



NOIDA BRANCH OF CIRC



For in house Circulation

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October -2016



**Respected Distinguished Member of the
profession,
Greetings of the day...**

I, feel pleasure and gratitude to communicate you through the News Letter. Friends I take the opportunity to thanks all professional colleagues who generously served the government in the successful implementation of scheme, which last on 30th September, the Income Disclosure Scheme (IDS), It shows our fraternity bond with the government and truly characterize us, as the partner in Nation Building.

Friends our branch has conducted the Quiz contest and Elocution Contest of students on 24th September in the branch premises and the winners of both contests are participating at the regional level contest to be held on 13th & 14th October, best wishes to all of them.

Our branch is also planning for the mock tests in the branch and if the minimum participants registered with the branch we will conduct the mock tests for CPT , CA Inter and Final , I believe, that it will help the students to prepare well for the forthcoming exams to be held in November.

Friends in the coming month, November, Branch is going to conduct the much awaited professional course on **Forensic Audit**, and am sure the necessary intimation has been received by all the members through mail. Please register your seat in advance for the course, being the batch size is limited.

Friends the festival month has started and it is the most waited festival of Hindus, I pledge my best and heartiest wishes for the **NAVRATRA, DUSSEHRA AND DIWALI** to all the members and their families.

Sincere Regards & Thanks
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Thank
you 

Secretary writes.....

Respected Professional Colleagues,



I am delighted again to interact with you this month through this E-newsletter.

Friends, The entire world is celebrating birthday of our father of nation on 2nd Oct every year, who had quoted once, “there is a higher court than all courts of justice and that is the court of conscience”. In fact, for Gandhiji, the professionalism was intertwined with ethics, call of conscience and service to the nation. The month of October, this year is a holy month as the every alternate day is festival day as per Hindu Mythology. In fact, the month starts with 1st Navaratra and end with Deepawali festival. One more Iconic Personality Lal Bahadur Shastri Ji former Prime minister of India has taken birth on 2nd October. For Chartered Accountants (CAs), the month is a festive month but also work’s worship month as so many last date are falling for our professional works. Please make the right combination of work and pleasure.

Friends, as far as branch activities are concerned, the September month was bit cool due to members’ professional commitments, even than we had organised two programs- one on 3rd September, 2016 titled “Gyan Ganga” on GST, IFC and Tax Audit by very renowned speakers. This programs was inaugurated by His Lordship Justice Satish Chandra, Hon’ble President Central Excise and Service Tax Tribunal. The other program on 9th September 2016 was organised by Young Members Empowerment Committee of ICAI on Starts Up for young members. Program was inaugurated by His Excellence Shri Ashok Sajjanhar, Former Ambassador of India to Sweden, Kazakhstan and Latvatia. Both programs were attended by large gathering. On 24th September, we had organised Quiz contest for CA students by CICASA.

Friends, October month is very busy for members at both fronts- in office for professional works and at home for festive reasons. So we are not planning any major events. Various last dates are falling in the month of October, 2016 like TCS, TDS, Service Tax, Vat, Tax Audits and for MCA largely.

Friends, the entire managing committee of your branch shall always welcome your suggestions for the better of profession as well for branch functioning.

Thanks and best wishes for festive season,
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PLACE OF SUPPLY IMPORTANCE AND UNDERSTANDING

Model GST Law, 2016 has been put in the public domain for comments/ suggestions. One of the paradigm shifts this Model Act proposes is the concept of “Supply”. It is proposed that in the GST regime, taxable event will be Supply and all the existing concepts such as Sale (for VAT/ CST), Removal of goods (Excise duty) and Provision of Services (Service Tax) will be removed.

In view of the above said shift it is amply clear that the concept of supply will be of paramount importance in the new regime. Once we understand the importance of the word supply, we will need to further envisage a scenario where the time at which supply will be assumed to have taken place and the place at which supply has taken place.

Given below is the concept of Place of Supply from a practical perspective:

GST would be implemented in India with Dual levy approach. In other words, there shall be Two concurrent levies i.e. CGST & SGST on all intra state transactions. However, Inter-state supplies shall be governed by a separate enactment called Integrated Goods and Services Act, 2016 (IGST Act). IGST rate is proposed to be sum total of CGST rate and SGST rate.

Levy of Central GST (CGST)/State GST (SGST):-

Section 7 of GST Act, 2016 talks about levy & collection of CGST/SGST as follows:

- (1) There shall be **levied** a tax called the Central/State Goods and Services Tax (CGST/SGST) on **all intra-State supplies** of goods and/or services at the rate specified in the Schedule . . . to this Act and collected in such manner as may be prescribed.
- (2) The CGST/SGST shall be paid by every **taxable person** in accordance with the provisions of this Act.

Following inference can be drawn from the above provisions

1. CGST/SGST shall be simultaneously applicable on all intra-state supplies. Inter-state supply shall be governed by the Integrated GST Act. It is ironical to note that intra-state supplies are not defined in GST Act, Rather it is defined in IGST Act. To determine whether a supply is Intra-state or inter-state, one needs to refer to the provisions stipulated in section 5 & 6 of IGST Act which deal with place of supply of goods and Place of supply of services, respectively.
2. Meaning of supply:-As per sec. 3, supply of goods and/or services refer to sale, transfer, barter, exchange, license, rental, lease or disposal of goods/services, for a consideration by a person in course of business. Supply also includes Import of service (**with or without consideration**) and also includes supplies specified in Schedule-I of the CGST/SGST Act, made or agreed to be made without a consideration.
3. Taxable person is liable to discharge the CGST/SGST in case of intra state supply or IGST in case of inter -state supply. Taxable person means a person who is registered or required to be registered under Schedule-III of GST Act.

Reverse Charge mechanism is applicable on supply of goods/services as may be notified by Central/State Government.

Place of Supply of Goods/Services:-

a. Why we need place of supply provision?

GST law is based on the destination principal, in which goods/services are taxed in the state in which they are consumed/ used. CGST/SCGT is to be levied only on **intra-state supply**. To know whether a supply is intra-state or not we need set of rules/guidelines, known as Place of Supply provisions/rules.

As stated earlier, intra- state supplies have not been defined in SGST/ CGST Act, rather it is defined in IGST Act. Sec. 3A of IGST Act stipulates the broad criteria to determine which supply of goods/services are intra-states and which other are inter -state. To determine the exact place of supply, sec. 3A is subject to the provisions of sec. 5 & 6 of IGST Act.

To understand things in the right perspective, we need to get the understanding of sec. 3A of the IGST Act to determine Intra-state supply, then we need to have understanding of the provisions of sec. 5 of IGST Act (Place of supply of Goods) and sec. 6 of IGST Act (Place of supply of Services) to know the exact place of supply.

Broad criteria are as follows:-

Supply of Goods/Services:- Section 3A of the IGST states that supply of goods/services shall be intra state if **Location of Supplier and Place of supply are in same State**.

Determination of Place of Supply of Goods (Section 5 of IGST Act):-

1. Where a supply involves movement of goods:-In case of such supply, place of supply shall be the **“Location at which movement of the goods terminates”** to the receiver.

2. Where the goods are delivered by the supplier to the Recipient or to any other person, on the direction of a third person, whether acting as an agent or otherwise, the place of supply of such goods will be **“the principal place of business of the person who receives the goods”**.
3. Where a supply does not involve movement of goods:-In such case, place of supply shall be the **“Location of such goods at the time of the delivery”** to the receiver.
4. Where goods are assembled or installed at site:-Place of supply shall be the **“Place of such installation or assembly”**.
5. Where goods are supplied on board of a conveyance (like on vessel, aircraft, train or motor vehicle):-Place of supply shall be the **“Location at which such goods are taken on board”**. For example, if a train is scheduled from Delhi to Mumbai and some eatables are taken on board from Agra then Agra will be considered as the Place of Supply for those eatables.
6. Where place of supply cannot be determined in terms of above (1 to 4), then it shall be determined in accordance with the law made by Parliament on the recommendations of GST Council. This is a residuary provision to provide for any future situations.

Determination of Place of Supply of Goods (Section 6 of IGST Act):-

This section deals with the provisions to determine the place of supply in case of services. Place of Supply of Services is expected to be the most contentious issue as determination of the place where the services have actually been provided is very difficult in view of the fact that services are intangible in nature. Section 6 can be compared with the provisions of Place of Provision of Service Rule, 2012, under the Service Tax law. In order to understand the provisions of

Section 6, following definitions will play a pivotal role:

Location of Service Provider:-Location of service Provider means:

1. Location of Business Establishment: (where a supply is made from a business establishment registered under GST Law);
2. Location of Fixed Establishment: (where a supply is made from a place other the place registered under GST Law);
3. Where a supply is made from more than one establishment (whether business or fixed) the location of the establishment most directly concerned with the provision of the supply;
4. in absence of such places (1 to 3 above), the location of the usual place of residence of the person;

Location of Service Receiver:-Location of service Receiver means:

1. Location of Business Establishment: (where a supply is received at a business establishment registered under GST Law).
2. Location of Fixed Establishment: (where a supply is received at a place not registered under GST Law).
3. Where a supply is received at more than one establishment, whether business or fixed, the location of the establishment most directly concerned with the receipt of the supply;
4. in the absence of such places (1 to 3 above), the location of the usual place of residence of the person;

General Provision:-

- A. Where a service is provided to a registered person, then place of supply shall be the **“Location of such service receiver”**.
- B. Where a service is provided to an unregistered person but his address is available on record of the service provider then place of supply shall be the **“Location of service receiver”**.
- C. Where a service is provided to an unregistered person but his address is not available on record of the service provider then place of supply shall be the **“Location of service provider”**.

Specific Provisions:-

1. Service related to immovable property: Place of supply is the **location where such immovable property is located or intended to be located**.
2. Performance based services: The place of supply of restaurant and catering services and services in relation to training, performance appraisal, personal grooming, fitness, beauty treatment, health services including cosmetic and plastic surgery shall be the **location where the services are actually performed**.
3. Services by way of admission to places: The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place and services ancillary thereto, shall be the **place where the event is actually held or where the park or such other place is located**.
4. Services provided by way of—
 - (a) Organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events, or

(b) Services ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events, to

(i) A registered person, shall be the **location of recipient;**

(ii) An unregistered person, shall be the **place where the event is actually held.**

5. Place of supply of services by way of transportation of goods, including by mail or courier to,

(a) A registered person, shall be the location of such service receiver;

(b) A person other than a registered person, shall be the location at which such goods are handed over for their transportation.

6. Place of supply of passenger transportation service shall be the place where the passenger embarks on the conveyance for a continuous journey.

7. The place of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.

8. The place of provision of services in case of telecommunication services will be as follows:

a. In case of fixed line connection- **The place of connection**

b. in case of post paid mobile connection- **The address on record of the company**

c. in case of pre paid mobile connection- **The location where such pre payment is made.**

8. The place of supply of banking and other financial services including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services:

Where the service is not linked to the account of the recipient of services, the place of supply shall be location of the supplier of services.

9. Place of supply in case of insurance services provided to a registered user will be the location of recipient whereas services provided to an unregistered recipient will be the address available on record of the supplier.

After reviewing the above said provisions, it is evident that the determination of place of supply of services is going to be a very difficult task but at the same time be equally important. As we understand that in the ongoing service tax regime, the importance of the place of provision of services is only to a very limited extent i.e. to understand whether the services were provided within the taxable territory or outside the taxable territory. Still, in the ongoing regime we face a lot of litigation just to determine the place of provision of services. Just by imagining that in the GST regime we will need to determine the place of provision of services to know whether a particular transaction is inter- state supply or intra- state supply we can understand the scope of litigation unless the rules/ procedures are built around these provisions in a methodical way keeping all aspects and practicalities in mind.

Thanks & Regards
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*Thank
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LEVY AND COLLECTION OF TAX UNDER IGST Act

GST is the major change in the History of Indirect Taxes After Independence. We all know 122 Constitutional Amendment Bill makes way for GST. Model GST Law has been placed in public domain on 14 th June 2016. GST is already ratified by 18 states. Our President has given his assent on GST Bill on 8th Sept 2016. Govt is targeting April 2017 for implementation of the law which is not very far. GST is a challenge not only for the tax practitioners, businesses but it is a challenge for CA students and Coaching Institutes as well. Syllabus of CA course will also get changed, both at Intermediate and final level with the introduction of GST so we all need to gear up for GST.

Before explaining the concept of levy and Collection of Tax under IGST I like to brief on GST Model. With the rollout of the GST various Indirect taxes levied by central Govt and State Govt shall be subsumed into GST. GST would be implemented in India with the dual GST Approach. In this there shall be two GST law –CGST and SGST enacted by Central Govt and state Govt respectively.

IGST ACT shall be a separate act which is applicable on Interstate supply. IGST will be the sum of CGST AND SGST. CGST AND SGST will be applicable on Intrastate supply

Section 4 of IGST provides for levy and collection of tax under IGST Act. IT says:

There shall be levied a tax called IGST
On all supplies of goods and services

In the course of interstate trade and commerce At the rates specified in the schedule

And collected in a manner as prescribed

As per explanation 1 and 2 of sec 2(1)c Imports and exports shall be deemed to be the supply in the course of interstate trade and commerce which means IGST is applicable on Imports with basic custom duty.

Sec 3 OF IGST Act provides the Principles for determining when is a Supply of Goods and/or services in the course of Interstate Trade or Commerce

(1) Subject to the provisions of section 5, (which deals with Place of supply of goods) supply of goods in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States

(2) Subject to the provisions of section 6 (which deals with place supply of services), supply of services in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply is in different States.

Determination of Place of Supply and location of supplier is of due importance which has been provided in Section 5 and 6 of IGST Act. Hope to serve you with my next Article on that.

Thanks and Regards

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Registration under GST

1. Who is liable to be registered under GST

Every Supplier shall be liable to be registered under GST Act if

his aggregate turnover in a financial year exceeds the THRESHOLD Limit i.e. 9 lakhs or 4 lakhs	registered or who holds a license under an earlier law e.g. State Vat, Service Tax, Excise Duty etc.	liable to be registered under Compulsory Registration
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2. Time limit for Registration

The application for registration shall be made online within 30 days from the date when he becomes liable for registration. HOWEVER Existing VAT/Central excise/Service tax payers will not have to apply afresh for registration under GST.

Deemed registration after three working days from date of application.

The proper officer shall not reject the application for registration without giving a show cause notice and without giving the person reasonable opportunity of being heard.

3 Goods and Services Taxpayer Identification Number (GSTIN)

The taxpayer will be allotted a State wise PAN based 15 digits GSTIN. The various digits in the GSTIN will denote the following:-

State Code		PAN	Entity Code	Blank	Check Digit
1	2	3 to 12	13	14	15

- ✓ The first two digits represent the State where such registration is allowed.
- ✓ The second set of 10 digits would be the Permanent Account Number (PAN) allotted by the Income tax department.
The 13th digit would be alpha-numeric (1-9 and then A-Z) and would be assigned depending upon the number of registrations of an entity within the State. (A person having multiple business verticals in a State may obtain separate registration for each business vertical)

For Example:-An entity with single registration within the State would have "1" as its 13th digit of GSTIN. If the same entity goes for a second registration for a second business vertical in the same State, the 13th digit of GSTIN assigned to this second entity would be "2". Similarly 35 business verticals of the same legal entity can be registered within a State.

- ✓ The 14th digit of GSTIN would be kept BLANK for future use.
- ✓ The 15th Digit will be the check digit.

4 Special Features of Registration

- ✓ In GST Registration, Supplier shall have to take a separate registration in each state if taxable person will supplied goods or services from more than one state.
- ✓ A supplier shall not be liable for Registration if his aggregate turnover consists of only such Goods and/or Service which are not liable to Tax under this Act.
- ✓ Aggregate turnover shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals. Further, supply of goods by a registered Job-worker, after completion of jobwork, shall be treated as the supply of goods by the "principal". The value of such goods shall not be included in the aggregate turnover of the registered job worker.

- ✓ The facility of voluntary registration is available.

5 Compulsory Registration under GST

Following categories of persons shall be required to take registration under GST irrespective of the threshold limits:

- ✓ persons making any inter-State taxable supply
- ✓ persons who are required to pay tax under reverse charge
- ✓ non-resident taxable persons
- ✓ persons who are required to deduct tax under section 37 (Tax Deduction at Source i.e. to deduct tax at source from payments made to the suppliers by the Government, local authority)
- ✓ persons who supply goods and/or services on behalf of other registered taxable persons whether as an agent or otherwise
- ✓ input service distributor
- ✓ persons who supply goods and/or services, other than branded services, through electronic commerce operator
- ✓ every electronic commerce operator
- ✓ an aggregator who supplies services under his brand name or his trade name

- ✓ casual taxable persons;
- ✓ Any other person or class of persons as may be notified by the Central Government or a State Government on the recommendations of the Council.

6 Transfer of Business and Registration

If registered person transfers business on account of succession or otherwise, to another person as a going concern then the transferee or the successor shall be liable to be registered with effect from the date of such transfer or succession.

Hence it is clear that registration certificate is not transferable.

7 Cancellation of registration

Registration granted can be cancelled in any of the following situations:-

- ✓ the business is discontinued, transferred fully for any reason including death of proprietor, amalgamated with other legal entity, demerged or otherwise disposed of or
- ✓ there is any change in the constitution of the business or
- ✓ Taxable person is no longer liable to be registered

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you* 



Internal Control Over Financial Reporting (ICOFR)

Why Internal audit

Internal auditors play a vital role in an organization. The role has become all the more important and gained more recognition with the introduction of newly added Section 143(3)(i) in the Companies Act 2013, which sets out reporting requirement for statutory auditors of companies to report on the adequacy of internal financial controls system and the operating effectiveness of such controls. This provision was implemented last year and this was the first year when statutory auditors have to provide an opinion on internal control over financial reporting along with financial reporting. With this requirement, there is a need to change the approach of internal audit from transaction based audits to risk based audit.

Internal auditing is an independent, objective assurance and consulting activity. Its core role with regard to ICOFR is to provide objective assurance to the board of directors on the effectiveness of risk management. Indeed, research has shown that the board of directors of a company and internal auditors agree that the two most important ways that internal auditing provides value to any organization are provision of an objective assurance that:

- (a) Major business risks are being managed appropriately; and
- (b) Risk management and internal control framework is operating effectively.

Also, the new Companies Act, 2013 requires the board of directors of a company to give a statement that they have devised proper system to ensure compliance with the provision of all applicable law and such system is adequate & operating effectively. Hence the need for internal audit is extremely

important and critical to any organization.

Board of directors has overall responsibility for ensuring that risks are managed. To meet operational risk objectives and comply with requirement under Companies Act, 2013 companies have to define a framework detailing how they govern the risk and control environment in the company. It may be noted that the management has the primary responsibility for the design, implementation and maintenance of internal control relevant to the preparation and presentation of the financial statements that give a true and fair view and are free from material misstatement. Consequently, the responsibility of designing, implementing and maintaining appropriate internal financial controls also rests with the management. The management of the company have to put policies and procedures in place and then identify and documenting risk and control associated with the processes. Internal auditors need to test those defined and documented policies, procedures and risk and controls on a defined frequency.

Documentation of internal control is critical in order to achieve desired objective of Internal control over financial reporting. Internal controls refer to those procedures within a company that are designed to reasonably ensure compliance with the company's policies.

It is good to define a process which is aligned with COSO (Committee of sponsoring organizations) framework to provide reasonable assurance regarding the achievement of following objectives:

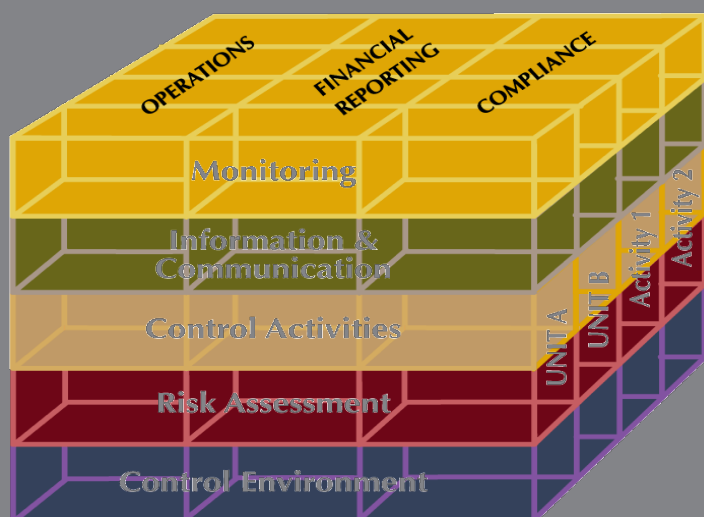
- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with applicable laws and Regulations

Under the COSO framework, there are five interrelated components of an effective internal control system; these are derived from the way the company is managed on a day-to-day basis:

1. The company's top-level environment with respect to control. This includes elements such as the

ethical “tone at the top,” and the effectiveness of the board’s audit committee in its high-level oversight of financial reporting. This component is known as the Control Environment.

2. The assessment of risks of the various processes and data points that feed into the company’s financial reports. For example, a process that is highly susceptible to fraud would be considered to be a high-risk area.
3. The way in which controls are actually designed and implemented within the company, so as to address the identified risks. This component is known as Control Activities.
4. The way in which information within the company is gathered and shared, both to people within the company responsible for financial reporting, and to external users of financial reports. This component is known as Information and Communication.
5. The way in which the effectiveness of these controls are monitored by company management.



Conclusion:

Key points to be noted while implementing Internal control framework in an organisation:

- Management has to identify risks and controls associated to following:
 - ✓ IT General controls
 - ✓ Entity Level controls
 - ✓ Process level controls
- Identify significant accounts and disclosures and their relevant

assertions. Relevant assertions are those financial statement assertions that have a reasonable possibility of containing a misstatement that would cause the financial statements to be materially misstated. The financial statement assertions include:

- ✓ Existence or occurrence;
- ✓ Completeness;
- ✓ Valuation or allocation;
- ✓ Rights and obligations;
- ✓ Assertions relating to presentation and disclosure
- Controls should be segregated into Key and Non key, preventive and detective, automated and manual.
- While document controls “design walk-through” at least one transaction within each significant class of transactions should be done. A “walk-through” represents how a transaction begins to how it is recorded on the company’s books and, finally, to how the transaction ultimately flows through to the financial statements. Operating effectiveness of controls to be performed at a set frequency as agreed by management but at least yearly.
- Testing is carried out on the transactions recorded during the year, the reporting is as at the balance sheet date.

I wish that the above compilation on internal control framework related helps all the readers in better way. In case of any other help, please don't hesitate to contact me.

Thanks and Regards

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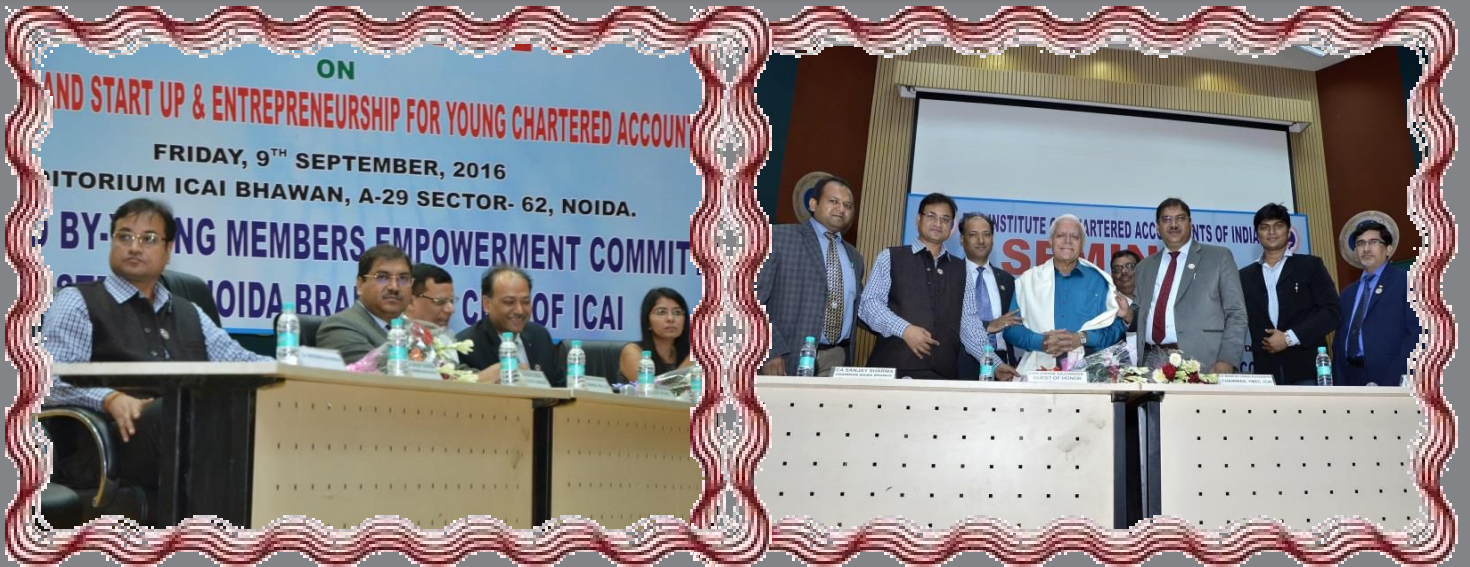
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SNAP FOR GYAN GANG MEGA SEMINAR





SNAP FOR YOUNG CA MEMBER SEMINAR





SNAP DURING ELOCUTION & QUIZ CONTEST





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