





# STUDENT COMPANY SECRETARY

[e-Journal for Executive & Professional Students]

June 2023

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*President*

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*Vice-President*

**CS B. Narasimhan**

**PREPARED BY DIRECTORATE OF ACADEMICS**

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## ***INFO CAPSULE***

*<https://www.icsi.edu/infocapsule/>*

## ***SUBJECTWISE MONTHLY UPDATES***

*<https://www.icsi.edu/student-n/academic-portal/subjectwise-monthly-updates/>*

## ***GUIDELINE ANSWERS***

*[https://www.icsi.edu/student-n/academic-portal/guideline\\_answers/](https://www.icsi.edu/student-n/academic-portal/guideline_answers/)*

## ***RESEARCH CORNER***

*<https://www.icsi.edu/student-n/academic-portal/research-corner/>*



***“Together we can face any challenges as deep as the ocean and as high as the sky.”***

Dear Students,

The pressure of Examinations is one of the definitive aspects of a student’s life and it is these Examinations that act as stepping stones leading each one of us into the next phase of life. The months of June and December are eventful for the ICSI students for it is these months that put them to test, to assess them befitting for their professional journey.

And while that may be the only activity visible on the forefront – the preparation for these Examinations of the ICSI – just as yourself – is not a matter of a few days. Our wholehearted efforts go into priding our students with the right guidance material, assistance through classes and whatsoever other ways possible. At the end of the day, the ball is in your court, as to how well you make good of the resources made available to you and live up to the expectations of those around as well as your own, from yourself – to be the future torchbearers of governance.

Friends, while as students, each one of you must have put in the best of efforts to sail through, the process of learning is a never-ceasing one for professionals. It is not only the knowledge and information that make up for the learning needs. Neither does staying updated on the recent developments suffice alone.

A continuous development of persona and personality, an incessant focus on honing interpersonal skills, a sensitized approach towards national and international issues and an open mindset towards varied opinions is what makes learning complete and the learner – a true professional.

You might be wondering, as to why this message and the Journal is making a delayed entry into your inboxes and many of you would have encountered a host of challenges on the Institute’s website as well. While technology has brought us a lot closer, offering a million advantages, the second half of the month of June, saw us grappling with technical difficulties in our IT systems leading to a halt on the services provided. I am thankful to

each one of you for holding out with patience and showing immense sensibility by giving us the time to get back on our feet.

Although times of trouble such as these prove to be challenging in more ways than one, at the same time they remind us of our strength in togetherness and I am proud of the Institution that we are and of each of our members, students and stakeholders connected.

Wishing you good luck for the activities planned in the Student Month...

Happy reading !!!

Warm regards,

**(CS Manish Gupta)**

*President*

The Institute of Company Secretaries of India

**Dear Students,**

As I sit to pen this message and share my thoughts, the relief of having accomplished yet another session of Examinations has taken over. The Examinations are as much exhilarating affair for us as they are for you. Just as yourself, the preparations here at the Institute commence months before. Coordinating activities on a nation-wide basis, bringing together an entire force of people, assigning roles, delegating responsibility, only to make your journey and attempt – both seamless and hassle-free.

While the efforts at our end are to the best of our intent, we expect the same from you as well. In your journey to be a Governance Professional, we as your Institute expect you all to place in your best of efforts in not only clearing the Examinations, but also in having a hands-on approach towards learning new things, gaining new information, staying constantly updated and grab every opportunity possible to sharpen their skills.

Friends, the magnitude of professional challenges has undergone a metamorphosis. With numerous business and economic activities occurring across the globe, corporate houses are witnessing new challenges requiring professionals to possess an in-depth knowledge of various crucial facets associated with such challenges so as to find apt solutions for them.

Whether it is developments pertaining to capital markets, competitive scenario prevailing in the industry, economic policies, economic laws, corporate laws etc., a professional has to be conversant with all the developments to remain updated to deliver optimal solutions.

Moreover, professionals need to develop themselves in such a manner that they are infallible for the organisation or clients and it is only possible through diversifying their knowledge base and continuous updation of their skill set. That said and summarised, there is no alternative to learning. To keep growing and to accomplish excellence, learning is an indispensable element...

Happy reading !

Warm regards,

**(CS Asish Mohan)**

*Secretary*

The Institute of Company Secretaries of India

## RECENT INITIATIVES FOR STUDENTS

- The **Student Company Secretary e-journal** for Executive / Professional programme students of ICSI has been released for the month of **May, 2023**. The same is available on the Institute's website at the weblink: <https://www.icsi.edu/e-journals/>
- The **Student Company Secretary journal** for Executive / Professional programme students of ICSI containing the academic inputs i.e Articles, Practice Mentor, Regulatory Updates, Case Snippets etc. has been released for the month of **May, 2023**.
- The **CSEET Communique (e-bulletin)** for the month of **May, 2023** containing the latest updates /concepts through articles /write-ups and sample questions in respect of Papers of the CSEET has been placed on the ICSI website. The same is also available at the CSEET Portal at the Institute's website at the weblink: <https://www.icsi.edu/student-n/cseet/cseet-e-bulletin/>
- **Info Capsule** is being issued as an update on daily basis for members and students, covering latest amendments on various laws for the benefit of our members and students. The same is available on the ICSI website at the weblink: <https://www.icsi.edu/infocapsule/>
- **Organising Samadhan Diwas**

Samadhan Diwas was launched by the Institute on 27<sup>th</sup> February, 2021 with the objective of providing "on-the-spot" resolution to issues/grievances of trainees and trainers. During the Samadhan Diwas, the officials of Directorate of Training interact with the trainees and trainers and provide them the resolution to their grievances.

The 32<sup>nd</sup> Samadhan Diwas was organised on 14<sup>th</sup> June, 2023 through virtual mode.

The purpose of the Samadhan Diwas is to facilitate the stakeholders to resolve their queries on the spot. In the Samadhan Diwas students get opportunity to present their cases and directly interact with the ICSI officials.

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# *Academics*





# *Practice Mentor*

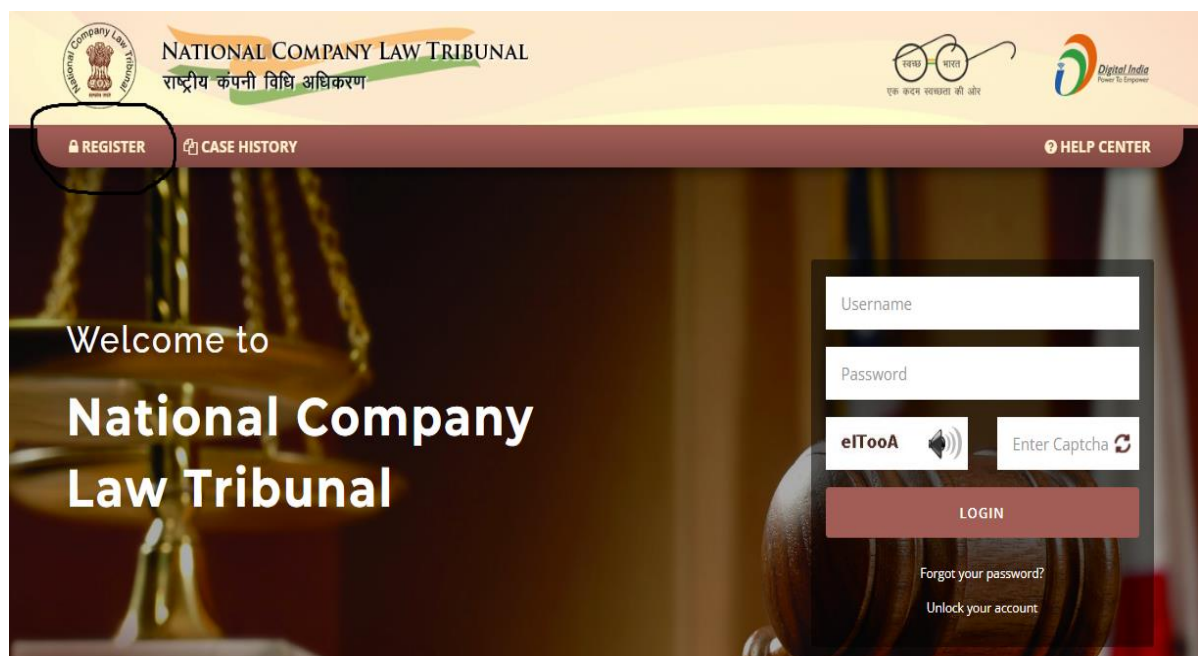
## E-FILING BEFORE NCLT\*

The National Company Law Tribunal (NCLT) is a quasi-judicial body for adjudication of companies and matters *inter alia* relating to compromise, arrangements, reconstructions and winding up. Insolvency resolution process of companies and limited liability partnerships also comes under the jurisdiction of NCLT. NCLT has been set up by Union Government under section 408 of the Companies Act, 2013. The Ministry of Corporate Affairs has the authority to set up Benches of NCLT. There are 15 Benches of NCLT presently adjudicating the matters along with Principal Bench at New Delhi. Appeals against the decision of NCLT lies with NCLAT and further appeals may lie before the Supreme Court of India on a point of law.

The step wise process of e-filing before NCLT is explained in this Practice Mentor:

### Step 1: Registration

A professional intending to e-file the pleadings before NCLT are required to register themselves with NCLT from the website: <https://efiling.nclt.gov.in/mainPage.drt>



\* CS Kushal Kumar, Assistant Director, The ICSI

*Views expressed in the Article are the sole expression of the Author and may not express the views of the Institute.*

Professionals can register themselves under various categories such as Individual, Company Secretary, Advocate, Chartered Accountant, Cost Accountant, Resolution Professionals etc. Regulators including Registrar of Companies, Regional Director, Liquidators, Income Tax or other authorities are also required to register themselves as the user.

After selecting the type of user, the below webpage will appear requiring to mention your details.

e - filing User Registration ( as Company Secretary )					
User representing Law/Professional Firm				<input type="radio"/> Yes <input checked="" type="radio"/> No	
Any prior registration process is incomplete click here			<input type="checkbox"/> Yes		
Name*	Company Secretary Name	ICSI Number*	ICSI Number	Address 1*	Address
Address 2	Address	Land-mark	Landmark	State*	Select State
City/District*	Select City	Pin-code*	Pincode	Login Id*	Login Id For Creation
Mobile Number*	Mobile Number				
E-mail Id*	e-mail Id				
<a href="#">Back</a>		<a href="#">Reset</a>		<a href="#">Submit &amp; Next</a>	

It may be noted that different details are required depending upon the category of user. A professional has to submit a copy of PAN Card, Aadhar Card or Certificate of Registration for completion of registration.

On completion of registration, an email containing the user id filled and temporary password is sent to the registered email id. Professional has to generate his password for accessing to the account.

## Step 2: Entering Details of the Suit

After the login, the following page will appear:

NATIONAL COMPANY LAW TRIBUNAL राष्ट्रीय कंपनी विधि अधिकरण				HOME CHANGE PASSWORD EDIT PROFILE INCIDENT REPORT LOGOUT	
Basic Details		Add Petitioner		Add Respondent	
Add Representative		Upload Document		Check List	
Final Preview		Payment			
<b>BASIC DETAILS</b>					
Reference No : -					
NCLT Location*	New Delhi	Jurisdiction/Location of Registered Office of Respondent*	Union territory of Delhi		
Case Type/Nature*	CA(A) Merger & Amalgamation	Are You Qualified in MSME Sector*	NO		
Case Title	** will be auto filled later	Subject matter*	merger		
Amount Claimed	Suit Amount	Remarks			
Section of Companies Act 2013*	-- Select Section Act From List --	Fee Amount	0		
Industry *	-- Select Industry --				
<a href="#">More Section</a>		Total Maximum Payable Amount :	0	<a href="#">Save And Next</a>	

**Points to remember:**

1. The location of NCLT is to be decided on the basis of Jurisdiction of the Bench on the matter.
2. Cast title is auto filled at the later stage.
3. Amount claimed has to be found out carefully.
4. A professional has the option of choosing the section under which the action to be taken.
5. A professional can choose the industry.
6. The amount of Fees is automatically calculated.
7. A professional may take action in more than one section.
8. A reference number gets generated after clicking the Button Save and Next.



### Step 3: Entering Details of the Petitioner/Respondent and Authorised Representative of Petitioner

After filling the details of the matter. A professional has to enter the details of Petitioner and respondent. The details should be completed in all respect.

In case CIN is available for the parties, a professional can search for Company using Company name or CIN and get the details auto filled. In any other case, details are required to be provided by the professional.

Points to remember: In case a representative like Company Secretaries, Advocate, CA or other such representative is filing on behalf of their client from their login, their name will already be available in the list.



### Step 4 : Uploading of the documents

**The following points are to be kept in mind before Uploading of documents:**

1. Professionals can upload only the pdf copies.
2. The documents should be scanned in Grey Scale with 300 Dots Per Inch (DPI).
3. Maximum number of Pages should be 300.
4. Physical file and Online file should be identical in volumes and number of pages.
5. A Professional may upload more than one attachment.

## Step 5 : Complete the Checklist

A checklist is required to be filled. Professionals can select Yes, No and N/A against the checklist statement and provide their remarks for the same. This is one of the most important part of the process. It includes questions relating to Jurisdiction, Eligibility, Administrative requirement etc. Professionals and students may refer to the link: [http://164.100.158.181/orders/checklist\\_NCLT.pdf](http://164.100.158.181/orders/checklist_NCLT.pdf) for questions that are to be answered in the checklist.

Professionals and students may also refer to the below QR Code for questions



## Step 6 : Payment of Fees and Final Submission

1. A professional can view all the details filled and go back to edit any details if required.
2. A professional can either pay the Fees through Online or Offline. In online mode Net Banking, Debit Card, Credit Card etc. may be used. In Offline Mode, the professionals can pay through the demand draft.
3. After payment of the Fees, the petition can be finally submitted.
4. However, A professional can file additional documents under ongoing cases by filing number, Case number.
5. Re-Filing can also be done in case of defects raised by NCLT. The defect can be visible under Refiling option in the professional's account. A professional will receive defects information via email.

### References

1. <https://nclt.gov.in/>
2. <https://efiling.nclt.gov.in/mainPage.drt>
3. <https://efiling.nclt.gov.in/downloads/manual/manual.pdf>

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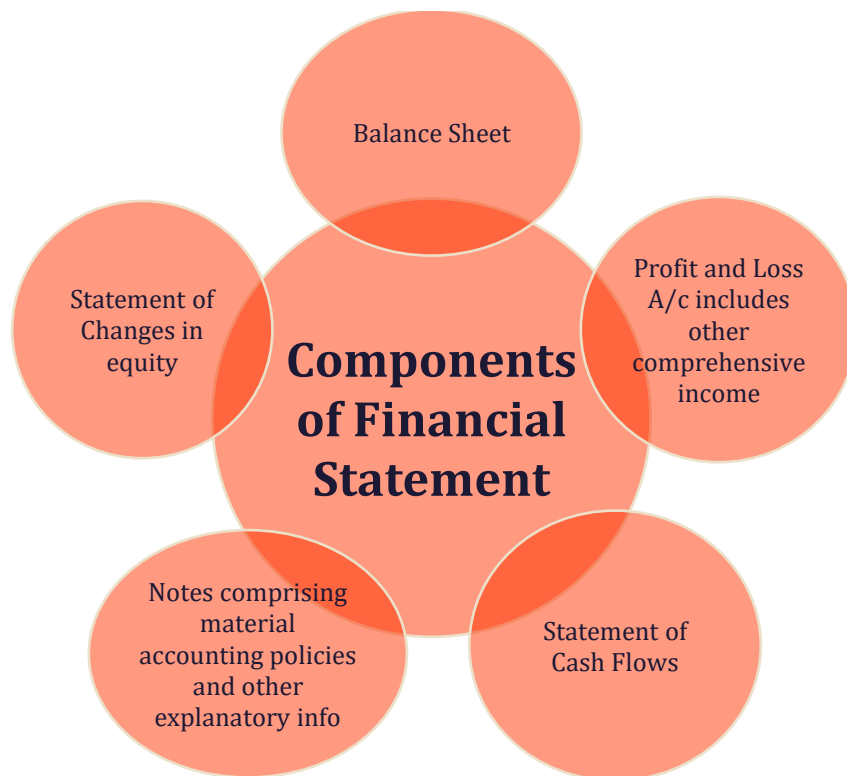
- **All About Ind AS 1 (Presentation of Financial Statement)**

## All About Ind AS 1\*

### Presentation of Financial Statement

#### INTRODUCTION

The Indian Accounting Standards (Ind AS) were introduced in India in 2015, with the aim of bringing greater transparency and consistency to financial reporting. One of the key standards is Ind AS 1 i.e. Presentation of Financial Statements. It is a basic standard, which prescribes the overall requirements for the presentation of general purpose financial statements and prescribes the guidelines for their structure i.e. components of financial statements. It also specifies the minimum requirements for disclosures in the notes to the financial statements. The following are the components of Financial Statements:



\* CA Govind Agarwal, Assistant Director, The ICSI

*Views expressed in the Article are the sole expression of the Author and may not express the views of the Institute.*

## OBJECTIVES

It prescribes the basis for presentation of general purpose financial statements to ensure comparability within the entity's financial statements of previous periods and with the financial statements of other entities.

## SCOPE

It applies to all types of entities including those that present Consolidated Financial Statements (Ind AS 110) and Separate Financial Statements (Ind AS 27). However, it would not be applicable to structure and content of condensed interim financial statements (Ind AS 34).

## PURPOSE

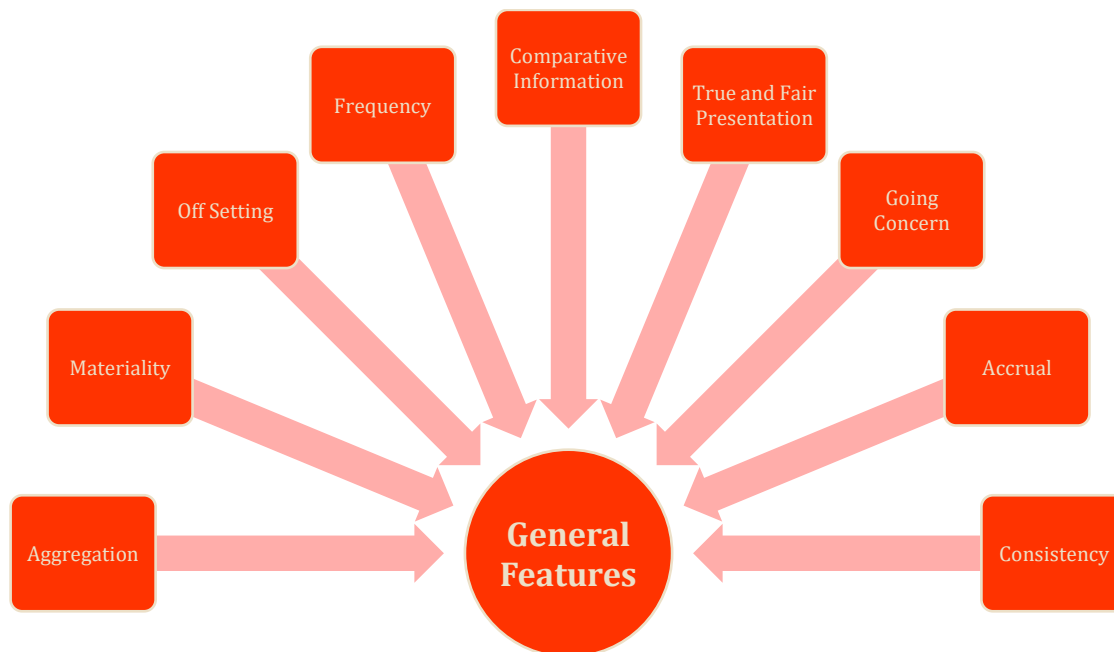
To ensure that financial statements provide information that is relevant, reliable, comparable, and understandable to users. This standard sets out the principles and requirements for the presentation of financial statements, which are the primary means of communicating financial information to users. By setting out the principles and requirements for the presentation of financial statements, Ind AS 1 ensures that financial statements provide a fair and accurate representation of an entity's financial position about its:

- Assets
- Liabilities
- Equity
- Income and expenses including gains and losses
- Contribution by and distribution to owners
- Cash flows

Information along with other information in the notes assist users of the financial statements in predicting the entity's future cash flows and in particular, their timing and certainty. This helps users to make informed decisions about the entity's financial health and prospects, and promotes transparency and accountability in financial reporting.



## KEY PRINCIPLES



### 1. True and Fair Presentation

Financial statements shall present a true and fair view of the financial position, financial performance and cash flows of an entity. Presentation of true and fair view requires the faithful representation of the effects of transactions, other events and conditions in accordance with the definitions and recognition criteria for assets, liabilities, income and expenses set out in the Conceptual Framework.

An entity whose financial statements comply with Ind AS shall make an explicit and unreserved statement of such compliance in the notes. An entity shall not describe financial statements as complying with Ind AS unless they comply with all the requirements of Ind AS. There may be disagreement of the Company with the auditor on the applicability of any Ind AS or particular requirement of any Ind AS and accordingly auditor may qualify the audit report. Even in such a situation, the financial statements will be assumed to be Ind AS compliant.

### 2. Going Concern Assumption

Ind AS 1 assumes that an entity will continue to operate for the foreseeable future, unless there is evidence to the contrary. This allows financial statements to be prepared on a basis that assumes the entity will continue to operate, which is important for making meaningful financial projections and evaluating an entity's long-term viability.

The entity's ability to continue as a going concern, and this assessment should cover the entity's prospects for at least 12 months from the end of the reporting period. The 12-month period for considering the entity's future is a minimum requirement; an entity cannot, for example, prepare its financial statements on a going concern basis if it intends to cease operations 18 months from the end of the reporting period.

### **3. Accrual Accounting**

Ind AS 1 requires entities to use the accrual basis of accounting to recognize revenue and expenses in the financial statements. Accrual accounting recognizes revenues and expenses when they are earned or incurred, regardless of when cash is received or paid. This provides a more accurate picture of an entity's financial performance and position.

### **4. Materiality**

Ind AS 1 requires entities to consider the materiality of information when presenting financial statements. Materiality refers to the significance of information in the context of the financial statements as a whole. This principle ensures that financial statements focus on information that is relevant and useful to users.

### **5. Aggregation**

Financial statements result from processing large numbers of transactions or other events that are aggregated into classes according to their nature or function. The final stage in the process of aggregation and classification is the presentation of condensed and classified data, which form line items in the financial statements. If a line item is not individually material, it is aggregated with other items either in those statements or in the notes. An item that is not sufficiently material to warrant separate presentation in those statements may warrant separate presentation in the notes.

### **6. Offsetting**

Offsetting of assets and liabilities or income and expenses is not allowed unless required or permitted by an Ind AS. An entity reports separately both assets and liabilities, and income and expenses. Measuring assets net of valuation allowances — for example, obsolescence allowances on inventories and doubtful debts allowances on receivables— is not offsetting.

### **7. Consistency of Presentation**

Ind AS 1 requires entities to present financial statements in a consistent manner from one period to the next. This includes using consistent accounting policies, formats, and classifications. This principle ensures that users can compare an entity's financial performance and position over time and make informed decisions based on this information.

There is an exception to this rule:

- If it is apparent, following a significant change in the nature of the entity's operations or a review of its financial statements, that another presentation or classification would be more appropriate having regard to the criteria for the selection and application of accounting policies in Ind AS 8; or
- an Ind AS requires a change in presentation.

## 8. Frequency of reporting

An entity shall present a complete set of financial statements (including comparative information) at least annually. When an entity changes the end of its reporting period and presents financial statements for a period longer or shorter than one year, an entity shall disclose, in addition to the period covered by the financial statements, the reason for using a longer or shorter period, and the fact that amounts presented in the financial statements are not entirely comparable.

## 9. Comparative information

An entity should present comparative information in respect of the preceding period for all amounts reported in the current period's financial statements except when Ind AS permit or require otherwise. Comparative information for narrative and descriptive information should be included if it is relevant to understand the current period's financial statements.

An entity shall present, as a minimum:

- 2 Balance Sheets
- 2 Statement of Profit and Loss
- 2 Statement of Cash Flows
- 2 Statement of Changes in Equity and
- Related Notes.

## STRUCTURE AND CONTENT OF FINANCIAL STATEMENTS

An entity shall display the following information prominently:

- the name of the reporting entity or other means of identification, and any change in that information from the end of the preceding reporting period;
- whether the financial statements are of an individual entity or a group of entities;
- reporting date or the reporting period;
- the presentation currency;
- the level of rounding used in presenting amounts in the financial statements.

An entity often makes financial statements more understandable by presenting information in thousands or millions of units of the presentation currency. This is acceptable as long as the entity discloses the level of rounding and does not omit material information.

### A. Balance Sheet

At a minimum, the balance sheet shall include following items:

a	Property, plant and equipment
b	Investment property
c	Intangible assets
d	Financial assets [excluding amounts shown under (e, h & i)]
e	Investments accounted for using the equity method
f	Biological assets
g	Inventories
h	Trade and other receivables
i	Cash and cash equivalents
j	The total of assets classified as held for sale and assets included in disposal groups classified as held for sale in accordance with Ind AS 105 (Non-current Assets Held for Sale and Discontinued Operations)
k	Trade and other Payable
l	Provisions
m	Financial liabilities (excluding amounts shown under k and l)
n	Liabilities and assets for current tax, as defined in Ind AS 12 Income Taxes
o	Deferred tax liabilities and deferred tax assets, as defined in Ind AS 12
p	Liabilities included in disposal groups classified as held for sale in accordance with Ind AS 105
q	Non-controlling interests, presented within equity
r	Issued capital and reserves attributable to owners of the parent

While preparing a balance sheet in accordance with IND AS, there are certain key requirements that must be met. Here is a guide to drafting a balance sheet in compliance with IND AS:

- **Asset and Liability Classification:** An entity shall present current and non-current assets, and current and non-current liabilities, as separate classifications in its balance sheet except when a presentation based on liquidity provides information that is reliable and more relevant. When that exception applies, an entity shall present all assets and liabilities in order of liquidity. Whichever method of presentation is adopted, an entity shall disclose the amount expected to be recovered or settled no more than twelve months after the reporting period, and more than twelve months after the reporting period.

**Note:**

1. When an entity presents current and non-current assets, and current and non-current liabilities, as separate classifications in its balance sheet, it shall not classify deferred tax assets (liabilities) as current assets (liabilities).
  2. Financial institutions may present assets and liabilities in increasing or decreasing order of liquidity if the presentation is reliable and more relevant than a current / non-current presentation. This is because such entity does not supply goods or services within a clearly identifiable operating cycle.
  3. An entity is permitted to present some of its assets and liabilities using a current / non-current classification and others in order of liquidity. The need for a mixed basis of presentation might arise when an entity has diverse operations.
- **Equity:** Equity should be presented separately on the balance sheet, and should include any reserves or accumulated profits. The components of equity should be clearly disclosed, including any changes in equity during the reporting period.
  - **Valuation:** Assets and liabilities should be valued at fair value, unless the standard specifically requires a different valuation basis. Fair value is the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants.
  - **Off-Balance Sheet Items:** Off-balance sheet items should be disclosed in the notes to the financial statements. This includes any contingent liabilities or assets that may have an impact on the financial position of the entity.
  - **Comparative Figures:** The balance sheet should include comparative figures for the previous reporting period, unless this is not practicable.

- **Disclosure:** The balance sheet should include adequate disclosures to enable users to understand the financial position of the entity. This includes details of significant accounting policies, estimates and judgments, and any material events or transactions that have occurred during the reporting period.

## B. Statement of Profit and Loss

The statement of profit and loss shall present:

- profit or loss;
- total other comprehensive income;
- comprehensive income for the period, being the total of profit or loss and other comprehensive income.

An entity shall present (in case of consolidated statement of profit and loss) the following items as allocation of profit or loss and other comprehensive income for the period:

- a) profit or loss for the period attributable to:
  - i. non-controlling interests, and
  - ii. owners of the parent.
- b) comprehensive income for the period attributable to:
  - i. non-controlling interests, and
  - ii. owners of the parent.

In addition to items required by other Ind AS, the profit or loss section of the statement of profit and loss should include line items that present the following amounts for the period:

- a. revenue, presenting separately interest revenue calculated using the effective interest method;
- b. gains and losses arising from the derecognition of financial assets measured at amortised cost;
- c. finance costs;
- d. impairment losses (including reversals of impairment losses or impairment gains) determined in accordance with Section 5.5 of Ind AS 109;
- e. share of the profit or loss of associates and joint ventures accounted for using the equity method;
- f. if financial asset is reclassified out of the amortised cost measurement category so that it is measured at fair value through profit or loss, any gain or loss arising from a difference between the previous amortised cost of the financial asset and its fair value at the reclassification date;

- g. if a financial asset is reclassified out of the fair value through other comprehensive income measurement category so that it is measured at fair value through profit or loss, any cumulative gain or loss previously recognized in other comprehensive income that is reclassified to profit or loss;
- h. tax expense;
- i. a single amount for the total discontinued operations.

*Note:*

1. An entity shall not present any items of income or expense as extraordinary items, in the statement of profit and loss or in the notes.
2. An entity shall present an analysis of expenses recognised in profit or loss using a classification based on the nature of expense method.

Revenue		X
Other income		X
Changes in inventories of finished goods and work in progress	X	
Raw materials and consumables used	X	
Employee benefits expense	X	
Depreciation and amortisation expense	X	
Other expenses	X	
Total expenses		(X)
Profit before tax		X

There are certain key requirements that must be met while preparing an income statement in accordance with IND AS. Here is a guide to drafting an income statement in compliance with IND AS:

- *Revenue Recognition* : Revenue should be recognized when it is earned, and it should be measured at the fair value of the consideration received or receivable.
- *Cost of Sales* : The cost of sales should be recognized as an expense in the same period as the related revenue is recognized.
- *Operating Expenses* : Operating expenses should be recognized in the period in which they are incurred, and should be classified by nature (e.g. selling and distribution expenses, administrative expenses, etc.).
- *Finance Costs* : Finance costs should be recognized in the period in which they are incurred, and should include interest expense on borrowings and other financing costs.

- *Income Taxes* : Income tax expense should be recognized in the period in which the related income is recognized, using the applicable tax rate.
- *Earnings per Share* : Earnings per share should be disclosed on the income statement, calculated using the weighted average number of shares outstanding during the reporting period.
- *Comparative Figures* : The income statement should include comparative figures for the previous reporting period, unless this is not practicable.
- *Disclosure* : The income statement should include adequate disclosures to enable users to understand the entity's financial performance. This includes details of significant accounting policies, estimates and judgments, and any material events or transactions that have occurred during the reporting period.

### C. Other Comprehensive Income

Other Comprehensive Income (OCI) is a reporting category in financial statements that reflects gains and losses that are not recognized in the income statement. OCI includes items that affect the financial position of a company but are not part of its normal operations. These gains and losses are usually recognized directly in equity, bypassing the income statement. The concept of OCI is important because it allows for a more comprehensive view of a company's financial performance and position. Here are some of the items that are commonly included in OCI:

- *Unrealized Gains or Losses on Available-for-Sale Securities* : Companies must record any changes in the fair value of securities they hold as available for sale. These changes are recorded directly in OCI, rather than in the income statement.
- *Foreign Currency Translation Adjustments* : Companies that operate internationally must account for exchange rate fluctuations. OCI is used to record gains and losses that arise from these fluctuations.
- *Changes in the Fair Value of Derivatives* : Companies that use derivatives such as futures, options, or swaps to hedge their exposure to market risks must record any changes in the fair value of these derivatives in OCI.
- *Pension Plan Gains and Losses* : Companies that offer defined benefit pension plans must record any gains or losses that arise from changes in the value of plan assets or from changes in actuarial assumptions in OCI.
- *Revaluation Surplus* : Companies that revalue their fixed assets to reflect changes in their market value must record any resulting gains or losses in OCI. While these items do not impact the company's bottom line, they can have a significant impact on its financial position.



By recording these items in OCI, investors and analysts can get a more complete picture of the company's financial performance and position. Companies are required to disclose the items included in OCI in the notes to their financial statements, along with any tax implications of these items.

#### **D. Statement of Changes in Equity**

An entity shall present a statement of changes in equity which includes all changes in equity. It includes both - relating to performance and owner changes in equity (from transactions and events that increase or decrease equity but are not part of performance). The statement of changes in equity includes the following information:

- a. total comprehensive income for the period, showing separately the total amounts attributable to owners of the parent and to non-controlling interests;
- b. for each component of equity, the effects of retrospective application or retrospective restatement recognised in accordance with Ind AS 8;
- c. for each component of equity, a reconciliation between the carrying amount at the beginning and the end of the period, separately disclosing each change resulting from:
  - profit or loss;
  - each item of other comprehensive income;
  - transactions with owners in their capacity as owners, showing separately contributions by and distributions to owners and changes in ownership interests in subsidiaries that do not result in a loss of control; and
  - any item recognised directly in equity such as amount recognised directly in equity as capital reserve with Ind AS 103.

When preparing a statement of changes in equity in accordance with IND AS, there are certain key requirements that must be met. Here is a guide to drafting a statement of changes in equity in compliance with IND AS:

- *Opening Balance* : The statement should begin with the opening balance of equity at the beginning of the reporting period.
- *Changes in Equity* : The statement should include all changes in equity during the reporting period, including the effects of any adjustments or corrections made during the period.
- *Comprehensive Income* : The statement should disclose the components of comprehensive income for the reporting period, including any items of income or expense that are recognized directly in equity.

- *Dividends* : The statement should disclose any dividends or other distributions made during the reporting period.
- *Share-Based Payments* : The statement should disclose the effects of any share-based payment transactions during the reporting period.
- *Reconciliation* : The statement should include a reconciliation between the opening and closing balances of each component of equity, including share capital, share premium, retained earnings, and any other reserves.
- *Comparative Figures* : The statement should include comparative figures for the previous reporting period, unless this is not practicable.
- *Disclosure* : The statement should include adequate disclosures to enable users to understand the changes in equity during the reporting period. This includes details of significant accounting policies, estimates and judgments, and any material events or transactions that have occurred during the reporting period.

#### **E. Statement of Cash Flows**

- *Operating Activities* : The statement should begin with the net cash inflow or outflow from operating activities, which should be prepared using the indirect method.
- *Investing Activities* : The statement should disclose the net cash inflow or outflow from investing activities, which includes cash flows related to the acquisition and disposal of long-term assets, investments, and other financial instruments.
- *Financing Activities* : The statement should disclose the net cash inflow or outflow from financing activities, which includes cash flows related to the issuance and repayment of debt, equity instruments, and other financing activities.
- *Reconciliation* : The statement should include a reconciliation between the opening and closing balances of cash and cash equivalents, which should include the effects of exchange rate changes.
- *Non-Cash Transactions* : The statement should disclose any significant non-cash transactions that have affected the entity's financial position during the reporting period, such as the issuance of shares in exchange for assets or the conversion of debt into equity.
- *Comparative Figures* : The statement should include comparative figures for the previous reporting period, unless this is not practicable.
- *Disclosure* : The statement should include adequate disclosures to enable users to understand the entity's cash flows during the reporting period. This includes details of significant accounting policies, estimates and judgments, and any material events or transactions that have occurred during the reporting period.

## F. Notes to Accounts

The notes shall:

- a. present information about the basis of preparation of the financial statements and the specific accounting policies used;
- b. disclose the information required by Ind AS that is not presented elsewhere in the financial statements; and
- c. provide information that is not presented elsewhere in the financial statements but is relevant to an understanding of any of them.

An entity may present notes providing information about the basis of preparation of the financial statements and specific accounting policies as a separate section of the financial statements.

### DISCLOSURES REQUIRED BY IND AS

IND AS 1 requires companies to provide certain disclosures in their financial statements to ensure that users of the financial statements have a clear understanding of the company's financial position, performance, and cash flows. Here are some of the key disclosures required under IND AS 1:

- *Statement of compliance* : The financial statements should include a statement that they have been prepared in accordance with the requirements of IND AS.
- *Material accounting policies* : The financial statements should disclose the material accounting policies that have been used in preparing the financial statements, including any changes in those policies.
- *Judgments and estimates* : The financial statements should disclose any significant judgments and estimates made in the preparation of the financial statements, including the methods used to determine these estimates.
- *Materiality* : The financial statements should disclose any items that are considered to be material to the financial statements, either individually or in aggregate.
- *Going concern* : If the company's ability to continue as a going concern is in doubt, the financial statements should disclose this fact and provide any related information.
- *Events after the reporting period* : The financial statements should disclose any events that have occurred after the reporting period but before the financial statements are authorized for issue.
- *Dividend* : An entity must disclose the amount of dividends proposed or declared before the financial statements were approved for issue but not recognised as a

distribution to owners during the period, and the related amount per share and the amount of any cumulative preference dividends not recognised.

- *Related party transactions* : The financial statements should disclose any related party transactions that have occurred during the reporting period, including the nature of the relationship and the amounts involved.
- *Segment reporting* : If the company operates in multiple segments, the financial statements should disclose information about those segments, including revenue, profit or loss, assets, and liabilities.
- *Earnings per share* : If the company has issued equity instruments, the financial statements should disclose the earnings per share for the reporting period.
- *Share capital* : The financial statements should disclose information about the company's share capital, including the number of shares issued, their par value, and any changes in share capital during the reporting period.
- *Cash flows* : The financial statements should disclose information about the company's cash flows, including the net cash flow from operating, investing, and financing activities.
- *Contingent liabilities* : The financial statements should disclose any contingent liabilities, including the nature of the contingency, the likelihood of it being resolved, and the potential financial impact on the company.

### **Other disclosures**

Ind AS 1 requires certain other disclosures, if not disclosed elsewhere in information published with the financial statements:

- a. the domicile and legal form of the entity, its country of incorporation and the address of its registered office (or principal place of business, if different from the registered office);
- b. a description of the nature of the entity's operations and its principal activities;
- c. the name of the parent and the ultimate parent of the group; and
- d. if it is a limited life entity, information regarding the length of its life.

## SIGNIFICANT DIFFERENCES IN IND AS 1 VIS-À-VIS AS 1

Ind AS 1 deals with presentation of financial statements, whereas AS 1 deals only with the disclosure of accounting policies. The scope of Ind AS 1 is thus much wider.

<i>S.No.</i>	<i>Particulars</i>	<i>Ind AS 1</i>	<i>AS 1</i>
1.	Explicit Statement of Compliance	An enterprise shall make an explicit statement in the financial statements of compliance with all the Indian Accounting Standards.  Further, Ind AS 1 allows deviation from a requirement of an accounting standard in case the management concludes that compliance with Ind AS will be misleading and if the regulatory framework requires or does not prohibit such a departure.	No such requirement given in AS 1
2.	Current and Non-current Classification	Ind AS 1 requires presentation and provides criteria for classification of Current / Non-Current assets / liabilities.	No such classification given in AS 1
3.	Extraordinary Items	Ind AS 1 prohibits presentation of any item as 'Extraordinary Item' in the statement of profit and loss or in the notes.	Extraordinary Item must be presented as a separate line item.
4.	Disclosure of Judgements and Assumptions made	Ind AS 1 requires disclosure of judgments made by management while framing of accounting policies. Also, it requires disclosure of key assumptions about the future and other sources of measurement of uncertainty that have significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within next financial year.	No such requirement given in AS 1

5.	Classification of Expenses	Ind AS 1 requires classification of expenses to be presented based on nature of expenses.	No such requirement given in AS 1
6.	Comparative Balance Sheets	Ind AS 1 requires presentation of balance sheet as at the beginning of the earliest period when an entity applies an accounting policy retrospectively or makes a retrospective restatement of items in the financial statements, or when it reclassifies items in its financial statements.	No such requirement given in AS 1
7.	Disclosure of Reclassified Items	In respect of reclassification of items, Ind AS 1 requires disclosure of nature, amount and reason for reclassification in the notes to financial statements.	No such requirement given in AS 1
8.	Statement of Changes in Equity	Ind AS 1 requires the financial statements to include a Statement of Changes in Equity to be shown as a separate statement, which, inter alia, includes reconciliation between opening and closing balance for each component of equity.	No such requirement given in AS 1
9.	Statement of Other Comprehensive Income	Ind AS 1 requires that an entity shall present a single statement of profit and loss, with profit or loss and other comprehensive income presented in two sections. The sections shall be presented together, with the profit or loss section presented first followed directly by the other comprehensive income section.	No such requirement given in AS 1
10.	Inclusion of Comparative Information	As per Ind AS 1, an entity shall include comparative information for understanding the current period's financial statements.	No such requirement given in AS 1

11.	Classification of Long-term Loan Arrangement	Ind AS 1 clarifies that long term loan arrangement need not be classified as current on account of breach of a material provision, for which the lender has agreed to waive before the approval of financial statements for issue.	No such requirement given in AS 1
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### CARVE OUT IN IND AS 1 FROM IAS 1

#### *As per IFRS*

IAS 1 requires that in case of a loan liability, if any condition of the loan agreement which was classified as non-current is breached on or before the reporting date, such loan liability should be classified as current, even if the breach is rectified after the balance sheet date.

#### *Carve Out*

Ind AS 1 clarifies that where there is a breach of a material provision of a long-term loan arrangement on or before the end of the reporting period with the effect that the liability becomes payable on demand on the reporting date, the entity does not classify the liability as current, if the lender agreed, after the reporting period and before the approval of the financial statements for issue, not to demand payment as a consequence of the breach.

#### *Rationale*

Under Indian banking system, a long-term loan agreement generally contains a large number of conditions. Some of these conditions are substantive, such as, recalling the loan in case interest is not paid, and some conditions are procedural and not substantive, such as, submission of insurance details where the entity has taken the insurance but not submitted the details to the lender at the end of the reporting period. Generally, customer-banker relationships are developed whereby in case of any procedural breach, a loan is generally not recalled. Also, in many cases, a breach is rectified after the balance sheet date and before the approval of financial statements. Carve out has been made as it is felt that if the breach is rectified after the balance sheet date and before the approval of the financial statements, it would be appropriate that the users are informed about the true nature of liabilities being non-current liabilities and not current liabilities.

### CONCLUSION

Ind AS 1 sets out the overall framework for financial reporting under Indian Accounting Standards (Ind AS) and establishes guidelines for the preparation and presentation of financial statements. The standard provides guidance on the selection of accounting

policies, the treatment of changes in accounting policies, and the presentation of comparative information in financial statements. It also sets out the requirements for the presentation of financial statements, including the minimum components that must be included in the statement of financial position, the statement of profit and loss, and the statement of changes in equity. The standard also requires the disclosure of additional information in the notes to the financial statements to provide a complete understanding of the financial position and performance of the entity. Overall, Ind AS 1 plays a crucial role in enhancing transparency and consistency in financial reporting, which ultimately leads to more informed decision-making by users of financial statements. It is important for companies to comply with Ind AS 1 and ensure that their financial statements are presented fairly and accurately in accordance with the standard.

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# Regulatory Updates

## SECURITIES LAWS AND CAPITAL MARKET

### 1. Additional requirements for the issuers of transition bonds

**(Circular No. SEBI/HO/DDHS/DDHS\_Div1/P/CIR/2023/66 dated May 04, 2023)**

In order to facilitate transparency and informed decision making amongst the investors in the transition bonds and to ensure that the funds raised through transition bonds are not being misallocated, SEBI has prescribed certain additional requirements for issuance and listing of transition bonds.

‘Transition bonds’ is one of the sub categories of the revised definition of ‘green debt security’. As per the SEBI (Issue and Listing of Non-Convertible Securities), transition bonds comprise of “*funds raised for transitioning to a more sustainable form of operations, in line with India’s Intended Nationally Determined Contributions.*”

An issuer desirous of issuing transition bonds shall make the following additional disclosures:

- Disclosure in the offer document for public issues /private placements of such transition bonds.
- Disclosure in the Centralised Database for corporate bonds.
- Disclosure to Stock Exchanges, in case of a revision in the transition plan.
- Disclosure in the Annual report.

*For details:*

[https://www.sebi.gov.in/legal/circulars/may-2023/additional-requirements-for-the-issuers-of-transition-bonds\\_70937.html](https://www.sebi.gov.in/legal/circulars/may-2023/additional-requirements-for-the-issuers-of-transition-bonds_70937.html)

### 2. Investment in units of Mutual Funds in the name of minor through guardian

**(Circular No. SEBI/HO/IMD/POD-II/CIR/P/2023/0069 dated May 12, 2023)**

SEBI has specified that payment for investment by any mode shall be accepted from the bank account of the minor, parent or legal guardian of the minor, or from a joint account of the minor with parent or legal guardian. For existing folios, the Asset Management Companies shall insist upon a Change of Pay-out Bank mandate before redemption is processed. Further provided that, irrespective of the source of payment for subscription, all redemption proceeds shall be credited only in the verified bank account of the minor, i.e. the account the minor may hold with the parent/ legal guardian after completing all KYC formalities.

*For details:*

[https://www.sebi.gov.in/legal/circulars/may-2023/investment-in-units-of-mutual-funds-in-the-name-of-minor-through-guardian\\_71148.html](https://www.sebi.gov.in/legal/circulars/may-2023/investment-in-units-of-mutual-funds-in-the-name-of-minor-through-guardian_71148.html)

### 3. Master Circular for Registrars to an Issue and Share Transfer Agents (RTA)

**(Circular No. SEBI/HO/MIRSD/POD-1/P/CIR/2023/70 dated May 17, 2023)**

In order to enable the users to have access to the applicable circulars at one place, this Master Circular in respect of RTA is being issued. The circulars mentioned in Appendix shall stand rescinded from the date of issuance of this Master Circular.

*For details:*

[https://www.sebi.gov.in/legal/master-circulars/may-2023/master-circular-for-registrars-to-an-issue-and-share-transfer-agents\\_71271.html](https://www.sebi.gov.in/legal/master-circulars/may-2023/master-circular-for-registrars-to-an-issue-and-share-transfer-agents_71271.html)

#### 4. Master Circular for Stock Brokers

**(Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/71 dated May 17, 2023)**

In order to enable the users to have access to the provisions of the applicable circulars at one place, this Master Circular in respect of Stock Brokers has been prepared. SEBI's Master Circular for Stock Brokers dated June 01, 2018 was a compilation of relevant circulars issued by SEBI which were operational as on June 01, 2018. Subsequently, various guidelines/directions were issued to Stock Brokers by way of circulars/advisory. Further, some of the references to the Statutes/Regulations in the Master Circular now stand repealed. In view of the same, the instant Master Circular has been prepared which supersedes the Master Circular for Stock Brokers dated June 01, 2018 and the subsequent circulars on the subject.

*For details:*

[https://www.sebi.gov.in/legal/master-circulars/may-2023/master-circular-for-stock-brokers\\_71265.html](https://www.sebi.gov.in/legal/master-circulars/may-2023/master-circular-for-stock-brokers_71265.html)

#### 5. Master Circular for Mutual Funds

**(Circular No. SEBI/HO/IMD/IMD-PoD-1/P/CIR/2023/74 dated May 19, 2023)**

In order to enable the stakeholders to have an access to all the applicable regulatory requirements at one place, the provisions of the circulars issued till March 31, 2023 are incorporated in this Master Circular for Mutual Funds. The circulars mentioned in Appendix to this Master Circular shall stand rescinded with the issuance of the Master Circular.

*For details:*

[https://www.sebi.gov.in/legal/master-circulars/may-2023/master-circular-for-mutual-funds\\_71438.html](https://www.sebi.gov.in/legal/master-circulars/may-2023/master-circular-for-mutual-funds_71438.html)

#### 6. Dematerialization of securities of Hold Cos and SPVs held by Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs)

**(Circular No. SEBI/HO/DDHS-PoD-2/P/CIR/2023/75 and SEBI/HO/DDHS-PoD-2/P/CIR/2023/76 dated May 22, 2023)**

Regulation 14(18) of SEBI (Real Estate Investment Trust) Regulations, 2014 ("REIT Regulations") and Regulation 14(4)(r) of SEBI (Infrastructure Investment Trusts) Regulations, 2014 ("InvIT Regulations") provide that the units of REIT and InvIT shall be issued only in dematerialized form to all the applicants. In order to promote dematerialization of securities, encourage ease of doing business, improve transparency in the dealings of securities of Hold Cos/ SPVs, SEBI has prescribed that REIT and InvITs shall henceforth hold the securities of Hold Cos and SPVs in dematerialized form only.

*For details:*

[https://www.sebi.gov.in/legal/circulars/may-2023/dematerialization-of-securities-of-hold-cos-and-spvs-held-by-infrastructure-investment-trusts-invits\\_71449.html](https://www.sebi.gov.in/legal/circulars/may-2023/dematerialization-of-securities-of-hold-cos-and-spvs-held-by-infrastructure-investment-trusts-invits_71449.html)

[https://www.sebi.gov.in/legal/circulars/may-2023/dematerialization-of-securities-of-hold-cos-and-spvs-held-by-real-estate-investment-trusts-reits\\_71448.html](https://www.sebi.gov.in/legal/circulars/may-2023/dematerialization-of-securities-of-hold-cos-and-spvs-held-by-real-estate-investment-trusts-reits_71448.html)

## 7. SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2023

**(Notification No. SEBI/LAD-NRO/GN/2023/130 dated May 23, 2023)**

With the objective of increasing transparency and streamlining certain issue processes, SEBI has notified the SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2023. Vide this notification following amendments have been made:

- The words “SEBI (Share Based Employee Benefits) Regulations, 2014” wherever they appear, will be substituted with the words “SEBI (Share Based Employee Benefits and Sweat Equity) Regulations, 2021”.
- Regulation 40 and 136 pertaining to Underwriting in the case of an initial public offer (IPO) and further public offer (FPO), respectively, have been replaced.
- A listed entity can announce bonus issue of shares, only after obtaining approval from the stock exchanges for listing and trading of all the pre-bonus securities issued by it.
- Bonus issue shall be made only in dematerialised form.

*For details:*

[https://www.sebi.gov.in/legal/regulations/may-2023/securities-and-exchange-board-of-india-issue-of-capital-and-disclosure-requirements-second-amendment-regulations-2023\\_71705.html](https://www.sebi.gov.in/legal/regulations/may-2023/securities-and-exchange-board-of-india-issue-of-capital-and-disclosure-requirements-second-amendment-regulations-2023_71705.html)

## 8. Model Tripartite Agreement between the Issuer Company, Existing Share Transfer Agent and New Share Transfer Agent as per Regulation 7(4) of SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015

**(Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/79 dated May 25, 2023)**

As per regulation 7(4) of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, in case of any change or appointment of a new share transfer agent, the listed entity shall enter into a tripartite agreement between the existing share transfer agent, the new share transfer agent and the listed entity, in the manner as specified by SEBI from time to time. In this respect, a format of the model Tripartite Agreement has been prescribed by SEBI which is placed at Annexure-A to this circular.

*For details:*

[https://www.sebi.gov.in/legal/circulars/may-2023/model-tripartite-agreement-between-the-issuer-company-existing-share-transfer-agent-and-new-share-transfer-agent-as-per-regulation-7-4-of-sebi-lodr-regulation-2015\\_71657.html](https://www.sebi.gov.in/legal/circulars/may-2023/model-tripartite-agreement-between-the-issuer-company-existing-share-transfer-agent-and-new-share-transfer-agent-as-per-regulation-7-4-of-sebi-lodr-regulation-2015_71657.html)

## DIRECT TAX

### Notifications

**1. Central Government notifies provisions of DTAA with 'Chile' [Notification No. 24 Dated May 3, 2023]**

An Agreement and Protocol between the Government of the Republic of India and the Government of the Republic of Chile for the elimination of double taxation and the prevention of fiscal evasion and avoidance with respect to taxes on income, was signed at Chile on the 9th day of March, 2020.

The said Agreement and Protocol entered into force on the 19th day of October, 2022, being the date of the later of the notifications of the completion of the procedures required by the respective laws of the Contracting States for entry into force of the said Agreement and Protocol.

Sub-paragraph (a) of paragraph 2 of Article 30 of the said Agreement provides that the provisions of the Agreement shall have effect in India in respect of income derived in any fiscal year beginning on or after the first day of April next following the date on which the Agreement enters into force;

Now, therefore, the Central Government notifies that all the provisions of said Agreement and Protocol shall be given effect to in the Union of India.

*For details:*

<https://incometaxindia.gov.in/communications/notification/notification-24-2023.pdf>

**2. Pune Metropolitan Region Development Authority notified u/s 10(46) of the Income tax Act, 1961 [Notification No. 25 Dated May 10, 2023]**

The Central Government notifies 'Pune Metropolitan Region Development Authority' (PAN AAALP1603L), an Authority constituted by the state government of Maharashtra, for the purposes of the clause (46) of section 10 of the Income-tax Act, 1961, in respect of the certain specified income arising to that Authority subject to fulfilment of certain specified conditions.

***Accordingly, Pune Metropolitan Region Development Authority' can claim exemption u/s 10(46) of the Income tax Act, 1961 by fulfilling certain specified conditions.***

*For details:*

<https://incometaxindia.gov.in/communications/notification/notification-25-2023.pdf>

**3. Food Safety and Standards Authority of India notified u/s 10(46) of the Income tax Act, 1961 [Notification No. 26 Dated May 10, 2023]**

The Central Government notifies 'Food Safety and Standards Authority of India', New Delhi (PAN AAAGF0023K), an Authority established by the Ministry of Health and Family Welfare, Government of India, for the purposes of the clause (46) of section 10 of the Income-tax Act, 1961, in respect of the certain specified income arising to that Authority subject to fulfilment of certain specified conditions.

***Accordingly, Food Safety and Standards Authority of India' can claim exemption u/s 10(46) of the Income tax Act, 1961 by fulfilling certain specified conditions.***

*For details:*

*<https://incometaxindia.gov.in/communications/notification/notification-26-2023.pdf>*

**4. CBDT notifies TDS u/s 194A applicable to Scheme of Mahila Samman Savings Certificate, 2023 [Notification No. 27 Dated May 16, 2023]**

The Central Board of Direct Taxes (CBDT) notified that the Scheme of Mahila Samman Savings Certificate, 2023 will be covered under Tax Deduction at Source (TDS) under Section 194A(1)(3)(a) of the Income Tax Act, 1961. The Section 194A covers Interest other than Interest on Securities.

***Accordingly, TDS will be applicable to the interest earned on the Mahila Samman Savings Scheme.***

*For details:*

*<https://incometaxindia.gov.in/communications/notification/notification-27-2023.pdf>*

**5. Income tax rules amended for accurate computation of tax on winnings from online gaming [Notification No. 28 Dated May 22, 2023]**

Central Board of Direct Taxes (CBDT) has amended Income Tax rules to streamline and standardize the calculation and reporting of winnings from online gaming to improve tax compliance.

The Income Tax (Fifth Amendment) Rules, 2023, notified by the direct tax authority, specifies a formula for computing the net winnings from online games in a financial year which is liable to a 30% income tax.

The new rule said that net taxable winning in a year would be the difference between the sum of amount withdrawn from the user account and the closing balance and the sum of non- taxable deposits made in the user account and the opening balance.

The rule also prescribes formulas for tax to be deducted at source (TDS) at various stages such as first and subsequent withdrawals from the user account. The new rules also define terms like non-taxable deposit in the user account such as borrowed amounts deposited in it. The rules also define the taxability of bonus, referral bonus and incentives etc.

*For details:*

*<https://incometaxindia.gov.in/communications/notification/notification-28-2023.pdf>*

**6. CBDT notifies Persons exempt from the provisions related to 'Angel Tax' [Notification No. 29 Dated May 24, 2023]**

The Finance Act 2023 has enhanced the scope of section 56(2)(viib) to make it applicable to share application money/premium received from any person, regardless of residential status. Further, Proviso to section 56(2)(viib) gives power to the Central Government to notify class or classes of persons to whom the provisions of said section shall not apply.

In the exercise of the power, the CBDT has notified the following class or classes of persons:

- i. The Government and Government related investors such as central banks, sovereign wealth funds, international or multilateral organizations or agencies, including entities controlled by the Government or where direct or indirect ownership of the Government is 75% or more;
- ii. Banks or Entities involved in Insurance Business where such entity is subject to applicable regulations in the country where it is established or incorporated or is a resident;
- iii. Any of the following entities, which is a resident of any country or specified territory, and such entity is subject to applicable regulations in the country where it is established or incorporated or is a resident:
  - Entities registered with SEBI as Category-I Foreign Portfolio Investors;
  - Endowment funds associated with a university, hospitals or charities;
  - Pension funds created or established under the law of the foreign country or specified territory;
  - Broad-Based Pooled Investment Vehicle or fund where the number of investors in such vehicle or fund is more than 50, and such fund is not a hedge fund or a fund which employs diverse or complex trading strategies.

The board has notified 21 Countries/Specified Territories for point (iii).

*For details:*

<https://incometaxindia.gov.in/communications/notification/notification-29-2023.pdf>

#### **7. CBDT amends the provisions of the 'Angel Tax' that are not applicable to start-ups recognised by DPIIT [Notification No. 30 Dated May 24, 2023]**

The CBDT vide Notification No. 30/2023 dated May 24, 2023 amends the provisions of section 56(2)(viib) of the Income Tax Act, 1961 ("the IT Act") as per which the provision shall not apply to the consideration received by a company for the issue of shares that exceeds the face value of such shares, if the said consideration has been received from any person, by a company which fulfils the conditions specified in Para 4 of the Notification No. G.S.R. 127(E), dated February 19, 2019 issued by the Ministry of Commerce and Industry in the Department for Promotion of Industry and Internal Trade.

*For details:*

<https://incometaxindia.gov.in/communications/notification/notification-30-2023.pdf>

## 8. CBDT Increases Income Tax Exemption Limit On Leave Encashment For Non-Government Salaried Employees [Notification No. 31 Dated May 24, 2023]

The Central Board of Direct Taxes (CBDT) has increased the income tax exemption limit on leave encashment for non-government salaried employees. The notification was released by the Board in accordance with the 2023–24 Budget. The tax exemption on leave encashment upon retirement for salaried non-government workers was raised by Budget 2023-24.

*For details:*

<https://incometaxindia.gov.in/communications/notification/notification-31-2023.pdf>

## 9. Income-tax (Sixth Amendment) Rules, 2023 [Notification No. 32 Dated May 29, 2023]

CBDT introduces the Income-tax (Sixth Amendment) Rules, 2023. The key changes made by these rules are as follows:

Rule 45: The words “Commissioner (Appeals)” in the marginal heading and sub-rule (1) are replaced with “Joint Commissioner (Appeals) or Commissioner (Appeals).”

Rule 46A: The words “Deputy Commissioner” in the marginal heading and throughout the rule are replaced with “Joint Commissioner.” Appendix-II,

FORM NO. 35: The heading is modified to include the words and brackets “Joint Commissioner (Appeals) or the” before “Commissioner of Income-tax.” Additionally, the words and brackets “Joint Commissioner (Appeals) or” are inserted before the word “Commissioner” wherever it occurs.

*For details: notification-32-2023.pdf (incometaxindia.gov.in)*

## 10. CBDT notifies Income Tax e-Appeals Scheme, 2023 [Notification No. 33 Dated May 29, 2023]

CBDT introduces the e-Appeals Scheme, 2023 under the provisions of the Income-tax Act, 1961. The key points of the scheme are as follows:

- The scheme is called the e-Appeals Scheme, 2023 defines various terms used, including terms like “addressee,” “appeal,” “appellant,” “authorised representative,” “e-appeal,” “registered account,” etc.
- The scheme applies to appeals filed under section 246 of the Income-tax Act, 1961, except for cases excluded under sub-section (6) of that section.
- The Joint Commissioner (Appeals) (JCIT) is designated as the appeal authority under the scheme who is responsible for disposing of appeals filed before it or allocated or transferred to it.
- The Principal Director General of Income-tax (Systems) or the Director General of Income tax (Systems) will devise a process for randomly allocating or transferring appeals to the JCIT (Appeals).
- The scheme outlines the procedure to be followed in appeal proceedings. It includes provisions for condoning the delay in filing appeals, issuing notices to the appellant and the Assessing Officer, obtaining further information or reports, serving notices for submission of information or evidence, admitting



additional grounds of appeal or evidence, and enhancing or reducing assessments or penalties.

- The JCIT (Appeals) prepares an appeal order stating the points for determination, the decision, and the reasons for the decision. The order is digitally signed and communicated to the appellant, as well as to the relevant tax authorities.
- Penalty proceedings may be initiated by the JCIT (Appeals) for non-compliance with notices, directions, or orders issued under the scheme. This scheme aims to introduce electronic filing and processing of appeals in order to streamline and expedite the appeals process under the Income-tax Act, 1961.

*For details: [notification-33-2023.pdf](https://incometaxindia.gov.in/notification-33-2023.pdf) ([incometaxindia.gov.in](https://incometaxindia.gov.in))*

#### **11. Section 80G Provisional Approval is Effective from the Relevant AY of the Application Year [Notification No. 34 Dated May 30, 2023]**

The Central Board of Direct Taxes (CBDT) has notified an amendment to rule 11AA. The amendment provides that in case of an application made for the grant of provisional approval under section 80G, the provisional approval shall be effective from the assessment year relevant to the previous year in which such application is made.

Earlier, Rule 11AA provided that the approval for the provisional registration would be effective from the date of provisional order.

*For details:*

*<https://incometaxindia.gov.in/communications/notification/notification-34-2023.pdf>*

#### **12. CBDT amends income tax rules; to expand tax exemption for public sector shares [Notification No. 35 Dated May 31, 2023]**

The Central Board of Direct Taxes (CBDT) has amended the income tax rules to facilitate strategic disinvestment of public sector companies by expanding the scope of a tax exemption on shares received below fair market value.

As per the the Income-tax (Eighth Amendment) Rules, 2023, any person receiving shares from a public sector company below their fair market value is exempt from the purview of section 56(2)(x) of the Income Tax Act, 1961 that makes such discounted share issues taxable in the hands of the recipient. At present, this exemption applies to shares received by a person from the central or state government under strategic disinvestment.

***The amended provision makes the exemption applicable to "any movable property, being equity shares, of a public sector company or a company, received by a person from a public sector company or the Central Government or any State Government under strategic disinvestment." The rule change effectively expands the scope of the tax exemption.***

*For details:*

*<https://www.livemint.com/news/india/cbd-t-amends-income-tax-rules-to-expand-tax-exemption-for-public-sector-shares-11685675935555.html>*

## Circular

### 1. Income Tax department issues new guidelines on online gaming taxes [Circular No. 5 Dated May 22, 2023]

The Income Tax Department issued guidelines for the removal of difficulties in dealing with winnings from online games. According to the guidelines, anyone who is responsible for paying to anyone else any income by way of winnings from any online game during the financial year must deduct income tax on the net winnings from the person's user account. Also, tax is required to be deducted at the time of withdrawal as well as at the end of the financial year.

#### Multiple Wallets

Talking about multiple wallets under one user, CBDT said the main account must include every account of the user and will be registered with an online gaming intermediary. This wallet is where any taxable deposit, non-taxable deposit or the winning of the user is credited, and withdrawal by the user is debited. However, one deductor with multiple platforms must calculate the tax required to be deducted for each platform separately. Further, the notice clarified that self-transfer between a user's multiple accounts on the same platform shall not be considered a withdrawal or deposit.

#### Bonus

The CBDT noted that any deposit in the form of a bonus, referral bonus, incentives, etc., would form part of net winnings and is liable for tax to be deducted at the time of withdrawal as well as at the end of the financial year. For non-taxable deposits, CBDT said it's necessary that the amount deposited by the user is not taxable — it's from already taxed income or not tax-chargeable. In a case where the user borrows the money and deposits it in his user account, it will be considered a non-taxable deposit.

#### Withdrawal of a small amount

If the withdrawal amount is very small, the tax will not be deducted if the net winnings or part of the amount withdrawn do not exceed Rs 100 per month. However, the tax will be deducted when the net winnings from withdrawal exceed Rs 100 in the same month or a subsequent month, or if there is no such withdrawal, at the end of the financial year.

*For details:*

<https://incometaxindia.gov.in/communications/circular/circular-5-2023.pdf>

### 2. CBDT Issues Clarifications on Various Provisions Relating to Charitable and Religious Trusts [Circular No. 6 Dated May 24, 2023]

The Central Board of Direct Taxes (CBDT) has issued a few clarifications with respect to various provisions related to charitable and religious trusts following amendments made by the Finance Act 2023.

The clarification covers various aspects relating to the applicability of section 115TD in case the trust fails to apply for registration, an extension of the due date of furnishing Form No. 10BD and Form No. 10BE, the applicability of provisional registration, the extension of the due date for furnishing statement of accumulation and clarification with respect to the furnishing audit report in Form 10B.

*For details:*

<https://incometaxindia.gov.in/communications/circular/circular-6-2023.pdf>

### **3. CBDT Notifies New Monetary Limits for Condonation of Delay in Filing Refund Claim and Claim of Carry Forward of Losses [Circular No. 7 Dated May 31, 2023]**

CBDT revises monetary limits for condonation applications for claiming refund or carry forward of losses and set-off for application filed on or after June 01, 2023 vide Circular No. 07/2023 on 31st May 2023. It modifies the monetary limits for acceptance or rejection of such applications or claims by different authorities. The revised limits specify the powers of acceptance/rejection based on the amount of the claims for each assessment year.

*For details:*

*<https://incometaxindia.gov.in/communications/circular/circular-no-07-2023.pdf>*

## INDIRECT TAX LAWS

### Goods & Services Tax (GST)

- **Guidelines for Special All-India Drive against fake registrations-regarding (Instruction No. 01/2023-GST-F. No. CBIC - 20/16/05/2023-GST dated May 04, 2023)**

In the National Co-ordination Meeting on April 24, 2023, it was discussed that while various system based and policy measures are being taken to address this problem of fake registration and fake input tax credit, there is a need of concerted and coordinated action on a mission mode by Central and State tax authorities to tackle this menace in a more systematic manner. It was agreed that a nation-wide effort in the form of a Special Drive should be launched on All-India basis to detect such suspicious/ fake registrations and to conduct requisite verification for timely remedial action to prevent any further revenue loss to the Government.

A Special All-India Drive may be launched by all Central and State Tax administrations during the period May 16, 2023 to July 15, 2023 to detect suspicious/ fake GSTINs and to conduct requisite verification and further remedial action to weed out these fake billers from the GST eco-system and to safeguard Government revenue.

*For details: <https://taxinformation.cbic.gov.in/view-pdf/1000474/ENG/Instructions>*

- **Central Board of Indirect Taxes & Customs (CBIC) reduces e-invoicing limit from 10 crore to 5 crore (Notification No. 10/2023-Central Tax New Delhi dated May 10, 2023)**

The Government, on the recommendations of the Council, reduced the limit of e-invoicing from existing limit of Rs. 10 crore to Rs. 5 crore. This amendment will come into effect from the 1st day of August, 2023.

*For details: <https://taxinformation.cbic.gov.in/view-pdf/1009732/ENG/Notifications>*

- **CBIC rolls out Automated Return Scrutiny Module for GST returns in ACES-GST backend application for Central Tax Office (Press Release dated May 11, 2023)**

Central Board of Indirect Taxes & Customs (CBIC) has rolled out the Automated Return Scrutiny Module for GST returns in the ACES-GST backend application for Central Tax Officers. This module will enable the officers to carry out scrutiny of GST returns of Centre Administered Taxpayers selected on the basis of data analytics and risks identified by the System. In the module, discrepancies on account of risks associated with a return are displayed to the tax officers. Tax officers are provided with a workflow for interacting with the taxpayers through the GSTN Common Portal for communication of discrepancies noticed under FORM ASMT-10, receipt of taxpayer's reply in FORM ASMT-11 and subsequent action in form of either issuance of an order of acceptance of reply in FORM ASMT-12 or issuance of show cause notice or initiation of audit / investigation.

*For details: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1923445>*

## Customs

- **Customs Notification for Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver (Notification No. 34/2023-New Delhi, dated May 15, 2023)**

The Central Government, on being satisfied that it is necessary and expedient to do so, make the amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the August 03, 2001, published in the Gazette of India, with respect of Crude Palm Oil, RBD Palm Oil, Brass Scrap (all grades), Gold and Silver & Areca nuts etc. for fixation of Tariff value. This notification shall come into force from the 16th of May, 2023.

*For details: <https://taxinformation.cbic.gov.in/view-pdf/1009734/ENG/Notifications>*

- **Customs Notification for Fixation of Tariff Value of Edible Oils, Brass Scrap, Areca Nut, Gold and Silver (Notification No. 38/2023, dated May 31, 2023)**

The Central Government, on being satisfied that it is necessary and expedient to do so, hereby make the amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 36/2001-Customs (N.T.), dated the 3<sup>rd</sup> August, 2001, published in the Gazette of India, Extraordinary with respect of Crude Palm Oil, RBD Palm Oil, Brass Scrap (all grades), Gold and Silver & Areca nuts etc. for fixation of Tariff value. This notification shall come into force from the 1<sup>st</sup> of June, 2023.

*For details: <https://taxinformation.cbic.gov.in/view-pdf/1009743/ENG/Notifications>*

## BANKING LAWS

- **Formalisation of Informal Micro Enterprises on Udyam Assist Platform (Notification no. RBI/2023-24/27FIDD.MSME & NFS. BC. No. 09/06.02.31/2023-24 dated May 09, 2023)**

The Ministry of Micro, Small and Medium Enterprises ('MSME'), Government of India has launched the Udyam Assist Platform (UAP) to facilitate formalisation of Informal Micro Enterprises (IMEs) through online generation of Udyam Assist Certificate. Registration on the platform is done with the assistance of Designated Agencies which are RBI regulated entities (including scheduled commercial banks, non-banking financial companies, etc.). The Government of India, has specified that the certificate issued on the UAP to IMEs shall be treated at par with Udyam Registration Certificate for the purpose of availing Priority Sector Lending (PSL) benefits.

*For details: <https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12500&Mode=0>*

- **Levy of charges on forex prepaid cards/store value cards/travel cards, etc. (Notification no. RBI/2023-24/29 A.P. (DIR Series) Circular No. 04 dated May 09, 2023)**

A few Authorised Persons are levying certain fees/charges, which are payable in India on such instruments, in foreign currency. It is advised that fees/charges payable in India have to be denominated and settled in Rupees only.

*For details: <https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12502&Mode=0>*

- **₹2000 Denomination Banknotes - Withdrawal from Circulation; Will continue as Legal Tender (Notification no. RBI/2023-24/32 DCM (Plg) No. S-236/10.27.00/2023-24 dated May 19, 2023)**

₹2000 denomination banknote was introduced in November 2016 under Section 24(1) of RBI Act, 1934 primarily to meet the immediate currency requirement of the economy after withdrawal of the legal tender status of all ₹500 and ₹1000 banknotes in circulation at that time. With fulfilment of the objective of introduction of ₹2000 denomination and availability of banknotes in other denominations in adequate quantity, printing of ₹2000 banknotes was stopped in 2018-19. Further, majority of the ₹2000 denomination notes were issued prior to March 2017, have completed their estimated lifespan and are not observed to be commonly used for transactions anymore. Therefore, it has been decided that, in pursuance of the "Clean Note Policy" of the Reserve Bank of India, the ₹2000 denomination banknotes shall be withdrawn from circulation. The ₹2000 banknotes will continue to be legal tender.

*For details: <https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12505&Mode=0>*

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# *Legal Maxims*

S. No.	Legal Maxim	Meaning	Usage & Example
1	<i>Ad hominem</i>	At the person	Attacking an opponent's character rather than answering his argument.  <b>Example: It is disappointing to see <i>ad hominem</i> attacks being done in online discussions where people choose to criticise and attack each other instead of respectfully exchanging thoughts.</b>
2	<i>Animus nocendi</i>	Intention to harm	The subjective state of mind of the author of a crime, with reference to the exact knowledge of illegal content of his behaviour, and of its possible consequences.  <b>Example: <i>Animus Nocendi</i> can be inferred from the manner in which the crime are being committed by Criminals.</b>
3	<i>Donatio mortis causa</i>	Gift caused by death	"The donor, contemplating imminent death, declares words of present gifting and delivers the gift to the donee or someone who clearly takes possession on behalf of the donee. The gift becomes effective at death but remains revocable until that time."  <b>Example: In his final days, a wealthy businessman made a <i>donatio mortis causa</i>, leaving his luxurious villa to his longtime servant.</b>
4	<i>Ex ante</i>	Of before.	Essentially meaning "before the event", usually used when forecasting future events.  <b>Example: The company conducted an <i>ex ante</i> analysis to evaluate the advantages and disadvantages of introducing the new products in the market.</b>
5	<i>Imprimatur</i>	Let it be printed.	An authorization for a document to be printed. Used in the context of approval by a religious body or other censoring authority.  <b>Example: A Non-Profit organization sought the <i>imprimatur</i> of well-known celebrities from the concerned authority to help raise awareness and funding for their campaign.</b>

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# *Legal World*

## CORPORATE LAWS

*MAHESH RATILAL SHAH v. UNION OF INDIA & ORS [SC]*

*Special Leave Petition (C) No.21686 of 2006*

*Altamas Kabir & Cyriac Joseph, JJ. [Decided on 19/01/2010]*

*Equivalent citations: (2010) Company Case*

### **Securities Contracts (Regulation) Act, 1956 - recognition of stock exchanges- BSE - non-publication of byelaws made before the enforcement of the Act- whether recognition to be cancelled-Held, No.**

**Brief facts:** Claiming to be a Sub-broker with one Yogesh B. Mehta, a Member of the Bombay Stock Exchange (hereinafter referred to "BSE"), the petitioner herein filed a writ petition before the Bombay High Court under Article 226 of the Constitution against the Union of India, the Securities and Exchange Board of India (hereinafter referred to as the "SEBI") and the BSE, inter alia, for a direction upon the Union of India and SEBI to withdraw the recognition granted to BSE for alleged non-compliance with the provisions of Sections 7 and 9 of the Securities Contracts (Regulation) Act, 1956 (hereinafter referred to as "the 1956 Act"). A further direction was also sought for cancellation of SEBI registration of all relevant 90 members of the Stock Exchange for fraudulently inducing investors to trade in forged scrips of M/s Presto Finance Ltd. and to declare the Rules, Bye-laws and Regulations of the BSE as illegal, void and ultra vires the 1956 Act as also the Constitution of India. Various ancillary and interim reliefs were also prayed for connected with the main reliefs.

The case of the Petitioner is that he had been induced by the BSE and its Members to buy 4,50,800 shares of "Presto Finance Ltd." and under the assurance of the Exchange, he had deposited the entire purchase amount, amounting to Rs.71,19,817.30 with the Exchange. It is the Petitioner's further case that the Exchange and its Members had intentionally and deliberately cheated him by giving him delivery of 1,56,100 forged share certificates and refused to cancel the said dealing when the same was discovered and instead asked the Petitioner to go to the Liquidator of Presto Finance Ltd. for claiming damages.

**Decision :** Dismissed.

**Reason :** As would be evident from the pleadings and submissions made on behalf of the respective parties, the main question which we are called upon to consider is whether in the absence of publication of the Rules and Byelaws of the Bombay Stock Exchange, which had been framed prior to its recognition in 1956 under the 1956 Act, its activities could be said to be without authority. The further question which falls for consideration is whether it can be said, as has been urged on behalf of the petitioner, that in listing the shares of M/s. Presto Finance Ltd. on the Stock Exchange, the Bombay Stock Exchange had acted in a manner which failed to ensure fair dealing and to protect the investors.

As we have noticed hereinbefore, the scrip of M/s. Presto Finance Ltd. was listed on the Bombay Stock Exchange after it had been listed in the Stock Exchange at Ahmedabad and on receipt of information thereof. However, as soon as information was received that the said company was involved in fraudulent dealing of its scrip, again on intimation from the Ahmedabad Stock Exchange, the said scrip was delisted and debarred from trading by the BSE. In our view, the Bombay Stock Exchange had not acted in a manner which tended to promote the share scrip of M/s. Presto Finance Ltd. with any malafide motive. Apart from the above, the delay of 10 years in approaching the High Court over the transactions in the said scrip cannot be ignored since, as observed by this Court in Raj Narain Pandey's case (supra) a long standing decision should not

be easily interfered with, having regard to the fact that over the years, people have already settled their business in accordance therewith. Except for the bald allegations that the Bombay Stock Exchange had acted in a manner which was contrary to the interest of the securities market and investors in listing the share scrips of M/s. Presto Finance Ltd. for trading, there is nothing else to establish any ulterior motive on the part of the aforesaid Stock Exchange in listing the said scrip and, in fact, in terms of remedial measures the Stock Exchange also invited all those who had been given forged scrips, to submit the same to the Stock Exchange for further action.

On the question of non-publication of the Bye- laws, we agree with the views of the Bombay High Court in V.V. Ruia's case (supra) that since the said Rules and Byelaws had been in existence from long before the enactment of 1956 Act and the grant of recognition to the Stock Exchange, the same did not require publication in terms of Section 4 of the 1956 Act. In any event, as has been submitted by the BSE, all amendments to the Rules and Byelaws made after grant of recognition had been duly published in the Gazette.

Upon considering the case made out by the petitioner in the writ petition, the Bombay High Court held that the writ petition, which was lacking in particulars relating to the constitutional challenge, was not the appropriate remedy for the petitioner, who, along with a member of the Stock Exchange, had traded in the shares of the above-mentioned company. The High Court also observed that upon the complaints made to SEBI, action had been initiated against the Company as far back as in 1998-99 under Section 11B of the SEBI Act and SEBI had come to a finding that all the Directors of the Company, including one Hitendra Vasa, were guilty of dealing in fake and bogus shares and cheating the investing public at large. The High Court also observed that the market regulator had taken due steps in the matter of individual transactions and the remedy of the petitioner, who was aggrieved by the acts of the promoters of the company in question, as well as its Directors, would be in approaching the appropriate Court to initiate criminal prosecution against the offenders. Observing that it would not be appropriate to issue any blanket writ, as claimed by the Petitioner, when admittedly his case was restricted to dealing in shares of one of the companies listed at the Stock Exchange, the High Court summarily dismissed the writ petition. While doing so, the High Court also noted that no material had been produced by the petitioner for issuing directions for de-recognition of the BSE or to declare its Rules, Byelaws and Regulations to be illegal, void and ultra vires.

Agreeing with the views expressed by the High Court, we are of the view that the Petitioner has not been able to make out any case of malafides or irregularity on the part of the Bombay Stock Exchange with regard to the listing and subsequent de-listing of the scrip of M/s Presto Finance Ltd. and we are also of the view that the publication of the Rules and Bye-laws of the Stock Exchange was not intended in the Securities Contract (Regulation) Act, 1956, as otherwise some provision would have been made in the Act with regard to pre- recognition Rules and Bye-laws. While the Act provides for publication of amendments to the Rules and Byelaws after grant of recognition, the Act is silent with regard to the publication of the pre- recognition Rules or Byelaws which were already in existence and had been acted upon all along.

In that view of the matter, we see no reason to interfere with the order of the Bombay High Court impugned in the present Special Leave Petition and the same is, therefore, dismissed, but without any order as to costs.

*UNION OF INDIA v. DELOITTE HASKINS AND SELLS LLP [SC]*  
*Criminal Appeal Nos.2305-2307 of 2022 with connected appeals*  
*M.R. Shah & M.M. Sundresh, JJ. [Decided on 03/05/2023]*

**Companies Act, 2013- section 140(5)- removal of auditor by Tribunal- auditors accused of fraud- resigned before investigation-whether they are liable to be removed-Held, Yes.**

**Brief facts:** This batch of Criminal Appeals/Civil Appeals raise common question(s) of law pertaining to the interpretation of Section 140(5) of the Companies Act, 2013 and the Investigation Report dated 28.05.2019 (hereinafter referred to as the 'IFIN SFIO Report') in respect of IL&FS Financial Services Limited.

By the impugned judgment and order, though the High Court has upheld the validity of Section 140(5) of the Act, 2013, the High Court has interpreted section 140(5) of the Act, 2013 and has set aside the order passed by the NCLT upholding the maintainability of Section 140(5) petition and has quashed Section 140(5) petition and has set aside/quashed the directions issued by the Ministry of Corporate Affairs and the SFIO and also has quashed/set aside criminal proceedings instituted by the SFIO. Hence, the present appeals.

**Decision:** Appeal of UOI allowed & appeals of the auditors dismissed.

**Reason:** By the impugned judgment and order, though the High Court has upheld the vires of Section 140(5) of the Act, 2013, however, the High Court has held that once the auditor resigns as an auditor or is no more an auditor on his resignation, thereafter Section 140(5) proceedings are no longer maintainable as the petition filed by the Union of India under section 140(5) has been satisfied by the subsequent resignation of the auditor. The view taken by the High Court is absolutely erroneous and is unsustainable. Subsequent resignation of an auditor after the application is filed under section 140(5) by itself shall not terminate the proceedings under section 140(5). Resignation and/or removal of an auditor cannot be said to be an end of the proceedings under section 140(5). There are further consequences also on culmination of the enquiry under section 140(5) proceedings and passing a final order by the Tribunal on the conduct of an auditor, whether such an auditor has, directly or indirectly, acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its directors or officers, as provided under the second proviso to section 140(5) of the Act, 2013. Therefore, the enquiry/proceedings initiated under the first part of section 140(5) has to go to its logical end and subsequent resignation and/or discontinuance of an auditor shall not terminate the enquiry/proceedings under section 140(5). If the interpretation given by the High Court that once an auditor resigns, the proceedings under section 140(5) stand terminated and are no longer further required to be proceeded, in that case, an auditor to avoid the final order and the consequence of final order as provided under the second proviso to section 140(5) may resign and avoid any final order by the Tribunal. That cannot be the intention of the legislature.

As observed hereinabove, the second proviso to section 140(5) of the Act, 2013 is a substantive provision, though it is by way of a proviso, and the same shall operate and/or depend upon the final order to be passed by the Tribunal in the first part of section 140(5). If the interpretation given by the High Court that on subsequent resignation and/or discontinuance of an auditor, proceedings under section 140(5) stand terminated and/or the petition under section 140(5) by the Central Government is no longer maintainable is accepted, in that case, second proviso to section 140(5) would become nugatory and in no case there shall be any action under the second proviso to section 140(5). If such an interpretation, as interpreted by the High Court, is accepted, in that case, the object and purpose of incorporation of second proviso to section 140(5) shall be frustrated. The object and purpose of second proviso to section 140(5), as

observed hereinabove, is to make the provision more stringent and to provide for consequences for an auditor when such an auditor is found to have been perpetrating a fraud and is removed by the NCLT for such fraud. At this stage, it is required to be noted that under the second proviso to section 140(5) on the final order being passed by the Tribunal that the auditor/firm has, directly or indirectly, acted in a fraudulent manner or abetted or colluded in any fraud by, or in relation to, the company or its directors or officers, he/it shall not be eligible to be appointed as an auditor of any company for a period of five years. The word “any” used in the second proviso to section 140(5) is significant. On the final order being passed by the Tribunal, such an auditor not only shall be removed or changed as an auditor of a company, but such an auditor/firm shall also be ineligible to be appointed as an auditor of any other company for a period of five years.

In view of the above and for the reasons stated above, challenge to the constitutional validity of section 140(5) of the Companies Act, 2013 fails and it is observed and held that section 140(5) is neither discriminatory, arbitrary and/or violative of Articles 14, 19(1)(g) of the Constitution of India, as alleged. The impugned judgment and order passed by the High Court quashing and setting aside the application/proceedings under section 140(5) on the ground that as the auditors have resigned and therefore thereafter the same is not maintainable is hereby quashed and set aside. Consequently, the impugned judgment and order passed by the High Court quashing and setting aside the NCLT order holding that even after the resignation of the auditors, the proceedings under section 140(5) shall be maintainable is hereby quashed and set aside. The application/proceedings under section 140(5) of the Act, 2013 is held to be maintainable even after the resignation of the concerned auditors and now the NCLT therefore to pass a final order on such application after holding enquiry in accordance with law and thereafter on the basis of such final order, further consequences as provided under the second proviso to section 140(5) shall follow. However, it is made clear that we have not expressed anything on merits on the allegations against the concerned auditors and it is ultimately for the NCLT/Tribunal to pass a final order on the application filed by the Central Government under section 140(5) of the Act, 2013.

*MOSER BAER KARAMCHARI UNION v. UNION OF INDIA & ORS [SC]*

*Writ Petition (C) No. 421 of 2019 with connected cases*

*M.R. Shah & Sanjiv Khanna, JJ. [Decided on 02/05/2023]*

**Liquidation of insolvent company- Section 327 (7) of the Companies Act, 2013 read with section 53 of the Insolvency and bankruptcy Act,2016- workmen’s dues- removing it from the IBC- whether tenable-Held, No.**

**Brief facts:** By way of this writ petition under Article 32 of the Constitution of India, filed by the writ petitioner had prayed for an appropriate writ, direction or order striking down Section 327(7) of the Companies Act, 2013 (hereinafter referred to as “Act, 2013”) as arbitrary and violative of Article 21 of the Constitution of India. It is also prayed to issue an appropriate writ, direction or order in the nature of Mandamus so as to leave the statutory claims of the “workmen’s dues” out of the purview of waterfall mechanism under Section 53 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to either as “IBC” or “Code”).

By way of this writ petition under Article 32 of the Constitution of India, the petitioner - union has sought for an appropriate writ, direction or order striking down Section 327(7) of the Companies Act, 2013 as arbitrary and violative of Article 21 of the Constitution of India. The petitioner has also sought for an appropriate direction so as to leave the statutory claims of the

“workmen’s dues” out of the purview of waterfall mechanism under Section 53 of the Insolvency and Bankruptcy Code, 2016. As per Section 327(7), Sections 326 and 327 of the Act, 2013 shall not be applicable in the event of liquidation under the IBC. Sections 326 and 327 of the Act, 2013 provide for preferential payments in a winding up under the provisions of the Act, 2013. However, in view of the introduction of new regime under the IBC, in case of liquidation under IBC, distribution is to be made as per Section 53 of IBC. At this stage, it is required to be noted that IBC has been enacted w.e.f. 28.05.2016 and as per Section 53 of the IBC, the distribution of assets in case of liquidation under the IBC is required to be made.

**Decision:** Dismissed.

**Reason:** We now turn our attention to Section 53 of the Code which begins with a non-obstante clause and states that notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of liquidation assets shall be distributed in the order of priority, which is stipulated, and within such period and such manner as may be specified. The consequence of sub-section (1) to Section 53 of the Code is that it will override the rights of parties, including the secured creditor, when the said provision applies. Section 53 of the Code is the complete and comprehensive code which ensures collection of assets and then provides the manner in which the creditors are to be paid. Even the rights of the secured creditor falling under Section 53 of the Code to enforce, realise, settle, compromise or deal with the secured assets as applicable to the security interest are diluted and compromised.

The waterfall mechanism is based on a structured mathematical formula, and the hierarchy is created in terms of payment of debts in order of priority with several qualifications, striking down any one of the provisions or rearranging the hierarchy in the waterfall mechanism may lead to several trips and disrupt the working of the equilibrium as a whole and stasis, resulting in instability. Every change in the waterfall mechanism is bound to lead to cascading effects on the balance of rights and interests of the secured creditors, operational creditors and even the Central and State Governments. Depending upon the facts, in some cases, the waterfall mechanism in the Code may be more beneficial than the hierarchy provided under Section 326 of the Companies Act, 2013 and vice-versa. Therefore, we hesitate and do not accept the arguments of the petitioners.

The Code is based on the organic evolution of law and is a product of an extensive consultative process to meet the requirements of the Code governing liquidation. It introduced a comprehensive and time-bound framework to maximise the value of assets of all persons and balance the interest of the stakeholders. The guiding principle for the Code in setting the priority of payments in liquidation was to bring the practices in India in line with global practices. In the waterfall mechanism, after the costs of the insolvency resolution process and liquidation, secured creditors share the highest priority along with a defined period of dues of the workmen. The unpaid dues of the workmen are adequately and significantly protected in line with the objectives sought to be achieved by the Code and in terms of the waterfall mechanism prescribed by Section 53 of the Code. In either case of relinquishment or non-relinquishment of the security by the secured creditor, the interests of workmen are protected under the Code. In fact, the secured creditors are taking significant haircut and workmen are being compensated on an equitable basis in a just and proper manner as per Section 53 of the Code. The Code balances the rights of the secured creditors, who are financial institutions in which the general public has invested money, and also ensures that the economic activity and revival of a viable company is not hindered because it has suffered or fallen into a financial crisis. The Code focuses on bringing additional gains to both the economy and the exchequer through efficiency enhancement and consequent greater value capture. In economic matters, a wider latitude is given to the law-

maker and the Court allows for experimentation in such legislations based on practical experiences and other problems seen by the lawmakers. In a challenge to such legislation, the Court does not adopt a doctrinaire approach. Some sacrifices have to be always made for the greater good, and unless such sacrifices are prima facie apparent and ex facie harsh and unequitable as to classify as manifestly arbitrary, these would be interfered with by the court.

In view of the above and for the reasons stated above and as sub-section (7) of Section 327 of the Act, 2013 provides that Sections 326 and 327 of the Act, 2013 shall not be applicable in the event of liquidation under the IBC, which has been necessitated in view of the enactment of IBC and it applies with respect to the liquidation of a company under the IBC, Section 327(7) of the Act, 2013 cannot be said to be arbitrary and/or violative of Article 21 of the Constitution of India. In case of the liquidation of a company under the IBC, the distribution of the assets shall have to be made as per Section 53 of the IBC subject to Section 36(4) of the IBC, in case of liquidation of company under IBC.

In view of the above and for the reasons stated above, the writ petition(s) lack merits and the same deserve to be dismissed and are accordingly dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs.

*VISTRA ITCL (INDIA) LTD v. DINKAR VENKATASUBRAMANIAN [SC]*

*Civil Appeal No.3606 of 2020*

*M.R. Shah & C.T. Ravikumar, JJ. [Decided on 04/05/2023]*

**Insolvency and Bankruptcy Code, 2016 - financial creditor - claim rejected- whether correct-Held, No.**

**Brief facts:** The Resolution Professional (respondent herein) of the corporate debtor Amtek Auto Ltd filed I.A. No.225 of 2020 before the Adjudicating Authority seeking approval of the resolution plan. The Adjudicating Authority dismissed the application filed by the appellants being I.A. No.62 of 2020 seeking to include its claim in the resolution plan. The NCLAT by the impugned judgment and order the NCLAT has dismissed the appeal filed by the appellant observing that the appellant no.1's claim in purported capacity of 'Secured Financial Creditor' has been rejected way back in the year 2017 and the decision in this regard has not been called in question and therefore it is not open for the appellants to raise the same issue in 2020 by filing I.A. No.62 of 2020. The NCLAT has also observed that the appellants have not lent any money to the Corporate Debtor and the Corporate Debtor did not owe any financial debt to the appellants except the pledge of shares was to be executed. Therefore, the NCLT observed that the appellants not having advanced any money to the Corporate Debtor as a financial debt would not be coming within the purview of financial creditor of the Corporate Debtor. Making above observations, the NCLAT has dismissed the appeal. Hence the present appeal before the supreme court.

**Decision:** Partially allowed with modification

**Reason:** Thus, we are presented with a difficult situation, wherein, Appellant No.1 – Vistra, a secured creditor, is being denied the rights under Section 52 as well as Section 53 of the Code in respect of the pledged shares, whereas the intent of the amended Section 30(2) read with Section 31 of the Code is too contrary, as it recognises and protects the interests of other creditors who are outside the purview of the CoC. To our mind, the answer to this tricky problem is twofold. First is to treat the secured creditor as a financial creditor of the Corporate Debtor to the extent of the estimated value of the pledged share on the date of commencement of the CIRP. This would

make it a member of the CoC and give it voting rights, equivalent to the estimated value of the pledged shares. However, this may require re consideration of the dictum and ratio of Anuj Jain (supra) and Phoenix ARC (supra), which would entail reference to a larger bench. In the context of the present case, the said solution may not be viable as the resolution plan has already been approved by the CoC without Appellant No. 1 Vistra being a member of the CoC. Therefore, we would opt for the second option. The second option is to treat the Appellant No. 1 – Vistra as a secured creditor in terms of Section 52 read with Section 53 of the Code. In other words, we give the option to the successful resolution applicant – DVI (Deccan Value Investors) to treat the Appellant No.1 – Vistra as a secured creditor, who will be entitled to retain the security interest in the pledged shares, and in terms thereof, would be entitled to retain the security proceeds on the sale of the said pledged shares under Section 52 of the Code read with Rule 21A of the Liquidation Process Regulations. The second recourse available, would be almost equivalent in monetary terms for the Appellant No. 1 Vistra, who is treated it as a secured creditor and is held entitled to all rights and obligations as applicable to a secured creditor under Section 52 and 53 of the Code. This to our mind would be a fair and just solution to the legal conundrum and issue highlighted before us.

We wish to clarify that the directions given by us would not be a ground for the successful resolution applicant – DVI to withdraw the resolution plan which has already been approved by the NCLAT and by us. The reason is simple. Any resolution plan must meet with the requirements/provisions of the Code and any provisions of law for the time being in force. What we have directed and the option given by us ensures that the resolution plan meets the mandate of the Code and does not violate the rights given to the secured creditor, who cannot be treated as worse off/inferior in its claim and rights, viz, an operational creditor or a dissenting financial creditor.

In the end, we must meet the argument raised by the Respondent No. 1 – Dinkar Venkatasubramanian, resolution professional for the Corporate Debtor – Amtek and the Respondent No. 2 – the CoC of the Corporate Debtor – Amtek, that the present plea of the Appellant No. 1 – Vistra to be treated as a financial creditor of the Corporate Debtor Amtek should be dismissed on the grounds of delay, laches and acquiescence. The submission is that the Appellant No. 1 Vistra had not objected to the resolution plan submitted by the erstwhile resolution applicant LHG and, as a sequitur, its nonclassification as a financial creditor in the CoC of the Corporate Debtor Amtek. Though this argument had appealed and had weighed with the NCLAT, in our opinion is untenable since the resolution plan submitted by erstwhile resolution applicant LHG did not in any way affect the rights or interests of the Appellant No. 1 – Vistra as a secured creditor in respect of the pledged shares. Appellant No. 1 – Vistra has elaborately explained that LHG etc. were in negotiations with them so as to redeem the pledge and acquire the shares.

In view of our aforesaid findings, the impugned judgment of the NCLAT affirming the view taken by the NCLT is partly modified in terms of our directions holding that appellant no.1 – M/s. Vistra ITCL (India) Limited would be treated as a secured creditor, who would be entitled to all rights and obligations as applicable to a secured creditor in terms of Sections 52 and 53 of the Code, and in accordance with the pledge agreement dated 05.07.2016.



*OFFICIAL LIQUIDATOR, CALCUTTA v. UJJAIN NAGAR PALIKA NIGAM & ORS [SC]**Civil Appeal No. 8015 of 2010 with connected appeal**Dinesh Maheshwari & Aniruddha Bose, JJ. [Decided on 04/05/2023]*

**Liquidation of company- sale of property by OL in public auction on “as is where is” basis- charges and encumbrances were not disclosed- Nigam claimed its property tax dues for pre and post liquidation period- OL allowed only for the pre-liquidation period and rejected the claim for post liquidation period- whether correct-Held, No.**

**Brief facts:** For what has been noticed hereinabove, the dispute between appellant OL and respondent No. 1 Nigam, put in a nutshell, is with regard to the rates and taxes for the period between 10.07.1997 (being the date on which the company was ordered to be wound up) and 04.07.2003 (being the date on which the sale in favour of the purchaser was confirmed). As noticed, part rejection of the claim of respondent No. 1 Nigam by the appellant OL, in relation to the period aforesaid between 10.07.1997 to 04.07.2003 was not approved by the Company Court while observing that post-liquidation liabilities were to be treated as part of the costs of winding up of the company in liquidation and such liability would get priority over all other liabilities of the company. The Company Court observed and reiterated that the principle of priority of certain creditors would be applicable to the liability of the company at the time of passing of the order of winding up but, costs and expenses incurred on behalf of the company in winding up were to be paid in full; and the liability of the company to pay rates and taxes would not automatically come to an end with the order of winding up. The Company Court yet left it open for the appellant OL to file an appeal under the provisions of the M.P. Act of 1956 while observing that unless such appeal was filed and demand was reduced, the appellant OL was bound to discharge the tax liability as per the claim of the Nigam even for the post-liquidation period. The contention of appellant before the Division Bench in challenge to the order so passed by the Company Court had essentially been with reference to the terms and conditions of sale and reliance upon the decision in *United Bank of India (supra)*. The Division Bench compared the terms and conditions of sale in the cited decision and the terms and conditions of sale in the present case and observed that the sale notice in the present case was not couched in similar and comprehensive language so as to oblige the respondent No. 3 to make himself aware about encumbrances, if any, in respect of the assets of the company in liquidation. The Division Bench further observed that Section 530 of the Companies Act had no application in relation to the taxes which might have mounted between the date of the order of winding up and the date of sale of assets. Similarly, the Division Bench indicated inapplicability of Rule 154 of the Rules of 1959, providing for the manner of estimation of claims on the date of the order of winding up. The Division Bench summarised its conclusion that the claim in question was that of a post- liquidation liability which the OL was obliged to discharge in absence of a clear provision in the sale notice obliging the intended purchaser to satisfy himself as regards the assets of the company in liquidation in all respects, including encumbrances. More or less the same submissions have been made by the respective parties in this appeal but, with a little elaboration on their respective stands. While leaving the irrelevant aspects aside, the neat question is as to whether the claims so made by the respondent No. 1 Nigam towards property tax and water tax pertaining to the post- liquidation period, from the date of order of winding up and until the date of confirmation of sale of assets to the auction purchaser, are admissible against the appellant OL.

**Decision :** Appeal dismissed.

**Reason :** One of the principal points arising for determination in this matter is the impact and effect of sale of assets of the company in liquidation to the respondent No. 3, particularly when the property was sold on “as is where is whatever there is” basis. Learned counsel for the appellant has referred to and relied upon a few decisions of this Court in support of his contention that looking to the terms and conditions of sale, the purchaser would be deemed to have full knowledge of defects, encumbrances and statutory dues and would remain liable towards such dues, particularly when the sale in the present case had been by the appellant OL under the orders of the Court. Per contra, learned counsel for the contesting respondents have referred to a couple of decisions to assert that no charge would be enforceable against the property at the hands of transferee for consideration without notice of charges and, for the municipal taxes not creating an encumbrance or charge as such on the property in question. We may closely examine the cited decisions to take note of the ratio decidendi and principles available therein.

The sheet anchor of the submissions on behalf of the appellant OL is the decision of this Court in the case of United Bank of India (supra) that has been cited for the proposition that in the sale of property and assets of company in liquidation, the Official Liquidator does not hold any guarantee or warranty in respect thereof; and the intending purchaser has to satisfy himself in all respects, particularly as regards encumbrances.

At the first blush, the said decision might appear to be standing somewhere near to the facts of the present case, for that had also been a case of sale of the assets by an OL with a somewhat similar stipulation that the sale was on “as is where is” basis. However, as rightly pointed out by the Division Bench of the High Court, there had been a marked difference in the terms and conditions of sale in the case of United Bank of India (supra) and those of the present case.

As noticed and extracted in the impugned judgment of the Division Bench of the High Court, in the case of United Bank of India (supra), the sale notice, inter alia, carried a significant stipulation whereby the purchaser was put to notice to satisfy himself “in all respects as regards movable and immovable assets as to their title, encumbrances, area, boundary, description, quality, quantity, and volume etc.” Therein, it was also stated that “the purchaser shall not be entitled to any compensation or deduction in price on any account whatsoever and shall be deemed to have purchased property subject to all encumbrances, liens and claims including those under the existing legislation affecting labour, staff etc.” Such stipulations left nothing to chance and nothing of any ambiguity where the purchaser was required to satisfy himself not only about the physical attributes of the assets but also about all encumbrances, liens and claims. Unfortunately, the terms and conditions of the sale in the present case fell too short of such material stipulations.

The Division Bench of the High Court has rightly said that if the intending purchaser was required to satisfy himself in all respects including encumbrances, he might not be heard in any objection about want of knowledge of encumbrances but, if he was not so warned, such an obligation on him to make himself aware about encumbrances cannot be foisted by any deeming fiction.

The submissions made on behalf of the appellant about the likely prejudice to the other pre-liquidation creditors if such post-liquidation liabilities are given preference over other liabilities; and reference to Section 529A and 530 of the Companies Act do not carry any relevance and do not make out any case for interference. The provisions contained in Sections 529A and 530 essentially relate to overriding preferential payments as also preferential payments in relation to the classes of dues/debts specified therein. However, the question of payment of the same would arise after payment of costs and expenses of winding up that are properly incurred by the appellant OL and are to be paid in priority. As aforesaid, the taxes payable to the respondent No. 1 Nigam during the period in question would directly amount to the costs and expenses of liquidation.

This being the position, in our view, the Company Court and then the Division Bench of the High Court have rightly underscored the faults on the part of the appellant OL and have rightly held that the liability on account of the property tax and water tax claimed by the respondent No. 1 to the extent rejected by the appellant OL has been a post-liquidation liability, which the OL was obliged to discharge, in view of omission in the sale notice and then, in view of the operation of Rule 338 of the Rules of 1959.

For what has been discussed hereinabove, we do not find it necessary to dilate upon the other decisions cited by learned counsel for the parties. As aforesaid, the ambiguity as also omissions in the terms and conditions of the sale notice in the present case obviously lead to the position that the view taken by the High Court calls for no interference.

## LABOUR LAWS

*CALCUTTA STATE TRANSPORT CORPORATION & ORS v. ASHIT CHAKRABORTY & ORS [SC]*

*Civil Appeal No. of 2023 (@ SLP(C) No. 11991/2021)*

*Abhay S. Oka & Rajesh Bindal, JJ. [Decided on 08/05/2023]*

**Road Transport Corporation Act, 1950- Pension scheme- joining optional for existing employees- respondent joining the scheme within the stipulated time- non -payment of pension upon retirement- whether correct-Held, No.**

**Brief facts :** It is a case in which the respondent no.1 was appointed as a Conductor with the appellant Corporation that time there was no pension scheme in force, only Contributory Provident Fund Scheme was applicable. In 1991, in exercise of powers conferred under Section 45 of the Road Transport Corporation Act, 1950, the Corporation, with the previous sanction of the State Government, framed The Calcutta State Transport Corporation Employees' Service (Death cum Retirement Benefits) Regulations, 1990 (for short, "the 1990 Regulations"). The aforesaid Regulations came into force with retrospective effect from 1.4.1984. The 1990 Regulations mandated that in order to get the benefit of the said scheme, existing employees of the Corporation will have to submit written option within six months from the date of publication of the 1990 Regulations expressing their willingness to switch over to the said pension scheme instead of maintaining their status as C.P.F. holder. The 1990 Regulations also provided that it shall be optional to the existing employees, however, it shall be binding upon the new entrants on and after the date of Notification of the 1990 Regulations.

The respondent no.1 opted for pension scheme. On 21.7.2017, he opted for voluntary retirement, which was accepted by the Corporation and he retired on 31.7.2017. On his retirement the respondent no. 1 was paid an amount of ₹13,28,495/- towards CPF contribution, ₹ 7,44,265/- towards gratuity, ₹ 2,58,012/- towards VRS Compensation and a sum of ₹ 2,409/- towards leave salary. As no pension was paid to the respondent no.1, he made a representation on 8.5.2018. As his claim was not considered, he filed writ petition, which was allowed by the Single Judge vide order dated 17.8.2018. The order was challenged by the Corporation in appeal. The Division Bench of the High Court upheld the order passed by the Single Bench.

**Decision :** Dismissed.

**Reason :** The undisputed facts are that the respondent no.1 was appointed in the Corporation as conductor on 6.7.1981. The 1990 Regulations were framed providing for pension scheme for the employees, which was effective from 1.4.1984. In terms thereof, the existing employees were to give an option to avail benefit under the 1990 Regulations. Prior to this Contributory Pension

Scheme was in force. It is not in dispute that the respondent no.1 had submitted his option within time. He sought voluntary retirement on 21.7.2017, w.e.f. 31.07.2017. Certain retiral benefits were paid to him, however, no pension was paid to him for which he had exercised the option. He filed a representation on 8.5.2018. No action was taken thereon. Hence, he filed writ petition before the High Court.

Initially the stand taken before the Single Judge was that the respondent no.1 had not submitted his option within the stipulated time. However, on perusal of the various documents produced before the Court, it was found that the respondent no.1 had submitted his option way back in the year 1991 immediately after the 1990 Regulations were notified. The claim of the respondent no.1 was sought to be defeated on the ground that even after exercising the option, contribution was being deducted from his salary in terms of the membership in the CPF scheme to which he never objected. Further, the plea was sought to be raised that there are large number of similarly situated employees who will raise this claim.

However, the aforesaid arguments were not found to be meritorious, hence rejected by the High Court. It was found that the Corporation was at fault in not acting upon the option exercised by the respondent no.1. Finally, direction was given to the respondent no.1 to refund the employer share of provident fund as well as the amount of gratuity paid in excess to the Corporation along with interest @ 6% per annum within two weeks. On receipt of the amount, the Corporation was directed to release the pension within two weeks from August 2018 onwards. As far as arrears of pension from August 2017 to July 2018 was concerned, direction was given to liquidate the same in three equal monthly instalments from September 15, 2018 onwards. The arrears were also to carry interest @ 6% per annum. The amount was to be transferred in the bank account of respondent no.1. Despite the legally sustainable and equitable order passed by the learned Single Judge, the Corporation filed intra-court appeal. Vide order dated 25.6.2019, the Division Bench stayed the operation of the order passed by the learned Single Judge. On consideration of the application filed by the respondent no.1 for vacation of the interim stay, the appeal itself was heard and decided finally vide impugned judgment. The only argument raised before the Division Bench was regarding waiver. However, the same was not accepted. This principle could be applied in case there was conscious abandonment of existing legal right.

We do not find any merit in the same argument raised by the counsel for the appellant as was rejected by the High Court, namely, the waiver of the right to receive pension by the respondent no.1. There was no conscious abandonment of right to receive pension by the respondent no.1 to deprive him of his pension.

It is not in dispute that the respondent no.1 had exercised his right to receive pension under the 1990 Regulations in the year 1991. Thereafter, it was the duty of the Corporation to have given effect to the same. Merely because there were some wrong deductions from his salary and he was treated as member of the CPF Scheme, cannot be permitted to be raised as a ground to defeat his rightful claim. The pension was to start after retirement of the respondent. When the same was not released to him, immediately representation was made by him. As no response was received from the appellant, the writ petition was filed. The argument that there are number of similarly situated employees who will also stake their claims, will not deter this Court in granting the relief to the respondent, which is legitimately due to him. Rather this argument shows that the Corporation was at fault in implementing the 1990 Regulations in the cases of number of employees though these were notified on 4.1.1991 and were given retrospective effect from 1.4.1984. Technical objections are sought to be raised, which are not tenable. For any fault on the part of the Corporation, the employees cannot be made to suffer. We do not find any error in the orders passed by the High Court. The appeal is accordingly dismissed.

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# *Case Snippets*

## COMPANY LAW

<i>July 10, 2023</i>	<i>Siddharth Sahib Singh (Petitioner)</i> <i>Vs.</i> <i>Apex Council Of DDCA (Respondent)</i>	<i>High Court of Delhi</i> <i>W.P.(C) 8634/2023 &amp; CM</i> <i>APPLs. 32755/2023,</i> <i>32804/2023, 33377/2023</i>
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### **Power of the NCLT under Section 245 & 244 of the Companies Act, 2013**

#### **Judgement**

In the above case, Hon'ble the Delhi High Court refused to entertain a writ petition filed by the petitioner and granted liberty to the petitioner to approach the NCLT for the redressal of its grievances and inter alia observed that "Section 245 of the Companies Act gives the power to the NCLT to restrain a company from committing an act which is ultra vires the articles or memorandum of the company. It also restrains the company from committing breach of any provision of the company's memorandum or articles and to declare a resolution altering the memorandum or articles of the company as void if the resolution was passed by suppression of material facts or obtained by misrepresentation to the members or depositors and also restrain its directors from acting on such resolution....."

Though Section 244(1)(b) of the Companies Act provides that an application under Section 241 of the Companies Act can be entertained only if it is supported by one-fifth of the total number of members of the company but the NCLT has power to waive of this requirement. The Petitioner, therefore, ought to have approached the NCLT and if the NCLT would have refused to waive off the stipulated requirement of support of one-fifth members of the company then it was always open for the Petitioner to approach this Court by contending that no equally efficacious alternative remedy is left to him. It cannot be said that if this Court does not exercise its jurisdiction under Article 226 of the Constitution of India an irreversible damage would be caused to the DDCA and the same cannot be rectified by the Courts or that the DDCA will be subjected to an irreparable loss which needs urgent restraint orders."

*For details:*

*<https://ibbi.gov.in/uploads/order/ab0ce6736dab232c3a45cab0b692be3a.pdf>*

## GENERAL LAWS

July 05, 2023	Singrauli Super Thermal Power Station [Appellant(s)] Vs. Ashwani Kumar Dubey & Ors. [Respondent(s)]	Supreme Court of India Civil Appellate Jurisdiction Civil Appeal No. 3856/2022
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### Doctrine of Official Notice is a Device used in Administrative Procedure and applies with Greater Force to a Judicial / Adjudicatory Body

While setting aside the order of National Green Tribunal on the ground of non-compliance with the principles of natural justice, the Hon'ble Supreme Court observed that *"NGT is a judicial body and therefore exercises adjudicatory function. The very nature of an adjudicatory function would carry with it the requirement that principles of natural justice are complied with, particularly when there is an adversarial system of hearing of the cases before the Tribunal or for that matter before the Courts in India. The NGT though is a special adjudicatory body constituted by an Act of Parliament, nevertheless, the discharge of its function must be in accordance with law which would also include compliance with the principles of natural justice as envisaged in Section 19(1) of the Act."*

Relying on the 'official notice' doctrine the Apex Court observed:

*"In this context, it would be useful to refer to what is known as the 'official notice' doctrine, which is a device used in administrative procedure. Although an authority can rely upon materials familiar to it in its expert capacity without the need formally to introduce them in evidence, nevertheless, the parties ought to be informed of materials so noticed and be given an opportunity to explain or rebut them. The data on which an authority is acting must be apprised to the party against whom the data is to be used as such a party would then have an opportunity not only to refute it but also supplement, explain or give a different perspective to the facts upon which the authority relies. This has been explained by Schwartz in his work on Administrative Law. The aforesaid doctrine applies with greater force to a judicial / adjudicatory body. Therefore, applying the aforesaid principle to the cases that come up before the NGT, if the NGT intends to rely upon an expert Committee report or any other relevant material that comes to its knowledge, it should disclose in advance to the party so as to give an opportunity for discussion and rebuttal. Thus, factual information which comes to the knowledge of NGT on the basis of the report of the Committee constituted by it, if to be relied upon by the NGT, then, the same must be disclosed to the parties for their response and a reasonable opportunity must be afforded to present their observations or comments on such a report to the Tribunal."*

For details:

[https://main.sci.gov.in/supremecourt/2022/11778/11778\\_2022\\_16\\_50\\_44782\\_Judgement\\_05-Jul-2023.pdf](https://main.sci.gov.in/supremecourt/2022/11778/11778_2022_16_50_44782_Judgement_05-Jul-2023.pdf)

## INSOLVENCY LAW

<i>July 05, 2023</i>	<i>Mukesh Kumar (Appellant)</i> <i>Vs</i> <i>Ambrane India Pvt Ltd and Other</i> <i>(Respondent)</i>	<i>National Company Law</i> <i>Appellate Tribunal</i> <i>Principal Bench, New Delhi</i> <i>Company Appeal (AT)(INS)</i> <i>NO.659/2022</i>
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***Admission of an application under Section 7 of IBC if fulfils certain criteria is a Rule, however, rejection of such application is an Exception***

Hon'ble NCLAT inter-alia held that provisions for the admission of a petition under Section 7 of the IBC there are certain relevant criteria. There must be debt and default. If an application fulfils the said criteria, the Adjudicating Authority is to admit such application. However, proviso 1st to Section 7 (5) speaks that only for rejection of an application reasons are required to be assigned. Meaning thereby if an application fulfils certain criteria, the Adjudicating Authority is to admit the said application and while admitting there is no requirement for assigning detailed reasons. However, if the Adjudicating Authority is going to dismiss the application as per provisions contained Section 7 of the IBC reasons are mandatory. Accordingly, it is evident that admission of an application under Section 7, if fulfils certain criteria is a rule, however, rejection of such application is an exception.

For details: <https://ibbi.gov.in/uploads/order/ea4a799f7e820fb793819e81f9dde3b4.pdf>

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[https://www.icsi.edu/media/webmodules/11112022\\_ICSI\\_Students\\_leaflet.pdf](https://www.icsi.edu/media/webmodules/11112022_ICSI_Students_leaflet.pdf)

### 3. Renewal of Registration/Registration Denovo (for Executive Programme & Professional Programme Students)

Registration of students registered upto and including June 2018 stands terminated on expiry of five-year period on 31<sup>st</sup> May 2023. All such students whose registration has been expired are advised to seek Registration De novo follow:

- ✓ Registration De novo link: <https://smash.icsi.edu/Scripts/login.aspx>
- ✓ Process of Denovo:  
[https://www.icsi.edu/media/webmodules/user\\_manual\\_for\\_reg\\_denovo.pdf](https://www.icsi.edu/media/webmodules/user_manual_for_reg_denovo.pdf)

### 4. Opportunity for students to validate their registration three months prior to Expiry of Registration

- ✓ Follow: [https://www.icsi.edu/media/webmodules/14112022\\_Denovo3monthspriortoexpiryofRegistration.pdf](https://www.icsi.edu/media/webmodules/14112022_Denovo3monthspriortoexpiryofRegistration.pdf)

### 5. Continuation of Registration w.e.f. 3rd February 2020

Students will have to keep their registration renewed from time to time even after passing Professional Programme Stage till completion of all the training requirements to become entitled to be enrolled as member of the Institute. Guidelines and process are available at the following url:

- ✓ Follow: [https://www.icsi.edu/media/webmodules/student/Guidelines\\_ContinuationRegistration.pdf](https://www.icsi.edu/media/webmodules/student/Guidelines_ContinuationRegistration.pdf)
- ✓ Follow: [https://www.icsi.edu/media/webmodules/Detailed\\_notification\\_continuation\\_of\\_reg\\_propass\\_stud.pdf](https://www.icsi.edu/media/webmodules/Detailed_notification_continuation_of_reg_propass_stud.pdf)



## !!ATTENTION STUDENTS!!

Cut- off- Date for Acceptance of Applications for Admission to Executive/ Professional Programme is 31.07.2023 (for appearing in Any one module in December 2023 Examination)

Register online through <https://smash.icsi.edu>

## 6. Registration to Professional Programme:

Students who have passed/completed both modules of the Executive examination are advised to seek registration to Professional Programme through online mode.

The prescribed registration fee is Rs. 12,000/-. Students are also required to remit Rs. 1000/- towards Pre-exam test at the time of registration. Eligibility of students for appearing in the Examinations shall be as under: -

Session	Modules	Cut-off date for Registration	Illustrative Example
June	All	30th November (Previous Year)	All students registered upto 30th November 2022 shall be eligible to appear in examination of All Modules in June 2023 Session.
	One	31st January (Same Year)	All students registered upto 31st January 2023 shall be eligible to appear in examination of any One Module in June 2023 Session.
December	All	31st May (Same Year)	All students registered upto 31st May 2023 are eligible to appear in examination of All Modules in December 2023 Session
	One	31st July (Same year)	All students registered upto 31st July 2023 are eligible to appear in examination of any One Module in December 2023 Session.

While registering for the Professional Programme, students are required to submit their option for the Elective Subject under Module 3.

Notwithstanding the original option of Elective Subject, students may change their option of Elective Subject at the time of seeking enrolment to the Examinations. There will be no fee for changing their option for elective subject, but the study material if needed will have to be purchased by them against requisite payment. Soft copies of the study materials are available on the website of the Institute. Guidelines for Option to change the Elective Subject under module-3 of Professional Programme are available at:

[https://www.icsi.edu/media/website/Guidelines\\_Switchover.pdf](https://www.icsi.edu/media/website/Guidelines_Switchover.pdf)

**Important: The students shall also be required to pass the online pre-exam test in such manner and mode as may be determined by the Council.**

## 7. Re-Registration to Professional Programme:

Students who have passed Intermediate Course/ Executive Programme under old syllabus and are not eligible for seeking Registration Denovo may resume CS Course from Professional Programme Stage. Detailed FAQ, Prescribed Application Form, etc. may be seen at

<https://www.icsi.edu/media/webmodules/REREGISTRATION.pdf>

## EXEMPTIONS AND SWITCHOVER

### 1. Clarification Regarding Paper wise Exemption:

- (a) Students enrolling on the Company Secretary (CS) Course shall be eligible for paper-wise exemption (s) based on the higher qualifications (ICAI (cost)/LLB) acquired by them. Such students' needs to apply for paper wise exemption in desired subject through 'Online Smash Portal complying all the requirements. There is a one-time payment of Rs. 1000/- (per subject). For details and Process please visit:

- ❖ [https://www.icsi.edu/media/webmodules/Paperwise\\_exemption\\_syllabus17.pdf](https://www.icsi.edu/media/webmodules/Paperwise_exemption_syllabus17.pdf)
- ❖ [https://www.icsi.edu/media/webmodules/ATTENTION\\_STUDENTS\\_RECIPROCAL\\_EXEMPTION\\_NEW\\_SYLLABUS\\_2022.pdf](https://www.icsi.edu/media/webmodules/ATTENTION_STUDENTS_RECIPROCAL_EXEMPTION_NEW_SYLLABUS_2022.pdf)
- ❖ [https://smash.icsi.edu/Documents/Qualification\\_Based\\_Subject\\_ExemptionandCancellation\\_Student.pdf](https://smash.icsi.edu/Documents/Qualification_Based_Subject_ExemptionandCancellation_Student.pdf)

- (b) The last date for submission of requests for exemption, complete in all respects, is 9<sup>th</sup> April for June Session of examinations and 10<sup>th</sup> October for December session of Examinations. Requests, if any, received after the said cut-off dates will be considered for the purpose of subsequent sessions of examinations only.
- (c) The paper wise exemption once granted holds good during the validity period of registration or passing/completing the examination, whichever is earlier.
- (d) Paper-wise exemptions based on scoring 60% marks in the examinations are being granted to the students automatically and in case the students are not interested in availing the exemption they may seek cancellation of the same by submitting request through the Online facility available at <https://smash.icsi.edu/scripts/login.aspx> 30 days before commencement of examination.

<b>Session</b>	Cut-off date for Cancellation of Exemption/ Re-submitting the Call-For Documents for Granting Exemption
<b>June Session</b>	1 <sup>st</sup> May
<b>December Session</b>	20 <sup>th</sup> November

User manual for cancellation of Exemption:

- ❖ <https://www.icsi.edu/media/webmodules/USER%20MANUAL%20FOR%20CANCELLATION%20OF%20EXEMPTION.pdf>

If any student appears in the examinations disregarding the exemption granted on the basis of 60% marks and shown in the Admit Card, the appearance will be treated as valid, and the exemption will be cancelled.

- (e) It may be noted that candidates who apply for grant of paper wise exemption or seek cancellation of paper wise exemption already granted, must see and ensure that the exemption has been granted/cancelled accordingly. Candidates who would presume automatic grant or cancellation of paper wise exemption without obtaining written confirmation on time and absent themselves in any paper(s) of examination and/or appear in the exempted paper(s) would do so at their own risk and responsibility and the matter will be dealt with as per the above guidelines.
- (f) Exemption once cancelled on request in writing shall not be granted again under any circumstances.
- (g) Candidates who have passed either module of the Executive/Professional examination under the old syllabus shall be granted the paper wise exemption in the corresponding subject(s) on switchover to the new/latest syllabus.
- (h) No exemption fee is payable for availing paper wise exemption on the basis of switchover or on the basis of securing 60% or more marks in previous sessions of examinations.

## 2. Syllabus Switchover:

Revision of syllabus is a constant exercise by the Institute to ensure up-gradation of knowledge amongst the student community.

*Please Note: -*

- a) All switchover students are eligible to appear in the Online Pre-Examination Test which is compulsory under the new syllabus before enrolling for any examinations. Process For Remitting the Fee for Pre-Examination Test is available in the link:
  - ❖ <https://www.icsi.edu/media/webmodules/PreExamTestProcess.pdf>
  - ❖ <https://www.icsi.edu/media/webmodules/ProcessRemitPretestFeeUnderSyllabus2022.pdf>
- b) Study material is not issued free of cost to the switchover students. Therefore, the student needs to obtain study material, at a requisite cost.
- c) Revert Switchover is not Permissible.
- d) Other details regarding Exemptions and Switchover are available on the student page at the website of the Institute.

## PROCESS/ USER MANUAL TO SWITCHOVER:

- ✓ Login with user ID and password (<https://smash.icsi.edu/Scripts/login.aspx> )
- ✓ Click on Module > Switchover > Apply for Switchover
- ✓ Click on the tab “Request for switchover.”
- ✓ click on the checkbox at the bottom and submit your request. **(Successful message will reflect on your Screen.)**

## IMPORTANT LINKS

- [https://www.icsi.edu/media/webmodules/switchover\\_process.pdf](https://www.icsi.edu/media/webmodules/switchover_process.pdf)
- [https://www.icsi.edu/media/webmodules/Correspondingexemptionletterswitchover%20-Fnd\\_ExePrg.pdf](https://www.icsi.edu/media/webmodules/Correspondingexemptionletterswitchover%20-Fnd_ExePrg.pdf)
- [https://www.icsi.edu/media/webmodules/Switchover\\_17092016.pdf](https://www.icsi.edu/media/webmodules/Switchover_17092016.pdf)
- <https://www.icsi.edu/media/webmodules/ICSI%20New%20Syllabus%202022.pdf>

## ENROLLMENT TO EXECUTIVE & PROFESSIONAL PROGRAMME EXAMINATION (REGULATION 35)

- (i) The examinations for the Executive & Professional Programme Stage of CS Course are conducted in June and December every year.
- (ii) The schedule for submission of online application along with the prescribed examination fee for enrolment to June and December Sessions of Examinations are as under:

Session	Period during which the students can submit examination form and fee	Period during which the students can submit examination form and fee (with prescribed fee)
<b>June</b>	The online examination enrollment window is opened tentatively on 27th February and the students may submit the forms upto 25th March without late fee	Students may submit the examination form during 26th March to 9th April with Late Fee.
<b>December</b>	The online examination enrollment window is opened tentatively on 26th August and the students may submit the forms upto 25th September without late fee	Students may submit the examination form during 26th September to 9th October with Late Fee.

The eligibility conditions for seeking enrollment to Executive & Professional Programme Examination are as per the cut off available at

[https://www.icsi.edu/media/webmodules/CUT\\_off.pdf](https://www.icsi.edu/media/webmodules/CUT_off.pdf)

- (iii) Students who have registered for the Foundation/Executive Programme on or after 1st June 2019 are required to complete a One Day Orientation Programme in order to become eligible for enrollment on the June/December Examinations.
- (iv) Students who have registered in the Executive/Professional Programme are required to complete Pre-Examination Test to become eligible for enrolment to June/December Examinations.

### PROCEDURAL COMPLIANCE

#### CHANGE OF ADDRESS/CONTACT DETAILS/CREATION OF PASSWORD

##### Process 1: Manual for Change of Mobile number, Email Id

**Step 1: Log in with valid credentials at** <https://smash.icsi.edu/scripts/login.aspx>

Step 2: Change Mobile Number and Email address.

##### Process 2: Process to change correspondence /permanent address.

**Step 1: Log in with valid credentials at** <https://smash.icsi.edu/scripts/login.aspx>

Step 2: To change Correspondence address Step 3: Click on Save Button

##### Process 3: Change/Reset Password

**Step 1: Log in with valid credentials on** [smash.icsi.edu](https://smash.icsi.edu)

**Step 2:** Click on Profile > Change Password or

**Forget password/Reset Password:** <https://smash.icsi.edu/scripts/GetPassword.aspx>

##### Process 4: Change Name/Photograph/Signature

[https://www.icsi.edu/media/webmodules/Change\\_of\\_name\\_photograph\\_signature\\_requests\\_for\\_students\\_are\\_payable\\_now.pdf](https://www.icsi.edu/media/webmodules/Change_of_name_photograph_signature_requests_for_students_are_payable_now.pdf)

#### STUDENT IDENTITY CARD

Identity Card can be downloaded after logging into the Student Portal at:

[www.icsi.edu](https://www.icsi.edu).

**Step 1: Log in with valid credentials on** [smash.icsi.edu](https://smash.icsi.edu)

**Step 2:** Click on Module > Student Services > Identity Card

DEDUCTION OF 30% OF THE TOTAL FEE REMITTED BY THE APPLICANT IN RESPECT OF REGISTRATIONS LYING PENDING FOR MORE THAN A YEAR

Visit for details:

[https://www.icsi.edu/media/webmodules/Fees\\_Refund\\_Guidelines\\_Admission\\_Fees.pdf](https://www.icsi.edu/media/webmodules/Fees_Refund_Guidelines_Admission_Fees.pdf)



## Revision of Syllabus for Candidates appearing in CSEET from November 2023 Session onwards!

The Syllabus of Company Secretary Executive Entrance Test (CSEET) has been revised and applicable from November **2023 CSEET Session onwards**. It shall be comprised of four papers and the nomenclature of the papers is as under:

Part	Subject	Sub Part	Total Marks
1	Business Communication	--	50
2	Legal Aptitude and Logical Reasoning	A - Legal Aptitude (30 Marks) B - Logical Reasoning (20 Marks)	50
3	Economic and Business Environment	A – Economics (25 Marks) B – Business Environment (25 Mark)	50
4	Current Affairs and Quantitative	A – Current Affairs (30 Marks) B – Quantitative Aptitude (20 Marks)	50
<b>Total Marks</b>			<b>200</b>

## ALL STUDENTS INDIA COMPANY LAW QUIZ 2023 FOR CS



**G20**  
भारत 2023 INDIA



**THE INSTITUTE OF  
Company Secretaries of India**  
भारतीय कम्पनी सचिव संस्थान  
IN PURSUIT OF PROFESSIONAL EXCELLENCE  
Statutory body under an Act of Parliament  
(Under the jurisdiction of Ministry of Corporate Affairs)




**75**  
Azadi Ka  
Amrit Mahotsav

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

**Motto**  
सत्यं वद। धर्मं चर।  
इष्टकारे फेद तन्पारे: कसेरेद इयु फेद इकर।

**Mission**  
"To develop high calibre professionals facilitating good corporate governance"



# ALL INDIA COMPANY LAW QUIZ 2023

## For CS students

**No Participation Fee**

**All Executive and Professional Programme students of the Institute having a valid registration number as on 31<sup>st</sup> May 2023, shall be eligible to participate in the competition.**

**For registration**

<https://g25.tcsion.com/EFForms/configuredHtml/1677/62659/application.html>

Registration open	Thursday, 20 <sup>th</sup> April 2023 at 10.00 AM	*Prize money*	Executive	Professional
Registration close	Wednesday 31 <sup>st</sup> May 2023, at 5.00 PM		1 <sup>st</sup> Prize Rs. 50,000/-	1 <sup>st</sup> Prize Rs. 50,000/-
Preliminary Round	Friday, 30 <sup>th</sup> June 2023 Online Mode, MCQ Pattern From 10 AM to 5 PM	2 <sup>nd</sup> Prize Rs. 30,000/-	2 <sup>nd</sup> Prize Rs. 30,000/-	
Quarter-Final Round	Friday, 14 <sup>th</sup> July 2023 Online Mode, MCQ Pattern From 10 AM to 5 PM	3 <sup>rd</sup> Prize Rs. 20,000/-	3 <sup>rd</sup> Prize Rs. 20,000/-	
Semi Final Round	Tuesday, 1 <sup>st</sup> August 2023 Online Mode, MCQ Pattern From 10 AM to 5 PM	*TDS will be deducted as per applicable rates		
Final Round	Saturday, 2 <sup>nd</sup> September 2023 (Physical /Virtual, as decided by the Institute )	For any query contact at : <a href="mailto:icsi_aiclq@icsi.edu">icsi_aiclq@icsi.edu</a>		

**CS Manish Gupta**  
President, The ICSI

**CS B. Narasimhan**  
Vice President, The ICSI

**CS Asish Mohan**  
Secretary, The ICSI

**Connect with ICSI** | [www.icsi.edu](http://www.icsi.edu) |  | Online helpdesk : <http://support.icsi.edu>



**THE INSTITUTE OF  
Company Secretaries of India**  
भारतीय कम्पनी सचिव संस्थान  
IN PURSUIT OF PROFESSIONAL EXCELLENCE  
Statutory body under an Act of Parliament

## “शहीद की बेटी” (Martyr’s Daughter)

Dear Students,

It is indeed an honour to be a part of an Institute which has attained institutional excellence and is a torch bearer for the cause of Good Corporate Governance.

As part of social responsibility and in alignment towards the initiatives of Government of India the scheme “Shaheed Ki Beti” was launched during the Golden Jubilee ceremony and the Institute got the privilege to confer the first certificate under this scheme to the Prime Minister of India, Sh. Narendra Modi on 4<sup>th</sup> October 2017.

Under ‘Shaheed Ki Beti’ scheme, the Institute is providing financial support to the girl child of martyrs for her higher education.

A separate fund has been created and the amount accumulated under the Fund “Shaheed ki Beti” is donated to the concerned wing of Ministry of Defence. Institute has already donated Rs. 15 lac under the scheme in the recent past.

**The Institute acknowledges the contribution of the stakeholders who are generously donating towards the “Shaheed Ki Beti” initiative of the Institute on their Birthdays or otherwise.**

Shaheed Ki Beti scheme has given us an opportunity to support our courageous martyred soldiers and their bereaved families. Through this unique scheme, Institute will definitely bring a radical change in the life of families of the valiant martyrs who have laid their lives while upholding the sovereignty and integrity of the country.

**We request all other members and students of ICSI to come forward and contribute for this noble initiative.**

**The amount can be transferred online as per details given below.**

National Electronic Fund Transfer (NEFT) Mandate Form	
(Mandate for Receiving Payment Through NEFT/RTGS)	
Vendor Name	THE INSTITUTE OF COMPANY SECRETARIES OF INDIA
Address of Vendor	C-36-37, ICSI HOUSE, INSTITUTIONAL AREA, SECTOR 62 NOIDA UP 201309
Permanent Account Number (PAN)	AAATT1103F
Particulars of Bank Account	
A. Name of Bank	Indian Bank
B. Name of Branch	Sector 61
C. Address	D-211/2 SECTOR 61 NOIDA 201301
D. City Name	NOIDA
E. IFSC Code (11 digits)	IDIB000N108
F. 9 digit MICR Code appearing on the Cheque Book	110019035
G. Type of Account (10/11/13)	SAVINGS (10)
H Account No.	706959465

**Our small gesture can bring smile to the faces of many bereaved families.**

**Team ICSI.**

## !! Attention Students!!

Guidelines for Concession in Fee for Registration to CS Course to the Widows and Wards of Martyrs, Permanent Disability cases, Serving / Retired Personnel of Indian Army, Indian Air Force, Indian Navy, and all paramilitary forces.

The sacrifice of the personnel of Indian Armed forces and paramilitary forces for maintaining the security and sovereignty of the country is commendable.

In a humble endeavor of the Institute in recognizing the contribution of the serving and retired personnel and as a goodwill gesture to the families of martyrs, the Institute has decided to grant the following concessions for registration to the CS Course:

- i. 100% concession in full Fee payable at the time of Registration to various Stages of CS Course and Examination Fee to the wards and widows of martyrs of Indian Army, Indian Air Force, Indian Navy and all paramilitary forces
- ii. 100% concession in full Fee payable at the time of Registration to various Stages of CS Course and Examination Fee to the personnel of Indian Army, Indian Air Force, Indian Navy, and all paramilitary forces with permanent disability because of participating in act of war and other missions.
- iii. 50% concession in full Fee payable at the time of Registration to various Stages of CS Course and Examination Fee to all In Service/ Retired personnel of Indian Army, Indian Air Force, Indian Navy and all paramilitary forces.
- iv. All other fees payable by the aforesaid category of students shall be as per the rates applicable to the general category students.

These guidelines shall be applicable effective from 1st April 2019.



### !!Attention Students!!

Higher Qualification based exemption tab for claiming exemption for December 2023 and status to verify paper-wise exemption granted under Subject Exemption head for Executive & Professional students will be activated in online profile at SMASH portal after declaration of result of June 2023 session of examination i.e., from 26<sup>th</sup> August 2023 onwards.

Kindly take note of the same.

Team ICSI



**THE INSTITUTE OF  
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भारतीय कम्पनी सचिव संस्थान  
IN PURSUIT OF PROFESSIONAL EXCELLENCE  
Statutory body under an Act of Parliament  
(Under the jurisdiction of Ministry of Corporate Affairs)

## Join online classes at the Regional/Chapter Offices/Study Centres of The ICSI and excel in Examination.

### Pre-exam test is exempted for Class-Room Teaching Students (Condition apply)

#### Dear Student,

As you are aware, the CS Course allows the flexibility of undergoing professional education as per the convenience of the students through distance learning mode.

However, keeping in view the requests of the students, the institute has been arranging Class-Room Teaching facilities as its Regional Offices and many of the Chapter Offices and Study Centres. A list of Offices presently providing the Class-Room Teaching facility may be seen at the following link of the Institute's website: <https://www.icsi.edu/crt>

We recommend the students of the Institute to join the classes conducted by the Regional & Chapter Offices and Study Centres for quality education at nominal fee.

Most of the Regional Chapter offices conduct these classes. Kindly contact your nearest Regional/Chapter Office/ Study Centre. The contact details are available at the following link: <https://www.icsi.edu/media/webmodules/websiteClassroom.pdf>

Besides regular classes, the Institute is also conducting demo classes, mock tests, revision classes, and classes on individual subjects which help students in preparing for the main examination.

The Coaching Classes are organized throughout the year corresponding with each session of CS Examination held in June and December every year.


As you are aware the Pre-Examination Test is compulsory for all students of Executive and Professional Programme under new syllabus. The students undergoing the Class-Room Teaching and pass the requisite tests forming part of the coaching are exempted from appearing in the Pre-Exam Test. The standard procedure for joining the coaching classes at the Regional/Chapter Offices is as under:

Step - 1	Contact the nearest Regional/Chapter Office of the Institute from the list given at the link. <a href="https://www.icsi.edu/media/webmodules/websiteClassroom.pdf">https://www.icsi.edu/media/webmodules/websiteClassroom.pdf</a>
Step - 2	Ascertain the Date of Commencement of Coaching Class and the timings of the classes
Step - 3	Enquire about the availability Demo Classes and if available attend the same as per the schedule
Step - 4	Remit the applicable fess at the Regional/Chapter Office
Step - 5	Attend the Coaching Classes as per the schedule and appear in the CS Main examinations

The Institute shall be able to commence Class-Room Teaching facility at the remaining Chapter Offices also subject to the participation of students.

**Team ICSI**

## Hurry up! Registration open for Company Secretary Executive Entrance Test (CSEET) July 2023 Session



**G20**  
भारत 2023 INDIA



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भारतीय कम्पनी सचिव संस्थान  
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इष्टक्रे फेद त्नुते: क्क्रेते इयु फेद क्क्रे:

**Mission**  
"To develop high calibre professionals facilitating good corporate governance"



"UGC Recognises CS Qualification as Equivalent to a Post Graduate Degree."

### COMPANY SECRETARY EXECUTIVE ENTRANCE TEST (CSEET)

## HURRY UP


**CSEET registration window re-opened from 04th July 2023 to 10th July 2023.**

**MINIMUM ELIGIBILITY**  
Passed or appearing in the Senior Secondary (10+2) Examination or equivalent.

**EXEMPTED FROM CSEET**  
(Eligible to Take Direct Admission in CS Executive Programme)  
Foundation passed of ICSI/Final passed of ICAI/  
Final passed of ICMAI/Graduates (having minimum 50% marks)/Post Graduates

## July 2023 session of CSEET

is proposed to be held on Sunday, 30<sup>th</sup> July 2023.



**Register Now: [https://smash.icsi.edu/Scripts/CSEET/Instructions\\_CSEET.aspx](https://smash.icsi.edu/Scripts/CSEET/Instructions_CSEET.aspx)**

Connect with ICSI

[www.icsi.edu](http://www.icsi.edu)

[f](#) [t](#) [in](#) [ig](#) [yt](#)

Online Helpdesk : <http://support.icsi.edu>

## ATTENTION STUDENTS!

### ICSI Merit Scholarship for Meritorious Students and Merit-cum Means Assistant Scheme for economically Weaker Students

ICSI is running a Merit Scholarship scheme to recognize the meritorious performance of the students in the Institute's examinations and Merit-cum Means Assistant Scheme for economically needy candidates. The highlights of the schemes are as under –

#### (A) Merit Scholarship

**Award of Merit Scholarship** - The merit scholarship shall be granted purely in order of merit only to a registered students for the Executive Programme/Intermediate or Professional Programme/Final examination, as the case may be.

#### Eligibility

##### 1. For Executive Programme/Intermediate Course -

The candidate should —

- have passed all the papers of Foundation Programme examination at one sitting, in the first attempt, without exemption in any paper and secured at least a minimum of 55 per cent marks in the aggregate; and
- have applied for registration as a student of the Institute by making application in the prescribed form(s) together with the requisite registration fee within three months from the date of declaration of his/her result of the Foundation Programme examination.

##### 2. For Professional Programme/Final Course

The candidate should have passed all the papers included under both modules/groups of Executive Programme/Intermediate examination at one sitting, in the first attempt, without exemption in any paper, and secured at least a minimum of 55 per cent marks in the aggregate

#### Number Of Scholarships –

For Executive Programme/Intermediate Course - 25 in each session or 50 in a year

For Professional Programme/Final Course - 25 in each session or 50 in a year

**Value** - The amount of full scholarship per student will be ₹750 per month.

#### (B) Merit-cum-Means Assistant

**Award of Merit Scholarship** - The financial assistance will be granted only to a registered student.

#### Eligibility

##### 1. For Executive Programme/Intermediate Course –

The candidate should —

- have passed all the papers of Foundation Programme/Foundation examination at one sitting, in the first attempt, without claiming exemption in any paper, and secured a minimum of 50 per cent marks in the aggregate;
- have applied for registration as a student of the Institute by making the application in the prescribed form(s) together with the requisite registration fee and also for financial assistance in the form appended hereto within three months from the date of declaration of his/her result of the Foundation Programme/Foundation examination;
- have an income (if employed or is having an independent source of income) of not more than ₹2,40,000 in a year if living on his/her independent income OR if he/she is dependent on his/her parents/guardian/spouse whether partially or wholly, a combined income from all sources of not more than ₹3,60,000 in a year; and have no other source from which assistance/scholarship is received simultaneously while pursuing the course for company secretaryship.

## **2. For Professional Programme/Final Course**

The candidate should —

- be a bonafide registered student of the Institute;
- have passed all the papers included under both modules/groups of Executive Programme/Intermediate examination in the first attempt, at one sitting, without claiming exemption in any paper, and secured a minimum of 50 per cent marks in the aggregate;
- have an income (if employed or is having an independent source of income) of not more than ₹2,40,000 in a year if living on his/her independent income OR if he/she is dependent on his/her parents/guardian/spouse whether partially or wholly, a combined income from all sources of not more than ₹3,60,000 in a year; and
- have no other source from which any assistance/scholarship is received simultaneously while pursuing the course for company secretaryship.

### **Number Of Scholarships –**

- For Executive Programme/Intermediate Course - 25 in each session or 50 in a year
- For Professional Programme/Final Course - 25 in each session or 50 in a year

### **Value –**

- The financial assistance per student will be ₹500 per month for a period of ten months.
- The candidates selected for the award of assistance shall be exempted from payment of Education Fee and Examination Fee during the period of assistance.

Eligible Students can apply for the above scholarships by filling the requisite form and documents. The detailed guidelines of the above Scholarship schemes are given at the following link – <https://www.icsi.edu/student-n/examination/examination/>

Team ICSI

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# Examination

## 1. DUPLICATE RESULT-CUM-MARKS STATEMENT

### Duplicate Result-cum-Marks Statement

Result-cum-Marks Statements for CS Examination sessions are dispatched to all the candidates soon after declaration of results. However, in case any candidate did not receive the same, they can get the duplicate copy of the Result-cum-Marks Statement from the Institute.

The fee for obtaining the duplicate Result-cum-Marks Statement is Rs.100/- (Rupees one hundred only) per session/each copy of the marks statement. Candidates can remit the requisite fee by depositing cash at the ICSI Noida Office or by sending Demand Draft favouring "The Institute of Company Secretaries of India" payable at New Delhi. The application duly filled in the prescribed form along with the requisite fee may be forwarded at the following address :

Dr. Sanjay Pandey  
Joint Secretary  
Directorate of Examinations  
The Institute of Company Secretaries of India  
ICSI House, C-37  
Institutional Area, Sector-62  
Noida-201 309  
Uttar Pradesh

As a matter of policy and due to security reasons Result-cum-Marks Statements are not sent to the candidates on the basis of request through e-mail.

The prescribed application form for duplicate Result-Cum-Marks Statement can be downloaded from the URL given below :

[https://www.icsi.edu/media/webmodules/Applicationform\\_for\\_DuplicateMarksStatement.pdf](https://www.icsi.edu/media/webmodules/Applicationform_for_DuplicateMarksStatement.pdf)

## 2. APPLICATION FOR ISSUE OF DUPLICATE RESULT- CUM-MARKS STATEMENT



**THE INSTITUTE OF  
Company Secretaries of India**  
IN PURSUIT OF PROFESSIONAL EXCELLENCE  
Statutory body under an Act of Parliament

email : exam@icsi.edu

### APPLICATION FOR ISSUE OF DUPLICATE RESULT-CUM-MARKS STATEMENT

The Secretary  
The Institute of Company Secretaries of India  
C-37, Sector 62, Institutional Area  
NOIDA – 201 309.

Date : \_\_\_\_\_

Self Attested  
Photo

**Sub. : CS Examination, June/December, 20 \_\_\_\_.**

Dear Sir,

I hereby request you to issue me Duplicate Copy(ies) of "Result-cum-Mark Statement" as per particulars furnished below:

*(To be filled in Capital Letters by Candidate's own Handwriting )*

1.	Name of Student:		
2.	Registration No.:	3.	Stage of Exam :
4.	Exam Session : June/Dec.,20.....	5.	Roll No.....
6.	Postal Address:		
E-mail :			
Mobile No :			
		Pin code:	

Prescribed fee @ Rs. 100/- per Duplicate Result-cum-Mark Statement is paid in Cash/by Demand Draft in favour of the "Institute of Company Secretaries of India" payable at New Delhi . (DD/Cash Receipt No. .... dated.....for Rs. .... enclosed).



Yours faithfully,

.....  
(SIGNATURE)

#### Notes:

- Applicants are required to submit self attested copy of (a) ACS/FCS Certificate or Examination Admit Card issued by the Institute (For members only) and (b) Identity Card issued by the Institute or Aadhar Card, Passport or any other proof of identification and address issued by the Central/State Government. (For both members and students).
- Candidates are advised to download their e-result-cum-marks statement from the website of the Institute for the Foundation / Executive Programme Examinations held from June 2011 session onwards
- In case of non-receipt of "Result-cum-Mark Statement" of immediate preceding examination, within a period of three months from the date of declaration of results, a written request, giving above particulars should be submitted for issuance of Duplicate Result-cum-Mark Statement without payment of any fee.
- Duplicate Result-cum-Mark Statement will normally be sent within 10 working days by Speed Post.
- Candidates should send a self addressed envelope affixing postal stamp of Rs. 40/- or Demand Draft including Rs.40/- for getting the marks statement by speed post.

### 3. LIST OF ALL INDIA PRIZE AWARD WINNERS FOR CS EXAMINATIONS, JUNE - 2022

S. No.	Name of the Prize Award	Criteria	Name of the Prize Winner	Marks Obtained	Photograph
1.	101- PRESIDENT'S GOLD MEDAL	Awarded to a candidate who passes in all papers of the Professional Programme Examination, at first attempt, in one sitting, without claiming exemption in any subject and obtaining the highest percentage of marks in the aggregate taking into account the performance of all such successful candidates under the old as well as new syllabus provided that the aggregate is not less than 55% marks.	Ms. Nikita Rameshbhai Chandwani  Surat-395009  (Roll No. 632525)	576/900 (64.00%)	
2.	124- PRESIDENT'S SILVER MEDAL	Awarded to a candidate who passes in all papers of the Executive Programme Examination, at first attempt, in one sitting, without claiming exemption in any subject and obtaining the highest percentage of marks in the aggregate taking into account the performance of all such successful candidates under the old as well as new syllabus provided that the aggregate is not less than 55% marks.	Shri Lakshay Chawla  Sri Ganganagar- 335001  (Roll No.- 509174)	544/800 (68.00%)	

Please visit the link below or scan the QR code to view complete list of Prize Award Winners for exhibiting brilliant performance in the CS Examinations, June 2022 session:

Scan QR Code

<https://bit.ly/ICSIAllIndiaPrizeAwardJune2022>







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(Under the jurisdiction of Ministry of Corporate Affairs)



# ICSI SECRETARIAL EXECUTIVE CERTIFICATE

The ICSI Secretarial Executive Certificate is a unique initiative of the Institute of Company Secretaries of India (ICSI) for the CS Students to create a pool of semi qualified professionals.

## ELIGIBILITY

A student who has:-

- passed the Executive Programme;
- completed EDP or any other equivalent programme;
- completed Practical Training as prescribed or exempted therefrom; and
- made an application along with such fee as applicable.

## VALIDITY OF CERTIFICATE

- One calendar year from the date of issue
- Renewable on completion of 4 PDP Hours and payment of annual renewal fee of Rs.1000/-.
- The certificate will be renewed for a maximum period of two years only.

## BENEFITS



Entitled to use the description "ICSI Secretarial Executive".



Seek employment with Practising Company Secretaries



Gain relevant experience with India Inc.



Serve the nation while preparing to become a full-fledged professional.



Eligible to receive the coveted ICSI Journal 'Chartered Secretary'.

Procedure to apply shall be available at <http://bit.do/secicsi>

For queries, please write to [member@icsi.edu](mailto:member@icsi.edu) or contact on Phone No.: **0120-4522000**

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## LAUNCHING OF ONLINE LICENTIATE ENROLLMENT



### ELIGIBILITY

A student who has:-

- (i) A person who has completed the Final examination or Professional Programme examination of the Institute may, within six months from the date of declaration of results in which he has passed the Final examination or Professional Programme examination can apply for enrolment as a licentiate.
- (ii) An Online application for enrolment as a Licentiate is to be made along with annual subscription of **Rs. 1180/-** (Rs. 1000/- Licentiate subscription + Rs. 180/- towards GST @18% applicable w.e.f. 1st July, 2017)

### VALIDITY OF CERTIFICATE

- (i) A licentiate shall not ordinarily be allowed to renew his enrolment for more than five years after passing the Final examination or Professional Programme examination.
- (ii) The annual subscription of a licentiate shall become due and payable on the first date of April every year
- (iii) Non-payment of annual subscription on or before the thirtieth of June of a year shall disentitle the person to use the descriptive letters Licentiate ICSI & from 1st July of that year, until his annual subscription for the year is received by the Institute. The name of the person so disentitled shall be published in the Journal

The Institute of Company Secretaries of India launches the online module of Licentiate enrollment as a Licentiate of The Institute of Company Secretaries of India in accordance with Regulation 29 of the Company Secretaries Regulations, 1982.

### BENEFITS

Recognition as  
'Licentiate ICSI  
or entitled to use the  
descriptive letters  
Licentiate ICSI

Subscription of  
Chartered Secretary  
Journal

Participate in the activities  
of the Institute, its Regional  
Council or Chapter as the  
case may be, subject to such  
conditions as may be imposed  
by the Council, Regional Council  
or Chapter, as the case may be

Entitled to use  
Library facilities  
of the Institute,  
Regional Council  
or Chapter

Procedure to apply shall be available at <http://stimulate.icsi.edu/>

For queries, please write to [member@icsi.edu](mailto:member@icsi.edu) or contact on phone number 0120-4522000

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[www.icsi.edu](http://www.icsi.edu)



Online Helpdesk : <http://support.icsi.edu>

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## Motto

सत्यं वद। धर्मं चर।  
इष्टार्थे तेन त्वाप्ते. अवेष्टे त्पु तेन त्वाय.

## Vision

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

## Mission

"To develop high calibre professionals  
facilitating good corporate governance"



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### Headquarters

ICSI House, 22, Institutional Area, Lodi Road, New Delhi 110 003  
tel 011- 4534 1000 fax +91-11-2462 6727 email info@icsi.edu

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