ACCOUNTING AND COMPANY LAW

N. A. SHAH BULLETIN

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EXECUTIVE SUMMARY

- **Accounting**
  - The Institute of Chartered Accountants of India (ICAI) has issued an expert advisory opinion on accounting treatment of exchange variation arising in respect of foreign operations of the company held through a wholly owned foreign subsidiary company as per Accounting Standard (AS) 11. As per the opinion,

    a) The exchange differences arising on elimination of intra-group balances of monetary item should be recognized in the consolidated statement of profit and loss. Further, if such exchange difference arises on a monetary item which forms part of an enterprise's net investment in a non-integral foreign operations, it should be accumulated in Reserves under Foreign Currency Translation Reserve.

    b) In case Holding Company has policy of capitalizing exchange difference as per Para 46A of AS 11, the same accounting policy should also be applied to its subsidiary while preparing consolidated financial statement as per para 20 of AS 21. Further the impact of not applying the same in earlier period should be considered as prior period item.

  - In case of transition to Ind AS, exposure draft on amendments to Ind AS 101 clarifies that a first time adopter may elect to continue with the carrying value for a class (substituted from "all") of its Property, Plant and Equipment as recognized in the financial statements as at the date of transition.

  - Exposure Draft on Ind AS 115 (Revenue Contracts) clarifies how an entity should apply the model in terms of:

    - identifying performance obligation,
    - determining whether the entity is acting in the capacity of a principal or an agent,
    - And determining whether revenue from granting a license should be recognized at a point in time or overtime.

  - Clarifications are given by the 'Ind AS Transition Facilitation Group' (ITFG) of the ICAI on issues relating to applicability and / or implementation of the Ind AS.

  - Revised effective date of SA 701 and Revised SAs 700, 705, 706 is periods beginning on or after 1st April, 2018. Earlier it was effective from 1st April 2017.

- FAQ issued by ICAI on Revised Schedule VI to the Companies Act, 1956 is withdrawn.

- ICAI has issued FAQ on The Companies Act, 2013 covering 177 questions on various aspects covering incorporation, accounts, deposits, audit, CSR, etc.

- ICAI has issued draft Guidance Note on financial statements prepared as per Ind AS.

- FAQ on treatment of securities premium account under Ind AS on the date of transition is issued which clarifies that the excess of carrying value of financial liability as per Indian GAAP over the amortised cost amount as on transition date should be reversed by crediting the securities premium account with corresponding debit to the relevant account which was credited earlier.

- **Company Law**

  - Indian company can now merge with foreign company incorporated outside India with the prior approval of Reserve Bank of India.

  - Amount received from "Infrastructure Investment Trusts" are exempted from the definition of deposits.

  - The Time limit of accepting deposits without deposit insurance contract is extended from 31st March 2017 to 31st March 2018 or till the availability of a deposit insurance product, whichever is earlier.

1. Accounting

1.1. Expert advisory opinions

a) Accounting treatment of exchange variation arising in respect of foreign operations of the company held through a wholly owned foreign subsidiary company as per Accounting Standard (AS) 11, the Effects of Changes in Foreign Exchange Rates.

a. Facts of the case

- Indian public company ('Company') has Subsidiary A ('Subsidiary') located in USA and Subsidiary A has Subsidiary B ('Step down subsidiary') which is located in some other country. Subsidiary A and Subsidiary B are located and have operations outside India.

- Subsidiary A holds Participating Interest in some of its joint ventures (JV-A) whose functional currency is USD. Subsidiary A holds equity in (JV-A) which is incorporated in the domicile of subsidiary A.

- Subsidiary B holds certain participating interest in an oil and natural gas Joint Venture (JV-B) which is in US. The major part of the sales revenue of subsidiary B is received in USD but the operations of (JV-B) are carried out in local currency only.

- JV-A (lessor) has entered into a long term lease agreement with JV-B (lessee) for major oil field equipment like Floating Production Storage and Off-loading vessel (FPSO). These assets have been capitalized in the books of joint venture. The lease payments are planned to be settled through periodic payments in USD by the JV-B to JV-A.

- The querist has stated that the management and control of subsidiary B is located in respective overseas jurisdiction and the operations of subsidiary B are substantially managed from its own resources. Therefore, step down subsidiary B is considered as non-integral foreign operation of subsidiary A for the purpose of Consolidated Financial Statements ('CFS") in India.

- The Querist has stated that for the purpose of consolidation of subsidiary B's accounts with subsidiary A's account, the lease payables are restated in USD thereby generating exchange difference which is transferred to Foreign Currency Translation Reserve (FCTR) and lease receivables are accounted in the books of subsidiary A. Lease receivables and payables get knocked off with each other in consolidated accounts of A however the exchange differences arising are notional and do not have direct effect on cash flows of both subsidiaries A and B and these long-term lease receivables are in substance, subsidiary A's net investment in subsidiary B, accordingly these exchange differences should be accumulated in FCTR in the consolidated financials of subsidiary A until the disposal of the net investment at which time they should be recognized as income or as expense in accordance with AS 11. However subsequently, the querist has also informed that since the finance lease is planned to be settled by periodic lease payments in USD by the JV-B to JV-A, the provisions of AS 11 relating to net investment in non-integral foreign operation' are not applicable on long-term lease receivables.

- The Company, in the CFS, has adopted paragraph 46A of AS 11, wherein exchange differences arising on long term foreign currency monetary items, in so far as they relate to the acquisition of depreciable capital assets, can be capitalized. The querist has also stated that subsidiary B had not applied/followed provisions of paragraph 46A of AS 11, while the same was followed in the books of the parent company since 2011.

Query

- In view of the above facts, the opinion of the Expert Advisory Committee of the ICAI is sought on the following as to:
  - Whether the accounting treatment of exchange differences arising on long-term lease obligations is appropriate?
  - Can subsidiary B apply para 46A of AS 11? Will there be any prior period implication if subsidiary B now applies paragraph 46 A, since the holding company had already opted for the same in 2012-13?
  - Any other appropriate accounting treatment/disclosure in respect of exchange differences arising on long term lease obligations.

b. Points considered by the Committee

- The Committee has assumed that the determination of reporting currencies by the company is in accordance with the requirements of AS 11. The committee also notes that the joint venture has considered the asset acquired on lease in accordance with the requirements of AS 19, 'leases'.

- With regard to accounting treatment of the exchange differences arising on conversion of finance lease payable by subsidiary B to subsidiary A , the exchange differences should be recognized in the statement of profit and loss of JV-B and subsidiary B in accordance with the para 13 of AS 11 which states that the Exchange differences arising on the settlement of monetary items should be recognized as income and expenses in the period in which they arise subject to para 15 which states that "the exchange differences arising on monetary item which forms part an enterprise's net investment in a non-integral foreign operation should be accumulated in FCTR". Since the finance lease receivables in the financials of subsidiary A are planned to be settled in a periodic basis the question of consideration of the finance lease receivables in the nature of a monetary items that forms part of company A's net investment in subsidiary B does not arise.

- The committee notes para 29 of AS 11 which states that the exchange difference arising on an intra-group monetary item cannot be eliminated against a corresponding amount arising on other intra-group because the monetary item represents a commitment to convert one currency into another and exposes the reporting enterprise to a gain or loss through currency fluctuations. Accordingly in the CFS, such exchange differences continues to be recognized as income or expense or if it arises on a monetary item which forms part of an enterprise's net investment in a non-integral foreign operations should be accumulated in FCTR.

- With regard to applicability of para 46A , the committee is of the view that the finance lease installments that are scheduled to be paid on or after one year are in the nature of long-term monetary item and hence para 46A is applicable and as per para 20 of AS 21 the committee is of the view of that company should have applied paragraph 46A to subsidiary B as well while preparing its consolidated financial statements. Thus the impact of not applying paragraph 46A by subsidiary B in past in the context of consolidated financial statements, should be considered as prior period item and should be dealt with in accordance with AS 5, 'Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies'.

c. Opinion

- The accounting treatment followed by the company is not appropriate in case of exchange differences arising on long-term lease obligations. The exchange differences arising on finance lease payable in the stand-alone books of joint venture would continue to be recognized in the consolidated statement of profit and loss of subsidiary A (to the extent of subsidiary B's share in joint venture), even though the underlying finance lease payable (to the extent of subsidiary B's share in joint venture) is eliminated against the finance lease receivable. Further, if such exchange difference arises on a monetary item which forms part of an enterprise's net investment in a non-integral foreign operations, it should be accumulated in Reserves under Foreign Currency Translation Reserve.

- The company should apply para 46A to subsidiary B while preparing its consolidated financial statement. Further the impact of not applying paragraph 46A by subsidiary B in past in the context of consolidated financial statements, should be considered as prior period item.

1.2. Exposure drafts for amendments in Ind AS issued by ICAI

- Amendment to Ind AS 101 related to deemed cost. This amendment is applicable for the annual periods beginning on or after 1st April, 2017, subject to notification from MCA.

  In case of transition to Ind AS, exposure draft on deemed cost clarifies that a first time adopter may elect to continue with the carrying value for a class (substituted from "all") of its Property, Plant and Equipment as recognized in the financial statements as at the date of transition. Further as per the amendment, if deemed cost is adopted, consequential adjustments in accordance with other requirement of other Ind AS need to be made.

- Ind AS 115, Revenue from Contracts with customers

  The exposure draft clarifies how an entity should apply this model in terms of:
  a) Identifying a performance obligation
  b) Determining whether the entity is acting in the capacity of a principal or an agent, and
  c) Determining whether revenue from granting a license should be recognized at a point in time or overtime.

1.3. Bulletins on Ind AS issued by ITFG

Issue. No.	Query	Clarification
1.	Whether provision for unspent Corporate Social Responsibility	No.

Issue. No.	Query	Clarification
	(CSR) expenditure is required to be made as per Ind AS?	Any unspent CSR expenditure not be required in the financial statements unless there is an obligation as per Ind AS 37.
2.	Whether an entity is required to disclose the impact of Ind AS 115, Revenue from Contracts with Customers (as required by paragraph 30 of Ind AS 8) in its financial statements as prepared as per Ind AS?	No. In accordance with Paragraph 30 of Ind AS 8 ''Accounting Policies, Changes in Accounting Estimates and Errors'', an entity is required to disclose the impact of Ind AS which has been issued but is not yet effective. However, an entity is not required to disclose the impact of Ind AS 115 for the financial year ending March 31, 2017 as Ind AS 115 has been omitted from the Rules.
3.	For transition to Ind AS, is the balance sheet required to be prepared on the date of transition at the end of the day or the start of the day? (e.g if the transition date is April 1, 2016, then balance sheet to be prepared will be close of day of April 1 or start of day of April 1 (i.e. closing of March 31)	Balance sheet will be prepared as on date of transition to Ind AS, i.e. the beginning of business on 1 April 2016 (or, equivalently, close of business on 31 March 2016).
4.	ABC Ltd. is a first-time adopter of Ind AS and has opted for deemed cost exemption as per paragraph D7AA of Ind AS 101, First-time Adoption of Ind AS. It had capitalised an item of property, plant and equipment under previous GAAP even though it did not meet the definition of an asset. Whether this asset cost can also be continued to be	No. As per paragraph D7AA of Ind AS 101, the option of deemed cost exemption can be availed for property, plant and equipment measured as per previous GAAP. The incorrect capitalisation of the item of property, plant and equipment did not meet the definition of asset as per previous GAAP and the definition of

Issue. No.	Query	Clarification
	capitalised under deemed cost exemption.	'Property, plant and equipment' as per Ind AS 16, accordingly the deemed cost exemption under paragraph D7AA of Ind AS 101 cannot be availed for those assets. Further, the incorrect capitalisation of asset which does not meet the definition of tangible asset will be covered under paragraph 26 of Ind AS 101 being an error, and the disclosure of the same should be done as per paragraph 24 of Ind AS 101.
5.	MNC Ltd. is a first-time adopter of Ind AS. It has elected to measure its property, plant and equipment at deemed cost measured as per paragraph D6 of Ind AS 101, i.e. at its previous GAAP revaluation amount measured before the date of transition (assuming the revaluation is broadly comparable to cost in accordance with Ind AS). Whether it can reverse the impairment provision recognised in books as at the date of transition. Would the answer be different if the company has not opted for the deemed cost exemption given under Ind AS 101 and has elected to apply Ind AS 16 retrospectively.	No. If deemed cost is adopted then accumulated depreciation / impairment on date of transition is not relevant. Yes. Impairment provision can be reversed subsequently if deemed cost model is not adopted and Ind AS 36 is applied retrospectively.

Issue. No.	Query	Clarification
6.	Company A has multiple subsidiaries. All subsidiary companies have a negative net worth as at 31st March 2015. Company A is required to apply Ind AS from 1st April, 2016. How will the company account for accumulated losses as at 31st March 2015 pertaining (under the earlier GAAP) to the non-controlling interest in its consolidated financial statements as on the date of transition- (i)If Company A decides to avail the exemption for all business combination before the date of transition as per Appendix C of Ind AS 101, First-time Adoption of Indian Accounting Standards? (ii) If Company A elects to apply Ind AS 103, Business Combinations, retrospectively to past business combinations i.e., restating the business combinations that occurred before the date of transition to Ind AS from the date of its choice ?	If a company elects to apply a date prior to the transition date for the purpose of applying Ind AS 103, non-controlling interests should be calculated after all assets acquired, liabilities assumed and deferred taxes have been adjusted under Ind AS 103, *Business Combinations*. If Company A decides to avail the exemption for business combination as per Appendix C of Ind AS 101, in respect of all business combinations that occurred before the date of transition, then the company shall apply the requirement in paragraph B94 of Ind AS 110 of attributing the total comprehensive income to the owners of the parent and to the non-controlling interests prospectively. If Company A elects to apply Ind AS 103, Business Combinations retrospectively to past business combinations i.e., restating the business combinations that occurred before the date of transition to Ind AS from the date of its choice, then the company should account for attribution of losses to the non-controlling interest in accordance with paragraph B 94 of Ind AS 110,

Issue. No.	Query	Clarification
		retrospectively from the date of application of Ind AS 103, in its consolidated financial statements as on the date of transition.
7.	A company is a first-time adopter of Ind AS. It has opted for exemption under paragraph D7AA of Ind AS 101, First-time Adoption of Ind AS and also elected the cost model under Ind AS 16, Property, Plant and Equipment for subsequent measurement. On the date of transition to Ind AS: (i) What will be the accounting treatment of the balance outstanding in the "Revaluation Reserve" created as per previous GAAP?	The revaluation reserve should be transferred to retained earnings or if appropriate, another category of equity disclosing the description of the nature and purpose of such amount in accordance with the requirements of paragraph 79(b), Ind AS 1, Presentation of Financial Statements. This is because after transition, the Company is no longer applying the revaluation model of Ind AS 16, instead it has elected to apply the cost model approach, further the requirements of Companies Act, 2013 for declaration of dividend will be required to be evaluated separately.
	(ii) What will be the treatment of deferred tax on this transition revaluation reserve?	In accordance with Ind AS 12, Income Taxes, deferred tax would need to be recognised on any difference between the carrying amount and tax base of assets and liabilities. No deferred tax is created on equity components. However, since the asset has been revalued, there will be difference for the amount between carrying value and tax base. Hence, deferred tax will have to be recognised on such asset.
8.	MNC Ltd. is a first-time adopter of Ind AS. It had taken a foreign	Deferred taxes is required to be recognised for all taxable and

Issue. No.	Query	Clarification
	currency loan for USD 100 million on March 31, 2013 for construction of its property, plant and equipment (PPE). The company had availed the option given under paragraph 46/46A of AS 11, The Effects of Changes in Foreign Exchange Rates notified under the Companies (Accounting Standards) Rules, 2006 and accordingly, exchange gain/loss on such foreign currency loan had been added to or deducted from the cost of PPE. On the date of transition to Ind AS, the Company has opted for the exemption given under paragraph D13AA of Ind AS 101, First-time Adoption of Ind AS. As per section 43A of Income Tax Act, 1961 such exchange differences capitalised are not allowed deduction under the Income Tax. Whether deferred tax is to be recognised on such differences that are arising from adjustment of exchange difference to the cost of the asset or can it be said that these meet the initial recognition exemption under paragraph 15(b) of Ind AS 12, Income Taxes, and hence no deferred tax is required to be created on the same?	deductible temporary differences except in specified situations e.g. if it arises from initial recognition of an asset or a liability. However, adjustment to the cost of the asset due to exchange difference is a subsequent transaction and does not arise on 'the initial recognition of an asset or liability'. In other words, capitalisation of the exchange differences (including the exchange differences prior to the date of transition) represents subsequent measurement of the liability which has been adjusted to the cost of the asset. Accordingly, in the given case, initial recognition exemption will not be available and deferred tax is required to be recognised on temporary difference arising from capitalised exchange differences.
9.	How should the dividend income on an investment in debt instrument be recognised in the books of an investor?	Dividend income on debt instruments shall be recognized in the form of interest by way of amortized cost, fair value through OCI or fair value through

Issue. No.	Query	Clarification
		P&L as per requirement of Ind AS 109.

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1.4. Clarification on ITFG Bulletin 5 (Revised)

Issue. No.	Query	Clarification
1.	PQR Ltd. had obtained a loan prior to April 1, 2015. The processing fees on the loan were capitalised as part of the relevant fixed assets as per the previous GAAP. PQR Ltd. is required to adopt Ind AS from financial year 2016-17. It has chosen to avail deemed cost exemption provided in paragraph D7AA of Ind AS 101, i.e., to continue with carrying value of property, plant and equipment as per the previous GAAP. The loan needs to be accounted for as per amortised cost method in accordance with Ind AS 109, Financial Instruments. Whether PQR Ltd. is required to adjust the carrying amount of fixed assets as per the previous GAAP to reflect accounting treatment of processing fees as per Ind AS 109?	Yes. To reduce the unamortized cost of processing fees from carrying value of PPE and the balance amount will be considered as deemed cost for Ind AS 101. These consequential changes in carrying value of assets would not be construed as an adjustment to the deemed cost of property, plant and equipment as envisaged under paragraph D7AA of Ind AS.
2.	ABC Ltd. is a first-time adopter of Ind AS from the financial year 2016-17. It had received government grant from the Central Government during the financial year 2012-13 to purchase a fixed asset. The grant received from the Government was deducted from the carrying amount of fixed asset as permitted under previous GAAP, i.e. AS 12, Accounting for Government Grants. ABC Ltd. has chosen to continue with carrying	Yes. Unamortized balance of grant to be added to carrying value of PPE and to recognise the amount of unamortised deferred income as at the date of the transition in accordance with paragraph 10 of Ind AS 101. It would not be construed as an adjustment to the deemed cost of property, plant and equipment as envisaged under paragraph D7AA of Ind AS.

	value of property, plant and equipment as per the previous GAAP as provided in paragraph D7AA of Ind AS 101. As per Ind AS 20, Accounting for Government Grants and Disclosure of Government Assistance, such a grant is required to be accounted by setting up the grant as deferred income on the date of transition and deducting the grant in arriving at the carrying amount of the asset is not allowed. In this situation, whether ABC Ltd. is required to adjust the carrying amount of fixed assets as per previous GAAP to reflect accounting treatment of the government grant as per Ind AS 20?	

1.5. Date deferred for changes in Standards on Auditing

SA 701, and revised SAs 700, 705 & 706 were approved and were applicable for periods beginning on or after 01st April, 2017, However the request by the members and deliberations, the Council has decided that the effective date/ applicability of SA 700 (revised), SA 701, SA 705 (Revised) and SA 706 (revised) be deferred by one year and shall now be effective/ applicable for the period beginning on or after 01st April, 2018.

1.6. Withdrawal of FAQ on Revised Schedule VI

The Corporate Laws & Corporate Governance Committee (CL&CGC) of the Institute of Chartered Accountants of India (ICAI) had issued the Frequently Asked Questions on the Revised Schedule VI to the Companies Act, 1956 in May, 2012

The Committee decided to withdraw Frequently Asked Questions on the Revised Schedule VI to the Companies Act, 1956.

1.7. FAQ on Companies Act, 2013 issued by ICAI

To facilitate the understanding and interpretation of the provisions of Companies Act, 2013, the ICAI has issued a set of Frequently Asked Questions (FAQs). It also covers proposed Companies (Amendment) Bill, 2016.

1.8. Draft Guidance Note on Division- II Ind AS Schedule III

The objective of this draft Guidance Note is to provide guidance in the preparation and presentation of financial statements in accordance with various aspects of Ind AS with emphasis on practical issues that may arise in the implementation of Ind AS while preparing financial statements as per Ind AS.

Guidance given in 'Guidance Note on Schedule III to the Companies Act, 2013' published in February 2016 would continue to be applied by for financial statement prepared as per IGAAP i.e. non-Ind AS.

1.9. FAQ on treatment of securities premium under Ind AS on the date of transition

Issue: The Company had issued non-convertible debentures redeemable at premium which were outstanding as on 31st March 2015. The company has utilized the Securities Premium Account to provide for debenture redemption premium payable and to write off debenture issue expenses, what retrospective accounting adjustments in this regard are required to be done in the books under Ind AS on transition date.

Response: Non-convertible debentures (financial liability) in the given case are classified and subsequently measured at amortised cost under Ind AS 109. Accordingly, Company ABC Ltd. will have to arrive at the amortised cost at the date of transition by applying the effective interest method (EIM) with retrospective effect from the date of issue of debentures.

The Securities Premium Account utilised in past may result into higher carrying amount of non-convertible debentures as per Indian GAAP compared to amortised cost carrying amount required as per Ind AS 109 as on transition date and the excess amount needs to be reversed into an appropriate component of equity.

According to Ind AS 101, an entity shall recognise the adjustments which arise from events and transactions before the date of transition to Ind ASs, directly in retained earnings at the date of transition to Ind ASs.

Therefore, the appropriate category of equity for reversal of the excess carrying amount of non-convertible debentures in this case is the Securities Premium Account. Accordingly, the excess of carrying value of financial liability as per Indian GAAP over the amortised cost amount as on transition date should be reversed by crediting the Securities Premium Account with corresponding debit to the relevant account which was credited earlier

2. Company Law

2.1 Cross border merger and amalgamation

The amendment to Companies (Compromises, Arrangements and Amalgamations) Rules, 2016 will now allow merger of foreign company with Indian Company and vice versa subject to prior approval of Reserve Bank of India.

2.2 Amendment in Companies (Acceptance of Deposits) Rules, 2014

Following changes are made as per the amendment to Companies (Acceptance of Deposits) Rules, 2014:

a) Amount received from "Infrastructure Investment Trusts" are exempted from the definition of deposits.

b) The Time limit of accepting deposits without deposit insurance contract is extended from 31st March 2017 to 31st March 2018 or till the availability of a deposit insurance product, whichever is earlier.

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