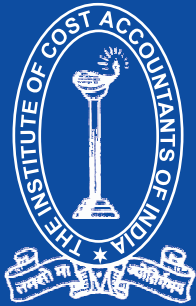


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EIRC NEWS

The Institute of Cost Accountants of India
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Pre-placement Orientation Program for December 2016 Batch



Inaugural session of Orientation at EIRC.
Chairman CMA Bibekananda Mukhopadhyay Presenting memento to
CMA Amitava Mukherjee. CMA P. K. Chakraborty, VC is also seen.



CS Ravi Verma being greeted with a bouquet by a participant.



Participants of Pre-placement Orientation Program



Chairman presenting memento to CMA B. N. Chatterjee



CMA Harijiban Banerjee Addressing



Ms Jayati Sinha addressing

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◆ CHAIRMAN'S COMMUNIQUE ◆

Dear Friends and beloved students,

The Institute has organized One Day National Conference on "Sustainable Infrastructure" at New Delhi on 23rd March, 2017. The conference was inaugurated by the Hon'ble Union Railway Minister Shri Suresh Prabhakar Prabhu while Hon'ble Minister for State for Finance & Corporate Affairs Shri Arjun Ram Meghwal was the Guest of Honour. I also attended as a Speaker in one session.

During this month, EIRC has organized a 12 days program on Orientation Training for the fresh CMAs who have passed in Dec., 2016 term. The program was held from 6th March, 2017 to 17th March, 2017. All the sessions were guided by reputed resource persons from different organization & professions.

Myself along with other RCM's met the Commissioner of Commercial taxes, West Bengal and discussed on the issues of GST and its implementation and training of personnel of the Department.

You may be glad to know that at Dibrugarh, on 26.03.2017, our Institute along with Assam college Teachers association, Dibrugarh Zone, Dibrugarh District Administration, Central Excise and Service Tax Deptt., Dibrugarh organized one National Seminar on GST. They invited me to attend the seminar as one of the speaker on behalf of the institute.

Mr. Anurag Goel, Commissioner Commercial Taxes, Govt. of Assam, Mr. Bamin Tai, Addl. Commissioner of Central Excise and Service Tax, Mr. Prasant Gawande, Asstt. Commissioner of Central Excise and Service Tax, Mr. Mrityunjay Acharjee, Vice President, Balmer Lawrie & Co. Ltd. were the other dignitaries present on the occasion.

I had a very good discussion with the Govt. Officials regarding Institute's participation for the successful and smooth implementation of GST in the state of Assam. They also acknowledged the importance of the role of Cost Accountants for the same. Mr. Goel also requested me to visit his office at Guwahati to discuss the issue and I visited his office on 27.03.17 and discussed the issue.

On 28.03.2017 I visited the office of Commissioner of Taxes, Meghalaya, Mr. Abhishek Bhagotia, IAS, and he has kindly consented to organize a joint program. on GST for the Officials and dealers of the state of Meghalaya in the mid of June. I also met the head of finance of NEEPCO, POWER GRID CORPORATION, BSNL, MECL. They are very much eager to organize one workshop on GST for their officials at Shillong in the mid of June this year.

On 29th I had a discussion with Mr. P. K. Saikia, MD of Assam Industrial Infrastructure Dev. Corporation regarding the role of Cost Accountants for his organization. He is also ready to take the help of us for the MSMEs of the State of Assam. But due to Bihu Festival in the state he was very much busy and requested me to have a further discussion after the festival is over.

A seminar on GST was organized on 5th March, 2017 at EIRC Seminar Hall. CMA Ashok B. Nawal , CCM was the resource person. CMA Biswarup Basu, CCM, CMA Pranab Kr. Chakraborty, Vice-Chairman, CMA Ashis Banerjee, Secretary, CMA Arundhati Basu, RCM and Chairperson, PD & Seminar Committee, Cma ShyamalKr. Bhattacharya, RCM were also present. The program was lively and Interactive.

EIRC celebrated Woman's Day on 8h March at EIRC Seminar Hall. female Members, Students and lady employees participated in he program. CMA Arundhati Basu, RCM, chaired the session. Chairman, Vice-Chairman, CMA Shyamal Bhattacharjee, RCM and CMA Dr. Umar Farooque were also present.

Another program on "Conducting Audit Under SAP Emvironment" was held at EIRC on 25thMarch, 2017. CMA Tapas Bhattacharya, FICO Consultant was the guest speaker. CMA Arundhati Basu, Chairperson, PD & Seminar Committee, CMA Umar Farooque, RCM, CMA Shyamal Bhattacharjee, RCM were present in the program. As the topic of the program was not very regular in EIRC's program list, members took interest and requested for some more programs on such topic.

Result for ICAI examination is be out. Let me congratulate all the candidates who have come out successful and wish them all a bright future. And those who could not succeed this time are advised not to breakdown but to concentrate and appear again with full confidence.

With warm regards to my professional colleagues and love & affection to students.

Thanks and regards,



CMA Bibekananda Mukhopadhyay
Chairman, EIRC of ICAI

◆ SECRETARY'S COMMUNIQUE ◆



To
All the Stake Holders

Dear Sir(s),

This is the Month of Tax Planning and 31st March is the last date for filing of belated Return for the assessment year 2015-16 under Income Tax Act. Date of migration to GSTN portal has been extended up to 15th day of March 2017. So everyone those who are engaged in Taxation area (Both Direct & Indirect Taxation) are very busy with their assignments.

Debate on Budget 2017-18 has started and it is expected that New GST bill will be passed in this budget session. Hope fully GST will start from 1st July 2017. There are huge scope of work awaiting CMAs. Our Council has conducted several workshops on GST. Several program on GST will be organized by EIRC to update our members regarding every changes of model law framed by GST Council. Members are requested to provide valuable suggestion on GST to our PD committee so that EIRC can put its best possible approach while approaching different state governments for making rules in this regards.

EIRC has passed resolution to conduct mock interview and free coaching classes for passed out students, who will appear forthcoming recruitment exam of "COAL INDIA LIMITED" and other PSUs. Students are requested to enroll their name with the concerned officer for taking part in coaching classes.

One important area where CMAs can play a vital role that is Insolvency Professional. EIRC has organized few programs on the topic. Members are requested to appear the concerned exam to become IP within June 2017. This is new area for PCMAs to explore professional acumen.

With Regards

CMA Ashis Banerjee
Secretary, EIRC of ICAI



Corporate Governance V/s Business Ethics: Issues & Concern

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Abstract

This paper discusses corporate governance issues from a compliance viewpoint. It makes a distinction between legal and ethical compliance mechanisms and shows that the former has clearly proven to be inadequate as it lacks the moral firepower to restore confidence and the ability to build trust. The concepts of freedom of indifference and freedom for excellence provide a theoretical basis for explaining why legal compliance mechanisms are insufficient in dealing with fraudulent practices and may not be addressing the real and fundamental issues that inspire ethical behaviour. Ethical compliance mechanisms are addressed from a virtue ethics perspective. The tendency to overemphasize legal compliance mechanisms may result in an attempt to substitute "accountability" for "responsibility" and may also result in an attempt to legislate morality. The focus of the virtues in governance is to establish a series of practical responses which depend on the consistent application of core values and principles as well as commitment to ethical business practice.

Key Words: Corporate Governance, Ethics, Natural Law Ethics, Legal Compliance, Ethical compliance.

Introduction

Corporations have become a powerful and dominant institution. They have reached to every corner of the globe in various sizes, capabilities and influences. Their governance has influenced economies and various aspects of social landscape. Shareholders are seen to be losing trust and market value has been tremendously affected. Moreover with the emergence of globalization, there is greater deterritorialization and less of governmental control, which results in a greater need for accountability (Crane and Matten, 2007). Hence, corporate governance has become an important factor in managing organizations in the current global and complex environment. In order to understand corporate governance, it is important to highlight its definition. Even though, there is no single accepted definition of corporate governance but it can be defined as a set of processes and structures for controlling and directing an organization. It

constitutes a set of rules, which governs the relationships between management, shareholders and stakeholders (Ching et al, 2006). The term "corporate Governance" has a clear origin from a Greek word, "kybernan" meaning to steer, guide or govern.

Corporate governance includes all types of firms and its definitions could extend to cover all of the economic and non-economic activities. Literatures in corporate governance provide some form of meaning on governance, but fall short in its precise meaning of governance. Such ambiguity emerges in words like control, regulate, manage, govern and governance. Owing to such ambiguity, there are many interpretations. It may be important to consider the influences a firm has or affected by in order to grasp a better understanding of governance. Owing to vast influential factors, proposed models of corporate governance can be flawed as each social scientist is forming their own scope and concerns.

Conflict of Interest: The cause of Concern

"What makes corporate governance and business ethics necessary? Put simply, the interests of those who have effective control over a firm can differ from the interests of those who supply the firm with external finance. The problem commonly referred to as a principal- agent problem, grows out of the separation of ownership and control and of corporate outsiders and insiders. In the absence of the protections that good governance supplies, asymmetries of information and difficulties of monitoring results in capital providers who lack control over the corporation, finding it risky and costly to protect themselves from the opportunistic behaviour of managers and controlling shareholders."

Some corporations have grown dramatically in a relatively short time through acquisitions funded by inflated share prices and promises of even brighter futures (many of these corporations have now failed). In others, it seems as if the checks and balances that should protect shareholder interests were pushed to one side, driven by a perception of the need to move fast in the pursuit of the bottom line. While some

failures were the result of fraudulent accounting and other illegal practices, many of the same companies exhibited actual corporate governance risks such as conflicts of interest, inexperienced directors, overly lucrative compensation, or unequal share voting rights (Anderson and Orsagh, 2004). In the face of such scandals and malpractices, there has been a renewed emphasis on corporate governance.

Objectives of the Research

1. To discuss the conceptual framework of corporate governance and business ethics.
2. To discuss the relative importance of corporate governance V/s business ethics.

Research Methodology

The study is of descriptive nature and the main source of data is secondary type which has been collected through various reliable sources like referred journals, internet data base, website of Govt. of India and of OECD, etc.

Corporate Governance

Corporate governance covers a large number of distinct concepts and phenomenon as we can see from the definition adopted by Organization for Economic Cooperation and Development (OECD) -

"Corporate governance is the system by which business corporations are directed and controlled. The corporate governance structure specifies the distribution of rights and responsibilities among different participants in the corporation, such as, the board, managers, shareholders and other stakeholders and spells out the rules and procedures for making decisions in corporate affairs. By doing this, it also provides the structure through which the company objectives are set and the means of attaining those objectives and monitoring performance".

From this definition we see that corporate governance includes the relationship of a company to its shareholders and to society; the promotion of fairness, transparency and accountability; reference to mechanisms that are used to "govern" managers and to ensure that the actions taken are consistent with the interests of key stakeholder groups. The key points of interest in corporate governance therefore include issues of transparency and accountability, the legal and regulatory environment, appropriate risk management measures, information flows and the responsibility of senior management and the board of directors. From an ethical dimension, at a fundamental level, the key issues of corporate governance involve questions concerning relationships and building trust (both within and outside the organization).

In order for an effective relationship to be maintained between the providers of capital and company managers, high levels of

trust must exist between the two groups. For sufficient levels of trust to occur, four overarching corporate governance principles need to be in place:

- **Transparency:** Directors must make clear to the providers of capital and other key stakeholders why every material decision was made.
- **Accountability:** Directors should be held accountable for their decisions and account to shareholders by submitting themselves to appropriate scrutiny.
- **Fairness:** All shareholders should receive equal consideration by the directors and management with a sense of justice and avoidance of bias or vested interests.
- **Responsibility:** Directors should carry out their duties with honesty, probity, and integrity.

"Corporate governance is concerned with holding the balance between economic and social goals and between individual and communal goals...the aim is to align as nearly as possible the interests of individuals, corporations and society."

Business Ethics

Business ethics can be defined as the principles, norms and standards that guide an organisation's conduct of its activities, internal relations and interactions with external stakeholders.

Business ethics (also corporate ethics) is a form of applied ethics or professional ethics that examines ethical principles and moral or ethical problems that arise in a business environment. It applies to all aspects of business conduct and is relevant to the conduct of individuals and entire organizations.

Business ethics refers to contemporary standards or sets of values that govern the actions and behaviour of an individual in the business organization.

Characteristics of Business Ethics:

- (a) **A Discipline:** Business ethics are the guiding principles of business function. It is the knowledge through which human behaviour is learnt in a business situation.
- (b) **Ancient Concept:** Business ethics is an ancient concept. It has its origin with the development of human civilization.
- (c) **Personal Dignity:** The principles of ethics develop the personal dignity. Many of the problems of ethics arise due to not giving dignity to individual. All the business decisions should be aimed by giving dignity to the customers, employees, distributors, shareholders and creditors, etc. otherwise they develop in immorality in the business conducts.

- (d) **Related to Human Aspect:** Business ethics studies those activities, decisions and behaviours which are concerned with human aspect. It is the function of the business ethics to notify those decisions to customers, owners of business, government, society, competitors and others on good or bad, proper or improper conduct of business.
- (e) **Study of Goals and Means:** Business ethics is the study of goals and means for the rational selection of sacred objects and their fulfilment. It accepts the principles of "Pure goals inspire for pure means" and "Means justifies the end". It is essential that goals and means should be based on morals.
- (f) **Different from Social Responsibility:** Social responsibility mainly relates to the policies and functions of an enterprise, whereas business ethics to the conduct and behaviour of businessmen. But it is a fact that social responsibility of business and its policies is influenced by the business ethics.
- (g) **Greater than Law:** Although the law approves various social decisions, but the law is not greater than ethics. Law is usually related to the minimum control of social customs whereas ethics gives importance to individual and social welfare actions.

Importance of Ethics for the Organisation

- Ethics is the cornerstone of corporate governance
- Ethics ensures the sustainability of a business
- Good corporate reputation is built on a solid foundation of ethical culture. A culture of trust must be built on a corporate framework of ethical principles which are transparency/ openness, competence, integrity and benevolence
- Ethics play a major role in the prevention of fraud. Fraud prevention becomes a shared responsibility among the members of the organisation
- Ethics are the Basis of Fundamental Corporate Governance Theories like Agency Theory, Stewardship Theory, Stakeholder Theory, Resource Dependency Theory, Transaction Cost Theory and Political Theory.

Legal Compliance Mechanisms

The difficulty with legal compliance mechanisms is that many abuses that have enraged the public are entirely legal, for example, companies can file misleading accounting statements that are in complete compliance with generally accepted accounting principles (GAAP). France et al (2002) point out that laws regulating companies are ambiguous, that juries have a hard time grasping abstract and sophisticated financial concepts (for example, special-purpose entities or

complex derivatives), well-counselled executives have plenty of tricks for distancing themselves from responsibilities (Enron and the individual officers all deny they've broken any laws), and the fact that criminal law applies only to extreme cases so violations are hard to enforce.

Based upon in-depth interviews with 30 graduates of Harvard MBA program, Badaracco and Webb (1995) revealed several disturbing patterns. First, young managers received explicit instructions from their middle-manager bosses or felt strong organizational pressures to do things that they believed were sleazy, unethical, or sometimes illegal. Second legal compliance mechanisms (corporate ethics programs, codes of conduct, mission statements, hot lines, and so on) provided little help in such environments. Third, many of the young managers believed that their company's executives were out-of-touch on ethical issues; either they were too busy or because they sought to avoid responsibility. Finally, the young managers resolve the dilemmas they faced largely on the basis of personal reflection and individual values, not through reliance on corporate credos or company loyalty.

Although the accounting profession has always had a strong focus on internal controls, recent spectacular business failures, which have undermined auditors' credibility in their reporting function, have eroded public confidence in the accounting and auditing profession. Brief et al (1997) found that 87% of accountants surveyed were willing to misrepresent financial statements in at least one case when presented with seven financial reporting dilemmas. This has led to new and more stringent applications of standards.

1. Corporate Governance under the Companies Act

- a) **Shareholder Rights:** The Companies Act requires every company to conduct an annual general meeting and provides an effective mechanism for the shareholders to participate and vote at general meetings. In the interests of investor awareness, the Companies Act also requires continuous dissemination of information to the shareholders in the form of a number of corporate documents such as: annual reports, minutes of general meetings and Board meetings, auditor's report, Board's report, etc.
- b) **Disclosure and Transparency Requirements:** The Companies Act affirms that disclosure and transparency form an integral part of corporate governance and thus, information about the company and its activities has to be provided to the shareholders, registrar of companies and to the stock exchanges in the form of annual report and other corporate documents mentioned above. The annual accounts of the company are required to be certified by auditors, who are appointed at the general meetings.

- c) **Responsibilities of the Board:** The Board of a company is appointed at the general meeting, with each director's appointment to be approved by majority of the shareholders present and voting. Similarly, the shareholders can remove a director by way of simple majority of shareholders. The whole time directors along with managing directors, manager, and secretary are classified as officers in default by the Companies Act. Even though the Board has general powers, consent of shareholders has been made mandatory for certain corporate decisions such as, further issue of capital, issuing shares at a discount, buy back of shares, reissuing of redeemed debentures, change of registered office within the state and issuing of inter-corporate loans. The Companies Act also contains provisions safeguarding the interests of shareholders in the event of oppression and mismanagement in the company.

2. Corporate Governance Mechanism Prescribed By SEBI

The SEBI Act, 1992 ("SEBI Act") empowers SEBI to frame regulations, pursuant to which the regulator has introduced a comprehensive set of guidelines on insider trading, mergers and takeovers, fraudulent practices, etc all of which have a significant impact on corporate governance in the country.

SEBI, as a market regulator, also decides the terms and conditions of listing agreement which govern the arrangement between stock exchanges and companies listed on the stock exchange. Clause 49 of the listing agreement prescribes various corporate governance mechanisms in the following subject areas:

- a) **Board of Directors and Independent Directors:** The Board of a listed company is required to have an optimum number of executive and non-executive directors, with at least half of the Board comprising of non-executive directors. The independent director is also not permitted to be a substantial shareholder of the company, i.e., owns two percent or more of the block of voting shares of the company.

With respect to the composition of the Board, Clause 49 mandates that at least one third of the Board should comprise of independent directors, when the Chairman of the Board is a non-executive director or alternatively, at least half of the Board should comprise of independent directors, if Chairman of the Board is an executive director.

SEBI is also fairly vigilant of the activities of independent directors and in a recent case, has also held that independent directors can be held liable for the

misleading and fictitious financial statements published by the company.

- b) **Audit Committees:** The audit committee, which oversees companies' financial reporting process and necessary financial disclosures, is required to be headed by an independent director. In order to ensure that the audit committee functions in an independent manner, two-thirds of the directors on the committee have to be independent directors.
- c) **Subsidiary Companies:** The presence of at least one independent director of the holding company, on the Boards of a material non-listed subsidiary company has been made compulsory by Clause 49.
- d) **Disclosures:** Clause 49 of the listing agreement requires listed companies to make periodical disclosures of related party transactions, accounting treatment, risk management, remuneration of directors, management related matters, appointment and reappointment of directors and utilization of proceeds from public issues, rights issues, preferential issues etc.
- e) **Report on Corporate Governance:** A separate section, with a detailed compliance report on corporate governance, is required to be included in the annual reports of the company. A quarterly compliance report, as per the format in the listing agreement, is also required to be submitted to the stock exchange within 15 days from the close of quarter as per a specific format.
- f) **Compliance:** Lastly, the company is required to obtain an annual certificate from either the auditors or practicing company secretaries regarding compliance of conditions of corporate governance, which is then sent to the shareholders and stock exchanges.

3. Governmental Initiatives - Measures by MCA

- a) **Voluntary Guidelines on Corporate Governance:** MCA introduced the Voluntary Guidelines on Corporate Governance in 2009. The guidelines relate to various issues such as: the constitution of Board (appointment, role of independent directors, remuneration); the responsibilities of the Board (training, enabling quality decision making, risk management, evaluation of performance, compliance); audit committees of Board (constitution, enabling powers, role and responsibilities); and auditors (appointment, certificate of independence, rotation); secretarial audit; whistle blowers, etc.
- b) **Green Initiatives:** A number of green initiatives have also been recently introduced, such as: (i) service of documents through electronic mode to increase the

speed of delivery, (ii) participation of directors and shareholders through video conferencing to provide larger participation and for curbing the cost borne to attend various meeting, (iii) secure electronic voting in the general meetings of the company and (iv) issuance of digital certificates and standard letters by the Registrar of Companies ("ROCs") to reduce the delay.

- c) **Serious Fraud Investigation Office ("SFIO"):** The office investigates cases which have inter-departmental and multi-disciplinary ramifications or public interest at stake or the possibility of investigation contributing towards an improvement in systems, laws or procedures.
- d) **Investor Grievances Management Cell ("IGMC"):** IGMC, earlier known as the Investor Protection Cell, was set up by the MCA in 1993 with the objective of resolving the grievances of investors'.
- e) **National Foundation for Corporate Governance ("NFCG"):** NFCG, the national apex platform on corporate governance issues, was established in 2003 by the MCA to act as a platform for deliberation on issues relating to corporate governance and sensitize corporate leaders on the importance of "good corporate governance, self-regulation and directorial responsibilities".

Corporate Scandals: Failure Of Corporate Governance

If there is one theme to rival terrorism for defining the last decade-and-a-half, it would have to be corporate greed and malfeasance. Many of the biggest corporate accounting scandals in history happened during that time. Here's a chronological look back at some of the worst examples.

1. Waste Management Scandal (1998)

- Company: Houston-based publicly traded waste management company
- What happened: Reported \$1.7 billion in fake earnings.
- Main players: Founder/CEO/Chairman Dean L. Buntrock and other top executives; Arthur Andersen Company (auditors)
- How they did it: The company allegedly falsely increased the depreciation time length for their property, plant and equipment on the balance sheets.
- How they got caught: A new CEO and management team went through the books.
- Penalties: Settled a shareholder class-action suit for \$457 million. SEC fined Arthur Andersen \$7 million.
- Fun fact: After the scandal, new CEO A. Maurice Meyers set up an anonymous company hotline where

employees could report dishonest or improper behavior.

2. Enron Scandal (2001)

- Company: Houston-based commodities, energy and service corporation
- What happened: Shareholders lost \$74 billion, thousands of employees and investors lost their retirement accounts, and many employees lost their jobs.
- Main players: CEO Jeff Skilling and former CEO Ken Lay.
- How they did it: Kept huge debts off balance sheets.
- How they got caught: Turned in by internal whistleblower Sherron Watkins; high stock prices fueled external suspicions.
- Penalties: Lay died before serving time; Skilling got 24 years in prison. The company filed for bankruptcy. Arthur Andersen was found guilty of fudging Enron's accounts.
- Fun fact: Fortune Magazine named Enron "America's Most Innovative Company" 6 years in a row prior to the scandal.

3. World Com Scandal (2002)

- Company: Telecommunications company; now MCI, Inc.
- What happened: Inflated assets by as much as \$11 billion, leading to 30,000 lost jobs and \$180 billion in losses for investors.
- Main player: CEO Bernie Ebbers
- How he did it: Underreported line costs by capitalizing rather than expensing and inflated revenues with fake accounting entries.
- How he got caught: WorldCom's internal auditing department uncovered \$3.8 billion of fraud.
- Penalties: CFO was fired, controller resigned, and the company filed for bankruptcy. Ebbers sentenced to 25 years for fraud, conspiracy and filing false documents with regulators.
- Fun fact: Within weeks of the scandal, Congress passed the Sarbanes-Oxley Act, introducing the most sweeping set of new business regulations since the 1930s.

4. Tyco Scandal (2002)

- Company: New Jersey-based blue-chip Swiss security

systems.

- What happened: CEO and CFO stole \$150 million and inflated company income by \$500 million.
- Main players: CEO Dennis Kozlowski and former CFO Mark Swartz.
- How they did it: Siphoned money through unapproved loans and fraudulent stock sales. Money was smuggled out of company disguised as executive bonuses or benefits.
- How they got caught: SEC and Manhattan D.A. investigations uncovered questionable accounting practices, including large loans made to Kozlowski that were then forgiven.
- Penalties: Kozlowski and Swartz were sentenced to 8-25 years in prison. A class-action lawsuit forced Tyco to pay \$2.92 billion to investors.
- Fun fact: At the height of the scandal Kozlowski threw a \$2 million birthday party for his wife on a Mediterranean island, complete with a Jimmy Buffet performance.

5. Health South Scandal (2003)

- Company: Largest publicly traded health care company in the U.S.
- What happened: Earnings numbers were allegedly inflated \$1.4 billion to meet stockholder expectations.
- Main player: CEO Richard Scrushy.
- How he did it: Allegedly told underlings to make up numbers and transactions from 1996-2003.
- How he got caught: Sold \$75 million in stock a day before the company posted a huge loss, triggering SEC suspicions.
- Penalties: Scrushy was acquitted of all 36 counts of accounting fraud, but convicted of bribing the governor of Alabama, leading to a 7-year prison sentence.
- Fun fact: Scrushy now works as a motivational speaker and maintains his innocence.

6. Freddie Mac (2003)

- Company: Federally backed mortgage-financing giant.
- What happened: \$5 billion in earnings were misstated.
- Main players: President/COO David Glenn, Chairman/CEO Leland Brendsel, ex-CFO Vaughn Clarke, former senior VPs Robert Dean and Nazir Dossani.
- How they did it: Intentionally misstated and understated

earnings on the books.

- How they got caught: An SEC investigation.
- Penalties: \$125 million in fines and the firing of Glenn, Clarke and Brendsel.
- Fun fact: 1 year later, the other federally backed mortgage financing company, Fannie Mae, was caught in an equally stunning accounting scandal.

7. American International Group (AIG) Scandal (2005)

- Company: Multinational insurance corporation.
- What happened: Massive accounting fraud to the tune of \$3.9 billion was alleged, along with bid-rigging and stock price manipulation.
- Main player: CEO Hank Greenberg.
- How he did it: Allegedly booked loans as revenue, steered clients to insurers with whom AIG had payoff agreements, and told traders to inflate AIG stock price.
- How he got caught: SEC regulator investigations, possibly tipped off by a whistleblower.
- Penalties: Settled with the SEC for \$10 million in 2003 and \$1.64 billion in 2006, with a Louisiana pension fund for \$115 million, and with 3 Ohio pension funds for \$725 million. Greenberg was fired, but has faced no criminal charges.
- Fun fact: After posting the largest quarterly corporate loss in history in 2008 (\$61.7 billion) and getting bailed out with taxpayer dollars, AIG execs rewarded themselves with over \$165 million in bonuses.

8. Lehman Brothers Scandal (2008)

- Company: Global financial services firm.
- What happened: Hid over \$50 billion in loans disguised as sales.
- Main players: Lehman executives and the company's auditors, Ernst & Young.
- How they did it: Allegedly sold toxic assets to Cayman Island banks with the understanding that they would be bought back eventually. Created the impression Lehman had \$50 billion more cash and \$50 billion less in toxic assets than it really did.
- How they got caught: Went bankrupt.
- Penalties: Forced into the largest bankruptcy in U.S. history. SEC didn't prosecute due to lack of evidence.
- Fun fact: In 2007 Lehman Brothers was ranked the #1 "Most Admired Securities Firm" by Fortune Magazine.

9. Bernie Madoff Scandal (2008)

- Company: Bernard L. Madoff Investment Securities LLC was a Wall Street investment firm founded by Madoff.
- What happened: Tricked investors out of \$64.8 billion through the largest Ponzi scheme in history.
- Main players: Bernie Madoff, his accountant, David Friehling, and Frank DiPascalli.
- How they did it: Investors were paid returns out of their own money or that of other investors rather than from profits.
- How they got caught: Madoff told his sons about his scheme and they reported him to the SEC. He was arrested the next day.
- Penalties: 150 years in prison for Madoff + \$170 billion restitution. Prison time for Friehling and DiPascalli.
- Fun fact: Madoff's fraud was revealed just months after the 2008 U.S. financial collapse.

10. Satyam Scandal (2009)

- Company: Indian IT services and back-office accounting firm.
- What happened: Falsely boosted revenue by \$1.5 billion.
- Main player: Founder/Chairman Ramalinga Raju.
- How he did it: Falsified revenues, margins and cash balances to the tune of 50 billion rupees.
- How he got caught: Admitted the fraud in a letter to the company's board of directors.
- Penalties: Raju and his brother charged with breach of trust, conspiracy, cheating and falsification of records. Released after the Central Bureau of Investigation failed to file charges on time.
- Fun fact: In 2011 Ramalinga Raju's wife published a book of his existentialist, free-verse poetry.

Ethical Compliance Mechanisms

Trevino et al (1999) study found that specific characteristics of legal compliance programs matter less than broader perceptions of the program's orientation toward values and ethical aspirations. They found that what helped the most are consistency between policies and actions as well as dimensions of the organization's ethical climate such as ethical leadership, fair treatment of employees, and open discussion of ethics. On the other hand, what hurts the most is an ethical culture that emphasizes self-interest and unquestioning obedience to authority, and the perception that

legal compliance programs exist only to protect top management from blame. **Collins (2001)** examined the character traits of effective business leaders in the culture of eleven companies that transformed themselves from good solid businesses into great companies that produced phenomenal and sustained returns for their stockholders. Leaders in all companies exhibited the traits of fanatical drive and workmanlike diligence, but Level leaders were also people of integrity and conscience who put the interest of their stockholder and their employees ahead of their own self-interest.

Byrne (2002) pointed out that following the abuses of recent times, executives are learning that trust, integrity, and fairness do matter and are crucial to the bottom line. Corporate leaders and entrepreneurs somehow forgot that business is all about values and are now paying the price in a downward market with a loss of investor confidence. He also noted that in the post-Enron, post-bubble world, the realization that many companies played fast and loose with accounting rules and ethical standards and which allowed performance to be disconnected from meaningful corporate values, is leading to a re-evaluation of corporate goals, values and purpose. What's emerging is a new model of the corporation in which corporate cultures will change in a way that puts greater emphasis on integrity and trust.

Hansen (2004) doubts whether legal compliance mechanisms alone can show the way to business probity and points out the need to ask some basic questions: Are Sarbanes-Oxley and the mandated reforms being made likely to achieve the desired goal? Will our efforts foster a more ethical business environment or is it likely that much of the effort will be directed to formulaic conformity with the appearance of ethical probity? Will corporations be prompted merely to offer empty clichés in their public embrace of integrity (e.g. some corporations might think that rewriting their value statement in a larger font size might somehow translate into a more impassioned ethical commitment)? Hansen (2004) also points out that more explicit recognition of the role of culture in an organization may be forthcoming since the challenge is to ascertain whether a corporation's compliance program is merely a "paper program" or whether it was designed and implemented in an effective manner. A cultural norm that reinforces the importance of compliance is one measure of a real compliance program as opposed to one that merely exists on paper.

Ambrosio and Toth (1998), using a natural ethical framework, show that the latter is more coherent with human nature as the natural law perspective posits the primacy of ethics over politics, law and economics. Economics cannot be divorced from ethics anymore than law, politics, education can (Arjoon and Gopaul, 2003). Natural law ethical theory provides a framework to address the moral dimension of

human action, serves as a guide to those directly responsible for corporate governance, judges whether particular corporate actions are consistent with legal obligations, and provides the grounds for a moral critique of existing laws and practices related to corporate governance. The shareholder wealth maximization model deflects attention from the ethical questions and the concern for values. Related to the first principle of natural law ethics (do good and avoid evil) is virtue ethics (be virtuous and avoid vices), which provides more positive principles for the practice of corporate governance.

Legal V/S Ethical Compliance Mechanisms

Kleining (1999) observes that despite certain congruities and convergences, there are some very important differences in the character and content of ethical and legal requirements which can help us understand why ethics is accorded a normative primacy in practical affairs and legality is to be judged by reference to ethics (not vice versa). Specifically, law is concerned primarily with conduct and ethical requirements are centrally concerned with reasons, motives, intentions, and more generally with the character that expresses itself in conduct. Ethics therefore is concerned with what we are and not just what we do. Also, law is jurisdictionally limited since what is legitimately required in one state or country may differ from another, whereas ethical values are inclined to be more universal. Kidder (1995) defines ethics as "obedience to the unenforceable". Longstaff (1986) argues that an overemphasis on legal compliance mechanisms could be at the expense of ethical reflection since people may have less reason to form their own opinions and take personal responsibility for the decisions they make. This could result in a subtle substitution of "accountability" for "responsibility". Table 1 shows the differences between the legal compliance and the ethical compliance approaches.

Table-1: Legal and Ethical Compliance Approaches

Factors	Legal	Ethical
Ethos	Regards ethics as a set of limits and something that has to be done	Defines ethics as a set of principles to guide choices
Objectives	Geared toward preventing unlawful conduct	Geared toward achieving responsible conduct
Method	Emphasizes rules and uses increased monitoring and penalties to enforce these rules	Treats ethics as infused in business practice (leadership, core systems, decision-making processes, etc)
Behavioral Assumptions	Rooted in deterrence theory (how to prevent people from doing bad things by manipulating the costs of misconduct)	Rooted in individual and communal values (both material and spiritual)

The current business environment provides an excellent opportunity to establish an organizational culture that goes beyond mere legal compliance. Harshbarger and Holden (2004) also agree that as the new realities of corporate governance set in, the substance of the new laws and rules must not be lost in

the race to comply with their form. They point out that organizations must make a good faith effort to comply not just with the letter of the law, but with the spirit of the new reforms.

Legal compliance mechanisms tend to promote a freedom of indifference which corresponds to the letter of the law which may not necessarily inspire or instill excellence, whereas, ethical compliance mechanisms promote a freedom for excellence which corresponds to the spirit of the law (see Table 2). The former concept of freedom is more seen as an external limit imposed on the agent while the latter governs the dynamism and development of a person's faculties of action and tends toward perfection or happiness of the human person. These concepts of freedom explain why legal compliance mechanisms are insufficient and may not be addressing the real and fundamental issues that inspire ethical behaviour.

Table-2: Two forms of Freedom

Freedom of Indifference	Freedom for Excellence
Ability to choose between contraries	Ability to act with excellence and perfection whenever one wishes
Precedes and dominates every natural inclination. Proceeds from the will alone in its "indifferenced" to contraries	Proceeds from reason and will and from the natural longing for truth, goodness, and happiness
Entirely present from the beginning	Develops gradually through education
Each free act is independently governed by obedience to the law	Unites one's actions in an ordered whole through a finality (happiness) that ties them together interiorly
Virtue is a habit of submission to law	Virtue is to act with professional excellence
Legal compliance is external to freedom, which it limits through obligation. It is the work of the will of the legislator	Legal compliance is seen to have an educational role in the growth of freedom. It is a work of wisdom and corresponds to one's most intimate longings
Engenders legal compliance and obligation. The question of happiness is extrinsic	Engenders an ethics of happiness and virtue, which springs from one's interior inclinations

Pinckaers (2001) points out that these two distinct conceptions of freedom engender two types of morality: freedom of indifference is the source of moralities of obligation and freedom for excellence inspires moralities of happiness and virtue. Under freedom of indifference one loses sight or is no longer concerned for the bigger picture (the common good or happiness) that would unite all acts in one same intention since each act is viewed as independently governed by obedience to the law. Freedom for excellence, on the other hand, engenders a morality that regards happiness as decisive for the integral ordering of one's life and the formation of one's character. Central to this, are the cardinal virtues which strengthen freedom and refine human actions.

The Moral Compass of Companies

Ethics and moral norms now set a new benchmark for choosing to "do the right thing" in business practices. Corporate scandals of excessive fraud, greed, dishonesty, and bribery have slowly turned the tide so that today corporate codes of ethics are the norm rather than the exception. This evolution is only a few decades old but its principles are reflected in current definitions of corporate governance and solidly codified in the OECD and UN international

conventions against bribery. Ethics and moral norms now set a new benchmark for choosing to "do the right thing" in business practices.

Senior executives have the paramount responsibility to embed ethical behaviour into the culture of the company. By leadership, boards and CEOs can build an ethical organization and become the benchmark to be emulated by competitors, industry peers, and the private sector in general. Such visible commitment helps keep the organization on track to progress from just having a firm commitment to business ethics to creating an organizational culture where ethics is a central consideration in business decisions across all layers of a company.

To an ethical organization, ethics is about doing business right, not an issue of compliance. In practice this means that to uphold its ethical philosophy, at times a company must stand ready to lose business before compromising its values. However, by having in place a comprehensive ethics program that is aligned to its business strategy, a company can rely on institutional checks and balances that will help it make the right decisions when faced with challenging ethical dilemmas. Good corporate governance and concrete ethical standards are strong allies to help companies navigate the mine fields of corporate corruption.

Conclusion

Failure in corporate governance is a real threat to the future of every corporation. With effective corporate governance based

on core values of integrity and trust (reputational value) companies will have competitive advantage in attracting and retaining talent and generating positive reactions in the marketplace - if you have a reputation for ethical behaviour in today's marketplace it engenders not only customer loyalty but employee loyalty. Effective corporate governance can be achieved by adopting a set of principles and best practices. A great deal depends upon fairness, honesty, integrity and the manner in which companies conduct their affairs. Companies must make a profit in order to survive and grow; however, the pursuit of profits must stay within ethical bounds.

Companies should adopt policies that include environmental protection, whistle blowing, ethical training programs and so on. Such compliance mechanisms help develop and build corporate image and reputation, gain loyalty and trust from consumers and heightens commitment to employees. Ethical compliance mechanisms contribute to stability and growth since it instills confidence; management, leadership, and administration are essentially ethical tasks. The focus of the virtues in governance is to establish a series of practical responses which depend on the consistent application of core values and principles as well as commitment to ethical business practice.

Ethics is truly an essential ingredient for business success and it will continue to serve as the blueprint for success in the 21st century. Many of our traditional role models have fallen, and so it is more important for us to set a strong ethical example for future generations.

Corporate Social Responsibility (CSR)

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CSR implies that companies to which the provisions of CSR Rules are applicable contributes to social good by integrating economic, environmental and social objectives with the company's business operations and growth, thus, recognizing the social and environmental priorities as well while up holding the objectives of doing business gainfully.

Essentially, CSR focuses the social dimension of doing business by companies and mandates by law in the Companies Act 2013 that certain category of companies must fulfil their social objectives also while fulfilling other business objectives.

Companies Act 2013 (Act) has introduced several provisions which have changed the face of Indian corporate business. One such new provision is Corporate Social Responsibility (CSR). The concept of CSR rests on the ideology of give and take. Companies take resources in the form of raw materials, human resources, various support facilities, etc from the society. By performing the task of CSR activities, the companies are giving something back to the society.

Ministry of Corporate Affairs has notified Section 135 and Schedule VII to the Companies Act as well as the Companies (Corporate Social Responsibility Policy) Rules, 2014 (CRS Rules) which has come into effect from 1 April 2014.

Applicability: Section 135 of the Companies Act provides the threshold limit for applicability of CSR to a Company i.e. (a) net worth of the company to be Rs 500 crore or more; (b) turnover of the company to be Rs 1000 crore or more; (c) average net profit of the company for the preceding three years to be Rs 5 crore or more. Further, as per the CSR Rules, the provisions of CSR are not only applicable to Indian companies, but also applicable to branch and project offices of a foreign company in India.

CSR Committee and Policy: Every qualifying company

requires spending of at least 2% of its average net profit for the immediate preceding three financial years on CSR activities. Further, the qualifying company will be required to constitute a committee (CSR Committee) of the Board of Directors (Board) consisting of at least three or more directors one of whom will be an independent director. The CSR Committee shall formulate and recommend to the Board, a policy which shall indicate the activities to be undertaken (CSR Policy) and recommend the amount of expenditure to be incurred on the activities and monitor the CSR Policy of the company. The Board shall take into account the recommendations made by the CSR Committee and approve the CSR Policy.

Definition of the term CSR: The term CSR has been defined under the CSR Rules which includes but is not limited to:

- Projects or programs relating to activities specified in Schedule VII to the Companies Act, 2013; or
- Projects or programs relating to activities undertaken by the Board in pursuance of recommendations of the CSR Committee as per the declared CSR policy subject to the condition that such policy covers subjects enumerated in the said Schedule.

This definition of CSR assumes significance as it allows companies to engage in projects or programs relating to activities listed in the Schedule. Flexibility is also permitted to the companies by allowing them to choose their preferred CSR engagements that are in conformity with the CSR policy.

Activities under CSR: The activities that can be undertaken by the company to achieve its CSR obligations include eradicating hunger and poverty, promotion of education, promoting gender equality and empowering women, reducing child mortality, combating human immuno-

deficiency virus / acquired immune deficiency syndrome, malaria and other diseases, ensuring environmental sustainability, employment enhancing vocational skills, social business projects, contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Governments for socio-economic development and funds for the welfare of the Scheduled Castes / Scheduled Tribes / other backward classes / minorities, etc. , and such other matters as may be prescribed / notified from time to time.

Local Area: Preference is given to local areas and the areas where the company operates. The CSR Committee shall prepare the CSR Policy which will include the projects and programmes which are to be undertaken, prepare a list of projects and programmes which a company plans to undertake during the implementation year and also focus on integrating business models with social and environmental priorities and process in order to create value from the standpoint of social and economic development.

Reporting : Companies usually prepare (as a part of their Annual Report) a report in the prescribed format of the CSR activities in which they mention average net profit for the previous three financial years and also the prescribed CSR expenditure required to be spent on the projects / activities already determined by the CSR committee. However, if the company is unable to spend the minimum required amount, the company has to give the reasons in the Board Report for such non compliance so that no penal provisions are attracted.

It may be noted that activities undertaken in pursuance of normal course of business of a company shall not be regarded as CSR activities. Similarly, expenditure on CSR activities undertaken outside India will not count as CSR spends. Also, expenditure on activities which are exclusively for the benefit of employees of the company or their families shall not count as CSR spends.

Further CSR activities may be undertaken by setting up a trust

/ section 8 Company / society / foundation in India. Furthermore, a company may also conduct / implement its CSR activities through trusts / societies / section 8 Companies operating in India which are not set up by the company itself provided such entities have an established track record of at least three years in carrying on such activities under reference.

The introduction of CSR provision in the Companies Act 2013 is a welcome step and all Companies which satisfy the CSR criteria will have to undertake CSR activities under the new CSR regime from now on. This step will certainly boost development of various social projects with the professional management of the private sector.

Looking ahead : It is expected that more flexibility will be allowed in the coming years with regard to the type of activities / projects that would qualify for CSR initiatives , thus, Schedule VII to the Companies Act 2013 will remain open-ended for the time being .

Further, it is also expected that separate secretarial standards will evolve governing the compliance requirements of the CSR provisions and Rules, thus, making the CSR committees more responsible in their task of monitoring the CSR activities of a Company. It is also expected that when the required CSR expenditures of a Company would cross certain threshold, the CSR Report should be additionally signed by a practicing Company Secretary / Chartered Accountant / Cost Accountant.

It is also expected that a new Accounting Standard will be introduced in the near future regarding the treatment , disclosure and reporting of CSR expenses in the books of account. Also expected that expenses of purely capital nature related to CSR activities will be allowed as business expenditures and, therefore, would qualify for deductions under the Income Tax Act . This step will certainly encourage the companies to go ahead on expenses of capital nature in their pursuit of CSR initiatives.

Digital Initiatives and Financial Architecture of MSME Sector in India

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Introduction :

Over the years, the Micro, Small and Medium Enterprises (MSME) sector in India has emerged as a highly dynamic and vibrant sector of the Indian economy. MSMEs not only play an important role in providing huge employment opportunities at relatively lower capital cost compared to big size industries but also help in industrialization of rural & industrially backward areas. This reduces regional imbalances, and assures a more equitable distribution of national income and wealth. MSMEs also play a complementary role to large industries as ancillary units and the contribution of this sector is enormous, as far as the socio-economic development of the country is concerned. The growth in terms of employment and investment may be viewed in fig 1 below:

Fig 1: Performance of MSME sector in terms of employment and Investment

Sl. No.	Year	Total Working Enterprises (in lakh)	Employment (in lakh)	Market Value of Fixed Assets (₹ in crore)
I	II	III	IV	V
1	2006-07	361.76	805.23	868,543.79
2	2007-08*	377.36	842	920,459.84
3	2008-09*	393.7	880.84	977,114.72
4	2009-10*	410.8	921.79	1,038,546.08
5	2010-11*	428.73	965.15	1,105,934.09
6	2011-12*	447.64	1,011.69	1,182,757.64
7	2012-13*	467.54	1,061.40	1,268,763.67
8	2013-14*	488.46	1,114.29	1,363,700.54
9	2014-15*	510.57	1,171.32	1,471,912.94

* - Projected.

Source: Ministry of MSME

MSME sector also makes a significant contribution to India's GDP, exports and employment.

The growth story is depicted in fig 2 below:

Fig 2: Share of MSME sector in GDP and total manufacturing output

(at 2004-05 prices)

Year	Gross Value of Output of MSME Manufacturing Sector (₹ in crore)	Share of MSME sector in total GDP (%)			Share of MSME Manufacturing output in total Manufacturing Output (%)
		Manufacturing Sector MSME	Services Sector MSME	Total	
2006-07	1198818	7.73	27.40	35.13	42.02
2007-08	1322777	7.81	27.60	35.41	41.98
2008-09	1375589	7.52	28.60	36.12	40.79
2009-10	1488352	7.45	28.60	36.05	39.63
2010-11	1653622	7.39	29.30	36.69	38.50
2011-12	1788584	7.27	30.70	37.97	37.47
2012-13	1809976	7.04	30.50	37.54	37.33

Source: Ministry of MSME Annual Report (2015-16)

It can be clearly visible from fig 1 and fig 2, that despite of increase in number of enterprises and quantum of employment, the share of MSME manufacturing output in total manufacturing output remained stagnant, even declined a little over the years.

The two key reasons for this stagnation could be:

- Lack of digitization and use of technology by MSME sector
- Deficit of structured and organized financing options available to MSME sector.

One of the key reasons behind it could be lack of structured and quality financing option available to MSME sector. Access to quality financing is always an issue with MSME sector in India. For thousands of micro, small, and medium enterprises spread across India, the problem of reaching an organized financial sector is always a problem. Sometimes, it really becomes very difficult to arrange credit for small enterprises. Creation of a structured digitised ecosystem and financial architecture is absolutely essential for facilitating a congenial environment for MSMEs in India. This paper

deliberates on the key issues related to the digitization and financial architecture of MSME sector in India.

Key problem on MSME Financing

Pursuant to the Budget Announcement for FY2014-15, regarding setting up of a Committee to examine the financial architecture for the MSME sector the Department of Financial Services, Ministry of Finance appointed a Committee under the chairmanship of Mr. K V Kamath.

The committee identified the following key issues:

- **Equity as a source of financing is underutilised and the prevalence of investment by venture capital and angel investors is low:** In developed countries, the MSME sector often taps the capital market through equity route. In India, the scenario is different. Here MSMEs mostly rely on friends & family as sources of equity. The reason could be a long-winding process of equity issues along with the involvement of cost and lack of awareness.
- **Delayed payment from buyers:** Markets are often dominated by large corporate players. The terms for payments are often decided by them. This creates huge problem for them in operating and attaining optimum performance.
- **Lack of utilisation of the available credit guarantee and insurance schemes:** MSME sector is facing capacity constraints and conditions that limit eligibility. Hence, many a times the organizations are failing to utilize even available facilities on credit guarantee and insurance schemes
- **Lack of adequate information availability:** MSMEs are often not aware of the facilities and benefits especially available to them from the government.
- **Difficulty in credit risk assessment:** Banks and financial institutions often face difficulty is assessing the credit risk of an enterprise.
- **Lack of organizational structure and non-corporate nature:** Overall, the outreach to MSMEs, on-boarding as customers, building up of transaction & credit history and scaling up the utilisation of various schemes

available is challenged by the lack of formal legal structure/non-corporate nature of much of the sector.

Role of digitization in fostering growth of MSME sector

One of the major weaknesses of MSME sector is lack of use of technology. Many of the drawbacks mentioned above may be addressed successfully by using technology. The Kamath Committee also recommended creation a financial architecture for the MSME sector that would use technology driven platforms to drive inclusion in financing of the large number of MSMEs which do not have access to credit. This will facilitate realisation of the 'Make in India' goal as articulated by the Prime Minister and be in consonance with the Government's 'Digital India' mission.

Digitization not only helps the MSMEs in smooth synchronization of transactions, but also facilitates financial inclusion of organizations in the informal sector. Use of online registrations Using the Udyog Aadhar and bank account, the National MSME Portal may link/ identify MSMEs for the purpose of (i) credit guarantee & insurance schemes (ii) other government benefits (iii) requisite central, state & local approvals for setting up & operating businesses (iv) credit bureaus (v) an effective receivables financing platform, and (vi) financial intermediaries. All these entities/ schemes would leverage the formalisation of MSMEs achieved through the Udyog Aadhar and bank account, including the benefits which can flow into this account as a direct benefit transfer (DBT) for small business, to enhance outreach. In due course, technology & connectivity should be leveraged to bring these processes online and straight through as far as possible. This would be in consonance with the Government's vision of a Digital India. Appropriate changes in statutes would encourage MSMEs to gain the benefit of limited liability by adopting suitable legal structures. This will also encourage the MSMEs to adopt equity route for larger financing.

Steps taken by government towards digitization

The ministry of MSME has already taken few important steps towards digitization:

- **Creation of E-Office:** E-Office initiative has been introduced to achieve paperless office in the Ministry. Movement of e-files has been started and digitalization

of existing physical files for converting the same into electronic files has been completed.

- **Mobile Friendly Website:** The website of the Ministry and Office of the DC MSME has been made mobile friendly. With this, entrepreneur friendly content can be easily accessed through any mobile and tablet <http://msme.gov.in> and <http://dcmsme.gov.in>
- **Development of online softwares:** Following online softwares are developed by ministry of MSME
- PPS (Physical Performance of Plan Schemes) (<http://msmedi.dcmsme.gov.in/DcWebManager/userlogin.aspx>)
- EET (Energy Efficiency Technology Up-gradation) (http://nmcp.dcmsme.gov.in/Admin/EET_Userlogin.aspx)
- MY MSME App (MSME Helpline) (Android App & Desktop Version) (<http://cluster.dcmsme.gov.in/helpline/welcome.html>)
- Single login online Application Schemes (Desktop Version & Android App) (<http://msmedi.dcmsme.gov.in/dcsmseapp.aspx>)

Steps taken by banks towards digitization

The banking industry also rose up to the occasion, and is taking several fresh steps towards digitization of MSME space:

- **Quick application processing:** With digitization, the application processing time has shortened drastically. This removes a major bottleneck in SME financing.
- **Less processing cost:** With lesser time for processing,

the cost has also got reduced.

- **Cloud based credit scoring:** Credit assessment is always a major challenge for MSME sector. Enhanced technology now enabled the banks to make credit scoring backed by big data analytics. The scores are now more accurate at a lesser cost, and also enabling the MSME sector for faster loan.
- **Highly automated pricing and decision making:** Banks now have the power of real time data analytics. They can collate data from various sources e.g. social media, credit bureaus, and online banking data.
- **Dedicated Mobile apps:** Banks are also creating dedicated mobile apps for MSME customers. This helps the MSME customers always remain in touch with their bankers

Conclusion

Micro, Small and Medium Enterprise (MSMEs) are part of the ecosystem, which is getting changed by the digital revolution. The new trends in MSME financing too are getting influenced by digital revolution. This includes analytics based lending, peer to peer lending and various other variants. Government has also undertaken several initiatives towards achieving the goal of Digital India, and Make in India.

Even the conventional modes of financing are getting better enabled through the use of technology. The regulations and infrastructure is also enabling far more easier and effective funding especially around ARP and supply chain. There is similar improvement happening on a host of trade, Forex, and transaction based solutions which are facilitating financing to MSMEs much more effectively and competitively.

Environmental Impact Assessment (EIA)

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Environmental Impact Assessment (EIA) is the process by which the anticipated effects on the environment of a proposed development or project are measured. If the likely effects are unacceptable, design measures or other relevant mitigation measures can be taken to reduce or avoid those effects. (EIA) is a process of evaluating the likely environmental impacts of a proposed project or development, taking into account inter-related socio-economic, cultural and human-health impacts, both beneficial and adverse. The document from this process is called an Environmental Impact Statement (EIS).

The purpose of the assessment is to ensure that decision makers consider the environmental impacts when deciding whether or not to proceed with a project. EIA is a standard requirement where international agencies are involved (like World Bank) and are critically important for projects requiring a major change in land use or those which are to be located in the environment sensitive area. The International Association for Impact Assessment (IAIA) defines an environmental impact assessment as "the process of identifying, predicting, evaluating and mitigating the biophysical, social, and other relevant effects of development proposals prior to major decisions being taken and commitments made."

Few Definitions:--

- (I) **Environment** means the complex web of interrelationships between the abiotic and biotic components which sustains life on earth, including the social, health and cultural aspects of human beings.
- (II) **Impact Assessment** is a means of measuring the effectiveness of organisational activities and judging the significance of changes brought about by those

activities. Impact assessment is intimately linked to Mission, and, in that sense, ripples through the organisation.

- (III) **Environmental assessment** means all procedures required to identify means to ensure that the activities of a project are managed in an environmentally sound and sustainable way.

Through environmental assessment (EA) we try to determine the type and level of effects an existing facility is having, or a proposed project would have on its natural environment. The adequacy of an EIA is based on the extent to which environmental impacts can be identified, evaluated and mitigated. Its objective includes:--

- (I) To decide if the effects are acceptable or have to be reduced for continuation of the proposed project.
- (II) To design an appropriate monitoring, mitigation and management measures.
- (III) To prepare an environmental impact report (EIR)

History of EIA:-

Environmental impact assessments commenced in the 1960s, as part of increasing environmental awareness. EIAs involved a technical evaluation intended to contribute to more objective decision making. In the United States, environmental impact assessments obtained formal status in 1969, with enactment of the National Environmental Policy Act. EIAs have been used increasingly around the world. An Environmental Assessment is a "mini-EIS designed to provide sufficient information to allow the agency to decide whether the preparation of a full-blown Environmental Impact Statement (EIS) is necessary." EIA is an activity that

is done to find out the impact that would be done before development will occur. The responsible body for the EIA in India is the Central Pollution Control Board.

The Environmental Protection and Bio Diversity Act (EPBC Act)

The Environmental protection and Bio diversity Act (EPBC Act) provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places-defined in the EPBC Act as matters of 'national environmental significance'. In addition to this, the EPBC Act aims at providing a streamlined national assessment and approval process for activities...

Following are the eight matters of 'national environmental significance' to which the EPBC Act applies:

- (I) World Heritage sites
- (II) National Heritage places
- (III) RAMSAR wetlands of international significance
- (IV) Listed threatened species and ecological communities
- (V) Migratory species protected under international agreements
- (VI) The Commonwealth marine environment
- (VII) Nuclear actions (including uranium mining).

Acts For The Protection Of The Environment In India:

The Ministry of Environment, Forests and Climate Change (MoEFCC) of India has been in a great effort in Environmental Impact Assessment in India. The main laws in action are as follows:--

- (I) The Water Act(1974),
- (II) The Indian Wildlife (Protection) Act (1972),
- (III) The Air (Prevention and Control of Pollution) Act (1981)
- (IV) The Environment (Protection) Act (1986),

- (V) Biological Diversity Act (2002).

Process of Measuring Environmental Impact Assessment

Environmental Impact Assessment (EIA) studies need a significant amount of primary and secondary environmental data. In many EIA studies, the secondary data needs could be as high as 80% of the total data requirement. Environmental Information Centre (EIC) is the repository of one stop secondary data source for environmental impact assessment in India.

EIA Situation in India

- (I) The Environmental Impact Assessment (EIA) experience in India indicates that the lack of timely availability of reliable and authentic environmental data.
- (II) The environment being a multi-disciplinary subject, a multitude of agencies is involved in collection of environmental data. However, no single organization in India tracks available data from these agencies and makes it available in one place in a form required by environmental impact assessment practitioners.
- (III) Environmental data is not available in enhanced forms that improve the quality of the EIA. This makes it harder and more time-consuming to generate environmental impact assessments and receive timely environmental clearances from regulators.

Measures taken by the Government for Proper Implementation of the EIA

- (I) The Environmental Information Centre (EIC) has been set up to serve as a professionally managed clearing house of environmental information that can be used by MoEF, project proponents, consultants, NGOs and other stakeholders involved in the process of environmental impact assessment in India.
- (II) EIC caters to the need of creating and disseminating of organized environmental data for various developmental initiatives all over the country.
- (III) EIC stores data in GIS format and makes it available to

all environmental impact assessment studies and to EIA stakeholders in a cost effective and timely manner. So that we can manage that in different proportions such as remedy measures etc.

Environmental Accounting

Environmental accounting focus on resource use measures and communicates costs of a company's or national economic impact on the environment. Costs include costs to clean up or remediate contaminated sites, environmental fines, penalties and taxes, purchase of pollution prevention technologies and waste management costs.

An environmental accounting system consists of:--

- (I) Environmentally differentiated accounting measures effects of the natural environment on a company in monetary terms.

- (II) Ecological accounting measures the influence a company has on the environment, but in physical measurements.

Conclusions:

EIA is very much important for our survival and growth in the earth. Mankind should not take any project or development activities at the cost of environment degradation. Concrete efforts are needed for protecting the surrounding environment. Government agencies, Educational Institution, NGO and corporate houses must come forward for spreading awareness among general public about the importance of EIA. Central Government must release more funds for protecting our surrounding. Swach Bharat Abhiyan is definitely a remarkable step by the Central Government of India for protection of country's pristine environment.

Place of Supply - Key factor to determine applicability of CGST + SGST or IGST

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GST council has approved Central GST and Integrated GST laws in 11th meeting. UGST and SGST laws will be approved by the Council in next meeting. The crucial question is, which tax is applicable on supply transactions? I.e. whether CGST+SGST or IGST.

With the help of this article, I try to highlight various provisions of place of supply of goods and services under revised MIGST Law with the help of various practical illustrations.

For better clarity, one should need to refer two important definitions provided under revised MIGST Law i.e. "Location of the receiver of services" and "Location of the supplier of services".

Section 2(17) & Section 2(18) of revised MIGST Law are as follows respectively,

"Location of the recipient of services" means:

- Where a supply is received at a place of business for which registration has been obtained, the location of such place of business;
- Where a supply is received at a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
- Where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
- In absence of such places, the location of the usual place of residence of the recipient;

"Location of the supplier of services" means:

- Where a supply is made from a place of business for which registration has been obtained, the location of such place of business;
- Where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
- Where a supply is made from more than one establishment, whether the place of business or fixed

establishment, the location of the establishment most directly concerned with the provision of the supply; and

- In absence of such places, the location of the usual place of residence of the supplier;

Place of Supply of GOODS

There are two sections in model IGST Law, to determine place of supply of Goods, which can be summarized as follows,

Section-7 of MIGST Law: Place of supply of goods other than supply of goods imported into, or exported from India.

Section-8 of MIGST Law: Place of supply of goods imported into, or exported from India.

Let us try to understand both sections.

Section-7 of MIGST Law: Place of supply of goods other than supply of goods imported into, or exported from India.

- This provision shall apply to determine the place of supply of goods other than supply of goods imported into, or exported from India. I.e. provisions is not applicable to determine place of supply of goods, where goods are imported in India or exported from India.

Illustration: If ABC Ltd has imported goods from CSC Ltd, China, then provisions provided in section-7 of IGST is not applicable. For such cases, provisions of section-8 of MIGST is applicable.

- Where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. It means when supply involves movement of goods from one place to other place, then place of supply is Place where movement of goods terminates for delivery to the recipient.

Illustration-1: ABC Ltd of Gujarat is supplying goods to XYZ Ltd of Delhi, with door delivery terms, then in this case IGST is applicable, as delivery of goods terminates at Delhi and transaction is settled between two states.

Illustration-2: ABC Ltd of Gujarat is supplying goods

to XYZ Ltd of Delhi, with ex-factory terms, then in this case also, IGST is applicable, as delivery of goods terminates at Delhi and transaction is settled between two states.

- (3) Where the **goods are delivered by the supplier to a recipient or any other person**, on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person. This case is like "Bill to - Ship to" model.

Illustration-1: PQR Ltd (buyer) of Maharashtra is purchasing goods from ABC Ltd (seller/supplier) of Gujarat, and delivery (supply) of goods to XYZ Ltd (recipient) of Delhi, then IGST is applicable, as it is inter-state supply. Here ABC Ltd (supplier) is 1st person, XYZ Ltd (recipient) is 2nd person & PQR Ltd (buyer) is 3rd person, as on the direction of PQR Ltd of Maharashtra, goods are supply to XYZ Ltd of Delhi. In this case, place of supply is principal place of business of third person i.e. place of PQR Ltd is place of supply and we can conclude that transaction is settled between two states i.e. between Maharashtra and Gujarat.

Illustration-2: PQR Ltd (buyer) of Maharashtra is purchasing goods from ABC Ltd (seller/supplier) of Gujarat, and delivery (supply) of goods to XYZ Ltd (recipient) of Gujarat, then IGST is applicable, as it is inter-state supply. Here ABC Ltd (supplier) is 1st person, XYZ Ltd (recipient) is 2nd person & PQR Ltd (buyer) is 3rd person, as on the direction of PQR Ltd of Maharashtra, goods are supply to XYZ Ltd of Gujarat. In this case, place of supply is principal place of business of third person i.e. place of PQR Ltd is place of supply and we can conclude that transaction is settled between two states i.e. between Maharashtra and Gujarat.

Illustration-3: PQR Ltd (buyer) of Gujarat is purchasing goods from ABC Ltd (seller/supplier) of Gujarat, and delivery (supply) of goods to XYZ Ltd (recipient) of Delhi, then CGST+SGST is applicable, as it is intra-state supply. Here ABC Ltd (supplier) is 1st person, XYZ Ltd (recipient) is 2nd person & PQR Ltd (buyer) is 3rd person, as on the direction of PQR Ltd of Gujarat, goods are supply to XYZ Ltd of Delhi. In this case, place of supply is principal place of business of third person i.e. place of PQR Ltd is place of supply and we can conclude that transaction is settled within the states i.e. within the Gujarat.

Illustration-4: PQR Ltd (buyer) of Maharashtra is purchasing goods from ABC Ltd (seller/supplier) of Gujarat, and delivery (supply) of goods to XYZ Ltd (recipient) of Maharashtra, then IGST is applicable, as it

is inter-state supply. Here ABC Ltd (supplier) is 1st person, XYZ Ltd (recipient) is 2nd person & PQR Ltd (buyer) is 3rd person, as on the direction of PQR Ltd of Maharashtra, goods are supply to XYZ Ltd of Gujarat. In this case, place of supply is principal place of business of third person i.e. place of PQR Ltd is place of supply and we can conclude that transaction is settled between two states i.e. between Maharashtra and Gujarat, even though place of recipient and place of buyer is the same.

- (4) Where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient.

Illustration: PQR Ltd (buyer) of Maharashtra is purchasing goods from ABC Ltd (seller/supplier) of Gujarat, and delivery (supply) of goods to XYZ Ltd (recipient) of Delhi. Later on PQR Ltd of Maharashtra issue invoice to XYZ Ltd of Delhi, here IGST is applicable, as it is inter-state supply. Here PQR Ltd has issue invoice on the name of XYZ Ltd of Delhi, where there is no movement of goods. In this case, place of supply is the location of goods at the time of the delivery to the recipient i.e. Delhi, as location of goods at the time of delivery to XYZ Ltd was Delhi. So we can conclude that transaction is settled between two states i.e. between Maharashtra and Delhi.

- (5) Where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly. It means where goods is used in installation and assembly, then place of supply is place of installation or assembly.

Illustration: ABC Ltd of Gujarat is awarded contract to XYZ Ltd of Delhi for installation of machinery at Rajasthan. Here goods are supply to Rajasthan by XYZ Ltd of Delhi for installation of machinery, here IGST is applicable as it is inter-state supply. We can conclude that transaction is settled between two states i.e. between Delhi and Rajasthan.

- (6) Where the goods are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board. This means when goods are supplied to board for further

Illustration: ABC Ltd of Gujarat supply goods to Mumbai for board a conveyance, here place of supply is the location at which goods are taken on board i.e. Mumbai, hence IGST is applicable as it is inter-state supply.

- (7) Where the place of supply of goods cannot be determined in terms of subsection (2), (3), (4), (5) or (6), the same shall be determined in a manner prescribed by

the Central Government on the recommendation of the Council. It means if it is not possible to determine place of supply in terms of above no (2) to (6), then central government will determine place of supply by considering recommendation of GST council.

Section-8 of MIGST Law: Place of supply of goods imported into, or exported from India.

- (1) The place of supply of goods imported into India shall be the location of the importer. This means goods is imported into India, location of importer is place of supply.

Illustration: ABC Ltd of Gujarat is importing machinery from CSC Ltd of U.K., here place of supply is U.K. as importer is from U.K. and for this supply, IGST is apply.

- (2) The place of supply of goods exported from India shall be the location outside India. This means when goods is exported from India, then place of supply is location outside India.

Illustration: ABC Ltd of Gujarat is exporting machinery to China, here place of supply is China as location is outside India and for this supply, IGST is apply.

Place of Supply of SERVICES

To determine applicability of GST/IGST for supply of services, mainly there are two vital factors i.e. identification of location of supplier and place of supply.

Two sections are provided under revised MIGST Law for determination of place of supply of services i.e. Section-9 Place of supply of services where the location of supplier of service and the location of the recipient of service is in India, and Section-10 Place of supply of services where the location of the supplier OR the location of the recipient is outside India.

Summary of applicability of sections:

Applicability	Section-9	Where Location of Supplier AND Recipient of services is situated in India
	Section-10	Where Location of Supplier OR Recipient of services is situated outside India

Let us understand both sections in detail,

Section-9: Place of supply of services where the location of supplier of service and the location of the recipient of service is in India,

- (1) The provisions of this section shall apply to determine the place of supply of services where the location of supplier of service and the location of the recipient of service is in India. It means section-9 is not applicable, when Location of Supplier OR Recipient of services is situated outside India. For such situation, separate section is provided i.e. section-10.

General/Normal Cases Section-9 (2), (3):

- (2) The place of supply of services, except the services specified in subsections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15), made to a registered person shall be the location of such person.
- (3) The place of supply of services, except the services specified in subsections (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14) and (15), made to any person other than a registered person shall be
- (a) The location of the recipient where the address on record exists, and
- (b) The location of the supplier of services in other cases.

Summary of Section-9 (2) to (3):

Sec 9(2)	Supply of services made to	Registered Person	Place of Supply...
			Location of the Registered Person.
Sec 9(3)		Other than Registered Person	(a) Location of the Recipient, when the address on record exists OR (b) Location of the supplier, in other cases.
Sec 9 (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15)			Special Cases

Summary of Section-9 (4) to (15) with Illustration:

Section	Types of Services	Place of Supply of Services	Illustration	CGST+SGST /IGST
9(4)(a)	- Services for immovable property-Provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, - any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work,	Location of the immovable Property.	Interior decorate service by Godrej Ltd (Registered at Delhi) to Mr. Ambani for house situated at Mumbai.	Location of supplier is Delhi [Sec 2(18) (a)] and P.O.S. is Mumbai, IGST is applicable.

Section	Types of Services	Place of Supply of Services	Illustration	CGST+SGST /IGST
9(4)(b)	<ul style="list-style-type: none"> - lodging-accommodation services by a hotel, inn, guest house, homestay, club or campsite, - including a house boat or any other vessel 	Location of such hotel, house boat, vessel.	Mr. Raj from Gujarat is using Hotel service at Kolkata for accommodation purpose.	Location of supplier is Kolkata [Sec - 2(18) (a)] and P.O.S. is Kolkata, CGST+SGST is applicable.
9(4)(c)	<ul style="list-style-type: none"> - accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official, social, cultural, religious or business function, - including services provided in relation to such function at such property 	Location of the immovable Property.	Room and DJ system serviceavailed by Mr. Modi of Gujarat at Hotel Ashoka (Reg. at Delhi) for Marriage of his son at Delhi.	Location of supplier is Delhi [Sec - 2(18) (a)] and P.O.S. is Delhi, CGST+SGST is applicable.
9(4)(d)	- any services ancillary to the services referred to in clause (a), (b) and (c),	Location of immovable property or boat or vessel.		
Special case u/s 9(4)	- location of the immovable property or boat or vessel is located or intended to be located outside India	Location of the recipient.	Room and DJ system service availed by Mr. Modi of Gujarat, at Hotel Aalishan (Reg. at U.K.) for Marriage of his son at U.K.	Location of supplier is U.K. and P.O.S. is Gujarat.
9(5)	- Restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery	Location where services actually performed.	Beauty treatment services a vailed by Ms. Priyanka Chopra (Resident of Mumbai)from M/s. Lakeme Ltd (Reg. at Delhi) at Chennai parlour (Fixed Establishment, from where service supplied).	Location of supplier is Chennai and P.O.S is Chennai, CGST+SGST is applicable.

Section	Types of Services		Place of Supply of Services	Illustration	CGST+SGST /IGST
9(6)	- services in relation to training and performance appraisal	Made To	Location of the Registered Person.	Safety training by ABC Ltd (Reg. at Delhi) to employee of M/s Reliable Ltd (Reg. at Gujarat), at Ahmedabad.	Location of supplier is Delhi [Sec - 2(18) (a)] and P.O.S is Gujarat, IGST is applicable.
		Registered Person			
		Other than Registered Person	Location where services actually performed.	Computer training by ABC Ltd (Reg. at Delhi) to Mr. Maheshwari (Unregistered) at Mumbai.	Location of supplier is Delhi [Sec - 2(18) (a)] and P.O.S is Mumbai, IGST is applicable.
9(7)	- services provided by way of admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place, - services ancillary to above		Location where event actually held or park/other place is located	Smart Phones exhibition by M/s. LAVA international Ltd (registered at Mumbai), event held at Karnavati club of Ahmedabad, Gujarat on kite festival.	Location of supplier is Mumbai [Sec - 2(18) (a)] and P.O.S is Gujarat, IGST is applicable.
9(8)(a)(b)	- services provided by way of organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events - services ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events	Made To	Location of the Registered Person.	Organization of friendly cricket match by BCCI (Reg. at Mumbai) for employee of M/s GNA Ltd (Reg. at Gujarat) at Wankhede stadium, Mumbai.	Location of supplier is Mumbai and P.O.S is Gujarat, IGST is applicable.
		Registered Person			
		Other than Registered Person	Location where event is actually held.	Organization of friendly cricket match by BCCI (Reg. at Mumbai) for employee of M/s Reliable Ltd (Unreg. at Gujarat) at Wankhede stadium, Mumbai.	Location of supplier is Mumbai and P.O.S is Mumbai, CGST+SGST is applicable.

Section	Types of Services	Place of Supply of Services	Illustration	CGST+SGST /IGST	
Special case u/s 9(8)	- event is held outside India	Location of the recipient.	Smart Phones exhibition by M/s. LAVA international Ltd (registered at Mumbai), event held at U.K.	Location of supplier is Mumbai and P.O.S. is U.K., IGST is applicable.	
9(9) (a)(b)	- services by way of transportation of goods, including by mail or courier	Made To	Location of the Registered Person.	Goods transport service by Shri Ram Transport (Reg. at U.P.) to GFL Ltd (Reg. at Mumbai).	Location of supplier is U.P. and P.O.S is Mumbai, IGST is applicable.
		Registered Person			
		Other than Registered Person	Location at which such goods are handed over for their transportation.	Courier service by Maruti courier Ltd (Reg. at Mumbai) to Mr. Adani (Unreg.) for courier to be deliver from Mumbai to Delhi.	Location of supplier is Mumbai and P.O.S is Mumbai, CGST+SGST is applicable.
9(10) (a)(b)	- Passenger transportation service	Made To	Location of the Registered Person.	Passenger transport service by Zee Travel (Reg. at Gujarat) to employee of NOCIL Ltd (Reg. at Mumbai) for traveling from Mumbai to Gujarat.	Location of supplier is Gujarat and P.O.S is Mumbai, IGST is applicable.
		Registered Person			
		Other than Registered Person	Location where the passenger embarks on the conveyance for a continuous journey.	Passenger transport service by Zee Travel (Reg. at Gujarat) to Mr. Rao (Unreg.) for traveling from Chennai to Gujarat.	Location of supplier is Gujarat and P.O.S is Chennai, IGST is applicable.
9(11)	- services on board a conveyance such as vessel, aircraft, train or motor vehicle	Location of the first scheduled point of departure of that conveyance for the journey.	Various services provided by M/s Meal on Wheels Ltd (Reg. at Delhi) on train, going from Mumbai to Delhi via Gujarat.	Location of supplier is Delhi and P.O.S is Mumbai, IGST is applicable.	

Section	Types of Services	Place of Supply of Services	Illustration	CGST+SGST /IGST	
9(12)(a)	Tele-communication services including data transfer, broadcasting, cable and direct to home television services	fixed telecommunication on line, leased circuits, internet leased circuit, cable or dish antenna	Place where Device, Line is installed.	Mr. Patel has availed BSNL (Reg. at Delhi) fixed land line service at his home Vadodara. Service provided from Vadodara Exchange (Fixed Establishment from service supplied).	Location of supplier is Vadodara [Sec - 2(18) (c)] and P.O.S is Vadodara, CGST+SGST is applicable.
9(12)(b)		mobile connection for telecommunication and internet services provided on post - paid basis	Billing address of the recipient as per records of the supplier of the service.	Mr. Patel has post - paid mobile connection of Vodafone (Reg. at Delhi). Presently, he is residing at Mumbai but address as per Vodafone records is Ahmedabad.	Location of supplier is Delhi [Sec - 2(18) (a)] and P.O.S is Ahmedabad, IGST is applicable.
9(12)(c)		mobile connection for telecommunication, internet service and direct to home television services are provided on prepayment through a voucher or any other means*	(i) <u>Through Selling Agent/Distributor/etc..:</u> Address of the agent as per records of the supplier.	Mr. Patel of Ahmedabad done mobile recharge (Pre-paid) from M - Store (one registered agent of Vodafone at Delhi), Address of store is Delhi as per Vodafone.	Location of supplier is Delhi [Sec - 2(18) (a)] and P.O.S is Delhi, CGST+SGST is applicable.
			(ii) <u>Through Other Person :</u> Location where prepayment received.	Mr. Patel of Ahmedabad done mobile recharge (Pre-paid). Payment made to Shiv Shakti store at Mumbai.	Location of supplier is Mumbai [Sec - 2(18) (d)] and P.O.S is Mumbai, CGST+SGST is applicable.
9(12)(d)	other cases not covered in (b) and (c) above	Address of the recipient** as per records of the supplier of the service.			

Section	Types of Services	Place of Supply of Services	Illustration	CGST+SGST /IGST
* If pre -paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on record of the supplier of services shall be the place of supply of such service.				
** Where address of the recipient as per records of the supplier of service is not available, the place of supply shall be location of the supplier of service.				
9(13)	Banking and other financial services including stock broking services	Location of the recipient of services on the records of the supplier of services	Banking services by HDFC bank (Reg. at Mumbai-Principal place of Business)from its Hyderabad branch (Fixed Establishment from service supplied) to Mr. Mehta, (residing at Hyderabad to perform Job), but a ddress on HDFC bank record is Delhi.	Location of supplier is Hyderabad [Sec-2(18) (c)] and P.O.S is Delhi, IGCT is applicable.
		Location of the supplier of services. If location is not available with supplier.	Banking services like issue of DD by HDFC bank (Reg. at Mumbai-Principal place of Business) from its Vadodara branch (Fixed Establishment from service supplied) to Mr. Patel, and he is not maintaining bank account with HDFC Bank.	Location of supplier is Vadodara [Sec-2(18) (c)] and P.O.S is Vadodara, CGCT+SGST is applicable.

Section	Types of Services		Place of Supply of Services	Illustration	CGST+SGST /IGST
9(14)	Insurance services	Made To Registered Person	Location of the Registered Person.	Insurance service by Oriental Insurance company Ltd (Reg. at Delhi) to GAC Ltd (Reg. at Vadodara - Gujarat).	Location of supplier is Delhi [Sec - 2(18) (a)] and P.O.S is Vadodara, IGST is applicable.
		Other than Registered Person	Location of the recipient of services on the records of the supplier of services.	Insurance services by Oriental Insurance company Ltd (Reg. at Delhi) to Mr. Shah (Unreg.) for his BMW car. Address of Mr. Shah on records of Oriental Insurance Company is Mumbai.	Location of supplier is Delhi [Sec - 2(18) (a)] and P.O.S is Mumbai, IGST is applicable.
9(15)	Advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for identifiable States		Location of each states, amount proportionally distribute to each states as per contract/Agreement or other basis, if no contract/agreement.	Advertisement service by AajTak (registered at Delhi) for promoting “Pradhan MantriBimaYojana” scheme, in all states.	Location of supplier is Delhi [Sec - 2(18) (a)] and P.O.S is each states.

Section-10: Place of supply of services where the location of supplier of service OR the location of the recipient of service is outside India

(1) The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of service or the location of the recipient of service is outside India.

(2) The place of supply of services except the services specified in subsections (3), (4), (5), (6), (7), (8), (9), (10), (11), (12) and (13) shall be the location of the recipient of service:

PROVIDED that in case the location of the recipient of service is not available in the ordinary course of business, the place of supply shall be the location of the supplier of service.

Sec 10(2)	Supply of services (General Cases u/s 10)	Place of Supply	Location of the Recipient of service.
			Location of the supplier of service, when Location of the Recipient of service is not available.
Sec 10(3), (4), (5), (6), (7), (8), (9), (10), (11), (12) and (13)		Special Cases	

Summary of Section-10 (3) to (13) with Illustration:

Section	Types of Services	Place of Supply of Services	Illustration	CGST+SGST /IGST
10(3)(a)	- Services in relation to goods, where physically availability of goods are required by supplier of services	Location, where services are actually performed.	Machine repair service by Godrej Ltd (Reg. at Mumbai) to Tai Chang Ltd (Reg. at China). Repairing of machine takes place at China.	Location of supplier is Mumbai and P.O.S is China, IGST is applicable.
	- Service of above nature, provided by electronic means	Location where goods are situated at the time of supply of service.	Online repair service by Skyline solution (Reg. at Mumbai) for repairing of Smart Phone, situated at U.K.	Location of supplier is Mumbai and P.O.S is U.K., IGST is applicable.
Note:	This clause shall not apply in the case of a service supplied in respect of goods that are temporarily imported into India for repairs and are exported after repairs without being put to any use in India , other than that which is required for such repairs. Means in such case, p.o.s. is accordingly section 10(2).			
10(3)(b)	- Services to individual, where physically availability of goods are required by supplier of services	Location, where services are actually performed.	Cosmetic surgery service by Dr. Roshan (from Gujarat), at U.S.A.	Location of supplier is Gujarat and P.O.S is U.S.A., IGST is applicable.
10(4)	- Services for immovable property - Provided by experts or estate agents, - supply of hotel accommodation by a hotel, inn, guest house, club or campsite, - any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work,	Location of the immovable Property.	Architect service by - Artex Ltd (Reg. at U.K.) to M /s. L&T Ltd for river bridge at Mumbai.	Location of supplier is U.K. [Sec-2(18) (d)] and P.O.S. is Mumbai, IGST is applicable.
			Rooms and DJ system service by Hotel Ashoka (Reg. at Delhi) to Mr. Peter (resident of Canada)for Marriage of his son at Delhi	Location of supplier is Delhi [Sec-2(18) (a)] and P.O.S. is Delhi, CGST+SGST is applicable.
10(5)	- services supplied by way of admission to, or organization of, a cultural, artistic, sporting, scientific, educational, or entertainment event, or a celebration, conference, fair, exhibition, or similar events, - services ancillary to above,	Location where event actually held.	Smart Phones exhibition by M/s. LAVA international Ltd (registered at Mumbai), event held at U.K.	Location of supplier is India and P.O.S is U.K., IGST is applicable.

Section	Types of Services	Place of Supply of Services	Illustration	CGST+SGST /IGST
10(6)	- service referred to sections-10 (3), (4), or (5) is supplied at more than one location , including a location in the taxable territory,		P.o.s. shall be the location in the taxable territory where the greatest proportion of the service is provided.	
10(7)	- services referred to sections (3), (4), (5) or (6) are supplied in more than one State ,		P.o.s. shall be the location of each states, amount proportionally distribute to each states as per contract/Agreement or other basis, if no contract/agreement.	
10(8) (a)(b)(c)	- Services supplied by a banking company, or a financial institution, or a non - banking financial company, - Intermediary services, - Services consisting of hiring of means o f transport other than aircrafts and vessels except yachts, up to a period of one month	Location of the supplier of service.	Banking services by Bank of Baroda (Reg. at Vadodara)to M/s. Tesco Ltd (Registered at U.K.).	P.O.S. is Vadodara, IGST is applicable.
10(9)	- services of transportation of goods, other than by way of mail or courier,	Place of destination of the goods.	Gas supply through pipeline by Dubai PetroNet Ltd (Reg. at Dubai), from Dubai to India.	Location of supplier is Dubai and P.O.S is India, IGST is applicable.
10(10)	- Passenger transportation service,	Location where the passenger embarks on the conveyance for a continuous journey.	Mr. Ravi starts his journey from India to U.S.A. by using flight of U.S.A. airlines ltd (Reg. at U.S.A.).	Location of supplier is U.S.A. and P.O.S is India, IGST is applicable.
10(11)	- services provided on board a conveyance during the course of a passenger transport operation, - including services intended to be wholly or substantially consumed while on board,	Location of the first scheduled point of departure of that conveyance for the journey.	Services offered in the flight, which is going from UK to Sri Lanka, via India.	P.O.S. is U.K., IGST is applicable.
10(12) (a)	- online information and database access or retrieval services,	Location of recipient of service.	Times of America (USA), is providing online advertisement service to Parle-G (Reg. at India) for its product advertisement.	Location of supplier is U.S.A. and P.O.S is India, IGST is applicable.

Section	Types of Services	Place of Supply of Services	Illustration	CGST+SGST /IGST
10(12)(b)	Provision “Deemed Location Taxable Territory” if any two condition satisfied,	-	(i) The location of address presented by the recipient of service via internet is in taxable territory; (ii) The credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of service settles payment has been issued in the taxable territory; (iii) The billing address of recipient of service is in the taxable territory; (iv) The internet protocol address of the device used by the recipient of service is in the taxable territory; (v) The bank of recipient of service in which the account used for payment is maintained is in the taxable territory; (vi) The country code of the subscriber identity module (SIM) card used by the recipient of service is of taxable territory; (vii) The location of the fixed land line through which the service is received by the recipient is in taxable territory.	
10(13)	Power of Central Government,		To notify any description of service or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.	

◆ STUDENT'S SECTION ◆



Quiz Master Page

CMA Ajay Deep Wadhwa, *Former Chairman, EIRC of ICAI*

1. Who is heading the GST council presently?
2. Name the MD and CEO of Asian paints.
3. Which Australian Cricketer has launched an educational programme in India that will allow business leaders to travel his home state – Tasmania – and pick up the best Australian leadership practices?
4. What is the new name of Cadbury India?
5. Which currency has its units named as BTC?
6. Who is the CEO of Indusind Bank?
7. Which film actress started production house – “Clean Slate Films”?
8. Which number of amendment in constitution enabled the Government of India to start the process of introducing GST in India?
9. Who was the first person to win Bournvita Quiz Contest in 1973?
10. Who had made first official mobile phone call to Union Telecom Minister in Aug'1995?

Answers:

1. Sri Arun Jaitley
2. Sri K. B. S. Anan
3. Ricky Ponting
4. Mondelez India Foods
5. Bitcoin, virtual currency
6. Ramesh Sobti
7. Anushka Sharma
8. 122nd Constitutional Amendment
9. Rajiv Agarwal
10. Former Chief Minister of West Bengal
Jyoti Basu

EIRC Activities

CEP on GST :

A seminar on GST was organized on 5th March, 2017 at EIRC Seminar Hall. Cma Ashok B. Nawal , CCM was the resource person. CMA Biswarup Basu, CCM, CMA Pranab Kr. Chakraborty, Vice-Chairman, CMA Ashis Banerjee, Secretary, CMA Arundhati Basu, RCM and Chairperson, PD & Seminar Committee, Cma ShyamalKr. Bhattacharya, RCM were also present. The program was lively and Interactive.

CEP on Audit under SAP Environment:

Another program on "Conducting Audit Under SAP Environment" was held at EIRC on 25th March, 2017. CMA Tapas Bhattacharya, FICO Consultant was the guest speaker. CMA Arundhati Basu, Chairperson, PD & Seminar Committee, CMA Umar Farooque, RCM, Cma Shyamal Bhattacharjee, RCM were present in the program. As the topic of the program was not very regular in EIRC's program list, members took interest and requested for some more programs on such topic.

Pre-placement Orientation Program:

Orientation for fresh budding CMAs who passed in Dec. 2016 was held at EIRC from 6th March to 17th March, 2017. Inaugural session was graced by CMA Bibekananda Mukhopadhyay, Chairman, CMA Pranab Kr. Chakraborty, VC and CMA Amitava Mukherjee, General Manager (Fin), RVNL. During the program renowned personalities from different field acted as resource persons. CS Ravi Verma, CMAB. N. Chatterjee, GM, MCS (I) Ltd., CMA Harijiban Banerjee, Past President, ICAI, CMA Pradip Kushari, Ex. DGM, DVC, CMA Ranajit Ghosh, PCA, Mr. A. Tibrewal, CMA RAjat Basu, Jt. Director (Exam), ICAI, CMA Prtap Chakraborty, Ex. CFO, Tata Projects, Ms. Amita Saha, HR Head, MSTC India Ltd., CMA Tushar Das, ITC, Ms. Jayati Sinha, Dy. Director-HR, ICAI, CMA Mrityunjay Acharjee, Associate VP, Balmer Lawrie, CMA P. K. Sikder, renowned faculty, CMA Dr. Atri Bhowmik, HoD, Finance, WBUT, CMA A D Wadhwa, past Chairman, EIRC, CA Arijit Chakraborty, CA Manoj Tewari, eminent tax consultant, CMA Ashis Banerjee, Secretary, EIRC, CMA Avijit Goswami, CCM, CMA Sudip Das, CMA Sandip Gupta, Mr. Suman Chakraborty, Sr. HR Manager, PWC etc. were in the list of resource persons. Valedictory session was graced by, CMA Bibekananda mukhopadhyay, CMA Pranab Kr. Chakraborty, CMA Ashis Banerjee, Secretary, CMA Arundhati Basu, RCM, Prof. (Dr.) P. K. Roy, Principal, JCC College and Shri Subrata Deb, Chief Manager-HR, Balmer Lawrie.

Picnic by EIRC family:

All work and no play makes Jack a dull boy. Having faith on this maxim EIRC arranges some fun fiesta. Employees and Council member of EIRC went on a picnic at Palla Road, Burdwan with their families on 11th February, 2017. All the persons spent a blissful day enjoyed gathering with family each other.

Woman's Day:

EIRC celebrated Woman's Day on 8th March at EIRC Seminar Hall. female Members, Students and lady employees participated in the program. CMA Arundhati Basu, RCM, chaired the session. Chairman, Vice-Chairman, CMA Shyamal Bhattacharjee, RCM and CMA Dr. Umar Farooque were also present.



Celebration of Woman's Day



CEP on GST. (L-R) CMA Ashis Banerjee, CMA P K Chakraborty, CMA Ashok B. Nawal & CMA Biswarup Basu



Publication of a booklet on GST at Dhanbad. CMA Manas Kr. Thakur, (2nd from right) President of the Institute and CMA Bibekananda Mukhopadhyay, (extreme right) Chairman, EIRC are seen.



Lighting the inaugural lamp by President CMA Manas Kr. Thakur at Dhanbad. Chairman and VC of EIRC are also seen.



CMA A. Basu giving certificate to a candidate



Manoj Tewari, renowned Tax Consultant addressing on Direct Tax

Pre-placement Orientation Program for December 2016 Batch



CMA Tushar Das being presented with a memento by a participant. Shri Prabir Banerjee, PD & Education Officer is also seen



Ms Amita Saha, CMA Pratap Chakraborty, Chairman, EIRC and Shri P. Banerjee



CMA A. D. Wadhwa being presented with a memento by Chandrima Banerjee. PD & EO is also seen



CMA Ashis Banerjee presenting Certificate to a candidate



CMA Manas Kr. Thakur, President of the Institute met the candidates. Chairman, Vice-Chairman and Mr. Trilochan Ghosh EO-IT, EIRC



Valedictory of Orientation. (L-R) CMA Shyamal Kr Bhattacharjee, CMA Arundhati basu, Cma Pranab Kr. Chakraborty, Prof. P.K. Roy, Principal, JCC College, Shri Subrata Deb, Head of HR, Balmer Lawrie, CMA Bibekananda Mukhopadhyay, CMA Ashis Banerjee

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