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EDITORIAL

INDIAN CHARTERED ACCOUNTANTS MEETING NEW CHALLENGES



The Indian chartered accountant firms have taken a big leap in last 10 years and are facing now one of the most happening and challenging era full of opportunities.

The Indian Chartered Accountants (CA) firms have been witnessing growth of professional accounting in India and have qualitatively handled large number of audits, tax matters and consulting assignments based on their knowledge and expertise in infrastructure and professional competence.

Indian CA firms managed in terms of Indian culture and Ethos are highly ethical and ensure that financial statements once certified or audited by them are free from fraud and error

The Indian CA firms have wide geographical presence in India and overseas and are competing with international CA firms not only for large assignments but also for mid size clients. Indian chartered accounting firms have been following highest level of standards and professional competence and have made significant efforts to improve Brand India.

All major borrowers of corporate sector and banks in India, where frauds were discovered were not subject to audit by an Indian CA firm

The Indian CA firms are also being supported by a large number of corporate professionals, government officials, bankers and highly placed persons due to the effective and efficient professional services being provided by these Indian CA firms. Even a large number of international collaborators, venture capitalists, foreign investors mandate appointment of Indian firms as auditors and for several other important assignments.

Indian CA firms guarantee and ensure that money and resources are neither wasted nor diverted or siphoned off

The Indian CA firms have been vigorously working to gain strength to meet challenges and reap new opportunities. A large number of Indian CA firms have also established themselves at several Indian and International locations and are expanding geographically in size and in view of their commitment towards growth and prosperity of their clients. These firms have also added to their strength, number of their professional partners and other experts.

Once an Indian CA reviews financial statements or accounts, all material or potential frauds and errors are brought to light

The advent of liberalisation and now a concrete visionary action of the new government to bring in transparency and to eradicate corruption and black money have brought the role of Indian CA firms to centre stage.

The Prime Minister Narendra Modi have called upon the nation to take a pledge to achieve major milestone and targets so as to make significant growth in next 5 years and take India to new heights by 2022, when India will be completing 75 years of independence.

There are large number of new opportunities and challenges for Indian Chartered Accountants to shape India's future in the right direction including:

- To increase tax compliance and educate more and more Indians to be fully compliant with the tax laws
- To implement biggest tax reforms "Goods and Service tax" in a fair and effective manner by their clients, businesses and all the stakeholders.
- Demonetisation has also brought several enquires, investigations, surveys, searches and raids. It is important to grant real justice in all these cases. Professionalism of highest order of Indian CA firm will be of biggest help and support to distinguish genuine cases.

LATEST IN FINANCE

1.0 Industries to be shut for want of effluent treatment plants: SC

Polluting industrial units across the country would be shut down if they do not have functional primary effluent treatment plants (PETPs) to stop the release of untreated waste in water bodies within three months after notice, the Supreme Court ruled.

2.0 SEBI permits FPIs to invest in unlisted corporate bonds

In a bid to deepen capital markets, Sebi notified new norms allowing Foreign Portfolio Investors (FPIs) to invest in unlisted corporate debt securities and securitised debt instruments. The Reserve Bank too relaxed its rules recently for allowing such investments by FPIs.

Earlier, investment in unlisted debt securities was permitted only in the case of companies in the infrastructure sector. Further, investment by FPIs in securitised debt instruments was not permitted.

3.0 TransUnion CIBIL rolls out credit risk ranks for MSMEs

To help banks and financial institutions, which have lent about 12 lakh crore to micro, small and medium enterprises (MSMEs), evaluate their credit decisions better, credit information company TransUnion CIBIL has introduced a credit risk rank for these firms.

Called the CIBIL MSME rank (CMR), algorithms based on the credit history, data are used to forecast the chances of an MSME loan going bad in the next 12 months.

4.0 Govt to cut number of tribunals

The government proposes to bring a Bill to slash the number of tribunals from the present 36 to 18, as it feels that most of them are performing identical functions. But the process of reducing the number of tribunals by either merging them or abolishing them will be carried out in phases.

5.0 Time-bound mechanism for listing of CPSEs

To achieve the ambitious disinvestment target of Rs 70,000 crore for 2017-18, the government will prepare a list of central public sector enterprises (CPSEs) which would be listed on stock exchanges within a month of finalising their audited accounts for 2016-17.

6.0 Removal of limits on withdrawal of cash from Saving Bank Accounts

Effective March 13, 2017, there will be no limits on cash withdrawals from Savings Bank accounts.

7.0 Issuance of Rupee denominated bonds overseas

In order to provide more choices of investors to Indian entities issuing Rupee denominated bonds abroad, it has been decided to also permit Multilateral and Regional Financial Institutions where India is a member country, to invest in these Rupee denominated bonds.

DIRECT TAXATION

1.0 Companies with sales below Rs 50 Cr out of POEM loop: Govt

The tax department said the POEM rules that require foreign firms to pay taxes in India if the effective control is within the country will not apply to companies with a turnover of Rs 50 crore or less in a financial year.

These norms come into effect from April 1, 2017.

2.0 Govt cracks the whip on shell companies

- After trying to tighten the rules against shell companies through its Budget proposals, the government has decided to follow with "harsh punitive" action that will include freezing of bank accounts and striking off the names of dormant companies

- Shell companies' investments in real estate could also come under the scanner

- The government has also decided to invoke the Benami Transactions (Prohibition) Amendment Act

- A task force has been set up to monitor actions against deviant shell companies by various enforcement agencies. The basic approach is to prevent money laundering and tax evasion. The government will use technology to identify shell companies, a database on these companies and their directors would be built by pulling information from various agencies

3.0 CBDT chief allays fears of Arbitrary I-T searches

The following clarifications have been issued by CBDT:

- No junior officer has power to conduct a search on his own
- Proper procedure including permission from principal director general has been laid out for search
- There will be no arbitrary searches, no additional powers given for searches or seizure
- Satisfaction note prepared for the search is shown in the court and it is provided to the court whenever it seeks it in a sealed cover
- The note provides the justification for the search, including evidence to support the conclusions

4.0 Tax officers to file self-appraisal report on e-assessment

Tightening reporting norms, the tax officers have been asked to submit self appraisal reports to the Revenue Department and explain reasons for the "poor performance" in doing e-scrutiny of tax returns.

As it promotes paperless e-mail based assessment to limit personal interface between the taxpayer and taxmen, the Revenue Department has asked officers to file a report on the e-assessments they took up and disposed off in the year. In the self-appraisal form, they have also been asked to file reasons for "low performance", according to a CBDT order.

The Central Board of Direct Taxes (CBDT) has started paperless assessment proceedings in 7 metro cities of Delhi, Mumbai, Ahmedabad, Bengaluru, Chennai, Hyderabad and Kolkata.

5.0 Sec. 43B applies to both employee and employer's contribution to PF and ESI

The High Court of Allahabad held that Assessee deposited contributions towards provident fund and ESI before due date of filing of return, deductions allowable.

*Sagun Foundry (P.) Ltd. v. Commissioner of Income-tax, Kanpur** [2017] 78 taxmann.com 47 (Allahabad)

6.0 Credit given to shareholder as a part of contractual obligation couldn't be held as deemed dividend

*Commissioner of Income-tax, Chennai v. C. Subba Reddy** [2017] 77 taxmann.com 320 (Madras)

7.0 Payment for testing, trial operation and commissioning work would attract sec. 194C TDS and not sec. 194J TDS

The High Court of Punjab and Haryana held that Contracts entered into by assessee-company with various contractors to execute work of erection, testing, commissioning and trial operation of power cycle piping, boiler and LP piping packages for various units in State, amounted to works contract requiring deduction of tax at source under section 194C.

PCIT v. SBHBL * [2017] 77 taxmann.com 269 (Punjab & Haryana)

8.0 Payment made to purchase equipment for research is not royalty when no research is carried out: ITAT

The ITAT held that where under an agreement with foreign company for carrying out research, assessee made payment to foreign company for purchase of equipments and appliances but no research activity had taken place, said payment could not be treated as royalty liable to TDS.

*Aatash Power (P.) Ltd. v. Income Tax Officer, International Taxation-II, Ahmedabad** [2017] 78 taxmann.com 202 (Ahmedabad - Trib.)

9.0 No capital gain tax on capital contribution made in partnership firm

The High Court of Bombay held that where assessee-company made capital contribution in a partnership firm in form of land, shares and securities, since said firm was genuine which carried on its business activities regularly, even though in such a case, aforesaid contribution constituted transfer of capital asset, yet it did not result in any capital gain subjected to capital gain tax

*Jamnalal Sons Ltd. v. Commissioner of Income-tax, Nagpur** [2017] 77 taxmann.com 350 (Bombay)

**10.0 Payment made for connectivity facility for sending bulk SMS couldnot be held as royalty: Mumbai ITAT**

Gupshup Technology India (P.) Ltd. v. Deputy Commissioner of Income-tax (TDS)-1(1), Mumbai [2017] 78 taxmann.com 11 (Mumbai - Trib.)*

11.0 Benami Act violators to face double whammy of legal action

Those who undertake Benami transactions would invite Rigorous Imprisonment (RI) of up to 7 years and such violators would also stand to be charged under the normal I-T Act.

Benami Property Transactions Act, 1988, has come into effect from November 1, 2016.

Show cause notices for attachment have been issued in 140 cases where benami assets worth Rs 200 crore are involved. The attached assets, include deposits in bank accounts, agricultural and other land, flats and jewellery shares issued to entry operators, among others.

12.0 Trust incurring expenses in excess of its income would be eligible for sec. 11 relief

The Supreme Court of India held that SLP granted against High Court's ruling that where assessee, a charitable trust, incurred expenditure in excess of income in previous year relevant to assessment year for charitable purposes, out of accumulated charity fund, it could not be denied benefit of exemption under section 11(1)(a).

Commissioner of Income-tax, Bikaner v. Krishi Upaj Mandi Samiti (Grain) [2017] 78 taxmann.com 164 (SC)*

13.0 House given to wife for inadequate consideration could be attached to recover tax dues of husband

The High Court of Kerala held that where assessee's husband transferred a property to her for inadequate consideration during block period for which search was carried out against him, in case of failure of assessee to pay tax demand determined in block assessment proceedings, department could proceed against aforesaid property of assessee under Explanation to section 222(1).

T.S. Sujatha v. Tax Recovery Officer [2017] 78 taxmann.com 93 (Kerala)*

14.0 Section 50C doesnot apply to transfer of leasehold rights in land: Bombay High Court

The High Court of Bombay held that section 50C will not be applicable while computing capital gains on transfer of leasehold rights in land and buildings.

Commissioner of Income-tax, Central-II, Mumbai v. Greenfield Hotels & Estates (P.) Ltd. [2017] 77 taxmann.com 308 (Bombay)*

15.0 Additional depreciation should be allowed on machinery installed subsequent to year of acquisition

The High Court of Gujarat held that additional depreciation to be allowed to assessee on plant and machinery acquired during assessment year but installed after end of year.

Principal Commissioner of Income-tax, Vadodara-2 v. IDMC Ltd. [2017] 78 taxmann.com 285 (Gujarat)*

16.0 Payment made for supply of software embedded in equipment couldn't be taxed as royalty

The In the ITAT Kolkata Bench 'C' income earned by assessee a company incorporated in Netherlands from on-shore supply of software and licenses for mere purpose of operating equipment is for 'copyright' in such software because software in question is embedded in equipment supplied under project and cannot be regarded as giving any independent right to use software. Accordingly, such consideration is for purchase of a 'copyrighted article' and hence not taxable as 'royalty'

HITT Holland Institute of Traffic Technology B.V. v. Deputy Director of Income-tax [2017] 78 taxmann.com 101 (Kolkata - Trib.)

AUDIT

1.0 ICAI may 'temporarily suspend' erring members

The Institute of Chartered Accountants of India (ICAI) is toying with the idea of introducing the concept of "temporary suspension" of erring members as part of broader improvement of its disciplinary mechanism of the audit profession, said Nilesh Vikamsey, newly elected President.

2.0 CA guilty of professional misconduct as he failed to highlight suspicious book entries during audit

The High Court of Delhi held that where respondent-chartered accountant was statutory auditor of company but failed to discharge its duty to enquire whether transactions which were merely book entries were prejudicial to interest of company, respondent was guilty of professional misconduct and his name was to be removed from register of member of ICAI for a period of 5 years.'

Council of The Institute of Chartered Accountants of India v. CA G.S. Johar [2017] 78 taxmann.com 286 (Delhi)

3.0 Cyber Security Audit Technology

The ministry of electronics and information technology (MeitY) via its computer emergency response team (CERT-in) launched desktop tools and mobile applications for citizens to tackle cyber security. The new tools, which are developed by the Centre for Development of Advanced Computing (C-DAC) includes white-listing software AppSamvid, USB Pratirodh tool to control unauthorised usage of portable USB storage devices, and mobile device security app M-Kavach.

Besides this, the government has also launched the Cyber Swachhta Kendra - Botnet Cleaning and Malware Analysis Centre for analysis of malware and botnets that affect networks and systems - which is operated by CERT-In.

Whenever an infection is detected, the central government will send alerts on the infected IP addresses to the Internet Service Providers, who in turn will inform the end-user about the malware and botnet infections on their system.

CAPITAL MARKET

1.0 Online registration of market intermediaries, common application form

The registration of financial market intermediaries like mutual funds, brokers, portfolio managers, etc., will be completely made online by SEBI. Also, SEBI, RBI, and CDDT will take necessary steps to put in place systems and procedures to introduce a common application form for registration, opening of bank and demat accounts, and issue of PAN card.

2.0 Ajay Tyagi appointed as new SEBI chairman

The government appointed Ajay Tyagi as the ninth chairman of the Securities and Exchange Board of India (SEBI). Tyagi, who was the additional secretary, Department of Economic Affairs in the finance ministry, has been appointed for a period of five years.

3.0 Sebi mandates integrated reporting by listed firms

The markets regulator has made it mandatory for top 500 listed companies to submit Business Responsibility Report which will give details on areas such as environment, governance and stakeholder's relationships.

4.0 Sebi to open commodities route for AIFs

The board of the Securities and Exchange Board of India (Sebi) has initiated the process of opening up the country's commodity derivatives market to new participants. Sebi is working on allowing AIFs, particularly the category III (such as hedge funds) segment in commodity derivatives market. Sebi has already written to the Reserve Bank of India and ministry of agriculture for their comments.

CORPORATE LAW

1.0 Government eases India Inc's labour law compliance burden

Persisting with its labour reforms agenda, the government has pruned the number of registers mandatory for all establishments to maintain under nine central Acts to just five from 56, and the relevant data fields to 144 from 933, a move hailed by the industry as it would ease compliance burden.

2.0 States at the forefront of labour law reform

Rajasthan

- Industrial Disputes Act, 1947 Relaxes hire-and-fire policy
- Factories Act, 1948 increases threshold limit for firms, from 20 workers to 40
- Contract Labour (Regulation & Abolition) Act, 1970 industries will be able to hire more temporary workers

**Maharashtra**

- Contract Labour (Regulation & Abolition) Act, 1970 increases threshold limit of applicable factories, from 20 workers to 50

- Factories Act, 1948 reduces units under the law

Madhya Pradesh

- Madhya Pradesh Labour Laws (Amendment) Act, 2015 allows easier retrenchment policy and night shifts for women

Gujarat

- Labour Laws (Gujarat Amendment) Bill, 2015 introduces compromise as a dispute mechanism. Allows prohibition of strike in public utility services

3.0 Decision of board to increase share capital nullified as it was taken in absence of petitioner director: NCLT

The National Company Law Tribunal, Hyderabad Bench held that where respondents had taken several major decisions including enhancement of authorised share capital in board meetings in absence of petitioner, such things constituted oppression and mismanagement of affairs of respondent-company and decision to enhance authorised share capital was declared null and void.

M. Sridhar Reddy v. Rohini Auto Electricals (P.) Ltd. [2017] 78 taxmann.com 27 (NCLT - Hyd.)

4.0 No need to conduct meeting of members when amalgamation is between holding and its wholly owned subsidiary

The High Court of Delhi held that requirement of convening a meeting of creditors and equity shareholders of transferee Company and unsecured creditors of transferor company, to consider and approve proposed scheme of amalgamation could be dispensed with as transferor company was wholly owned subsidiary of transferee company and transferee company being sole equity shareholder of transferor company had given its written consent to proposed scheme.

[2017] 78 taxmann.com 95 (Delhi)

INDIRECT TAXATION**1.0 Delhi slashes VAT on jet fuel for regional airlines to 1%**

The Delhi government announced reduction in VAT on jet fuel for regional carriers flying out of Delhi airport. The VAT on Aviation Turbine Fuel (ATF) bought for regional flights will be charged at the rate of 1% and not 25%.

2.0 Services Tax exempted on services

Services by way of carrying out,-

- Any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption; or
- Any intermediate production process as job work not amounting to manufacture or production in relation to specified cases

Process amounting to manufacture or production of goods" means a process on which duties of excise are leviable.

3.0 Leasing of earthmoving equipment would attract VAT and not service tax

The CESTAT, Mumbai Bench held that assessee was engaged in renting of earthmoving equipments and terms and conditions stipulated in agreement entered into between assessee and lessor led to conclusion that transaction envisaged in agreement was one of transfer of right to use goods, assessee's activity of giving equipments on hire did not fall under category of 'supply of tangible goods for use'

Gimmco Ltd. v. Commissioner of Central Excise & Service Tax, Nagpur [2017] 78 taxmann.com 30 (Mumbai - CESTAT)*

4.0 SIM Card replacement charges are liable to service tax and not VAT: Madhya Pradesh HC

The High Court of Madhya Pradesh held that where assessee provided various kinds of telecom services such as cellular, fixed line and broadband services and paid service tax thereon, levy of VAT on SIM card replacement charges and lease line charges received by assessee from subscribers not justified.

Idea Cellular Ltd. v. Assistant Commissioner of Commercial Tax, LTU, Indore [2017] 78 taxmann.com 106 (Madhya Pradesh)*



5.0 Upgradation of aircrafts to be treated as manufacturing activity, not liable to Service Tax

The CESTAT, Allahabad Bench held that activities to upgrade aircrafts being manufacturing activities, is not 'maintenance and repair services'.

*Hindustan Aeronautics Ltd. v. Commissioner of Central Excise, Kanpur** [2017] 78 taxmann.com 168 (Allahabad - CESTAT)

6.0 Labelling and packing of handmade 'Biri' in plastic wrappers isn't manufacturing: Calcutta HC

The High Court of Calcutta held that labelling and packing of handmade biri in printed plastic wrappers with aid of power operated machine to bring into existence retail pack would not come within purview of 'manufacture'.

*Deputy Commissioner of Central Excise, Siliguri v. Kishan Biri Mfg. Co.** [2017] 78 taxmann.com 167 (Calcutta)

7.0 CBEC launches mobile application for GST

In step with the government's Digital India Initiative, the Central Board of Excise and Customs (CBEC) has launched a mobile application for 'Goods And Service Tax'. Taxpayers can readily access a host of GST information such as:

- Migrations to GST-Approach and guidelines for migration
- Draft Law-Model GST law, IGST law and GST compensation law
- Draft Rules-Rules related to registration, returns, payment, refund and invoice
- Frequently Asked Questions (FAQs) on GST
- Various resources on GST such as videos, articles etc.
- Related website links

8.0 Interest on refund is available from date of reassessment when there is suppression of facts by assessee

Interest on refund is available from date of reassessment when there is suppression of facts by assessee

*Bawa Trading Co. v. Sales Tax Officer** [2017] 78 taxmann.com 104 (Orissa)

BANKING

1.0 Centre sets up credit registry to help banks tackle stressed assets

To enable the banking sector tackle the problem of stressed assets, which now stands at about 12 lakh crore, the Centre has set up an National E-Governance Services.

QUICK UPDATES

- Certificate for lower TDS 'Person specific and not income specific'
- Certificate for lower TDS 'Person specific' and not 'Income specific'
- Shri G.D Aggarwal appointed as President of ITAT
- Interest earned by Mauritius Bank from Indian securities is exempt in India
- No section for 54F relief if newly acquired house is instantly demolished
- RBI allows NRIs to invest in exchange-traded currency derivatives
- Furnishing of Aadhar is mandatory for final settlement of Pension claims

FINANCIAL INDICATORS

	Current Rate*	Previous Month	3 Month ago	6 Month ago
3 Month LIBOR (%)	1.09	1.03	0.99	0.95
SENSEX	28909.7	28351.62	27214.14	26515.24
NIFTY	8932.00	8805.05	8395.70	8170.80
CRR (%)	4	4	4	4
REPO (%)	6.25	6.25	6.25	6.25
REVERSE REPO (%)	5.75	5.75	5.75	5.75
Gold (per 10 gm)	29775.4	29152	28317	27477
Silver (per kg)	41435	42696	40774	41119
Crude (USD/bbl)	53.21	53.08	52.24	47.69
Rs vs USD	66.50	66.96	68.24	67.58
Rs vs Euro	72.41	71.17	72.41	71.76
Rs vs 100 Yen	57.76	58.89	59.32	59.06
Rs vs RMB	9.64	9.74	9.90	9.75
Rs vs Pound	81.12	83.76	83.01	85.13
MCX Aluminium (per kg)	125.70	125.40	121.40	117.75
MCX Copper (per kg)	382.20	411.70	400.10	392.50
*As on March 10, 2017		(Sources: MoneyControl, NSE, BSE, RBI, MCX)		

CA FIRMS CHALLENGES...

- Benami Property prohibition law is being administered by the tax department which will severely impact spurious transactions. Already hundred of show cause notices and confiscation of properties have been initiated.
- Capital market is getting activated and is on unprecedented growth path. Merchant banking, brokerages, mutual funds, private equity funds, infrastructure fund & all latest financial products, financial structuring, corporate structuring will need CA's for their active professional hand holding support.
- Banking sector suffering from large scale non-performing assets have brought a new challenge to manage the corporate and businesses effectively and efficiently and to bring in financial modes of sustained growth.

- The financial management, control, discipline and devoted austerity measures by cutting cost and improving performance are real challenging targets to be met by Indian CAs.

Indian CA firms are committed to work sincerely, ethically and aggressively for growth of clients, while managing risk and contingencies effectively. The focus of Indian CA firms is to be efficient, innovative and work fairly. The value creation has to be at centre stage for all the stakeholders.

Indian CAs have committed to eradicate corruption and unethical practices from the financial system. A Special Action Task Force (SATF) has been constituted to run operation "Black Belt"

The Chartered Accountants also have to work as intellectuals policy makers to evolve new strategies, to maximize with compliance and to keep the requirements of filing and other procedures to the minimum.

GST

- Transitional Phase Implementation
- IT System Integration
- Business Advisory Services
- Pre Implementation Guidance
- Input Credit Planning & Management



- Departmental Audit
- Preventive Audit
- Compliance Audit



Audit

Compliances

- Preparation of Return
- Maintenance of Records
- Business Advisory Compliances



- Business Operating Procedures
- Automation
- Reconciliation
- Planning



System Designing

INMACS

- 101, Global Business Square, Building No. 32, Sector 44, Institutional Area, Gurgaon +91-124-4786-200
 - 909, Chiranjiv Tower 43, Nehru Place New Delhi 110019, +91-11-2622-3712
- solutions@inmacs.com www.inmacs.com

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• **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
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 All India Chartered Accountants' Society
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 Darya Ganj, New Delhi-110 002