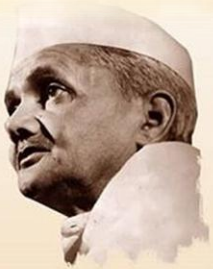


गौरव

continuous progress



The preservation of freedom is not the task of soldiers alone... the whole nation has to be strong.
- Lal Bahadur Shastri

2nd October

Mahatma Gandhi and
Lal Bahadur Shastri Jayanti



Be the change you wish to see in the world
- Mahatma Gandhi

ECONOMY



IMF Sees Indian Economy Expanding At 6.1% in 2023



CBIC notifies all amendments of Finance Act, 2022 w.e.f Oct 1st, 2022: Notification



MANGALURU BRANCH OF
SOUTHERN INDIA REGIONAL COUNCIL OF
INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

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CHAIRMAN'S MESSAGE

Dear Members & Students,

The month of September being a tax audit season had kept all of us occupied and activities of the branch were limited during the said period. The Mangaluru Branch is planning to host many programmes for the members and students during the month beginning from October again.



The branch has planned a one day seminar on Corporate Provisions- Samvedha- Integration of Knowledge on 15th of October 2022 in association with the Mangaluru Chapter of SIRC of ICSI. The said programme will focus on the corporate provisions required for the day to day practice of CA's and CS's.

The branch is also planning to organise series of study circle on regular topics in which members are interested so that active deliberations will lead to focused result for the participants of such programme.

Committee on MSME and Startup of ICAI has initiated ICAI MSME Yathra throughout India through a mobile vehicle and said vehicle will reach Mangaluru branch on 09th of November 2022. In this regard, the branch is planning to host a series of programmes for the benefit of MSME's as a part of said Yathra by joining hands with central committee for the success of the programme.

I would like to end my message with a quote by Mahatma Gandhi:

"Live as if you were to die tomorrow. Learn as if you were to live forever"

Signing off,

CA Prasanna Shenoy M

Chairman

On behalf of Managing Committee

Mangaluru Branch of SIRC of ICAI

ARTICLE GALLERY

IMPLICATION OF TRANSFER OF UNQUOTED SHARES FOR A CONSIDERATION LOWER THAN FAIR MARKET VALUE

Important Definition for the Understanding the provisions

“Quoted Shares” means shares quoted on any recognized stock exchanges with regularity from time to time, where the quotation of such shares is based on current transaction made in ordinary course of business.

“Unquoted Shares” means shares other than above for example-Shares of Private Limited Company, Shares of Hedge Funds, Shares of Private Equity Fund etc. To be precise the shares that are not Quoted on any recognized stock exchanges.

“The Fair Market Value of unquoted shares” means the Value determined as per Rule 11 UAA.

“RULE 11 UAA”

Rule 11 UAA provides the calculation of Fair Market Value as follows-

Option 1

FMV of Equity Shares= (A+B+C+D-L) *(Paid Up Value of Unquoted Equity Shares)/((Total Paid up Equity Share Capital)

Where-

A=Book Value of all Assets including Fixed Assets, Current Assets and Investments except jewelry, artistic Work, Shares & Securities and Immoveable properties.

Following shall not be included in “A”

Advance Tax (+) TDS (+) TCS (-) Income tax Refund Claimed (Means Any Income tax refundable as per IT Returns will be Treated as ASSET)

1. Debit Balance in Profit & Loss Account
2. Miscellaneous Expenditure
3. Discount on issue of Debentures not written off
4. Unamortized amount of Deferred Expenditure not representing any asset.

B= FMV of the jewelry and artistic Work based on Valuation report of a registered valuer;

C= FMV of shares and securities computed as per this rule

D= Stamp duty Value of the immoveable property

L = Book Value of Liabilities Including

1. Preference share capital
2. Debentures
3. Loans (Secured and Unsecured)
4. Current Liabilities and ascertained Provisions
5. Depreciation Reserve
6. Dividend payable on equity shares and preference shares if such dividend has been declared before the date of transfer at AGM
7. Correct Provision for taxation-[Advance Tax (+) **TDS**(+) TCS(-) Income tax Refund Claimed]
8. Arrears of dividend payable in respect of cumulative preference shares even if shown as contingent liabilities

Not to Include in "L"

1. Equity share Capital
2. Dividend payable on equity shares and preference shares if such dividend has not been declared before the date of transfer at AGM.
- ♦ 3. Credit Balance in Profit & Loss Account
4. Any Reserve eg: General Reserve, Workmen Compensation Reserve, Foreign Exchange, Fluctuation Reserve. Excess provisions including excess provision for tax.
5. Provision for unascertained liabilities
- ♦ 6. Contingent Liabilities

Option 2

Alternatively, Rule 11UAA also has an option to take Fair Market value of Unquoted equityshares as determined by Merchant Banker as per the Discounted Free Cash Flow Method.

"balance sheet" in relation to any company, Means –

1. For the Purpose of Section 56 (2) (Viib)The balance sheet of such company(Including the notes annexed thereto and forming part of the accounts) as drawn upon the Valuation date which has been audited by the auditor of the company appointed under section 24 of the companies Act, 2013 and where **the balance sheeton the valuation date is not drawn up**, The balance sheet (including the notes annexed thereto and forming part of the accounts)drawn up as on a date immediately preceding the valuation date which has been approved and adopted in the annual general meeting of the Shareholders of the Company;
2. For the purposes of Section 56 (2) (X) and 50CA, the balance sheet of such company (including the notes annexed thereto and forming part of the accounts) as drawn up on the valuation date which has been audited by the auditor of the company.

"Merchant Banker" means category I merchant banker registered with Security and Exchange Board of India established under section 3 of the Securities and Exchange Boardof India Act, 1992.

"Registered Dealer" means a dealer who is registered under Goods and Service Act;

"Registered Valuer" Shall mean the Valuer appointed by Central Government for the purpose of Income tax Act,1961

"Valuation Date" means the date on which the property or consideration as the case may be, is received by Assessee.

“Relative”

In case of an Individual

1. Spouse of Individual
 2. Brother or sister of the individual
- ♦ Brother or sister of the spouse of the individual
 1. Brother or sister of either of the parents of the individual
 2. Any lineal ascendant or descendant of the individual
 3. Any lineal ascendant or descendant of the spouse of
 - ♦ the individual Spouse of the person referred to in clause (ii) to (vi)

In case of HUF, any member thereof

Implications on Transfer of shares other than Quoted Shares for consideration lower than Fair Value

Applicable to Seller

“Section 50 CA” Special provisions for full consideration for Transfer of shares Other than Quoted Shares (Added by Finance Act, 2017)

Where the consideration received or accruing as a result of the transfer by an assessee of a Capital Asset, being share of a company **other than a quoted share**, is less than the fair market value of such share determined as per Rule 11UAA, the value so determined shall for the purposes of section 48, be determined to be full value of consideration received or accruing as a result of such transfer.

Analysis of Section 50CA

- ♦ Section 50CA has been inserted to provide that where consideration for transfer of shares of a Company (Other than Quoted Share) is less than the fair Market Value (FMV) of such shares determined in accordance with the prescribed manner, The FMV shall be deemed to be the full value of consideration for the purposes of Computing Income under the

head "Capital Gains".

In short-

1. There is a transfer of a capital asset by an assessee.
2. The Capital asset is a share in a Company other than Quoted Share.
3. Consideration Received or Accruing as a result of such Transfer.
4. The consideration received or Accruing is less than Fair Market Value of such Share.
5. The Fair market Value shall be Deemed to be the Consideration or Accrued Consideration for such Transfer.

Applicable to Buyer

Section 56 (2) (X) Purchase/Gift of Unquoted shares Received by any Person

The following shall be taxable under head "Income from Other Sources" as applicable to Unquoted shares

Any Property, Other than Immovable property-

- ♦ **Without Consideration, the AGGREGATE Fair Market Value of which exceeds Rs. 50,000,** the whole of the aggregate fair Market Value of such property;
- ♦ **For a consideration which is less than AGGREGATE fair Market Value of the Property by an amount exceeding Rs. 50,000,** the aggregate fair market value of such property as exceeds such consideration

Provided that this clause shall not apply to any sum of money or any property received (Referred as Specified Person)-

From **any relative**; or

On **the occasion of the marriage** of the individual or Under a will or by way of **Inheritance**; or

In **contemplation of death** of the payer or donor, as the case may be or from any **local authority** as defined in the section 10(20); or

from any fund or Foundation or university or other educational institution or hospital or other medical institution or any trust or institution referred to in **Section 10(23C)**; or from any **trust or institution** registered under **Section 12AA**; or

by any fund or trust or institution or any **university** or other **educational institution** or any **hospital** or **other medical institution** referred to in section 10(23C); or

by way of **transaction not regarded as transfer** under certain clauses Section 47 from an individual by a **trust created or established solely for the benefit of relative of the individual**

from such class of persons and subject to such conditions as may be prescribed

Conclusion

Implication of Section 50CA & Section 56 (2) (X) on transfer of unquoted Shares for a consideration less than Fair Market Value

The transaction of sale of Unquoted equity shares will result in double taxability of the difference between the FMV and the transaction Value once in the hands of the “**Seller**” under “**Section 50CA under the Head Capital gain**” and again in the hands of the “**Buyer**” under “**Section 56(2) (x) under the head Income from Other Sources**”

Article by-

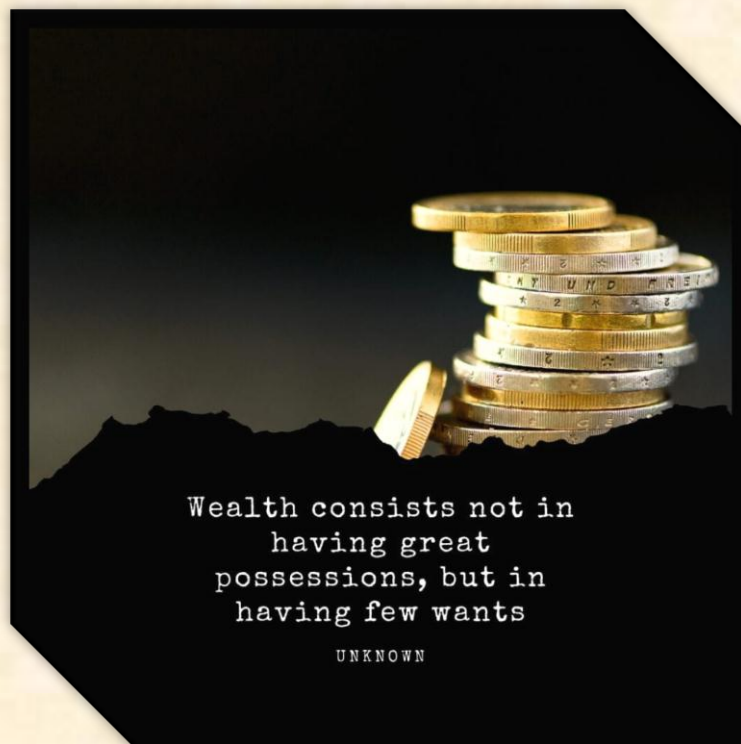
***Disclaimer:** Every effort has been made to avoid errors or omissions in this material. In spite of this, errors may creep in. Any mistake, error or discrepancy noted may be brought to our notice which shall be taken care of in the next edition. In no event shall the author or the Mangaluru branch be liable for any direct, indirect, special or incidental damage resulting from or arising out of or in connection with the use of this information.*



**CA B Nithin Baliga
B N Baliga & Co.
Mangalore**

WORDS OF THE WISE

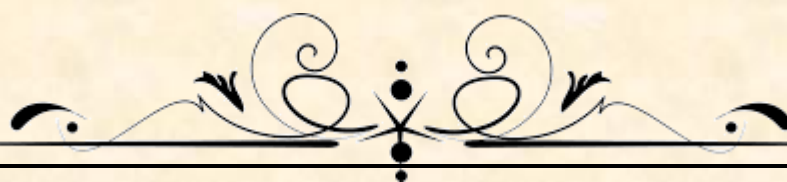
Life is a gift that has been given to you. It is in your hands to make the best out of it--dare to believe that you can. Through the ups and downs, you'll find a lesson to learn that will make you a better person. Each experience--good and bad--makes you grow. Get along with life and surely, things will become easier for you. Live for today and enjoy every moment. Capture the best that life has to offer you.



- *"In the end, it's not the years in your life that count. It's the life in your years."*
Abraham Lincoln
- *"Life is ten percent what happens to you and ninety percent how you respond to it."* Lou Holtz
- *"There are three constants in life...change, choice and principles."* Stephen Covey
- *"Life's most persistent and urgent question is, 'What are you doing for others?'"*
Martin Luther King, Jr.



- *"Life is a series of natural and spontaneous changes. Don't resist them--that only creates sorrow. Let reality be reality. Let things flow naturally forward in whatever way they like."* Lao Tzu
- *"Change is the law of life. And those who look only to the past or present are certain to miss the future."* John F. Kennedy
- *"Only a life lived for others is a life worthwhile."* Albert Einstein
- *"When life is too easy for us, we must beware or we may not be ready to meet the blows which sooner or later come to everyone, rich or poor."* Eleanor Roosevelt
- *"If you don't design your own life plan, chances are you'll fall into someone else's plan. And guess what they have planned for you? Not much."* Jim Rohn
- *"I've failed over and over and over again in my life and that is why I succeed."* Michael Jordan
- *"Anyone who stops learning is old, whether at twenty or eighty. Anyone who keeps learning stays young. The greatest thing in life is to keep your mind young."* Henry Ford
- *"Communication is a skill that you can learn. It's like riding a bicycle or typing. If you're willing to work at it, you can rapidly improve the quality of every part of your life."* Brian Tracy
- *"Today is life--the only life you are sure of. Make the most of today. Get interested in something. Shake yourself awake. Develop a hobby. Let the winds of enthusiasm sweep through you. Live today with gusto."* Dale Carnegie
- *"The secret of success is learning how to use pain and pleasure instead of having pain and pleasure use you. If you do that, you're in control of your life. If you don't, life controls you."* Tony Robbins
- *"Life takes on meaning when you become motivated, set goals and charge after them in an unstoppable manner."* Les Brown



INFO CAPSULE FOR PROFESSIONALS



❖ **Technology and Automation**

5G Now in India: Delhi Airport Terminal 3 is now 5G-ready for fliers (September 29, 2022) 5G launch in India is just a few weeks away, and now the Delhi Airport Terminal 3, the international airport, will be the first 5G-ready airport in India. Delhi Airport has also said that 5G services will be rolled out across the country from October 01, 2022 onwards, which has been the expected timeline for the past few weeks.



For details: <https://www.news18.com/news/tech/5g-now-in-india-delhi-airport-terminal-3-is-now-5gready-for-fliers-6062479.html>

❖ **Securities Laws & Capital Markets**

SEBI News: SEBI permits FPIs to participate in exchange-traded commodity derivatives market (September 29, 2022) Capital markets regulator SEBI allowed Foreign Portfolio Investors (FPIs) to participate in the exchange-traded commodity derivatives segment, a move that will further increase depth and liquidity in the market. The new guidelines, came after SEBI's board approved

a proposal in this regard in June, will come into force with immediate effect. The regulator has already allowed institutional investors such as Category III Alternative Investment Funds (AIFs), Portfolio Management Services and Mutual Funds to participate in the Exchange Traded Currency Derivatives (ETCD) market. FPIs will be allowed to participate in cash settled non-agricultural commodity derivative contracts and indices comprising such non-agricultural commodities.

For details: <https://www.moneycontrol.com/news/business/markets/sebi-permits-fpis-to-participate-in-exchange-traded-commodity-derivatives-market-9252591.html>

❖ Insolvency and Bankruptcy



Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Fourth Amendment) Regulations, 2022 (September 29, 2022) Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Fourth Amendment) Regulations, 2022 inter alia provides that:

- An insolvency professional entity eligible for registration as an insolvency professional, may make an application to the Board in Form AA of Second Schedule along with a non-refundable application fee of two lakh rupees.
- In case an insolvency professional entity is an insolvency professional, it shall allow only a partner or director, as the case may be, who is an insolvency professional and holds a valid authorisation for assignment to sign and act on behalf of it.

- In case the insolvency professional entity is enrolled with an insolvency professional agency, the intimation shall also be made to such insolvency professional agency to update its register of professional members.

For details:

<https://ibbi.gov.in/uploads/legalframework/0aade43c842d51184839bd7cbca06f35.pdf>

❖ **Ministry of Corporate Affairs**

Extension of time for filing e-form DIR-3-KYC and web-form DIR-3-KYC-WEB without fee (September 28, 2022) : On receipt of representation to Ministry of Corporate Affairs (MCA) for extension of time beyond 30.09.2022 for filing e-form DIR-3-KYC and web-Form DIR-3-KYC-WEB without payment of fee. The MCA on examination of the matter, has decided to allow filing of e-form DIR-3-KYC and web-Form DIR-3-KYC-WEB without filing fee upto October 15, 2022.





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The Managing Committee of Mangalore Branch of SIRC of ICAI invites articles, write ups and other similar materials in the areas of Accounting, Taxation or any other subject of professional interest for publishing in its E-Bulletin. The articles submitted for consideration of publication should be of 2000-4000 words typed. Soft copy of the article, along with the author's photograph may be sent to icaiebulletin@gmail.com.

Feedback on this e-bulletin can be sent to the editorial team at icaiebulletin@gmail.com

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