



**अखिल भारतीय लागत एवं प्रबंधन लेखाकार संघ**  
**ALL INDIA COST & MANAGEMENT ACCOUNTANTS ASSOCIATION**  
(National Association of CMA's registered under the Society Registration Act, 1860)

Ref: AICMAA/IT/02/2025

Date: 18 February 2025

**Smt. Nirmala Sitharaman,**  
**The Hon'ble Union Minister of Finance,**  
**Ministry of Finance,**  
**Room No-134, North Block, Raisina Hill,**  
**New Delhi-110011.**

**SUBJECT: REQUEST FOR INCLUSION OF "COST ACCOUNTANT" IN THE DEFINITION OF "ACCOUNTANT" IN THE NEW INCOME TAX ACT-2025.**

Respected Madam,

Greeting on behalf of The All India Cost & Management Accountants Association (AICMAA).

All India CMA Association wholeheartedly welcomes the initiative of our government introduce Income Tax Bill , 2025 to revamp the existing Income-tax Act to make the Act concise, lucid, easy to read and understood by Tax Professionals, Revenue Authorities and by common people. This will certainly reduce disputes and litigation, thereby providing tax certainty to the taxpayers.

In this context, we would like to draw your kind attention to the unintentional injustice caused towards more than **1 Lakh Members** and more than **5 Lakhs Students** of the Institute of Cost Accountants of India, set up by a special Act of parliament The Cost Accountants Act-1959.

There is a long pending demand to include Cost Accountants under the explanation of Accountant given in the Income Tax Act, 1961 and also proposed Income Tax Bill-2025, which is arbitrary and biased and not in the true constitutional spirit.

Several representations were given by the Institute of Cost Accountants of India, and AICMAA, but remained unheard and not being enacted with due diligence.

Although we have justified reasons for inclusion of Cost Accountants in the definition of the term '**Accountant**' as per the Explanation given under **Section 288(2) of the Income Tax Act, 1961** and **definition of "Accountant" as outlined in Section 515(3)(b) of the proposed Income Tax Bill 2025.**

**Background:**

Recently our Hon'ble Finance Minister Smt. Nirmala Sitharaman has introduced in the Lok Sabha on 13<sup>th</sup> January, 2025 **Income Tax Bill, 2025** which will replace exiting Income Tax Act-1961. The object of this Bill to modernize and streamline India's longstanding direct taxation system by simplifying provisions, eliminating outdated references, and establishing a more concise and straightforward legal framework in order to achieve the ambitious vision of **Viksit Bharat by 2047.**

New Income Tax Act, 2025 will play a very crucial role in marshalling the developments and thereby is a need to encourage participation of all professionals on equal footings.

We the Cost and Management Accountants are playing a pivotal role in the nation building by ensuring optimum utilization of economic and financial resources. Therefore, considering our crucial role in the Taxation System and indispensable role in Indian Economy we were given equal opportunity in the **GST Act, 2017** at par with Chartered Accountants.

Several reports in the past from the Parliamentary Standing Committee have recommended the inclusion of professionals like Cost Accountants in the definition of 'Accountant' in the Income Tax Act:

**(1) Cost Accountants were given equal stake in the audit provisions at par with Chartered Accountants in the GST Act-2017.**

**Annexure-01** provision's under Section-35(5) of CGST Act-2017

**(2) Both Cost Accountants and Chartered Accountants are empowered to conduct Internal Audit of Companies under Companies Act, 2013.**

**Annexure-02** provision's under Section-138(1) of Companies Act-2013

**(3) Direct Tax Code 2013: The DTC 2013 which unfortunately lapsed after introduction in the parliament due to change in the government had proposed that the definition of "Accountant" should include a Cost Accountant within the meaning of the Cost Accountant Act, 1959.**

**Annexure-03** provision's under Section-320. Interpretations in the Direct Tax Code, 2013.

**(4) 122nd Report of the Department Related Parliamentary Standing Committee on Commerce on Ease of Doing Business dated 21st December 2015:** This report recommended expanding the definition of 'Accountant' under the Income Tax Act to include other Finance Professionals, specifically mentioning Cost Accountants.

**Annexure-04** Observation of PSC in Para-8.19 and reasons given for inclusion of Cost Accountants.

**(5) 49th Report of the Department Related Parliamentary Standing Committee on Finance (SCF) dated 9th March 2012 on Direct Tax Code 2010:** This report

suggested including the ‘Cost Accountants’ as defined in the Cost Accountants Act, 1959 within the ambit of ‘Accountant’.

**Annexure-05** Observation of PSC in  
Para -17.9 and reasons given for  
inclusion of Cost Accountants.

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*Considering the above facts and economic circumstances existing in the nation, unfortunately Cost Accountants are excluded under the definition of Accountant in Section 515(3)(b) in the recently introduced income Tax Bill, 2025.*

*Therefore, we would like to take this opportunity to represent before you afresh with an appeal to give the Cost Accountants equal opportunity in the proposed new Income Tax Bill, 2025.*

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### **Brief History of the Institute of Cost Accountants of India.**

The Institute of Cost and Works Accountants of India (ICWAI) was established in the year of 1944 under the Companies Act, 1913 in Calcutta as a non-profit making public company, limited by guarantee. The object of the company was to training and examination body to train Indian accountants to work in the defense industry and to help combat war profiteering during the Second World War. The Institute was very much based on the model of accounting professionalization seen in Britain i.e. accounting institutes and professions developed as private sector organizations set up to promote the professionalization of accounting. This was the accepted ideal both in financial accounting and cost accounting and accepted by practicing accountants in India pre-independence.

In post-Independence the Government of India felt strong need of Cost Accountancy profession for economic and social augments; in 1950 government of India initiated the process for establishing the ICWAI as a statutory body. The Public Estimates Committee, in 1954 suggested for conversion of private body ICWAI into a statutory body.

The Cost and Works Accountants Bill 1958 was placed before the both house of Lok Sabha and Rajya Sabha. After the parliamentary process the bill was passed and The Cost and Works Accountants Act, 1959 came in existence. and was established as a statutory body . Presently The Institute of Cost Accountants of India is established as statutory body & The Cost Works Accountants Act-1959 is amended as **The Cost Accountants Act-1959.**

### **The Income Tax Act, 1961.**

In the Finance Act, 2023 section 142(2A) was amended. Government has considered eligible professionals for special audit under section 142(2A) during the assessment proceedings of both the Cost Accountants and Chartered Accountants. **Cost Accountants have been entrusted under section 142(2A) (ii) of the Income Tax Act, 1961 for Inventory valuation.**

- In the existing Income Tax Act, 1961, Section 288 deals with the provisions for Appearance by authorised representative in case of Appeal and Assessments procedures, where Cost Accountants are duly recognised as Authorised Representatives.

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**Government of India has considered both professional bodies at par to represent the assessee as an authorized representative U/S-288 of the Income Tax Act, 1961.**

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However Section 288 (2) (iv) – defines an accountant and Section 44 AB - Audit of Books of Accounts of certain persons carrying on business or profession.

*In this section, "accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949. who holds a valid certificate of practice.*

We the Cost Accountants can represent the assessee before the Income Tax authority at various level i.e. Assessing Officer, Commissioner (Appeal) and Income Tax Appellate Tribunal.

However ,The Finance Act, 1984 inserted section 44AB w.e.f. 1<sup>st</sup> April, 1985 and the audit of books of accounts was allowed only to the Chartered Accountants.

Both the accounting bodies the Institute of Chartered Accountants of India and the Institute of Cost Accountants of India set up by the parliament are established for carried out professional accountancy. Cost and Financial accounts are the branches of General accountants.

**The core scope of Tax Audit is to unearth escaping of income and or inflation of expenses / cost. We CMA are having expertise, efficiency to identify at Product / service / activity level over consumption of material, utility and running of cost at each cost centre / overall could justify and help the Tax Authority. Thus ideally to include in the definition of Accountant**

Therefore, both Chartered Accountant and Cost Accountant are accountants and should be included under the definition of accountant.

Government of India brought Tax Audit provisions in order to discourage tax avoidance and tax evasion. But an unwarranted Monopoly in Audit in Income Tax has been created by promoting only one profession for audit which is one of the major causes of revenue leakage to the government.

**Comptroller and Auditor General of India** has released Performance Audit on Appreciation of Third Party (Chartered Accountant) Reporting in Assessment Proceedings to the Union Government of Revenue- Direct taxes vide report number 32 of 2014. In this report **CAG has reported that there was revenue loss to the government amounting to Rs. 2813.11 crores due to incorrect/incomplete information given by the Chartered Accountants ( CA) in Tax audit reports and certificates. CAG also reported that CAs have in many cases certified wrong information/claims for various exemptions and deductions.**

- CAG had quantified the above revenue leakages based on the performance audit of Chartered Accountants for the period 2010-11 to 2012-13. CAG in its earlier years performance report also had been highlighted the revenue leakages due to incorrect tax audit report by Chartered Accountants. **If government quantify the revenue leakage from 1985 to 2023, it may be in lakh crore rupees.**
- Hon'ble Supreme Court while hearing the Writ Petition in the Case Title: SHAJI POULOSE Versus INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA & ORS., T.C.(CIVIL) No. 29 / 2021 has observed in Para 3.10 that the quality of tax audits was deteriorating as some Chartered Accountants were performing tax audits more than the prescribed mandatory ceiling limit by ICAI.

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**Under the various section in Income tax Act, 1961 cost data and cost accountancy are being regularly used by the department to compute taxable income despite that Cost Accountant is not allowed to conduct audit under Section 44AB . This is not as per the true spirit of our constitution and may be a complete disrespect to the our own parliamentary value system, which has created both the institute with the domain name of Accountant itself.**

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- **In Income Computation and Disclosure Standards [Section 145(2)] i.e. ICDS:- Relating to Valuation of Inventories, ICDS:-Construction Contrats, ICDS:- Revenue Recognition, ICDS:- Tangible Fixed Assets, ICDS:- Borrowing Costs, cost accountancy principles are used to derive the above cost. Since Cost accountants are expert of cost accounting, will report more reliable data and enhance in tax collection.**
  
- **In Form 3CD- Particulars required to be furnished U/S 44AB Point No. 35, In case of Goods Traded, Trading Account and in case of manufacturing, Manufacturing Account has to give. In point No. 37. Whether any Cost Audit was carried out, if yes the details, if any, of disqualification or disagreement on any matter/item/value/quantity as may be reported/identified by the Cost Auditor only.**
  
- **Chartered Accountant has been considered by the Board u/s 288(2)(iv) to represent the assessee as authorized representative before the Income tax authorities and Income Tax Appellate Tribunal. Similarly, qualification of Cost Accountant has been considered by the Board u/s 288(2)(v), read with Rule 50 of Income Tax Rule, who have passed accountancy examination to represent the assessee as Tribunal.**
  
- **Many deductions are allowed based on the percentage of actual cost, expenditure, and profit under various sections to compute income from business or profession.**



<b>Sections</b>	<b>Title</b>	<b>Particular Provisions</b>
30	Rent, taxes, repairs and insurance for building	Amount paid by the tenant on repairs cost
31	Repairs and maintenance of machinery, plant and furniture	Amount paid on current repairs
32	Depreciation	Allowed as expenditure of percentage of the actual cost of fixed assets
32A	Investment Allowance	A sum by way of investment allowance equal to 25% of the actual cost of the ship, aircraft, machinery or plant
32AC	Investment in new plant and machinery	Deduction is allowed 15% of the actual cost
32AD	Investment in new plant or machinery in notified backward areas in certain states	Deduction is allowed 15% of the actual cost
33	Development rebate	Deduction is allowed 35%, 25%, 15% of the actual cost of ship, machinery
33A	Development Allowance	In respect of planting of tea bushes; 50%, 30% of cost of planting
33AB	Tea, Coffee and Rubber development account	40% of profit of such business or a sum equal to the amount so deposited, whichever is less
33ABA	Site Restoration Fund	20% of profit of such business or a sum equal to the amount so deposited, whichever is less
33AC	Reserve for shipping business	Deduction of 50% of profits from the business of operation of ships
33AB	Rehabilitation allowance	Allowed a deduction 60% of the amount u/s 32((1)(iii)
35	Expenditure on scientific research	Any expenditure incurred
35D	Amortisation of certain preliminary expenses	Deduction of 1/10 of expenditure
35DD	Amortisation of expenditure in case of amalgamation or demerger	Deduction equal to 1/5 of such expenditure
35DDA	Amortisation of expenditure incurred under voluntary retirement scheme	Deduction equal to 1/5 of such expenditure
35E	Deduction for expenditure on prospecting, etc; for certain minerals	Deduction equal to 1/10 of such expenditure
43CB	Computation of income from construction and service contracts	Income computation and disclosure standard
55	Cost Adjusted, Cost of improvement and acquisition	All expenditure of capital nature incurred in making any additions or alterations to the capital assets
80HH	Deduction in respect of Profit and gains from newly established industrial undertakings or hotel business in backward areas	20% of profits and gains from such business from gross total income of the assessee
80HHA	Deduction in respect of P&G from newly established small-scale industrial undertakings in certain cases	20% of profits and gains from such business from gross total income of the assessee
80HHB	Deduction in respect of P&G from projects outside India	40% or 30% or 25% or 10% of profits and gains from such business from gross income as the case may be
80HHBA	Deduction in respect of P&G from housing projects in certain cases	40% or 30% or 25% or 10% of profits and gains from such business from gross income as the case may be

80HHC	Deduction in respect of profits retained for export business	80% or 70% or 50% or 30% of profits and gains from such business from gross income as the case may be
80-I	Deduction in respect of P&G from Industrial undertakings after a certain date, etc;	An amount equal to 20% of P & G from such business
80-IA	Deduction in respect of P&G from Industrial undertakings or enterprises engaged in infrastructure development, etc;	100% deduction of P & G from such business from the gross income for ten consecutive years.
80-IAB	Deduction in respect of P&G by an undertakings or enterprises engaged in development of Special Economic Zone.	100% deduction of P & G from such business from the gross income for ten consecutive years.
80-IAC	Special provisions in respect of specified business	100% deduction of P & G from such business from the gross income for three consecutive years.
80-IB	Deduction in respect of P&G from Industrial undertakings other than infrastructure development undertakings	Such percentage deduction of P & G from such business from the gross income for such consecutive years.
80-IBA	Deduction in respect of P&G from housing projects	100% deduction of P & G from such business from the gross income
80JJAA	Deduction in respect of employment of new employees	Deduction of an amount equal to 30% of additional employee cost incurred
80PA	Deduction in respect of certain income of Producer Companies	Deduction of an amount equal to 100% of P & G attributable to such business
92, 92C, 92CA, 92CC, 92D, 92E	Computation of Income from international transaction having regard to arm's length price	Computation of transfer pricing
115BA	Tax on Income of certain manufacturing domestic companies	Income rate 25% of profit
115BAA	Tax on Income of certain domestic companies	Income rate 22% of profit
115BAB	Tax on Income of a new manufacturing domestic companies	Income rate 15% of profit
115J	Special provisions relating to certain companies	If total income computed under this Act in respect of any P. Y. is less than 30% of its book profit, the total income chargeable tax shall be 30% of such book profit
115JA	Deemed income relating to certain companies	If total income computed under this Act in respect of any P. Y. is less than 30% of its book profit, the total income chargeable tax shall be 30% of such book profit

**The Standing Committee on Finance in Para 17.9 of its 49th Report of 15th Lok Sabha, relating to "The Direct Taxes Code Bill, 2010" had said as under:**

It is pertinent to mention here that when the Cost Accountants are working in the top positions of Finance and Taxation department of PSUs and Corporates and are responsible for the financials of the organization, they are proved to be successful to handle such a big role. Only excluding them from the definition of "Accountant" doesn't justify while they are at the helm of the affairs of PSUs and Corporates and handling the huge responsibilities of Finance, Accounts and Taxation department.

- The Committee observed that the **Ministry's reasoning for non-inclusion of related professionals in the definition of accountant is a very strict construction of the term.**
- **The Ministry may therefore re-consider the suggestion to widen the scope of the definition of "Accountant".**

A **Comparative list of the areas under various statutes** where both the professionally qualified Accountants CAs and Cost Accountants have been given equal opportunities-

- Goods and Services Tax [GST]. Recognition in the GST Act and Erstwhile Excise and Service Tax regulations.

**[Special audit u/s 66 (i) of CGST shall be conducted by Chartered Accountant or Cost Accountant]**

- Customs Act
- Erstwhile Central Excise Act
- Service Tax Act
- VAT Audit/Certifications under all states' VAT Act

- Tax Return Preparer (Amendment) Scheme, 2018
- Appearances before Sales Tax Authorities
- Certification under Foreign Trade Policy
- Stock Audit, Concurrent Audit, Forensic Audit and other professional services of various Banks.
- In **Companies Act 2013**, section 138 defines that **Internal Auditor shall be a Chartered Accountant or Cost Accountant.....**
- Both are eligible for Insolvency professional by **Insolvency and Bankruptcy Board of India ("IBBI")** and Registered Valuer under Section 247 of the Companies Act, 2013.
- Both are eligible for appointment as a **Social Auditor** in a Company as per the provision of Companies Act, 2013.
- Both Chartered Accountants and Cost Accountants are allowed to give local content certificate, certify financial statements as per the guidelines of Manual for Procurement of Goods and Services 2017, issued by the Ministry of Finance, Department of Expenditure, Government of India in respect to the prequalification criteria of bidders. Public Procurement (Preference to Make in India) Order.

### **COMPARISON BETWEEN CA and CMA**

**In fact both the professional bodies viz ICAI- CA, ICAI-CMA created by a special act of parliament with objective and role as per the given chart**

Institute	Objective	Companies Act-2013	GST Act-2017
ICAI (CA)	Financial Audit & Internal Audit	YES	YES
ICAI (CMA)	Cost Audit & Internal Audit	YES	YES

- Both CA and Cost Accountants (CMA) qualifications are **equally recognized by the Government of India for entry into the Indian Cost Accounts Service** and other senior level/key positions under different PSUs, Multinationals, Corporate etc.
- **Similarity in regulation 190A of Chartered Accountants Act & regulation 111 of Cost Accountants Act** w.r.t. both are empowered to carry on the profession of Accountancy.
- **Members of both the Institutes** viz. the cost accountants and chartered accountantws are governed **by exactly the same code of conduct and disciplinary mechanism.**
- **Both these professionally qualified accountants** viz. Cost Accountant and Chartered Accountant **pass through the same course curriculum, pedagogy, and practical training.**

<b>CPE Credit Requirements for members of the ICAI-CMA</b>
Members with a COP :
These members must complete a minimum of 30 hours of training each year, or 90 hours over a three-year period.
Members without a COP :
These members are recommended to complete at least 15 hours of training each year, or 45 hours over a three-year period
<b>CPE Credit Requirements for members of the ICAI-CA</b>
Members with a COP :
These members must complete a minimum of 30 hours of training each year, or 90 hours over a three-year period.
Members without a COP :
These members are recommended to complete at least 15 hours of training each year, or 45 hours over a three-year period.

- **Syllabus of Cost Accountancy** include full papers on **Corporate Laws, Financial Accounting, Direct Taxation, Indirect Taxation, Auditing, and Financial Management.**

- Both the Institutes ICAI-CA & ICAI-CMA have similar curriculum & pedagogy for their students and they are equally skilled in the domain areas of accountancy, audit, corporate laws, and direct & indirect taxes. Their Members are subjected to same conduct & disciplinary mechanism, professional ethics, accounting & auditing standards, peer review system, and quality review.

### **SYLLABUS AT INTERMEDIATE LEVEL**

<b>ICAI</b>		<b>ICMAI</b>	
1. Advanced Accounting	100	1. Business Laws and Ethics	100
2. Corporate and Other Laws	100	2. Financial Accounting	100
<b>3. Taxation:</b>		<b>3. Taxation:</b>	
<b>Income Tax</b>	<b>50</b>	<b>Direct Tax</b>	<b>50</b>
<b>Goods and Services Tax</b>	<b>50</b>	<b>Indirect Tax</b>	<b>50</b>
4. Cost and Management Accounting	100	4. Cost Accounting	100
5. Auditing and Ethics	100	5. Operation Management and Strategic Management	100
6. Financial Management and Strategic Management		6. Corporate Accounting and Auditing	100
(a) Financial Management	50	7. Financial Management and Business Analytics	100
(b) Strategic Management	50	8. Management Accounting	100
Total Marks	<b>600</b>	Total Marks	<b>800</b>

## SYLLABUS AT FINAL LEVEL

ICAI Syllabus in Final	Marks	ICMAI Syllabus in Final	Marks
1. Financial Reporting	100	1. Corporate and Economic Laws	100
2. Advanced Financial Management	100	2. Strategic Financial Management	100
3. Advanced Auditing, Assurance and Professional Ethic	100	<b>3. Direct Tax Laws and International Taxation</b>	<b>100</b>
<b>4. Direct Taxation and International Taxation</b>	<b>100</b>	4. Strategic Cost Management	100
<b>5. Indirect Tax Laws</b>	<b>100</b>	5. Cost and Management Audit	100
6. Integrated Business Solution	100	6. Corporate Financial Reporting	100
		<b>7. Indirect Tax Laws and Practice</b>	<b>100</b>
		8. Elective One: Strategic Performance Management Risk Management in Banking and Insurance Entrepreneurship and startups	100
Total Marks	<b>600</b>	Total Marks	<b>800</b>

- *Note: Both Institutes Syllabus has 300 marks in Taxation Laws.*
- In Companies Act 2013, section 138 defines that **Internal Auditor shall be a Chartered Accountant or Cost Accountant.**
- As per the Companies Act, 2013, and SEBI guidelines, both Chartered Accountant or Cost Accountant are eligible to be appointed as Independent Directors in the Board of directors in any company.

- **Globally, the term 'Accountant' includes all Accountants** that are granted professionally qualified degrees by their respective national accounting bodies.
- **Both these Institutes viz. Institute of Chartered Accountants of India and Institute of Cost Accountants of India are members of all international bodies of accountants, viz., International Federation of Accountants (IFAC), Confederation of Asian and Pacific Accountants (CAPA), and South Asian Federation of Accountants (SAFA). Hence, internationally, both are known as 'Accountant'.**
- **Anomalous definition of the term "Accountant" assigning the meaning only to the "Chartered Accountants" creates a clear disparity among them for providing services under various other sections of the Act. This does injustice to one profession who are equally qualified and competent by virtue of standards and capabilities and both creation of parliament having in the domain name Accountant words itself.**

**Startups Backbone of a New India:-**Government of India under your leadership promoting the start-ups. Inclusion of Cost Accountants under the definition of accountant or auditor in Income tax Act will generate more cost accountants firm as start-ups and will definitely increase employment opportunity to many.

**Inclusion of Cost and Management Accountants under the definition of Accountant will mitigate the revenue leakage and improve the quality of Tax Audit Report and Certificates.**

We hope our present government will do justice with it's slogan, **SABKA SATH, SABKA VIKASH, SABKA VISWAS** to the Cost and Management Accountants fraternity as well.



It is a well-known fact that monopolistic and restrictive audit practices breed inefficiency, complacency and corruption. Thus, allowing all income tax audits similar manner & provision's of GST Act-2017 and all other various certifications required under the Income Tax Act, 2025 only to a single profession and restricting another equivalent profession viz. **Cost Accountants** is neither in the best interest of the revenue nor it benefits the national growth.

Therefore, allowing Cost Accountants to participate in the tax administration process will foster healthy competition among professionals, leading to improved quality of services and innovative solutions for taxpayers and which certainly help Indian Accounting and Auditing firms to work in collaboration with sister professional body more vigorously in order to realize the ambitious dreams of our Hon'ble PM **Viksit Bharat by 2047 & and at least one Global Indian Audit Firm in the list of Big Eight-Audit Firms of the World.**

Thank you for considering our concern and giving your valuable time.

**Yours sincerely,**

**On Behalf of All India CMA Association (AICMAA)**

**CMA Anand Kumar Pandey**  
President



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(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued but not later than September following the end of the financial year in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:

Provided that no reduction in output tax liability of the supplier shall be permitted, if the incidence of tax and interest on such supply has been passed on to any other person.

(3) Where a tax invoice has been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to be less than the taxable value or tax payable in respect of such supply, the registered person, who has supplied such goods or services or both, shall issue to the recipient a debit note containing such particulars as may be prescribed.

(4) Any registered person who issues a debit note in relation to a supply of goods or services or both shall declare the details of such debit note in the return for the month during which such debit note has been issued and the tax liability shall be adjusted in such manner as may be prescribed.

*Explanation.*—For the purposes of this Act, the expression “debit note” shall include a supplementary invoice.

#### CHAPTER VIII

##### ACCOUNTS AND RECORDS

**35. (1)** Every registered person shall keep and maintain, at his principal place of business, as mentioned in the certificate of registration, a true and correct account of—

Accounts and other records.

- (a) production or manufacture of goods;
- (b) inward and outward supply of goods or services or both;
- (c) stock of goods;
- (d) input tax credit availed;
- (e) output tax payable and paid; and
- (f) such other particulars as may be prescribed:

Provided that where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business:

Provided further that the registered person may keep and maintain such accounts and other particulars in electronic form in such manner as may be prescribed.

(2) Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed.

(3) The Commissioner may notify a class of taxable persons to maintain additional accounts or documents for such purpose as may be specified therein.

(4) Where the Commissioner considers that any class of taxable person is not in a position to keep and maintain accounts in accordance with the provisions of this section, he may, for reasons to be recorded in writing, permit such class of taxable persons to maintain accounts in such manner as may be prescribed.

(5) Every registered person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant

and shall submit a copy of the audited annual accounts, the reconciliation statement under sub-section (2) of section 44 and such other documents in such form and manner as may be prescribed.

(6) Subject to the provisions of clause (h) of sub-section (5) of section 17, where the registered person fails to account for the goods or services or both in accordance with the provisions of sub-section (1), the proper officer shall determine the amount of tax payable on the goods or services or both that are not accounted for, as if such goods or services or both had been supplied by such person and the provisions of section 73 or section 74, as the case may be, shall, *mutatis mutandis*, apply for determination of such tax.

Period of retention of accounts.

**36.** Every registered person required to keep and maintain books of account or other records in accordance with the provisions of sub-section (1) of section 35 shall retain them until the expiry of seventy-two months from the due date of furnishing of annual return for the year pertaining to such accounts and records:

Provided that a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

## CHAPTER IX

### RETURNS

Furnishing details of outward supplies.

**37. (1)** Every registered person, other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall furnish, electronically, in such form and manner as may be prescribed, the details of outward supplies of goods or services or both effected during a tax period on or before the tenth day of the month succeeding the said tax period and such details shall be communicated to the recipient of the said supplies within such time and in such manner as may be prescribed:

Provided that the registered person shall not be allowed to furnish the details of outward supplies during the period from the eleventh day to the fifteenth day of the month succeeding the tax period:

Provided further that the Commissioner may, for reasons to be recorded in writing, by notification, extend the time limit for furnishing such details for such class of taxable persons as may be specified therein:

Provided also that any extension of time limit notified by the Commissioner of State tax or Commissioner of Union territory tax shall be deemed to be notified by the Commissioner.

(2) Every registered person who has been communicated the details under sub-section (3) of section 38 or the details pertaining to inward supplies of Input Service Distributor under sub-section (4) of section 38, shall either accept or reject the details so communicated, on or before the seventeenth day, but not before the fifteenth day, of the month succeeding the tax period and the details furnished by him under sub-section (1) shall stand amended accordingly.

(3) Any registered person, who has furnished the details under sub-section (1) for any tax period and which have remained unmatched under section 42 or section 43, shall, upon discovery of any error or omission therein, rectify such error or omission in such manner as may be prescribed, and shall pay the tax and interest, if any, in case there is a

Provided also that a listed company shall also place its financial statements including consolidated financial statements, if any, and all other documents required to be attached thereto, on its website, which is maintained by or on behalf of the company:

Provided also that every company having a subsidiary or subsidiaries shall,—

(a) place separate audited accounts in respect of each of its subsidiary on its website, if any;

(b) provide a copy of separate audited financial statements in respect of each of its subsidiary, to any shareholder of the company who asks for it.

(2) A company shall allow every member or trustee of the holder of any debentures issued by the company to inspect the documents stated under sub-section (1) at its registered office during business hours.

(3) If any default is made in complying with the provisions of this section, the company shall be liable to a penalty of twenty-five thousand rupees and every officer of the company who is in default shall be liable to a penalty of five thousand rupees.

**137. (1)** A copy of the financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company, shall be filed with the Registrar within thirty days of the date of annual general meeting in such manner, with such fees or additional fees as may be prescribed within the time specified under section 403:

Copy of financial statement to be filed with Registrar.

Provided that where the financial statements under sub-section (1) are not adopted at annual general meeting or adjourned annual general meeting, such unadopted financial statements along with the required documents under sub-section (1) shall be filed with the Registrar within thirty days of the date of annual general meeting and the Registrar shall take them in his records as provisional till the financial statements are filed with him after their adoption in the adjourned annual general meeting for that purpose:

Provided further that financial statements adopted in the adjourned annual general meeting shall be filed with the Registrar within thirty days of the date of such adjourned annual general meeting with such fees or such additional fees as may be prescribed within the time specified under section 403:

Provided also that a One Person Company shall file a copy of the financial statements duly adopted by its member, along with all the documents which are required to be attached to such financial statements, within one hundred eighty days from the closure of the financial year:

Provided also that a company shall, along with its financial statements to be filed with the Registrar, attach the accounts of its subsidiary or subsidiaries which have been incorporated outside India and which have not established their place of business in India.

(2) Where the annual general meeting of a company for any year has not been held, the financial statements along with the documents required to be attached under sub-section (1), duly signed along with the statement of facts and reasons for not holding the annual general meeting shall be filed with the Registrar within thirty days of the last date before which the annual general meeting should have been held and in such manner, with such fees or additional fees as may be prescribed within the time specified, under section 403.

(3) If a company fails to file the copy of the financial statements under sub-section (1) or sub-section (2), as the case may be, before the expiry of the period specified in section 403, the company shall be punishable with fine of one thousand rupees for every day during which the failure continues but which shall not be more than ten lakh rupees, and the managing director and the Chief Financial Officer of the company, if any, and, in the absence of the managing director and the Chief Financial Officer, any other director who is charged by the Board with the responsibility of complying with the provisions of this section, and, in the absence of any such director, all the directors of the company, shall be punishable with imprisonment for a term which may extend to six months or with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees, or with both.

**138. (1)** Such class or classes of companies as may be prescribed shall be required to appoint an internal auditor, who shall either be a chartered accountant or a cost accountant, or such other professional as may be decided by the Board to conduct internal audit of the functions and activities of the company.

Internal audit.

case of search or requisition	<p>requisition under section 146 separately in the name of each person;</p> <p>(ii) where an authorisation under section 145 has been issued or requisition under section 146 has been made mentioning therein the name of more than one person, the mention of names of more than one person on such authorisation or requisition shall not be deemed to construe that it was issued in the name of an association of persons or body of individuals consisting of such persons.</p> <p>(2) Notwithstanding any authorisation issued under section 145 or any requisition made under section 146, mentioning therein the names of more than one person, the assessment or reassessment shall be made separately in the name of each of the persons mentioned in such authorisation or requisition.</p>	
Bar of suits in civil courts.	<p><b>318.</b> (1) No suit shall be brought in any civil court to set aside or modify any proceeding taken or order made under this Code.</p> <p>(2) No prosecution, suit or other proceeding shall lie against the Government or any officer of the Government, for anything in good faith done or intended to be done, under this Code.</p>	
	<p><b>319.</b> Where the Central Government or the Board or an income-tax authority who has been conferred upon the power under any provision of this Code to issue any notification or order, or grant any approval or registration in respect of an assessee, shall, for reasons to be recorded in writing, have all the powers to rescind such notification, order, approval or registration provided that the assessee has been given an opportunity of showing cause against the proposed rescindment.</p>	Power to rescind.
	<p style="text-align: center;">PART I INTERPRETATIONS AND MISCELLANEOUS PROVISIONS CHAPTER XX INTERPRETATIONS AND CONSTRUCTIONS</p>	
	<p><b>320.</b> In this Code, unless the context otherwise requires —</p> <p>(1) “absolute value” means the numerical value without regard to its sign;</p>	Interpretations in this Code.
38 of 1949 56 of 1980 23 of 1959	<p>(2) “accountant” means a chartered accountant within the meaning of the Chartered Accountants Act, 1949 and who holds a valid certificate of practice under sub-section (1) of section 6 of that Act, and shall include-</p> <p>(i) a company secretary within the meaning of the Company Secretaries Act, 1980 ;</p> <p>(ii) a cost accountant within the meaning of the Cost and Works Accountants Act, 1959 ; or</p> <p>(iii) any person having such qualifications as the Board may prescribe,</p> <p>for the purposes specified in this behalf.</p>	
	<p>(3) “accrual” in relation to income, expenditure or liability, with its grammatical variations, shall include income, expenditure or liability which has arisen;</p>	

steps to promote voluntary compliance and to impart confidence in tax payers that they are dealing with a fair and judicious tax administration.

8.16 The Committee also recommends that monitoring and scrutiny should be resorted in only high risk categories. Low risk category cases should be outside the ambit of scrutiny unless subsequent complaints in the form of frauds are detected. It further recommends that manual selection for cases scrutiny should be avoided and scrutiny selection process should be fully objective and transparent. The Committee also recommends that dormant companies as classified by the Registrar of Companies should be exempted from filing income tax returns, as it unnecessarily creates a compliance burden besides there is no revenue generation due to the company being dormant.

8.17 It has been brought to the notice of the Committee that tax payers at times are subjected to undue harassment in the name of scrutiny and they are required to produce papers ranging upto six years from the end of the relevant assessment year. In this regard, it strongly recommends that the notice for re-assessment (under section 147 of IT Act) of income of an assessment year may be issued up to three years from the end of the relevant assessment year. This would give a very positive signal to investors and provide them with a comfort level knowing that they would not be subject to witch hunting. The Committee desires that the aim of Income Tax Authorities should be to include more and more people in the tax net instead of following the people who have paid their taxes and submitted their returns.

8.18 The Committee also notes with concern that there are several appellate layers for deciding tax appeals. It recommends that the process of settling tax appeals and time taken for assessment should be drastically reduced. It notes with concern and feels that there is sufficient scope for improvement in the quality of assessments for addressing tax payer's complaints and also for curtailing the tendency of making frivolous additions which cause grievances from the tax payers. It therefore strongly recommends that the globally accepted best practices may be studied so that India achieves its position amongst top 10 countries as far as the ease of paying taxes is concerned.

8.19 The Committee notes the response of the Government that a proposal to give certain rights to the Cost Accountants and Company Secretaries under the definition of 'accountant' under the Income Tax Act is under consideration. It recommends that the definition of 'accountant' under the Income Tax Act may be expanded so that people representing the companies' cases may also include non-Chartered Accountants viz. cost accountants, company secretary, income tax experts, practicing advocates, etc.

8.20 Tax rate is also an important consideration for deciding the ease of business rankings. Corporate tax rate should be brought down to 25%.

### **Trading Across the Borders**

9. India's position on this crucial index is at number 133 whereas the 16 European Union economies get ranked as number one. Also, the best performing BRICS Economy on this

17.7 Further, the question here is not of giving privilege to any particular profession rather the most suited profession for dealing with the matters relating to direct taxes has to be assigned the work. Accordingly, the suggestion is not acceptable.

17.8 Under clause 304(3) (F) of the DTC, the Board may prescribe any person with specified educational qualification to act as an authorized representative. The same procedure is followed under the current Act. Accordingly, this will be considered at the time of framing of subordinate legislation.

**17.9 The Committee observe that the Ministry’s reasoning for non-inclusion of related professionals in the definition of accountant is a very strict construction of the term. In the view of the Committee, the suggested amendment may provide the Small and Medium Enterprises (SMEs) a wider and cost effective scope for selection of professionals and will be an important initiative towards simplified tax compliance regime. The Ministry may therefore re-consider the suggestion to widen the scope of the definition of “accountant”.**

#### 17.10 Definition of ‘Business Connection’

314. (40) “business connection” in relation to a non-resident shall include a permanent establishment;

Provision as per the Income Tax Act, 1961

*Section 9. (1) Explanation 2.*—For the removal of doubts, it is hereby declared that “business connection” shall include any business activity carried out through a person who, acting on behalf of the non-resident,—

(a) has and habitually exercises in India, an authority to conclude contracts on behalf of the non-resident, unless his activities are limited to the purchase of goods or merchandise for the nonresident; or

(b) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

(c) habitually secures orders in India, mainly or wholly for the nonresident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident: