M/s PRANJAL JOSHI & CO

CHARTERED ACCOUNTANTS

Audit Consulting Tax IFRS Valuation

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Quarterly Newsletter – January 2015

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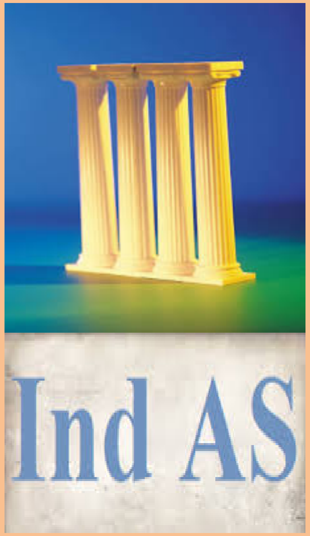
Ind-AS adoption – Date is not too far

Hon Finance Minister Arun Jaithley has made announcement in the last Budget that the Ind-AS (Indianised version of IFRS) shall get implemented voluntarily from April 2015 and compulsorily from April 2016. Since the applicability date is not too far, there is an urgent need to understand the fundamentals of Ind-AS. This article tries to provide some basis inputs as regards difference in conceptual understanding that is required for Ind-AS adoption.



Typically saying, all Ind-AS deal with 4 major pillars of accounting (rather financial reporting) viz.

- Recognition - when to include an element in the financial statements
- Measurement - at what amount an element is to be included in the financial statements
- Presentation - how and where the element is to be presented, and
- Disclosure of such element and accounting policy thereof

Once this understanding is developed, each accounting standard need to be studied to cover 4 aspects mentioned above. For each of the above aspects, there is a change in Ind-AS as compared to existing I-GAAP. Adequate training and change in mindset is must for successful application of Ind-AS.

Effective 01.04.2015

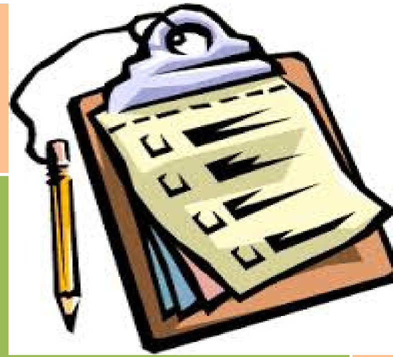
Take a case of measurement basis itself. While currently under I-GAAP "Historical cost" is a sole measurement basis (barring few exceptions), under Ind-AS we have – Fair Value, Present Value and Current cost, which shall be required to considered on frequent basis.

While fair value (or revaluation model), was more or less used at times, Present Value perhaps will be used for the first time. This also poses problem as to determination of appropriate discount rate in each case.

Component accounting of Tangible NCA, Computation of interest income on effective interest rate method, measurement of provisions with large time period at Present Value, Consolidation of accounts using fair Value, preparing new statement called "statement of changes in equity", 'cash value equivalent' concept in revenue recognition, financial instruments and their accounting are few examples where change in present I-GAAP differs vastly as compared to Ind-AS. And therefore, selection of accounting policies at the time of adoption is also crucial decision.

Ind-AS 101 First Time adoption of Ind-AS gives option of either presenting comparative financial figures as per I-GAAP or as per Ind-AS on memorandum basis. This option is not available under IFRS. But considering the need and to reduce the adoption cost, this has been made available in India.

Brief Overview of First time adoption of Ind-AS



Ind-AS 101 – First Time adoption of Ind-AS

Decisions to be taken for preparation of Ind-AS compliant financial statements –

- Determine the Date of Transition.
- Choosing Accounting Policies that shall be applicable with Ind-AS in force at the end of reporting period.
- Deciding whether to prepare Memorandum statement for comparative year or continuing with I-GAAP for previous year.
- Choosing amongst the exceptions available for first time adoption (carve outs)

Date of Transition –

This is the most important difference between IFRS 1 and Ind-AS 1. IFRS 1 defines transitional date as beginning of the earliest period for which an entity presents full comparative information under IFRS. As against this, Ind-AS 101 provides that the date of transition is the beginning of the current period and in addition provides an option to present comparative financial statements in accordance with Ind-AS on a memorandum basis.

If the Ind-AS compliant statements to be issued as on 31.03.15, then DATE OF TRANSITION IS <u>01.04.14</u>

Opening Balance sheet – Activities to be done

An entity shall, in its opening Ind-AS Balance Sheet:

1. Recognise all assets and liabilities whose recognition is required by Ind-ASs; e.g. – Employment benefits – Plan Assets and Liabilities
2. Derecognise items as assets or liabilities if Ind-ASs do not permit such recognition; e.g. - Deferred revenue expenses, Intangible assets which do not met recognition criteria under Ind-AS
3. Reclassify items that it recognised in accordance with previous GAAP as one type of asset, liability or component of equity, but are a different type of asset, liability or component of equity in accordance with Ind-ASs; and e.g. – Show separately assets held for sale from PPE and from Investment Property
4. Apply Ind-ASs in measuring all recognised assets and liabilities. E.g. – Initial provision for restoration of site for PPE

An entity shall recognise effects of above adjustments directly in retained earnings (or, if appropriate, another category of equity) at the date of transition to Ind-ASs.

Reconciliation statement -

To explain how the transition from I-GAAP to Ind-AS has taken place, an entity shall disclose –

- Reconciliation of its equity reported in accordance with Ind-ASs to its equity in accordance with previous GAAP on the date of transition (or Deemed Date where Memorandum comparatives are presented) to Ind-ASs.
- Significant differences between previous GAAP and Ind-AS in respect of its total comprehensive income.

Taxation of Expatriate Employee *

The term ‘Expatriate’ is derived from Latin (ex-patria) which means “out of the country”. The Income-tax Act, 1961 does not define the term ‘Expatriate’. For the purpose of easy understanding, it can be said that an expatriate is a resident of a foreign country working in another country. Thus, in the Indian context expatriate means a resident of foreign country working in India (inbound) or an Indian resident working abroad (outbound). Important issues in this regard are as follows -

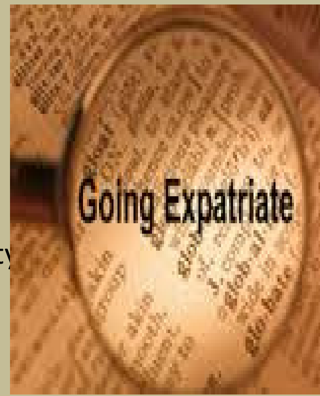
(a) Immigration: The expatriate should travel on correct visa type (business visa /employment visa- depending upon the purpose of visit) and should get himself/herself registered with Foreign Regional Registration Office (FRRO) in India within 14 days of arrival in India, if required under his/her visa type.

(b) Taxability of the employee: Salary received by employee for rendering services in India would be liable to tax in India Hence, any salary/ allowance/ benefit paid to an employee outside India which is related to assignment period in India will be subject to tax in India. A short stay exemption may be claimed for the business travelers subject to satisfaction of conditions provided in the applicable tax treaty.

(c) Social security: A foreign passport holder, working for a ‘covered establishment’ in India and coming from a country with which India has not entered into a Social Security Agreement, is mandatorily required to contribute under Provident Fund Regulation.

(d) Payment of salary outside India: to receive their entire salary in a bank outside India provided the income tax as per the domestic tax laws of India has been duly paid on the entire salary as accrued in India.

(e) The reimbursement of secondment costs by Indian entity to a foreign entity is not covered under the negative list.



Hence, the secondment arrangement and relationship between the foreign entity, Indian entity and the expatriate needs to be evaluated to ascertain any service tax obligation.

(f) Tax residency certificate - In order to claim relief under DTAA, Income Tax Act provide a condition for submission of tax residency certificate to be obtained from the Revenue Authorities of the host country.

(g) salary payments made to non resident expatriates are required to be reported electronically in Form 15CA and Form 15CB in case they are chargeable to tax in India.

(h) The expatriates who have already rendered five years of services reserve the right to claim gratuity from the Indian employer at the time of termination.

(i) Tax clearance certificates - For foreign nationals a foreign national who has come to India in connection with business, profession or employment and has derived income from any source in India has to furnish an undertaking in the prescribed Form 30A to the tax authorities. The tax authorities upon receipt of the undertaking and verification of the documents filed shall issue a no objection certificate in Form No. 30B to the expatriate. In case of a person domiciled in India, leaving India the relevant information needs to be furnished to the tax authorities in Form No. 30C which is a selfdeclaration by the outbound expatriate that includes his/her details such as PAN, passport details, purpose of visit outside India and estimated period of stay outside India, etc.

Depending upon the entry strategy adopted by the foreign employer and work requirements, an inbound expatriate can work in India under any of the below structures. Inbound expatriate employee and various situations –

Mode / structure	Period	Employee taxation	Other points
Business visit	short business visits of 20-30 days spread over the financial year	Generally not taxable. Employee may be eligible to claim short stay exemption	If the transaction is between related parties, need to evaluate PE risk for foreign entity
Short term assignment 	6-8 months He/ she would be working in India but as an employee of the foreign entity & would continue to be on its payroll. Indian entity would compensate the foreign counterpart for the services rendered by the expatriate.	Employee would be taxable on the salary income earned for services rendered in India.	There could be PE exposure for the foreign entity. Foreign entity would have to comply with the withholding tax obligation in relation to salary paid to its employees for services rendered in India.
Medium-term & Long-term Assignments — Secondment	period of 2 – 3 years or more in the capacity of Employee of Indian entity, remuneration would be solely borne by the Indian entity	Employee would be taxable on the salary income earned for services rendered in India	The foreign entity may not have any Permanent Establishment exposure in India subject to appropriate documentary evidence
Permanent Relocation	Employee will resign from home country entity and join the Indian entity as a local hire.	Employee would be taxable on the salary income earned for services rendered in India	There is no permanent establishment exposure for home country entity

* Based on ICAI Technical Guide

In INDIA

GST stands for “Goods and Services Tax”, and is proposed to be a comprehensive indirect tax levy on manufacture, sale and consumption of goods as well as services at the national level. Its main objective is to consolidates all indirect tax levies into a single tax, except customs (excluding SAD) replacing multiple tax levies, overcoming the limitations of existing indirect tax structure, and creating efficiencies in tax administration.

The main features of GST are as under:-

(a) GST is based on the principle of value added tax and either “input tax method” or “subtraction” method, with emphasis on voluntary compliance and accounts based system.
(b) It is a comprehensive levy and collection on both goods and services at the same rate with benefit of input tax credit or subtraction of value of penultimate transaction value.
(c) Minimum number of floor rates of tax, generally, not exceeding two rates.
(d) No scope for levy of cess, re-sale tax, additional tax, special tax, turnover tax etc.
(e) No scope for multiple levy of tax on goods and services, such as, sales tax, entry tax, octroi, entertainment tax, luxury tax, etc.
(f) Zero rating of exports and inter State sales of goods and supply of services.
(g) Taxing of capital goods and inputs whether goods or services relatable to manufacture at lower rate, so as to reduce inventory carrying cost and cost of production.
(h) A common law and procedures throughout the country under a single administration.
(i) GST is a destination based tax and levied at single point at the time of consumption of goods or services by the ultimate consumer.

The Cabinet on 17.12.2014 has cleared the GST Constitutional Amendment Bill. Govt is proposing the said bill to be tabled in the current session of Parliament, so that GST can be implemented w.e.f. April 2016. Let us have a look at the basic aspects of proposed GST regime and its features.

In India, the GST model will be “dual GST” having both Central and State GST component levied on the same base. All goods and services barring a few exceptions will be brought into the GST base. Importantly, there will be no distinction between goods and services for the purpose of the tax with common legislations applicable to both.
It may have four components, namely -
(a) a Central tax on goods extending up to the retail level;
(b) a Central service tax;
(c) a State-VAT on goods; and
(d) a State-VAT on services.
The proposed GST will have two components – Central GST and State GST – the rates of which will be prescribed separately keeping in view the revenue considerations, total tax burden and the acceptability of the tax. As per the proposed GST regime, the input of Central GST can be utilized only for payment of CGST & the input of State GST can be utilized only for payment of SGST. The GST rates in India are expected to be 12% to 20% for the 1st year, 12% to 18% for the 2nd year and 16% for the 3rd Year and onwards.

Based on ICAI note

Basic information on selected Labour Laws

ESI – applicable to areawise factories using power and employing 10 or more employees and non-power establishments employing 20 or more employees up to salary of Rs. 15,000 p.m. (persons with disability drawing wages up to Rs. 25000/- p.m.) Shops, Hotels, Restaurants, roads motor transport undertakings etc are also included. Even persons engaged through contractor are also included. Wages include basic pay, DA, HRA, CCA etc but not overtime wages and leave encashment. Contribution is to be paid on or before 21st of the following month. 17 digit Code No. is allotted on registration. Employee contribution rate 1.75% and employer 4.75%

Gratuity Act – applicable to every factory (as defined in Factories Act), mine, oilfield, plantation, port and Railway Company, shop or establishment employing 10 or more person. Covers employee who has rendered minimum five years‘ of continuous service. (except in case of death or disablement). Gratuity is payable on the basis of all emoluments earned by the employee, i.e. basic wages plus Dearness Allowances / Special Allowances computed @15days a wages (7days for seasonal establishments) based on rate of wages last drawn by the employee concerned for every completed year of service or a part thereof exceeding 6 month, maximum Gratuity being Rs. 10 Lacs. The Employer should pay the gratuity within 30 days from the date it becomes payable or after such date along with simple interest @10% p.a.

Payment of Bonus Act – applicable where 10 or more persons employed in any establishment or Factory for employee who is drawing a salary / wages up to Rs.10, 000/- p.m. and has worked for a min 30 days in a particular year. Bonus is payable to the employee between 8.33% & 20% as per availability of allocable surplus. Bonus must be paid within a period of 8 months from the close of accounting year.

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A tirtha, a sacred place of pilgrimage, is a unique invention, very deep and symbolic, made by an ancient civilization. But our present civilization has lost all knowledge about the significance of such places. Today visiting a place of pilgrimage is just a dead ritual for us. The word tirtha means a sort of jumping board from where one can take a dive into the infinite ocean of “knowledge”. Ti stands for (Universal Consciousness) while Tha means (To be still, To be present). At such sacred place, consciousness of “I” merges in “we” creating bigger contact field crating a better possibility of divine descending. One can have the experience of “merging with the master” breaking our all structured patterns of life.

Jan 2015 to March 2015

Vat –

•21st January, 21st February, 21st March – Payment by monthly filers

•15th January – Submission of vat audit report

27th January – Physical submission of 704 acknowledgement

Profession Tax –

•31st January, 28th February – Filing of Monthly returns

•31st March – Monthly / Annual PTRC return

Income Tax –

•7th January, 7th February, 7th March – Payment of Monthly TDS

•15th January – filing of TDS return for third quarter

•15th March – Payment of Advance Income Tax

•31st March – Due date for Filing of Late Income Tax returns for AY 2013-14 & AY 2014-15 (without penalty)

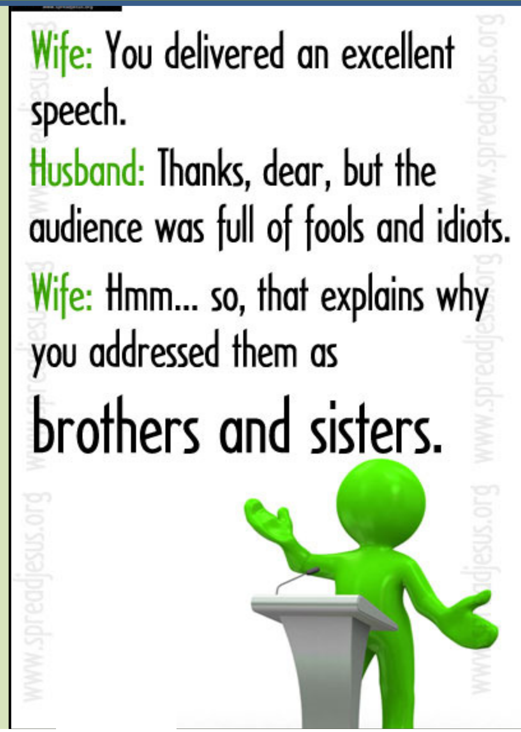
Service Tax –

•5th January – Monthly / Quarterly Payment of Service Tax

•5th February, 5th March – Monthly payment of Service Tax (other than Proprietary concerns and Partnership firms)

•31st March – Monthly / Quarterly Payment of Service Tax

Smile Please !



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Resolutions & Agreements to be filed with RoC:

As per Companies Act, 2013, it has become mandatory for every company to file following resolutions and agreements with Registrar of Companies.

Particulars
special resolutions
resolutions which have been agreed to by all the members of a company, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed as special resolutions
any resolution of the Board of Directors of a company or agreement executed by a company, relating to the appointment, re-appointment or renewal of the appointment, or variation of the terms of appointment of a Managing Director
resolutions or agreements which have been agreed to by any class of members but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by a specified majority or otherwise in some particular manner; and all resolutions or agreements which effectively bind such class of members though not agreed to by all those members
resolutions u/s 180 (a) to sell, lease or otherwise dispose of the whole or substantially the whole of the undertaking of the company and (c) to borrow money, where the money to be borrowed, together with the money already borrowed by the company will exceed aggregate of its paid-up share capital and free reserves
resolutions requiring a company to be wound up voluntarily passed in pursuance of section 304
resolutions passed in pursuance of sub-section (3) of section 179
any other resolution or agreement as may be prescribed and placed in the public domain

Particulars
to make calls on shareholders in respect of money unpaid on their shares
to authorise buy-back of securities under section 68
to issue securities, including debentures, whether in or outside India
to borrow monies
to invest the funds of the company
to grant loans or give guarantee or provide security in respect of loans
to approve financial statement and the Board's report
to diversify the business of the company
to approve amalgamation, merger or reconstruction
to take over a company or acquire a controlling or substantial stake in another company
to make political contributions
to appoint or remove key managerial personnel (KMP);
to take note of appointment(s) or removal(s) of one level below the (KMP) Key Management Personnel
to appoint internal auditors and secretarial auditor
to take note of the disclosure of director's interest and shareholding (this noting is to be taken in first board meeting of every financial year)
to buy, sell investments held by the company (other than trade investments), constituting five percent or more of the paid up share capital and free reserves of the investee company
to invite or accept or renew public deposits and related matters;
to review or change the terms and conditions of public deposit;
to approve quarterly, half yearly and annual financial statements or financial results as the case may be

Summary of Important Provisions of Bombay Public Trust Act

Provisions relating to maintenance of records by the Trusts

Sec & Rule	Particulars	Important points / Details –
Sec 32 Rule 17	Maintenance of accounts	The trust is expected to keep regular accounts of - • All receipts and movable and immovable property • All encumbrances created on trust property • All payments made and alienations made on behalf of public trust • All other particulars that will facilitate preparation of Balance Sheet & Income and Expenditure in prescribed form (i.e. Sch. VIII and IX) and income liable to contribution in Sch, IX-C
Sec 36B Rule 24A	Register of movable and immovable properties	1) Format of register is prescribed by Sch. X-AA 2) Details of all movable assets with their description, weight and estimated value to be maintained. 3) The register shall show the jewels, gold, silver, precious stones, vessels and utensils etc. 4) To be prepared within 3 months from expiry of relevant accounting year. 5) Trustees to sign the register after verification. 6) Changes to be reported to Deputy or Asst Charity Commissioner every year.

Routine procedures / compliances prescribed under BPT Act

Applicable Section & Rule	Particulars	Time period	Form No. / other remarks
Sec 22 Rule 13	Reporting of change in the particulars noted in the register under sec 17	90 days from the date of change	In case of change in Immovable Property, changes to be informed in the format as per Schedule III-A, while in case of any other change it is in Format as per Schedule III “Change” refers to change in the trustees, movable or immovable property etc. Election of new trustees after AGM / death or resignation of trustee is also covered.
Sec 31A Rule 16A	Filing of Budget	To be filed at least one month before the commencement of each accounting year	Schedule VII-A Applicable for trusts having annual income exceeding Rs. 10,000 (Rs. 5,000 for public religious trusts)
Sec 33	Balancing of accounts	31st March every year or such other date as may be fixed by Charity Comm.	
Sec 34 & 58 Rule 19 & 32	Preparation of Balance Sheet and Income & Exp Account	6 months from the date of balancing of accounts.	Balance Sheet to be prepared in format as per Sch.VIII, while Income & Exp A/c as per Sch. IX, Lastly, Income liable to contribution – Sch. IX-C
Sec 34 Rule 19 & 21	Audit of accounts and Submission of Audit report	6 months from the date of balancing of accounts. Audit report to be submitted within fortnight of the audit.	Contents of Audit Report as per Rule 19 Trusts having annual income of Rs. 15,000 or less is exempt from audit

Important Matters requiring permission of Charity Commissioner

Sec / Rule	Particulars	Important points / Details –
Section 36 Rule 24	Alienation of immovable property	Prior Permission is required for – 1) Sale, exchange or gift of immovable property 2) Lease for a period of 3 years or more (10 years for agricultural land)
Section 36A	Borrowing of money for or on behalf of trust	Prior permission of charity commissioner for borrowing (whether on mortgage or otherwise) is necessary

Taxation of Individuals – Tips before year ending

Investments

Please ensure that wherever possible 80C investments viz. PPF, LIC, NSC, 5 year FD with Scheduled Bank etc. have been made before 31st March to avail full benefit of Rs. 1,00,000/-

Health Insurance & Donations

Please keep record of Health Insurance premium paid for self, spouse, children (for benefit upto Rs. 15,000/-), and for Sr citizen parents (for benefit of additional Rs. 20,000). Also keep on record Donations receipts and ask for PAN of the trust and 80G certificate to claim the benefit.

Tax credit verification

You can verify your Tax credit (TDS deducted by your employer) from your net banking and reviewing form 26AS.

Please bring the discrepancy, if any to the notice of your employer otherwise tax will be required to be paid by you again.

Submission of proofs to the employer

Please submit all the investment proofs to the employer so as to avoid excess TDS from your salary.
However, if you fail to submit it, please remember to claim this while filing the Income Tax return.

House Property purchased through loan and possession received late

If you have purchased property in FY 2013-14 but the possession was received in FY 2014-15 then the interest paid for FY 2013-14 can be claimed as interest deduction in FY 2014-15 along with the interest actually charged in FY 2014-15. You need to maintain copies of interest certificate for this for 5 years (from the date of possession), as interest paid in FY 2013-14 shall be allowed 20% for 5 years from FY 2014-15 (year of possession)

Pay tax to avoid interest

Although your employer will deduct tax on your salary income, If you have any income viz. Interest on FD, RD, Post office investments, gain on sale of shares , renting of additional property, then it is advisable to calculate and pay tax before 15th March, 2015 so that, you will not be required to pay interest on the tax amount at the time of filing the Income Tax return.

Change in employment during the year

If you have changed the employment during the year please make sure that your present employer has considered your past income for the year. If not, please update the employer for this.
Failing this, both employers will allow exemption limit and other deductions and at the time of filing income tax return you will be required to pay heavy tax plus interest thereon.

Wish you all very Happy, Prosperous and Healthy New Year.

M/s Pranjal Joshi & Co
Chartered Accountants
www.capranjaljoshi.com