

Issue No. 10
October 2019

NEWSLETTER

PUNE BRANCH OF
WIRC OF ICAI



Happy
Diwali
FESTIVAL OF LIGHTS

"None can destroy iron but its own rust can! Likewise, none can destroy a person but his own mindset can."

PUNE BRANCH OF WIRC OF ICAI

Forthcoming Programmes

SR. NO.	DATE	SEMINAR NAME	VENUE	TIME	FEES	CPE HRS.
1.	4th To 9th November, 2019	Investor Awareness Week	ICAI Bhawan, Bibwewadi, Pune	5.00 pm To 7.00 pm (Everyday)	Rs. 500/- Plus GST for Full Week	12 Hrs. for Full Week
2.	11th November, 2019	Seminar on "GSTR 9 & 9C"	ICAI Bhawan, Bibwewadi, Pune	5.00 pm To 8.00 pm	Rs. 300/- Plus GST	3 Hrs.
3.	16th November, 2019	Seminar on "Internal Audit - Value Beyond Assurance"	ICAI Bhawan, Bibwewadi, Pune	9.30 am To 5.30 pm	Rs. 500/- Plus GST	6 Hrs.
4.	23rd November, 2019	"Technovation" - A Programme for Women Cas)	ICAI Bhawan, Bibwewadi, Pune	9.30 am To 5.00 pm	Rs. 500/- Plus GST	6 Hrs.

Notes:-

- 1) Registrations half an hour before program timings mentioned above.
- 2) For online registrations & detailed programme structure visit www.puneicai.org
- 3) Spot Registration Fees will be charge 25% extra

National Conference on "GST"



Inauguration



CA. Atul Kumar Gupta
Hon. Vice-President - ICAI



CA. Sushil Kumar Goyal - Chairman CA. Rajendrakumar P - Vice Chairman
GST & Indirect Taxes Committee of ICAI



CA. Umesh Sharma
Vice Chairman - WIRC of ICAI



CA. C. V. Chitale
CCM - ICAI



Smt. Krishna A. Mishra
Hon. Principal Chief Commissioner,
CGST, Pune - Chief Guest



Shri. Rajiv Kapoor
I.R.S. Commissioner of CGST &
Customs, Pune - Guest of Honour



CA. Priti Savla
Chairperson - WIRC of ICAI



CA. Sunil Gabhawalla
Speaker



CMA (Dr.) Waman Parkhi
Speaker



CA. Bimal Jain
Speaker



CA. Jatin Christopher
Speaker



CA. Naresh Sheth
Speaker



Panelists L To R :- CA. Mangesh Kinare, Adv. G. Y. Patwardhan,
CA. S. S. Gupta, CA. Pritam Mahure,
Moderator :- CA Yashwant Kasar



Participants



Participants

Chairperson's Communique

Respected Members,

Diwali brings in lot of warmth and bonding with our friends and families. Hope the joy of Diwali lasts with you till the next year!! I'm sure many of you must have taken minimum holidays this vacation considering that the due date of income tax returns was just ending. Really there is a dire need to relook at this entire concept of due dates. The major sentiment seems to be streamlining rather harmonizing the submission of various data and its due dates. I look forward to your suggestions on this matter so that the same can be elevated to respective authorities at Council of the institute which can be further taken up by them.



CA. Ruta Chitale
Chairperson
Pune Branch of WIRC of ICAI

There are many different areas of practice and it has been our endeavor to search for different areas wherein we can apply our skill set in order to give a better professional service to the respective stakeholders. To name a few upcoming areas: Mediation techniques, Valuation, Data Analysis, Transactions with Foreign entities etc. Towards this venture, Professional Development committee, ICAI has also organized a program on "Interactive Meet- Upskilling and Upscaling of the CA Firms". We shall be organizing various Post qualification courses at Pune branch especially on Valuation and International Taxation.

Your branch shall be organising two special programs in the ensuing months: One day program on Internal Audit and capacity building sessions.

Internal audit standards have also been issued by our institute and soon we shall also be organizing a program on the same.

Commerce Wizard is one of the initiatives launched by ICAI for the young adults; for them to understand their aptitude. This exam is being conducted in the month of December and is online. We also organize career counseling sessions at various schools and colleges in order that the students would understand the reach of our profession and make a decision that would greatly affect their lives. Ultimately education matters and good educations matters the most. We look forward towards your active contribution to these sessions.

This is also the time to look at the fulfillment of CPE requirements. The block year is about to end in December 2019.

Do not forget to share your ideas, views and thoughts on any and every matter related to the branch. Assuring you that we shall definitely take cognizance of each and every email, message and verbal communication.

Awaiting your email at chairman@puneicai.org and/or message at my personal mobile number.

Warm Regards,
CA Ruta Chitale

"Population Explosion & Water Crisis" The twin threat to Indian Economy

Contributed by :- CA. S. Balan
Email :- balan@wheelsindia.com

Introduction:

Prime Minister in his Independence Day speech 2019 touched the topic "Population Explosion" and expressed his concern over the growing population in India.

Increasing population and decreasing water levels are the real twin threat to India's economic growth. India is sandwiched between the growing population and reducing water level.

India is already sitting on the population bomb, definitely cannot afford to take further load of population.

Water is the integral part of our daily life. Most of the states in India are reeling under water crisis, it is deepening year on year. There are many reasons for the water scarcity: climate change, over population, water mismanagement, inadequate planning, and constructing building on the dry water bodies and so on.

The over population and water crisis have a direct impact on the economic growth. The High in Population and Dry in water level will badly affect the growth of the country.

High & Dry

High:

India Population Vs China Population

When we think the population of a country we think in million, but India and China are exception to this common belief. Population of these two countries have crossed a billion.

India is the second largest country in the world in population, it is next to China. India and China are the only two countries in the world that had crossed this magic figure of 1 billion.

India's current population is 1.36 billion (136 crores) and China's population is 1.43 billion. In the total world population of 7.70 billion, Indian population is 18% and China population is 19%. These two countries alone account for 37% of the total population in the world. Imagine the fact that every third of the population is either living in India or living in China.

In India for every one second one birth is taking place and for every three seconds one death is happening. Therefore, the net result is for every three seconds two folks are added to the population.

Indian population is doubled in the past 40 years, over population is a blessing or a curse? China is considering over population as a curse and started implementing various programs and policies to bring it down.

In the year on year comparison Indian population is growing by 1.02%, whereas the current growth rate of China is 0.43%, with this growth rate within next two decades India will surpass China in population.

China has taken various measures to control the population. It is a big challenge for India to control the population growth.

Comparative Study:

Rank	Country	Population
1	China	143 Crores
2	India	136 Crores
3	USA	32 Crores
4	Indonesia	27 Crores
5	Pakistan	22 Crores
10	Mexico	13 Crores

See the huge difference between Rank 2 and Rank 3 it is more than 100 crores, India's population is 104 crores more than USA population. World's 10th Ranked Mexico population is just 10% of India's population.

Area wise India is just one –third of China, and little short of USA. Less area more population made India as the most crowded country:

Country	Area in Sq. KM	Population per Sq. KM
China	97 Lakhs Sq. KM	148
India	33 Lakhs Sq. KM	416
USA	35 Lakhs Sq. KM	35

In the last 6 decades no country has moved from its "Developing Country" status to "Developed Country" status without reducing its population.

SBI claims that they have 41 crores savings bank account, now SBI can claim that their number of SB account holders is more than USA population, in other way USA can claim that their population is less than SBI's SB account holders, both the statements are correct but conveying different messages, one is revealing the underlining fact of India could not move from its developing country status to developed country status because of overpopulation and another is revealing the truth that how USA became a developed country and superpower because of less population.

India is a home for not only 18% of the world population but it is also the home for 18% of world's livestock population.

Impact of growing population on GDP

- a) Growing population is leading to more and more unemployment. Industrial automation has already reduced job creation, robotic and artificial intelligence are slowly killing the man power requirement. Under this situation, population growth is nothing but adding fuel to the fire of unemployment.
- b) Supply of agriculture products may not match with the demand from huge population then it will lead to inflation and poverty.
- c) GDP per capita is affected by population as it is measured by GDP divided by the number of people in the country.
- d) Low GDP per capita will affect the quality of life especially on health and education.

Reducing the population will increase the per capita GDP.

"In the last 200 years the population of our planet has grown exponentially, at a rate of 1.9% per year. If it continued at this rate, with the population doubling every 40 years, by 2600 we would all be standing literally shoulder to shoulder." - Stephen Hawking

Dry

Impact of water scarcity in business:

While India is home for not only 18% of the world population it is also the home for 18% world's livestock population but India has just 4% of the fresh water resources of the world.

Water scarcity is seriously going to affect the economic growth of our country. According to a World Bank study of 2016, India could see its growth rate decline by more than 6% of its GDP by 2050 if immediate corrective measures for better allocation and use of water resources aren't taken. FICCI in its survey report 2012 said that 60% of the companies admitted that water scarcity had impacted their business.

Industries affected by water crisis:

Apart from hydropower plant which needs water to generate electricity, huge amount of water is required for thermal power plants also. Coal based thermal power plant, nuclear thermal power plant, bio-mass power plants need huge water especially for cooling purposes.

The astonishing fact is that 88% of the total industrial water consumption is consumed by thermal power plants. The other major industries consuming sizable amount of water are - Tannery, Textile, Paper and Pulp, Hotel, Food & Beverages & FMCG. These industries are badly affected by water crisis. Industries started realising the need to conserve and treat water for survival.

Last year Shimla the popular hill station was forced to shut down hotels by the HP high Court because of the water scarcity. Ladakh, another tourist place is also facing the water crisis and on the verge of closing the hotels.

In June 2019 some of the companies in Chennai asked their staff to work from home as there was no water in the offices, this has badly affected their business. The government's Niti Aayog, reports that major cities Delhi / Bangalore / Hyderabad & Chennai expected to reach zero ground water level by 2020. Industrial state like Tamil Nadu and Maharashtra are able to provide 50% to 75% water only to its urban population, moreover these states are unable to meet the water requirement of industries.

In the recent past, Pune Municipal Corporation due to severe water scarcity cut-off the water supply to Hyatt, a 200 rooms five-star hotel.

Water crisis in agriculture sector affecting GDP

The water scarcity has given a biggest jolt to the agriculture sector, which contributes more than 17% of GDP. In state like Punjab which produces 35% of India's rice and 60% of India's wheat the ground water levels are falling 40-50 cm. per year. This has led to most of its ground water blocks almost nearing complete exhaustion.

Per capita GDP of India Vs China:

In 1962 per capita GDP of India was twice of China, fresh ground water resource was 75% of China, whereas in 2014 China overtook India in GDP as well as in water management. China's per capita GDP went to 3.70 times of India and India's per capita water has come down to 54% of China's. China has reduced the population and better managed its water.

Our country is the highest user of groundwater in the world—we use 25% of all groundwater extracted globally, ahead of the US and China.

In 1950 the water per Indian was 3000-4000 cubic metre but in 2019 it has come down to 1000 cubic metre per Indian. One side India is making unholy competition with China to overtake its population on the other side in water management China is beating India, it is resulted with China's GDP better than India.

Cause of concern for GDP:

70% water we use for domestic purpose is getting wasted, we need to have plan in place to reuse this water. Unless action is taken soon, water will become scarce that could see their growth rates decline by as much as 6% of GDP by 2050 due to water-related impacts on agriculture, health, and income.

Water insecurity may force the agriculturist to migrate to other sector. Food grains would become costlier caused by droughts can drive for migration. Economic growth is impacted by rainfall, water scarcity and droughts affect the growth and spikes in violence within countries.

"Never argue with idiots, because first they bring you to their level and then they beat you with their experience."

80% - 90% of water needs is for agriculture, but the demand of water for main crops remains 3 to 4 times more than of global norms. Therefore, we need to have a water demand management to study on less water demand seeds, pricing on irrigation water, aligning the cropping pattern with agro climatic condition.

Action taken by governments to save water:

Punjab Government due to water problem, first time in India, enacted a law banning the sowing of paddy before a stipulated date, the usual sowing period of April-May is shifted to June that is to the monsoon period. The water consumption in April-May for sowing paddy is 4500 litres per KG but in June it is just 1500-2000 litres per KG.

Gujarat government intends to make water theft as a punishable offence with two years of imprisonment.

Tamil Nadu government is committed to build 10000 check dams this FY 2019 and also committed to have floodplains, water channels to shore up storage and recharge ground water. India needs more such drastic action to save water. Since addressing the water crisis is the need of the hour, the present government at centre has opened a new ministry "Jal Shakti" by merging two old ministries, the ministry of water resources, river development & Ganga rejuvenation and the ministry of drinking water & sanitation.

This ministry has come with new programme "Jal Shakti Abhiyan" the thrust area specified under this programme includes rainwater harvesting, reuse of treated water, rejuvenate at least one water body in every city and plantation. Future of India lies in reducing the population and efficiently managing the water.

Conclusion:

While the Prime Minister was talking about Population Explosion, he advised the Central and State governments to take necessary steps to check the growing populations, he said that the small families deserve respect, keeping the family small is an act of patriotism. The PM's speech is an evidence that the government is serious in reducing the population.

Educating girl child at rural area will enlighten their knowledge to understand the need of small family. PM's initiative on "Beti Bachao Beti Padhao" scheme will bring many good results. Reducing the population is going to be mass movement driven by the government.

Government is also aiming to link the rivers and would create awareness among the public for better water management to convert the water crisis country to water surplus country.

The ball has started rolling now; this government will bring many measures to implement population reduction and effective water utilisation. We as a responsible citizen will spread the need of reducing the population and save water.

"Reduce population and save water to save the future"



The earth, the air, the land and the water are not an inheritance from our fore fathers but on loan from our children. So we have to handover to them at least as it was handed over to us.

— Mahatma Gandhi —

AZ QUOTES

When the country is celebrating Mahatma Gandhi's 150 birth Anniversary, let us pledge to work together to achieve our PM's target of phasing out Single-use plastic by 2022.

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Chargeability under section 4 is a pre-condition for invoking transfer pricing provisions

Contributed by :- CA. Suraj R. Agrawal

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Case Law Citation:-

DCIT v M/s. TMW ASPF i Cyprus Holding Company Ltd. (ITA No. 879/Del/2016) & M/s. TMW ASPF i Cyprus Holding Company Ltd. v DCIT (Arising out of ITA 879/Del/2016)

Case Summary:-

Facts of the case:

- The appellant (TMW ASPF Cyprus), a private limited company incorporated in Cyprus, is in the business of making investments in the real estate sector. The appellant, in the year 2008, had made investments in independent third party companies (investee companies) in India, engaged in real estate development, vide fully convertible debentures (FCCDs).
- As per the inter-company agreement between the appellant and the Associated Enterprise (AE), the appellant was entitled to a coupon rate of 4 percent, and post-conversion of the FCCDs into equity shares, the promoters of Indian companies were to buy back shares at an agreed option price. The option price was stipulated to be such that the investor gets the original investment paid on subscription to the FCCDs plus a return of 18 percent per annum.
- During AY 2011-12, the appellant received interest income of Rs. 60,46,895 from one of the three investee companies, and that too for the first half of the year. No other investee company paid any interest to the appellant. After due follow up by the appellant, the appellant decided to waive its right to receive the interest under a mutual agreement with the investee companies, considering the downturn in the real estate market.
- During the assessment proceedings, the transfer pricing provisions were invoked and the case was referred to the Transfer Pricing Officer (TPO) to examine whether or not the international transactions entered into by the appellant were at arm's length. It was held by the TPO that as the appellant were to earn an assured return of 18 percent, such 18 percent should be considered as an arm's length price/compensation instead of the coupon rate of 4 percent.
- Subsequent to the above, the appellant approached the Dispute Resolution Panel (DRP) and argued that the TPO, while considering the case, did not take cognizance of certain terms of the agreements entered into by the appellant with the investee companies. These were three separate and independent, but germane, facts or events which were brought to the attention of the DRP:
 - o Subscription to FCCDs bear an annual interest rate of 4 percent;
 - o Conversion of FCCDs into equity is on completion of specified term or as determined by the parties to the agreement; and
 - o Post conversion, sale of equity shares by the appellant to the promoters at a consideration providing annualized 18 or 19 percent on return on investment.
- The appellant argued before the DRP that the last two events, stated above, were futuristic and contingent and the FCCD subscription agreement clearly provides the conversion mechanism. It was also argued that the agreement specified that the conversion ratio would be in accordance with the Controller of Capital Issues (RBI) guidelines and the conversion mechanism did not provide for 18 or 19 percent rate of return at the time of conversion.
- The appellant added that it did not receive the agreed coupon rate of 4 percent during AY 2011-12, barring a half-year interest from one of the investee companies and the remaining investee companies requested for waiver of interest, which was duly granted by the appellant, considering the economic situation in the Indian real estate market. It was also stated that none of the investments bore any premium on sale of securities. They were sold either at a loss or at par to the third parties.

- The appellant also drew support from Article 11(1) of the India-Cyprus DTAA by stating that for the purpose of taxation of interest income in the hands of a non-resident, it is necessary that the interest should arise in a contracting state, and the twin conditions of accrual as well as the payment should be satisfied.
- Further, the appellant relied on the decision of the special bench of the ITAT in the case of Ashima Syntex to highlight that the FCCDs are not to be repaid, but retained by converting them into equity shares. The appellant also argued that increase in interest rate to be charged by the appellant would lead to erosion of tax base in India. If it so happens, it would contravene the Explanatory Memorandum of the Finance Bill 2002 through which transfer pricing provisions were brought in, as it would lead to erosion of the country's tax base.
- DRP concurred with the appellant's view and rejected the adjustment proposed by the TPO. Aggrieved, the Revenue appealed before the ITAT Delhi bench.

Ruling:

- The ITAT took cognizance of all the above arguments and materials on record. It agreed with the contention of the appellant that two events — conversion of FCCDs into equity shares on completion of specified term and post-conversion sale of equity shares to the promoters at annualized 18 or 19 percent on return on investment were futuristic and contingent events.
- The ITAT ruled that the AO/TPO, at no point, established that notional interest satisfy the test of income arising or received under the charging provisions of the I-T Act. The ITAT emphasized that if income is not taxable in terms of section 4 of the I-T Act, then the provisions contained in Chapter X (relating to transfer pricing) cannot be made applicable. Consequently, the ITAT ruled that the income chargeable to tax can only be subjected to the transfer pricing implications.
- While passing the above order, the ITAT considered various court cases, namely Pramerica ASPF II Cyprus Holding Ltd and Siemens Aktiengesellschaft, to bring out that in line with the royalty and fees for technical service, interest income can be taxed only on payment or receipt basis.
- Based on the above, the ITAT held that interest which has actually been received can only be the subject of taxation and no TP adjustment should be made merely on hypothetical or receivable basis. With this ruling, the DRP order was upheld.

Conclusion

The ITAT, in this case, has set the grounds for taxation of interest income. It has invoked the basic principle for transfer pricing – that one needs to check whether or not income arising out of a transaction is taxable in India, and only after such determination, can the transfer pricing provisions under chapter X of the Income Tax Act, 1961 be invoked.

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Seminar on "Inbound and Outbound Investment - FEMA and Income Tax Implications in India"



**CA. Rajesh Athavale
Speaker**



**Felicitation of CA. Rajesh Athavale, Speaker
by the hands of CA. Ruta Chitale, Chairperson - Pune ICAI**



Participants

Seminar on "Small & Medium Practitioners - Capacity Building"



**Adv. Vasant Rao Karjatkar
Speaker**



**CS Pawan Chandak
Speaker**

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