



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament
(Under the jurisdiction of Ministry of Corporate Affairs)

**EASTERN
INDIA
REGIONAL
COUNCIL**



ICSI EIRC NEWSLETTER

MAY - JUNE 2020

From the Desk of the Chairman, EIRC



Dear Professional Colleagues,

We have completed yet another month, and we have another opportunity to address the members of the institute through the newsletter about the recent developments and changes brought through by EIRC-ICSI.

The Lockdown 4.0 in India has ended, and Lockdown 5.0 may soon be in place, however with relaxations allowed to private businesses and logistics. Government offices are also ready to open and discharge their functions.

The Ministry of Corporate Affairs and the Ministry of Finance has been bringing out amendments and relaxations to the stakeholders at large. Through Hon'ble Prime Minister Shri Narendra Modi's scheme of "Atma-Nirbhar" India, a significant impetus has been given to the manufacturing industry. There also has been numerous packages for the MSME businesses, the most significant being, the change in definition of MSME which is yet to be made applicable as on date. With a huge fiscal and monetary relief package, it is expected to revive the economy and put it back on full gears to help restore India's position among the world's top economies.

We welcome the new Secretary to the Ministry of Corporate Affairs and we are sure, under his able leadership, the ICSI being the stakeholder to development of Indian economy will work towards attaining greater goals.

On account of reconstitution of the Hon'ble NCLT, Kolkata Bench, we also acknowledge the departure of Shri Madan Gosavi, Judicial Member and Shri VK Gupta, Technical Member of the Tribunal and welcome the new members of the Tribunal.

We are pleased to inform that the viewership for the webinars crossed 1,000 viewers. We thank the members for attending the webinar to enrich their knowledge.

The North East (Guwahati) Chapter was the first Chapter in the entire ICSI network to begin the system of online webinars. We are proud to that the Chapter from the Eastern Region has accomplished this.

The Institute has been relentlessly carrying out webinars on latest amendments and pressing matters to make sure the professionals can make the most of the time during lock-down.

During the lock-down, several members of the ICSI had also conducted several webinars from their end to update the stakeholders regarding the latest developments. Our members have also contributed articles, which we have presented in our professional newsletter for the benefit of the stakeholders.

Due to lock-down, no programmes were held to comply with the Government directions to curb and prevent the spread of corona virus at physical gatherings.

The EIRC-ICSI held the following programmes for the month of May 2020:

1. Online Class by CS Manoj Banthia
2. Webinar on Secretarial Audit and SEBI LODR Regulation 24A with special reference to lockdown on 12th May, 2020 by CS Dipti Mehta
3. Webinar on Overview of NBFC, Compliances & Recent RBI Circular on Moratorium on 14th May, 2020 by CA Mohit Bhuteria
4. Webinar on Interpretation of Statutes – CS Perspective on 16th May, 2020 by CS Makarand M Joshi
5. Webinar on IBC – Recent Development and Opportunities on 19th May, 2020 by Dr. (H.C.) Mamta Binani
6. Webinar on Intricacies in Declaration of Dividend on 26th May, 2020 by CS Ramaswami Kalidas
7. Webinar on Dispute Resolution Amidst Pandemic on 29th May, 2020 by CS NPS Chawla and Sri Surekh Kanti Baxy

I take this opportunity to appeal to all the members, once again, to enroll to CSBF for not only strengthening the future of our family but also to strengthen the corpus of CSBF.

I wish to express my gratitude to all the patrons/ members who have registered for the Annual Membership Scheme (AMS) of EIRC of ICSI.

Our Hon'ble Prime Minister Shri Narendra Modi has also encouraged Indians to donate to the PM Cares Fund for combating the virus which has caused a pandemic. The ICSI has also echoed the PM's sentiments and called upon the members to generously contribute for the cause. We hope that in days to come, the fight against the global virus will bear its fruits.

Please feel free to share your views and suggestions for the betterment of the Newsletter to me. My coordinates are given below:

With Warm Regards,
CS PRIYADARSHI NAYAK

Chairman, EIRC of ICSI

E-Mail: nayakfcs@gmail.com

Kolkata, The 10th July, 2020



APPEAL TO MEMBERS FOR CONTRIBUTION FOR COVID 19



**THE INSTITUTE OF
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IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

Dear Professional Colleague,

Subject: Appeal to Members for voluntary Contribution for COVID-19 and Supportive measures undertaken by ICSI

The spread of COVID-19 virus has warranted the need for dedicated efforts on the part of each one of us. While appreciating the Government of India including all the State Governments for their multifarious initiatives to control the situation, we also extend our gratitude towards the Regulatory Authorities for taking cognizance of the gravity of the public health situation and relaxing various regulatory and compliance requirements for Corporates and Professionals.

The ICSI stands committed to taking all possible measures in containing this pandemic that has affected the entire world. Realising its social responsibility in these trying times, the ICSI has undertaken following measures:

- Allowed all the officials and employees (including contractual) PAN India to work from home to avoid any exposure to COVID-19 or its spread.
- Contribution of a sum of INR 5 (five) lakh to the Prime Minister National Relief Fund or 'PM-CARES' Fund.
- Voluntary contribution of one-day salary by employees of ICSI.

Further, the ICSI has taken following initiatives to support its members and students:

A. For Members

- Representation to MCA for relaxation of regulatory compliance requirements;
- Relaxation in Guidelines for Compulsory Attendance of Professional Development Programmes and shifting it entirely to online/virtual mode;
- Online Certification courses to support their continuous learning;
- Obtaining Program Credit Hours through self-assessment series;
- Extension of time period for obtaining mandatory PCH for the current block of 2017-20 upto 30th June, 2020;
- Publishing of April, 2020 issue of Chartered Secretary in e-mode only.

B. For Students

- Temporary relaxation for complying with the requirement of **Pre-Examination Test** and **One Day Orientation Programme** for enrolment to June, 2020 Examination;
- Extension of date for filing Examination Form;
- Facility of e-MSOP has been extended to all the candidates who have completed Company Secretaryship Final/ Professional Programme examinations including the newly qualified candidates;
- E-learning facilities through Live Webcast for students will soon be made available.

In addition to above, understanding the gravity of the situation and realising the need to support those affected by COVID-19, we appeal all our worthy members, to come forward and support to the cause by making voluntary contributions by clicking the following link:

<http://www.icsi.in/DonationCovid19/>

The consolidated amount shall be deposited to the Prime Minister National Relief Fund or 'PM-CARES' Fund. All contributions are eligible for Section 80G benefits.

We are hopeful that with appropriate precaution and committed efforts on the part of all of our stakeholders, we shall soon be able to overcome this situation and come out as a much stronger nation.

Regards,

(CS Ashish Garg)

President

The Institute of Company Secretaries of India

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RECENT AMENDMENTS IN EMPLOYEES' STATE INSURANCE ACT, 1948



By **CS AISHWARYA JOSHI**

Associate Company Secretary

ABOUT ESIC

Employees' State Insurance Scheme of India is a social security scheme formed to provide social protection to workers and their dependants, in the organised sector, in contingencies, such as, sickness, maternity, temporary or permanent physical disablement, death due to employment injury resulting in loss of wages or earning capacity or occupational hazard. The ESIC provides the following benefits:-

- a. Medical Benefit
- b. Sickness Benefit(SB)
 - Extended sickness Benefit (ESB)
 - Enhanced Sickness Benefit
- c. Maternity Benefit(MB)
- d. Disablement Benefit
 - Temporary disablement benefit (TDB)
 - Permanent disablement benefit (PDB)
- e. Dependant's Benefit (DB)
- f. Other Benefits which includes Funeral Expenses and Confinement Expenses

APPLICABILITY

Under Section 2(12), the Act is applicable to non-seasonal factories employing 10 or more persons.

Under Section 1(5) of the Act, the Scheme has been extended to shops, hotels, restaurants, cinemas including preview theatres, road-motor transport undertakings, newspaper establishments, establishments engaged in Insurance Business, NBFCs, Port Trust, Airport Authorities and Warehousing establishments employing 10 or more persons (threshold for Maharashtra is 20 Employees).

Further under Section 1(5) of the Act, the Scheme has been extended to Private Medical Institutions, Educational institutions and to contract and casual employees of Municipal Corporation/Municipal Bodies employing 10 or more persons in certain States/UTs (threshold for Maharashtra is 20 Employees).

The existing wage limit for coverage under the Act, effective from 01.01.2017, is Rs.21,000/- per month.

RECENT AMENDMENTS IN ESIC

» CONTRIBUTION RATES

The contribution payable to the Corporation in respect of an employee shall comprise of employer's contribution and employee's contribution. Currently, the employee's contribution rate (w.e.f. 01.07.2019) is 0.75% of the wages and that of employer's is 3.25% of the wages paid/payable in respect of the employees in every wage period.

» EXEMPTION LIMIT

W.e.f 01.09.2019, employees in receipt of a daily average wage upto Rs.176/- are

exempted from payment of contribution. Employers will however contribute their own share in respect of these employees.

» EMPLOYEES REGISTRATION IN ESIC PORTAL

In the circular dated 03.12.2019, ESIC clarified that as per the provisions of Regulation 10B read with Regulation 11 & 12 of the Employees' State Insurance (General) Regulation, 1950, employees must be registered online within 10 days of the date of appointment. System allows registration beyond 10 days also subject to fulfillment of certain terms and conditions.

» PAYMENT OF CONTRIBUTION

ESIC has restricted the Employer from filing monthly contributions beyond 42 days from the end of the contribution period vide its circular dated 19.11.2019. Hence, after 42 days from the end date of the contribution period, system shall not allow submission of returns or for that matter, revision of submitted returns.

The due date, thus, shall be as below:

CONTRIBUTION PERIOD	DUE DATE
1st April to 30th Sept.	11th November
1st Oct to 31st March	12th May

» REGISTRATION OF EMPLOYEES

ESIC has made it mandatory to submit Mobile Number and Bank Account details, i.e., Bank Account Number, Type of Account, Bank Name, Branch Name & IFSC Code for registration of New employees.

» UPDATION OF EXISTING EMPLOYEES RECORDS

Employers are required to update Mobile Number & Bank Account details, i.e., Bank Account Number, Type of Account, Bank Name, Branch Name & IFSC Code of existing employees registered under ESI Scheme.

» COMPANIES REGISTERED IN ESIC THROUGH MCA

From 15.02.2020, new Companies registered through MCA Portal, 'www.mca.gov.in' need not comply with provisions of ESI Act till they reach threshold limit of ESI coverage or initial 6 months whichever is earlier.

Disclaimer:

The Article is based on the relevant provisions and as per the information existing at the time of the preparation. In no event I shall be liable for any direct and indirect result from this Article. This is only a knowledge sharing initiative and not intended to be a professional opinion or advice. Anyone relying on this does so at one's own discretion. The author shall not be liable for consequences of any action taken by relying on the material/ information hereinabove.

SPECIAL PROCEDURES FOR GST REGISTRATION FOR THE COMPANIES UNDER CIRP



By **CS ANUP KUMAR LUHARUKA**

Founder Partner of Luharuka & Co.

Goods and Service Tax was introduced on 01.07.2017 replacing all the indirect taxes in the Erstwhile Regime. The motive behind this was **One Nation Tax**. All the Persons were entitled to get themselves registered under the said Act following the thresholds, as specified. The intentions of the Government was very clear to amalgamate a large number of Central and State taxes into a **single tax** and allow set-off of prior-stage taxes, which in turn would mitigate the ill effects of cascading and pave the way for a common national market.

The Government from time to time have also come up with notifications and Circulars amending the ambiguous provisions which was in the interest of both, the Government and the Taxpayers.

There was some confusion prevailing with respect to GST registration as well as Input Tax Credit and other procedural aspects for the Companies under Corporate Insolvency Resolution Process.

Various representations have been received from the trade and industry seeking clarification on issues being faced by entities covered under Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "IBC").

When an entity defaults certain threshold amount, Corporate Insolvency Resolution Process gets triggered and the management of such entity (Corporate Debtor) gets vested with an IRP/RP.

To address the related problems, **Notification No.11/2020- Central Tax, dated 21.03.2020** has been issued by the Government prescribing special procedure under section 148 of the CGST Act, 2017 for the corporate debtors undergoing CIRP and the management of whose affairs are being undertaken by IRP/RP. In order to ensure uniformity in the implementation of the provisions of the law across the field formations, the government came out with this clarification vide **Circular No.134/04/2020-GST dated 23.03.2020**.

But there was certain queries related to this notification and clarification, owing to which the Government thereafter again issued a notification 39/2020 dated 05/05/2020 backed up with a required Clarification vide Circular No. Circular No. 138/08/2020-GST dated 06/05/2020.

The Combined analysis of all the notifications and clarifications are given below for your good read:

Pre CIRP era:

1. The dues of the pre CIRP period: The dues of the period prior to the commencement of CIRP will be treated as operational debt and claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC.

2. The previous registration status: It is clarified that the GST registration of an entity for which CIRP has been initiated should not be cancelled under the provisions of section 29 of the CGST Act, 2017. The proper officer may, if needed, can suspend the registration.

3. IRP/RP not liable to file returns of pre-CIRP period: In accordance with

the provisions of IBC, 2016, the IRP/RP is under obligation to comply with all legal requirements for period after the Insolvency Commencement Date. Accordingly, **it is clarified that IRP/RP are not under an obligation to file returns of pre-CIRP period.**

During CIRP period:

1. A new registration to be taken: The corporate debtor undergoing CIRP is to be treated as a distinct person and shall be liable to take a new registration in each State or Union territory where the corporate debtor was registered earlier, within thirty days of the appointment of the IRP/RP.

However, as the IRP/RP are facing difficulty in obtaining registrations during the period of the lockdown, the said time-limit of 30 days have been amended vide notification 39/2020 dated 05/05/2020. The Modified timeline stands as under:

The GST Registration is mandated to be made within the following date, whichever is later, mentioned below:

-within thirty days of the appointment of the IRP/RP

or

- by 30th June 2020.

Effective: This amendment in the Time-limit is applicable retrospectively from 21/03/2020.

Now, there was a question prevailing in this scenario that whether an IRP would be required to take a fresh registration when all the GSTR-3Bs and GSTR-1s have been filed by the Corporate Debtor / IRP prior to the period of appointment of IRPs and they have not been defaulted in return filing?

To clarify this, a proviso was inserted in the first para of Notification 11/2020 vide Notification 39/2020 which cleared the air saying that an **IRP/RP would not be required to take a fresh registration in those cases where statements in FORM GSTR-1 under section 37 and returns in FORM GSTR-3B under section 39 of the CGST Act, for all the tax periods prior to the appointment of IRP/RP, have been furnished under the registration of Corporate Debtor (earlier GSTIN).**

2. Process of Filing new return: The IRP/RP is required to ensure that the **first return is filed under section 40 of the CGST Act, 2017** for the period beginning the date on which it became liable to take registration till the date on which registration has been granted.

3. Availment of ITC for invoices issued to the erstwhile registered person in case the IRP/RP has been appointed before issuance of notification: In the first return filed u/s 40, ITC can be availed for invoices covering the supplies of goods or services or both, received since appointment as IRP/RP and during the CIRP period. **This means ITC can be available on invoices covering the supplies of goods or services or both, received since appointment as IRP/RP and during the**

CIRP period but bearing the GSTIN of the erstwhile registered person.

4. Non-Applicability of Sec 16(4) of the CGST Act, 2017:

Section 16(4) of the CGST Act, 2017 says that:

"A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the due date of furnishing of the return under section 39 for the month of September following the end of financial year to which such invoice or invoice relating to such debit note pertains or furnishing of the relevant annual return, whichever is earlier.

It means the time limit under Section 16(4) is to be the **earlier of the following two dates:-**

- (a) Due date of furnishing return under Section 39 for the month of September after end of the financial year to which the invoice pertains; or
- (b) Date of furnishing of the relevant annual return;

The provisions of Section 16(4) of the CGST Act, 2017 i.e. time limit to claim ITC is not applicable for the first return. **This exception is made only for the first return filed under section 40 of the CGST Act.**

5. Exemption from Rule 36(4) of the CGST Rules:

The Rule 36(4) of the CGST Rules has been inserted vide notification No. 49/2019, Central Tax dated 09-10-2019. This new insertion says that:

Input tax credit to be availed by a registered person in respect of invoices or debit notes, the details of which have not been uploaded by the suppliers under sub-section (1) of section 37, shall not exceed 20 per cent of the eligible credit available in respect of invoices or debit notes the details of which have been uploaded by the suppliers under sub-section (1) of section 37.

The provision of Rule 36(4) of CGST Rules (i.e. Restriction on ITC capping) is not applicable and so even if invoices are not reflecting in GSTR-2A, credit can be availed.

6. Availment of ITC where the IRP/RP was appointed before the issuance of the notification-Registered persons who are receiving supplies from the said class of persons shall, for the period from the date of appointment of IRP / RP till the date of registration as required be eligible to avail input tax credit on invoices issued using the GSTIN of the erstwhile registered person.

7. Refund for amount deposited in the cash ledger by the IRP/RP-The amount in cash ledger deposited by IRP/RP, from the date of their appointment to the date of registration under this notification, shall be refunded in the erstwhile registration.

8) Where an appointed IRP is not ratified and a separate RP is appointed, whether the same new GSTIN shall be transferred from the IRP to RP, or both will need to take fresh registration??

Circular 138/08/2020 dated 06/05/2020 has clarified that in case where the RP is not the same as IRP or in cases where a different IRP/RP is appointed the change in the GST system may be carried out by an amendment in the registration form.

The new registration by IRP/RP shall be required only once, and in case of any change in IRP/RP after initial appointment under IBC, it would be deemed to be change of authorized signatory and it would not be considered as a distinct person on every such change after initial appointment.

Practical points to consider while registration:

On 27.05.2020 the facility for registration under GST has been made available to apply for the registration and the key points of the same are as under:

- Reason for Registration as **"Corporate Debtor undergoing the Corporate Insolvency Resolution Process with IRP/RP"** from the drop down menu to be selected.
- **The date of Commencement of business shall be the date of their appointment.**
- **The person appointed as IRP/RP shall be the Primary Authorized Signatory for the newly registered Company.**
- In the **Principal Place of business/ Additional place of business, the details as specified in original registration of the Corporate Debtors**, is required to be entered.
- The new registration application shall be submitted electronically on GST Portal under **DSC of the IRP/RP.**

Our Comment:-This Special Procedures introduced by the government was much required and much clearly now it shows that no coercive action can be taken against the corporate debtor with respect to the dues for period prior to the insolvency commencement date. The dues of the period prior to the commencement of CIRP will be treated as 'operational debt' and claims may be filed by the proper officer before the NCLT in accordance with the provisions of the IBC.

i) The Exception from time limit of ITC as per Section 16(4) is only for the first return filed u/s 40. Also, the ITC can be claimed even if the invoices not appearing in GSTR-2A in both the cases - the companies under CIRP receiving the supplies and the registered person receiving the supplies from companies under CIRP.

ii) As per the clarification, subsequent to the notification, it is clearly mentioned that the IP has to take a new registration **as a distinct person** from the Corporate Debtor and also please note that the registration is to be taken in the name of the Corporate Debtor and not in the name of IP. Hence, the IP has to take multiple registrations for every Corporate Debtor.

iii) But, if all the GSTR1s and GSTR 3Bs compliances have been taken away with timely and properly prior to appointment of IP/IRP, then **no fresh registration is required by the IRP/RP.**

iv) The IP is mandated to take the new registration in each of the states or Union territories where the Corporate Debtor was registered earlier, within thirty days of the appointment of the IRP/RP or within 30/06/2020, whichever is later.

v) As the Company goes first in CIRP and then only depending upon the non-acceptance of the resolution plan heads for liquidation, the requirement of new registration in case of Liquidation process shall be construed accordingly. However, the department should come out with a clarification on this.

vi) The Clarification on the notification said that any amount deposited in the cash ledger by the IRP/RP in the erstwhile registration is available for refund.

vii) In case where the RP is not the same as IRP or in cases where a different IRP/RP is appointed the change in the GST system may be carried out by an amendment in the registration form and no separate registration is required in this process.

viii) The IRP/RP who is required to get a new registration can now apply the same keeping into consideration the above mentioned triggered points as introduced on the GST Portal. Also, if there is any change in IRP/RP then it can be made on the GST portal by applying under Non- Core amendment and the Registration is to be made within the amended timeline as per the Government.

NEWS & EVENTS

ONLINE MEGACLASS SESSION HELD ON 2ND MAY, 2020

Understanding RPTs

- Who is a Related Party?
- What are Related Party Transactions?
- What is the Status of the Entity?
- What legal Provisions are applicable to RPT based on status of an entity?
- What Compliances are to be done?
- What are Disclosures Requirements?



WHO IS A RELATED PARTY???

- SECTION 2(76) OF COMPANIES ACT, 2013
- SEBI (LISTING OBLIGATIONS & DISCLOSURE REQUIREMENTS) REGULATIONS, 2015
- ACCOUNTING STANDARD 18
- IND-AS 24
- SEC 5(24) OF IBB CODE



CS Manoj Banthia, Practising Company Secretary and Past Chairman, EIRC of ICSI deliberating on the topic "Related Party Transaction and Loan to Directors under Companies Act"

EIRC WEBINAR ON "SECRETARIAL AUDIT & LODR REG 24A WITH SPECIAL REFERENCE TO LOCKDOWN" ON 12TH MAY, 2020

Participants visible: Dipti mehta, DEEPAK KUMAR, Priyadarshi Nayak, SIDDHARTHA

Review compliance reports pending, as applicable.
 Review compliance (due for appointment to the board of directors and cost assessment)
 The board of directors shall be deemed to be in a state of conduct for all members of board of directors and review management including the status of independent directors.
 Recommended to the shareholders for the removal of Board or resignation and to re-constitute directors including independent directors.

Guest Speaker – CS Dipti Mehta, Insolvency Professional

Moderator – CS Priyadarshi Nayak, Chairman, EIRC of ICSI

EIRC WEBINAR ON "OVERVIEW OF NBFC COMPLIANCES AND RECENT RBI CIRCULARS ON MORATORIUM" ON 14TH MAY, 2020

Particulars	No. of Entities
Company accepting Public Deposit	69
Non-Deposit taking Systemically Important (NBFC-DI-SI)	278
Non-Deposit taking Non-Systemically Important (NBFC-DI-NI-SI)	9134
Companies whose Certificate of Registration (CoR) has been cancelled	1273
Micro Finance Institutions (NBFC-MFI)	67
Infrastructure Debt Fund (NBFC-IDF)	4
NBFC- Factors	7
CoR Investment Companies (ICCI)	64

Guest Speaker – CA Mohit Bhuteria, Practising Chartered Accountant
Moderator – CS Rajesh Mittal, Treasurer, EIRC of ICSI

ANNOUNCEMENT



IMPORTANT ANNOUNCEMENT CONCERNING EXAMINATIONS

Merging of June, 2020 Session Examinations with December, 2020 Session to be conducted by The Institute of Company Secretaries of India ("ICSI")

The ICSI had postponed the Company Secretaries June, 2020 session Examinations for **Foundation Programme, Executive Programme (Old and New Syllabus), Professional Programme (Old and New Syllabus) and Post Membership Qualification (PMQ)** Course examinations (herein after referred as "ICSI Examinations") scheduled to be held from 1st-10th June, 2020, due to Pandemic Covid 19, was rescheduled to 6th -16th July, 2020 and further rescheduled to 18th-28th August, 2020.

The ICSI is continuously viewing the situation prevailing due to Covid 19 pandemic and took cognizance of the situation being faced by the Students/ candidates from the time to time. Due to the prevailing situation coupled with lockdown, containment zones and prohibitions in many districts in various States have further aggravated the smooth conduct of the **ICSI Examinations**.

Accordingly, with a view to protect the interest of all the stakeholders and in particular students/ candidates and their well-being, the ICSI has decided to merge the June, 2020 session ICSI Examinations with the December, 2020 Examinations as under:

1. ICSI Examinations for the June 2020 session which has been merged with the December, 2020 Examinations shall commence from 21st December, 2020 as per the Examination Time-table which will be released separately.
2. Examination form already submitted by the students/candidates for the ICSI Examinations, June-2020 session will hold good for ICSI Examinations to be held in December, 2020. Such students/candidates should not apply again. However, such students/candidates may apply online for change of Examination Centre, Module and/or Medium without payment of fee from 26th July, 2020 till 20th November, 2020 for appearing in ICSI Examinations to be held in December, 2020.
3. Students/Candidates who have submitted their examination form for the ICSI Examinations, June-2020 session shall be allowed to carryover all benefits available to them including payment of fee and subject-wise exemptions for ICSI Examinations to be held in December, 2020.
4. Students/Candidates who have submitted examination form for ICSI Examinations, June-2020 session are allowed to add their module(s) with payment of differential examination fee during the above specified period for appearing in ICSI Examinations to be held in December, 2020.
5. The students/candidates who have not enrolled for ICSI Examinations June, 2020 session may enrol by submitting on line examination form together with requisite examination fee from 26th July, 2020 till 25th September, 2020 (without late fee) and upto 9th October, 2020 (with late fee).
6. The students of Executive Programme (Old Syllabus) and Professional Programme (Old Syllabus) are given opportunity to appear in the examination to be held in December, 2020, as per their old Syllabus.
7. Separate announcement shall be released in relation to examination for Company Secretaries Executive Entrance Test (CSEET) students.

All Students / Candidates are advised to take note of the above and act accordingly. All concerned are advised to visit the official website (www.icsi.edu) of the Institute for more updates / notifications related to the academic calendar and examination schedule / guidelines.

Dr. Sanjay Pandey
 Joint Secretary (Examinations)

RECENT SCHEMES INTRODUCED UNDER EMPLOYEES PROVIDENT FUNDS & MISCELLANEOUS PROVISIONS ACT, 1952

By **CS PUJA ANAND**

Company Secretary at Urmila International Services Private Limited



Provident fund is a welfare scheme for the benefits of the employees. Employees' Provident Fund Organisation has a vision to reposition itself as a world class Social Security Organisation providing futuristic services meeting the growing requirements of all categories of its stakeholders. The Employees' Provident Fund came into existence with the promulgation of the Employees' Provident Funds Ordinance on the 15th November, 1951. It was replaced by the Employees' Provident Funds Act, 1952. The Employees' Provident Funds Bill was introduced in the Parliament as Bill Number 15 of the year 1952 as a Bill to provide for the institution of provident funds for employees in factories and other establishments. The Act is now referred as the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 which extends to the whole of India. The Act and Schemes framed there under are administered by a tri-partite Board known as the Central Board of Trustees, Employees' Provident Fund, consisting of representatives of Government (Both Central and State), Employers, and Employees.

The Act is applicable on every factory engaged in any industry specified in Schedule 1 in which 20 or more persons are employed, or other such establishments notified by Central Government. Under EPFO, the employers and employees both contribute 12% of wages to the contribution accounts. Further the employers also contribute towards administration of the Schemes under the Act.

The Central Board of Trustees administers a contributory provident fund, pension scheme and an insurance scheme for the workforce engaged in the organized sector in India. The Board is assisted by the Employees' PF Organization (EPFO), consisting of offices at 135 locations across the country. The EPFO is under the administrative control of Ministry of Labour and Employment, Government of India. The Board operates three schemes - EPF Scheme 1952, Pension Scheme 1995 (EPS) and Insurance Scheme 1976 (EDLI).

Online Registration of Establishments under EPF & MP Act, 1952 through Shram Suvidha Portal:

The process of Registration requires no registration fee. Any visit to EPFO office is also not required and no physical documents are need to be submitted.

After Registration, employer will receive username and password digitally. For future compliance, employer can login on Employer Portal with this username and password.

Link for Registration:

» <https://www.epfindia.gov.in/>>Our Services>>For Employers>>Online Registration of Establishment>

OR

» <https://registration.shramsuvidha.gov.in/user/login>

RECENT SCHEMES INTRODUCED BY EPFO:

Indian Government, at all levels, announces various welfare schemes for a cross section society from time to time. Below are some recent schemes which are in detailed herewith:

1. The Pradhan Mantri Rojgar Protsahan Yojana (PMRPY) Plan Scheme

This scheme has been designed to incentivise employers for generation of new employment, where Government of India will be paying the full employer's contribution towards EPF & EPS both as admissible from time to time w.e.f. 01.04.2018 (earlier benefit was applicable for employer's contribution towards EPS only) for a period of three years to the new employees and the existing beneficiaries for their remaining period of three years through EPFO. This scheme has a dual benefit, where, on the one hand, the employer is incentivised for increasing the employment base of workers in the establishment, and on the other hand, a large number of workers will find jobs in such establishments. A direct benefit is that these workers will have access to social security benefits of the organized sector.

Benefits under Scheme:

- » All Establishments registered with EPFO can apply for availing benefits.
- » Establishments should have LIN allotted to them under Shram Suvidha Portal.
- » Employee should have a valid Aadhar linked UAN and wages upto Rs. 15,000/-.
- » Now Government will pay the full employer's contribution (EPF and EPS both) for new employment w.e.f. 01/04/2018 for all sectors.
- » Online application and so no need to visit any office.
- » Scheme amendment from time to time for more employment generation.
- » Registration on PMRPY portal is mandatory to avail benefits.

2. Pradhan Mantri Garib Kalyan Yojana (PMGKY)

This Scheme is to implement the PMGKY package for credit of employee's & employer's share of EPF & EPS contributions (24% of wages) for three months by Govt. of India. The Govt. of India on 26.03.2020 announced Rs.1.70 Lakh Crore relief package under PMGKY for the poor to help them fight the battle against Corona Virus Pandemic. As part of the said package, the Central Govt. proposes to pay 24 percent of the monthly wages into EPF accounts for next three months of Wage earners below Rs. 15,000/- (Rupees fifteen thousand) per month, who are employed in establishments having up to one hundred employees, with 90% or more of such employees earning monthly wages less than Rs.15000/-. The Scheme will be in operation for the wage months- March, 2020, April, 2020 and May 2020.

Benefits under Scheme:

- » The benefit will be given from PMRPY for the employer share to the members who are eligible for PMRPY. The employee share will come from PMGKY.
- » To the members who are eligible only for PMGKY, their both share benefit will be given from PMGKY.
- » The total amount of subsidy will be reduced in challan and only the reduced amount will have to be paid by the employer. He will have to pay the EDLI contribution and Administrative charges and the contributions for non-eligible members.

RELIEFS AMIDST COVID-19:

In a Circular dated 15th May, 2020, Relief is provided to establishments and factories covered under EPF and MP Act, 1952 from levy of penal damages for delay in deposit of dues during Lockdown to prevent COVID-19.

- Considering the difficulty faced by the establishments in timely deposit of contributions during the period of lockdown due to operational and economic reasons, EPFO declares that no proceeding should be initiated for levy of penal damages for delay in payment of any contributions or administrative charges due for any period in lockdown.

The government of India have come up with various schemes to aid economic development and financial stability through which many establishments, its employers and employees will get benefit from. We are thankful to our government for its services that are available to citizens which provide social security and assistance to them.

Disclaimer:

The Article is prepared on the basis of the relevant provisions, rules and as per the information existing at the time of the preparation. This is only a knowledge sharing initiative and not intended to be a professional opinion or advice. The author shall not be liable for consequences of any action taken by relying on the material/ information mentioned hereinabove and in no event I shall be liable for any direct and indirect result from this Article.

COVID19 AND CHALLENGES FOR COMPANY SECRETARIES



By **CS VIKASH KR. SINHA**

ARTICLE

It is a naked truth that a human being shows his/her real character in adverse condition. This saying becomes more relevant in present situation where the entire world is facing corona threat and struggling to come out of it. Considering the measures adopted by different leading nation in neutralising the covid threat our nation is doing well and india's performance in this regard is satisfactory.

In this situation the role of company secretaries becomes very important as a corporate consultant in view of the corporate upheavels and disturbances mainly in msme and unorganised sectors and covid19 special economic package announced by the government of india. It is a lifetime and golden chance for the budding as well as established company secretaries where they can provide consultancy to different level of business houses so that the business unit remain unaffected in this trying situation and continue to contribute in nation's growth. A company secretary can perform a remarkable job in analysing and decoding the stimulus package of 20 lakhs crore package announced by the finance minister to fillip the economic growth of india in this downtime. Professionals like company secretaries must create and use different platforms to unfold and deconstruct the nuances of this package announced by the central government to the best advantage of concerned industries.

For example : the stimulus package claims that there will be an equity infusion of rs. 50000 Crore for msme through fund of funds. Now company secretaries have the knack to decode the implications and complexities of this announcement considering a unit which falls under the category of msme.

The covid 19 economic package announced by the central government includes rs. 3 Lakh crores collateral free automatic loans for businesse including msme. Here it is very important for the company secretaries to realise and assess their roles in consultancy area specially to small and medium business houses. Company secretaries are able to put the intricacies of this package to msme in simple words at different forums and at the same time they can enhance their professional competency to the best level.

Economic package which includes remedial measures taken by reserve in the same way company secretaries must come forward to elucidate to different stakeholdres all other measures taken under this special bank of india , financial help for stressed msme , steps taken regarding global tenders , epf support for businesses and workers , special liquidity schemes for nbfc/hfc/mfi , partial credit guarantee scheme for nbfc , extension of registration & completion date of real estate projects under rera , liquidity through tds/tcs rate reduction, many direct & indirect tax measures and most importantly relaxation in compliances under companies act.

It is a fact that we live in a global economy, no economy in this world can breath and prosper in isolation. Taken into account this hard fact it is professional and moral duty of company secretaries to guide and adopt the role of a torch-bearer for our floundering business houses to prosper in this tough covid19 period using the covid 19 economic package in order to bring about a massive improvement in different industrial sectors and make our economy a leading one.

COVID-19 REGULATORY UPDATES

Dear Professional Colleagues

The COVID-19 pandemic has not only severely disrupted financial markets and global economy, but has also emerged as the biggest threat to human life. In India too, both the government and the RBI have announced several relief measures to minimise the impact of coronavirus on financial markets, taxpayers, investors and the common man, among others.

The ICSI in its endeavour to support the members in understanding these relaxations and the new compliance requirements and deadlines, has brought out a comprehensive booklet '[Covid19-Regulatory Updates](#)', covering the initiatives of Judiciary, Ministries and various Regulators.

I appreciate Team ICSI - Directorate of Academics for preparing this book-let which can be used as a ready referencer with respect to various exemptions/relaxations/extension of time-lines and the new compliance mandates of the various Regulatory authorities.

Best Regards,
Ashish Garg
President

PROCEDURE TO HOLD ANNUAL GENERAL MEETING BY WAY OF VIDEO CONFERENCING OR OTHER AUDIO VISUAL MODE



By **CS SHWETA DUBEY**
Corporate Division Head Luharuka and Co.

The effect of Pandemic Covid-19 is increasing at a rapid rate and considering the impact of this, Ministry of Corporate Affairs have come out with various Notifications and Circulars providing relief to the Entities in some way or the other. One such relaxation is provided by the MCA allowing the Companies to hold Annual General Meeting via Video Conferencing (VC) or Other Audio Visual Mode (OAVM) vide General Circular No. 20/2020 dated 05.05.2020. This Circular has been issued keeping in view of the continuing restrictions on movement of people because of covid-19 lockdown.

The procedural framework for holding Extra-Ordinary General Meeting via VC or OAVM as mentioned in Circular 14/2020 dated 08/04/2020 and Circular 17/2020 dated 13/04/2020 shall be applicable Mutatis Mundis for holding AGMs of the Companies.

Earlier, vide notification 18/2020 dated 21/04/2020, **the Companies whose financial year ended on 31st December, 2019, have been allowed to hold their AGMs by the 30th September, 2020.**

Unavoidable business:

As per Section 102 (2) (a) following are the ordinary business which can be transacted in an AGM only-

- (i) the consideration of financial statements and the reports of the Board of Directors and auditors;
- (ii) the declaration of any dividend;
- (iii) the appointment of directors in place of those retiring;
- (iv) the appointment of, and the fixing of the remuneration of, the auditors; and

And all business to be transacted thereat shall be deemed special business other than the above mentioned.

Further, along with the above mentioned mandated ordinary business, also those items of special business, which are **considered to be unavoidable by the Board, may be transacted** in the AGM.

Classification of Companies which can avail this opportunity of AGM via VC/OVAM are given as under:

- i) For companies which are required to provide the facility of e-voting
- ii) For companies which are not required to provide the facility of e-voting.

✓ For companies which are required to provide the e-voting facility: Procedure

a) Email the Documents: The Financial Statements including Board's Report and other related documents can be sent electronically instead of sending the physical copies.

b) Transcripts: The recorded transcripts are to be placed on the website of the Public company and to be kept in safe custody.

c) Manner of Sending Notice: The notices to be given only by way of registered Mail ids in the Company.

d) Contents of Public Notice:

- i) Statement that the AGM will be convened through VC or OAVM
- ii) The date and time of the AGM through VC or OAVM
- iii) Availability of notice on the website of the company and stock exchange, if required;
- iv) Manner of voting by the members who are holding shares in physical form or who have not registered their email addresses with the company;
- v) Manner of registering the unregistered mail id of the members;
- vi) Manner in which the members can give their mandate for receiving dividends directly in their bank accounts through the Electronic Clearing Service (ECS) or any other means.
- vii) Any other detail considered necessary by the company.

e) Newspaper publication:

Publication of a notice by way of newspaper advertisement before sending the notices and copies of the financial statements, etc., and specifying in the advertisement the above mentioned information.

f) Facility of VC/OAVM:

There must be two way teleconferencing for the ease of participation by the members and such facility shall be done on First cum first serve basis. However, the below mentioned personnel are excluded from such First Cum First Serve and are allowed to attend the Meeting as and when required:

- (i) Shareholders holding 2% (two percent) or more;
- (ii) key managerial person;
- (iii) chairperson of the audit committee, if any;
- (iv) chairperson of the nomination and remuneration committee, if any;
- (v) chairperson of the stakeholders relationship committee
- (vi) institutional investors,
- (vii) auditors, and
- (viii) independent director (in the event that a company is required to appoint one in terms of CA 2013).

g) Time for joining of Meeting:

The VC/OVAM facility shall be kept open at least 15 minutes before the scheduled time of the EGM and shall not be closed till the expiry of 15 minutes after the conclusion of the scheduled time for EGM.

h) Attendance of Members:

Attendance of the members to be counted through VC/OAVM for the purpose of reckoning quorum.

i) Voting at the Meeting: The members present at the meeting who have not casted their votes through remote e-voting can only vote at the meeting.

j) Chairman:

In case where there are less than 50 members present at the meeting, chairman shall be appointed as per Section 104 of the Act. In all other cases, chairman of the meeting shall be appointed by way of Poll.

k) Manner of conducting meeting:

The Chairman shall ensure the e-voting facility should be available for the purpose of the meeting held through VC/OAVM.

l) Proxy:

The facility for appointment of Proxies by members will not be available for such meetings owing to the fact there is no physical attendance of the Members.

m) Attendance of independent director and the auditor:

At least one independent director (if is required to be appointed), and the auditor or his authorized representative, shall attend such Meeting through VC/ OAVM.

n) Payment of dividends:

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

o) Filing of resolutions:

All the resolutions passed through this framework should be filed with the Registrar of Companies within 60 days of their passing so they may be viewed publicly.

p) Meeting at the Registered Office:

Where the company has been permitted to conduct its AGM at its registered office, or at any other place as provided under section 96 of the Act, the company may in addition to holding such meeting with physical presence of some members, also provide the facility of VC or OAVM, to allow other members of the company to participate in such meeting.

✓ For companies which are not required to provide the e-voting facility:**a) Eligibility to conduct AGM via VC:**

AGM may be conducted through the VC/OAVM facility only if the company which has the email addresses of at least half of its total number of members, in its records, and

1. in case of a Nidhi, hold shares of more than 1000 rupees in face value or more than 1% of the total paid-up share capital, whichever is less;
2. in case of other companies having share capital, hold at least 75% the paid-up share capital;
3. 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.

b) Email the Documents: The Financial Statements including Board's Report and other related documents can be sent electronically instead of sending the physical copies.

c) Transcripts: The recorded transcripts are to be placed on the website of the Public company and to be kept in safe custody.

d) Manner of Sending Notice: The notices to be given only by way of registered Mail ids in the Company.

e) Contents of Public Notice:

Where the contact details of any of the members are not available with the company, it shall issue a public notice in a vernacular language newspaper in which the registered office is situated, & in English language newspaper having wide circulation in that district and electronic editions.

The following content shall form part of the public notice:

- i) a statement that the AGM shall be convened through VC or OAVM; and the company proposes to send the notice by email after, 3 days from the date of publication of the public notice;
- ii) the details of the email address along with the phone number on which the members may contact for getting their e-mail addresses registered for participation and voting in the Meeting

f) Facility of VC/OAVM:

There must be two way teleconferencing for the ease of participation by the members and such facility shall be done on First cum first serve basis. However, the below mentioned personnel are excluded from such First Cum First Serve and are allowed to attend the Meeting as and when required:

- (i) Shareholders holding 2% (two percent) or more;
- (ii) key managerial person;
- (iii) chairperson of the audit committee, if any;
- (iv) chairperson of the nomination and remuneration committee, if any;
- (v) chairperson of the stakeholders relationship committee
- (vi) institutional investors,
- (vii) auditors, and
- (viii) independent director (in the event that a company is required to appoint one in terms of CA 2013).

i) Time for joining of Meeting:

The VC/OAVM facility shall be kept open at least 15 minutes before the scheduled time of the EGM and shall not be closed till the expiry of 15 minutes after the conclusion of the scheduled time for EGM.

j) Attendance of Members:

Attendance of the members to be counted through VC/OAVM for the purpose of reckoning quorum.

k) Designated e-mail address for voting.:

The company shall provide a designated e-mail address to all members at the time of sending the notice of Meeting so that the members can convey their vote, when a poll is required to be taken during the Meeting on any resolution, at such designated email address.

l) Chairman:

In case where there are less than 50 members present at the meeting, chairman shall be appointed as per Section 104 of the Act. In all other cases, chairman of the meeting shall be appointed by way of Poll.

m) Voting by designated mail addresses:

During the Meeting held through VC/OVAM facility, where a poll on any item is required, the members shall cast their vote on the resolutions only by sending their assent or dissent from the email addresses which are registered with the company. The said emails shall only be sent to the designated email address circulated by the company in advance.

n) Proxy:

The facility for appointment of Proxies by members will not be available for such meetings owing to the fact there is no physical attendance of the Members.

o) Attendance of independent director and the auditor:

At least one independent director (if is required to appointed), and the auditor or his authorized representative, shall attend such Meeting through VC/ OAVM.

p) Notice issued prior to the EGM Circulars: For companies which have already sent their notices for calling AGM, should be required to send out fresh notices containing the fact that meeting will conducted through VC/OAVM in terms of the AGM Circular.

In our view, the length of AGM notices can remain 21 days unless the same is called at a shorter notice.

q) Payment of dividends:

Where the company is unable to pay the dividend to any shareholder by the

electronic mode, due to non-availability of the details of the bank account, the company shall upon normalization of the postal services, dispatch the dividend warrant cheque to such shareholder by post.

r) Filing of resolutions:

All the resolutions passed through this framework should be filed with the Registrar of Companies within **60 days** of their passing so they may be viewed publicly.

Application for extension of AGM for certain companies

In case the companies on which the said circular is not applicable and are unable to conduct their AGM in accordance with the framework provided in AGM Circular may apply for the application for extension of AGM before the concerned Registrar of Companies under section 96 the Act.

Our Comment: It is certainly a relaxation given to the specified companies in holding their AGMs amidst this Pandemic but the compliances which are as required in the Circular is to be complied accordingly

NEWS & EVENTS

EIRC WEBINAR ON “INTERPRETATION OF STATUTES – CS’ PERSPECTIVE” ON 16TH MAY, 2020



Guest Speaker – CS Makarand Joshi, Practising Company Secretary
Moderator – CS Rajesh Chura, Immediate Past Chairman, EIRC of ICSI

PROXY – A CLONE TO ONESELF

By **CS DHARMESH VANKAR & PCS RAHUL SHAH**



Most of the readers have heard this word during some point of life, may be either at school or at college or at any other places, also one has got chance to be a proxy or entrust others (connection or friend) to be a proxy for himself. In general, proxy can be meant as creating a kind of duplicate of oneself for representing at any event including vote for one if warranted. As per Cambridge dictionary, proxy word refers to authority given to a person to act for someone else, such as by voting for them in an election or any warranted circumstances. In corporate environment, where everyone seems busy in their endeavours; attendance of person becomes difficult for decision making. To curb this issue, proxy has come into existence.

Reason behind emergence of the concept of proxy

It's a human nature that everyone wants to know everything, more particularly, in the matter of their subsisting interest. Same logic applies with members of the company too. They may be engaged in their other assignments but they also want to be familiar with what's going to happen in a meeting, therefore to satisfy their curiosity or to exercise their right, proxy concept came into existence.

Although individual member's proxy can't be considered for quorum determination; however a duly authorised representative of a body corporate or the representative of the President of India or the Governor of a State is deemed to be a Member personally present and enjoys all the rights of a Member present in person and counted as a quorum too.

Who can be proxy?

Well to become a proxy, one needs to be 'person', although person term has not been defined in the Companies Act, 2013 (hereinafter referred to as the "Act"). However, considering the role and function of proxy, we can conclude that living individual can become proxy as he needs to represent the appointer and jot down the 'actual' proceedings of the meeting for his appointer's well-being.

For becoming proxy, one needs not to be a member of the Company except in case of Section 8 Company

Does proxy system is omnipresent?

A big No!!! Proxy right is available only to those members of the Company who are entitled to attend and vote at a meeting of the company, i.e. company limited by shares and carry voting rights.

A member of a company registered under Section 8 to the Act shall not be entitled to appoint any other person as his proxy unless such other person is also a member of such company.

Does proxy is identical to original member?

Well, prima facie we can opine that proxy is same as original member of the company but proxy has been excluded from using certain rights like right to speak at the meeting and to entitle to vote except on a poll which only actual member can exercise it.

Threshold of representation

A person can act as proxy on behalf of *members* not exceeding 50 and holding

in the aggregate not more than 10% of the total share capital of the company carrying voting rights. However, a member holding more than 10% of the total share capital of the Company carrying voting rights may appoint a single person as proxy and such person shall not act as proxy for any other person or shareholder.

Intimation about availability of proxy service

In case of Company having share capital or where articles of association of company (AOA) provide for voting by proxy at meeting, in every notice for calling of meeting of company, a statement shall be appended to it stating that a member is entitled to appoint proxy or proxies to attend and vote instead of himself at the meeting of the company.

Ingredients to be considered as proxy

To appoint a person as one's proxy, there should be instrument appointing a proxy (Form No.MGT-11) which should be in writing, duly filled with all required factual, duly signed by appointer himself or his attorney duly authorised in writing or, if the appointer is a body corporate, be under its seal or be signed by an officer or an attorney duly authorised by it (Board resolution u/s 113 to the Act in case of Company). Such instrument shall not be questioned on the ground that it fails to comply with any special requirements specified by the Articles of a company.

An instrument of Proxy is valid only if it is properly stamped as per the applicable law. Unstamped or inadequately stamped Proxies or Proxies upon which the stamps have not been cancelled are invalid.

If a company receives multiple Proxies for the same holdings of a Member, the Proxy which is dated last shall be considered valid; if they are not dated or bear the same date without specific mention of time, all such multiple Proxies shall be treated as invalid.

Proxies shall be deposited with the company either in person or through post not later than forty-eight hours before the commencement of the Meeting in relation to which they are deposited and a Proxy shall be accepted even on a holiday if the last date by which it could be accepted is a holiday.

A Proxy is valid until written notice of revocation has been received by the company before the commencement of the Meeting or adjourned Meeting.

To sum up, proxy is a kind of invigilator send by member at the company to assess the 'actual' proceeding of meeting and to safeguard his interest in case if any adverse information he gets through his so called '*sanjay*' of Mahabharata.

Disclaimer: The entire content of this article is author's own understanding & personal views. This is only a knowledge sharing initiative and authors do not in any way intend to solicit any business or profession.

References:

- The Companies Act, 2013
- The Companies (Management and Administration) Rules, 2014
- Secretarial Standard -2

IMPORTANT FAQs FROM THE PERSPECTIVES OF HOME-BUYERS UNDER WBHIRA

By **CS Lokesh Shah**

Practising Company Secretaries, Lokesh Shah & Associates



The Parliament enacted the Real Estate (Regulation and Development) Act, 2016 with an objective to regulate the real estate sector, protect the innocent buyers and provide a speedy redressal mechanism for disputes between the promoter and allottee. The central RERA Act came into force w.e.f 1st May, 2017. However, The West Bengal government enacted its own version of the Real Estate (Regulation and Development) Act (RERA), the West Bengal Housing Industry Regulation Act (HIRA) in 2017, the only state to do so, and the Housing Industry Regulatory Authority came into effect on 1st June, 2018.

Both the RERA and WBHIRA fill a large lacuna as the real estate sector was hitherto unregulated. These legislations seek to provide respite to frustrated and helpless buyers who have so far been at the mercy of unscrupulous builders and years of litigation. Apart from protecting the buyers, this Act establishes a specialized body for its enforcement and also creates a dedicated forum for seeking compensation, which was earlier being awarded by consumer forums.

After enactment of the RERA/WBHIRA, the civil court has no jurisdiction for adjudication of dispute amongst the promoter and allottee. The powers for the same have been now exclusively vested with the RERA/WBHIRA Authority. Further, Company Secretaries in Practice are allowed to appear before the authority to represent the matter on behalf of the promoter and allottee. Additionally, being a company secretary, we will also, in future, purchase property as well as become part of many real estate transactions undertaken by our employer companies, and as well as our relatives. Hence, it becomes utmost important to have knowledge of the RERA/ WBHIRA Act and Rules thereof.

In this article we have tried to cover important FAQs from the perspective of homebuyers under WBHIRA.

1. Is each and every project required to be registered under the WBHIRA?

- All the projects which have received the completion certificate as on commencement of the Act i.e. before 1st June, 2018 are not required to register with WBHIRA.
- Real estate projects having number of units more than 8 or total land area exceeding 500 sq. meters must be registered with WBHIRA.

For example: A project situated having total land area of 450 sq. meters and number of units 9 is required to be registered with WBHIRA.

2. For a small project, is there any exemption from the registration compliance or the whole WBHIRA Act becomes non-applicable?

The exemption is given from the registration of the project with WBHIRA authority only. All the other provisions of the act regarding timely completion of project, adherence to the layout and sanction plans, interest for delayed period etc. are equally applicable to such projects also.

Further, in case of disputes, even if a project is already completed or is not required to register with WBHIRA authority, a complaint can be filled before the WBHIRA

authority in respect of the said project and WBHIRA authority is duly empowered to adjudicate the said dispute.

3. How can we obtain the details of projects registered with WBHIRA?

The details of all the registered projects are available on the website of the WBHIRA Authority. All the details and important documents of the projects are available on the website free of cost.

The website of WBHIRA is <https://hira.wb.gov.in/>. All the details of the project like type of Project, Project specifications, number of inventories, promoters experience, format of legal documents, current status of the construction progress, consultants and agents associated with the project etc. can be viewed online by making search by the name of the project or promoter free of cost.

4. What is the important information or details which I am entitled to obtain from the Builder/Developer?

The home buyer is entitled to obtain the information relating to project like commencement certificate (construction permission by local authority), Layout plans, Building Plans, Sanction Plans, project brochures and project specifications. The home buyer is also entitled to know stage-wise time schedule of completion of the project including the provisions for water, sanitation, electricity and other amenities and services to be provided by the builder/developer.

5. How and to whom the payments should be made?

The home buyer shall make all the payments to the builder/developer in the bank account of the developers/builder only and not to partners or third parties. Also, the home buyer should ensure that payment to be made through banking channels only.

6. What are the important documents that the home buyer shall obtain from the builder/developer so as to safeguard its interest?

The home buyer is entitled to and shall, obtain following documents so as to safeguard its interest in the project.

a. Brochure/Prospectus of the Project: Brochure of the project contains the details of layout plans, floor plans and unit plans along with project specification and amenities promised by the promoter.

b. Booking Letter or Allotment Letter: The home buyer shall obtain Booking letter or allotment letter on making first payment towards booking of the unit.

c. Payment Receipts: The home buyer shall obtain payment receipts for all the payments done to the promoter from him and shall also maintain copy of bank statement depicting the transfer of the payment in the bank account of the Promoter.

d. Agreement for Sale: WBHIRA Mandates for promoters to execute registered agreement of sale with Home buyer before accepting amount exceeding 10% of the unit price. The Allottee shall insist and execute registered agreement for sale before making payment exceeding 10% of the Unit price.

e. Completion Certificate / Building Use Permission (B.U) / Occupancy

Certificate: It is a certificate issued by the plan approval authority of the project that the construction of the Project has been completed as per the approved plans; the promoter has obtained other requisite approvals from the local authorities like. Fire NOC, LIFT NOC, etc. and the building is now "Fit for Use" or "Permitted to be Used".

f. Sale Deed: The home buyer shall execute the Sale Deed with the promoter on completion of all the payments and preferably only after issue of Completion Certificate/ Building Use Permission (B.U)/Occupancy Certificate by the planning authority.

g. Possession Letter: The home buyer shall take possession of the unit only after issue of Completion Certificate / Building Use Permission (B.U) / Occupancy Certificate the planning authority and obtain possession letter from the promoter.

h. Share Certificate: The home buyer is entitled for proportionate share in the undivided land of the project and shall obtain a share certificate from the Association of Home Buyer formed for the management of the common area and amenities of the project.

7. How can the home buyer ensure authenticity of the documents provided by the builder/promoter?

The builder/developer is required to submit all its project details and documents like Commencement Certificate, Approved Plans, Land Title Documents, Brochure, Proforma of Allotment Letter, Agreement for Sale and Sale Deed etc. to the WBHIRA authority while obtaining registration from the authority. These documents are available in public domain and can easily be downloaded from the WBHIRA authority website. Any person can visit the website and can obtain the same. The link for the same is https://hira.wb.gov.in/district_project.php?dcode=0

8. Are the Real Estate Agents/Brokers also required to be registered with WBHIRA?

Yes. The Brokers/ Real Estate Agents are also compulsorily required to be registered with WBHIRA.

9. What is the remedy available in case the Builder/Developer has made false promises or is not giving amenities or services as promised?

In case where there is mismatch in the commitments made by the promoter and the actual site of the project, then the home buyer is entitled to claim compensation for the same. In addition to it, the allottee has an option to withdraw from the project and get refund of amount paid along with interest.

The ideal remedy for home buyer would be to file a complaint under Section 31 of the WBHIRA. Once the complaint is filed, the Regulatory Authority can invoke its powers of investigation enshrined under Section 35 of the Act and investigate the matter. If the Authority finds that the promoter has not delivered its promises then it can impose a penalty amounting to five per cent (5%) of the cost of the project. Further, if it finds that the developer is indulging in fraudulent practices, it can even cancel the registration of the project under Section 7 of the Act.

10. What if the Promoter wishes to change project plans?

Section 14 of the WBHIRA prohibits developers from making any amendments to the sanctioned plan of the project, without the prior consent of the home buyer.

As per Section 14, any alteration in the plans and specifications of an individual apartment is permitted only with the prior written consent of the allottee.

On the other hand, alterations in the layout of the entire project and the common areas of the building cannot be put into effect unless the promoter obtains the prior written consent of two-thirds of all the home buyer in the project. Thus, the developer is duly bound to adhere to the approved plans during the construction

and cannot deviate from the same.

The ideal remedy for home buyer if facing pressure from developers to sign any unconscionable letters would be to file a complaint under Section 31 of the WBHIRA. Once the complaint is filed, the Regulatory Authority can invoke its powers of investigation enshrined under Section 35 of the Act and investigate the matter. If the Authority finds that the promoter is violating the letter and spirit of Section 14, it can impose a penalty amounting to five per cent of the cost of the project. Further, if it finds that the developer is indulging in fraudulent practices, it can even cancel the registration of the project under Section 7 of the Act.

11. What can I do if there is any structural defect or poor quality of construction done by the promoter?

As per the provisions of the WBHIRA Act, 2017, In case there is any structural defect or any other defect in workmanship, quality or provision of services or any other obligations of the builder/developer as per the agreement for sale relating to such development is brought to the notice of the builder/promoter within a period of five years by the allottee from the date of handing over possession, it shall be the duty of the builder/developer to rectify such defects without further charge, within thirty days, and in the event of promoter's failure to rectify such defects within such time, the aggrieved home buyer can file the complaint regarding the same before the state WBHIRA authority.

The authority will adjudge the matter and issue the appropriate direction to the promoter for rectification of the construction defect. The authority is also empowered to order compensation as well as impose penalty upon the promoter in suitable cases.

12. What are the remedies available to the home buyer if promoter fails to comply or is unable to give possession of the apartment, plot or building, as the case may be, in accordance with the terms of agreement?

The home buyer is entitled to claim the refund of amount paid along with interest thereupon under Section 18 of the Act.

In case the home buyer wishes to withdraw from the project, the allottee can claim refund of the amount paid by him in respect of that unit with interest.

In case where an allottee does not intend to withdraw from the project, he shall be paid, by the promoter, interest for every month of delay, till the handing over of the possession of the unit.

The interest will be paid at such rates as agreed between the promoter and allottee in agreement for sale. In case no such rate is agreed upon, that the interest rate will be equivalent to SBI's PLR Rate + 2%.

The rate of interest chargeable from the home buyer by the builder/developer, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default.

Any refund of monies along with interest / compensation if any payable by the promoter shall be paid within 45 days from the date such refund along with interest / compensation becomes due.

13. What are the remedies available to the home buyer if there is defect in the title of the Land on which project is situated?

As per the provisions of Section 16 of the Act, the builder/developer is required to take insurance of the title of the land and building construction of the project. The insurance shall stand transferred to the benefit of the allottee or the association of home buyer, as the case may be, at the time of promoter entering into an agreement for sale with the allottee/On formation of the association of the

home buyer, all documents relating to the insurance shall be handed over to the association of the home buyer.

14. How the transfer of the project from the current developer to a new developer will have impact on my booking transaction?

The builder/developer can transfer or assign his majority rights and liabilities in respect of a real estate project to a third party only after obtaining prior written consent from two-third allottees. In addition to it the builder/developer is also required to obtain prior written approval of the WBHIRA authority.

However, such transfer or assignment shall not affect the allotment or sale of the apartments, plots or buildings as the case may be, in the real estate project made by the erstwhile promoter.

The new developer is required to complete the real estate project and to comply with all the pending obligations of the erstwhile developer in the same time as promised by the erstwhile promoter, and in case of default, such intending promoter shall be liable to the consequences of breach or delay, as the case may be, as provided under this Act or the rules and regulations made thereunder.

15. What are the provisions relating to formation of Association of allottees by the Promoter under WBHIRA?

The promoter is required to form the association of allottees for management of the common areas and amenities of the project within three months of obtaining bookings of majority of units. As per WBHIRA, Project is said to have completed only when the promoter has formed association of allottees, obtained completion certificate and handed over management of the common areas to the association of allottees.

The promoter is required to open separate bank account of the association and all the amounts accepted towards common area maintenance as deposits by whatever named called is required to be deposited in the said bank account of the association.

The promoter is also required to provide all the necessary documents and plans along with details of income and expenses incurred towards maintenance of the project.

16. How to file a complaint with WBHIRA authority and what is the fees for the same?

Any aggrieved person can file the complaint before state WBHIRA authority in both online or offline mode. The fees for filling the complaint is Rs.1,000.00/- (Rupees One Thousand) only.

The user manual for filling complaint before the WBHIRA Authority is available at <https://hira.wb.gov.in/img/pdf/User-Manual-Complaint-Registration.pdf>

The complainant is required to submit his complaint in the prescribed form along with statement of facts of his complaint and the documentary evidences supporting the complaint.

It is preferred to send a copy of complaint along with relevant papers through

Registered AD to the respondent after its submission to the authority.

17. Can I File a complaint with WBHIRA authority if a case for the same matter is pending in any other court?

No. A complaint for the same cause of action which is pending before any other court of law for decision, cannot be filled before the WBHIRA authority. Complainant needs to first withdraw the matter from other court and can file fresh complaint before the WBHIRA authority.

18. Can I challenge the order of the WBHIRA authority?

Yes. any person aggrieved by any direction or order or decision of the Authority may prefer an appeal to the Appellate Tribunal within a period of sixty working days from the date on which a copy of the direction or order or decision made by the Authority is received by the appropriate Government or the competent authority or the aggrieved person in the prescribed format.

However, the Appellate Tribunal may entertain any appeal after the expiry of sixty days if it is satisfied that there was sufficient cause for not filling it within that period.

Further, where a promoter files an appeal with the Appellate Tribunal, promoter is also required to deposit with the Appellate Tribunal at least thirty per cent (30%) of the penalty, or such higher percentage as may be determined by the Appellate Tribunal, or the total amount to be paid to the allottee including interest and compensation imposed on him, if any, or with both, as the case may be, before the said appeal is heard.

The format of filling the appeal is already prescribed by the state WBHIRA rules and regulations.

The fee for filling the appeal with the WBHIRA tribunal is Rs.1,000.00/- (Rupees One Thousand) only.

19. Can I challenge the order of the WBHIRA Appellate Tribunal?

Yes. A person aggrieved by the decision of the Appellate Authority can file further appeal with the concerned High Court within 60 working days from the receipt of the order from the appellate tribunal.

20. What is the time taken by the WBHIRA authority in adjudicating a matter and dispose of the same?

For the WBHIRA authority, there is no time line prescribed for adjudicating and disposal of the cases. However, the same is quasi-judicial authority with all the powers of civil court for deciding any matter. The authority operates in manner of summary court and all endeavors are made to discharge the matter as early as possible.

The WBHIRA Tribunal is required to adjudicate the matter within sixty (60) days from the date of receipt of the same. However, in case of period of more than sixty days, the tribunal is required to record the reason in writing for not disposing of the matter within that period.

STUDY CENTER SCHEME

An attempt to enhance the infrastructural base of the Institute and to overcome the distance barrier for In the students, the Institute of Company Secretaries of India had launched the Study Centre Scheme and needless to say, the same has been successful in creating the much needed links between the Institute and its stakeholders, especially students. With the aim to provide better facilities to students, the Institute has opened 01 study centre recently at Ananda Chandra College of Commerce, Jalpaiguri, West Bengal to the already existing fleet of 104 Study Centres.

MEETINGS FROM HOME: COMETH THE HOUR, COMETH THE MINISTRY.



By **CS KRITIKA ANAND TIWARY**

Senior Manager, Compliance, Santosh Kumar & Associates Company Secretaries.

Amid COVID-19 situation, social distancing became a buzz word much before the announcement of series of lockdowns by the Government. The buzz is going to be inevitable for a long time whether as a mandate or as a health precautionary measure. The novel virus has infected financial well being of businesses of all scales. In order to tackle the financial distress, Companies, whether small or big, are considering several measures like restructuring, borrowing, lending, etc. Such crucial financial decisions need approval of Directors and/ or Shareholders of Companies and that too through meetings duly convened as per provisions of the Companies Act, 2013 (the Act) and other regulatory provisions, wherever applicable. Apart from aforementioned event based decisions, Companies are also required to take up several statutory matters at meetings duly convened under the provisions of the Act. Hence, in the present crisis, where avoidance of interactions through physical presence is a key factor to control the crisis, a Company which is required to hold meetings both as a part of statutory norms as well as for several business decisions was undoubtedly prone to succumb.

Recognizing the need of the hour, the Ministry of Corporate Affairs (MCA) came up with series of Notifications, Circulars and Clarifications for facilitating companies to hold Meetings of Board (including meetings of committee thereof) and General Meetings through video conferencing or other audio visual means.

Meeting – of Board as well as any committee thereof:

MCA vide its Notification dated 19th March, 2020 came up with huge relief, allowing all companies to hold Meetings (of Board as well as any committee thereof) for discussion of all items through video conferencing or other audio visual means. Earlier, there was a list of certain items in Rule 4 of the Companies (Meetings of Board and its Powers) Rules, 2014, specifying the matters which were not allowed to be dealt with in a Meeting through Video Conferencing or other Audio Visual Means. With the advent of the Companies (Meetings of Board and its Powers) Amendment Rules, 2020 through the aforesaid notification, any kind of matter including the said restrictive matters can now be dealt with in a meeting held through electronic mode. Strategically important matters including that were earlier not permitted to be transacted in a Board Meeting through Video conferencing or other audio video mode for example approval of financial statements or restructuring of Company through amalgamation, merger, etc., can now be discussed and consented upon in a meeting held through electronic mode. Although at present the relaxation has been provided only till 30th June, 2020, however in the era where technology has advanced and benefitted all cycles of life, it can be expected that the relaxation will be extended or even continues to remain forever depending upon repercussions of allowing discussion of restrictive items.

It is needless to mention that Companies still have option to pass resolutions by circulation in accordance with the provisions of Section 175 of the Companies Act, 2013. However, it could be considered that where there is an option to conclude discussions through interactive platforms then why one should resort to a noninteractive one unless situation warrants so.

General Meeting – Other than Annual General Meeting

For General Meetings, provision for vote from home was always there in the Companies Act, 2013 but there were no provisions for participation in General Meetings through video conferencing or other audio visual means. Section 108 and Section 110 of the Companies Act, 2013 read with rules made there under does provide for e-voting facility and postal ballot facility respectively. However the mandate is limited to prescribed classes of companies. Moreover, such companies are less than even 10% of total number of companies which implies that more than 90% of the Companies are not even required to provide for mandatory e-voting facility.

There is no limit for number of shareholders in a Company (except for Private Companies) and as such ensuring participation of each and every shareholder in general meetings through video conferencing is really challenging. A Company may have large number of shareholders and in such case it is simply not fair to deprive participation of any shareholder due to any reason like technology restrictions, inconvenience on part of shareholders, etc. Hence, this could be one of the reasons along with several other reasons, as to why conduct of general meetings solely through electronic mode was not yet been allowed by the Ministry.

There is no limit for number of shareholders in a Company (except for Private Companies) and as such ensuring participation of each and every shareholder in general meetings through video conferencing is really challenging. A Company may have large number of shareholders and in such case it is simply not fair to deprive participation of any shareholder due to any reason like technology restrictions, inconvenience on part of shareholders, etc. Hence, this could be one of the reasons along with several other reasons, as to why conduct of general meetings solely through electronic mode was not yet been allowed by the Ministry.

The circular (http://mca.gov.in/Ministry/pdf/Circular14_08042020.pdf) dated 08th April, 2020 and the Clarification circular (<http://www.mca.gov.in/Ministry/pdf/Circular1713042020.pdf>) can be accessed on above links. It may be noted here that the Circular has allowed the Companies to limit participation of members on first come first serve basis. The limit is 1000 (One Thousand) members for companies which are required to provide mandatory evoting facility (including companies which have opted for such facility) and 500 (Five Hundred) members for other companies. Though such limitation may deprive certain shareholder from being part of the meetings however such limitation exists as on date and even with these limitations companies may ensure maximum possible participation of shareholders at general meeting.

Further, procedures specified in the circulars may be referred for class meeting and other meetings as well. One should note that the circular provides for filing of all resolutions passed at meetings held through video conferencing with MCA within 60 (sixty) days of the meeting. Hence, this circular for the time being will prevail over Section 117 of the Companies Act, 2013 which has specified list of resolutions which are required to be filed within prescribed time thereat.

It may also be noted that unlike provisions for Board Meetings through video conferencing which provides for recording of the meetings, the circular states that in case of general meetings, transcripts of the meetings shall be required to be maintained. Transcript is basically a written form of discussions and there are galore of meeting software that provide such facility. It may be concluded that video recording for general meetings is not necessary.

Annual General Meetings

With onset of fresh Financial Year beside Extra-Ordinary General Meeting (EGM), relaxations for holding Annual General Meeting were equally needed. Considering stakeholders' representation, MCA issued the much required circular on 05th May, 2020 which provides for calling of Annual General Meeting (AGM) through video conferencing or other audio visual means in line with the provisions which was provided in the circulars dated 08th April, 2020 and 13th April, 2020. The provisions of these circulars shall mutatis mutandis apply for calling and convening of Annual General Meeting. However, certain different criteria have been provided for calling of Annual General Meetings which are not required to provide e-voting facility. The circular provides that such companies can conduct their AGM through electronic mode only if has in its record, the email-ids of at least half of its total number of members, who –

- in case of a Nidhi, hold shares of more than one thousand rupees in face value or more than one per cent. of the total paid-up share capital, whichever is less;
- in case of other companies **having share capital, who represent not less than seventy-five per cent. of such part of the paid-up share capital of the company as gives a right to vote at the meeting;**
- in case of companies **not having share capital, who have the right to exercise not less than seventy-five per cent. of the total voting power exercisable at the meeting**

The Circular is applicable for all AGMs to be convened by Companies in the Calendar year 2020. So, it may be concluded that AGMs for F.Y. 2019-20 can surely be called by all companies through electronic mode.

Alongside enabling the Company to hold General Meetings including Annual General Meetings through electronic mode, the circulars clearly state the meeting for business other than ordinary business shall only be convened if it is unavoidable. The circular dated 05th May, 2020 clearly states that only the unavoidable business in addition ordinary business shall be transacted at the AGM called through electronic mode. Hence, it may be considered that explanatory statements in notices should sufficiently provide for justifiable reasons as to why placing special business/es at AGM was unavoidable.

Certain companies which are not at all used to using online platforms for their meetings because of resistance towards issues like recording facilities, transcript maintenance and other such issue, can still find difficulties in holding meetings through electronic mode. There is an abundance of meeting software in the market which provides all necessary facilities like recording, attendance, etc. and which are largely being relied upon for all kind of business matters. Further, in case of very closely held companies like family companies where it is possible for directors/ shareholders to conduct meeting through physical presence, the meetings may still be conducted through non-electronic mode.

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NEWS & EVENTS

EIRC WEBINAR ON "IBC – RECENT DEVELOPMENT AND OPPORTUNITIES" ON 19TH MAY, 2020



Guest Speaker – CS Mamta Binani, Past President, ICSI and Insolvency Professional

Moderators – CS Neha Pandey, Chairperson, Ranchi Chapter of EIRC and CS Prabhat Kumar Nayak, Chairman, Bhubaneswar Chapter of EIRC

UNDERSTANDING TRADE MARKS



By **CS KETAN MADIA**

ARTICLE

A trade mark is a word, phrase, symbol, label or design which can be represented graphically and which distinguishing the goods and services of one person from those of others.

1. Why should one register trade marks? Is it necessary ?

It is not compulsory to register trade marks and the same can be used even if it has not been registered. However, if a similar mark is already being used or registered by another person, he may object to the use of such trade mark.

It is natural that if a person has invested his time, effort and expenditure in building a brand, he would want to legally restrain any another person from exploiting the same.

2. How does one know if a trade mark is registered ?

The symbol ® next to a brand name indicates that the same is a registered trade mark, and the symbol TM indicates that it is an applied for trade mark. The symbol © is used in respect of literary works and indicates copyright.

3. Is an unregistered trade mark equal to a registered trade mark in some cases?

If an unregistered trade mark has been continuously and extensively used, it may have even better rights than the proprietor of a registered but unused trade mark.

4. Do all types of trade marks (word, device, label etc.) enjoy an equal degree of protection?

A registered word mark, if put to continuous and extensive use, enjoys a particularly high degree of protection as the proprietor can restrain others from using the same, regardless of how the infringing mark is written or depicted. Therefore, once the brand name is registered as a word mark, registering various manners of depicting the name as well is not required.

5. Can such right be enforced?

The registered proprietor can file a suit for infringement against any person who uses a trade mark that is identical or deceptively similar to a registered trade mark.

While registration confers a legal right, the law is not the only source of the exclusive right to use. The proprietor of an extensively used unregistered trade mark also has the right to restrain other parties from using an identical/deceptively similar mark, which is known as the right against passing off.

In order to restrain the second party, the proprietor of such well known brand must establish that:

- Their goods sold under the unregistered trade mark enjoys goodwill or reputation.
- Allowing the other party to register the mark may cause the public to believe that it originates from the first proprietor.

6. Is there a difference between infringement and passing off?

While infringement relates to registered trade marks, passing off relates to unregistered trade marks.

The right against infringement is statutory as the Trade Marks Act, 1999 confers this right and establishes the criteria for invoking it. The right against passing off is a common law remedy which has been developed by courts over time, wherein the thrust is on the existing goodwill of the mark.

7. How essential is use of a trade mark, whether registered or unregistered, for protection?

Goodwill and consumer recognition in respect of a trade mark can be generated only upon regular use, which can be the basis of enforcing exclusivity of the mark.

8. What is 'bona fide' use of a trade mark ?

A registered trade mark in India can be cancelled if the trade mark has not been put to "bona fide use" for a continuous period of five years after the date on which the registration was granted. There is no ballpark estimate for what constitutes 'bona fide use' of a trade mark in terms. The benchmark is not associated with any time period and geographic coverage, but whether consumers associate the trade mark and the underlying goods with the proprietor. Accordingly, use in the distant past or sporadic use is not sufficient to enforce rights in a trade mark.

9. Can any word, logo, label etc. be used and/or registered as a trade mark?

While any matter is useable as a mark, provided it is a source identifier, only certain trade marks are given exclusivity. For instance, a mark is not registerable if -

- It is a geographical name, product name, laudatory name or misspelt name of a generic word.
- It is devoid of distinctive character, i.e. incapable of distinguishing the goods and services of one person from those of another person.
- It indicates, inter alia, the kind, quality, intended purpose, geographical origin or other characteristics of the underlying goods or service.
- It consists exclusively of matter that has become customary in either the current language or in the trade practice.
- It is of such nature as to deceive the public or cause confusion.
- It consists of matter that is likely to hurt religious sensibilities, or is scandalous or obscene in nature.
- The use of the mark is prohibited under the Emblems and Names (Prevention of Improper Use) Act, 1950.

The Trade Marks Registry can also refuse to register a trade mark on the ground that another proprietor has an identical or deceptively similar trade mark that is (i) registered (ii) previously applied for (iii) well-known.

10. Should an application be filed for registration of a trade mark in respect of all the goods in a particular class?

It is a practice to restrict the 'specification of goods' under a trade mark to only their goods of interest within a class, since a registered trade mark is protectable only in respect of the goods for which it has been put to bon fide use.

A registered trade mark can be cancelled for lack of bona fide use. In various cases, courts have held that if a trade mark is registered in respect of all articles in a broad class of goods, but the proprietor intends to use the mark only in respect of certain goods in the class, such registration is liable to be limited only to those goods.

11. What is the validity period of a trade mark registration ?

Registration of a trade mark is valid for ten years from the date of application and can be renewed for further periods of ten years at a time. However, a patent is valid only for 20 years from the date of application.

12. Why is it necessary to renew registration of trade marks?

Renewal of trade marks that continue to be source identifiers is advisable in order to continue enjoying statutory protection in respect of these trade marks.

13. When should a trade mark application that has been pending for a long time be withdrawn ?

Trade mark applications can remain pending for quite some time before the Trade Mark Registry for several reasons, including unresolved objections raised by the Registry or opposition by a third party.

If the trade mark loses its relevance to the Company during the pendency of the application (e.g. if the product has been discontinued or the mark is no longer appropriate), it is preferable to withdraw the application. Non-renewal or withdrawal does not preclude the proprietor from using or even re-applying for the same/similar trade mark at a later date when there is a concrete plan of use.

NEWS & EVENTS

EIRC WEBINAR ON "INTRICACIES IN DECLARATION OF DIVIDEND" ON 26TH MAY, 2020



Guest Speaker – CS R Kalidas, Practising Company Secretary

Moderators – CS Bishal Harlalka, Chairman, NE Chapter of EIRC of ICSI, CS Roshan Lal Nad, Chairman, Dhanbad Chapter of EIRC of ICSI and CS Somnath Ganguly, Chairman, Siliguri Chapter of EIRC of ICSI

ATTENTION MEMBERS

To publish the ICSI-EIRC Newsletter more informative, members are requested to contribute the Article on current topics / Check-Lists / Corporate and Legal Updates / Judicial Pronouncements etc. to Shri Tamal Kar, Assistant Director at : tamal.kar@icsi.edu

AGM – ANNUAL GENERAL MEETING THOROUGH VIDEO CONFERENCING

By **CS RAVI GARG**
Company Secretary & Compliance Officer



CONTENTS OF THE ARTICLE:

- Provision related to Holding of AGM (Section 96 of Companies Act, 2013)
- Provision related to Holding of AGM as per Secretarial Standard
- A point wise summary of Circular issued by MCA for holding AGM (AGM Circular dated 05.05.2020, EGM Circular-I dated 08.04.2020 and EGM Circular-II dated 13.04.2020)

HOLDING OF ANNUAL GENERAL MEETING THROUGH VIDEO CONFERENCING

In view of the continuing restrictions on the movement of persons at several places in the country, MCA has allowed Companies to conduct their Annual General Meeting (AGM) through video conferencing (VC) or other audio-visual means (OAVM), during the calendar year 2020 subject to the fulfilment of following requirements vide circular no. 20/2020, dated 5th May, 2020.

These are additional guidelines, which a company needs to follow to hold AGM through VC or OAVM in addition to those issued by it vide circulars No 14/2020 dated 08th April, 2020 (EGM Circular -I) and No. 17/2020 dated April 13, 2020 (EGM Circular -II) respectively for holding extra-ordinary general meeting through VC or OAVM.

PROVISION RELATED TO HOLDING OF AGM, (SECTION 96 OF COMPANIES ACT, 2013)

Annual general meeting is **to be held annually** by every company except One Person Company (as it has only one member).

- **First AGM** :- within the period of 9 months from the end of first financial year.
- **Subsequent AGM** :- within the period of 6 months from the end of each financial year and following secretarial standards.

Secretarial Standard [SS-2] specifies that the subsequent Annual General Meeting should be held on the earliest of the following dates:

- fifteen months from the date of the last Annual General Meeting; or
- The last day of the calendar year; or
- six months from the close of the financial year. The gap between two AGM shall not exceed 15 months.

Quorum of the Meeting:

- **Private Company:** 2 members personally present, unless AOA provides for a larger number.
- **Public Company:** (unless AOA provides for a larger number)

Upto 1000 members	5 members personally present
1001-5000	15 members personally present
More than 5000	30 members personally present

- 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 reckoned for the purpose of quorum.

Time/date/venue for AGM (Analysis of Sec 96 & SS-2)

Time:	
• Commencement of AGM	-Business hours i.e. between 9 a.m. to 6 p.m.
• End of Meeting	-No restriction
Date:	Any day including Sunday & public holiday but not on a National Holiday
Venue:	<ul style="list-style-type: none"> • At the registered office of the company; or • At any place in the city, town or village where registered office of the company is situated; or <ul style="list-style-type: none"> • For an Unlisted Company: At any place in India provided consent of all of its members is taken in advance either by writing or by electronic mode.

A SUMMARY OF CIRCULAR ISSUED BY MCA FOR HOLDING AGM IS OUTLINED HEREUNDER

Sl. No.	Contents	(A)	(B)
		For companies which are required to provide the facility of e-voting or any other company which has opted for such facility	For companies which are not required to provide the facility of e-voting
AI.1	Record of transcript (Para 3A of EGM Circular -I)	Record of transcript shall be in safe custody In case of a public company, the recorded transcript of the meeting, shall as soon as possible, be also made available on the website (if any) of the company.	
AI.2	Facilities to be provided and other points to be kept in mind before scheduling the meeting	<ul style="list-style-type: none"> • Convenience of different persons positioned in different time zones shall be kept in mind before scheduling the meeting. • To ensure that such meeting allows two way teleconferencing or webex for the ease of participation of the members; and • The participants are allowed to pose questions concurrently or given time submit questions in advance on the e-mail address of the company 	

AI.3	Required capacity to avail such facilities:	Such facility must have a capacity to allow at least 1000 members to participate on a first-come-first-served basis.	Such facility must have a capacity to allow at least 500 members or members equal to the total number of members of the company (whichever is lower) to participate on a first-come-first-served basis.
AI.3 (a)	Exclusions from first-come-first-served principle:	<p>The following persons are excluded from first-come-first-served principle:</p> <ul style="list-style-type: none"> • Large shareholders (i.e. shareholders holding 2% or more shareholding); • Promoters; • Institutional Investors; • Directors; • Key Managerial Personnel; • The Chairpersons of the Audit Committee, Nomination and Remuneration Committee and Stakeholders Relationship Committee; • Auditors etc. 	
AI.4	Time limit for joining of Members in the meeting?	The facility for joining the meeting shall be kept open at least 15 minutes before the time scheduled to start the meeting and shall not be closed till the expiry of 15 minutes after such scheduled time.	
AI.5	How to conduct remote voting?	<ul style="list-style-type: none"> • Before the actual date of the meeting, the facility of remote e-voting shall be provided in accordance with the Act and the rules. • During the meeting 	<ul style="list-style-type: none"> • During the meeting • If number present is less than 50, then by way of show of hands unless poll is demanded • In all other cases, by poll.
AI.6	Who are allowed to vote at the meeting?	Only those members, who are present in the meeting through VC or OAVM and have not cast their vote on resolutions through remote e-voting and are otherwise not barred from doing so, shall be allowed to vote through e-voting system or by a show of hands in the meeting.	All members who have joined the meeting through VC or OAVM.
AI.7	Quorum of general meeting	Attendance of members through VC or OAVM shall be counted for the purpose of reckoning the quorum under section 103 of the Act.	
AI.8	Appointment of Chairman	<p>As per AOA, else :</p> <ul style="list-style-type: none"> • In case less than 50 members are present at the meeting:- Chairman shall be appointed in accordance with Section 104 of the Act. • In all other cases, the Chairman shall be appointed by a poll conducted through the e-voting system during the meeting. 	<p>As per AOA, else :</p> <ul style="list-style-type: none"> • In case less than 50 members are present at the meeting:- Chairman shall be appointed in accordance with Section 104 of the Act. • In all other cases, the Chairperson shall be appointed by poll through email.

AI.9.	How voting will be done?	<ul style="list-style-type: none"> • Before the actual date of the meeting, the facility of remote e-voting shall be provided in accordance with the Act and the rules. • During the meeting by e-voting 	If number of present is less than 50, then by way of show of hands unless poll is demanded.
AI.10	Appointment of proxy for such meetings: Appointment of a representative:	<p>Not required</p> <p>The facility of appointment of proxies by members will not be available for such meeting.</p> <p>In pursuance of sections 112 and 113 of the Act, representatives of the members may be appointed for the purpose of voting through remote e-voting or for participation and voting in the meeting held through VC or OAVM</p>	
AI.11	Mandatory presence director and the auditor:	<ul style="list-style-type: none"> • At least one independent director (where the company is required to appoint), and • the auditor or his authorized representative, who is qualified to be the auditor shall attend such meeting through VC or OAVM. 	
AI.12	Attendance of the Institutional Investors:	Where institutional investors are members of a company, they must be encouraged to attend and vote in the meeting through VC or OAVM.	
AI.13	How notice for such meetings will be sent?	<ul style="list-style-type: none"> ❖ The notice shall make disclosure with regard to the manner in which framework provided in the Circulars shall be available for use by the members and also contain clear instructions on how to access and participate in the meeting. ❖ The Company should provide a helpline number through the RTA, technology provider or otherwise for those shareholders who need assistance with using the technology before or during the meeting ❖ A copy of the notice shall also be prominently displayed on the website, if any, of the Company. ❖ May make due intimation to Stock Exchange, if Listed 	
AI.14	Mode of Issuing Notice: (sub-para (i) of A & B of EGM Circular - II)	<ul style="list-style-type: none"> ❖ Notice shall be sent ONLY THROUGH EMAILS registered with the Company or with the Depository / DP ❖ Before sending notice of AGM, newspaper publication to be made at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated and at least once in English language in an English newspaper having a wide circulation in that district, 	<ul style="list-style-type: none"> ❖ Notice shall be sent ONLY THROUGH EMAILS registered with the Company or with the Depository / DP. ❖ A copy of the notice shall also be prominently displayed on the website, if any, of the company. ❖ The company shall: <ol style="list-style-type: none"> a) contact all those members whose e-mail addresses are not registered with the company over telephone or any other

		<p>preferably both newspapers having electronic editions, containing the following:</p> <p>a) A statement that the AGM will be convened through VC or OAVM in compliance with applicable provisions of the Act read with various Circulars issued in this regard;</p> <p>b) the date and time of the AGM through VC or OAVM;</p> <p>c) availability of notice of the meeting on the website of the company and the stock exchange, in case of a listed company;</p> <p>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;</p> <p>e) the manner in which the members holding shares in physical form or who have not registered their email addresses with the company can get the same registered with the company;</p> <p>f) the manner in which the members can give their mandate for receiving dividends directly in their bank accounts through the Electronic Clearing Service (ECS) or any other means;</p> <p>g) any other detail considered necessary by the company</p> <p><i>However, SEBI has extended the relaxation from publication of advertisements in the newspapers for all events scheduled till June 30, 2020. (SEBI Circular dated 12.05.2020)</i></p> <p>❖ The Chairman of the meeting shall satisfy himself and cause to record the same before considering the business in the meeting that all efforts feasible under the circumstances have indeed been made by the Company to enable members to participate and vote on the items being considered in the meeting</p>	<p>mode of communication for registration of their e-mail addresses before sending the notice for meeting to all its members; or</p> <p>b) Where the contact details of any of members are not available with the company or could not be obtained, it shall cause a public notice by way of advertisement to be published immediately at least once in a vernacular newspaper in the principal vernacular language of the district in which the registered office of the company is situated and having a wide circulation in that district, and at least once in English language in an English newspaper having a wide circulation in that district and specifying in the advertisement the following information:</p> <p>» That the company intends to convene an AGM in compliance with applicable provisions of the Act read with Circular no. 14/2020, 08.04.2020, and 17/2020, 13.04.2020 and Circular no. 20/2020, dated 5th May, 2020 and for the said purpose it proposes to send notice to all its members by e-mail after at least 3 days from the date of publication of the public notice;</p> <p>» the details of the e-mail address along with a telephone number on which the members may contact for getting their e-mail addresses registered for participation and voting in the AGM</p> <p>❖ The Chairman of the meeting shall satisfy himself and cause to record the same before considering the business in the meeting that all efforts feasible under the circumstances have indeed been made by the Company to enable members to participate and vote on the items being considered in the meeting</p>
AI.15	Filing of Resolution under this mechanism	All resolutions passed (whether ordinary or special) in accordance with this mechanism shall be filed With ROC within 60 Days of the meeting indicating about this mechanism	
AI & BIV	Business to be transacted in AGM through VC/OAVM:	In such meetings, other than ordinary business, only those items of special business, which are considered to be unavoidable by the Board, may be transacted.	

A III & BV	Dispatch of physical copies of the financial statements (including Board's report, Auditor's report etc:	Such statements along with notice of meeting shall be sent ONLY BY EMAIL to the members, trustees for the debenture-holder of any debentures issued by the company, and to all other persons so entitled to receive the same under the Act.	
AIV	Covered under Point 14 above		
AV	Payment of Dividend whose Bank details are not updated:	<ul style="list-style-type: none"> The companies shall make adequate provisions for allowing the members to give their mandate for receiving dividends directly in their bank accounts through the Electronic Clearing Service (ECS) or any other means. For shareholders, whose bank accounts are not available, company shall upon normalization of the postal services, dispatch the dividend warrant/cheque to such shareholder by post. 	
AVI	What if a company has received permission to hold AGM at its registered office?	<p>» In case, the company has received the permission from the relevant authorities to conduct its AGM at its registered office, or at any other place as provided under section 96 of the Act, after following any advisories issued from such authorities, the company may hold such meeting and additionally may also provide the facility of VC or OAVM, so as to allow other members of the company to participate in such meeting.</p> <p>» 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 reckoned for the purpose of quorum under section 103 of the Act. All resolutions shall continue to be passed through the facility of e-voting system.</p>	<p>While no such option has been provided for companies which don't have to mandatorily provide for e-voting facility in the Circular but if necessary permission has been received from authorities and where all the members can participate, such a company can hold the meeting physically with presence of all members</p>
4	What is the due care in the process of holding AGM through VC/OAVM?	<p>The companies shall ensure that all other compliances associated with the provisions relating to general meetings as provided in the Act and AOA of the company are made through electronic mode viz</p> <ul style="list-style-type: none"> making of disclosures, inspection of related documents / registers by members, or authorizations for voting by bodies corporate, etc 	

5	What are the other way to hold AGM?	The companies (other than companies whose financial year ended on December 31, 2020 and who are allowed to hold AGM upto 30th September, 2020) which are unable to conduct their AGM in accordance with the framework provided in this Circular are advised to prefer applications for seeking extension of time for holding AGM at a suitable point of time before the concerned Registrar of Companies under section 96 of the Act.
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8	Whether ballot paper is required to be provided?	No, since e-voting will take place in meeting, in case poll is required.	» While the poll is being conducted through email but to avoid any confusion, ballot paper shall be provided to the shareholders. » The Chairman shall regulate the process of poll through email.
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Other Points:

6	How to ensure attendance of genuine members?	Companies should try to avail VC or OAVM facilities which provide unique password to each member for joining the meeting. In case of closely held companies, common password can be adopted, since all the members are known.
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7	How poll will be undertaken at the meeting	Not applicable	» Poll will take place by way of email » The company shall provide a designated email address to all members at the time of sending the notice of meeting; » The confidentiality of the password and other privacy issues associated with the designated email address shall be strictly maintained by the company at all times; » Due safeguards with regard to authenticity of email address(es) and other details of the members shall also be taken by the company; » During the meeting, where a poll on any item is required, the members shall cast their vote on the resolutions only by sending emails through their email addresses which are registered with the company. The said emails shall only be sent to the designated email address circulated by the company in advance; » In case the counting of votes requires time, the said meeting may be adjourned and called later to declare the result.
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9	Whether in case of poll through email, procedure prescribed in Section 109 read with Rules to be followed?	NA	» The Circular mentions that poll can be demanded in accordance with Section 109 but prescribes a new method for conducting the same. » So, provisions of Section 109 read with rules, so far as they provide for procedural requirement shall not apply but in case number of the members are too many, then in such case, to ensure transparency, a company can appoint scrutinizer and follow the procedure under Section 109. » But Chairman should ensure transparency of the entire process.
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10	Applicability / Which Company can hold its AGM through VC or OAVM?	All companies which are required to provide the facility of e-voting or any other company which has opted for such facility.	Company which has in its records, the email addresses of at least half of its total number of members, who: » in case of a Nidhi, 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; » 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; » 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, which has in its records, the email addresses of at least half of its total number of members, who:
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INTEREST UNDER GST

By **CS SUNNY KATESARIA**



ARTICLE

GOODS AND SERVICES TAX (GST) WAS INTRODUCED IN INDIA FROM 1ST JULY, 2017. IT IS ONE OF THE MAJOR TAX REFORMS SINCE INDEPENDENCE IN THE AREA OF INDIRECT TAXATION. IT WAS INTRODUCED WITH THE OBJECTIVE TO MITIGATE THE CASCADING EFFECT OF TAXES BY ALLOWING SEAMLESS CREDIT ACROSS GOODS AND SERVICES, FACILITATE FREE FLOW OF GOODS AND SERVICES ACROSS INDIA AND BOOSTING TAX REVENUE FROM BETTER COMPLIANCE AND WIDENING THE TAX BASE. A REMARKABLE FEATURE OF GST IMPLEMENTATION IS THAT ALL THE STATES IN INDIA CAME TOGETHER WITH THE CENTRE TO FORM A UNIQUE FEDERAL BODY CALLED GST COUNCIL, WHICH IS ENTRUSTED WITH THE OBJECTIVE OF RECOMMENDING POLICIES AND PROCEDURAL MATTER IN THE FORMATION AND IMPLEMENTATION OF GST LEGISLATION. THE SPIRIT OF CO-OPERATIVE FEDERALISM TOOK DEEP ROOTS THERE BY ENSURING THAT LARGE FEDERAL COUNTRIES LIKE INDIA IMPLEMENT THE -GST LAW. AN ATTEMPT HAS BEEN MADE TO COVER ASPECTS RELATED TO INTEREST TO GIVE GENERAL GUIDANCE TO ALL STAKEHOLDERS AND ALSO HELP THEM IN RESOLVING ISSUE THAT THEY MAY FACE DURING THE COURSE OF THEIR COMPLIANCE ASPECT IN GST.

A. INTEREST ON DELAYED PAYMENT OF TAX: SECTION 50 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 ('THE CGST ACT' OR 'THE ACT')

1. EVERY PERSON WHO IS LIABLE TO PAY TAX IN ACCORDANCE WITH THE PROVISIONS OF THIS ACT OR THE RULES MADE THEREUNDER, BUT FAILS TO PAY THE TAX OR ANY PART THEREOF TO THE GOVERNMENT WITHIN THE PERIOD PRESCRIBED, SHALL FOR THE PERIOD FOR WHICH THE TAX OR ANY PART THEREOF REMAINS UNPAID, PAY, ON HIS OWN, INTEREST AT SUCH RATE, **NOT EXCEEDING EIGHTEEN PER CENT**, AS MAY BE NOTIFIED BY THE GOVERNMENT ON THE RECOMMENDATIONS OF THE COUNCIL.

[18% RATE OF INTEREST WAS NOTIFIED VIDE NOTIFICATION NO. 13/2017-C.T., DATED 28-6-2017, FOR PAYMENT OF INTEREST UNDER SECTION 50(1) OF THE CGST ACT]

AS PER THE GENERAL PROVISIONS RELATING TO DETERMINATION OF TAX, SECTION 75(12) OF THE ACT INTERALIA PROVIDES THAT NON-PAYMENT OR SHORT PAYMENT OF ANY INTEREST WHOLLY OR IN PART SHALL BE RECOVERED UNDER SECTION 79 OF THE ACT.

2. THE INTEREST UNDER SUB-SECTION (1) SHALL BE CALCULATED, IN SUCH MANNER AS MAY BE PRESCRIBED, FROM THE DAY SUCCEEDING THE DAY ON WHICH SUCH TAX WAS DUE TO BE PAID.

ALTHOUGH NO SEPARATE METHOD HAS BEEN PRESCRIBED FOR CALCULATING INTEREST, THE RELEVANT RULES MAKE IT ABUNDANTLY CLEAR THAT INTEREST IS TO BE PAID ON PER DAY BASIS, FOR THE PERIOD OF DELAY FROM THE DUE DATE OF PAYMENT OF TAX.

3. A TAXABLE PERSON WHO MAKES AN UNDUE OR EXCESS CLAIM OF INPUT

TAX CREDIT UNDER SUB-SECTION (10) OF SECTION 42 OR **UNDUE OR EXCESS** REDUCTION IN OUTPUT TAX LIABILITY UNDER SUB-SECTION (10) OF SECTION 43, SHALL PAY INTEREST ON SUCH UNDUE OR EXCESS CLAIM OR ON SUCH UNDUE OR EXCESS REDUCTION, AS THE CASE MAY BE, AT SUCH RATE NOT **EXCEEDING TWENTY-FOUR PER CENT.**, AS MAY BE NOTIFIED BY THE GOVERNMENT ON THE RECOMMENDATIONS OF THE COUNCIL.

[24% RATE OF INTEREST WAS NOTIFIED VIDE NOTIFICATION NO. 13/2017-C.T., DATED 28-6-2017, FOR PAYMENT OF INTEREST UNDER SECTION 50(3)]

UNDUE- IN CONTEXT OF GST LAW, ANYTHING DONE WITH RESPECT TO CLAIMING OF INPUT TAX CREDIT ("**ITC**") OR/AND WHILE CALCULATING OUTPUT TAX LIABILITY WHICH IS NOT ACCEPTABLE OR REASONABLE AS PER PROVISION(S) OF LAW WOULD BE TERMED AS "UNDUE".

EXCESS- ANY CLAIM OF ITC OR/AND ANY REDUCTION IN OUTPUT TAX LIABILITY WHICH IS IN EXCESS OF THE PERMITTED LIMITS AS PER THE PROVISION(S) OF GST LAW WOULD BE TERMED AS 'EXCESS'.

SECTIONS 42 AND 43 OF THE ACT CLEARLY INDICATE THAT IF, THE UNDUE/ EXCESS CLAIM OF ITC OR REDUCTION IN OUTPUT TAX LIABILITY IS NOT FIXED WITHIN THE TIME LIMIT PRESCRIBED UNDER SECTION 39 (9) OF THE ACT, THEN INTEREST UNDER SECTION 50(3) @ 24% WILL BE APPLICABLE.

FURTHER, THE TIME LIMIT PROVIDED IN SECTION 39(9) OF THE ACT IS THE EARLIEST OF:

— THE DUE DATE FOR FURNISHING OF RETURN FOR THE MONTH OF SEPTEMBER, OR DUE DATE FOR FURNISHING OF RETURN FOR THE SECOND QUARTER FOLLOWING THE END OF THE FINANCIAL YEAR TO WHICH SUCH DETAILS PERTAIN

— ACTUAL DATE OF FURNISHING OF RELEVANT RETURN.

IN ALL OTHER CASES MENTIONED UNDER SECTIONS 42 AND 43 OF THE ACT, INTEREST UNDER SECTION 50(1) @ 18% WOULD BE FIRST PAYABLE BY THE RECIPIENT UNDER SECTION 42 AND SUPPLIER UNDER SECTION 43 AND LATER REFUNDED TO THE ELECTRONIC CASH LEDGER UPON THE OTHER PARTY ACCEPTING THE SAME IN THE VALID RETURNS WITHIN THE TIME LIMIT SPECIFIED UNDER SECTION 39(9) OF THE ACT.

IT IS IMPORTANT TO NOTE THAT, SECTION 50(3) REFERS TO SECTIONS 42(10) AND 43(10) WHICH DEAL WITH MATCHING, REVERSAL AND RECLAIM OF ITC AND OUTPUT TAX LIABILITY THROUGH **FORM GSTR-1, 2 AND 3**, AND SINCE THE FORM **GSTR-2 AND 3** RETURNS HAVE BEEN DEFERRED, THE MATCHING SYSTEM OF FORM **GSTR-1, 2 AND 3** NEVER SAW THE LIGHT OF DAY. CAN WE THUS SAY THAT SECTION 50(3) IS MAJORLY INAPPLICABLE?

WITH THAT UNDERSTANDING IT WOULD BE SAFE TO INTERPRET THAT THE APPLICATION OF 24% RATE OF INTEREST ON ANY DEFAULT IS NOT IN PLACE. AT THE SAME TIME, SOME EXPERTS ARE OF THE VIEW THAT IN CASES LIKE EXCESS

CLAIM OF CREDIT, WHERE THE RECTIFICATION HAS NOT BEEN DONE WITHIN THE DUE DATE, AS STATED IN SECTION 39(9) OF THE ACT, INTEREST WOULD BE APPLICABLE @24%.

LAW VS. GST PORTAL

THOUGH SECTION 50 OF THE CGST ACT 2017 IMPOSES INTEREST ONLY ON THE PORTION OF THE UNPAID TAX, THE GST PORTAL IS DESIGNED IN SUCH A MANNER THAT IT WILL NOT ACCEPT THE RETURN IN FORM GSTR-3B, UNLESS THE ENTIRE TAX LIABILITY IS MET (PAID) BY THE TAXPAYER. SO, EVEN IF THE TAXPAYER HAS ITC TO THE EXTENT OF 95% OF THE TOTAL LIABILITY, HE CANNOT FILE THE RETURN UNLESS THE REMAINING 5% IS ALSO PAID, THOUGH THIS RESTRICTION IS NOT IMPOSED BY LAW.

GROSS OR NET

THE LEGISLATION EFFECTIVE FROM 1ST JULY 2017 DID NOT PROVIDE THE NEEDED CLARITY ON WHETHER THE LEVY OF INTEREST IS ON GROSS LIABILITY OR NET LIABILITY REMAINING AFTER SETTING OFF THE ITC. AFTER A LONG WAIT, GST COUNCIL IN ITS 39TH MEETING HELD ON 14TH MARCH 2020 IN NEW DELHI HELD THAT INTEREST IS PAYABLE RETROSPECTIVELY ON NET CASH LIABILITY I.E. W.E.F. 1ST JULY, 2017

AS "HAPPY ENDINGS COME AFTER A STORY WITH LOTS OF UPS AND DOWNS" THE STORY OF INTEREST HAS CONCLUDED WITH A HAPPY ENDING THAT INTEREST IS APPLICABLE ONLY ON NET LIABILITY FROM THE DATE OF INTRODUCTION OF THE GST.

QUESTIONS & ANSWERS

Q1. IF A REGISTERED PERSON MISSES TWO INVOICES AND THUS UNDER REPORTS ITS OUTWARD SUPPLY, BUT REALISES IT LATER AND ADDS IT TO THE OUTWARD SUPPLY OF THE NEXT TAX PERIOD, WILL HE BE REQUIRED TO PAY INTEREST ON THE DELAYED DEPOSIT OF OUTPUT TAX? IF YES, AT WHAT RATE?

ANS. YES, THE REGISTERED PERSON IS REQUIRED TO PAY INTEREST UNDER SECTION 50(1) @ 18% P.A.

Q2. IF A REGISTERED PERSON INADVERTENTLY CLAIMS ITC OF RS 1,00,000 INSTEAD OF RS 10,000 AND UPON REALIZING THE MISTAKE, REVERSES THAT CREDIT IN THE NEXT TAX PERIOD, WILL HE BE REQUIRED TO PAY INTEREST? IF YES, AT WHAT RATE?

ANS. YES. INTEREST IS TO BE PAID @ 18% P. A. UNDER SECTION 50(1), AS THIS WOULD BE EXCESS CLAIM OF THE ITC.

Q3. IF A REGISTERED PERSON ISSUES INVOICES @ 18%, BUT WHILE FILING FORM GSTR-3B SHOWS ALL OUTWARD SUPPLIES @ 5%. LATER ON, WHEN HE REALISES THE MISTAKES HE PAYS THE DIFFERENTIAL AMOUNT OF TAX, WILL HE BE REQUIRED TO PAY INTEREST ON THIS DIFFERENTIAL AMOUNT? IF YES, AT WHAT RATE?

ANS. YES. HE IS REQUIRED TO PAY INTEREST ON THE DIFFERENTIAL AMOUNT OF TAX, UNDER SECTION 50 (1), @ 18% P.A.

B. INTEREST ON DELAYED DEPOSIT OF TAX DEDUCTED AT SOURCE: SECTION 51(6) OF THE CGST ACT

1. IF ANY DEDUCTOR FAILS TO PAY TO THE GOVERNMENT THE AMOUNT DEDUCTED AS TAX UNDER SUB-SECTION (1), **HE SHALL PAY INTEREST IN ACCORDANCE WITH THE PROVISIONS OF SUB-SECTION (1) OF SECTION 50**, IN ADDITION TO

THE AMOUNT OF TAX DEDUCTED.

UNDER SECTION 51 ALL NOTIFIED DEDUCTOR ARE REQUIRED TO DEDUCT 1% TDS FOR SPECIFIC INWARD SUPPLIES AGAINST CONTRACTS EXCEEDING ` 2,50,000/- , AND THE AMOUNT SO DEDUCTED IS TO BE DEPOSITED WITH THE GOVERNMENT WITHIN 10 DAYS FROM THE END OF THE MONTH IN WHICH SUCH DEDUCTION IS MADE. IN CASE OF FAILURE TO DEPOSIT WITHIN 10 DAYS OF THE FOLLOWING MONTH, **INTEREST @ 18% PER ANNUM** WILL BE PAYABLE FROM THE DATE OF DEFAULT TILL THE DATE OF ACTUAL PAYMENT.

QUESTIONS & ANSWERS

Q1. IS INTEREST APPLICABLE ON THE NON-PAYMENT OF TDS?

ANS. YES. THE DEDUCTOR SHALL BE LIABLE TO PAY INTEREST @ 18% P.A. FOR FAILURE TO PAY THE AMOUNT DEDUCTED AS TAX.

Q2. CAN TDS AND INTEREST ON TDS BE PAID THROUGH ECL?

ANS. NO. AS PER RULE 85(4), THE AMOUNT DEDUCTED UNDER SECTION 51, OR THE AMOUNT COLLECTED UNDER SECTION 52, OR THE AMOUNT PAYABLE ON REVERSE CHARGE BASIS, OR THE AMOUNT PAYABLE UNDER SECTION 10, ANY AMOUNT PAYABLE TOWARDS INTEREST, PENALTY, FEE OR ANY OTHER AMOUNT UNDER THE ACT **SHALL BE PAID BY DEBITING THE ELECTRONIC CASH LEDGER** MAINTAINED AS PER RULE 87 AND THE ELECTRONIC LIABILITY REGISTER SHALL BE CREDITED ACCORDINGLY.

Q3. A GOVERNMENT ENTERPRISE RECEIVED A SUPPLY AMOUNTING TO ` 5, 00,000/- IN THE MONTH OF NOVEMBER 2019, AGAINST WHICH THE PAYMENT WAS MADE IN THE MONTH OF JANUARY 2020. THE ENTERPRISE DEPOSITED TDS ON THIS SUPPLY BEFORE 10 FEBRUARY 2020. DOES IT ENTAIL ANY INTEREST PAYMENT? IF YES, AT WHAT RATE?

ANS. NO. IN THIS CASE THE GOVERNMENT ENTERPRISE WAS SUPPOSED TO DEDUCT TDS IN THE MONTH OF JANUARY 2020 WHEN THE PAYMENT WAS MADE, AND THE DEDUCTED AMOUNT WAS TO BE DEPOSITED BY 10TH FEBRUARY 2020. THEREFORE, AS THERE IS NO DELAY, NO INTEREST IS TO BE PAID.

Q4. A GOVERNMENT UNDERTAKING HAS GIVEN A PURCHASE ORDER WORTH ` 4,00,000/- IN THE MONTH OF NOVEMBER 2019, ALONG WITH 100% ADVANCE TO M/S ABC ENTERPRISES, TO SUPPLY STATIONERY IN TWO LOTS/ INVOICES OF ` 2,00,000/- EACH, ONE EACH IN THE MONTH OF DECEMBER 2019 AND JANUARY 2020. IS TDS TO BE DEDUCTED? IF YES, WHEN?

ANS. YES. THIS CASE REQUIRES DEDUCTION OF TDS AS THE TOTAL CONTRACT VALUE EXCEEDS ` 2,50,000/- TDS SHOULD HAVE BEEN DEDUCTED AT THE TIME OF MAKING THE ADVANCE PAYMENT (IN THE MONTH OF NOVEMBER 2019), AND SHOULD HAVE BEEN DEPOSITED BY 10 DECEMBER 2019.

C. INTEREST ON DELAYED DEPOSIT OF TAX COLLECTED AT SOURCE: SECTION 52(6) OF THE CGST ACT

IF ANY OPERATOR AFTER FURNISHING A STATEMENT UNDER SUB-SECTION (4) DISCOVERS ANY OMISSION OR INCORRECT PARTICULARS THEREIN, OTHER THAN AS A RESULT OF SCRUTINY, AUDIT, INSPECTION OR ENFORCEMENT ACTIVITY BY THE TAX AUTHORITIES, HE SHALL RECTIFY SUCH OMISSION OR INCORRECT PARTICULARS IN THE STATEMENT TO BE FURNISHED FOR THE MONTH DURING WHICH SUCH OMISSION OR INCORRECT PARTICULARS ARE NOTICED, SUBJECT TO PAYMENT OF INTEREST, **AS SPECIFIED IN SUB-SECTION (1) OF SECTION 50 (IE @ 18%):**

PROVIDED THAT NO SUCH RECTIFICATION OF ANY OMISSION OR INCORRECT PARTICULARS SHALL BE ALLOWED AFTER THE DUE DATE FOR FURNISHING OF

STATEMENT FOR THE MONTH OF SEPTEMBER FOLLOWING THE END OF THE FINANCIAL YEAR OR THE ACTUAL DATE OF FURNISHING OF THE RELEVANT ANNUAL STATEMENT, WHICHEVER IS EARLIER.

IF THERE IS ANY OMISSION OR RECTIFICATION ON PART OF THE OPERATOR WHICH RESULTS IN DELAY IN DEPOSITING THE COLLECTED AMOUNT, HE SHALL PAY THE AMOUNT ALONG WITH INTEREST UNDER SECTION 50(1) WHILE FILING THE RETURN OF THE MONTH IN WHICH SUCH OMISSION/RECTIFICATION IS NOTICED AND CORRECTED.

WHAT IS TCS?

UNDER SECTION 52, EVERY ELECTRONIC COMMERCE OPERATOR (HEREAFTER IN THIS SECTION REFERRED TO AS THE "OPERATOR"), NOT BEING AN AGENT, SHALL COLLECT AN AMOUNT CALCULATED AT SUCH RATE NOT EXCEEDING ONE PER CENT., AS MAY BE NOTIFIED BY THE GOVERNMENT ON THE RECOMMENDATIONS OF THE COUNCIL, OF THE NET VALUE OF TAXABLE SUPPLIES MADE THROUGH IT BY OTHER SUPPLIERS WHERE THE CONSIDERATION WITH RESPECT TO SUCH SUPPLIES IS TO BE COLLECTED BY THE OPERATOR. THE AMOUNT SO COLLECTED IS CALLED AS TAX COLLECTION AT SOURCE (TCS).

FURTHER, THE CENTRAL GOVERNMENT VIDE NOTIFICATION NO. 52/2018-C.T., DATED 20-9-2018 PRESCRIBE SUCH RATE AS HALF PER CENT OF THE NET VALUE OF INTRA-STATE TAXABLE SUPPLIES WHILE NOTIFICATION NO. 2/2018-I.T., DATED 20-9-2018 STIPULATES RATE OF ONE PER CENT. OF THE NET VALUE OF INTER-STATE TAXABLE SUPPLIES

D. INTEREST ON DELAY IN ISSUE OF REFUNDS: SECTION 54(12) OF THE CGST ACT

WHERE A REFUND IS WITHHELD UNDER SUB-SECTION (11), THE TAXABLE PERSON SHALL, NOTWITHSTANDING ANYTHING CONTAINED IN SECTION 56, BE ENTITLED TO INTEREST AT SUCH RATE **NOT EXCEEDING SIX PER CENT.** AS MAY BE NOTIFIED

ON THE RECOMMENDATIONS OF THE COUNCIL, IF AS A RESULT OF THE APPEAL OR FURTHER PROCEEDINGS HE BECOMES ENTITLED TO REFUND

6% RATE OF INTEREST WAS NOTIFIED VIDE NOTIFICATION NO. 13/2017-C.T., DATED 28-6-2017, FOR PAYMENT OF INTEREST UNDER SECTION 54(12).

QUESTIONS & ANSWERS

Q1. IS PAYMENT OF INTEREST MANDATORY?

ANS. YES. IT IS MANDATORY TO PAY INTEREST, BECAUSE INTEREST IS COMPENSATORY IN NATURE. FURTHER, SECTION 50 USES THE WORD 'SHALL' WHICH INDICATES THAT INTEREST IS MANDATORY.

Q2. IN CASE OF LATE PAYMENT OF TAX, CAN I FILE MY FORM GSTR-3B (REGULAR DEALERS) WITHOUT PAYMENT OF INTEREST ON SUCH LATE PAYMENT OF TAX?

ANS. THE SYSTEM ALLOWS A REGULAR DEALER TO FILE THE RETURN EVEN IF INTEREST IS NOT PAID. ANY INTEREST NOT PAID DURING THE FINANCIAL YEAR SHOULD BE PAID AT THE TIME OF FILING THE ANNUAL RETURN.

Q3. IS THERE ANY INTEREST ON INTEREST?

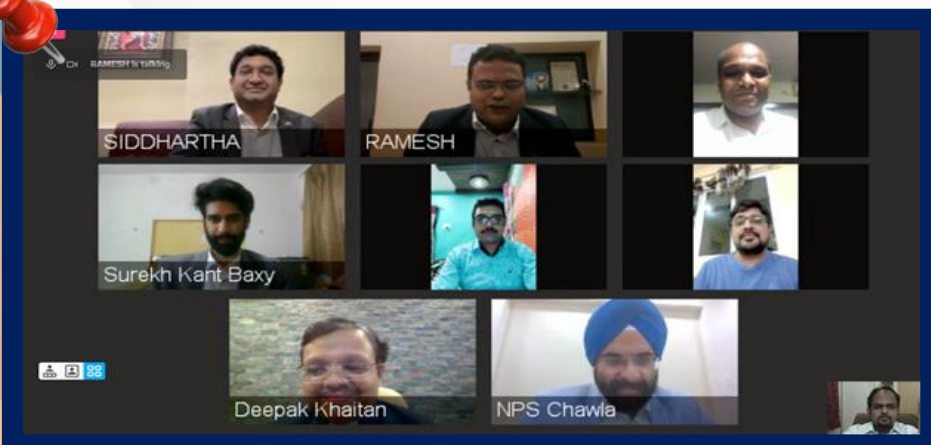
ANS. NO. THERE IS NO INTEREST ON INTEREST.

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NEWS & EVENTS

EIRC WEBINAR ON "DISPUTE RESOLUTION AMIDST PANDEMIC – WAY FORWARD" ON 29TH MAY, 2020



Know the Terms

"Commercial dispute".	Specified Value:
Section 2(c) of the Commercial Courts Act, 2015 defines "Commercial Dispute". It provides for a wide definition to it bringing within the scope of the definition all the disputes arising out of ordinary transactions of merchants, bankers, export-import services, carriage of goods, construction and infrastructure documents, agreements relating to immovable property, shareholder agreements, franchising agreement, joint venture agreements, partnership agreements, intellectual property rights, insurance and re-insurance, etc. It is clear that the definition is exhaustive in nature and covers within its ambit several disputes of varying nature.	Specified value: Explanation (i) of Section 2(c) of the Act prescribes the specified value, which actually is the value of the subject matter of the suit, which as per the definition shall not be less than Rs. 3 Lakhs.

Guest Speaker – CS NPS Chawla, Council Member, ICSI and Shri Surekh Kant Baxy, Associate, Vaish Associates

Moderators – CS Ramesh Kumar Singh, Chairman, Jamshedpur Chapter of EIRC of ICSI, CS Shashank Joshi, Chairman, Hooghly Chapter of EIRC and CS Suryakant Kumar, Chairman, Patna Chapter of EIRC of ICSI

LUCK – THE SECRET OF SUCCESS

By **S. Sreejesh**
Assistant Director, ICSI-EIRO



ARTICLE

We often wonder why some people are deemed lucky and they get all the lucky shots? Is it just dumb luck? Recent research found that people who consider themselves lucky move through life with a different attitude, they develop habits that capitalise on good fortune.

In this article I have tried to present some feature of lucky people and how they have used these features while embarking on a new career, job change or personal improvement.

1. Calculated risks: Edmund Hillary and Tenzing Norgay made the first official ascent of Mt. Everest in 1953 which was held as feat of incredible daring, both became the century's greatest heroes but luck had very little to do with the climb as it was the culmination of months of concentrated efforts, during which they oversaw every detail of their ascent and calculated every aspect of the climb. They reached the summit of Mt. Everest which was deemed impossible and they did it on the basis of their preparation, planning and courage.

Lucky people know the difference between risk and failure, between an informed hunch and a vain hope. Successful lucky individual is constantly tucking away information around them to enhance their intuition. Lucky people perform acts that seems daring but in fact they are playing out informed hunches with a clear sense of the probability of success.

In 2008, Sagar Daryani, a college graduate from Kolkata, India, acted on his hunch that there are lots of people who loved to have momos or dumplings while dining out. He and his partner risked everything they had, to convert their idea into a instant momo selling enterprise named "Wow Momos Limited." Today Wow Momos has more than 300 outlets across India and has a million dollar valuation.

2. Problems are Opportunities: Lucky people take second looks at things others barely see the first time. Several important film producers looked at the script of "Toy story" which was an animated story about a young boy and his collection of talking toys. Many producers passed on the movie but Steve Jobs, the owner of Pixar saw the script as an opportunity and decided to finance the movie and "Toy Story Movie Franchise" is today one of the biggest animation franchises and the money the movie made helped Steve Jobs to secure his hold on Apple Computers..

3. Know when to back off: Unlucky people are often stubborn. Out of ego or ignorance, they do not know when to cut their losses and change course.

Lucky people, on the other hand, have a knack for "getting out when the getting is good." Indian billionaire Mukesh Ambani, Chairman of Reliance Industries Limited, amply demonstrated his timing in 2019, when he sold stake in his refineries to Saudi Arabia backed Aramco, right before Covid 19 and lockdown which brought new pressures on to the industry.

Lucky people are always ready to change course for the right opportunity. Consider the school teacher in a small school who had second thoughts about a career in education. He has already invested considerable time, talent and money in studying. Should he stick with it?

Jack Ma decided to learn coding between classes, and eventually he went to the US where he learnt more about computers and how they can revolutionise businesses. Today he is the Executive Chairman of one of the world's largest E-Commerce Companies "Alibaba".

4. Reach out to people: In striking contrast to the standoffish style of many entrepreneurs, the businessman Kishore Biyani, the Chairman of Future Retail is truly different. He takes every opportunity to talk to liftmen, taxi-drivers, waiters, everyone he encounters. It enabled him to see the people behind the statistics of the economic, statistical research offered by his business team and he was able to understand what common people wanted and that is the secret behind the success of his "Big Bazar", one of the largest hyper retail chains of India. "You never know what insight or solution may come to you in unforeseen contacts with people," he once said.

Indian Cricketer Sachin Tendulkar popularity even after his retirement from the game is due to his open, gracious style with people, from a fan seeking an autograph to a Company with a million dollar advertising deal and all this makes him such a durable success.

Lucky people are never too busy to meet new people and keep up old acquaintances. They chat with the person next to them on a plane and exchange business cards. They join clubs and professional organisations. They talk and are talked about.

5. Use Persistence creatively: Successful people have the determination to "hit their heads against the wall," but they use that resolve more efficiently by looking at the wall for loose stones and gaps.

Prime Minister Narendra Modi's much talked "luck" is often the product of his strong resolve. He firmly believes that India is ready to be in the league of Superpowers and it can be seen in his initiative to clinch the Rafale Aircraft deal from France for India or putting his entire strength behind the Magalyan "Mars Mission". Lot of Influential people are always trying to discredit him and his programmes but PM Modi went over the "opinion-leaders" to build public support for his programmes.

6. Spell luck w-o-r-k: Warren Buffet's shrewd investment in seemingly monopolistic organisations has paid off more than handsomely. He is a part and parcel of Fortune Top 10 for the last thirty years. He has stake in Companies from Coco-Cola, Apple, P & G and so on. He still comes to his office at the age of eighty on time and reads financial reports and statements just like children read out stories from their favourite story books. His persistence, hard work and determination and his stress on work have made him a multi billionaire.

Some people make all this seem so easy. We see them enjoying the fruit and have no idea what it takes to plant and water the tree. The secrets of success are neither 'dark' nor 'deep' and lastly I would like to expand L-U-C-K as Labour Under Correct Knowledge.

BHUBANESWAR CHAPTER

Date	Name of the Programme	Topic with Speaker	Venue
08/05/2020	Demo online session classes for CSEET students of the Chapter	CS Madhuchhanda Pradhan	Online Mode
17/05/2020	Interactive session thru webinar of Chapter Managing Committee Members to discuss about the various activities to be conducted	-	Online Mode
20/05/2020	Webinar on "Holding of Board Meeting, AGM and EGM during Covid 19 situation"	Shri Sudhakar Saraswatula, Vice President, Corporate & Secretarial, Reliance Industries Ltd, Mumbai -	Online Mode
1/5/2020 to 29/05/2020	8 times Online Classes for CRT students of the Chapter	CS Prithvi Ranjan Parhi & CS Bharat Kumar Sahu, CRT Faculty	Online Mode
10/06/2020	Webinar	Topic : Winding up under Companies Act, 2013 vis-à-vis voluntary liquidation" Speaker : CS Mamta Binani, Past President, the ICSI	Online Mode
17/06/2020	Meeting of the Chapter Managing Committee	-	Online Mode
19/06/2020	Celebration of PCS Day	Topic : Role of a Company Secretary as an Independent Director Speaker : CS H Natarajan, Past Chairman (1992-1993)	Online Mode
21/06/2020	Celebration of International Yoga Day	Topic : Stress Management Speaker : Ms. Adyasha Mishra, State Youth Co-ordinator, the Art of Living, Odisha	Online Mode

CHAPTERS' WORKSHOP AT A GLANCE

WEBINAR ON "HOLDING OF BOARD MEETING, AGM AND EGM DURING COVID 19 SITUATION" HELD ON 20/05/2020:



Speaker Shri Sudhakar Saraswatula, Vice President, Corporate & Secretarial, Reliance Industries Ltd, Mumbai addressing on the occasion, CS Priyadarshi Nayak, Chairman, EIRC

WEBINAR ON "CELEBRATION OF PCS DAY ON THE TOPIC "ROLE OF A COMPANY SECRETARY AS AN INDEPENDENT DIRECTOR" HELD ON 19/06/2020



WEBINAR ON "CELEBRATION OF INTERNATIONAL YOGA DAY ON TOPIC "STRESS MANAGEMENT" HELD ON 21/06/2020



HOOGHLY CHAPTER

Date	Name of the Programme	Topic with Speaker	Venue
11/05/2020	Webinar on "Secretarial Audit during COVID-19 crisis"	"Secretarial Audit during COVID-19 crisis" CS Pammy Jaiswal, Practicing Company Secretary, Kolkata CS Munmi Phukon, Practicing Company Secretary, Kolkata	Webinar on BlueJeans
27/05/2020	Webinar on "Challenges & Opportunities For MSME & Role Of Company Secretary"	"Challenges & Opportunities For MSME & Role Of Company Secretary" CS Divesh Goyal, Practicing Company Secretary, Kolkata	Webinar on BlueJeans

CHAPTERS' WORKSHOP AT A GLANCE



JAMSHEDPUR CHAPTER

Date	Name of the Programme	Topic with Speaker	Venue
09/05/2020	WEBINAR	Practical Aspects of RERA CS Gaurav Agrawal	Webinar by Jamshedpur Chapter
05/06/2020	WEBINAR	MSME Act and its Compliances CS Divesh Goyal	Webinar by Jamshedpur Chapter

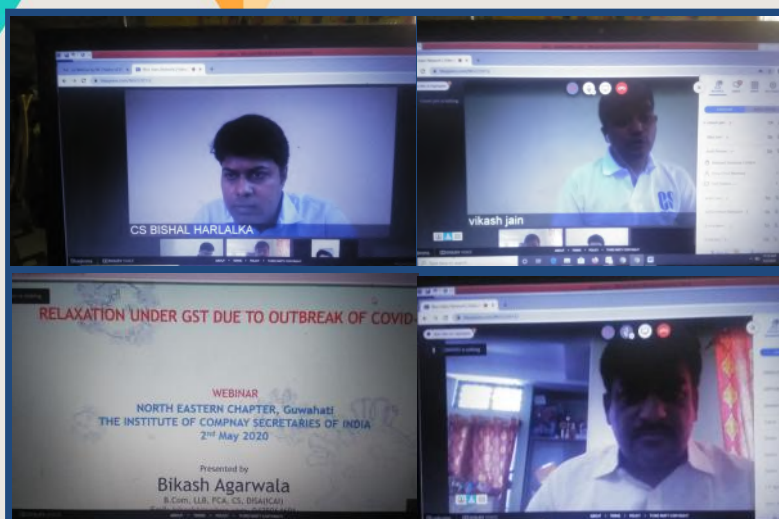
CHAPTERS' WORKSHOP AT A GLANCE



NORTH EASTERN CHAPTER

Date	Name of the Programme	Topic with Speaker	Venue
02/05/2020	Webinar	Topic: Relaxation under GST due to outbreak of COVID 19 Speaker: CA Bikash Agarwala, Moderator: CS Vikash Jain, past Chairman, NE Chapter of EIRC of ICSI Inaugurated by: CS Bishal Harlalka, Chairman, NE Chapter of EIRC of ICSI	Online platform (BlueJeans) provided by ICSI HQ
20/05/2020	Webinar	Topic: Recent amendments in the Companies Act and LLP Act in view of COVID-19 Special address by: CS Siddhartha Murarka, Hon'ble Member of the Central Council of ICSI CS Deepak Kumar Khaitan, Hon'ble Member of the Central Council of ICSI Speaker: Dr. (CS) D.K. Jain Moderator: CS Biman Debnath, Secretary, EIRC of ICSI Inaugurated by: CS Bishal Harlalka, Chairman, NE Chapter of EIRC of ICSI	Online platform (BlueJeans) provided by ICSI HQ
20/06/2020	Webinar	Topic: 'Panel Discussion on Emerging Dimensions and Way Forward for PCS'. Special address by: CS Priyadarshi Nayak, Chairman, EIRC of ICSI Panelists CS Narayan Sharma, past Chairman of NE Chapter of EIRC of ICSI CS Amit Pareek, past Chairman of NE Chapter of EIRC of ICSI CS Pravin Kumar Chhajer, past Chairman of NE Chapter of EIRC of ICSI CS Biman Debnath, Secretary of EIRC of ICSI Moderator: CS Pradeep Sharma, Secretary, NE Chapter of EIRC of ICSI Inaugurated by: CS Bishal Harlalka, Chairman, NE Chapter of EIRC of ICSI	Online platform (BlueJeans) provided by ICSI HQ

CHAPTERS' WORKSHOP AT A GLANCE

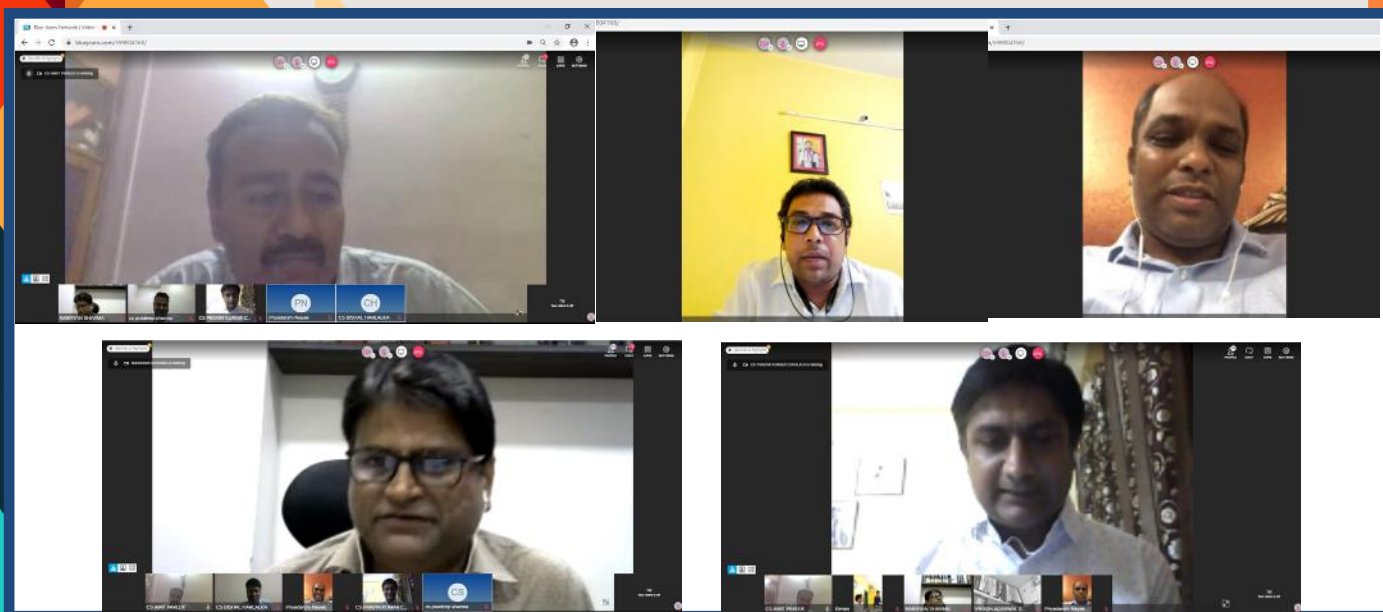


Relaxation under GST due to outbreak of Covid - 19



CS Siddhartha Murarka & CS Deepak Kumar Khaitan, Central Council Members addressing as special invitees. CS Biman Debnath, Secretary of EIRC addressing as the Moderator. Dr. (CS) D.K. Jain, Member, Editorial Board of the Chartered Secretary; addressing as Speaker on the aforesaid topic. The Webinar was inaugurated by CS Bishal Harlalka, Chairman of NE Chapter

Webinar on 'Panel Discussion on Emerging Dimensions and Way Forward for PCS' held on 20th June 2020



REPORT ON 1ST WEBINAR BY NORTH EASTERN CHAPTER

We are pleased to submit that the North Eastern Chapter of EIRC of The Institute of Company Secretaries of India conducted its 1st Webinar on 2nd May 2020 from 11:00 AM to 12:30 PM. The Webinar was conducted on the topic 'Relaxation under GST due to outbreak of COVID 19'. The Webinar was graced by CA Bikash Agarwala as Speaker. He is one of the leading GST Practitioners from Guwahati. CS Vikash Jain, past Chairman of NE Chapter of ICSI was the Moderator of the programme.

After obtaining the permission from ICSI HQ on 27th April 2020 regarding permission to Chapters for organizing Webinars from 1st May 2020 to 30th June 2020, the North Eastern Chapter immediately came into action and we are proud to inform that as per as our information is concerned, the NE Chapter conducted the 1st Webinar not only of its own but among all the Chapters situated in the length and breadth of the Country.

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CS Vikash Jain, the moderator of the programme also welcomed the Speaker and the participants in the Webinar. He then introduced the Speaker CA Bikash Kumar Agarwala to the participants.

CA Bikash Kumar Agarwala started his presentation on the topic "Relaxation under GST due to outbreak of COVID 19" in the Webinar. He explained the participants on the following aspects of the topic with detailed notification / circular.

- 1) Waiver of late fees on GSTR 1 and GSTR 3B.
- 2) Waiver / Reduced Rate of interest on delayed payment of tax
- 3) Relaxation to composite dealer
- 4) Relaxation to composite taxpayer – Sec 10
- 5) Relaxation from ITC Capping – Sec 36 (4)
- 6) Illustration for ITC Calculation u/s 36 (4)

He also apprised the gathering in details the other relaxation with clarification and exception to other relaxation.

Various participants raised various query in the message box which were clarified by the Speaker and the Moderator.

The Moderator of the Webinar CA Vikash Jain delivered the formal vote of thanks in the programme.

RANCHI CHAPTER

Date	Name of the Programme	Topic with Speaker	Venue
01/03/2020	Full day seminar on 'Corporate Governance in Indian companies' and Capacity building in Startup Ecosystem'	(i) CS Ravi Bambha, Company Secretary, MECON Ltd. (ii) Shri Navjeet Kumar, Asst. Manager, Startup India (iii) Shri Sagar Sengar, Associate, Statrtup India	Conference Hall, Mukhyamantri Laghu Kutir Board, DIC Campus, ratu Road, Ranchi
05/03/2020	Half day seminar on 'Provision & procedure related to PF, ESIC and Gratuity'	CS Arun Kumar Sinha, Managing Committee member of Ranchi Chapter and Practicing Company Secretary	Ranchi Chapter of EIRC of ICSI
08/03/2020	Women's day celebration – Half day seminar on Women on Board – Empirical study of Corporate India vis a vis Global Standard	(i)Dr. Sangita Laha, Dean of Faculty, NUSRL, Ranchi (ii)Ms. Aarti Verma, Advocate, Human Rights mission (iii) CS Pintu Mazumdar, Asst. Company Secretary, MECON Ltd. Ranchi	Ispat Club, Shyamali, Ranchi
14/03/2020	Full Day seminar on Resolving disputes through Arbitration and Insolvency & Bankruptcy Code	(i)Justice Narendra Nath Tiwari, Jharkhand High Court (Retd.) (ii)Cs Siddhartha Murarka, Council member, ICSI (iii) Cs Kumar Gaurav, Company Secretary, IL&FS Group	Hotel Green Park, Lalpur, Ranchi
22/05/2020	Webinar on Recent amendments in GST	(i)CS Tarun Kumar Gupta (ii)CS Aditya Mohan Khandelwal, Vice-chairman, Ranchi Chapter of ICSI	Ranchi Chapter of EIRC of ICSI
01/06/2020	Career Awareness Programme (through video-conferencing)	(i)CS Neha, Chairperson, Ranchi Chapter of ICSI (ii)CS Pintu Mazumdar, Asst. Company Secretary, MECON Ltd.	DAV Public School, CCL, NTS, Barkakana, Ramgarh
25/06/2020	Annual General Meeting		Through video-conferencing
29/06/2020	Webinar on Income Tax assessment and procedural aspects	(i)CS Priyadarshi Nayak, Chairman, EIRC of ICSI – Chief guest (ii)CA Saket Modi, Practicing Chartered Accountant (Guest speaker)	Ranchi Chapter of EIRC of ICSI

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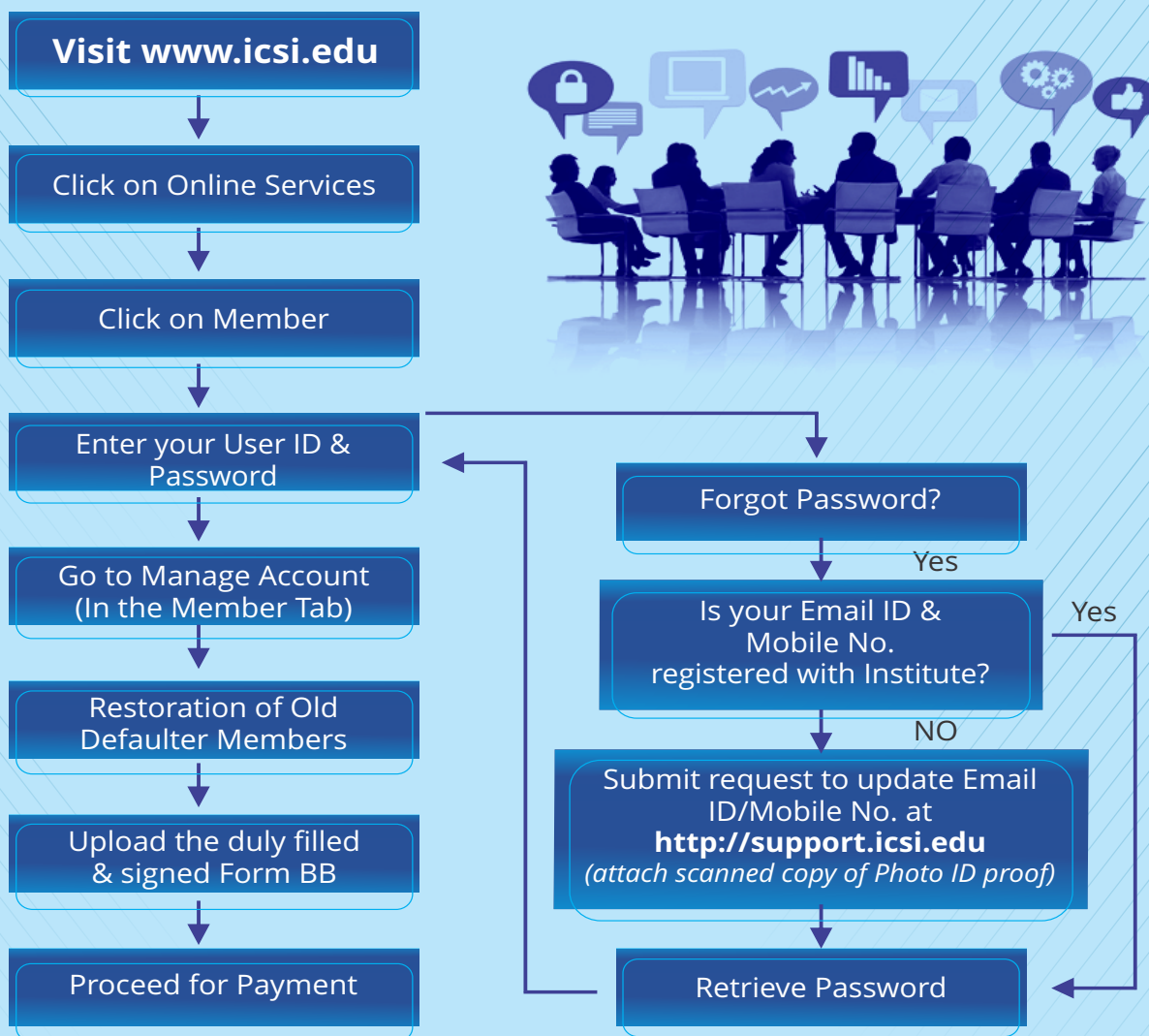


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