

**SUBMISSION
ON
INCLUSION OF "COST ACCOUNTANTS"
UNDER THE DEFINITION OF
"ACCOUNTANT" U/S 288(2) OF INCOME
TAX ACT, 1961**



The Institute of Cost Accountants of India

(Statutory body under an Act of Parliament)

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Date: 18.07.2019

To
Smt Nirmala Sitharaman
The Hon'ble Minister of Finance,
Government of India,
North Block,
New Delhi

Sub: Request for modification of the term "Accountant" as appearing in the Explanation below sub-section (2) of section 288 of the Income Tax Act, 1961 to include the "Cost Accountant" therein

Respected Madam,

With the intention of the Government to re-draft the present Income-tax Act, by way of enacting new Direct Tax Law keeping in mind tax system prevalent in various countries, international best practices, economic needs of the country, among others, the Institute of Cost Accountants of India has made an attempt to highlight that Cost Accountants with their efficiency, equity and effectiveness can surely prove to be a valuable resource and can contribute positively and progressively in various direct taxation arenas, as we have put forth in our attached representation.

This is to bring to your kind consideration, that such representations have already been put forth to your good office at different occasions previously. They are as follows for your reference:

- (i) Letter ref – G:142:48:2015 dated 20th November, 2015
- (ii) Letter ref – G:142:48:2016 dated 6th December, 2016
- (iii) Letter ref – G:142:05:2018 dated 23rd May, 2018 along with suggestion and submissions on new Direct Tax Law
- (iv) Letter ref – G:142:11:2018 dated 20th November, 2018

In consideration of the above representations we are looking forward to a favourable response from your office on our request for modification of the term "Accountant" as appearing in the Explanation below sub-section (2) of section 288 of the Income Tax Act, 1961 to include the "Cost Accountants". It would be an honour for us, if you please give us an opportunity to present before you the representation in person at your convenient date and time. We are eagerly looking forward to your confirmation for a suitable date.

Thanking you.

Yours Sincerely,

CMA Amit Apte
President,
The Institute of Cost Accountants of India

Copy to:

1. Hon'ble Minister of State, Ministry of Finance, Government of India, North Block, New Delhi
2. Secretary-Expenditure & Finance Secretary, MoF, Government of India
3. Secretary, Department of Revenue, MoF, Government of India
4. Chairman, Central Board of Direct Taxes, Department of Revenue, MoF
5. Chairman, Task force for enacting new Direct Tax Law.

Modification of the term "Accountant" as appearing in the Explanation below sub-section (2) of section 288 of the Income Tax Act, 1961 to include the "Cost Accountant" therein

The Institute of Cost Accountants of India (ICAI) is a statutory body set up under an Act of Parliament in the year 1959. The Institute as a part of its obligation regulates the profession of Cost and Management Accountancy for the last 75 years. The Institute, as a part of its obligation towards the society and the country at large, has been associated and taken part in all the major tax reforms in the country starting from Direct Tax to Indirect Tax regime including VAT/Central excise/Service Tax ending with the biggest tax reform in India in the way of implementation of GST. The Institute pursues the vision of cost competitiveness, cost management, efficient use of resources and structured approach to cost accounting as the key drivers of the profession. The Institute operates through four regional councils at Kolkata, Delhi, Mumbai and Chennai and 98 Chapters situated at important cities in the country as well as 9 Overseas Centre. It is under the administrative control of Ministry of Corporate Affairs, Government of India.

The Institute and its members have been contributing constructively in the field of accountancy and Taxation besides cost & management accounting at par with its peer Institutions. The members of the Institute are professionally qualified and experts to handle the critical issues relating to Accounting and taxation in and outside the Country. With members of the Institute both in practice and employed in industry, the Institute has been one of the major pillars of the accounting and taxation system of country. In this context, we request you to kindly note and peruse that there is an urgent need to amend meaning of the term "accountant" as assigned in the Explanation below section 288 of the Income Tax Act, 1961 so as to bring both Cost Accountants and Chartered Accountants at par under its ambit.

Section 288 of the Income Tax Act describes the persons entitled to appear before any Income Tax Authority or the Appellate Tribunal, as an "authorized representative" of the assessee, in connection with any proceedings under the Act [otherwise than when the assessee is required to attend personally for examination on oath or affirmation]. Sub-section (2) gives list of such persons. Clause (iv) thereof includes 'an accountant' and clause (v) says 'any person who has passed any accountancy examination recognized in this behalf by the Board'.

As per explanation below sub-section (2), "accountant" means a Chartered Accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 (38 of 1949) who holds a valid certificate of practice under sub-section (1) of section 6 of

that Act, and includes, in relation to any company, any person who is eligible for appointment as an auditor of the said company in accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013 (18 of 2013).

Suggested Draft Modification in Explanation below Section 288 (2) (iv):

[Explanation.—In this section, "accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under sub-section (1) of section 6 of that Act, **or a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 (23 of 1959) who holds a valid certificate of practice under sub-section (1) of section 6 of that Act**, but does not include [except for the purposes of representing the assessee under sub-section (1)]—

(a) in case of an assessee, being a company, the person who is not eligible for appointment as an auditor of the said company in accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013 [18 of 2013]; **or who is not eligible for appointment as auditor of the said company in accordance with the provisions of sub-section (3) of section 148 of that Act;**

Note: While modifying meaning of the term 'accountant', for inclusion of cost accountant at par with chartered accountant, simultaneously sub-rule (3) of Rule 50 of the Income Tax Rules, 1962 would need to be deleted wherein cost accountancy examination is recognized for the purpose of Clause (v) of sub-section (2) of section 288.

The term "accountant" analyzed:

It may be noted that while both the professionally qualified accountants i.e. cost accountant and chartered accountant are treated at par under this section for appearance before the tax authorities on behalf of the assessees, a different definition of the term "accountant" assigning the meaning only to the "chartered accountants" creates a clear disparity among them for providing services under various other sections of the Act. This creates a disparity among them under law and does injustice to one profession while the professionals from the said profession are equally qualified and competent by virtue of standards and capabilities.

As may be seen, wherever any certification work is to be carried out to claim certain deductions under the Income Tax Act, it is but natural that the profession of Cost Accountancy is granted equal statutory recognition to that of other Tax professionals. The focus of this representation is to seek such rectification treating Cost Accountants at par with the other Tax professionals not only for purposes of Section 288 but more particularly with reference to various certification works being carried out under different provisions of the Act.

It is important to note that the term "accountant" as defined above has been used in several other provisions under the Income Tax Act, wherever such certification or audit is a condition to claim deduction or a compliance under provisions of such act / rules. All these provisions have been examined in-depth and it is seen that **there is not even a single area where cost accountants cannot be assigned "at par role as accountant" vis-à-vis the other Tax professionals. In fact, there are number of areas where cost accountant is more competent to correctly certify and enable better tax compliance/assessment.** Verification of the authenticity of the data filed by the assessee should be allowed to be certified by any professionally qualified person viz. a cost accountant or a chartered accountant.

Recommendation by the Parliamentary Committee to include Cost Accountants in the definition of 'accountant': On the issue of widening the definition of 'accountant', the Standing Committee on Finance in Para 17.9 of its 49th Report of 15th Lok Sabha, relating to "The Direct Taxes Code Bill, 2010" had said as under:

"The Committee observed that the Ministry's reasoning for non-inclusion of related professionals in the definition of accountant is a very strict construction of the term. In the view of the Committee, the suggested amendment may provide the Small and Medium Enterprises (SMEs) a wider and cost effective scope for selection of professionals and will be an important initiative towards simplified tax compliance regime. The Ministry may therefore re-consider the suggestion to widen the scope of the definition of "accountant"."

Though the DTC was not implemented during that period, but the recommendation of the Standing Committee to widen the scope of definition of 'accountant' under the Income Tax Act is still relevant and needs to be reckoned

Recognition at par under all other Statutes: It is important to note that while all other tax related Central Statutes recognize cost accountants absolutely at par with other professional accountants; it is only the Income Tax Act that has so far ignored to give the cost accountants equal treatment. **It may be further noted that even the Goods and Services Tax [GST] laws have provided for a fair, equitable and 'at par' treatment to both cost accountants and other peer professional accountants in all areas relating to audit, certification, appearance before different authorities etc.**

Large number of Central and State Statutes recognize both Cost Accountant and Chartered Accountant absolutely at par in several professional areas in Direct Tax. It may be noted that both cost accountants and chartered accountants are already recognized at par under the, Customs Act, and Finance Act erstwhile Central Excise Act, Service Tax Act etc.

A Comparative list of the areas under various statutes where both the professionally qualified accountants have been given equal opportunities is enclosed herewith in Annexure I.

The list given in Annexure I speaks for itself.

It will not be out of context to mention here that the Prime Minister of India, Shri Narendra Modi, in September 2017, expressed that more than half a century old Income Tax Act needs to be re-drafted and a new Direct Tax Code (DTC) needs to be introduced in 'consonance with economic needs of the country'.

Acting upon it, the finance ministry on November 22, 2017 constituted a task force for submitting a report on draft DTC.

Going with the views of the Prime Minister, it is our submission before you that , even after 65 years, there reappears no reason to continue with the same age-old definition of the term 'accountant' under the Income Tax Act restricting its meaning to only the 'chartered accountants'. We submit that the relevant provisions of the Act may be considered to be amended to include the cost accountants as well especially while the task force formed for drafting the new DTC is expected to come out with their report shortly.

It is also important to note that a cost accountant is a professional who has been given the onerous responsibility to attest the fairness/correctness of financial statements, & cost statements, as also to perform audit & certify the tax compliance under several Central and State Acts. It may be noted that Cost Audit Report is used as an important document for tax assessments.

Computation of arm's length price under section 92: It may be noted that in case of computation of arm's length price for transfer pricing, section 92C has prescribed six methods. Of all these, **three methods viz. cost plus method, profit split method and transactional net margin method require calculations based on the cost accounting principles. These cases can be best computed and certified by a cost accountant giving ease to the Transfer Pricing Officers** to comfortably accept the APAs. This would not only benefit the Assessee; serve best interest of the Department; and also avoid unnecessary litigation. Unfortunately, here again, the report required to be furnished under section 92E from an accountant [read with Rule 10E & Form 3CEB] means only the 'chartered accountant'. This appears to be blatantly wrong and is neither in the interest of the Department nor the assessee. Therefore, all cases relating to transfer pricing should, at best, be certified and reported upon by the cost accountants.

Tax Audit under Section 44AB: Section 44AB of the Income Tax Act [introduced in 1984] provides that every person carrying on the business or profession [having gross sales/receipts more than the specified limits] shall get his accounts audited by an

accountant, and furnish by the specified date, the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed. It further provides that

- in a case where such person is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the provisions of this section if such person gets the accounts of such business or profession audited under such law before the specified date and furnishes by that date the report of the audit as required under such other law; and
- a further report by an accountant in the form prescribed under this section.

It also specifies that for the purposes of this section "accountant" shall have the same meaning as in the Explanation below sub-section (2) of section 288. That means the chartered accountant only.

Rule 6G of the Income Tax Rules provides that the report of audit of accounts under section 44AB shall be in Form No. 3CA for persons who are required to get their accounts audited by or under any other law; and in Form No. 3CB in all other cases. Further, the particulars which are required to be furnished under section 44AB shall be in Form No. 3CD that can be signed by any person authorized to sign either form 3CA or 3CB. **There is no separate form prescribed under the Rules for the 'accountant' to give a further report.**

In this connection, the following issues require your consideration:

- a) Cost Accountants are allowed to undertake financial audit of cooperative societies in certain States [all other States are in the process of amending their laws]. Hence in such cases, they can also do tax audit and certify Form 3CA & 3CD. Then, why they cannot do tax audit in all other cases?
- b) Tax audit is actually not an audit. All figures required to be furnished in Form CD are based on the audit already done by the Financial Auditor based upon accounts maintained by professional accountants which include cost accountants. Only requirement is to compute the data as required by the Tax Authorities and certify its correctness. This can be easily done by the Cost Accountant as well who is an equally competent 'accountant'.
- c) Under Goods and Service Tax Act, the Tax Audit is conducted by both Cost Accountant and Chartered Accountants. Similarly the Cost Accountants are equally competent to conduct Tax Audit and report in the manner as required under statute.
- d) In the best interest of the Department, it would be more prudent if the tax audit of an entity is done by an accountant [i.e. by a cost accountant] other than the chartered accountants who has already conducted the financial audit of the same entity.

- e) There are various PSUs, Private Sector, Joint Sector and MNCs wherein Cost Accountants are working as Top Management Level including CMD, Director (Finance) / CFO who are responsible for preparation of financial statements, its audit and submitting required reports to the Government proving them to be adequately competent for preparation and Audit of various Taxation work.

It is pertinent to mention here that when the Cost Accountants are working in the top positions of Finance and Taxation department of PSUs and Corporates and are responsible for the financials of the organization, they are proved to be successful to handle such a big role. Only excluding them from the definition of "Accountant" doesn't justify while they are at the helm of the affairs of PSUs and Coporates and handling the huge responsibilities of Finance, Accounts and Taxation department.

Recognition of 'Cost Accountant' by US Laws for doing financial audit of US-SEC Listed Companies:

In USA, there is an independent Public Company Accounting Oversight Board [PCAOB] that was created through the Sarbanes-Oxley Act of 2002. The PCAOB oversee the audits of public companies in order to protect investors and the public interest by promoting informative, accurate, and independent audit reports. As per the laid down provisions, any professional accounting/audit firm intending to undertake statutory audit and US-SEC filing & attest functions of U.S. companies or SEC listed companies require registration with PCAOB. This applies to all firms practicing anywhere in the world.

It would be important to note that number of Indian CA firms as well as CMA firms is registered with the PCAOB. It means that the Indian Cost Accountants' firms registered with the PCAOB are permitted to undertake statutory financial audit of all US-SEC listed companies operating anywhere in the world. Given so, it would appear irrational if the same Cost Accountants are not permitted to undertake audit / certification work under the Income Tax Act, 1961.

Rationale for Inclusion of Cost Accountants in the Definition of Accountant:

- a) Institute of Chartered Accountants of India was set up under the Chartered Accountants Act enacted by Parliament in 1949. After 12 years, at the time of enacting the Income Tax Act in 1961, sufficient numbers of chartered accountants were available in the country. Hence, this Act provided that the term 'accountant' to mean only the chartered accountant. The Institute of Cost Accountants of India [erstwhile known as the Institute of Cost & Works Accountants of India] was set up under the Cost and Works Accountants Act enacted by Parliament in 1959. As it takes nearly 3-4 years to pass the final examination, no fully qualified cost accountant was **available in 1961 and hence, they were not included in the meaning of the term 'accountant' assigned under**

section 288 of the Income Tax Act, 1961.

- b) In India, to supplement the work done by chartered accountants; to perform efficiency analysis with a view to ensure better resource management and better tax compliance [both direct & indirect] The Institute of Cost Accountants of India should be placed on the same footing as of Institute of Chartered Accountants of India.
- c) Both these Institutes viz. Institute of Chartered Accountants of India and Institute of Cost Accountants of India are members of all international bodies of accountants, viz., International Federation of Accountants (IFAC), Confederation of Asian and Pacific Accountants (CAPA), and South Asian Federation of Accountants (SAFA). Hence, internationally, both are known as 'accountant'. Hence, same treatment or recognition is to be accorded to the members of both these National level Accounting Institutes set-up by the Parliament of India. While the Country is moving towards the goal of becoming an International destination and the task force for framing the new DTC is in the process of drafting a direct tax legislation keeping in mind tax system prevalent in various countries, international best practices, economic needs of the country, among others, giving equal treatment to the two professions who are internationally given "at par" recognition is a need of hour and is expected to bring best practices and creating a healthy competition in order to improve the efficiencies and quality of tax administration in the country.

In this context, this may be noted that the Institute of Cost Accountants of India has entered with international MoUs as per list given below:

MOU entered by the Institute of Cost Accountants of India

MOU/Venture undertaken with	Associated Body Country	Object of MOU/Venture
Chartered Institute Of Public Finance And Accountancy (CIPFA)	London	Promotion of high quality financial management in India through joint activity through leadership and advocacy.
Chartered Institute for Securities and Investment (CISI),	UK	CISI agreed to offers entry to their membership upon application at Associate (ACSI) level to ICWAI members and Member (MCSI) level to members of ICWAI with three years' relevant experience.
National Institute of Accountants, Australia	Melbourne, Australia	It will recognize the professional qualifications and professional development programs offered by each Institute.

Institute of Professional Accountants and Auditors of Russia (IPAR)	Russia	To develop joint R&D projects and promote the results of the researches in work practice of accounting community of both the countries.
Omar Zawawi Establishment LLC (OMZEST)	Oman	In terms of this MOU, ICWAI will be technically guiding Oman in developing the syllabus relevant for the Omanese economy and help them in conducting the examinations periodically.

It can be seen that the Institute of Cost Accountants of India has a wider reach in MOU & ventures globally. Thus the acceptance and recognition of the Institute of Cost Accountants of India has increased drastically internationally. More countries have been catered by the Institute of Cost Accountants of India as compared to the other professional bodies.

The Institute of Cost Accountants of India, along with the Institute of Chartered Accountants of India, are represented on all the accounting or auditing standard setting bodies in the country viz. National Advisory Committee on Accounting Standards, Accounting Standards Board, Auditing & Assurance Standards Board, Cost Accounting Standards Board, Cost Auditing & Assurance Standards Board, etc. The affiliations of the Institutes at National Level are enumerated below:

MOU entered by the Institute of Cost Accountants of India

MOU/Venture undertaken with	Location	Object of MOU/Venture
Institution of Valuers	New Delhi	Develop new modules on business & risk valuation, risk management and financial markets
Competition Commission of India	Thiruvananthapuram	competition advocacy, advancement of knowledge and earning CEP credit
BharatiyaMahila Bank	New Delhi	Nominated the bank as preferred financial partner for providing financial assistance to members & students.
Genpact	Hyderabad	Creating skill set for students in area of finance and accounts to meet demand of IT industry
Development of MSMEs - Venture with ASSOCHAM	Hyderabad	To make MSME competitive, innovative and creation of new entrepreneurs.
Tata Consultancy Services Ltd	Hyderabad	Enhance the Learning of students through Collaborative Learning Environment

- d) **Both these qualifications are equally recognized by the Government of India for entry into the Indian Cost Accounts Service** and other senior positions under different organizations. Similarly, both have equal recognition for all middle/ senior level positions in the industry.
- e) **Both these professionally qualified accountants** viz. Cost Accountant and Chartered Accountant **pass through the same course curriculum, pedagogy, and practical training**, so far as it relates to the domain areas of accountancy, direct & indirect taxes, corporate laws, and audit. Both the courses have 100 marks papers on Direct and Indirect Taxation at both Intermediate and Final Levels (200 marks at intermediate and 200 marks at final stage of examinations).
- f) The Tax Research Department of The Institute of Cost Accountants of India in its Endeavour to serve its members and stakeholders is providing tax educations with latest updating, publications, webinars, seminars, bulletins and courses.
- g) It may be observed that, syllabus of Cost Accountancy include full papers on Corporate Laws, Financial Accounting, Direct Taxation, Indirect Taxation, Auditing, and Financial Management wherein the students are tested at an advanced level ['C level] for their knowledge, comprehension, application, analysis, synthesis, and evaluation. Further, before acquiring Associate Membership, they have to undergo 3-years industrial, professional & audit training, which in practical terms is more than the 3-years article-ship training prescribed for the Chartered Accountancy course in India. This means, **a Cost Accountant** possesses complete & in-depth knowledge of direct taxation, skill of doing audit and the experience of accounting, audit and taxation.
- h) Under Regulation 166 of the Chartered Accountants Act, CA Members in practice to engage only in the profession of "Accountancy". Similarly, under Regulation 111 of the Cost & Works Accountants Act, CMA Members in practice to engage only in the profession of "Accountancy".
- i) Members of both the Institutes viz. the cost accountant and chartered accountant are governed by exactly the same code of conduct and disciplinary mechanism as enshrined in their respective Acts. Both are required to follow the same level of professional ethics in public practice. (As shown in Annexure I)
- j) Both the Institutes, being members of International Federation of Accountants (IFAC), have issued Accounting and Auditing Standards that are binding on the Members in practice. Though all corporate entities follow these standards, but the same are not relevant in the context of audit & certification under the Income Tax Act/Rules. On this count, there appears no case for making any distinction among the cost accountants and chartered accountants. It may be relevant to note that

ICDS, as issued by the Government, largely follow the cost accounting principles in determining the admissibility of either revenues or expenses for finalizing the tax assessments. A blatant example lies in inventory valuation.

- k) Globally, the term 'accountant' includes all accountants that are granted professionally qualified degrees by their respective national accounting bodies. Generally, no difference is made amongst them. In India, roots of Income Tax Act, 1961 lies in the original Act enacted during the British period in 1922. Similar legislations were adopted by Pakistan. In UK, the Cost & Management Accountants are recognized as 'accountants' at par with the accountants qualified from other five national Accounting Institutes. In Pakistan & Bangladesh [other two offshoots of erstwhile British India], the Cost Accountants are treated at par as 'accountants' and also as 'auditors' under all Statutes governing corporate law practice and taxation practice. In the current era of globalization and WTO regime, where the accountancy profession is gaining prime recognition all over the world, India should follow the global good practices.

Judgements to support the above:

According to the Wikipedia, the free encyclopedia, and also the Australian Accountants Directory they are, "a practitioner of accountancy or accounting, which is the measurement, disclosure or provision of assurance about financial information that helps managers, investors, tax authorities and others make decisions about allocating resources **"Therefore, as per the dictionary meaning as well as in the legal parlance, both Cost Accountant and Chartered Accountant are known as "Accountant" as well as "Auditor".**

In this context, the following judgments are relevant:

- **Hon'ble Supreme Court upheld the decision of Mumbai High court and held both Cost Accountants and Chartered Accountants as 'Accountant' under section 61 of the Maharashtra Value Added Tax Act, 2002.** Further, both are recognized as 'Accountants' under the VAT Acts of 22 States & UTs of India. [200814STT348,(2008)14VST69Bom]
- **It may be noted that VAT audits are akin to the tax audit.**
- **Hon'ble Karnataka High Court in W.A. No. 31061/2013(CS) has ruled that 'Auditor' does not mean a person holding the degree of Chartered Accountant under section 63 of the Karnataka Co-operative Societies Act, 1959 read with Article 243 ZM of the Constitution of India.**
- **Writ Petition Nos. 2026-2031 of 2015 filed by the Karnataka State Chartered Accountants in Karnataka High Court challenging the inclusion of Cost Accountants and Cost Accountant Firms for Statutory Audit of annual accounts of Cooperative Societies was dismissed on 29.03.2016.**

Keeping in view the judicial pronouncements, there appears no reason of assigning restricted meaning to the term 'accountant' to mean only a chartered accountant under the provisions of Income Tax Act.

Banking scams creating negative climate on the Economic growth of the Country

It is a well-known fact that monopolistic and restrictive practices breed inefficiency, complacency and corruption. Thus, allowing all tax audits and various certifications required under the Income Tax Act only to a single profession and restricting another equivalent profession viz. **Cost Accountants** is neither in the best interest of the Department nor it benefits the assessee. In this context, in its Report No. 32 of 2014 (Performance Audit), the Comptroller & Auditor General of India had observed serious flaws in the existing practice of tax audit & certification work performed by the Chartered Accountants under various provisions of Income Tax Act, 1961. A brief extract of the report is produced here-under.

“Recommendations:

- a. The Ministry may ensure limiting the Tax Audit assignments in order to ensure quality of Tax Audit.
- b. The Ministry may ensure to prohibit a CA who is a relative of the assessee or director of the assessee company, from signing any report or certificates.
- c. The Ministry may ensure the implementation of CBDT instruction no 1959 of 1999 and Section 288 of the Act.
- d. The Ministry may put in place a mechanism in the ITD system for AO to record instances of mistake committed by CAs in order to take action under Section 288 of the Act.”

In number of cases, serious inadequacies, or inaccuracies were observed in the tax audit reports signed by the chartered accountants.

- Severe distortion in bank loan dispersal is also observed. Examples would be the PNB-Nirav Modi Case or SBI – Kanishka Gold private limited case.
- Similarly, in many cases, inadequate disclosures or omissions were observed.
- In other cases, incomplete or non-committal comments were observed.
- In many cases, the auditor who signed the audit reports/certificates were relatives to the assessee or related to the directors of the assessee company.
- Many chartered accountants issued more than the prescribed limit of tax audit reports. The C&AG report contains names of 22 CAs who signed more than 400 tax audit reports for AY 2013-14. One signed 2471 reports and another, 990 reports. This is fraught with serious quality of tax audits.

It is an accepted dictum that competition brings efficiency. In this context, it may be noted that the Standing Committee on Finance in its Forth-Ninth Report (15th Lok Sabha) had

said that the Committee observe that the Ministry's reasoning for non- inclusion of related professionals in the definition of accountant is a very strict construction of the term. In the view of the Committee, the suggested amendment may provide the Small and Medium Enterprises (SMEs) a wider and cost effective scope for selection of professionals and will be an important initiative towards simplified tax compliance regime. The Ministry may therefore re-consider the suggestion to widen the scope of the definition of "accountant".

Therefore, allowing Cost Accountants to act as an "**Accountant**" under the IT Act will surely bring in healthy competition that would benefit the tax administration system as well as the assesseees, especially the MSME assesseees.

Inadequacy of competent Tax professionals – Different new Taxation Laws are coming up from time to time but there are not adequate number of Tax professionals hence inclusion of CMAs in various Taxation fields would be beneficial to the Government and the society. Accounting and Tax services would be evenly distributed, leading to more accurate and flawless adherence to Tax laws and minimization of litigations. There are also a huge number of litigations pending at different level courts, in our country to which cost accountants can prove to be of great help hence the inclusion are sought for.

Comparative Statement of dispute redressal statistics at various stages (As per annexure II)

Cost Accountants as Valuation Experts

A Cost Accountant (CMA) holds the skill to work with all the methods of valuation and importantly a cost accountant can excel in valuation of Business using "Cost Approach". The Institute has also issued Cost Accounting Standard on Capacity determination, Overheads, Cost of Production for Captive Consumption, Material Cost, Employee Cost, Cost of Utilities, Repairs and Maintenance cost, Pollution Control Cost, Depreciation and Amortisation, Interest and Financing Charges, Joint Cost, Royalty and Technical know-how fee, Quality control, Manufacturing Cost, Overburden Removal Cost, Treatment of Revenue in Cost Statements. Abidance by the above guidelines would strengthen the accounting basis and evaluation of data would be more competitive.

In today's financial world, equity and business valuation services as a profession have become a commodity. Any and every professional provides these services. It is therefore, absolutely essential that quality differentials are maintained with absolutely dispassionate and independent involvement in valuation activities, so that the provided valuation of any asset and expert opinion on the same can be relied upon for informed judgement and business decisions.

Cost Accountants on Justification of Expenditure

Cash flow is of utmost importance for administrators at this confusing time in the country; alterations to this cash flow require a stringent level of justification, especially as the dollar amount of the alteration increases. Cost justification is a substantiation of the need for an item of expenditure, with documentary or any other evidence. Business owners or managers may require the person incurring the cost to explain the reasons for doing so, and expect proof that expected returns would exceed the cost. All expenditure of substantial nature, not included in the annual budget requires such cost justification. At times, even items mentioned in the budget may also require a justification to ensure optimal utilization of monetary resources. Cost Accountants with their expertise in Cost Accounting would be capable enough to not only justify the incurrance of cost but also optimise the uses or resources and give a clearer outlook on expenditure decisions.

We are sure the above modification will greatly benefit the Government in correctly finalizing the tax assessments and expenditure justification thereby resulting in much higher revenue to the Government. This view was fully supported by the Standing Committee on Finance. The expertise of Cost Accountants and use of cost management techniques in valuation of inventory and Input/ Output analysis will ensure protection of revenue.

Conclusion

The existing Income Tax Laws are half a Century old as observed by our Hon'ble PM and it needs changes. The discussion on reforms pertaining to direct taxes started in September 2017 and acting upon it, the Finance Ministry on November 22, 2017 constituted a task force comprising six members for drafting a new Direct Tax Code. Cost Accountants with their efficiency (in minimising distortions in resource allocation), equity (in progressiveness of effective tax rates) and effectiveness (of tax administration) can surely prove a valuable resource and can surely contribute positively and progressively in various direct taxation arenas, as we have put forth in our representation above. Inclusion of Cost Accountants under "Accountant" definition under Income Tax Act would bring in fair competition and curtail evasions and distortions.

The Budget of Modi 2.0 Government presented on 5th July, 2019 has also announced and stressed on stringent measures - as part of Budget or otherwise - to avoid indirect tax evasion to compensate for the revenue loss. This is also likely to result in simplification of the tax system, improved services for the taxpayer and better tax collection. With the new Direct Tax Code in the pipeline, one can expect a more streamlined tax administration in the near future.

In light of the above submission, if considered necessary, please give us an opportunity to place before you the above in person at your convenient date and time. We are eagerly looking forward to your confirmation for a suitable date. For this gesture, the entire CMA profession would be indebted to you.

ANNEXURE I

Certifications under GST			
Section/Rule/Notification	Topics	by CMA	by CA
Section 35(5) of Central Goods & Service Tax Act, 2017	Audit of Accounts & Records	Yes	Yes
Section 66(1) of Central Goods & Service Tax Act, 2017	Special Audit	Yes	Yes
Section 116 of Central Goods & Services Tax Act, 2017	Appearance by Authorized Representative	Yes	Yes
Section 71(2) of Central Goods & Services Tax Act, 2017	Every person in charge of place would provide all records for the scrutiny to the auditor	Yes	Yes
GSTR 10 -A taxable person whose GST registration is cancelled or surrendered has to file a return in Form GSTR-10 called as Final Return.	Update Particulars of Authorised Person in case of Inputs held in stock or inputs as contained in semi-finished /finished goods held in stock (where invoice is not available)	Authorised Person - May be CMA	Authorised Person - May be CA
GST ITC 01 -eclaration form filed on GST portal for claiming the input tax credit by taxpayers newly registered under GST. Filing of this form is mandatory to claim ITC on such stock.	If the ITC claim is more than INR 2 lakhs, then certificate of Authorised Person must be uploaded.	Authorised Person - May be CMA	Authorised Person - May be CA
GST ITC 02 - In case any registered entity undergoes sale, merger, de-merger, amalgamation, lease or transfer, the acquired entity must file ITC declaration for transfer of ITC in the FORM GST ITC-02.	The transferor entity must submit and upload a copy of certificate issued by Authorised Person, certifying that sale / merger / amalgamation / lease or transfer of business has been done with specific provision for the transfer of liabilities.	Authorised Person - May be CMA	Authorised Person - May be CA
Circular No 2017/CE-I/CT/7/GST dated 16.04.2017	Certification for GST liability on Existing Works Contracts under, Ministry of Railways, Government of India	Authorised Person - May be CMA	Authorised Person - May be CA

Certifications under Service Tax			
Section/Rule/Notification	Topics	by CMA	by CA
Certified Facilitation Centers (CFCs) – under ACES-CBEC Scheme	Set up Certified Facilitation Centers (CFCs) under Certified Facilitation Centre Scheme in filing various Excise and Service Tax Returns under the provisions of Central Excise Act and Service Tax Act;	CMA's are authorised	CA's are authorised
Section 96D (5)-	Appearance by Authorized Representative	CMA's are authorised	CA's are authorised
SECTION 72A. Special audit	If the Principal Commissioner of Central Excise or Commissioner of Central Excise has reasons to believe that any person liable to pay service tax has operations spread out in multiple locations and it is not possible or practicable to obtain a true and complete picture of his accounts from the registered premises falling under the jurisdiction of the said Commissioner, he may direct such person to get his accounts audited	CMA's are authorised	CA's are authorised

Certifications under Central Excise			
Section/Rule/Notification	Topics	by CMA	by CA
Section 14A & 14AA	Special Audit	CMA's are authorised	CA's are authorised
Section 35Q	Appearance by Authorized Representative	CMA's are authorised	CA's are authorised

Certifications under CUSTOMS			
Section/Rule/Notification	Topics	by CMA	by CA
Section 11 of Customs Act, 1962	Special Audit	Yes	Yes
Section 146A of the Customs Act, 1962;	Appearance by Authorized Representative	Yes	Yes

Appendix 4E of FTP 2015-2020	Maintenance of Technical details & data sheet for advance authorisation application on self-Declaration of HBP	Yes	Yes
Circular No 01/2012-Customs	Certification of refund of additional duty & special additional duty of Customs on the goods imported for subsequent sale under Indian Customs Act	Yes	Yes
DGFT Public Notice No. 08/2015-2020 (ANF 5A)	Issue of EPCG Authorisation	Yes	Yes
DGFT Public Notice No. 08/2015-2020 (ANF 5B)	Redemption of EPCG authorization / issuance of post export EPCG duty Credit Scrip	Yes	Yes
FTP – Appendix 6E	Legal Agreement for EOU/EHTP/STP/BTP	Yes	Yes
FTP – Appendix 4H	Maintenance of register for accounting the consumption and stocks of duty free imported or Domestically procured raw materials, components etc. Allowed under advance Authorisation / DFIA	Yes	Yes
DGFT	Certification towards the amount of duty paid on the materials used for the manufacture of exported goods as indicated in Forms DBK-I,II, IIA,III, IIIA under Customs Act, 1962.	Yes	Yes
Rule 5 of Customs valuation Rules, 2007	the proper officer shall give due consideration to the cost-certificate	This cost certificate is issued by CMA	This cost certificate is issued by CA
CBEC Circular No. 50/96-Cus	Verification of simplified procedure scheme and drawback rates under the Fixation of brand rate of Drawback under	Yes	Yes
Circular No. 52/2002-Customs dated 14th August, 2002	Audit of accounts of SEZ developer as directed by the Commissioner of Customs/Central Excise	Yes	Yes
Circular No. 52/2002-Customs dated 14th August, 2002;	The Commissioner of Customs/Central Excise may direct the concerned developer to get his accounts audited	Yes	Yes
FTP	Attending hearing before Customs Authority, Anti –Dumping Authority, Appellate Committee of DGFT to represent company	Yes	Yes

Customs Brokers Licensing Regulations, 2013	qualification for Customs Brokers Examination to be held from the year 2017 onwards	Yes	Yes
Circular No 01/2012-Customs dated 5th January 2012	Issue a certificate, certifying that burden of 4% CVD has not been passed on by the importers to any other person;	Yes	Yes
Rule 2(c) of Customs, Excise and Gold (Control) Appellate Tribunal (Procedure) Rules, 1982	Appearance by Authorized Representative	Yes	Yes
Rule 6(1)(a) / Rule 7(1) of Customs Drawback Rules	Under the Fixation of brand rate of Drawback without pre-verification – Simplified procedure Scheme, unless there are any special reasons, drawback rates are to be fixed without pre-verification of the date filed and the exporter would be authorised by provisional brand rate letters issued by the Ministry to claim the drawback rate considered admissible from the concerned Customs House	Yes	Yes
Rules 6 and 7 of the Customs and Central Excise Duties Drawback Rules, 1995	The exporters may be asked to furnish the purchase invoice as to the procurement of the raw hides/wet blue leather. They should also furnish a certificate as to the consumption and cost of processing chemicals used for its processing and other incidental overhead charges incurred;	Yes	Yes
SVB Procedures	Preparation of submission & representations for renewal of SVB order before customs authorities	Yes	Yes
Certification to Exporters	Certificates to the exporters to overcome the problem of refund blockage and post audit scrutiny under Department of Revenue, Ministry of Finance, and Government of India	Yes	Yes

Certifications under VAT (Delhi VAT Act)			
Section/Rule/Notification	Topics	by CMA	by CA
Section 14- Treatment of stock brought forward during transition	Every dealer wishing to claim a tax credit in excess of one lakh rupees on opening stock shall furnish with the statement a certificate signed by an accountant in the prescribed form certifying that the net credit claim made is true and correct.	Yes	Yes
Section 49- Treatment of stock brought forward during transition	If, in respect of any particular year, the gross turnover of a dealer exceeds 40 lakh rupees or such other amount as may be prescribed, then, such dealer shall get his accounts audited by an accountant within a period of 9 months from the end of that year and obtain within that period a report of such audit in the form duly signed and verified by such accountant	Yes	Yes
Section 58A- Special Audit	The Commissioner may direct the dealer by a notice in writing to get his records including books of accounts, examined and audited by an accountant or a panel of accountants or any other professional or panel of professionals nominated by the Commissioner in this behalf and to furnish a report of such examination and audit	Yes	Yes
Section 82- Appearance before any authority in proceedings	Any person, who is entitled or required to attend before any authority in connection with any proceedings under this Act, may attend by authorised representative	Yes	Yes

Certifications under Income Tax			
Section/Rule/Notification	Topics	by CMA	by CA
Notification No 66/2016 dated 09.08.2016	Tax Return Preparer (Amendment) Scheme, 2018	Yes	Yes

ANNEXTURE- II.

Statistical data for Income Tax Filing (FY 2018-19)

Topics	Number	Source
No of Registered Users	8,45,14,539	
Return Filled	6,68,09,129	
Filing Growth Rate in comparison to F.Y 2017-18	-0.99%	
Cases yet to be withdrawn by tax officials	23% of the 8,300 appeals in High Courts	21st January 2019 news published in - https://www.businesstoday.in/cu
Cases yet to be withdrawn by tax officials	22.8% of 7,785 appeals at the Income Tax Appellate Tribunal (ITAT)	rent/economy-politics/cbdt-asks-tax-officials-withdraw-appeals-cases-january-end/story/311950.html
Threshold limit to file appeals in ITAT/CESTAT was increased from Rs. 10 lakh to Rs.20 lakh	As a result 34% of the total cases filed by the department in Income Tax Appellate Tribunal (ITAT) has been withdrawn. (66% pending case in ITAT)	
Threshold limit to file appeals in High Court was increased from Rs. 20 lakh to Rs.50 lakh	As a result 48% of the total cases filed by the department in High Court has been withdrawn. (52% pending case in High Court)	14th May 2019 news published in https://www.livemint.com/money/personal-finance/income-tax-officers-to-fast-track-disposal-of-appeal-cases-1557809270993.html
Threshold limit to file appeals in Supreme Court was increased from Rs. 25 lakh to Rs.1 Crore	As a result 54% of the total cases filed by the department in Supreme Court has been withdrawn. (46% pending case in High Court)	

High Court	
Pending Case as on January 2019	8300
Case withdrawn as on May 2019 due to increase in Threshold Limit(%)	48%
Case withdrawn as on May 2019 due to increase in Threshold Limit(Number)	$8300 \times 48 / 100 = 3984$
Case Pending as on May 2019	$8300 - 3984 = 4316$
Approx. 4000 case pending related to Income Tax in High Court	

ITAT	
Pending Case as on January 2019	7785
Case withdrawn as on May 2019 due to increase in Threshold Limit(%)	34%
Case withdrawn as on May 2019 due to increase in Threshold Limit(Number)	$7785 \times 34 / 100 = 2647$
Case Pending as on May 2019	$7785 - 2647 = 5138$
Approx. 5000 case pending related to Income Tax in ITAT	