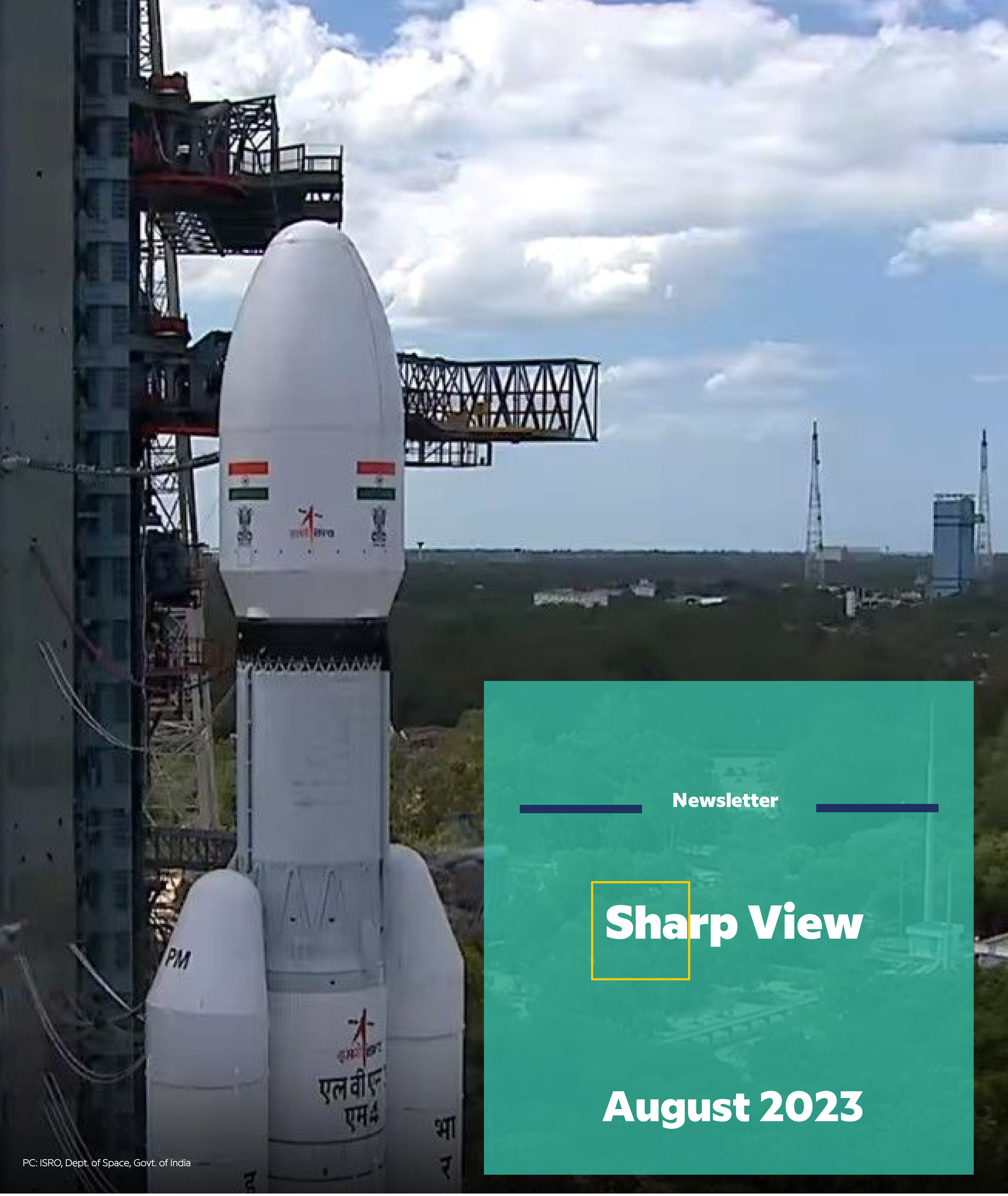

PC: ISRO, Dept. of Space, Govt. of India

Newsletter

Sharp View

August 2023

SHARP & TANNAN

Assurance | Consulting | GRC | Taxation

Ahmedabad | Bengaluru | Chennai | Coimbatore | Goa | Mumbai | New Delhi | Pune | Vadodara

AUGUST 2023

August marks the mid of rainy season in India. With the beginning of Shravan month, the heavy downpours start moderating and usually take the form of sudden showers. India celebrates various important days in the month of August like the Independence Day, National Handloom Day and Parsi New Year as well as some international days like Youth Day, Lefthanders' Day and International Moon Day.

It was a proud moment for India when the Indian Space Research Organisation ('ISRO') launched 'Chandrayaan-3' a follow-on mission to the Moon on 14 July 2023 which has now been successfully inserted into the lunar orbit. The world's eyes and minds are now set on to the successful landing on the moon.

For India, the opening up of the space sector to private players has resulted in pooling of synergies, assets and resources like knowledge and funds to the Indian space sector. India is positioned as one of the top five nations globally in the field of space exploration.

Some interesting facts

- Chandrayaan-3 is expected to be supportive to ISRO's future interplanetary missions.
- India is one of the very few countries who have built end to end capability in space.
- The Indian government has opened up the space sector for the Indian private industry through the 2020 space sector reforms to enhance their participation in end-to-end space activities with hand holding of ISRO.
- Presently FDI in space sector is allowed up to 100% in the area of satellites-establishment and operations through the Government route only.
- India's space sector is fast gaining a pre-eminent position in the world with successful launch of foreign satellites. Till date, India has launched 424 foreign satellites.

Are we there yet?

ASSURANCE

Maintaining an audit trail - Implementation and reporting under Rule 11(g) of the Audit Rules

With effect from 1 April 2023, it is mandatory for every company using accounting software for maintaining its books of account to ensure that such software has a feature of recording the audit trail of every transaction creating an edit log of such change and ensuring that the audit trail cannot be disabled. Mr. Sachin Deshmukh (Pune office) elaborates the provisions in light of the direction provided by ICAI through its 'implementation guide.'

Maintaining an audit trail - Implementation and reporting under Rule 11(g) of the Audit Rules

Introduction

Proviso to Rule 3(1) of the Companies (Accounts) Amendment Rules, 2021 read together with section 143(3) of the Companies Act, 2013 ('the Act') has cast a responsibility on the company to ensure that every company using accounting software for maintaining its books of account, shall use only such accounting software which:

- has a feature of recording the audit trail of each and every transaction
- creating an edit log of each change made in books of account along with the date when such changes were made
- and ensuring that the audit trail cannot be disabled.

As per rule 11(g) of the Companies (Audit and Auditors) Amendment Rules, 2021 ('the Audit Rules'), the auditors have been cast a responsibility to verify whether the company has used such accounting software for maintaining its books of account:

- which has a feature of recording audit trail (edit log) facility and the same has been operated throughout the year for all transactions recorded in the software
- the audit trail feature has not been tampered with
- the audit trail has been preserved by the company as per the statutory requirements for record retention.

The Institute of Chartered Accountants of India ('ICAI') has presented an implementation guide ('IG') to the auditors to ensure that they discharge their duties/attest function efficiently. This note provides you with a comprehensive summary of the recently published Implementation Guide ('IG') on Rule 11(g) by the Institute of Chartered Accountants of India ('ICAI'). The guide focuses on the reporting requirements related to the audit trail in the context of auditing and assurance engagements.

A. The sections/amended rules of the Company's Act used in the implementation of audit trail requirements

Any software that maintains records or transactions that fall under the definition of 'books of account' as per section 2(13) of the Act will be considered accounting software for this purpose.

Section 2(13) books of account: 'Books of account' includes records maintained in respect of -
(i) all sums of money received and expended by a company and matters in relation to which the receipts and expenditures take place;
(ii) all sales and purchases of goods and services by the company;
(iii) the assets and liabilities of the company; and
(iv) the items of cost as may be prescribed under section 148 of the Act in the case of a company that belongs to any class of companies specified under that section.

It may be noted that the requirement of the accounting software to have a feature of audit trail has been incorporated as a proviso to Rule 3(1) of the Account Rules and has been prescribed only in the context of books of account.

"Rule 3(1) amendments: As per Rule 3(1) of the Companies (Accounts) Rules, 2014 every company which uses accounting software for maintaining its books of account, shall use only such accounting software which has a

feature of recording audit trail of each and every transaction, creating an edit log of each change made in the books of account along with the date when such changes were made and ensuring that the audit trail cannot be disabled."

Section 128(5): The books of account of every company relating to a period of not less than eight financial years immediately preceding a financial year, or where the company had been in existence for a period less than eight years, in respect of all the preceding years together with the vouchers relevant to any entry in such books of account shall be kept in good order.

Audit Trail: Audit trails are a chronological record of the changes that have been made to the data. Any change to data including creating new data, updating, or deleting data must be recorded.

B. Management's responsibility

It is the responsibility of the management to ensure that the requirements, including those specified by account rules, are implemented effectively.

For the financial year commencing on or after the 1 April 2023, every company which uses accounting software for maintaining its books of account:

1. shall use only such accounting software which has a feature of recording the audit trail of each and every transaction
2. create an edit log of each change made in the books of account along with the date when such changes were made
3. ensuring that the audit trail cannot be disabled through the 365 days effective from 1-April 2023 and
4. ensure that controls over maintenance and monitoring of the audit trail and its feature are designed and operating effectively throughout the reporting period. (Predominantly IT controls) including testing, management has performed to assess the completeness and accuracy of the audit trail.

The management is primarily responsible for ensuring the selection of the appropriate accounting software for compliance with applicable laws and regulations (including those related to the retention of audit logs).

- It should be noted that the accounting software may be hosted and maintained:
  - in India, or
  - outside India, or
  - on-premise, or
  - on the cloud, or
  - subscribed to as 'Software as a Service' (SaaS) software.

- The company may be using software that is maintained at a service organisation. (For example, the company may have outsourced its payroll processing with a shared service centre and the shared service centre may use its own software to process payroll for the company.)

Maintaining an audit trail - Implementation and reporting under Rule 11(g) of the Audit Rules

Considering the requirement of Section 128(5) of the Act, which requires books of account to be preserved by companies for a minimum period of eight years, the company would need to retain an audit trail for a minimum period of eight years i.e., effective from the date of applicability of the Account Rules (i.e., currently 1 April 2023, onwards).

Internal Controls: An inclusive list of internal controls which may be required to be implemented and operated is given below:

- Controls to ensure that the audit trail feature has not been disabled or deactivated.
- Controls to ensure that User IDs are assigned to each individual and that the User IDs are not shared.
- Controls to ensure that changes to the configurations of the audit trail are authorized and logs of such changes are maintained.
- Controls to ensure that access to the audit trail (and backups) is disabled or restricted and access logs, whenever the audit trails have been accessed, are maintained.
- Controls to ensure that periodic backups of the audit trails are taken and archived as per the statutory period specified under Section 128 of the Act.

C. Auditor's responsibility

Rule 11(g) casts responsibility on the auditor in terms of reporting on the audit trail by making a specific assertion in the audit report under the section 'Report on Other Legal and Regulatory Requirements'.

Additionally, the auditor needs to verify:

- Whether the audit trail feature is configurable? (i.e., if it can be disabled or tampered with)
- Whether the audit trail feature was enabled/operated throughout the year?
- Whether all transactions recorded in the software are covered in the audit trail feature?
- Whether the audit trail has been preserved as per statutory requirements for record retention?

D. Audit approach

As part of the audit approach, the auditor would need to ensure that the management assumes the primary responsibility to:

- Identify all records and transactions that comprise your books of account under section 2(13) of the Act.
- Identify the software and IT environment utilized for processing and storing data for the creation and maintenance of these books.
- Ensure that
  - the software boasts an audit trail feature.
  - the audit trail captures all modifications made to each transaction, including the identity of the individual who made the changes, what data was changed and when the changes were made.
  - the audit trail feature is activated at all times.
  - the audit trail at the database level (if applicable) to log any direct data changes.
  - audit trail is appropriately protected from any modification.
  - the audit trail is retained in accordance with legal requirements for record retention.
  - the controls put in place for the maintenance and monitoring of the audit trail and its features are designed and are consistently operating throughout the reporting period.

Maintaining an audit trail - Implementation and reporting under Rule 11(g) of the Audit Rules

E. Important points

- All transactions recorded in the software' would refer to all transactions that result in a change to the books of account.
- Considering the applicability date of the amended audit rules, it implies that the auditor is not required to assess the appropriateness of the audit trail of previous years and the assessment will be only for prospective financial years.
- Auditors of all classes of companies including section 8 companies would be required to report on these matters.
- As per the Companies (Registration of Foreign Companies) Rules, 2014, the provisions of 'Chapter X of the Act: Audit and Auditors' and Rules made will apply to the auditors of foreign companies as well.
- The auditor is required to comment on the above matters both in the case of standalone financial statements and consolidated financial statements.
- While reporting on consolidated financial statements, the auditor may observe that certain components included in the consolidated financial statements are:
  - either not companies under the Act, or
  - are incorporated outside India.
- The auditors of the parent company should apply professional judgement and comply with applicable Standards on Auditing, in particular, SA 600, 'Using the Work of Another Auditor' while assessing the matters reported by the auditors of subsidiaries, associates and joint ventures that are Indian companies.

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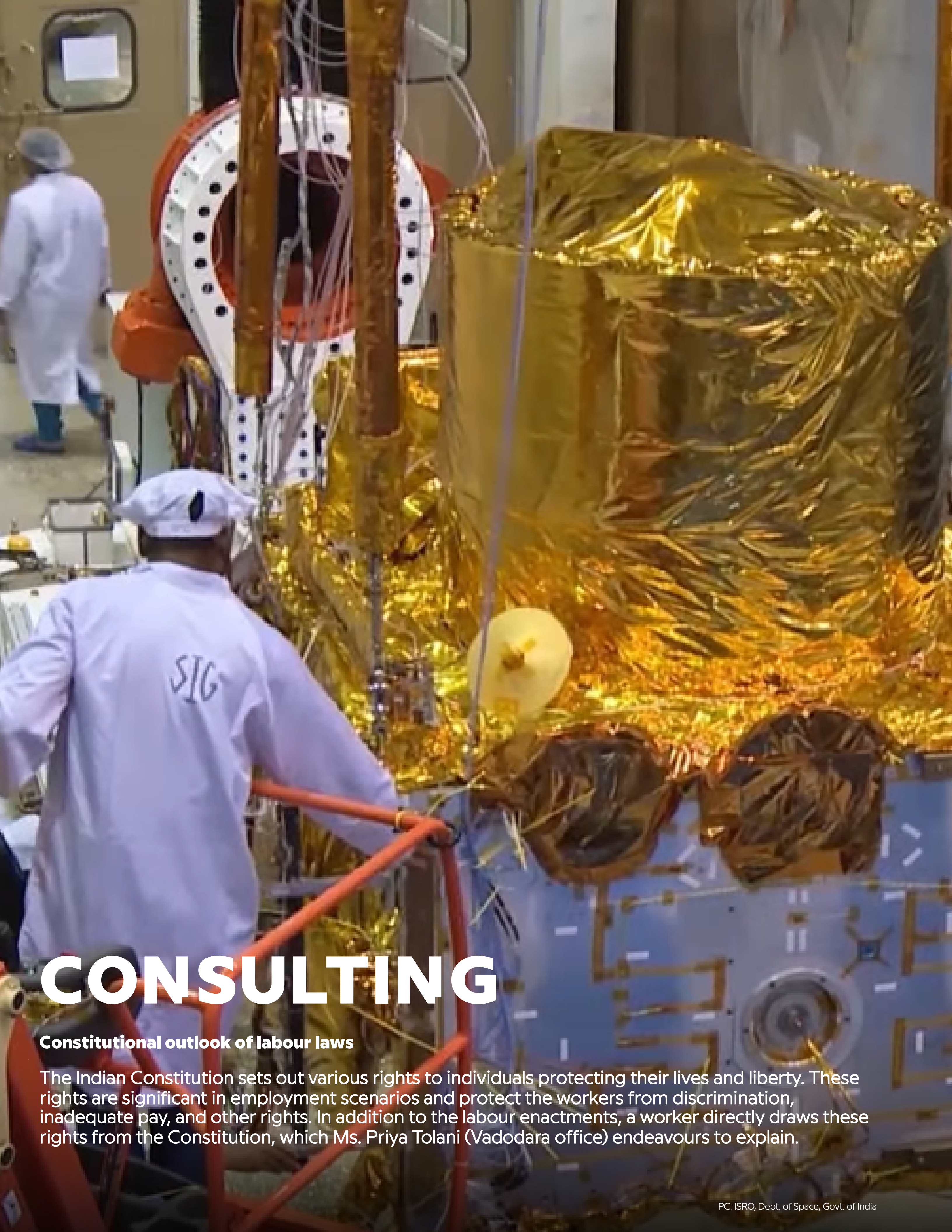

CONSULTING

Constitutional outlook of labour laws

The Indian Constitution sets out various rights to individuals protecting their lives and liberty. These rights are significant in employment scenarios and protect the workers from discrimination, inadequate pay, and other rights. In addition to the labour enactments, a worker directly draws these rights from the Constitution, which Ms. Priya Tolani (Vadodara office) endeavours to explain.

PC: ISRO, Dept. of Space, Govt. of India

Constitutional outlook of labour laws

Introduction

The Constitution of India ('Indian Constitution') enshrines the fundamental rights and freedom of individuals, ensuring the protection of their lives and liberty. Numerous articles in the Indian Constitution guarantee the preservation of employees' rights and protect them from any form of discrimination in areas relating to public employment. This article highlights the key articles of the Indian Constitution that serve as a framework, support and safeguard for the implementation and functioning of various labour laws, ensuring their effectiveness in protecting the rights and interests of workers.

Article 14

Article 14 of the Indian Constitution embodies the principle of equality before the law and prohibits any form of discrimination. It states that "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." It ensures that all individuals, regardless of their background or characteristics, are treated equally and have equal access to justice and protection under the law.

Articles 15 and 16

Article 15 prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth, while Article 16 ensures equality of opportunity in public employment and prevents discrimination in matters of appointment to public services.

Article 19

Article 19 of the Indian Constitution guarantees certain fundamental rights to its citizens. It encompasses several types of freedom that are essential for a democratic society.

Freedom of speech and expression: This provision grants individuals the right to express their opinions, thoughts, and ideas freely. It includes the freedom to engage in political discussions, publish articles, and engage in artistic and cultural activities. However, this freedom is subject to reasonable restrictions in the interest of public order, morality, and national security. It also gives an inherent right to the citizens to gather peacefully in public spaces, organize meetings, and participate in peaceful protests or demonstrations.

Freedom to form associations and unions: Individuals are allowed to form associations, unions, or societies to pursue common interests, engage in collective action, and protect their rights. This freedom also includes the right to join or not join any association or union.

Freedom to Practice Professions or Occupations: This provision guarantees citizens the right to choose any profession, occupation, or trade of their liking. However, the government can impose reasonable restrictions to regulate or restrict certain professions in the interest of public welfare.

Constitutional outlook of labour laws

Article 21

Article 21 of the Indian Constitution is a significant provision that guarantees the protection of an individual's right to life and personal liberty. The employer is duty bound to provide safe and healthy work environment. In Charan Lal Sahu v. Union of India, the honourable Supreme Court of India ('SC') held that if an employee is deprived of this right, he/she can challenge the violation as a constitutional remedy. It is one of the fundamental rights enshrined in the Constitution and is a cornerstone of human rights in India.

Right to privacy: SC has interpreted Article 21 to include the right to privacy as an integral part of an individual's personal liberty. This right protects individuals from unwarranted intrusion into their personal lives, including their private space, communication, and information.

Due process of law: Article 21 establishes the principle of due process of law, which ensures that any deprivation of life or personal liberty must be in accordance with established legal procedures. It guarantees fair treatment, access to justice, and protection against arbitrary actions by the state or its authorities.

The judiciary has played a vital role in protecting and expanding the scope of Article 21, ensuring that individuals' fundamental rights are upheld and safeguarded.

Article 24 states that no child below the age of 14 years shall be employed to work in any factory, mine, or hazardous occupation. It recognizes the vulnerability of children and the importance of their physical and mental development, ensuring that they are not subjected to exploitative labour practices. Some courts have taken a view under article 23 and 24 that child labour is a kind of slavery and hence prohibited the child labour.

Article 23

Article 23 of the Indian Constitution prohibits the practice of human trafficking and forced labour. It is a fundamental right that seeks to protect individuals from exploitation and ensure their dignity and freedom. It provides for no tolerance for human trafficking, i.e. banning all forms of forced labor, slavery, and exploitation; prohibition of forced labor, ensuring protection from bondage and exploitation; protection of dignity and freedom.

Directive principles of State Policy

The directive principles of State policy in the Constitution of India establish the State's commitment to promote the welfare of the people. They are contained in Part IV of the Constitution and provide for protection of the rights and interest of workers. Under these principles, the legislature borrows the power to frame the laws and regulations for the citizens.

Constitutional outlook of labour laws

Articles 39, 39(a) and 39(b)

Article 39 emphasizes the State's responsibility to ensure social justice, equitable distribution of resources, and the welfare of the people. It provides for

1. Equal justice and equal opportunity
2. Adequate means of livelihood
3. Equitable distribution of wealth and resources
4. Prevention of exploitation of workers
5. Protection of health and strength of workers

Article 38

Article 38 of the Indian Constitution is one of the directive principles of State policy that outlines the social objectives and responsibilities of the State towards its citizens. It emphasizes the promotion of social and economic welfare, equality, and the protection of vulnerable sections of society. Here are the key points of Article 38.

1. Promote welfare of the people
2. Reducing inequalities
3. Social security
4. Just economic order
5. Protection of vulnerable sections

Article 41

Article 41 emphasizes the State's responsibility to ensure the right to work, education, and public assistance in certain cases. It provides for

- Right to work
- Right to free and compulsory education to children up to the age of fourteen
- Public assistance for individuals who are unable to support themselves

The objective of Article 41 is to ensure social and economic justice, reduce inequalities, and promote the overall well-being of citizens. While the provisions in this article are not legally enforceable, they guide the State in formulating policies and programs to address unemployment, provide education, and offer assistance to those in need. These principles direct the state in developing labour rights, policies and legislation, even though they are not enforceable by courts.

Conclusion

A person draws constitutional rights directly under the constitution of India and indirectly through chapter IV of the Constitution which enables the State to frame laws to ensure proper administration of their rights. India's constitutional protection of labour rights is crucial because it ensures that workers are treated fairly, have access to decent and humane working conditions, and are safeguarded from exploitation. Through its article 43, the Constitution has also ensured that there is an active participation of workers in the management of undertakings and establishments in any industry. This participation is facilitated by passing appropriate legislations at the State levels. In today's business environment where knowledge and technology are crucial for survival and success, the employers need to frame internal policies that allow for labour benefits and rights under the constitution and through the enactments.

GRC

Corporate governance excellence in India: Empowering growth

As businesses grow globally, corporate governance assumes a centre stage. The strengthening of the disclosure norms and reporting requirements by SEBI is indicative of the need for the 'inclusion' of various stakeholders in the reporting environment. Mr. Arnob Choudhuri (Pune office) throws light on the corporate governance principles and practices applicable to Indian organizations, with a focus on board effectiveness, executive compensation, stakeholder engagement, and the role of technology in enhancing governance processes.

Corporate governance excellence in India: Empowering growth

Introduction

Corporate governance lies at the heart of every successful organization, providing the framework for ethical decision-making, transparency, and accountability. In India, as businesses continue to expand and globalize, adhering to robust corporate governance practices becomes imperative. This article sheds light on key corporate governance principles and practices applicable to Indian organizations, with a focus on board effectiveness, executive compensation, stakeholder engagement, and the role of technology in enhancing governance processes. Through in-depth insights and real-world case studies, we aim to illuminate the path towards exemplary corporate governance in the Indian context.

A historical perspective on corporate governance in India

Over the past few decades, India has witnessed significant shifts in corporate governance practices. The early 1990s marked a turning point when economic liberalization led to increased foreign investment and expansion of businesses. The need for strong corporate governance emerged as a response to concerns about mismanagement, fraud, and lack of transparency. The Securities and Exchange Board of India ('SEBI') and other regulatory bodies introduced various reforms to improve corporate governance standards. The introduction of independent directors, audit committees, and disclosure requirements aimed to enhance board accountability and investor confidence. Indian organizations gradually recognized the importance of aligning executive compensation with performance to incentivize long-term value creation.

The rise of stakeholder engagement

In recent years, there has been a growing emphasis on stakeholder engagement in Indian corporate governance. Stakeholders' demands for greater transparency, environmental sustainability, and social responsibility have influenced businesses to adopt a stakeholder-centric approach. Organizations now recognize that engaging with employees, customers, suppliers, and local communities fosters goodwill and strengthens the social license to operate. Stakeholder engagement has become integral to addressing emerging environmental and social risks and seizing new market opportunities.

Technology integration and governance transformation

The digital revolution has transformed governance practices in Indian organizations. The adoption of technology-driven solutions, such as board portal software, data analytics, and artificial intelligence, has streamlined governance workflows, improved data security, and facilitated real-time reporting. Automation has enabled boards to efficiently manage agendas, access board materials remotely, and enhance collaboration. The integration of technology has empowered boards to make well-informed decisions promptly and effectively.

Corporate governance best practices for Indian organizations

1. Board effectiveness

A high-performing and independent board is a cornerstone of effective corporate governance. Indian organizations should prioritize board composition, ensuring a diverse mix of directors with varied expertise and backgrounds. Boards must comprise individuals with industry knowledge, financial acumen, and familiarity with emerging technologies. Engaging independent directors, free from any conflicts of interest, can foster objective decision-making and promote long-term value creation.

Case study 1: Manufacturing industry - Board diversity for robust decision-making

A leading manufacturing company in India recognized the importance of board diversity in navigating industry challenges and achieving sustainable growth. By appointing independent directors from diverse backgrounds, including technology and sustainability experts, the board became better equipped to identify risks and capitalize on opportunities in a rapidly changing business landscape. This strategic move bolstered the board's ability to make informed decisions and drive the organization forward.

Case study 2: Banking sector - Effective governance through board evaluations

A prominent Indian bank adopted regular board evaluations as a tool to enhance board effectiveness. By conducting objective assessments, the bank identified areas for improvement and leveraged the insights to strengthen board dynamics. The evaluation process not only facilitated open communication among directors but also helped address potential conflicts and enhance the overall governance framework.

2. Executive compensation

Aligning executive compensation with long-term organizational goals is essential to ensure leadership accountability and shareholder value creation. Indian organizations should adopt performance-based incentives that reward executives for achieving strategic objectives and sustainable growth. Transparent disclosure of executive compensation builds trust among stakeholders and fosters a culture of responsible governance.

Case study 3: IT services sector - Performance-linked incentives driving growth

A leading IT services company in India revamped its executive compensation structure by introducing performance-linked incentives. By tying a significant portion of executive compensation to predefined performance metrics aligned with the company's long-term vision, the company motivated its leadership team to drive innovation and deliver exceptional results. This strategy not only strengthened the alignment between executive actions and organizational objectives but also improved financial performance and increased shareholder returns.

Case study 4: Energy sector - Long-term incentive plans for sustainability

An Indian energy company recognized the importance of sustainability as a core component of its corporate governance framework. To drive sustainable practices and reduce environmental impact, the company incorporated long-term sustainability metrics into its executive compensation plans. Executives were incentivized to meet environmental targets, such as energy efficiency and emission reduction, aligning their efforts with the organization's commitment to environmental stewardship.

3. Stakeholder engagement

Meaningful stakeholder engagement is critical for building trust, managing reputational risks, and enhancing the organization's social impact. Indian organizations should prioritize regular communication and collaboration with diverse stakeholders, including employees, customers, investors, regulators, suppliers, and the local community. Demonstrating commitment to environmental and social responsibility fosters a positive corporate image and enhances brand reputation.

Case study 5: Retail industry - Engaging stakeholders for social impact

A leading retail company in India initiated extensive stakeholder engagement programs to address the diverse needs of its stakeholders. By seeking input from customers, employees, suppliers, and local communities, the company gained valuable insights that influenced business strategies and sustainability initiatives. This two-way dialogue resulted in increased customer loyalty, enhanced employee satisfaction, and a positive impact on the communities in which the company operates.

Case study 6: Healthcare sector - transparency and trust-building with regulators

A prominent healthcare organization in India embraced stakeholder engagement as a means to foster trust with regulators and maintain compliance with industry standards. By proactively engaging with regulatory authorities and addressing concerns transparently, the organization built a reputation for ethical governance, ensuring smooth regulatory approvals, and enhancing its credibility in the marketplace.

4. Role of technology in enhancing governance processes

In the digital era, technology has become instrumental in transforming governance processes and ensuring data security. Indian organizations should adopt governance technologies, such as board portal software, data analytics, and cybersecurity measures. Automation and digitization streamline governance workflows, facilitate real-time reporting, and improve decision-making efficiency.

Case Study 7: Financial sector - Board portal adoption for enhanced efficiency

A major Indian bank embraced board portal software to digitize board materials, streamline communication, and enhance board efficiency. The portal enabled seamless access to board documents and facilitated secure communication among directors, reducing the reliance on paper-based processes. By leveraging technology, the bank achieved higher levels of board engagement, faster decision-making, and improved overall governance effectiveness.

Case 8tudy 8: E-commerce industry - Data analytics for risk management

An e-commerce giant in India leveraged data analytics to manage supply chain risks proactively. By analyzing vast amounts of data related to supply chain operations, customer behavior, and market trends, the organization identified potential vulnerabilities and developed risk mitigation strategies. This data-driven approach minimized disruptions, ensured product availability, and enhanced the organization's ability to respond swiftly to changing market dynamics.

Corporate governance excellence in India: Empowering growth

Outlook for the next decade

As Indian organizations embark on the next decade, several trends are expected to shape the corporate governance landscape.

1. **Sustainability and ESG integration:** Environmental, social, and governance (ESG) considerations will become central to corporate governance practices. Investors, customers, and regulators are increasingly demanding greater ESG transparency and accountability. Indian organizations will need to integrate sustainability metrics into their governance frameworks and align executive compensation with ESG performance to ensure long-term value creation.

2. **Board diversity and inclusion:** There will be a continued focus on enhancing board diversity, not only in terms of gender and ethnicity but also in terms of skillsets and experience. Diverse boards bring unique perspectives and foster more robust discussions, leading to better decision-making.

3. **Technological advancements:** Advancements in technology, such as blockchain and artificial intelligence, will offer new opportunities to strengthen governance processes further. Smart contracts, for instance, can automate compliance and reporting, enhancing transparency and reducing the risk of fraud.

4. **Responsible Artificial Intelligence (AI) governance:** As organizations increasingly rely on AI and data analytics, ensuring responsible AI governance will become essential. Boards will need to oversee ethical AI practices, data privacy, and potential biases to build public trust and protect organizational reputation.

5. **Stakeholder-centric governance:** Stakeholder engagement will evolve to encompass a broader range of interests, including employee welfare, supply chain sustainability, and community impact. Organizations will embrace a stakeholder-centric approach to address emerging societal challenges effectively.

Conclusion

Corporate governance in Indian organizations has come a long way, with significant progress in board effectiveness, executive compensation, stakeholder engagement, and technology integration. Looking ahead, embracing sustainability, enhancing board diversity, harnessing technological advancements, and adopting stakeholder-centric governance will be essential for fostering long-term success and creating sustainable value. By proactively adapting to evolving governance trends and adhering to best practices, Indian organizations can navigate complex challenges, maintain stakeholder trust, and thrive in a dynamic business environment. Embracing responsible governance not only safeguards organizational interests but also empowers businesses to be agents of positive change in society and the economy. As organizations continue to evolve, robust corporate governance will remain the bedrock for long-term success and sustainable growth.


PC: ISRO, Dept. of Space, Govt. of India

TAXATION

Amendments in the trust audit report

With effect from 1 April 2023, the amended Rules 16CC and Rule 17B have widened the scope of applicability of the form for furnishing the audit report based on the total income of the charitable trusts or institutions. Ms. Vaibhavi Gandhi (Mumbai office) elaborates on the requirements under the amended rules.

Amendments in the trust audit report

The Central Board of Direct Taxes ('CBDT') vide its notification dated 21 February, 2023 has notified the Income Tax Amendment (3rd Amendment) Rules, 2023 to amend Audit report to be furnished by the charitable trusts and institutions.

Earlier, Rule 16CC and Rule 17B of the Income Tax Rules, 1962 simply prescribed audit report to be furnished by the trust or institutions in Form 10BB and Form 10B, respectively.

However, the new amendment has widened the scope of applicability of the form for furnishing the audit report based on total income of the trust or institution.

Applicability of Form 10B and Form 10BB as per the amended Rule 16CC and Rule 17B
Rule 16CC: Report to be furnished under 10th proviso to section 10(23C) of the Income Tax Act, 1961 ('the Act')
Rule 17B: Report to be furnished as per section 12A(1)(b)(ii) of the Act.

Conditions for selection of Form	Form to be selected
Total income of such fund /institution/trust/university/other educational institution/hospital/other medical institution without giving effect to sub-clause (iv),(v),(vi) and (via) of section 10(23C) exceeds INR 5 crore during the previous year	Form 10B
Total income of the trust/institution without giving effect to provisions of sections 11 and 12 of the Act exceed INR 5 crore during the previous year.	Form 10B
Such fund/trusts/institution etc. has received any foreign contribution during the previous year.	Form 10B
Such fund/trusts/ institution etc. has applied any part of its income outside India during the previous year.	Form 10B
In any other case not covered above.	Form 10BB

CBDT has further made amendments in the details required to be furnished in Form 10B and 10BB. The new Form 10B and Form 10BB requires detailed information regarding the trusts and institution. The details to be furnished as per the amended Form 10B and Form 10BB are as under:

- Basic details
- Registration details
- Management details
- Details of objects of the trusts
- Details of commencement of activities where the trusts have been granted provisional registration or provisional approval

Taxation

Amendments in the trust audit report

- Details of place where books of accounts and other documents have been maintained
- Details of advancement of any other object of general public utility
- Details of business undertaking, if any, of the trust or institution
- Details of profits or gains from business as referred to in the seventh proviso to section 10(23C)/section 11(4A) of the Act
- Details tax deducted at source ('TDS') on the receipts of the trust
- Details of voluntary contributions received during the year (it includes details of Form 10BD filed by the trust or institution
- Details of application of income outside India during the previous year
- Details of application of income in India for charitable/religious purposes in India during the previous year
- Details of income taxable under section 115BBI
- Details of any other income of the trust/institutions
- Capital asset transferred under section 11(1A)
- Application of income out of income accumulated under the third proviso to section 10(23C) or section 11(2) of the Act, income deemed to be applied in any preceding year, income of earlier previous year upto 15% accumulated or set apart, application out of corpus and borrowed funds.
- Details in case where provisions of section 13(10) or the 22nd proviso to section 10(23C) are applicable
- Details of expenditure incurred for religious purposes where trust is approved under the second proviso to section 80G(5) of the Act
- Details of specified persons referred to in section 13(3) of the Act
- Details of transaction referred to in section 13(2) of the Act
- Details of specified violation
- Details of depreciation claimed in respect of any asset
- Details of loans or deposits taken or accepted exceeding the limit under section 269SS, details of amount received by the trust exceeding the limit under section 269ST, amount of repayment of loan or deposit exceeding the limit under section 269T
- Details of TDS deducted and TCS collected by the trust or institution

The due date for furnishing the Form 10B/Form 10BB is one month prior to the due date of filing the return of income i.e. 30th September of the assessment year. These rules are applicable from 1 April 2023.

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Phone: (91) (22) 2286 9900-48 / 2204 7722.

Mumbai - 2
87, Nariman Bhavan, 227 Nariman Point,
Mumbai 400 021.
Phone: (91) (22) 6153 7500 / 2202 2224 / 8857.

New Delhi
205-207, Ansal Tower 38, Nehru Place,
New Delhi 110 019.
Phone: (91) (11) 4103 2506, 4103 3506.

Pune
802, Lloyds Chambers, Dr. Ambedkar Road
Opp. Ambedkar Bhavan, Pune 411 011.
Phone: (91) (20) 2605 0802.

Vadodara
Aurum Complex, 8th Floor, West Wing,
Behind HP Vasna Petrol Pump,
Makrand Desai Road, Vadodara - 390007.
Phone: (91) 97268 95000 / 97278 95000.

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