ICSI-WIRC's Half Yearly Performance Report

(ICSI-WIRC's Governance & Transparency Initiative)
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Dear All,

ICSI-WIRC’s Half-Yearly Performance - A Brief

We have completed the first-half of the year 2012 and it’s time to share the half-yearly performance of ICSI-WIRC. The year so far has been very vibrant and witnessed many initiatives undertaken at ICSI-WIRC. Several new milestones were achieved and certain others are on anvil or in pipeline towards its theme ‘Educate, Empower and Execute’.

One of our focus areas at ICSI - WIRC is to strengthen Internal governance and transparency measures. As we complete first-half of this year’s functioning, let me share some of the major initiatives of ICSI-WIRC undertaken so far since the beginning of this year 2012.

Student Servicing

- **WIRC Coaching Classes (OTC)**: We have launched new OTC with various useful services to our students and initial response is very encouraging. I take this opportunity to once again invite your interest in becoming faculty to OTC and also request all members to spread awareness about our OTC.

- **WIRC EduCamp**: We rolled-out the unique concept of ‘EduCamp’ for ICSI-WIRC students. ‘EduCamp’ is in addition to the mandatory trainings of ICSI and its basic purpose is to counsel newly enrolled students of ICSI *inter alia* about the CS course, career opportunities and WIRC OTC. More than 600 students have been benefitted out of EduCamp so far.

- **New PPP / Students’ Servicing Centres**: New centres have been opened under the public private partnership (PPP) model at various locations including Mumbai, Raipur and Vapi. Some of the PPP centres are also being used as extended centres for exam forms, CC collection etc. Of course, these initiatives need to be broad based and much more need to be accomplished in students’ servicing areas.

- **WIRC Regional Students’ Conferences**: A series of ICSI-WIRC Regional Students’ Conferences is being organised on the theme ‘Educate, Evolve & Empower’ across the region. The first two such conferences were held in Pune and Thane. Similar conferences have been lined up in Ahmedabad, Raipur, Indore and other locations. The annual regional students’ conference would be held on 18th August at Nagpur.

- **Students’ Backgrounder**: ICSI-WIRC published an exhaustive backgrounder with useful articles and write-ups, which is a unique delivery to the students of ICSI-WIRC.

- **Zero waiting-list**: Increasing number of students served with dedication and attention resulted in near ‘zero waiting list’ for SIP, EDP and MSOP. Advance calendar for students training program added to students’ convenience.

Infrastructure, IT etc.

- **Renovation**: ICSI-WIRC has completed renovation of its first floor office of the WIRO at Jolly Maker, Mumbai and the renovated office would be inaugurated on 27th July at 10 a.m. Earlier, we had a gala fund raising awareness programme in the Asia’s biggest hall - The Shanmukhananda Hall, Mumbai. About one thousand participants witnessed and enjoyed, perhaps, the biggest cultural evening organised by ICSI-WIRC ever. I once again take this opportunity to appeal each one of you to please come forward and contribute your mite towards fund raising for renovation.

- **ICSI-WIRC web-portal**: ICSI-WIRC has recently launched fully revamped web-portal with several value-added features. The web-portal would enable effective and smooth dissemination of information and knowledge to members and students, and at the same time would serve a vital platform connecting various stakeholders of ICSI-WIRC. Please do visit our new web-portal available on ICSI website – http://www.icsi.edu/wirc/index.html

- **Campus Placement**: For the first time, ICSI-WIRC has organised campus placement on 18th July. As the response was encouraging, will broad-base and increase campus placements further.

- **Programs in remote locations**: ICSI-WIRC is taking structured and continuing efforts for organising study circle and seminars at locations not having chapters. Study circles are being organised at 7 locations not only in Mumbai but also in sub-urban areas including Mira-Bhayander Road. Seminars have been organised at Jabalpur and Bhilai jointly with Bhopal and Raipur Chapters, respectively, and response was overwhelming and encouraging.

July, 2012
CHAIRMAN’S COMMUNIQUE (Contd.)

Member Development Initiatives

✓ **Revamped FOCUS**: One of the significant milestones we achieved was revamping ‘FOCUS’ – from a few pages to a 50+ pages Journal for corporate executives & professionals. The new ‘FOCUS’ with various value added features is being well appreciated. As you would be aware, BSE has been chosen as the Principal Sponsor of FOCUS, besides several other sponsors. This has brought added visibility and credence to ‘FOCUS’.

✓ **EMPOWER**: Another significant delivery of ICSI-WIRC was ‘EMPOWER’, the first ever issue of a unique e-weekly of ICSI-WIRC. This is part of the series of new initiatives of ICSI-WIRC towards its theme of the year 2012 – ‘Educate, Empower and Execute’. ‘EMPOWER’ was launched at the hands of S/Shri Ashish Chauhan, Interim CEO, BSE, C Murlidhar Rao, CGM, SEBI and S N Ananthasubramanian, Vice President, ICSI at a seminar organised by ICSI-WIRC in May, 2012. EMPOWER un-clutters the clutter and brings together important news stories and updates in a capsule form such that the readers can flip through over the weekend or while on the move.

✓ **Programs**: ICSI-WIRC is organising increased number of members’ programs with focus on quality. Speakers having subject expertise, well planned and organised schedule and backgrounder have become the hallmark of the ICSI-WIRC’s programs. I thank you all for an overwhelming response to each and every programs and do look forward to your active participation in future programs as well.

✓ **Capacity building for emerging areas**: ICSI-WIRC is organising seminars / discussions on emerging areas aiming at capacity building of its members and aiding to their development to enable them to exploit newer opportunities. One such program was organised jointly with BSE on SME funding & listing. The Seminar was inaugurated by S/Shri Ashish Chauhan, Interim CEO, BSE, Prashant Saran, Former WTM, SEBI and S N Ananthasubramanian, Vice President, ICSI. Other eminent speakers included S/Shri C Murlidhar Rao, CGM, SEBI and Ramesh Dharmaji, CGM, SIDBI. Similarly, programs were organised on LLPs, M&A, Competition Law, Due Diligence, Emerging Regulations and the like.

✓ **Two-days PCS Conclave on ‘Mergers & Acquisitions’**: We organised, successfully, the Practising Company Secretaries’ at Lonavala Conclave on 4th and 5th May, 2012. Our sincere thanks to the participants for an overwhelming response and making this Conclave a grand success!

✓ **Annual Regional Conference, 2012**: ICSI-WIRC organised its annual regional conference on 14th and 15th July at Indore on the theme ‘Business Compliances, Ethics & Strategies – Enhanced Professional Role’. The Conference was inaugurated by Shri Ashish Chauhan, Interim CEO, Bombay Stock Exchange. Dr. N Ravichandran, Director, IIM-Indore was the key-note speaker. S/Shri Nesar Ahmad, President, ICSI, S N Ananthasubramanian, Vice President, ICSI, N K Jain, Secretary & CEO, ICSI, Mahavir Lunawat, Chairman, ICSI-WIRC, Ms. Ragini Choksi, Secretary, ICSI, Ashish Garg, Program Director, Ritesh Gupta, Chairman, Indore Chapter, ICSI-WIRC and Ashish Karoria, Secretary, Indore Chapter, ICSI-WIRC also graced the inaugural session. During the programme, ICSI-WIRC released an exhaustive souvenir and also a researched publication on competition law. Revamped web-portal of ICSI-WIRC was also launched at the hands of the President, ICSI.

- Revamped OTC
- Edu Camp
- New Registration Centres
- New PPP centres
- Students’ Conferences
- Value-added Backgrounder
- Zero waiting for MSOP, EDP & SIP

- WIRO office renovation
- WIRC website revamped
- Campus placement
- Study circles / programs in remote locations
Other speakers included S/Shri V S Sundaresan, Chief General Manager, SEBI, Santosh Kumar, Registrar, Ministry of Corporate Affairs, Deepak Sharma, Director & CEO, Sarthi Advisors, Umesh Ved, Central Council Members, ICSI and Mahavir Lunawat. Hon’ble Justice Shri Moolchand Garg, MP High Court presided over the concluding ceremony. We received record registrations of more than 450 delegates. Bombay Stock Exchange was the Principal Sponsor and Taxmann the Co-Sponsor of the Conference.

✓ **PMS Membership**: ICSI-WIRC launched PMS Scheme with various value-added features. I am pleased to inform that we have enrolled 100+ new registration for PMS (including renewals) so far this year and the membership is showing steady growth. We have initiated an aggressive campaign for popularising the benefits of ICSI-WIRC PMS membership scheme. A request to all those who have not become part of ICSI-WIRC’s PMS, to please take this prestigious membership.

✓ **Program Calendar**: ICSI-WIRC could redress long-pending grievance of advance program information. Monthly program calendar is being published in every FOCUS to enable members to schedule their work accordingly.

### Others

✓ **Book on Competition Law**: ICSI-WIRC released a new researched publication on ‘Competition Act, 2002 – Key Commentaries’. This was identified aiming at capacity building for our members in this emerging area having huge potential of professional role.

✓ **Health, Sports & Culture Initiatives**: For the first time, ICSI-WIRC has taken it up as a dedicated focus area and a committee has been formed to spearhead initiatives in the areas of health, sports and culture. Some of the initiatives in this direction include the following:


- Republic Day celebration: Republic day celebration coupled with blood donation camp and free health check-up (ECG, sugar, BP and general) emphasizes our focus on ‘health, sports & culture’ initiatives.

- Members’ picnic to ‘Tiku-ji-ni-wadi’: ICSI-WIRC’s group picnic received encouraging response.

✓ **Aggressive Career Awareness Campaign**: Though the number of students are increasingly galloping, yet we at ICSI-WIRC would not let complacency set in. Rather, we have increased the number of career awareness programs across the region.

✓ **Brand Building & Visibility**: Small steps towards brand building and visibility of Institute included a couple of press conferences organised by WIRC, which were addressed by the President, Vice President, Secretary & CEO, ICSI and the undersigned. The Seminar on SME was covered in print media, electronic and online media. Views of the undersigned alongwith experts were covered in Economic Times, CNBC and moneycontrol.com amongst others. We also launched ICSI-WIRC Program Kit and Students’ PowerPack folders as part of brand building initiatives. Further, select WIRC programs were covered by business dailies. We need to a lot more in this direction!
ICSI-WIRC Annual General Meeting, 2012: I am pleased to share that we have convened the 36th Annual General Meeting (AGM) of the ICSI-WIRC to be held on Friday, 27th July, 2012, at 5 p.m. at WIRO, Mumbai. I invite all of you to please make it convenient to attend the AGM.

Please do write at cschairman.wirc@gmail.com. Your suggestions and inputs would help achieve the overall objectives towards our theme of the year 2012 – “Educate, Empower & Execute”.

Best Wishes,

Cordially – Mahavir Lunawat
FROM THE EDITOR

Dear Readers,

“A creative man is motivated by the desire to achieve, not by the desire to beat others.”

- Ayn Rand

With efflux of time, role and responsibilities of a Company Secretary have gone through a radical change. Company Secretarship as a profession has also gained tremendous momentum with increase in demand from the corporates as we, the Company Secretaries are considered to be financial and legal experts of this highly competitive corporate world. The Company Secretaries are now expected to handle and manage crucial roles – be it in Taxation, Finance, Accounting, Corporate Law, Human Resource and Industrial Relations.

The multi dimensional curriculum itself gives an idea of the thought process of the institute, which expects its members to be a step ahead and act proactively with positive attitude and with panache. This seems to be a new era in the profession of a Company Secretary, which not only gives wider visibility but also new opportunities to the new entrants.

Mindset and approach to do something new and enter into new fields is very important for the members, which will not only give them a chance to explore new avenues but also enlighten the path of other members pursuing those streams.

Given the current Indian economic scenario, the government is coming up with new statutes every other day so as to keep itself afloat in line with the international standards and each of such new statutes impacting our corporates has to be keenly and deeply analysed for understanding its true impact – and this provides an opportunity to the Company Secretaries to take up this challenge and provide the best solution to the corporate. Even in the proposed Company Law, the regulators have reposed confidence and fix up more responsibilities on the professionals to act in the wisest manner to guide the corporates in the right path, which involves high integrity, responsibility and accountability - certification by professionals has been recommended by the regulators, which will not only throw new opportunity but also put up a stiff challenge before the professionals to comply the law in its true spirit.

In this issue, we are covering Inter-Corporate Loans, Mergers approved under the Competition Act, 2002, Valuation of Intellectual Property, Looking under the hood - the Ideal xbrl Software Tool. etc.

CS Amit Kumar Jain

"A human being is not attaining his full heights until he is educated." - Horace Mann

July, 2012
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Term of Payment : Advance Payment in favour of ‘WIRC of ICSI’ by way of a Cheque / Demand Draft payable at Mumbai alongwith your release order / advertisement material.

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LEGAL WORLD

Case Laws

CASE LAWS AT A GLANCE

RECENT JUDGEMENTS ON COMPANY LAW

CS Ajay Kumar, Practising Company Secretary, Mumbai

1. OPPRESSION AND MISMANAGEMENT

After parties having raised a dispute over self-same issues and pending before fact finding Courts, CLB cannot adjudicate same by invoking jurisdiction under sections 397 and 398. Petitioner was a shareholder of respondent Company, which was a family company. He filed instant petition under section 397 seeking relief against respondents for not holding AGM and splitting his shares in his name and in his wife’s name. Petitioner as well as respondents filed cross suits against each other for declaration of shareholding of petitioner in Civil Court. Petitioner did not elicit anywhere as to what were acts committed by respondent Nos. 2 and 3 prejudicial to interest of petitioner except accusing splitting of shares in between petitioner and his wife and, therefore, petition did not fall within ambit of sections 397 and 398. Since petitioner did not make his wife a party while disputing her shareholding, petition was bad for non-joinder of parties. Petitioner’s principal grievance in petition filed under sections 397 and 398 was that company was not holding yearly AGMs, for which there is a separate section 186 for calling AGM on grounds mentioned in section 186 and, therefore, petitioner could not ask for any relief under section 397 and 398. PRAVEEN MURARKA V. RAMA & SONS (CALCUTTA) (P.) LTD. (CLB – KOL.) [2011] 110 SCL 430

2. AMALGAMATION

Petitioner companies i.e., transferor and transferee-companies, sought sanction to scheme of their amalgamation. Board of directors of both companies approved proposed scheme. Meetings of equity shareholders of both companies was dispensed with. Regional Director found that authorised share capital of transferor-company was to be added to authorised capital of transferee-company and raised an objection that transferee-company was required to pay registration fees for increased authorised capital. Objection of Regional Director was not sustainable. Scheme of amalgamation was to be sanctioned as same would be for benefit and interest of equity shareholders of company. - LIFESIZE COMMUNICATIONS INDIA (P.) LTD., IN RE [2011] 110 SCL 66 (MADRAS)

3. COMPANY DEEMED TO BE DEFUNCT COMPANY ON FAILURE TO ENHANCE ITS PAID-UP CAPITAL WITHIN PRESCRIBED LIMIT WITHIN TIME - APPLICATION FOR RESTORATION OF NAME WITH UNDER - TAKING TO RAISE SHARE CAPITAL - IS RESTORATION OF NAME PERMISSIBLE - SECTIONS 3(3)/(5) AND 560

Once the company fails to raise the share capital to the prescribed limit within time specified in terms of sub-section (3) of section 3, it is deemed to be a defunct company within the meaning of section 560 and its name is liable to be struck off the register of companies by the Registrar of Companies. A company which does not conform to the minimum requirement of the paid-up share capital cannot be restored to the register of companies even though restoration is sought with an undertaking to increase the share capital after restoration. There can be no equitable consideration in the face of a statute which creates an express bar for the incorporation or continuance of a company with a paid-up share capital below the minimum prescribed by the statute. - VALUE ADVISORY SERVICES (P.) LTD. V. REGISTRAR OF COMPANIES [2011] 105 CLA 214 (DEL)

4. IS THERE A STATUTORY BAR TO ENTERTAINMENT OF CLAIM FOR DAMAGES FOR BREACH OF CONTRACT BY WAY OF CREDITORS’ WINDING UP – SECTIONS 433(E) AND 439

A claim for damages is generally not entertained by way of creditors’ winding up petition, though there is no statutory bar thereto. Winding up petitions of such type would be repelled on account of problems presented by such claims, namely, assessment of breach which is basis of claim, and ascertainment of quantum. There may be an additional problem of unjust enrichment of Petitioner in some cases. So the Petitioner shall be asked to pursue the matter in the arbitration proceedings already commenced or in a civil suit to be instituted in accordance with law, and the company petition shall be stayed permanently. - ITC LTD. V. OBEROI MALL (P.) LTD. [2011] 105 CLA 231 (CAL)

5. JURISDICTION OF REGISTRAR OF COMPANIES TO PROSECUTE COMPANY WHEN HE HAS NOT STATED AS TO HOW INFORMATION IS NOT SATISFACTORY – SECTION 209A

Certain information is called for under section 209A. The company is bound to furnish the same, if the Registrar of Companies is not satisfied with the information, it is his duty to specify as to how the information is not satisfactory and he may provide sufficient time to furnish further information. Only thereafter the failure to comply with such direction will attract sub-section (2) of section 209A. - S SANTHOSH V. ASSISTANT REGISTRAR OF COMPANIES [2011] 104 CLA 220 (MAD)

"A liberal education is at the heart of a civil society, and at the heart of a liberal education is the act of teaching." - A. Bartlett Giamatti

July, 2012
CIRCULARS AND NOTIFICATIONS

CS Piyush Bindal, Practicing Company Secretary, Bhopal

MINISTRY OF CORPORATE AFFAIRS

1. IMPOSING FEES ON CERTAIN E-FORMS FILED WITH ROC, RD OR MCA (HQ) UNDER MCA-21 WHERE AT PRESENT NO FEE IS PRESCRIBED

General Circular No. 14/2012
Source: www.mca.gov.in

The Ministry of Corporate Affairs has decided that fees shall be applicable on the following forms at the rates indicated in the table below:-

<table>
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<tr>
<th>S. No.</th>
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<th>Particulars of the Form</th>
<th>Applicable fee</th>
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<tr>
<td>1</td>
<td>Form 1 of Investor Education Protection Fund Rule</td>
<td>Statement of amounts credited to Investor Education and Protection Fund.</td>
<td>As per Schedule X to the Act.</td>
</tr>
<tr>
<td>2</td>
<td>Form 23B</td>
<td>Information by statutory auditor to the Registrar of companies Act, 1956 pursuant to section 224(1) (a) of the Companies Act, 1956.</td>
<td>As per Schedule X to the Act.</td>
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<tr>
<td>3</td>
<td>Form 24A</td>
<td>Application to RD (a) For Appointment of Auditors under Section 224(3) (b) Others</td>
<td>As per Companies (Fee on Application) Rules, 1999</td>
</tr>
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<td>4</td>
<td>Form 36</td>
<td>Receiver’s or Manager’s abstract of As per Schedule X to receipts and payments (Charge related Form)</td>
<td>As per Schedule X to the Act.</td>
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<td>5</td>
<td>Form 61</td>
<td>Application to ROC- (a) Compounding of Offences u/s 621A (b) Application for extension of Annual General Meeting upto 3 months u/s 166 of the Act (c) Application for extension of time for preparation of Annual Accounts upto 18 months u/s 220 of the Act. (d) Others</td>
<td>(a) As per Companies (Fee on Application) Rules, 1999 (b) -Do- (c) -Do- (d) -Do-</td>
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<td>6</td>
<td>Form 62</td>
<td>Form for submission of misc. documents under the below mentioned rules: (a) Form 154 of the companies (Court) Rules, 1999 (b) Form 157 of the companies (Court) Rules, 1999 (c) Form 158 of the Companies (Court) Rules, 1999</td>
<td>As per Schedule X to the Act.</td>
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<tr>
<td>7</td>
<td>Form 65</td>
<td>Application to the Central Govt. (HQ)- (a) Application pursuant to Rule 2 of the Companies (Application for Extension of Time or Exemption under Subsection (8) of Section 58A) Rules, 1979. (b) Information and explanation on reservations and qualification contained in the cost audit report by a company (c) Others</td>
<td>(a) As per Companies (Fee on Application) Rules, 1999 (b) Nil (c) As per Companies (Fee on Application) Rules, 1999</td>
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3. This circular will come into effect from 22nd July, 2012.

"America is becoming so educated that ignorance will be a novelty. I will belong to the select few." - Will Rogers
2. EXTENSION OF TIME IN FILING OF ANNUAL RETURN BY LIMITED LIABILITY PARTNERSHIPS (LLPs)

General Circular No. 15/2012
Source: www.mca.gov.in

1. In continuation of this Ministry’s Circular No. 13/2012 dated 06.06.2012 on the subject cited above, it is stated that the time for filing the Annual Return by LLPs (i.e. Form 11) has been extended up to 31st July, 2012.

2. In order to have better understanding of the circular, it is clarified that the time limit of 60 days shall be read as 122 days for filing of Form 11 by LLPs in respect of the financial year ending on 31.03.2012. This circular shall be effective from 30.06.2012.

3. FILING OF BALANCE SHEET AND PROFIT AND LOSS ACCOUNT IN EXTENSIBLE BUSINESS REPORTING LANGUAGE (XBRL) MODE FOR FINANCIAL YEAR COMMENCING ON OR AFTER 01.4.2011.

General Circular No. 16/2012
Source: www.mca.gov.in

1. Vide Companies (Filing of documents and forms in Extensible Business Reporting Language) Rules, 2011 not filed vide GSR No. 748E dated 5.10.2011, select class of companies are required to file their Balance Sheet and Profit & Loss Account and other documents as required U/S 220 of Companies Act, 1956 with the Registrar of Companies for the financial year ending on or after 31st March, 2011.

2. It has now been decided by the Ministry to mandate the following select class of companies to file their Balance Sheet and Profit & Loss Account in XBRL mode for the financial year commencing on or after 01.4.2011:
   (i) all companies listed with any Stock Exchange(s) in India and their Indian subsidiaries; or
   (ii) all companies having paid up capital of Rupees five crore and above; or
   (iii) all companies having turnover of Rupees one hundred crore and above; or
   (i) all companies who were required to file their financial statements for FY 2010-11, using XBRL mode.

However, banking companies, insurance companies, power companies and Non-Banking Financial Companies (NBFCs) are exempted from XBRL filing till further orders.

3. The applicable taxonomy as per Schedule VI of the Companies Act, 1956 has already been placed on the Ministry’s website ‘www.mca.gov.in’. The Business Rules, validation tools, etc. required for preparing the financial statements in XBRL format, as per the revised Schedule-VI and Accounting Standards, are under preparation and would soon be made available by the Ministry. The actual date for enabling XBRL filing will be intimated separately.

4. Additional Fee Exemption: All companies referred to in Para-2 above, will be allowed to file their financial statements in XBRL mode without any additional fee/ penalty up to 15th November, 2012 or within 30 days from the date of their AGM, whichever is later.

5. Training Requirement: Stakeholders are advised to visit the Ministry’s website www.mca.gov.in/XBRL/index.html regularly to have training in XBRL on taxonomy related issues.

SERVICE TAX

1. APPLICABILITY OF PROVISIONS OF THE FINANCE ACT, 2004 RELATING TO EDUCATION cess and the Finance Act, 2007 relating to secondary and higher education cess – regarding.

Circular No. 160/11/2012-ST
Source: www.servicetax.gov.in

There has been some doubt regarding the applicability of provisions of the Finance Act, 2004 relating to education cess and the Finance Act, 2007 relating to secondary and higher education cess as the concerned Acts make reference to section 66 of the Finance Act, 1994, which shall cease to have effect from July 1, 2012. In this connection, as also in general, you may kindly refer to the sub-section (1) of section 8 of the General Clauses Act, 1897 which reads as under:

“Where this Act, or any Central Act or Regulation made after reference to the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provisions so re-enacted.”

Thus any reference to section 66 of the Finance Act, 1994 shall be construed as reference to the newly re-enacted provision i.e. section 66B of the same Act. Despite the stated position of law, the matter has been settled by the issue of Removal of Difficulties Order No. 2/2012 dated 29.06.2012.

2. CLARIFICATION ON POINT OF TAXATION RULES - REGARDING.

Circular No. 162/13/2012 –ST
Source: www.servicetax.gov.in

1. Consequent to the changes introduced at the time of Budget 2012 in the Point of Taxation Rules, 2011, together with revision of the service tax rate from 10% to 12% and the subsequent changes that have been made effective from 01.07.2012, the following clarifications have been desired:

   (a) Point of taxation and the rate applicable in respect of continuous supply of services at the time of change in rates effective from 01.04.2012;
(b) Applicability of the revised rule 2A of the Service Tax (Determination of Value) Rules, 2006 to ongoing works contracts for determination of value when the value was being determined under the erstwhile Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007; and

(c) Applicability of partial reverse charge provisions in respect of specified services.

2.1 The issues have been examined. The continuous supply of services was governed by rule 6 until 31.03.2012. The rule started with the wordings “notwithstanding anything contained in rules 3, 4 …”. Therefore, the point of taxation in respect of services provided in terms of the said rule on or before 31.03.2012 would remain unaffected by rule 4.

2.2 To clarify the matter further, if the invoice had been issued or payment received in respect of such services on or before 31.03.2012, the point of taxation would stand determined under rule 6 accordingly and shall not alter due to the subsequent changes in the Point of Taxation Rules, 2011 that became effective only from 1.4.2012.

3.1 However the position has undergone a change at the time of transition towards the Negative List and the introduction of other accompanying changes in Service Tax (Determination of Value) Rules, 2006 and partial reverse charge. At the said time rule 6 stood omitted and the point of taxation was required to be determined ordinarily in such cases under the main rule i.e. rule 3. This rule is, however, overridden by rule 4 when there is a change in effective rate of tax. The “change in effective rate of tax” has been defined in clause (ba) of rule 2 to include a change in the portion of value on which tax is payable.

3.2 To illustrate, the following would be changes in effective rate of tax:-

(i) the change in the portion of total value liable to tax in respect of works contract other than original works (from @ 4.8% earlier to @ 12% on 60% of the total amount charged, or effectively @ 7.2% now).

(ii) Exemption granted to certain works contracts w.e.f. 1st July 2012 which were earlier taxable.

(iii) Taxability of certain works contracts which were hitherto exempted.

(iv) Change in the manner of payment of tax from composition scheme under the Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 to payment on actual value under clause (i) of rule 2A of the Service Tax (Determination of Value) Rules, 2006.

3.3 However, the following will not be a change in effective rate of tax:-

(i) Works contracts earlier paying service tax @ 4.8% under Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 and now required to pay service tax @12% on 40% of the total amount charged, keeping the effective rate again at 4.8% (as only the manner of expression has been altered).

(ii) Works contracts which were outside the scope of taxation (and not merely exempted) but have become now taxable e.g. construction of residential complex comprising of 2 to 12 residential units, construction of buildings meant for use by NGOs etc. (Rule 5 of the Point of Taxation Rules, 2011 shall apply to such services.)

3.4 Thus the point of taxation for services provided in respect of taxable works contracts in progress on 01.07.2012 would need to be determined under rule 4 of the Point of Taxation Rules unless there is no change in effective rate of tax.

4. It is further clarified that the provisions of partial reverse charge would also be applicable in respect of such services where point of taxation is on or after 01.07.2012 under the applicable rule in respect of the service provider.

3. CLARIFICATION ON SERVICE TAX ON REMITTANCES REGARDING.

Circular No. 163/14/2012 –ST
Source: www.servicetax.gov.in

1. Concerns have been expressed in various forums regarding the leviability of service tax on the remittance of foreign currency in India from overseas.

2. The matter has been examined and it is clarified that there is no service tax per se on the amount of foreign currency remitted to India from overseas. In the negative list regime, ‘service’ has been defined in clause (44) of section 65B of the Finance Act 1994, as amended, which excludes transaction in money. As the amount of remittance comprises money, the activity does not comprise a ‘service’ and thus not subjected to service tax.

3. In case any fee or conversion charges are levied for sending such money, they are also not liable to service tax as the person sending the money and the company conducting the remittance are located outside India. In terms of the Place of Provision of Services Rules, 2012, such services are deemed to be provided outside India and thus not liable to service tax.

4. It is further clarified that even the Indian counterpart bank or financial institution who charges the foreign bank or any other entity for the services provided at the receiving end, is not liable to service tax as the place of provision of such service shall be the location of the recipient of the service, i.e. outside India, in terms of Rule 3 of the Place of Provision of Services Rules, 2012.
Definition

Section 2(36) - "managing director" means a director who, by virtue of an agreement with the company or of a resolution passed by the company in general meeting or by its Board of directors or, by virtue of its memorandum or articles of association, is entrusted with substantial powers of management which would not otherwise be exercisable by him, and includes a director occupying the position of a managing director, by whatever name called:

Provided that the power to do administrative acts of a routine nature when so authorised by the Board such as the power to affix the common seal of the company to any document or to draw and endorse any cheque on the account of the company in any bank or to draw and endorse any negotiable instrument or to sign any certificate of share or to direct registration of transfer of any share, shall not be deemed to be included within substantial powers of management:

Provided further that a managing director of a company shall exercise his powers subject to the superintendence, control and direction of its Board of directors;

Section 2(24) - "manager" means an individual (not being the managing agent) who, subject to the superintendence, control and direction of the Board of Directors, has the management of the whole, or substantially the whole, of the affairs of a company, and includes a director or any other person occupying the position of a manager, by whatever name called and whether under a contract of service or not;

Difference between Managing Director and Manager

There are seeming similarities between a managing director and manager; however, following distinctions between them can be made:

- A managing director would lose his powers automatically if he ceases to be a director whereas a manager who is also a director does not lose any of his powers of management if he vacates his position as a director.

Appointment of more than one managing director

A managing director is a director who by virtue of an agreement with the Company or a resolution passed by Company at a General Meeting or by virtue of the Articles of Association is entrusted with the substantial power of management which would not otherwise be exercisable by him. Although the control of company might be in the hands of the managing director, it is the duty of the directors to keep an eye on him and see that he directs a proper course.

Pursuant to Department clarification vide F. No. 8/16(1)/61-PR, Section 2(26) defines "managing director" as a director who is entrusted with substantial powers of management which term refers to the nature of the powers and not the quantum thereof. Section 2(24) of the Act on the other hand has defined the word "manager" as an individual who has the management of the whole or substantially the whole of the affairs of the company. Thus the managing director of a company may be entrusted with substantial power of management but not necessarily of the whole or substantially the whole of the affairs of a company. A company, may, therefore, have more than one managing director.

Appointment of more than one manager

The definition highlights the role and position of a manager by the words "has the management of the whole, or substantially the whole, of the affairs of the company". It may be noted that a person who is entrusted with the powers of management of a particular function or division or department of the company’s organisation would not be a
manager within the meaning of section 2(24).

Unless a person is in-charge of the entire or substantially entire business of a company, he cannot be deemed to be the manager thereof.

Section 197 - No company can, at the same time, appoint or employ, a manager and a managing director, but there is no express prohibition against appointment or employment of two or more managers.

Although section 197A does not prohibit appointing two persons as managers at a time (because it only prohibits appointment of managing director and manager at a time), it is unusual to imagine that two (or more) persons have the management of the whole, or substantially the whole, of the affairs of the company. This question is however not free from difficulty. Sections 303(2) and 159(1)(g) use the plural ‘managers’ and thus contemplate that a company may have, at the same time, two or more managers. However, a safe view would be that two or more individuals cannot, at the same time, be managers for the reason that no two individuals can, at the same time, have the management of the whole, or substantially the whole, of the affairs of a company.

Examples

- Kotak Mahindra Bank has Executive Vice Chairman and Managing Director and 2 Joint Managing Directors.
- CIPLA has Chairman & Managing Director and Joint Managing Director
- National Stock Exchange has Managing Director and Joint Managing Director
- Hero Moto Corp has Managing Director and Joint Managing Director

"Children have to be educated, but they have also to be left to educate themselves." - Ernest Dimnet
Part - II

DOCUMENTS TO BE FILED ALONG WITH COMPANY PETITION WITH THE HIGH COURT:

- Memorandum & Articles of Association of Petitioner Company & Transferee Company.
- Last Audited balance sheet of Petitioner Company.
- Last Audited balance sheet of Transferee Company.
- Extract of Board Resolution of Petitioner Company.
- Scheme of Arrangement.
- Special Resolution passed by Petitioner Company in its EOGM.
- Notice of the shareholder’s meeting published in the newspapers.
- Affidavit
- Chairman’s report of the proceedings of the shareholder’s meeting and affidavit of the Chairman
- No Objection Certificate from the Stock Exchanges

Procedure for Demerger after filing Summons in the High Court and receipt of Court Order:

X is the date of Board meeting of both Demerged and the Resulting Company

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Procedure</th>
<th>Legal timeframe</th>
<th>Time Line</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Receipt of High Court direction relating to the time, date and venue of</td>
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<td>X+43</td>
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<td>the meeting of the equity shareholders and creditors of both the</td>
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<td></td>
<td>demerged and resulting companies and appoint a Chairman to conduct the</td>
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<td>meetings. The order made on the summons shall be in Form No. 35 annexed</td>
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<td>to the Companies (Court) Rules, 1959 with such variations as may be</td>
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<td></td>
<td>necessary.</td>
<td></td>
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<tr>
<td>2</td>
<td>Printing of notice and explanatory statement to the shareholders and</td>
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<td>X+45</td>
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<td>creditors.</td>
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<tr>
<td>3</td>
<td>Sending 6 copies of all notices and explanatory statement to the stock</td>
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<td>exchanges prior to them being sent to the shareholders</td>
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"Data is not information, information is not knowledge, knowledge is not understanding, understanding is not wisdom." - Clifford Stoll

July, 2012
<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Procedure</th>
<th>Legal timeframe</th>
<th>Time Line</th>
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</thead>
</table>
| 4.     | Notice of the meeting of the shareholders/creditors accompanied by the explanatory statement and the scheme of arrangement and proxy form to be delivered to the shareholders by post under certificate of posting. The notice to the shareholders convening the meeting for the approval will usually consist of the following details:  
(a) Salient features of the scheme of arrangement  
(b) Rationale and benefits of the Scheme  
(c) Details of the valuation Report/swap ratio  
The notice of the meeting to be given to the creditors and/or members, or to the creditors or members of any class, as the case may be, shall be in Form No. 36 and a form of proxy in Form No. 37 annexed to the Companies (Court) Rules, 1959. | At least twenty five days before the date of the general meeting | X+47      |
| 5.     | Notice of the meeting to be published in such newspapers as may be directed by the concerned High court The Advertisement must take place at least 21 clear days before the date of the meeting i.e. 21 days notice must be given excluding the date of advertising of the notice and the date of the meeting.  
The advertisement shall be in Form No. 38 annexed to the Companies (Court) Rules, 1959.  
3 copies of the published notice to be submitted to each stock exchange where the shares of the Demerged Company are listed (As per Clause 31(c) of the Listing Agreement). | At least 21 days in advance | X+49      |
| 6.     | File an affidavit with the High Court confirming that the direction relating to issue of notices and the advertisement has been duly complied.                                                                                                                                                                                                                                                                   | At least seven days before the meeting | X+64      |
| 7.     | Passing the resolution (to be approved by members representing three-fourths in value of the creditors or class of creditors or members or class of members as the case may be present and voting either in person or by proxy) for approving the scheme of arrangement at the general meeting convened by the High Court, with such modification as may be proposed and agreed to at the meeting. Voting must be by way of a poll.  
In the event of a capital reduction of the Demerged Company, shareholders must pass a special resolution under Section 100 of the Companies Act, 1956 approving the said reduction.  
3 copies of the proceedings at the shareholders meeting to be filed with each stock exchange where the shares of the Demerged company are listed. | Within the time fixed by the court or within seven days of the conclusion of the meeting. | X+72      |
| 8.     | The Chairman of the Court convened meeting must file a report in the Court within the time fixed by the Judge or where no time has been fixed, within 7 days after the conclusion of the meeting.  
The report must state accurately the number of creditors or class of creditors or number of members or class of members as the case may be who were present and who voted at the meeting either in person or by proxy, their individual values and the way they voted.  
The report shall be in Form 39 annexed to the Companies (Court) Rules, 1959. | Within the time fixed by the court or within seven days of the conclusion of the meeting. | X+75      |
**Checklist For Demerger Under The Companies Act, 1956**

<table>
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<th>Time Line</th>
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<tbody>
<tr>
<td>9</td>
<td>Where the proposed Demerger is approved by the various meetings with or without modification, the company must present the petition to the Court, for confirmation of the Demerger within 7 days of the filing of the Chairman’s Report. The petition shall be in Form No. 40 annexed to the Companies (Court) Rules, 1959.</td>
<td>Within seven days of the filing of the Chairman’s report</td>
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<tr>
<td>10</td>
<td>A copy of the petition is required to be sent to Registrar of Companies in Form No. 61 and a Special Resolution is required to filed in Form No. 23 with ROC.</td>
<td>Within 30 days from the date of Court Convened meeting</td>
<td></td>
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<tr>
<td>11</td>
<td>The High Court will fix a date of the hearing and the notice of the hearing shall be advertised in the same newspapers in which the notice of the meeting was advertised or in such other papers as the court may direct not less than ten days before the date fixed for hearing.</td>
<td>Generally it should take around 50 to 60 days to get the High Court approval. However, these timelines may vary depending on the time taken by the High Court to process the petition</td>
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<tr>
<td>12</td>
<td>The High Court, after hearing all concerned, will pass an order approving the scheme of arrangement.</td>
<td></td>
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<tr>
<td>13</td>
<td>The Company or any Creditor or Member thereof may at any time after the passing of the Order sanctioning Demerger, apply to the Court for determination of any question relating to the working of the compromise or arrangement. Notices and Advertisements shall be as the Court may direct. The Court may pass such Orders, give such Directions as it may think necessary.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Certified copy of the High court’s order has to be filed in (Form No. 21 with the Regional Director (Registrar of Companies office in the state in which the registered office of the Resulting Company is situated)</td>
<td>Within 30 days from date on which the order was obtained</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>On receipt of Certified Copy of the High Court Order, make an application to the Stamp office for adjudication of stamp duty payable on the High Court Order. The Transferee Company shall pay the stamp duty on the High Court Order passed for Transferor Company.</td>
<td>Within the time limit as prescribed in the High Court Order</td>
<td></td>
</tr>
</tbody>
</table>

**Apologies**: The above Part - II of the article is in continuation of Part -I published in the last issue of FOCUS, in June 2012. The entire article, in Part - I and Part - II, has been contributed by Ms. Vidya Shembekar, Company Secretary, Mid-day, Mumbai. FOCUS express sincere apologies for misprinting the name of the contributor for part - I, published in June issue of FOCUS. Ms. Vidya Shembekar deserves due credit for the originality of this article (both Part - I and Part - II) and we regret this error.

"Education is a better safeguard of liberty than a standing army." - Edward Everett
Section 372A of the Companies Act, 1956 (The Act) deals with intercorporate Loan, Investment, Guarantee and Securities in connection with loan. All the four transactions frequently take place in any company and since the consequences of non-compliance are severe hence it requires adequate caution and attention.

A.1. Applicability of Section 372A

- This section is applicable to –
  - All public companies
  - Any loan made/ guarantee given/ security provided/ investment made by a holding company to its subsidiaries (other than wholly-owned subsidiaries).

- This section is not applicable to –
  - Any loan made, guarantee given or security provided, or any investment made by banking companies, insurance companies, housing finance companies, investment companies, and private companies, unless it is subsidiary of a public company.
  - Investment made in shares allotted in pursuance of clause (a) of sub-section (1) of section 81.
  - Any loan made/gurantee given/ security provided/investment made by a holding company to its wholly owned subsidiary.

A.2. Parameters

- Inter-corporate loans and investments - The new section 372A inserted by the Companies (Amendment) Act, 1999, has clubbed the provisions of section 370 and 372 which dealt with Inter-corporate loans and investments etc. and had added a new element, i.e., guarantees provided by one company to another. Further this section has also widened the scope of Inter-corporate investments by making it applicable to all ‘securities’ as distinguished from section 372, which related only to investment in shares of other companies.

By virtue of this section, a company can now directly or indirectly, give –

a. Inter-corporate loan (loan includes debentures or any deposit of money made by one company with another company, not being a banking company)

b. Inter-corporate guarantee or providing any security to
   i) any person who gives loan to any body corporate, or
   ii) a body corporate, which gives a loan to any other person.

c. Inter-corporate investment. The investment may be made by way of subscription, purchase or otherwise.

   Upto 60% of its paid up share capital (equity and preference) and free reserves, or 100% of its free reserves, whichever is higher, with the prior approval of Board of directors.

If a company, however, intends to make Inter-corporate loans/ investments/ guarantee/ security beyond the said limit mentioned above, it can do so by passing a special resolution in the general meeting.

A.2.1. Approval by Board

(a) Every inter corporate investment/loan/guarantee/security falling within section 372A (even within limits) must be sanctioned by a resolution of the board passed at its meeting. Circular resolution or resolution of the committee of directors will not be permissible.

(b) Unanimous consent of Board – Consent of all the directors present in the meeting of the Board is required for sanctioning the resolution with regard to any loan or investment made or guarantee or security given by the company [(sub section (2)].

(c) The board resolution should be prior to giving / making loan, investment guarantee and security.

(d) No delegation of power: Section 292(1) (d) & (e) permits delegation of power to invest and loan, however S. 372A does not permit. S. 292 is general whereas s. 372A is special in nature. As per settled principle of interpretation, special provision shall prevail over general provisions. The MCA is of the view that in view of the specific provision contained in erstwhile s. 372(5)-corresponding to S. 372A(2), the power of the board under the section can not be delegated – DCA circular No. 48(50)-CL-IV/61 dated 12th February, 1962.

However, delegation u/s. 292 is permitted for transactions which are not fall within s. 372A, e.g. loan to Individual/firm/trust/ mutual fund.
A.2.2. Approval by Special Resolution

(a) If inter corporate loan, investment guarantee and security exceeds the limit (60% of the total paid up capital or 100% of reserve (b), which ever is higher) then previous authorization by special resolution is required.

Resolution for Inter-corporate loan/ investment/ guarantee/ security to be given shall be specific stating the specific limits, the particulars of the body(ies) corporate in which the investment is proposed to be made or loan or security or guarantee is to be given, the purpose of the investment, loan or security or guarantee, and specific sources funding, etc. A blanket resolution need not be passed. Hence, for every loan made/guarantee or security given/ investment made, a specific resolution need to be passed [third proviso to sub-section(1)].

(b) The special resolution shall be passed by postal ballot, if the following 2 conditions are satisfied:

- The company is a listed company.
- The proposed business relates to making of any intercorporate loan, guarantee, or security.

It is evident that special resolution shall be passed in general meeting (and not by postal ballot) if the proposed business relates to making of any inter corporate investment (irrespective of the fact that company is a listed company or not).

(c) Disclosures in the notice of the resolution

- Specific limits
- Particulars of body corporate to which activities are covered.
- Purpose of investment loan or security or guarantee
- Source of specific funding

A.2.3. Approval of Public Financial Institutions

- Where any term loan is subsisting from any public financial institution to in section 4A, then prior approval of public financial institution is also required. But, if the aggregate amount of loans, investments, guarantees and securities does not exceed 60 per cent of net worth or 100 per cent of free reserves, such approval of public financial institutions will not be needed.

However, if the company has committed a default in repayment of loan installment or payment of interest to a financial institution, then prior approval shall have to be taken for making any Inter-corporate loan, investment or for giving any corporate guarantee or security, irrespective of the limit of 60 per cent of net worth or 100% of free reserve.

A.2.4. Interest Rate

- No Inter-corporate loan shall be made at a rate of interest lower than the prevailing bank rate. However, in case of loan to a wholly-owned subsidiary company. (to which the section does not apply) loan may be given at a rate of interest lower than the bank rate.

A.2.5. Restriction on loan/ investment/ guarantee/ security to be given –

- No company shall make loan or investment or provide guarantee or security if it has defaulted in complying with the provisions of section 58A [sub section (4)] regarding public deposits.

A.2.6. Relaxations in conditions:

1. No special resolution for guarantee: The Board may give guarantee in excess of the ceiling limit without passing a special resolution if the following three conditions are satisfied:

   a. A unanimous resolution is passed in a Board meeting for giving guarantee.
   b. There exist exceptional circumstances which prevent the company from passing a special resolution.
   c. The resolution of the Board is confirmed within 12 months: in the general meeting of the company; or in the annual general meeting held immediately after passing of the Board’s resolution; whichever is earlier.

2. No approval of Public Financial Institutions:

No prior approval of Public Financial Institution is required, if the following two conditions are satisfied:

   a. The aggregate of loans, investments, guarantee, or security already made together with loan, investment, guarantee, or security proposed to be made does not exceed 60% of the aggregate of paid up share capital and free reserves.
   b. There is no default in repayment of loan installments or interest to Public Financial Institution.

A.3. Register of Inter-corporate loan and investment

What to enter? Every company shall keep a register of Inter-corporate loans and investments containing the following particulars -

a. Name of the body corporate
b. The amount, terms and purpose of the investment or loan or security or guarantee.

c. The date on which the investment or loan has been made.

d. The date on which the guarantee has been given or security has been provided in connection with a loan.

When to enter? The particulars aforesaid shall be entered chronologically in the register within 7 days after the date of the making of such investment or loan or the giving of such guarantee or provision of such security.

Where to keep? The register shall be kept at the registered office of the company concerned and shall be open to inspection at such office and extract may be taken there...
from and copies thereof may be required by any member of the company to the same extent in the same manner and on payment of the same fees as in the case of the register of members of the company and the provisions of section 163 shall apply accordingly.

A.4. Penalty

1. The Company and every officer in default shall be punishable with imprisonment for a term of two years, or with fine up to Rs.50,000. Where repayments of loans have been made in full, imprisonment shall not be imposed, and where part payments are made, imprisonment shall be proportionately reduced.

2. All persons who are knowingly parties to any contravention shall be liable jointly and severally to the Company for:
   a. Repayment of the loan, or
   b. Making good the sum which the Company may have been called upon to pay on account of the guarantee given or the securities provided by such Company.

3. Transaction in violation of Sec.372 is **void and ineffectual**. A transaction which is forbidden in public interest cannot be made lawful by paying a penalty for it.

A.5. Definitions

(a) “Loan” includes debentures or any deposit of money made by one company with another company, not being a **banking company**. (Deposit with Bank is exempted). So, whenever one applying his mind for exempting inter corporate deposit from Section 58A, at the same time one should check compliance with Section 372A. Because what is exempted by one section is covered by another.

(b) “Free reserve” means those reserves which, as per the latest audited balance sheet of the company, are free for distribution as dividend and shall include balance to the credit to the security premium account but shall not include share application money. (Paid up capital can be considered as on the date of investment).

(For is not expressly provided that in arriving at the aggregate of the free reserve, the amount of accumulated balance of loss, balance of deferred revenue expenditure and other intangible assets, should be deducted. Capital and debenture redemption reserve is free reserve after redemption of preference shares and debenture respectively.)

SECTION – 372A (INTER CORPORATE LOANS) INVESTMENTS

Approval by Shareholders

Approval by BOD

Approval by Public Financial Institution (PFI)

Limit:

Higher of

- 60% of Paid up capital & free reserves, or
- 100% of free reserves

Conditions:

- Upto limit
- Prior approval
- Unanimous resolution
- Only at BM

Conditions:

- Conditions:
- Above Limit
- Special Resolution in GM apart from board resolution
- Disclosure in notice of GM
  - Limit
  - Purpose
  - Source of funding
  - Detail of recipient
  - Other relevant details
- Postal ballot in case of listed company for inter corporate loan / guarantee / security

Prior Approval is required

Exceptions:

- No default in repayment of loan taken from PFI, and
- Limit of 60% not exceeds

Prohibitions:

- if default of sec. 58A is made
- Rate of Interest should not be less than prevailing bank rate

Scope of Sec. 372A:

When a Public Company:

- Invest in any other company
- Give loan to any other company
- Give guarantee or security to
  - Any person giving loan to any other Co.
  - Any Co. giving loan to any other person

Non Applicability:

- Banking Co.
- Insurance Co.
- Housing Finance Co.
- Co. whose object is financing industrial enterprises or providing infrastructure facilities
- Co. whose principal business is acquisition of shares, stock, debentures or other securities
- Private Co. (unless it is subsidiary of a public company)
- Holding Co.
  - Giving loan to its 100% subsy
  - Invest in its 100% subsy
  - Giving guarantee or security to others who give loan to its 100% subsy

(To be continued next issue)

"Education is learning what you didn't even know you didn't know." = Daniel J. Boorstin
Pandora Box Opens with Domestic Transaction
now covered under Transfer Pricing

Jinesh Bhagdev, Practicing Chartered Accountant and Jatin Popat, Practicing Company Secretary

A Company Secretary holds a key position in any Company as the Compliance Officer of the Company. A Company Secretary is responsible for all regulatory compliances of Company. A Company Secretary supervises the finalization of Annual Accounts of a Company and is also a party to sign the Balance Sheet when a Company Secretary is employed by the Company. A Company Secretary has to ensure that all disclosures with respect to financial statements, company law compliances, taxation, audit, related party disclosure, etc. has been disclosed and that the financial statement gives a true and fair view of the financial performance of the Company. Merely because a Company has a hired specialist key personnel taking care of taxation related matters (including transfer pricing matters) including Financial Director or a Chief Financial Officer or a Chartered Accountant who takes care of tax related compliance matters does not absolve a Company Secretary from his duties to ensure that tax related matters are regularly complied by the Company in a timely manner.

Even then, a Company Secretary has to overlook the work done by the key personnel or a Chartered Accountant and ensure appropriate compliance by the Company.

As per the Income Tax Act, any income (expenses) arising from an international transaction (or specified domestic transaction) with an Associated Enterprise shall be computed having regard to arm’s length price. Accordingly, it is imperative for the Company Secretary to understand certain terminologies governing the Indian Transfer Pricing Regulations.

1. **Associated Enterprise:**

Two companies can be said to be AEs when there is direct or indirect participation in management, control or capital by one enterprise in other enterprise or by the same person in two enterprises. The participation in management, control or capital can be through direct or indirect equity holding, control over the board of directors, or appointment of one or more executive directors by one enterprise in other enterprise or by the same person in two enterprises.

Situations like granting of loan more than 51% of the book value of assets, giving guarantee of more than 10% of the total borrowings of the other Company, complete dependence on know-how, patent, etc. of the other Company, or purchase of raw materials from the other Company greater than 90% of the total raw material purchased by the Company during the year, or one entity has more than 10% of the beneficial interest in a partnership firm, association of persons or body of individuals triggers the deemed fiction and the two entities will be deemed to be AE irrespective of the fact that there is no direct or indirect participation in management, control or capital within the enterprises.

**Role of Company Secretary:**

The prima-facie role of a Company Secretary is to identify all the AEs with whom the Company has transacted during the year. There are likely chances that some of the entities which are falling under the deeming fiction might go unnoticed to the auditors. The consequence of non-reporting of a transaction is as high as 2 % of the total value of transaction that went unreported. Further, penalty proceedings can also be initiated for concealment of true facts and disclosure under section the Income Tax Act.

2. **International Transaction:**

An international transaction means a transaction between two or more AEs, in the nature of purchase, sale or lease of tangible or intangible property, or provision of services, or lending or borrowing money, or any other transaction having a bearing on the profits, income, losses or assets of such enterprises, and shall include a mutual agreement or arrangement between two or more AEs for the allocation or apportionment of, or any contribution to, any cost or expense incurred or to be incurred in connection with a benefit, service or facility provided or to be provided to any one or more of such enterprises.

Finance Act 2012 has now clarified that an international transaction shall also include the following:

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CMD, RAMESH S. DAMANI FINANCE PVT. LTD.

"The Sensex is sensational!"

VALLABH BHAGWATI
FOUNDER - CHAIRMAN
ENAM FINANCIAL CONSULTANTS

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BSE’S SENSEX F&O daily volume crosses ₹56,000 Cr.

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capital financing, including any type of long-term or short-term borrowing, lending or guarantee, purchase or sale of marketable securities or any type of advance, payments or deferred payment or receivable or any other debt arising during the course of business;

• provision of services, including provision of market research, market development, marketing management, administration, technical service, repairs, design, consultation, agency, scientific research, legal or accounting service;

• a transaction of business restructuring or reorganization, entered into by an enterprise with an AE, irrespective of the fact that it has bearing on the profit, income, losses or assets of such enterprises at the time of the transaction or at any future date;

• Further, Finance Act 2012 has also clarified that an intangible asset shall also include marketing related intangible such as trademarks, trade names, brand names, logos, etc; technology related intangible such as process patent, patent application, technical documents and know-how; artistic related intangible such as literary works and copyrights, musical compositions; data processing related intangibles such as proprietary computer software, software copyrights, automated databases; engineering related intangible such as industrial design, product patent, trade secrets, engineering drawings and schematics, blueprints; customer related intangible such as customer list, customer contracts; goodwill related intangible such as institutional goodwill; professional practice goodwill, celebrity goodwill, etc.

Role of Company Secretary:
Whenever a Company is proposing to enter into any of the above international transactions, a Company Secretary should liaise with the Finance Director or the Chief Financial Officer and ensure revisiting their pricing model on a reasonable concurrent level so as to demonstrate to the tax authorities that the transfer pricing documentation are maintained on a contemporaneous basis.

3. Specified Domestic Transaction:
TP until now was applicable to companies having cross border transactions with their AE. However, Finance Bill 2012, honoring the supreme court ruling in case of CIT vs. M/S Glaxo Smithkline Asia (P) Ltd. (Special Leave to Appeal (Civil) No(s).18121/2007), expanded the ambit of TP to specified domestic transactions w.e.f 01 April 2013.

Transactions covered under the ambit of domestic transfer pricing:
• Any expenditure in respect of which payment is made or is to be made to a person referred to in Section 40A(2)(b) of the IT Act;
• Any transaction that is referred to in Section 80A;
• Any transfer of goods or services referred to in Section 80-IA(8) i.e. applicable to companies operating as industrial undertaking or enterprises engaged in infrastructure development;
• Any business transacted between the assessee and other person as referred to in section 80-IA(10);
• Any transaction, referred to in any other section under Chapter VI-A or section 10AA, to which provisions of sub-section (8) or sub-section (10) of section 80-IA are applicable;
• Any other transaction, as may be prescribed by the board.

Provided that the aggregate value of the transaction entered into by the assessee with its domestic AE exceeds ₹ 5 crore.

Implication of such amendment by Finance Act, 2012:
All the transactions entered into by the taxpayers operating in Special Economic Zones (‘SEZs’); taxpayers entering into transactions with certain related parties specified under section 40A(2) and all the taxpayers claiming profit based deductions for undertaking specified business activities (under section 80A, 80-IA, etc.) will be covered.

The most likely affected industries are industries operating in SEZs, infrastructure developers and / or infrastructure...
operators, telecom services industries, industrial park developers, power generations or transmission, etc. Apart from these industries, the business conglomerates having significant intra-group transactions would be impacted.

Most likely transactions under the scanner of the TP Authorities would be:

- Interest Free Loans to group companies;
- Granting of Corporate Guarantees / Performance Guarantees by Parent Company to its subsidiaries;
- Intra-group purchase / sell / service transactions;
- Payment made to key personnel of the group companies;
- Payment made to relatives of key personnel of the group companies.

**Role of a Company Secretary:**

Companies which did not have international transactions till date, however had domestic transactions with related parties, were not governed by the Indian TPR. However, now since the domestic transfer pricing regulations are in place, Company Secretary of the companies who have domestic transaction with its related parties equal to or more than ₹ 5 crore or companies whose present domestic transaction less than ₹ 5 crore but is likely to increase beyond ₹ 5 crore in the financial year 2013-14 are advised to validate their present business model and pricing methodology from a transfer pricing perspective which will enable them to take corrective actions, if necessary.

4. **Arm’s Length Price:**

An arm’s length price, is a price at which a transaction is entered into by a Company with a third party under normal market / economic conditions, i.e. without the influence of the relation between the parties. The principle of arm’s length pricing requires a Company to enter into a transaction with its AE similar to a transaction it has entered into or would have entered into with a third party under uncontrolled conditions.

**Role of a Company Secretary:**

The role of the Company Secretary is to ensure that all the transactions which are entered into by a Company with its AE should be entered into having regards to arm’s length price (and not at arm’s length price). If the transactions are found not to be at arm’s length, the Company might face huge transfer pricing additions during the transfer pricing assessments.

**Check List for a Company Secretary to ensure appropriate compliance of Transfer Pricing Regulation:**

1. During the financial year, liaise with the Financial Director or the Chief Financial Officer to identify the list of AEs and determine the value of International Transactions or specified domestic transactions.

2. Revisit the existing business model and transfer pricing methodology atleast once in a year to ensure that the transactions of the Company with its AEs are at arm’s length to justify contemporaneous nature of transfer pricing business model.

3. Ensure that the Transfer Pricing Accountant Report is filed with the Assessing Officer before the due date of filing of the return of income i.e. 30 November.
INTRODUCTION
Merger regime under the Competition Act, 2002 (the Act) is termed as “Combination Regulation”. A combination is objectionable under the Act, only if it causes or is likely to cause an appreciable adverse effect on competition within the relevant market in India. Provisions relating to the regulation of combinations have been brought into effect w.e.f. 1st June 2011. With the notification of these provisions, the Act became fully operational.

KEY PROVISIONS
Section 5 defines a combination and 6 provides for the mechanism to regulate a combination. Section 5(a) provides for regulation in case of acquisition of shares, voting rights, assets or control of an enterprise. Section 5(b) provides for regulation in case of acquiring of control over an enterprise where acquirer has already control over another enterprise engaged in production, distribution, provision etc. of similar or identical or substitutable goods or services. Section 5(c) regulates the cases of merger or amalgamation. Section 6 contains the provisions relating to the mandatory notification of the combination within 30 days and other issues.

COMBINATION REGULATIONS
For application of these provisions, Competition Commission of India (CCI) notified the Competition Commission of India (Procedure in regard to the transaction of business relating to combinations) Regulations, 2011 (Combination Regulations) and the same came into force from 1st June 2011. Through these Regulations, numerous issues relating to the application of section 5 and 6 are addressed. The Regulations were amended in February 2012. The Regulations as amended provides for notification in different situations. Regulation 4 also lists out certain transactions which are not likely to have appreciable adverse effect on competition in India. The Company Secretary of the applicant company is also empowered to sign Form I and Form II under the amended Regulations.

COMBINATION REGULATION AND MERGERS OR AMALGAMATIONS
On 31st May 2012, the combination regulation part of the Act completed one year of enforcement. The Commission has taken decision on 53 notifications between 1st June 2011 to 31st May 2012. In one case, the notice was found to be invalid because the acquisition did not meet the asset or turnover criteria prescribed under section 5 of the Act. In nine cases, penalty notices were passed under section 43A for filing of the belated applications. Of course, in all these cases, no penalty was imposed, in view of the fact that this was the first year of the of implementation of enforcement provisions relating to Combinations in the Act.

Section 5 covers the transaction relating to the acquisition of assets etc., acquiring of control; and mergers. However an attempt is made in this paper to give an overview of the cases relating to the mergers or amalgamation as covered by section 5(c) of the Act. Of 53 notifications decided by the Commission, 34 notifications fall under section 5(c) of the Act. The timely decision on an application relating to the merger or amalgamation has great significance on the whole timeline because the Company has to take approval of the High Court as well, pursuant to the applicable provisions under the Companies Act, 1956.

HIGHLIGHTS OF THE APPLICATIONS APPROVED U/S 5(c)
1. On 19th October 2011, the Commission approved the proposed combination wherein ALSTOM Projects India Limited was to merge with ALSTOM Holdings (India) Limited pursuant to implementation of a scheme of amalgamation under Section 391 to 394 of the Companies Act, 1956. This was the first approval to a combination falling under section 5(c) of the Act.
2. In the case of notice of merger filed by Nippon Steel Corporation and Sumitomo Metal Industries Limited, the parties entered into a Master Integration Agreement to be implemented through a merger. In this matter, it was stated in the notice that the parties to the combination produce / provide / similar / identical / substitutable products / services. The parties to the combination stated that eight similar/identical/substitutable products, in which both the parties to the combination are engaged in sale in India, constitutes a separate relevant market in India. However the relevant market was not defined in this case because the comparative assessment of the proposed combination was not likely to change substantially.

Moreover due regard was given to the factors provided under section 20(4) of the Act for assessing the combination. In view of the low combined sales
turnover; presence of a large number of domestic and global producers providing alternate sources of supply; absence of any major trade barriers for import; plans of further capacity expansion by domestic producers as well as plans of some global producers to set up greenfield manufacturing projects in India; the Commission noted that the proposed combination did not raise any competitive concern in India.

3. Application under Combination Registration No. C-2012/02/37 was filed by the maximum number of parties. The notice in this case, was jointly given by seven companies.

4. Regulation 9(4) provides for filing of a single notice if the ultimate intended effect of a business transaction is achieved by way of a series of steps or smaller individual transactions which are inter-connected or inter-dependent on each other, one or more of which may amount to a combination. A number of notices were filed pursuant to Regulation 9(4). But the one filed by Sterlite Industries (India) Limited and others (Combination Registration No. C-2012/03/45) needs a special mention. This combination notice constituted some transactions which on a standalone basis might belong to the exempt categories, yet these transactions were notified because all these transactions taken together constituted the proposed combination. This application was approved on 26th April 2012.

5. The application under Combination Registration No. C-2012/03/48 relating to Tech Mahindra Ltd., Satyam Computer Services Ltd. also included inter-dependent, inter-related, partly-exempt transactions and these transactions were notified as a composite scheme of combination. This application was approved on 25th February, 2012.

6. The Application under Combination Registration No. C-2012/03/45 was filed by the maximum number of parties. The notice in this case, was jointly given by seven companies.

7. The application under Combination Registration No. C-2012/04/52 was filed by Nirma Ltd. (NL) and Nirma Industries Private Limited (NIPL) for the proposed amalgamation of NIPL into NL. However the parties later informed the Commission that the scheme for the proposed amalgamation was not beneficial and therefore requested the Commission to consider the notice as withdrawn. In its Order dated 17th May, 2012, the Commission also made the following observation;

“….. if at a subsequent date, the parties propose to enter into a combination between them, then the provision of the Act relating to combinations as applicable at that time, would have to be complied with by the parties.”

CONCLUSION
Prompt decision on these notifications should make the corporate sector feel greatly relieved. Before enforcement of combination regulations, a fear was always expressed by the corporate world that the time taken by the Commission in deciding the merger applications would be a major deterrent on the restructuring plans of the business house. However the Commission has been too prompt and quick in disposing the applications for approval. It is noticed in a number of the Orders that the relevant information were not provided by the applicants. In such cases, the approvals are bound to be delayed. Therefore the Company Secretaries need to be proactive and ensure that all information as considered necessary are furnished in the first stage itself.

“On 22nd March, 2012, the Competition Commission of India (hereinafter referred to as the “Commission”) received a notice under subsection (2) of Section 6 of the Competition Act, 2002 (hereinafter referred to as the “Act”) of a proposed combination, from Sterlite Industries (India) Limited (hereinafter referred to as “SIIL”), Madras Aluminium Company Limited (hereinafter referred to as “MALCO”), Ekaterina Limited (hereinafter referred to as “Ekaterina”) and Sesa Goa Limited (hereinafter referred to as “SGL”), pursuant to two composite schemes of amalgamation, i.e. scheme of amalgamation and arrangement under Sections 391-394 read with Sections 78 and 100-103 of the Companies Act, 1956 between SIIL, MALCO, Sesa Energy Limited (hereinafter referred to as “SEL”), SGL and Vedanta Aluminium Limited (hereinafter referred to as “VAL”) (hereinafter referred to as the “India Scheme”), a separate scheme of arrangement under Sections 261-264 of the Mauritius Companies Act, 2001 between Ekaterina and SGL (hereinafter referred to as the “Ekaterina Scheme”) and inter-se transfer of holdings of some of the group companies, inter-alia transfer of 38.80 per cent stake in Cairn India Limited (hereinafter referred to as “Cairn India”) of Twinstar Mauritius Holdings Limited (hereinafter referred to as “TMHL”), a wholly owned subsidiary of Twinstar Energy Limited (hereinafter referred to as “TEL”), which in turn is a wholly owned subsidiary of Vedanta Resources Pic (hereinafter referred to as “VR”) to SGL, whose 55.1 per cent shareholding is held by VR. The India Scheme was approved by the Board of Directors of SIIL, MALCO and SGL and the Ekaterina Scheme was approved by the Board of Directors of Ekaterina and SGL, on 25th February, 2012.”
**INTRODUCTION**

It’s indeed a pleasure to re-start the discussion on the subject of Intellectual property, after a gap and am really thankful to editorial and the editorial committee to give me an opportunity to discuss the Intellectual Property subject with my family of fellow Company Secretary.

Let me start with a series of discussion on the Valuation aspect and perspective in Intellectual Property.

Intangible assets and Intellectual Property usually does not appear an a Company balance –sheet, but they are present in any case. Intangible assets are all elements of business enterprise that exist after monetary and tangible assets are identified. They are the elements aside from working capital and fixed assets, that make the business run and contribute to the earning power of the enterprise their existence is dependant on the presence, or expectation, of earnings.

**BASICS OF VALUATION PRINCIPLE**

Henry Babcoc, describes value as being…….. Expressible in terms of a single 14 mpsom considered as payable or expended at a particular point in time in exchange for property that is the right to receive future benefits beginning at that particular time point.

Value dose not exist in the abstract and must be addressed within the context of time, place, potential Owners and potential user.

If value is in the eye of the beholder, we need to know who the beholder will be.

- A Bank
- A Judicial Authority in Merger and Acquisition
- An Insurance Company
- A Tax Assessor

**VALUATION TECHNIQUES AND METHODS OF INTELLECTUAL PROPERTY**

Valuation is “the present value of future benefits to be derived by the owner of property a valuation needs to quantify the future benefits and then calculate their present value.”

There are these accepted valuation methodologies: Market, cost and income techniques

**MARKET APPROACH:**

The market approach is the most direct and the most easily understand appraisal techniques, it measures the present value of future benefits by obtaining a consensus of what others in the market place have judged it to be.

There are two requisites:
1) An active, Public market and
2) An exchange of Comparable properties

The market approach is attractive because it takes the analysis to the bottom line of fair market value.

**COST APPROACH:**

The cost approach seeks to measure the future benefits of ownership by quantifying the amount of money that would be required to replace the future service capability of the subject property.

The market place is the test of this equation
Cost of Reproduction New (CRN)

OR

Cost of Replacement (COR)

Less: Physical Deprecation

Less: - Functional Obsolescence

Equals: - Cost of Replacement less Depreciation (ORCD)

Less: - Economic Obsolescence

Equals: - Fair Market value

**INCOME APPROACH**

The income approach focuses a consideration of the income producing capability of property.

The underlying theory is that the value of property can be measured by the present worth of the net economic benefit (Cash receipts Less Cash Outlays) to be received over the Life of the Property

**CAMPBELL AND TAYLOR:**

It has often been stated, but bears repeating, that assets (whether bricks and matter, hand, equipments, or corporate shares) are only worth in the open market, what they can each, and true measure of worth is the assets easing when related to the risk in the business situation.

**TIME VALUE OF MONEY –**

Three essential ingredients of the income approach are :

1) The amount of the income stream that can be generated by the property
2) An assumption as to the duration of the income stream
3) An assumption as to the risk associated with the realization of the pure cashed income.

\[
V = \frac{I}{R}
\]

V = Value of the earnings stream attributable to the property

I = Income derived from employment of the property representing the net of cash infl ow sad outflows

R = Capitalization rate reflecting all the business, economic and regulatory conditions affecting the risk associated with employing the property and achieving the prospective earnings

Thus in this Article, we have attempted to discuss the basics of Valuation of IP from business perspective, with this background we will continue discuss Intellectual Property Valuation.

"Act as if what you do makes a difference. It does." - William James
INTRODUCTION
In a highly networked world, organizations are measured as much
by their efficiency and transparency as they are by their results.
Information exchange within the enterprise, stakeholders, partners
and regulators should not only be efficient and painless but also
consistent. With disparate systems and disparate entities within an
organization, bringing in standardization in the way data is collated
and reported would rate as one of the top organizational challenges.
XBRL, now over a decade old, has provided an answer to this long
standing challenge. XBRL was developed to enable speedy and
efficient access to information, improve corporate communication
with stakeholders and most importantly reduce enterprise risk by
accurate consolidation and analysis of data...

EXTENSIBLE BUSINESS REPORTING LANGUAGE (XBRL)
XBRL supports a wide variety of data that organizations use to build
management reports, including financial statements, sustainability
reports and balanced scorecards. Standardization brings value to
both information providers and consumers. XBRL can provide such
standards for internal and external use.

SELECTING THE RIGHT XBRL TOOL - A GUIDE
While most companies in the initial XBRL adoption phase have
looked at it from a purely tactical perspective, they should gradually
plan to broaden the scope of their XBRL initiative by making the
underlying source systems XBRL aware.

For regulators, many of the recent challenges globally have forced
them to obtain timely, precise and detailed information from
companies. Mandatory XBRL based filing has been introduced by
regulators in Japan, United States, Italy, China, Singapore, and most
recently in India.

XBRL supports a wide variety of data that organizations use to build
management reports, including financial statements, sustainability
reports and balanced scorecards. Standardization brings value to
both information providers and consumers. XBRL can provide such
standards for internal and external use.

FEATURES THAT YOU SHOULD LOOK FOR IN YOUR XBRL TOOL:
- Is there a way to store the data centrally, archive and audit it?
- Irrespective of whether you are purchasing XBRL software for
  enterprise use or as a service provider, here is a list of recommended
  features that you should look for in your XBRL tool:
- With the recent increase in the pace of XBRL adoption globally,
  it won’t be long before most regulatory authorities mandate
data to be filed in XBRL. The software you use should be able
to support multiple taxonomies (e.g. MCA revised schedule VI,
Cost audit taxonomy, SEBI taxonomy, US GAAP etc.)
- Tagging source documents to the target taxonomy is one of the
  most important activities in XBRL based reporting. The
  software should enable a qualified user to:
  - Complete the tagging with relative ease, and free of
    errors.
  - Reuse the tagging viz. once tagged, the tagging
    information can be used for generating a XBRL instances
    across multiple years
  - allow tagging directly to documents in their source format
    (e.g. trial balance extract, finalized financial statements,
    notes to accounts etc)
- A key differentiator in XBRL software will be its ability to
generate multiple report outputs from the same tagged input.
If the software can generate custom MIS reports or even
automatically generate a financial statement, it becomes a
preparation tool and not just a conversion tool.
- There are a number of steps in the process of generating an
  XBRL instance. These are: data collection, tagging, iterative
  conversion and validation, independent review, client review,
certification and filing. If the software tool can provide
workflow features along with user access management, then
the organization can also split the process into logical modules
and keep complete control of the their report generation
process.
- For Service providers, the ability to manage multiple XBRL
projects across multiple clients becomes very important.
Software that can maintain and provide an integrated view
across all XBRL projects will be of great benefit.
- The software should maintain versions of the source and output
files, provide for data archival and audit, and most importantly
should be secure.

CONCLUSION
XBRL is just not for regulatory purposes but has its use as well in
other fields of business.
Planning such use is critical and organizations should think ahead
and use XBRL in such a manner that business information from
information providers to information consumers is available in
a consistent and reliable manner. At the same time, XBRL is not
a solution to all information transfer problems. XBRL is designed
explicitly to support business reporting and, as a result, has inherent
limitations.
If you look at XBRL purely as a compliance exercise and a cost
burden, you may end up with a software tool that may meet your
immediate requirements but will bring in no process change, and
the existing process inefficiencies will continue.
If you however want to leverage the power of XBRL, you might as
well make it worth your while and identify the software that does
more than just XBRL conversion.
# COMPLIANCES FOR THE MONTH OF AUGUST

**CS Hemant V. Pandya, Practising Company Secretary, Mumbai**

<table>
<thead>
<tr>
<th>Sr. No</th>
<th>Things you need to do</th>
<th>Sections / Rules / Clauses prescribing the activities to be done</th>
<th>Acts / Regulations / Circulars under which the Sections / Rules / Clauses is covered</th>
<th>Due Date before which you need to comply the activity</th>
<th>You need to submit this to</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TAX RELATED COMPLIANCES</strong></td>
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<tr>
<td><strong>CENTRAL EXCISE ACT RELATED COMPLIANCE</strong></td>
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</tr>
<tr>
<td>1</td>
<td>Pay excise duty on the goods removed from the factory or warehouse for the previous month</td>
<td>Rule 8(1)</td>
<td>Central Excise Rules, 2002</td>
<td>August 5</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>2</td>
<td>Pay excise duty on the goods removed from the factory or warehouse for the previous month (E-payment)</td>
<td>Rule 8(1)</td>
<td>Central Excise Rules, 2002</td>
<td>August 6</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>3</td>
<td>Submit monthly Central Excise E.R.1 Return (E.R. 2 return for 100% EOU / units in FTZ / SEZ)</td>
<td>Rule 12 (1) / 17 (3)</td>
<td>Central Excise Rules, 2002</td>
<td>August 10</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>4</td>
<td>Submit monthly return by manufacturer of Final Product (N.A. for SSI)</td>
<td>Rule 9(7)</td>
<td>CENVAT Credit Rules, 2004</td>
<td>August 10</td>
<td>Superintendent of Central Excise</td>
</tr>
<tr>
<td>5</td>
<td>Submit return containing information of principal input for the preceding month in Form No. E.R.6</td>
<td>Rule 9A</td>
<td>CENVAT Credit Rules, 2004</td>
<td>August 10</td>
<td>Superintendent of Central Excise</td>
</tr>
<tr>
<td>6</td>
<td>Submit monthly Return for availment of CENVAT Credit for preceding month in Form No. ER. 11</td>
<td>Rule 9(7) &amp; Rule 12</td>
<td>CENVAT Credit Rules, 2004 &amp; Central Excise Rules, 2002</td>
<td>August 10</td>
<td>Superintendent of Central Excise</td>
</tr>
<tr>
<td>7</td>
<td>Submit monthly return for receipt of inputs &amp; capital goods for the preceding month in Form No. E.R.2</td>
<td>Rule 9 (7) &amp; Rule 12</td>
<td>CENVAT Credit Rules, 2004 &amp; Central Excise Rules, 2002</td>
<td>August 10</td>
<td>Superintendent of Central Excise</td>
</tr>
<tr>
<td>8</td>
<td>Deposit duty on goods cleared during a calendar month, where an assessee is availing of the exemption under a notification based on the value of clearances of goods from factory or warehouse, in a Financial Year</td>
<td>Second Proviso to Rule 8 (1)</td>
<td>Central Excise Rules, 2002</td>
<td>August 15</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>9</td>
<td>Monthly payment of excise duty for the preceding month SSI Units</td>
<td>Rule 8</td>
<td>CENVAT Credit Rules, 2004 &amp; Central Excise Rules, 2002</td>
<td>August 15</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>10</td>
<td>Monthly payment of excise duty for the preceding month SSI Units (E-payment)</td>
<td>Rule 8</td>
<td>CENVAT Credit Rules, 2004 &amp; Central Excise Rules, 2002</td>
<td>August 16</td>
<td>Excise Authorities</td>
</tr>
<tr>
<td>11</td>
<td>Deposit duty on goods cleared during a calendar month, where an assessee is availing of the exemption under a notification based on the value of clearances of goods from factory or warehouse, in a Financial Year [E-payment]</td>
<td>Second Proviso to Rule 8(1)</td>
<td>Central Excise Rules, 2002</td>
<td>August 16</td>
<td>Excise Authorities</td>
</tr>
</tbody>
</table>

**INCOME TAX RELATED COMPLIANCE**

<table>
<thead>
<tr>
<th>Sr. No</th>
<th>Things you need to do</th>
<th>Sections/ Act</th>
<th>Due Date before which you need to comply the activity</th>
<th>You need to submit this to</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Deposit TDS from salaries for the previous month in Challan No. 281</td>
<td>Section 192</td>
<td>Income Tax Act, 1961</td>
<td>August 7</td>
</tr>
<tr>
<td>2</td>
<td>Deposit TDS on interest on Securities, Dividends other than dividends referred to in Section 115O. Interest other than interest on Securities, Winnings from Lotteries &amp; crossword puzzles, Winnings from Horse Races</td>
<td>Section 193, Section 194 to Section 194BB</td>
<td>Income Tax Act, 1961</td>
<td>August 7</td>
</tr>
</tbody>
</table>

"Always continue the climb. It is possible for you to do whatever you choose, if you first get to know who you are and are willing to work with a power that is greater than ourselves to do it.”

- Ella Wheeler Wilcox
## DATES TO REMEMBER

### Compliance Calendar

<table>
<thead>
<tr>
<th>Sr. No</th>
<th>Things you need to do</th>
<th>Sections / Rules / Clauses prescribing the activities to be done</th>
<th>Acts / Regulations / Circulars under which the Sections / Rules / Clauses is covered</th>
<th>Due Date before which you need to comply the activity</th>
<th>You need to submit this to</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Deposit TDS on Contractor’s Bill / Rent Advertising / Professional Service Bill deducted in the previous month</td>
<td>Section 194C to Section 194H</td>
<td>Income Tax Act, 1961</td>
<td>August 7</td>
<td>Designated Bank / Income Tax Authorities</td>
</tr>
<tr>
<td>4</td>
<td>Deposit TDS on payment to non-resident, Foreign company being holder of mutual fund units, Units held by an offshore fund, Income from foreign currency bond, Income of FIs from securities, Payment of Tax Collected at Source</td>
<td>Section 195, Section 196 A to 196 D and section 206</td>
<td>Income Tax Act, 1961</td>
<td>August 7</td>
<td>Designated Bank / Income Tax Authorities</td>
</tr>
<tr>
<td>5</td>
<td>Payment of Securities Transaction Tax for the previous month (Challan No. ITNS 283)</td>
<td>Section 100</td>
<td>Income Tax Act, 1961</td>
<td>August 7</td>
<td>Designated Bank / Income Tax Authorities</td>
</tr>
<tr>
<td>6</td>
<td>Issue TDS Certificates in Form 16A to vendors (with respect to TDS deducted in previous month)</td>
<td>Section 203</td>
<td>Income Tax Act, 1961</td>
<td>August 31</td>
<td>Income Tax Authorities</td>
</tr>
<tr>
<td>7</td>
<td>Annual Return of salaries in Form no. 24</td>
<td>Section 192</td>
<td>Income Tax Act, 1961</td>
<td>August 31</td>
<td>Income Tax Authorities</td>
</tr>
<tr>
<td>8</td>
<td>Submit return in respect of Securities Transaction Tax in Form 1 (Stock exchange) Form 2 (Mutual Fund)</td>
<td>Section 101</td>
<td>Income Tax Act, 1961</td>
<td>August 31</td>
<td>Designated Bank / Income Tax Authorities</td>
</tr>
<tr>
<td>#REF!</td>
<td>Furnish Annual Information Return for transactions registered or recorded during Financial year 2010-11 in Form 61A</td>
<td>Section 285BA</td>
<td>Income Tax Act, 1961</td>
<td>August 31</td>
<td>Income Tax Authorities</td>
</tr>
</tbody>
</table>

### FINANCE ACT & SERVICE TAX RELATED COMPLIANCE

<table>
<thead>
<tr>
<th>Sr. No</th>
<th>Things you need to do</th>
<th>Sections / Rules / Clauses prescribing the activities to be done</th>
<th>Acts / Regulations / Circulars under which the Sections / Rules / Clauses is covered</th>
<th>Due Date before which you need to comply the activity</th>
<th>You need to submit this to</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Pay Service tax collected during the previous month by persons other than individuals, proprietors and partnership firms in G.A.R-7</td>
<td>Section 68 read with Rule 6</td>
<td>The Finance Act, 1994 read with The Service Tax Rules, 1994</td>
<td>August 5</td>
<td>Service Tax Authorities</td>
</tr>
<tr>
<td>2</td>
<td>Pay Service tax collected during the previous month by persons other than individuals, proprietors and partnership firms in G.A.R-7 (E-payment)</td>
<td>Section 68 read with Rule 6</td>
<td>The Finance Act, 1994 read with The Service Tax Rules, 1994</td>
<td>August 6</td>
<td>Service Tax Authorities</td>
</tr>
</tbody>
</table>

### THE MAHARASHTRA STATE TAX RELATED COMPLIANCE

<table>
<thead>
<tr>
<th>Sr. No</th>
<th>Things you need to do</th>
<th>Sections / Rules / Clauses prescribing the activities to be done</th>
<th>Acts / Regulations / Circulars under which the Sections / Rules / Clauses is covered</th>
<th>Due Date before which you need to comply the activity</th>
<th>You need to submit this to</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Submit monthly return and payment of tax for the previous month in Form 209 by Dealer to whom a certificate of Entitlement has been granted for availing incentives by way of exemption</td>
<td>Rule 18</td>
<td>The Maharashtra Value Added Tax Act, 2005 read with the Rules thereunder</td>
<td>August 1</td>
<td>Sales Tax Authorities</td>
</tr>
<tr>
<td>2</td>
<td>Submit monthly return and pay tax for the previous month (if tax liability during the previous year exceeds Rs. 1 Lakh)</td>
<td>Rules 17 / 18 and 41</td>
<td>The Maharashtra Value Added Tax Act, 2005 read with the Rules thereunder</td>
<td>August 25</td>
<td>Sales Tax Authorities</td>
</tr>
<tr>
<td>3</td>
<td>Submit monthly return of Professional Tax if tax liability is Rs. 20 thousand or more in Form No. III (Return-cum-challan)</td>
<td>Rule 11 (3) (c)</td>
<td>The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 read with The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975</td>
<td>August 31</td>
<td>Profession tax Authorities</td>
</tr>
<tr>
<td>4</td>
<td>Credit Professional Tax deducted in the previous month in Form III</td>
<td>Rule 17</td>
<td>The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 read with The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975</td>
<td>Within 15 days of such deduction</td>
<td>Profession Tax Authorities</td>
</tr>
</tbody>
</table>

"Always desire to learn something useful." - Sophocles

July, 2012
<table>
<thead>
<tr>
<th>Sr. No</th>
<th>Things you need to do</th>
<th>Sections / Rules / Clauses prescribing the activities to be done</th>
<th>Acts / Regulations / Circulars under which the Sections / Rules / Clauses is covered</th>
<th>Due Date before which you need to comply the activity</th>
<th>You need to submit this to</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>COMPANY LAW RELATED COMPLIANCES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Payment of monthly Provident Fund dues (Corporate) for previous month in prescribed challan</td>
<td>Section 418</td>
<td>Companies Act, 1956</td>
<td>August 15</td>
<td>(i) Post Office Saving Bank Account or (ii) Special Bank or any Scheduled Bank where the company itself is a Scheduled Bank, in a special account to be opened by the company for the purpose either in itself or in the State Bank of India or in any other Scheduled Bank</td>
</tr>
<tr>
<td></td>
<td>ECONOMIC, INDUSTRIAL &amp; LABOUR LAW RELATED COMPLIANCES</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>Pay monthly Provident Fund dues (non-corporate)</td>
<td>Paragraph 38</td>
<td>Employees' Provident Funds Scheme, 1952</td>
<td>August 15</td>
<td>Provident Fund Authorities</td>
</tr>
<tr>
<td>2</td>
<td>File monthly return for employees leaving in form No. 10 / joining in form No. 5 during the previous month</td>
<td>Pragraph 20(2) read with Paragraph 36(1) &amp; (2)</td>
<td>The Employees Pension Scheme, 1995 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)</td>
<td>August 15</td>
<td>Provident Fund Commissioner</td>
</tr>
<tr>
<td>3</td>
<td>File monthly return in Form no. 2(IF) of employees entitled for membership of Insurance Fund</td>
<td>Paragraph 10</td>
<td>The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)</td>
<td>August 15</td>
<td>Provident Fund Commissioner</td>
</tr>
<tr>
<td>4</td>
<td>File monthly return in Form no. 3(IF) for members of Insurance Fund leaving service during the previous month</td>
<td>Paragraph 10</td>
<td>The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)</td>
<td>August 15</td>
<td>Provident Fund Commissioner</td>
</tr>
<tr>
<td>5</td>
<td>File monthly return in Form no. F4(PS)of members joining service during the month</td>
<td>Paragraph 10</td>
<td>The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)</td>
<td>August 15</td>
<td>Provident Fund Commissioner</td>
</tr>
<tr>
<td>6</td>
<td>Pay ESI contribution for previous month</td>
<td>Regulation 31</td>
<td>Employee State Insurance Act, 1948 Employees State Insurance (Gen) Regulations,</td>
<td>August 21</td>
<td>ESIC Authority</td>
</tr>
<tr>
<td>7</td>
<td>Submit monthly return of Provident Fund for the previous month in Form No. 12A</td>
<td>Paragraph 38</td>
<td>Employees' Provident Funds Scheme, 1952</td>
<td>August 25</td>
<td>Provident Fund Commissioner</td>
</tr>
<tr>
<td>8</td>
<td>Submit return of declaration in Form 3 &amp; 1-A</td>
<td>Regulation 14</td>
<td>Employees State Insurance (General) Regulations, 1990</td>
<td>Within 10 days from the date of receiving the relevant papers</td>
<td>ESIC Authority</td>
</tr>
<tr>
<td>10</td>
<td>Issue Notice for payment of Gratuity and Notice for Inadmissible claim in Form L&amp;M</td>
<td>Section 8</td>
<td>Payment of Gratuity Act, 1972</td>
<td>Within 15 days of receipt of application</td>
<td>Applicant employee or legal heir</td>
</tr>
<tr>
<td></td>
<td><strong>RBI (NBFC) RELATED COMPLIANCES</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>File return of exposure of capital markets in Form NBS-6</td>
<td>Para 22</td>
<td>NBFC-D Prudential Norms Directions, 2007</td>
<td>August 7</td>
<td>RBI</td>
</tr>
<tr>
<td>2</td>
<td>File a monthly return in prescribed format (NBC-ND)</td>
<td>Circular No. DNBS (R1D) CC No. 57/02/15/05-06</td>
<td>Department of Non-Banking Supervision, RBI</td>
<td>August 7</td>
<td>RBI</td>
</tr>
</tbody>
</table>

"Always do your best. What you plant now, you will harvest later." - Og Mandino
### Compliance Calendar

**SR. NO.** | **Things you need to do** | **Sections / Rules / Clauses prescribing the activities to be done** | **Acts / Regulations / Circulars under which the Sections / Rules / Clauses is covered** | **Due Date before which you need to comply the activity** | **You need to submit this to**
--- | --- | --- | --- | --- | ---

#### SEBI RELATED COMPLIANCES

**1** | Certificate on demat/remat of shares | Regulation 54(5) | SEBI (Depositories & Participants) Regulations, 1996 | Within 15 days of receipt of security from the participant | Stock Exchanges

#### LISTING AGREEMENT RELATED COMPLIANCES

**1** | Submit limited review report for the quarter ended June 30 | Clause 41 | Listing Agreement | August 15 | Stock Exchanges

**2** | Despatch 6 copies of Annual Report to each of Stock exchange where the Company listed and one copy to all recognized stock exchange in India. | Clause 41 | Listing Agreement | Clear 21 days before the date of AGM held or as soon as it is issued to Shareholders | Stock Exchanges

**3** | Furnish un-audited quarterly financial results in the prescribed format | Clause 41 | Listing Agreement | Aug 15 | Stock Exchanges

Though all precautions have been taken in compiling this calendar, WIRC of ICSI should not be held responsible in case of any discrepancy. In case of doubt, please refer to relevant law/rules.

---

**Tentative Schedule of Programs of ICSI-WIRC - August, 2012**

<table>
<thead>
<tr>
<th>Sr. No</th>
<th>Date</th>
<th>Day</th>
<th>Venue</th>
<th>Programme</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>4th August</td>
<td>Saturday</td>
<td>Essar House, 11 Keshav Roa Khadye Marg, Mahalaxmi, Mumbai - 400 034</td>
<td>Dadar Study Circle Meeting</td>
<td>To be decided</td>
</tr>
<tr>
<td>2</td>
<td>5th August</td>
<td>Sunday</td>
<td>Kandivali</td>
<td>Kandivali Study Circle Meeting</td>
<td>To be decided</td>
</tr>
<tr>
<td>3</td>
<td>12th August</td>
<td>Sunday</td>
<td>A V Hall, Don Bosco High School, L.T. Road, Vazira Naka, Borivali (West), Mumbai – 400091</td>
<td>Borivali Study Circle Meeting</td>
<td>To be decided</td>
</tr>
<tr>
<td>4</td>
<td>17th August</td>
<td>Friday</td>
<td>AV Hall, 1st Floor, New SNDT, Cama Lane, Ghatkopar (W), Mumbai- 400 077</td>
<td>Ghatkopar Study Circle Meeting</td>
<td>To be decided</td>
</tr>
<tr>
<td>5</td>
<td>11th August</td>
<td>Saturday</td>
<td>To be decided</td>
<td>Full Day Seminar</td>
<td>Secretarial Audit and Secretarial Standards</td>
</tr>
<tr>
<td>6</td>
<td>19th August</td>
<td>Sunday</td>
<td>Reena Mehta College of Commerce &amp; Management Studies, Near Flyover, 150 Feet Road, Opp. Maxus Mall, Bhayander(W), Dist. Thane - 401101</td>
<td>Bhayander Study Circle Meeting</td>
<td>To be decided</td>
</tr>
<tr>
<td>7</td>
<td>24th August</td>
<td>Friday</td>
<td>AC Auditorium, 1st Floor, ICSI- WIRC Premises, Jolly Makers Chamber No. 2, Nariman Point, Mumbai 400021</td>
<td>Study Circle Meeting</td>
<td>To be decided</td>
</tr>
<tr>
<td>8</td>
<td>25th August</td>
<td>Saturday</td>
<td>AC Auditorium, 1st Floor, ICSI- WIRC Premises, Jolly Makers Chamber No. 2, Nariman Point, Mumbai 400021</td>
<td>Full Day Seminar</td>
<td>SEBI Regulations, Listing Agreement and E-Voting</td>
</tr>
<tr>
<td>9</td>
<td>26th August</td>
<td>Sunday</td>
<td>Sardar Vallabhbhai Engineering College, Bhavan’s College Campus, Near Navrang Cinema &amp; Vrindavan Restaurant, Andheri (West), Mumbai</td>
<td>Andheri Study Circle Meeting</td>
<td>To be decided</td>
</tr>
</tbody>
</table>

"Be gentle to all and stern with yourself." - Saint Teresa of Avila
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❖ Pan India logistic support.
❖ Strategic factory location in and outside Mumbai.

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WIRC NEWS

Bhayander Study Circle Meeting
Date 17th June 2012
Venue Reema Mehta College of Commerce
Topic “Compliances Required under the Listing Agreement”
Speaker CS Rishikesh Vyas
Delegates
Target 30
Actual Attendance 50

Ghatkopar Study Circle Meeting
Date 22nd June 2012
Venue New SNDT College
Topic “Conducting of General Meetings”
Speaker Shri R Balakrishnan
Delegates
Target 40
Actual Attendance 59

ICSi - WIRC jointly with ICSI CCGRT
Date 16th June 2012
Venue ICSI - CCGRT
Topic “Joint Venture, Foreign Collaboration & Overseas Acquisition”
Speakers
Shri Hetan Patel, CA, Senior Partner, PHD & Associates
Shri Sharad Abhyankar, Partner, Khaitan & Co.
Shri Inderpreet, AVP, Intellivate Capital
Arvind Salvi, Former Dy General Manager, RBI
Other Features
David Gerald, Founder, President & CEO of Securities Investors Association (Singapore) or “SIAS” inaugurated the programme.
Delegates
Target 75
Actual Attendance 105

Dadar Study Circle Meeting
Date 7th July 2012
Venue Essar House, Mahalaxmi
Topic “Foreign Direct Investment”
Speaker Shri Arvind Salvi, Former Deputy General Manager, RBI
Delegates
Target 40
Actual Attendance 99

Borivali Study Circle Meeting
Date 8th July 2012
Venue Don Bosco School
Topic “New Developments in Corporate Taxation”
Speaker Shri Vitthal Dehadray, Vice President - Finance, Franklin Templeton Asset Management (India) Private Ltd.
Delegates
Target 50
Actual Attendance 96

“Crave for a thing, you will get it. Renounce the craving, the object will follow you by itself. - Swami Sivananda”

July, 2012
### ICSI - WIRC jointly with Bhopal Chapter

**FULL DAY SEMINAR ON “EMERGING BUSINESS ROLES” AT JABALPUR.**

<table>
<thead>
<tr>
<th>Date</th>
<th>7th July, 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Venue</td>
<td>Hotel Samdariya, Jabalpur</td>
</tr>
</tbody>
</table>
| Topics     | **Outlook on Finance**  
             | **Emerging Regulation-Increasing Roles**  
             | **Professional Motivation** |
| Chief Guest / Speakers | Mahavir Lunawat, Chairman-WIRC  
                         | Amit Kumar Jain, Member-WIRC  
                         | Dhanraj S Thakur, Chairman, Bhopal Chapter  
                         | Dr. Anil Dhagat, Academician from Jabalpur |
| Delegates  | 50 capacity  
             | 75 Actual attendance |
| Other features | This was the first seminar of ICSI-WIRC organized in Jabalpur, CS Shubra Gupta and CS Raju Chandra Pal from Jabalpur coordinated the programme. CS Krupesh Mankodi, CS S. Das, CS Kailash Bhatt, CS Anurag Mishra along with other members were also present. |

### ICSI-WIRC jointly with Raipur Chapter

<table>
<thead>
<tr>
<th>Date</th>
<th>8th July, 2012</th>
</tr>
</thead>
</table>
| Topic      | **Outlook on Finance**  
             | **Emerging Regulation-Increasing Roles**  
             | **Professional Motivation** |
| Chief Guest / Speaker | Mahavir Lunawat, Chairman-WIRC  
                         | Amit Kumar Jain, Member-WIRC |
| Other Features | This was the first seminar of ICSI-WIRC organized in Bilal |

### Ahmedabad Chapter

Ahmedabad Chapter in association with FICCI – Gujarat State Council

**Lecture meet on “Competition, Economic Policy & Common Man”**

<table>
<thead>
<tr>
<th>Date</th>
<th>22nd June, 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Venue</td>
<td>Auditorium, SPIPA, Satellite road, Opp. ISRO, Ahmedabad</td>
</tr>
<tr>
<td>Topics</td>
<td><strong>“Competition, Economic Policy &amp; Common Man”</strong></td>
</tr>
</tbody>
</table>
| Chief Guest / Speakers | Mr. Umesh Ved, WIRC Vice Chairman  
                         | Mr. Hitesh Buch, Chairman Ahmedabad Chapter  
                         | Mr. Rajesh Parekh, PCS Committee Chairman Ahmedabad Chapter  
                         | Mr. Rutul Shukla and other CS Members also attended the lecture on subject by Shri. Ashok Chawla - Chairman, Competition Commission of India |
| Delegates  | 20 capacity  
             | 20 Actual attendance |
| Other features | Study Circle Meet on Revised Schedule VI |

**Study Circle Meet on Revised Schedule VI**

<table>
<thead>
<tr>
<th>Date</th>
<th>23rd June, 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Venue</td>
<td>Chapter Premises, Ahmedabad</td>
</tr>
<tr>
<td>Topics</td>
<td>Revised Schedule VI</td>
</tr>
<tr>
<td>Chief Guest / Speakers</td>
<td>Shri Pradeep Tulsian, Chartered Accountant</td>
</tr>
</tbody>
</table>
| Delegates  | 50 capacity  
             | 50 Actual attendance |
| Other features | Welcome and vote of thanks by CS Rutul J. Shukla, Chairman - PCS Committee of the Chapter |

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*“Determine never to be idle. No person will have occasion to complain of the want of time who never loses any. It is wonderful how much may be done if we are always doing.”* - Thomas Jefferson
Thane Chapter

Seminar on Company Secretary and Insurance Industry

Date 17th June 2012
Venue Thane Chapter, Thane
Topics Seminar on Company Secretary and Insurance Industry
Chief Guest/Speakers CA Divya Gandhi, Head Insurance Vertical of Emkay Insurance Brokers Limited
Mr. Mahendra Tripathi, Head Legal & Compliance, SBI General Insurance Company Limited

Delegates—Target/Total capacity
—Actual attendance Over 50 students and 47 members

Other features The speakers appraised the audience about changing and expected future role of Company Secretaries due to inclusion of Employee Company Secretaries as Key Managerial Personnel in much awaited Companies Bill, 2011 and various risks to which role of company secretaries is exposed to. She also discussed about various steps to be taken to manage these risks. There was a discussion on “Role of Company Secretary in Insurance Company”

—Target/Total capacity

Other features CS Kevin Oliveira Fernandes, Chairman, Goa Chapter, welcomed the members and briefed on proposal to have more seminars dwelling on State Laws.

CS Urjita Damle proposed vote of thanks and CS Shivaram Bhat, Secretary of the Chapter compared the event

Goa Chapter

SEMINAR ON ‘DOCUMENTS: REGISTRATION AND DUTY PAYABLE THEREON’

Date 23rd June, 2012
Venue Venue Hotel Fidalgo, Panaji, Goa
Topics
Chief Guest/Speakers Mr. P Sridhar, Registrar of Companies & Official Liquidator, Goa, Daman & Diu
Mr. P S Bodke, State Registrar Goa - Cum - Head of Notary Services, Govt of Goa
Advocate P. V. S. Sardessai, (Retd. State Registrar Goa - Cum - Head of Notary Services).

Delegates —Target/Total capacity

Other features CS Kevin Oliveira Fernandes, Chairman, Goa Chapter, welcomed the members and briefed on proposal to have more seminars dwelling on State Laws.

CS Urjita Damle proposed vote of thanks and CS Shivaram Bhat, Secretary of the Chapter compared the event

Navi Mumbai Chapter

Study Circle Meeting on FOREX AND RISK MANAGEMENT

Date 8th April 2012
Venue ICSI-CCGRT, CBD BELAPUR
Topics FOREX AND RISK MANAGEMENT
Chief Guest/Speakers Mr. C.D. Sreedharan, Retd. AGM-RBI

Other features Aspects related to the topic and detailed with numerous finer issues and simplified the entire concept with various examples.

Raipur Chapter

Study Circle Meeting on Cost Audit

Date 2nd June 2012
Venue Raipur Chapter
Topics Cost Audit
Chief Guest/Speakers CS. S.G. Kankani, Founder Chairman of the Chapter
CS. Satish Sharma

Delegates —Target/Total capacity
—Actual attendance 20

Other features CS. S.K. Bathra proposed vote of thanks.

"Do not weep; do not wax indignant. Understand." - Baruch Spinoza
ORGAN DONATION – A Gift of Life

What is organ donation?
It means that a person pledges during his lifetime that after death, organs from his/her body can be used for transplantation to help terminally ill patients and giving them a new lease of life.

There are two ways of Organ donation:

Living related donors: only immediate blood relations (brother, sister, parents & children) can donate as per the Transplantation of Human Organ Act 1994. Living donor can donate only few organs (one kidney and part of the liver)

Cadaver Organ donor: can donate all organs after brain death.

What organs and Tissues can be donated?
The major donor organs and tissues are heart, lungs, liver, pancreas, kidneys, eyes, heart valves, skin, bones, bone marrow, connective tissues, middle ear, and blood vessels. Therefore one donor can possibly give gift of life to many terminally ill patients who would not survive otherwise.

What is brain death?
It is the irreversible and permanent cessation of all brain functions. Brain can no longer send messages to the body to perform vital functions like breathing, sensation, obeying commands etc. Such persons are dead but are kept on artificial support (ventilation) to maintain oxygenation of organs so that the organs are in healthy condition until they are removed. Organs of such patients can be transplanted in organ failure patients to provide them a new lease of life.

How quickly should the organs be donated?
Healthy organs should be transplanted as soon as possible after brain death from the donor to the recipient.

Who can be an Organ Donor?
Anyone, regardless of age, race or gender can become an organ and tissue donor. If he/she is under the age of 18 years, then the consent of parent or legal guardian is essential. Medical suitability for donation is determined at the time of death.

Who can give consent for organ donation after brain death?
A person who has during their lifetime consented for organ donation in writing in the presence of two witnesses (at least one of whom is a near relative), should always carry the organ donor card and express his/her wish to the near and dear ones. If no such consent form was filled before death, then the authority to give consent for organ donation lies with the person lawfully in possession of the dead body.

Which terminal diseases can be cured by transplant?
Here are some terminal diseases which can be cured by the transplantation:

<table>
<thead>
<tr>
<th>Disease</th>
<th>Transplantation Disease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heart</td>
<td>Heart failure</td>
</tr>
<tr>
<td>Lungs</td>
<td>Terminal lung illnesses</td>
</tr>
<tr>
<td>Kidneys</td>
<td>Kidney failure</td>
</tr>
<tr>
<td>Liver</td>
<td>Liver failure</td>
</tr>
<tr>
<td>Pancreas</td>
<td>Diabetes</td>
</tr>
<tr>
<td>Eyes</td>
<td>Blindness</td>
</tr>
<tr>
<td>Heart valve</td>
<td>Valvular disease</td>
</tr>
<tr>
<td>Skin</td>
<td>Severe burns</td>
</tr>
</tbody>
</table>

Who will receive your organ?
Your vital organs will be transplanted into those individuals who need them most urgently. Gifts of life (Organs) are matched to recipients on the basis of medical suitability, urgency of transplant, duration on the waiting list and geographical location.

Is there any charge to my family for organ donation?
No, there is no charge nor payment for organ/tissues used in transplantations. Organ donation is a true gift.

Does organ / tissue removal affect cremation / burial arrangements or disfigure the body?
No. The removal or organs or tissues will not interfere with customary funeral or burial arrangements. The appearance of the body is not altered. A highly skilled surgical transplant team removes the organs and tissues, which can be transplanted in other patients. Surgeons stitch up the body carefully, hence no disfigurement occurs. The body can be viewed as in any case of death and funeral arrangements need not be delayed.

Will the doctor ask permission of donation from my family, once the signed donor card is found?
Yes. Doctor will always ask the permission of organ donation from the family if your signed card is sighted. Therefore, it is important that you discuss your decision with family members and loved ones so that it will be easier for them to follow through with your wishes.

What is legal position on organs donations?
It is legal by law. The government of India has enacted the “transplantation of human organs act 1994” in Feb. 1995, which has allowed organ donation and legalised brain death.

Can organs be removed after death at home?
No. It can only be removed when a person is brain dead in the hospital and is immediately put on a ventilator and other life support systems. After death at home, only eyes and tissues can be removed.

"Do you want to know who you are? Don’t ask, Act! Action will delineate and define you." = Thomas Jefferson
Will my family be paid or have to pay for organ donation?
No.

What are the ethics of organ donation and transplantations?
Moral leaders the world over favor such donations as expressions of the highest humanitarian ideals. The gift of an organ essential to the life of another human being is consistent with principles of religious and ethical systems overwhelmingly held.

What else can I do to advance this life-preserving program?
Acquaint others with the donor card program. The more donors available, the more this new and important medical advance can be used for the benefit of mankind.

For organ donor cards contact - Narmada Kidney Foundation
02228254147, www/narmadakidney.org, narmadakidney@yahoo.co.in

“To Remember Me…

By Robert Test

“The day will come when my body will lie upon a white sheet neatly tucked under four corners of a mattress located in a hospital busily occupied with the living and the dying. At a certain moment a doctor will determine that my brain has ceased to function and that, for all intents and purposes, my life has stopped.

When that happens, do not attempt to artificial life into my body by the use of a machine. And don’t call this my death bed. Let it be called the Bed of Life, and let my body be taken from it to help others lead fuller lives.

Give my sight to the man who has never seen a sunrise, a baby’s face or love in the eyes of a woman.

Give my heart to a person whose own heart has caused nothing but endless days of pain.

Give my blood to the teenager who was pulled from the wreckage of his car, so that he might live to see his grandchildren play.

Give my kidneys to one who depends on a machine to exist from week to week.

Take my bones, every muscle, every fiber and nerve in my body and find a way to make a crippled child walk.

Explore every corner of my brain. Take my cells, if necessary and let them grow, so that some day, a speechless boy will shout at the crack of a bat and a deaf girl will hear the sound of rain against her window.

Burn what is left of me and scatter the ashes to the winds to help the flowers grow.

If you must bury something let it be my faults, my weaknesses and all prejudice against my fellow man.

Give my sins to the devil. Give my soul to God.

If, by chance, you wish to remember me, do it with a kind deed or word to someone who needs you.

If you do all, I have asked, I will live forever.”

“Either you run the day or the day runs you.” - Jim Rohn
"Even if you fall on your face, you're still moving forward." - Victor Kiam
ATTENTION MEMBERS

WIRC’S GROUP LIFE INSURANCE SCHEME

Master Policy No. OGI/692910

PART-I
THE SCHEDULE — ELIGIBILITY

ELIGIBILITY FOR MEMBERSHIP

(a) The Members who are within the following category shall be eligible to join the Scheme:

All Members who are aged not less than 18 years and not more than 59 years nearer birthday and who have given the consent to join the scheme are eligible to join the scheme provided they are keeping good health and not suffered from/is suffering from any of the critical illnesses viz., cancer, condition requiring open chest surgery, history of typical chest pain, kidney failure, brain stroke, or paralysis or having undergone major organ transplantation such as heart, lung, liver or kidney.

(b) No member shall withdraw from the scheme while he is still an eligible member satisfying the conditions of Eligibility described above.

PART—II
THE SCHEDULE — BENEFITS AND PREMIUMS

1. PLAN OF ASSURANCE

An Assurance shall be effected on the life of each member under one year renewable term insurance plan for a sum assured equal to Rs. 10,00,000/- (Rs. Ten Lacs Only). This assurance shall be held by the institute UPON TRUST for the benefit of the persons entitled to in accordance with these Rules.

2. RENEWAL OF ASSURANCE

Renewal of Assurance shall mean every year paying a demand draft of rupees 2800/- in favour of WIRC of ICSI payable at Mumbai and sent to WIRC office at room no 13. Jolly Maker Chamber II, 1st Floor, Nariman Point, Mumbai-21. Last date for paying the fee is 15th September, of every year for renewing the policy from 4th October of every year.

3. CORPORATION’S RIGHT TO ESTRIC ASSURANCE

Evidence of insurability satisfactory to the Corporation in the form and manner prescribed by the Corporation shall be furnished in respect of the Member before the Assurance or increase in Sum Assured under the Assurance is effected. If the evidence submitted in respect of the Member is not satisfactory or the Assurance on his life involves special risk or hazard of a medical or other nature, the Corporation shall modify the terms of the acceptance of the Assurance.

4. CONTRIBUTIONS

A) The Institute shall pay to the Corporation in respect of each member on the entry date and on annual renewal dates, such contributions as are required to secure and continue the assurance on his life as described in these Rules. Rs. 280/- for a sum assured of Rs. 1 lac.

5. TO WHOM PAYABLE

The Sum Assured shall be payable to the Grantees for the benefit of the Beneficiary of the Member.

6. HOW PAYABLE

The Sum Assured in respect of the deceased members shall be paid up in lump sum.

7. WHEN THE ASSURANCE TERMINATES

The Assurance on the life of the Member shall terminate on the happening of any of the following events: (a) On discontinuance of membership of the WIRC OR (b) On completion of 60 years of age.

8. SURRENDER AND PAID-UP VALUES

The Term Insurance effected hereunder carries no Surrender or paid-up values.

9. THE POLICY WILL BE ISSUED ONLY W.E.F.

If the premium received during any period of the year from members.

4th October 2012.

10. Members interested in joining the group insurance scheme may fill up the attached form along with a Demand Draft for Rs. 2800/- drawn in favour of WIRC OF ICSI payable at Mumbai and sent to WIRC of ICSI office, 13, Jolly Maker Chambers No.2, Nariman Point, Mumbai - 400 021 on or before 25th Sept, 2012. For Renewal also please send Rs. 2800/- by Demand Draft in favour of WIRC of ICSI on or before 25th September, 2012 to WIRC Of ICSI office, 13, Jolly Maker Chambers No.2, Nariman Point, Mumbai - 400 021.

(Last date 28th September 2012)

"An educated people can be easily governed." - Frederick The Great

July, 2012
Educate, Empower and Execute

AN APPEAL

As you might be aware that ICSI-WIRC have acquired additional office premises at Mumbai. The objective of the acquisition was to meet a long standing need for additional space in Mumbai, the business capital of the country and a premier Regional Headquarters of the Institute.

The additional space admeasuring 2206 sq.ft in Flats 56 and 57 on the fifth Floor, at Jolly Maker Chambers II, Nariman Point, Mumbai was inaugurated on 18th December, 2009 at the hands of Shri. Datla Hanumantha Raju, the then President of the Institute. Incidentally it may be noted that the additional space is on the same building where the first office premises of ICSI is located on the first floor.

The acquisition made at a total cost of Rs.8 crores (approx.) was funded by internal accruals of ICSI-Head Office and ICSI-WIRC. With a view to enable ICSI-WIRC to part-finance its obligations connected with the acquisition and renovation of its premises and to generate substantial corpus for future use, a Fund Raising Committee has been constituted. The Fund Raising Committee has resolved that it would be appropriate to create awareness about funding needs of ICSI-WIRC for putting to effective use of its premises.

We are sure you would appreciate that any such acquisition involving enormous capital outlay necessitates participation of one and all not excluding the corporate sector where our members have been rendering a stellar role in its affairs.

It is in this context that we appeal to your good self to consider and recommend a befitting contribution for the noble cause.

Names of donors contributing amount more than specified below will be published in focus.

Corporate donor: Rs.25,000/- PCS firm: Rs.10,000/- Individuals:Rs.5,000/-

And names of all donating above Rs.25,000/- will be appropriately displayed in the ICSI-WIRC premise.

We are confident that you would be kind enough to support this important and solemn initiative and help us in our endeavour.

Thanking you,

Yours faithfully,

CS Mahavir Lunawat
Chairman
ICSI-WIRC

CS Ragini Chokshi (Ms.)
Secretary
ICSI-WIRC

CS Prakash K. Pandya
Chairman
Fund Raising Committee of ICSI-WIRC

Please provide your particulars:

Name with designation
Name of Organisation
Address, Tel. No. & Email ID
Donation amount Rs.
ICSI membership number, if any ACS / FCS ............

Particulars of payment:

Demand draft / Local cheque No._______ dated ______ for Rs. ____________ favouring “WIRC of ICSI – fund raising” payable at Mumbai drawn on ______________ Bank ___________ branch is enclosed.

Yours faithfully,

Place:

Date:  Signature of the authority
Board of a company has formed a committee of directors to do certain acts, in this meeting one director was not present. In the next meeting of board he objected the formation of committee saying that articles of the company does not have the power to form committees of board hence the act of formation of committee is ultra virus. Is the point raised by director is valid.

Conditions

1. Answers should not exceed one typed page in double space.
2. Last date of receipt of answer is 07th of August 2012.
3. Two prizes (a first and a second) in kind will be awarded to the best answers and the names of the contributors will be published in the journal.
4. The envelope should be superscribed 'Prize Query July 2012 Issue' and addressed by name to:

   Amit Kumar Jain, Editor
   ICSI-WIRC’s FOCUS
   WIRC Premises No. 13, 56 & 57, Jolly Maker Chambers No.2, First Floor, Nariman Point, Mumbai - 400 021.

WINNER

Shri Vaibhav Sanghvi, Company Secretary from Mumbai has been announced the Winner for the Quiz published in June 2012 issue of FOCUS.

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"By failing to prepare, you are preparing to fail." - Benjamin Franklin

July, 2012
ICSI - WIRC Photo Gallery

SEMINAR ON Joint Ventures, Foreign Collaboration & Overseas Acquisition
Saturday 16th June, 2012 at ICSI-CCGRT, Navi Mumbai

Addressing Shri Mahavir Lunawat, - L to R Shri N.L. Bhatia, Hetan Patel, David Gerald

S. K. Batra, Amit Jain, Mahavir Lunawat, Y.C. Rao, Sonam Agrawal (Ms.)

CA Pradeep Tulsian and CS Rutul Shukla

Presenting Momento

Scene of Audience

Shivaram Bhat, Mr S Phaye, Asst. ROC & Mr P Sridhar, ROC, Goa, Daman & Diu and Kevin Oliveira Fernandes

Mr. Vitthal Dehadray, VP- Finance, Franklin Templeton Investments

Shivaram Bhat, Mr S Phaye, Asst. ROC & Mr P Sridhar, ROC, Goa, Daman & Diu and Kevin Oliveira Fernandes

Half day Seminar on “Emerging Business Roles” organised by ICSI-WIRC jointly with Raipur Chapter at Bhilai on 8th July 2012

Borivali Study Circle Meeting on New Developments in Corporate Taxation on 8th July 2012

S. K. Batra, Amit Jain, Mahavir Lunawat, Y.C. Rao, Sonam Agrawal (Ms.)

S. K. Batra, Amit Jain, Mahavir Lunawat, Y.C. Rao, Sonam Agrawal (Ms.)

Shri Arvind Salvi
Shri Inderpreet Singh
Shri Sharad Abhyankar

Shri Arvind Salvi
Shri Inderpreet Singh
Shri Sharad Abhyankar

ICSI - WIRC Photo Gallery

Surat Chapter conducted a SIP Training on 17th June to 23rd June 2012.

Study Circle Meeting on 23rd June 2012 organised by Ahmedabad Chapter

Addressing Amit Kumar Jain, sitting L-R Shubra Gupta (Ms.), Mahavir Lunawat, Dhannaj S Thekur

Addressing Amit Kumar Jain, sitting L-R Shubra Gupta (Ms.), Mahavir Lunawat, Dhannaj S Thekur

CS Jitendra Bhagat Presenting Momento

CA Pradeep Tulsian and CS Rutul Shukla

Seminar on “Documents: Registration and Duty payable thereon in Goa” on 23.6.2012

Borivali Study Circle Meeting on New Developments in Corporate Taxation on 8th July 2012

Shivaram Bhat, Mr S Phaye, Asst. ROC & Mr P Sridhar, ROC, Goa, Daman & Diu and Kevin Oliveira Fernandes

Mr. Vitthal Dehadray, VP- Finance, Franklin Templeton Investments

Seminar on “Emerging Business Roles”organised by ICSI-WIRC jointly with Bhopal Chapter at Jabalpur on 07th July’2012

S. K. Batra, Amit Jain, Mahavir Lunawat, Y.C. Rao, Sonam Agrawal (Ms.)

Scene of Audience
Credit Hours:
Credit Hours would be granted to member(s) attending programme as per guidelines of the ICSI.

Validity:
The Membership is valid for one year from the date of registration (subject of maximum of 8 full day/half day Programmes).

Annual Fees:
1. Individual Members of ICSI:
   Rs. 6500/- (Individual Members will not be eligible to depute any other person.)

2. Corporate Members:
   Rs. 10,000/- (Corporate Members may depute any one person from their organization/ Firm of PCS to attend the programme, who need not be a member.)

3. Senior Citizen members (Age – above 60 years): Rs. 6000/-

4. C.S. Students: Rs. 5,000/-

The fee may be paid by way of cheque / demand draft in favour of "WIRC of ICSI" payable at Mumbai and forward the same to ICSI-WIRC, 13 Jolly Maker Chambers No. 2, First Floor, Nariman Point, Mumbai – 400 021.

Contact:
Phone - Sudipto Pal, Joint Director
9869449631
Email - Mahavir Lunawat
cschairman.wirc@gmail.com

Archana Sawant
9970320202

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9223542195

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