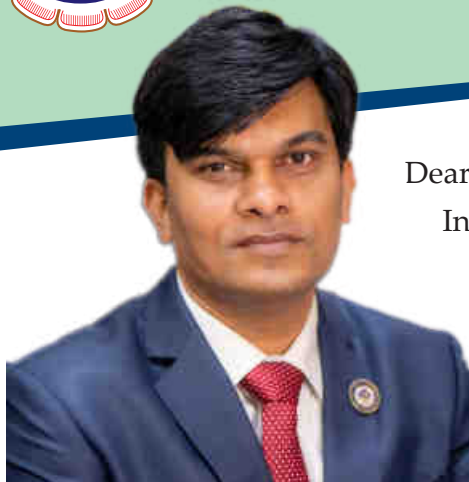




# Western India Chartered Accountants Newsletter



## Message from Chairman's Desk

Dear Members,

In the words of Alvin Toffler, a renowned futurist, businessman and writer, *"The illiterate of the 21st century will not be those who cannot read and write, but those who cannot learn, unlearn, and relearn."*

As professionals we deeply resonate with the same and understand the importance of continuously learning, unlearning, and relearning. At WIRC, we are constantly endeavoring and striving to bring the next big thing to empower you professionally and personally. With multiple initiatives like Virtual Workshop, Refresher Courses, IT Initiatives, Mentorship assistance Programme, Research Forum, Helpdesk etc. we aim to provide the members a path to success and a vehicle to reach the goals.

### Acknowledgement of members' achievements

We understand that confidence plays a major role in building and growth of members and students as highly renowned professionals. WIRC aims to direct its initiatives in creating confident professionals through proper education, interaction, successes and learning from failures.

In order to acknowledge the achievement of our members, and inspire everyone, we have started with an initiative wherein the achievement of the members shall be published in the monthly newsletter. Members are requested to share their exceptional achievements with WIRC at [wirc@icai.in](mailto:wirc@icai.in).

### Webinar on 'Restructuring Tax System in India through Faceless Assessment Scheme'

With a view of bringing transparency and objectivity to the assessment process under direct tax, Prime Minister Narendra Modi launched the faceless assessment scheme, which eliminates territorial jurisdiction and substitutes individual discretion with team-based assessment.

In order to ensure that members and organisations are ready for these major digital transition in direct tax assessments, WIRC along with ASSOCHAM jointly organized a Webinar on *'Restructuring Tax System in India through Faceless Assessment Scheme'*

The event was graced by presence of top tax officials and authorities. The dignitaries discussed the reform in detail and highlighted the important points of the scheme.

### 2020 Induction Programme for Students

With a view to induct the newly joined students in the Chartered Accountancy profession, WIRC has organized an Student Induction Program. The induction program saw inspirational speeches from our torch bearers.

ICAI President CA. Atul Kumar Gupta, outlined the 'Vision and Mission of ICAI', inspiring students to follow the path outlined by our alma mater, followed by an overview and orientation of the institute by ICAI Vice-President CA. Nihar Jambusaria. Further, key insights on Articleship/ Internship and road map to professional opportunities was shared with the students by ICAI Past President CA. Nilesh Vikamsey who gave his insights to students regarding Articleship/Internship while WIRC Past Chairman, CA. Shailesh Haribhakti enthused the students by laying out the Road Map to Professional Opportunities. SSEB Chairman, CA. Jay Chhaura, also addressed the students.



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#### Forthcoming Events

Page 3



#### Law Updates & Miscellaneous

Page 05

## Virtual CPE Meetings and Refresher Courses

With a view to achieve our objective of providing platform for continuous knowledge update to our members and students, WIRC organized several Virtual CPE Meetings and Refresher courses which were well attended and appreciated by the members at large.

Education is our core strength and WIRC makes sure we remain at the cutting-edge of professional knowledge through the Virtual CPE Meetings.

The virtual CPE Meeting on “**Code of Ethics**” was graced by CA. Nihar Jambusaria, Vice President, ICAI, and CA. Kemisha Soni, CCM - Chairperson, Ethical Standards Board, ICAI, as key note speakers.

Refresher course on “**Finance- Finance, Present & Future Landscape**” was inaugurated by Mr. Arijit Basu, Managing Director of SBI. The large number of participants appreciated his practical views and guidelines as to the way forward.

CA. Kamlesh Vikamsey, Past President, ICAI, enthralled attendees with his vast experience in the Refresher Course on “**Ind AS – Practical Aspects**”. Members present for this course took back a lot of relevant insights to help them move ahead professionally.

Our Virtual CPE Meeting on “**Networking & Merger of CA Firm - The Way to Grow**” gave clear insights into the bright future for small and medium firms, outlining a clear path forward towards better stakeholder success via joining hands.

The Virtual Workshops on Office 365 and on Analyzing & Visualizing Data with Excel Power Tools took participants to the next level in understanding how to use the tools at their disposal to make a positive impact on their client offerings.

## Referencer on GST Annual Return and Audit

With a view to provide exhaustive and one stop guidance for conducting GST Annual Return and GST Audit for FY18, WIRC has released a publication – “Referencer on GST Annual Return and Audit for FY 2018-19”. Members can access the same at- <https://www.wirc-icai.org/members/wirc-publications/reference-to-gst-audit-annual-return-for-fy-2018-19>

## Publication on Multilateral Instruments (MLI)

In order to update the members on Multilateral instruments and make them ready for the global challenge, WIRC has released a e-Publication ‘Multilateral Instruments (MLI) for Beginners’. This publication has already found much appreciation and as MLI becomes an essential part of international business, I am proud to state that these publications from WIRC will ensure that our members are well prepared to stand on the global stage professionally. Members can access the publication at- <https://www.wirc-icai.org/images/publication/Multilateral-Instrument-Beginners.pdf>

## WIRC’s Mentorship Assistance Programme

As we look forward towards celebrating Teacher’s Day on Septe 5, WIRC has launched Mentorship Assistance Programme which will take forward the mentorship Programme ahead in a dynamic and positive manner. We believe it will have a very positive impact in the near future.

## WIRCLiveHelpdeskforMembersForNetworking

WIRC has always functioned as a fraternity, helping members become better professionals by association. Taking this ethos forward, WIRC has created a Live Helpdesk for Networking. This initiative will assist members looking to network within the fraternity to develop stronger professional support systems. We believe that this Helpdesk for Networking will enable members to move ahead professionally and successfully faster than before.

Members and students can share their queries at <https://helpdesk.wirc-icai.org>

In the words of Father of the Nation, Mahatma Gandhi, “It is health that is real wealth and not pieces of gold and silver.” We would be wise to take heed of these immortal words. Let us not put others, especially the vulnerable population of seniors, at risk - take care, stay safe and remain healthy.

Best Regards

Yours Sincerely,



**Lalit Bajaj**  
Chairman

## Forthcoming Events Webinar for Members

Date & Day	Time & Fees	Topic(s)	Speaker(s)	Regional Council Members (Chief Co-ordinators)	Co-ordinators
03/09/2020 Thursday 04/09/2020 Friday 10/09/2020 Thursday 11/09/2020 Friday 12/09/2020 Sunday	05.00 p.m. to 08.00 p.m. on 03rd, 04th, 10th & 11/09/2020  02.00 p.m. to 05.00 p.m. on 12/09/2020 ₹ 1200/- (Incl. GST)	<b>Refresher Course on Due Diligence, Investment Banking, M&amp;A Advisory for SMP</b>  Thursday, 3/09/2020 from 5.00 pm to 08.00 pm Overview of M&A and Deal making environment opportunities  Industry perspective on deal scenario in India  Friday, 4/09/2020 from 5.00 pm to 8.00 pm Overview of Due Diligence and types of Due Diligence Financial Due Diligence and Report Drafting Thursday, 10/9/2020 from 5.00 pm to 8.00 pm Valuation in M&A transactions, Hits and Misses for deals Valuation Opportunities and the Next Big thing for SMPs Friday, 11/09/2020 from 5.00 pm to 8.00 p.m. Tax Planning, Structuring and Case studies Tax Due Diligence in M&A and Report drafting Saturday, 12/09/2020 from 2.00 pm to 5.00 pm M&A in startup Ecosystem  Acquisition of Stressed Assets in the light of IBC, 2016	CA. Raja Lahiri  CA. Dibyendu Dutta Group Head, M&A Treasury-Tata Steel  CA. Krishna Chaturvedi  CA. Arvind Godhawala  CA. Parag Kulkarni  CA. Sumit Dhaddha  CA. Vishal Gada CA. Anil Talreja  CA. Suraj Kalra Senior Vice president, Vodafone Group  CA. Harkamal Ghuman CA. Harkamal Ghuman MD, Alvarez & Marsal	CA. Arpit Kabra 9819007027 CA. Yashwant Kasar 9822488777 CA. Abhijit Kelkar 9422126890	CA. Rahul Bagaria 9820511363 CA. Shron Sanghvi 8208759734 CA. Ashish Vyas 9930035377 CA. Shail Shah 9879686400 CA. Moksh Bandi 9773836977
03/09/2020 Thursday	05.00 p.m. to 08.00 p.m.  ₹ 236/- (Incl. GST)	<b>Virtual CPE Meeting on Real Estate Sector- Critical Issues &amp; Aspects</b>  Panelist: Real Estate Industry - what after COVID19  Issues related to Direct Taxes Issues related to Indirect Taxes	Moderator CA. Ninad Karpe  CA. Niranjan Hiranandani Co-founder & MD, Hiranandani Group  Shri Dhaval Ajmera Director, Ajmera Group  Shri Atul Gupta Metro Realty  Shri Irfan Kazi CIO, Swamih Investment Fund, SBICA. Pankaj Jain  CA. Pankaj Jain CA. S. S. Gupta	CA. Drushti Desai 9820335923 CA. Hitesh Pomal 9824049402 CA. Balkishan Agarwal 9377110634	CA. Dinesh Narwani 9890431848 CA. Sulabh Agarwal 9821214439



## Forthcoming Events Webinar for Members

Date & Day	Time & Fees	Topic(s) & Speaker(s)	Regional Council Members (Chief Co-ordinators)	Co-ordinators
11/09/2020 Friday	05.00 p.m.	<p><b>Refresher Course on Internal Audit</b></p> <p><b>Friday, 11/09/2020 from 5.00 pm on 8.00 pm</b></p> <p>Standards on Internal Audit : <b>CA. Huzeifa Unwala</b></p> <p>Skills required for New Age Internal Auditors</p> <p>Soft Skills</p> <p>Stakeholder Management</p> <p><b>Moderator: CA. Haresh Dua, JSW Steel</b></p> <p><b>Panelists:</b> <b>Mr. Venkataraman TV, Ashok Leyland, CA. Aneel Gambhir, Blue Dart</b> <b>Mr. Venkatesh, Siemens, CA. S. Bhaskar, Tata Capital Ltd.</b></p> <p><b>Saturday, 12/09/2020 from 5.00 pm to 8.00 pm</b></p> <p>Developing a Risk Based Internal Audit Plan - A Practical Approach : <b>CA. Preeti Sadarangani, Vodafone Group, UK</b></p> <p>Integration of ERM with Internal Audit : <b>CA. Arti Mahajan, Nayara Energy Limited</b></p> <p>Audit Coverage &amp; Strategies in New Normal: Focusing on What Really Matters</p> <p><b>Moderator: CA. Jash Damani, Godrej Industries Ltd.</b></p> <p><b>Panelists: CA Nilesh Likhite, ACC, CA Pradip Menon, Pidilite</b> <b>CA. Pankit Shah, Brinks India Pvt Ltd., CA. Rajeev Newar</b></p> <p><b>Sunday, 13/09/2020 from 10.00 am to 1.00 pm</b></p> <p>Best Practices in Internal Audit Execution: <b>CA. Alpa Ambavat, Writer Corporation</b></p> <p>Internal Audit Reporting: <b>CA. Shyam Periwal, UPL</b></p> <p>Expectation of Audit Committee from Internal Audit. Is internal auditing stepping up?</p> <p><b>Moderator: CA Seema Grover, Dr. Reddy's Lab</b></p> <p><b>Panelists</b> <b>CA. Satish Shenoy, Aditya Birla Management Corporation Pvt Ltd</b> <b>Mr. Sanjay Asher, Crawford Bayley, CA. Anirban Dasgupta, RPG Group</b> <b>CA. Robin Banerjee, Caprihans India Limited</b></p> <p><b>Friday, 18/09/2020 from 5.00 pm to 8.00 pm</b></p> <p>Driving Efficiency and Reliability with Continuous Control Monitoring <b>Mr. Dhruvabrata Ghosh</b></p> <p>Digital Transformation using RPA : <b>CA. Jignesh Kenia, Times Network</b></p> <p>The Next Generation of Internal Auditing – Are You Ready?</p> <p>Moderator <b>CA. Bharat Garg, Fidelity</b></p> <p>Panelists <b>CA. V. Swaminathan, Godrej Industries Ltd. CA Naval Kishor Bajaj, Yokogawa India Limited, CA. Devang Desai, Adani Group, CA. Ashish Shetty, Target Corporation</b></p> <p><b>Saturday, 19/09/2020 from 5.00 pm to 8.00 pm</b></p> <p>Update to The Three Lines of Defense in Effective Risk Management and Control: <b>CA. Nikhil Singhi</b></p> <p>Internal Financial Controls: <b>CA. Sivaram Subramoniam, Titan</b></p> <p>IFC: From the viewpoint of Independent Directors</p> <p><b>Moderator: CA. Nagesh Pinge</b></p> <p><b>Panelists: CA. Jyotin Mehta, CA. T.P. Ostwal, CA. Atul Bheda, CA. Ashok Barat</b></p>	CA. Murtuza Kachwala 9833015334 CA. Rakesh Alshi 9819427242 CA. Sushrut Chitale 9821112904 CA. Vimal Agrawal 9320617447	CA. Sachin Shah 9930330644 CA. Sumit Doshi 9377068248 CA. Gaurav Mishra 8108763725 CA. Purvi Malani 9821144254 CA. Abizer Patanwala 9315515253 CA. Rishabh Jain 9892325775 CA. Deeraj Daga 8976138099
12/09/2020 Saturday	08.00 p.m.			
13/09/2020 Sunday	on 11th, 12th, 18th &			
18/09/2020 Friday	19/09/2020			
19/09/2020 Saturday	10.00 a.m. to 01.00 p.m. on 13/09/2020			
	<b>15</b> CPE Hrs			
	₹ 1200/- (Incl. GST)			

Date & Day	Time & Fees	Topic(s)	Speaker(s)	Regional Council Members (Chief Co-ordinators)	Co-ordinators
12/09/2020 19/09/2020 26/09/2020 03/10/2020 Saturdays	02.00 p.m. to 05.00 p.m.  ₹ 1000/- (Incl. GST)	<b>Refresher Course on Representation Skills</b>  <b>Saturday, 12/09/2020 from 2.00 pm to 5.00 pm</b> Faceless Assessment and Appeal - Statutory Provisions Softskills Relevant for Faceless Representation <b>Saturday, 19/09/2020 from 2.00 pm to 5.00 pm</b> Representation in Search Cases and Settlement Commission Technical aspects relating to Virtual and Faceless representation <b>Saturday, 26/09/2020 from 2.00 pm to 5.00 pm</b> Submissions & Appearances before NCLT Submissions & Appearances before NCLAT <b>Saturday, 03/10/2020 from 2.00 pm to 5.00 pm</b> DRP and ITAT Statutory Provisions Softskills Relevant for Virtual & Physical hearing - ITAT & DRP	CA. Gautam Nayak  Adv. H. C. Jain  CA. Jayesh Kariya  Adv. Nipun Singhvi Adv. Honey Satpal  CA. Chetan Karia Eminent Faculty	CA. Drushti Desai 9820335923 CA. Vishal P. Doshi 9824059901 CA. Jayesh Kala 9820010113	CA. Shivratn Singrodia 9892365985 CA. Vaibhav Patil 8652420883 CA. Prakash Kapooriya 9825125507 CA. Utkarsh Sharma 9967545694
19/09/2020 Saturday	10.00 a.m. to 01.00 p.m.  ₹ 236/- (Incl. GST)	<b>Virtual CPE Meeting on Insolvency</b>  Chief Guest: Recent Landmark Judgements of NCLT -  Panel Discussion on Opportunities in NCLT, SAT & CCI	CA. Rajesh Sharma - Member (Technical), NCLT  CA Sanjay Asher  Moderator CA Rahul Bagaria  Panelists: CA Sanjay Asher CA Dhaval Vussonji CA Anand Bathiya	CA. Priti Savla 9321426883 CA. Vikash Jain 9327715892	CA. Janak Bathiya 9820075833 CA. Gautam Mota 9594339945 CA. Chintan Rambhia 9867383060
25/09/2020 Friday	05.00 p.m. to 08.00 p.m.  ₹ 236/- (Incl. GST)	<b>Virtual CPE Meeting on Labour Laws</b>  Employees State Insurance Scheme (ESIC) 1948  The Employees Provident Fund Act 1952 & Pension Scheme 1995  The Payment of Bonus Act 1965  The Payment of Gratuity Act, 1972  Labour law compliance under Statutory Audit	Adv. Ramesh L. Soni      CA. Vijay Joshi	CA. Anand Jakhotiya 9325444644 CA. Shilpa Shinagare 9820053395 CA. Chintan Patel 9099921163	CA. Vivek Joiser 79777737319 CA. Sheetal Sharma 9322861110
02/10/2020 Friday 03/10/2020 Saturday 04/10/2020 Sunday 10/10/2020 Saturday 11/10/2020 Sunday	10.30 a.m. to 12.30 p.m.  ₹ 1,000/- (Incl. GST)	<b>Refresher Course on Interplay of GST with other laws</b> <b>Friday 2nd October, 2020</b>  Applicability of Articles of Constitution of India in GST <b>Saturday 3rd October, 2020</b>  Income Tax Vs. GST <b>Sunday 4th October, 2020</b>  Principles of Interpretation, Indian Contract Act, Limitation Act applicable to GST <b>Saturday 10th October, 2020</b>  General Clauses Act, Sale of Goods Act, Transfer of Property Act, RERA as applicable to GST Law <b>Sunday 11th October, 2020</b>  Assessment Proceedings in GST along with CPC and CRPC	CA Pritam Mahure   Adv. CA V. Raghuraman  Adv. L. Badri Narayan*  Adv CA Rohit Jain  Dr. Adv. CA Avinash Poddar	CA. Manish Gadia 9820537986 CA. Umesh Sharma 9822079900 CA. Kamlesh Saboo 9819195333	CA. Jinit Shah 9870070607 CA. Jayesh Thakkar 9819011401 CA. Sumit Jhunjhunwala 9920025532 CA. Prakash Jhalaria 9987548715

## Achievements of Members

<b>CA. Shivani Tannu</b>	Selected for the Goldman Sachs 'Women Emerging in Finance Program'. Awarded the 'Women in Banking Scholarship'.
<b>CA. Ankush Gupta</b>	Received Various recognition for Corona Warrior
<b>CA (Dr.) Pinky Agarwal</b>	Awarded Ph.D. on the topic "Assessing the Issue and Challenges towards the Implementation of Accounting System and Reforms of the Municipal Councils of Maharashtra", in January, 2020
<b>CA. Jaideep Barve</b>	Author of 'Reflections', a collection of short stories Director & actor: 1st prize winning short film in a talent contest
<b>Dr. CA. Anchal Anil Agrawal</b>	Awarded PhD. on 'A Study of Impact of Corporate Restructuring of Selected Companies'
<b>CA. Shristi Pradeep Banka</b>	Launched Financial Literacy Project in slum communities with Salaam Bombay Foundation and Narottam Sekhsaria Foundation. Project has benefited nearly 150 families with 30+ hours of sessions.
<b>CA. Vrushti Doshi</b>	Awarded the annual 'CEO Award' for my contribution in FY 19-20
<b>CA. Manoj Gupta</b>	Awarded PhD. on 'Financial Management'
<b>CA. Pragnya Mohan</b>	First Indian representing India at Triathlon World Cup in 2019. Gold & Bronze Medal in South Asian Games 2019. Indian National Woman Triathlon Champion in 2019 & 2014 and various other awards
<b>CA. Dr. Harsh Patel</b>	Appointed 'International Partner for India' by World Business Angel Investment Forum (an affiliated partner of the G20 Global Partnerships for Financial Inclusion (GPFI)). Representing India at the assembly of the World Business Angels Investment Forum.

## Law Updates

### DIRECT TAX

CA. Haresh Kenia, CA. Deepak Lala, CA. Gopal Bohra



#### 1. Amendments in TCS Statements under section 206C, rule 31AA and others.

The Central Board of Direct Taxes, in exercise of the powers conferred by section 197 and 206C, vide Notification No--54-2020[F-No-370142-22-2020-TPL]-GSR-464-E dated -24.07.2020, gives Income-tax (17th Amendment) Rules, 2020. It will come into force with effect from 01.10.2020. It amends Rule 31AA, 37BC, 37CA, 37 I and form 27EQ of income tax rules.

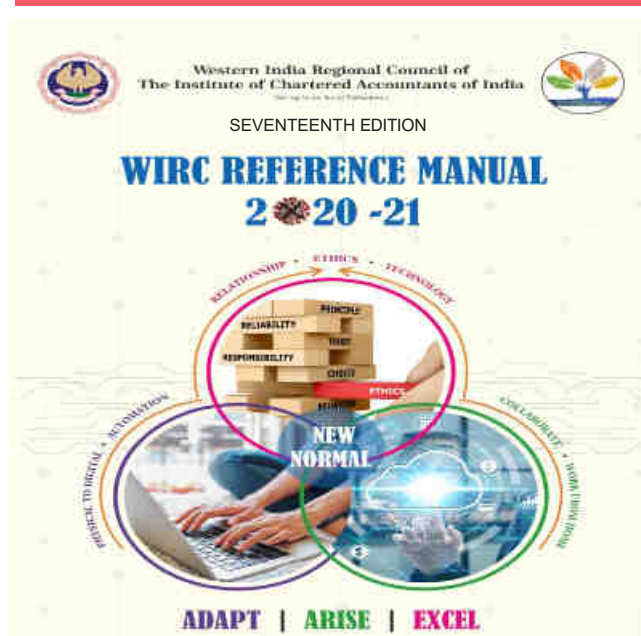
#### Rule 31AA

It amends Rule 31AA(4) by inserting new clause (vi) and (vii). These Two new clauses are inserted in Rule 31AA(4) to provide for particulars under sections 206C(1G) and 206C(1H) in view of the amendments related to TCS provisions being made in the Act by the Finance Act, 2020.

The amendment under section 206C(1G) by the Finance Act, 2020 are as under

- An authorised dealer receiving an amount or an aggregate of amounts of Rs. 7 Lakh or more in a financial year for remittance out of India under the LRS of RBI shall be liable to collect TCS on the amount in excess of Rs. 7 Lakh from a person remitting such amount out of India. The rate of TCS is 5 per cent in the above case. In non-PAN/non-Aadhaar cases, the rate of TCS shall be 10 per cent.
- An authorised dealer receiving an amount or an aggregate of amounts of Rs. 7 Lakh or more in a financial year for remittance out of India under the LRS of RBI and if the

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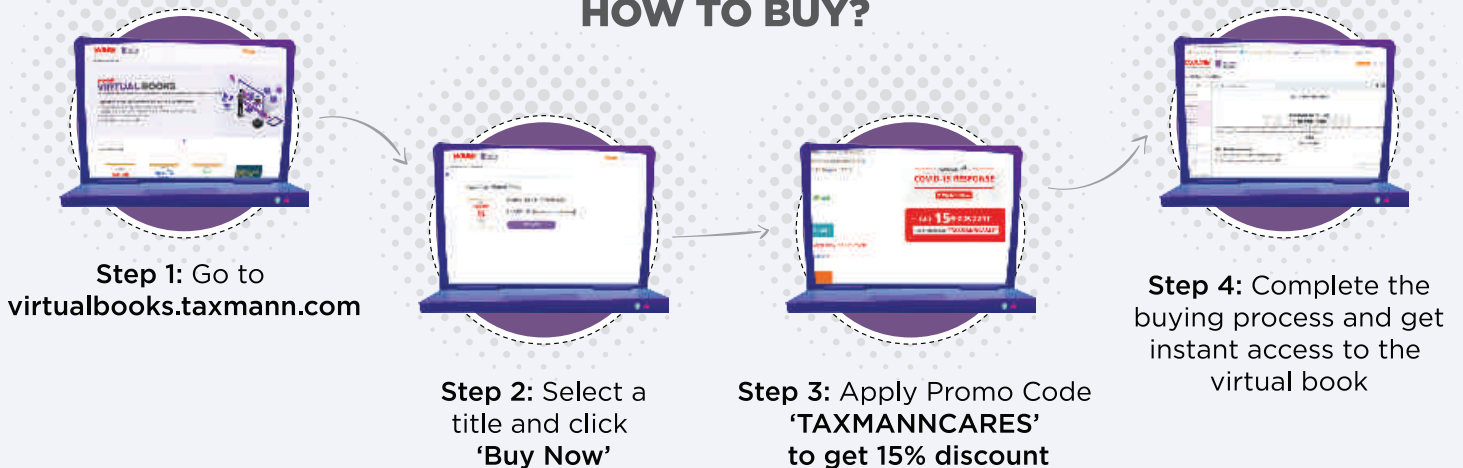
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remittance is a loan obtained from any financial institution as defined in section 80E, for the purpose of pursuing any education shall be liable to collect TCS on the amount in excess of Rs. 7 Lakh from a person remitting such amount out of India. The rate of TCS is 0.5 per cent in the above case. In non-PAN/non-Aadhaar cases, the rate of TCS shall be 5 per cent

- A seller of an overseas tour program package who receives any amount from any buyer, being a person who purchases such package, shall be liable to collect TCS. In this case, no threshold limit is provided. Either the authorised dealer or seller to collect TCS based on the medium of remittance in the above case. The rate of TCS is 5 per cent in the above case. In non-PAN/non-Aadhaar cases, the rate of TCS shall be 10 per cent.
- The above TCS provision shall not apply if the buyer is,-
  - (i) liable to deduct tax at source under any other provision of the Act and he has deducted such amount.
  - (ii) the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate, the trade representation of a foreign State, a local authority as defined in Explanation to clause (20) of section 10 or any other person notified by the Central Government in the Official Gazette for this purpose subject to such conditions as specified in that notification.

The amendment under section 206C(1H) by the Finance Act, 2020 are as under

- It is also proposed to amend section 206C to levy TCS on sale of goods. No TCS is applicable in case of export or import of goods. It will apply to Only those seller whose total sales, gross receipts or turnover from the business carried on by it exceed Rs. 10 crore during the financial year immediately preceding the financial year. TCS shall be collected from a buyer from whom consideration of more than Rs. 50 lakh will be received in the previous year. In the case of the sale of goods, the rate of TCS is 0.1 per cent. In non-PAN/non-Aadhaar cases the rate shall be 1 per cent. The provision applies to business entities and not to professionals.
- No TCS is to be collected from the Central Government, a State Government and an embassy, a High Commission, legation, commission, consulate, the trade representation of a foreign State, a local authority as defined in Explanation to clause (20) of section 10 or any other person as the Central Government may, by notification in the Official Gazette, specify for this purpose, subject to conditions as prescribed in such notification.
- No such TCS is to be collected, if the seller is liable to collect TCS under other provision of section 206C or the buyer is liable to deduct TDS under any provision of the Act and has deducted such amount.

## DIRECT TAX – RECENT JUDGMENT

CA. Paras Savla, CA. Narayan Atal



### S. 40(a)(ia) reduction is disallowance is not retrospective

The provisions dealing with disallowance of deductions in part D of Chapter IV of the Act, particularly those contained in sections 40(a)(ia) and 40A(3) of the Act, that the said provisions are intended to enforce due compliance of the requirement of other provisions of the Act and to ensure proper collection of tax as also transparency in dealings of the parties. The necessity of disallowance comes into operation only when default of the

nature specified in the provisions takes place. Looking to the object of these provisions, the suggestions about prejudice or hardship carry no meaning at all. Amendments were carried in the years 2008 and 2010 to provide requisite relief to a bona fide tax payer who had collected TDS but could not deposit within time before submission of the return. The amendment carried in the year 2010, Supreme Court has ruled it to be retrospective in operation. By the amendment brought about in the year 2014, the legislature reduced the extent of disallowance under section 40(a)(ia) of the Act to 30% of the sum payable. However said amendment has been held to prospective and not retrospective w.e.f. 1-4-2005. Shree Choudhary Transport Company v. ITO [2020] 118 taxmann.com 47 (SC)

## INTERNATIONAL TAXATION

CA. Hinesh Doshi, CA. Pramitha Rathi



### Director of Income Tax-II (International Taxation), New Delhi vs. Samsung Heavy Industries Co. Ltd. vs. [TS-352-SC-2020] dated 22nd July, 2020

#### Facts:

- The assessee operated through Project Office (PO) in Mumbai, India and it entered into a turnkey contract with ONGC.
- AO and ITAT held that the PO constitutes fixed place PE in India.
- HC held that there was no finding made by AO and ITAT that 25% of gross revenue of the assessee outside India was attributable to the business of the PO of the assessee and thus ruled in favour of assessee.
- Aggrieved, the Revenue appealed further to Supreme Court.

#### Issue:

- Whether the PO in Mumbai of the assessee would constitute as a fixed place PE?

#### Held:

- SC relied on various similar caselaws like Morgan Stanley & Co. Inc, Hyundai Heavy Industries Co. Ltd, Ishikawajima-Harima Heavy Industries Ltd, E-fund IT Solutions Inc.
- SC cleared that the condition precedent for applicability of Article 5(1) of DTAA and the ascertainment of PE was that it should be an establishment “through which the business of an enterprise” is wholly or partly carried on.
- The Honourable Apex Court elucidates that the profits of the foreign enterprise were taxable only where the said enterprise carries on its ‘core business’ through its PE.
- SC observed that the PO was established to co-ordinate and execute “delivery documents in connection with construction of offshore platform modification of existing facilities for ONGC.
- SC further observed that only two persons were working in the PO, none out of which had any qualification to perform any core activities.
- SC accepted that the PO falls within clause (e) of Article 5(4) of DTAA in as much as PO was solely an auxiliary office and was meant to act as a liaison office between the assessee and ONGC.
- Accordingly, SC held in favour of the assessee and did not constitute PE in India as per Article 5(1) of India-Korea DTAA.



## Law Updates

**FEMA**  
CA. Manoj Shah, CA. Atal Bhanja



### Amendments to Foreign Exchange Management (Non-Debt Instruments) Rules

Following amendments have been made to FEM (Non-Debt Instruments) Rules, 2019:

#### New Rule 2A inserted as under:

Reserve Bank to administer these rules –

- (1) These rules shall be administered by Reserve Bank of India
- (2) While administering these rules, the Reserve Bank may interpret and issue such directions, circulars, instructions, clarifications, as it may deem necessary, for effective implementation of the provisions of these rules.

#### Amendments to Rule 3 and 4:

In Rules 3 and 4 the words “in consultation with Central Government” are omitted.

The amended second Proviso to Rule 3 reads as under:

Save as otherwise provided in the Act or rules or regulations

Provided further that the Reserve Bank may, on an application made to it and for sufficient reasons, permit a person resident outside India to make any investment in India subject to such conditions as may be considered necessary.

The amended second Proviso to Rule 4 reads as under:

Save as otherwise provided in the Act or rules or regulations

Provided that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an Indian entity or an investment vehicle, or a venture capital fund or a firm or an association of persons or a proprietary concern to receive any investment in India from a person resident outside India or to record such investment subject to such conditions as may be considered necessary.

**GOODS AND SERVICES TAX**  
CA. Rajiv Luthia



**CBIC vide notification 60/2020-CT dated 30th July, 2020** has amended CGST Rules, 2017 so as to substitute FORM GST INV – I (Format/Schema for e-Invoice) with new form.

**CBIC vide notification 61/2020-CT dated 30th July, 2020** exempt Special economic zone (SEZ) unit from preparation of E-Invoice. Further, the turnover for registered person for purpose of E-invoice is increased to Rs. 500 crore from existing Rs.100 crore.

**CBIC vide circular no. 139/09/2020-GST dated 10th June, 2020** has clarified that before the issuance of Circular No. 135/05/2020- GST dated 31st March, 2020, refund was being granted even in respect of credit availed on the strength of missing invoices (not reflected in FORM GSTR-2A) which were uploaded by the applicant along with the refund application on the common portal. However, vide Circular No.135/05/2020 – GST dated the 31st March, 2020, the refund related to these missing invoices has been restricted. Now, the refund of accumulated ITC shall be restricted to the ITC available on those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant.

It is clarified that the aforesaid circular does not in any way impact the refund of ITC availed on the invoices / documents relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) etc. It is hereby clarified that the

treatment of refund of such ITC relating to imports, ISD invoices and the inward supplies liable to Reverse Charge (RCM supplies) will continue to be same as it was before the issuance of Circular No. 135/05/2020- GST dated 31st March, 2020.

**CORPORATE LAWS**  
CA. Premal Gandhi, CA. Sumeet Doshi



The Companies (Management and Administration) Amendment Rules, 2020 have been notified vide Notification No G.S.R. 538(E), dated 28/08/2020

The Transaction of Business of the Government of Union territory of Jammu and Kashmir Rules, 2019 vide Notification No G.S.R. 534(E), dated 27/08/2020

Clarification on Extension of Annual General Meeting (AGM) for Financial Year Ended as at 31-3-2020 issued vide General Circular No. 28/2020 [F. No. 2/4/2020-CI-V], dated 17-8-2020

Investor Grievances Redressal Mechanism – Handling of Scores Complaints by Stock Exchanges and Standard Operating Procedure for Non-Redressal of Grievances by Listed Companies. Circular No. SEBI/HO/OIAE/IGRD/CIR/P/2020/152, dated 13-8-2020

**TRANSFER PRICING**  
CA. Bhavesh Dedhia,  
CA. Hardik Howala



### ICAI releases revised Guidance Note on Transfer Pricing

The Institute of Chartered Accountants of India (ICAI) through its Committee on International Taxation issued the eighth edition of the Guidance Note on report under section 92E of the Income-tax Act, 1961 (Act), on 20 August 2020. Earlier in June 2020, the said Committee released an exposure draft seeking comments on the amendments proposed. The revised and updated publication incorporates amendments made by the Finance Act 2020 and CBDT notifications.

### Updated Guidance Note now incorporates amendments made recently:

- Scope of safe harbor rules (u/s 92CB read with Rule 10TA to 10TF) and Advance Pricing Agreements provisions (u/s 92CC read with Rule 10F to 10T) expanded to cover profit attributable to Permanent Establishment (PE) under section 9(1)(i) of the Act;
- Change in due date with respect to transfer pricing documentation and Accountant’s report (Form 3CEB);
- Relaxation to non resident banking companies from the provisions of thin capitalisation (u/s 94B);
- CBDT notification dated 20 May 2020 extending the provisions of safe harbour rules notified earlier for AYs 2017-18 to AY 2019-20 to AY 2020-21.

The Guidance Note is of immense use for all CAs practising in the area of Transfer Pricing in effectively discharging their professional responsibilities.

### Reference made for Special Bench constitution to determine meaning of the term “Paid” in Tax Treaty

**GST-ADVANCE RULINGS**  
CA. C. B. Thakar, CA. Madhav Kalani



### A.) AMENDMENTS UNDER PROFESSION TAX ACT 1975 -

- 1) Government of Maharashtra has issued an Ordinance dated

22nd July, 2020 under the Maharashtra Profession Tax Act, 1975 by which amendments are made in Sections 5 and 6 of the said Act. Section 5(3A) is inserted for providing that "A Company which has been incorporated under the Companies Act, 2013, shall at the time of its incorporation, obtain the certificate of enrollment and certificate of registration under this Act and pay the tax and file the returns as may be prescribed".

- Pursuant to above amendments, on 7th August, 2020 Government of Maharashtra has also amended the Profession Tax Rules, 1975 and provided that an employer registered u/s 5 (3A) of the Profession Tax Act, shall furnish his first return from the month in which he became liable to pay tax and shall continue to furnish returns thereafter as per the Provision of this Act.

## B.) CIRCULARS

- Pursuant to the Notification no. VAT – 1518/C.R. 64/ Taxation – 1, dt. 01/07/2020, the Commissioner of State Tax, Maharashtra has issued circular no. 10-T dt. 29th July, 2020, in which it is informed to the trading community that an application for refund of security deposit of Rs. 25,000/- can be filed up to 31st March, 2021 with the concerned Nodal officer of the dealer.
- The Commissioner of State Tax, Maharashtra has issued Circular no. 11-T dt. 29th July, 2020, in which the guidelines on the "Online e-submission and e-hearing in first appeal" are given.

## CO-OPERATIVE HOUSING SOCIETIES

CA. Ramesh Prabhu, CA. Sunil Nagonkar



In an interim order passed on 5th Aug, 2020 Hon'ble Bombay High Court in WP (L) No. 2143 of 2019 between Shree Raghunandan CHS Vs State of Maharashtra & others, stayed an order passed by the deputy registrar U/s 79(1)(a) directing the society to issue NOC for change of users stating that the Registrar does not have jurisdiction to pass such directions. They are the matters falling u/s 91 of the MCS Act, 1960 or other forums but not U/s 79(1) (a) of the Act.

On 27th July, 2020, Hon'ble Bombay High Court in WP(L) 549 of 2020 between T.S. Natrajan Vs State of Maharashtra directed the deputy registrar to implement his order of membership dated 13th January, 2020 and the reasons granted for Covid 19 was not considered by High Court.

## MAHARERA

CA. Ashwin Shah, CA. Mahadev Birla



## Real Estate (Regulation and Development) Act, 2016 (RERA)

### Case law study

### Niranjan Dashpute and Ors V/s Rajkumar N Saste and Ors

This article attempts to discuss the issues in respect of the maintainability of the complaint and right of land owner to stop the work due to dispute arises between the land owner and developer.

#### Issues:

Whether the complaint filed by the complainant is maintainable under the RERA as complainant is filed by the developer?

Whether Land owner can stop the construction work due to non-compliance of terms and conditions of development agreement

executed between the land owner and developer.

Whether the developer is liable to rectify the defects in construction work?

#### Provisions:

As per Section 31 (1) Any aggrieved person may file a complaint with the Authority or the adjudicating officer, as the case may be, for any violation or contravention of the provisions of this Act or the rules and regulations made thereunder against any promoter allottee or real estate agent, as the case may be.

Explanation. – For the purpose of this sub-section "person" shall include the association of allottees or any voluntary consumer association registered under any law for the time being in force

As per provision of Section 14(1) of the RERA, it is the duty of the promoter to developed and complete the project as per the plan sanction and project specification.

Provision of Section 11(4)(b) put a responsibility on promoter to obtain occupancy certificate /completion certificate.

As per Section 14(3) of RERA, if any structural defect or other defect in workmanship, quality or provision of service or other obligation as per agreement to sale bring to the notice of promoter than the such defect will be rectify by the promoter within 30 days form such notice.

Section 3(2)(i) of Maharashtra Ownership of Flat Act, 1963 prohibits the promoter from inducting any person without completion certificate into the flats and it's also prohibits the buyer from entering into possession of such flat without occupancy certificate or the completion certificate

Maharashtra Municipal corporation act prohibits the occupation of the building without occupancy or completion certificate and it is offence.

In the matter of M/s Sion Kamgar Co-Operative Housing Society Ltd v/s Municipal Corporation of Greater Mumbai- writ petition number 829 of 2013 it was held by the Hon'ble Bombay High Court that occupying the building without occupancy or certificate can not be permitted in Law.

#### Fact of the Case:

In the present case the complaint was filed by the developer with the allegation that land owners are obstructing the developer from completing the project and for fitting the fire safety system therefore the occupancy certificate/completion certificate has not been granted by the planning authority. While the landowner being a respondent has alleged that complainant being a developer has not transferred the title of the unit allotted to landowner and even parking is also not allotted as per agreed terms. Further it was brought to the notice of the Hon'ble authority that the complainant has used the poor quality of material in the project, the defect in the construction work is not rectified and the amenities in the project is also not provided to the 45 customers who has taken a possession in the project.

#### Conclusion:

The present complaint filed is maintainable under Section 31 of RERA.

It was held that landowner is also the co-promoter as per provision of section 2(zk) and co-promoter is also equal liable for compliance of RERA provision therefore landowner cannot obstruct the construction work of project.

It was held that developer being a promoter are liable to complete the project and to provide the amenities as per sanctioned plan and to rectify the construction defect without any charges.

The RERA Authority shall bring the matter to the notice of learned Municipal Commissioner for taking legal action against

## Law Updates

the offender according to law.

### INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Mukund Mall



#### Resolution Framework for COVID-19 related financial stress released by Reserve Bank of India (refer the attached RBI Circular - RBI/2020-21/16 DOR.No.BP.BC/3/21.04.048/2020-21 dtd. 6th August 2020)

The Reserve Bank of India (RBI) has taken cognizance of the disruptions caused by the COVID-19 pandemic and the resultant financial stress for all categories of borrowers. To protect the long term viability of entities having a good track record of debt payments, the RBI has permitted a one-time restructuring of loan accounts and has set up an Expert Committee under Shri K.V. Kamath to make recommendations on financial parameters and sector specific benchmarks for the same. The lending institutions have to ensure that the resolution under this facility is extended only to those borrowers having financial stress on account of COVID-19. Businesses have been severely impacted by the COVID\_19 pandemic which has resulted in financial stress and debt burden becoming disproportionate to the cash flow generation in the short term. This one-time restructuring channel enabled by RBI shall give a much-needed breather to corporate having a good reputation and debt repayment track record to align their debt repayments and business cash-flows after factoring the COVID-19 impact and thus maintain the viability of business. The promoters of companies who are eligible under this one-time restructuring scheme are permitted to restructure the debt as per the framework and continue their ownership of the business enterprise.

Some of the salient features of this one-time debt recast window are as follows:

- The one-time debt restructuring window is allowed for both corporate as well as retail loans
- Applicable for loan accounts which were classified as standard, but not in default for more than 30 days with any lender as on 01 March 2020
- The account should remain standard till the date of invocation. The date of invocation shall be the date on which both the borrower and lending institution have agreed to proceed with a resolution plan under this framework
- Inter-Creditor Agreement is to be signed between lending institutions within 30 days from date of invocation, non-compliance to the same attracts additional provisions
- If the account slips after invocation but before implementation, asset classification shall be restored after implementation, provided the resolution plan is implemented within the prescribed timelines

- Lenders are permitted to provide moratorium and extend the tenure of the loan by up to a period of two years
- The Resolution plan may provide for conversion of a portion of the debt into equity or other marketable, non-convertible debt securities issued by the borrower. The amortization schedule and the coupon carried by such debt securities are similar to the terms of the debt held on the books of the lending institutions, post implementation of the resolution plan
- Where the aggregate exposure of lending institutions at the time of invocation is INR 100 crore and above, an Independent Credit Evaluation (ICE) by one credit rating agency authorized by RBI is mandatory
- Post implementation of the resolution plan under this window, all cash-flows have to be routed through an escrow account maintained with one of the lending institutions
- The Expert Committee shall also have the responsibility of vetting the resolution plans to be implemented under this window in respect of all accounts where the aggregate exposure of the lending institutions at the time of invocation of the resolution process is INR 1500 crore and above. The Committee shall check and verify that all the processes have been followed by the parties concerned as desired without interfering with the commercial judgment exercised by the lenders

### CYBER RISK AND ROLE OF INTERNAL AUDITORS

CA Shashank Sah



#### Introduction

It is said that "A chain is no stronger than its weakest link", which implies that in order to protect a system from breaking, we need to protect the weakest link.

Technology has now been a part and parcel of every business organisations, irrespective of the size or the sector. With the pandemic Covid 19 spreading out across the world at an unprecedented rate, organisations have rapidly turned towards adopting technology. From working from home to virtual meetings, technology has spread its roots rapidly in everyone's life.

However, as every coin has two side, adapting to technology at such a rapid pace is subject to its own pros and cons. As per Forbes report published in May20, there has been an 86% increase in cyber-attacks in India during March- April 2020. Unsolicited, cyber-attacks put business and personal data of organisations and users at risk which might result in financials losses.

As internal auditor, we have a critical role in identifying the risk posed by widely increased use of technology, assess the impact, and implement steps to mitigate the risk.

### Virtual CPE Meeting on RBI New Framework



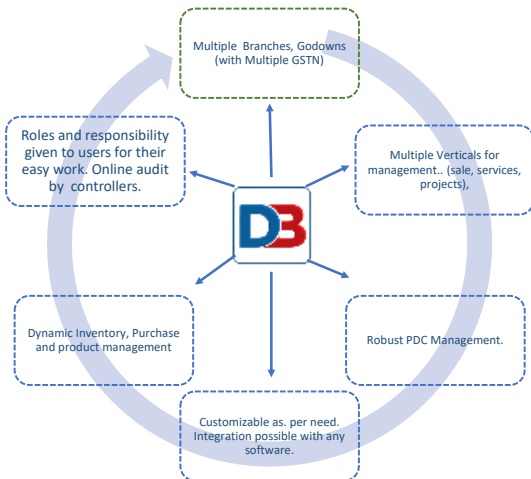
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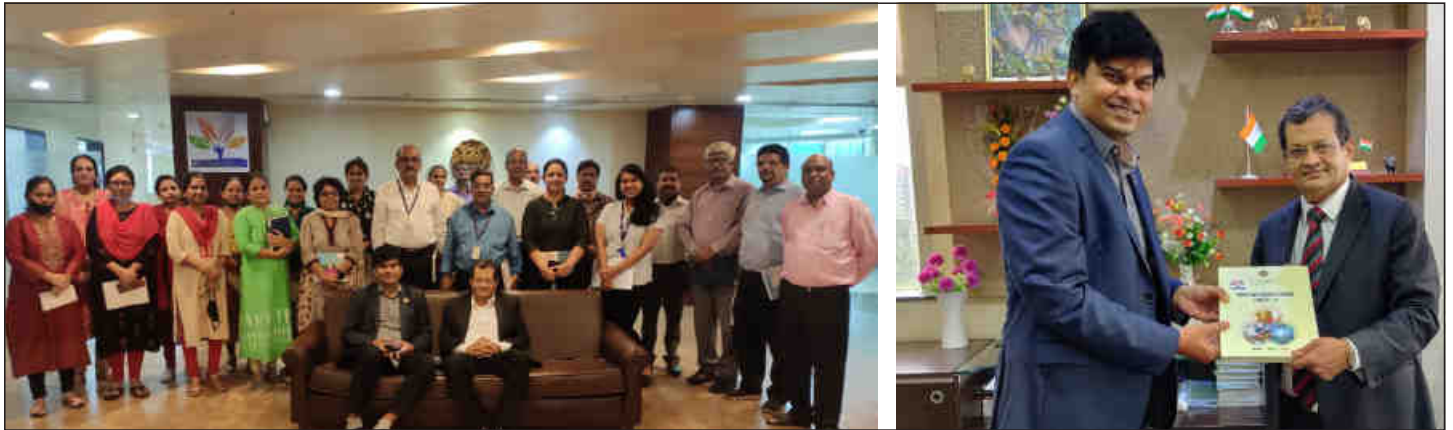
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Group Photo of ICAI Staff with CA. Nihar Jambusaria, Vice President ICAI & CA. Lalit Bajaj, Chairman, WIRC

WIRC Reference Manual 20-21 Presented to CA. Nihar Jambusaria, Vice President ICAI, CA. Lalit Bajaj, Chairman, WIRC

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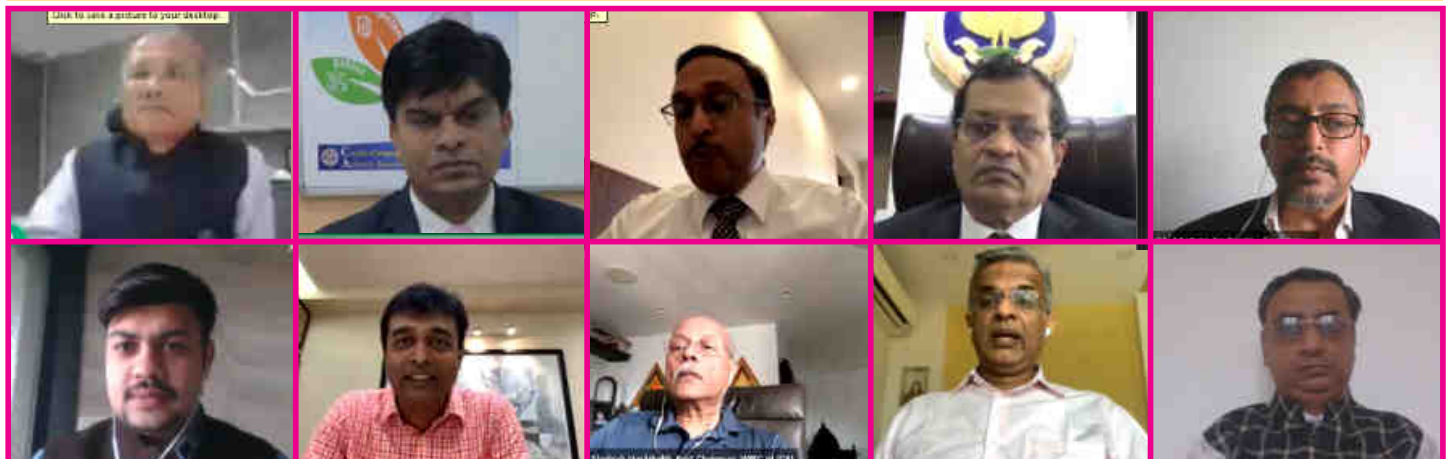
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