

THE **BHUBANESWAR BRANCH OF**
EASTERN INDIA REGIONAL COUNCIL OF
INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

e-newsletter/07/2013-14

NEWSLETTER

SEPTEMBER 2013



**ICAI BHAWAN,
PLOT NO-A/122/1, NAYAPALLI,
BHUBANESWAR-751012
PH NO- 0674-2392391
E-MAIL- bhubaneswar@icai.org**



Editorial

EDITORIAL BOARD

**A story of four people...**

This is a story about four people named Everybody, Somebody, Anybody, and Nobody. There was an important job to be done and Everybody was asked to do it. Everybody was sure Somebody would do it. Anybody could have done it, but Nobody did it.

Somebody got angry about that, because it was Everybody's job. Everybody thought Anybody could do it but Nobody realized that Everybody wouldn't do it. It ended up that Everybody blamed Somebody when Nobody did what Anybody could have done.

Dear Members,
Warm greetings!

After having a memorable national conference in August we kept the momentum by organizing a host of relevant programs for our students and members. Teachers' day celebration which was started last year was continued this year also. This is going to be a regular fixture in our activity calendar in the future years.

September is the month of filing Income Tax returns by most big assesses. With the changes in e-filing we were concerned about building the awareness and hence organized many seminars and workshops for this purpose. On 3rd September there was a dedicated seminar of e-filing of Tax audit reports, which was well received by the participating members.

For many years now we've been celebrating Ganesh puja in our institute premises, where students make active participation. This year there was no exception. Though the celebration was not ostentatious, it was tasteful well appreciated.

As 30 September is also the deadline for conducting the AGMs for companies and before which should the audits get over; we also thought it appropriate to conduct our monthly study circle on the theme of "Reporting requirements under SA 700, 705 & 706".

For students besides continuing the regular classroom coaching for CPT & IPCC we also conducted a GMCS-I and orientation program. Like regular classroom coaching for CPT & IPCC even the GMCS-I and orientation program are also becoming regular monthly features.

Besides all the above, we also organized a school level debate competition to reach out to young people and popularize our profession among budding talents.

Dear friends I've quoted the story of four people, at the top, with a purpose. You are intelligent people so just a word is enough for you. I seek your leave for this edition, and should there be the need to elaborate on "the story of four people" I would do that in the next communiqué.

CA. Ramesh Chandra Pradhan
Chairman

*Editor-in-Chief***CA. Ramesh Chandra Pradhan***Editor :***CA Siddharth Ranjan***Members :***CA Partha Sarathi Mishra****CA Vijaya Batth****CA Amit Kumar Agarwalla****CONTENTS**

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*Published by***Ramesh Chandra Pradhan**
Chairman

Bhubaneswar Branch of EIRC of ICAI at
A-122/1, Nayapalli, Bhubaneswar – 751012
Phone: 91-674-2392391, 2390773
E-Mail: bhubaneswar@icai.org
Visit us @ www.bbsricai.org

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TDS on director remuneration and applicability of Service Tax

CA. Tarun Agarwal

Mob: 9437036343

E-Mail: tka_andco@yahoo.com

194J...

[(ba) any remuneration or fees or commission by whatever name called, other than those on which tax is deductible under section 192, to a director of a company,

The notes to finance bill 2012....

Clause 71 of the Bill seeks to amend section 194J of the Income-tax Act relating to fees for professional or technical services.

The existing provisions in sub-section (1) of the aforesaid section 194J provide that a person, not being a individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of fees for professional services, fees for technical services royalty or sums referred to in clause (va) of section 28 shall deduct an amount equal to ten per cent, of such sum as income-tax.

It is proposed to amend the aforesaid sub-section (1) to insert a new clause (ba) so as to provide that the person referred to in sub-section (1) of the aforesaid section who is responsible for paying to a director of a company any sum by way of any remuneration or fees or commission, by whatever name called (*other than those on which tax is deductible under section 192*), shall deduct an amount equal to ten per cent, of such sum as income-tax in accordance with the provisions of the aforesaid section.

This amendment will take effect from 1st July, 2012

Comment

the said provision might have been drafted to have a track over the director fees etc paid by companies on which service tax is liveable and to be collected as per section 68(2) of the finance act 1994 read with rule 2(d)(i)(EE) of service tax rule. This provision is with effect from 7th august 2012.

Hence only in case where no employer and employee relationship exist between the director and the company TDS under section 194J(ba) to be deducted.

The director may be entitled to any fees, commission from the company and he may not be providing any technical or professional services to the company and hence 194J was not applicable before insertion of the respective provisions during period prior to finance act 2012.

Hence probably to plug the matter the amendment in section 194J is being brought in the finance act 2012 and also to keep track over the service tax collection from the companies by way of reverse charge u/s 68(2)

Thank you



The Chartered Accountants Students Benevolent Fund (CASBF), ICAI

The Board of Trustees of The Chartered Accountants Students Benevolent Fund have decided to grant financial assistance to 300 students (who are currently undergoing articled training in accordance with The Chartered Accountants Regulations, 1988 and are poor, needy but meritorious) requiring financial assistance to pursue the Chartered Accountancy course @ Rs. 1000/- p.m. for one year with effect from 1st April, 2013 to 31st March, 2014 to be paid in lump sum, subject to filing of application for the same.

The eligibility criteria for obtaining financial assistance from CASBF are as under:

i) Passed 10 + 2 examination with a minimum of 70 percent marks and also have Passed Common Proficiency Test of ICAI in the first attempt

or

Passed B.Com Examination of a recognized University with a minimum of 60% marks.

ii) Currently undergoing articled training as per CA Regulations.

iii) Annual income of parents from all sources must be less than Rs. 1.50 lakh.

Students who are needy, poor but meritorious and are fulfilling the above criteria may apply for financial assistance from the Chartered Accountants Students Benevolent Fund. Students may send their request in the prescribed form, duly filled in to the Member Secretary, Chartered Accountants Students Benevolent Fund at the following address so as to reach on or before 30th November, 2013. The form can be downloaded from website of the Institute www.icai.org.

The Board of Trustees will consider each of such cases on merit basis and decide at their discretion the amount to be granted from Chartered Accountants Students Benevolent Fund

Member Secretary
Chartered Accountants Students Benevolent Fund
C/ O The Institute of Chartered Accountants of India,
"ICAI Bhawan",
Indraprastha Marg, New Delhi-110002
website www.icai.org email : cabf@icai.in



INVITATION FOR EMPANELMENT AS RESOURCE PERSONS:

The Committee for Cooperatives and NPO Sectors is a central Committee of the Institute of Chartered Accountants of India formed under the regulatory provisions of the Chartered Accountants Act, 1949 in the month of February 2011 by the President of ICAI, to identify issues and opportunities in the Co-operatives and NPO sectors, equip members and other stakeholders to find a new niche for themselves and to maintain and develop the core competencies in the Co-operatives and NPO.

Regular updation of the knowledge of the esteemed members of our Institute is one of the prime objectives of the committee through development of technical guides and publications, knowledge portal, to provide technical and governance inputs through training, workshops, resource material, publications to management personnel and members of governance of Cooperatives & NPO sectors and to provide uniform accounting framework for cooperatives & NPO sectors. Committee has also launched a Certificate Course with the nomenclature of Certificate Course on Management, Taxation, Laws, And Accounting and Auditing Concerning Co-Operative Societies & NPOs, on prestigious ceremony of CA Day (July 1st, 2013) with the objectives of equipping the members with necessary tools and techniques requisite for rendering quality services in cooperatives & NPO sectors.

In the above context committee invites applications for the empanelment of resource person/faculties from eligible & interested individuals who can share his/her valuable knowledge relating to the various issues of cooperatives & NPOs as a faculty to the abovementioned certificate course.

Eligibility Criteria:

1. The applicant must be member of the Institute of Chartered Accountants of India having post qualification experience of working with or engagement with cooperative & NPO sectors, or
2. The applicant must be holding a post-graduate degree from recognized university and must have research and/or teaching experience on related topics, or
3. Faculty of a recognized university or an institute of repute.

However, application from a person having lesser experience than stated above may also be considered on the basis of merit. Fields of Expertise:

Eligible individuals should have expert knowledge in any one or more of the following areas:

1. Framework of Laws governing co-operative societies (including Co-operative Societies Act, 1912, Multi State Co-operative Societies Act, 2002, Banking Regulations Act, 1949, various State laws governing co-operative societies, Flat Ownership and Apartment Ownership Acts etc.)
2. Framework of Laws governing NPOs (including Indian Trust Act, 1882 and various State laws governing trusts, Societies Registration Act, 1860, Companies Act, 1956 etc.)
3. Relevance of cooperative societies and NPOs in the socio economic set up of the country.

Distinguishing aspects between co-operative societies and NPOs.

4. Types of co-operative societies, peculiar features and distinguishing aspects. Formation and Registration of co-operative societies – Legal and procedural aspects.
5. Types of NPOs, peculiar features and distinguishing aspects. Formation and Registration of NPOs – Legal and procedural aspects.
6. Peculiar management and accounting aspects concerning a co-operative housing and premises societies.
7. Peculiar management, record keeping and accounting aspects concerning co-operative banks. Role and responsibilities of the management.
8. Peculiar management, record keeping and accounting aspects concerning co-operative credit societies, consumer societies, employees' credit societies, labour societies, farmers' societies, dairy societies and other similar societies. Role and responsibilities of the management.
9. Peculiar management, record keeping and accounting aspects concerning NPOs. Role and responsibilities of the management.
10. Foreign Contribution Regulation Act, 2010 and NPOs.
11. Income Tax Provisions and issues concerning co-operative societies and NPOs.
12. Relevance of various labour and municipal laws to co-operative societies and NPOs.
13. Service Tax Provisions and issues concerning co-operative societies and NPOs.
14. VAT Provisions and issues concerning co-operative societies and NPOs.
15. Relevant stamp duty and registration aspects as applicable to co-operative societies and NPOs.



16. Peculiar audit aspects, scope of audit, role and responsibility of an auditor and audit reports concerning co-operative societies.
17. Peculiar audit aspects, scope of audit, role and responsibility of an auditor and audit reports concerning NPOs.
18. Peculiar aspects in state cooperative laws and laws concerning NPOs
19. Preparing for Corporate Social Responsibility fund and its utilization. Applicant having expert knowledge in any other subject may apply provided that the subject selected is contemporary and relevant in current environment of cooperatives & NPO sectors.

How to Apply:**Application should be submitted to:**

CA. Tarun Jamnadas Ghia Vice-Chairman Committee for Cooperatives & NPO Sectors The Institute of Chartered Accountants of India ICAI Bhawan, Plot No. A- 29 Sector- 62, NOIDA , Dist: Gautam Budh Nagar Uttar Pradesh ,PIN- 201309 Ph 011-3045996 Mobile No: 09821345687 www.cconpo.icai.org	CA. Anuj Goyal Chairman Committee for Cooperatives & NPO Sectors The Institute of Chartered Accountants of India ICAI Bhawan, Plot No. A- 29 Sector- 62, NOIDA ,Dist: Gautam Budh Nagar Uttar Pradesh ,PIN- 201309 Ph 011-3045996 Mobile No: 09821345687 www.cconpo.icai.org
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Service Tax Return (ST-3) for the period April-September'13 will be made available for e-filing by the assesses in both offline and online version in ACES w.e.d 1st October, 2013. The last date of filing the ST-3 return for the said period is 25th October, 2013. The assesses can file return either online or use the offline utility by downloading the latest version from <http://acesdownload.nic.in/> or from 'DOWNLOADS' Section of ACES website. For details on how to e-file in ACES or any further information/assistance, assesses may read the Instructions given in the return form and FAQs under 'Help' Section of the ACES website <http://www.aces.gov.in/> (<https://www.aces.gov.in/>) or contact their jurisdictional Service Tax Officer.

In case of any difficulty in accessing the ACES Application or in filing ST 3 returns, the assesses can seek help of the ACES Service Desk by sending e-mail to aces.servicedesk@icegate.gov.in or calling up national toll-free number 18004254251. In general, the Service Desk functions on any working day from Monday to Friday between 9 AM and 7 PM on all Saturdays till 25th October'13. But to help the assesses file their returns, it will remain open from 9 AM and 7 PM on all Saturdays till 25th October'13. But to help the assesses file their returns, it will remain open from 9 AM and 7 PM on all Saturdays till 25th October'13 and from 9 AM to 7 PM on last Sunday i.e 20.10.2013.

Assessee are requested to file their returns in ACES will in advance to avoid rush and inconvenience at the last moment.

Regards,

ACES Administrator



EVENTS FOR THE MONTH OF OCTOBER 2013

Day & Date	Programme	Speaker/ Resource Person	Venue	Duration	CPE Hours	Fees Rs.
Friday 4 th October, 2013	Seminar on Accounting Standards		ICAI Bhawan, Plot No-/122/1, Nayapalli, Bhubaneswar- 751012	3 Hrs		
Saturday 19 th October, 2013	Workshop on Tally		ICAI Bhawan, Plot No-A/122/1, Nayapalli, Bhubaneswar- 751012	6 Hrs	6 Hrs	500
Thursday 26 th October, 2013	Seminar on Companies Bill 2013		ICAI Bhawan, Plot No-A/122/1, Nayapalli, Bhubaneswar- 751012	4 Hrs	4 Hrs	300

ON THE LIGHTER SIDE OF LIFE

We know you *know* that *all* accountants are honest. But ...

5 Doctors and 5 CAs are travelling by rail from Pune to Mumbai.

They gather at Pune Railway Station.

Both groups desperately try to prove their superiority.

SCENE 1 (PUNE-MUMBAI):

5 CAs buy only 1 ticket, and 5 doctors buy 5 tickets. doctors are desperately waiting for TC to come

When TC arrives, all 5 CAs get into one toilet, so when TC knocks, one hand comes out with the ticket and the TC goes away.

On the return journey, they don't get a direct train to Pune, so both group decide to take a passenger train till Lonavala, from there they can easily get a Local Train to Pune.

SCENE 2 (MUMBAI-LONAVALA):

Doctorss decided, "This time, we will prove that we are smarter".

5 doctors buy 1 ticket, CAs don't buy any ticket at all ! TC arrives

All doctor IN ONE TOILET.

ALL CAs IN THE OPPOSITE TOILET.

One CA gets out and knocks the door of doctor toilet.

One doctor's hand comes out with the ticket, CA takes the ticket and enters toilet.

TC drives out all the doctor from the toilet, And they are heavily fined.

SCENE 3 (LONAVALA):

Now, both the groups are at LONAVALA Railway Station.

Doctors are planning their move for a last chance, They board the local train to Pune.

This time, doctors decide that they will play the same (1 ticket) trick.

ALL doctors take 1 ticket CAs buy 5 tickets.

TC Comes. All CAs show their tickets, AND Doctors are still searching for toilet in the Local train!!!!

Conclusion: Don't mess with CAs.



Glimpses of Events



Seminar on E-Filing of Tax Audit Report
CA. Deepak Bhalusoria, New Delhi addressing the delegates in presence of CA. Ramesh Chandra Pradhan, Chairman and CA. Sanjay Kumar Agrawalla, Secretary

Seminar on E-Filing of Tax Audit Report
CA. Siba Narayan Sahu, Past Chairman Cuttack Branch presenting a mementos to CA. Deepak Bhalusoria, New Delhi



Teachers Day Celebration

Ganesh Puja Celebration



GMCS I Valedictory Session

School Level Debate Competition
L to R: CA. Sumantra Banarjee, CA. Bharatedra Tripathy, Past Chairman, CA. Ramesh Chandra Pradhan, Chairman, CA. Vijaya Batth, Chairperson, EICASA, CA. Anshuman Das



Updates:

1. TP adjustment for control premium upheld as it is only the seller who can demand control premium in case he is selling the controlling stake. Even price charged for transfer of shares is as per SEBI Regulations, it can't be deemed to be at ALP. [Lanxess India Private Limited Vs. ACIT (2013) 36 taxmann.com 350 (Mumbai Tribunal)]
2. Companies Bill 2013 becomes Companies Act 2013 with the assent of honorable President of India to it on 30-08-2013. Draft Rules soon for public comments.
3. No TDS on sum paid to banks for utilization of credit card facilities; they are in nature of bank charges and not commission. [Jet Airways (India) Limited 36 taxmann.com 379 (Mumbai Tribunal)]
4. Honorable Allahabad High Court approves the special bench judgment in the case of Merilyn Shipping and Transport Limited and held that disallowance u/s. 40(a)(ia) applies only to amounts 'payable' as of 31st March and not to amounts already 'paid' during the year.
5. Income Tax Department to issue letters to deductors having unmatched TDS challans, ask them to file correction statements and to give credit by 31-12-2013. Instruction 11 of 27-08-2013.
6. Section 44AB is not applicable where assessee not involved in or has no income from business or profession. [CIT Hisar Vs Market Committee, Sirsa, High Court, Punjab & Haryana].
7. Companies Act 2013 has been notified in Official Gazette and has become a law from 30-08-2013 replacing age old Companies Act 1956.
8. Where activities undertaken by assessee were identifiable separately, such activities could not be termed as 'composite contract'. [Bharat Heavy Electrical Limited Vs. Commissioner of service tax (2013) 36 taxmann.com 366 (Chennai - CESTAT)]
9. Cenvat Credit cannot be denied on mere nonpayment by the supplier-Supreme Court. Sawan Mal Shibhu Mal Steel Re-Rolling Mills, Mandi Govindgarh.
10. For inordinate delay in fixation of fee, departmental auditor should be appropriately restituted by way of interest. [SC & Associates, Chartered Accountants vs. Union of India (2013) 36 taxmann.com 114 (Delhi High Court)].
11. Send suggestions/objections to stopping payments above Rs. 50,000 in MCA through physical challan at MCA.egovcomments:mca.gov.in or by post by 20-09-2013.
12. File e-form 23C for appointment of Cost Auditor up to 31-10-2013 or in 90 days of start of Financial Year for which appointed, whichever is later. MCA Circular 14 of 03-09-2013.
13. Today (06-09-2013) is the last day for deposit of Service Tax for August 2013 through e-payment. 07-09-2013 (Saturday) is the last date for deposit of TDS/TCS for August 2013.
14. Listed & Unlisted shares of overseas companies can be acquired under Liberalized Remittance Scheme under current FEMA provisions. RBI Circular 32 of 04-09-2013.
15. Last date for filing of form 2C and 2D online and the date for submission of hard copy of form 2C and 2D, (which form part of DVAT 16) has been further extended to 07-10-2013 and hard copy to be submitted on 10-10-2013

vide circular no 14 dated 06-09-2013.

16. Enroll online for ICAI certified course on Forex and Treasury Management starting at Delhi on 5th October 2013. Fee Rs 17500. CPE 48 hours. Contact 0120-3045945/8130567979 or fxtm@icai.in
17. Section 10(23C) of the Income Tax Act: Benefit cannot be granted to maternity hospital as child birth is a natural process of God which in no way could be said to be any illness as contemplated under section 10(23C)(iii)(a). [Nehru Prasutika Asptal Samiti (2013) 37 taxmann.com 1 (Agra Tribunal.)]



18. Tax Audit Update: ICAI clarifies that a CA can file Tax Audit Reports on behalf of his partners subject to the overall limit of 45 per partner.
19. Revenue cannot attach entire amount standing to credit of assessee, in excess of demand raised on completion of assessment [Nirmal Singh(2013) 36 taxmann.com 341 (Punjab & Haryana high Court)].
20. Notification dated 09-09-2013 –VAT Form DP-1 shall be submitted online by all the dealers latest by 16-10-2013.
21. For Frequently Asked Questions (FAQs) on e-Filing of Tax Audit Report, please click on the ICAI link:<http://220.227.161.86/30876dte20779.pdf>.
22. Continuance of proceeding by ICAI after settlement of matter between complainant and respondent-chartered accountant before CLB was perverse [ICAI Vs. K.K. SINDWANI (2013) 36 taxmann.com 402 (Punjab & Haryana High Court)].
23. Service Tax Exemption on room rent and serving of food and beverages in Uttarakhand from 17-09-2013 to 31-03-2014. [Adhoc Exemption Order 1/1/2013 of 17-09-2013].
24. Compulsory selection of cases for Scrutiny during financial year 2013-14 where exemption u/s 11 or 10(23C) claimed inspite of cancellation etc. [Instruction 13 of 20-09-2013].
25. Transport, hostel, housekeeping, canteen, security services etc provided to educational institutions exempt from Service Tax [Circular 172/7/2013ST of 19-09-2013].
26. Banks to provide claim forms/put them on website for timely settlement of claims of legal heirs of deceased [RBI Circular of 03-09-2013].
27. Consideration received by an advocated in form of land to undertake patta and layout of properties is taxable as capital gains and not as professional receipts [CIT Vs. J. Mahalingam (2013) 37 taxmann.com 38 (Madras High Court)].
28. Where assessee made remittance for procurement of commercial information for onward transmission to its principal, remittance made was not for availing technical services and did not amount to royalty– ITO[TDS Vs. Kendle India private limited (2013) 37 taxmann.com 140 (Delhi - Tribunal)].
29. Accept School leaving certificate as age proof : Supreme Court of India.
30. Till transfer of matters, proceedings to Tribunal under Companies Act, 2013, CLB to exercise such powers. Companies (Removal of Difficulties) Order, 2013 w.e.f. 20-09-2013
31. RBI now against 0% EMIs for consumer goods, banks withdraw finance schemes, festive sales likely to be hit.
32. Arrears of professional fee received by assessee after he had discontinued his legal profession of lawyer on being elevated as a judge of High Court could not be taxed as business income despite insertion of section 176(4) in the Act.[Justice Rajiv Shakhder (2013) 36 taxmann.com 585 (Delhi - Tribunal)].
33. Contravention of FEMA and KYC, AML Norms in case of Overseas Forex Trading through electronic / internet trading portals. RBI Circular 46 of 17-09-2013.
34. CBDT had issued press release after issuing the notification which requires that printed copy of return and TAR is require to be submitted to jurisdictional AO on or before 30th September to avail extension of one month for electronic submission of TAR.
35. Revised Form 15 CA. Summary data for payment to non-residents upto Rs 50,000 and total of payments during Financial Year uptoRs. 2,50,000. Detailed data in other cases.
36. No Extension for Tax Audit or ITR. File paper Tax Audit, MAT Report etc by 30-09-2013(Monday) with AO if problem in e-filing. E-File by 31-10-2013[Order of 26-09-2013].
37. Reset Income Tax password instantly with the help of new Digital Signature even if it is not registered with Income Tax.
38. Ex-auditor could not complaint against new auditor if client found no discrepancy in audit report of new auditor. [ICAI Vs. Vijay Kumar (2013)37taxmann.com 203 (High Court -Punjab and Haryana)].
39. File with AO paper 29B, 10B, 10BB etc (not just Form 3CD withBS, PL) by 30-09-2013(Monday) if not e-filed by this date. After physical filing, e-file by 31-10-2013.
40. CBDT notifies GAAR Rules and Forms 3CEG, 3CEH, 3CEI. Applicable w.e.f. 01-04-2016. Threshold of three crore of tax benefit to all parties [Notification 75/2013 of 23-09-2013].



EMPANELMENT

1. Call for expressions of interest: Chartered Accountant Firms for the Statutory Audit of Chandigarh State AIDS Control Societies. Last Date: 20-09-2013. Address: Project Director, Chandigarh State AIDS Control Society, International Hostel, Madhya Marg, Near PGI, Sector 15 A, Chandigarh. Phone: 2544589, 2783300. E-Mail: chandigarhsacs@gmail.com.
2. Call for Expressions of Interest: Chartered Accountant Firms for the Internal Audit of NGOs and Peripheral Units under Chandigarh State AIDS Control Societies. Last Date : 20-09-2013. Address : Project Director, Chandigarh State AIDS Control Society, International Hostel, Madhya Marg, Near PGI, Sector 15 A, Chandigarh, Phone : 0172-2544589. E-Mail : chandigarhsacs@gmail.com
3. Expressions of Interest: Chartered Accountant Firms for the Internal Audit of Peripheral Units under H.P. State Aids Control Society. Last Date: 12-09-2013. Address: Himachal Pradesh State Aids Control Society Hari Villa near Forest Rest House, Khalini, Shimla-2.

Members of managing committee:

CA. Ramesh Chandra Pradhan, Chairman
CA. Partha Sarathi Mishra, Vice Chairman
CA. Sanjay Kumar Agrawalla, Secretary
CA. Amit Kumar Agarwalla, Treasurer
CA. Vijaya Batth, Chairperson, EICASA
CA. Siddharth Ranjan, MC Member
CA. Jyotirmay Pradhan, MC Member
CA. Raja Narayan Tripathy, MC Member