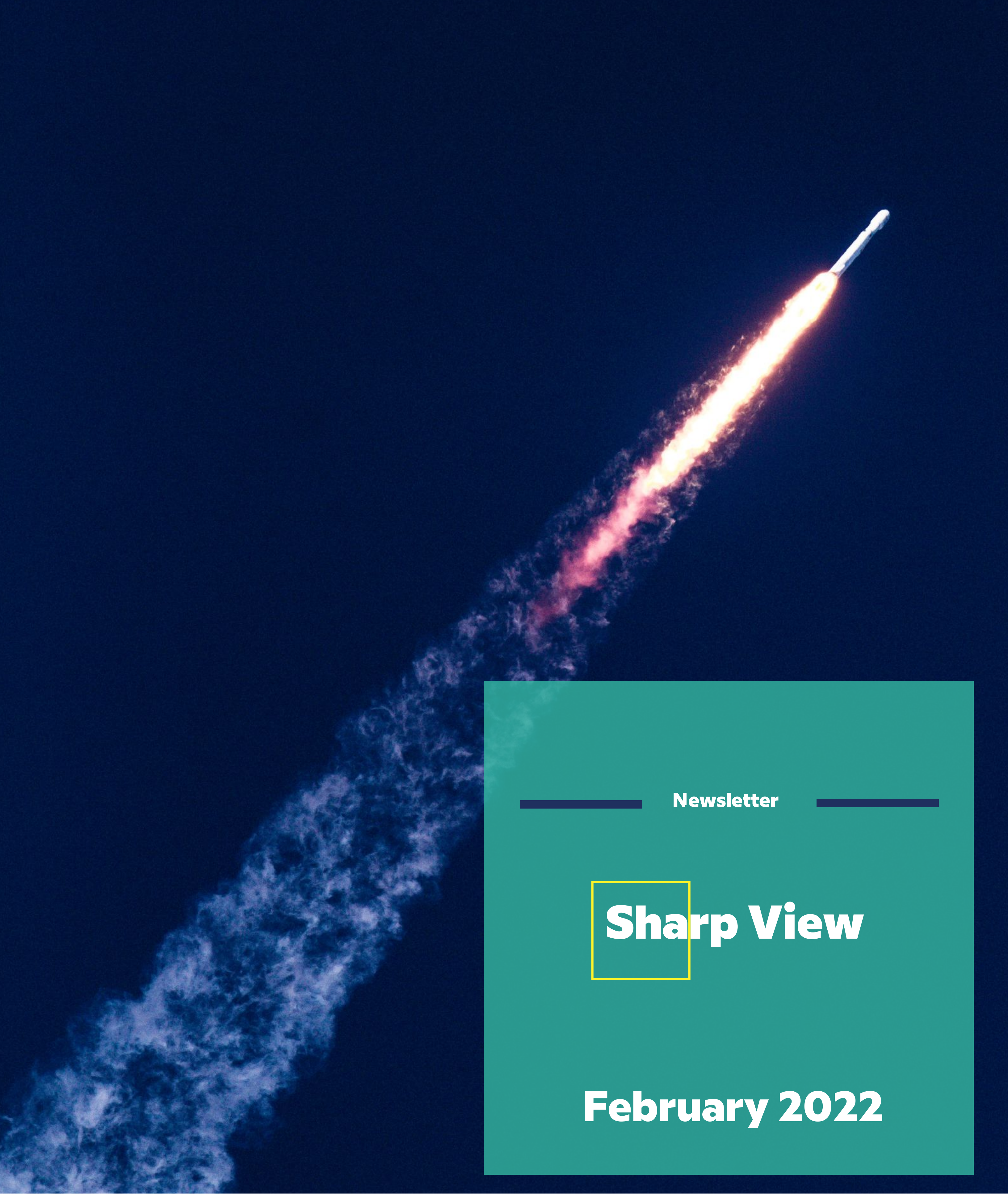

Newsletter

Sharp View

February 2022

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February 2022

February is the last cooler month of winter and an ideal time for tourism in India. Opening up the transportation and tourism sector post the Omicron wave looks promising.

Many national and international days are observed and celebrated in February. India marks 28th February every year as 'National Science Day' to commemorate the achievement of Indian physicist Sir C.V. Raman for receiving Nobel Prize (for the phenomenon – 'Raman Effect' symbolising the behaviour of light) in 1930. Various schools, universities, and educational institutions carry out theme-based science communication activities on this occasion.

India has achieved considerable heights in the science and technology sector in the last few decades. The Government's belief that the economy of future India lies in science, technology and innovation is evident in the current budget allocations. The Government intends to reap the benefits of artificial intelligence, geospatial systems & drones, space economy, pharmaceuticals and green energy for practically every segment of the economy – rural development, healthcare, agriculture, transport, infrastructure. Further, India's commitment towards sustainable development lies in its 'low carbon development strategy.' To this end, the Government will frame supportive policies, build domestic capabilities and promote in-house research and development.

To quote our honourable Prime Minister, one has to be mindful of resource utilisation instead of mindless and destructive consumption.

Happy reading!

GRC

The Auto PLI Scheme

The Government notified the PLI Scheme for automobile & auto components in September 2021. The scheme envisages to overcome the cost disabilities of the industry for manufacture of advanced automotive technology products in India and encourage industry to make fresh investments for indigenous global supply chain of advanced automotive technology products. Mr. Anmol Chetwani (Baroda office) brings out to you the key features of the scheme with some noteworthy conclusions.

Project life cycle – from an audit perspective

A project is a techno-commercial activity in the form of a venture/endeavour involving an enterprise's resources. Across the industries, enterprises employ various resources- time, workforce and finances for the profitable accomplishment of their projects. Audit at each stage of the project is essential to determine the project feasibility and identify weaknesses of the controls, revenue leakages, time and cost over-runs. Mr. Parth Lodha (Audit Supervisor–Ahmedabad office) highlights each stage of the project and its corresponding audit importance in a rational way.

I. Introduction

The automobile sector is one of the key growth drivers of the Indian economy. It contributes nearly 50% to its manufacturing GDP and 7.1% to GDP. However, in the past two years, the growth of the automobile industry has largely remained stagnant. Since 2019, the sector has declined due to a fall in vehicle production and sales. High GST rates, liquidity crunch and ever-increasing fuel price hikes also have reduced the sales figures.

Cumulative sales in August 2021 were below the levels seen in 2016-17 in passenger vehicles and lower than the levels seen in 2011-12 in two-wheelers. The sector saw some hope in September 2021 when the Government approved the much-awaited production-linked incentive (PLI) scheme for automobiles, with a budgetary outlay of INR 26,058 crore. The scheme is estimated to lead to fresh investments of over INR 42,500 crore over 5 years and is seen as a growth driver for the automobile sector.

II. Targeted beneficiaries of the PLI scheme

The PLI scheme will incentivise the manufacturers of advanced automotive technologies or auto components – whose supply chains are weak, dormant, or non-existent. The scheme is open for both the existing automotive companies and new investors who are currently not in the automobile or auto component manufacturing business. This scheme excludes conventional petrol, diesel, and CNG segments (Internal Combustion Engine) since these segments have sufficient capacity in India.

The scheme has two components, viz.

- Champion Original Equipment Manufacturers (OEM) Incentive Scheme: The Champion OEM Incentive scheme is a ‘sales value linked’ scheme, applicable on Battery Electric Vehicles and Hydrogen Fuel Cell Vehicles of all segments.
- Component Champion Incentive Scheme: The Component Champion Incentive scheme is a ‘sales value linked’ scheme, applicable on Advanced Automotive Technology components of vehicles, Completely Knocked Down (CKD)/ Semi Knocked Down (SKD) kits, vehicle aggregates of 2-Wheelers, 3-Wheelers, passenger vehicles, commercial vehicles, tractors and includes automobiles meant for military use and any other advanced automotive technology components prescribed by the Ministry of Heavy Industries.

III. Key guidelines for PLI scheme approvals

An approved applicant shall be eligible for benefits for five consecutive financial years, with FY 2019-2020 being treated as the base year for calculating eligible sales. The eligibility criteria are specified below.

IV. Eligibility criteria for existing automotive companies

An existing automotive company or its group companies will be required to meet the basic eligibility criteria to receive incentives.

Eligibility Criteria (to be met based on audited financial statements for year ending 31 March 2021)	Auto OEM	Auto Component
Global group* Revenue (from automotive and/or auto component manufacturing)	Minimum INR 10,000 crore	Minimum INR 500 crore
Investment	Global Investment of Company or its Group* Company(ies) in fixed assets (gross block) of INR 3,000 crore	Global Investment of Company or its Group* Company(ies) in fixed assets (gross block) of INR 150 crore

*Group Company(ies) shall mean two or more enterprises which, directly or indirectly, are in a position to:
Exercise 26% or more of voting rights in the other enterprise;
OR
Appoint more than 50% of members of the Board of Directors in the other enterprise

V. Eligibility criteria for new non-automotive companies

A new non-automotive investor company or its group companies will be defined as those who have no revenue from automobile or auto components manufacturing as of 31 March 2021. Such companies can qualify for the PLI scheme provided they present a clear business plan to invest in India and generate revenues from advanced automotive technology vehicles or advanced automotive technology components manufacturing. A new applicant must satisfy the entire eligibility criteria.

Eligibility Criteria	New Non-Automotive investor company or its Group company(ies) (who are currently not in automobile or auto component manufacturing business)
Global net worth	INR 1,000 crore based on audited financial statements for year ending 31 March 2021
Committed investment in India over 5-year period	As per minimum new domestic investment conditions

VI. Minimum new domestic cumulative investment criteria

In addition to the above eligibility criteria, following are the Minimum Cumulative Domestic Investment conditions to be achieved by both the existing automotive companies and the new non-automotive investor companies starting from 1 April 2021.

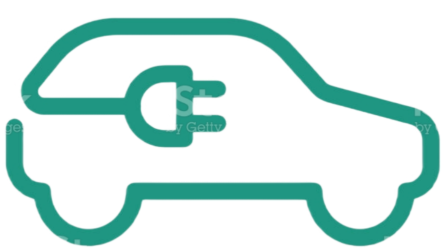
Amount in INR Crore

Cumulative new domestic investment to be achieved	Champion OEM (Except 2W & 3W)	Champion OEM (2W & 3W)	Component Champion	New Non-Automotive Investor (OEM) company or its Group company(ies)	New Non-Automotive investor (Component) company or its Group company(ies)
Upto or before 31 March 2023	300	150	40	300	80
Upto or before 31 March 2024	800	400	100	800	200
Upto or before 31 March 2025	1,400	700	175	1,400	350
Upto or before 31 March 2026	1,750	875	220	1,750	440
Upto or before 31 March 2027	2,000	1,000	250	2,000	500

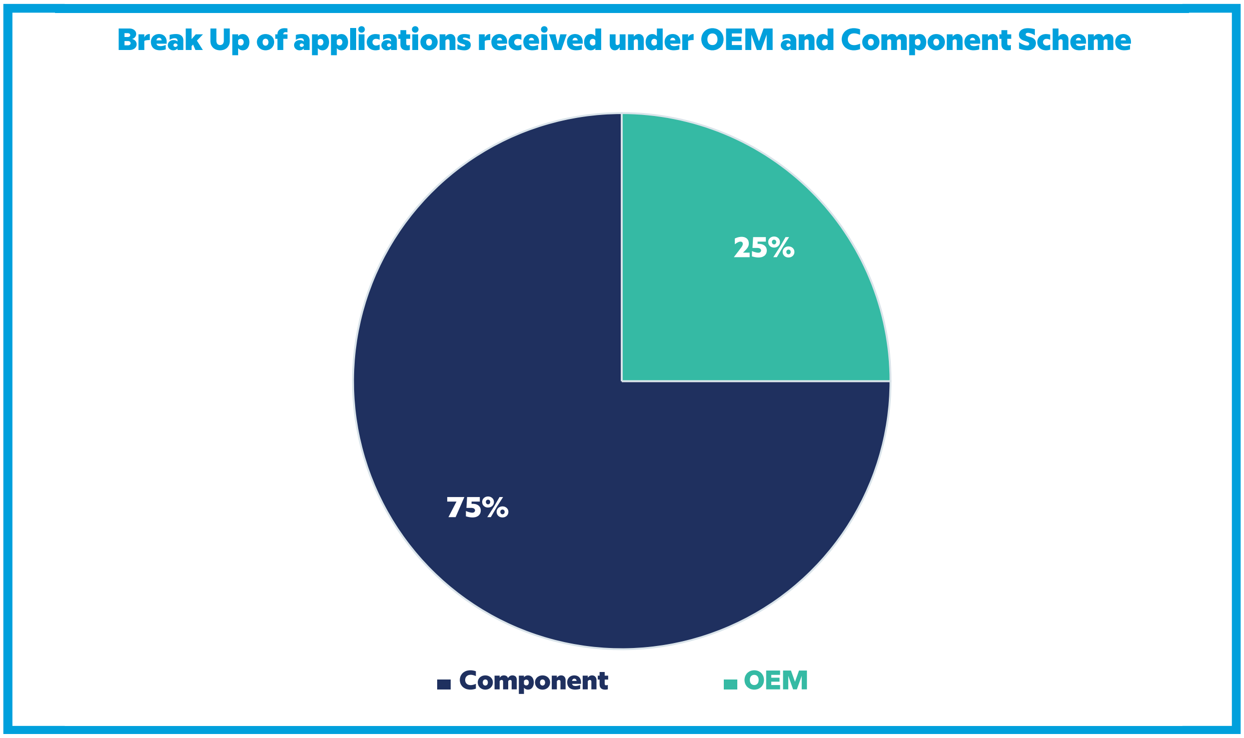
VII. Incentive Slabs

For Champion OEM and New Non-Automotive (OEM) Investor Company		Component Champion and New Non-Automotive (Component) Investor company	
Determined Sales Value (in INR Crore)	Incentives (% of Determined Sales Value)	Determined Sales Value (in INR Crore)	Incentives (% of Determined Sales Value)
<= 2,000	13%	<= 250	8%*
> 2,000 to 3,000	14%	> 250 to 500	9%*
> 3,000 to 4,000	15%	> 500 to 750	10%*
> 4,000	16%	>750	11%*
Cumulative Determined Sales Value of INR 10,000 crore over 5 years	Additional 2%	Cumulative Determined Sales Value of INR 1,250 crore over 5 years	Additional 2%
		Battery Electric vehicles & Hydrogen fuel cell vehicles components	Additional 5%

* Multiplied by a factor of 0.9 in the 5th year for eligible sales relating to Internal Combustion Engine (ICE) vehicle components.



A total of 115 companies applied PLI scheme for the automotive and the auto component sector, out of which 29 were for the OEM scheme and 86 were for the Component scheme.



VIII. Claim of the incentives

In order to receive the incentives, the approved companies need to upload their annual claims under the scheme, along with audited financial statements / supporting documents, as certified by a Chartered Accountant and any other document, as specified. Annual payment to be initiated after review of claims and verification of meeting the criteria and thresholds.

Conclusion

- The PLI scheme restricts the benefits to Battery Electric Vehicles (BEV), Hydrogen Fuel Cell Vehicles (HFCV)and components for BEV, HFCV, CKD/ SKD Kits, passenger vehicles, commercial vehicles, tractors etc. Hence, it indicates that the existing automakers will be inclined to shift to manufacture green vehicles. The push for EVs is driven by the global climate agenda established under the Paris Agreement to reduce carbon emissions in order to limit global warming. It is also projected to contribute in improving the overall energy security situation as the country imports over 80% of its overall crude oil requirements, amounting to approximately US$100 billion. This will make import bill reduction of about INR 2 lakh crore and import bill substitution of about INR 1.5 lakh crore.

- PLI is applicable to the fresh investments for existing / new manufacturers. The scheme benefits the adopters of new technology in particular.

- The manufacturers in these segments were hoping that the PLI scheme would balance the difference in rates between the RoDTEP vis-a-vis the MEIS scheme (especially for products like Internal Combustion Engine). Hence, it could act as a setback to potential investors in this space. This effectively means that the scheme does not cover 80 – 90 % of the current automobile industry in India.

- Indian population relies heavily on the two-wheeler segment for day-to-day transport. Pure two-wheeler Indian players may fall short of the investment capacity of INR 1,000 crore and would become ineligible for the scheme. The PLI scheme may attract very big players and not the start-ups wishing to enter the automobile market.

- Though the EV segment has been rapidly improving in the Indian market, recharging infrastructure is still behind the curve. According to SIAM, there were 1,800 charging stations in India as of March for approximately 16,200 electric cars running on the country's roads. A report by major consulting organisation and FICCI in June 2021 estimated India must have 400,000 charging stations to meet the requirement for the two million EVs that could potentially ply on its roads by 2026. The Government wants 30% of new vehicle sales to be electric models by 2030. We hope that the proposed Battery Swapping policy (in the Union Budget 2022) will address the issue.

- The Government estimates that by 2020-30 India's cumulative demand for batteries would be approximately 900-1100 GWh. Still, there is concern over the absence of a manufacturing base for batteries in India, leading to sole reliance on imports to meet rising demand. As per government data, India imported more than US$1 billion worth of lithium-ion cells in 2021, even though there is negligible penetration of electric vehicles and battery storage in the power sector. While India is yet to grab the opportunity, global manufacturers are betting high on battery manufacturing and fast-moving from gigafactories to terafactories.

- However, the successful implementation of the scheme will lead to fresh investments, over INR 42,500 crore, incremental production of over INR 2.3 lakh crore, and additional employment opportunities of over 7.5 lakh.

Reference https://egazette.nic.in/WriteReadData/2021/229898.pdf

A project is an economic activity designed to achieve the business objectives and align them with its vision and mission. Each project with a clearly stated goal is unique and has the following five stages of the project life cycle.

1. Project Initiation
2. Project Planning
3. Project Execution
4. Project Monitoring & Control
5. Project Completion

1A. Project Initiation

Project Initiation is the first phase of the Project Life Cycle Management, where an organisation evaluates cost-benefits analysis of a proposed project. The management assesses the project's monetary value vis-à-vis the costs. This helps to create the project strategies for obtaining the desired results. The feasibility study is executed during this phase of the project. The variables that can be identified during the feasibility study are as follows.

- Business vision and mission
- Scope of the project
- Project risk

1B. Audit at the Project Initiation Phase

i. Feasibility Study - Feasibility study means evaluating the project's viability from various perspectives like resources, technical capability, finance and possible risks/other threats.

ii. Project Scope of work – The audit of the scope of work determines the extent of the work to be executed on a particular project in terms of the resources like manpower, machinery, material, etc. The value/amount of the work to be invoiced always depends on the completed or executed work proportion. The approved scope of work, the corresponding work done and invoicing should always be aligned.

2A. Project Planning

To plan is the most critical task for any project. Project planning is an essential phase in the project life cycle because "failure to plan is planning to fail." It indeed takes a lot of time and effort. Not a very exciting phase, but it is crucial for the success of the project. Some of the critical factors of the project planning phase are as follows.

- Create a project plan
- Create a resource plan
- Planning of financial budget
- Planning for risks and controls

2B. Audit at the Project Planning Phase

i. Create a project plan –Audit at the project planning stage is the crucial area where the timelines of the project, i.e. the start and completion point, is defined. The significant calculations, fundamental assumptions, and the desired outcome are chalked out at this stage.

ii. Create a resource plan – The audit of the resources at the planning stage is essential. The entire project depends upon the availability of the resources. This includes planning the purchases/procurement of the raw materials, arranging the workforce locally, dependency on and availability of other support services, e.g. accommodation of the workforce, etc., needs to be audited from the commercial and technical end.

iii. Planning of the financial budget – The project's financial outcome depends upon the budget utilisation, i.e. whether the execution of the project is within the allocated finances (which also includes additional funds kept aside to meet any contingencies). The audit also involves assessing the value of the loans taken and other financial investments made to fund the project.

iv. Risk assessment: Audit of the risk assessment made by the management plays an important role. The auditor's role here is to determine whether all the possible risks related to resources, time, costs and manpower are identified and addressed.

3A. Project Execution

Execution is the planning put into action. Based on the resource planned, the head of the project team/leader allocates the tasks/work. The success of the execution primarily depends upon the project planning.

Key elements for the execution phase

- Project progress report – Taking a regular update on the project is the key element to monitor the project's progress. The work stoppage due to the non-availability of the funds, materials, machines should be closely monitored and be documented in the progress report.
- Regular meetings with client/stakeholders/team – Communication plays a vital role during the execution stage. Regular meetings/follow-ups with the stakeholders to address any issues helps everyone to understand each one's expectations and problems cropping up during the execution.

3B. Audit at the Project Execution Phase

i. Project Progress Report / Daily Project Report – The audit of the progress and daily reporting helps identify the weaker controls concerning the resources like material, machine and manpower.
ii. Regular meetings with client/stakeholders/team - The audit of the project on an ongoing basis helps all the stakeholders be on a single page. The concurrent audit enables timely project completion, identifies inadequate controls, and provides an opportunity to put more robust controls during the execution.

4A. Project Monitoring and Controlling

Project monitoring and controlling is almost the same as project execution. Project monitoring compares whether the actual resource utilisation was according to the budgeted/planned performance. Day-to-day control over each activity of the project results in efficient project monitoring.

4B. Audit at the Project Monitoring and Controlling Phase

This involves the verification of the processes implemented during the execution. E.g. For procuring materials, the management has prepared an approval matrix indicating the sanctioning powers of its managers, mentioning clear monetary limits for each sanctioning authority. The auditor needs to ensure whether such approvals were taken while procuring the materials. Similarly, for delays or extensions in a project's timelines or BOQs, the auditor needs to approve whether such time-related approvals were obtained from the pre-defined hierarchies.

5A. Project Completion

Project completion is measured in terms of the percentage of its successful completion. A successful project indicates 100% completion of all the planned activities, while an unsuccessful completion indicates the non-completion or partial fulfilment of the project due to various reasons.

5B. Audit at Project Completion Phase

Audit of the project documentation involves verification of:

i. project status reports,
ii. checklist of construction & safety,
iii. work completion certificates, etc.

Documentation of the drawings, invoices, measurement sheets, abstract sheets, and joint measurement records is crucial for trailering the entire project processes in the database/ERP. The release of the retention/hold money and performance bank guarantee (PBG) amount is also audited to quantify the net damages/penalties.

Project Reward and Recognition

From the human resource perspective, the appreciation of hard work is the key motivational factor. The organisation has to award and recognize the best performer during the project tenure. This will enhance the potential of the team and promote teamwork.

Key takeaway

- The Ministry of Statistics and Programme Implementation (MOSPI) monitors infrastructure projects above the threshold of INR 150 crore each. Out of 1,781 such projects, 483 (about 27%) were hit by cost overruns amounting to more than INR 4.4 lakh crore and 504 projects (about 28%) were delayed. Union budget 2022 plans to ramp up infrastructure spending to support the economy's post-pandemic recovery. The government proposes spending INR 39.5 trillion in the fiscal year on infrastructure projects, meaning that critical monitoring of the project would be significant.

- From project managers to team members, understanding all phases of the project management life cycle is essential for everyone, no matter their level of involvement. Knowing what's happening in each stage of the life cycle (and what's coming next) gives your project more structure and organisation, resulting in greater efficiency for all those involved and propelling the project to success!

- On the COVID-19 background, organisations have learned to cope with the external restrictions and operate on a hybrid work system, i.e. by striking a proper balance between the physical/onsite job and online platform by adopting new technologies. The most critical audits/reviews are post-expense review, technical audit, concurrent project management audit, work measurement & bills certification, MIS review, the scope of work & bill of quantity review. Having such audits and reviews in place ensures timely assessment of resources- time, finance, materials and labour. The audit plugs the loopholes in the system and checks the revenue loss at each stage of the project, thereby creating an opportunity for cost-saving. This helps achieve the overall business goals while maintaining the organisation's performance standards locally and globally.

Taxation

GST – Supreme Court decision
The article covers a recent Supreme Court ruling under the GST law. Delay to deliver the goods beyond the date mentioned in the e-way bill should not be presumed to have occurred with an intention of tax evasion if it is due to external reasons beyond the control of the assessee. Mr. Shouvik Roy (Mumbai office) briefly summarises the apex court ruling.

No tax-evasion by the assessee if the delivery of goods is delayed beyond the e-way bill time limit due to external reasons beyond his control

Case Title: Assistant Commissioner (ST) And Ors. v. M/s. Satyam Shivam Papers Pvt. Ltd. And Anr. (Order dated 12 January 2022)

I. Introduction

In an assessee friendly judgment, the Honourable Supreme Court observed that non-extension of the e-way bill would not automatically raise a presumption of tax evasion, especially when the non-delivery of goods within the validity period of the e-way bill was due to external factors, like, traffic jams, etc.

A bench comprising Justices Dinesh Maheshwari and Hrishikesh Roy dismissed an appeal by the Revenue challenging the order (which was in assessee's favour) by the Telangana High Court (HC). The HC had further imposed costs on the Department.

The said HC order had set aside the order of the Revenue, (passed by Deputy Sales Tax Officer) imposing tax and penalty on the assessee.

II. Facts of the Case

- The respondent-assessee (M/s. Satyam Shivam Papers Pvt. Ltd.), a distributor of paper, generated an e-way bill dated 4 January 2020 to make an intra-state supply.
- The auto trolley engaged to make the delivery on 4 January 2020 (Saturday) could not do so because it got stuck in traffic on account of political rallies opposing CAA and NRC.
- The driver of the auto trolley took the goods to his residence to deliver them on the next working day, i.e., 6 January 2020 (5 January 2020 being a Sunday.)
- On its way for delivery on 6 January 2020, he was detained by a Deputy State Tax Officer (DSTO). The DSTO served a detention notice on the driver alleging that the validity of the e-way bill had expired and that the consignment was unloaded in a private premise (i.e., the residence of the driver).
- Strangely, after detention, the goods were kept in the premises of a relative of the DSTO, and not any other designated place for safe custody.
- The respondent represented the case by providing reasons for the delay in delivery. The respondent cited the extenuating provision of Rule 138 of the CGST Rules, 2018, wherein the validity of the e-way bill for more than 20 km can be extended by an additional day.
- Despite this, DSTO imposed tax and penalty on the respondent.
- The assessee (M/s. Satyam Shivam Papers Pvt. Ltd.) then filed a writ petition before the HC challenging the said penalty order.

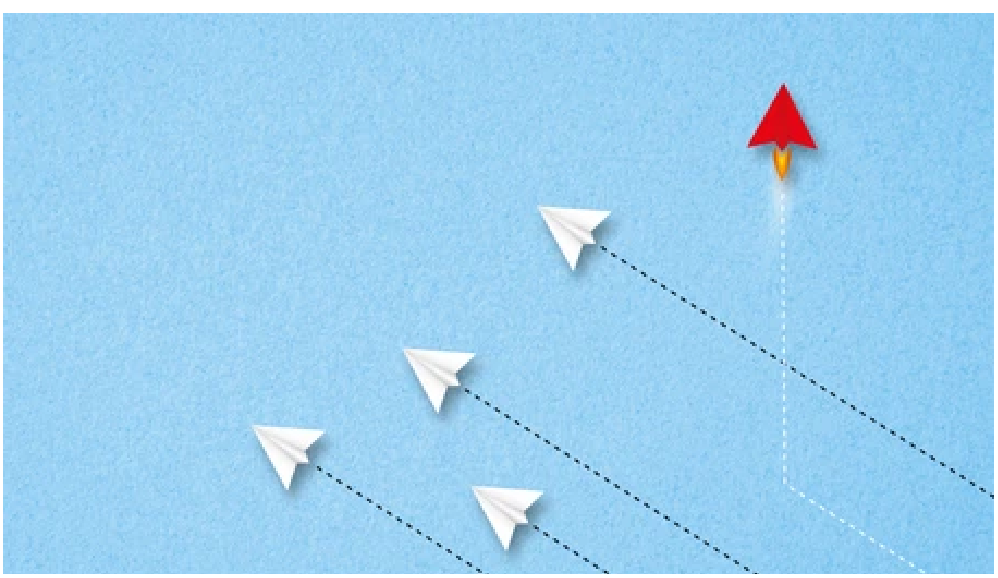
- The Honourable HC of Telengana eventually allowed the writ petition in favour of the assessee and imposed a cost of INR 10,000 on the Revenue Department.
- Aggrieved by the afore-cited HC order, the Department filed an appeal to the SC.

III. The Decision of the Supreme Court

- The SC was satisfied with the examination of facts and the subsequent findings of the High Court.
- The Apex Court found the inference/presumption drawn by the DSTO that the respondent was evading tax merely because its e-way bill had expired a day earlier, without considering the explanation provided in the representations, to be baseless.
- SC concluded that the respondent-assessee had no intention to evade tax. The delay in delivery was due to traffic blockage, which was an event beyond the control of the respondent. SC further observed that it was the duty of the State to ensure smooth passage of traffic.
- The Apex Court also suspected the intention & bonafides of the Deputy Sales Tax Officer in pursuing the litigation against the respondent as after the goods were detained, they were strangely kept in the premises of a relative of the DSTO, and not any other designated safe place for custody.
- Considering the harassment meted out to the respondent by the Revenue Department, the Apex Court enhanced the cost imposed (on the Department) to INR 69,000, i.e., INR 59,000 more than that initially assessed by the HC.
- The SC further directed that the State was entitled to recover the cost amount from the officers responsible for the 'entirely unnecessary litigation.'

Conclusion

This decision may help control the Department's harassment towards the assesses, on mere technical infractions, in bonafide cases where the goods could not be delivered within the time frame of the e-way bill due to genuine force majeure reasons.



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