers unless:

- (a) A declaration is filed by a director within a period of 180 days of the date of incorporation of the company in prescribed e-form with the Registrar of Companies that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him on the date of making of such declaration; and
- (b) Company has filed with the Registrar of Companies a verification of its registered office (as provided in sub-section (2) of section 12 of the Companies Act)

The declaration under section 10A of the Companies Act by a director shall be in eForm No. INC 20A . The said e-Form shall be filed as provided in the Companies (Registration Offices and Fees) Rules, 2014. The contents of the said e-form shall be verified by a Company Secretary or a Chartered Accountant or a Cost Accountant, in practice.

In the case of a company pursuing objects requiring registration or approval from any sectoral regulators such as the Reserve Bank of India (RBI), Securities and Exchange Board of India (SEBI), etc., the registration or approval, as the case may be from such regulator shall also be obtained and attached with the declaration

Penal Provisions for non-compliance:

If any default is made in complying with the requirements of this section, the company shall be liable to a penalty of Rs. 50,000/- and every officer who is in default shall be liable to a penalty of Rs. 1,000/- for each day during which such default continues but not exceeding an amount of Rs. 1,00,000/-.

Where no declaration has been filed with the Registrar of the Companies Act within a period of 180 days of the date of incorporation of the company and the Registrar of Companies has reasonable cause to believe that the company is not carrying on any business or operations, he may initiate action for the removal of the name of the company from the register of companies under Chapter XVIII of the Companies Act.

Compliance w.r.t. Registered Office:

According to section 12 of the Companies Act, a company shall, within 30 days of its incorporation and at all times thereafter, have a registered office capable of receiving and acknowledging all communications and notices as may be addressed to it. The company shall furnish to the Registrar of Companies verification of its registered office within a period of 30 days of its incorporation in such manner as may be prescribed.

The Rule 25 of the Companies (Incorporation) Rules, 2014 relates to 'Verification of registered office'. It provides that the verification of the registered office shall be filed in e-Form No. INC. 22 along with the fee. There shall be attached to said e-Form, any of the following documents, namely:

- (a) Registered document of the title of the premises of the registered office in the name of the company; or
- (b) Notarized copy of lease or rent agreement in the name of the company along with a copy of rent paid receipt not older than one month;
- (c) Authorization from the owner or authorized occupant of the premises along with proof of ownership or occupancy authorization, to use the premises by the company as its registered office; and
- (d) Proof of evidence of any utility service like telephone, gas, electricity, etc. depicting the address of the premises in the name of the owner or document, as the case may be, which is not older than two months.

Conclusion:

The provisions of the commencement business and verification of registered office have been become extremely important from the perspective of compliance and starting a new business / venture in India. The consequences of the non-compliance i.e. penal consequences is quite high. This compliance is mandatory for all companies and important for the purpose of starting business in India. The company cannot commence business till the said compliances are completed. Interestingly, the MCA does not provide Certificate of Commencement of business however, the approval e-mail of the MCA is the only evidence that the said e-Form has been filed by the company with the Registrar of Companies.

Market Superpower: Understand your Game.



Mr. Prabhakar Kudva, Director, Samvitti Capital

- A Computer Science Engineer and a Business Management Graduate
- Astute active Investor and Trader since 15 years.
- One among 40 under 40 Investment managers by AIWMI (Association of International Wealth Management of India).
- Principal Officer and Fund Manager of the PMS Schemes that Samvitti manages.

There are fifty different ways to make and lose money in the markets. We keep looking for the best strategies of the lot and keep switching from one strategy to the next. We go from one book to another, one workshop to another and one webinar to another in search of that one strategy that will be their money making machine. When the said strategy stops working as well as it did - because the underlying market structure changed - the search for the next strategy begins. Call it the hedonic treadmill of strategy.

We do this not just with strategies but with fund managers, mutual funds, asset classes and what have you.

However if you study the successful investors or traders, they all have one thing in common. They have chosen a very simple strategy and what has made them successful is not the strategy but the masterful execution of the same. The secret sauce is not the strategy but the mastery over executing it across market environments. The art so to speak is in the discipline of focus, execution and refinement of the chosen strategy.

This is precisely why you may read Warren Buffet's letters, Peter Lynch's books and Jesse Livermore's memoirs or attend our own options wizards' workshops :) - they will lay out the strategy threadbare for you - and they all have - but you won't be able to make consistent money from any of it. Why? Same reason why as a sports professional you can't play cricket one month, hockey the next and football the next and hope to achieve anything worthwhile.

It took me many years to realise that the way to mastery in the markets is quite simple. There are three steps:

1. Understand your game.
2. Stick to your game.
3. Refine your execution of the game.

Once you do this, once you have this clarity of thought - out of the hundred different ways to make money in the market I have chosen this one particular way and just put all your focus on just refining it day after day, you will be a 10x better investor.

Let's say you pick the Warren Buffett way of investing - put simply - buy good businesses at reasonable prices and hold them for as long as they remain good businesses. A very simple statement indeed. But what you need to do next is:

Understand your game - It's quite simple to understand "the game" but you need to make it "your game" - a subtle but very important difference - you should know in your bones when will this strategy work, what are the pain points of this strategy and how will you deal with it. Every aspect of the strategy needs to be understood. The why, the when, the how and the works. Only this will allow you to stay the course and reap the benefits of the strategy.

Stick to your game - Most important step is to avoid strategy hopping. If you have done the above step well, you will know that while you are expert at your strategy, you are a novice no-nothing at another new strategy. You have to start from scratch, put in the years, pay the tuition - so as things stand the probability of making money is highest when you stick to your game and a not a "new game". If you're on FinTwit (as most readers will be) the possibility of you strategy jumping is very high so you should stay on guard more so.

Refine your game - This is the step where legends are made. Every simple strategy will have several variations and nuances. If you ask the legends, how they execute flawlessly, they won't be able to put it in a formula - this is the intuitive muscle so to speak that gets developed over time as you spend time with a strategy, play with the boundaries and refine it and then refine it some more. If you ask Sachin Tendulkar to teach someone to bat like him for a billion dollars, he won't be able to. The intuitive muscle can't be transferred. That's why the master traders are 10x or even 100x better than the students who take their workshops. You may take Buffett's strategy and build your own variations into it which will work only for your personality and no one else. Step 3 is where the real magic happens. This is often why the best investors are in their 50s, because it takes time, experience and reflection to build this intuitive muscle.

Most investors will do so much better just by getting the step 1 and step 2 in place. Understanding this on an intellectual level is easy. But really understanding this in your bones, takes a decade in the market.

Once you do this you will also see how stupid the fights on twitter are. Value works, Quality works, Momentum works, Option buying works, Options selling works, Cyclical works. Everything works when you focus on it, stick to it and refine it for yourself. So please don't tell everyone that just because someone is buying quality at any price they are doomed to fail or if someone is buying cyclicals they won't ever make money. There are nuances to every strategy that can't be justified in 240 characters. Those who buy quality even at seemingly high PEs have enjoyed the upsides and it's their responsibility to know and endure the downsides of their strategy. They might make no money for a stretch of 2-3 years - that's ok. In spite of that if they make 15% CAGR over five years they should be significantly better off than those whose only strategy is to change strategies by the season.

But if you start off as a quality investor and shift to cyclicals mid way well because it's the commodity super-cycle you are doomed to not do well as the expert cyclical investors who have devoted their lives to this form of investing, will take you for a ride. What worked in quality companies will not work in cyclicals. It's a different game. Just this understanding is worth its weight in bitcoin (er, gold)!

In conclusion, if you want to skip multiple levels up in your investing or trading - focus on finding what strategy resonates for you, commit whole heartedly to the strategy and understand it threadbare and refine it forever. Each of these steps may take a few years at a time and the third step will continue for a lifetime. You will be significantly better off picking one game and devoting your energies to master it than you play ten different games and stay a hobbyist.

The month gone by – November 2024

AICA Level - 1 Certificate Course - Batch No. 85



The month gone by – November 2024

Half Day Seminar - 08.11.2024

The Institute of Chartered Accountants of India
(Incorporated by an Act of Parliament)

MANGALURU BRANCH (SIRC) & UDUPI BRANCH (SIRC)
is hosting
HALF DAY SEMINAR
Organized by: Financial Reporting & Review Board, ICAI

Resource Person

CA. Mohan R. Lavi
Bengaluru

Topic: Awareness Programme on Financial Reporting Practices

Delegate Fees: ₹500/- (Exclusive of GST) **3 CPE Credit HOURS**

MANGALURU BRANCH (SIRC)
CA. GAUTHAM PAI D.
Chairman
CA. DANIEL MARSH PEREIRA
Secretary

UDUPI BRANCH (SIRC)
CA. KIRANA KUMAR H.
Chairman
CA. M. RAGHAVENDRA MOGERAYA
Secretary

**Saturday
9 November 2024**
10.00 a.m. - 1.00 p.m.
Followed by Lunch
The Ocean Pearl
Times Square Hotel
Kumbhilla, Udupi



The month gone by – November 2024

Half Day Seminar - 16.11.2024

75 The Institute of Chartered Accountants of India
(Setup by an Act of Parliament)

MANGALURU BRANCH (SIRC)
is organizing
HALF DAY SEMINAR

Resource Person

CA. (Dr.) E. Phalgun Kumar
Tirupati
Past Chairman - SIRC of ICAI

SATURDAY
16 NOVEMBER 2024

10.30 a.m. - 1.30 p.m.
Followed by Lunch

ICAI Bhawan
Mahendra Arcade
Mangaluru

**Topic: Penalties under the Income Tax Act -
Guide to navigate through it**

Delegate Fees
₹500/- (Exclusive of GST)

Register on
www.mangalore-icai.org

3 CPE
Credits
HOURS

CA. GAUTHAM PAI D.
Chairman

CA. DANIEL MARSH PEREIRA
Secretary



International Study Tour to Nepal



Study Circle Meeting - 26.11.2024



One Day Workshop at Shivamogga - 27.11.2024

75 The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)

MANGALURU BRANCH (SIRC)
is hosting

ONE DAY WORKSHOP ON AI
Organized by: AI in ICAI

Resource Person
CA. Vijay Srinivas
Hyderabad
Topic: How to use ICAI CA GPT for Members in Practice & Industry

Resource Person
CA. Karthikeya Shenoy
Mangaluru
Topic: AI Automation in Audit & Tax

NOVEMBER 27 2024 WEDNESDAY
10.00 a.m. - 05.00 p.m.
Hotel Akash Inn
Ratnamma Mathava
Rao Road, Durgigudi,
Shivamogga

Registration Fees
₹500 (Exclusive of GST)
Register on
www.mangalore-icai.org

CPE 6 Credit HOURS

CA. GAUTHAM PAI D.
Chairman

CA. DANIEL MARSH PEREIRA
Secretary





ಇನ್‌ಸ್ಟಿಟ್ಯೂಟ್ ಆಫ್ ಬಾರ್ಟರ್ಡ್ ಅಕೌಂಟೆಂಟ್ಸ್ ಆಫ್ ಇಂಡಿಯಾದಿಂದ ನೇಪಾಳಕ್ಕೆ ಅಧ್ಯಯನ ಪ್ರವಾಸ

ಮಹಾನಗರ, ನ. 30: ಸುಮಾರು 20 ಬಾರ್ಟರ್ಡ್ ಅಕೌಂಟೆಂಟ್‌ಗಳ ನಿಯೋಗವು ಅವರ ಕುಟುಂಬದೊಂದಿಗೆ ನೇಪಾಳಕ್ಕೆ ಅಂತಾರಾಷ್ಟ್ರೀಯ ಅಧ್ಯಯನ ಪ್ರವಾಸ ಆಯೋಜಿಸಿದೆ.

ಅಧಿವೇಶನಗಳ ಹೊರತಾಗಿ, ಅಧ್ಯಯನ ಪ್ರವಾಸದ ಭಾಗವಾಗಿ ನೇಪಾಳದ ಬಾರ್ಟರ್ಡ್ ಅಕೌಂಟೆಂಟ್‌ಗಳ ಸಂಸ್ಥೆಯ ಅಧ್ಯಕ್ಷ ಸಿ.ಎ. ಪ್ರಭುನ್ ಕುಮಾರ್ ರ್ಝಾ ಅವರನ್ನು ನೇಪಾಳದ ಸತ್ಯೋಬಾಟೋ ಲಲಿತಪುರದಲ್ಲಿರುವ ಐಸಿಎಐಎನ್ ಪ್ರಧಾನ



ಕಚೇರಿಯಲ್ಲಿ ಭೇಟಿ ಮಾಡಿ ಬಾರ್ಟರ್ಡ್ ಅಕೌಂಟೆಂಟ್‌ಗಳಿಗೆ ವೃತ್ತಿ ಮತ್ತು ಜಾಗತಿಕ ಅವಕಾಶಗಳ ಕುರಿತು ಚರ್ಚಿಸಲಾಯಿತು. ನಿಯೋಗದ ನೇತೃತ್ವವನ್ನು ಮಂಗಳೂರು

ಶಾಖೆಯ ಅಧ್ಯಕ್ಷ ಸಿ.ಎ. ಗೌತಮ್ ಪೈ ವಹಿಸಿದ್ದರು. ಮಂಗಳೂರು, ಉಡುಪಿ, ಶಿವಮೊಗ್ಗ ಮತ್ತು ರಾಜ್ಯದ ಇತರ ಭಾಗಗಳಿಂದ ಭಾಗವಹಿಸಿದ್ದರು.



ನೇಪಾಳಕ್ಕೆ ಅಧ್ಯಯನ ಪ್ರವಾಸ



ಇನ್‌ಸ್ಟಿಟ್ಯೂಟ್ ಆಫ್ ಬಾರ್ಟರ್ಡ್ ಅಕೌಂಟೆಂಟ್ಸ್ ಆಫ್ ಇಂಡಿಯಾ ಮಂಗಳೂರು ಶಾಖೆಯ ನಿಯೋಗ ನೇಪಾಳಕ್ಕೆ ಅಂತಾರಾಷ್ಟ್ರೀಯ ಅಧ್ಯಯನ ಪ್ರವಾಸ ಕೈಗೊಂಡರು.

■ **ವಿಕ ಸುದ್ದಿಲೋಕ** ಮಂಗಳೂರು

ಅಧ್ಯಕ್ಷ ಪ್ರಭುನ್ ಕುಮಾರ್ ರ್ಝಾ ಅವರನ್ನು ಇನ್‌ಸ್ಟಿಟ್ಯೂಟ್ ಆಫ್ ಬಾರ್ಟರ್ಡ್ ಅಕೌಂಟೆಂಟ್ಸ್ ಆಫ್ ಇಂಡಿಯಾದ ದಲ್ಲಿರುವ ಪ್ರಧಾನ ಕಚೇರಿಯಲ್ಲಿ ಭೇಟಿ ಮಾಡಿ ಬಾರ್ಟರ್ಡ್ ಅಕೌಂಟೆಂಟ್‌ಗಳಿಗೆ ವೃತ್ತಿ ಮತ್ತು ಜಾಗತಿಕ ಅವಕಾಶಗಳ ಕುರಿತು ಚರ್ಚಿಸಲಾಯಿತು. ನಿಯೋಗದ ನೇತೃತ್ವ ವನ್ನು ಮಂಗಳೂರು ಶಾಖೆಯ ಅಧ್ಯಕ್ಷ ಗೌತಮ್ ಪೈ, ಡಿ ಅವರು ವಹಿಸಿದ್ದರು.

ಮಂಗಳೂರು, ಉಡುಪಿ, ಶಿವಮೊಗ್ಗ ಮತ್ತು ರಾಜ್ಯದ ಇತರ ಭಾಗಗಳಿಂದಲೂ ಬಾರ್ಟರ್ಡ್ ಅಕೌಂಟೆಂಟ್‌ಗಳ ಸಂಸ್ಥೆಯ

ಐಸಿಎಐಎನ್ ಮಂಗಳೂರು ಘಟಕದಿಂದ ಅಧ್ಯಯನ ಪ್ರವಾಸ



ಬಾರ್ಟರ್ಡ್ ಅಕೌಂಟೆಂಟ್‌ಗಳು ಕುಟುಂಬ ಸಹಿತ ನೇಪಾಳ ಪ್ರವಾಸ ನಡೆಸಿದರು.

ಮಂಗಳೂರು: ಇನ್‌ಸ್ಟಿಟ್ಯೂಟ್ ಆಫ್ ಬಾರ್ಟರ್ಡ್ ಅಕೌಂಟೆಂಟ್ಸ್ ಆಫ್ ಇಂಡಿಯಾದ ಮಂಗಳೂರು ಘಟಕದ ವತಿಯಿಂದ 20 ಬಾರ್ಟರ್ಡ್ ಅಕೌಂಟೆಂಟ್‌ಗಳು ಕುಟುಂಬ ಸಹಿತ ನೇಪಾಳಕ್ಕೆ ಅಧ್ಯಯನ ಪ್ರವಾಸ ನಡೆಸಿದರು. ಅಧ್ಯಯನ ಪ್ರವಾಸದ ಭಾಗವಾಗಿ ನೇಪಾಳದ ಬಾರ್ಟರ್ಡ್ ಅಕೌಂಟೆಂಟ್‌ಗಳ ಸಂಸ್ಥೆಯ (ಐಸಿಎಐಎನ್) ಅಧ್ಯಕ್ಷ ಸಿ.ಎ. ಪ್ರಭುನ್ ಕುಮಾರ್ ರ್ಝಾ ಅವರನ್ನು ನೇಪಾಳದ ಸತ್ಯೋಬಾಟೋ ಲಲಿತಪುರದಲ್ಲಿರುವ ಐಸಿಎಐಎನ್ ಪ್ರಧಾನ ಕಚೇರಿಯಲ್ಲಿ ಭೇಟಿಯಾದರು. ಅಕೌಂಟೆಂಟ್‌ಗಳ ವೃತ್ತಿ ಮತ್ತು ಜಾಗತಿಕ ಅವಕಾಶಗಳ ಕುರಿತು ಈ ಸಂದರ್ಭ ಚರ್ಚಿಸಲಾಯಿತು. ನಿಯೋಗದ ನೇತೃತ್ವವನ್ನು ಮಂಗಳೂರು ಶಾಖೆಯ ಅಧ್ಯಕ್ಷ ಸಿ.ಎ. ಗೌತಮ್ ಪೈ, ಡಿ. ವಹಿಸಿದ್ದರು.