

# BASCO BULLETIN



CA Ayush Goel  
ayush@basco.in

We are glad to present the 8<sup>th</sup> **Edition** of our Newsletter "BASCO Bulletin". I would also like to extend my thanks to my peers, friends and to the team of BASCO for having contributed to this edition. I shall be glad to receive all kinds of suggestions for our future editions. As we are moving in this New Year 2020 we have seen various changes in the form of amendments in Income Tax Act as well as Companies Act. The government is trying to move towards a more transparent and receptive environment for all.

Through our newsletter we are taking this initiative, keeping in mind such evolving informative needs of our clients and peers and to be a part of the Global Village of our fraternity.

With the beginning of a new decade, I wish Happy New Year 2020 brimming with renewed hopes, new commitments, new achievements and a new beginning. I hope you will enjoy reading articles enlisted below on various topics of interest covering multiple horizons.

## Analysis of Key Judgement: - Related to Issue of Shares at a Premium

Section 56(2) (viib) was introduced in the Income Tax Act, 1961 for excess premium received by a closely held company upon the issue of shares. Such excess premium is deemed to be the income of the company and shall be taxed under section 56(2) (viib). As per provisions of section 68, any unexplained credit found in books of account of assessee can be considered as income, if the assessee cannot satisfactorily explain the nature and source of receipt of sum represented by credit. Therefore, share capital and share premium both can also be considered as income, if the assessee is unable to establish identity and existence of shareholders who contributed share capital and premium.

Following are the Cases analyzed for the purpose of Shares issued at premium:-

### Case 1:- NRA Iron & Steel Pvt Ltd.

During the financial year 2008-09, the NRA Iron & Steel Pvt Ltd, (the Taxpayer) received Rs.176 million from various companies against issue of shares at premium. The shares had a face value of Rs. 10 per share which was subscribed by the Investors companies at Rs.190 per share. The assessing officer (AO) requested the taxpayer to furnish details of amount received and provide evidence to establish the identity of the investor companies and their creditworthiness and genuineness of the transaction. The taxpayer stated that it had received entire share capital through normal banking channels by account payee cheque or Demand draft and produced documents like Income tax return (ITR) to establish identity of transaction. Hence, it was stated that the initial onus for establishing the creditability and identity of shareholders was discharged under provision of section 68 of the act. The AO held that the tax payer failed to prove the existence of identity of

investor companies and genuineness of transaction. Accordingly, the amount of Rs. 176 million was to be added back to the total income of taxpayer.

The Commissioner of income tax (Appeals) [CIT (A)] held that the taxpayer had filed confirmation from the investor companies, their tax return, Acknowledgement with PAN number to show that the entire amount had been paid through normal banking channels. Accordingly, CIT (A) held the decision in favor of taxpayer. Confirming the order of CIT (A), the tribunal and High Court also held the decision in their favor. Recently, the Supreme Court, in respect to the decision in the case of NRA Iron & Steel Pvt Ltd. ruled upon the applicability of Sec. 68 in the scenario of issue of shares at a high premium while reversing all the lower Courts decisions. The Supreme Court held that if upon investigation, the AO comes to a conclusion that the identity, genuineness and creditworthiness of the investors is doubtful, and then the onus of the assessee does not stand discharged by merely supplying the details pertaining to the identity, genuineness and creditworthiness of the investors.

### **Conclusion:**

Thus, the Supreme Court summarizes issues as under the principles which emerge where the sum of money are credited as share capital or share premium are:-

- i. The assessee is under legal obligation to prove the genuineness of the transaction, the identity of creditors and creditworthiness of investors who should have the financial capacity to make the investment in question, to satisfaction of AO so as to discharge primary onus.
- ii. The AO is duty bound to investigate.

### **Case 2:- Baba Bhootnath Trade & Commerce Ltd.**

The Assessee issued part of the equity shares during the year at a premium and the total share capital and share premium received during the financial year was Rs. 2,04,00,000/-. AO proceeded to treat the entire share capital and share premium received as unexplained cash credit and added the same to the total income of assessee. It was held section 68 provided that if any sum found credited in the year in respect of which assessee failed to explain the nature and source should be assessed as its income of the previous year in which the same was received. In the facts of the present case, both the nature & source of share capital received with premium were fully explained by assessee. Assessee had discharged its onus to prove the identity, creditworthiness and genuineness of the share applicants by filing PAN details, bank account statements, audited financial statements and Income Tax acknowledgments and the investors had shown the source of source & personally appeared before the AO. Thus addition was unjustified.

### **Conclusion:**

Since assessee had explained both the nature & source of share capital received with premium and also submitted PAN details, bank account statements, audited financial statements and Income Tax acknowledgments to prove the identity, creditworthiness and genuineness of the share applicants, therefore, addition under section 68 was unjustified.

**In the case of Baba Bhootnath, the share subscribers and the directors themselves appeared before AO and explained all the transactions with evidence and AO has nothing adverse, then the NRA Iron & Steel Pvt Ltd. ruling is factually distinguishable and cannot be applied.**



# LUMPSUM OR SYSTEMATIC INVESTMENT PLAN (SIP)

When we want to invest our money in mutual funds, we are given the choice of investing either in a lump-sum or through a SIP. A lump-sum investment is one where a person invests a significant amount of money in a mutual fund at one go. A SIP, on the other hand, calls for the investment amount to be paid in installments over a course of time. Investors can choose whether they want the investments to be made semi-annually, quarterly, monthly or weekly. Several investors face a dilemma when it comes to choosing between these two options. But, no one can say outright that one option is better than the other.

Based on a variety of factors, we can choose the investment avenue that will help us to achieve our investment goals. SIPs do have certain advantages over lump-sum investments and vice versa. Some of the factors one should keep in mind while choosing between these two alternatives are as follows-

### Amount of disposable money available



Of course, if we wish to invest in a mutual fund at one go itself, that is, in lump-sum, we will need a significant amount of money on hand. More often than not, young investors who have just started earning will not possess enough money to invest in a lump-sum.

Lump-sum investments are ideal for those having a good amount of disposable money whereas SIPs let young investors get a taste of investing in equity mutual funds, without needing to have a lot of money. Hence, SIPs are preferable by those who have a steady income.

### Risk Appetite



Lump-sum investments are usually also associated with a higher level of risk tolerance. Investors should be aware of how much risk they can stomach and if they are capable of handling a great amount of turbulence in volatile market conditions.

SIPs are a better option for investors who have a low-risk appetite. Investors automatically buy fewer units when the market is high, and more units when the market is low, which lowers the average unit cost and thereby our risk. This is called

the rupee cost averaging

### Time horizon



Most Mutual funds do not have a lock-in period except than ELSS funds!

Thus Investing via Lump-sum or SIP one should be clear about the time they'll remain invested. However, if Lump-sum & SIP both are kept for the same time period let's say anywhere more than 5years, we'll see more growth in LUMP-SUM due to the fact that money witnessed more compounding as compared to SIP

because our last investment is still fresh. Thus it is suggested to continue for a long as possible to gain the most on our investments.

## Market conditions

Lump-sum investments can provide us with better returns in rising markets but also assume the risk of loss if the market is in a bad condition. Thus, lump-sum investments are more prone to fluctuations in value as per the market volatility. This is why investors keep a close eye on market conditions when they plan to invest in a lump-sum.



SIPs do not require investors to pick the correct time to enter the market. People invest a fixed sum of money regardless of market conditions.

If the market is expected to be in a bearish condition, it is better to invest via SIP, whereas investing through lump-sum will provide relatively better returns in a bull market.

We can understand this concept better with the aid of the following example:

Let us now have a look at how the same SIP and lump-sum investment would perform in a declining market condition.

| Installment No. | NAV | Installment amount  | No. of units  |
|-----------------|-----|---------------------|---------------|
| 1               | 100 | Rs. 10,000          | 100           |
| 2               | 98  | Rs. 10,000          | 102.0         |
| 3               | 96  | Rs. 10,000          | 104.1         |
| 4               | 94  | Rs. 10,000          | 106.3         |
| 5               | 92  | Rs. 10,000          | 108.6         |
| 6               | 90  | Rs. 10,000          | 111.1         |
| 7               | 88  | Rs. 10,000          | 113.6         |
| 8               | 86  | Rs. 10,000          | 116.2         |
| 9               | 84  | Rs. 10,000          | 119.0         |
| 10              | 82  | Rs. 10,000          | 121.9         |
| <b>TOTAL</b>    | -   | <b>Rs. 1,00,000</b> | <b>1102.8</b> |

The value of the investment of investor 1 would be Rs. 90,430 (total no. of units multiplied by the NAV as per the 10th month) at the end of the 10th month, as the market is falling. Investor 2 invested through a lump-sum and the value of his Rs. 1,00,000 investment would have been Rs. 82,000 in the 10th month.

**Hence, we see how the investment via SIP results in lower losses as compared to lump-sum in a declining market as the average cost of purchase is lower.**

The market, however, doesn't always rise or fall steadily; it experiences turbulence and ups and downs. Investors should be aware of their goals, risk tolerance, and time horizon.

For those investors who don't have the skills or expertise to analyze the performance of investments and the like, may want to invest through SIPs rather than lump-sums. Experienced investors usually go for lump-sum investments, provided they can withstand the risk taken.

*-Contributed By: Ms Garima Kejriwal*



# Audit Documentation

SA 230, “Audit Documentation” defines audit documentation as “The record of audit procedures performed, relevant audit evidence obtained, and conclusions the auditor reached. (Terms such as “working papers” or “work papers” are also sometimes used.)

The form, content and extent of audit documentation depend on factors such as:

1. The size and complexity of the entity.
2. The nature of the audit procedures to be performed.
3. The identified risks of material misstatement.
4. The significance of the audit evidence obtained.
5. The nature and extent of exceptions identified.
6. The need to document a conclusion or the basis for a conclusion not readily determinable from the documentation of the work performed or audit evidence obtained.
7. The audit methodology and tools used.

The types of audit documentation that should be assembled include the following:

- Analyses conducted
- Audit plans
- Checklists
- Confirmation letters
- Representation letters
- Summaries of significant findings

## Audit file

Audit files are designed to perform audits of your upload directory and the corresponding database records. It will cross check that all files in the database have a corresponding physical file, or it will check that all files in the upload directory have a corresponding entry in the database.

## Ownership and Confidentiality of Audit Documentation

SQC1 provides that, unless otherwise specified by law or regulation, audit documentation is the property of the auditor. He may at his discretion, make portions of, or extract from, audit documentation available to clients, provided such disclosure does not undermine the validity of the work performed, or, in the case of assurance engagements, the independence of the auditor or of his personnel.



## MINUTES

***“You Are Never Too Old To Set Another Goal Or To Dream A New Dream.” – C.S. Lewis***

A company being an artificial legal person has to function through its Board of Directors. Thus, most of the major decisions take place at the Board meeting. The minutes of the Board meeting form an integral part of the working of the company.

Secretarial Standard 1 has defined minutes as **“a formal written record, in physical or electronic form, of the proceedings of a Meeting.”**

- As per Section 118 of the Companies Act, 2013 every company shall prepare, sign and keep minutes of the proceedings of every meeting within 30 days of the conclusion of every such meeting concerned. Minutes kept shall be evidence of the proceedings recorded in a meeting.
- Rule 25 of the Companies (Management and Administration) Rules, 2014 And Secretarial Standard 1 clause 7 contain substantive provisions relating to the minutes of the Board Meeting.

Provisions Relating to the Minute Book:

- A distinct minute’s book shall be maintained for meetings of Board and each of its committees.
- Minutes may be maintained in the physical or electronic form. Minutes in the electronic form shall be maintained with a time stamp.
- Minutes shall state, at the beginning the Serial Number and the type of the meeting, name the company, day, date, venue and time of commencement of the Meetings.
- The names of the Directors shall be listed in alphabetical order or in any other logical manner, but in either case starting with the name of the person in the chair. It should also denote the capacity in which the Invitee attends the meeting. The decisions shall be recorded in the form of Resolution.
- Minutes should be written in third person and past tense. Resolutions shall however be written in present tense.
- Minutes shall be entered in the minutes Book within 30 days from the date of conclusion of Meeting.
- Minutes, once entered in the minute book, shall not be altered. Any alteration shall be with the express approval of the Board at its subsequent meeting.
- Minutes of the Board and committee meetings shall be kept at the registered office or at such other place as may be approved by the Board. Inspection of minute’s book may be provided in physical or in electronic form.

- Minutes shall be kept in the custody of the Company Secretary, if there is no CS, then in the custody of any director duly authorized for the purpose by the Board.
- Minutes of Previous meeting may be signed either by the chairman of such meeting at any time before next meeting is held or by the Chairman of the next meeting at the next meeting.
- The chairman shall initial each page of minutes, sign the last page.

Companies (Appointment and Remuneration of Managerial Personnel) Amendment Rules, 2020

Date of Notification– January 3, 2020

Applicability – The amended rules shall be applicable in respect of Financial Years commencing on and from April 1st, 2020.

Rule 8A – Appointment of Company Secretaries in Companies Not Covered Under Rule 8

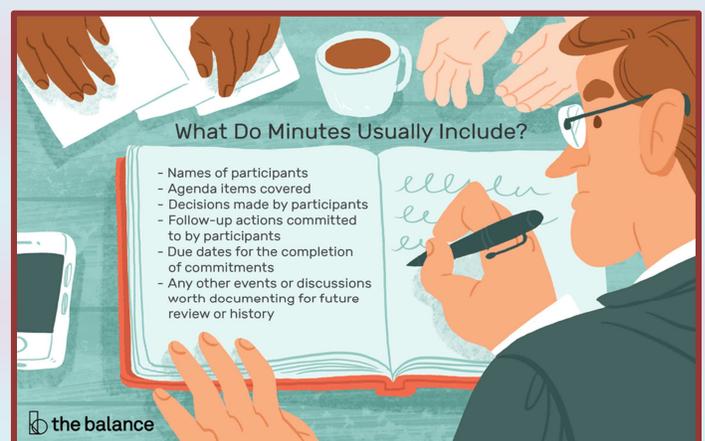
Post amendment the following companies are mandatorily required to appoint a whole-time Company Secretary:

1. Listed Company,
2. Unlisted Public Company having paid-up share capital of INR 10 Crore or more,
3. Private Company having paid-up share capital of INR 10 Crore or more.

Rule 9 – Secretarial Audit Report (Section 204)

Post amendment the following companies are mandatorily required to conduct a Secretarial Audit:

- (a) Every public company having a paid-up share capital of fifty crore rupees or more; or
- (b) Every public company having a turnover of two hundred fifty crore rupees or more; or
- (c) Every company having outstanding loans or borrowings from banks or public financial institutions of one hundred crore rupees or more.



Contributed by- CS Shivani Sharma



# Penny Saved is Penny Earned

---

A Penny saved is a penny earned” underlines the importance of **saving**. It means it is as useful to save money that you already have as it is to earn more. This famous quote comes from the **Benjamin Franklin’s book, Poor Richard’s Almanack**. The man who spends all that he earns is poorer than the man who earns less but saves something out of his income. This proverb does not ask you to not to save everything, rather it asks you to spend only on things which are valuable in long run. As we know that money is not an unlimited resource, we should value our money. Our daily needs should be first met, and then we should save as much as we prudently can.

**Saving is a path to success.** The money saved can be used in tough times such as any medical emergency. It can also be used to create more money by the way of investment such as stocks, shares, mutual fund or you can start a business of your own and you start earning more with your saving.

You can double your money by learning to control your expenses. Be a **responsible person** and don’t spend lavishly or on things which are expensive. Try to spend on things that are of basic necessity in your life and save rest of your money. There are many ways through which one can save in life, start by controlling your expenses. Make a list of things you want to buy before going to the market and shop accordingly. Do not buy anything extra and exceed your expenses. Stop going to shopping malls as you end up buying things which are costly and unnecessary. Sometimes we buy a thing because it is cheap even though we don’t need it. The cheapest thing then ends up costing us the most.

Let’s take an example of Ram and Mohan. Both of them have 100 rupees in their pocket. Mohan spends the money on something useless just for his whims and fancies. But Ram saves up his money and earns 100 rupees more on the next day. At the end of the day, Mohan is left with nothing and has increased his liabilities because he won’t have any funds to get a proper meal next day. But Ram who earned 100 rupees is now left with 200 rupees and he has doubled his assets. Clearly, man who saved up his money for future use actually stands at a better financial position than the other person.

Extravagance can bring even millionaires into want so the habit of saving should be practiced by all. We must cultivate the habit of saving from an early age. Once we grow extravagant, we shall find it very difficult to save our income for future use. The youth of today is pretentious & just for the sake of showing off in front of his colleagues and friends ends up purchasing things that are unnecessary in utility. Your savings not only benefits you but also helps in preserving the environment by preventing wastage & contributes to the economic growth of the company. So if you learn to follow the principles of this proverb, you will surely attain success.

*Contributed by- CA Rajshree Mimani*

# Virtual Assistant

A virtual assistant is an application that can understand voice commands and complete tasks for a user. Virtual assistants are available on most smart phones and tablets, traditional computers, and, now, even standalone devices like the Amazon Echo and Google Home.

They combine specialized computer chips, microphones, and software that listen for specific spoken commands from you and usually answers back with a voice that you select.

Virtual assistants can provide a wide variety of services. These include:

- Provide information such as weather, facts from e.g. Wikipedia or IMDb, set an alarm, make to-do lists and shopping lists
- Play music from streaming services such as Spotify and Pandora; play radio stations; read audio books.
- Play videos, TV shows or movies on televisions, streaming from e.g. Netflix.
- Complement and/or replace customer service by humans. One report estimated that an automated online assistant produced a 30% decrease in the work-load for a human-provided call centre.

Virtual assistants can even learn over time and get to know your habits and preferences, so they're always getting smarter. Using artificial intelligence (AI), virtual assistants can understand natural language, recognize faces, identify objects, and communicate with other smart devices and software.

The power of digital assistants will only grow, and it's inevitable that you'll use one of these assistants sooner or later (if you haven't already). Amazon Echo and Google Home are the main choices in smart speakers, though we expect to see models from other brands down the road.



# Glimpses of BASCO EVENTS

## Various Seminars at Office Premises:



## Seminars & Discussions on Taxation by CA Ayush:



## Seminar at Salt Lake-Chartered Accountants Study Circle



## Seminar at EIRC - VITTA SALAHKAR



Our team members representing BASCO at Ministry of Finance with Mr. Anurag Thakur

# Compliance Check

## Advance Tax:

Advance Tax needs to be paid when the tax payable of assessee is **Rs. 10,000/-** or more during the Year.

**For all assessee (Other than those covered under 44AD)**

| Due Date of Installments | Amount Payable |
|--------------------------|----------------|
| On or before 15th March  | 100% of Income |

## TDS:

### Due date of Filing of TDS Return

| Period         | Due Date              |
|----------------|-----------------------|
| January- March | 31 <sup>st</sup> May  |
| April- June    | 31 <sup>st</sup> July |

Different due dates are prescribed for payment of TDS:

### Due date for payment of TDS

| Month belongs to | Due Date                    |
|------------------|-----------------------------|
| January          | 7 <sup>th</sup> of February |
| February         | 7 <sup>th</sup> of March    |
| March            | 30 <sup>th</sup> of April   |

## GST Return Schedule:

| Due Date           | Details   | Form    |
|--------------------|---|---------|
| 20th Jan\Feb\March | - Summary Return of Outward and Inward Supplies along with payment of Tax                   | GSTR 3B |
| 18th Jan           | Return for details of Inward and Outward Supplies of Composition Taxpayer (filed Quarterly) | GSTR-4  |

-Contributed by Mr Raghav Kedia

## STAR PERFORMER OF THE MONTH

Oct-Nov : Ms Shreya Agarwal

Dec-Jan : Mr Keshav Patodia

## CCHI PERFORMER OF THE MONTH

September : Ms. Shreya Agarwal

October : Mr. Ashis Chawdhury

November : Mr. Sandeep Shaw



### **The Indecisive Frog**

A frog once fell in a vessel of hot water. The water was still on a gas stove. The frog still did not try to jump out of the vessel, instead just stayed in it. As the temperature of the water started to rise, the frog managed to adjust its body temperature accordingly. As the water started to reach the boiling point, the frog was no longer able to keep up and manage its body temperature according to the water temperature.

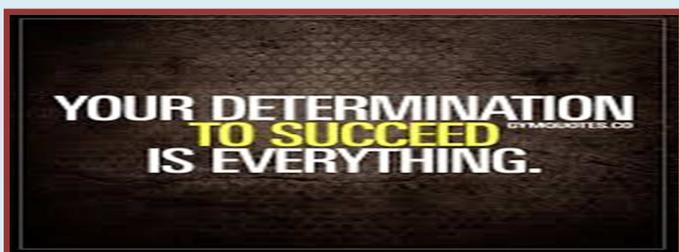
The frog tried to jump out of the vessel but with water temperature reaching its boiling point, the frog was not able to bear it and couldn't make it. What was the reason that a frog couldn't make it? Will you blame the hot water for it?

Moral of the Story: Sometimes in life, things do not happen the way we want them to be. But no matter how unhappy we are with the situation, it's important to spring to action so we can face the problem head-on. The frog in the story was indecisive and stubborn. Instead of jumping out of the water right away, he waited until he could no longer bear the heat, dying in the process. Known when to adjust to certain situations and take appropriate action before it's too late!

**"So with this story we have to learn that we have to be very much determined towards our Goal , and if we will , we can face any difficulty easily."**

**"Things work out best for those who make the best of how things work out." –**

**- Contributed by Ms. Nishika Gupta**



### **Editorial Team:**

- CA Rajshree Mimani
- Raksha Baid

***Disclaimer:*** This Newsletter is meant for internal circulation and general information purposes only. These informational materials are not intended, and must not be taken, as legal advice on any particular set of facts or circumstances.



We have been engaged in the profession of Chartered Accountants since 1997. We have a professional team of young and energetic individuals having dynamic approach towards offering high quality professional services to our clients which has helped us immensely in building long term mutual benefit relationships.

### **AREAS OF SERVICES:-**

- Audit
- Taxation (Direct Tax)
- International Taxation
- Consultancy
- Secretarial works
- Valuation
- Registration

### **OUR OFFICES:-**

**Head Office: Kolkata**

**Person in Charge: CA Arun Patodia**

**Phone: 033-25587917**

**Email: arun@basco.in**

**Address: Suryadeep, 2<sup>nd</sup> floor**

**1/1E/6 Rani Harsha Mukhi Road**

**Kolkata-700002**

**Branch Office: Ahmedabad**

**Person in Charge: CA Namita Singhania**

**Mobile: 9825361452**

**Email: namita@basco.in**

**Address: Dev Aurum,**

**A-702, Anandnagar Road,**

**Prahalad Nagar**

**Opp-Madhur Hall**

**Ahmedabad-380015**

**Branch Office: Delhi**

**Person in Charge: CA Rishabh Agarwal**

**Mobile: 9711299302**

**Email: rishabh@basco.in**

**Address: 804, Pearl Omaxe,**

**Netaji Subhash Place,**

**Delhi-110034**