

NIRC-ICSI

PANIPAT CHAPTER

**consumer
protection**



CONSUMER PROTECTION ACT, 2019 AND VIRTUAL ANNUAL GENERAL MEETING, RECENT PROVISIONS AS PER COMPANIES ACT, 2013

ABOUT

Panipat Chapter, NIRC-ICSI Newsletter is generally Published on quarterly basis. First Newsletter was published in April, 2020 and Second Quarterly Newsletter was published in July, 2020. This newsletter is published with the consent of all Management Committee members. Articles Published in the Newsletter are invited by giving notices to all the members.

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The write-ups of this newsletter are also available on the website of the Panipat Chapter, NIRC-ICSI.

CS Sumit Grover, Chairman of Panipat Chapter has published the newsletter for and on behalf of Panipat Chapter of Northern India Regional Council of the Institute of Company Secretaries of India at 1ST Floor, Above JSR Trading, Geeta Mandir Road, Panipat-132103, Haryana, India; E-mail: panipat@icsi.edu; Phone No.:0180-4009144;

Panipat Chapter of NIRC of ICSI

Management Committee



CS Sumit Grover
Chairman of Panipat Chapter of NIRC of ICSI



CS Prabhjot Kaur
Vice-Chairperson of Panipat Chapter of NIRC of ICSI



CS Devesh Uppal
Secretary of Panipat Chapter of NIRC of ICSI



CS Abhishek Sharma
Treasurer of Panipat Chapter of NIRC of ICSI



CS Raman Rani
Member of Management Committee of Panipat Chapter of NIRC of ICSI



CS Sachin Saluja
Member of Management Committee of Panipat Chapter of NIRC of ICSI



CS Devender Jaglan
Member of Management Committee of Panipat Chapter of NIRC of ICSI

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Motto

सत्यं वद। धर्मं चर।
इष्टार्थे तेष्ट त्पुष्टे. अर्गेवेष्ट by तेष्ट लव.

Vision

"To be a global leader in promoting good corporate governance"

Mission

"To develop high calibre professionals facilitating good corporate governance"



सत्यमेव जयते

राष्ट्रपति
भारत गणतंत्र
PRESIDENT
REPUBLIC OF INDIA



MESSAGE

I am happy to know that the Institute of Company Secretaries of India (ICSI) is celebrating its 52nd Foundation Day on October 4, 2020 at New Delhi.

52nd Foundation Day is a moment of pride as well as an opportunity for ICSI to celebrate its efforts towards the holistic growth and development of Company Secretary Professionals who in turn are strengthening the Corporate Governance framework in the country. I have great admiration for the Institute for its unstinted support to the Government in all its endeavours towards nation building and for preparing a unique cadre of equipped professionals who are constantly contributing to this process.

I extend my warm greetings to all those associated with the Institute of Company Secretaries of India and I wish the event every success.


(Ram Nath Kovind)

New Delhi
September 28, 2020



सत्यमेव जयते

प्रधान मंत्री
Prime Minister

MESSAGE

I am pleased to learn that the Institute of Company Secretaries of India (ICSI) is celebrating its 52nd Foundation Day and bringing out a compilation to mark the occasion.

As one of the leading industrious bodies, the organisation is playing a pivotal role in nation building. The organisation's contribution in constantly honing skills of young professionals and helping them assume leadership positions nationally and internationally is immense. The efforts of the institution towards furthering corporate transparency are commendable.

In the last few years, the nation has seen how simplification of processes have increased ease of compliance and shaped India into one of the most competitive markets. Our approach of 'Reform, Perform and Transform' is aimed at furthering ease of living and bringing about a positive transformation in the lives of 130 crore citizens. The CS fraternity with their expertise, integrity and professional excellence add strength to this vision as valued stakeholders.

The Foundation Day is an occasion to review the progress made, as well as to chart out a roadmap for the future. May the occasion inspire everyone associated with ICSI to re-affirm their commitment towards promoting good corporate governance.

Heartiest congratulations and best wishes for the 52nd Foundation Day celebrations.

(Narendra Modi)

New Delhi
आश्विन 09, शक संवत्, 1942
01st October, 2020

Message from Sh.Sanjay Bhatia Ji, Hon'ble MP Loksabha (Panipat-Karnal)



“In the Movement of Self-Reliant India, role of COMPANY SECRETARIES is very vital because Company Secretary is the one who apprised the Companies regarding new rules and regulations in relation to production of domestic goods and services.”

Every Country is fighting with Coronavirus Disease but it has affected on Economy the most. India is blessed to have a leader like our Hon'ble Prime Minister Narendra Modi Ji who understand and introduced the concept of “Go vocal for Local” and “Self-Reliant India Movement”, where people connect and work for betterment of economy and if there is any profession on which we can trust for this i.e., Company Secretaries.

ICSI has history of around 52-53 years and it has derived a lot of respect in the Country over these Years. Government drafts the Rules and Regulations but Interpretation and implementation both are with Company Secretaries. Without Company Secretaries, there is no Corporate Governance. Implementation of Rules and Regulations in the Corporates is the responsibility of Company Secretaries. Stakeholders invested in Companies because of faith of Company Secretaries. You ensure timely and transparent Compliance of every Law, channelization of rights and always guide with the best to stakeholders.

During Ordinary Course of Business, you act as *Vidur* from Mahabharat who always guide Directors and others for good deeds and during crises in the Company, you act as *Krishna* by motivating all. Big Corporates faced losses due to poor Corporate Governance, thus, everything depends on you.

Company Secretaries are the backbone of the Company without which structure of the Company can get dissolved.

With high hopes there are also indeed many Challenges with CS profession. I urged to all CS to take Companies towards good directions and better corporate governance. If ICSI face any issue in the system in near future and give me an opportunity to represent CS profession, I will act as spokesperson of ICSI in Parliament. I know with the unity of Company Secretaries and good Corporate Governance we will be able to save our Economy and Country. I believe that Country is in determined and safe hands and we all together will accomplish the dream of Self-reliant India of Modi Ji.

Message from Sh. Pramod Vij, Hon'ble MLA, Panipat City



It was definitely an exciting experience for me to attend the North Indian level glorious webinar organized by the Institute of Company Secretaries of India on 20 July, 2020 on the topic of “*Role of Professionals in Nation Building Viz a Viz New Avenues for Company Secretaries*” which was very well covered by CS Harish Vaid and CS Sheetal Sharma. Understanding how the Company Secretary Institute works proved to be a truly amazing experience. Management is my passion anyway. Obviously, Sumit Grover ji who is the young chairman of Panipat region is very much managed and passionate towards this profession. It was great to connect with them. My best wishes with the Panipat Chapter, especially with the Sumit Grover Ji, who is chairman of the Panipat Chapter and the Management Committee.

Message from Sh. Mahipal Dhanda Ji, Hon'ble MLA, Panipat Rural



I am grateful to the Panipat Chapter of NIRC of ICSI that they had invited me as a Chief Guest for webinar on Model Code of Gram Panchayats where I could meet with professionals and express my views with members and Management Committee of Panipat Chapter of ICSI.

ICSI is a well recognized institute which is known for corporate governance and compliances. ICSI has always given recommendations to our Government for the welfare of society. Through this Institute, I would like to fetch the attention of Government towards the conditions of our farmers. The conditions of our farmers is so bad, they don't get the reasonable prices for their crops instead of having so many Agricultural Policies. The main reason behind this most of our farmers are not literate and don't have access of social media from where they can know about their rights and Government Policies in relation to agriculture. I urge to the Institute to make recommendations to the Government for various code or policies like this Model Code of Gram Panchayats.

I believe that ICSI will take the initiatives towards the welfare of farmers and provide necessary supports to them and also put the agricultural issues being faced by our farmers before the Central Government. I hope the Management Committee of the Chapter will soon give their suggestions in the way of upliftments of the farmers.

With these words, I thank to all the members and students to read my thoughts and best wishes to the Institute and its members on the 52nd Foundation Day.

Message from Ms. Avneet Kaur, Mayor, Panipat City



It gives me immense pleasure that Panipat Chapter of NIRC of ICSI has invited me as a Chief Guest on this auspicious day of Independence. Being a past student of ICSI, I can understand how CS Students work hard to fulfill their dreams to get a prefix “CS” before their name. I always feel a unique connection with ICSI.

I would like to extend my heartiest wishes to CS Sumit Grover, Chairman of Panipat Chapter and entire Management Committee for taking initiatives for the benefit of members and students. I would really appreciate that Panipat Chapter has been working so hard and with full dedication for the welfare of members and students from first day of constitution. As I get to know that the Chapter has constituted in January, 2020 and it seems so surprising that it has achieved so many milestones within short span of time.

It will be a pride moment for me if I could any work for the upliftment of Panipat Chapter being the Mayor of Panipat City. I would be always ready for any assistance which I can give to Panipat Chapter on my part. I firmly believe that Panipat Chapter will also work in future as it is working now.

My best wishes is with all students and members and students connected with it.

Message from CS Deepak Khaitan
Central Council Member of The Institute of Company Secretaries of India



“Be the change that you wish to see in the world.”

— Mahatma Gandhi

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ear Members and Students of Panipat Chapter of NIRC of ICSI,

Greetings of 52nd Foundation Day to All !

I extend my heartfelt appreciation to the Management Committee of the Panipat Chapter for taking this wonderful initiative to maintain the continuity of its events including the e-newsletter despite the pandemic situation. I am sure it gives a good opportunity to all who are associated with the Chapter to remain connected in more than one way.

I have perused the last two editions of the e-newsletter and I observe that pertinent topics are being covered and there is whole hearted initiative for brand building. The overall approach of the Committee is commendable. This reflects the efforts of the Chapter leadership. My compliments to CS Sumit Grover, Chairman and all the members of the Managing Committee of the Panipat Chapter and also to all the Flag Bearers of the Chapter from the past for their valuable contributions and express my unconditional support to all your initiatives at all times.

Best Wishes,

CS Deepak Kumar Khaitan

**Message from CS Suresh Pandey
Chairman of NIRC of ICSI**



“Keep your face always toward the sunshine—and shadows will fall behind you.” —Walt Whitman

Dear Blooming Professionals,
I feel really pleased to learn that the Panipat Chapter of the NIRC of ICSI is coming up with their third quarterly Newsletter. On this occasion, I would like to pay my sincere congratulations to Mr. Sumit Grover, the Chairman of the Panipat Chapter and all those associating team members who have contributed in the successful launch of the earlier Newsletters and have kept up their good work for this publication.

I acknowledge my utmost faith in the Chapter’s dedicated efforts for the Newsletter towards serving its readers with best of knowledge and professional zeal that are extremely important for the growth of our CS Profession.

I believe this is just the beginning and the Panipat Chapter is going to witness even many greater things in future if they continue to work hard like this.

Believe you can and you’re halfway there. - Theodore Roosevelt

Wishing sound health for all our members, students and their families. Please feel free to connect, if we can be of any help.

Wishing this Newsletter a grand success!

Yours Own,
CS Suresh Pandey
Chairman-NIRC of ICSI
Chairman.nirc@icsi.edu
Mob. +91 9968300649

Message from Chairman of Panipat Chapter of NIRC-ICSI



Dear Professional Colleagues,

“The pessimist sees difficulty in every opportunity. The optimist sees opportunity in every difficulty”

It is a matter of great pleasure that Panipat Chapter of NIRC of ICSI has come up with its third Quarterly Newsletter. Panipat Chapter has achieved many milestones during this quarter and has also taken many initiatives for the welfare of students and members. As we have seen many ups and downs and face many challenges in preceding few months due to COVID pandemic and lockdown but now the things are gradually going normal with the advent of festive season. So, I on behalf of Panipat Chapter of NIRC of ICSI would like to extend my heartiest wishes to our all readers for upcoming all festivals.

During this quarter, we had invited you all to share your articles/write-ups with the Chapter on the theme *“Consumer Protection Act, 2019 and Virtual Annual General Meeting, Recent Provisions as per Companies Act, 2013”*. In today’s Digital Age when everyone is preferring e-commerce transactions rather than physical transactions from the market for convenience and easy access and in this COVID pandemic, we all have shifted to Online Transactions in one way or another it is need of hour that all our reader’s should have knowledge about the latest notified Consumer Protection Act, 2019 which is very beneficial and useful for our reader not only personally but also for professionally. This Consumer Protection Act, 2019 has very wide scope for our professional allies also. We are well acquainted with current situation prevailing in our Country and aware that there is still lockdown in some areas and also some restrictions on physical gatherings due to which it is not possible for Companies to hold its Annual General Meetings physically. Considering the difficulties being faced by the Companies, Minister of Corporate Affairs has allowed to the Companies for holding the Annual General Meetings Virtually subject to some conditions which are very well covered by our authors in their articles/write-ups.

We had received so many articles/write-ups not only on delegated theme but also on other topic which will be addition in the knowledge for our readers. In past Quarter Chapter has celebrated Student Month, various webinars which were graced by presence of various political personalities, conducted teacher’s conference, Study Circle Meet and many more. Chapter is continuously working for the upliftment of the Profession, members, students and stakeholders.

I would like to extend my sincere gratitude to my entire Panipat Chapter Committee for their continuous support. I believe that Panipat Chapter will definitely meet the expectation of their members and students.

In last, I would like to convey one message to our all readers that never lose hope. With your hard work and dedication you can convert threats into opportunities, your weakness into strength. So, do Hard work and put your all efforts and dedication into what you are doing as it will never go into vain and extend my best wishes to all the readers of the newsletter.

With Best Regard,

CS Sumit Grover
Chairman
Panipat Chapter, NIRC-ICSI
Chairman.panipat@icsi.edu

Message from Management Committee of Panipat Chapter



“ It is a matter of enormous pleasure that ICSI, The Institute of Company Secretaries of India celebrated its 52nd foundation day on 4th of October, 2020. ICSI is country's premier professional body promoting good corporate governance, risk management and compliances.

Let us pledge together to adhere to the motto " Speak the Truth, Abide the Law" in letter and spirit and promote the professional to an unmarkable success point. I extend my wishes to all the professionals and students associated with The Institute of Company Secretaries of India.”

CS Prabhjot Kaur

Vice Chairperson of Panipat Chapter of NIRC of ICSI



“ I remember a quote that someone is sitting in the shade today because someone planted a tree a long time ago. With the same thought, We are in the mission of imparting knowledge, empowering the youth and enhancing the quality and strength of our members and take pride in stating that the Panipat chapter has achieved most of the goals in a few months.

I wish the Panipat chapter of NIRC-ICSI to achieve the highest height and Best Chapter Award in the coming year.

CS Raman Sharma

Member of Management Committee of Panipat Chapter of NIRC of ICSI

INITIATIVES OF PANIPAT CHAPTER

(I) Panipat Chapter has proposed to sign MOU with following Universities. MOU Signing procedures are at in progress:-

- 1. Guru Jambheshwar University of science and technology, Hisar**
- 2. Om Sterling Global University, Hisar**



CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI) has visited to the Om Sterling Global University, Hisar for the purpose of MOU signing which is under process.

(II) Panipat Chapter has sent proposal to NIRC for land Purchase for chapter premises



Panipat Chapter of NIRC of ICSI premises at First Floor, Left portion, above JSR Trading, Geeta Mandir Road, Panipat-132103, India

(III) Panipat Chapter has empanelled with Prem Super Speciality Hospital, one of the most renowned hospital of Panipat City for the welfare of our CS Community.

Key points:

- 1. 20% discount on OPD and IPD Services;**
- 2. This facility is available for ICSI Northern Region employees, retired employees, ICSI Members, Students and their dependents.**

(IV) The ICSI has opened 2 new Exam Centre in the District of Rohtak and Bhiwani under the jurisdiction of Panipat Chapter for the ease of Students who will appear in CS Exams in December, 2020.

GLIMPSES OF WEBINARS

Panipat Chapter has conducted various Webinars with eminent speakers and moderators in presence of many political personalities which receive enormous response from the members.



5th Webinar on 2nd July, 2020 on the theme of “Role of Company Secretaries in Corporate Governance Viz-a-viz leading the Private Equity & Venture Capital Transactions” by CS Yawar Usmani (Company Secretary & Legal Counsel, Stellapps Technologies Private Limited) in presence of Sh. Sanjay Bhatiaji (Member of Parliament, Lok Sabha (Panipat-Karnal)), CS Suresh Pandey (Chairman of NIRC of ICSI) with CS Sumit Grover (Chairman of Panipat Chapter of NIRC-ICSI) with the Management Committee of Panipat Chapter



Sh. Pramod Vij (Hon’ble MLA, Panipat Chapter) has joined the 6th webinar on 20th July, 2020 on the topic of “Role of Professionals in Nation Building viz a viz new avenues for Company Secretaries” in presence of CS Nagendra D. Rao (Vice-President of ICSI), CS Harish Vaid (Speaker and past Vice President of ICSI and Sr. President (Corporate Affairs) Jaypee Group) with Co-panelist CS Sheetal Sharma and CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI) with CS Prabhjot Kaur (Vice Chairperson of Panipat Chapter of NIRC of ICSI)



Ms. Avneet Kaur, Mayor-Nagar Nigam, Panipat has joined the 7th webinar on 15th August, 2020 on the topic of “Update and Upgrade: Atmanirbhar Professionals” with CS Ravinder Ji (IAS) Joint Secretary DIPP, Government of India, New Delhi and CS Deepak Khaitan (Central Council Member of ICSI) in presence of CS Sushil Daga,(Secretary of NIRC of ICSI) CS Hardeep Singh Nijher(Chairman, Ludhiana Chapter) with CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI)



8th Webinar of Panipat Chapter on August 29, 2020 on the topic of “NCLT Practice & How to overcome the challenges faced by Professionals During COVID-19” delivered by CS Himanshu Harbola (Regional Council Member of ICSI) in presence of CS NPS Chawla (Central Council Member of ICSI), CS Nand Lal Thakur (Chairman of Noida Chapter of NIRC of ICSI), CS Vishal Soni (Chairman of Jalandhar Chapter of NIRC of ICSI), CS Arjun Tyagi (Member of Management Committee of Chandigarh Chapter of NIRC of ICSI) with CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI)



9th Webinar of Panipat Chapter held on 12th September, 2020 on the topic of “Appearance and Pleadings before the Tribunal viz-a-viz Court Craft” by CS Saurabh Kalia (Regional Council Member of NIRC of ICSI & Secretary, NCLT Bar Association) in presence of CS (Dr.) Shyam Agrawal (Past President of the ICSI), CS Vimal Gupta (Vice-Chairman of NIRC of ICSI), CS Manish Durga (Practicing Company Secretary) with CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI)

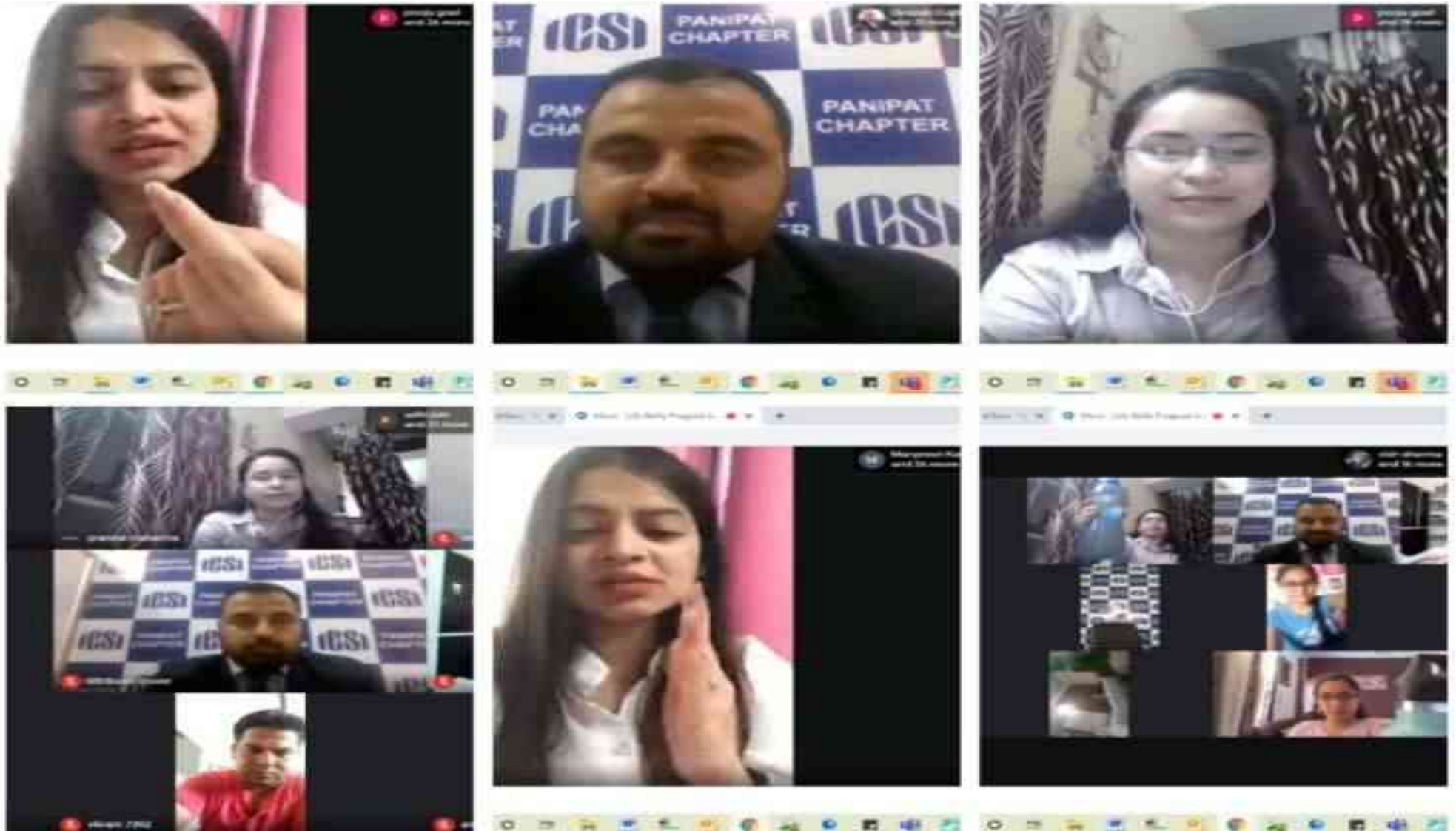


10th Webinar on 26th September, 2020 on the topic of “Modes of Recovery under Various Laws Viz-a-Viz Professional Opportunities” by CS Awanish Srivastava (Managing Partner, NAKS & Partners) in presence of CS Nesar Ahmad (Past President of the ICSI), CS Suresh Pandey (Chairman of NIRC of ICSI) with CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI) and Adv. Vaibhav Gupta (Managing Partner, Vaibhav Gupta Associates)

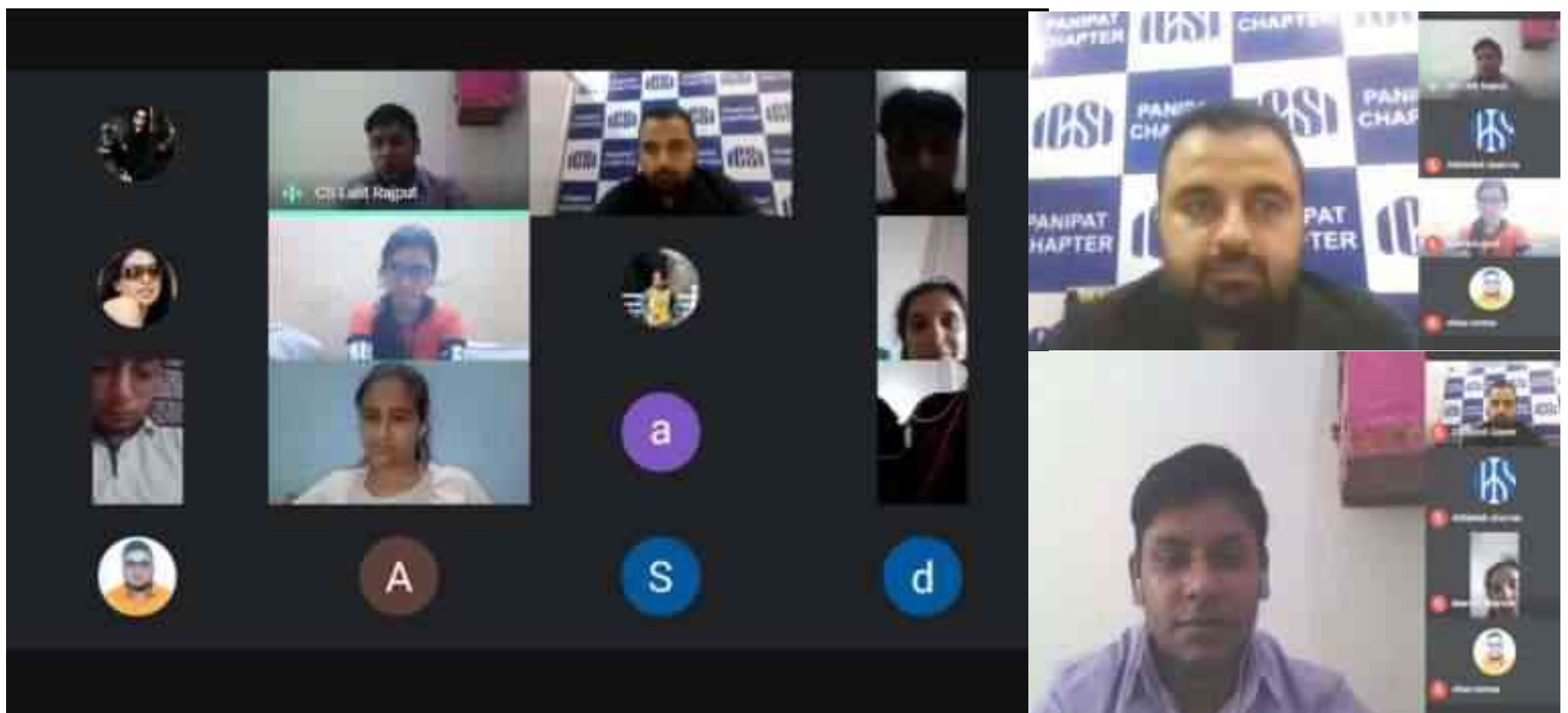
OTHER PROGRAMS OF PANIPAT CHAPTER

Student Month

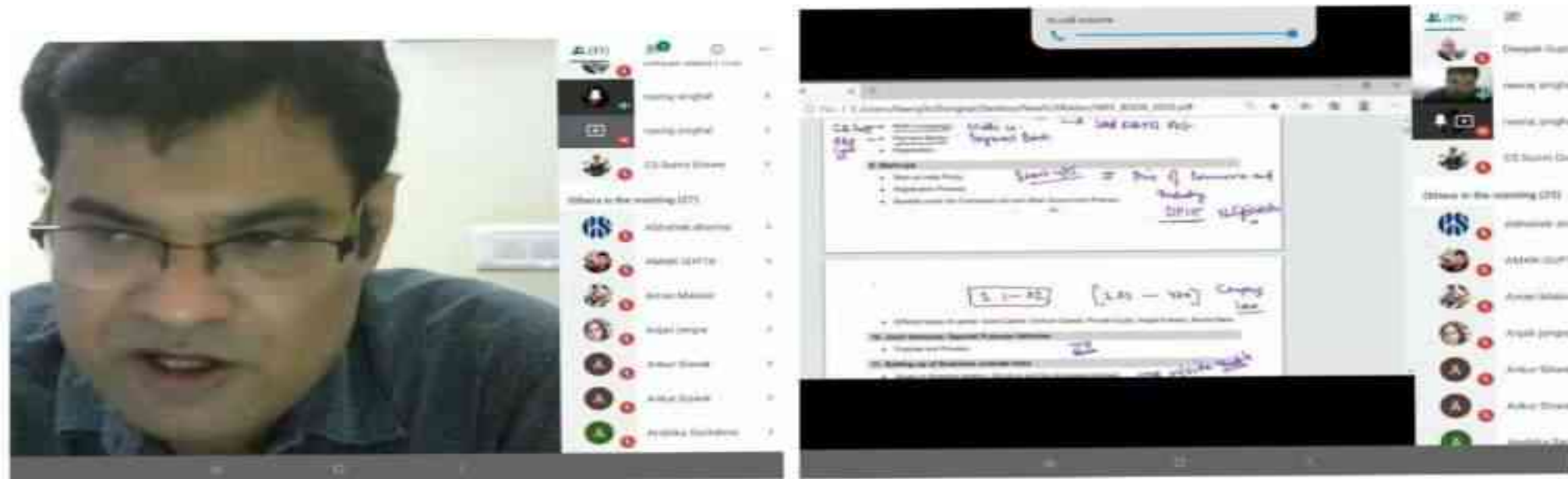
1. Online Session on “Life Skills” on 9th July, 2020 by Ms. Neha Choudhary (USA/Certified BKO (Neuro Linguistic Programming Trainer) moderated by CS Praneta Mahatma in presence of CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI) with Students under Panipat Chapter Jurisdiction.



2. Online Company Law Quiz on 10th July, 2020 by CS Lalit Rajput (Advisor Content Writer Blogger and Team Master) in presence of CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI) with the Students of CS from the Panipat Chapter Jurisdiction.



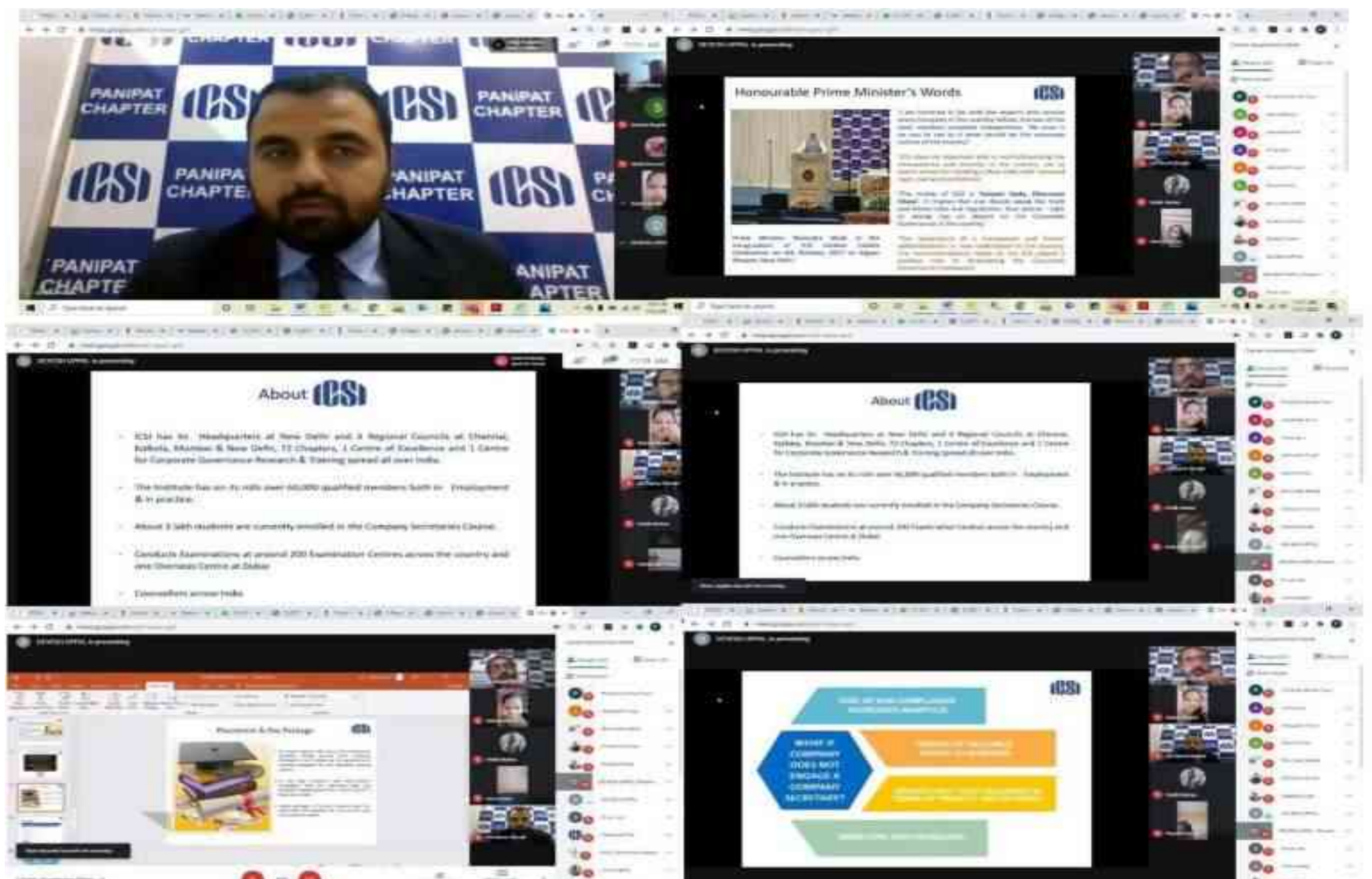
3. Online Crash Courses for the Students from 15th July, 2020 to 17th July, 2020 by CA Himanshu Grover and CS Neeraj Singhal on Tax Laws, GST Laws and Setting up of business entities and closure



4. "Samadhan Diwas" - Zero Grievance Day with CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI), CS Prabhjot Kaur (Vice Chairperson of NIRC of ICSI) with Mr. Deepak Kumar Gupta (Office Incharge of Panipat Chapter of NIRC of ICSI)



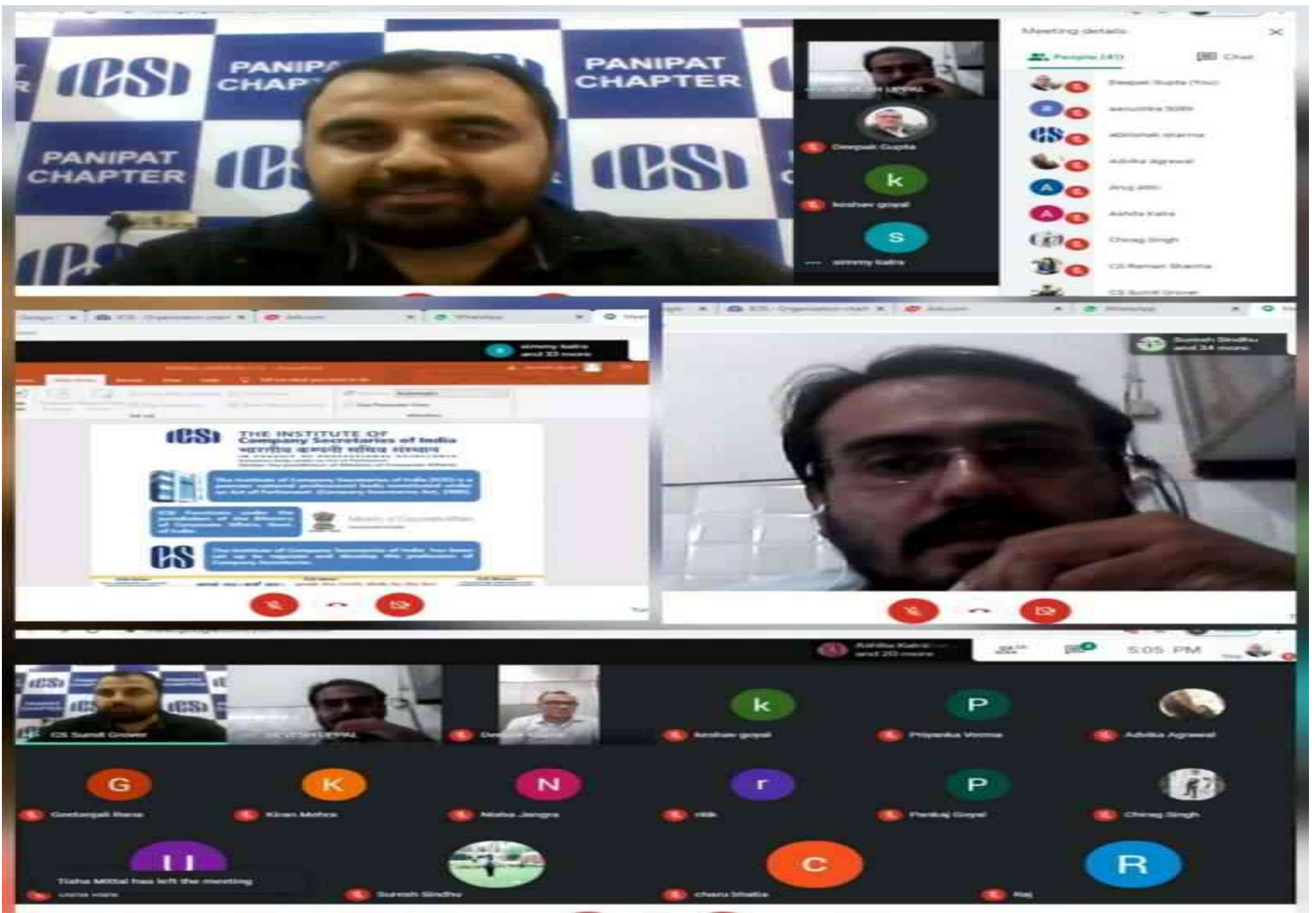
5. Online Career Awareness Program on 21st July, 2020 in Ch. Bansi Lal Govt. College, Bhiwani with CS Devesh Uppal (Secretary of Panipat Chapter) and Mr. Deepak Gupta (Office In Charge of Panipat Chapter of NIRC of ICSI) in guidance of CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI)



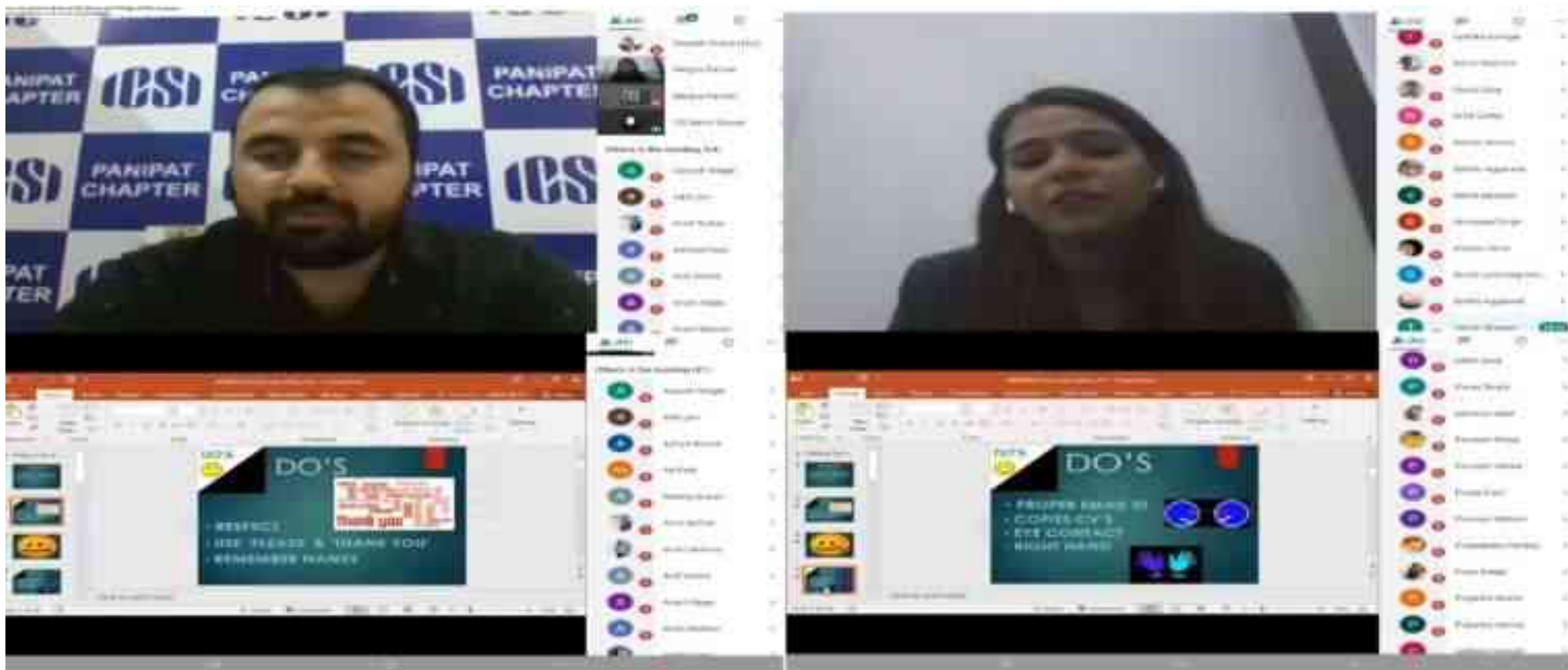
6. Online Career Awareness Program on 23rd July, 2020 in Shiksha Bharti Public School, Rohtak with CS Devesh Uppal (Secretary of Panipat Chapter) and Mr. Deepak Gupta (Office In Charge of Panipat Chapter of NIRC of ICSI) in guidance of CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI)



7. Online Career Awareness Program on 24th July, 2020 in Dav Police Public School and Blooming Dales School, Hisar with CS Devesh Uppal (Secretary of Panipat Chapter) and Mr. Deepak Gupta (Office In Charge of Panipat Chapter of NIRC of ICSI) in guidance of CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI)



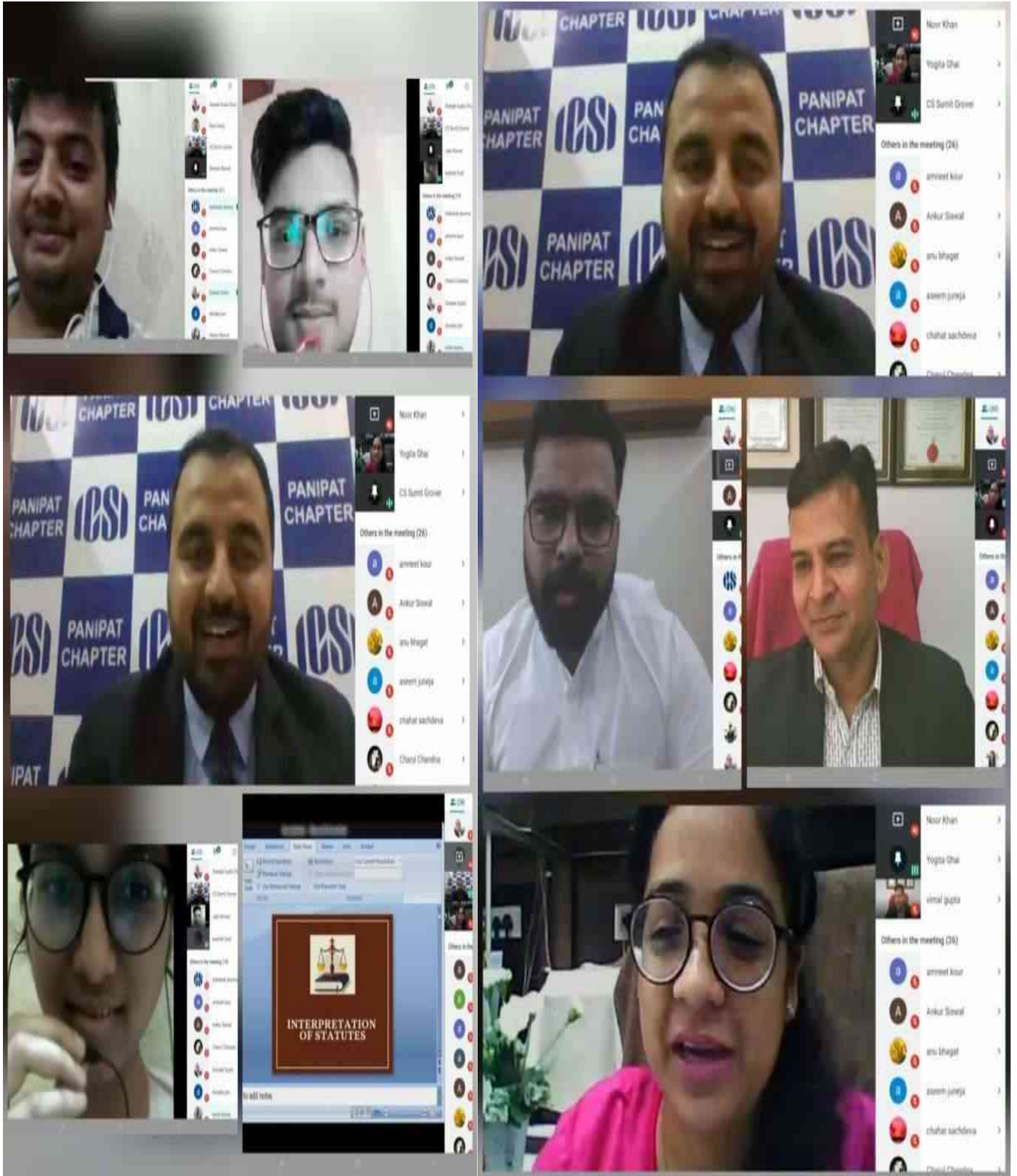
8. Online Program on “How to appear in Interview” by CS Megha Pathak (Compliance Officer, Mercurio Pallia Logistics Private Limited & Member of GEFCO Group and Co-Founder of Parivartan Jeevan Foundation) in presence of CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI) for Students and Members



9. Online Faculty Induction Program by CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI) introducing CA Himanshu Grover, CS Harish Popli and CS Geetanjali for online classes.



10. Webcast on “Interpretation skills with Case Laws” by CS Noor Niazi (CS, M.com, MBA & BBA, Managing Partner at Legalroof) with CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI) for Students. On 31st July, 2020 Chapter had also celebrated Closing Ceremony of the Student Month with the Chairman of Various Chapter of NIRC of ICSI and CS Vimal Gupta (Vice-Chairman of NIRC of ICSI). All the Chairmen had praised and congratulate the Panipat Chapter for successful completion of Student Month



Ist Student Conference

Panipat Chapter has conducted First Student Conference on 10th August, 2020 on the Topic of “Scope of CS in Practice and Employment and Opportunities in CS Course” in presence of CS Manoj Yadav (Chairman of Kanpur Chapter of NIRC of ICSI), CS Atul Kumar Rawat (Vice-Chairman of Lucknow Chapter of NIRC of ICSI), CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI) with Mr. Sunil Jain (Motivational Speaker) and CS Paramjeet Singh (Entrepreneur)

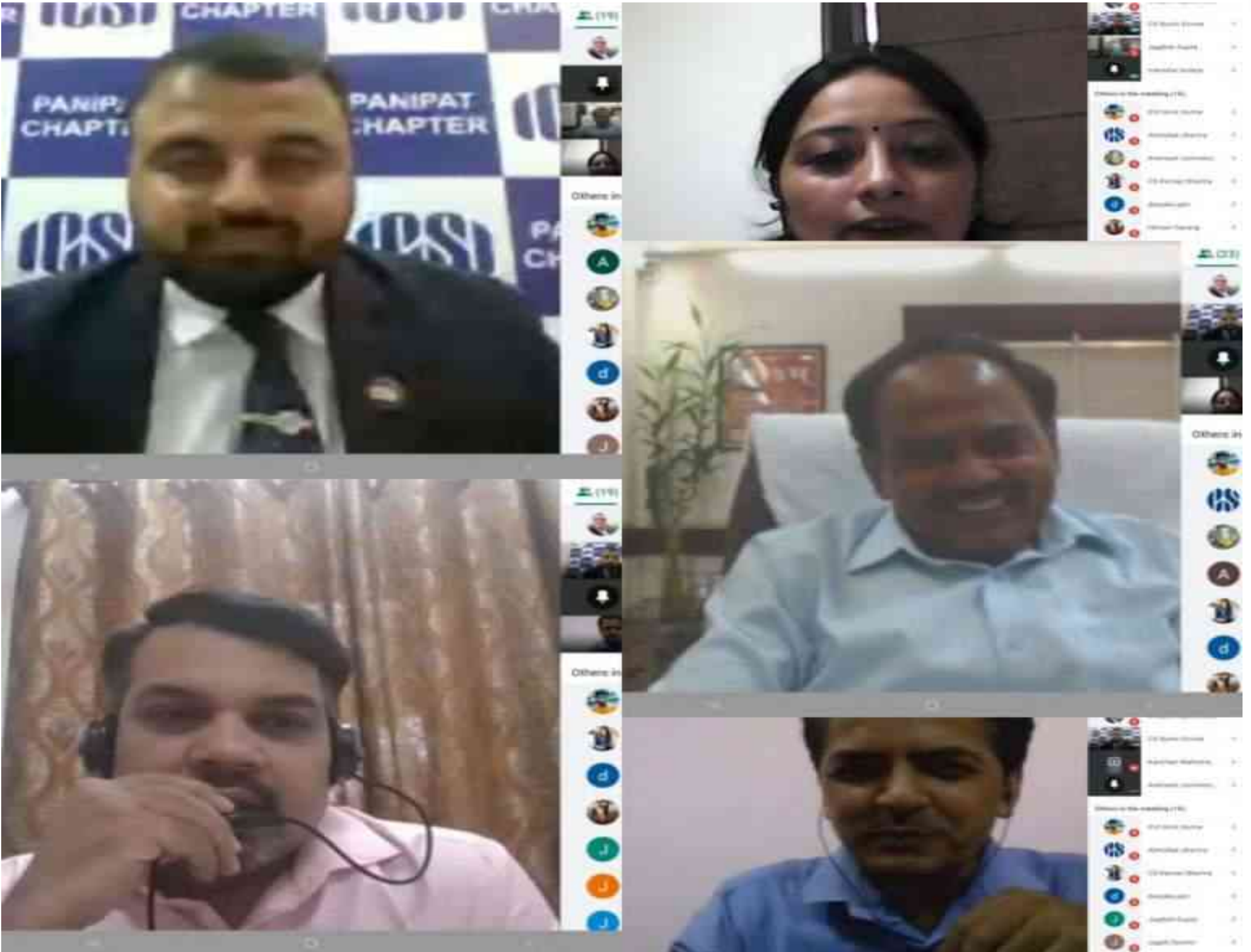


Independence Day Flag Hoisting



Teacher's Conference

Panipat Chapter has conducted First Teacher's Conference on 23rd September, 2020 on the Topic of "New Education Policy 2020 viz-a-viz All about CS Profession" in presence of Dr. Jagdish Gupta (Principal Arya PG College) with Dr. Manisha Nagpal (Assistant Professor, Arya PG College), Prof. Pankaj Chaudhary (Assistant Professor Arya PG College) , Mr. Animesh Kumar (Head of Department, Commerce DAV Police Public School) in presence of CS Sumit Grover (Chairman of Panipat Chapter of NIRC of ICSI)



Company Secretary- Who is?, Structure? Role? Career options?

Role of CS

Flotation of Company to Winding up of a Company	Due Diligence	Insolvency & Bankruptcy	Business Valuations
Corporate Governance	Forensic Audit	CSR Audit	

Career Options

Can join Private Sector	Can join Private Sector	Freelancer	Consultancy Services
Banks/Financial Institutions	Teaching/ Higher Education	Regulatory Bodies -SEBI	Can be in DCA/MCA/NCLT

Company Secretary- Who is?, Structure? Role? Career options?

- Responsible for efficient of administration of a company
- Ensuring Compliance and Regulatory requirements
- Implementation of the decisions of the board of director
- Despite of the name, the role is not clerical/secretarial

CSET Executive Professional Training

Winner of Company Law Quiz, 2020



Mr. Jatin Kumar

ICSI Registration No.:-
240652706/03/2018



Ms. Kashish Goel

ICSI Registration No.:-
219997852209/2019



Ms. Keerat Saluja

ICSI Registration No.:-
240815861/01/2020



Ms. Kirti

ICSI Registration No.:-
240782165/08/2019



Ms. Komal Jindal

ICSI Registration No.:-
240761476/05/2019

Volunteers' of Panipat Chapter

Panipat Chapter is thankful to both the Volunteers for doing marvelous job in the progress of Panipat Chapter



Mr. Hritik Mehta

ICSI Registration No.:- 240536826/07/2016

Volunteer in Bhiwani District



Ms. Tripti Makkar

ICSI Registration No.:- 240280057/07/2014

Volunteer in Rohtak District

MEDIA COVERAGE BY PANIPAT CHAPTER



Press Release in Panipat Bhaskar on 02.07.2020 in regard to GST Day

Press Release in Panipat Bhaskar on 18.07.2020 in regard to the conducting of CS Exams of June Session in December, 2020



Press Release in Panipat Bhaskar on 18.08.2020 in regard to 74th Independence Day stating the Importance of Company Secretary in Nation Building



Press Release in Panipat Bhaskar on 18.08.2020 in regard to 74th Independence Day stating the Importance of Company Secretary in Nation Building



Press Release in Panipat Bhaskar on 27.08.2020 regarding inauguration of Overseas Centre of Company Secretary Institute in London

Press Release in Panipat Bhaskar on 30.08.2020 of the webinar on Nidhi Companies by ICSI





Press Release in Panipat Bhaskar on 04.09.2020 of the webinar by ICSI on Ease of doing business

Press Release in Panipat Bhaskar on 10.09.2020 on new Education Policy in India conducted by ICSI



Press Release in Panipat Bhaskar on 24.09.2020 for the announcement of opening 45 new Examination Centers for the CS Exams to be held from 21st December, 2020 to 30th December, 2020



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Consumer Protection Act 2019: Single-point access to Justice

The Indian Parliament passed the landmark Consumer Protection Bill 2019 by replacing the Consumer Protection Act, 1986, which aimed at providing timely and effective administration and settlement of consumer disputes and related matters. The new Act came into force on 20th July, 2020.

The consumer landscape in India has seen a paradigm shift starting with the liberalization of the economy in the early 1990s to the advent of online marketplaces and e-commerce. The Government enacted a new Act altogether instead of bringing an amendment in the 1986 Act, so as to provide enhanced protection to the consumers taking into consideration the booming e-commerce industry and the modern methods of providing goods and services such as online sales, tele-shopping, direct selling and multi-level marketing in addition to traditional methods. The New Act, 2019 proposes a slew of measures and tightens the existing rules to further safeguard consumer rights.

Aim of the Consumer Protection Act, 2019

To save the rights of the consumers by establishing authorities for timely and effective administration and settlement of consumers' disputes.

Journey of The Consumer Protection Act, 2019

The Consumer Protection Act, 2019 was introduced by Mr. Ram Vilas Paswan, the Minister of Consumer Affairs, Food and Public Distribution in the Lok Sabha on July 8, 2019. The Consumer Protection Bill, 2019 has been passed by the Lok Sabha on Jul 30, 2019, and Rajya Sabha passed on Aug 06, 2019. It was notified in the Official Gazette on August 09, 2019 as the Consumer Protection Act, 2019, No. 35 of 2019. The Consumer Protection Act, 2019 comes into force from with effect from 20th July, 2020.

The Consumer Protection Act, 2019 – at a glance

The Act was introduced with an objective to provide for protection of the interests of consumers and for the said purpose, to establish authorities for timely and effective administration and settlement of consumers' disputes and for matters connected therewith or incidental thereto"

1. Regulator

The New Act proposes the establishment of a regulatory authority known as the Central Consumer Protection Authority to be known as the Central Authority to regulate matters relating to violation of rights of consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interests of public and consumers and to promote, protect and enforce the rights of consumers as a class. There was no separate regulator in the Consumer Protection Act, 1986

2. Flexibility to file complaints

The New Act provides flexibility to the consumer to file complaints with the jurisdictional consumer forum located at the place of residence or work of the consumer, this is unlike the current practice of filing it at the place of purchase or where the seller has its registered office address. The New Act also contains enabling provisions for consumer to file complaints electronically and for hearing and/or examining parties through video-conferencing. This aimed to provide procedural ease and reduce inconvenience and harassment to the consumers.

3. Product Liability

The New Act has introduced the concept of "product liability" and made it a new ground for filing a complaint which is one of the most significant addition to this act. The concept is incorporated under Section 34 of CPA, 2019 and brings within its scope not only the product manufacturer, product service provider but also the product seller to compensate for any harm caused to a consumer by defective products.

Basis for product liability action:

- Manufacturing defect.
- Design defect.
- Deviation from manufacturing specifications.
- Not conforming to express warranty

- Failing to contain adequate instructions for correct use.
- Service provided-faulty, imperfect or deficient.

4. Pecuniary Jurisdiction

The pecuniary limits have been revised under the New Act. These limits are far higher than the limits set by the previous act.

- The District Commission (**earlier referred to as District Forum**) can now entertain consumer complaints where the value of goods and services paid does not exceed **rupees one crore** which was limited to the value not exceeding **rupees twenty lakhs** in the Old Act, 1986
- The State Commission can now entertain consumer complaints where the value of goods and services paid does not exceed **rupees ten crores** which was limited to the value not exceeding **rupees one crore** in the Old Act, 1986
- The National Commission can exercise jurisdiction where such values exceed **rupees ten crores** but in the Old Act, 1986, the National Commission can exercise jurisdiction where such values exceed **rupees one crore**.

The increase in the pecuniary jurisdiction of all three commissions is an encouraging step as it should attract lesser number of claims in appellate commission to an extent thereby ensuring swifter disposal of cases.

5. E-Commerce

The old Act was silent regarding e-commerce transactions. But the new act provides for the definition of “Consumer” under the 2019 Act to include all those who buys any goods for consideration or avails/hires any service either through offline mode or online mode, involving electronic means, teleshopping, direct selling or multilevel marketing.

The government will notify the **Consumer Protection (E-commerce) Rules, 2020** under the Act.

Key Provisions w.r.t. Consumer Protection (E-commerce) Rules, 2020:

- E-commerce entities are required to provide information to consumers, relating to return, refund, exchange, warranty and guarantee, delivery and shipment, modes of payment, grievance, payment methods and country of origin etc.
- E-commerce platforms will have to acknowledge the receipt of any consumer complaint within 48 hours and redress the complaint within one month from the date of receipt.
- They will also have to appoint a grievance officer for consumer grievance redressal.
- Sellers cannot refuse to take back goods or withdraw services or refuse refunds, if such goods or services are defective, deficient, delivered late, or if they do not meet the description on the platform.
- The rules also prohibit the e-commerce companies from manipulating the price of the goods or services to gain unreasonable profit through unjustified prices.
- The Consumer Protection (E-commerce) Rules, 2020 are mandatory and are not advisories.

Consumer Protection (E-commerce) Rules, 2020: [click here](#)

6. Unfair Trade Practice and Unfair Contract

The new Consumer Protection Act, 2019 have broadened the definition of “Unfair Trade Practice” by adding the following:

- not issuing bill or cash memo or receipt for the goods sold or services rendered in such manner as may be prescribed
- refusing, after selling goods or rendering services, to take back or withdraw defective goods or to withdraw or discontinue deficient services and to refund the consideration thereof, if paid, within the period stipulated in the bill or cash memo or receipt or in the absence of such stipulation, within a period of thirty days;
- disclosing to other person any personal information given in confidence by the consumer unless such disclosure is made in accordance with the provisions of any law for the time being in force.

Also, in the New Act, 2019 “**Unfair Contract**” has also been added which further broadens the ground to file complaints and allows consumers to challenge contracts which are unfair, unilateral and unreasonable.

7. Mediation Cells

The New Act, 2019 now provides for settlement of disputes by way of Alternate Dispute Resolution mechanism, in case there is a possibility of settlement at the stage of admission of complaint or at any later stage, if acceptable to both parties, making the process simpler and quicker. A mediation cell will be attached to each District, State and National Commission and its regional Benches for quick resolution. This will help with the speedier resolution of disputes and reduce pressure on consumer courts.

Legal provision regarding the Mediation was absent in the Consumer Protection Act, 1986.

8. Provisions related to Punishment for Manufacture or Sale of Adulterated/Spurious Goods

In case of the first conviction, a competent court may suspend any licence issued to the person for a period of up to two years and in case of second or subsequent conviction, may cancel the licence permanently.

9. Central Consumer Protection Authority (CCPA)

Central Consumer Protection Authority (CCPA) is required to be established under the Consumer Protection Act, 2019 with an aim to promote, protect and enforce the rights of consumers.

It is empowered to:

- Conduct investigations into violations of consumer rights and institute complaints/prosecution.
- Order recall of unsafe goods and services.
- Order discontinuance of unfair trade practices and misleading advertisements.
- Impose penalties on manufacturers/endorsers/publishers of misleading advertisements.

Consumer Disputes Redressal Commission Rules

- There will be no fee for filing cases up to Rs. 5 lakh.
- The credit of the amount due to unidentifiable consumers will go to the Consumer Welfare Fund (CWF)
- State Commissions will furnish information to the Central Government on a quarterly basis on vacancies, disposal, the pendency of cases and other matters.

Comparative Analysis between the Consumer Protection Act, 1986 v/s the Consumer Protection Act, 2019

Basis	The Consumer Protection Act, 1986	The Consumer Protection Act, 2019
Regulator	No separate Regulator	Central The Consumer Protection Authority (CCPA) to be formed
Product Liability	Consumer could approach a civil court but not consumer court. No such provision.	Consumer can seek compensation for harm caused by a product or service
Consumer Court	Complaint could be filed in a consumer court where the seller’s (defendant) office is located	Complaint can be filed in a consumer court where the complainant resides or works
Pecuniary Jurisdiction	District: Upto Rs. 20 lakhs State: Rs. 20 lakhs – 1 Crore National: Above Rs. 1 Crore	District: Upto Rs. 1 Crore State: Rs. 1 Crore – 10 Crore National: Above Rs. 10 Crore
E- Commerce	No such provision exist	All rules of direct selling extended to E-commerce
Mediation Cells	No Legal Provisions	Court can refer settlement through mediation.

Conclusion

Every new Act comes with both applaunds and brickbats. Same is the case with this new Consumer Protection Act, 2020. On one side, it is being lauded for being consumer-centric. It has also been criticized for increasing the compliance cost of already cash-strapped e-commerce sector, which is a bit concerning. However, at present it seems to be a welcome move as it removes the lacunae of the old Act and has been introduced at a crucial time when economies are becoming global and more consumer-centric. With the implementation of the provisions of the Act, the popular phrase 'buyer beware' might be replaced to 'seller beware' making Consumer the king in its truest sense.





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Conducting Annual General Meeting (AGM) through video conferencing (VC) or other audio visual means (OAVM) - MCA Clarifies

The Ministry of Corporate Affairs (MCA) vide its **General Circular No 14/2020** issued earlier, on **April 08, 2020**, allowed the Companies to hold their Extra-Ordinary General Meetings (EGM) through Video Conferencing (VC) or Other Audio Visual Means (OAVM). Later on May 05, 2020, MCA has come up with another Circular i.e. **General Circular No 20/2020** allowing the Companies for holding Annual General Meeting (AGM) through Video Conferencing (VC) or Other Audio Visual Means (OAVM) in the calendar year 2020 subject to the fulfillment of few requirements.

While the world has entered in a situation where restricting physical movements is necessary, there is no stopping the internet and the ever growing technology. As we all are aware of the ongoing circumstances of lock down, the impact of COVID-19 pandemic has brought about a new set of challenges for the economy in the world as well as for the Indian economy.

In view of this situation, MCA earlier extended the time frame for conducting Annual General Meetings by the Companies, which are following Financial Year as January 1 to December 31. The revised due date is **September 30, 2020, instead of June 30, 2020**.



*Before knowing the process of holding AGM through VC or OAVM, we should be aware with the intentions of authorities and should be very clear with the requirements of issuing aforesaid Circular. As you are aware that the **Corona virus Pandemic COVID – 19** has surpass all the historic pandemics & Crises and also has put the earth & the whole economic & business system to a halt. This pandemic has also led to temporary shutting down of millions of Corporate and industrial unit. This Circular had issued by MCA in the view of current situation of COVID – 19 and Social Distancing which led the Companies to complete shutdown or to do activities with minimum number of staff.*

To add more on the list of facilitating the companies and businesses in India, The Ministry of Corporate Affairs (MCA) has now allowed companies to hold their annual general meeting (AGM) by Video Conferencing (VC) or other audio visual means (OAVM) during the calendar year 2020 amidst the COVID-19 crisis.

Procedure of Holding Annual General Meeting (AGM) through Video Conferencing (VC) or Other Audio Visual Means (OAVM)

A. For Companies mandatory require to/opted for providing e-voting facility-

1. The Notice of Holding AGM shall be dispatched to members only through e-mails registered with the Company or Depository Participant;
2. The copies of financial statements including Board's report, Auditor's report or other documents required to be attached therewith, shall be sent **only** by email to the members, trustees for the debenture-holders, and to all other persons so entitled;
3. Before sending notices of AGM and copies of Financial Statements to members, an advertisement has to be published at least once in a vernacular newspaper in principal vernacular language of the district in which the registered office of the Company is situated and at least in English Language in English Newspaper having a wide circulation in that district, **preferable both newspapers having electronic editions**, and shall specify the following information:

(a) statement that the AGM will be convened through VC or OAVM in compliance with applicable provisions of the Act read with applicable Circular;

(b) the date and time of the AGM through VC or OAVM;

(c) availability of notice of the meeting on the website of the company and the stock exchange, in case of a listed company;

[Author's Suggestion: It is suggested to provide the link of website of the company and the stock exchange, if possible.]

(d) the manner in which the members who are holding shares in physical form or who have not registered their email addresses with the company can cast their vote through remote e-voting or through the e-voting system during the meeting;

(e) the manner in which the members can give their mandate receiving dividends directly in their bank accounts through Electronic Clearing Service (ECS) or any other means;

[This clause is applicable only for those companies who are declaring final dividend at their AGM.]

(f) any other detail considered necessary by the company.

4. The facility for joining the meeting shall be opened at least 15 minutes before the time scheduled for the meeting and close after 15 minutes of expiry of scheduled time of the meeting.

5. The Company shall ensure that meeting through VC or OAVM allows two way teleconferencing or webex for the ease of participation of the members and the participants are allowed to ask questions or given time to ask questions in advance on email address of the Company.

6. The Facility must have a capacity to allow at least 1,000 members to participate on the First-cum-First-serve basis.

7. The shareholders holding 2% or more shareholding, promoters, KMPs, Chairpersons of Audit Committee and Nomination & Remuneration Committee etc. may be allowed to attend the meeting without restrictions.

8. Chairperson: As specified in Articles of Association (AOA) of the Company. If AOA does not specify the name of Chairperson then-

Where there are <50 members present : Chairperson appointed as per Section 104 of the Act;

In all other case : Appointed by Poll conducted through e-voting.

9. Attendance of members through VC or OAVM shall be counted for quorum u/s 103 of the Act.

10. Proxies u/s 105 of the Act are **not** allowed to be appointed for the meeting held under this Framework. However, representative of the members u/s 112 & 113 of the Act are allowed to be appointed for the purpose of voting through remote e-voting or for participation in the meeting through VC or OAVM.

11. Participation of at least One Independent Director (Where the Company has Independent Directors) and the Auditors or his representative is mandatory for holding meeting through VC or OAVM.

12. In case the Company has received permission from relevant authorities to conduct AGM at its Registered Office, or at any other place as provided under section 96 of the Act, then the Company in addition to holding such meeting with physical presence of some members shall also provide the facility of VC or OAVM so as to allow other members of the company to participate in such meeting.

13. All members who are physically present in the meeting as well as the members who attend the meeting through the facility of VC or OAVM shall be counted in Quorum.

14. All resolutions shall continue to be passed through the e-voting facility

B. For Companies not required to provide e-voting facility-

1. The Company can conduct AGM through VC or OAVM Facility only when it has the email addresses of at least half of its total number of members:-

a.	In case of Nidhi Companies	Who hold shares of more than Rs. 1,000/- in face value or more than 1% of the total paid-up share capital, whichever is less
b.	In case of other Companies having Share Capital	Who represent not less than 75% of such part of the paid-up share capital of the company as gives a right to vote at the meeting
c.	In case of Companies not having Share Capital	Who have the right to exercise not less than 75% of the total voting power exercisable at the meeting

2. The company shall take all necessary steps to register the email addresses of all persons who have not registered their email addresses with the company.

3. The Notice of Holding AGM shall be dispatched to members only through e-mails registered with the Company or Depository Participant;

4. The copies of financial statements including Board's report, Auditor's report or other documents required to be attached therewith, shall be sent **only** by email to the members, trustees for the debenture-holders, and to all other persons so entitled;

5. The facility for joining the meeting shall be opened at least 15 minutes before the time scheduled for the meeting and close after 15 minutes of expiry of scheduled time of the meeting.

6. The Company shall ensure that meeting through VC or OAVM allows two way teleconferencing or webex for the ease of participation of the members and the participants are allowed to ask questions or given time to ask questions in advance on email address of the Company.

7. The Facility must have a capacity to allow at least 500 members or equal to the total number of members of the Company, whichever is lower, to participate on the First-cum-First-serve basis.

8. The shareholders holding 2% or more shareholding, promoters, KMPs, Chairpersons of Audit Committee and Nomination & Remuneration Committee etc. may be allowed to attend the meeting without restrictions.

9. Chairperson: As specified in Articles of Association (AOA) of the Company. If AOA does not specify the name of Chairperson then-

Where there are <50 members present : Chairperson appointed as per Section 104 of the Act;

In all other case : Appointed by Poll conducted through e-voting.

10. Attendance of members through VC or OAVM shall be counted for quorum u/s 103 of the Act.

11. Participation of at least One Independent Director (Where the Company has Independent Directors) and the Auditors or his representative is mandatory for holding meeting through VC or OAVM.

12. Proxies u/s 105 of the Act are **not** allowed to be appointed for the meeting held under this Framework. However, representative of the members u/s 112 & 113 of the Act are allowed to be appointed for the purpose of voting through remote e-voting or for participation in the meeting through VC or OAVM.

13. Where the Company has Institutional Investors as its Member, they must be encouraged to attend and vote in the said meeting through VC or OAVM.

14. In case the Poll is required to be taken, the Company shall provide a designated email address to all members at the time of sending the notice of meeting so that the members can convey their vote.

15. During the meeting held through VC or OAVM facility, where a poll on any item is demanded, the members shall cast their vote on such resolution only by sending emails through their email address registered with the Company.

Any member voted through any other email id not registered with Company, such vote shall be considered as Invalid.

16. Voting on Resolution(s)

Where <50 members present : Voting by show of hands unless poll demanded

Where >50 members present : Voting by poll through e-mail as stated in clause 15 above

17. In case the Company is unable to pay the dividend to any shareholder by the electronic mode, due to non-availability of the details of bank account, then the company shall upon normalization of the postal services, dispatch the dividend warrant / cheque to such shareholder by post.

C. The companies which are rioted covered by the General Circular No. 18/2020, dated 21.04.2020 and are unable to conduct their AGM in accordance with the framework provided in this Circular are advised to prefer applications for extension of AGM at a suitable point of time before the concerned Registrar of Companies under section 96 of the Act.

However, many companies which have already approved their AGM notices will have to make suitable changes therein in line with the said circular. Further, post the issue of this AGM Circular, most of the companies will be making their debut in conducting the AGM through VC/OAVM and it will be interesting to see smooth convening amidst the crisis. However, this is a welcome move by the MCA.

DISCLAIMER- *This write-up is based on the understanding and interpretation of the author and the same is not intended to be professional advice.*



Article on Pandemic, Judicial Propriety and deaf ears of Quasi Judicial Bodies

On 11.03.2020 World Health Organisation declared the outbreak of the Corona Virus (COVID -19) as a pandemic. How it started or the reason for its spread is to date a mystery and to date the world at large has failed to find any vaccine-like other prevailing deadly Viruses. Today COVID-19 has not only changed our lifestyle but also our perception towards life. Human beings always designated as the social animal but this C virus has made us social distant for the safety of our life and our loved ones'.

COVID-19 has not only mutilated the health of human beings across the world but also the economy of various countries. Therefore the Indian Government issued the various guidelines for shielding the nation, which to some extent helped in reducing the outcome of the C virus but on the other hand destroyed the various business or industries across the country. The steps by the Indian Government were necessary and inexorable and without any delay or hesitation nation followed all instructions issued by the Government bcoz every one has the sense that

“Jaan hai to Jahan hai”.

As every coin has two sides to show similarly on one side Indian Government is safeguarding the health of its people from pandemic circumstances on the other hand Judiciary in India took various steps suo moto for the protection of the litigants and state from the running down period of limitation prescribed under the general law of limitation or under special laws (both Central and/or State) during the lockdown.

Hon'ble Supreme Court in Sua Moto petition (Civil) No.3/2020 titled In RE: Cognizance for Extension of Limitation, took the cognizance of the situation arising out of the challenge faced by the country on account of COVID-19, ordered that the period of limitation, whether condonable or not shall stand extended w.e.f 15.03.2020 till further orders passed by the Court to remove all difficulties may be faced by the litigants across the country in filing their petition/applications/suits/appeals/proceedings. Hon'ble Supreme Court while exercising their power under article 142 read with article 141 of the Constitution of India declares that the order is binding order within the meaning of Article 141 on all Courts/Tribunal & authorities.

On the other hand Hon'ble High Court of Delhi in Sua Moto writ W.P.(C). 3037/2020 took the cognizance of the extraordinary circumstances under article 226 & 227 of the Constitution of India, ordered that all interim orders in all matters pending before High Court of Delhi or its subordinate courts shall stand extended till 15.06.2020, except where any orders to the contrary have been passed by the Hon'ble Supreme Court of India in any particular matter, during the intervening period.

Under Article 141 of the Constitution of India, the law declared by the Supreme Court shall be binding on all courts within the territory of India. It is not that law laid down by Supreme Court is binding only on Courts but in fact it applies to all lower subordinate authorities as well otherwise there will be no judicial discipline.

However, as habitual Quasi-Judicial bodies across the country disregard or misconceived the law laid down by the Hon'ble Supreme court in respect of the period of limitation and issued various orders under CST, VAT & GST Acts during the period of lockdown. The said bodies have not only shut their eyes on the principle laid down by the highest judicial court but also the ignored strict guidelines issued by the Indian Government. Such a frame of mind of the quasi-judicial bodies was witnessed by the traders or tax professionals or lawyers in earlier regime also i.e. in those days when we were not facing disastrous COVID-19 in our lives.

Nevertheless, it manifests that the quasi-judicial bodies have determined and decided to move against the law laid down by the Hon'ble Supreme Court of India and therefore they have started passing the impugned ex parte orders under VAT & GST Acts in hurry and without even giving any opportunity of being heard to traders or authorized representatives such inclination of the said bodies demonstrate the total ignorance toward the law laid down and abuse of power.

Recently in RE M/s. Walchandnagar Industries Limited vs The Commercial Tax Officer, Writ Petition No.8425 and 8451 of 2020 before the Hon'ble High Court of Hyderabad, the tax officer proceeded with the ex parte order against the trader without giving the opportunity of being heard on the apprehension that passing of consequential order is necessary within 3 years from the date of the original order as the same will not be valid in the eyes of law due to the period of limitation. The Hon'ble High Court after analyzing ordered that the viewpoint of the tax officer was incorrect as the law laid down by the Hon'ble Supreme court of India has been misconceived by the officer. The period of limitation prescribed in the statutes has been extended for all matters. The order of Hon'ble Supreme Court will take care & safeguard the interest of the state also. In addition to this every trader deserves a fair hearing as the rule of natural justice.

Interestingly in Delhi various Quasi-Judicial bodies have also passed the ex parte orders under CST, VAT & GST Acts against various traders without giving the proper opportunity of being heard and proper adjudication. Surprisingly such orders were passed on those days when the whole country was lockdown, such orders are true evidence of injustice, abuse of power, and disrespectful attitude towards law laid down by the Hon'ble Supreme Court of India and the constitution of India. Since the pandemic circumstance is such which nobody could visualize, quasi-judicial bodies should follow the law laid by the highest constitutional court of India but unfortunately authorities are not accepting the blunders they have made while interpreting the law laid and in exercising their powers with duties.

In addition to above, the reasons behind such orders from the quasi bodies in Delhi are more absurd and ill-logic bcoz according to them the ex parte orders have been passed by the so-called "system without human interfere", which is totally not acceptable as how can any system work without receiving any directions from the human beings/authorities during a lockdown? Also the fear of the running down of the period of limitation in the statues in spite of law laid by the Hon'ble Supreme Court.

Howbeit, when various strong representations were made before the quasi-judicial bodies from the President of the Sales Tax Bar Association in Delhi, then finally we receive the circular vide no. 03 2020/21 from the Delhi VAT department dated 15.05.2020 which advised all assessing authority and objection hearing authority designated under the DVAT Act, 2004 to adhere to the orders of the Hon'ble Supreme Court of India in respect of limitation period in various provisions of the DVAT, 2004. Such resultant circular as and when ex parte orders have been passed will play any role will depend upon future, but this circular makes remind very old adage i.e. "it's no use crying over spilled milk". The action taken by the quasi-judicial bodies is bad in law moreover leads to piles of litigations and harassment not only to the traders but also to the various tax professionals. When many businesses and industries are on the verge of closure due to extraordinary situations under COVID-19, such ex parte orders with wrong interpretation of the law will lead persecution and victimization to the innocent traders across the country. Hence, in upcoming days we will face various time consuming and futile litigation in Courts and Tribunals.

In India, the Courts are already over-burdened with the large number of cases which take years and years to be decided resulting in a delay in delivery of justice which at times results in denial of Justice even if a litigant wins the case after prolonged litigation. Further when the Courts are overburdened with a large number of cases it becomes almost impossible for judges to deliver quality judgments. During this period of Lockdown I happened to attend one such Webinar of the Hon'ble Justice Shri M.B.Lokur, Ex-Judge Supreme Court of India and Hon'ble Justice Shri S.Murlidhar, Judge, Chandigarh High Court wherein Hon'ble Justice S. Murlidhar stated that "when he has 70 cases on a particular day on his board he is not able to deliver the quality of judgments for various reasons than the when there is lesser number of cases".

Anyhow wrong interpretation of law and abuse of power by the quasi-judicial bodies and long litigation battles will go on, but we should not forget that in this pandemic circumstance we have to make our self-ready to combat the deadly C virus in lives. As our Hon'ble Prime Minister Mr. Narendra Modi has said now we have to live and move ahead in our lives with this COVID-19, and it is necessary to bring drastic changes in our daily routine. Which reminds me the famous dialogue from the movie MERA NAAM JOKER by the legend late Shri RAJ KAPOOR

"THE SHOW MUST GO ON"....!



Product Liability under Consumer Protection Act, 2019– A study

The Consumer Protection Act, 2019 has ushered in several changes, while replacing and repealing the erstwhile Consumer Protection Act, 1986. Although there are several changes in the new law, the scope of this article is limited to the discussion of product liability, which in author's view, is the most important and significant change brought in by the Government.

Introduction of Product Liability

The Consumer Protection Act, 2019 has brought in a new definition of "Product" under Section 2(33). The provision is reproduced herewith –

2(33) **"Product"** means any article or goods or substance or raw material or any extended cycle of such product, which may be in gaseous, liquid, or solid state possessing intrinsic value which is capable of delivery either as wholly assembled or as a component part and is produced for introduction to trade or commerce, but does not include human tissues, blood, blood products and organs;

With the intent to protect the consumers from spurious or adulterated goods, the Government has introduced the concept of 'product liability' in the new law. Here, product manufacturers, product service providers and product sellers are brought into the ambit and are made liable for punishment by a competent court for manufacture and/ or sale of spurious or adulterated goods.

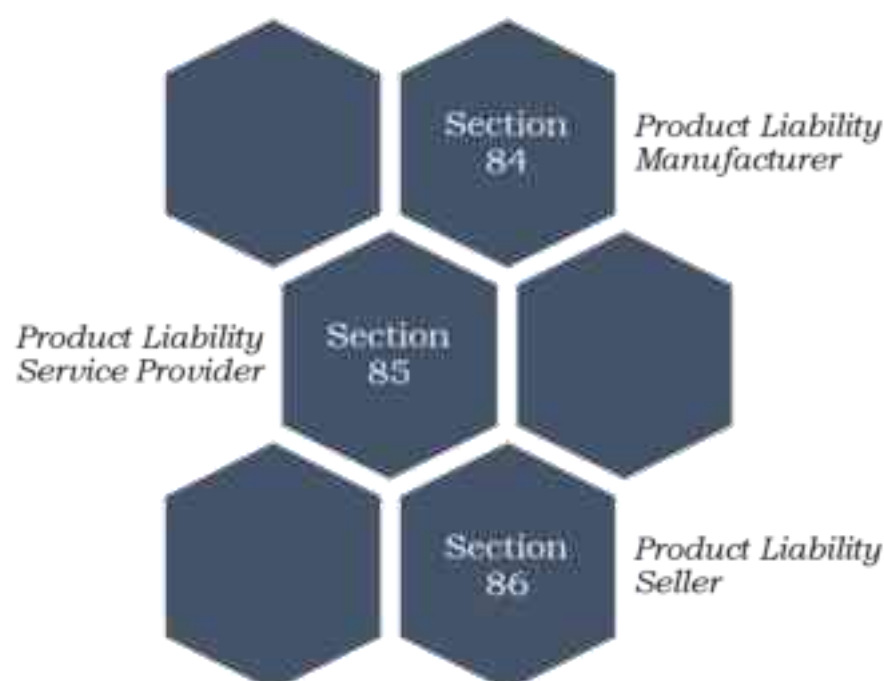
Here, Section 2(34) should be read with Section 2(22). **Section 2(34)** defines **product liability** as – "the responsibility of a product manufacturer or product seller, of any product or service, to compensate for any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services relating thereto;"

The word 'harm' is introduced in Section 2(22) and it includes damage to any property, illness, death, personal injury, mental agony or emotional distress, or loss to consortium or services. However, the said provision will not attract if the said harm has been caused to product itself, or the property as a result of breach of warranty conditions or any commercial or economic loss.

Liabilities of Product Manufacturer and Product Service Provider

Chapter VI of the Consumer Protection Act, 2019 is dedicated to "Product Liability". As per **Section 82** of the Act, apply to every claim for compensation under a product liability action by a complainant for any harm caused by a defective product manufactured by a product manufacturer or serviced by a product service provider or sold by a product seller.

Under **Section 83** of the Consumer Protection Act, 2020, a **product liability action** may be brought by a complainant against a product manufacturer or a product service provider or a product seller, as the case may be, for any harm caused to him on account of a defective product.



The categories of product liability across manufacturers, service providers and sellers are provided below:

Product Liability Manufacturer (Section 84)	Product Liability Service (Section 85)	Product Liability Seller (Section 86)
Manufacturing Defect or Design Defect	Faulty, Imperfect, Deficient, Inadequate Service in Quality, Nature, Manner of Performance	Exercised Control over Designing, Mfging, Testing, Packaging, Labelling, which caused Harm
Deviation was made from any Manufacturing Specifications	Omission, Commission, Negligence, or Conscious Withholding of Information which causes Harm	Altered or Modified the Product in a Substantial Way which caused the Harm
No Confirmation to Express Warranty	No Confirmation to Express Warranty	Product Sold by him and Identity of Manufacturer is Unknown
Failure to Provide Instructions of Correct Use or Warning of Improper Usage which causes any Harm	Non-Issuance of Warnings of Instructions to Prevent any Harm	Failure to Exercise Reasonable Care in Assembling, Inspecting or Maintaining Product or didn't pass warnings.

Defences Available to Manufacturers, Service Providers and Sellers

The Act has provided defences to the product manufacturers, product service providers and product sellers. Under **Section 87** of the Act, there are however **exceptions to product liability action** which are briefly mentioned as follows:

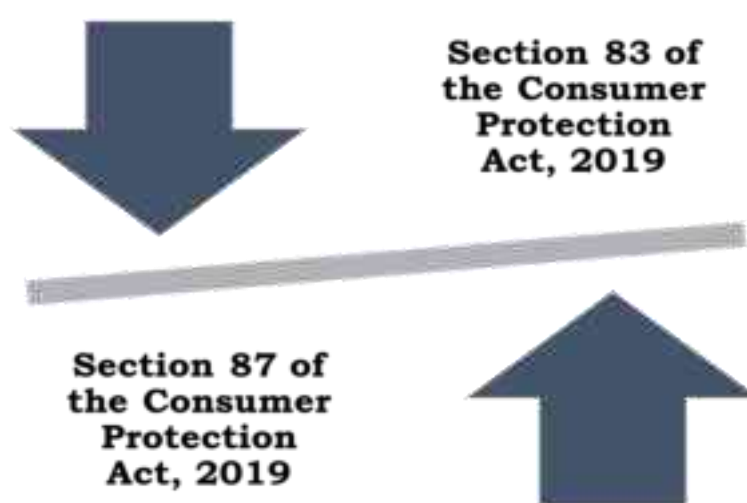
1. If at the time of harm, the product was misused, altered or modified by the consumer.
2. For failure to provide adequate warnings or instructions, the following actions will not invoke Section 83:
 - A. Product was bought by employer for use in workplace and instructions were provided.
 - B. Product was sold as component or material for end product, and instructions were provided for said product, but harm was caused by use of end product.
 - C. Product was legally meant to be used and dispensed only by or under supervision of an expert and reasonable warnings were given.
 - D. Consumer was using product under influence of alcohol or a drug which was not prescribed by a medical practitioner.
3. The danger of using such product was common to consumer or such consumer which ought to have known after noting the features of the product.

Finally, any product liability action can be brought by the consumer against a product manufacturer, product service provider or product seller in the Consumer Court, unlike a civil court in the erstwhile law for which compensation may be provided. Also, unlike the Consumer Protection Act, 1986 where the complaint would have to be filed in the jurisdiction of the competent court where the errant party was situated, in Consumer Protection Act, 2019, the complaint could be filed at the competent court where the complainant resides or works.

Conclusion

The introduction of product liability has brought upon the onus on the product manufacturers, product service providers and product seller. Now, with the new law in force, they cannot manufacture, sell products or provide service which will be defective in nature. Also, the practice of producing the "Buyer Beware" trump card to justify the defective production or supply of goods or services will not work any longer as they are under a statutory liability to make good the default.

Disclaimer: The contents of the article has been authored by CS Rajat Agrawal, of Rajat Agrawal & Co., Company Secretaries. The content of this article is intended to provide a general guide to the subject matter. Every effort has been made to keep the information cited in this article error-free. Suggestions and feedback to improve the task are welcome. The article and opinions therein are based on my understanding of the GST law and provisions prevailing as on date. The contents of this article are for information purposes only and does not constitute an advice or a legal opinion and are personal views of the author. The opinion may vary according to one's interpretation of the law. It should not be relied upon as the sole basis for any decision which may affect you or your business. The author can be approached at csrajatagrawal@gmail.com.





The Highlights on the Companies (Amendment) Bill, 2020 (hereinafter referred to as “The Bill”)

BILL NO. 88 OF 2020

The Companies (Amendment) Bill, 2020 was introduced in Lok Sabha by the Minister for Corporate Affairs, Ms. Nirmala Sitharaman, on March 17, 2020. The Bill seeks to amend the Companies Act, 2013 (hereinafter referred to as “the Act”).

Object of the Bill:

1. To facilitate greater ease of living to law abiding corporates;
2. To decriminalise some more provisions of the Act;
3. To provide greater ease of living to corporates through certain other amendments to the Act;
4. To take other concomitant measures to provide further ease of living for corporates in the country;
5. To considering the overall pendency of the courts; and
6. To further remove criminality in case of defaults, which do not involve larger public interest.

Key Highlights:

1. **Exclusion from definition of Listed Company:** The Bill empowers the central government, in consultation with the Securities and Exchange Board of India, to exclude companies issuing specified classes of securities from the definition of a "listed company". So, the bill seeks to insert new proviso under the Section 2(52) of the Act.
2. **Removal of the provision relating to the punishment of imprisonment:** The Bill seek to remove the provisions relating to punishment of imprisonment in the certain Sections of the Act (i.e. Section 8(11), 26(9), 40(5), 68(11), 128(6), 147(1) 167(2), 242(8), 243(2), and 392, of the Act).
3. **Removal of the Panel provisions:** The Bill seeks the removal of the Panel Provisions in certain Sections of the Act (i.e. Section 48(5), 59(5) 66(11), and 71(11) of the Act).
4. **Reduce the amount of fine:** The Bill seeks to reduce the amount of fine in the certain Section of the Act (i.e. Section 64(2), 92(5), 117(2), 137(3), 140(3), 165(6) of the Act).
5. **Provide the amount of Fine:** The Bill seeks to provide the amount of fine in the certain Section of the Act (i.e. Section 56(6), 86(1), 88(5), 89(5)(7) 90(10)(11), 92(6) 105(5), 124(7), 134(8), 143(15), 172, 178(8), 184(4), 204(4), 232(8), 450, of the Act)
6. **Changes to offences:** The Bill makes three changes. **First**, it removes the penalty for certain offences. **Second**, it removes imprisonment in certain offences. **Third**, it reduces the amount of fine payable in certain offences.
7. **Reduce the time limit of compliance from six months to three months:** As per the Section 16(1)(b) and 16(3) of the Act, respectively, the bill seeks, to reduce the time limit of compliance from six months to three months for the direction provided in the provision, and to provide for allotment of a new name to the company by the Central Government, in case of default in complying with the direction under sub-section (1) instead of imposing punishment for non-compliance for such default.
8. **Direct listing in foreign jurisdictions:** The Bill empowers the central government to allow certain classes of public companies to list classes of securities (as may be prescribed) in foreign jurisdictions. So, after the sub-section (2) of the Section 23 and before the explanation sub-section (3) is inserted.
9. **Beneficial shareholding:** Under the Section 89 of the Act, if a person holds beneficial interest of at least 10% shares in a company or exercises significant influence or control over the company, he is required to make a declaration of his interest to the company. The company is required to note the declaration in a separate register. The Bill empowers the central government to exempt any class of persons from complying with these requirements if considered necessary in public interest. So, Sub-section (11) is inserted in Section 89 of the Act.
10. **Exemptions from filing resolutions:** The Act requires companies to file certain resolutions with the Registrar of Companies under Section 117(3)(g) of the Act. These include resolutions of the Board of Directors of the company to borrow money, or grant loans. However, banking companies are exempt from filing resolutions passed to grant loans, or to provide guarantees or security for a loan. This exemption has been extended to **registered non-banking financial companies and housing finance companies**.
11. **Periodic financial results for unlisted companies:** The Bill empowers the central government to require classes of unlisted companies (as may be prescribed) to prepare and file periodical financial results within 30 days from the end of that period, and to complete the audit or review of such results. So, the Bill seek to insert new Section 129A in the Act.

12. Corporate Social Responsibility (CSR): Under the Section 135 of the Act, companies with net worth, turnover or profits above a specified amount are required to constitute CSR Committees and spend 2% of their average net profits in the last three financial years, towards its CSR policy. The Bill exempts companies with a CSR liability of up to Rs 50 lakh a year from setting up CSR Committees. Further, companies which spend any amount in excess of their CSR obligation in a financial year can set off the excess amount towards their CSR obligations in subsequent financial years.

13. Remuneration to non-executive directors including Independent Directors: The Act makes special provisions under Section 197 of the Act for payment of remuneration to executive directors of a company (including managing director and other whole-time directors) if the company has inadequate or no profits in a year. For example, if a company has an effective capital of up to five crore rupees, the annual remuneration to its executive directors cannot exceed 60 lakh rupees. The Bill extends this provision to non-executive directors, including independent directors. So, under the Section 197(3) of the Act, after the words "whole-time director or manager," the words "or any other non-executive director, including an independent director" shall be inserted.

14. Producer companies: The Act, certain provisions from the Companies Act, 1956 continue to apply to producer companies. The Bill removes these provisions and inserted new Chapter XXIA, which adds a new provision from Section 378A to 378ZU and divided in XII Part in the Act with similar provisions on producer companies.

15. Exemption for foreign companies: The Bill empowers the central government to allow exemption from any of the provisions of the chapter XXII foreign companies and companies incorporated or to be incorporated outside India, whether the company has or has not established, or when formed may or may not establish, a place of business in India. So, the Bill seek to insert New Section 393A in the Act.

16. Benches of NCLAT: The Bill seeks to establish benches of the National Company Law Appellate Tribunal. These shall ordinarily sit in New Delhi or such other place as may be notified.

17. Lesser penalties for certain companies: Under the Act, one person companies (i.e., companies with only one member) or small companies (i.e., with lower paid-up share capital and turnover thresholds) are only liable to pay up to 50% of the penalty for certain offences (such as failing to file annual return). The Bill has substituted the Provision of Section 446B: (i) extends this provision to all producer companies and start-up companies, (ii) extends this provision to apply to violation of any provision of the Act, and (iii) limits the maximum penalty to two lakh rupees for the company and one lakh rupees for a defaulting officer.

18. No penalties: The Bill extend the provision under Section 454(3) of the Act, to non-filing of Annual return and copy of Financial Statements within 60 days and 30 days from the date of the Annual General Meeting under Section 92(4) and 137(1)(2) of the Act, respectively and such default has been rectified either prior to or within 30 days of, the issue of the notice by the officer, no penalties shall be imposed and all proceeding shall be deemed to be concluded.





Current Scenario for Holding Virtual Annual General Meeting's During COVID-19

CCOVID-19 is the name given by the World Health Organisation "WHO" on February 11, 2020 for the disease caused by the novel coronavirus i.e. "Severe Acute Respiratory Syndrome Coronavirus 2" or SARS-CoV-2. The spread of COVID-19 started from Wuhan city in China in late 2019 and soon the virus spread across the world. On March 11, 2020, The World Health Organisation "WHO" declared the novel coronavirus (COVID-19) outbreak to be a pandemic.

COVID-19 is the acronym which stands for **Coronavirus disease of 2019**.

The virus is so contagious that it has spread to more than 77 countries in a month inviting border closures and health emergencies declared by a number of countries. Countries were urged by the WHO to adopt strict social distancing and quarantine measures to contain the spread of deadly virus and to protect the public health.

As of now, there are no medicines/ vaccine that have been shown to prevent or cure the disease. Social distancing, also called "physical distancing," means keeping a safe space between yourself and other people who are not from your household is the only way to tackle it until a proven vaccine comes in market.

Considering the impact caused by the pandemic throughout the world, the Government of India announced the nationwide lockdown on March 24, 2020, effective from March 24, 2020 to April 14, 2020. Later the lockdown was extended till May 03, 2020 i.e. (Lockdown 2) by the Ministry of Home Affairs. Thereafter It was further extended by the Ministry of Home Affairs for a additional period of two weeks w.e.f May 04, 2020 to May 17, 2020 i.e. (Lockdown 3) and then further extended up to May 31, 2020 i.e. (Lockdown 4) and finally up to June 30, 2020 vide notice issued by Ministry of Home Affairs with specified restrictions and relaxations i.e. (Lockdown 5).

During the lockdown, the movements of people were restricted as per the guidelines issued by the Ministry of Home affairs. All non-essential public and private transport were suspended. Most of the commercial and private establishments were closed and only works from home were allowed.

Keeping in minds the adverse impact caused by the global pandemic, The Ministry of Corporate Affairs has also issued detailed guidelines to be followed by the companies for passing Ordinary and special resolutions of urgent nature and for convening Annual General Meeting "AGM" for the financial year 2019-20 vide circular No. 14/2020 dated April 08, 2020, circular No. 17/2020 dated April 13, 2020 and Circular No. 20/2020 May 05, 2020.

The Ministry of corporate affairs allowed companies to conduct their Annual General Meeting "AGM" through video conferencing (VC) or other audio visual means (OAVM), for the year ended March 31, 2020, subject to fulfillment of the certain conditions prescribed in circular no. 20/2020 dated May 05, 2020.

The said circular is divided into two parts wherein: - **(Link for the circular is provided in footnotes)**

PART A

Specifies the requirements to be followed by the companies which are required to provide the facility of e-voting under the Act, or any other company which has opted for such facility.

PART B

Specifies the requirements to be followed by the companies which are not required to provide the facility of e-voting under the Act. However at the same time, On the other hand, there are number of companies who are not in a position to hold their AGM's on and before September 30, 2020 due to various reasons such as the financial statements have not been prepared due to lack of workforce or the company has hundreds of shareholders located in different remote areas across the country who don't have access to Internet to attend virtual AGM's or the company is a mid-sized company and it doesn't have the necessary infrastructure to offer facility of Video conferencing to their shareholders.

And accordingly, there are numbers of stakeholders requesting the Ministry to extend the due date for holding the Annual General Meeting for financial year ended on March 31, 2020 i.e. September 30, 2020 by at least 3 Months i.e. December 31, 2020.

Foot Notes:

[Circular No. 20/2020 May 05, 2020](#)



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Consumer Protection Act, 2019

The new era of commerce and digital branding as well as a new set of consumers has adopted the digitization which provides easy access to a variety of products at their willing place and as per their willing payment methods. This new system of the new era brings challenges in the sector of Consumer Protection. Keeping in mind the same Indian Parliament passed the landmarked CONSUMER PROTECTION BILL, 2019 on August 6th 2019 which aims to provide the timely and effective administration and settlement of consumer disputes.

The major changes which is done in CPA, 2019 as compared to CPA, 1986 can be understood as follows:

1) AMBIT OF LAW:

In CPA 1986, All goods and services except telecom, housing construction and various modes of transaction for consideration are included while free and personal use services are excluded, if talking about CPA, 2019 All goods and services including telecom, housing construction and all modes of transaction i.e. online, teleshopping are included under the ambit of law but here free and personal services are also excluded.

2) UNFAIR TRADE PRACTICES:

CPA 1986 includes six type of unfair trade practices like various false representations, misleading advertisements but under the CPA 2019, three more such practices are added to the list i.e failure to issue a bill/receipt, refusal to accept a good returned within 30 days and disclosure of personal information given in confidence unless required by law or in public interest.

3) PRODUCT LIABILITY:

Product liability means the responsibility of a product manufacturer or product seller, of any product or services to compensate for any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services relating thereto. There is no such provision in CPA 1986, while under the CPA 2019 claim for product liability can be made against manufacturer, service provider and seller. Compensation can be claimed by proving any of the conditions as specified under the act.

4) UNFAIR CONTRACTS:

Consumer Protection Act, 2019 covers unfair contracts and describes the six contract terms which may be held as unfair under the ambit of the law but under the old Consumer Protection Act, 1986 there was no such provision.

5) CENTRAL PROTECTION COUNCILS (CPC):

Under the old law CPC's promote and protect the right of consumers and the new act makes CPC's advisory body for promotion and protection of the consumers. These are established at District, State and National level under both the laws.

6) REGULATORS:

There is no provision of the regulatory body under the old consumer protection law but the new CPA, 2019 established the Central Consumer Protection Authority (CCPA) to promote, protect and enforce the right of consumers as a class. CCPA may issue safety notices, pass order to recall goods, prevent unfair trade practices and reimburse purchase price paid and impose penalties for false and misleading advertisements.

7) PECUNIARY JURISDICTIONS :

Under the CPA 1986, District commission will have jurisdiction up to Rs. 20 Lakhs, State commission will have jurisdiction between Rs. 20 lakh and upto Rs. 1 crore, Centre commission will have jurisdiction above Rs. 1 crore while under the Consumer Protection Act 2019 District commission will have jurisdiction upto Rs. 1 crore, State commission will have jurisdiction between Rs. 1 crore and upto Rs. 10 crore and National Commission will have jurisdiction above Rs. 10 Crores.

8) ALTERNATE DISPUTE REDRESSAL MECHANISM (ADR):

Under the CPA 1986, there was no such provision for the alternate dispute redressal but under the new CPA 2019 mediation cells will be attached to District, State and National Commissions which will bear some burden of the respective commissions.

9) E-COMMERCE:

No E-Commerce transactions was covered under the old law but the new CPA, 2019 defines the direct selling, e-commerce, electronic services provider. The Central government may also prescribe the rules for preventing unfair trade practices in e-commerce and direct selling.

10) PENALTIES:

If the person does not comply with the orders of the commission under the old law he may face imprisonment between one month & three years or fine between Rs. 2000 to Rs. 10,000 or both and under the new CPA 2019, he may face imprisonment upto 3 years or fine not less than Rs. 25,000 extendable to Rs. 1,00,000 or both.



Holding– Subsidiary relationship in Insolvency Bankruptcy Code, 2016

In the current scenario corporate insolvency at its stationary point due to covid-19, where we all faced various issues on solvency on related companies of CD. Here, we enlighten on the some issues in respect of holding / Subsidiary liability in CIRP.

Section 2(46) of The Companies Act, 2013 state that

"holding company", in relation to one or more other companies, means a company of which such companies are subsidiary companies;

[Explanation.—For the purposes of this clause, the expression "company" includes any body corporate.]

Section 2(87) of The Companies Act, 2013 state that

"subsidiary company" or "subsidiary", in relation to any other company (that is to say the holding company), means a company in which the holding company—

(i) controls the composition of the Board of Directors; or

(ii) exercises or controls more than one-half of the total voting power either at its own or together with one or more of its subsidiary companies:

Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed.

Explanation.—For the purposes of this clause,—

(a) a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company;

(b) the composition of a company's Board of Directors shall be deemed to be controlled by another company if that other company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the directors;

(c) the expression "company" includes any body corporate;

(d) "layer" in relation to a holding company means its subsidiary or subsidiaries;

Here, we observed that Holding Company have control over the Subsidiary Company by way of holding Control in management or Holding major voting power.

Now let come on Insolvency law, where code takes some effect on Holding / Subsidiary relationship

Section 18 of Insolvency code: Duties of IRP

Duties of interim resolution professional. -

The interim resolution professional shall perform the following duties, namely: -

(a)

(b)

(c)

(d)

(e)

(f) take control and custody of any asset over which the corporate debtor has ownership rights as recorded in the balance sheet of the corporate debtor, or with information utility or the depository of securities or any other registry that records the ownership of assets including -

(i)

(ii)

(iii)

(iv)

(v) securities including shares held in any subsidiary of the corporate debtor, financial instruments, insurance policies;

(vi)

(g)

However, Section 60(5) state an overriding clause about claims of subsidiary i.e.

Notwithstanding anything to the contrary contained in any other law for the time being in force, the National Company Law Tribunal shall have jurisdiction to entertain or dispose of -

(a) any application or proceeding by or against the corporate debtor or corporate person;

(b) any claim made by or against the corporate debtor or corporate person, including claims by or against any of its subsidiaries situated in India; and

(c) any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under this Code.

Now after bare reading of these sections we have generate the following queries and tried to solved it accordingly

Query 1: Whether RP of CD can dispose of Assets of its subsidiaries because CD has control over its subsidiaries?

Answer: The Principle of Separate Legal Existence is a fundamental principle in the field of company law. According to this principle, the company is treated as an entity separate from its members.

Even if CD have control over the Subsidiaries but still RP can only take control or custody of securities including shares held in any subsidiary of the corporate debtor, financial instruments, insurance policies. Section 18(f)(v).

However NCLT have overriding jurisdiction to entertain or dispose of claims made by or against any of its subsidiaries situated in India. Section 60(5)(b).

In the case of M/s Sanghvi Motors Limited vs. M/s Albanna Engineering (India) Pvt Ltd., (AEIPL),

As there is common control, management and 100% shareholding by the parent Company, the assets of the parent company are not different and distinct from the assets of the Indian subsidiary. Thus, the Adjudicating Authority decided to consider this case to be a case involving group insolvency.

So, we can conclude it on the point where RP does not have power to dispose of the Assets of its Subsidiaries even there is control is present but NCLT have overriding power over other act to dispose of the claims by or against subsidiaries .

Note by author: Power given to NCLT not to RP and power is limited to within India.

Query 2. Whether Section 14 of the code will applicable over the subsidiaries?

Answer: On the bare reading of section 14 of the IBC

Moratorium

1. Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:—

A) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority."

Section 14(1)(a) of IBC prohibits the institution of suits or continuation of pending suits against the Corporate Debtor, including execution of any judgment, etc.

However, it does not speak about initiation of CIRP against the subsidiary of the Corporate Debtor.

The present case is not hit by Section 14(1)(a) of the IBC by any stretch of imagination since it involves the initiation of CIRP against a subsidiary of a Corporate Debtor.

On January 16, 2019, the Hon'ble National Company Law Appellate Tribunal passed a judgment in the matter of ***Ashok B. Jiwrajka, Director of Alok Infrastructure Ltd. v. Axis Bank Ltd. (Company Appeal (AT)(Insolvency) No. 683 of 2018).***

Facts in brief

CIRP had been initiated against Alok Industries Ltd. (Holding Company). Subsequently, upon a separate application filed by a financial creditor against Alok Infrastructure Ltd. (Subsidiary of Alok Industries Ltd.), the said Alok Infrastructure Ltd. was admitted into CIRP by an order dated October 24, 2018, passed by the Ld. NCLT, Mumbai Bench.

The Appellant, being a Director of the said Subsidiary Company, i.e. Alok Infrastructure Ltd., filed an appeal against the said order of the Mumbai NCLT. It was contended by Ld. Senior Advocate appearing on behalf of the Appellant that the CIRP against the Subsidiary Company should not continue till the CIRP is decided under Section 31 of the Insolvency and Bankruptcy Code, 2016, for the Holding Company.

It was further submitted on behalf of the Appellant that Resolution Plan had been submitted before the NCLT, Mumbai for the Holding Company as far back as July 2018. However, no decision had yet been taken on the same by the NCLT.

Judgement

The Hon'ble NCLAT held that the Appellant's submission cannot be accepted as a separate CIRP had been initiated against the Corporate Debtor, i.e. the Subsidiary Company in this case, and the same was entirely separate from CIRP initiated against Alok Industries Ltd., i.e. the Holding Company. Further, the Hon'ble NCLAT directed the Ld. NCLT to arrive at a decision upon the approved CIRP for the Holding Company within preferably three weeks. However, the Hon'ble NCLAT clarified that, "we make it clear that we have not stayed the Corporate Insolvency Resolution Process initiated against 'Alok Infrastructure Ltd.', and the Resolution Professional, the Committee of Creditors and the Adjudicating Authority will continue with the same in accordance with law within the time specified in the law". The Appeal was thereby dismissed by the Hon'ble NCLAT.



The Digital Currency Revolution in India and the Road Ahead

Amidst the looming crisis and dystopian conditions created due to pandemic, our eastern neighbor, China is all set to introduce its state-run Digital Currency called e-RMB (electronic Renminbi) and India is still facing the dilemma to pave or not to pave the way to such digital transformation. Before getting into the nitty-gritty of China's move and India's initiatives and concerns for introducing digital currency, let us first understand what a digital currency exactly is?

Digital Currency is a form of currency that is available only in an electronic or digital format and has no tangible presence. It is synonymous to Digital Money, Electronic Money, Electronic Currency or Cyber Cash. Since, such currency is present in electronic form hence, the cost of exchange or trading of such currency becomes easier and economical.

India has always shown its concern about the credibility of digital form of currency. However, I would like to bring to your attention towards a thin line that exists between a crypto currency and a digital currency.

Digital Currency is a wider term as compared to virtual or crypto currency. If a Digital Currency is issued by a Central Bank of a country as the equivalent of the legal tender of that country in a regulated form then it is called "Central Bank digital Currency (CBDC). Many countries like UK, Sweden, Uruguay and China are considering to introduce such CBDC.

However, the major concern of India lies in the Virtual or Crypto currency which exists in an unregulated arena and may be under the control of the currency developer (s) or the founding organization instead of having a centralized regulator. Digital Currency is stable and is traded with the markets whereas Crypto currency is traded based on consumer sentiments and psychology triggering in price movements. Bitcoin and Ethereum are the most popular forms of crypto currency which have raised the eyebrows of the regulators all over the world due to their nature of promoting untraceable financial transactions facilitating crimes like money laundering, tax evasion, terrorism, prostitution and what not.

China has been in news for quite some time now due to its headline-grabbing initiative to begin trialing payments in its new digital currency in 4 major cities including Shenzhen, Suzhou, Chengdu, as well as a new area south of Beijing, Xiong'an and areas that will host some of the events for 2022 Beijing Winter Olympics. "The Sovereign Digital currency, which will be pegged to national currency, provides alternative to dollar settlement system", says China's Daily Report.

INDIAN PERSPECTIVE:

India has been showing its reluctance to introduce any digital currency in the country due to the fear of underlying crimes lying beneath the facade of such currency.

The Reserve Bank of India issued a statement on 06 April 2018 saying- "In view of the associated risks, it has been decided that, with immediate effect, entities regulated by RBI shall not deal with or provide services to any individual or business entities dealing with or settling [virtual currency]". This statement by RBI left investors and financial institutions stranded in lurch. The Indian Government has also previously issued several warnings about the "economic, financial, operational, legal, consumer protection and security related risks" of virtual currency such as Bitcoin.

After all the hullabaloo this circular of RBI created, the Supreme Court of India on 04 March 2020 lifted the ban imposed by RBI on virtual currency trading, including crypto currencies. The 3-judge bench headed by Justice Rohinton Nariman quashed the Central Bank's order while hearing petitions challenging the April 2018 circular imposing the ban on financial service providers to deal in crypto currencies.

The task assigned by the National e-Governance Division under the Ministry of Electronics and Information Technology (MeitY) to the National Institute for Smart Government (NISG) for preparing a national policy draft on "National Strategy on Blockchain" in July last year has emerged as a ray of hope for investors and financial institutions dealing in crypto currency and other digital currencies. NISG is non-profit Public Private Partnership (PPP) setup in May 2002 by Indian Government's Department of Information Technology and the Department of Administrative Reforms.

The document submitted by NISG examines blockchain technologies, smart contract applications, challenges to blockchain adoption, the societal impact of the technology, the role of Government and national strategy principles. It also suggests the regulatory approach to blockchain technology the Government could adopt. The document also points out that there is lack of clarity on whether digital contracts executed on blockchain are recognizable and enforceable by law. Ambiguity with regard to whether tokens issued on a blockchain can be categorized as Securities under Securities Contracts (Regulations) Act, 1956 also exists. We also have certain laws that are not adequate for blockchain technology and may defeat the purpose of implementing such technological solution. However, there still appears a silver lining in the cloud as the document points out that India, with over 1.3 billion people and a huge concentration of smartphones, is one of the world's largest generators of online data. It asserts that blockchain technology could allow monetization of this data in a secure and anonymized manner. It also recommends that Government of India, along with RBI can come out with a Central Bank Digital INR (CBDR) administered over a public permissioned blockchain through calibrated efforts.

BANNING OF CRYPTOCURRENCY AND REGULATION OF OFFICIAL DIGITAL CURRENCY BILL, 2019. (Hereinafter, called the Bill)

Government of India seems to be in no mood to accept the transactions in Crypto currencies due to its negative impact on an economy. Hence, it is deliberating on "Banning of Cryptocurrency and Regulation of Official Digital Currency Bill, 2019". The Bill will put a blanket ban on crypto currencies, regulate the official digital currency and deal with matters connected therewith and incidental thereto.

As per **Section- 2(1)(a)**, 'Cryptocurrency', by whatever name called, means any information or code or number or token not being part of any Official Digital Currency, generated through cryptographic means or otherwise, providing a digital representation of value which is exchanged with or without consideration, with the promise or representation of having inherent value in any business activity which may involve risk of loss or an expectation of profits or income, or functions as a store of value or a unit of account and includes its use in any financial transaction or investment, but not limited to, investment schemes'.

Chapter-5 of the Bill deals with "**Prohibition of the Use of Cryptocurrencies**". Under this chapter, as per **Section-6(1)**, 'No person shall directly or indirectly use Cryptocurrency in any manner, including, as,-

- A medium of exchange; and/or
- A store of value; and/or
- A unit of account.'

Section-6(2) also states that Cryptocurrency shall not be used as legal tender or currency at any place in India.

Chapter-4 of the Bill talks about "**Regulation of Digital Rupee as Legal Tender and Regulation of Foreign Digital Currency**". It also states that the Central Government, in consultation with the Central Board of the Reserve Bank, may approve Digital Rupee to be legal tender with effect from such date and to such extent as may be specified.

To ensure appropriate dealing with violations of the provisions in the Bill, **Chapter-6** has also been introduced which specifically deals with offences arising thereof. **Chapter-8** of the Bill talks about the '**Penalties and Proceedings**' to punish the misconduct observed. The First Schedule of the Bill also states the Fines on violating the provisions and the **maximum fine being the hefty amount of Rs.50 Crores**.

This Bill, when passed, can prove to be a death knell for all the illicit activities routing their way through trade in crypto currency. Although passing of the Bill might be like biting the bullet as many investors and financial institutions deal in such currency in India and such Bill, when passed as an Act, can land them into a soup, however, once the assent of Parliament and President will be received, it can help to set the stage for Central Bank- backed Digital INR and a Digital Economy.

DISCLAIMER

Please note that the article in this Newsletter does not make any claims. Any information offered is expressly the opinion of the author of that article. It is respectfully offered to you to explore, in the hope and with the intention that exploring this article will be educational and helpful to you. The information in this Newsletter is intended to provide users with resources and information which they may find useful and of interest. It is advised that you seek professional and legal opinion before going further with these Articles.

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REGULATORY UPDATES (MCA UPDATES)

MCA Uploaded Extension Orders

1. Extension of Companies Fresh Start Scheme, 2020
http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.30_28092020.pdf
2. Extension of time- LLP Settlement Scheme, 2020
http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.31_28092020.pdf
3. Extension of time - Scheme for relaxation of time for filing forms related to creation or modification of charges under the Companies Act, 2013-.
http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.32_28092020.pdf
4. Extension of time for EGM through Video Conference (V)C or Other Audio Visual Means (OAVM) or passing of certain items only through postal ballot without convening general meeting -
http://www.mca.gov.in/Ministry/pdf/GeneralCircularNo.33_28092020.pdf

MCA Update

You can check the Extension of AGM order of Respective ROC's in the following link.

<http://www.mca.gov.in/MinistryV2/extensionofagm.html>

THANKYOU.....

To read the Newsletter and give your respect to your Chapter.

Your Chapter is taking all the necessary steps for the betterment of Members, Students and other stakeholders.

Trust Your Chapter! Trust yourself.