



भारत 2023 INDIA

वसुधैव कुटुम्बकम्

ONE EARTH • ONE FAMILY • ONE FUTURE

# THIRUVANANTHAPURAM BRANCH

OF SOUTHERN INDIA REGIONAL COUNCIL OF  
**THE INSTITUTE OF CHARTERED  
ACCOUNTANTS OF INDIA**

# NEWS LETTER

May 2023  
Edition



# THE CHAIRMAN'S MESSAGE



Dear Professional Colleagues,  
Warm Greetings

We all know that Technology has changed the way in which the world does business. Our profession, inevitably the vital partner in doing a business, is now accordingly fully 'Tech Driven'. As the pace of technological change accelerates, we should be geared up to quickly Learn and Adapt. The days when Chartered Accountants were regarded as mere Bookkeepers are now history. The current situation presents a challenge to our ability, to adjust our attitude and techniques, in order that we may be able to provide the various types of services demanded by the business community, Government and other entities which are subject to stresses and strain of economic growth. From simple bookkeeping, we as a fraternity have worked together down the new age path of technology-based auditing, forensic audit, Artificial Intelligence and valuation and the like. Our branch will organise workshops on these relevant technologies that a Chartered Accountant should master. As you are aware Social Auditing is a new emerging area where our members can contribute significantly. It is my desire that the member in large numbers should qualify as social auditors from our branch. With this aim, it is planned to form a "helpdesk" to guide members to register, prepare and pass our Institute's 'Social Auditors' Certificate program.

I would also request members, especially young members, to enrol as faculties in different subjects. I am extremely happy that few of our members responded to our request to undergo the two days" Faculty training programme" being organised by SIRC at Chennai in respect of emerging technologies. I assure you that in the coming months, we will be coming up with a series of Seminars/Workshops/ and practical Programmes on contemporary subjects. In the coming months, We will be celebrating World Environment Day on June 05th, International Yoga Day on June 21st and International MSME Day on June 27th 2023. I earnestly request all fellow members to participate in the respective events that our branch is organising, with enthusiasm.

**CA. Ramakrishnan H.**  
**Chairman,**  
**Thiruvananthapuram Branch of SIRC of ICAI**

# SECRETARY' S REPORT



Dear Members,

April, A month of festivities was over. Members were also busy with bank audit schedules. We at our branch conducted a half-day CPE seminar on the Audit trail. The speaker for the session was Regional Council Member CA Rekha Uma Shiv. We are extremely grateful for her valuable interactive session.

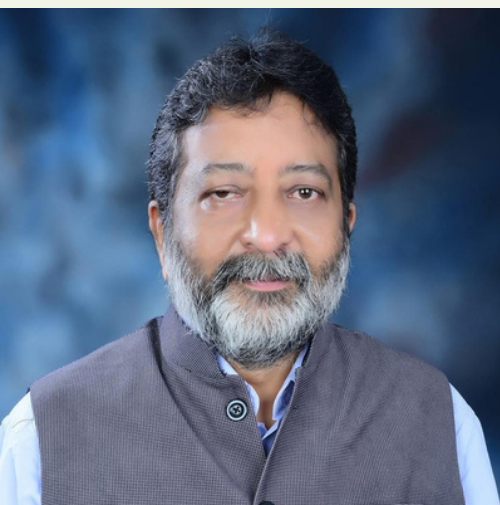
The branch also conducted a series of mock tests for Foundation, Intermediate and Final students. Unlike previous years, we tried to evaluate the answer papers for the students with the most appreciated efforts of CA Josh Joseph Karukayil and CA Arjun S Ajay. The Branch sincerely thanks both for their willingness to provide such services even in their hectic work life.

For the month of May, we will be having a CPE seminar on Valuation under Income Tax Act & FEMA, Social Audit & Social Auditors -Opportunities for CAs and Input Tax Credit - Practical Case Studies. Our Branch is planning to conduct certificate courses on Concurrent Audit and Social Audit during the coming months. We hope our members will make use of the courses.

We are delighted with the overwhelming response of our members to the Annual Registration Scheme 2023-24. On this occasion, we would like to remind our members about the utilisation of the benefits which we have added to the ARS card. We assure you that we will be adding more benefits for the welfare of our members. The due date of payment has been extended to the 31st of May for those who haven't registered yet.

**CA. Julie G. Varghese**  
**Secretary,**  
**Thiruvananthapuram Branch of SIRC of ICAI**

# ARTICLE



## THE DOCTRINE OF NECESSITY:

**A Legal Principle for Addressing Unforeseen Circumstances in Business and Beyond**

Are you prepared to deal with unforeseen events in your clients' businesses? Discover how the Doctrine of Necessity can serve as a legal framework for dealing with crises and ensuring business continuity.

**CA. M R Ranjit Karthikeyan**

*ranjit@karthikeyan.ca*

### Introduction

The Doctrine of Necessity is a legal principle that allows individuals or authorities to act outside of standard procedures or norms when necessary. It is a principle that is applied when there is a potential conflict of interest or when the greater good requires it. This legal principle allows for the justification of actions that would otherwise be unlawful or unconstitutional in emergency or crisis situations where the usual procedures or norms cannot be followed. The Doctrine has been used in several major judicial decisions, and it is a principle that continues to have relevance in the modern world.

### The necessity principle

The Latin maxim "Salus populi suprema lex esto," which translates to "Let the welfare of the people be the supreme law," is frequently used to explain the Doctrine of Necessity. This maxim is frequently cited in situations where decision-makers have a conflict of interest or potential bias, and the Doctrine of Necessity is invoked to ensure that necessary actions can be taken in the interest of the greater good, even if it means deviating from normal procedures. The maxim emphasises the importance of putting people's welfare ahead of all other considerations, including legal technicalities or personal interests.

The Doctrine of Necessity is invoked in the context of Company Law when a situation requires immediate action but the usual procedures or norms cannot be followed. For example, when a company is facing a crisis or an emergency situation, the Board of Directors may be required to make decisions that deviate from standard procedures or norms. The Board may use the Doctrine of Necessity to justify its actions in such cases.

# THE DOCTRINE OF NECESSITY:

## Regulating Corporate Entities in India

The Companies are prohibited by Section 185 of the Companies Act of 2013 from directly or indirectly providing loans, guarantees, or securities to their directors, their relatives, or firms in which they or their relatives are partners. However, the section allows loans to be made to anyone in whom any of the company's directors has an interest, subject to certain conditions, such as the passage of a special resolution in a general meeting and the use of the loan for the borrowing company's primary business activities. Any violation of this section may result in fines or imprisonment for the officers or directors of the company involved.

Despite the prohibition in Section 185 of the Companies Act of 2013, the doctrine of necessity can be invoked in situations where a company urgently needs to provide a loan or guarantee to a person in whom any of its directors has an interest. This is possible if the company can demonstrate that the loan or guarantee is required to protect its primary business activities and that providing such loan or guarantee is in the best interests of the company. Such actions, however, should be taken only after obtaining legal advice and board approval, and the company should ensure compliance with all other applicable laws and regulations.

Due to a lack of quorum, the Competition Commission of India is currently experiencing delays in approving mergers and acquisitions. The CCI only has two members and the Chairperson position is vacant. To address this issue, the CCI intends to employ the 'doctrine of necessity,' which allows certain activities that are normally prohibited. The Attorney General has provided a positive opinion to the corporate affairs ministry on the use of the "doctrine of necessity" by the CCI to examine combinations. It should be noted that the corporate affairs ministry is the CCI's administrative ministry.

When confronted with a crisis or emergency situation, the Doctrine of Necessity is a legal principle that allows individuals or institutions to take actions that are not normally permitted. While this principle can be useful in exceptional circumstances, it should not be interpreted as permission to disregard established procedures or norms whenever it is convenient. When invoking the Doctrine of Necessity, a Board must carefully consider the circumstances. The Board must be able to demonstrate that there is a genuine crisis or emergency situation requiring immediate action and that standard procedures or norms cannot be followed. In other words, before invoking the Doctrine of Necessity, the Board should exhaust all other options.



# THE DOCTRINE OF NECESSITY:

Additionally, the Board must ensure that the actions taken under the Doctrine of Necessity are in the best interests of the company and its stakeholders. The Board should be transparent about the situation and communicate to all relevant stakeholders its rationale for invoking the Doctrine of Necessity. This powerful legal principle that can be useful in exceptional circumstances. However, it should not be used as a shortcut or an excuse to bypass established procedures or norms. A Board must carefully consider the circumstances and ensure that the actions taken under the Doctrine of Necessity are in the best interests of the company and its stakeholders.

## Judicial Decisions

The Doctrine of Necessity has been applied in several major judicial decisions around the world. In India, the Supreme Court has applied the Doctrine in several cases, including *Keshavananda Bharati v. State of Kerala (1973)*, where the court applied the Doctrine to uphold the constitutional validity of amendments made to the Indian Constitution. In *Union of India v. V. Sriharan alias Murugan (2016)*, the court applied the Doctrine to justify the appointment of a retired judge to head a commission of inquiry into the assassination of former Prime Minister Rajiv Gandhi.

The judicial decisions based on the Doctrine of Necessity have been varied and have covered a range of legal contexts. In constitutional law, the Doctrine has been invoked to justify the suspension of certain constitutional provisions during times of emergency or crisis. In *Bangladesh v. Chief Martial Law Administrator*, the Bangladesh Supreme Court invoked the Doctrine to justify the suspension of certain constitutional rights during a period of martial law.

In prison law, the Doctrine has been invoked to justify actions that would otherwise be considered unlawful or unconstitutional in order to maintain order and security in prisons. In *R v. Governor of Brockhill Prison ex parte Evans*, the UK House of Lords invoked the Doctrine to justify the use of force by prison officers to prevent a prisoner from escaping.

In human rights law, the Doctrine has been invoked to balance the protection of individual rights with the need to address emergency situations. In *Re Northern Ireland Human Rights Commission*, the UK Supreme Court invoked the Doctrine to justify the use of anti-terrorism laws to prevent a serious threat to national security.

In military law, the Doctrine has been invoked to justify actions that would otherwise be considered unlawful or unconstitutional during times of war or military conflict. In *Hamdan v. Rumsfeld*, the US Supreme Court invoked the Doctrine to justify the use of military commissions to try detainees captured during the war on terror.

# THE DOCTRINE OF NECESSITY:

## Conclusion :

The Doctrine of Necessity is a fundamental legal principle that recognises that actions that would otherwise be considered illegal or unconstitutional may be necessary in certain emergency or crisis situations. A powerful tool that enables decision-makers to act in emergency situations where standard procedures or norms cannot be followed. While it is a recognised principle in many countries, it must be invoked with caution, and the actions taken must be proportionate to the crisis or emergency situation at hand. However, this doctrine should not be used as a convenient way to bypass the usual rules whenever it is convenient. Decision-makers must proceed with caution and ensure that their actions are reasonable, proportionate and in the best interests of the company and its stakeholders.

The Doctrine of Necessity, in the context of Company Law, provides a framework for companies to take swift action to address situations that threaten the company's financial or operational stability. Overall, the Doctrine of Necessity is a useful tool for dealing with unforeseen circumstances, and its acceptance and application in legal systems all over the world demonstrate its continued relevance in modern times. Finally, the Doctrine of Necessity serves as a reminder that the law is not rigid, and that in exceptional circumstances, decisionmakers must exercise their discretion and act appropriately.

\*\*\*\*\*

# CLIMATE ECONOMICS

## SIGNIFICANCE OF A STATE WASTE- MANAGEMENT POLICY

IN THE BACKDROP OF BRAHMAPURAM PLANT FIRE INCIDENT :



**CA. Soya K**

Financial Controller , Kerala Financial Corporation

For the past months residents of Kochi and its suburbs have been literally experiencing a live-in virtual gas chamber phenomenon — surrounded by irate smoke emanated from the massive fires that broke out at the Brahmapuram waste treatment plant. The toxic components of the fumes released from here, have left hundreds complaining of severe health issues, and experts rang the alarm bells for the maladies yet to come. Instead of getting into the politics involved with this, as a responsible citizen I would like to share few of my wild thoughts with the readers which I think is highly relevant at this juncture

I don't have the scientific knowhow to comment on the future causalities that may arise in connection with the exposure of the pollutant smoke to the public, which still fumes out from the garbage heaps at Brahmapuram Plant. As a tax paying citizen of the country, we all have the right to know what really had happened at Brahmapuram and what are the steps initiated by the authorities to ensure that such causalities are not repeated in the future. As always we wait for causalities to find solution for a problem. The apprehensions of the common man on this incidents should be extinguished for ever along with the fire that erupt at the waste treatment plant site. No one is to be blamed other than each of us for aggravating this issue of waste disposal mismanagement to this magnitude

One would be astonished to know that our nation does not have a clear policy mandate on waste management. As far as our state is concerned, decentralised waste management would be an ideal choice as it ensures the waste to be processed at its origin itself. Steps should be initiated by the authorities, irrespective of State or Central to bring down the usage of non-recyclable plastic in day to day life. Unfortunately, thanks to the supermarket culture which devoured the society most of the food products are promoted in ornated polythene covers. Gone are the memories of milk man supplying milk in glass bottles or steel utensils kept in our door steps as well as buying groceries from the neighbourhood shop packed in old newspaper. In those days we never had to worry about disposal of plastic as its usages were limited to petty kitchen utensils. It is quite impossible to halt the system overnight, but can definitely downsize its pace if required amendments are made in the law. Governments can levy tax on the manufacturer who pack the food items in plastic/polythene containers. Simultaneously Start ups should be encouraged to come up with novel ideas on improvised environment friendly packing concepts for which financial institutions should extend entrepreneur friendly loans, supported with Government subsidies. The same way, waste treatment unit should be made mandatory for every house hold including shopping complexes and the installation of the same must be aprecondition to obtain building permit for construction from the concerned local bodies. On consumer side, we should think of alternate options to get things packed in environment friendly manner avoiding plastic casings. As we lack a waste management policy, the same should be drafted at the earliest and must be implemented on war foot.



# CLIMATE ECONOMICS

## SIGNIFICANCE OF A STATE WASTE- MANAGEMENT POLICY

### IN THE BACKDROP OF BRAHMAPURAM PLANT FIRE INCIDENT :



As per the 26th session of the Conference of the Parties (COP26) to the United Nations Framework Convention on Climate Change (UNFCCC) held in Glasgow, United Kingdom, India is committed to reduce its carbon emission by 1 billion by 2030 and reduce the dependence of the economy on carbon by 45% by the end of the decade at the COP26 Glasgow summit. It also aspires a net zero carbon emission by 2070. Country have initiated many steps aiming this. The Nationally Determined Contribution (NDC) report of India aims at 40% of energy generation from clean energy and a 33–35% reduction in emission intensity of GDP by 2030. India today is spending on energy-efficient lighting and renewable electricity more than ever. As being witnessed in Brahmapuram, mismanagement of waste can lead to widespread pollution and disturbs the ecological balance and the environmental goals set by the country may become hard to reach. At the same time it will not be logical to completely desert the industrial aspirations of the country for the sake of environmental goals alone. It should be like the Economy and Environment Go Hand in Hand. This will require the collective efforts of the government and the people. This is possible when people abide by the rules and regulations formed by the government towards reduction of climate change. Next time when we think of dropping our house plastic waste to the neighbour hood, Brahmapuram incident should flash in our mind. If it had happened at Cochin today the same thing can replicate to other cities if no remedial steps are initiated by the authorities. The government shall also create awareness and boost the motivation of the people via rewards. Our state, supposed to be the “Gods own country” for the visiting tourists from all over the world, could successfully maintain the status quo only if collectively we stand for a judicious waste management practice. But all this will be in vain unless we take some bold steps to ensure that, incidents like Brahmapuram are not repeated

\*\*\*\*\*

# APRIL 2023 SNAPS



## CPE SEMINAR ON AUDIT TRAIL

Rekha Uma Shiv was the Speaker



Former Chairman CA. Shivaraman P K  
Honoring the Speaker with a Ponnada.



# MSME SUMMIT At Kochi on 01 April 2023



# ALL KERALA MANAGING COMMITTEE MEET Conducted at Thrissur





## MOCK TEST Series II

Branch has conducted Mock test Series II for INTER & FINAL for the May2023 Exam



## MOCK TEST Series I

Branch has conducted Mock test Series I for CA Foundation June2023 Exam







## ANNUAL REGISTRATION SCHEME 2023-24 (ARS)

We are extremely thankful to you for your overwhelming response to the Annual Registration Scheme

We, the Managing Committee of the Thiruvananthapuram Branch are happy to announce the ARS fees for 2023-24 as Rs.6490/- (inclusive of GST) with a marginal increase of Rs. 590/- (inclusive GST).

You may register/renew the ARS 2023-24 in online mode at:

**<https://www.onlinesbi.sbi/sbicollect/icollecthome.htm?corpID=2223980>**

However, those finding it difficult to register/renew in online mode may do it physically at the branch office.

The last date for Registration / Renewal is extended up to **31st May 2023**.

Soliciting your continued wholehearted valuable cooperation and support.

We assure you that we would give you the best programs that will be of great value to the professionals in the present era and will enable you to stay alert to the changes in our professional arena.



# June Month's



1 June	PHILOMINA ASHOK JOSEPH
1 June	ANILKUMAR PARAMESWARAN
3 June	DEEPAK B
4 June	SIVADASS BALAKRISHNAN KARTHA
4 June	MUKUNDA LAL
6 June	REMYA C
6 June	FELIX M
8 June	P MOHANACHANDRAN NAIR
9 June	DINU CHANDRAN R
9 June	AJIT R
10 June	RAKESH R S
12 June	JOY J
13 June	K THOMAS JACOB
13 June	SHIVARAMAN P K
14 June	DEVARAJ P R
16 June	DEEPA R ACHARI
16 June	SANKARA NARAYANAN SATHIAVAGEESWARAN
17 June	FELLEGRIN JOHN J
23 June	GOPIKRISHNAN S
28 June	SALEEM PADMAVATHY VASU
29 June	UNNIKRISHNAN NAIR A
30 June	M.B. SANIL KUMAR
30 June	SRIRAM A

# Invitation for **ARTICLES / WRITEUPS :**



Articles / Writeups are hereby invited from members on any key topics to be published in the upcoming e-Newsletter. Members may kindly send their articles to [trivandrum@icai.org](mailto:trivandrum@icai.org) with cc to [icaitvm@gmail.com](mailto:icaitvm@gmail.com) with the subject line "Article for Newsletter" on or before the 05th of the following month along with mentioned details:

1. Name
2. Membership Number
3. Contact Number
4. E-mail id
5. Photo
6. Article in docx format

The views and opinions expressed or implied in this E-NewsLetter of the Thiruvananthapuram Branch of SIRC of ICAI are those of the Authors and do not necessarily reflect those of the Thiruvananthapuram Branch of ICAI. Unsolicited articles and transparencies are sent in at owner's risk and the publisher accept no liability for loss or damage. Material in this publication may not be reproduced, Whether in part or in whole, without the consent of the Thiruvananthapuram Branch.