



Azadi Ka Amrit Mahotsav Activity

“Sky High- Symposium -39 Virtual Program” conducted by Women Members Empowerment Committee of ICAI on 1st February 2023

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

Women Members Empowerment Committee
Organises

**Sky High
- Symposium-39**
Virtual Program
for Women by Women Every Wednesday

1st February, 2023 FEES NIL
5.00 PM to 7.00 PM

Registration and participation link:
<https://live.icai.org/wmec/01022023/>

Questions related to the topic may be sent in advance at wmec@icai.in or LIVE at the time of Program itself at the same link

Interplay between GST and IBC
Mind Management
Welcome Address
Introductory Remarks
Co-ordinators

CA. Nivedita Agarwal
CA. Aakriti Kohli
CA. Sripriya Kumar
Chairperson, WMEC & CL&CGC
Vice-Chairperson, IBC Committee
CA. Priti Paras Savla
Vice-Chairperson, WMEC, CL&CGC,
Sustainability Reporting Standards Board
CA. Manisha Mange
CA. Charanya C. R.
CA. Kinjal Mirani

As part of country wide Azadi ka Amrit Mahotsav initiatives, envisaged by Government of India, to commemorate and celebrate 75 years of India's Independence, the Women Members Empowerment Committee (WMEC) of ICAI organized “Sky High- Symposium -39 Virtual Program” on 1st February 2023.

CA. Nivedita Agarwal and CA. Aakriti Kohli were speakers of the said program. Coordinators for the day were CA. Manisha Mange, CA. Charanya C. R. and CA. Kinjal Mirani.

The program covered discussion on “Interplay between GST & IBC”. Deliberations were made on Claims of GST Department Post- Approval of Resolution Plan, Treatment of Pre-Deposit post approval of Resolution Plan, Whether ITC can be denied to CD's recipient for non-fulfilment of Section 16(2)(c), Availment of ITC in case of Part Payment of value of supply by CD, GST implications on Transfer/Sale of Business under IBC, Demand of GST in case of Company under IBC, Procedural issues under IBC, etc.

Whether Claims of GST Department stand extinguished with approval of resolution plan

- The SC in case of *Ghanshyam Mehra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd & Ors.* held that once a resolution plan is approved by the AA, all the claims therein stand frozen and further claims which weren't earlier part of Resolution plan shall stand extinguished. Thus, no person is entitled to initiate or continue any recovery proceedings post- approval of plan.
- Referring to aforesaid judgment, similar view was taken by the SC in case of *Ruchi Soya Industries Ltd. v. UOI.*
- The Gujarat HC relying on Ghanshyam Mehra case (supra) in case of *Garden SAR MBS Ltd. v. UOI.* held that once resolution plan is approved, no claims pending for adjudication shall exist.
- Similar view has been taken by the Rajasthan HC in case of *Ultra Tech Nathdwara Cement Ltd. v. UOI & Ors.*

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Whether full ITC can be availed by CD in case of part-payment to supplier as per resolution plan

- In case of resolution plan being accepted by COC and later approved by the NCLT, the claims of creditors who made supplies to the corporate debtor can be settled in two ways:
 - Full claimed amount; or
 - With a hair-cut (as is usually the case).
- In a situation where payment is made with a hair-cut to the supplier, whether corporate debtor will be eligible to avail input tax credit as per second proviso to Section 16 of CGST Act?

S. No.	Particulars	Amount(INR)
1.	Supply made by the supplier	100
2.	Payment made by the recipient as per resolution plan (@ 20% of the claim) i.e., as full and final payment of supplier's claim	20

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Whether the amount deposited as pre-deposit is refundable post approval of resolution plan?

- Whether the amount deposited as pre-deposit is refundable post approval of resolution plan if the amount paid as pre-deposit exceeds the amount payable as per resolution plan?
- The Cuttack HC in case of *Jagat Janani Services v. GST Council* held that excess Service Tax paid to operational creditor (Government) by CD has to be refunded.

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Relevant Rulings

- West Bengal AAR in case of *M/s. Manoj Oil and Grains Pvt. Ltd.* concluded that since the CD is not a going concern, the liquidator is required to sell its assets under IBBI Regulations on piece-meal basis. Thus, referring to S.No. 4(a) of Schedule II of the GST Act, the sale of assets of a business shall be considered as supply of goods and GST liabilities will apply.
- NCLT, Delhi in case of *Pooja Bahari Liquidator & Ors. v. Gee Ignat Pvt. Ltd.* held that the tax liability arising out of sale of assets i.e., capital gains under Income Tax shall be distributed in accordance with the waterfall mechanism under section 53 of the IBC as Government dues and not as part of the liquidation costs.
- Similar view was taken by NCLT Allahabad in *LML Ltd. v. Office of Comm. of Income Tax, Mumbai*
- However, a contrary view was taken in *Om Prakash Agarwal v. Chief Comm. Of Income Tax & Ors* by NCLT.

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Ruling: Against

- The SC in case of *State Tax Officer v. Rainbow Papers Limited* held that reading Section 48 of GVAT Act along with provisions of IBC, the State is a 'secured creditor' by virtue of 'security interest' created in favour of the State. Additionally, the court also held that the provisions of GVAT Act is not inconsistent with the IBC and hence, the IBC doesn't override the GVAT Act.
- Note: Post aforesaid judgment, Ministry of Corporate Affairs has proposed to clarify that Government will be treated equally with other unsecured creditor.

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GST Procedural Requirement under IBC

- Registration**
 - Corporate debtor's establishe GST registration during CRP period will be canceled or not?
 - New registration to be sought by IRP/IRP during the CRP period?
 - IRP required to take a fresh registration even when they are complying with all the provisions of the GST Law under the registration of Corporate Debtor?
- Returns**
 - To file first return after new registration?
 - IRP/IRP liability to file returns for supplies for pre-CRP period?
 - Suppliers to file their GST returns mentioning establishe GST registration number of CD's that are canceled or invalid?

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The program also covered Session on "Mind Management". Topics discussed were Brain vs Mind, Meaning of Mind, Importance of Mind Management, Ways to manage mind, Body-Mind-Breath Connection, Meditation, Resources of Mind, etc.

Brain Vs Mind ?

Brain	Mind
Brain is tangible organ with definite shape and structure and coordinates different functions of body as part of nervous system. The three major parts of the brain are: cerebellum, cerebrum, and brain stem.	The mind is just the subtle body within the physical body. It is a person's conscience, understanding and thought process. The mind itself cannot act on its own, it requires brain to act. (Sometimes we use a phrase.. All over the place)






Mind management ...Why ??

Now the question arises is , why do we need mind management ? Mind is the most powerful faculty. As Osho said , Mind is a wonderful servant but a terrible master. A healthy , calm , peaceful mind ensures we are focussed , concentrated on task and productive . It ensures clarity and n no of ideas also. Success becomes easy. Acceptance to failure happens effortlessly and we can easily bounce back.

But why now ?

Simply because , the mind has its own mind. Our lives are so busy now a days that we hardly pay attention to our own mind , our own self , our own presence. With so many options and choices around us our minds have become chaotic. Our mind wants to control and wander on its own.

Lets Understand this by a beautiful experience.





2. Movement of body

Another way to manage the mind in long term is to continuously make the body move. Our spines are designed to move. That's the easiest and permanent way to have a healthy , attentive and sharp mind.

How ?

- Exercise
- Yoga
- Walks

Lets practise few movements right now ..



3. Meditation

Often meditation is confused with concentration. Meditation is de-concentration and focus are results of meditation.

Mind is called moon in hindi which is closely related to manan ..

Manan in English is contemplation.

Few minutes of contemplation and solitude all with yourself helps a lot.



Lets experience this quickly !!



4 Resources for mind

What are resources ? Resources are supply of something which are available for us to use.

For mind , resources are what help you reinforce and bounce back quickly.

It can be a

- hobby like painting , art or
- it can be helping someone or
- talking to a friend or
- solitude , for some or
- anything which makes you happy ..

Its important to identify such resources which help you quickly bounce back.



Ends are the beginnings

In our houses , we do cleaning everyday and we do deep cleaning every few months. But what about our minds ??? We hardly pay any attention to it.

Lets decide today for ourselves to work on us

- Move to have a disease free body**
- Breathe deeply to have a quiver free breath**
- And Meditate to have a stress free mind and inhibition free intellect.**



The program concluded by giving Vote of Thanks to the Speakers and the participants.

Glimpses of the Virtual Program held on 1st February 2023



Recorded



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Women Members Empowerment Committee



Kinjal Mirani | Nivedita Agarwal | Manisha Mange



Manisha Mange | Charanya Ravichandran



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CA Akriti Kohli



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Manisha Mange