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

AMRITSAR BRANCH OF NIRC
NEWSLETTER JANUARY 2021

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Chairman

"समोऽहं सर्वभूतेषु न मे द्वेष्योऽस्ति न प्रियः।
ये भजन्ति तु मां भक्त्या मयि ते तेषु चाप्यहम्।"
"All beings are the same to me; Neither hateful nor dear are they to me;
But those who worship me with love and devotion,
And they are ever with me, and in them I abide."

From the Desk of the Chairman...

Esteemed Professional Colleagues

जय श्री राम

I hope that this communication finds you in best health & spirits. This month we have entered into new decade 2021 - 2030. 2020 might be known as year of great transformation, now we are forced to do things differently and digitally, we can foresee the changing shape of future. India is on threshold of starting the largest vaccination program. A vaccination usually takes 5 to 25 years to develop. For COVID-19 we compressed it to 9 months. Country is proud of contribution of its scientists and technicians.

Amritsar Branch of NIRC of ICAI has always been front runner for the digital initiatives, more and more student led activities, knowledge sharing sessions for members. Despite of COVID-19 pandemic we achieve the following milestones:

✓Getting NOC from Amritsar Improvement Trust for title of Branch to be registered.
✓Revamped Website with added features and introducing first ever E-directory of members.
✓MOU with Khalsa College for extending the necessary support to deliver guest lectures to students of Khalsa College.
✓Recognition of exemplary work for welfare of the society during the COVID-19 pandemic from the CSR committee of the ICAI.
✓Theme-based E-Newsletter for members and students.
✓Career Councelling, MCS, Advanced ITT for students and knowledge sharing sessions for members with finest faculties.
✓Virtual meetings for members and students to virtual celebration (E-Celebration) of CA day, Virtual Games Competition, Social Distancing Bhangra by Members, Aalok-Festival of Lights were some digital initiatives.

Members, Since the last date for making declaration under Vivad se Vishwas Scheme has been extended to 31st January 2021 from 31st December 2020. I humbly request you to ask your clients to avail the golden opportunity to settle the income tax disputes through Vivad Se Vishwas Scheme 2020. Together we should contribute our share of taxes timely and play a vital role in building India of dreams. CA a two letter word is a matter of pride, dignity and accountability and we being an integral partner in nation building always stand shoulder to shoulder with the income tax department and let us make this scheme a success.

I along with my entire executive team express heartfelt gratitude for love, support and guidance you have been pouring on us.

"I don't believe in taking the right decisions, I take decisions and make them right"-Rattan Tata.

Have a wonderful decade Ahead…

Stay Safe Stay Healthy

January, 2021

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

From the Desk of the Secretary...

Respected Members,

Warm Greetings,

"All Power is within you ; you can do anything and everything." - Swami Vivekanand.

Happy New year and Happy Makar Sakranti to all of you. We with immense delight present our members another edition of Newsletter for the month of January 2021.

We have entered in the year 2021 with good hopes for the future leaving behind all the bad experiences of Pandemic faced during the year 2020. I hope all of us will start this year with positive vibes and will attain our desired goals in the upcoming future without much wait.

As we know all of us are still busy in our Tax and other audits even in this month because of Govt is very hard to give further relaxation in extension of due dates after short extension of 15 days.

During the month of December 2020, Amritsar branch organized two CPE Hour programs i.e Virtual CPE meetings as per demand of members one of which was conducted on 2nd December on the Topic of GST ITC intricacies by eminent speaker CA Bimal Jain and Guest of Honour of the event was IRS Asstt Commissioner CGST Sh Dilmil Singh Soach. Secondly another important Virtual CPE meeting of Two hours was organized on Penal Discussion of Vivad se Vishwas Scheme 2020. Guest eminent speakers of the event were Past President CA Ved Jain, Central council member and Vice Chairman Direct Taxes Committee of ICAI CA Parmod Jain and CA Rohit Kapoor. We are going to organize some important CPE Virtual meetings by some reknowned experts and speakers of Income Tax and GST in upcoming period. Further more a New year party was also organized by Amritsar branch at the end of December and we hope that members enjoyed in this event and relieved from work loads. 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.

Dear Students,

Students your November 2020 exams are over and some students will be under preparation for Jan 2021 Exams. It was very good untiring efforts of the ICAI behind the organization of this exam which was finished peacefully and successfully. Students, Best of luck for your upcoming results. In the end of December NICASA team organized a LITFEST for CA students and Students participated in this event with good number of strength and enjoyed the event.

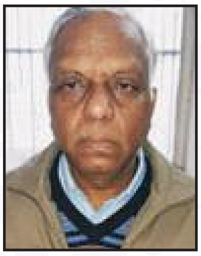
Many ideas grow better when transplanted into another mind than the one where they sprang up. William Arthur said "Opportunities are like sunrises,if you wait too long, you can miss them." Persistence can change failure into extraordinary achievement. Every one of you is going through a challenge to crack this a very noble Professional CA course. Work hard, develop the habbits of self motivate and set your goals for the future, you just need to do dedicated working for exams. In upcoming period, we will hopefully bring some students activities as per demand of students.

Stay Safe and Stay Healthy

January, 2021

With Warm regards.
Sd/-
CA Shashi Pal
Editor in Chief
Secretary, ICAI Amritsar Branch

Secretary



CA VINOD KUMAR MUNDRA

OUR MENTORS

CA Vinod Kumar Mundra a fellow member of ICAI is a practising Chartered Accountant. Born in November 1952 he passed his matriculation examination from Punjab School Education Board in 1966 and B.Com from Khalsa College, Amritsar in 1972. After graduation, he joined his articleship in a reputed firm of Chartered Accountants at Mumbai. He passed his CA Inter & then Final examination in May 1975, both in first attempt, prior to completion of his training in October 1975. He got 22nd rank all over India in CA (Final).

In 1975, he joined his first job at OCM Amritsar and later shifted in May 1977 to Modi Rubber Ltd. as an Accounts Officer. In May 1979, he initially started his own independent practise and then joined as a partner in M/S Sehgal Khanna Mundra Mehra & Co., Chartered Accountants, Amritsar. It is since then he is actively working in the profession for the last 45 years. His son Ritesh Mundra ,following the footsteps of his father, is also a Chartered Accountant and is engaged in his own business.

CA. NAND KISHORE KHANNA

OUR MENTORS

CA. Nand Kishore Khanna a Fellow Member of ICAI and a practicing Chartered Accountant. He is a Commerce Graduate and Qualified Chartered Accountancy in the Year 1978.He got 40th Rank in CA Final Examinations. His son Nikhil Khanna, daughter-in-law Ankita Khanna, daughter Rashi Khanna & son-in-law Rajat Bhatia are also the Chartered Accountants. He started his Professional Journey as Sole Practicing Chartered Accountant in the name of M/s Khanna Varma & Co. He has diversed 42 years of post-qualification experience spreading across various sectors, Government departments and Industries including the field of Auditing, Taxation, Law, Banking and Finance.

He is an active member of BYS for last 17 years and spreading awareness of Yoga and meditation in members and society. He has consistently maintained strong Professional Ethics at work and has been an exemplary and visionary mentor for all his fellow members and articles.

THE LURE OF LLP's

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The inclination towards working together to do business and attain other commercial objectives has a long history. Partnership and companies has been the main mechanisms to achieve these goals. These are seen as an improvement over the sole trade business where one single individual with his own resources, skill and effort carries on his own business. Due to the limitation of the resources of only a single person being involved in the sole-trade business, a larger business requiring more investment and resources than available to a sole trader, cannot be thought of in such a form of business organization. In partnership or a body corporate, on the other hand, a number of persons could join their resources and labour and could start a much larger business, than could be afforded by any of these persons independently. In case of loss also the burden gets divided.

Corporations and Partnerships have been a primary form of business structure for a long time now. Although, the two bodies of law have much in common, historically they differed sharply on the role of the contract and private ordering in structuring the firm. Partnership law encourages private ordering through bargaining by providing an agreement amongst partners. In contrast, corporate law historically has provided a mandatory framework for firm structure highly resistant to shareholders attempts to define their relationships through bargaining. Proponents of private ordering within firms prefer the freedoms of partnership law to the mandates of corporate law, and over time they have enjoyed success in extending the bargaining model from partnership law to corporate law. However, certain inherent limitations of both these forms of business have made them unsuitable for certain businesses. This ultimately led to the evolution of certain hybrid forms of business structures, limited liability partnership is one of them.

Limited liability partnership is a partnership but as it is clear from the name itself, it has a limited burden of liability distinct from the traditional one where the liability was not limited and all the partners had to bear the burden in case of loss in business. An LLP have the benefits of both a Partnership and a company. In reality, It lies somewhere between the partnership and the body corporate. To understand it, we must first know about what is partnership and body corporate or a company. According to the Indian Partnership Act, a Partnership is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all. Unlike an incorporated company a partnership does not have a legal personality of its own. On the other hand a body corporate is a form of business in which the members join and pool their resources together to do business but the basic difference between a partnership and a corporation is that a corporation has a distinct legal personality different from its members. It also has a perpetual succession i.e. unlike a partnership, whether its partner exist or not it will to continue to exist.

A limited liability partnership (LLP) is a hybrid corporate business vehicle that has a perpetual succession and separate legal entity. It not only provides the benefits of limited liability but also allows its partners the flexibility of organizing their internal structure as a general partnership. As a hybrid business entity, the LLP combines the limited liability features of companies with the operational flexibility of partnerships.

Limited Liability Partnership was Introduced in 2008 in India. However, with increasing compliances in registration and regulations relating to Private Limited Companies, LLPs are gaining momentum in India.These are economical while registering as well as while fulfilling ROC compliances. There are hefty fines to Private Limited companies on non-compliance compared to LLPs.

Traditional Partnership	Limited Liability Partnership
DISTINCTIONS	
Unlimited personal liability of each partner for dues of the partnership firm. Personal property of each partner also liable.	No personal liability of partner, except in case of fraud.
Written agreement not essential.	Incorporation document essential.
Partnership can be registered under Partnership Act. Registration is not mandatory.	LLP is incorporated under LLP Act. Incorporation is mandatory.
Not a legal entity separate from its partners	It is a legal entity separate from its partners, having perpetual succession
Property cannot be held in name of partnership firm.	Property can be held in name of LLP.

Partnership deed/agreement is executed. Even verbal agreement is valid.	'Incorporation Document' is required to be executed. In addition, LLP Agreement is required in almost all cases, though such LLP agreement is not mandatory.
Documents are required to be filed with Registrar of Firms (of respective State)	Registrar of Companies (ROC) is the administrating authority.
Death of partner dissolves a firm, in absence of agreement	Death of partner does not dissolve LLP.
Minimum two and maximum twenty partners	Minimum two partners. No limit on maximum number of partners
Each partner can take part in business of firm.	Each partner can take part in business of firm, but LLP Agreement can provide to the contrary.
All partners are liable for statutory compliances under Partnership Act	Only designated partners are liable for statutory compliances as are required under LLP Act (not necessarily in respect of other Acts).
Partner cannot enter into business with firm, though he can give loan to firm.	Partner of LLP can enter into business with LLP. He can also give loans to LLP.
Every partner of firm is agent of firm and also of other partners. He can bind partnership firm as well as other partners by his acts.	Every partner of LLP is agent of LLP but not of other partners. Thus, he can bind LLP by his acts but not other partners. However, LLP agreement can restrict powers of individual partner.
Partnership can be 'at will' i.e. any partner can resign or dissolve firm	Individual partner can resign but cannot dissolve the LLP.
Public notice is required for retirement of a partner.	Filing of return of retirement of partner with ROC is required, but no provision for public notice of retirement of partner.
Partnership firm can be dissolved.	LLP can be would up.
No specific provision to enter into compromise, arrangement, amalgamation, reconstruction etc. This can be done only under civil laws	LLP can enter into compromise, arrangement, amalgamation, reconstruction etc.

Minor can be admitted to benefit of partnership.	There is no specific provision to admit minor to benefit of partnership. It is doubtful if this can be done.
SIMILARITIES	
Partner is not employee of firm	Partner is not employee of LLP.
Liability of a person for 'holding out', i.e. representing himself as partner, though he is not	Liability of a person for 'holding out' i.e. representing himself as partner, though he is not [clause 29 of LLP Bill, 2008]
Partner of firm entitled to remuneration only if partnership agreement so provides	Partner of LLP entitled to remuneration only if LLP agreement so provides
New partner can be introduced only with consent of all existing partners	New partner can be introduced only with consent of all existing partners, unless LLP Agreement provides otherwise.
Insolvent person cannot continue as partner of firm.	Insolvent person cannot continue as partner of LLP.
Rights of partnership can be assigned	Rights of partnership can be assigned.
Partner liable to firm for any personal profits made by him by use of property, name or business connection of firm.	Partner liable to LLP for any personal profits made by him by use of property, name or business connection of LLP
Partner cannot undertake competing business without consent of other partners	Partner cannot undertake competing business without consent of LLP. Otherwise, liable to account for and pay profits to LLP
Partner liable to firm if he commits fraud.	Partner liable to LLP if he commits fraud.

Company under Companies Act	Limited Liability Partnership
DISTINCTIONS	
Memorandum is to be filed with ROC	Incorporation Document is required to be filed.
Memorandum should contain State in which incorporated.	Incorporation Document is not required to contain State in which incorporated. Thus, registered office can be changed to any place in India just by informing ROC subject to prescribed conditions.
Name to contain 'Limited' or 'Private Limited' as suffix	Name to contain 'Limited Liability Partnership' or 'LLP' as suffix
Articles are to be filed at the time of incorporation. Private company must have Articles. In case of public company, provisions of Table A apply if there are no Articles.	LLP Agreement is required to be filed later. In absence of LLP Agreement, mutual rights and duties will be as specified in first schedule to LLP Act. Thus, practically, each LLP must have LLP Agreement, though not mandatory.
Managing Director and Whole time Director to look after day to day administration..	Designated Partner to look after statutory compliances. Otherwise, all partners can look into affairs of the LLP. However, LLP can delegate powers to some partners who may be designated as 'Managing Partner', or 'Executive Partner' or any other name.
Individual director or member does not have authority in conduct of business of company.	Every partner has authority to conduct business of LLP, unless the LLP Agreement provides to contrary.
Restrictions on remuneration to director as per Companies Act	No restriction on remuneration to partner. Remuneration should be provided in LLP agreement.
Notice of change of director is to be given by company.	A partner who has resigned from LLP can himself file notice of his resignation to ROC.
Share, share certificate, register of members, transfer and transmission of shares etc. required.	No requirement of share and share certificate. Hence, no question of its issue, allotment, transfer, rectification of register etc

Board meetings, general meetings are required.	No provision for regular meeting of Board and members. Partners can decide when and how to meet, delegation of powers etc. Provision is made that LLP should maintain minute book
Charges are required to be registered	No provision for registration of charges.
Elaborate records and registers are required to be maintained	No records and registers have been prescribed.
Restrictions on Board regarding some specified contracts, contracts in which directors interested, investments, loans and guarantees to other companies	Partners are free to enter into any contract.
Disclosures required of contracts where directors are interested	No requirement of disclosures required of contracts where partners are interested, unless specified in LLP Agreement.
Elaborate provision relating to redressal in case of oppression and mismanagement	No provision relating to redressal in case of oppression and mismanagement
Specific provisions relating to nidhis, NBFC	No specific provisions relating to nidhis, NBFC

SIMILARITIES	
Limited liability and perpetual succession	Limited liability and perpetual succession
Must have common seal	Common seal is optional
Provision of approval of name, change of name are similar.	Provision of approval of name, change of name are similar.
ROC is the administrative authority	ROC is the administrative authority
Provisions of name, its approval and change are similar.	Provisions of name, its approval and change are similar.
No personal liability of individual director or member [except of director of private company in some cases like income tax and sales tax dues].	No personal liability of partner, except in case of fraud.
Complicated procedure for change of registered office, particularly when change is to other State	Simple procedure to change registered office of LLP anywhere in India just by informing ROC and following prescribed conditions.
Registrar of Companies (ROC) is the administrating authority.	Registrar of Companies (ROC) is the administrating authority.
Memorandum and Articles, details of directors, accounts, annual return, special resolutions etc. filed by LLP with ROC will be available for public inspection	Incorporation document, details of partners, accounts, statement of solvency and annual return filed by LLP with ROC will be available for public inspection [clause 36 of LLP Bill, 2008]
Powers to Central Government to inspect records of company and to order investigation	Powers to Central Government to inspect records of company and to order investigation
Provisions of compromise, arrangement or reconstruction of companies are similar	Provisions of compromise, arrangement or reconstruction of LLP [clauses 60 to 62 of LLP Bill, 2008]
Company can be would up voluntarily or by order of Court	LLP can be would up voluntarily or by order of Court
ROC can strike off name of defunct company.	ROC can strike off name of defunct LLP

TAX EVASION VIS-À-VIS BLACK MONEY

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INTRODUCTION

In economics it has been alleged that 'money is what money does'. It means money is known by its work. There has been a saying in the past, 'God made man; man made money; money made man rich'. To become rich man has to earn money, so that he can get comforts and luxuries. That is why if it becomes impossible for a man to earn money by honest or lawful means, then he will try to earn it by unlawful means. The money which is earned by unlawful means, gets the name black money.

Money is present in two forms – visible and hidden. The money that is visible is subject to taxation. The money that is hidden is illegal and is not open to taxation. This money that is hidden and acquired illegally is known as black money and is the resultant of dishonest activities. Black money has been a cause of concern for the Indian economy and has resulted in huge losses in tax revenues for the government.

MEANING AND DEFINITION OF BLACK MONEY

There is no uniform or specific definition of black money. Even under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015, black money has not been defined.

According to the Wanchoo committee report, “Black Money is an elusive term”. It is tainted money. It is the money which is not clean or which has a stigma attached to it. It is the money earned by violating or evading and avoiding of lawfully imposed taxes. It is also called the money which is earned by violating legal provisions even social conscience and also that money which is kept secret and not accounted for.

Black money had its origin in clandestine transactions and is currently in circulations. In narrower sense the term black money denotes not only unaccounted currency which is either hoarded or is in circulation outside the disclosed trading channels, but also its investment in gold, jewellery and precious stones made secretly and even investments in lands buildings and buildings assets over and above the amounts shown in the books of account.

There is a direct link between black money and tax evasion.

GENERATION OF BLACK MONEY

Tax evasion is the main cause of generation of black money says Professor Kaldor of Cambridge University a renowned British economist. In 1950's he had estimated it at Rs.200 crores. Subsequently in 1971, according to the Wanchoo committee Report which was prepared by Justice K.N.Wanchoo, it calculated the amount of tax evaded in 1968-69 at Rs.470 crores. Black money is a cause of concern for the Indian economy and results in huge losses in tax revenues for the government.

Black money has become a real threat to the national economy of a country. It is an undisputed fact that there is a considerable amount of black money in circulation which is unaccounted or concealed and therefore outside the disclosed trading channels. It is largely the product of black market transactions and evasion of tax. At present in India it is of the notion that there are more number of tax evaders than tax payers in India. Persons who are self-employed, cine artists, merchants, intellectuals, multi-nationals, etc everyone tries to evade tax and cheat the revenue department. It is the greed that makes them to earn black money, with that they want to become rich overnight. Saving the money without accounting it in banks or anywhere leads to the generation of black money.

FACTORS FACILITATING THE GENERATION OF BLACK MONEY

Black money generation in India primarily takes place through two sources. The first source includes those activities which are not permitted by the law, such as crime, drug trade, terrorism and corruption. The second is through a legally permissible activity but not accounted for and/or reported to public authorities which may result in tax evasion.

Various important factors that facilitate the generation of black money are, namely, manipulation of financial statements by way of out of book transactions and manipulation of books of account, real estate, jewellery, betting.

EFFECTS OF THE GENERATION OF BLACK MONEY

There are numerous effects of the generation of black money. Like, loss to state exchequer, create inequalities, false information about the economy, impact on fiscal system, misguiding on resource allocation, implications for monetary policy, inflation, leakage of foreign exchange.

MEASURES TO UNEARTH BLACK MONEY

The Government of India, with a view to unearth black money and uncover large sum of concealed income in the country, launched various voluntary Disclosure Scheme, namely, Tyagi Scheme, Sixty-Forty Scheme, Block Scheme, Voluntary Disclosure Scheme , Special Bearer Bonds, Income Declaration Scheme, 2016, Vivad Se Vishwas Scheme, 2020.

What had been disclosed under the voluntary disclosure schemes was only a tiny portion of hidden black money. In view of estimates given by the Wanchoo Committee and Dr. Chelliah's report and the brief that Rs. 15,000 crores of black money was being generated every year, the income and wealth disclosed could not be more than 10 per cent of the total amount of black money in the country.

The black money generated out of concealment of income is frustrating the Government's economic policies, preventing public morality, and eroding the foundations of the national economy. The parallel black money economy is nourished by a flow of concealed income which originates in tax evasion, and finds its outlet either in black 'saving' in the form of gold, ornaments, and cash or in conspicuous consumptions. It is no exaggeration to state that black money is a cancerous growth in the country's economy which if not checked in time is certain to lead to chaos and ruination of economy.

CONCLUSION

Tax evasion is a root cause for the generation of black money, the hiding of which leads to tax related offences resulting into criminal prosecution. The evils of tax evasion are many. It brings about inequality and thus cuts at the very root of the fundamental principle of taxation as it leads to unfair incidence of taxes in the community, because the honest and law abiding taxpayers are asked to bear and shoulder the heavy burden of dishonest taxpayers, who practice and adopt fraudulently and unfair means and tactics, finally succeeding in escaping payment of their just and due share of taxes.

It also leads to hampering of the economic growth of the community. Tax evaded is generally kept concealed in the form of unaccounted money or black money and is not brought into the open or invested in the market from fear of being detected. As a result the economy of the State is adversely affected. If only this money could be brought to the open and made available for the development the economy of the country would benefit considerably.

Whatever reason might be advanced for the various voluntary disclosure schemes by the government it cannot be justified either on ethical, moral or on grounds of expediency. Such an action on the part of the government has most demoralizing and disastrous effect on the honest and law abiding taxpayers. Any scheme must have a moral and ethical base and be acceptable by the people. It puts premium on dishonesty and is a glaring example of the government's inaction and surrender to the tax criminals. Economic evil of black money cannot be fraught by surrender to tax criminal. It can be checked only by taking stern action against the culprits. A lenient and half hearted action on the part of the government gives encouragement to the likeminded persons to conceal the income and indulge into nefarious activities who wait and watch for the occasion when some such scheme would be announced when black could be turned into white overnight.

Black money has a cancerous growth in the country's economy which if not checked in time is certain to lead to chaos and ruination. There can be no doubt that urgent measures are therefore required to be adopted for preventing further generation of black money as also for unearthing existing black money so that it can be canalized for productive purposes with a view to effective economic and social planning.

SUGGESTIONS

In the fight against tax evasion, monetary penalties are not enough. Many persons consider it a profitable proposition to carry on evading taxes over the years, if the only risk to which they are exposed, is a monetary penalty and that too in the year in which they happen to be caught. The public in general also tends to lose faith and confidence in the tax administration, once it feel that even when a tax evader is caught, the administration will let him go lightly after receiving only a monetary penalty-when money is no longer a major consideration with him. Unfortunately, in the present social milieu, such penalties carry no social stigma either. In these circumstances, the provisions for imposition of penalty fail to instil adequate fear of the law in the minds of tax evaders. Prospect of landing in jail, on the other hand, is a far more dreaded consequence- to operate in terrorem upon the erring taxpayers. Besides, a conviction in a court of law is attended with several legal and social disqualifications as well. In order, therefore, to make enforcement of tax laws really effective, the ITD should evolve a vigorous prosecution policy and to pursue it unsparingly.

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