THE INSTITUTE OF
CHARTERED ACCOUNTANTS OF INDIA
(Set up by an Act of Parliament)

PUNE BRANCH OF WIRC OF ICAI

NEWSLETTER JUNE 2026

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OUR TORCH BEARER

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Pune Branch Chairman's Communique

CA Pranav Apte
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Dear Esteemed Members,

Warm Greetings to all Esteemed Members.

I hope this message finds you in good health and high spirits. I am delighted to address you through our esteemed CA Newsletter.

I take this opportunity to apprise you about few seminars held during May 2026. We hosted batch of Diploma in Information Systems Audit (DISA) and we are thankful to all the members for their overwhelming response. We are also conducting Virtual Sessions on Various AI Tools on every Wednesday to empower members to become future ready professionals. We also conducted various seminars on various topics such as Insolvency and Bankruptcy Code, New Income Tax Act, 2025, Direct Tax Refresher Course (DTRC), Real Estate, Recent developments in Code of Ethics etc.

In the upcoming month, various events and seminars have been planned. We are planning to conduct various seminars on the topic of Accounting Standard Compliances for Proprietorships and Partnerships, Foreign Exchange Management Act (FEMA), precautions in GST Appellate proceedings etc. We will be hosting WIRC's State Cooperative Conference on 13th and 14th June 2026. Pune Branch will be hosting programme on 'Creating A Better Financial Reporting Ecosystem', which is organised by National Financial Reporting Authority (NFRA) in collaboration with the ICAI.
We will also be hosting 2 certificate course batches on Artificial Intelligence and also Certificate Course on Forensic Accounting and Fraud Detection (FAFD) in the month of June 2026. We will be celebrating International Yoga Day on 21st June and also organising ICAI MSME Mahotsav on 27th June. We will also be organising various sports competitions and blood donation camps on the occasion of 78th CA Foundation Day.
I thank all the contributors and editorial team members for their efforts in making this edition impactful.

"Alone we can do so little; together we can do so much." So, I urge all the members to actively participate in various seminars, workshops and conferences. Your valuable suggestions, ideas and support will be helpful in serving the profession.

Wishing you all a good health and great success!!

Best Regards,
CA Pranav R. Apte
Chairman
Pune Branch of WIRC of ICAI

Editorial Communique

CA Sarika Dindokar
Chief Editor & MCM
Pune Branch of ICAI
(FCA, CS, DISA, MCOM)

Dear Members,

As we step into the month of June, I would like to take a moment to connect with each one of you through this newsletter, not merely as Chief Editor and WICASA Chairperson, but as a fellow member who deeply values the spirit of our ICAI fraternity.

June has always felt like a month of preparation and renewed energy. For many students, it marks the beginning of focused efforts towards their academic goals, while for professionals, it brings opportunities to reflect, reorganise, and plan ahead. At WICASA, we have tried to channel this energy into meaningful initiatives that inspire learning, participation, and growth.

Over the past few weeks, it has been heartening to witness the enthusiasm of our students and members in various activities. Every session, discussion, and interaction reminds me that the strength of our Branch lies in the collective passion of its members. Whether it is academic excellence, professional development, or cultural participation, the commitment shown by all of you is truly commendable.

As Chief Editor, I also wish to express my gratitude to everyone who contributes to our newsletter, shares ideas, and encourages us to make this publication a reflection of our vibrant community. Your feedback and support motivate us to present content that is informative, relevant, and engaging.

Let us continue to learn from one another, support each other, and uphold the values that define our profession. I hope this month brings renewed determination, meaningful opportunities, and success in all your endeavours.

Warm regards,
CA Sarika Dindokar
Chief Editor – Members' Newsletter
WICASA Chairperson
Pune Branch of WIRC of ICAI

Cost Accounting Ahead of Statutory Compliance

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The provisions of Section 148(1) of the Companies Act 2013 state that Cost Accounting record Rules 2014 become applicable to all those manufacturing concerns for the year where the turnover of the organisation exceeds Rs 35 crores for the previous accounting year.

The CARO 2020 says that the Statutory Auditor of the company should comment on clause 3(vi) of Annexure A of the CARO 2020.

The search for practising Cost and Management Accountant (the CMA) begins.

Mr A., the owner of XYZ Industries Pvt. Ltd. a manufacturing company is supplying control systems to OEMs. The company's turnover for the year ending 31/03/2026 was Rs 22.50 crores. On 2nd April he receives an enquiry from a multinational OEM for supply are 900 units of control systems the offer value approximately Rs 9.00 crs. In other words, Rs. 1.00 lac per unit. Mr A. is currently selling similar units with minor changes to other customers at Rs. 1.20 lacs per unit. He is confused about the decision whether to accept the offer or not because he is not aware of exact cost of sale of the unit currently, he is manufacturing. He talks with one of his colleagues, Mr. B. Mr. B suggests him to consult to some Cost and Management Accountant. The search begins. Under situation one you have no choice because ignorance of law is not excused. Cost and Management Accountant is being appointed, the processes are followed, compliance is done however the decision is by obligation.

In the second situation the decision is by choice as Mr. A is keen about knowing the facts and figures. Unfortunately, majority of the businesses are unaware of the cost benefit analysis of their decisions. If we understand the cost accounting properly it is a value adding exercise for any organisation for that matter. The basic requirements of the function are ready to work hard, to have patience about results. The CMA should be competent enough to make the businessman aware of the need of cost accounting. The benefits he will derive on continuous basis are scientifically calculated cost structure, tools for decision making, base for preparing quotation for new product or service and many more. Eventually when the organisation becomes eligible for statutory compliance of records or Cost Audit the application of three basic elements of Cost Accounting

1. Cost Ascertainment
2. Cost Control
3. Cost Reduction

make the organisation more competitive and sustainable in the industry headed.

Cost Accounting Ahead of Statutory Compliance

I remember in 1990 I used to do the audit of a large automobile manufacturing company. The company was having a full-fledged costing department headed by a senior CMA with a team of nine persons. Though it was not my purview out of curiosity I used to talk with the HOD to understand their objective, the process, methodology, techniques they used to follow. Many large organisations adopted the principles of cost accounting since inception as they were aware of the benefits of it. Micro, Small and Medium Enterprises (the MSMEs) compared with these organisations have some limitations of resources, funds and moreover absence of statutory requirement. Because of these reasons they are deprived of the advantages of cost accounting
.

Periodical workshops and awareness programs through or with the help of industrial associations will help the MSMEs to adopt the cost accounting principles and become more competitive and profit making.

Financial accounting helps the organisation to comply with statutory requirements. On the other hand, cost accounting helps the organisation to comply with efficiency productivity and moreover profitability requirements.

SAP, Oracle and similar large-scale applications come with inbuilt cost accounting principles. Now a days tailor made mid-sized applications have also started incorporating costing principles in their systems. MSMEs are in the process of adopting these principles in their culture and eventually in their operating systems.

Cost accounting even though initially you feel it as boring and un productive in long term it gives you immense benefits. It is always advisable to have cost conscious approach right from the inception. A manufacturing organisation should avail the services of a CMA on regular basis in view of support in decision making, cost control and cost reduction measures. It helps you to understand which of the products or services are profitable or not. It helps to prepare quotation for new products and services. It becomes very useful to take the decision about accepting new order in view of the existing capacity utilisation. Sometimes the new order or product may not be profitable however in view of utilisation of idle capacity the decision becomes necessary. It generates contribution to absorb fixed costs and reduce overall losses. Activity Based Costing helps you to understand which function of the organisation is beneficial and which is not. Many of the large organisations have taken decision to outsource some of the operations of the business in view of reduction in costs. For large organisations overheads is major concern. However, to understand the impact of overheads and to overcome the negative impact cost accounting is the best solution.

As a matter of implementation of costing systems in the business the operating persons may find it non interesting, not giving quick results however as the process goes on it becomes more interesting. Huge data mining is the basic requirement of the process.

Further updating of elements of cost in the system is essential else the cost will become obsolete and accurate profitability will be a challenge.

Additionally, adoption of correct method of accounting commensurate with the nature of the business, application of appropriate techniques is equally important.

I don't prefer to mention the details of procedures here the intention of writing the document is the dire need of cost accounting in the business specially manufacturing in the competitive environment.

Delhi High Court: Reframing secondment taxation through 'lien' and 'make available'

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1. Executive Summary

The Delhi High Court in Ernst & Young U.S. LLP [TS-903-HC-2026(DEL)] has ruled that reimbursements by Indian entities to EY USA for seconded employees constitute taxable Fees for Technical Services (FTS) / Fees for Included Services (FIS) under Section 9(1)(vii) of the Income-tax Act, 1961 and Article 12 of the India- USA DTAA.
The Court relied on two principal findings. First, the secondees continued to remain employees of EY USA, evidenced by their continuing employment rights and repatriation obligations. Second, the services rendered involved transfer of knowledge and operational know-how sufficient to satisfy the "make available" requirement under the India–US DTAA.

2. Introduction

Cross-border secondment arrangements continue to generate disputes in Indian tax jurisprudence, particularly regarding the taxability of salary cost reimbursements made to overseas entities. The Delhi High Court's decision revisits two key issues:

(i) Identification of the "real employer"; and
(ii) Application of the "make available".

3. Factual background

The Assessee, Ernst & Young U.S. LLP ("EY US"), is a USA based limited liability partnership engaged in providing professional services globally, including assurance, tax, and advisory services. It forms part of the EY global network and interacts with Indian member firms through structured arrangements.
During the relevant assessment years, the Assessee entered into deputation/secondment agreements with its associated Indian entities ("EY India entities"), pursuant to which certain employees of the Assessee were seconded to India for specified durations, typically ranging from two to three years.

Delhi High Court: Reframing secondment taxation through 'lien' and 'make available'

Key elements of the secondment arrangement were as follows:

• The secondees worked under the operational supervision and day-to-day control of the EY India entities and were engaged in their business activities during the period of assignment.
• The EY India entities were contractually responsible for bearing the salary and related costs of the secondees. However, for administrative convenience, such payments were initially made by the Assessee in the United States, and subsequently reimbursed by the Indian entities on a cost-to-cost basis without any markup.
• The secondees continued to be entitled to overseas employment benefits, including participation in social security and other benefit plans of the Assessee, and were required to return to the Assessee upon completion or termination of the assignment.
• The EY India entities could terminate or curtail the period of secondment; however, they did not possess the authority to terminate the underlying employment of the secondees with the Assessee.

The Assessee treated the amounts received from EY India entities towards secondment costs as mere reimbursements of salary expenses, contending that the reimbursements lack income character. It was further argued that the secondees functioned as employees of the Indian entities and accordingly, the services rendered did not satisfy the "make available" test under Article 12 of the India -USA DTAA.
The Revenue argued the aforesaid position of the Assessees and highlight that the secondees continued to remain employees of the Assessee and that the arrangement effectively constituted provision of services by the Assessee through its personnel. It was further contended that the secondees were engaged in implementation of group policies, processes, and training functions, thereby resulting in transfer of technical knowledge and satisfying the "make available" test.

In the view of the above, the principal issue before the Delhi High Court:
Whether the payments received by the Assessee from the EY India entities on account of secondment of employees were taxable in India as Fees for technical services?

4. Key Findings of the High Court

4.1. Real Employer: Primacy of "Lien on Employment"

The Delhi High Court rejected the taxpayer's position that Indian entities were the employers of the secondees. It emphasised that:

- The seconded employees retained their rights to overseas social security and employment benefits;
- They were repatriated to EY USA after completion of assignment; and
- Indian entities lacked authority to terminate the underlying employment relationship.

From the aforesaid factors, the Delhi High Court held that the seconded employees never ceased to be employees of EY USA.

Delhi High Court: Reframing secondment taxation through 'lien' and 'make available'

4.2. Reimbursement Characterisation

The Delhi High Court rejected the taxpayer's contention that the payments were merely cost to cost reimbursements, holding that nomenclature is not determinative of taxability. It emphasised that:

- Absence of profit element or markup does not determine taxability. and
- The characterization of payment must be based on the substance of the transaction rather than contractual wording.
- The payments were intrinsically linked to the provision of services through seconded employees;

In the view of the above, the Delhi High Court held that the payments could not be treated as pure reimbursements and were liable to be examined as consideration for services.

4.3. Satisfaction of the "Make Available" Test

The Delhi High Court held that the services rendered by the seconded employees satisfied the "make available" requirement under Article 12(4)(b) of India- USA DTAA. It emphasised that:

- The seconded employees were involved in training employees and implementing EY group policies and processes;
- The services enabled the Indian entities to apply such knowledge independently in the future; and
- There was a clear transfer of technical knowledge, skill, and operational know how.

The Court observed that once such processes were embedded, Indian entities could apply them independently in future. Accordingly, the services were held to be treated as "make available".

4.4. Reliance on Centrica India Offshore Pvt. Ltd

The Delhi High Court drew heavily from its earlier ruling in Centrica India Offshore Pvt. Ltd. [TS-237-HC-2014(DEL)], where seconded employees were held to constitute provision of technical services through personnel. The present decision reinforces that:

- Technical services are not confined to engineering or technological functions; and
- Transfer of business processes and operational know-how may also qualify.

5. Implications for Taxpayers

The ruling has significant implications for multinational groups:

(i) Not every secondment reimbursement is taxable, but secondment structures now may face heightened scrutiny, particularly where employees retain ties with the overseas entity.

(ii) Merely drafting agreements to designate the Indian entity as employer may not suffice without corresponding economic substance.

(iii) There may be increased exposure to fees for technical services characterisation and potential permanent establishment risks

6. Conclusion

The decision reinforces the principles laid down in Centrica India Offshore Pvt. Ltd., emphasising substance over form in evaluating secondment arrangements. The judgment underscores the importance of continuity of employment and functional contribution in determining the tax treatment of secondment reimbursements.

Permissible Instruments under FDI: A Statutory Analysis of FEMA Framework

CA. PARTH PATEL
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Abstract: This article examines the regulatory architecture governing instruments permissible under Foreign Direct Investment (FDI) in India, as prescribed under the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 and FDI Policy dated 15th October 2020. It analyzes the critical distinction between FDI-eligible equity instruments and debt instruments classified as External Commercial Borrowings (ECB), with emphasis on structural compliance and pricing imperatives.

I. The Instrument Classification Matrix: FDI versus ECB

The Foreign Exchange Management Act, 1999 (FEMA), read with the FEM (Non-debt Instruments) Rules, 2019, establishes a binary classification regime for foreign investment instruments. This classification determines not merely taxonomic categorization but the entire regulatory superstructure—sectoral caps, pricing norms, end-use restrictions, maturity requirements, and reporting obligations. The threshold inquiry in structuring cross-border capital flows, therefore, centres on whether an instrument qualifies for FDI treatment or falls within the ECB regulatory perimeter.

II. The Triad of FDI-Eligible Instruments

Annexure 1 to the FDI Policy dated 15th October 2020 delineates three categories of instruments eligible for FDI treatment:

(A) Equity Shares

Equity shares constitute the classical form of risk capital permissible under the FDI regime. Indian companies may issue equity shares to persons resident outside India, subject to pricing guidelines prescribed under FEMA. For unlisted companies, valuation must conform to any internationally accepted pricing methodology applied on an arm's length basis—commonly Discounted Cash Flow (DCF), Comparable Company Analysis, or Precedent Transaction Analysis. For listed companies, the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 govern the pricing matrix.

The regulatory framework, vide amendment dated 12th April 2022, explicitly recognizes partly paid equity shares within the FDI perimeter, subject to dual constraints: (i) twenty-five percent of total consideration (including share premium) must be received upfront; and (ii) the balance call amount must be received within twelve months of issuance. This temporal discipline prevents the disguised extension of credit through equity instruments.

Permissible Instruments under FDI: A Statutory Analysis of FEMA Framework

(B) Fully, Compulsorily and Mandatorily Convertible Debentures (FCCDs)

FCCDs represent hybrid instruments that commence as debt but mandatorily transform into equity capital. The regulatory emphasis on the qualifiers "fully," "compulsorily," and "mandatorily" is deliberate and legally consequential:

- **Fully**: No portion may remain unconverted; partial conversion instruments are excluded from FDI treatment.
- **Compulsorily**: Conversion operates by force of instrument terms, not investor option.
- **Mandatorily**: The conversion obligation is absolute, not subject to waiver or deferment.

The conversion formula must be determined upfront at issuance, and critically, the conversion price cannot fall below the fair value calculated at the issuance date. This floor price mechanism prevents post-issuance value dilution and forecloses renegotiation of economic terms.

(C) Fully, Compulsorily and Mandatorily Convertible Preference Shares (FCCPs)

FCCPs constitute the third pillar of FDI-eligible instruments, with regulatory treatment paralleling FCCDs. The preference shares must be fully paid at issuance, and conversion must be predetermined and non-contingent. While FCCPs permit structured dividend preferences and liquidation priority (subject to Companies Act, 2013 compliance), the overarching mandate remains mandatory conversion within the prescribed timeframe.

III. The Optionality Framework: Exit Rights Without Assured Returns

Historically, optionality clauses in equity instruments presented a regulatory conundrum—balancing investor exit rights against the risk of converting equity into de facto debt. The FEMA framework resolves this tension through a calibrated optionality regime permitting exit mechanisms subject to two non-negotiable conditions: First, a minimum one-year lock-in period applies from allotment date, ensuring meaningful investor commitment to commercial risks.

Second, any post-lock-in exit must occur without assured returns. The investor is entitled only to fair value determined per FEMA pricing guidelines at exit—no predetermined price, buy-back guarantees, or mechanisms ensuring capital protection plus fixed yield are permissible.

This prohibition on assured returns constitutes the regulatory firewall preventing equity from morphing into disguised lending. The policy rationale is clear: equity investments count toward sectoral FDI caps, whereas debt invokes ECB regulations. Permitting assured returns in FDI-classified instruments would enable regulatory arbitrage—debt-like returns while circumventing ECB discipline.

IV. The ECB Classification Trap: Non-Qualifying Instruments

The FDI Policy unambiguously provides that non-convertible, optionally convertible, or partially convertible preference shares or debentures (for which funds were received on or after 1st May 2007) are classified as debt, not FDI. This temporal marker demarcates the regulatory watershed.

Permissible Instruments under FDI: A Statutory Analysis of FEMA Framework

Once an instrument falls within ECB classification, the entire ECB regulatory apparatus becomes applicable:

- **Eligible Borrowers**: Only entities specified under ECB regulations may raise such capital.
- **Recognized Lenders**: Subscription restricted to ECB-recognized lenders.
- **End-Use Restrictions**: Deployment limited to permissible purposes; real estate and stock market speculation prohibited.
- **Interest Rate Ceiling**: Rupee-denominated instruments linked to swap equivalent of LIBOR plus permissible spread.
- **Maturity Requirements**: Minimum average maturity norms apply.

Misclassification carries material consequences: sectoral cap breaches, end-use violations, reporting non-compliance, and compounding liability under FEMA. Due diligence at the instrument design stage is not merely prudent—it is a regulatory imperative.

V. Special Instruments: DRs, FCCBs, Warrants

Depository Receipts (DRs) and Foreign Currency Convertible Bonds (FCCBs):
Clause 3 of Annexure 1 accords FDI classification to inward remittances via DRs and FCCBs. This classification ensures: (i) remittances count toward sectoral FDI limits; (ii) FDI pricing and valuation norms apply; and (iii) reporting aligns with FDI mechanisms (Form FC-GPR, Annual Return on Foreign Liabilities and Assets).
Warrants and Partly Paid Shares:
Indian companies may issue warrants to non-residents subject to RBI-stipulated conditions. For warrants, 25% consideration must be received upfront, with balance receivable within eighteen months. For partly paid shares, 25% upfront receipt applies, with full call within twelve months. These temporal constraints prevent valuation arbitrage between fair value determination and payment completion dates.

Permissible Instruments under FDI: A Statutory Analysis of FEMA Framework

VI. Pricing Discipline and Floor Price Mechanism

The FEMA framework imposes rigorous pricing discipline. The central principle: conversion formulas must be determined upfront at issuance. The conversion price at actual conversion cannot fall below the fair value calculated at issuance date—a one-way ratchet permitting upward revision (reflecting improved performance) but prohibiting downward revision.

This floor price rule prevents the following abuse: investor subscribes to FCCDs at high fair value, company valuation subsequently declines, conversion price is renegotiated downward, resulting in larger equity stake than initially contemplated. The floor price mechanism forecloses this possibility.

VII. Reporting Architecture: Temporal Compliance Nodes

FEMA compliance operates across multiple reporting checkpoints:

- Form FC-GPR: Filed within 30 days of equity instrument issuance, capturing investor details, consideration, sectoral classification, and valuation certificates.
- Form FLA: Annual return filed by 15th July each year, providing consolidated snapshot of foreign investment, sectoral breakup, and compliance with caps.
- Form FC-TRS: Transfer reporting within 60 days of transfer or funds receipt/remittance, whichever earlier.
- Form ESOP: Filed within 30 days of ESOP issuance to non-resident employees/directors.

All reporting occurs through the Foreign Investment Reporting and Management System (FIRMS) platform at **https://firms.rbi.org.in.**

VIII. Conclusion: Strategic Navigation Imperatives

The FEMA framework governing FDI instruments represents a sophisticated regulatory equilibrium—accommodating commercial structures while maintaining discipline on pricing, sectoral allocation, and the equity-debt boundary. For practitioners, mastery requires fluency in three dimensions: (i) statutory interpretation of FEM Rules and FDI Policy; (ii) commercial judgment in instrument selection and pricing; and (iii) procedural rigor in compliance and reporting.

The consequences of misclassification are material—compounding proceedings, rectification costs, and potential transaction unwinding—making upfront due diligence a regulatory and commercial imperative. As the regulatory architecture evolves, with hybrid securities gaining recognition and optionality frameworks liberalizing, practitioners must remain vigilant to amendments and policy clarifications. Strategic navigation of this framework—grounded in precise statutory interpretation and attentive to commercial realities—remains the hallmark of excellence in cross-border investment advisory practice.

Seminar on Code of Ethics-Recent Amendments

Date : 02nd May 2026

PQC- Information Systems Audit 3.0
Pune Physical Batch -2026

Date : May : 7th, 8th, 9th, 10th, 16th, 17th, 24th, 25th, 30th, 31st ; June : 6th, 7th.

IICA Awareness Programme on PGIP for Young Members

Date : 9th May 2026

TV9 Education Fair
Career Counselling Programme

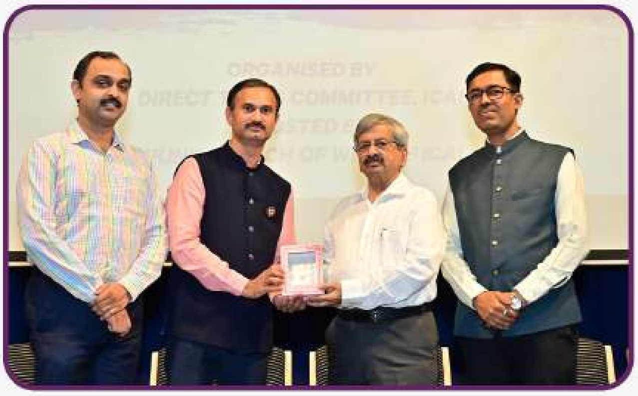
Date : 9th & 10th May 2026

Prarambh 2026 – Mega Outreach Program for the New Income Tax Act, 2025

Date : 15th May 2026

Direct Tax Refresher Course (DTRC)-2026 (Full Series)

Date : May, 16th, 23rd, 30th, 31st, 2026











Full-Day Conclave on Real Estate

Date : 17th May 2026

Convocation - May 2026

Date : 23rd May 2026

INVITATION TO WRITE ARTICLES

Dear Member,

Your contribution for Pune Branch E-newsletters is welcome in following ways:
Contribute your own articles in areas of Professional Interest; the article may cover any topics relevant to auditing, finance, laws, strategy, taxation, technology and so on.

While submitting articles.

- Please keep following aspects in mind:
- The length of articles should be about 750-1000 words
- Articles should be original in nature

Please send articles with:

- A Photograph, your full name, membership number etc.
- Editable soft copy of file
- Declaration of originality of articles

Please send in your articles to : editor@puneicai.org; cpe@puneicai.org
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