

REPORT ON THE FULL DAY SEMINAR ON FDI & LITIGATION & ADJUDICATION UNDER FEMA & VALEDICTORY OF CBP IN FEMA ON 11th APRIL 2015



The Bangalore Chapter of ICSI organized a full day seminar on “FDI & LITIGATION & ADJUDICATION UNDER FEMA & Valedictory of CBP in FEMA on 11th April 2015 at the Chapter premises. The program was presided by Chief Guest CS Gopalakrishna Hegde, Council Member, The ICSI, CS H.M.Dattatri, Chairman, Bangalore Chapter, CS Vasanth Kumar, Secretary, Bangalore Chapter.

CS H.M.Dattatri, Chairman, Bangalore Chapter during his address welcomed the gathering and invited the dignitaries on the dais. He informed the gathering that 1st batch of CBP in FEMA (7th March 2015 to 11th April 2015) was conducted by bringing in the best of the faculties and experts in the field to teach and share their

experiences in every aspect of FEMA which included inbound and outbound investments laws. He further informed that chapter has received an overwhelming response from all the members when the 1st batch of CBP in FEMA was announced. The 1st batch of CBP in FEMA was restricted only to 30 participants to make CBP more like a structured training program for the benefit of members. Chairman Bangalore Chapter then informed that 2nd batch of CBP in FEMA was being conducted from 25th April 2015 to 23rd May 2015 for the benefit of those members who had missed the first batch. .

CS Gopalakrishna Hegde, Council Member, The ICSI, congratulated all the participants for successfully completing the CBP in FEMA, and informed that many more CBP's are going to be organized by Bangalore Chapter for the benefit of members in the months to come. He then congratulated CS Milind D Kulabkar, participant and program co coordinator for taking the lead in conducting the 1st batch of CBP and in making this program a successful one.

The session then followed with presentations and feedback from the participants of 1st batch of CBP in FEMA.

The seminar was then followed by valedictory of CBP in FEMA where in, Course Completion Certificates were distributed to all the participants by CS Gopalakrishna Hegde, Council Member, The ICSI.

During the Seminar, the panel discussion on Foreign Direct Investment was presided by panel speakers Mr. Sudhanshu Prasad, DGM, RBI and Ms. Usha Rao, Manager, SBI and panel moderator CS S.Kailasam who offered clarification and answered various questions posed by the participants, on pricing guidelines, reporting guidelines, Section 62(1)(a)(iii) of the Companies Act, 2013 (Rights Offer) V/S Regulation 6 of the FEMA, the pricing of shares / convertible debentures / preference shares, NIC Codes, additional documents sought by banks along with FCGPR or FCTRS, FCGPR certification etc before concluding the panel discussion.

Technical Session on litigation and adjudication under FEMA was headed by speaker Mr. B.V.Kumar, Advocate, who congratulated all the participants for completing CBP in FEMA. He also congratulated Chairman and Managing Committee of Bangalore chapter for organizing such wonderful programs for the benefit of members of ICSI. He added inquiry of any contravention of FEMA is conducted by an Adjudicating Authority. When an inquiry is to be conducted against a person for any contravention; the Adjudicating Authority shall issue a notice to such person. The notice will also indicate the date on which the offender is required to appear before authority and will also mention the nature of offence committed by him. Such person (offender) will have a right to give reasons or explanation and then a date will be fixed for his appearance. He can appear either personally or through an Advocate. On the date of appearance, the Adjudicating Authority shall present its case, and explain the reason and type & implications of offence committed by offender. Then in turn, such person will also be given an opportunity to put up his case, and to produce documents and evidence. Finally, if Adjudicating Authority is

convinced, that the offender has committed an offence, then it will impose such fine and penalty, as it thinks fit.

The Seminar was then concluded with vote of thanks by CS Vasanth Kumar, Secretary, Bangalore Chapter and presentation of mementos to the speakers.

REPORT ON STUDY CIRCLE MEETING ON “PRIVATE PLACEMENTS, RIGHTS ISSUE & PREFERENTIAL OFFER UNDER CA 2013



Bangalore Chapter of ICSI organized a Study Circle Meeting on “PRIVATE PLACEMENTS, RIGHTS ISSUE & PREFERENTIAL OFFER UNDER CA 2013 on 16th April 2015 at the Chapter premises. The meeting was presided by CS Pradeep B Kulkarni, Managing Committee Member, Bangalore Chapter of the ICSI and CS Vivek Hegde, Managing Committee Member, Bangalore Chapter was the Speaker.

CS Pradeep B Kulkarni, Managing Committee Member, Bangalore Chapter welcomed the gathering and invited the speaker on the dais.

CS Vivek Hegde, Managing Committee Member, Bangalore Chapter, in his presentation while giving an overview on Private Placements informed Provisions under the Companies Act, 2013: Chapter III: Prospectus And Allotment of Securities, Section 42: Offer or invitation for subscription of securities on private placement, Rule 14 of the Companies (Prospectus and Allotment of Securities) Rules, 2014 & the Companies (Prospectus and Allotment of Securities) Amendment Rules, 2014 – Issue of NCDs. He explained private placement" means any offer of securities or invitation to subscribe securities to a select group of persons by a company (other than by way of public offer) through issue of a private placement offer letter and which satisfies the conditions specified in this section. While explaining private placement offer he informed Rule 14(1) (b) - A private placement offer letter shall be accompanied by an application form serially numbered and addressed specifically to the person to whom the offer is made and shall be sent to him, either in writing or in electronic mode, within thirty days of recording the names of such persons in accordance with sub-section (7) of section 42. While explaining conditions of private placements the speaker informed in case of offer or invitation for non-convertible

debentures, it shall be sufficient if the company passes a special resolution only once in a year for all the offers or invitation for such debentures during the year “Provided also that in case of an offer or invitation for non-convertible debentures referred to in the second proviso, made within a period of six months from the date of commencement of these rules, the special resolution referred to in the second proviso may be passed within the said period of six months from the date of commencement of these rules (Amendment Rules).” While giving Explanation I to Section 42 (2) the speaker informed that If a company, listed or unlisted, makes an offer to allot or invites subscription, or allots, or enters into an agreement to allot, securities to more than the prescribed number of persons, whether the payment for the securities has been received or not or whether the company intends to list its securities or not on any recognized stock exchange in or outside India, the same shall be deemed to be an offer to the public and shall accordingly be governed by the provisions of Part I of this Chapter. The speaker also explained on modes of payment, time limit for allotment or refund, return of allotment, penalty clauses, rights issues, ESOPs, preferential offer, before concluding his session.

The Session ended with vote of thanks and presentation of Memento to the speaker.

REPORT ON FULL DAY SEMINAR ON “SECRETARIAL STANDARDS, RELATED PARTY TRANSACTIONS, LOANS TO DIRECTORS AND INTERCORPORATE LOANS ON 25-APRIL-2015



Bangalore Chapter of ICSI organized a FULL DAY SEMINAR ON “SECRETARIAL STANDARDS, RELATED PARTY TRANSACTIONS, LOANS TO DIRECTORS AND INTERCORPORATE LOANS ON 25-APRIL-2015 at the Chapter premises. The seminar was presided by CS Gopalakrishna Hegde, Council Member, The ICSI, CS A.M.Sridharan, Former Deputy ROC, Karnataka, CS H.M.Dattatri, Chairman, Bangalore Chapter, CS Vasanth Kumar, Secretary, Bangalore Chapter.

CS H.M.Dattatri, during his address welcomed the gathering and invited the dignitaries on the dais.

CS Gopalakrishna Hegde, Council Member, The ICSI during his session on Secretarial Standards informed the gathering, Secretarial Standards issued by ICSI generally contain the following:

- Set of Principles relating to the subject of Standard
- Definitions and Explanations used in the Standard
- Scope of the Standard
- The Standard
- Date from which Effective
- Annexures

He Informed that Secretarial Standards Issued so far, under Companies Act, 1956 :
SS-1 : MEETINGS OF BOARD OF DIRECTORS, SS-2 : GENERAL MEETINGS,
SS-3 :DIVIDEND, SS-4 : REGISTERS AND RECORDS, SS-5 : MINUTES, SS-6 :

TRANSMISSION OF SHARES AND DEBENTURES, SS-7 : PASSING OF RESOLUTIONS BY CIRCULATION, SS-8 : AFFIXING OF COMMON SEAL, SS-9 : FORFEITURE OF SHARES, SS-10 : BOARD'S REPORT

While explaining Section 118 (10) the speaker informed, every company shall observe secretarial standards with respect to General and Board Meetings specified by the ICSI constituted under section 3 of the Company Secretaries Act, 1980 (56 of 1980) and approved as such by the Central Government

The speaker informed the functions of Company Secretary by explaining Section 205 (1) (b) which is to ensure that the company complies with the applicable secretarial standards." Explaining further the speaker informed – SS means SS issued by ICSI constituted under section 3 of the Company Secretaries Act, 1980 (56 of 1980) and approved as such by the Central Government.

The Speaker further explained the scope, procedures, minutes, approvals, recordings contents of minutes, notices, conducting e voting, conducting polls, adjournments of meetings and passing resolutions by postal ballots, before concluding his session.

The second technical session during the day was taken by CS A.M.Sridharan, Former Deputy ROC, Karnataka, on Loans to Directors and Inter corporate loans. The Speaker informed the power to make loans or investments stems from 291 of the 1956 Act/179 of the Companies Act, 2013 and the memorandum and articles. He informed that Sec.185 prohibits certain types of loans & there is no section prohibiting certain types of investments. He informed Sec.186 deals with methodology of making investments through investment companies and the making of loans if prohibited under Sec.185, one cannot take shelter under Sec.186. The speaker while explaining Sec.185 of 2013 Act said that the company shall not, directly or indirectly, advance any loan, including any loan represented by a book debt or give any guarantee or provide any security in connection with any loan to any of its directors or to any other person in whom the director is interested, which means any director of the lending company, or of a company which is its holding company or any partner or relative of any such director; any firm in which any such director or relative is a partner; any private company of which any such director is a director or member; any body corporate at a general meeting of which not less than 25% of the total voting power may be exercised or controlled by any such director, or by two or more such directors, together; or anybody corporate, the Board of directors, managing director or manager, whereof is accustomed to act in accordance with the directions or instructions of the Board, or of any director or directors, of the lending company. Quoting the example of Sahara India Ltd, the speaker explained Mr. Subrata Roy Sahara, apart from being the founder of Sahara India Group, is admittedly a major shareholder (holding about 70% of capital in each of the two companies). He can be reasonably regarded as a person in accordance with whose directions or instructions, the Board of Directors of the two Companies

were accustomed to act and therefore fall within the ambit of "officer in default". Furthermore, with the 70% ownership or holding in the two Companies, he is definitely in a position of control and has the power to direct the management policy and appoint majority of directors to the Board." The speaker then explained the gathering on loans and investments U/s 186, offences under sec 185/186 before concluding his presentation.

The Speaker while explaining related party transactions informed that under Sec.2 (49) "interested director" means a director who is in any way, whether by himself or through any of his relatives or firm, body corporate or other association of individuals in which he or any of his relatives is a partner, director or a member, interested in a contract or arrangement, or proposed contract or arrangement, entered into or to be entered into by or on behalf of a company. Explaining sec 184(2) the speaker informed Every director of a company who is in any way, whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into—(a) with a body corporate in which such director or such director in association with any other director, holds more than two per cent. shareholding of that body corporate, or is a promoter, manager, Chief Executive Officer of that body corporate; or (b) with a firm or other entity in which, such director is a partner, owner or member, as the case may be, shall disclose the nature of his concern or interest at the meeting of the Board in which the contract or arrangement is discussed and shall not participate in such meeting. While explaining related party the speaker informed under Sec.2(76) Related Party with reference to a company, means-i) a director or his relative;(ii) a key managerial personnel or his relative;(iii) a firm, in which a director, manager or his relative is a partner;(iv) a private company in which a director or manager is a member or director; (v) a public company in which a director or manager is a director and holds along with his relatives, more than two per cent. of its paid-up share capital;(vi) anybody corporate whose Board of Directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions of a director or manager; any person on whose advice, directions or instructions a director or manager is accustomed to act (professional capacity exempt) (viii) any company which is—(A) a holding, subsidiary or an associate company of such company; or(B) a subsidiary of a holding company to which it is also a subsidiary. While explaining Rule 3: the speaker informed that a director other than independent director or key managerial personnel of the holding company or his relative with reference to a company shall be deemed to be a related party. The Speaker also explained on related party under clause 49 and AS 18, related party transactions under section188, along with various examples quoting case studies before concluding his presentation.

The Seminar concluded with Vote of Thanks from CS Vasanth Kumar, Secretary, Bangalore Chapter and presentation of Memento to the speaker.

REPORT ON 2nd BATCH OF CAPACITY BUILDING PROGRAM IN FEMA ON 25th APRIL, 2015 AT CHAPTER PREMISES.



Bangalore Chapter of ICSI organized 2nd Batch of Capacity Building Program in FEMA on 25th April 2015, at the Chapter premises. The Program is scheduled for 5 weeks, every Saturday starting from 25th April 2015 to 23rd May 2015. There are 25 participants enrolled for 2nd batch of CBP in FEMA.

CS Dattatri H.M, Chairman, Bangalore Chapter during the 1st day of 2nd batch of CBP in FEMA, welcomed the participants and informed that Bangalore chapter has co coordinated with excellent speakers for the sessions to come, and informed the participants that the detailed syllabus along with the topics covered will be given to all the participants. The first session during 2nd batch of CBP in FEMA was taken by CS G.V.Srinivasa Murthy, Past Chairman, Bangalore Chapter on “Introduction to FEMA; Why FEMA for CS”. In his session the speaker informed the participants on some of the basic concepts in FEMA like the Current and Capital Account transactions which deals with the free permissibility of cash remittances from and into India; the Automatic route and Approval route which deals with the permission-free and with permission of various authorities under the RBI and Ministry of Commerce for cash remittances into and out of India. The Speaker also covered various important and related Rules, Regulations and Master Circular under the FEMA and the relevant changes that have happened in this regard. The Speaker also informed the participants on Introduction to various regulatory organs like the DIPP, FIPB, RBI, Min of Commerce, etc and their roles in encouraging and monitoring the investments into and out of India.

The 2nd Technical Session during the program was taken by CS Sathya Prasad, Director, Fox Mandal Services Pvt Ltd, on topic “Key Aspects of FEMA” where in the speaker informed the Key aspects about FDI Policy in India such as the policy framework, recent changes in the FDI policy and emerging issues. The Speaker also informed procedural aspects with various authorities i.e. do’s and don’ts with various Fin Min and Comm. Min authorities for various purposes including Overview

& Recent Developments in Import of Goods & Services / Export of Goods and services coming under Current Account Transactions, FDI / ODI coming under Capital Account Transactions, Downstream Investments, Round Tripping issues, Exotic Options Validity, Reporting and Violations.

The 3rd technical session during the program was taken by Advocate Karthik Ranganathan, Tax and Corporate lawyer, on topic “Sectoral Caps & Tax impacts of FEMA” Where in the speaker informed the participants on sectoral caps for various industries. The background and the emerging trend and other aspects pertaining to the sectoral caps, including investment in immovable properties by NRI, NRs and corporate and other entities. The Speaker also informed the participants on The income tax/ indirect taxes aspects in FEMA, taxation of FIIs and FDIs on their investments made in India, Tax aspects in relation to few Regulations like Current Account Transactions Rules, Capital Account Transactions Regs, Deposit Regs, Export and Import of Services and Goods Regs, Immovable Properties Regs, ECB Regs, ODI Regs, etc, before concluding his session.