



Mysuru Chapter
e-Magazine

August 2021
208th Edition



Vision

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

Motto

सत्यं वद। धर्मं चर। इच्छते क्वं त्मत्तः, अविदते इयं क्वं त्मत्तः।

Mission

"To develop high calibre professionals facilitating good corporate governance"

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Special Student Month Supplement

Knowledge Series by CS Dr CHANDRATRE on the topic of "Managerial Remuneration" Part IV.
Topics Covered in this edition: Remuneration to MD and WTD continued



From the Desk of Chairman

CS Vijaya Rao
Chairperson
Mysuru Chapter

Dear Professional colleagues,

Happy Independence Day!!

All the best to students for remaining exams. Hope all of you are doing well.

Today I want to discuss about the success of a Company Secretary. As this magazine releases students are writing exams. All of them will clear all the exams I have no doubt in that. If not this attempt it will be next attempt. Eventually all of them will clear the exam, finish the training, get the membership and will find their dream career - employment or Practicing Professional. But is this enough to succeed? In my opinion NO. In our job or in any job communication skill along with writing or drafting skill is very important. As a CS in employment or in practice in many instances we have to present different reports. So presentation skill along with public speaking skill is a must. And we have to draft many agreements, contracts, Minutes etc. So writing skill is a must. In order to be a successful company secretary along with academic knowledge, public speaking or communication and writing skill is a must. Having said that, the question is how can we achieve that? Our Institution has identified this and encouraging us to start a Toastmaster club at the chapter level so chapter can help members and students to learn and be experts in public speaking skill. Toastmaster is an international organization focusing on public speaking for many years. With the support of our institute Mysuru Chapter also has started Toastmasters club for the benefit of members and students. As I said earlier along with communication skill, we need good writing skill. For that our chapter has this eMagazine where you can write articles to improve your writing. Many times, as students or young members we set our goal based on some successful senior members. We are creating an opportunity for our Mysuru Chapter students to talk to the stalwarts in the field. As every month we do have interviews with the eminent stalwarts, students can also talk to them and ask their questions. To know more about that student can talk to the chapter in charge and get involved in the interview process. Please make use of the opportunity.

Again, let us work together and grow together!!

Stay safe

Thanking you,



**THE INSTITUTE OF
Company Secretaries of India**

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Chapter Activities

1. Webinar

Chapter organized 2 webinars for Member & Students during the month of July 2021. The details are as follows.

S No.	Date	Topic	Speaker	No of Students
1	05.07.2021	GST Day Celebrations - Webinar on Managerial Remuneration & it's Tax Implications - Direct & Indirect	CA Keshava Dongre K	10
2	24.07.2021	Joint webinar on "Related Party Transactions" with ICSI Palakkad Chapter	CS Anshul Kumar Jain	69
3	On going	Weekly Toastmasters Meeting		

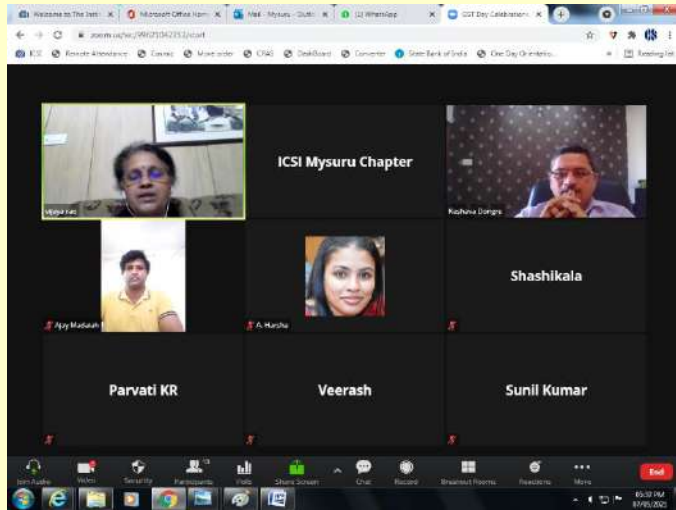
2. One Day Orientation Program

S No	Date	Topic	Speaker	No of Participants
1	31.07.2021	Online One Day Orientation Program for Executive Students	CS Vijaya Rao	26

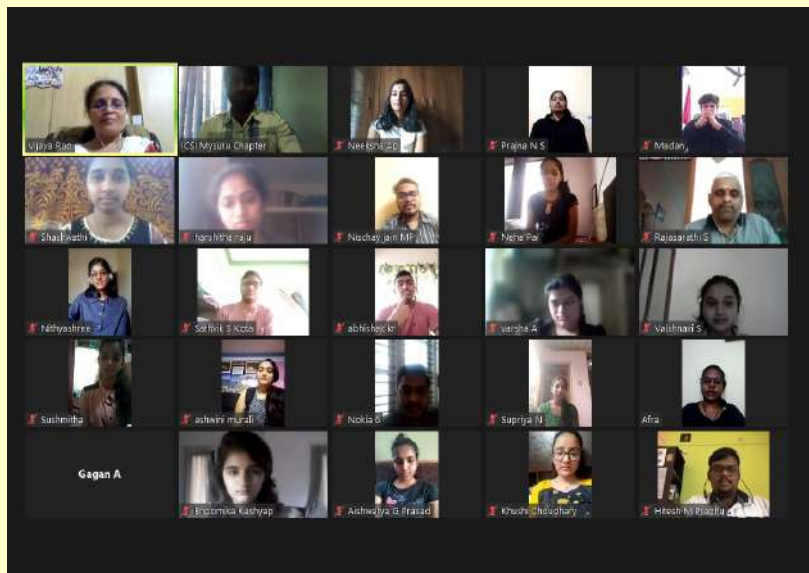
3. STUDENT MONTH ACTIVITIES

Chapter organized 2 webinars for Members & Students during the month of June 2021. The details are as follows.

S. No	Date	Programme Name	Speaker / Judges	No of Participants
Online Career Awareness Programs				
1	20.07.2021	Government College for Women (Autonomous), Mandya	CS Harsha A N. Dhanabal	50
2	21.07.2021		CS Vijaya Rao	50
Other Activities				
3	01.07.2021	Van Mahotsav		03
4	02.07.2021	Session on “Life Skills”	Mr. C L Ramesh Babu	40
5	05.07.2021	PPT Competition	CS Phani Datta D N CS Veerash M J	04
6	06.07.2021	Webcast on Setting up of Business Entities	CS Lakshmi K S	20
7	09.07.2021	Soft Skills Development Program	CS Pavithra P	25
8	11.07.2021	Debate Competition on Population growth is a Boon or Bane	CS Sabareeshan C K CS Ajay Madaiah B B	05
9	15.07.2021	Inauguration of Online Class for Executive	CS Vijaya Rao	10
10	19.07.2021	Samadhan Diwas	N. Dhanabal	05
11	19.07.2021	Moot Court Competition	CS Keerthana Gopal	03
12	26.07.2021	Essay Writing Competition	CS Sarina Chouta Harish CS Rashmi Deepak	04
13	29.07.2021	Video Byte Competition	CS Vijaya Rao CS Phani Datta D N	02

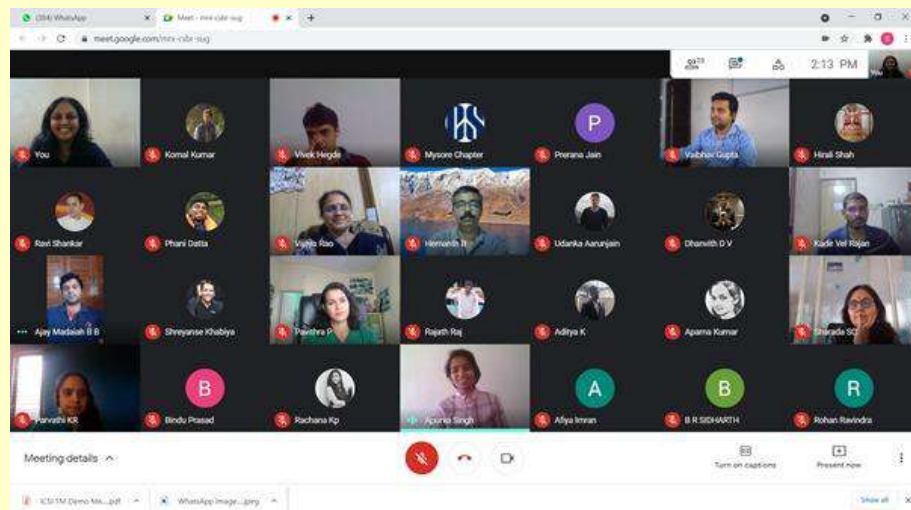


GST Day Celebrations - Webinar on Managerial Remuneration & it's Tax Implications - Direct & Indirect



Online One Day Orientation Program for Executive Students

ICSI Mysuru RoyalPro Toastmasters Weekly Meeting





Over a Cup of Coffee With...



CS Sharada S.C.

*Practising Company Secretary
Distinguished Toastmaster*



Concept & Compilation:

CS Pracheta M

Practising Company Secretary



CS Dr Shobha Sridhar

Practising Company Secretary

CS. Pracheta: Welcome once again for an interview with the eminent company secretaries for the e-magazine of the Mysuru chapter of ICSI. Today we have a person, who has inspired several Company Secretaries, who has been the past chairman of the Bengaluru chapter of ICSI and a distinguished Toastmaster. Please welcome CS S C Sharada Madam for this interview. Madam, welcome.

CS. Sharada : Thank you very much

CS. Pracheta: Why did you choose CS as a career and how did this journey start?

CS. Sharada: At the outset, I would like to thank both the ladies for this responsibility on behalf of the Mysore chapter magazine. It is a huge commitment and I would like to compliment both of you on this great initiative.

Now to answer your question, I think I have to travel back more than 30 years. I was born and brought up in Hyderabad. I did graduation in commerce and wanted to pursue Management from IIM. Due to financial constraints, I pursued my graduation in Commerce and funded my studies by taking tuitions. I was academically bright, and I wanted to do some professional course too. My mother always emphasized on being financially independent, irrespective of the gender. Meanwhile, I became aware of the CS course in one of the career awareness programmes. One thing which attracted me towards the course was that we could earn while learning. It was a career option and not a mere job. Though I joined the course without proper guidance, I have no regrets. I am happy with where I am today and what the profession has given me.

CS. Shobha: Thank you for sharing your wonderful journey. Madam, you went on to become the First Woman Chairperson of our Bengaluru chapter. You are also member of various committees like the ASB, SSB etc. What according to you is required to reach such heights?

CS Sharada: I don't know whether to call it 'reaching such heights or not' but I definitely can say that opportunities have opened up. I never thought when I started my journey or even a few years back that I would get an opportunity to serve the fraternity back in a leadership position as the Chairperson of Bangalore chapter of ICSI. I have neither aspired for it nor have I aimed for it.

Nevertheless, if you ask me how one can reach the heights, I would say that one should have the desire to succeed. Today, I have observed that youngsters are clear with their goals; they are quite aggressive, and I appreciate it. Also, I feel that rather than focusing on these goals and destination, we must focus on the path - on the journey. As long as we are sincere, committed, hardworking, we are completely passionate about what we are doing, and we are in the pursuit of excellence, appreciation and recognition will follow.

I would like to take this opportunity to share about how I came into the management committee of Bengaluru chapter. In 2009-10, there was Karnataka CS Mahotsav during the Chairmanship of our current President CS Nagendra Rao. I had got an opportunity to be on the stage moderating some sessions. During that time, our past Council Member Shri. Gopala Krishna Hegdeji suggested me to take up some leadership position. I was not confident of taking up this responsibility, but his encouragement led me to think and pursue. I always remember him as a leader who does not push you too much. He just gives his typical smile and says, 'think about it'. I then realized that sometimes we know we are capable, but we need a validation, and it is more so, with women. I came to that position, and it really opened up my eyes to leadership; networking and many things.

In the last two three years, I have the opportunity of being on Auditing Standards Board, and Secretarial Standards Board. There are many eminent people on these Boards. Only our contribution and delivery of quality work will make our voice heard.

CS. Pracheta: We have in our culture that sometimes we need a push. Even Hanumantha needed a push to reach his potential. We are fortunate enough to have people who are encouraging.

Next thing is, I have always been inspired by the way you speak. The way you moderate the sessions; you take a note take charge in the event. So, my question is how did you start this journey as a speaker? We know that you are a distinguished toastmaster. How did this journey start and what are those things which you think helped?

CS Sharada: It is an interesting journey. I don't think I had any inhibition to speak but I never got the opportunity. In 2004, my employer Company sponsored me for an executive education program in IIM Bangalore. The long term executive education program opened a lot of doors. After the programme, we (IIM Executive Education Alumni Association) continued to organize monthly events and invited eminent speakers like Shri. APJ Abdul Kalam, Smt. Kiran Bedi etc. We used to get an opportunity to be on stage for some event or the other. Gradually, after knowing about Toastmasters club, we introduced it for IIM alumni and I was the first woman President of the IIMB Orators club. This has given me a lot of confidence and exposure - how to think, how to structure the talk, how to make it interesting, how to make it relevant to the audience, how to design an agenda for a program and how to ensure time management. Later, the CS fraternity also gave me lot of opportunities. So now when I just go on stage, I feel fully energized. I think the secret is, if we do what we are happy about, then we will get the best results.

CS Shobha: Wonderful ma'am. You should enjoy whatever work you are doing- that's your motto. We can see that smile also and the happiness, and it is quite infectious when we hear you every time live on any program. My next question is, do you feel that women as professionals or otherwise have additional challenges especially in pursuit of professional growth as compared to men? Did you deal with or did you face any special challenge in your career? What do you advise to the young women who want to take up a professional service?

CS Sharada: Shobha, I don't know whether it is gender based but I do know that as a woman we have additional responsibilities. However, the times are changing; the support systems are being created. Role reversal is being acknowledged in various areas and we can see this in our daily life, you can also see advertisements, you can see in the marketing.

If you ask me if I faced any challenge, let me be very honest. Personally, I haven't faced any challenge either in the corporate or in my practice. Thankfully my family has been extremely supportive. I owe a lot to my husband because he is not only the backbone, but also the one to keep pushing me forward. He has always been there for me.

As far as challenges are concerned, all of us have many things to balance, marriage, family, social circle, profession etc. I definitely want to share this story. When my first son was born, I took a small break because the company was not doing well; but quickly I got back into my career. He was just 13 months old when I put him into day care and pursued with my career. There is always this question - am I being a good mother ? am I spending enough time ? am I guilty ? - these issues are never ending for women. It is left to each one of us but if we decide to pursue a career, should proceed with it. So, I made a decision at that time that he should be going to play school. When I resumed my career, I had to travel a very long distance of about 25 kms, leaving every day at 7:00 in the morning and returning only by 7pm. It was a manufacturing company and back then there were no work from home options.

When my second son was born, the doctor was very clear that the child must be nursed for six months. The maternity leave was only for 3 months back then, and the factory was quite far. I was planning to quit, but the doctor said something very simple yet profound "If you are valuable to your organization, they will find a way to retain you. Just ask". I hesitatingly asked the CEO if I can get flexi-hours since I wanted to nurse my child and not put him on to some bottle-feed. To my surprise, he immediately agreed and even sent his car every day to pick me up. I was handling an important assignment and he couldn't let me go. I engaged a maid and made necessary arrangements so that my son could be nursed for complete 6 months. Gradually I returned to my 7 to 7 schedules.

Today, we have flexi time, work from home options and the environment supports working women. Young women who are starting today, if ambitious to pursue their profession, can find options to fulfil their dreams. As a young mother, I had several challenges as these facilities were not available. My husband encouraged me to continue despite my offer to quit my career. He said "Hold on now, you will be happy later with this decision". It was a very tough period but when I look back, I am thankful that my son is healthy and strong. He is equally proud of my courage to overcome these challenges.

Young professionals should be able to create right support system and have the belief to achieve the goal. Unless you want it, the outside world will not support you. Our profession is similar to a marathon journey; it's not a sprint. Even if you want to sprint in small measures, we must look at a very long -time line. It is a long-time profession where I make investments- I may be earning less initially, but the more and more I start sowing and watering, it becomes strong and then we can become like a big tree. We ourselves can give shelter to so many people. Think of it - there is no retirement for us. So, we need to build that resilience and strength and that's what I think we need to learn to grow in our career.

CS Pracheta: *I think it's an excellent eye opener for women who complained about so many other things- for not going on, for not taking other profession. So, thank you so much for sharing this journey. We can all relate so much to this.*

My next question is- You been part of so many NGOs, cancer society's etc. How did this journey start and what is the inspiration? We all know that you yourself are a cancer survivor. Can you please share this story?

CS Sharada: If you look back, there are these transforming moments in your life. All of us will be having these big or small, it may be a moment of joy or moment of sorrow, but there is some transformation taking place in your life. If you are able to build on that we evolve as a person; otherwise, you are like stagnant water.

In 2013, I discovered that I had breast cancer. But after that when I recovered, I thought I've got a second life and I don't know how many years I will live - because we know it is not infinite, we have a limited life. It is then I realized that I must be grateful for whatever I have. Why can't I at least spend some time in giving back to society ?

One of the initiatives, is a group called Pink Hope Support Group in Bangalore. This group is full of people like me who are cancer survivors. We would like to call ourselves cancer victors or cancer winners because, at least for now, we have battled and won over cancer. We meet monthly under a Connect Programme where we invite doctors who share what are the latest developments that are taking place in the field of cancer treatment, technology, causes etc. We are there for each other; if somebody is taking a treatment we reach out, we counsel, we mentor them. We have also done several Corporate Connect Programmes across the country to create awareness about cancer and health.

One more NGO which reached out to me was again started by a cancer survivor. She's a very senior finance professional in western railway- her name is Ruby Ahluwalia. She has started an NGO called "Sanjeevani-life beyond cancer" and she is doing it on a very large scale- across the country. She's touching so many lives through several programmes. In Bangalore, she came and met me once and requested for my support. I am currently the Regional Advisor for Karnataka but taking only baby steps as of now.

Both of you know that we get a chance to deal with NGOs as part of CSR services. We can help some trusts and societies. In the process of advising the governance structure, one or two NGOs have become quite close to my heart. I help them in putting a governance structure, a good Advisory Board and connecting them to corporates that have CSR obligations. I make it a point to reach out to them. Those are small things I think we can do. As a Trustee, I am also supporting Dr. Malathi Holla's Foundation, Mathru Foundation for the specially abled children. That's where I feel my bit of doing something, giving back to the society. This is giving me a lot of satisfaction along with the regular professional work.

CS Shobha: *It is inspiring and touching. We may face many challenges and you have faced so many of them in life, but we should never let these challenges break us and we should never feel defeated. I think that is what makes us better. So, coming to our younger professionals, what is your advice to them?*

CS Sharada : A lot of youngsters today are quite accomplished, they have a different approach to this profession, they are smart- smarter than many of us and I may not be able to advise them. But from my experience, I can only share few things. First thing any professional needs is Knowledge and hence the thirst for knowledge is indispensable. One has to keep learning, re-learning, unlearning everything. The other thing is- Discipline. We need to be very disciplined because we need to be diligent as a company secretary. Third, we need to be solution oriented; any organization respects only those who can add value. Whether a practicing professional or employee, it is necessary to be a catalyst in the organization's growth. Many times, I find in our profession we just have blinkers and keep looking at only one aspect. If we are able to engage ourselves deeply and broaden our horizon, then sky is the limit. I am very hopeful and positive

about the younger generation because I can definitely compare to how I was many years back; and even a few years back how professionals were and how they are now. We have a very bright future. That's why I said I'm not looking at giving any advice, but I'm just sharing what I have observed.

CS Pracheta: On this optimistic note, I would like to go further. This questioning is probably for all of us is you are busy professionals. You are an author, a speaker, you're a distinguished Toastmaster. You're part of so many standard boards, you are part of NGOs. How do you manage time?

CS Sharada: I feel that if you have sincerity of purpose, we will be able to manage many things. Most of the things I am doing are around the same space. My strength is being focused on what I'm doing. I can stay on what I'm doing. and not leave anything incomplete, however tough the journey is. Second, family support is immense which I get from my husband, and my children. So, many times I know that I'm not available for them but perhaps I have been good at creating the right expectations. I am not a perfect woman. I have learnt to prioritize my work. It may be work today, tomorrow it may be taking your holiday, the day after it can be some NGO work. I am able to slot myself during the day. I think that point I mentioned earlier about enjoying what one is doing is relevant here. If I were not enjoying, I'm sure I would have quit long time back. Because I'm enjoying, I find time for several activities. As they say only a busy person finds time. So if you want to find time then it's better to be busy.

One more thing which I want to really share - a few years after my cancer recovery if I had not kept myself busy, I'm sure I would have kept thinking about my body, my pains or my illness or something and I would have gone into a very negative mode. I have been able to stay busy and positive.

CS Shobha: Absolute all-rounder ma'am. Hats off to your goals! So now coming back to our favorite thing what we keep looking forward every month, your newsletter your fortnightly newsletter 'Samhita'. You are the author and you have been writing and publishing this newsletter for the last twelve years. Can you please share the insights into this particular initiative?

CS Sharada: Writing- I have always been very passionate. I remember even in the company I worked, I started a newsletter and involved everybody. I was also heading the internal communications initiative there, so I do remember I went and interviewed all the shop floor workers. When I started my practice in 2009, there was not much activity and hence started this as a means to disseminate knowledge. This newsletter is mainly a collation of all the updates from various departments, which are relevant to us; statutory calendar; words of wisdom. anything positive. I always like to carry some good quotes. I guess my editorial is making the newsletter different from other professional newsletters, where I bring a new theme every time. I try and share my personal experiences there because I feel that's what connects.

This writing is also to challenge myself to express on varied things. I have a good team in my office which is helping me in this in this initiative. I am not looking at how many people it reaches but I have got good response. In fact, the feedback I have got from some people is that why don't you convert it into a book. Yes, I am planning to take it up as a project, by collating some of the best editorials and turn it into a book. That's one of my goals.

CS Pracheta: It has been wonderful talking to you. My final question- What do you think has shaped your life? What are the core values and what do you think one should have in mind while facing some challenges or turbulent times?

CS Sharada: The core value- I definitely have to go back to my childhood and the environment in which I grew up. I will attribute this value to my mother. She placed a great thrust on Integrity. So, integrity is something which is very close to my heart and it's kind of ingrained in me. I also practice it in my work life. I'm okay if some of the clients do not agree to some of my solutions, but if I feel there is something unethical and a wrongful demand is being made, I am okay to let go of them. When I had to choose a tagline for my firm, it came very easily to me. I said "enable, empower, ethically"- whatever we do, we are trying to enable the people, empower the staff, empower the clients, empower the society through ethical means. My mother also placed emphasis on financial independence while from my father I have learnt the discipline and rigor.

Before I conclude, I definitely want to emphasize again the support that I am getting from my husband because he is the person who always keeps saying 'move forward don't look back'. Ladies, just for all of you, we talk about role reversal, right? So that is very true in my case. Last few years, he has very clearly said that I am done with my corporate life, you focus on your career... He is completely taking care of the kitchen and he loves it now (Laughs)!

CS Shobha: *You have given us the ethical values with the talk we have been having for the last one hour. So we would like to thank you for taking out your time from your busy schedule and interacting with us and helping all our students to gain from all the experiences whatever you have had to go through.*

CS Sharada: Thank you so much, all the best. Namaste

[For Complete interview please click below link](#)

<https://bit.ly/InterviewwithCSSharada>

"A unique opportunity to CS Students

Dear Students,

We hope you are going through the interviews with the stalwarts of the profession. You too may have few questions in mind to ask these eminent Company Secretaries. Here is a unique opportunity for you to ask your questions directly to them!!!

You have to send us the takeaways from the interview published in this month's magazine (please go through the excerpts published as well as the video link) and send your responses to enewsletter.icsimysore@gmail.com. The student who gives us the 'best takeaway/s', will get an opportunity to ask a question to our guest in the next series of the interview."



The Law relating to Remuneration of Directors under the Companies Act 2013 as amended up to 18 March 2021



CS Dr Chandratre

Practicing company secretary

Email id: krchandratre@gmail.com

The Law relating to Remuneration of Directors under the Companies Act 2013 as amended up to 18 March 2021 is analyzed and commented by renowned Senior Scholar CS Dr Chandratre for our readers. He gives an in-depth coverage on the topic in great detail. For the convenience of digital reading, the commentary is divided into six parts. Let's have this knowledge feast over six editions and this is the fourth edition. Below is the index to have quick reference. For previous editions please click on the link given in each individual box for that topic.

Edition	Topic Covered	Brief Content
205 - Part I	Managerial Remuneration- Introduction	<ul style="list-style-type: none"> a. Introduction b. Definition of Remuneration c. Over-all limits on remuneration d. Sub-limits of remuneration For this topic, click: http://bit.ly/Edition205
206 - Part II	Remuneration to certain category of Directors	<ul style="list-style-type: none"> a. Remuneration payable to Non-Executive Directors b. Remuneration to Non-executive Directors when Company has loss or inadequate. c. Fixed periodical payments to Non-Executive Directors d. Remuneration to Independent Directors in case of loss e. Consequence of default of loans For this topic, click: http://bit.ly/206thEDITION
207 - Part III	Remuneration to MD and WTD	<ul style="list-style-type: none"> a. Sitting fees b. Remuneration to MD, WTD and Manager when a Company has loss or inadequate profits c. Conditions to be complied with For this topic, click: https://bit.ly/207thedition
208 - Part IV	Remuneration to MD and WTD continued	<ul style="list-style-type: none"> a. Remuneration to MD, WTD and Manager- From two companies b. Recovery of excess remuneration c. Remuneration to Professional MD/WTD/Manager d. Remuneration for professional service
209 - Part V	Meaning of Professional and profession	<ul style="list-style-type: none"> a. Remuneration for professional service continued- Meaning of 'profession' and 'professional'. b. Supportive judgements
210 - Part VI	Applicability to Private Companies	<ul style="list-style-type: none"> a. Applicability of Section 196 and 197 to Private Companies b. SEBI (LODR), 2015 on Managerial Remuneration

1. Remuneration from Two Companies

According to Section V of Part II of Schedule V, (Remuneration payable to a managerial person in two companies), subject to the provisions of Sections I to IV, a managerial person shall draw remuneration from one or both companies, provided that the total remuneration drawn from the companies does not exceed the higher maximum limit admissible from any one of the companies of which he is a managerial person.

This provision facilitates payment of remuneration to a managing director/whole-time director/manager of one company by another company, subject to the condition that the total remuneration drawn from the companies does not exceed the higher maximum limit admissible from any one of the companies of which he is a managerial person. Needless to state, this provision cannot apply if remuneration is received from a private company.

This provision may not be resorted to if a company has secured shareholders' approval by special resolution for payment of remuneration in excess of 5% / 10% limit under the second proviso to section 197(1).

2. Recovery of Excess Remuneration Paid

Subsection (9) of section 197 has been substituted, which reads as follows:

"(9) If any director draws or receives, directly or indirectly, by way of remuneration any such sums in excess of the limit prescribed by this section or without approval required under this section, he shall refund such sums to the company, within two years of such lesser period as may be allowed by the company, and until such sum is refunded, hold it in trust for the company."

This provision makes it mandatory for the company to recover the excess remuneration paid by the company to its managing/whole-time director or manager within two years of such lesser period as may be allowed by the company.

In subsection (10), which provided, before the Companies (Amendment) Act 2017, that recovery of the excess remuneration paid cannot be waived by the company unless permitted by the Central Government, the words "permitted by the Central Government", have been replaced by the words "approved by the company by special resolution within two years from the date the sum becomes refundable". This amendment seeks to dispense with the requirement of the central government's approval to waive the recovery of the excess remuneration paid and vests that power in the company which the company must exercise by special resolution.

In subsection (10), the following proviso has been inserted:

"Provided that where any term loan of any bank or public financial institution is subsisting or the company has defaulted in payment of dues to non-convertible debenture holders or any other secured creditor, the prior approval of the bank or public financial institution concerned or the non-convertible debenture holders or other secured creditor, as the case may be, shall be obtained by the company before obtaining approval of such waiver."

According to subsection (11) of section 197, when a company resorts to Schedule V for payment of remuneration to its managing/whole-time director or manager in the financial year in which the company has a loss or inadequate profit, any provision relating to the remuneration of any director which purports to increase or has the effect of increasing the amount thereof, whether the provision be contained in the company's memorandum or articles, or in an agreement entered into by it, or in any resolution passed by the company in general meeting or its Board, shall not have any effect

unless such increase is in accordance with the conditions specified in that Schedule and if such conditions are not being complied, the approval of the Central Government had been obtained.

Now, the words "and if such conditions are not being complied, the approval of the Central Government had been obtained", in subsection (11), have been omitted, with the result that the company will have to comply with the conditions stipulated in Schedule V only.

3. Remuneration to Professional Managing Director/ Whole-Time Director/ Manager

Item (B) of Section II of Part II of Schedule V, provided for remuneration without any limit and without Central Government approval, payable to a managing director/whole-time director/manager who is a professional and fulfils certain conditions specified in item (B).

Now, according to the Notification amending Schedule V for the words "no approval of Central Government is required" the words "remuneration as per item (A) may be paid" have been substituted. The effect of this amendment is that, remuneration to a managing director/whole-time director/manager who is a professional and fulfils certain conditions specified in item (B), may be paid in the same way as the remuneration payable under item (A) discussed above.

4. Pending Applications to Abate

The following new subsection has been inserted in section 197:

"(17) On and from the commencement of the Companies (Amendment) Act, 2016, any application made to the Central Government under the provisions of this section as it stood before such commencement, which is pending with that Government shall abate, and the company shall, within one year of such commencement, obtain the approval in accordance with the provisions of this section, as so amended."

The effect of subsection (17) is that, since the requirement of central government's approval for various purposes under section 197 has been dispensed with, all applications made to the central government for any purpose which is pending with the government shall abate (means to come to an end or extinguish), and the company shall, within one year of the commencement of the Amendment Act, obtain the approval in accordance with the provisions of this section, as so amended.

5. Whether Fresh Resolution is required to be passed

An ordinary resolution under the first proviso to section 197(1) has to be passed before the company pays remuneration to its managing director/whole-time director/manager as well as non-executive directors in excess of 11% of net profits.

Similarly, a special resolution under the second proviso to section 197(1) has to be passed before the company pays remuneration to its managing director/whole-time director/manager in excess of 5% or 10% of net profits under clause (i) of the said proviso or to its non-executive directors in excess of 1% or 3% under clause (ii) of the said proviso.

A fresh special resolution under Item (A) or (B) of Section II of Part II of Schedule V need be passed for payment of remuneration in excess of the limits stipulated under Item (A), if such resolution is in compliance with the conditions specified under the second proviso below Item (B) (particularly the disclosure required in the explanatory statement annexed to the notice); if not, a fresh special resolution must be passed.

6. Remuneration of Directors for Professional Services

While s. 197(4) brings within its purview the remuneration payable to any director for services rendered by him "in any capacity", its proviso excludes any remuneration paid to directors for professional services rendered by them to the company. It reads as follows:

“(4) The remuneration payable to the directors of a company, including any managing or whole-time director or manager, shall be determined, in accordance with and subject to the provisions of this section, either by the articles of the company, or by a resolution or, if the articles so require, by a special resolution, passed by the company in general meeting and the remuneration payable to a director determined aforesaid shall be inclusive of the remuneration payable to him for the services rendered by him in any other capacity:

Provided that any remuneration for services rendered by any such director in other capacity shall not be so included if—

- a) the services rendered are of a professional nature; and
- b) in the opinion of the Nomination and Remuneration Committee, if the company is covered under sub-section (1) of section 178, or the Board of Directors in other cases, the director possesses the requisite qualification for the practice of the profession.”

This proviso is similar to the proviso to subsection (1) of section 309 of the Companies Act 1956 ('the 1956 Act'), except that the opinion was required to be obtained from the Central Government, which is now required to be obtained from the Nomination and Remuneration Committee (NRC).

It was stated by the Central Government in respect of the proviso in section 309 of the 1956 Act, that “the benefit of this exception will be available only in respect of those directors who possess requisite qualifications for practicing the profession in respect of which they render special services.”¹

The above proviso to s. 197(4) makes it clear that the remuneration for services rendered by a director in any other capacity shall not be included in the remuneration payable to the director in that capacity, provided the services so rendered by him are of a professional nature. Thus, the remuneration payable to a director for the professional services that he renders to the company is entirely outside the purview of the regulatory provisions of s. 197 including the percentage limits stipulated in that section, subject to compliance with the two conditions mentioned in it, namely:

- a) the services rendered are of a professional nature; and
- b) in the opinion of the Nomination and Remuneration Committee, if the company is covered under sub-section (1) of section 178, or the Board of Directors in other cases, the director possesses the requisite qualification for the practice of the profession.

The words ‘if the company is covered under sub-section (1) of section 178’ indicate that if a company is not covered under sub-section (1) of section 178, the decision as to the formation of opinion can be taken by the board of directors.

As will be noted from the interpretation placed by the courts on the identical provision under the Companies Act 1956, when a director is paid remuneration in terms of and by complying with the conditions stipulated in the proviso to

¹ Tenth Annual Report of the DCA for the year ended 31 March, 1966.

subsection (4) of section 197 of the Companies Act 2013, such remuneration does not fall within the ambit of the limits specified under section 197 of the Act and it is completely outside the ambit of those limits.

Relevant case law under the 1956 Act

As noted already, the proviso to subsection (4) of section 197 is substantially similar to the proviso to section 309(1) of the Companies Act 1956, the law laid down by the courts under the 1956 Act is relevant and valid under the 2013 Act in this regard.

On the question whether the remuneration for professional services is remuneration for the purposes and within the meaning of ss. 309 and 310 it is pertinent to take note of a Kerala High Court decision in *R. Gac Electrodes Ltd. & Another v Union of India & others*, (1982) 52 Comp Cas 288, wherein the Government had asked the company to submit Form No.26 for remuneration to be paid to its director for legal services rendered by him to the company. One distinct feature of that case is that the Government had advised the company to do that despite the fact that Government had issued earlier to two other companies a certificate expressing a positive opinion in respect of the same person, without asking for Form No.26.

The learned judge in that case quashed the order of the Government asking the company for an application in Form No.26 and directed to reconsider the matter, and held that if a director renders professional service not in his capacity as a director and the Central Government certified that he is having the requisite qualifications to practise that profession, the remuneration paid to him for that service will not form part of the managerial remuneration to which he is entitled, and the payment of which is to be limited to the ceiling fixed by section 198. The net result is that the remuneration for professional service rendered by a director will not be a remuneration to be determined under section 309 in accordance with section 198.

This question arose before the Bombay High Court in the case of *Ruby Mills Ltd., v Union of India*, [1985] 57 Comp Cas 193. In that case the Government had given its opinion affirmatively, that the director concerned has the requisite qualifications for rendering professional services as a legal adviser. However, the opinion was given subject to the condition that if any payment was to be made to the director for this professional services, it should be subject to prior approval of the Government under s. 310 of the Act. His lordship Pratap J. held that there was no legal warrant or justification for imposing the said condition as it in effect sought to include, albeit indirectly, professional fees in 'remuneration' though the same stand directly excluded therefrom by virtue of the Government's affirmative opinion. The condition also runs contrary to the fair and just compliance of s. 309(1) and the proviso thereto and virtually negates the intended consequence of the opinion in question and, in the process, renders the same infructuous and ineffective. The learned judge also observed that the fulfilment of the conditions attracting the legislative exception embodied in the proviso to s. 309 frees the company as also the qualified professional (who is also a director) from the statutory control over managerial remuneration or remuneration by virtue of ss. 198, 309 and 310 of the Act.

It may be mentioned that in view of the finding of the Kerala High Court in the case cited above, that remuneration for professional services is not a remuneration within the meaning and purview of ss. 198, 309 and 310, neither the guidelines on managerial, remuneration issued by the Government, nor the provisions of s. 637AA could apply to such case. Also, section 637A could not be invoked by the Government while expressing an opinion or issuing a certificate setting out the

opinion. Therefore, no conditions, limitations or restrictions could be stipulated by the Government in issuing such certificate of opinion.

There is nothing in s. 309 of the Act, which empowers the Central Government to restrict the remuneration payable to a director for services rendered by him in a professional capacity or to impose a condition that any payment of remuneration for services of professional nature should be subject to a prior approval under s. 310. Once the Central Government is satisfied that the director possessed the requisite qualifications to render professional services, it is not permissible for the Central Government to put any restriction on the remuneration payable to him by the company in respect of the professional services.²

It is not material, where a director renders professional services to the company, whether the consultation charges which are paid to him are paid on a monthly basis or on a case-to-case basis. Whatever may be the mode of payment to a professional consultant, what is paid to such person is his professional consultancy fee.³

The proviso enables a company to seek the opinion of the Central Government regarding possession of requisite qualifications. It is necessary and incumbent upon the Central Government, indeed, it is its duty to express an opinion thereon. The Central Government cannot side-track the issue by requiring compliance with another provision, or any other aspect of the company law as a pre-condition to the expression of opinion by it.⁴

In *Stup Consultants Ltd. v Union of India & Another* [1987] 61 Comp Cas 784 (Del), Mr. A held the technical post of senior chief consultant in civil engineering in the petitioner company for which professional services he was paid a monthly remuneration. He was also chairman and managing director with no additional remuneration. Giving full details of his professional qualifications, which the Government did not deny, the company by a letter requested the Central Government for expression of its opinion under section 309 in the case of A regarding whether he possessed the requisite qualifications for the practice of the profession of a civil engineer. At the same time, he was reappointed for a further period of five years as managing director. The Government did not reply to the company's letter requesting the expression of an opinion but merely required the company to weave an application for approval of A's reappointment as managing director. On a writ petition filed by the company, the Delhi High Court held, that since the professional qualifications of A were not disputed by the Central Government, A had to be treated as a person who had the requisite qualifications for the practice of the profession of a civil engineer and the company was entitled to such an opinion from the Central Government.

Since the remuneration for professional services under the proviso to section 197(4) is, as held by the three High Court judgments referred to above is outside the purview of subsections (1) and (4) of section 197(1), it does not require shareholders' approval and the Company is required to comply with only the two conditions specified in clauses (a) and (b) of the proviso to subsection (4) of section 197

² *Sree Gajanana Motor Transport Co. Ltd. v Union of India* (1992) 73 Comp Cas 348 (Kar); *Ruby Mills Ltd. v Union of India* (1985) 57 Comp Cas 193 (Bom); *Gac Electronics Ltd. (R) v Union of India* [1982] 52 Comp Cas 288 (Ker).

³ *Stup Consultants Ltd. v Union of India & Another* [1987] 61 Comp Cas 784 (Del).

⁴ *Ibid*



Short Summary:

In this editorial author shall discuss everything in relation to Annual Filing of a Private Limited Company. As we know every company whether working or not working must comply with certain provisions of Companies Act, 2013. Like: preparation of Financial Statement, Annual Return, and Holding of Annual General Meeting etc.

Index of Editorial:

- i. Mandatory yearly Compliances of a Private Limited Company.
- ii. List of Annual Compliances
- iii. Detail of Annual Filing of Compliances of Private Limited Company

A. Mandatory yearly Compliances of a Private Limited Company:

A Private Company whether working or non-working have to comply with all those compliances

List given as Annexure A

B. List of Annual Compliances:

	Type of Document	TYPE OF E-FORM	Purpose of Filing of Form
I.	Balance -Sheet	Form AOC-4.	Filing of Financial Statement with the ROC
II.	Consolidated Financial Statement	Form AOC-4 (CFS)	Companies which have Subsidiary Company, Associate Company and Joint Ventures.
III.	Profit & Loss Account	Form AOC-4.	Filing of Profit & Loss Account with the ROC
IV.	Annual Return	Form MGT-7.	To be filled by Companies having share Capital. To give information relating to directors and shareholder for the period of Financial Year.
V.	<i>Abridge</i> Annual Return	Form MGT-7A	To be filled by Small Companies and OPC
VI.	Director Report	Director Report along with Following Annexure: - AOC-2	To be file by all the Companies. Prepared as per Section 134, rule 8 and other applicable provisions.

		<ul style="list-style-type: none"> - Secretarial Audit Report - CSR 	
VII.	Abridge Director Report	Director Report along with Following Annexure: <ul style="list-style-type: none"> - AOC-2 - CSR 	To be file by Small Companies and OPC Prepared as per rule 8A and other applicable provisions.
VIII.	Filing of CTC of Resolution	Form MGT-14 (For the Companies except Private Limited Company)	For the purpose of adoption of Balance Sheet and Director Report.

a) Purpose of the Forms:

S. No.	Form No.	Purpose of Form	Status of Form
1.	MGT-7	Annual Return	E-Form
2.	MGT-7A	Abridged Annual Return	E-Form
3.	AOC-4	Financial Statement and other documents with the Registrar	E-Form
4.	MGT-14	Approval of Directors' Report and Annual Statement (By Public Company)	E-Form
5.	MGT-8	Certificate from Practicing Company Secretary	Attachment (MGT-8)
6.	AOC-1	If Company have any Subsidiary/ Associate/ Joint Venture Company	Attachment (AOC-4)
7.	AOC_2	Information relating to Related Party Transaction.	Attachment (AOC-4)
8.	ADT-1	If Auditors Appointed/ re-appointed in AGM	E-Form

b) Attachment in the Forms:

Form No.	Attachments:
AOC-4	<ul style="list-style-type: none"> Financial statements duly authenticated as per section 134 auditors' report Board's report <p>IF ANY</p> <ul style="list-style-type: none"> Secretarial Audit Report CSR Annexure II Statement of subsidiaries/ Associates/ Joint Ventures as required under section 129 in the format of Form AOC-1 Company CSR policy Details of salient features and justification for entering into contracts/ arrangements/transactions with related parties as per Sub-section (1) of section 188 - Form AOC-2
MGT-7 / MGT-7A	<ul style="list-style-type: none"> List of shareholders, Debenture Holders List of Transfer/ Transmission of Shares <p><u>IF ANY</u></p> <ul style="list-style-type: none"> Approval letter for extension of AGM Copy of MGT-8;
MGT-14	<ul style="list-style-type: none"> Board Resolution for approval of Financial Statement Board Resolution for approval of Directors' Report
ADT-1	<ul style="list-style-type: none"> Consent of Auditor Eligibility Certificate of Auditor CTC of General Meeting Resolution Appointment Letter

c) Time Period for filing of Forms:

AOC-4	Within 30 days of Holding of Annual General Meeting
MGT-7/ MGT-7A	Within 60 days of holding of Annual General Meeting. If there is no AGM, then within 60 days from the date on which AGM should have held.

MGT-14	Within 30 days of Holding of Board Meeting. (By Public Company)
ADT-1	If Auditor Appointed/ re-appointed in the AGM

d) Sections Relating to Annual Forms:

Form	Section and Rules
MGT-7/ MGT-7A	Section 92(1) of the Companies Act, 2013 and rule 11(1) of the Companies (Management and Administration) Rules, 2014
Aoc-4	Section 129(3), 137 of the Companies Act.2013 and Rule 12(1) of the Companies (Accounts) Rules, 2014
MGT-14	Section 179(3)(g) read with section 17(3)(g)

I. AOC-4:

As per section 137(1) of the Companies Act, 2013, every Company is required to file with the Registrar a copy of its financial statements, including consolidated financial statement, if any, along with all the documents which are required to be or attached to such financial statements under this Act, duly adopted at the annual general meeting of the company within thirty days of such AGM in e-form AOC-4.

a) Consolidated Financial Statement:

In case Company having any Subsidiary or Associated, Company shall prepare consolidated financial Statement. Consolidated financial statement required to file with ROC within 30 days of AGM in e-form AOC-4CFS.

b) Extensible Business Reporting (XBRL):

In case of the companies covered under XBRL requirement under the Companies (Filing of documents & Forms in Extensible Business Reporting Language) Rules, 2015, the financial statements to be uploaded on MCA portal, have to be in XBRL format. In this case the requirement of signing by hand is not a requisite.

XBRL is applicable on following Companies:

- All companies listed in the stock exchange in India and their Indian subsidiaries.
- All companies with a turnover of Rs. 100 crores or more
- All companies with a paid-up capital of Rs. 5 crores or more
- All the companies which are required to prepare their financial statements in accordance with the Companies (Indian Accounting Standards) rules, 2015.

II. Directors Report:

The Companies Act, 2013, requires the Board of Directors of every company to attach its report to the financial statements to be laid before the members at the annual general meeting. The Board's Report is an important means of communication by the Board of Directors of a company with its stakeholders

The Companies Act, 2013, mandates certain disclosures to be made in the Board's Report.

Following disclosures are required to mention in Directors' Report

- Small & OPC - Rule 8A of Section 134 (Abridge Directors Report)

Directors Report of Small and OPC required less disclosures than other Companies.

- **Other than Small** - Section 134(3) read with Rule 8
- **Listed:** A listed company is also required to comply with certain additional requirements as stated under the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.
- **Other Disclosures** - Directors' Report required certain other disclosures also under Companies Act, 2013 accordingly to the applicability of provision on the Company. EG. If CSR provisions applicable to a company, then company required to give disclosures on CSR also.

*The Board's Report should be based on the company's standalone financial statement and not on the consolidated financial statement and should relate to the financial year for which such financial statement is prepared.

*Requirement of preparation of MGT-9 has been removed from Companies Act for F.Y. 2020-21 and onwards.

III. MGT-7:

As per section 92 of the Companies Act, 2013, every company is required to prepare the Annual Return in Form No. MGT-7 and file with the Registrar within 60 days from the date on which Annual General Meeting (herein after AGM)is actually held or from the last day on which AGM should have been held.

An Annual Return is a snapshot of certain company information as they stood on the close of the financial year. It is perhaps the most important document required to be filed by every company with the Registrar of Companies. Apart from the Financial Statements, this is the only document to be compulsorily filed with the Registrar every year irrespective of any events / happenings in the company. While the Financial Statements give information on the financial performance of a company, it is the Annual Return which gives extensive disclosure and greater insight into the non-financial matters of the company and the people behind management of the company

An Annual Return must contain the information regarding:

- its registered office, principal business activities, particulars of its holding, subsidiary and associate companies;
- its shares, debentures and other securities and shareholding pattern;
- its members and debenture-holders along with changes therein since the close of the previous financial year;
- its promoters, directors, key managerial personnel along with changes therein since the close of the previous financial year; ETC.

Annual Return

- **Small Company & OPC:** annual Return of these Companies shall be file in e-form MGT-7A from FY 2020-21. (Abridged Annual Return)
- **Other Companies:** annual Return of these Companies shall be file in e-form MGT-7.

Certification by Profession:

- **Small Company & OPC:** Annual Return of Small Company & OPC not required to certify by Company Secretary.
- **Other Companies:** annual Return of Companies other than Small & OPC required to be certify by Practicing Company Secretary or Whole Time Company Secretary.

IV. Certification of Annual Return (MGT-8):

Form MGT-8 is a certification given on a company's annual return by a Practicing Company Secretary, as per the Companies Act 2013, under Section 92(2)

Applicability:

According to Section 92(2) of the Companies Act, 2013 read with rule 11(2) of Companies (Management and Administration) Rules 2014 following companies required certification of Annual Return.

- a) All Listed Companies
- b) Every Company having:
 - Paid-Up share capital of 10 Crore (Ten Crore) rupees or more or
 - Turnover of 50 Crore (fifty crore) rupees or more

The Company Secretary shall certify that the annual return discloses the facts correctly and adequately and the firm has complied with all the provisions of the Act.

V. Annual General Meeting:

Every company is required to hold, during every Calendar Year, a Meeting of its Members called the Annual General Meeting. The importance of the Annual General Meeting arises out of the nature of business transacted at this Meeting.

Broadly there are two types of business that are transacted at an Annual General Meeting - Ordinary Business and Special Business.

At an Annual General Meeting, consideration of financial statements & consolidated financial statements, reports of the Board of Directors and the auditors, declaration of dividend, appointment of Directors in place of those retiring and approval or ratification of appointment of the Auditors and fixing their remuneration are Ordinary Business.

Any other item of business is referred to as Special Business and may also be transacted at an Annual General Meeting.

Notice of AGM shall be sent at least 21 clear days before General Meeting. If a Company conducts AGM on shorter notice, then they have to comply with certain other compliances.

*For FY 2020-21 Annual General Meeting can be held through Physical mode as well as Video Conferencing Mode (due to Covid 19 situation).

Process of holding of AGM:

Annual General Meeting should be held as per provisions of Companies Act, 2013 as well as Secretarial Standard 2 issued by ICSI. By referring Secretarial Standard company can understand the process of holding of AGM-

Like Preparation of Notice of AGM, mode of circulation of Notice, persons who will get copy of Notice, how to convene AGM, how to Vote, who can be Proxy, how to prepare Minutes of EGM etc.

Important Things for 2020-21

1. MGT-9 has been removed from Companies Act, 2013 for FY 2020-21 and onwards. Does not matter company having website or not, there is no need to prepare the MGT-9.
2. Small and OPC shall file their Annual Return in MGT-7A from FY 2020-21 and onwards.
3. There is no change in disclosures of Directors report to be prepared for FY 2020-21 except followings:
 - No need to prepare MGT-9
 - If CSR applicable on Company, then need to prepare annexure of CSR in new format.
4. Disclosures added in Directors Report by amendment dated 24th March 2021 shall be applicable on Directors Report of 2021-22.
5. There is no change in disclosures of Auditors Report for FY 2020-21. Amendment dated 24th March 2021 shall be applicable on Auditors Report of 2021-22.
6. As definition of Small Company has been changed w.e.f. 01st April 2021 but for the purpose of annual filing status of Companies as on 31st March 2021 as per old definition required to be check.
7. AGM for F.Y. 2020-21 can be held through Video Conferencing if held on or before 31st December 2021

Author

Disclaimer: The entire contents of this document have been prepared based on relevant provisions and as per the information existing at the time of the preparation. Although care has been taken to ensure the accuracy, completeness, and reliability of the information provided, I assume no responsibility, therefore. Users of this information are expected to refer to the relevant existing provisions of applicable Laws. The user of the information agrees that the information is not professional advice and is subject to change without notice. I assume no responsibility for the consequences of the use of such information.

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Annual Compliances under POSH Act, 2013, and SEBI (LODR) Regulations, 2015



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I. The Sexual Harassment of Woman at Workplace (Prevention, Prohibition and Redressal) (PoSH) ACT, 2013 and its Compliances

The PoSH, Act, 2013 was introduced with an aim to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for related matters.

The PoSH Act, 2013 stipulates that a woman shall not be subjected to sexual harassment at her workplace. Accordingly, it may be noted that in-order for a woman to claim protection under the POSH Act, the incident of sexual harassment should have taken place at the 'workplace'.

➤ Compliance Requirements under the PoSH ACT, 2013 in brief:

1. Constituting an Internal
2. Complaints Committee (ICC) and Local Complaints Committee (LCC)

every employer with 10 or more employees must constitute an Internal Complaints Committee (ICC) within the organization to handle complaints of Sexual Harassment. A Local Complaints Committee (LCC) will be set up in each district to hear complaints from institutions where there are fewer than ten employees, or where the complaint is against the employer himself.

2. Sexual Harassment Policy

The employer needs to prudently draft a sexual harassment policy and approval of the same by the Board of the Company.

Basic Details required to be entered while drafting PoSH Policy:

- ICC Composition: names, designation and contact details of the ICC members.
- Acts which constitute as a sexual harassment act
- The process for Resolution, Settlement, Prosecution, enquiry and trial procedure

3. Committee Meetings

Convening meetings of the Internal Complaints Committee as and when required.

4. Creating awareness

Briefing the employees (both males and females) about sexual harassment Act, Policy, consequences thereof via conducting orientation sessions or seminars.

5. Filing of Annual Report under the Act:

The Internal/ Local Committee, as the case may be shall prepare an annual report in each calendar year and submit it to the employer and District Officer.

6. Complaints Reporting in Annual Report:

Disclosures regarding compliance with PoSH laws is required along with reporting number of sexual harassment complaints received in a year, the number of sexual harassment disposed off in the year and cases pending for more than 90 days, in its Annual Report.

7. Investigation of the Complaints made to the Committee and submitting a report thereto;

8. Assistance by the Company to the complainant in filing of FIR or complaint to the police, if required

The Main objective of PoSH Act, 2013 is to Provide a safe and secure Environment to every woman, regardless of her age, designation, religion, employment status, and making the employer accountable for any Compliant / grievance.

II. Annual Compliances Under SEBI (LODR) Regulations, 2015

SEBI (LODR), Regulations, 2015 are applicable to only those Entities / Companies, whose securities are listed on any Recognized Stock Exchange.

A. An Annual Compliance Overview under SEBI (LODR), Regulations, 2015

Sl. No	Regulation No. & Compliance Particulars	Due Date
1.	Regulation 32 & 33 : Financial Results & Statement of deviation 45 days/60 days from end of quarter	14.08.2021
2.	Reg.15(1)(t)(i) : Issuer of the listed Debt securities shall on yearly basis Submit with debenture trustee certificate from the statutory Auditor giving the value of book debts/receivables	Annual Basis
3.	Regulation 34: Submission of Annual Report Within 21 working days of it being approved and adopted in the annual general meeting.	Not later than the day of commencement of dispatch to its shareholders.
4.	Regulation 44: Submission of voting results	Within 48 hours of conclusion of general meeting

5.	Regulation 14: Listing fees & Others charges	Within due dates in the manner specified by the Boards of SEBI
6	Regulation 7: Share Transfer Agent	Within 30 days from the end of the financial year
7	Regulation 40 (10): Transfer or transmission or transposition of securities	Within 30 days from the end of the financial year
8.	Regulation 40 (9): PCS Certificate on Share Transfer	One month from end of FY

B. SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011

Sl. No.	Regulation No.	Compliance Particular	Compliance Period (Due Date)
1	Regulation 30(1)	Every person, who together with persons acting in concert with him, holds shares or voting rights entitling him to exercise 25% or more of the voting rights in a target company, shall disclose their aggregate shareholding and voting rights as of the 31 st day of March, in such target company in such form as may be specified.	<p>The disclosures required under sub-regulation (1) and sub-regulation (2) shall be made within seven working days from the end of each financial year to;</p> <ul style="list-style-type: none"> every stock exchange where the shares of the target company are listed; and the target company at its registered office
2	Regulation 30(2)	The promoter of every target company shall together with persons acting in concert with him, disclose their aggregate shareholding and voting rights as of the thirty-first day of March, in such target company in such form as may	

3.	<p>Regulation 31(1) read with Regulation 28(3) of Takeover Regulations</p> <p>AUGUST 7, 2019</p> <p>CIRCULAR</p> <p>https://www.sebi.gov.in/legal/circulars/aug-2019/disclosure-of-reasons-for-encumbrance-by-promoter-of-listed-companies_43837.html</p>	The promoter of every listed company shall specifically disclose detailed reasons for encumbrance if the combined encumbrance by the promoter along with PACs with him equals or exceeds: a) 50% of their shareholding in the company; or b) 20% of the total share capital of the company,	within 2 (two) working days
4.	Regulation 31(4)	Disclosure of encumbered shares	Promoter of every target company shall together with persons acting in concert with him, disclose their aggregate shareholding and voting rights as of the 31st March, in such target company in such form as may be specified

C. SEBI (Prohibition of Insider Trading) Regulations, 2015

Sl. No.	Regulation No.	Compliance Particular	Compliance Period (Due Date)
1	Regulation 7(2) “Continual Disclosures”	Every promoter, employee and director of every company shall disclose to the company the number of such securities acquired or disposed of within two trading days of such transaction if the value of the securities traded, whether in one transaction or a series of transactions over any calendar quarter, aggregates to a traded value in excess of ten lakh rupees (10,00,000/-) or such other value as may be specified;	Every company shall notify; within two trading days of receipt of the disclosure or from becoming aware of such information

An insight into the Statement of other Comprehensive Income and the related accounting entries



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Prologue:

In the Article which appeared in 2 parts of the e-magazine of the Mysore Chapter of the ICSI, (May and June 2020) an attempt had been made towards a somewhat incomplete, but detailed analysis of the Accounting Entries required to be passed on Upward and Downward Revaluation of Property Plant and Equipment in terms of Ind AS 16/ IAS 16. Attempts to strengthen the view that the Statement of Comprehensive Income is also an Account like Profit & Loss Account conforming to the cardinal principles of Double Entry bookkeeping was also made therein, as against a fragile contrary view that it is not Account, but only a Statement. This was supported by a few authoritative references.

At the cost of appearing pleonastic and repetitive, this Article attempts to further buttress the view that the “Statement of Profit or Loss and Other comprehensive Income” also conforms to the Principles of Double entry Book-keeping with the accounting entries passed in the preparation of “Other Comprehensive Income” section of the Statement of Profit or Loss confirming this view. This necessitates an incisive analysis of the nature and contents of the Statement of Other Comprehensive Income and the Accounting Entries required to be passed to prepare it. This Article, to an extent, is in pursuit of this aspect.

NATURE OF THE STATEMENT OF OTHER COMPREHENSIVE INCOME:

The “Statement of profit or loss and Other Comprehensive Income” reports all non-owner transactions and is a significant source of information about a business entity's financial performance. It also has a prognosticative value, in that, it facilitates the users to predict an entity's future performance and future cash flows with a certain degree of accuracy notwithstanding the fact certain limitations of the statement of profit or loss and Other Comprehensive Income might also stem from (a) the mandatory charging off expenditure relating to certain self-generated intangible assets as required by Ind AS 38 and (b) earnings management through selective judgements relating to the recognition and measurement of items of income or expense, such as an impairment loss, with the objective of achieving a reported profit outcome, such as smoothing earnings, meeting earnings targets or projecting an image of earnings growth.

As regards the preparation of Statement of Profit or Loss, International Accounting Standard (IAS 1) “Presentation of Financial Statements, vide its para 10, provides for preparation of a statement of Profit or Loss and Other comprehensive Income for the period presented as a single statement or by presenting the profit or loss in a separate statement of profit or Loss immediately followed by a Statement presenting Comprehensive income beginning with profit or loss. Contrarily, para 81 of Ind AS 1 issued by the ICAI earlier provided that an entity shall present all items of Income and Expense including components of Other comprehensive Income recognized in a period in a single statement of Profit and Loss. However, the modified para 10A of the Ind A S 1 reproduced below permits an entity to present a single

statement of profit and loss with profit or Loss and other comprehensive income presented in two sections. The sections shall be presented together, with

the profit or loss section presented first followed directly by the other comprehensive income section.

Quote:

INDAS 1 PARA 10A

An entity shall present a single statement of profit and loss, with profit or loss and other comprehensive income presented in two sections. The sections shall be presented together, with the profit or loss section presented first followed directly by the other comprehensive income section.

Unquote:

Further, Other comprehensive income can be reported either net of related tax effects or before related tax effects with a single aggregate income tax expense.

In terms of para 91 of Ind As 1, an entity may present items of Other Comprehensive Income either:

- a) net of related tax effects or
- b) before related tax effects with one amount shown for the aggregate amount of income tax relating to those items.

This aspect is explained in the following hypothetical Statement of “Profit or loss and Comprehensive Income” as advocated by a well-known authority in Financial Accounting Mr. Steven M Bragg in his monumental Book” Interpretation and application of Generally Accepted Accounting Principles.”

[Alternative (a)- net approach]

RESTORE INDIA LIMITED

Statement of Profit or loss and Comprehensive income

for the year ended 31st March 2021.

		Rupees
Sale of Goods		3,95,400
Other Expenses (details omitted)		312,150
Net Income		83,250
Other Comprehensive Income:		
1) Foreign Exchange translation adjustment (net of tax -Rs 5,100)		1 1,900

- a) Unrealized Gain on Securities arising during the period (net of tax -Rs. 7,500)	17,500	
b) Less: Reclassification gain included in the Profit (net of tax - Rs 1500)	(3,500)	14,000
2) Loss on Cash flow Hedges arising during the period (net of tax- Rs.4,800)	(11,200)	
Less: Reclassification loss included in Profit (net of tax- Rs. 7762)	18,113	6,913
Pension liability Adjustments (Net of tax - Rs. 1,950)		4,550
Other Comprehensive Income		28,263
TOTAL COMPREHENSIVE INCOME		1,11,513

[Alternative (b)- Gross approach]

Restore India Limited
Statement of Profit or loss and Comprehensive income
for the year ended 31st March 2021.

		Rupees
		3,95,400
Sale of Goods		3,12,150
Other Expenses (details omitted)		
Net Income		83,250
Other Comprehensive Income:		
1) Foreign Exchange translation adjustment		17,000
a) Unrealized Gain on Securities arising during the period	25,000	
b) Less: Reclassification gain included in the Net Income	(5,000)	20,000
2) Loss on Cash flow Hedges arising during the period	(16,000)	
Less: Reclassification loss included in Net Income	25,875	9,875

Pension liability Adjustments		(6,500)
Tax effects of items included in other Comprehensive Income		(12,112)
Other Comprehensive Income		28,263
TOTAL COMPREHENSIVE INCOME		1,11.513

It is important here to note that if the “Gross approach” in alternative (b) above is adopted, it would be necessary to disclose in the Notes to the Financial statements the details regarding the allocation of the tax effects to the several items included in other comprehensive income. An example of a such a Note may look as stated below:

Particulars	Before Tax Effect	Tax Expense/ (Tax Benefit)	Net of tax affect
Foreign Exchange translation adjustment	17,000	5,100	11,900
Unrealized Gain on Securities arising during the period	25,000	7,500	17,500
Reclassification gain included in Net Income	(5000)	(1500)	(3,500)
Net Unrealized Gains	20,000	6,000	14,000
Loss on Cash flow Hedges	(16,000)	4,800	(11,200)
Reclassification loss on Cash flow included in Net Income	(25,875)	(6,913)	(18,113)
Pension liability Adjustments	(6,500)	(1,950)	(4,550)
Other Comprehensive Income	40,375	12,112	28,263

Equally pertinent to note is that generally “Comprehensive income” details the changes in the overall net assets of an entity and by doing so, it notifies the change in the value of an owner's interest in a business. Total Comprehensive Income is the sum of regular income and Other Comprehensive Income with a broader view of a company's gains, losses and revenues getting reflected by the details in the Other Comprehensive Income Account. Specifically, it may be noted that:

- Items of Other Comprehensive Income though occur rather infrequently for smaller businesses, it is very significant for valuation of bigger entities and
- Unrealized gains and losses from assets are the primary representation of other comprehensive income,

Other Comprehensive Income show how the unrealized performance of an entity's investment portfolio can reveal the possibility of major losses/Gains in the foreseeable future.

It appears a misconception to say that only the realized gains are included in the statement of profit or loss and that only the unrealized gains and losses are included in the Other Comprehensive Income, for it is very clear that while gain on the revaluation of land and buildings is recognized in accordance with Ind As 16, *Property Plant and Equipment*, Increases in the carrying amount of PP&E as a result of revaluations are credited to OCI and are accumulated in a revaluation Reserve account under Equity with an exception wherein to the extent that a revaluation increase reverses a revaluation decrease of the same asset that was previously recognized as an expense in profit or loss, such increase should be credited to income in profit or loss and Decreases in valuation should be charged to profit or loss, except to the extent that they reverse the existing accumulated revaluation Reserve on the same asset and therefore such decrease is recognized in the OCI. The decrease recognized in OCI reduces the amount accumulated in Equity under revaluation surplus account. [Ind AS 16.39, 40]. Therefore it appears that it is not permissible under the standard to carry a negative revaluation reserve in respect of any item of PP&E.

Similarly, in respect of Investments in Equity Instruments designated at Fair Value with an irrevocable option of FVTOCI, the fair value gains and losses are recognized in the OCI and accumulated in Other components of Equity, if such financial assets are designated in accordance with Ind AS 109 at the inception as “Fair Value Through Other Comprehensive Income (FVTOCI). However, if the management decides not to make this election, then the investment will be by default accounted for as Fair Value Through Profit or Loss (FVTPL) and the Fair Value gains and losses are recognized in the Statement of profit or Loss. If the Gains and Losses from investments in equity instruments for which OCI has been irrevocably elected, they would continue to remain in OCI even when equity instruments are sold and the cumulative gain or loss on that investment are transferred from OCI to Equity directly and the same is not routed through profit or loss account.

The items that constitute other Comprehensive income are as follows:

- a) Changes in revaluation surplus (Ind AS 16, Property, Plant and Equipment and Ind AS38, Intangible Assets),
- b) Remeasurements of defined benefit plans (Ind AS 19, Employee Benefits)
- c) Gains and losses arising from translating the financial statements of a foreign operation (Ind AS 21, - The Effects of Changes in Foreign Exchange Rates);

- d) Gains and losses from investments in equity instruments designated at fair value through other comprehensive income in accordance with Ind AS 109, - Financial Instruments.
- e) Gains and losses on financial assets measured at fair value through other comprehensive income in accordance with Ind AS 109.
- f) Effective portion of gains and losses on hedging instruments in a cash flow hedge and the gains and losses on hedging instruments that hedge investments in equity instruments measured at fair value through other comprehensive income in accordance with paragraph 5.7.5 of Ind AS 109
- g) Particular liabilities designated as at fair value through profit or loss, the amount of the change in fair value that is attributable to changes in the liability's credit risk as per Ind AS 109);
- h) changes in the value of the time value of options when separating the intrinsic value and time value of an option contract and designating as the hedging instrument only the changes in the intrinsic value (Chapter 6 of Ind AS 109).
- i) changes in the value of the forward elements of forward contracts when separating the forward element and spot element of a forward contract and designating as the hedging instrument only the changes in the spot element, and changes in the value of the foreign currency basis spread of a financial instrument when excluding it from the designation of that financial instrument as the hedging instrument (see Chapter 6 of Ind AS 109).

The Other Comprehensive Income section of the P & L account or the "Statement of Profit or Loss and Other Comprehensive Income" is required to disclose the following 2 aspects of adjustment :

- a. Gains and losses that cannot reclassified to Profit or Loss
- b. Gains and losses that can be reclassified back to Profit or Loss.

Reclassification adjustments are the amounts which are reclassified to Profit or Loss account in the current period which were in the previous period/periods recognized in "Other Comprehensive Income" Account. Colloquially called Recycling, it is a process where gains or losses are reclassified from equity to Statement of Profit or Loss. Simply stated, Reclassification adjustments are amounts reclassified to profit or loss in the current period that were recognized in Other Comprehensive Income in the current or previous periods as an accounting adjustment. In other words, gains or losses are first recognized in the OCI and then in a later accounting period also recognized in the Statement of Profit or Loss. That is how the gain or loss is reported in the total comprehensive income Statement of two accounting periods and it is said to be recycled, as it is recognized twice.

Further, there are certain GAINS AND LOSSES that cannot be reclassified back to profit or loss and for example they are:

- a.1) Changes in revaluation surplus where the revaluation method is used in accordance with Ind AS 16.
- a.2) Gains and losses on remeasuring financial assets in accordance with Ind AS 109.
- a.3) Remeasurements of net defined benefit liability or asset recognized in accordance with the Ind AS 19.

While the Article which appeared in July and August 2020 detailed the accounting entries in respect of a.1) above, the accounting entry in respect of a.2) above are detailed in the **EXAMPLE 1** given below :

Example:

RESTORE India Limited has financial assets (equity instrument) classified as Available- for- sale (**AFS**) which are measured at Fair Value at the end of each year with changes in Fair Value recognized in FVTOCI (Unrealized Gain). When these assets are sold, any gain or loss is then realized and recognized as Income/expense. The following are other details:

- i) Financial Assets are purchased on 31st May 2019 for R.1,40,000/-,
- ii) These are measured on Fair Value basis on 31st March 2020 at Rs.1,60,000/- and
- iii) are sold on 25th April 2020 for Rs.1,70,000/-

The required Journal entries are as under:

Particulars	Debit (Rs)	Credit (Rs)
(1) 31-5-2019 Financial Assets (FVTOCI) a/c Dr To Bank (Being the purchase of Financial Assets- classified as FVTOCI)	1,40,000	1,40,000

Particulars	Debit (Rs)	Credit (Rs)
(2) 31-3-2020 Financial Assets (FVTOCI) a/c Dr To Unrealized Fair Value Gain on Financial Assets- FVTOCI (Being the cost of Financial Assets (FVTOCI) adjusted for gain on Fair Value measurement on the Balance sheet date)	20,000	20,000

Particulars	Debit (Rs)	Credit (Rs)
(3) 31-3-2020 Unrealized Fair Value Gain on FVTOCI a/c Dr To Other Comprehensive Income Account (Being the unrealized Fair value Gain on Financial Assets (AFS) transferred to Other Comprehensive Income account)	20,000	20,000

Particulars	Debit (Rs)	Credit (Rs)
(4) 31-3-2020 Other Comprehensive Income a/c Dr To Deferred tax Liability To Fair Value Reserve (Being the Deferred tax liability recognized @ 10% in Other Comprehensive income Account in respect of Gain on Fair value measurement and balance transferred to Fair Value Reserve a/c)	20,000	2,000 18,000

Particulars	Debit (Rs)	Credit (Rs)
(5) 25-4-2020 Bank a/c Dr To Profit on sale of Financial Assets- FVTOCI a/c To Financial Assets (FVTOCI) (Being the gain realized on sale of Financial Assets (FVTOCI) transferred to P&L Account)	1,70,000	10,000 1,60,000

(6) 25-4-2020 Fair Value Reserve A/c Dr To Retained Earnings (Being the unrealized Fair value Gain on Financial Assets (FVTOCI) earlier credited former account now transferred to retained Earnings on sale of the underlying Financial Asset)	18,000	18,000
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Particulars	Debit (Rs)	Credit (Rs)
25-4-2020 Bank a/c Dr To Profit on sale of Financial Assets- FVTOCI a/c To Financial Assets (FVTOCI) (Being the gain realized on sale of Financial Assets (FVTOCI) transferred to P&L Account	1,70,000	10,000 1,60,000

Particulars	Debit	credit
(9) 31-3-2021 Deferred Tax Liability Account Dr To Profit & Loss Account (Being the Deferred tax Liability earlier recognized in Statement of other comprehensive Income now transferred to P&L Account consequent upon sale of FVTOCI designated Financial Assets.)	2000	2000

(10)31-3-2021 Profit on sale of Financial Assets (FVTOCI) a/c Dr To Profit & Loss account (Being the profit realized on sale of Financial Assets (FVTOCI) transferred to P &L account)	10,000	10,000
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EPILOGUE:

We, the Company Secretaries, as signatories to the financial statements, may strengthen our core competence by adding value thereto through other disciplines closely connected therewith too, such as Financial Accounting , for gaining wider acceptance and importance which our august profession richly deserves.





HELP YOURSELF

Food for Thought



Aparna U

Executive Student

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Atomic Habits

- By James Clear

Have you ever wanted to start a habit, like doing Yoga or cycling or writing or reading books and so on, but never started? What stopped you from forming a new habit? Was time the only constraint or are there other factors? It could also be that you started with a new habit but failed to continue. Or have you found it difficult to break a bad habit? If you answered yes to any of these questions, this book is for you.

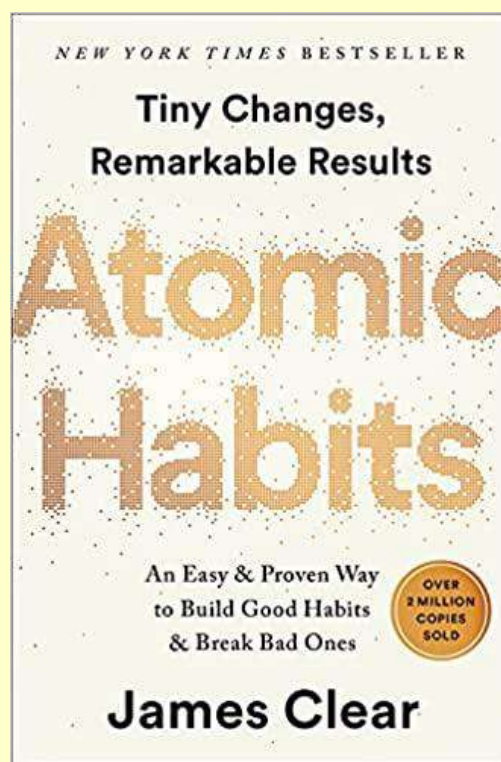
Understand the science of habits and you will be able to form good habits and break bad ones, ultimately improving the quality of your life. The famous quote by Mike Murdock-"The secret of your future is hidden in your daily routine" encourages one to craft one's day well for the purpose of doing well in life.

James Clear is one of the most celebrated authors who explains the science of habits and habit-formation. This book, 'Atomic Habits' by him is another New York Times Bestseller that we are discussing here under this column and has sold over two million copies.

The author helps us understand how tiny (atomic) changes can become extremely significant. He highlights those habits are the compound interest of self-improvement. He articulates this in a super-realistic way, therefore making it very easy for one to put into action what one learns from the book.

As the purpose of this column is NOT to give you a book review but to only suggest a book by presenting only a small glimpse of it here, let us see one or two techniques mentioned in the book on building habits. They are simple, realistic, and very practical and therefore very effective.

Habit Stacking is one of the many effective ways of building habits mentioned in the book. It means identifying a current habit and stacking a new habit on top of it thereby ensuring that the new habit is carried out each day. For example, you want to start doing push-ups each day. This is a new habit that you want to build. Stack it with something simple that you already do each day. Like, let's say, closing your laptop for lunch. This is how you build your habit effectively- "As soon as I close my laptop for lunch, I will do ten push-ups." After I _____ (current habit), I will _____ (new habit)



each day. More examples would be- “After I brush my teeth, I will meditate for ten minutes every day.” “After I have my evening tea or coffee, I will read ten pages of a book every day.” This is just one technique that we discussed here. There are plenty of such practical, simple, and easy practices to help you build, continue and stick on with your habits until they penetrate seamlessly into your daily routine which when done right and enough, will, like compound interest, reward you with unprecedented results.

“How long does it take for a practice to become a habit?” The author suggests that this question should instead be framed as- “How many repetitions does it take for a practice to be a habit?” This being said, we all are not very consistent especially when we are just starting off with a new habit. What makes us discontinue our habits? How to ensure that we stick with our habits each day? The author has a simple yet very effective way to ensure that practices are repeated enough number of times till it is safe to call a habit. It's just this mantra- “Never miss twice.” Let's say you decided to eat only healthy food each day, but a friend comes over and you miss it and indulge in eating fast food. To quickly rebound to your habit of eating healthy is what you need to do. Don't continue breaking that habit the next day as well. That would result in the start of a new habit- eating unhealthy. Everyone misses their practice, but success lies in how quickly you rebound back.

The book answers many questions as to why and how habits function. The chapters are dedicated to discussing with you how habits shape your identity, the role of your friends and family in shaping your habits, how to stop procrastinating, how to make good habits irresistible and bad ones impossible, how environment matters in habit-building, the truth about talent and many more. What habit do you want to build and master?



Regulatory Updates



Compiled by:
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Professional Student
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Companies Act, 2013

Updates on Circulars

In continuation to the General Circular number 10/2020, MCA has further clarified that spending of CSR funds for COVID-19 vaccination, for persons other than employees and their families, is an eligible CSR activity under item number (i) of

schedule VII of the companies Act, 2013 relating to promotion of health care including preventive health care and item number (Xii) relating to disaster management.

The companies which undertake the above-mentioned activity shall adhere to companies (CSR policy) rules, 2014 and the circulars related to CSR issued by the ministry from time to time.

General Circular No. 13/2021

Updates on Notifications

MCA has amended the Companies (Incorporation) Rules, 2014, which shall be known as Companies (Incorporation) Fifth Amendment Rules, 2021. The following rule shall be inserted, after rule 33 in Companies (Incorporation)

Rules, 2014;

“33A. Allotment of a new name to the existing company under section 16(3) of the Act.

(1) In case a company fails to change its name or new name, as the case may be, in accordance with the direction issued under sub-section (1) of section 16 of the Act within a period of three months from the date of issue of such direction, the letters “ORDNC” (which is an abbreviation of the words “Order of Regional Director Not Complied”), the year of passing of the direction, the serial number and the existing Corporate Identity Number (CIN) of the company shall become the new name of the company without any further act or deed by the company, and the Registrar shall accordingly make entry of the new name in the register of companies and issue a fresh certificate of incorporation in Form No.INC-11C:

Provided that nothing contained in sub-rule (1) shall apply in case e-form INC-24 filed by the company is pending for disposal at the expiry of three months from the date of issue of direction by Regional Director, unless the said e-form is subsequently rejected.

(2) A company whose name has been changed under sub-rule (1) shall at once make necessary compliance with the provisions of section 12 of the Act and the statement, “Order of Regional Director Not Complied (under section 16 of the Companies Act, 2013)” shall be mentioned in brackets below the name of company, wherever its name is printed, affixed or engraved:

Provided that no such statement shall be required to be mentioned in case the company subsequently changes its name in accordance with the provisions of section 13 of the Act. MCA has released Form No. INC-11C.

Companies (Incorporation) Fifth Amendment Rules,2021

The MCA has exempted the following from the provisions of sections 387 to 392 (both inclusive);

- a. foreign companies;
- b. companies incorporated or to be incorporated outside India, whether the company has or has not established, or when formed may or may not establish, a place of business in India,

as far as they relate to the offering for subscription in the securities, requirements related to the prospectus, and all matters incidental thereto in the International Financial Services Centers set up under section 18 of the Special Economic Zones Act, 2005 (28 of 2005). S.O. 3156(E)



Delhi Diaries



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The Dawn of a New era of Emergency Arbitration - Amazon.com NV Investment Holdings LLC v. Future Retail Ltd. and Ors.

Delay in adjudication of legal rights and liabilities has been a common complaint raised against the legal system by litigants in India. The government and the parliament have repeatedly tried to provide a speedier alternative to dispute resolution by way of arbitration. Despite best intentions, arbitration has not reduced the overall time taken for resolution of disputes in any meaningful manner. However, this may be finally set to change with emergency arbitration having received formal judicial recognition and approval in Amazon.com NV Investment Holdings LLC v. Future Retail Ltd. and Ors. decided on 6th August 2021.

Factual Background

Amazon.com, the global retail giant, in a bid to enhance its presence in the Indian market entered into an agreement with the Future group, which was the second largest offline retailer in India. The transaction was structured such that Amazon would acquire shares in Future Coupons Private Limited (“FCPL”) which held about 8% shares in Future Retail Limited (“FRL”). By two different shareholders agreements it was arranged so that the shareholding of the Future group in FRL, could not be diluted without the prior consent of FCPL, and the latter could not give such consent without the approval of Amazon. The agreements further prohibited any transactions with some restricted entities among which was the Mukesh Dhirubhai Ambani Group. The agreement between Amazon and FCPL provided that in the event of any dispute between the parties the same would be resolved by way of arbitration seated in Delhi but conducted under the rules of the Singapore International Arbitration Center (SIAC).

A few months after FRL and FCPL entered into these agreements and obtained a sum of about rupees 1400 crores from Amazon, FRL entered into a transaction with the Mukesh Dhirubhai Ambani group which would have the effect of amalgamation of FRL with Mukesh Dhirubhai Ambani group.

Amazon viewed this as a gross violation of the agreement under which it had invested a large sum of money into FRL via FCPL, and initiated arbitration proceedings in terms of the SIAC rules and also filed an application seeking emergency interim relief. An emergency arbitrator was appointed. The emergency arbitrator heard detailed oral submissions from all the parties and passed an interim award. Among other directions, the interim award of the emergency arbitrator directed FRL to not go ahead with the transaction with Mukesh Dhirubhai Ambani group.

The emergency arbitrators award was not directly challenged by the Future group under the provisions of the Arbitration and Conciliation Act 1996 to challenge awards, but rather a suit was filed to avoid the arbitration proceedings before the emergency arbitrator altogether and also openly disregarded the interim award claiming it to be void. Separately, Amazon filed an application seeking the enforcement of the interim award by the emergency arbitrator.

A single judge of the Delhi High Court, considered the application of Amazon seeking enforcement of the interim award of the emergency arbitrator. FRL opposed the enforcement of this award on the basis that the emergency arbitrator was not a concept provided for in Indian law and hence did not have jurisdiction to adjudicate upon the matter and the interim award of the emergency arbitrator ought to be discarded. The single judge of the Delhi High Court upheld the award of the emergency arbitrator and also levied a penalty upon the Future Group for having flouted the interim award of the emergency arbitrator.

FRL appealed the order of the single judge of the Delhi High Court before a division bench of the Delhi High Court, where by the order of the single judge was stayed.

Amazon then approached the Supreme Court of India in appeal against the order of the division bench of the Delhi High Court staying the order of the single judge of the Delhi High Court.

The primary question the Supreme Court delved into was whether an emergency arbitrator was contemplated under Indian arbitration law and whether an order by an emergency arbitrator could be treated on par with an order by a regularly constituted arbitral tribunal.

It was contended on behalf of Amazon that the emergency arbitrator was appointed as per system that was provided for under the rules of SIAC and by being signatories to an arbitration agreement which provided for resolution of disputes by way of arbitration under the rules of SIAC, the parties to the arbitration agreement had agreed to the emergency arbitrator as well. It was not open to the respondent, to at this stage claim that they did not consent to having disputes resolved by a system of arbitration that also included an emergency arbitrator.

On behalf of the respondents, Future Group, it was contended that an arbitral tribunal contemplated in Indian law was a body that was competent to pass interim awards and also the final award in the matter. The emergency arbitrator was necessarily a body that would cease to have any adjudicatory power once the main arbitral tribunal was appointed and hence could not be termed as an arbitral tribunal as contemplated by the Arbitration and Conciliation Act, 1996. On this basis they would contend that the emergency arbitrator was not at all within the contemplation of the arbitration and conciliation act 1996 which was the law governing arbitration in India.

The Respondents also argued that while the 246th Law Commission report had expressly suggested that the law provide for an emergency arbitrator, no such amendment had been brought about despite other provisions of the arbitration and conciliation act 1996 having been amended in 2015, and thus the parliament had declined to implement this suggestion of the Law Commission to incorporate the system of emergency arbitrator in Indian arbitration law. This clearly indicated the intention of the legislature to avoid emergency arbitrator.

The court considered detailed arguments both in favour of and against the recognition of emergency arbitration in India and also considered several judgments and precedents cited by both parties in support of their arguments. The Court examined the rules of SIAC and found that the procedure of instituting an emergency arbitrator was a part of the

arbitration proceedings and by agreeing to the rules of SIAC, the parties to the transaction at hand would be deemed to have also consented to the adjudication by an emergency arbitrator. The court also observed that there was nothing in the Indian arbitration law which prohibited the institution of an emergency arbitrator. On this basis the court came to the conclusion that if the rules of the arbitral institution so provide, an interim award passed by an emergency arbitrator is a valid order and has to be treated as an order of court in accordance with section 17 of the Arbitration and Conciliation Act, 1996.

The Arbitration and Conciliation Act 1996, under section 9, already provides for interim orders being passed by but the principle court of civil jurisdiction within which the dispute lies. The act also provides for an interim award being passed by a duly constituted arbitral tribunal. There is no specific provision which expressly provides for an emergency arbitrator.

Practically speaking, it can take some time before an arbitral tribunal is constituted and parties who wish to protect their interests in the meantime would be left with no remedy or forum to approach. The concept of an emergency arbitrator, which can be provided for in the rules of an arbitral institute can be a viable remedy in such circumstances. Though many institutions in India already provide for an emergency arbitrator, the validity of an emergency arbitrator and interim awards passed by such emergency arbitrator came to be tested and upheld by the Supreme Court for the first time in Amazon.com NV Investment Holdings LLC v. Future Retail Ltd. and Ors.

The concept of emergency arbitrator holds a lot of promise, no doubt. But to utilise this system of an emergency arbitrator in the event of a dispute arising in any commercial relationship, the preparation has to start from the time of entering into the agreement. It is pertinent to note that an emergency arbitrator can be appointed only when the rules of the arbitral institution under which the arbitration is to be conducted provides for such an emergency arbitrator. Hence, it is important to keep in mind at the time the agreement is drafted to ensure that the arbitration clause provides for arbitration under the rules of an arbitral institution which has a sound system for appointment of an emergency arbitrator.



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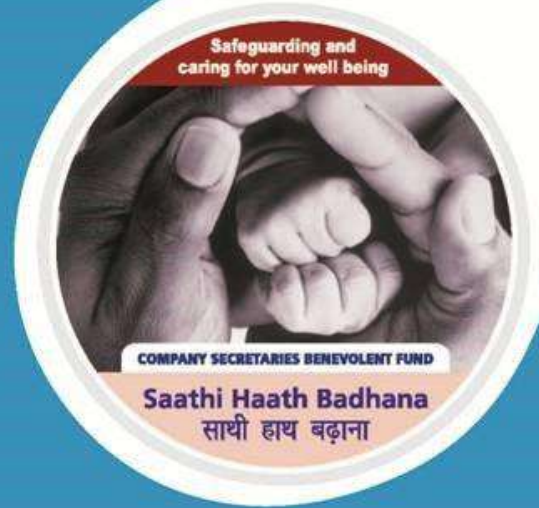
**THE INSTITUTE OF
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(Under the jurisdiction of Ministry of Corporate Affairs)

CSBF

**COMPANY SECRETARIES
BENEVOLENT FUND**



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.

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

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1

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2

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3

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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)

Student Month Celebrations

July 2021

ACTIVITIES REPORT

Mysuru Chapter

Special
Supplementary on
Student Month
Activities

Vision

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

Motto

सत्यं वद। धर्मं चर। इष्टार्कं कुरु। अर्थो भवेत्। विद्यां च कुरु।

Mission

"To develop high calibre
professionals facilitating
good corporate governance"

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Student month activities

Chapter organized 13 activities for students month.

S. No	Date	Programme Name	Speaker / Judges	No of Participants
Online Career Awareness Programs				
1	20.07.2021	Government College for Women (Autonomous), Mandya	CS Harsha A N. Dhanabal	50
2	21.07.2021		CS Vijaya Rao	50
Other Activities				
3	01.07.2021	Van Mahotsav		03
4	02.07.2021	Session on "Life Skills"	Mr. C L Ramesh Babu	40
5	05.07.2021	PPT Competition	CS Phani Datta D N CS Veerash M J	04
6	06.07.2021	Webcast on Setting up of Business Entities	CS Lakshmi K S	20
7	09.07.2021	Soft Skills Development Program	CS Pavithra P	25
8	11.07.2021	Debate Competition on Population growth is a Boon or Bane	CS Sabareeshan C K CS Ajay Madaiah B B	05
9	15.07.2021	Inauguration of Online Class for Executive	CS Vijaya Rao	10
10	19.07.2021	Samadhan Diwas	N. Dhanabal	05
11	19.07.2021	Moot Court Competition	CS Keerthana Gopal	03
12	26.07.2021	Essay Writing Competition	CS Sarina Chouta Harish CS Rashmi Deepak	04
13	29.07.2021	Video Byte Competition	CS Vijaya Rao CS Phani Datta D N	02

Van Mahotsav

Date – 01-07-2021



The first activity of the student month started with the celebration of Van Mahotsav on 1st July, 2021



Online Session on Life Skills

Date- 02-07-2021



Chapter organized a session on life skills on the topic “Health in your Hands” on 02.07.2021, 6.00 pm to 7.30 pm as a part of Students month July 2021 through virtual mode. The session was handled by Mr. C L Ramesh Babu, Healer in Acupuncture (Global Acupuncture Foundation).

Ms. Shruthi G Bhonsle, Executive student of Mysuru Chapter welcomed the gathering & proposed the vote of thanks. CS

Phani Datta D N., Secretary of the chapter introduced the resource person. The speaker explained very well on the important points in our hands so that we can cure lot of illness in our body by ourselves. The students were raised various doubts and got clarified. CS Vijaya Rao, Chairperson and other Managing Committee members were presented during the session. Around 40 students were participated.



Power Point Competition

Topic: Employee Welfare Schemes in the Industry

Date- 05-07-2021



On 05th July, 2021 the Power Point Competition has been organized in the topic “Employees Welfare Schemes in the Industry” for the students. CS Veerash M J., & CS Phani Datta D N., was acted as judge for the competition. Many students participated as audience in the event and encouraged the participants. The presentations submitted by the students have been sent to the Headquarters for evaluation.

Winners



1st Place

Ms. PREETHI A L

Reg no: 340775944/10/2020

EXECUTIVE



2nd Place

Ms. POOJA GARG

Reg no: 340794471/12/2020

EXECUTIVE

Other participants are:

S NO	REGISTRATION NUMBER	STUDENT NAME	STAGE
1	319986638909/2019	Achutha Rao P	Foundation
2	340796729/12/2020	Sharada G	Executive

Webcast on Setting up of Business Entities

Date- 06.07.2021



CS Lakshmi K S, Company Secretary, Bengaluru addressed the students in the topic “Setting up of Business Entities” on 06th July, 2021 in the webcast organized by the Mysuru Chapter. Around 20 students from various levels of CS Course attended and benefitted in the session. CS Vijaya Rao, Chairperson welcomed and proposed the vote of thanks. The speaker also clarified the various doubts raised by the participants.



Soft Skills Development Programme

Date: 09-07-2021



Chapter organized the session on "Soft Skills" on 09.07.2021, 11.30 am to 12.30 pm as a part of Students month July 2021.

CS Pavithra P., Managing Committee Member of Mysuru Chapter handled the Session. Ms. Shashi, Executive Student welcomed the gathering. CS Vijaya Rao, Chairperson of Mysuru Chapter proposed the vote of thanks. Around 25 students participated in the session.

Debate Competition

Date: 11-07-2021



On 11th July, 2021 the Debate Competition has been organized in the topic “Population growth is a Boon or Bame” for the students. CS Ajay Madaiah B B., & CS Sabareeshan C K., was acted as judge for the competition. CS Vijaya Rao, Chairperson Welcomed the gathering & introduced the judges. Many students participated as audience in the event and encouraged the participants.

Winners



1st Place

Ms. PREETHI A L

Reg no: 340775944/10/2020
EXECUTIVE



02 Place

Ms. MONISHA KUMAR

Reg no: 340822317/04/2021
EXECUTIVE

Other participants are

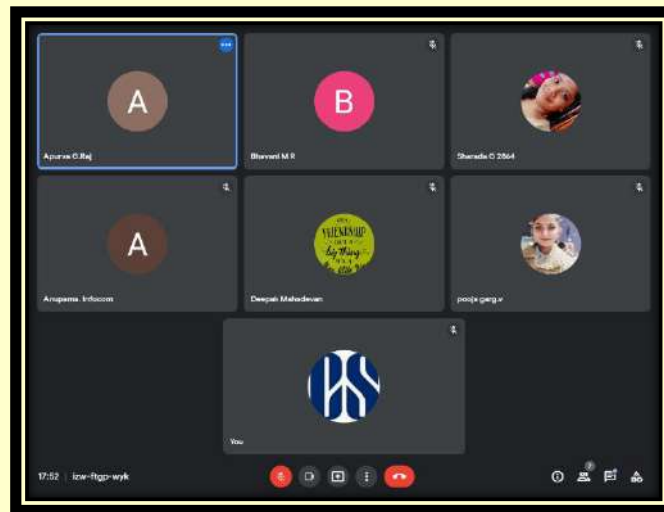
S NO	REGISTRATION NUMBER	STUDENT NAME	STAGE
1	340794471/12/2020	Pooja Garg	Executive
2	340775025/10/2020	Deepak M	Executive
3	340303731/08/2016	Yashwanth Prasad	Executive

Inauguration of Online Classes for Executive

Date: 15-07-2021



The Online Classes for the CS Executive Module I have been commenced from 15th July, 2021. Chairperson CS Vijaya Rao, inaugurated the batch by welcoming the students and the faculty. 10 students from various parts of Karnataka joined in the classes. The class has been commenced for the upcoming Executive exam scheduled in the month of December, 2021.



Moot Court Competition

Date: 19-07-2021



On 19th July, 2021 the Moot Court Competition has been organized on the occasion of International Justice Day for the students. CS Keerthana Gopal, Practicing Company Secretary was the judge for the competition. CS Vijaya Rao, Chairperson welcomed the gathering. Many other students also participated as audience in the event and encouraged the participants

Winners



1st Place

Ms. PREETHI A L

Reg no: 340775944/10/2020
EXECUTIVE



2nd Place

Mr. YASHWANTH PRASAD

Reg no: 340303731/08/2016
EXECUTIVE

Other participant are:

S NO	REGISTRATION NUMBER	STUDENT NAME	STAGE
1	319986638909/2019	Achutha Rao P	Foundation

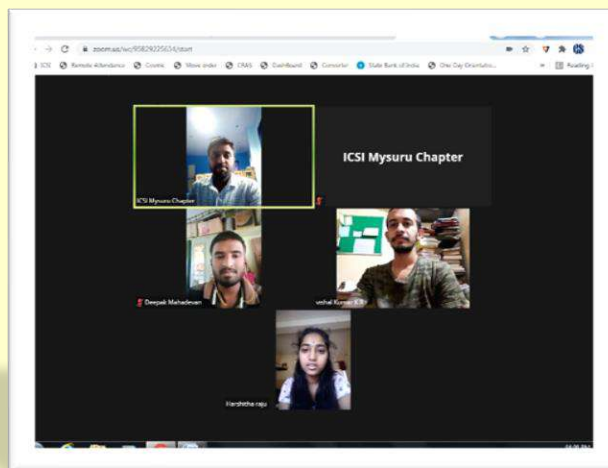
Samadhan Diwas – Zero Grievance Day

Date: 19-07-2021



GRIEVANCE

To clarify the various doubts on the CS course “Samadhan Diwas” has been organized by the Chapter on 19th July, 2021. Students from various stages of CS Course joined in the session through online and clarified the doubts. Chapter In-charge N. Dhanabal organized the session and interacted with the students.

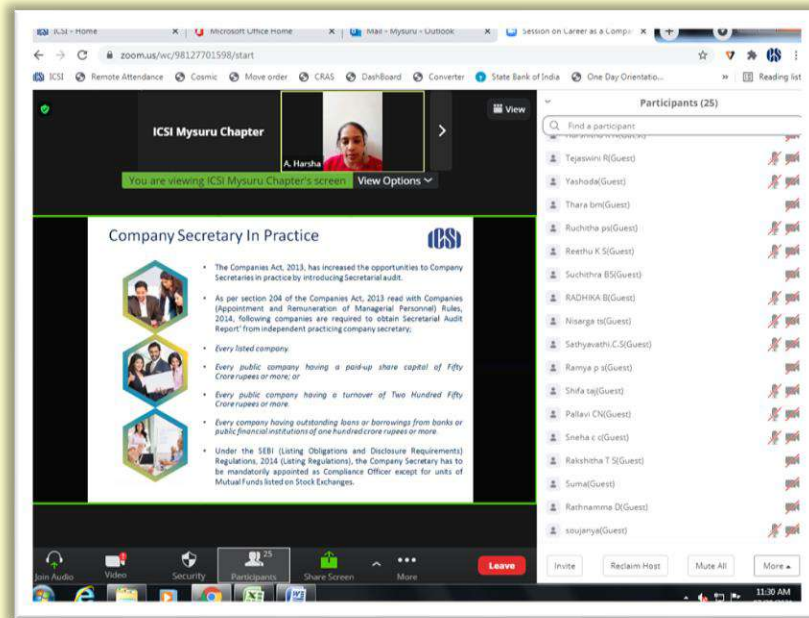


Career Awareness Programmes



Chapter organized 02 Career Awareness Programs during the month through online mode. The details are as follows

S. No	Date	College Name	Speaker	No of Participants
1	20.07.2021	Government College for Women (Autonomous), Mandya	CS Harsha A N. Dhanabal	50
2	21.07.2021		CS Vijaya Rao	50



Essay Writing Competition

Topic: How to Deal with Conflict in Workplace in Context of Armed Forces
Date: 26-07-2021



On the topic “How to deal with conflict in workplace in context of Armed Forces” an essay writing competition has been organized for the students on 26th July, 2021. Four students participated in the event. CS Sarina Chouta Harish & CS Rashmi Deepak was the judge for the event and evaluated the essays submitted by the students.

Winner



1st Place

Ms. RACHANA K P

Reg no: 340540812/05/2017
EXECUTIVE

Other participants were:

S NO	REGISTRATION NUMBER	STUDENT NAME	STAGE
1	340303731/08/2016	Yashwanth Prasad	Executive
2	319986638909/2019	Achutha Rao P	Foundation
3	340796729/12/2020	Sharada G	Executive

Video Byte Competition

Topic: How do Leadership Skills Improve Professional Performance
Date: 30-07-2021



A Video Byte Competition has been conducted in the topic “How do leadership skills improve Professional Performance” for the students on 30th July, 2021. Two students participated in the event. CS Vijaya Rao & CS Phani Datta was the judge for the event and evaluated the videos submitted by the students.

Winner

1st Place

Ms. SADVINI H V

Reg no: 340179504/05/2015
PROFESSIONAL



Link for the video: https://drive.google.com/file/d/1sgAWjSA5QPLeeh9D8CWFZV7r6_JRXVWt/view?usp=sharing

Other participant were:

S NO	REGISTRATION NUMBER	STUDENT NAME	STAGE
1	319986638909/2019	Achutha Rao P	Foundation

Student Registration Day



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As a part of Students Month - July 2021, Chapter organized the student registration day on 28th July, 2021. 3 students have been registered for the Executive Level. The details are as follows:

S. NO	REGISTRATION NUMBER	NAME	STAGE
1	340845828/07/2021	SINDHU R	Executive
2	340845960/07/2021	APOORVA S	Executive
3	340845896/07/2021	SHESHANK K	Executive

How to Deal with Conflict in Workplace in Context of Armed Forces

Ms. Rachana K P

Executive Student



There couldn't have been a better occasion to put down my thoughts on a piece of paper than on the anniversary of Kargil Vijay Diwas. This day holds great significance when it comes to Indian history. There isn't a chance that any Indian does not take pride in this regard.

I would like to kick-off the writing with a quote:
An eye for an eye will only make the world blind.

-Mahatma Gandhi.

Conflicts exist everywhere and are detrimental to all if not handled properly, unless we are those who like conflicts in life, in that case I recommend you go through some kind of therapy!

When it comes to conflicts in the workplace of armed forces, it is nothing like the white collared rivalries or cold wars that sometimes do not see the light of the day at all, like in the corporate organizations. These issues are very much intense, require a great deal of attention, involve national security, and therefore cannot be left untreated. Our armed forces consist of army, navy and air force which has a strength of over 1.4 million personnel, making us the 2nd largest military force in the world. As it is known that more the number of people, such is the level of discord, it is essential to know the cause of conflict in order to handle them.

"Intense stress" is one of the main reasons for their mental instability that results in violent reactions. In the case of armed forces, there were over 150 cases of fratricide that were reported. According to the reports, the cause of stress for military men has mainly been domestic but strenuous service conditions do accentuate the problem. They tend to work without a break for several months in uncertain regions and conditions which create a sense of isolation in them. It is also pointed out that due to the shortage of personnel, present staff is forced to perform additional duties. This is a complete failure of the chain of command which creates frailty.

Vulnerable minds of the soldiers usually provoke them, and they end up in fights with colleagues and lose their temper which makes them use weapons against them. At the workplace it is easier to say 'no' than to say 'yes', but it's more difficult to explain your 'no' than the 'yes'. Different perspectives result in different opinions.

There are several such causes that can instigate conflicts at the workplace namely, harassment, humiliation, officers exploiting their power and treating sub-ordinates like servants, toxic leadership, racism, discrimination etc., which shakes the confidence of the personnel and creates frustration in them. Stress is considered to be the biggest enemy by far. Dealing with an identifiable foreign enemy is the primary task of a soldier but with the above issues being present, they act as the bigger enemy to cope-with.

There are many instances of suicide in the armed forces due to stress. We lose more than 100 personnel to stress every year and again the causes are usually dissatisfaction with compensation, denial of leave or unhappiness over food which lead them to make such fatal decisions. Over 1000 personnel have died from suicide since 2014. Humiliation and harassment over and above their occupational & familial causes, at the hands of their superior serve as the final trigger. Emotional labour is another such concept that is taken for granted, which takes a toll on the mental health of the soldiers. The fact that soldiers are meant to fight overlooking their human aspect and win at any cost, is depressing.

It is equally important to seek solutions to such conflicts. It is the responsibility of the authorities to take precautionary or preventive measures by improving interpersonal relationships among the personnel. More time should be utilized for engagement in daily mindfulness exercises which in turn improve situational

awareness and conflict management. The military psychology and culture should advance in order to have a healthy atmosphere at work.

On a personal level, soldiers can deal with conflicts by themselves, if possible, by improving their interpersonal skills for example, addressing the conflict immediately, having the right attitude, keeping an open mind, and apologizing to restore peace and so on. There is always an opportunity to learn and grow when one deals with a conflict successfully. Self direction and emotional intelligence are essential.

Addressing and ending the conflict is way more necessary than to just conduct irrelevant stress management programmes, that the military usually does. The Indian armed forces do need reforms to improve the overall efficiency as an organization 'to protect the lives that protect our borders'.

It is the power of diversity, the power that they come from different backgrounds, gender and mindsets, that should be revered. The strength in their diversity makes them equally stronger. These micro incidents or conflicts should not affect their macro state of mind towards the military because they are temporary.

“Conflict on its own is neither good nor bad, it depends on how it is managed.”

- *Kaveh Mir*

Sources:

Reports and statistics- Google (TOI, NDTV)