

# THE MANAGEMENT ACCOUNTANT

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## ARBITRATION & CONCILIATION CHALLENGES AND PROSPECTS



*Journal of*  
**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA**  
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- THE INSTITUTE OF COST ACCOUNTANTS OF INDIA (erstwhile The Institute of Cost and Works Accountants of India) was established in 1944 as a registered company under the Companies Act with the objects of promoting, regulating and developing the profession of Cost Accountancy.
- On 28 May 1959, the Institute was established by a special Act of Parliament, namely, the Cost and Works Accountants Act 1959 as a statutory professional body for the regulation of the profession of cost and management accountancy.
- It has since been continuously contributing to the growth of the industrial and economic climate of the country.
- The Institute of Cost Accountants of India is the only recognised statutory professional organisation and licensing body in India specialising exclusively in Cost and Management Accountancy.

## MISSION STATEMENT

“The CMA Professionals would ethically drive enterprises globally by creating value to stakeholders in the socio-economic context through competencies drawn from the integration of strategy, management and accounting.”

## VISION STATEMENT

“The Institute of Cost Accountants of India would be the preferred source of resources and professionals for the financial leadership of enterprises globally.”

## IDEALS THE INSTITUTE STANDS FOR

- to develop the Cost and Management Accountancy profession
- to develop the body of members and properly equip them for functions
- to ensure sound professional ethics
- to keep abreast of new developments

Behind every successful business decision, there is always a **CMA**

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### Institute Motto

असतोमा सदगमय  
तमसोमा ज्योतिर् गमय  
मृत्योर्मा मृतं गमय  
ॐ शान्ति शान्ति शान्ति:

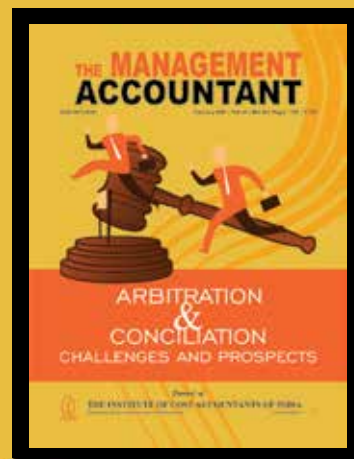
From ignorance, lead me to truth  
From darkness, lead me to light  
From death, lead me to immortality  
Peace, Peace, Peace

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# EDITORIAL

**W**ith the introduction of the recent amendment of 2019 to the arbitration laws in India, the regime of 'Arbitration' has taken a sharp turn and has made the future prospects look bright for Arbitration profession in India. It is an attempt to make India a preferred destination of arbitration for Indians as well as foreign parties. India has brought some steep amends in the arbitration regime to assist the "ease of doing business". The Arbitration & Conciliation (Amendment) Act, 2019 came into force with effect from 9 August 2019 intended to make India a hub of domestic and international arbitration by bringing in changes in law for faster resolution of commercial disputes.

This Act 2019 brings about several key changes to the arbitration landscape in India. It seeks to establish the Arbitration Council of India (ACI), which would exercise powers such as grading arbitral institutions, recognising professional institutes that provide accreditation to arbitrators, issuing recommendations and guidelines for arbitral institutions, and taking steps to make India a centre of domestic and international arbitrations. Further, it amends the Arbitration and Conciliation (Amendment) Act 2015 by providing the Supreme Court and the High Court with the ability to designate the arbitral institutions which have been accredited by the ACI with the power to appoint arbitrators.

The Amendment Act imposes time limits on the filing of pleadings, issuing of arbitral awards and the granting of extensions of time. Arbitration and Conciliation (Amendment) Act 2019 introduces express provisions on confidentiality of arbitration proceedings and immunity of arbitrators; further prescribes minimum qualifications for a person to be accredited/act as an arbitrator under the Eighth Schedule. Importantly, the 2019 act also clarifies the scope of applicability of the Indian Arbitration and Conciliation (Amendment) Act 2015 and states that it is applicable only to arbitral proceedings which commenced on or after 23 October 2015 and

to such court proceedings which emanate from such arbitral proceedings.

The world today is ever more connected and significant changes have come along with these fast-paced technological advances. Looking to the future, AI tools could also play a significant role throughout the entire arbitration process including recommending and drafting suggestions for arbitration clauses or helping clients and lawyers identify blind spots. Parties could agree to use AI for some aspects of the arbitration itself such as discovery, to lower costs. Blockchain is another new technology that is expected to become very relevant for the legal and notary practice. Self-executing smart contracts already allow for commercial transactions to take place without an intermediary. The technology could also be used to increase corporate social responsibility.

The Arbitration and Conciliation Act, 2019 provides the comprehensive provisions for the settlement of disputes in an efficient manner and which enhances the ease of doing business operations both at national and at the global level and which makes India as 'International Business and Arbitral Hub'. In addition to this, it creates more prospective opportunities to CMA profession to work CMAs as arbitrators and conciliators as well. The Cost Accountants are considered as experts in the area of Intellectual property laws such as patents, copyrights, trademarks etc.; and such Cost Accountants can easily resolve the disputes between the parties arising out of infringement, if any.

This issue presents a good number of articles on the cover story theme '**Arbitration and Conciliation: Challenges and Prospects**' by distinguished experts and authors. We look forward to constructive feedback from our readers on the articles and overall development of the journal. Please send your mails at [editor@icmai.in](mailto:editor@icmai.in). We thank all the contributors to this important issue and hope our readers enjoy the articles.

# THE MANAGEMENT ACCOUNTANT

## PAPERS INVITED

Cover Stories on the topics given below are invited for *'The Management Accountant'* for the four forthcoming months

March 2020	Theme	The Next Gen Women: Equal Rights, Opportunities and Participation	Subtopics	<ul style="list-style-type: none"> <li>• Removing Structural Barriers towards Gender Equality and Women's Empowerment</li> <li>• Women Empowerment - the key to achieve Social &amp; Economic growth of the country</li> <li>• Women in Business Decision-making</li> <li>• Role of Judiciary in Empowering Women in India</li> <li>• Crimes against women- a blot on Gender Equality and Women Empowerment</li> <li>• Challenges of Women Entrepreneurship</li> <li>• Impact of Globalization on Women Entrepreneurship</li> <li>• Women Entrepreneurship in the Tech-driven era</li> <li>• Challenges and Hurdles in the Journey of Women Empowerment</li> <li>• Women &amp; Economy: The Indian Perspective</li> </ul>
April 2020	Theme	Internal Audit: The Way Forward	Subtopics	<ul style="list-style-type: none"> <li>• The Fundamentals of Effective Internal Audit</li> <li>• Intelligent Automation in Audit</li> <li>• Auditing Cyber: Operational Risks</li> <li>• Role of Internal Audit in Mergers, Acquisitions and Divestitures</li> <li>• Internal Audit and Enterprise Risk Management (ERM)</li> <li>• Board Effectiveness: Expanding Scope of Internal Audit</li> <li>• Conquering the Cloud: How Internal Audit can help</li> <li>• Internal Audit: Assessing Risk in today's Disruptive Environment</li> <li>• Internal Audit-future trends and innovation and emerging scope for CMAs</li> </ul>
May 2020	Theme	National Education Policy - Changing Contour of Indian Education Eco-System	Subtopics	<ul style="list-style-type: none"> <li>• The New Education Policy (NEP) 2019: a Revolutionary Reform</li> <li>• Inclusive and Equitable Quality Education: Lifelong learning opportunities for all</li> <li>• Challenges &amp; Opportunities of the New Education Policy and its implementation - Employability, Entrepreneurship &amp; Startups</li> <li>• Vocational Education and Skill Development – Importance &amp; Relevance</li> <li>• Integration of all Educational institutions &amp; Technical Institutions &amp; Industry – Industry &amp; Academia &amp; its contribution</li> <li>• Role of Private Sector in improving Quality of Education</li> <li>• Moving towards a more imaginative and broad based liberal Education as a foundation for holistic Development</li> <li>• Educational excellence through AI and other emerging Technologies - Importance of Research &amp; Innovation</li> <li>• From Pencils to iPads: Evolution in Instructional Technology</li> <li>• Professional Education in the light of NEP</li> </ul>
June 2020	Theme	Environmental Management Accounting - Issues and Practices	Subtopics	<ul style="list-style-type: none"> <li>• Managing Information relating to Environment</li> <li>• Structural Framework of Environmental Accounting</li> <li>• Environmental Issues in Financial Accounting and Reporting</li> <li>• Methods of Environmental Cost &amp; Management Accounting</li> <li>• Ecological Accounting</li> <li>• Natural Resource Accounting</li> <li>• Benefits and Costs of Environmental Management Accounting (EMA) in the light of Sustainable Development</li> <li>• Corporate Environmental Strategies</li> <li>• Environmental Accounting and Auditing - Role of CMAs</li> </ul>

*The Above Subtopics are only suggestive and hence the articles may not be limited to them only.*

Articles on the above topics are invited from readers and authors along with scanned copies of their recent passport size photograph and scanned copy of declaration stating that the articles are their own original and have not been considered for anywhere else.

Please send your articles by e-mail to [editor@icmai.in](mailto:editor@icmai.in) latest by the 1<sup>st</sup> week of the previous month.



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The Institute of Cost Accountants of India

**“If You Are Working On Something  
That You Really Care About, You Don't  
Have To Be Pushed. The Vision Pulls  
You.”**

**– Steve Jobs**

My Dear Professional Colleagues,

## **Global Summit (GS 2020)**

I am delighted to inform that the Institute has successfully organised the **Global Summit - 2020** on 9-11<sup>th</sup> January, 2020 at the Ashok Hotel, New Delhi. This three days Global Summit was organized on the theme “**Mission 5 Trillion – CMA as a Cryogenic Force**” which aligns with the national goal set by Hon'ble Prime Minister of India to achieve 5 Trillion economy by the year 2024-25. I congratulate my Vice President CMA Biswarup Basu, Chairman of Technical Committee CMA Ashwin G. Dalwadi, Chairman of Organising Committee CMA Vijender Sharma, Council Colleagues and other members of the Global Summit Committee for the successful conduct of the Summit.

**Shri Som Parkash, Hon'ble Union Minister of State for Commerce & Industry** was the Chief Guest of the Inaugural Session of the Global Summit. The Hon'ble Minister also released the publications of Technical Cell and Knowledge Pack of GS2020.

**Shri Anurag Singh Thakur, Hon'ble Union Minister of State for Finance & Corporate Affairs** graced the occasion as the Chief Guest of the Technical Session. The Hon'ble Minister also released Guidance Note on Internal Audit of General Insurance Companies, Guidance Note on Blockchain Technology

and E-Bulletin of CAT Course.

and **Shri Piyush Goyal, Hon'ble Union Minister for Railways and Commerce & Industry** as the Chief Guest of the Valedictory session of the Global Summit. CMA Venkat K Narayan, CEO of the Prestige Group had been bestowed the honour as the CMA-CEO of 2019 by the Hon'ble Minister. The Hon'ble Minister also released Souvenir of the GS2020 and Global Summit 2020 Bulletin, which was based on the deliberations of the experts and proceedings of all three days.

The Global Summit was addressed by eminent persons holding high positions in the Government, Industry leaders and management experts both from India and abroad. I am overwhelmed by the remarkable success of the Global Summit and congratulate CMA Fraternity for showcasing the strength of the CMA profession to all the stakeholders. I am pleased to inform that about 1000 participants attended the event to make it a grand success and Summit proceedings was telecasted live to members, students and other professional colleagues located across the globe. I am very thankful to all dignitaries, guests and speakers from across the globe, my council colleagues, members of regional councils and chapters, past presidents, sponsors, members, students, press & media, foreign delegates, Institute's staff and each one of you for making it one of the most successful event organized by the Institute. More information on the proceedings of Summit is included in this journal.

## **First Overseas CMA Summit**

I am pleased to announce first Overseas CMA Summit is being organised by Singapore Overseas Centre of Cost Accountants on 7<sup>th</sup> and 8<sup>th</sup> May 2020 at Hotel Marina Mandarin, Singapore. The Theme of the Summit is “Taking India to 5 Trillion Dollars Economy – CMA as a Cryogenic Force: Asia Pacific Overview”. The Summit will be addressed by eminent speakers from across the globe. I look forward to your active participation in this Summit to make the event a grand success.



## Meeting with VIPs:

I am happy to share that I along with CMA P Raju Iyer, Council Member, CMA H Padmanabhan, Council Member and CMA D. V. Joshi, Past President of the Institute extended greetings to **Shri Prakash Javadekar, Hon'ble Union Minister of Environment, Forest and Climate Change, Information & Broadcasting and Heavy Industries & Public Enterprises.**

I am pleased to inform that I along with CMA P. Raju Iyer, Council Member and CMA D. C. Arya, Former Chairman, NIRC of the Institute extended greetings to **Shri Som Parkash, Hon'ble Union Minister of State for Commerce & Industry.**

I am pleased to inform that I along with CMA H Padmanabhan, Council Member, CMA P Raju Iyer, Council Member and CMA D V Joshi, Past President of the Institute met **Shri Narendra Singh Tomar, Hon'ble Minister of Rural Development of Government of India** and discussed, submitted to him details of the Institute's offering in Skill India Mission through the CAT course of the Institute. With this, I hope, the CAT course would tap the unexplored abilities of the youth of India.

I am happy to inform that I along with CMA Vijender Sharma, Council Member extended greetings to **Hon'ble Chief Justice Shri M M Kumar, Hon'ble President NCLT** at the farewell ceremony organized by National Company Law Tribunal Bar Association (NCLTBA)

*To apprise all the members of the activities / initiatives undertaken by the Departments/ Directorates of the Institute last month, I now present a brief summary of the activities:*

## PROFESSIONAL DEVELOPMENT & CPD COMMITTEE

I am glad to inform you that Institute has signed MoU with The Indian Institute of Corporate Affairs, (IICA) at the Global Summit 2020 on 9<sup>th</sup> January 2020 for a strategic alliance and working towards the training of Independent Directors.

I congratulate CMA Vijender Sharma, Council Member & Chairman, Professional Development & CPD Committee for release of 2<sup>nd</sup> edition of the publication on BlockChain Technology during Global Summit 2020.

I am pleased to inform that on Institute's representation, Municipal Corporation of Greater Mumbai included Cost Accountants for providing GST Consultancy Services and the Central University of Tamil Nadu included for Internal Audit.

PD Directorate is regularly making representations before various organizations for the inclusion of cost accountants for providing professional services. MSTC Limited, Webel Technology Limited, South Eastern Coalfields Limited (SECL), Chennai Metro Rail Limited, Pune Smart City Development Corporation Ltd. (PSCDCL), Airport Authority of India, Tamil Nadu State Marketing Corporation Limited, Karnataka Maharshi Valmiki Scheduled Tribes Development Corporation Ltd (KMVSTDCL), Municipal

Corporation of Greater Mumbai, Central University of Tamil Nadu, The Odisha Mining Corporation Limited, Bharat Heavy Electricals Limited etc., have included Cost Accountants in their Tenders/EOIs during the month of January 2020.

During the month, our Regional Councils and Chapters organized 64 programs, seminars and discussions on the topics of professional relevance and importance for the members such as International Tax: The BEPS Issues, Strategic Cost Management and GST in Construction Industry, Insolvency and Bankruptcy Code 2016, GST - Input Tax Credit Do's and Don'ts, Role of CMAs in Transaction Audit, Role of Cost Accountants in Renewable Energy Sector, Macros aspects of Dashboard & Macro Protection, Activity Based Costing, UDIN, Make in India Certificate by CMA, Cost Audit Rules and recent amendments and so on.

I hope our members have been immensely benefited with these programmes.

## BANKING & INSURANCE COMMITTEE

I congratulate CMA Chittaranjan Chattopadhyay, Council Member & Chairman, Banking and Insurance Committee for releasing a 'Guidance Note on Internal Audit of General Insurance Companies' at Global Summit 2020 on 9<sup>th</sup> January, 2020 at New Delhi by the hand of Shri Anurag Singh Thakur, Honorable Minister of State for Finance and Corporate Affairs in presence of CMA G. Srinivasan, Director, National Insurance Academy and other dignitaries.

Comments were invited from the members on Exposure Draft on "Guidelines on Standardization of General Clauses in Health Insurance Policy Contracts" and finally submitted to Insurance Regulatory Development Authority of India, (IRDAI) on 25<sup>th</sup> January, 2020.

During the month, CMA Chittaranjan Chattopadhyay, Council Member & Chairman, Banking and Insurance Committee along with CMA Arup S Bagchi, Senior Director of the Institute met CMA S.K. Baruah, MD of Numaligarh Refinery Limited for enhancement of Institute -Industry interface.

During the month, CMA Chittaranjan Chattopadhyay, Council Member & Chairman, Banking and Insurance Committee along with CMA Biswarup Basu, Vice President of the Institute met Shri Amrit Pal Singh Suri, IRS, Principal Chief Commissioner, Central GST & Central Excise, Shri Devendra V Nagvenkar, IRS, Commissioner CGST & CX, Kolkata and Shri Pawan Kumar, IRS, Joint Commissioner, Central GST & Central Excise, on the role of Cost Accountants in the era of GST.

They also met Shri Atul Kumar Goel, MD & CEO of UCO Bank and submitted representations on the role of CMAs in Banking Sector including employable opportunities for CMAs in Banks.

## MEMBERSHIP DEPARTMENT

I feel immense pleasure in welcoming all the new 154 Associate members who were granted new membership and 35 Associate members who were upgraded to Fellowship

during the month of January 2020 in 2 batches.

Members holding CoP are kindly aware that their current CoP is valid till 31 March 2020 and needs to be renewed to keep it valid for 2020-21. I call upon members to renew their CoP well in advance to avoid last minute rush. For the convenience of members, an advisory to this effect has been published on the Institute's website under the "Members" section and for ready reference of the same, the advisory is also published elsewhere in this Journal.

Number of changes are being initiated in the members' online system under the Chairmanship of CMA Vijender Sharma, Members Facilities Committee. Members desirous of obtaining Good Standing Certificate will be happy to know that very soon the application request and payment for the same can be made via online mode in addition to the existing offline method.

## MEMBERS IN INDUSTRY COMMITTEE

I am delighted to share that the Members in Industry Committee organised a program on 'Companies Act & Emerging Opportunities for CMAs' on 28th of December, 2019 at the Institute Headquarters. The program was graced by SAFA President CMA Dr. P.V.S. Jagan Mohan Rao, former President of the Institute CMA Harijiban Banerjee, former Secretary EIRC-ICSI CS Rupanjana De, Chairman – EIRC CMA Pallab Bhattacharya and Region Council Member CMA Arundhati Basu. There were two technical sessions in the program that were deliberated by CMA Dr. P.V.S. Jagan Mohan Rao and CS Rupanjana De. All the member delegates and students present in the audience showed their utmost eagerness to listen to the expert speakers on the valuable topic. The program was followed by Question and Answer session, wherein many of the listeners discussed their queries with the expert speakers. I congratulate CMA Biswarup Basu, Vice President of the Institute and Chairman, Members in Industry Committee for the excellent organization of the event.

## DIRECTORATE OF TRAINING & PLACEMENT

I am pleased to convey that the Council has approved and introduced new practical training scheme of at least 15 months duration for the students registering in Intermediate Course w.e.f. 11th February 2020 i.e. for December 2020 Examination onwards. We are confident enough that this new training scheme will enhance skill sets of the students in order to become highly employable in the industry as well as to get enough professional inputs to shape their sparkling professional career ahead. The Directorate will circulate detailed practical training guidelines including exemption categories in relation to students who already possess similar training and/or employment experience and equivalence schemes.

I am pleased to share that the Directorate of Training & Placement had been organizing Winter Campus Placements for the qualified CMAs of June 2019 batch at Mumbai, Chennai, Delhi and Kolkata during January-February 2020. Reputed Companies like KPMG, Chembond Chemicals Ltd., CAPITA India Pvt. Ltd., ITC Central Project, ANZ

Bank, Schneider Electric Ltd., Infosys Ltd., GRSE Ltd. had been participating in the same to select qualified CMAs.

## REGIONAL COUNCIL AND CHAPTER COORDINATION COMMITTEE

I am pleased to share that during the month of January 2020 the Institute's Regional Council & Chapters Coordination Committee team held its eighth State Level Chapters Meet in Coimbatore on 24th January 2020 for the State of Tamil Nadu and Union Territory of Puducherry. The Chapters very actively participated in the meeting which was chaired by the Chairman of the Committee CMA H Padmanabhan and was ably assisted by Coimbatore Chapter of ICAI. On this occasion, Chairman and the team addressed the specially organised program of the Chapter for teachers, lecturers, professors, Head of the Department of Commerce Colleges.

I am overwhelmed by the initiative taken by RCCC Committee and pleased to share that the Committee for its third successive month held a series of seven webinars during January 2020 addressing relevant contemporary professional topics by eminent resource persons of repute. The Chairman and team are continuously involved in the activities of the Regions, Chapters, Support Centres and ROCCs encouraging the development of profession activities including liaison with department officials, state authorities and Ministries at various levels ensuring participation of eminent personalities in Institute programs.

## DIRECTORATE OF CAT

### • CAT Examination

I am pleased to share that the result of the CAT Course examinations-January 2020 term, (Entry Level) Part-I (Level-1) held on 18th January, 2020 was declared within three days' time after the examination was concluded at various locations of the country.

I and CMA H. Padmanabhan, Council Member & Chairman, CAT Committee congratulate all the successful candidates and urge them to take admission in the CMA course of the Institute since by virtue of passing the Level-1 examination they are eligible to take direct admission in Intermediate Level.

### • CAT E-Bulletin

The Directorate of CAT continued to tap the potential of e-media and released the CAT E-Bulletin Vol 2 No 1 during Global Summit-2020 by the hands of Shri Anurag Singh Thakur, Hon'ble Minister of State for Finance and Corporate Affairs, Government of India. The E-bulletin contains articles on contemporary subjects penned by the eminent Members of the Institute, academicians and entrepreneurs. It also covers the glimpses of the events organised by the Directorate of CAT under the able leadership of my Council colleague CMA Padmanabhan. The e-bulletin is available for reading at CAT Course section of the Institute's website.

### • State Level ROCCs Meet

I am glad that CMA Padmanabhan, Council Member & Chairman, CAT has been meeting with the real stakeholders of the CAT course, i.e., the ROCCs on a regular basis. On

# PRESIDENT'S COMMUNIQUE

24th January, 2020 he spearheaded such meet at Coimbatore, for the ROCCs based in the state of Tamil Nadu. The relevant and valuable feedback so received from the ROCCs is being formulated into an action plan for the future by the CAT Directorate.

## INTERNATIONAL AFFAIRS DEPARTMENT

### • Singapore Global Convention 2020 by IOD

Institute of Directors (IOD) has organized its Singapore Global Convention on the theme Board Leadership for Risk Management, Global Business Meet & Presentation of Golden Peacock Awards during 16-18 January 2020 at Singapore.

CMA (Dr.) Ashish P. Thatte, Council Member and Chairman, International Affairs Committee of the Institute represented the Institute in this Convention. Organizers and Participants appreciated the 'Special Address' delivered by CMA (Dr.) Ashish P. Thatte during Plenary Session – X on the subject "Securing the Future: Board's Strategy for Mitigating Risk and Ethical Concerns" of the Convention.

### • Members Meet in Singapore

I wish to inform the members that CMA (Dr.) Ashish P. Thatte, Council Member and Chairman International Affairs Committee had the opportunity to meet the members of the Institute in Singapore and deliberated on the various issues & matters of their concern related to the profession during the Members Meet organised by the Singapore Overseas Center of Cost Accountants at Singapore on 17th January 2020.

## TAXATION COMMITTEE

In the month of January, 2020 the classes for the 5th Batch of Certificate course on GST have been successfully concluded all across India. The examination is scheduled to be held on 2nd February, 2020. All the Taxation Courses, like Certificate Course on GST, Advanced Certificate Course on GST, Certificate Course on Filing of Returns, and Certificate Course on TDS are ready to launch its subsequent batches. Regarding the Crash Course on GST in College/University, Crash Course at Dwaraka Doss Goverdhan Doss Vaishnav College, Chennai has been completed and the exam was conducted in January. In Kolkata, Umeschandra College has successfully completed the course and exam has also been conducted. Advanced Level GST Course is being conducted for Senior Level Officers of Commercial Tax, Tamil Nadu with more than 150 candidates. Next two batches will be started from coming month in Madurai and Coimbatore. Webinar has been conducted on 'New TDS Return & Certificate under Section 194M & 194N (Form 26QD & 16D)' in Direct Tax and on 'Warehousing in Customs' and 'Duty Draw Back (DBK) in Customs' in Indirect Tax.

## ICMAI REGISTERED VALUERS ORGANISATION (RVO)

I am pleased to inform that ICMAI RVO has actively participated in Global Summit 2020 held at New Delhi and provided 10 CEP Hours to 14 Registered Valuers. 8 new

members have been added as Registered Valuers in the month of January 2020 and more than 68 primary members have been enrolled for 50 hours training program in all three asset classes i.e. Securities or Financial Assets, Plant and Machinery and Land and Building. 17 Registered Valuers have got Certificate of Practice as Registered Valuers in CEP Program held at Chennai in this month.

I once again request all my professional colleagues to join 50 hours training programs in Valuation at various locations to shape their professional career in this field.

## INSOLVENCY PROFESSIONAL AGENCY (IPA) OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

The Insolvency Professional Agency of the Institute organized various Round table Interactions, workshops and webinars during the month on:

- Webinar on Reporting Requirements of IP under IBC 2016 – 20th January 2020
- Pre – Registration Training jointly with other 2 IPA – 19th January 2020 – 25th January 2020
- Released December Edition of Journal – The Insolvency Professional
- Workshop on Personal Guarantors to Corporate Debtor under IBC – 2016 – 31st January 2020

I wish prosperity and happiness to members, students and their family on the occasion of Guru Ravidas Jayanti, Swami Dayanand Saraswati Jayanti, Shivaji Jayanti & Maha Shivaratri and pray for the success in all of their endeavours.

Warm Regards,



CMA Balwinder Singh

February 1, 2020



## FROM THE DESK OF THE CHAIRMAN - CAT COMMITTEE

**CMA H Padmanabhan**

Chairman

CAT Committee

The Institute of Cost Accountants of India

Dear Sir/Madam,

Greetings from CAT Directorate to you and your beloved ones.

In order to connect the weak links between education and employability, the Institute has come up with a Financial Skill Development Course, i.e. Certificate in Accounting Technicians Course (CAT Course) in consultation with Ministry of Corporate Affairs, Government of India to calibrate the young minds with the practical knowledge in Accounting and allied skills to be applied in real life situations. This course has been designed to meet the huge demand for entry level/ Junior Accountants in MSMEs, tiny Industries, Panchayats, etc. CAT course does equip students to become well versed with the practical knowledge viz. maintenance of accounts, filing of returns, export & import documentation etc. In 2012, the Institute became the first partner with the Additional Skill Acquisition Programme (ASAP), Government of Kerala. We have been successful in ensuring that the CAT course in similar lines has been successfully introduced in other states of the Country. Institute is trying to enhance the scope in which each student can have the access to professional Education, to bridge the skill gap and to develop their full potential in getting employability. This CAT Course forms a stepping stone to enrol for the main course of the Institute of Cost Accountants of India.

The corporates and institutions have through effective thought process begun to understand the need of Skill Based Officials at top level too. Our Institute is creating this mind set and through such course ensure in increasing the knowledge and skill based approach from young age itself by running such course for plus 12 students onwards. Skill development has become an integral part of boosting capabilities and enhancing employment opportunities which are instrumental in building the economy and improving the society. Skill development is a primary means of enabling young people to make a smooth transition to work. A comprehensive approach is required to integrate young women and men in the job market, including relevant and quality skill training, job market information, career guidance and employment services, recognition of prior learning, incorporating entrepreneurship with training and

effective skills forecasting. Improved basic education and core work skills are particularly important to enable youth to engage in lifelong learning as well as transition to the labour market.

### **Another Feather to the CAP of ICAI CAT Directorate**

We are happy to inform that for the first time a Memorandum of Understanding was signed between the Institute CAT and Government of Kerala, ASAP BFSI for “SHE SKILL” program CAT Course exclusively for girl students of Kerala State spreading across the State at various centres recently.

We at CAT Directorate level as part of expansion to “Reach the Un-reach”, have met the Ministry concerned at Government of India and at State Level with concerned departments to be partners as part of ASAP SDP by our submission of requisite papers. A major development is that we have commenced our presence in Srinagar and North Eastern States with special waiver scheme as part of Institute Social Responsibility as declared by our Honourable President ICAI CMA Balwinder Singh in tune with the announcement made by the Government of India on the occasion of 150<sup>th</sup> Mahatma Gandhi Anniversary celebrations.

**We are happy to announce that result for CAT Examination January 2020 has been declared.** My heartiest congratulations and best wishes to the CAT qualified candidates for a bright career ahead.

We take Industry-Institute collaboration on a serious note and focus on placing the CAT qualified candidates in various industries. In order to highlight the expertise of CAT qualified candidates, the Institute is organising Campus Placement Programme February – March 2020 at various locations in India. It's my sincere belief that we can channelize the potential of our CAT qualified candidates through Placement Drives.

**We would like to invite our Industry leaders to kindly visit our Institute's Campus Placement Programme to engage our CAT qualified candidates as their future executives.**

Warm Regards

**CMA H Padmanabhan**

February 1, 2020



# PROMISING FUTURE



THE COST & MANAGEMENT ACCOUNTANCY (CMA) COURSE CAN GIVE STUDENTS BRIGHTER JOB OPPORTUNITIES NOT ONLY IN THE PRIVATE SECTOR BUT ALSO IN THE PUBLIC SECTORS, SHARES **BALWINDER SINGH**, PRESIDENT, CMA

## THE JOURNEY

The Institute of Cost Accountants of India (erstwhile The Institute of Cost and Works Accountants of India) was first established in 1944 as a registered company under the Companies Act with the objects of promoting, regulating and developing the profession of cost accountancy. The Institute was set up by a special Act of Parliament, 1959 as a statutory professional body for the regulation of the profession of Cost and Management Accountancy in India.

## IT'S PROMINENCE

It is the 2nd largest Cost & Management Accounting body in the globe and the largest in Asia, having approximately 5,00,000 students and 80,000 members. The Institute is headquartered in Kolkata having four regional councils in Kolkata, Delhi, Mumbai and Chennai, 101 chapters in India and 10 overseas centers. The Institute is a founder member of the International Federation of Accountants (IFAC), the Confederation of Asian & Pacific Accountants (CAPA) and the South Asian Federation of Accountants (SAFA). Since last 75 years, the CMA profession has been striving relentlessly to accelerate the process of socio-economic development of the country. The CMAs are considered to be the knowledge powerhouse in the Indian economy as they are trained to develop a holistic eco-system towards achieving cost competitiveness utilising scarce resources in an efficient and cost-effective manner leading to cost control, cost reduction and cost consciousness.

## COURSE CONNECT

The Cost & Management Accountancy (CMA) course has an appropriate blend of subjects and topics as part of the curriculum with emphasis on learning through case studies. The course comprises of three stages i.e. foundation, intermediate and final. A graduate is exempted from foundation examination. The student is also required to undergo mandatory training for a period of three years to acquire real life experience in an organisation. CMA curriculum is based on four important knowledge pillars — management, strategy, regulatory function and financial reporting. These four distinct skillsets transform a mere student to CMA as a more confident, ethical, domain expert with industry-friendly global personality dedicated towards the service of the nation.



## DIVERSE OPPORTUNITIES

The cost and management accountants contribute towards improving efficiencies, management of scarce resources, provide information that management 'should know' to take suitable decisions to improve business performance, identify business risks faced by the company, evaluate business risk, suggest mitigation measure and ultimately enhance the value of the business and thus enhance profits and profitability. Nowadays, the profession of conventional accounting and auditing has taken a back seat, and CMAs are increasingly contributing towards efficient utilisation of men, machines, money and material. This has opened up huge employment opportunities for Cost & Management Accountants in India and abroad.

## CAREER GOALS

CMAs can work in the domains of Cost & Management Accounting, Financial/ Business Analysis, Internal Audit, GST Audit, Insolvency Resolution, Direct and Indirect Taxation, Valuation, Process Analysis, Systems Analysis, ERP system implementation and Strategy and many more. CMAs have employment opportunities in public and private sectors, regulatory bodies, educational institutes as well as they may take up independent professional practice. CMAs are holding key positions in the public and private sectors in India and abroad like CMD, CEO, CFO, finance controller, director, etc.

TOWARDS TOMORROW | 3

*The Economic Times - Towards Tomorrow Magazine dt. 29-01-2020*



Felicitation of New Government Nominees on the Council on January 25, 2020



Award to CMA Kaushik Banerjee, Secretary of the Institute in recognition of his rendering more than 20 years of dedicated service to the Institute on January 25, 2020



Dr. Aditi Halder, Director of GRI South Asia being felicitated by CMA Biswarup Basu, Vice President of the Institute on 20<sup>th</sup> January 2020 at Institute HQ, Kolkata



St. Xaviers VUCA Conference on January 4, 2020



Meeting with Shri Devendra V Nagvenkar, Commissioner CGST and CX, Kolkata. CMA Biswarup Basu, Vice President of the Institute and CMA Chittaranjan Chattopadhyay, Council Member of the Institute greeted him with publications of the Institute on GST and discussed on the role of Cost Accountants in the era of GST



CMA Biswarup Basu, Vice President of the Institute and CMA Chittaranjan Chattopadhyay, Council Member of the Institute greeted Sri Amrit Pal Singh Suri, IRS, Principal Chief Commissioner, Central GST & Central Excise with publications of the Institute and discussed on the role of Cost Accountants in the era of GST



Shri Atul Kumar Goel, MD & CEO of UCO Bank being felicitated by CMA Chittaranjan Chattopadhyay, Chairman of Banking and Insurance Committee and Council Member of ICAI along with CMA Biswarup Basu, Vice President of ICAI



Shri Narendra Singh Tomar, Minister of Agriculture, Farmers Welfare and Rural Development GoI greeted by CMA Dr. D V Joshi, Former President ICAI and CMA H Padmanabhan Council Member ICAI



CMA Dr. Ashish P. Thatte, Chairman, International Affairs Committee during the Members Meet organised by the Singapore Overseas Centre of Cost Accountants of India (SOCCAI) at Singapore on 17<sup>th</sup> January 2020



CMA Dr. Ashish P. Thatte, Chairman, International Affairs Committee at Singapore Global Convention 2020 held on 16-18 January 2020 at Singapore



Shri Surajit Dutta, CGM - Finance IRCON International Limited greeted by CMA H Padmanabhan Council Member ICAI



CMA S K Baruah, MD of Numaligarh Refinery Limited is greeted by CMA Chittaranjan Chattopadhyay, Chairman, Banking & Finance Committee

## MEMBERS IN INDUSTRY COMMITTEE

Organised

Program on

### ‘COMPANIES ACT & EMERGING OPPORTUNITIES FOR CMAs’

28<sup>th</sup> DECEMBER 2019



Members in Industry Committee organised a program on ‘Companies Act & Emerging Opportunities for CMAs’ on 28th of December, 2019 at the Institute Headquarters. The program was graced by SAFA President and former President of ICSI, former Council Member of the Institute CMA Dr. P.V.S. Jagan Mohan Rao, former President of the Institute CMA Harijiban Banerjee, former Secretary EIRC-ICSI CS Rupanjana De, Chairman – EIRC CMA Pallab Bhattacharya and Region Council Member CMA Arundhati Basu. There were two technical sessions in the program that were deliberated by CMA Dr. P.V.S. Jagan Mohan Rao and CS Rupanjana De. This program was attended by several students of the Institute and members. All the member delegates and students present in the audience showed their utmost eagerness to listen to the expert speakers on the valuable topic. The program was followed by Question and Answer session, wherein many of the listeners discussed their queries with the expert speakers.

## DEPARTMENT OF CAT & REGIONAL COUNCIL AND CHAPTERS COORDINATION COMMITTEE

Organised

### “CMA AWARENESS PROGRAM”

24<sup>th</sup> JANUARY 2020

The Institute of Cost Accountants of India, RC & Chapter Coordination Committee and CAT organized Tamil Nadu State Level Chapters Meet in Coimbatore on 24th January 2020. Coimbatore Chapter took the initiative of organizing “CMA Awareness Program” for the Higher Secondary School – Commerce Stream Teachers of Coimbatore District at Hotel Rathna Residency on 24th January 2020. CMA H. Padmanabhan, Council Member ICAI and Chairman CAT & RC and CCC ICAI emphasized the role of teachers who are looked upon as Advisors by the students to guide them select an appropriate course after their higher secondary education. Earlier CMA K Ravindran, Chairman Coimbatore Chapter while welcoming the gathering thanked the services of the teachers & stressed the key roles they play in grooming the students for their bright career and settling in life. CMA Jyothi Satish, Chairperson SIRC addressed the gathering on this occasion stressing the need of such awareness program on a regular basis. CMA Arup Sankar Bagchi, Senior Director of the Institute at Kolkata presented the contents of the CMA course and the scope for CMA professionals across various sections of the economy. CMA R K Jain, HOD CAT gave his presentation on Certificate in Accounting Technicians (CAT) Course of the Institute. After a lively interactive session with the teachers clarifying their doubts on CMA and CAT Course, the event was concluded with a Vote of Thanks by CMA V. Mathanagopal, Vice Chairman of Coimbatore Chapter. Subsequently an exclusive meeting of all the Chapters in Tamil Nadu State and ROCCs were held. In the

Meeting contemporary issues faced by Chapters/ROCCs were addressed by the Chairman CMA H Padmanabhan with due participation of each ERs of the Chapter and ROCCs as part of detailed deliberations. The road map and action plan was shared with the participants on this occasion.







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## PRIME MINISTER'S MESSAGE



It is a pleasure to learn that The Institute of Cost Accountants of India is hosting the Global Summit 2020 with the theme “Mission 5 Trillion- CMA as a Cryogenic Force”.

In the last five years now, our Government’s approach has been to ‘Reform with intent, Perform with integrity and Transform with intensity’. Our focus is on governance that is professional and process driven.

We are acting as Enabler, Facilitator and Promoter to realise the dream of a five trillion-dollar economy. From improving physical and financial infrastructure of the country to promoting Indian industry at global platform, from repealing 1500 obsolete laws to simplification of rules and procedure, we are moving ahead with all-round approach.

For us, target of five trillion-dollar economy is a milestone to



achieve larger goals. Besides size of the economy, this target is directly connected with ease of living and better tomorrow for 130 crore Indians.

The participants at the Summit will discuss the way forward to achieve this goal and propel economic growth to a higher trajectory. The deliberations

will come up with suggestions for an implementable roadmap to fast-track economic growth.

I wish the discussions at the Global Summit 2020 all success.

**- Shri Narendra Modi**  
Hon’ble Prime Minister of India

**CMA**s can become the source of cryogenic energy and can coordinate with other performance managers to propose improvements for achieving economic, social and environmental goals - said by CMA Ashwin G Dalwadi, Chairman, Technical Committee, Global Summit 2020 in his welcome address at the inaugural session.



**MSME** has to contribute 36% of investment in GDP. CMA's have a vital and a very crucial role to achieve this ambitious target' - said by Shri Som Parkash, Hon'ble Union Minister of State for Commerce & Industry, the Chief Guest of the inaugural session.

CMA Balwinder Singh, President, ICAI firmly believes **CMA**s will not only help India to become cost competitive to achieve global scales; but will also catalyse wider employment generation and GDP growth with simultaneous advancement towards our achievements in sustainable development.

In the past few years India has become a breeding ground for innovative startups, a majority of which are associated with technology and have given a boost to the Digital India initiative with 1 Billion plus users using mobiles, 560 Million plus using internet connections and 350 billion plus additional bank accounts opened since 2014, he said in the inaugural session, adding, **Reduction in transaction costs as a result of digital banking would also improve Financial Inclusion and would bring a drastic change in Cost Management Approach and the Banking sector.**

CMA Manoj Mishra, Chairman and Managing Director, National Fertilizers Ltd stated that the chemicals and fertilizers sector has a huge role to play on the enhancement of 7 to 8 million tonnes of indigenous urea production capacity and role of **CMA**s is very significant in its implementation.

Mr. Alan Johnson, Deputy President, International Federation of Accountants (IFAC) focused on four key developments viz. Artificial Intelligence, Blockchain, Cyber Security and Data. CMA Professionals have an important role to play **in increasing transparency, committing to whistleblower protection and creating formal mechanisms to fight financial crimes, money laundering etc.**

**'The target of Mission 5 Trillion \$ can be achieved by preparing a roadmap where the Agricultural sector will contribute one Trillion \$, Manufacturing sector will contribute one Trillion \$ and remaining 3 Trillion \$ will come from the Service sector.**

### CMA Biswarup

Basu, Vice President, ICAI delivered the vote of thanks. Publications of Technical Cell and Knowledge Pack were released during the Inaugural session.

A **MoU** was signed between ICAI and IICA before the beginning of the Plenary session.

**India needs to have more skilled capable manpower of cost and management professionals who are qualitative and practical oriented to aid startup founders in their journey and in turn effectively shoulder a strong foundational journey of the economy that moves towards this 5 trillion goal,** said, CEO, India Tech.Org, Mr. Rameesh Kailasam, while addressing the Plenary session of the Global Summit 2020 today.

Prof. G Nageshwar Rao, Vice-Chancellor, IGNOU, stressed on **5 strategies viz Content of the education (emphasis to be given on Skill and Value); Reduction of structural rigidity; Agricultural education awareness; Mode of Education (Virtual Classroom give much better results) and Focus on creativity and innovation.**

**Expressing concern for the MSMEs and mentioning 'access to finance' is the most critical challenge for them - Dr. D.K. Aggarwal,** President, PHDCCI said and the Government should create fund to finance the distressed



MSMEs, he also added.

The Plenary Session was moderated by **Mr. G. Srinivasan**, Director, National Insurance Academy. Welcome address was delivered by **CMA Kunal Banerjee**, Former President, ICAI, while the vote of thanks was presented by **CMA H. Padmanabhan**, Council Member, ICAI.



*financial services are in the cusp of a revolution which will be driven by financial inclusion and mass banking. The rapid innovation model adopted by all the banking players will definitely give customers an edge and a host of options to choose from. However, technology and the associated risks need to be assessed and controlled.*

**‘FinTechs are capable of offering quality services to their customers at a comparatively lesser cost because AI enables them to control costs at each stage’**

**“We should focus on better not cheaper”** - said, **Mr. Dattatray Pandit**, CEO, Parity TrustOne Solutions P Ltd. said in the Technical Session - I, Global Summit, 2020. He added how **Chatbot technology and other AI tools innovate in the Help Desk sector; AI software and other IoT sensors, such as cameras become easier to ensure proper and safe driving, even healthcare professionals in Singapore are using artificial intelligence (AI) for clinical diagnosis.**

Traditional lending and credit scoring models are highly regulated and require a strong existing credit history; therefore, retail customers and SMEs without proper documentation, KYC and forecasted repayment capability do not have access to formal credit. Banks are thus partnering with FinTech companies and leveraging their alternative credit decision-making frameworks to lend to this section of society. Technology sits at the forefront of these digital lending initiatives which use Internet-mediated platforms to connect customers with the suppliers of credit.

Welcome address of Technical Session - I on Disruptive Technologies / Artificial Intelligence, Digital Banking / Block-chain Technology was given by **CMA Dr. A. S. Durga Prasad**, Former President, ICAI, moderated by **Dr. Gautam Shroff**, Vice President, Chief Scientist and Head Research, TCS and Vote of Thanks was delivered by **CMA Dr. K. Ch. A.V.S.N. Murthy**, Council Member, ICAI.

The speakers were unanimous on their opinion *that*

**CMA** have a major role in the nation building by ensuring transparency and efficiency in the corporate sector of an economy - **CMA Balwinder Singh**, President, ICAI in his welcome address at Technical Session - I on Start-up India.

**CMA Dr. A.S. Durga Prasad**, Former President, ICAI discussed on the Start Up initiatives taken to boost up the Indian Economy and Employment levels.

**Ms Aishwarya Raman**, Associate Director & Head of Research, Ola Mobility Institute highlighted *on the mobility perspectives, the changing mobility ethos, the shifting paradigms of mobility at the global and Indian context.*



**Mr. Manoj Pandey**, Joint Secretary, Ministry of Corporate Affairs discussed about *the project initiated by the MCA known as MCA 21 keeping in tune with e-governance initiatives and the technological advancements & discussed about e-filing procedures.*

*The Ministry is rigorously working on promoting ease of doing business as well as ease of living in India, thereby encouraging corporates and protecting*

stakeholders' interests in India, that will bridge the gap between regulators, corporates and stakeholders and will create a more transparent and reliable corporate eco-system in India - he added .

**'Exploiting the existing business and to explore new opportunities'** - CMA Dipankar Das Purkayastha,



Managing Director and Chief Executive Officer, ABP Group.

Publications on **Guidance Note on Internal Audit of General Insurance Companies and Blockchain Technology** were released during the session. **CAT E-Bulletin** was also launched in this session.

**Shri Anurag Thakur**, Hon'ble Minister of State for

Finance and Corporate Affairs, the Chief Guest highly praised the CMA profession and said **cost effective techniques like Linear Programming, Simulation Techniques, programme evaluation review techniques, Target Costing, Kaizen Costing, JIT methods and many more methods are to be followed that can impact the bottom line of the company.**

CMA Biswarup Basu, Vice President, ICAI gave the vote of thanks and concluded the session.



## DAY - 2, 10 JANUARY 2020

**CMA V. Murali**, Council Member, ICAI in his Welcome Address of the Technical Session - II pointed out that **"Sustainability Liquidity is very important"**. He touched upon the role of CMAs saying **"CMAs are drivers to take stakeholders to their destination without any jerk"**.

**If CMAs are grass rooted they cannot be uprooted - CMA V. Murali**

**CMA B.B. Goyal**, Former Adtl. Chief Advisor (Cost), Ministry of Finance, GOI said **"As a professional we should advise our client to adopt sustainable**



development strategies”.

Talking about one of the 17 SDGs-Good Health and Well-being, Mr. Goyal said that *to achieve this we should provide access to affordable health coverage for all to enhance sustainability. If the society remains healthy; human resources can be better utilized. Investment on health for all will give, rich economic dividend in the long term and consequently will achieve higher GDP growth.*

*Mission Impossible: Embrace only sustainable growth, tackle climate change using “Green Technologies” and be Earth’s Ambassador.*



*Possibilities: Replace billions of litres of petroleum based fuels, reduce millions of tons of coal consumption and carbon footprint annually - Dr Manoj Jain, Chairman, Flat Globe Capital Partners, US stated. He also expressed his concern on how future of humanity is buried in plastic. He said, “If we are not careful today there will be no tomorrow”. Over USD 10 billion can be saved yearly from converting waste to energy. Waste becomes the “new gold” of the future.*



*people and their networking skills, recognizing the connections that relate social and environmental values for accounting on sustainable value creation.*

**Prof. Lakshman R. Watawala,**  
President, Institute of Certified

Mr. Alan Hatfield, Executive Director of Strategy and Development, ACCA-UK said in the context of achieving “Meaningful Sustainable Prosperity”, “I believe professional accountants like us have ingenuity, know – how and will to get it done”.

Mr. Hatfield concluded his speech by outlining four areas where businesses and business leaders can really make a difference, *by achieving better scientific literacy for business, particularly climate risk and environmental issues and how they relate to value creation, investments etc, balancing risks against their effects so that business ecosystem can be shifted radically into social and environmental value creation, focussing in better collaboration with people to*



*ecosystem can be shifted radically into social and environmental value creation, focussing in better collaboration with people to*

Management Accountants of Sri Lanka said *CMAs need to consider few drivers of Change - High level of indebtedness; Impact of digitalization and data; Impact of Global Wars; Geo-political concerns; Technological intervention (AI, IOT, Robotics, Proliferation of data, need for Data governance, Cyber attacks); Environment issues and societal impacts where CMAs need to look upon re-skilling/re-training private/public sector people.*

CMA Niranjan Mishra, Council Member, ICAI concluded the Technical Session-II on Mission 5 Trillion-Driving SDG thru’ CMA by offering Vote of Thanks.



**Dr. Aditi Halder**, Director, GRI South Asia, Moderator of Technical Session - III on Driving value Creation through Governance in her address on *Management Systems for Sustainable Strategy stated Professional Accountants must ensure that the SDGs are incorporated into national planning and policy on sustainable development. Core of any strategy and systems in accountability is: Counting what counts.....to whom and by whom?*

*Members of the Board need to understand the concept of Value Creation and its relationship with the Capital. Board should be active in promoting ethical leadership and culture* - **Prof. Graham Terry**, Professor, University of Johannesburg, South Africa.

**Prof. Luckmika Perera**, Director, Deakin Integrated Reporting Centre, Australia highlighted *the need to engage more women especially*

*housewives in the workforce giving them the option of work from home that would enhance women empowerment, improve gender parity and facilitate the Indian economy to hit the 5 Trillion mark.*



**CMA Dr. Ashish P. Thatte**, Council Member, ICAI delivered the Welcome Address and **CMA Kaushik Banerjee**, Secretary, ICAI concluded the

session by offering Vote of Thanks.

**CMA Chittaranjan Chattopadhyay**, Council Member, ICAI introduced the Technical Session - IV on Cost Management Strategies/Tools and gave welcome address.

*Documents of Niti Aayog talks about four drivers viz Growth, Infrastructure, Governance, Global Competitiveness that boost for the achievement of Mission \$ 5 Trillion economy in India* - **CMA K Narasimha Murthy**, Fellow Cost Accountant, Chairman of the session said.

*Digitization is one of the areas where CMAs must practice and this will increase cost efficiency and will help in Cost Management* - **CMA A K Tiwari**, Director (Finance), GAIL India Ltd.



*“Cost Management is critical for Auto OEMs to ensure long- term sustainability”* - **CMA Asim K Mukhopadhyay**, Vice President, TATA Motors Ltd stated. Value creation trilogy - *Cost management technique would lead in value enhancement thus building sustainable businesses*, he added.

*The transition from managerial cost analysis to strategic cost management will help in determining the prominence of cost management in the future. Cost Analysis helps in assessing the financial impact of alternative managerial decisions. In strategic cost management, understanding of a firm’s cost structure helps in formulating strategies for sustainable competitive advantage* - **Prof Shailesh Gandhi**, Professor, Finance & Accounting, IIM Ahmedabad pointed out.

*In Budget 2019, 3 Main Drivers for the Mission \$ 5 Trillion Economic Backup were discussed – Massive Infrastructure development, easing the credit squeeze, Major structural changes in Agriculture* - **CMA Neeraj D Joshi**, Council Member and Chairman, Cost Accounting Standards Board ICAI said; he also added that *Importance of Cost Audit and information are generated from the mechanism in key areas like Education, Healthcare, Banking to analyse NPAs, Make in India initiative.*

**Only Efficient Cost Management Strategies make the businesses and economy fit for survival and for sustaining growth.**

**CMA Jyothi Satish**, Chairperson, SIRC delivered the Vote of Thanks.

Welcome address of Technical Session - V on Global Cost Management Practices was given by **CMA P. Raju Iyer**, Council Member, ICAI and moderated by **CMA M. Gopalakrishnan**, Former President, ICAI.

It can be inferred from the Address of **Ms. Daping Gao**, Deputy Director General, Ministry of Finance, People’s Republic of China *that the Chinese economy has become quite competitive and emerged a lot mainly*

*due to the availability of abundant labour at relatively competitive prices. Chinese companies have been advancing their competitiveness emphasizing on best management accounting practices and digital disruption.*

**Global Summit 2020 Bulletin** was released based on the deliberations of the Experts on Day - 1 of the event.

*Difficult to harness 'one version of the truth' that optimizes shareholder value - Mr. Paul Sharman, President, Focused Management Information Inc., Canada said.*

*How does our implementation plan ensure that goals, designs, performance measures and management of departments, processes, and positions/ people support the strategy? Improving Insight and Business Value, Critical Management Accountant capabilities, Change=Increased Risk, CPM: A tool to orchestrate the data - Mr Paul Sharman stated.*

**Mr Parmod Kumar Duggal**, Sr. Vice President, Subros Ltd. focussed more on *auto ancillary industry, what kind of challenges we are facing, CMA's contribution to such challenges, Japanese Cost Management System which has a competitive advantage, Agenda, Globalization and Industry Challenge.*

*There is a normal misconception we have is higher the quality, higher is the cost but there is a very important co-*



*relation one needs to understand is - **More safe environment will give high quality product and higher productivity at less cost ... the thought shared by Mr. Parmod Kumar Duggal.***

**CMA Dr. K. Ch. A.V.S.N. Murthy**, Council Member, ICAI concluded last session of Day-2,

GS2020 by offering the Vote of Thanks.



## DAY - 3, 11 JANUARY 2020

**CMA Debasish Mitra**, Council Member, ICAI in his introductory remark highlighted role of CMAs.

*"Cost Accounting Standards, Accounting Standards and their respective disclosure mechanism by providing the financial condition and performance and more particularly identify the risk profile of any corporate is*

*very important. CMA's role is very important in both disclosures of financial conditions of any corporate and taking corrected decision to combat the situation. The CMA's role not only as auditors but also as advisors, consultants, directors or even as members of the corporate sector to ascertain the performance and equipped to provide an independent and objective evaluation on the*



**opportunist and risk profile of firm is the key factor”.**

“The Accounting profession is being constantly challenged to meet the demand for quality information and the information which is easily understandable to all the stakeholders. The bottom line is very simple. The higher the quality and integrity maintained by the profession, the stronger and more resilient the market will be and can be a partner of our Prime Minister’s Mission 5 Trillion and only then hopefully we can tell that *Behind every successful business decision there is always a CMA*”.

**CMA Sanjay Jaju**, IAS, Joint Secretary, Ministry of Defence, GOI chaired the session.

*“Besides being a strategic imperative, Defence also is*



*an economic imperative. The overall size of the Defence production ecosystem that we have estimated is currently around Rs 80000 crores.*

*My role is to give a perspective on how defence and aerospace can play a role in propelling the manufacturing and services base of our country and out of this 5 trillion mark, defence and aerospace can contribute 25 billion that has a very important contribution towards the achievement.”*

*He further suggested to follow a 5-E Model approach in this regard - (i) Fresh set of **Entrepreneurs** to propel our economy, encourage start-ups in defence; (ii) Fresh set of **Enterprises** for producing differentiated product; (iii) **Ecosystem**; (iv) New set of **Economists** for framing strategies and (v) **Education**.*

*“The whole paradigm of war is changing. But when it changes, the role of Artificial Intelligence is very important. Within next ten years, the AI is going to be driving the economic engines of the globe. A new set of enterprises can come around Artificial Intelligence”, he said.*

Hence, the major focus of security vendors and defence organisations in the cyber security market should be to

design enhanced cloud computing solutions, operating systems, and virtual machine technologies aided with highly reliable and breach free software systems with an aim to defend their cyber space against cyber-attacks.

*“Start ups to be encouraged and that is where the role of CMAs in appraising a business proposal or trying to create their own business enterprises comes”, he further added.*

**Dr Suresh Pal**, Director, ICAR-National Institute of Agricultural Economics and Policy Research discussed the agricultural sectors, its targeting & sustaining growth, promoting High Value Agriculture, investment and credit interventions, rationalizing Agricultural Subsidies, Markets & Value Chain Promotion, Science & Technology for better future, doubling farmer’s income, focussing the product, cost reduction side, and suggested that farmers can be incentivized to enhance the ecosystem services.

*“Major policy shift from crop production to farm income, double by 2022, modernization of farm support*



*services and markets, system diversification for higher income, inclusiveness and sustainable systems, revisit and align agricultural planning with agro-climatic zones, Precision Farming and smart irrigation, ‘Image Processing’ in plant disease management and market intelligence, Creation of a Board for outscaling innovations, Partnership and multiplicity for technology*

*dissemination and imparting skills are some of the approaches for growth sustenance”- he suggested.*

**CMA Dr. S K Gupta**, Managing Director, IPA of ICAI discussed about the role of education to propel the 5 trillion \$ economy. Higher Education is the key driver for inclusive and equitable growth. Global Higher education systems are attempting to develop the capacity to adapt and modify the new models of knowledge, information and change. Education improves and increases knowledge resulting in skill development and enhancing the quality of the human capital. Investment in higher education makes a substantial contribution to economic and income growth. Human Capital and Economic Growth are interdependent. New Methods of production can be introduced by innovative human capital and this ultimately facilitates an increase in production, ultimately leads to increase in GDP.

**CMA V Murali**, Council Member, ICAI in his Vote of Thanks specially mentioned that, ‘Professionals should adjust themselves to market driven demand services instead of relying on regulation depend services. They have to re-orient or re-engineer themselves to make value addition for a sustainable world.

We are already in position number 3 on Purchasing Power Parity Basis-Convener of Discussion Forum in the valedictory session, **CMA DC Bajaj**, Former President, ICAI conferred.

*“We must keep working on industry related cost best practices and keeping those systems ready, supported by professionals. The challenges before the CMAs would be to do a correct assessment of the projects so that the benefits to the industry start accruing from the planning stage itself. The challenge is to create right infrastructure logistic facilities for the industry so that you are in sync with the global cost parameters for this segment”.* **CMA Rajeev Mehrotra**, CMD, Rites Ltd. suggested.

*“Urbanization is rapidly happening, from HUDCO side alone almost one lakh crores of projects which were likely to sanction in next three years, out of which 70% is likely to be dispersed in only housing and urban projects alone. As a CMA there is a huge scope, especially when it comes to the financial sector where there were highest level of NPAs at one point of time, now structural changes have happened specially in the form of IBC, as a CMA we can ensure that these are happening at a very faster pace so that the 5 trillion economy can be achieved”-* **CMA M Nagaraj**, CMD, HUDCO Ltd. said in brief.



*“In 2014, our power deficit was around 4.8%, today it is 0.6%, so the demand has been met and there has been a tremendous increase in the generation capacity which was around 2 Lakh Megawatt, by the end of the 6<sup>th</sup> Plan was increased to 3.6 Lakh MW. As a CMA we are contributing in the power sector mainly in tariff designing, in controlling costs,*

*in bringing down the costs. CMAs are playing a vital role both in timely completion of the projects as well as designing of the tariff so that the tariff becomes more attractive and the power becomes saleable”.* **CMA M K Mittal**, Director (Finance), NHPC Ltd.

*“Tourism Sector is playing a pivotal role in reaching 5 trillion economy and this is a sector where with bare minimum investment huge employment can be created. Remote areas are going to be developed in tourism sector”.* **CMA Pradip Kumar Das**, Director (Finance), ITDC Ltd.

*“In the year 2017 India was in the 40<sup>th</sup> position in tourism competitiveness, in 2019 was 34<sup>th</sup>, during last 4 years gone upto 18<sup>th</sup> position in the Global Standard and in price competitiveness in tourism sector we are globally ranking 13<sup>th</sup>, airport infrastructure in India, it is 33<sup>rd</sup>, Port Infrastructure is 28<sup>th</sup>. Many foreign inflows will flow in India and will boost the economy”* – He further added.

*“The ease of doing business ranking compares economies with one another, the distance to frontier score benchmarks economies with respect to regulatory best practices, showing the absolute distance to the best performance on each Doing Business indicator, and all the scores are aggregated and the aggregated score becomes the Ease of Doing Business Index”* - **CMA Dr Dhananjay V Joshi**, Former President, ICAI.

*“What are the treatments of E Commerce offering discount, Bad Debt in our Cost Statements, the changes must be brought being professionals”* - **CMA Chandra Wadhwa**, Another Past President, ICAI.

Past Presidents, ICAI: **CMA Rakesh Singh**, **CMA Harijiban Banerjee** and **CMA Amal Kumar Das** also attended the discussion forum.

**CMA Balwinder Singh**, President, ICAI welcomed the session.

**CMA Venkat K Narayan**, CEO of the Prestige Group had been bestowed the honour as the CMA-CEO of 2019 by **Shri Piyush Goyal**, Hon’ble Union Minister for Railways and Commerce & Industry.

**CMA Biswarup Basu**, Vice President, ICAI mentioned that the World has been divided into Developed Nations and the Developing Nation. Our Hon'ble Prime Minister in his second term has given an ambitious target of India becoming a 5 Trillion economy by 2024 thus becoming the 3rd Largest economy in the World and probably rather certainly a Developed Nation. The focus is on doubling per capita income in the country. For this India requires investments averaging Rs. 20 Lakh crore every year. With good and positive actions of the Government, we have reason to believe that India will grow at 12% normal growth i.e. 8 % GDP growth and 4% inflation which is quite likely and will elevate the status of a developed Nation in 5 years and will march thereafter to become an economic super power.

**CMA A.N Raman**, Former President, SAFA summed up the session by discussing the strategies set to achieve the targets set by Hon'ble Prime Minister, towards these strategies all the stakeholders would be looking for certain levers viz Artificial Intelligence, the Start up and the Digital Banking.

He discussed the pathways to achieve the target: Agriculture 1 Trillion, Services 3 Trillion and the Manufacturing 1 Trillion. If these sectors can achieve their targets then the goal can be achieved.

Effective Cost Management, Linking AI to Decision Making, Roles of CMAs in MSE on SDG Japanese practices, Chinese Practices, Role of Accounting for sustainability because of environmental constraints was heavily anchored in the manufacturing sessions, capacity building in terms of new tools, new methods, new practices, they all need to be popularized for accelerating growth, eliminating wastes, that need to be taken care of.

*Every few years, economy, businesses, industry goes through the cycle, it's a cyclical situation and it is during these periods that one tightens one's belt, that one focuses on productivity improvement, when one looks at cost structures, when one ensures that wasteful expenditure is eliminated from the system, we look at our own production processes, we consider whether we really need to spend money on a particular item or we don't, whether we can do without it, whether instead of holding this 3 Day Global Summit at Taj Palace and paying x amount of money makes more sense or holding it in this lovely Hall in The Ashok Hotel at 1/3<sup>rd</sup> the price makes more sense that is the sensible thinking of any good organization. We have a great future ahead of us and our children are safe in your hands.*

*He spoke about Shri Lal Bahadur Shastri, Former Prime Minister of India who gave a very good thought*



*that the one meal we forego will contribute to society, will contribute to the health, will contribute to the nutrition of some poor child in some remote part of India. I think the time has come for each one of us to reflect within ourselves and see what is our contribution to the nation, the society for better future who are left behind.*

*India imports a lot of products which can easily be made in India. Very often many of these products are of very poor quality, but continue to come in large measure into the country. Support is required regarding the quality assurance of the products, but the foreign exchange that goes out of the country, the indirect costs associated of the job lost by an Indian who could otherwise been engaged in making that product, the natural resources of the country that could otherwise been used need to be looked upon by the CMAs. He gave the example of Agarbatti production that started in India and restricted the import of Agarbattis.*

*“The Country comes first and we all should collectively work for that. Quality needs to be emphasized in order to strengthen the manufacturing activities in India, payback is always more in case of quality costs. The Institute needs to assess the cost of bad quality.*

*Artificial Intelligence, Internet of Things are the recent technologies India needs to look after. Agriculture to be value added, huge possibilities are there. Environmental sustainability is also a major concern that needs to be assessed. If all of us work together there is no way we will not achieve a 5 trillion \$ economy in the years to come” - Shri Piyush Goyal, Hon'ble Union Minister for Railways and Commerce & Industry.*

**Shri Piyush Goyal**, Hon'ble Union Minister for Railways and Commerce & Industry released the Souvenir of GS2020.

**CMA Vijender Sharma**, Chairman, Organizing Committee, GS 2020 concluded the session with the vote of thanks.





# **TIME BOUND ARBITRATION PROCEEDINGS - A BIG REFORM IN ARBITRATION LAW**



**Hareesh Kumar Kolichala**  
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## **Abstract**

*The chief attribute of dispute resolution through “Arbitration” is speedy and inexpensive. However, both Arbitration Act, 1940 and Arbitration and Conciliation Act, 1996 have belied the expectations as the arbitration proceedings have become long winding, delayed and expensive. It is by way of the Arbitration and Conciliation (Amendment) Act, 2015 and Arbitration and Conciliation (Amendment) Act, 2019 that the Government of India has effectively addressed the issue of delay and introduced several salutary provisions in the Arbitration and Conciliation Act, 1996 to make arbitration proceedings time bound. This is a right step in the direction of ease of doing business in India as enforcement of commercial contracts would be speedy.*

A dispute can be resolved through (1) Adjudication by courts, (2) Arbitration, (3), Mediation and (4) Conciliation. A resolution of a dispute in any other mode other than adjudication by a court of law is called as Alternate Dispute Resolution (ADR).

“Arbitration” is being used the world over for resolution of Commercial disputes which is both speedy and inexpensive. Arbitration is an informal, quick and easy alternative mode of adjudication of disputes by agreement of the parties.

In the case of *Centrotrade Minerals and Metal Inc. vs. Hindustan Copper Limited* [(2006)11SCC245], the Hon’ble Supreme Court observed as under:

“Lord Mustill had once said that “The great advantage of arbitration is that it combines strength with flexibility.... Flexible because it allows the contestants to choose the procedure which fit nature of the dispute and the business context in which it occurs.” Arbitration was meant to be a speedy, expeditious and cost-effective method of dispute reconciliation. So, the primary object of ADR movement is avoidance of vexation, expense and delay and promotion of the ideal of access to justice”.

Protracted, time consuming, expensive and complex court procedure compelled the commercial-world to an alternative, less formal, more effective and speedy mode of resolution of disputes by an arbitrator of choice of the parties which culminated into passing of an Arbitration Act. “Arbitration” as a method of dispute resolution, especially resolution of commercial disputes, emerged as an effective and efficient alternative to traditional dispute resolution through Court.

The first law on the subject of arbitration in India was the Indian Arbitration Act, 1899. But, its application was limited to the Presidency towns of Calcutta, Bombay and Madras. This was followed by the Code of Civil Procedure, 1908 where the Second Schedule thereof contained provisions related to arbitration. Subsequently, Arbitration Act, 1940 was enacted which ruled the field for more than half century.

The chief attribute of the Arbitration is that the parties to the dispute can mutually decide the person who is to act as Arbitrator, venue, procedure to be adopted and need not wait for their turn in the long list of disputes before the courts and hence it was expected to be expeditious and speedy. However, in actual practice, over a period of time, the arbitration proceedings have also become long winding and belied expectations. Arbitration Proceedings became highly technical and thoroughly complicated.

Under the 1940 Act, at every stage of the arbitration proceeds, courts had the power to intervene which caused immense delay. Under Section 16 of the said Act, the courts even had the power to remit the matter back to the arbitrator to decide the matter afresh where the award is set aside. Further, an award was required to be made a rule of court.

The Law Commission of India, in its 246<sup>th</sup> Report on Arbitration law in India, had quoted the Supreme Court’s anguish as under:

“The anguish of the Supreme Court is evident from the observations of D.A. Desai J. in *Guru Nanak Foundation*

*v Rattan Singh*, (1981) 4 SCC 634: “Interminable, time consuming, complex and expensive Court procedures impelled jurists to search for an alternative Forum, less formal, more effective and speedy mode for resolution of disputes, avoiding procedural claptrap and this led them to Arbitration Act, 1940 However, the way in which the proceedings under the Act are conducted and without exception challenged in Courts, has made **Lawyers laugh and legal philosophers weep.** Experience shows and law reports bear ample testimony that the proceedings under that Act have become highly technical accompanied by unending prolixity, at every stage providing a legal trap to the unwary. Informal Forum chosen by the parties for expeditious disposal of their disputes has by the decisions of the Court been clothed with ‘legalese’ of unforeseeable complexity.”

There was a clamour for reform in the law of arbitration by the judiciary and Industry alike to cut down the delays and to further modernize. The Government of India having regard to various opinions and recommendations decided to adopt new arbitration law, which would be based on Model Law on International Commercial Arbitration established by United Nations Commission on International Trade Law (UNCITRAL). Accordingly repealing 1940 Act, the present Act, Arbitration and Conciliation Act,1996 was enacted which came into force from 25-01-1996.

While drafting the present Act, one of the chief objectives was to curtail delays in the arbitration process. Accordingly, the present Act provided limited grounds for challenge of the award under Section 34 and there is no need to make the award the rule of the court for enforcement of the award. However, despite thereof, there was no improvement in the disposal of proceedings of arbitrations. The situation has been explained by the Law Commission in the said report on Arbitration and Conciliation Act,1996. The excerpts of the report are as under:

“The Act has now been in force for almost two decades, and in this period of time, although arbitration has fast emerged as a frequently chosen alternative to litigation, it has come to be afflicted with various problems including those of high costs and delays, making it no better than either the earlier regime which it was intended to replace; or to litigation, to which it intends to provide an alternative. Delays are inherent in the arbitration process, and costs of arbitration can be tremendous. Even though courts play a pivotal role in giving finality to certain issues which arise before, after and even during an arbitration, there exists a serious threat of arbitration related litigation getting caught up in the huge list of pending cases before the courts. After the award, a challenge under section 34 makes the award inexecutable and such petitions remain pending for several years. The object of quick alternative disputes resolution frequently stands frustrated.

In ad hoc arbitrations, fees are charged “per sitting” basis (with sometimes two/three sittings in a day in the same dispute and between the same parties), dates are usually spread out over a long period of time, and proceedings continue for years - which results in increase of costs, and denial of justice to the aggrieved party. **There is ingrained in the Indian system a culture of frequent adjournments where**

arbitration is treated as secondary by the lawyers, with priority being given to court matters.

Judicial intervention in arbitration proceedings adds significantly to the delays in the arbitration process and ultimately negates the benefits of arbitration. The Commission finds that in most Courts, arbitration matters are kept pending for years altogether, and one of the reasons is the lack of dedicated benches looking at arbitration cases.”

However, the amendments made by the Parliament to the Act by Arbitration and Conciliation (Amendment) Act, 2015 and Arbitration and Conciliation (Amendment) Act, 2019 have well addressed the issue of delay in arbitration proceedings. It is observed by the Law Commission that a lot of time is spent for appointment of arbitrators at the very threshold of arbitration proceedings as applications under section 11 are kept pending for many years. To avoid such delays, the Commission had proposed amendment to Section 11(13) to dispose of the applications for appointment of arbitrators within 60 days of service of notice on the opposite party. The Parliament has, however, by amendment to the Act in 2019, prescribed only a period of 30 days to dispose of such applications for appointment of arbitrators. Earlier, there was no time limit for disposal of such applications and the proceedings used to get delayed at the threshold itself

Previously, the Act was silent on the time bound disposal of the Arbitration proceedings. By way of Amendment Act, 2015, a new section 29A (1) has been inserted and further sub-sections (1)–(9) have been added. Sub-Section 29 A(1) provided that an Arbitrator must publish the award within 12 months from the date the Arbitral Tribunal entered reference. By Amendment Act, 2019, the Parliament had included Sub-Section (4) to Section 23 and prescribed a specific time period of six months for completion of pleadings. Further, Section 29A(1) as amended in the year 2015 has been deleted and inserted new Sub-section (1) providing thereby that the Arbitrator to render the award within 12 months from the date of completion of pleadings. The import of the same is that the arbitration proceedings could now be completed within a total period of 18 months instead of earlier mandated 12 months. When there are provisions for extension of time period, under Section 29A (2) -29A(4), if the Arbitration proceedings are not completed within the said period of one year, there is no case for increasing the time period by another 180 days. However, the Law Commission had recommended for prescribing a time period of 27 months for completing the proceedings and considering the same, the time period of 18 months is quite reasonable.

Further, sub-section (2) of Section 29A provided a novel feature that the Arbitrator/s would be entitled to an incentive if the award is made within six months of its date of reference. In such cases, the Arbitral tribunal shall be entitled to receive an additional amount which shall be over and above the fee agreed upon. This will encourage the Arbitral tribunal to expedite the proceedings.

In case the award is not made within 12 months as provided under Section 29A (1), then the Arbitral Tribunal, under Section 29A(3), may extend the period by another six

months with the consent of the Parties.

In case the Arbitral Tribunal fails to publish the award within 12 months as provided under Section 29A(1), or extended period of further six months under Section 29A(3), then the mandate of the Arbitrator shall terminate. However, the courts may extend the period further on an application by the Parties, and in such cases, the mandate of the Tribunal shall not terminate. The proviso of Section 29A(4) states that while extending the period, if the court finds that the proceedings have been delayed for reasons attributable to the Arbitral Tribunal, then it may order reduction of fees of the Arbitrators to the extent of 5% for each month of such delay. The 2019 amendment introduced a proviso to the effect that before reducing the fee of Arbitrator, he shall be given an opportunity of hearing. However, if the delay is attributable to the litigants, the court may extend the period on showing sufficient cause and on such terms as it may deem fit. The court may also impose exemplary costs as a condition for extension.

As per Section 29A (7), where the Arbitral Proceedings have been delayed due to reasons attributable to the Arbitrator, the Courts have been empowered to substitute one or all the Arbitrators, and the proceedings under Arbitration shall continue from the stage already reached prior to the substitution. For the purpose of disposal of Application under Section 29A (5) for extension of period of Arbitration, it is mandated that the Courts shall dispose of such application within 60 days.

The 2015 amendment had also inserted a proviso to Section 24(1) which provided that the arbitral tribunal shall, as far as possible, hold oral hearings for the presentation of evidence or for oral argument on day-to-day basis, and not grant any adjournments unless sufficient cause is made out, and may impose costs including exemplary costs on the party seeking adjournment without any sufficient cause.

#### **FAST TRACK PROCEDURE:**

The 2015 amendment has also introduced another novel feature in the Act by providing for fast track procedure for arbitration by introducing Section 29B which provides for adoption of Fast Track procedure, wherein parties may, either before the commencement of the Arbitration proceedings, or subsequently, agree to adopt Fast Track procedure. They may agree to refer the matter to the Sole Arbitrator for a fast track procedure, wherein the dispute shall be decided on the basis of written pleadings, documents, and submissions filed by the parties without any oral hearing. The Arbitral Tribunal may call for further information or clarification from the parties in addition to the pleadings. The Award must be made within six months from the date when the Arbitral Tribunal enters reference. In case the award is not made within the period of six months, the provisions of Section 29A (3) to (9) shall apply with respect to extension of time period.

#### **NO AUTOMATIC STAY**

Before the coming into effect of the Arbitration and Conciliation (Amendment) Act, 2015, Section 36 provided that mere filing of an objection petition under Section 34

of the Arbitration and Conciliation Act, 1996 would lead to an automatic stay of the impugned award. However, the said anomaly has been rectified by 2015 amendment clearly spelling out that mere filing of such an application shall not by itself render that award unenforceable, unless the Court grants an order of stay of the operation of the said arbitral award on a separate application made for that purpose.

### CONCLUSION

The amendments brought in by the Government of India in 2015 and 2019 are novel and innovative which are in the right direction. Other amendments proposed by Amendment Act, 2019, which are not notified yet, aim at institutionalizing

Arbitration and Arbitrators which is another big reform in waiting. It is sure that these reforms will definitely pave way for expeditious settlement of disputes through Arbitration.

MA

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# ALTERNATIVE DISPUTE RESOLUTION AND THE ROLE OF COST ACCOUNTANTS: A BIG BITE OF THE CAKE IN THE WAITING



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## Abstract

*The domain of Arbitration and arbitrators profession were historically not considered to be the areas of practice for the Cost & Managements Accountants. Only few qualified & experienced finance professionals were empanelled in the Arbitration Council Of India in the category of : “Financial Experts”. Very few of them got the opportunity to be ultimately appointed as “ Arbitrators “ in prestigious arbitral assignments. But now the changes in the statute relating to qualifications required for appointment as Arbitrators has opened up new scope for the CMA’s. The present article highlights a brief concept of Alternative dispute redressal (ADR) mechanism with particular emphasis on Arbitration and the huge professional opportunity in the waiting for WE, THE COST & MANAGEMENT ACCOUNTANTS.*

**A**lternate Dispute Resolution (ADR) is a dispute resolution process which is entirely different from the normal judicial process. By ADR we actually mean a set of different processes which the parties to the dispute can bring to resolve outside

the formal structure of the Courts & the Judiciary. It is generally considered to be time effective and cost effective (though in reality some Arbitration process are very costly). There are many ADR options which are available other than arbitration which are now used by the parties to the



dispute which are highly time & cost effective. There are an estimated 30 million cases pending in various courts in the country. The criticism against the Justice delivery system is continuous.. *Arbitration is a mean to provide an easy and expedient mechanism for dispute resolution without the need of resorting to a long drawn litigation. This is meant to be Justice without law. Arbitration seeks to remove blockade caused by chocking legal pollution. Arbitration started as a reform to resolve conflict with mutual love and trust. Even late Shri Nani Palkhiwala remarked succinctly, "If I were appointed a dictator of this country, in the short span of my appointment & assasination would promulgate a law making all commercial disputes referable to arbitration.."*

The various types of ADR are:

- 1.Negotiation
- 2.Conciliation
- 3.Mediation
- 4.Arbitration

Lets us first of all know in brief the exact meaning of these above five methods of ADR:

**Negotiation:** It is an informal method of settling the impending conflict/dispute between the clients themselves or through their counsels. The ultimate target and goal of a true negotiation is a win/win outcome for both the parties so that the problem is effectively resolved.

**Conciliation:** The Arbitration Act has suggested that a dispute may be referred to mediation or conciliation. The code of civil also speaks about mediation & conciliation. As per the Arbitration Act 1996 conciliation is a voluntary gesture between the parties . Section 89 of the Code of civil procedure empowers the courts to refer a matter for conciliation even if the parties to the dispute does not consent to it. Hence the role of a conciliator is a pro-active interventionist.

**Mediation:** It is very voluntary & committed process. The mediator has to be a truly neutral person and keep the process confidential. The mediation process involves at least three parties ie the two parties to the dispute and a mediator who acts as the facilitator with no decision making power. The role of the mediator is just to act as a facilitator and motivate / encourage the parties to a dispute to arrive at a mutually acceptable solution of the dispute in question. Since the mediator has no adjudicating power, it has to be borne in mind that he has to use all the methods, processes, techniques and skill sets which would facilitate in helping the parties top dispute to arrive at a mutually agreeable solution without the adjudicating process.

**Arbitration** is one of the established methods of ADR and is a private contractual method of settling disputes. The arbitration clause is generally provided in the initial agreement/contact/Letter of award(LOA) in between the parties. The arbitration clause contains the detailed terms and conditions which would be followed when the arbitration clause is invoked. The basic law relating to arbitration is contained in the Arbitration and Conciliation Act 1996 (as amended upto date). This Act contains the detailed legislation for domestic as well as international arbitrations. Hence

arbitration is an ADR method of resolving any dispute in a contract or a contractual deadlock outside the established judicial machinery .It is basically a totally voluntary process and in India it is governed under the 1996 Arbitration & Conciliation Act 1996 Initially in India we had the 1940 Act on Arbitration. However that 1940 Act had two major limitations.

1. The 1940 Act dealt only with domestic arbitration
2. Court intervention was required to set the arbitration proceedings to roll on. (ie the existence of an agreement and of a dispute was required to be proved before the court of law)

The extent of Judicial interference defeated the very basic purpose. Moreover a comprehensive law including recognition & enforcement of foreign awards was required. Hence the 1996 Arbitration & Conciliation Act was promulgated.

An arbitration tribunal is a flexible private forum chosen by the parties to a contractual dispute unless it is expressly barred. While the 1996 Act does not exclude any specific category of disputes the Supreme Court in the case of *Booze Allen & Hamilton Inc. SBI Home Finance Ltd* has stated tthe below mentioned six categories of disputes are non-arbitrable:

- a) Criminal offences
- b) Tenancy rights where it is protected by a Statute
- c) Insolvency
- d) Wills & Trusts
- e) Guardianship
- f) Matrimonial Disputes

### TYPES OF ARBITRATIONS:

1. **Adhoc Arbitration:** is any arbitration which is not administered by any institution as the contract/ agreement does not specify an institutional arbitration. Adhoc arbitration is purely flexible and is generally dependent on the co-operation of the parties as it does not have to pay huge administrative fees to the arbitral institution.
2. **Institutional Arbitration:** is an arbitration which is conducted under the standard established rules of an arbitral organization .In an institutional arbitration, the initial agreement/contract designates an arbitral institution under whose guidance the arbitration proceedings will be administered.
3. **Statutory Arbitration:** Statutory disputes are dealt with under section 2(4) of the Arbitration & Conciliation Act 1996. Hence statutory arbitrations are conducted in accordance with the provisions of special Acts which deals for matters of disputes arising on specific issues covered by the Act .Such disputes arise not out of any contracts but due to statutory provisions.

## ARBITRATOR:

Section 11 of the Act provides for appointment of Arbitrators. An arbitrator may be appointed by the parties to a dispute or by court. Initially the area of arbitration was dominated with persons having Legal background on in some cases people with technical expertise ( mostly Engineers having wide experience) were appointed as arbitrators. As time went on it was realized that there were dearth of qualified professionals who would add value to the arbitration process including acting as arbitrators. In my professional career in Industry I have participated in many arbitration hearings on behalf of my Organization and have experienced that in commercial contracts & in also other contracts we the CMA,s are well qualified and equipped to handle both domestic and international commercial arbitrations.

Let me now discuss about the role the Cost & Management Accountants can play in the Arbitration process, their statutory recognition now, scope, and future of CMAs in arbitration. It may be noted that Cost Accountants were previously also eligible to be appointed as arbitrators in the Indian council of Arbitrators in the category of “FINANCIAL EXPERTS”

But now The Arbitration and Conciliation (Amendment) Act, 2019 (the amended Act) has received the assent of the President Of India on 9th August, 2019. The Act of 1996 (ie. the old Act) did not lay down any specific qualifications for arbitrators. As per the old Act, any qualifications required for the arbitrator were as decided by the parties by the agreement. But it is my experience, in that era, and now ,mostly people with legal background and retired Judges were appointed as arbitrators.

However, the amendment Act has inter alia now provided for the norms of accreditation for arbitrators by way of inserting section 43J. The Eighth Schedule of the amended act provides for the Qualifications and Experience of Arbitrator.

### Now in terms of Statute the Qualification required for appointment as arbitrator are as under:

- a. “An advocate within the meaning of the Advocates Act, 1961 having ten years of practice experience as an advocate”; or
- b. “A Chartered Accountants within the meaning of CA Act 1949 having ten years experience as a Chartered Accountant” or
- c. **“A Cost Accountant within the meaning of Cost & Works Accountants Act 1959 having ten years practice as an Cost Accountant “or**
- d. “A Company Secretary within the meaning of the Company Secretaries Act 1980 having ten years of practice experience as a company Secretary “or
- e. “A person who have been an officer of the Indian Legal service “orr
- f. “A person who has been an officer with law degree having ten years of experience in the legal matters in the Govt, autonomous body. PSU or at a senior level managerial position in private sector” or

- g. “A Person who has been an officer with an Engineering degree having ten years experience in the in the Govt, autonomous Body. PSU or at a senior level managerial position in private sector or self employed”.or
- h. “A person who has been an officer having senior level experience of administration in the Central Govt. or Govt, autonomous Body. PSU or at a senior level managerial position in private sector of repute” or.
- i. “A person having educational qualification at degree level with ten years experience in scientific or technical field of telecom, information technology, IPF (intellectual property Rights) or other specialized areas in Govt, autonomous Body. PSU or at a senior level managerial position in private sector of repute”.

### General norms/ qualities expected from Arbitrators in addition to the qualifications stated herein above are as follows”

- i. “The arbitrator shall be a person of general reputation of fairness, integrity and capable to apply objectivity in arriving at settlement of disputes”;
- ii. “the arbitrator must be impartial and neutral and avoid entering into any financial business or any other relationship that is likely to effect impartiality or might reasonably create an impression of partiality or bias amongst the parties”.
- iii. “the arbitrator should not involve in any legal proceedings and avoid any potential conflict connected with any dispute to be arbitrated by him”.
- iv. “ the arbitrator should not have been convicted of an offence involving moral turpitude or economic offence”t
- v. the arbitrator shall be conversant with the Constitution of India, principles of natural justice, equity, common & customary laws, commercial laws, labour laws, law of torts, making amending enforcing the arbitral awards”;
- vi. “the arbitrator should possess robust understanding of the domestic and international legal system on arbitration and international best practices in regard thereto”
- vii. “the arbitrator should be able to understand key elements of contractual obligations in civil and commercial disputes and be able to apply legal principles to a situation under dispute and also to apply judicial decisions on a given matter to arbitration”and
- viii. “the arbitrator should be capable of suggesting, recommending or writing a reasoned and enforceable arbitral award in any dispute which comes before him for adjudication”

From the above laid down qualifications and general norms/qualities, we can easily understand that a huge area of practice and scope welcomes the fraternity of Cost Accountants as we are equally competent to act as

arbitrators. The training imparted to the CMA's during their education, the coverage of syllabus and also their financial, legal, accounting, contractual, techno-commercial and other expertise makes them competent to act as arbitrators. The CMA's in future can add much value in these field of arbitration, particularly commercial arbitration. The CMA's should also start specializing in these field as there are lot of scope both in domestic & international arbitration. The Cost Accountants can definitely specialize in arbitration matters, particularly those connected with breach of contracts, insurance claims, loss of profit, securities fraud, commercial disputes, rights of properties, lease transactions etc. and represent his clients in Arbitration proceedings. They can also be appointed as Arbitrators by the parties to a dispute or through the arbitration council or the High Courts and Supreme Court.. The objective of arbitration is to provide expeditious, efficient and economic justice to the aggrieved parties as it is felt that too much legality defeats the very purpose of arbitration. A Cost Accountant can equip himself to enter into the field of Arbitration with considerable advantage.

Remuneration in the filed of Arbitration:: All of us should be aware that arbitration is a very remunerative field. It is a highly prestigious assignment and arbitrators are seen with a lot of social prestige. The remuneration/fees payable to arbitrators are statutorily fixed as stipulated in the Act:

The fees for arbitrators are stipulated in the fourth schedule to the Act. It may be understood that the fees as stipulated in the Act are Model fees only and it is upon the parties to the dispute to fix fees better than the model fees as stipulated. It is to be noted that arbitration is a highly remunerative field/profession. In addition to the fees payable for the arbitration process ie as arbitrators for each sitting/contract as whole, out of pocket expenses like accommodation, venue cost for holding the arbitration proceedings, transport, fooding, lodging etc are all shared by the parties to a dispute. The entire glamour, prestige and professional excellence connected with the Arbitration process should be encashed by the CMAs (both in practice& employment). Moreover, as more and more CMAs are appointed as arbitrators and get involved in the domain of arbitration proceedings either as arbitration consultants in preparing the Statement of facts, affidavit, counter affidavits, and appear as counsels in the arbitration process or as arbitrators it would lead to positive branding of the competencies of our profession.

### Initiatives of the Institute:

Considering the tremendous potential and scope of Cost Accountants in the area of arbitration the Advanced Studies Directorate of the ICAI has rightly started a certificate course on arbitration in the most opportune time for the members of the Institute .(including members of sister professional Institutes/Graduates)

Fees for this course is Rs 20000/ plus applicable GST.

- The objective of this course is to make familiarize the participants with legal framework of arbitration, arbitration procedures, and arbitration practice. It is also designed to cover practical aspects covering case

analysis and mock arbitral proceedings.

- The course is meant for the candidates, who are desirous of consolidating their expertise and skills in Arbitration to position them as multidisciplinary consultants in the global service market.
- After successful completion of the course the participants will understand the legal and regulatory framework that governs the development of Arbitration process.
- The candidates will be able to assist Trade and Industry in setting up Dispute Redressal Mechanism.
- Members of our Profession should utilize this opportunity and enroll in this course to equip and update themselves who are thinking about entering the filed of arbitration.

The certificate course on arbitration covers broadly:

1. "Principles of ADR & Domestic Arbitrations
2. "Principles of Commercial Arbitrations"
3. "Principles of International Commercial Arbitrations"

Students and Members of our Institute may take advantage of this course launched by the Advanced Studies Directorate and equip themselves in the area of Arbitration.

It can be seen that the recent amendments in the Arbitration & Conciliation Act 1996 (particularly relating to qualification of Arbitrators) has opened up a new vista for the Cost & Management Accountants. It is an area of practice and expertise we should concentrate on, particularly considering its tremendous social prestige and branding. It will increase our value & prestige in the society & professional field, in the industries, different Chambers Of Commerce & Confederation of Indian Industries (CII),& the Government. It is highly remunerative also. Members of CMA profession who are desirous of consolidating their expertise and skills in Arbitration to position them as multidisciplinary consultants in the global service market should seriously consider Arbitration as an alternative in their professional avenues.. The Government has given a very big cake for the professionals like us in the form of scope in the domain of arbitration. Let us have our share of the cake by proving our mettle, hard work, competencies, tenacity, skills, knowledge, expertise & professional acumen. **MA**

### References:

1. [www.icmai.in](http://www.icmai.in)
2. *The Arbitration & Conciliation Act 1996 (as amended upto date)*

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# ROLE OF COST ACCOUNTANTS AS ARBITRATORS IN THE COMMERCIAL DISPUTE RESOLUTION PROCESS



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## Abstract

*Arbitration is now a preferred mechanism in the corporate world in commercial dispute resolution process. The Arbitration Act, 1940 had been facing a lot of criticisms due to deficiencies in lot of areas. In order to make the Arbitration process more effective, changes were needed in the said act. As a result, the Arbitration and Conciliation Act 1996 was enacted and it is effective on and from 22nd August 1996. The said Act was amended time and again in order to make more effective and last amended happened in the year 2019.*

*The Amendment in the Arbitration & Reconciliation Act, 1996 in the year 2019 allows the Cost Accountants to act as Arbitrators in the commercial dispute resolution process. This is a new opportunity for the profession which will definitely help the professional to build an additional expertise in the field. Hence forth, Cost Accountants can play a big role in the commercial dispute resolution process.*

*This paper makes a humble attempt to study the role of Cost Accountants as Arbitrators in the Commercial Dispute Resolution Process.*

## What is Arbitration;

**I**t is an effective of a dispute between the two in a contract by reconciling their difference and to to an without intervention of the court . It is a form of alternate dispute resolution process (ADR).

1. An arbitration clause is incorporated in the contract

in the form of either :

- a) An Arbitration clause within the contract agreement entered into by the parties, or
- b) A separate agreement by the parties involved in a contract,

2. The arbitration clause must be in writing,

3. Termination of the Contract and its effect on Arbitration Clause is enumerated below:
  - a) An arbitration clause is a collateral term of a contract,
  - b) It is separated from a substantive part of the contract,
  - c) It is an integral part of the contract,
  - d) Once the contract completes or cancelled, it destroys automatically,
  - e) It will not influence the invalidity of the arbitration clause, once the contract becomes null & void ,
4. Arbitral Tribunal :
  - a) It may consist of a single/ sole arbitrator or a panel of arbitrators,
  - b) Both the parties to the Arbitration are free to fix the number of Arbitrators, but it shall not be an even number,
  - c) If the parties are unable to decide the number of arbitrators, then the arbitral tribunal shall consist of a sole arbitrator.

## Arbitration and Reconciliation Act, 1996:

### History of Arbitration:

The earliest evolution of arbitration can be finding during the rule of King Solomon, but the same is also traced back from the Upanishad.

One of the earliest known treatise as per the Hindu Law is "*Brhadaranayaka Upanishad*". In the said Upanishad, it describes various types of arbitral bodies consists of following primary bodies, like Puga, Srenis & Kulas.

If we look back in the historical references, arbitration has been in place even before the times of Christ. The first law for arbitration came into force in England in the year 1697.

In India, the Modern Arbitration Law was enacted as follows and it happened during the British Rule:

- a. The Bengal Regulation Act of 1772. By the said regulation, the parties opted for a tribunal for successful resolution of disputes that aroused amongst themselves.
- b. Thereafter, such type of regulation was promulgated to other presidency towns i.e. Bombay Regulations Act of 1799,
- c. Madras Regulation Act of 1802.

During the British Rule,

- a. The 1st Legislative Council for India was constituted in the year 1834, i.e. the beginning of the Arbitration Law,
- b. The First Indian Arbitration Act was enacted on 1st July, 1899 and it was fundamentally based on the British Arbitration Act, 1889,
- c. The application of the Indian Arbitration Act was very limited only to the presidency towns' i.e. Calcutta,

Bombay and Madras only.

- d. The very unique feature in the Act was that the names of the arbitrators were to be mentioned in the agreement; the arbitrator at that point can also be a sitting judge,
- e. It was observed by the Hon'ble High Court that the Indian Arbitration Act, 1889 was very complex, bulky and hence , it was felt a reforms was needed and that to maintain simplicity and easy to understand and handle by the parties in dispute and also to be acceptable one.
- f. The Arbitration Act, 1940 was enacted on 11th March 1940. It was applied to the whole of India and was effective on and from 1st July 1940.

During the 19<sup>th</sup> century, there was a rapid escalation in the global trade and commerce and in order to keep pace with the high economic growth, it was felt by the law makers of the country to avoid the lengthy, prolonged and complicated litigation process; resulting the arbitration has become a preferred mode of dispute resolution mechanism and it is now widely accepted by the corporate world. Hence, the introduction of arbitration act was felt by the law makers of the country.

The Arbitration Act 1940 helped the corporate to settle many disputes, in spite of the same; the said act was not beyond criticism due to various reasons. Some of the shortcomings of the said act are enumerated below:

1. There was no statutory recognition of conciliation in settling the disputes in arbitration, hence it lacks popularity.
2. In the said Act, 1940, the Section 30 i.e. Grounds for setting aside award and Section 33 i.e. Arbitration agreement or award to be contested by application of the said act, it invited criticism,
3. The said act was not very clear and specific once the arbitration will fail in-case of non-existence and invalidity of an arbitration agreement in the contract,
4. The said Act was silent to deal with shortcomings or deficiencies which is inherent to the individual private contracts,
5. The rules providing for filing awards differed from one High Court to another High Court,
6. The Award can be challenged on a large number of grounds, including the merits of the award.
7. There was a lack of suitable provisions in the act which prohibits an arbitrator from resigning at any time in the course of the arbitration proceedings resulting the parties in disputes have to face losses specifically when the arbitrators acted mala fide.
8. It was a major flaw in the act when an arbitrator appointed by the Court dies during the arbitration proceedings and there was no other provision in the said act for appointment of a new arbitrator,
9. The Marginal Notes were not regarded as part of the said Act.
10. There was a lack of the Legislation to cover the

international and domestic commercial arbitration and conciliation, which is very vital for its acceptance and growth of industrialization in this country, resulting the foreign investors find difficult to invest in India.

11. The said Act also permitted the courts to interfere in the arbitration proceeding; beginning from the appointment of the arbitrator and till the passing of the award,
12. In the said act, there was an option to resort to the court during any stage of the proceedings by taking advantage of the backlog of the cases;
13. The parties in dispute were not prohibited from raising any disputes either during the proceeding or validity of the arbitration agreement or the constitution of arbitration even after passing the award,

### Arbitration and Reconciliation Act, 1996:

The Arbitration Act of 1940 had been facing a lot of criticisms and lacked in quite a lot of areas when it came to implementation in the real sense. So, change was needed in the said act in order to make the act more effective and Arbitration process is preferred in the dispute resolution process among the conflicting corporate and the parties in dispute. The Arbitration and Conciliation Act 1996 was enacted and came into force from 22nd August 1996.

- a. The Arbitration and Conciliation Act, 1996 was enacted which has been built up on the previous laws on arbitration prevailed in this country, the same are enumerated below :
  1. The Arbitration Act, 1940,
  2. The Arbitration (Protocol and Convention) Act, 1937 and,
  3. The Foreign Awards (Recognition and Enforcement) Act, 1961.

The new act also covers the provisions on the following laws in order to make the new act more acceptable and convenient to the corporate world:

- a. UNCITRAL Model law on International Commercial Arbitration ,
- b. The UNCITRAL rules on conciliation,
- c. The Model law on International Commercial Arbitration was constructed taking into consideration the provisions regarding arbitration under various legal systems.

In fact, the new act was felt by the law makers and to make it possible to incorporate the model law into the legal system of the nation.

The main motive behind the new act i.e. The Arbitration and Conciliation Act, 1996 is to consolidate the following law into one and to cover the same into one fold i.e.

1. Law relating to domestic arbitration,
2. The law relating to international commercial

arbitration,

3. It also includes the enforcement of foreign arbitral awards and rules regarding conciliation.

### Note:

*Vienna is the HQ of the United Nations Commission on International Trade Law (UNCITRAL). This Institute is specialized in the field of model legal agency in the field of international trade law. Most successful of this institute is the Vienna convention of International sale of goods and also UNCITRAL Rules for Arbitration that provides a procedural framework for international commercial arbitration.*

### b. The 'Arbitration and Conciliation Act 1996' is an Act that regulates domestic arbitration in India. The main objects of the act are narrated below:

1. In order to make more effective in solving the dispute, Arbitration process is more preferred among the conflicting parties in dispute. The need was felt by the law makers a long ago for effective laws. In order to bring effectiveness and uniformity in law across the nation, the Arbitration and Conciliation Act 1996 came into force from 22nd August 1996.

2. After the said enactment, the Government of India felt further amendment of the Arbitration and Conciliation Act, 1996 in order to make arbitration a preferred mode of settlement of commercial disputes and also to make India a hub of international commercial arbitration. On 23 October 2015, the President of India promulgated an Ordinance i.e. Arbitration and Conciliation (Amendment) Ordinance, 2015.

3. The Arbitration and Conciliation Act, 1996 was further amended on August 9, 2019 on the following reasons:

- a. To ensure that rules are laid down for international as well as domestic arbitration and conciliation.
- b. To ensure that arbitration proceedings are just, fair and effective.
- c. To ensure that the arbitral tribunal gives reasons for its award given.
- d. To ensure that the arbitral tribunal acts within its jurisdiction.
- e. To permit the arbitral tribunal to use methods such as mediation and conciliation during the procedure of arbitration.
- f. To minimise the supervisory role of courts.
- g. To ensure that an arbitral award is enforceable as a decree of the court.
- h. To ensure that the result of conciliation proceedings may be treated as arbitral awards on agreed terms.
- i. To treat awards given in a foreign country to which any one of the two international

conventions apply as followed by India as being a foreign arbitral award.

j. The Act of 1996 consolidated and amended laws relating to Arbitration, International Commercial Arbitration and also for enforcement of the Foreign Arbitral Awards. Initially, in the Act of 1996, it was held that the Court can pass interim orders under Section 9 of the Act, where Section 9 contemplates two stages i.e.

**Firstly**, court can pass order during arbitral proceedings,

**Secondly**, that court can pass order before commencement of arbitral proceedings.

**c. The said act is divided into four parts which is as follows:**

**Part I:** relates to domestic arbitration, and may be applied only where the seat / place of arbitration is in India except where a particular law provides that the dispute cannot be submitted for arbitration.

**Part II:** relates to enforcement of certain foreign awards,

**Part III:** provides for conciliation and

**Part IV:** contains certain supplemental provisions.

The Act contains 86 sections.

## The Arbitration Act, 1940 vs.1996

The basic difference between the 1940 Act and 1996 Act are as follows:

- a. In the 1940 Act :
  1. The party could commence proceedings in court:
    - a. By moving an application under Section 20 for appointment of an arbitrator and
    - b. At the same time, the party could also move an application for interim relief under the Schedule read with Section 41(b) of the 1940 Act.
    - c. The 1996 Act does not contain any provision similar to Section 20 of the 1940 Act and the court can pass orders even before the commencement of the arbitration proceedings.
  2. Another difference was that:
    - a. In the 1940 act, there was no requirement to give reasons for an award until and unless agreed by the parties to arbitration,
    - b. However, in the 1996 Act, the award has to be given with reasons, which minimized the Court's interpretation on its own,
  3. There were other changes also with respect to the award passed by the arbitral tribunal in the 1940 Act and 1996 Act that forced the law makers to switch over from the Act, 1940 to 1996 Act,

4. The Arbitration Act, 1940 was complex and difficult to handle by the corporate world,

## First round of Amendments in 2005:

1. The Arbitration Act, 1996 faced many challenges since its enactment and the Courts clarified the said Act by various landmark judgments in particular in the landmark case of Bharat Aluminum Co, The Hon'ble Supreme Court was of the view that:
 

“Part: I to the said act also apply to international commercial arbitrations which take place out of India, unless the parties by agreement express or implied exclude it or any of its provisions. It was felt that the Arbitration Act of 1996 was not a well drafted act and contains some lacunas, so started further amendment of the said act.”
2. The first round of amendment started around 2005, when there was a difference of opinion between the two Hon'ble Judges of the Hon'ble Supreme Court of India and placed before a three Judge Bench, which was finally placed before the Constitution Bench to review and the following sections were important for amendment :
  - a. Section 2(2) i.e. this Part shall apply where the place of arbitration is in India.
  - b. Further, more interesting question arose when Section 2(2) is in conflict with Sections 2(4) and 2(5) of the act.

## Second round of Amendments in 2015

The second round of amendment was felt by the law makers on account of the following reasons;

1. With the high economic growth of the nation, the foreign entities started business through their subsidiaries in India. An exciting question of law came up for consideration before the Hon'ble Apex Court i.e. whether it is permissible under the Arbitration Act, 1996 for two Indian Companies to agree to refer their commercial disputes to a place of arbitration outside India with governing law being English law.
2. The foreign investors find comfortable to invest in India ,

## Third round of Amendment in 2019:

On August 9, 2019, the President of India gave his assent to the amendments to the Arbitration and Conciliation Act, 1996 ('Act') and the same has been published in the Official Gazette of India.

One of the key changes in the Arbitration and Conciliation (Amendment) Act, 2019 ('Amendment Act') i.e. qualifications to become an arbitrator as follows:

### a. Some of the Important Changes in the Act

1. “Two new sections namely :

- a. Section 29A: provides for time limit for arbitral award and, which provide for time limit for arbitral award i.e. a time limit of 12 months plus six months (total of 18 months) within which the arbitral award should be made, failing which the mandate of the arbitrator should be terminated?
  - b. Section 29B: provides the parties to the arbitration agreement may opt for the fast-track procedure wherein the award has to be made within six months of the reference to the arbitrators.”
2. Section 34: appeal against the arbitral award is restricted to grounds mentioned, wherein the recourse to a court against an award is limited to the extent provided for under the section itself.
  3. Section 11(3A) : which provides the Supreme Court of India and the High Court's shall have the power to designate arbitral institutions, which have been graded by the Arbitration Council of India (“ACI”) under Section 43-I ,
  4. Section 23(4) :  
Which provides that the statement of claim and defence shall be completed within a period of six months from the date of appointment of the arbitrator(s) and,  
In the matter of the award international commercial arbitration, it may be made as expeditiously as possible with an effort to deliver the award within 12 months from the date of completion of pleadings under Section 23(4),
  5. Section 42A provides that the arbitral institution and the parties to the arbitration agreement shall maintain confidentiality of all arbitral proceedings except award, unless and until, its disclosure is required for implementation and enforcement of the award.
  6. If an appeal is preferred to the court against an arbitral award, the same shall have to be disposed of expeditiously within a period of one year from the issuance of notice to the other party.

### b. Who can be a qualified Arbitrator?

Under Section 43 J of the Act and as enumerated in the Eighth Schedule of the act, the qualifications and experience of Arbitrator has been redefined and expanded that includes other professionals to handle the Arbitration process:

“A person will not be qualified to be an arbitrator unless he is/ has been:

- i. An advocate within the meaning of the Advocates Act, 1961 having ten years of practice experience as an advocate;
- ii. A Chartered accountant within the meaning of the Chartered Accountants Act, 1949 having ten years of experience;
- iii. A cost accountant within the meaning of the Cost and

Works Accountants Act, 1959 having ten years of experience;

- iv. A company secretary within the meaning of the Company Secretaries Act, 1980 having ten years of experience;
- v. An officer of the Indian Legal Service;
- vi. An officer with law degree having ten years of experience in the legal matters in the Government, autonomous body, public sector undertaking or at a senior level managerial position in private sector;
- vii. An officer with engineering degree having ten years of experience as an engineer in the Government, autonomous body, public sector undertaking or at a senior level managerial position in the private sector or self-employed;
- viii. An officer having senior level experience of administration in the Central Government or State Government or having experience of senior level management of a public sector undertaking or a Government company or a private company of repute; or
- ix. A person having educational qualification at degree level with ten years of experience in a scientific or technical stream in the fields of telecom, information technology, intellectual property rights or other specialized areas in the Government, autonomous body, public sector undertaking or a senior level managerial position in a private sector, as the case may be.”

### c. Arbitrators' jurisdiction

Section 16 of the act empowers the arbitral tribunal to rule on its jurisdiction.

1. Under the new Act, the arbitral tribunal can rule on its jurisdiction, including objections with respect to the existence or validity of the arbitration agreement and for that purpose;
  - i. an arbitration clause which forms part of a contract will be treated as an agreement independent of the other terms of the contract, and
  - ii. a decision by the arbitral tribunal that the contract is null and void will not entail ipso jure the invalidity of the arbitration clause.
2. If there is a plea that the arbitral tribunal does not have jurisdiction will, the same have to be raised not later than the submission of the statement of defense. But a party shall not be precluded from raising a plea merely because that he has appointed, or participated in the appointment of an arbitrator.
3. Again, if there is a plea that the arbitral tribunal is exceeding its scope of authority, the same has to be raised at the earliest and during the arbitral proceedings.
4. The arbitral tribunal may admit a later plea if it considers the delay justified and reasonable,



5. The arbitral tribunal has to decide on a plea about the lack of jurisdiction or exceeding the scope of its authority and where the arbitral tribunal takes a decision rejecting the plea, continue with the arbitral proceedings and make an arbitral award.
6. A party aggrieved by an arbitral award is free to make an application for setting aside the award under Section 34 of the said act.

#### **d. Limitation of the Amendment in 2019 :**

Even, after the amendment, there are some limitations to said act, some are enumerated below:

1. Section 11(3A) of the said act , wherein Supreme Court of India and the High Courts of India have the power to designate the arbitral institution that was graded by the Arbitration Council of India
2. (ACI) under section 43-I of the said act,
3. It limits the parties in dispute in autonomy process in international arbitration through the Governmental and court interference ,
4. Section 23(4), in case of domestic arbitration process, the statement of claim by the claimant and defense by the respondent shall be completed within a period of six months from the date of appointment of the arbitrator(s).
5. As per amended to Section 29(1), the award in the matter of international commercial arbitration may be made as expeditiously as far as possible and to deliver it within 12 months from the date of completion of pleadings under Section 23(4) of the said act,
6. Section 42A of the act, the arbitrator, the arbitral institution and the parties to the arbitration process shall have to maintain the confidentiality and privacy of all arbitral proceedings except award, where its disclosure is necessary for implementation and enforcement of award which is conflicting in nature.

#### **Future of the Arbitration Act in India:**

In spite of the imitations of the said act, it has enormous opportunity to grow in the country; some of the reasons are enumerated below:

- a. The growth of industrialization in our country, commercial dispute resolution mechanism is preferred in the corporate world and the said act will help India to be a seat of hub of arbitration both in domestic and international areas,
- b. The law makers in this country is doing a continuous process to amend the law so that the mechanism will be at par with the International standards ,
- c. In order to resolve the dispute in a better way and time-effective as compared to the conventional procedure, the dispute resolution mechanism has been amended suitably under the said act and that invites acceptability among the corporate,
- d. The amendment in the said act become a convenient and preferred mechanism in the resolution of disputes

- e. without burdening the judicial system of the country,
- e. It helps to ensures to improve the corporate growth in our country by reducing expenditure on litigation process,
- f. The complexity of the act has been removed and simplicity introduced,
- g. The reforms in the act will lower down the burden of the judiciary and provide a fillip to the development agenda of the government,
- h. It also helps to generate skilled professional team which is readily available that can be able to take the burden of helping the judicial system in this country.
- i. The existence of less expensive and reliable dispute resolution system, corporate will also find comfortable to invest in this country,
- j. Competitive environment in the process has been introduced,
- k. The concept of 'Ease of doing business in India' helps the act more friendly ,

#### **The Amendment of the Act brightens the future of Cost Accountants in the Dispute Resolution Process:**

With the growth of economy and more foreign investment in our country, the law makers amended the act in the year 2019 and the regime of Arbitrability has taken a sharp turn and has made the future prospects be brighter for Arbitration in India. It is an attempt to make this country a preferred seat of arbitration for Indians as well as foreign parties.

- a. CMA, CA & CS are now qualified to be appointed as Arbitrator under as per the Arbitration & Conciliation Amendment Act, 2019
- b. In order to perform in a better way and to be a key player of the seat of preferred location in the dispute resolution process, the following skills acquired by the Cost Accountants in profession will help to resolve in achieving better success in the dispute resolution process as per the Act ,
1. Expert in Collecting , organizing , collating and analyzing internal and financial information for evaluation, critical analyses and regulating the past and present financial performance and for making a decisions for the future,
2. Expert knowledge in examining the cost sheet, costs of raw materials, labor, transportation, administrative costs, overheads etc. in an industry
3. Expertise in Analyzing sales and revenue relations,
4. Study , examining and evaluating the Cost audit in order to assess companies performance, product profile and for giving advice on product pricing and other related matter,
5. Examining and evaluating the performance and efficiency of the management system in order to assess and find the problems,
6. Expertise knowledge in the field of finance and commerce help to advise ways of economizing

by analyzing costs and implications of different production methods,

7. Examine and evaluate the Bill of Quantity / Bill of Materials mentioned in the contract agreement and identify the cause of disputes,
8. Identify and able to locate the legal flaws in the contract agreement and identify the reasons therefore ,
9. Knowledge of statutory laws of the country help to identify the cause of dispute in the said area and responsibility thereon,
10. Knowledge in the administration of financial management and skill acquired helps in building up confidence in delivery of judgment in the commercial dispute,
11. The CMA are also have the expertise to become Insolvency Professional, Valuation professional and more,

### Skills required to be developed to help the professional to become an expert Arbitrator:

1. Analytical mind that is desired to examine the contract clauses,
2. Financial rules & related complex contract law,
3. Various statutory laws of the country,
4. An eye for detail examination of the subject and disputed issues between the parties,
5. Awareness of the international business and economic environment,
6. Responsibility to delivery judgment in a right manner and within the time framed as per the act ,
7. Sound business understanding and capacity to deliver right judgment,
8. An objective outlook on the subject matter in the dispute,
9. Team player in the entire parties in dispute,
10. Integrity & honesty in dealing the issue,
11. Capacity to frame un-biased opinion,
12. Skill in presenting the matter and ready to collect evidence on records,
13. Confidence, Commitment and resilience,
14. Finally, good communication skill in English both oral and written ,

### Summing Up

It is evident that arbitration has evolved over the years and plays:

- a. It is an ideal tool for commercial disputes resolution process that saves the time, money and effort etc and without any costly interference of the court,
- b. It is very simple and easy to handle by both the parties in dispute,
- c. It plays an instrumental in helping as well as assisting

the parties to resort to quick remedial measures for dispute settlement.

Every arbitration matter is based on application of laws and its gradual development, improvement as well as acceptance is a proof of its significance in the actual proceedings. Thus, arbitration is becoming as the most preferred mechanism for speedy resolution of the commercial disputes and the corporate world is benefitted out of the said act. The enactment of the said act is a boon for the corporate world and help in advancement of the economy of the country.

Keeping in view of the act and its acceptance in the corporate world, the Institute of Cost Accountant of India should think in the line of amendment and requirement of CMA's in the commercial dispute resolution process and time has come to upgrade and build the professionals at par so that CMA's can play a significant role in the commercial dispute resolution process. In order to handle this process, building up advance knowledge in the field of commercial contract laws and various statutory laws of the country including International laws are of utmost importance. In this process, knowledge of relevant rules and regulations in connection with arbitration process is also important.

It is to be mentioned here that not all matters/disputes can be referred to arbitration even if the agreement/contracts etc contain an arbitration clause.

It may also be noted that the disputes relating to the Trust, Trustees and beneficiaries arising out of the Trust Deed and the Trust Act are not capable of being decided by the arbitrator. **MA**

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# ARBITRABILITY OF IP DISPUTES IN INDIA



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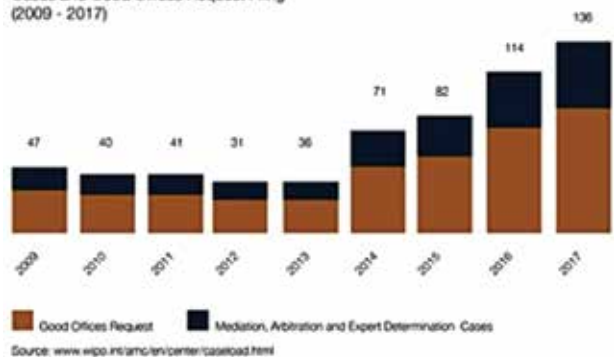
The Arbitration & Conciliation (Amendment) Act, 1996 recently amended on 9<sup>th</sup> August, 2019 after amendment in 2015. All arbitration of disputes in India are governed by this Act. Resolution of issues through Arbitration is a special trait. If such Arbitration of disputes relate to IP, the Arbitrators need to be specialist in technicalities in discoveries of such IP. These can not be handled by normal lawyers.

IP problems redressal may include breach of Intellectual property entitlements, inappropriate use of company's Brands by a competitor, theft of rival company's hidden techniques of manufacturing of products or services, infringement of terms of contact as to how to apply IP, overhyped advertisement of a product etc.

Normally, IP disagreements between two individuals/companies in the same country or beyond boundary of one or more countries are resolved in court of law. However, recently, there is an increasing tendency of opting for resolution of IP issues by Arbitration instead of court of law. Parties to the IP dispute may either make prior appointment of designated arbitrator before dispute or may also appoint after IP dispute.. Such arbitration is solely private and confidential mechanism to redress IP disagreement between parties to the dispute.

## IP Arbitration on the Rise

WIPO Mediation, Arbitration, Expert Determination Cases and Good Offices Request Filing (2009 - 2017)



## Whether IP dispute can be sent to arbitration or not ? Legal Position of Arbitration in IP in India

1. Section 8 in THE ARBITRATION AND CONCILIATION ACT, 1996 wherein Power to refer parties to arbitration where there is an arbitration agreement.
2. The Indian Arbitration Act has not specified any specific kind of dispute that cannot be arbitrated. Section 34(2)(b) of the Arbitration and Conciliation Act, 1996 mentions

that an arbitral award may be set aside by the court if the subject-matter of the dispute is not capable of settlement by arbitration or if the arbitral award is in conflict with public policy.

3. Also Section 48(2)(b) of the Arbitration and Conciliation Act, 1996 states enforcement of an arbitral award may be refused by the courts if it is found that the subject-matter of difference is not capable of settlement by arbitration.

It is on court to decide whether the subject matter of dispute in IP is arbitrable or not arbitrable. Where a dispute is in front of court and can not be arbitrated, the court will not give direction to parties for arbitration, even if the parties to dispute have strong view to settle by arbitration.

In India, since legislation has not given any specific direction in IP dispute as to whether a dispute can be put in arbitration or not, we have to **solely depend on available court cases.**

### Decisions of Court Cases in India on Admissibility of IP Disputes in Arbitration

#### **Supreme Court**

#### **1. Booz Allen & Hamilton Inc. v/s SBI Home Finance Ltd. & Ors**

This case is not at all related to arbitration of IP dispute but on dispute of real estate and non- payment of dues of concerned parties. However, Supreme Court laid the basis of whether a dispute can be approached to arbitration or not and on what logic. It explained as follows -

*“Generally and traditionally all disputes relating to rights in personam are considered to be amenable to arbitration; and all disputes relating to rights in rem are required to be adjudicated by courts and public tribunals, being unsuited for private arbitration.”*

In this case, Supreme Court explained that Arbitrability of a dispute can only be decided by two factors. One is “rights in rem” and the other is “rights in personam.” Both are Latin words. “rights in rem” means **in the thing itself**. It means **action that is exercisable against whole world**. The ‘rights in personam’ which means **against a person**. This right is exercisable against a person.

Since “rights in rem” means action that is exercisable against whole world, it is not within the purview of ARBITRATION. It can be tried in COURT OF LAW ONLY. While “rights in personam” is exercisable of right against a person. It is an agreement between two or more persons. It can be settled in ARBITRATION.

LOOK at these nonexhaustive list which are not arbitrable 1. criminal offences, 2. matrimonial disputes 3. guardianship matters; 4. insolvency and winding up matters; 5. testamentary matters 6. eviction or tenancy matters.

**Interestingly, disputes relating to IPR do not find mention in the list.** However, such categorization of arbitrability of IP dispute is not sacrosanct Based on such list any absolute conclusion will be too simplistic. Specially, after its submission as above, Apex court cautioned that this is not rigid and inflexible rule.

#### **2. Ayyaswamy v. A. Paramasivam (‘Ayyaswamy’)**

This was a case of dispute between two brothers where main issue was whether fraud can be arbitrated. Apex court judges made a passing remark that disputes on IP issues like patents, trade mark etc. can not be arbitrated. After landmark judgement of Booz Allen & Hamilton Inc. v/s SBI Home Finance Ltd. & Ors., this was shocking. This was **Obiter dictum** (latin word) and indicates “things said by the way.” It was a comment made by a judge which is not a piece of main decision of court. This was done out of context. Such comment is not gospel or bible as to whether an IP dispute can or can not be arbitrated. The subject was sensitive and such casual comment is unbecoming of a Supreme Court judge.

#### **Delhi High Court**

1. In *Mundipharma AG Vs. Wockhardt Limited* it was opined that when there is a case of breach of Copyright under ambit of Chapter XII of the Copyright Act, 1957 and is of civil nature, it can not be a subject of Arbitration. It should be tried in appropriate District Court. It further added that if party to the IP dispute want any injunction, damage and the like as per law for breach of IP right, it is the jurisdiction of appropriate court of law and not purview of Arbitration. The logic that disagreement is the outcome affecting right in *rem* can not be arbitrated.

2. Subsequently to this verdict, another IP case appeared before High Court. It was between Ministry of Sound International Vs. Indus Renaissance Partners. In a reversal of earlier decision, the verdict was that in case of breach of Intellectual Propriety Right, there is no prohibition of trial in arbitration instead of litigation in court of law on the condition that there is no absolute bar on arbitration relating to issues of Intellectual Propriety Right. The decision of permitting arbitration under this case was under Section 8 in THE ARBITRATION AND CONCILIATION ACT, 1996 wherein Power to refer parties to arbitration where there is an arbitration agreement.

#### **Bombay High Court**

- 1. In the case of *Steel Authority of India Ltd. vs. SKS Ispat and Power Ltd.*, SAIL owns Trade Mark “SAIL”. According to an agreement between the SAIL and the SKS Ispat; SKS Ispat was required to emboss all the materials produced by them on behalf of SAIL with the SAIL’s registered Trade Mark “SAIL”. According to SAIL, SKS Ispat misused the brand name “SAIL” by embossing it on other materials rolled in its mills. For this breach, SAIL terminated the contract and claim permanent injunction of use of SAIL Trade Mark and damage of Rs.300 crores.
- There was an arbitration agreement between the parties in case any dispute between the parties, shall be settled by conciliation. The defendants filed a notice of motion under Section 8 of the Arbitration Act relying upon the arbitration agreement entered into between the parties in that matter.

The Bombay High Court dismissed the Application under Section 8 on the ground that the suit was for the infringement and passing off and arise out of rights to a trademark and the remedies in connection therewith **which are matters in rem and not amenable to the jurisdiction of arbitration.**

2. In *Eros International Media vs. Telemax Links*, Eros International Media Limited (“Eros”), being the owner of several feature films entered into a contract dated June 13, 2012 with first Defendant (“Telemax”), for granting marketing and distribution rights in respect of the films. There was an agreement between parties that in case of dispute, it will be resolved through arbitration and as per original contract Telemax would not exploit or deal with the copyright-protected content of Eros.

Eros filed a suit for infringement of copyright against Telemax and prayed for an injunction against it. Defendants, filed a Notice of Motion before the Bombay High Court praying for the dispute to be referred to arbitration under Section 8 of the Arbitration and Conciliation Act, 1996 (“Act”).

Bombay High Court held that issues arising under a contract for licensing of intellectual property are arbitrable in nature, if the contract provides for the same and if the arbitrator is capable of granting the reliefs sought by the parties.

Interestingly, nature of both cases are same (SAIL and EROS). Both approach court under Section 8 of the Arbitration and Conciliation Act, 1996. Both have prior agreement to arbitrate. In SAIL case, decision is not arbitral and EROS case, it is arbitral. Both are clear case of actions in personam and against particular person and not against world at large. Such contradictory decisions are confusing.

### Madras High Court

The *Lifestyle Equities CV v. QD Seatoman Designs Pvt. Ltd.*

The question before the court was how disagreement on IPR can be decided. Is it by individual arbitration agreement between contesting parties or in court of law. The *Ayyaswamy* case judge’s comment was that IP dispute are not arbitral. This was casual comment and did not form part of original judgement. Based on *Booz Allen & Hamilton Inc. v/s SBI Home Finance Ltd. & Ors*, it was decided that disputes in rights in rem are not arbitrable but rights in personam are arbitrable. Since both parties are claiming better usage against other, it is a right in personam and hence arbitrable before the arbitral tribunal. Final decision will have to be taken by arbitral tribunal.

### Hyderabad High Court

In *Impact Metals v. MSR India*

The plaintiffs and defendants have entered into the Manufacturing Agreement and defendants were provided with the technical know-how designs, die and invented processes of plaintiff for manufacture of plaintiff’s products.. The defendant infringed the Manufacturing Agreement by using the technical know-how for his own manufacture.

Plaintiff prayed for injunction and damage. Defendant approached court with existing arbitration agreement under Section 8 of Arbitration Act.

Court, instead of going into analysis of rights in rem and rights in personam, simplified whole process by sticking to exclusion list of nonarbitrability of Supreme Court decision in *Booz Allen & Hamilton Inc. v/s SBI Home Finance Ltd. & Ors* where there is no mention IPR. Accordingly, court decided in favour of arbitration. This was a bad precedent and not expected from High Court judges.

### Conclusion

After going through all above mentioned decisions in Supreme Court and High Courts, there is no clarity as to what nature of IP disputes are arbitrable. In absence of such bench mark, companies may approach in arbitration with own wisdom and subsequently may discover that it is a fit case of jurisdiction of court. That is not desirable. From the above mentioned judgements, it is evident that for same nature of situations, court decisions are different. From such contradictory verdicts, corporate world and Law circles gets confused. Casual remark in *Ayyaswamy* case in Supreme Court on arbitrability of IP dispute reflects sorry state of affairs specially after judgement *Booz Allen & Hamilton Inc. v/s SBI Home Finance Ltd. & Ors*. Oversimplification of judgement in *Impact Metal* is least expected. The decision of Supreme Court of dividing rights in rem and rights in personam is only outcome. With aspiration of Govt. of India’s Global Hub of Arbitration, both Supreme Court and Govt. of India should come out with more clarity on arbitrability of IP dispute. **MA**

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# ARBITRATION AND CONCILIATION (AMENDMENT) ACT 2019: SIGNIFICANT ALTERATIONS AND ITS IMPACT ON INDIAN ARBITRATION MECHANISM



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## Abstract

*The Arbitration and Conciliation (Amendment) Bill amended in August 2019 has made arbitration mechanism much easier. This Bill states the establishment of the Arbitration Council of India (ACI), an autonomous body authorized to frame rules and laws on grading institutions and fixing out standards on accreditation of arbitrators, quality aspect and performance scrutiny, and building capacity for arbitrators. It enhanced ease of doing business. It may alleviate the pressure on courts, thereby, reducing pendency, and inculcate investor confidence, if the dispute-resolution processes are effective and efficient. It is playing a pivotal role in achieving the aim to make India the hub for arbitration matters. The amended Arbitration & Conciliation Act, 2019 has been meant to boost efficacious conduct and management of Alternative Dispute Resolution (ADR) proceedings. Thus, this article attempts to slate the conceptual view of the changes and its impact on the Indian arbitration mechanism. It also highlights the reviews of experts on the issues related to confidentiality and transparency of arbitration proceedings.*

## Introduction

In today's globalised era of growth and development of commerce, the creation of proficient methods of resolution of disputes like arbitration that resolves the rights and obligations of the parties. In some circumstances, award securing or a final judgment decision would be time consuming and the epitome of result is taken away by the prolonged process. This is especially factual in the Indian milieu where lawsuit is a time taking issue.

The government is thus forced to convince the parties to the arbitration agreement, in getting their disputes settled through arbitration, domestic or international; hence, to bring that into effect, The Arbitration and Conciliation (Amendment) Act 2019, was passed and notified in the Official Gazette on August 9, 2019.

## Objective of the study

- To slate the alterations in brief brought in by the Arbitration and Conciliation (Amendment) Act, 2019 and its impact on the arbitration proceedings.
- To determine the position of India and abroad countries in regard to confidentiality of arbitral proceedings.

This amendment will try to fulfill a prominent objective of the government, that is, to make India- a hub of domestic and international arbitration, which is truly a need for an hour.

## Significance of Arbitration and Conciliation (Amendment) Bill, 2019

1. **Making India a hub on the world map in arbitration proceedings** - It aims to make India an international arbitration hub by providing facilities for settlement of commercial disputes.

"India is qualified to have a centre of international arbitration as it has enough qualified lawyers, and has skill and training facilities," Law Minister Ravi Shankar Prasad said replying to a debate on the bill. "India should not accept imperialism in the field of arbitration. The best option is when Indian arbitrators are sought globally. We want India to become a hub of international arbitration."

It aims to pursue the arbitration of excellent quality, bestowing responsibility on the ACI to hold trainings, workshops, courses, frame policies and procedures, guidelines and update norms to ensure satisfactory level of arbitrations, arbitral institutions and the arbitrators.

2. **To reduce burden on courts** - Presently, in case of any dispute with respect to appointment of Arbitrators, parties have to approach the Supreme Court or the High Court for appointment of Arbitrators or to resolve their dispute. With the huge backlog of cases, the courts are already overburdened. An active ACI will share this burden of the court and even ennobles speedy appointment of arbitrators. This would further aid in quick resolution of disputes outside the court.

3. **To give an exhaustive list to choose an arbitrator** - The parties to an arbitration agreement can elect their own arbitrator. The essence of picking an arbitrator of choice is not confined by the nine broad qualification benchmarks as mentioned in the provisions of the bill. The list is broadly phrased and mentions the selection of arbitrators from advocates, chartered accountant, cost accountant, company secretary, person with technical knowledge and experience etc.
4. **To accelerate arbitration process** - The bill offers for statement of claim and defense to be completed within six months from the date the arbitrator gets the notice of appointment. This will fasten the entire process of arbitration. Earlier, parties would take a lot of time to submit their pleas. Now, the time can be effectively used for arbitration proceedings.

## Significant amendments in arbitration mechanism

### a. Arbitration Counsel of India

The concept for the formation of Arbitration Counsel of India (ACI) has been initiated for the very first time in Indian history. The supreme authority to lay its foundation is with the Central Government and the head office of the Council is located in Delhi.

The powers of ACI include:

The grading of the Arbitration Institution is subject to certain qualifications like infrastructure, quality and caliber of arbitrators in particular institution, performance and compliance of time limits for disposal of commercial arbitrations.

It will also recognize the professional institutions to provide accreditation to the arbitrators. It can also issue guidelines and recommendations for the Arbitral institutions.

The composition of ACI is majorly government dominated, therefore, it may act against the roles of ACI and the parties may resist from entering into arbitration and from the issue of transparency.

### b. Power of the court to designate the arbitral institutions

It empowers the Supreme Court of India in case of international arbitrations and the High court's (domestic arbitrations) to designate the arbitral institutions as graded by ACI. The rationale behind granting the powers is to curtail the role of the concerned courts while appointing the arbitrator(s), in case when parties are unable to reach to an agreement.

### c. Restriction on granting of Interim orders by the arbitral tribunal

The amended Act has restricted the tribunal to grant interim measure after passing of the Award.

### d. Time bound proceedings

Formation of new Section 23(4) has provided an upper time frame of 6 months for the filing of statement of claim and statement of Defense and, therefore, the

time duration of 6 months shall commence from the date of appointment of the arbitrator. However, the legal repercussions seems to be lenient, in case of award in the matter of international commercial arbitration in which the Tribunal may deliver the award as expeditiously as possible, but to deliver within 12 months from the date of completion of pleadings.

#### e. Confidentiality

Section 42A provides for the provision of confidentiality in arbitral proceedings, in relation to the duty imposed on the parties to agreement, arbitrator and the arbitral institution. However, the disclosure of implementation and enforcement of award is significant.

#### f. Protection of Arbitrator

The arbitrator can enjoy freedom in deciding a matter before it for adjudication.

#### g. Qualification and experience for arbitrators

The amended act specifies for the first time, the eligibility criteria for the appointment of an arbitrator in Section 8. Only Indian professional can be appointed as an arbitrator.

### Confidentiality – Obligations exists?

MARC Insights Board members, Vyapak Desai, Partner at Nishith Desai Associates, India and Alipak Banerjee, Leader at Nishith Desai Associates, India, stated their following views on the matter of confidentiality and transparency.

“In the 2019 amendments, an express duty of confidentiality has been incorporated in the Act. Arbitral institution is duty bound to maintain confidentiality of all arbitral proceedings, except when the disclosure of an arbitral award is necessary for the purposes of implementation and enforcement of an award. The report suggested insertion of the confidentiality provisions along with certain exceptions, such as: disclosure required by legal duty, to protect or enforce a legal right, enforcement or challenge to an arbitral award before a court or judicial authority

The limited exception to the confidentiality obligation, i.e., for implementation and enforcement of an award, poses serious challenges to the process of arbitration. In turn it also makes the confidentiality obligation under law more susceptible to violations. For example, the provision does not take into consideration that disclosure of the arbitral proceedings may be required in case of seeking interim protections or several other court proceedings in relation to the conduct of the arbitration. Disclosure may also be required in cases where experts are engaged to work on a dispute, third party funding is required or disclosures relating to an arbitration are necessitated under applicable laws. While the newly inserted provision obligates arbitrators, parties and arbitral institutions to maintain confidentiality, it is silent on the obligations of counsel, witnesses, transcribers, tribunal secretary etc. in this regard. Further, there is no penalty prescribed for a breach of the obligation and it is also not clear as to which forum will adjudicate a breach of such an

obligation.”

### Transparency vs. Confidentiality

As the world moves towards transparency, do we need confidentiality as an express statutory obligation, or are we better off if the arbitral awards are published thereby lending more transparency to the process? The UNCITRAL Rules on Transparency in Treaty-based Investor State Arbitration (2014)<sup>12</sup> provides an answer to this conundrum, by applying the test of “what to disclose” instead of “when or to whom to disclose”. The Rules advocate greater transparency in investment arbitration to further public interest and provide for public access to ‘key documents’ prepared during the course of arbitral proceedings. At the same time, confidential or protected information has been adequately safeguarded under the exception to the rules. A similar threshold could also be contemplated for international commercial arbitrations. Arbitral awards could be published after redacting any information which is commercially sensitive or which may disclose or jeopardise the business interest. Parties may not disclose sensitive redacted information except under exceptional circumstances such as during challenge or enforcement proceedings or for interim reliefs. Greater transparency in this manner would benefit international arbitration by bringing in more accountability for the arbitrators and helping in development of a jurisprudence on certain points of law. Although unlike national courts, the decision of the arbitral tribunal is not binding, guidance can certainly be taken from the rulings of the prior tribunals on the same issue. Parties may be able to avoid investment of substantial time and money if arbitral awards written by leading practitioners are available to the public. However, while promoting transparency, the importance of confidentiality must not be lost or undermined and a balanced approach is essential. It must be recognized that parties to an international commercial arbitration go to great lengths to protect their business interests. In fact, many a time they choose arbitration to ensure that adverse awards do not become public. Alongside, arbitrating parties also must acknowledge that in the age of social media and legal publishers such as Global Arbitration Review or Investment Arbitration Reporter, which frequently reports about the nature, stage, the parties involved, the sum involved in the arbitral proceedings, there is very little to hide about the existence of the arbitration proceedings or even its outcome. Therefore, instead of projecting confidentiality and transparency as arch nemeses, the legislators, arbitrators and parties must align the two principals to further the development of international arbitration.”

### Conclusion

The 2019 Arbitration Bill, much like the 2018 Bill, is burdened with numerous issues and obvious inconsistencies with the Committee Report and judicial pattern. Further, the 2019 Bill suggests changes such as the creation of a government watch dog mechanism through the ACI, which do not have any instance in any arbitration-friendly jurisdiction.



While the aim of the 2019 Bill is to uphold arbitration and reinforce institutional arbitration in Indian economy, the proposed alterations to the A&C Act may compel India to take two steps back as an arbitration-friendly jurisdiction. The amendments under the 2019 Bill must be critically reconsidered, as in its current form, it is probable that it may give rise to multiple serious consequences. Whilst some of the issues may be resolved with the time through judgments of the court, it would be prudent to resolve these ambiguities at this phase to keep away from spending valuable judicial time and resources. Further, foreign parties may not be prone to seat their arbitrations in India, till such time that these issues are determined. **MA**

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**CMA Mohan Tanksale**

## LETTER TO EDITOR

January 19, 2020

**To**  
**The Editor**  
**The Management Accountant**  
**The Institute of Cost Accountants of India**  
**Kolkata**

**Dear Sir,**

My sincere compliments and appreciation for a comprehensive coverage of issues in January journal on Steering Transformation in Banking.

**Thanks & Regards,**

**CMA Mohan Tanksale**  
Former Chairman & Managing Director, Central Bank of India  
Former CEO, Indian Banks Association (IBA)



# **OPPORTUNITIES IN THE FIELD OF ARBITRATION AND CONCILIATION IN INDIA**



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## **Abstract**

*The present paper conceptually discusses on the importance of The arbitration and conciliation Act, 2019 and its impact on business and commercial dispute settlement in Indian scenario and also it analyses how the Act positively impact on ease of doing business and on CMA profession in India.*

## Background

During the ordinary course of business operations, there may be disputes and differences among the parties involved in it. If the disputes are not settled within an expected period then there may be a negative impact on the operations of an organisation and which also affects its growth and development. There are several manners through which disputes can be settled. The usual manner through which dispute can be settled is through filing litigation in the court of law or Alternative Dispute Resolution Method.

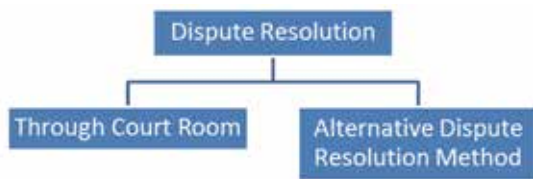


Figure: 01 Source: Author Compiled

Dispute Resolution through courtroom is more time consuming and it is highly expensive as it involved in detailed legal procedures and investigation. Whereas the Alternative Dispute Resolution Method enables the parties to settle their disputes outside the court of law through arbitration, conciliation, mediation and negotiation.

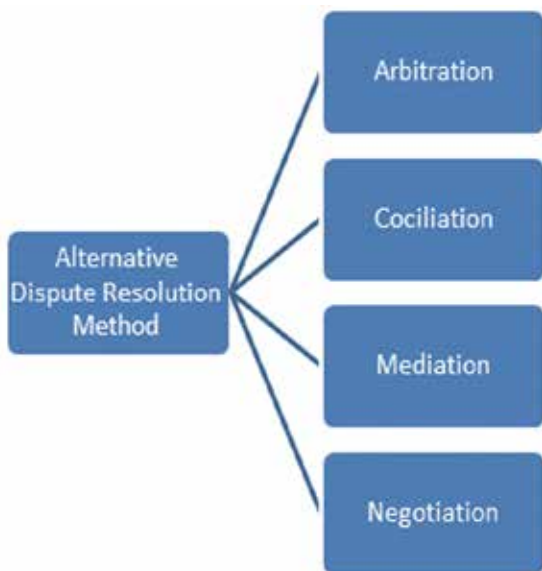


Figure:02 Source: Author Compiled

Due to the increasing delay in settling disputes among the parties involved in the business operations in the court of law, high expenses on court procedures etc., the business organisations try to settle their disputes through the alternative methods of dispute settlements as indicated in the

above figure.

Delay in settlement of disputes through litigation creates complexity in the functioning of an organisation. In India there are high numbers of disputes which are pending in a court of law which is shown in the following table:

**Table: 01 Cases Pending in Court of Law in India**

Dispute settlement pending for the period of	Number of Civil Disputes	Number of Criminal Disputes
0-1 year	25,64,647	60,66,043
1-3 years	28,72,508	71,18,256
3-5 years	14,92,278	36,54,345
5-10 years	13,80,887	37,73,819
10-20 years	4,94,589	18,51,198
20-30 years	1,07,226	3,16,705
Above 30 years	34,788	52,463

Source: National Judicial Data Grid Website

The above figures are extracted from the National Judicial Data Grid and which are relevant to up to date. These data clearly show that the pendency status of disputes litigation filed in the court of law. There were many numbers of disputes still are in pending since from 30 years or more. This clears that it is difficult to get settled the business operational disputes among various stakeholders within an expected period to facilitate its smooth functioning. So it better follows the alternative method of dispute settlement to support the smoother functioning of the business. So Alternative Methods get more prominence over the period to settle the business disputes both at national and international level as well.

As shown in figure 2 there are mainly four ways to settle the disputes in an alternative way to litigation such as arbitration, conciliation, mediation and negotiation. Arbitration involves the settlement of disputes not by a court of law but by some specialised persons who are popularly called as arbitrators and this process is excludable as a decree of the court and now it is recognised by arbitration and conciliation Act, 2019 in India. Conciliation is a process through which disputed parties settle their disputes with the help of some specialised persons, in this process, disputed parties will enter into dispute settlement agreement which will be authenticated by specialised persons who are popularly known as conciliators. Mediation involves resolving the differences or disputes with the help of the third party may be a professional who helps to enter an agreement on any matter of disputes in the common interest of the disputed parties. Mediation usually followed in settling business disputes, legal disputes and diplomacy and other areas as the case may be. Negotiation is the process in which interested disputed parties resolve their disputes, agree upon the particular courses of action, bargain for their individual or collective advantage and they try to achieve the mutual objectives.

This article mainly focuses on discussing the importance

of arbitration and conciliation in Indian scenario and their legal status. We also discuss the role of arbitration and conciliation in ease of doing business in India and the impact of arbitration and conciliation Act, 2019 on CMA profession (Cost and Management Accounting Profession).

### Importance of arbitration In Indian scenario and its legal status

Arbitration is a mechanism through which the disputed parties submit their disputes or differences to the resolution through judgement by an impartial person or group appointed by mutual consent of such disputed parties or as per the provisions of specified law. This is one of the popular alternative methods of dispute resolution and gives a speedier solution to the disputes. This technique can be used to settle the disputes of business and commercial in nature, civil disputes and family disputes as well. Over the period, arbitration gained prominent importance in settling commercial disputes in Indian Business Environment. The main business disputes settled through arbitration are:

- a. Intellectual properties such as copyright, patents related disputes.
- b. Disputes aroused due to the differences in partnership and joint ventures.
- c. Disputes related to construction projects.
- d. Disputes on personnel injury and product liabilities etc.,

Arbitration method of dispute settlement facilitates to hear the problems of the disputed parties in a private meeting in an informal manner and tries to settle the disputes within less time frame, fewer complexities and with low cost as compared to the settlement of disputes in the court of law. This mechanism is flexible and facilitates to arrange the hearings at a suitable place and convenient time to the parties involved in it. The rules, procedures involved in this process are simplified and which will give efficient solutions to the disputed parties. One special characteristic of arbitration, there is no right of appeal to the parties. This method is also globally recognised and the award can be enforced in most of the countries. The award is no more arguments and discussions are allowed after the final decision on the particular dispute.

### Legal Status of Arbitration in India

In India, the concept of arbitration was observed in panchayath systems. It can be traced back to the system where village senior citizens sitting under a tree and settling the disputes. But now we can see arbitration concept is transformed from a panchayath system to statutorily recognised system. East India Company has put a stone for this concept in India when they enacted the Bengal Resolution of Disputes Act, 1772. Then in Bombay in 1779, in Madras 1802, afterwards exclusive legislation for arbitration in India was made by passing arbitration Act, 1899 which was based on English arbitration Act, 1899. This was replaced as Code of Civil Procedures in 1908. Later on, based on English arbitration Act, 1934, the Arbitration Act,

1940 was enacted to amend the India Arbitration Act, 1899. This Act was classified into three categories:

- a. Arbitration without the intervention of court;
- b. Arbitration with the intervention of court where there is no pending of suits;
- c. Arbitration in suits;

Thereafter the Arbitration Act, 1940 was enacted to create a simplified, faster and less expensive alternative method of dispute resolution. This Act provided the scope for the interference of court during the functioning of the arbitral forums at all the stages and the court does not give the power to interfere with the awards passed by the arbitrators.

However, arbitration Act, 1940 suffered from some limitations, to remove such limitations “The arbitration and conciliation Act, 1996” was enacted. As per this Act, there are three stages of dispute settlement:

- a. Pre-reference stage
- b. Post-reference stage
- c. Post-award stage

The main objective of this Act was to minimize court interference in all these stages. The scope of interference of court on which arbitration award was also reduced to a larger extent but there may be interference of court when there is:

- a. The award is opposed to public policy;
- b. Personal misconduct of arbitrators;
- c. The award is outside the scope of disputes;

This clears that the Act made the effort to simplify the procedure of arbitration. Later on, this Act was amended in 2015 with the Arbitration and Conciliation Act, 2015.

The Arbitration and Conciliation Act, 2015 was amended with the main objective to make India into ‘**Hub of International Commercial Arbitration**’ this amendment was made concerning Law Commission of India’s recommendations mentioned in its 246<sup>th</sup> report.

Later on, one more amendment was made to this Act in 2019. This amendment was published in the official gazette of India. The arbitration and conciliation Act, 2019 mainly intended to define the scope, powers and role of an arbitral institution, the appointment of arbitrators, appointment of arbitration council, grading of arbitral institutions and arbitrators, timeline to settle the disputes and certain amendment concerning section 34 and section 45 of the Act. This amendment also emphasized on defining the qualifications and experiences of arbitrators, the confidentiality of arbitration proceedings.

### Ease of Doing Business and Arbitration and Conciliation in India

Today all the business organisations are operating in a complex environment where there is a scope for occurring of disputes among the parties involved in the business and other stakeholders. The disputes may interrupt the smoother operation of a business organisation so it is necessary to settle the disputes within the expected period to facilitate the smoother operation of the business. To do this there is

a necessity of having a simplified, comprehensive, speedier, less costly system of dispute settlement both at the domestic and international level. For this purpose Arbitration and Conciliation (Amendment) Act, 2019 will support as it is having the business-friendly provisions in settlement disputes for example timeline for settlement of disputes is clearly defined in the Act that is completion of statement of claim and defence must be completed within six months from the date of assignment of arbitration to arbitrators, the arbitral award must be completed within 12 months from the date of completion of pleadings. These types of provisions will create the confidence to various stakeholders of the business and facilitates to settle the disputes within a short period and supports the ease of doing business operations. Arbitration can greatly remove the pressure on courts, thereby reducing pendency of dispute settlement, as well as instil investor confidence. In the present scenario of business operation, there is an increasing number of international business operations which are more complex than domestic operations and which are also having more scope to have cross-country disputes so it is necessary to have international commercial arbitrations to be conducted in India as so to ease the international business operations also. This also promotes India as 'International Business and Arbitral Hub', to do this the Arbitration and Conciliation (Amendment) Act, 2019 will support because it contains the provisions at par with international arbitrational provisions.

### Impact of Arbitration and Conciliation Act, 2019 on CMA profession

Cost Management Accountants provide multiple services to their clients. The services may be on tax consultancy, tax planning, GST audit, accounting, project planning, cost audit, a consultancy in business planning, financial consultancy services, consultancy services in acquisition and mergers etc., CMAs are having distinct knowledge on different dimensions of business operation and its management. They are capable of understanding the disputes occurred during the business operations and he can settle the same by analysing the disputes in detail within the legal provisions. Besides, CMAs are also having sufficient skills and experience preparing and drafting business and commercial agreements with the four corner points of the law. So arbitration and conciliation for dispute settlement are one of the tremendous opportunities to CMA. As per the provision of the arbitration and conciliation Act, 2019 a cost accountant within the

meaning of Cost and Works Accountants Act, 1959 having experience of 10 years are more is qualified for appointment as an arbitrator. Now CMAs are needed to gain sufficient knowledge and experience to work as an arbitrator for settlement of business and commercial disputes and now the profession is getting more potential opportunities.

### Conclusion

The Arbitration and conciliation Act, 2019 provides the comprehensive provisions for the settlement of disputes in an efficient manner and which enhances the ease of doing business operations both at national and at the global level and which makes India as 'International Business and Arbitral Hub'. In addition to this, it creates more prospective opportunities to CMA profession to work CMAs as arbitrators and conciliators as well. **MA**

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# ARBITRATION AND CONCILIATION RECENT CHANGES AND LEGAL RECOGNITION



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## Abstract

*The article is on the recent changes brought in the Arbitration law through Arbitration and Conciliation Amendment Act, 2019. Such amendments brought in are very much required as they not only resolve disputes without intervention of court but also resolve the disputes in timely manner. Even though the Cost accountants are eligible for being appointed as arbitrators, they weren't granted legal recognition prior amendment and now Cost Accountants are legally recognized to be appointed as Arbitrators upon meeting eligible requirements. The Companies Act, 2013 has also specified that the Cost Accountants can act as Arbitrators upon satisfaction of rules prescribed.*

## A STEP TOWARDS SIMPLE & QUICKER DISPUTE RESOLUTION

Arbitration and Conciliation have gained popularity in almost all the countries of the world. It was first started in India through introduction of conciliation process in Industrial Disputes Act, 1947 to resolve the disputes between the employers and industrial workers employed in the factory of such employers. Later on, this process has gained its importance through introduction of Arbitration and Conciliation Act, 1996.

### Arbitration:

It is a process of Alternative Dispute Resolution (ADR) to resolve disputes outside the court. The dispute will be decided by Arbitrator or arbitrators or arbitral tribunal. The decision by such arbitrator is referred as Arbitral Award. An arbitral award legally binds the parties to the dispute and enforceable in the court of law.

### Conciliation:

It is also a process of Alternative Dispute Resolution (ADR) whereby parties to the contract appoint a conciliator and thus person so appointed meet the parties separately and together as may be required to provide potential solutions and mutually acceptable outcomes.

### Key differences:

ARBITRATION	CONCILIATION
➤ Process of rendering decisions based upon the facts of the dispute	➤ Process of attempting the parties to come into mutual agreement on the dispute
➤ Arbitrators have power to enforce the arbitral award	➤ Conciliator have no power to enforce his decision unless parties have agreed to do so
➤ Prior agreement is required	➤ Prior agreement is not required
➤ May be done for existing and future disputes	➤ Done for existing disputes only
➤ Formal way of resolution	➤ Informal way of resolution
➤ One party win and other loses (Win-lose situation)	➤ Both the parties agree into mutual agreement (Win-win situation)

### Mediation:

It may be pursued as structured process of conciliation and the decision is known as settlement

The Arbitration and Conciliation is only available upon

satisfaction of following conditions:

- The parties to the dispute shall agree to refer the matter to arbitration/conciliation and appoint arbitrators/conciliators as the case may be. Such appointment may be pre-determined through a clause in the agreement while entering into contract or through specific agreements made between the disputed matters, if any to be referred to arbitrator. Courts may Suo moto sometimes appoint any arbitrators/conciliation for resolution of any disputes between the parties to the suit  
Ex: In Ayodhya ram temple's land dispute suit, the Supreme Court before hearing to the parties has constituted a panel of mediators to resolve the disputes. However, as the mediation process was failed, the Supreme Court heard the case and gave its verdict.
- The suit must involve commercial dispute and other disputes covered under Civil procedure code, 1908. Any dispute which involves compulsory imprisonment under Criminal procedure code, 1973 and Indian Penal Code, 1860 shall not be referred to Alternate Dispute Resolution mechanism.  
Ex: A has committed an Act of fraud which is punishable with fine and imprisonment under Indian Penal Code, 1860. This case shall not be referred to arbitration as it involves compulsory imprisonment.
- The arbitration and conciliation process don't allow any authorized representative on behalf of disputed parties.

### Arbitration and Conciliation (Amendment) Act, 2019

To Arbitration and Conciliation Act, 1996 there were major amendments brought to cope with the Arbitration and Conciliation rules framed by ICC (International Chamber of Commerce). The following are key highlights of amendment:

- » An institution named "Arbitral Institution" has been introduced and such institution will be designated by Supreme Court or high court under this Act.
- » Such Arbitral institutions have been empowered to appoint the arbitrators. The institution will be graded by Arbitration Council of India so constituted for such purposes. In case of no graded arbitral institution is available as to appointment if arbitrators, the high court concerned may maintain panel of arbitrators and discharge the functions of arbitral council.

### Arbitration Council:

The council has its headquarters in Delhi. The council consists of Chairperson and other members. The chairperson shall be appointed with consultation of Chief justice of India. Chairperson shall be sitting or retired Judge of Supreme Court or Sitting or retired Chief Justice of High Court or Sitting or retired Judge of High court or other eminent person having knowledge on arbitration administration. Members include an eminent arbitration practitioner

and academician and Ex officio members include Secretary to the Government of India in the Department of Legal Affairs, Ministry of Law and Justice and Secretary to the Government of India in the Department of expenditure, Ministry of Finance or their respective representatives not below the rank of Joint Secretary. The purpose of establishing council is to promote and encourage arbitration, mediation, conciliation or other alternative dispute resolution mechanisms, to frame policy and guidelines for the establishment, operation and maintenance of uniform professional standards in respect of arbitration and to frame policies governing the grading of arbitral institutions and arbitrators and recognize professional institutes providing accreditation of arbitrators.

» **Grading of Arbitrators:**

The Council established as above shall grade the Arbitral Institutions on basis of a) Infrastructure b) Quality c) Caliber of Professionals and d) Compliance of time limits for disposal of arbitrations.

» **Time Limits:**

The pleadings shall be completed within 6 months from the date of appointment of arbitrator or arbitrators as the case may be. The arbitration proceedings shall be communicated within 12 months from the date of completion of pleadings, if possible. The time limit can be extended upon mandate of Arbitrator.

» **Qualifications and Experience of Arbitrators:**

S No	Qualifications	Experience
1	Practicing Advocate	Atleast 10 years of Practice
2	Practicing Cost Accountant	Atleast 10 years of Practice
3	Practicing Chartered Accountant	Atleast 10 years of Practice
4	Practicing Company Secretary	Atleast 10 years of Practice
5	An officer of Indian Legal service	
6	An Officer with law degree	Atleast 10 years experience in legal matters of Government, Autonomous body, PSU, or Senior level managerial position in Private sector
7	An officer with engineering degree	Atleast 10 years experience in engineering matters of Government, Autonomous body, PSU, or Senior level managerial position in Private sector

8	A person having education qualification of degree or equivalent	Atleast 10 years experience scientific or technical stream in fields of: a. Telecom b. Information technology c. Intellectual property rights d. Other specialized areas in Government, PSU, autonomous body or senior level managerial position in private sector.
9	An officer having senior level experience of administration of Central government or state government or having experience of senior level management of PSU or Government company or reputed private company	

» **Norms applicable to arbitrators:**

The arbitrators must be impartial and neutral and avoid pecuniary and other relations which would affect impartiality and neutrality. The arbitrator must be well versed with Constitution of India, Laws & Regulations and principles of natural justice. The arbitrator must be capable of recommending and enforcing arbitral awards. The arbitrator must maintain strict confidentiality of all the arbitral proceedings except there is legal requirement to do so. The parties to the contract and arbitral institution shall also adhere to the above principle of confidentiality.

The above amendments were assented by President on 9<sup>th</sup> August, 2019 and are applicable with effect from such date.

The arbitration has also gained importance in Quicker Resolution of Corporate Disputes. The Companies Act, 2013 has also introduced section 442 for the purpose of Mediation and conciliation with effect from 01<sup>st</sup> April, 2014. However, the rules have taken effect from 09<sup>th</sup> September, 2016. The aim of introduction is to reduce the burden of quasi-judicial authorities (NCLT and NCLAT) under the Act.

Section 442 of the Act specifies that the central government shall maintain a panel of experts to be called as Mediation and Conciliation panel consisting of such number of experts having such qualifications as may be prescribed. The Central government or quasi-judicial authorities shall appoint one or more experts from such panel upon application made by parties or on Suo moto basis. The fees shall be as prescribed by such appointing authority. Any party aggrieved by the recommendations of mediation and conciliation panel may file objections to tribunal or appellate tribunal or central government.

**Companies (Mediation and Conciliation) Rules, 2016**

**A) Panel of mediators:**



Regional director shall prepare a panel of experts of respective regions. The qualifications for empanelment are as follows:

S No	Qualifications	Experience
1	Judge of Supreme Court of India	-
2	Judge of High court	-
3	District and sessions judge	-
4	Member or registrar of Tribunal constituted at national level	-
5	An officer of Indian Legal service or Indian Corporate Law service	Atleast 15 years of Practice
6	Qualified Legal practitioner	Atleast 10 years experience
7	Cost Accountant in practice	Atleast 15 years of Practice
8	Chartered Accountant in practice	Atleast 15 years of Practice
9	Company secretary in Practice	Atleast 15 years of Practice
10	Member or president of any state consumer forum	-
11	Expert in mediation and conciliation who has successfully undergone training in mediation and conciliation	-

The disqualifications for empanelment are as follows:

- Undischarged insolvent or applied to be adjudicated as an insolvent and his application is pending
- Convicted of any offence involving moral turpitude
- Removed or dismissed from the service of Government or corporation owned or controlled by government
- Has been punished in any disciplinary proceedings by such appropriate authority
- Has in opinion of central government, financial or otherwise, in relation to disputes or its related parties likely to affect prejudicially the functions discharged as mediator and conciliator.

The mediator or conciliator so appointed shall follow the procedure as specified under:

- Shall fix the dates and the time of meeting between the parties where all the parties have to be present
- Shall fix the place of meeting where mediator or conciliator and the parties jointly agree
- May conduct joint or separate meetings with parties
- Receive the information required in the course of mediation proceedings

The time limit for completion of proceedings is 3 months

from the date of appointment of experts from panel and such period may be further extended for a period not more than 3 months by tribunal/appellate tribunal upon application made to it by either of the parties or mediator or both. Upon expiry of such period if no award has been given, then such mediation or conciliation shall stand terminated.

#### International Arbitration:

It is an alternative method of dispute resolution between the parties who enter into cross border agreements across national boundaries that allows parties to avoid litigation in International courts. Generally, the arbitration awards are foreign arbitral awards and such awards are enforceable. However, no appeal can be made to local country courts upon such foreign arbitral awards.

#### Role of Cost Accountants in Arbitration proceedings:

Now-a-days, there are many disputes remained undecided before court of law. The disputes are in various areas such as Company law disputes, International Trade Agreements, Intellectual Property laws and Contract Acts etc.; The arbitration clause is present in many agreements such as Sale or purchase agreements, Contracts, Hire purchase agreements, Lease and License agreements etc.;

The Cost Accountants are considered as experts in the area Intellectual property laws such as patents, copyrights, trademarks etc.; and such Cost accountants can easily resolve the disputes between the parties arising out of infringement, if any.

The Cost Accountant is eligible to get appointed as Mediator or conciliator as per the Companies Act and rules made thereunder. The Cost Accountants are eligible to be appointed as arbitrators for the disputes arising out of commercial laws.

Cost Accountants cannot be authorized representatives as arbitration process prohibits doing so.

UNCITRAL (United Nations Commission on International Trade Law) has predominantly issued the arbitration rules regarding the International Arbitration. The UNCITRAL has recognized the professionals as eligible arbitrators. The Cost accountants are recognized as well versed arbitration expert by the Arbitration and Conciliation Amendment Act, 2019; Companies Act, 2013 and the UNCITRAL. The Institute of Cost Accountants of India is also in process of issuing a guidance notes on the Arbitration proceedings for the effective functioning of Cost accountants as Arbitrators. Therefore, the Cost accountants have huge role to play with regard to Arbitration/Mediation/Conciliation proceedings from here onwards. **MA**

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REGULATION OF SHADOW BANKING SYSTEM IN INDIA - A BOON TO UNBANKED SECTORS!	CMA Kalyani Karna	55	Jan-20	1	66-70	10.33516/maj.v55i1.66-70p
STRESSED ASSETS MANAGEMENT IN INDIAN BANKS	CMA (Dr.) Subhash Chandra Das	55	Jan-20	1	71-73	10.33516/maj.v55i1.71-73p
DISTRESS OF INDIAN BANKING SECTOR: EVIDENCE FROM INDIAN ECONOMY	Aritra Ranjan Das Dr. Ram Prahlad Choudhary"	55	Jan-20	1	74-79	10.33516/maj.v55i1.74-79p
CONVERGING ARTIFICIAL INTELLIGENCE IN INDIAN BANKING BUSINESS – AN OVERVIEW	Leenapriya De	55	Jan-20	1	80-84	10.33516/maj.v55i1.80-84p
PSBs - MAMMOTH MERGER PLAN FOR SYNERGY BENEFITS	Dr. Inchara P M Gowda	55	Jan-20	1	85-88	10.33516/maj.v55i1.85-88p
DIGITAL TRANSFORMATION - SMART CONTRACTS FOR TRANSACTIONS EXECUTED IN BLOCKCHAIN PLATFORMS	CMA (Dr.) Paritosh Basu	55	Jan-20	1	94-95	10.33516/maj.v55i1.94-95p
A CASE STUDY OF BARABANKI DISTRICT (U.P.) IMPACT OF THIRD CROP ON FARMERS' INCOME	CMA Kishore Ajitshi Bhatia	55	Jan-20	1	97-100	10.33516/maj.v55i1.97-100p
US\$ 5 TRILLION ECONOMY BY THE YEAR 2024: IS A HERCULEAN TASK; REQUIRES 11% GDP GROWTH RATE TO ACHIEVE IT	CMA Mrutyunjaya Mohanty	55	Jan-20	1	101-103	10.33516/maj.v55i1.101-103p
Tax Titbits	CMA S. Rajaratnam	55	Jan-20	1	104	10.33516/maj.v55i1.104-104p



## Meeting with **Shri Chittatosh Mookerjee** the *Former Chief Justice of the Calcutta and Bombay High Court* at his ancestral house to discuss about the *role & future of Cost & Management Accountants* in the *Arbitration and Alternate Dispute Redressal Mechanism arena*

**C**MA Biswarup Basu, Vice President; CMA Chittaranjan Chattopadhyay, Council Member & Chairman, Banking & Insurance Committee; CMA Raja Ghosh, Member (AGM, F&A, RE, WBSEDCL) alongwith CMA Sucharita Chakraborty, Joint Director and HOD- Journal & Publications visited Shri Chittatosh Mookerjee, the Former Chief Justice of the Calcutta and Bombay High Court on January 31, 2020 at his ancestral house 126, Ashutosh Mukherjee Road, Kolkata – 700025.

Shri Chittatosh Mookerjee is the ideal carrier of the Legacy of Sir Asutosh Mookerjee, popularly known as Banglar Bagh (Bengal's Tiger), was the most outstanding Judges and at the same time, transformed Calcutta University into one of the foremost centres of learning in the Country. Shri Chittatosh Mookerjee was appointed as an Additional Judge in 1969 and Chief Justice of the Calcutta High Court in 1986. He was transferred as the Chief Justice of the Bombay High Court in 1987. He was the Acting Governor of Maharashtra, Goa, Daman and Diu and the Union territories of Dadra and Nagar Haveli.

The Arbitration and Conciliation (Amendment) Act 2019,

has enhanced the scope for CMA professionals to work as arbitrators and conciliators. At this outset, we approached Shri Chittatosh Mookerjee for an exclusive Interview on Arbitration to be published in The Management Accountant, Journal shortly. In this context, Shri Mookerjee highlighted that CMAs can play a significant role in Business Arbitration, for which they should be well-equipped with the Procedural Law & Civil Procedure Code. He appreciated the knowledge of the CMA's in Accounting, Finance, Costing, Direct & Indirect tax, Contracts, Labour laws and other matters relating to the commercial aspects of the Industry. Also stated that as financial experts, CMA's are competent enough to handle commercial arbitration. Several aspects of domestic & international arbitration were also discussed. He suggested for incorporating the new Arbitration Act in our CMA Syllabus. Further added that some symposiums, seminars and conferences on Arbitration are to be organized by the Institute on regular basis to enrich and bring awareness amongst the CMA professionals. He acknowledged the efforts of the Institute and the Advanced Studies Directorate in launching the Certificate Course on arbitration.

He assured his help on all matters & initiatives of the Institute on this score.



# DIGITAL TRANSFORMATION – RISK ENABLED PERFORMANCE MANAGEMENT AND GOVERNANCE

**CMA (Dr.) Paritosh Basu**

Senior Professor  
NMIMS School of Business Management  
Mumbai



## Risk and Challenges – The way of life

**M**ankind is fighting out critical risks and challenges since the dawn of civilisation for survival and prosperity. Future kept on unfolding with ever changing fiercely critical and perilous encounters.

Some of those in recent decades are man-made due to insatiable greed for more. Industry 3.0. claimed success with proliferation of IT and automated systems linked to internet. The present era of Industry 4.0 is progressing with overwhelming speed of digital transformation. Mankind has self-inflicted an entirely new set of risks emanating from these two.

During about last four decades, besides nature's ferocities and degradation of environmental ecosystem, new risks and challenges are from cyber criminals. Digital assets are their targets for extracting ransoms in millions. They infiltrate through the pores of system peripherals and spread malwares using digital tools. The irony is that, they use mostly the same tools, e. g., AI, ML, RPA, etc. to spawn new malwares, which digital scientists use for 'innoventing' solutions and creating deterrents for malwares. This battle is gradually taking dreadful dimensions.

Challenges that are already threatening large organisations, with traditional business models, are disruptions and

'destructions' by startups to overthrow from their perches. Some are also struggling hard to withstand challenges from digitally transformed business models of large at the virtual marketplace such as Amazon and Google, powered by SMAC, i. e., Social media, Mobility, Analytics and Cloud.

The new imperatives are, therefore, Digital transformation (DT), including Robotic Process Automation (RPA), of business models, processes for strategic planning, manufacturing / servicing operations and SCM. DT is now at top of the agenda of almost all CEOs. The traditional reactive approach for ERM must be replaced by proactive risk enabled performance management and governance (REPMG) for all contemporary and predictable risks. Administrative machineries of any governmental organisation are no exception to it.

## Approach for Digital Transformation with REPMG

DT, just to recapitulate, is nothing but need based identification, adoption and integration of one or more of the eight deep digital technologies into the core of business functions from hierarchy to tools and operations to service deliveries to stakeholders. One of the major threatening risks, while dealing with SMAC, is flawless compliance of privacy, security, safety and protection of information related to every single user and customer. Moreover,

the designed solutions must be enabled with capability to meet the regulatory requirement of 'Right to Forget'.

Cybercriminals and fraudsters have proved, by penetrating the best of computing systems in advanced countries, that users are not magically protected as technology evolves. User protection is something that occurs as a result of intention, commitment and thoughtful design. The objective of this paper, *inter alia* intensifying awareness, is to create a framework for REPMG. The process starts with defining an approach for DT.

John Worrall, CEO at application and infrastructure security specialist of ZeroNorth, was asked the question, whether the trend towards DT widens for cyber criminals the potential attack surface? He replied quoting a study from Ponemon Institute and ServiceNow<sup>1</sup>. He said that, "60 percent of organizations who suffered data breaches over the last couple of years cited the culprit as a vulnerability that wasn't remediated. With even the most unlikely organizations now developing software, it is critical that every single line of code is secured prior to production to protect the organization's assets and limit risk."

The first task in this journey for excellence is to lay the foundation of DT, six essential steps for which can be summarised in the following lines:

1. Define the why of digital transformation which should be the means to implement the newly articulated business strategies, aligned with vision, mission, and strategies for achieving the desired end goals. Thus, DT strategies should transcend beyond technology.
2. Create a dedicated DT Team with freedom for design thinking, and assurance that mistakes and failures in finding innovative solutions will not be punished. Train team members through the cultural change management process of learning, unlearning, relearning and re-skilling.
3. Collaborate with and / or acquire startups having proven capabilities, if in-house designing and solution building are found to be uneconomical and time consuming.
4. Focus on all stakeholders instead of only customers. The paradigm of relationship management should shift from CRM and CXM to stakeholders' relationships and experience management (SRXM). Customers should be one of the groups. This will also inculcate the culture of ultimate service to humanity.
5. Have an unwavering commitment for allocating resources both in terms of fund and dedicated manpower.
6. Continue to feed into computing systems, in matters of cognitive technology applications, data which are relevant, current and correct, for drawing the rightful inferences from AI and DA based outputs, and helping decision making.

Organisations can best implement REPMG by doing the right things in the right way at the right time with the right quality and speed. DT must ensure all these rights remaining within the dominions of legal and regulatory boundaries. This needs organising and running business operations, IT systems and applications of digital technologies with a proactive approach and positive mindset. All these can be guaranteed to a large extent by finding the right answers to the following questions and then do all that are needed to bring those right positives and / or turn negatives into affirmatives in the organisations' way of life in reality?

1. Are DT and Information Security Risks (ISR)

management at the top of the agenda for CEO, CFO and the Board of Directors?

2. Are DT and ISR integrated with Strategic Management Framework aligned with vision and mission?
3. Are short and long term business goals aligned with the same for DT and ISR processes, and appropriately communicated to all concerned?
4. Is there adequate financial commitment for DT and ISR commensurating with the volume of business and expanse of the organisation?
5. Is compliance of legal and regulatory provisions overlooked by business decision makers?
6. Are proper systems in place for training, communication, internal audit and change management related to DT and REPMG initiatives of any stature?
7. Do DT and IS managers have predefined KRAs and KPIs for their deliverables?
8. Is there a structured system for handholding throughout the organisational hierarchy and external stakeholders, and whether the apex executive group is responsible for this?
9. Are DT and IS management at the top of sustainability management agenda of the CEO?
10. Does the Audit Committee review and monitor implementation of and outcomes from all these initiatives at periodical intervals, and bring exceptions to the knowledge of Board of Directors?

OECD, in its recently issued guidelines for transformation of processes using digital technologies for governance and service deliveries by governmental organisations, has suggested to consider three critical factors, viz. *Efficiency, Effectiveness and Good Governance*'. The author is taking liberty to add the word 'Smart' after the words 'Good Governance'. OECD is of the view that focus on these three will ensure the following twelve essential factors for success:

- Efficiency + Effectiveness will lead to *Empowerment, Evidence, Demand Management and Personalisation.*
- Effectiveness + Good and Smart Governance will lead to *Openness, Transparency, Accountability and Autonomy.*
- Good and Smart Governance will lead to *Reliability, Participation, Focus on Citizen's Need, and Public Value.*

Last but not the least all officials across hierarchical levels of any organisation must feel the need for REPMG from within. There is also an imminent need for conducting research on ethical dimensions of digital transformation which can ultimately ensure sustainable service to humanity. MA

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January 27, 2020

**NOTIFICATION**

In pursuance of Regulation 146 of the Cost and Works Accountants Regulations, 1959, the Council of the Institute at its 323<sup>rd</sup> Meeting held on 25<sup>th</sup> January, 2020 by virtue of power conferred therein has constituted the following Chapter of The Institute of Cost Accountants of India covering the areas of Karnal and Panipat in the State of Haryana.

**The Institute of Cost Accountants of India – Karnal-Panipat Chapter**  
2376, Sector 13, Top Floor,  
Urban Estate, Karnal – 132 001,  
Haryana.

Sd/-  
(Kaushik Banerjee)  
Secretary

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# PROCESS COSTING USING FIFO OR WEIGHTED AVERAGE - WHICH IS BETTER FOR PERFORMANCE EVALUATION?



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## Abstract

*Process costing is used to derive costs of the products that are identical, mass produced and are amenable to broad averaging of costs. This is opposed to job costing, where each unit or service is unique from the other and uses different quantities of resources. Process costing absorbs costs using mainly two methods- FIFO and Weighted Average. These methods throw up different value of cost for the cost objects, depending on the cost variations across periods. This article tries to decipher the reasons for the differences in the levels of cost absorption and tries to link it to performance evaluation or measurement of the process or department. It finds that FIFO is inherently fairer and just from a performance measurement perspective.*

The objective of a process costing system is to obtain the unit cost of a product or service by assigning total costs to mass produced identical units of a product. In other words, process costing helps to arrive at the unit cost by dividing total costs by the number of units produced. This is usually distinguished from a job costing system in that the latter has a lesser extent of averaging of the costs incurred as each job is unique and consumes different levels of resources (Datar and Rajan 2018). Hence a broad averaging, as is done in process costing, is not workable in job costing. For example, a motorcycle manufacturing company may use process costing for its process costs and average it across the mass production of motorcycles. On the other hand, a motorcycle service centre may use job costing to account for the service jobs of the motorcycles, which may be different from each other and may consume varying levels of resources.

The main application of process costing is seen in the valuation of work in process inventory, which in turn can be valued based on FIFO or Weighted Average methods. The Weighted Average method of inventory valuation averages the cost of opening inventory, which carries the values of the previous accounting period, with the current production expenses, which could be at a different level as compared to the previous accounting period. This ensures that there is a smoothening of costs and therefore, profits, and is used as a valuation technique in many industries. On the other hand, FIFO ensures that the opening inventory carries its own cost and the value added in the current accounting period to complete the work in process inventory is added to the last period costs. This ensures that the opening units are unique in terms of identity and cost. This method ensures that the opening units are ready for transfer first, bearing the cost that is truly identifiable to them.

Process costing can also lend itself to performance evaluation of the process or department for which the method is applied. A major tool for operationalizing this technique is the equivalent unit concept. Since units transferred out to the next process are complete in all respects and those in process are not, it would be difficult to allocate the current process costs to units with varying levels of completion (Sekhar and Rajagopalan 2013). Obviously, all units cannot be considered as the same and costs cannot be allocated equally to all, irrespective of their level of completion. Hence, the concept of equivalent units helps equate the incomplete units with complete units by multiplying the level of completion with number of physically present units. For example, 100 WIP units complete to the level of 70 of overheads gives us the equivalent of 70 complete units. The total cost per equivalent unit can be used to compare the performance of the department based on consumption of material, labour and overheads. The variances in volume of output are controlled for by taking the average of total costs and total equivalent units relating to material and conversion costs. However, there could be a difference in the cost per equivalent unit when measured using FIFO and when calculated according to Weighted Average method (Drury 2012).

## Example:

Suppose ABC Ltd. has two processes and the output of one process exclusively becomes the input of the other. For one accounting period, the first process inputs 1000 units of raw material which is procured at a rate of Rs. 200 per kg. The opening work-in-process units were 200 in number, completed to the extent of 100% of direct material, 70% of direct labour and 50% of overheads. The values associated with these opening units at the given level of completion are Rs. 34,000, Rs. 22,200 and Rs. 18,400 respectively.

The firm pays Rs. 2,04,000 as direct wages and Rs. 3,18,000 as manufacturing overheads for the current period's operations. There is no process loss and the closing work-in-process consists of 100 units completed fully in terms of direct material and 60% each in relation to direct labour and overheads.

The cost per equivalent unit using the Weighted Average method is Rs. 680 as shown under:

### Weighted Average

	DM		DL		Overheads	
Opening WIP-200 units	100%	200	100%	200	100%	200
New units-900 units	100%	900	100%	900	100%	900
Closing WIP-100	100%	100	60%	60	60%	60
Equivalent units		1200		1160		1160
Total costs		234000		226200		336400
		195		195		290
<b>Cost per Equivalent Unit</b>	<b>680</b>					

The cost per equivalent unit using FIFO comes to Rs. 700 as derived under:

### FIFO

	DM		DL		Overheads	
Opening WIP-200 units	100%	0	30%	60	50%	100
New units-900 units	100%	900	100%	900	100%	900
Closing WIP-100	100%	100	60%	60	60%	60
Equivalent units		1000		1020		1060
Total costs		200000		204000		318000
		200		200		300
<b>Cost per Equivalent Unit</b>	<b>700</b>					



# PERFORMANCE EVALUATION

If we analyse the reasons for variation in the cost per equivalent units according to both the methods, the main reason is the lower cost of production in the previous accounting period. This lower cost has been averaged out in the current accounting period leading to a lower average cost of equivalent unit of Rs. 680. This year's cost is higher, as demonstrated in the cost per equivalent unit according to the FIFO method of Rs. 700.

Firms tend to incentivize and recognize departments and product lines that optimize costs and resources in the given accounting period. If the weighted average method was used to evaluate the performance of the process, it would have shown a cost of 680 which could have led to the impression that the cost is lesser for the period in question. However, the lower cost figure would have been the result of the previous period's lower costs, for which the process would already have been evaluated and incentivized, if applicable. Conversely, in a reducing cost scenario, the weighted average method would have penalized the efficient manager by showing a higher process cost which was arrived at by averaging the last period's higher cost with this period's more efficient costs. On the other hand, FIFO helps presenting the true picture of the process for the current accounting period and does not get affected (positively or negatively) by prior period variances. Thus, a more accurate picture of the process' performance is presented for evaluation. Standard costing and variance analysis could be applied on the material, labour and overhead figures derived from FIFO to arrive at the exact variances.

To conclude, while Weighted Average helps smoothen cost and profit variances in profit planning, the FIFO method is more accurate in representing the true picture of the periodic process performance which could then be used for performance evaluation. In a rising cost scenario, FIFO could lead to a higher valuation of inventory but that could be offset by evaluating the overhead variances to see if any unnecessary spending has taken place or if overproduction has happened with a view to transfer costs from the current accounting period to the next accounting period. **MA**

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January 27, 2020

## NOTIFICATION

As decided by the Council at its 323<sup>rd</sup> Meeting held on 25<sup>th</sup> January, 2020, in pursuance of Regulation 146 of The Cost and Works Accountants Regulations, 1959 read with Clause 30 of The Cost Accountants' Chapters Bye-laws, 2019, the Managing Committee of Chandigarh-Panchkula Chapter of the Institute of Cost Accountants of India stands dissolved with immediate effect till the Election of new Managing Committee in accordance with law.

The Secretary of the Institute is appointed as the administrator of the Chapter till the new Managing Committee takes over after conduct of Election and all employees of the Chapter will report to the Secretary of the Institute for all purposes till such time.

  
(Kaushik Banerjee)  
Secretary



# ADDRESSING MANAGEMENT REPORTING CHALLENGES: A DOMAIN ONTOLOGY APPROACH



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## Abstract

*This study aims to introduce a framework that can standardize management reporting and non-financial information, thereby addressing the challenges that preparers and users of management report face during its lifecycle. We leverage the “Ontology” framework available in computer science and the XBRL framework, which is highly popular in the financial reporting industry to address some of the challenges faced in the management reporting life cycle.*

## Introduction

New business trends, innovative distribution channel, and millennials emergence has changed the landscape of how accounting and finance function go about their work. The work of a business analyst and management accountant is even more challenging in the VUCA (volatility, uncertainty, complexity, and ambiguity) world. Management report Preparation of management report.

Gathering information for preparing a management report can be complicated, ambiguous, and falls short in addressing the need of stakeholders. The reason for this difficulty could range from factors like usage of multiple systems for data gathering, unstructured data, and lack of a suitable framework for capturing non-financial information.

## Management Reporting

Management reporting covers all the reporting function handled by an accounting & finance team that aids management in decision making and device performance management system (Examples are as following and not restricted to the activities such as Establishing a budget, forecast revenue and expense, profit & loss management, standard costing, MIS reports).

## Literature Review

### Management Reporting and its Challenges

An exercise was conducted (secondary research) to review the articles from top consulting and audit firms related to management accounting and reporting to explore the current scenarios, upcoming trends, and items, which are critical issues in the area.

“Coding and Thematic” response technique was used to understand the critical takeaway from the articles. The central theme that arrived from the materials is “data analysis,” “data compatibility,” “financial and non-financial data,” “reporting issues,” “interconnectivity, and technology enablement.”

The sub-theme and conclusion from the research are as follows:

- There is a need for non-financial data
- There are issues in internal/management reporting
- Compatibility issues between different system act as a bottle-neck
- Structured data is essential for decision making
- There are opportunities for technology enablement

We frame the following objectives to address these gaps:

## Objectives

This study aims to identify specific areas of issue and then provide a solution for the same. A brief problem statement is as below:

1. Identify if the lack of standardization is an issue for

the preparation of management reporting?

2. Explore if non-financial information adds value to the preparation and usage of management reporting?
3. Identify any existing framework or suggest a new framework to address the above-stated challenges

## Research Methodology

The study has been substantiated based on both primary and secondary data. Secondary data to identify if any existing research on this subject and to explore relevant articles to verify the applicability of the issue discussed. Primary data based on the survey to get feedback from the professionals in the industry.

## Exploratory Research Study: Current State Analysis of Management Reporting

Based on the promising evidence from the secondary research, exploratory research (primary research) was conducted with a group of users who have worked on management reporting/internal reporting. The study aims to understand the current state analysis of management reporting and also to identify if the issues discussed in this research and theme emerged from the secondary research is the same as the industry experience.

An online questionnaire was sent to the users explaining the purpose of the study. Questions in the survey were focused on understanding the difficulty in preparation of the report, understanding capabilities, and limitations of the current process and system. The audience selected for the study were users from different industries and diverse profiles. It would help us to get a holistic view of management reporting.

Most of the items in the study were set to understand the level of difficulty on the 5-point scale. “Very easy,” “Moderately easy,” “Normal,” “Moderately difficult,” and “Extremely difficult.” The review was conducted based on aggregated responses. The answer which received most hits was to have the highest impact on the audience and which received lowest hits were to have the least effect on them. Results of the survey are in Picture 1 and Picture 2



Picture 1: Survey Result



**Picture 2: Survey Result**

The study has helped us to substantiate the issues highlighted in problem statements such as “need for consistent information,” “visibility into interconnected data,” and “the importance of non-financial metrics.”

The next step towards solving problem statement would be to identify a program or language which would act as a standard repository/dictionary and is flexible to accommodate new data and is both human and machine-readable

It leads us to explore the concept of “Ontology” and specifically to “Domain Ontology” which as per definition is “encompasses a representation, formal naming, and definition of the categories, properties, and relations between the concepts, data, and entities that substantiate one, many or all domains of discourse.”

### Developing an Ontology Framework:

The term “Ontology” has originated in Philosophy. Here we would explore “Ontology” about computer science. It can refer to different objects based on the context; some of the examples are as below:

- Thesaurus in the field of information retrieval
- The model represented in OWL in the area of linked-data
- XML schema in the context of databases

Below is the summary of why “Ontology” would work for the management reporting problem. For different issues identified in the study, there is a solution available in “Ontology,” which would help us overcome the challenge. Below table explains how ontology can assist the problems:

S#	Problem Statement	How Can Ontology support?
1	Every transaction has to adhere to a standard requirement before being accounted (Ex: capturing the source of origin, vendor name, a unique identifier)	<i>“Share a common understanding of the structure”</i> - of information among people or software agents. The agents can use this aggregated information to answer user queries or as input data to other applications.

2	There is no reference format or definition available for management reporting	<i>“Enabling reuse of domain knowledge.”</i> If one group of researchers develops such an ontology in detail, others can reuse it for their domains.
3	Connection with underlying data and summary information is lost	<i>“Define the classes and the class hierarchy.”</i> Helps in the inheritance of parent and child relationship
4	There is no proper mechanism to capture non-financial information	<i>“Analysing domain knowledge.”</i> Formal analysis of terms is precious when both are attempting to reuse existing ontologies and extending them

**Table 1: How Ontology solves the management reporting problem**

The financial reporting industry has explored the concept of “Ontology” in the earlier years to address some of the similar issues faced by that industry, and some of the frameworks available are Financial Report Ontology, Financial Industry Business Ontology, and Financial Reporting Comparability. The adoption of “Ontology” in the financial industry provides us the confidence to explore the study further.

### Language for creating “Domain Ontology”:

#### XBRL Language:

XBRL (Extensible Business Reporting Language) is an open-source standard. Specification 2.1 is XML based and used across the globe for exchanging business information. The advantage of using XBRL language is it allows users to create extension element list when there are none available in the standard list

XBRL implementation would require preparation and maintenance of taxonomy that captures and standardizes reporting requirements, which can be used by organizations that need to prepare reports that comply with requirements. The correctness of the document can be validated using the business rules, if necessary, next step would be to store, aggregate and analyze data contained in the instance document as well as metadata in the relevant taxonomy within relevant business intelligence system by recipients of the report

One of the challenges of management reporting is domain-specific concepts, the extension module in the reporting standard allows considerable flexibility in precisely reporting what is needed to meet the specific reporting requirement

Steps in preparing management report via XBRL format:

- Develop a management accounting taxonomy compliant with XBRL V2.1 standard and XBRL 1.0 dimensions
- Publish the taxonomy in XML format to make it

available for an organization to adopt and comply with the requirement

- Prepare instance document using the taxonomy and perform necessary validation
- Organization to transmit the instance document to the relevant recipients

### Management reporting taxonomy:

Management accounting should be the base for creating management taxonomy. Design the taxonomy in such a way It can capture financial and non-financial metrics. The organization and period for which the report is prepared can be identified using the identifier

Following are the sample taxonomy headers along with their description:

S#	Header Name	Description
1	Document Information	Contains concepts to identify the document type, period, year for which management report is prepared
2	Entity Listings Information	Contains identifier to capture entity's trading symbol, market capitalization, shares outstanding
3	Significant Accounting Policies	Contains concepts to capture accounting policies and other assumptions followed by an entity in HTML format
4	Business Segments	Contains XBRL 1.0-dimension attributes to captures multiple information against same concept
5	Nonmonetary Transactions	Contains concepts to capture transaction which cannot be measured in monetary terms or sales in the barter system
6	Select Financial Information	Contains concepts to capture select financials information such as total assets, liabilities, debt, profit which are an essential part of any analysis

7	Operating ratio analysis of product or activity group	Contains concepts which are part of cost accounting and used to analyze the organization's metrics using different ratios such as % of selling cost
8	Management Accounting Concepts	Contains elements which are an essential part of management reporting such as standard costing, budget analysis, responsibility accounting

**Table 2: Sample Management Reporting Taxonomy**

### Conclusion:

Management reporting can be complicated and unique for each domain of industry, hence it a common thought that there can be no standardization of management reports. However, with the advancement of ontology and precisely domain ontology, there is a possibility of integrating these management reports to repository known as taxonomy, which can help the data to get its own identify and make it readily comparable irrespective of the system from which the data is collected and remove the ambiguity in management preparation. **MA**

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# LEVERAGING THE POWER OF ARTIFICIAL INTELLIGENCE: A STUDY ON THE INDIAN BANKING SECTOR



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## Abstract

*At some point in our lives, we have all wished for a robot that could do our work just like us. However, the human brain differentiates us from machines. Artificial Intelligence (AI), in simple words, is an ingenious technology that allows machines to replicate human tasks so as to make life easier for everyone. Be it repetitive processes done manually, analyzing high volume of data within minutes, or finding anomalies and trends, artificial intelligence can do them all. The scope of this technology is huge and can be utilized by all industries globally.*

*Now the obvious question that pops up in our minds is; if machines will do our tasks then what will the humans do? The purpose of this study is to understand the benefits that this technology will accrue and weigh it against the difficulties it may propose. Every sector can apply AI to reap some advantages. Thus, to narrow our scope of research, we shall study the effects that AI has already had on the banking industry and its future scope therein.*

*Both private and public sector banks are showing interest in this upcoming technology and have also began using it. While simplifying routine tasks by the bank, there is some resistance to this technology as it poses a threat to the millions of individuals who are employed by this sector.*

## 1. INTRODUCTION

**A**rtificial Intelligence is nothing but machines made intelligent using technology and innovation. In today's world, banks are highly competitive in terms of the products it offers. The only difference that stands between two banks is the trust of its customers and the convenience it offers to them. Both these components are factored in by the use of AI.

Now we know that the future of banking lies in AI learning machines; but how? Banks are also known popularly as 'People's depository'. Hence, a huge investment is made in the customer service team to ensure that the best possible service is imparted to the users. All banks are moving towards smart business practices that involve more technology and less manpower. This would result in huge cost savings.

83% of Indian Bankers believe that AI will work alongside humans in the next 2 years (Source: LiveMint). As per PWC Fintech Trends Report 2017, the investment in AI research has gone up from 4\$ billion to 5.1\$ and is expected to continue rising. Around 36% large scale companies have already invested in the futuristic possibility of AI whereas 70% are planning to invest as well.

With this study, we hope to gain some clarity on this subject which has instigated curiosity in many minds but its actual potential is yet to be unleashed. By far, all we can say is that Artificial Intelligence and Machine Learning is definitely a milestone in the banking industry's journey and it will undeniably change its future course of working.

## 2. LITERATURE REVIEW

Artificial Intelligence has raised a lot of curiosity among researchers and bankers who are keen to find out its impact on the future of banking. Since it is still in its nascent stage, there have been a few papers published on AI. 'Artificial Intelligence in Finance' written by ManjuKunwar and published in August 2019, attempts to understand how automation and machine learning are transforming the finance industry as a whole. This paper introduces the various applications of AI in the financial industry and to understand its scope in banking sector, we studied a few more papers. Dan Latimore's paper 'Artificial Intelligence in Banking' written in September 2018, gives us a guide on where to start with our research whereas Dr. C. Vijai's research paper on 'Artificial Intelligence in Banking Sector' attempts to discuss how Indian Banks are using AI in their various functioning. 'Vision 2020 – Banking in Future' by Deloitte has given us an in-depth knowledge on the new and upcoming uses of Artificial Intelligence that are yet to be implemented like BlockChain technology. Accenture has also published a paper, 'Redefine Banking with Artificial Intelligence' where banking sector has been discussed at great lengths and how it has transformed with the use of AI. A few articles were also referred to during our study to know the present situation of Indian Banks with regard to use of AI. Articles by LiveMint and Emerj on AI in Banking have

proven quite informative on artificial intelligence.

## 3. RESEARCH GAP

Although there have been several research works done in the field of Artificial Intelligence at recent times regarding the history of its implementation, the aftereffects and how it is beneficial for different sectors of the economy, not much focus has been given to its applications in the banking industry, the kind of problems they are facing and how they are tackling with the changeover. Therefore, this paper is an attempt to analyse the impact of Artificial Intelligence on this banking sector.

## 4. OBJECTIVES

1. To study and analyze the concept of AI and how it is playing the role of a disruptor in the Indian banking sector.
2. To study and analyze the penetration of AI driven technologies in leading Indian banks.
3. To study and analyze the effect of AI in the Indian banking sector.

## 5. RESEARCH METHODOLOGY

This study is a result of descriptive and exploratory research. No statistical tools have been used for the purpose of this study. Thus, it is purely qualitative in nature.

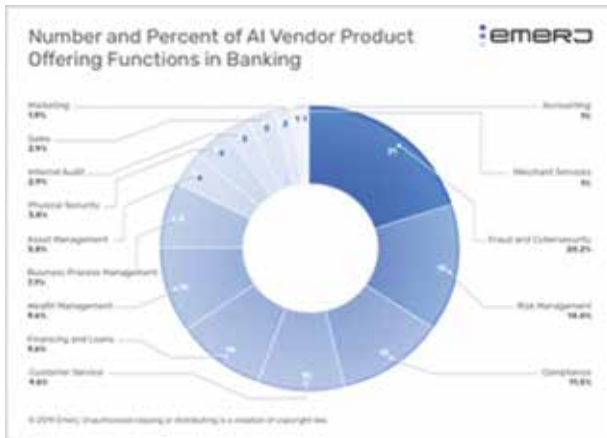
### 6.1 DISCUSSION AND ANALYSIS

Banking industry has undergone multiple changes for decades now. Artificial Intelligence is considered by many as a disruptor. Generally, a disruptor is that which brings a sudden change or break in the continuity of a process. Hence, we would not be wrong when we call AI and ML a disruptor technology in normal course of banking.

Most Indian banks have implemented AI in the form machine powered ChatBots or VoiceBots. These machines are capable of having a full-fledged conversation with customers and interact with them to solve their issues.

With software robotics being introduced, all the manual, bulk and repetitive tasks required to be processed by the bank's back-end team, would be performed by a machine.

Customer data is the most useful resource that any bank possesses. AI has been engineered to mine this data in any way which the bank would like. Customer's transactional pattern is observed and trends are drawn, in order to impart a more personalized experience.



Source: EMERJ

Taking into account the fact that banking sector is one of the largest employers in the country, one would be led to believe that AI will 'replace' humans absolutely. AI has disrupted the banking procedures but not all disruptions are negative. Thus introducing an intelligent technology would be overall beneficial for the entire industry as well as the country.

## 6.2 AI IN LEADING BANKS

Indian banks are showing keen interest in the upcoming technology of Artificial Intelligence. With their banking product offerings being more or less similar, the major difference boils down to better customer service and relationship handling. Let us now find out which new AI powered services are being offered by these leading banks.

### SBI:

India's largest public sector bank with about 420 million customers aboard, State Bank of India, is the most widely trusted bank. SBI has been conducting an event known as 'Hackathon' each year since 2017. By presenting it as competition, the bank created a healthy environment for idealists to come up with cutting edge and unique solutions.

SBI also launched SIA, an AI powered voice assistant, which has the ability to address customer queries almost immediately. Payjo, a start up from Silicon Valley and Bangalore, is the brains behind this masterpiece. "SIA is setup to handle nearly 10,000 enquiries per second or 864 million in a day. That is nearly 25% of the queries processed by Google every day," Payjo said in a statement.

### HDFC:

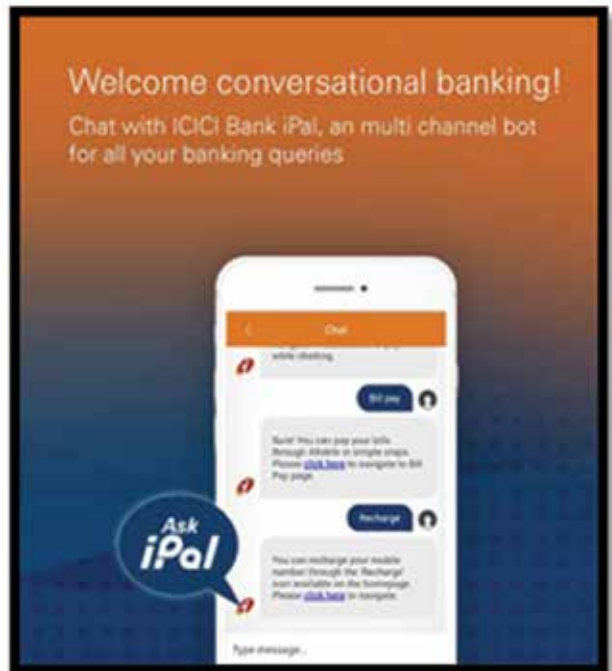
Following the footsteps of SBI, HDFC too has its own automated voice supportive system which converses with the customers and is able to solve their problems at an unbelievable speed of 0.4 seconds. This would lead to incredible servicing while also saving a huge amount of time and resources spent to maintain a team for the same. HDFC's ChatBot is called 'EVA' (Electronic Virtual Assistant) has been developed by Senseforth AI Research (Bangalore).

Since its launch in March this year, Eva has addressed over 2.7 million customer queries, interacted with over 530,000 unique users, and held 1.2 million conversations. (Source-LiveMint)

Other than this, HDFC is also believed to have invested in the research and development of software robotics which can be used to imitate human like actions and automate banking procedures that take place in the backend.

### ICICI:

Now we come to the second largest private sector bank of India. ICICI has large number of assets under its management and a wide customer base. This bank has always shown its digital and technological presence in the banking world. With that being said, ICICI introduced its AI powered ChatBot 'iPal' in 2017, which completed 6 million responses and interacted with 3.1 million customers in just eight months. (Source: ICICI website) The bank is also looking at a tie-up of iPal with existing voice assistants like Cortana, Google Assistant or Siri so as to provide higher convenience to its customers.



Source: ICICI Bank Website

ICICI has recently established a new department called 'Technology and Digital Group' so as to undertake extensive and focussed research on various projects. Software robots have reduced the response time by 60% which stands testimony to its brilliance.

### AXIS:

Coming third in the list of private sector banks, Axis Bank is not far behind in the AI powered technology implementation. Axis has also established a hub for



innovation and creativity known as ‘Thought Factory’. This initiative is a well thought project that works with start-ups comprised of young talent. The banks works with these start-ups for a period of 3 months, after which the ones showing more potential in their models, are taken forward so that the bank can work more closely with those projects.

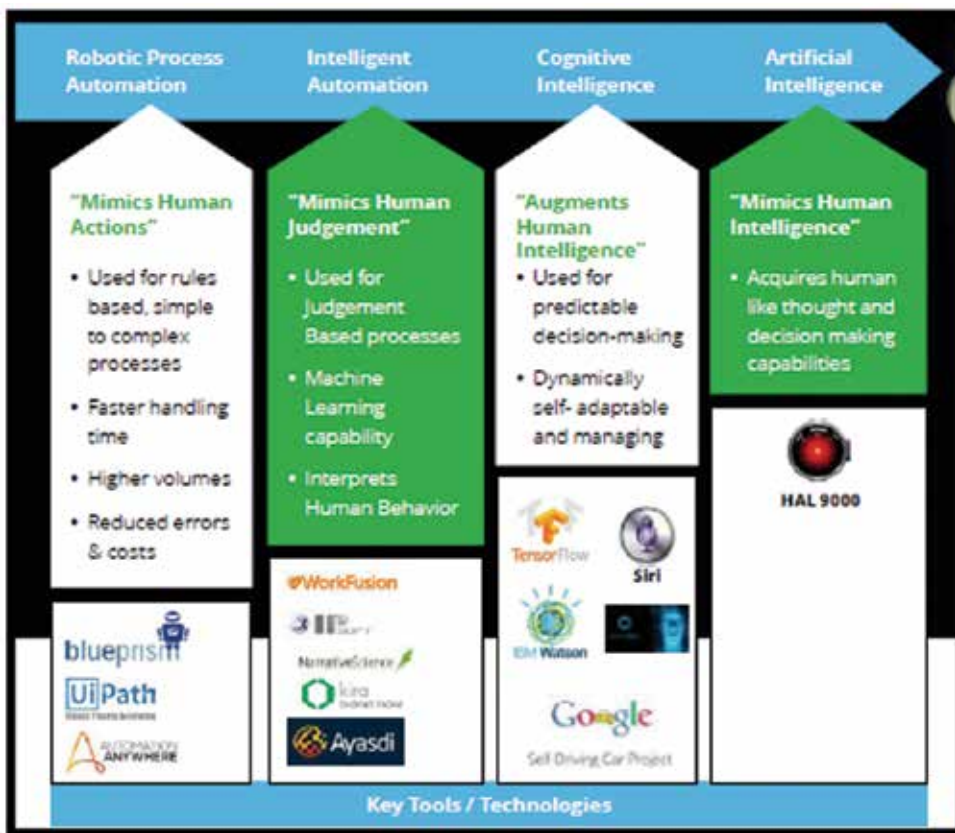
Axis bank has formed a credit-risk model which indicates that about 80% of suspicious transactions are borne out of the transactional activities of 5% customers and these are categorized as risky individuals from the credit perspective. Axis also used Robotic Process Automation (RPA) where machines perform bulk and repetitive tasks in much lesser time. This has reduced the turnaround time (TAT) by 90-92%.

### 6.3 HOW IS AI IMPACTING THE BANKING INDUSTRY?

Having spoken of how the leading banks are using AI to gain an edge over each other, it is important to also discuss the overall effect of this technology on the banking industry. In this context, let us discuss the effect that AI has brought into the banking world.

Every bank has been investing in their Research and Development teams in some way or the other. Some have tied up with start-ups (SBI, Axis) while some have established their own R&D team that works on developing new software and technology. With the ease brought in by AI for banks, there has been a rise in investment by \$1.1 billion in just a year.

Another effect that AI has brought to the normal functioning of the banks is through the use of automation technology. Below are the different ways banks can automate their complex procedures using Artificial Intelligence:



(Source: Deloitte, Banking in the Future, Vision 2020)

RPA (Robotic Process Automation) is the process by which banks can simplify their backend operations using Robotics Software. Banks have many repetitive tasks that are rule-based and do not require human judgement or critical analysis. Once the process is fed in the software, the robots are more than qualified to complete the process with a 100% accuracy.

Some processes require human judgement and interpretation of information followed by decision making. This is where cognitive intelligence and machine learning

step in. AI is also used to identify trends in transactions made by customers by processing vast data (also known as Big Data) through analysis and decision making.

### 6.4 CONCLUSION

After studying the different effects of AI, we can understand which areas of banking it will modify majorly. Employment is one of the biggest concerns when we talk about replacing human efforts with technology. Some

companies are unable to bring in a transformational change in their internal processes due to the resistance it faces by the employees who are rigid in their thinking and cannot see the scope of the change in future. Whenever robots are introduced, employees fear a lay-off. Therefore, to successfully integrate technology into banking, banks have to carefully strategize a way of introducing the change to ensure that the process goes smoothly. Only those banks will prosper, which are able to assimilate the old procedures with the new ones in a seamless fashion.

While there are some fundamental problems with introduction of AI, the benefits are far too many. We can conclusively say that the change that will be brought into the banking industry in future will be the result of the AI technologies that banks are developing now. Many theories that are just at their testing stages will be seen in their implementation phase soon. There are many new technologies that are causing excitement in the field of banking. Blockchain and Distributed Ledger Technology (DLT) is the new talk of the industry. Globally, there has been a considerable surge of investment in developing this particular technology and there have been more than 2500 patents issued regarding the same. The idea behind this system was found in an anonymous paper in the name of Satoshi Nakamoto who had ideated a neat system of keeping track of Cryptocurrency Bitcoins that were in circulation. The system involved a 'distributed ledger' among all parties involved in a transaction. Any modification in the ledger could be brought about by the approval of all and would be seen as an additional 'block' in the chain of previous such transactions. This technique displayed top-notch security and opened up the possibility of processing real time transactions or even valuable information between all parties without the need of including a third party. This technology, once successfully set in motion, will remodel banking completely. Thus, one has to be up to date with new discoveries and keep investing in the in-house R&D projects to find out ways to still be profitable in the business. In conclusion, there is no particular way to ensure success, but to continually transform with changing times to remain a viable option among competition. **MA**

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## OBITUARY



*The Institute and its members deeply mourn the demise of CMA Mahadevan Raman, Member of the Institute who left for heavenly abode on 23rd December, 2019. He was the Chairman of Metcon Coatings And Chemicals (I) Pvt. Ltd.*

*May his family have the courage and strength to overcome the loss.*



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# **BRANCHLESS BANKING AN EFFECTIVE DEVICE TOWARDS FINANCIAL INCLUSION: A STUDY CONDUCTED AT BANGALORE RURAL DISTRICT**



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## **Abstract**

*In order to achieve greater financial inclusion in India, and at the same time to bridge the gap between demand and supply of financial service delivery in unbanked areas the Reserve Bank of India, based on the recommendations of the Khan Committee report proposed Business Correspondent model in the year 2006. The present study was conducted to know the awareness level of the services provided by business correspondent model among the rural poor and the challenges faced while availing those services. Using random sampling method data was collected from 315 respondents availing the services of business correspondent model from all four blocks of Bangalore rural district. The primary data was collected using interview schedule and statistical tools like simple percentage and Friedman rank test were used for analysing the primary data. Most of the respondents were aware of the services provided by BC's was the major finding of the study.*

## 1. Introduction:

In order to increase the banking services in Financial Excluded areas<sup>1</sup>, Reserve Bank of India introduced the concept of Business Correspondent model in the year 2006 which is recognized as an alternative banking structure to branch-based banking services, and thereby permitting public sector banks in making use of the services of Non-Governmental Organisations/Self-Help Groups (NGOs/SHGs), Microfinance Institutions (MFIs) and other Civil Society Organizations (CSOs) as mediators in providing financial and banking services.<sup>2</sup> Business correspondents are retail agents engaged by banks for offering banking services in non-bank branch areas or non-existences of ATMs. Banks are wholly responsible for various activities of BCs. The BCs facilitates banks to increase its outreach and offer limited banking services at reasonable cost and thereby substituting brick and mortar branch. As a result, BCs are a vital part of business plan for achieving greater financial inclusion.

Few activities undertaken by BC's includes identifying borrowers, collection and initial processing of loan requirements including validation of information, creating awareness on savings and other services, educating and providing advices on money management and debt counselling, encouraging and monitoring Self Help Groups, follow-ups in case of recoveries, collection of deposits of small denominations, disbursement of credit, collection of interest, sale of insurance or mutual fund products or pension products or other third party products and receipt and delivery of remittances and other payment instruments. The bodies qualified as BCs includes individuals such as retired bank employees, retired teachers, retired government employees, ex-servicemen, agents of small savings schemes of Government of India, Insurance companies, Self Help Groups (SHGs) linked to banks.<sup>3</sup> As per the RBI guidelines, the BCs are permitted to act as agent and carry out financial transactions on behalf of banks and the model is supported by technology oriented tool as handheld devices, mobile phones and biometric scanners.<sup>4</sup>

## 2. Review of Literature

**Dr. N. Sundaram & Mr. M. Sriram (2015)**, opined in the study that BCs to use regional languages and build the idea of financial inclusion in the minds of the people by providing door-to-door services rather than using technology based devices, as majority of rural inhabitants are uneducated. The main purpose of engaging BC models

is to take care of those areas where no bank branches exist.<sup>5</sup>

**Varun Abrol (2018)**,<sup>6</sup> examined that business correspondents were permitted to offer only two services namely open no-frill basic savings bank account and also remittance services with a maximum limit of Rs. 5,000 per account and for any other services customers have to still visit banks. Some of the challenges faced by business correspondents include low remunerations and commission payable to business correspondents are delayed for longer period, where they even find difficult in setting up infrastructure. The other problem faced by Business correspondents include, bank accounts opened through BC's are traced and delayed for four to six months by bank branches and therefore the reliability of BC's in the minds of people is reduced and don't find consistent source or alternative to branch banking services.

**K.Subha (2018)**<sup>7</sup> analysed that, though BC model is at evolutionary stage, several investigation conducted helped to improve the skill sets and also by removing difficulties involved in operations of BCs. Therefore BC models adopted by banks has created a platform in creating a direct link between banks and customers and helped in managing huge volume of banking customers by providing improved economic level and thereby reducing the transaction costs.

**Nageswara Rao & et.al (2011)**<sup>8</sup> study conducted by researcher and his research team in Anantapur and Nashi revealed that, most of the young and educated people have accepted the BC Model, most of the BCs were comfortable in using technology but due to poor internet connectivity they could not scale up their operations, most of the BCs were dependent on agricultural and insurance activities as the income received by them was very low, most of the sufficient and required both from branches and CMF (Channel Management Facilitator), most of customer were happy for rendering banking services through BCs and were also satisfied with the services provided by them, the villagers were hesitant to pay charges through BCs to the banks, the study also found that, the business through BCs was insignificant.

**Miss Sarika1 & Dr. Raj Kumar (2017)**<sup>9</sup>, examined that during last 6 – 7 months 28 crore bank accounts were

<sup>1</sup> N.D.S.V Nageshwar Rao et al (2011). "Evaluation of BC/BF Model". *Research gate.net*. 505-575.

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opened, the Government bodies have taken numerous efforts like National Payment Corporation (NPC) to extend digital services to poor people and also to the remote areas of the country. Banks have adopted technology for providing financial services on wider scale without brick and mortar branches in faraway areas. BCs models adopted by banks permits to provide door-to-door services mainly cash-in and cash-out transactions to rural people. Though the BC model is very attractive but did not carried out effectively due to various limitations linked with it, namely high restrictions on the operations of BCs by banks and secondly low salaries paid to them which is not sufficient to carry on their operations like covering distance areas etc.

**Shivashankar, R. K. (2012)<sup>10</sup>** examined that, inspite of various challenges, substantial numbers of Business Correspondent Network Managers (BCNMs) are very positive towards this model and also believe that it got huge potential, provided the construct results in low cost and high profit for long term sustainability of the model. This will be achieved if sufficient support is extended by banks and various entities for building strong agent network. Thus BCNMs and banks should work continuously in taking maximum advantage of Business Correspondent model to the best possible ways towards delivering impact and value to customers, and at the same time guaranteeing market-led development for the members.

### 3. Statement of the Problem:

The Business Correspondent models mainly envisioned to reach out diverse populace, particularly who are financially excluded from formal banking system in rural regions. The business correspondent model acts as an extended arm of the bank and expands their operations at lower cost. These agents are provided with a technology based device to carry on their financial transactions on behalf of bank. Some of the advantages of BC models include, greater reach at much faster rate involving lower cost and replacing brick-and-mortar branches in unbanked areas, providing door step banking services and improving the loan performance and repayment rates and thereby strengthening borrowers accountability<sup>11</sup>.

The present study aims to know whether the objective of establishing BC role in reaching all villages with populations more than 2,000 by end of 2012 is achieved or not? Hence, a research is conducted to know what is the awareness level of the services provided by business correspondents and challenges faced by the rural poor while availing their services of Bangalore rural district.

### 4. Objectives of the Study

1. To know the perception and awareness level of the services provided by BC Model among the rural poor of Bangalore rural district.

<sup>10</sup> Shivashankar, R. K. (2012). *State of Business Correspondent Industry in India- The Supply Side Story. Microsave- Market-led Solutions for Financial Services.*

<sup>11</sup> <https://nextbillion.net/india-business-correspondents-failing/>

2. To assess the challenges faced by the rural poor while availing the services of BC model.

### 5. Hypothesis:

**Null hypothesis:** There is no difference in intensity of challenges faced by rural poor while availing financial services of BC

**Alternate hypothesis:** There is a difference in intensity of challenges faced by rural poor while availing financial services of BC

### 6. Research Design and Methodology:

The study is descriptive in nature and scope is confined only to Bangalore Rural District of Karnataka. Both primary and secondary data were used. The primary data was collected using random sampling technique from 315 respondents belonging to all four taluks of Bangalore Rural District, namely Hoskote taluk, Nelamangla taluk, Devanahalli taluk and Dodbballapura taluk through interview schedules and secondary data was collected from articles, journals and official websites of RBI. The data collected for the study have been analysed using statistical tools like simple percentage and Friedman test.

### Discussion & analysis:

#### 7.1 Table showing the demographical variables of the respondents

Sl. No.	Particulars	Variables	% age
1	Gender	Male	53.0
		Female	47.0
2	Qualification	No Schooling	43.2
		Up to 5th Standard	9.8
		Up to 10th Standard	34.6
		Up to 12th Standard	10.8
		Graduate	1.6
		Post Graduate	0.0
3	Availability of bank in the village	Yes	5.4
		No	94.6
4	Frequency of visits to the bank	Once	84.1
		Two to three times	14.3
		Four to five times	1.0
		More Than 5 Times	0.6

5	Availing of loan	Yes	6.0
		No	94.0
6	Awareness of BC Model	Yes	94.6
		No	5.4
7	Source of awareness of the schemes introduced by Government of India and RBI.	Relatives	2.5
		Friends	8.8
		Newspaper	4.7
		Bank	84.0

Source: Survey data

The Demographic profiles of the respondents revealed that, majority of the respondents are male. Most of the respondents have not done their schooling. Majority of the respondents opined that, there is no existence of bank in their village. The study also revealed that majority of the respondents visit the bank at least once in a month. And only few responded have availed loan. The key findings of the study is majority of the respondents were aware about the schemes introduced by the Government and RBI.

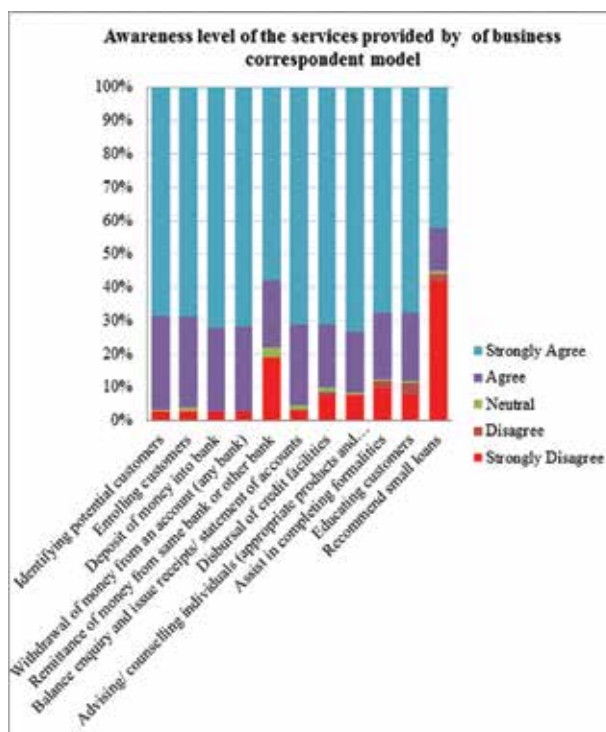
## 7.2 Table showing the awareness level of the services provided by Business Correspondents Model.

Sl. No.	Services		SDA	DA	N	A	SA
1	Identifying potential customers	F	8	0	2	89	216
		%	2.5	0.0	0.6	28.3	68.6
2	Enrolling customers	F	8	0	4	87	216
		%	2.5	0.0	1.3	27.6	68.6
3.1	Deposit of money into bank	F	8	0	0	80	227
		%	2.5	0.0	0.0	25.4	72.1
3.2	Withdrawal of money from an account (any bank)	F	8	0	0	81	226
		%	2.5	0.0	0.0	25.7	71.7
3.3	Remittance of money from same bank or other bank	F	60	0	9	63	183
		%	19.0	0.0	2.9	20.0	58.1
3.4	Balance enquiry and issue receipts/ statement of accounts	F	8	2	4	77	224
		%	2.5	0.7	1.4	25.0	68.4

		%	2.5	0.6	1.3	24.4	71.1
3.5	Disbursal of credit facilities	F	23	4	4	60	224
		%	7.3	1.3	1.3	19.0	71.1
4	Advising/ counselling individuals (appropriate products and services)	F	24	0	2	58	231
		%	7.6	0.0	0.6	18.4	73.3
5	Assist in completing formalities	F	30	7	2	63	213
		%	9.5	2.2	0.6	20.0	67.6
6	Educating customers	F	24	11	2	65	213
		%	7.6	3.5	0.6	20.6	67.6
7	Recommend small loans	F	131	7	3	41	133
		%	41.6	2.2	1.0	13.0	42.2

Source: Primary data

## 7.2 Graph showing the awareness level of the services provided by Business Correspondent Model.



### Inference:

The above table and graph it is inferred that majority of 216 beneficiaries amounting to 68.6% strongly agreed that BC model enables identification of potential customers and more than 25% agreed that not only identifying but also enrolling

the customers as account holders in the banks is done by the business correspondents. When enquired about the opinions on door to door services of the scheme, a majority of 227 respondents amounting to 72% strongly agreed that this scheme enables deposit of money into the banks. An overall 97% of the beneficiaries agreed that withdrawal of money is another advantage of door to door accessibility of banking services. 58.1 % respondents strongly agreed that remittance of money from one account to another is possible, a small percentage of 60 respondents disagreed to the same. A greater majority of 224 respondents who are 71% strongly agreed that Balance enquiry and issue receipts/ statement of accounts is another service provided by BC's.

The other major services include Advising/ counselling individuals (appropriate products and services), 73.3 % respondents strongly believed that business correspondents not only identify the customers but also help them by giving them right and appropriate advice on banking products and services. Completing of banking formalities is one of the challenges faced by rural poor, but a majority of 67.6% respondents strongly expressed that business correspondents provide assistance to finish banking procedures. A similar percentage of respondents believed that the BC's educates rural poor on banking facilities. A contrasting opinion was noticed when enquired whether BC model recommends small loans, 41.6% strongly disagreed and 42.2% beneficiaries strongly agreed on the same.

### 7.3 Table showing challenges of Service 1 - Identifying potential customers

Codes	Challenges		SDA	DA	N	A	SA
IPC_1	Not aware	F	147	121	14	2	31
		%	46.7	38.4	4.4	0.6	9.8
IPC_2	Biased	F	147	109	28	0	31
		%	46.7	34.6	8.9	0.0	9.8

Source: Primary data

#### Inference:

The business correspondent model claims to identify potential customers, A majority of 147 respondents amounting to 46.7% strongly disagreed and 121 respondents amounting to 38.4% beneficiaries disagreed that no awareness and biased attitude of the business correspondent are a challenge to service.

### 7.4 Table showing the challenges of Services 2- Enrolling customers

Codes	Challenges		SDA	DA	N	A	SA
EC_1	Does not provide information	F	133	112	14	10	46
		%	42.2	35.6	4.4	3.2	14.6

EC_2	Lengthy documentation procedure	F	133	117	12	13	40
		%	42.2	37.1	3.8	4.1	12.7
EC_3	Time consuming	F	133	119	16	7	40
		%	42.2	37.8	5.1	2.2	12.7

Source: Primary data

#### Inference:

The service availed by the customers may be associated with some challenges, when enquired whether business correspondent do not provide enough information, 133 respondents accounting to 42.2% strongly disagreed, 112 respondents accounting 35.6% disagreed that there is lack of information, which interprets that this challenge is not very prominent. The responses of the customers are consistent for all challenges about 12-14% respondents strongly agreed on the disadvantages, about 2-4% beneficiaries agreed. A greater majority of 42.2% respondents strongly disagreed and 35-37% respondents disagreed that business correspondent do not provide information, the lengthy documentation procedure and time consumption are challenges of service – 2.

### 7.5 Table showing the challenges of Service 3 - Door to door banking services

Codes	Challenges		SDA	DA	N	A	SA
DBS_1	Not aware of the service	F	117	126	18	14	40
		%	37.1	40.0	5.7	4.4	12.7
DBS_2	Did not provide door-to-door services	F	118	125	24	1	47
		%	37.5	39.7	7.6	0.3	14.9
DBS_3	Did not provide timely services	F	116	124	27	8	40
		%	36.8	39.4	8.6	2.5	12.7
DBS_4	High processing fee	F	114	128	26	0	47
		%	36.2	40.6	8.3	0.0	14.9

Source: Primary data

#### Inference:

The challenges of door to door services have consistent responses from the beneficiaries' .about 114-115 respondents amounting to 35-38% strongly disagreed on the challenges of the respondents. 12-15% respondents strongly agreed on the challenges but it is very small as compared to the disagreement.



**7.6 Table showing the challenge of Service 4 – Advising/counselling village people (appropriate products and services)**

Codes	Challenges		SDA	DA	N	A	SA
CVP_1	Does not provide appropriate information	F	126	124	9	22	34
		%	40.0	39.4	2.9	7.0	10.8
CVP_2	BC not aware of the information	F	135	117	8	22	33
		%	42.9	37.1	2.5	7.0	10.5
CVP_3	Require training	F	134	121	5	22	33
		%	42.5	38.4	1.6	7.0	10.5

Source: Primary data

**Inference:**

When enquired on the challenges of the advising and counselling of rural poor CVP\_1 Does not provide appropriate information, CVP\_2 BC not aware of the information and CVP\_3 Require training, a majority of 40-42% respondents strongly disagreed, 37-39% agreed and very small percentage of 7% agreed and 10% strongly agreed on the challenges of the service 4. It can be interpreted that there are no many disadvantages of the BC model.

**7.7 Table showing the challenges of Service 5 - Assist in completing formalities**

Codes	Challenges		SDA	DA	N	A	SA
ACF_1	Does not help in Filling document (loan/deposit/remittances)	F	149	19	36	71	40
		%	47.3	6	11.4	22.5	12.7
ACF_2	Does not help in disbursing small loans	F	109	35	62	24	85
		%	34.6	11.1	19.7	7.6	27
ACF_3	Does not Collects payments and fee (as per the guidelines)	F	127	25	99	31	33
		%	40.3	7.9	31.4	9.8	10.5
ACF_4	Hidden charges	F	136	124	39	8	8
		%	43.2	39.4	12.4	2.5	2.5
ACF_5	Insist on service charges	F	134	118	54	1	8
		%	42.5	37.5	17.1	0.3	2.5

Source: Primary data

**Inference:**

When enquired whether the BC staff does not support in filling document (loan/deposit/remittances) a majority of 149 respondents accounting to 47.3% strongly disagreed and 12% strongly agreed that the BC staff does not render any help in filling the documents.

ACF\_2 which shows that BC staff does not help in disbursing small loans revealed that 109 beneficiaries amounting to 34.6% strongly disagreed and 27% respondents strongly agreed to the same. A majority of 127 beneficiaries amounting to 40.3% strongly disagreed that the BC staff does not collect payments and fee (as per the guidelines). A similar percentage of 42-43% strongly disagreed that there are any hidden charges and service charges. It can be interpreted that a majority of more than 50% respondents feel that there are less challenges to the service -5

**7.8 Table showing challenges of Service 6 – Educating customers**

Codes	Challenges		SDA	DA	N	A	SA
EDC_1	Does not explain benefits of having a bank account	F	210	81	11	7	6
		%	66.7	25.7	3.5	2.2	1.9
EDC_2	Does not provide information on the types of accounts	F	223	62	15	8	7
		%	70.8	19.7	4.8	2.5	2.2
EDC_3	Does not provide information on the various interest rates	F	223	54	17	10	11
		%	70.8	17.1	5.4	3.2	3.5
EDC_4	Does not Provide information on the different types of loans and its repayment tenures	F	223	56	7	16	13
		%	70.8	17.8	2.2	5.1	4.1
EDC_5	Does not educate on best saving and investment avenues available	F	201	24	57	18	15
		%	63.8	7.6	18.1	5.7	4.8

EDC_6	Does not educate on types of products and services available	F	204	27	35	18	31
		%	64.8	8.6	11.1	5.7	9.8
EDC_7	Does not educate on subsidies available	F	137	31	6	31	110
		%	43.5	9.8	1.9	9.8	34.9

Source: Primary data

### Inference:

The rural population is generally unaware of the various banking products and services, Business correspondents are those individuals who are embedded with the responsibility of educating customers on the various benefits, products and services provided by the banks. Item EDC\_1- Does not explain services of having a bank account is strongly disagreed by the 210 respondents accounting to 66.7 %, Item EDC\_2 Does not provide information on the types of accounts Item EDC\_3-Does not provide information on the various interest rates and item EDC\_4 Does not Provide information on the different types of loans and its repayment tenures is strongly disagreed by the 223 respondents accounting to 70.8 %. Item EDC\_5 Does not educate on best saving and investment avenues available is strongly disagreed by the 201 respondents accounting to 63.8 %, Item EDC\_6 Does not educate on types of products and services available is strongly disagreed by the 204 respondents accounting to 64.8 %, EDC\_7 Does not educate on subsidies available is strongly disagreed by the 137 respondents accounting to 43.5 %.

**7.9 Table showing the challenges of Service 7 - Recommend small loans**

Codes	Challenges		SDA	DA	N	A	SA
RSL_1	Not aware	F	3	15	13		284
		%	1.0	4.8	4.1		90.2
RSL_2	High processing fee /hidden charges/ commission	F	4	8	12	7	284
		%	1.3	2.5	3.8	2.2	90.2
RSL_3	Delay in disbursement	F	6	15	4	6	284
		%	1.9	4.8	1.3	1.9	90.2
RSL_4	High interest rate	F	4	8	6	13	284
		%	1.3	2.5	1.9	4.1	90.2

Source: Primary data

### Inference:

A majority of 284 respondents amounting to 90.2 % strongly agreed that BC Staff is not aware of the loan schemes, there is High processing fee /hidden charges/ commission, Delay in disbursement and High interest rate. It can be interpreted that Out of all the challenges discussed for the services above only recommendation of small loans have the highest challenges.

### 8. Testing of Hypothesis:

H0: There is no difference in intensity of challenges faced by rural poor while availing financial services of BC

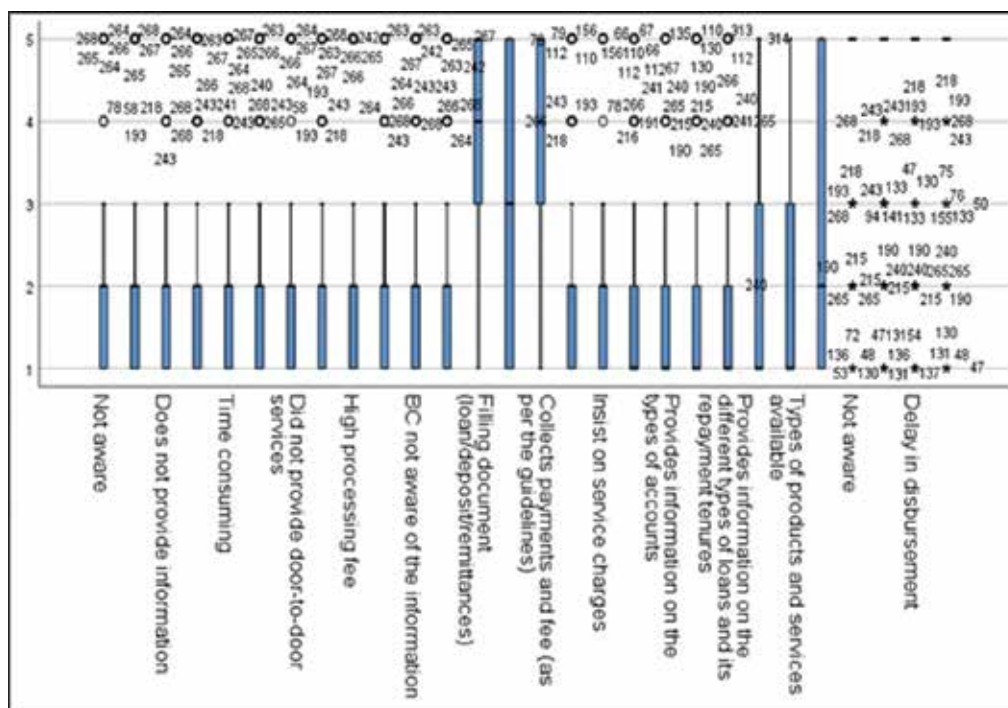
H1: There is difference in intensity of challenges faced by rural poor while availing financial services of BC

**8.1 Table showing the Friedman rank test challenges faced by rural poor while availing various financial services of Business Correspondent model – Descriptive statistics**

Descriptive Statistics						
	N	Mean	Standard Deviation	Minimum	Maximum	Mean Rank
IPC_1	315	1.89	1.189	1	5	12.31
IPC_2	315	1.92	1.200	1	5	12.55
EC_1	315	2.12	1.378	1	5	13.63
EC_2	315	2.08	1.329	1	5	13.28
EC_3	315	2.05	1.307	1	5	13.22
DBS_1	315	2.16	1.315	1	5	13.74
DBS_2	315	2.16	1.337	1	5	13.77
DBS_3	315	2.15	1.297	1	5	13.71
DBS_4	315	2.17	1.328	1	5	13.89
CVP_1	315	2.09	1.295	1	5	13.36
CVP_2	315	2.05	1.296	1	5	13.12
CVP_3	315	2.04	1.291	1	5	13.04
ACF_1	315	3.86	1.399	1	5	19.95
ACF_2	315	3.12	1.626	1	5	16.11
ACF_3	315	3.62	1.355	1	5	19.25
ACF_4	315	1.82	.925	1	5	11.81
ACF_5	315	1.83	.901	1	5	11.76
EDC_1	315	1.47	.826	1	5	8.83
EDC_2	315	1.46	.875	1	5	8.67
EDC_3	315	1.51	.985	1	5	9.01
EDC_4	315	1.54	1.047	1	5	9.11
EDC_5	315	1.80	1.200	1	5	10.81
EDC_6	315	1.87	1.365	1	5	10.78
EDC_7	315	2.83	1.821	1	5	15.58
RSL_1	315	4.74	.824	1	5	23.45
RSL_2	315	4.77	.747	1	5	23.85
RSL_3	315	4.74	.858	1	5	23.51
RSL_4	315	4.79	.713	1	5	23.90

Source: Primary data

## 8.1 Graph showing the Friedman rank test challenges faced by rural poor while availing various financial services of Business Correspondent model – Boxplots



### Inference:

For testing more than 3 variables having identical population means, the first option is a repeated measures ANOVA. This requires our data to meet some assumptions-like normally distributed variables. If such assumptions aren't met, then our second option is the Friedman test: a nonparametric alternative for repeated-measures ANOVA.

Strictly, the Friedman test can be used on ordinal variables but ties may be an issue in the latter case. The above table shows the descriptive statistics for all the challenges faced by the beneficiaries in availing the benefits of the BC Scheme. The mean scores are used to generate the ranks for each of the challenges. The mean scores column shows that the mean scores are different ranging from 1.00 to 4.50 indicating that all means are not equal.

## 8.2 Table showing the Friedman rank test challenges faced by rural poor while availing various financial services of Business Correspondent model – Descriptive statistics

Test Statistics <sup>a</sup>	
N	315
Chi-Square	3758.869
df	27
Asymp. Sig.	.000
a. Friedman Test	

Source: Primary data

### Inference:

The Friedman test is a non-parametric statistics used to know the difference between groups. The difference among repeated measures was conducted and rendered a Chi-square value of 3758.869 which was significant at 0.000 where, the p value is less than 0.01. Hence null hypothesis is rejected.

### Findings:

- 94.6% of the respondents opined that there was no bank in their village.
- Majority of the respondents were aware of business correspondent model.
- Most of the respondents were aware of the services provided by business correspondent model, where in 68.6% of the respondents agreed that BC model has enabled in identifying potential customers, 72% also agreed that the BC's have enabled in depositing their money into bank accounts, 97% of them strongly voiced that withdrawal of the money is another prominent door to door service provided.
- In case of remittance of money from one account to another account 60% of the respondents were not aware of such service provided by BC's.
- 71% of the respondents strongly agreed that they were aware that, balance enquiry and issue of receipts was another service provided by BC's.
- 73.3 % respondents strongly believed that business correspondents not only identify the customers but also help them by giving them right and appropriate advice on banking products and services.

- vii. 67.6% respondents strongly expressed that business correspondents provide assistance to complete banking procedures.
- viii. From the study it is revealed that, with respect to the challenges faced by the respondents while availing the services of business correspondent model, most of those challenges faced by them were insignificant. But in case of recommendation of small loans 90.2% of the respondents strongly opined that BC's were not aware of various loan schemes, and therefore was the major challenge identified.
- ix. The Friedman rank test revealed that difference among repeated measures was conducted and rendered a Chi-square value of 3758.869 which was significant at 0.000 where in, the p value is less than 0.01. Hence it is clear that there is difference in intensity of challenges faced by rural poor while availing financial services of BC model.

## 10. Conclusion:

Among the various initiatives taken by Government of India and Reserve Bank of India in bringing the unbanked people under the banking fold, business correspondent model is considered to be one of the most effective tool towards financial inclusion. From the study it is concluded that most of the respondents of Bangalore rural district are aware of the services provided by the business correspondent models and have faced challenges which are very insignificant while availing their services. Hence providing sufficient training to the business correspondent models would no doubt, will help in extending their operations in far reach areas more effectively and achieve greater financial inclusion.

## 11. Suggestions:

- i. Providing adequate training to business correspondents by the concerned banks would help them to reach the unbanked areas and thereby contribute significantly towards financial inclusion
- ii. Since most of the respondents opined that business correspondents educate customers in terms of providing information on types of accounts available, interest rates, loans, repayment tenures & various avenues, it is suggested for BC's to continue in educating customers so that the respondents would be more familiar with various banking products and service and enhance their financial status.
- iii. Banks to conduct financial literacy programmes on regular which helps the respondents to increase their financial knowledge.
- iv. Providing basic infrastructure facilities would ease out the financial burden on the business correspondent models, as they are given access to the accounts linked to home branches, so that can carry on transactions from remote locality. This infrastructure requires initial investments, which needs to be provided by the concerned banks.
- v. Timely payment and increase in remuneration of the

BC's, by the concerned banks would motivate them to carry on their business activities more effectively.

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# PRACTICAL APPLICATION OF THE MANAGEMENT ACCOUNTING TOOLS FOR DECISION MAKING DURING RECESSION – SURVEY & ANALYSIS



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## 1. Introduction

**N**obel Prize winning concepts have been praised and taught in class rooms, but to what extent they have also found their way into corporate board rooms remains somewhat *opaque*. Over the last century academics across the globe are working on various models and theories which can help firms for taking most profitable decisions. In this paper, we have attempted to understand practical applications of Management Accounting tools by conducting a survey on how owners deal with different challenges posed by financial management tools. Being the first attempt in this regard, results can be used as a benchmark for future studies.

## Abstract

*In this paper, we present the results of a survey among 30+ Medium Sized Auto & Engineering units on use of Management Accounting techniques like Standard & Marginal costing techniques, Funds flow analysis & Ratio analysis, Budgeting & Variance reporting etc. This was unique attempt focused on Medium sized Auto & Engineering units. We document interesting insights on how theoretical concepts are applied by owners / decision makers in practice. We observed glaring variations between Auto & Engineering unit practices and use of Management Accounting techniques based on ownership pattern. While Private & Public Limited units with professional Management ensure proper use of budgeting, standard costing, funds flow analysis and variance analysis reporting while assessing the financial feasibility of any decision. At the same time, it was observed that owner based firms use budgeting and ratio analysis, but still continue with best judgement policy. Usage of standard costing was observed to be more popular in Auto units while Engineering units prefer marginal costing over standard costing for pricing. Cash flow / liquidity, appears to be the most important consideration while taking any decision, especially during recessionary period. Although the result is restricted to Pune district, for H1 financials, they are expected to be symmetric for other geographical areas. Corporate finance practice for application of various Management Accounting techniques appears to be influenced mostly by involvement of owners, monitoring / review pattern, firm size, nature of industry etc.*

Survey was carried out in the background of prevailing recessionary business conditions, leading to more focus on cash conversation and use of appropriate Management accounting technique/s in its true sense.

All business activities are carried out with an objective of **profit maximisation** either with sales growth or with cost control and all management efforts are directed towards achievement of this sole objective. Professional Managers take any decision based on analysis of data.

**Every business situation is different and each decision is not a straight forward decision.** Through the survey we explored whether the apparent differences in situations translate into significantly different financial management practices for each unit.

In order to match theoretical principles with the behaviour of financial managers in practice we apply survey research. We analysed a wide range of corporate finance decisions, ranging from Standard & Marginal costing, Ratio & Funds flow analysis, Budgeting & Variance analysis reporting, which allows us to link the different issues and thereby deepen our analysis.

We have surveyed 30+ manufacturing auto and engineering units and analysed the results by using **Kolmogorov Smrinov's one sample test** for testing the hypothesis which represents the unique survey sample in the financial literature.

Survey research is rare within the empirical corporate finance literature, where most studies are based on large samples of financial observations. Although these large samples offer cross-sectional variations, they are hampered with respect to the specification and are limited to dealing with quantifiable issues.

**'Cost' being a sensitive data, accurate availability may restrict the accuracy of results. However due care is being taken to ensure accuracy of the data.**

This type of practical field studies are rare, we expect some path-breaking studies will preceded this endeavour.

## 2. Data and methodology

Considering the confidentiality of data, researcher collected the primary data through 'questionnaire' through Google drive and select personal visits to the organizations by meeting experts in the field and top level officials in the organizations and updating the same on Google Drive.

### 2.1 Structure of questioner

Questionnaire was structured in consultation with industry professionals and is broadly divided in 4 parts.

Questioner Part No	Heading	Broad contents
Part I	General data	Nature of industry, Investment in plant and machinery

Part II	Performance	Details of performance in terms of sales growth, exports, order position, cost of critical raw material, manpower, capex & overall profitability
Part III	Overall cost control	Details are asked for changes in cost of major raw material, Alternate material, Share of business, Research & Development cost, Power consumption, No. of working shifts, Marketing expenditure etc  Specific actions taken for overall cost control like outsourcing, change in costing methodology, increasing capacity utilisation of available machines, discontinuation of activities, manpower resizing etc.
Part IV	Future outlook	Details about time required for economic recovery and additional majors required for overcoming recession are captured

Table No 1: Broad contents of questioner

### 2.2 Analysis of data collection through questioner

Based on DIC data, researcher approached all 31 organisations registered with DIC as per DIC report of 2013. Out of that 29 respondents (90%) reported and are considered for analysis.

- Out of 29 companies; 15 units (51%) were of Engineering companies and 14 units (48%) were Auto Ancillaries in Pune district;
- 21 companies (72%) have their DIC registration, and
- All companies have investment in plant and machinery of more than 5 Crs, confirming their status as medium scale unit as per MSME definition

### 3.0 Management Accounting Techniques

This section examines the way in which organisations evaluate business decisions. We carefully consider the underlying characteristics of the organisation in order to link the results of profit maximisation objective.

#### 1. Tools Based on Financial Accounting Information

- Analysis of Financial Statements through Ratio Analysis.
- Analysis of Financial Statements through comparative statements, trend, graph and diagram.
- Fund flow and cash flow analysis.
- Return on capital employed techniques.

## 2. Tools Based on Cost Accounting Information

- Marginal costing (including cost volume profit analysis) or Direct or incremental Costing
- Standard Costing.
- Analysis of Cost Variances.

## 3. Tools Based on Future Information

- Budgetary control and Analysis of Variances.

## 4. Other Tools

- Management Information System.

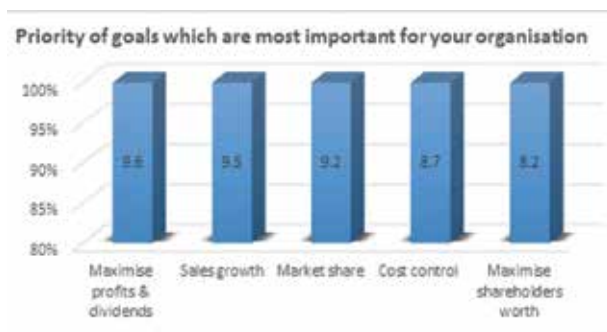
During survey we have asked about usage of Management Accounting techniques and respondents are asked to score how frequently they use the different techniques.

It was observed that, Budgeting is in place in most of the organisations which is carried out for compliance of banking requirements followed by variance analysis and Management Information System as per Senior Management requirements.

## 4. Analysis of Data

### 4.1 Organisational Goals

Following graph summarize the average responses to the questions: “Which goals are important for your organisation on the scale of 1-10”



Graph 1: Goals / Priorities for the organisation

Profit maximisation is highest priority of all respondents by increasing sales (95% respondents). 90% gave priority for maintaining / improving market share, cost control objective got priority by 85% respondents followed by maximisation of shareholders wealth 81%.

**Profit Maximisation** is the main objective of all commercial organisations in any free economy. It is a common notion that profit maximizers have better chances of survival.

Term ‘**Profit Maximization**’ is understood as ‘the short run or long run process by which a firm determines the price and output level that returns the greatest profit’.

Owners / shareholders expect growth in profits / reserves year-on-year (YoY), and measure performance of the organization in terms of profits earned.

*Existence of any organization will get questioned if it is not profit worthy.*

**Profits can be maximised either by increasing sales or by cost control.**

### 4.1.a Profit maximization through sales growth

It was observed that, the **total revenue-total cost perspective** and the **marginal revenue-marginal cost perspective** are used to find profit maximizing quantities, **cash flow being the deciding factor**.

**With limitations on growth of sales, alternative left with Management is to ‘CONTROL COSTS’ and increase / maintain its profitability and ensure survival.**

During interaction with Industry Experts, this point was acknowledged by senior Management personnel. Total demand for the product cannot be increased overnight. In other words, total industry size remains constant, organisation can influence is their share of market out of total industry size.

**Increasing market share is generally at a cost of additional discounts or additional overhead costs.**

### 4.1.b Profit Maximisation through Cost Control

Cost control is a series of steps that a business uses to maintain proper control over its costs. It is the process of **looking for, finding and removing unwarranted expenses from a business to increase profits without having a negative impact on product quality**.

Cost control has become an integral part of the Operational Management, starting from designing to project implementation.

‘**Cost Control**’ forms observed are;

- Reduction of manpower
- Usage of alternate material
- Sub-contracting
- Shifting of unit to under developed areas (for availing subsidies)
- Activity based costing techniques
- Target Costing ... etc.

**Cost control is a continuous process**, it is **the management’s intentional efforts to influence the actions of the individuals** who are responsible for performing tasks, incurring costs, and generating revenues.

As informed by respondents, cost control activity begins with the annual budgeting exercise. As the fiscal year progresses, management compares actual results to those projected in the budget through the budget process and accounting controls, management establishes overall company objectives, defines the responsibility centres

and designs procedures and standards for reporting and evaluation through MIS.

At regular intervals, responsibility centre head evaluates the performance against the budget and takes necessary steps to correct the positive / negative deviation. It could be in the form of

- Rearranging manufacturing processes / manpower
- Changing product mix, or
- Realignment of the budget itself.

**Cost control is defined as the process or activity on controlling costs associated with an activity or process.**

To be profitable, companies must not only earn revenues, but also control costs. If costs are too high, profit margins will be too low, making it difficult for a company to succeed against its competitors & build reserves for future.

### Limitations to Profit Maximisation objective

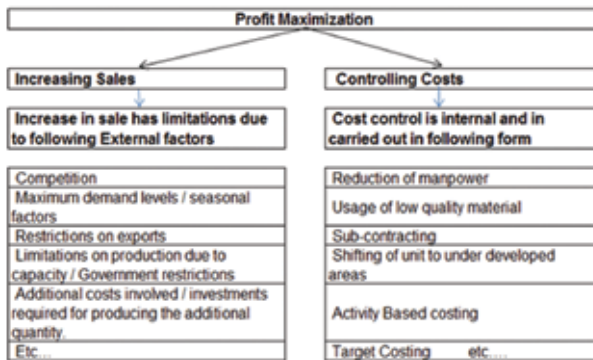


Table No 4.2: Limitations on Avenues of Profit Maximisation & forms of cost control

Source: compiled by Researcher

### 4.2 Organisational Performance

In response to question 'How your organization performed during last year; over previous year following were the responses

Particulars	Domestic Sales	Exports	Order Inflows	Critical Raw material cost	Manpower nos	Capex	Profitability
Decrease less than 10%	59%	21%	28%	69%	34%	21%	38%
Decrease 10% -25%	21%	21%	31%	7%	41%	31%	10%
Increase less than 10%	7%	10%	14%	10%	14%	34%	21%
Increase 10% -25%	14%	24%	17%	7%	3%	3%	0%
No major change	0%	24%	10%	7%	7%	10%	31%

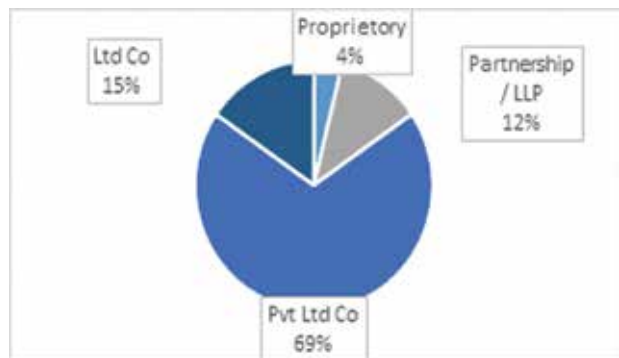
Table No 3: Response analysis of organisations performance

During interview, Industry Experts highlighted that **Lot of importance and publicity is being given for increased sales, but Cost Control is not discussed to that extent.** Cost control exercises are carried out in some form or other depending upon **priorities and customer demand.**

**Many times OEM's demand price reduction forcing units to carry out commercial negotiations or value engineering.**

### 4.3 Impact of structure on usage of Management accounting techniques

It was observed, **type of organisation** that has big impact on usage of Management accounting techniques for achievement of 'profit maximisation' objective. It was observed that Private Limited companies is most preferred nature of organisation for medium scaled organisations because of its easiness in observance of corporate governance and its flexibility.



Graph 2 - Impact of structure on usage of Management accounting techniques



## Clear indications of recessionary trends and cautious approach towards spending is observed

- Domestic sales were down for 80% of units covered
- 42% reported reduction in exports, while 24% reported no major change
- 59% reported reduction in order inflows

## Indications of focus on cost reduction

- 76% reported reduction in cost of critical RM
- 75% reported reduction in manpower numbers (there was salary increment of less than 5% given during this period)

## Impact on profitability

- Although 80% of units have reported drop in sales, 52% of units reported either no change or increase in profitability
- Interesting to note that none of the units have reported profit growth of more than 10%

## Impact on sales (Domestic + Exports)

- For domestic sales, 6 Engineering and Auto companies registered sales de-growth
- 3 Auto/ Auto Ancillary companies registered de-growth more than 10% due to dependence on few major OEMs for domestic sales and OEM's itself have registered sales decline.
- Other companies who managed to restrict their sales decline to >10% were having diversified products / customer base.
- Only one auto company registered sales increase of 10% -25% due to new concept introduction by OEM's on a lower sales base
- Out of sample, 2 engineering units have registered sales decrease of 10% -25% but increase in exports of 10% -25%.
- Except, one engineering unit, all other companies, who lost their domestic sales, improved / maintained export sales.
- 2 engineering companies registered sales increase of 10% -25%; mainly due to additional orders and lower sales base.
- On domestic front, 80% of Auto / Engineering companies registered sales decline, on exports front 58% companies registered increase / no change in export sales; indicating severity of depression during the period

Critical Raw Materials were identified as steel, aluminium, brass & plastics, 83% of the companies has recorded decline in costs of these critical RM.

- Fall in prices of Critical Raw Materials indicates severity of recession.

On manpower front no major change was reported by 7% companies (Mainly Engineering companies). 75% (mainly auto) companies reported reduction in manpower numbers due to reduced sales.

It was informed that reduction was mainly in casual / temporary labour deployed on shop floor.

2 companies have registered increase in manpower numbers as both have improved sales

- Overall employment levels have fallen during recession (mainly in Auto)

## During recession, it is general trend to conserve cash and minimise expenses even capex on development.

Trend is observed with 52% companies reporting reduction in capex both in auto and engineering companies

~ 48% companies have reported either increase / no change in capex.

- Capex spent is mainly for diversification/ product improvement / cost reduction

~ 38% (6 companies) (mainly auto) reported profitability decline by 10% over previous year.

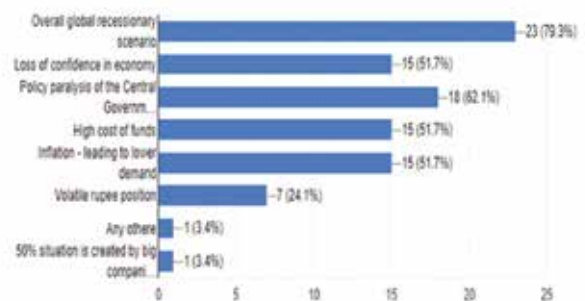
9 companies have reported no change, despite drop in sales volumes, and 6 companies have reported increase in profit.

These companies have reported increase in export sales, reduction in RM costs, manpower cost reduction and have undertaken cost control majors.

- Profitability improvement is reported mainly in engineering organisations. Recession in auto companies is linked to cyclical trends.
- Companies have informed to have resorted to heavy cost control during this period.

## 4.3 Factor that caused recessionary trend in Indian economy

We have asked respondents to list out factors that caused recessionary trend in Indian economy



Graph 3 : Factors leading to recessionary trend in Indian economy

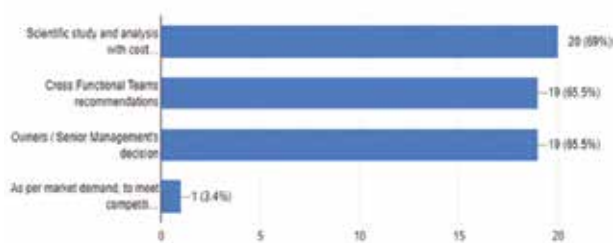
Majority of Auto companies reported overall global recession, unfriendly business policies of the government and high cost of funds as main factor that caused recessionary trend in Indian economy

Engineering companies highlighted overall global recession, corruption & Inflation as major reasons.

#### 4.4 Mode of Decision making

For the question which of the following Management accounting techniques, does your organisation use for decision making.

Majority responded use of Management Accounting technique of Planning and budgeting techniques, standard & marginal costing techniques and Project payback period techniques.



**Graph 4 : Management accounting techniques used for decision making**

Cost control decision are taken with the help of scientific study and analysis with costing tools (79%), cross functional teams recommendations & owners / senior management's decision (21%)

Limited companies were more organised and were using Management Accounting techniques to support decision making, Indicating reasonable level of professionalism and highlighting general perception that with the help of Management Accounting techniques, objective of cost control can be achieved.

#### 4.5 Future outlook

Respondents were asked 'How long it will take to come back to 2011-12/2007-08 economic levels?'

Particulars	% Response
Recovery is on	21%
In next 6 months	24%
More than 12 months	41%
Not in sight	14%

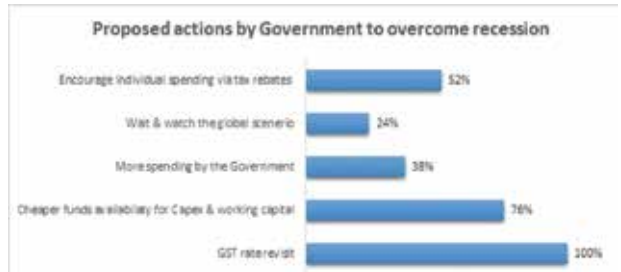


**Graph 5 – Expected recovery timelines for ending recession**

Overall outlook was positive with ~ 86% respondents stating recovery in one year+ period.

#### 4.6 Additional measures proposed by respondents to overcome recession

About the question 'What additional measures should be taken to overcome recession, by the Government?'



**Graph 6 – Proposed actions as suggested by respondents to overcome recession by Government**

#### 6.0. Conclusions

In this paper we examine the results of a survey among 30+ Medium Sized Auto & Engineering units on use of Management Accounting techniques. The results will offer a rare opportunity to directly investigate the use and adoption of Management Accounting academic concepts by professionals. The contribution of this paper therefore is multiple. First professionals can learn by observing the practice of their other industry colleagues. Second our survey reveals where theoretical concepts fall short in tackling practical dilemmas and thereby this paper can inspire academics in extending and refining existing notions. Third, we analyze the extent to which existing insights that originate from numerous studies hold and reveal what factors are really driving the practice of financial management in firms. **MA**

#### 7.0 Reference documents and books

1. *Survey documents and google drive data*
2. *Praxis of Investment Appraisal Methods : The Experience of Listed Manufacturing & Trading Companies in Srilanka*  
*Research article by Kengatharan, Lingsiya*
3. *Corporate Finance in Europe : Confronting Theory with Practice*  
*Article published in SSRN Electronic Journal*  
*Article written by Dirk Brounen, Abe de Jong and Kees Koedijk*

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# PERFORMANCE ANALYSIS OF ELECTROSTEEL STEELS LTD PRE, DURING AND POST CIRP A CASE STUDY



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## Abstract

*The Corporate Insolvency Resolution Process (CIRP) of ESL was commenced on 21st July, 2017 and the resolution was approved on 17th April, 2018. India's dedicated bankruptcy resolution programme, which seeks to untangle billions of dollars stuck in bad loans, recorded its second-biggest successful recovery to date after global resources major Vedanta acquired management control of Electrosteel Steels Ltd (ESL) and named a new board to run the distressed steelmaker. This paper provides the analysis of operational and financial performance of the company pre, during and post Corporate Insolvency Resolution process.*

## Company Profile

**E**lectrosteel Steels Limited (ESL) was originally incorporated as Electrosteel Integrated Limited as a subsidiary company of Electrosteel Castings Ltd. on December 20th, 2006 as a Public Limited

Company which commenced its business on January 5th, 2007 and has been listed on the Indian stock exchanges since 2010. The name of the Company was changed from Electrosteel Integrated Limited to Electrosteel Steels Limited and a fresh certificate of incorporation was granted

to the Company on May 5, 2010. The main reason for the change in the name of the Company was that the new name would convey the business of the Company in a better manner, which would help the Company enjoy better market reputation and customer's reliance. What started off as Electrosteel Castings, a Steel Castings and Cast Iron Spun Pipe manufacturing company, evolved in time into a pioneer in manufacturing Ductile Iron Pipes and Fittings ESL is an integrated steel producer primarily in the long product segment.

### Company's Plant

ESL has set up 2.51 Million Ton Per Annum (MTPA) planned capacity integrated Steel Plant near Siyaljori village, in the Bokaro district of Jharkhand which is currently commissioned at 1.5 MTPA capacity. The plant is located in Siyaljori Block, Bokaro District of Jharkhand State. The nearest town Bokaro, on the western side, is 22 kms away from the site. The land comprises mostly of barren land with small undulation. Source of water for the plant is the Damodar river and the location of the in-take pump house is will be near the bank of Damodar river, which is about 10 kms away from the plant site. The nearest railway station Talgheria, which is about 12 kms away from plant site, has single line electrified traction system.

ESL has tied up with leading Chinese Consultation Agency for supply of technology & engineering based on successfully operating Integrated Steel Plants in various locations in China. The Group has been allotted Parbatpur captive mine block for coking coal in Jharia Coalfield, near Bokaro. Total geological coal reserves is 231 MT. Iron Ore mine at Kodolibad near Barajamda and mine block for non-coking coal at Northdhadu, in the state of Jharkhand.

This integrated facility includes a Sinter Plant, Coke Oven, Blast Furnace, Basic Oxygen Furnace, Billet Caster, Wire Rod Mill, Bar Mill, DI Pipes Plant and Power Plant. It is one of the largest manufacturers of in the Indian sub-continent, having a production capacity of 280,000 MT per annum.

About 50% of Ductile Iron Pipes and Fittings produced by Electrosteel Steels is exported to various countries in Europe, USA, South America, South East Asia, Middle East, North and South African Countries. A number of overseas offices and subsidiary companies have been established in France, Spain, United Kingdom, United States, Singapore and Algeria.

### Accreditations

ESL has established excellence at every stage of production by bringing international expertise and solutions from reputed manufacturers. Along with the latest technology, the plant operates in synchronization with the highest ecological standards. Electrosteel Steels produces ductile iron pipes and fittings as per the international benchmark and its quality is approved in various countries. The Company obtained KITEMARK License from the British Standards Institute ("BSI") for its DI Spun Pipes & Fittings. In addition, it received accreditations from (Germany), BSI (UK) and various Government approval in Middle East. It also secured

approvals from NSF, UL and FM from USA and ACS/NF from France. Its products are also certified by Drinking water Inspectorate (DWI) and Water Regulation Advisory Scheme (WRAS) of UK. Electrosteel Steels is an and certified organization and has certification as a socially responsible organization.

### Product Range of the company includes:

#### TMT

TMT are basically thermo mechanically treated steel bars which are produced by controlled quenching & self-tempering process. V-Xega TMT bars are produced in Fe550D, CRS variety as per IS 1786/2008 grade. Carbon & Carbon Equivalent levels are kept to a lower level than as specified in the standards to attain better properties. V-Xega Fe550 D is ideal for dams, bridges, high rises or any critical structure where high yield strength is required without compromising on elongation properties.

#### DI Pipes

Ductile Iron is considered the most preferred pipe material for water supply and pressure sewerage application all over the world. V-Ducpipe ensures good health flows to every home. Known for its high Tensile Strength and inherent corrosion resistance of Cast Iron.

#### Wire Rods

V-Wirro Comes in Low Carbon, Medium Carbon & High Carbon grades to fit a wide range of applications in the Engineering, Construction, Power & Automobile Industry. With feature like uniform mechanical properties, excellent surface finish and close dimensional tolerance, each wire rod is free from surface defects and inclusions.

#### Billets

Cast through 5 strand casters integrated with Basic Oxygen Furnace linked to a Blast Furnace ensuring consistent quality steel. Suitable Grades for General Engineering, Structural, Re-rolling & High Tensile Applications. Raw Material for Angles & Channels for High Tensile applications in Towers & Power Transmission industry. High applicability in construction industries also. Suitable for making consistent quality TMT with corrosion resistance and good seismic properties. Suitable for making fabricated products for various General Engineering Applications.

#### Pig Iron

An excellent charge mix for EAF's, IF's & Foundries. Clean Steel ensuring quality of finished product. Consistent quality ensuring consistency in the liquid steel. Better Surface finish in Castings.

### Electrosteel Steels Limited – Performance analysis

The Corporate Insolvency Resolution Process (CIRP) of ESL was commenced on 21<sup>st</sup> July, 2017 and the resolution was approved on 17<sup>th</sup> april, 2018. India's dedicated bankruptcy resolution programme, which seeks to untangle billions of dollars stuck in bad loans, recorded its second-biggest successful recovery to date after global resources major Vedanta acquired management control of Electrosteel

# CASE STUDY

Steels Ltd (ESL) and named a new board to run the distressed steelmaker.

The key performance indicators reflecting the operational and financial position of the company during Pre, During and Post Corporate Insolvency Process period (2017 to 2019) are as under

Performance indicators	2017	2018	2019
Current Ratio	1.27	1.57	1.72
Interest Coverage Ratio	0.35	0.82	0.93
Inventory days	178.66	164.71	131.23
Return on Assets (%)	1.33	1.83	3.03
Return on capital employed (%)	6.86	7.79	9.66
Assets turnover	0.32	0.36	0.55
Sales / working capital	3.99	8.63	9.44
EBITDA Margin %	14.37	15.06	17.18
Profit after tax margin %	3.5	4	6
Average collection period (Days)	116	97	78
<b>Altman Z Score</b>	1.05	1.47	2.43
<b>Du Pont Ratio</b>			
Du Pont ratio = (Net Profit/sales) x (Sales/Asset) x (Asset/Equity)			
NP/Sale	4.21	2.32	6.44
Sale/Asset	0.32	0.36	0.48
Asset/Equity	2.01	1.94	2.09
Du Pont	2.70	3.62	6.48

Heads	Pre-During % change (2016-17 to 2017-18)	During to Post % change (2017-18 to 2018-19)	Reasons for Change
			<b>Income</b>
Sales	11	18	Increased due to increased capacity utilization and ramp up of production
			<b>Expenses</b>
Material Cost	17	17	Material cost as a percent of sales revenue remained constant though there was an increase in output.

Employee Cost	-1	7	Manpower cost increased due to resumption and scaling up of production.
Other Expenses	19	10	Other expenses which includes administrative expenses, commission, selling and distribution expenses decreased due to improved efficiency and better expenses control.
Finance Expenses	1	11	Finance expenses increased due to increased current liabilities consequent upon increased volume of output

The Lenders had invoked Strategic Debt Restructuring pursuant to RBI Circulars dated 8 June 2015 and 24 September 2015 and implementation thereof is in progress. Lenders of the Company are proposing to change the Management of the Company, in accordance with RBI Circular on Prudential Norms on change in Ownership of Borrowing entities (Outside SDR Scheme). As reported last year, since accumulated losses resulted in erosion of over 50% of peak net worth during the immediately preceding four financial years, your Company continues as a "Sick Company", the fact of which has already been reported to erstwhile Board for Industrial and Financial Reconstruction (BIFR). During the period under review, your Company, in spite of financial constraints as stated earlier, had been able to maintain its overall revenue. However, due to insufficient funds for completion of remaining modules of the Plant, the Company is not able to operationalize to its envisaged capacity. The total secured outstanding indebtedness (including interest) as on 31st March 2017 is Rs. 1,237,661.53 lakhs out of which the long term borrowings is Rs. 1,168,032.26 lakhs and short term borrowings (including interest) is Rs.69,629.27 lakhs. (Source : Annual Report 2016 -17 Pre CIRP)

As per the decision of the lenders of the Company at their meeting held on 22nd June, 2017, State Bank of India ("SBI"/ Financial Creditor), the Lead Banker, filed an application before the Hon'ble National Company Law Tribunal (NCLT), Kolkata, under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("Code") and rules and regulations made there under, for initiation of Corporate Insolvency Resolution Process ("CIRP") against the Company. NCLT vide its Order dated 21st July, 2017 ("CIRP commencement date) admitted the application of the Financial Creditors. Wide fluctuation in raw material prices,

especially imported coking coal, also had a negative impact. Effective steps towards implementing better guidelines for operational procedure and precautionary measures thereto have been put in place. Continuous efforts were initiated to improve performance of the Company in both, quantitative and qualitative terms. Despite operational and funding challenges of working capital, the Company was able to improve turnover vis-a vis previous financial year. (Source: Annual Report 2017 -18 During CIRP )

The Fiscal year 2019 has been transformational year for the Company, where significant progress has been made in various fronts such as enhanced capacity utilisation, restarting of Blast furnace #3, improvement in cost through commercial and operational excellence, enhanced production of value added product (VAP) etc. These accomplishments set up strong momentum to aspire for robust growth for Fiscal Year 2020. In June 2018, Vedanta Limited acquired a 90% stake in Company, a primary producer of steel and downstream valueadded products. The Company was acquired under the Insolvency and Bankruptcy Code (IBC) 2016 in line with Resolution Plan approved by Hon'ble National Company Law Tribunal (NCLT), Kolkata Bench. Subsequent to the acquisition, Vedanta Limited, through its wholly owned subsidiary, Vedanta Star Limited, took over control and management of Electrosteel Steels Limited and acquired 90% shares of the Company. FY2019 recorded annual steel production at 1.2 million tonnes up 17% on year to year basis. The Company achieved hot metal production run rate of c.1.5mtpa in FY2019. The production ramped up substantially and other operational efficiencies has resulted in record EBITDA margin. Under Vedanta's management, the business has seen significant operational improvements leading to healthy financial position. (Source: Annual Report 2018 -19 Post CIRP)

### Analytical Review

From the above analysis it appears that the performance of the company consistently improved over the pre CIRP to during the period of CIRP and thereafter post CIRP periods due mainly to operational and performance efficiencies coupled with strategic actions taken by the management.

India's dedicated bankruptcy resolution programme, which seeks to untangle billions of dollars stuck in bad loans, recorded its second-biggest successful recovery to date after global resources major Vedanta acquired management control of Electrosteel Steels Ltd (ESL) Vedanta has deposited Rs 5,320 crore in an escrow account of ESL for 90 per cent equity in the bankrupt alloy maker. This is the second successful resolution of a stressed steel asset after Tata Steel acquired Bhushan. The transaction will complement Vedanta group's existing iron ore business through vertical integration of steel manufacturing. It will pay for the acquisition using existing cash resources. The company is charting out its growth trajectory, in the second phase of expansion, it is likely to move to flat products. The products would include hot-rolled, cold-rolled coil, and galvanised. ESL would work closely with the Vedanta group companies that are in zinc, aluminium and copper sectors, to

come up with new products and for better synergies.

Vedanta's move followed the National Company Law Appellate Tribunal (NCLAT) order which allowed Vedanta to acquire ESL by depositing the upfront payment to the Committee of Creditors (CoC). ESL has outstanding dues of Rs 14,177.3 crore. According to the resolution plan, A wholly-owned subsidiary of Vedanta will subscribe to the share capital of Electrosteel for Rs 1,805 crore and provide additional funds of about Rs 3,515 crore by way of debt. Vedanta will hold about 90% of the paid-up share capital of Electrosteel while the remaining 10% will be held by Electrosteel's existing shareholders and the financial creditors, who will receive shares in exchange for the debt owed to them. In all, Electrosteel's creditors will receive dues to the tune of Rs 5,320 crore, The company owes lenders more than Rs 13,000 crore. Of the 13,000 cr. the banks would have provisioned 6500 cr. already, due to RBI rules stating that if an account goes to bankruptcy, banks have to take a 50% provision. But now, they'll have an additional Rs. 1300+ cr. as a further hit to be taken.

This acquisition marks Vedanta's entry in the ferrous space and gives it a foothold in the niche ductile iron pipes used for water transmission and distribution. Vedanta has some iron ore leases in eastern India and the steel plant acquisition would strengthen the company's bid for captive mines.

### Valuation

Electrosteel Steels largely makes long steel products. Average EBITDA per tonne of its larger peers Steel Authority of India Ltd. and Jindal Steel and Power Ltd. Is around Rs 7,500. At these levels, enterprise value for the industry stands at 6 times the operating income. Given its capacity of 1.5 MTPA, derived EBITDA for Electrosteel Steels is Rs 1,155 crore. At the total deal value of Rs 5,320 crore (debt + equity), valuations for the asset work out to 4.8 times the EBITDA which is lower than the industry average.

### Impact on shareholders

Essentially, Electrosteel Steels is getting a valuation of around Rs. 0.12 (12 paise) per share today, after lenders are issued shares for their hair cut, and then Vedanta is issued new shares. Even after it gets into enhanced production metrics, it's probably worth less than Rs. 0.30 per share.

### ESL Turnaround

Acquisition of Electrosteel Steel Ltd (ESL) by Vedanta has led to a turnaround in the company in a space of eight months due to a combination of right people, higher volumes and tight cost control that led to the change. For the financial year ended March 2019, ESL achieved an EBIDTA of Rs. 9145 per tonne, as against Rs.4255 per tonne at the time of acquisition. Ramping up of production and improving operational efficiencies resulted in rise in EBIDTA The company posted record annual production at around 1.2 MTPA for FY19, registering a 17 per cent growth on a year-on-year basis. In eight months, Electrosteel Steel turned

profit after tax (PAT)-positive. In 2018-19, Electrosteel's PAT stood at Rs 284 crore. The company is hoping to maintain its EBIDTA at the current levels given that the steel industry has been going through a "tough patch". The company has a strong order book position aggregating about Rs.800 crore as on June, 2019 comprising supply orders of about 1.5 lakh ton pipes. The orders are expected to be completed within next 7-8 months, indicating a satisfactory revenue visibility. The increasing level of gross cash accruals arising out of higher level of operating profit and significant amount of unavailed fund based working capital bank lines are matters of comfort for the company.

In view of the resolution plan approved by the NCLT, Kolkata and pursuant to issuance of additional equity shares by Electrosteel Steel Ltd. (ESL) for giving impact of resolution plan of the successful bidder, ESL had ceased to be an associate of ECL. In view of the above, the company has made a fair valuation of its investment in ESL and a sum of Rs. 578.68 crore representing the difference between the carrying value of the said investment and fair value as on the date of transfer has been written off in HY1FY19. Further, advances and trade receivable amounting to Rs.211.21 crore receivable from ESL has also been written off in HY1FY19

The cost of raw materials (i.e., coal, iron ore) is the largest component of total cost of sales (accounted for 45% in FY18). Due to de-allocation of coal mines and delay in clearance in iron-ore mine, ECL has to procure raw materials from the open market. It procures coaking coal mainly from Australia and iron ore from the domestic market. The prices of these raw materials are volatile in nature and hence, ECL's profitability is susceptible to fluctuation in raw material prices.

Favourable outlook for domestic D.I pipe market due rapid increase in population, urbanisation and industrialisation has led to a significant increase in water requirement, leading to demand overtaking the supply. Increased central government grants under JNNURM scheme, funding from

developmental agencies and current Central Government additional impetus to this sector through the AMRUT (Atal Mission for Rejuvenation and Urban Transformation) scheme are matters for significant comfort for the D. I. pipe segment, as the investment in urban water supply and sanitation has increased manifold in the last couple of years.

### Future plans

Having successfully turned around the operations of Electrosteel Steel Ltd (ESL) in less than a year post its acquisition, the Anil Agarwal-controlled Vedanta Ltd is now looking to scale up production capacity and revamp the product portfolio to improve profitability. Plans are also afoot to give the company an image makeover and rename it. There is a possibility of renaming ESL, and the board is likely to take a decision in this regard in the next three-to-six months.

Vedanta is looking forward to expand its steel business operations under Electrosteel Steel Limited and is planning to setup a new steel making plant in Jharkhand to increase the current steel production capacity from 1.5 MPTA to 10 million tonnes in the next five to six years through organic and inorganic options. Electrosteel's 1.5 MPTA capacity greenfield plant in Jharkhand's Bokaro will be scaled up to 3 MPTA over the next two years in the first phase of expansion. It is likely to cost Rs 4,000-5,000 crore. While the ramp-up from 3 million tonnes to 6 million tonnes will happen at Bokaro, for the next phase, the company could look at setting up a greenfield project at some other site or consider an acquisition. The growth plans are in sync with Vedanta's goal of making it one of the top three players in the industry. **MA**

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## OBITUARY



*The Institute and its members deeply mourn the demise of CMA S. Satyananda Rao, Past Chairman of Visakhapatnam Chapter who left for heavenly abode on 28th September, 2019.*

*May his family have the courage and strength to overcome the loss.*

# **CORPORATE GOVERNANCE EVALUATION: THE INDIAN SCENARIO IN THE LIGHT OF SEBI'S LODR 2015 REGULATIONS**

## **A CASE STUDY OF 30 BSE SENSEX COMPANIES**



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### **Abstract**

*The main aim of this research paper is to evaluate the quality and effectiveness of Corporate Governance in accordance to SEBI's LODR 2015. This study includes 30 BSE Sensex companies for the financial years 2014-15, 2015-16 and 2016-17. For this purpose Corporate Governance Index has been designed with 18 parameters and their sub parameters. The study reveals that all sampled companies follow very good Corporate Governance norms. Tata Steel scored the highest rank in Corporate Governance Evaluation. SBI in 2014-15, 2015-16 and ONGC in 2016-17 have the last place among all the sampled companies. It is suggested for all the companies that to score 100% score, all companies should follow all the norms of SEBI for Corporate Governance.*



### Introduction:

Corporate Governance is the process by which corporations are directed, monitored and controlled. Its structure provides objectives of the company and means of attaining the performance of these objectives. Corporate Governance framework lays down the rules and procedures for making decisions on corporate affairs.

In the words of Vashishta & Rajput (2011), “Corporate Governance is a formal system of accountability of senior management to corporate stakeholders. Corporate governance includes company accountability to shareholders and other stakeholders such as employees, suppliers, customers and local community.”

Sir Adrian Cadbury, Chairman of the Cadbury Committee (Dec. 1992), defined the concept thus: “Corporate Governance is defined as holding the balance between economic and social goals and also between individual and communal goals. The governance framework is there to encourage the efficient use of resources and equally to require accountability for the stewardship of those resources. The aim is to align as nearly as possible the interest of individuals, corporations and society. The incentive to corporations is to achieve their corporate aims and to attract investment. The incentive for states is to strengthen their economies and discourages fraud and mismanagement.”

Vinayak, C. (2017) quotes Kautilya and writes- The root of any business remains in its philosophy and it is also important to maintain ethical standards in every respect. Kautilya has asserted “Philosophy is ever thought of as the lamp of all sciences, as the means of all actions (and) as the support of all laws (and duties)”.

Vinayaka, C. further writes, “An integral part of an effective Corporate Governance regime includes provision for civil or criminal prosecution of individuals who conduct unethical or illegal acts in the name of the enterprise. Kautilya opines in a most modern way, “Sovereignty is practicable only with the cooperation of others and all administrative measures are to be taken after proper deliberations.” The king and minister were supposed to observe strict discipline. Kautilya has recommended a strict code of conduct for himself and for his administrators. As in present time corporate follow strict code of conduct for carrying out various administrative works.

### Research Methodology:

#### A. Objectives of the study:

1. To evaluate Corporate Governance standards and disclosure practices followed by 30 Indian Companies included in BSE Sensex.
2. To evaluate Corporate Governance quality and effectiveness by applying Corporate Governance Index in the light of Companies Act 2013 and SEBI (LODR) Regulations, 2015.
3. To suggest practices enhancing Corporate Governance that can be followed by the listed companies.

#### B. Sample Size of the study:

30 companies included in BSE Sensex have been taken for the study.

**Table-1**  
**List of the BSE SENSEX Companies**

S.No.	Name of the Company	S.No.	Name of the Company
<b>Automobile Sector Companies</b>			
1.	Bajaj Auto	16.	Bharti Airtel
2.	Hero Motor Cops	<b>Mining, Engineering &amp; Construction, Steel &amp; Iron Sector Companies</b>	
3.	Maruti Suzuki	17.	CIL
4.	Mahindra & Mahindra	18.	DLF Ltd.
5.	Tata Motors	19.	Hindalco Ltd.
<b>Banking and Housing Finance Sector Companies</b>		20.	L & T Ltd.
6.	HDFC Bank	21.	Vendanta Ltd
7.	ICICI Bank	22.	TSL
8.	SBI	<b>Pharmacy and FMCG Sector Companies</b>	
9.	HDFC	23.	CIPLA LTD.
<b>Gas and Fuel, Oil Exploration and Refinery Sector Companies</b>		24.	SPIL
10.	GAIL	25.	HUL
11.	ONGC	26.	ITC Ltd.
12.	Reliance Industries	<b>Power and Electrical Equipment Sector Companies</b>	
<b>IT and Telecom Sector companies</b>		27.	BHEL
13.	Infosys	28.	JSPL
14.	TCSL	29.	NTPC
15.	Wipro	30.	TATA Power

Source: [www.bseindia.com/markets/equity](http://www.bseindia.com/markets/equity)

**C. Period:** Three consecutive financial years 2014-15, 2015-16 and 2016-17 have been taken as period of study. This time period will show the effect of implementation of SEBI's LODR 2015.

**D. Collection of Data:** The present study mainly depends on the annual reports published by the respective company. Besides this books, journals, Company's Act, various committees' reports, SEBI's guidelines etc. have been studied.

**E. Measurement of Performance of Corporate Governance Standards of the company:** For evaluating the quality and effectiveness of governance for Indian BSE

# CASE STUDY

Sensex companies, Corporate Governance Index has been designed. This index has been prepared according to guidelines of Companies Act, 2013 and SEBI's LODR 2015. Here a 100 point index has been developed with 18 parameters and their sub parameters. Each parameters has been assigned a weight in terms of points according to its importance in governance. The formation of this index is based on various researches, Companies Act, 2013, SEBI's LODR, 2015 and model suggested by S.C. Das. Although this index method is subjective, because points have been assigned by own decision.

**Table -2**  
**Criterion for Evaluation of Performance of Corporate Governance Standards of the Company**  
**for the Financial Year .....**

S. No.	Corporate Governance Parameters	Points	Total score	Company name
1)	<b>Statement of Company's Philosophy on Code of Governance</b>	1	1	
2)	<b>Composition of the board and BOD meetings held.</b>		5	
i)	Not less than 50% of the Board of Directors comprising of non-executive directors.	1		
ii)	At least one woman director.	1		
iii)	Where Chairman is Non-Executive Director-At least 1/3 of the board comprise Independent Director where Chairman is Executive- At least ½ of the board comprise Independent Director.	1		
iv)	At least four BOD meetings in a year.	1		
v)	Attendance record of BOD meetings.	1		
3)	<b>Chairman and CEO Duality</b>		5	
i)	Promoter Executive Chairman- cum-MD/CEO	1		
ii)	Non-Promoter Executive Chairman-cum-MD/CEO	1		
iii)	Promoter Non-Executive Chairman	1		
iv)	Non-Promoter Non-Executive Chairman	1		
v)	Non-Executive Independent Chairman	1		
4)	<b>Disclosure of tenure &amp; age limit of directors</b>	2	2	
5)	<b>Disclosures regarding to Independent Director (ID)</b>		6	
i)	Definition of ID.	1		
ii)	Familiarization program to ID & Details of such training imparted to be disclosed in the annual report.	1		
iii)	Separate meeting of the ID.	1		
iv)	Selection criteria the terms and condition of appointment shall be disclosed on the website of the company.	1		
v)	Formal letter of appointment of ID.	1		
vi)	Limit of No. of Directorship for ID (If whole time director then three or If not whole time director then seven)	1		
6)	<b>Disclosure of :</b>		2	
i)	Remuneration policy	1		
ii)	Remuneration of directors	1		
7)	<b>Directorship and Committees' Membership/Chairmanship of directors across all companies</b>	2	2	
8)	<b>Code of Conduct</b>		2	
i)	Information on Code of Conduct	1		
ii)	Affirmation of compliance	1		
9)	<b>Post board meeting follow up system and compliances of the Board procedure.</b>	2	2	
10)	<b>Board Committees :</b>			
A)	<b>AUDIT COMMITTEE :</b>		8	
i)	Transparency in composition of the committee.(Qualified and Independent)	1		
ii)	Compliance of minimum requirement of No. of Independent Directors in the committee. (Minimum three director and 2/3of the member should be ID)	1		
iii)	Compliance of minimum requirement of the number of committee meetings. (At least four times).	1		
iv)	Information about literacy & financial expertise of the committee.	1		
v)	Information about participation of Head of Finance, Statutory Auditors, Chief Internal Auditors, and other invitees in the committee meetings.	1		
vi)	Disclosure of audit committee charter & terms of reference.	2		
vii)	Disclosure of Committee report	1		

B)	<b>NOMINATION AND REMUNERATION COMMITTEE :</b>		6	
i)	Formation of the committee	1		
ii)	Information about number of committee meetings.	1		
iii)	Compliance of minimum requirement of No. of Non-Executive Directors in the committee. (At least 3 members)	1		
iv)	Compliance of the provisions of independent director as chairman of the committee	1		
v)	Information about participation of meetings.	1		
vi)	Disclosure of Committee report.	1		
C)	<b>SHAREHOLDER/STAKEHOLDER RELATIONSHIP COMMITTEE :</b>		5	
i)	Transparency in composition of the committee	1		
ii)	Information about nature of complaint & queries received and disposed-item wise.	1		
iii)	Information about number of committee meetings	1		
iv)	Information about action taken and investors/shareholder survey	1		
v)	Disclosure of Committee report	1		
D)	<b>Risk Management Committee</b>		2	
i)	Formation of committee	1		
ii)	Disclosure of committee charter report	1		
E)	<b>Additional committee</b>		4	
i)	Health and Safety & Environment Committee	1		
ii)	CSR and Sustainable Development Committee	1		
iii)	Investment Committee	1		
iv)	Other Committee	1		
11)	<b>Disclosure and Transparency :</b>		24	
i)	Significant related party transaction having potential conflict with the interest of the company	2		
ii)	Non-compliance related to capital market matters during the last 3 years.	2		
iii)	Board disclosure-Risk Management	2		
iv)	Information to the board on Risk Management	2		
v)	Publishing of Risk Management Report	1		
vi)	Management Discuss And Analysis	2		
vii)	Information to Shareholders- <ul style="list-style-type: none"> <li>• Appointment of new director/re-appointment of retiring directors</li> <li>• Quarterly results &amp; presentation</li> <li>• Share-Transfers</li> <li>• Directors' responsibility statement</li> </ul>	1		
viii)	Shareholder right	2		
ix)	Audit Qualification	2		
x)	Training of board members	2		
xi)	Evaluation of non-executive directors	2		
xii)	Resignation of Director with reason	1		
12)	<b>General Body Meetings :</b>		3	
i)	Location and time of General Meetings held in last 3 years	1		
ii)	Details of Special Resolution passed in the last 3 AGM	1		
iii)	Details of resolution passed last year through Postal Ballot including the name of conducting official and voting procedure	1		
13)	<b>Means of Communication and General Shareholder Information</b>	2	2	
14)	<b>Whistle-Blower Policy &amp; Vigil Mechanism</b>	2	2	
15)	<b>CEO/CFO certification</b>	2	2	
16)	<b>Compliance of Corporate Governance and Auditors' Certificate :</b>	5	5	
i)	Clean certificate from auditors			
17)	<b>Code for prevention of insider trading practices</b>	5	5	
18)	<b>Disclosure of stakeholders' interest :</b>		5	
i)	Environment, Health & Safety measures (EHS)	1		
ii)	Human Resource Development initiative (HRD)	1		
iii)	Corporate Social Responsibility (CSR)	1		
iv)	Industrial Relation (IR)	1		
v)	Disclosures of policies on EHS, HRD, CSR, & IR	1		
	<b>TOTAL</b>	<b>100</b>	<b>100</b>	

**Table 2**

**Measurement of Grading of C.G. Performance of the company**

Marks	Remarks
90-100	Excellent
75-89	Very Good
60-74	Good
50-59	Satisfactory
0-49	Bad

**C. Hypothesis:**

**H0-** There is no significant difference found in the performance of all companies in the years 2014-15, 2015-16 and 2016-17.

**H1-** At least performance of one company is significantly different from others for the years 2014-15, 2015-16 and 2016-17.

**Review of Literature:**

Rathnayake and Sun (2017) in their paper analyzed the effect of corporate governance and corporate ownership on the performance of Asian companies. The sample of 3811 companies from 6 countries has been drawn and ordinary least square model, correlation and regression model have been applied to analyze the data for the year 2016. Return on Assets and Return on equity have been taken as financial measures while board size and independence and age of the corporation have been considered as corporate governance measures. As per the results derived, the positive association between board size and age of corporation with the performance of company has been reflected. Also, a positive association has been derived between ownership concentration and performance but no relationship has been found between state ownership and corporate performance. As the matter of countries are concerned, there lies a strong relationship between all the variables in India and Pakistan while China does not show any sort of association amongst the variables. A limited number of financial and governance measures have been considered as the core limitation of the study.

Kaur and Singh (2018) in their paper attempted to scrutinize the association of corporate governance and reputation of companies in India. The panel regression method has been applied to empirically analyze the data of 403 companies listed in BSE for the period ranging from 2002 to 2013. The variables like board size, reputation, ownership pattern, financial performance, firm age, firm size and market risk have been taken into consideration and hypotheses of positive impact of large board size and presence of institutional investors on the corporate reputation have been developed. It has been inferred from the study that board size and presence of institutional investors positively impacts the reputation of the company and helps in its improvement. It has been suggested to adopt good governance and enhance management quality in context of board's characteristics for

boosting the corporate reputation and gaining the competitive advantage over other companies.

Mohan and Chandra Mohan (2018) in their study probed the linkage between corporate governance taking the variables board size and composition and CEO duality and firm performance taking the variables like ROE and PB ratio into consideration. The study has been carried out on the sample of 30 companies listed in Bombay Stock Exchange for the period of ten years from 2007 to 2016. The data have been collected from annual reports of the companies and panel data OLS regression model has been adopted to analyze the data concerned. The results of the study reflected the significant impact of the corporate governance on the performance of the firm. It has been remarked that there is sheer need of monitoring process to ensure excellent firm performance and the post of CEO should get separated from the Chair to optimize performance by efficient decision making. Further, it has also been stated that overweighing the board size may overshadow the benefits of the board due to the inefficiencies caused by it. The study taking more variables of corporate governance and industry-wise study have been underlined as the future scope of the research.

Alanazi (2019) in his study tried to investigate the relationship between corporate governance score and corporate performance in Saudi Arabia. The sample comprises of 90 companies listed in Tadawul stock market diverged in high governance score and low governance score firms. The corporate governance data on the variables like board of directors', the shareholders' rights and general assembly, public disclosure and transparency and stakeholders' rights have been gathered from primary sources while data on firm performance have been collected from secondary sources. The results indicated that there is no such operating difference exists between good governance firms and poor governance firms. The study has been concluded with the remark of low level of governance in developing economies as compared to the developed economies. The limited period of study, small sample size and non-consideration of market measures are some limitations recognized in the study.

**Data Analysis:**

**Table-4**

**Overall Corporate Governance performance of BSE SENSEX Companies For three Financial Years 2014-15, 2015-16 and 2016-17**

S. No.	Name of the Company	2014-15		2015-16		2016-17	
		Score	Rank	Score	Rank	Score	Rank
	<b>Automobile Sector Companies</b>						
1	Bajaj Auto Ltd.	84	10	85	10	87	8
2	Hero Motocorp Ltd.	89	6	91	4	87	8
3	Mahindra & Mahindra Ltd.	88	7	89	6	89	7

4	Maruti Suzuki Ltd.	88	7	89	6	90	6
5	Tata Motors Ltd.	92	3	93	2	93	4
	<b>Banking and Housing Finance Sector Companies</b>						
6	HDFC Bank	90	5	91	4	89	7
7	ICICI Bank	92	3	92	3	91	5
8	SBI Bank	81	11	84	11	85	10
9	Housing Development Finance Corporation	84	10	87	8	87	8
	<b>Gas and Fuel, Oil Exploration and Refinery Sector Companies</b>						
10	GAIL Ltd	87	8	85	10	81	13
11	Oil & Natural Gas Corporation Ltd.	86	9	87	8	82	12
12	Reliance Industries Ltd.	92	3	93	2	91	5
	<b>IT and Telecom Sector Companies</b>						
13	Infosys Ltd.	93	2	93	2	95	2
14	Tata Consultancy Services Ltd.	89	6	92	3	93	4
15	Wipro Ltd.	89	6	90	5	90	6
16	Bharti Airtel Ltd.	86	9	89	6	89	7
	<b>Mining, Engineering &amp; Construction, Steel &amp; Iron Sector Companies</b>						
17	Coal India Ltd.	84	10	88	7	90	6
18	DLF Ltd.	88	7	87	8	90	6
19	Hindalco Ltd.	92	3	91	4	91	5
20	Larsen & Turbo Ltd.	92	3	92	3	93	4
21	Vedanta Ltd.	87	8	86	9	89	7
22	Tata Steel Ltd.	97	1	97	1	96	1

	<b>Pharmacy and FMCG Sector Companies</b>						
23	Cipla Ltd.	87	8	86	9	93	4
24	Sun Pharmaceutical Industries Ltd.	87	8	87	8	90	6
25	Hindustan Unilever Ltd.	91	4	90	5	94	3
26	ITC Ltd.	88	7	87	8	96	1
	<b>Power and Electrical Equipment Sector Companies</b>						
27	BHEL	84	10	87	8	86	9
28	Jindal, Steel & Power Ltd.	91	4	93	2	94	3
29	NTPC Ltd.	88	7	86	9	83	11
30	Tata Power Ltd.	91	4	93	2	94	3

(Source: Own Calculation)

The above table reveals that Tata Steels secured the first rank in all the three years. SBI in 2014-15, 2015-16 and ONGC in 2016-17 scored last place amongst the all sampled companies. On the basis of the results of the empirical investigation, it may be concluded that overall Corporate Governance performance is very good for BSE SENSEX Companies. All the studied companies comply the almost norms of Corporate Governance. It is needed to comply the requirements of rules and regulations relating to Corporate Governance from time to time set by SEBI and Companies Act 2013 to protect the interest of all stakeholders and to enhance the value of the company. This will set good image of company at the world level and also help companies to raise fund from external sources at a lower cost.

### Comparison of all Companies with SEBI's LODR Regulations 2015 for the year 2014-15, 2015-16 and 2016-17

The SEBI (LODR) Regulations 2015 practices have been scored on the basis of their fulfilment of requirements for these purposes. Eighteen parameters with their sub-parts have been considered for all the BSE SENSEX 30 Companies. Using IBM SPSS22 paired t-test has been applied to test whether all sampled companies show compliance with SEBI (LODR) Regulations 2015 practices or not.

**Table 5.5**  
Wilcoxon signed rank-test results for years 2014-15, 2015-16 and 2016-17 of all Companies

Pair	SEBI (LODR) Regulations 2015 practices v/s Score of	2014-15		2015-16		2016-17	
		Z	p-value	Z	p-value	Z	p-value
	<b>Automobile Sector Companies</b>						
1	Bajaj Auto	-0.794	0.427	-0.794	0.427	-0.724	0.469

2	Hero Motor Cops	-0.072	0.943	-0.439	0.660	-0.724	0.469
3	Maruti Suzuki	-0.285	0.776	-0.285	0.776	-0.215	0.829
4	Mahindra & Mahindra	-0.424	0.672	-0.122	0.903	-0.285	0.776
5	Tata Motors	-0.368	0.713	-0.749	0.454	-1.318	0.187
<b>Banking and Housing Finance Sector Companies</b>							
6	HDFC Bank	-0.073	0.942	0.000	1.000	-0.577	0.564
7	ICICI Bank	-0.486	0.627	-0.368	0.713	-0.973	0.331
8	SBI	-1.809	0.070	-1.092	0.275	-0.974	0.330
9	HDFC	-1.039	0.299	-0.431	0.666	-0.285	0.776
<b>Gas and Fuel, Oil Exploration and Refinery Sector Companies</b>							
10	GAIL	-0.525	0.599	-1.394	0.163	-0.862	0.389
11	ONGC	-1.127	0.260	-1.127	0.260	-1.634	0.102
12	Reliance Industries	-0.749	0.454	-1.081	0.279	-0.632	0.527
<b>IT and Telecom Sector companies</b>							
13	Infosys	-0.577	0.564	-0.440	0.660	-1.249	0.212
14	TCSL	-0.333	0.739	-0.513	0.608	-1.027	0.305
15	Wipro	-0.073	0.942	-0.306	0.760	-0.072	0.943
16	Bharti Airtel	-0.586	0.558	-0.209	0.834	-0.209	0.834
<b>Mining, Engineering &amp; Construction, Steel &amp; Iron Sector Companies</b>							
17	CIL	-0.942	0.346	-0.669	0.503	-0.061	0.951
18	DLF Ltd.	-0.641	0.521	-0.641	0.521	-0.106	0.916
19	Hindalco Ltd.	-0.486	0.627	-0.159	0.873	-0.159	0.873
20	L & T Ltd.	-0.368	0.713	-0.368	0.713	-0.749	0.454
21	Vendanta Ltd	-0.641	0.521	-0.365	0.715	-0.424	0.672
22	TSL	-2.111	0.035	-2.111	0.035	-1.897	0.058
<b>Pharmacy and FMCG Sector Companies</b>							
23	CIPLA LTD.	-0.586	0.558	-0.863	0.388	-0.749	0.454
24	SPIL	-0.647	0.518	-0.690	0.490	-0.061	0.952
25	HUL	-0.306	0.760	-0.061	0.952	-0.749	0.454
26	ITC Ltd.	-0.351	0.726	-0.514	0.607	-0.513	0.608
<b>Power and Electrical Equipment Sector Companies</b>							
27	BHEL	-1.732	0.083	-0.574	0.566	-0.796	0.426
28	JSPL	-0.259	0.796	-0.734	0.463	-1.185	0.236
29	NTPC	-0.491	0.623	-0.974	0.330	-1.271	0.204
30	TATA Power	-0.144	0.885	-0.791	0.429	-1.027	0.305

**Automobile Sector Companies** - From the above table, it is concluded, since p-value for all the Automobile sector companies is greater than 0.05. This implies that at 5% level of significance, all the five Automobile sector companies show compliance with SEBI (LODR) Regulations 2015 practices in the years 2014-15, 2015-16 and 2016-17.

**Banking and Housing Finance Sector Companies** - From the above table it is concluded, that p-value for all the four Banking and Housing Finance Sector Companies is greater than 0.05. This implies that at 5% level of significance and with 17 degree of freedom, all the four

Banking and Housing Finance compliance with SEBI (LODR) Regulations 2015 practices during the study period (Financial Years 2014-15, 2015-16 and 2016-17).

**Gas and Fuel, Oil Exploration and Refinery Sector Companies** - From the above table, it is concluded that p-value of all companies is greater than 0.05. This implies that at 5% level of significance companies show compliance with SEBI (LODR) Regulations 2015 during the study period.

**IT and Telecom Sector companies** - From the above


table, it is concluded, that p-value for all the IT and Telecom Sector companies is greater than 0.05. This implies that at 5% level of significance, all the four IT and Telecom Sector companies' shows compliance with SEBI (LODR) Regulations 2015.

**Mining, Engineering & Construction, Steel & Iron Sector Companies** - From the above table, it is concluded, that p-value for all the Mining, Engineering & Construction, Steel & Iron Sector Companies is greater than 0.05. This implies that at 5% level of significance and with 17 degree of freedom, all the six Iron and Steel companies shows compliance with SEBI (LODR) Regulations 2015 practices of Listing Agreement during the study period.

**Pharmacy and FMCG Sector Companies** - From the above table, it is concluded, that p-value for all the Pharmacy and FMCG Sector Companies is greater than 0.05. This implies that at 5% level of significance, all the four Pharmacy companies' shows compliance with SEBI (LODR) Regulations 2015 practices in the years 2014-15 2015-16 and 2016-17.

**Power and Electrical Equipment Sector Companies** - From the above table, it is concluded, that p-value for all the Power and Electrical Equipment Sector Companies is greater than 0.05. This implies that at 5% level of significance, all the four Power sector companies' shows compliance with SEBI (LODR) Regulations 2015 in the years 2014-15, 2015-16 and 2016-17.

### Conclusion:

Corporate Governance framework lays own the rules and procedures for making decisions on corporate affairs. In the words of Maheshwari M., "Corporate Governance is needed to create a corporate culture of consciousness, transparency and openness." Presently all listed companies are governed by SEBI's LODR 2015. It has been concluded in this paper that all BSE companies follow Corporate Governance Norms as per SEBI LODR 2015. They all have very good scores. By using Wilcoxon Signed, this implies that at 5 % level of significance, all companies show compliance with SEBI (LODR) Regulations 2015 in years 2014-15, 2015-16 and 2016-17. This all set good image of all companies at the national and international level. 

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**CMA S. Rajaratnam**

Retd. Member  
Income Tax Appellate Tribunal  
Advocate & Tax Consultants  
Chennai

An important announcement was made by our Finance Minister Smt. Nirmala Sitaraman during the course of her Palkhivala Memorial Lecture at Chennai on 19th January, 2020, that it is the intention of the Government to decriminalize many of the defaults referring particularly to so many criminal cases filed by the Company Law Department against directors and others for minor defaults of the company by the abuse of criminal law under many of our statutes, even where penalties themselves may not be justified, with powers under the statutes often misused. It is a welcome declaration making the law more sensible and administration confined to what is more relevant in its functions relating to public service expected of it.

Meanwhile there is also a welcome decision from the National Company Law Tribunal (NCLT) upholding the order of the Adjudicating Authority in Suresh Chand Garg v. Aditya Birla Finance Ltd. dated 23rd July, 2018, that individual and personal assets of a director cannot be the subject matter of the corporate insolvency resolution,

which is confined to assets of the corporate debtor directing withdrawal of notice against a director under Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest (SARFAESI) Act, 2002.

#### Honour for Super Sam

A book styled “Flying High” published by Chartered Accountants listing out a dozen formidable success stories of Chartered Accountants, has amongst its list, our equally eminent Cost Accountant Shri S.A. Murali Prasad describing him as Super Sam, as a great teacher and an administrator, besides many other qualities extolled in this tribute to him. I was happy to see his name, who is an eminent Cost Accountant in the list of eminent Chartered Accountants. **MA**

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# Down The Memory Lane

February 2010

Investors Awareness Programme held on 14.02.2010 at Cuttack



Seen in the picture from left to right: Shri S.C. Mohanty, CCM, ICWAI; Shri Debraj Biswal, CEO, BBSR Stock Exchange receiving the memento on the occasion from Shri B.K. Pattnaik, Chairman, PD Committee. Shri B. Mohanty, ROC, Orissa Chief Guest on the occasion and Shri H.K. Biswal, AAO of the Chapter are also seen in the picture.

SIRC of ICWAI took initiatives to meet the “Green Initiative Standards” as part of CSR initiatives on 22 February, 2010



Shri R. Bandyopadhyay, Secretary, MCA, planting a royal palm on occasion of Green initiative at SIRC. Also seen S/shri B.M. Sharma, Vice President of ICWAI; M. Gopalakrishnan, CCM; G.N. Venkataraman, President of ICWAI and A.V.N.S. Nageswara Rao, Chairman, SIRC.



Shri R. Bandyopadhyay, Secretary, MCA addressing the gathering. Also seen M. Gopalakrishnan, CCM; Dr. M.B. Nirmal, Founder, Exnora International and A.V.N.S. Nageswara Rao, Chairman, SIRC.

National Conference on Corporate Social Responsibility and Corporate Governance on 20th February, 2010 at Bangalore

Seen in the picture from left to right: S/shri K.R.S. Sastry, Advisor, I.P.E.; R.K. Mishra, Director, I.P.E.; A.R. Ansari, CMD, NLC; R. Bandyopadhyay, Secretary, MCA(Chief Guest); Ashok Nayak, Chairman, HAL and G.N. Venkataraman, President ICWAI.



# Down The Memory Lane

February 2010



Investors Awareness Programme held on 22nd February, 2010 organized by Bangalore Chapter of Cost Accountants

*Seen in the picture from L to R: S/shri A.V. Jayarama, Treasurer, BCCA; B. Venkatachalam, Speaker; G.N. Venkataraman, President, ICWAI; B N Harish, ROC, Karnataka and M.R. Krishna Murthy, Chairman, BCCA.*

February 2000

ICWAI President, Mahesh Shah is seen with Prabhat S. Saran, Secretary to Department of Telecom Services along with R.J. Goel, Past President, ICWAI

*Seen in the picture are Mahesh Shah, Shri Suresh Prabhu, Minister, Chemical & Fertilizers and R.J. Goel.*



February 1990



*Shri J.K. Puri, President, ICWAI, presenting a memento to Shri Arun Ghosh, Member, Planning Commission.*

# Down The Memory Lane

February 1990

32nd National Cost Convention of Cost and Management Accountants on the theme "Changing Economic and Industrial Scenario: Role of the Cost & Management Accountants" on 09th to 11th February, 1990, Calcutta



From L to R: S/shri D. Radhakrishnan; P.D. Phadke, J.K. Puri, A.P.S. Chawla; S. Ramanathan.

February 1980

Seminar on Drugs organized by the WIRC in co-operation with the Indian Drug manufacturers' Association at Hotel President, Bombay on 23rd and 24th February 1980

L to R: Shri Pramod D. Parkhi, Shri K.M. Shah, Shri N.K. Bose, Shri S. Krishnaswamy, Shri Amar Singh, Miss Meher D. Parakh.



February 1970



Shri N.K. Bose IPP and Chairman of the Silver Jubilee Committee of the Institute receiving Mr. Leach and Mr. Evans Jones, President and Secretary of the Institute of Chartered Accountants of England and Wales. Mrs. Leach & Mrs. Evans Jones are also in the picture.



Shri N.K. Bose welcoming Mr. Leach & Mr. Evan Jones at the Cost Accountants Hall. (from L to R) Sarvashri V.K. Kotak, J.N. Bose, Mrs Leach, Shri N.S. Venkatakrishnan, Mr. Leach, Mr. Evans Jones, Mrs Evans Jones, Sarvashri S.N. Ghosh and R.P. Mondal.

*Source: Extracted from the various issues of The Management Accountant Journal*

## EASTERN INDIA REGIONAL COUNCIL

“Companies (Cost Records and Audit) Amendment Rules, 2019-The Recent Changes-XBRL & Annexure D6 of Cost Audit Report with GSTR 9C” was organized by EIRC on November 30, 2019. CMA C.R. Chatterjee, CCM, CMA Somnath Mukherjee, Past CCM, CMA Amal Kr. Das, Past President, CMA Harijiban Banerjee, Past President, CMA Arundhati Basu, RCM-EIRC, CMA S.S. Sonthalia, CMA N. Radhakrishnan were among eminent dignitaries who were present in the dais. A seminar on FEMA & Foreign Trade Policy-Role of CMAs in the various aspects of FEMA & FTP on December 17, 2019 at its premises was organized by EIRC. CMA Ashis Banerjee, RCM-EIRC, CMA Pallab Bhattacharya, Chairman-EIRC, CMA Aparna Biswas, CMA Arundhati Basu, RCM-EIRC, CS Anindita Chatterjee were among eminent dignitaries present in the seminar.



## THE INSTITUTE OF COST ACCOUNTANTS OF INDIA BHUBANESWAR CHAPTER

Nine career awareness programmes were organized in different dates of November and December, 2019 by the chapter. Seminar on “Improving Personal Productivity through Technology” organized by the Chapter on 04.01.2020. A seminar cum Career Awareness Programme has been successfully organized by the Chapter in association with Baruneswar Mohavidyalay at their conference Hall at Jajpur, Odisha on January 16, 2020. Dr. Kirtan Bihari Samal, Principal of the College delivered key note address. CMA Surya Narayan Tripathy, Chairman, Infrastructure Development Committee of the chapter delivered Key Note address and CMA Ajay Kumar Samal, Chairman, Career Counseling and Students Training Committee of the chapter guided students about the career prospects in CMA Course. CMA Uttam Kumar Mohallik delivered on “Tax Reform” as “Resource Person”. CMA Niranjana Mishra, Council Member and Chairman, Indirect Taxation Committee, ICAI, CMA Mukesh Chaubey, Vice Chairman & Chairman PD Committee of the Chapter, CMA Himoj Mishra, Secretary and CMA Pranab Kumar Behera, Treasurer of the Chapter met Shri Pinaki Misra, Hon’ble Member of Parliament (Loksabha), Puri Constituency, Odisha and Member Finance Committee, Govt of India on December 14, 2019 at Bhubaneswar and discussed various professional development issues. CMA Niranjana Mishra, Council Member and Chairman, Indirect Taxation Committee, ICAI, CMA Shiba Prasad Padhi, Past Chairman, EIRC and the chapter and CMA Saktidhar Singh, chairman of the chapter met Shri Ranendra Pratap Swain, Hon’ble Cabinet Minister, Food Supplies & Consumer Welfare, Co-Operation, Govt. of Odisha on December 28, 2019 to discuss various professional development issues. CMA Niranjana Mishra, Council Member and Chairman, Indirect Taxation Committee, ICAI, CMA Shiba Prasad Padhi, Past Chairman, EIRC and the chapter, CMA Uttam Kumar Nayak, Secretary, EIRC, CMA Saktidhar Singh, Chairman of the chapter and CMA Himoj Mishra, Secretary of the chapter greeted to Shri Sridhar Patra, Chairman Cum Managing Director and Shri R.S Mohapatro, HR (Director), NALCO as part of brand building activity on 1st January, 2020. CMA Niranjana Mishra, Council Member and Chairman, Indirect Taxation Committee, ICAI, CMA Saktidhar Singh, Chairman of the Chapter and CMA M K Moahapatra, Past Chairman, CJK

Chapter met Shri Bhatruhari Mahatab, Hon'ble Member of Parliament (Loksabha), Cuttack Constituency at Cuttack, Odisha on January 5, 2020 to discuss various professional issues. CMA Niranjana Mishra, Council Member and Chairman, Indirect Taxation Committee, ICAI, CMA Uttam Kumar Nayak, Secretary, EIRC and CMA Saktidhar Singh, Chairman of the Chapter met Dr. Rajashree Mallick, Hon'ble Member of Parliament (Loksabha), Jagatsinghpur Constituency, Odisha at Bhubaneswar on January 6, 2020 to discuss various professional issues.



## THE INSTITUTE OF COST ACCOUNTANTS OF INDIA SOUTH ODISHA CHAPTER

A seminar on “Recent Amendments in GST Law Project Finance & Tax planning” was held on December 25, 2019 at Nirmaljar on the topic “Recent Amendments in GST Law and Project Finance & Tax Planning”. CA S.B Dash a Chartered Accounts practitioner was the keynote speaker, Member of the Chapter, CMA P.K. Pani, Chairman, CMA N.C. Kar, Secretary, CMA B.B. Nayak, Chairman MDP, CMA Ch. VenkatRamana occupied the dais. CMA N.C. Kar had given vote of thanks.



## THE INSTITUTE OF COST ACCOUNTANTS OF INDIA GUWAHATI CHAPTER

The Chapter organized a CEP Programme on two themes namely New ITC rule 36 (4), Taxability of Lending of Securities under GST and Highlights of Indian Capital Market on 5th January, 2020 at its premises. The speakers were CMA Arun Kumar and CMA Sourav Ghose. CMA Arun Kumar briefed up the technicalities and various issues regarding the New ITC Rule and Taxability under GST for lending of securities. CMA Sourav Ghose spoke on the Capital Market, the new investment avenues and various other related topics.



## THE INSTITUTE OF COST ACCOUNTANTS OF INDIA KHARAGPUR CHAPTER

The Chapter completed the journey of 25 glorious years on September 22, 2019 and celebrated its “Silver Jubilee” by organizing a one-day seminar on “Role of Cost and Management Accountants in the Emerging Economy of India” held on 22nd December, 2019 at RPF, Zonal Training Institute, Auditorium, Kharagpur. CMA (Dr) Kartick Chandra Paul, Chairman – Kharagpur Chapter and Professor – Adamas University and Former Professor of Vidyasagar University delivered his welcome address to a large number of delegates in the seminar. In the inaugural session, Dr. Satyahari Dey, Professor of Biotechnology & Managing Director, IIT Kharagpur and CMA Biswarup Basu, Vice President, The Institute of Cost Accountants of India participated in the seminar as guests of honour. Mr. Sukumar Roy, Managing Director, AMER-SIL KETEX Pvt. Ltd. (Kharagpur) was the special guest in the seminar. Dr. Stayahari Dey, Professor of Biotechnology & Managing Director – STEP, IIT, Kharagpur, CMA Biswarup Basu, Vice-President, ICAI, Mr. Sukumar Roy, Managing Director – Amer-SilKetex Pvt. Ltd., CMA Chiitranjan Chattopadhyay, Central Council Member – ICAI, CMA Pallab Bhattacharya, Chairman - EIRC of ICAI, CMA Ashis Banerjee, Regional Council Member – EIRC of ICAI and CMA Ambika Charan Kundu, Senior Founder Member & Executive Officer – Kharagpur Chapter delivered their thought provoking address on this special occasion. The vote of thanks was offered by CMA Kalyan Kr. Bhattacharjee, secretary of the chapter. CMA (Dr.) Arindam Gupta, Professor of Commerce, Vidyasagar University acted as a

key note speaker. He delivered his speech on the various issues of the current state of Indian economy and the role of CMAs. In Technical Session - 1, CMA Kalyan Banerjee, Head – Business Excellence, Tata Metaliks Ltd. delivered his speech on the role of Management Accountants. The formal vote of thanks was offered by CMA Atala Nanda Sabat, Member – Kharagpur Chapter. In Technical Session – II, CMA, CS Timir Baran Chatterjee delivered his speech on the various aspects related to export and import and the role of the CMAs. A good number of interactions also took place with the participants in the seminar. The vote of thanks was offered by CMA Koushik Bose, Member of the chapter. In the valedictory session, CMA Krishnendu Prasad Ray, Senior Founder Member of the Chapter & General Manager (Finance) Retd., NEEPCO Ltd delivered his valedictory address. Vote of thanks was offered by CMA (Dr.) Sudipta Ghosh, Member of the chapter.



## THE INSTITUTE OF COST ACCOUNTANTS OF INDIA RAJPUR CHAPTER

On 5th Jan 2020, the chapter organized annual CMA members meet where members around Kolkata were present to exchange of opinion on profession and Institute. Members proposed and decided to form a body of alumni of ex-students that is today's members of the ICAI-CMA. Inauguration was held on that day and members agreed that this alumni association will work for betterment of the profession and will advise councils in various matters in this regard.



## NORTHERN INDIA REGIONAL COUNCIL

### THE INSTITUTE OF COST ACCOUNTANTS OF INDIA KOTA CHAPTER

The Chapter organized “Seminar on “Recent Changes in GST” on 13th December, 2019. Key Speaker, CMA J.P. Sarda, Practicing Cost Accountant discussed about this topic in detail. The chapter organised a seminar on “Conversion with Cost Audit on 14th December 2019 at CMA Bhawan, Kota. Key Speaker, CMA S.N.Mittal, Practicing Cost Accountant discussed about this topic in detail. The chapter organised a seminar on “Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019” on 15th December 2019 at CMA Bhawan, Kota. Key Speaker-CMA A.K.Jethaliya ( Cost Accountant) discussed about this topic in detail. The chapter organised Members Meet on discussion on Professional development.



### THE INSTITUTE OF COST ACCOUNTANTS OF INDIA JAIPUR CHAPTER

The Chapter organised a seminar on 5th December 2019 for the students at Maheshwari College of Commerce and Arts, Sanganer, Jaipur. In the first technical session, key speaker of the seminar was CMA Harendra Kumar Pareek explained in detail about need for GST, GST Registration, GST Number, Input Tax Credit, GST Audit etc. In the second technical session, key speaker CMA Abhishek Jain also explained various issues related to GST and replied to the queries of the students. At the end of the program, Principal

of the College Dr. Prashant Madan and Professor Dr. Manish Madan thanked both the speakers and participating students. The Chapter organised a seminar on 21st December 2019 at its premises. In the beginning, Chapter Chairman CMA S.L. Swami, Secretary CMA Swapnil Bhandari, Executive Members CMA Harendra Kumar Pareek and CMA Sandeep Chouhan welcomed the Speaker and the participants. Topic of the Seminar was “Precautions while doing GST Audit of clients under Investigation and Understanding provisions relating to arrest under GST”. Key Speaker Advocate Rahul Lakhwani explained in detail about the precautions to be taken during GST Audit and also about various penal provisions under GST Audit. The program was conducted by CMA Smita Gupta. At the end of the program, CMA Deepak Kumar Khandelwal, Executive Member thanked the key speaker and all the participants.



## SOUTHERN INDIA REGIONAL COUNCIL

SIRC organized Study Circle Meetings for the Members on different dates of December, 2019. A MoU was signed for offering Crash Course on 'GST' for its students by D.G. Vaishnav College, Chennai with the Institute on 5th December, 2019, in which CMA Balwinder Singh, President, ICAI, CMA P. Raju Iyer, CMA V. Murali, Council Members, ICAI, CMA Jyothi Satish, Chairperson – SIRC and Dr. R. Ganesan, Principal of the College & Faculty members of Post Graduate & Research Department of Commerce participated. Students would be certified by the Institute and the college, after successful completion of the classes and clearance of the examinations to be conducted. The programme was co-ordinated by Shri K.B. Manikandan and CMA Rakesh Shankar R, Department of Commerce, D G Vaishnav College.



## THE INSTITUTE OF COST ACCOUNTANTS OF INDIA HYDERABAD CHAPTER

A seminar on input of Technology on Accounting Profession and Members Meet was organized on December 4, 2019 and Dr. Manjula D. Hosmani, Addl Commissioner, Hyd was invited as a Chief Guest for the technical session. CA Sekhizhar B, Director, Haskins Sells, expressed his views on 'Input of Technology on Accounting Profession'. CMA Balwinder Singh, President of the Institute informed about the initiatives and roadmap for the benefit of students, members and other stakeholders of the CMA Profession on December 4, 2019. He highly appreciated the dynamic steps taken by the present government in transforming the Indian economy and building a New India. He reconfirmed the dedication of the CMA profession towards to provide all possible support in terms of expertise and act as catalyst in the growth process. The President informed that the institute is organizing a knowledge-sharing forum in the form of Global Summit on 9th – 11th January 2020 at New Delhi. He briefed about Insolvency Professional Agency of the Institute of Cost Accountants of India (IPA of ICAI), ICAI Registered Valuers Organisation (RVO), ICWAI Management Accounting Research Foundation (ICWAI MARF). 3rd batch of ICAI Registered Valuers Organisation Educational Course on Valuation – Securities or Financial Assets commenced from 6th December, 2019 at Sanatnagar. The Chapter conducted a discussion session on 'SurakshitMahila' in association of Team of Helping Hands. The discussion focused on the steps to be taken for the protection of women and the future generation. Smt. Nadimpalli Yamuna Pathak, Socio-Political Activity, Currently TG BJP State Mahila Morcha Vice President and also a Motivated Speaker, Mentor and Psychologist had been invited for the session. The Government took a big step in reforms by bringing personal guarantors to corporate (corporate debtors) within the fold of the Insolvency and Bankruptcy Code. The Ministry of Corporate Affairs (MCA) has come up with a set of rules extending the scope of the IBC to personal guarantors of corporate debtors. This would benefit both the banks and the personal guarantors in reducing legal actions. In this scenario, the chapter organized a programme on 12th December 2019 in association with Insolvency Professional Agency of the Institute. Dr. S.K. Gupta, MD & CEO-IPA/ICAI-COST, CMA T.S.N. Raja-Insolvency



Professional vividly explained various sections. Finance Minister, Nirmala Sitharaman announced the SabkaVishwas (Legacy Dispute Resolution) Scheme, 2019, in the budget for 2019-20 with the objective of settling pending disputes of Service Tax and Central Excise. The SabkaVishwas Scheme provides a one-time window to eligible persons to declare their tax dues and pay the same in accordance with the provisions. The chapter have organized this programme in association with GST Commissionerate, Hyderabad on 13th December 2019. ShriArun Kumar, Superintendent of GST, Sri Vasudha Prasad Rao, Addl. Commissioner, Sri P.D. Puli, Addl, Commissioner, CMA Lavanya K.V.N., Chairperson, HCCA, Sri Madhusudhan Reddy, and Deputy Commissioner addressed the gathering. Valedictory of Registered valuers course Batch - 3 was organized on December 15, 2019 and CMA Khaja Jalal Uddin, Secretary attended the programme. On December 27, 2019, the chapter organized a programme on Balanced Scorecard – Translating Strategy into Action and CMA Ramanaiah Naidu, Practicing Cost Accountant clearly explained the four perspectives of the balanced scorecard i.e Finance, Customer, Internal Process, Learning and Growth perspectives.



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA  
COIMBATORE CHAPTER**

The Chapter conducted a PD Program on 6th January, 2020 on the topic “Communication: The Mother of all Skills”. CMA SankaranIyer, Trainer & Coach, Coimbatore gave a lecture on the topic. The inaugural function of 89th session of oral coaching was held at the chapter on 26th December, 2019. The Chairman and MC Members addressed the students. On 10th January, 2020, a Career Awareness programme on CMA Foundation Course was conducted at Hindustan College of arts & science, Coimbatore by the chapter.



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA  
VISAKHAPATNAM CHAPTER**

The Chapter organized a Professional Development Meet on “Company Law - Emerging Global Challenges for Professional Accountants” on December 22, 2019. CMA Dr. P.V.S. Jagan Mohan Rao, President SAFA explained about the latest company law amendments and key sections related to CMAs and financial statements. CMA M. Ramakrishna, chairman of the chapter welcomed the gathering and importance of company law. Members participated in the programme are CMA S.Ramprasad, secretary of the chapter CMA S.Rama Rao, Treasurer of the chapter, CMA U.Prakash, Member. A Career Awareness Program was conducted at CMA Support Center Srikakulam on December 24, 2019. Chief Guest, Shri Rama Mohan Naidu, Member of Parliament appreciated the chapter and its members to take efforts to create awareness about the CMAs in the Srikakulam district. Guest of Honor, CMA Dr.P.V.S.Jagan Mohan Rao, President SAFA, CMA M.Ramakrishna, chairman of the chapter, Shri P.V.R.Patnaik, CMA Support Center Srikakulam appraised the importance and benefits of the CMA course to the students and parents.



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA  
TRIVANDRUM CHAPTER**

The chapter organised a professional development programme on 9th December 2019 on the subject “Latest Amendments on GST and Annual Returns”. The meeting was presided over by CMA Joseph Louis, chairman, of the chapter and the session was handled by CA Unnikrishnan M, Practising Chartered Accountant. In his inaugural address, the chairman said that the Institute is regularly conducting programmes on GST throughout India, to equip members with latest changes in GST Law and more and more programmes will be conducted in the chapter as and when changes announced by Government. The meeting ended with vote of thanks by CMA Ajithkumar A, P D Committee chairman of the chapter.



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA  
BANGALORE CHAPTER**

Two Professional Development programmes on 6th and 14th December 2019 were organized on “Role of MSMEs and the way forward in memory of Past Presidents, CMA M. Sreenivasa Rao, CMA Dr.H.R. Subramanya and SEZ Policy and Procedures - Scope for Cost Accountant sat its premises. Shri H.E., Shri C.S. Prakash, Managing Director of Pushpak Products India Pvt Ltd, CMA Sreepada H.R., Chairman, CMA Manjula B.S Vice Chair Person, CMA Venkataraman, Past President of the chapter were among eminent dignitaries present in the programmes. A programme on Balanced Scorecard – Translating Strategy into Action was organised on 18th December 2019 at its premises and CMA M. Ramanaiah Naidu, CMA Kumar H N, Secretary, CMA Jayarama A.V, CMA Venkataraman, Past President were

present in the programme. “Cost Reduction, Cost Control & Activity Base Cost Management” programme was organized at its premises from December 2 till December 4, 2019. CMA. Sreepada H.R., Chairman, CMA A V Jayaram, MC Member, CMA Satish R Treasurer, CMA Ramaskanda, CMA Murali Krishna, CMA T.K.Jaganatha, CMA JayendraNaik, CMA Venkanna, CMA Nagaraj B.R. were present in the programme. RVO Classes, at its premises from December 6 till December 5, 2019 and December 14 till December 16, 2019. CMA Vishwanath Bhat, Treasurer SIRC, CA Harish, CA Chinmay & CA Shilpa, CA Uthara, CA Ravishankar, CA SubbaRao, CMA G N Venkataraman , CA ShilpaKiran, CMA N R Kaushik attended the classes.



## WESTERN INDIA REGIONAL COUNCIL

### THE INSTITUTE OF COST ACCOUNTANTS OF INDIA INDORE DEWAS CHAPTER

The Chapter had organized various career awareness programmes and targeting to increase students’ admissions through the same.



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA  
NASIK OJHAR CHAPTER**

The Chapter conducted a seminar on “New GST Return & E-Invoicing” on 30th Dec 2019 at CMA Hall, Prasanna Arcade, Nashik. The eminent faculty, CMA Pratik Shah from Pune, explained on the amendments in GST like E- Invoicing and New Returns requirements. The programme began with the welcome speech by CMA Dipak Jagtap (Managing Committee member of Nashik Chapter) and ended with vote of thanks by CMA Swapnil Kharade, Secretary of Nashik Chapter. The chapter had successfully conducted Career Counselling programme on 12th Dec. 2019 at SN Arts, DJ Malpani & BN Sardas Science and Commerce College, Sangamner, Nashik.



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA  
SURAT SOUTH GUJARAT CHAPTER**

The Chapter organized a full day seminar on the subject of “Recent updates in GSTR-9 & GSTR9C” on December 8, 2019 at its premises. CMA Nanty Shah, secretary of the chapter welcomed the chief guest & speaker CMA Neeraj Joshi, CCM & Chairman WIRC and faculty CMA Dr. Shailendra Saxena and all the delegates and final students. CMA Mahesh Bhalala, Managing Committee Member and CMA Nanty Shah, secretary of the chapter welcomed CMA Neeraj Joshi with flowers and memento. CMA Dr. Saxena was felicitated by CMA Brijesh Mali, chairman of the chapter. CMA Bhanwarlal Gurjar, managing committee member of the chapter gave brief introduction of the faculty CMA Dr. Saxena and CMA Rakesh Verma, member of the chapter gave brief introduction of CMA Neeraj Joshi. CMA Neeraj Joshi highlighted the points which mainly have to be looked after while filling various returns of GSTR. CMA Dr. Shailendra Saxena explained recent changes and legal issues while filing various GSTR – 9A, GSTR – 3B and GSTR – 9C. On 27th Dec, 2019, the oral learning (Jan-June-2020) session was inaugurated by Dr. Ashok Desai, Principal Z. F. Wadia Womens College of Commerce. CMA Brijesh Mali, chairman of the chapter gave welcome address and Dr. Ashok Desai guided and encouraged with his wise words to foundation, Intermediate and Final students. The function concluded by vote of thanks presented by CMA Bharat Savani, vice chairman of the chapter.



**THE INSTITUTE OF COST ACCOUNTANTS OF INDIA  
AHMEDABAD CHAPTER**

The Chapter organized workshop for creating awareness for “Ease of doing Business” on December 5, 2019 at its premises. CMA Dakshesh Choksi, Chairman of PD Committee of the chapter welcomed speakers, CMA A G Dalwadi-CCM, CMA Ashish Bhavsar-Secretary, WIRC and members were present in the workshop. Shri M V Chakranarayan-RD, Ahmedabad explained about

progressive reforms undertaken by MCA for Ease of Doing Business and delegated powers to RD. Shri M K Sahu explained Ease of Doing Business and fresh initiatives by ROC. Shri Anu Vivek submitted presentation on general awareness of stakeholders. CMA Tushar Shah discussed on recent key amendments of MCA/ SEBI LODR. CCM A G Dalwadi interacted with members. CMA Mitesh Prajapati, Treasurer of the chapter proposed vote of thanks. The chapter organized discussion on Draft of Guidance note on Internal Audit of Cost Record was held on December 11, 2019. CMA A G Dalwadi, CCM and members of technical cell and CMA Ashish Bhavsar, Secretary-WIRC led the discussion.



## THE INSTITUTE OF COST ACCOUNTANTS OF INDIA NAVI MUMBAI CHAPTER

The Chapter organized a CEP on “An Insight into Tax Audit” on 19th January 2020 at Karmaveer Bhaurao Patil College, Vashi. The programme commenced with the traditional welcome of the speaker, CMA Manoj Panda and the audience by CMA Vivek Bhalerao. CMA Debashish Mitra introduced the speaker and highlighted the importance of tax audit under Income Tax Act and compliance of ICDS. Speaker, CMA Manoj Panda explained various clauses of Income tax compliances which require disclosure in Tax Audit Report viz Tax Audit U/s 44AB of Income Tax Act 1961. The session was very interactive and the speaker thanked all participants for making session interesting with their questions and discussions. The programme ended with felicitation of speaker, CMA Manoj Panda jointly by the Chairman CMA Sirish Vasant Mohite & PD Chairman, CMA Vivek Bhalerao. Chairman, Sirish Vasant Mohite gave the vote of thanks. The Chapter joined the ceremony of Republic day with Karmaveer Bhoudas Patil College of Commerce Vashi. Chairman of the chapter, CMA Sirish Mohite, Vice-Chairman, CMA Ajay Mohan joined the Principal of the College in the celebration. The national anthem was sung and they saluted the Indian Flag.



### DIRECT TAXES UPDATES

- **Clarifications in respect of prescribed electronic modes under section 269SU of the Income-tax Act, 1961 (Circular No. 32/2019 dt 30<sup>th</sup> Dec 2019)**

To encourage digital economy and move towards cash less economy a new provision Section 269SU was inserted in the Income Tax 1961 which provides that every person having a business turnover of more than Rs. 50 crore shall mandatorily provide facilities for accepting payment through prescribed electronic modes. The specified person w.e.f. 1<sup>st</sup> January 2020 must provide the facilities for accepting payment through the prescribed electronic mode. Section 10A of the Payment and Settlement Systems Act 2007, inserted by Finance Act, provides that no Bank or system provider shall impose any charge on a payer making payment or a beneficiary receiving payment through electronic modes prescribed u/s 269SU of IT Act. Any charge including MDR shall not be applicable on or after 1<sup>st</sup> January 2020 on payment made through prescribed electronic modes. Finance Act also inserted Section 271DB which provides for levy of penalty of Rs. 5000 per day in case of failure by the specified person to comply with the provisions of Section 269SU. It is hereby clarified that the penalty u/s 271DB will be applicable w.e.f. 1<sup>st</sup> February 2020.

- **Relaxation of time- Compounding of offences under Direct Tax Laws- One Time measure – Extension of Time (Circular No 1/2020 dt 3<sup>rd</sup> January 2020)**

Reference to Circular No 25/2019 dated 09.09.2019 condition for filing of applications for compounding of offences under the IT Act 1961, to be filed within 12 months from filing of complaint in the court was extended by CBDT before the competent authority i.e. the Pr. CCIT/CCIT/Pr. DGIT/DGIT concerned on or before 31.01.2020.

- **Circular on TDS from salaries during the year 2019-20 released on 16<sup>th</sup> January 2020 -- Income-tax Deduction from salaries during the Financial Year 2019-20 under section 192 of the Income-tax Act, 1961 (Circular No 4/2020 dt 16<sup>th</sup> January 2020).**

- **Notification No. 01/2020 dt 3<sup>rd</sup> January 2020: CBDT notifies ITR-1 and ITR-4 for Assessment year 2020-21.**

- **Notification No. 2/2020 dt 3<sup>rd</sup> January 2020:** The organisation M/s Indian Institute of Technology (Indian School of Mines), Dhanbad (PAN:-AAAAI0686D) has been approved by the Central Government for the purpose of clause (ii)/(iii) of sub-section (I) of section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), from Assessment year 2019- 2020 and onwards under the category of “University, College or other Institution”.

- **Notification No. 3/2020 dt 6<sup>th</sup> January 2020:** Amendment of rule 10DA and rule 10DB regarding furnishing of information and maintenance of documents by Constituent Entity of an international group.

### INDIRECT TAXES UPDATES

- **Levy and Collection of Social Welfare Surcharge (SWS) on imports under various schemes such as Merchandise Exports from India Scheme (MEIS), Services Exports from India Scheme (SEIS)**

Judgment of Hon’ble Supreme Court dated 6<sup>th</sup> December 2019 in case of Unicorn Industries Vs Union Of India & others (Civil Appeal No 9237 & 9238 of 2019), it is clarified that SWS is not exempted and has to levied and collected on imported goods (Circular No 02/2020- Customs dt 10<sup>th</sup> January 2020)

- **Implementation of PGA e-SANCHIT– Paperless Processing under SWIFT Uploading of Licenses/ Permits/ Certificates/ Other Authorizations (LPCOs) by PGAs**

e-SANCHIT’ application is successfully in operation since 01.04.2018. The objective of the application is to further reduce physical interface between Customs/regulatory agencies and the trade and also to increase the speed of clearance in both imports & exports. Since the facility to upload the LPCOs is now

being fully made available to these 4 new PGAs, the beneficiaries i.e. importer/exporters/customs brokers would not be allowed to upload the previously issued LPCOs on e-SANCHIT w.e.f 31/01/2020. Further, to facilitate the members of the trade (beneficiaries), the PGAs are required to upload the LPCOs issued by them during the last 15 days from above cut-off date. Any LPCOs issued on a prior date may also be uploaded by the PGAs on e-SANCHIT, in order to enable the beneficiary to utilize the same (Circular No 03/2020-Customs dt 15<sup>th</sup> January 2020)

- **Clarification relating to import of gifts (Circular No 04/2020-Customs dt 21<sup>st</sup> January 2020)**

- **Notification No.01/2020-Central Tax,dt. 01-01-2020:** In exercise of the powers conferred by sub-section (2) of section 1 of the Finance (No. 2) Act, 2019 (23 of 2019), the Central Government hereby appoints the 1st day of January, 2020, as the date on which the provisions of sections 92 to 112, except section 92, section 97, section 100 and sections 103 to 110 of the Finance (No. 2) Act, 2019 (23 of 2019),

shall come into force.

- **Notification No. 02/2020- Central Tax dt 02-01-2020: Seeks to make amendment (2020) to CGST Rules.** In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby makes the rules further to amend the Central Goods and Services Tax Rules, 2017.

- **Notification No. 03/2020-Central Tax ,dt. 01-01-2020:** Seeks to amend the notification No. 62/2019-CT dt. 26.11.2019 to amend the transition plan for the UTs of J&K and Ladakh

- In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 62/2019-Central Tax, dated the 26th November, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) vide number G.S.R. 879(E), dated the 26th November, 2019, namely:—

In the said notification,—

- in paragraph 2, in clause (iii), for the figures, letters and words “30th day of October, 2019” and “31st day of October”, the figures, letters and words “31st day of December, 2019” and “1 st day of January, 2020” shall respectively be substituted;

- in paragraph 3, for the figures, letters and words “31st day of October, 2019”, the figures, letters and words “1st day of January, 2020” shall be substituted.

- **Notification No. 04/2020-Central Tax ,dt. 10-01-2020:** Seeks to extend the one-time amnesty scheme to file all FORM GSTR-1 from July 2017 to November, 2019 till 17th January, 2020.

- **Notification No. 05/2020-Central Tax,dt. 13-01-2020:**

In pursuance of the provisions of section 5 read with clause (99) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), the Central Board of Indirect Taxes and Customs hereby authorises –

- the Principal Commissioner or Commissioner of Central Tax for decisions or orders passed by the Additional or Joint Commissioner of Central Tax; and
- the Additional or Joint Commissioner of Central Tax for decisions or orders passed by the Deputy Commissioner or Assistant Commissioner or Superintendent of Central Tax, as the Revisional Authority under section 108 of the said Act.

### Information Source -

Various internet websites including Income Tax Website, Customs portal, GST portal.

www.icmai.in

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Statutory Body under an Act of Parliament

In association with

**ST. XAVIER'S COLLEGE (AUTONOMOUS), KOLKATA**  
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## ADVISORY FOR RENEWAL OF CERTIFICATE OF PRACTICE FOR 2020-21

The members of the Institute holding Certificate of Practice (CoP) having validity up to 31<sup>st</sup> March, 2020 are requested to comply with the following guidelines for renewal of their Certificate of Practice:

1. The following changes consequent to amendment of the Cost and Works Accountants Regulations, 1959 vide Notification dated 4<sup>th</sup> February, 2011 published in the Gazette of India may be noted:
  - a. The validity of a Certificate of Practice (CoP) is for the period 1st April to 31<sup>st</sup> March every year unless it is cancelled under the provisions of the Cost and Works Accountants Act and Regulations, 1959 as amended.
  - b. The Certificate of Practice issued shall automatically be renewed subject to submission of prescribed Form M-3 and payment of renewal fee\* and annual membership fee\*.
  - c. From the year 2011-12 onwards, letter for renewal Certificate of Practice is not being issued. However, the members concerned may download the renewal status from the Institute's website [www.icmai.in](http://www.icmai.in).
2. It may please be noted that under Section 6 of the Cost and Works Accountants Act, 1959, **both the Annual Membership Fee\* and Fee for Renewal of Certificate of Practice\*** falls due on 1st April each year.
3. Special attention is invited to the fact that the validity of a Certificate of Practice expires on **31<sup>st</sup> March** each year unless it is renewed on or before the date of expiry in terms of the amended Regulation 10 of the Cost and Works Accountants Regulations, 1959. Hence, a member shall be required to renew his certificate within **31<sup>st</sup> March** every year.
4. **If the Certificate of Practice of a member is not renewed within 31<sup>st</sup> March, 2020, his/her status of CoP from 1<sup>st</sup> April 2020 till the date of renewal would be "Not Active".**
5. Subject to what has been mentioned in Sl. No. 4 above, a member can get his/her Certificate of Practice for 2020-21 renewed within **30<sup>th</sup> June, 2020**. If application for renewal of Certificate of Practice is made after 30<sup>th</sup> June, 2020, the member's Certificate of Practice for 2020-21 will not be renewed but will be considered as a case of fresh issuance with effective date being the date of the application or receipt of the prescribed fee \* for Certificate of Practice, whichever is later.
6. It may please be noted that mere payment of fees \* alone will not be sufficient for renewal of Certificate of Practice. Application in prescribed Form M-3 is to be used for Renewal of Certificate of Practice duly filled in and signed is **mandatory**. The soft copy of prescribed Form M-3 for Renewal of Certificate of Practice can be downloaded from Institute's website [www.icmai.in](http://www.icmai.in).
7. The Institute has introduced a scheme of Continuing Education Programme (CEP) and the same is mandatory in accordance with proviso to sub-regulation (1) of Regulation 10 of the Cost and Works Accountants Regulations, 1959, as amended, whereby no Certificate of Practice and renewal thereof shall be issued unless a member has undergone minimum number of hours of such training. The detailed guidelines in this connection are available on Institute's website [www.icmai.in](http://www.icmai.in).
8. **Other relevant issues for Renewal of Certificate of Practice are as follows:**
  - a. Application for renewal of Certificate of Practice upto 31<sup>st</sup> March, 2021 has to be made in prescribed Form M-3 which may be filed online or through hard Copy of form duly filled in and signed on both sides together with Renewal Certificate of Practice fee \* of Rs.2,000/- and all other dues to the Institute on account of annual membership fees \* and entrance fees \*.
  - b. The annual membership fee\* for Associate and Fellow members are Rs.1,000/- and Rs.1,500/- respectively. The entrance fee \* for Associate and Fellow members is Rs. 1,000/- each payable at a time at the time of application for admission to Associateship or advancement to Fellowship, as the case may be.
  - c. The fees \* may be paid online or by Demand Draft/at par cheque payable at Kolkata if remitted by post to the Headquarters of the Institute.
  - d. Members should note that the **renewal of Certificate of Practice can be effected only after receipt of the prescribed fees\* along with duly filled in form at the Headquarters of the Institute and on meeting the stipulated CEP credit hours**. Mere submission of the same at the Regional Councils or Chapters will not be sufficient. Members are advised to make payment directly to the Headquarters or use the online facility of submission of application and payment to avoid any delay.

**All practicing members are advised to send their application for renewal of Certificate of Practice for the year 2020-21 along with other requirements as indicated above immediately so as to reach the Institute's Office at Kolkata well in advance to enable the Institute to issue the renewal of Certificate by 31<sup>st</sup> March, 2020.**



## Renewal of Part-time Certificate of Practice

1. For renewal of part-time Certificate of Practice, it is also essential to furnish a certificate from the employer in the following form or in a form as near thereto as possible if the practising member has undertaken any employment or there has been a change in employment:

“Shri/Smt ..... is employed as (designation) ..... and (name of Organisation)..... he/she is permitted, notwithstanding anything contained in the terms of his/her employment, to engage himself/herself in the practice of profession of Cost Accountancy in his/her spare time in addition to his/her regular salaried employment with us.

Signature of Employers with seal of Organisation”

2. It may be noted that members holding Part-time Certificate of Practice (CoP) are not eligible to undertake statutory assignments like Cost Audit, Central Excise Audit, etc.

*\*GST is applicable against payment*

### **The Institute of Cost Accountants of India**

(Statutory Body under an Act of Parliament)

[www.icmai.in](http://www.icmai.in)

**Research Bulletin, Vol. 45, No. III & IV (ISSN 2230 9241)**

#### **Call for Research Papers/Articles**

We invite you to contribute research paper/article for “**Research Bulletin**”, a peer-reviewed Quarterly Journal of The Institute of Cost Accountants of India. The aim of this bulletin is to share innovative achievements and practical experiences from diverse domains of management, from researchers, practitioners, academicians and professionals. This bulletin is dedicated to publish high quality research papers providing meaningful insights into the management content both in Indian as well as global context.

#### **Guidelines to submit full Paper**

- \* Soft Copy of the full paper should be submitted in double space, 12 font size, Times New Roman, keeping a margin of 1 inch in four sides, MS Word (.doc) format.
- \* Each paper should be preferably within 5000 words including all.
- \* An abstract of not more than 150 words should be attached.
- \* The cover page should contain the title of the paper, author’s name, designation, official address, contact phone numbers, e-mail address.

#### **Papers are invited on the following sub-topics, but not limited to:**

- \* Foreign Exchange Risk
- \* Corporate Bonds
- \* Accounting Conventions and Accounting Standards (IFRS)
- \* Corporate Governance & Risk Management
- \* MSME lending in the GST era
- \* Environmental Accounting & Auditing
- \* Value creation and Competitive Advantage through Human Resource Management (HRM)
- \* Future workforce in the age of Artificial Intelligence (AI)
- \* Foreign Investment & Financial Integration
- \* Forensic Accounting and Auditing
- \* International Trade
- \* GST Reforms
- \* Tech Startups in India
- \* Digital Competitiveness
- \* Mega Bank Merger Drive

Papers must be received within **29<sup>th</sup> February, 2020** in the following email id:

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