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# GUWAHATI

## @ ICAI

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CA Day Special Issue

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MONTHLY E-NEWSLETTER OF  
THE GUWAHATI BRANCH  
OF EIRC OF ICAI



## Chairman Speaks...

Dear Esteemed Colleagues,  
At the outset, I extend heartiest greetings to all of you on this momentous occasion of 72nd CA Day.

One can hardly survive by resisting change, but thrive only by consistently evolving; after all, success lies outside the comfort zone. Over the years, ICAI has garnered a niche for itself by rising up to challenges and persistently building upon embedded virtues of independence, integrity, excellence and has grown by leaps and bounds to become an acclaimed 300000+ strong family. ICAI has taken a big initiative by creation of a 100 crores Fund for Student Scholarship which will give wings to the dreams of needy and deserving students. Besides 75% Fee waiver to the students of 8 North Eastern States, J&K, and Ladakh, ICAI has favorably revised the eligibility of “differently-abled students” for allowing special discount in registration fee of ICAI. Furthermore, ICAI is also working on the international curriculum, which will not only create more recognition of Indian Chartered Accountancy profession at global arena, but at the same time also create more professional opportunities for all of us. ICAI is now moving towards Implementation of biometric/digital recording of attendance at CPE programs, Launching of CABF Portal for easy and quick disposal of requests, Free Online classes for students, in addition to 100% digital evaluation in examinations, making Re-verification result available in 7 days, Web e-Portal for CA Firms database, Networking Guidelines for CA Firms and promote Digital Learning hub and Structured CPE Hours.



Amid the pandemic lockdown, our branch celebrated the 72nd CA Day virtually by organizing events like Drawing & Essay Competition for kids, Speech/poetry competition for members & spouses on most relevant subjects. To mark the occasion, photographs of members planting a tree in their own garden or in a pot was welcomed along with any CSR Activity. I am pleased to share that participation was really healthy and we are sharing the results and photographs in this edition. Our Jorhat Chapter also donated two paddle operated hand sanitizers to the Jorhat Lions Eye Hospital and the Income Tax Office, Jorhat as part of CSR Activity. Our Nagoan Study Circle has also undertaken a tree Plantation drive on the occasion.

Best Wishes,  
CA. Sharad Agarwalla  
Chairman, Guwahati Branch of EIRC of ICAI



## *From the desk of the Editor...*

Dear Elite Members,

It is high time to ask all a much pondered question: “The year 2020: is this period really a terrible year or a good one?” Pose this question to anyone and almost all would answer: “Yes, a terrible year indeed!” And only few, who truly understand the depth of life’s lessons, would sanely say: “It’s a terrific year, if you think so!”



And we, as Chartered Accountants, the partners to our nation-building, must strive to be those few, because, *“Tough time is actually the best period for us to grow”*! The month of June was indeed an ‘unlocking’ one. What with the opening of lockdown, phase wise, we too stepped out the comfort of our homes to tackle the new ‘unlocked’ normal, with greater clarity, alertness and readiness. Yes, the pandemic has not ended. But it certainly has not ended the human’s spirit to rise after every fall and grow persistently. And it is this tough time during which we can harness the disguised opportunities flowing around us and capitalize on it. The adversities we are facing now actually compel us to reveal our best selves and cause us to shine our light to dispel the darkness.

As the new world is moving towards getting more “unlocked”, and vaccines are probably under the pipeline, we must ask ourselves that how can we ‘unlock’ our potential professionally and personally? And how can we shed our ‘traditional’ way of doing things and unlock noble, new ways to grab more opportunities.

As the Government is tirelessly working against the Covid-19 pandemic day and night in all spheres, we Chartered Accountants, the partners to Nation building, too have the responsibility to work for the betterment of financial and economical world, by harnessing the best of our professional capabilities.

Yes, times are tough. But so we are! Tough enough to convert any ‘terrible’ time into a transformative and terrific period!

CA. Ankit Jallan



# Some important Advanced Rulings under GST



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## 1. Whether second hand gold jewellery purchased from unregistered person can be valued as per marginal scheme under GST?

Held: Yes

In the case of **M/s Attica Gold Pvt Ltd.-AAR Karnataka**, the applicant is in the business of sale of used (second hand) goods. He purchased used gold jewellery from unregistered persons and sells them to others. The applicant sought an advance ruling whether it can avail the benefit of marginal scheme under GST, while selling those second hand jewelleryes?

The applicant contended that as per Rule-32(5), if a person is engaged in the supply of second hand goods, then he can avail the benefit of marginal scheme as per Notification No.10/2017-C.T (R) dated 28.06.2017 provided he satisfies all the prescribed conditions. Further explaining the scope of the Rule, the applicant stated that the said rule covers a situation where a person is dealing in buying and selling of used goods. In such case, the value of supply shall be the difference between the selling price less purchase price. To opt for the prescribed mode of valuation, the following conditions need to be fulfilled-

- i. used goods as such or after such minor processing which does not change the nature of the goods, and
- ii. no input tax credit has been availed on the purchase of such goods

the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored.





The applicant also stated that it is settled jurisprudence principle that the words of a statute is clear, plain and unambiguous, then the courts are bound to give effect to that meaning irrespective of consequences. The above principle is also followed in the case of **Nelson Motis v. UOI** and **Govt. of Andhra Pradesh v. Road Rollers Owners Welfare Association**.

The Authority referred Rule-32(5) and stated that if the applicant purchases the second hand goods from *other registered persons*, then he would be ineligible to apply marginal scheme for supplies of such second hand goods. Hence, in the present case, the applicant is entitled to avail the benefit of marginal scheme provided under Rule-32(5) of the CGST Rules, 2017.

## 2. Whether Seva services and sale of prasadam by temples are exempt under GST?

Held: Yes

In case of **M/s Shri Malai Mahadeshwara Swamy Kshetra Development Authority-AAR Karnataka**, the applicant is registered as a religious and charitable institution under Section 12-AA of the Income Tax Act. It has been rendering various Seva services and supplies Prasada items to the pilgrims in Sri Mahadeshwara Swamy Temple at Male Mahadeshwara Hills. It also rents out accommodations and other commercial places, either by itself or sells off the rights to provide such services, and in lieu of this collects the money consideration. With regard to seva services, it performs several seva services in the form of Pooja in the precincts of temple and charges the prescribed rates for services offered to devotees. The applicant sought an advance ruling on the taxability of seva services and sale of prasadam by it.

The Authority referred to section-7 of the CGST Act, 2017 and stated that the *seva services are not in the course or furtherance of business* and hence the same cannot be covered under the scope of supply, though there is no money received by the applicant for the same. Further, even the definition of consideration also states that the money received should be in relation to the supply of goods or services or both. Hence, the seva services provided by the applicant are exempt under GST. Regarding the question of taxability of sale of prasadam, entry no.98 of the Notification No. 2/2017- C.T (R) dated 28.06.2017 exempts the goods falling under “Prasadam supplied by the religious places like temples, mosques, churches, gurudwaras, dargahs, etc”. It is very clear from the notification that the items of prasadam sold by the applicant are exempt from GST. However, if the applicant sells items other than prasadam, like clothes, bags, etc. then such goods are liable to tax under GST as they do not form part of the prasadam.



### 3. Whether sale of pre-designed software which is made available through the use of encryption keys be treated as 'Computer Software' resulting in supply of goods under GST?

Held: Yes

In case of **M/s Solize India Technologies Pvt Ltd. -AAR Karnataka**, the applicant is engaged in purchase of software from their principal partner and supply the same to their customers. The applicant sought an advance ruling on whether software supplied by it can be treated as computer software resulting in supply of goods?

The applicant submitted that the software supplied could be used by the customers in different fields depending on their requirement. It is a package software and not tailor made to suit individual requirement. It stated that their customer base is mainly Govt. departments, PSU's etc. the Notification No. 45/2017- C.T (R) dated 14.11.2017 provides a concessional rate of 5% GST on goods listed in it. In the said notification, "Computer Software" was termed as Goods, for the purpose of applicability of concessional rate of GST. 'Computer Software' is not defined in the GST Law. Hence, the applicant viewed 'Computer Software' as 'Goods' and the concessional rate is applicable on it.

The Authority stated that the applicant purchases the off-the-shelf software which are not developed for any specific client. Hence, the software sold by the applicant is pre-developed or pre-designed software and made available through the use of encryption keys and hence it satisfies all the conditions that are required to be satisfied to treat it as 'goods.' Also, the software can be used only with the aid of the computer and has to be loaded on a computer and then after, activation is possible. Hence, the supply of software is covered under 'supply of goods' and is eligible for the concessional rate of 5% GST.

### 4. Whether TDS is to be deducted from the amount received for catering services to educational institutions?

Held: No

In the case of **M/s. Mahalakshmi Mahila Sangha-AAR Karnataka**, the applicant, an association of persons registered under GST, is providing catering services to educational institutions. It has sought an advance ruling on whether the catering services provided by it is exempt in terms of



Notification No.12/2017- C.T (R) dated 28.06.2017 and if it is exempt, then whether the provisions of TDS under GST is applicable to it?

The applicant stated that they are providing catering services to the educational institutions sponsored by the State/Central/ Union Territory. Hence, the same should be exempt under GST. Further, as they are engaged in providing exempt services, the provisions of TDS under GST i.e. section-51 of the CGST Act, 2017 will not be applicable for them.

The Authority stated that the applicant has to prepare food in the respective schools only and there is no provision of food cooked outside the premises of schools. Further, the student belongs to primary school category. Hence, the service is a catering service provided to an educational institution which is a primary school and hence is covered under the Entry no.66 of Notification No.12/2017- C.T (R) dated 28.06.2017 as amended from time to time and is exempted from GST. Answering to the second limb of the question i.e. applicability of section-51, the Authority stated that the provision of TDS under GST is applicable on the payment made to a supplier of taxable services and since the applicant is supplying exempt services, the said provisions are not applicable to the payments made to them by the educational institutions.

**5. Whether separate registration is required in a state where a person is executing a contract and has no permanent establishment and the principal place of business is registered in another state?**

Held: No

In the case of ***M/s T & D Electricals-AAR Karnataka***, the applicant is a works contractor and has been awarded a contract for electrical instrumentation and I.T jobs/Installations at Karnataka. The applicant does not have any premises in Karnataka and the contractee will only provide temporary small space for office. The applicant sought an advance ruling on the matter that whether it is required to obtain registration in the state of Karnataka?

The applicant submitted that as per section-22(1) of the CGST Act, 2017, a supplier is liable to be registered in a state from which it **makes** a taxable supply of goods or services or both. Further, sec-2(71)(b) of the CGST Act, 2017 provide that where a supply has been made from a place other than place of business for which registration has been sought, then the 'location of supplier of service' shall be the location of fixed establishment. Also, as per section-12(3)(a) of



the IGST Act, 2017, the place of supply of works contract services will be the location at which the immovable property is located. Hence, the applicant contends that it is not required to obtain registration in Karnataka.

The Authority referred section-22 of the CGST Act, 2017, and observed that the applicant intends to supply goods or services or both from the principal place of business, which is located in Rajasthan. It does not have any other fixed establishment other than the principal place of business. Therefore, the location of the supplier is nothing but the principal place of business, which is in Rajasthan. Thus, there is no requirement for a separate registration in Karnataka for the execution of the contract.

#### 6. Whether supply of purified water to public in empty unsealed cans is exempt under GST law?

Held: No

In case of **M/s. Water Health India Pvt. Ltd.–AAR Karnataka**, the applicant is engaged in the business of supplying purified water in different types such as in unsealed form by filling customer empty cans, in 20 ltr unsealed cans and through piped network to establishments. It had entered into an agreement with local panchayats for the supply of purified water to the general public. The applicant supplied pure water to the public at a reasonable price. The applicant sought an advance ruling on whether the above service is exempt or not under GST?

The applicant submitted that as per Notification No.02/2017-C.T (R) dated 28.06.2017, the supply of water is exempted under GST. The notification exempts all types of water other than those sold in sealed containers. It also referred circular no.52/26/2018 dated 09.08.2018. Therefore, the applicant contended that supply of purified water, unless sold in sealed containers, should be eligible for exemption.

The Authority stated that the contention of the applicant with reference to the notification is that the term 'water sold in sealed containers' runs along with the remaining terms of the notification. The Authority observed that in ordinary usage 'and' is conjunctive. There is no hard and fast rule as to the meaning of the word 'and' and this word gets its proper meaning from the particular context from which it has been used. It relied on the interpretation of 'and' done by the **Hon'ble Allahabad High Court** in the case of **Sukhnandan V. Suraj Bali** and stated that the word 'and' used before the 'water sold in sealed container' in the notification stated above





is in disjunctive nature and lays down that 'water sold in a sealed container' is the another type of water excluded from the said entry along with other category of water. Thus, supply of purified water to the general public in an unsealed container is not entitled for exemption from GST.

## 7. Whether leasing of trucks without operator to GTA is exempt under GST?

Held: Yes.

In the case of **M/s. Ishan Resins & Paints Limited-AAR West Bengal**, the applicant intends to lease vehicle entailing the transfer of the right to use. The lessee will enjoy possession of the vehicle and provide the operator, bear the cost of fuel, maintenance, insurance, etc. The applicant sought an advance ruling on the taxability of the transaction referred above.

The applicant stated that Sl no. 22 of the Exemption Notification exempts the service by way of giving on hire a means of transportation of goods to a goods transport agency. However, leasing out a vehicle without operator where the control and possession is transferred to the lessee is different from giving the vehicle on hire. It referred the judgment of Hon'ble Uttarakhand High Court in **Commissioner of Customs & Central Excise Vs. Sachin Malhotra 12015 (37) STR 684 (Uttarakhand)**. The applicant contended that its service of leasing the vehicles without operator can be taxed under the appropriate heading under Sl No. 17 of the Rate Notification.

The Authority stated that 'Hiring' includes agreements where the control and possession of the goods are transferred to the hirer. It is known as the transfer of the right to use the goods. Sl No. 22 of the Exemption Notification should, therefore, apply to all hiring of the means of transportation of goods, provided the hirer is a goods transport agency and no other specific provision is made for taxing the transfer of the right to use such goods. Therefore, the applicant's service is exempt under GST.



# Guwahati Branch Activities

## CA Day

Guwahati Branch of EIRC of ICAI celebrated 72<sup>nd</sup> CA Day with great pomp and enthusiasm virtually. Not just the members, but their families and even their kids participated whole heartedly. Several events such as Drawing Competition, Essay Writing Competition for the young ones and Speech/Poetry Competition for the members and their spouses were conducted. Tree plantation and some CSR activities were also undertaken. Snapshots of the same have been shared below. Let's take a moment to acknowledge all the good work being done by our members and appreciate the hard work put in by our young ones 😊

### Drawing Competition for Kids within the age group of 6-10 years

Kids were encouraged to share their artwork on one of three broad topics: "My Home" or "Good Health" or "World Peace. We received 14 invigorating pieces and all of them were astounding. Rejoice!



First Prize: Kobid Goyal  
S/o CA. Raginee Goyal



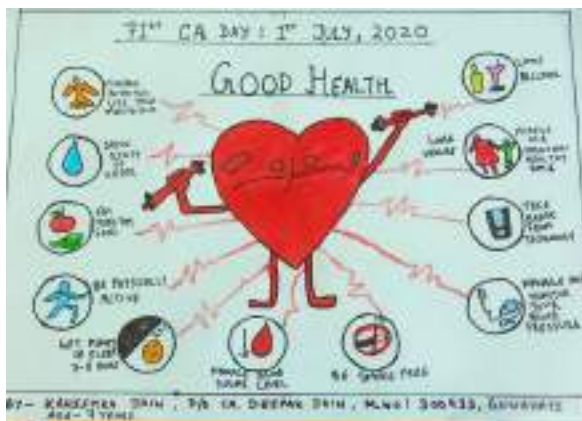
First Prize: Gautam Jain  
S/o CA. Manish Jain



Second Prize: Pahal Bharatia  
D/o CA. Deepak Bharatia



Second Prize: Priyanshi Modi  
D/o CA. Barun Modi



Third Prize: Kanishka Jain  
D/o CA. Deepak Jain



Third Prize: Navya Khanedelia  
D/o CA. Pankaj Khandelia



Consolation Prize: Chirag Jain  
S/o CA. Vikash Jain



Consolation Prize: Darsh Jain  
S/o CA. Dhiraj Jain





Consolation Prize: Manan Bhura  
S/o CA. Pankaj Bhura



Consolation Prize: Neerav Surana  
S/o CA. Rajesh Surana



Consolation Prize: Jahnvi Agarwal  
D/o CA. Salil Agarwal



Consolation Prize: Khyati Gupta  
D/o CA. Bineet Gupta



Consolation Prize: Aashvi Poddar  
D/o CA. Brijesh Poddar



Consolation Prize: Naavya Agarwal  
CA. Rakesh Agarwal



### Essay Writing Competition for Kids within the age group of 11-16 years

The topic allotted for this category was “How effective is Virtual Classes in lockdown”. We received 10 entries; all were well thought drafted and critically analyzed. However, one piece which stood out and also impressed the judges best was by Ms Bhavika Goyal, daughter of CA. Raginee Goyal. We take pride in sharing her thoughts with you all.

#### **HOW EFFECTIVE IS VIRTUAL CLASSES IN LOCKDOWN**

"2020" what a year! It brought classrooms on screens! Formal education turned virtual to make us realize how much we students needed real classrooms. No chalk or dusters around, no ticks or red marks on copies, no eye contact or active interaction, but muting-unmuting, idling with the video off and turning in home assignments after the lectures has forced us to adapt to this sudden change. No doubt e-learning is innovative, technology-driven and most compatible in adverse times as today but it cannot establish the teacher-student relationship which a real classroom offers. That element of discipline seems missing often. Technical glitches and connectivity issues make classes difficult sometimes.

Today we miss the very classes that we once resented; today I wish I would be sitting in a classroom being scolded for not being attentive enough rather than sitting in my house with my attention entirely focused on the screen receiving the same knowledge yet feeling low.

I would not disagree that virtual education has many advantages like cost effectiveness, convenience, time saving and location dynamic. For such reasons it may be the futuristic way of regular education but I would agree more that today it is more of a troubleshooting solution and our education system is yet to adapt to virtual education as a fully effective system. “The mode is virtual teaching, the objective is virtual learning and the process has just begun”.

Other writers also did a great job and we would like to acknowledge and appreciate their thoughts. Congratulations to:

- |                      |                   |
|----------------------|-------------------|
| 2. Mahabir Agarwalla | 7. Vaibhav Jain   |
| 3. Divisha Harlala   | 8. Arrush         |
| 4. Sachi Poddar      | 9. Aditi Sing     |
| 5. Veer Bhura        | 10. Yashvi Surave |
| 6. Bhavyee Jain      |                   |





### Tree/Sapling Plantation

Green is the way to be, and our members Practice what they preach!!





















### Speech/Poetry Competition for Members and their Spouses

A speech/poetry competition for the members and spouses wherein all participants are requested to send a video on the topic “Life before and after the pandemic- has it really changed?” A lot of interesting views were received and we had a hard time in selecting the winners! Here is the list of the winners. Congratulations to all!

- First Prize** CA. Ashok Sharma
- Second Prize (Joint)** CA. Manish Jain  
Mrs Khushboo Toshniwal, Spouse of CA. Saurav Toshniwal, Jorhat
- Third Prize (Joint)** CA. Hemant Jain  
CA. Pankaj Bhura
- Consolation** CA. Archie Jain  
CA. Deepak Jain  
CA. Harsha Jain  
CA. Priyanka Lahoty  
CA. Saurav Somani  
CA. Sweta Agarwal, Jorhat  
Mrs Kavita Agarwala , Spouse of CA. Brijesh Poddar, Jorhat  
Mrs Kiran Somani, spouse of CA. Mayank Somani, Jorhat



### Tree/Sapling Plantation by Nagaon Study Circle







### Sanitization Drive by Jorhat CPE Chapter





## CPE Events



ICAI Guwahati conducted a Virtual CPE Webinar on “New Avenues for CA Firms”



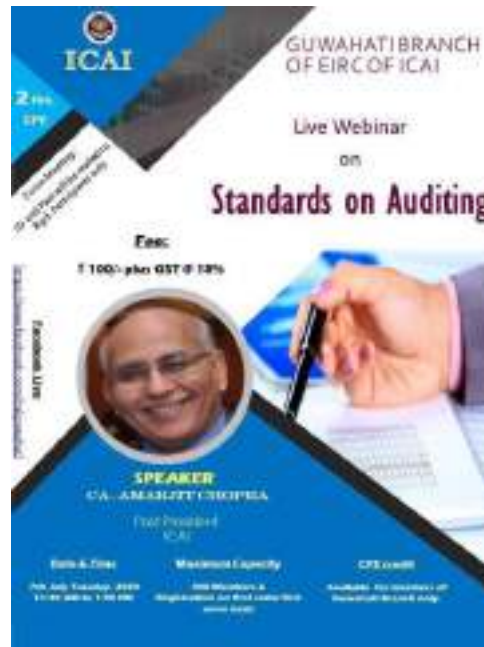
ICAI Guwahati conducted a virtual CPE Webinar on “GST Reconciliation 18-19” with CA. Vikash Kumar



ICAI Guwahati conducted a Virtual CPE Webinar on “Tax Planning through Succession & Huf” with CA. (Dr.) Girish Ahluja



## Upcoming Events



ICAI Guwahati is going to conduct a Virtual CPE Webinar on “Standards of Auditing” with CA. Amarjit Chopra



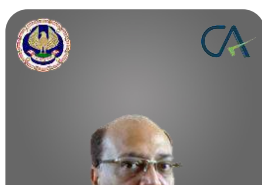
ICAI Guwahati is going to conduct a CPE Virtual Meeting on “Code of Ethics” by CA. A P Singh on 10th July from 5 PM





# Managing Committee

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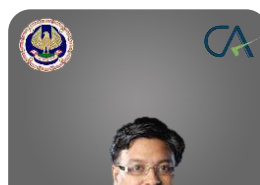
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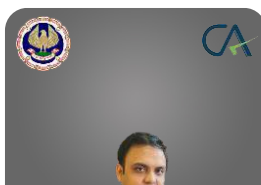
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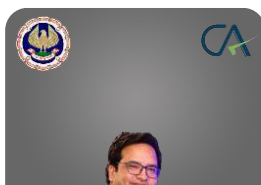
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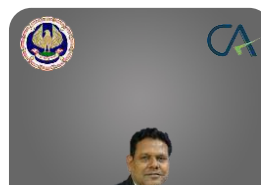
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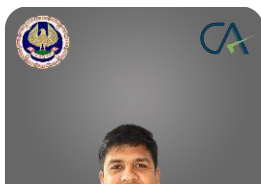
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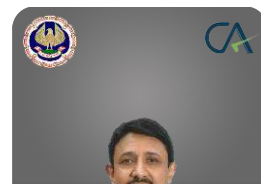
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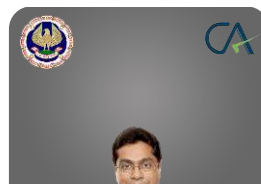
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## Keep in touch!

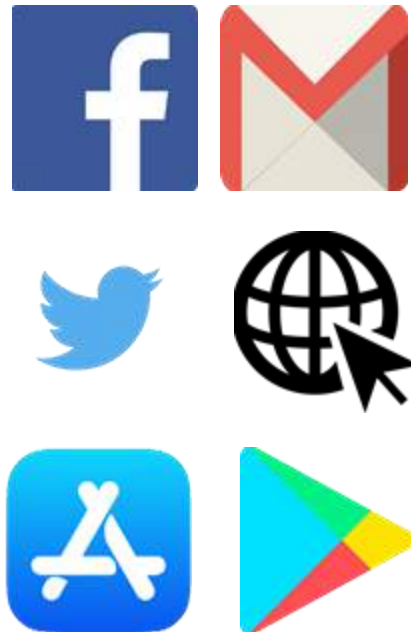
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