



Mysuru Chapter
e-Magazine

April 2021
204th Edition



Vision

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

Motto

सत्यं वद। धर्मं चर। इष्टार्कं कृतं त्पुत्रे, अविद्ये इयु कृतं विदुः।

Mission

"To develop high calibre professionals facilitating good corporate governance"

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From the Desk of Chairman



CS Vijaya Rao
Chairperson
Mysuru Chapter

Dear Professional colleagues,

Hope all of you had a great celebration of Holi and ugadi!!

Albert Einstein once said, “Education is not the learning of facts, but the training of minds to think”. Also, it is true that, education is not just about making obedient employees. It is about giving them avenues beyond theoretical classroom learning to discover their potential. Education is not just about teaching you the 'what'. When students are left to figure out the 'how', they learn several 'why's in the process. That is what makes quality professionals. This is exactly what our students did this weekend. Students went beyond the textbook and brought alive of Corporate Satva or the essence of corporate. They created board meeting, Annual general meeting, and the court room scenario with moot courts almost near to real. They had a great experience on what happens in the AGM when shareholders are upset with the corporate action which they will be facing once they qualify and start working. This is something which textbook does not teach them. They have shown great leadership and organizing skill. Kudos to all the students who made this Sunday a very satisfying one.

In the coming days we will be organizing more programs for students and members. As Covid is still holding us in its clasp we must be extra safe and maintain the Covid norms. With that in mind we will be holding programs virtual till situation comes to normal. Please bear with us and cooperate by attending virtual programs.

Stay Safe,

Thanking you,



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Company Secretaries of India**
भारतीय कम्पनी सचिव संस्थान
IN PURSUIT OF PROFESSIONAL EXCELLENCE
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(Under the jurisdiction of Ministry of Corporate Affairs)

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-: Editorial Team :-

CS Vijaya Rao
CS Phani Datta D N
CS Parvati K.R
CS Ajay Madhaiah
CS Madhur N Agrawal

-: Support Team:

Mr. Komal Kumar M
Ms. Keerthana Gopal
Ms. Matruka B.M.

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Two Days Seminar ON “USHERING THE ERA OF COMPANIES (AMENDMENT) ACT 2020 & OTHER CORPORATE LAWS”

Chapter held two day seminar recently on “Ushering the Era of Companies (Amendment) Act, 2020 and other Corporate Laws”. Vice Chancellor of University of Mysore Prof. G Hemantha Kumara, PhD was the chief guest, TiE Mysore Chapter President Mr Ajith Pai was the guest of honour and ICSI institute national president CS Nagendra D Rao presided the inaugural of the two day function at the Preethi International Hotel. During the inaugural address President CS Nagendra D Rao said, University’s and professional institutions should join hand together so students of both the institutions will benefit enormously and will be ready to serve the industry better. Vice Chancellor Prof. G Hemantha Kumar assured we can do the joint programs and we can sign MOU’s to benefit both the institution in turn it will help students. Industrialist Ajith Pai said it is the fines, penalties and jail term which scares the industrialists.

Later President CS D Nagendra Rao held the open house to address members queries. During the two days, experts in the field discussed on various topics like Recent Amendments in Companies Act 2013, Adjudication, Condonation Compounding, CSR and IBC. Last session Neuro Linguistic Programming was dedicated to celebrating International woman’s day. More than 80 participants attended the seminar.

Chairperson of the chapter CS Vijaya Rao welcomed the gathering and CS Phanidatta DN, Secretary did the vote of thanks. Executive student Aparna U moderated the program.



Press Conference & Interview to BIG FM by President-ICSI

A press meet has been organized by the Chapter on 06.03.2021 at Mysore Press Club. CS Nagendra D Rao addressed the press & explained the initiatives taken by the ICSI for the benefits of Members & Students. Around 20 media persons from various newspaper & television participated. Same has been telecasted on the same day. Also, a special interview has been taken by the Big FM 92.7 from the President on the same day. The interview has been broadcasted on 08th March 2021.

Interaction with Members & Students

As a part of Mysuru visit CS Nagendra D Rao, President-ICSI, interacted with the Students & Members of the Institute. During the interaction he addressed the various queries raised by the Members & Students. Also, he noted the various suggestions given by the members for the benefit of the Institute. Around 80 members & students have participated in the session.





One Day Seminar on Producer Companies & Deposits

On 20th March 2021 Chapter organized a One Day Seminar on the Topic “Producer Companies & Deposits”. CS Vijaya Rao, Chairperson welcomed the gathering. The first session was handled by CS Abhishek Bharadwaj B B., with the assistance of Ms. Mathruka B M., Professional Student. The second session was handled by CS Pracheta M., with the assistance of Mr. Karthik Hegde, Executive Student. Around 30 Members & Students attended the session.



Orientation Program for Executive Students

On 21st March 2021 Chapter organized the One-day orientation program for the Executive level students. The session was inaugurated by the Chairperson of the Chapter CS Vijaya Rao. Various topics have been covered (About the institute, online services, training, exams, syllabus etc.,) in the session which will be helpful for the Executive students. Around 35 students participated in the program.

Career Awareness Program

Chapter organized one career awareness program during the month. The details are as follows.

S No.	Date	College Name	Speaker	No. of Participants
1	22.03.2021	SVEI PU College, Mysuru	CS Vijaya Rao, Chairperson N. Dhanabal, Chapter In-charge	100

Online Students Study Circle Meeting

On 27.03.2021 an online student’s study circle meeting has been organized by the Chapter on the topic “Private Placements”. Mr. Santhosh Kumar G B, Professional Student was the moderator for the meeting. CS Vijaya Rao, Chairperson welcomed the students & introduced the speaker. CS Harsha A, Vice Chairperson proposed the vote of thanks. Around 20 students from Executive & Professional level participated in the meeting.



Over a Cup of Coffee With..



Concept & Compilation:



CS Pracheta M
Practicing Company Secretary



CS Dr Shobha Sridhar
Practicing Company Secretary

CS. Sudhakar Saraswatula
Vice President
Reliance Industries Limited

Brief profile of CS Sudhakar S: CS Sudhakar S is a Fellow member of ICSI and ICAI, Qualified Secretary of the Institute of chartered Secretaries and Administrators - UK; LLB from Mumbai University; Member and Vice-Chairman of Secretarial Standards Board of ICSI, Vision New ICSI plan 2022; Regular faculty at Institute of Directors; Speaker and visiting faculty member at several workshops, seminars and training programs organized by ICSI, ICAI and ICWAI, ASSOCHAM, PHD Chamber of Commerce, Hindustan Chamber of Commerce, Chennai; and Indian Chamber of Commerce, Kolkata; and Contributor of articles to various professional journals.

CS Pracheta: Sir, Very good morning first of all. Thank you so much for accepting this invitation. I feel like meeting a celebrity!

CS Sudhakar S: I too have a good feeling! Nobody calls me as a celebrity, but you call me a celebrity. This has boosted my morale so that I can give a good interview to you.

Let me also offer my sincere thanks to both of you as well as Mysore Chapter for taking this excellent initiative of interviewing eminent Company Secretaries, so that youngsters can have some kind of guidance and learnings.

CS Pracheta: If you go back to the memory lane can you tell us why did you join the CS, Sir?

CS Sudhakar S: It was my father's ambition that his children should pursue higher studies as he could not pursue due to financial difficulties. Initially, I was interested in joining armed forces as I was in NCC throughout my college days. But my cousin who was a Major in the army encouraged me to pursue higher studies instead of joining armed forces at that point of time and so I joined Chartered Accountancy. When I got into CA, as per the course format, I had some time before the examination. Then one of my seniors suggested me to pursue CS during that gap. So, I went and asked my

Few LinkedIn Gems from CS Sudhakar S:

“How prominent you are is not important. How professional you are is important”

“Everyone with whom we interact has an USP. It is up to us to observe and learn silently.”

“The biggest room in the world is the Room for improvement.”

“Your present job is the job about which you were dreaming

father that I want to join for CS. He was apprehensive about me joining another course, since CA was considered to be a tough examination and he did not want my attention to be diverted and so he put a condition that he would allow me to join the CS Course only if I cleared CA Intermediate. Fortunately, I passed that in the first attempt and my father allowed me to join for CS and asked me to complete both the degrees and that is how it was.

CS Pracheta: We should thank your cousin for persuading you to join professional course otherwise we would have missed a great personality in our profession!

CS Shobha: We should also thank the break in the CA otherwise probably you would not have taken up CS! Sir you've had a long journey in the CS profession. Can you briefly share your journey as a company secretary?

CS Sudhakar S: Yes. My journey is really long for almost 3 and a half decades as a professional and I can add 3-4 years as a student of CA and CS also. It is almost a 40-year journey from a student to a professional to date. I would like to explain this a bit in detail. I have had my share of ups and down in the last 4 decades of my journey. Fortunately, the downward trends were mostly in the initial formative years.

Student life:

My father got transferred to Delhi so obviously I too shifted to Delhi. After shifting to Delhi, I was put into chartered accountancy. I am a South Indian and was barely able to communicate in Hindi. Also, being from rural parts, my communication in English was also flawed. So, my greatest weakness when I shifted to Delhi was, Communication. I faced several challenges due to my deficiency with my Communication skills.

An incident which changed my life was this. During the 4th or 5th month of my articleship, I was nominated for a group which was going for the audit of a prestigious Government of India undertaking. I was overjoyed with the selection and had boasted about it with my family and friends. However, I was dropped from the team on the nth moment. I came to know that my inability to communicate in Hindi was the reason behind it. I felt humiliated and took it as a great insult. I was in a fit of rage and wanted to discuss with my Principal. I told him that I am taking this as a challenge and said that in 30 days, I'll learn Hindi and will communicate with all only in Hindi thereafter. But when I went back home, I thought that I've thrown a challenge like a film actor but how to implement the challenge within thirty days and that it is not a joke. So, I laid down a road map for myself. I took help of few friends; watched Hindi movie- Amar, Akbar Anthony multiple times and made notes on pronunciation, voice modulation, body language meanings etc; practiced in front of the mirror and picked up Hindi fluently, in just 30 days.

Journey as Speaker

After the above incident, I understood for a professional the most important ingredient is Communication. From the movie, I learnt about speaking to Mirror. I did practice a lot of my initial lectures and demonstrations in front of the mirror and made the mirror as my closest friend.

After getting both the degrees, I started attending conferences. In one of the first conferences, I trembled to even ask a single question. I realized that to be a public speaker, one should initially be able to put questions to the speaker. This was when I started attending the study circle meetings of NIRC of ICSI and started posing questions to the speakers. I later started writing articles for various magazines and newspapers. In one of the sessions, the speaker could not attend

due to some unavoidable circumstances and hence the organizers requested me to speak on the topic as I had given a written paper on the same topic i.e., “Corporate Democracy”. I spoke extempore at the session which was very well received. This began my journey as Speaker, and I have now addressed around 450 conferences. Thus, I could not only overcome my weakness but could convert my weakness into my strength.

As a contributor to Professional journals:

I was always good at writing articles but not ventured into speaking. The above incident narrated brought out the speaker in me. Later, for a brief period I stopped writing articles as a friend of mine made loose comments on people who write articles. Later, I was requested by many to write articles. I re- started writing, and thereafter several articles of mine were published in Chartered Secretary and other Journals.

Industry experience:

After completion of my CA and CS, I wanted to take up employment; I was always aspired to be a corporate executive than be in the practice because I know that my temperament will not allow me to go into practice. That is how I entered the Industry.

CS Pracheta: Thanks for sharing your journey Sir. So much to learn from it. Can you share one challenging situation in the profession that you faced and how you were able to overcome the same? What in your opinion is that one thing that enables one to tide over challenging situations?

CS Sudhakar S: The challenges what I faced, I can take it as a challenge, or I can take it as an opportunity. In one of the companies where I was working between 1988 to 1993, the company where I was working took over a closely held public company. The Company ran into trouble and I was able to get the approval for Rehabilitation package. The Company also had issues with suppliers and Labour due to change in the management, cultural changes, etc. I feel very satisfied that I could handle the sensitive labour issues very carefully. I could also successfully negotiate with a supplier for supply of the basic raw material and could also convince the promoter to provide their personal guarantee to tide over the challenging situation. I also had to carefully deal with the statutory authorities for providing us required support. I was appreciated from the management and labour equally for taking balanced decisions. I feel proud that I could successfully deal with management, labour, suppliers, and statutory authorities and help the Company to overcome the situation. In fact, the Company offered me to take over as the resident Director of the Company, which I couldn't accept since I considered myself too young and not matured enough for that position.

One important thing to remember while facing the challenging situation is to think how we can convert this to an opportunity and groom ourselves into a better professional. I also learnt that if there is no mentor, become a Mentor for yourself. I studied lot of personal management books management articles, developed a habit of making notes for anything and everything which I felt was interesting. I have made notes till recently. This particular situation made me realize that I am a good professional - both ethically and professionally.

Around that time, I took one more decision and that is to mentor the future generation as I could not find anybody to mentor me. My hunger to disseminate the knowledge has its roots here.

CS Shobha: *Absolutely spellbound with your journey Sir. Thank you. So, my next question is similar to what you had replied to. So, you've seen the growth our profession over the years. So what factors have contributed according to you significantly in this growth?*

CS Sudhakar S: I have seen the Institute the growth of the Institute multifold. I have interacted with many officers at ICSI and observed the passion they carry towards the profession. So might be one of the reasons for the growth of this profession is the passion of the members who are associated with the profession in the initial years. Though Company Secretary Course started much later than other professional courses, we are now almost equal to them and we witness that the profession has grown multifold.

However, I see that the students in the recent past do not have the required passion towards the profession. That's why I always urge all my colleagues in my Department to create passion among the management trainees and I request all the professionals whoever is going to read this - knowledge can always be acquired at any stage of your life but one thing that we cannot acquire beyond the formative years and that is passion. If you have a passion, you can do anything and everything. According to me, the reason for the growth of our profession, the passion of the people who are associated with it especially in the formative years of the Institute and could get lots of recognition for the profession. Because of that hard, intensified, and focused efforts we have the great recognition under various statutes.

CS Pracheta: *Beautifully shared Sir. My next question is what qualities you would expect from a younger professional who is coming into the profession practice or employment?*

CS Sudhakar S: First and foremost is - don't give any importance to money. According to me money should be a by-product. It should not be a main product at least during the formative years, say, first 5 years don't give any importance to money this is what exactly I've done in my life. My advice to all the youngsters is whether you are in service or in practice, look for more exposure in your work, look for getting command on the subject because the passion for acquiring the knowledge and growing up yourself only in the first 5 years after that on getting into the middle age, one may have several distractions and may not be able to focus upon these things.

Next important thing is, build good conduct and character, irrespective of your competency; because everybody is competent and what differentiates you is your conduct and character. So, if I was your client, I will see your conduct and character rather than only your competency.

Thirdly, I will say that don't try to be a perfectionist. You should progress but should not get into the state of being a perfectionist; as long as you are progressing, be happy!

One more thing that I say is, develop an empathy. Put yourself in the shoes of the people who are reporting to you. Remember! it is not your responsibility only to get and extract the work from them. The person's upliftment is also your responsibility. Most of the people think that subordinates are your competitors, but subordinates are not your competitors. 'Subordinate is not your competitor; he is your lieutenant'.

Another thing is Discipline. Maintain the professional etiquettes and discipline always. I get inspired by army quotations. A beautiful quote which I always remember is that 'If you want to be treated like a Colonel, you have to walk like a Colonel and talk like a Colonel'. So, if you want to be treated like a Professional, walk like a Professional and talk like

a Professional. Never indulge in loose talk about anything, about anybody. This is what I've done throughout my three and half decades of professional life.

Have a road map laid down for the next 3,5, 10 and 15 years.

I always advise everyone to establish some core principles in life. I have established for myself four core principles that is the four pillars of my professional life and would like to keep them to self as I opine that everyone should decide on their own principles and not copy from others.

CS Shobha: *Thank you Sir. This is going to be a turning point for all of our young professionals that are going to start their career in the coming years. Your institute and professional activities have no boundaries and being at the helm of office of a very large conglomerate, how are you able to devote your times for all these activities?*

CS Sudhakar S: I believe that I should be self-centered. If I grow, my company also grows. If I grow, my profession also grows, not the other way round. With proper discipline, determination, dedication & devotion, I have been able to manage multiple things. With tremendous workload in my earlier jobs also, I used to vigorously take sessions at the then SMTP (now MSOP), manage the Study circle committees etc. Even now, I get up at 4.00 a.m. and if any work is to be done, I ensure I get up even at 2.30 a.m. or so and sit for 6 to 7 hours straight and complete the work. At times, I have completed the work before the time specified and I have been highly appreciated for this. I strongly believe that if I have received something from profession, I have to give back much more to the profession.

CS Pracheta: *Wonderful Sir. I am following you on LinkedIn and became a fan of your quotes. Would like to know more about that.*

CS Sudhakar S: Secret behind my LinkedIn quotes again is my urge to give some guidance to the professionals especially the youngsters. I feel this is the right platform to reach the professionals. I have around 15k followers on linkedin. I summarize and put my thoughts in a crisp manner and hence well accepted. None of these thoughts are copied from any source but come out of my own learnings and experience.

Recently, one gentleman has asked me to publish a book. This kind of feedback motivates me further.

CS Pracheta: *Yes Sir. I was about to say that Sir. You should seriously think about that Sir.*

CS Pracheta: *Thanks Sir! Sir we are also curious to know of your other interests.*

CS Sudhakar S: My other interests are limited. I used to watch movies but of late, that has reduced as I feel 3 hours of mine is wasted; so, listen to the movies while working on casual things. That's number one. Number two, I have learnt Carnatic classical music for about 5-6 years and gave about 3 performances also but once I shifted to Bombay, all those things have gone because of paucity of time and work pressures. I joined 'Art of Living'. I did some advanced courses in that. So, in 'Art of Living' we used to have satsangs every week, and I used to be the lead Bhajan singer. When I was in Delhi, for about almost 8 years I was the lead bhajan singer we had given a lot of performances for that also. It stopped after I reached Mumbai. I also used to write poems. I have written few on profession and around 50 lullabies for my children!

CS Shobha: Great! We would like to hear you singing sometime Sir. Your thoughts on work life balance.

CS Sudhakar S: I am fortunate to have my learning on this in my formative years itself. After my articleship, when I have asked for a guru mantra my principal told me that “Never mix up your official life with your personal life” I took it to the core of my heart and throughout my three and a half decades of professional life, I did that. When I'm at home, 99.9% of the times I never take my official calls unless and until it's imperative. Similarly, I never receive any personal calls in office; even my wife and children know this very well that if I'm in the office they can't do a normal call with me unless until it's an emergency. If I'm at office I focus on official things and if I am at home, I focus on personal things. If I'm on the road and I'm driving myself I think neither about office nor about home, but I concentrate on the road and I listen to music or sing myself. Till date touchwood to a great extent, I could maintain this.!

CS Pracheta: It has been wonderful interviewing you and great learning. Your final words for all of us.

CS Sudhakar S: I always tell my management trainees one thing, that you are holding 4 flags with you when you joined Reliance for your training. First flag is of the organization i.e. The Reliance Industries limited. Tomorrow when you go out you are going to say very proudly that I got trained with Reliance, so you have no business to cause any dent to its image. The second flag that you are holding is of the Institute of Company Secretaries of India. This is another great name, the profession that was built by our predecessors with their hard work, with their sweat and blood. We have to further enhance the image of the profession. You & me have no business to cause any dent to its image. The 3rd flag is the person under whom you are getting trained, and in this case its me. I have my own image and similarly all the trainers have their own image in the profession, and you have no business to cause any dent to their image. Lastly you yourself have an image, your own flag, your name, your family's name and the same way you do not want to cause any dent to that image. So, you are carrying 4 flags. Carry them with utmost responsibility then you will step into the profession.

I always compare the Company Secretary with the charioteer of the organization like in Bhagavad Gita, Lord Krishna was the charioteer for Arjuna. Arjuna is the person who was fighting the war. I always tell the board of directors when I address them, treat your company secretary as your charioteer. You are the Arjuna, you are fighting the war at the corporate boardroom level but let him be the one who will be your philosopher, friend, and guide. When I am equating the professional company secretary with the charioteer, with that kind of position that we are in then we have to be able to rise to that image with our knowledge, with our conduct, with our character, and with our competence and so on.

CS Shobha: Really very profound thoughts on this one. We also found out that you are a multi-faceted person and discovered a lot of things about you. You are a singer, a poet, all these things we've never aware off before. Thanks for sparing your valuable time Sir.

CS Sudhakar S: Thank you very much once again. God bless the ICSI and all its members to reach great heights.

For Complete interview please click below link

<http://bit.ly/CSSudhakarSinterview>

Allotment of shares for consideration other than cash V/s Consideration by conversion of a debt or loan into shares

Jayantilal Suthar FCS,ACMA

Practicing company secretary

J. Suthar & Associates Company Secretaries

Email id: cs.iavsuthar@gmail.com



Allotment of shares for consideration other than cash	Consideration by conversion of a debt or loan into shares
<p>Shares are generally allotted for consideration payable in cash, but nothing prevents a company from allotting shares for consideration other than cash. As a matter of fact, the 2013 Act does recognize this, which evident from s 62(1)(c) according to which shares issued by private placement can be allotted for a consideration other than cash, if the price of such shares is determined by the valuation report of a registered valuer.</p>	<p>As to the question whether conversion of debt or loan into share a case of allotment of shares for cash consideration or non-cash consideration is, in an earlier circular, the Department of Company Affairs (DCA) had expressed this view;</p> <p>.. The department is advised that if consideration for allotment of shares is actual cash, then only the allotment would be for cash. “Cash” is actual money or instrument, e.g., cheques which are generally used and accepted as money. If consideration for allotment is not flow of cash but some other mode of payment, e.g., cancellation of a genuine debt or outstanding bills, for goods sold and delivered, marketable securities, time deposits in banks, then allotment cannot be treated as for cash. [Circular Letter No. 8/4(75)/69-CL-V, dated 18-11-1969]</p> <p>This view was, however, subsequently reversed by another circular [Circular No. 8/32(75)/77-CL-V, dated 13-3-1978]</p> <p>The views conveyed in Department’s Circular Letter No. 8/4(75)/69-CL-V, dated 18-11-1969 have since been re-examined. The Department is now of the view that the allotment of shares by a company to a person in lieu of a genuine debt due towards him is in perfect compliance</p>

	<p>with the provisions of section 75(1). In this connection it is clarified that the act of handing over cash to the allottee of shares by a company in payment of the debt and the allottee in turn returning the same cash as payment of shares allotted to him, is not necessary for treating the shares as having been allotted for cash under the above section of the Act. What is required is to ensure that the genuine debt payable by a company is liquidated to the extent of the value of shares.</p>
<p>Rule 12 of the Companies (Prospectus and Allotment of Securities) Rule, 2014 lays down the following requirements regarding return of allotment of shares allotted for consideration other than cash.</p> <p>.....(3) In the case of securities (not being bonus shares) allotted as fully or partly paid up for consideration other than cash, there shall be attached to the Form PAS-3, a copy of the contract, duly stamped, pursuant to which the securities have been allotted together with any contract of sale if relating to a property or an asset, or a contract for services or other consideration.</p> <p>(4) Where a contract referred to in sub-rule (3) is not reduced to writing, the company shall furnish along with the Form PAS-3, complete particulars of the contract stamped with the same stamp duty as would have been payable if the contract had been reduced to writing and those particulars shall be deemed to be an instrument within the meaning of the Indian Stamp Act, 1899 (2 of 1899), and the Registrar may, as a condition of filing the particulars, require that the stamp duty payable thereon be adjudicated under section 31 of the Indian Stamp Act, 1899.</p> <p>(5) A report of a registered valuer in respect of valuation of the consideration shall also be attached along with the contract as mentioned in sub-rule (3) and sub-rule (4).</p>	<p>When shares are allotted without receiving the consideration in cash (or by cheque, draft etc.), such an allotment will be considered as one for consideration other than in cash. In other words, in the case of shares allotted for a consideration in cash, there must be a receipt of cash for the share so allotted.</p> <p>It is stated in Palmer’s Company Law that;</p> <p><i>“where a company owes a creditor a debt presently due, that debt may be used as consideration against an allotment of shares to the creditor and such arrangement in proof of payment for the shares (the allotment being treated as for cash), but if shares are allotted in a creditor by way of accord and satisfaction, the allotment is not for cash....”</i></p> <p>Thus, where a company owes a creditor a debt presently due, that debt may be used as consideration against an allotment of shares to the creditor and such arrangement is proof of payment for the shares, the allotment being treated as for cash.</p>

<p>Where a company owes a creditor a debt presently due, that debt may be used as consideration against an allotment of shares to the creditor and such arrangement is proof of payment for the shares, the allotment being treated as for cash. Where there are two debts payable immediately, one by the company to the shareholder, and the other by the shareholder to the company in respect of his shares, the setting-off of those debt against each other will constitute payment in cash for shares.</p>	<p>In K.K. Sarma v State of A.P., the value for the shares allotted to him was paid by way of adjustment of remuneration payable by the company to him and also by raising an unsecured loan from the Company. The Court referred to the DCA's circular of 13th March 1978 (mentioned above) and held that payment in lieu of a genuine debt due to the allottee of shares was proper Compliance with s. 75(1) of the Companies Act, 1956.</p>
	<p>Section 62(3) of the 2013 Act recognizes the allotment of shares by way of conversion of loan or debenture into shares of the company. But this section imposes one condition, i.e. the exercise of an option to convert loan or debentures into shares of the company must be in accordance with the term attached to debenture issued or loan raised by the company. The proviso attached to sub s. (3) further clarifies that the terms of issue of debenture s or loan containing the option must be approved before the issue of debentures or loan, raised by the special resolution passed by the company in general meeting. In such a case, the</p>
	<p>There is a possibility that debentures were issued, or loan was obtained prior to commencement of the 2013 Act. There was no requirement of obtaining the approval by way of special resolution for private companies under the previous Companies Act, 1956. Naturally, the special resolution would not have been passed in such a case and the question may raise whether such debentures or loan can be converted into shares if its terms contained such an option. Since the law existing at the time when the debenture were issued or loan was obtained did not mandate passing of a special resolution (for a private company), there would not be any hindrance in conversion of such debentures or loan into shares after</p>

	the commencement of the 2013 Act, as the provisions the Act are applicable prospectively and not retrospectively.
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Disclaimer: The entire contents of this document have been prepared on the basis of relevant provisions and as per the information existing at the time of the preparation. Though utmost efforts has made to provide authentic information, it is suggested that to have better understanding kindly cross-check the relevant sections, rules under the Companies Act,2013



Amendment in Schedule III - Financial Statement of Companies



CS Divesh Goyal

Practicing Company Secretary
Email ID: csdiveshgoyal@gmail.com

The Ministry of Corporate Affairs vide Notification dated 24 March 2021 has amended Schedule III to the Companies Act, 2013, which shall be effective from the 1st day of April 2021.

Schedule III divided into three parts:

- **Division I** - Financial Statements for a company whose Financial Statements are required to comply with the Companies (Accounting Standards) Rules, 2006.
- **Division II** - Financial Statements for a company whose financial statements are drawn up in compliance of the Companies (Indian Accounting Standards) Rules, 2015.
- **Division III** - Financial Statements for a Non-Banking Financial Company (NBFC) whose financial statements are drawn up in compliance of the Companies (Indian Accounting Standards) Rules, 2015

The notification incorporates various additional disclosure requirements while preparing the financial statements of an entity which are covered under the three divisions of Schedule III to the Companies Act, 2013.

Purpose of Amendment:

In recent years, there have been substantial changes in the reporting requirement by the auditors, but no such corresponding amendments were made in Schedule-III for the preparation of the financial statements. Thus, to align the company's financial statements in accordance with the auditor's reporting requirements, the following amendments have been discussed in this write-up. majority of the amendments to Schedule III to the Companies Act, 2013 have been

undertaken in response to the amendments covered in the newly issued Companies (Auditors and Report Order) 2020 and the Companies (Indian Accounting Standards) Amendment Rules, 2020.

BRIEF ON AMENDMENTS TO SCHEDULE III DIVISION I, TO THE ACT (FOR COMPANIES WHOSE FINANCIAL STATEMENTS ARE REQUIRED TO COMPLY WITH THE ACCOUNTING STANDARDS):

1) **General Instruction for preparation of Balance Sheet:**

Rounding Off: It is option to do rounding off of figures till financial year ended 31.03.2021. For the purpose of rounding off the figures appearing in the Financial Statements for financial year ending 31.03.2022 the total income of the Company shall be considered as the basis.

Total Income	Rounding Off
Less than 100 Crore Rupees	To the nearest hundreds, thousands, lakhs or millions or decimals thereof
100 Crore Rupees or more	To the nearest lakhs, millions or crores, or decimals thereof

2) **Additional Disclosure in Notes to Balance Sheet:**

- I. Shareholding of Promoter: The note on Share Capital in the Financial Statements shall mention details of the Shareholding of the Promotes along with changes, if any, during the Financial Year. The format of such disclosure shall be as follows:

Shares held by promoters at the end of the year				
Sl No	Promoter's Name	No. of Shares	% of total shares	%of change during the year
Total				

Note:

- Here management shall give details separately for each class of shares.
- Percentage change shall be computed with respect to the number at the beginning of the year or if issued during the year for the first time then with respect to the date of issue.”

Ques: 1what is the meaning of promoter under Companies Act, 2013?

- II. **Trade Payable (Creditors) ageing Schedule:** Companies henceforth be required to provide ageing schedule for trade payables due for the periodicity of 1 year, 1-2-year, 2-3 year & more than 3 years. These include trade payables to MSMEs, disputed dues to MSMEs, and other dues and disputed dues. Similarly, disclosures shall also be made where no due date of payment is specified. Information for unbilled dues is also required to be disclosed separately.

1 "promoter" means a person—

(a) who has been named as such in a prospectus or is identified by the company in the annual return referred to in section 92; or

(b) who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or

(c) in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act:

Provided that nothing in sub-clause (c) shall apply to a person who is acting merely in a professional capacity;

Trade Payables ageing schedule: (Amount in Rs.)

Particulars	Outstanding for following periods from due date of payment				Total
	Less than 1 yr.	1-2 yrs.	2-3 yrs.	More than 3 yrs.	
(i) MSME					
(ii) Others					
(iii) Disputed dues- MSME					
(iv) Disputed dues- Others					

Trade receivables (Debtors) ageing Schedule: Companies will be required to disclose the ageing schedule of its trade receivables i.e. including undisputed and disputed trade receivables considered good and doubtful with ageing classified as less than 6 months, 6 months to 1 year, 1-2 years, 2-3 years and 3 years or more along with disclosures separate disclosure for information of unbilled dues. These undisputed and disputed trade receivables which are further categorized into good and doubtful.

Trade Receivables Ageing schedule: (Amount in Rs.)

Particulars	Outstanding for following periods from due date of payment				Total
	Less than 6 months	6 months- 1 year	1-2 yrs.	2-3 yrs.	
(i) Undisputed Trade receivables- considered good					More than 3 yrs.

(ii) Undisputed Trade Receivables- Considered Doubtful					
(iii) Disputed Trade Receivables considered good					
(iv) Disputed Trade Receivables considered doubtful					

III. **Title deeds of Immovable Property not held in name of the Company:** The Company shall provide the details of the immovable property (other than properties where the Company is the lessee, and the lease agreements are duly executed in favour of the lessee) whose title deeds are not held in the name of the Company in the prescribed format.

If such immovable property is jointly held with others, details are required to be given to the extent of the Company's share.

IV. **Disclosure on revaluation of Assets:** Where the Company has revalued its Property, Plant and Equipment, the company shall disclose as to whether the revaluation is based on the valuation by a registered valuer as defined under rule 2 of the Companies (Registered Valuers and Valuation) Rules, 2017.

V. **Disclosure on Loans/ Advance to Directors/ KMP/ Related parties:** disclosures shall be made where Loans or Advances in the nature of loans are granted to promoters, directors, KMPs and the related parties (as defined under Companies Act, 2013,) either severally or jointly with any other person, that are:

- a. repayable on demand or
- b. without specifying any terms or period of repayment

Type of Borrower	Amount of loan or advance in the nature of loan outstanding	Percentage to the total Loans and Advances in the nature of loans
Promoters		
Directors		
KMPs		
Related Parties		

- VI. **Details of Benami Property held:** In case, any proceedings have been initiated or pending against the entity under the Benami Transactions (Prohibitions) Act, 1988, the corresponding disclosures shall be provided in the financial statements. The Company shall disclose the followings:
- a. Details of such property, including year of acquisition,
 - b. Amount thereof,
 - c. Details of Beneficiaries,
 - d. If property is in the books, then reference to the item in the Balance Sheet,
 - e. If property is not in the books, then the fact shall be stated with reasons,
 - f. Where there are proceedings against the company under this law as an a better of the transaction or as the transferor then the details shall be provided,
 - g. Nature of proceedings, status of same and company's view on same.
- VII. **Details of Borrowing:** Where the Company has borrowings from banks or financial institutions on the basis of security of current assets, it shall disclose the following:-
- a) Whether quarterly returns or statements of current assets filed by the Company with banks or financial institutions are in agreement with the books of accounts.
 - b) if not, summary of reconciliation and reasons of material discrepancies, if any to be adequately disclosed
- VIII. **Willful Defaulter:** Where a company is a declared willful defaulter by any bank or financial Institution or other lender, following details shall be given:
- a. Date of declaration as willful defaulter,
 - b. Details of defaults (amount and nature of defaults),
- * "willful defaulter" here means a person or an issuer who or which is categorized as a willful defaulter by any bank or financial institution (as defined under the Act) or consortium thereof, in accordance with the guidelines on willful defaulters issued by the Reserve Bank of India.
- IX. **Relationship with Struck off Companies:** Where the company has any transactions with companies struck off under section 248 of the Companies Act, 2013 or section 560 of Companies Act, 1956, the Company shall disclose the following details:-

Name of struck off Company	Nature of transactions with struck-off Company	Balance outstanding	Relationship with the Struck off company, if any, to be disclosed
	Investments in securities		
	Receivables		
	Payables		
	Shares held by struck off company		
	Other outstanding balances (to be specified)		

X. **Registration of charges or satisfaction with Registrar of Companies:** Where any charges or satisfaction yet to be registered with Registrar of Companies beyond the statutory period, details and reasons thereof shall be disclosed

XI. **Compliance with number of layers of companies** Where the company has not complied with the number of layers prescribed under clause (87) of section 2 of the Act read with Companies (Restriction on number of Layers) Rules, 2017, the name and CIN of the companies beyond the specified layers and the relationship/extent of holding of the company in such downstream companies shall be disclosed.

XII. **Disclosure of Ratios**

The amendment requires the companies covered under division I and II of schedule III to disclose the following ratios:

- a. Current Ratio,
- b. Debt-Equity Ratio,
- c. Debt Service Coverage Ratio,
- d. Return on Equity Ratio,
- e. Inventory turnover ratio,
- f. Trade Receivables turnover ratio,
- g. Trade payables turnover ratio,
- h. Net capital turnover ratio,
- i. Net profit ratio,

- j. Return on Capital employed,
- k. Return on investment.

Note: The Company shall explain the items included in the numerator and denominator for computing the above ratios and an explanation shall be provided for any change in the ratio by more than 25% as compared to the preceding year.

XIII. Details in respect of Utilization of Borrowed funds and share premium shall be provided in respect of:

- a. Transactions where an entity has provided any advance, loan, or invested funds to any other person (s) or entity/ entities, including foreign entities.
- b. Transactions where an entity has received any fund from any person (s) or entity/ entities, including foreign entity

XIV. Compliance with approved Scheme(s) of Arrangements: Where any Scheme of Arrangements has been approved by the Competent Authority in terms of sections 230 to 237 of the Companies Act, 2013, the Company shall disclose that the effect of such Scheme of Arrangements have been accounted for in the books of account of the Company 'in accordance with the Scheme' and 'in accordance with accounting standards' and deviation in this regard shall be explained of holding of the company in such downstream companies shall be disclosed.

3) Additional Disclosure in Notes to Profit & Loss Account:

- i. **Undisclosed Income (Reconciliation of Income Tax and Companies Act):** The Company shall give details of any transaction not recorded in the books of accounts that has been surrendered or disclosed as income during the year in the tax assessments under the Income Tax Act, 1961, unless there is immunity for disclosure under any scheme and shall state whether the previously unrecorded income and related assets have been properly recorded in the books of account during the year.
- ii. **CSR Disclosure:** Where the company covered under section 135 of the Companies Act, the following shall be disclosed with regard to CSR activities: -
 - a. amount required to be spent by the company during the year,
 - b. amount of expenditure incurred,
 - c. shortfall at the end of the year,
 - d. total of previous years shortfall,
 - e. reason for shortfall,
 - f. nature of CSR activities,
 - g. details of related party transactions, e.g., contribution to a trust controlled by the company in relation to CSR expenditure as per relevant Accounting Standard,

h. where a provision is made with respect to a liability incurred by entering into a contractual obligation, the movements in the provision during the year should be shown separately.

iii. **Details of Crypto Currency or Virtual Currency:**

iv. Where the Company has traded or invested in Crypto currency or Virtual Currency during the financial year, the following shall be disclosed: -

- a. Profit or loss on transactions involving Crypto currency or Virtual Currency.
- b. amount of currency held as at the reporting date,
- c. Deposits or advances from any person for the purpose of trading or investing in Crypto Currency/ virtual currency.



CSR AND ENHANCED RESPONSIBILITIES OF BOARD



N.Sridaran FCS
Email ID: ensridaran@gmail.com

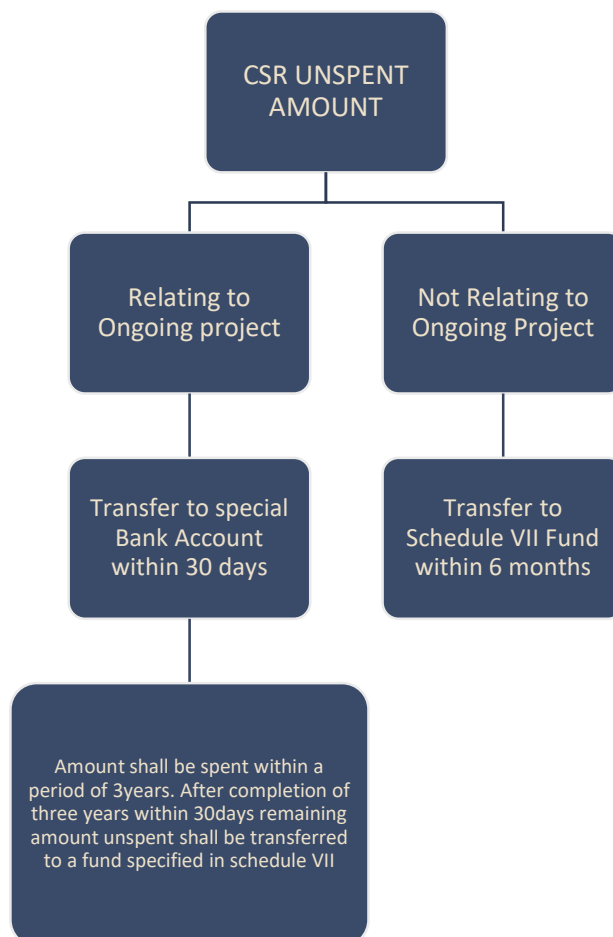
MCA through notification of Companies (Corporate Social Responsibility Policy) Amendment Rules 2021 has made many changes in CSR provisions with effect from 22-01-2021 and among other things, enhanced the responsibilities of the Board of the Companies.

In accordance with Section 135 of the Companies Act, 2013 and CSR Rules 2014, every company, private limited or public limited, which either has a net worth of Rs 500 crore or a turnover of Rs 1,000 crore or net profit of Rs 5 crore, needs to spend at least 2% of its average net profit for the immediately preceding three financial years on corporate social responsibility activities. CSR activities undertaken must be with respect to any of the activities mentioned in Schedule VII of the 2013 Act. However, in determining CSR activities to be undertaken, preference would need to be given to local areas and the areas around where the company operates.

The amendment to CSR Rules makes CSR spending mandatory from voluntary with effect financial year 2020-21. CSR unspent is categorised into two. 1) Unspent amount relating to ongoing project and 2) unspent amount not relating to ongoing project as depicted in the following diagram.

Hence amount remaining unspent in respect of ongoing project shall be transferred to Unspent Corporate Social Responsibility Account (UCSRA) by April 30, 2021. Hence amount remaining unspent other than ongoing project for the financial year 2020-21 shall be transferred to Schedule VII fund latest by September 30, 2021.

The Board shall ensure that the CSR activities are undertaken by the Company itself or through implementing agency or through Section 8 company or a registered public trust or society or any entity established under an Act of Parliament or a State legislator. With effect from 01-04-2021 registration of such entity is made mandatory by filing Form 1. Unique CSR Registration Number shall be generated for each entity. Form CSR- 1 shall be signed and submitted electronically by the entity and shall be verified by a PCS or any other practising professional.



As per the Companies Amendment Act 2020 and also as per the amendment to CSR Rules, CSR Committee is not required, if the amount to be spent by a company does not exceed Rupees Fifty lakhs. The functions of such committee shall be discharged by the Board of Directors of such company. However, it would be convenient to continue the existing CSR Committee voluntarily so that Board's time would be used more efficiently.

Now CSR policy to include a) approach and direction given by the Board of a company, taking into account the recommendations of CSR Committee b) guiding principles for selection, implementation and monitoring activities and formulation of annual action plan.

Annual Action Plan

CSR Committee shall formulate and recommend to the Board, an annual action plan in pursuance of CSR policy. Annual action plan to include:

- a. List of CSR Projects approved
- b. Manner of execution
- c. Modalities of utilisation of funds and implementation schedules
- d. Monitoring and reporting mechanism
- e. The annual action plan may be altered on recommendation of CSR Committee.

Responsibility of a Board and CEO

The Board shall be responsible to;

- a) Satisfy itself that the funds so disbursed have been utilised for the purposes and in the manner as approved by it.
- b) Monitor the implementation of the project with reference to the approved timelines and year wise allocation.
- c) To make modifications, if any, for smooth implantation of the project within overall permissible time period.
- d) CFO or person responsible for financial management shall certify to the effect

CSR Reporting

From financial year starting on or after 2020, CSR report of Board Report shall be in the format of Annexure II of the Rules. In respect of previous years annexure I will continue with the words and figures "For financial year commenced prior to 1st day of April 2020".

- a. Annexure I mandate additional information regarding;
- b. Impact assessment
- c. Amount available for set off
- d. CSR amount spent against ongoing project/ other than going project
- e. Administrative overhead
- f. Unspent amount against ongoing project/ other than ongoing project
- g. Details regarding capital assets.

Impact Assessment

A company having the obligation of spending average CSR amount of Rs. 10 Crore or more in the three immediately preceding financial years, in pursuance of Section 135 (5) of the Companies Act, 2013 shall undertake impact assessment. Impact assessment has to be done by an independent agency and the report shall be placed before the Board and shall be annexed to the Annual Report on CSR.

Impact assessment to be done in respect of CSR projects having outlays of one crore rupees or more and which have been completed not less than one year before undertaking the impact study.

Display of CSR Activities on the company's website.

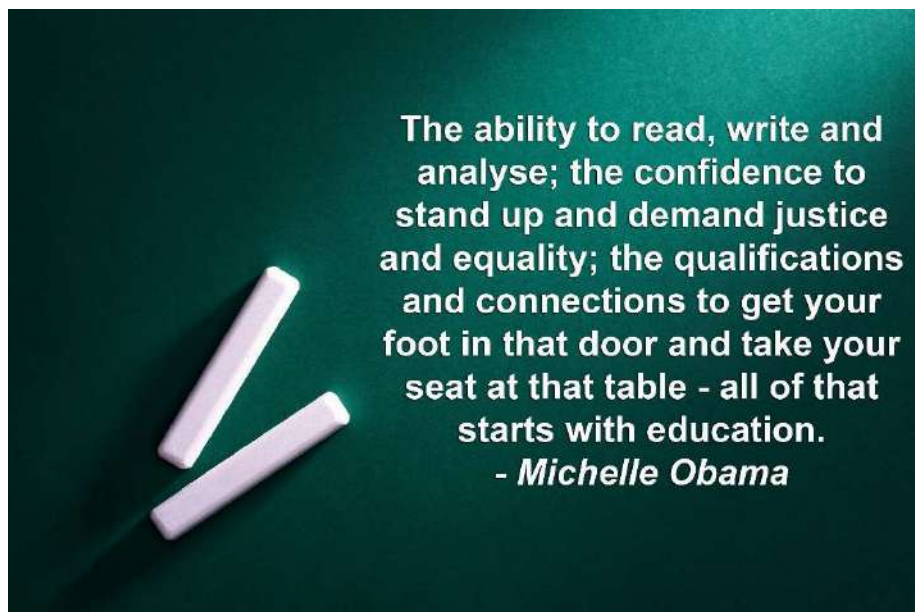
The Board of Directors of the Company shall mandatorily disclose the composition of the CSR Committee and CSR Policy and Projects approved by the Board on company's website, if any, for public access.

Impact of Amendment

The companies are now to follow the stringent CSR Rules and their Board Report shall be attached with Annexure I and Annexure II.

The amendment is applicable from the financial year 2020-21 onwards. CSR spending is mandatory now. The Board's responsibilities are enhanced in monitoring and reporting the CSR activities. The Board shall satisfy itself that the funds so disbursed have been utilised for the purposes and in the manner as approved by it.

et us hope the amendment would result in effective implementation and bring many benefits to the society.



Amendments for minimum remuneration to NED & ID effective- Key Takeaways



CS K.V.Lakshmi

Company Secretary at Billroth Hospitals Private Limited

Email ID: lakshmi.varadarajan17@gmail.com

The Company Law Committee Report, 2019 recommended remuneration to Non- Executive Directors (NED) in case of no profits or inadequate profits as permissible for Managerial Persons (hereinafter referred to as “MP”) - Managing Director, Whole-time Director and Manager, pursuant to Section 197 of the Companies Act, 2013 (“Act”) read with Schedule V of the Act.

MCA, vide its Notification dated 18.03.2021, has made effective Sections 32 and 40 of the Companies Amendment Act, 2020, which deals with the amendments in Section 149 (9) of the Act and 197 (3) of the Act. Schedule V of the Act has also been amended to ensure alignment with the aforesaid provisions of the Act.

Table A of Part II (II) of Schedule V of the Act dealing with the limits on yearly remuneration in case of no profits/inadequate profits has been amended as follows:-

Where the effective capital(EC) is	Limits of yearly remuneration payable in case of MP shall not exceed (in Rs.)	Limits of yearly remuneration payable in case of Other Directors* shall not exceed (in Rs.)
Negative or < 5 crore	60 lakhs	12 lakhs
5 cr. & above but <100 cr.	84 lakhs	17 lakhs
100 crore & above but <250 cr.	120 lakhs	24 lakhs
250 cr. and above	120 lakhs + 0.01% of EC in excess of 250 cr.	24 lakhs + 0.01% of EC in excess of 250 cr.

*Other Directors shall mean Non-Executive Director or an Independent Director

Key Takeaways

1. As is evident from the above table in Schedule V, limits of yearly remuneration payable to Other Directors in case of loss or inadequate profits has been specified (which is almost 1/5th of the permissible limits for MP). There are no changes in the limits of yearly remuneration payable to the Managerial Persons.

2. It has to be noted that it is not mandatory for the Companies to remunerate their NEDs and IDs. It is entirely the discretion of the Company whether they want to remunerate their NEDs and IDs and if they do so, the aforesaid limits have to be adhered to.
3. Since the amendment is effective immediately from 18.03.2021, Companies can remunerate their NEDs and IDs for the financial year 2020-21. The intent of the Legislature has been to allow the Companies, whose profits might be affected due to the unprecedented outbreak of COVID-19 in the financial year 2020-21, to reward their independent directors for their duties and responsibilities.
4. With the approval of the shareholders in the General Meeting of the Company by Special Resolution, Companies can pay in excess of the limits specified in the above table to the NEDs and IDs as the limits specified are minimum limits in case of loss or inadequate profits.
5. The payment of remuneration to NEDs and IDs has to be recommended by the Nomination and Remuneration Committee (in case of Companies covered under Section 178) and approved by a resolution passed by Board.
6. The limits specified are individual limits, hence each NED and ID may be paid remuneration in accordance with the limits specified in the aforesaid Table.
7. As per the current provisions of the Act, Independent Directors are presently remunerated by way of Sitting fees and profit linked commission. Now, since the limits for minimum remuneration have been prescribed, any commission payable to the IDs as a fixed amount will also come within the purview of the ceiling specified in Section 197 (1) of the Act.
8. Since the provisions of Section 196 (4) and 196 (5) of the Act are not applicable to private companies, there is no doubt that the said amendments are not applicable to private companies. Public Companies (both listed and unlisted) shall be affected by the said amendments.

Inter-relationship with SEBI's recently released Consultation Paper

SEBI has recently released a Consultation Paper on review of regulatory provisions related to Independent Directors to solicit public comments/views on the same. Some far-reaching changes has been recommended in the said Paper including removal of the profit linked commission and increase in the sitting fees payable to IDs with a view that the remuneration to IDs should be based on their value and time-commitments to the company, without linking the same to the profits of the company. The Paper has also suggested for issue of ESOPs instead of profit linked commission) with a long vesting period of about 5 years.

Section 2(78) of the Act defines the term “remuneration” as any money or its equivalent given or passed to any person for services rendered by him and includes perquisites as defined under the Income Tax Act. It is evident that the word ‘remuneration’ under Section 2(78) of the Act means any money or its equivalent given or passed to any person.

The definition of the term “perquisite” under Section 17(2)(vi) of the Income Tax Act includes the value of any specified security or sweat equity shares allotted or transferred, directly or indirectly, by the employer, or former employer, free of cost or at a concessional rate to the assessee. Market price of the shares on the exercise date, less the exercise price paid by the employee is treated as perquisite and withholding tax is levied at applicable rates.

When the definition of 'remuneration' under the Act is read with the definition of 'perquisite' under IT Act, 1961, it is clear that perquisite will arise only when the ESOPs are exercised by the concerned employees. Once the perquisite value of ESOPs is treated as 'remuneration' under the Act, then the provisions of Section 197 of the Act read with Schedule V and Regulation 17(6)(ca) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 would become applicable, which requires shareholder approval by a special resolution. Therefore, if the monetary limits on remuneration specified in those respective provisions are breached, then the same will be subject to the various conditions laid down under Section 197 and Schedule V of the Act, including conditions relating to no default of the company in payment of any dues to any bank or public financial institution, etc.

Conclusion

Till now, the sources of remuneration to IDs have been limited along with further restrictions to the amount of remuneration permitted to be paid by way of sitting fees and profit-linked commission. Whereas in case of executive directors, the permissible amount of remuneration is much higher along with lesser restrictions. With the recent amendments notified by MCA, scope of remuneration payable to NEDs and IDs have been enlarged enabling companies to remunerate in a fair manner for the efforts put by them in the conduct of the business.

Section 199 of the Companies Act, 2013 prescribes that where a company is required to re-state its financial statements due to fraud or non-compliance with any requirement under this Act and the rules made thereunder, the company shall recover from any past or present managing director or whole-time director or manager or Chief Executive Officer (by whatever name called) who, during the period for which the financial statements are required to be re-stated, received the remuneration (including stock option) in excess of what would have been payable to him as per restatement of financial statements. It is pertinent to note that Section 199 of the Act is silent on the remuneration paid or ESOPs given to Non-Executive Directors/Independent Directors.

It would be interesting to see whether MCA revisits this provision, in the light of the recent amendments and SEBI's Consultation Paper (if approved by SEBI) to further tighten the remuneration regime and protect the interest of all stakeholders.



Pre-Packaged Insolvency Resolution Process -An Efficient Option for MSMEs



CS Amar R Kakaria

FCS, ACA, ACMA

Email ID: amar@fusionadvisors.net



CS Ram Thakkar

FCS, LLB, JP

Email ID: csramthakkar@gmail.com

India is a gigantic country of over 135 crore citizens where nearly 6.5 crore micro, small and medium enterprises (MSMEs) are offering varied products and services to Indians. Prior to initial lockdown in March 2020, MSMEs were providing employment to nearly 11 crore citizens ~ equivalent to one third of domestic workforce and accounting for 40% of total exports as well as 45% of total manufactured output in India. Despite lack of timely financing, MSMEs had historically grown at much faster pace than Indian economy at 10% p.a. besides contributing in excess of 30% of national GDP. No wonder, MSMEs have always been playing a vital role in Indian economy ever since independence, however, majority of them had been struggling for more than a year due to unprecedented economic slowdown. The situation has got worse due to prolonged Covid-19 pandemic and so, Indian Government pro-actively took multiple measures to protect MSMEs by offering them strong economic package including collateral free automatic loan, subordinate debt for stressed accounts, fund of funds scheme, etc and provided other relaxations. Quantum of default was increased to Rs 1 crore and further, initiation of corporate insolvency resolution process under section 7, 9 and 10 of the Insolvency and Bankruptcy Code, 2016 (IBC) was suspended.

As per original strategy, the suspension was for a period of 1 year from 25th March 2020 and this moratorium got over in the last month. Given the huge destruction due to Covid-19, suspending IBC proceedings for a period of 1 year was a good strategy initially, however, it could not be continued for a longer duration because it may nullify the basic intention behind the law. However, given the unique status of MSMEs in Indian economy and their fragile financial health, it is also essential to provide insolvency resolution process in a timely manner or else asset quality may deteriorate whereby leading to higher losses. Usually, MSMEs have relatively lesser complex structures as well as simple business model and hence, Indian Government introduced “Pre-Packaged Insolvency Resolution Process” (Pre-Packaged IRP) for MSMEs through the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021 on 4th April 2021. Accordingly, IBBI has notified the Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulation, 2021 on 9th April 2021. In deviation to earlier practice of transferring entire management control to resolution professional, under Pre-Packaged IRP the operations will be controlled by existing management, but insolvency professional will play a very crucial role for having suitable resolution. Besides preserving jobs, it is likely to provide quicker and cost-effective solutions for all the stakeholders in a manner which is less disruptive to the continuity of their businesses and maximize value.

Pre-Packaged Insolvency Resolution Process (Chapter III-A)

Concept of pre-packaged resolution process is already in existence in advanced nations like USA, United Kingdom, etc and now, it is introduced in India with an intention that with a timely resolution of stressed companies i.e., corporate debtors, actual market value of their assets can be received with minimal deterioration whereby ensuring speedier, cost-effective, value maximising outcomes for all the stakeholders.

A pre-packaged insolvency process is an informal plan worked out by the creditors jointly with the corporate debtor for debt resolution and then obtain judiciary approval. Regulation has now allowed approval of such informal plans by the National Company Law Tribunal (NCLT). Following conditions need to be satisfied while making an application to initiate Pre-Packaged IRP in respect of a corporate debtor who made a default u/s 4 of IBC:

- a. It has not undergone pre-packaged insolvency resolution process or completed corporate insolvency resolution process during the period of 3 years preceding the initiation date.
- b. It is not undergoing a corporate insolvency resolution process.
- c. No liquidation order u/s 33 of IBC is passed against it.
- d. It is eligible to submit a resolution plan u/s 29A of IBC.
- e. Financial creditors have proposed a name of insolvency resolution professional to conduct Pre-Packaged IRP.
- f. Declaration is needed by majority of directors / partners in specified form stating that,
 - i. Application for Pre-Packaged IRP will be filed within 90 days,
 - ii. Pre-Packaged IRP process is not initiated to defraud any person,
 - iii. Name of insolvency professional proposed and approved to be appointed as resolution professional as per clause (e)
- g. g) Special resolution by shareholders or at least 75% of total partners need to pass a resolution to approve filing of an application under Pre-Packaged IRP.
- h. h) Before applying for Pre-Packaged IRP, it is mandatory to duly conduct a meeting and get an approval from at least 66% of unrelated financial creditors in value terms.

Process Timeline & Outcome

Entire Pre-Packaged IRP process has to be completed in a period not exceeding 120 days from the commencement date. The moratorium will be available u/s 54E from the commencement date till the closure of the process irrespective of the final outcome of resolution or otherwise. The resolution professional shall submit the resolution plan, as approved by the committee of creditors, to the adjudicating authority i.e., NCLT within a period of ninety days from the pre-packaged insolvency commencement date. Throughout the course of Pre-Packaged IRP proceedings, existing promoters will continue to retain possession and management control, however, the resolution professional has to discharge various duties as prescribed u/s 54B and 54F against prescribed fees. Where no resolution plan is approved by the committee of creditors within the time period, the resolution professional shall, on the day after the expiry of such time period, file an application with NCLT for termination of the Pre-Packaged IRP.

Being the adjudicating authority, only NCLT is empowered to pass final order to approve or reject the resolution plan u/s 54L, however, an appeal can be made against this order u/s 54M on grounds of material irregularity or frauds committed. On and after the Pre-Packaged IRP commencement date, where an officer of the corporate debtor manages its affairs with the intent to defraud creditors or for any fraudulent purpose, NCLT may levy a penalty up to Rs 1 crore on him u/s 67A. The committee of creditors, at any time after the pre-packaged insolvency commencement date but before the approval of resolution plan, with at least 66% of voting shares, may resolve to initiate a corporate insolvency resolution process under Chapter II of IBC in respect of the corporate debtor if it is eligible.

Comparative Analysis

Pre-Packaged Insolvency Resolution	Corporate Insolvency Resolution
Applicable only for MSMEs	Applicable for all kind of companies including MSMEs
Process to be completed in maximum 120 days and hence, erosion in value of assets will be lesser	Relatively longer timeline of 270 (180 + 90) days
Lower default threshold for triggering Pre-Packaged IRP is at Rs 10 lakhs	CIRP could originally be triggered on default of Rs 1 Lakh but it has been increased to Rs 1 crore since last year
Resolution is discussed with creditors before approaching NCLT and hence, there is a surety of positive outcome	After applying to NCLT, creditors interact with the insolvency professional to get resolution. Result may not be positive in all the cases
Management control and possession continue to remain with the Promoters throughout the process	Management control and possession vests with the resolution professional appointed by the creditors
Leads to significant saving of time and money for all the parties	Longer process timeline takes relatively more time and money
Faster outcomes at NCLT due to pre-decided arrangements which leads to saving of precious judicial time	Prolonged battles at NCLT and even at higher tribunals / courts among stakeholders often leads to huge delays
Insolvency professional's duties and role are initiated even before acceptance of application by adjudication authority.	Insolvency professional hardly has any role before acceptance of application of CIRP.

Decisive Role of Corporate & Finance Professionals

Large number of MSMEs give direct employment to dozens of people and indirectly support livelihood of hundreds of individuals. Indian economy had gone in negative zone due to Covid-19 havoc but despite having a major setback, higher economic growth is targeted for the current year. India aspires to become an 'USD 5 Trillion' economy in 2024 and hence, it is essential that maximum number of ailing enterprises quickly manage to revive by using benefits under Pre-Packaged IRP mechanism which can significantly boost up economic growth besides helping crores of families which have been dependent on those enterprises.

Lakhs of corporate and finance professionals are spread across different parts of India and are working closely with crores of business enterprises. By using experience and domain expertise in accounting, legal, finance, etc, these professionals can pro-actively explore a possibility of becoming an insolvency professional by clearing an examination conducted by IBBI and completing necessary training with them after meeting eligibility criteria. As an insolvency professional, they will be entitled to offer packaged solution to stressed MSMEs for their timely revival. Further, professionals also have a role while providing other support services towards accounting, compliance, valuation, due diligence, etc during the course of Corporate Pre-Packaged IRP proceedings. While working as a bridge between management and creditors, they have to attend various meetings with various stakeholders in order to maximize asset value, optimize cashflows and help ailing companies to survive. Survival of every single enterprise benefits dozens of people directly as well as hundreds of people indirectly and hence, there is a need to assist maximum ailing companies to get benefit under newly launched Pre-Packaged IRP mechanism of IBC.

Lao Tzu has aptly said - "The journey of a thousand miles begins with a single step."





HELP YOURSELF

Food for Thought



Aparna U

Executive Student

Email ID: aparnaukumar14@gmail.com

The Greatness Guide -2

- by Robin Sharma

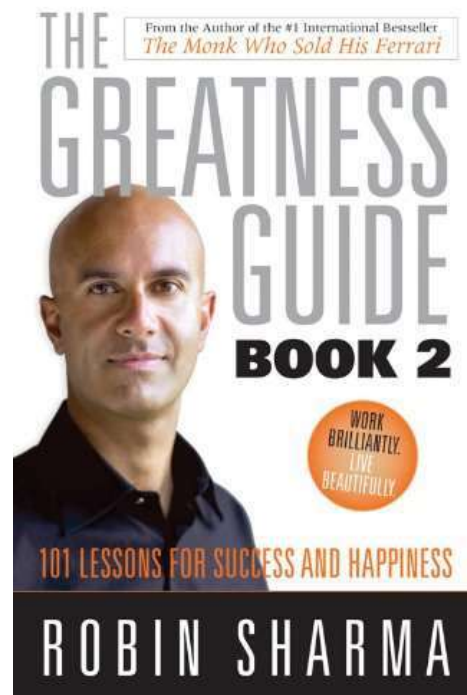
The previous article in this column was about 'The Greatness Guide' by Robin Sharma and as I had mentioned, I had no second thoughts about starting the Volume 2 of this series. So here's a glimpse of this book, like a small trailer. Hopefully, this will make you want to watch the whole movie, that is, read the entire book.

Robin Sharma is a celebrated leadership consultant and success coach who has worked with celebrities, business tycoons and other eminent people and personalities of the world. His books never fail to flood your soul with positivity. As I had already mentioned in my previous article, reading this book especially in the morning soon after waking up and before going to bed can bring about a positive change in the way you spend your days. These two times of a day are crucial as anything done at these times can be very impactful on your subconscious mind which will in turn, change the way you act consciously. Imagine conversing with someone so optimistic at such beautiful hours of the day.

This book is like conversing with the author, one of the world's best success coaches, himself. This book too, like the previous volume has very short chapters, is in a conversational style and therefore a good choice if you're looking to start reading self-help books for the first time. Also, Robin Sharma books are a treasure chest of wonderful and wise quotes. That leaves you with no reason not to grab this book and give it a read.

Let's discuss some of the chapters from this book. One of the chapter titles is 'The Mirror Test' and it talks about a very powerful method of self-reflection. The author discusses the importance of daily self-improvements and how to consistently enhance them. He asks us to question ourselves this way- "What one thing could I do today that if I did it, my professional and personal life could get to its NLG: Next Level of Greatness?" Imagine successfully doing one such thing each day or at least every other day! It would surely elevate your life to great heights.

You must have come across this popular quote by Jim Rohn- "You are an average of five friends you spend the most time with." The author enlightens us in the chapter titled 'Find Uncomfortable Friends' about how we often find it uncomfortable about people around us who tend to pull us out of our SHK: Safe Harbour of the Known. This also makes us aware about our habit of clinging to the same set of people we are comfortable with and this may unknowingly be



pulling us down the rabbit hole of mediocrity. The new, 'uncomfortable' friends we may find who inspire and stretch us to a new level of greatness are truly the ones who uplift us by helping us see the world through different set of eyes, thus helping us evolve and transform into a greater version of ourselves.

The book articulates on many more such ideas, methods and concepts that can truly inspire and guide you to elevate your life and help you take it to the next level.



Tech Corner
Technology & Studies



Komal Kumar M
Executive Student
Komalkumarm677@gmail.com

AI & Robots

Hi everyone,

Hope everyone is Healthy & safe,

You would be very surprised to see robots and AI doing some unbelievable tasks like humans, by seeing that a small question arises that, Can Robots replace humans completely on the workplaces?

First I will say yes and then No.

Robotic industry is developing so rapidly in such a way that no one can expect what is coming.

AI and robotics are becoming smarter day by day, do you believe that a robot got citizenship in a country? Yes, that is true. A smart robot called Sophia got the citizenship in Saudi Arabia!

Robotics can replace humans on workplaces where there is completely mechanical works, for example, packing, folding, mixing, molding etc. As Robots do not require resting time, they can work continuously. A single machine can completely replace nearly 100 humans when it comes to mechanical works.



When it comes to thinking intellectually, even the smartest computer in the world cannot outsmart humans as it requires decision making capacity, which robots lack. Robots do only certain things which they are programmed to do which of course humans have to do.

Even advanced scientific machines must be handled by humans, robots just enhance the capabilities of human beings, can't replace them.

According to a survey there are many works which will be replaced by Robots soon. Data analyst, Drivers, Deliveryman, Security guard etc. to just mention a few. But humans must keep tracking and checking whether the robots are working in good condition.

Conclusion: Robots can replace humans in a very few fields, but robots can't completely replace humans, only humans have creative mind which can't be programmed into a computer.



BRAINY BITS...



CS Madhur N Agrawal

B.com, LLB, ACS Registered Valuer

Email id: madhurna@gmail.com

A PCS makes a run application for securing a private limited company name. The CRC rejects the application stating that the trademark for the name is already registered under Class 9, however the contention of the PCS is that the proposed company is not dealing in Class 9 objects, but their objects fall under Class 1. Please guide the PCS on how to proceed and reply to the CRC to secure the name.

We at ICSI Mysuru Chapter eMagazine are overwhelmed to receive answers on brainy bits, where most of these questions are based on practical situations. Our endeavor is to resolve these typical situations for readers and practitioners. If you have the answers to the questions or you have already gone through similar situations, we request you to answer the question with related procedures as well as your journey to problem solving. *Please send your answers to, enewsletter.icsimysore@gmail.com along with your name, qualification, and designation. Name of the person with most appropriate answer with reasoning, shall be published in the next edition of eMagazine*



Opinion to Last Month's Brainy Bits

Ramya has recently cleared her final/professional exams, and out of excitement Ramya immediately starts using the prefix CS and designation Company Secretary. Ramya's friend who has already got the membership looks her status updated on LinkedIn tells her that she should not use these prefix and designation right now. Whether Ramya's friend is correct or not? Why?

Answer for previous month's question:

Section 7 of the Company Secretaries Act 1980 prohibits any from using the designation Company Secretary without being a member of the ICSI. Section 24 of the Act has provisions to penalize such persons for wrongly using the designation of Company Secretary, which may extend to imprisonment up to 6 months or fine up to Rs.5,000/- or with both. Therefore, only a person whose name is entered in the register of members shall use the designation Company Secretary, ACS, FCS or use the prefix CS. In other words, a final passed student who still needs to finish all training formalities and not received the membership of the institute shall not use the designation CS.



Compiled by:
Matruka B M
Professional Student
Mysore

Companies Act, 2013

Updates on Rules

MCA has amended Companies (Audit and Auditors) Rules, 2014, which shall be known as Companies (Audit and Auditors) Amendment Rules, 2021,

In Rule 11 of the principal rules, clause (d) shall be omitted.

After clause (d), following shall be inserted.

“(e) (i) Whether the management has represented that, to the best of its knowledge and belief, other than as disclosed in the notes to the accounts, no funds have been advanced or loaned or invested (either from borrowed funds or share premium or any other sources or kind of funds) by the company to or in any other person(s) or entity(ies), including foreign entities (“Intermediaries”), with the understanding, whether recorded in writing or otherwise, that the Intermediary shall, whether, directly or indirectly lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the company (“Ultimate Beneficiaries”) or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries;

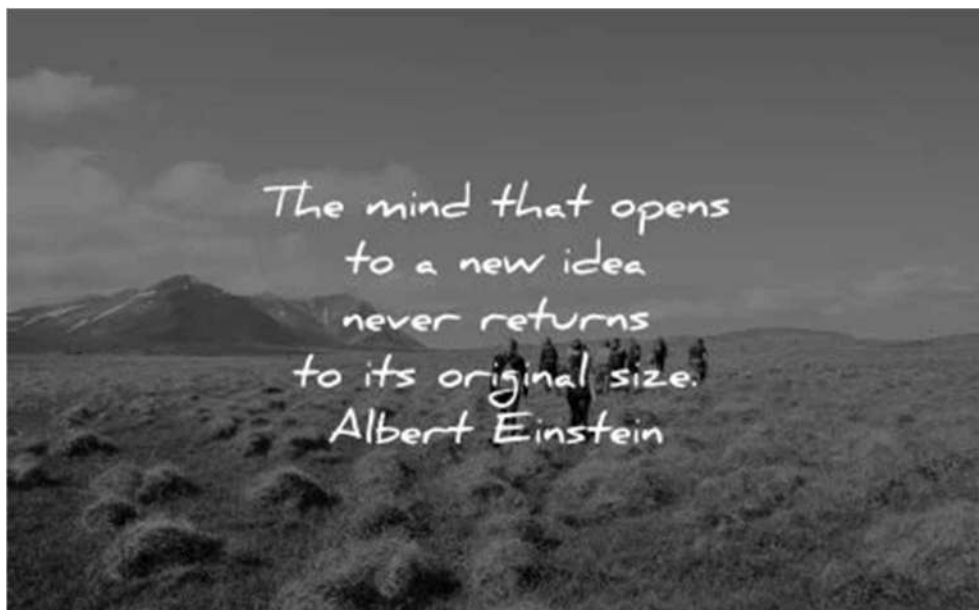
(ii) Whether the management has represented, that, to the best of it's knowledge and belief, other than as disclosed in the notes to the accounts, no funds have been received by the company from any person(s) or entity(ies), including foreign entities ("Funding Parties"), with the understanding, whether recorded in writing or otherwise, that the company shall, whether, directly or indirectly, lend or invest in other persons or entities identified in any manner whatsoever by or on behalf of the Funding Party ("Ultimate Beneficiaries") or provide any guarantee, security or the like on behalf of the Ultimate Beneficiaries; and

(iii) Based on such audit procedures that the auditor has considered reasonable and appropriate in the circumstances, nothing has come to their notice that has caused them to believe that the representations under sub-clause (i) and (ii) contain any material misstatement.

(f) Whether the dividend declared or paid during the year by the company is in compliance with section 123 of the Companies Act, 2013.

(g) (Whether the company in respect of financial years commencing on or after the 1st April, 2022), has used such accounting software for maintaining its books of account which has a feature of recording audit trail (edit log) facility and the same has been operated throughout the year for all transactions recorded in the software and the audit trail feature has not been tampered with and the audit trail has been preserved by the company as per the statutory requirements for record retention.”.

Companies (Audit and Auditors) Amendment Rules, 2021.





Corporate Satva - The Student Program

Unlike normal Sundays, Mysuru Chapter of ICSI was engrossed with Students organizing and participating in the much-awaited students' event - Corporate Satva 2021. It was 11th April 2021 and students gathered with lot of enthusiasm and a bit of confusion in their minds as to what would be in the event for them.

Corporate Satva - The words were coined to mean the essence of the Corporate World. The target of the event being to provide first-hand experience for the students of the corporate world / corporate events. The events for the day were designed on the same basis. It was a day-long event completely organized by the students and for the students. The event comprised of:

1. Mock Board Meeting
2. Mock Annual General Meeting
3. Impromptu Moot Court
4. Demo Toastmaster Meeting

Mock Board Meeting

Being students, the opportunity to enter the Board Room and be a part of the Board Meetings are seldom unless the students are in the practical training period. The organizers did bring the Board Room to the Auditorium. In the Mock Board Meeting session, apart from the regular Board meeting procedures, students also demonstrated various extraordinary scenarios like participation through video conference, election of temporary Chairman, scenario of passing resolution with interested party, Independent Directors dissenting to the unsatisfied business item, parking of the Agenda items for further meetings etc. The participants were also briefed with applicable provisions of the Companies Act, 2013, Secretarial Standards, various SEBI Regulations etc. for conducting the Board meeting. The specimen copies of Board Notices, Agenda and Minutes were also circulated to all the students for glance and to know how the documents look like practically.

Mock Annual General Meeting

Having been in Mysuru - A Tier two city where number of Corporates being very limited and the listed companies being very-very few, the students have miniscule opportunities to witness a full-fledged Annual General Meeting. The organizers did a wonderful job in recreating the Mock AGM for the participants. It all started with briefing of Provisions of the acts, standards and regulations and showing a copy of Notice. It was furthered by regular AGM procedures like

Appointment of Chair, passing of Ordinary and Special Businesses. The basis company for this mock AGM being taken as a listed company, the environment of the AGM was staged almost in line with real AGMs. The staged event also included uproar of shareholders over dividend issues, queries of shareholders having not been answered to their satisfaction etc. The Mock AGM also had a scrutinizer and there was a mock e-voting process that was conducted with the help of available technology. The participants were provided with next to real experience to the best possible for AGM and at last they were briefed with all the AGM related documentation and procedures including scrutinizers report, announcement of results, specimen Annual Reports etc.

Impromptu Moot Court

The participants having been a heterogenous group of students from both professional and non-professional (graduation) background, an impromptu Moot Court was conducted including all the participants. It was both a surprise and inclusive experience for all the participants to be part of a Moot Court. The case having been based on the items already discussed in the Mock Board meeting and Mock Annual General meeting, was kept simple for the benefit of all. All the participants were divided into teams on spot and were given a chance to present their arguments to the bench of judges who were qualified Company Secretaries. The participants not only got to test their advocacy skills, but also were given lot of value additions and inputs from the Judges who were well versed with both the Courts and the Moot Courts. The judges for the moot courts were CS Sarina Chouta, CS Mohan B K and CS Pracheta M.

Demo Toastmasters Session

ICSI having been partnered with Toastmasters Global, Mysuru Chapter also being interested to have its own Toastmaster club, organized the Demo Toastmasters Session as a part of the event. The event was led by Mrs. Kavitha Murali Prakash, Head of Mysuru District Toastmasters. She conveyed the importance of skills, communication, public speaking and majorly the need for professionals and professional students to improve the communication skills. The event was well received, the participants have shown the interest to join the Toastmasters soon and the chapter is all set to have its own club at the earliest.

The entire day's event was organized systematically by students. Due to Covid situations, though the number of participants were limited as per the local government announcements, all the covid measures were duly taken. With the help of generous sponsors, sumptuous and tasty food was provided and all the participants were provided with the Participation Certificate. The awards and medals were also given for active participants, winners and runners of the impromptu moot court teams etc. Overall, the event was a big success being one of the unique program conducted by the ICSI Mysuru Chapter for all the students in general. The participants have also given very good feedback and have promised to be attending all the future events of the Chapter.

The Organizing team of students included Mr. Santhosh Kumar G B, leading the Mock BM Team, Ms. Mathruka B M, leading the AGM team, Ms. Aparna U and Mr. Komal Kumar M leading the Moot Court team. Other organizers in the team were Mr. Prajwal R, Mr. Ajith Prakash, Mr. Hitesh M Prabhu, Ms. Shruthi Bhonsle, Ms. Rachana K P, Mr. Gagandeep, Mr. Bharath Kumar, Ms. Monisha C S and Ms. Nisha. The students were mentored by CS Phani Datta, CS Keerthana and CS Vijaya Rao.

CORPORATE SATVA 2021

ACQUAINT, ARISE AND ATTAIN.





**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)

Online Doubt Clearing Classes

by ICSI for students
appearing for
**June 2021
Examination**
(at nominal fee)



Registration is open for
**Foundation Programme, Executive Programme &
Professional Programme (New/Old Syllabus)**

Don't miss
the opportunity,
Join Online
Doubt Clearing
Classes of ICSI

::: HIGHLIGHTS :::

- Kindly make payment using the following link <https://tinyurl.com/uz7j7jf>
- Registered students can submit their doubts/queries through the Google form.
- Queries received from the students will be compiled and sent to the concerned faculty. The doubts /queries will be responded to by the faculties online during the classes.
- Students can also ask queries online through chat box during the class.
- Renowned faculties will sort out all your queries.
- Schedule of classes will be sent at your email id once you register for the classes.

::: SCHEDULE OF CLASSES :::

Professional Programme New Syllabus Classes
22nd March, 2021 onward (08:00a.m. to 11:00a.m.)

Executive Programme New Syllabus Classes
22nd March, 2021 onward (02:30p.m. to 05:30p.m.)

Professional Programme Old Syllabus Classes
5th April, 2021 onward (08:15a.m. to 11:15a.m.)

Executive Programme Old Syllabus Classes
6th April, 2021 onward (08:15a.m. to 11:15a.m.)

Foundation Programme Classes
12th April, 2021 onward (11:15a.m. to 02:15p.m.)

::: FEES :::

Foundation Programme	– ₹1000
Executive Programme	– ₹1000/Module
Professional Programme	– ₹1000/Module

For any queries, kindly send request at support.icsi.edu at Class Room Teaching related query tab.

CS NAGENDRA D. RAO
PRESIDENT, THE ICSI

CS DEVENDRA V. DESHPANDE
VICE- PRESIDENT, THE ICSI



Online Helpdesk : <http://support.icsi.edu>



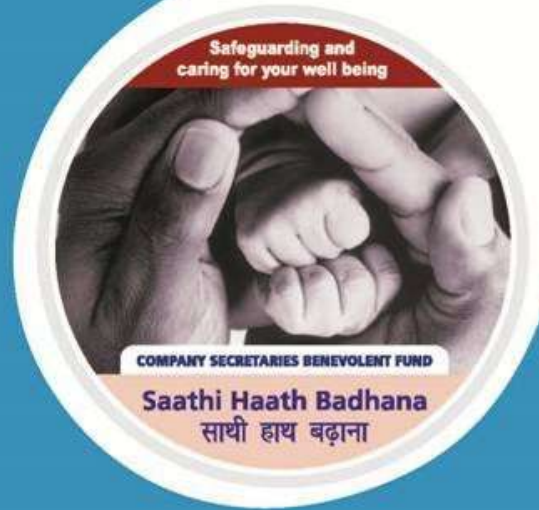
**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

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

CSBF

**COMPANY SECRETARIES
BENEVOLENT FUND**



What exactly is CSBF?

The Company Secretaries Benevolent Fund (CSBF) is a Society registered under the Societies Registration Act, 1860 and is recognized under Section 12A of the Income Tax Act, 1961.

The CSBF was established in the year 1976 by the ICSI, for creating a security umbrella for the Company Secretaries and/or their dependent family members in distress.

The amount of ₹ 7,50,000 (in the case of death of a member under the age of 60 years) has been increased to ₹ 10,00,000

The subscription amount is being increased from ₹ 10,000 to ₹ 12,500 soon

Is it the right time to enrol in CSBF?

CSBF is the protection you and your family need to survive the many ups and downs in life, be it a serious illness or a road accident which derails your plans for the future.

Is it a requirement?

Yes, as your dependents need the protection. Your dependents be it your parents, your spouse, or your children will have to bear the brunt of paying off your home/education personal loans and even for managing day-to-day expenses without your contribution.

If you do not want to leave behind such a situation in your absence, enrol in CSBF today.

Advantages of enrolling into CSBF

1

To ensure that your immediate family has some financial support in the event of your unfortunate demise

2

To finance your children's education and other needs

3

To ensure that you have extra resource during serious illness or accident

4

Subscription/Contribution to CSBF qualifies for deduction under Section 80G of the Income Tax Act, 1961

Become a proud Member of CSBF by making a one-time online subscription of ₹ 10,000/- (to be changed soon) through Institute's web portal (www.icsi.edu) along with Form 'A' available at link <https://www.icsi.edu/csbf/home> duly filled and signed.

Decide Now! Decide Wise!

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