The Institute of
Chartered Accountants of India
(Set up by an Act of Parliament)
Thrissur Branch of SIRC of ICAI

Issue 5: pages 1-11 E-news letter August 2020

# Dominance of Online Platform

# Chairman's Message

Dear professional colleagues,

"The only thing that is constant is, change"- says the ancient Greek Philosopher Heraclitus.

This is particularly true to the professional life of a Chartered Accountant. Well, we all wish to stick with what we learned from books and also with experience. But the experience become irrelevant when there is a change in law or procedure

I am referring to the new faceless Income tax assessment procedure. Till yesterday going to income tax office was part of our routine. 15 years ago all income tax Returns were being filed physically and it changed. The transition to e filing was very smooth. Till very recently all documents were being physically transmitted to Income Tax office in an assessment procedure which changed to electronic filing of documents. Now assessment itself changed to remote place.

Gone are the days when an assessment procedure gets completed on familiarity with people or even business practice, customs, tradition. As partners in nation building, we welcome all these changes even at the expense of our comfort levels, because these changes are for good. The biggest change however is that the assessments are going to be completed using artificial intelligence (AI) and Data Analytics (DA). Tomorrows successful tax practitioner is the one who embrace the change in three aspects (1) updating knowledge(2) Adopting latest technology (3)Possessing the best communication skill

Last month our branch witnessed the mega event Jwala, the two day event organised jointly by the branch and womens club of Thrissur branch. Five dynamic lady members presented papers on various topics. They are CA Srilakshmi G, CA Preetha Shenoy, CA Pooja MP, CA Anjana T Thomas and CA Valentina Joe. I am really glad to note that all the faculties presented papers in the most professional manner. Mrs Sheela Kochouseph was the chief guest of the program. The lone lady member in the Central council CA Kemisha Soni was the guest of honour. CA Babu Abraham kallivayalil, the central council member, CA DC Jain, the SIRC chairman, CA jomon K George, past SIRC chairman and our ex officio member and the lady members of SIRC, CA AB Geetha and CA Revathy Raghunathan addressed the gatherings. The meeting was attended by close to 200 members.

Independence Day was celebrated at the branch level with a simple flag hoisting ceremony. All the management committee members and branch staff were present on the occasion.

During the month, we conducted two VCMs on Tax audits u/s 44AB of the Income Tax Act. On 21/8/2020, CA Anatharaman TR from our branch presented a paper on clause by clause analysis of Form 3CD. On 28/8/2020 CA Jai Ganesh also from our branch was the faculty for another VCM on Income Tax Computation and Disclosure Standards. I congratulate both the above members for their efforts.

Also on 18.8.2020 I addressed intermediate May 2021 batch of the branch as part of Career counselling program. Close to 100 students attended the program. The Management Committee of the branch also met once during the month ie on 15.8.2020.

Jai ICAI Jai Hind

**CA. Anoop G**

**Chairman**

# Office Bearers

*Chairman*

**CA Anoop G**

*Vice chairman*

**CA Aryan K K**

*Secretary*

**CA Ajith Kaimal R**

*Treaurer*

***CA. Satheesh T G***

*SICASA Chairman*

***CA. Anoop Francis***

*In charge of newsletter*

**CA Jeen Paul**

*Past chairperson &*
*Academic coordinator*

**CA Silpa Ramdas**

# Inside

CA Manikandan C K

# COMPLIANCE & AUDIT OF NIDHI COMPANIES

## Overview

For over a century, Nidhi's, with the objective of cultivating the habit of thrift, were promoted by public spirited people drawn from affluent local persons. The area of operation was local – within municipalities and panchayats. Some Nidhi's on account of their financial and administrative strength opened branches within the respective revenue district and even outside. The principle of mutual benefit was fundamental concept of Nidhi Companies. Although many committees had been appointed by the central Government in the past to study about the prevalent financial institutions, the Sabanayagam Committee constituted on 23rd March 2000 was appointed to exclusively study the functioning of Nidhi companies and make recommendations.

Following this fundamental need for distinguishing Nidhis from other lending institutions, this Committee while on the one hand recommended certain concessions to Nidhis, on the other hand recommended certain regulations to govern the functioning of the Nidhis which may seem stricter, all because of the Committee's interest in depositors' security.

**What is a NIDHI Company?**

Section 3 (da) was introduced by Nidhi (Amendment) Rules 2019 which defines Nidhi companies. As per the section, "Nidhi means a company which has been incorporated as a NIDHI with the object of **cultivating thrift and savings amongst it members, receiving deposits from and lending to its members only**, for their mutual benefit and which complies with the rules made by the Central Government for registration of such class of companies"

Section 406 of the Companies Act, 2013 as amended by The Companies (Amendment)Act 2017, "Nidhi" or "Mutual Benefit Society" means a company which the Central Government may, by notification in the Official Gazette, declare to be a Nidhi or Mutual Benefit Society, as the case may be.

With this amendment it is made mandatory to get the companies declared as Nidhi's by the Central Government . This declaration requirement was there U/s. 620 A of The Companies Act 1956. While The Companies Act 2013 is introduced, the requirement of declaration was not there and it triggered the increase in Nidhi company incorporations.

**Laws governing a NIDHI Company**

Even though the concept seems to be relatively simple, there are some legislations which have direct and indirect impact on Nidhi companies. Nidhi companies are mainly government by various sections and rules relating to Companies Act 2013. Also there are Reserve Bank Directions/Notifications, which have direct and indirect application. Needless to mention that the direct/indirect taxation laws are having its on applicability.

There are some important Act/Laws/Notifications which need to be referred for clear understanding of the rules governing Nidhi companies. This includes, The Companies Act 2013, Nidhi Rules, 2014 , Nidhi Amendment Rules 2017 , Nidhi Amendment Rules 2019 ,Nidhi Amendment Rules 2020 Nidhi (Second Amendment) Rules 2020,MCA Exemption Notification GSR 465E, Dated 5th June 2015, Master Direction-Exemption from the provisions of RBI Act,1934 (Master Direction No. DNBR.PD.001/03.10.119/2016-17, Dated 25-08-2016 as amended up to 31-05-2018) ,NBFC Acceptance of Public Deposits(RB) Directions 2016, Non-Banking Financial Companies Auditor's Report (Reserve Bank) Directions, 2008.

**The Reserve Bank and Nidhi Company**

The most important question need to be answered is, whether Reserve Bank of India is having control over Nidhi Companies. And how Nidhi Companies are related with RBI Directions. As we know, RBI being the apex body for regulating the money lending business in India has their own set of definitions of the entities engaged in the money lending business. The mute point to be clarified is whether Nidhi's are Non Banking Financial Company(NBFC) or not. And what is the impact of various

NBFC directions issued by RBI.

There are three basic sections which need to be looked into for an understanding of Nidhi's status as NBFC. As per Section 45I(c) of the RBI Act 1934, Financial Institutions means any non banking institution which carries as its principal business or part of its business any of the activities namely, Financing, by way of making loans or advances or otherwise, of any activity other than its own, the acquisition of shares, stock, bonds, debentures or securities issued by a Government or local authority or other marketable securities of a like nature, Hire purchase Activity, the carrying on of any class of insurance business, Chit/Kuri Business, collecting, for any purpose or under any scheme or arrangement by whatever name called, monies in lumpsum or otherwise, by way of subscriptions or by sale of units, or other instruments or in any other manner and awarding prizes or gifts, whether in cash or kind, or disbursing monies in any other way, to persons from whom monies are collected or to any other person

Section 45I(e) of RBI Act, 1934, defines Non Banking Institution as a company , corporation or cooperative society.

Section 45I(f) of RBI Act 1934, defines Non banking financial company, which is a financial institution which is a company, NBFI which is a company, and which has its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner, such other non banking institutions notified by Central Government

On analysing the above three definitions, it is reasonably presumed that Nidhi Companies are also coming under the ambit of Non Banking Financial Company definition .

Even though Nidhi's are NBFC's, it enjoys certain exemptions . The various directions issued by RBI has only limited applicability to Nidhi's.

When compared to an NBFC, Nidhi companies enjoy three major exemptions from the provisions of the RBI, Act 1934. The Nidhi companies are exempted from the Requirement of Registrations and Minimum Net Owned Fund , as stipulated under section 45IA . Also exempted from Maintenance of Liquidity ratio under section 45IB. And exempted from Mandatory transfer of 20% of the current year profits to Reserves under section 45IC.

Presently NBFC's shall have minimum NOF of ₹ 2 Crore and these exemptions are huge relief to the Nidhi companies, considering the background in which most of them operates. Even though there is exemption from Maintenance of Liquidity Ratio prescribed by RBI , Nidhi's are to follow liquidity ratio stipulated by the Companies Act and its related Rules. When it comes to transfer of reserves, as per Companies Act, Nidhi's are required to Transfer to reserve only if it is declaring dividend.

The RBI is regulating NBFC's through its directions/notifications/circulars issued from time to time. The various directions issued by the RBI is only have some limited application on Nidhi's. As stipulated by Rule 13 (5) Nidhi Rules 2014, the interest rates offered for deposits shall not exceed the maximum rate of interest prescribed by the Reserve Bank of India which the NBFC can pay on their public deposits. Presently Interest is capped @ 12.5% , vide para 14 of its 'NBFC Accepting Public Deposit(RB) directions 2016 issued by RBI'. Another applicable directions is that the Auditor is to issue an Audit report as per Non-Banking Financial Companies Auditor's Report (Reserve Bank) Directions, 2008. These are the two important applicability of RBI directions which have bearing on Nidhi's. The Nidhi companies are regulated by Companies Act 2013 and its allied rules .

**Incorporation and other important matters.**

Nidhi companies can be incorporated with a minimum Paid up Capital of ₹ 5 lakh. However Nidhi companies have to maintain a minimum NOF of ₹ 10 lakh within a year of incorporation. It cannot issue preference shares . The Object clause in the MOA of the company shall restrict the activities to NIDHI Activities. The name of the company shall include the words "NIDHI LIMITED" at its end.

It shall have minimum 200 members within a year of incorporation or such extended period as approved by the stipulated authorities.

It shall Invest or continue to keep invested, in unencumbered term deposits with a scheduled commercial bank (other than a co-operative bank or a regional rural bank), or post office deposits in its own name, an amount which shall not be less than 10% of the deposits outstanding at the close of business on the last working day of the second preceding month.

The ratio of Net Owned fund to the total deposit of Nidhi shall not be more than 1:20

There are compliance Form NDH1,Return of Statutory Compliance shall be filed within 90 days from the close of first or second financial year as applicable. In case the Nidhi could not comply with the requirements of NOF or the ratio of NOF to deposits, the company may file Form NDH2 within 30 days from the close of first financial year. The failure will attract fine of ₹ 5,000 or ₹ 500 per day depending upon the failure period.

For newly registered companies, Under Rule 3A of the Nidhi rules 2019, the Nidhi shall file Form NDH 4 within 60 days from the date of expiry of one year from the date of incorporation or such Extended period granted by RD.

For existing companies, the company has to be declared as Nidhi within 1 year from date of incorporation or within 9 months from the date of commencement of Nidhi Rule 2019, whichever is later.

The consequences of Non filing of Form NDH-4 include inability to file other forms with ROC such as SH7, PAS3 etc.

**General Restrictions/ Prohibitions**

Nidhi company activities are restricted to deposit acceptance and lending to its members. It shall not carry the business of a chit, Hire Purchase, Lease or Insurance, shall not acquire securities of any Body corporate, shall not issue Preference shares, Debentures or any other debt instrument, cannot open current account with its members,shall not carry any business other than borrowing or lending in its own name, shall not pledge any of the assets lodged as security by members, shall not take deposits or lend money to any body corporate, shall not enter into any partnership agreement in its borrowing or lending activities, shall not issue any advertisement soliciting deposit, shall not pay any brokerage or incentive for deposit/loan mobilizations . Nidhi company can offer locker facility to its members with a stipulation that income from Locker rent shall not be in excess of 20% of the gross income of the company.

For acquiring another company, the Nidhi has to pass a special resolution in its general meeting and also obtain prior approval from the Regional Director with jurisdiction of the NIDHI.

**Share Capital and allotment**

Nidhi companies can issue fully paid up equity shares of nominal value of not less than Rs.10 each. However this requirement shall not apply to a company referred in sub rules (a) and (b) of rule 2 of Nidhi Rules 2014 ,respecting companies obtained approval u/s. 620A of the Companies Act 1956 or such pending application. They cannot levy any service charges for the issue of shares.

The minimum allotment of shares to each Term deposit holder shall be 10 shares or shares equivalent to Rs.100. Savings account holder or Recurring deposit holder or any other member shall hold at least 1 equity shares of Rs.10/-. A body corporate or trust cannot be member of a NIDHI. A minor shall not be admitted as member.

**Branches**

A Nidhi can open branches only if it has earned net profits continuously during the preceding 3 financial years. A maximum of 3 branches in a district can be opened. However if the NIDHI wishes to open more than 3 branches within or open any branches outside district it has to obtain prior permission of RD and intimate ROC about opening of each branches.

Nidhi shall not open Branches/Collection centres or offices or deposit centres outside the state of its registered address. Before opening branches/collection or deposit centres, the financial statements and annual return should be filed up to date with ROC.

By giving advertisement prior 30 days, fixing copy of the advertisement in branch premises, a Nidhi can close its branch, provided and intimation to ROC is made within 30 days of closure.

**Deposits**

A Nidhi Company can accept Fixed Deposits, Recurring Deposits, and Savings Deposits from its members. Fixed Deposit shall have a minimum tenure of 6 months and maximum tenure of 60 months. Recurring Deposit shall have a minimum tenure of 12 months and maximum tenure of 60 months. If the RD is opened for repaying mortgage loans, maximum period shall be the loan tenure.

It is to be noted that the maximum balance in a savings deposit account at any given point of time which qualifies for interest is ₹ 1,00,000/- and the rate of interest shall not exceed 2% above the interest rate on SB account of nationalised banks.

The interest rate on FD and RD shall not exceed the maximum rate stipulated by RBI for NBFC for public deposits. As stipulated by Rule 13 (5) Nidhi Rules 2014, the interest rates offered for deposits shall not exceed the maximum rate of interest prescribed by the Reserve Bank of India which the NBFC can pay on their public deposits. Presently Interest is capped @ 12.5% , vide para 14 of its 'NBFC Accepting Public Deposit(RB) directions 2016 issued by RBI. Nidhi shall not repay any deposit within 3 months from the date of acceptance. If the closure is done after 3 months, the depositor is not entitled to any interest up to 6 months from the date of deposit. Interest on foreclosure shall be reduced by 2% of the contracted rate. In the case of death of the depositor, such reduction in interest rate is not applicable.

It is also very important to note that companies need to comply with Section 269SS/T of the Income Tax Act 1961 .

**Loans**

Nidhi companies can lend only to its members. The securities against which a Nidhi can grant loans are i) gold, silver and jewellery which shall have repayment tenure less than 1 year, ii) Immovable property upto 50% of the total loans and the loan amount restricted to 50% of the value of the offered property, iii) FD Receipt, NSC, other Govt Securities and insurance policies . With respect to gold loans, the loan to value ratio shall not exceed 80% of the collateral value.

Also a feature in the case of Nidhi is that the restrictions imposed by Section 185 of the Companies Act, dealing in Loan to Director, do not apply to them, if the Director has availed loan in the capacity of a member and such transaction is disclosed in the annual accounts by a note.

There are certain limits to the amount of loan that can be extended to the members based on the total deposits outstanding. The maximum limit for individual loans are ₹ 2 Lakh, 7.5 Lakh, 12 Lakh, and ₹ 15 lakh, if its deposits outstanding are up to 2 crore, more than 2 crore but up to 20 crore, more than 20 crore but up to 50 Crore, and more than 50 Crore respectively. It is very important to note that companies need to comply with Section 269 ST of the Income Tax Act 1961 where a cap of ₹ 2 lakh is set for cash transactions.

If the NIDHI has failed to generate profits for three continuous financial years, the above limits shall be reduced to 50%. Also, a member who has once defaulted in the repayment of any loan shall not be eligible to avail any further loans.

**Rate of Interest**

The maximum chargeable rate of interest for any type of loan is 7.5% above the interest rate on deposits offered by the Nidhi. The same rate of interest has to be charged for the same class of loan and the rates are to be duly displayed in the notice boards of the places of operation.

**Directors**

The director of a Nidhi shall be a member in it and can hold office upto 10 consecutive years. A cool off period of 2 years is to be given before further re- appointment.

**Dividend**

The maximum dividend that a Nidhi can pay of is 25%. For a higher dividend amount, the approval of RD is to be taken after transferring. For Nidhi to declare dividends, an equal amount has to be transferred to General reserve. All rules relating to declaration of dividend as applicable to Nidhi have to be complied with and there should not be any default in repayment of matured deposits.

**Auditor**

An individual may be appointed as auditor of Nidhi for a consecutive period of 5 years. An audit firm may be appointed for 2 terms of 5 years each, with partner rotation after the first term. For subsequent reappointment, a cool off period of 2 years is necessary.

**Prudential Norms**

Another remarkable difference between a NBFC and Nidhi is the Prudential Norms stipulated for the latter. Nidhi companies Asset Classification, Income Recognition and Provisioning norms are detailed in Nidhi Rules 2014.

According to Rule 3( e) of the NIDHI rules 2014, Non Performing Asset is defined as a borrowal account in respect of which interest income or instalment of loan towards repayment of principal amount has remained unrealised for 12 months.

Rule 3(b) defines Doubtful Asset as, a borrowal account which has remained as NPA more than 2 years and less than 3 years, and 3(c ) defines Loss asset as, a borrowal account which has remained as a NPA account for more than 3 years or treated at loss based on Board's opinion on Recovery shortfall.

The provisioning norms are applicable for both Mortgage and Jewel loans. Recognition of interest has to be ceased once an account becomes NPA.

In respect of Mortgage loans, the provision to be maintained for Sub-Standard Asset @ 10%, Doubtful Asset @ 25% and Loss Assets @100%

In a scenario where court proceedings have been initiated for the sale of mortgaged property, the realisable value of the collateral shall be reduced from the outstanding amount of loan. It is to be kept in mind that the notes to financial statements should disclose the provisioning made by the NIDHI each year. Also, the loan amount has to be recovered/renewed within 3 months from the due date of repayment. If not done so, 100% provision shall be made for the loans which remain unpaid.

**Conclusion**

With the easing out of approval requirement for declaring a company as "Nidhi", it can be considered as advisable model for a lending institution with limited operations. This also triggered a spurt in registration of Nidhi companies. As a result of this , many unorganised lenders turned into organised lenders. Most of the Nidhi's are functioning with Borrowed Funds/Deposits. Such companies shall have to function with high financial prudence. Any unhealthy practices by a few may prove to be disastrous for others. Strict compliance of Rules is to be ensured and Auditor's/Consultants have great role to play in this regard.

CA. Manikandan C.K.

Chartered Accountant.

Sr. Dr. Donatta CSC

# MANAGEMENT OF LIFE STYLE DISEASES

Life style disease is a group of disease whose occurrence is primarily based on the daily habits of people and are a result of an inappropriate relationship with their environment.The top ten life style diseases which WHO states are -

Alzheimer s Disease

Atherosclerosis

Cancer

Chronic Liver Disease, Cirrhosis etc

Chronic obstructive pulmonary disease(COPD)

Diabetes

Heart Disease

Hypertension

Kidney Disease

Strokes

## Contributing Factors

The factors contributing to life style disease mainly include incompatible food habits rampat modernization and urbanization ,drastic lifestyle changes,disturbed biological clock - late sleep, late awakening being vigil at nights, unhealthy food habits, irregular food timings, very late heavy meal and dinners, repeated over eating before digestion of previous foods and drinks to keep politeness and social status ,alcohol and tobacco abuse, affinity for white collor jobs, low priority for physical exertion ,high stress level, low emotional tolerance and mental control etc.

Basically a particular life style of a person is a cumilative product of his /her physical capacity coordinated with psychological functioning displaced in the form of habits , behavior , dietary and living pattern based on his own training sought from childhood and mimicries he gained from his immediate companions, including parents,siblings,peers etc..Thus it involves a pure psychological and innate control over the physical and sensory activities.When this initiation, control and co-ordination are disturbed it leads to derangement of lifestyle and results in life style disorders.This is caused by improper metabolism and thereby accumulation of bio-toxins in the body.

## Prevention & Management

As Ayurveda provides better solution in the form of proper dietary managements, life style regulations, detoxification and bio-purification procedures, the World is becoming more attracted towards its potential.The holistic approach of Ayurveda in treating the patients as a whole - meaning interventions targeted towards complete physical, psychological and spiritual well being , makes this science a wonderful option in life style disorders.

Ayurveda offers various regimens including Dinacharya (Daily Regimen), Rtucharya (Seasonal Regimen) and Panchakarmas (five modalities of detoxification and bio-purification).After first line of treatment of bio-purification , curative treatment to alleviate the disease condition along with rejuvenation therapies are administered. This is to repair ,maintain and reproduce new cells so as to re install vigor and vitality or youthfulness of the body and mind.

The code of conduct are utmost important to maintain a healthy and happy psychological perspective.The utilization of all these treatment modalities has a great effect on life style disorders. Moreover the useage of organ specific Rasayana herbal medicines provide enough scope , not only for the prevention of disease but also for the promotion and cure of disease also.Brain degenerative disease ,Cardiovascular disorders ,psychological disturbances of old age ,stress disorders etc can be treated and prevented in this way.Thus a healthy happy life can be obtained under Ayurveda life style management.

## Kerala Scenario

Recent health index report prepared by World Bank and Niti Ayog has ranked Kerala as top amongest the states in terms of health performance, the economic review paints a grim scenario-

The report has raised serious concern about sustaining the achievement of health sector - such as high life expectancy , low infant mortality,low birth and death rates etc. as lifestyle diseases or Non communicable diseases(NCDs) such as Diabetes, obesity,hypertension ,Coronary heart Disease ,cancer and geriatric problems become rampant.Report said that while 42 % of total death in India are due to NCD s ,in Kerala 52 % of death in productive age groups of 30 to 59 years is due to such disease.

The report states “studies show that, 27 % of males in Kerala have Diabetes Mellitus compared to 15 % at National level and 19 % of adult females in Kerala to 11 % at National level.Genetic predisposition ,dietary habits and sedentary life style are considered to be reason for this phenomenon.”

It is noted that 40.6 % of adult men and 38.5 % of adult women suffer from Hypertension compared to 30.7 % and 31.9 % at the National level . Incidents of obesity, hyperlipidemia, heart attack and stroke are also high.Cancer mortality in Kerala is relatively high in comparison with national average.

Kerala’s famed health indices are poised to face an uphill task of sustainability due to the prevalence of NCDs at an alarming rate according to the state economic view -2018 which was presented in the Assembly.It is said that unless interventions are made to address NCDs ,their burden is likely to increase substantially in future as the population ages and life style changes continue.Considering the high cost of medicine and longer duration of treatment this causes a greater financial burden to Keralites.

It may be noted that Kerala, which has achieved below replacement fertility much earlier then the other states, has the highest propotion of elderly among the Indian states.Of the State’s population 3.34 crores ,aged population (above 60 year) is 42 lakhs.This has substantial implication on the states socio-economic situation.

So an immediate attention and drastic change in life style has to be implemented strictly from baby hood to aging Granpas for a healthy happy life.

**Dr.Sr.Donata CSC BAM,MD (Ay)**

**Chief Consultant**

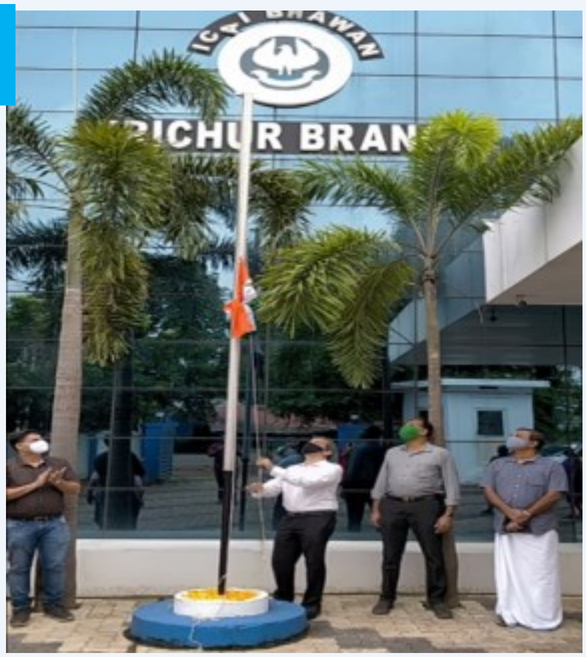
**Jubilee Ayurveda Mission Hospital**

# PHOTO GALLERY

Career counseling programme for intermediate May 21

Chairman CA. Anoop G addressing participants of ICITSS batch-18

# Independence day celebrations– 2020



# Jwala two day conference –inauguration