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**THE INSTITUTE OF
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Index

1	Chairman's Blog	3
2	Team WIRC-2016	4
3	Article on Critical Appraisal of Selected Provisions of the Finance Bill, 2016 with special reference to tax implications on Individual Assessee	5
4	Article on Amendments in Cenvat Credit Rules: Budget 2016	10
5	Article on MCA's olive branch to Private Companies - Notification dated June 5, 2015 - A Commentary	15
6	Cartoon	20
7	Article on Impact and analysis of exemptions to private companies	21
8	Article on New area of Practice: Registration of Political Party	24
9	Prof. TechLaw in conversation with a Corporate Executive: No 3	28
10	Job Corner	30
11	Team WIRC Chapters- 2016	31
12	Chapters Contact Details	46
13	Media Corner	47
14	WIRC Images	50
15	Disclaimer Clause	64

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Chairman's Blog



Dear Professional Member(s),

"Each work has to pass through these stages – Ridicule, Opposition and then Acceptance. Those who think ahead of their time are sure to be misunderstood." - Swami Vivekananda

Season's Greetings and my best wishes to you and your family for a very Happy and Prosperous New Year, 2016.

This year the theme of ICSI-WIRC is "Yesterday's Dream-Today's Reality-Tomorrow's Vision" & all the activities of WIRC throughout the year will be directed & planned towards the achievement of this theme only.

As we have recently celebrated the 67th Republic Day, let us not forget that all independence comes with a responsibility that when we coexist, fundamental laws of cooperation, tolerance and mutual progress must govern our existence. Let us express our belief in each other's individuality. Let us have respect for all citizens of our beloved nation. Let us not forget that when it comes to choosing between humanity and human boundaries - our choice and guiding angel must always be humanity. Nothing should supersede our need for love and tolerance.

It is true that achieving goals only will never make us happy in the long term and it is only the necessary steps taken by us to overcome the obstacles in order to achieve the goals that can only give us the ultimate and long-lasting sense of fulfillment and happiness.

It is important for the professionals to possess knowledge, professional competence and the diverse skills enabling them to gain a competitive edge. To be successful we have to make constant efforts towards updating our knowledge and unleashing our potential in various unexplored areas. We are committed to achieving new standards of excellence & In order to promote the professional development activities by providing Quality Program through our seniors, by organising Placements, Quality Training Programs for Students.

To mitigate the concerns of the members regarding the difficulties in interpretation and implementation of certain sections and rules made under the Companies Act, 2013, we have started some new initiative Like "A Day with Legend". The First Seminar will be held on this 28th February, 2016 at Hotel Fortune Landmark, Indore on the same initiative & CS K. Seturaman, Chief Compliance Officer & Group Company Secretary, Reliance Industries Limited will address the audience on Critical Aspects of the Companies Act, 2013 and SEBI (Listing Obligations & Disclosure Requirements) Regulations, 2015. The Chief Guest of the programme will be CA Vijay Jhalani, Government Nominee Member, Central Council, ICSI.

WIRC in its constant endeavour to build the profile of students and make them competitive and at par with best of the talent available in the country, we have planned and organised various student activities throughout the Western Region.

Friends through this message, I assure you that we'll continue to work for the betterment of our profession. As no profession can grow in isolation, it requires combined efforts of all of us together and it is our moral duty also to be in touch with profession and work with full zeal & dedication to take our profession to newer heights. This would be possible only with your kind support and guidance. I request you to come forward and join hands to carry the flag of the Institute to newer heights. Interact with me at chairman.wirc@icsi.edu.

With warm regards,

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Critical Appraisal of Selected Provisions of the Finance Bill, 2016 with special reference to tax implications on Individual Assessee

Prolong:

Philosophy of taxation has always argued that tax is a cost of civilization and by paying taxes, we buy civilization. Direct taxation has remained area of concerns and curiosity for the tax payers of the nation for a valid reason that knowledge on these aspects lead to tax planning and ensuring compliances to avoid litigations. Direct taxation changes its ambit every year through the Finance Bill as proposed by the Ministry of Finance and passed through the Parliament to have its shape as a legislation. The Full-fledged Yearly Union Budget, as presented by Hon'ble Finance Minister Shri Arun Jaitley on 29th February 2016, evident that budget has announced far reaching reforms especially at the front of tax administration. It apparently seems and claimed to be a progressive budget and sets rationale direction and correct agenda for the time to come. The Finance Bill proposed different tax reforms with a view to accelerate growth with focus on ease of doing business, corporate tax rationalization and proposed curtailment of tax burden, predictive tax regime including pre-set signals for next five years and adopting enriched modality with the help of latest technology including initialization of e-scrutiny. The Proposed Finance Bill shall take shape of the Finance Act, 2016 when it is passed and adopted by both the Houses of Parliament.

An attempt is made to throw light through rationale interpretation on changing tax regime that may likely to have implications on individual assessee, as proposed under the Finance Bill, 2016.

Following are major proposal of the Finance Bill, 2016 that shall have implication on individual assessee:

- **Increase in Rebate U/s 87A:** The prevailing Section 87A provides for the rebate of maximum of Rs. 2,000/- from the basic amount of tax if a resident individual is having taxable income not more than Rs. 5,00,000/-. The said benefit is available only to a resident individual and not to any other assesses. Now, as per proposed bill, the ceiling of tax rebate under section 87A has been increased from Rs.2000 to Rs.5000 to lessen tax burden on resident individuals having taxable income up to Rs.5 lakhs.
- **Royalty income in respect of patent vis-à-vis R&D Expenditure:**
It is further proposed to introduce a new section 115BBF so as to provide that where total income of an Indian resident 'patentee', being the true and first inventor of the invention, includes income by way of royalty in respect of a patent developed and registered in India, tax shall be payable on such gross royalty @ 10% and no deduction for expenses shall be allowed there against. Further section 35 is proposed to be amended in line with the said amendment so as to provide the removal of weighted deduction in respect of research and development expenditure. The proposed change to be interpreted that the legislative vision and focus has been shifted from, providing benefits in

respect of expenditure incurred /donated for research and development, to ensuring benefit to the income generated out of the successful research, which is patented. Therefore when the proposal take shape of a legislative provision, the tax benefit will be availed only with respect to the successful research, being patented and which has contributed effectively to the society. The focus has been shifted from expenditure to effective expenditure in respect of R&D.

- **Deduction in respect of rent paid by non-salaried persons (Section 80GG):** Existing section provides for maximum deduction of Rs. 24,000/- p.a. in respect of rent paid in case of assesses who are not availing the benefit of HRA under the head 'Income from Salaries". At present this benefit is available only to those individual assesses who are self-employed or salaried employees but not claiming HRA benefit. With the proposed bill, it is provided that for such individual assesses, the limit of deduction in respect of rent paid under section 80GG has to be increased from Rs.24000 p.a. to Rs.60000 p.a. to provide relief to those who live in rented houses.
- **Interest on housing loan:** The enforced Section 24 of the Act provides that interest on self-occupied house property is deductible on accrual basis up to maximum of Rs. 2,00,000/-. The Proposed Bill has introduced an extra deduction of Rs. 50,000/- in this regards U/s. 80EE if loan is sanctioned by Financial Institution during F.Y.2016-17 when Value of property is not more than Rs. 50,00,000/- & loan amount is not more than Rs. 35,00,000/- subject to the mandatory compliance that assessee does not own any residential property on the date of sanction of loan. This benefit is introduced to give additional benefit to the assessee in line with deduction allowed earlier of Rs. 1,00,000/- U/s. 80EE.
- **Holding period in case of transfer of unlisted shares:** Existing provision provides for determining whether the unlisted shares are long term or short term capital asset, three years holding period to be reckoned. Now the Period for getting benefit of long term capital gain regime in case of unlisted companies is proposed to be reduced from three to two years. It simply means that lower tax rate benefit to the assessee will start from after holding period of two years only in case of unlisted shares, instead of holding period of three years. E.g. if an assessee sells unlisted shares after holding 2.5 years, today the capital gain is treated as short term capital gain and it is taxable @ normal tax rate of 30% under the existing provisions. However as per new proposed provisions, the capital gain shall be treated as long term capital gain and shall be taxable @ flat rate of 20%. This will help in reducing the taxability in case of transfer of unlisted shares in certain cases.
- **Exemption in respect of investment in units of specified asset:** In line with the existing section 54EC, it is further proposed to insert a new Section 54EE to provide exemption from capital gains tax if the long term capital gains proceeds arising out of transfer of a long-term capital asset are invested by an assessee in units of long-term specified asset, subject to the condition that the amount remains invested for three years failing which the exemption shall be withdrawn. The maximum exemption shall be allowed up to Rs. 50 lakh under this section whether made in one financial year or in two successive years exactly like the provisions of section 54EC of the Act as they stand today.
- **Rate of surcharge for individual assessee:** Existing rate of surcharge is 12% for individual assessee if his taxable income exceeds Rs. 1 crore. However now it is proposed to increase the rate of surcharge from 12% to 15% if his taxable

income exceeds Rs. 1 crore. This will certainly hurt the High Net worth Individuals (HNI) by taxing them at higher rate. It may be said that now effective rate of tax including surcharge and education cess, shall be higher in case of HNI than that of the company.

- **Taxability of dividend income:**

Under the existing provisions of the Act, dividend received from the domestic company is not taxable in the hands of the recipients. It is proposed that if dividend income exceeds Rs. 10 Lakhs, tax shall be levied @ 10% in the hands of the recipient shareholders. The proposed change would lead to imposition of tax burden for three times on the same income generated at different stages. More precisely this phenomenon can be further elaborated as at the First stage, the company pays tax on its income @ 30% plus Surcharge plus CESS, then again at the second stage of compliance, the company pays dividend distribution tax @ 15% plus Surcharge plus CESS on the dividend amount at the time of declaration of dividend and now as per the proposed change, tax shall be levied on dividend income even at the third stage of income, in the hands of the recipient shareholders @ 10%. Furthermore unjustifiable tax burden is casted in this regard by introducing the provision that no expenditure shall be allowed as a deduction while taxing this dividend income. The obvious interpretation of the proposal signals severe, unjustifiable tax burden at three different stages of the same income and would certainly hurt the High Net worth Individuals, HUF and firms.

- **Presumptive taxation:**

Existing section 44AD provides that an individual assessee, HUF and firm having turnover up to Rs. 1 crore are eligible to take the benefit of presumptive taxation by offering income @8% of gross total turnover and for partnership firm, out of this 8% income, partners' remuneration and interest on capital are further deductible and in this case, no need to

maintain books of accounts and no tax audit applicable. Now it is proposed to Increase the turnover limit under Presumptive taxation scheme under section 44AD of the Income Tax Act to Rs. 2 crores to bring big relief to a large number of assesses in the MSME category. But now out of the said 8% income, partners' remuneration and interest on capital shall not be further deductible, i.e. 8% income shall be treated as final taxable business income and no other deduction shall be available. Not to give the deduction of partners' remuneration and interest on capital may result in to hardship to the assessee by paying higher tax and they may prefer to go for maintenance of books of accounts and tax audit.

One more important proposal under this section is that once the assessee has preferred not to take the benefit of presumptive taxation and to go for details maintenance of books of accounts and get them audited, the assessee can not avail the benefit of this presumptive taxation for next five years. The Legislature believes that once you opted for and ready to maintain books of accounts and get them audited, it should be convenient to you to maintain books of accounts and get them audited at least for five years.

Professionals are not eligible to take the benefit of the presumptive taxation up till now. Now it is proposed to introduce section 44ADA which provides that if professionals having gross total receipts up to Rs 50,00,000/- offer its taxable income @ 50% of gross total receipts, then no need to maintain books of accounts and no need for tax audit. Out of this 50%, no deduction shall be available in respect of partners' remuneration and interest on capital. It simply means that 50% of gross total receipt shall be treated as a taxable income without any further deduction. The deduction of partners' remuneration and interest on capital would be deemed to be allowed to the firm and therefore the partners' remuneration and interest

on capital would again be taxable in the hands of the partners as individual income. Not to give the deduction of partners' remuneration as well as interest on capital and higher rate of 50% for presumptive taxation may result in to hardship to the professional assesses by paying higher tax and therefore they may prefer to go for maintenance of books of accounts and tax audit.

- **Declaration of undisclosed income:**

It is proposed that domestic taxpayers can declare undisclosed income or such income represented in the form of any asset by paying tax at 30%, and surcharge at 7.5% and penalty at 7.5%, which is a total of 45% of the undisclosed income. Declarants will have immunity from prosecution. Surcharge levied at 7.5% of undisclosed income will be called Krishi Kalyan surcharge to be used for agriculture and rural economy.

- **Investment in Start-Up and Income from Start-Up:**

The existing provisions of section 54GB provide exemption from tax on long term capital gains in respect of the gains arising on account of transfer of a residential property, if such capital gains are invested in subscription of shares of a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006 subject to other conditions specified therein. The existing provision of section 54GB requires that the company should invest the proceeds in the purchase of new asset being new plant and machinery. With a view to providing an boost to start-ups and facilitate their growth at the initial phase of their business, it is proposed to insert a new section 80-IAC whereby the gross total income of an assessee, being an eligible start-up, which includes any profits and gains from eligible business, will be allowed a deduction of 100% of the profits and gains derived from such business in computing the total income of the assessee, for three consecutive assessment years. (w.e.f. April 1, 2017).

The deduction may, at the option of the assessee, be claimed by him for any three consecutive assessment years out of the block of five years beginning from the year in which the eligible start-up is incorporated.

With an objective to provide relief to an individual or HUF willing to setup a start-up company by selling a residential property to invest in the shares of such company, it is proposed to amend section 54GB so as to provide that long term capital gains arising on account of transfer of a residential property shall not be charged to tax if such capital gains are invested in subscription of shares of a company which qualifies to be an eligible start-up subject to the condition that the individual or HUF holds more than 50% shares of the company and such company utilizes the amount invested in shares to purchase new asset before due date of filing of return by the investor.

In order to avail benefit of the proposed provision, one of the basic mandatory condition to be considered as an 'eligible start-up' is that 'total turnover of the business does not exceed twenty-five crore rupees in any of the previous years beginning on or after the 1st day of April, 2016 and ending on the 31st day of March, 2021'.

It may be interpreted from the said condition that in case, start up business fails, then there would not be any profit and therefore there would not be any tax advantage to the assessee. If start up business succeeds and all the conditions are satisfied for the first three years, then it would avail the tax advantages under this section for consecutive three years and if in case, turnover in the fourth or fifth year exceeds Rs. 25 crore, then entire tax advantages availed for the first three years would be reversed in the fourth or fifth year in which turnover exceeds Rs. 25 crore as the turnover exceeding Rs. 25 crore makes an assessee ineligible to claim benefit under this section. If the proposed bill adhered to

the said condition would result in to unwanted impediment to the growth of eligible start-ups and may discourage entrepreneurs in putting efforts to enrich business operations to ensure growth. Therefore it is well advised to the competent authority that this condition of turnover of Rs. 25 crore needs to be revisited and should be given shape that may eliminate possibility of chaos and disappointment from entrepreneurial perspectives.

- **Taxability of employer's contribution to RPF:** At present, employer's contribution to the recognized provident fund (RPF) is exempt in the hands of the employee at the time of contribution up to 12% of salary. Now it is proposed to set the second upper cap of Rs. 1,50,000/- in respect of employer's contribution to RPF Limit. Now onwards, if employer contributes to RPF up to 12% of salary and

the employer contribution exceeds Rs. 1,50,000/-, in such case, the benefit of exemption shall be restricted up to Rs. 1,50,000/- only. Therefore it can be concluded that the amount of exemption in respect of employer contribution to RPF shall be lower of Rs. 1,50,000/- or 12% of salary. The proposal of taxing 60% portion of contribution to EPF made on or after 01.04.2016 has been withdrawn on 08.03.2016.

EPILOUGE:

Having rationalized and interpreted budget proposal for the year 2016-17, one can derive obvious feelings that a genuine concern is shown and political will is moving towards a vision of welfare, justice and simplifications. Individual assessee can have reason to revisit their periphery of tax planning to ensure not only compliance but enrichment in tax management.



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Amendments in Cenvat Credit Rules: Budget 2016

The Central Government after the presentation of Union Budget for the year 2016-17 by the Hon'ble Finance Minister Shri Arun Jaitley has made very important changes in the Cenvat Credit Rules, 2004. The present article gives a gist of the amendments in the said rules.

It can be seen that many amendments in the Cenvat Credit Rules, 2004 have been made to facilitate 'Make in India' programme of the Modi Government, ease of doing a business. It is also seen that many legal provisions have been rationalized and made practicable. As per D.O.F.No.334/8/2016-TRU New Delhi, dated 29 th February, 2016 issued by Ministry of Finance, the CENVAT Credit Rules, 2004 are being amended, so as to improve credit flow, reduce the compliance burden and associated litigations, particularly those relating to apportionment of credit between exempted and non-exempted final products / services. Changes are also being made in the provisions relating to input service distributor, including extension of this facility to transfer input services credit to outsourced manufacturers, under certain circumstances. The amendments in these Rules will also enable manufacturers with multiple manufacturing units to maintain a common warehouse for inputs and distribute inputs with credits to the individual manufacturing units.

It is also important to note that the amendments in Cenvat Credit Rules, 2004 will be effective from 1st April, 2016. Now let us consider the amendments and their implications.

A. Amendments in rule 2

i. **Clause (a): Definition of Capital Goods-sub-clause (A) item (i) and condition No. (1)**

In the definition of capital goods, wagons of sub heading 8606 92 of the Central excise Tariff are included. A welcome inclusion in the definition of capital goods is equipment and appliance used in an office located within a factory. This will set at rest many disputes on eligibility of Cenvat Credit, at least from April, 2016.

ii. **Clause (a): Definition of Capital Goods-sub-clause (A) condition (1A) and clause (k) sub-clause(ii)**

CENVAT credit on inputs and capital goods used for pumping of water, for captive use in the factory, is being allowed even in cases where such capital goods are installed outside the factory.

iii. **Clause: (e)- Definition of exempted service.**

Service by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India being excluded from the definition of exempted service. This will facilitate shipping companies to avail cenvat credit on these services. This is consequential amendment as section 66D (p)(ii)] is proposed to be omitted with effect from 1.06.2016 (The entry in the Negative List that covers services by way of transportation of goods by an aircraft or a vessel from a place outside India up to the customs station of clearance.)

iv. **Clause (k)-Definition of Inputs-** All capital goods having value up to Rs. ten thousand per piece are being included in the definition of inputs. It means that an assessee will be in position to take 100% credit on such capital goods in one go in the same year in which they are received. This will certainly help manufactures from maintaining huge record for the purpose of availing 50% credit on small value capital goods. This will also help the excise department as the wastage of time on the scrutiny of capital goods cenvat credit will be eliminated.

B. Amendment in Rule 4

i. Sub-rule (5) (b): As a well come measure a manufacturer of final products is being allowed to take CENVAT credit on tools of Chapter 82 of the Central Excise Tariff in addition to credit on jigs, fixtures, moulds & dies when they are sent by such manufacturer to, - other manufacturer-for the production of goods; or a job worker for the production of goods on his behalf, according to his specifications.

It is also provided that such credit shall also be allowed where jigs, fixtures, moulds and dies or tools falling under Chapter 82 of the First Schedule to the Excise Tariff Act, are sent by the manufacturer of final products to the premises of another manufacturer or job worker-without bringing these to his own premises. This is very rational amendment as it will save the manufacturers from back and forth movement of such capital goods just for the sake of technical compliance.

ii. Sub-rule 4(6): Presently, the permission given by an Assistant Commissioner or Deputy Commissioner to a manufacturer of the final products for sending inputs or partially processed inputs outside his factory to a job-worker and clearance there from on payment of duty is valid for a financial year would be valid for three financial years under amended rule. This is a welcome change and reduce unnecessary procedures.

iii. Sub-rule (7): Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof is proposed to be declared as a service under section 66E of the Finance Act, 1994 so as to make it clear that assignment by Government of the right to use the spectrum as well as subsequent transfers of assignment of such right to use is a service leviable to service tax and not sale of intangible goods. As a consequence to the proposed amendment it is being provided that CENVAT credit of Service Tax paid on amount charged for assignment by Government or any other person of a natural resource such as radio-frequency spectrum, mines etc. shall be amortize over the period of time for which the rights have been assigned. It is also being provided that where the manufacturer of goods or provider of output service further assigns such right to use assigned to him by the Government or any other person, in any financial year, to another person against a consideration, balance CENVAT credit not exceeding the service tax payable on the consideration charged by him for such further assignment, shall be allowed in the same financial year. The rule also provides that CENVAT credit of annual or monthly user charges payable in respect of such assignment shall be allowed in the same financial year.

iv. Rule 6: Reversal of credit in respect of inputs and input services used in manufacture of exempted goods or for provision of exempted services

i. Rule 6 of Cenvat Credit Rules, which provides for reversal of credit in respect of inputs and input services used in manufacture of exempted goods or for provision of exempted services, is being completely overhauled with the objective of rationalizing and simplifying. However, while doing so the basic principle of reversal of such credit are retained.

ii. Existing sub-rules (1),(2) and (3), though were in the rules for more than decade, the were badly drafted. In an exercise to

improve drafting and clarity, sub rule (1) of rule 6 is being amended to lay down basic principle that CENVAT credit shall not be allowed on such quantity of input and input services as is used in or in relation to manufacture of exempted goods and exempted service. The rule further provides that the credit not allowed shall be calculated and paid by the manufacturer or the provider of output service, in terms of the provisions of sub-rule (2) or sub-rule (3), as the case may be.

- iii. It is very common that a manufacturer manufactures two classes of goods for clearance up to the place of removal, namely, goods exempted from excise duty and final products liable for excise duty or a provider of output services provides two classes of services, namely exempted services and taxable output services excluding exempted services. In the light of founding sub-rule(1) new sub-rule (3) of rule 6 is being amended to provide that when, then the manufacturer or the provider of the output service shall exercise one of the two options, namely,
- (a) pay an amount equal to six per cent of value of the exempted goods and seven per cent of value of the exempted services, subject to a maximum of the total credit taken (this is thumb-rule reversal without going into nitty gritty of sub-rule (3A) or
 - (b) pay an amount as determined under sub-rule (3A).

For the first time it has been provided that the maximum limit prescribed in option (a) that the amount to be paid under sub-rule does not exceed the total credit taken. The purpose of the rule is to deny credit of such part of the total credit taken, as is attributable to the exempted goods or exempted services.

- iv. Sub-rule (3A) is being amended to provide the procedure and conditions and formulae for calculation of credit allowed and credit not allowed and directs that such credit not allowed shall be paid, provisionally for each month. The sequential steps for calculating the credit required to be paid are:-

(a) Ineligible credit, if inputs or input services used exclusively in manufacture of exempted goods or for provision of exempted services;

(b) Eligible credit, if input or input services used exclusively in final products excluding exempted goods or output services excluding exempted services;

(c) Common credit: what is left over after (a) and (b) above shall be attributed towards exempted goods and exempted services by multiplying the sum total of (a) value of exempted services provided; and (b) value of exempted goods removed, during the preceding financial year divided by sum total of (a) value of non-exempted services provided,(b) value of exempted services provided,(c) value of non-exempted goods removed, and(d) value of exempted goods removed, during the preceding financial year. It is also provided that where no final products were manufactured or no output service was provided in the preceding financial year, the CENVAT **credit attributable to ineligible common credit shall be deemed to be fifty per cent. of the common credit.**

(d) Eligible common credit: The remainder of the eligible common credit.

(d) The above computation of eligible and ineligible credit is based on preceding financial year. Therefore, the rule provides for calibration of the eligible and ineligible credit based on the actual year end data. Final computation and adjustments (excess or shorter credit reversed provisionally) will be provided for after close of financial year by 30th June of the succeeding financial year.

- v. As a welcome move and with a view to provide benefit of Cenvat Credit Rules, for which Government need to be complimented, a new proactive sub-rule (3AA) is being inserted to provide that a manufacturer or a provider of output service who has failed to initiate the procedure of giving prior intimation, may be allowed by a Central Excise officer, competent to adjudicate such case, to follow the procedure and pay the amount

prescribed subject to payment of interest calculated at the rate of fifteen per cent. per annum.

- vi. Rightly so, new sub-rule (3AB) is being inserted as transitional provision to provide that the existing rule 6 of CCR (v) would continue to be in operation upto 30.06.2016. This is so because the units who are required to discharge the obligation in respect of financial year 2015-16 under rule 3A and also from the Departments perspective (which otherwise would have been cease to exist, will not have legal void.
- vii. Sub-rule (3B) of rule 6 is being amended so as to allow banks and other financial institutions to reverse credit in respect of exempted services on actual basis in addition to the option of 50% reversal as per thumb rule.
- viii. Explanations 3 and 4 are being inserted in rule 6, sub-rule (1) so as provide for reversal of CENVAT Credit on inputs/input services which have been commonly used in providing taxable output service and an activity which is not a service under the Finance Act, 1994.
- ix. Sub-rule (4) is being amended to provide that where the capital goods are used for the manufacture of exempted goods or provision of exempted service for two years from the date of commencement of commercial production or provision of service, no CENVAT credit shall be allowed on such capital goods. Provision is also being made for capital goods installed after the date of commencement of commercial production or provision of service.
- v. Rule 7 of the Rules relating to distribution of credit on input services by an Input Service Distributor is coming new *avatar*.
 - i. It will allow an Input Service Distributer to distribute the input service credit to an outsourced manufacturing unit also in addition to its own manufacturing units. Outsourced manufacturing unit is defined a job-worker who is liable to pay duty on

the value determined under rule 10A of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 on the goods manufactured for the input service distributor or a manufacturer who manufactures goods, for the input service distributor under a contract, bearing the brand name of such input service distributor and is liable to pay duty on the value determined under section 4A of the Excise Act.

- ii. The new rule 7 provides that an Input Service Distributor shall distribute CENVAT credit in respect of service tax paid on the input services to its manufacturing units or units providing output service or to outsourced manufacturing units subject to, inter alia, the following conditions:
 - a. credit attributable to a particular unit shall be attributed to that unit only.
 - b. credit attributable to more than one unit but not all shall be to attributed to those units only and not to all units.
 - c. credit attributable to all units shall be attributed to all the units.

Credit shall continue to be distributed pro rata on the basis of turnover as is done in the present rules.

- iii. It is also being provided that an outsourced manufacturing unit shall maintain separate account of credit received from each of the input service distributors and shall use it for payment of duty on goods manufactured for Input Service Distributor concerned. The credit of service tax paid on input services, available with the Input Service Distributor as on 31st of March, 2016 shall not be distributed to an outsourced manufacturing unit. Further, provisions of rule 6 of Cenvat Credit Rules, 2004 relating to reversal of credit in respect of inputs and input services used in manufacture of exempted goods or for provision of exempted services, shall apply to the units availing the CENVAT credit distributed by Input Service Distributor and not to the Input Service Distributor.

- vi. As a matter of welcome move for ease of doing business, Rule 7B is being inserted in Cenvat Credit Rules, 2004 so as to enable manufacturers with multiple manufacturing units to maintain a common warehouse for inputs and distribute inputs with credits to the individual manufacturing units. It is also being provided that a manufacturer having one or more factories shall be allowed to take credit on inputs received under the cover of an invoice issued by a warehouse of the said manufacturer, which receives inputs under cover of an invoice towards the purchase of such inputs. Procedure applicable to a first stage dealer or a second stage dealer would apply, mutatis mutandis, to such a warehouse of the manufacturer. It means that such warehouse may require registration as a dealer.
- vii. Amendment in Rule 9 (a) (i): Presently, an invoice issued by a manufacturer for clearance of inputs or capitals goods is a valid document for availing CENVAT credit. It is being provided that an invoice issued by a service provider for clearance of inputs or capitals goods shall also be a valid document for availing CENVAT credit. This is much needed provision in the rules with a view to maintain the chain of Cenvat Credit.
- viii. Rule 9A of the Rules is being amended to provide for filing of an annual return by a manufacturer of final products or provider of output services for each financial year, by the 30th day of November of the succeeding year in the form as specified by a notification by the Board. It is pertinent to note that many unwarranted returns have been done away with and it is a welcome step.
- ix. The existing sub- rule (2) of rule 14 prescribes a procedure based on FIFO method for determining whether a particular credit has been utilized. The said sub-rule which was creating more confusion than facilitation is being omitted. Now, whether a particular credit has been utilized or not shall be ascertained by examining whether during the period under consideration, the minimum balance of credit in the account of the assessee was equal to or more than the disputed amount of credit. This is most logical and easy method which industry and the department was following years together in such issue.

It can be said that the changes in the Cenvat Credit Rules are in right direction when the Government is hoping that sooner or later the GST would be reality.



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MCA's olive branch to Private Companies - Notification dated June 5, 2015 - A Commentary

Introduction:

It is an admitted fact that small and marginal companies have been up in arms from the time the Companies Act, 2013 (hereinafter referred to as the "Act") was unleashed in the year 2013 partially to substitute what was considered as an antiquated piece of legislation - the Companies Act, 1956, which had supposedly outlived its usefulness. While opinions may be varied as to the veracity of the latter assertion, it is fair to state, at the outset that the present Act is replete with provisions which are perceived to be draconian and unfriendly, especially for the private companies. To speak metaphorically, the Act is analogous to setting a cat amongst the pigeons, where private companies are concerned.

It is an admitted fact that private companies are, essentially extensions of partnership forms of business which have catapulted into the corporate form essentially to give themselves the benefits of limited liability and perpetual existence. The predecessor Act of 1956 was very friendly to the private companies, lighter on procedure - a sharp contrast to its successor. Ever since the present Govt. took over the reins of the country in May last year, efforts have been afoot to ease the rigors of procedure for private companies. The draft notifications to ease the law were put in place in July last year, and thanks to the maze of procedure which precede any change in legislation, we finally have the Notification of June 5, 2015 which exempts private companies from the onerous requirements of some of the provisions of the Act.

It is pertinent to note that the said notification has not yet been published in the official

Gazette and is not yet legally enforceable.

In this exposition, we shall objectively analyse the implications of the notification issued by the MCA on June 5, 2015, evaluate the extent to which private companies will actually benefit there from and also look at some more changes which may be needed to increase the ease of doing business in this Country.

▪ Partial reprieve from Section 188 - Related party transactions

The general expectation was that the entire procedure of seeking approval of the Board and in certain cases, where the prescribed threshold values laid down in Rule 15 of the Companies (Meetings of Board) Rules, 2014 were being breached, the provisions, laid down in Section 188 would be dropped altogether for private companies. What has been provided by way of a concession in the notification is only partial. Only sub-clause (vii) in Section 2(76) of the Act which provides the definition of "Related parties" is being withdrawn with the result that contracts of the genre laid down in Section 188(1) under clauses (a) to (g) by a private company with its private holding company, subsidiary company or its associate company or with the subsidiary of its holding company to which the concerned private company is a subsidiary will alone be taken out of the purview of Section 188. This clearly implies that contracts entered into by the private company with all its related parties as listed out in clauses (i) to clause (vii) in section 2(76) will still have to be approved by the Board and if the value of the contract or arrangement exceeds the thresholds provided in Rule 15 *ibid*, as stated above by the shareholders, if

such contracts do not satisfy the following litmus test as laid down in Section 188:

- a) the contract is in the ordinary course of business.
- b) the transaction is not at arm's length.

Further where approval of the shareholders is called for, it would be adequate if such approval is by way of an ordinary resolution as opposed to a special resolution as provided in the Act originally. This is consequent upon the amendments made to the Act vide notification dated May 26, 2015.

Thus contrary to popular perception, the reprieve to private companies from the rigors of Section 188 are in our view only illusionary and cosmetic. The ghost of Section 188 will continue to haunt private companies which have to ensure that contracts with related parties are in the ordinary course of business and at arm's length - a daunting task, given the stark reality that private companies are invariably extensions of partnerships.

▪ Concessions under Section 62

The Section speaks about the procedure to be adopted where a company seeks to increase its subscribed capital by a further issue of shares. Such shares are to be offered in the first place to the existing holders of the equity shares of the company.

Sub-clause (i) under clause (a) provides that such offer shall be made by notice which will, *inter alia*, state the number of shares offered, provide a window of a minimum of 15 days within which the members can respond to the offer. The offer period shall not exceed thirty days from the date of the offer. If the members do not respond within the above time frame, it will be construed that they have declined the offer.

By the notification of June 5, 2015, a proviso is being added to clause (a) under sub-clause (i) which will apply only to private companies which will have the effect of reducing the time lines stated in the preceding para, in case 90% of the members have given their consent to the reduced time lines either by writing or through electronic mode.

Clause (b) Section 62(1) contemplates that issue of further shares can be made to the company's employees under a stock option scheme with the approval of members by special resolution.

The notification provides that the requirement of taking approval of the members by special resolution shall be substituted by an ordinary resolution.

Section 62(2) which provides that the Notice for the offer contemplated should be sent at least three days prior to the opening of the offer will also be exempt for a private company.

As may be observed from the above, the impact of the changes brought about in Section 62 will be in our view, minimal.

▪ Exemption from Section 67

This Section imposes restrictions on the purchase by a company or giving of loans by it for purchase of its shares.

This section will be exempt as per the notification to a private company which satisfies the following conditions:

- a) The company does not have a corporate as a shareholder.
- b) if the borrowings of the company from banks or financial Institutions or body corporates is less than twice its paid-up share capital or Rupees fifty crores whichever is lower and
- c) such company has not defaulted in repayment of borrowings which subsist at the time the Section applies.

It may please be noted all the above conditions have to be cumulatively satisfied so that the exemption can apply.

It is pertinent to point out that both Section 66 which deals with reduction of share capital and Section 68 which is concerned with the powers of the company to purchase its own securities will continue to apply to private companies. Therefore the exemption granted under Section 67 will have only a limited effect.

▪ Conditional exemption from Section 73

Clauses (a) to (e) under Section 73 (2) shall not apply to a private company which accepts from its members, deposits not exceeding 100% of its paid up share capital and its free Reserves and the company files with the ROC the details of such receipts..

In consequence of the above, the following requirements shall not apply to a private company provided it satisfies the limit set out above. :

- a) Issuing of a circular to its members incorporating the information set out in Form-DPT-1.
- b) Filing DPT-1 with the ROC.
- c) Depositing 15% of the amount of deposits which are falling due in the financial year into unencumbered Securities and Accounts as per Rule 13 of the Companies (Acceptance of Deposits) Rules, 2014.
- d) Provision of deposit insurance as required under Rule 5 of the Companies (Acceptance of Deposits) Rules, 2014.
- e) Certification to the effect that the company has not committed any default in the repayment of deposits taken either before or after the commencement of the Act and the interest thereon.

The above relaxations should find favour with the private companies. One shift from the previous law which is conspicuous by its presence is that deposits from members of a private company will now come within the ambit of the Rules .Private companies should also ensure meticulously full compliance of the conditions relating to acceptance of deposits as the penalties enshrined in Sections 74 and 75 are very stiff and non-compoundable in nature.

▪ **Exemption from Sections 101 to 107 and Section 109**

Provisions relating to General Meetings covering the following issues shall not apply unless specifically provided in the respective sections or by the company's Articles of Association:

- a) Notice for General Meeting(Section 101)
- b) Statement to be annexed to Notice (Section 102)
- c) Quorum for General Meetings (Section103)

- d) Appointment of chairman for the Meetings (Section 104)
- e) Provisions relating to proxies.(Section 105)
- f) Restrictions on voting rights (Section 106)
- g) voting by show of hands(Section 107)

Section 109 which speaks about the demand for a poll shall also not apply.

In consequence of the above, it follows that Secretarial standard - 2 relating to General meetings which kicks in from July 1,2015 would not hold much significance on the conduct of General Meetings of Private companies.

▪ **Exemption from clause (g) under sub-section (3) of Section 117**

This exemption should bring a lot of cheer to private companies which were being subjected to the requirement of filing the resolutions passed by the Board on matters covered under Section 179(3) of the Act. Such resolutions need not be filed any longer with the ROC consequent upon the withdrawal of clause (g) in Section 117. There will also be considerable savings in the form of filing fees arising out of the above.

Lest it should be misconstrued that the entire requirement of seeking approval of the Board for the matters covered under Section 179(3) has been done away with, we would point out that Section 179(3) has not been given an honorable burial where private companies are concerned. What has been dispensed with is only the requirement of filing the resolutions of the Board on matters covered under Section 179(3).

▪ **Ceiling on number of company audits-Section 141**

The ceiling of twenty companies on the number of statutory Audits shall not apply to one person companies, dormant companies, small companies and private companies with a paid up capital less than Rupees one hundred crores. This is a very welcome development for practicing Chartered Accountants.

▪ **Exemption from Section 160**

The 2013 Act had brought with it like the mythical Pandora's Box a lot of miseries for the private companies. One such thoughtless requirement was the need that, for appointing a person who was not a retiring director, the person concerned or any member of the company had to propose his candidature by leaving a notice along with a deposit of Rupees one lac, 14 days prior to the date of the General Meeting. 25% of the Deposit would stand forfeited in case of failure of the person to get elected at the meeting. This requirement is now mercifully being withdrawn with the result that Section 160 would apply only to public companies as was the case with its predecessor provision Section 257 in the 1956 Act.

▪ **Exemption from Section 162**

The 1956 Act provided that there was no need for the appointment of a director to be voted individually in the case of a private company. Inexplicably the situation was reversed under Section 162 of the Act. Wiser counsel has now prevailed leading to the restoration of the *status quo ante*.

▪ **Exemption from Section 180**

Section 293 in the predecessor Act which imposed fetters on the exercise of certain substantial powers by the Board such as the power to dispose-off an undertaking, the power to borrow in excess of the company's paid up capital and free reserves etc. was applicable only to public companies. Ostensibly with a view to provide more teeth to the legislation, it was considered appropriate to make such provisions applicable to private companies. In fact, Section 180 which corresponds to Section 293 was one of the first to get off the blocks and was made effective from September 12, 2013. This had led to considerable resentment from the private companies and there was a widespread clamour for its withdrawal and as a measure of appeasement, the Govt. has succumbed to popular sentiments.

▪ **Disclosure of Interest by director- Section 184(2)**

Section 184(2) enjoins upon a director to disclose the nature of his interest or concern

in any contract or arrangement entered into by the company with entities which come within the ambit of clauses (a) and (b) under the said Section. The Section further provided in its original form that the interested director shall not participate at the meeting of the Board at which the subject contract or arrangement is discussed.

The notification provides that while the requirement of disclosure of interest by the director of a private company u/s 184(2) shall continue as before, the interested director shall be allowed to participate at such meeting after disclosing his interest.

The above change, in our view, is in sync with the partial exemption allowed to private companies from the operation of Section 188. The notification has the effect of continuing with the requirement of Board approval and members' approval, if any, where the thresholds are breached with the only difference that the interested Director shall be allowed to participate in the discussion relating to the impugned contract or arrangement. It should be borne in mind that the notification allows the interested director only the right to participate in the discussion and not to vote thereon. In that view of the matter, the interested Director should not form a part of the quorum where it comes to grant of approval to the subject contract or arrangement.

▪ **Exemption from Section 185**

If a poll were ever conducted amongst private companies to select the most unpopular provision in the Act, Section 185 would have been the winner in a canter. It puts an end to the provision of loans and extensions of Guarantees to Directors or other persons in whom the Director is interested if such loan or guarantee is drawn into the vortex of the Explanation there under. The Section is totally unforgiving in that the provision of any loan or guarantee cannot be sanctified even by governmental approval if it falls within the ambit of the Explanation. Its predecessor Section 295 was less vicious. It at least, had the provision for Governmental approval.

Against the above backdrop, the exemption provided by the notification, albeit with some

riders, comes up as a veritable life line and will ameliorate the hardships of private companies. Exemption from Section 185 will become available if:

- a) there is no corporate investor in the company's share capital.
- b) if the borrowings of the company from banks, financial institutions or bodies corporate does not exceed twice the aggregate of its paid up capital and free reserves or Rupees fifty crores whichever is lower.
- c) the company has not defaulted in making repayments against such borrowings at the time of making transactions under this Section.

▪ **Exemption from second proviso under Section 188(2)**

As a logical corollary to the partial reprieve given by the notification in so far as related party transactions are concerned, the second proviso to Section 188(2) which debars a member of the company from voting on any resolution for approving any contract or arrangement, if such a member is a related party is being withdrawn. This will render Section 188 bereft of much force and somewhat in fructuous particularly in respect of contracts which need the approval of the members as even the interested member can now vote.

▪ **Sub-section (4) and (5) to Section 196 not to apply**

When the provisions relating to the overall ceiling on managerial remuneration laid down in Section 197 read with Schedule V of the Act are not applicable to private companies, it is somewhat paradoxical that subsections (4) and (5) under Section 196 which speak about the need for seeking the approval of the members and in applicable cases the Central Govt. for the appointment

and remuneration payable to Managerial Personnel should have been made applicable to private companies. This was clearly, in our view, a drafting anomaly which has finally been set right.

Conclusion

The Companies Act, 2013 in its original form went on an overdrive where it came to endeavoring to regulate companies. Perhaps the underlying logic behind the hyperbole in the original version was the notion that companies, in particular, private companies were untrustworthy, recalcitrant and that they could be reined in only through the crack of the whip. Hence the overkill by way of increased procedures and compliances. As the French philosopher Rousseau said, "*Man is only born free -everywhere he is in chains*". Through the introduction of the new *Act*, an attempt was made, in a manner of speaking, to reinvent the wheel when there was no real need to do so. The 1956 Act had acquitted itself admirably, notwithstanding its prolonged period of existence. All that was needed was that to tweak some of the provisions to make them contemporary and also by eliminating the dead wood of some antiquated provisions. In an endeavour to add more muscle and teeth to the law, the architects of the statute overplayed their card particularly in the matter of bringing the private companies under their reins. In the process almost all the provisions in the Act were made applicable to them. In our view, statutes work well only if they are attuned to the economic environment of the country. Obviously realization has dawned that there was excess of legislation where it concerned private companies. Hence the notification under discussion is clearly a case of righting a wrong and it has not come a day too sooner. In fact it should have come much earlier. As the adage goes, "*better late than never*".

Cartoon



Courtesy: CS Ajay Kumar





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Impact and analysis of exemptions to private companies

1. BACKGROUND

- 1.1 The Supreme Court of India, in its recent judgment given on November 25, 2014, in the case of *Hyder Consulting (UK) Ltd v. Governor, State of Orissa*, reconsidered one of the much debated questions under the provisions of Arbitration and Conciliation Act, 1996 ("Act") which is:
- 1.2 In the event the Arbitral Tribunal has already awarded interest on the principal amount for the pre award period (i.e. the period between the date on which cause of action arose till the date on which the award is made), then does the arbitral tribunal have power to award further interest for the post award period as well (i.e. the period between the date of the award till the date of payment)?
- 1.3 A three judge bench of the said Court, as per majority decision (2 judges concurring and 1 dissenting), has answered the question in affirmative, thereby overruling its earlier decision given in 2010 in the case of *State of Haryana v. S.L. Arora & Co.* [2010] 3 SCC 690, in which it was held that that Arbitral Tribunal did not have the power to award interest upon interest, or compound interest, either for the pre-award period, or for the post-award period.

2 RELEVANT LEGAL PROVISIONS

2.1 Section 31(7) of the Act (reproduced)

Quote-Unquote

"(7) (a) Unless otherwise agreed by the parties, where and in so far as an

arbitral award is for the payment of money, the arbitral tribunal may include in the sum for which the award is made interest at such rate as it deems reasonable, on the whole or any part of the money, for the whole or any part of the period between the date on which the cause of action arose and the date on which the award is made.

(b) A sum directed to be paid by an arbitral award shall, unless the award otherwise directs, carry interest at the rate of eighteen per centum per annum from the date of the award to the date of payment."

Understanding of the aforesaid provisions

Pre-award interest

- 2.2 Section 31(7)(a) of the Act deals with grant of "pre-award interest". It confers a power upon the Arbitral Tribunal while making an award for payment of money, to include interest in the sum for which the award is made, on either the whole, or any part of the money and for the whole or any part of the period commencing from the date on which the cause of action arose and ending on the date on which the award is made (i.e. the pre award period).
- 2.3 Pre-award interest is to ensure that arbitral proceedings are concluded without unnecessary delay. Longer proceedings would attract more interest. Pre-award interest is at the discretion of Arbitral Tribunal.

Post award interest

2.4 Sub-clause (b) of Section 31(7) of the Act deals with grant of post-award interest. It provides that, for the period commencing from the date on which award is made and ending on the date of the payment of money (i.e. the post award period), "a sum" which is ordered by the Arbitral Tribunal to be paid shall be paid with an interest rate of 18% per annum, unless the Tribunal directs payment of any other interest rate.

2.5 Post-award interest is to ensure speedy payment in compliance of the award.

3 ISSUE

3.1 In the event the Arbitral Tribunal orders interest on the principal sum for the pre award period as explained above, then under the provisions of section 31 (7)(b) of the Act, does the Tribunal have power to order further interest for the post award period as well?

3.2 So, whether or not the words "a sum" appearing in section 31(7)(b) of the Act includes interest adjudicated for the pre award period along with the principal amount?

4 JUDGMENT (by a bench of 3 judges of which 2 judges had a common view while 1 dissented)

4.1 By placing reliance on various legal dictionaries for the meaning of the word "sum", the Court held that the word "sum" as appearing in section 31 (7)(b) of the Act simply means "an amount of money"; and it may include - "principal" and "interest" or one of the two. Parliament has deliberately used the word "sum" to refer to the aggregate of the amounts that may be directed to be paid by the Arbitral Tribunal and not merely the "principal" sum without interest.

4.2 The purpose of enacting 31(7) was clear, namely, to encourage early payment of the awarded sum and to discourage the delay, which accompanies the execution of the Award in the same manner as if it

were a decree of the court. Hence, the sum directed to be paid by the Arbitral Award under clause (b) of sub-section (7) of Section 31 of the Act is inclusive of interest *pendent lite*.

4.3 It was apparent that vide clause (a) of sub-section (7) of Section 31 of the Act, Parliament intended that an award for payment of money may be inclusive of interest, and the "sum" of the principal amount plus interest may be directed to be paid by the Arbitral Tribunal for the pre-award period. Thereupon, the Arbitral Tribunal may direct interest to be paid on such "sum" for the post-award period vide clause (b) of sub-section (7) of Section 31 of the Act, at which stage the amount would be the sum arrived at after the merging of interest with the principal; the two components having lost their separate identities.

4.4 Over ruling the judgment passed in *SL Arora's case (supra)*, the Court held that Parliament has the undoubted power to provide that the Arbitral Tribunal may award interest on the "sum" directed to be paid by the Award, meaning a sum inclusive of principal sum adjudged and the interest.

4.5 The words "*include in the sum*" appearing in section 31 (7)(a) are of utmost importance. This would mean that pre-award interest is not independent of the "sum" awarded. If in case, the Arbitral Tribunal decides to award interest at the time of making the award, the interest component will not be awarded separately but it shall become part and parcel of the award. An award is thus made in respect of a "sum" which includes within the "sum" component of interest, if awarded.

4.6 Therefore, for the purposes of an award, there is no distinction between a "sum" with interest, and a "sum" without interest. Once the interest is "*included in the sum*" for which the award is made,

the original sum and the interest component cannot be segregated and be seen independent of each other. The interest component then loses its character of an "interest" and takes the

colour of "sum" for which the award is made and hence the question of question of granting "interest on interest" does not arise.

5 OUR COMMENTS:

- 5.1 The direct implication of this judgment will be that the party which is ordered to pay by the Arbitral Tribunal will think twice before challenging the enforcement of award and prolonging the litigation on frivolous grounds, because of the high penalty in the form of "interest on interest" which keeps accumulating till the payment is made.
- 5.2 At the same time, in certain situations, the high interest rate of 18% (unless a lower interest is awarded by the Tribunal) for the post award period, may turn out to be onerous, if the losing party is also required to pay pre award interest under the same award; and the winning party may ultimately recover more than it would have actually suffered



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New area of Practice: Registration of Political Party

INDIA is the largest democracy in the world. We have the largest number of people with franchise rights and the largest number of political parties, which take part in election campaign. Elections are conducted according to the constitutional provisions, supplemented by laws made by Parliament. The major law is Representation of the People Act, 1951, which mainly deals with the preparation and revision of electoral rolls, with all aspects of conduct of election and post-election disputes.



Generally, Company Secretaries are looked upon as Corporate Laws Consultants only, which is not true. Services of a Company Secretary start before incorporation of any organization and continue even after the closer of that organization.

Registration of a political party can be another area of practice for us. Along with Advocates, we are also looked upon as experts in legal field. Hence we can act as Legal Consultant for any political party. Therefore, Registration of Political Party is another area that we can take care of and where we can even go beyond the corporate advisory role.

POLITICAL PARTIES IN INDIA:

India is a Socialist, Secular, Democratic Republic and it Largest Democracy in the World. The modern Indian nation state came into existence on 15th of August 1947. In India, elections are held at different levels. The two major election levels are at national level, after which the national government is established and at state level after which the state government is established. Elections are also held for city, town and village councils. Since then free and fair elections have been held at regular intervals as per the principles enshrined in the Constitution, Electoral Laws and System. Indian Politics refers to the activities of the political parties associated with the governance of India as a country. A Politician is a person who is professionally involved in politics. It is to be said that politics is the art and technique of government.

A **Political Party** is an organization of people

which seeks to achieve goals common

to its members through the acquisition and exercise of political power. But to exercise a political power sometimes it is essential to register the proposed party. For the purpose of registration of any association or body of individual citizens of India as a political party, the association or body is required to make an application to the Election Commission of India. The basic purpose of political parties is to nominate candidates for public office and to get as many of them elected as possible. Once elected, they serve as public servants and try to achieve the goals of their party through legislation and program initiatives.

As with any other democracy, political parties represent different sections among the Indian society and regions, and their



core values play a major role in the politics of India. Both the executive branch and the legislative branch of the government are run by the representatives of the political parties who have been elected through the elections. Through the electoral process, the people of India choose which representative and which political party should run the government.



ELECTION COMMISSION OF INDIA:

India is a constitutional democracy with a parliamentary system of government, and at the heart of the system is a commitment to hold regular, free and fair elections. These elections determine the composition of the government, the membership of the two houses of parliament, the state and union territory legislative assemblies, and the Presidency and vice-presidency.

Elections are conducted according to the constitutional provisions, supplemented by laws made by Parliament. The Supreme Court of India has held that where the enacted laws are silent or make insufficient provision to deal with a given situation in the conduct of elections, the Election Commission has the residuary powers under the Constitution to act in an appropriate manner.

Election Commission of India is a permanent constitutional body. The Election Commission was established in accordance with Constitution of India on 25th January, 1950. Originally, the commission had only a Chief Election Commissioner. From 1st October, 1993 the Election Commission is a three member body consisting of Chief Election Commissioner and Election Commissioner.

Under Article 324(1) of the Constitution of India, the Election Commission of India, inter alia, is vested with the power of superintendence, direction and control of conducting the elections to the offices of the President and Vice-President of India. Detailed provisions are made under the Presidential and Vice Presidential Elections Act, 1952 and the rules made there under.

ADVANTAGES OF REGISTRATION:

It is not necessary for every association to get registered with the Election Commission. Only an association or body individual citizens of India calling itself a political party or intending to avail itself of the provisions of Part-IV-A of the Representation of the People Act, 1951, (relating to registration of political parties) is required to get itself registered with the Election Commission of India. But there are some advantages of Registration of Political Party which are as follows:

1. Registered Political Party can avail the provisions of Part-IV-A of the Representation of the People Act, 1951
2. The candidates set up by a political party registered with the Election Commission of India will get preference in the matter of allotment of free symbols vis-a-vis purely independent candidates.
3. Further, registered political parties, in course of time, can get recognition as 'State Party' or National Party' subject to the fulfillment of the conditions prescribed by the Commission in the Election Symbols (Reservation and Allotment) Order, 1968, as amended from time to time.
4. If a party is recognized as a State Party', it is entitled for exclusive allotment of its reserved symbol to the candidates set up by it in the State of States in which it is so recognized, and if a party is recognized as a 'National Party' it is entitled for exclusive allotment of its reserved symbol to the candidates set up by it throughout India.
5. Recognized 'State' and 'National' parties need only one proposer for filing the nomination and are also entitled for two sets of electoral rolls free of cost and broadcast/telecast facilities over Akashvani/Doordarshan during general elections.

STEPS TO REGISTER A POLITICAL PARTY:

- A. Name of the Party:

1. The parties name should not have any religious connotation.
 2. Name should not be a mere translation, either in Hindi, English or any regional language of the name of any existing recognized National or State Political Parties.
- B. The application of the Registration should be neatly typed on the party's letter head, if any, and it should be sent by registered post or presented personally to the Secretary to the Election Commission within thirty days following the date of formation of the party.

Every application shall contain the following particulars, namely:--

- (a) The name of the association or body;
- (b) The State in which its head office is situate;
- (c) The address to which letters and other communications meant for it should be sent;
- (d) The names of its president, secretary, treasurer and other officer-bearers;
- (e) The numerical strength of its members, and if there are categories of its members, the numerical strength in each category;
- (f) Whether it has any local units; if so, at what levels;
- (g) Whether it is represented by any member or members in either House of Parliament or of any State Legislature; if so, the number of such member or members.

- C. The organizational structure of the Party should be arranged and powers, functions of the office bearers should be delegated accordingly.
- D. A demand draft for Rs. 10,000/- (Rupees Ten Thousand Only) on account of processing fee drawn in favour of Under Secretary, Election Commission of India, New Delhi. The processing fee is non-refundable.
- E. Constitution of the Political Party should be prepared and authenticated according to the guidelines issued by authority time to time basis.

DOCUMENTS REQUIRED:

1. Pan Card of the Office bearers.
2. Last Three Year's Income Tax Returns of the Office Bearers (if there are no income tax returns then certified details of his/her monthly income alongwith source of income).
3. Affidavits from the president, vice-president, secretary, treasurer and other officer- bearers of the applicant party in respect of their assets and liabilities.
4. No objection certificate from the Local Body such as Municipality, Municipal Corporation etc., to the effect that there is no prohibition under the rules and regulations of the authority to set up political party office in that building/premises where the party office is situated.
5. No objection certificate from the owner of the house/premises where the party office is situated been furnished with certified copies of tangible proof of ownership of the premises such as House Tax Receipt or Registry Papers.
6. List of office bearers and atleast 100 (one hundred) members been furnished and the certified copy of electoral rolls or Elector Photo Identity Card (EPIC) and individual affidavits enclosed as per the sequence of the list.
7. Individual affidavits on stamp paper of at least Rs. 2/- denomination and duly sworn before a 1st Class Magistrate/Oath Commissioner /Notary Public from the aforesaid 100 members of the organization be furnished.

DETAILS REQUIRED IN CONSTITUTION OF A POLITICAL PARTY:

1. Article I:
Name of the Party
Name should not be contain religion or cast
2. Article II:
Objectives of the Party
Article should be in consonance with the Constitution of India.
3. Article III:
Membership of the Party
Membership should open to all adult Indian citizens
4. Article IV:
Organizational Structure.
Powers and Functions.

5. Article V:
Method of appointment, terms and conditions of members. Office-bearers of the Party.
Powers and Functions of the office bearers.
Method of appointment of the office bearers
6. Article VI:
Rules of Dispute Resolution & Discipline.
7. Article VII:
Basics of Rules of Conduct of Business.
Decision making process.
Meetings - quorum, notice and decision making.
8. Article VIII:
Party Funds & Accounts.
Party funds to be utilized for political activities.
Accounts to be maintained on accrual system. To be annually audited by Auditor on the panel of CAG.
Audited annual accounts to be submitted to the ECI within 6 months of the end of financial year.
9. Article IX:
Party Constitution's Amendment procedure.
10. Article X:
Merger, Split and Desolution Procedure.
11. Article XI:
Mandatory Provision under Section 29A (5) of RP Act, 1951.

RECOGNITION OF THE POLITICAL PARTY:

1. A political party shall be treated as a recognised political party in a State, if and only if either the conditions specified in Clause (A) are, or the condition specified in Clause (B) is, fulfilled by that party and not otherwise, that is to say-
 - A. that such party -
has been engaged in political activity for a continuous period of five years; and has, at the last general election in that State to the House of the People, or, as the case may be, to the Legislative Assembly of the State, returned-either
 - (i) at least one member to the House of the

- People for every twenty-five members of that House or any fraction of that number from that State; or
 - (ii) at least one member to the Legislative Assembly of that State for every thirty members of that Assembly or any fraction of that number;
 - B. That the total number of valid votes polled by all the contesting candidates set up by such party at the last general election in the State to the House of the People, or as the case may be, to the Legislative Assembly of the State, is not less than six per cent of the total number of valid votes polled by all the contesting candidates at such general election in the State.
2. The conditions in Clause (A) or Clause (B) above shall not be deemed to have been fulfilled by a political party, if a member of the House of the People or the Legislative Assembly of the State becomes a member of that political party after his election to that House or, as the case may be, that Assembly.
3. 'State' includes the National Capital Territory of Delhi and the Union Territory of Pondicherry.
4. If a political party is treated as a recognised political party in four or more States, it shall be known as a 'National Party' throughout the whole of India, but only so long as that political party continues to fulfill thereafter the conditions for recognition in four or more States on the results of any subsequent general election either to the House of the People or to the Legislative Assembly of any State.
5. If a political party is treated as a recognised political party in less than four States, it should be known as a 'State Party' in the State or States in which it is so recognised, but only so long as that political party continues to fulfill thereafter the conditions for recognition on the results of any subsequent general election to the House of the People or, as the case may be, to the Legislative Assembly of the State, in the said State or States.



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Prof. TechLaw in conversation with a Corporate Executive: No 3

Corporate Executive : Prof TechLaw, it is a pleasure to meet you again. I look forward to an enlightening discussion with you on Technology law issues that people like me should know.

Prof TechLaw : I enjoy talking to you too. What topic should we discuss today?

Corporate Executive : How about electronic contracts?

Prof TechLaw : Yes, that is a fundamental issue in electronic commerce. All commercial dealings over the Internet are in the form of electronic contracts. However, it is so easy to engage in buying or selling over the Internet that we may sometimes overlook the fact that we are getting into electronic contracts.

Corporate Executive : Can you give me some examples, please?

Prof TechLaw : Well, think of the air tickets you buy over the Internet, products you buy on Flipkart or Snapdeal, or train tickets or bus tickets.

Corporate Executive: Yes, I understand. Those are the obvious contractual transactions we engage in.

Prof TechLaw : There are other contracts that are not so obvious to most people. For example, when you access a website, you agree to their terms and conditions and that is also in the nature of an electronic contract.

Corporate Executive: But I do not sign anything there. On the other hand, when I buy something I click on the BUY button or something like that.

Prof TechLaw : When you browse a site you have, by that very action of browsing, accepted the terms and conditions for accessing that site.

Corporate Executive: But I do not ever read the terms and conditions.

Prof TechLaw: Like millions of others. But that does not mean you have not agreed to the "access terms" of that site. Moreover, it also does not mean that you have no binding electronic contract with that site or its owners.

Corporate Executive: This is confusing. Please explain in a way I can understand.

Prof TechLaw: In terms of contract law, you can accept an offer in many ways. For instance, on a website for sale of products you can accept an offer by ordering a book or a bag. On a website that provides mere information, you can accept their offer of information by merely browsing the site.

Thus, your acceptance can be indicated by the mere action of browsing the site, which results in a contract that binds you to its terms.

Corporate Executive : But accepting a contract by just doing something rather than signing off sounds a little incomplete to me.

Prof TechLaw : If the law were not so flexible we would have had to sign documents for every deal we do. For any contract, you need an offer from one party and an acceptance of the offer by another party. Over the Internet that happens all the time.

Corporate Executive : That is interesting.

Prof TechLaw: Yes. In a future meeting we shall discuss how an offer and an acceptance is actually made over the Internet, and the issues that should be kept in mind in electronic commerce.

Corporate Executive: I shall look forward to that. Talking to you is always so stimulating Prof TechLaw.

J O B Corner

REQUIRED



A leading private company having its registered office in Mumbai requires a qualified Company Secretary with upto 3 years of relevant experience.

A prospective candidate should be well versed with the Companies Act, 2013 and must have handled work related to Secretarial formalities and regulations.

Interested candidates may send their detailed resume to:

Brilliant Polymers Private Limited, 78 A Jolly Maker Chambers – II, Nariman Point, Mumbai – 400 021

Or email at: hr@brilliantpolymers.com



IDBI Asset Management Limited

Registered Office: IDBI Tower, WTC Complex, Cuffe Parade, Mumbai – 400005
Corporate office: 5th Floor, Mafatlal Centre, Nariman Point, Mumbai – 400021. Ph. No. 022 - 66442800
CIN: U65100MH2010PLC199319
Website: www.idbimutual.co.in

Invites applications for the post of Company Secretary

IDBI Asset Management Limited, Investment Manager to IDBI Mutual Fund, invites applications from candidates for the post of Company Secretary at its Corporate office at Mumbai. The candidate should be a graduate from a recognized University and an Associate/Fellow Member of the Institute of Company Secretaries of India. Additional qualification of LLB/CA/ICWA/FRM/MBA is desirable. The candidate should possess a minimum of 8-10 years of experience post qualification. Candidates with experience in Mutual Funds/ Insurance will be preferred.

The position is in middle management cadre. Salary is negotiable.

Please send your CV by email to hr@idbimutual.co.in and /or by courier addressed to Mr S N Krishnamoorthy, AVP(HR), IDBI Asset Management Limited, Corporate Office, 5th Floor, Mafatlal Centre, Nariman Point, Mumbai – 400021.

For any further information, please contact Mr S N Krishnamoorthy:
Tele - 022 66442825.

The last date for receipt of application along with CV is April 11, 2016.

Team WIRC Chapters- 2016 (In alphabetical order)

1 Ahmedabad Chapter MCM:

	Tushar D. Shah Chairman		Jignesh A. Shah Vice-Chairman,
Ankur K. Shah Secretary		Vatan D. Brahmhatt Treasurer	
	Maneesha G Priyani Member		Nevil R. Savjani Member
Vinod Kumar Sharma Member		Ashish C Doshi Ex-Officio	
	Chetan Babaldas Patel Ex-Officio	Mr. Maheshwar Sahu (IAS) Co-opted Member	Vijay Khubchandani Registrar of Companies, Ahmedabad Co-opted Member

2 Aurangabad Chapter MCM:

	<p>Rupesh Kamlakar Khokle Chairman,</p>		<p>Sagar Ramrao Deo Vice-Chairman</p>
<p>Vijay Harikishanji Baheti Secretary</p>		<p>Rohini Jaiprakash Haridas Treasurer</p>	
	<p>Mahesh Singhi Member</p>		<p>Prem Chand Agrawal Member</p>
<p>Pritesh Vijaykumar Gangwal Member</p>		<p>Shriniwas A. Kulkarni Co-opted Member</p>	
	<p>Laxmikant Ambadasrao Jaipurkar Co-opted Member</p>		

3 Bhayander Chapter MCM:

	<p>Manoj Mimani Chairman</p>		<p>Rakesh Gupta Vice-Chairman,</p>
<p>Sunil Agarwal Secretary</p>		<p>Dhirendra Maurya Treasurer</p>	
	<p>Manak Chand Daga Member</p>		<p>Manish Baldeva Co-opted Member</p>
<p>Priyanka Bajaj Co-opted Member</p>		<p>Praveen Soni Ex-Officio</p>	

4 Bhopal Chapter MCM:

	Praveen Kumar Rai Chairman		Devendra Pal Singh Dhaked Vice-Chairman,
Avadhesh Parashar Secretary		Pradeep Mutreja Treasurer	
	Piyush Bindal Member		Yogesh Khakre Member
Pranay Patel Member		Amit Narendra Kumar Jain Ex-Officio	

5 Goa Chapter MCM:

	<p>Girija Nagvekar Chairperson</p>		<p>Teja Gadekar Vice-Chairperson</p>
<p>Shilpa Dhulapkar Secretary</p>		<p>Shweta Kharangate Treasurer</p>	
	<p>Manisha Naik Member</p>		<p>Urjita Damle Member</p>
<p>Pratika Shenvi Dessai Member</p>		<p>Beena Mahambrey Co-opted Member</p>	

6 Indore Chapter MCM:

	<p>Manoj Kumar Bhandari Chairman</p>		<p>Dipika Kataria Vice-Chairperson,</p>
<p>Anurag Gangrade Secretary</p>		<p>Pinky Shrivastava Treasurer</p>	
	<p>Dinesh Kumar Sharma Member</p>		<p>Kaushal Kumar Agrawal Member</p>
<p>Tanay Kasera Member</p>		<p>Ashish Garg Ex-Officio</p>	
	<p>Ashish Karodia Ex-Officio</p>		<p>Kamlesh Joshi Ex-Officio</p>







7 Kolhapur Chapter MCM:

	<p>Ghatge Sangram Shivajirao Chairman</p>		<p>Parakh Amrutlal K Vice-Chairman</p>
<p>Patil Padmsinh Balasaheb Secretary</p>		<p>Patil Amar Dattatray Treasurer</p>	
	<p>Pasare Amit Dilip Member</p>		<p>Patil Snehalata Vinayak (Mrs) Member</p>
<p>Shinde Mukund Laxmanrao Member</p>			

8 Nagpur Chapter MCM:

	Tushar Sudhir Pahade Chairman		Piyush Ashok Katariya Vice-Chairman,
Chanchal Vijay Loya Secretary		Saurabh Surendra Somani Treasurer	
	Jagdish Jaising Shirke Member		Manish Madhukar Rajvaidya Member
Rohit Ajay Jain Member		CA Julfesh Shah Co-opted Member	
M. V. Chakranarayan Co-opted Member			

9 Nashik Chapter MCM:

	Sujata Rajesh Rajebahadur Chairperson		Ulka Krishna Kulkarni Vice-Chairperson,
Milind Janak Gujar Secretary		Amit Sagar Kochar Treasurer	
	Bhakti Ashish Talikot Member		Darshan Bharamanna Talikot Member
Shilpa Shekhar Parkhi Member			

10 Navi-Mumbai Chapter MCM:

Ranabir Sanyal Chairman	Awaneesh K.Srivastava Vice-Chairman And Secretary	Aparna Uparkar Member	Muralikrishna Cheruvu Member
Vishnu Kumar Sah Member	Rahul Deshpande Member	Santosh Kumar Singh Member	








11 Pune Chapter MCM:

	<p>Wagh Hrishikesh Shirish Chairman</p>		<p>Chandak Pawan Ghanshyamdasji Vice-Chairman</p>
<p>Gokhale Rohit Arun Secretary</p>		<p>Deosthale Omkar Vilas Treasurer</p>	
	<p>Inamdar Parag Arun Member</p>		<p>Atre Amit Murari Member</p>
<p>Sardesai Mandar Deepak Member</p>		<p>Dixit Shilpa Kedar Ex-Officio</p>	
	<p>Lele Makarand M Ex-Officio</p>		<p>Deshpande Devendrav Ex-Officio</p>

12 Raipur Chapter MCM:

	Satish Kumar Batra Chairman		Nitin Agrawal Vice-Chairman
Aashish Jain Secretary		Shashal Sahu Treasurer	
	Brajesh R. Agrawal Member		Ms. Himanshu Malik Member
Y.C. Rao Member			

13 Rajkot Chapter MCM:

	<p>Purvi G. Dave Chairperson</p>		<p>Paras J. Viramgama Secretary</p>
<p>Purvi J. Jajal Treasurer</p>		<p>Devang M. Vyas Member</p>	
	<p>Jayesh R. Dobarra Member</p>		<p>Piyush R. Jethva Member</p>
<p>Tushit G. Mangukiya Member</p>		<p>Bhavin Mehta Co-opted Member</p>	
	<p>Nalin Ganatra Co-opted Member</p>		

14 Surat Chapter MCM:

	A G Shaikh Chairman		Kuldip Nagar Vice-Chairman
Komal Khadaria Secretary		Arvind Kumar Yadav Treasurer	
	Pawan Kumar Baid Member		S Swaminathan Member
Saurabh Ushakant Jhaveri Member		Saurabh Ushakant Jhaveri Co-opted Member	

15 Thane Chapter MCM:

	<p>Vala Pradyumasinh M Chairman</p>		<p>Nitin V Upadhye Vice-Chairman</p>
<p>Rehana Kamil Khan Secretary</p>		<p>Vikas Ramchandra Chomal Treasurer</p>	
	<p>Rahul P Sahasrabuddhe Member</p>		

16 Vadodara Chapter MCM:

	Mayur Buha Chairman		Hemant Nandaniya Vice-Chairman
Hemantkumar Valand Secretary		Susheela Maheshwari (Ms.) Treasurer	
	D. S. Mahajani Member		Himanshu Parmar Member
Nishant Javlekar Member		Swati Bhatt (Ms.) Ex-officio	

Chapters Contact Details

Sr. No.	Chapter name	Chapter In-Charge	Contact No.	Email id of Chapter In-Charge
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13	Rajkot	Mr. Aritra Karmakar	0281-3059646	aritra.karmakar@icsi.edu
14	Surat	Mr. Goutam Karmakar	0261-2463404	goutam.karmakar@icsi.edu
15	Thane	Ms. Kavita Chavan	022-25891333-3793	kavita.chavan@icsi.edu
16	Vadodara	Mr. Amit Kumar Nagar	0265-2331498	amit.nagar@icsi.edu

Media corner

कमलेश जोशी रीजनल काउंसिल के चेयरमैन



इन्दौर। भारतीय कंपनी सचिव संस्थान की वेस्टर्न इंडिया रीजनल काउंसिल की बैठक मध्यप्रदेश की बैठक सम्पन्न हुई। वेस्टर्न इंडिया रीजनल काउंसिल सत्र 2016 के लिए इन्दौर शहर के पूर्व चेयरमैन सीनियर कम्पनी सेक्रेटरी कमलेश जोशी रीजनल काउंसिल के चेयरमैन चुने गए। मत्र में यह दूसरा अवसर है, जब रीजनल काउंसिल में प्रदेश के चेयरमैन की नियुक्ति हुई। इस अवसर पर कमलेश जोशी ने कहा कि सीएस स्टूडेंट्स को एकजाम में सफल होने के लिए सही गाइडेंस एवं रिसोर्सेज मिलना जरूरी है, जिसके लिए बेहतर इंफ्रास्ट्रक्चर प्रोवाइड करवाने की कोशिश करेंगे।

बाजार बज्र

छेतान केमिकल्स एण्ड फर्टिलाइजर के कमलेश जोशी वेस्टर्न इंडिया रीजनल काउंसिल के चेयरमैन चुने गए

भारतीय कंपनी सचिव संस्थान की वेस्टर्न इंडिया रीजनल काउंसिल की बैठक विगत दिनों इन्दौर में आयोजित की गई।



। इस बैठक का मुख्य एजेंडा सत्र 2016 के लिए नई कार्यकारिणी का गठन करना था। मध्यप्रदेश के इतिहास में यह दूसरा मौका है जब रीजनल काउंसिल में प्रदेश से चेयरमैन की नियुक्ति हुई है। इसके पूर्व सन् 2004 में सीएस अशोक मेहता चेयरमैन नियुक्त हुए थे। सीएस कमलेश जोशी भारतीय कंपनी सचिव संस्थान के फेलो मेंबर है एवं रीजनल काउंसिल की कार्यकारिणी में मध्यप्रदेश का नेतृत्व करते हैं।



वेस्टर्न इंडिया रीजनल काउंसिल की बैठक संपन्न

दबंग रिपोर्टर • इंदौर

भारतीय कंपनी सचिव संस्थान की वेस्टर्न इंडिया रीजनल काउंसिल की बैठक इंदौर में आयोजित की गई। इसका मुख्य एजेंडा 2016 के लिए नई कार्यकारिणी का गठन करना था। इसमें कमलेश जोशी रीजनल काउंसिल के चेयरमैन चुने

गए। मध्यप्रदेश के इतिहास में यह दूसरा मौका है जब रीजनल काउंसिल में प्रदेश से चेयरमैन की नियुक्ति हुई है। इसके पूर्व 2004 में सीएस अशोक मेहता चेयरमैन नियुक्त हुए थे। वेस्टर्न इंडिया रीजनल काउंसिल भारतीय कंपनी सचिव संस्थान की चार काउंसिल में से एक है। इसका मुख्यालय मुंबई में है।

कमलेश जोशी रीजनल काउंसिल के चेयरमैन



इंदौर। भारतीय कंपनी सचिव संस्थान की वेस्टर्न इंडियार रीजनल काउंसिल की बैठक में सत्र 2016 के लिए कार्यकारिणी का गठन किया गया। इंदौर चैप्टर के पूर्व चेयरमैन व सीनियर कंपनी सेक्रेटरी

कमलेश जोशी रीजनल काउंसिल के चेयरमैन चुने गए। श्री जोशी ने कहा कि उनकी प्राथमिकता सीएस स्टूडेंट्स को सही गाइडेंस और रिसोर्स उपलब्ध कराना है। परिषद अपने नए सदस्यों के लिए कैंपस प्लेसमेंट प्रोग्राम, सेमिनार आदि आयोजित कर उन्हें बदलते हुए कॉर्पोरेट कल्चर के अनुसार तैयार किया जाएगा।

सीएस संस्थान की रीजनल काउंसिल की बैठक संपन्न

पीपुल्स टाइम्सद्वारा • इंदौर
www.india@peoplesamachar.co.in

भारतीय कंपनी सचिव संस्थान की वेस्टर्न इंडिया की रीजनल काउंसिल की बैठक गतदिनों संपन्न हुई। बैठक में 2016 के लिए नई कार्यकारिणी का गठन किया गया। काउंसिल का मुख्यालय मुंबई में है व चार काउंसिल है। यह दूसरा मौका रहा जब रीजनल काउंसिल में म.प्र. से चेयरमैन की नियुक्ति हुई। इससे पूर्व सीएस अशोक मेहता चेयरमैन नियुक्त हुए थे।

सीएस कमलेश जोशी रीजनल काउंसिल में म.प्र. का नेतृत्व करते हैं। वे वर्तमान में वाइस चेयरमैन हैं इससे पूर्व वे 2008 व 2011 में चेयरमैन रह चुके हैं।



जोशी ने कहा कि सीएस स्टूडेंट को एजाम में सफल होने के लिए सही गाइडेंस एवं रिसोर्सेज मिलना जरूरी है, जिसके लिए वे बेहतर इंफ्रास्ट्रक्चर प्रोवाइड करवाने की कोशिश करेंगे। पदभार ग्रहण के बाद उनका प्रयास अधिक से अधिक सेमिनार, कॉन्फ्रेंस व ट्रेनिंग करवाने पर होगा। साथ ही कंपनी सचिव को राज्य सरकारों द्वारा लागू वेट एवं

अन्य कराधानों में अधिकृत करवाने के लिए भी प्रयास किए जाएंगे। सीएस स्टूडेंट को नॉन मेट्रो सिटीज में भी अवसर उपलब्ध कराए जाएंगे। इंदौर में रीजनल कॉन्फ्रेंस करवाने के प्रयास किए जाएंगे। बैठक में मुंबई के प्रकाश पंडवा को वाइस चेयरमैन, बाहोदा की स्वाति भट्ट को सेक्रेटरी एवं मुंबई के हितेश कोठारी को कोषाध्यक्ष चुना गया।

स्टूडेंट्स को बैटर इंफ्रास्ट्रक्चर देना प्रिफरेंस

आईसीएसआई के वेस्टर्न रीजनल काउंसिल के चेयरमैन चुने गए सीएस कमलेश जोशी ने कहा



इंदौर सीएस एजाम को क्लियर कसा बल्ड के टफेस्ट एजाम को क्लियर करना माना जाता है। ऐसे में स्टूडेंट्स को सही गाइडेंस और रिसोर्स मिलना जरूरी है। इसलिए वेस्टर्न रीजनल काउंसिल के चेयरमैन बनने के बाद मेरी कोशिश रहेगी कि इंदौर के स्टूडेंट्स को बैटर इंफ्रास्ट्रक्चर प्रोवाइड किया जा सके। यह कहना है शहर के सीएस कमलेश जोशी का। वे सोमवार को होटल फार्चून लैंडमार्क में हुई आईसीएसआई की वेस्टर्न रीजनल

काउंसिल की मीटिंग में बतौर नैक्स्ट चेयरमैन इलेक्ट किए गए। उन्होंने कहा कि अभी तक इंदौर के सीएस स्टूडेंट्स को बैटर फेसिलिटी के लिए मेट्रो सिटी का रुख करना पड़ता था। हमारा प्रयास रहेगा कि स्टूडेंट्स को इंदौर में ही बैटर एक्सपोजर दे पाएं।

इसके लिए सीएस इंदौर चैप्टर की न्यू बिल्डिंग को जल्द ही रेडी किया जाएगा, जिससे कि स्टूडेंट्स और मेम्बर्स के लिए अधिक से अधिक ट्रेनिंग सेशन और एक्सपर्ट

लेक्चर आयोजित किए जा सकें। इसके साथ ही इंदौर में रीजनल और नेशनल कॉन्फ्रेंस भी ऑर्गनाइज की जाएगी। इसके साथ ही नेशनल लेवल पर भी इंदौर के रिप्रेजेंटेशन को इंक्लीज करने की कोशिश की जाएगी। मीटिंग में मुम्बई के प्रकाश पंड्या को वाइस चेयरमैन, बड़ौदा की स्वाति भट्ट को सेक्रेटरी और मुम्बई के हितेश कोठारी को बतौर ट्रेज्चर इलेक्ट किया गया। ये सभी नए पदाधिकारी 19 जनवरी 2016 से अपना कार्यभार संभालेंगे।

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e-paper editions epaper.patrika.com/c/7716719

CS Kamlesh Joshi elected as chairman of WIRC of ICSI



Indore

It is a matter of proud and satisfaction for Madhya Pradesh that after a long time, someone from the State is elected as the Chairman of Western India Regional Council of Councils of the Institute of Company Secretaries of India (ICSI).

CS Kamlesh Joshi (Vice Chairman of WIRC 2015), the second time in history of WIRC a member from Madhya Pradesh State is elected as the Chairman, as in the year 2004, CS Ashok Mehta from Indore was elected as the Chairman of WIRC-ICSI.

He was elected during a meeting of members of WIRC of ICSI which was organized at Hotel Fortune Landmark in Indore. It is the first time for WIRC that the prestigious meeting was conducted in Financial Capital of Madhya Pradesh. The main agenda of the meeting was to elect the office bearer of Regional Council for the year 2016 as the term of current office

bearer will complete on 18th January, 2016.

CS Kamlesh Joshi, a fellow member of the Institute of Company Secretaries of India and two time Chairman of Indore Chapter of ICSI, is currently working as the Company Secretary of Khaitan Chemicals & Fertilizers limited, a listed company based in Indore. He is actively engaged in development of CS Profession in Madhya Pradesh region.

Joshi in his message said that he will try his best for the development of CS Profession and further accelerate the best services to its members and students and the Nation.

In the Meeting of WIRC, CS Prakash Pandya, Mumbai, was elected as the Vice-Chairman, CS Swati Bhatt, Vadodara was elected as the Secretary and CS Hitesh Kothari, Mumbai was elected as Treasurer of the Western India Regional Council for the year 2016 and all the office bearers will undertake the office from 19th January, 2016.

जोशी रीजनल काउंसिल के चेयरमैन

इंदौर। भारतीय कंपनी सचिव संस्थान की वेस्टर्न इंडिया रीजनल काउंसिल की बैठक मद्रास की फाइनेंशियल कैपिटल इंदौर में हुई। 2016 के लिए कार्यकारिणी का गठन हुआ। वेस्टर्न इंडिया रीजनल काउंसिल सत्र 2016 के लिए इंदौर चैप्टर के पूर्व चेयरमैन एवं सीनियर कंपनी सेक्रेटरी कमलेश



जोशी अन्य पदाधिकारियों के साथ

भारतीय कंपनी सचिव संस्थान की वेस्टर्न इंडिया रीजनल काउंसिल की बैठक संपन्न



इंदौर। भारतीय कंपनी सचिव संस्थान की वेस्टर्न इंडिया रीजनल काउंसिल की बैठक विगत दिनों मध्यप्रदेश की बैठक विगत दिनों मध्यप्रदेश की फाइनेंशियल कैपिटल इंदौर में आयोजित की गई। इस बैठक का मुख्य एजेंडा सत्र 2016 के लिए नई कार्यकारिणी का गठन करना था। वेस्टर्न इंडिया रीजनल काउंसिल 2016 के लिए इंदौर चैप्टर के पूर्व चेयरमैन एवं सीनियर कंपनी सेक्रेटरी कमलेश जोशी रीजनल काउंसिल के चेयरमैन चुने गए। इस अवसर पर जोशी ने कहा कि सीएस स्टूडेंट्स को एकजाम में सफल होने के लिए सही मार्गदर्शन एवं बेहतर संसाधन मिलना जरूरी है जिसके लिए वे बेहतर इंफ्रास्ट्रक्चर प्रोवाइड करवाने की कोशिश करेंगे। पदभार ग्रहण करने के मेरा प्रमुख प्रयास उन क्षेत्रों तक छात्रों एवं सदस्यों की सुविधाएं पहुंचाना है जहां संस्थान के कार्यालय नहीं है। इंदौर में रीजनल और नेशनल कॉन्फ्रेंस भी आयोजित करवाने की कोशिश की जाएगी। बैठक में मुंबई के प्रकाश पंड्या को वाइस चेयरमैन, बड़ौदा की स्वाति भट्ट को सेक्रेटरी व मुंबई के हितेश कोठारी को कोषाध्यक्ष बनाया गया। सभी पदाधिकारी 19 जनवरी को अपना कार्यभार संभालेंगे।

THE FREE PRESS Fri, 18 December 2015
e-paper.freepressjournal

CORPORATE CORNER

WIRC of ICSI organises Women's Day seminar



The Western India Regional Council of the Institute of Company Secretaries of India (WIRC of ICSI) organised Women's Day Seminar on Saturday, March 05, 2016 at Mumbai which was attended by large number of women professionals from various walks of life. The Chief Guest for the event was Shaina N C, National spokesperson, B.J.P. During her brief address she spoke about her experience in her profession and in social service. She commenced her talk mentioning that women is gifted with the boon of multiplying whatever is given by nature. She opined that it is women who plays a crucial role in converting a house to home and looks after the entire family. CS Kamlesh Joshi, Chairman, ICSI-WIRC complimented the gathering for the overwhelming response and participation in the event in large numbers. The Chairman, further spoke on the theme of WIRC of this year "Yesterday's DREAM - Today's REALITY - Tomorrow's VISION".



Kamlesh Joshi



Hitesh Kothari



Prakash K. Pandya



Swati Yash Bhatt

CS Kamlesh Joshi elected as Chairman of ICSI-WIRC

At the 289th meeting of the Western India Regional Council of the Institute of Company Secretaries of India held on Monday, CS Kamlesh Joshi, (Company Secretary & General Manager) Khaitan Chemicals & Fertilizers Limited was elected as Chairman of the Regional Council for the year 2016 in terms of Regulation - 119(2) of the Company Secretaries Regulations, 1982. CS Prakash K. Pandya, Proprietor, P. K. Pandya & Co. Partner, PN & Associates LLP Practising Company Secretary was elected as Vice Chairman. CS Swati Yash Bhatt (Ms.) Company Secretary was elected as Secretary while CS Hitesh Kothari Kothari H. & Associates, Company Secretaries, was elected as Treasurer of the Regional Council for the year 2016.

02

INDORE CITY

Govt willing to make atmosphere business-friendly for companies

Amendments to in Company Law to make it more business-friendly

Provisions for private as well as public limited companies are made smoother

OUR STAFF REPORTER
INDORE

Company Secretary K Sethuraman, group company secretary of Reliance Industries Limited, said that the new government at the Centre is willing to make business-friendly atmosphere for companies. After making certain amendments in the Company Act, 2013, it will become business-friendly.

Sethuraman was addressing a day-long seminar on 'A day with legend' jointly organised by Western India Regional Council of ICSI and Indore Chapter here on Sunday by the



CS Kamlesh Joshi felicitating by K Sethuraman and Vijay Zalani during a seminar on 'A Day With Legend' here on Sunday.

company secretaries and CS students of the region. He talked about the critical aspects of the New Company Act and listing regulations (LCRR). These regulations are made applicable to the listing companies with effect from Dec 1, 2015. It will increase the disclosure requirements and proper compliance in the companies. Ultimately, it will be in the interest of the industry and investors only.

He refers that in the New Company Act 2013, there were so many strict provisions

instituted for the private as well as public limited companies. He also discussed the provisions related to loans, related to party transactions in the inter-corporate loans.

CS Vijay Zalani, Central Council Member and the government nominee said that ICSI is taking good initiatives in the interest of members and the students by taking policy decisions on regular basis in the council meetings, which will have long term effects in the benefit of the members. Zalani highlighted

that after taking over charge as a Minister of Corporate Affairs, the ministry is very much flexible to make amendments in the New Companies Act. The ministry is working to make the industry more investor-friendly and business-friendly in India.

Over 100 amendments are proposed by the Company Law Committee constituted by Ministry of Corporate Affairs, which are under consideration. Earlier, government was not ready to accept and make the required amend-

ments in the New Companies Law Act 2013.

CS Ashish Garg, Central Council Member of the ICSI said that the limits of the Secretarial Audit for the year 2016-17 will be equal to all the practicing company secretaries which will be in the interest of young CS. Earlier, it was linked with some experience of number of years. He further said that additional limits of audit will be given to peer reviewed units of PCS which will enhance the quality of services of the CSs. This was a very important decision taken by ICSI.

Highlighting the importance of the company secretaries, CS Kamlesh Joshi, chairman of Western India Regional Council, said that without a CS, the corporate compliance cannot be achieved. He further said that the annual conference of the Western Region will also be organised in the city. CS Joshi was felicitated by CS Sethuraman and CS Zalani. On this occasion a large number of company secretaries of the region and CS students was present.

WIRC Images

ICSI-WIRC PROGRAMMES / SEMINAR **UDAY DIWAS** CELEBRATED ON 1ST JANUARY 2016



CS Mamta Binani, addressing the participants

Sitting from L to R – CS Mahavir Lunawat, CS Ashish Doshi, CS Milind Sarwate and CS Rishikesh Vyas



A day With Masters held on Sunday, January 03, 2016



From Left: - CS Rishikesh Vyas, Chairman, ICSI-WIRC, CS Devendra Deshpande Chairman, Professional Development Committee, Outside Mumbai Region, ICSI-WIRC, HIS GRACE Gaur Gopal Prabhu Ji, ISKCON

From Left: - CS Devendra Deshpande, Chairman, Professional Development Committee, Outside Mumbai Region, CS Kamlesh Joshi, Vice-Chairman, ICSI-WIRC HIS GRACE Gaur Gopal Prabhu Ji, ISKCON, CS Rishikesh Vyas, Chairman, ICSI-WIRC



HIS GRACE Gaur Gopal Prabhu Ji, ISKCON



**Dr. S D Israni,
Partner, S D
Israni Law
Chambers**

**CS Parvateesam
Kanchinadam,
Company
Secretary, Tata
Steel Ltd.**



**CS Keyoor
Bakshi, Past
President, The
ICSI
addressing
delegates**

ICSI-WIRC Convocation held on January, Thursday 07, 2016



From Left :- CS Kamlesh Joshi, Vice-Chairman, ICSI-WIRC, CS Rishikesh Vyas, Chairman, ICSI-WIRC, CS Ashish Garg, Program Director & Central Council Member, The ICSI, Chief Guest Prof. Rishikesh T Krishnan, Director, Indian Institute of Management Indore, CS Atul Mehta, President, The ICSI, CS Ashish Doshi, Program Director & Central Council Member, The ICSI

CS Devendra Deshpande –
Practicing
Company
Secretary &
Chairman
TEFC
Committee,
ICSI-WIRC



CS Prakash
K. Pandya –
Practicing
Company
Secretary &
Vice-
Chairman,
ICSI-WIRC

Vadodara Chapter



CS Mayur Buha, Chairman, Vadodara Chapter addressing the gathering.

Dignitaries on Dias (L to R): CS Hemant Nandaniya, Vice-Chairman, Vadodara Chapter; CS Swati Bhatt, Secretary, ICSI – WIRC and CS Susheela Maheshwari, Treasurer, Vadodara Chapter.

Seminar held on 7th February, 2016 at Shagun Hotel, Vadodara

Participants of the Seminar.
Seminar held on 7th February, 2016 at Shagun Hotel, Vadodara.



Pune Chapter



Programme Date: 26.01.2016

Topic: Celebration Of 67th Republic Day Of India. Of 67th Republic Day Of India

Speaker: CS Members/Students/Staff And Guests Of Pune.

Programme Date: 30.01.2016

Topic: Blood Donation Camp To Commemorate Republic Day And Marty's Day.

Speaker: Blood Bank Of Sahyadri Speciality Hospital, Pune.





Programme Date: 06.02.2016
Topic: Student Induction Programme
(Parents Students Meet)
Speaker: CA Swanand Purohit

Programme Date: 08.02.2016
Topic: 18th Batch Of MSOP
Speaker: CS Hrishikesh Wagh, CS Amit Atre,
CS Kalyani Shirode and Shri.
Anil Tale,



Programme Date: 09.02.2016
Topic: Discussion Meeting on Report of the
Companies Law Committee
Speaker: CS Makarand Lele. Central Council
Member, New Delhi

Programme Date: 20.02.2016
Topic: Discussion Meeting for the Members
– To deliberate on the Proposed
Amendments to Secretarial Standards (SS-1
and SS-2)
Speaker: CS Members, Pune.



Kolhapur Chapter



Group Discussion on “Secretarial Standard 1 & Secretarial Standard 2 ” dtd. 13.02.2016
 CS Sangram Ghatge Chairman Kolhapur Chapter presided for the Group Discussion on Secretarial Standard 1 & Secretarial Standard 2.

Bhayander Chapter

Full Day Seminar on 21.02.2016 on “Public Company – Compliances”
 From Left : CS Dharendra Maurya, Treasurer, Bhayander Chapter, CS Rakesh Gupta, Vice Chairman, Bhayander Chapter, Adv. Joby Mathew, Faculty, CS Praveen Soni, Regional Council Member of WIRC of ICSI, CS Sunil Agarwal, Secretary, Bhayander Chapter & CS Priyanka Bajaj, Member, Bhayander Chapter.



Nashik Chapter



Felicitation of Students on 27/02/2016

On Podium: CS Poonam Parikh
 From L to R: CS Milind Gujar, CS Darshan Talikot, Dr. Dhanesh Kalal, CS Sujata Rajebahadur, CS Manoj Kulkarni, CS Ulka Kulkarni and CS Amit Kochar.

A seminar on ‘Understanding Legal Documents in Companies Act, 2013’, was organised on 18th February, 2016
 Left to right – CS Ulka Kulkarni, Dr. Dhanesh Kalal, CS Sujata Rajebahaddur, Adv. Indrayani Patani, CS Milind Gujar



Raipur Chapter



Aurangabad Chapter

Study Circle Meeting held on the Topic **“Borrowings, Loans & Investments”** on 12th February, 2016 at the Aurangabad Chapter Office Premises.



Participants at the SCM held on 12.02.2016 at the Aurangabad Chapter Office Premises

Speaker CS P.C.Agrawal, Past Chairman - Aurangabad Chapter at the centre deliberating with the participants at the SCM held on 12.02.2016 on the topic **“Borrowings, Loans & Investments”**



Bhopal Chapter



CS Avadhesh Parashar (Secretary, Bhopal Chapter) addressing the students in the 5 Days Skill Development Program organised from 9th February, 2016 to 13th February, 2016 at Bhopal Chapter Office

Distribution of Certificates to the students who successfully completed the program. From Right to left CS Avadhesh Parashar (Secretary, Bhopal Chapter) , CS Pradeep Mutreja (Treasurer, Bhopal Chapter) and CS DPS Dhakad (Vice - Chairman, Bhopal Chapter)



Indore Chapter



Felicitation of CA Vijay Jhalani, Central Council Member (Govt. Nominee), Institute of Company Secretaries of India.

Felicitation of the Legend CS K. Sethuraman, Group Company Secretary & Chief Compliance Officer, Reliance Industries Limited.



CS Kamlesh Joshi felicitating the Legend CS K. Sethuraman, Group Company Secretary & Chief Compliance Officer, Reliance Industries Limited.

Felicitation of CS Kamlesh Joshi, Chairman, Western India Regional Council of ICSI by Indore Chapter.



Felicitation of CS Kamlesh Joshi, Chairman, Western India Regional Council of ICSI by Indore Chapter.

Award To All India Rank Holders Student for December 2015 Examination



Award To All India Rank Holders Student for December 2015 Examination

MOU with Apollo Hospital Indore



Book release: Book written by CS Dr. D.K. Jain on SEBI LODR release by CS Kamlesh Joshi, Chairman WIRC, CS Ashish Karodia, Program Director, CS K. Sethuraman, Group Company Secretary, reliance Industries Limited & CA Vijay Jhalani, Govt. Nominee in Central Council of ICSI

Legend's Speech:- CS K. Sethuraman, Group Company Secretary & Chief Compliance Officer, reliance Industries Limited addressing Audience.



Chief Guest CA Vijay Jhalani, Govt. Nominee in Central Council of ICSI addressing the Audience

Felicitation of CS Ashish Karodia, Program Director for His efforts in getting Best Chapter Award in A Grade Category of ICSI to Indore Chapter for the Year-2014



Chairman Speech: CS Kamlesh Joshi, Chairman, Western India Regional Council of ICSI addressing the audience in Full Day Seminar

Goa Chapter

Foundation day Programme at Goa Chapter – CS Girija Nagvekar (Chairperson Goa Chapter), Shri S.P.Kala (Ex.Registrar of Companies), CS Teja Gadekar (Vice Chairperson Goa Chapter)



Rajkot Chapter



Participated in half marathon jointly organised by Rajkot municipal corporation and police department

Thane Chapter

11th MSOP of Thane Chapter



CS P M Vala (Chairman) & Adv R T Rajguroo (Both are in middle) with the students of 11th MSOP

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