



SIRC-Mysuru Chapter e-Magazine

JANUARY 2022
213th Edition

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

Motto
सत्यं वद। धर्मं चर।
Speak the truth. abide by the law.

Mission
"To develop high calibre
professionals facilitating
good corporate governance"

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CS Vijaya Rao
Chairperson
Mysuru Chapter

From the Desk of Chairman

Dear Professional colleagues,

Happy new year to all and Happy Makara Sankranti

It was just a year ago I was here in this column taking charge as a chairperson of the Mysuru Chapter of this prestigious Institution and requesting all your support to work together. Now I am here after a year, thanking all of you for your great support and expressing my gratitude.

As the Pandemic continued to 2021, as 2020, we had a very challenging year. As it has become norm in working through virtual mode, we could arrange many online programs at ease. We started the year with a bang by having 2-day program in the presence of our beloved President CS Nagendra D Rao, UoM Vice Chancellor Prof. Dr. Hemanth Kumar, and Entrepreneur, and TiE Mysuru President Sri.Ajit Pai. Then we had a student program “Corporate Satva”. In both the events members and students participated actively to make the program a big success. Unfortunately, by end of March Pandemic second wave started with force and we could not continue the physical program. Though we had a great plan of organizing many interesting, intellectual, and educative physical programs, due to Covid second wave we had to come back to virtual mode. Like blessing in disguise, because of virtual mode we could invite many learned members from all over India as resource persons.

We are closing the year with a pride of being the 4th best chapter and one of the best participated chapters during the national level competition “Yuvotsav 2022”. Our students have really worked hard and put the Mysuru Chapter in the limelight again. Kudos and congratulations to all the students who participated.

As the famous saying goes “Every story has an end but in life every end has a new beginning” As I am signing off as a Chairperson in few days, I wish all the best to the new Chairperson and new executive committee.

As Albert Einstein said, “Learn from yesterday, live for today, hope for tomorrow.” We have learnt many lessons from this Pandemic, something which none of us had experienced earlier, let us put those learnings to act, and hope tomorrow will be better for all of us.

“We are responsible for what we are, and whatever we wish ourselves to be, we have the power to make ourselves. If what we are now has been the result of our own past actions, it certainly follows that whatever we wish to be in the future can be produced by our present actions; so we have to know how to act.” – Swami Vivekananda

As we all just celebrated Swami Vivekanand’s birthday let us be all be responsible and know how to act from past learnings. As Covid 3rd wave is in full swing let us follow all the Covid guidelines, and hope endemic has started. Till then be safe, stay safe. Once again thanks to our President, the Institute, our regional office, each and every member and students for the great year!!

Jai Hind! Jai Karnataka! Jai ICSI!



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

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Chapter Activities

1. Career Awareness Programme

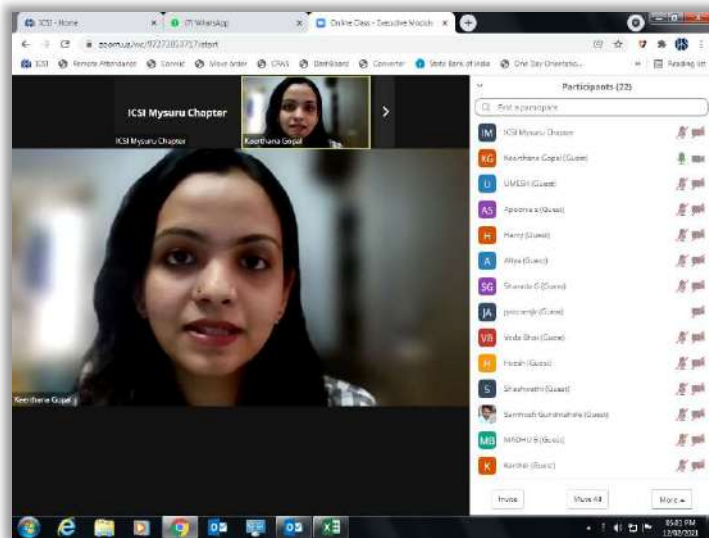
Chapter organized three career awareness programme during the month of December, 2021. The details are as follows.

S. No	Date	College Name	Resource Person	No of Students
1	02.12.2021	Sharada Vilas Degree College, Mysuru	CS Vijaya Rao Sri N. Dhanabal	90
2	10.12.2021	Mahajana PG Centre, Mysuru	CS Vijaya Rao Sri N. Dhanabal	50
3	16.12.2021	Maharani's Commerce & Mgt. College for Women, Mysuru	CS Phani Datta	60

2. Students Study Circle Meeting

Chapter organized one online Students study circle meeting during the month of December, 2021. The details are as follows.

S. No	Date	Topic	Speaker	No of Students
1	02.12.2021	Case Laws	CS Keerthana Gopal, PCS	25





Over a Cup of Coffee With...

Abridged and Edited



CS. Bhartendu Harit



CS Pracheta M

Practicing Company Secretary



CS Dr Shobha Sridhar

Practicing Company Secretary

Concept & Compilation:

Company Secretary of Jindal Stainless (Hisar) Limited, (India's largest stainless steel manufacturing company in private sector and amongst Top Ten Stainless Steel producers in world with an annual turnover of more than Rs.85,00 crore); a CS and law graduate with more than 26 years of experience in Legal and secretarial field.

CS. Pracheta: Welcome Bhartendu Sir for this session and thank you for accepting our invitation.

CS. Bhartendu: Thank you both and my greetings to all the office bearers of the Mysuru Chapter of ICSI and members. Let me congratulate the members of this chapter for their all kinds of sincere efforts for CS profession. You are really doing wonderful, I consider this is as one of best chapters of ICSI. I would like to congratulate and convey my best wishes to all women of this Chapter who are doing great work for this chapter and in turn for ICSI.

CS. Pracheta: Going back to the memory lane, can you recollect and share What /Who inspired you to join CS course?

CS. Bhartendu: I did my schooling in Hisar (Haryana). One fine day, when I was in 12th Standard, myself and one of my classmates were sitting in library of our school. We were discussing about the courses to be undertaken after graduation. He showed me brochure of CS course lying in library. We both read it thoroughly including syllabus of CS course. We saw name of so many Laws/ Acts. We were impressed very much. At that moment, I decided to pursue this course only. In a way, I decided at my own after going through the brochure and syllabus and scope of profession. I am feeling blessed to be part of this noble Institute. Though I am in employment, this profession has given me enough respect, dignity.

CS. Shobha: You have been in the profession for more than 2 decades now and mostly in employment. What are the special traits required for CS in employment?

CS. Bhartendu: Well, here, I would not talk about the domain knowledge because as a Company Secretary, we are expected to be expert in our domain. As present era is of Technology, therefore, one must be Tech Savvy, without that, one cannot survive. Another fundamental requirement is one should be well versed with the business of the organization so that he can advise on applicable legal compliances. So far as management skills are concerned, I would say a CS has to play a vital role as a mediator between management and other stakeholders, therefore, one should be an effective communicator and a collaborative apart from having basic management skills. While discharging duties in employment one has to focus on value addition. Company Secretary has to deal with procedure and process, therefore, it is imperative for him to review and re-assess every time, the process and procedure to eliminate non- value adding activities. Always

focus on complying the applicable laws and rule regulations in letter and intent. It will save the organization from monetary as well as reputation costs.

In my more than two decades experience, I have learnt that to be a successful professional, you need to have, people skills apart from domain knowledge. As you grow in organization hierarchy in employment, you have to often deal with people. From my experience, I would say “People are not difficult, they are different and have to be dealt differently”. I would suggest, make a Team, uplift your team. If you develop anybody else, your development is certain.

CS. Pracheta: *Thank you for giving those attributes. You have been an inspiration to so many of us in the profession. You must have mentored many professionals in your career. What qualities do you look for in younger professionals? If a young practitioner wants to grow big and expand the business horizon, what would your advice be to him/her?*

CS. Bhartendu: A very nice and appropriate question for next generation of professionals to come and to answer this I would say apart from reading and writing habits, they have to develop habit of thinking of out of box. They have to demonstrate that they are Reliable and Responsible. To grow big, personally, I feel they have to follow 3 H approach; Honesty, Hard work (now a days smart work) and Humbleness.

I would further say that don't limit yourself to the Company Law only. Our esteemed institute have exhaustive syllabus for CS course. Our members can provide complete solutions for Corporate in respect of various business transactions. Go beyond, look beyond, do some extra efforts, stretch yourself. Don't work with Fixed Mind Set always work with Growth Mind Set. The persons with fixed mind set always avoid challenges, easily give up, ignore negative feedback, therefore, achieve less than their potential. On the other hand, the persons with growth mind set always embrace challenges, don't give up easily and learn from criticism; therefore they always reach higher levels of achievements.

We are living in an environment of Uncertainty, Ambiguity and Complexity. My strong advice to young professionals is that work like a Professional and think like an Entrepreneur.

CS. Shobha: *The 3H principle is excellent. Challenges make us so what was the biggest challenge in your professional career? What made you to overcome it?*

CS. Bhartendu: Look, in day to day, we always face challenges. It is up to us how we take it. If you are less equipped, not prepared, you have not sharpened your soft skills, every situation is a challenge; otherwise, every situation is an opportunity. This is how I look at it.

I have spent more than 25 years in same organization at different levels. Initially, during internal assessments, I was lacking Creativity and Innovation in my profile, since we were of mind set that we are for complying with the standard check list and procedures prescribed by law. It was myth in my mind that professionals like me cannot be creative and innovative. Due to this, I faced some difficulties in completing one important transaction. I attended management trainings in which I learnt to develop creativity and innovation in working. I learnt that don't always follow pattern, always try to do thing in different manner. If you try differently, certainly you will get something new and useful.

CS Pracheta: *What according to you are the core values that have it shaped your outlook towards life and profession?*

CS Bhartendu: So far as core values are concerned, I would like to mention as under: -Be yourself, don't copy anybody.

-Be a learner

-Keep your curiosity live. Always ask questions to yourself and to others

-Give your 100% be it in personal life or professional life.

-Uplift the others in any manner.

CS. Shobha: Many times it is observed that persons who do exceptionally well in careers sometimes are unable to balance the personal life. Do you think that it is possible to maintain both well? How can this be achieved?

CS. Bhartendu: Yes, you have rightly observed, many a times it looks like that; but I don't agree that my personal life will affect if I perform very well professionally; there could be some other reasons for that.

Certain aspects of personal life are equally important as that of professional life. I strongly think and of the view that it is very much possible to maintain both well.

For this (i) One has to create balance within his/her mind as balancing is all in mind set. When I am saying balance within mind it means we have to accept that if we want to gain something exceptionally we have to lose something too (ii) one has to create system of professional working by developing Team and by choosing to delegate (iii) one has to prioritize activities with clever thinking.

CS. Prachet: Mindset matters and that is why I guess one of your interests is Spirituality. What does it mean to be spiritual? Does being spiritual help in the profession?

CS. Bhartendu: This quotient of behavior is very near to my heart. To me, Spirituality means living with Humanity and with Gratitude, in simple words. If one is kind to Humanity and is living with Gratitude in every situation, he is spiritual.

To me Spiritual quotient (SQ) is must for our personal life and professional life. If SQ is missing, you other quotients (IQ, EQ) may not be fully fruitful in your life.

CS. Shobha: You have mentioned about reading? What kind of books do you read? How do you make time to read books in your busy schedule?

CS. Bhartendu: I read books of management experts and other spiritual speakers during travel time and before going to bed. Special time on Sunday is spared to read any special book.

CS. Pracheta: It has been a great learning with you. My last question is what is Success according to you?

CS. Bhartendu: It's a very tough question. Success is very subjective. There is no limit for Success. Personally to me, success means if I am earning enough to meet requirements of family and going home in time, spending time with my family and friends as and when required. I am being loved by my colleagues, my friends and by my family member... I feel I am fully successful. Thank you!!!

"A unique opportunity to CS Students
Dear Students,
We hope you are going through the interviews with the stalwarts of the profession. You too may have few questions in mind to ask these eminent Company Secretaries. Here is a unique opportunity for you to ask your questions directly to them!!! You have to send us the takeaways from the interview published in this month's magazine (please go through the excerpts published as well as the video link) and send your responses to newsletter.icsimysore@gmail.com. The student who gives us the 'best takeaway/s', will get an opportunity to ask a question to our guest in the next series of the interview."

For Complete interview please click the link: <https://bit.ly/InterviewwithBhartenduHarit>

Transformational Leadership in Corporate Governance



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Preface

The importance of corporate governance lies in its contribution both to business prosperity and to accountability. The emphasis on accountability has tended to obscure the Board's first responsibility that is to enhance the prosperity of the business over the time. Business prosperity cannot be commanded - people, teamwork, leadership, entrepreneurial values, experiences and skills are what really produces prosperity.

Accountability, by contrast, does require appropriate rules and regulations, in which disclosures are the most important elements. Good governance ensures that the constituencies (that is, stakeholders, funders, government) are taken fully into account with respect to their relevant interests concerning the company's businesses and activities.

Cadbury Committee

Longtime back, the Cadbury Committee - a private sector initiative - was the landmark decision in the evolution of corporate governance. The Cadbury Committee defined corporate governance as "the system by which companies are directed and controlled". Now, the directors are at the center of any discussion on corporate governance and are linked directly to the responsibility towards stakeholders.

To ensure this, a company must develop relationships relevant to its success. This, in turn, will depend on the nature of a company's business, credit providers, local communities and the government(s). It is the management's responsibility to develop the policies that addresses these issues; in doing so, they must also keep in mind the overriding objective of preserving and enhancing the shareholders' investment over a period.

Corporate Governance

The term 'corporate governance' was not uncommonly found in American law journals and was imported from the US into the UK. It took firm roots when Sir Adrian Cadbury was asked in May 1991 to chair the committee on the financial aspects of corporate governance by the Financial Reporting Council, the London Stock Exchange, and the accounting profession. The Cadbury Committee, as it came to be called, was born out of the scandals which hit the city during the late 1980s (several of which did not actually come to light in their full horror until the early 1990s). These factors brought into being corporate governance and is now extended to India as well.

Good Corporate Governance

Good corporate governance can follow the following basic principles:

Every listed company should be headed by an effective board that will lead and control the company. It is immaterial whether the management is different from the Ownership or not, but, good corporate governance is within the threshold of Board.

There are two key tasks at the top of every public company - the running of the board and the executive responsibility of running the company's businesses. A decision to combine the roles of a Chairman and a MD/CEO into one post is the best combo.

The board should include a balance of EDs (Executive Directors) and Non-Eds (Non-Executive Directors).

The flow of information to the Board should be timely, to help discharge its duties effectively.

The mechanism of appointing new directors should be transparent.

The company's financial reports should periodically contain statements pertaining to salient disclosures, including remuneration to directors.

The board should present a balanced and comprehensible assessment for the company's position and prospects.

The board to put in place a sound system of internal control to safeguard shareholders' investment and the company's assets.

The auditors should independently report to the shareholders in accordance with the statutory and professional requirements and assure the board on the discharge of their responsibilities.

All directors should be required to submit themselves for re-election at regular intervals and at least every three years.



Audit Committee

Good corporate governance can be ensured if the audit committee does the following assigned tasks:

- Review the scope and results of the periodic audit reports and their cost effectiveness in line with the independence and objectivity of the auditors.
- Discuss with the external auditors (before the audit commences) the nature and scope of audit and other relevant matters.
- Focus particularly on a change in accounting policies and practices, compliances on various accounting standards, significant adjustment entries resulting from the audit, compliance with stock exchange and listing requirements.
- Discuss problems and reservations arising from the audit and any matter that the auditor wishes to discuss.

In Williams and another versus Natural Life Health Foods Limited and Mistlin (Court of Appeal. 1997, I.B.C.L.C. 131) December 1996, the court held that the managing director of a franchise company was liable to persons for negligence in relation to the granting of a franchise.

In 1998, the House of Lords, reversed the decision (TLR May 1, 1998) on the ground that the facts of the case did not reveal that. In this case, the plaintiff set up a health food shop in Rugby after franchise arrangements had been negotiated with Natural Life Health Foods Ltd. They decided to proceed on the basis of financial projections prepared by the company which, the judge held had been negligently prepared. Finally, the House of Lords held that the circumstances were insufficient to make the defendant personally liable, but did not disapprove of the principle that

there might be circumstances that placed personal liability for negligent mis-statements. The case was, thus, a warning note.

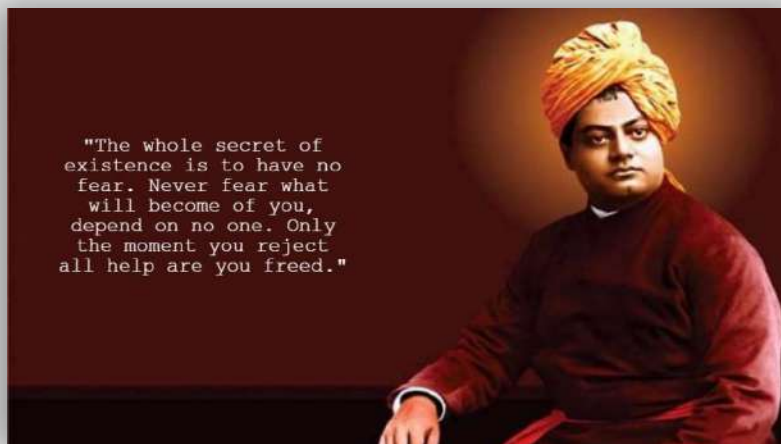
Transformation Processes

It is rather imperative on the part of the Board (of Directors) to assimilate and understand the goals of the company and debate and discourse in internal sessions at the Board Level and sometimes at the Corporate Key Level of Top Management Members which may include geographical CEOs/Presidents/Vice-Presidents' etc., The ideas germinating therein shall require to be percolated down the line as not all things in a corporate hierarchy can be "bottom-up" as all and many to be only "Top-Down" approaches, typical of Leadership Qualities. What is the 'transformation' for and about-this question may trigger the minds of readers.

YES, there is a need for a classic understanding of the current and an immediate future nuance of corporate challenges in the midst of globalization, compliances and expansions across geographies. An adept understanding and functioning of the Board alone would enhance values to both the management and to the stakeholders.

Conclusion

The conclusion from this evidence is that directors probably ought to observe the code of ethics described in corporate governance, particularly to third parties. Training and support for management's efforts in compliances are vital. The existence and requirements of the company's policies must be drawn and explained across the employees to make them to commit with attention at appropriate times. Employees must understand the role they have to play and actually perform without any ambiguity on their respective role as per the hierarchy. Where there is turnover of employees depending on the nature of the business, compliances may be an issue for the induction of any such program. In short, the transformational dynamics must pervade and expand the vistas for better corporate governance in corporates.



“Decoding MCA E-Form : DPT-3”



CS Lalit Rajput

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INTRODUCTION:

Ministry of Corporate Affairs (MCA) has made amendments in the Companies (Acceptance of Deposits) Rules 2014. The companies are required to make disclosures of Deposits pursuant to rule 16 and 16A of the Companies (Acceptance of Deposits) Rules, 2014. MCA vide its notification dated 22.01.2019 has notified that every company other than a government company must file a One Time return and Yearly Return in DPT 3.

“Every company other than Government company shall file a onetime return of outstanding receipt of money or loan by a company but not considered as deposits, in terms of clause (c) of sub-rule 1 of rule 2 from the 01st April, 2014 to 31st March, 2019, as specified in Form DPT-3 within “90 days from 31st March, 2019” along with fee as provided in the Companies (Registration Offices and Fees) Rules, 2014.

Overview Of Provisions In Brief Related To MCA E- Form Dpt-3:

Rule 16: Return of deposits to be filed with the Registrar

Every company other than Government company to which these rules apply, shall on or before the 30th day of June, of every year, file with the Registrar, a return in Form DPT-3 along with the fee as provided in Companies (Registration Offices and Fees) Rules, 2014 and furnish the information contained therein as on the 31st day of March of that year duly audited by the auditor of the company.

Form DPT-3 shall be used for filing return of deposit or particulars of transaction not considered as deposit or both by every company other than Government company.

Rule 16(A) (3): Return of deposits to be filed with the Registrar

Every company other than Government company shall file a onetime return of outstanding receipt of money or loan by a company but not considered as deposits, in terms of clause (c) of sub-rule 1 of rule 2 from the 01st April, 2014 to 31st March 2019, as specified in Form DPT-3 within ninety days from 31st March 2019 along with fee as provided in the Companies (Registration Offices and Fees) Rules, 2014]

Types Of Returns Prescribed Under E-Form Dpt-3

1. Onetime Return for disclosure of details of outstanding money or loan received by a company but not considered as deposits in terms of rule 2(1)(c) of the Companies (Acceptance of Deposits) Rules, 2014.	2. Return of Deposit	3. Particulars of transactions by a company not considered as deposit as per rule 2 (I) (c) of the Companies (Acceptance of Deposit) Rules, 2014	4. Return of Deposit and Particulars of transactions by a company not considered as deposit
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Definition:

1. Section 2 (31) of the Companies Act, 2013 has defined Deposit:

"deposit" includes any receipt of money by way of deposit or loan or in any other form by a company, but does not include such categories of amount as may be prescribed in consultation with the Reserve Bank of India;

2. Rule 2(1)(c) of the (Acceptance of Deposits) Rules, 2014

(c) "deposit" includes any receipt of money by way of deposit or loan or in any other form, by a company, but does not include -

- i. Amount received from central government, state government etc.
- ii. Amount received from foreign governments/ banks etc.;
- iii. Amount received as loan from banks, banking companies etc.
- iv. Amount received as loan from Private Finance institutions (PFIs), any regional Financial Institutions or insurance companies or scheduled banks;
- v. Amount raised through issuance of commercial paper;
- vi. Inter- corporate deposits;
- vii. Amount received as subscription money for securities pending allotment;
- viii. Amount received from directors/ relative of directors in case of a private company;
- ix. Amount raised by issue of secured bonds/ debentures;
- x. Amount raised through issuance of unsecured listed NCDs;
- xi. Non-interest bearing security deposit received from employees;
- xii. Non-interest bearing amount held in trust;
- xiii. Advance from customers;
- xiv. Amount brought by the promoters;
- xv. Any amount accepted by a Nidhi;

- *And many more given under Rule 2(1)(c) of the (Acceptance of Deposits) Rules, 2014.*

3. “Exempted Deposit”:

The amounts received by a company but excluded from being deposits as per the list provided in Rule 2(1)(c) are exempted deposits.

Key Points Related To MCA E-Form Dpt-3-An Analysis

1. Filing of DPT-3 when it was introduced:

One time Return	Annual Return
Return contains the details of exempted Deposits	return contains the details of Deposits and / or Exempted Deposits
Reporting Period : 01.04.2014 to 31.03.2019	Reporting Period : During the year (April 1 to March 31 of every year)
Balances outstanding as on 31.03.2019 are to be reported	Balances Outstanding as on the 31st day of March of every year are to be reported
To be filed latest by 29.06.2019 (one time only)	To be filed latest by 30 June of every year

2. Nil DPT-3 is not required to be filled.
3. Amount received from an LLP as a loan is not covered under exempted deposit that will fall under the definition of deposit.
4. If Company receives trade advance and due for more than 365 days then it shall be covered under the definition of deposit.
5. If a director gives loan to a Company when he is holding the position of director in the company then this will become exempted deposit and he should give a declaration for the same that the amount is from his / her own fund & not from the borrowed fund, otherwise, it will be treated as a deposit.
6. If Company makes issue of shares and received money but does not allot shares with 60 days then Share application money which is outstanding less than 60 days will fall under the definition of Exempted deposit and if more than 60 days (not allotted shares/ refunded the money) then fall under the definition of deposit.
7. Amount received from a HUF by a Private Limited. Company: Exempted deposit because HUF is not separate legal entity and the amount received will be treated as an amount received from the KARTA. In the case if he is not a director or relative of the director and gives loan to a Company then it will be treated as deposit.
8. Point No. 6 of E-Form DPT-3: Objects of the Company: Automatically prefilled based on the NIC Code from the latest AOC-4 Filed by the company. And we should check whether the prefilled field is ok or not, If it is not matching with Companies data then we should raise a ticket with the MCA.
9. for other intangible assets:

We can attach a clarification letter to clarify the calculation of NETWORTH (advisable). Because net worth for DPT-3 includes other intangible assets. So in this case Net worth will be different because while computing net-worth for MGT-7 and AOC-4, the Net worth includes other intangible assets. Therefore, there will be a change in the Net worth as per MGT-7 / AOC-4 and DPT-3.

10. Point - 14 of E-form :

Only Amount outstanding as on 31.03.2019 and only activated for one time return only. One Time return has to be filed by all the company except Govt and NBFC. It is advisable to obtain and attach Auditors Certificate (statutory auditor) with Form DPT-3.

11. Exemption Given to :

- Government Companies
- Banking companies
- Registered NBFCs
- Such other companies as may be specified by the Central Government

Note: Insurance companies will not be eligible for such exemption as they are not registered with RBI.

12. An ACTIVE non-complaint Companies are eligible to file Form DPT-3.

13. Requirement of Auditor Certificate:

Mandatory Auditor Certificate	Not Mandatory - Auditor Certificate
<p>If the Form is filed</p> <ul style="list-style-type: none"> • “return of Deposits” or • “return of Deposits as well as Exempted Deposits” 	<p>If the e-Form is filed as the</p> <ul style="list-style-type: none"> • “return of Exempted Deposits” <p>(whether as one-time return or annual return)</p>

- The Auditor’s Certificate is mandatory only in case of return of deposits.
- For filing particulars of transactions not considered as deposits information contained therein as on 31st March of that year need not be from the duly audited Financial Statement.
- Only in case of Return of Deposit information contained therein as on 31st March of that year should be from duly audited financial statement of the company.
- In Simple Word, Auditor certificate is not required which is not amounting to deposit as per rule 2(1)(c) of Companies (Acceptance of Deposits) Rules, 2014. i.e exempted deposit.
- Clarified by MCA in the month of June 2019

14. Attachments to E-Form DPT-3

- Auditor’s certificate (If Mandatory)
- Copy of trust deed - Mandatory if company has trust deed and details of same are mentioned in the form
- Copy of instrument creating charge - Mandatory if company has trust deed and details of same are mentioned in the form
- List of depositors - List of deposits matured, cheques issued but not yet cleared to be shown separately - Mandatory if company has balance of deposits outstanding at the end of the year.

- Details of liquid assets

15. Amount Outstanding to be filled in DPT-3 shall include both Principal and Interest Amount as on 31st March of every year.
16. Loan amount received from an NBFC shall be disclosed as money received from other company in form DPT-3.
17. Any Compulsorily Convertible debentures issued beyond 10 years then it will be treated as deposits and the same has to be disclosed in DPT-3.
18. No certification by the practicing professional is required for filing the MCAE-Form DPT-3.
19. Processing Type of the E - Form: The eForm will be processed by the office of Registrar of Companies (Non STP).
20. Who can sign DPT -3 E form: Any Director, Manager, CEO, CFO or Company Secretary (CS) authorized by the Board of the Company. Disqualified director should not be able to sign the form.

Consequences Of Non-Reporting Under Form Dpt-3:

Under the Companies Act, 2013, Section 76A and Rule 21 are concerned about the penal provisions related to Non-Filing of Form DPT-3:

76A. Punishment for Contravention	Rule 21 Punishment for Contravention.
<ul style="list-style-type: none"> • A penalty of minimum 1 crore or twice the amount of deposits whichever is lower, which may extend to Rs. 10 crore • For Officer in default imprisonment up to 7 years and with a fine not less than Rs. 25 lakhs which may extend to Rs. 2 crores. • If knowingly or wilfully default: Officer in default shall be liable for action under section 447. 	<ul style="list-style-type: none"> • The company and every officer of the company who is in default shall be punishable with fine which may extend to five thousand rupees. • If contravention is a continuing one, with a further fine which may extend to five hundred rupees for every day after the first day during which the contravention continues.

Conclusion:

To safeguard the interest of creditors or depositors, Ministry of Corporate Affairs (MCA) in consultation with the Reserve Bank of India has notified an annual MCA E-Form DPT-3 which includes details of Amount of deposits accepted, repaid , outstanding , matured not claimed, existing deposits, details of liquid assets and particulars of charge.

Disclaimer: Every effort has been made to avoid errors or omissions in this material. In spite of this, errors may creep in. Any mistake, error or discrepancy noted may be brought to our notice which shall be taken care of in the next edition. In no event the author shall be liable for any direct, indirect, special or incidental damage resulting from or arising out of or in connection with the use of this information. In no event the authors shall be liable for any direct, indirect, special or incidental damage resulting from or arising out of or in connection with the use of this information.

Applicability and Compliances of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013



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Introduction

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereafter referred as “Act”) is a Central Government legislation to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

Sexual harassment results in violation of the fundamental rights of a woman to equality under Articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under Article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business with includes a right to a safe environment free from sexual harassment.

Applicability

This Act extends to the whole of India and applicable to all workplaces, establishments, offices, organizations, factories, institutions, shops, branches etc whether government or private irrespective of number of employees or activities or turnover.

Meaning of Sexual Harassment

As per Section 2(n) “Sexual Harassment” includes any one or more of the following unwelcome acts or behavior (whether directly or by implication) namely: -

- i. physical contact and advances; or
- ii. a demand or request for sexual favours; or
- iii. making sexually coloured remarks; or
- iv. showing pornography; or
- v. any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

Constitution of Internal Complaints Committee

Every employer of workplace shall by an order in writing constitute Internal Complaints Committee (ICC). If there is more than one office, units or branches or workplace located at different places, then ICC shall be constituted at all such places / branches where there are **10 (Ten) or more** workers / employees.

Committee shall consist the following to be nominated by Employer.

S No	Designation	Qualification	Number of Members
1	Presiding Officer / Chairman of the Committee	Shall be the women employee at senior level among the employees	1
2	Minimum two members from employees	Shall be committed to the cause of women or had experience in social work or have legal knowledge.	2
3	One member from NGOs or Associations	Shall work for the cause of women or a person familiar with the issues relating to sexual harassment?	1
Total Members of ICC			4

Point to Note

1. There must be Minimum 4 members in the ICC including Presiding Officer / Chairman of the Committee and there can be more than 4.
2. But at least one-half (50%) of the Committee shall be women.
3. The Committee term is 3 years or less as may be decided by the employer.
4. Member from NGO can be paid fees or allowances.

District Officer

As per Section 5 of the Act, the Government shall notify a District Magistrate or Additional District Magistrate or the Collector or Deputy Collector as a District Officer for every District to exercise powers or discharge functions under this Act.

District Collector:

Most of the State Governments have had designated District Collector as District Officer.

Complaint of Sexual Harassment

1. The aggrieved women may complaint in writing to the Internal Complaints Committee (ICC), or Local Committee (LC) where there is no ICC within 30 days of Incident.
2. The ICC or LC may extend the time by 3 Months, if it is satisfied.

Duties of employer

As per Section 19, every employer shall:

1. Provide a safe working environment
2. Display at prominent places the consequences of sexual harassments, the order constituting the Internal Committee and names & contact details of ICC in English and regional language.
3. Organize workshops and awareness programmes to employees
4. Orientation programmes for the members of ICC
5. Provide necessary facilities to the ICC
6. Provide assistance to the woman if she chooses to file a complaint in relation to the offence under the Indian Penal Code (IPC)
7. Treat sexual harassment as a misconduct under the service rules and initiate action for such misconduct;
8. Monitor the timely submission of reports by the Internal Committee.
9. Others

Annual Report

As per Section 21(1), Committee to submit annual report-The Internal Committee or the Local Committee, as the case may be, shall in each calendar year prepare, in such form and at such time as may be prescribed, an annual report and submit the same to the employer and the District Officer.

There is no time limit provided in the Act for submission of Annual Report to the District Officer. Generally Annual Report can be submitted in the Month of January for the previous year or as per the rules /direction of the particular stage government to the District Collector of respective District and get acknowledgement for evidence of Compliance.

Alternatively, the Employer can also post the Annual Report by Registered Post Acknowledgement Due (RPAD).

Employer to include information in Annual Report

Pursuant to Section 22 of the Act, the employer shall include in his Company / Corporate / Organization Annual Report about the number of complaints received, disposed and pending.

Penalty

1. If the employer fails to comply with the Act and Rules, then he shall be punishable with fine which may extend to 50,000/-
2. If the employer subsequently commits the non-compliance, then the fine may be twice the punishment, which might have been imposed on a first conviction.
3. Such non-compliance may also attract Penalties or/ and punishments under any other Laws in force including IPC.
4. The Government or Local Authority may cancel the Licenses, Registrations of the Business or activity of the Employer.

Rules

Most of the State Governments have had framed the Rules under THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013. Therefore, such Rules shall also be followed based on the location of the Workplace / Office / Branch / Factory.

Anti-Sexual Harassment Policy

The employer shall have an Anti-Sexual Harassment Policy in place covering the following points.

1. Brief of the Act
2. Meaning of Sexual Harassment
3. Zero-tolerance at work place
4. Employer order for Constitution of ICC of each work place / Branch
5. About the Committee and contact details of Members
6. Complaint mechanism
7. Duties of Employer, Employees and Committee
8. Awareness Programmes to Employees
9. Orientation to Committee Members
10. Accessibility of Policy
11. Review of the Policy and Amendments

Annual Report

The Annual Report that shall be prepared by the ICC shall contain the following coverage:

1. About the Company / Employer
2. Brief about Anti-Sexual Harassment Policy or Prevention of Sexual Harassment Policy
3. Brief about the Committee Members
4. Brief about the Committee Meetings
5. Brief about the Records and Committee Minutes
6. Complaints received
7. Complaints disposed
8. Number of complaints pending for more than 90 days
9. Number of workshops or awareness programmes conducted during the calendar year
10. Nature of action taken by the employer or District officer
11. Complaints filed under IPC or any other Act for the time being in force.

Records & Documents that shall be Maintained

- a) Register of seminars and workshops conducted in a year for Employees and Workers
- b) Register of Orientation programmes conducted for ICC Members
- c) Prevention of Sexual Harassment Policy
- d) Documents like complaints, replies, action taken to the complaints
- e) Notices, Minutes and Proceedings of ICC
- f) CCTV footage, if available for any Sexual Harassment at workplace.

Checklist for Compliance

The following is the simple compliance checklist to check the compliance under THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013.

S No	Compliance Required	Compliance Status Yes / No	Remarks
Policies, Orders & ICC Meetings			
1	Whether Prepared and implemented an internal Anti-Sexual Harassment Policy?		
2	Whether Employer issued orders in writing to Constitute Internal Complaints Committee (ICC) for each branch or office?		
3	Whether Constituted Internal Complaints Committee (ICC) for each branch or office? (Applicable to each branch or office with 10 or more Employees / Workers)		
4	Whether sexual harassment is specified as Misconduct in Employment Contract / Offer Letter and Employee manual?		
5	Have you displayed at prominent places the consequences of sexual harassments in English and regional language?		
6	Have you displayed names & contact details of ICC in English and regional language?		
Awareness and Orientation Programmes			
7	Have you conducted awareness Programmes for Employees?		
8	Have you maintained a Register for Awareness Programmes conducted to Employees?		
9	Have you conducted orientation to Committee Members?		

10	Have you maintained a Register for orientation to Committee Members conducted?		
11	Do you have a mechanism to assist the employees to file complaints under Indian Penal Code (IPC) or any other Law / Act?		
12	Have you followed the recommendations of the ICC?		
Annual Report of ICC and Annual Report of Company			
13	Is the Annual Report Prepared by ICC?		
14	Whether Annual Report is submitted by ICC to Employer and District Officer?		
15	Have you included the complaints received, pending and disposed of in the Annual Report of the Company?		
Compliance & Responsibility			
16	Is there any mechanism to oversee and supervise the ICC activities and Compliance under this Act?		
17	Do you place the Compliance Status, complaints etc in the Board Meeting of the Company?		
19	Does your Company have a designated employee / officer who is responsible for compliance and maintenance of Records and Policies?		
20	Have you maintained Notices, Minutes of ICC Meetings and Proceedings of ICC		





In this modern world, everything is constantly evolving. In order to make everything effective and efficient, continued research and development will be conducted in every field. And one has to know how things work in this world, as our elders said, "knowledge is power".

But why do corporate professionals need to know about science and technology anyway?

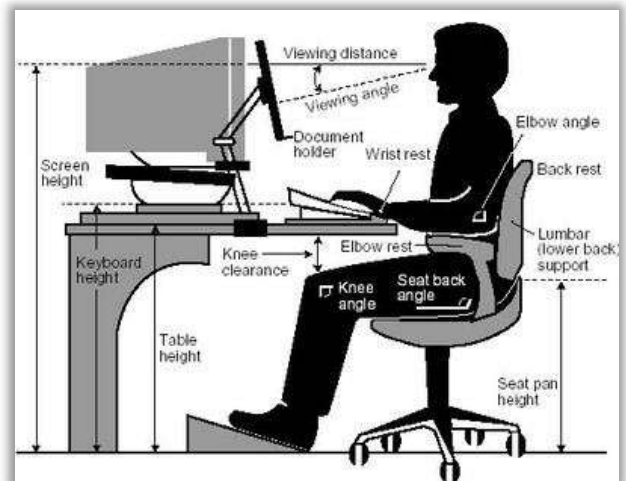
The answer is simple: we corporate professionals deal with all kinds of businesses, whether they are manufacturing or service industries. For example, if an inventor wants to register a patent for his newly developed technology, we must understand why that technology is unique and what its application will be and we need to know if there are any other similar inventions, we must properly examine them. This can only be done if we understand the invention and know every detail of it. It will be our responsibility to ensure that the inventor does not face any legal issues as a result of our lack of knowledge on the given topic.

In this column we will try to understand about the recent R & D, statistics, scientific studies, and many more relating to science and technology that will help you gear up in various fields.

Ergonomics

McCormick and Sanders explained ergonomics as the application of information about human abilities, limitations, and behavior toward creating jobs, tasks, tools, and machines that facilitate a comfortable, effective, safe, and productive work environment. In Layman Language Ergonomics is the relationship between the jobs and workers.

Ergonomics is one of the most important workplace safety concerns because non-ergonomic work environment may lead to various health issues like wrist pain, neck pain, chronic back pain and many more.



A good ergonomic work environment results in a healthy life and results in the better productivity of the employees. For example, in a software company, some simple adjustments like a comfortable chair with head rest and arm rests, breathable cushion, adjustable seating heights will reduce the muscle fatigue of the employees. And height adjustable tables will help the employees to stand and work, giving some work to their legs as well without reducing the efficiency.

As we understand the importance of Ergonomics, let us see how can we correct it...?

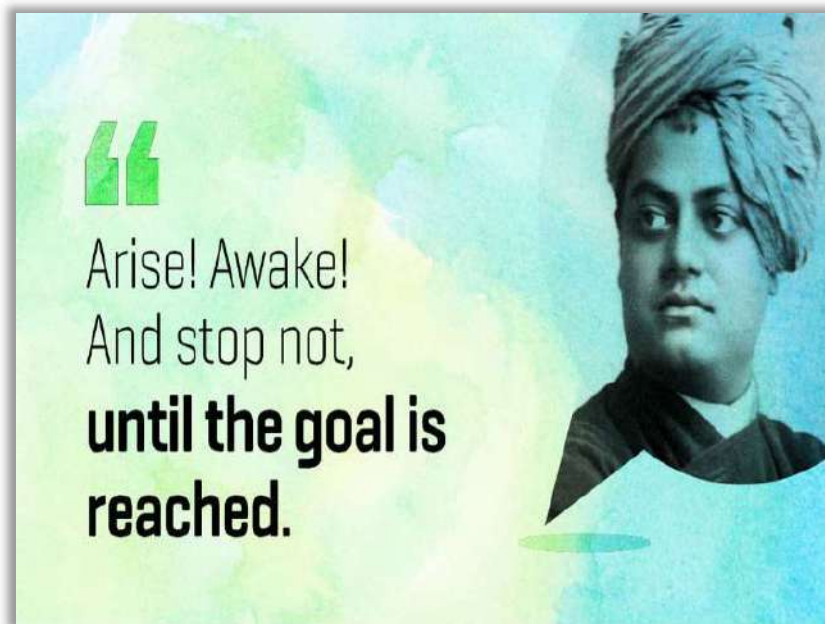
We professionals spend most of our time by sitting in our office or homes in front of the computers and staring at the screen.

One can increase the productivity by implementing the ergonomics in the real life, some things you can start from this very moment are as follows:

1. Keeping everything on your table at arm's length and easy to reach.
2. Maintaining the good posture when working in the computer and stretching often will help.
3. Placing the keyboard in the exact center of the monitor and placing the mouse at easy reachable position.
4. Using the keyboard trays and comfortable mouse pads.
5. Avoiding resting the elbows on hard surfaces or at the edge of the table.
6. Keeping the wrist in neutral or straight whenever using the keyboard or calculators.
7. Positioning your monitor to eliminate the glare or reflections on the screen.
8. Avoid hitting the keyboard with excessive force. Studies have shown that the average user hits the keyboard with four times the required force when keying.
9. Using the software to minimize the usage of keyboard and making everything as automated as possible.
10. Getting massages every now and then helps in the blood circulations and improves hand and fingers co-ordination.

Making these small changes will really help in functioning day to day business.

One can make the most usage of the software's and reduce the work, by increasing the productivity, if you want to know more about that you have to wait till the next edition, till then try to implement the tips mentioned above.





HELP YOURSELF

Food for Thought



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Executive Student

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The New One Minute Manager

- by Ken Blanchard and Spencer Johnson

January is the time when it feels like a fresh start and without thinking much about whether or not it is actually so, we can make use of this feeling to bring about a few changes in our habits, routines, practices and even life as a whole.

What new things would you like to start this year? We all have a small list, if not written down somewhere like how some meticulous ones do it, most of us would at least have it somewhere in our minds to begin something new and January, the dawn if the year is great in that way.

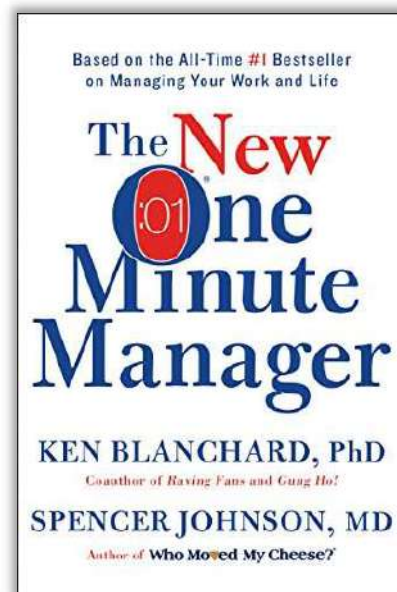
Reading Atomic Habits by James Clear will tell you the significance of starting small and starting with easy habits. So, if you want to make reading a habit, or if you are already an avid reader but not consistent, here's an easy read for you for the start of the year- The New One Minute Manager.

Besides being just about a hundred pages, this book is an easy read because it is a self-help book written in the form of a story. The last book I read like this was The 5 AM Club, another excellent choice for reading in January (You can find an article under this column on the 5AM Club by Robin Sharma in the January 2021 issue of this e-magazine.)

As the title suggests, this book is about management, something everyone needs to some degree in many stages of their lives. The book essentially is about three secrets to management for any type of organization that involves people. As always, I do not write a review or summary of the whole book here, I simply share an idea or two from the book hoping that would interest you to pick up the book and read it for yourself.

One essential takeaway from this book is- 'Catch them doing something right.' Oftentimes people at the workplace are only pointed out for their mistakes. It would also be nice if they are appreciated or at least informed about what they have done right. Sometimes they have to wait till they see their performance review to get to know what they have done right whereas mistakes are quickly made known. In the worst case scenario, this can be detrimental to their performance and morale. This may sound very trivial but such appreciation or clarity can be an important factor for their retention and beyond. "People who feel good about themselves produce good results."

The book provides many more ideas that can be a great foundation for an organization. Critically speaking these may sound fairly too simple. However, there is no denying that this easy-read can help you significantly if you have missed



out on obvious points which can go on to prove costly on the organization's good results. Investing a little time in this book can definitely help you make simple but effective changes at your workplace. So, hurry up and grab this quick-read!



DELHI DIARIES



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Can Public Outcry Change the “Commercial Wisdom” of Committee of Creditors? - Bank of Maharashtra v. Videocon Industries and Ors.

For long now, the accepted and established standard on the question of acceptance of resolution plans under IBC has that the commercial wisdom of the Committee of Creditors is paramount. But of late, there had been some discontent expressed in the media that this was leading to situations where the recovery was extremely low compared to the outstanding dues of the corporate debtor.

A large proportion of these dues were to financial creditors who had loaned out what are essentially public funds to these corporate debtors.

In this background, it is important to see the judgment of the National Company Law Appellate Tribunal dated 5th January 2022 in Bank of Maharashtra v. Videocon and others.

The Videocon group needs no introduction. It is a household name in India. Perhaps its recent travails are also well known. Thirteen companies of the Videocon group were admitted to insolvency between June to September 2018 on the basis of petitions filed by the State Bank of India, which was the leader of the consortium of lenders and also on some petitions filed by operational creditors.

Various creditors claimed Rs. 72,078.5 crores of which Rs. 64,637.6 crores were admitted. Though the admitted claims were an enormous sum, the resolution plan received, accepted and also approved by the NCLT was only for Rs. 2962 crores, resulting in a haircut of over 95%. 5% of the claims of the financial creditor were settled whereas only 0.72% of the claims of operational creditors was approved. This was the cause for the public outcry.

Though the resolution plan had initially been admitted by committee of creditors, with 95.09% votes in favour of it, most of the Assenting Financial Creditors (AFC) changed their position and stated that they would reconsider the plan in view of larger public interest.

The NCLAT considered several challenges to the approval of the resolution plan. The dissenting financial creditor argued that the amount paid to them under the resolution plan would be lesser than what they would be entitled to as per liquidation value. Similar contentions were also raised by various operational creditors.

The resolution professional set out the payments to be made to the appellants and stated that there was no need to remand the issue back to the committee of creditors.

The successful resolution also explained the resolution plan and stated that they would be paying a sum of Rs. 200 Crores in cash and Rs. 2700 odd crores in non-convertible debentures which would carry interest of 6.65% and be redeemable in instalments over a period of 5 years.

The successful resolution applicant contended that the commercial wisdom of the committee of creditors, which was the accepted standard under which the resolution plan would be tested could not be replaced by concerns of equity.

They also contended that the comparison of the resolution plan ought to be made with the liquidation value and not the outstanding liabilities or admitted claims. Further, they argued that the Committee of Creditors becomes functus officio, i.e., divested of its duties once it has accepted the resolution plan and hence cannot be seen to change it again.

The AFC referred to the observations made in the order of the adjudicating authority and stated that in larger public interest, it was befitting that the matter be remanded to the COC for reconsideration. They also referred to the judgment of the Supreme Court in Jaypee Kensington Boulevard Apartments Welfare Association v. NBCC in support of their argument that in case the resolution plan requires modification, it must be remanded back to the Committee of Creditors for reconsideration.

The NCLAT considered all the rival contentions. It questioned whether the correct information had been provided to the Committee of Creditors which would enable them to take a decision based on their commercial wisdom. Under this head, the tribunal noted that there seems to be a discrepancy in the information provided by the resolution professional in the information memorandum and the actual disbursements. Though the resolution professional claimed that the information memorandum was prepared at a time when they only had estimates, the Tribunal did not accept that argument.

The Tribunal then held “We agree that the CoC, if it has power to approve the plan, has also power to reconsider and review its own decisions on Resolution Plan. Power to approve, no doubt, carries with it power to reconsider.”

Seen in this light of the matter, this is not a case of commercial wisdom being replaced by judicial wisdom but only a case of commercial wisdom being given the freedom to correct itself where appropriate, even in hindsight.



CS MINERVA

The Student's Corner



The Indore Chapter of ICSI had organized a National CS Conference for Students on the auspicious occasion of National Youth's Day and 159th birthday of Swami Vivekananda on January 12, 2022. As a part of the event, 22 different competitions were held in an online format for students of ICSI, with over 25,000 students actively participating in the event live.

Many students from Mysuru chapter participated in almost all the events and also won many of them.

The participation and winning of the students also put the feather of being 4th Best Chapter at the national level, in the hat of Mysuru Chapter.

The list of students who participated and won from Mysuru Chapter are mentioned below and Kudos to the efforts of all the students.



2nd Place

Ms. SHRUTHI G BHONSLE

Executive Program

BUSINESS IDEA



3rd Place

Mr. KOMAL KUMAR M

Executive Program

PHOTO COMPETITION



1st Place
Ms. DEEPTHI
Executive Program

PAINTING COMPETITION



3rd Place
Mr. MADAN S
Executive Program

ROLE PLAY



3rd Place
Ms. MONSIHA C S
Executive Program

TONGUE TWISTER



QUIZ CONTEST

ACQUIRED GIFT VOUCHER

Ms. RACHANA K P

Executive Program



Regulatory Updates



Compiled by:

Mathruka B M

*Professional Student
Mysore*

Sl No	Detail (Circulars / Notifications)	Date
1.	General Circular No. 21/ 2021 - Clarification of holding AGM through VC or OAVM	14/12/2021
2.	General Circular No. 22/ 2021 - Relaxation on levy of additional fees in filing of e-forms AOC-4, AOC 4(CFS), AOC -4 XBRL, AOC-4 non XBRL, and MGT 7/MGT 7A for the financial year ended 31.03.2021 under the Companies Act 2013	29/12/2021
3.	MCA has notified the Companies (Registration Offices and Fees) Amendment Rules, 2022, to effect Higher Additional Fee of up to 18 Times (as against existing 12 times) the Normal Fee for Late Filing, applicable w.e.f. 01/07/2022, by making amendments in Annexure to Companies (Registration Offices and Fees) Rules, 2014	11/01/2022

Sl No	Detail (Amendments)	Date
1	GSR 888 (E) - Investor Education and Protection Fund Authority (Accounting, Audit, Transfer and Refund) Third Amendments Rules, 2021	28/12/2021



GST Update Proposed Amendments to take Place w.e.f. 01st January 2022 in GST



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Finance Act, 2021 has made proposal for amendments to GST provisions, which have made an exorbitant change in the administrative functions of the Officers concerned. Always it is quintessential for the Professionals to keep abreast with the key changes to make suitable suggestions to the trade & industry concerned. Compliance matters are going to be costlier if not properly adhered to, the way changes are being proposed in Tax laws. A quick peep into the major changes to take place with effect from 01st January 2022 are summarized as below:

A. Aadhar authentication mandatory for Refund/ Registration revocation

CGST Rules 2021 vide Notification 35/2021 dtd: 21st December 2021 have proposed for incorporating Aadhar authentication mandatory for the following:

- Aadhaar number of the proprietor, in the case of proprietorship firm, or
- of any partner, in the case of a partnership firm, or
- of the karta, in the case of a Hindu undivided family, or
- of the Managing Director or any whole time Director, in the case of a company, or

- of any of the Members of the Managing Committee of an Association of persons or body of individuals or a Society, or
- of the Trustee in the Board of Trustees, in the case of a Trust and
- of the authorized signatory, in order to be eligible for the purposes.

for the purpose of:

- For filing of application for revocation of cancellation of registration in FORM GST REG-21 under Rule 23
- For filing of refund application in FORM RFD-01 under rule 89 i.e., “Application for refund of tax, interest, penalty, fees or any other amount”

Would you like to Authenticate Aadhaar or Upload E-KYC Documents of Partner/Promoter and Primary Authorized Signatory?

YES, NAVIGATE TO MY PROFILE

REMIND ME LATER

NOTE : For future reference you can access this link again through [Dashboard>My Profile>Aadhaar Authentication Status](#)

- For refund under rule 96 i.e., “Refund of integrated tax paid on goods or services exported out of India” of the integrated tax paid on goods exported out of India.

For every GST registered person above screen indicates the pending Aadhar authentication. Once the registered user clicks on the button “Yes, navigate to my profile”, an email shall be sent to the registered person with a link for such authentication. Submission of One-time password should be done in this regard

Respective amendments have been proposed w.e.f. 01st January 2022 under Rule 23, 89, 96 in this regard.

B. Amendment to Section 7 - enhancement of scope of Supply Insertion of clause (aa) in sub-section (1) w.e.f. 01st July 2017 as below:

“(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration

Explanation. --For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;”

Impact:

- The above insertion has been made w.e.f. 01st July 2017 to over ride Hon’ble SC decision in the case of “STATE OF WEST BENGAL Vs CALCUTTA CLUB LTD - 2019-TIOL-449-SC-ST-LB”
- Above explanation has been inserted to bring in a Deeming fiction to enforce a non-existence supply between club/association to its members into existence. The above insertion is going to annul the above Supreme Court judgement

- However, reference to Hon'ble SC judgement in the case of "JK Spinning and Weaving Mills vs UOI - 2002-TIOL-559-SC-CX-LB" comes into rescue applicability of invocation of Penal provisions if any under Section 74 of CGST Act, 2017

C. Insertion of a criteria in Section 16 for availment of Input tax credit

In Section 16 of CGST Act, 2017 under sub-section (2), after clause (a), the following clause shall be inserted, namely: "(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under section 37;"

Impact:

- This amendment has been made to give effect to the present practice of availment of Input tax credit being auto populated in Form GSTR3B through the details available in Form GSTR2B
- In addition to the Input tax credit auto-populated, Input tax credit is permitted under Rule 36 of CGST Rules, 2017 to the tune of 5% in relation to missing credits. This provision is going to end after enacting above amendment in Section 16 of CGST Act, 2017
- Rigorous matching of Input tax credit on monthly basis is a must for availing only the credits appearing in Form GSTR2B
- It is suggested to adopt a Reconciliation of Input tax credit on monthly basis on a "Year to Date" mechanism for tracking the credit between Books and Input tax credit auto-populated in Form GSTR2B. Advantage of having this reconciliation, one can keep a track on:
 - Input tax appearing in GSTR2B, but not accounted in the Books
 - Input tax credit accounted in Books and pending for auto-population in Form GSTR2B due to delay/non-compliance from the supplier
 - Excess/(short) accounting of Input tax credit between Books of accounts and Form GSTR2B

D. Conclusion of Proceedings under Section 73 or 74

Under Taxing statutes, always a proposition to impose Penalty on a person other than the person liable to pay tax shall be imposed considering the nature of gravity of the issues on hand and existence of culpable affairs. Accordingly, when a Show cause notice has been issued to a Person (taxable person) under provisions of Section 73 or 74 of CGST Act, 2017 in which some other persons are held responsible to pay Penalty, the same shall get concluded if the proceedings under Section 73 or 74 are concluded in relation to the main person.

Deeming aspect for conclusion of the proceedings have been made enacted to Section 122 (Penalty for certain offences) and Section 125 (General Penalty) of CGST Act, 2017. Earlier, this provision has been made enacted to provisions of Section 12 and 130, which have been omitted w.e.f 01st January 2022

E. Explanation inserted towards "Self-assessed tax" under Section 75

Under Section 75 of CGST Act, 2017 in sub-section (12), the following Explanation shall be inserted, namely: "Explanation. --For the purposes of this sub-section, the expression "self-assessed tax" shall include the tax payable in respect of details of outward supplies furnished under section 37, but not included in the return furnished under section 39"

Impact:

- Discrepancy in tax disclosed as per GSTR1 and actual tax paid as per GSTR3B shall be considered as “Self-assessed tax” but not paid
- The above tax if not paid by the Registered person, authority has been provided to the Jurisdictional Proper officer for making a recovery under Section 79
- The above recovery mechanism doesn’t require the normal course of recovery by issuance of a Notice under Section 73 or 74 of Central GST Act, 2017 for the reason - tax outstanding is self-assessed tax not paid
- Registered person has a time limit to rectify the mistakes reported in GSTR1 for any of the tax period under Section 37 of Central GST Act, 2017 till furnishing of return under Section 39 for the month of September following the end of Financial Year
- Accordingly, any discrepancies noted in GSTR1 vis-à-vis GSTR3B for any Financial Year, it is recommended to make suitable corrections in GSTR1 of post closure of Financial Year till September from the end of such financial year

F. Pre-deposit enhanced for EWB related Appeal matters

Section 107 of Central GST Act, 2017 deals with appeal matters. In the normal course of business 10% of the Tax in dispute has to be made as pre-deposit. There has been an amendment made to Section 129 of Central GST Act, 2017 which deals with “Detention, seizure and release of goods and conveyances in transit” has been amended w.e.f. 01st January 2022 wherein Tax has been replaced with Penalty

To match with the above amendment, appeal matters connected with above Detention/seizure in relation to EWB matters, below amendment is made in sub-section (6) of Section 107

“Provided that no appeal shall be filed against an order under sub-section (3) of section 129, unless a sum equal to twenty-five per cent. Of the penalty has been paid by the appellant.”

Impact:

- Penalty of 25% under Central GST Act, 2017 is required for a person to file appeal
- Enhanced demand by way of pre-deposit to curb unhealthy or clandestine removals
- Revenue’s interest is protected to 50% of the tax amount indirectly by the above amendment

G. Amendments in Section 129 - Detention, seizure and release of goods and conveyances in transit

Major amendment made to this provision in terms of replacing the Term “Tax” wherever it occurs with “Penalty” to reduce the litigation in terms of double taxation for the supply.

Disclaimer: The above information is being compiled and circulated in the closed group of Professional friends only with an intent of sharing knowledge on the taxation aspects. It is advised to refer the relevant provisions before acting upon any tax matters without prejudice to above writeup. Any suggestions or corrections on any of the views expressed above can be emailed to praveen@gella.in





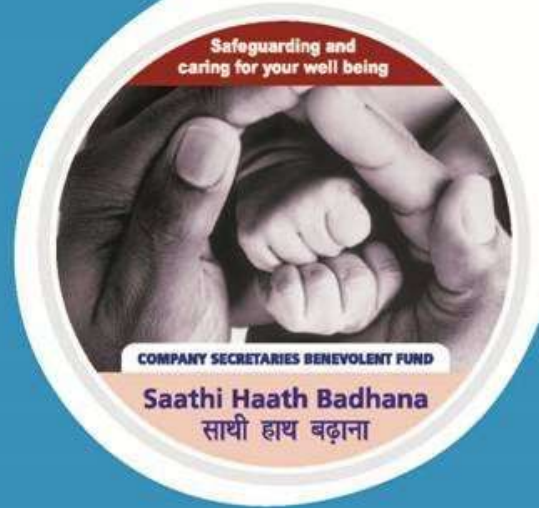
**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

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

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**COMPANY SECRETARIES
BENEVOLENT FUND**



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2

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3

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4

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