



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

**Stay home.
Stay safe**

NAGPUR CHAPTER OF WIRC OF ICSI

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भावपूर्ण श्रद्धांजलि



CS Upendra Deshpande

भगवान उनकी आत्मा को
शांती प्रदान करे...



We Miss You

Chairperson's Message



Dear Professional Colleagues and students,

A rampaging second wave of Covid-19 pandemic has hit Nagpur hard. In tough times the best way to overcome hardship is to lean on all of your loved ones—but the novel coronavirus pandemic has made that quite impossible to do so. **We should Stay Home and Stay Safe for our loved ones, family, and friends.**

A month of April is a month of beginnings, Kids begin with their new school sessions, corporates with their financial year, here at Nagpur Chapter this month started with a long-awaited good news for all the members of the Nagpur Chapter of ICSI. Request you all can take pause for minute and think about that what that good news could be. I am sure if not all 99% of the readers will have a thought about infrastructure.

I have communicated with you all through my first communication in the month of January about my agendas for the quarter which included following:

- **Better Infrastructure**
- **Training and Placement Drive**
- **Completion of structured credit hours**

Now after the end of the quarter I would like to update the status of these Agendas:

1. Infrastructure:

We have got the final approval from Mr. B Pradhan, Director Infrastructure, the ICSI on our proposal for hiring additional space to be used as a Chapter office. The said premise is approximately of 2000sq feet and located at:

3rd Floor, Shri Sai Prasad Enclave,
Plot No.164, Vivekanand Nagar, Wardha Road,
Nagpur - 440015.

The rent of the said additional premises, establishment expenses and the cost of procurement of furniture, other capital items along with any other expenses to make the premise operational will be incurred by the ICSI, New Delhi. There will be no financial burden on the Nagpur Chapter for hiring the additional space. Due to lockdown restrictions, we were unable to start the civil work and interior of the said property but very soon we will initiate the same. Current Chapter premise will be used as contact office.

2. Training and Placement Drive

Training and placement drive scheduled in the month of March was cancelled due to restrictions in the movements in view of pandemic. I am carrying forward this agenda to the current quarter and Nagpur Chapter will organize the same with full energy, zeal, and commitments. We humbly request students and members for their cooperation and participation to make this drive successful whenever announced.

3. Structured Credit hours

Nagpur Chapter started with this agenda in the month of February and organised the program on Budget and the interaction with the President and Vice president of the ICSI. These two events provided 4 structured credit hours to the members. Other events scheduled in the month of March were cancelled due to the restrictions imposed by the local and state Governments in view of the COVID-19. The ICSI has issued the clarification letter regarding obtaining the mandatory CPE credits for the year 2020-21. In view of the said clarification members attending programmes through electronic mode during May 1, 2021 till June 30, 2021 will get the structured credit hours for the year 2020-21 only. The Nagpur Chapter of ICSI will be organising a series of webinars in the month of May to complete 5 structured credit hours.

Few initiatives undertaken by Nagpur Chapter in the month of April 2021:

1. Career Awareness program: During the month we have successfully conducted 2 virtual CAP at Jain International School. Around 65 students participated in the CAP.
2. Webinar on Valuation of Securities or financial Assets by the Registered Valuer CS Sunil Sharma.

3. Liaison and seeking consent for signing of MOU's between following two universities and ICSI, New Delhi:

1. Gondwana University, Gadchiroli
2. Mahatma Gandhi Antarrashtriya Hindi Vishwavidhyalya, Wardha

These MOU's will be signed once the situation of COVID-19 gets stabilized.

4. Revamping of child portal of Nagpur chapter on the website of ICSI.
5. Facilitated for all India online Moot Court competition for students (Chapter round) as per the directives of WIRO.

CSBF

Company Secretary Benevolent Fund (CSBF) is need of an hour. I humbly request all the members those have not yet registered to kindly register themselves for CSBF. All the registration details and the form A is available at www.icsi.edu.

In times like these, Hope can be a powerful source of reassurance. **ये चक्रत गुजर जायेगा** and we would come out victorious against all the difficult situations of this pandemic war.

Stay Home, Stay Healthy and Stay Safe.

Thanks & Regards

CS Khushboo Pasari

Chairperson, Nagpur Chapter of ICSI





Articles



Articl



Women are the epitome of strength, love, sacrifice and courage. The role of women in today's world has changed significantly and for better. Women are now self-sufficient, well aware and financially independent. They have attained immense success in every field, whether it is sports, politics or academics. With the encouragement of co-education, women are now marching side by side with men, in every walk of life be it corporate or social life.

Women have created their own space and importance in the society; they have been appreciated in every field they participate. The role of women is the most versatile and challenging and requires immense dedication and multi-tasking skills. These qualities of women make her stand out of the box every time. The creative mind -set of women is what the corporates demands these days. Empowering women can help the society to grow and develop at a faster pace also empowering women can help in economic development of the country and making county a better place to live in.

Furthermore due to the growing importance of women in the corporate world government have added an ordinance and made it mandatory to appoint a women director in the board of directors of Company meeting specific criteria. This was a major step taken by government to help women establish their benchmark in the corporate world. Gradually government is widening up the dimensions where a women can excel and demonstrate its capabilities to the world. There is no end to what a women can achieve.

Seeing the increasing absorption of women in corporate, Government have drafted acts like "The Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act, 2013", and many more also amendments were

made in many laws like The Companies Act, 2013, etc. in order to empower women in every dimension without compromising safety and security. This widened the opportunities for women to showcase their talent in corporate world.

Women empowerment is not something where a woman can merely play a simple role in a corporate but should be a part in key decision making process and therefor in section 149 of the Companies Act, 2013 it has been made mandatory for the company

to appoint one women director in its Board of Directors. All the important discussions and decisions are made in the board meeting of the company in which women director is given an opportunity to make her point on the related topic.

Pursuant to second Proviso to Section 149(1) read with Rule 3 of the Companies (Appointment and Qualification of directors) Rules, 2014, following are the companies where appointment of women director in the Board of Directors of company has been made mandatory by the government:-

- Every Listed Company,
- Every Public Company having paid-up share capital of Rs. 100 crore or more,
- Every Public Company having minimum turnover of Rs. 300 crore or more.

Notwithstanding the privileges given to women, there lies no exemption with regard to penal provisions due to noncompliance. Like the roles and responsibilities played by any other Director, a women director act as an independent director and is responsible for improving corporate credibility and also to improve governance standards of the company.

The women director shall also be held liable in the same capacity as that of any other director for any misconduct by the company. The women director shall stand same with respect to rights and liabilities as that of other directors of the company.

Like any other director a women Director can be appointed during the time of Company Registration or after incorporation by the Board of Director and the Shareholders.

As per Rule 3 of Companies (Appointment and Qualification of Directors) Rules, 2014, In case of any intermittent vacancy of women director the same has to be filled- up by the Board at the earliest but not later than immediate next Board meeting or three months from the date of such vacancy whichever is later.

Following are the pre-conditions that must be full filled by a person to be appointed as a women director in the company.

- Director Identification Number (DIN) is mandatory requirement for any person who wishes to hold position of Director in any Company. A women director must first obtain DIN to become Director of a Company.
- Consent to act as Director in Form DIR-2 should be given by women Director pursuant to Rule 8 of the Companies (Appointment & Qualification of Directors) Rules 2014.
- Intimation in Form DIR-8 in terms of (Appointment & Qualification of Directors) Rules 2014 to the effect that she is disqualified under sub-section (2) of Section 164 of the Companies Act, 2013.
- MBP-1 in terms of Companies (Meetings of Board and its Powers) Rules, 2014.
- Filling of E-form DIR-12 for the Appointment of such Women Director in the company within 30 days of Appointment with the Registrar of Companies (ROC).

Penalty for non-compliance of appointment of women director by the company is not mentioned separately, the punishment prescribed under Section 172 shall be applicable. Chapter XI of the Companies Act, 2013 Appointment and Qualification of Directors it has Sections 149 to 172 which exclusively deal with all the provisions related to directors.

By virtue of Section 172 which prescribes punishment for contraventions of any of the provisions of this chapter (Chapter XI of the Act) for which no specific punishment is provided therein.

The Company Every officer of the company who is in default Shall be punishable with fine which shall not be less than Rs. 50,000 but which may extend to Rs. 5,00,000.

Therefore every company crossing the threshold shall appoint a women director without breaching the conditions.

The entrance of women in the corporate world have had made a huge change in the economic condition of the country. Women no longer have to depend on men to earn daily bread she have ample of opportunities in the corporate world to earn her livelihood. Women have added a new spark to the monotonous working of corporates with her imaginative thinking and creativity. The government is looking forward to

opening more diversified doors for women that would take a little time more but would benefit the growth of economy.

The journey of liberation of women has crossed many milestones and the society has indeed come a long way. They have struggled hard over the last few decades but still been able to successfully establish their own identity. Today's women are adorned with patience and perseverance, which has helped them to attain the pinnacle of success.

Earlier, women were seen only as housewives who were projected to cook, clean and take care of their family. Today- along with handling tough clients at office, they successfully multitask at home too. Women are more focused and have a unique decision making power even at senior leadership level, in the most optimal manner, and at times are in a better position than men. We are definitely redesigning the world!



Yours Sincerely
CS Rachna Daga
 PCS Nagpur

Valuations and Professional Opportunities



Business valuation is critical for transactions including fund raising, mergers & acquisitions (M&A), sale of businesses, strategic business decisions like family or shareholders disputes, voluntary value assessment and also for regulatory compliance, tax and financial reporting.

Though the valuation of a listed company whose shares are actively traded on a nationwide stock exchange in India can be derived from its prevailing market price over a period of time, the valuation of an unlisted company and its shares is the real challenge. For so long, valuation has been debated as an art or science, and substantial part of the litigation in M&A takes place on the issue of valuation as it involves an element of subjectivity that often gets challenged.

The rapid globalization of the world economy has created both opportunities and challenges for organizations leads to uncertainty blowing across global markets. Better corporate governance and growing regulatory and shareholders activism are also leading to requirement of independent business valuations.

Valuation Approaches:

Globally there are three broad approaches to valuation:

Asset approach: The Asset-based valuation values a company on the basis of its underlying assets or resources it controls. Generally, the net asset value (NAV) reflected in books do not usually include intangible assets enjoyed by the business and are also impacted by accounting policies which may be discretionary at times. NAV is thus not perceived as a true indicator of the fair business value. However, it is used to evaluate the entry barrier that exists in a business and is considered viable for companies having reached the mature or declining growth cycle and also for property and investment companies having strong asset base. For appropriate companies

having reached the mature or declining growth cycle and also for property and investment companies having strong asset base, asset-based valuation can provide an independent estimate of value and useful insights.

Income approach: The Income based approach of valuations are based on the premise that the current value of any business is a function of the future value that an investor can expect to receive from purchasing all or part of the business. It is generally used for valuing businesses that are expected to continue operating for the foreseeable future. Under the income approach, either single period capitalisation method or single/multi-period discounted future income method could be selected. Discounted cash flow (DCF) method is the most scientific method of valuation and is frequently applied in practice. However, it brings its own challenges and is quite sensitive to its underlying factors. Sensitivity analysis is an essential tool in applying DCF valuation.

Market Approach: In this approach, value is determined by comparing the subject, company or assets with its peers in the same industry of the same size and region. Most Valuations in stock markets are market based. This is also known as relative valuation approach.

Regulatory Framework of Valuations in India

With effect from 1st February, 2019, only a Registered Valuer is authorised to conduct valuation under the Companies Act and Insolvency and Bankruptcy Code.

Broadly, following are the scenarios where business/share valuation is required under different laws in India:

1. Fresh issue and Transfer of shares:

Fresh issue and transfer of shares require valuation under Companies Act, 2013, Income Tax Act, 1961 and RBI FEMA Regulations (FEMA).

2. Business combinations/Mergers & Amalgamations:

In case of a merger valuation, the emphasis is on arriving at the "relative" values of the shares of the merging companies to facilitate determination of the "swap ratio"

Merger valuation is required for determination of share swap (exchange) ratio when two or more companies are getting merged or amalgamating with each other pursuant to the orders of the NCLT.

Note- Reasons for non-adopting any specific valuation approaches shall also be mentioned.

Under Ind AS 103, now all business combinations (except group consolidation) are considered in the nature of purchase and require the acquirer to apportion the consideration paid

Valuations and Professional Opportunities

among tangible and intangible assets. Intangibles need to be separable and identified based on their unique characteristics. The difference amount, if any, between the consideration paid and assets acquired goes to goodwill in the Purchase Price Allocation process.

3. Employee stock options (ESOP):

ESOP valuation is required for accounting purpose for booking compensation loss in Profit and Loss account by company issuing ESOPs. The ESOP accounting valuation is performed at the date of grant of options and is apportioned over the vesting period.

4. Insolvency & bankruptcy code:

In accordance with Regulation 27 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, two Registered Valuers are to be appointed for determination of Fair value and Liquidation value of Assets in accordance with Regulation 35.

It is stated that the Valuation shall be done in accordance with internationally accepted valuation standards, after physical verification of the inventory and fixed assets of the corporate debtor and the average of two closest estimates of value shall be considered as fair value or Liquidation value.

Similarly, in accordance with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the Liquidator shall appoint two Registered Valuers to value the Assets or Business where it is intended to be sold as such.

5. Financial reporting

Fair Value is required for Financial Reporting in accordance with Indian Accounting Standards (Ind AS) which converge closely to the International Financial Reporting Standards (IFRS).

Besides Ind AS 113 which is a dedicated standard on fair value, there are other Ind AS which guides on valuation and accounting aspects of certain transactions. These are mentioned below-

- Ind AS 103 – Business Combination
- Ind AS 102 – Share based payment
- Ind AS 109 – Financial Instruments
- Ind AS 38 – Intangible Assets
- Ind AS 16 – Property Plant & Equipment
- Ind AS 36 – Impairment of Assets
- Ind AS 40 – Investment Property

Valuation, Valuation Practices and Valuation Standards

It is worth mentioning that even though Valuation is taking place since last six decades in India, however neither there has been any formal Registration of Valuers with any central Authority nor any formal education or training leading to non-standardized valuations. Valuation in itself is evolving in India and is an inexact science.

The above led to emergence of concept of “Registered Valuers” under the Companies Act, 2013 to regulate the practice of Valuation in India. w.e.f. 18th October, 2017 the Companies (Registered Valuers and Valuation) Rules, 2017 (Rules) have also come in force. These Rules prescribe eligibility, training, examination and Registration requirements with the Authority i.e. Insolvency and Bankruptcy Board of India (IBBI). The Registered Valuers are required to follow valuation standards and a model code of conduct has also been prescribed for Regulation of the Profession.

At present there are no Government prescribed Valuation Standards in India and in many cases the valuation lacks the uniformity and generally accepted global valuation practices. In determining approaches and methods to use, the valuation professional must exercise discretion. Each technique has advantages and drawbacks, which must be considered when applying those techniques to a particular business. Most treatises and court decisions encourage the valuer to consider more than one method, which must be reconciled with each other to arrive at a Value conclusion. Understanding of the internal resources and intellectual capital of the business being valued is as important as the economic, industrial and social environment.

The Central Government is in the process to frame Valuation Standards in India. The Ministry of Corporate Affairs (MCA) has already formulated a “committee to advise on Valuation matters” by making recommendations in formulation and laying

down of valuation standards and policies for compliance by companies and registered valuers in accordance with Rule 19 of the Companies (Registered Valuers and Valuation) Rules, 2017. The committee includes representatives of CBDT, RBI, SEBI, IBBI, MCA, IRDAI as well as the representatives/nominee of Industry and Registered Valuer Organisations (RVO's).

Conclusion

With the emergence of valuation as a discipline in India and recent implementation of Ind AS, more debates are happening on valuations, complex valuation methods are getting recognised. The regulation of the valuation profession in India is a step in right direction as it would bring in serious valuation professionals and also with valuation standards in place, the right principles can be applied by the valuers leading to more standardised process, basis of conclusions, reporting formats and disclosures. However, the important and pervasive element of ‘valuer’s judgement’ cannot be taken out of the valuation process leading to differences in value conclusions and needs evaluation on a case-to-case basis. As of now, the Registered Valuer provisions cover the Companies Act, 2013 and Insolvency and Bankruptcy Code, 2016 however once these get streamlined, the other Regulators are also expected to converge their respective regulations. It’s high time now that Professionals interested in practicing in this field come forward and gain academic and practical knowledge of valuation principles, concepts, valuation approaches, methodologies, code of conduct and the Valuation Standards.

Yours Sincerely

Sunil Kumar Sharma

FCS, CSR PROFESSIONAL,
Registered Valuer (SFA)
Independent Director
Email: registeredvaluers2018@gmail.com

A diagrammatic view for all regulatory valuations in India is as below



Valuation of Employee Stock Options



Human resource is the most valuable intangible asset for an organisation, whether for large conglomerates or Start-ups. For progress of business, it is imperative that there is feeling of inclusive growth running through the team members. Employee Stock Options (ESOs) and Stock Appreciation Rights (SARs) are two most common tools used to attract, retain and motivate employees. They are appreciation-based incentives granted to employees in order to reward them. ESOs are equity settled while SAR are mostly cash settled. An increase in Company's valuation creates employee's wealth.

“Great things in business are never done by one person. They're done by team of people”

- Steve Jobs

In this article, first we discuss important terms with respect to ESOs, followed by valuation requirements and some concluding thoughts. The article is structured as under:

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|--|--|
| 1 Summary of important terms | 3 Importance of valuation in ESOP |
| 2 Valuation requirements for ESOs | 4 Concluding thoughts |

1 Summary of important terms

Employee Stock Option Plan (ESOP)

ESOP is a plan devised by the company which states the terms and conditions of ESOs. There can be different schemes under a single plan. The Plan has to be approved by the shareholders of the Company by passing a special resolution.

Rule 12 of the (Share Capital and Debentures) Rules, 2014 enumerates the provisions relating issue of ESOs under the Companies Act, 2013.

Listed Companies have to additionally comply with provisions of SEBI (Share Based Employee Benefits) Regulations, 2014.

Employee Stock Options (ESOs)

ESOs is a right and not an obligation given to the employee (specially to directors, KMPs and senior management) to subscribe to share of the Company on a future date.

Valuation of Employee Stock Options

Spot Price

Spot price is the current market price of the Company.

Grant Date

Grant date is the date on which Company offers ESOs and issues grant letter to its employees.

Lock-in period

ESOP may have a criteria that an employee must serve a stipulated period to be eligible to exercise the option. If the employee leaves during the lock-in period, the vested options lapse and options become non exercisable. Lock-in criteria is not compulsory, it is at the discretion of the Company.

Exercise Price

Exercise price is the price the employee pays at the time of exercising the option. It is generally lower than the fair value, sometimes it is NIL or is at face value.

Vesting period

Vesting period is a tenure after Grant date during which the employee becomes eligible to exercise the options. Employee can exercise the option after completion of vesting period. Sometimes vesting period is staggered i.e Options get vested in tranches. For e.g., if the vesting period is 40:30:30; 40% of options becomes exercisable after the end of first year, additional 30% at the end of second year, additional 30% at the end of third year.

Exercise period

Exercise period is the period after vesting period. Employees can exercise the options during the exercise period. If options are not exercised during the exercise period, the options would lapse.

Not that we are familiar with important terms, let us discuss valuation requirements with respect to ESOP.

2 Valuation requirements for ESOs

I. As on Grant Date and end of every financial year

For determining the exercise price : Although there is no statutory requirement, for internal assessment and planning, management undertakes valuation exercise for calculating the present fair value of the Company as on the grant date. Fair value is also required as an input to Black Scholes Binomial Model for calculating fair value of option.

Accounting purposes : As per IND AS-102, Share-based Payment, Company is required to measure the fair value of shares and share option as on the measurement date. Measurement date generally is grant date and/or balance sheet date.

Valuation Methodology : Fair Value

Fair value of share	Publically traded	1) Market price
	Not - publically traded	Generally accepted valuation methodologies (Net asset value method, discounted cashflow method, comparable companies method, and like)
Fair value of share options	Option pricing model	Black Scholes Binomial Model (BSM) Assumptions and inputs required for BSM - Fair value as on grant date/ balancesheet date - Exercise price - Vesting period (weighted avergae life if vesting period is staggered) - Estimated dividend yield - Risk free rate - Benchmark industry volatility

Fair value of options is calculated for deriving the compensation costs to be charged to profit and loss account.
 Compensation cost = Value of option*No of options vested

II. As on Exercise date (ESO) / Settlement date (SAR)

Calculating taxable value of perquisites : As per section 17(2)(vi) of the Income-tax Act, 1961, employer is liable to deduct tax (as per the tax bracket of the employee) on the amount of perquisite pursuant to exercise of ESOs / SAR.

Taxable perquisite = FMV as on the exercise date – Exercise Price

Valuation Methodology : FMV as per Rule 8 of Income Tax Rules, 1962

Determining FMV	Stock is listed on RSE	1) Traded on exercise date	1) FMV = average of opening and closing price
		1) Not traded on exercise date	FMV = average of opening and closing price on preceding day
	Stock is not listed on RSE / unlisted	Stock is not listed on RSE / unlisted	FMV as determined by SEBI registered Cat-I Merchant Banker

FMV : Fair market value

RSE : Recognised stock exchange

3 Importance of valuation in ESOP

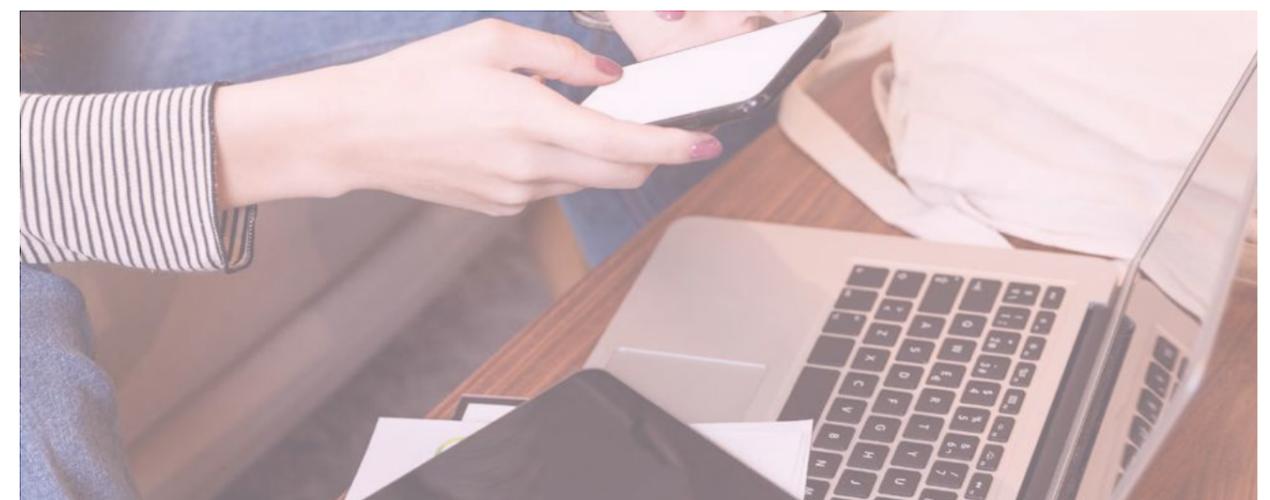
It is important to consider impact of valuation on Company's financial statement (impact of compensation cost on PNL) and taxation in the hands of employees while devising an ESOP plan. Success of ESOP largely depends on how lucrative it is for employee's wealth creation. Employees may find the plan unattractive if there is large tax outgo due to high valuation or he as an option to purchase another listed stock from same sector at a lower valuation directly from the stock exchange.

4 Concluding thoughts

Along with formulation and implementation of ESOP Plan, role of Company Secretary is crucial in evaluating the valuation aspect of ESOP Plan. Careful analysis should be undertaken to ensure that the ESOPs is beneficial to both employees and Company's interest.

Author specialises in ESOP advisory and valuations. For any queries, author reached can be reached at vijay@stratcapadvisory.com

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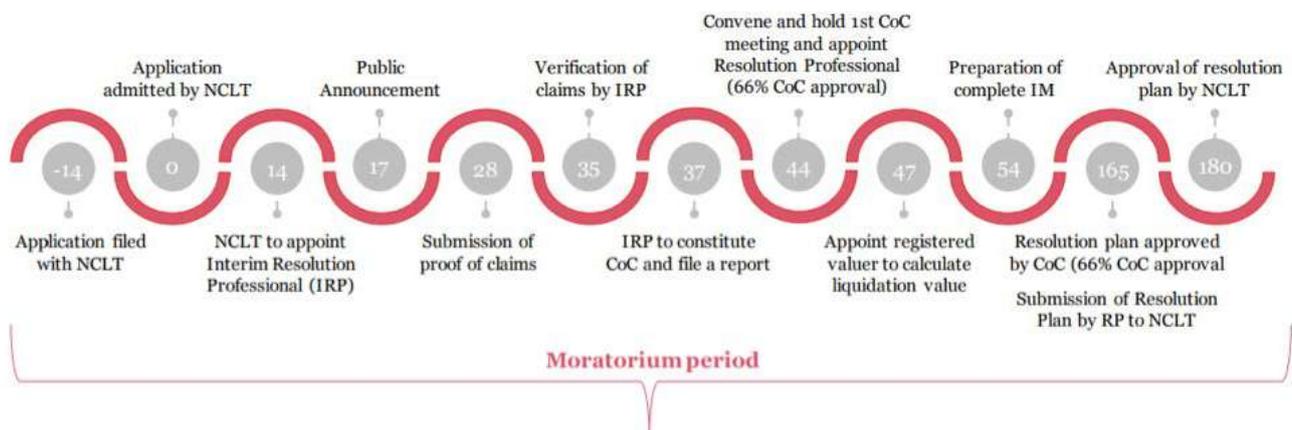


Benefits- Acquisitions of companies under Insolvency Process in I&B Code.



Preface: The companies made default in honouring the financial liabilities to the Banks, Financial Institutions etc, are usually declared as insolvent by the NCLT Order and the Corporate Insolvency Resolution Process starts by appointing the Insolvency Resolution Professional. Such companies are open for sale by the Committee of Creditors (“COC”) constituting Banks / Lenders of such companies to the potential buyers in the market.

Process / Sequence of Events:



Benefits: Acquisition of companies under Corporate Insolvency Resolution Process (“CIRP or Insolvency Process”) administered by the National Company Law Tribunal (“NCLT”) as per the provisions of I&B Code, 2016 (“Code” or “IBC”). Code / IBC is the Act / Legislation passed by the Parliament in the year 2016 as Insolvency & Bankruptcy Code, 2016.

1. Clean Company: If the company is bought under Insolvency Process, the buyer gets a clean company irrespective of any old defaults. It means the buyer need not worry about the defaults and any other non-compliances made by the company including Tax obligations if any. While approving the transaction of

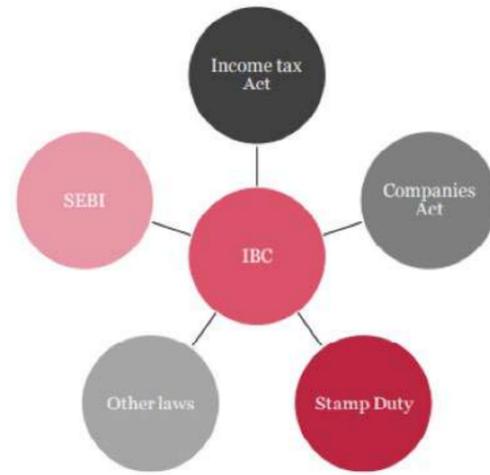
acquiring such companies NCLT ensures that Resolution Plan submitted by the potential buyer is complied with all the norms. Accordingly, potential buyer will get a CLEAN company in hand and it can be run smoothly & effectively.

- 2. Customised Payment Terms:** Terms of making payments to the Banks / Lenders can be customised and need not make the full payment of purchase consideration upfront. It can be made in tranches as per the resolution plan proposed & finalised between the COC & potential buyer/s.
- 3. Loan Facilities:** Potential buyer/s can avail the loan facilities from the new Banks / Financial Institutions to fund the acquisition process. In some cases it is observed that even

Benefits- Acquisitions of companies under Insolvency Process in I&B Code.

the funds are raised based on the potential business in future & mortgage of assets of the company as well.

- Haircut by Lenders:** Banks / Lenders are normally willing to take good amount of haircut on total existing loan exposure and hence such deals can be materialized in a best and the most reasonable cost consideration with the added advantage of support of additional loan funds from new Banks / FIs / ARCs etc.
- Consortium of Buyers:** Bidding in the process is allowed for the consortium of potential eligible buyers. Hence, more than one person / company can come together to participate in the Bidding process and take advantage of cost effective potentially good deals of buying a company under CIRP under IBC.



Direct Tax Issues:

Section 41(1) & 28(iv)	Taxability of write back of loans	favourable
Section 115JB	Applicability of MAT provisions	neutral
Section 79	Implications of change in shareholdings on carry forward of tax-losses	favourable
Section 50CA & 56	Difference of shares issue price & fair value – to lenders for consideration	neutral

SEBI Regulations:

LODR	ICDR	Takeover Code	CSRR	Delisting
<ul style="list-style-type: none"> ▶ Role & responsibilities of BoD with IRP or RP ▶ Shareholders' approval for transactions with related parties or for disposal of material subsidiary done away with if disclosed to stock exchanges. ▶ Relaxation from reclassification of existing promoter or promoter group. ▶ Schemes not to require SEBI & stock exchanges approval 	<p>Listed entities with approved resolution plans:</p> <ul style="list-style-type: none"> ▶ Exemption from preferential issue procedure for equity shares and convertible securities. ▶ Lock-in restrictions still apply 	<p>Acquisition pursuant to resolution plan:</p> <ul style="list-style-type: none"> ▶ Exemption from open offer ▶ Acquirer can hold more 75% in a listed entity 	<p>Due to implementation of resolution plan, if public shareholding falls:</p> <ul style="list-style-type: none"> ▶ Below 25%: Increase to 25% within 3 years ▶ Below 10%: Increase to at least 10% within 18 months 	<p>Listed entities with approved resolution plans:</p> <ul style="list-style-type: none"> ▶ Exemption from delisting regulations if specific procedure for delisting is laid and exit option to existing public shareholders at a price not less than liquidation price ▶ No tenure restriction to re-apply for listing

Companies Act:

Section 53 – Prohibition on issue of shares at discount	MCA circular for deemed shareholders approval - dated 25 Oct 2017	OL, RD, ROC approvals required ?	Stamp Duty aspects:
<ul style="list-style-type: none"> ▶ Section 53 of the Companies Act, 2013 prohibits a company to issue shares at a discount. ▶ However, an exemption has been provided in this respect when shares are issued to creditors at a discount, on conversion of their debt into shares in pursuance of any statutory resolution plan or debt restructuring scheme specified by RBI or specified under the Banking (Regulation) Act, 1949. 	<ul style="list-style-type: none"> ▶ Approval of shareholders/ members for implementation of resolution plan deemed to be received on approval by NCLT 	<ul style="list-style-type: none"> ▶ No separate approval/s required. 	<p>No specific exemptions given for the payment of stamp duties as may be applicable on acquisition of companies under CIRP.</p>

Conclusion:

IBC is still an evolving legislation and getting mature with every new Judgement of Hon. Supreme Court, High Courts, NCLAT & NCLT. The purpose of introducing IBC was to clear the NPAs & give a fresh start to the Indian industry by keeping aside the defaulters & providing opportunities to better market players by acquiring the insolvent companies under CIRP as clean companies irrespective of their old defaults & non compliances.

Under the IBC regime the efforts have been made to resolve the NPA issues by giving considerable relaxations to the new acquirers of such defaulting companies as described in above paragraphs & to create a smooth environment to deal with challenges of creating value for the nation as well as for the new acquirers.

It is observed that smart players are taking advantage of this new regime to create values & the success stories of Ruchi Soya Industries (acquired by Patanjali of Shri Ramdeo Baba) & Alok Industries (acquired by Reliance Industries along with JM Financials) and many more resolutions have been taking place.

Hence, potential acquirers along with other parties as consortium / JVs may come up & take advantage the IBC regime to create substantial values for the nation & corporates.

P S Thakre & Company
Company Secretaries

Note:

Views in this academic note are personal & only for the academic interest & not to be treated as any kind of legal advice to any person.

Realizing Ease of Doing Business: An Analysis of the Labour Codes



Abstract:

This article analyses the labour codes, namely the Code on Wages, 2019, the Industrial Relations Code, 2020, the Code on Social Security, 2020 and the Occupational Safety, Health and Working Conditions Code, 2020 promulgated by the Central Government, in light of the parameter of ‘ease of doing business’. It enumerates the changes brought about by these codes to achieve this objective and explains how the changes would impact the working of the labour industry.

Introduction:

The subject-matter of labour laws lies within the concurrent list under Schedule VII of the Constitution of India. Therefore, both the Parliament and the State Legislatures are empowered to legislate and makes laws in this respect under Article 246 of the Constitution.ⁱ This led to a myriad of enactments governing the labour law at the state, as well as the central level. Undoubtedly, this created complex and elaborate compliances, increasing the burden on the firms.ⁱⁱ

Now, in order to address these issues, the Code on Wages, 2019, the Industrial Relations Code, 2020, the Code on Social Security, 2020 and the Occupational Safety, Health and Working Conditions Code, 2020 (hereinafter, referred to as **‘the Labour Codes’**) have been notified, subsuming 44 central legislations. This comprehensive labour reform has been carried out by the government with the objective to secure a top 10 position for India in the ‘ease of doing business’ index of World Bank. The government has aimed at reducing and uncomplicating the compliance requirements under the erstwhile labour laws.^{iv}

Key Changes introduced in the Labour Codes:

The Labour Codes have introduced numerous changes in the existing regulatory system, which promote ‘ease of doing business’.

A. The Code on Wages, 2019

- The definition of ‘wages’ varied across the legislations governing this subject-matter of wages and bonus. The Code has consolidated these definitions and the Code now provides a single definition for wages as all remuneration whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being expressed in terms of money, which would be payable to a person employed in relation to his employment.^v
- The Code has also done away with type of employment as a criterion for determination of minimum wage rate, which is to be done primarily according to the skills of workers and geographical area.^{vi}
- The Code further provides for an ‘Inspector-cum-facilitator’ instead of an inspector who has the additional duty of advising the employers and workers relating to compliance with the provisions of this Code.^{vii}

B. The Industrial Relations Code, 2020

- The employer is required to prepare regulations called standing orders under this Code on matters specified therein which include classification of workers, wage rates,

Realizing Ease of Doing Business: An Analysis of the Labour Codes

holidays and paydays. As opposed to the earlier limit of 100, now, this requirement applies only to industrial establishments employing 300 or more than three hundred workers.^{viii}

- The threshold for the prerequisite of obtaining approval of the appropriate government in case of laying-off, retrenchment and closure of an undertaking of the industrial establishment has been increased from 100 to 300 workers or higher.^{ix}
- The Code further specifies that any person employed in an industrial establishment must give the establishment a 14 days prior notice, before strike or lock-out which would be valid for maximum of 60 days under the Code.^x

C. The Code on Social Security, 2020

- The Code states that any and every establishment has to obtain only one single compulsory registration contrary to different registration requirements under various former labour law legislations.^{xi}
- Furthermore, all categories of workers are required to be established and can sufficiently establish their identity by their Aadhaar number under the Code.^{xii}
- The Central Government has been empowered to defer the application of provisions pertaining the Employees Provident Fund or the Employees State Insurance Corporation for a period of 3 months at a time in case of a national disaster, pandemic or endemic.^{xiii}

D. The Occupational Safety, Health and Working Conditions Code, 2020

- The Code provides for a revised definition of factory whereby premises with 10 or more workers when the manufacturing process is carried out with the aid of power and 20 or more workers when the manufacturing process is carried out without the aid of power has been moved upward to 20 and 40 worker limits respectively as per section 2(w).^{xiv}
- As opposed to the former rule of multiple location-specific licences, the Code provides for a single licence to hire contract workers across different locations by applying to an authority notified for this purpose by the appropriate government.^{xv}

Analysis:

The enactment of the Labour Codes is a very significant initiative, taken by the government with a view to facilitate ease

of doing business in the country. The changes enumerated above, brought about by the Code on Wages, 2019 provide for simplified definitions, entailing lesser cost of compliance for the employer, reduction in the number of extant wage rates and overall easing the execution of business activities. This Code provides for enhanced penalties for non-compliance which would foster a compliance culture by acting as a deterrent.^{xvi}

The reforms introduced by the Industrial Relations Code, 2020 deal with altering the number of workers whereby the increase in threshold leads to lesser compliance burden on smaller firms facilitating ease of doing business.^{xvii} On the other hand, the smaller firms which chose to stay within the low thresholds to avoid costs of compliance, are being encouraged to grow due to the room created by extending the limit for workers, fostering enhanced economies of scale for the firms and better economy, job creation and productivity for the industry.^{xviii}

The Code on Social Security, 2020 provides for changes like single registration which would lead to administrative ease for businesses, thereby inevitably enhancing ease of doing business. Furthermore, the exemption from compliance of certain provisions to the establishment in case of exigencies like national disaster, pandemic or endemic will save the businesses from incurring extra costs towards social security contributions in times of crises.^{xix}

Lastly, the modifications in existing framework which the Occupational Safety, Health and Working Conditions Code, 2020 introduces, much like the Industrial Relations Code, 2020 incentives for the smaller factories which chose to stay within the former low thresholds to avoid costs of compliance, to grow leading to economies of scale, employment and productivity.^{xx}

Conclusion:

The notification of the four Labour Codes will undoubtedly lead to reducing the compliance burden and ease the hiring and firing of workers which would result in ease of doing business. The changes and reforms enumerated above, which the Labour Codes seek to implement impact and revolutionize the working of the labour industry. The implementation of these Labour Codes which was scheduled for April 1, 2021 has been deferred to provide states with some time to notify rules under the codes to avoid any legal void. The labour industry may take this time to modify their policies and procedures to be in conformity and consonance with the Labour Codes, whenever they may be implemented.

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i Available at: https://legislative.gov.in/sites/default/files/COI_1.pdf(last accessed on April 10, 2021).

ii Available at: <https://taxquru.in/corporate-law/current-labour-law-reforms.html>(last accessed on April 10, 2021).

iii Available at: https://www.business-standard.com/article/current-affairs/labour-reforms-to-put-india-among-top-10-in-ease-of-doing-biz-report-120092201139_1.html(last accessed on April 10, 2021).

iv Available at: <https://economictimes.indiatimes.com/news/economy/policy/labour-reforms-intend-to-put-india-among-top-10-nations-in-ease-of-doing-business/articleshow/78257939.cms>(last accessed on April 10, 2021).

v Available at: <https://labour.gov.in/sites/default/files/TH%20CODE%20ON%20WAGES%2C%202019%20No.%2029%20of%202019.pdf>(last accessed on April 11, 2021).

vi *ibid.*

vii *ibid.*

viii Available at: https://labour.gov.in/sites/default/files/IR_Gazette_of_India.pdf(last accessed on April 11, 2021).

ix *ibid.*

x *ibid.*

xi Available at: https://labour.gov.in/sites/default/files/SS_Code_Gazette.pdf(last accessed on April 11, 2021).

xii *ibid.*

xiii *ibid.*

xiv Available at: https://labour.gov.in/sites/default/files/OSH_Gazette.pdf(last accessed on April 11, 2021).

xv *ibid.*

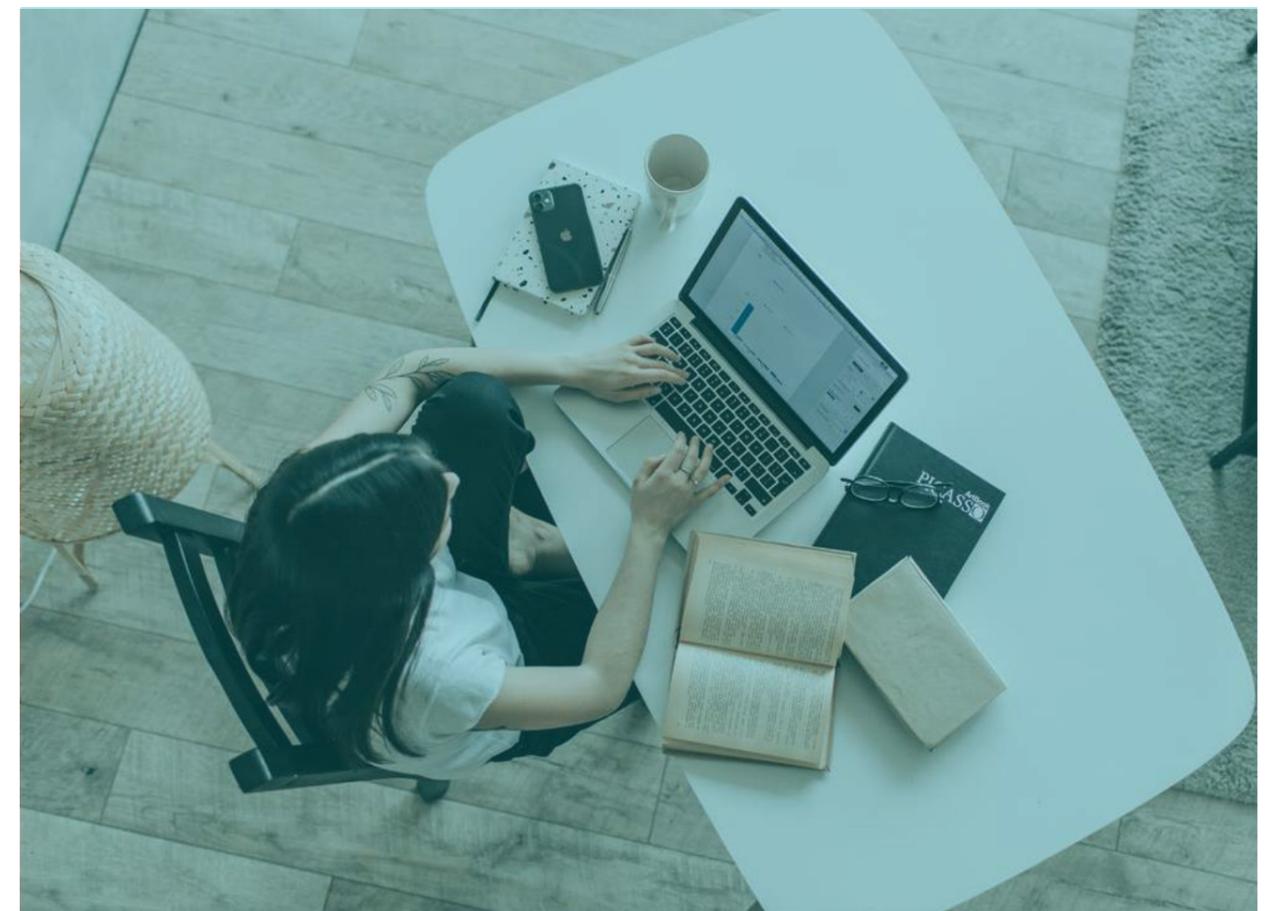
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xviii Available at: <https://economictimes.indiatimes.com/news/economy/policy/view-new-labour-laws-will-improve-indias-ease-of-doing-business-ranking/articleshow/80340847.cms?from=mdr>(last accessed on April 13, 2021).

xix Available at: <https://hr.economictimes.indiatimes.com/news/industry/impact-of-the-new-social-security-code-on-business/79016122>(last accessed on April 13, 2021).

xx *supra* note xviii.



Revolutionising Intellectual Property Management: The Blockchain Alliance

ABSTRACT

This paper deals with the application of blockchain technology in the management of intellectual property. It examines the various use cases in the domain of intellectual property rights wherein the blockchain technology may be employed and the challenges associated with such utilization. The article explains the legal position in India vis-a-vis blockchain and the possible way forward, revolutionising intellectual property management.

INTRODUCTION

Blockchain is a distributed ledger technology (DLT) which offers a decentralised, peer-to-peer encrypted network.ⁱ A blockchain transaction may be understood as a process wherein a user and a recipient conduct a transaction entailing sending of data, contract, crypto currency, etc. with the help of unique cryptographic keys assigned to each of them on a decentralised, peer-to-peer network called nodes, where it is broadcasted and verified using algorithms. The miners in the network validate the transaction and thus a new date stamped block is created and then added to the blockchain, completing the transaction.ⁱⁱ

Blockchain technology serves as an irreversible and incorruptible database with a consensus mechanism which enables interactions directly between the users.ⁱⁱⁱ The immutability, security, traceability and efficiency of blockchain are some of the features which make it an excellent option for the management of intellectual property rights.^{iv}

BLOCKCHAIN IN INDIA

India presently does not have any specific laws governing the operation of blockchain. Nevertheless, the Ministry of Electronics and Information Technology (MeitY) in January, 2021 has released the draft of the 'National Strategy on Blockchain'^v which provides a framework for the use of blockchain in government services in the fields of maintaining property records, digital certificates, power distribution, health records including vaccines and medical supplies logistics, and supply chain management. The draft also recognised the need for regulations and guidelines delineating the legal use of the technology to avoid its abuse.^{vi} MeitY had launched a Centre of Excellence in Blockchain Technology to act as a platform for utilizing blockchain to provide solutions for government projects.^{viii}

The NITI Aayog had also published a discussion paper on 'Blockchain: The India Strategy' in January 2020 describing blockchain as a new paradigm of trust having potential application in the areas of land records, pharmaceutical industry,

educational certificates and immunization supply chain among others.^{ix} The paper also emphasized upon ease of doing business, ease of living and ease of governance as necessary implications of the use of blockchain resulting from its secure, transparent and decentralised interaction over a trusted medium with reduced need of cumbersome compliance and regulatory oversight.^x

However, it is pertinent to note from the above discussion that the Government of India is yet to consider and analyse intellectual property (IP) management as a promising prospective use case of the blockchain technology.

THE USE OF BLOCKCHAIN TECHNOLOGY IN INTELLECTUAL PROPERTY MANAGEMENT

Blockchain finds a manifold use in the management of intellectual property rights (IPR) owing to its requirement of traceable, imputable and verifiable records. The present regime of IP regulation is marred by the various IP offices, nationally and globally in silos, desynchronised data which is not updated and expensive filing process of the IPR, especially patents.^{xi} In such a scenario, the blockchain technology provides a revolutionary solution to the IP regime.

The blockchain technology can be applied for inter alia, evidence of creatorship, registration of IPR, evidence of first use in trade or commerce, digital rights management and smart contracts for assignments, sale, etc., unified IP system with synchronized searches and prevention of counterfeiting.^{xii}

The issue of creatorship is one of the key questions which come up in IPR litigations. The use of blockchain herein will not only help in evidencing the conception, use, the rightful creator and the quality requirements but also in reducing the number of litigations considerably. Blockchain would also streamline the registration processes nationally as well as globally by storing for example, the information regarding actual use of a trade mark. It also finds application in the case of unregistered IP rights like copyrights and designs by maintaining a registry evidencing the time of creation, etc. to be verified by the IP officer.^{xiii}

Smart contracts i.e. legal contracts created and executed through software codes in alliance with blockchain can further the enforcement of IP agreements like assignments, licenses, sale, etc. effectively and efficiently by providing the users with a reliable, transparent, secure and verifiable record of its execution.^{xiv} A unified IP system transcending nations is also one of the many implications of the integration of blockchain with IP management. This would help synchronise the searches across databases including prior art determination in case of patents, streamline the process, promote cost effectiveness and foster innovation.^{xv}

Blockchain can further aid in the detection and prevention of counterfeiting in the form of fake goods, parallel import amounting to IPR violations. This can be done for example, by tracking the movements in a supply chain or attaching a QR code on the goods registered with blockchain, which upon scanning would reveal the genuineness of the goods.^{xvi}

ANALYSIS

It is evident from the above discussion that blockchain is a state-of-the art tool capable of revolutionising IP management which will not only benefit all the stakeholders, from creators and IP owners to licensees and enforcement authorities but also foster innovation. Moreover, this alliance of IP management and blockchain will lead to massive efficiencies in the global framework of the IPR regime and will result in reduction of compliance burden in the process of IPR enforcement.^{xvii} However, notwithstanding the many benefits of this alliance as has been explained above, it is not free of challenges.

One of the key challenges which any application of blockchain technology to IP system will face is that of jurisdiction. Blockchain is a cross-jurisdictional technology i.e. the nodes on a blockchain containing IP agreements for example, can be located anywhere in the world. Considering the fact that the laws governing contracts and IPR differ from nation to nation, it gives rise to various questions concerning the jurisdiction and applicable laws.^{xviii} Another crucial challenge that may be faced is that of data privacy as transparency is a key attribute of blockchain technology. Features like once the data has been stored, it cannot easily be altered and the easy access to the information contained in the nodes to the users on the blockchain network further contribute to this challenge.^{xix}

CONCLUSION

The integration of blockchain with the IP management system will revolutionize the IPR enforcement regime. It is pertinent to note, however, that the challenges associated with this alliance as elucidated above must be reconciled first, in order to best utilize the benefits of this integration.^{xx} The blockchain technology is already being put to use in India, in the area of inter alia, land registry and digital certificates.^{xxi} However, the use of blockchain for IP management in India remains an untapped avenue. That being the present state of affairs, the possible way forward would be to firstly, devise regulations and guidelines governing blockchain and secondly to devise a framework for its implementation in the realm of IPR. India is indeed proceeding in this direction with the MeitY releasing the draft of the 'National Strategy on Blockchain'.^{xxii} The incorporation of blockchain into the IP management framework would be an interesting and unprecedented development in

the Indian IP landscape which will have far reaching implications concerning the regulatory mechanism and compliance in the country.^{xxiii}

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i Available at: <http://nopr.niscair.res.in/bitstream/123456789/49934/1/JIPR%2024%281-2%29%2041-44.pdf>(last accessed on March 04, 2021).

ii Available at: https://www.wipo.int/edocs/mdocs/classifications/en/wipo_ip_cws_bc_ge_19/dr_birgit_clark.pdf(last accessed on March 04, 2021).

iii Available at: https://www.wipo.int/edocs/mdocs/classifications/en/wipo_ip_cws_bc_ge_19/wipo_ip_cws_bc_keynote_1_struck.pdf(last accessed on March 04, 2021).

iv supra note i.

v Available at: <https://www.mondaq.com/india/technology/935294/blockchain-comparative-guide>(last accessed on March 04, 2021).

vi Available at: <https://www.meity.gov.in/content/draft-national-strategy-blockchain>(last accessed on March 05, 2021).

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viii Available at: <https://blockchain.gov.in/index.html>(last accessed on March 05, 2021).

ix Available at: https://niti.gov.in/sites/default/files/2020-01/Blockchain_The_India_Strategy_Part_1.pdf(last accessed on March 05, 2021).

x ibid.

xi supra note i.

xii Available at: https://www.wipo.int/wipo_magazine/en/2018/01/article_0005.html(last accessed on March 06, 2021).

xiii ibid.

xiv Available at: https://www.wipo.int/wipo_magazine_digital/en/2020/article_0002.html(last accessed on March 06, 2021).

xv Available at: <https://talkingtech.cliffordchance.com/en/emerging-technologies/blockchain---distributed-ledger-technology/blockchain-and-its-application-in-the-field-of-ip.html>(last accessed on March 06, 2021).

xvi Available at: <https://www.automation.com/en-us/articles/january-2021/the-future-of-blockchain-in-intellectual-property>(last accessed on March 07, 2021).

xvii Available at: <https://www.worldipreview.com/contributed-article/blockchain-a-viable-solution>(last accessed on March 07, 2021).

xviii Available at: https://www.ev.com/en_gl/consulting/how-blockchain-can-impact-the-intellectual-property-life-cycle(last accessed on March 07, 2021).

xix Available at: https://poseidon01.ssrn.com/delivery.php?ID=02309907300508208307311403100809801005908403207904303411900612306800_009812209711802410610704802010309711012000712207711508312401401807807701003116096067098002083102031082053126074_09506800000871010060741220950770923113090097092107092094112067098083027096&EXT=pdf&INDEX=TRUE (last accessed on March 07, 2021).

xx Available at: <https://www.dlapiper.com/en/uk/insights/publications/2017/06/blockchain-background-challenges-legal-issues/>(last accessed on March 07, 2021).

xxi ibid.

xxii Available at: <https://government.economictimes.indiatimes.com/news/digital-india/blockchain-why-government-must-chain-the-blocks/71076082>(last accessed on March 07, 2021).

xxiii supra note vi.

xxiv supra note x.

Certification and Filing of E-Form CSR-1



The Covid-19 Pandemic has aptly underlined the significance of Corporate Social Responsibility and accordingly the Ministry of Corporate Affairs had taken note of it by notifying the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 on 22nd of January, 2021. The Amendment Rules have brought into picture various aspects of Corporate Social Responsibility Funds such as Annual Report on CSR, e-form CSR-1, the concept of on-going project and many more.

Legislative Framework of Corporate Social Responsibility:

CONSTITUTION OF CSR COMMITTEE-	CSR SPENDING-COMMITTEE-
Section 135(1) of the Companies Act, 2013	Section 135(5) of the Companies Act, 2013
<ul style="list-style-type: none"> Net worth of Rs. 500 Crore or more, or Turnover of Rs. 1,000 Crore or more, or Net Profit of Rs. 5 Crore. In the preceding Financial Year. 	Every Company referred in the adjacent column shall spend in every financial year, atleast two percent of the average net profits of the company made during the three immediately preceding financial years.
Committee to constitute of Three or more directors, out of which one shall be an Independent Director, if required to be appointed under Section 149(4) of the Companies Act, 2013.	Net Profit shall be calculated in accordance with Section 198 of the Companies Act, 2013.

After the legislative framework, next in the course of action lies the implementation of CSR Activities hence as per Rule 4(1) (a) of the Companies (Corporate Social Responsibility Policy)

Amendment Rules, 2021 these CSR Activities can be undertaken either by the Company itself or through third parties.

However, filing of e-form CSR-1 has a pivotal role to play because as per Rule 4(2) (a) of the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021 Entities intending to undertake CSR Activity are mandatorily required to register with the Central Government electronically by filing e-form **CSR-1** with the Registrar of Companies, w.e.f. 1st April, 2021 whereas Rule 4(2) (b) of the said Rules mandates that this e-form shall be digitally verified by a Company Secretary/Chartered Accountant/ Cost Accountant in practice. The following points should be noted while filing e-form CSR-1:

1. SELECTION OF THE NATURE OF ENTITY: As per Rule 4(1) of the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2021, the entity can be –

- Company established under section 8 of the Companies Act, 2013 with section 12A and section 80G registrations under the Income Tax Act, 1961.
- Company established under section 8 of the Companies Act, 2013 or Registered Trust or Registered Society established by the Central Government or State Government.
- Registered Society with section 12A and section 80G registrations under the Income Tax Act, 1961.
- Registered Public Trust with section 12A and section 80G registrations under the Income Tax Act, 1961.
- Entity established under an Act of Parliament or State Legislature.

2. INFORMATION TO BE SOUGHT FROM THE BOARD OF DIRECTORS OF THE COMPANY:

Sr.No	Information required	Yes/No	Answer
1.	Whether entity established by Company /group of Companies	Yes	If yes, provide CIN of the Company (Maximum 5 CINs can be provided)
		No	If no, whether entity has established track record of 3 years?
2.	Details as required for the entity	-	-
	i. Type of Entity	-	-
	Section 8 Company	Yes	Provide CIN
	Trust/Society/ Others	Yes	Provide Registration/Establishment Number
	Name of the Entity	-	Number
	ii. Name of the Entity	-	-
	iii. Date of Incorporation/Registration/Establishment of the Entity	-	-
	iv. Address of the Entity (with PIN Code)	-	-
	v. E-Mail Id of the Entity	-	Required for OTP Verification
	vi. PAN of the Entity	-	-
3.	Details of Board of Directors/ Trustees/ Chairman/ CEO/ Secretary/ Authorized Representatives of the Entity	-	Select the appropriate designation from the list in the adjacent column
	i. DIN/PAN of the person	-	-
	ii. E-Mail Id of the person	-	-
	iii. Digital Signature of the person	-	-

3. DOCUMENTS REQUIRED FOR FILING OF e-FORM CSR-1:

- Signed Engagement Letter by the director of the Company for engaging in the services of Certification of e-form CSR-1.
- Copy of Certification of Registration. (Appropriate document based on the nature of Entity shall be sought) -
 - Trust Deed in case of Trust.
 - Certificate of Incorporation in case of Section 8 Company.
 - Society Registration Certificate in case of Society.
 - Registration with State Public Trust Act, if any.
 - Certificate u/s 80G issued by the Commissioner of Income Tax (Exemption) and the validity of the same.
(Not mandatory but advisable to attach one if in case it is available).
- Copy of PAN of the Entity.

4. ROLE OF MEMBERS:

It is advised to check the documents as mentioned above for its authenticity and it is also advisable to generate Unique Document Identification Number (UDIN) for the online certification of the said e-form.

5. GENERATION OF UNIQUE CSR REGISTRATION NUMBER:

As per Rule 4(2) (c) on the submission of the e-form CSR-1 on the MCA Portal, a Unique CSR Registration Number shall be generated by the system automatically.

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(440282837/02/2015)

Swapnil Mahulkar
(440373622/08/2015)

CS Trainees at Piyush Katariya & Associates, Nagpur.



Introduction

Prospectus is an very important document to constitute a valid public offer. The word 'Prospectus' is derived from Latin word Pro-Specere which means 'To Look', The word prospectus refers to have a look over the affairs of the company. As we know The company is an Artificial legal person, it acts through Natural person & Cannot express himself like Natural person, hence there are some documents which express the company to others mainly MOA, AOA, prospectus, etc., these documents itself contains all the facts, status, information, objectives of the company.

There are many Confusions, misconceptions and false interpretations over the Section 25 & 28 of the Companies Act, 2013, many people wrongly taught the students about Section 25 & 28 of the Act. Section 25 lays down the Document Containing Offer of Securities for Sale to be Deemed Prospectus whereas Section 28 refers to Offer of Sale of Shares by Certain Members of Company.

Whenever any company don't want to go with the regulatory Compliances relating to public offer i.e Section 26 Matters to be stated in prospectus or other SEBI guidelines or regulations in this behalf, they can issue their shares to any issue house and issue house will issue the shares to public without issuing prospectus on their behalf, but Section 25 regulates this Mis-Practice by cover them within the purview of Section 25 by imposing certain conditions to eligible for Deemed prospectus and if any company does not eligible the conditions laid down in section 25, they are covered under the Section 28, which also mandatorily apply them the provisions of prospectus, that means Company cannot hide them that they need not to give any prospectus for public offer, Companies Act, 2013 Intelligently cover them under Section 25 or section 28 Also.

SECTION 25- DOCUMENT CONTAINING OFFER OF SECURITIES FOR SALE TO BE DEEMED PROSPECTUS

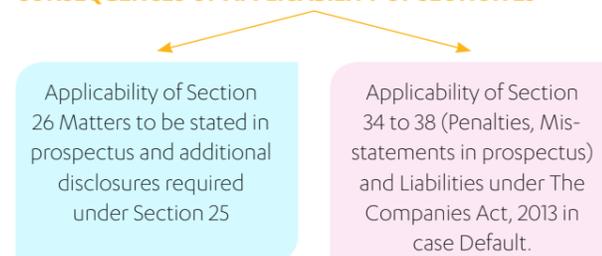


- (1) Where a company allots or agrees to allot any securities of the company with a view to all or any of those securities being offered for sale to the public,

any document by which the offer for sale to the public is made shall, for all purposes, be deemed to be a prospectus issued by the company; and all enactments and rules of law as to the contents of prospectus and as to liability in respect of mis-statements, in and omissions from, prospectus, or otherwise relating to prospectus, shall apply with the modifications specified in sub-sections (3) and (4) and shall have effect accordingly, as if the securities had been offered to the public for subscription and as if persons accepting the offer in respect of any securities were subscribers for those securities, but without prejudice to the liability, if any, of the persons by whom the offer is made in respect of mis-statements contained in the document or otherwise in respect thereof.

- (2) an allotment of, or an agreement to allot, securities was made with a view to the securities being offered for sale to the public if it is shown—
- that an offer of the securities or of any of them for sale to the public was made within six months after the allotment or agreement to allot; or
 - that at the date when the offer was made, the whole consideration to be received by the company in respect of the securities had not been received by it.

CONSEQUENCES OF APPLICABILITY OF SECTION 25

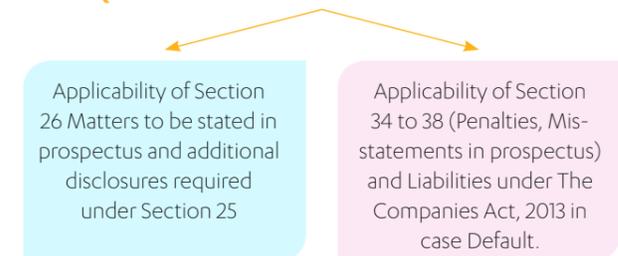


SECTION 28 OFS BY CERTAIN MEMBERS OF THE COMPANY

If any company intending to issue shares to public, they will have to issue prospectus and all provisions of prospectus will apply to them, if they doesn't fulfill the conditions laid down in section 25 (There allotted shares was not allotted within 6 months and the company received the full consideration in respect of shares intending to issue, they will covered under the Section 28 OFS by certain members. Companies Act, 2013 itself laid down that any shares sold not within 6 months and company received the full consideration on those shares Will be covered under Section 28.

- Where certain members of a company propose, in consultation with the Board of Directors to offer, in accordance with the provisions of any law for the time being in force, whole or part of their holding of shares to the public, they may do so in accordance with such procedure as may be prescribed.
- Any document by which the offer of sale to the public is made shall, for all purposes, be deemed to be a prospectus issued by the company and all laws and rules made thereunder as to the contents of the prospectus and as to liability in respect of mis-statements in and omission from prospectus or otherwise relating to prospectus shall apply as if this is a prospectus issued by the company.

CONSEQUENCES OF APPLICABILITY OF SECTION 28



Conclusion

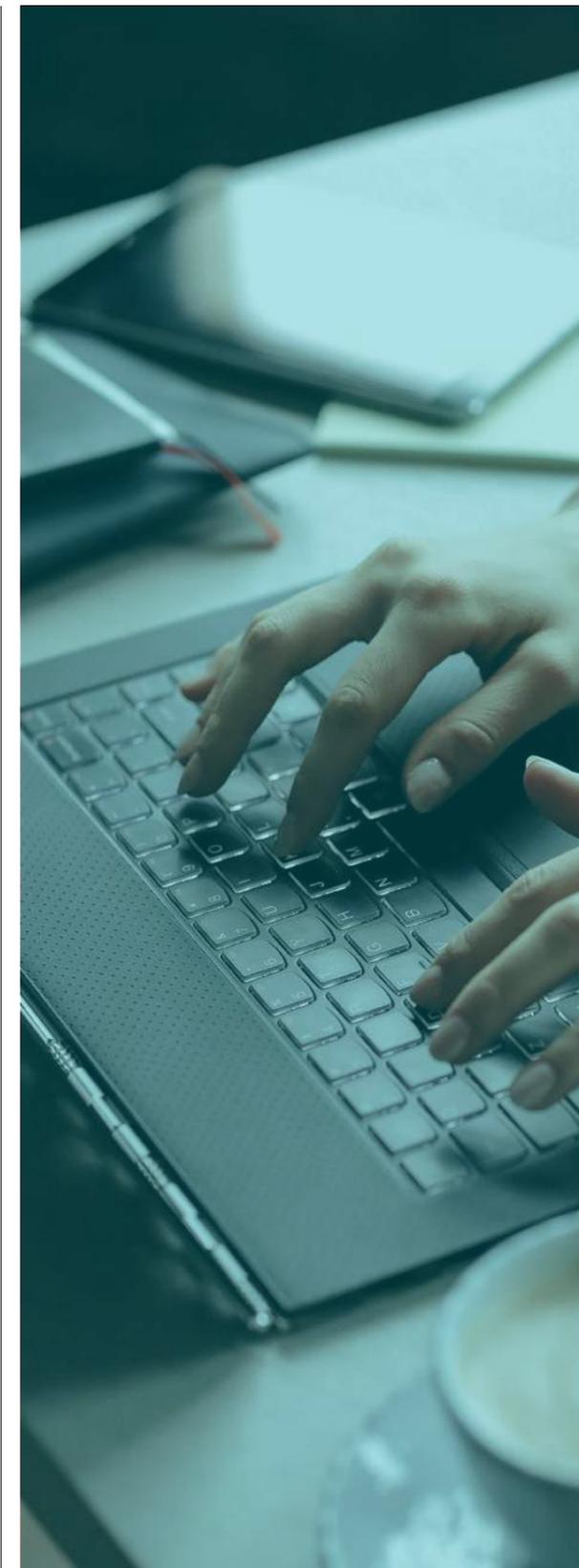
Public offer without issuing prospectus will make the issue Invalid, The Companies Act, 2013 has strict provisions prohibiting this malpractice. Prospectus is an look over the affairs of the company because company cannot itself talks with stakeholders. Prospectus serves the medium of communication between Stakeholders and Company. to achieve the Better corporate governance, Prospectus is one of the essential pre-requisites.

Yours Sincerely

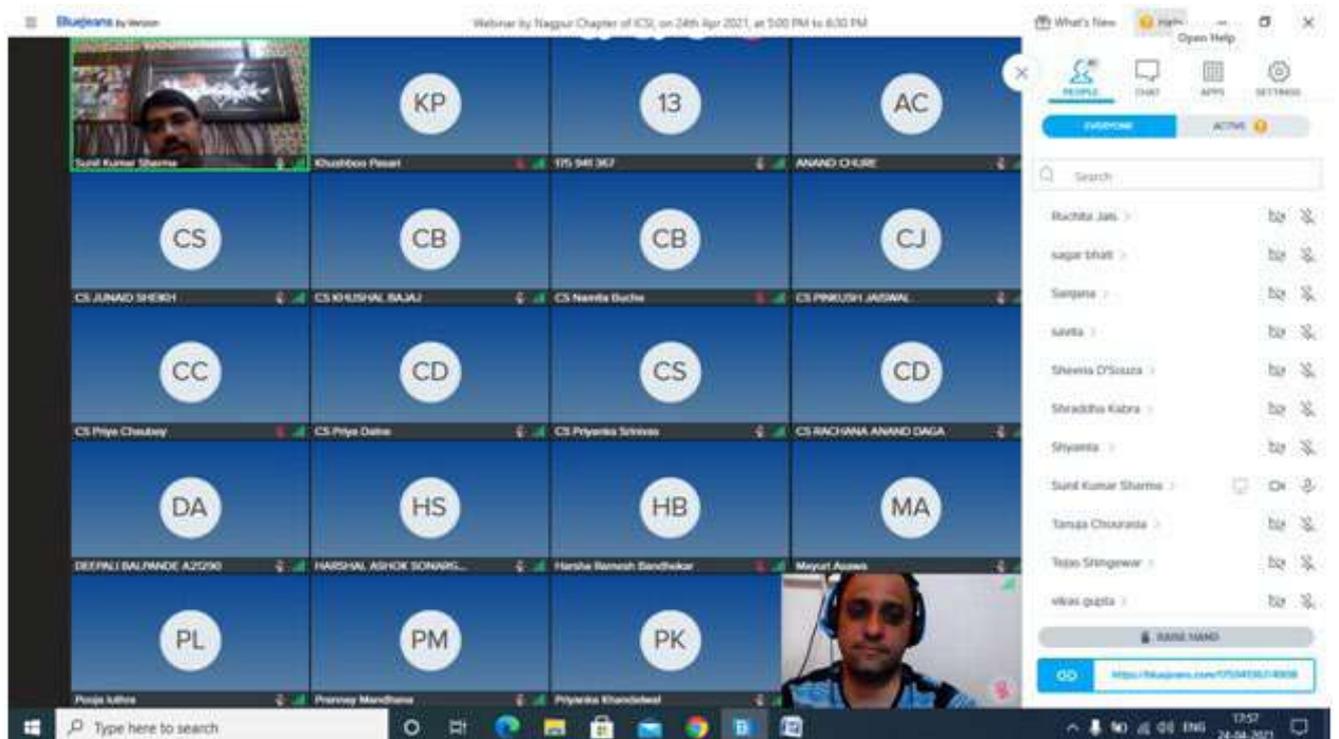
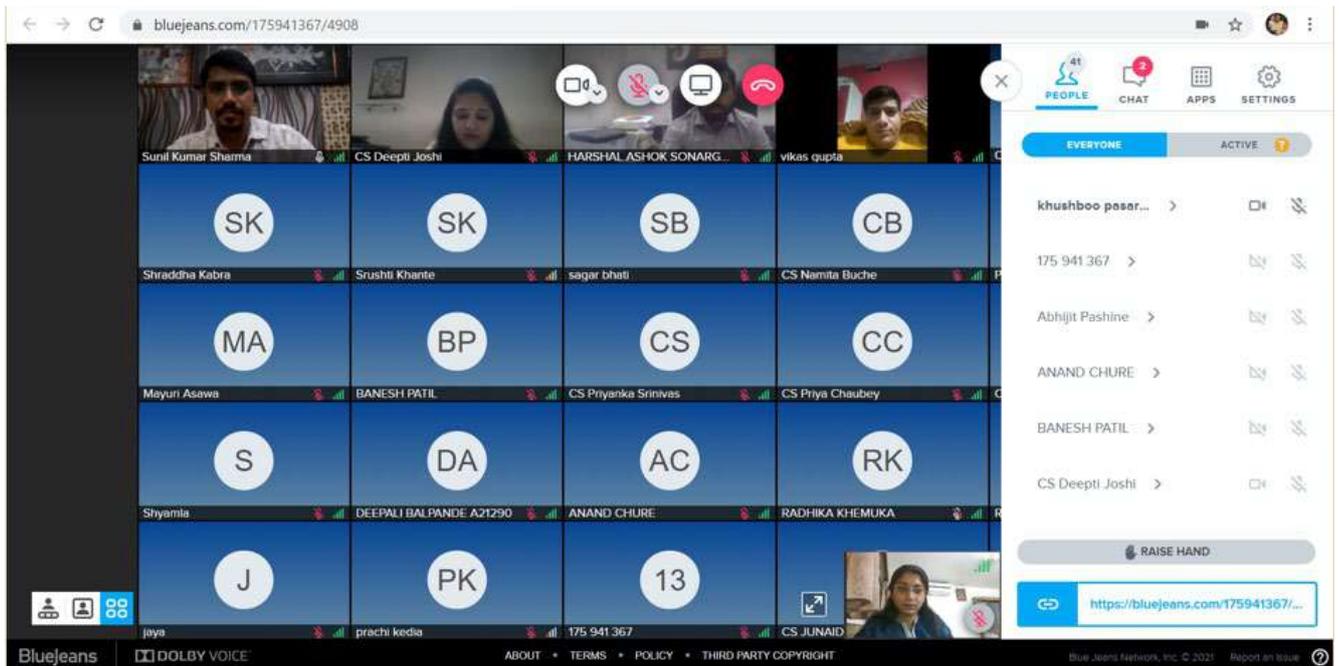
Rushikesh Sandip Joshi

Mobile no. 7558525996

Email Id- rushikeshjoshi02@gmail.com



Glimpses of webinar dated 24th April, 2021 on Valuation of Securities or Financial Assets by CS Sunil Sharma



KREO CAPITAL PRIVATE LIMITED
 With a dedicated in-house team (consisting of CA, CS, MBA), Kreo Capital provides a solution for Valuation Advisory

- Applicable techniques for Valuation of business as on date and recommended under IT law.
- Requisite expertise of Kreo Capital for a timely and hassle free valuation deliverables.
- Fair market value of unquoted equity shares using DCF (As per IT law) shall be determined only by SEBI Registered Category-1 Merchant Banker
- Internationally accepted valuation technique

SEBI prescribed Share Valuation

- Being a SEBI Registered, Category-1 Merchant Banker, Kreo Capital is well versed with Valuation methodologies prescribed by SEBI
- For both frequently and infrequently traded shares.

Other Business Valuations

- Other Business Valuations consist of valuations based on multiples (EBITDA multiple, Sales multiple, P/E multiple etc.)
- As an Investment Banker, Kreo Capital has necessary expertise for end-to-end execution of Business Valuations.

Net Asset Value

1. Discouraged Cash Flow
 2. Net Asset Value
 3. SEBI prescribed Share Valuation
 4. Other Business Valuations

CA Ayush Parakh | CEO
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- Market value of ESOPs (Employee Stock Option Plan) and related to exit

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- Creditable and transparent
- High quality financial information
- 24x7 on all-in-one trading system
- 24x7 Monitoring

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- Schedule an understanding of the capital market
- Make an initial assessment of your business
- Create a prospectus and capital market plan
- High the IPO process on other systems of using bank
- Strengthen your financial position and systems required for a public listed company
- Register a Merchant Banker to assist you with the IPO process

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Sl. No.	Day and Date	Topic	Speaker	Time
1.	14-05-2023	Diversity & Inclusion	Ms. Anjali Singh, Senior Partner, ASB Partner	10:30 AM - 11:30 AM
2.	15-05-2023	HR for Startups	Dr. Anand Kulkarni, Founder, Kulkarni & Associates	10:30 AM - 11:30 AM
3.	16-05-2023	Understanding Fund Raising	Dr. Anand Kulkarni, Founder, Kulkarni & Associates	10:30 AM - 11:30 AM
4.	17-05-2023	Artificial Intelligence in HR	Dr. Anand Kulkarni, Founder, Kulkarni & Associates	10:30 AM - 11:30 AM

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KREO CAPITAL PRIVATE LIMITED

With a dedicated in-house team (consisting of CA, CS, MBA), Kreo Capital acts as a one stop solution for Valuation Advisory

- Applicable technique for Valuation of business as on date and recommended under IT law.
- Requisite expertise at Kreo Capital for a timely and hassle free valuation deliverables.

- Being a **SEBI Registered, Category I Merchant Banker**, Kreo Capital is well versed with Valuation methodologies prescribed by SEBI
- For both frequently and in-frequently traded shares.

Net Asset Value

2

1

Discounted Cash Flow

SEBI prescribed Share Valuation

3

4

Other Business Valuations

- Other Business Valuations consist of valuations based on multiples (EBITDA multiple, Sales multiple, P/E multiple etc.)
- As an Investment Banker, Kreo Capital has necessary expertise for end-to-end execution of Business Valuations.



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NSE's SME platform "EMERGE", offers emerging businesses a new and viable option for raising equity capital from a diversified set of investors in an efficient manner. These companies have the potential to unlock value and emerge on a bigger stage. EMERGE can play the critical role of significantly improving access to risk capital for emerging companies. At the same time, this platform will provide investors with exciting opportunities to invest in promising SMEs.

Emerge eligibility criteria

SME Company

- Post issue paid up capital (face value) upto Rs.25 crore
- Operating profit from operations for atleast any 2 out of 3 financial years
- Track record of atleast 3 years
- Positive network

Benefits

- Higher visibility and profile
- Alternate asset class for investors
- Alternate valuations: Liquidity /Exit for investors
- Unlock value of ESOPs to attract and retain talent
- Higher credibility with stakeholders like customers, vendors, employees, etc
- Migration to Main Board

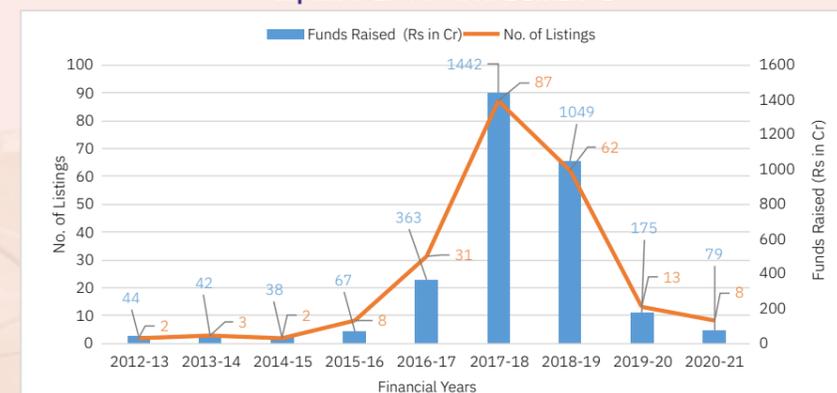
Why NSE EMERGE?

- Credible admission process
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- State-of-the-Art trading system
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- Develop an understanding of the capital markets
- Make a realistic assessment of your readiness for listing
- Crystallise your project and capital raising plans
- Weigh the IPO option vis-à-vis other options of raising funds
- Strengthen your internal processes and systems required for a publicly listed company
- Engage a Merchant Banker to assist you in the IPO process

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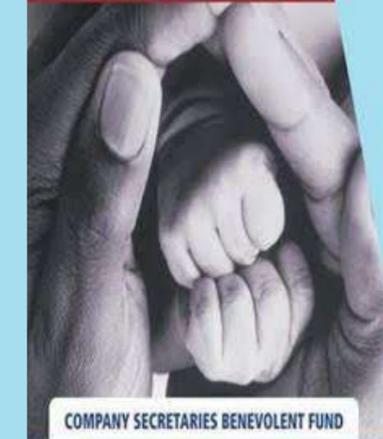


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CSBF

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What exactly is CSBF?

The Company Secretaries Benevolent Fund (CSBF) is a Society registered under the Societies Registration Act, 1860 and is recognized under Section 12A of the Income Tax Act, 1961.

The CSBF was established in the year 1976 by the ICSI, for creating a security umbrella for the Company Secretaries and/or their dependent family members in distress.

Saathi Haath Badhana

साथी हाथ बढ़ाना

The amount of ₹7,50,000 (in the case of death of a member under the age of 60 years) has been increased to ₹10,00,000

The subscription amount is being increased from ₹10,000 to ₹12,500 soon

The amount of ₹40,000 per child (provided in case of death of member under the age of 60 years) for education of minor child (upto two children) has been increased to ₹50,000

The amount of ₹60,000 (provided for reimbursement of medical expenses) has been increased to ₹75,000.

Is it the right time to enrol in CSBF?

CSBF is the protection you and your family need to survive the many ups and downs in life, be it a serious illness or a road accident which derails your plans for the future.

Is it a requirement?

Yes, as your dependents need the protection. Your dependents be it your parents, your spouse, or your children will have to bear the brunt of paying off your home/education personal loans and even for managing day-to-day expenses without your contribution. If you do not want to leave behind such a situation in your absence, enrol in CSBF today.

Become a proud Member of CSBF by making a one-time online subscription of ₹10,000/- (to be changed soon) through Institute's web portal (www.icsi.edu) along with Form 'A' available at link <https://www.icsi.edu/icsbf/home> duly filled and signed.

Advantages of enrolling into CSBF

1 To ensure that your immediate family has some financial support in the event of your unfortunate demise

2 To finance your children's education and other needs

3 To ensure that you have extra resource during serious illness or accident

4 Subscription/Contribution to CSBF qualifies for deduction under Section 80G of the Income Tax Act, 1961

Decide Now! Decide Wise!

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MAY webinar series of Nagpur Chapter

Date 	Topics 	Speaker 	Moderator 	Timings 
1 st May, 2021	Corporate Litigation	Adv. Aditya Jalan, Partner, AZB & Partners, Noida	CS Shantanu Jog	02.30 p.m. to 04.00 p.m.
8 th May, 2021	Insights on ESG	CA/CS Hussain Kalolwala, Founder Kalolwala And Associates, Kolkata	CS Shradha Kabra	02.30 p.m. to 04.00 p.m.
15 th May, 2021	Understanding IP and Trademarks	Adv. Anand Mahurkar, Founder, AM Legal Associates, Pune	CS Khushal Bajaj	05.00 p.m. to 06.30 p.m.
22 nd May, 2021	Recent Developments in GST	CA Ritesh Mehta, GST Practitioner, Nagpur	CS Abhijeet Pashine	02.30 p.m. to 04.00 p.m.
29 th May, 2021	Case Studies in Inbound and Outbound Investments – A FEMA Perspective	CA Vijay Bhutada, Managing Partner, Startcap Business Consulting LLP, Pune	CS Vikas Gupta	05.00 p.m. to 06.30 p.m.

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