

EASTERN INDIA CHARTERED ACCOUNTANTS STUDENTS' ASSOCIATION OF EASTERN INDIA REGIONAL COUNCIL OF THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA



E-NEWSLETTER FOR THE MONTH OF AUGUST 2021





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MESSAGE FROM THE DESK

Dear Students,

I feel extremely happy to share that inspite of constraints due to the pandemic, we have been significantly working ahead with broadened perspectives for empowering each one of you with an inclusive future. In these two years, it has become inevitable to make major time investments on digital and mobile offerings for ensuring and accelerating your progress. Ranging from full curriculum-based support classes to motivational classes and fun-filled extra-curricular activities, there has been dedicated efforts to fuel your performance and engage your talent.

August 2021 was a month full of activity. After the Branch Level Talent Search 2021 contests held at various branches of Eastern Region, the Regional Level Talent Search 2021 was conducted on the auspicious occasion of Independence Day at the EIRC Premises. Thereafter, the National Level Talent Search was organized at Puri, Odisha. I definitely do recognize the active participation and enthusiasm of all the participants at the Talent Search competition. And, I would take this opportunity to congratulate the Kolkata Quiz team represented by Manisha Das and Ankit Das for securing second position in the National Talent Search Contest.



In our endeavor to transform your time, energy and efforts to your competitive advantage, a series of programmes have been scheduled for the month of September. An Indoor Sports Meet “Unleash 6.0 2k21” will be held on the 12th of September at Burra Bazar Yuwak Sabha. Sports keeps us going and also enhances our mental capabilities and enables us to leverage our efficiencies. It is a request to all to join in large numbers and not let go off such opportunities. There is also a three-day Ind-AS programme decided to be held in this month. The dates for such programme shall be intimated to you. Several other programmes of academic interest including Speakers’ Forum, Educational Tour and Industrial Visits are being planned too which shall be notified to you soon.

My dear students, making a difference is reflected in our purpose and how we live our values. You get what you give. Remember, today’s accomplishments were yesterday’s impossibilities!!

Wishing you all Happiness, Health and Success.

Stay Safe. Take Care.



MESSAGE FROM VICE-CHAIRPERSON EICASA



"Believe you can and you're halfway there." Starting with the wonderful thought of Theodore Roosevelt, I would like to reiterate the importance of our thoughts and beliefs that ultimately help us achieve what we all strive for.

Belief is what always makes all the difference. We saw the Tokyo Olympics being organised and so many sports personalities excel just on the basis of their belief and sheer will to create world records. It is this belief that helps a person going to achieve the dreams and turn the tide in one's favour.

Mates, the examinations are finally over and I would like to congratulate each and every one who undertook exams in these testing times. Just believe in yourself and all the hard work done over the years will reap the best of the benefits for each one of us. We, here at EICASA, also had the belief and support of all of you and were, thus, successful in organising a number of events during the month such as revisions, mock tests, etc.

We are now looking forward to organise one of the most awaited events of EICASA and look forward to all the support for our fellow mates. Also, we would be organising elocution and quiz competition under the banner *"Students talent Search- 2021"*.

We would also like to inform you that we held the Annual general meeting of EICASA for the year 2020-2021 and the results of the elections which were due were announced in the same. As I pen down my thoughts at the end of an enriching tenure as the Vice Chairperson of EICASA , I am happy to congratulate the new members and wish the best who would soon take the legacy of EICASA forward .

There are also many other events lined up and we hope, you all can reap the maximum benefits from the events.

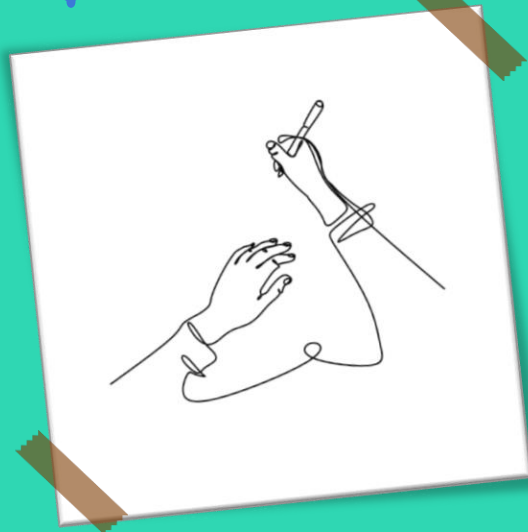
Since the exams are done, it's the time for all of us to take some time out and give ourselves for the overall development and these events would actually help us recognise our interests and potential in the various fields.

In the conclusion I would like to wish all the very best for the results and hope everyone gets through the exams with flying colours. These are the times we need to have belief in ourselves and we would definitely succeed and achieve greater heights in our life.

Wishing you More and Most,

Shristi Kankaria
Vice-Chairperson, EICASA.





ARTICLES & POEMS

“INTERNAL AUDIT – A DOMESTIC CONTROL”

PRIYANKA SONI
NR00236210



Hello to all of you, being in a CA profession,

we are somewhere responsible for a successful running operation of a Company, and for that a successful and effective internal audit is mandatory to be done. Here, I am approaching to collect the internal audits headlines in my words which may be useful for all of us.

(I) Brief Introduction about internal audit

Meaning: Internal auditing is an independent, objective, assurance & consulting activity designed to add value to and improve an organization operation. Internal audits evaluate a company's internal controls, including its corporate governance & accounting processes.

(II) Task / Functions of an Internal Auditor

The role and responsibilities of an Internal Auditor is as follows:

- Objectively assess a company's IT and business processes.
- Asses the company's risks and the efficacy of its risk management & efforts.
- Ensure that the organization is complying with laws and statutes.
- Evaluate internal control and make recommendations on how to improve the same.

III) Applicability of appointment of Internal Auditor – Section 138 of Companies Act 2013.

As per section 138 of companies Act 2013 read with rule 13 of companies (Accounts) rules, 2014 following class of companies are required to appoint internal auditor as an individual or firm of individuals.

- (a) Every Listed Company
- (b) Every unlisted public company, having during proceeding financial year.
 - a. Paid up share capital of Rupees 50 crore or more or
 - b. Turnover / income of Rupees 200 crore or more or
 - c. Outstanding loans or borrowings from banks or Public financial institutions exceeding Rupees 100 crore or more or
 - d. Outstanding deposits of Rupees 25 crore or more
- (c) Every Private company having during proceeding financial year:
 - a. Turnover / Income of Rupees 200 crore or more
 - b. Outstanding loans or borrowings from banks or public financial institutions exceeding 100 crore or more.

Provided that an existing company falls under any of the above criteria shall comply with the requirements of Sec-138 and this rule within 6 months of commencement of such section.

(IV) Modern Techniques of Internal Audit

Internal Financial Control (IFC) v/s Internal Control Over Financial Reporting (ICFR)



IFC

Definition: Section 134 of companies act 2013 defines the term “Internal Financial Control” as,

- Orderly & efficiently conduct of its business, including adherence to company policies.
- Safeguarding of its assets.
- Prevention and detection of frauds and errors.
- Accuracy & completeness of Account records
- Timely preparation of reliable financial information.

Mandatory: For all listed Companies

Auditors Report: Auditor will not comment on IFC.

ICFR

Definition: It is defined in the guidance note issued by ICAI in Sep. 2015

“A person designed to provide reasonable assurance regarding the reliability of financial reporting and preparation of financial statements for external purposes in accordance with generally accepted accounting principles.”

Mandatory: For all unlisted companies

Auditor Report: Auditor will comment on the adequacy & effectiveness of ICFR.

(V) Good Internal Audit Reports Contents

Although, Internal Audit report can comprise in various aspects of reporting, but it must be based on Five “C” matrix: -

- Criteria (What should be)
- Condition (the current state)
- Cause (the reason for the difference)
- Consequence (Effect)
- Corrective action Plans/recommendations

Thank you for reading, Stay Happy, Stay Healthy & Safe.



EFFECT OF INTERNAL AUDITING ON FINANCIAL REPORTING: INTERNAL BIAS OR TOTAL COMPLIANCE

JINISH DEVANG BHOJANI
WR00633934

✓ Independence and Objectivity

Independence and objectivity are pillars of the noble profession of auditing and assurance and in fact the reason for the very existence of this profession. Auditing in general has prospered because of the reliance and confidence of public at large upon the work of auditor and with that reliance and confidence comes an associated responsibility on the part of auditor not to breach the trust and to keep the fundamental principles of independence and objectivity untainted. Independence and objectivity helps the auditor to remain unbiased and base his work upon the hard core facts and the underlying circumstances rather than the continuing familiarity or self interest in an entity.

✓ Internal Audit Function and its alliance with Financial Reporting

Internal Audit is an important limb of auditing. Internal auditors deal with issues that are fundamentally important to the survival and prosperity of any organisation. The scope of Internal Audit includes reviewing the efficacy of internal controls and the policies and procedures adopted by the company for ensuring the orderly and efficient conduct of its business, including adherence to

company's policies, safeguarding of its assets, prevention and detection of frauds and errors, accuracy and completeness of the accounting records, and timely preparation of reliable financial information.



Internal auditors look beyond financial risks and financial statements to consider wider issues such as the organisation's reputation, growth, its impact on the environment and the way it treats its employees. Internal auditing is a combination of assurance and consulting. The assurance part of the work involves telling managers and governors how well the systems and processes designed to keep the organisation on track are working. And the consulting part of the work involves helping the organisation to improve those systems and processes where necessary. Thus the internal auditors keep in constant touch with those charged with governance (TCWG).

However the close association of the Internal auditors with TCWG often raises the question as to ***whether the internal audit function aids Financial Reporting or interjects Internal Bias.***

✓ **Effects of Internal Auditing on Financial Reporting**

Internal auditing (IA) is a valuable monitoring and advising mechanism in ensuring the reliability of financial reporting. Continuous cooperation with the board of directors, executive directors and external auditors in the context of testing the effectiveness of internal control over financial reporting helps in obtaining assurance about the Financial Reporting. IA is assigned an active role in ensuring the integrity, quality and reliability of the financial reporting process. It is expected that internal audit, through the process of discovery of defects, analysing causes and proposing measures for removing

the shortcomings, act as a **constructive critic** who constantly contributes to the improvement of business processes in the company and **uphold business ethics and integrity**.

The competences and responsibilities of IA in implementing effective management processes give to IA a critical role in ensuring the integrity of the financial reporting process. IA has a significant impact on Financial Reporting in terms of detecting and preventing fraud.



IA not only can aid and enhance the preparation and presentation of Financial Statements but can also augment the Financial Reporting which can thereby improve the understanding of the readers of Financial Statements as regards the assertions contained in such financial statements. External Auditors also gain more comfort on the financial statements which have been prepared after a thorough Internal Audit. Also, investors who have access to IA function are more confident of financial statements reliability than those who do not have access to IAF.

However there are certain shortcomings of IA which has an adverse effect on Financial Reporting. The shortcomings can be in form of incompetent staff, shortage of time to address the lacunas, time lag between recording and checking entries etc. But the main shortcoming is the **Internal bias** created due to an overly developed association with the management of the reporting entity which can affect the independence and objectivity of the internal auditor.

Besides it also affects the effectiveness of the IA function. In such a scenario Internal Audit becomes merely a compliance activity and the whole purpose of engaging an Internal Auditor is defeated.

✓ Concluding Remarks

Empirical evidence suggests that Internal Auditing can both augment Financial Reporting as well as intersect an internal bias. Thus it is cardinal to assess the competence and objectivity of IA before placing reliance on the quality of Financial Reporting based upon existence of Internal Audit Function.

At the end, any independence requirement does not rise above the integrity of an individual and hence the onus lies upon the IA to maintain his independence. Thus it is well and truly correct that “*An Auditor is the last bastion of transparency*”.



SA 240 - THE AUDITOR'S RESPONSIBILITIES TOWARDS FRAUDS IN THE FINANCIAL STATEMENT AUDITS.

DEBOLINA CHATTERJEE
ER00214066



SA 240 deals with the auditor's responsibilities towards frauds in the financial statement

audits. It explains how the material misstatements in the financials due to fraud can be identified, assessed and appropriate procedures to detect can be implemented.

Characteristics of fraud:

- Fraud is always intentional
- Two types of fraud resulting from fraudulent financial reporting and misappropriation of assets are relevant for the auditor.

Fraudulent financial reporting

Fraudulent financial reporting is **the intentional misrepresentation of a firm's financial statements with the aim to** give investors a mistaken impression about the firm's operating performance and profitability.

Misappropriation of assets

Asset misappropriation fraud happens when people who are entrusted to manage the asset of an organisation steal from it. Asset misappropriation fraud involves third parties or employees

in an organisation who abuse their position to steal from it through fraudulent activity. It can also be known as insider fraud.

Reasons for fraudulent financial reporting :-

- Pressure from owners, creditors and the markets in general
- Opportunities for fraud (due to lack of emphasis on business ethics).

Incentives and personal conflicts of interests.

Reasons for misstatements arising from Misappropriation of assets :-

- Pressure from management , employees.
- Opportunities for fraud include lack of segregation of duties, lack of timely and appropriate documentation of transaction etc.
- Attitude or Rationalizations like tolerance of petty theft, behaviour indicating displeasure or dissatisfaction with the entity or its treatment of the employees .

Reporting of Fraud and Other Matters by Auditor, Cost Auditor and Secretarial Auditor

Amount of Fraud is more than One Crore Rupees and Above :

If an auditor of a company, in the course of the performance of his duties as statutory auditor, has reason to believe that an offence of fraud, which involves or is expected to involve individually an amount of rupees one crore or above, is being or has been committed against the company by its officers or employees, the auditor shall report the matter to the Central Government.

Manner of Reporting of Fraud to Central Government:

The auditor shall report the matter to the Central Government as under:-

- The auditor shall report the matter to the Board or the Audit Committee, as the case may be, immediately but not later than two days of his knowledge of the fraud, seeking their reply or observations within forty-five days;

- On receipt of such reply or observations, the auditor shall forward his report and the reply or observations of the Board or the Audit Committee along with his comments (on such reply or observations of the Board or the Audit Committee) to the Central Government within fifteen days from the date of receipt of such reply or observations.

In case the auditor fails to get any reply or observations from the Board or the Audit Committee within the stipulated period of forty-five days, he shall forward his report to the Central Government along with a note containing the details of his report that was earlier forwarded to the Board or the Audit Committee for which he has not received any reply or observations;

Where Report of Fraud is required to be sent :

- The report shall be sent to the Secretary, Ministry of Corporate Affairs in a sealed cover by Registered Post with Acknowledgement Due or

by Speed Post followed by an e-mail in confirmation of the same;

The report shall be on the letter-head of the auditor containing postal address, e-mail address and contact telephone number or mobile number and be signed by the auditor with his seal and shall indicate his Membership Number; and

- The report shall be in the form of a statement as specified in Form ADT-4.
- Amount of Fraud is less than One Crore Rupees :
- In case of a fraud involving lesser than the Rs.1 Crore, the auditor shall report the matter to Audit Committee constituted under section 177 of the Companies Act, 2013 or to the Board immediately but not later than two days of his knowledge of the fraud and he shall report the matter specifying the following:-
 - Nature of Fraud with description;
 - Approximate amount involved; and
 - Parties involved.

Discloser of Fraud in Board Report :The following details of each of the fraud reported to the Audit Committee or the Board under sub-rule (3) during the year shall be disclosed in the Board's Report:-

- Nature of Fraud with description;
- Approximate Amount involved;
- Parties involved, if remedial action not taken; and
- Remedial actions taken.

The provision of this rule shall also apply, mutatis mutandis, to a Cost Auditor and a Secretarial Auditor during the performance of his duties under section 148 and section 204 respectively.

Auditor unable to continue the engagement

If the auditor concludes that it is not possible to continue performing the audit as a result of a misstatement resulting from fraud or suspected fraud, the auditor should:

- consider the professional and legal responsibilities applicable in the circumstances, including whether there is a requirement for the auditor to report to the person or persons who made the audit appointment or, in some cases, to regulatory authorities;
- consider the possibility of withdrawing from the engagement; and
- **if the auditor withdraws:**
 - Discuss with the appropriate level of management and those charged with governance, the auditor's withdrawal from the engagement and the reasons for the withdrawal; and
 - Consider whether there is a professional or legal requirement to report to the person or persons who made the audit appointment or, in some cases, to regulatory authorities, the auditor's withdrawal from the engagement and the reasons for the withdrawal.

“COMMUNICATE LIKE A PRO”



HEMANG RUPAREL
WRO0627560

What is communication?

- The act of sharing or exchanging information, ideas or feelings.
- In simple language, it is art of making other person think or act the way we want.

Why is communication important?

- Communication helps us:

To enhance knowledge

- Communication helps us to get exposed to new ideas, thoughts, etc.

To increase network

- To increase network, it is necessary to interact and communicate with people.

To become a leader

- Leader needs to coordinate with various people and interact and communicate with them.

To share ideas

- To share one's idea it is necessary to communicate.

The list goes on and on. In all communication is must - *to live, grow and prosper in life.*

But now, the question arises why to communicate like a pro?

- Presently, we all are communicating with each other in an ordinary way. This is the way which we have adapted from our environment, culture, etc.
- If we communicate in the same way, the below may happen:



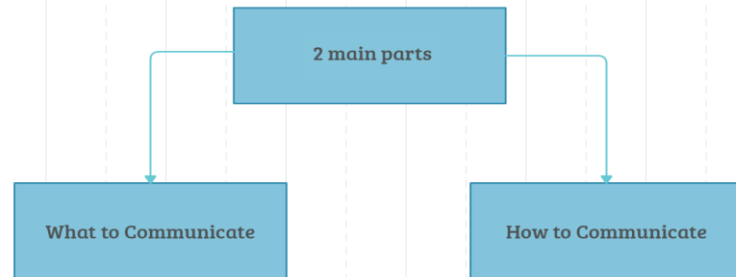
- As we can see, the presenter is speaking but *no one is listening*. Rather, they found it so boring that *they preferred sleeping*.

- To transform from that, we need to “Communicate like a Pro”

Now that we know importance of communication, **let's start with process of becoming a pro.**

Communicate like a pro

Let us bifurcate the discussion into 2 main parts.:



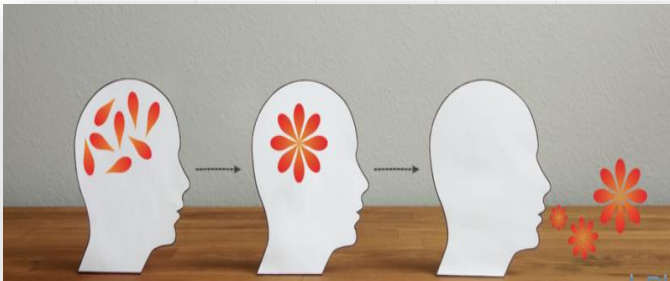
Both are much important for becoming a pro.

What to communicate?

- There are **7C's of communication** which are required for **effective communication**. Out of 7 the **most important 3C's** are discussed:

1. Clarity:

- Many times, it happens that the other person is unable to understand what we want to communicate.
- *It is* because we are unable to clarify, because we our self are not clear
- To avoid this:
a) Always think on paper. This will help to structure our thoughts in better and clearer terms.



2. Conciseness:

- In today's competitive world, **communication needs to be faster yet in an impactful way.**
- So, we need to keep our **content precise**, but it should be adequate enough to get what we want in other person's mind.
- For this us need to:
a. Keep the content simple..
b. Review thoroughly & repeatedly..
c. Formatting will help us to concise the content & also make it effective.



3. Consistency:

- We shall not contradict our own opinion.

To maintain consistency, we need to:

- a. **Be clear about our opinion.**
- b. **Repeat** the key words.
- c. **Check** for any contradiction



CONSISTENCY

Now, we have a **clear & concise content** ready to communicate. But now comes the most important topic, that is, “How to communicate”

How to communicate?

- It is well said that –

*How you communicate
Is more important than
What you communicate*

- Just remember the last time, when you wanted to leave on time but you end up working late till night; between these two events was a **small talk between you and your boss**. Your boss asked you to work till late night, but in **such a way** that you were ready to work so **without complaining & happily**.

I am going to unveil the secret behind this to you!

Usually, we communicate to increase network or to get things done.

Let's understand “How to communicate?” in both above situations

A. To increase Network:

It is said that

"Your network determines your net-worth"

- The best way to build a network is to interact and talk with more and more people.
 - Here, our intention is to make people like use.
- Here are **6 tips** for the same.

1. Smile – an undervalued asset

When we smile, we signal our friendliness, openness to engaging, and interest in people.

- It is the best expression that we can wear for our first impression.
- *A smile says,*
"I like you. You make me happy. I am glad to see you."
- Our smile is messenger of our good will. It brightens the lives of all who see it.

*Your best
networking
tool is smile.
Don't underestimate
its power
while meeting
people.*

–Sue Voyles

2. Remembering Name can change the Game

- We tend to forget names of people; but we do remember names of many people, who are important in our life.
- A person likes his name much more than all other names of the world put together

Remember: "A person's name is, to that person, the sweetest & most important sound in any language"

3. Listen more, Speak less

- As per a study, many people visit doctors just because there is no one to listen them.

Remember that the people you are talking to are 100 times more interested in themselves and their wants and problems than they are in you and your problems.

4. Become genuinely interested in other person

- We can make more friends in two months by becoming more interested in other people than in two years by trying to get people interested in us.

Everyone likes to talk about their accomplishments, so we should ask questions that people answer happily.

Encourage persons to talk about themselves.

5. Don't criticize

"If you want to gather honey, don't kick the beehive"

Criticism is futile as it puts a person on defensive mode and usually makes him strive to justify himself.

- By criticizing, we cannot make lasting changes but we will surely ensure hatred towards us.
- Just remember –

"We are not dealing with creatures of logic; we are dealing with creatures of emotion"

6. Appreciate & make him feel important

- The only way I can get you to do anything is by giving you what you want.
- ***The deepest urge in human nature is "the desire to be important".***
- Many people go insane, because in insanity, they find a feeling of importance that they were unable to achieve in real world.
- If some people became insane for feeling of importance, just think what miracles we can achieve by giving people an honest appreciation.

But remember, we need to give an honest sincere unselfish appreciation from heart.

B) To get something done:

- Major part of communication in **corporate world** is to get things done.
- We may want to get things done by our **team, colleague, client, etc.**, so it is important to know how to deal with the same.

1. Begin in a friendly way

- Begin with communication in a friendly way, that too with an appreciation.

“People don’t want to change their minds. They can’t be forced or driven to agree with us. But they may possibly be lead to, if we are gentle & friendly”

2. Avoid argument

- The only way to get best of an argument is **to avoid it.**
- Remember,
“A man convinced against his will, is of the same opinion still”

Say what you mean, but don't say it mean.

3. Socratic Method

- This method was used by Socrates, based on getting **“Yes, Yes” response.**
- Ask questions which the other person would have to agree upon & continue till other person get embracing a conclusion or answer that he would have denied bitterly a few minutes before.

4. Make person feel like his own decision

- No one likes to get orders to **our own ideas.**
- We need to make the **person feel that he is working on his own idea.**

5. Change viewpoint

- Try **honestly to see from other person's point of view**.
- **Step into the shoes of other person**, try to see what he wants or what are his fear, thoughts, emotions, etc.
- For this, make him speak more & identify areas where he is uncomfortable and try to resolve the same

6. Respect other person's idea or feelings

- Never say a person that "You're wrong". Respect their idea & feelings & be sympathetic.
- 3/4th of people we meet are hungry & thirsting for sympathy. IF we give them the same, they will love us.

If there is any one secret of success, it lies in the ability to get the other person's point of view and see things from that person's angle as well as from your own.

Henry Ford

7. Appeal to nobler motives

- A person usually has **two reasons** for doing a thing: one that sounds good & other the real one.
- In order to change a person, appeal to nobler motives.

People are honest & want to discharge their obligations. We just have to make them feel that we consider them honest, upright & fair.

Conclusion

- Any person by following above can become a **"Pro" in communication**.
- The underlying principle of all above points is: *"Human is not a creature of Logic, but is a creature of emotions"*

"Three things that never come back; the spent arrow, the spoken word and the lost opportunity. "

-William Gregory Paige

Hence, we need to take sufficient care while interacting with people. At last, I would like to end with a quote:

"Communication works for those, who work at it"

So, Keep Communicating

GST UNDER REAL ESTATE SECTOR



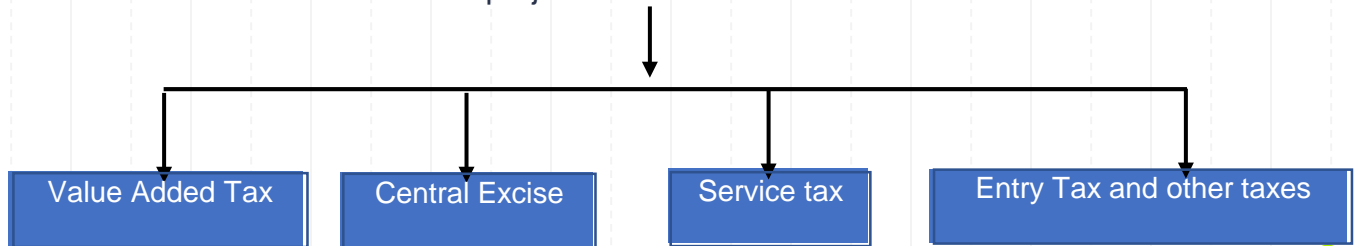
SAI KALYAN KUMAR SR00663907



Introduction and Taxes prior to implementation of GST:

Real estate industry is one of the important pillars of the Indian economy in terms of employment generation. It also contributes for more than 9% of the country's total GDP. Growth of this sector is directly linked with the National growth. Therefore, the tax implications on real estate projects would have a larger impact on the development of the country.

Prior to GST implementation, a variety of state and central taxes were imposed on real estate projects. Some of them are:



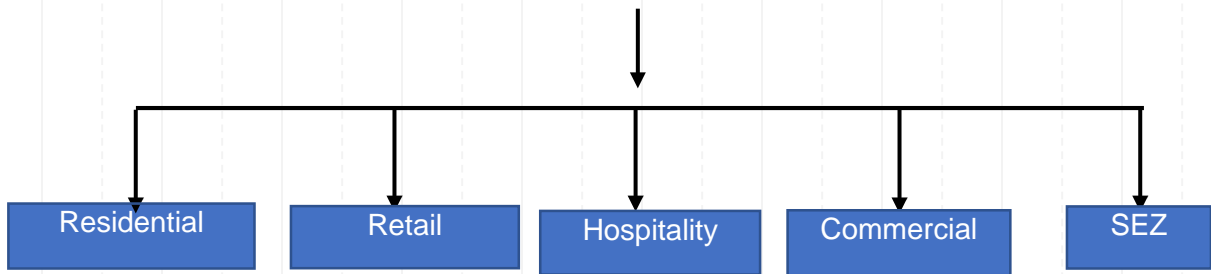
While these taxes increased the cost of project development for developers, no credit of the same was available to the developer to set off against their output liabilities. Once the cost of the project is increased, there will be commensurate increase in the prices of the flats making it costlier.

Meaning of Real estate sector:

In simple terms real estate means sale, purchase, development of land, construction of buildings, residential housing, factories, Government buildings, offices etc. But as per 2(zn) of RERA Act, 2016 the real estate sector is as follows:

- The development of a new building/apartments,
- Converting an existing building into apartments,
- The development of land into plots or apartment,
- For the purpose of selling all or few.

The sector can be majorly classified into following categories:



Supply of Goods or Services:

GST is levied on the supply of goods or services or both wherein the goods mean every kind of movable property other than money and securities whereas service means anything other than goods. So, it is important to understand whether the real estates transaction shall be treated as supply of goods or supply of services or not. The same is discussed in following paragraphs

Taxability of Real estate transactions

- Schedule III of CGST Act, 2017 sets out the activities which are treated neither as supply of goods nor as supply of services wherein Entry No.5 reads as follows

"sale of land, and subject to clause (b) of paragraph 5 of schedule II,"

Therefore, sale of building shall be neither treated as supply of goods or supply of services and no GST is required to be paid. However, the same is subject to *clause (b) of paragraph 5 of schedule II*,

- Clause (b) of paragraph 5 of Schedule II states that *"construction of complex, building, civil structure or a part thereof except where the entire consideration is received after issuance of completion certificate, where required by the competent authority or after its first occupation is treated as supply of service accordance with Schedule II of the CGST Act"*
- The below table gives the meaning of Clause (b) of paragraph 5 of Schedule II

Receipt of part/total Consideration	Supply of service or not	Taxable or not taxable
Received before Completion Certificate or Occupancy Certificate	Treated as a service	Taxable
Received after Completion Certificate or Occupancy Certificate	Not a service	Not taxable

GST is not applicable on sale of land

The sale of land is also outside the purview of the GST as the sale does not involve the transfer of any goods or services. As the cost of land is a crucial factor that determines property prices, GST provides a standard abatement of 33% of the total contract value, towards value of land for taxable real estate transactions

GST Rates on Real Estate Transactions

The following are the rates specified under CGST Act, 2017 for the period 01.07.2021 to 31.03.2019 in case of projects started and completed on or before 31.03.2021 and on ongoing projects where the promoter has exercised the option to pay tax as per existing rates:

Type of Apartment	Rate of tax	
	Without land deduction	With land deduction
Affordable Residential Apartments	8%	12%
Non-affordable Residential Apartments	12%	18%
Commercial Apartments	12%	18%

Amendment in rates on Real Estate Transactions

W.e.f. 1st April, 2019 a new scheme of taxation for the real estate sector was introduced by way of the Central Tax rate Notifications No. 3/2019, 4/2019, 5/2019, 6/2019, 7/2019 & 8/2019. The details of the same are as follows

Type of service	New Scheme		Old scheme	
	Effective Rate	ITC	Effective Rate	ITC
Construction of Affordable Residential Apartment	1 %	χ	8%	✓
Construction of other than Affordable Residential Apartments	5%	χ	12%	✓
Construction of Apartment having Commercial portion (<15%) in RREP	5%	χ	12%	✓
Construction of Apartment having Commercial portion (>15%) in REP	12%	✓	12%	✓
Ongoing Projects not opted for newScheme	12%	✓	12%	✓

(RREP = Residential real estate property means the carpet area of the commercial apartments not having more than 15 percent of the total carpet area of all the apartments in Real estate property.

Affordable House Meaning

- a. ≤60 Sqm in Metro Cities and value ≤ Rs.45Lkh
- b. ≤90 sqm in Non-Metro Cities and value of ≤ Rs 45 Lakhs

Ongoing projects under the existing central and state housing states

*In case houses booked prior to 01.04.2019 new rate shall be available on instalments payable on or after 01.04.2019

Other than Affordable House Meaning

Other than Affordable houses in new projects

Other than Affordable houses in ongoing projects whether booked prior to after 01.04.2019*.

Commercial apartments in RREP- Carpet area less than 15% of the total carpet area

Conditions for availing New Scheme

- ITC is not available, and the GST liability to be paid in cash only.
- Purchase of cements from unregistered person – RCM @28% shall be paid on monthly basis.
- ITC already availed restricted as per mechanism in Annexures I & II
- 80% of inputs and input services needs to be procured from the registered vendor. On short fall of 80% purchases from registered persons, tax @18% shall be paid by the builder on RCM basis by 30th June of the subsequent financial year.
- Project wise records to be maintained – GSTR-3B disclosure
- Annexure IV shall be filed before 20.05.2019 if wishes to continue for old rate. If not done, deemed shift to new scheme.

Other conditions to be fulfilled

- Mandatory for the projects, where the constructions had started on or after 01.04.2019.
- Optional for the ongoing projects i.e., ongoing projects can opt either to charge 8%/12% or 1%/5% accordingly.
- Such option shall be exercised by 30th June'19 project wise.
- If the option is not exercised, it shall be deemed that the developer has opted to pay tax @ 1%/5%.

Some Issues related to ITC availment, transition scheme, Taxability.

- Notification expressly provides for filing of Annexure IV ≤ 20.05.2019 for continuing with old rates for the ongoing projects. What if Annexure IV was not filed? - Default 5% or any chance for 12%?
- Construction work done before connect with the customer is not a works contract –Larsen & Toubro Ltd. v. State of Karnataka — 2014 (34) S.T.R. 481 (S.C.) – Para 115.

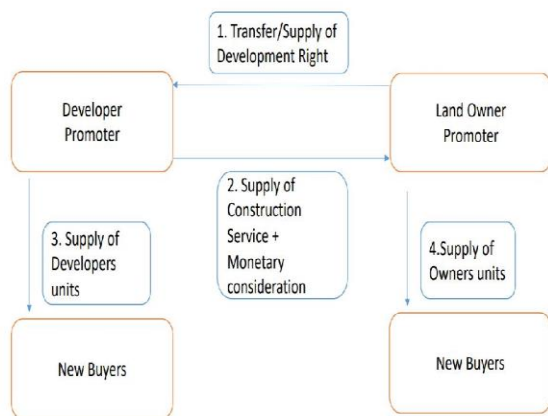
- Whether long term lease (say 60/90 yrs) is equivalent to a sale of land and not liable for GST? Matter pending before Hon'ble SC as on date. Previously Bom HC in case of Builders Association of Navi Mumbai v. Union of India — 2018 (12) G.S.T.L. 232 (Bom.) says liable for GST
- Corpus fund – it is mere deposit and not liable for GST- Vijay Shanthi Builders Ltd. v. Commissioner — 2018 (9) G.S.T.L. 257 (Tribunal)
- ITC on Equipment's – Lifts, Chillers, DG set etc., are P&M and eligible for ITC?
- If a person has imported inputs on which IGST has been paid. Whether on such supplies could be covered in the limit of 80%?

ITC on commercial property meant for lease and rent:

In case of **Safari Retreats Pvt Ltd vs C.C of CGST** the department denied the tax payer to avail the credit because it is an commercial property which is constructed for the purpose of letting out for rent.

The High court of Orissa held that the very purpose of credit is to give benefit to taxpayer and if taxpayer is required to pay GST on the rental income arising out of the investment on which he has paid GST, it is required to have the input credit on the GST.

GST on Joint development agreements (JDA's)



Property Rights to Developer:

- The developer not only gets the right to develop but also possesses the interest in the property but not the title of the land
- Section 17(b) of the Registration Act 1908 requires compulsory registration where there is creation of any right, title or interest in the immovable property
- Once registered, the development rights become enforceable in law
- Since, development rights results in creation of interest in the favour of the developer, such contract becomes irrevocable and cannot be terminated unilaterally by the landowner
- The developer does not get complete ownership of the land but only right to develop and interest in the property.

Liability to pay tax on transfer of development rights

Period	Person liable to pay tax
Up to 31.03.2021	Landowner was liable to pay tax @18% on supply of development rights(Both Commercial & Residential rights) to the developer under FCM. [S. No. 16(iii) of Notification No. 11/2017-CT(R) dt. 28.06.2017]
From 01.04.2019	Developer is liable to pay tax @ 18% under RCM on development rights(Both residential or commercial) [NN- 13/2017-CT (R) dt. 28.06.2017 as amended by N-05/2019-CT (R)] Dated: 29.03.2019

Exemption: TDR after 01.04.2019 for construction of residential apartment except where entire consideration has been received after issuance of CC or OC [No.04/2019-CT(Rate)29.3.2019]. – not applicable for commercial properties.

It implies that GST is payable in proportion to area of flats remained un-booked as on date of issuance of completion certificate or first occupation of project whichever is earlier

Landowner- Obligations and rights	Developer- Obligations and rights
➤ Allow developer to develop	➤ Obtain permissions/approvals
➤ Enter into sale agreement transferring the land as directed by developer	➤ Right to Develop the property
➤ Right to his share of flats	➤ Marketing the property

Valuation mechanism

Residential

Up to 31.03.2021=As per rule 27 of CGST rules.

W.e.f. 01.04.2019= The value shall be determined as per para 1A of NN-12/2017-CT(R) dated: 28.06.2017 inserted through NN 04/2019-CT(R). But such rate shall not exceed 1% in case of affordable residential apartments and 5% in case of non-affordable

residential apartments

Commercial

The value shall be deemed to be equal to the value of similar apartments charged by the developer from the independent buyers nearest to the date on which such development rights or FSI is transferred to developer

Taxability of construction Services provided to Landowner

Period	Person liable to tax & Rate of tax
Up to 31.03.2021	Developer liable to pay tax Effective tax@12% with ITC (1/3rd deduction for land value)
	Applicable for both residential and commercial projects
From 01.04.2019	@ 1%/5% without ITC for residential projects (after 1/3rd deduction for land)
	@ 8%/12% with ITC if option for old rates exercised (after 1/3rd deduction for land)
	For Commercial projects effective Tax rate @ 12% with ITC (after 1/3rd deduction for land)

Valuation Mechanism

Up to 31.03.2021

As per Rule 27 of the CGST Rules (Open Market value, similar apt. of like kind, quality etc.)

W.e.f. 01.04.2019

The value of supply of construction services to landlord is to be determined as per para 2A of NN-11/2017-CT(R) dated: 28.06.2017 inserted through NN 03/2019-CT(R).

Conclusion:

GST for the real estate sector is always challenging as many issues are prevailing due to the complexity of the nature of the transactions involved. As the changes are occurring in the construction sector there is a larger scope for changes in the GST as well.



TUSHAR AGARWAL
ER00248228

SEE WITHIN

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Yes, you're right
Creation of low self-esteem is might
Self-doubt in a plain sight
But give it a try
It may make you cry
But feel the weaknesses and flaws
It is as sharp as claws
It might shake you from within
It may take you on a deadly road
Making you remember of all the mistakes
You have done previously
And reasons why you failed miserably



Sometimes it may feel superficial
And sometime you may feel deep
Showing you cause of making your
path steep
And losing your grip
But chill, relax and take a sip
As everything can be rectified
And your soul can be sanctified
Helping you to start afresh
And clean up your mess
And get ready to become the best
But this is only possible
If you do not lie to yourself.

Gallery



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Shristi Kankaria
+91 81008 37361
kankariashristi1996@gmail.com



Amit Kedia
+91 98318 48419
amitkedia.icai@gmail.com



Shashank Agarwal
+91 97715 82436
shashankagarwal699@gmail.com



Swati Benia
+91 98367 93495
swatibenia@gmail.com



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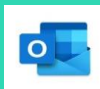
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