WISH YOU HAPPY NEW YEAR & SANKRANTHI

Volume-11 January-2017 Pages 1-41

SBS Interns' Digest

An attempt to share knowledge

By

Interns of SBS and Company LLP

For Private circulation only

NATIONAL CONVENTION-GHAZIABAD ICAI BRANCH

Technical session on - Internal Financial Controls -by A.Vaishnavi at National Convention-Ghaziabad ICAI Branch

REGIONAL CONFERENCE-BHOPAL

Technical Session on 'Translation of present IDT system into GST vis-a-vis Impact' by B.Venkata Krishna Rao at Bhopal .

NEW YEAR CELEBRATIONS

CONTENTS

DEBT & EQUITY ADVISORY.....1

INSIGHT INTO ONLINE PAYMENT SYSTEMS AND OTHER E-CASH TRANSACTIONS IN INDIA:.....1

AUDIT.....11

INTERNAL FINANCIAL CONTROL (IFC) – COMPANIES ACT, 2013.....11

FEMA.....17

AN OVERVIEW ON EXTERNAL COMMERCIAL BORROWINGS BY STARTUPS.....17

INDIRECT TAX.....19

DATA MIGRATION OF ASSESSEE REGISTERED UNDER CURRENT TAX REGIME TO GST PORTAL.....19

UPDATES

COMPANIES ACT, 2013.....35

RULES, CIRCULARS AND NOTIFICATIONS ISSUED DURING THE MONTH OF DECEMBER, 2016.....35

IDT UPDATES.....38

SERVICE TAX.....38

DEBT & EQUITY ADVISORY 39

DEA UPDATES.....39

DEBT & EQUITY ADVISORY

INSIGHT INTO ONLINE PAYMENT SYSTEMS AND OTHER E-CASH TRANSACTIONS IN INDIA:

Contributed by P.Uday Kumar & Vetted by CA Rajesh

On 8th November 2016, Honourable Prime Minister of India announced the ***scrapping of paper currency of higher denominations*** i.e., 500 and 1000 notes to curb the illegal parallel economy in Indiaand to achieve the dream of cashless economy. This move has been popularly referred to as **'Demonetisation'**. Post Demonetisation, focus shifted on ways of doing non-hard cash transactions due to the cash crunch arising out of the demonetisation step.

These days, it is not suprising to see a kirana store keeper or a chaiwala hanging a board stating *'Paytm* accepted here' or traders accepting debit or credit cards for payment.

Whether induced by the needor by self-awareness, there has been a *change in the mind-set of the people* and merchants towards other payment modes as against the traditional paper cash transactions, which can be as good omen for the emerging online payment mechanisms.

However, much is not known to the common man about the alternate payment mechanisms in the market hindering the pace of digitalisation of Indian economy.

Thus, in this article, an attempt has been made to elucidate the various alternate payment modes so as to bring awareness about the power the cashless economy gives to an individual and the easiness with which the transactions can be done.

In India, cashless transactions are majorly done through the following mechanisms:

- Bank Cards,
- Cheques,
- Internet Banking
- Mobile banking,
- e -Wallets

Other important terms to be understood in this regard are as follows:

- AEPS,
- UPI,
- Funds transfer - NEFT, RTGS and IMPS,
- NUUP,
- POS

Payment Mechanisms:

1. Bank Cards:

These are the cards issued by Banks for fund transactions. These are of two types:

- **Debit Card**

Going by the name plastic cash, bank card and more, you can enjoy electronic access to your savings account in any bank via ATMs. You can deposit and withdraw as per your convenience without the hassle of standing in long queues. Same can be utilized for mobile banking and internet banking.

Benefits of debit cards:

1. Easy to carry and handle,
2. Instant transfer of funds and receipts of services,
3. Debit cards can be used to withdraw cash from an ATM and also for merchant transactions at Point of Sale (PoS) terminals,
4. Encourages a habit of responsible spending, better budgeting and money management since the transactions are recorded.

- **Credit Card**

A credit card is a payment card issued to users (cardholders) to enable the cardholder to pay a merchant for goods and services, based on the cardholder's promise to the card issuer to pay them for the amounts so paid plus other agreed charges. credit cards allow the consumers a continuing balance of debt, subject to interest being charged.

Both the debit and credit cards can be used for Online transactions and to pay at POS, ATMs, wallets etc.

How to get a Bank Card:

- A bank card can be obtained by applying for the same in the Bank branch,
- PIN will be sent by the bank separately (care to be taken on PIN's secrecy)
- It can be activated at any ATM or Bank by doing any transaction,
- Once activated, it can be used at any POS

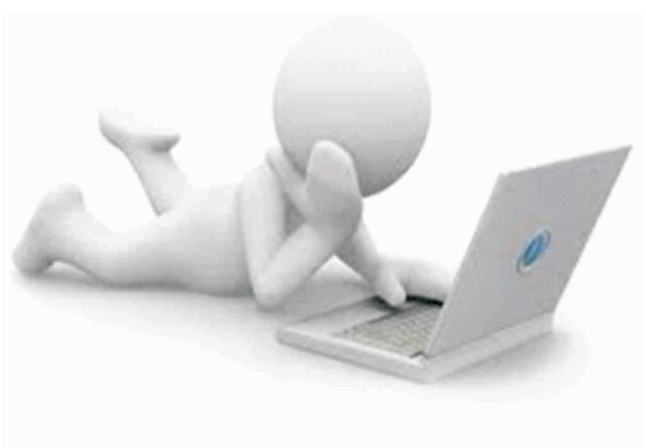
2. Cheques:

A cheque is a payment instrument that is issued by a bank account holder for making payments to an individual or company and cash withdrawals from the bank. Apart from that, it also facilitates funds transfer to another bank account. For instance, you can make cash payment for a utility bill or you can do it by writing a cheque. The biggest benefit of a cheque is that it allows high value transactions which may become a bit cumbersome if hard cash was used instead.

How to get a Cheque book:

- A cheque book can be obtained by making an application to the Bank in which one is maintaining account,
- Additional charges for cheque book usage, minimum balance requirement, maintain sufficient bank balance to honour the cheque are some features of cheques usage,
- Several types of cheques can be issued – self, bearer; realisable OTC, A/c payee cheques etc

3. Internet Banking:



Online banking, also known as internet banking, e-banking or virtual banking, is an electronic payment system that enables customers of a bank or other financial institution to conduct a range of financial transactions through the financial institution's website. The online banking system will typically connect to or be part of the core banking system operated by a bank and is in contrast to branch banking which was the traditional way customers accessed banking services.

What can be done through internet banking:

- Funds transfer between customer's linked accounts,
- Paying third parties, including bill payments,
- Investment purchase or sale,
- Tax payments,
- Other non- transactional tasks like balance checking, bank statement etc

How to get Internet Banking facility:

To access a financial institution's online banking facility, a customer with internet access would need to register with the institution for the service, and set up a password and other credentials for customer verification. The credentials for online banking is normally not the same as for mobile banking.

4. Mobile Banking:

Mobile banking is a service provided by a bank or other financial institution that allows its customers to conduct financial transactions remotely using a mobile device such as a mobile phone or tablet. It uses software, usually called an app, provided by the financial institution for the purpose. Mobile banking is usually available on a 24-hour basis. Some financial institutions have restrictions on which accounts may be accessed through mobile banking, as well as a limit on the amount that can be transacted.

What can be done through mobile banking:

Transactions through mobile banking may include obtaining account balances and lists of latest transactions, electronic bill payments, and funds transfers between a customer's or another's accounts.

How to get Mobile banking facility:

- Account in a Bank and any mobile phone are pre- requisites
- The mobile number should be linked with the bank account – this can be done at your bank branch, ATM or even online
- Upon registration, MPIN and MMID would be given by the Bank which need to be used for mobile banking
- Through mobile banking, fund transfer can be done by a remitter with the following details of the receiver – A/c number and IFSC code or Mobile number and MMID
- However, there are certain restrictions of the amount that can be transacted in a day through mobile banking, which depends on the Bank policy and RBI regulations.

✓ **For Smartphone users, mobile banking can be done through the app (to be installed in their smartphone) provided by their Bank.**

✓ **For Non-smartphone users, USSD based mobile banking can be done.**

USSD based mobile banking (NUUP) enables a GSM network user to avail basic mobile banking services just by dialling the code *99# from their mobile number irrespective of telecom service provider, mobile handset capability or need for a mobile internet plan.

Following are the links for more details on USSD based mobile banking or NUUP service:

http://imps.npci.org.in/nuup_works.asp

http://www.idbi.com/idbi-bank-mobile-banking-ussd.asp

5. E- Wallets/Mobile payments:

Mobile payment (also referred to as mobile money, mobile money transfer, and mobile wallet) generally refer to payment services operated under financial regulation and performed from or via a mobile device. Instead of paying with cash, cheque or credit cards, a consumer can use a mobile phone to pay for a wide range of services and digital or hard goods.

In the recent past, there has been tremendous increase in usage of these e- wallets and post demonetisation, many banks and other organisations started offering e-wallet service. *Paypal, Paytm, airtel money, freecharge, HDFC Payzapp, ICICI pockets, Jio Money are examples of e-wallets.*

The e-wallets can be used for utilities payments, money transfers and online shopping etc. The app need to be installed in the smartphone and one need to get registered under it. These too, have certain restrictions on transaction value per day etc.

Other important terms to be understood for online payments:

1. POS (Point of sale):

The point of sale (POS) or point of purchase (POP) is the time and place where a retail transaction is completed. At the point of sale, the merchant would calculate the amount owed by the customer and indicate the amount, and may prepare an invoice for the customer (which may be a cash register printout), and indicate the options for the customer to make payment. It is also the point at which a customer makes a payment to the merchant in exchange for goods or after provision of a service.

2. Funds Transfer – NEFT, RTGS and IMPS:

NEFT is the acronym of ***National Electronic Fund Transfer.*** In this process, the funds aretransferred in batches from one bank account to another. When an individual transfers money from one account to his friend/relative it is not immediately credited but done after, in the next settlement cycle which occurs at regular intervals.

RTGS is acronym of ***Real Time Gross Settlement***. In this process, the funds are transferred between bank accounts real time. As soon the transaction is processed, the funds are created to the beneficiary.

RTGS is fast, without delay and is handled by large corporates for real time transactions. It is irrevocable and final.

IMPS is acronym of ***Immediate Payment Services***. In this process, funds are transferred electronically instantly without having to wait for adding the beneficiary, authenticating etc. This is facilitated by NPCI (National Payments Corporation of India).

IMPS IMMEDIATE PAYMENT SERVICE

IMPS is a 24 hour service. But NEFT and RTGS are not available after settlement timimgs, on Sundays and public holidays.

Transaction Limits	NEFT	RTGS	IMPS
Minimum	Re 1	Rs 2 lakh	Re 1
Maximum	Rs 10 lakh	Rs 10 lakh	Rs 2 lakh (may vary from Bank to Bank)

How to get IMPS enabled?

Sender: The customer has to do the Mobile Banking Registration if he/she wants to initiate the transaction through mobile channel. For internet, ATM and bank branch channels, mobile registration is not required.

Receiver: Collect his/her **MMID** from bank and share with sender or alternatively share his/her Account number & IFS code or Aadhaar number for receiving money. The receiver can register his/her mobile no. for getting SMS alerts for transactions.

The following channels may be used to initiate IMPS transactions.

- Mobile phones
  - Smartphone- Bank App/ SMS / WAP/USSD (NUUP)
  - Basic phone-SMS/USSD (NUUP)
- Internet- Bank's Internet banking facility
- ATM-By Using ATM Card at Banks ATM

The sender enters receivers details like:

• MMID & Mobile no. or Account number & IFS Code or Aadhaar number

•Amount to be transferred

•Remarks/Payment Reference number

•Sender's M-PIN

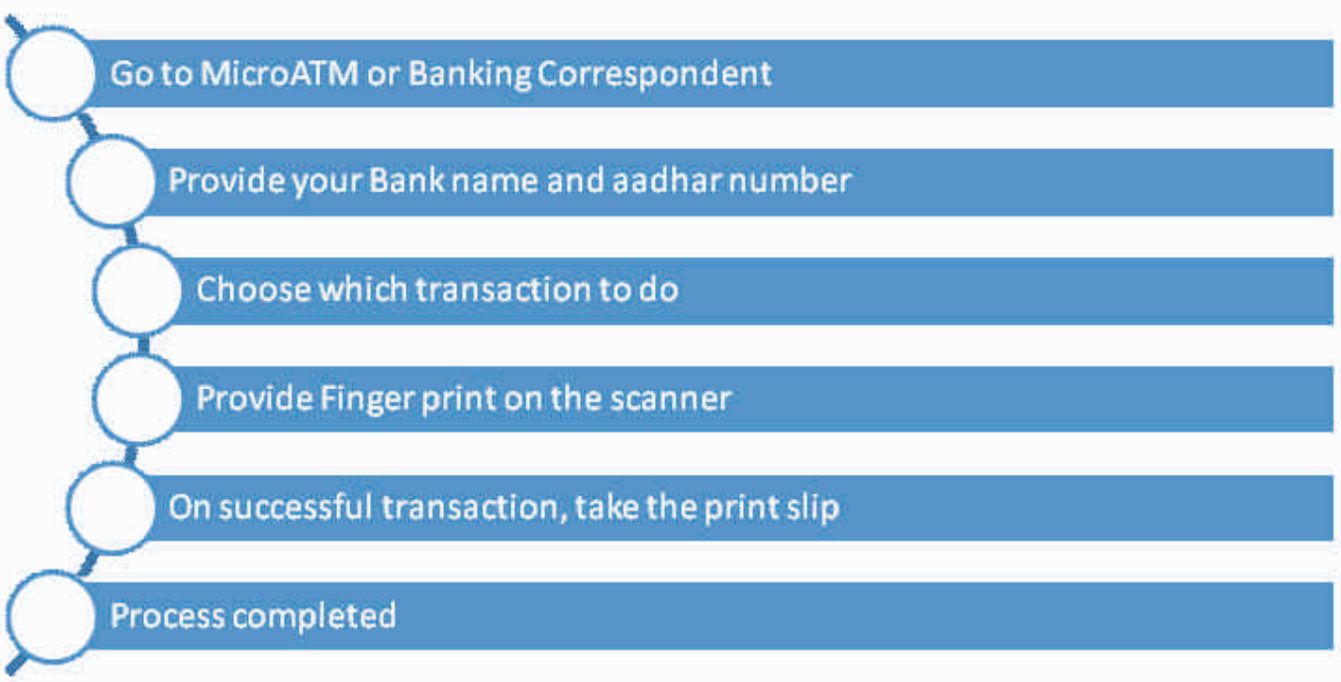
Both sender & receiver get SMS confirmation.

For more details on IMPS, visit *http://www.npci.org.in/documents/IMPS_FAQs.pdf*

3. AEPS: (Aadhar enabled payment system)

AEPS is a bank led model which allows online transaction at **PoS (MicroATM)** through the Business correspondent of any bank using the **Aadhaar authentication.** Seeding of Bank account with Aadhar card is pre-requisite for this service.

How to get registered for AEPS:



Services Offered by AEPS:

- Balance Enquiry
- Cash Withdrawal
- Cash Deposit
- Aadhaar to Aadhaar Fund Transfer

For more details on AEPS, visit *http://www.npci.org.in/aepsoverview.aspx*

4. UPI (Unified Payments Interface):

A Unified Payment Interface (UPI) is a single window mobile payment system launched by the National Payments Corporation of India (NPCI).

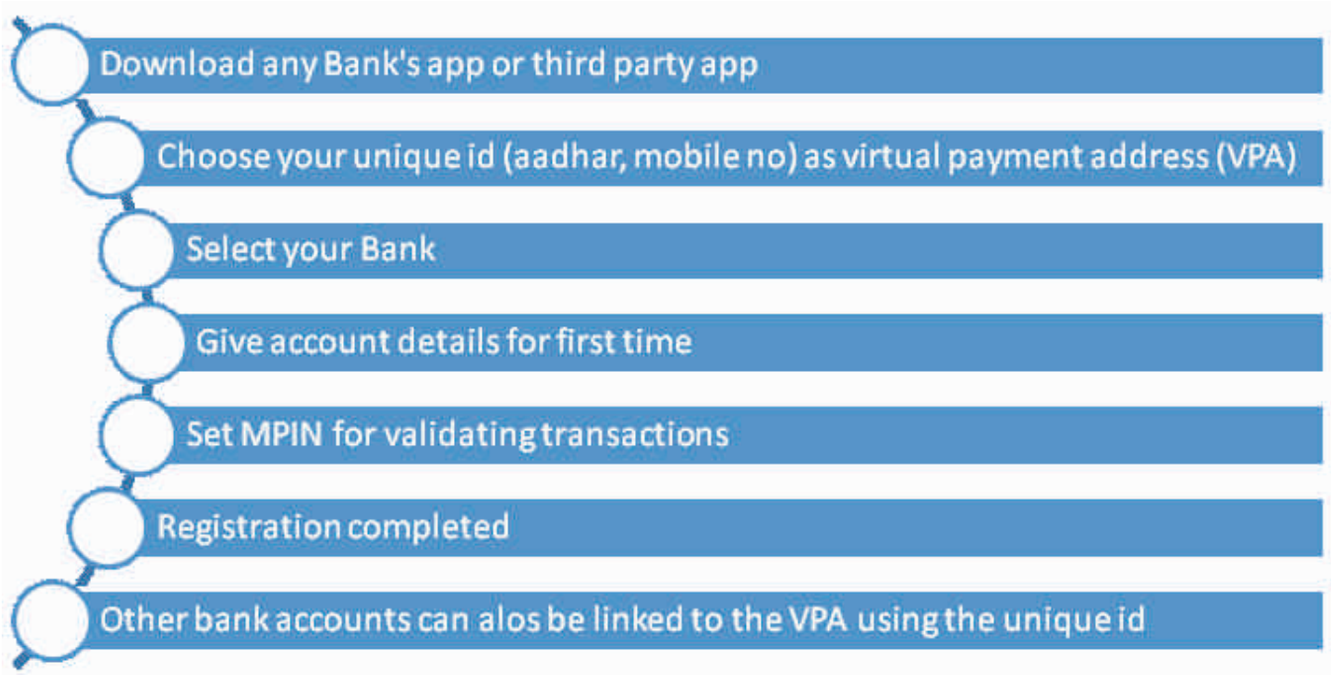
"Unified Payment Interface" (UPI) enables all bank account holders (of banks participating in UPI) to send and receive money from their smartphones with a single identifier (the virtual payments address) – without entering any additional bank account information.

UPI
UNIFIED PAYMENTS INTERFACE

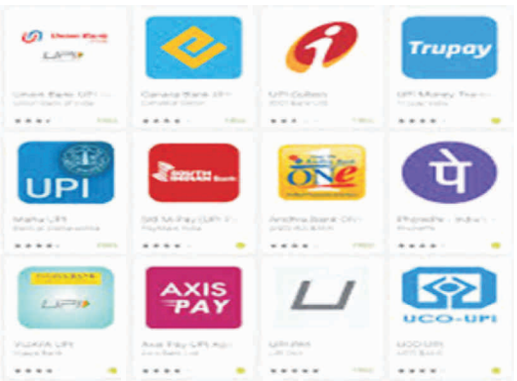
UPI can also be used to pay merchants who accept UPI as a payment mode.

UPI allows inter transfer between different bank accounts, can be used as e-wallet and used at POS 24 x 7.

UPI registration process:

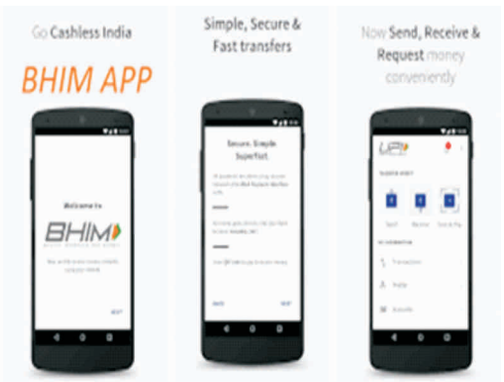


Benefits of using UPI:



The service is instant and available 24X7, even on public/bank holidays. Customers can transfer funds in simple steps by providing the virtual payment address of the beneficiary. Also, there is no pre - registration required for the beneficiary

Currently, around 29 banks are providing UPI enabled services. SBI Pay, Pockets – ICICI Bank, Axis Pay, PNB UPI, Andhra Bank One, PhonePe etc are apps of different banks providing UPI.



Last week, on 30th December,2016, Hon'ble Prime Minister, Mr. Narendra Modi launched the mobile payment app ***BHIM (Bharat Interface for Money) providing UPI platform.*** Developed by NCPI, BHIM is named after Babasaheb Dr BhimraoAmbedkar.

The app (currently available only on android platform) has crossed over 3 million downloads, and is the top app on the Google Play Store, and has been used for over 500,000 transaction since just a few days of launch.

For more details on UPI, visit *http://www.npci.org.in/UPI_Background.aspx*

Safety measures to be taken while doing online transactions:

- Never share PINs and other sensitive details and ensure their secrecy,
- Transact only at trusted merchants and places,
- Be vigilant and alert while doing online transactions,
- Use secure payment gateways and reliable software,
- Ensure the accuracy of details of the receiver of beneficiary.

Concluding Remarks:

While a complete ***'cash free economy'*** of India is a myth, minimal usage of hard cash for transactions can bring radical change in growth and stability of the economy curbing parallel economy.

Several payment systems like ***AEPS*** enable even the uneducated rural section of India to go cashless. Right environment for digitalisation of the country has been created and it has become the duty of the educated to use these non-cash transactions and also educate the uneducated people on the usage of other payment modes and thereby subsiding the rumours and terror encircling the uneducated.

Taking into consideration the various types of alternate payment mechanisms which are ***more secure, fast and reliable*** than the paper cash payment and the number of online transactions done during last 7-8 weeks, it can be said that India is fast moving towards a ***'less cash economy'.***

"Education is the best friend. An educated person is respected everywhere. Education beats the beauty and the youth."

This article is contributed by P. Uday Kumar, Intern of SBS and Company LLP. The author can be reached at interns@sbsandco.com

AUDIT

INTERNAL FINANCIAL CONTROL (IFC) – COMPANIES ACT, 2013

Contributed by P. Ashok Reddy & Vetted by CA Sandeep Das

Introduction:

Indian regulations have been modified to reflect the developments in the Western world. Introduction of Internal Financial Controls (IFC) in the Companies Act 2013, reflect the continuation of this trend.

The Companies Act,2013 has introduced the new requirements relating to audits and reporting by statutory auditor of companies. One of these requirements is given in the Section 143(3)(i) of the act which requires the statutory auditor to state in his audit report whether the company has adequate internal financial controls system in place and the operating effeteness of such controls.

Regulatory Mandate under Companies Act, 2013:

Relevant Section	Requirement	Applicability
Directors' Responsibility Statement: Sec 134(5)(e)	Board to confirm that IFCs are adequate and operating effectively	Listed Companies
Board report: Rule 8(5) of Companies (Accounts) Rules	Board report to state the details in respect of the adequacy of IFC with reference to the financial statements	All companies
Auditor's report: Sec. 143(3)(I)	Auditors to report if the company has adequate IFC systems and that they are operating effectively (from 2015-16)	All companies
Sec. 177: Audit Committee	Evaluation of IFC	All companies having an AC
Schedule IV	The independent directors should satisfy themselves on the integrity of financial information and ensure that financial controls and systems of risk management are robust and defensible.	All companies having Independent Directors

Criteria to be considered for developing, establishing and reporting on IFC

Necessary criteria for IFC over financial reporting for the companies has been provided in " Internal Control Components" of Standards on Auditing (SA) 315 " Identifying and Assessing the Risks of Material Misstatement through Understanding the entity and environment" issued by ICAI. SA 315 explains the five components of any internal control as they relate to a financial statement audit. The five components are:

- Control environment
- Entity risk assessment process
- Control activities
- Information system and communication
- Monitoring of controls

The Guidance Note specially states that since the audit of IFC is in connection with financial reporting, the concept of materiality will be applicable even in such audits. The auditor should use the same materiality considerations as would be used in planning the audit of the Company's annual financial statements as provided in SA 320 – Materiality in Planning and Performing an Audit

Internal Financial Controls (IFC):

Section 134(5)(e) explains **"Internal Financial Controls (IFC)"** as the policies and procedures adopted by the Company for ensuring:

- ❖ Orderly and efficient conduct of its business, including adherence to Company's policies,
- ❖ Safeguarding of its assets,
- ❖ Prevention and detection of frauds and errors,
- ❖ Accuracy and completeness of the accounting records
- ❖ Timely preparation of reliable financial information.

The guidance note explains that for auditor reporting, the term 'IFC' is restricted within the context of the audit of financial statements and relates to internal control over financial reporting only (ICFR). This is also consistent with the practice adopted internationally, e.g. Sarbanes-Oxley (SOX) reporting in the US.

The Guidance note engages external auditors of listed companies, unlisted public companies and private companies using the term, internal controls over financial reporting (ICFR). It defines ICFR as "a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with general accepted accounting principles. A company's internal financial control over financial reporting includes policies and procedures that:

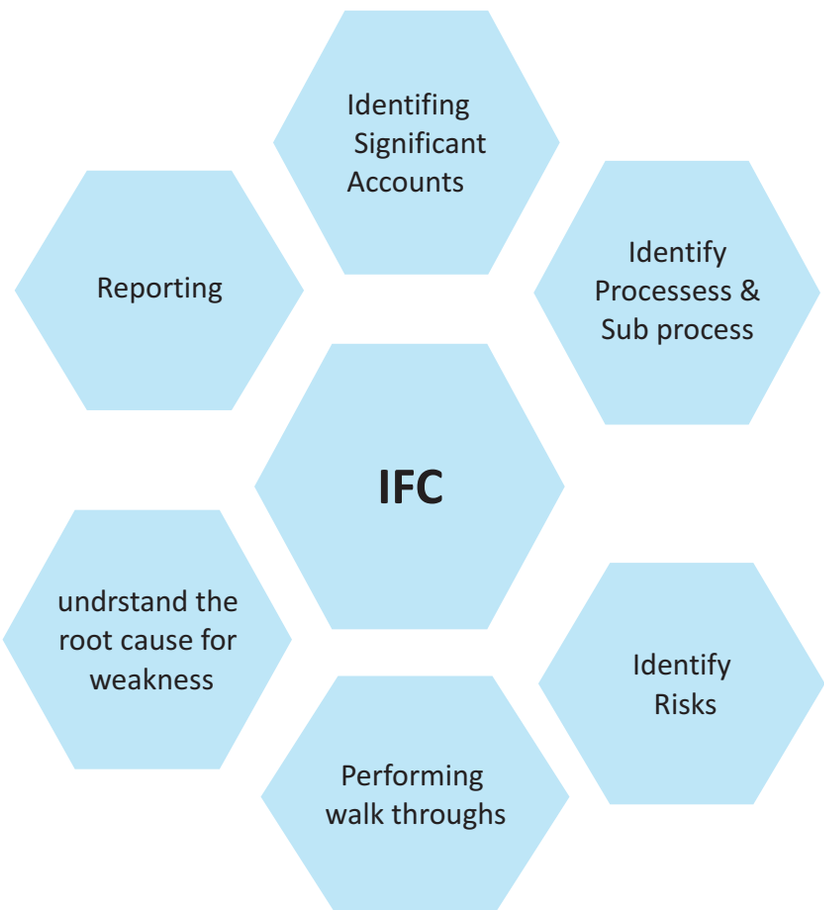
- ❖ pertains to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company
- ❖ provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company and

- provide reasonable assurance regarding the prevention or timely detection of unauthorized acquisition, use or disposition of the company's assets that could have a material effect on the financial statement.

Internal financial controls system needs to be dynamic to address the changes in entity's operating environment, including:

- Business developments, including changes in information technology and business processes, changes in key management, and acquisitions, mergers and divestments.
- Legal and regulatory developments such as changes in industry regulations and new regulatory reporting requirements.
- Changes in the financial reporting framework, such as changes in accounting standards.

Implementation of IFC overall view:



Audit of IFC-FR:

The Audit of IFC is a part of the Statutory Audit and the statutory auditor need to report on the adequacy and operating effectiveness of IFC-FR. The guidance note provides procedures that would need to be considered by the auditor for planning, performing and reporting in an audit of IFC under section 143(3)(i) of 2013 Act.

The auditor need to test the internal controls throughout the year but reporting on IFC is on Balance Sheet date. Methodology for the conduct of audit can be done in 4 steps:

1. **Planning –** The planning stage involves identification of significant account balances, disclosures items, identification and understanding significant flow of transactions, identification of Risk of Material Misstatement, and identification of controls. The auditor is required to establish an overall audit strategy which sets the scope, timing and direction of the audit, and that guides the development of the audit plan.

2. **Design and Implementation -** The auditor should test the design effectiveness of controls by determining whether the company's control, if they are operated as prescribed by persons processing the necessary authority and competence to perform the controls effectively, satisfy the company's control objectives and can effectively prevent or detect errors or fraud that could result in material misstatements in the financial statements. The auditors should obtain understanding of the entity's flow of transactions and identify controls that are relevant to the audit and gain an understanding of those controls.

3. **Operating effectiveness -** Testing operating effectiveness involves planning and nature, timing and extent of procedures to be performed, assessing findings and concluding on operating effectiveness.

   Operating effectiveness of a control is tested by determining whether the control is operating as designed and whether the person performing the control possesses the necessary authority and competence to perform the control effectively.

   In some instances, when the auditor is testing controls, the walkthrough procedures may be used to obtain evidence about the operating effectiveness of a control. In performing a walkthrough, the auditor generally follows a single transaction from its origination through the procedures or steps in the process to the transaction's ultimate recording in the general ledger.

4. **Reporting -** Where there are deficiencies that, individually or in combination, result in one or more material weakness, the auditor should evaluate the need to express a modified opinion (qualified or adverse on the company's IFC) unless there is a restriction on the scope of the engagement in which case the auditors should either disclaim the opinion or withdraw from the engagement. As per the guidance note, auditors will have to issue a qualified or an adverse opinion on ICFR if 'material weaknesses' in the company's ICFR are identified as part of their audit.

Risk Control Matrix

To enable the management in the evaluation of internal control at the entity level, a risk control analysis by COSO (Committee of Sponsoring Organizations) attribute under each of the five components of internal control need to be performed by the company.

The risk control matrix (RCM) is a matrix which is used during the risk assessment to define the various level of risks existing in the process and the controls that mitigate the risks. The RCM populates the risk and the control sub process wise to increase the visibility of risks and assist management decision making. Risks are populated based on **" what could go wrong within the process"** as a part of ICFR we shall identify the risks which are in the nature of regulatory and financial risk affecting the financial reporting.

RCM gives the control mechanism based on the control description. Control frequency is one of the criteria based on which controls are tested. Effectiveness / Ineffectiveness of the controls are determined at the time of walkthrough. The following are the risks present in the processes which threaten the achievement of the process objectives (management's assertions) control objectives stated earlier:

- Existence or occurrence;
- Completeness;
- Valuation or allocation;
- Rights and obligations;
- Assertions relating to presentation and disclosure

Template RCM

S.No	Sub Process	Risk Description	Control Objective	Control Description	Risk Category (H,M,L)	Nature of Control	Type of control

Consequences of non-compliance

As per section 134 (8) If a company contravenes the provisions of this section, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

Benefits of IFC

- Helps in business process re – designing to plug revenue leakages
- Helps in rationalising the number of controls across organisation like implementation of automated controls
- Helps in standardizing policies and procedures for multi –location / multi-business companies
- Fosters a control conscious work culture for people behind controls
- Provide assurance to the CEO / CFO as well as improves business performance
- Aimed at strengthening the processes to further improve business, identify cost containment opportunities as well as drive growth.

Conclusion:

In the long term scenario, benefits of implementing robust internal financial controls are far greater than the costs of implementation as failure to do so can severely impact the reputation and image of the company. A new beginning has been made and there is a strong case to adopt global practices that have resulted in better Corporate Governance regimes and efficient Capital Markets that can attract higher levels of investment

"Once you start a working on something, don't be afraid of failure and don't abandon it. People who work sincerely are the happiest."

This article is contributed by P. Ashok Reddy, Intern of SBS and Company LLP. The author can be reached at interns@sbsandco.com

FEMA

AN OVERVIEW ON EXTERNAL COMMERCIAL BORROWINGS BY STARTUPS

Contributed by N. Supriya & Vetted by CA Murali Krishna G

India is the country which is rich not only in Mineral wealth but also Human wealth with innovative thoughts. In order to give a shape to such innovative thoughts and entrepreneur skills, a new scheme has been launched by Government of India called "Startup India". Startup India is one of the historic steps taken by the Government of India in order to achieve the prestigious mission of Make in India.

It has been launched by the honourable Prime Minister of India on 16th January, 2016. The main objective of launching this scheme is to encourage and support next generation entrepreneurs of India who are in need of support to enrich the country's growth.

The Reserve Bank of India(RBI) in order to support government for achieving its vision has liberalized the regulations of External Commercial Borrowings (ECB) for permitting Startup enterprises to access the loans under ECB.

RBI in consultation with the Government of India decided the framework under which Startups can raise ECB.

Eligibility: The first and foremost criteria to be filled for availing the benefits under this framework is, the entity should be a recognised as startup[1] by the Central Government of India as on the date of raising ECB.

Maturity: Minimum average maturity period will be 3 years.

Recognised lender: Lender / investor shall be a resident of a country who is either a member of Financial Action Task Force (FATF) or a member of a FATF-Style Regional Bodies; and shall not be from a country identified in the public statement of the FATF as:

i. A jurisdiction having a strategic Anti-Money Laundering or Combating the Financing of Terrorism deficiencies to which counter measures apply; or
ii. A jurisdiction that has not made sufficient progress in addressing the deficiencies or has not committed to an action plan developed with the Financial Action Task Force to address the deficiencies

Exclusion: *Overseas branches/subsidiaries of Indian banks and overseas wholly owned subsidiary / joint venture of an Indian company will, however, not be considered as recognized lenders under this framework.*

Forms: The borrowing can be in the form of loans or non-convertible, optionally convertible or partially convertible preference shares. The funds should come from a country which fulfils the conditions at 2 [c] above.

[1]Parameters for considering an entity as a Startup have since been published in the Official Gazette on February 17, 2016 by the Government of Indiaa

Currency: The borrowing should be denominated in any freely convertible currency or in Indian Rupees (INR) or a combination thereof. In case of borrowing in INR, the non-resident lender, should mobilise INR through swaps/outright sale undertaken through an AD Category-I bank in India.

Amount: The borrowing per Startup will be limited to USD 3 million or equivalent per financial year either in INR or any convertible foreign currency or a combination of both.

All-in-cost: Shall be mutually agreed between the borrower and the lender.

End-uses: For any expenditure in connection with the business of the borrower.

Conversion into equity: Conversion into equity is freely permitted, subject to Regulations applicable for foreign investment in Startups.

Security: The choice of security to be provided to the lender is left to the borrowing entity. Security can be in the nature of movable, immovable, intangible assets (including patents, intellectual property rights), financial securities, etc., and shall comply with foreign direct investment / foreign portfolio investment / or any other norms applicable for foreign lenders / entities holding such securities.

Corporate and personal guarantee: Issuance of corporate or personal guarantee is allowed. Guarantee issued by non-resident(s) is allowed only if such parties qualify as lender under paragraph 2© above.

Exclusion: *Issuance of guarantee, standby letter of credit, letter of undertaking or letter of comfort by Indian banks, all India Financial Institutions and NBFCs is not permitted.*

Hedging: The overseas lender, in case of INR denominated ECB, will be eligible to hedge its INR exposure through permitted derivative products with AD Category – I banks in India. The lender can also access the domestic market through branches/ subsidiaries of Indian banks abroad or branches of foreign bank with Indian presence on a back to back basis.

Conversion rate: In case of borrowing in INR, the foreign currency - INR conversion will be at the market rate as on the date of agreement.

Other provisions like parking of ECB proceeds, reporting arrangements, powers delegated to AD banks, borrowing by entities under investigation, conversion of ECB into equity will be as included in the ECB framework. However, provisions on leverage ratio and ECB liability: Equity ratio will not be applicable.

It may be noted that Startups raising ECB in foreign currency, whether having natural hedge or not, are exposed to currency risk due to exchange rate movements and hence are advised to ensure that they

Your smile will give you a positive countenance that will make people feel comfortable around you."

This article is contributed by N.Supriya, Intern of SBS and Company LLP. The author can be reached at interns@sbsandco.com

INDIRECT TAX

DATA MIGRATION OF ASSESSEE REGISTERED UNDER CURRENT TAX REGIME TO GST PORTAL

Contributed by K.Bhavani & Vetted by CA Manindar & CA Sri Harsha

Aseach day passes by, we are realising that we are actually moving towards GST Regime. As a part of implementation of GST, the migration process i.e., enrolment process started in most of the states.

IS ENROLMENT MANDATORY FOR THE EXISTING REGISTRANTS??

As per Revised Model Law, Registration under GST law is mandatory for the assesse registered under existing indirect tax laws as per Schedule V of the Revised Model Law ("RML"). As per section 165 of RML (transitional provisions), the State/Central Government made it mandatory to enrol in the GST portal by the existing registrants. The Finance Ministry has given for implementation of this migration process in staggered manner.

Initially, Ministry has validated the email id and contact details of the existing registrants through Current IT portals and sent the provisional ID and password as a beginning step in enrolment process. The enrolment schedule was notified by the Ministry and the snapshot of the same is as follows:

Enrolment schedule for your State

The schedule of the enrolment activation drive for states is given below. We encourage you to complete the enrolment during the specified dates.

State	Start Date	End Date	% Enrolled
Puducherry	08-11-2016		56.89%
Sikkim	08-11-2016		44.41%
Maharashtra	14-11-2016		44.64%
Goa	14-11-2016		46.27%
Daman and Diu	14-11-2016		44.24%
Dadra and Nagar Haveli	14-11-2016		23.87%
Chhattisgarh	14-11-2016		75.06%
Gujarat	15-11-2016		78.11%
Odisha	30-11-2016		25.69%
Jharkhand	30-11-2016		57.19%
Bihar	30-11-2016		49.01%
West Bengal	30-11-2016		58.03%
Madhya Pradesh	30-11-2016		78.37%
Assam	30-11-2016		2.61%
Tripura	30-11-2016		13.75%
Meghalaya	30-11-2016		10.03%
Nagaland	30-11-2016		36.12%
Arunachal Pradesh	30-11-2016		4.9%
Mizoram	30-11-2016		29.01%

Manipur	30-11-2016	9.01%
Uttar Pradesh	16-12-2016	29.07%
Jammu and Kashmir	16-12-2016	0.01%
Delhi	16-12-2016	48.77%
Chandigarh	16-12-2016	54.07%

Chandigarh	16-12-2016	54.07%
Haryana	16-12-2016	35.1%
Punjab	16-12-2016	34.96%

Uttarakhand	16-12-2016	15.38%
Himachal Pradesh	16-12-2016	42.25%
Rajasthan	16-12-2016	70.75%
Kerala	01-01-2017	13.22%
Tamil Nadu	04-01-2017	13.37%
Karnataka	01-01-2017	20.84%
Telangana	01-01-2017	22.0%
Andhra Pradesh	01-01-2017	24.17%
Enrolment of Taxpayers who are registered under Central Excise Act but not registered under State VAT	07-01-2017	Not Yet Started
Enrolment of Taxpayers who are registered under Service Tax Act but not registered under State VAT	09-01-2017	Not Yet Started
New registration under VAT/Service Tax/Central Excise after January 2016	01-02-2017	Not Yet Started

WHAT IS ENROLMENT??

Enrolment means validating the data of existing registrants and submission of additional information as may be required under GST. The data with various authorities is incomplete and this enrolment process enables the tax payers to update their information, if any. Enrolment is mandatory as a part of GST implementation for enabling the existing registrants to comply with the GST requirements.

Enrolment process started first with the State VAT dealers and then Central Indirect tax Level Registrants. For the state of Telangana and Andhra Pradesh, the enrolment process started from 1st January 2017

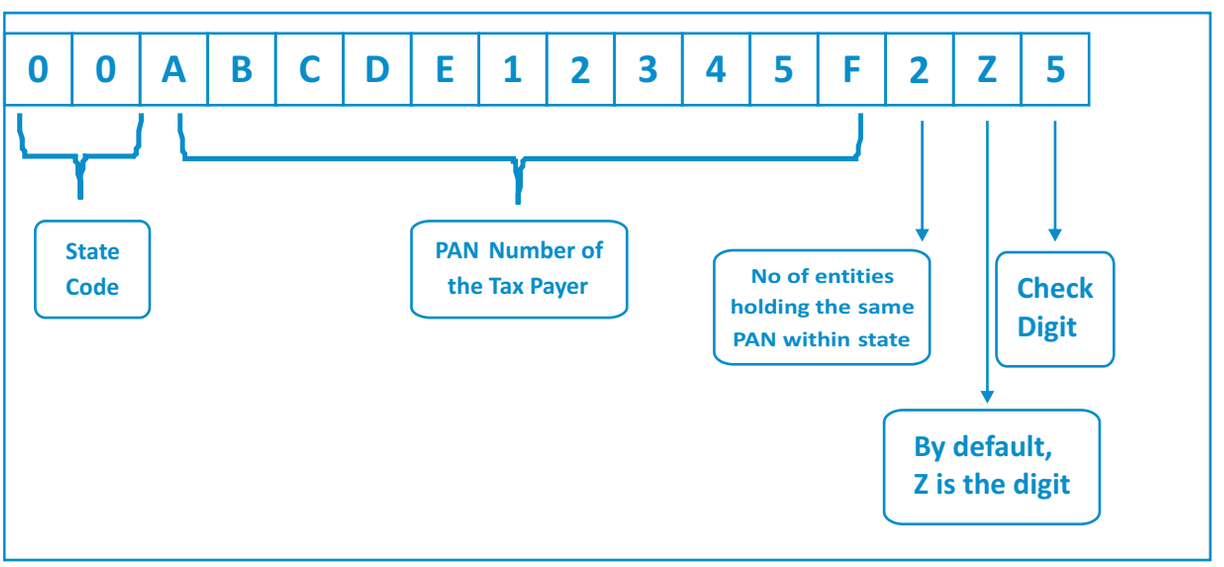
All the existing taxpayers registered under Central Excise, Service Tax, State Sales Tax/VAT, Entry Tax,

Luxury Tax, Entertainment Tax shall enrol under GST system portal. The enrolment process is common for the registrants under State and Central GST law.

On appointed day, every registered person under existing laws shall be allotted provisional RC after completion of enrolment process and it shall be valid up to 6 months or for the period as may be prescribed by the Council. Once the GST law is being passed, on submission of prescribed information by the registrants, they shall be allotted RC on final basis.

WHAT IS GSTIN??

Goods and Service Tax Identification Number (GSTIN) is unique number allotted to the tax payer by the GST portal. It shall be quoted on the returns, payment challans and as may be required. On completion of Enrolment with the GST portal, the Assesse shall be allotted with 15 alphanumeric provisional ID. The structure of ID shall be as below:



IS YOUR INFORMATION AND DOCUMENTS READY FOR ENROLMENT??

REQUIRED INFORMATION
Provisional ID and password received from State/Central Authorities;
Valid Email ID and Mobile Number;
Bank Account Number;
Bank IFSC

REQUIRED DOCUMENTS	FORMAT	SIZE LIMIT
Proof of Constitution of the Business (Registration Certificate of the business)	PDF/JPEG	1 MB
Photographs of Directors/Partners/Authorised Signatory	JPEG	100 KB
Proof of Appointment of Authorised Signatory	PDF/JPEG	1 MB
Opening page of Bank Pass Book	PDF/JPEG	1 MB

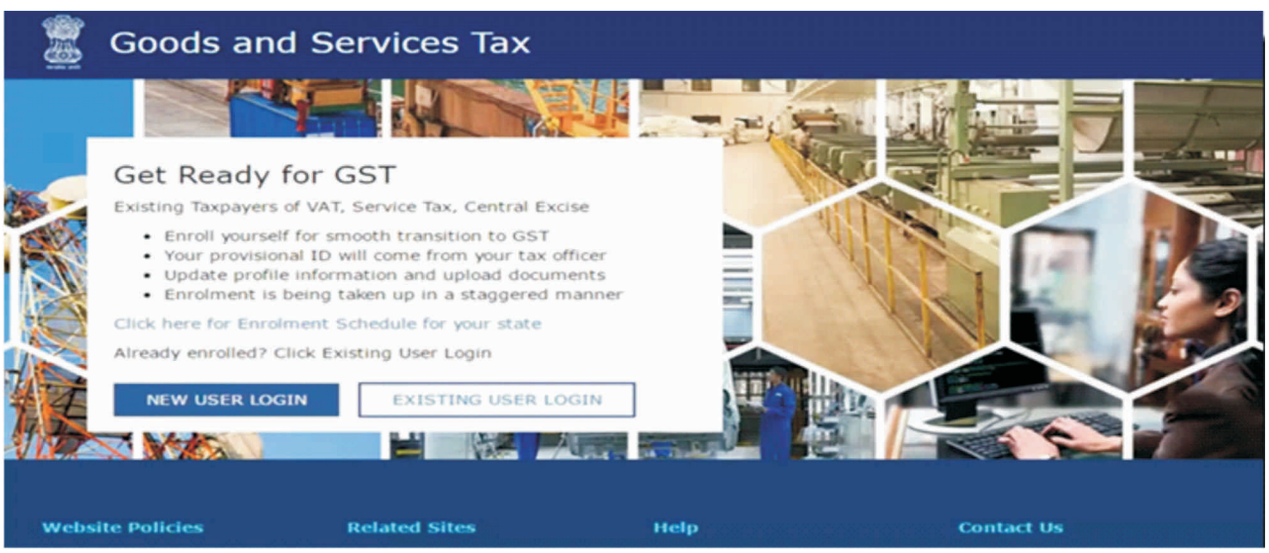
MIGRATION PROCESS

Migration process basically deals with two steps:

1. Creation of log in credentials
2. Enrolment process

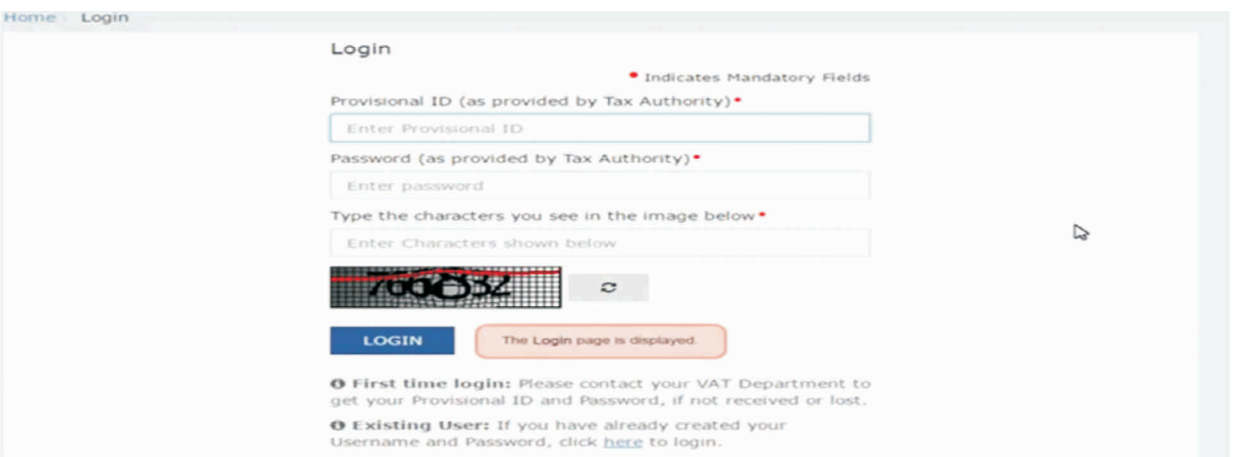
CREATION OF LOGIN CREDENTIALS

1. Click https://www.gst.gov.in/ for GST portal.
2. For creation of login credentials, Click “New User Login” as shown below



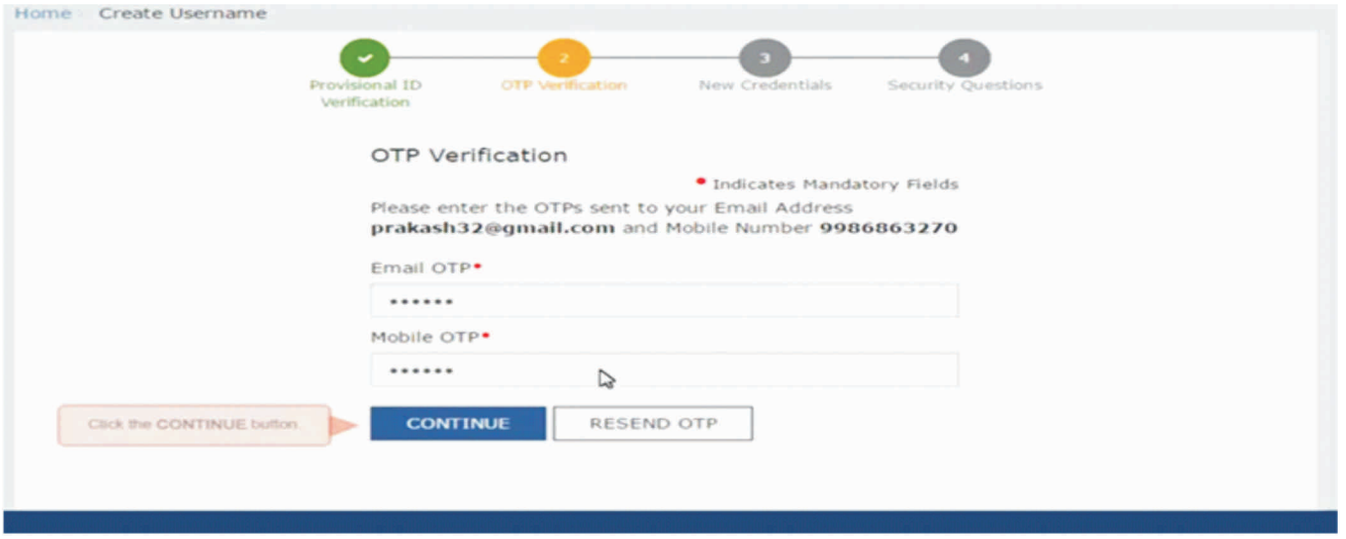
3. The first dash board is about the steps for the provisional registration and also a self-declaration statement. We need to mark the Declaration option and click on "CONTINUE".

4. Then fill up the Provisional ID and Password provided by the department and also the characters as shown in the below screenshot

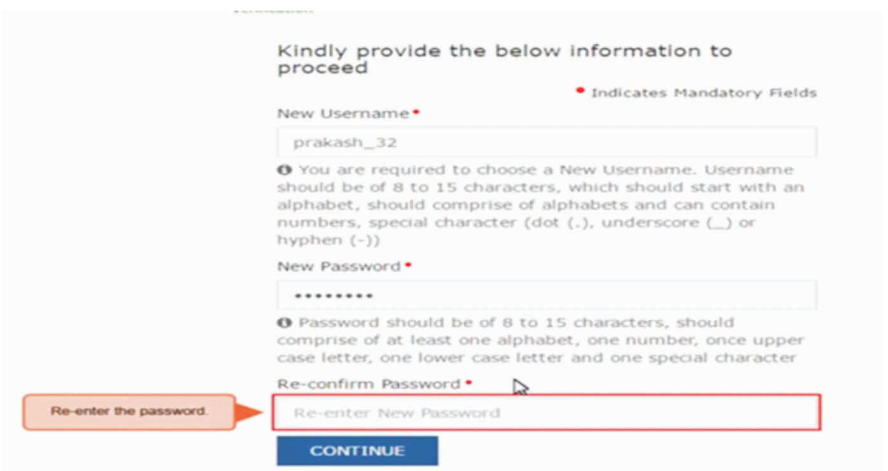


5. Once the Provisional ID verification done, the portal will display OTP verification page. Enter the email id and mobile for verification purposes and click on CONTINUE.

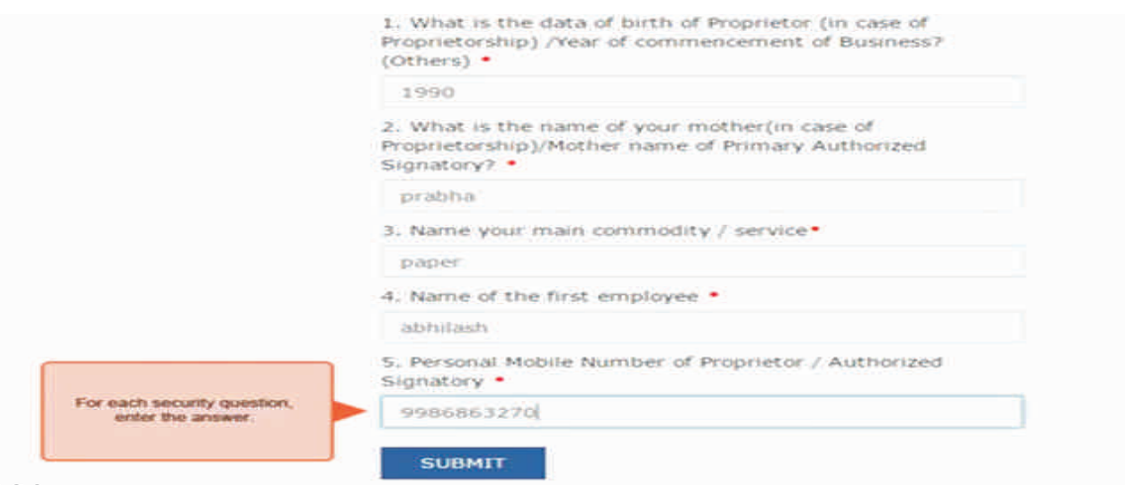
6. Enter the OTP received to email id and mobile and click on CONTINUE for next page.



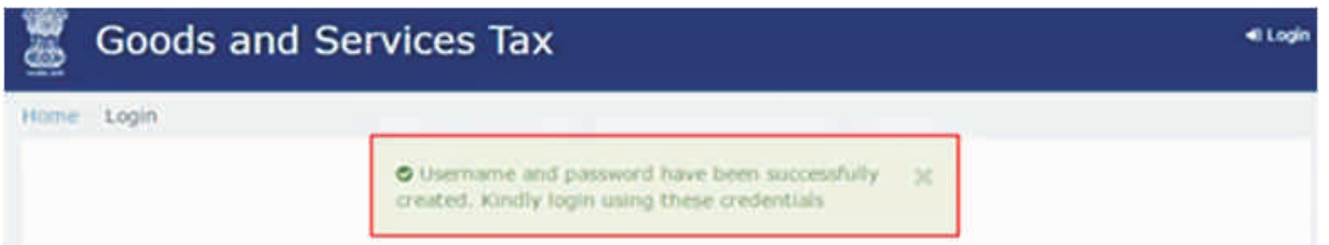
7. The next page is all about resetting the user name and password and fill up the user name and password and click "CONTINUE" for moving on to the next page



8. The next page is about the security questions. These questions are same for all the registrants, where as in case of current laws, questions shall be chosen at the interest of the Assesse with the limited questions



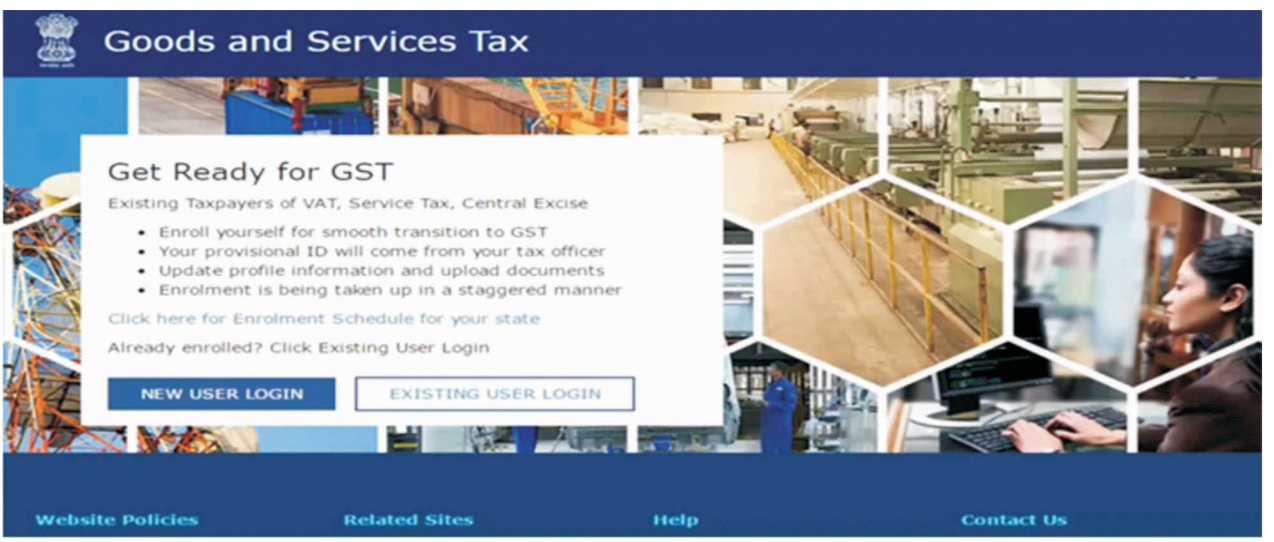
9. Once the login credentials are created successfully



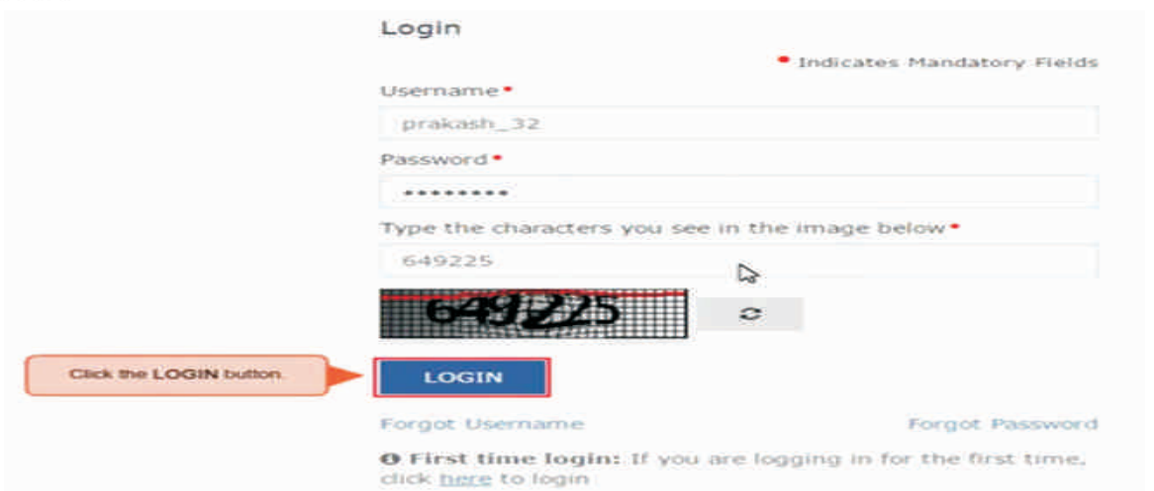
ENROLMENT PROCESS

In Enrolment process, Business details, Partners/Director details, Authorized Signatory details, Principal Place of business, Additional Businesses, Details of Goods and Services dealt in the business, Bank account details shall be filled by the registrant

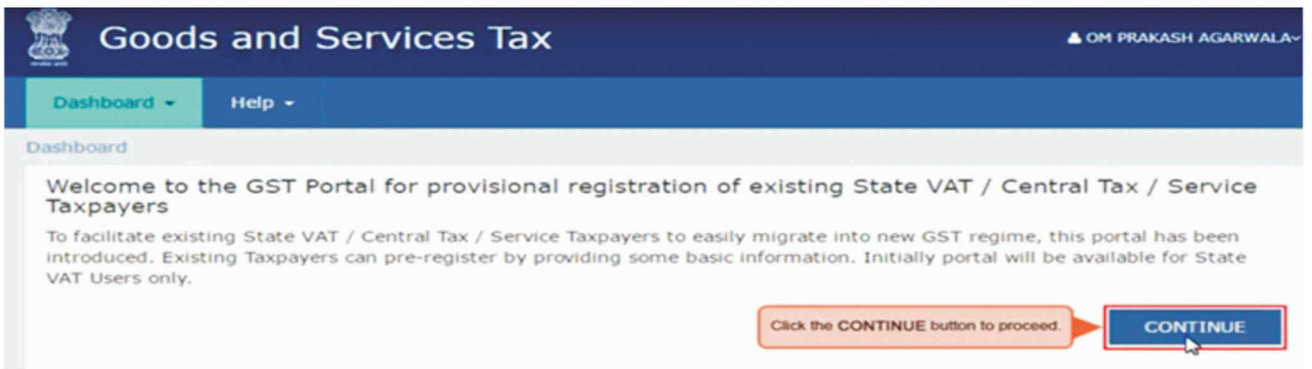
1. Once the login details created, click on the EXISTING USER LOGIN as shown below for moving to next page



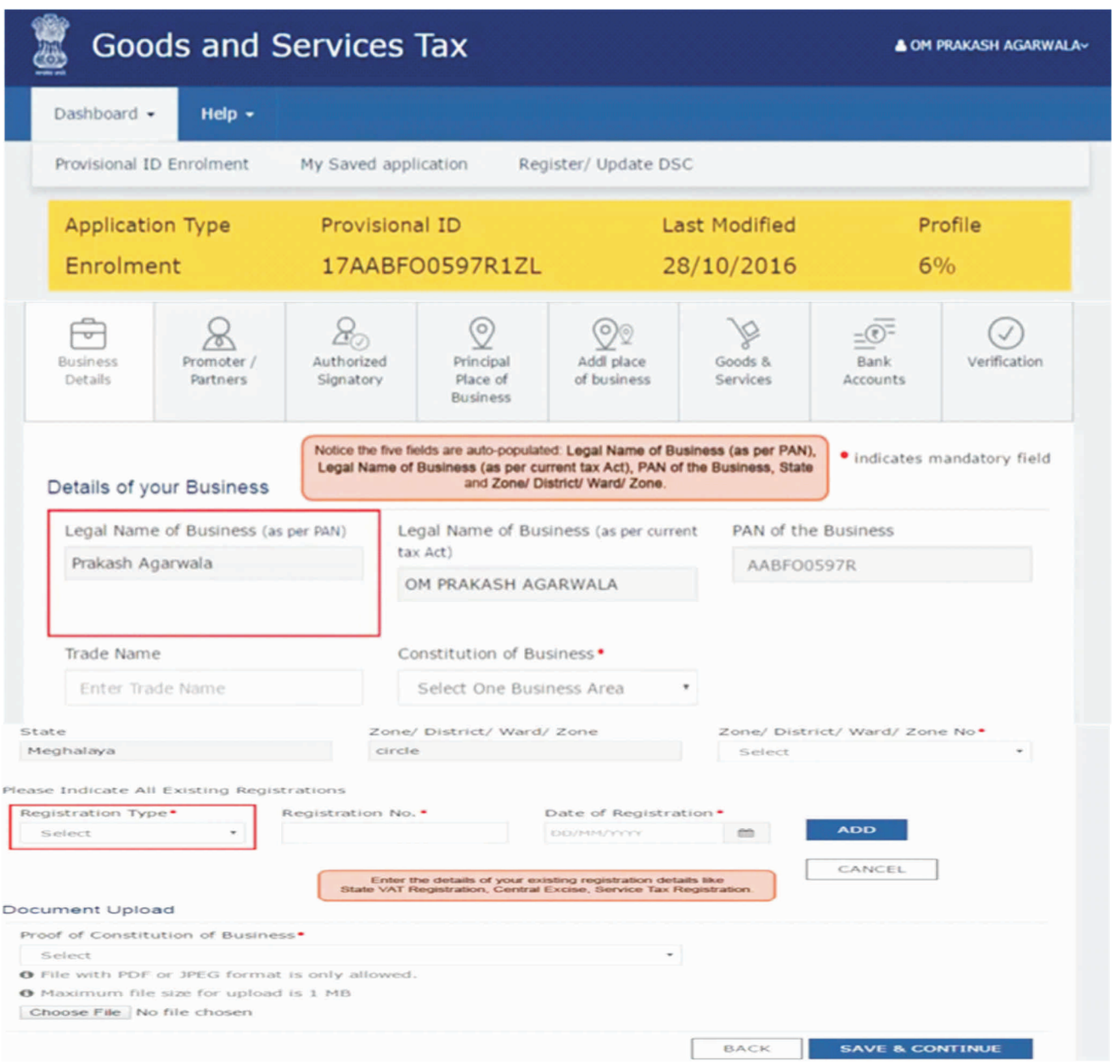
2. Then fill up the username and password and characters and click LOGIN for opening the next dash board



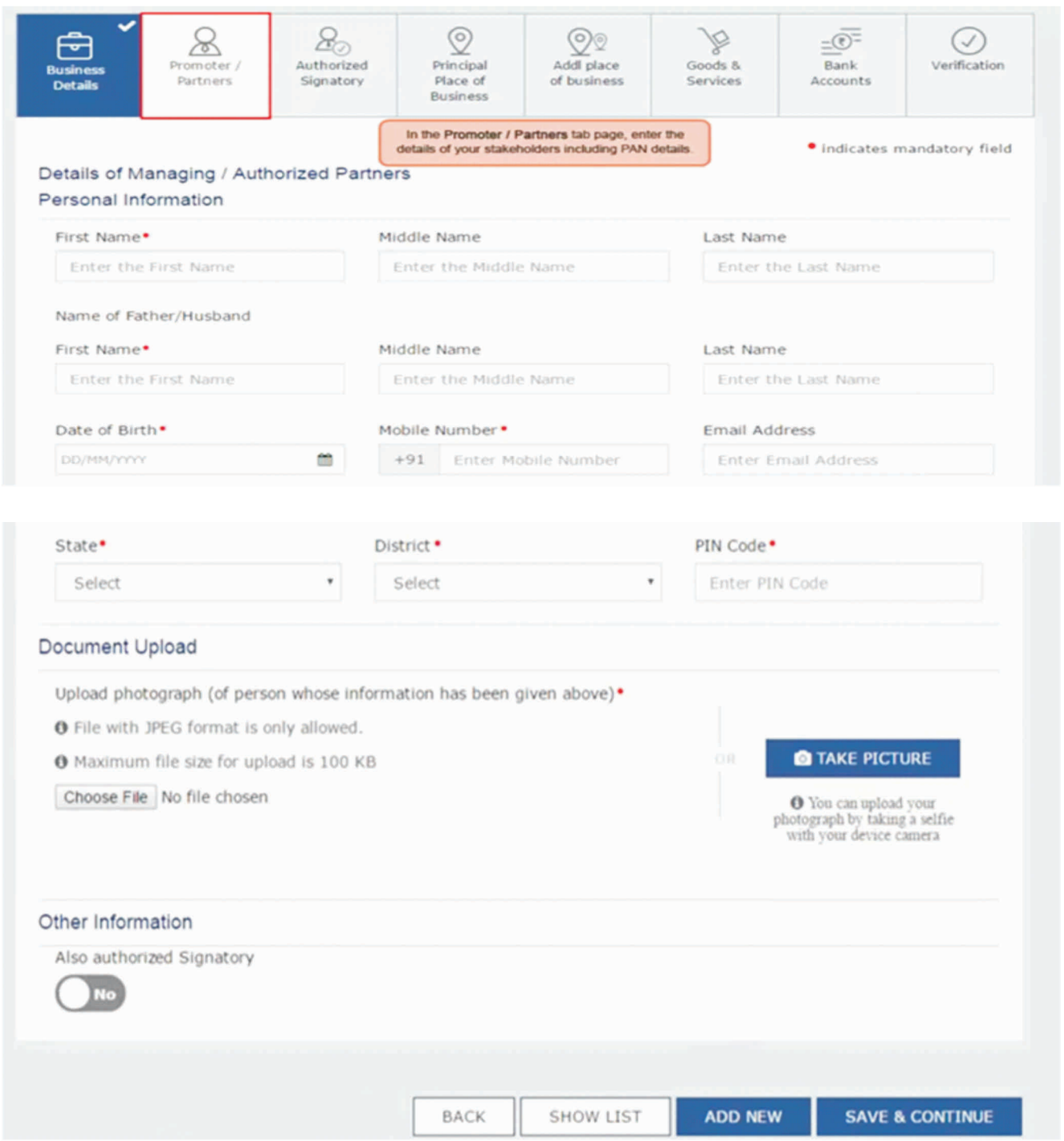
3. Then next dashboard appears and click "CONTINUE" to go further



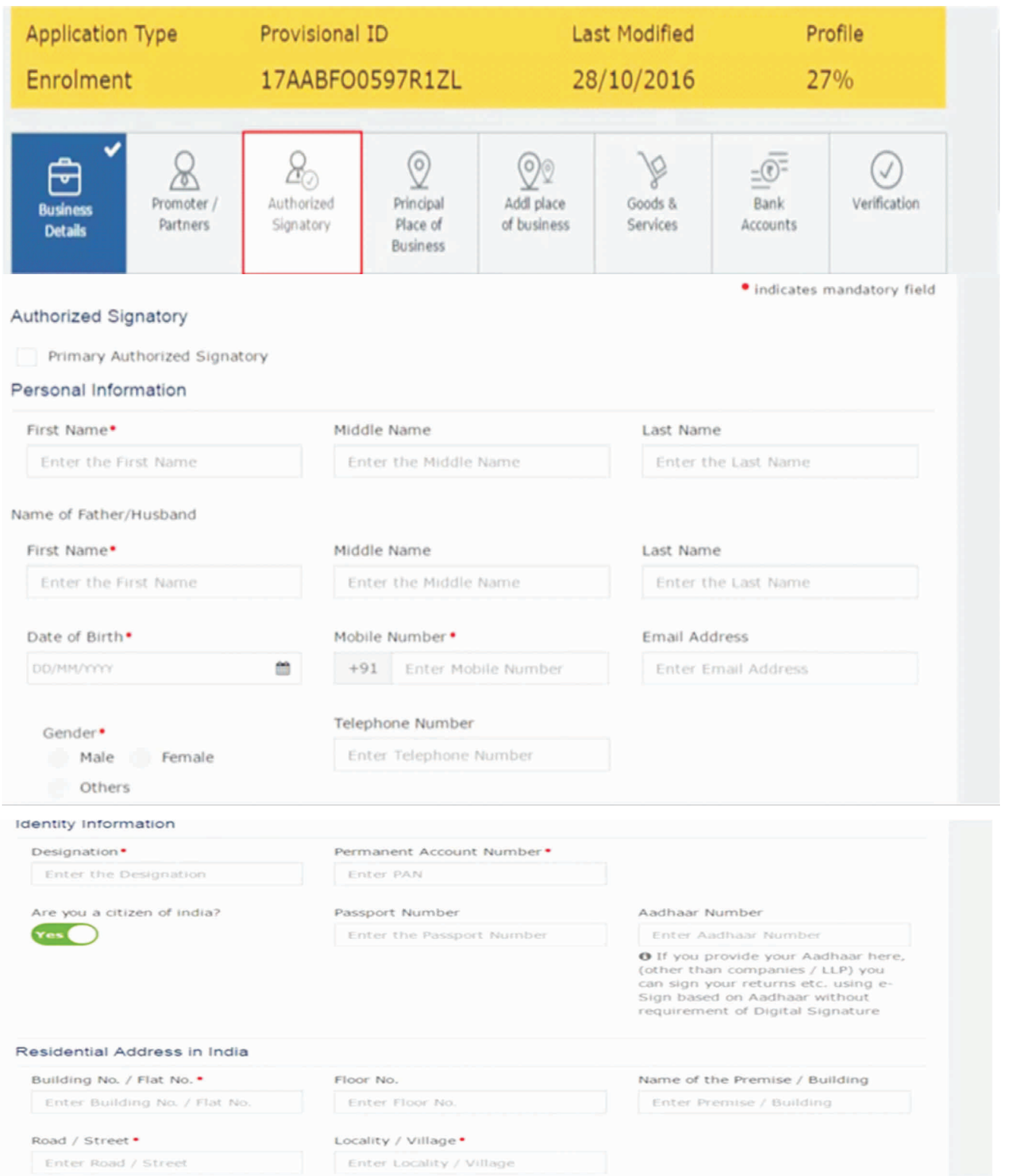
4. In the first page, the details of the business shall be filled.



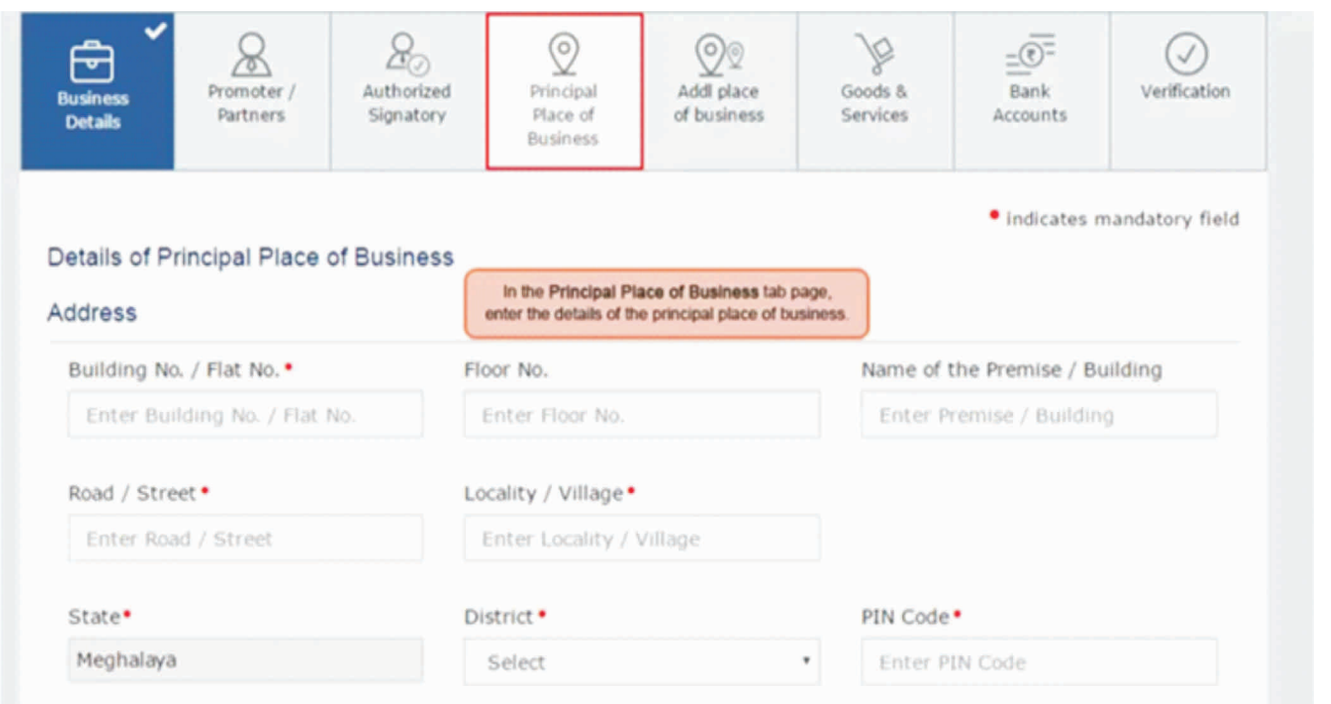
5. Once the first page is verified, the portal allows the registrant to move to the next page. Details of the Partners/Promoters such as Name, Father's Name, Date of birth of the partner, Mobile Number, Email ID, Address shall be filled and Photograph is to be uploaded. In case of authorized partner/director, it is to be marked as Authorized. Details of all the partners/directors can be filled one by one by clicking the option "ADD NEW". There is a option to go through the list of all the partners/directors along with the details by clicking the option "SHOW LIST". Click "SAVE & CONTNUE" for moving on to the next page.

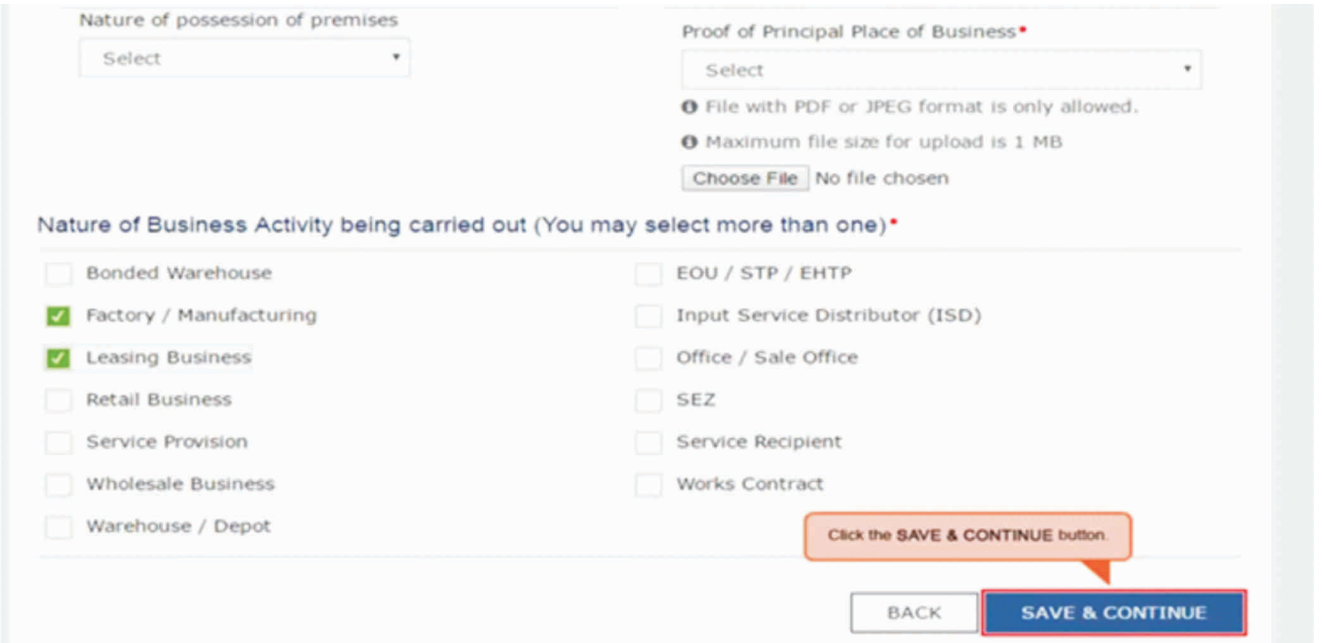


6. The Details of the Authorized Signatory such as personal details, contact details, Designation in the Firm/Company, Aadhar Number, Passport Number and PAN Number shall be quoted. Authorisation Letter and Photograph of the Authorized Signatory shall be uploaded.On completion of filling the page, Click SAVE & CONTINUE for moving to next page

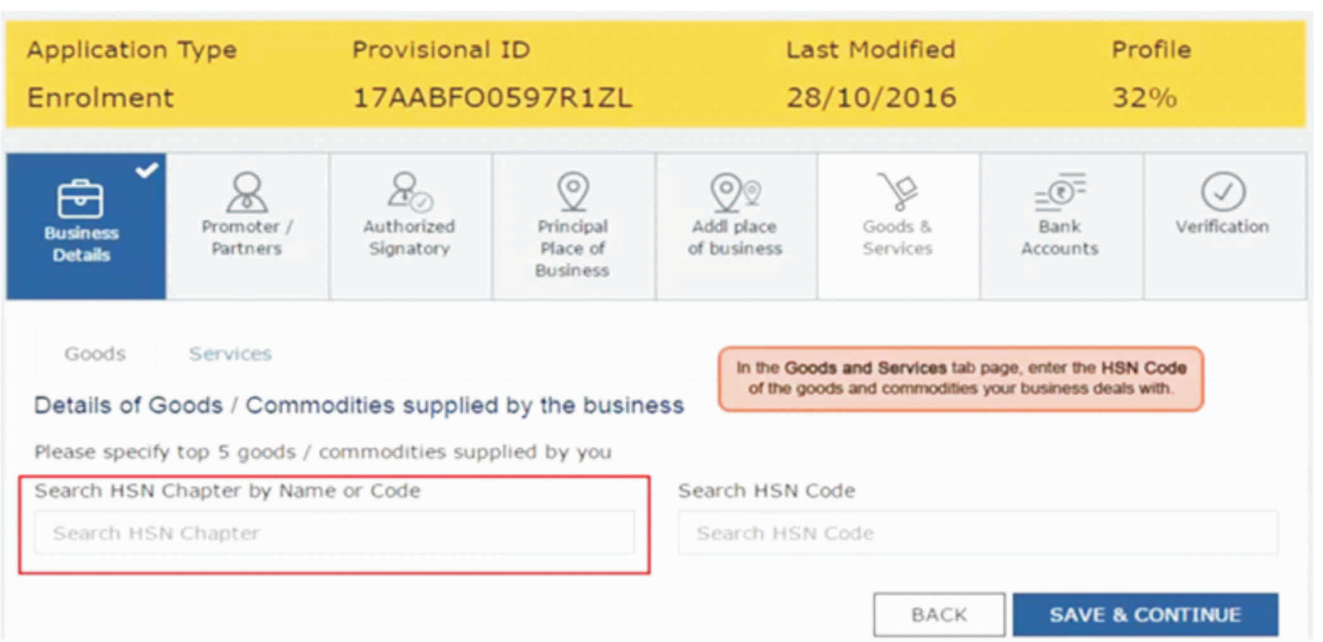


7. In fourth page, details of the principal business shall be filled up. The address and contact details of the principal business shall be filled in the page. The registrant shall mark the nature of the business and Proof of the principal place of business shall be uploaded. Click SAVE & CONTINUE for step into next page.

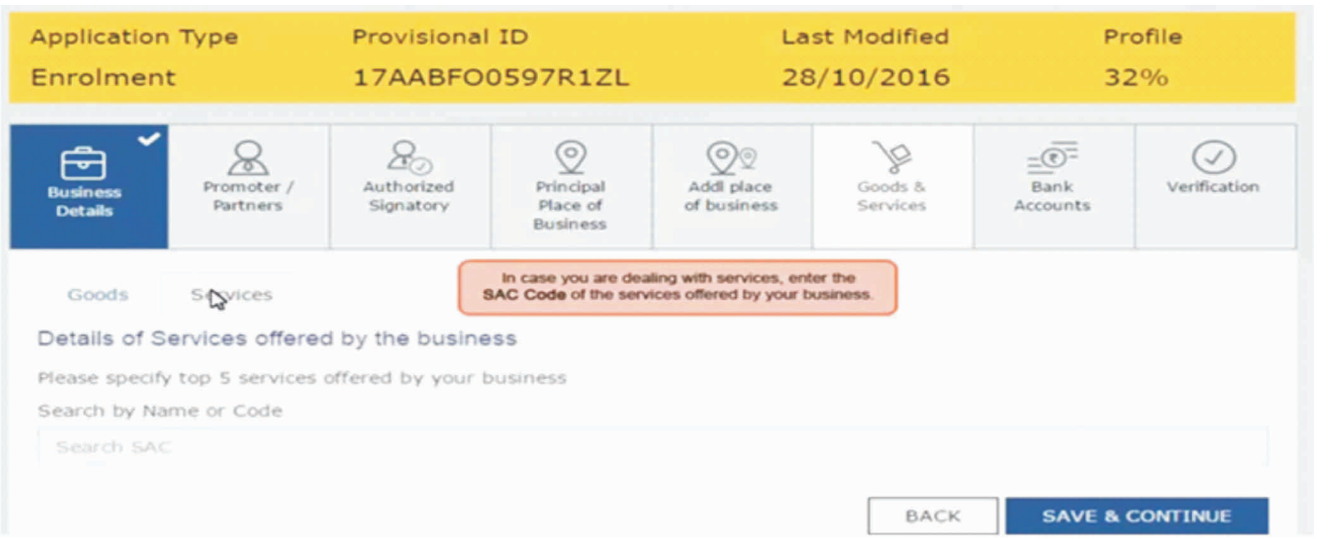




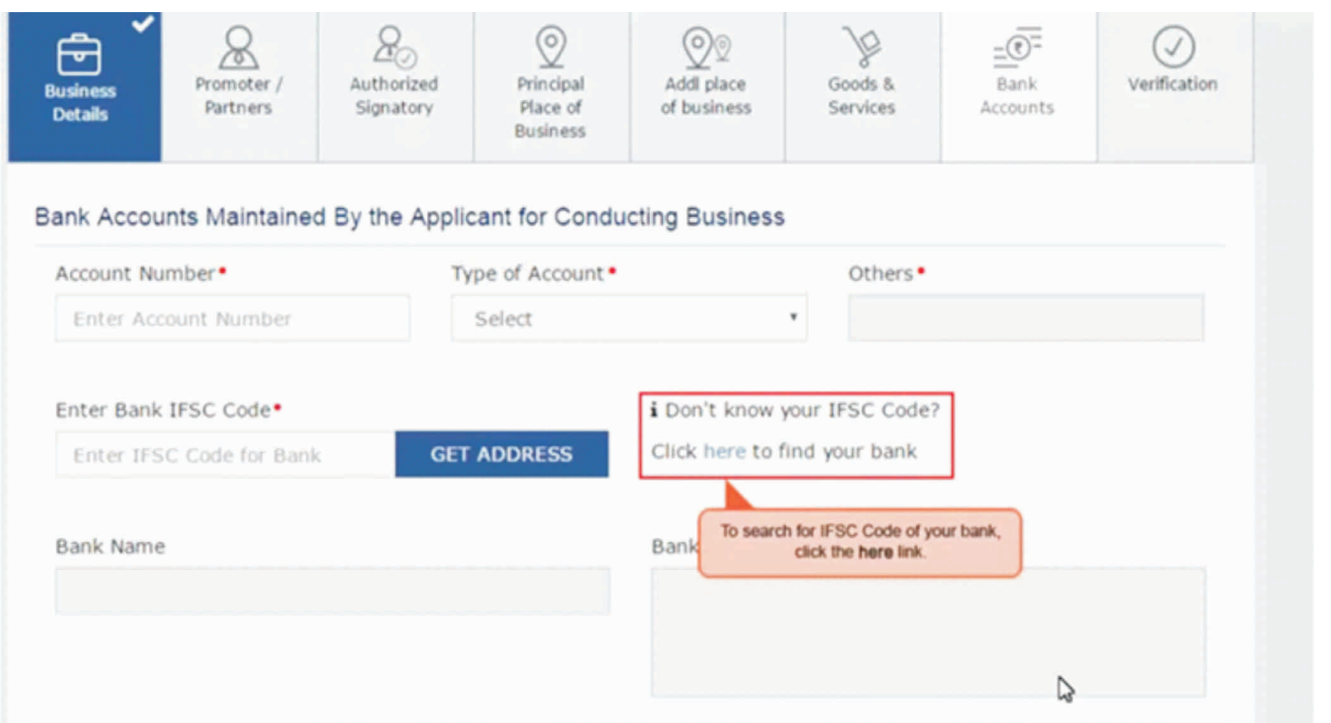
8. Sixth page details all the goods and service dealt in by the business. The Registrant can opt for either goods or services or both. The list of the goods/commodities dealt by the registrant shall be filled up by choosing HSN code.

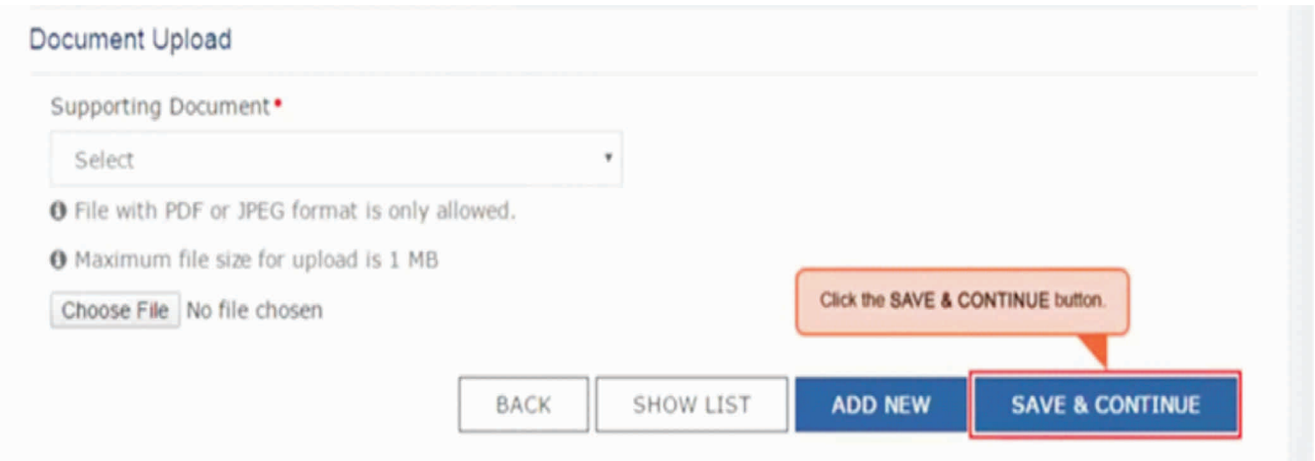


In case the registrant deals with the services, then he can select the services through click the "Service" tab within the same page. He shall list out the services through SAC code.

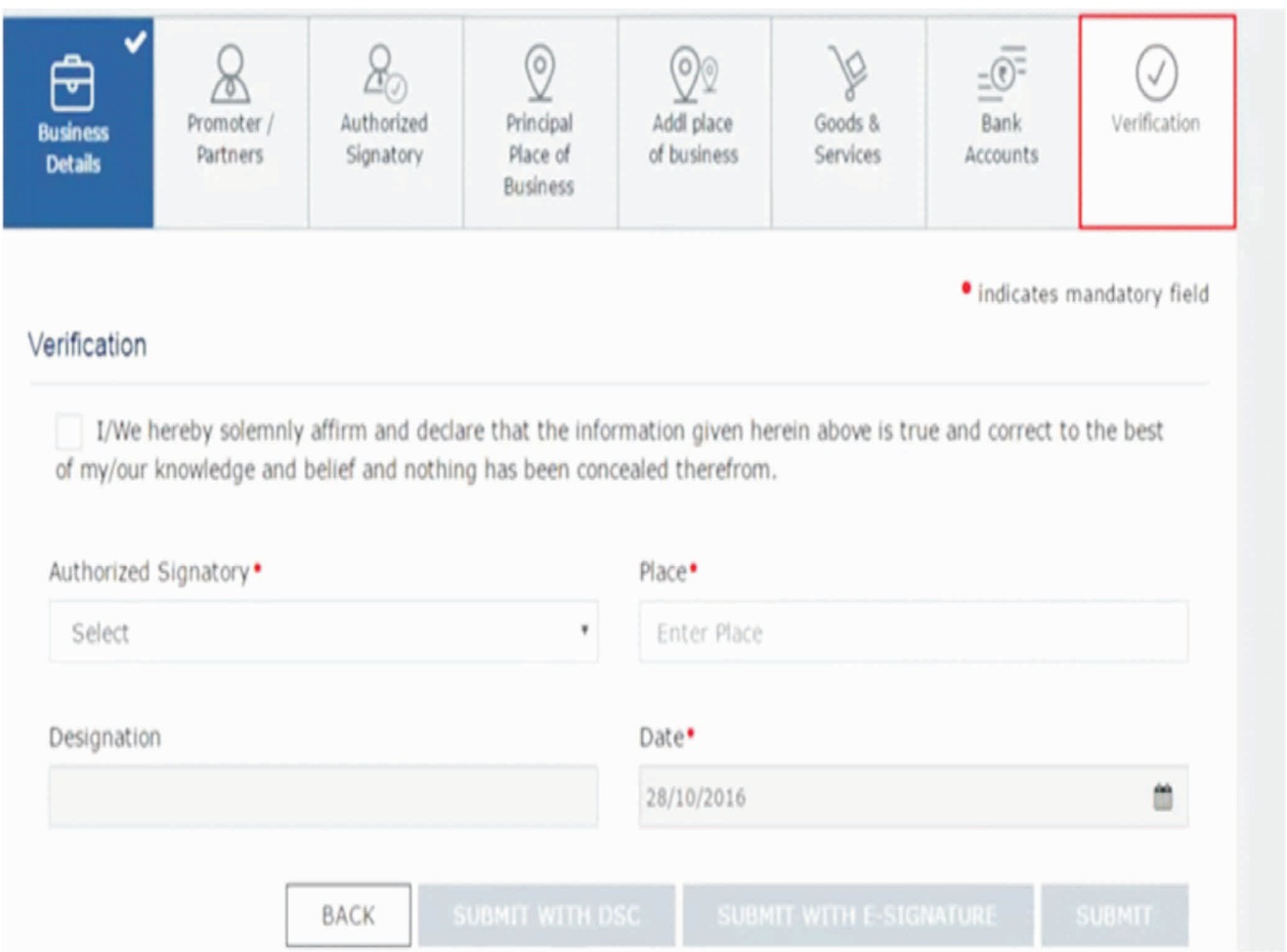


9. In the Seventh page, the bank details of the Registrant Bank Name, Account Number, Account type, Bank IFSC code shall be filled and the supporting documents reflecting the details (Bank Statement/First page of the Pass Book) shall be uploaded. The registrant can show more than one bank details by clicking the option "ADD NEW". For moving to next page, Click "SAVE & CONTINUE"





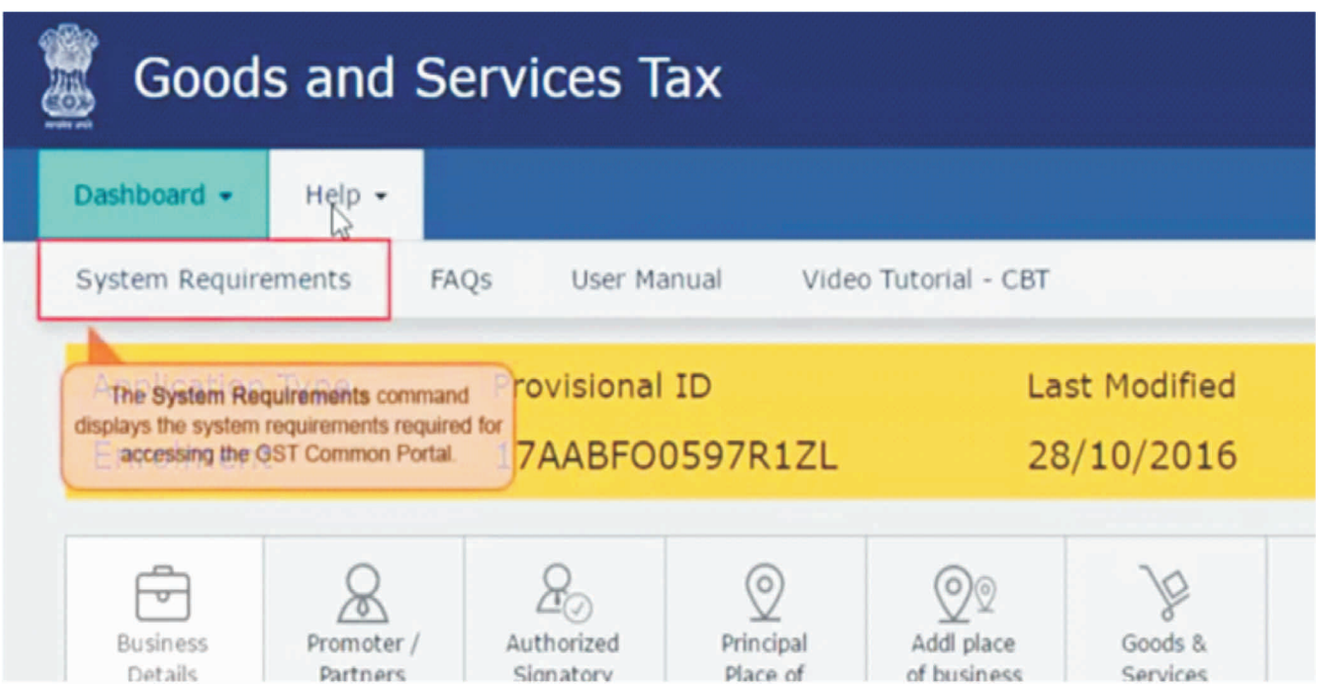
10. Last step in enrolment is Verification. The Authorized person shall affirm all the submitted details and submit the application with DSC. All the details can be submitted for enrolment by submitting through DSC of the Authorized Signatory. It can be submitted also E Signature



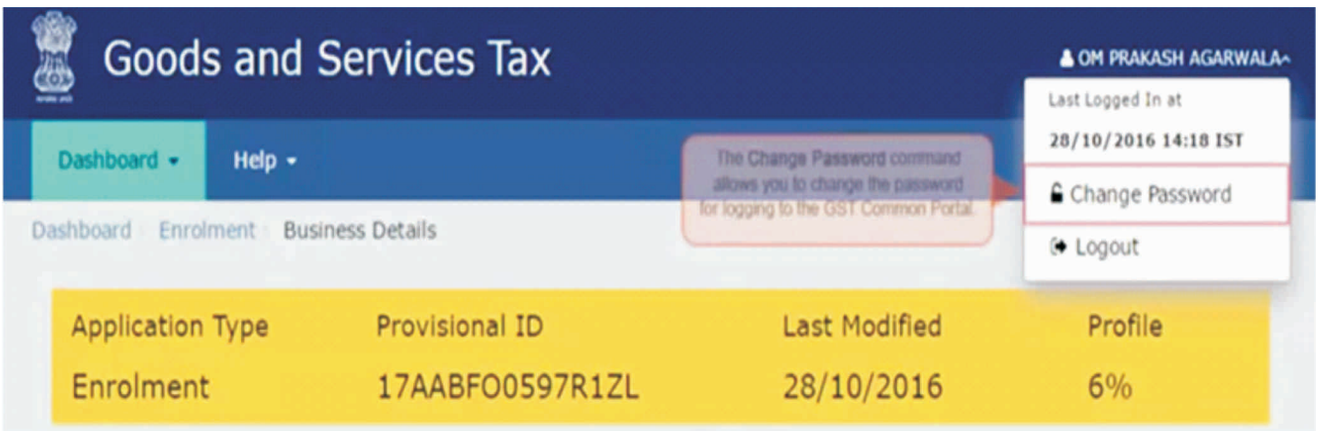
11. On successful submission of the information, the acknowledgment will be sent to the Email ID of the Authorized Signatory

POINTS TO BE NOTED

1. In the first page, there is a dashboard and also the help options. The registrant can go through help option for any guidance



2. The Registrant can change the password at any time by clicking "Change Password



CONCLUSION

Since, there is only Model Law for GST and act yet to be passed, no powers conferred on the authorities to implement the GST process, as the migration is also a part of implementation.

"As soon as the fear approaches near, attack and destroy it"

This article is contributed by K.Bhavani, Intern of SBS and Company LLP. The author can be reached at interns@sbsandco.com

COMPANIES ACT , 2013

RULES, CIRCULARS AND NOTIFICATIONS ISSUED DURING THE MONTH OF DECEMBER, 2016

RULES

- **The Companies (Transfer of Pending Proceedings) Rules, 2016, Dt: 07.12.2016.**
  Vide the said rules, the Ministry has notified the manner in which the pending Winding-up Petitions filed under various situations, be transferred to benches of the Hon'ble Company Law Tribunal or to be dealt by the High Court. The Rules shall come into force with effect from the 15th December, 2016, except rule 4, which shall come into force from 1st April, 2017.
  http://mca.gov.in/Ministry/pdf/CompaniesTransferofPending_08122016.pdf

- **The Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, Dt:14.12.2016.**
  The Ministry has notified the rules relating to the procedural aspects pertaining to the provisions of Sections 230 to 233 and from sections 235 to 240 of the Act, relating to Compromise, Arrangements and Amalgamations. The said sections were notified with effect from 07.12.2016.
  http://mca.gov.in/Ministry/pdf/compromisesrules2016_15122016.pdf

- **The National Company Law Tribunal (Procedure for reduction of share capital of Company) Rules, 2016, Dt:15.12.2016**
  Vide the said rules, the Ministry has notified the procedure for filing application or petition before the Hon'ble Company Law Tribunal, for Reduction of share capital under section 66 under the Act. The said section was notified with effect from 07.12.2016.
  http://mca.gov.in/Ministry/pdf/NCLTRules2016.pdf

- **The National Company Law Tribunal (Amendment) Rules, 2016, Dt:20.12.2016.**
  Vide the said amendment rules, the Ministry has notified certain new provisions to the existing Rules with respect of presentation of joint petition, Multiple remedies, and has also notified the procedure for filing of application with the Hon'ble Company Law Tribunal, for the cancellation of variation rights. **http://mca.gov.in/Ministry/pdf/NCLT(Amendment)Rules_21122016.pdf**

- **The Companies (Removal of names from the Companies from the Register of Companies) Rules, 2016, Dt:26.12.2016**
  Vide the said rules, the Ministry has notified the procedural aspects pertaining to the provisions of Sections 248 to 252 of the Act, relating to Striking-off of the name of the Company/Removal of the name of the Company from the Register maintained by the ROC. The said sections were notified with effect from 26.12.2016. However, the forms as notified vide the said rules, are yet to be placed in the MCA Portal. **http://mca.gov.in/Ministry/pdf/Rules_28122016.pdf**

- **The Companies (Incorporation) Fifth Amendment Rules,2016, Dt:29.12.2016**
  Vide the said rules,the Ministry has amended the principal Incorporation rules. The Form INC-2 has been discontinued, and Form INC-7 to be used for incorporating Part I Companies and companies with more than seven subscribers only. Further the existing Form INC-29, was replaced with Form INC 32 (SPICe), and substitution of Form INC-27 with a new form.
  http://mca.gov.in/Ministry/pdf/5th_Amendment_Rules_29122016.pdf

NOTIFICATIONS

- **Applicability of various sections, Dt:07.12.2016:**
  Vide the said notification, the Ministry has notified the commencement of various sections of the Act w.e.f 15th December 2016. With this commencement notifications, most of the provisions of the Act, come in to force. **http://mca.gov.in/Ministry/pdf/commencementnotif_08122016.pdf**

- **Corrigendum to the Notification Dt:17.11.2016, in connection with Schedule-II to the Act, Dt:09.12.2016:**
  Vide the said notification, the Ministry has corrected an typo error in the Notification Dt:17.11.2016, in connection with Schedule-II. h**ttp://mca.gov.in/Ministry/pdf/SCHEDULE2CORRIGENDUM.pdf**

- **Delegation of powers to Regional Directors under section 458 of the Act, Dt:19.12.2016**
  Vide the said notification, the Ministry has delegated the powers and functions vested in the sections as listed out the notification to the Regional Directors at Mumbai, Kolkatta, Chennai, New Delhi, Ahmedabad, Hyderabad and Shillong.
  http://mca.gov.in/Ministry/pdf/Notification_PowerRD_20122016.pdf

- **Applicability of provisions under Section 248 to 252 of the Act, Dt:26.12.2016:**
  Vide the said Commencement notification, the Ministry has appointed 26th December 2016, as the date from which the provisions of Section 248 to 252 of the Act, relating to Striking-off of the name of the Company/Removal of the name of the Company from the Register maintained by the ROC, shall come in force. **http://mca.gov.in/Ministry/pdf/Notificatiion_28122016.pdf**

- **Exemption from applicability of certain provisions of the Companies Act, 2013 to Specified IFSC private companies and Specified IFSC Unlisted Public Companies,Dt:04.01.2017**
  Vide Two Separate Notifications, the Ministry has exempted/modified the applicability /applicable with some adaptations, the various provisions of the Act, to a private company and a Unlisted Public Company, which is licensed to operate by the Reserve Bank of India or the Securities and Exchange Board of India or the Insurance Regulatory and Development Authority of India from the International Financial Services Centre located in an approved multi services Special Economic Zone set-up under the Special Economic Zones Act, 2005 (28 of 2005) read with the Special Economic Zones Rules, 2006 (hereinafter referred to as "Specified IFSC private company").

  Private :http://mca.gov.in/Ministry/pdf/IFSC_Private_04012017.pdf
  Public:http://mca.gov.in/Ministry/pdf/IFSC_Public_04012017.pdf

CIRCULARS

- **Clarification with regard to generating the challans and filing the form with IEPF authority under the Act, Circular No.13/2016, Dt:05.12.2016:**
  Vide the said Circular, the Ministry has clarified that it is mandatory to generate challan, through online mode for depositing amounts to IEPF and file form IEPF 1, mentioning the said Challan. Time was given till 15.12.2016, for acceptance of the IEPF challans not generated on MCA-21 portal.
  http://www.mca.gov.in/Ministry/pdf/GCircular_06122016.pdf

❖ **Relaxation of additional fees and extension of last date of filing of forms MGT 7(Annual Return) and AOC 4(Financial Statement) under Companies Act 2013, for the state of Jammu and Kashmir, Circular No.14/2016, Dt:07.12.2016:**

Vide the said Circular, the Ministry has relaxed the additional fees payable by the companies having registered offices in the State of Jammu and Kashmir, in connection with the filing of the Annual Return forms viz., e-form AOC-4, AOC (CFS), AOC- 4 XBRL and e- Form MGT-7, relating to for the FY 2015 – 2016, up to 31.12.2016.

http://mca.gov.in/Ministry/pdf/General_Circular_14-2016_07122016.pdf

❖ **Clarification regarding due date of transfer of shares to IEFC Authority, Circular No.15/2016, Dt: 07.12.2016:**

Vide the said Circular, the Ministry has informed that the Ministry if considering the matters relating to simplication of transfer process of shares as required under the IEPF Rules, extension of due date for transferring the shares and accordingly, the existing rules are likely to be revised in due course. **http://mca.gov.in/Ministry/pdf/Gcircular15_08122016.pdf**

❖ **Removal of names of companies from the Register of Companies- clarification regarding availability of Form STX on MCA-21 portal, Circular No.16/2016, Dt:26.12.2016:**

Vide the said Commencement notification, the Ministry has appointed 26th December 2016, as the date from which the provisions of Section 248 to 252 of the Act, relating to Striking-off of the name of the Company/Removal of the name of the Company from the Register maintained by the ROC, shall come in force. However, the required e-form STK-2, is still under development, and accordingly, vide the said Circular, the Ministry has requested the stake holders to bear with the inconvenience caused. **http://mca.gov.in/Ministry/pdf/General_Circular_16_2016_26122016.pdf**

ORDERS

❖ **The Companies (Removal of Difficulties) Fourth Order, 2016, Dt:15.12.2016:**

Whereas certain difficulties have arose in connection with the transfer of proceedings under the Companies Act, 1956 from the High Courts to the benches of the Hon'ble Company Law Tribunal. Vide the ROC, the Ministry has inserted couple of provisos to remove the difficulty.

http://mca.gov.in/Ministry/pdf/CompaniesROD_08122016.pdf

These updates are contributed by K. Bhavani and vetted by CS D V K Phanindra of SBS and Company LLP, Chartered Accountants. For any queries, please reach at phanindra@sbsandco.com

IDT UPDATES

SERVICE TAX

Notification No. 52/2016

Exemption has been provided from charging service tax on services provided by any banking company, financial institution including non-banking financial company or any other person to any person in relation to settlement of an amount up to ₹ 2,000/- in a single transaction when transacted through credit card, debit card, charge card or other payment card service.

Notification No. 53/2016

Person located in non-taxable territory providing online information and database access or retrieval services to a non-assesse online recipient located in taxable territory may issue online invoices not authenticated by means of a digital signature for a period upto 31st January, 2017.

These updates are contributed by Sai Ram and vetted by CA Manindar of SBS and Company LLP, Chartered Accountants. For any queries reach at manindar@sbsandco.com

DEBT & EQUITY ADVISORY

DEA UPDATES

1. Union Budget 2017 on 1st February:

Breaking away with the age long tradition of presenting the Indian Union Budget on the last day of February month, the Indian Government announced for presentation of the Budget a month in advance.

Presenting the Union Budget on 1st Feb instead or 28th (or 29th) Feb has the following advantage:

- The Finance Bill can be approved, getting all legislative approvals for annual spending and tax proposals, to be over by 31st March, before beginning of new financial year on 1st April.
- The delay in the several tax proposals coming into effect only after the Finance Bill is passed in May (earlier position) would be gone away, helping the companies and households to finalise their savings, investment and tax plans.
- The government expenditure can begin from 1st April, unlike the earlier delay of one month for getting approvals for spending.

Another significant departure from the traditional Budget presentation is the ***merging of Railway Budget in the Union Budget itself,*** which had been presented separately since the last 92 years.

2. Likeliness for a change in Financial year to Jan -Dec:

The Government is considering the proposal of Government's think-tank NITI Aayog to change in the Financial Year (1st Apr- 31st Mar) to 1st Jan – 31st Dec, in sync with the calendar year. Committee set up by the government in this regard has supported the move and listed out the pros and cons of a shift in the accounting period. While the economists are divided on the committee's recommendations, Chartered Accountants point out that the change will not impact the common man.

3. Demonetisation – Success or failure:

Demonetisation has several objectives like flushing out the black money hoarded in cash, converting the cash based economy into a digital one and achieving low crime rate making terror funding difficult and traceable.

While demonetisation could be of slow one or surgical one, but Indian Government chose for Surgical demonetisation, main aim being capturing black money hoarded in cash. It is of wide opinion that the surgical demonetisation has failed in this objective.

However, the demonetisation has positive impacts too. First, it broke the ***"chaltahain"*** attitude towards taxation rules. Though being one of aims of demonetisation earlier, the digital push has now become the main focus and can be said as the true success of Demonetisation move.

4. CRR ratio hiked in November has been withdrawn in its December Monetory policy review:

Banks witnessed large increase in liquidity post demonetisation and RBI, on Nov 26 of 2016 had hiked the Cash Reserve Ratio (CRR) by 100 % of the increase in net demand and time liabilities (NDTL) of Scheduled Banks between Sept 16 and Nov 11 of 2016. Later, with enhancement in ceiling limit for issue of securities under Market Stabilization Scheme (MSS), on 7th Dec, RBI has withdrawn the incremental CRR. The liquidity released by the discontinuation of the incremental CRR would be absorbed by a mix of MSS issuances and liquidity adjustment facility (LAF) operations.

5. Banks cut home loan interest rates, Benefit passed on only to loans linked to MCLR:

Following the Government's call to the Banks for cutting lending rates (taking into consideration the huge deposits received in banks post demonetisation), the Indian Banks have cut down the Home loan lending rates sharply. (SBI has cut its MCLR across all tenors by 90 basis points). The corporates and big players will more likely to get the immediate benefit as their loans are linked to MCLR. Thus, the old borrowers on base rate need to take a call on switching to MCLR or not taking into consideration the processing & other costs.

6. Pradhan ManthriAwas Yojana - broader interest subsidy:

The Prime Minister of India, in his speech to public on 31st Des 2016, announced for interest subvention of 4 % and 3 % on loans upto Rs. 9 lakhs and Rs. 12 lakhs respectively, against the initial scheme of providing loans upto Rs. 6 lakhs at subsidised rate of 6.5%. This is aimed for easing home loans to middle income category individuals.

7. Section 80 EE – Additional deduction of Rs. 50,000/- for home loans:

The Indian Government, in furtherance of the goal of providing 'housing for all', proposed to provide additional deduction in respect of interest on loan taken for residential property from any financial institution upto Rs. 50,000 under Section 80 EE of Income tax Act (in addition to the earlier deduction of Rs. One lakh). This applies for home loans amount not exceeding 35 lakhs sanctioned between 1st Apr 2016- 31st Mar 2017 for house property value < Rs. 50 lakhs. This is in addition to the deduction allowed under Sec 24 of the Act.

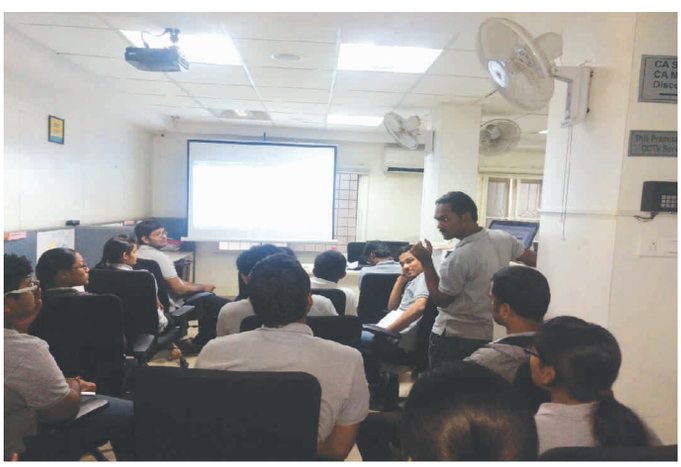
8. Fed increases interest rates for the second time in last decade:

As expected, US Federal Reserve has hiked FED Funds rate by 25 bps to 0.75% and also guided towards three rate hikes in 2017. This would result in temporary flow of capital into US government bonds as the returns will be higher. To India, Dollar outflows from India could weaken the rupee which puts pressure on government finances due to inflation of import bill with the crude prices on the rise and impacts Indian economy in several other ways.

These updates are contributed by P.Uday Kumar and vetted by CA Rajesh of SBS and Company LLP, Chartered Accountants. For any queries reach at rajeshd@sbsandco.com

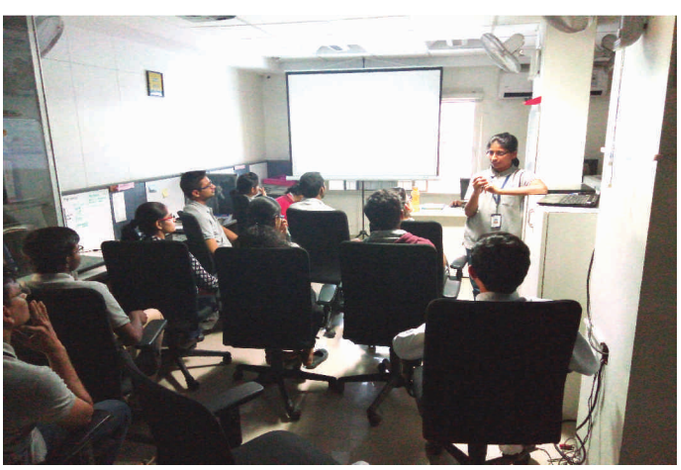
SATURDAY SESSIONS

S.No.	Event	Date	Speaker	Venue
1	Charitable Trust and Association-Taxation	21/01/2017	Kanakaraj	SBS - Hyd
2	Compliance procedures with respect to Sales Returns, Form 'C' and Form 'F'	28/01/2017	Chandra Shekar	SBS - Hyd
3	Form 1 under PMGKY , 2016	04/02/2017	Priya	SBS - Hyd



Filling of ODI Form (Part 1 &2) - Visweswar Rao

How to read Balance Sheet - Ratio analysis - Uday



Section 143(2),(3),(4) of the companies Act, 2013 - Samatha

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