

## Chairman's Page



*"Simply let your 'Yes' be 'Yes,' and your 'No' be 'No'; anything beyond this comes from the evil one."  
- The Holy Bible*

### Dear Professional Colleagues,

It gives me immense pleasure and delight to communicate and share my thoughts with you through this Newsletter – "Corporate Secretary" as

Chairman of this great Historical Chapter – The Hyderabad Chapter of ICSI.

### Thanks Giving

At the outset, I thank all the Members and my esteemed colleagues on the Managing Committee for reposing confidence in me and electing me as the Chairman for the year 2015. It is great opportunity to put all my efforts for the development of the Chapter and to take the Chapter and the profession to the greater heights. The Hyderabad chapter has made its niche as the most vibrant and best chapter in the Country. I just cannot stop thanking all my predecessors who have made their untiring efforts to take this chapter to such a greater level and I put on record and place my sincere appreciation for the various accomplishments of all my predecessors.

### Cricket

Now it is cricket time, the World Cup cricket fever by its very contagious typical character has caught almost to every one! 14 teams, 49 matches, 44 days cricket. Enthusiasts will stay glued to their televisions, following breathlessly every move. In India where cricket has often been compared to religion and the world cup to the object of their supreme devotion, we hope the defending champions India will retain the World cup within India. I wish MS Dhoni, the skipper and Team India, all the very Best.

Now at Hyderabad chapter, the New Team of Managing Committee is constituted and it requires your immense support for conducting and organizing the various activities of the chapter, as you all are already participating and involving in the activities of the chapter, I request your continued support. The

fervour and the fever of World Cup cricket must catch up with all of us in the events at our Hyderabad Chapter as well.

### Annual Fellowship Meet 2015

We could conduct successfully the Annual Fellowship Meet at Kalangan, NI-MSME, Yousufguda, Republic Day celebrations at the Chapter and a successful and well participated Joint Seminar with FTAPPCI and Osmania University on the topic 'The Indian Companies Act, 2013'. Our focus is for capacity building of the members and students and Our Team will continue to plan series of programmes on Companies Act 2013 and emphasis will be made on Secretarial Audit and Annual Report preparation and Certification and many more interesting topics.

### Meet with President

I had an opportunity to be present at the President's Meet with the Regional Councils Chairmen and A+ and A grade Chapters Chairmen on 13th and 14th of February 2015 at New Delhi. And, I made my presentation in the meeting on the various issues of the profession and in particular with the focus on the things required for the development of the Hyderabad chapter and impressed them with the requirement for creating infrastructure for the Hyderabad chapter. I met our President CS Atul H Mehta and he has accepted our invitation to visit Hyderabad. I am pleased to share with you that he has agreed to visit the Hyderabad chapter in March 2015.

### Appeal

Members who have defaulted in renewing their membership of the Institute, I sincerely appeal all those, to renew their membership by paying all their dues for restoration. I also request the Members who have not yet enrolled themselves to the Company Secretaries Benevolent Fund (CSBF), to do so, immediately, to become life member. This initiative is to help ourselves and extend the benevolence to your loved ones in times of distress and sorrow.

It would be my pleasure to meet you in person and interact with you at various programmes and seminars to be organised by the Chapter, please participate and involve yourself in the future programmes and provide us your valuable feedback.

I welcome your constructive suggestions, too.

With warm regards

**CS Issac Raj P.G.**

Chairman

chairman.hyderabad@icsi.edu

## Newsletter Committee

**CS Rahul Jain**  
Chairman & Editor

Ex. Officio Members

**CS Issac Raj P.G.**

**CS R. Venkata Ramana**

**CS Shujath Bin Ali**

**CS Akshita Surana**

**CS Manoj K Koyalkar**

**CS Nihita Nagayanti**

**CS Namita V**

**CS Krishna Chaitanya S**

**CS Priyanka Rajora**

**CS Prashant Jain**

## *Congratulations !!*

The Chairman & Managing Committee of the ICSI- Hyderabad Chapter heartily congratulate CS Atul H Mehta and CS Mamata Binani on their recent election as President and Vice President, The ICSI, respectively for the year, 2015 w.e.f. 19th January 2015.



The Managing Committee of the ICSI- Hyderabad Chapter congratulates the following Members on their recent election as Office Bearers of the Hyderabad Chapter for the year 2015 w.e.f. 23rd January 2015 in terms of The Company Secretaries Regulations, 1982.



**CS Issac Raj P. G.**  
Chairman



**CS Mahadev Tirunagari**  
Vice Chairman



**CS R. Venkata Ramana**  
Secretary



**CS Venkata Ravi Kumar M**  
Treasurer

## **Apart from the above, the following are also members of the Managing Committee of ICSI – Hyderabad Chapter:**



**CS Ahalada Rao V**  
Central Council Member



**CS P.S. Shastry**  
Vice-Chairman -SIRC



**CS R. Ramakrishna Gupta**  
Member -SIRC



**CS Rahul Jain**  
Member



**CS Kavitha Rani Sakhamuri**  
Member



**CS K. P. C. Rao**  
Member



**S.V. Rama Krishna**

M.Com, CAIIB, FCS, LL.M

Advocate & Corporate Legal Advisor

Email: svramakrish@gmail.com

**Disclaimer:**

For proper appreciation of issues and legal position, readers are advised to read full text of the judgments cited before placing reliance on them. Due to space limitation, entire facts and issues of the cases could not be discussed. The points reproduced / highlighted need to be understood in the totality of discussions contained in the relevant judgments. Legal Scan is not responsible in any manner.

REF.	CASE LAW – POINTS HELD
Constitutionality of National Tax Tribunal (NTT) under National Tax Tribunal Act, 2005	<p>Citation: Madras Bar Association vs. Union of India and another (2014) 10 SCC 1</p> <p>Background: National Tax Tribunal, a quasi-judicial appellate Tribunal, is vested with the power of adjudicating appeals on substantial questions of law arising from orders passed by the Appellate Tribunals constituted under the Income Tax Act, 1961, the Customs Act, 1962, and the Central Excise Act, 1944. Hithertofore, the instant jurisdiction was vested with the High Courts.</p> <p>Issue: It is impermissible for the legislature to abrogate / divest the core judicial appellate functions, especially the functions traditionally vested with the High Court.... Besides the appellate jurisdiction, the power of judicial review vested in High Courts under Article 226 and 227 of the Constitution has also been negated by the NTT Act. And therefore the same be set aside.</p> <p>Held: The Constitutional Bench of 5 Judges of Hon'ble Supreme Court of India held that –</p> <ol style="list-style-type: none"> <li>(i) In fact, it is little surprising that the National Tribunal is interposed between the appellate Tribunal and the Supreme Court for the very good reason that ultimately it will only be the Supreme Court that will declare the law to be followed in future. As the appellate Tribunal is already a second appellate court, it would be wholly unnecessary to have a National Tax Tribunal decide substantial questions of law in case of conflicting decisions of High Courts and Appellate Tribunals as these would ultimately be decided by the Supreme Court itself, which decision would under Article 141 be binding on all tax authorities and tribunals. Secondly, in all tax matters, the State is invariably a party and the High Court is ideally situated to decide substantial questions of law which arise between the State and private persons, being constitutionally completely independent of executive control. The same cannot be said of tribunals which, as L. Chandra Kumar [L. Chandra Kumar v. Union of India (1997) 3 SCC 261] states, will have to be under a nodal ministry as tribunals are not under the supervisory jurisdiction of the High Court. (ref. para 170)</li> <li>(ii) It is well settled that an appeal is a creature of statute and can be done away by statute. The question posed here is completely different and the answer to that question is fundamental to our jurisprudence: that a jurisdiction to decide substantial questions of law vests under our Constitution, only with the High Courts and the Supreme Court, and cannot be vested in any other body as a core constitutional value would be impaired thereby. (ref. para 175).</li> <li>(iii) that the National Tax Tribunals Act is unconstitutional, being the ultimate encroachment on the exclusive domain of the superior Courts of Record in India. (ref. para 179).</li> </ol>

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Negotiable Instruments Act 1881 – Sec. 138 and 141 – Offences by Company – proceedings</p>	<p><b>Citation:</b></p> <p>Anil Gupta vs. Star India Pvt. Ltd. and another 2014(2) ALD (CrI.) 751 (SC)</p> <p><b>Background</b></p> <p>The Hon'ble High Court held that the complaint against Respondent No.2 Company was not maintainable and quashed the summon issued by the trial Court against the Respondent No.2 Company.</p> <p><b>Issue:</b></p> <p>In the event of the Company/Accused being let off, the same cannot continue against the Managing Director who admittedly is only vicariously liable.</p> <p><b>Held:</b></p> <p>The Hon'ble Supreme Court observed that the Company being not a party to the proceedings under Section 138 read with Section 141 of the Act and in view of the principle held in <i>Aneeta Hada's</i> case [<i>Aneeta Hada v. Godfather Travels and Tours Pvt. Ltd.</i> (2008) 13 SCC 703 – legal bar to proceed against co-accused if Company is not made accused where the doctrine of strict construction applies that commission of offence by the Company is an express condition precedent to attract vicarious liability of others] , and quashed the summons against the Managing Director of the Company. (ref. para 15).</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">SARFAESI Act, 2002 – Writ maintainability</p>	<p><b>Citation:</b></p> <p>Neelam v. State Bank of India, Commercial Branch, Secunderabad 2015 (1)(ALD) (DB).</p> <p><b>Issue among others:</b></p> <p>Writ Petition under Article 226 of Constitution is filed against Banker to declare its action of auctioning property as arbitrary and illegal and consequently to direct Respondent Bank to stop the auction.</p> <p><b>Held:</b></p> <p>The Hon'ble Division Bench of High Court of Judicature at Hyderabad for the State of Telangana and State of Andhra Pradesh inter alia held :</p> <p>(i) When an effective alternative remedy is available to the parties, they have to avail the same under Section 17 of the SARFAESI Act. There cannot be any dispute that availability of an alternative remedy is not a bar for invoking jurisdiction under Article 226 of the Constitution of India. At least under three circumstances this Court can exercise the jurisdiction viz., (1) when principles of natural justice have been violated; (2) when the proceedings were initiated without any jurisdiction and (3) when there is violation of fundamental rights. (ref. para 6)</p> <p>(ii) Case of the petitioner does not fall under any one of the three circumstances as mentioned above. Petitioner can as well raise all the contentions before the Debts Recovery Tribunal by filing application under Section 17 of the SARFAESI Act. Therefore, there are no grounds to interfere with auction. The writ petition is devoid of merit and is liable to be dismissed. (ref. para 6).</p>

## INVESTMENT BY QUALIFIED FOREIGN INVESTOR IN CORPORATE BONDS

**Prashant Jain**

Partner

Samisti Legal LLP

prashant@samistilegal.in



### INTRODUCTION

For larger participation of new category of overseas investor i.e. Qualified Foreign Investors (“QFIs”) to invest in Indian Secondary Market, both Securities and Exchange Board of India (“SEBI”) and Reserve Bank of India (“RBI”) has issued guidelines allowing overseas individual investors to invest up to \$51 billion in corporate bonds and debt schemes of mutual funds without any lock-in period or residual maturity clause. RBI vide RBI/2012-13/134 A. P. (DIR Series) Circular No. 7 dated 16th July, 2012 and SEBI vide circulars CIR/ IMD/ FII&C/ 17 / 2012 dated 18th July, 2012 has decided to allow QFIs to purchase debt securities on repatriation basis.

### BROAD BASE OF DEFINITION OF QFI

QFIs shall mean a person who is resident in a country that is a member of Financial Action task Force (“FATF”) or a member of a group which is a member of FATF and resident in a country that is a signatory to International Organization of Securities Commission (“IOSCO’s”) Multilateral Memorandum of Understanding (“MMoU”) or a signatory of a bilateral MoU with SEBI.

### Following persons are not covered in the definition of QFIs:

- (a) the person who is not resident in a country listed in the public statements issued by FATF from time to time on jurisdictions having a strategic Anti Money Laundering and Combating Financing of Terrorism AML/CFT deficiencies to which counter measures apply or that have not made sufficient progress in addressing the deficiencies or have not committed to an action plan developed with the FATF to address the deficiencies;

Further such person is not resident in India and is not registered with SEBI as a Foreign Institutional Investor (FII) or Sub-Account of an FII or Foreign Venture Capital Investor (FVCI).

### ELIGIBLE INSTRUMENTS AND ELIGIBLE TRANSACTIONS

QFIs shall be permitted to invest through SEBI registered Qualified Depository Participants (“QDPs”) in eligible corporate

debt instruments, viz. listed Non-Convertible Debentures (“NCDs”), listed bonds of Indian companies, listed units of Mutual Fund debt Schemes and “to be listed” corporate bonds (hereinafter referred to as ‘eligible debt securities’) directly from the issuer or through a registered stock broker on a recognized stock exchange in India.

### The QFI transactions shall be limited to the following debt securities:

- (i) Purchase and sale of corporate debt securities listed on recognized stock exchange(s).
- (ii) Purchase of corporate debt securities through primary issues, if the listing on recognized stock exchange(s) is committed to be done with 15 days from such investment;
- (iii) Sale of corporate debt securities by way of buyback or redemption by the issuer.
- (iv) Purchase and sale of units of debt schemes of Indian mutual funds.

### ACCOUNT, MODE OF PAYMENT / REPATRIATION AND DEMAT ACCOUNT

QFIs shall open a single non-interest bearing Rupee Account with an AD Category-I bank in India, for the limited purpose of routing the receipt and payment for transactions relating to purchase and sale of units of eligible debt securities. The account shall be funded by inward remittance through normal banking channel and by credit of the sale/redemption/buyback proceeds (net of taxes) and on account of interest payment on debt securities. The funds in this account shall be utilized for purchase debt securities for QFIs or for remittance (net of taxes) outside India. The DP will operate such non-interest bearing Rupee Accounts on behalf of the QFIs and at the instructions of the QFIs. QFIs shall open a single demat account with a QDP in India for investment in all debt securities under the QFI scheme. Both QDPs and AD Category-I banks shall ensure KYC of the QFIs for opening and maintenance of the single non- interest bearing Rupee accounts as per the extant norms.

## LIMITS

QFIs are permitted to invest in corporate debt securities (without any lock-in or residual maturity clause) and Mutual Fund debt schemes subject to a total overall ceiling of USD 51 billion. This limit shall be over and above USD 20 billion for Foreign Institutional Investors (FII) investment in corporate debt. QFIs can invest without obtaining prior approval until the aggregate investments reaches 90% of USD 51 billion. For fresh purchases by QFIs after this cap, prior approval of the depositories is required to be obtained. The QFIs should make such request for prior approval to the concerned depository through the DP specifying therein the name of the QFI, PAN and other unique identification number relating to that QFI, by way of any mode of communication as specified by the depositories in consultation with each other. The depositories shall jointly publish/ disseminate the aggregate investment of QFIs to public, on daily basis.

## MISCELLANEOUS

QFIs shall remit foreign inward remittance through normal banking channel in any permitted currency (freely convertible) directly into their single non- interest bearing Rupee account maintained with an AD Category-I bank. The pricing of all transactions and investment in all debt securities by QFIs shall be in accordance with the relevant and applicable guidelines issued from time to time. Both QDPs and AD Category-I banks (maintaining QFI accounts) will also ensure reporting to SEBI along with Reserve Bank of India. QFIs shall be permitted to hedge their currency risk on account of their permissible investments (in debt instruments) in terms of the guidelines issued by the Reserve Bank from time to time. Each QFI shall obtain a separate and distinct PAN. There is no requirement of registration of QFI with any of the regulator, except that they have to deal with qualified depository participant.

## SOME APPREHENSIONS BY QFI

As QFIs need KYC requirements like PAN and tax return filings, these are believed to serve as hurdles to the scheme. The biggest apprehension is going through the complicated process of procuring a PAN in India and also filing tax returns.

## SEBI REGULATION FOR LISTING OF NCDs

The SEBI (Issue and Listing of Debt Securities) Regulations, 2008 (“Debt Regulation”) provides a comprehensive guidelines for listing of Debt securities in the stock market in India. The regulation provides the key elements and detail procedure which needs to be complied for Listing of Debt securities in the stock Market. Therefore complying with this regulation QFI can list their NCDs in the stock exchange which they have acquired through investment in a company under the prescribed limit. As per the regulation, a Company cannot make any public

issue of debt securities if as on the date of filing of draft offer document and final offer document as provided in the regulation, the Company or the person in control of the Company, or its promoter, has been restrained or prohibited or debarred by the SEBI from accessing the securities market or dealing in securities and such direction or order is in force.

An Indian company is required to satisfy the following key conditions for listing of its NCDs on a recognized stock exchange:

- receipt of an in-principle approval for listing of debt securities on a recognized stock exchange;
- issuance of NCDs in compliance with the provisions of the Companies Act and other applicable laws;
- receipt of credit rating from at least 1 credit rating agency registered with SEBI and disclosure of such credit rating in the offer document;
- execution of agreements with a SEBI registered depository for dematerialization of NCDs that are proposed to be issued to the public or proposed to be issued and listed; and
- Disclosures required under the Debt Regulations should be made.

## KEY CONSIDERATION

1. Credit ratings: Obtain credit rating from at least one credit rating agency registered with the SEBI and it must be disclosed in the offer document.
2. Appointment of Trustee and listing: The issuer company is required to appoint a debenture trustee in accordance with the SEBI (Debenture Trustees) Regulations, 1993 (“Trustees Regulations”) and execute a trust deed wherein the trustee shall act for the benefit of the investors subscribing to the NCDs.(Debt Regulation no. 15). The offer documents also need to disclose proposal to create charge or security interest (if any) in respect of debt securities, along with its implications and necessary undertakings. The issuer company is also required to comply with conditions of listing of such debt securities as specified in the Simplified Listing Agreement (for debt securities issued by SEBI), including creation and maintenance of redemption reserves at all times, timely payment of interest on NCDs and covenant to not materially modify terms of issue without prior approval of the stock exchanges.
3. Security Interest: Under Indian foreign exchange laws, except in the case of certain exempted transactions, creation of security interest in favor of non-residents requires prior approval of the RBI. However, no RBI approval

is required for securing listed NCDs (by way of pledge, mortgage of property, hypothecation of receivables, etc.) in favor of the debenture / security trustee, i.e., a domestic entity that acts for and in the interest of the NCD holders. In case of an enforcement event, the trustee has the authority to liquidate such security and only the proceeds of the enforcement would be remitted outside the country. Under the debt Regulation the issuer and the merchant banker is under an obligation to ensure that the security created to secure the debt securities is adequate to ensure

100% asset cover for the debt securities (Regulation 26(6)).

4. Maturity and Lock-In: Unlike the laws governing ECBs, the Debt Regulations do not impose restrictions like minimum maturity period, lock-in requirements, (except in the case of unlisted bonds issued under infrastructure bond segment) end use restrictions, ceiling on interest etc, in addition to the returns assured on the coupon and redemption premium on the NCDs.

## A BRIEF COMPARATIVE ANALYSIS FOR DEBT INVESTMENT THROUGH FDI (CCD) AND QFI (NCDs) ROUTE

Particulars	CCD-FDI	NCDs -QFI
Equity Owner-ship	Initially debt, but equity on conversion.	Mere lending rights; however, veto rights can ensure certain degree of control.
ECB Qualification	Assured returns on FDI compliant instruments, or put option granted to an investor, may be construed as ECB,	Purchase of NCDs by QFI from the Indian company on the floor of the stock exchange is expressly permitted and shall not qualify as ECB.
Coupon Payment	Interest pay out may be limited to SBI PLR + 300 basis points. Interest can be required to accrue and paid only out of free cash flows.	Arm's length interest pay out should be permissible resulting in better tax efficiency. Higher interest on NCDs may be disallowed. Interest can be required to accrue only out of free cash flows. Redemption premium may also be treated as business expense.
Security Interest	Creation of security interest is not permissible either on immovable or movable property	Listed NCDs can be secured (by way of pledge, mortgage of property, hypothecation of receivables etc.) in favor of the debenture trustee who acts for and in the interest of the NCD holders
Sectoral conditionalities	Only permissible for FDI compliant activities	Sectoral restrictions not applicable
Equity Upside	Investor entitled to equity upside upon conversion.	NCDs are favorable for the borrower to reduce book profits or tax burden. Additionally, redemption premium can be structured to provide equity upside which can be favorable for lender since such premium may be regarded as capital gains which may not be taxed if the investment comes from Singapore or Cyprus
Administrative expenses	No intermediaries required	NCD listing may cost around INR 25-30lakh including intermediaries cost. In case of QFI, there may be additional cost as fees charged by the QDP.

### FPI Route

On January 7, 2014, SEBI introduced the SEBI, (Foreign Portfolio Investment) Regulations 2014 ("FPI Regulations"). FPI is the portfolio investment regime. The Foreign Institutional Investor regime and the Qualified Foreign Investor regime have now been subsumed into the FPI regime. As regards exiting FIIs or sub-accounts, they can continue to buy, sell or otherwise deal in securities, subject to payment of conversion fees of USD 1000 to SEBI, before the expiry of its registration as an FII or sub-account. In case of QFIs, they may continue to buy, sell or otherwise deal in securities subject to the provisions of these regulations, for a period of one year from the date of commencement of FPI Regulations, or until it obtains a certificate of registration as an FPI, whichever is earlier.

Accordingly, the existing FIIs and QFIs will be rolled over into FPI or be phased out in timely manner. Under the new regime SEBI has given the power to designated depository participant ("DDP") who on their behalf will register the FPI.

## IMPACT OF SUPREME COURT'S JUDGMENT IN NATIONAL TAX TRIBUNAL'S CASE ON THE PROPOSED CONSTITUTION OF NCLT/NCLAT UNDER THE COMPANIES ACT, 2013 - A CRITIQUE



**CS K P C Rao., LLB., FCMA., FCS.,**  
CMA (USA), FIPA (Australia)  
Practicing Company Secretary  
kpcrao.india@gmail.com

### I. BACKGROUND

With the intention of establishing a Separate Tribunal to deal with all issues or disputes under the Companies Act, 1956, a Special Tribunal and Appellate Tribunal called National Company Law Tribunal and National Company Law Appellate Tribunal were sought to be established through the Companies (Second Amendment) Act, 2002. As per the said amendment, as soon as the Tribunal and the Appellate Tribunal is constituted, almost all powers exercised by the High Court under the Companies Act, 1956, powers exercised by the Board for Industrial and Financial Reconstruction (BIFR) under the provisions of the Sick Industrial Companies (Special Provisions) Act, 1985 ("SICA"), and powers hitherto exercised by the Company Law Board sought to be transferred to the NCLT and NCLAT except the judicial review powers exercised under Article 226 and 227 of Constitution of India.

### II. VALIDITY OF THE CONSISTUTION OF NCLT/NCLAT UNDER THE COMPANIES (SECOND AMENDMENT) ACT, 2002

#### (a) Judgment of Madras High Court

Sri R.Gandhi of Madras Bar Association has challenged the Companies (Second Amendment) Act, 2002 and especially the constitution of National Company Law Tribunal and National Company Appellate Tribunal before the Madras High Court.

The Madras High Court has delivered a landmark judgment on the issue of legality of constitution of National Company Law Tribunal and National Company Law Appellate Tribunal, as follows:

"The Tribunals which are largely a twentieth century phenomenon existed in this country even before the Constitution was framed.

The oldest and best known Tribunal is the Income-tax Appellate Tribunal which had been functioning from the year 1941. Industrial Tribunals had also been established prior to 1950. Articles 136 and 227 of the Constitution refer to Tribunals, and make their orders subject to judicial review by the High Court, and with leave, to the Appellate jurisdiction of the Supreme Court. Numerous Tribunals have been created subsequent to 1950 by Parliamentary as well as State legislation. Their exact number however is not easily ascertainable. The Law Commission of India in its 162nd Report submitted in 1998 reviewed the working of the major tribunals in the country – the Income-tax Appellate Tribunal, Customs, Central Excise and Gold (Control) Appellate Tribunal and the Administrative Tribunals, and suggested certain changes to improve their functioning.

The object of constituting Tribunals is to provide a simpler, speedier and more accessible justice than ordinary courts are able to provide, as stated in Wade on Administrative Law. Yet another object of constituting Tribunals is to create specialist Tribunals which would include specialists in the fields, to adjudicate more efficiently and speedily the matters requiring adjudication in that field, and thus command the confidence of all concerned in the quality and reliability of the result of such adjudication."

The High Court further declared that until the provisions in Parts 1B and 1C of the Companies Act introduced by the Companies (Amendment) Act, 2002, which have been found to be defective in as much as they are in breach of the basic constitutional scheme of separation of powers and independence of the judicial function, are duly amended, by removing the defects that have been pointed out, it would be unconstitutional to constitute a Tribunal and Appellate Tribunal exercise the jurisdiction now exercised by the High Courts or the Company Law Board.

The petitioners have also challenged the validity of certain provisions of the Companies (Amendment) Act, 2002, whereby



Hyderabad Chapter

# Corporate Secretary

certain powers currently exercised by the Company Law Board, some of which were earlier exercised by the court, were transferred to the Central Government. Most of those powers are only tangentially judicial and are primarily administrative.

The conclusion of the Court on the issue as to the constitutionality of the Companies (Second Amendment) Act, 2002 is follows:

“The constitution of the National Company Law Tribunal and the Appellate Tribunal in the manner now provided, when considered along with the provisions concerning the Competition Commission under the Competition Act 2002, seems to indicate a pattern of an aggressive executive seeking to take over gradually the judicial power traditionally exercised by the courts under safeguards which ensure the competence, independence and impartiality of the judges, and replacing them by persons who have neither a judicial background nor specialized knowledge of the subject for which the Tribunal is created, and by persons now serving the executive who will continue to retain their lien and loyalty to the executive branch, and be amenable to the influence of executive superiors and their political masters.”

However, the Madras High Court has not questioned the legislative competency in establishing National Company Law Tribunal, but, expressed its concern over the independence of the mechanism and its effectiveness.

## (b) Judgment of the Apex Court

Thereafter, the Judgment of the Madras High Court was appealed before the Supreme Court. Here, the respondents had challenged the order of the Madras High Court which had said that the amendment to the Companies Act 1956 to set up the NCLT and NCLAT was unconstitutional. However, the Supreme Court has confirmed the judgment of the Madras High Court.

In this landmark judgment, a five-judge constitution bench of the Supreme Court on 11th May, 2010 upheld the legality of the Companies (Second Amendment) Act, 2002, providing for the establishment of the National Company Law Tribunal and National Company Law Appellate Tribunal to deal exclusively with the company cases for their speedy disposal. Barring the judicial review power under Articles 226 and 227 of the Constitution, almost all jurisdictions exercised by the High Courts with regard to company matters have to be transferred to the proposed Tribunal and the Appellate Tribunal. All company-related matters pending with the Company Law Board, and the Board for Industrial and Financial Reconstruction (BIFR) would also have be transferred to the NCLT and the NCLAT.

The Apex Court, however, slammed the practice of filling the post of judicial members in tribunals with bureaucrats saying adjudication of these matters needed judicial bent of mind. It said, bureaucrats could at best be made technical members of the tribunals and all appointments to the post of presiding officers has to be made in consultation with a committee headed by CJI or his nominee and comprising a Judge of the Supreme Court or the High Court, Secretaries in the ministries of corporate affairs and ‘law and justice’.

The Apex Court also said, since the matters from the High Courts too would be transferred to NCLT and NCLAT, the presiding officers have to be of the rank of the HC Judges or persons meeting the qualification prescribed for HC Judges and ruled that the NCLT and NCLAT can be set up only after amending the law.

## III. CONSTITUTIONAL VALIDITY OF THE NATIONAL TAX TRIBUNAL ACT, 2005

In a similar case, a Constitution Bench of the Supreme Court of India struck down the National Tax Tribunals Act, 2005 (“NTT Act”) in its judgment on the 25th of September, 2014, in *Madras Bar Association v Union of India*<sup>1</sup> (hereinafter “NTT case”). The National Tax Tribunal (“NTT”) was set up to take over the existing jurisdiction of High Courts in India to hear and decide appeals pertaining to ‘questions of law’ relating to Income Tax, Customs, Central Excise and Service Tax matters, arising from the Income Tax Appellate Tribunal and the Customs, Excise and Service Tax Appellate Tribunal. While the power of the legislature (Union Parliament or State Legislative Assembly) under Article 323B of the Constitution to create by law, any tribunal and vest any jurisdiction upon it as the legislature so chooses was upheld, the Supreme Court has however laid down that Tribunals which are vested with the jurisdiction of Courts should enjoy the same constitutional protections and features as Courts whose jurisdictions they are replacing. It was on this basis that the NTT was struck down as being unconstitutional, since it was a tribunal which had been vested with the extant subject matter jurisdiction of a High Court, but did not enjoy at least as much of the Constitution protection that the High Court enjoyed in respect of its independence from the executive. Moreover, the Court has also struck down provisions of the NTT Act on the ground that these provisions were responsible for the NTT being a less efficacious remedy than the High Courts it was supposed to replace.

The principle, that a tribunal replacing a court must enjoy at least as much of the protections of the court, can be traced to the Constitution Bench judgment of the Supreme Court in *L Chandra Kumar v Union of India* and applied in *Union of India v Madras Bar Association* (the “NCLT case”) where certain provisions

of the Companies Act, 1956 relating to the National Company Law Tribunal (“NCLT”) and National Company Law Appellate Tribunal (“NCLAT”) were held to be unconstitutional and “defective”. However, the NCLT and NCLAT were themselves held to be constitutional and valid.

In its judgment in the NTT case, the Constitution Bench of the Supreme Court has expanded upon the principle with reference to the specific provisions of the NTT and found that taken individually and together, the provisions of the NTT Act do not sufficiently safeguard the independence of the NTT.

However, apart from guiding the future setting up of tribunals by the legislature, the NTT judgment will also immediately impact those tribunals which have been set up under Article 323B of the Constitution to deal with a wide set of laws. It is pertinent to note here that twenty nine Central Government tribunals that are functioning at present ranging from single Bench tribunals such as the Telecom Disputes Settlement Appellate Tribunal to the income Tax Appellate Tribunal which has multiple Benches across the country and a sanctioned strength of one hundred and twenty nine Members. Each tribunal is set up with its own governing legislation and there is little uniformity in the various matters provided for in each of these legislations. A bill to provide for uniformity in some aspects for some tribunals, appellate tribunals and other authorities is currently pending consideration before the Parliament but does not cover all the aspects which are relevant to the functioning of the tribunals.

In this judgment, Justice R.F. Nariman, while passing concurring judgment agreed with the majority view and also observed that the NTT Act is departure made by the Parliament to the extent that it allows tribunals to decide questions of law which hitherto were decided by the superior constitutional courts. The NTT Act takes away the power of judicial review of the High Court under articles 226 and 227, as it provides an appeal directly to the Supreme Court against an NTT order.

Some other interesting aspects which were considered by the Hon. Court are separation of powers between the judiciary and the executive and judicial superintendence. The Court also held that Chartered Accountants and Company Secretaries are not eligible for representing a party to an appeal before the NTT.

#### IV. PARAMETERS SET BY THE APEX COURT FOR TRIBUNAL LEGISLATION

##### (a) What is a Tribunal?

There is no statutory or constitutional provision which defines, exhaustively, what a “tribunal is. In order to get a grip on the term

‘tribunals’, the law laid down by the Supreme Court and other judicial bodies will have to be evaluated.

While the term has received extensive interpretation over a long period of time, relevant here would be an instrumental definition of the term “tribunal” that was adopted by the Supreme Court of India in NCLT case where it was distinguished from a Court as follows:

“Though both courts and tribunals exercise judicial power and discharge similar functions, there are certain well-recognised differences between courts and tribunals. They are:

- (i) Courts are established by the State and are entrusted with the State’s inherent judicial power for administration of justice in general. Tribunals are established under a statute to adjudicate upon disputes arising under the said statute, or disputes of a specified nature. Therefore, all courts are tribunals. But all tribunals are not courts.
- (ii) Courts are exclusively manned by Judges. Tribunals can have a Judge as the sole Member, or can have a combination of a judicial Member and a technical Member who is an “expert” in the field to which the Tribunal relates. Some highly specialised fact-finding tribunals may have only technical Members, but they are rare and are exceptions.
- (iii) While courts are governed by detailed statutory procedural rules, in particular the Code of Civil Procedure and the Evidence Act, requiring an elaborate procedure in decision making, tribunals generally regulate their own procedure applying the provisions of the Code of Civil Procedure only where it is required, and without being restricted by the strict rules of the Evidence Act.”

An overbroad definition of the term “tribunal” will cause conceptual confusion on how to assess these institutions. A working, instrumental approach must be adopted in defining the term “tribunal”. To this effect, a definition has been adopted as follows; a tribunal is a permanent and independent body set up by the Legislature, to solely decide a lis between parties in the context of specific jurisdiction vested upon it by statute, and which is not part of the regular judiciary. In this context, a distinction must also be drawn from those special courts or “tribunals” which are constituted under a specific legislation but remain part of the existing judicial hierarchy, for instance, Labour Courts and Industrial Tribunals. Such bodies, while their jurisdiction is specified by statute, still function under the supervision and purview of the High Court.

The definition of a tribunal can therefore be split up into six criteria, which collectively are necessary and sufficient to designate a body as a tribunal. These are:

- (1) Permanency;
- (2) Independence from the Executive;
- (3) Set up by or under law made by Parliament;
- (4) To solely decide a lis between parties;
- (5) Specific jurisdiction vested by statute;
- (6) Not part of the regular judiciary.

This definition is in line with the instrumental definition adopted by the Supreme Court in NCLT case. It also follows the distinction between ‘tribunals’ and ‘quasi-judicial authorities’ as recently explained by the Supreme Court in *State of Gujarat v Gujarat Revenue Tribunal Bar Association*, where it held that:

“18. ...Where there is a lis between two contesting parties and a statutory authority is required to decide such dispute between them, such an authority may be called as a quasi-judicial authority i.e. a situation where, (a) a statutory authority is empowered under a statute to do any act; (b) the order of such authority would adversely affect the subject; and (c) although there is no lis or two contending parties, and the contest is between the authority and the subject; and (d) the statutory authority is required to act judicially under the statute, the decision of the said authority is a quasi-judicial decision. An authority may be described as a quasijudicial authority when it possesses certain attributes or trappings of a “court”, but not all. In case certain powers under CPC or CrPC have been conferred upon an authority, but it has not been entrusted with the judicial powers of State, it cannot be held to be a court.”

In addition, this definition expressly excludes those courts which are ‘designated’ tribunals under certain statutes, such as High Courts and District Courts. These are sometimes designated ‘Company Courts’, ‘Election Tribunals’ or ‘National Industrial Tribunals’, and are not ‘tribunals’ per se, simply because they continue to be part of the regular judiciary under the Constitution, but only exercise certain additional jurisdictions under specific legislations. Likewise, bodies such as the Press Council of India do not actually decide a lis between parties though they may exercise quasi-judicial functions. The Coastal Aquaculture Authority, though required to be headed by a retired judge of the Supreme Court, does not even perform quasi-judicial functions.

## (b) Parameters Set By the Apex Court

The various parameters of efficacy and independence laid down by the Supreme Court to test the provisions of a Tribunal legislation are:

### (a) Efficacy:

- (1) Whether the tribunal taking over the function of the court is at least as geographically widespread and accessible as the court it seeks to replace?
- (2) Whether the persons authorised to appear on behalf of parties in the Tribunal are trained and capable of assisting the Tribunal in exercising its jurisdiction?

### (b) Independence:

- (1) Where the Central Government is a party in every case before the Tribunal or where the Tribunal’s jurisdiction vested earlier with the High Court, whether the Tribunal’s functioning with respect to composition and jurisdiction of benches of the tribunal and transfer of members is vested with the President of the Tribunal?
- (2) Whether the prescribed qualifications of the members of the Tribunal are adequate to enable the Tribunal to exercise its jurisdiction?
- (3) Whether there is sufficient representation for legally trained members of the Tribunal to help perform adjudicatory functions?
- (4) Whether only legally trained Members are appointed to the Tribunal if such Tribunal is taking over the jurisdiction of the Court?
- (5) Whether the appointment, and terms and conditions of service of Chairperson and Members of a Tribunal are on par with the Court whose jurisdiction is being replaced by the Tribunal?
- (6) If the Government is a litigant in every case before the Tribunal, whether the Government’s decision is based on proper consultation with the judiciary in the appointments to the Tribunal?
- (7) Whether the Chairperson or Member of the Tribunal can be re-appointed by the Government which is a major litigant before the Tribunal?

Each clause of a Tribunal legislation has to be tested against the relevant parameter set out to see whether they meet the Constitutional requirement, and if they do not, such clause will be considered unconstitutional by the Supreme Court. If the answer to the questions posed above in the parameters is in the affirmative then such clause in the Tribunal's governing statute will be valid.

## V. CRUX OF THE ISSUE

While the Supreme Court has enunciated these principles in the NCLT and the NTT case judgments, the question as to how to assess the constitutional independence and efficacy of Tribunals which replace the jurisdiction of regular civil or criminal courts remains to be seen. In both the NCLT and in the NTT case, the Tribunal in question was clearly being vested with the jurisdiction of a High Court. Additionally, in the NTT case, the Tribunal in question had the Government as a litigant in every single case before it. It is therefore likely that not all the above parameters will be relevant for all Tribunals. For instance, parameters 1, 6 and 7 relating to independence would not be entirely relevant in the context of a tribunal which solely decides disputes between private parties or where the Central Government is not a principal litigant through other Governmental entities may be (such as PSU Banks and statutory regulators). Likewise, parameter 1 relating to efficacy and parameter 5 relating to independence would not be relevant for a Tribunal which has taken over a freshly created jurisdiction that was not earlier being exercised by any Court in the past.

## CONCLUSION

The establishment and constitution of NCLT and NCLAT as exclusive tribunals for the administration of all matters arising out of the Companies Act will definitely reduce, if not negate the fatal delay involved in the company law proceedings, avoid multiplicity of litigation before various fora, streamline the process of appeal and reduce the burden on High Courts. All this will make India, a more attractive destination for investment. As the Court has rightly highlighted, NCLT and NCLAT should be judicial tribunals par excellence which is possible only if the members are adequately qualified and confirm to the prescribed standards.

But, the ruling in the NCLT and the NTT case judgments referred above may have a bearing on similar tribunals set up, including the National Company Law Appellate Tribunal (NCLAT) and the National Company Law Tribunal (NCLT) proposed to be constituted under the Companies Act, 2013. The Madras Bar Association has already challenged the constitutional validity of NCLT (under the Companies Act, 2013) before the Supreme Court and it is pending. In this context, it is necessary to ensure that the law be predictable and consistent and not change every time a different judge or bench looks at an issue. It doesn't mean that the decision will never be overruled or changed, only that the courts have to find a persuasive reason to say that decision was either wrong or that circumstances have now changed so that it is no longer right. Without it our legal system would be wildly unpredictable and people could not have confidence in it and would be constantly re-litigating old issues.

It would be apt if going forward the Government should adopt a more collaborative approach to involve all stakeholders before introducing dispute resolution mechanism. Otherwise, cases that involve setting up of tribunals would continue to feed judiciary-executive fights over jurisdiction.



Hyderabad Chapter

## How to Handle Difficult Conversations at Work



**CS Akshita Surana**  
akshitasurana@gmail.com

Difficult conversations — you're telling a client that the work is delayed, presiding officer over a paper work or mail failure such situation are an inevitable part of management.

How should you prepare for this kind of discussion? How do you find the right words at that moment? And, how can you manage the exchange of words so that it goes as smoothly as possible?

Well, we've all had bad experiences with these kind of conversations in the past. Perhaps, your boss lashed out at you during a heated discussion or your client hung up the phone on you. As a result, we tend to avoid them but that's not the key. After all, "Tough conversations are not black swans".

The key is to learn how to handle them in a way that produces a better outcome which is less painful for you, and less pain for the person you're talking to, how to get what you need from these hard conversations while also keeping your relationships intact.

### **Change your mindset**

If you are gearing up for a conversation you've labelled "difficult", you are more likely to feel nervous and upset about it beforehand. Instead try framing it in a positive way.

### **Breathe**

The more calm and centred you are, the better you are at handling difficult conversations. Take regular breaks throughout the day to practice "mindful breathing". This helps you "refocus" and gives you capacity to absorb the blows that come your way.

### **If, for Plan but don't script**

It can help you to plan what you want to say by jotting down notes and key points before you start your conversation. Drafting a script, however, is a waste of time. It's very unlikely that it will go according to your plan. Your counterpart doesn't know his line so when he goes off script you have no forward motion and the exchange becomes weirdly artificial. Your strategy for

the conversation should be flexible and contain a repertoire of possible responses. Your language should be simple, clear, direct, and neutral.

### **Acknowledge your counterpart's perspective**

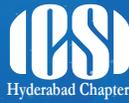
Don't go into a difficult conversation with my-way-or-the-highway attitude. Before you broach the topic, ask yourself two questions: "What is the problem?" and, "What does the other person think is the problem?" If you aren't sure of the other person's viewpoint, acknowledge that you don't know and ask. Show your counterpart that you care. Express your interest in understanding how the other person feels, and take time to process the other person's words and tone. Once you hear it, look for overlap between your point of view and your counterpart's.

### **Be compassionate**

Experience tells us that these kinds of conversations often lead to [strained] working relationships, which can be painful. It's wise, therefore, to come at sensitive topics from a place of empathy. Be considerate and be compassionate. It might not necessarily be pleasant, but you can manage to deliver difficult news in a courageous, honest and fair way. At the same time, do not emote. The worst thing you can do is to ask your counterpart to have sympathy" for you, Don't say things like – "Feel so bad about saying this" or "This is really hard for me to do". Don't play the victim.

### **Slow down and listen**

To keep tensions from blazing, try to slow the pace of the conversation. Slowing your cadence and pausing before responding to the other person gives you a chance to find the right words and tends to defuse negative emotion from your counterpart. If you listen to what the other person is saying, you're more likely to address the right issues and the conversation always ends up being better. Make sure your actions reinforce your words. Saying, "I hear you", as you're fiddling with your smart phone is insulting.



## Give something back

If you're embarking on a conversation that will put the other person in a difficult spot or take something away from them, ask yourself: "Is there something I can give back?". If, for instance, you're laying off someone you've worked with for a long time, you could say, "I have written what I think is a strong recommendation for you; would you like to see it?" If you need to tell your boss that you can't take on a particular assignment, suggest a viable alternative. Be constructive, nobody wants problems. Proposing options helps the other person see a way out, and it also signals respect.

## Reflect and learn

After a difficult conversation, it's worthwhile to "reflect ex post" and consider what went well and what didn't. Think about why you had certain reactions, and what you might have said differently. Observe how others successfully cope with these situations and emulate their tactics. Learn how to disarm yourself by imitating what you see.

**Handling a difficult conversation well is not just a skill; it is an act of courage.**

## Points to Remember

Do:	Don't:
Take regular breaks during the day, the more calm and centred you are, the better you are at handling tough conversations when they arise	Label the news you need to deliver as a "difficult conversation" in your mind; instead frame the discussion in a positive or neutral light
Slow down the pace of the conversation, it helps you find the right words and it signals to your counterpart that you're listening	Bother writing a script for how you want the discussion to go; jot down notes if it helps but be open and flexible
Find ways to be constructive by suggesting other solutions or alternatives	Ignore the other person's point of view — ask your counterpart how he sees the problem and then look for overlaps between your perspectives.



**Ravi V.**  
Executive-Corporate Affairs  
RANJ & Associates



**Saritha Jain**  
MBA  
CS Professional

## CORPORATE AFFAIRS

### **MCA amends Companies (Accounts) Rules, 2014**

The Ministry of Corporate Affairs vide its Notification dated January 16, 2015 amended the Companies (Accounts) Rules, 2014. The rules are now called Companies (Accounts) Amendment Rules, 2015.

#### **Highlights / Impact**

- New Form AOC-5 introduced: Section 128 of the Companies Act, 2013 mandates Companies to notify the ROC the address of the place at which the books of accounts of the Company is maintained if such place is other than the registered office of the Company. However, no Form was prescribed by the ROC for notifying as such. Pursuant to this amendment, the Notice of address at which books of accounts are to be maintained shall now be in Form AOC-5 (inserted in Annexure to the Rules) and the said Form is also available on MCA portal for filing.
- Relaxation in consolidation of financial statements: Previously, the listed companies were required to prepare consolidated financial statements in terms of the listing agreements with stock exchanges. However, under the new Companies Act, 2013, even an unlisted Company is required to prepare consolidated financial statements of the parent company and its subsidiaries. The Rules were further relaxed some time back in certain cases and in furtherance to that this amendment provides that the requirements in respect of consolidation of financial statements shall not apply to a company having subsidiary or subsidiaries incorporated outside India only for the financial year commencing on or after 1 April 2014. This amendment looks to be a temporary relief to allow the Companies to equip themselves much better for the next FY.

### **Procedure for filing of DIR 11 by a Foreign Director relaxed**

Rule 15 of the Companies (Appointment and Qualification of Directors) Rules, 2014 related to notice of resignation of director provides that the company shall within thirty days from the date of receipt of notice of resignation from a director, intimate the Registrar in Form DIR-12 and post the information on its website, if any.

Considering the practical difficulties in filing of DIR-11 in case of a foreign director the MCA vide its Notification dated January 19, 2015 provided that in case a resignation of a foreign director where the company has already filed Form DIR-12 with RoC under Rule 15, Form-DIR-11 can be filed on behalf of such foreign director and under a written authority by a practicing chartered accountant, cost accountant company secretary or any other resident director of the company.

### **List of entities eligible to undertake CSR activities widened**

The Ministry of Corporate Affairs vide Notification dated January 19, 2015 has brought out amendments relating to Corporate Social Responsibility (CSR) by widening the list of entities through which companies can undertake CSR activities.

#### **Highlights / Impact**

Earlier, Companies were allowed to do CSR activities by establishing a registered trust or a registered society or a company under section 8 of CA,13 either itself or through holding or subsidiary or associate company. Pursuant to the above notification, now a company can establish a registered trust or a registered society or a company under section 8 of the Act either singly or alongwith its holding or subsidiary or associate company, or alongwith any other company or holding or subsidiary or associate company of such other company to undertake CSR activities

## **MCA authorizes Officers for the purpose of filing of Complaints for Obtaining Duplicate DIN**

Under the provisions of Section 155 of the Companies Act, 2013 no individual, who has already been allotted a Director Identification Number (DIN) under section 154, shall apply for, obtain or possess another DIN. Section 159 of the Companies Act, 2013 further provides for the punishment for contravention of the same.

For the purpose of filing Complaint against such Individuals, the MCA vide its Notification dated January 12, 2015, authorized following officers in the office of Regional Director (Northern Region) at Noida:

1. Dr. Raj Singh, Joint Director
2. Shri A. M. Singh, Joint Director
3. Ms. P. Sheela , Joint Director
4. Shri R. K. Tiwari, Joint Director
5. Shri Ch. Jaganadh Reddy, Assistant Director

## FEMA/RBI

### **RBI allows 100% FDI in medical devices sector**

Earlier, there was no separate policy for medical devices, which were covered under pharmaceuticals. The pharma policy imposed stiff foreign investment conditions, including mandatory government approvals in case of brownfield investment or stake acquisition in existing Indian companies. The Indian medical devices industry is highly dependent on imports with over 70% of the demand being satisfied by such imports.

To give a boost to the medical devices sector, the Department of Industrial Policy & Promotion (DIPP) vide a Press Note on January 06, 2015 announced that the medical devices industry has been carved out from the pharmaceutical sector and that FDI in this segment will now follow the automatic route. Accordingly, the Reserve Bank of India vide its Notification dated January 09, 2015, liberalised certain conditions for FDI in the business of manufacturing of “medical devices” under the Pharmaceuticals sector by amending the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000.

### **RBI Modifies Wilful Defaulter Master Circular**

In view of the judgment of Gujarat High Court holding that RBI master circular on wilful defaulter dated July 01, 2014 as arbitrary and violative of the Constitution of India and ultra vires in so far as it was made to include all the directors, RBI has modified the same. The RBI Notification dated January 07, 2015 clarifies that in view of the limited role of non-promoter/non-whole time directors (nominee and independent directors) in the management of a company’s debt contracts, their names shall now be excluded from the list of wilful defaulters, except in the rarest circumstances.

### **Proven track record mandatory for ODIs by Proprietorship concern/Unregistered Partnership Firm**

Based on the changes made in the definition/classification of the exporters as per the Foreign Trade Policy of the Ministry of Commerce and Industry issued from time to time, the Reserve Bank of India (RBI) vide its Notification dated January 22, 2015 reviewed the policy framework for Overseas Direct Investments (ODI) by a proprietorship concern / unregistered partnership firm in India.

A proprietorship concern / unregistered partnership firm in India, considering Overseas Direct Investments must satisfy following conditions:

- Should have a proven track record as indicated
- must be classified as a ‘Status Holder’
- is KYC (Know Your Customer) compliant and has indicated turnover
- should not be under adverse notice of any Govt Agency, or in the list of defaulters to the banking system or RBI’s export caution list
- amount of proposed investment outside India does not exceed 10 per cent of the average of last three years’ export realisation or 200 per cent of the net owned funds of the proprietorship concern / unregistered partnership firm in India, whichever is lower.

### **RBI relaxes ECB norms**

The Reserve Bank of India vide its Notification dated January 01, 2015 relaxed the security norms for ECBs and decided that AD Category-I banks may allow creation of charge on immovable

assets, movable assets, financial securities and issue of corporate and / or personal guarantees in favour of overseas lender / security trustee, to secure the ECB to be raised / raised by the borrower.

**However, the new rules are subject to conditions hereunder:**

- The underlying ECB must be in compliance with extant ECB guidelines
- There should be a security clause in the Loan Agreement requiring the ECB borrower to create charge, and
- A NOC from an existing domestic lender

## DGFT

**Now, apply online for IEC**

The new system of submitting online applications for IEC as per the Directorate General of Foreign Trade (DGFT) Public Notice dated the 27th November, 2014 will be operationalized with effect from February 01, 2015. The facility of submission of application in manual mode will, however, continue for those applicants who do not have access to net banking facility with the ten notified banks. Applicants, applying for IEC in manual mode, may utilise the existing format.

**Highlights / Impact**

- Digitally signed e-IEC would be issued/e-mailed to the applicants within two working days after e-processing by the regional authority of the DGFT
- In case the application is incomplete or otherwise ineligible, the same shall be rejected and an intimation to the applicant.

## CAPITAL MARKETS

**SEBI notifies stringent insider trading norms**

Market regulator SEBI vide its Notification dated January 15, 2015 notified a stricter set of insider trading norms to be called the SEBI (Prohibition of Insider Trading) Regulations, 2015 to check illicit transactions in shares of listed firms by management personnel and 'connected persons'.

**Highlights / Impact**

- Mere communication of unpublished price sensitive information (UPSI) to be punishable
- Definition of 'connected person' has been widened to include the one who is associated with the company in a contractual, fiduciary or employment relationship and has direct or indirect access to unpublished price-sensitive information
- The onus of establishing that they were not in possession of UPSI would be with the connected persons
- 'price sensitive information', now has reference to both a company and its securities
- Insiders who are liable to possess UPSI all round the year would have the option to formulate pre-scheduled trading plans
- Repeated disclosures have been removed to ease compliance burden.

The above new rules will come into effect from May 15, 2015.

## First Impression with Title to Presentation



**CS Suryanarayana SV**  
Practising Company Secretary  
cs@suryanarayana.com

A catchy title to a presentation must generate interest and arouse curiosity. Audience relate the title of your presentation and remember the key points of your message.

Every presentation should generate interest and arouse curiosity in order to keep the attention of audience and ensure that they will remember the key points of your message. However, the first thing to do is make sure you have an audience! Therefore, We you must always try to select a “catchy” title that will make people want to hear what you have got to say. We notice in many Presentations, that it was the largest crowd they’d had in ages...not because of the person making the presentation, but because the topic/title of the program sounded interesting or unique.

**1. Important Criteria:** When selecting a title for any presentation, keep the following criteria in mind:

- Does it stress benefits, results, or action?
- Does it stress WIIFM? [ What’s In It For Me! ]
- Does it reflect the theme of the presentation?
- Does it elicit drama, mystery, or controversy?
- Does it stimulate the imagination?
- Does it have a double meaning?
- Does it play off a well-known title or phrase?
- Is it easily remembered? Bottom-line...does it sound like something you don’t want to miss?

**2. Best Hint:** Having kept these points in mind, your vision about your presentation subject certainly helps you to create a suitable

**TITLE.** Take hint of the headlines in a Newspaper that reflects a whole summary of the story. At the same time Newspaper headings try to attract the readers and motivate them to read the story. Same logic applies here for Presentations also to give a memorable title to the presentation.

**3. Steps:** First list out few initial captions suitable for your presentation. Secondly, keep changing the titles as you get ahead with the preparation of presentation. Finally select two alternative titles that look short [few words] but convey your powerful message -one for using as main title and the other for content summary title.

**4. Key Points:**

- A. Focus on four key points of your message to prepare Presentation title. If you try to communicate more than 4 points, people will remember nothing.
- B. Write down everything you remember from the last presentation on the same subject.
- C. State your most important message first - don’t bury your main message.
- D. Messages that come out of your Title need to be shorter, simpler, and less complex

**5. In Conclusion:** While finalizing your Presentation Title keep in view the following quotation:

*“Great minds discuss ideas; Average minds discuss events; Small minds discuss people.”*

- Eleanor Roosevelt

So remember, a catchy Title makes audience hear what you have in mind.

## “Dashes and hyphens are not the same”



**Akshaya Jain**  
akshaya\_98@yahoo.com  
CS Executive Student

Dashes and hyphens are both commonly used in writing, but how do we differentiate between the two? Dashes and hyphens look similar, but they're used in different ways. Let us learn about them in detail.

### A hyphen (-) is used:

1. To connect two or more words

**For example:** Daniel Day-Lewis, twenty-one, user-friendly

2. To indicate a range of values

**For example:** At the wedding, family members will be seated in rows 11-15.

3. To continue a word onto the next line when there is a line break

**For example:** Because the traffic is relatively light today, we certainly have time to stop at the grocery store.

### A dash (—) is used:

1. At the beginning and end of a phrase to highlight parenthetical information

**For example:** An etymological dictionary is one of the few books—no, it's the only book—you'll ever need.

2. To introduce new information, as a colon would with a list of items

**For example:** I opened the door, and there she stood—my long-lost sister.

*So, the next time, when you need to use them, JUST BE SURE!*

## WHY HEALTH AND FITNESS SHOULD MATTER TO EVERYONE



**By CS KVS Subramanyam**  
 Director  
 B5 Corporation Private Limited  
 kvs@rsfcs.com

FIT & FINE

“To keep the body in good health is a duty... otherwise we shall not be able to keep our mind strong and clear.” ~ Buddha

Our body is the reflection of the choices we make. For a better body and to start feeling healthier we we have to start making better choices.

The hard part is taking proper action and maintaining discipline to follow through with them.

Better late than never, start taking baby steps towards healthier body and mind today - in fact now.

**Choose just one healthy thing that you could focus on exclusively for the next 30 days.**

Drinking water instead of juice, pop, or sports drinks.

Drink black coffee instead of coffee with cream and sugar.

Don't eat junk foods – avoid them at all costs.

Start 10 minutes of stretching every morning right when you get out of bed.

These things should be practiced and they will soon become HABITS.

**“It is better to take many small steps in the right direction than to make a great leap forward only to stumble backward.” ~ Louis Sachar**

**The key is singularity of focus and abundance of patience.**

Make a smart change in your life and establish it as a strong habit FIRST, then move on to another change. And slowly, one change at a time, you will start to lead a MUCH healthier lifestyle.

Remember, regardless of what it is you do for the world, “When health is absent, wisdom cannot reveal itself, art cannot become manifest, strength cannot be exerted, wealth is useless, and reason is powerless.” ~ Herophiles

Some of the smart choices to make for becoming healthy are :

Before going into the nitty-gritty of calorie counting and so forth, we can improve our health a great deal by changing the staples of our diet and our patterns of eating.

- First, the obvious stuff: fast food and soda. Cut it out. Fast food is almost always extremely unhealthy, high in saturated fat and trans fat, very calorie-dense, and should thus be avoided by everyone. The occasional burger is harmless in the grand scheme of things,

but if fast food is a staple of our diet, cut it out.

- Soda is the other thing that should be massively reduced by almost everyone. Soda is extremely calorie-dense, has no nutritional value, and for various reasons, we shouldn't be dumping massive amounts of simple sugars into our system. Drink water instead, with the occasional coffee or tea for variety. After a few months of this, our soda cravings will slowly dissipate.
- For those with a sweet tooth, all kinds of sweets are calorie monsters. But the worst of the worst may be ice cream, especially premium ice creams - a pint might give us a few days worth of saturated fat and half the calories we should be taking in. We don't need to never eat something sweet again - that's ludicrous. Just eat it rarely and in smaller amounts.
- Be aware that many “frappuchino” coffee beverages are made almost entirely of dairy fat and syrup, and can have absurd amounts of calories. Brewed tea and coffee are almost calorie-free, and a packet of sugar only adds about 20 calories, but some of these blended “coffee” drinks have on the order of 400 calories.
- Focus on traditionally cooked food. Try to consume the least amount of processed junk food can try to eat whole, naturally occurring foods. Eating these will keep us more full than the processed stuff and has lesser number of calories.
- Many people make the first steps towards weight loss just by cutting out soda and dropping the Big Mac content of their diet. Aside from being made of unhealthy ingredients, fast food and soda are so awful because they make it easy to ingest immense calories without being especially aware that we're doing it. I'm not telling we that we need to abandon everything we like forever. We just can't have obviously unhealthy foods be a main component of our diet. Having a reasonably-sized portion of something “unhealthy” that we really like 1-2 times a week is not a problem if the rest of our diet is in order.

Conclusion: Be conscious of your health and body, do not abuse the body it is a god gift and nothing can replace it.

**Some health quotes are:**

*“Health is the greatest of all possessions; a pale cobbler is better than a sick king.”*  
 ~ Isaac Bickerstaff

*“Some things you have to do every day. Eating seven apples on Saturday night instead of one a day just isn't going to get the job done.”*  
 ~ Jim Rohn

## #WE WON'T GIVE IT BACK"

**CS Namita Vemulakonda**

ACS, LLB

Company Secretary

namita456@gmail.com



### THE WORLD CUP STORY SO FAR

The game of cricket got its biggest break on the global stage when the first Cricket World Cup was introduced in 1975. From then on, a World Cup is being held every 4 years. A total of ten world cups have been played till date.

The eleventh edition of this coveted and much awaited tournament will be jointly held by Australia and New Zealand between 14th February, 2015 and 29th March, 2015.

An insight into some of the interesting snippets/trivia that occurred in the last World Cup that eventually saw Team India win the Cup!

### FIRST MATCH AGAINST BANGLADESH

India went into the 2011 World Cup with fear. In 2007 too, India played its first game against Bangladesh –The Men In Blue lost that match badly and the tourney itself ended as a disaster. But this time, thanks to Sehwag's 175, Team India registered its first win!!

### WIN AGAINST AUSTRALIA

Team India played against Australia in the quarter-final. Dhoni & Co put a break to Australia's supremacy over World cricket. After 1992, this was the first time, Australia failed to enter the semi-final....India entered semis defeating the 4-time champs!!

### WIN AGAINST PAKISTAN

It was an ironical situation. The match was being held at Mohali. Two facts become worth mentioning.

### FACTS:

- India and Pakistan played at Mohali 6 times. India never won against Pakistan at Mohali
- Pakistan never won against India in a World Cup match

**RESULT:** India won the 5th World Cup tie against Pakistan!! This was the first time Pakistan lost to India at Mohali. Men-In-Blue defeated Pakistan to reach the final. In this match, Sachin was awarded the Man-of-the-match for his 85. Interestingly, Sachin got his first Man-of-the-match in World Cup playing his first match against Pakistan in 1992. His last award too came against Pakistan in 2011 ☐

### INDIA REGAINS THE TROPHY AFTER 28 YEARS – 2nd APRIL, 2011

Who can forget this match? The winning shot by Dhoni that sent nation into a frenzy. The way Sachin was lifted on the shoulders of his team mates and taken all over Wankhade – memories to cherish for a lifetime ☐

With this win, India wiped out the bad memories of the 2007 World Cup!!

### COMPARING 2007 AND 2011 – AN INTERESTING SNIPPET:

India lost to Bangladesh in the first World Cup match in 2007. Then the team lost to Sri Lanka in its last match and exited the tourney....In 2011, India won the first match against Bangladesh and finally won the match against Sri Lanka to get the Cup!!!

## 2011 WORLD CUP FINAL - TRIVIA:

- The first World Cup final to include two teams from the same continent – INDIA and SRI LANKA
- The first final which saw both teams captained by wicket-keepers; MS Dhoni and Kumara Sangakkara
- The first time where inspite of having a centurion, the team failed to win. Mahela Jayawardane scored a century, yet his team couldn't win the Cup!!

## SACHIN - THE WORLD CUP MAN

Sachin has been the highest scorer in the World Cups with 2278 runs. He also hit the maximum number of centuries(6). Well, there's an interesting trivia attached to his tons.

Sachin started his World Cup journey at WACA Australia. He ended it in his home town Mumbai at the Wankhade after 19 long years!! He started out as an 18-year old. His last World Cup score was incidentally 18 too!!

Sachin has the record for the highest number of centuries in the World Cups. He has 6 centuries. Here's a small trivia:

Sachin and Africa: His first ton came against Kenya; in the 1999 World Cup too he scored his only ton against Kenya. In the 2003 Cup, he scored a single century which came against Namibia – another African nation. While in 2011, his last World Cup century came against South Africa itself!!

Sachin has been the highest run-scorer in the World Cups with 2278 runs. Talking of his least scores, he was out for 0 two times. Interestingly, both the teams against whom he got out for 0, reached the final....Australia in 1999 and Sri Lanka in 2007!!

## THE JOURNEY AHEAD BEGINS AGAIN, AND WITH A THUNDER!

With the tag of “defending champions”, Team India goes to the World Cup chasing its dream again. In the World Cup opener, India played its first match against arch-rivals Pakistan (the first time without Sachin Tendulkar) on February 15, 2015 and took the record 6-0 and blue bled all over Adelaide.

Kohli becomes the first Indian batsman to score a hundred against Pakistan in the World Cup!!

Here's hoping our team's dream run continues and also wishing Team India all the very best for the World Cup! BRING IT BACK!!

**Tickle your grey cells with the “Law Quiz”.**

**Please send your answers to [hyderabad@icsi.edu](mailto:hyderabad@icsi.edu)  
on or before 5th March 2015**

**Names of the 1st 3 Quiz Winners will be published in  
next edition of the Corporate Secretary Newsletter**



**CS Nihita Naga Jayanthi**

Company Secretary  
Sandor Medicoids Private Limited  
[ramajayam108@gmail.com](mailto:ramajayam108@gmail.com)

1. **Fiduciary relationship is a relationship based on**
  - A. Contract
  - B. Blood relationship
  - C. Money
  - D. Trust
2. **Adjudication means**
  - A. Arrest
  - B. Remand
  - C. Prosecution
  - D. Decision by a competent court
3. **As per recent circular of RBI, Units located in SEZs shall realize and repatriate, full value of goods/ software/services, within a period of how many days/months from the date of export.**
  - A. 120 days
  - B. Twelve months
  - C. Six months
  - D. 30 days
4. **Defamation infringes a person's**
  - A. Privilege
  - B. Status
  - C. Pride
  - D. Reputation
5. **When were the product patents for Pharmaceutical Inventions introduced in India.**
  - A. 1995
  - B. 2000
  - C. 2005
  - D. 2010
6. **Which day is known in India as the National Law Day?**
  - A. 26-Dec-1949
  - B. 26-Jan-1950
  - C. 26-Nov-1949
  - D. 26-Jan-1947
7. **The FDI percentage in Pharmaceutical Sector in India is:**
  - A. 25%
  - B. 100%
  - C. 75%
  - D. 50%
8. **Companies Act, 2013, \_\_\_\_\_ directors and key managerial personnel from forward dealings in the company or its holding, subsidiary or associate company**
  - A. Prohibits
  - B. Allows;
  - C. Disallows
  - D. Allowed subject to certain conditions.
9. **RBI has \_\_\_\_\_ Creation of charge on immovable assets, movable assets, financial securities and issue of corporate and / or personal guarantees in favour of overseas lender / security trustee, to secure the ECB to be raised / raised by the borrower.**
  - A. Prohibited;
  - B. Allowed;
  - C. Disallowed
  - D. To decide;
10. **Restriction on the number of partners that can be admitted to a partnership firm under Companies Act, 2013 is**
  - A. 100
  - B. 75
  - C. 10
  - D. No limit

## Comparative Analysis of SEBI (PIT), 1992 and SEBI(PIT), 2015



**CS Hansraj Singh**  
Company Secretary  
hansrajsingh8516@gmail.com

S. No	Particulars	SEBI (PIT) Regulations, 2015	SEBI (PIT) Regulations, 1992
1	Compliance officer	<p>“compliance officer” means:</p> <ul style="list-style-type: none"> <li>a) any senior officer, designated so and reporting to the board of directors or head of the organization in case board is not there,</li> <li>b) Who is financially literate and is capable of appreciating requirements for legal and regulatory compliance under these regulations.</li> <li>c) who shall be responsible for compliance of policies, procedures, maintenance of records, monitoring adherence to the rules for the preservation of unpublished price sensitive information, monitoring of trades and the implementation of the codes specified in these regulations under the overall supervision of the board of directors of the listed company or the head of an organization, as the case may be;</li> </ul>	No such Definition
		<p>Connected Persons and Deemed to connected Persons includes-</p> <ul style="list-style-type: none"> <li>a) Director</li> <li>b) Occupies the position as an officer or an employee of the company or holds a position involving a professional or business relationship between himself and the company on temporary or permanent, that allows him, directly or indirectly, access to unpublished price sensitive information</li> <li>c) an immediate relative of connected persons above</li> </ul>	<p>Connected Persons and Deemed to connected Persons includes-</p> <ul style="list-style-type: none"> <li>a) Director</li> <li>b) Occupies the position as an officer or an employee of the company or holds a position involving a professional or business relationship between himself and the company on temporary or permanent.</li> <li>c) Is a company under the same management or group, or any subsidiary company u/s370 / 372 of the Companies Act, 1956.</li> </ul>



Hyderabad Chapter

# Corporate Secretary

		<p>d) a holding company or associate company or subsidiary company; or</p> <p>e) Broker /Sub broker/RTA or an employee or director thereof; or</p> <p>f) an investment company, trustee company, asset management company or an employee or director thereof; or</p> <p>g) an official of a stock exchange or of clearing house or corporation; or</p> <p>h) a member of board of trustees of a mutual fund or a member of the board of directors of the asset management company of a mutual fund or is an employee thereof; or</p> <p>i) a member of the board of directors or an employee, of a public financial institution; or</p> <p>j) an official or an employee of a self-regulatory organization recognised or authorized by the Board; or</p> <p>k) a banker of the company; or</p> <p>l) A concern, firm, trust, Hindu undivided family, company or association of persons wherein a director of a company or his immediate relative or banker of the company, has more than ten per cent. of the holding or interest;</p> <p>“This definition is intended to bring into its ambit persons who may not seemingly occupy any position in a company but are in regular touch with the company and its officers and are involved in the know of the company’s operations.”</p>	<p>d) Broker/Sub-broker merchant banker, share transfer agent, registrar to an issue, debenture trustee, broker, portfolio manager, Investment Advisor, sub-broker, Investment Company or an employee thereof, or is member of the Board of Trustees of a mutual fund or a member of the Board of Directors of the Asset Management Company of a mutual fund or is an employee thereof who have a fiduciary relationship with the company</p> <p>e) is an official or an employee of a Self-regulatory Organisation recognised or authorised by the Board of a regulatory body</p> <p>f) is a banker of the company</p> <p>g) Relative of above</p> <p>h) Persons mentioned in (d) holds more than 10 % shares in firm, trust, Hindu undivided family, company or association of persons.</p>
3	Trading	<p>“Trading” means and includes subscribing, buying, selling, dealing, or agreeing to subscribe, buy, sell, deal in any securities, and “trade” shall be construed accordingly.</p>	<p>“Dealing in securities” means an act of subscribing, buying, selling or agreeing to subscribe, buy, sell or deal in any securities by any person either as principal or agent</p>
	Insider	<p>“insider” means any person who is:</p> <p>i) a connected person; or</p> <p>ii) in possession of or having access to unpublished price sensitive information;</p> <p>This is intended to bring within its reach any person who is in receipt of or has access to unpublished price sensitive information.</p>	<p>“Insider” includes-</p> <p>a) is or was connected with the company or is deemed to have been connected with the company and have access to unpublished price sensitive information in respect of securities of company,</p> <p>b) has received or has had access to such unpublished price sensitive information</p>

5	Price sensitive Information (PSI)	<p>PSI includes-</p> <ul style="list-style-type: none"> <li>a) financial results;</li> <li>b) dividends;</li> <li>c) change in capital structure;</li> <li>d) mergers, de-mergers, acquisitions, delisting, disposals and expansion of business and such other transactions;</li> <li>e) changes in key managerial personnel; and</li> <li>f) Material events in accordance with clause 36 of the listing agreement.</li> </ul> <p>“It is intended that information relating to a company or securities, that is not generally available would be unpublished price sensitive information. Such PSI effects on price of the securities.”</p>	<p>PSI includes-</p> <ul style="list-style-type: none"> <li>a) periodical financial results of the company;</li> <li>b) intended declaration of dividends (both interim and final);</li> <li>c) issue of securities or buy-back of securities;</li> <li>d) Any major expansion plans or execution of new projects.</li> <li>e) amalgamation, mergers or takeovers;</li> <li>f) disposal of the whole or substantial part of the undertaking;</li> <li>g) significant changes in policies, plans or operations of the company</li> </ul>
	Relative	<p>“immediate relative” means a spouse of a person, and includes parent, sibling, and child of such person or of the spouse, any of whom is either dependent financially on such person, or consults such person in taking decisions relating to trading in securities</p>	<p>“relative” means a person, as defined in section 6 of the Companies Act, 1956</p>
	Communication or procurement of UPSI	<p>Insider shall not</p> <ul style="list-style-type: none"> <li>a) Communicate, provide, or allow access to any unpublished PSI, relating to a company or securities listed or proposed to be listed, to any person including other insiders.</li> <li>b) Procure from or cause the communication by any insider of unpublished PSI relating to a company or securities.</li> <li>c) Unpublished PSI may be communicated, provided, allowed access to or procured, in connection with a transaction that would entail an obligation to make an open offer under the takeover regulations where the board of directors of the company is of informed opinion that the proposed transaction is in the best interests of the company. In such cases, the board of directors shall require the parties to execute agreements to contract confidentiality and non-disclosure obligations.</li> <li>d) Trade in securities that are listed or proposed to be listed on a stock exchange when in possession of unpublished PSI</li> </ul>	<p>Insider shall not-</p> <ul style="list-style-type: none"> <li>a) His own behalf or on behalf of any other person, deal in securities of a company, if he have any unpublished PSI.</li> <li>b) Communicate/ counsel or procure directly or indirectly any unpublished PSI to any person who deal in securities, while in possession of such unpublished PSI.</li> <li>c) Company shall deal in the securities of another company or associate of that other company while in possession of any unpublished PSI.</li> </ul>



8	Trading Plans	<ul style="list-style-type: none"><li>a) An insider shall be entitled to formulate a trading plan and present it to the compliance officer for approval and public disclosure pursuant to which trades may be carried out on his behalf in accordance with such plan.</li><li>b) This provision would enable the formulation of a trading plan by an insider to enable him to plan for trades to be executed in future</li><li>c) Trading plan shall not entail commencement of trading on behalf of the insider earlier than six months from the public disclosure of the plan</li><li>d) Insider shall not execute trading plan between second trading day after the disclosure of such financial results and before 20th day of prior to last day of financial period. For ex. For Quarter 4 [Jan to March] financial result and result announcement date is 28th May, then Insider cannot execute his trading plan between 20th March to 29th May.</li><li>e) Trading plan should be for 12 months</li><li>f) not entail overlap of any period for which another trading plan is already in existence</li><li>g) The trading plan may set out the value of securities or the number of securities to be invested or divested. Specific dates or specific time intervals may be set out in the plan.</li><li>h) The compliance officer shall review the trading plan and to approve and monitor the implementation of the plan</li><li>i) The trading plan once approved shall be irrevocable and the insider shall mandatorily have to implement the plan</li><li>j) If the very same unpublished price sensitive information is still in the insider's possession, the commencement of execution of the trading plan ought to be deferred.</li><li>k) Upon approval of the trading plan, the compliance officer shall notify the plan to the stock exchanges on which the securities are listed</li></ul>	No such concept
---	---------------	--	-----------------

Disclosure	<ul style="list-style-type: none"> <li>a) Insider including immediate relative would be required to give the disclosures</li> <li>b) Disclosures should be maintained by the Company for five (5) years.</li> <li>c) Every promoter, KMP and director of every company shall disclose his holding of securities of the company as on the date of these regulations taking effect [that is May 15, 2015], to the company within 30 days of these regulations taking effect.</li> <li>d) Every person on appointment as a KMP or a director of the company or upon becoming a promoter shall disclose his holding of securities of the company as on the date of appointment or becoming a promoter, to the company within 7 days of such appointment or becoming a promoter.</li> <li>e) Every promoter, employee and director of every company shall disclose to the company the number of such securities acquired or disposed of within 2 trading days of such transaction if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of 10 lakh rupees or such other value as may be specified</li> <li>f) Every company shall notify the particulars of such trading to the stock exchange on which the securities are listed within 2 trading days of receipt of the disclosure or from becoming aware of such information.</li> <li>g) The Company shall at its discretion require any other connected person or class of connected persons to make disclosures of holdings and trading in securities of the company in such form and at such frequency.</li> </ul>	<ul style="list-style-type: none"> <li>a) Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company in Form A, the number of shares or voting rights held by such person, on becoming such holder, within 2 working days of the receipt of intimation of allotment of shares; or the acquisition of shares or voting rights, as the case may be.</li> <li>b) Any person who holds more than 5% shares for voting rights in any listed company shall disclose to the company in Form C the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there has been change in such holdings from the last disclosure made under sub-regulation 13 (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company.</li> <li>c) Any person who is a director or officer of a listed company, shall disclose to the company and the stock exchange where the securities are listed in Form D, the total number of shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings of such person and his dependents (as defined by the company) from the last disclosure made under sub-regulation (2) or under this sub-regulation, and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.</li> <li>d) The disclosure shall be made by above mentioned persons within 2 working days of the receipts of intimation of allotment of shares, or the acquisition or sale of shares or voting rights, as the case.</li> <li>e) Every listed company, within 2 working days of receipt of the information, shall disclose to all stock exchanges on which the company is listed</li> </ul>
Codes of fair disclosure and conduct codes of fair disclosure and conduct	<ul style="list-style-type: none"> <li>a) The board of directors of every listed company, shall formulate and publish on its official website, 'a code of practices and procedures for fair disclosure of unpublished PSI' that it would follow in order to adhere to each of the principles set out in 'Schedule A' and the same shall be intimated promptly to stock exchanges.</li> <li>b) The board of directors of every listed company and market intermediary shall formulate 'a code of conduct as per schedule B to regulate, monitor and report trading' by its employees and other connected persons towards achieving compliance</li> </ul>	<p>All listed companies, stock exchanges, FI, clearing house, professional firms shall frame a code of internal procedures and conduct as near thereto the Model Code as per schedule I</p>

<p>Model Code of Conduct &amp; principles of fair disclosures (High-lights)</p>	<ul style="list-style-type: none"> <li>a) The compliance officer shall report to the board of directors and in particular, shall provide reports to the Chairman of the Audit Committee, if any, or to the Chairman of the board of directors at such frequency as may be stipulated by the board of directors.</li> <li>b) Employees and connected persons designated on the basis of their functional role (“designated persons”) in the organisation shall be governed by an internal code of conduct governing dealing in securities.</li> <li>c) Designated persons and their immediate relatives shall not trade in securities when the trading window is closed.</li> <li>d) The timing for re-opening of the trading window shall be determined by the compliance officer, but it shall not be earlier than forty-eight hours after the information becomes generally available.</li> <li>e) The code of conduct shall specify any reasonable timeframe, which in any event shall not be more than seven trading days.</li> <li>f) The code of conduct shall stipulate such formats as the board of directors deems necessary for making applications for pre-clearance, reporting of trades executed, reporting of decisions not to trade after securing pre-clearance, recording of reasons for such decisions and for reporting level of holdings in securities at such intervals as may be determined as being necessary to monitor compliance with these regulations.</li> <li>g) Prompt public disclosure of unpublished price sensitive information that would impact price discovery.</li> <li>h) Designation of a senior officer as a chief investor relations officer to deal with dissemination of information and disclosure of unpublished PSI.</li> <li>i) Appropriate and fair response to queries on news reports and requests for verification of market rumours by regulatory authorities.</li> <li>j) Ensuring that information shared with analysts and research personnel is not unpublished price sensitive information</li> </ul>	<p>Following are the features of model code of conduct-</p> <ul style="list-style-type: none"> <li>a) Part A Model Code of Conduct- for Listed Companies and Part B- For other entities.</li> <li>b) Appointment of Compliance Officer.</li> <li>c) Definition of Trading Window.</li> <li>d) All directors/ officers / designated employees and their dependents (as defined by the company shall execute their order in respect of securities of the company within one week after the approval of pre-clearance is given.</li> <li>e) All directors/ officers/ designated employees who buy or sell any number of shares of the company shall not enter into an opposite transaction i.e. sell or buy any number of shares during the next six months following the prior transaction.</li> <li>f) The Compliance Officer shall maintain records of all the declarations in the appropriate form given by the directors/officers/designated employees for a minimum period of three years.</li> <li>g) Any employee/officer/director who trades in securities or communicates any information for trading in securities in contravention of the code of conduct may be penalized and appropriate action may be taken by the company</li> </ul>
---	--	---

**\*Disclosures under PIT, 2015:**

- Disclosures made by person shall also include those relating to trading by such person's immediate relatives, and by any other person for whom such person takes trading decisions.
- The disclosures of trading in securities shall also include trading in derivatives of securities if permitted under law (Please note that section 194 of the Companies Act, 2013 prohibits Director or KMP from entering into forward dealings etc.)
- Such disclosure shall be preserved for 5 years.
- Disclosure are classified as Initial and continual disclosures.

	By whom	To whom	When
1	Every promoter, KMP and Director	Company	Within 30 days of these Regulations taking effect. (These Regulations are effective from 120th day of the date of notification i.e. on and from 15th May, 2015)
2	Every person on appointment as a KMP or a Director of the Company or upon becoming promoter	Company	Within 7 days of such appointment or becoming a promoter
<b>Continual Disclosure:</b>			
	By whom	To whom	When
1	Every promoter, employee and director. Since employee have been covered, the Regulations does not specify KMP separately	Company	Within 2 trading days if the trading value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregate to a traded value in excess of Rs. 10 lakh.
2	The Company	Stock Exchange where the securities are listed	The particulars of trading within 2 trading days of the receipt of the disclosure or from becoming aware of such information.

## Appeal to Members Updation of Members Particulars on ICSI Portal

We wish to draw your kind attention to Regulation 3 of the Company Secretaries Regulations, 1982, according to which every member of the Institute is compulsorily required to communicate to the Institute any change of professional address within one month of such change.

Further the contravention of the same amounts to professional mis-conduct under clause (1) of part II Second Schedule read with section 21 and 22 of the Company Secretaries Act, 1980 which provides as under:-

*A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he---*

- 1. Contravenes any of the provisions of this Act or the regulations made thereunder or any guidelines issued by the Council;*

In view of the above, we request you to update your address including email Ids and telephone numbers on [icsi.edu](http://icsi.edu) to facilitate effective communication with you.

## Report on Activities of Hyderabad Chapter of ICSI during January

### 1. Manage Your Body & Manage Your Mind--- Self Health Management

On 6th January 2015, The Hyderabad Chapter organized Manage Your Body & Manage Your Mind ---Self Health Management at Chapter Premises. CS Vasudeva Rao Devaki, Chairman of Hyderabad Chapter [for the year 2014] welcomed the speakers Dr. Mangadhara Rao Madineedi,-MD, MSA & CS KVS Subramanyam, Director, B5 Corporation Private Limited.

Dr. Mangadhara Rao Madineedi, MD, MSA who is an Assistant Professor of Medicine Harvard Medical School, Adjunct Assistant Professor of Medicine Boston University School of Medicine, Clinical Director, Geriatric Services VA Boston Healthcare System, Boston, USA spoke on various aspects which are making us to lose good health and he also spoke on how to overcome this problem and spoke on how mind controls our body, importance of sleep, importance of exercise and diet. He also spoke on how Alcohol and Smoking can affect our body.

CS KVS Subramanyam, Director, B5 Corporation Private Limited spoke on what does health means to professionals and discussed on important factors to keep us healthy like smart eating, good sleep, stress management, physical activities, etc. He has also given many useful tips to Maintain Good Health.

CS Vasudeva Rao Devaki proposed a vote of thanks.

### 2. Half Day Seminar on Foreign Exchange Management Act (FEMA), 1999

On 10th January 2015, The Hyderabad Chapter organized Half Day Seminar on Foreign Exchange Management Act (FEMA), 1999 at Hotel Justa. CS Vasudeva Rao Devaki, Chairman of Hyderabad Chapter [for the year 2014] welcomed the Chief Guest Hon'ble Sri Justice Challa Kondanda Ram Judge of High Court of Judicature at Hyderabad and introduced him to the participants. The Chairman also introduced the speaker for the session CA P V R Rajendra Prasad, CEO, PnP Consulting Pvt. Ltd., to the participants. Central Council member CS C Sudhir Babu spoke on the occasion and addressed the participants on the importance of FEMA, 1999. The Chief Guest addressed the participants on the topic and also congratulated Hyderabad Chapter for organizing such programmes. The Speaker CA P V R Rajendra Prasad spoke on various aspects of FEMA and explained in detail about the various laws and other issues pertaining to FEMA.

CS Vasudeva Rao Devaki proposed a vote of thanks.

### 3. Half Day Seminar on SEBI Reforms in the Capital Market

On 21st January 2015, The Hyderabad Chapter organized Half Day Seminar on SEBI Reforms in the Capital Market at FTAPC-

CI. CS V Ahalada Rao, Central Council Member of ICSI welcomed the participants and also introduced the Speakers CS G Akila, CS Prashant Kumar Jain Shri S Ganapathy Subramanian and CS Ramakrishna Gupta R. CS Ahalada Rao welcomed the Chief Guest Shri S. Raman, Whole Time Member, SEBI and introduced him to the audience. The Chief Guest spoke on various aspects of SEBI Reforms and upgraded the knowledge of the participants. He also spoke on the various laws applicable in India and abroad. In the question answer session, the members posed various questions to the chief guest, which were suitably answered. The Speakers CS G Akila, CS Prashant Kumar Jain, Shri S Ganapathy Subramanian and CS Ramakrishna Gupta R spoke on various aspects of SEBI and answered the questions of the participants. It was a very lively session and the participants were enriched with the knowledge they gained.

CS V Ahalada Rao proposed vote of thanks.

### 4. Republic Day Celebrations

On 26th January 2015 the Hyderabad Chapter celebrated the 66th Republic Day at Chapter Premises. The National Flag was hoisted by our Central Council Member CS V. Ahalada Rao which was followed by National Anthem and salutes to the National Flag. CS V Ahalada Rao spoke on the importance of the Republic Day. CS Issac Raj P G, Chairman of the Chapter, CS R Venkata Ramana, Secretary of the Chapter and other Managing Committee Members also spoke on the occasion. The programme concluded by singing of Patriotic songs by students.

### 5. Annual Fellowship Meet -2015 held on January 31st, 2015.

Hyderabad Chapter of ICSI has organized programme Annual Fellowship Meet 2015 at ni-msme at Yousufguda, Hyderabad on 31 January 2015. Mr. Mani Sharma, Music Director was invited to this programme as a Special Guest.

CS R Venkata Ramana, Secretary of Hyderabad Chapter gave the introduction of the programme and handed over to the program presenters Manjeet, Teena, Snehal and Rachna. Students and children of the Members entertained the audience with their scintillating performances. Mr. Mani Sharma was invited on to the dais by Chairman CS Issac Raj P G and the Special Guest then presented mementos to all the past Chairmen, Secretaries, among others. The Management Committee of Hyderabad Chapter along with past Chairmen and Secretaries felicitated Mr. Mani Sharma. Later, the members of the New Managing Committee were introduced and the Cake cutting was organized. The audience also witnessed various activities like Fire Show, Magic Show, Mimicry, Muppetry show etc. Central council Member CS Ahalada Rao V, Vice Chairman of SIRC CS P S Sastry, CS R. Ramakrishna Gupta, Member of ICSI-SIRC also participated in the Annual Fellowship Meet.

The following sub-committees have been constituted by the Managing Committee of the ICSI Hyderabad Chapter, for the year 2015.

Sl. No.	Name of Sub-Committee	Name of the Chairperson
I	Building Committee	CS Ahalada Rao V
II	Oral Coaching & Student Facilities Committee	CS K.P.C. Rao
III	Newsletter Committee	CS Rahul Jain
IV	Practising Company Secretaries Committee	CS Issac Raj P G
V	Professional Development Committee	CS R Venkata Ramana
VI	Inter Institutional Coordination Committee	CS S Kavitha Rani
VII	Information Technology Committee	CS Rahul Jain
VIII	Library Committee	CS Ravi Kumar Mandavilli
IX	Training & Placement Committee	CS R Venkata Ramana
X	Investors' Clinic Committee	CS Mahadev Tirunagari
XI	Career Awareness Committee	CS Ravi Kumar Mandavilli
XII	Finance & Accounts Committee	CS Issac Raj P G
XIII	CSBF	CS Mahadev Tirunagari

### FORTHCOMING PROGRAMMES OF CHAPTER

- ❖ National Meet on New Industrial policy of Telangana State
- ❖ President Meet with Students on 04.03.2015
- ❖ Seminar on Secretarial Audit on 04.03.2015, Chief Guest : CS Atul H. Mehta, President, The ICSI
- ❖ President Meet with Members on 04.03.2015

**Glimpses of Half Day Seminar on SEBI Reforms in the Capital Market held on 21.01.2015 at FTAPCCI. Shri S Raman, Whole-time Member, SEBI was the Chief Guest**



**Hon'ble Shri Justice Challa Kodanda Ram addressing the Members at the Half Day Seminar on FEMA, 1999 held on 10.01.2015 at Hotel Justa**



## Glimpses of Annual Fellowship Meet 2015 held on 31st January 2015 at NI-MSME, Hyderabad



### Printed Matter - Book Post



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

An ISO 9001 : 2000 Chapter

6-3-609/5, Anandnagar Colony, Khairatabad, Hyderabad 500 004

tel 040-2339 9541, 2339 6494 fax +91-40-2332 5458 email hyderabad@icsi.edu

Hyderabad  
Chapter

**Chapter Office : 6-3-609/8, Anand Nagar, Khairatabad, Hyderabad- 500 004. Ph: 23399541, 23396494, Fax : 23325458  
E-mail : hyderabad@icsi.edu, website:www.icsi.edu, Working Days & Hours : Monday-Saturday 10.00a.m. to 5.45 p.m**

View expressed by contributors are their own and the Institute of Company Secretaries of India - Hyderabad Chapter does not accept any responsibility,

**Printed and Published by : J.S.N. Murthy, on behalf of The Institute of Company Secretaries of India - Hyderabad Chapter, 6-3-609/5, Anand Nagar, Khairatabad, Hyderabad- 500 004 and printed at Surya Graphics, Municipal Market Lane, Chikkadapally, Hyderabad, Tel: 040-27603339, 66752838 and Published at The Institute of Company Secretaries of India - Hyderabad Chapter, 6-3-609/5, Anand Nagar, Khairatabad, Hyderabad-500 004, Tel: 040-23399541/23396494.**

**Editor : Rahul Jain, The Institute of Company Secretaries of India-Hyderabad Chapter, 6-3-609/5, Anand Nagar, Khairatabad, Hyderabad. 500 004.**