



# PATIALA CHAPTER OF NIRC OF ICSI



# ABOUT

- This newsletter is published with the consent of all Management Committee members. Articles Published in the Newsletter are invited by giving notices to all the members.
- The Patiala Chapter, NIRC-ICSI is not in any way responsible for the result of any action taken on the basis of the articles/write-ups published in the Newsletter. All rights are reserved. No part of this newsletter may be reproduced or copied in any form, by any means, without the written permission of the Patiala Chapter, NIRC-ICSI.
- The write-ups of this newsletter are also available on the website of the Patiala Chapter, NIRC-ICSI.
- CS YOGITA, Chairperson of Patiala Chapter has published the newsletter for and on behalf of Patiala Chapter of Northern India Regional Council of the Institute of Company Secretaries of India at Multani Mal Modi College, Lower Mall, Near Sunami Gate, Opp. Polo Ground, Patiala – 147 001, Email: [patiala@icsi.edu](mailto:patiala@icsi.edu); Ph: 9812573452.

# Chapter Managing Committee



CS Yogita

Chairperson



CS Ravinder Kumar

Vice Chairman



CS Khaminder Sharma

Secretary



CS Rajni Jindal

Treasurer



CS Jaspal Singh Dhanjal

Member



CS Rita Aggarwal

Member



CS Gurdeep Kaur

Member

**Patiala Chapter  
Help Desk  
Ph. No. 9812573452**

# KEY CONTENTS

Topic	Page
Message from CS Ashish Garg, President , ICSI	6
Message from CS Suresh Pandey, Chairman of NIRC of ICSI	7
Message from CS Yogita , Chairperson , Patiala Chapter of NIRC of ICSI	8
Chapter Activities during Quarter / Glimpses	9-17
Articles & Write Ups	18-36
Regulatory Updates (MCA Updates)	37-39
Write With Us	40

## EDITORIAL BOARD

1. CS YOGITA- CHAIRPERSON
2. CS KHAMINDER SHARMA- MEMBER
3. CS RAJNI JINDAL - MEMBER
4. CS RITA AGGARWAL - MEMBER
5. CS KAMINI GUPTA - MEMBER

## Disclaimer:

While every effort has been made and care has been taken in the preparation of this E-Newsletter and to ensure its accuracy at the time of publication, the Chapter assumes no responsibility for the errors which, despite all precautions, may creep in. It is suggested that the readers should cross check all the facts and the relevant law position before acting on any matter. The Views expressed in Articles are personal views of the author and it should not be taken as views of the Institute.

### Motto

सत्यं वद। धर्मं चर।  
Speak the truth. Abide by the law.

### Vision

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

### Mission

"To develop high calibre professionals  
facilitating good corporate governance"



**CS Ashish Garg**  
**President**  
**The ICSI**

### **President's Message**

**“The Pessimist Sees Difficulty In Every Opportunity.  
The Optimist Sees Opportunity In Every Difficulty.”**  
– Winston Churchill

While these words might seem like old saintly advice, but to me, as members of the Institute of Company Secretaries of India, as Company Secretaries, as Governance Professionals and more importantly the ongoing times and the changing dynamics across the world; I believe the onus is on us to have an attitude which sees opportunity in every difficulty rather than difficulty in every opportunity.

Belonging to a nation which has come out stronger each time it has faced an adversary, and hailing from a profession which has always taken pride in being a partner and key role player in nation building, portraying professionalism for us cannot be limited to the roles and responsibilities dispensed off by us as regards India Inc. but needs to be imbibed in ourselves and our behavior much more holistically.

I congratulate the Chairman, the Management Committee as well as all the members connected with the Patiala Chapter of the NIRC of ICSI on their first edition of quarterly e-Newsletter. I hope that the members shall reap maximum benefit by connecting with each other through this medium and enhance their knowledge as well.

Best of luck!!!

**CS Ashish Garg**  
**President**  
**The Institute of Company Secretaries of India**



**CS Suresh Pandey**  
**Chairman**  
**NIRC Of ICSI**

***“Celebrate what you’ve accomplished, but raise the bar a little higher each time you succeed.” – Mia Hamm***

Dear Professional Colleagues,

According my earnest wishes to Ms. Yogita, the Chairperson of Patiala Chapter of our NIRC and other Management Committee Members for endeavouring to come up with release of their first quarterly Newsletter feels like a proud moment for not only the Chapter but the entire Northern Region of ICSI.

I believe it’s our responsibility to push our Profession one step closer to its greatness and I, therefore, appreciate the tenacity shown by the Patiala Chapter in starting to publish their Newsletters that will help the readers in catching glances of their Chapter’s works, accomplishments and creating bonds with it. The initiative will further motivate the members to dwell into skillful composing and trying their hand in amazing write-ups and articles.

I fuel my utmost trust in the Chapter’s commitment to excellence, intelligent planning and focused efforts that they will be putting to make their Newsletter journey a success.

Wishing sound health for all our members and their families!

With best regards,

**CS Suresh Pandey**

**Chairman-NIRC of ICSI**

[Chairman.nirc@icsi.edu](mailto:Chairman.nirc@icsi.edu)

**Mob. +91 9968300649**



**CS YOGITA**  
**Chairperson**  
**Patiala chapter of NIRC of ICSI**

***“There is no limit to what you can achieve . Your Potential is limitless”***

Dear Professional Colleagues,

I hope you all are safe and healthy in this COVID-19 Pandemic situation. I believe that today we stand together for a common purpose to re-shape our Mother Earth amidst the reeling under the impact of Covid-19.

As the Chairperson of Patiala Chapter of NIRC of ICSI, I extend my warm wishes for the first edition of official Newsletter of Patiala Chapter. The Newsletter will publish the latest developments about the chapter and will provide detailed information on various important topics. This would serve yet another way to improve the strength of our members and students. As a responsible professional, it is my duty to inform you that the Patiala Chapter is reaching greater heights every day because of the support of members and students.

Besides many initiatives, it would be important to underline that the chapter has organized many programmes for students and members which includes Academic Programmes, Orientation Programmes, Career Awareness Programmes and Webinars etc.

I, on behalf of entire managing committee express my heartfelt gratitude to the **President ICSI and Chairman NIRC of ICSI** for their always support and guidance.

I would also take this opportunity to express my sincere thanks to all the members of Editorial Board. I wish to place on record my sincere thanks to all the members of Managing Committee Members of Patiala Chapter for hard work and dedication and for incorporating various suggestions and inputs and accomplishing the task within a short time.

Our team at Patiala Chapter of ICSI continuously working on the activities for betterment of profession. I assure that with your support we will be able to achieve VISION OF ICSI.

With best regards,

**CS YOGITA**

**Chairperson**

**Patiala chapter of NIRC of ICSI**

[Chairman.patiala@icsi.edu](mailto:Chairman.patiala@icsi.edu)

**Mob. +91 9779711292**



# **CHAPTER ACTIVITIES DURING QUARTER / GLIMPSES**

# Chapter Activities during Quarter / Glimpses 52<sup>nd</sup> Foundation Day Celebration of ICSI

**THE INSTITUTE OF Company Secretaries of India**  
भारतीय कम्पनी सचिव संस्थान  
AN ACADEMY OF PROFESSIONAL EXCELLENCE  
Statutory Body under an Act of Parliament  
(Under the jurisdiction of Ministry of Corporate Affairs)

**Patiala Chapter Of NIRC Of ICSI**  
Cordially Invites You For The Webinar On 'The Occasion Of Celebration Of 52nd Foundation Day Of The Institute Of Company Secretaries Of India'

**Sprawling Governance In Grassroots**  
(\*Model Governance Code for Meetings of Gram Panchayats\*)

**CS Suresh Pandey**  
Chairman NIRC-ICSI  
(Special Guest)

**CS Lokesh Dhyani**  
Senior Associate  
Vaish Associates  
(Speaker)

**CS Yogita**  
Chairperson  
Patiala Chapter of NIRC-ICSI  
(Speaker)

There is no Fees for Participation:  
1 CPE/PCH for Members

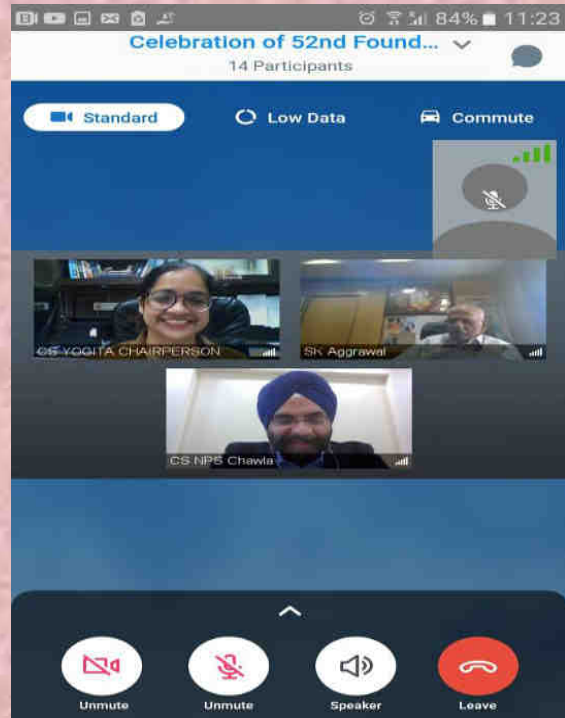
Date: 3<sup>rd</sup> October 2020  
Time: 11:00 AM To 12:30 PM

This Programme is for members, Students and Members of Gram Panchayat for Registration, kindly send your Name, E-Mail ID, Contact No. and Designation by Mail at [patiala@nirc-icsi.org](mailto:patiala@nirc-icsi.org)

**With Best Compliments:**

<b>CS Yogita</b> Chairperson	<b>CS Ravinder Kumar</b> Vice-Chairman	<b>CS Khaminder Sharma</b> Secretary	<b>CS Rajat Jindal</b> Treasurer
<b>CS Jaspal Singh Dhanjal</b> Immediate Past Chairman	<b>CS Rita Aggarwal</b> Member	<b>CS Gurbaj Kaur</b> Member	

ICSI Motto: "The Best is yet to come" / "सर्वोत्तमं यत्नं वर्तते" / "Speak the truth while by the fact"



On 3<sup>rd</sup> October, 2020 Celebration of 52nd Foundation day of ICSI by Patiala Chapter , WEBINAR on the theme of "Sprawling Governance on Grassroots (Model Governance code for Meetings of Gram Panchayats)" speaker by CS Lokesh Dhyani, Senior Advocates Vaish Associates in the presence of CS SK AGGARWAL, 1st Chairman of NIRC of ICSI and CS NPS CHAWLA , Central Council Member, ICSI ,CS Suresh Pandey, Chairman of NIRC of ICSI with CS Yogita , Chairperson Patiala Chapter of NIRC of ICSI alongwith the Management Committee of Patiala Chapter.

# Chapter Activities during Quarter / Glimpses

## Patiala Chapter 8<sup>th</sup> WEBINAR

### 23<sup>rd</sup> October ,2020

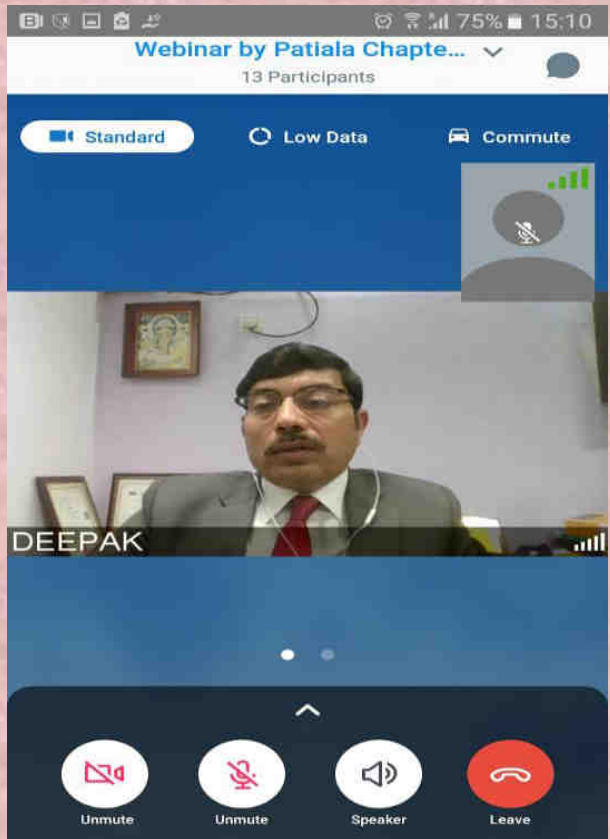
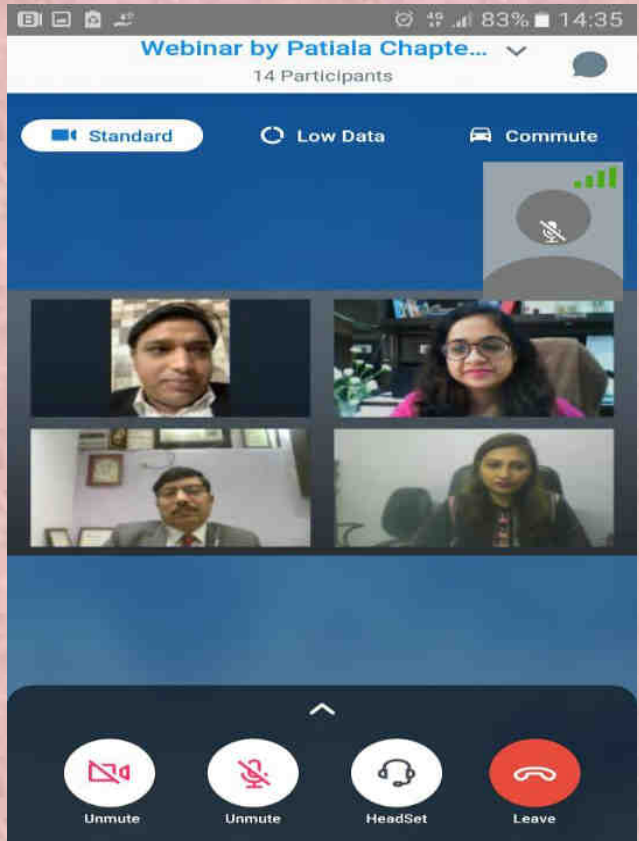
**Patiala Chapter**

**Patiala Chapter Of NIRC Of ICSI Cordially Invites You For 8<sup>th</sup> Webinar On "COMPANIES AMENDMENT ACT, 2020"**

**Speakers:**  
 CS Suresh Pandey (Chairman, NIRC-ICSI)  
 CS Monika Kohli (Member, NIRC-ICSI)  
 CS Deepak Kukreja (Past Chairman, NIRC-ICSI)  
 CS Yogita (Chairperson, Patiala Chapter)

**Day & Date: Friday 23<sup>rd</sup> October, 2020**  
**Time: 02:30 pm To 04:00 pm**

**MANAGING COMMITTEE**  
 With Regards,  
**CS Yogita** (Chairperson)  
 CS Khaminder Sharma (Secretary)  
 CS Rita Aggarwal (Member)  
 CS Ravinder Kumar (Vice Chairman)  
 CS Jaspal Singh Dhanjal (Immediate Past Chairman)  
 CS Rajni Jindal (Treasurer)  
 CS Gurdeep Kaur (Member)



On 23<sup>rd</sup> October, 2020, 8<sup>th</sup> WEBINAR on the theme of "COMPANIES AMENDMENT ACT,2020" speaker CS DEEPAK KUKREJA, Practising Company Secretary and Past Chairman NIRC of ICSI in the presence of CS SURESH PANDEY, Chairman of NIRC of ICSI and CS MONIKA KOHLI ,Regional Council member of NIRC of ICSI , with CS YOGITA , Chairperson Patiala Chapter alongwith the Management Committee of Patiala Chapter.

# Chapter Activities during Quarter / Glimpses E-CAP with Multani Mal Modi College, Patiala 30<sup>th</sup> October, 2020

<https://www.modicollege.com> <https://www.facebook.com/mmmpcpta>

**Under the Finishing School Programme  
PG Department of Commerce**

**Multani Mal Modi College, Patiala**  
(Affiliated to Punjabi University, Patiala)  
Reaccredited Grade A (CGPA 3.26) by NAAC  
In Association with

**The Institute of Company Secretaries of India**  
**ORGANIZES**


**CAREER AWARENESS PROGRAM FOR ENTRY LEVEL STUDENTS**

OCTOBER 30, 2020 || 1:30 PM  
ON 

Let us know if you'll be attending!  
Press Click here button for Registration [Click Here To Register](#)




**RESOURCE PERSON**  
**CS YOGITA**  
Chairperson,  
Patiala Chapter Of NIRC Of ICSI



**RESOURCE PERSON**  
**CS Kamini Gupta**  
Member



**Dr. Khushvinder Kumar**  
Principal



**Ms. Neena Sareen**  
Dean, Commere

for latest updates  
Subscribe to our **YouTube Channel**

For Any Queries  
098125-73452

Zoom Meeting

48% 14:20

Zoom Leave

UPENDRA BISWAL

kamini gupta

Parminder Kaur

Unmute Start Video Share Participants More


Close Participants (181)

M	MMMC ADMIN (Host)		
Y	Yogita Ghai (Co-host)		
P	Parminder Kaur (Co-host)		
k	kamini gupta (Co-host)		
	1204 Rajveer kaur		
T	1205 Bhavika Taneja		
	1208 Gurpreet Singh		
	1214 Sonali		
	1217 Asees bir Singh		
	1227 Saurabh kapoor		


Invite

# Chapter Activities during Quarter / Glimpses


## MOU Ceremony of ICSI & Desh Bhagat University, 25<sup>th</sup> November, 2020




**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)




**Desh Bhagat  
University**  
Professional Education  
1978-1993 for the world






CS Ashish Garg  
President  
The ICSI




Dr Zora Singh  
Chancellor  
Desh Bhagat University

**Between ICSI and Desh Bhagat University**  
Day and Date: Wednesday 25<sup>th</sup> November, 2020  
Time: 12:00 PM to 01:30 PM

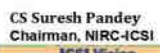


CS Nagendra D Rao  
Vice-President  
The ICSI




Prof. Shalini Gupta  
Vice-Chancellor  
Desh Bhagat University


**MOU Signing Ceremony Online Link:-**  
Meeting ID:- 618 833 545  
Participant Passcode:- 7883  
Meeting URL for Participants:-  
<https://bluejeans.com/618833545/7883>




CS Suresh Pandey  
Chairman, NIRC-ICSI



Dr S K Jena  
Director, Dte. Of Training, ICSI



CS Yogita  
Chairperson, Patiala Chapter



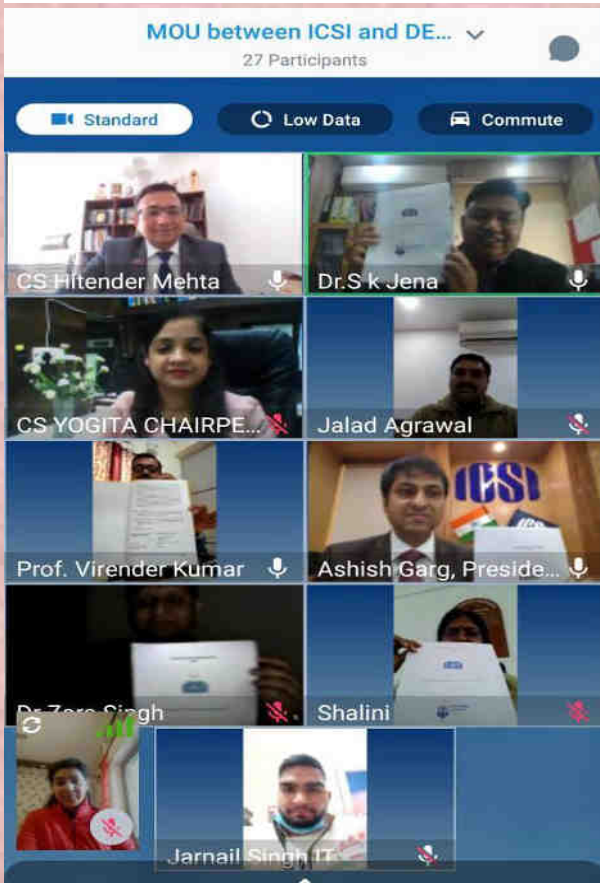
Prof. Dr Virender Kr Sharma  
Registrar  
Desh Bhagat University

**With Warm Regards**

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

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

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



On 25<sup>TH</sup> November, 2020 ICSI has signed the MOU with DESH BHAGAT UNIVERSITY, MANDI GOBINDGARH, PUNJAB via online mode in the presence of CS ASHISH GARG, President, ICSI, Dr. S.K. Jena (Director Training & Placement, ICSI), Prof. Shalini Gupta, Vice Chancellor, Desh Bhagat University, PROF. Dr. Virender Kumar Sharma, Registrar, Desh Bhagat University with CS Yogita, Chairperson Patiala Chapter of NIRC of ICSI along with the Management Committee of Patiala Chapter and students of Desh Bhagat University.

On this occasion, CS HITENDER MEHTA, Central Council Member, ICSI and Prof. Shalini Gupta, Vice Chancellor, Desh Bhagat University are the panelists and on the panel Discussion and shares their views on the topic "VOCAL FOR LOCAL AND ITS IMPACT ON INDIAN ECONOMY"

# Chapter Activities during Quarter / Glimpses E-CAP with Mukat Public School, Rajpura 26<sup>th</sup> November, 2020



**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)



Patiala Chapter  
OF NIRC OF ICSI

**Mukat Public School**  
**In Association with**  
**The Institute of Company Secretaries of India**  
**ORGANIZES**  
**“CAREER AWARENESS PROGRAM FOR ENTRY LEVEL STUDENTS”**



**CS Yogita**  
Chairperson  
Patiala Chapter  
NIRC-ICSI



**CS Kamini Gupta**  
Member  
(Speaker)



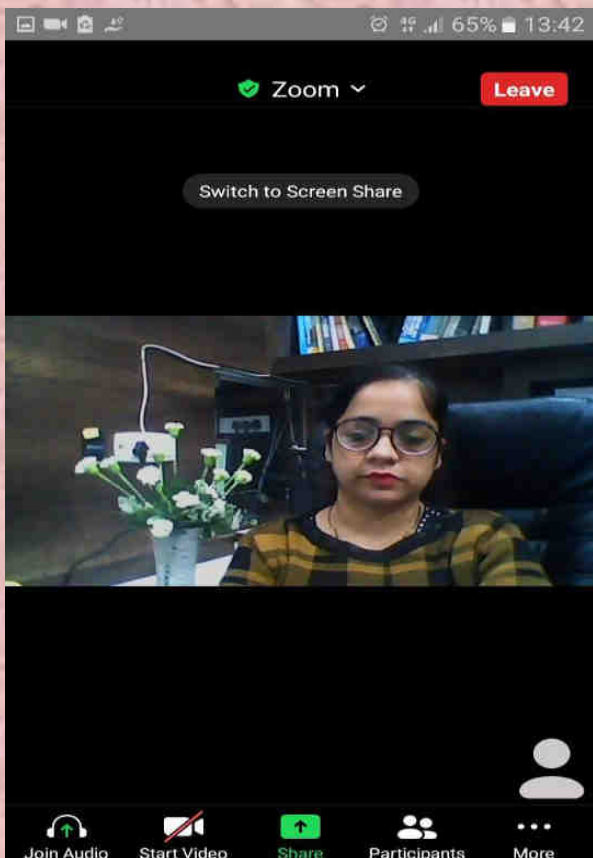
**Mrs Gayatri Kaushal**  
Principal  
Mukat Public School



**Ms Navneet Kaur Saini**  
Coordinator  
Mukat Public School

Date: NOVEMBER 26<sup>TH</sup> 2020  
Timing: 01:00 PM

CLICK HERE TO REGISTER  
<https://tinyurl.com/mpscap26>



# Chapter Activities during Quarter / Glimpses E-CAP with GSSDGS Khalsa College, Patiala 1<sup>st</sup> December, 2020

**ICSI** 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)

Patiala Chapter OF NIRC OF ICSI

**GSSDGS Khalsa College**  
**In Association with**  
**The Institute of Company Secretaries of India**  
**ORGANIZES**  
**"CAREER AWARENESS PROGRAM FOR ENTRY LEVEL STUDENTS"**



**CS Yogita**  
Chairperson  
Patiala Chapter  
NIRC-ICSI



**CS Kamini Gupta**  
Member  
(Speaker)



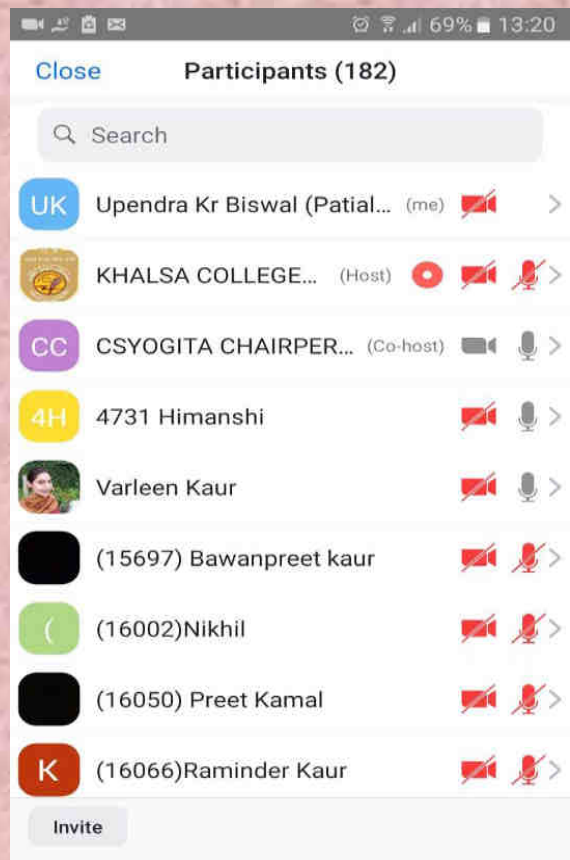
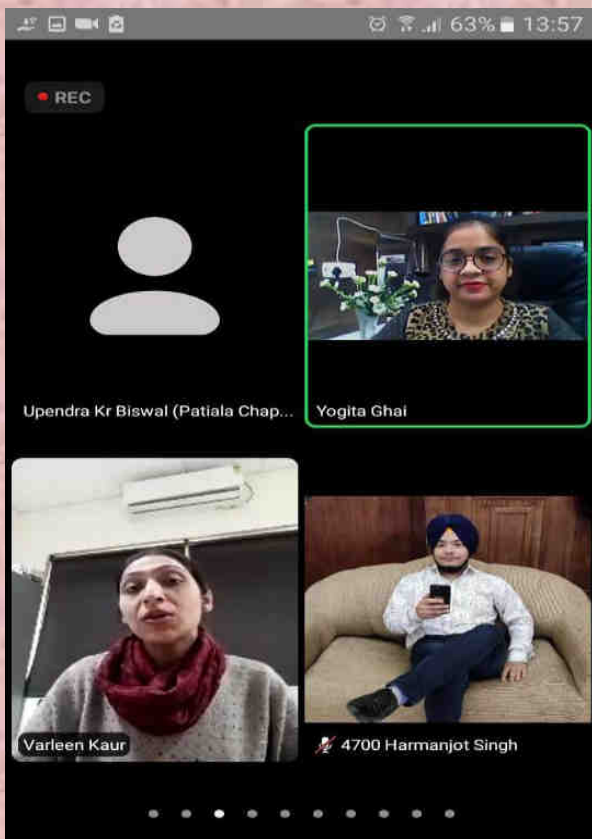
**Dr Dharminder Singh Ubha**  
Principal  
GSSDGS Khalsa College



**Dr Jasleen Kaur**  
HoD, School of Commerce & Management  
GSSDGS Khalsa College

Date: DECEMBER 1<sup>ST</sup> 2020  
 Timing: 01:00 PM Onwards

**CLICK HERE TO REGISTER**  
<https://tinyurl.com/gssdgsicap1>



# Chapter Activities during Quarter / Glimpses E-CAP with Patel Memorial National College, Rajpura 10<sup>th</sup> December, 2020

**Patiala Chapter of NIRC of ICSI**

**Patel Memorial National College**

**In Association with**

**The Institute of Company Secretaries of India**

**ORGANIZES**

**"CAREER AWARENESS PROGRAM FOR ENTRY LEVEL STUDENTS"**

**CS Yogita**  
Chairperson  
Patiala Chapter  
NIRC-ICSI

**CS Kamini Gupta**  
Member  
(Speaker)

**Dr. Ashwani Kumar Verma**  
Principal  
P M N College, Rajpura

Date: DECEMBER 10<sup>TH</sup> 2020  
Timing: 12:15 PM

CLICK HERE TO REGISTER  
<https://tinyurl.com/pmnc101220>

← About this call

**People** Information

- Janvi Sharma1118
- Jasandeep Kaur 9006
- Jaspreet Kaur 9012
- Kamal jeet singh chee...
- Kamaljeet singh 9243
- Kamalpreet Kaur1113
- Kirandeep Kaur 1121
- Krish Verma9218
- Laddy Saini 1102
- Manisha 1116
- Manpreet Kaur 1103

Yogita Ghai

You Pawan Priya 39 others



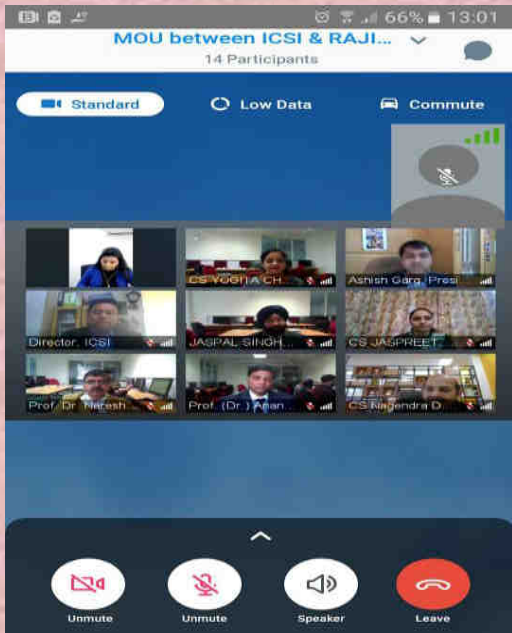
# Chapter Activities during Quarter / Glimpses MOU Ceremony of ICSI & Rajiv Gandhi National University of Law, Punjab 14<sup>th</sup> December ,2020

**MOU SIGNING CEREMONY**

For Academic Collaboration  
Between ICSI and Rajiv Gandhi National  
University of Law, Patiala  
Day and Date: Monday 14<sup>th</sup> December, 2020  
Time: 12:30 PM to 01:30 PM

MOU Signing Ceremony Online Link:  
Meeting ID: 838 842 456  
Participant Password: 0288  
Meeting URL for Participants:  
<https://meetings.icsi.com/838842456>

CS Ashish Garg, President, The ICSI  
CS Yashraj D Rao, Vice-President, The ICSI  
CS Suresh Pandey, Chairman, NIRC-ICSI  
Dr. S.K. Jena, Director, The ICI Training, ICSI  
CS Yogita, Chairperson, Patiala Chapter NIRC-ICSI  
Prof. Dr. Naresh Kumar Vats, Registrar, RGUOL  
CS Khaminder Sharma, Secretary, The ICSI



On 14<sup>th</sup> December, 2020 ICSI has signed the MOU with RAJIV GANDHI UNIVERSITY OF LAW- PUNJAB , via online cum physical mode in the campus of RAJIV GANDHI UNIVERSITY OF LAW- PUNJAB in the presence of CS ASHISH GARG, President, ICSI , Dr. S.K. Jena (Director Training & Placement, ICSI) , Prof. Dr. ANAND PAWAR ,Vice Chancellor , PROF. Dr. NARESH KUMAR VATS , Registrar, RAJIV GANDHI UNIVERSITY OF LAW- PUNJAB with CS Yogita , Chairperson Patiala Chapter of NIRC of ICSI , CS KHAMINDER SHARMA, Secretary Patiala chapter, CS JASPAL SINGH DHANJAL, Past Chairman of Patiala Chapter and CS RITA AGGARWAL, MEMBER of the Management Committee of Patiala Chapter of NIRC of ICSI alongwith other members of Patiala Chapter of NIRC of ICSI.

# ARTICLES & WRITE UPS

# THE COMPANIES AMENDMENT ACT, 2020



CS Jaspreet Kaur Dhanjal

M No. - A53127

Company Secretary

Email: jaspreetkhanjal@yahoo.com

## COMPANIES AMENDMENT ACT, 2020

HIGHLIGHTS

### THE COMPANIES AMENDMENT ACT, 2020

#### INTRODUCTION

The Companies (Amendment) Act, 2020 got the assent of Hon'ble President as on 28<sup>th</sup> September, 2020 and shall come into force on such date as the Central Government may, by notification in the Official Gazette. It was introduced in the Lok Sabha on 17<sup>th</sup> March, 2020 and passed by the Lok Sabha on 19<sup>th</sup> September, 2020 and passed by the Rajya Sabha on 22<sup>nd</sup> September, 2020.

There are amendments in 61 sections in the Act and 4 sections have been newly inserted which includes the provisions for Producer Companies.

The amendment took place with the intention of ease of doing business in India, de-criminalizing various minor offences and regulating producer companies, amongst other aspects. The main motive of the amendment is decriminalization of the Companies Act, 2013 and lightening rigour of penalties.

#### KEY HIGHLIGHTS OF THE COMPANIES AMENDMENT ACT, 2020

- Decriminalization of offences.** The amendment removes the imprisonment for various offenses, substitutes fine by penalty in and reduces amount of payable as penalty across the board. The amendment Act has omitted 7 offenses which relate to the non-compliance of orders of the National Company Law Tribunal (NCLT), i.e. orders with respect to variation of shareholders rights, rectification of register of members, publication of order of the NCLT for reduction of Share Capital, redemption of debentures on maturity or payment of interest etc. Further, offences provided under Section 348 (7) which deal with non-compliance by Company Liquidators was omitted and sub-section (8) replaced to transfer the offence to be dealt under the IBC. The imprisonment has been removed and the offences are subjected to fine only. The sections from which imprisonment has been completely removed are:

Sr. No	Offence	Section
1	Failure of the Company to comply with the requirements of the special license given to Section 8 companies	8(11)
2	Contravention of matters prescribed to be stated in prospectus	26(9)
3	Default in complying with the requirements for public offer	40(5)
4	Default in complying with buy-back requirements	68(11)
5	Default in compliance with the provisions relating to maintenance of Books of Accounts of the Company	128(8)
6	Contravention of Provisions of Chapter X (Audit & Auditors)	147
7	Contravention of provisions relating to vacation of Director	167(2)
8	Default in complying with the Order of the Tribunal under sub-section 1 of Section 242	242(8)
9	Default in complying with the directions of the NCLT regarding termination or modification of certain agreements	243(2)
10	Default in complying with the rules framed by the Government in connection with disposal of books and papers of the Company on winding up	347(4)
11	Punishment for contravention of provisions related to Foreign Companies	392

In few sections the criminal liability is removed and penalty is increased or decreased.

Sr. No	Compliance & Section	Punishment under The Companies Act, 2013	Punishment under The Companies (Amendment) Act, 2020
1	Transfer and transmission of securities – 56(6)	Company – fine Rs. 25,000-Rs. 5,00,000 Officer in default – Rs. 10,000 – Rs. 1,00,000	Company – Rs. 50,000 Officer in default – Rs. 50,000
2	Notice to be given to Registrar for alteration of share capital – 64(2)	Company & Officer in default – Rs. 1000 each day or Rs. 5,00,000, whichever is less.	Company & Officer in default – Rs 500 each day, subject to a maximum of Rs. 5,00,000 in case of a company and Rs. 1,00,000 in case of an officer in default.
3	Punishment for contravention – 86(1)	Company – Rs. 1,00,000 – Rs. 10,00,000 Officer in default – Imprisonment for a term may extend to 6 months or fine of Rs. 5000 – Rs. 1,00,000 or both.	Company – Rs. 5,00,000 Officer in default – Rs. 50,000
4	Register of members – 88(5)	Company & Officer in default – Rs. 50,000 – Rs. 3,00,000 & in continuing failure fine extend to Rs. 1000 each day after the first failure.	Company – Rs. 3,00,000 Officer in default – Rs. 50,000
5	Declaration in respect of beneficial interest in any share – 89(5)	Person failed to make declaration – Rs. 50,000, continuing failure Rs. 1000 every day after the first failure.	Person failed to make declaration – Rs. 50,000, continuing failure Rs. 200 each day after first failure to a maximum of Rs. 5,00,000.
6	Register of significant beneficial owners in a company – 90 (10)	Person failed to make declaration – Rs. 1,00,000 – Rs. 10,00,000 and in continuing failure Rs. 1000 every day after first failure.	Person failed to make declaration – Rs. 50,000 in case of continuing failure Rs. 1000 each day after first failure maximum to Rs. 2,00,000.
7	Register of significant beneficial owners in a company – 90(11)	Company failed to maintain register or denies inspection, company and Officer in default – Rs. 10,00,000 – Rs. 50,00,000, continuing failure Rs. 1000 every day after first failure.	Company failed to maintain register or denies inspection, Company – Rs. 1,00,00, in continuing failure Rs. 500 each day after first failure maximum to Rs. 5,00,000;

			Officer in default – Rs. 25,000, in continuing case Rs. 200 each day after first failure maximum to Rs. 1,00,000
8	Annual Return 92(5)	Company and Officer in default – Rs. 50,000, in continuing case Rs. 100 each day after first failure to maximum of Rs. 5,00,000	Company and Officer in default – Rs. 10,000, in continuing case Rs. 100 each day after first failure to maximum of Rs. 2,00,000 in case of company and Rs. 50,000 in case of officer in default
9	Proxies – 105(5)	Who knowingly issues the invitations as aforesaid or wilfully authorises or permits their issue shall be punishable with fine which may extend to Rs. 1,00,000.	Who issues the invitation as aforesaid or authorises or permits their issue, shall be liable to a penalty of Rs. 50,000
10	Resolutions and agreements to be filed – 117(2)	Company – Rs. 1,00,000, in continuing case Rs. 500 each day after first failure to maximum of Rs. 25,00,000 Officer in default including liquidator – Rs. 50,000, in continuing case Rs. 500 each day after first failure to maximum of Rs. 5,00,000.	Company – Rs. 10,000, in continuing case Rs. 100 each day after first failure to maximum of Rs. 2,00,000 Officer in default including liquidator – Rs. 10,000, in continuing case Rs. 100 each day after first failure to maximum of Rs. 50,000
11	Unpaid Dividend Account – 124(7)	Company – Rs. 5,00,000 – Rs. 25,00,000 Officer in default – Rs. 1,00,000 – Rs. 5,00,000.	Company – Rs. 1,00,000, in continuing case Rs. 500 each day after first failure to maximum of Rs. 10,00,000 Officer in default – Rs. 25,000, in continuing case Rs. 100 each day to maximum of Rs. 2,00,000
12	Financial statement, Board's report, etc – 134(8)	Company – Rs. 50,000 – Rs. 25,00,000 Officer in default – Imprisonment for a term extending to 3 years or fine of Rs. 50,000 – Rs. 5,00,000 or with both	Company – Rs. 3,00,000 Officer in default – Rs. 50,000
13	Corporate Social Responsibility – 135	Company – fine between Rs. 50000 – Rs. 2500000. Officer in default – imprisonment up to three years or with fine between Rs. 50000 – Rs. 500000, or with both.	Company – Penalty fixed to twice the amount unspent/ not transferred or one crore rupees whichever is less. Officer in default - Penalty fixed to 1/10th of the amount unspent/not transferred or two lakh rupees whichever is less
14	Copy of financial statement to be filed with Registrar – 137(3)	Company – Rs. 1000 every day to maximum of Rs. 10,00,000 Officer in default – Rs. 1,00,000 , in continuing case of Rs. 100 each day after first failure to maximum of Rs. 5,00,000	Company – Rs. 10,000, in continuing case Rs. 100 each day to maximum of Rs. 2,00,000 Officer in default – Rs. 10,000, in continuing case of Rs. 100 each day after first failure to maximum of Rs. 50,000.
15	Removal, resignation of auditor and giving of special notice – 140(3)	Maximum to Rs. 5,00,000	Maximum to Rs. 2,00,000
16	Powers and duties of auditors and auditing standards – 143 (15)	Fine – Rs. 1,00,000 – Rs. 25,00,000.	In listed company – Rs. 5,00,000 In other company – Rs. 1,00,000
17	Number of directorships – 165 (6)	Penalty of Rs. 5,000 each day during contravention continues	Penalty of Rs. 2,000 each day after first violation to maximum of Rs. 2,00,000
18	Punishment - 172	Company and Officer in default – Rs. 50,000 – Rs. 5,00,000	Company – Rs. 50,000, in continuing case Rs. 500 each day to maximum of Rs. 3,00,000 Officer in default - Rs. 50,000, in continuing case Rs. 500 each day to maximum of Rs. 1,00,000
19	Related Party Transactions-188	Director/Employee-  (i) Listed company – imprisonment up to one year or with fine between 25000 – 500000 (ii) Other Companies - with fine between 25000 – 500000	Director/Employee-  (i) Listed company - Penalty of 2500000 (ii) Other Companies - Penalty of 500000
20	Secretarial audit for bigger companies – 204 (4)	Fine – Rs. 1,00,000 – Rs. 5,00,000	Fine – Rs. 2,00,000
21	Merger and amalgamation of companies – 232 (8)	Company – Rs. 1,00,000 – Rs. 25,00,000 Officer in default – Imprisonment for a term which may extend to 1 year or with fine Rs. 1,00,000 – Rs. 3,00,000.	Company and Officer in default – Rs. 25,000, in continuing case Rs. 1000 each day after first failure to maximum of Rs. 3,00,000.
22	Valuation by registered valuers – 247 (3)	Valuer – Rs. 25,000 – Rs. 1,00,000.	Valuer – Rs. 50,000
23	Submission of information and Statistics to Central Government – 405	Company - fine up to Rs.250000 Officer in default – imprisonment up to six months or with fine between Rs.25000 – Rs.300000 or with both	Company and Officer in default - Penalty of Rs. 20000 and in case of continuing failure, with a further penalty of one thousand rupees for each day after the first during which such failure continues, subject to a maximum of three lakh rupees

## OMMISION OF PUNISHMENTS IN UNDER MENTIONED SECTIONS:

1	SECTION 48(5)	Variation of shareholder's rights
2	SECTION 58(5)	Rectification of register of members
3	SECTION 66(11)	Reduction of share capital
4	SECTION 71(11)	Debentures
5	SECTION 302(4)	Dissolution of company by Tribunal
6	SECTION 342(6)	Prosecution of delinquent officers and members of company
7	SECTION 348(7)	Information as to pending liquidations

2. **EXCLUSION FROM LISTED COMPANIES** - The Amendment Act empowers the Centre in consultation with the SEBI, to exclude companies issuing specified classes of securities from the definition of a "listed company". The objective behind this is to exclude companies that list their debt securities on recognized stock exchange.

3. **EXEMPTIONS FROM FILING RESOLUTIONS** - The Act states to file resolutions with the Registrar of Companies including the resolutions of the Board of Directors of the Company to borrow money or grant loans except the banking companies which are exempted. But now this exemption is extended to registered nonbanking financial companies and housing finance companies.

4. **DIRECT LISTING IN FOREIGN JURISDICTIONS** - A class of public companies will be allowed to list certain class of securities on stock exchanges in permissible foreign jurisdictions or such other jurisdictions, as may be provided by rules.

5. **BENCHES OF NCLAT** - The Act provides to establish benches of the National Company Law Appellate Tribunal in New Delhi.

6. **PRODUCER COMPANIES** - Under the 2013 Act, certain provisions used to apply to producer companies like their membership, conduct of meetings, and maintenance of accounts. The Act removed these provisions and added a new chapter in the Act with similar provisions on producer companies. A new Chapter XXXA has been added in the Act with regard to the Producer Companies from section 378A to Section 378ZJ.

7. **CSR** - The Act exempts companies with a CSR liability of up to Rs 50 lakh a year from setting up CSR Committees.

8. **SECTION 129 A** - Specified unlisted entities to prepare and file periodical financial statements. New section 129 A has been inserted which prescribes specified classes of unlisted companies to prepare and obtain approval of the Board of Directors and complete audit or limited review and file their periodical financial results at a frequency that will be notified later. This provision will help in improving corporate governance.

9. **SECTION 135 - CORPORATE SOCIAL RESPONSIBILITY**

**Set off of excess amount** - The companies which spend an amount in excess of the requirement of 2% will be allowed to set off such excess amount out of their obligation in the succeeding financial years after complying with the prescribed rules.

**Exemption from forming CSR Committee** - A new sub-section (9) has been inserted to provide that the requirement of constitution of CSR Committee shall not be applicable, in case the amount required to be spent on CSR does not exceed Rs. 50 Lakhs and the functions of CSR Committee in such a case, may be discharged by the Board of Directors.

**Penalty of Non-Compliance** - Penalty provision has been inserted for non-compliance of provisions of Corporate Social Responsibility. The sub-section (7) shall be substituted that if a company is in default in complying with the provisions of sub-section (5) or sub-section (6), the company shall be liable to a penalty of twice the amount required to be transferred by the company to the Fund specified in Schedule VII or the Unspent Corporate Social Responsibility Account, as the case may be, or one crore rupees, whichever is less, and every officer of the company who is in default shall be liable to a penalty of one-tenth of the amount required to be transferred by the company to such Fund specified in Schedule VII, or the Unspent Corporate Social Responsibility Account, as the case may be, or two lakh rupees, whichever is less."

10. **SECTION 140 - REMOVAL, RESIGNATION OF AUDITOR AND GIVING OF SPECIAL NOTICE**

Section 140 (3) - If the auditor does not comply with the provisions of sub-section (2), he or it shall be liable to a penalty of fifty thousand rupees or an amount equal to the remuneration of the auditor, whichever is less, and in case of continuing failure, with further penalty of five hundred rupees for each day after the first during which such failure continues, subject to a maximum of five lakh rupees.

**Maximum liability for an auditor has been reduced from Rs 5 lakhs to Rs 2 lakhs.**

11. **Section 143- Powers and Duties of Auditors and Auditing Standards**

### **Section 143 (12)**

Notwithstanding anything contained in this section, if an auditor of a company in the course of the performance of his duties as auditor, has reason to believe that an offence of fraud involving such amount or amounts as may be prescribed, is being or has been committed in the company by its officers or employees, the auditor shall report the matter to the Central Government within such time and in such manner as may be prescribed.

Provided that in case of a fraud involving lesser than the specified amount, the auditor shall report the matter to the audit committee constituted under section 177 or to the Board in other cases within such time and in such manner as may be prescribed.

Provided further that the companies, whose auditors have reported frauds under this subsection to the audit committee or the Board but not reported to the Central Government, shall disclose the details about such frauds in the Board's report in such manner as may be prescribed.

### **Section 143 (15)**

If any auditor, cost accountant or company secretary in practice do not comply with the provisions of sub-section (12), he shall be punishable with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees.

#### **Amendment Introduced**

In section 143 of the principal Act, for sub-section (15), the following sub-section shall be substituted, namely—

“(15) If any auditor, cost accountant, or company secretary in practice does not comply with the provisions of sub-section (12), he shall,—

(a) in case of a listed company, be liable to a penalty of five lakh rupees; and

(b) in case of any other company, be liable to a penalty of one lakh rupees.”

#### **Maximum liability for an auditor has been reduced from**

a) For listed company- from Rs 25 lakh to Rs 5 lakh.

b) For any other company- from Rs 25 lakh to Rs 1 lakh.

### **12. Section 147- Punishment for Contravention**

If an auditor of a company contravenes any of the provisions of section 139, section 143, section 144 or section 145, the auditor shall be punishable with fine which shall not be less than twenty-five thousand rupees but which may extend to five lakh rupees 1[or four times the remuneration of the auditor, whichever is less]

#### **Amendment Introduced**

In section 147 of the principal Act,—

(a) in sub-section (2), the words “, section 143” shall be omitted.

**Punishment of Section 143 has been provided in Section 143 itself, therefore, it has been omitted in Section 147.**

**Therefore, the contravention of Section 143 does not fall under Section 147.**

### **13. Section 149 – Company to have Board of Directors**

The provision is inserted that if a company has no profits or its profits are inadequate, an independent director may receive remuneration, exclusive of any fees payable under sub-section (5) of section 197, in accordance with the provisions of Schedule V

### **14. Section 197 – Overall maximum managerial remuneration and managerial remuneration in case of absence or inadequacy of profits**

The sub-section (3) has inserted the words “or any other non-executive director, including an independent director” along with the words “ whole-time director or manager”.

### **15. Section 284- Promoters, directors, etc., to cooperate with Company Liquidator**

- It provides that when a person required to assist a Company Liquidator does not do so, then the Company Liquidator may make an application to NCLT for necessary directions.
- Further, it provides that NCLT may direct such person to comply with the directions of the Company Liquidator and to cooperate with him in discharging his functions and duties.

### **16. Section 302- Dissolution of company by Tribunal**

Sub-section (3) has been substituted to provide that NCLT shall forward a copy of the order of dissolution to the Registrar, and direct the Company Liquidator to also forward such copy to the Registrar, who shall record in the register relating to the company a minute of the dissolution of the company.

### **17. Section 348- Company Liquidator to deposit monies into scheduled bank**

Sub-section (6) has been substituted to provide that if a Company Liquidator, who is an Insolvency Professional, is in default in complying with the provisions of the section, the default will be deemed to be a contravention of the IBC, 2016 and the rules and regulations made thereunder.

18. **Section 356- Powers of Tribunal to declare dissolution of company void**

Sub-section (2) has been substituted to provide that NCLT shall forward a copy of the order to the Registrar, and direct the Company Liquidator or the person on whose application such order was made to also file a certified copy of the order with the Registrar within thirty days of the order.

**CONCLUSION**

The analysis of the changes in various amendments introduced vide the Companies Amendment Act, 2020 gives an impression that these amendments are certainly a welcome move and a step in the direction of encouraging entrepreneurs who help in making Atma Nirbhar Bharat and supporting the motive to go Vocal for Local. These amendments will encourage the compliance of Act and the companies will be able to rectify their defaults by paying the penalties in monetary terms instead of having to undergo long processes of criminal charges. The clause of imprisonment is removed from almost all corporate non-compliances except in cases of Fraud u/s 447 of the Act.

CS Jaspreet Kaur Dhanjal  
MM No. - A53127  
Company Secretary  
Email: jaspreetkhanjal@yahoo.com

# VOCAL FOR LOCAL AND ITS IMPACT ON INDIAN ECONOMY



CS RITA AGGARWAL  
M No. F7589  
aggarwal.rita03@gmail.com

## VOCAL FOR LOCAL AND ITS IMPACT ON INDIAN ECONOMY

It has been observed that due to globalization it has become easy to buy products from any corner of the world. Consequently products manufactured in India have not been purchased by consumers which have severe repercussions not only at the end of local shopkeepers but also on the economy.

After considering these drawbacks Prime Minister of India Narendra Modi has introduced new concept known as 'Vocal for local'.

Vocal stands for verbal (word of mouth) advertisement for locally made items. Our Prime Minister Shri Narendra Modi coined a new slogan 'Vocal for local' which means to not only buy local products but be vocal about promoting them proudly. He wants Indians to make local the mantras of their lives.

On 13th May, 2020 the Prime Minister Narendra Modi while addressing the nation came up with a new slogan "Vocal for Local". In his speech, PM mentioned how to revive Indian economy which is affected most by crisis of Covid-19 pandemic. He announced an economic package worth Rs. 20 Lakh Crore to therevive the Indian economy. Mr. Modi urged the Indian people to come forward and join the mission of being a self reliant country known as Aatma Nirbar nation by not only supporting the local business but also promoting them.

PM Modi announced that during the lockdown and covid-19 crisis it is the local vendors, products and services that have helped the entire nation to survive. To present the local skills and products in India we need to stand together to proudly promote the "Make in India".



## **Impact on Indian economy**

Establishment of more units in India will create more job opportunities for workers.

Vocal for local is a welcome departure from the current globalization and liberalisation based policy specially the development model dependent on foreign capital.

It will motivate every manufactures to promote local industries and curb down import of machinery and raw materials. At least trying to make everything in all our country will make a huge impact on the growth of the economy as well as the employment rate.

Make in India and adopting local will result in positive growth.

One of the biggest advantages of "Vocal for Local" is that it will provide micro small and medium enterprises a unique Identity that has otherwise been the privilege of those whose have deep marketing budgets.

It will help in expanding the start up eco system by multifold, thereby aiding the country's aim to become a \$5 trillion economy by 2025. The idea is to create more local brands and take those to the global area.

The govt. of India has stated implementing policies to make land tax and labour laws more favourable. Many projects are implemented to improve infrastructures and slash red tape to review manufacturing and create more jobs in India.

**CS RITA AGGARWAL**

EMAIL: [aggarwal.rita03@gmail.com](mailto:aggarwal.rita03@gmail.com)

# **CORPORATE SOCIAL RESPONSIBILITY (CSR) UNDER SECTION 135 OF THE COMPANIES ACT, 2013 READ WITH THE COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) RULES, 2014**



**CS MOHIT SALUJA**

Company Secretary in practice

• csmohitsaluja@gmail.com

• MOHIT SALUJA & ASSOCIATES

• FCS NO.9620

## **CORPORATE SOCIAL RESPONSIBILITY (CSR) UNDER SECTION 135 OF THE COMPANIES ACT, 2013 READ WITH THE COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) RULES, 2014**

### **WHAT IS THE CSR?**

CSR is a Concept whereby Companies not only consider their profitability and growth, but also the interests of society and the environment—by taking responsibility for the impact of their activities on stakeholders, environment, consumers, employees, communities, and all other members in the public domain.

### **CSR is applicable, if any company comes under following category:**

1. Net Worth is RS. 500 crore or more, OR
2. Turnover is Rs. 1000 crore or more, OR
3. Net Profit before Tax if Rs. 5 crore or more

during the immediately preceding financial year. If the company comes under any of the category above, then it shall establish a Corporate Social Responsibility Committee of the Board involving of three or more directors, out of which at least one director shall be an independent director.

**Provided that where a company is not required to appoint an independent, it shall have in its Corporate Social Responsibility Committee two or more directors.**

### **ROLE OF CORPORATE SOCIAL RESPONSIBILITY COMMITTEE**

- a) Formulate and recommend to the Board, a Corporate Social Responsibility Policy,
- b) Recommend the amount of expenditure to be incurred on the activities and
- c) Monitor the Corporate Social Responsibility Policy of the company from time to time.

## **DUTIES AND RESPONSIBILITIES OF THE BOARD WITH RESPECT TO CSR**

The Board of every company shall —

- a) approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website.
- b) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.
- c) Ensure that the company spends, in every financial year, at least 2% of the average net profits of the company made during the three immediately preceding financial years, where the company has not completed the period of three financial years since its incorporation, during such immediately preceding financial years.

Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount kept for Corporate Social Responsibility activities:

### **Punishment for Non-Compliance**

If a company contravenes the provisions shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to twenty-five lakh rupees and every officer of such company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

## **WHAT COMPANIES AMENDMENT ACT, 2019 HAS BROUGHT FOR CSR?**

◆ If the company fails to spend such amount, the Board shall, in its report made specify the reasons for not spending the amount and, unless the unspent amount relates to any ongoing project referred transfer such unspent amount to a Fund

specified in Schedule VII (FOR EXAMPLE “PM RELIEF FUND”, within a period of six months of the expiry of the financial year

♦ Any amount remaining unspent shall be transferred by the company within a period of thirty days from the end of the financial year to a special account to be opened by the company in that behalf for that financial year in any scheduled bank to be called the Unspent Corporate Social Responsibility Account, and such amount shall be spent by the company in pursuance of its obligation towards the Corporate Social Responsibility Policy within a period of three financial years from the date of such transfer, failing which, the company shall transfer the same to a Fund specified in Schedule VII, within a period of thirty days from the date of completion of the third financial year.

### **AREAS WHERE CSR MONEY CAN BE SPENT.**

**As per schedule-vii of the companies act, 2013, csr money can be spent in following areas:**

Activities/ Areas/ Sectors which may be included by companies in their Corporate Social Responsibility Policies Activities relating to:

- (i) Eradicating hunger, poverty and malnutrition, promoting health care including preventive health care and sanitation including contribution to the Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation and making available safe drinking water.
- (ii) promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly and the differently abled and livelihood enhancement projects.
- (iii) promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups.
- (iv) ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and

maintaining quality of soil, air and water including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga.

(v) protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional art and handicrafts;

(vi) measures for the benefit of armed forces veterans, war widows and their dependents;

(vii) training to promote rural sports, nationally recognised sports, paralympic sports and olympic sports

(viii) contribution to the prime minister's national relief fund or any other fund set up by the central govt. for socio economic development and relief and welfare of the schedule caste, tribes, other backward classes, minorities and women;

(ix) Contribution to incubators funded by Central Government or State Government or any agency or Public Sector Undertaking of Central Government or State Government, and contributions to public funded Universities, Indian Institute of Technology (IITs), National Laboratories and Autonomous Bodies (established under the auspices of Indian Council of Agricultural Research (ICAR), Indian Council of Medical Research (ICMR), Council of Scientific and Industrial Research (CSIR), Department of Atomic Energy (DAE), Defence Research and Development Organisation (DRDO), Department of Biotechnology (DBT), Department of Science and Technology (DST), Ministry of Electronics and Information Technology) engaged in conducting research in science, technology, engineering and medicine aimed at promoting Sustainable Development Goals (SDGs).

(x) rural development projects

(xi) slum area development.

Explanation - For the purposes of this item, the term 'slum area' shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force.

(xii) disaster management, including relief, rehabilitation and reconstruction activities.

### **FOLLOWING ACTIVITIES SHALL NOT BE CONSIDERED AS CSR ACTIVITIES:**

> Contribution of any amount directly or indirectly to any political party shall not be considered as CSR activity.

> The CSR projects or programs or activities that benefit only the employees of the company and their families shall not be considered as CSR activities in accordance with section 135 of the Act.

### **CSR IN BANKING/ INSURANCE**

#### **INSURANCE COMPANIES**

CSR provisions are equally applicable to banking companies. IRDAI has issued revised guidelines on corporate governance for insurance companies.

> CSR Committee is required to be setup if insurance companies earn net profit of 5 Crore or more during preceding financial year

> Board shall ensure company spends not less than 2 percent of 3 years average net profit towards CSR activities

> Expenses should not be charged to policyholders account

> Expense should not be included for purpose of calculation of ceilings on expenses of Management under section 40B or 40C

#### **CSR IN BANKING COMPANIES**

Nationalized Banks are not incorporated as Company Under Companies Act,2013, Section 135 is not applicable.

> However, they are required to spend 1% of net profits through donations as specified by RBI.

> Loss making banks can make donations totalling up to Rs. 5 Lakh in a financial year

- > Unutilized portion should not be carried forward
- > Banks may continue to submit annual review of donations to their Boards of Director
- > The donations out of research and development fund should normally be made for setting up professional chairs, granting scholarship for studies, research at universities for commissioning special projects for investigation and research for areas pertaining to banking, finance, management, economics etc.

CS MohitSaluja

MohitSaluja& Associates

Company Secretary and Certified CSR Professional

EMAIL: [csmohitsaluja@gmail.com](mailto:csmohitsaluja@gmail.com)

# VOLUNTARY LIQUIDATION OF A COMPANY



CS JATIN SINGAL

FCS, LLB, B.Com

JatinSingal & Associates

M. No.: F9716 & CP NO.: 11976

EMAIL: jatinsingal@gmail.com

## Voluntary Liquidation of a company

Nowadays, Company closure is as important as Company Incorporation. In a Corporate Culture like India, the entry option has always been easy but an exit option was never provided for the good going-concern company which is duly solvent. There was a time when the promoters of such companies either ending up selling those companies or kept them under idle position and keeping it for want of compliance only without serving any operative purpose. It was the position in Indian Corporate until the Companies Act, 2013 and the enactment of the Insolvency and Bankruptcy Code, 2016 which provided the option for getting the Company Strike-off of idle companies or Voluntary Liquidate the affairs of the going concern respectively.

As the name suggests, the Voluntary Liquidation of a Company is a process of Company being liquidated on its own without meeting any sort of default to the debt(s) due. The mention of word 'default' needs to be understood first. As the Voluntary Liquidation is now dealt under section 59 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IBC") read with IBBI (Voluntary Liquidation Process) Regulations, 2017. We all know that the IBC deals with Debt which is due and there is also a default to it. But for Voluntary Liquidation, there is no such case of default to a debt rather the Company needs to be solvent.

Unlike as per the several provisions of the Companies Act, 1956 (repealed) or the Companies Act, 2013 (Omitted), the Voluntary Liquidation or Winding-up can be availed only under the provisions of the IBC. The basic requirement for getting this Voluntary Liquidation process is the Corporate Person needs to be solvent with the approval of its members. Any Corporate Person which doesn't intend to continue its business operations can opt for Voluntary Liquidation. The main objective is to discontinue the operations and distribute its assets while also paying its debts.

## Process for Voluntary Liquidation of Company

### Step 1: Declaration of Solvency by Board

As per Section 59(3) of the IBC, 2016, the Directors of the Company has to make a Declaration of Solvency in form of an Affidavit confirming following that:

- the company has not committed any default of repayment of debt and
- the company is solvent and it will be able to pay its debts in full from the proceeds of assets to be sold in the voluntary liquidation; and
- the company is not being liquidated to defraud any person.

The declaration shall list each debt of the corporate person as on that date, if any along with Audited financial statements and record of business operations of the company for the previous two years and a valuation report of the assets of the company by a Registered Valuer, if any.

### Step 2: Convene Board Meeting

Convene a Board Meeting to:

- Propose the voluntary liquidation of the company subject to the approval of Shareholders in General Meeting;
- Propose the appointment of an Insolvency Professional to act as the Liquidator of the Company subject to the approval of Shareholders in General Meeting; and
- Fix a day, date, time and venue for general meeting of the company and issue notice of convening the Extra Ordinary General Meeting for containing the proposed resolution for approval of the members along with the explanatory statement.



### Step 3: Convene Extra Ordinary General Meeting of Shareholders

As per Section 59(3)(c) of the IBC, 2016, convene an Extra Ordinary General Meeting of shareholders within four (4) weeks of Declaration of Solvency and pass the following resolutions:

- Special Resolution in general meeting for liquidating the company voluntarily,
- Resolution appointing Insolvency Professional to act as Liquidator of the company

In case the company has creditors, a resolution should also be passed by the creditors holding 2/3<sup>rd</sup> of the debt within 7 days of passing of member's resolution.

### Step 4: Intimation to Registrar of Companies

As per Section 59(4) of the IBC, 2016, the resolution has to be filed with Registrar of Companies within 7 days of approval of liquidation of Company/ subsequent approval of the creditors owning 2/3<sup>rd</sup> of the total debt of the Company.

After passing of the resolution by the members subject to creditor's approval, the voluntary liquidation proceedings are commenced. With the passing of Special Resolution in general meeting and appointment of Liquidator, all powers of the board of directors and key managerial personnel, if any of the corporate person shall cease and be vested in the hands of liquidator.

### Step 5: Liquidator is In-charge of the company:

The liquidator will now take over the charge of the company and proceed with further steps which shall include realization of assets of the company, settlement of outstanding dues and distribution of proceeds to the stakeholders. The liquidator shall have the power to consult any stakeholders who is entitled to the distribution of the proceeds.

### Step 6: Public Announcement:

As per Regulation 14 of the IBBI (Voluntary Liquidation Process) Regulations, 2017, the liquidator shall make public announcement within 5 days from his appointment in Form A of Schedule-I calling stakeholders to submit their claims within 30 days from liquidation commencement date. The liquidator shall also intimate about the Public Announcement to the Insolvency and Bankruptcy Board of India (IBBI).

It should be published in English and Regional language newspaper having wide circulation where registered office is situated and also on the website of the company, if any. The liquidator shall verify the claims within 30 days from last date of receipt of claims and either accept or reject the claims.

The liquidator shall prepare a list of stakeholders within 45 days from the last date for receipt of claims on the basis of proof of claims received with:

- the amounts of claim admitted, if applicable,
- the extent to which the debts or dues are secured or unsecured, if applicable,
- the details of the stakeholders, and
- the proofs admitted or rejected in part, and the proofs wholly rejected.

### Step 7: Preliminary Report

As per Regulation 9 of the IBBI (Voluntary Liquidation Process) Regulations, 2017, the liquidator shall submit a preliminary report to the company within 45 days from the commencement of liquidation stating:

- the capital structure of the corporate person;
- the estimates of its assets and liabilities as on the liquidation commencement date based on the books of the corporate person;
- whether he intends to make any further inquiry in to any matter relating to the promotion, formation or failure of the corporate person or the conduct of the business thereof; and
- the proposed plan of action for carrying out the liquidation, including the timeline within which he proposes to carry it out and the estimated liquidation costs.

### **Step 8: Opening of Separate Bank Account**

As per Regulation 34 of the IBBi (Voluntary Liquidation Process) Regulations, 2017, the liquidator shall open a bank account within a month from the date of passing of special resolution with a scheduled bank in the company's name followed by the words '*in voluntary liquidation*' for receiving all the money's due and realized to meet liquidation cost. All payments made above 5000 rupees shall be done only by drawing cheque or through online banking transaction.

### **Step 9: Intimation to and No-Objection from Income Tax Authorities**

Intimation to Income Tax Department within one month from the date of passing of the Special Resolution regarding the Voluntary Liquidation process. Also, the liquidator has to obtain a No-Objection Letter from the Income Tax authorities of the place where the registered office of the company is situated.

### **Step 10: Records for Extortionate Credit Transactions**

As per Regulation 34 of the IBBi (Voluntary Liquidation Process) Regulations, 2017, the Liquidator needs to keep track and records of any extortionate credit transactions requiring Corporate Person to make exorbitant payments in respect of the credit provided.

### **Step 11: Collation of Claims**

As per IBBi (Voluntary Liquidation Process) Regulations, 2017, the Liquidator shall collate every sort of claims received from Operational Creditors, Financial Creditors, Workmen & Employees and from other stakeholders depending upon the information available with Information Utility, Other relevant documents et-cetera.

### **Step 12: Verification of Claims**

As per IBBi (Voluntary Liquidation Process) Regulations, 2017, the Liquidator after collating all the claims shall verify all of them within 30 days from last date of receipt of claims and accordingly either accept it or reject the claim.

### **Step 13: List of Stakeholders**

After verification of all the claims, the Liquidator shall then prepare the list of stakeholders within 45 days from the last date of receipt of the claims accompanied by:

- Admitted amount of claim
- Nature of admitted claim
- Details of Stakeholders
- Proof for admission or rejection of claim.

## Step 14: Consultation with Stakeholders

As per IBBI (Voluntary Liquidation Process) Regulations, 2017, the Liquidator can consult with the stakeholders and needs to maintain the particulars/ minutes for every sort of consultation with the stakeholders.

## Step 15: Realisation of Assets

As per IBBI (Voluntary Liquidation Process) Regulations, 2017, the liquidator shall recover and realize the assets of the company in a time-bound manner maximizing the value of the stakeholders. The money realized shall be deposited in the bank account opened for this purpose.

## Step 16: Distribution

As per IBBI (Voluntary Liquidation Process) Regulations, 2017, the money realized from the proceeds shall be distributed to the stakeholders within 6 months from the receipt of the amount after deducting the liquidation cost. If any asset cannot be realized due to its nature or other circumstances, liquidator may distribute it as such with the approval from the company.

## Step 17: Preparation and Audit of Liquidation Account

As per IBBI (Voluntary Liquidation Process) Regulations, 2017, it is the duty of Liquidator to maintain accounts for liquidation of period and get the same audited for the said period.

## Step 18: Completion of Liquidation

As per IBBI (Voluntary Liquidation Process) Regulations, 2017, the liquidator has to complete the process of liquidation within 12 months from the date of commencement of liquidation.

## Step 19: Liquidation extending beyond 12 months

If the Liquidation extends beyond a period of 12 months, the liquidator has to hold a meeting of contributories within 15 days from the end of 12 months and at every succeeding 12 months until the company is fully dissolved. He shall also present an annual report showing the progress of liquidation which shall include:

- settlement of list of stakeholders;
- details of any assets remaining unsold,
- distribution made to the stakeholders,
- distribution of unsold assets made to the stakeholders;
- developments in any material litigation, by or against the corporate person;
- filing of, and developments in applications for avoidance of transactions in accordance with Chapter III of Part II of the Code

## Step 20: Final Report

Once the Liquidation process is completed, the liquidator has to prepare the Final Report containing:

- Details of Audited accounts of the liquidation
- a statement showing the assets are disposed, debts are discharged and no litigation is pending
- a sale statement of assets showing realized value, its cost, manner and mode of sale, any shortfall, to whom it is sold etc

### **Step 21: Unclaimed Proceeds**

Before the order of liquidation is passed, the liquidator shall:

- In case of unclaimed proceeds or undistributed assets, the liquidator shall apply to the Adjudicating Authority for an order to pay into the Companies Liquidation Account in the Public Account of India.
- The liquidator shall, when making any payment furnish to the registrar and the Board, a statement setting forth the nature of the sums included, the names and last known address of the stakeholders, the amount to which each is entitled to and the nature of their claim.

### **Step 22: Filing**

The Liquidator shall then file the Final report with the Registrar and the IBBI.

### **Step 23: Application to NCLT**

As per section 59(7) of the IBC, 2016, when the affairs of the company are completely wound up, the liquidator has to make an application to NCLT for dissolution of the company. The NCLT shall then pass an order that the company shall stand dissolved from the date of the order.

### **Step 24: Filing of Order**

The copy of order shall then be forwarded to the registrar where the company is registered.

### **Step 25: Preservation of records**

The liquidator shall preserve all the reports, records, registers and books of accounts either in physical or electronic form for a period of 8 years after the dissolution of the Company either with himself or with an Information Utility.

**CS JATIN SINGAL**  
FCS, LLB, B.Com  
JatinSingal& Associates  
M. No.: F9716 & CP NO.: 11976  
EMAIL: jatinsingal@gmail.com

# **REGULATORY UPDATES (MCA UPDATES)**

## **MCA UPDATES (RULES)**

- **Companies (prospectus and allotment of securities) Rules 2020**  
[http://mca.gov.in/Ministry/pdf/SecuritiesAmendmentRules\\_16102020.pdf](http://mca.gov.in/Ministry/pdf/SecuritiesAmendmentRules_16102020.pdf)
  
- **Companies (Appointment and Qualification of Directors) Fifth Amendment Rules 2020**  
[http://mca.gov.in/Ministry/pdf/FifthAmdtRules\\_18122020.pdf](http://mca.gov.in/Ministry/pdf/FifthAmdtRules_18122020.pdf)
  
- **Companies (Compromises, Arrangement and Amalgamations) Second Amdt Rules 2020**  
[http://mca.gov.in/Ministry/pdf/SecondAmdtRules\\_18122020.pdf](http://mca.gov.in/Ministry/pdf/SecondAmdtRules_18122020.pdf)
  
- **Companies (Share Capital and Debentures) Second Amendment Rules, 2020**  
[http://mca.gov.in/Ministry/pdf/SecondAmdtRules\\_24122020.pdf](http://mca.gov.in/Ministry/pdf/SecondAmdtRules_24122020.pdf)
  
- **Companies (Incorporation) Third Amendment Rules, 2020**  
[http://mca.gov.in/Ministry/pdf/ThirdAmdtRules\\_24122020.pdf](http://mca.gov.in/Ministry/pdf/ThirdAmdtRules_24122020.pdf)
  
- **Companies (Meeting of Board and its Powers) Fourth Amendment Rules, 2020**  
[http://mca.gov.in/Ministry/pdf/FourthAmdtRules\\_30122020.pdf](http://mca.gov.in/Ministry/pdf/FourthAmdtRules_30122020.pdf)

## **MCA (NOTIFICATIONS & ORDERS)**

- The Ministry of Corporate Affairs has issued the Companies (Auditor's Report) Second Amendment Order, 2020
- MCA has notified the dates as 21-12-2020 as the date from which certain provisions shall come into force under the Companies (Amendment) Act, 2020

## **MCA (CIRCULARS)**

- Clarification on passing of ordinary and special resolutions by companies under the Companies Act, 2013 read with rules made thereunder on account of COVID-19- Extension of time on 31.12.2020
- Relaxation of additional fees and extension of last date of filing of CRA-4 (form for filing of cost audit report) for FY 2019-20 under the Companies Act, 2013 on 01.12.2020
- Extension of LLP Settlement Scheme, 2020 on 09.11.2020

# WRITE WITH US



## **CALL for Articles for Publication in E-Newsletter (Quarter January, 2021- March, 2021)**

ICSI Patiala Chapter invites Articles for its next publication for the Quarter ending March,2021 . The last date for submission of your writings will be 15<sup>th</sup> March, 2021. We are looking forward to your resourcefulness and it will be immense pleasure to embellish your kind words into the E-Newsletter of the Chapter.

THANK YOU