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EDITORIAL

Young Chartered Accountants - New Age CAs, A New Age Power



CA Vinod Jain*

The profession of chartered accountants has enrolled a large number of students in last 7 years and accordingly the number of young bright students who are qualifying as chartered accountants has also grown significantly. This is being seen as a major challenge for the entire profession. We perceive this as a major opportunity not only for the profession, the young chartered accountants, and young C.A. students but also for the entire nation - our motherland INDIA.

The entire world, including India has a great shortage of good accountants, more importantly good professional chartered accountants. India is growing at a fast pace and is likely to regain double digit growth, as we empower our young brigade of chartered accountants in right direction. The professional competence of Indian Chartered Accountants is not only in demand in India but is also having high potential internationally across the world. Most of the developed and developing nations have only few thousands or few hundreds chartered accountants or CPAs. The entire Middle East, South East, Africa, Europe and even American continent could be a very good market for Indian chartered accountants.

The Indian businesses are also looking forward to our profession for diversified areas of professional services as well as employment opportunities in varied fields. How to focus and ensure that we are able to meet the expectations of Indian economy as well as global requirements is what we need to strategize.

Growth Opportunity:

The growth opportunities exist in all the 3 areas to Indian chartered accountants, specially young dynamic, capable

professionals:

- Employment opportunities in service sector, industry, business, government and regulators;
- Professional practice in traditional as well as non-traditional areas including creation of new businesses, resource raising, transaction advisory, international taxes, merger and acquisitions, tax, regulatory, legal, infrastructure projects, PPP projects, merchant banking, investment banking in India and overseas.
- Entrepreneurship opportunities in real estate, infrastructure, technology, education, commodity, banking, insurance and so on.

"If You run a lion's race,
even if you loose you are still a lion.
If You run a rat's race,
even if you win still you are a rat."

Why not run a lion's race and also win.

We will win with comprehensively concentrating on:

- **Skill** - Skill development of highest order unmatched to any other professionals, with target of a comprehensive indepth expert level of practical **knowledge and skill**.
- **Scale** - Do not plan small, dream big and work hard to achieve.
- **Speed** - The most important is to plan, organize, implement and monitor progress to ensure speed better than any one else. in the world by using technology, vibrant professionalism, innovation.

Branding :

It is very important to aggressively work on brand "Made

Contd..... on pg 8

* Mr. Vinod Jain, FCA, FCS, FICWA, LL.B., DISA (ICA), Chairman, INMACS and Vinod Kumar & Associates. vinodjain@inmacs.com, vinodjainca@gmail.com, +91 9811040004



LATEST IN FINANCE

1.0 GUIDELINES FOR PROVIDING DEDICATED DEBT SEGMENT ON STOCK EXCHANGES

The Securities and Exchange Board of India (SEBI) has issued guidelines for debt segments on all Stock exchanges.

(A) Listing:

This segment shall list all the securities and debt instruments.

(B) Trading :

- 1. The debt segment shall offer electronic, screen based trading providing for order matching, request for quote, negotiated
2. The debt segment shall provide separate platforms for the markets described below
a. Retail market - which shall be a market for listing of and trading in publicly-issued debt instruments and where participation by registered trading members can be on their own account or for execution of orders placed their clients.
b. Institutional market - which shall be a market for non-publicly-issued debt instruments with a market lot size of minimum ₹ 1 crore.

(C) Trading Rules:

The trading hours shall be from 9:00 hours to 17:00 hours to be in alignment with trading hours of government securities as issued by the Reserve Bank of India (RBI).

(D) Clearing and Settlement:

All trades shall be cleared and settled through a clearing corporation.

Circular Reference: Circular no. CIR/MRD/DP/03/2013 dated 24.01.2013, www.sebi.gov.in

2.0 REPO IN CORPORATE DEBT SECURITIES

- The Reserve Bank of India (RBI) has said that listed corporate debt securities of original maturity of more than one year which are rated 'AA' or above by the rating agencies, that are held in the security account of the

repo seller, in demat form shall be eligible for undertaking repo.

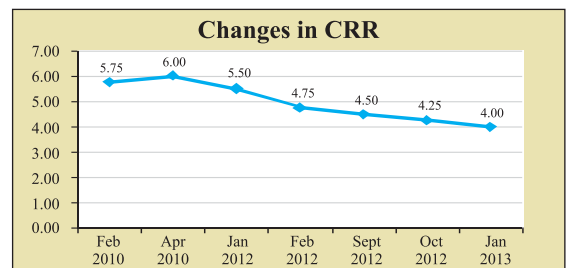
- Commercial Papers (CPs), Certificates of Deposit (CDs) and Non-Convertible Debentures (NCDs) of less than one year of original maturity shall also be permitted as eligible security for undertaking repo in corporate debt. Listing requirement indicated above of this paragraph will not be applicable but rating requirement as specified shall apply also for these money market instruments to be eligible as security for undertaking repo in corporate debt.
A rating based haircut as under (or higher as may be decided by the participants depending on the term of the repo and the re-margining frequency) shall be applicable on the market value of the corporate debt security prevailing on the date of trade of 1st leg.

Table with 4 columns: Rating, AAA, AA+, AA and 2 rows: Rating, Minimum haircut. Values: AAA (7.5%), AA+ (8.5%), AA (10%).

Circular Reference: Notification no. IDMD.PCD. 08/14.03.02/2012-13 dated 04.01.2013, www.rbi.org.in

3.0 CRR REDUCED

The Reserve Bank of India (RBI) has reduced the Cash Reserve Ratio (CRR) of Scheduled Commercial Banks by 25 basis points from 4.25 per cent to 4.00 per cent.



4.0 LENDERS APPROVE RECAST OF SUZLON'S ₹9,500-CRORE DEBT

Loss-making wind turbine maker Suzlon Energy said lenders, comprising 19 banks led by State Bank of India, have approved its proposal to recast ₹ 9,500 crore of debt.

On January 18, the banks have given Suzlon a two-year moratorium on principal and term-debt interest payments. They have also approved a



fresh working capital loan of ₹ 1,800 crore that will have a six-month interest moratorium, aimed at helping the company speed up execution of its strong order book.

5.0 FDI-MACHINERY CONVERSION

The Reserve Bank of India (RBI) has said that second hand machinery import will not be allowed to be converted into equity shares even under government approval route.

Circular Reference: A.P. (DIR Series) Circular no. 74 dated 10.01.2013, www.rbi.org.in

6.0 GOVT. RAISES CUSTOMS DUTY ON GOLD BY 2 PERCENTAGE POINTS

The Government has increased the Customs duty on gold and platinum by two percentage points from 4 per cent to 6 per cent.

7.0 AMFI WAIVES REGISTRATION FEE FOR NEW DISTRIBUTORS

Association of Mutual Funds of India (AMFI) has decided to waive fees for all registrations for the first time distributors for a period of five months from February 1 to June 30. This initiative is aimed at enlarging the distribution network and attracting new cadre of distributors/IFAs for selling mutual fund projects.

8.0 RBI RAISES FII LIMIT BONDS LIMIT

To attract foreign funds into the bond market, the Reserve Bank of India (RBI) has raised the ceiling for foreign institutional investors (FII)'s holdings in government securities and corporate bonds by \$5 billion each. The cap on domestic debt now stands at \$75 billion.

9.0 DOT WANTS MADE-IN-INDIA TAG FOR SIM

- Department of Telecom (DOT) has recommended that the clause should also be included in the proposed cyber security policy
- More than 30 per cent SIM cards are imported at present
- There is a fear the embedded software can turn SIM cards into a mini computer that might lead to abuse and misuse of information
- To enhance protection and resilience of

India's critical information infrastructure, DoT proposed that a National Framework for critical Information Infrastructure Protection should be created

10.0 RBI NOD TO EXPORTERS TO ACCESS FOREX MARKET

The Reserve Bank of India (RBI) has allowed exporters to access the forex market for purchasing foreign exchange but only after utilizing fully the available balances in their Exchange Earners' Foreign Currency (EEFC) accounts.

11.0 INFRA FINANCE COs ALLOWED TO BORROW MORE FROM ABROAD

Infrastructure finance companies can now raise more funds overseas with Reserve Bank of India (RBI) easing norms. The limit on External Commercial Borrowings (ECBs) for infra financing companies under the automatic route has been hiked to 75% of their net owned funds from 50%, including outstanding ECBs.

Companies that want to avail of ECBs beyond 75% of their owned funds will require Reserve Bank of India (RBI) nod and will, therefore, be considered under the approval route. The hedging requirement for currency risk has been reduced to 75% of their exposure from 100%.

12.0 SBI, RUSSIAN WEALTH FUND INK PACT TO SET \$2-BN INVESTMENT CONSORTIUM

State Bank of India and the \$10-billion Russian sovereign wealth fund, RDIF has signed a memorandum of understanding (MOU) to set up a \$2-billion consortium to promote direct investment.

13.0 URJIT PATEL TAKES OVER AS RBI DEPUTY GOVERNOR

Urjit Patel took over as the Deputy Governor of the Reserve Bank of India (RBI). The Government has appointed him for a period of three years from January 11, 2013.

49-year-old Patel is the fourth Deputy Governor, the other three being K.C. Chakrabarty, Anand Sinha and Harun R. Khan. He comes in place of Subir Gokarn, whose term ended on 31.12.2012.



FEMA

1.0 ECB POLICY - REPAYMENT OF RUPEE LOANS AND/OR FRESH RUPEE CAPITAL EXPENDITURE - USD 10 BILLION SCHEMES

The Reserve Bank of India (RBI) has decided to include Indian companies in the hotel sector (with a total project cost of ₹ 250 crore or more), irrespective of geographical location as eligible borrowers under this scheme. AD may certify the project cost at the time of forwarding the External Commercial Borrowings (ECB) application to RBI.

Circulars Reference: A.P. (DIR Series) Circular No.78 dated 21.01.2013, www.rbi.org.in

2.0 USUAL CONTRAVENTIONS UNDER FEMA

1. Draw down of External Commercial Borrowing (ECB) without obtaining Loan Registration Number (LRN)
2. Allowing draw down ECB under the automatic route :-
 - a. from unrecognized lender
 - b. to ineligible borrower,
 - c. For non-permitted end uses, etc.
3. Non-filing of form ODI for obtaining UIN before making the second remittance to overseas WOS/JV for Overseas Direct Investment (ODI)
4. Non-submission of Annual Performance Reports (APRs) / copies of Share Certificates
5. Delay in submission of the Advance Reporting Format in respect of Foreign Direct Investment (FDI)
6. Delay in filing of details after issue of eligible instruments under FDI within 30 days in form FC-GPR
7. Delay in filing of details pertaining to transfer of shares for FDI transactions in form FC-TRS by resident individual/companies
8. Delay in reporting inflow of FDI within 30 days.
9. Delay in allotment of equity/other securities within 180 days.

Circular Reference: A.P. (DIR Series) Circular No. 76 dated 17.01.2013, www.rbi.org.in

CAPITAL MARKET

1.0 SCHEME OF ARRANGEMENT - SEBI PRIOR COMMENT MANDATORY

1. Listed companies desirous of undertaking a Scheme of Arrangement under Chapter V of the Companies Act, 1956, (Amalgamation/ Merger/ Reconstruction/ Reduction Of Capital, etc.) shall file the Draft Scheme with the stock exchanges
2. Such listed companies shall place before its Audit Committee the Valuation Report obtained from an Independent Chartered Accountant. The Audit Committee shall furnish a report recommending the Draft Scheme, taking into consideration, inter alia, the aforementioned valuation report.
3. The stock exchanges shall process the Draft Scheme (including seeking clarifications from company and/or Opinion from Independent Chartered Accountant.) and forward their "Objection/No-Objection" letter on the Draft Scheme to SEBI.
4. The stock exchanges, upon receipt of comments from SEBI shall issue Observation Letter to the listed company.
5. Draft Scheme and observation will be circulated to shareholders for approval and shall also be submitted to the high court.
6. The draft scheme and stock exchange observation shall be disclosed on website of the company and of stock exchange.
7. Listed companies shall ensure that the Scheme submitted with the Hon'ble High Court for sanction, provides for obtaining shareholders' approval through special resolution passed through postal ballot and e-voting.

Circular reference: CIR/CFD/DIL/5/2013 dated 4th Feb 2013, www.sebi.gov.in

2.0 ESOP: AMENDMENT IN SEBI GUIDELINES

The Securities and Exchange Board of India (SEBI) has said that it has noticed some listed entities framing their own employees benefit schemes wherein Trusts have been set up to deal in their own securities in the secondary market,



which was not envisaged within the purview of SEBI (ESOS and ESPs) Guidelines 1999.

In order to address the concerns over acquisition of shares by employee welfare Trusts from the secondary market, SEBI has decided to prohibit the listed entities from framing any employee benefit schemes involving acquisition of own securities from the secondary market.

Circular Reference: Circular no. CIR/CFD/DIL/3/2013 dated 17.01.2013, www.sebi.gov.in

3.0 COs TO COMPENSATE IF PRICE FALLS WITHIN MONTHS OF IPO

The Securities and Exchange Board of India (SEBI) has come out with a discussion paper on safety net which has rightly evoked strong responses from both sides. While one side says it is risk capital and how can anybody ask to give guarantee and return the money, the other side says when two-thirds of the issues are continuously trading below issue price year after year, month after month, even after adjusting for the general decline in the market, how can you expect retail investors to come to the market.

4.0 CLOSE-ENDED MFs LISTING MUST FOR RAJIV GANDHI EQUITY SAVINGS SCHEME

The Securities and Exchange Board of India has clarified that close-ended mutual funds considered eligible under the Rajiv Gandhi equity savings scheme (RGESS) shall be listed and traded on stock exchanges. They will be settled through depositories. Upon maturity of a close-ended scheme, asset management companies have to advise depositories on extinguishing the scheme units which would then be considered settled.

CORPORATE AND ECONOMIC LAWS

1.0 US COURT REJECTS CLAIMS AGAINST SATYAMEX-DIRECTORS

A US court has dismissed claims made in a class action lawsuit against seven former directors of Indian IT firm Satyam Computers saying the directors were themselves "victims of the fraud" and the shareholder suit fails to adequately prove allegations of fraud and negligence against them.

Jones ruled that in order to establish motive and opportunity, the plaintiffs must allege that the Satyam directors named in the lawsuit "benefitted in some concrete and personal way from the purported fraud".

2.0 SC DIRECTS AIRLINES TO STICK TO DISPLAYED FARES

The Supreme Court has said that no airline could charge a fee apart from its displayed fare, under whatever name, till the appellate authority under the Airports Economic Regulatory Act passes an order on this and other related issues.

3.0 REEBOK'S INACTION CAUSING DELAY IN PROBE: SFIO

- The Serious Fraud Investigation Office (SFIO) started a probe against two top former Reebok employees for alleged financial irregularities and fraud in May 2012
- SFIO was expected to give its report by Oct.
- Reebok was required to file its audited annual accounts for 2011 by September 30, 2012. It failed to do so
- In the absence of the accounting details from the sportswear maker, SFIO is yet to finalise its report.

FINANCIAL INDICATORS

	Current Rate* (in %)	Month Ago (in %)	3 Month Ago (in %)	6 Month Ago (in %)
3 Month LIBOR (\$)	0.29	0.305	0.31	0.44
3 Month MIBOR (₹)	8.96	8.75	8.68	9.09
SENSEX	19485	19664	18846	17560
NIFTY	5904	5969	5738	5322
CRR	4	4.25	4.25	4.75
REPO	7.75	8	8	8
REVERSE REPO	6.75	7	7	7
Gold (per 10 gm)	30815	30797	31415	29751
Silver (per kg)	58246	58128	59933	52971
Crude (USD/bbl)	118.90	112.38	107.25	113.22
Rs. vs USD	53.57	54.63	54.34	55.34
Rs. vs Euro	71.79	71.32	69.43	68.04
Rs. vs Yen (₹ 100)	57.42	61.99	68.31	70.51
Rs. vs RMB	8.61	8.79	8.63	8.69
Rs. vs Pound	84.25	87.50	86.97	86.45
MCX Aluminium	110.70	113.30	103.65	101.55
MCX Copper	444.00	444.75	416.40	416.60

*As on 10th Feb. 2013

(Sources: Bloomberg, NSE, BSE, RBI, MCX)



INDIRECT TAXATION

1.0 CENTRE, STATES AGREE ON CST COMPENSATION

The Centre and the states have crossed one major hurdle in the way of Goods & Services Tax (GST) by agreeing to a compensation formula for the Central Sales Tax (CST), but even then the new indirect tax regime might not be introduced in 2013-14.

DIRECT TAXATION

1.0 EXTENSION OF TIME LIMIT FOR FILING ITR-V FORMS FOR A.Y. 2010-11, 2011-12 & 2012-13

The Central Board of Direct Taxes (CBDT) has extended the time limit for filing ITR - V forms for A.Y. 2010-11 (filed during the F.Y. 2011-12) and for ITRs of A.Y. 2011-12 (filed on or after 01.04.2011) till February 2013. In respect of filed for the A.Y. 2012-13 for which ITR-V forms are yet to be received at CPC and time of 120 days has also elapsed, time limit for filing ITR-V has been extended upto 31 March 2013.

Circular Reference: Notification No. 01/2013 dated 07.01.2013, www.incometaxindia.gov.in

2.0 NO TDS ON SOME FINANCIAL SERVICES OFFERED BY BANKS

Payment towards bank guarantee commission, cash management service charges, depository charges on maintenance of Demat accounts, charges for warehousing services for commodities and underwriting service charges made to the banks (excluding Foreign Banks) can now be made without TDS.

According to an official release, this has come into effect from January 1.

3.0 I-T DEPT FINDS PRIMA FACIE DEFAULT BY NOKIA

The issue is that any royalty payment made against supply of software by the parent company attracts a 10 per cent tax deduction. The I-T Department has said that Nokia India did not do since its plant went on stream in 2006.

4.0 GAAR DEFERRED

The Government has deferred the implementation to controversial tax-avoidance rules until 2016

5.0 SOME LATEST JUDGMENTS

SECTION 22

The Gujarat High Court has decided that not only 'gross negligence', but 'due diligence' is equally relevant and important criterion in measuring and determining 'professional misconduct' in case of a Chartered Accountant

Decided Case: - C A Rajesh Vs Disciplinary Committee, [2012] 28 taxmann.com 100 (Gujarat)

SECTION 10B/10A, READ WITH SECTIONS 2(45), 4 TO 9 AND 14

The Bangalore ITAT bench has held that losses incurred in section 10B eligible unit during tax holiday period cannot be allowed to be set off against income of non-eligible unit until tax holiday period is over.

Decided Case: - Karle International (P.) Ltd. Vs ACIT, Bangalore, [2013] 29 taxmann.com 9 (Bangalore - Trib.)

SECTION 5 READ WITH SECTION 35

The Chandigarh ITAT bench has held that:

- Once a liability has accrued, mere fact that it is not quantified during year by way of raising of bills would not alter fact that such liability is an accrued and allowable liability
- Only those R&D expenditure which is approved by DSIR would be eligible for weighted deduction
- Provision for arrears arising on account of wage revision would be allowable expenditure

Decided Case: - Electronics Corpn. of India Ltd. Vs ACIT, Hyderabad [2012] 28 taxmann.com 280 (Hyderabad - Trib.)

SECTION 80-IA (4)

The Mumbai ITAT bench has held that it is not necessary that apart from developing the infrastructure facility, assessee should also operate and maintain it in order to qualify for deduction under section 80-IA(4).

Decided Case: - ACIT, Delhi Vs Pratibha Industries Ltd., [2012] 28 taxmann.com 246 (Mumbai - Trib.)



SECTION 9, READ WITH SECTION 195

The **Delhi ITAT bench** has held that export commission paid to a non-resident agent for services rendered outside India is not chargeable to tax in India.

Decided Case: - DCIT, Delhi Vs Angelique International Ltd., [2012] 28 taxmann.com 219 (Delhi - Trib.)

SECTIONS 36(1)(iii), READ WITH SECTION 37 AND 143(3)

The **Ahmedabad ITAT bench** has held that where assessee, a manufacturer of lignite, set up a power project and product manufactured was an altogether new product, i.e., power, expenditure incurred in respect of power project was not allowable as revenue expenditure

Decided Case: - Gujarat Mineral Dev. Corpn. Ltd. Vs ACIT, Ahmedbad, [2012] 28 taxmann.com 181 (Ahmedabad - Trib.)

SECTION 92CA READ WITH SECTION 37(1)

The **Bangalore ITAT bench** has held that

- Where assessee gave interest free advances to wholly owned subsidiary AEs, TP adjustment would possible only in cases where comparable uncontrolled transactions entered into between two enterprises were established
- Payment made to unrecognized PF is prohibited by section 40(A)(9) and, consequently, not deductible under section 37(1)
- Losses of section 80-IC eligible industrial undertaking can be set off against other taxable business income

Decided Case: - Wipro Ltd. Vs ACIT, Bangalore, [2012] 28 taxmann.com 188 (Bangalore - Trib.)

SECTION 4, READ WITH SECTION 28(iii)

The **Kolkata ITAT bench** has held that services rendered to members, by Tenants' Association, though for remuneration, will be covered by principle of mutuality.

Decided Case: - Belvedere Estates Tenants Association Vs ITO, Kolkata, [2012] 28 taxmann.com 109 (Kolkata - Trib.)

SECTION 92C

- The **Bangalore ITAT bench** has held that in

course of transfer pricing proceedings, TPO has to work out ALP of international transaction by applying methods recognized under Act and, he is not competent to hold that expenditure in question has not been incurred by assessee or that assessee has not derived any benefits from said payment and, consequently, ALP has to be considered as nil.

Decided Case: Festo Controls (P.) Ltd. v/s DCIT, Circle 11(3), Bangalore, [2013] 30 taxmann.com 16 (Bangalore - Trib.)*

- The **Bangalore ITAT bench** has held that Super profit making companies and companies with functional differences are to be excluded from list of comparables while making transfer pricing adjustment.

Decided Case: Google India (P.) Ltd. v/s DCIT, Circle-11(3), [2013] 29 taxmann.com 412 (Bangalore - Trib.)*

SECTION 9

The **Delhi ITAT bench** has held that the royalty in respect of license granted by a non-resident to another non-resident for manufacturing of CDMA handsets cannot be taxed in India even if these handsets are sold to Indian parties. The source of royalty would be deemed as the place where patent is exploited, viz, where the manufacturing activity takes place, which is outside India. Hence, the Indian parties would not constitute source of income for the Original Equipment Manufacturers.

Decided Case: Qualcomm Incorporated v/s ADIT, Circle 2(1) International Taxation, [2013] 30 taxmann.com 30 (Delhi - Trib.)

SECTION 5

The **Mumbai ITAT bench** has held that Notional gains from derivatives held as stock-in-trade is taxable in the year of its actual realization.

Decided Case: Urudavan Investment & Trading (P.) Ltd. v/s ACIT, Range 2(3), [2013] 29 taxmann.com 312 (Mumbai - Trib.)*

SECTION 92C READ WITH SECTION 80HHE

The **New Delhi ITAT bench** has held that Deduction under Chapter VI-A cannot be allowed on enhancement made as per TPO's order.

*Decided Case: Assistant Commissioner of Income-tax, Circle-2(1) v/s Bechtel India (P.) Ltd. *, [2013] 29 taxmann.com 376 (New Delhi - Trib.)*

EDITORIAL

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YOUNG CHARTERED ACCOUNTANTS

in India" for the profession of chartered accountants by committing to the principles of -

- Excellence
- Zero Defect
- P2 : Pro People
- G2 : Good Governance

It is important to have an integrated approach, as being advocated by Mr. Narendra Modi in his address to SRCC on 6th February, 2013. (See www.youtube.com)


"Farm → Fibre Fabric Fashion Foreign".

In respect of the profession, it really means capability to deliver seamlessly treamlessly throughout entire value chain of each business, industry, service sector,


agriculture, government, regulator, judiciary and all other aspects.

Indian chartered accountants are best in the world, what is needed is branding and positioning by packaging services with latest ultra modern presentation, communication and technology.

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CA Vaibhav Jain +91 9711310004 solutions@inmacs.com

● **Contact details** : Dharampal (9013363257) All India Chartered Accountants' Society - CFO World 909, Chiranjiv Tower, 43, Nehru Place, New Delhi-110019. Ph: 26223712, 26228410, 26226933 E-mail: aicas.cfo@gmail.com / cfoworld@gmail.com ● **EDITOR**: Pankaj Gupta, LLB, FCS E-mail: pankajguptafcs@gmail.com ● **PUBLISHED & PRINTED**: At New Delhi by Satish Chandra, Administrative Officer, on behalf of All India Chartered Accountants' Society, 4696, Brij Bhawan, 21A, Ansari Road, Darya Ganj, New Delhi-110 002 Phone 23265320, 23288101 E-mail : aicas.cfo@gmail.com Printed at: EIH Ltd., Unit : Printing Press, No. 7, Sham Nath Marg, Delhi-110054. Views expressed by contributors are their own and the Society does not accept any responsibility.

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