

Professional Opportunities for members in Indirect Tax practice

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1. Avenues of work for practicing Chartered Accountants in GST regime

In this article, an attempt has been made to cover several areas of professional opportunities for members in indirect tax practice. It will be of interest to note that while this publication is being released when goods and services are subject to several stages of indirect taxation, the impending GST regime would convert this plethora of taxes into a one-nation- one-tax regime. The GST regime subsumes several indirect taxes such as special additional duty and countervailing duty under the custom laws, excise duty under the excise laws, service tax under the Finance Act, 1994, state levies such as VAT, central sales tax, entry tax, octroi, luxury tax, entertainment tax, taxes on gambling and betting into a single national level tax.

It is interesting to note that, while several taxes are proposed to be subsumed in the GST regime, the areas of practice for members would largely open at the national level from an existing State Level practice. It will, of course, be subject to severe competition and it is thus expected that members in practice will keep abreast of the proposed GST regime while rendering professional services to their clients. The GST regime is expected to throw up several opportunities and challenges at the same time to the Members.

Considering that GST would be a new law, it is fair to expect that many professionals would now enter the domain of indirect practice areas, which was hitherto an unchallenged area of a restricted number of professionals. By this it can be said that experts currently specializing in excise laws would not have entered the state level taxes like VAT, CST etc. It would be fair to state that unless a Member in practice achieves expertise in the proposed tax regime, it would be extremely difficult to render professional services to his/ her/ their clients. The traditional areas of practice will now be open to other areas/ regions/ States. While this could be challenging in terms of upgrading skill sets, investing in infrastructure including skill development of their own employees', opportunities in professional practice is quite mind boggling.

This publication deals with several areas of conventional practice such as:

- a. Audit and assurance;
- b. Compliance and Certification;
- c. Risk assessment and tax planning;
- d. Representation, framing replies, drafting and filing of appeals;
- e. Advisory, rendering opinions;
- f. Contract vetting, price negotiations;
- g. Practice in information technology and e-governance.

This publication also deals with practice opportunities in several other key areas such as transaction advisory, accounting, refunds, litigation management services, due diligence, pre-audit reviews, preparation for departmental audit, cost control exercises including cost efficiency, transaction structuring. Readers are expected to bear this fact in mind that these other key areas of practice would continue to be the open areas of practice even in a GST regime. Apart from these areas of practice, one very interesting area of practice that the new regime throws up, albeit for a limited time frame, would be in transitional provisions. It must be

understood that while India is moving into one nation one tax regime which converges several statutes into one tax legislation, transitioning into the new regime would be the most challenging practice area which would envisage several practice opportunities such as:

- a. The initial period till January / February 2017 would provide opportunities in answering the question of how will GST impact my business? Full-fledged impact studies or part thereof can also be the need of the industry.
- b. Training / awareness of GST for those having a flair in teaching is also an opportunity which could keep them very busy as all corporates wish to be trained.
- c. Consulting, compiling, computing and certifying tax credits which remain unexpired/ unutilized and which are permitted to be carried forward;
- d. Vetting of contracts/ agreements to ensure that relevant clauses in the contracts/ agreements, to the extent it relates to the new tax regime is suitably modified;
- e. Certification of transitional credits is also widely expected to be incorporated into the GST Statute;
- f. Assistance in migration of existing taxpayers to GST and assisting in the registration process.

In any changed scenario, uncertainty is bound to exist. During the transition period, consulting practice is one of the key areas that members could concentrate on. Change to ERPs/ accounting software is inevitable. GST will throw up huge opportunities to members in practice in advising their clientele.

In conclusion, it is widely believed that members in indirect practice would be exposed to a new tax regime and a myriad of professional opportunities. While the areas of practice covered in the ensuing chapters of this booklet relate to the current laws, the very same opportunities will crop up as and when the GST regime kicks in. The opportunities that may open in the GST regime, have been deliberately left out in this booklet as the Statute is yet to be enacted. It is certain that, the practice areas covered in this booklet would be an interesting read while opening up opportunities in indirect practice.

The idea of this publication is focused on making the professionals more valuable in whatever they do. The key to success is action. The faster you learn and apply them, the faster you will move ahead in your career.

2. Avenues of work for practicing Chartered Accountants in the current Indirect Taxes regime

Chartered Accountants (hereinafter referred to as “CAs” or “Members”) are said to be in pursuit of a noble profession. They render services in myriad ways to individuals, business entities, Governments, Corporates, NGOs, NPOs and in particular to several stake holders. CAs hold respectable and important positions while being looked at/upon by society at large, in a variety of ways. CAs are known to practice, take up employment in various capacities, take up Directorships’ in Corporates’, render advice under direct and indirect tax laws, act as advisors to various Governments and Government Bodies, act as Auditors, play a key role in various Finance functions, act as Arbitrators in dispute resolutions, hold key positions in public life etc.

Apart from the above roles, CAs can perform other roles such as assisting revenue authorities to perform their normal responsibilities – such as proper tax collection, determination of credits, adjustments and exemptions from taxation. In addition, they continue to play their traditional role in checking tax avoidance/evasion.

Various opportunities available for Chartered Accountants in Indirect Tax practice

2.1. Government Departments

Government Departments (both Central and State Governments) contribute significantly to the employment opportunities of Members. The Comptroller & Auditor General of India is constitutionally obligated to verify the income and expenditure of each Ministry, and submit the audit report to the President/ Governor, which would, in turn, be tabled before the Parliament/ State Legislatures. The outcome of such verification would be open for debate and acceptance. In a similar manner, the Government Departments could avail the assistance of CAs who can contribute significantly towards preparing budgets, issuing notices, and framing other relevant rules, which address issues/ concerns shown by the Indian industry or businesses. Interaction with indirect tax professionals on a regular basis will certainly help the Departments to cope with the demands of the motto – ‘ease of doing business’. As Members constantly keep themselves updated on the changes to the Statutes, practical issues and legal positions, they would be in a position to provide valuable inputs in framing/ seeking amendments to the relevant Acts and Rules. This would enhance the credentials of ‘Ease of doing business in India’ or ‘Make in India’ campaigns.

Further, CAs, being widely recognised as professionals of taxation in India, can provide services by playing a pivotal role in the Tax Administration Reform Commission (TARC), Tax Research Unit (TRU) and Tax Policy Library (TPL). TARC was set up by the Government to examine and suggest reforms focused primarily on tax administration. Taking part in such initiatives would cut slack and sharpen the services of the tax administration team. There is an increasing need for dedicated members who can work diligently on improving the productivity, accountability, cost effectiveness, especially in this modernising context, where hassle free rendering of services is appreciated by stakeholders and business units.

2.2. Public Sector

The public sector including banks, insurance companies, financial institutions, stock markets etc., are governed by specific laws enacted by the Parliament under the Constitution of India. Such public sector entities are largely owned and controlled by Government i.e., by way of utilisation of public money. Management of such entities which utilise public money is of utmost priority to the nation. These public sector entities are largely in the business of providing goods/ services to a very large customer base and many of them are engaged in public utility services liable to taxes, unless they are specifically exempt. Such transactions ought to be covered under full radar of tax professionals who are well versed in the provisions of applicable Indirect Tax laws, and guide the management with a view to ensuring that there are no excess/short payment of taxes. In doing so, the CAs would assist the businesses a great deal by saving them from the burden of potential litigation, levy of possible taxes and interest/ penalty. Members can provide services to such businesses in the public sector, as an employee of the business or as a consultant or advisor to the business or as an auditor (audit, pre-audit, post audit or due diligence services) or as 3rd party reviewer of the transactions with respect to indirect taxation with specific reference to complying with law and thereby safeguarding the public interest.

2.3. Universities/ Research sectors

CAs can serve as paper writers, speakers, authors, professors, readers, lecturers, researchers, knowledge partners etc. in universities/ colleges. They can also study and submit research papers on taxation matters. The profession of teaching is considered to be highly respectable in our society. The service that a Member can provide as a teacher would enable the students to pursue the subject and contribute new and fresh ideas to our booming economy. The Member carries the responsibility to ensure that the students' mind is influenced in the right manner and that the student obtains a positive take-away from the learning.

2.4. Private Sector

CAs can play a pivotal role in the private sector by engaging in Indirect Taxation related services. The Indirect Tax Laws are applicable to companies, LLPs, multi-national organisations, and other non-corporate business sectors. With experience in the industry, CAs would also be in a position to advise on matters such as consulting, drafting and conveyancing of agreements/ contracts, contract vetting, contract negotiating, drafting pricing policies, supply chain management, structuring of transactions to make the best use of the laws of various States, compliance matters and thereby enable a smooth flow of business.

2.5. Multi-national Corporations (MNCs)

The liberalization of the Foreign Direct Investment (FDI) policy has opened the doors to several Fortune 500 and other well-established international brands to operate their businesses in India. This has enhanced the opportunities available to tax professionals due to closer interactions on such complex assignments. With this background, they can provide insights on existing taxation provisions, and on the new developments in the area of taxation for proposed assignments. Knowledge of the business environment, current political influence and economic state of the locality will place a Member in a strong position to provide the best services to global organisations entering the Indian market. Given that this is the era of Goods and Services Tax

(GST), it will even provide a great opportunity/window to evince our prowess as a tax professional, globally.

2.6. Practice areas

Huge opportunities are available to CAs in practice in the area of Indirect Taxation. In the current situation, while some aspects of indirect taxation are controlled and monitored by the Central Government, some others by the respective State Governments. The applicable taxation provisions at the State level are bound to vary from State to State. For effective working of a business, the presence of local knowledge of the relevant State-level Indirect Tax laws would be much appreciated. There is ample opportunity for the Members on account of such varied laws, to provide their professional services in areas of consulting, IT services, due diligence, compliance, transaction advisory, audit, registration, representation, returns, audits and other relevant areas to help business entities strengthen their business growth and achieve their objectives.

Apart from the above service areas, with GST regime in the offing, the window to CAs is more widely open than ever before, providing them with vast opportunities to closely understand the nature of business, the business model followed by each of their clients' operations, training the clients on the GST implementation methodology, to walk along with the businesses for smooth transitioning into GST, designing processes and ensuring consistent approach to risk management, aid in maximizing the benefits arising out of GST, building a strong GST framework in the organisation and providing tailor-made solutions to adapt their approach gradually to the new system.

3. Conventional areas

3.1. Audit

Central Excise

The following audits are backed by the provisions of Central Excise Law, and are mandatorily required to be undertaken by Members in practice:

- **Special Audit for valuation purposes under Section 14A;**

Any Central Excise Officer not below the rank of an Assistant Commissioner/Deputy Commissioner of Central Excise can order for valuation audit at any stage of enquiry, investigation or any other proceedings before him, if he is of the opinion that the value has not been correctly declared or determined by a manufacturer or any person. However, for ordering such an audit, prior approval of the Chief Commissioner of Central Excise is necessary.

The Central Excise Officer shall direct such manufacturer/person to get the accounts of his factory, offices, depots, distributors or any other place, as may be specified by the said Central Excise Officer, audited by a CA, who would be nominated by the Chief Commissioner of Central Excise in this behalf. The said CA would be required to submit the duly signed and certified audit report within the period specified by the Central Excise Officer.

- **Special Audit for CENVAT Credit purposes under Section 14AA;**

The Commissioner of Central Excise may call for an audit if he has reason to believe that the credit of duty availed of or utilised by a manufacturer of any excisable goods:-

- a) is not within the normal limits, having regard to the nature of the excisable goods produced or manufactured, the type of inputs used and other relevant factors, as he may deem appropriate; or
- b) has been availed of or utilised by reason of fraud, collusion or any willful misstatement or suppression of facts.

The Commissioner shall direct such manufacturer/person to get the accounts of his factory, offices, depots, distributors or any other place, as may be specified by the said Central Excise Officer, audited by a CA nominated by him. The said CA would be required to submit the duly signed and certified audit report within the period specified by the Commissioner.

Service Tax

Section 72A of the Finance Act, 1994 empowers the Principal Commissioner of Central Excise or Commissioner of Central Excise to direct the assessee, who are not compliant with the provisions of the said Act, to get their accounts audited by a CA. In this regard, the CA would be required to conduct an audit of the books of account, based on the instruction or direction from the Principal Commissioner/ Commissioner of Central Excise. The audit must focus on those transactions on which the said Act would have an impact. In general, the Principal Commissioner/ Commissioner of Central Excise may direct the Chartered Accountants to cover following areas for verification:

- Input – Output norms
- Input - Output variations

- Correlation of CENVAT credit documents with financial records
- Quantitative financial reconciliations
- Documentation
- Cross verification of invoices
- CENVAT credit/tax ratios and trends
- Manner of determination of value of services
- Taxability of reimbursement of expenses
- Declaration of figures
- Investigation in special circumstances

Thereafter, the CA would have to submit the signed audit report to the Principal Commissioner/ Commissioner of Central Excise, and specifically, not to the assessee. Further, the audit report should be submitted within the prescribed timelines.

Value Added Tax

The concept of Value Added Tax emerged with the object of reduction in evasion of taxes, simplification of tax structure, and as an attempt towards the elimination of cascading effect of taxes, to bring transparency into the tax system. A significant development in the area has been that compulsory audit of dealers registered under the State VAT laws has become mandatory in a majority of the States. Under the scheme, every dealer whose total turnover in a year exceeds a certain specified turnover limit (each State has specified these turnover thresholds) is required to get his accounts audited by a CA and submit a copy of the audited statement of accounts in the prescribed manner to the VAT authorities. Considering the benefits of such audit, the Institute of Chartered Accountants of India (“Institute”) has suggested that such a scheme be implemented in States which do not have these audit provisions.

3.2. Certification

CAs are called upon to carry out certain certification work for import, export, refund and other areas. It is important for members to understand the purpose of these certificates and to exercise diligence, care and caution so that the certificates reflect the true state of affairs and are put to proper use. Any laxity in this work will erode the credibility of the certification work done by the Member and will, in the long run, be detrimental to the interests of the profession.

Foreign Trade Policy

Foreign Trade Policy also requires documents to be certified by Members. They are expected to exercise due care and diligence in furnishing various certificates to the applicants concerned. Only a CA who is not a partner or proprietor or a director or an employee of the concerned firm or company or its associates, is eligible to issue certificates required under the Foreign Trade Policy. Besides CAs, other allied professionals have also been permitted to issue some of the certificates under the Policy.

Also, all the registers/ records examined are required to be signed by the certifier as evidence of authentication. The list of appendices as given in the handbook of procedures under Foreign Trade Policy 2015-2020, which requires certification by a CA, is as follows:

Sl. No.	Particulars	Condition
1.	Actual User Condition for Advance Authorisation	In case where CENVAT credit facility on input has been availed for the exported goods, even after completion of export obligation, the goods imported against such Advance Authorisation shall be utilised only in the manufacture of dutiable goods whether within the same factory or outside (by a supporting manufacturer). For this, the Authorisation holder shall produce a certificate from either the jurisdictional Central Excise Authority or CA, at the option of the exporter, at the time of filing application for Export Obligation Discharge Certificate to Regional Authority concerned.
2.	Replenishment Authorisation for Consumables	Replenishment authorisation for duty free import of Consumables, Tools and other items namely, Tags and labels, Security censor on card, Staple wire, Poly bag (as notified by Customs) for Jewellery made out of precious metals (other than Gold & Platinum) equal to 2% and for Cut and Polished Diamonds and Jewellery made out of Gold and Platinum equal to 1% of FOB value of exports of the preceding year, may be issued on production of a CA Certificate indicating the export performance. However, in case of Rhodium finished Silver Jewellery, entitlement will be 3% of FOB value of exports of such Jewellery. This authorisation shall be non-transferable and subject to actual user condition.
3.	Policy or procedure relaxation	In case applicant is not registered with excise, a certificate from a CA is required to be submitted
4.	Application Form for Import of Restricted Items	1. Actual consumption of the restricted items applied for import during 3 years in terms of quantity and value duly certified by a CA. 2. In case of import of Ammunition, a certificate from a CA showing sales turnover of ammunition both indigenous and imported during preceding three licensing years.
5.	ANF 3B	Application Form for Service Exports from India Scheme (SEIS)
6.	ANF 3C	Application for online filing of Grant of Status Certificate
7.	ANF 3D	Application Form for Export of goods through courier or foreign post offices using e-Commerce under Merchandise Exports from India Scheme (MEIS)
8.	Application for issue of Advance authorisation/ Advance authorisation for Annual Requirement/ Invalidation Letter/ Advance Release	In case of issue of Advance authorisation for Annual Requirement, a statement of exports made in the preceding financial year duly certified by a CA should be submitted.

Sl. No.	Particulars	Condition
	Order	
9.	Application for Fixation/ Modification/ Revision of Standard Input Output Norms (SION)	Production and Consumption data of the manufacturer/supporting manufacturer of the preceding 3 financial years as given in serial No. 10 of the application, duly certified by a CA
10.	Application for Redemption/ No Bond Certificate against Advance Authorisation	In case where CENVAT credit facility on inputs has been availed for the exported goods, the goods imported against Advance Authorisation shall be utilised only in the manufacture of dutiable goods whether within the same factory or outside (by a supporting manufacturer) even after completion of export obligation, for which the authorisation holder shall produce a CA certificate.
11.	ANF 4H	Application for GEM REP Authorisation
12.	ANF 4I	Application for Issue of Nominated Agency Certificate (NAC)/ Renewal of Nominated Agency Certificate
13.	ANF 5A	Application Form for Issuance of EPCG/Post Export EPCG Authorisation
14.	ANF 5B	Application Form for Redemption of EPCG Authorisation/ Issuance of Post Export EPCG Duty Credit Scrip
15.	ANF 6C	Application for DTA Sale/ Advance DTA Sale permission
16.	ANF 6D	Application for Exit from EOU/EHTP/STP/BTP Scheme

Central Excise Duty

The provisions of Central Excise Act, 1944 and Rules made thereunder, require certification by a CA under the following circumstances:

Sl. No.	Circumstances
1.	To determine the eligibility for the SSI exemption for manufacturers of Jewellery for the month of March, 2016 or financial year 2016-17, a certificate from a CA, based on the books of accounts for 2014- 15 and 2015-16 respectively, would suffice.
2.	As per Notification No. 17/2009-ST, it is mandatory under certain circumstances to obtain a CA certificate while claiming refund of excess CENVAT Credit by an exporter.
3.	As per Circular No. 868/6/2008-CX dated 9.5.2008, an option is given to the manufacturer or service provider to submit the certificate from a CA giving details of quantity of inputs used in the manufacture of exempted goods, value thereof and CENVAT credit taken on these inputs with respect to reversal of CENVAT credit under Rule 6 of the CENVAT Credit Rules, 2004.

Service Tax

The provisions of the Finance Act, 1994 and Rules made thereunder require certification by a CA under the following circumstances:

Sl. No.	Circumstances
1	The exemption shall be provided by way of refund of service tax paid on the specified services used for export of the said goods where the total amount of refund sought under a claim is more than 0.25% of the total FOB value of export goods then the certification prescribed under the Notification No. NOTIFICATION NO. 52/2011-ST, dated 30-12-2011 shall be made by the Chartered Accountant who audits the annual accounts of the exporter for the purposes of the Companies Act, 1956 or the Income-tax Act, 1961.

Apart from the above opportunities which are mandated by the provisions of law, dealers prefer to obtain a certificate from a CA in case of certain transactions, for ease of doing business. It is even considered a good practice to obtain a CA certificate for resolving any disputes with the Department or even with other dealers. Such a certificate will provide clarity to the dealers and also ensures trust between them as the word of a professional would be taken with more seriousness. Further, a CA certificate would come in handy to the dealers when a query is raised by the Department with respect to correctness of a transaction/ amount claimed as expense/ refund/ input credit against tax liability. This would show the Department that the assessee has not been negligent of the law and has taken caution to ensure that he is compliant with the provisions. In recent times, even the assessing officers and judicial forums are accepting CA certificates as authentication documents that validate the nature of transaction or issue. This would save time and money of both, the dealer and the Department/ Government.

3.3. Assurance

An important facet of tax practice is tax planning. The scope in this area is enormous. Members can advise on cross-border taxation issues, assist in developing new tax-efficient products for the financial services sector, provide support to companies with planning their account-keeping/ compliance procedures in relation to VAT, Customs and Excise Duties, and helping them design their routine compliance work.

3.4. Compliance

The knowledge of CAs helps business entities to cope with the compliance requirements of the provisions of law. Members in indirect tax practices can provide the services of verification of transaction before making payment to the Department. In general, the due date for payment of taxes of indirect tax, be it Excise Duty, Service Tax or VAT, falls between the 6th and the 15th/20th of the succeeding month. In this context, Members can provide services of verification/ vetting of the relevant documents/records/ returns for the respective tax periods, in view of correctness and completeness of the transactions. The discrepancies, if any, noted during such verification can be rectified before making the payment with the Department. It will also help the business entities in keeping their books of account updated in all respects, including compliance

with law. Given that such a verification is independent in nature, it would play a vital role in keeping a check on any kind of fraudulent transactions in the business.

3.5. Representation – assessments, appeals, revisions

Members in practice are well recognised as authorised representatives under the provisions of Central Excise Law, Service Tax Law, Customs Law and VAT Laws of different States, along with other associated professionals. Under each law, the Tribunals are considered as the final fact-finding authorities; beyond the Tribunal stage, any facts of the case cannot be challenged at any other forum. In such cases, the knowledge enshrined with the CAs in indirect tax will give a boost/support to present the cases in an appropriate manner before the appropriate forum.

3.6. Export/ import

Export of goods/services or import of goods/services are not free from litigation. The applicable rate of duty on import of goods (in some cases exports as well) are covered under the universally accepted HSN code basis, which are administered under the provisions of the Customs Act, 1962. Members in indirect tax practice can assist business entities in understanding and interpreting the description of the goods, and thereby classify them under the correct/ most-appropriate chapter and head. Members can also help them to identify the actual effective rate of customs duty on such goods, by analysing the numerous exemption notifications issued under the provisions of the Customs Act, 1962 or any other law to extent applicable.

CAs in indirect tax practice can also provide the specific services to Export Oriented Unit/SEZ/STP/EHTP units by analysing their transactions with applicable rules specified under the Foreign Trade Policy and Special Economic Zone Act.

Further, the support of Members in this practice would continue to be required even under the GST regime as Customs duty is not subsumed under the GST regime.

4. Advisory

4.1. Opinions

Opinions are one of the key services that can be provided by Members in indirect tax practice. No law is free from confusion or difference of opinions. In certain cases, the provisions of law may have conflicting implications as compared with other provisions of the same Act, or with provisions of allied Acts, which may cause ambiguity about the applicability/ non-applicability of such provisions on various transactions. There may also be ambiguity in relation to applicability of exemption provisions for certain transactions, the misinterpretation of which may result in an additional duty liability on the business entity, whether it avails an exemption not applicable to it or by not opting for an eligible exemption. Business entities are required to understand the applicable taxes on the transactions, current or proposed, procedure to be followed under the provisions of law and other implications of the transaction, to move ahead and run their businesses.

Members, based on their expert knowledge in this area, may be in a position to provide the services of opinion on the proposed transactions based on the applicable law and rules on such. It is very important for a Member to keep in mind, that the opinion should cover the impact/implication from all angles of such proposed transaction. A misleading or an incomplete opinion may cause the business entities to be non-compliant with the provisions of law and consequently, the entities may come under the scrutiny of the Department officials.

4.2. Replies

Under the provision of Central Excise Act, Finance Act, 1994, the Customs Act and VAT laws enacted by States, the respective jurisdictional officers are empowered to conduct assessment of transactions disclosed by an assessee in returns, or initiate an enquiry about the status of transactions when such an assessee has defaulted in filing returns on multiple occasions. In this regard, the business entity may receive letters, proceedings, show cause notices/ notices or endorsements or be subject to surveys/ inspections from/ by the Tax Department demanding the entity to submit the required details for verification, or even alleging the non-compliance with the provisions of law or short payment of duty/taxes or availment of ineligible CENVAT Credit/Input VAT credit etc. Such letters from the Department may ultimately result in a demand for payment of duties along with interest and penalty.

In this regard, Members in indirect tax practice, being well aware of the applicable law, would be able to understand the reasoning behind the demand from the Department. With this understanding, they can explain to the management of the business entity about rationale behind the allegation made by the assessing officer, validity of such allegation, its implication on financial status of the business entity and solution to come bring to an end such assessment procedure. Further, based on the facts of the case as may be closely examined by the Member, the business entity may be able to support its stand with proper justification for its non-compliance, or even explain that the understanding of the Departmental officials is incorrect. Therefore, a CA in practice can play a pivotal role in this case and can help the management to prepare suitable replies to such allegations made by the assessing officer.

4.3. Drafting and filing

Members in indirect tax practice are authorised to represent the assessee in forums such as the office of the Joint Commissioner (Appeals), Commissioner, Commissioner (Appeals) till the Tribunal stage. Members understand the link in the chain of transactions, especially when they are familiar with the business, and help in identifying the transaction and tracing it back to the root cause of any issue. With this backing, CAs help bring the facts of cases in front of the appropriate authority, and provide a logical reasoning to said allegation or an explanation to show that the allegation is not based on incorrect/ incomplete facts.

As stated earlier, the Tribunals are the final fact-finding authorities. Therefore, the understanding of the facts of the case, knowledge of the relevant provisions of the law and the ability to respond appropriately to the show cause notice and presentation/communication of the same in front of the appropriate forum, can be managed well by an experienced Member in practice.

4.4. Contract vetting

In an era of globalisation, contracts with buyers or sellers of goods and/ or services will create a legal binding between them. It is necessary to have a legal binding contract between buyers and sellers, complete in all legal aspects which does not give room for any assumptions and prevent any misinterpretation. All transactions with multi-national companies will be complex high-value transactions and therefore, the business entities need to take an extra precaution before signing the agreement/ contract. It is a general practice of business entities that engage with multi-national companies or with international players, to get the proposed contract vetted by a professional in the relevant area. Such a vetting is done to get a confirmation that all the applicable taxes, responsibilities and other relevant information are incorporated in the proposed agreement. CAs in indirect tax practices can provide services of contract vetting and can be of great help to entities in ensuring that the proposed contract is covered by all types of applicable taxes and to ensure that the persons liable to discharge the applicable duties on the same are clearly identified in the contract.

4.5. Tax planning

CAs can serve business entities as well as societies by providing services such as consultancy in tax planning, in the area of applicability and levy of Central Sales Tax, State VAT laws, Central Excise duty, Service Tax, Customs Duty and other laws which, in turn, will affect the transactions of the business entities. In each business proposal and cost projection report, the element of taxation will play a key role. Good tax planning or tax management will save unnecessary cost that the company would otherwise incur, which is very important in the era of cut-throat competition. CAs can provide their services in the form of tax planning on each proposed assignment and save cost to business entities to the extent possible, to enable them in playing their card in the market without any fear or ambiguity.

4.6. Price negotiations

Price negotiations decide the start or end of each project. In this very competitive world, it is of utmost importance to each business entity to save cost/money in each level to survive in this race. In a manufacturing/ service sector, how the direct cost is incurred towards manufacture of goods/provision of services/sale of goods, will act as a key player. Even the taxes will have its own key role in making the decision in relation to project implementation. The success of a

business depends on minimising the cost without comprising on the quality. In this regard, Members can step into the shoes of a price negotiator with the dealers. A CA, with his training and experience, is well-equipped to position himself to understand the true value of goods/ services received by the entity from the supplier, as well as the true value of goods/ services provided by the entity. The knowledge and experience he possess in this field will help the business entities to identify the correct market value of the cost incurred on the project, and taking such support will help the business entity to bring down the cost to that extent, while negotiating with the supplier, and increase the sale price while negotiating with the buyer.

5. Information Technology

5.1. Assessment of software requirement

The world has become a global market with the advent of newer and newer technology, the overall increase in computer-literacy and the progress into online marketing. The volume of transactions is multiplying constantly and these cannot be compiled manually. It is necessary to take support from information technology (IT) and its need to record the transactions in a timely manner. It is necessary to create a common platform for all business player to tackle the issue of data management.

Even the Revenue Department is gradually moving out of manual assessment and verification of transactions, which have become so voluminous that handling by human skills, is out of question. The Governments and Departments are already beginning to provide an online platform to dealers registered under various laws to interact and submitted the details on real-time basis using simple IT mechanisms. The payment of taxes by online means is a facility made available in almost all the indirect taxes in India, and is being encouraged by way of mandating the same in many cases. The process and scrutiny of filed returns and transactions declared in such returns are happening online and any kind of mismatch and discrepancy in such information would show up as an alert, thereby bringing the same into the notice of the officer, who will verify the mismatch in detail for further process.

In this environment, it is vital to equip business entities in recording the transactions in an organised manner, as data/ details may have to be submitted to Departments. Recording the transactions on a computerised set up will enable the entities in sharing the required details with the Department through online means. The recording of requisite details in the books of account on a real-time basis will reduce time and will save the cost to business entities. In this area, the intervention of Members having the requisite IT abilities/ knowledge will very much help the business entities. They can provide tailor made study reports on how the IT platform should be installed in the business entities to record the transaction, which will help and save the time required to regenerate data from the books to submit the same to the Department.

It may be relevant to note that the person who is well-versed with creation of IT platform may not be an expert in the area of accounting or taxation. The design of IT environment will involve huge investment from business entities. Therefore, an in-depth study and planning of the system-requirements would have to be in place before the implementation of such accounting software or ERPs. Further, the IT environment may differ from one business entity to another, as also from one nature of business to other business. For instance, it would not be viable to implement the IT environment of a Works Contract business into an FMCG business environment, or an IT environment for software companies into manufacturing companies. Designing an IT platform would also require inputs from experts in the field of taxation, who will provide the design and analysis report, a step-by-step process, on aspects in relation to accounting, internal control mechanism and other areas. This would enable the business entity to have an inbuilt internal control mechanism within its own IT environment, so that useful, error-free reports can be generated.

5.2. Uploading and reconciliation of data

The online filing of returns under the Central Excise Law, Service Tax Law, Customs Law and under most State VAT Laws has been made mandatory. Under the provisions of the respective laws, the period to revise the uploaded return may vary from 20 days, 90 days or 180 days. It is very much necessary to provide the true and complete information while furnishing the return, as it is considered as self-assessed, requiring full disclosure from the assessee under the provisions of the Laws. Many a time, incorrect or incomplete information in the return will lead the business entity to come directly under the scanner of the Departmental assessment for an extended period of time. In this process, the entity will have to keep aside some time to prepare and respond to the queries and demands raised by the officials, which may hinder the day-to-day business transactions.

In such cases, the business entities could prefer to use the assistance of a CA in indirect tax practice, to ensure that they fully comply with the Laws. They would assist the entities with verification of transactions before uploading the same in the respective department, and comparing them with the supporting transaction as recorded in the books. In this manner, the transactions reflecting in the data maintained by the Department can be cross-checked to confirm the correctness and completeness of the transaction. This will avoid revision of return and save time that would otherwise be spent on scrutiny from assessing officer.

5.3. Checks and balances in the areas of IT

CAs can provide services with respect to verification of compliance with law from the facility of IT environment which is updated by the Department, based on the information available with them, with respect to transactions gathered from the returns filed by the dealer or by the information updated by the counter-party with such dealer. They can cross-check the transaction recorded by the dealer and its counter party on particular transaction as available from the Department's data and ask the dealer to rectify the mistake or anomalies, if any, which may exist. It will help the dealers to rectify the mistakes within the permitted time period and avoid the time and cost of litigation.

CAs can use their extensive knowledge and experience of working in IT environments of taxation management and help the dealer to identify the mistakes at the earliest, and also help make good use of the ERP used by the business entities to implement automatic checks.

5.4. E-governance

E-governance or Electronic governance is the Information and Communication technology platform which is specifically meant to facilitate interaction between Government and customer, or Government and business entities, or Government and another Government. E-governance plays a very important role in the statutory activities of tax payers/dealers/assesseees, by enabling them to interact with the Department on a real-time basis, publish and communicate the new policies or rules in a short time, and to allow the dealers/tax payers to equip themselves for new amendments. E-governance majorly runs under the IT platform which requires the knowledge of computers and related software. This would require all assesseees at various levels, to run at par with the Department. CAs can provide services to business entities to help them manage their tax-related work, which requires the knowledge of both taxation and IT to interact with the Department.

5.5. Documentation

In the IT environment, the documentation of the transactions will not end/suffice by keeping the hard copies of the Invoices of the supply of documents. It requires inter-linked document information like transportation details, electronic way bill details etc. Electronic way bills are recognised by law as one of the mandatory documents that need to accompany the goods while being moved from one place to another place/another State. Members can provide services developing a system whereby the gathering of such supporting documents, other mandatory documents, etc., that are to be obtained by each dealer, is done in a systematic/ scientific manner and such that they can be preserved till the prescribed period as per Law. Collation of documents is a tedious task. Therefore, taking the assistance of an experienced professional would help the business entity to understand the requirement of each local place, the applicable laws and compliance with the same.

The concept of documentation in the era of IT has dramatically changed. The documentation may or may not involve maintaining the physical copies of invoices/supporting documents. To put in place such a system, one needs to have the expertise & knowledge of taxation and IT, for which CAs can provide their services.

The concept of electronic way bills has intervened with the concept of physical verification of documents of inter-State movement of goods and assessment of the same by the Departmental officials. The generation of electronic way bills is possible only from each dealer's online account exercising utmost precaution, as any incorrect information on such documents may lead to misrepresentation of facts and may lead to seizure of the goods by the officials, which in turn may attract mandatory interest and penalty. Members can provide their services in this area by advising or accepting the responsibility of taking over the work of generation of electronic way bills, based on the nature of goods and as per the provisions of law.

6. Other Key Areas

6.1. Accounting

Members in the field of indirect taxation can provide services of writing up of accounts to the extent of transactions on which indirect tax implications arise, such as maintenance of Sales register, Purchase register etc. The experience of a CA will ensure correct classification, collection, dissemination and summarizing of financial transactions, which reduce the time and cost of the business entities and help them in generating error-free reports to that extent. In Central Excise Law, Service Tax Law and VAT laws, it is mandatory to maintain Supply, Sales and Purchase Registers along with details of Input Credit availed and utilised against output tax liability. CAs with their expertise & knowledge will be in a position to prepare error-free reports, which will speed up the Departmental assessments, and will also give lesser room for attracting unknown liabilities from the Department.

6.2. Refunds

The concept of refund is present in almost all the indirect tax laws. A refund may arise due to excess credits on purchase of Inputs, or with respect to export of goods/services, or concession given by the Government by issuing exemption for certain transaction or inputs/services utilised in EOU/SEZ/STP/EHTP, or for any other reasons as may be stipulated in the respective law. In this regard, a Member in Indirect tax practice, being an independent party to the business transactions, can certify the correctness and completeness of the transactions recorded in the books of account and may also act as a representing authority on behalf of business entity for obtaining the refund from the Department. In this regard, majority of the laws recognise and authorise CAs as an eligible certifying party for transactions. A CA Certificate is considered in this regard as one of the valid documents for the purpose of approving a claim for refund of duties and taxes. CAs in indirect tax practice can provide their services in this regard, by preparing an application for refund and submission of the same with the Department along with the requisite supporting documents and annexures, which are prepared based on the books of accounts/relevant registers, and act as representatives of the business entities and thereby obtain the approval for refund from concerned authority.

Custom Duty Refund

As per Customs Notification No. 102/2007 dated: 14.09.2007 and rules/instruction made thereunder, an importer who has discharged the Additional Duty of Customs under Section 3(5) of the Customs Act, 1962, is eligible for a refund of the said duty on complying with the prescribed conditions. In this regard, it is instructed/ specified by the CBEC that the Importer should submit a Certificate from a CA, in the prescribed manner, certifying the correctness and completeness of the transactions. CBEC has made it mandatory by issuing circular/instructions to assessing authority, to obtain the certificates from those CAs who have exclusively been made responsible to carry out the certification under the said provision. A brief is outlined as under:

- Consolidated certificate from a CA towards unjust enrichment, payment of appropriate ST/VAT, correlating payment of ST/VA with the sale invoices and sale through consignment agent/stockist for the purpose of refund of the Special Additional Duty in pursuance of Notification No. 102/2007 dated: 14.09.2007.

- Further, under Section 74 and 75 of the Customs Act, 1962 the importer is eligible for drawback of duty paid on import of goods, when such goods are re-exported as such or used in the manufacture of goods, which are exported outside India respectively.
- Entities claiming refund of Customs Duty paid towards Special Additional duties are required to obtain the certificate from CAs.
- The application for Refund of Excise Duty must accompany the certificate from a CA to certify that there is no unjust enrichment made by the dealer/assessee.
- Importers registered as “Accredited Clients” form a separate category to whom assured facilitation is provided. Except for a small percentage of consignments selected at random by the RMS, or in cases where specific intelligence is available or where a specifically observed pattern of non-compliance is required to be addressed, Accredited Clients are allowed clearance on the basis of self-assessment without examination of goods as a matter of course. The eligibility criteria for importers to get ACP status are as follows. They should have reliable systems of record keeping and internal controls and their accounting systems should conform to recognised standards of accounting. They are also required to provide the necessary certificate from their CA in this regard.
- In terms of Section 27(2) of the Customs Act, 1962 the concerned Assistant/Deputy Commissioner of Customs has to examine the facts of the case and the material placed before him in order to determine whether the amount claimed by an applicant is refundable to him or not. Further, the Assistant/Deputy Commissioner of Customs should go through the details of the audited balance sheet and other related financial records, certificate of a CA etc., submitted by the applicant in order to decide whether the applicant had not passed on the incidence of the duty and interest thereon, if any, to any other person.

6.3. Tax and litigation management services

More often than not, business entities are covered under more than one indirect tax law, as there would be a combination of various activities – such as manufacture of goods covered under Central Excise Law, provision of service covered under the Service Tax Law, import and export of goods under the Customs Law, trading of goods under VAT/CST Law, Entry Tax law, etc. In such cases, there is no leeway provided to business entities for not complying with the provisions of various laws. This makes the entities vulnerable to scrutiny of the transactions and may have objection from the Department about the manner of compliance with the provisions of law, or non-compliance thereof such as short or incorrect payment of taxes or availment of ineligible Input credits etc., which may lead to litigation with the Department. Further, the time limit for scrutiny of the books and issue of the notice for assessments has been increased from 1 year to 2 year or 18 months to 30 months etc.

In such areas, Members in practice can provide services in the form of managing all such litigation starting from submission of replies to notices received from the assessing officer, represent the business entities, obtain the order from the officers, appeal against impugned order

with higher authority, represent the entities before the authorities to defend their case, and obtain the final verdict on such appeals. It will save the time and cost of business entities, and also help them keep a track on all such litigation details and take timely decisions on such matters. Further, a CA can bring into play his expert knowledge to manage the litigation pending against the business entities. This can be handled by him or any other professionals, irrespective of the location. Such a situation would be a one-point connection to business entities in this regard, and would ensure that they receive the appropriate opinion on the matters on a time-to-time basis.

6.4. Risk assessments

Risk assessments are one of the major areas in which Members in indirect tax practice can engage themselves with business entities. The assessment of risk involved in the assignment from indirect tax point of view is a key requirement for the success of any project. Members, with their updated knowledge in the area of taxation, experience in practical aspects and the understanding of the intention of the Department will give them an insight on matters of risk involved in the proposed project. With such an insight, the Member can provide advice to the management as regards any agreement/ arrangement with suppliers or others which may have an impact or open up a new tax liability. The management will then be in a position to take an informed decision, and take the risks arising on account of such arrangements, based on the risk appetite of the entity. In general, the management or the project committee will consider the viability of the project after analysing the report of risk assessment undertaken by experts. In this context, Members can provide in depth insights on the hidden risks, if any, involved in the proposed project, based on which the management can accept or reject the proposal. This will ensure that no time or money is wasted on a project where the risks begin to show upon its implementation.

6.5. Due diligence

Due diligence is a check of a business or person, prior to entering into a proposed contract, or an act with a certain standard of precaution/care. In certain cases, it can be a perceived obligation to undertake the responsibility of conducting the due diligence. However, in a normal business transaction, it is commonly understood as a voluntary investigation/ verification.

In general, due diligence in various industries is the process through which a potential acquirer evaluates a target company or its assets for an acquisition. The main object of the due diligence is to provide significant information to decision makers and ensuring that this information is systematically used to deliberate in a reflexive manner on the decision at hand and all its costs, benefits, and risks.

In this regard, Members in indirect tax practice can play a very important role to identify the non-compliance or non-confirmatory matters with the provisions of law, which may have a bearing on the continuity of the business itself. The projected future liability which the acquirer may face after acquiring the business entity will give a fair picture of his exposure in this area. It will help the acquirers to negotiate with the business entities to give fair value of the business and identify the risks which can be transferred to the existing management for the defaults done/incurred during their tenure.

6.6. Audits including audit of branches

There are a large number of opportunities open to Members in indirect tax practice in the area of audit, where the primary focus is on Indirect Taxation. As per the Constitution of India, the Central Government and States are empowered to levy and collect Central Excise Duty, Service Tax, Custom Duties and Central Sale Taxes, while the State Governments are empowered to levy and collect local VAT with respect to the transactions within the State. Due to the advent of technology, a business entity located in one place can set-up and run the business at any other place in India or outside India as well. In this scenario, it may not be possible to track and compile all the transactions from all locations, where the transactions are voluminous. Further, each State has its own VAT Law, which would differ from that of another State. The business entities may end up in litigation or non-compliance with the local provisions of law and this may be a consequence of not being aware of the local law and due to paucity of time.

Members in indirect tax practice can provide services in the form of audit, even if they are not statutorily backed, to the management of the business entity to identify areas of concern or loopholes and resolve such issues in order to run the business in a smooth manner. Members in indirect taxes can advise the management to undertake internal audit particularly to cover that aspect of indirect taxation. Such an exercise will highlight the specific non-compliance with provisions of local law and enable the management to take corrective action, and thus, help mitigate the litigation to an extent on such issues.

In the above situation, the business entity should have strong internal control over the units to record particulars of each movement of goods from one unit to another unit and record the sales transactions in the respective books of account. Members in indirect tax practice can play a very important role in this field. Having the knowledge of local laws, the ability to advise on the compliance requirements so that full disclosure is made in an appropriate manner, and close interaction with the local officers will bring him the advantage to tackle the issues and resolve the problems in a timely manner.

The audit report will play a very important role for management as well as statutory auditors, especially in case of a pan-India business. It is humanly impossible to have one person present at all levels, having the knowledge of all types of indirect tax laws enacted and applicable in India, and analyse the impact on business. The report issued by experts will bring to their attention the actual scenario that exists in the respective local places, the status of compliance or non-compliance with the law, its impact on the financial statements as well as business as a whole. It will even sometimes suggest a process that needs to be undertaken to tackle such issues. Further, it will also help the statutory auditors to analyse the impact of the observations in the financial status of the company and may help them address the same, appropriately, in their Independent Audit Reports.

6.7. Pre-audit reviews

The role of CAs under Indirect Taxation is also given a pivotal role in case of Statutory Audit of books of account under the provisions of the Companies Act, 2013, and also in case of Tax Audits under the provisions of the Income Tax Act, 1961. There are provisions which have been made in the respective Acts to bring in the quantification and qualification of the amount involved, whether in case of default or outstanding payments or disputed tax liabilities. It will

give a true picture of the financial viability of the company's strength. The Companies Act, 2013 and Rules made thereunder have specifically inserted a provision on the duty of every Statutory Auditor to comment on the company's outstanding liability to the Government under the applicable Indirect Taxation law. CARO as issued by the MCA has specifically made the Statutory Auditors liable to comment on the status of regularity in depositing undisputed statutory dues within the prescribed period. The Auditor is further entrusted with the responsibility of reporting on situations where the company has not deposited on account of any dispute, the amounts involved therein and the forum where the dispute is pending. In this regard, the Statutory Auditor may not be well-versed with indirect taxation law. Hence, it is advisable to avail expert support from a CA who is well-versed in Indirect Taxation.

6.8. Preparation for Department Audit

Rule 22 of the Central Excise Rules, 2002 provides that the Commissioner may empower an Officer or depute an audit party for carrying out scrutiny or verification of records of the assessee. The Rule also obliges an assessee to make available records for such scrutiny. In this regard, an assessee is required to furnish all the records prepared and maintained for accounting of transactions i.e., receipts, purchases, manufacture, storage, sales or delivery of the goods including inputs, input services and capital goods, as the case may be, payment for input services, and their receipt or procurement, and all the financial records and statements including trial balance or its equivalent.

Rule 5(A)(2) in the Service Tax Rules, 1994 provides for scrutiny of records by the audit party deputed by the Commissioner under the provisions of the Finance Act, 1994. Such scrutiny essentially constitutes audit by the audit party, consisting of Departmental officers. In this regard, the assessee has to provide the details as prescribed under Rule 22 of the Central Excise Rules, 2002.

In the given case, there are prescribed Annexures and appendix formats that are fixed by the audit division of the Department, which need to be filled up by the assessee, normally for 5 years. The task of filling up these appendices is a tedious task for the assessee, especially when such information is required to be provided within the prescribed timelines, given that the assessee would also be occupied with his day-to-day business activities. Further, due to lack of knowledge of the relevant provisions of law, he may be in a state of confusion as to what information has to be provided. Providing irrelevant/ excessive information or not providing the required information will also result in wastage of the Departmental officials' time and effort. A delayed submission may also add to the hindrance in the completion of audit process within the prescribed time limit. To have an effective and error-free submission of workings and documents, it is necessary to route the submission through a tax expert. The CAs' responsibility in these cases is very high as such workings and information would be under their supervision. They would be accountable for the submission as they are seen as experts. They will have to cross-check both the compliance with respect to provision of law as well as think from the point of view of Department officials. CAs being Indirect Tax practitioners can provide good assistance to both assessee and the department officials, save time, cost and energy on both sides.

Auditing Department

Auditing undertaken by Department on business entities is a time consuming effort. In this backdrop, the ability to have a close interaction with the Department officials during audit assignment will come in handy. Furnishing of requisite information/documents in a timely manner and the clarification on doubts as and when raised by the audit officers will reduce the number of observations made in the final audit note, and may avoid the unnecessary show cause notice and the ensuing replies and representations. Sometimes the lack of information/documents and non-cooperation with the Department audit officers may lead them to consider the transactions as not compliant with the provisions of law and therefore may lead to demand on payment of duties or taxes, even though such duties or taxes are duly discharged by the business entities. This unnecessary misunderstanding/ communication gap between the business entities and the department may lead the entities to go through the process of Department assessment, issue of show cause notice and so on.

A Member in indirect tax practice has a very good opportunity to support the business entities by representing them before the department and explain the nature of business and transaction of business, and also by supporting the stand with legal provisions and help the Department official to speed up the process. Once the officials understand the nature and transactions of the business entities and the details of compliance with the provisions of law such as payment of duty within due date, applicability of provisions of law on the specific transactions etc., the officials will be satisfied that the assessee is conversant with the law. The business entities would thereby spend their time and energy in the core business instead of diverting their attention to Departmental issues. Hiring a CA to tackle such issues would ensure that the audit flows in a smooth manner. With their knowledge, CAs would be able to prepare suitable replies during audit period itself. The CA would also be able to advise the business entities on the manner of tackling such allegations in the future, and also help develop business models to cope with the new provisions of law.

6.9. Compliance costs

Majority of the indirect taxation laws applicable in India expect that the assessee or dealer get themselves registered under the respective law as an agent. This is because they will be able to collect the applicable taxes on goods/ services provided by an assessee or dealer, and deposit the same with the Government exchequer within the prescribed time limit. The management should be aware of the all types of indirect taxes applicable on the proposed project or assignment. Indirect taxes are not a part of cost or profit margin as it should be collected from customers. Engaging members who are experts in the areas of indirect tax will most certainly reduce compliance costs.

6.10. Transaction structuring

An expert's help is greatly needed at the time of evaluating transactions under the Central Excise and VAT/ CST or under Service Tax cases. In today's competitive and constantly changing environment, we can see numerous technological innovations that are changing the old rituals followed by business groups. Over the last two decades, the changes in technology have created a huge impact. This has initiated a total relook at the nature of conducting business and its effect. However, the changes in laws and regulations are not as quick as the pace at which the changes in technology are taking place. Several business models have emerged with technology which

