



The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)



AMRITSAR BRANCH OF NIRC NEWSLETTER DECEMBER 2020



KNOWLEDGE KEYSTONE OF THE MODERN ECONOMY



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ADDRESS:-

1. ICAI Bhawan Bhai Gurdas Ji Nagar (New Amritsar)
2. Room No. 401-402, Aaykar Bhawan,
Central Revenue Building, The Mall, Amritsar.
E-mail : amritsar@icai.org, amritsar.icai@gmail.com
Website : nircamritsar.org
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ब्रह्मध्वज नमस्तेऽस्तु सर्वाभीष्टफलप्रद ।
प्राप्तेऽस्मिन् वत्सरे नित्यं मदगृहे मङ्गलं कुरु ॥

*We salute the Brahmadhvaja which provides all the desired fruits,
May this New Year be auspicious for all.*

जो सारे अभीष्ट फलों को प्रदान करता है, उस ब्रह्मध्वज को नमन है,
प्रार्थना है कि यह नव वर्ष मंगलमय हो।



From the Desk of the Chairman.

Dear Students

जय श्री राम

Wish you all a very Happy and Prosperous New Year

I hope that this communication finds you in best of your health & spirits. 2020 has been testing year for all of us, but we cannot let that stop us from living our best lives in 2021! Amidst our endeavor to free ourselves from the past, we ought to simultaneously remember to keep all our treasure – worthy lesser safe with us for lifetime. A new year also brings with it chance for us to recall our aims and goals and realign our targets with ever changing circumstances. As we approach 2021, there is hope and certain optimism, despite the ravages of the pandemic, we look forward for brighter, digitally enabled future. New Year is all about resolutions, though we don't follow them with utmost sincerity, we do take them with great probity. It is of course a good sign to start New Year with positive resolutions.

- Step outside your comfort zone- Challenging your limits
- Live your Dreams- Live life king size
- Believe in yourself and gain confidence- I am the best
- Learn from your mistakes and move forward- Forgive and Forget
- Remove negativity or anything that makes you lousy

Don't just set it and forget it! Make this year where you actually stick to New Year's resolutions.

Members we are committed to put our best possible efforts to ensure the betterment of profession. Your branch executive team working towards hosting knowledge sharing sessions, and standing with members and students wholeheartedly. We are always open to any ideas that will help us to improve our efforts to serve members and student at large. I am pleased to share that we are planning colorful celebrations of first ever “Kite Flying Competition” and Cricket Match for Members and Students soon.

Be at War with Your Vices, at Peace with Your Neighbours, and Let Every New Year Find You a Better Man

Stay Safe Stay Healthy

December, 2020

With Warm regards.
CA SANJAY ARORA
B.Com., F.C.A., D.I.S.A., (ICAI)
Chairman, 2020-21
Amritsar Branch of NIRC of ICAI

Chairman



From the Desk of the Secretary...

Dear Students,

Warm Greetings,

“Reach high, for stars lie hidden in you. Dream deep, for every dream precedes the goal.”

Rabindranath Tagore.

First of all, We with immense delight present our members another edition of Newsletter for the month of December 2020.

In the month of November, I hope all of us celebrated the auspicious occasion of Diwali and 551th birthday of Sri Guru Nanak Dev ji, the founder of Sikhism, brought down the arrogant walls of caste, creed and religion with love, compassion and humility. In his eyes, all were equal. Sarbat da bhala, (welfare of all) is one of the core principles of Sikhism that can lead us to a humane world.

During the month of December 2020, The members will busy in the Tax and other Audits and in filing GST Audit/Annual Returns as due dates of Audit filing etc are approaching.

During the month of November 2020, Amritsar branch office bearers also celebrated Diwali with Lakshmi Pooja in the branch. After Diwali, Branch organized two CPE Hour programs i.e Virtual CPE meetings as per demand of members one of which was conducted on 21st Nov. on the Topic of clause by clause discussion on Tax Audit by by eminent speaker CA Nitin Kanwar (NIRC Member). Secondly another important Virtual CPE meeting of Two hours was organized on Reply to various Notices and Summons under GST by eminent speaker CA Rajender Arora NIRC Member. We are going to organize some important CPE Virtual meetings by some reknowned experts and speakers of Income Tax and GST. Team Amritsar branch is continuously making untiring efforts to ensure the betterment of profession and for the benefits of members. Amritsar branch is standing wholeheartedly with members and students 24 by 7. Team Amritsar branch is continuously working for knowledge sharing sessions and also for students for smooth conduct of Exams in Amritsar Centres.

Dear Students,

***“There Are No Limits To What You Can Accomplish,
Except The Limits You Place On Your Own Thinking.”***

Exams will be over for students in the month of December. ICAI has made his best efforts to conduct exams successfully. Exam has been conducted by ICAI with very organized manner following the Covid guidelines of social distancing. Those who opt out in this attempt may get chance for exams in January 2021 without much wait. I hope all of the students have done well to crack this attempt of Exam. After Exams we will hopefully bring some students activities as per demand of students.

Keep yourself safe and stay healthy in the pandemic.

With Warm regards.

Sd/-

CA Shashi Pal

Editor in Chief

Secretary, ICAI Amritsar Branch

December, 2020

Secretary



CA SHARAT SEKHRI



OUR MENTORS

CA. Sharat Sekhri is a Fellow Member of ICAI and a practicing Chartered Accountant. He is a Commerce Graduate and Qualified Chartered Accountancy in the Year 1975. He has also done a Certificate Course in Information Systems Audits from ICAI.

He started his Professional Journey as Solo Practicing Chartered Accountant but as years went by he formed Partnership Firm in the name of M/s Sharat Sekhri & Co. He has diverse 46 years of post – qualification experience spreading across various sectors, Government departments and Industries including the field of Auditing, Taxation, Law, Banking and Finance.

He was a past Chairman at Amritsar branch and has shown his outstanding leadership qualities during his tenure as a chairperson. He has consistently maintained strong business ethics at work and has been an exemplary and visionary mentor for all his fellow members and articles.



CA VIJAY UMAT



OUR MENTORS

CA. Vijay Kumar Umat is a Fellow Member of ICAI (Institute of Chartered Accountants of India). He is a Commerce Graduate From D.A.V. College , Amritsar , He Qualified Chartered Accountancy in the Year 1984.

He has started his Professional Journey Solely as Practicing Chartered Accountant. He has over 36 years of experience in Range of Areas including Taxation consultancy, Law, Auditing, Banking and Finance. Today, he is the Senior Partner in V.K. Umat & co.

He is also well known for religious and Social Activities in Amritsar. He is associated with religious and Social Associations. He has been Financial Secretary of Lumsden Club Since 2000 till today. He is also President of Shree Shakti Dera Chartiable Society and Shree Ram Kanya Mahavidyalya Trust. He is also handling and taking part in the activities related to Municipal Corporation Amritsar as his wife Madam Poonam Umat is Councilor of Municipal Corporation Ward no. 9 of Amritsar.



ANALYSIS OF CSR PROVISIONS AS PER COMPANIES ACT



JINISH DEVANG BHOJANI
jinish_bhojani@yahoo.com



Analysis of CSR provisions (Extracts from Companies Act and rules made thereunder)

➤ Introduction

CSR is a corporate initiative to assess and take responsibility for the company's effects on the environment and its impact on social welfare.

It can be conceptualized as the corporations' obligation to take necessary actions to reduce the negative externalities and enhance the positive externalities associated with their business.

➤ Need for CSR provisions

The CSR provisions are based on the idea that a business has social obligation above and beyond making a profit.

➤ Definition of CSR

“Corporate Social Responsibility (CSR)” means and includes but is not limited to:



- Projects or programs relating to activities specified in Schedule VII or
- Projects or programs relating to activities undertaken by the board of directors of a company in pursuance of recommendations of the CSR Committee as per declared CSR Policy of the company subject to the condition that such policy will include activities specified in Schedule VII.

✓ Key takeaway:

An activity shall be qualified as CSR only if it is a specified activity as prescribed in Schedule VII.

➤ Applicability of CSR provisions

Every company including its holding or subsidiary, and a foreign company defined under section 2(42) of the Act having its branch office or project office in India, which is having.

- net worth of ₹ 500 crore or more, or
- turnover of ₹ 1000 crore or more or
- net profit of ₹ 5 crore or more

during the immediately preceding financial year shall be required to comply with the provisions of CSR.

✓ Key takeaway:

The implication of above provision is that even the companies set up specially for the purposes of carrying out CSR activities are also required to comply the provisions of CSR if they fulfil any of the above three criteria.

✓ Example :

XYZ Ltd. is a manufacturer of steel. The details of financial years are as follows:

Particulars	₹ in crores	
	31 st March, 2019	CSR Criteria met?
Net worth	300	No
Turnover	1000	Yes
Net profit (Section 198)	4	No



Pursuant to the recommendations of the Committee constituted by CBDT to evaluate the alternatives suggested in the BEPS Action Report 1 for addressing the challenges arising on taxing the digital economy, Chapter VIII of the Finance Act, 2016, titled "Equalisation Levy" was introduced.

Since the Turnover criteria is met, XYZ Ltd. is liable to comply with CSR provisions and constitute a CSR committee.

➤ Exclusion of Companies from CSR provisions

Every company which ceases to be a company covered [section 135\(1\)](#) of the Act for **3 consecutive financial years** shall not be required to -

- (a) constitute a CSR Committee; and
- (b) comply with the provisions contained in sub-section (2) to (5) of section 135, till such time it meets the criteria specified in section 135(1).

✓ Key takeaway:

CSR provisions are not applicable for a lifetime. Unlike in case of Ind AS, the companies can elope from compliance of CSR provisions if they do not meet the criteria specified in Section 135 for 3 consecutive financial years.

✓ CSR Expenditure

The company shall spend, in every financial year, at least 2% of the average net profits (computed in accordance with section 198) made during the 3 immediately preceding financial years or where the company has not completed the period of 3 financial years since its incorporation, during such immediately preceding financial years, in pursuance of its CSR Policy.

✓ Key takeaway:

- a. The company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for CSR activities.

b. If the company fails to spend such amount, the Board shall, in its report, specify the reasons for not spending the amount and, unless the unspent amount relates to any ongoing project, transfer such unspent amount to a Fund specified in Schedule VII, within 6 months of the expiry of the financial year.

c. If the company spends in excess of 2% of average net profit, such company may set off such excess amount against the requirement to spend for succeeding financial years.

d. Computation of net profit for section 135 is as per section 198 of the Companies Act, 2013 which primarily is net profit before tax.



➤ Relaxation from constitution of CSR committee

Where the amount to be spent by a company does not exceed ₹ 50 lakh, the requirement for constitution of the CSR Committee shall not be applicable and the functions of Committee provided shall be discharged by the Board of Directors of the company.

✓ Key takeaway:

The above relaxation allows companies with average net profits less than ₹ 25 crores from mandatory constitution of CSR Committee.

➤ Exceptions to CSR Activities

The following activities shall not be considered as CSR activities:



- a. CSR projects or programs or activities undertaken outside India.
- b. CSR projects or programs or activities that benefit only the employees of the company and their families.
- c. Companies may build CSR capacities of their own personnel as well as those of their implementing agencies through institutions with established track records of at least 3 financial years but such expenditure including expenditure on administrative overheads shall not exceed 5% of total CSR expenditure of the company in 1 financial year.
- d. Contribution of any amount directly or indirectly to any political party under Section 182 of the Act.

➤ **Penalty for contravention for the company**



If a company is in default in complying with the CSR provisions, the company shall be liable to a penalty of twice the amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent CSR Account, or 1 crore rupees, whichever is less.

✓ ***Key takeaway:***

The MCA has laid down stringent penalties for contravention of CSR provisions which may cost company a fortune.

Recent amendments, clarifications and controversies revolving around the CSR provisions

➤ **Spending of CSR funds for COVID-19**

The MCA has issued FAQs along with clarifications for better understanding of the stakeholders as below:

Sr. No.	FAQs	Reply
1	Whether contribution made to ' PM CARES Fund ' shall qualify as CSR expenditure?	Such contribution shall qualify as CSR expenditure under item no (viii) of Schedule VII.
2	Whether contribution made to ' CM's Relief Funds ' or ' State Relief Fund for COVID-19 ' shall qualify as CSR expenditure?	'CM's Relief Fund' or 'State Relief Fund for COVID-19' is not included in Schedule VII and therefore any contribution to such funds shall not qualify as admissible CSR expenditure.
3	Whether contribution made to State Disaster Management Authority to combat COVID-19 shall qualify as CSR expenditure?	Such contribution shall qualify as CSR expenditure under item no (xii) of Schedule VII.



4	Whether spending of CSR funds for COVID-19 related activities shall qualify as CSR expenditure?	Such spending shall qualify as CSR expenditure under items nos. (i) and (xii) of Schedule VII relating to promotion of health care.
5	Whether payment of salary/wages to employees and workers, including contract labour, during the lockdown period can be adjusted against the CSR expenditure of the companies?	Payment of salary/wages in normal circumstances is a statutory obligation of the company. Similarly, such payment during the lockdown period is a moral obligation of the employers . Thus, payment of salary/wages to employees and workers during the lockdown period shall not qualify as admissible CSR expenditure.

➤ **Recent additions in Schedule VII of Companies Act, 2013**

Activities which may be included by companies in their Corporate Social Responsibility Policies activities relating to:

- a. Measures for the benefit of armed forces veterans, war widows and their dependents, Central Armed Police Forces (CAPF) and Central Para Military Forces (CPMF) veterans, and their dependents including widows.
- b. Contribution to the **PM's national relief fund, PM CARES Fund** or any other fund set up by the central govt. for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities, and women.
- c. Contribution to incubators or **research and development projects** in the field of science, technology, engineering, and medicine, funded by the Central Government or State Government or Public Sector Undertaking or any agency of the Central Government or State Government; and

d.*Contributions to public funded Universities; **IITs; National Laboratories and autonomous bodies** established under Department of Atomic Energy (DAE); Department of Biotechnology (DBT); Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (**AYUSH**); Indian Council of Medical Research (**ICMR**). (*Extract; only containing noteworthy additions)

e. Rural development projects

➤ **Clarification on goods/services distributed free of charge as spend for CSR**

A company manufacturing/dealing in goods or services distributing those goods/services itself free of charge as CSR spend, which may not be covered in CSR spend in view of Rule 4(1) of the Companies (CSR) Rules, 2014.

However, in Mohd. Ahmed vs. UOI & Ors, MCA gave an affidavit that a pharmaceutical donating medicines /drugs is a CSR activity as it is relatable to health care or any other entry in Schedule VII.

➤ **Clarification as to project/programmes**



The CSR activities should be undertaken by the companies in project/programme mode.

One off event such as marathon/awards/charitable contribution/advertisement/sponsorships of TV programmes etc would not be qualified as part of CSR expenditure.

Cases of CSR initiatives in India

1. Reliance Industries Ltd.-

Reliance Industries Ltd. launched a countrywide initiative known as “Project Drishti”, to restore the eye-sights of visually challenged Indians from the economically weaker sections of the society.

2. Infosys Technology Limited-

Infosys promoted, in 1996, the Infosys Foundation as a not-for-profit trust to which it contributes up to 1% PAT every year. Additionally, the Education and Research Department (E&R) at Infosys also works with employee volunteers on community development projects.

3. ITC Limited-

ITC partnered the farmers for close to a century. It is now engaged in elevating this partnership to a new paradigm by leveraging information technology through its trailblazing “e-Choupal” initiative.

ITC is significantly widening its farmer partnerships to embrace value-adding activities viz. creating livelihoods by helping poor tribes, empowering rural women by helping them evolve into entrepreneurs, and providing infrastructural support to children.



Concluding remarks

The ambit of the CSR provisions has been widened by the Ministry of Corporate Affairs from time to time to strengthen the provisions and to overcome the loopholes thereof.

The provisions of CSR must be interpreted in a harmonised manner to capture the essence of the sections enumerated thereof.





Is new Tax regime is essential



PUSHP KUMAR SAHU
pushpkumarsahu44@gmail.com

There is great need and necessity of introducing new tax law in India i.e. there is need to replace income tax act, 1961 with new tax law (Direct tax code)

As the present law i.e. income tax act, 1961 is very much vague, moreover it is one of the world's most complex law which has undergone many changes i.e. amendments since it's commencement.

Moreover, due to it' s vagueness and complexity it is difficult to interpretate properly. Many of the provisions have a overriding effect and contradiction on each other , due to which there are chances of tax avoidance and evasion. Many of the situations are there where tax avoidance and evasion can occur like there is no provision in entire income tax act to tackle CFC's but there is a provision in direct tax code which is a proposed tax bill in near future in India. To combat such avoidance of tax there is a need to amend existing tax law or to introduce new law containing such stringent provisions.

Due to passage of time and significance change in world economy, it is very much needed to change our tax law to combat with the world and to increase tax revenue in India by plugging loopholes in existing tax structure.

Also, there should be strict GAAR provisions in the law so that cases of tax avoidance can be reduced which will lead in increasing India's tax base.

Present Government I.e. Modi government is currently working on proposed Direct tax code bill and this will surly help India and its person to develop, progress and will provide ease of compliance which is little bit difficult in present tax law.

The new tax law will surly prove boon to the Indian economy and business sector.



APPEALS AND REVISIONS UNDER INCOME TAX ACT, 1961



PUSHP KUMAR SAHU
pushpkumarsahu44@gmail.com

The Constitution of India guarantees the citizens of the country certain fundamental rights. Therefore, under any system of rule of law, the right to appeal for redressal of one's grievances is generally in built.

Under the Income Tax Act, 1961 following two alternatives are available to the assessee if he is not satisfied with the order passed by the Assessing Officer;

1) **APPEAL** : First appeal against the order of the Assessing Officer shall, except in certain cases (Refusing to grant registration u/s 12AA and approval u/s 80G), lie with the commissioner (Appeals) u/s 246A.

2) **REVISION** : Alternatively, if the appeal is not preferred, or if could not be filed within the time limit allowed, the assessee can apply u/s 264 to the Commissioner of Income Tax for revision of the order of the Assessing Officer. This is known as revision in favour of the assessee. The Commissioner of Income Tax can also take up suo moto the case for revision u/s 264. In some cases, the Commissioner of Income Tax can also take up the case for revision u/s 263. This is known as revision of the order of the Assessing Officer which is erroneous and prejudicial to the interest of revenue.

The assessee is given a right of appeal by the Income tax Act where he feels aggrieved by the order of the assessing authority. However, the assessee has no inherent right of appeal unless the statute specifically provides that a particular order is appealable. There are four stages of appeal under the Income-tax Act, 1961 as shown hereunder –

Assessment Order
(passed u/s 143(3), 144, 153A, 147 etc)

First Appeal Commissioner
(Filed u/s 246A electronically in form 35 within 30 days of order passed)

Second Appeal Appellate Tribunal
(Filed u/s 253 in form 36 within 60 days of order passed by CIT (appeals)

Third Appeal High Court u/s 260A

Final Appeal Supreme Court u/s 261
REVISIONS
u/s 263 and 264

Section 263: The Principal Commissioner or Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by the Assessing officer is erroneous in so far as it is prejudicial to the interests of the revenue, he may after giving an opportunity of being heard pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment .

However, Assessee has an option to file an appeal in INCOME TAX APPELLATE TRIBUNAL against the revision order passed by CIT u/s 263.



Section 264: The Principal Commissioner or Commissioner may, either of his own motion or on an application by the assessee for revision, call for the record of any proceeding under this act in which any such order has been passed and may make such inquiry or cause such inquiry to be made and subject to the provisions of this act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

However, In this case income tax act does not provide any remedy for filling appeal to higher income tax authority . But , assessee has an option, he can take the benefit of Constitution of India. Article 226 provides every citizen of india remedy to file WRIT petition in High Court against the order passed by income tax department.



Need for minimum qualification for entering politics



MAMTA ARORA
mamtaarora421@gmail.com

Our country is facing a drastic downfall in GDP. I fear democracy might turn into dictatorship. The blame is obviously on COVID-19 pandemic. Do you think that pandemic has played a solo role in bringing down the economy? The answer is simply 'no' because the economy was down before the advent of pandemic too. Yesterday Muslims were protesting due to Citizenship Amendment Act and today farmers have gathered on the roads due to farm bills. Any change in the laws is simply not welcomed in a democratic and secular country where citizens do not even feel safe about their human rights. Our country ranks very low in women safety also and worst of all income disparity is increasing. Did I forget to mention corruption? So seeing all this, a thought strikes my mind and that is, there needs to be a minimum qualification requirement for entering politics also.

From the last 73 years of independence, we are still not independent because our country is being run by corrupt leaders. There are many instances to support my claim about corruption in our country. One of them is the so called help sent by higher authorities to those underprivileged during lockdown, 2020. The help could not reach its rightful recipient because of the corruption at the part of regional MLAs and MPs. Remember corruption always starts from the lower level. Guess what is the result of all this? The result is the rapidly increasing gap between the rich and poor. I just want to ask a question that if our respectable Prime Minister can demonetize overnight and can change the laws overnight, why not he could curb the corruption till now. Why can't he convince the farmers if he is actually doing good for them?

A true leader is the one who thinks for the benefit of all of his followers. I am not blaming anyone because no matter whom we chose as the runner of our country, the interests of one or more of the sections of the society are jeopardized. If our country is secular, then why do our leaders just prefer a particular section? The biggest example of this is reservation system in our country. Basically, reservation system was introduced in India in order to protect the interests of those who were suffering at the hands of so called upper class of the society but now it seems as if we will need some law to safeguard the interests of the general category. One of the main reasons as to why I chose CA as my career is that there is no reservation in the ICAI. Every institute must scrap reservation system. To implement this, we need proper execution of laws which can only be possible if we have a properly educated leader running our country. Why do not we simply remove the so called caste system from our society? Why to prefer a particular section of the society? Why do not we prefer talent and diligence over birth? Why we reserve some seats for a particular section? Why do not we preach equality? Why make a distinction on the basis of caste and creed. All these problems can be solved through education. Only an educated leader can create and lead an educated society.

So it seems that there are many problems in our country and obviously they are a hurdle in the development of our nation. Despite seeing all these problems in our country, what we so called educated ones do, we just comment something on the social media or post something on our handle which in most cases is not properly true or at the most, we



just tweet and think that our role has finished. Ignorance on the part of a larger section of the nation is creating big problems and this ignorance can be cured through education but education must not only be restricted to books or literature or skills. Schools must teach students to have an interest in politics of the country so that the tag of being 'dirty' can be removed from it. I have never seen a child aspiring to be the Prime Minister of the country. Everyone dreams of being a pilot or a teacher or at the most an engineer but most of them end up choosing a leader who cannot even solve the problem of unemployment for them. Youngsters need to enter into politics with their new and revolutionary ideas.

Further there is question in my mind. There is a minimum qualification requirement for almost every job title, then why there is no such requirement for entering politics and for leading the country. An uneducated person is called an ignorant one. How can we expect an uneducated person to lead the country? An aspect, mostly ignored is 'retirement age'. Why there is no retirement age for the Members of Legislative Assemblies, Chief Ministers and even Prime Minister of the country. It is strange but true and the most ignored as well as the most peculiar aspect of our so called 'Incredible India'. We need a wise as well as educated leader to run our country so that we can transform India from a developing nation to a developed one.

So, what we can do for our country? We also need to start taking interest in politics of our country rather than just blaming the leader chosen by us. We must teach our children to take interest in knowing that how a country is run because they are the future of our country. Youngsters should enter into politics to bring newness into the country so

that we can have innovation also. If leaders do not want to scrap reservation, the seats must not be reserved for the women or the so called lower class (I don't believe anyone to be of a lower class just by virtue of their birth) rather they must be reserved for youngsters. At least forty percent of the seats in the legislative assembly must be reserved for people below the age of thirty so that innovation and newness of the young ones coupled with aged experience of the elderly ones can lead to a faster economic as well social growth of the nation. Remember, education has the power to cure every evil, provided it is imparted in a right way. To conclude, I would just say that there must be a minimum qualification requirement or some minimum experience requirements for entering politics so that we can have a leader who actually deserves the seat, who actually thinks of all the stakeholders and who actually runs the country in a right way because education can solve ninety percent of the problems of our country and remaining ten percent can be solved through experience.