INDORE BRANCH OF CIRC OF ICAI

NEWSLETTER

May, 2023 ▸ Price ₹ 20

THE SECRET OF GETTING AHEAD IS GETTING STARTED

Chairman's Communique

Dear Members,

Heartiest greetings for this month! After having completed season of bank audits it is now time to relax and have some fun. As we all know that IPL is going on, I am excited to share that Indore Branch is coming up with Cricket IPL for its members this month. The players of the team will be selected through auction process which will surely add flavour to the tournament. Further apart from Cricket we are also planning to organise CA Olympics in this month for other sports activities.

Further I am delighted to announce that National Tax Conference is jointly being organized at ICAI Bhawan, Indore by Indore Branch of CIRC of ICAI in association with All India Federation of Tax Practitioners (AIFTP) and Tax Practitioners Association (TPA), Indore on the theme "Knowledge, Network & Transform" on 13th and 14th May 2023 wherein professionals including advocates, chartered accountants and tax consultants will be participating. I urge you all to be part of this conference which will surely give edge to professional knowledge on taxation subjects.

I am glad to be heading this committee where new initiatives are being taken every week for benefit of members, students, and the society in general. As we have often taken pride in the statement that Chartered Accountants are partners in nation building, we wish to emphasise and capitalise on that sentiment to work towards the betterment of our profession and its dignity.

This is the most important motivation behind the efforts that your branch and its committee members are putting up every day. Therefore, this month also the Indore Branch has set up various programs for the benefit of members and students. I invite, appeal, and encourage all my seniors, colleagues, and juniors in this profession to be a part of these events with full enthusiasm. Similarly, we are constantly taking efforts to make this newsletter more informative and useful for our members.

To that end, I appeal all the members to not only come up with their suggestions for the same, but also to actively participate by contributing articles in the newsletter and share their knowledge and expertise. At this note, I am reminded of this quote by Steven Pressfield– “The professional has learned that success, like happiness, comes as a by-product of work. The professional concentrates on the work and allows rewards to come or not come, whatever they like”. This quote, influenced by the Bhagwat Gita, has inspired me to focus on work and never on the rewards.

Yours truly,

CA Mausam Rathi

Chairman-Indore Branch of ICAI

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CA. Harshaditya Kabra

Carry Forward & Set off of losses for Start-ups

With the advent of Startup India Initiative by Government of India, there has been huge influx of entrepreneurs across the country.

As a matter of fact, India now claims to have more than 100 Unicorns. A venture is called a unicorn when its valuation crosses the $1 Bn – mark i.e. ₹7500 Crores (approx.). The total valuation of these unicorns is $330 Billion (over ₹25 Lakh Crores).

The Government of India has undertaken several initiatives to foster growth through entrepreneurship over the years. Some of these include (but not limited to):

- Startup Innovation Challenges
- National Startup Awards
- Ranking of States on Support to Startup ecosystem
- Shanghai Cooperation Organisation Startup Forum
- Prarambh
- Digital India Initiative
- Startup India Initiative
- Startup India Seed Fund Scheme
- National Initiative for Developing and Harnessing Innovations
- Atmanirbhar Bharat
- Make in India
- Atal Innovation Mission
- Project Chunauti
- Relaxation of Rules for Venture Capital flow
- Streamlining of Patent process
- Research Park initiative
- Tax Benefits under the Income Tax Act, 1961

Generally speaking, start-ups incur business losses during their initial years of operation. A school of thought prevalent among growth-oriented ventures is that, heavy expenses on Research, Technology & Marketing in the beginning might result in huge cash inflows in the later years.

Due to this reason, start-ups look for ways to manage their financial stability and spread the tax liability over years to come.

Hence, Section 79 of the Income Tax Act, 1961, which pertains to carry forward and set off of losses in case of certain companies, gets to be one of the most sought-after Tax Benefit.

Section 79 Sub-section (1):

Notwithstanding anything contained in this Chapter, where a change in shareholding has taken place during the previous year in the case of a company, not being a company in which the public are substantially interested, no loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares of the company carrying not less than fifty-one per cent of the voting power were beneficially held by persons who beneficially held shares of the company carrying not less than fifty-one per cent of the voting power on the last day of the year or years in which the loss was incurred:

Provided that even if the said condition is not satisfied in case of an eligible start-up as referred to in Section 80-IAC, the loss incurred in any year prior to the previous year shall be allowed to be carried forward and set off against the income of the previous year if all the shareholders of such company who held shares carrying voting power on the last day of the year or years in which the loss was incurred, continue to hold those shares on the last day of such previous year and such loss has been incurred during the period of seven years beginning from the year in which such company is incorporated.

As per Clause 35 of Finance Act, 2023 in the proviso, for the word "seven", the word "ten" shall be substituted.
This amendment will take effect from 1st April, 2023 and will, accordingly, apply in relation to the assessment year 2023-2024 and subsequent assessment years.

Eligible start-up as referred to in Section 80 – IAC
Section 80 – IAC (1):
Where the gross total income of an assessee, being an eligible start-up, includes any profits and gains derived from eligible business, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction of an amount equal to one hundred per cent of the profits and gains derived from such business for three consecutive assessment years….

Explanation (ii):
"eligible start-up" means a company or a limited liability partnership engaged ineligible business which fulfils the following conditions, namely: -

a. it is incorporated on or after the 1st day of April, 2016 but before the 1st day of April, 2024;
b. the total turnover of its business does not exceed [one hundred] crore rupees in the previous year relevant to the assessment year for which deduction under sub-section (1) is claimed; and
c. it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government;

Certificate of eligible Business:
The Inter-Ministerial Board setup by Department of Industrial Policy and Promotion validates Startups for granting tax related benefits. As of 13th September 2021, 55,396 startups have been recognised by the Department for Promotion of Industry and Internal Trade. Out of these, 396 start-ups have received a certificate from Inter – Ministerial Board. Sectors such as Food Processing, IT Consulting, and Business Support Services constitute maximum number of Registered start-ups.

Let's Discuss

Q. Your client, Start-up Founder Pvt Ltd says that my business is currently incurring heavy losses. But I am sure that in the coming years, we will turn profitable. However, with heavy profit comes heavy tax liability. Please guide us on financial planning for our business.

A. As a finance professional with high calibre, you need to check the following:

Does the assesseesatisfy ALL of the following conditions?

- A Certificate of Eligible Business from the Inter-Ministerial Board has been obtained
- The Total Turnover of business is less than or equal to ₹100 Crores for the past 3 Consecutive Assessment Years
- The Date of Incorporation is between 1st April, 2016 to 31st March, 2024
- The business is either registered as a Company or a Limited Liability Partnership

If the venture satisfies the above-mentioned conditions, it can be termed as "Eligible Start-up" as referred to in Section 80 – IAC.
To check whether your client can take benefit of Proviso to Section 79(1), you need to perform the following steps:

- Prepare a detailed list of Shareholding pattern of the Assesseein the below format:

P.Y.	A.Y.	Class of Shares Held	No. of Shares Held	Voting Rights (Y/N)

(Note: Prepare this list for all the Shareholders of the Entity)

- This list needs to be prepared for 7 (now 10) years beginning from the year in which the Company was incorporated.
- Proviso to Section 79(1) mentions "beginning from the year in which such company is incorporated". Since it clearly talks about companies, it is safe to assume that the benefit under the said sub-section would not be available to a Limited Liability Partnership.
- Further, prepare the list of Shareholders of the Entity, for A.Y. 2023-24 (or the A.Y. in which the loss is being set-off) as well.
- For the A.Y. in which set off of losses is being claimed, check whether every shareholder holding voting rights, holds the same number of shares in the entity, as it held as on the last day of P.Y. in which the loss was incurred and carried forward.

Q. Whether the conditions laid down by Section 79 should be examined in the A.Y. in which losses are being carried forward or in the A.Y. in which the start-up claims the set off?

A. This selection of A.Y. is important due to following reasons:

- If the provisions are examined in the year when set-off is claimed, the said year being obviously later than the year in which loss would have been carried forward, the said losses might not be allowed to set-off with profits of the current P.Y.
- If the start-up raises money from investors in lieu of shares holding voting rights, the entity may no longer be eligible to claim set-off of losses carried forward from the earlier A.Y.(s). In the case of Orra Fine Jewellery Pvt Ltd vs DCIT (ITAT) Mumbaidtd 25/09/2020 it was held that the claim for set off of carry forward of losses prior to Assessment Years 2006-07 against the profits of the current assessment year i.e. AY 2012-13 vis-à-vis the provisions of Section 79 of the Act has to be examined by the Assessment Officer only in the A.Y. in which the assessee claimed such set off of losses in the return of income.

Q. Section 79 restricts carry forward & set off of losses with a 51% shareholding check. Does the restriction apply to start-ups as well?

A. For companies other than those in which public is substantially interested, Section 79 prohibits setting off of losses if there is change in shareholding. The set off is allowed only if at least 51% of shareholding (as on last day of PY when loss was incurred), is held by the same persons in the PY when set off is claimed.

Here's some good news for start-ups looking to raise funds while not being profitable yet. As per the proviso, the condition of 51% shareholding isnot applicable to eligible start-up.

As an additional condition for start-ups, the loss is allowed to be set off, only if it has been incurred during the period of 7 years (now 10) beginning from the year of incorporation of the company.

Q. What are other Tax Benefits available to **"Eligible Start-ups"**?

A. As a new business, one needs a host of benefits and incentives which help in spreading innovation across the country. The Government of India has recognised the importance of start-ups early on and has rolled out Tax benefits such as:

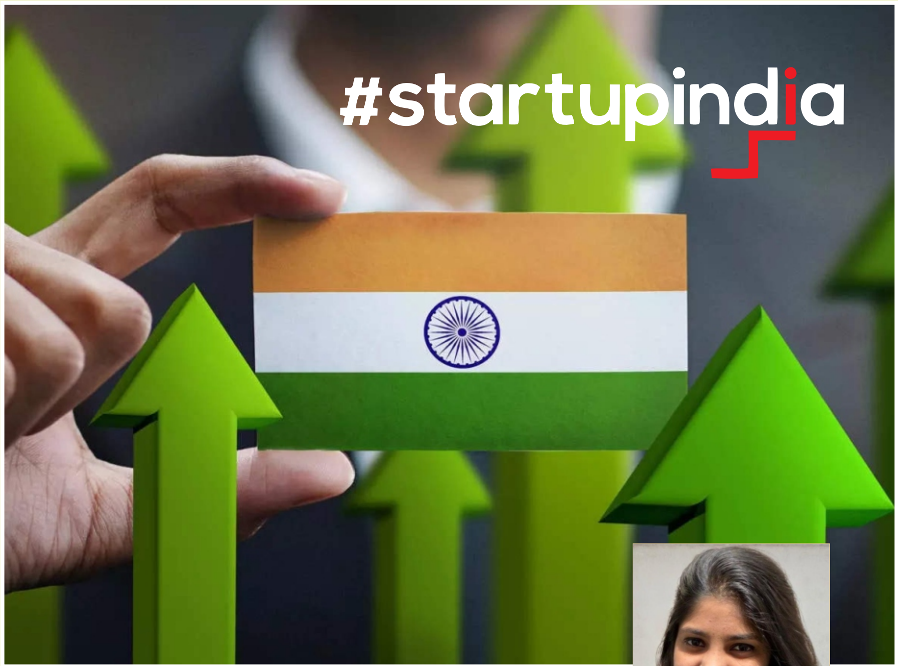
- Tax Holiday for 3 years under Section 80 – IAC
- Relaxation from Angel Tax under Section 56(2)(viib)
- ESOP Taxation under Section 17(2)(vi)
- Tax Saving on Sale of Residential Property by Investing into Eligible Startups under Section 54GB
- Relaxation in Carry Forward of Losses under Sec. 79.

Above mentioned benefits may be availed as per the Income Tax Act, 1961.

Conclusion

The conditions laid down under Sec. 79 of the Income Tax Act, 1961 poses certain practical challenges. Most investors investing in early-stage start-ups desire of having voting rights in their investee portfolio companies. If loss making ventures are funded with investor money, & the shareholding pattern is being changed to give effect to voting right for investors, it would be a tough situation to carry forward losses and claim their set-off in subsequent profitable years.

STARTUP INDIA - Empowering Startups for Growth and Role of Chartered Accountants



INTRODUCTION-

Start-up means an entity, incorporated or registered in India not prior to ten years, with annual turnover not exceeding INR 100 crore in any preceding financial year, working towards innovation, development, deployment or commercialization of new products processes or services driven by technology or intellectual property.

One of the biggest trends within the startup world right now is the focus on technology and innovation. Many startups are leveraging cutting-edge technologies like AI, machine learning, and blockchain to create new products and services that offer unique value to users. Additionally, there's been a growing interest in startups that are focused on sustainability and social impact companies that are not only profitable, but that are making a positive difference in the world.

CA. AVIKA JAIN

ROLE OF CHARTERED ACCOUNTANTS-

The role of professional Chartered Accountants in the start-up scheme launched by our Prime Minister is essential, vast and comprehensive. The CAs plays very vital role in execution of Business Model and Revenue Model of any Startups. As the partners in nation building, it is undoubtedly not only an opportunity in a professional domain but it is also a responsibility for interest in large. As we see that the growing complexity has made the business atmosphere comparatively difficult in terms of identification of potential grey areas in which most of the start-ups might find themselves in. Due to Statutory and Legal Complexity in India, every business requires a good professional advisor in order to fulfill all statute and Legal requirements applicable to start-ups in their respective fields.

So now it is essential to measure and understand how can chartered accountants justify and help entrepreneurs in making sure that the venture results into a profitable and successful adventure. The government is really working hard to build an atmosphere for encouraging start-ups and with a view to facilitate Startups various tax exemptions and benefits are provided which is briefly discussed as under-

- Section 54GB of The Income-Tax Act, 1961 has been amended to provide exemption from tax on capital gains arising out of sale of residential house or a residential plot of land if the amount of net consideration is invested in equity shares of eligible Startup for utilizing the same for purchase of specified asset.

- Section 54EE has been inserted in The Income Tax Act, 1961 for the eligible Startups to exempt their tax on a long-term capital gain if such a long-term capital gain or a part thereof is invested in a fund notified by Central Government within a period of six months from the date of transfer of the asset. The maximum amount that can be invested in the long-term specified asset is INR 50 lakhs. Such amount shall be remain invested in the specified fund for a period of 3 years. If withdrawn before 3 years, then exemption will be revoked in the year in which money is withdrawn.

- The government has exempted the tax being levied on investments above the fair market value in eligible Startups. Such investments include investments made by resident angel investors, family or funds which are not registered as venture capital funds. Also, the investments made by incubators above fair market value are exempt.

- The carry forward of losses in respect of eligible start-ups is allowed if all the shareholders of such company who held shares carrying voting power on the last day of the year in which the loss was incurred continue to hold shares on the last day of previous year in which such loss is to be carry forward. The restriction of holding of 51 per cent of voting rights to be remaining unchanged under Section 79 of The Income-Tax Act, 1961 has been relaxed in case of eligible Startups.
- MCA has notified the relevant sections pertaining to Fast Track process. Startups (other than partnership firm) shall now be able to wind up their business within a period of 90 days.

TAX EXEMPTION UNDER 80IAC-

Eligible startups are exempted from paying income tax for 3 consecutive financial years out of their first ten years since incorporation.

Eligibility to avail tax exemption under 80IAC-

- The entity should be recognised by the DPIIT
- Only Private Limited Companies or Limited Liability Partnerships are eligible for tax exemption under Section 80IAC
- The Startup must have been incorporated on or after 1st April, 2016

ELIGIBILITY CRITERIA FOR START-UP COMPANIES-

- Must be a private limited companies/LLP/Partnership firms.
- Turnover should not exceed 100 crores.
- Should develop an innovative product which should add to the values of customers and should be commercial.
- Get an approval from DIPP (Department of Industrial Policy and Promotion) that your business is innovative.

VALUATION OF START-UPS-

Usually start up business need more and more finance at their initial stage for meeting the cost required for developing the product, cost to be incurred for marketing research, for building a technology, for conducting customer survey and many other factors which plays a vital role in building the foundation of any business. Finance need of such start-ups can be met by seeking investment from potential investors who believe in their business ideas/ technique, their potential of generating revenue in near future, their comparable business achieving a milestone etc or other relevant factors favoring such type of businesses. For procuring such investment from the investors, valuation of such start-up businesses required.

If we are talking about the valuation of start-ups business, it must be understood that there are no well-designed methods and techniques which can be said most suitable for start-ups business, since start-ups businesses are not in revenue generating capacity at its initial stage or in a stage of instability and it is also difficult to find the comparable company data available in the market which resemble with such start-ups business for the purpose of carrying out valuation exercise. While comparing such start-ups valuation with matured listed companies, it is easy to make valuation of such matured companies using various multiples e.g Discounted Cash Flow Method, P/E multiple, EBIDTA multiple, Market price method etc and several other factors which is not available for start-up business.

For the purpose of valuation of start-ups business, various methods came into picture depending upon the nature of business, stage of development of such start-ups business, major risk involved in such business, quality of management staff and its strategic relation, prototype, technology, innovative or sound idea etc. Discounted Cash Flow Method is the most popular method of valuation among startups for taking funding in the form of Angel Investment, Seed Funding and Venture Capitalist.

BENEFITS OF STARTUPS BY THE INDIAN GOVERNMENT-

The Indian government has taken several measures in the past few years to make the country more startup-friendly. Some of the benefits that startups can avail by setting up their business in India are:

The startups can avail the following benefits after obtaining the DPIIT Certificate of Recognition for Startups:

1. **Start-Up Patent Application:**
   The DPIIT recognized startups are required to pay only 80% of the fees on Patents, trademark, copyrights and design, and the fast-tracking of a patent application will be available for startups.
2. **Easier Public Procurement Norms**:
   The DPIIT recognized startups will get an opportunity to list the product on Government e-Marketplace.

DPIIT recognized startups are exempted from submitting Earnest Money Deposit.
Exemption from Prior Experience/Turnover is provided for Start-ups in all Central Government ministries and departments.

3. **Easy winding up of Company:**
   According to the Insolvency and Bankruptcy Code, 2016, the company can be wound up within 90 days of applying for insolvency
4. **Credit Guarantee fund:**

The startups can avail Rs.2000 crore Credit Guarantee fund through the National Credit Guarantee Trust Company or SIDBI over 4 years

5. **Capital Gains Tax Exemptions:**
   Startups are also exempt from paying capital gains tax on profits earned from selling their shares. This encourages startups to list their shares on stock exchanges and raise funds from the public.
6. **Mentorship and Incubation:**
   The government has provided mentorship and incubation support to startups through various initiatives. This helps startups to get guidance from experienced entrepreneurs and access resources.

STARTUP INDIA SEED FUND SCHEME-

Startup India Seed Fund Scheme (SISFS) aims to provide financial assistance to startups for proof of concept, prototype development, product trials, market entry and commercialization.
This would enable these startups to graduate to a level where they will be able to raise investments from angel investors or venture capitalists or seek loans from commercial banks or financial institutions.

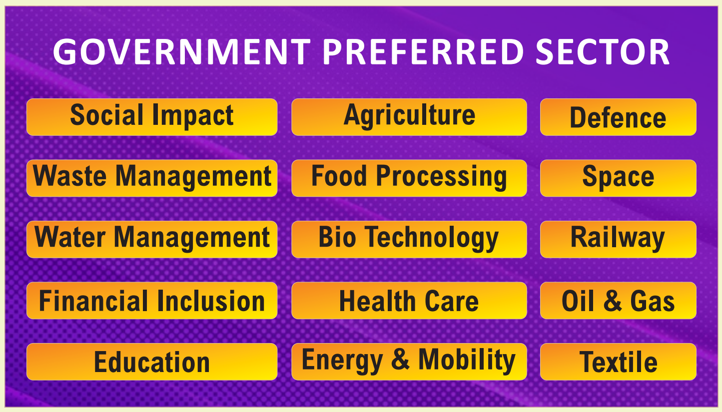
- Grant of 20 Lakhs Rupees.- This grant is given by government in 3 stages-

1) Idea Validation
2) Prototype
3) Launch on trial basis

- 50 lakhs Rupees. Debt by government- This debt is given in the form of loan by government in 3 stages-

1) Market Entry
2) Commercialization
3) Scale up

Government preferred sectors for Seed Funding-



FUTURE OF STARTUPS IN INDIA-

The future of startups in India is very promising. India has a large population and a growing economy. This makes it an attractive market for startups. India also has a large pool of talented engineers and entrepreneurs. This makes it a wonderful place to start a company. There are a few challenges that startups face in India. The first is the regulatory environment. Startups must deal with a lot of bureaucracy and red tape. This can be a challenge for new companies. The second challenge is the lack of funding.
There are few venture capitalists in India. This can make it difficult to raise money for a new company. Despite these challenges, the future of startups in India is very bright. India has a large market and a growing economy. This makes it an attractive place to start a company. India also has a large pool of talented engineers and entrepreneurs. This makes it a suitable place to start a company.

COMPLIANCE CALENDAR MAY - 2023

CA. Nikhil Jhawar

DUE DATE	TASK
07.05.2023	Deposit of TDS Deposited & TCS Collected and Equalization Levy Deducted in April 2023.
11.05.2023	Filing of GSTR - 1 for the month of April 2023 for assesses with Turnover exceeding Rs. 5 Crores and those opted out from QRMP Scheme.
13.5.2023	Filing of GSTR-1 IFF for April 2023 for those opted for QRMP Scheme. (Optional).
14.05.2023	Due date for issuance of TDS Certificated u/sec. 1941, 1941A, 1941B, 194M, 194S for the month of February 2023.
15.05.2023	PF Payment for April 2023. ESIC Payment for April 2023.Due date for filing of TCS Returns in Form 27EQ for Q4'22-23.
20.05.2023	Filing of Form GSTR-3B for April 2023 for all assesses in all states except for QRMP.
25.05.2023	Payment of extimated Tax liability in case of insufficient ITC for April 2023 for all assesses opted for QRMP in all states.
30.05.2023	Due date for filing of Form 11 for all LLPs. issue of TCS Certificates in Form 27D for TCS Collected in Q4'22-23, Due date for issuance of TDS Certificates u/Sec. 1941, 1941A, 1941B, 194M, 194S for the month of April 2023.
31.05.2023	Due date for filing of TDS Returns for Q4'22-23. Due date for filling for 9A and Form 10 for applying Explanation u/Sec. 11 (1) for trusts filling return by July 31st 2023

Technology in Accounting & Auditing

CA Vanita Rathi

The advancement of technology has transformed the way accounting and finance are managed. The traditional manual approach to record keeping and accounting is now replaced with innovative and automated tools that help accountants to process data more efficiently and accurately.

In addition, the introduction of technology has made the auditing process more effective & efficient. Here are some technology tools that are available to us which can enhance the efficiency and effectiveness of processes that we undertake in our professional services.

AUTOMATION SOFTWARE: One of the technological advancements in the field of accounting and finance is the accounting software. The software is designed to assist accountants in recording, processing, and storing financial data. This technology has automated many accounting processes such as billing, invoicing, and reconciliation. Additionally, the software can generate financial statements and reports, which are useful in decision-making.

CLOUD COMPUTING : Another innovation that has revolutionized accounting and finance is cloud computing. The cloud technology provides access to accounting software and data storage via the internet. This approach has made it possible for accountants to work remotely and collaborate with colleagues and clients from different locations. The use of cloud technology has also reduced the need for physical storage and maintenance of hardware and software, which has resulted in significant cost savings.

Artificial intelligence and machine learning Artificial intelligence (AI) and machine learning (ML) are also revolutionizing accounting and finance. These technologies are used to automate repetitive tasks such as data entry, data analysis, and financial modeling. The use of AI and ML has improved the accuracy and speed of data processing, reducing errors and saving time. Additionally, AI-powered chatbots and virtual assistants can handle customer inquiries and provide financial advice to clients.

DATA AND AUDIT ANALYTICS The auditing process has also benefited from technological advancements. The use of audit analytics software has made it possible for auditors to analyze large amounts of financial data quickly and efficiently. The software can identify potential errors, fraud, or inconsistencies in financial data, making it easier for auditors to detect any irregularities. Additionally, the use of data visualization tools has made it easier for auditors to present their findings and communicate them effectively to clients.

CYBERSECURITY The widespread use of technology has given a huge risk of managing the cybersecurity risk. The payments and receipts are happening over digital framework. The data is stored over the data centers. The entire new field of frauds and fraudsters have emerged. Also there are tools for auditors to keep a check on cyber crimes and fraufs. It is now imperative to use the cyber security tools and analytical tools to conduct such assignments.

ECOMMERCE ACCOUNTING With the emergence of ecommerce business, there are transactions that need to be taken care of while accounting and compliance thereof. It requires a specialised skillset to understand the integration of information from one application to another.

In conclusion, technology has revolutionized the way accounting and finance are managed, making it more efficient, accurate, and cost-effective. The use of accounting software, cloud computing, AI, and ML have improved the way data is processed, while the use of audit analytics software has enhanced the auditing process. The adoption of these technologies has improved the accuracy of financial reporting and strengthened the reliability of financial information.".

Felicitation of Shri Rajat Sharma at ICAI Indore

Inviting
Shri Kumar Mangalam Birla
(Chairman Birla Group)
at ICAI Institute

SEMINAR ON BANK AUDIT

Finalization of books of accounts considering company law and GST

SEMINAR ON AUDIT TRAIL

Seminar on 'New Avenue of practice with technology'

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To,

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