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C.V.O.CA'S

NEWS & VIEWS

From President's Desk...

Dear Professional Colleagues and Readers,

We wish everyone a very Happy Holi. Indeed, March holds significant cultural and financial importance in India. As the last month of the financial year, it marks a period of closure and assessment for businesses and individuals alike. Simultaneously, it is also the month of Holi, a vibrant festival celebrated with enthusiasm across the country. It is often associated with the triumph of good over evil, Holi symbolizes the exuberance of life, the spirit of togetherness, and the renewal of relationships. The festival encourages forgiveness, friendliness, and the breaking down of barriers, as people of all backgrounds come together to revel in its colorful festivities. The tradition of playing with colors and water during Holi represents the vibrant blooms of spring and the rejuvenation of nature after the winter months.

In this sense, the convergence of Holi and the end of the financial year brings both cultural and personal reflections, reminding people to embrace the joys of life, seek reconciliation, and embark on new beginnings with renewed vigor and positivity.

The elections in India are in multiple phases over a period of several weeks, often spanning from April to May, although the dates are announced depending on various factors. India's democratic process involves the election of members to the Lok Sabha, the lower house of Parliament, as well as to the legislative assemblies of the various states and union territories. These elections are a fundamental aspect of India's democratic governance, allowing citizens to participate in shaping the country's political landscape and determining its future direction

Investocraft 2020, organized by the Capital Market Committee on March 2, 2024, stands out as a notable event in the realm of equity conclaves. With over 375 participants in attendance, it served as a gathering of some of the brightest minds and experts from diverse backgrounds within the financial and corporate sectors across country.

Overall, Investocraft 2020 served as a testament to the dynamism and resilience of the capital market ecosystem, highlighting its ability to adapt to changing market dynamics and create value for investors, corporations, and the economy as a whole.

The CVOCA has organized the CVOCA Entrepreneurship and Leadership Awards, which are slated to take place on April 6th starting from 4:30 pm onwards. These awards are being touted as one-of-a-kind recognition.

A total of 206 nominees have been put forward for consideration in Entrepreneurship, Leadership and CVOCA Members Categories. These nominees represent a diverse range of individuals who have demonstrated exceptional entrepreneurial spirit, leadership qualities, and contributions to their respective fields.

7-member jury panel, comprising renowned experts and leaders after detailed evaluation shall announce the awardees. Their role will be crucial in assessing the nominees and selecting the deserving winners based on predefined criteria.

In total, there will be 20 awards presented across these categories, recognizing excellence and innovation in various aspects of business and leadership.

By recognizing and celebrating the accomplishments of these individuals, the CVOCA Entrepreneurship and Leadership Awards aim to inspire others and foster a culture of excellence and innovation within the KVO community. We are looking forward for everyone's presence in this ceremony and a feather to CVOCA's golden jubilee celebration.

Thank you all..... Always in Gratitude

April 1, 2024

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BUSINESS RESTRUCTURING

INDIA'S BUDDHIST DIPLOMACY AND SACRED RELICS

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FROM THE DESK OF CHAIRMAN

Worshippers pay homage to relics of the Lord Buddha and his chief disciples Sariputra and Moggallana at Sanam Luang, Bangkok

Introduction

India's historical and spiritual connections with Buddhism have transcended borders, shaping its foreign policy and diplomatic relations. Recently, India showcased its commitment to fostering stronger ties with Thailand through a remarkable act of generosity: the exhibition of **sacred relics**. I will try to explore the intersection of India's Buddhist diplomacy and the significance of these relics.

The Relics' Journey

India graciously exhibit relics of the Lord Buddha and his chief disciples Sariputra and Moggallana to Thailand. These sacred artifacts, classified as "AA" (rare) antiquities and art treasures, were brought from India for a special exhibition.

More than 4.1 million people, in Thailand paid their respects to these revered relics, emphasizing their spiritual and historical value. To understand the magnitude of the crowd, one need to understand population of Bangkok which is 10 Million. This means 1 out 4 person has been part of spiritual enlightenment.

Strengthening Thai-India Relations

Buddhism serves as a powerful bridge between the two nations. India's soft power diplomacy centers around Buddhism, reinforcing historical and spiritual ties. I firmly believe that the best diplomacy or country to country relation should not be measured in terms of business relations, Trade quantum, or military tie-ups. It is people to people connect, which should make the measure of yard stick.

The Significance of India's Buddhist Relics

The Archaeological Survey of India (ASI) has unearthed Buddhist remains, including a shrine (stupa) and temples in Madhya Pradesh. These relics, dating back to the 2nd to 5th century BCE, thus affirm the prevalence of Buddhism in the region.

1. The Kapilvastu Relics

   Discovered in Bihar's Piprahwa, the Kapilvastu Relics date back to around the 4th or 5th century BCE. Associated with Lord Buddha and his disciples, they symbolize the teachings and legacy of Buddhism.

2. Minister Lekhi's Message

   Minister of State for External Affairs, Meenakshi Lekhi, emphasized peace and unity inspired by the Buddha. She highlighted the civilizational bonds between South East Asian nations, using the example of traditional attire.

3. India's Soft Power Diplomacy

   India strategically uses Buddhist relics as a diplomatic tool. In 2012, India sent the Kapilavastu relics (fragments of Buddha's bones) to Sri Lanka, strengthening bilateral ties. These relics transcend borders, fostering understanding among nations.

Conclusion

The exhibition of these revered relics not only honors the Lord Buddha's teachings but also symbolizes the enduring bond between India and Thailand. As India continues to engage with ASEAN nations, Buddhism remains a bridge that transcends borders and fosters understanding

Thank you all..... Always in Gratitude

CA Ameet Chheda

SUCCESSION OF PROPRIETARY FIRM INTO COMPANY – SECTION 47(XIV)

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Choosing between a Sole Proprietorship and a Private Limited Company involves various factors, including legal, financial, and operational considerations. This article deliberates the nuances in relation to succession of a proprietary firm into Company. Let us first delve into the rationale for such conversion and then explore the relevant provisions of the Income Tax Act.

Initial Opting for Sole Proprietorship:

1. **Ease of Setup:** Sole Proprietorships are simple to establish, requiring minimal legal formalities, thereby appealing to individuals looking to start small businesses quickly with minimal overhead.
2. **Control:** As the sole owner, the proprietor has full control over business decisions and operations. This level of autonomy attracts entrepreneurs wanting complete authority over their ventures.
3. **Lower Costs:** Operating as a Sole Proprietorship typically involves fewer administrative costs and compliance requirements compared to incorporating a company.
4. **Tax Simplicity:** Business profits are taxed at the individual owner's personal tax rate. This can result in simpler tax filings and potentially lower overall tax liabilities.
5. **Flexibility:** Sole Proprietorships offer flexibility in terms of decision-making, business structure, and operations. Entrepreneurs can adapt quickly to changing market conditions and pivot their business strategies as needed.

As business develops, the demands of business world and downsides of sole ownership could constrain its growth. Converting into a company is a significant step for entrepreneurs seeking to expand their business and reap the benefits of a corporate structure. While a proprietorship offers simplicity and easy setup, transitioning to a company provides many advantages highlighted below.

Reasons for Converting Sole Proprietary Business into Company:

1. **Limited Liability:** Companies are distinct legal entities, meaning the owners (shareholders) have limited liability for the company's debts and obligations. This separation protects personal assets from business-related liabilities, which becomes increasingly important as the business grows.
2. **Access to Capital:** Companies have better access to external funding sources, such as venture capital, angel investors, and bank loans. Investors often prefer investing in companies with a formal corporate structure as it provides transparency, governance and accountability.
3. **Public Perception:** A corporate structure can enhance the business's credibility and perceived stability in the eyes of customers, suppliers, and partners. It signals a level of commitment and professionalism that can facilitate business relationships and attract higher-caliber employees.

4. **Expansion and Growth Opportunities:** Corporate structure offer greater scalability and expansion opportunities as it allows for the issuance of additional shares, bringing in new investors, and facilitating mergers and acquisitions, all of which can fuel growth and expansion initiatives.

5. **Perpetual Succession:** Converting to a Company enables better succession planning and continuity of the business beyond the owner's lifespan. With clear corporate governance structures and the ability to transfer ownership through share transfers, the business can continue operating smoothly even in the owner's absence.

Disadvantages on Conversion:

Yet, the decision is not without its complexities. Shift to a corporate structure introduces a few disadvantages as under:-

1. **Diffusion of power** and a potential **loss of independence** for the business owner
2. **Statutory Compliance:** Because the laws, regulations, and guidelines under the Companies Act, 2013 govern the operation of a company, compliance formalities are a lot higher
3. T**ax on Withdrawal of Profits:** Dividend Tax on distribution of profits
4. **Data Exposure to Public:** Financial Data available in public domain
5. Difficulty in **Winding up** the Company

One Person Company:

Another option that can be explored by a sole proprietor who intends to attain a corporate structure without any intention of bringing in other members or investors is to get it’s business converted into One Person Company (OPC). Companies Act 2013 defines OPC as a company which has only one person as a member. OPC in India presents various advantages, such as

1. Limited liability
2. Separate Legal Entity
3. Perpetual Succession (subject to nominee chooses to become its sole member on death of the promoter member)
4. Easy transferability of Ownership by transfer of shares
5. Fewer Compliance Requirements as compared to a Company
6. Enhanced credibility
7. Improved Funding Opportunities
8. Professional Image
9. Ease of ownership transfer

Having briefly discussed the pros and cons of a corporate structure, we shall now discuss the route of conversion of a proprietorship firm into a company and its tax implications.

Process of Conversion:

Section 366 to 374 of Part I of Chapter XXI of Companies Act, 2013 deals with Companies that are capable of being registered under the Companies Act. As per Section 366(1) of the Companies Act, the word **"company" includes any partnership firm, limited liability partnership, cooperative society, society or any other business entity formed under any other law for the time being in force** which applies for registration under this Part. Since proprietary concerns are not formed, registered or governed by any law or statute, the same will not get covered under Chapter XXI of the Companies Act.

Section 368 of the Companies Act, 2013 states that **all property, movable and immovable** (including actionable claims), **belonging to or vested in the predecessor entity** in pursuance of this Part, **shall, on such registration, pass to and vest in the company as incorporated under this Act.** Since the proprietary concern, not being governed by any statute, cannot be converted into a Company under Chapter 21 of the Companies Act, it can be inferred that the property belonging to the proprietary concern **shall not vest but gets transferred to the Company.** As a normal practice, the proprietary concern firm can be taken over by a new or existing company by outright sale of the business as a going concern. Below are the broad steps for conversion of a proprietary concern into a company:

1. **Company Formation:** The process involves first forming a company and then taking over the sole proprietorship by transferring its benefits and liabilities through a Memorandum of Association (MoA). The MoA needs to carry the object **"The takeover of a sole proprietorship".**

2. **Agreement:** A formal **slump sale agreement or business takeover agreement** to be documented between the sole proprietor and the company post Company Registration. The agreement outlines the terms and conditions of the transition and how to transfer the Capital in the way of subscriber to MOA, agreement should also specify the effective transition date for smooth conversion.

3. **Shareholding Structure:** The shareholding structure is a critical aspect. The proprietor's shareholding in the company should not be less than 50% of the voting power, and this ownership structure to be maintained for a period of 5 years in order to claim the exemption u/s 47(xiv) of the Income Tax Act which is discussed later in this Article.

4. **Transfer of assets and liabilities:** All properties, assets, and liabilities of the sole proprietorship to be meticulously transferred to the company subject to agreed terms along with cash at bank / hand. This ensures a comprehensive transfer of ownership and control. The sole proprietor should ensure that he closes old bank accounts tied to the sole proprietary business, opens new accounts in the name of the Company and redirect all financial transactions to the new accounts.

5. **Surrender all associated registration certificates and licenses by the proprietor:** The proprietor should intimate all relevant authorities where business has been registered, surrender all associated registration certificates and subsequently reapply for licenses and permits in the name of the Company. This ensures transparency and a seamless transition to the regulatory bodies.

6. **Contracts / Leases:** All contracts, service agreements, and leases to be updated or re-signed under the company.

Tax Implications:

Section 2(47) of Income Tax Act suggests that for an event to be considered a **transfer**, there must be **simultaneous existence of a "transferor"** (person relinquishing the property) **and a "transferee"** (person acquiring the property). Both parties must exist concurrently for the transaction to be considered a transfer. **Conversion under Part I of the Companies Act** mentions about statutory vesting of the assets and hence **cannot be considered as transfer** as the predecessor stands converted and dissolved i.e. it ceases to exist and the newly incorporated company comes into existence. This is also supported by the H'ble High Court of Bombay in the case of **Texspin Engg. & Mfg. Works** where it has been held that succession of a partnership firm (which is akin to an LLP for income-tax purposes) by company was not taxable transfer as it was a case of statutory 'vesting' of property upon the converted company.

Since conversion of sole proprietary concern is out of purview of Part I conversion under Companies Act, **transfer of Sole Proprietorship business to Company triggers capital gains tax in the hands of the Sole Proprietorship owner for the transfer of assets.** However, within the tangle of tax regulations lies a beacon of opportunity: **Section 47(xiv) of the Income Tax Act.** This provision was introduced by the Finance (No. 2) Act, 1998 w.e.f. 1.4.1999 with a view to provide incentives and to promote corporatisation of proprietorship business. It offers a vital lifeline for individuals navigating the transition from a Sole Proprietorship to a Company, potentially granting them tax exemptions on transfer of assets.

Nonetheless, such a transfer will involve payment of stamp duty on the transfer of assets which will depend on whether it is an itemized sale or a slump sale unlike Part I conversion where stamp duty would not have been payable since it is a statutory vesting of assets.

Intention:

The intention behind introducing the provisions of Sec 47(xiv) has been explained in the Explanatory Notes on the provisions of Finance (No. 2) Act, 1998 vide CBDT circular no. 772 dated 23.12.1998. These are summarized as under:

1. Business reorganizations have specific tax implications including levy of capital gains. Transfer of assets attracts levy of capital gains tax;
2. Similarly carry forward of losses and depreciation is not available to successor business entities;
3. In the case of amalgamation, capital gains is not levied and unabsorbed business losses and depreciation is available subject to certain conditions;
4. The expert group has recognized the need to encourage business reorganization when they are in consonance with economic development and not merely the devices to secure tax advantages.

Section 47(xiv):

For the sake of reference the provisions of S. 47(xiv) are reproduced herein:

S. 47 (xiv)-" where a sole proprietary concern is succeeded by a company in the business carried on by it as a result of which the sole proprietary concern sells or otherwise transfers any capital asset or intangible asset to the company:

Provided that—

(a) all the assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company;

(b) the shareholding of the sole proprietor in the company is not less than fifty per cent of the total voting power in the company and his shareholding continues to remain as such for a period of five years from the date of the succession; and

(c) the sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company;"

Section 47(xiv) provides exemption from the applicability of capital gains u/s 45 by holding that the **transactions specified in sec 47(xiv) will not be regarded as transfer on satisfaction of the conditions** mentioned therein. The presence of a "transfer" is indeed a prerequisite for the taxability of capital gains. Accordingly, **when the transaction is not considered a "transfer," capital gains tax liability will not arise.**

Furthermore, since conversion u/s 47(xiv) takes the transaction out of the purview of section 45 which is the charging section for capital gains, corresponding sections like section 50 (capital gain on sale of depreciable asset), section 50B (capital gain on slump sale) and section 50C (capital gain on sale of land or building or both) will also not get triggered.

Scope of Section 47(xiv):

For Section 47(xiv) to trigger following events needs to occur:-

1. There has to be a conversion from proprietary concern to a company;
2. The succession has to be in the business carried on by the proprietary concern and
3. As a result of the succession / conversion, there has to be a transfer of capital asset or intangible asset from the proprietary concern to the company

Interpretation:

- **Transfer** would be as per definition of transfer u/s 2(47) of Income Tax Act
- **Capital Asset** would be as per definition of capital asset u/s 2(14) of the Act. The term capital asset has a wide meaning and includes every kind of property as generally understood except those that are expressly excluded in the definition.

  "A **business undertaking as a whole** would constitute a capital asset" - Syndicate Bank Ltd. v. Addl. CIT [1985] 155 ITR 681/[1986] 29 Taxman 32(Kar.)

  "A business as a going concern would constitute a capital asset" – CIT v. F.X. Periera & Sons (Travancore)(P.) Ltd. [1990] 184 ITR 461/[1991] 55 Taxman 242 (Ker.).

- Succession by the Company has to be in respect of the business carried on by the proprietary concern. In cases, where the sole proprietary concern has different and independent businesses, there is a possibility to claim exemption u/s 47(xiv) in respect of one of the business which is transferred to the Company and the other business can be continued by the proprietary concern. However, the Assessee should be able to substantiate that the two businesses are distinct and not dependent on each other in terms of operations and finance. Also it would be difficult in claiming exemption u/s 47(xiv) in case of succession in respect of profession.

- There is a potential possibility to transfer each capital asset or intangible asset by way of itemized sale instead of slump sale. However, in that case since stock has been specifically excluded from the definition of capital asset, it would be difficult to transfer stock separately and hence should be recommended to transfer the business as a whole in its entirety.

Conditions for claiming exemption u/s 47(xiv):

1st Condition – 47(xiv)(a): all the assets and liabilities of the sole proprietary concern relating to the business immediately before the succession become the assets and liabilities of the company

- No individual asset or liability can be omitted or excluded. Each asset and liability must be accounted for and compulsorily transferred.
- Only assets and liabilities directly associated with the business should transit to the company. Assets or liabilities unrelated to the business, such as investments made from surplus funds, may not be required to transfer. However, it's the responsibility of the assessee to demonstrate that such assets or liabilities are indeed unrelated to the business.
- In case certain assets relating to the business like immovable property are not intended to be transferred, its advisable to handle these matters prior to conversion. This could involve transferring the asset to another party and settling the liability beforehand.

2nd Condition – 47(xiv)(b): the shareholding of the sole proprietor in the company is not less than fifty per cent of the total voting power in the company and his shareholding continues to remain as such for a period of five years from the date of the succession

<u>First Part – Initial Fulfillment:</u> This part of the condition must be met either during the succession of the business or immediately thereafter when shares are allotted as per condition 2.

- Reference is given to voting power and not number of shares. In scenarios where shares with differential voting power are issued, the number of shares held may not directly correlate with the voting power.
- The requirement does not specify that the 50% ownership must be issued solely due to succession. Therefore, if the sole proprietor already held shares in the company before additional shares are allotted to him upon succession, the requirement could be considered fulfilled. The primary intent is to ensure that provisions such as S. 47(xiv) are not utilized to transfer ownership to a different set of shareholders other than the proprietor.
- The condition does not specify the timing for fulfilling the 50% ownership requirement. It should be ensured that compliance with this requirement is made either on the date of succession or, at the very least, at the time shares are allotted in consideration of succession. This approach ensures clarity and minimizes any potential ambiguity regarding compliance with regulatory requirements.

  In the case of IT0 Vs. Shri Sanjay Singh (ITAT Delhi) it was held that "as entire consideration was shown as share application money and shares were issued against the same and same was continued to be held for more than 5 years, the condition prescribed in Section 47(xiv)(b) is also satisfied. Merely because there is a delay in the allotment of shares against the share application money, it cannot be said that there is a violation of clause (b) of Section 47(xiv) of the Act".

<u>Second Part – Ongoing Compliance:</u> The second part of the condition must be fulfilled continuously for a period of five years following the conversion.

- The requirement for maintaining the 50% shareholding serves a critical purpose to prevent any change in economic control post conversion and to ensure that the benefits provided by legislation aren't exploited to transfer ownership to a different set of shareholders for the purpose of tax avoidance. By maintaining the majority ownership with the proprietor, the intended tax benefits are appropriately directed to those who are genuinely continuing the business operations; thereby safeguarding against any misuse of tax provisions.
- Corporate actions involving restructuring of business, such as mergers, demergers, or sale of business assets, require careful scrutiny to ensure compliance with the conditions outlined in S. 47(xiv). Failure to adhere to these conditions could result in the withdrawal of exemptions under S. 47A. If the company merges with another entity within the five-year period, it may violate the conditions of S. 47(xiv) unless the shareholding of the proprietor is maintained.

3rd Condition – 47(xiv)(c): the sole proprietor does not receive any consideration or benefit, directly or indirectly, in any form or manner, other than by way of allotment of shares in the company

This condition implicitly implies that he solely receive shares in the company and no other form of consideration whatsoever. Any arrangements, such as appointing the proprietor as working director and providing him with remuneration or renting property owned personally by the proprietor, cannot be construed as a "benefit" flowing to the proprietor resulting from the succession.

The Hon'ble ITAT in the case of Asst. CIT v. Nayan L. Mepani (Mum) (2012) 49 SOT 641 (Mumbai) held that the intangibles arising on the transfer u/s 47(xiv) does not violate the provisions and resultantly the amounts considered under the transfer needs to be taken as the cost of acquisition for the purposes of depreciation. **Exemption u/s 47(xiv) cannot be denied on receipt of higher number of shares by sole proprietor on conversion into corporate entity because of revaluation of assets and cannot be treated as consideration or benefit received other than by allotment of shares.**

The Mumbai High Court in the case of Kantilal Gopalji Kotecha held that **goodwill that was not recorded in the books of a sole proprietary concern, but which arose on conversion of the proprietary concern into a company, was not exempt u/s 47(xiv)** of the Income-tax Act, 1961 (the Act), but would be taxable in the hands of the sole proprietor under the head, "Capital Gains".

<u>Violation of Conditions – Withdrawal of Exemption – Sec 47A(3):</u>

- In case any of the conditions laid down in sec 47 (xiv) are not complied with, the amount of profits or gains arising from transfer of such capital asset or intangible assets shall be chargeable to tax.
- Further, such amount shall be deemed to be profits and gains chargeable to tax in the hands of company for the previous year in which the conditions prescribed u/s 47(xiv) of IT Act are violated.

Other Key Tax Provisions:

- **Pro-rata Depreciation:** The aggregate depreciation allowable to the proprietary concern and company shall not exceed the depreciation calculated at the prescribed rates as if the conversion had not taken place. Which means in the year of succession, the depreciation on the assets held by the proprietary concern and transferred to the Company would be available to both based on no. of days for which the said assets were used by the proprietor and the company.

- **Accumulated Losses and Unabsorbed Depreciation Section 72A(6):**
    - Subject to fulfillment of conditions u/s 47(xiv), the accumulated loss and unabsorbed depreciation of the proprietary concern shall be deemed to be the loss or depreciation allowance of the company for the purpose of previous year in which conversion was effected.
    - Further, other provisions of the IT Act relating to set off and carry forward of loss and unabsorbed depreciation shall apply accordingly.
    - In case any of the conditions prescribed u/s 47(xiv) are not complied with, any accumulated loss or unabsorbed depreciation utilized by the company, shall be deemed to be the income of the company and chargeable to tax in the year in which such conditions are violated.
    - The term "accumulated losses" has been defined to refer to business losses, which the proprietary concern was entitled to carry forward. Hence, lapsed losses of the concern cannot be transferred.
- **Cost of Assets on which depreciation has not been claimed:**
    - When non-depreciable assets like land are transferred from a sole proprietorship to a company, the price paid by the successor company would be considered the cost for the purpose of computing capital gains.
    - Provision of section 49(1)((iii)(a) states that where the capital asset became the property of the assessee by succession, inheritance or devolution, the cost of acquisition of the asset in the hands of the predecessor becomes the cost in the hands of the successor.
    - Correspondingly as per Explanation 1(b) of section 2(42A), the period of holding of the predecessor shall become the period of holding of the successor.
    - Question arises whether succession would mean succession only on death or would cover succession on transfer of business. The scope of terms such as "succession," "inheritance," and "devolution," traditionally refer to the passing of property upon the death of an individual or through other legally recognized mechanisms such as inheritance laws or estate planning arrangements. If such normal sale of business involving succession to business are covered within the scope of S. 49(1)(iii)(a) then it would create tremendous hardships. The acquirer having paid the price would not be entitled to claim the cost as deduction. According to the principle of noscitur a sociis, when two or more words that are capable of analogous meanings are used together in a statute or legal provision, the words can influence or "take color" from each other. There are various supreme court judgements that have laid down the same analogy in different contexts. Hence it can be strongly argued that the term succession should be limited to succession arising due to death, liquidation or winding up or by other process of law.
- **Cost of Acquisition of shares in the hands of the proprietor:**
    - No specific provision has been included to determine the cost of acquisition of shares of the company. In most cases, the succession u/s. 47(xiv) would be by way of sale or assignment agreed to at a specified price / amount – either by way of itemized sale or slump sale. The proprietor would be allotted specified number of shares at a specified price. This would be the cost of in his hands for the purpose of onward sale in future.

- **Period of Holding of shares in the hands of the proprietor:**
  - No specific provision has been included to determine the period of holding of capital asset being shares of the company. However, one may consider period of holding from the date when shares were issued and received by the shareholder.
- **Whether section 56(2)(x) can be invoked to the buyer of the business undertaking (Company in case of conversion) under slump sale u/s 50B?**
  - Deeming fiction of section 56(2)(x) is applicable to sum of money, capital asset being movable and immovable property. "Property" has been exhaustively defined to include various asset but has not specifically covered "business undertaking" acquired under slump sale.
  - The distinctive feature of a slump sale is that individual values are not assigned to the assets and liabilities being transferred. The transaction is treated as a whole, with a single consideration amount agreed upon for the entire undertaking.
  - Where the Company purchases the business for a lumpsum consideration and records the value in its books as per purchase price allocation, whether section 56(2)(x) can be invoked if value of property (as per the Rules) is more than the value assigned pursuant to purchase price allocation?
  - Explanation 2 to section 2(42C) ensures that valuation of assets and liabilities for stamp duty or registration fees does not affect its treatment as a slump sale for income tax purposes.
  - Proviso to clause 56(2)(x) provides that the section will not be applicable in case of transfer of asset from company to its subsidiary or in cases of amalgamation, scheme of demerger, etc. Conversion u/s 47(xiv) has not been included in the proviso.
  - Absence of the term "undertaking" in the definition of "property" limits the applicability of the deeming provisions of Section 56(2)(x) to transactions involving assets such as immovable property and would not apply to transfer of an undertaking in slump sale u/s 50B.
  - In the context of a slump sale, where entire undertaking is transferred for a lump sum consideration without assigning individual values to assets and liabilities, the argument posits that the computation mechanism prescribed u/s 56(2) fails. This is because there's no feasible way to determine the FMV of individual assets in such a transaction.

Conclusion:

As India experiences an economic boom over the coming decades, there's a prevailing expectation that the corporate form of business will rise in popularity. This trend is driven by the corporate structure's inherent ability to scale up and facilitate growth effectively. In this context, the process of corporatisation plays a crucial role.

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SEAMLESS TRANSITION: UNDERSTANDING SECTION 47(XIIIB) FOR CONVERTING COMPANY TO LLP

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Introduction

The conversion of a company into a Limited Liability Partnership (LLP) under the Limited Liability Partnership Act, 2008, provides a strategic avenue for businesses to restructure their operations and capitalize on the benefits offered by the LLP framework. This provision allows private companies and unlisted public companies to seamlessly transition into LLPs, subject to certain conditions and procedures.

A registered limited company in India (Private or Public) has a lot of complex formalities and incurs additional overheads for managing affairs including mandatory board meeting, maintenance of statutory records, filling of e-forms with MCA etc. On the other hand, in case of Partnership firms, individual partners want to be free from the concept of joint liability of partners. By converting into an LLP, businesses can enhance operational flexibility, mitigate risks, and optimize their organizational structure. Accordingly, this article explores the procedure and provisions w.r.t. conversion of a Private Ltd. or unlisted Public Company into LLP

Process of Conversion

The conversion of a company into a Limited Liability Partnership (LLP) under Section 47(xiiib) of the Limited Liability Partnership Act, 2008, involves a series of steps and procedures. This process is designed to ensure that the conversion is legally valid and complies with all regulatory requirements. Here is a brief note on the conversion process:

➢ **Eligibility Check:**

- Verify that the company meets the eligibility criteria for conversion, i.e., it is a private company or an unlisted public company.

➢ **Obtain Consent:**

- Obtain unanimous consent from all shareholders or members of the company for the conversion.

- **Verify Solvency:**
  - Ensure that the company is solvent, with assets exceeding liabilities. This may require a solvency declaration signed by the majority of directors.

- **Seek Creditor Approval:**
  - Obtain consent from all secured creditors for the conversion. If any creditor objects, the conversion cannot proceed under Section 47(xiiib).

- **Draft LLP Agreement:**
  - Prepare a Limited Liability Partnership Agreement outlining the rights, duties, and responsibilities of partners in the LLP.

- Compliance in relation to Company:
  - At least one balance sheet and annual return should have been filed by the Company after its incorporation
  - No open (unsatisfied) charges should be pending against the Company.
  - No eForms should be pending for payment or processing or approval in respect of the Company
  - Under Companies Act, no prosecution should have been initiated procedure to be followed
  - There is no security interest in its assets subsisting or in force at the time of application.
  - There is no security interest in its assets subsisting or in force at the time of application.

- File Conversion Application:
  - Apply for DPIN
  - Apply for Name reservation
  - Prepare and file an application with the Registrar of Companies (ROC) for conversion, along with the prescribed fees and documents, including:
    - Statement of solvency.
    - Consent of shareholders or members.
    - No objection certificate from creditors.
    - LLP Agreement.
    - Other required documents.

- Publication of Notice:
  - Publish a notice of the proposed conversion in a newspaper circulating in the district where the registered office of the company is situated, inviting objections, if any, to the conversion.

- Registrar's Approval:
  - The ROC will review the application and, if satisfied, issue a Certificate of Registration of Conversion, specifying the date of conversion.

➢ Transfer of Assets and Liabilities:

- Upon conversion, all assets, liabilities, rights, and obligations of the company are transferred to the LLP.

➢ Update Statutory Records:

- Update all statutory records, including the LLP Agreement, Register of Members, Register of Partners, etc., to reflect the conversion.

➢ Compliance with Post-Conversion Requirements:

- The LLP must fulfill all post-conversion compliance requirements, such as filing annual returns, maintaining accounts, conducting audits (if applicable), etc., as per LLP regulations.

➢ Commencement of LLP Operations:

- Once the conversion is complete, the LLP can commence its operations and conduct business as per the LLP Agreement.

Exemption provided under Section 47 from levy of capital gains tax

Section 47 of the Income Tax Act, 1961, provides for certain transactions that are not considered as transfers and, therefore, are not subject to capital gains tax. These transactions are exempt from tax under the Income Tax Act. One such exemption is provided under Section 47(xiiib) for the conversion of a company into a Limited Liability Partnership (LLP).

Section 47 (xiiib) of the Income Tax Act provides an exemption from levy of capital gains tax on the abovementioned transfers pursuant to conversion of a company to LLP subject to fulfilment of all the below specified conditions:

a) Transfer of all assets and liabilities:

All the assets and liabilities of the company immediately before conversion become the assets and liabilities of LLP.

b) All shareholders to become partners in LLP:

All the shareholders of the company immediately before conversion become the partners of LLP and their capital contribution and profit-sharing ratio in the LLP are in the same proportion as their shareholding in the company as on the date of conversion.

c) Consideration to shareholders:

The shareholders of the company does not receive any consideration or benefit, other than by way of share in profit and capital contribution in LLP.

d) Profit sharing ratio of shareholders in LLP:

The aggregate of the profit-sharing ratio of the shareholders of the company in LLP should not be less than 50% at any time during a period of five years from the date of conversion

e) Total sales, turnover or gross receipts in the business of the Company:

Total sales, turnover or gross receipts of the Company must not exceed INR 60 lakhs in any of the three previous years preceding the previous year in which the conversion takes place

f) Total value of the assets as appearing in the books of account of the Company:

Total value of the assets of the Company must not exceed INR 5 crores in any of the three previous years preceding the previous year in which the conversion takes place

g) No amount to be paid to any partner out of accumulated profits of the company as appearing on conversion date for a period of three years from the date of conversion

Consequences of violation of section 47(xiiib):

i. Transfer of capital Assets:

If the above conditions are violated, the transfer of capital asset is to be done at the market rate and accordingly capital gain is to be calculated. The private limited company which is a transferor has to pay the capital gain tax on such transfer.

ii. Transfer of Other Assets:-

The other assets like, stock in trade, current asset etc is also transferred at the market value and the applicable taxes is to be paid.

iii. Impact on Share Holders if section 47(xiiib) is violated

The shares in the hands of the shareholders of the private limited company will be converted as capital of the LLP. The shareholder will surrender the shares and acquire capital in the LLP. The shareholder has to pay tax on the capital gain arising to him from such transfer. The Value of capital is the consideration for the transfer of shares. The cost of share is the amount paid by such share holder at the time of purchase of shares. The receipt of bonus share will not have any cost since it is out of the reserves of the company.

Conclusion

Section 47 (xiiib) was introduced to exempt transfer of assets and shares on conversion of a company into an LLP from capital gains tax under Section 45 of the IT Act, subject to fulfilment of certain stipulated conditions. It is worthwhile to note that prior to Finance Bill 2010, conversion of a company into an LLP had definite tax implications and the transfer of assets on conversion attracted levy of capital gains tax. Owing to flexibility in its structure, compliances, tax and operation, LLP would be useful for small and medium enterprises, in general, and for the enterprises in services sector and professional firms, in particular. Internationally, LLPs are the preferred vehicle of business, particularly for service industry or for activities involving professionals.

SLUMP SALE- A BEGINNING OF NEW ERA

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(i) Introduction

With the advent of globalisation, business transfer arrangements have become an essential element. There are various ways of transferring a business such merger, amalgamations, reverse mergers, demergers, hive off, slump sale etc. It is generally said that "how you acquire" is equally important as "what you acquire". The mode of acquisition of business is equally crucial in a jurisdiction like India wherein both the buyer and seller may have to examine implications under various regulations.

Typically, business acquisition transactions revolve around acquisition of entire business undertaking as a going concern or cherry picking of assets. The concept of acquiring the entire business undertaking as a going concern can be termed as "slump sale". We have discussed tax and regulatory aspects relating to slump sale in below paragraphs.

The terms, 'business transfer' and 'slump sale' are used interchangeably in the Indian context and both refer to transfer and sale of an entire business undertaking of the seller on a going concern basis for a lump-sum consideration. The Companies Act 2013 does not define the term "slump sale". Accordingly, a reference can be drawn from the provisions of Income Tax Act 1961 ('Act'). Section 2(42C) of the Act defines slump sale as:

"the transfer of one or more [undertaking, by any means,] for a lump sum consideration without values being assigned to the individual assets and liabilities in such [transfer]."

The Indian judicial authorities have analysed the above definition on several occasions and have laid down the fundamental requirements in order to qualify a business transaction as slump sale:

1. Transfer by any means
2. Transfer of an Undertaking
3. Transfer for lumpsum consideration
4. Transfer as a going concern

Let's understand each of the above items in greater details:

1. Transfer by any means

The erstwhile definition of slump sale under the Act was such that transfer of undertaking without a monetary consideration would not fall within its purview. There was some ambiguity on whether consideration in kind would affect the nature of a slump sale transaction. In the past, transactions were structured in a way that transfer of undertaking would be in exchange of assets or in kind.

In relation to above, the Hon'ble Supreme Court in case of **R.R. Ramakrishna Pillai**[1] has held that a transfer of an asset for consideration other than monetary consideration is an exchange and not sale. Also, the Hon'ble Bombay High Court in case of **Bharat Bijlee Ltd**[2]. held that transfer of business as a going concern in return of shares and bonds is an exchange and not a sale.

Accordingly, taking a cue from above, the Finance Act 2021 amended the definition of slump sale thereby replacing the words "**undertaking as a result of sale**" with "**undertaking, by any means**". The amendment broadens the scope of slump sale to include transfer (as defined under section 2(47) of the Act) of one or more undertakings by any means and effectively overturning the decision of Hon'ble Bombay High Court in case of Bharat Bijlee Ltd.

2. Transfer of an Undertaking

The term undertaking has been defined under the Act as:

'Undertaking 'shall include any part of an undertaking or a unit or a division of an undertaking or a business activity taken as a whole, but does not include individual assets or liabilities or any combination thereof not constituting a business activity."

The transferred undertaking should represent an identifiable stand-alone business activity and should contain all the assets and liabilities including employees, contracts and licenses that are required for conducting such business. The transferred undertaking should have the inherent ability and potential to run the business, which is being transferred and also, generate revenues independently without having to rely on any external support.

In an ideal scenario, all the assets and liabilities forming part of the business under consideration need to be transferred to the buyer in a slump sale but in case of Premier Automobiles Ltd[3] exclusion of certain assets and liabilities were permitted so long as the assets and liabilities transferred as part of the undertaking are sufficient for conducting the business and generating sustainable revenue on its own on a standalone basis. This is important when assets and liabilities are shared by multiple departments. However, the seller on retaining certain assets can ensure that the same is substituted by certain other assets to the buyer.

3. Transfer for lumpsum consideration

The consideration for the slump sale has to be a lump-sum figure without attributing individual values to the assets and liabilities forming part of the transferred undertaking. It is not individual assets that the buyer is buying but a stand-alone business in entirety. Therefore, the business has to be valued as a whole and an aggregate consideration for the business has to be arrived at. However, it is clarified that the determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities. It is also observed that in certain cases an adjustment to working capital may also be required for the interim period (i.e. date of Business Transfer Agreement to date of actual transfer).

In a general parlance, lumpsum consideration in slump sale refer to single payment at a given time however at times it may not be possible for the same. There are arrangements wherein payments are made in instalments, it can still be said that the condition of lumpsum consideration is met as values are not assigned to individual assets or liabilities.

[1] *1967 66 ITR 725 SC.*
[2] *TS-270-HC-2014(BOM)*
[3] *Premier Automobiles Ltd. v. ITO (2003) 264 ITR 193 (Bom)*

4. Transfer as a going concern

The most important element of a slump sale is that the undertaking is transferred as a 'going concern'. There should be no break or cessation in the operations of the transferred undertaking. The transfer of the undertaking from the seller and the vesting of the undertaking in the buyer together with all the assets and liabilities should be simultaneous and it should not stop, hinder or break the conduct of the business. Hence, it is important for the buyer to ensure that the buyer has all the requisite infrastructure, licenses and preparedness to start running the business simultaneously with the consummation of the slump sale.

(ii) Direct Tax Implications

Lets understand the implications under the Act on in case of a slump sale transaction both in the hands of the seller as well as buyer.

A. Section 50B of the Act

The transfer of business undertaking as a slump sale shall be subject to capital gains tax in the hands of the seller as per the provisions of section 50B of the Act. For purposes of computing capital gains from a slump sale transaction, the net worth of the undertaking is deemed to be the cost of acquisition. Further, where the undertaking is held for more than 36 months any gains arising from the transfer of such an undertaking shall be categorised as long term capital gains in the hands of the seller and subject to tax at the rate of 20% (plus applicable surcharge and 4% cess) without any indexation benefit. The same has been depicted in

Particulars	Amount (INR)
Full value of consideration (refer details below)	XXX
Less :- Expenditure in relation to transfer	(XXX)
Less :- Net worth** of the undertaking being the cost of acquisition and improvement	(XXX)
Capital Gain/loss… A	XXX
Long Term Capital Gain (LTCG)	20% of A (plus applicable surcharge and 4% cess)
Short Term Capital Gain (STCG)	Tax per Income slabs and legal status of taxpayer (plus applicable surcharge and 4% cess)

**Computation of Net Worth

Particulars	Amount (INR)
Aggregate value of total assets of the undertaking or division: In case of depreciable assets In case of capital assets in respect of which whole expenditure claimed u/s 35AD In case of other assets	 WDV of block Nil Book value of assets
Less :- Value of liabilities of such undertaking or division	Book value
Net worth of the undertaking	XXX

**If net worth comes negative, then cost of acquisition shall be NIL

Prior to the Finance Act, 2021, there was no stipulation regarding the determination of the full value of consideration ("FVC") for computing capital gains in case of slump sale. However, the Finance Act 2021 brought about an amendment in this regard which provides that the FVC shall be deemed to be the fair market value ("FMV") of the undertaking to be determined as per prescribed rules.

In this regard, the Central Board of Direct Taxes ("CBDT") has prescribed valuation rules for determination of FVC for slump sale under Rule 11UAE of the Income-tax Rules, 1962 ("Valuation Rules"). The Valuation Rules provide two methods for determining the FVC as on the date of slump sale and the **higher** of the two shall be considered to be the FVC.

a. **Book value-based formula**:

   Broadly under this method, the FVC is a function of the book value of all the assets (other than jewellery, artistic work, shares, securities and immovable property) as reduced by the book value of all the liabilities;

b. **Actual consideration received**:

   This should be a sum of the monetary and non-monetary consideration received or accrued as a result of the slump sale. The Valuation Rules also prescribe the method for computing value of the non-monetary consideration received on account of slump sale.

Rule 11UAE provides that FMV of the undertaking on the date of slump sale, transferred by way of slump sale, for purpose of capital gains computation, shall be **higher** of:

(I) **FMV1** – FMV of the capital assets transferred by way of slump sale determined as per formula prescribed; or

(ii) **FMV2** – FMV of the consideration received or accruing as a result of transfer by way of slump sale determined as per formula prescribed.

(i) COMPUTATION OF FMV1- FMV OF CAPITAL ASSETS TRANSFERRED BY WAY OF SLUMP SALE

Formula: FMV1 = A+B+C+D–L

Constituents	Assets/Liabilities	Valuation
A	All Assets (other than jewellery, artistic work, shares, securities and immovable property)	Book value of all assets (other than jewellery, artistic work, shares, securities and immovable property), as appearing in the books of account of undertaking transferred, as reduced by the following amount which relate to such undertaking: (a) Any amount of income tax paid, as reduced by the amount of tax refund claimed under the ITL, if any; (b) Any amount shown as an asset including the unamortized amount of deferred expenditure which does not represent the value of any asset.
B	Jewellery and Artistic work	Price it would fetch on sale in open market and It should be basis valuation report from a registered valuer
C	Shares and Securities	FMV as determined in the manner provided in sub-rule (1) of rule 11UA
D	Immovable Property	The value adopted or assessed or assessable by any authority of the Government for the purpose of payment of stamp duty
L	Liabilities	Book value of liabilities as appearing in the books of accounts of the undertaking, but not including the following amounts which relates to such undertaking or division, namely: i. Paid-up capital in respect of equity shares; ii. Amount set apart for payment of dividends on preference shares and equity shares, where such dividends have not been declared before the date of transfer at a general body meeting of the company; iii. Reserves and surplus, by whatever name called, even if the resulting figure is negative, other than those set apart toward depreciation; iv. Amount representing provision for taxation other v. than the amount of income tax paid, if any, less the amount of income tax claimed as refund, if any, to the extent of excess over tax payable with reference to the book profits, in accordance with the tax law applicable thereto; vi. Amount representing provisions made for liabilities other than ascertained liabilities; vii. Amount representing contingent liabilities other than arrears of dividends payable in respect of cumulative preference shares.

(ii) COMPUTATION OF FMV2- FMV OF CONSIDERATION RECEIVED OR ACCRUING AS A RESULT OF TRANSFER BY WAY OF SLUMP SALE

Formula: FMV2 = E+F+G+H

Constituents	Monetary/Non Monetary Consideration	Valuation
E	Monetary	Value received or accruing as a result of transfer
F	Non-Monetary - (jewellery, artistic work, shares and securities)	• FMV as determined under Rule 11UA (1) • Refer annexure for valuation methodology prescribed in Rule 11UA (1)
G	Non-Monetary - (any other property)	• Price such property would fetch on sale in open market • It should be basis valuation report from a
H	Non-Monetary (Immovable Property)	• Stamp duty value adopted or assessed or assessable by any authority of Government, for purpose of payment of stamp duty.

The CBDT circular does not explicitly specify the effective date of applicability of the valuation rules specified in Rule 11UAE. Accordingly, it may be said that circular may be effective from the date when the notification is published in the official gazette i.e. May 24, 2021. This interpretation however raises issue for applicability of the new rule for past transactions undertaken in the interim period between 1 April 2020 and 23 May 2021.

B. Section 56 of the Act

As per the provisions of section 56(2)(x) of the Act, where any person, receives any property from any person without consideration or at a consideration which is less than the FMV of such property, the difference between the consideration and the FMV of such property is taxable under head 'income from other sources' in the hands of transferee. Section 56(2)(x) of the Act, being an anti-abuse provision, aims at preventing the taxpayers from selling the assets for inadequate considerations thereby avoiding the tax net. It would be essential to highlight that there is an ambiguity on the applicability of the provisions of section 56(2)(x) of the Act to slump sale transactions. The term 'property' under section 56(2)(x) of the Act does not cover undertaking within its ambit. While, the definition of property does not explicitly include an undertaking, in case any of the specified assets mentioned in the definition of property are transferred as a part of the undertaking in slump sale, possibility of income-tax authorities arguing applicability of Section 56(2)(x) of the Act based on the purchase price allocation cannot be ruled out. This can defeat the whole concept of slump sale where values are not assigned to individual assets.

C. Set off and Carry Forward of losses

Accumulated business loss and unabsorbed depreciation of the undertaking shall be carried forward by the buyer.

D. Reporting

The seller shall furnish a report by a chartered account in Form No 3CEA computing the net worth of an undertaking before the specified date.

E. Key Challenges

- The first component of FMV1 looks at the value of undertaking based on the existing valuation rules for certain anti abuse provisions and adopts a partial "look through" approach where values of certain assets and liabilities are adopted as per books of account and certain specified assets are valued as per fair valuation criteria (like stamp duty ready reckoner value for immovable property or listed shares are valued based on stock exchange quotation). This sets a floor value for computation of consideration even if the actual consideration is lower. This may pose a challenge where the undertaking is bonafide transferred at its true commercial value.

- The FMV1 component requires adoption of book values from books of account of the "undertaking" or "division" which is transferred. This raises issue where no separate books are maintained for the transferred "undertaking" or "division". The exclusion of certain entity level items like equity/preference share capital, reserves and surplus, provision for taxation, etc. can also possibly raise issues for interpretation.

- The FMV2, looks at monetary and non-monetary consideration received for transfer of the undertaking. The consideration in the form of unlisted shares is to be valued as per partial "look through" approach as applicable for other anti-abuse provisions. It may not necessarily align with and can, in fact, be lower or higher than the commercially negotiated value of such shares.

  Further, immovable property is to be valued at stamp duty ready reckoner value which can also deviate from commercially negotiated value.

- The new rule requires valuation to be made on date of slump sale. This can possibly pose a challenge where there is time interregnum between business transfer agreement entered between the parties and final closing of the transaction. It may also pose challenges where part or whole of the consideration is deferred and becomes payable at a future date.

(iii) Conclusion

The decision to opt for purchase of the entire company or purchase of relevant assets or undertaking of the target company has always been a subject of debate. In the recent times, various global corporations have been keen to inherit clean and transparent businesses without getting involved in any tax litigation through any structuring where it jeopardises the interest of the transferor or transferee. Having said that, slump sale involves its own respective sets of merits and challenges. Whilst we have tried to set out certain commercial and practical challenges, the strategy for acquisition needs to be considered carefully in the light of the amendments in past few years.

BUSINESS RESTRUCTURING UNDER IBC: OPTIMIZING INCENTIVES WHILE NAVIGATING UNWARRANTED CONUNDRUMS

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1. Overview of IBC:

"*Failure is simply the opportunity to begin again, this time more intelligently.*" - *Henry Ford*

Failing is fine, but denying a chance to revive the business is certainly not. Time and again many businesses have almost failed and bounced back to roaring success when given a second chance. There are ample notable examples such as Apple, General Motors, Marvel Entertainment, etc.

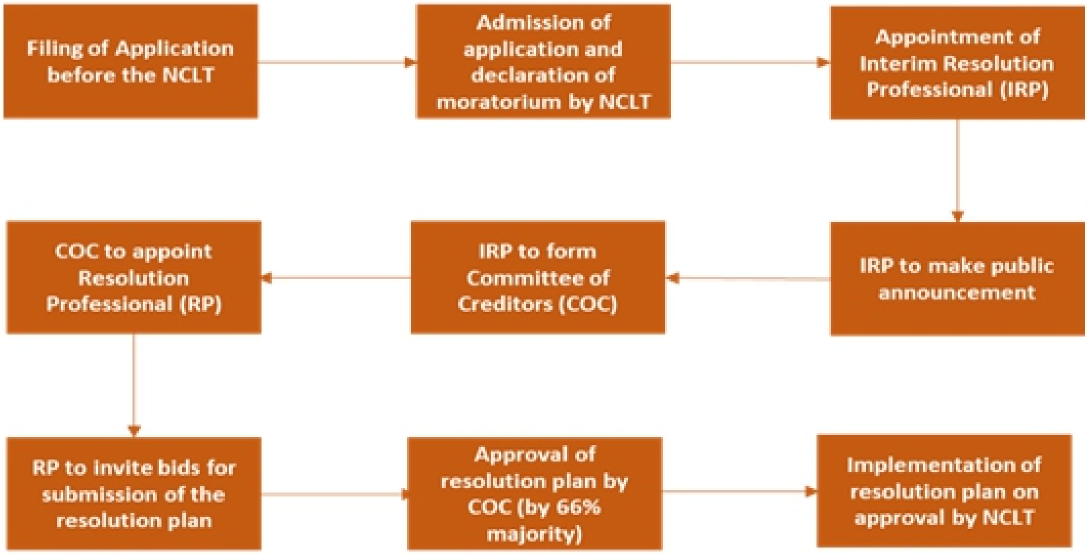
The government recognized the importance of creating a growth-oriented environment and implementing a time-bound legal framework for businesses experiencing financial difficulties. This led to the legislation of the Insolvency and Bankruptcy Code, 2016 (**IBC**) a unified law dealing with stressed businesses.

The IBC is a comprehensive legislation that provides for insolvency resolution of corporate debtors, general partnership firms, and even individuals. A corporate debtor is a corporate person that has defaulted on paying its debts.

The provisions of the IBC are being brought into effect in phases. Apart from personal guarantors to corporate debtors, the provisions of IBC for insolvency resolution and bankruptcy of general partnership firms and individuals are not in effect yet. This article primarily focuses on the insolvency resolution of a company as a corporate debtor (**IBC Company**).

The IBC lays down a two-step process for IBC Companies facing insolvency: (i) Corporate Insolvency Resolution Process (**CIRP**) and (ii) liquidation. The IBC first attempts to resolve the insolvency in a time-bound manner. However, if the attempt fails, the IBC Company will be liquidated.

The IBC regime provides that if an IBC Company defaults on paying a debt of more than INR 1 crore, an application may be made to the National Company Law Tribunal (**NCLT**) by a creditor of the IBC Company or by the IBC Company itself to initiate a CIRP. The key stages of successful CIRP under IBC are briefly outlined below:



It is important for businesses to understand the various incentives available, and challenges faced while reviving the companies under IBC. This article attempts to highlight key income-tax benefits that can be availed and at the same time, certain income-tax issues that need to be considered during restructuring of IBC company.

2. Tax Incentives for companies going through IBC proceedings:

2.1. Moratorium on tax proceedings:

The objective of the moratorium under IBC is to protect the IBC Company against any legal proceedings for debt recovery, security interest enforcement, or transfer of its assets. The moratorium halts such coercive actions against the IBC Company during the moratorium period.

The Supreme Court in the case of ***Sundaresh Bhatt***[1] ruled that once a moratorium is imposed, the tax authorities have limited jurisdiction to assess/determine the quantum of tax and other levies and no recovery proceeding can be initiated against the IBC Company. The Supreme Court has observed that the assessment is only for determining the amount of tax which is a function of the tax authorities. Therefore, tax authorities may undertake assessment proceedings limited to determining the amount of tax but cannot proceed to recover any demand.

2.2. Relaxation for carry forward and set off of losses:

Under section 79 of the Income-tax Act, 1961 (**IT Act**), carrying forward and set-off of losses is not allowed if there is a change in the shareholding of the company by more than 51%. However, a specific relaxation is provided under the IT Act for a company seeking insolvency resolution. The IBC Companies are entitled to set off losses even if there is a change in shareholding beyond the prescribed limit if the resolution plan is approved by the NCLT. However, this relaxation is subject to providing the jurisdictional Principal Commissioner or Commissioner a reasonable opportunity to be heard.

[1] *Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs [Civil Appeal No. 7667 OF 2021, Supreme Court]*

2.3. Relaxation under the provisions of Minimum Alternate Tax (MAT):

While calculating Book Profit for MAT, section 115JB of the IT Act allows deduction of lower of brought forward business losses or unabsorbed depreciation. In a case if either brought forward business losses or unabsorbed depreciation is nil, no deduction is allowed. However, relief has been provided to companies whose application is admitted under IBC, as they are eligible to set off the aggregate of business losses brought forward and unabsorbed depreciation.

2.4. Modified notice of demand:

The NCLT in its order may reduce the outstanding tax and other related dues in respect of which a notice of demand has been issued by the tax authority to an IBC company. In such case, as per the provisions of section 156A of the IT Act, the tax authorities are required to reduce the demand payable in conformity with the NCLT order and after that, serve a modified notice of demand specifying the reduced sum payable.

3. Tax challenges that remain to be solved

3.1. Write-back of liabilities:

3.1.1. Typically, under IBC proceedings, there are substantial haircuts to the outstanding dues of the creditors as the companies are under financial stress. Accordingly, outstanding liabilities along with accrued interest waived by the creditors are written back in accordance with the approved resolution plan.

3.1.2. Under section 41(1), where an allowance or deduction has been made in the assessment for any year in respect of loss, expenditure, or trading liability incurred by the assessee and subsequently during any previous year the person has obtained some benefit by way of remission or cessation of such trading liability, then such benefit will be deemed as profit and gains of business or profession. Accordingly, section 41(1) seeks to tax only trading liabilities along with accrued interest written back, which are claimed as deductions in earlier years.

3.1.3. Under section 28(iv), any benefits or perquisite in cash or kind, whether convertible into money or not, arising from business or profession is subject to tax. The scope of the definition has been recently expanded under the Finance Act, 2023 to include cash benefits to nullify the decision of the Supreme Court in the case of ***Mahindra and Mahindra Ltd***[2].

For the liabilities written back, which were not earlier claimed as deduction, companies were relying on the above-mentioned Supreme Court's decision in the case of Mahindra and Mahindra Ltd. (supra) to argue that such waivers resulting in benefits in cash should not be taxable under the extant provisions. Under the expanded scope of section 28(iv), waiver of a loan is a benefit in the shape of money and will be considered cash benefits. However, it would further need to be evaluated if such benefits "***arise from***" the business or profession and could be taxed under section 28(iv). Certain judicial precedents[3] have held that where the assessee was not in the business of obtaining loans, the remission of such loans by the creditors cannot be said to be a benefit arising from such business.

[2] *CIT v. Mahindra and Mahindra Limited [2018] 404 ITR 1 (SC)*
[3] *CIT v. Chetan Chemicals (P.) Ltd. [2004] 267 ITR 770 (Gujarat); CIT v. Gujarat State Fertilizers & Chemicals Ltd. [2013] 358 ITR 323 (Gujarat)*

3.1.4. Under section 56(2)(x)(a), where any person receives any sum of money, without consideration, the whole of the aggregate value of such sum will be deemed as the income from other source. Pursuant to the Supreme Court decision in the case of Mahindra and Mahindra Ltd. (supra), waiver of loan may be considered as a cash receipt. However, it would be imperative to evaluate if a waiver of a loan is only a constructive receipt and not an actual receipt and therefore, not subject to tax under section 56(2)(x). Further, relying on the judicial precedent[4] it may also be possible to argue that the amount received by the assessee as waiver or remission of the loan amount cannot be said to be without consideration.

3.1.5. Accordingly, tax treatment under section 28(iv) and section 56(2)(x) is still subject to a lot of interpretational issues, and clarification in this regard from the government especially for the IBC Companies, will bring much needed certainty.

3.1.6. Key tax implications on waiver of loan can be summarised as follows:

3.2.

Deduction of tax

Provisions of the IT Act	Write back of trading liability	Write back of the capital loan
Section 41(1) – Remission/ cessation of trading liability	Deduction claimed in any FY – **Taxable** No deduction claimed in any FY – **Not taxable**	**Not taxable**
Section 28(iv) – Benefit or perquisite from business and profession	• **Taxable** according to the amendment brought by Finance Act, 2023 to include cash benefits? • Possible to argue that no benefit ***arises*** *from* business or profession?	
Section 56(2)(x) – Receipt of any sum of money without consideration	• **Taxable** as cash receipt considering the Supreme Court decision in the case of Mahindra and Mahindra Ltd.? • Only a constructive receipt and not an actual receipt? • Arguably, waiver of liability under a loan settlement not without consideration?	

3.3. under section 194R on benefit or perquisite:

The provisions of section 194R require deduction of tax at source on benefits or perquisite arising from business or the exercise of the profession. CBDT circulars[5] provide that waiver or settlement of a loan would constitute a benefit. Though waiver of loan by certain specified lenders which *inter alia* includes banks, specified non-banking financial institutions, etc., are not required to withhold tax under section 194R of the IT Act. However, no specific relaxation has been provided for IBC Companies leading to additional tax compliances and cash flow issues.

3.4. MAT on waiver of loan:

Waiver or write-back of liabilities along with accrued interest may also be subject to tax under the MAT provisions. There should be relaxation in the MAT provisions for reducing waiver of loans and interest from the income of IBC Companies.

[4] *Jai Pal Gaba v. Income-tax Officer [2019] 178 ITD 357 (Chandigarh – Tribunal)*
[5] *CBDT Circular No. 12 of 2022 dated 16th June 2022 and CBDT Circular No. 18 of 2022 dated 13th September 2022*

Nevertheless, if the IBC Company has sufficient book losses and unabsorbed depreciation available, it can be set off against any income resulting from the write-back of liabilities. Alternatively, MAT liability could also be mitigated by opting for a new concessional tax regime under section 115BAA of the IT Act.

3.4. No relaxation on amalgamation:

The successful bidder may generally acquire the IBC Company through a special purpose vehicle (**SPV**) or a merger. These are the quite preferred routes for the acquisition of IBC Company. However, in case of acquisition through a merger, section 72A of the IT Act allows carry forward of tax losses only to industrial undertaking on the satisfaction of certain conditions such as continuing to hold fixed assets and continuing the business, etc. These conditions are quite stringent for IBC Companies trying to recover from the brink of insolvency. Thus, some relaxation should be provided.

3.5. Deemed tax provisions on transfer of shares:

Section 50CA and section 56(2)(x) impose tax on the transfer of unquoted shares of a company at a price less than the fair market value (**FMV**) in the hands of the transferor and transferee, respectively. The tax FMV is computed as per the prescribed methodology, which *inter alia* uses the book value of assets of the companies. In the case of IBC Companies with distressed assets and huge liabilities, the shares may be acquired at a price far below the FMV of shares calculated under the income tax law. This would lead to a tax implication both for the transferor and the transferee making entire resolution proceedings untenable.

The government should exempt the applicability of the above-deemed tax provisions for IBC Companies by exercising its power under the provisions of the IT Act.

3.6. Deductibility of costs incurred for CIRP:

The allowability of costs incurred during the insolvency process, such as fees for the resolution professional, cost of restructuring, etc., remains uncertain under the provisions of the IT Act. Expenses that are directly incurred for business activities are generally deductible from taxable income. However, the deductibility of costs related to CIRP may be questionable as these costs are not particularly incurred for running the business.

The IT Act provides specific provisions for allowing the deduction of amalgamation and demerger-related costs over five years. Considering the challenges that IBC Companies will inevitably experience, it will be imperative to introduce provisions allowing the deduction of CIRP-related costs.

3.7. Priority of tax dues:

Under the IBC, the secured creditors are given priority over the operational creditors for payment of their outstanding dues. In this regard, there is a major controversy as to whether tax dues are to be dealt with as operational dues or to be treated as the first charge as secured creditors.

The Supreme Court in the case of ***Ghanshyam Mishra & Sons (P.) Ltd***[6]. held that government dues would qualify as 'operational debt' and if not part of the approved resolution plan, would stand extinguished. However, the Supreme Court in the recent decision of ***Rainbow Papers Ltd***[7]**.** treated the government as a secured creditor and held that if the payment of statutory dues in a proportional manner is ignored in a resolution plan, it is bound to be rejected. Therefore, the decision of the Supreme Court in the case of Rainbow Papers has disturbed the settled position emanating from the earlier decision of the Supreme Court in the case of Ghanshyam Mishra. The Madras High Court in a subsequent decision in the case of ***Aginiti Industrial Parks Pvt. Ltd.***[8] has distinguished the Rainbow paper ruling by holding it to be fact-specific and relevant for dues arising under the Gujarat Value Added Tax Act, 2003.

Considering the conflicting rulings and huge controversy around the payment of outstanding statutory dues, a clarification from lawmakers will be much appreciated to dispel uncertainties surrounding the given issue.

3.8. Applicability of General Anti-Avoidance Rules (GAAR):

There is no specific exemption from the applicability of GAAR on the restructuring of companies under IBC. Under the CIRP, approval is provided by NCLT to the resolution plans that are backed by a commercial objective of reviving the IBC Company from insolvency. Therefore, GAAR provisions should not apply to a restructuring approved by the NCLT under the provisions of IBC, as the main purpose of the same is to revive the business, and not to obtain any tax benefits.

The Income Tax Department vide a Circular[9] clarified that provisions of GAAR will not be invoked where the Court has explicitly and adequately considered the tax implication while sanctioning an arrangement. However, while approving a resolution plan, the NCLT generally does not analyse in detail the tax implications arising from the restructuring undertaken to acquire the IBC Company, and therefore, recourse to Circular may not be possible. Accordingly, a specific exemption from the applicability of GAAR provisions should be introduced for restructuring under IBC to safeguard acquirers from unwarranted tax consequences.

4. Conclusion:

While significant strides have been taken to revolutionize the law on insolvency and bankruptcy, it is imperative to bring corresponding reforms under the income tax law to ensure the success of business restructuring under IBC. With synchronized changes in the tax framework, the full potential and effectiveness of the IBC in revitalizing businesses and the economy can be achieved.

[6] *Ghanashyam Mishra & Sons (P.) Ltd. v Edelweiss Asset Reconstruction Co. Ltd. [2021] 166 SCL 237 (SC)*
[7] *State Tax Officer v Rainbow Papers Ltd. [2022] 172 SCL 250 (SC)*
[8] *Aginiti Industrial Parks (P.) Ltd. v. Superintendent of CGST and Central Excise [2024] 159 taxmann.com 297 (Madras)*
[9] *Question 8 of the Circular No. 7 of 2017 issued by the Central Board of Direct Taxes (CBDT)*

BUSINESS RESTRUCTURING & GST

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The Indian economy is burgeoning - exhibiting robust growth and immense potential. It has attained a centre stage in the global economy – wherein global investors and business houses are keeping a keen eye on it.

In light of the same, business restructurings viz. mergers, demergers, acquisitions, and other strategic realignments is witnessing a significant trend in the Indian business landscape. The changing economic landscape, characterized by globalization, technological advancements, evolving consumer preferences and regulatory reforms have been key drivers of this trend.

While the main reasons for business restructuring would always seem to be the pursuit of growth and market expansion - the need to improve operational efficiency and competitiveness, government policies and regulatory developments have been key factors shaping the business restructuring landscape in India.

Understanding the tax implications of business restructuring is crucial as it can significantly impact the financial outcomes and strategic decisions involved. With the advent of GST, issues in the business restructurings have been evolving and seek some pondering. In this article, I have tried to bring out some of these issues having legal as well as procedural implications in various forms of business restructurings.

- **Taxability**

  The first and foremost question that comes to the mind would be whether such transactions would be taxable under GST.

  Taxability of a transaction under the GST law is to be analysed in terms of the charging Section – Section 7 of the CGST Act which is reproduced as under:

  "Section 7: Scope of supply

(1) For the purposes of this Act, the expression "supply" includes –

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration.

Explanation. – For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;

(b) import of services for a consideration whether or not in the course or furtherance of business; and

(c) the activities specified in Schedule I, made or agreed to be made without a consideration

(d) deleted

(1A) Where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1), –

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services.

(3) Subject to the provisions of sub-sections (1), (1A) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as –

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods."

As can be seen from the provisions of charging section – for a transaction to be taxed under GST it should be either 'goods' or 'services'.

While sale / transfer of business is not a movable property (thus - not goods) – issue arises about is coverage within the ambit of services.

For this, let us refer to the definition of service as provided u/s 2(102) of the CGST Act, 2017 which is reproduced below for ready reference:

'services' means ***anything other than goods****, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;*

On going through this definition, it is evident that term service has been very loosely defined under GST. There are 2 schools of thought prevalent in interpreting the said term:

The first school of thought advocates Purposive Interpretation of the term – service. It considers that a literal reading/interpretation of the definition would create an ambiguity. A transaction of sale/transfer of business includes transfer of assets (tangible/ intangible, movable / immovable, cash/bank balances, securities, etc.), liabilities (including contingent liabilities), employees, contracts, etc. Merely because this transfer does not qualify as goods – classifying the said transaction as service would result in absurdity. Thus, the term service has to be interpreted with the intent / purpose of the law. In the absence of any element of service (or deemed services as per Schedule II) - business restructuring activity cannot be classified as service.

The second school of thought advocates literal interpretation of the term – service. As per this interpretation – the scope and coverage of the term service is wider and covers anything other than goods. The only restriction to the above scope and coverage would be those specifically covered in Schedule III (For e.g., Employment services, funeral/ burial services, sale of land / completed building, etc.). In case the same is considered service – a view may be taken that the same is covered u/s. 7. Consequently, Exemption as per Sr. No. 2 of Notification 12/2017 – CT (Rate) may be claimed.

Based on the view taken for taxability of the transaction, ITC reversal u/s. 17 may also be applicable - viz. In case business transfer is assumed to be taxable and exemption is claimed vide Notification 12/2017 – CT (Rate), reversals u/s. 17(2) of the CGST Act, 2017.

- **Registrations**

In case of business restructuring among Companies - there are two different dates i.e., the effective date (i.e. date from which the scheme would be given effect) and the date of order (i.e. date when the scheme is approved by the Court or Tribunal). Generally, the effective date is prior to the date of the order. Post the issuance of the order, the procedural formalities under the applicable laws are to be undertaken.

Section 87 of the Central Goods and Services Tax Act, 2017 ('CGST Act') provides for liability in case of amalgamation or merger of companies. As per Section 87(2) of the CGST Act, the registration certificates of the companies (i.e., the subsumed companies) shall be cancelled with effect from the date of the order.

Section 29 of the CGST Act provides for cancellation of GST registration by the Proper Officer on application by the taxpayer or on his own motion.

Section 29(2) of the CGST Act read with Rule 21 of the CGST Rules provides for specific reasons for which the Proper Officer can cancel the GST registration of the taxpayer on Suo-moto basis with effect from a retrospective date. Discontinuation of business on account of business restructuring is not covered in the same. In such a scenario, GST registration can be cancelled by the officer but not from a retrospective date.

Rule 20 of the CGST Rules allows 30 days' time for a taxpayer to apply for cancellation of GST registration. As per Rule 21A such registration stands suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later. The said suspension shall proceed towards cancellation if the procedural requirements as fulfilled.

Thus, in all practical respects – the suspension/cancellation date would be after the date of the order. Thus, there is a conflict between the registration provisions and Section 87(2) of the CGST Act.

It is pertinent to note that the effective date of cancellation of registration would have an impact on the other aspects such as claim of ITC, filing of GST returns, job work compliances, etc.

Further, under the Income-tax Act, the receipt of the order requires Companies to re-file their tax returns as the Company which has merged or amalgamated into the other company has ceased to exist. However, under the GST law up to the date of the order all the Companies continue to exist. This may have impact on various system-based parameters run by tax authorities for issuance of notices.

- **Claim of Input Tax Credits**

As mentioned above, effective date of registration cancellation for the subsumed Companies in case of mergers and amalgamations would be date of the order.

Issue arises in relation to the inward supplies prior to the date of the order. When such inward supplies were made, these subsumed companies were registered and entitled to ITC u/s. 16(1) of the CGST Act. However, they may not be entitled to ITC u/s. 16(2) of the CGST Act in case the conditions are not fulfilled which *inter-alia* may include:

- ✓ He may not be in possession of tax invoice; or
- ✓ The tax invoices were not appearing in GSTR 2B; or
- ✓ The goods were in transit and received by the said company after the date of the order.

In such a scenario, the subsumed Company may be able to satisfy the conditions after the date of order and be entitled to the ITC thereafter. However, by virtue of Section 87 the subsumed Company does not remain registered person w.e.f. date of the order. This would make the subsumed Company disentitled to the ITC which was otherwise eligible/entitled to be claimed.

Without prejudice to the above, assuming that the taxpayer is required to apply for cancellation within 30 days from the date of the event requiring cancellation i.e., date of the order –the issue of ITC claim would remain even after such date of cancellation.

Similar issues would also arise in case of reversals made under Rule 37 of the CGST Rules, 2017 by the subsumed Company which are to be reclaimed post the date of the order.

Chapter XVI (Sections 85 to 88) of the CGST Act provide for liabilities but there are no specific provisions related to claim of ITC, etc. However, by virtue of the Court/Tribunal order – the assets and liabilities of the subsumed Companies are taken over by the merged/amalgamated Company. Thus, such ITC may be claimed by the merged/amalgamated Company subject to fulfilment of the conditions.

Reference may be drawn to Rule 9(2) of the CENVAT Credit Rules, 2004 wherein the proviso allowed the Deputy Commissioner of Central Excise or the Assistant Commissioner of Central Excise to allow the credit even if invoice did not contain adequate particulars, they are satisfied that the goods or services covered by the said document have been received and accounted for in the books of account of the receiver.

In light of the above provisions and merger order of the Hon'ble High Court – Hon'ble CESTAT Hyderabad allowed the claim of CENVAT Credit by the transferee for the Invoices in the name of the transferor Company in the case of FARMAX INDIA LTD. Versus COMMR. OF CUS., C. EX. & S.T., HYDERABAD-IV [2020 (43) G.S.T.L. 526 (Tri. - Hyd.)].

While similar provisions are not present under the GST law – the same will have a persuasive value.

Nevertheless, this position will also face challenge in terms non appearance of ITC in GSTR 2B and consequent issuance of DRC 01C to the transferee, etc.

An alternate view would be to continue the GST registration of the subsumed entity and continue to claim the ITC in the said registration. The said accumulated credit may be transferred to the transferee by way of ITC-02. This view may also face the challenge of claim of ITC beyond the registration period prescribed under the law.

These are just a few of the plethora of legal and procedural challenges that are part of the bundle of other issues in the course of business restructuring. These will have to be determined beforehand and the businesses will have to address the same with an adequate transition planning.
At the same time, advocacy and representation for the open issues need to be made by the industry at the appropriate forums.

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MANAGEMENT LESSONS FROM JAINISM

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Jainism, one of the oldest religions in the world, according to me, is not just a religion but a way of life. There are many instances in the lives of the 24th Tirthankar Lord Mahavir Swami or many other divine souls before or after him in the Jain scriptures that enlighten not only our spiritual or *Dharmik* journey but our worldly or *Sansarik* journey as well. Our *Sansarik* or worldly journey includes family as well as business ties. With the little knowledge that I have gained listening to discourses by various Sadhus and reading various books, I have found that one can apply principles of Jainism in all spheres of life. Mentioned below are some of the principles of Jainism and their application that I find relevant in our personal as well as professional lives.

Ahimsa (Non-violence):

Ahimsa is one of the core principles of Jainism, advocating non-violence in *Man-Vachan-Kaya* i.e., thought, word, and action. This principle suggests resolving conflicts through dialogue and negotiation rather than resorting to aggression or coercion. Leaders can create a harmonious and non-threatening work environment by promoting mutual respect and understanding among team members. Conflict resolution is the biggest challenge in a domestic environment as well. By practicing *Ahimsa*, we tend to view every situation and person with an open mindset and empathise with the other person's situation, thereby resolving a conflict faster and more effectively.

Anekantavada (Multiplicity of Viewpoints):

Anekantavada teaches that truth or reality is complex and multifaceted, and it can be perceived differently from different perspectives. This principle encourages us to consider diverse viewpoints and opinions when making decisions. Embracing diversity of thought fosters creativity and innovation within teams and helps in devising comprehensive strategies that account for various possibilities.

Aparigraha (Non-possessiveness):

Aparigraha emphasizes non-attachment and simplicity. In a management context, this principle encourages us to adopt a minimalist approach to resources and assets. It suggests avoiding unnecessary accumulation and wastage of resources, thereby promoting sustainability and efficiency in business operations. It also keeps a person's ego in check. More often than not, ego is found to be the root cause of many disputes.

Satya (Truthfulness):

Satya underscores the importance of honesty and integrity in all dealings. Managers who adhere to this principle build trust and credibility among their team members and stakeholders. Transparent communication and ethical behaviour contribute to a positive work culture and long-term success for the organization. *Niti* or Ethics is also the base of all moral values that our elders have practiced. That is their real legacy to us which we would also like to teach and leave for the coming generations.

Tapas (Self-discipline):

Tapas or *Tapasya* refers to self-discipline and self-control. In a professional setting, practicing tapas involves setting high standards for oneself and adhering to them rigorously. Leaders who demonstrate discipline inspire their teams to follow suit, fostering a culture of accountability and commitment to excellence. Self-discipline is also the top most important practice if one wants to excel in any organised Sports

Sanyam (Self-restraint):

Sanyam emphasizes restraint and moderation in desires and actions. We can apply this principle by promoting a balanced approach to goal-setting and decision-making. By avoiding extremes and maintaining equilibrium, leaders can ensure sustainable growth and avoid burnout among their team members.

Seva (Service):

Seva emphasizes selfless service and compassion towards others. By practicing Seva, we prioritize the well-being and development of our team members. By nurturing a supportive and empowering work environment, we can foster employee engagement and loyalty, ultimately enhancing organizational performance. In our community, Seva is practiced at a huge scale in many fields, be it educational, medical or financial. There are many organisations like CVOCA founded by visionaries of our community, that are giving relentless and selfless Seva not only for the people at large but also for animals, without expecting anything in return. We all try to be a part of or support such organisations in our own small way by giving our money or time or both for furthering their causes. It imbibes in us a sense of gratitude.

By incorporating these principles in our lives, we can cultivate a workplace culture that is not only efficient and productive but also ethical, compassionate, and sustainable. Also, leading by example is the best style of leadership. This is also true in a parenting scenario. Children always learn more by observing their parents rather than listening to them. Mahatma Gandhi has rightly said *"Be the change you want to see in others"*.

EVENTS IN RETROSPECT

Day & Date	Committee	Program Name	Moderator / Speaker	Attendance / Views
2nd March, 2024 Saturday	Capital Market Committee	Investokraft 20-20	Stock Insights from: Mr. Mihir Vora Mr. Deven Choksey Mr. Smitesh Sheth Mr. Prakash Diwan Mr. Abhisar Jain Mr. Piyush Mehta Mr. Tushar Bohra Mr. Anurag Roonwal Mr. Utsav Shrivastav Mr. Vineet Gala Mr. Ishmohit Arora Mr. Jitendra Khandol Mr. Anmol Sekhri Mr. Vikas Khemani Corporate presentations from: Aarti Pharmalabs Limited Deep Industries Limited Essen Speciality Films Ltd K P Group Rishabh Instruments Ltd.	360+ participants

Events In Retrospect

Day & Date	Committee	Program Name	Moderator / Speaker	Attendance / Views
15th March, 2024 Friday	Capital Market Committee	"Fundamentals & Value Investing - Cement Sector"	CA Sunny Gosar Partner, Invexa Capital	75+ participants