NAMASKAR
e-Magazine

ICAI Singapore Chapter

The Institute of Chartered Accountants of India
(Setup by an Act of Parliament)

Index

CA Kala Krishnamoorthy
Chairperson, ICAI Singapore Chapter

"Arise, awake and do not stop until the goal is reached.

All Power is within You; You can do anything and everything."

~ Swami Vivekananda

The above summarises the belief with which our ICAI Singapore Chapter worked during the last 12 months. While 2020 was a year when the World came to a standstill amidst the COVID -19 pandemic; our Singapore Chapter ensured that it kept on venturing into unchartered territories and conquering newer heights.

Reflecting back on the past one year, it gives the present team a sense of fulfillment with the progress made on a number of fronts. The first amongst all is the launch of **Knowledge Series** program. The ICAI Singapore Chapter is blessed to have members who are experts in a diverse range of subjects. The Chapter presented such members with a formal platform to come forward and share their knowledge, experience and wisdom with fellow members. It has been a resounding success since its launch with members presenting on a variety of topics.

Key highlights of the Chapter during the last 12 months included (i) hosting an average of two professional events every month on different topics including knowledge series sessions; (ii) hosting some special inspirational sessions; (iii) hosting at least one social event every quarter; (iv) Special arrangements to promote member engagement amidst the pandemic like distribution of sweets under Ghar Ghar Diwali event; (v) driving a number of community welfare initiatives; (vi) strengthening our relationships with the High Commission of India in Singapore, ICAI parent body in India, other Overseas Chapters, various cultural participations etc. amongst others. The Chapter also improved its social media presence by regularly posting social media updates and key events on LinkedIn, Twitter, Facebook, WhatsApp and its dedicated Website.

The last 12 months also witnessed the ICAI Singapore Chapter drive its agenda to partner with global professional accounting bodies. Joint events with CPA Australia were great success stories during the year. The Chapter will continue to drive its efforts to establish strong relationships with major professional accounting bodies around the world and some initiatives are already underway. The Chapter also hosted a dedicated event on career counselling and highlighted success associated with the prestigious "Chartered Accountant" course to young students from Indian International Schools in Singapore.

Year 2020 will always remain a memorable year in the history of ICAI Singapore Chapter. On 10 December 2020; The Institute of Chartered Accountants of India inaugurated its second overseas Branch Office in Singapore. This special online inauguration event was attended by more than 1,500 members from across the globe.

The last year also witnessed the Chapter launching a dedicated Toastmasters Club for its members – ICAI SG TOASTMASTERS CLUB.

During the last twelve months the ICAI Singapore Chapter witnessed an overwhelming record membership registrations. The chapter surpassed a record 400 members mark – the membership count doubled in just one year!

While this list of activities, unique initiatives and achievements were many and all of those even resulted in the ICAI Singapore Chapter bagging the **2nd Prize for the Best Overseas Chapter Award for the year 2020-21**; the one thing that the Chapter is really proud of is that the ICAI Singapore Chapter has become a big vibrant family from being just a Chapter of professional colleagues. Today members are selflessly helping their fellow members, and sometimes also going out of their way. As they say, a family that stays together, grows together!

I cannot conclude without mentioning about the Chapter's own music video release on 1 January 2021 - "SANGACCHADHAM-HARMONY IN UNITY". It was a unique music collaboration in six different languages sharing the message of universal love and unity - a first of its kind - with the entire execution – concept, music, lyrics, performers, sound mixing and other technicalities - all done in house by our members.

On behalf of all the committee members for the year 2020-21, I would like to personally thank each and every member for the unconditional love, affection and trust showered on us and keeping us motivated all the time to give our best. We are confident that the incoming committee for the year 2021-22 will continue to serve the ICAI Singapore Chapter and its members and raise the Chapter's flag to newer heights and areas of excellence.

Keep showering your love, thank you.

CA Kala Krishnamoorthy,
Chairperson,
ICAI SG Chapter

Best Overseas Chapter Award
for the year 2020-21

"None of us, including me, ever do great things. But we can all do small things, with great love, and together we can do something wonderful." ~ *Mother Teresa*

What a simple yet profound message! As they say - Talent Wins Games, Teamwork Wins Championships.

Year 2020 will always remain in our memories as a pandemic year. It would have been very easy for us just to accept it as an aberration year and wait for 'normalcy' to return. But as it is known, when the going gets tough, the tough gets going.

The year brought out the best from our member volunteers who worked relentlessly throughout the year and delivered impressive results, whether it was hosting professional events, knowledge series sessions, social events, community welfare initiatives, ICAI brand awareness drives etc., amongst numerous others.

And the results - Well, it is an absolute delight and privilege to share that ICAI Singapore Chapter won the **2nd Prize for the Best Overseas Chapter Award for the year 2020-21**. This is the first time ICAI Singapore Chapter received such an award.

This award and recognition are also a **dedication to all our members of the Singapore Chapter** who wholeheartedly supported various activities throughout the year. The love and affection from the members kept on growing and the blessings from all our members resulted in this overwhelming achievement and recognition.

This award also reinforced our belief that we just need to continue serving our members selflessly and keep the flag of our alma-mater, The Institute of Chartered Accountants of India, flying high.

We look forward to our members' continued support, love and affection in the years to come. Thank you once again and many congratulations to all of us on this proud achievement!

CA Kala Krishnamoorthy,
Chairperson,
ICAI SG Chapter
Hand Together🙏

CA Pawanpreet Singh
Member, Singapore Chapter of ICAI

I believe being a professional accountant was destined for me. Father was a banker and hence we used to talk a lot about various industries, their performance and the process. I was of the firm belief that for any business or an organization Finance and Accounts department was one of the best ways to understand, analyze and become support to the Business head to take financial accretive decisions for its success.

My professional journey started with Ranbaxy Laboratories Limited as a Cost Trainee as at that time I was perusing with my Chartered Accountancy though had completed my ICWA degree.

In those days, Drug Price Control Order (DPCO) was in prevalence and anti-dumping duties were imposed for cheaper imports. The requirements were under costing records and DPCO, hence the need of the hour was to go beyond financial accounting records. Activity Based Costing (ABC) was initiated by me for the API manufacturing to justify the costs of each drugs we were producing in the API division. This was an early recognition of the fact that accountants should not mere restrict themselves to book keeping but actively work towards the business growth and assist in decision making for the opportunities.

Many a times, business heads have to sell off the non-core businesses to stay with their main business line. The ability to maintain that business acumen and yet extract the value from the sale was the new learning for me at my next assignment with Ballarpur Industries. The initial profile was to manage core paper business at one of their plants at Yamunanagar. The experience of negotiating commercials and finalising the legal documents with the legal team to sell off the paper board business of the company, the nuances of legal clauses, negotiations on each word was very interesting and quiet a learning. This all furthered my hunger to get into understanding the business and to assist the CEO of the company to help create valuations for the company

The next few years I spent with a relative small diagnostics company which was struggling to find capital for its growth and had recently negotiated with banks for reconstruction of the loan facility. To enable the business to get more diagnostic instruments without spending capital, it was interesting to chalk out off balance sheet finance by working with the equipment supplier to change the business model on "Pay per use" basis . The payment of the instruments was on lease terms calculated based on the tests conducted by the operations team. Further organising a "franchise model" for the laboratories helped increase the geographical reach and the top line of the company. With these measures, within a span of 3 years, the top line of company increased from INR 35 Crores to INR 135 Crores, with almost negligible capital infusion.

Running the project of listing a company as a Project Leader was my next career move. Healthcare industry in India was predominantly under the public sector and only one private listed company about a decade ago, with its presence only limited to the southern region. Educating investors about the potential of the growth in the sector and to be able to extract its true intrinsic value, with limited operating history was quite challenging. During the period of preparedness for the listing, gain of the business operations, its opportunities and potential roadblocks, challenges and selling the idea to invest into the company to the CIO of various funds was the key job profile. Subsequent to the IPO, there were various opportunities to work on inorganic growth of the company. This was once in lifetime opportunity to learn on the business even more closely, work on negotiations for acquisitions as also raise capital to fund the same, including FCCBs, bank debts and rights issue.

For further growth of the company, more funds were required. In addition, due to the increasing capital needs right sizing the balance sheet was also getting critical. Interest cost on Debt were putting pressures to the profitability of the company and further dilution of equity would have restricted the intrinsic value of the business for the equity holders. Raising funds via REIT model was the plausible solution to raise funds without diluting the equity or raising debt. The sale and lease model through REIT, did help in making the balance sheet lighter, unlock the real estate value and use the funds into business which potentially had better growth and returns.

Listing of the first healthcare REIT from assets out of India was steered by me. The AUM was increased to $1 BN from nearly half at the inception both through organic and inorganic growth. It was very heartrending to be able to create value for our investors over the 7 years period by providing an impressive 12% IRR in SGD terms. To be able to generate such a value required a lot of conviction, understanding of the business and education of the investor.

Having run successfully couple of start-ups and creating value out of the businesses and having a good understanding on the potential in commercial Real Estate, it was time rather sit on the Entrepreneurial seat and initiate with a private Real Estate Investment trust with focus on commercial assets in India. I was lucky to have support the team from my earlier organisation to take care of compliance, regulations, Finance and secretarial work both in India and Singapore. Both from growth perspective as also on comfort from knowing the market, India was the obvious choice. I have been actively looking at properties in the region and have narrowed down to warehouses as an asset class. Despite the tough times due to COVID, have been able to close a deal worth USD $150 Million with a portfolio of 10 assets spread across the northern part of the country. The aim is to increase the AUM to around $500 Million before listing it and thus unlocking the value for its investors.

Gaurav Ashar
Manager,
India Desk–Asia Pacific
EY Corporate Advisors Pte. Ltd.

Gagan Malik
International Director,
India Desk-APAC Global Tax Desk Leader
EY Corporate Advisors Pte. Ltd.

Recent key changes in the Indian tax and regulatory regime

2020 and early part of 2021 has been a challenging year with the COVID-19 pandemic, natural disasters and also political turmoil around the world. In the same period, significant changes have also taken place in the tax world, be it the continuous attempt to bring consensus on digital taxation by the Organisation for Economic Co-operation and Development (OECD) or unilateral actions by many countries on the taxation of digital businesses.

India has its fair share of significant changes to the tax and regulatory environment. One of the biggest changes – and most applauded by the international tax community – was the long-awaited abolition of the dividend distribution tax (DDT) and its replacement with a simpler dividend withholding tax regime. In addition, India further expanded the equalisation levy (digital tax) provisions and introduced land border regulations.

These are some of the key provisions that multinational corporations (MNCs) must evaluate with regards to their India-related operations.

Removing DDT and moving to classical system of taxing dividend in the hands of shareholders

In fulfilling the ask of foreign players, the Finance Minister of India introduced a significant change in the country's direct tax regime in the Union Budget 2020 by abolishing the DDT and moving to a system of taxing dividends in the hands of shareholders. According to the government, this single move would cost the Exchequer Rs 25,000 crore (approximately US$ 3.4 billion) in tax revenue. The erstwhile DDT system had the following issues:

- DDT, being a tax on the Indian company distributing the dividends, resulted in an increase in tax burden for investors, especially those who were eligible for lower tax rates due to tax treaty eligibility. This also included small domestic investors in India due to otherwise lower income thresholds.
- Non-availability of credit of DDT to most of the foreign investors in their home country, as the DDT was a distribution tax on the Indian company and technically not a tax on shareholders.

While the amendment of taxing dividends in the hands of shareholders indeed increased the effective tax rates for certain sections of domestic shareholders, the above amendment will result in significant increase in the rate of return on equity capital for foreign investors as the withholding tax rate can go as low as 5% under certain tax treaties.

Beneficial ownership and corporate tax return filing

Most of the treaties contain the beneficial ownership clause and thus it is extremely important that the foreign entity enjoying the lower tax rate under the treaty is also the beneficial owner of such income. There has been significant litigation around this aspect and with the introduction of Multilateral Instruments and General Anti-Avoidance Rules in India and other anti-abuse provisions, it is likely that the tax authorities will look into the holding structures with greater detail.

Another key amendment arising from the Union Budget 2020 is the requirement to file tax returns (including obtaining tax registration number) for foreign investors who are paying tax as per the treaty rates and not as per the domestic tax law. This requirement is applicable even if dividend is the only source of income in a particular year.

Indian equalisation levy (digital tax) 2.0 and beyond

Digitalisation is one of the most significant developments since the industrial revolution, transforming the way in which businesses are carried out across the globe. It has also accelerated the need to address the deficiencies and unresolved issues within the international tax system.

The OECD and the G20 group initiated the base erosion and profit shifting (BEPS) project, to *inter-alia*, address the taxation issues of the digital economy. India, being one of the early movers, introduced the equalisation levy (EL 1.0) in 2016 at 6% on payments received by a non-resident service provider from an Indian resident (carrying on business or profession) in respect of online advertising, provision of online advertising space and related services.

Fast forward to 2020, the Indian Government further expanded the provisions of the equalisation levy (EL 2.0) to bring within the net any consideration received by non-resident e-commerce operators for online sale of goods or online provision of services at 2% (hereinafter referred to as ESS EL) with effect from 1 April 2020. This was a significant change as the foreign e-commerce operator now needs to register in India directly to undertake the compliance and pay the levy. The first due date for payment of ESS EL was 7 July 2020 and further due dates are on quarterly basis.

It was expected that digital offerings of non-residents such as online books, online games and online gaming services (under specified circumstances) would come under the purview of ESS EL.

However, the provisions pertaining to ESS EL were widely worded and one could interpret them to cover the sale of physical goods and services enjoyed offline. While many businesses negotiate supply and service agreements online and use digital or electronic means for contract confirmation, the delivery of goods and services is largely offline. An example of this could be orders placed online on an e-portal for hotel stays, flight bookings, etc.

Clarification were sought by the various stakeholders on several aspects of ESS EL provisions (as amended in 2020). In this regard, the **Finance Bill 2021 (FB 2021)**, which was presented by the Finance Minister of India on 1 February 2021, has proposed to provide for certain clarifications with effect from 1 April 2020 as stated below.

A. The scope of terms "online sale of goods" and "online provision of services" will cover any one or more of the following activities if undertaken online:

- Acceptance of offer for sale;
- Placing the purchase order;
- Acceptance of the purchase order;
- Payment of consideration;
- Supply of goods or provision of services, partly or wholly

This proposed amendment will have the effect of broadening the applicability of ESS EL provisions even to physical/ offline supply of goods and services if any **one** of the above activities take place online.

Traditional brick-and-mortar businesses also use digital or electronic facilities in some form, such as for the maintenance of a website, email correspondence and digital forms of payment, as well as for inter-company transactions across different geographies. With the above amendments, it is likely many businesses and transactions including inter-company transactions will get covered under the ambit of ESS EL. Multiple organisations are evaluating the impact of these changes and some are already undertaking compliances and paying the levy in these situations.

B. E-commerce operators are currently liable to 2% EL on the amount of consideration "received or receivable". In this regard, it is proposed to be clarified that such consideration will include:

- consideration for sale of goods irrespective of whether the e-commerce operator owns the goods; and
- consideration for provision of services irrespective of whether service is provided or facilitated by the e-commerce operator.

This proposal may raise a question and may be in direct conflict with the position already adopted by the non-resident aggregators/ intermediaries that ESS EL liability should be restricted only to the remuneration/ fees earned by them for facilitation & not the entire consideration received in respect of sale of goods/ provision of services.

C. It has been clarified that consideration in the nature of royalty and fees for technical services (FTS), which is taxable under the Income-tax Act, 1961 r.w. relevant tax treaty, will not be liable for ESS EL. Thus, the ambiguity on whether there is an option to opt for paying tax at

Recent key changes in the Indian tax and regulatory regime

10% as royalty/ FTS vis-a-vis 2% as ESS EL has been done away with and royalty/ FTS income will continue to be charged at 10% (plus applicable surcharge and cess, if applicable) on gross basis and will not be chargeable to ESS EL.

D. There was a mismatch in the effective dates of ESS EL and the corresponding income-tax exemption on such income. It has been proposed now to remove this anomaly in order to grant the income-tax exemption w.e.f. 1 April 2020.

E. A further clarification was brought in while moving the Bill for approval by the Lok Sabha on 23 March 2021 - Non -Resident e-commerce operator is not obligated to pay 2% ESS EL on value of sale of goods owned by or services provided by residents or non-residents having permanent establishment (PE) in India (to which such sale or provision is effectively connected) through digital platform of such e-commerce operator.

Land border restrictions

The impact of the COVID 19 pandemic has not only been felt on the health of people and organisations but also the policy directions of governments around the world.

The Indian Government introduced changes to its foreign direct investment policy (FDI Policy) vide Press Note No. 3 dated April 17, 2020, (Press Note). The Press Note seeks to curb "*opportunistic takeovers/acquisitions of Indian companies*" due to the current COVID-19 pandemic.

Based on the amendment, investments by entities incorporated in Afghanistan, Bangladesh, Bhutan, China, Myanmar, Nepal and Pakistan (Specified Country) or where the beneficial owner (direct or indirect) of an investment into India is situated in or is a citizen of any Specified Country, will require prior approval of the Indian Government.

On account of the amendment, certain investments that will otherwise fall under the automatic route i.e., do not require any approval, now falls under the government approval route and will require an approval if it is from an entity of which itself or its beneficial owner is from a Specified Country.

Some key areas where it is good to have clarification from the Indian Government is the definition of beneficial ownership, Indian downstream investments, investment from Hong Kong, mergers, conversion of entities, private equity investments, etc.

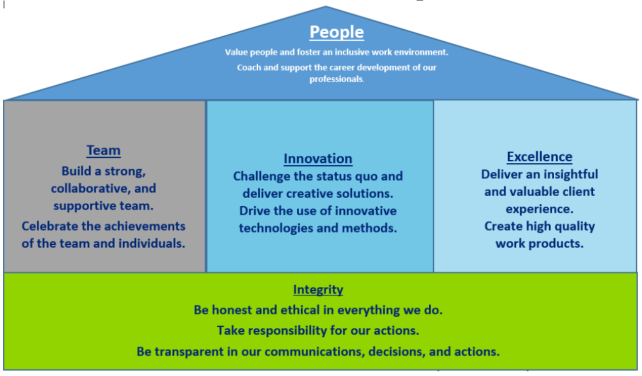
On a positive note, we understand basis media reports that the Indian Government has recently started approving few strategic projects/ investments and hopefully more traction can be seen in the coming months.

As seen, some of these changes have significant tax benefits whereas others result in increased compliance burden with regards to doing business in India. <u>MNCs will need to keep track of the ever-changing tax and regulatory landscape in India, be nimble to adapt to changes and understand the impact on their businesses to get the most benefit out of them.</u>

CA Sandhya

Core Values and their importance - in our profession

Values (aka Core Values) is a term that can never go unnoticed. Right from our childhood, We have been hearing from our elders on importance of values and the role they play in moulding us as good human beings. Even when we walk through the corridors of an organisation or during the initial days of joining a company, we keep hearing lot of 'gyan' on Core Values. Has this ever triggered a thought in your mind on What these Core Values are? Core values are more like our navigation system. They guide us and lead us. They underpin the way we live our life. Core values help us differentiate as a person and assist us in gaining a self-satisfaction. They are unspoken rules and regulations, terms and conditions by which we ultimately agree to our "SELF" and help us steer our life. What are those core values? How do we identify or differentiate between a value and core value? Values to which a strong emotion is attached is a core value. There are many core values, but for me the below mentioned five values are the important core values. These are the ones that I have learnt right from my



school days into my career and strongly believe in the same.

Integrity

The first and foremost that forms the foundation of any profession is Integrity. What is integrity?

Integrity is being true to oneself. Doing the right thing even when nobody is watching us, admitting when we are wrong and taking ownership of our actions. Whether its professional or personal life, maintaining integrity is very important. Saying 'no' when people are trying to get us to do something that we know we shouldn't be doing and being honest in everything we do.

How would this be different in the professional environment? Well, it would be the same. To word it differently, in our profession, integrity would mean meeting our commitments, being congruent to our words and actions, conducting work with honesty and openness. Being

Core Values and their importance - in our profession

compliant with our professional requirements, following the code of ethics, being transparent and responsible for our actions. Mistakes happen, admit them, learn from them, move on but not justify them or repeat them.

Teamwork

What is team work? When I think about team work, I still remember a popular story told by my parents during my childhood days which I pass on to my kids. A story from Jataka tales where a group of birds save themselves from a hunter's net by flying together as a team. Now what relevance does this have in our professional environment? Many a times we would need to work in teams to complete a client deliverable or work in tight deadlines. Do we then work together or do we get away from others wanting to take credit and going back on client commitments? Do we appreciate the hard work of our peers/ team members? How do we build a strong collaborative and supportive team? By thinking through the below mentioned points

- Support and guide the team members, share knowledge with peers whenever possible as sharing does not reduce one's knowledge.
- Recognizing any achievement and appreciating for work done right
- Build and maintain trust
- Provide timely, constructive and positive feedback
- Forgive and move on

Innovation

Have you ever watched a TV commercial on Havel's wires? A small boy who could not bear to see his mother's hand burning while making roti (Indian bread), makes pliers with a Havel's wire. Though the advertisement is about the strength of Havel's wire, the important point to note here is the innovation. What reference does this have to our profession?

Innovation is not just about ideas, but it is about making ideas happen. Have we ever thought if our client could benefit if we slightly did this thing in a different manner? Do we need to go out of our way to generate ideas? May be no, a slight change in our approach could bring about innovation. What do we do? Research/brainstorm/ generate ideas/ where 100 ideas are generated there is every possible chance that at least one idea might be worth and could be a value add to our clients. Challenge the

Core Values and their importance - in our profession

status quo, focus on the task rather than getting credit.

Excellence

What is the first word that comes to our mind when you think of Excellence? Quality? Distinction/ something different/ innovative?

Imagine you are working on an audit/ preparing a tax return. What would excellence mean to us? Would you happy if the return is prepared but with lots of errors, would you be satisfied if the audit is completed within the timelines but its not done professionally? No, isn't it? What do we do to work with excellence?

- Always perform a proof read of our documents to produce professional work without errors
- Efficiently and effectively utilize team resources, identify what each of the team member's strengths are and accordingly use them for producing quality work.
- Don't settle down for what was done last year, try to provide value add solutions

People

The last but the top most important is "People" and the way we treat each other. Let me give you an example.

How often do we shuffle our seats because someone wanted to sit together with their family?

Couple of years ago, I attended a training on "Leadership and Self Deception" It was a training explaining the act of deceiving oneself by pitying on self and blaming others for things that have not gone well with them.

Do we treat people as people or as objects who could be used to get our work done? How do we show people they are valued?

- Build quality relationships with all team members
- Maintain inclusive environment
- Work with various people to gain diverse insights
- Selflessly invest in team and team members Some thoughts to ponder
- How can you incorporate the core value into your current practices?
- How will core values change your life? I strongly feel that if each one of us starts believing in certain or some of the core values and abides by them, then I think that we would definitely be better professionals in our life. Well, these are my core values, what are yours ?

CA Deepa N Swamy

Unlearn fast

I started out in finance, thriving in the academic rigour, and expertise driven achievement that my early career days offered. Post MBA, I transitioned to roles that introduced me to the excitement and messiness of new business research and incubation, lost my professional identity during an unplanned career break, and subsequently became an entrepreneur.

Today, I am very grateful, to be playing my part in helping women reclaim their professional identities, via FlexiBees (www.flexibees.com), a start-up, I co-founded with my batch mates from IIMB, where we are charged with a vision to create a universe of flexible work options.

Each inflection point in my life added to and subtracted from my identity and world views - around work, relationships, and the roles we play in society.

Having the benefit of hindsight and some grey hairs today, if there was a mantra that I would recommend for managing significant life transitions, it would be to "Unlearn fast". We often eulogize learning fast, and failing fast, especially in entrepreneurship. Equally if not more important I have realized is to shed learnings that no longer serve the context we are in and make way for more relevant knowledge, or ways of living as quickly as possible.

I want to explore here 3 examples in which unlearning has served to be a catalyst for growth.

1. If the only tool you have is a hammer...

The biggest benefit of starting out in staff or expertise driven roles, in my opinion is the normalization of the ideal. Aiming for the ideal, especially in terms of integrity and work ethic suited my idealistic worldviews and perfectionist tendencies back then.

While this served me well in project based engagements, once I entered the messy realm of creating impact on the ground, I understood that mastery is not an end in itself. The level of technical expertise to be applied needs to be tailored to the purpose of business, and in the context it operates in at that time.

For example, while still building the demand for our services, while I was convinced of the need for legally enforceable contracts, ease of execution trumped over the need to build tight contracts that could cover every imaginable possibility. Our contracts started out as being minimally viable as well, and transitioned into tighter ones as we grew, with more use cases and complexity added.

Unlearn fast

Similarly coming in with wide-ranging functional skills between us, it was important for me and my co-founders to pick and choose elements from Consulting, Sales, Marketing, Branding, Technology and Finance, that served our stage of business as we built it - versus being a canvas for working with our skills pristinely.

A lot can be written about perfection itself, and in the constant tug of war, between perfection and progress. I am learning to let go of perfection, in favour of progress.

2. Failure is the stepping stone..

Coming from a culture that celebrated academic ranks and being "ahead of others", I had not quite grasped the true meaning of the proverb in my early career. I thought, if you failed once, you try again, and harder, until you achieve the goal, and I did that in many instances. I understood the true potential of failure, in my entrepreneurship journey, and I know today that one can truly build something new, only on top of failure.

Failure is essential, and we need to not only "learn from" failure and correct our mistakes, but embrace failure as a way to build and grow. To discover the most effective paths that will lead us to the goal. This mindset is hard to achieve, and the unlearning is not yet complete for me. Finding new paths or even goals via failure can conserve more time and resources in the startup world, than using failure to improve and do better alone.

3. Great minds…

Think alike? Does it mean if we think alike that is a great thing ? :)

This has by far been the longest ongoing unlearning of all :) Transitioning from a World of black & white, and "should be s", learning to accommodate more grey, in situations, differing motivations, as well as personality types of people has led me to question and unlearn old standards around work ethic.

True flexibility is in finding ways to appreciate different skills and strengths that people bring to the table, in their own timezones even, finally all in service of a unified vision. Differences can sometimes cause friction, and even heart-ache but when confronted constructively can bring breakthroughs in human understanding that help us grow.

Unlearning is uncomfortable, and exposes one as a novice, after being regarded as an expert. However it can reward us with personal growth, and is often the only way to do justice to what is needed of us in the situation.


CA Nishant Monani CA Mahek Udeshi

Tax Implications arising out of corporate debt restructuring in Singapore

Introduction

The global pandemic and economic disruptions caused from it have sent many companies on the path of financial distress and restructuring. Over past few years Singapore has robustly implemented reforms to position itself as an international hub for debt restructuring. The newly enacted Insolvency, Restructuring and Dissolution Act 2018 ("IRDA") provides various tools for financial restructuring of companies having financial difficulties.

This article discusses the implications of restructuring and the taxability of haircuts arising thereof. We will also discuss the relevant provisions of GST Act which affect the financial restructuring and tax implications thereof. In the end, we will have a look on possible tax reforms which can be implemented to fully utilize the potential of available restructuring framework for the benefit of local as well as foreign companies.

Financial Restructuring & Singapore's Efforts towards being an International Hub

Financial Restructuring is an exercise by companies to emerge from financial insolvency and reorganize the financial commitments of company in a manner more suitable to the company's present and future cash flows.

Generally restructuring is achieved by an agreement between the company and its creditors which generally includes (i) deferral of payments (ii) capitalization of debts and a certain portion of "Debt Forgiveness" as well which is commonly referred as "haircuts". Such an agreement once accepted by majority of the creditors / Class of Creditors and approved by court becomes binding on all the creditors of the company including the dissenting creditors.

From an accounting point of view, the "haircuts" may seem like an exceptional income for the company and might be subjected to tax @ 17% of the value of haircut at the end of financial year. This superficial income, does not add any value to the underlying assets / business of the company. However, taxing this haircut imposes an additional cash outflow on the company which is already suffering and may jeopardise any potential reorganization of the company.

Singapore's Efforts towards being an International Hub

Singapore has over past few years rejigged framework concerning the insolvency / corporate debt restructuring. Some of the changes include enhancement of the Debt Moratorium to grant immunity from secured creditors as well (which was not an option in the erstwhile mechanism), Global Moratorium, Inclusion of related companies under debt moratorium, automatic moratorium (with possibility of extension) and possibility of rescue financing, restriction on *IPSO facto* clauses, possibility of imposition of reorganization plan on dissenting creditors. The new framework also opens up gateways for foreign companies to be benefitted by this efficient framework provided they meet certain criteria.

While this places Singapore in one of the top spots globally for available legal framework of Corporate Debt Restructuring and dispute resolution, this article highlights that it may be more beneficial to bring in tax reforms to synchronize the tax treatment on haircuts arising from Debt Restructuring.

Tax Treatment of Haircuts arising from debt restructuring

Under the Singapore Law, the chargeability on business income is derived by Section 10 (1) (a) of the Income tax Act, which levies tax on "10 (1) (a) gains or profits from any trade, business, profession or vocation…". Now, whether the gains derived from debt forgiveness, would be clearly taxable under section 10(1) (a) or not is a topic not clearly defined in the legal stature as of now.

However, section 10(1) (g) of the ITA, provides for taxation of "any gains or profits of an income nature not falling within any of the preceding paragraphs.". The Challenge here is that word "income" is a relative concept and unless defined appropriately leaves a room for lot of arbitrary interpretation.

However, the general position is that any income or gains recognized in the profit and loss statement of the company as per applicable FRS-109 shall be treated as income unless the company is able to establish clearly that it is capital in nature (i.e., the said income is not related to the activities / trade / profession of the company in any manner). By virtue of this, the gains derived from debt forgiveness would be treated as income in Profit and loss statement and thus become taxable in the assessment by IRAS. The broad-spectrum criteria of Section 10 (1) (g) makes this gain more susceptible to be included as taxable gains then otherwise.

However, levying tax on the gains derived, makes it more difficult for the creditors to agree to an arrangement as it reduces their returns. This also burdens the company's cash flow which is already in a financial distress. This makes the entire restructuring exercise complex as well as non-lucrative or a deal braker many times.

To Better understand the impact, below is a hypothetical Example :

If a Company, that goes into Restructuring with a Debt Forgiveness plan and has assets worth $ 4 Million that an investor is interested to buy while entering into a scheme of compromise to settle debts worth $ 10 Million the returns to creditors would be as Follows:

As can be seen from the illustration for assets worth $ 4 million, considering all other factors constant, the creditors would be able to realize only $ 2.98 Million

PARTICULARS	Amt$ (Mn)
Total Debt Forgiveness	6.00
Estd Tax Liability	1.02
Returns to Creditors:	
Value of Assets	4.00
Less: Future Liability of tax	1.02
Balance Amt for Creditors	2.98

Eventually if the proportion of debts to be written off is higher, the potential recovery would fall drastically.

We suggest some tax reforms to avoid taxing such gains including some safeguards to avoid abuse of the legislation in the later part of this article.

Tax Implications with respect to GST

In Singapore Chargeability of GST is derived from the Goods and Service Tax Act 1994. Section 19 of the GST Act that deals with allowing credit for Input tax against output tax.

Section 19 (12) of the GST Act stipulates that if the company fails to make the entire payment to the supplier within a period of One Year from the Due date of its invoice, the GST Input claimed on relevant invoice needs to be accounted back to the Comptroller of GST.

If the company under restructuring is engaged in a business that is not exempt from GST, in most likely scenario, the company will have to account for the Input tax Credit of GST on all creditors under the Scheme of Arrangement. (Except for those where no GST was charged at the time of procuring such goods / services)

Some relief comes from Section 12A which stipulates that if Section 12 has been complied with then upon payment of the said invoices to the supplier (Full / Partial) the company can claim GST Input Tax Credit to the extent of amounts paid *(on pro rata basis)*.

Considering that a company will mostly likely have "Haircuts", the GST input Tax Credit on such "Haircuts" would be disallowed and company would be held accountable to pay the same to IRAS. We understand that these provisions are safe harbour provisions to ensure no loss to the exchequer. However, for companies under restructuring, this might become an additional cash flow burden which would again discourage the suppliers / service providers from agree-ing to "haircuts" in the Scheme.

To Illustrate the same let us continue our previous scenario and analyse:

As can been seen from the illustration the value of GST Input tax credit on $ 7 million would arrive to be $ 457,943 *(derived as 7,000,000 / 1.07 * 0.07)*.

Now if the Investors / company offer a 60% haircut, in Case of Creditors for Goods & Services the haircut would be $ 4.2 Million. GST on this Haircut would be $

PARTICULARS	Amt $ (Mn)
Liabilities	
Banks & Financial Institutions	3.00
Creditors for Goods / Services (All assumed to be GST applicable providers)	7.00
GST liability on Haircut of 60 %	0.27
Returns to Creditors	
Asset Value	4.00
Less: Future Tax Liabilities (1.02+0.27)	1.29
Balance for creditors	**2.71**

274,766 which would be the further liability of the company.

Thus, the creditors would be able to garner less recoveries from the company to the extent of GST Input credits that would be disallowed under provisions of Section 19 (12) of the GST Act.

We Believe it would be more appropriate to have some reforms under the GST Act as well which would support the restructuring exercise of the company. These are discussed in detail in later part of this article.

SUGGESTIONS ON BENEFECIAL TAX TREATMENT FOR HAIRCUTS

As discussed above, there are two points of concern with respect to the "Haircut" under a Scheme of arrangement viz. (I) taxability of the Haircuts under the Income Tax Act and (II) Disallowance of GST Input tax Credit on "Haircut".

Our article deals with each topic in the ensuing paragraphs, and we have tried to suggest some possible tax reforms that can be implemented to support the governments efforts for making Singapore and International Restructuring Hub.

Justification on Beneficial tax Treatment for Haircuts

The main problem by taxing the haircuts is that it burdens the cash flow of the company which is already facing insolvency & cash flow issues. Furthermore, it also discourages the creditors from agreeing to the Haircut since the pool of resources available is reduced due to additional tax. These jeopardy reduces the commercial viability of the Company.

There can be various scenarios where a haircut arises from including

A. a contractual agreement of Haircut between Debtor & Specific Creditor (in case of Solvency)
B. A Contractual Agreement between a debtor & creditor / Specific Set of Creditors (where the company is under Financial distress).
C. A formal haircut arising from a Pre-Insolvency situation like a Scheme of Arrangement which applies to all creditors at large of the company.
D. A Complete reorganization of the company under processes like Judicial management or Sale of the company as an ongoing business.

There is lesser probability of Situations 1 &

2 arising as the creditors would not have an economic incentive to accept Haircut. However, in situation 3 & 4, a creditor might be more willing to accept a haircut to maximize the chances of better recovery by working with the company in a longer duration even if it means accepting a short-term loss / haircut.

We believe that in Situations 3 & 4, the income arising to the company by way of haircuts should be granted a beneficial tax treatment as it will encourage more creditors to agree to the company's proposal. The beneficial tax treatment can be provided by either declaring any such income as exempt or by declaring income arising out of Haircut as Capital. Providing beneficial treatment to the income arising out of situations 3 & 4 will also encourage more companies to use the Formal Judicial Framework that Singapore has in place for restructuring or reorganizing its debts.

We feel it might be more simplistic and appropriate approach to declare such incomes as capital in nature instead of treating them as exempt income.

Suggested Tax Reforms under Income Tax Act

We Suggest that it would be more beneficial to notify that Debts forgiven under the IRDA Act (whether by court approved Scheme of Arrangement or by route of Judicial Management) would be treated as capital in Nature and hence not subjected to income tax.

It is to be noted here that IRAS has recently notified on Tax Treatment of Debts Forgiven under Ministry of Law's Simplified Debt Restructuring Programme ("SDRP") whereby it is clarified that such gains arising from Debts Forgiven under SDRP would be treated as capital in Nature and hence not subjected to Income tax. However, SDRP is a Simplified Debt Resolution Mechanism applicable for SME Companies with revenue of less than $ 10 million and Debts Less than $ 2 million. However, with respect to the companies, that do not qualify in this category the position of law is still undetermined and desires more clarifications / notifications.

Suggested Tax Reforms under The Goods & Service Tax Act:

The Main issue with Haircuts under GST act is the disallowance of GST Input tax Credit if the Suppliers Invoice is not paid within one year of due date. This disallowance creates additional tax liability on the company.

There can be two ways of providing beneficial tax treatments in such cases being (i) exempting debts covered under IRDA Act (under moratorium, resolution, or scheme of arrangement) from Section 19 (12) of the GST Act or (ii) Modifying Section 19 (12) to interpret debts being settled instead of being paid. We discuss each situation in the below paragraphs.

Exempting debts covered under IRDA from imposition of section 19 (12) of GST Act

One of the possible ways to provide beneficial tax treatment to the Haircut or companies under restructuring would be way of exempting any debts that are covered under IRDA Act where the company has applied for a moratorium under Section 211(B) of the Companies Act or where the company has been placed under Judicial Management.

This would have the effect that if the company faces insolvency and applies for bankruptcy protection would also be protected from additional tax burden arising from disallowance of GST. U/s 211 (B) of the companies act a company get default 6 months moratorium on application with a possibility to extend further and try to arrive at a resolution of its liabilities. Thereafter, once the company reaches an agreement with its creditors a scheme of arrangement & compromise is filed.

Our Suggestion is to exempt all such debts that are covered under such scheme of arrangement from disallowance of input tax credit.

Modifying GST Act to include debts settled under IRDA / Scheme of Arrangement as acceptable mode of payment

Another approach may be by including settlement of debt formal restructuring as an indication of payment.

It would be more prudent to only cover the debts settled under a formal mechanism of resolution i.e. scheme of arrangement, Judicial management or the recently launched SDRP Scheme to counter any arbitrage seeking taxpayers. This would ensure a legitimate beneficial treatment for companies in distress while discouraging any opportunistic arbitrage seekers. Correspondingly the Bad Debt Relief provisions may also be modified to balance the proposal and state that any debts restructures under IRDA Act would not be eligible for Bad Debt Relief.

Conclusion:

Singapore has managed to implement one of the most sophisticated restructuring frameworks in the world. However, in order to utilize the full potential of the restructuring frameworks that Singapore has established, it is more necessary that Haircuts arising from a formal restructuring of the organization (irrespective of Size) should not be taxable.

It is also argued that all debts that are under moratorium / under a scheme falling within IRDA / SDRP be considered as paid in full for the purpose of GST input tax credit provisions upon conclusion of Scheme / Resolution Proposal. In the Meantime, whilst the scheme is in effect the company be exempted from requirement of payment of GST Input Tax Credit due to the fact that no payment has been made to the supplier since one year. This changes will not only benefit the local companies it would also facilitate foreign debtors and creditors who wish to take advantage of the restructuring framework that Singapore has implemented efficiently.

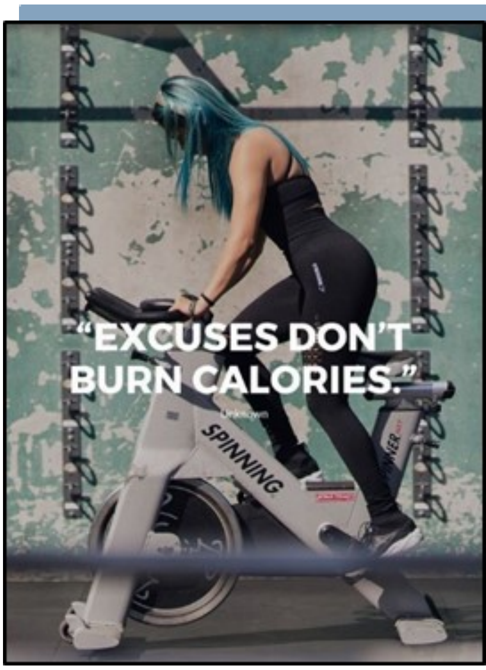
CA Trupti Gupta

Excuses are a powerful thing. One excuse can negate 100 opportunities.

I got married in December 2014 and came to Singapore in August 2015. Though, I was physically active, I used to perform exercise regularly at home. Fast forward to April 2018 I delivered a pre matured baby girl. She was kept in neo-natal NICU under observation for a month.

Unlike other women, who rest for 4-6 weeks after delivery, I spent my post-delivery time travelling back and forth to NICU to feed the baby. I had to do this 6-7 times a day for a month, since we were not allowed to stay in or near NICU for the fear of infection to other babies. This hassle, in addition to the Caesarean surgery, resulted in a severe back pain and physical stress. I spent next 6-7 months taking utmost care of her.

80kg, unable to get up easily, was feeling exhausted, double chin, feeling ashamed after looking myself in mirror. Sounds familiar? At one point in time, before 1.5 years, I was experiencing all of these with my body growing like a ginger. I had lost my physical agility. This was time when I decided to focus on my physical fitness



One day while browsing FB, I came across a group named 'Fittr'. Unconsciously, I started going through its contents and found it very interesting. The group had half-a-million followers and numerous stories of body transformations of men and women across the spectrum of ages. Although the stories were unique in terms of transformation journey of authors, they were all equally inspiring. After reviewing the profiles of few fitness coaches over a week, I enrolled with Fittr officially under coach Ajay Vishwakarma. I had no specific criteria regarding coaches' profile but was only looking for guidance for weight loss. Thus, began a

Excuses are a powerful thing. One excuse can negate 100 opportunities

challenging journey of 6 months of resistance training and quantified nutrition that eventually became a habit.

I started following the instructions of my coach obediently. The training began with the coach providing a weekly schedule of diet and physical exercise. I ensured to exercise at least for half an hour daily in the beginning and gradually increased the time as we progressed. Along with the daily household chores and feeding Nipti, I made sure to follow my plan come what may. I had to give up any food that neither fit my calorific requirements nor was nutritious. There were days when I had terrific cravings for munchies and fast foods, but those cravings vanished as soon as I remembered my goals. This doesn't mean that one should completely give-up on munchies or not have any fast foods at all. One can consume moderate amounts of these foods if they do not interfere with your calorific requirements.

I tracked the progress by measuring the circumference of my neck, arms, chest, waist, and thighs and noting down my weight. I recorded these measurements once a week in the Fittr app and shared them with Ajay. Using this data, he tailored the diet and exercise plan for the following week. This constant tracking of progress and communication with Ajay became one of the key metrics in achieving my goal.

It had only been a month into the programme when I got the news of my mother being prescribed chemotherapy treatment. I travelled to India immediately to look after her medical needs and spent two months there. Although the schedule was very hectic, I somehow managed to keep myself on track. I ensured not to stray away from my diet plan and did exercise whenever I had some free time. Ajay also kept me motivated by regularly following up on my progress. Three months of the programme and I had shed 7.5 kg. My joy knew no bounds. I was so motivated that I decided to re-enrol myself for another 3 months.

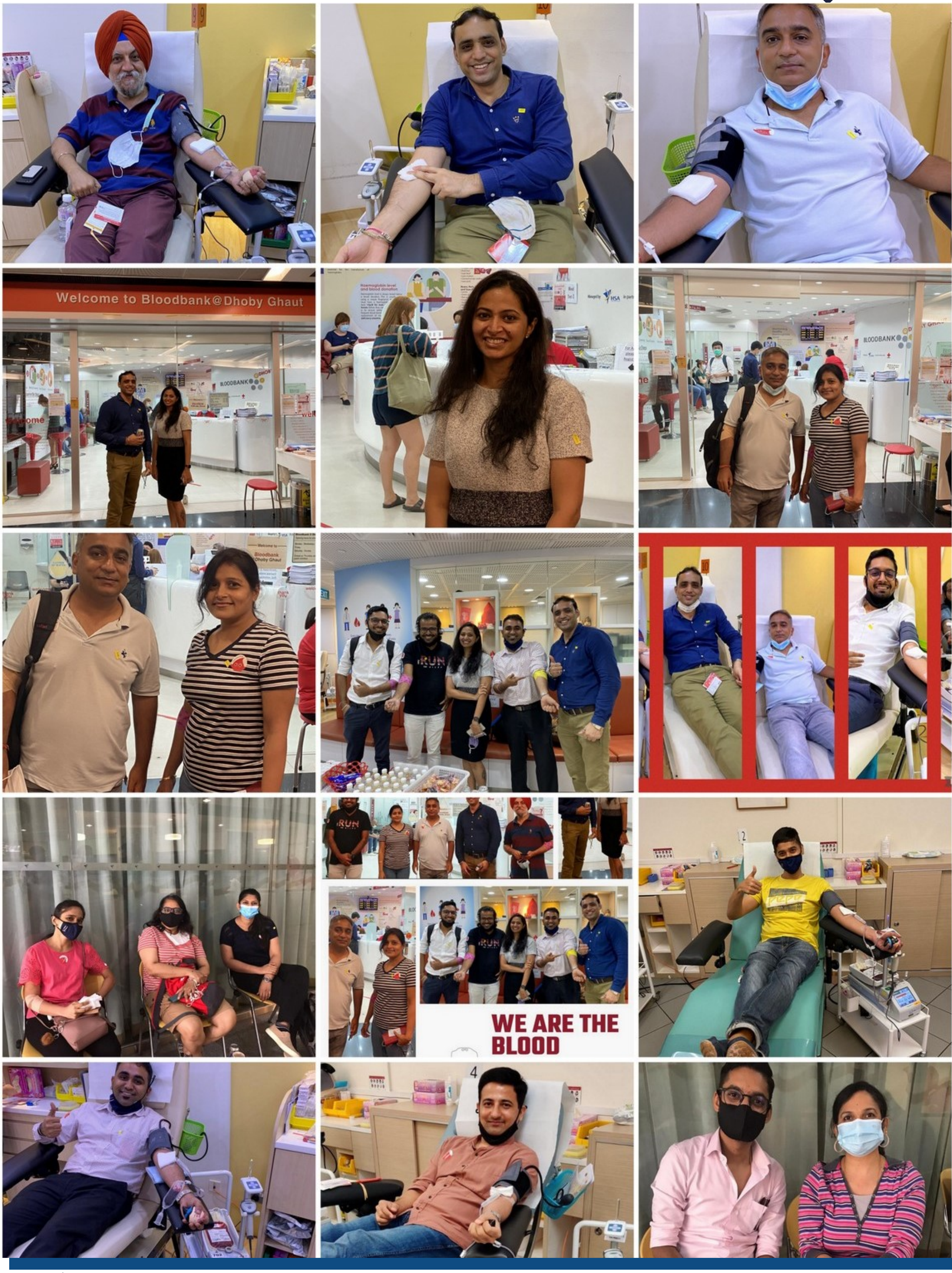
By the end of second programme I had lost almost 16 kg of weight and felt very active and confident. I decided to continue following the schedule and this time without a coach. I wanted to become independent and disciplined. I got interested in knowing more about fitness and nutrition. So, I enrolled myself into INFS' Nutrition and Fitness Foundation module which was an online course that gave basic insights of human body's nutritional needs. After clearing the foundation exam, I felt confident in guiding few of my friends with their diet and work-out plans and further undertook the expert level course. INFS conducts a free training program every month wherein 250 participants (called *ftp*) are guided by students (like me) pursuing the expert course with every student getting at least 1 participant for a month. I guided two participants who were able to lose 2.5 kg within a month and shed few inches. Simultaneously I prepared and appeared for a written exam conducted by INFS for the expert course. The results of the exam along with positive reviews from my ftp got me certified as nutrition and fitness consultant. I can now recommend people to follow a diet and exercise plan to achieve their goal of 'gaining muscle mass' or 'losing fat'.

I was able to achieve this change due to my sheer will power, commitment, discipline, consistency, and a constant support from Nishant, my husband. I did not go to gym and never felt a need to register with one. Whatever I did was at home and with help of few dumbbells and simple equipment. No expensive or sophisticated meals but a planned and quantified nutritional diet at home was what I followed and still following. My advice would be to stop complaining about what you don't have and start acting with what you have.

Heartfelt thanks to ICAI Singapore chapter for giving me the opportunity to pen and publish my story.

Glimpses

ICAI Singapore Blood Donation



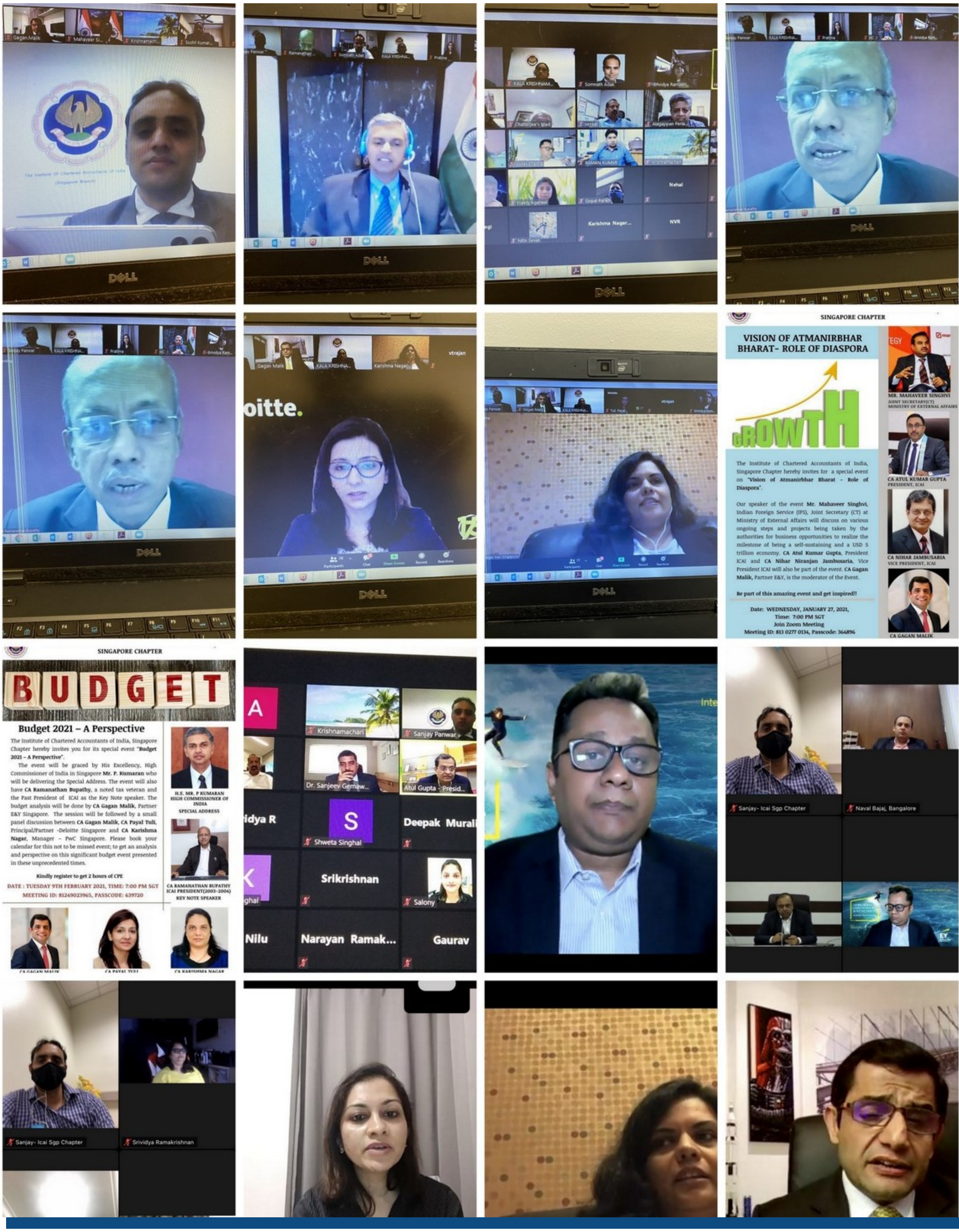
Glimpses

ICAI Singapore Blood Donation

Glimpses

Professional Event

ICAI Singapore Chapter



Glimpses
Social Events

Akshaya Maruvada

Disclaimer : For all the articles included in E Magazine

The information on this magazine is for information purposes only. ICAI Singapore Chapter assumes no liability or responsibility for any inaccurate, delayed or incomplete information, nor for any actions taken in reliance thereon. The information contained about each individual, event or organization has been provided by such individual, event organizers or organization without verification by us.

The opinion expressed in each article is the opinion of its author and does not necessarily reflect the opinion of ICAI Singapore Chapter. Therefore, ICAI Singapore Chapter no responsibility for the opinion expressed thereon.