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THE JOURNAL FOR GOVERNANCE PROFESSIONALS



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Competence
Sustainability



THE INSTITUTE OF
Company Secretaries of India
भारतीय कम्पनी सचिव संस्थान
IN PURSUIT OF PROFESSIONAL EXCELLENCE
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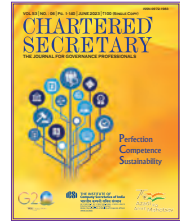
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The Institute under the able leadership of its President, Vice-President and the Council Members is speeding up its strides to achieve its objective of Professional excellence in all its proclivity to assert that the Company Secretaries are the 'Preferred Professionals' who are now stepping beyond boundaries.

The Institute has witnessed a towering exchange of ideas on the international forums beginning with the 2nd International Conference of ICSI's Overseas Centre held on 11-12 May 2023 at London, which further continued as fruitful deliberations at ICSI's Conference on Corporate Tax held on June 3rd 2023 at Dubai. Needless to say, the Institute has set its course towards enhancing its efforts in its dynamic pursuit to obtain the maximum international recognitions for the Profession and the Professionals.

To commemorate the commendable role played by the Company Secretaries in Practise, every year the Institute celebrates June 15 as PCS DAY and the current issue of the Chartered Secretary Journal is very rightly dedicated to the Company Secretaries in Practise, the Entrepreneurial side of our coveted Profession. The professional traits of Perfection, Competence and Sustainability thoroughly define the Company Secretaries in Practise who are also futuristically aligning themselves to be best fits to the ever expanding role of Company Secretaries, achieving the benchmarks of best governance practises in India as well as globally. The Journal aims to bring together various viewpoints on the growing role of the Company Secretaries in MSMEs and Start-ups, Company Secretaries as Entrepreneurs and also touches upon legislation recognitions to Company Secretaries.

Time and again the Company Secretaries in Practise have proved their agility and acumen in co-shouldering the responsibilities towards nation building by guiding the corporates and business entities through required audits, helping them achieve their objective of being well-governed, contributing towards 'Ease of

Doing Business' and adhering to necessary governance framework. The Journal also throws light on new frontiers like Social Audit. To add to it all, opportunities for recognition are also galore within Quasi- Judicial Authorities. To deliberate upon the new areas of recognition, the Institute is organising its 24th National Conference of Practising Company Secretaries on the Theme: Company Secretary: Stepping Beyond Boundaries from 16-17 June 2023 at Vishakhapatnam.

The current issue of the Journal encapsulates insightful and prolific views on various areas where Company Secretaries in Practise have tremendous potential and can further achieve extraordinary success.

The author in the article 'Company Secretaries as Entrepreneurs: Embracing Opportunities and Unlocking Benefits' highlights how Company Secretaries with their multidimensional skill set and comprehensive understanding of business operations have increasingly embraced entrepreneurship. This article explores the evolving role of Company Secretaries as entrepreneurs, delving into their unique capabilities, the benefits of venturing into entrepreneurship, and the contributions they make to the business landscape. The author through the article 'The Growing Role of Company Secretary in MSMEs & Startups in India: An Analytical Perspective' aims to explore and analyse the evolving role of Company Secretaries in the context of Micro, Small, and Medium Enterprises (MSMEs) and startups in India. With the increasing significance of corporate governance and compliance, the article highlights the expanding responsibilities and contributions of Company Secretaries in assisting MSMEs and Startups to navigate the complex regulatory landscape. With an article on 'The Power of Expertise: How Company Secretaries Enhance HR and Labour Law Compliance' the author highlights the Company Secretaries as entrepreneurs having ability to manage risk. As professionals who are trained to identify and manage risk, Company

Secretaries are able to assess the potential risks associated with starting a business and develop strategies to mitigate them. The author in the article 'E-Courts embarking on Phase-III: Judicious move for Indian judiciary' explores the velocity of e-Court Mission Mode Project that has once again gained its momentum with the announcement of allocation of Rs. 7,000 crores for Phase-III in the Budget, 2023-24. Further it covers how the Judiciary is trying its best to adopt technology in best possible manner just like all other pillars of the Government. In the article 'Governance in Merger and Amalgamation', the author has highlighted how governance has taken next step in mergers, amalgamations, & other scheme of arrangements (hereinafter M&A). Exploring the opportunities that SSE frontier is opening for the Company Secretaries, the article on 'Development of Social Stock Exchange: An Opportunity for Practising Company Secretaries,' the author elaborates on the concept of the Social Stock Exchange (SSE) which caught everyone's attention when Hon'ble Finance Minister, Smt. Nirmala Sitharaman, in her union parliamentary budget 2019-20 proposed to create an electronic fundraising platform under the regulatory ambit of SEBI for listing social enterprises. The author through the article 'SSEs in India: Navigating the Complexities of Impact, Return, and Responsibility in the Pursuit of Sustainable Development' brings to light how Social Auditors will play a crucial role as they are being looked up as custodians of social and environmental responsibility, ensuring that companies are held accountable for their impact on the world. The author through the article 'Socially Responsible Investing – Recent Developments in India' educates readers on responsible Investing which is still at a nascent stage in India, despite having deep roots in the Indian Knowledge System. This article aims at exploring and documenting the evolution of factors that played important roles in setting the stage for the SRI trend during the period of 2000-2020.

Through the article 'Data Mining and Corporate Governance' the author establishes how AI systems produce solutions to problems on their own by calculations. The AI systems use the data mining technique in mined data to create solution and how data mining serves as a foundation for artificial intelligence. The author through the article 'Companies Act – India and Japan: Understanding the Basics' enlightens the knowledge of professionals and persons occupying Board positions on some fundamental similarities and distinctions between the Companies Act in India and Companies Act in Japan. There are many joint ventures, collaborations, technology transfer arrangements between entities in India and Japan which operate in corporate form; private companies being the most popular one. The paper on Business Responsibility and Sustainability Reporting (BRSR)- Individuals' Insights on Pertinence, Supremacy and Challenges' explores how Business Responsibility and Sustainability Reporting (BRSR) ushered in a contemporary corporate world has replaced the conventional Business Responsibility Reporting (BRR) guidelines issued by SEBI in 2021 with the aim of augmenting ESG disclosures and reporting, thus leading to enhanced transparency and accountability.

The CS professionals have always strived towards providing professional excellence in core as well as allied areas and now they are foraying into new domains.

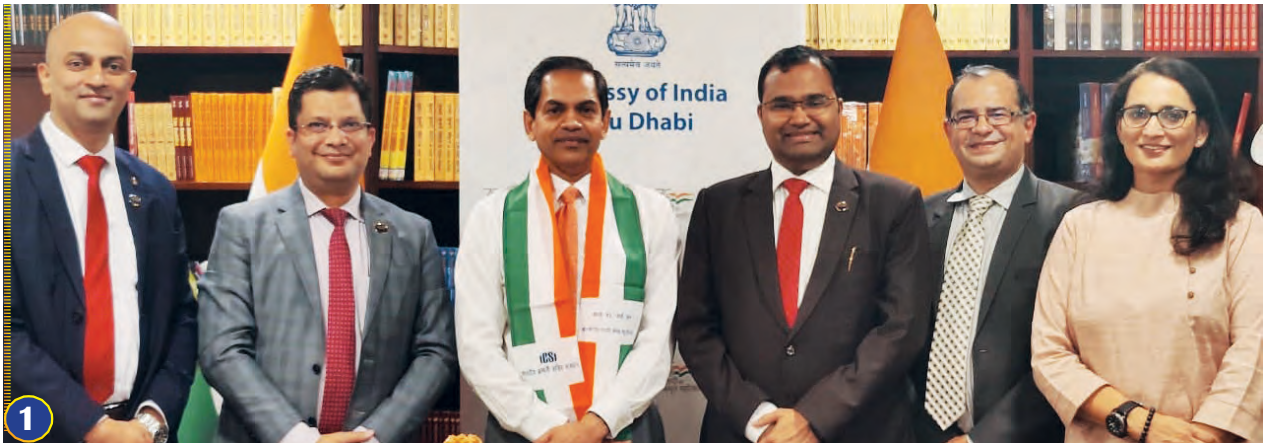
I wish all my professional colleagues a very Happy PCS Day in advance and look forward to meaningful and constructive deliberations at the 24th National Conference for Practising Company Secretaries.

Happy Reading !

CS Asish Mohan
(Editor - Chartered Secretary)

ICSI welcomes Government Nominees to the Central Council of ICSI





1. ICSI delegation led by CS Manish Gupta, President, The ICSI met HE Sunjay Sudhir, Ambassador of India to UAE and apprised him about the role CS will play in the new tax regime in UAE and discussed the recognition for the CS profession there.
2. ICSI delegation led by CS Manish Gupta, President, The ICSI, met Mr. Bijay Selvaraj, Consul General of India, Edinburgh, United Kingdom to apprise him of the importance of CS and discuss capacity-building opportunities through knowledge exchange, MoUs with Universities and webinars.
3. ICSI delegation led by CS Manish Gupta, President, The ICSI with Mr. Bharath Shivappa, Director & Head - Business Development, Abu Dhabi Global Market (ADGM).
4. CS B. Narasimhan, Vice-President, The ICSI met Shri Sunil Kadam, Registrar, NISM to apprise him of the commencement of Empanelment of Social Auditors by the ICSI-Institute of Social Auditors and to deliberate upon the future areas of collaborative action.
5. ICSI delegation led by CS B. Narasimhan Vice-President, The ICSI met with Mr. Jaspal Singh, IPS, Director General of Police, Goa.
6. CS Manish Gupta, President, The ICSI, met Ms. Tracy Vergo, CEO, CISI, and Mr. Kevin Moore, Director, CISI in London to further strengthen ties between the two organizations and explore opportunities for mutual growth and development.
7. Faridabad Chapter of NIRC of ICSI organised a full day Seminar on the theme "ESG & BRSR, CSR & POSH" on 6th May, 2023. CS Manish Gupta, President, The ICSI was the Chief Guest.



8. Felicitation of winners of "International Commerce Olympiad" of ICSI by Science Olympiad Foundation on 28th May, 2023, CS Manish Gupta, President, The ICSI, presented the cheques to the winners of the "International Commerce Olympiad".
9. SIRC of ICSI organised the Southern India's 1st Regional Womens' Conference on 6th & 7th May 2023. CS B. Narasimhan, Vice-President, The ICSI, addressed the conference.
10. 50th Foundation day Celebration of Pune Chapter of WIRC of ICSI. CS B. Narasimhan, Vice-President, The ICSI addressed the audience.
11. 2 Days Conference on Empowering Entrepreneurship held on 26-27th May, 2023 organised by WIRC of ICSI jointly with Indore Chapter of WIRC of ICSI. CS B. Narasimhan, Vice-President, The ICSI addressed the conference.

LIST OF STANDING, NON-STANDING COMMITTEES AND BOARDS FOR THE YEAR 2023

	S. No.	Name	Position
1	Executive Committee		
	1	CS Manish Gupta	Chairman
	2	CS B. Narasimhan	Member
	3	CS A. Mohankumar	Member
	4	CS NPS Chawla	Member
	5	CS Praveen Soni	Member
	6	CS Sandip Kumar Kejriwal	Member
	7	Govt. Nominee	Member
2	Finance Committee		
	1	CS Manish Gupta	Chairman
	2	CS B. Narasimhan	Member
	3	CS Dhananjay Shukla	Member
	4	CS Dwarakanath Chennur	Member
	5	CS Pawan G. Chandak	Member
	6	CS Rajesh C. Tarpara	Member
	7	Govt. Nominee	Member
3	Examination Committee		
	1	CS Manish Gupta	Chairman
	2	CS Ashish Karodia	Member
	3	CS B. Narasimhan	Member
	4	CS NPS Chawla	Member
	5	CS Rupanjana De	Member
	6	CS Suresh Pandey	Member
	7	Govt. Nominee	Member
4	Financial Services Committee		
	1	CS B. Narasimhan	Chairman
	2	CS A. Mohankumar	Member
	3	CS Dwarakanath Chennur	Member
	4	CS Manoj Kumar Purbey	Member
	5	CS Rajesh C. Tarpara	Member
	6	CS Rupanjana De	Member
	7	Govt. Nominee	Member
5	Corporate Laws and Governance Committee		
	1	CS Dhananjay Shukla	Chairman
	2	CS Ashish Karodia	Member
	3	CS Dwarakanath Chennur	Member
	4	CS A. Mohankumar	Member
	5	CS Rajesh C. Tarpara	Member
	6	CS Rupanjana De	Member
	7	CS Suresh Pandey	Member
6	Professional Development Committee		
	1	CS Manish Gupta	Chairman
	2	CS Dhananjay Shukla	Member
	3	CS Dwarakanath Chennur	Member
	4	CS Manoj Kumar Purbey	Member
	5	CS A. Mohankumar	Member
	6	CS Praveen Soni	Member
	7	CS Rupanjana De	Member
	8	CS Venkata Ramana R.	Member
	9	Govt. Nominee	Member
	10	Govt. Nominee	Member

	S. No.	Name	Position
7	Training & Educational Facilities Committee		
	1	CS B. Narasimhan	Chairman
	2	CS Ashish Karodia	Member
	3	CS Dwarakanath Chennur	Member
	4	CS Pawan G. Chandak	Member
	5	CS Rajesh C. Tarpara	Member
	6	CS Sandip Kumar Kejriwal	Member
	7	CS Suresh Pandey	Member
		8	Govt. Nominee
	9	Govt. Nominee	Member
8	Practising Company Secretaries Committee		
	1	CS Sandip Kumar Kejriwal	Chairman
	2	CS Ashish Karodia	Member
	3	CS Dhananjay Shukla	Member
	4	CS A. Mohankumar	Member
	5	CS Pawan G. Chandak	Member
	6	CS Praveen Soni	Member
	7	CS Suresh Pandey	Member
9	Information Technology Committee		
	1	CS Manish Gupta	Chairman
	2	CS Manoj Kumar Purbey	Member
	3	CS Praveen Soni	Member
	4	CS Rajesh C. Tarpara	Member
	5	CS Rupanjana De	Member
	6	CS Sandip Kumar Kejriwal	Member
	7	CS Venkata Ramana R.	Member
10	Peer Review Board		
	1	CS Dwarakanath Chennur	Chairman
	2	CS Dhananjay Shukla	Member
	3	CS NPS Chawla	Member
	4	CS R. Sridharan	Member
	5	CS Sanjay Somani	Member
	6	CS V. Sreedharan	Member
	7	CS Venkata Ramana R.	Member
11	Expert Advisory Board		
	1	CS Manoj Kumar Purbey	Chairman
	2	CS Ashish Karodia	Member
	3	CS Praveen Soni	Member
	4	CS Rajesh C. Tarpara	Member
	5	CS Rupanjana De	Member
	6	CS Sandip Kumar Kejriwal	Member
	7	CS Venkata Ramana R.	Member
12	PMQ Course Committee		
	1	CS Suresh Pandey	Chairman
	2	CS Ashish Karodia	Member
	3	CS Dwarakanath Chennur	Member
	4	CS Manoj Kumar Purbey	Member
	5	CS Pawan G. Chandak	Member
	6	CS Sandip Kumar Kejriwal	Member
	7	CS Venkata Ramana R.	Member

	S. No.	Name	Position
13	Placement Committee		
	1	CS Praveen Soni	Chairman
	2	CS Dhananjay Shukla	Member
	3	CS Dwarakanath Chennur	Member
	4	CS Rajesh C. Tarpara	Member
	5	CS Sandip Kumar Kejriwal	Member
	6	CS Suresh Pandey	Member
	7	Govt. Nominee	Member
14	Editorial Advisory Board		
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	3	CS Bimal Jain	Member
	4	CS Dhananjay Shukla	Member
	5	CS Manoj Kumar Purbey	Member
	6	CS A. Mohankumar	Member
	7	CS Nitin Somani	Member
	8	CS NPS Chawla	Member
	9	CS P. Sivakumar	Member
	10	CS Pawan Dubey	Member
	11	CS Praveen Soni	Member
	12	CS Punit Handa	Member
	13	CS (Dr.) R. P. Tulsian	Member
	14	CS (Prof.) Rabi Narayan Kar	Member
	15	Dr. Ranjith Krishnan	Member
	16	CS Rohit Gupta	Member
	17	CS Sachin Khurana	Member
	18	CS Sumit Kumar	Member
	19	Govt. Nominee	Member
20	Govt. Nominee	Member	
15	ICSI-CCGRT Navi Mumbai Management Committee		
	1	CS Rajesh C. Tarpara	Chairman
	2	CS Ajay Aggarwal	Member
	3	CS Ashish Karodia	Member
	4	CS K. Venkataraman	Member
	5	CS NPS Chawla	Member
	6	CS Sandip Kumar Kejriwal	Member
	7	CS Suresh Pandey	Member
	8	CS Suresh Thakurdesai	Member
16	Chapter Guidelines, Coordination, Regulation & Election Reforms Committee		
	1	CS A. Mohankumar	Chairman
	2	CS Dhananjay Shukla	Member
	3	CS Manoj Kumar Purbey	Member
	4	CS NPS Chawla	Member
	5	CS Rajesh C. Tarpara	Member
	6	CS Sandip Kumar Kejriwal	Member
	7	CS Venkata Ramana R.	Member
17	International Affairs Committee		
	1	CS NPS Chawla	Chairman
	2	CS Dwarakanath Chennur	Member
	3	CS Pawan G. Chandak	Member
	4	CS Rupanjana De	Member
	5	CS Suresh Pandey	Member
	6	CS Venkata Ramana R.	Member

	S. No.	Name	Position
18	Internal Audit Committee		
	1	CS Rupanjana De	Chairperson
	2	CS Manoj Kumar Purbey	Member
	3	CS NPS Chawla	Member
	4	CS Pawan G. Chandak	Member
	5	CS Praveen Soni	Member
	6	CS Venkata Ramana R.	Member
	7	Govt. Nominee	Member
19	Professional Research & Publication Committee		
	1	CS Pawan G. Chandak	Chairman
	2	CS Dhananjay Shukla	Member
	3	CS Manoj Kumar Purbey	Member
	4	CS A. Mohankumar	Member
	5	CS NPS Chawla	Member
	6	CS Rajesh C. Tarpara	Member
	7	CS Rupanjana De	Member
20	ICSI-CCGRT Hyderabad Management Committee		
	1	CS Venkata Ramana R.	Chairman
	2	CS Ashish Karodia	Member
	3	CS Dhananjay Shukla	Member
	4	CS Manmohan Sharma	Member
	5	CS A. Mohankumar	Member
	6	CS NPS Chawla	Member
	7	CS S S Marthi	Member
	8	CS Suresh Pandey	Member
21	Board of Discipline		
	1	CS Pawan G. Chandak	Presiding Officer
	2	CS Suresh Pandey	Member
	3	CS Asish Mohan	Member
22	ESG and Sustainability Board		
	1.	CS Devendra V Deshpande	Chairman
	2.	CS Narayan Shankar	Member
	3.	CS Pankaj Tewari	Member
	4.	CS Ajay Jaiswal	Member
	5.	CS Sachin Khurana	Member
	6.	CS Sachin Mishra	Member
	7.	CS B Murli	Member
	8.	CS Kaushik Mukherjee	Member
	9.	CS S P Kamath	Member
	10.	CS Rajnikant	Member
	11.	CS C Dwarakanath Chennur	Member
	12.	CS Rupanjana De	Member
	13.	CS Rajesh Poddar	Member
	14.	CS Pankaj Chourasia	Member
	15.	CS Anil Rustgi	Member
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	17.	Nominee RBI	Member
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	19.	Nominee BSE	Member
	20.	Nominee FICCI	Member
	21.	Nominee PHDCCI	Member
	22.	Nominee CII	Member
23.	Nominee ASSOCHAM	Member	

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23	Governance and Compliance Standards Board		
	1	CS Ranjeet Pandey	Chairman
	2	CS Amit Garg	Member
	3	CS B Renganathan	Member
	4	Shri G.R. Bhatia	Member
	5	CS J Sundharesan	Member
	6	CS Mahavir Parsad Garg	Member
	7	CS Manoj Agarwal	Member
	8	CS Mohan Kumar Aravamudhan	Member
	9	CS NPS Chawla	Member
	10	CS Pramod Kumar Rai	Member
	11	CS Priyadarshini Mahapatra	Member
	12	CS Rajat Sharma	Member
	13	CS Ravi Varma	Member
	14	CS Sanjay Kumar Gupta	Member
15	CS Savithri Parekh	Member	
24	MSME and Startup Board		
	1	CS Rajiv Bajaj	Chairman
	2	CS Sandip Kejriwal	Member
	3	CS L N Joshi	Member
	4	CS Awanish Dwivedi	Member
	5	CS Ajay Sancheti	Member
	6	CS Ashish Karodia	Member
	7	CS Deepak Singhal	Member
	8	Wg Cdr Anthony Anish (Retd.)	Member
	9	Mr. Rajeev Chawla	Member
	10	CS Maneesh Srivastava	Member
	11	CS Gaurav Arora	Member
	12	CS (Dr.) Preet Deep Singh	Member
	13	Mr. Gaurav Mahani	Member
	14	CS Vivek Kumar	Member
	15	CS Santosh Tibrewalla	Member
	16	CS Yogesh Thakre	Member
	17	CS Bala Nadar	Member
	18	Nominee of MCA	Member
	19	Nominee of MSME Chamber	Member
	20	Nominee of RBI	Member
21	Nominee of MSME Ministry	Member	
25	Ethical Standard Board		
	1	CS Ashish Garg	Chairman
	2	Dr. Ashok Kumar Mishra	Member
	3	Shri Manoj Pandey	Member
	4	CS Kavita Bhavsar	Member
	5	CS Smriti Bali	Member
	6	CS Dhananjay Shukla	Member
	7	CS Pawan G. Chandak	Member
	8	CS Amit Kaushal	Member
	9	CS S Sudhakar	Member
	10	CS Veerash Jagadish	Member
	11	Shri Vijay Jhalani	Member
	12	CS (Dr.) Ahalada Rao V.	Member
	13	CS Ravi Kapoor	Member
	14	CS Om Prakash Bagadia	Member
15	CS Bhavin Mehta	Member	

S. No.	Name	Position	
26	Secretarial Standards Board		
	1	CS Nagendra D. Rao	Chairman
	2	CS A B Singh	Member
	3	CS Harish Kumar	Member
	4	CS Kalidas Ramaswami	Member
	5	CS Makarand Joshi	Member
	6	CS Manoj Kumar Mehta	Member
	7	CS Nisha Dhingra	Member
	8	CS Praveen Soni	Member
	9	CS Rajendra Kumar Singhi	Member
	10	CS Rajveer Singh	Member
	11	CS S. Sudhakar	Member
	12	CS S. C. Vasudeva	Member
	13	CS Sanjeev Grover	Member
	14	CS Suresh Pandey	Member
	15	Nominee – MCA	Member
	16	Nominee – SEBI	Member
	17	Nominee – RBI	Member
	18	Nominee – FICCI	Member
	19	Nominee – CII	Member
	20	Nominee – PHDCCI	Member
	21	Nominee- NSE	Member
	22	Nominee - BSE	Member
	23	Nominee - ICAI	Member
	24	Nominee- ICoAI	Member
25	Nominee- ASSOCHAM	Member	
27	Auditing Standards Board		
	1	CS Vineet Chaudhary	Chairman
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	15	CS R Venkata Ramana	Member
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	18	CS Ram Parkash Punjani	Member
	19	CS Ravi Sharma	Member
	20	CS Ritu Arora	Member
	21	CS Rupanjana De	Member
	22	CS Sachin Aggarwal	Member
	23	Nominee – SEBI	Member
	24	Nominee – NSE	Member
25	Nominee – BSE	Member	



शतहस्त समाहर सहस्रहस्त संकिर ।

(Earn with hundred hands and donate with thousand.)



Dear Professional Colleagues,

Each month might comprise of the same number of days with a slight differential, yet a lot can happen within the same span of days to render it memorable. The month gone by, the days comprising have not only been strikingly unforgettable but shall have an everlasting impact on our hearts, having given us hoards of cherishing moments to look back and smile over the past.

The last time as I sat to share the happenings of the past and anticipations of the future – the feet were nimble and the pen in a bit of a hurry. All because we had plans to release the May edition a bit early and not just in India but on an International platform, at the hands of some of the most eminent dignitaries of the United Kingdom, in the breathtakingly beautiful London city.

As I begin to pen the happenings in black and white this time, the eagerness to share is through the roof and the words filled with a little sense of pride and exhilaration, basking in the glory of the achievements made and promises delivered – in not just one but two different nations...!

So, that is where I would like to begin my stories of reminiscence from – from the lands that showered us with so much love and affection, joining hands to take governance to the next level.

TALKING SUSTAINABILITY: SHAPING GLOBAL OUTLOOK

Being one of the entities with the highest number of Company Secretaries - the interests in global governance, the stakes in the role played by Governance professionals and the baton of the future have lied in our hands to a large extent. The ICSI was the first Governance entity in the entire world to have rolled out the Secretarial Standards which are now serving as a benchmark for other nations in rising up to the occasion and creating their own standards. But while a lot has been achieved, much road has been travelled but still – there's hope – Hope for more – much more...

The shloka shared at the beginning sums the ongoing times for the Indian nation quite perfectly. The year 2023 is according to the Indian nation an unprecedented opportunity. The moment opportune to relish the G20 Presidency, host the Summit in the Capital City and at the same time a fantastic chance to share our age old and yet timeless and boundless knowledge with the entire world – to pave the way for the future – our sustainable future – one which is focussed on longevity and inclusivity.

Keeping the sustainability factor in sight and our vision to go global, the idea of the 2nd International Conference of ICSI Overseas Centre was conceived. While Dubai had to be an obvious choice for the 1st International Conference, it is with great pride and affection that I am saying this – United Kingdom – the city of London would have to be the obvious choice for our 2nd one. The theme **Strengthening Global Governance for an Equitable Inclusive and Sustainable Future** intended to provide a

platform for discussion deliberation and brain storming on some of the most pressing issues of the ongoing times – both within the entity and the external aspects of it.

I am truly grateful towards **The Rt. Hon'ble Baroness (Dr.) Sandip Verma, Member of the House of Lords, United Kingdom**, who very kindly acceded to our request and graced the occasion as the Chief Guest and **Mr. Sujit Ghosh, Deputy High Commissioner of India, United Kingdom** who was the Guest of Honour at the Inaugural Session. My heartiest thanks to our Governance professionals hailing from the land of the United Kingdom and our fellow members who joined us from India. And with them, my sincerest vote of thanks to our Knowledge Partners – CISI ICGN IOD IVSC and ICAI – Cost and the entire Team of the ICSI Overseas Centre at UK who became the real rungs of the ladder taking us a step closer to the achievement of our vision.

To many more future collaborations...!!!

ICSI AND DUBAI: REKINDLING FRIENDSHIPS THROUGH TAXATION

न कालमतिवर्तन्ते महान्तः स्वेषु कर्मसु।

Great people never delay their duties.

Up until a few decades or even years ago, the only Overseas presence that the Institute of Company Secretaries of India enjoyed was in the form of our Examination Centre at Dubai. The simple fact that we were facilitating the creation of Company Secretaries, miles away from our home ground was a moment of great pride. But more than pride, it was a matter of hope – hope for more.

And it is this hope that led us to the moment when we really stepped foot outside the territorial boundaries of our country in 2019 with the inauguration of the first ICSI Overseas Centre in the Middle East at Dubai. The event marked the beginning of a new era not only for the ICSI but for the entire global governance scenario making it possible to sit in the heart of a country, connect with its Governance professionals and chalk our way forward.

Having hosted the first International Conference of ICSI Overseas Centre in Dubai in 2021 gave us an understanding of the needs of the corporates and professionals in the region. With the impending launch of the Corporate Tax System, and the Indian experience of Taxation spanning over centuries, it seemed only apt to pitch in.

It goes without saying that, as professionals we have been attuned to the changes that are brought within these regimes to guide our clients, our companies, corporates and even all the other forms of businesses so as to ensure compliance with much greater ease. And this very years of experience with all sorts of taxation systems provided us with a unique opportunity to support the nations who were treading in this direction for the first time. Taking a cue from the above shloka, we found ourselves once again in the land of Dubai, but this time to share our experiences to make way for smoother regimes in their nation.

I feel extremely honoured to have had our Chief Guest Shri K. Kalimuthu, Consul (Economic, Trade and Commerce), Consulate General of India, Dubai once again with us on the platform of the Institute of Company Secretaries of India and I also take this moment to thank our Guest of Honour, Dr. Ram Buxani Group Chairman ITL Group Enterprise, Dubai, UAE and our Special Guest Mr. Suresh Kumar, Chairman, IBPC for their delightful words of wisdom. And with them I thoroughly appreciate the efforts of the Team of the ICSI Middle East (DIFC) NPIO, headed by CS R. Lakshmanan, for according our dreams a beautiful reality.

COMMENCEMENT OF CONSTRUCTION OF ICSI-CCGRT AT IMT MANESAR

निश्चित्वा यः प्रक्रमते नान्तर्वसति कर्मणः ।
अवन्ध्यकालो वश्यात्मा स वै पण्डित उच्यते ॥

(Whose endeavors are preceded by a firm commitment, who does not take long rests before the task is accomplished, who does not waste time and who has control over his/her mind is wise.)

As the verses guide us to the traits of the wise, I find them resonating the thought of professionalism. While we may be spreading our wings beyond the lands faster than fathomed, the idea of strengthening our feet on the ground stays along. The Institute in all its introductions, mentions its infrastructural facilities with great honour, for they are a firm part of our legacy of more than five decades. But as we all know, legacy is meant to be grown, to be taken forward.

I feel truly humbled, as a member of this Institute to have played a small role in expanding its outreach and I congratulate, each and every member, student and stakeholder of the ICSI as we embark on the commencement of construction of ICSI-CCGRT Manesar. The commencement of construction of ICSI-CCGRT was held on May 20, 2023 at Plot No. 3, Sector 2, IMT Manesar, Gurugram at the hands of Hon'ble Rao Inderjit Singh Ji, Union Minister of State (I/C), Ministry of Statistics and Programme Implementation, Ministry of State (I/C), Ministry of Planning and MoS for Ministry of Corporate Affairs, Government of India to whom we shall be eternally grateful for guiding us with his luminary presence.

Akin to ICSI-CCGRT at Navi Mumbai, Hyderabad and Kolkata, the idea is to provide research and training avenues readily accessible to the members, students and other stakeholders of the ICSI. A one of its kind research facility, the ICSI-CCGRT, Manesar is intended to add value to the existing ocean of knowledge and contributing towards our stakeholders in the Northern part of the Country.

Going forward, the Council has decided to name all the Research and Training Centres as ICSI Centre for Corporate Governance, Research and Training (ICSI-CCGRT).

EMANELMENT OF SOCIAL AUDITORS

The 54th Foundation day of the Institute of Company Secretaries of India was not only historic for the momentous history it showcased. Rather it was our deciding moment to take leaps ahead and plan for the future. It was on this day that the Institute had incorporated its Section 8 Company under the Companies Act, 2013 - The 'ICSI Institute of Social Auditors or the ICSI-ISA'. The idea and objectives were crystal clear - To register Social Auditors, to lay down criteria/norms for empanelment as well standards of professional conduct for the registered Social Auditors and to open a whole new world of opportunities and possibilities for our professional brigade.

In furtherance of this idea, the Institute has also issued the ICSI Social Audit Standards (ICSI SAS 1 - ICSI SAS 16) to provide guidance to conduct Social Audit of Social Enterprises. Reaching another milestone, taking one step at a time, the ICSI-ISA has commenced the empanelment of Social Auditors (SAs) who have obtained the requisite NISM Certification and it is in fact quite a notable fact to share that we did so, not in India, but in the city of London at the Inaugural Ceremony of 2nd International Conference of the ICSI Overseas Centre at the hands and with the blessings of our esteemed guests for the event.

I am not only hopeful but immensely sure that the times to come shall be seeing the Governance Professionals garnering equal and even more prestige and responsibility in their roles as Social Auditors.

BOARDS AND TASK FORCES: DIVIDE AND CONQUER

All of us have since childhood learnt by rote the strength in unity. But what makes this unity all the more worthwhile at the ICSI is its variety and diversity. The Company Secretaries portray themselves as multifaceted governance professionals to the outside world, but on the inside we know, that each one of us has something unique, something that sets us apart from the rest, even while being a part of a bigger group.

The creation of ICSI Boards and Task Forces is one such attempt to capitalize these diversities, these varied qualities and even bringing on Board some of the brightest minds from across the country and tackle each area, each aspect and each arena with same focus and greater resolve in our action.

I welcome all the Chairpersons, the members of these congregations and the Experts and extend my heartfelt gratitude for your commitment and dedication in supporting the Institute as we strive to attain greater heights.

Let's take the world by surprise !!!

NEW DEVELOPMENTS: BREAKTHROUGHS AND RELAXATIONS

As we deliberate upon ICSI's national and international presence, the focus on the future torchbearers is definitely not lost. Although I have conveyed my best wishes to each

one of you through the dedicated student journals and Communiques, and even though my message might reach you a bit later, do know this, my youngest friends, the Institute is continuously striving to make your student as well as upcoming professional journey smoother. As we have pinned our high hopes and expectations on all of you, your hopes and expectations from us as your guardian and parent Institute are fully understood.

It is to make your time post examination and result hassle free that the Institute is introducing digital evaluation of answer sheets from the June 2023 session of examinations, bringing in greater uniformity and comfort for all of you.

Talking of comfort, and in the same breath I would like to share with the members that understanding the varying deadlines and your impending professional responsibilities, your Institute has further extended the last date for obtaining the mandatory CPE credits by the members till June 30, 2023. I would also take this forum to remind you of the Annual Membership / Certificate of Practice Fee for the year 2023-2024 which has become due for payment w.e.f. 1st April, 2023. The last date for the payment of annual fee is 30th June, 2023. While we ensure the compliance for all our client companies, it is crucial that we undertake our own compliances equally diligently.

PCS: PERFECTION, COMPETENCE, SUSTAINABILITY

June is the month closest to the hearts of the practising professionals. We found recognition and in that found greater responsibility and accountability. Decades later, the word Company Secretary in Practice does not just mean independent professional, but is a synonym for integrity, trust and the person responsible for cementing corporate foundations.

This year as we celebrate PCS Day with much fanfare in the city of Vishakhapatnam on the 16th and 17th of June, 2023 in the form of 24th National Conference of Practising Company Secretaries on the theme Company Secretary: Stepping Beyond Boundaries, the idea is to create the brand of Company Secretaries as 'Trust Ambassadors' – as harbingers of integral action.

It is in continuation of this thought that the June edition of the Chartered Secretary has been chosen as PCS: Perfection, Competence, Sustainability – the expectations of all the stakeholders summed up in these three words in totality.

As I gear up and pack my bags to welcome our fellow members in the city of ports, I see the dawn of a new world full of prospects and an outlook of prosperity.

Many congratulations for the feats achieved and best wishes to all of us for the times ahead.....!!!

Happy reading !!!

Yours Sincerely



CS Manish Gupta
President, ICSI

INITIATIVES UNDERTAKEN DURING THE MONTH OF MAY, 2023

INITIATIVES FOR MEMBERS

MEETINGS AND GREETINGS

During the month, ICSI delegation met with the following dignitaries (*in alphabetical order*):

- Mr. Bijay Selvaraj, Consul General of India, Edinburgh, United Kingdom
- Mr. Jaspal Singh, IPS, Director General of Police, Goa
- Mr. Kevin Moore, Director, CISI
- Ms. Mithlesh, Advisor (Cost), MCA & Government Nominee, ICSI
- Shri Sunil Kadam, Registrar, NISM
- Ms. Tracy Vergo, CEO, CISI

ICSI NORTHERN REGION CONVOCATION HELD IN DELHI

The Institute organised the combined bi-annual Convocation (second for Financial Year 2022-23 & first of Financial Year 2023-24) of the Northern Region on May 6, 2023 (Saturday) at Sirifort Auditorium, New Delhi for awarding certificates of membership to the Associate and Fellow members admitted during the period from 1 April, 2022 to 31 March, 2023. In all, 640 Associate and 65 Fellow members were awarded their certificate of membership. 3 Associate/Fellow members were awarded PMQ Certificates and prize/medal was also awarded to a meritorious student on this occasion. The Convocation was graced with the august presence of CS Manish Gupta, President-ICSI, CS B. Narasimhan, Vice-President, ICSI, CS Dhananjay Shukla, CS Manoj Kumar Purbey, CS Suresh Pandey, Central Council Members, ICSI, CS Devender Suhag, Chairman, NIRC-ICSI, CS Ashish Mohan, Secretary, ICSI and Office Bearers & Regional Council Members of NIRC of ICSI.

2ND INTERNATIONAL CONFERENCE OF ICSI OVERSEAS CENTRE IN LONDON, UK

The ICSI organized its 2nd International Conference of the ICSI Overseas Centre in London, United Kingdom on 11-12 May 2023 on the theme **Strengthening Global Governance for an Equitable, Inclusive, and Sustainable Future**, in alignment with India's G20 priority and vision of uniting the world for an equitable and just society. **The Rt. Hon'ble Baroness (Dr.) Sandip Verma, Member of the House of Lords, United Kingdom**, graced the occasion as the Chief Guest and **Mr. Sujit Ghosh, Deputy High Commissioner of India, United Kingdom** was the Guest of Honour.

Seasoned Speakers from across economies, deliberated on pertinent topics and presented an unmatched opportunity of learning, unlearning, and relearning the nuances of Good Corporate Governance and Sustainability from around the world in this unique two-day event. The Chartered Institute for Securities & Investment (CISI), the International

Corporate Governance Network (ICGN), the Institute of Directors (IOD), the International Valuation Standards Council (IVSC), and The Institute of Cost Accountants of India were the knowledge partners of the Conference.

COMMENCEMENT OF CONSTRUCTION OF ICSI-CCGRT AT IMT MANESAR

The Institute is embarking on commencement of construction of ICSI-CCGRT Manesar in line with ICSI-CCGRT at Navi Mumbai, Hyderabad and Kolkata to provide research and training avenues readily accessible to the members, students and other stakeholders of the ICSI. The commencement of construction of ICSI-CCGRT was held on May 20, 2023 at Plot No. 3, Sector 2, IMT Manesar, Gurugram at the hands of Hon'ble Rao Inderjit Singh Ji, Union Minister of State (I/C), Ministry of Statistics and Programme Implementation, Ministry of State (I/C), Ministry of Planning and MoS for Ministry of Corporate Affairs, Government of India. A one of its kind research facility, the ICSI-CCGRT, Manesar would be intended to add value to the existing ocean of knowledge and contributing towards our stakeholders in the Northern part of the Country.

EMANELMENT OF SOCIAL AUDITORS

The 'ICSI Institute of Social Auditors or the ICSI-ISA' is a Section 8 Company under the Companies Act, 2013 incorporated by the Institute of Company Secretaries of India with the objective to register Social Auditors, lay down criteria/ norms for empanelment as well standards of professional conduct for the registered Social Auditors. The Institute has also issued the ICSI Social Audit Standards (ICSI SAS 1 - ICSI SAS 16) to provide guidance to conduct Social Audit of Social Enterprises. The ICSI-ISA has commenced the empanelment of Social Auditors (SAs) who have obtained the requisite NISM Certification. The Empanelment was opened at the Inaugural Ceremony of 2nd International Conference of the ICSI Overseas Centre in London, United Kingdom.

HANDBOOK ON BUSINESS RESPONSIBILITY AND SUSTAINABILITY

The ICSI in its endeavour to recognize the efforts of companies integrating ESG in their business practices instituted "The ICSI Business Responsibility and Sustainability (BRS) Awards" in the year 2022. Based on the analysis of companies which participated in these Awards, the Institute has come up with a publication titled **Handbook on Business Responsibility and Sustainability**. A compilation of the legislative journey on the Environmental Social and Governance front, both in India as well as internationally, Observed Practices amongst shortlisted companies, the Publication also contains a step-by-step guide for corporates to go about the filing of their Business Responsibility and Sustainability Report hassle-free.

ACLOUD PLC: BUSINESS TOOLS FOR PCS

Understanding the need for dedicated Software for members to manage their operations and serve their clients efficiently with the help of Information Technology, ICSI has entered into an agreement with Acloud PLC to act as facilitator for providing assistance in digitizing operations including everyday accounting and tax compliance. Its key features include professionally managing invoicing/ reminders, full GST compliance, transparent and simplified production of Accounts and comprehensive Financial Dashboards. The software shall be available free of cost for two years and at an 80% discount after that.

VIEWS/REPRESENTATIONS/SUGGESTIONS SUBMITTED

Purpose	Authority	Date
Request to consider ICSI Institute of Social Auditors (ICSI- ISA) as self-regulatory organisation for empanelment of Social Auditors and modify workbook issued by NISM in accordance with the SEBI-ICDR	NISM	May 6, 2023
ICSI submissions on appointment of Company Secretaries as Trade Marks Agent	Office of Controller General Patents, Designs & Trademarks	May 15, 2023
Request for recognizing profession of Company Secretary for the empanelment of Auditors for conducting Internal Audit of Trading/Clearing Members	NSE India	May 17, 2023
SEBI Consultation paper on "Regulatory Framework for Micro, Small and Medium REITs (MSM REITs)	SEBI	May 26, 2023
SEBI Consultation paper on Delisting of Non-Convertible Debt Securities	SEBI	May 26, 2023
SEBI Consultation paper on Special Rights to Unit holders and Role of Sponsor in REITs & InvITs	SEBI	May 29, 2023

Apart from these, various formal and informal meetings were held with the officials of MCA, SEBI, RBI and other Regulatory Authorities.

JOINT PROGRAMME

The ICSI joined as Knowledge Partner in the **National Conference on GST: Ease of Business and Challenges** organized by PHD Chamber on May 24, 2023 at PHD House, New Delhi.

REGISTRATIONS OPEN FOR PMQ COURSES

The registrations for three Post Membership Qualification (PMQ) Courses in subjects like Internal Audit, Arbitration and Corporate Governance -December 2023 batch are open

till June 30, 2023. Also, the online proctored MCQ based examinations of PMQ Course for June, 2023 attempt is scheduled to be held on June 17, 2023.

ONLINE ASSESSMENT OF CERTIFICATE COURSE ON CORPORATE TAX & VAT IN UAE

Online assessment of Certificate Course on Corporate Tax & VAT in UAE was conducted on 26-27 May, 2023.

FORMATION/RENEWAL OF ICSI STUDY CIRCLES

The ICSI has been promoting the formation/renewal of Study Circles for creating knowledge upgradation avenues through professional discussion and deliberation. In May, 2023 Study Circles formed and renewed for the Financial Year 2023-24 were as under:

Formation	
	• Jamnagar Study Circle of ICSI (WIRC)
Renewal	• Mahindra (Corporate) Study Circle of ICSI (WIRC)
	• Vapi Study Circle of ICSI (WIRC)
	• Sangli Study Circle of ICSI (WIRC)
	• Tollygunge Study Circle of ICSI (EIRC)
	• Chennai West Study Circle of ICSI (SIRC)
	• Anand Study Circle of ICSI (WIRC)
	• Bhilai Study Circle of ICSI (WIRC)
	• L&T (Corporate) Study Circle of ICSI (WIRC)

WEBINARS CONDUCTED

During the month, Webinars were conducted as follows:

Date	Topic
May 8, 2023	MSMEs: Role of Company Secretaries
May 29, 2023	Annual Secretarial Compliance Report

PLACEMENT OPPORTUNITIES FOR COMPANY SECRETARIES

The ICSI stands committed to help all the associated companies and availing the services extended by the cell to conduct their recruitment drives for the position of Company Secretary/ CS Trainee in a time bound, hassle-free and mutually beneficial manner, and to help the members and students in getting the right placement offer. The Institute receives requests from various offices of the Government/ PSUs/ Banks/ Corporates regarding the positions of Company Secretary/ CS Trainee from time to time and shortlisted Resumes of Members and Students are sent to them. During the month, following placement opportunities were posted on the Placement Portal:

Company Secretary Trainees and Members requirement at various Government Offices/PSUs/Banks/Corporates		
Sl. No.	Department / Organization	Designation
1.	Canbank Factors Ltd.	CFO cum Company Secretary
2.	City & Industrial Development Corporation of Maharashtra Ltd. (CIDCO)	Company Secretary

3.	ECGC Limited	Specialist Probationary Officer
4.	Electronics Corporation of India Limited	Dy Manager -Company Secretariat
5.	ICAI	Assistant Secretary
6.	ICSI	Multiple Positions
7.	IIFCL Projects Limited	Multiple Positions
8.	RITES Limited	JGM (CS)
9.	State Bank of India	Multiple Positions
10.	Bata India Limited	Senior Executive - Secretarial
11.	Britannia Industries Limited	Assistant Manager - Secretarial
12.	Canon India Private Limited	Assistant Legal Counsel
13.	Hinduja Housing Finance	MT - Company Secretary
14.	IIFL Samasta Finance Limited	Assistant Company Secretary
15.	Indena India Private Limited	Company Secretary
16.	LTI Mindtree	Company filing analyst
17.	Macleods Pharmaceuticals Limited	Assistant Manager
18.	Manipal Technologies Limited	Manager - Compliance & Legal
19.	MFAR Holdings Private Limited	Assistant Company Secretary
20.	Nippon Steel Chemical & Material India Private Limited	Company Secretary
21.	PG Electroplast Limited	Assistant Company Secretary
22.	RMK Infrastructure Private Limited	Company Secretary
23.	Uniproducts (India) Limited	Company Secretary
24.	Urban Edge Hotels Private Limited	Company Secretary
25.	Vikram Solar Limited	Manager - CS

STATUS OF REGISTRATIONS AND POSTINGS AT THE PLACEMENT PORTAL

(As on May 25, 2023)

Registered Users			Total no. of Vacancies
Members	Students	Corporates	Jobs/ Trainings
276	264	118	224

CAMPUS PLACEMENT PROGRAMME

The Campus Placement Programme of the Institute provides a unique opportunity to corporates to peruse the profiles of qualified young and experienced Company Secretaries, interview them and select those ones who ever suits their requirement. Campus Placement drive is a one-stop solution for corporates and members. Following Campus Placement Drives were conducted in the month of May 2023:

- GMR Group
- Indian Renewable Energy Development Agency Limited (IREDA)

TRAINEE DRIVE

The Trainee Drive of the Institute provides training opportunities to its students to place them in corporates to enhance their professional understanding. Following Trainee Drives were conducted in the month of May 2023:

- Paschimanchal Vidyut Vitran Nigam Ltd
- National Industrial Corridor Development Corporation Ltd (NICDC)

MEGA PLACEMENT DRIVE

Mega Placement Drive was organized on 20th May 2023 at Kolkata, Mumbai and New Delhi in which more than 25 Organizations and 120+ members participated.

ICSI INSTITUTE OF INSOLVENCY PROFESSIONALS

Workshops

Date	Topic
May 6, 2023	Interplay of SARFAESI Act, 2002 and Arbitration Act, 1996 with IBC
May 13, 2023	Role of Related Parties Under IBC - A Critical Analysis
May 20, 2023	New Avenues in IBC
May 27, 2023	Claim Verification and Committee of Creditors under IBC

Webinars

Date	Topic
May 19, 2023	Anatomy of IBC Cases – 5

ICSI REGISTERED VALUERS ORGANISATION

50 Hours Online Education Course

- ICSI RVO conducted “50 Hours Educational Programme” from May 18, 2023 to May 28, 2023.

Webinar conducted jointly with ICSI RVO & RICS

- ICSI RVO Conducted a webinar jointly with RICS on “ESG – as the regulatory framework changes with the establishment of the ISSB and reporting requirements under IFRS – What does it mean for Real Estate Valuers and Business Valuers – Is it the same?” on May 4, 2023.

INITIATIVES FOR EMPLOYEES

General Healthcare Check-up Camp at Noida Office

A general healthcare check-up camp was organized at Noida Office in collaboration with Sitaram Bhartia Institute of Science & Research on 10th May, 2023 for the welfare of the employees, as a part of continuous employee engagement programme.

A team of 14 medical staff including a General Physician, Gynaecologist and Endocrinologist visited the Institute. All the employees participated in the camp.

- Webinar on “Joint Pains at Workplace- How to get rid out of it / Care + Precautions” by Dr Reddy’s Foundation

A webinar was organized on 19th May, 2023 on the topic “Joint Pains at Workplace- How to get rid out of it / Care + Precautions” by Dr Reddy’s Foundation for the benefit of ICSI employees and pensioners. All employees participated in the webinar presented by Dr. Rao-Ortho Specialist.

EXTENSION OF LAST DATE FOR OBTAINING MANDATORY CPE CREDITS FOR THE YEAR 2022-23

The Institute, in order to facilitate the members in fulfilling the mandatory requirement of CPE Credits for the year April 1, 2022 to March 31, 2023, has extended the last date for obtaining the mandatory CPE credits by the members till May 31, 2023. However, with a view to further facilitate the members, the last date for obtaining the mandatory CPE credits for the year 2022-23 has further been extended till June 30, 2023.

INITIATIVES FOR STUDENTS

ALL INDIA COMPANY LAW QUIZ 2023

The objective of this competition is to enhance the knowledge level of students in Company Law and allied areas and to generate interest among the students for in-depth study of the subject including greater conceptual clarity. All students of the Institute having a valid registration number as on 31st May 2023, were eligible to participate in All India Company Law Quiz-2023. The Registration for the competition starts from 20th April 2023 till 31st May 2023 through online mode. The Schedule of Rounds of the Competition will be held via Online/ Physical Mode as per the following schedule:

Preliminary Round	June 30, 2023 Online Mode (MCQ Pattern) (10 am to 5 pm)
Quarter Final Round	July 14, 2023
Semi Final Round	August 1, 2023
Final Round	September 2, 2023 (Physical/Virtual as decided by Institute)

MOTIVATIONAL WEBINAR FOR CS STUDENTS

ICSI conducted a motivational webinar on 22nd May 2023 for CS students. Mr. Avi Prasad, IAS was the chief guest on the occasion. He motivated and guided the students virtually. The webinar was applauded by the students across the country. The students can watch the webinar at the following link: <https://www.youtube.com/watch?v=RRbWRm55R-0>

ICSI SAMADHAN DIWAS

Samadhan Diwas was launched by the Institute on February 27, 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 30th and 31st Samadhan Diwas were organised on May 10, 2023 and May 24, 2023 respectively through virtual mode in the presence of officials of all designated offices of the Institute. 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.

COMMENCEMENT OF ONLINE DOUBT CLEARING CLASSES FOR JUNE 2023 EXAMINATION

ICSI is conducting online doubt clearing classes for the students from first week of May 2023. The online classes are being conducted for the students appearing in June 2023 examination, however other students of the Institute can also

join the classes. Classes are being conducted for Executive and Professional Programme for all subjects. The classes are being taken by renowned and distinguished faculties with enriched teaching experience. The students can submit their queries through Google link which will be sent to them after registration. They can also interact live with the faculties through the chat box during the classes. Students are required to register at the following link to attend the classes: <https://www.icsi.in/student/DelegateRegistration/tabid/137/ctl/DelegateRegistration/mid/454/EventId/109/Default.aspx>

REVISION CLASSES AT REGIONAL/ CHAPTER OFFICES FOR JUNE 2023 EXAMINATIONS

Revision Classes/Doubt clearing sessions are being conducted by Regional/Chapter Offices for the students appearing in June 2023 Session of Examinations. Details of Regional/Chapter offices conducting classes are available at the following link: <https://www.icsi.edu/media/webmodules/websiteClassroom.pdf>

ISSUE OF ADMIT CARD FOR JUNE, 2023 SESSION OF EXAMINATIONS

Admit Cards to all eligible Students of Executive and Programme stage(s) have been issued for appearing in June, 2023 Examinations. Link to download the admit card is placed below: <https://icsi.indiaeducation.net/>

REGISTRATION FOR CLASSES BY REGIONAL/ CHAPTER OFFICES AT THE TIME OF EXECUTIVE PROGRAMME REGISTRATION

Institute has facilitated Executive Programme students to register directly for the Executive Programme classes at the time of Executive registration. Executive Programme students can now register directly for the Executive Programme classes conducted by the Regional/Chapter Offices at the time of Executive Programme registration. This will help the students to join classes at their nearest Regional/chapter Office.

COMPANY SECRETARY EXECUTIVE ENTRANCE TEST (CSEET)

During the month, following initiatives were taken for the CSEET students:

- **CSEET (July 2023 session)**
CSEET July 2023 session will be held on July 8, 2023 through remote proctored mode. For details, click https://smash.icsi.edu/Scripts/CSEET/Instructions_CSEET.aspx
- **CSEET classes (July 2023 session)**
CSEET Classes are being conducted by Regional/Chapter Offices for the students appearing in CSEET to be held in July 2023. Details of Regional/Chapter offices conducting classes are available at the following link: <https://www.icsi.edu/media/webmodules/websiteClassroom.pdf>
- **Registration for CSEET Classes at the time of CSEET Registration**
CSEET students can now register directly for the CSEET classes conducted by the Regional/Chapter Offices at the time of CSEET registration. This will help the students to join classes hassle free at their nearest location. Link to register https://smash.icsi.edu/Scripts/CSEET/Instructions_CSEET.aspx

- **Exemption to Graduates and Post Graduates from appearing in CSEET and enabling them to take direct admission in CS Executive Programme**

The Institute has decided to grant exemption to the following categories of students from appearing in CSEET enabling them to take direct admission in CS Executive Programme.

Graduates (having minimum 50% marks) or Post Graduates (without any criteria of minimum % of marks) in any discipline of any recognized University or any other Institution in India or abroad recognized as equivalent thereto by the Council.

To get exemption from CSEET on the basis of above qualification, such students shall be required to pay applicable exemption fees along with the requisite registration fees for the Executive Programme. For more details, please click https://www.icsi.edu/media/webmodules/granting_exemption_230621.pdf

- **Paper bound CSEET Reading Material to be provided mandatorily to all students**

The Institute has decided that the *CSEET Guide – I* (Business Communication, Legal Aptitude and Logical Reasoning, Economic and Business Environment) and *CSEET Guide – II* (Current Affairs) will be sent to all the students registering for CSEET by post, for which ₹500 will be taken at the time of registration from the students registering for CSEET in addition to ₹1000 (CSEET Registration fee).

- **CSEET Reference Reading Material (I and II) will be provided on optional basis to all students at the time of CSEET registration**

CSEET Reference Reading Material (I and II) will be provided optionally to all the students at the time of CSEET registration. Students are required to remit ₹1000 in addition to ₹1500. The same is available at: <https://www.icsi.edu/reference-reading-material/>

ACADEMIC INITIATIVES

- **Student Company Secretary and CSEET Communique**

The Student Company Secretary e-journal for Executive/ Professional programme students of ICSI and CSEET Communique covering the latest update on the subject on the CSEET have been released for the month of **May, 2023**. The journals are available on the Academic corner of the Institute's website at the link: <https://www.icsi.edu/e-journals/>

- **Research Tab under Academic Portal for students**

A new research tab has been added under the Academic Portal to sensitize the students on emerging issues through research based academic outputs. As a maiden initiative, a brief research study on 'Exploring Financial Cataclysm of Silicon Valley Bank (SVB) and Analysing Credit Suisse Fiasco Tangentially' is uploaded. The Research Tab can be accessed at <https://www.icsi.edu/student-n/academic-portal/research-corner/>.

- **Recorded Video Lectures**

ICSI has been recording video lectures of eminent faculties for the students of ICSI which help them to

prepare for the examination. Students of the Institute can access recorded videos available on the E-learning platform by logging in to <https://elearning.icsi.in>

Login credentials are sent to all registered students at email. After successful login, go to "My courses" or "My Communities" section, where you can find the recorded videos and other contents.

- **Info Capsule**

A Daily update for members and students, covering latest amendment on various laws for benefits of members & students available at <https://www.icsi.edu/infocapsule/>

- **Consolidation of supplements applicable for June 2023 session of examination**

Supplements covering the applicable amendments/ developments from August 2021 – November 2022 for all the study materials of executive and professional programme have been uploaded on ICSI website.

MOU SIGNED WITH HUMMING BIRD EDUCATION LIMITED FOR CONDUCTING "ICSI COMMERCE OLYMPIAD"

ICSI and Humming Bird Education Limited signed MoU on May 30, 2023 for conducting "ICSI Commerce Olympiad" for 11th and 12th Class students across the country. This initiative of ICSI will immensely help in inculcating the scholastic and competitive spirit amongst the student community across India. ICSI has always provided the students with a healthy and fairly competitive environment to help them grow in every sphere of activity, be it academics, or any other extra-curricular role. Collaborating with Humming Bird Education Limited is one more step in this direction.

RENEWAL OF MOUs OF ICSI STUDY CENTRES

ICSI Study Centre MoU was renewed with following academic institutions:

- Dharmamurthi Rao Bahadur Calavala Cunnan Chetty's College, Chennai, Tamil Nadu on May 02, 2023
- Marudhar Kesari Jain College for Women, Vaniyambadi, Tamil Nadu on May 04, 2023

ICSI PARTICIPATED IN MEGA CAREER FAIR AT PRAGATI MAIDAN, DELHI

ICSI participated in a Mega Career Carnival at Pragati Maidan on 6-7 May, 2023. More than 70 universities from across India and more than 6000 students, parents and teachers from Delhi and NCR participated in the fair. The ICSI officials sensitized the students, parents and teachers about the CS Profession.

IMPORTANT LINKS FOR STUDENTS

To facilitate and update the students, a list of important links at the website of the Institute has been compiled. Students can go through the links given below to get all important details:

- For Student Services related updates: https://www.icsi.edu/media/webmodules/Student_Services_links.pdf
- For Academic updates: https://www.icsi.edu/media/webmodules/Academic_links.pdf
- For Training related updates: https://www.icsi.edu/media/webmodules/Training_Links.pdf

2nd International Conference of ICSI Overseas Centre, London, UK held on May 11-12, 2023 at London

Theme : Strengthening Global Governance for an Equitable, Inclusive, and Sustainable Future.

CHIEF GUEST

The Rt. Hon'ble Baroness (Dr.) Sandip Verma, Member of the House of Lords, United Kingdom.

GUEST OF HONOUR

Mr. Sujit Ghosh, Deputy High Commissioner of India, United Kingdom was the Guest of Honour.

Opening Plenary



Plenary II



Plenary III



Plenary IV



Plenary VI



Plenary VII



Plenary VIII



Plenary IX



Plenary X



Publications Released at the Conference



Open House Session



Group Photo



Corporate Tax Conference 2023 Held on June 3, 2023 at Dubai, UAE

Theme : UAE Corporate Tax - A New Paradigm towards Transparency and Good Governance

CHIEF GUEST

Mr. K. Kalimuthu, Consul (Economic, Trade & Commerce), Consulate General of India, Dubai

GUESTS OF HONOUR

Dr. Ram Buxani, Chairman, ITL Cosmos Group, Mr. Suresh Kumar, Chairman, IBPC

Opening Plenary



Plenary - II



Plenary - III



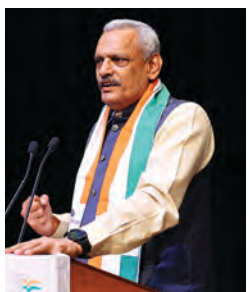
Plenary - IV



Interactive Session



ICSI Northern India Region Convocation Held on May 6, 2023 at New Delhi



Commencement of Construction of ICSI-CCGRT on May 20, 2023 at Manesar

CHIEF GUEST

Shri Rao Inderjit Singh, Hon'ble MoS for Corporate Affairs, MoS (I/C) for Statistics & Programme Implementation, MoS (I/C) for Planning



ICSI ACADEMIC CONNECT



ICSI signed MoU with Humming Bird Education Limited on May 30, 2023 for conducting "ICSI Commerce Olympiad" for 11th and 12th Class students across India.



ICSI signed MoU with The National Academy of Legal Studies and Research (NALSAR) University of Law on May 7, 2023 at Hyderabad.



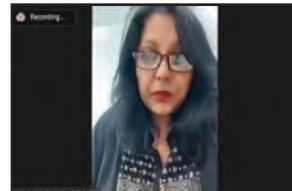
ICSI Study Centre MoU signed with Dharmamurthi Rao Bahadur Calavala Cunnan Chetty's College, Pattabiram, Chennai on May 2, 2023



ICSI Study Centre MoU signed with Marudhar Kesari Jain College for Women, Vaniyambadi, Tamil Nadu on May 4, 2023.

WEBINAR ON

PREVENTION OF MONEY-LAUNDERING ACT, 2002 HELD ON JUNE 1, 2023



WEBINAR ON

ANNUAL SECRETARIAL COMPLIANCE REPORT HELD ON MAY 29, 2023



WEBINAR ON

MSMEs: ROLE OF COMPANY SECRETARIES HELD ON MAY 8, 2023



CHARTERED SECRETARY

THE JOURNAL FOR GOVERNANCE PROFESSIONALS

Avail the Benefit
of Chartered
Secretary Journal
in its Digital
Avatar

The ICSI in its endeavour to align with the 'Green Initiatives' of Government of India, has revamped the delivery mechanism of Chartered Secretary Journal wherein e-copies of the Journal will be shared with the members at their registered e-mail IDs and shall also be available on ICSI portal.

Further ICSI as a support to 'digital India' initiatives has come up with:

E-Copy of the Journal facilitating its members with Anytime, Anywhere Access.

Made the Journal available section-wise on the ICSI Website having easy access through the dedicated URLs.

As a progressive step towards above, esteemed members can now choose one of the three options mentioned below during renewal of their Annual Membership Fee from 1st April 2023 onwards. This option is only to be exercised once in a year at the time of payment of Annual Membership Fee.

The Implementation of the Opt-Out Option for Chartered Secretary Journal will begin from the month of July of the Current year of the renewal of membership till the month of June of the consecutive year.

For eg: For Members who select a particular Option for Chartered Secretary Journal during renewal of membership from April-June 2023, the implementation of the option selected will begin from July 2023 till June 2024.

1st OPTION

Chartered Secretary
by
Ordinary Post

No change
in
Membership Fee

2nd OPTION

Chartered Secretary by
Speed Post/
Registered Post

₹ 500 will be charged
additionally towards
postage charge

3rd OPTION

Opt-out from Receipt of
Printed Copy of
Chartered Secretary

Reduction of ₹ 500
(exclusive of GST)
on Annual Membership Fee
(ACS/FCS)

Vision

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

Motto

सत्यं वद। धर्मं चर। स्वयंसेविते त्वाग्रेः प्रसिद्धे ह्यु तेने चर।

Mission

"To develop high calibre
professionals facilitating
good corporate governance"

Article Part - I

Company Secretaries as Entrepreneurs: Embracing Opportunities and Unlocking Benefits

34

Shreshthi Surana, ACS

Company Secretaries are traditionally recognized as professionals who support corporate governance, legal compliance, and regulatory affairs within organisations. However, with their multidimensional skill set and comprehensive understanding of business operations, CS professionals have increasingly embraced entrepreneurship. This article explores the evolving role of Company Secretaries as entrepreneurs, delving into their unique capabilities, the benefits of venturing into entrepreneurship, and the contributions they make to the business landscape.

The Growing Role of Company Secretary in MSMEs & Startups in India: An Analytical Perspective

39

Dr. Krishnat H. Chougale, ACS,
Amar D. Patil, FCS

This research paper aims to explore and analyse the evolving role of Company Secretaries in the context of Micro, Small, and Medium Enterprises (MSMEs) and startups in India. With the increasing significance of corporate governance and compliance, the paper highlights the expanding responsibilities and contributions of Company Secretaries in assisting MSMEs and startups to navigate the complex regulatory landscape. Through a comprehensive literature review and case studies, this paper sheds light on the crucial role played by Company Secretaries in ensuring legal and regulatory compliance, facilitating effective corporate governance, and fostering sustainable growth for MSMEs and startups. Additionally, it discusses the challenges faced by Company Secretaries in these sectors and proposes recommendations to enhance their effectiveness.

The Power of Expertise: How Company Secretaries Enhance HR and Labour Law Compliance

45

Neha Seth, FCS

One of the key advantages of Company Secretaries as entrepreneurs is their ability to manage risk. As professionals who are trained to identify and manage risk, they are able to assess the potential risks associated with starting a business and develop strategies to mitigate them. This is particularly important in industries where regulatory compliance is critical, as non-compliance can result in significant penalties and

reputational damage. Another advantage of Company Secretaries as entrepreneurs is their ability to ensure that their businesses are run in a legally and ethically sound manner. As individuals who are well-versed in the legal and regulatory frameworks governing different industries, they are able to ensure that their businesses comply with all relevant laws and regulations. This not only helps to protect the business from legal and reputational risks, but also helps to build trust with stakeholders such as customers, suppliers, and investors.

E-Courts embarking on Phase-III: Judicious Move for Indian Judiciary

50

Kritika Anand Tiwary, FCS

The velocity of e-Court Mission Mode Project has once again gained its momentum with the announcement of allocation of Rs. 7,000 Crores for Phase-III in the Budget, 2023-24. With the advancement of virtual hearings during the COVID-19 pandemic, it may be said that adversity has led to prosperity too. The Judiciary is trying its best to adopt technology in best possible manner just like all other pillars of the Government.

Governance in Mergers and Amalgamations

55

Omkar M. Dindorkar, ACS

The article highlights how governance has taken next step in mergers, amalgamations, & other Scheme of arrangements (hereinafter M&A), further it shows the importance of various practices and processes followed, regulatory approvals, role of professionals and approach of Judicial Authorities during M&A in today's manifold compliance environment. Further, the author also covers how oppression and mismanagement can halt M&A, the Creativity part in M&A and what points one shall know and understand before planning for any M&A. The author also gives thoughts on what can be the future of M&A. Author has supported each of the subjects of M&A with case laws wherever possible.

Development of Social Stock Exchange: An Opportunity for Practising Company Secretaries

61

Kunal Sharma

The concept of the Social Stock Exchange (SSE) caught everyone's attention when Hon'ble Finance Minister, Smt. Nirmala Sitharaman, in her union parliamentary budget 2019-20 proposed to create an electronic fundraising platform under the regulatory ambit of SEBI for listing social enterprises with the following objectives: (i) To provide a regulated platform

that brings together an investor and Social Enterprises (SE). (ii) To facilitate the funding as well as the growth of social enterprises. (iii) Setup mechanism to ensure robust standards of social impact and financial reporting. Accordingly, SEBI vide its notification dated 25th July 2022 made amendments to SEBI (ICDR) Regulations, 2018, and SEBI (LODR) Regulations, 2015. This notification developed the framework on SSE and inserted chapter IX-A viz. obligations of social enterprises.

SSEs in India: Navigating the Complexities of Impact, Return and Responsibility in the Pursuit of Sustainable Development

64

Shaily Gupta, ACS

For too long, companies have operated without considering their impact on the world around them. They have exploited natural resources, mistreated workers, and ignored the needs of local communities. However, this is no longer acceptable. The world has recognized that we cannot continue to operate this way, and companies must take responsibility for their impact on society and the environment. This is where social auditors play a crucial role. They are the custodians of social and environmental responsibility, ensuring that companies are held accountable for their impact on the world. They ask the tough questions, dive deep into the operations of companies, and provide recommendations for how companies can do better.

Part - II

Socially Responsible Investing – Recent Developments in India

70

Prof. Rabi Narayan Kar, FCS,
Dr. Amanpreet Kaur

Responsible Investing is still at a nascent stage in the emerging nation of India, despite having deep roots in the Indian Knowledge System. The ancient Indian literature and Hindu scriptures such as the Arthashastra, Brahmanas, Upanishad, Vedas, Ramayana, Mahabharata etc., are replete with verses that talk of co-existence with the ecology and rendering of social good and sustainability of economic activities. In Modern India, SRI is supported by the adoption of global SDGs, introduction ESG Indexes, rolling out of comprehensive Business Responsibility & Sustainability Reporting (BRSR) formats etc. This paper aims at exploring and documenting the evolution of factors that played important roles in setting the stage for the SRI trend during the period of 2000-2020. Further, it seeks to analyze the current trends in SRI in India an objective to unearth the level of penetration of SRI in this emerging economy. At the same point, the paper evaluates the performance of SRI vis-a-vis conventional and market counterparts during the market fall of COVID-19. The analysis and discussions of this study are expected to help enterprises in emerging economies to orient the

Indian market players a better understanding of SRI phenomenon, enabling them to coordinate and formulate policy conducive to SRI penetration.

Data Mining and Corporate Governance

75

Kanchan Bhawe, FCS

Artificial Intelligence (AI) is the study of creating intelligent machines which can work like humans. AI systems produce solutions to problems on their own by calculations. The AI systems use the data mining technique in mined data to create solutions. Data mining serves as a foundation for artificial intelligence. Data mining is a part of programming codes with information and data necessary for AI systems.

Companies Act – India and Japan: Understanding the Basics

79

Harshwardhan Chindhade, Yasuhiro Ito,
Tsutomu Yamasaki, Yuta Nemoto

The primary aim of this article is to bring to the knowledge of professionals and persons occupying Board positions, some fundamental similarities and distinctions between the Companies Act in India and Companies Act in Japan. There are many joint ventures, collaborations, technology transfer arrangements between entities in India and Japan and which operate in corporate form; private companies being the most popular one. The Board members and the legal fraternity of both the countries should have smattering of the law of their Japanese counterparts/ partners. The basic principle revolves round good governance and appropriate disclosures. However, there are some resemblances and distinct features in both the laws. The idea is to give a glimpse of basics for enhancing cohesion and understanding. Experts / students of Company Law in India will appreciate the corresponding provisions of the Japan's Company law. Hence, to avoid any confusion and complexities the article is free from any references to the sections and a minimum technical terms are used.

Research Corner

P - 85

Business Responsibility and Sustainability Reporting (BRSR)- Individuals' Insights on Pertinence, Supremacy and Challenges

86

Dr. Meenu Maheshwari,
Prof. Ashok Kumar Gupta, Mrs. Pragya Gaur

Business Responsibility and Sustainability Reporting (BRSR) ushered in a contemporary corporate world replacing the conventional Business Responsibility Reporting (BRR) guidelines by SEBI in 2021 with the

aim of augmenting ESG disclosures and reporting, thus leading to enhanced transparency and accountability. This study intends to be acquainted with approach of individuals pertaining to relevance, dominance and challenges of BRSR in prevalence. For aforesaid purpose, the structured questionnaire has been prepared and got filled by individuals selected on the basis of purposive sampling method and relevant hypotheses have been developed which have been tested using one sample t-test. The findings underline that individuals believe that BRSR is relevant and supersede the former guidelines of BRR in terms of enhanced quantifiability, transparency and accountability.

Legal World

P-95

- **LMJ 06:06:2023** 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.
- **LW 39:06:2023** 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.[SC]
- **LW 40:06:2023** 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.[SC]
- **LW 41:06:2023** 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 would be treated as a secured creditor.[SC]
- **LW 42:06:2023** In our view, the Company Court and then the Division Bench of the High Court have rightly held that the liability on account of the property tax and water tax to the extent rejected by the appellant OL has been a post-liquidation liability, which the OL was obliged to discharge.[SC]
- **LW 43:06:2023** 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.[SC]

From The Government P-103

- Amend the Companies Compromises, Arrangements and Amalgamations Rules, 2016
- Removal of Names of Companies from the Register of Companies) Rules, 2016
- Activities carried out in the course of business on behalf of or for another person
- Financial transactions carried out by relevant persons

- Comprehensive guidelines for Investor Protection Fund and Investor Services Fund at Stock Exchanges and Depositories
- Model Tripartite Agreement between the Issuer Company, Existing Share Transfer Agent and New Share Transfer Agent as per Regulation 7(4) of SEBI (Listing Obligation and Disclosure Requirements) Regulation, 2015
- Revision in computation of Core Settlement Guarantee Fund in Commodity Derivatives Segment
- Dematerialization of securities of Hold Cos and SPVs held by Real Estate Investment Trusts (REITs)
- Dematerialization of securities of Hold Cos and SPVs held by Infrastructure Investment Trusts (InvITs)
- Risk disclosure with respect to trading by individual traders in Equity Futures & Options Segment
- Investment in units of Mutual Funds in the name of minor through guardian
- Direct Market Access (DMA) to SEBI registered Foreign Portfolio Investors (FPIs) for participating in Exchange Traded Commodity Derivatives (ETCDs)
- Registration with the FINNET 2.0 system of Financial Intelligence Unit – India (FIU-India)
- Testing Framework for the Information Technology (IT) systems of the Market Infrastructure Institutions (MIIs)
- Additional requirements for the issuers of transition bonds
- Introduction of Legal Entity Identifier (LEI) for issuers who have listed and/ or propose to list non-convertible securities, securitised debt instruments and security receipts
- ₹ 2000 Denomination Banknotes – Withdrawal from Circulation; Will continue as Legal Tender
- ₹ 2000 Denomination Banknotes – Withdrawal from Circulation; Will continue as Legal Tender
- LIBOR Transition
- Master Circular – Basel III Capital Regulations
- Formalisation of Informal Micro Enterprises on Udyam Assist Platform
- Formation of new district in the State of Arunachal Pradesh – Assignment of Lead Bank Responsibility
- Levy of charges on forex prepaid cards/store value cards/travel cards, etc.
- Master Circular - Income Recognition, Asset Classification, Provisioning and Other Related Matters - UCBs
- Amendment to the Master Direction (MD) on KYC – Instructions on Wire Transfer

Other Highlights

P-115

- ❖ NEWS FROM THE INSTITUTE
- ❖ GST CORNER
- ❖ ETHICS IN PROFESSION
- ❖ CG CORNER

Call for Articles

Call for Articles for publication in Chartered Secretary Journal – July 2023

GST : ALTERING ECONOMIC DYNAMICS SUSTAINABLY

Taxation, both as a subject as well as a key role player in the market economics has been hogging limelight, not only in India but the world over. Taxation students have found themselves sweating on one hand mugging up sections and grasping the nuances of law while the learned taxation professionals have been able to hold their heads high for the experience and knowledge attained over their years of practice in such a challenging arena.

The Goods and Services Tax (GST), one of the most ambitious tax reforms, undertaken by the Government, has ushered India into an era of One Tax, One Market and One Nation. Introduced in 2017, GST has been a game changer for the Indian economy, bringing about a paradigm shift from multiplicity of tax laws to a single crisp and concise taxation law.

Since July 1 each year is celebrated as a commemoration of the day of this radical change in the form of GST Day, it seems befitting to raise both academic and professional debates and deliberations on the road travelled and what all the future holds in its garb for the law and for us.

In view of the same and more, we are pleased to inform you that the July 2023 issue of Chartered Secretary Journal will be devoted to the theme “**GST : Altering Economic Dynamics Sustainably**” covering *inter alia* the following aspects:

- GST 6 years and going – The present and futuristic role of professionals
- GSTAT – The dawn of a new era
- ITC under GST- Issues, Solutions and Best Practices
- Impact of GST on Service Industry
- Performance Assessment of Indian GST
- Withdrawal of GST Compensation: Impact on Revenues of States
- Changes under GST Regime: The shift in dynamics
- Approach to Notices and Litigation under GST
- GST Regime: The future ahead
- Areas undiscovered under GST Regime
- Important Rulings under GST Regime: The real game changers

And many more...

Members and other readers desirous of contributing articles may send the same latest by **Sunday, June 25, 2023** at cs.journal@icsi.edu for July 2023 issue of Chartered Secretary Journal.

The length of the article should ordinarily be between 2,500 - 4,000 words. However, a longer article can also be considered if the topic of discussion so demands. The articles should be forwarded in MS-Word format.

All the articles are subject to plagiarism check and will be blind screened. Direct reproduction or copying from other sources is to be strictly avoided. Proper references are to be given in the article either as a footnote or at the end. The rights for selection/rejection of the article will vest with the institute without assigning any reason.

Regards,
Team ICSI

Articles in Chartered Secretary Guidelines for Authors

1. Articles on subjects of interest to the profession of company secretaries are published in the Journal.
2. The article must be original contribution of the author.
3. The article must be an exclusive contribution for the Journal.
4. The article must not have been published elsewhere, and must not have been or must not be sent elsewhere for publication, in the same or substantially the same form.
5. The article should ordinarily have 2500 to 4000 words. A longer article may be considered if the subject so warrants.
6. The article must carry the name(s) of the author(s) on the title page only and nowhere else.
7. The articles go through blind review and are assessed on the parameters such as (a) relevance and usefulness of the article (from the point of view of company secretaries), (b) organization of the article (structuring, sequencing, construction, flow, etc.), (c) depth of the discussion, (d) persuasive strength of the article (idea/ argument/articulation), (e) does the article say something new and is it thought provoking, and (f) adequacy of reference, source acknowledgement and bibliography, etc.
8. The copyright of the articles, if published in the Journal, shall vest with the Institute.
9. The Institute/the Editor of the Journal has the sole discretion to accept/reject an article for publication in the Journal or to publish it with modification and editing, as it considers appropriate.
10. The article shall be accompanied by a summary in 150 words and mailed to cs.journal@icsi.edu
11. The article shall be accompanied by a 'Declaration-cum-Undertaking' from the author(s) as under:

Declaration-cum-Undertaking

1. I, Shri/Ms./Dr./Professor..... declare that I have read and understood the Guidelines for Authors.
2. I affirm that:
 - a. the article titled"....." is my original contribution and no portion of it has been adopted from any other source;
 - b. this article is an exclusive contribution for Chartered Secretary and has not been/nor would be sent elsewhere for publication; and
 - c. the copyright in respect of this article, if published in Chartered Secretary, shall vest with the Institute.
 - d. the views expressed in this article are not necessarily those of the Institute or the Editor of the Journal.
3. I undertake that I:
 - a. comply with the guidelines for authors,
 - b. shall abide by the decision of the Institute, i.e., whether this article will be published and/or will be published with modification/editing.
 - c. shall be liable for any breach of this 'Declaration-cum-Undertaking'.

Signature

1

ARTICLES



- COMPANY SECRETARIES AS ENTREPRENEURS: EMBRACING OPPORTUNITIES AND UNLOCKING BENEFITS
- THE GROWING ROLE OF COMPANY SECRETARY IN MSMEs & STARTUPS IN INDIA: AN ANALYTICAL PERSPECTIVE
- THE POWER OF EXPERTISE: HOW COMPANY SECRETARIES ENHANCE HR AND LABOUR LAW COMPLIANCE
- E-COURTS EMBARKING ON PHASE-III: JUDICIOUS MOVE FOR INDIAN JUDICIARY
- GOVERNANCE IN MERGERS AND AMALGAMATIONS
- DEVELOPMENT OF SOCIAL STOCK EXCHANGE: AN OPPORTUNITY FOR PRACTISING COMPANY SECRETARIES
- SSEs IN INDIA: NAVIGATING THE COMPLEXITIES OF IMPACT, RETURN, AND RESPONSIBILITY IN THE PURSUIT OF SUSTAINABLE DEVELOPMENT
- SOCIALLY RESPONSIBLE INVESTING – RECENT DEVELOPMENTS IN INDIA
- DATA MINING AND CORPORATE GOVERNANCE
- COMPANIES ACT – INDIA AND JAPAN: UNDERSTANDING THE BASICS

Company Secretaries as Entrepreneurs: Embracing Opportunities and Unlocking Benefits

Entrepreneurship is a dynamic field that requires a unique set of skills and competencies to navigate the challenges of starting and managing a successful business venture. Similarly, the Company Secretary course encompasses a diverse range of disciplines, equipping professionals with the knowledge and expertise to ensure effective corporate governance and compliance.



Shreshthi Surana, ACS

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INTRODUCTION

Company Secretaries are traditionally recognized as professionals who support corporate governance, legal compliance, and regulatory affairs within organisations. However, with their multidimensional skill set and comprehensive understanding of business operations, CS professionals have increasingly embraced entrepreneurship. This article explores the evolving role of Company Secretaries as entrepreneurs, delving into their unique capabilities, the benefits of venturing into entrepreneurship, and the contributions they make to the business landscape. With a focus on data and real-life examples, this article highlights the immense potential and advantages of Company Secretaries as entrepreneurs.

Entrepreneurship is a dynamic field that requires a unique set of skills and competencies to navigate the challenges of starting and managing a successful business venture. Similarly, the Company Secretary course encompasses a diverse range of disciplines, equipping professionals with the knowledge and expertise to ensure effective corporate governance and compliance. Surprisingly, there are several overlapping skills between entrepreneurship and the CS course. In this article, we will also explore the connection between these two domains, highlighting the entrepreneurial skills that can be honed through the CS course and their significance in fostering entrepreneurial success.

The entrepreneurial spirit is deeply ingrained in many Company Secretaries, who possess a diverse skill set

encompassing legal knowledge, strategic thinking, financial acumen, and corporate governance expertise. This section introduces the concept of Company Secretaries as entrepreneurs and sets the stage for exploring their role and the benefits they bring to the entrepreneurial landscape.

DEVELOPING ENTREPRENEURIAL SKILLS: EXPLORING SIMILARITIES WITH CS PROFESSIONALS

1. Critical Thinking and Problem Solving

Critical thinking and problem-solving are fundamental skills in entrepreneurship and the CS course. Entrepreneurs need to analyse complex situations, identify potential risks, and devise innovative solutions. Likewise, Company Secretaries must navigate legal and regulatory frameworks, interpret intricate laws, and address governance-related challenges. Both domains demand individuals who can think critically, assess options, and make informed decisions that align with organisational goals.

2. Communication and Interpersonal Skills

Effective communication and interpersonal skills are crucial for entrepreneurs and Company Secretaries alike. Entrepreneurs must effectively convey their vision, persuade stakeholders, and negotiate deals. Similarly, Company Secretaries act as the liaison between the organisation and its stakeholders, requiring strong communication skills to convey legal and regulatory information clearly. Both roles involve interacting with diverse stakeholders, including investors, clients, employees, and regulatory bodies, necessitating the ability to build and maintain relationships.

3. Adaptability and Resilience

Entrepreneurs face constant changes and uncertainties, requiring them to be adaptable and resilient. They must quickly respond to market shifts, embrace emerging technologies, and adapt their business strategies accordingly. Similarly, Company Secretaries need to navigate evolving regulatory landscapes, comply with new laws, and adapt corporate governance frameworks to meet changing

requirements. The CS course cultivates adaptability and resilience by exposing professionals to various legal and regulatory frameworks, teaching them to manage unforeseen challenges effectively.

4. Financial Acumen

Entrepreneurial success heavily relies on financial acumen, which encompasses skills such as budgeting, financial analysis, and strategic planning. Entrepreneurs must understand financial statements, assess investment opportunities, and make sound financial decisions. Similarly, Company Secretaries play a critical role in financial governance, managing financial risks, and ensuring compliance with financial regulations. The CS course provides professionals with a solid foundation in financial management, enabling them to understand and contribute to the financial aspects of a business.

5. Strategic Thinking and Vision

Entrepreneurs and Company Secretaries need to possess strategic thinking and vision to drive organisational growth and success. Entrepreneurs develop long-term business strategies, envision market opportunities, and set goals for their ventures. Company secretaries contribute to strategic decision-making by providing legal and regulatory insights and ensuring alignment with corporate objectives. The CS course cultivates strategic thinking by teaching professionals to analyse business environments, anticipate risks, and propose effective governance strategies.

6. Leadership and Team Management

Entrepreneurs and Company Secretaries often find themselves leading teams and guiding organisational efforts. Effective leadership skills are essential for motivating employees, fostering collaboration, and managing conflicts. Entrepreneurs must build and lead high-performing teams to achieve business objectives, while Company Secretaries must coordinate and collaborate with various departments to ensure compliance and governance. The CS course equips professionals with the skills to lead and manage teams, emphasising the importance of teamwork, communication, and delegation.

UNIQUE CAPABILITIES OF COMPANY SECRETARIES

- a) **Legal and Compliance Expertise:** Company Secretaries have an in-depth understanding of legal frameworks, corporate laws, and compliance requirements. This knowledge equips them to navigate regulatory landscapes and ensure business operations are conducted within legal boundaries.
- b) **Strategic Vision and Business Acumen:** Company Secretaries possess a strategic mindset, honed through their experience in advising organisations on corporate governance, risk management, and ethical

Company Secretaries bring a unique blend of skills, knowledge, and expertise to the entrepreneurial landscape. Their entrepreneurial ventures are guided by legal and compliance acumen, strategic thinking, financial competence, and a commitment to governance and ethics.

business practices. This enables them to identify business opportunities, analyse market trends, and develop innovative strategies.

- c) **Financial and Accounting Competence:** Company Secretaries have a solid grasp of financial management and accounting principles. They can interpret financial data, develop budgets, analyse investment opportunities, and ensure financial stability in entrepreneurial ventures.
- d) **Networking and Relationship Building:** Company Secretaries often interact with stakeholders, regulators, and professionals from various fields. This fosters strong networking skills and the ability to build valuable relationships, which are crucial for entrepreneurial success.
- e) **Effective Communication and Negotiation:** Company Secretaries excel in communication and negotiation, both internally and externally. They can articulate ideas, engage with stakeholders, and negotiate favourable terms, making them effective entrepreneurs.

BENEFITS OF COMPANY SECRETARIES AS ENTREPRENEURS

- a) **Legal and Regulatory Compliance:** With their deep understanding of legal frameworks, Company Secretaries as entrepreneurs ensure compliance with laws, regulations, and statutory requirements. This reduces the risk of legal complications and enhances the credibility of the entrepreneurial venture.
- b) **Risk Management:** Company Secretaries are skilled in identifying, assessing, and managing risks. As entrepreneurs, they bring a systematic approach to risk mitigation, enhancing the resilience of their ventures and ensuring long-term sustainability.
- c) **Governance and Ethics:** Company Secretaries prioritise good corporate governance and ethical practises. By embedding these principles in their entrepreneurial endeavours, they build trust among stakeholders, attract investors, and create a solid foundation for growth.

- d) **Financial Management:** The financial expertise of Company Secretaries enables them to manage funds effectively, make informed investment decisions, and optimise financial resources. This ensures financial stability and maximises the chances of entrepreneurial success.
- e) **Strategic Planning and Decision-making:** Company Secretaries possess a strategic vision and the ability to analyse business environments. As entrepreneurs, they leverage these skills to formulate robust business plans, identify growth opportunities, and make informed decisions that drive the success of their ventures.
- f) **Stakeholder Management:** Company Secretaries excel in stakeholder management, a critical aspect of entrepreneurship. They engage with investors, customers, employees, and regulatory bodies, ensuring effective communication, relationship building, and consensus building.

CHALLENGES AND OVERCOMING BARRIERS

Company secretaries possess a unique skill set that can be leveraged beyond traditional corporate roles. However, this transition comes with its own set of challenges.

1. Shifting Mindset from Compliance to Entrepreneurship

One of the significant challenges faced by Company Secretaries transitioning into entrepreneurship is the need to shift their mindset from a compliance-oriented approach to a more entrepreneurial mindset. Company secretaries are accustomed to following rules and regulations, ensuring compliance, and managing risk within established frameworks. As entrepreneurs, they must embrace a more innovative and risk-taking mindset, actively seeking opportunities, and taking calculated risks. To overcome this challenge, Company Secretaries can engage in entrepreneurial training programs, join entrepreneurship networks, and immerse themselves in entrepreneurial literature to develop an entrepreneurial mindset.

2. Acquiring Business Development Skills

Entrepreneurship requires robust business development skills, including marketing, sales, and financial management. Company secretaries may lack experience in these areas as their primary focus lies in governance and compliance. To overcome this challenge, Company Secretaries should seek opportunities to enhance their business development skills. This can be achieved through attending workshops, taking relevant courses, and working closely with mentors or consultants who specialise in business development. Building a strong network of entrepreneurs can also provide valuable insights and guidance.

3. Balancing Governance and Agility

Company secretaries are well-versed in ensuring compliance and maintaining good governance practices. However, as entrepreneurs, they may face the challenge of balancing governance requirements with the need for agility and quick decision-making. To overcome this challenge, Company Secretaries-turned-entrepreneurs should adopt a flexible approach to governance. They should streamline processes, leverage technology to automate compliance tasks, and create a culture of proactive risk management. By finding the right balance, they can maintain good governance practices while embracing entrepreneurial agility.

4. Building a Strong Entrepreneurial Network

Entrepreneurs thrive in an ecosystem of support, collaboration, and mentorship. As Company Secretaries transition into entrepreneurship, they may face the challenge of building a robust entrepreneurial network. Overcoming this challenge requires active participation in entrepreneurship-focused events, networking forums, and industry conferences. Engaging with other entrepreneurs, mentors, and investors can provide valuable connections, advice, and opportunities for collaboration. Company secretaries should also consider joining entrepreneurial communities, incubators, or accelerators to access resources and support tailored to their entrepreneurial journey.

5. Managing Time and Priorities

Company secretaries often have demanding roles that require strict adherence to deadlines and a focus on detail-oriented work. As entrepreneurs, they face the challenge of managing their time and priorities effectively. To overcome this challenge, Company Secretaries should adopt time management techniques such as setting clear goals, prioritising tasks, delegating responsibilities, and leveraging technology tools for productivity. They should also develop the ability to shift from a reactive mode to a proactive mode, focusing on strategic initiatives that drive business growth.

6. Embracing Risk and Uncertainty

Entrepreneurship inherently involves risk-taking and operating in an uncertain environment. This can be a significant challenge for Company Secretaries who are accustomed to minimising risks and ensuring compliance. To overcome this challenge, Company Secretaries-turned-entrepreneurs should develop a risk management framework that allows them to assess and mitigate risks while embracing calculated risks. They should also cultivate resilience and adaptability to navigate uncertain situations effectively.

7. Continuous Learning and Skill Development

Entrepreneurship is a dynamic field that requires continuous learning and skill development. Company secretaries transitioning into entrepreneurship may



face the challenge of acquiring new skills and keeping up with the latest industry trends. To overcome this challenge, Company Secretaries should embrace a growth mindset and allocate time for ongoing learning. They should stay updated through industry publications, attend relevant workshops or webinars, and engage in peer-to-peer learning opportunities. Building a diverse skill set will enhance their entrepreneurial capabilities and ensure long-term success.

IMPACT OF COMPANY SECRETARIES AS ENTREPRENEURS: UNVEILING A CHANGING SCENARIO

Company Secretaries (CS) bring a wealth of knowledge and expertise in governance, compliance, and regulatory affairs to the entrepreneurial landscape. Their transition from corporate roles to entrepreneurial endeavours has gained significant traction in recent years, with an increasing number of CS professionals leveraging their skills to launch successful ventures.

1. The Rise of CS Entrepreneurs: A Shifting Landscape

The entrepreneurial landscape is witnessing a notable shift with the emergence of Company Secretaries

as entrepreneurs. Traditionally, CS professionals held key roles in established corporations, ensuring compliance and governance. However, there has been a growing recognition of their potential as entrepreneurs, thanks to their strong foundation in legal and regulatory matters. According to recent data, the number of CS professionals venturing into entrepreneurship has seen a substantial rise, reflecting the changing scenario and the impact they are making.

2. Contributing to Economic Growth

CS entrepreneurs play a vital role in driving economic growth by establishing and expanding businesses. These ventures create employment opportunities, stimulate innovation, and contribute to the overall economic ecosystem. A study conducted by a leading research institution reveals that CS entrepreneurs have contributed significantly to job creation, with their ventures employing a substantial workforce. This data underscores the positive impact CS entrepreneurs have on the economy, fostering growth and development.

3. Enhancing Corporate Governance Standards

One of the key advantages of having Company

Secretaries as entrepreneurs is the enhanced focus on corporate governance. CS professionals, well-versed in governance frameworks and compliance requirements, bring a strong foundation of best practices to their entrepreneurial ventures. This emphasis on governance not only instills a culture of ethical conduct within the organisation but also builds trust and credibility among stakeholders. According to a survey conducted by a prominent business association, CS entrepreneurs have demonstrated a higher commitment to implementing robust governance practices, leading to better organisational performance.

4. Navigating Regulatory Complexity

The intricate web of regulations and compliance requirements presents a significant challenge for entrepreneurs. However, CS entrepreneurs possess a distinct advantage in navigating this complex regulatory landscape. Their deep understanding of legal frameworks, reporting obligations, and compliance norms equips them with the knowledge to ensure adherence to regulatory requirements. In a survey conducted among CS entrepreneurs, a majority expressed confidence in their ability to navigate regulatory complexities effectively, demonstrating their impact in maintaining compliance and mitigating legal risks.

5. Leveraging Expertise in Risk Management

Risk management is a critical aspect of entrepreneurship, and CS professionals excel in this domain. With their expertise in identifying, assessing, and managing risks, CS entrepreneurs are better equipped to make informed decisions and minimize potential pitfalls. A study examining the risk management practices of CS entrepreneurs revealed that they adopt proactive risk mitigation strategies, leading to better risk-adjusted performance and increased resilience in the face of uncertainties.

6. Fostering Investor Confidence

Investor confidence is paramount for entrepreneurial ventures seeking funding and support. CS entrepreneurs, with their strong governance background and focus on compliance, instill a sense of trust and confidence among investors. Research indicates that ventures led by CS entrepreneurs are more likely to attract investment due to the perceived lower risk associated with robust governance practices. This increased investor confidence provides CS entrepreneurs with a competitive edge and facilitates access to capital for scaling their businesses.

7. Catalysts for Ethical Entrepreneurship

Ethical conduct and responsible business practices are gaining prominence in the entrepreneurial landscape. CS entrepreneurs, with their deep understanding of legal and ethical frameworks, act as catalysts for ethical entrepreneurship. They prioritise integrity,

transparency, and accountability in their operations, fostering a culture of responsible business conduct. Studies show that CS entrepreneurs are more inclined to incorporate sustainability measures, corporate social responsibility initiatives, and ethical guidelines into their ventures, thereby making a positive impact on society and the environment.

The impact of Company Secretaries as entrepreneurs is a testament to their valuable contributions in the entrepreneurial ecosystem. Their expertise in governance, compliance, risk management, and ethical practices positions them as valuable assets in the dynamic world of entrepreneurship. The changing scenario, as evidenced by the rise of CS entrepreneurs, reflects the growing recognition of their skills and their ability to create successful ventures.


Company Secretaries bring a unique blend of skills, knowledge, and expertise to the entrepreneurial landscape. Their entrepreneurial ventures are guided by legal and compliance acumen, strategic thinking, financial competence, and a commitment to governance and ethics. As entrepreneurs, Company Secretaries contribute to economic growth, job creation, and innovation.

CONCLUSION

Entrepreneurial skills are not limited to starting a new venture; they are also highly relevant in various professional domains, including the Company Secretary course. Critical thinking, communication, adaptability, financial acumen, strategic thinking, and leadership are essential for both entrepreneurs and Company Secretaries.

By recognizing the similarities and leveraging the skills acquired through the CS course, professionals can enhance their entrepreneurial capabilities, whether they aspire to launch their own ventures or contribute to the success of established organisations. The integration of entrepreneurial skills within the CS course creates well-rounded professionals who can navigate the complex landscape of corporate governance, compliance, and entrepreneurship. By embracing entrepreneurship, Company Secretaries unlock their potential as change-makers, driving business success and societal impact.

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The Growing Role of Company Secretary in MSMEs & Startups in India: An Analytical Perspective

Company Secretaries play a crucial role in ensuring compliance, good governance, and overall smooth functioning of businesses. Their responsibilities encompass various legal, regulatory, and administrative aspects, making them indispensable for the success and sustainability of MSMEs and startups. Traditionally, Company Secretaries have been associated with larger corporations, but their role has expanded to cater to the needs of smaller businesses as well.



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INTRODUCTION

Analysing the evolving role of Company Secretaries in the context of Micro, Small, and Medium Enterprises (MSMEs) and startups in India, the article brings forth the increasing significance of corporate governance and compliance, the expanding responsibilities and contributions of Company Secretaries in assisting MSMEs and startups to navigate the complex regulatory landscape. Through a comprehensive literature review and case studies, this paper sheds light on the crucial role played by Company Secretaries in ensuring legal and

regulatory compliance, facilitating effective corporate governance, and fostering sustainable growth for MSMEs and startups. Additionally, it discusses the challenges faced by Company Secretaries in these sectors and proposes recommendations to enhance their effectiveness in supporting the growth and development of MSMEs and startups in India.

In recent years, the role of Company Secretaries has witnessed significant growth and importance in the context of Micro, Small, and Medium Enterprises (MSMEs) and startups in India. Company secretaries play a crucial role in ensuring compliance, good governance, and overall smooth functioning of businesses. Their responsibilities encompass various legal, regulatory, and administrative aspects, making them indispensable for the success and sustainability of MSMEs and startups.

Traditionally, Company Secretaries have been associated with larger corporations, but their role has expanded to cater to the needs of smaller businesses as well. Here are some key reasons behind the growing prominence of Company Secretaries in MSMEs and startups in India:

Compliance with Laws and Regulations: MSMEs and startups need to comply with numerous laws, regulations, and statutory requirements. Company Secretaries possess in-depth knowledge of these legal frameworks and help businesses navigate through the complexities. They ensure that the organization adheres to relevant laws, such as company law, taxation, intellectual property, labour laws, and data protection regulations, among others.

Corporate Governance: Good Corporate Governance is essential for building trust, attracting investors, and maintaining long-term sustainability. Company Secretaries play a vital role in implementing corporate governance practises within MSMEs and startups. They advise management on board structures, ethical practises, disclosure requirements, and overall compliance with corporate governance standards.

Board Support and Documentation: Company Secretaries provide crucial support to the board of directors. They assist in organizing board meetings, preparing agendas, documenting minutes, and ensuring

effective communication between directors. Their expertise helps in maintaining proper board procedures and preserving accurate records, which are vital for legal and regulatory purposes.

Investor Relations and Fundraising: As MSMEs and startups seek external funding, Company Secretaries contribute significantly to investor relations and fundraising activities. They assist in preparing investment proposals, conducting due diligence, and ensuring compliance with disclosure requirements. Their involvement enhances transparency and confidence in potential investors.

Risk Management and Internal Controls: Effective risk management is critical for the sustainable growth of any business. Company Secretaries assist in identifying, assessing, and mitigating risks within MSMEs and startups. They develop internal control systems, monitor compliance, and implement risk mitigation strategies. Their involvement helps in safeguarding the business's interests and reducing potential liabilities.

Legal and Secretarial Support: Company Secretaries serve as a valuable resource for legal and secretarial matters. They assist in drafting legal agreements, contracts, and other business documents. Additionally, they handle statutory filings, maintain statutory registers, and ensure timely submission of required forms and reports to regulatory authorities.

The growing recognition of the importance of company Secretaries in MSMEs and startups has led to increased demand for their services. The expertise and professional guidance provided by Company Secretaries enable businesses to operate efficiently, mitigate risks, and meet legal and regulatory obligations. Their role in fostering good governance practices and facilitating growth are vital for the vibrant and dynamic entrepreneurial ecosystem in India.

BACKGROUND AND SIGNIFICANCE OF THE STUDY

The role of a Company Secretary in MSMEs (Micro, Small, and Medium Enterprises) and startups is significant as they play a crucial role in ensuring compliance, corporate governance, and efficient management of the company's affairs. Here's a breakdown of the background and significance of the Company Secretary in MSMEs and startups:

Background:

Legal Compliance: MSMEs and startups need to adhere to various legal and regulatory requirements imposed by the government. These include filing statutory returns, maintaining books of accounts, complying with labour laws, taxation regulations, and other industry-specific regulations. The company secretary has the knowledge and expertise to ensure compliance with these legal obligations.

Corporate Governance: Good corporate governance practices are essential for the smooth functioning and long-term sustainability of any organization. The Company Secretary assists in establishing and maintaining sound governance practises, including ensuring proper board meetings, maintaining board minutes, and compliance with corporate governance norms.

Secretarial Functions: The Company Secretary handles various secretarial functions such as maintaining statutory registers, managing share capital, issuing share certificates, and handling communication with regulatory authorities like the Registrar of Companies (ROC) and Securities and Exchange Board of India (SEBI). They also handle matters related to corporate restructuring, mergers, and acquisitions.

Significance:

Compliance and Risk Management: The Company Secretary ensures that the company complies with all legal and regulatory requirements. By staying updated with the latest regulations, they help mitigate risks associated with non-compliance, avoiding penalties, fines, or legal actions that could negatively impact the business.

Expertise and Professionalism: Company Secretaries possess specialized knowledge in corporate law, governance, and regulatory compliance. Their expertise helps MSMEs and startups navigate complex legal requirements and make informed decisions. Their professional approach ensures that the company operates ethically and transparently.

Stakeholder Confidence: Effective governance practices and compliance measures enhance stakeholder confidence. This is particularly important for startups seeking funding or partnerships. Investors, creditors, and other stakeholders often assess the governance practices of a company before engaging in business transactions. The presence of a Company Secretary gives assurance that the organization is committed to maintaining high standards of corporate conduct.

Strategic Support: Apart from compliance, Company Secretaries can provide valuable strategic support to MSMEs and startups. They assist in drafting legal documents, structuring agreements, and ensuring compliance during fundraising rounds. Their understanding of legal and regulatory frameworks helps management make informed decisions while minimizing legal risks.

Scalability and Growth: As MSMEs and startups scale and grow, the complexity of legal and compliance requirements also increases. Having a Company Secretary on board from the early stages enables seamless scalability, ensuring that the company is well-prepared for expansion and can navigate legal complexities efficiently.



Objectives of the Company Secretary in MSMEs:

1. Ensuring Compliance
2. Promoting Good Governance
3. Facilitating Board Support
4. Managing Legal and Regulatory Requirements
5. Safeguarding Shareholders' Interests
6. Enhancing Corporate Communication
7. Supporting Strategic Decision Making

ROLES AND RESPONSIBILITIES OF COMPANY SECRETARY IN MSMEs

In MSMEs (Micro, Small, and Medium Enterprises), the role of a Company Secretary may vary depending on the size and nature of the business. However, some common roles and responsibilities of a Company Secretary in MSMEs include:

- **Compliance with Laws and Regulations:** Ensuring the company's compliance with various laws, regulations, and statutory requirements applicable to the business, such as Companies Act, tax laws, labor laws, and industry-specific regulations.
- **Company Incorporation and Governance:** Assisting in the process of company incorporation and establishment, including preparing and maintaining statutory records, filing necessary forms and returns, and ensuring compliance with corporate governance principles.
- **Board and Shareholder Meetings:** Organizing and coordinating board meetings, including preparing agendas, minutes, and resolutions. Facilitating communication between the board of directors and shareholders.
- **Corporate Communication and Disclosure:** Managing communication with stakeholders, including shareholders, regulatory authorities, and other relevant parties. Ensuring timely and accurate disclosure of information as required by law.
- **Legal and Secretarial Documentation:** Drafting, reviewing, and maintaining legal documents, contracts, agreements, and other relevant records. Ensuring compliance with legal and contractual obligations.
- **Corporate Records Maintenance:** Maintaining and updating statutory registers, books of accounts, and other records required by law. Ensuring that the company's records are accurate, up-to-date, and accessible.
- **Compliance Reporting:** Preparing and filing various statutory returns, reports, and forms with regulatory authorities, such as annual financial statements, annual returns, and other compliance-related documents.
- **Corporate Governance and Ethics:** Assisting in the implementation of corporate governance practises and ethical standards within the organization. Providing guidance on matters related to corporate ethics, integrity, and best practises.

- **Advisory Role:** Providing advice and guidance to the board of directors and senior management on legal, regulatory, and corporate governance matters. Keeping them informed about changes in laws and regulations that may affect the business.
- **Liaison with External Professionals:** Collaborating with external professionals, such as auditors, lawyers, and regulatory bodies, to ensure timely completion of audits, compliance reviews, and other regulatory requirements.

CHALLENGES AND OPPORTUNITIES FOR COMPANY SECRETARIES IN MSMEs

Challenges:

- **Limited Resources:** MSMEs often operate with limited financial and human resources, which can pose challenges for Company Secretaries. They may have to handle multiple responsibilities beyond their core role, such as compliance, governance, and legal matters, with limited support.
- **Lack of Awareness:** Many MSMEs may not be fully aware of the importance of having a company secretary or may not understand the role and responsibilities associated with it. This can lead to a lack of appreciation for the value that a company secretary can bring to the organization.
- **Compliance Complexities:** Compliance requirements for businesses can be complex and demanding, with numerous regulations and reporting obligations. Company Secretaries in MSMEs may face challenges in keeping up with the ever-changing regulatory landscape and ensuring that the company remains compliant.
- **Limited Exposure and Professional Development:** Unlike larger organizations, MSMEs may provide limited opportunities for Company Secretaries to gain diverse exposure and professional development. This can hinder their career growth and limit their ability to expand their skill set.

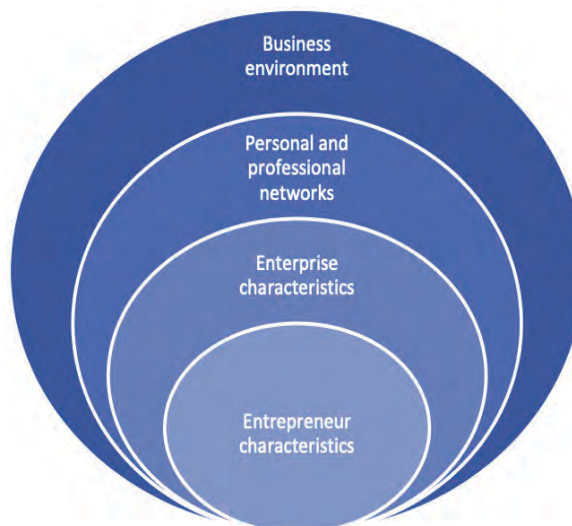
Opportunities:

- **Strategic Advisory Role:** MSMEs are often in need of strategic guidance and support to navigate business challenges. Company Secretaries can position themselves as trusted advisors to the management, providing insights on corporate governance, risk management, and regulatory compliance, which can contribute to the overall success of the organization.
- **Cost-effective Compliance Solutions:** MSMEs typically operate on tighter budgets compared

to larger companies. Company Secretaries can leverage their expertise to develop cost-effective compliance solutions tailored to the specific needs and resources of MSMEs. This can help the organization meet its obligations while optimizing resources.

- **Process Optimization and Efficiency:** MSMEs often operate in a lean environment, where efficient processes are crucial for success. Company Secretaries can identify areas for process optimization, streamlining administrative procedures, and implementing systems that enhance governance and compliance practises.
- **Professional Growth and Versatility:** While MSMEs may have limited resources, they can offer Company Secretaries the opportunity to gain a broader skill set and hands-on experience in various aspects of the business. Working in an MSME can allow Company Secretaries to develop a versatile skill set, combining legal, compliance, governance, and strategic knowledge.
- **Influence on Decision-Making:** In smaller organizations, Company Secretaries can have a more direct influence on decision-making processes. They can actively participate in board meetings, contribute to discussions, and provide insights on legal and compliance implications, enabling them to play a significant role in shaping the company's direction.

DETERMINANTS OF MSME UPGRADING – THE ONION MODEL



In developing countries, micro and small enterprises (MSEs) comprise the largest part of the industrial fabric and are among the most important development agents in society. MSEs offer many millions of poor people around the world the possibility of earning money, training, work experience and employment. However, empirical evidence shows that most small enterprises never

develop the business beyond a certain scale and only a small minority of them manages to upgrade to the next level of productivity, income and employment (Berner / Gomez / Knorranga 2008). The pioneering research of Mead (1994) and Mead and Liedholm (1998) suggests that across developed and developing economies, most MSEs are stagnating with only a handful of them managing to grow to more 20 employees. In Sierra Leone, Bangladesh, Jamaica, Honduras, Thailand and Egypt, Liedholm and Mead (1987) found that only 1 percent of enterprises with four workers or fewer managed to upgrade into the next size category. In Kenya, Cotter (1996) found that enterprise upgrading rates are either zero or so low that no policy intervention could remedy the situation. These findings indicate the need for targeted policy interventions supported by empirical evidence – especially to stimulate MSEs and harness the private sector's potential to be engines of economic growth in developing countries.

An 'Onion Model' that schematically represents the four schools of thought on factors affecting enterprise upgrading was developed for this project (see Reeg 2013a). Caroline Reeg argues that the model for enterprise upgrading should contain four layers – representing the four strands of literature about firm growth. The first layer, consisting of literature that focuses on the entrepreneur – education, training, motivation and so on – as the sole force driving enterprise upgrading, is the core of the Onion Model. The second layer consists of research that points to enterprise and employee characteristics – including enterprise age, location and sector – as motivators for upgrading. The third layer relates to the strand of research that regards interactions of the entrepreneur and the enterprise with personal and professional networks as instigators of enterprise growth. The fourth and outermost layer refers to the quality of the business environment and how improvements in this layer will bring about enterprise upgrading.

The Onion Model is a conceptual framework used to understand the determinants of Micro, Small, and Medium Enterprises (MSMEs) upgrading. It illustrates the multiple layers or dimensions that influence the upgrading process. Let's delve into each layer of the Onion Model and discuss the determinants within each layer:

Individual Layer:

At the core of the model lies the individual layer, which focuses on the characteristics and capabilities of the entrepreneurs or business owners. The determinants within this layer include:

Skills and Knowledge: The level of technical, managerial, and entrepreneurial skills possessed by the individual affects their ability to upgrade their MSME.

Attitudes and Mindset: The entrepreneur's attitude towards innovation, risk-taking, and adaptability plays a crucial role in determining their willingness to invest in upgrading their business.

The growing recognition of the importance of Company Secretaries in MSMEs and startups has led to increased demand for their services. The expertise and professional guidance provided by Company Secretaries enable businesses to operate efficiently, mitigate risks, and meet legal and regulatory obligations.

Networks and Relationships: The entrepreneur's access to social and business networks can provide valuable resources, knowledge, and support for upgrading activities.

Firm Layer:

The firm layer surrounds the individual layer and represents the characteristics and dynamics of the MSME itself. The determinants within this layer include:

Financial Resources: The availability of financial capital and access to credit influences the firm's capacity to invest in upgrading activities.

Technological Capabilities: The firm's ability to adopt and utilize new technologies affects its potential for upgrading and improving productivity.

Market Orientation: Understanding customer needs, market trends, and competition helps the firm identify opportunities for upgrading its products or services.

Organizational Structure: The efficiency and flexibility of the firm's organizational structure can facilitate or hinder the adoption of new practices and processes.

Industry Layer:

The industry layer encompasses the external environment in which the MSME operates. The determinants within this layer include:

Market Demand: The size, growth, and changing nature of the market for the firm's products or services influence the need for upgrading.

Regulatory Framework: Government policies, regulations, and incentives can either support or constrain MSME upgrading efforts.

Industry Dynamics: The level of competition, availability of suppliers and buyers, and the presence of industry clusters can affect the upgrading opportunities and competitiveness of MSMEs.

External Layer:

The outer layer represents the broader macroeconomic, socio-cultural, and technological factors that impact

MSME upgrading. The determinants within this layer include:

Infrastructure: The quality and accessibility of physical infrastructure, such as transportation, electricity, and telecommunications, can enable or impede upgrading efforts.

Socio-cultural Factors: Cultural norms, social attitudes, and societal values can influence the willingness of MSME owners to embrace change and invest in upgrading.

Technological Environment: The availability of technology infrastructure, digital connectivity, and access to information and communication technologies can shape the upgrading potential of MSMEs.

It's important to note that these determinants are interconnected, and the upgrading process is influenced by interactions across different layers. The Onion Model provides a holistic understanding of the factors that contribute to or hinder MSME upgrading and can guide policymakers and practitioners in designing effective interventions to support MSME development.

CONCLUSION

The role of a company secretary in MSMEs and startups in India has evolved significantly, encompassing compliance, corporate governance, risk management, legal advisory, stakeholder management, and strategic contributions. The analytical perspective highlights the vital contributions made by Company Secretaries in facilitating the growth and success of these businesses in a rapidly changing regulatory and business environment. They ensure that the company operates within the legal framework, meets regulatory obligations, and maintains good corporate governance practices, thereby contributing to the overall growth and success of the MSME. Considering on the role of Company Secretary as the Compliance Officer we can aptly say that the functions of the company secretary can be integrated with the governance functions. The capacity of company secretary can ensure higher level of corporate administration and governance according to the prescribed norms. Company Secretary is an important managerial and administrative resource for a startup venture. It is the legal representative of the entity and performs and manages various regulatory functions as well.

An in-house Company Secretary is a full-fledged packaged with well-versed legal knowledge which plays a vital role and which reduces a lot of costs to the Company, as they do not have to consult third party professionals for every minute matter, when their own in-house Company Secretary can resolve it. It also plays a key role as a business advisor to the board of directors of the company guiding them with regard to various laws and keep up the compliance. The timely advice of a Company Secretary can save business from huge costs, unwanted legal issues, penalties and most importantly time.

On other hand a Company Secretary in Practise is also a professional, which has its own team and covers almost all the legal and secretarial areas of service which a business requires. A company or a start-up can also take the retainers ship services from a Practicing Company secretary. For a low and fixed rate, they can obtain the all the consultancy and help they require with their day to day working.

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The Power of Expertise: How Company Secretaries Enhance HR and Labour Law Compliance

It is important to understand the role of a Company Secretary. They are responsible for ensuring that a company complies with the laws and regulations governing its operations, including filing statutory returns, maintaining statutory registers, and ensuring that the company's decisions are made in accordance with its articles of association and as per the Corporate laws and amendments made from time to time. They also advise the board of directors on matters of governance, risk management, and compliance, and act as a link between the board and the company's shareholders.



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"Passion is the key to success. If you love what you're doing, you will be successful." - Albert Schweitzer

INTRODUCTION

Company Secretaries, or CS, are professionals who work towards ensuring that a company complies with the laws and regulations governing its operations. While their role is often seen as a support function within a company, the skills and knowledge they possess make them ideal candidates to become entrepreneurs. In this article, we will explore the potential of Company Secretaries as entrepreneurs and how they can use their unique skill set to start and run successful businesses.

Firstly, it is important to understand the role of a company secretary. They are responsible for ensuring that a company complies with the laws and regulations governing its operations, including filing statutory returns, maintaining statutory registers, and ensuring that the company's decisions are made in accordance with its articles of association and as per the Corporate laws and amendments made from time to time. They also advise the board of directors on matters of governance, risk management, and compliance, and act as a link between the board and the company's shareholders.

Given their expertise in governance, risk management, and compliance, Company Secretaries are uniquely positioned to become entrepreneurs. They have a deep

understanding of how businesses operate, and are well-versed in the legal and regulatory frameworks governing different industries. This knowledge can be invaluable when starting a business, as it allows entrepreneurs to navigate the complexities of setting up and running a company.

One of the key advantages of Company Secretaries as entrepreneurs is their ability to manage risk. As professionals who are trained to identify and manage risk, they are able to assess the potential risks associated with starting a business and develop strategies to mitigate them. This is particularly important in industries where regulatory compliance is critical, as non-compliance can result in significant penalties and reputational damage.

Another advantage of Company Secretaries as entrepreneurs is their ability to ensure that their businesses are run in a legally and ethically sound manner. As individuals who are well-versed in the legal and regulatory frameworks governing different industries, they are able to ensure that their businesses comply with all relevant laws and regulations. This not only helps to protect the business from legal and reputational risks, but also helps to build trust with stakeholders such as customers, suppliers, and investors.

In addition to their expertise in governance, risk management, and compliance, Company Secretaries also possess a range of other skills that are highly valued in the business world. These include strong communication and interpersonal skills, the ability to manage teams and projects, and a deep understanding of financial and accounting principles. These skills make them well-suited to a variety of roles within a company, and also equip them to start and run their own businesses.

So, what kind of businesses can Company Secretaries start? The answer is almost limitless. Given their diverse skill set and deep understanding of different industries, Company Secretaries can start businesses in a wide range of sectors. For example, they may choose to start a consultancy business that advises other companies on governance, risk management, and compliance to start-ups and to big companies. Alternatively, they may choose to start a business in a completely different field, such as e-commerce, hospitality, education or as human resource consultants.

Whatever the industry, there are a few key steps that Company Secretaries should take when starting a business. The first is to identify a market need or gap, and develop a product or service that meets that need. This may involve conducting market research, talking to potential customers, and identifying trends and opportunities in the market.

Once the business idea has been developed, Company Secretaries should develop a business plan that outlines the key aspects of the business, such as its mission, vision, values, products or services, target market, marketing strategy, and financial projections. This plan will serve as a blueprint for the business and help to guide its growth and development.

Another key step in starting a business is to build a strong team. This may involve hiring employees, contractors, or advisors who possess complementary skills and expertise.

ROLE OF COMPANY SECRETARIES AS CORPORATE LAW ADVISORS

Company Secretaries play a crucial role in the legal and corporate world. One of their significant roles is to act as corporate law advisors and litigation lawyers. Company secretaries, with their in-depth knowledge of corporate laws and regulations, can provide valuable advice to businesses and individuals on various legal matters.

Corporate Law Advisors:

As corporate law advisors, Company Secretaries can help businesses and organizations navigate complex legal frameworks and ensure compliance with various laws and regulations. They can assist in the formation of companies and help with various legal formalities related to corporate governance, such as board meetings, shareholder meetings, and annual filings.

Company Secretaries can also provide guidance on regulatory compliance and risk management, including data protection, anti-bribery and corruption, and competition laws. They can advise businesses on the legal aspects of mergers and acquisitions, joint ventures, and other strategic transactions.

In addition to this Company Secretaries can represent businesses and individuals in various legal disputes, including commercial and corporate disputes, intellectual property disputes, and employment disputes. They can also assist in the resolution of disputes through alternative dispute resolution mechanisms such as mediation and arbitration.

Company Secretaries can also provide legal support in insolvency and bankruptcy proceedings, representing creditors and debtors alike. They can help clients navigate complex legal frameworks related to debt restructuring and recovery.

Company Secretaries with experience in the legal industry can also serve as valuable advisors on legal matters. They

can provide legal opinions on various corporate law matters, such as mergers and acquisitions, joint ventures, capital market transactions, and corporate governance.

ROLE OF COMPANY SECRETARIES AS HR CONSULTANTS AND LEGAL RECRUITMENT PARTNERS

Company Secretaries (CS) are professionals who specialize in the corporate legal and regulatory framework, compliance management, and governance. They play a crucial role in ensuring that a company follows the legal and ethical guidelines set by the government and regulatory bodies. Apart from this, they also offer guidance and support to the management in strategic decision-making, financial management, and risk mitigation.

In recent years, the role of Company Secretaries has expanded beyond their traditional responsibilities, and many of them have started offering human resource (HR) and labor law consultancy services. This article explores the significance of Company Secretaries as HR consultants and labor law consultants.

The role of HR has become increasingly important in today's corporate world. The success of a company largely depends on the performance of its employees, and therefore, it is crucial to have effective HR management practices in place. This is where Company Secretaries can play a significant role.

As experts in corporate governance and compliance, Company Secretaries can provide valuable insights to the management in developing HR policies that are compliant with labor laws and regulations. They can also assist in ensuring that the company's HR policies align with its overall business strategy and goals.

Company Secretaries can help in developing performance management systems, employee engagement programs, and training and development programs. They can also assist in the recruitment and selection process, ensuring that the company hires the best talent that fits its culture and values.

Moreover, Company Secretaries can also help in conflict resolution, grievance handling, and dispute settlement between employees and management. They can play a critical role in ensuring that the company's HR practices are fair, transparent, and comply with labor laws.

In addition to HR consulting, Company Secretaries can also serve as legal recruitment partners. They can assist companies in identifying and recruiting legal professionals for their legal departments. With their extensive knowledge of the legal industry, they can screen and assess the suitability of candidates for the role.

Furthermore, they can assist in drafting employment contracts, non-disclosure agreements, and other legal documents related to recruitment. They can also provide guidance on legal compliance requirements related



to recruitment, such as equal opportunity laws, anti-discrimination laws, and labour laws.

ROLE OF COMPANY SECRETARIES AS LABOUR LAW CONSULTANTS

Labor laws are complex and dynamic, and it can be challenging for companies to keep up with the latest changes and ensure compliance. This is where Company Secretaries can play a vital role as labor law consultants.

As experts in corporate law and compliance, Company Secretaries can help companies navigate the complex labor laws and regulations. They can provide guidance and support in developing and implementing HR policies that comply with labor laws and regulations.

Company Secretaries can help companies in understanding their obligations under various labor laws, including minimum wages, working hours, employee benefits, and safety and health regulations. They can also assist in preparing and filing various labor law-related documents and returns with the relevant government authorities.

Moreover, Company Secretaries can also assist in dispute resolution and settlement of labor-related disputes between employees and management. They can provide valuable insights and guidance to management in ensuring compliance with labor laws and regulations and mitigating legal risks.

ROLE OF COMPANY SECRETARIES AS POSH CONSULTANTS

Company Secretaries, as professionals who are well-versed in corporate law and governance, are increasingly taking up roles as Prevention of Sexual Harassment (POSH) Consultants. This is a natural fit for Company Secretaries, as they are already well-versed in corporate compliance and ethics, making them ideal candidates to help organizations meet their obligations under the Prevention of Sexual Harassment of Women at Workplace Act, 2013.

The role of a POSH Consultant can be quite varied, but generally involves helping organizations to develop and implement policies and procedures for preventing and addressing sexual harassment in the workplace. This may include conducting training sessions for employees, creating awareness about the issue, and setting up an internal complaints mechanism.

One of the key responsibilities of a POSH Consultant is to ensure that the organization is compliant with the relevant legal framework. This includes ensuring that the organization has a POSH policy in place that is in line with the provisions of the Act, and that all employees are aware of the policy and their rights under the law. The Consultant may also be responsible for conducting periodic audits to ensure that the policy is being implemented effectively.

In addition to ensuring compliance, a POSH Consultant may also be called upon to provide guidance and support to employees who have experienced sexual harassment. This may involve counseling, mediation, or providing guidance on the legal options available to the employee.

The role of a POSH Consultant is critical in creating safe and inclusive workplaces. By working with organizations to prevent and address sexual harassment, POSH Consultants play a key role in promoting gender equality and creating a culture of respect and dignity in the workplace.

To become a POSH Consultant, Company Secretaries can pursue specialized training and certification programs that focus on POSH compliance and implementation. These programs provide participants with the knowledge and skills necessary to effectively advise organizations on this important issue.

Company Secretaries are well-suited to serve as POSH Consultants, given their deep knowledge of corporate law and governance. By taking up this role, they can help organizations create safe and inclusive workplaces that are free from sexual harassment and promote gender equality.

IMPORTANCE OF ATTENDING EVENTS BY CS AS ENTREPRENEURS

As professionals in the corporate governance space, Company Secretaries (CS) have a key role in keeping themselves updated on legal amendments and other regulatory changes that impact the business world. Attending various events and seminars can help CSs to not only stay informed, but also to build networks that can prove useful in their careers as entrepreneurs.

Firstly, attending events such as conferences, seminars, and workshops provide an opportunity for CSs to learn about the latest legal and regulatory changes affecting their practice. These events offer access to expert speakers and panelists who can provide insights into new laws, amendments, and court rulings, helping CSs to stay up-to-date with their knowledge and skills. This knowledge is critical in providing quality service to clients as a CS.

Secondly, networking at events is crucial for building relationships that can help CSs grow their practice. Building a network of professionals in the same or related fields can provide opportunities for referrals and business development. In addition, attending events can help CSs to meet potential clients, industry leaders, and other professionals who can provide valuable insights and opportunities.

Thirdly, events can also help CSs to build their personal brand as experts in their field. By actively participating in events, CSs can gain visibility and recognition in the industry, establishing themselves as thought leaders and experts in their area of practice. This can lead to more business opportunities and increased credibility in the eyes of clients and potential clients.

Company Secretaries play a crucial role in the legal and corporate world. One of their significant roles is to act as corporate law advisors and litigation lawyers. Company secretaries, with their in-depth knowledge of corporate laws and regulations, can provide valuable advice to businesses and individuals on various legal matters.

Finally, attending events can also help CSs to identify new business opportunities and stay ahead of their competition. By staying informed on industry trends and emerging issues, CSs can identify areas of potential growth and development for their practice. In addition, attending events can provide insight into the practices of competitors, helping CSs to stay ahead of the curve and differentiate themselves in the market.

In conclusion, attending various events as a Company Secretary is not only essential for keeping abreast of legal amendments under corporate laws, but also for building a strong network and personal brand. With the rapidly changing regulatory landscape, it is essential for CSs to stay updated with the latest trends and developments in their field, while also building relationships and identifying new business opportunities. Attending events can help CSs achieve all these goals and more, making it a critical part of their professional development.

THE IMPORTANCE OF PASSION AND LOVE FOR ENTREPRENEURSHIP IN COMPANY SECRETARIES

When Company Secretaries venture into entrepreneurship, they need to be passionate about their work. Passion drives them to achieve their goals and reach the road to success.

Starting a business requires hard work, commitment, and dedication. A lack of passion for what they do can make it difficult for Company Secretaries to stay motivated during tough times. Passion gives them the energy to overcome obstacles and keep pushing forward.

Being passionate about their work can also help Company Secretaries to stand out from the competition. Clients and customers are drawn to passionate entrepreneurs who are enthusiastic about what they do. They are more likely to trust and respect those who are truly invested in their work.

Passion also drives innovation. When Company Secretaries are passionate about their work, they are more likely to come up with creative solutions to problems. They are always looking for ways to improve their business, and this can lead to new products or services that set them apart from the competition.

Company Secretaries should strive to love what they do and be passionate about it to reach the pinnacle of success.

CONCLUSION

The role of Company Secretaries has evolved beyond their traditional responsibilities, and many of them have started offering HR consultancy and labor law consultancy services. As experts in corporate law and compliance, Company Secretaries can play a vital role in ensuring that companies comply with labor laws and regulations and develop effective HR management practices. They can provide guidance and support to the management in developing HR policies that align with the company's overall business strategy and goals. Moreover, they can also assist in conflict resolution and dispute settlement, ensuring that the company's HR practices are fair, transparent, and comply with labor laws. Therefore, companies should consider engaging Company Secretaries as HR consultants and labor law consultants to ensure compliance and mitigate legal risks.

Company Secretaries (CS) are highly skilled professionals who are responsible for ensuring that businesses comply with legal, ethical, and governance standards. They play a critical role in corporate compliance and risk management, making them an indispensable resource for businesses of all sizes and industries.

One area where Company Secretaries are becoming increasingly popular is in human resource (HR) consulting and labour law compliance. CSs have extensive knowledge of labour laws and regulations and can provide valuable insights to companies on how to comply with them.

HR Consulting Company secretaries can assist companies with HR consulting, which includes developing policies and procedures, conducting performance reviews, and advising on recruitment and training strategies. With their expertise in corporate governance and ethics, Company Secretaries can also help companies to develop and implement corporate social responsibility (CSR) initiatives.

Labor Law Compliance Company Secretaries are well-versed in labor laws and regulations, including the Minimum Wages Act, the Payment of Bonus Act, and the Employees' Provident Fund and Miscellaneous Provisions Act. They can help companies to comply with these laws, which can be complex and challenging to navigate without expert guidance.

In addition, Company Secretaries can also assist with Compliance with the Companies Act. Company Secretaries have extensive knowledge of the Companies Act, which governs the formation, management, and dissolution of companies in India. They can help businesses to comply with the requirements of the Companies Act, including filing annual returns, conducting board meetings, and maintaining company records.



Company Secretaries can assist with the incorporation of new businesses, including advising on the most suitable legal structure, preparing the necessary documents, and registering the business with the Registrar of Companies. Company secretaries can assist businesses with corporate restructuring, which includes mergers and acquisitions, demergers, and asset transfers. They can provide guidance on legal and regulatory compliance, assist with due diligence, and prepare the necessary documents for the transaction. Intellectual Property Rights (IPR) Company Secretaries can also provide guidance on intellectual property rights (IPR), including trademarks, patents, and copyrights. They can help businesses to protect their intellectual property, advise on licensing agreements, and assist with the registration of IPR. Company Secretaries can also assist with compliance with tax laws, including the Goods and Services Tax (GST), Income Tax Act, and Foreign Exchange Management Act (FEMA). They can help businesses to comply with tax laws, prepare tax returns, and advise on tax planning strategies.

In conclusion, Company Secretaries are highly skilled professionals who can provide valuable support to businesses in many areas, including HR consulting, labor law compliance, compliance with the Companies Act, incorporation of companies, corporate restructuring, IPR, and compliance with tax laws. They can work as independent consultants or as part of a larger consultancy firm, providing businesses with the expertise they need to succeed in today's complex and ever-changing business environment.

In conclusion, Company Secretaries can play a significant role as corporate law advisors. Their in-depth knowledge of corporate laws and regulations, coupled with their expertise in corporate governance and compliance, makes them invaluable to businesses and individuals seeking legal advice.



E-Courts embarking on Phase-III: Judicial Move for Indian Judiciary

The women professionals as well as litigants used to face several difficulties before the e-Court Mission Mode Project. Now with the help of digitization through the said project, women professionals will be able to make advancement in their career and manage their professional growth alongside their household obligations. The articles aims to provide a brief on e-Court Mission Mode Project and status of its implementation, execution and targets achieved so far with special emphasis on Action Plan for Phase III and its implications inter alia on all women stakeholders.



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“Virtual hearings have helped Women tackle gendered demands, allowed new mothers to argue from their homes”

- said Justice Chandrachud while speaking at memorial lecture of Justice PM Mukhi.

INTRODUCTION

The velocity of e-Court Mission Mode Project has once again gained its momentum with the announcement of allocation of Rs. 7,000 Crores for Phase-III in the Budget, 2023-24. With the advancement of virtual hearings during the COVID-19 pandemic, it may be said that adversity has led to prosperity too. The Judiciary is trying its best to adopt technology in best possible manner just like all other pillars of the Government. The advent of Phase III of the Project inter alia is likely to create even more convenience for women judicial fraternity as well as other women stakeholders in every aspect be it initiation of litigation, transparent pleadings or timely justice. The women professionals as well as litigants used to face several difficulties before the e-Court Mission Mode Project. Now with the help of digitization through the said project, women professionals will be able to make advancement in their career and manage their professional growth alongside their household obligations. The articles aims to provide a brief on e-Court Mission Mode Project and status of its implementation, execution and targets achieved so far with special emphasis on Action Plan for Phase III and its implications inter alia on all women stakeholders.

The “National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the Indian Judiciary – 2005”, prepared by the e-committee of Hon’ble Supreme Court is the genesis of e-Courts Project in India. Department of Justice, Ministry of Law and justice, Govt. of India monitors and provides fund for the project and it is governed by e-committee of Hon’ble Supreme Court. The project aims to digitize Indian Judiciary in all possible manner right from submission of litigation to the pronouncement of final order. National Judicial Data Grid (NJDG), which provides information of pending cases in real-time is one of the major outcome of the e-Court Mission Mode Project. The initiative was recognized by the World Bank also. In its Ease of Doing Business Report for the year 2018, it mentioned:

“India made enforcing contracts easier by introducing the National Judicial Data Grid, which makes it possible to generate case management reports on local courts.”

Following are the objectives of the Project [as per e-Court Project Website - <https://ecommitteesci.gov.in/>]:

- To provide efficient and time-bound citizen centric services delivery as detailed in e-Court Project Litigant’s Charter.
- To develop, install and implement decision support systems in courts.
- To automate the processes to provide transparency in accessibility of information to its stakeholders.
- To enhance judicial productivity, both qualitatively as well as quantitatively, to make justice delivery system affordable, accessible, cost effective, predictable, reliable and transparent.

IMPLEMENTATION

The e-Court Mission Mode Project is considered as one of the most successful projects in India due to its strategic and effective phase-wise implementation with the aim to provide Free and Open Sources (FOSS). The e-Court Mission Mode Project comprises of following 3 (three) phases:

(a) Phase I:

The Phase I commenced in the year 2007 with the mission to provide Information Technology infrastructures like computer, server centre, software, hardware component, etc. to the Courts. With the help of this, the courts could develop and maintain websites, train its staffs and judicial members, initiate Case Information System, etc. which ultimately resulted into much needed ease to all the stakeholders. **Exhaustive List of the activities proposed for Phase-I were as follows:**

- (i) Creation of computer room at all the court complexes with internet provisioning.
- (ii) Providing laptops to judicial officers and judges.
- (iii) ICT Training for the 1st year.
- (iv) System Software (OS, RDBMS, Office Packages etc.)
- (v) Creation of centralized facility for system administration.
- (vi) Manpower development and retention cost.
- (vii) Up-gradation of ICT Infrastructure in Supreme Court and High Courts (1st year).
- (viii) Project Management Consultancy, Monitoring and Change management.
- (ix) Extension of computer facility at process places, judges chamber, court hall filing scrutiny section and certified copy section and computer room within the court complex.
- (x) Upgradation of ICT and power infrastructure.
- (xi) Upgradation of centralized facility for system administration.
- (xii) Upgradation of computer facility computer room and providing scanner at the computing facility.
- (xiii) Manpower and Training Cost for the 2nd year.
- (xiv) Up gradation of ICT Infrastructure in Supreme Court and High Courts (2nd year).
- (xv) Project Management Consultancy, Monitoring and Change management.

The Phase I was successfully implemented and executed and the stipulated target was finally achieved in the year 2015 (with extended timeline) with some transitions to Phase-II. Data from the official website of e-courts are as follows:

- 7,500 Servers, 1,45,000 Desktops were provided in 3000 District and Taluka Court Complexes across the Country.
- Around 19,000 Laptops were procured for Judicial Officers.

- National Data Centre houses NJDG and citizen centric applications, like ecourts.gov.in, NJDG using ELK, Mobile Apps, e-Filing, with more than 250 VMs of which 70 were used as database VMs and remaining as application and Elastic search VM.

(b) Phase II:

The Phase II was sanctioned by the Government of India on 04th August, 2015. While the emphasis of Phase I was majorly on providing necessary Information Technology infrastructure, the Phase II emphasized on utilization of the infrastructure by litigants and judicial fraternity. Exhaustive List of the activities proposed for Phase-II was as follows:

- (i) Creation of ICT Infrastructure for additional courts to be created during the project period as per the direction of the Supreme Court in All India Judges Association v Union of India, (2002) 4 SCC 247, pr. 25.
- (ii) Provisioning of video conferencing facility between under trail prisoners and magistrate with video monitoring.
- (iii) Installation of Wireless Internet facility system in the Supreme court and High court complexes.
- (iv) Infrastructure upgradation for centralized facility.
- (v) Manpower and training.
- (vi) Up-gradation of Centralized facility Digital Archive of record room and library Management system.

MAJOR RESULTS OF THE PHASE II ARE AS FOLLOWS:

- National Judicial Data Grid for District Courts and High Courts
- Case Information System for District Courts and High Courts
- E-Filing
- National Service and Tracking of Electronic Processes (NSTEP)
- E-Payment
- Virtual Courts
- E-Court Services Mobile Application
- JustIs – A Mobile App exclusively made for Judicial Officers
- Migration to Cloud

- E-Courts National Portal
- Automated emails and Push and Pull SMS
- Integration with external agencies/departments
- Capacity building and self reliance – Role of DSA (District System Administrators)

In light of the above, it can be concluded that the Phase II of the Project aimed to be **litigant-centric** and successfully achieved the same. However, the transition of Phase II to Phase III will be challenging in view of huge expectations of the stakeholders. Further, since the Government has announced such a major chunk of outlay for Phase-III, the aim shall now be to justify such allocation also.

(c) Phase III:

In light of the aforesaid, it can be submitted that the first two phases of eCourts have provided a strong base not only for convenience in judicial trials but also for technological innovations. The same is evident from the modular services developed by individual High Courts.

The Draft Vision document for Phase – III has already been prepared and once approved by the e-committee, the same will be the Vision Document for Phase – III of the e-Courts project. The Phase III envisions adopting an ecosystem approach in order to support scale, speed and sustainability. As submitted in the draft Vision Document, the phase III of the e-Courts project envisions a judicial system that is more accessible, efficient and equitable for every individual who seeks justice or is a part of the delivery of justice in India. Key highlights of the vision documents are as follows:

WHAT IS THE ECOSYSTEM APPROACH IN TERMS OF E-COURT PROJECT?

- Design for the ease and access of multiple ecosystem actors simultaneously: litigants, lawyers, registry & judges.
- Opportunities for multiple parties (High Courts, startups, govt. law chambers, etc.) to innovate over the digital infrastructure.
- Offer seamless service delivery across police, prisons, legal aid authorities through open standards specifications & APIs.
- Enable access to open data, subject to privacy regulations.
- Governance frameworks that set rules around platform usage, including data privacy and security.
- Analytics led and insight driven to improve accountability & feedback.

India made enforcing contracts easier by introducing the National Judicial Data Grid, which makes it possible to generate case management reports on local courts.

BENEFITS FOR STAKEHOLDERS:

- **Citizens**
 - ♦ Better scheduling mechanisms, online digital filings, and different mediums of hearings will provide certainty of events, increase access to courts from anywhere, and advance access to timely justice.
 - ♦ Digital orders in multiple regional languages will significantly improve understanding of the process and access to justice.
 - ♦ E-filings and virtual hearings will reduce legal and travel costs, thereby reducing the costs of accessing justice.
 - ♦ Proactive alerts and information, live streaming of cases, and open data that would constantly evolve and better the system, will increase transparency and trust in the system.
 - ♦ Case information across various courts can be uniform in structure, which will enable tracking of case status in various courts simpler.
- **Lawyers**
 - ♦ Seamless filings, service of summons / prior notice to the opposite party and hearings from their cities or homes will bring time and cost efficiencies to their practice.
 - ♦ Make available the same records of files as the courts since the digital case file available with the lawyer / litigant will be identical to the court record of the case. Further, changes being in real time, will reduce the need for inspection or regular updation of case files by the lawyer / party. This will also avoid issues arising from loss of case records or the need to reconstruct case files.
 - ♦ Better scheduling will enable better time utilisation.
 - ♦ Orders from different courts made available in regional languages will enable smoother transition of cases from court to court.



- ♦ Digital hearings and e-filings will enable the practice of law to ***become more inclusive for women*** and differently abled lawyers.
- ♦ Greater access to information about similar cases will support crafting legal arguments and strategies.
- **Judges:**
 - There will be greater data, information and support for decision making about the management of the case flow.
 - ♦ A unified digital platform will enable courts to track the progress of cases from the court of original jurisdiction through appellate courts.
 - ♦ Intelligent scheduling will support prioritisation of cases as well as time management.
 - ♦ Greater ease to search, track and index digital documents, will make it easier to access facts and legal precedents in real-time.
 - ♦ Greater access to information and research tools.
- **Court Staff:**
 - ♦ Automating processes for scrutiny and review of filed documents. Digital filings will optimise time, minimise errors and increase effectiveness of the Registry.
- ♦ Reduce dependence on the physical registry.
- ♦ Smart templates for orders and the design of case management systems being built on top of machine-readable files can reduce workload of court staff by minimising need to input data.
- **For the Judicial and Legal System:**
 - ♦ Better data visibility on types and classes of cases that create most caseloads and how they proceed will enable more targeted intervention and resource allocation by the judiciary.
 - ♦ Seamless integration of the judicial system with that of the police, prisons, prosecution, etc., which will improve the speed of information sharing and more efficient processes.
 - ♦ Data generated by the system will help inform better laws, procedures, and more effective resource allocation.
 - ♦ Accessible open data will enable researchers, academics, and civil society to better understand the functioning of the judicial system.
 - ♦ Minimizing paper-based processes will bring a significant reduction to the environmental costs of the judicial and legal system.
 - ♦ There will be increased security, and minimal time and costs, of moving physical documents from one court to another.



E-COURTS AND WOMEN STAKEHOLDERS

Our society is still in stereotyping zone where household chores are still considered as responsibility of the women family member alone, no matter how educated and technically skilled they are. At some point of time, they are bound to take break from their career and even when they re-start their career they feel left behind due to the frequent advancements and updates. In such a scenario, it becomes difficult for a woman to step up for a profession which requires more physical movement. Virtual hearings have come as a silver lining for all such women especially young mothers to manage their career and cater needs of their family simultaneously. Further, not just as a professional but virtual hearings and data accessibility has also helped women citizen in approaching courts independently without support of male members of the family and that too through a safe environment.

The aforesaid is also evident from the fact that when post covid era, when the courts started to return back to physical hearing, considerable number of women practicing at Supreme Court submitted their representation to the Chief Justice of India for virtual/hybrid hearings.

CHALLENGES

“Given an opportunity to place the technological infrastructure of Indian judiciary on a robust basis, the question today is not whether we should adopt technology but how well do we adopt technology.”

Justice D.Y. Chandrachud

Like everything else, the success of e-Court Mission Mode Project too has to face some challenges. Few of them are listed below:

- Where countries like UK, USA, China, etc. with similar initiatives is well equipped with information and communication technology, India is still struggling to maintain its pace with such a huge population. Further, the advancement of information technology in these countries started much before than in India and as such judicial stakeholders in such countries are way more versed with technology than citizens of India.
- Some members of judicial fraternity still resist virtual hearings for the reason of criticism from public at large.
- Further, for the initiative to be successful and delivery of justice to all, it is essential that technology must be accessible for all class of citizens including the under privileged as nobody should be deprived of justice because of non-accessibility of required resources. In such a case complete transition to digitization may prove to be unjust.
- Lack of awareness about e-courts among common citizens. Initiative must be taken to publicize the e-courts and made the same at par with the general courts when it comes to awareness.
- To cope up with the ever-changing technological means and gadgets.

CONCLUSION

Needless to say that the E-Court Mission Mode Project is already a successful and applauded project and with considerable solutions to the aforesaid challenges, it will become inevitable. **Starting from Work from Home, then to Meetings from Home and now through Justice From home, India has come a long way inter alia in providing gender equity.** A woman can now pursue her judiciary career even when confined to four corners of her house. With support from the Government and acceptance by public at large, among other sector women population of the country also will definitely achieve new milestones through the E-Court Mission Mode Project. Government has already shown its support through a considerable outlay of Rs. 7,000 Crore in the recent budget and now it is up to the judicial fraternity and other stakeholder to justify such an allocation.

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Governance in Mergers and Amalgamations

The Companies Act is classic example of inbuilt Good Governance practices. Even 100 years before, the Companies Act, 1913 was having provisions for approval of Court to reduce capital etc. The principles behind drafting any provisions for Governance are same even today. The structure and the language may be different. Logic is said to be the basic language of mathematics, but we experience that Logic is the basic language of any law too. If we take any provision, we will find logic in it. Some transactions are beyond approval of even owners of the Company. If we look back 100 years, we shall see the logic is same, the process and methods might have changed as per the economic and social environmental progress. Few procedural changes that evolved are, instead of High Courts it is now National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) for approval of reduction of share capital or compromise or arrangement with shareholders /creditors. Securities and Exchange Board of India (SEBI) came in existence from 1992 and it was a major step in ensuring Governance for listed Companies.



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INTRODUCTION

It is always said that the Governance is the responsibility of both i.e. administrator and people. The Companies Act is classic example of inbuilt good Governance practices. Even 100 years before, the Companies Act, 1913 was having provisions for approval of Court to reduce capital etc. The principles behind drafting any provisions for Governance are same even today. The structure and the language may be different. Logic is said to be the basic language of mathematics, but we experience that Logic is the basic language of any law too. If we take any provision, we will find logic in it. Some transactions are beyond approval of even owners of the Company. If we look back 100 years, we shall see the logic is same, the process and methods might have changed as per the economic and social environmental progress. Few procedural changes that evolved are, instead of High Courts it is now National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) for approval of reduction of share capital or compromise or arrangement with shareholders /creditors. Securities and Exchange Board of India (SEBI) came in existence from 1992 and it was a major step in ensuring Governance for listed Companies. Further, any corporate action like reduction of capital, compromise or arrangement etc. involving a listed entity requires approval of even SEBI.

Governance is no Longer the Luxury of Compliance, it's an expectation of the regulator and the stakeholders of the Company.

WHY SOME TRANSACTIONS REQUIRE JUDICIAL APPROVALS?

The Corporate transactions can be bifurcated into two categories: -

- Internal, which requires approval of Committee/ Board and shareholders if they cross certain prescribed thresholds. For example - Buyback, Issue of securities, Variation of Shareholder's Rights etc.
- External, which has impact on company as well as other stakeholders, and which requires approval of Quasi-Judicial or Judicial bodies. For example, Merger and Amalgamations, Demerger and Capital Reductions, etc.

Voting requirements are set for internal and external transactions as follows: -

Nature of Transaction	Internal / External	Min % Votes Required in Favour
Issue of Securities	Internal	75% (Special Resolution)
Buy Back of Securities	Internal	75% (Special Resolution)
Variation of Shareholder's Rights	Internal	75% (Special Resolution)
Capital Reduction	Internal + External	75% (Special Resolution)
Merger/Demerger	Internal + External	¾ in Majority and 50% in Person

The voting Requirement by shareholders for passing resolution for Internal Corporate transactions are Ordinary resolutions in some cases and Special Resolutions in some cases, i.e. 50% or 75% votes in favour. However, in case of External Corporate transactions, like Compromise and arrangement with member or creditors i.e. merger and amalgamations and Demerger

the voting requirement under Companies Act, 1913, 1956 and 2013 has always been majority representing three fourth in value. This gives us a clear highlight that Voting criteria for External Corporate transactions i.e. M&A Transactions were always thought at a level ahead that of other transactions and should be at higher governance level above all.

The concept of Judicial approval for Compromise and arrangement with members and creditors (Merger and Amalgamations, Demergers, Capital Reductions, and other scheme of Arrangements etc.) strikes back from the Companies Act, 1913 under section 153 and was continued in the Companies Act, 1956 under sections 390 to 393 and still continues in Companies act, 2013 under Sections 230 to 233.

The importance of judicial approval over and above the shareholder approval is the best example of Governance. We need to understand the logic behind requirement of approval of Court / NCLT in such transactions. The logic is explained in plenty landmark judgements pronounced by Hon'ble Courts and Hon'ble NCLT bench.

HON'BLE COURTS' /NCLT APPROACH

a. Public Interest

Hon'ble Courts, over the period of time, have been firstly looking into whether the transaction is in public interest? Various courts have set various benchmarks in various landmarks Judgements passed related to public interest.

Courts have always been ensuring that the Public Interest is first served in any scheme of arrangement, and it shall not violate any provisions of law. For eg: *Gujrat High Court in Union of India vs Ambalal Sarabhai Enterprises Ltd* had rejected the scheme on the grounds of not being in public interest.

Each stakeholder may represent different interest in the Company and a M&A Transaction may affect each one of them differently. While conducting M&A Transactions, fair and transparent disclosures with respect to transaction proposed, objective to be achieved, financial position before and after the merger etc., in every possible way is the honest expectations of all the stakeholders and any failure to this can lead failure of entire transaction.

It is said that there are four pillars of corporate governance i.e., Transparency, Accountability, Fairness and Responsibility. Court has been looking into this factor critically and evaluating the schemes and transactions to be in best interest.

Following are some Stakeholders in case of M&A Transactions

Members – Their Interest is at supreme in M&A Transaction, it affects in the form of share exchange, it directly impacts the ownership of the company.

Governance is no longer the luxury of Compliance, it's an expectation of the regulator and the stakeholders of the Company.

Institutional Investors – This investor always ensures to have a prior approval clause for any M&A Transactions in their Shareholder's Agreement.

Creditors and Bankers – Creditors and Bankers seeks comforts for their repayments, liquidity of the company post transaction is the ultimate point which they may look at.

In Ramco Super Leather Ltd v Dhanalakshmi Bank Ltd (2009) Com Cases 437 (Mad-DB), Loan agreement mentioned prior consent requirement for Amalgamations and such consents were not obtained. The court have passed the merger subject to such secured creditors consents.

Customers – They are the one's getting indirectly impacted /affected by M&A transactions in some cases.

Employees – Scheme of M&A Transactions ideally takes care of Employee's retention of the transferor companies; employment terms which may vary between transferee and transferor company would be one of the important factors to be looked at in case of Mergers or Amalgamations.

In Bank of Baroda v. Mahindra Ugine Steel Co Ltd (1976) 46 Com Cas 227 (Guj) it was held that Company shall ensure employee's interest are not affected.

Courts, over the period of time, have been looking into numerous subjects which may become the matter of concerns, viz

- Fair treatment to minority shareholders or public shareholders over promoters and all classes of members and creditors,
- Retention of Employees of transferor companies,
- Ongoing litigations in the company which may get affected due to sanction of the scheme,
- Liquidity position of the Company post transaction so as to be able to repay to its creditors,
- Transaction is not Violative to any provisions of law.

Supreme Court in Miheer Mafatlal V Mafatlal Industries Ltd has laid down list of factors that ideally court shall look into while approving scheme.

Courts have been pressing one or other Governance angle in various cases up till now and one among it have been “**Prudent Business Management Test**”. In *Hindustan Lever Employees’ Union vs Hindustan Lever Limited And Ors on 24 October, 1994* following is notable

“Section 394 casts an obligation on the court to be satisfied that the scheme for amalgamation or merger was not contrary to public interest. The basic principle of such satisfaction is none other than the broad arid general principles inherent in any compromise or settlement entered between parties that it should not be unfair or contrary to public policy or unconscionable. In amalgamation of companies, the courts have evolved, the principle of, ‘prudent business management test’ or that the scheme should not be a device to evade law.”

b. Meetings vs Consents

Court convened meetings of classes of members and creditors on the directions of Courts have set various precedents in various ways over the period of time. Courts have been dispensing meetings of Members in below cases:

- Where consents have been obtained in full, from members, (Doctrine of Acquiescence),
- Where the merger is between Holding and Wholly owned subsidiaries, and
- Where shareholding structures are same in transferor and transferee companies.

There have been various precedents where court has dispensed the meetings of creditors and shareholders basis the above pointers.

National Company Law Appellate Tribunal, Principal Bench, New Delhi in Company Appeal (AT) No. 19 of 2021 in the matter of Ambuja Cements Limited, Company Appeal (AT) No. 180 of 2019 in the matter of DLF Limited, Company Appeal (AT) No. 148 of 2021 in the matter of Ericsson India Private Limited has allowed the dispensation of meetings of shareholders and creditors Considering the Holding and wholly owned subsidiary merger on the grounds that the existence of transferee company will remain as before any reorganisation, no change in the shareholding pattern of the transferee company and Net worth of both the companies being positive.

Further since Companies Act, 2013 provides under Section 230, Courts have been dispensing the meeting of creditors if 90% in value of creditors agree to scheme by giving consent affidavits. However, such provision was not there in Companies Act, 1956 and courts were at liberty to dispense the meeting of creditors even if less than 90% in value of creditors agreed to the scheme.

It is interesting to note that courts have been very cautiously handling the matters of dispensing the meeting of members and creditors and satisfying themselves with reasonable assurance of fairness to the matter. Supreme court in *BV Gupta v Bangalore Plastics (C.A no. 1676/1981)* have made it clear that there is no uniform rule in which of the cases meetings shall be ordered or dispensed. Discretion of Court to dispense the meeting shall be exercised only in exceptional circumstances. This clearly highlights how the courts have been ensuring the governance in dispensation of meetings.

c. Publications

Publication of Notices of Court convene meetings and final hearing dates have been one of the important process in M&A Transactions, courts have been looking into the aspects where there have been large shareholders or creditors or other stakeholder likely to get affected by virtue of sanction of the scheme.

Publication of notice in small region is not a compliance of section 391(1) of the Act was held in *G.V. Films Ltd, In Re (2009) 150 Com Cases 415 (Mad)*

d. Chairman Report and Scrutiniser

While giving the directions of meetings, the Court decides who shall act as Chairman and Scrutiniser of meetings. Courts are at liberty to appoint Independent Chairman and Scrutinisers for the meeting to ensure fairness while conducting the meeting and transparent voting mechanism being followed.

Courts have relied on Independent scrutiniser when Ballot boxes were challenged to be not sealed properly in *Modern Syntax (India) Ltd., In Re, (2009) 149 Com Cases 843 (Raj)*

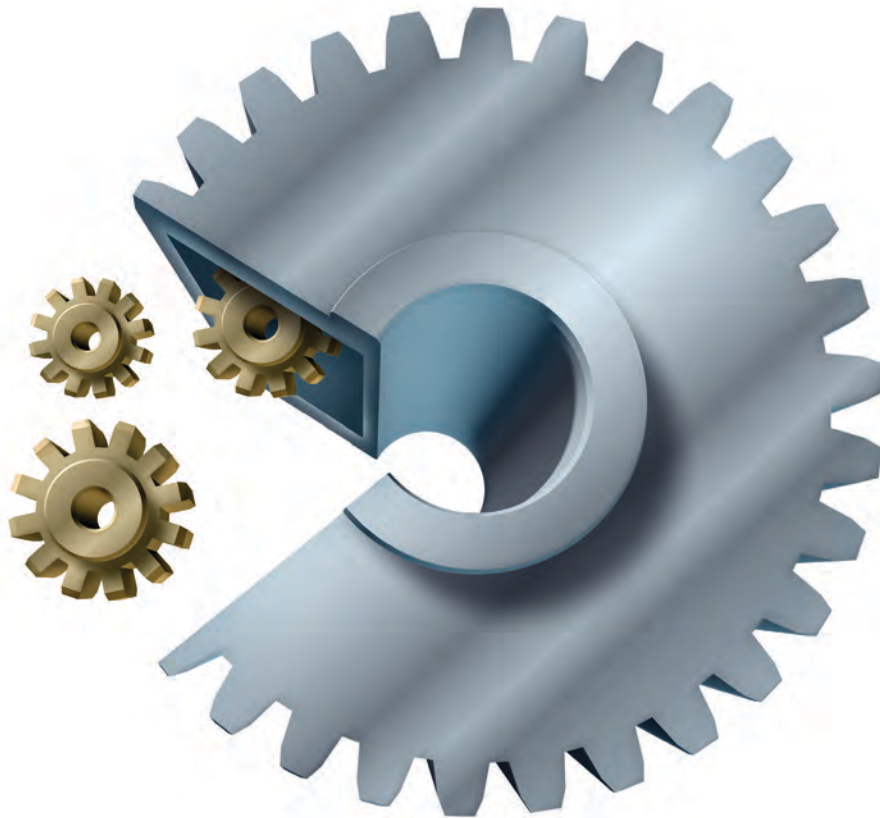
Courts have been placing reasonable expectations from Chairmans of such meetings to ensure that meeting is conducted in fair and transparent manner and voting is taken place without errors and defaults.

Chairman is bound with duty to submit his report to the Court in an affidavit format giving the proceedings and results of the meeting.

Appointment of Independent Chairman and Scrutinisers can be seen as one of the governance pillars in the procedural aspects of M&A transactions.

REGULATORY AND PROFESSIONAL'S REPORTING IN M&A TRANSACTIONS

We can understand that how different regulators and professionals ensure the governance and their responsibilities in case of M&A Transactions. Some perspectives of Regulators are given below:



a. Regional Director (RD)

The Concept of representation by RD for M&A Transaction started with Companies (Amendment) Act, 1965 whereby section 394A was added which required “Courts to give notice to Central Government and consider the representation made by it”. The power of Central government was delegated to Regional Director. This amendment brought a major change in M&A Transactions. A real Governance hit got triggered by virtue of this change which can be witnessed in all of the M&A transactions which we see today. Under new law, Section 230 (5) of Companies Act, 2013 requires the Notice to be given to Central Government (Regional Director) for M&A Transactions.

Basically, the role played by Regional Director in M&A Transactions is the second most important role after Court/NCLT, as he has to ensure to bring out any of the lapses, non-compliances, faults in the scheme, or any inferior motive of the scheme in front of NCLT by way of his report (representation). RD has been seen raising concerns on various grounds in the interest of stakeholders. Before RD submits the report/representation to Courts, Registrar of Companies in turn submits his findings of the M&A Transactions to RD.

Considering the concerns raised by RDs, Courts / NCLTs have been approving the M&A Transactions

only after concerns being reasonably satisfied or assured to be taken care by the companies involved. This makes it clear that the weightage of RD’s Reports/representation have been enough space to include governance points and Courts/ NCLTs would duly considers it in public interest.

b. Official Liquidator Reports

In case of M&A Transactions, wherein transferor company gets merged with transferee company and loses its existence, it can be said to have dissolved without following the process of winding up. If we refer Proviso to section 394(1) of Companies Act, 1956, and under section 230 (5) of Companies Act, 2013 we understand that the NCLT’s power to pass such order of dissolution without winding up comes on the basis of report or clearance from Official Liquidator who has, on scrutiny of the books and papers of the company, made a report to the NCLT that the affairs of the company have not been conducted in a manner prejudicial to the interests of its members.

Procedure for winding up of the company falls under the domain of the Official Liquidator. In cases of amalgamation where the company is ceasing to exist, the role of Official liquidator becomes more important and has powers to make representation. Official Liquidator, ideally through Chartered accountants, conduct Due Diligence of last 5 years of transferor companies and on the basis of this due diligence,

makes his report /representation to NCLT. This due diligence of transferor companies by professionals shows how governance is taken care while the transferor company gets merged with Transferee Company.

c. Other Regulators (IRDA, RBI, MIB etc)

In case of companies which are highly regulated, viz, Insurance companies, banks, non-banking finance companies, media companies; the industry specific regulator ensures to protect the interest of stakeholders in case of M&A transactions under the specific acts, rules and regulations applicable to the industry and also by various guidelines and bye laws. In some cases, prior approval of specific regulator is required, and this in turn ensures the governance part of such companies.

A point worth noting is that the process of M&A transactions before NCLT keeps moving ahead even though the specific regulatory approval is pending and the matter before NCLT may get disposed off subject to effective date that may be a later date, i.e., on the date of approval from industry specific regulator. But there may occur a scenario where Industry Specific regulator may not be comfortable with the transaction/scheme or may suggest some material modification in the transaction/scheme and in such case, the transaction/scheme may have to be routed to NCLT again. In case of such companies, proper planning helps for timely success of M&A Transactions. Ideal governance would be to have an approval from Industry Specific regulator before initiating the M&A Transactions.

d. Valuation Certificates

Valuation is very critical part of any transaction, and entire success depends on fair valuation. In many cases, valuation reports have been seen getting opposed especially when public is largely involved or where minorities are getting affected by valuations. Courts have been raising concerns on valuation over a period of time.

Valuation report by Registered valuer got mandatory by law under Companies Act, 2013 adding up one more level of governance backed with law. Earlier requirement of valuation report was at discretion of Courts and there was no specific requirement of law that there should be valuation report from chartered accountants (*Gulmohar Finance Ltd., In re (1995) 5 SCL 207 (Del).*) However, valuation report backed with proper workings of share exchange was seen giving more confidence to Courts in their decision of M&A Transactions in various cases.

One important factor that always gives a concern is the time between the valuation date agreed upon and date of actual sanction of M&A Transaction. There may be events affecting the valuation directly or indirectly during that period and that's where

the Courts ensure the fairness of the schemes or transactions and the consideration arrived at while delivering the judgements.

e. Accounting treatment Certificates

Accounting treatment certificate from Statutory auditors of the Company was a new certification requirement under Companies Act, 2013 under section 232 (3), for the purpose of assuring the accounting part of the M&A Transactions adding one more governance step in process of M&A Transactions.

OPPRESSION AND MISMANAGEMENT – TOOL FOR HALTING M&A TRANSACTIONS

In case of M&A Transactions where there are minority shareholders, it is often seen that their interest comes to argument on some complaints or objections raised by them on the basis of fair valuation or loss of shares in case of fractional entitlement or scheme not being in their interest and here is where the entire transactions come to halt unless their interest is being taken care in the best way.

Courts in such scenarios has been looking into compliance of law from every angle and whether the scheme has been fair in best possible way to every member.

Calcutta High Court in Maknam Investments Ltd In re (1996) 87 Com Cas 689 (Cal) said that it is a matter for the shareholders to consider commercially whether amalgamation or merger is beneficial or not. The Court is really not concerned with the commercial decision of the shareholders until and unless the Court feels that the proposed merger is manifestly unfair or is being proposed unfairly and/or to defraud the other shareholders.

Further *In Core Health Care Ltd In re Nirma Ltd In re 2007 138 CC 204* it was read that, *Mere finding of item or details in the scheme which are open to valid criticism is not unfairness. After all a man may have an offer made to him and although he would prefer something better, would be quite prepared to accept it because it was good enough in all the circumstances.*

Courts have been seen to handle the M&A Transactions related to minorities with due caution, and at the same time, also trying to balance out the equation of not letting minority to take control or charge of transactions which ideally may be beneficial to Corporates but are forcibly brought down based on minority objections.

SCHEME CREATIVITY VS GOVERNANCE

Bombay High Court in *PMP Auto Industries Ltd, S.S. Miranda Ltd and Morarjee Gokuldas spinning and Weaving Co Ltd Re (1994) 80 Com Cases 289 (Bom)* has considered scheme of M&A Transactions can be cleared in Single window mechanism, it means some activities which are related to M&A Transactions can be part of scheme and can be approved all together and separate

procedure need not be followed for the same. However, one should remember that it does not open the doors to do something which appears to be within the scope of law and may not be. One has to make sure that if any compliance is not in purview of the scheme expressly, it should be complied with from a wholistic perspective.

Scheme of Arrangements / M&A Transactions cannot be used as a tool to achieve the objective or do something which otherwise is not possible within scope of law and therefore one must be very careful while strategizing the M&A Transactions. Broadly any transaction should not be unfair or against the law (*In Re; Aksh Optifibre Ltd (2007) 77 SCL 219(Raj)*)

PROCESS TIGHTENING FOR LISTED SEGMENT

SEBI's one of the supreme roles is Investor Protection and with the increase of M&A transactions in case of Listed Companies over the period of time, SEBI has been tightening the process and requirements for M&A Transactions by listed entities. This can be witnessed as per Master Circular dated 23 November 2021 and some recent SEBI Circulars that give detailed requirements to be complied by listed entities while undertaking scheme of arrangements. Stock Exchanges has also started coming out with their requirements and timelines.

Following are some of the recent changes that are brought for M&A Transactions involving Listed Companies:

- Lender's approval (Schedule Commercial Banks / financial Institution) has now been mandated at stock exchange approval level, to have a clarity for the success of transaction.
- Undertaking from Listed Entity that there has been No material event impacting valuation during the Intervening period of filing scheme documents. This has always been point of question and will now give safeguards to NCLTs.
- Declaration from listed entity on past defaults of listed debt obligations, if any of entities forming part of scheme.
- 15 working days timelines from the board meeting has been enforced for making application for No Observation Certificate (NOC) from the Stock Exchange. Prolonged process in obtaining the NOC changes various factors and circumstances.

If we analyse these changes, we can come to conclusion that M&A Transactions are now been looked more from Governance point and SEBI & Stock Exchanges may continue to raise the level.

FUTURE OF M&A IN INDIA

India is growing magnetically and attracting lot of World's best corporates to do business in India, we are moving towards the dream of 5 trillion-dollar economy,



and this would not be possible unless the governance pillars are strong enough to win the confidence of Stakeholders.

With the growing economy, the corporates would grow at much larger pace and would also take the benefits of corporate restructuring techniques permitted in law. With all this, law makers and regulators will ensure to have a better governed economy and governance level will keep on rising.

In future many new sectors will get evolved and more sectoral regulators would get involved in M&A Transactions approvals, as each sectoral regulator will need to ensure the interest of its stakeholders, hence, governance level in M&A Transactions will keep on rising in coming future.

Although governance is important in M&A Transactions, but timing of completion of M&A Transactions is also very important. Members would have approved the scheme based on valuation derived as on a particular date. In today's dynamic world, there are innumerable factors which can affect the valuation within a short span of time. If the entire process of M&A takes 7-8 months or even a year or more, then the whole rationale of undertaking the M&A Transaction may get defeated and the valuation, which would have been the basis of the scheme, may not remain relevant at all.

CONCLUSION

Hence, it is now a high time for limiting the time taken for overall M&A process while ensuring that the governance aspects are not compromised. Off late, the Regulators have been taking steps to reduce the timeline at various stages. In future, let's hope for many more such decisions taken by Regulators and overall time span taken for M&A Transactions will be reduced considerably.

Development of Social Stock Exchange: An Opportunity for Practising Company Secretaries

Social Stock Exchange identifies social enterprises as the ones engaged in creating a positive impact in society. It works as mediator between the Social Enterprises who are in need of funds and the Investors who are willing to invest money for this social cause. The SEBI has set up the regulatory framework for the working of the SSE and issued regulations for Social Enterprises for registration and listing on SSE. This article highlights the growing opportunities for Practising Company Secretaries in the area of Social Stock Exchange.



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INTRODUCTION

The concept of the Social Stock Exchange (SSE) caught everyone's attention when Hon'ble Finance Minister,

Smt. Nirmala Sitharaman, in her union parliamentary budget 2019-20 proposed to create an electronic fundraising platform under the regulatory ambit of SEBI for listing social enterprises with the following objectives: (i) To provide a regulated platform that brings together an investor and Social Enterprises (SE). (ii) To facilitate the funding as well as the growth of social enterprises. (iii) Setup mechanism to ensure robust standards of social impact and financial reporting. Accordingly, SEBI vide its notification dated 25th July 2022 made amendments to SEBI (ICDR) Regulations, 2018, and SEBI (LODR) Regulations, 2015. This notification developed the framework on SSE and inserted chapter IX-A viz. obligations of social enterprises. The Central Statistical Institute of India announced in 2009 that there were 3.3 million NGOs registered in India even if 1% of them get registered with SSE it comes to be a big number. To date the number of registered NPO under NSE has not crossed the double figure, the details of registered NPOs are as under.

Table 1

SR. NO.	NAME OF THE NPO	REGISTRATION WITH SSE	REGISTRATION VALID*	WEBSITE OF THE NPO
1	Gramalaya Trust	05-Apr-2023	04-Apr-2024	https://www.gramalaya.org/
2	SGBS Unnati Foundation	05-Apr-2023	04-Apr-2024	https://unnatibl.org/
3	Masoom Trust	05-Apr-2023	04-Apr-2024	https://masoomeducation.org/
4	Opportunity Foundation Trust	05-Apr-2023	04-Apr-2024	https://www.avasar.ngo/
5	Possit Skill Organization	19-Apr-2023	18-Apr-2024	http://www.possit.in/
6	Development Management Foundation	24-Apr-2023	23-Apr-2024	https://www.isdm.org.in/
7	Krushi Vikas Va Gramin Prashikshan Sanstha	28-Apr-2023	27-Apr-2024	https://www.krushivikas.org/
8	Voice Society	03-May-2023	02-May-2024	https://consumer-voice.org/
9	Samvedna Development Society	08-May-2023	07-May-2024	http://www.sdsorg.in/

(Source: <https://www.nseindia.com/list-registered-ngos>)

It is clear from the above table that SSE is an emerging concept and professionals have to play a vital role in its development. It is expected that a large number of social enterprises (SE) will take advantage of SEBI's new architecture for raising the fund. From the process of registration till the completion of raising of funds from the public and even thereafter the SE has to avail the services of professionals to help them in implementing

this whole process. Before discussing the role of the company secretary in compliance with NPO registered under SSE it becomes essential to look at the eligibility of criteria and rules made for the set up of NPO:

- (i) **Eligible entities** : To get registered under social stock exchange an entity must be registered in India as one of the following below:

- a. A charitable trust registered under the public trust statute of the relevant state;
 - b. A charitable trust registered under the Societies Registration Act, 1860
 - c. A charitable trust registered under the Indian Trusts Act, 1882
 - d. A company incorporated under section 8 of the Companies Act, 2013
- (ii) **Eligibility criteria:** Out of the eligible entities mentioned above only those can get registered under SSE which satisfy any one of following predominance criteria :
- a. At least 67% of the immediately preceding 3-year average of revenues comes from providing eligible activities to members of the target population.
Or
 - b. At least 67% of the immediately preceding 3-year average of expenditures has been incurred for providing eligible activities to members of the target population.
Or
 - c. Members of the target population to whom the eligible activities have been provided constitute at least 67% of the immediately preceding 3-year average of the total customer base/beneficiaries
- (iii) **Eligible Activities & Social Audit Standards:** Regulation 91E of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, mandates Social Audit of Social Enterprise engaged in the activities specified under regulation 292E (2) (a) of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. It is worthily to note here that ICSI has introduced ICSI Institute of Social Auditors incorporated on 4th Oct, 2022 with an object to develop guidelines, rules and standards for the effective impartial assessment of impact made by Social Enterprises. ICSI has approved Social Audit Standards (SAS) mandatory to be followed by all the social auditors empanelled with the ICSI institute of social auditors dated 16th March, 2023 covering all the sixteen areas of activities listed by the regulatory Authorities. These standards can be accessed at: https://www.icsi.edu/media/webmodules/ICSI_Social_Audit_Standards.pdf
- 1) **Role and Opportunities for Practising Company Secretary (PCS):** The framework set by regulatory authorities has provided ample opportunities for PCS which starts even before the registration of social enterprises under the Social Stock Exchange (SSE). Some of them are enumerated below:
 - (i) **To advise the social enterprises to get them registered under Social Stock Exchange (SSE):** PCS can advise those entities with social cause as their primary objective and in need of funds to get themselves registered under the social stock exchange. Further, ICSI also wants its members to encourage eligible NPO as per regulation issued by SEBI to get them registered on Social Stock Exchange as Social Enterprises to avail the numerous benefits. There are several benefits for social enterprises of registration with SSE some of them are (a) improved market access (b) zero listing and admission cost (c) encouragement for social performance (d) enhances social reputation. So, they should be encouraged to get listed on SSE.
 - (ii) **Consultancy services for the type of enterprise to be registered:** The SSE identifies the two different forms of SEs viz. (i) Not for profit organization (NPO) (ii) For-profit social enterprise (FPE). Those social enterprises who satisfy the eligibility criteria specified under Chapter X-A of SEBI (Issue of Capital and Disclosure Requirements), Regulations, 2018. [292A(h)] can be registered either as NPO or FPE under SSE as defined under the SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. PCS can help the organization get registered through SSE.
 - (iii) **Legal services for registration under SSE:** PCS can provide legal services which help social enterprises to get registered with the SSE. There are certain things that need to be checked & get it done before filing for registration which include:
 - (a) To ensure that Social enterprises wish to get registered in SSE has valid certificate of registration (as required under Regulation 292F(1) of ICDR Regulations) for at least 12 months from the date of application and it is registered as NPO at least 3 years prior to the date of the application.
 - (b) To ensure that governing document such as MOA/AOA/Trust deed/ Byelaws/ Constitution amended as required seeking for registration under SSE.
 - (c) Ensure to get last 3 years audited financial statement along with fund flow statement and annual reports of last 3 years in case of section 8 companies.
 - (d) To get resolution passed from the governing body of NPO for registration in SSE.
 - (e) Confirmation from NPO in the format prescribed as per Annexure II (available at <https://www.nseindia.com/list-registration>).
 - (f) Confirmation from PCS in the format prescribed as per Annexure III (available at <https://www.nseindia.com/list-registration>).
 - (g) To get ready the registration agreement prescribed as per Annexure IV (available at <https://www.nseindia.com/list-registration>).
 - (h) To get ready the name/PAN of promoters/directors/trustees/members/company/NPO as the case may be.

After getting all the above mentioned things done the PCS can apply for the registration on form available as per Annexure I available at <https://www.nseindia.com/list-registration> along with the prescribed fees.

(iv) Compliance services for raising of funds through SSE: NPO/FPE can raise fund in following way:

Type	NPO	FPE
Registration	Mandatory	No registration
Type of security to be issue	<ul style="list-style-type: none"> Zero coupon zero principal bonds Mutual funds Development impact bonds 	<ul style="list-style-type: none"> Equity (main board/SME) Equity(AIF/Social impact fund) Issuance of debt security

The practicing Company Secretary will look after the compliance needed for the raising of funds through SSE. This includes drafting the fundraising document, filling it with the SSE, receiving and receipt observation from SSE and giving clarification to the SSE, incorporating the observation of SSE in the draft fundraising document, compliances with all the allied laws, getting credit conformation from the depository (ies), get the resolution passed from the governor body regarding allotment of the issue and finalizing the list of allots of the security, etc. In the case of issuing zero coupon zero principal bonds for NPO. In the same way, it will handle compliance relating to equity issues in the case of an issue by FPE.

(v) To provide services as Social Auditor: Social Auditor means an individual registered with a self-regulatory organization under the Institute of Chartered Accountants of India or such other agency, as may be specified by the Board, who has qualified a certification program conducted by National Institute of Securities Market and holds a valid certificate. [292A(f)]

To strengthen the governance of Social Enterprises SEBI vides regulations 91E of SEBI (LODR) Regulations, 2015 has introduced the concept of audit of an Annual Impact Report by a Social Auditor.

Understanding the need for a self-regulatory organization ICSI has set up the Institute of Social Auditors (ICSI-ISA) to empanel the Social Auditors. Furthermore, ICSI has issued the ICSI Social Audit Standard (ICSI SAS 1- ICSI SAS 16) which serves as a guiding torch to conduct a social audit of SE engaged in any of the activities as enumerated under Regulation 292E(2)(a) of SEBI (ICDR) Regulations, 2018.

These social standards are mandatory to be followed by social auditors. these standards deal with the procedure, responsibilities, and duties of a social auditor while conducting the social audit of SE engaged in activities prescribed under sub-regulation 2(a)(i) of Regulation 292E of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2018. The social Auditor shall conduct the Social Audit in accordance with the procedures/ mandates established and notified by the ICSI from time to time.

SSE is an emerging concept and professionals have to play a vital role in its development. It is expected that a large number of social enterprises (SE) will take advantage of SEBI's new architecture for raising the fund.

Social Auditor can acquire evidence for the effectiveness of Social Audit through inspection, observation, inquiry, consultation, interview, questionnaire, analytical procedures, and/or other research techniques or any other acceptable methods as he/she deems fit. The procedures to be followed are as under:

- Define Social Audit Objectives relating to the projects and plan Social Audit;
- Intimation to the Management of the Social Enterprise about the Audit Plan;
- Identification of Stakeholders and Consultation;
- Visit and inspection of the area where project/activity was implemented;
- Collection of Data, analysis and assessment;
- Reporting.

ICSI-ISA encourages Practising Company Secretaries to work as Social Auditors because there would be huge opportunities and potential to grow in this field. As it is mandatory for each Social Enterprise registered under SSE to submit the Annual Impact Report to the SSE duly audited by the Social Auditor.

CONCLUSION

Social Stock Exchange is one of the potential and growing area to work with for the Practising Companies Secretaries. Company secretary can work as legal representative of the Social Enterprises and perform and manages various regulatory functions such as registration with of Social Enterprises with SSE, drafting of necessary documents, compliance in raising of funds through SSE and act as Social Auditor and audit the Annual Impact Report. He can also play the advisory role to members/directors of the company/trust with regards to laws relating to capital market, Security laws and other allied laws. In brief, Company Secretary can provide better professional advisory services for Social Enterprises.

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SSEs in India: Navigating the Complexities of Impact, Return and Responsibility in the Pursuit of Sustainable Development

As India gears up to host the G20 summit in 2023, the significance of social auditors in the country cannot be emphasized enough. The G20 provides a platform for the world's largest economies to come together and discuss global challenges, and this summit is a prime opportunity for India to highlight its leadership on issues of social and environmental responsibility. In a world where profit often trumps social and environmental impact, the need for social auditors has never been greater, particularly in India where some of the most pressing social and environmental challenges exist.



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"It is time to take our capital markets closer to the masses and meet various social welfare objectives related to inclusive growth and financial inclusion. I propose to initiate steps towards creating an electronic fund-raising platform – a social stock exchange – under the regulatory ambit of Securities and Exchange Board of India (SEBI) for listing social enterprises and voluntary organizations working for the realization of a social welfare objective"

*-Finance Minister Ms. Nirmala Sitharaman;
Budget 2019-2020 speech*

INTRODUCTION

One thought has the remarkable potential to drive humanity towards revolutionary concepts and innovations, which are essential for fostering a more promising and just world. In this vein, our Finance Minister, during her Budget 2019-2020 address, introduced the concept of the Social Stock Exchange (SSE), an entirely original notion for our nation, albeit not a creation we can claim credit for. Before delving into the origin and progenitors of the SSE, it is crucial to comprehend the terms that underlie its essence: Social Finance, Social Enterprises and Impact Investing.

Social Finance is a financing category that seeks to mobilize private capital towards addressing social and environmental issues. Although it may appear similar to Philanthropic Finance, there is a significant distinction. Charitable funds are typically allocated exclusively towards social endeavours, without the aim of generating profits. Conversely, Social Finance is pursued with the intention of undertaking non-profit organization (NPO) activities while adhering to the Milton Friedman doctrine, which holds that a business's social responsibility is to maximize profits.

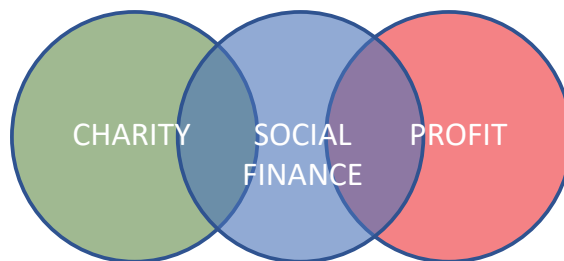


Figure 1 Social Finance- A dual purpose finance;
Source: Author's Presentation

An organisation that seeks to operate on a model of accepting 'social finance' with the primary goal of social service without shunning the pursuit of profit can be termed as a '**Social Enterprise**' (SE). Further elaboration on the legal interpretation of "social service" and "social enterprise" within India's SSE ecosystem will be discussed in subsequent sections of this article. A parallel can be drawn to the Triple Bottom Line (TBL) framework introduced by British author and sustainability expert John Elkington, which emphasizes the idea that businesses should focus on three key factors to achieve sustainability: social, environmental, and economic performance. Commonly it is referred to as the "three Ps": People, Planet, and Profit.

A Social Enterprise (SE) can be characterized by several key attributes. Firstly, it is driven by a mission that aims to create positive social impact, while also pursuing profitability. Secondly, an SE typically reinvests its profits back into the business, rather than distributing them to shareholders. Thirdly, the enterprise is designed to be self-

sustainable, meaning that it can maintain its operations without relying on external funding or donations. Finally, an SE may seek social finance as a means of expanding its social endeavours, demonstrating its commitment to generating social value alongside financial returns.



Figure 2 Key attributes of an SE; Source: Author's Presentation

Impact investing involves investing in social enterprises (SEs) with the goal of maximizing value, which is derived from the underlying impact that the SE has on society. This investment strategy goes beyond traditional fundamental analysis that has been conducted for decades and requires a wider impact analysis. As a result, new fields have emerged, such as social audit and impact analysis, which have given rise to new roles for CS professionals, such as social auditing and impact reporting. This approach recognizes that investments have a broader social impact beyond their financial return and requires a more sophisticated evaluation of their effects on society.

Social Stock Exchange (SSE) can be conceptualized as a stock exchange with a distinct purpose. Unlike traditional stock exchanges, where the primary objective is financial returns, SSE listed entities are focused on achieving social goals. These goals are vetted and validated for authenticity and legitimacy by regulatory bodies such as SEBI and empanelled professionals.

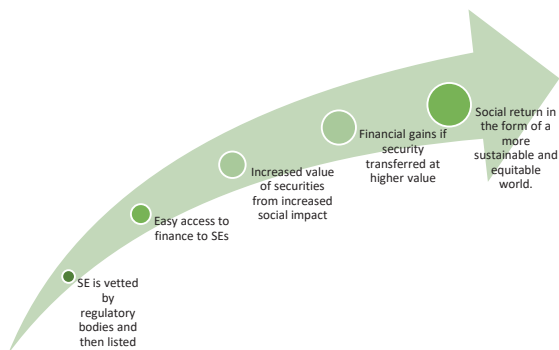


Figure 3 SSE- Transparency coupled with financial & social gains; Source: Author's Presentation

Investors in SSE listed entities are not compensated in the form of traditional financial dividends. Instead, the return on investment comes in the form of social impact, which ultimately benefits not only the investor but also future generations. The securities held by investors in most SSEs are tradable in the secondary market, but with certain restrictions that will be discussed later in this article. Investors in SSE stand to financially gain from the increased value of the security, which is a direct result of the increased social performance of the listed entity.

In the Indian SSE eco-system, the professionals or third-party evaluators will be empanelled by the committee set up by SEBI and self-regulatory organizations (SRO) such as the Institute of Social Auditors (ICSI-ISA). The SEBI committee will formulate and set the vision of the SSE and SRO will provide support to social enterprises. The social exchanges can be housed under the existing stock exchanges such as Bombay Stock Exchange (BSE) / National Stock Exchange (NSE).

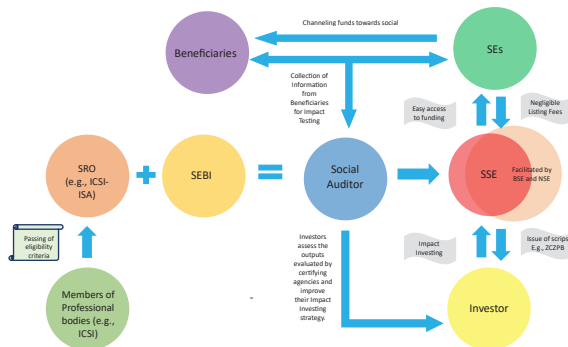


Figure 4 Social Auditor at the epicentre of SSE eco-system; Source: Author's Presentation

An individual who is registered with a self-regulatory organization under Institute of Chartered Accountants of India (or such other agency, as may be specified by SEBI – ICSI and ICAI-Cost specified) and who has qualified a certification program conducted by National Institute of Securities Market and holds a valid certificate can act as Social Auditor. Social Audit Firm is an entity which has employed Social Auditors and has a track record of minimum three years for conducting social impact assessment.

As previously stated, the presence of a Social Stock Exchange (SSE) is not unique to India. Several other nations, including Canada, Brazil, South Africa, Jamaica, the United Kingdom, and Singapore, have already established their SSEs. However, a thorough examination of SSEs worldwide reveals that while they offer an excellent opportunity for social entrepreneurs to acquire funding, they also face numerous obstacles in operating effectively to meet the needs of investors. This is evidenced by the fact that many other SSEs have been proposed, launched, and subsequently failed in various countries, owing to challenges that will be elaborated on in this article.



Figure 5 Global SSE Peers; Source: Author's Presentation

At present, Social Stock Exchanges (SSEs) worldwide serve primarily as a directory or listing platform, connecting non-profit organizations (NPOs) and for-profit organizations (FPOs) with social objectives to potential donors who may benefit from tax incentives implemented by governments to encourage social contributions. If India succeeds in devising a model that generates dual returns, namely social and financial, and effectively satisfies investors, it will set a notable precedent for the global community.

INDIAN SSE ECO-SYSTEM

In India, SSE will function as a medium between Social Enterprises (both NPOs and FPOs) and fund providers and that can help them to select those entities that are creating measurable social impact and reporting such impact. Certain type of Social Enterprises i.e. Not-for-profit organizations (NPOs) that meet the registration criteria can register on SSE and undertake to make continuous disclosures on their social impact. Such NPOs may or may not choose to raise funds through SSE, however, would continue to make disclosures including on social impact to stock exchanges.

To establish primacy of social intent, any entity (be it Not-for-Profit Organization (NPO) or For-Profit Social Enterprise (FPE)) should meet all three criteria mentioned under Regulation 292E (2) of the ICDR Regulations. Briefly, these criteria require that the entity must indulge in activities prescribed under Regulation 292E(2)(a), and that the entity must target underserved or less privileged population segments or regions which have recorded lower performance in the development priorities of central or state governments.

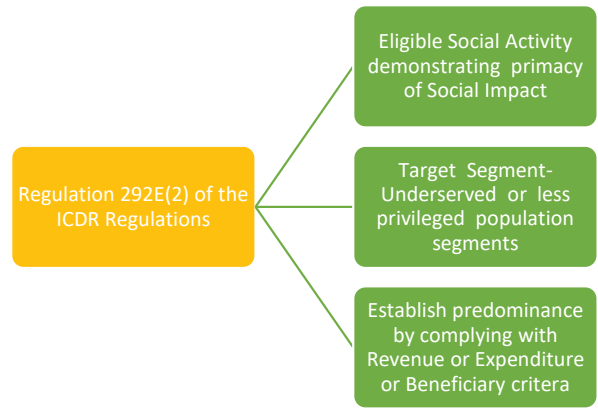


Figure 6 Regulation 292E (2) of the ICDR Regulations; Source: Author's Presentation

According to Regulation 292E (2) of the ICDR Regulations, a Not- for - Profit Organization or a For- Profit Social Enterprise, to be identified as a **Social Enterprise**, shall establish primacy of its social intent.

Eligibility Criteria as per Regulation 292E (2) of the ICDR Regulations:

- (a) The Social Enterprise shall indulge in at least one of the following activities:
 - (i) Eradicating hunger, poverty, malnutrition and inequality;
 - (ii) Promoting health care including mental healthcare, sanitation and making available safe drinking water;
 - (iii) Promoting education, employability and livelihoods;
 - (iv) Promoting gender equality, empowerment of women and LGBTQIA+ communities;
 - (v) Ensuring environmental sustainability, addressing climate change including mitigation and adaptation, forest and wildlife conservation;
 - (vi) Protection of national heritage, art and culture;
 - (vii) Training to promote rural sports, nationally recognised sports, Paralympic sports and Olympic sports;
 - (viii) Supporting incubators of Social Enterprises;
 - (ix) Supporting other platforms that strengthen the non-profit ecosystem in fundraising and capacity building;
 - (x) Promoting livelihoods for rural and urban poor including enhancing income of small and marginal farmers and workers in the non-farm sector;

- (xi) Slum area development, affordable housing and other interventions to build sustainable and resilient cities;
 - (xii) Disaster management, including relief, rehabilitation and reconstruction activities;
 - (xiii) Promotion of financial inclusion;
 - (xiv) Facilitating access to land and property assets for disadvantaged communities;
 - (xv) Bridging the digital divide in internet and mobile phone access, addressing issues of misinformation and data protection;
 - (xvi) Promoting welfare of migrants and displaced persons;
 - (xvii) Any other area as identified by the Board or Government of India from time to time.
- (b) The Social Enterprise shall target underserved or less privileged population segments or regions recording lower performance in the development priorities of central or state governments;

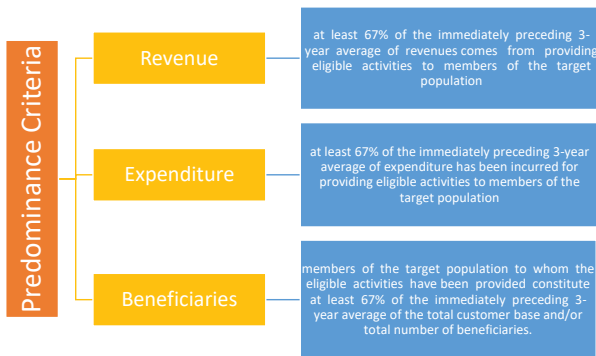


Figure 7 Predominance Criteria; *Source: Author's Presentation*

- (c) The Social Enterprise shall have at least 67% of its activities, qualifying as eligible activities to the target population, to be established through one or more of the following:
- (i) At least 67% of the immediately preceding 3-year average of revenues comes from providing eligible activities to members of the target population;
 - (ii) At least 67% of the immediately preceding 3-year average of expenditure has been incurred for providing eligible activities to members of the target population;
 - (iii) Members of the target population to whom the eligible activities have been provided constitute at least 67% of the immediately preceding 3-year average of the total customer base and/or total number of beneficiaries.

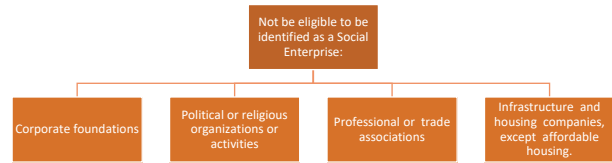


Figure 8 Entities not eligible to be an SE;

Source: Author's Presentation

It is worth noting that the government has recognized the importance of social initiatives, including causes such as those related to the LGBTQIA+ community and mental health, which are often overlooked in the primary agenda of governments.

Ways of Raising Funds

For NPOs	For FPOs
<ul style="list-style-type: none"> • Issuance of Zero Coupon Zero Principal Instruments (Through public or private placements) • Donations through Mutual Funds Schemes 	<ul style="list-style-type: none"> • Issue of Equity Shares <ul style="list-style-type: none"> i. on Main Board ii. on SME Platform iii. on Innovators Growth Platform iv. To AIF including Social Impact Fund • Issue of Debt Instruments

Retail investors are permitted to invest only in securities offered by For-profit social enterprise under the Main Board. In all other cases, only institutional investors and non-institutional investors can invest in securities issued by Social Enterprises. As per SEBI (Issue of capital and disclosure requirements) Regulations, 2018, a retail individual investor is one who applies or bids for specified securities for a value of not more than two lakhs rupees and non-institutional investor is separately defined as an investor other than a retail individual investor and qualified institutional buyer.

The instruments issued by Not-for-Profit Organizations are not available for trading in secondary market. Whereas the instruments issued by For-Profit Organizations are available for trading in secondary market on respective platforms of the Stock Exchanges, on which they are listed.

SEBI vide its circular dated September 19, 2022, has prescribed certain minimum requirements for a Not-for-Profit organization to register on Social Stock Exchange. In brief, these criteria include:

1. mandatory age of NPO as 3 years,
2. valid certificate W/s 12A/12AA/12AB of the Income Tax Act,
3. valid 80G registration,
4. minimum INR 50 lakhs as annual spending and
5. minimum INR 10 lakhs of fund in the past year etc.

Social Stock Exchanges are also permitted to prescribe additional requirements for a Not-for-Profit organization to register on it.

Development Impact Bonds (DIBs) are one form of the structured finance product available on SSE. These are structured finance products where upon completion of a project that meets pre-agreed social metrics at pre-agreed rates, the service provider of the project receives grants from the donor, who is called as the “outcome funders”.

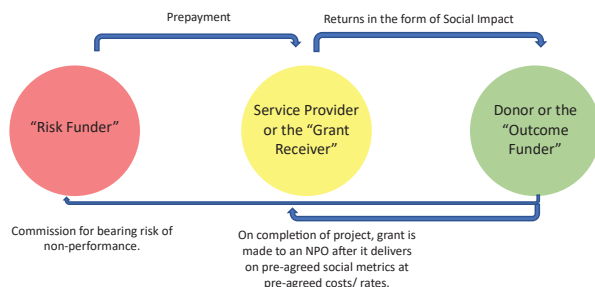


Figure 9 Mechanism of Development Impact Bonds; Source: Author’s Presentation

The basic principle of a DIB structure is that a grant is made to an NPO after it delivers on pre-agreed social metrics at pre-agreed costs/ rates. The donor who makes the grant when the social metrics are achieved is termed as “Outcome Funder”. Given that the outcome funder makes the payment on a post facto basis, the NPO needs to raise funds to finance its operations. Such a funder is termed as “Risk Funder”. A risk funder not only enables financing of operations on a pre-payment basis, but also undertakes the risk of non-delivery of social metrics by the NPO. To compensate for this risk, a Risk Funder typically earns a small return if the social metrics are delivered.

REPORTING STANDARDS FOR SEs

The minimum reporting standards have been created by benchmarking elements from various national and international frameworks of measurement that have been developed and are being deployed. The main elements of the reporting standard are as:

Reporting Standards for SEs		
Section 1- Strategic Intent and Goal Setting <ul style="list-style-type: none"> • The social problem to be solved. • The target segment to be served. • The approach to solve the problem. 	Section 2- Social Impact Scorecard <ul style="list-style-type: none"> • Extent of target segment served. • Intensity of impact on median individual. • Dimensions of income, social equity and diversity. 	Section 3- General information <ul style="list-style-type: none"> • Members of governing body • Demonstration of prior funding history • Financials, Registrations, or licenses

Figure 10 Reporting Standards for SEs; Source: Author’s Presentation

CHALLENGES AND WAY FORWARD

Social Stock Exchanges (SSEs) are seen as a promising new avenue for investors to support social and environmental causes while also earning financial returns. However, there are several challenges that need to be addressed for SSEs to become a more effective tool for sustainable investing.

One of the major challenges is the difficulty in measuring the impact on society that SSEs are able to achieve. It can be challenging to measure the social or environmental impact of a particular investment, with reasonable accuracy which could lead to inaccurate reporting or inflated impact claims. There exist certain psychological impediments that influence the assessment of social enterprises through impact testing. Specifically, this may manifest as a tendency to assign greater value to a company that produces critical life-saving vaccines, compared to a company that promotes a less crucial activity such as yoga.

Another challenge that SSEs face is the fact that most of the Non-Profit organizations (NPOs) listed on them are small and medium enterprises (SMEs). This makes it difficult for SSEs to attract larger investors who are looking for larger investment opportunities. A more prudent option may be to improve the existing SME exchange, which could potentially provide more liquidity and more opportunities for investors to support small businesses while earning financial returns.

There is also little incentive for investors to participate in SSEs as there are currently no financial returns to be gained. Unlike traditional stock exchanges, SSEs are more akin to donations rather than investments. This lack of financial returns could be a significant barrier for investors who are looking to support social and environmental causes while also earning a profit.

Liquidity issues are another challenge for SSEs. Unlike traditional stock exchanges, SSEs have a limited number of investors and a limited number of investments. This can make it difficult for investors to exit their investments if they need to liquidate their assets.

SEBI, the Securities and Exchange Board of India, needs to come up with an exit mechanism that allows investors to easily sell their shares in NPOs listed on SSEs. Without such a mechanism, SSEs may struggle to attract investors who are looking for more liquidity and flexibility in their investments.

Several SSEs have failed globally, and this is a concern for the SSE ecosystem in India as well. It is important for SSEs in India to learn from the failures of other SSEs and address the challenges that they faced. This could include improving transparency, ensuring accurate reporting, and developing more effective impact measurement tools.

The word “exchange” seems inaccurate when referring to SSEs, as they are more of a listing portal than a true exchange. Unlike traditional stock exchanges, stocks of NPOs listed on SSEs are not tradable. This limits the liquidity of the SSE market and makes it more difficult for investors to exit their investments.

Profit maximizing and social impact are conflicting in nature, and this presents a challenge for SSEs. Investors in SSEs are looking to support social and environmental causes while also earning financial returns. However, it can be difficult to balance these two goals and ensure that investments are having a positive impact while also generating financial returns.

The challenges of SSE are significant, but social auditors can help overcome these obstacles. Measuring social impact accurately, improving the existing SME exchange, incentivizing investors, and addressing liquidity issues are some of the challenges that need to be addressed.

Finally, the spending requirement of Rs50 lakhs for listing on SSEs excludes many NPOs from participating. This limits the pool of potential investments and makes it more difficult for SSEs to attract a broad range of investors.

Overall, while SSEs offer a promising new avenue for sustainable investing, there are several challenges that need to be addressed for SSEs to become more effective. These challenges include accurately measuring impact, improving liquidity, developing effective impact measurement tools, and ensuring that SSEs are attractive to a broad range of investors. With these challenges in mind, SSEs have the potential to play a key role in promoting sustainable development in India.

CONCLUSION

As India gears up to host the G20 summit in 2023, the significance of social auditors in the country cannot be emphasized enough. The G20 provides a platform for the world's largest economies to come together and discuss global challenges, and this summit is a prime opportunity for India to highlight its leadership on issues of social and environmental responsibility. In a world where profit often trumps social and environmental impact, the need for social auditors has never been greater, particularly in India where some of the most pressing social and environmental challenges exist.

For too long, companies have operated without considering their impact on the world around them. They have exploited natural resources, mistreated workers, and ignored the needs of local communities. However, this is no longer acceptable. The world has recognized that we cannot continue to operate this way, and companies must take responsibility for their impact on society and the environment.

This is where social auditors play a crucial role. They are the custodians of social and environmental responsibility, ensuring that companies are held accountable for their impact on the world. They ask the tough questions, dive deep into the operations of companies, and provide recommendations for how companies can do better.

In the context of SSE, the need for social auditors becomes even more vital. SSE provides a platform for impact-driven businesses and social enterprises to raise capital from

impact investors. These investors are not just looking for financial returns, but also for companies that are making a positive impact on society and the environment.

Social auditors are essential to the success of SSE because they help ensure that companies are genuinely making a positive impact. They verify social and environmental impact reports, identify areas for improvement, and provide recommendations for how companies can enhance their impact. This information is invaluable to impact investors who want to ensure that their investments are making a difference.

However, the role of social auditors is not an easy one. It requires a deep commitment to social and environmental responsibility, and a willingness to ask tough questions and hold companies accountable. As we continue to face unprecedented social and environmental challenges, the need for social auditors will only become greater.

The challenges of SSE are significant, but social auditors can help overcome these obstacles. Measuring social impact accurately, improving the existing SME exchange, incentivizing investors, and addressing liquidity issues are some of the challenges that need to be addressed. Social auditors can help bridge these gaps and ensure that SSE fulfils its mission of fostering a more just, equitable, and sustainable world.

As the crucial gatekeepers of social and environmental responsibility, social auditors play a critical role in shaping the success of SSE. The Company Secretaries have a vital role to play in balancing the competing demands of profit and purpose for generating positive social and environmental impact, which will be instrumental in advancing SSE's mission. As we look forward to the G20 summit, India has a unique opportunity to lead the way in promoting social and environmental responsibility. The role of social auditors in realizing this vision cannot be overstated.

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Socially Responsible Investing – Recent Developments in India

The ancient Indian literature and Hindu scriptures such as the Arthashastra, Brahmanas, Upanishad, Vedas, Ramayana, Mahabharata etc., are replete with verses that talk of human co-existence with the ecology and rendering of social good and sustainability of economic activities. However, Responsible Investing is still at a nascent stage in Modern India despite the concepts of Social Responsibility and Sustainable Financing being integral parts of the Indian Knowledge System. This paper outlines the evolution of factors that played important roles in setting the stage for the development of SRI, while analyzing the Current Trends in SRI In India. Documenting the recent trends we observe that SRI is supported by the adoption of Sustainable Development Goals, introduction of ESG Indexes, rolling out of comprehensive Business Responsibility & Sustainability Reporting formats etc. in the Modern India. Further the paper evaluates the performance of SRI vis-a-vis conventional and market counterparts using traditional and risk-adjusted performance measures during the market fall of COVID -19 and revealing that the SRI investor getting rewarded in market distress times. The analysis and discussions of this study are expected to help enterprises in emerging economies to orient the Indian market players a better understanding of SRI phenomenon, enabling them to coordinate and formulate policy conducive to SRI penetration.



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INTRODUCTION

During the last three decades, the global investing and financing landscape has transformed exponentially due to prevalence of global challenges such as climate change, inequality, terrorism, labor issues etc. The global confrontation with these problems iterates the role of global

powerhouses (the governments and the corporations) as well as the fuel to these powerhouses (investors) in coping with these human-triggered challenges. In this direction, global nations have resorted to the pursuit of Sustainable Development Goals (SDGs) and enterprises support by integrating Environmental, Social and Governance (ESG) concerns into their business models. This resulted in the stakeholders rewarding these socially conscious entities by incorporating ESG factors in financial decision-making which is known as Socially Responsible Investing (SRI).

Globally, SRI has grown manifold in last couple of decades, with more than \$35.3 trillion engaged in assets (GSIA, 2020); more than half of the global ESG assets invested in Europe, \$12.0 trillion in US, and a sizable share in countries of Australia, Canada and Japan too. Most recently, COVID-19 fostered a rising ESG concern among mainstream investors. SRI saw a surge in fund flows amounting to \$500 million from January to March 2020.

However, Responsible Investing is still at a nascent stage in the emerging nation of India, despite having deep roots in the Indian Knowledge System. The ancient Indian literature and Hindu scriptures such as the Arthashastra, Brahmanas, Upanishad, Vedas, Ramayana, Mahabharata etc., are replete with verses that talk of co-existence with the ecology and rendering of social good and sustainability of economic activities. In Modern India, SRI is supported by the adoption of global SDGs, introduction ESG Indexes, rolling out of comprehensive Business Responsibility & Sustainability Reporting (BRSR) formats etc. Further, the government's proactivity in direction of SDGs provides an impetus to the penetration of sustainability, with introduction of various policies such as National Action Plan on Climate Change (NAPCC), National Clean Air Programme, Swachh Bharat Mission, Atal Mission, Smart Cities Mission and Metro Rail Projects etc. Amid this backdrop, SRI in India picked up pace ¹.

¹. <https://www.deccanherald.com/business/business-news/covid-19-effect-esg-investing-gaining-traction-in-india-1062173.html>

Thus this paper aims at exploring and documenting the evolution of factors that played important roles in setting the stage for the SRI trend during the period of 2000-2020. Further, it seeks to analyze the current trends in SRI in India an objective to unearth the level of penetration of SRI in this emerging economy. At the same point, the paper evaluates the performance of SRI vis-a-vis conventional and market counterparts during the market fall of COVID -19. The analysis and discussions of this study are expected to help enterprises in the emerging economies to orient the Indian market players towards a better understanding of SRI phenomenon, enabling them to coordinate and formulate a policy conducive to SRI penetration.

THEORETICAL CONSTRUCT

India stands sixth among the world’s largest economies, witnessing consistent and stable fast pace growth rates. As the countries across the globe integrate their efforts to become more ESG-compliant, India is leading the emerging countries bandwagon. Social responsibility holds relevance in an emerging economy like India. Issues such as pollution, high economic inequality, corporate frauds and discrepancies, deteriorating levels of employment, and mediocre urban-rural development plaguethis emerging nation. (Climate Transparency, 2019). Due to these ESG risks, India has witnessed financial losses incrementing to double the number in the last 30 years. In the last decade only, India suffered losses amounting to USD 50 billion. As per ‘Brown to Green Report 2019’ released by the Climate Transparency Organization, India has lost the maximum number of lives and is amongst the top 5 countries in terms of economic losses due to extreme weather events within G20 nations (between 1998 and 2017).

Meanwhile, sustainable wave is finding its pace with rising consciousness among urban Indians. In a study, Indian millennial have been found more aware of the environmental impact of their consumption behavior (Francis and Sarangi, 2022) and women, especially

mothers-to-be, are more conscious of sustainable impact of their consumption (Jain and Kaur 2008). Results of another survey by YouGov found that 81% of urban Indians find it important that brands and businesses take steps to minimize their impact on the environment; 50% said they respond to advertisements that speak to global issues such as the environment, and sustainability.

In an affirmative action towards tackling the various global environmental crisis, labour and workforce welfare and holistic society development, India adopted 17 Sustainable Development Goals (SDG) under the United Nations 2030 Agenda. In that direction, Policymakers are initiating frameworks and mechanisms to foster penetration of sustainability in the economy.

The Government is implementing National Action Plan on Climate Change (NAPCC) having 33 States and Union Territories aligning with the climate change objectives. NITI Aayog introduced initiatives such as Shoonya (India’s zero pollution e-mobility campaign), the Methanol economy (programme aimed at converting coal reserves and municipal solid waste into methanol) and Women Entrepreneurship Platform facilitates the orientation of the ESG issues in the economy. The Ministry of Environment, Forest and Climate Change (MoEFCC) has played a pivotal role in promoting a circular economy across all key sectors by actively formulating policies towards reuse, as opposed to waste at the end of a product’s lifecycle. Meanwhile, India’s Plastics Pact flagshipged by the government in partnership with WRAP and WWF India aims to bring together businesses, governments and NGOs to reduce, reuse, and recycle plastics in their value chain. Further, some of the other flagship schemes/missions or programmes to implement SDG 11 include Swachh Bharat Mission – Urban (SBM-U), Atal Mission for rejuvenation and Urban Transformation (AMRUT), Smart Cities Mission (SCM), Pradhan Mantri Awas Yojana – Urban (PMAY-U) and Metro Rail Projects. National Clean Air Programme (NCAP) is another national-level initiative in line with SDGs to reduce air pollution levels across the country.

Table 1: Major Turn points in Evolution of SRI in India

Year	Regulatory Frameworks conducting Sustainability in India
2007	<ul style="list-style-type: none"> Reserve Bank of India (RBI) issued CSR and sustainable reporting guidelines to all scheduled commercial banks S&P’s, CRISIL and KLD launched ESG India Index
2008	<ul style="list-style-type: none"> National Action Plan on Climate Change; 33 States and UTs joining hands
2009	<ul style="list-style-type: none"> Ministry of Corporate Affairs drafts guidelines encouraging all businesses to formulate a CSR policy and integrating stakeholder interest
2011	<ul style="list-style-type: none"> MCA launches ESG disclosure codes – National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business (NVGs)
2013	<ul style="list-style-type: none"> Companies Act, 2013 helped outline major governance concerns , legislation for boardroom transparency, Independence and Gender Representation, mandating expenditure of 2% average profits for preceding three years towards CSR.
2015	<ul style="list-style-type: none"> SEBI mandates disclosures and reporting of responsibility for the largest 100 listed companies. The requirement was expanded to the 500 largest companies in SEBI’s Listing Obligations and Disclosure Requirements Regulations 2015. NITI Aayog – Shoonya, The Methanol economy, National Clean Air Programme, Women Entrepreneurship
2016	<ul style="list-style-type: none"> SEBI came up with guidelines for green bonds Indian Banks’ Association came out with the National Voluntary Guidelines for Responsible Financing.

2017	<ul style="list-style-type: none"> NSE launched ESG index BSE drafted Guidance on ESG Disclosures by providing 33 specific issues on which companies should focus to be able to provide disclosures to investors
2018	<ul style="list-style-type: none"> NITI Aayog adopted the 17 SDGs as well as a Sustainable Development Framework (SDF) for 2018–22 with the UNO 169 related targets covering 17 goals and a commitment of 110 trillion towards ESG issues over the 15-year period
2019	<ul style="list-style-type: none"> Funds like Magnum Equity ESG Fund Avendus India ESG Fund, Quantum ESG fund BNP Paribas Asset Management India, Kotak Mahindra Asset Management Company raised capital for ESG instruments. National Clean Air Programme
2020	<ul style="list-style-type: none"> MCA developed India’s National Action Plan on Business & Human Rights. Kotak Mahindra Asset Management SBI Funds Management Private Ltd. and Equicap Asia Management Private Ltd. became signatories to the UNPRI Tata Consultancy Services revealed plans to reduce its absolute GHG emissions to achieve net zero emissions by 2030.
2021	<ul style="list-style-type: none"> SEBI mandated on Business Responsibility and Sustainability Reporting (BRSR) for the top 1000 listed companies listed companies from FY2022-23. Ghaziabad Municipal Corporation became the first ever civic body in India to issue green bonds listed on the BSE India’s Plastics in partnership with WRAP and WWF
2022	<ul style="list-style-type: none"> National Green Tribunal imposed ₹52 Crore penalty on the Udupi Power Corporation Ltd., for violating environmental laws and polluting its surroundings.

Source: Authors’ Compilation

Figure 1: The Current Trends in SRI In India

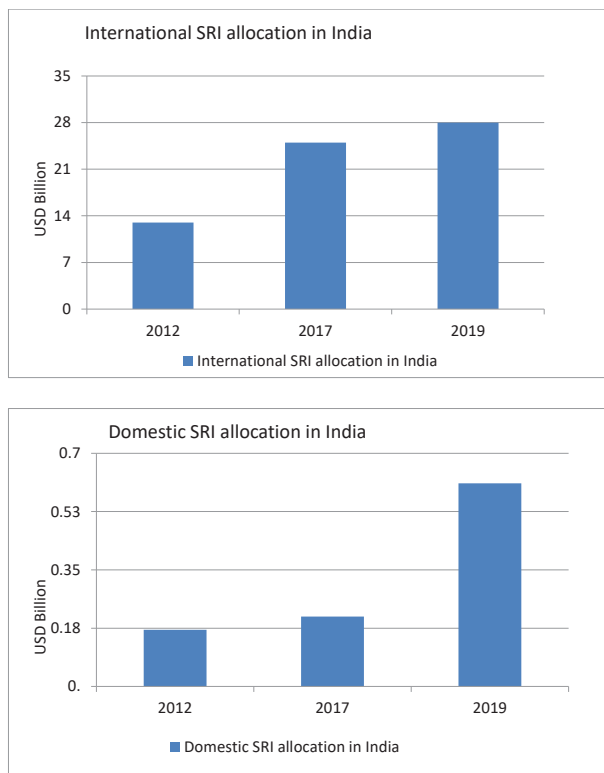


Source: cKinetics (2019), cKinetics (2017)

Most recently, COVID-19 fostered a rising ESG concern among mainstream investors. SRI saw a surge in fund flows amounting to \$500 million from January to March 2020. These funds are observed to be resilient to market volatility, as per Morningstar Report, due to their ‘sticky’

nature, derived from ESG values. Other trends in SRI have been discussed in Fig. 1 and Fig. 2.

Figure 2: Trends in SRI Asset Allocation in India During Past Decade



Source: Catalyzing Private Capital for Green Investments in India Report, 2021

METHODOLOGY

We have adopted an empirical methodology in order to evaluate the performance of SRI vis-a-vis conventional and market counterparts during the market fall of COVID-19 and used the traditional and risk-adjusted measures of financial performance measure on daily index values data extracted from www.msci.com. MSCI ESG Leaders Index series has been used as a proxy for SRI, **MSCI Country** index represents conventional investing style with constituent representation of about 85% of the free float-adjusted market capitalization in respective countries. The broad market-specific **MSCI Investable Market** Indices proxies the benchmark index in our study, representing the investable universe. For the study, the performance evaluation has been carried out through time frame from 15th February, 2020 to 1st June, 2020 using traditional (Table 2) and risk adjusted performance measures (Table 3), identified as the recessionary break from the St. Louis Federal Reserve Bank database.

Table 2: Traditional measures of performance evaluation:

Performance Measure	Description	Formula
Log Return	Index values are used to find the log return of various indices	Log Return= $\ln(P_t/P_{t-1})$
Beta	While the above measures exhibit risk, Beta calculates the sensitivity of portfolio return with respect to the market return.	$R_p - R_f = \alpha + \beta(R_m - R_f)$
Systematic Risk	This risk occurs due to the prevalence of broad macro factors affecting all securities	Systematic Risk = $\sqrt{\beta^2 \times \sigma_m^2}$ σ_m = SD of the Market
Unsystematic Risk	Risk unique to security or company can be reduced	Unsystematic Risk = $\sqrt{(\sigma_p^2) - (\beta^2 \times \sigma_m^2)}$ Where, σ_p = SD of the portfolio

Table 3: Risk-adjusted measures of performance evaluation

Sharpe ratio	In order to examine performance, we measure the risk-adjusted returns of the indexes by using the Sharpe ratio, which allows a direct two-dimensional performance comparison as it measures the return above the risk-free interest rate (excess return) divided by the total risk of the investment.	Sharpe Ratio = $(AR_p - R_f) / \sigma_p$
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Treynor's Ratio	While Sharpe assumes non-diversification, managers prefer treynor's ratio when the portfolios are well diversified.	Treynor Ratio = $(AR_p - R_f) / \beta_p$
Jensen's Alpha:	CAPM stands on the assumption of correct pricing of securities, contradicting the popular notion of riskier assets having higher expected return than less risky assets. Thus, we use Jensen's alpha to determine abnormal return of security or portfolio over the expected return.	Jensen's $\alpha = R_m - [R_f + (R_m - R_f)\beta_p]$
Information Ratio:	This helps measure the manager's level of information by finding abnormal return due to active management divided by unsystematic risk.	Information Ratio = α_p / σ_{ep} Where, α_p = Jensen's alpha σ_{ep} = Unsystematic risk of portfolio

ANALYSIS AND FINDINGS

Table 4: Performance Evaluation of Select Indices During COVID-19 Period

Performance Measure	India ESG Index	India Country Index	India IMI Index
<i>Excess Return</i>	0.001995	0.001425	0.001217
<i>Standard Deviation</i>	0.031043	0.032125	0.031192
<i>Beta</i>	1.011913	1.010298	1
<i>Systematic Risk</i>	0.031563	0.031513	0.031504
<i>Unsystematic Risk</i>	0.005523	0.00624	-
<i>Sharpe's Ratio</i>	0.06225	0.04437	0.039004
<i>Treynors' Ratio</i>	0.001971	0.001411	0.001217
<i>Information Ratio</i>	0.138261	0.03145	-
<i>Jensens' alpha</i>	0.000764	0.000196	-

Studying the performance of select indices over the recessionary period of COVID-19, it is revealed that the average returns earned by the SRI in India, outperforms the country or benchmark returns, as observed in Table 4. Remarkably, high average returns of the SRI are not eroded by high volatility of returns, such that a lower Standard Deviation as well as unsystematic risk measure was recorded for the SRI index. Beta sensitivity as well as systematic risk remained highest for SRI. A glance at risk-adjusted evaluation measures highlights the outperformance of the conventional counterparts by the SRI index in the study period. Sharpe ratio value of SRI index stands at almost 1.5 times that of general and benchmark indices. Treynor's ratio signifies higher return

Globally, SRI has grown manifold in last couple of decades, with more than \$35.3 trillion engaged in assets (GSIA, 2020); more than half of the global ESG assets invested in Europe, \$12.0 trillion in US, and a sizable share in countries of Australia, Canada and Japan too. Most recently, COVID-19 fostered a rising ESG concern among mainstream investors. SRI saw a surge in fund flows amounting to \$500 million from January to March 2020.

earned for every additional unit of Beta undertaken for investing in a Responsible manner, implying reward for the SRI investor. Through the entire recessionary period of COVID-19, SRI index managed to earn abnormal Jensen's alpha, amounting to almost seven times the general index. Thus, SRI generously rewarded the sustainability conscious investor with positive abnormal returns over excess returns. The bearish condition of the market brought unexpected abnormal gains for the social investor as an increasing number of investors resorted to the socially responsible strategy. Further analyzing the information ratio it is found that the SRI asset manager can earn premium and significantly higher rewards for active management and stock picking of Responsible Stocks. The asset manager can derive positive returns for his stock picking efforts, even during bearish phase in the market. Hence, responsible investing emerges out to be the most rewarding strategy in market distress times, providing a safe haven to the responsible investor.

CONCLUSION


Consistent disclosures as well as a robust ESG framework are a pre-requisite to percolate sustainability in an emerging economy like India. Aligning with global ESG concerns and national SDGs, Investors and regulators have also increased their scrutiny in evaluating businesses that employ sustainable business practices and the ESG framework as it provides an opportunity for all stakeholders to build an economy that is financially, socially and environmentally sustainable. In India's corporate ecosystem, there have been two major developments conducting SRI growth; the first being CSR reporting and spending being made mandatory under the Companies Act, 2013 and secondly the introduction of the recent Business Responsibility and Sustainability Reporting (BRSR), made mandatory for the top 1,000 listed companies by market capitalization. Further, the pandemic of COVID-19 acted as a wakeup call to investors around the globe to incorporate "sustainability" in their financial decisions. Amidst the turbulent times of this crisis, Investors sought refuge in the resilience rendered by the SRI Stocks. Impacts of the COVID-19 crisis on the real economy and the financial system highlight the limits

of most forecasting models. Following the COVID-19 outbreak, orientation toward sustainability is a critical factor in ensuring firm survival and growth.

In the pandemic period, thus, SRI in India outperforms conventional counterparts by earning favorable premiums for social screening. The findings reveal no penalty to the responsible investor for investing in a socially responsible manner, an observation in contradiction to Modern Portfolio Theory. Also the compromise with respect to diversification made by investors was well rewarded when measured in terms of risk adjusted return measures. While no significant difference was observed in the study period, the responsible investing strategy emerged as a rewarding strategy for per unit risk undertaken.

Therefore it can be concluded, SRI is rewarding for ethical investors aligning their financial decision social concern. In accordance with Srinivasan (2014), Tripathi and Bhandari (2012), Tripathi and Kaur (2022), a significant alpha earned by the SRI during the market crisis implies refuge to the SRI.

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Data Mining and Corporate Governance

In the ever-changing world of business, data is becoming increasingly more important. As companies become more reliant on their data than ever before, organizations must become aware of strategies to get the most out of their data. Two concepts that will help companies to be sure to get the most out of their data and provide a competitive edge against other organizations are data mining and business intelligence.



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INTRODUCTION

In today's times, it is imperative for every sector to focus not only on better data handling and governance solutions but also steadfast the use of data that is long untamed. Studies indicate that data-driven organizations are twenty-three times more likely to acquire more customers than their peers. Almost every company these days collects reams of data about its customers and their transactions. The coming of the Internet has made this task both easier and faster. But how can companies drill through these mountain loads of data to unearth crucial insights and knowledge about customer behaviour and market trends?

WHAT IS DATA MINING



Artificial Intelligence, Machine Learning, Augmented Reality, Data Mining, so on and so forth are some of the many words we often hear in business discussions, podcasts, articles, newspapers etc.

Artificial Intelligence (AI) is the study of creating intelligent machines which can work like humans. AI systems produce solutions to problems on their own by calculations. The AI systems use the data mining technique in mined data to create solutions. Data mining serves as a foundation for artificial intelligence. Data mining is a part of programming codes with information and data necessary for AI systems.

Artificial Intelligence and Data Mining are closely interrelated and inevitable in the present-day world. These technologies will extremely succeed in the future with further advancements in technology. They will automate the manual process.

In the ever-changing world of business, data is becoming increasingly more important. As companies become more reliant on their data than ever before, organizations must become aware of strategies to get the most out of their data. Two concepts that will help companies to be sure to get the most out of their data and provide a competitive edge against other organizations are data mining and business intelligence.

What is data mining?



Definition: In simple words, data mining is a process used to extract usable data from a larger set of any raw data. It implies analysing data patterns in large batches of data using one or more software. Data mining has applications in multiple fields, like science and research. As an application of data mining, businesses can learn more about their customers and develop more effective strategies related to various business functions and in turn leverage resources in a more optimal and insightful manner. This helps businesses to be closer to their objective and make better decisions. Data mining is also known as Knowledge Discovery in Data (KDD).

Basic features of the concept include:

- Sifting through enormous amounts of data to find the information that matters to a specific issue.
- Discovering statistical relationships between groups of data.
- Using artificial intelligence and machine learning to identify meaningful data.

In a deeper sense, data mining is an incredibly complex and powerful technology. Countless companies around the world are already utilizing data mining to improve the experiences of their users and build better products. To better understand data mining, one must consider following five stages of data mining:

- Understanding what one wants to achieve by using the data.
- Understanding the data source.
- Preparing your data base from the large data available.
- Analysing, mining, and modelling the data.
- Reviewing and sharing the findings.

DATA MINING AND CORPORATE GOVERNANCE

Ministry of Corporate Affairs has identified importance of data mining way back in 2015 when it announced in its monthly newsletter: “The Corporate Data Management Scheme envisaged for creating an in-house data mining and analytics facility in the Ministry will be implemented as a Central Sector Plan Scheme over the next two years (2015-17).” This is aimed at establishing in-house capability for data mining and analytics facility to effectively utilize the MCA21 data repository and promote analytical research and studies to inform policy making and facilitating enlightened regulation for corporate sector growth.

This website already hosts lot of insights in terms of:

- Directors & Key Managerial Personnel
 - ◆ Gender wise distributions
 - ◆ Age wise distributions
- Filing status of companies
- Number of active Foreign Directors in India
- States with maximum active DIN registrations
- Authorized Share Capital of Companies registered under various economic activities so on and so forth.

In 2017, the Government through the process of data mining of deregistered companies, gathered bank details of 50,000 such entities. Amid the clampdown on the black money menace, names of more than 2.24 lakh companies

were struck off from the records and over three lakh directors were barred from directorship for their associations with such firms. Based on details gathered from banks, around 50,000 deregistered companies deposited and withdrew about Rs 17,000 crore during demonetisation.

Banking and Insurance are two of the many sectors where data mining is useful, which is explained briefly below.

Banking –

The customer information is mined using various analytical tools for data mining, predictive modelling, social media analytics and big data analytics to generate best actionable insights. When a PSU Bank in India ran its newly acquired data mining software to check for purity of data, it made an interesting find – close to one crore account holders did not provide nomination facility for their saving account and even worse over half of them were senior citizens.

Similarly, bank can identify and set up alarm bells for default patterns. For instance, a high value customer’s exit is usually preceded by a drop in transactions and transfers to other accounts. Likewise, a borrower who approaches another finance company or lender for additional loan is likely to default. Bank can get an alert from the credit information bureau when a borrower seeks a fresh loan elsewhere.

Credit-card issuers have also found data mining useful in fraud detection. Companies do this by scanning databases for transactions that do not jell with a customer’s past card usage patterns. For instance, a credit card transaction in which a customer, who does not usually do so, buys high value goods immediately raises a red flag, because it might suggest experimental use of a stolen credit card. Credit-card issuers also use data mining to identify customers who represent an elevated risk of declaring bankruptcy.

Data mining is even more helpful nowadays with lesser face to face interaction with customers due to switch from walk in into branch banking to online, mobile, ATMs etc.

Software tools such as Hadoop (Apache Hadoop is an open-source framework that is used to efficiently store and process large datasets ranging in size from gigabytes to petabytes of data), Big R is used to help analyse unstructured database.

Insurance –

Insurance is a data-driven industry. Every day there are new players in the competition and each one of them has a mine of data, but only the ones converting that data into useful insights and using them in their decision-making can make it a gold mine. According to the findings of a recent study, 86% of insurance companies are working on Insurance data analytics mechanisms for optimum predictions of big data reports.

According to a predictive analytics report, current investment in predictive analytics of the Individual Life

¹ <https://www.mcaadm.nic.in/>

and Individual Health ecosystem is 70 percent and 40 percent respectively, which is assumed to grow up to 90 percent and 80 percent in just the next two years.

Insurance industry has loads of data, enabling companies to determine rates and provide services that keep people and their assets safe more effectively. Using data mining tools, Insurance companies can track customer usage patterns, which will help them assess risks of specific individuals. Underwriters can draft policies that appeal to potential customers and improve targeting by salespersons.

Apart from regular customer acquisitions, personalisation and engagement, insurance companies use data mining techniques to calculate the probability of an incident occurring by processing the historical data available to detect fraudulent activities and patterns. The triggers in such cases could be repeated filing of claims, historical rejection of claims, and more. By clubbing together high-risk profiles based on common parameters, insurance agencies can closely monitor future claims raised by such policyholders to prevent fraud.

Data mining capabilities provide health care organizations with the ability to extract hidden predictive information from large databases. This data can be utilised to personalize care, contain epidemics, and prevent chronic illnesses through predictive modelling techniques.

Other sectors examples:

- a) Telecommunications companies also employ data mining models to track fraudulent phone usage. Long international calls to a country that a user has never called before can signal a stolen phone card or some other kind of abuse.
- b) Pharmaceutical companies often use data mining for both clinical and marketing operations. Big drug firms often sort through massive databases of compounds to screen out the most potentially successful ones, a task that is impossible to perform manually.

Recently, during COVID pandemic data mining techniques have played a vital role in the healthcare industry ranging from diagnosing diseases to suggesting cures. The world looked up to data scientists for exploring data mining techniques to study various patterns associated with novel virus as well as behavioural patterns of masses across the world and suggest a way forward to counter the disease.

Despite such successes, data mining also faces major challenges.

- 1) Who takes ownership of data mining projects in companies where teams from several departments must collaborate to implement them?
- 2) On the technical front, the key hurdle is to develop better algorithms and models that can manage increasingly larger data sets as rapidly as possible.

Data mining is a process used to extract usable data from a larger set of any raw data. It implies analysing data patterns in large batches of data using one or more software. Data mining has applications in multiple fields, like science and research. As an application of data mining, businesses can learn more about their customers and develop more effective strategies related to various business functions and in turn leverage resources in a more optimal and insightful manner.

- 3) Another technical challenge is developing models that can do a better job analysing data, detecting non-linear relationships and interaction between elements.
- 4) The key business challenge is identifying problems that can suitably be analysed with data mining tools. As more companies move towards introducing e-commerce, data are easier to capture on the web, but at the same time customer decision periods are much shorter. Once someone logs onto a certain website, you want to be able to make the right offer to that user during that session.

LEGAL POSITION ON DATA MINING

Data mining *per se* is not illegal. The problem arises with the source of the data and what miners do with the results.

The data needs to either be public knowledge, such as weather data, or obtained consensually. That means users of websites and apps and participants in online and physical surveys need to be made aware that the company will keep their answers and information for analytics and mining.

Companies and institutions that do not have permission to use data could be breaking privacy laws, both locally and offshore, depending on the data source. Not to mention, most countries ban the use of data mining insights to discriminate against individuals based on age, sex, gender, race, or religion.

India: In India, data mining is regulated by a combination of laws and regulations, including the Information Technology Act, 2000 (IT Act) and the Personal Data Protection Bill, 2019 (PDP Bill). 'Data' under the Digital Personal Data Protection Bill 2022 is defined as a "representation of information, facts, concepts, opinions or instructions in a manner suitable for communication, interpretation or processing by humans or by automated means". The Union government informed the Supreme Court on April 11, 2023, that a new law, namely the Digital Personal Data Protection Bill 2022, to enforce individual privacy in online space is "ready". The new Bill will be tabled in the Monsoon Session of the Parliament in July."

The new Bill, if passed by the Parliament, would replace the current Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, which was notified in 2011. The Supreme Court had recognised privacy as a fundamental right in 2017 and highlighted the need to protect online personal data from prying eyes.

The IT Act regulates the collection, storage, and processing of personal data in India. It requires organizations to obtain consent from individuals before collecting their personal data, and to provide notice about the purpose and use of the collected data. It also requires organizations to implement security measures to protect personal data and to disclose any data breaches to the relevant authorities.

The PDP Bill, if enacted, would create a comprehensive framework for the protection of personal data in India. It would establish a Data Protection Authority (DPA) to oversee data protection in the country and would require organizations to appoint Data Protection Officers (DPOs) to ensure compliance with the law. The bill also gives individuals the right to know what personal data is being collected about them, the right to request that their data be corrected or deleted, and the right to data portability.

Additionally, the Ministry of Electronics and Information Technology (MeitY) has also issued guidelines for data protection and data governance in India, including the Data Governance Policy, 2018 and the Data Empowerment and Protection Architecture (DEPA).

While it may be noted that the legal framework for data mining in India is still evolving and the laws and regulations may be subject to change, it is important to stay updated with the latest laws and regulations and seek legal guidance when necessary.

United Kingdom: As latest as of Feb/ March 2023 the UK Minister for Science, Research and Innovation has stated in Parliament that the UK Government will not be proceeding with an extension to the UK's text and data mining (TDM) exception that would have allowed, to allow much broader access to materials needed for machine learning and to train AI systems, which had been proposed in 2022 following the UK Government's consultation on changes to IP legislation that might be necessitated by the advent of AI. This means that the only exception for TDM will remain its use for non-commercial purposes, which in turn may mean that AI developers are more cautious about doing R&D work in the UK than they might have been if the broader exception had been pursued.

USA: The Federal Trade Commission (FTC) is currently in charge of regulating data. The FTC and state laws have tried to protect consumer privacy, but many of these regulations are ineffective. Right now, the FTC

uses a framework based on simplified choice, privacy by design and greater transparency. During the Obama administration, it used a Privacy Bill of Rights to increase:

- individual control
- security
- accuracy
- transparency

The goal was to help consumers have extra control about what information companies could collect and how the information was used.


Privacy by design laws mean that companies should implement policies that ensure consumer privacy. Meanwhile, simplified choice requires companies to give consumers the choice about whether their data is collected. With greater transparency rules, consumers are supposed to get simple, short privacy policies that they can understand.

When Facebook came under fire for selling the data of over 50 million US citizens to Cambridge America, they came under fire for shady data mining practices. Facebook users were surprised to see their information sold like a commodity without their explicit permission.

Since then, the debate over an 'opt-in' or 'opt-out' decision has been on the forefront of data ethics. An 'opt-out' decision means that the individual must actively remove themselves from the system or risk having their information used as the company sees appropriate. In an 'opt-in' decision, the individual must explicitly consent to their participation and have their data used. Businesses have discovered that using an 'opt-in' process results in lower participation which could have an impact on business. The challenge comes with the need to create a process that informs the consumer of the protections in place to secure their information and how exactly the information shared will be used.

Unfortunately, there is not a blanket law in the US that covers how data should be protected and shared. There are data mining laws that target specific types of data. It is important that data miners are knowledgeable about these laws and the types of data they relate to. Data mining legal issues can arise when information is used in a way that fails to protect the privacy of the individual.

CONCLUSION

The future of data mining is bright, as data volumes continue to grow. Mining techniques have changed because of technological advancements, as have systems that extract useful information from data. Previously, only companies such as NASA could utilize their supercomputers to examine data since the expense of storing and calculating data was expensive. Companies are now experimenting with machine learning, artificial intelligence, and deep learning using data and mining techniques. 

Companies Act – India and Japan: Understanding the Basics

Very few countries have a specific law dealing with companies (the corporate form) and its governance. India is one such country which has the Companies Act, 2013 (earlier Companies Act, 1956). Japan is yet another country that has Companies Act (Act No.86 of 26 July 2005). There has been a lot of exchange on the technical and know-how between the two countries. The machinery or the structure which enables this exchange of technology is mostly the corporate form. Despite this form of existence for quite some time, certain procedural aspects need to be made known to the Japanese counterparts in India. An attempt is made to bring out some similarities and distinctions between the company law of both the countries for the information of the compliance professionals and the foreign nominees deputed in India.



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INTRODUCTION

In the year 1991 the liberalized economic policy was announced and most of the sectors which were earlier protected for domestic investments were made open to the world. This helped India's technological and financial rapid growth. In the pre- 1991 era, the doors were not closed, but were controlled and were limited and guided by various permissions, for example, from Foreign Investment Promotion Board (FIPB), Reserve Bank of India (RBI)

and other regulatory agencies. However, there has been a lot of give and take between India and Japan through various types of collaborations, joint-ventures and other business types, enriching both of them commercially, technologically and on various other fronts.

India and Japan have a rich tradition and culture, which are the similarities. One more similarity is on the corporate front i.e., having Company Law. Some similarities and some distinctions in application of law and procedural aspects are bound to exist. However, the fundamental principles appear similar. There are many joint venture companies (listed/ unlisted and private companies) having Japanese corporates as their shareholders. It is a very normal practice that these bodies corporate appoint their representatives as directors on the Board (for the sake of brevity these entities are being referred as Japanese ventures).

The Companies Act, 2013 (earlier 1956) being the law of the land is applicable to these Japanese ventures in India. Company secretaries have to deal extensively with nominated directors, legal & commercial heads, etc. and explain the law. There are some interesting similarities and dissimilarities which sometimes make the company secretary's job crucial in explaining the requirements of Indian law.

BASIC FORM OF COMPANIES

From the information available, it is understood that the Japanese Companies Bill which based on the Summary was submitted to the 162nd Japanese Parliamentary session. The Bill was passed with some slight amendments and the Companies Act (hereinafter referred to as the Companies Act 2005) was promulgated on 26 July 2005. It comes into force on 1 May 2006. This Companies Act of 2005 (hereinafter referred to as Japan Act) is equally exhaustive and complex as the Companies Act, 2013 (hereinafter referred to as Indian Act). Prior to the enactment of the Companies Act of Japan in 2006, the Companies Act was a part of the Commercial Code, and its provisions related to companies were included in Part II of the Commercial Code. In 2006, it was enacted as an independent law under the name of the Companies Act. The Japan Act is divided into 8 Parts comprising of 949 Articles (Sections). The Indian Act is divided into 29 Chapters comprising of 470 Sections and 7 Schedules, supplemented with various Rules. The

purpose of the Act is given as Article 1 of the Japan law whereas in the Indian context the purpose is not a part of the text, but is mentioned in the preamble. In the Indian context while referring to any law in general, we mention and refer it by the terminology of 'Section'. The Japan Act addresses this by using the term 'Article'.

The Indian Act deals categorically with companies-public and private. A listed entity is fundamentally a public company, whose shares are traded on stock exchanges, with additional conditions imposed by Listing Obligations and Disclosure Requirements (LODR). However, the Indian Act does not consider a Limited Liability Partnership or Partnership or any other form under the provisions of company law. A separate law is established to govern LLPs. However, it is an observation that the Japan Act covers all the forms under one enactment which will be evident from the subsequent comparison. Some important definitions and their comparison are given below –

Some important definitions (comparison) *1

Term	Indian Act	Japan Act
Company	“Company” means a company incorporated under this Act or under any previous company law.	“Company” means any Stock Company, General Partnership Company, Limited Partnership Company or Limited Liability Company.
Public*2 Company	“Public Company” means a company which— (a) is not a private company, (b) has a minimum paid-up share capital of five lakh rupees or such higher paid-up capital, as may be prescribed.	“Public Company” means any Stock Company the articles of incorporation of which do not require, as a feature of all or part of its shares, the approval of the Stock Company for the acquisition of such shares by transfer.
Private*2 Company	“Private Company” means a company having a minimum paid-up share capital of one lakh rupees or such higher paid-up share capital as may be prescribed, and which by its articles— (i) restricts the right to transfer its shares; (ii) except in case of One Person Company, limits the number of its members to two hundred: and (iii) prohibits any invitation to the public to subscribe.	No definition specified. In general, “private company” is understood to be any stock company which only issued shares with Restriction on Transfer.
Large Company/ Small Company*2	“small company” means a company, other than a public company— (i) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than five crore rupees; or (ii) turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than twenty crore rupees.	“Large Company” means any Stock Company which satisfies any of the following requirements: (a) that the amount of the stated capital in the balance sheet as of the end of its Most Recent Business Year (hereinafter in this (a) and (b) below referring to the balance sheet reported to the annual shareholders’ meeting under the provision of Article 439 in cases provided for in the first sentence of such Article, and referring to the balance sheet under Article 435(1) in cases where the first annual shareholders’ meeting after the incorporation of the Stock Company has not yet been held) is 500,000,000 yen or more; or (b) that the total sum of the amounts in the liabilities section of the balance sheet as of the end of its Most Recent Business Year is 20,000,000,000 yen or more.

Company with Board of Directors	No definition. There cannot be a company without a Board of Directors.	“Company with Board of Directors” means any Stock Company which has a board of directors, or any Stock Company which is required to have a board of directors under the provisions of this Act;
Company with Auditors	No definition. Every company, whether private or public must have auditor.	“Company with Auditors” means any Stock Company which has auditor(s) (excluding any Stock Company the articles of incorporation of which provide that the scope of the audit by its auditor(s) shall be limited to an audit related to accounting), or any Stock Company which is required to have auditor(s) under the provisions of this Act;
Share	“share” means a share in the share capital of a company and includes stock.	Not defined. But stock company can be inferred to as a Joint stock company with shares.

*1 The company laws of both countries have been amended several times since their enactment until now, but in principle, this document does not consider such amendments and refers to the original provisions.

*2 The provisions in these definitions are mentioned for ease of understanding.

The above comparative table makes it amply clear that there is a fundamental distinction between forms of companies viz. private company and public company. Listed company is a public company whose shares are listed on stock exchange(s).

JAPAN LAW VERSION ABOUT TYPES OF COMPANIES

Under the Japan Act, in addition to stock company, there are three types of companies: “General Partnership Company”, “Limited Partnership Company” and “Limited Liability Company” (collectively, “Membership Company”). “General Partnership Company” means any company consisting of only unlimited partners, and “Limited Partnership Company” means any company consisting of unlimited partners and limited partners. “Limited Liability Company” means any company consisting of only limited partners and is a new company form established in 2006 with the enactment of the Companies Act. “Stock Company” means any company consisting of only limited partners, where the status of investors (partners) is expressed in the form of shares, and is the most popular corporate form in Japan. Depending on the size of the company and its choice, stock company can be either any company with auditors (company with board of auditors) or any company with committees. The following descriptions of Japanese law will focus on companies with auditors, which are currently the most popular type of company in Japan.

Under the India law, a company essentially has a Board of Directors. First auditors are appointed by the Board and subsequently the shareholders appoint the auditors. The concept of Independent directors is applicable to public companies fulfilling certain capital/ turnover conditions. There is no concept of Board of Auditors; but certain companies are required to constitute an Audit Committee (Committee of Directors).

Directors

From the common business structure perspective private limited companies are the most popular form of business.

Some provisions related to directors under the India law are :

- A person cannot be appointed as a Director unless he obtains a Director Identification Number (DIN).
 - A private company has at least two directors and a public company has at least 3 directors.
 - The maximum number of directors is fixed at 15 but can be increased with the approval of shareholders. Independent Directors’ appointment is compulsory in respect of companies having -
 - ♦ paid up capital of Rs.10 Crores (Rs.100 Mn); or
 - ♦ turnover of Rs.100 Crores (Rs.1,000 Mn); or
 - ♦ outstanding debentures or public deposits of Rs.50 Crores (Rs.500 Mn).
- Similarly, certain public companies should have at least one-woman director. Both the conditions those of independent and woman director are not applicable to private companies.
- At least one director should be present in India for a period of not less than 180 days.
 - Every Director must attend at least one board meeting in a year. If a Director remains absent for the board meetings for a period of 12 months, he shall stand disqualified. Remaining absent for the above stated period even by obtaining leave of absence is will not hold good and vacation of office is the consequence.
 - The Managing or Whole Time Director can be appointed in a meeting of Board and not by circulation of resolution and the term of a Managing / Whole Time Director shall not exceed the tenure of 5 years at one time.

POSITION AS PER THE JAPAN LAW

Under the Japan Act, the organs of a stock company include the general meeting of Shareholders, Directors, Corporate Auditors, and Accounting Auditors etc. Of these, the general

meeting of Shareholders and directors are mandatory organs. Some provisions relating to directors under the Japan act are:

- a) A Stock Company shall have one or more directors.
- b) The following persons may not act as directors:
 - i) A juridical person;
 - ii) An adult ward, a person under curatorship, or a person who is similarly treated under foreign laws and regulations;
 - iii) A person who has been sentenced to a penalty for having violated the provisions of Japan Act or certain laws, for whom 2 years have not elapsed since the day on which the execution of the sentence was completed or the sentence no longer applied.
 - iv) A person who violated the provisions of laws and regulations other than those provided for in the preceding item, was sentenced to imprisonment or severer penalty and who has not completed the execution of the sentence or to whom the sentence still applies (excluding persons for whom the execution of the sentence is suspended).
- c) Directors shall be elected by resolution of a shareholders' meeting.
- d) A Company with Board of Directors shall have three or more directors.
- e) In a company with a board of directors, board of directors shall appoint Representative Directors from among the directors. Representative Directors shall have authority to do any and all judicial and non-judicial acts in connection with the operations of the Stock Company.
- f) Directors' terms of office shall continue until the conclusion of the annual shareholders meeting for the last business year which ends within two years from the time of their election; provided, however, that this shall not preclude the shortening the term of the directors by the articles of incorporation or by the resolution of the shareholders' meeting.
- g) The provisions of the preceding paragraph shall not preclude a Stock Company which is not a Public Company (excluding a Company with Committees) from extending, by the articles of incorporation, the term of office under that paragraph until the conclusion of the annual shareholders meeting for the last business year which ends within ten years from the time of the election.
- h) A company with auditors need not have outside directors. In addition, there are no provisions for independent directors and woman directors under the Japan Act.

ANNUAL GENERAL MEETINGS (AGMs)

- a) Under the Indian law a company should held one meeting as the Annual General Meeting (AGM) every year. Here calendar year is considered. There is an exception for the first AGM after formation of the Company.

There has been a lot of exchange on the technical and know-how aspects between the two countries. The machinery or the structure which enables this exchange of technology is mostly the corporate form. Despite this form of existence for quite some time, certain procedural aspects need to be made known to the Japanese counterparts in India. An attempt is made to bring out some similarities and distinctions between the company law of both the countries for the information of the compliance professionals and the foreign nominees deputed in India.

- b) The AGM must be held within 6 months from the closure of financial year. Further, the gap between two AGMs shall not exceed fifteen months. The agenda for the AGM under the Indian law is fixed and shall normally contain the following –
 - ♦ Approval of annual accounts,
 - ♦ Declaration of dividend [If the Board doesn't recommend dividend, then this item is skipped],
 - ♦ Reappointment of directors liable to retire by rotation,
 - ♦ Appointment / reappointment of statutory auditors,
 - ♦ Ratification of remuneration of the cost auditor (can also be considered in an extraordinary general meeting).

The annual general meeting must be held on a day which is not a public holiday and shall be held within time from 9:00 a.m. to 6:00 p.m.

POSITION AS PER THE JAPAN LAW

Annual General Meetings (AGMs)

- a) Under the Japan Act a company should hold AGM at a certain time after the end of the business year.
- b) The AGM should normally be held within three months after the end of the business year (from the Record Date specified in the Articles of Incorporation). The agenda of the AGM of a public company (the Company with Board of Directors) is stipulated in the Japan Act, and the representative ones are as follows. In addition, other agenda may be added by stipulating in the Articles of Incorporation.
 - ♦ Report the contents of the Business Report to shareholders.
 - ♦ Approval of financial statement (meaning balance sheet, profit and loss statement, statements of changes in net assets, tables of explanatory notes on unconsolidated financial statements).
 - ♦ Election(re-election) and Dismissal of Officers (meaning directors, accounting advisors and company auditors).

- ♦ Dividends from Surplus.
 - ♦ Election (re-election) and Dismissal of accounting auditors.
- c) There are no particular restrictions on the day and time of holding time of the AGM unlike the Indian law.

Board Meetings

Board meetings is one of the crucial topics in the functioning of any company. Under the Indian law some of the key points to remember are:

- a) Gap between two board meetings not to exceed 120 days.
- b) Notice to be sent as per the provisions of articles of association and in absence of any provision in the articles minimum 7 days' notice is required. Shorter notice is possible with the consent of directors.
- c) Quorum shall be 1/3rd of the total number of directors unless the articles of association prescribe a higher number.
- d) Board meetings can be held through video conferencing and the attendance (participation) through video conferencing is recognized for the purpose of quorum. A specific protocol about declarations, video recording, etc. is followed when the Board meetings are held through video conferencing to ensure the confidentiality, sanctity and clarity in participation and conduct.
- e) The Chairman of the Board shall act as the Chairman of the meetings of shareholders.
- f) Decisions shall be by majority unless wherever it is specified a unanimous approval is needed either by law or in the Articles.
- g) Chairman can have a casting vote in case of tie, if the Articles provide.

POSITION UNDER THE JAPAN LAW

Under the Japan Act, some provisions and some of the key points to remember regarding boards of directors are as follows:

- a) The directors shall report the status of the execution of his/her duties to the board of directors at least once every three months. Therefore, the Board of Directors must meet at least once every three months.
- b) A person who calls a board of directors' meeting shall dispatch the notice thereof to each director (or, for a Company with Auditors, to each director and each company auditor) no later than one week (or if a shorter period of time is prescribed in the articles of incorporation, such period of time) prior to the day of the board of directors meeting.
- c) The resolution of a board of directors meeting shall be made by a majority (in cases where a higher proportion is provided for in the articles of incorporation, such proportion or more) of the directors present at the meeting where the majority (in cases where a higher proportion is provided for in the articles of incorporation, such proportion or more) of the directors entitled to participate in the vote are present.

- d) Although there are no provisions in the Japan Act regarding remote attendance of the Board of Directors, it is understood that remote attendance via video, web conference, etc. is permitted as a quorum in accordance with Article 101, Paragraph 3 of the Regulations for Enforcement of the Companies Act. It is understood that when there are attendees participating remotely, the voice of the attendees should be immediately transmitted to the other attendees over the conference call system etc. and the attendees should be in a state of being able to have sufficient mutual discussions as if they were meeting together.

- e) There are no provisions in the Japan Act regarding the selection of the chairman of the General Meeting of Shareholders and the chairman of the Board of Directors. In general, it is often stated in the articles of incorporation that the president shall act as the chairman of the general meeting of shareholders.
- f) Directors who have a special interest in the resolution may not participate in the voting on such resolution.

CONCLUSION


Considering the wide amplitude of both the laws it is not possible to cover each and every aspect. However, it can be observed that there are some fundamental differences in certain concepts and the expressions. However, the underlying principles of disclosures, reporting and / or approval from shareholders are evident. The foregoing will give an overview to the aspiring or potential officers being deputed in India, or vice-versa, to hold Board positions in Indian subsidiaries or overseas companies in Japan. The above will help one get acclimatized with both the laws. Knowing the differences and similarities in some routine and frequently handled areas of company law. It will also help in smooth and efficient board process, enhanced governance and ease of operations across the organization. The kind of understanding envisaged above will help in bridging gap, clarifying basic doubts and augment easy decision making with proper compliance and governance.

REFERENCES:

References to various sections under the Indian Law

- 1) Companies Act, 2013 (Provisions of the Bare Act)
- 2) Section references– Section 2 Definitions, 149, 152,157 (Directors), 96 & (Annual General Meetings), 173, 174 (Board Meetings)

References to various sections under the Japan Law

- 1) Companies Act, 2005
- 2) Section references–PART I (General Provisions) Chapter 1 (Common Provisions), PART II (Stock Company) Chapter IV (Organ) Section 1 (Shareholders Meeting and Class Meeting), PART II (Stock Company) Chapter IV (Organ) Section 2 (Establishment of Organs Other Than Shareholders Meeting), PART II (Stock Company) Chapter IV (Organ) Section 3 (Election and Dismissal of Officers and Accounting Auditors), PART II (Stock Company) Chapter IV (Organ) Section 4 (Directors), PART II (Stock Company) Chapter IV (Organ) Section 5 (Board of Directors) 



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Contributions may be sent on topics like Secretarial Practice, Auditing Standards, Company Law, Mercantile Law, Industrial Law, Labour Relations, Business Administration, Accounting, CG & CSR, Legal Discipline, and Digital Transformation & Artificial Intelligence or on any other subject and topic of professional interest.

Participants are requested to send their articles/ research papers with the following terms:

- The article/research papers should be original and exclusive for Chartered Secretary.
- It should be ensured that the article has not been/will not be sent elsewhere for publication.
- Article/ research papers should include a concise Title, Abstract name of the author(s) and address.

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The length of the research paper should ordinarily be between 2,500 - 4,000 words. The research paper should be forwarded in MS Word format.

We look forward to your co-operation in making this initiative of the Institute a success.

Regards,

Team ICSI

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RESEARCH CORNER



- BUSINESS RESPONSIBILITY AND SUSTAINABILITY REPORTING (BRSR)- INDIVIDUALS' INSIGHTS ON PERTINENCE, SUPREMACY AND CHALLENGES

Business Responsibility and Sustainability Reporting (BRSR)- Individuals' Insights on Pertinence, Supremacy and Challenges

The BRSR is intended to supersede the BRR as a more comprehensive and standardized reporting framework than the former (Menghnani & Babu, 2022). Indian companies should become more aware of and act on ESG issues as a result of this initiative. It is also expected to promote sustainable development in the country. Companies need to have this tool if they want to communicate with their stakeholders throughout the world about their sustainability practices, progress, and plans. This assists companies become more transparent and accountable around ESG issues, improve their reputation, and build trust.



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INTRODUCTION

Business Responsibility and Sustainability Reporting (BRSR) ushered in a contemporary corporate world replacing the conventional Business Responsibility Reporting (BRR) guidelines by SEBI in 2021 with the aim of augmenting ESG disclosures and reporting, thus leading to enhanced transparency and accountability. This study intends to be acquainted with approach of individuals pertaining to relevance, dominance and challenges of BRSR in prevalence. For aforesaid purpose, the structured questionnaire has been prepared and got filled by individuals selected on the basis of purposive sampling method and relevant hypotheses have been developed which have been tested using one sample t-test. The findings underline that individuals believe that BRSR is relevant and supersede the former guidelines of BRR in terms of enhanced quantifiability, transparency and accountability. The hypotheses have been rejected in each case inferring the difference in opinion over relevance, dominance and implementation challenges of BRSR. It has been recommended to impart knowledge about BRSR guidelines at each level of management and implement it in stages to avoid chaos and inefficiency in sustainability reporting.

The Securities and Exchange Board of India (SEBI) introduced Business Responsibility Reporting (BRR) in 2012 as part of corporate governance guidelines. Listed companies were required to disclose their environmental, social, and governance practices and their environmental impact under the BRR voluntarily (Agnihotri & Kumar, 2019). BRR is self-assessment reporting framework, allowing companies to evaluate and report on their own environmental, social, and governance practices. There are guidelines in the framework for reporting, but there are no specific methodologies or standards specified for measuring and reporting on ESG issues as part of the framework. Reporting on ESG practices is voluntary, but many companies choose to do so to gain stakeholder trust and improve their reputation. Moreover, it will allow companies to compare their performance to that of their competition and identify areas for improvement.

Business Responsibility and Sustainability Reporting (BRSR) was adopted by SEBI as a new reporting framework in 2021 replacing Business Responsibility Reporting (BRR). It is mandatory for companies listed in the top 1,000 markets in India on the basis of their market capitalization to report on their BRSR (Sinha, 2021). Climate change, biodiversity, water management, and supply chain sustainability are just some of the ESG issues companies are required to report on under

the BRSR framework which seems to be much wider in scope than BRR (SEBI, 2021). Moreover, companies are required to report their commitment to the Paris Climate Agreement and to the Sustainable Development Goals of the UN. A business's environmental, social, and governance (ESG) practices and the impact they have on stakeholders and the environment are disclosed through Business Responsibility and Sustainability Reporting (BRSR). The measurement of corporate transparency and accountability is increasingly recognized as one of the most critical elements of a company's sustainability strategy. As a result of BRSR, companies are able to communicate how committed they are to sustainable practices, how they are progressing towards achieving ESG goals, and how they plan to improve their practices in the future (Agarwala, 2022). There is a great deal of value in this information for investors, customers, employees, and other stakeholders who are considering investing in a company, working for it, doing business with it, or doing business with them. In addition to providing guidelines for companies to follow, it also provides a way for them to report on how they are meeting their social and environmental responsibilities. An international organization dedicated to advancing corporate accountability and transparency, the Global Reporting Initiative (GRI), has developed the guidelines to ensure proper reporting of corporate activities. It is a part of BRSR's mission to encourage companies to use the latest technologies and tools available to them to measure their environmental impact, the health of employees, and the well-being of their communities.

The guidelines for reporting are divided into three sections:

- **General Disclosures:** As part of this section, we will find details about the listed entity, the products/services it provides, the list of operations it performs, the market it serves, employee information, holdings, subsidiaries, and associates, corporate social responsibility (CSR), and transparency and disclosure obligations.
- **Management and Process Disclosures:** The contents relate to the businesses and demonstrate how they have adopted National Guideline on Responsible Business Conduct (NGRBC) Principles and Core Elements through their structures, policies and processes. Businesses are asked questions that provide a framework for describing their Policy and Management Process, Governance, Leadership, and Oversight.
- **Principle-wise Performance Disclosure:** Businesses are reported on their performance based on the nine principles set forth in NGRBC. Businesses can substantiate their contribution to sustainable development on the basis of these principles. Specifically, there are two categories of information that are desired: "Essential" and "Leadership." Businesses that have adopted NGRBC are required to disclose information about essential indicators, but those businesses that aspire to reach a higher level of social, environmental, and ethical responsibility are

expected to disclose information about leadership indicators.

It is possible to produce BRSRs in many different formats, such as standalone reports, integrated reports, and sustainability reports. Sustainability practices are also often reported in annual reports or other public filings. This is an important step forward in India's efforts to enhance corporate transparency and accountability and promote sustainable business practices. The SEBI is signaling that companies should address ESG issues in their business strategies by making sustainability reporting mandatory. It is important to note that the BRSR also consists of a template for reporting that companies must follow in order to report their ESG performance in a standardized way. Consequently, investors and other stakeholders can make informed decisions based on consistent and comparable reporting across companies.

In a nutshell, the BRSR is intended to supersede the BRR as a more comprehensive and standardized reporting framework than the former (Menghnani & Babu, 2022). Indian companies should become more aware of and act on ESG issues as a result of this initiative. It is also expected to promote sustainable development in the country. Companies need to have this tool if they want to communicate with their stakeholders throughout the world about their sustainability practices, progress, and plans. This assists companies become more transparent and accountable around ESG issues, improve their reputation, and build trust.

OBJECTIVES OF THE STUDY

- To determine the perceptions of individuals pertaining to relevance of BRSR.
 - Relevance of BRSR,
 - Dominance of BRSR over BRR,
 - Challenges in implementation of BRSR.
- To analyze whether perceptions of individuals differ significantly among each other on the above constructs.

RESEARCH METHODOLOGY

In line with the objectives, the questionnaire was prepared on 5- point Likert scale having certain statements in each section depicting the opinion of respondents ranging from Strongly Agree to Strongly Disagree. The questionnaire has been sent to 100 respondents comprising of academicians, professionals and corporate employees selected on the basis of purposive sampling method. This method is adopted for deliberately selecting specific group of individuals considering their expertise and knowledge in order to obtain reliable and valuable insights about the topic. Out of the total questionnaires sent, 65 responses with completed questionnaires have been received. The relevant hypotheses have been developed to check whether the perceptions of individuals differ over different aspects.

Business Responsibility and Sustainability Reporting (BRSR)- Individuals' Insights on Pertinence, Supremacy and Challenges

H₀₁: There is no significant difference in the perception of individuals pertaining to relevance of BRSR.

H₀₂: There is no significant difference in the perception of individuals pertaining to dominance of BRSR over BRR.

H₀₃: There is no significant difference in the perception of individuals pertaining to challenges in implementation of BRSR.

In order to test the hypotheses, one sample t-test has been applied using SPSS 21. The resultant tables of analysis excluded the statements where the results have not been found significant.

ANALYSIS AND DISCUSSION

This section comprises of the descriptive analysis and interpretation of the responses received pertaining to

the awareness, relevance, dominance over BRR and implementation challenges of BRSR.

AWARENESS LEVEL ABOUT BRSR

Respondents were asked to state their awareness about progression in the field of disclosure for Business sustainability and responsibility. Sustainability is the issue which is gaining popularity and concern day by day. Governments and regulatory authorities are taking several initiatives to make businesses environmentally and socially responsible. Introduction of BRSR is amongst one such initiatives. Hence, respondents were first asked to mention their awareness about BRSR. Some general questions were asked to build common understanding and interest about the topic. The obtained responses have been summarized in Table 1. Respondents have to mark their choice out of three options – Yes, Somewhat and No.

Table 1: Awareness Level about BRSR

Awareness Statements		Yes	Somewhat	No	Total
Do you know about Business Responsibility and Sustainability Reporting (BRSR)?	Frequency	44	16	5	65
	Percent	67.7	24.6	7.7	100.0
Do you know BRSR is emerged in place of Business Responsibility Reporting (BRR)?	Frequency	46	13	6	65
	Percent	70.8	20.0	9.2	100.0
Do you think BRSR is exhaustive and wide-ranging covering the needful aspects of India in terms of ESG requirements?	Frequency	33	26	6	65
	Percent	50.8	40.0	9.2	100.0

Source: Calculated by authors based on the responses received through questionnaire.

Results show that 67.7% respondents know what BRSR is, whereas only 7.7% respondents do not know about BRSR. 70.8% respondents know that BRSR has replaced BRR whereas only 9.2% respondents do not know the fact. Further, 50.8% respondents also know that BRSR is exhaustive and wide-ranging covering the needful aspects of India in terms of ESG requirements. On the other hand, only 9.2% respondents do not agree to this fact. On the basis of these three interest-building questions, it can be concluded that majority of respondents are aware about BRSR and also that how does it differ from BRR. However, for those who are not aware, companies

are required to run awareness programs and conduct trainings to acquaint and educate people about BRSR being the guidelines of the core importance in prevailing corporate world.

PERCEPTIONS ABOUT RELEVANCE OF BRSR

After confirming that respondents have sufficient understanding about BRSR, they were further asked to mark their agreement or disagreement for their perceptions regarding BRSR.

Table 2: Hypothesis Testing Results for Perceptions about Relevance of BRSR

Perceptions	Mean	Std. Dev.	t	df	Sig.
BRSR lays the foundation for enhanced ESG reporting in terms of coverage and trends over past years.	2.42	1.059	-4.450	64	.000
The quantifiable metrics in BRSR makes it easier to make comparison across the sectors and over the time period.	2.37	1.153	-4.409	64	.000
The transparency in ESG related data offered by BRSR enable market participants to assess sustainability related risks and opportunities.	2.32	1.133	-4.815	64	.000
The implementation of BRSR makes it feasible to assess medium-term trends in metrics related to ESG.	2.48	1.032	-4.085	64	.000
The companies able to signify their sustainability objectives, position and performance with the assistance of BRSR.	2.29	1.142	-4.997	64	.000
BRSR is global, material and progressive in terms of its disclosure requirements.	2.34	1.065	-5.009	64	.000

The data quality will be improved leading to efficient information management and effective decision making.	2.20	1.162	-5.551	64	.000
The condition of keeping BRSR requirements voluntary for one year and mandatory after one year enable the companies to better understand and adapt this regulation more effectively and efficiently.	2.38	1.271	-3.904	64	.000
An attempt to bring ESG in mainstream in India through BRSR is an effective move and will prove fruitful in long run.	2.40	1.183	-4.088	64	.000
The scope of BRSR is much wider and influential for reporting on the issues of sustainability and business responsibility.	2.15	1.107	-6.161	64	.000

Source: Calculated by authors through SPSS 21 based on values given to responses received through questionnaire.

They were offered with 10 statements about BRSR to which they had to respond on a 5-point Likert scale ranging from 'Strongly Agree' to 'Strongly Disagree'. Obtained data were then tested for significant difference using one-sample t-test and results have been presented in Table 2. It has been found from the results that on an average respondents agree to all the statements about BRSR. Since all the mean values are below 3 (i.e. neutral), this shows overall agreement of respondents. Their highest agreement was for "The scope of BRSR is much wider and influential for reporting on the issues of sustainability and business responsibility" (Mean 2.15), followed by "The data quality will be improved leading to efficient information management and effective decision making" (Mean 2.20). On the other hand, least agreement was for "The implementation of BRSR makes it feasible to assess medium-term trends in metrics related to ESG" (Mean 2.48), followed by "BRSR lays the foundation for enhanced ESG reporting in terms of coverage and trends over past years" (Mean 2.42).

For hypothesis testing, one sample t-test has been applied and found that p values for all the statements are significant. This implies that null hypothesis for all the statements is rejected at 5% level of significance and it can be concluded that there is significant difference among the opinion of respondents for perceptions about BRSR. This explains the diverse way of perceiving the relevance of BRSR by individuals and in order to get this into alignment, it is important to impart sufficient knowledge about BRSR guidelines and ensure the regular follow-up and upgradation in such knowledge base.

DOMINANCE OF BRSR OVER BRR

This section analyses the perceptions of respondents about how superior they perceive BRSR than BRR. They were offered 10 aspects regarding this and were asked to mark their agreement or disagreement on 5 point Likert scale. Collected data were analyzed using mean, standard deviation and one sample t-test. Results have been displayed in Table 3.

Table 3: Hypothesis Testing Results for Perception about Dominance of BRSR over BRR

Perceptions	Mean	Std. Dev.	t	df	Sig.
BRSR is more data driven than BRR covering data points on diversified categories.	2.45	1.146	-3.896	64	.000
BRSR is way more exhaustive than BRR.	2.28	1.083	-5.385	64	.000
BRSR is advanced in terms of providing robust digital information to the stakeholders.	2.38	1.085	-4.571	64	.000
BRSR offers more interoperability than the BRR.	2.40	1.129	-4.284	64	.000
BRSR has incorporated various recognized challenges like waste disposal, recycling, etc. which have not been covered before.	2.42	1.198	-3.936	64	.000
The inclusion of stakeholder engagement section makes it more reliable format for reporting on business responsibility and sustainability.	2.26	1.136	-5.242	64	.000
BRSR is expected to bring enhanced transparency and accountability in disclosures by the companies than in BRR.	2.35	1.067	-4.882	64	.000
BRSR will be able to provide more quantitative data on the environmental and social aspects demonstrated by the companies as compared to BRR.	2.34	1.065	-5.009	64	.000
BRSR will enable the enhanced measurement and comparability across the companies as compared to BRR.	2.34	1.149	-4.640	64	.000

Source: Calculated by authors through SPSS 21 based on values given to responses received through questionnaire.

It has been found from the results that mean value for all statements range between 2.26 and 2.45. This indicates that all the respondents are on an average in agreement with the superiority of BRSR over BRR. The highest agreement is observed for "The inclusion of stakeholder engagement section makes it more reliable format for reporting on business responsibility and sustainability" (Mean 2.26) followed by "BRSR is way more exhaustive than BRR" (Mean 2.28). On the other hand, least agreement was observed for "BRSR is more data driven than BRR covering data points on diversified categories" (Mean 2.45) followed by "BRSR has incorporated various recognized challenges like waste disposal, recycling, etc. which have not been covered before" (Mean 2.42).

For hypothesis testing, one sample t-test has been applied and it was found that p values for all the statements are significant. This implies that null hypothesis for all the statements is rejected at 5% level of significance and it can be concluded that there is a significant difference among the perception of respondents on dominance of BRSR over BRR. Majority of respondents agree that BRSR is more data driven and offers interoperability, and at the same time way more exhaustive than BRR. It is significant to maintain this dominance by ensuring effective implementation of BRSR in the companies and be thoroughly versed with the guidelines and its amendments which will follow in future.

CHALLENGES IN IMPLEMENTATION OF BRSR

After confirming superiority of BRSR over BRR, respondents were asked about challenges to be faced in implementing BRSR. In total, eight challenges were presented to them but t-test revealed significant opinion for four challenges and hence only these have been displayed in Table 4.

Table 4: Hypothesis Testing Results for Challenges in adoption of BRSR

Challenges	Mean	St Dev.	t	df	Sig.
BRSR is heavily data driven which makes it infeasible for the companies to gather data over the wide parameters covered under the regulations.	2.71	1.071	-2.200	64	.031
The variability or inapplicability of various parameters makes it difficult to make overall comparison of the sustainability performance of the companies across the industries.	2.69	1.224	-2.027	64	.047

It is important to execute BRSR in stages by making the management aware of its benefits and educating the hierarchy from top to bottom in order to achieve its goals. In light of this, businesses should strive to improve their sustainability reporting in order to contribute meaningfully to a sustainable future.

The lack of right set of skilled ESG professionals for BRSR in India makes it's reporting inefficient in an emerging implementation stage.	2.62	1.246	-2.488	64	.015
The cost burden of reporting on ESG requirements is much higher for small or mid-sized Indian businesses as compared to the large companies.	2.63	1.153	-2.581	64	.012

Source: Calculated by authors through SPSS 21 based on values given to responses received through questionnaire.

It has been found that respondents opinion were significantly different for "BRSR is heavily data driven which makes it infeasible for the companies to gather data over the wide parameters covered under the regulations", "The variability or inapplicability of various parameters makes it difficult to make overall comparison of the sustainability performance of the companies across the industries", "The lack of right set of skilled ESG professionals for BRSR in India makes it's reporting inefficient in an emerging implementation stage" and "The cost burden of reporting on ESG requirements is much higher for small or mid-sized Indian businesses as compared to the large companies". Thus it can be concluded that null hypothesis is rejected at 5% level of significance and it can be inferred that there is significant difference among the opinion of respondents for these statements and majority of respondents are on agreement side. Respondents consider that BRSR is a heavily data driven approach requiring more data as well as trained staff from company's side. Also, it will create heavy cost burden on the reporting company. It is recommended to execute BRSR in stages and ensure regular training programmes to skill the concerned managers in charge of it.

CONCLUSION

In order to demonstrate real progress towards achieving a sustainable future, companies need a business responsibility and sustainability report to track and monitor their progress. Businesses can make informed decisions about how to move forward when they have a

comprehensive view of their environmental and social impacts. The majority of individuals are aware about the concept of business responsibility and sustainability reporting and its dominance over business responsibility reporting in terms of being wide-ranging and exhaustive covering the needful aspects of ESG requirements of India. Moreover, the majority of professionals and academicians agree on the relevance of BRSR in context of enhanced ESG reporting, quantifiable metrics in BRSR, transparency, assessment of medium-term ESG trends, global and progressive in its disclosure requirements. Also, the dominance of BRSR over BRR has been advocated in terms of being more data driven, more interoperable, more focused upon material issues and disclosure of sustainability data, transparency and accountability in sustainability disclosures, quantified data and enhanced measurability and comparability of sustainability across the companies. However, the individuals are neutral in terms of challenges in implementation of BRSR in prevailing business environment, thus indicating the adaptability and acceptance of these guidelines.

The study supports the fact that BRSR is in nascent stage and holds good prospects in future and proper monitoring would result in timely reporting of companies' activities covered under the scope of BRSR. Since ESG issues disclosures have gained momentum over the years and became popular, in this line, government has also made regulatory guidelines for the same and penalizing the companies in case of non-disclosure by the companies would act as a driving force for the management. It has been recommended for each level of management to conduct training and awareness programmes to impart the knowledge on concept and implementation of BRSR in companies and outcomes of such training programmes should be reviewed continuously for each category of participant. Also, it is important to execute BRSR in stages by making the management aware of its benefits and educating the hierarchy from top to bottom in order to achieve its goals. In light of this, businesses should strive to improve their sustainability reporting in order to contribute meaningfully to a sustainable future.

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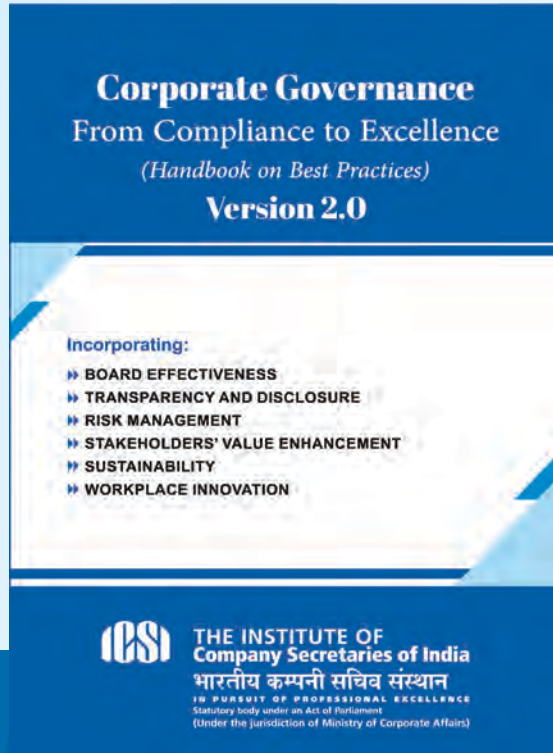


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LEGAL WORLD



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

 - UNION OF INDIA v. DELOITTE HASKINS AND SELLS LLP [SC]

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

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

 - OFFICIAL LIQUIDATOR, CALCUTTA v. UJJAIN NAGAR PALIKA NIGAM & ORS [SC]

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



Corporate Laws

Landmark Judgement

LMJ 06:06:2023

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

Special Leave Petition (C) No.21686 of 2006

Altamas Kabir & Cyriac Joseph,JI. [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.

LW 39:06:2023

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.

LW 40:06:2023

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.

LW 41:06:2023

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 NCLAT 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 reconsideration 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.

LW 42:06:2023

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.



LW 43:06:2023

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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FROM THE GOVERNMENT



- AMEND THE COMPANIES COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS RULES, 2016
- REMOVAL OF NAMES OF COMPANIES FROM THE REGISTER OF COMPANIES) RULES, 2016
- ACTIVITIES CARRIED OUT IN THE COURSE OF BUSINESS ON BEHALF OF OR FOR ANOTHER PERSON
- FINANCIAL TRANSACTIONS CARRIED OUT BY RELEVANT PERSONS
- COMPREHENSIVE GUIDELINES FOR INVESTOR PROTECTION FUND AND INVESTOR SERVICES FUND AT STOCK EXCHANGES AND DEPOSITORIES
- MODEL TRIPARTITE AGREEMENT BETWEEN THE ISSUER COMPANY, EXISTING SHARE TRANSFER AGENT AND NEW SHARE TRANSFER AGENT AS PER REGULATION 7(4) OF SEBI (LISTING OBLIGATION AND DISCLOSURE REQUIREMENTS) REGULATION, 2015
- REVISION IN COMPUTATION OF CORE SETTLEMENT GUARANTEE FUND IN COMMODITY DERIVATIVES SEGMENT
- DEMATERIALIZATION OF SECURITIES OF HOLD COS AND SPVS HELD BY REAL ESTATE INVESTMENT TRUSTS (REITS)
- DEMATERIALIZATION OF SECURITIES OF HOLD COS AND SPVS HELD BY INFRASTRUCTURE INVESTMENT TRUSTS (INVITS)
- RISK DISCLOSURE WITH RESPECT TO TRADING BY INDIVIDUAL TRADERS IN EQUITY FUTURES & OPTIONS SEGMENT
- INVESTMENT IN UNITS OF MUTUAL FUNDS IN THE NAME OF MINOR THROUGH GUARDIAN

-
- DIRECT MARKET ACCESS (DMA) TO SEBI REGISTERED FOREIGN PORTFOLIO INVESTORS (FPIS) FOR PARTICIPATING IN EXCHANGE TRADED COMMODITY DERIVATIVES (ETCDS)

 - REGISTRATION WITH THE FINNET 2.0 SYSTEM OF FINANCIAL INTELLIGENCE UNIT – INDIA (FIU-INDIA)

 - TESTING FRAMEWORK FOR THE INFORMATION TECHNOLOGY (IT) SYSTEMS OF THE MARKET INFRASTRUCTURE INSTITUTIONS (MIIs)

 - ADDITIONAL REQUIREMENTS FOR THE ISSUERS OF TRANSITION BONDS

 - INTRODUCTION OF LEGAL ENTITY IDENTIFIER (LEI) FOR ISSUERS WHO HAVE LISTED AND/ OR PROPOSE TO LIST NON-CONVERTIBLE SECURITIES, SECURITISED DEBT INSTRUMENTS AND SECURITY RECEIPTS

 - ₹ 2000 DENOMINATION BANKNOTES – WITHDRAWAL FROM CIRCULATION; WILL CONTINUE AS LEGAL TENDER

 - ₹ 2000 DENOMINATION BANKNOTES – WITHDRAWAL FROM CIRCULATION; WILL CONTINUE AS LEGAL TENDER

 - LIBOR TRANSITION

 - MASTER CIRCULAR – BASEL III CAPITAL REGULATIONS

 - FORMALISATION OF INFORMAL MICRO ENTERPRISES ON UDYAM ASSIST PLATFORM

 - FORMATION OF NEW DISTRICT IN THE STATE OF ARUNACHAL PRADESH – ASSIGNMENT OF LEAD BANK RESPONSIBILITY

 - LEVY OF CHARGES ON FOREX PREPAID CARDS/STORE VALUE CARDS/TRAVEL CARDS, ETC.

 - MASTER CIRCULAR - INCOME RECOGNITION, ASSET CLASSIFICATION, PROVISIONING AND OTHER RELATED MATTERS - UCBs

 - AMENDMENT TO THE MASTER DIRECTION (MD) ON KYC – INSTRUCTIONS ON WIRE TRANSFER
-



Corporate Laws

01 Amend the Companies Compromises, Arrangements and Amalgamations Rules, 2016

[Issued by the Ministry of Corporate Affairs [E No. 2/31/CAA/2013 – CL.V Part] dated 15.05.2023. Published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (1)]

In exercise of the powers conferred by sub-sections (1) and (2) of section 469 read with section 233 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, namely :-

- Short title and commencement.- (1) These rules may be called the Companies (Compromises, Arrangements and Amalgamations) Amendment Rules, 2023.
(2) They shall come into force with effect from 15th day of June, 2023.
- In the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, for sub-rules (5) and (6) of rule 25, the following sub-rules shall be substituted, namely:-

“(5) Where no objection or suggestion is received within a period of thirty days of receipt of copy of scheme under sub-section (2) of section 233, from the Registrar of Companies and Official Liquidator by the Central Government and the Central Government is of the opinion that the scheme is in the public interest or in the interest of creditors, it may, within a period of fifteen days after the expiry of said thirty days, issue a confirmation order of such scheme of merger or amalgamation in Form No. CAA.12:

Provided that if the Central Government does not issue the confirmation order within a period of sixty days of the receipt of the scheme under sub-section (2) of section 233, it shall be deemed that it has no objection to the scheme and a confirmation order shall be issued accordingly.

(6) Where objections or suggestions are received within a period of thirty days of receipt of copy of scheme under sub-section (2) of section 233 from the Registrar of Companies or Official Liquidator or both by the Central Government and –

(a) such objections or suggestions of Registrar of Companies or Official Liquidator, are not sustainable and the Central Government is of the opinion that the scheme is in the public interest or in the interest of creditors, it may within a period of thirty days after expiry

of thirty days referred to above, issue a confirmation order of such scheme of merger or amalgamation in Form No. CAA.12.

(b) the Central Government is of the opinion, whether on the basis of such objections or otherwise, that the scheme is not in the public interest or in the interest of creditors, it may within sixty days of the receipt of the scheme file an application before the Tribunal in Form No. CAA.13 stating the objections or opinion and requesting that Tribunal may consider the scheme under section 232 of the Act:

Provided that if the Central Government does not issue a confirmation order under clause (a) or does not file any application under clause (b) within a period of sixty days of the receipt of the scheme under subsection

(2) of section 233 of the Act, it shall be deemed that it has no objection to the scheme and a confirmation order shall be issued accordingly.”.

MANOJ PANDEY
Joint Secretary

02 Removal of Names of Companies from the Register of Companies) Rules, 2016

[Issued by the Ministry of Corporate Affairs [E No. 1/28/2013-CL-V (Part-III)] dated 10.05.2023. Published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (1)]

In exercise of the powers conferred by sub-sections (1), (2) and (4) of section 248 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016, namely:-

- Short title and commencement.- (1) These rules may be called the Companies (Removal of Names of Companies from the Register of Companies) Second Amendment Rules, 2023.
(2) They shall come into force on the date of their publication in the Official Gazette.
- In the Companies (Removal of Names of Companies from the Register of Companies) Rules, 2016 (hereafter referred to as the principal rules), in rule 4, in sub-rule (1), the following provisos shall be inserted, namely:-

“Provided that the company shall not file an application unless it has filed overdue financial statements under section 137 and overdue annual returns under section 92, up to the end of the financial year in which the company ceased to carry its business operations:

Provided further that in case a company intends to file the application after the action under subsection (1) of section 248 has been initiated by the Registrar, it shall file all pending financial statements under section 137 and all pending annual returns under section 92, before filing the application:

Provided also that once notice under sub-section (5) of section 248 has been issued by the Registrar for publication pursuant to the action initiated under sub-section (1) of section 248, a company shall not be allowed to file the application under this sub-rule.”.

MANOJ PANDEY

Joint Secretary

03 Activities carried out in the course of business on behalf of or for another person

[Issued by the Ministry of Finance [E. No. P-12011/10/2023-ES Cell-DOR] dated 09.05.2023. Published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (2)]

In exercise of the powers conferred by sub-clause (vi) of clause (sa) of sub-section (1) of section 2 of the Prevention of Money-laundering Act, 2002 (15 of 2003) (hereinafter referred to as the Act), the Central Government hereby notifies that the following activities when carried out in the course of business on behalf of or for another person, as the case may be, as an activity for the purposes of said sub-clause, namely:-

- (i) acting as a formation agent of companies and limited liability partnerships;
- (ii) acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a firm or a similar position in relation to other companies and limited liability partnerships;
- (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company or a limited liability partnership or a trust;
- (iv) acting as (or arranging for another person to act as) a trustee of an express trust or performing the equivalent function for another type of trust; and
- (v) acting as (or arranging for another person to act as) a nominee shareholder for another person.

SHASHANK MISRA

Director

Complete details are not published here for want of space. For complete notification readers may log on to <https://finmin.nic.in>

04 Financial transactions carried out by relevant persons

[Issued by the Ministry of Finance [E. No. P-12011/12/2022-ES Cell-DOR] dated 03.05.2023. Published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (2)]

In exercise of the powers conferred by sub-clause (vi) of clause (sa) of sub-section (1) of section 2 of the Prevention of Money-laundering Act, 2002 (15 of 2003), the Central Government hereby notifies that the financial transactions carried out by a relevant person on behalf of his client, in the course of his or her profession, in relation to the following activities-

- (i) buying and selling of any immovable property;
- (ii) managing of client money, securities or other assets;

- (iii) management of bank, savings or securities accounts;
 - (iv) organisation of contributions for the creation, operation or management of companies;
 - (v) creation, operation or management of companies, limited liability partnerships or trusts, and buying and selling of business entities,
- shall be an activity for the purposes of said sub-section.

SHASHANK MISRA

Director

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05 Comprehensive guidelines for Investor Protection Fund and Investor Services Fund at Stock Exchanges and Depositories

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MRD/MRD-PoD-3/P/CIR/2023/81 dated 30.05.2023]

1. SEBI vide circular no. MRD/DoP/SE/Cir-38/2004 dated October 28, 2004 had issued comprehensive guidelines for Investor Protection Fund (IPF) to be maintained by Stock Exchanges. SEBI vide circular No.SE/10118 dated October 12, 1992 had also advised stock exchanges to establish an Investor Services Fund (ISF). These guidelines have been modified from time to time through various subsequent circulars.
2. Based on the feedback received from various market participants, discussions with Stock Exchanges, Depositories and deliberations in Secondary Market Advisory Committee (SMAC) of SEBI, it has been decided to modify certain provisions of the existing guidelines for IPF and ISF.

3. The comprehensive guidelines for IPF and ISF are as under:

I. Investor Protection Fund

A. Constitution and Management of the IPF

- i. All stock exchanges and depositories shall establish an IPF. The IPF of the stock exchange and depository shall be administered through separate trusts created for the purpose.
- ii. The IPF Trust of stock exchange and depository shall consist of five trustees as under:
 - a) Three Public Interest Directors (PIDs);
 - b) One representative from the investor associations recognized by SEBI; and
 - c) Chief Regulatory Officer or Compliance Officer.
- iii. The maximum tenure of a trustee (excluding the Chief Regulatory Officer or Compliance Officer, whose trusteeship would be co-terminus with their service) shall be five years or as specified by SEBI.
- iv. The stock exchange and depository shall provide the secretariat for their IPF Trusts respectively.
- v. The stock exchange and depository shall ensure that the funds in the IPF are well segregated and that their

IPF is immune from any liabilities of the stock exchange and depository respectively. Further, supervision of utilization of IPF and interest or income from IPF will rest with the IPF Trust.

HRUDA RANJAN SAHOO

Deputy General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

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

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/79 dated 25.05.2023]

- As per regulation 9A (1)(b) of SEBI (Registrar to an Issue and Share Transfer Agent) Regulations, 1993: *“Without prejudice to its obligations under any other law for the time being in force, RTA shall enter into a legally binding agreement with the body corporate or the person or group of persons for or on whose behalf it is acting as a registrar to an issue or a share transfer agent stating therein the allocation of duties and responsibilities between itself and such body corporate or person or group of persons, as the case may be”.* Accordingly, vide circular dated October 11, 1994 (now rescinded due to issuance of Master Circular for Registrars to an Issue and Share Transfer Agents dated May 17, 2023), draft Bipartite Agreement was prescribed by SEBI.
- As per regulation 7(4) of SEBI LODR 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 the Board from time to time.”*
- In this respect, a model Tripartite Agreement has been prepared in consultation with Registrar Association of India (RAIN) and some issuer companies. Format of the Tripartite Agreement is placed at Annexure-A.
- RTAs and listed companies are advised to:
 - Publish the format of tripartite agreement on their respective websites;
 - Comply with the conditions laid down in this circular;
 - Make necessary amendments to the relevant bye-laws, rules and regulations, operational instructions, as the case may be, for the implementation of the above circular.
- RTAs are advised to submit compliance of the direction given in para 4.1 above to SEBI vide email at rta@sebi.gov.in latest by June 01, 2023 along with the link of their website containing the format of tripartite agreement.

- This circular is issued in exercise of powers conferred by Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
- This circular is available on SEBI website at www.sebi.gov.in under the categories “Legal Framework -> Circulars”.

ARADHANA VERMA

General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

07 Revision in computation of Core Settlement Guarantee Fund in Commodity Derivatives Segment

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MRD/MRD-POD-1/P/CIR /2023/78 dated 23.05.2023]

- SEBI vide Circular CIR/MRD/DRMNP/25/2014 dated August 27, 2014 had prescribed norms related to Core Settlement Guarantee Fund (Core SGF), Default waterfall and Stress Test for recognised Clearing Corporations and Stock Exchanges. The said circular provides detailed guidelines regarding, inter-alia, computation of Minimum Required Corpus of core SGF as well as contribution to core SGF. Further, SEBI vide circular SEBI/HO/CDMRD/DRMP/CIR/P/2018/111 dated July 11, 2018 mandated a minimum amount of MRC of Rs.10 crores for Stock Exchanges having Commodity Derivatives Segment (CDS).
- While granting recognition to Clearing Corporations in 2018, considering the growth of commodity derivatives market at that time, Clearing Corporations were mandated to augment their core SGF/ earmark additional funds to the respective target corpus level in the subsequent years based on overall risk, peak open interest in the previous period as well as expected growth of business in the future.
- SEBI has received representations from Clearing Corporations that in light of the turnover and the open interest observed at the stock exchanges in the recent times, the target corpus level prescribed at the time of recognition of Clearing Corporations may be reviewed and methodology for computation of core SGF corpus in Commodity Derivatives Segment may now be harmonised with that of other segments.
- Based on extensive deliberations with the Clearing Corporations and recommendations of Risk Management Review Committee, it has been decided that the Clearing Corporations in Commodity Derivatives Segment may now align their core SGF in terms of SEBI circulars dated August 27, 2014 as well as July 11, 2018 and excess contribution, if any, may be returned to the contributing stakeholders on a pro-rata basis, after taking due approval from SEBI.
- The circular shall come into effect from June 01, 2023.
- The circular has been issued with the approval of Competent Authority.

7. This circular is issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
8. The Stock Exchanges and Clearing Corporations are advised to:
 - 8.1. Take steps to make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of this circular;
 - 8.2. bring the provisions of this circular to the notice of the stock brokers of the Exchange and also to disseminate the same on their website; and
 - 8.3. Communicate to SEBI, the status of the implementation of the provisions of this circular in the Monthly Development Report.
9. This circular is available on SEBI website www.sebi.gov.in under the category “Circulars” and “Info for Commodity Derivatives”.

NAVEEN SHARMA

General Manager

08 Dematerialization of securities of Hold Cos and SPVs held by Real Estate Investment Trusts (REITs)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/DDHS-PoD-2/P/CIR/2023/75 dated 22.05.2023]

1. Regulation 14(18) of SEBI (Real Estate Investment Trust) Regulations, 2014 (“REIT Regulations”) provides that the units of REIT shall be issued only in dematerialized form to all the applicants.
2. In order to promote dematerialization of securities, encourage ease of doing business, improve transparency in the dealings of securities of SPVs/ Hold Cos, it has been decided that REITs shall henceforth hold the securities of Hold Cos and SPVs in dematerialized form only. The Manager of the REIT shall ensure the same.
3. Further, for existing securities holdings by REITs in Hold Cos and SPVs in physical form, the Manager of the REIT is directed to dematerialize the securities of Hold Cos and SPVs of the REIT on or before June 30, 2023.
4. This circular is being issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 and Regulation 33 of the REIT Regulations. This circular is issued with the approval of the competent authority. This circular shall come into force with immediate effect.
5. This Circular is available on the website of the Securities and Exchange Board of India at www.sebi.gov.in under the category “Legal” and under the drop down “Circulars”.

RITESH NANDWANI

Deputy General Manager

09 Dematerialization of securities of Hold Cos and SPVs held by Infrastructure Investment Trusts (InvITs)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/DDHS-PoD-2/P/CIR/2023/76 dated 22.05.2023]

1. Regulation 14(4)(r) of SEBI (Infrastructure Investment Trusts) Regulations, 2014 (“InvIT Regulations”) provides that the units of InvIT shall be issued only in dematerialized form to all the applicants.
2. In order to promote dematerialization of securities, encourage ease of doing business, improve transparency in the dealings of securities of Hold Cos/ SPVs, it has been decided that InvITs shall henceforth hold the securities of Hold Cos and SPVs in dematerialized form only. The Investment manager of the InvIT shall ensure the same.
3. Further, for existing securities holdings by InvITs in Hold Cos and SPVs in physical form, the Investment manager of the InvIT is directed to dematerialize the securities of Hold Cos and SPVs of the InvIT on or before June 30, 2023.
4. This circular is being issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 and Regulation 33 of the InvIT Regulations. This circular is issued with the approval of the competent authority. This circular shall come into force with immediate effect.
5. This Circular is available on the website of the Securities and Exchange Board of India at www.sebi.gov.in under the category “Legal” and under the drop down “Circulars”.

RITESH NANDWANI

Deputy General Manager

10 Risk disclosure with respect to trading by individual traders in Equity Futures & Options Segment

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MIRSD/MIRSD-PoD-1/P/CIR/2023/73 dated 19.05.2023]

1. Over time there has been increased participation of investors in Indian securities market, including, in the derivatives segment. While investors are expected to make investment decisions based on their own due diligence and risk appetite, it is important to empower them with detailed information about the risks associated with trading in derivatives.
2. With a view to facilitating informed decision making by the investors trading in derivatives segment, it has been decided to introduce ‘Risk disclosures’ with respect to trading in equity Futures & Options (F&O) segment.
3. Accordingly, all stock brokers shall display the ‘Risk disclosures’ given at Annexure-I on their websites and to all their clients in the manner as specified below:
 - 3.1. Upon login into their trading accounts with brokers, the clients may be prompted to read the ‘Risk disclosures’ (which may appear as a pop-up window upon login) and shall be allowed to proceed ahead only after acknowledging the same.

- 3.2. The 'Risk disclosures' shall be displayed prominently, covering at least 50 percent area of the screen.
4. All Qualified Stock Brokers (QSBs) shall maintain the Profit and Loss (P&L) data of their clients on continuous basis as per the format given at Annexure-II. The P&L data of the clients shall be retained for at least 5 years.
5. Stock Exchanges and Depositories are directed to:
 - 5.1. Bring the provisions of this circular to the notice of their members / participants and also disseminate the same on their websites;
 - 5.2. Display the 'Risk disclosures' on their respective websites, with a link to study conducted by SEBI.
6. Applicability: The provisions of this circular shall come into force with effect from July 01, 2023.
7. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992, to protect the interests of investors in securities and to promote the development of, and to regulate, the securities market.
8. This circular is available on SEBI website at www.sebi.gov.in under the category "Circulars".

ARADHANA VERMA

General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

11

Investment in units of Mutual Funds in the name of minor through guardian

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/IMD/POD-II/CIR/P/2023/0069 dated 12.05.2023]

SEBI Circular no. SEBI/HO/IMD/DF3/CIR/P/2019/166 dated December 24, 2019 has prescribed the uniform process to be followed across Asset Management Companies (AMCs) in respect of investments made in the name of a minor through a guardian. Based on recommendation of Mutual Fund Advisory Committee, it has been decided as under:

1. In partial modification to the above SEBI circular, it has been decided as under:
 - i. Para 1(a) shall read as under:

"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 AMCs shall insist upon a Change of Pay-out Bank mandate before redemption is processed"
 - ii. 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.
 - iii. All other provisions mentioned in the aforesaid circular shall remain unchanged.
2. All AMCs are advised to make the necessary changes to facilitate the above changes in mutual fund transactions w.e.f. June 15, 2023.

3. This circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992, read with Regulation 77 of the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.

LAKSHAYA CHAWLA

Deputy General Manager

12

Direct Market Access (DMA) to SEBI registered Foreign Portfolio Investors (FPIs) for participating in Exchange Traded Commodity Derivatives (ETCDs)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MRD/MRD-PoD-1/P/CIR/2023/68 dated 10.05.2023]

1. In order to promote institutional participation in ETCDs, SEBI, vide Circular No. SEBI/HO/MRD/MRD-RAC-1/P/CIR/2022/131 dated September 29, 2022 permitted FPIs to participate in ETCDs subject to certain conditions specified therein.
2. SEBI vide Circular No MRD/DoP/SE/Cir-7/2008 dated April 3, 2008, Circular No MRD/DoP/SE/Cir-03/2009 dated February 20, 2009 and Circular No CIR/MRD/DP/20/2012 dated August 2, 2012 laid down framework of DMA facility for institutional investors or through investment manager, as the case may be.
3. DMA facilitates the clients of a broker to directly access the exchange trading system through the broker's infrastructure to place/execute orders without manual intervention by the broker. DMA enables the clients of a broker to have advantages viz. direct control over orders, faster execution of orders, reduced risk of errors associated with manual order entry, maintaining confidentiality, lower impact costs for large orders and implementing better hedging and arbitrage strategies.
4. Based on representations received for enabling DMA facility to FPIs in ETCDs and deliberations by Commodity Derivatives Advisory Committee (CDAC) of SEBI, it has been decided to allow stock exchanges to extend DMA facility to FPIs for participation in ETCDs subject to the following conditions:
 - 4.1. Stock exchanges/brokers shall adhere to the provisions stipulated in SEBI Circulars mentioned at Paragraph 2 above which include procedure for application for DMA, operational specifications, Client authorization and broker-client agreement, risk management, etc.
 - 4.2. The provisions of Circular No. SEBI/HO/MRD/MRD-RAC-1/P/CIR/2022/131 dated September 29, 2022 allowing FPIs to participate in ETCDs shall remain applicable.
5. The provisions of this circular shall come into immediate effect.
6. This circular is issued with the approval of competent authority.
7. The stock exchanges are advised to:

- 7.1 Take steps to make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of this circular,
 - 7.2 Bring the provisions of this circular to the notice of the members of the stock exchange and also disseminate the same on their website,
 - 7.3 Communicate to SEBI, the status of implementation of the provisions of this circular in the Monthly Development Report.
8. This circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
 9. The circular is available on SEBI website at www.sebi.gov.in under the category "Circulars" and "Info for - Commodity Derivatives".

NAVEEN SHARMA
General Manager

13 Registration with the FINNET 2.0 system of Financial Intelligence Unit – India (FIU-India)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/DDHS/DDHS-POD1/CIR/P/2023/67 dated 09.05.2023]

1. FIU-India, vide letter dated April 19, 2023 addressed to designated directors and principal officers of Debenture Trustees, has specified guidelines including red flag indicators for detecting suspicious transactions by the Debenture Trustees under Rule 7(3) of Prevention of Money Laundering (Maintenance of Records) Rules, 2005.
2. It has been informed by FIU-India that:
 - a) All Reporting Entities falling under Debenture Trustee segment registered in FINNET 1.0 system of FIU-India are required to re-register themselves in FINNET 2.0 system/ module¹; and
 - b) Those reporting entities who have not yet registered themselves with FIU-India are required to be registered in FINNET 2.0 system/ module of FIU-India immediately in light of the FATF mutual evaluation.
3. In view of the above, all the SEBI registered debenture trustees are advised to register/ re-register themselves in FINNET 2.0 system of FIU-India as soon as possible.
4. This Circular is issued in exercise of powers conferred under Section 11(1) of Securities and Exchange Board of India Act, 1992 and Regulation 2A of the Securities and Exchange Board of India (Debenture Trustees) Regulations, 1993 to protect the interest of investors in securities and to promote the development of, and to regulate, the securities market.
5. This Circular is available on SEBI website at www.sebi.gov.in under the categories 'Circulars' under 'Legal Framework'.

PRADEEP RAMAKRISHNAN
General Manager

14 Testing Framework for the Information Technology (IT) systems of the Market Infrastructure Institutions (MIIs)

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/MRD/TPD/P/CIR/2023/65 dated 05.05.2023]

1. MIIs (i.e. Stock Exchanges, Clearing Corporations and Depositories) are systemically important institutions as they, inter-alia, provide infrastructure necessary for the smooth and uninterrupted functioning of the securities market. Therefore, it is imperative to devise a comprehensive testing framework to manage the IT systems/applications of MIIs throughout their lifecycle, which can assist the MIIs in performing thorough risk assessment before deploying any IT systems in production/ live environment.
2. Based on the recommendations of the Technology Advisory Committee (TAC), MIIs are hereby directed to ensure the following requirements while establishing the testing framework of their IT systems/applications: -
 - a) All MIIs should do extensive testing, validation and documentation whenever new systems/ applications or changes to existing systems/ applications are introduced before the deployment in production/live environment.
 - b) A comprehensive methodology for system testing, functional testing, application security testing should be established and the same shall be approved by Standing Committee on Technology (SCOT) of respective MIIs. The scope of testing shall, inter-alia, cover business logic, system function, security controls and system performance under load and stress conditions. Any dependency on the existing systems shall be properly tested.
 - c) Testing should be carried out in a separate environment that replicates/mirrors the production environment in order to minimize any disruption.
 - d) All MIIs shall have the practice of traceability matrix to ensure that the test plan covers all intended functionality of the IT system and application.
 - e) All MIIs shall adopt the practice of using automated testing techniques to run the test cases automatically, which may increase the depth and scope of tests and ultimately help to improve the software quality.

ANSUMAN DEV PRADHAN
Deputy General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

15 Additional requirements for the issuers of transition bonds

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/DDHS/DDHS_Div1/P/CIR/2023/66 dated 04.05.2023]

- On February 2, 2023, the revised definition of 'green debt security' was notified in the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021¹. On February 6, 2023, SEBI issued the revised disclosure requirements for such issuances.
- '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."
- 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, it has been decided to prescribe certain additional requirements for issuance and listing of transition bonds. Accordingly, the following are prescribed:

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

3.1 Disclosure in the offer document for public issues / private placements of such transition bonds:

- To differentiate transition bonds from other categories of green debt security, Issuer of transition bonds shall use a denotation 'GB-T'. The denotation shall be disclosed in the offer documents on the cover page and in type of instrument field in the term sheet.
- Transition Plan, which shall contain the following:
 - Details of interim targets*/ milestones along with an indicative timeline for achieving the targets.
*interim targets should also reflect the indicative figure regarding how much emissions the issuer is envisaging to reduce.
 - Brief of the project implementation strategy.
 - Details regarding the usage of technology for the project implementation.
 - Mechanism to oversee the utilization of the funds raised through transition bonds and the implementation of the transition plan. Issuers may form a committee to oversee the implementation and ensure timely completion of the defined targets.

PRADEEP RAMAKRISHNAN

General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.sebi.gov.in

16 Introduction of Legal Entity Identifier (LEI) for issuers who have listed and/ or propose to list non-convertible securities, securitised debt instruments and security receipts

[Issued by the Securities and Exchange Board of India vide Circular No. SEBI/HO/DDHS/DDHS_Div1/P/CIR/2023/64 dated 03.05.2023]

- LEI is a unique global identifier for legal entities participating in financial transactions. LEI is designed to create a global reference data system that uniquely identifies every legal entity, in any jurisdiction, that is party to a financial transaction. It is a unique 20-character code to identify legally distinct entities that engage in financial transactions. Presently, RBI directions, inter alia, mandate non-individual borrowers having aggregate exposure of above Rs. 25 crores, to obtain LEI code.
- In view of the above, issuers having outstanding listed non-convertible securities as on August 31, 2023, shall report/ obtain and report the LEI code in the Centralized Database of corporate bonds, on or before September 1, 2023. Similarly, issuers having outstanding listed securitised debt instruments and security receipts as on August 31, 2023, shall report/ obtain and report the LEI code to the Depository(ies), on or before September 1, 2023.
- Further, issuers proposing to issue and list non-convertible securities, on or after September 01, 2023, shall report their LEI code in the Centralized Database of corporate bonds at the time of allotment of the ISIN. Similarly, issuers proposing to issue and list securitised debt instruments and security receipts, on or after September 01, 2023, shall report their LEI code to the Depositories at the time of allotment of the ISIN. The requirements are tabulated below:

Category of security	Relevant Regulation	Applicability	Timeline
Non-convertible Securities	SEBI (Issue and listing of Non-convertible Securities) Regulations, 2021	Issuer proposing to issue and list non-convertible security	On or after September 1, 2023
		Issuer having outstanding listed non-convertible security as on August 31, 2023	On or before September 1, 2023
Securitised Debt Instruments and Security Receipts	SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008	Issuer proposing to issue and list Securitised Debt Instruments or Security Receipts	On or after September 1, 2023
		Issuer having outstanding listed Securitised Debt Instruments and Security Receipts as on August 31, 2023	On or before September 1, 2023

- The requirement of LEI for issuers proposing to list/ having outstanding municipal debt securities shall be specified later.

5. Entities can obtain the LEI code from any of the Local Operating Units (LOUs) accredited by the Global Legal Entity Identifier Foundation (GLEIF). In India, the LEI code may be obtained from Legal Entity Identifier India Ltd (LEIIL), a subsidiary of the Clearing Corporation of India Limited (CCIL), which has been recognised by the Reserve Bank of India as issuer of LEI under the Payment and Settlement Systems Act, 2007 and is accredited by the GLEIF as the LOU in India for issuance and management of LEI codes.
6. The Depositories shall:
 - a. map the LEI code to existing ISINs by September 30, 2023; and
 - b. for future issuances, map the LEI code provided by the issuers with the ISIN at the time of activation of the ISIN.
7. This circular shall come into force with immediate effect.
8. This Circular is issued in exercise of the powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 read with Regulation 55 (1) of the SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021, Regulation 29 of the SEBI (Issue and Listing of Municipal Debt Securities), Regulations, 2015 and Regulations 48 of the SEBI (Issue and Listing of Securitised Debt Instruments and Security Receipts) Regulations, 2008, to protect the interest of investors in securities and to promote the development of, and to regulate the securities market.
9. This Circular is available at www.sebi.gov.in under the link "Legal→Circulars".

PRADEEP RAMAKRISHNAN

General Manager

17 ₹2000 Denomination Banknotes – Withdrawal from Circulation; Will continue as Legal Tender

[Issued by the Reserve Bank of India vide RBI/2023-24/33 DCM(Plg) No.S-239/10.27.00/2023-24 dated 22.05.2023]

In continuation to our circular DCM(Plg) No.S-236/10.27.00/2023-24 dated May 19, 2023 on the captioned subject, it is advised as follows:

2. The facility of exchange of ₹2000 banknotes across the counter shall be provided to the public in the usual manner, that is, as was being provided earlier.
3. Banks are advised to provide appropriate infrastructure at the branches such as shaded waiting space, drinking water facilities, etc. considering the summer season.
4. Banks shall maintain daily data on deposit and exchange of ₹2000 banknotes in the format given below and submit the same as and when called for.

Bank Name	Date	Amount of ₹2000 banknotes Exchanged	Amount of ₹2000 banknotes Deposited	Total Amount

5. Please acknowledge receipt.

SUMAN RAY
Chief General Manager

18 ₹2000 Denomination Banknotes – Withdrawal from Circulation; Will continue as Legal Tender

[Issued by the Reserve Bank of India vide RBI/2023-24/32 DCM(Plg) No.S-236/10.27.00/2023-24 dated 19.05.2023]

₹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.

2. 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.
3. Accordingly, to implement the decision stated above, the following plan of action has been formulated which, the banks shall follow meticulously:

A. Handling of existing stock and receipts

- (i) All banks shall discontinue issue of ₹2000 denomination banknotes with immediate effect. ATMs/Cash Recyclers may also be reconfigured accordingly.
- (ii) Banks holding Currency Chests (CCs) shall ensure that no withdrawal of ₹2000 denomination is allowed from the CCs. All balances held in the CCs shall be classified as unfit and kept ready for dispatch to respective RBI offices.
- (iii) All banknotes in this denomination received by the banks shall be sorted immediately through Note Sorting Machines (NSMs) for accuracy and genuineness and deposited in the currency chests under the Linkage Scheme or kept ready for dispatch to the nearest Issue Office of RBI.
- (iv) The instructions contained in our Master Direction dated April 03, 2023 on detection, reporting and monitoring of counterfeit notes shall be meticulously followed.

SUMAN RAY

Chief General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.rbi.org.in

19 LIBOR Transition

[Issued by the Reserve Bank of India vide RBI/2023-24/30 CO.FMRD. DIRD.01/14.02.001/2023-24 dated 12.05.2023]

Attention of banks/financial institutions (FIs) is drawn to the Reserve Bank advisory on “Roadmap for LIBOR Transition” dated July 08, 2021 wherein banks/FIs, inter-alia, were (i) encouraged to cease, and also encourage their customers to cease, entering into new financial contracts that reference London Interbank Offered Rate (LIBOR) as a benchmark and instead use any widely accepted Alternative Reference Rate (ARR), as soon as practicable and in any case by December 31, 2021 and (ii) urged to incorporate robust fallback clauses in all financial contracts that reference LIBOR and the maturity of which was after the announced cessation date of the LIBOR settings.

2. With the concerted efforts of banks/FIs as well as industry associations like the Indian Banks’ Association, a smooth transition with respect to LIBOR settings that have ceased to be published/become non-representative after December 31, 2021 has been achieved. The transition away from LIBOR was also facilitated by the continuing publication of US\$ LIBOR settings in five tenors which provided a longer transition period particularly for the insertion of the fallback clauses in legacy financial contracts that reference LIBOR. New transactions are now predominantly undertaken using ARRs such as the Secured Overnight Financing Rate (SOFR) and the Modified Mumbai Interbank Forward Outright Rate (MMIFOR). At the same time, there have been instances of a few US\$ LIBOR linked financial contracts undertaken/facilitated by banks/FIs after January 1, 2022. Also, while banks have reported that substantial progress has been made towards insertion of fallback clauses, the process is yet to be completed for all contracts where such fallbacks are required to be inserted.
3. After June 30, 2023, the publication of the remaining five US\$ LIBOR settings will cease permanently. While certain synthetic LIBOR settings will continue to be published after June 30, 2023, the Financial Conduct Authority (FCA), UK, which regulates the LIBOR, has made it clear that these settings are not meant to be used in new financial contracts. The MIFOR, a domestic interest rate benchmark reliant on US\$ LIBOR, will also cease to be published by Financial Benchmarks India Pvt. Ltd. (FBIL) after June 30, 2023.
4. Banks/FIs are advised to ensure that no new transaction undertaken by them or their customers rely on or are priced using the US\$ LIBOR or the MIFOR. Banks/FIs are also advised to take all necessary steps to ensure insertion of fallbacks in all remaining legacy financial contracts that reference US\$ LIBOR (including transactions that reference MIFOR). Fallbacks in such contracts should be inserted at the earliest so as to ensure that transition of any remaining US\$ LIBOR-linked contracts is completed well before the deadline of end June 2023 and any disruptions due to a last-minute rush to insert fallbacks is avoided. Banks/FIs are advised

not to rely on the availability of synthetic LIBOR rates as a substitute for fallbacks in legacy contracts.

5. Banks/FIs are expected to have developed the systems and processes to manage the complete transition away from LIBOR from July 1, 2023. Continued efforts in sensitising customers on the steps to be taken to manage the associated risks will enable a smooth completion of the final leg of the transition.
6. The Reserve Bank will continue to monitor the efforts of banks/FIs for ensuring a smooth transition from LIBOR.

DIMPLE BHANDIA
Chief General Manager

20 Master Circular – Basel III Capital Regulations

[Issued by the Reserve Bank of India vide RBI/2023-24/31DOR. CAPREC.15/21.06.201/2023-24 dated 12.05.2023]

Please refer to the Master Circular No. DOR.CAP.REC.3/21.06.201/2022-23 dated April 1, 2022, consolidating therein the prudential guidelines on Basel III capital adequacy issued to banks till that date.

2. The instructions contained in the aforesaid Master Circular have been suitably updated / amended by incorporating relevant guidelines, issued as on date. A list of circulars consolidated in this Master Circular is contained in Annex 26.
3. Small Finance Banks and Payments Banks may refer to their respective licensing guidelines and operating guidelines issued by Reserve Bank, for prudential guidelines on capital adequacy.

USHA JANAKIRAMAN
Chief General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.rbi.org.in

21 Formalisation of Informal Micro Enterprises on Udyam Assist Platform

[Issued by the Reserve Bank of India vide RBI/2023-24/27 FIDD.MSME & NFS.BC.No.09/06.02.31/2023-24 dated 09.05.2023]

Please refer to the Circular FIDD.MSME & NFS.BC.No.4/06.02.31/2020-21 dated August 21, 2020 on ‘New Definition of Micro, Small and Medium Enterprises – clarifications’ wherein all lenders were advised to obtain ‘Udyam Registration Certificate’ for classification of entities as MSME.

2. 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.).

3. The Government of India, vide Gazette Notification S.O. 1296(E) dated March 20, 2023, 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.
4. Government of India has clarified to RBI that IMEs are those enterprises which are unable to get registered on the Udyam Registration Portal (URP) due to lack of mandatory required documents such as Permanent Account Number (PAN) or Goods and Services Tax Identification Number (GSTIN). Hence such enterprises are unable to avail the benefits of Government schemes or programmes. Further, it has been clarified that the turnover of enterprises exempted from filing returns under the provisions of the Central Goods and Services Tax Act, 2017 shall be the sole criterion to be defined as IMEs for the purpose of UAP. Accordingly, IMEs are those enterprises that are not covered in the Goods and Services Tax regime.
5. An interface has been created between the UAP and Udyam Registration Portal (URP) to enable the transition and migration of the IMEs from UAP to URP, once IMEs obtain the mandatorily required documents.
6. In view of the aforementioned notification and clarification, IMEs with an Udyam Assist Certificate shall be treated as Micro Enterprises under MSME for the purposes of PSL classification.

NISHA NAMBIAR
Chief General Manager

22 Formation of new district in the State of Arunachal Pradesh – Assignment of Lead Bank Responsibility

[Issued by the Reserve Bank of India vide RBI/2023-24/28 FIDD.CO.LBS. BC.No.8/02.08.001/2023-24 dated 09.05.2023]

The Government of Arunachal Pradesh vide Gazette Notification No.Law/Legn-19/2018 dated October 5, 2018 had notified formation of a new district in the state of Arunachal Pradesh. It has been decided to assign lead bank responsibility for the new district as under:

Sr. No	Newly Created District	Erstwhile District	Lead Bank Responsibility assigned to	District Working Code allotted to new district
1.	Leparada	Lower Siang	State Bank of India	00R (to be read as numeral zero, numeral zero, alphabet R)

2. Further, the District Working Code of the new district has also been allotted for the purpose of BSR reporting by banks.
3. There is no change in the Lead Bank of the erstwhile district and of other districts in the state of Arunachal Pradesh.

SONALI SEN GUPTA
Chief General Manager

23 Levy of charges on forex prepaid cards/store value cards/travel cards, etc.

[Issued by the Reserve Bank of India vide RBI/2023-24/29 A.P. (DIR Series) Circular No. 04 dated 09.05.2023]

Attention of Authorised Dealers is invited to relevant instructions contained in A.P. (DIR Series) Circular No. 46 dated June 14, 2005 and A.P. (DIR Series) Circular No. 102 dated April 02, 2012, regarding use of International Debit Cards/Store Value Cards/Charge Cards/Smart Cards or any other instrument that can be used to create a financial liability, as 'currency'.

2. 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.
3. The directions contained in this circular have been issued under sections 10 (4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

SIBI MATHEWS
General Manager

24 Master Circular - Income Recognition, Asset Classification, Provisioning and Other Related Matters - UCBs

[Issued by the Reserve Bank of India vide RBI/2023-24/26 DOR.STR. REC.14/21.04.048/2023-24 dated 08.05.2023]

Please refer to our Master Circular DOR.STR. REC.5/21.04.048/2022-23 dated April 1, 2022 on the captioned subject. The enclosed Master Circular consolidates and updates all the instructions / guidelines on the subject issued till date as listed in the Annex 9.

MANORANJAN MISHRA
Chief General Manager

Complete details are not published here for want of space. For complete notification readers may log on to www.rbi.org.in

25 Amendment to the Master Direction (MD) on KYC – Instructions on Wire Transfer

[Issued by the Reserve Bank of India vide RBI/2023-24/25 DOR.AML. REC.13/14.01.001/2023-24 dated 04.05.2023]

Please refer to the Master Direction (MD) on KYC dated February 25, 2016, as amended from time to time, in terms of which Regulated Entities (REs), inter alia, have to undertake certain measures while dealing with the Wire Transfer.

2. In this regard, on a review, it has been decided to amend the MD on KYC to update the instructions on Wire Transfer (Section 64 of the MD), also aligning the same with the relevant FATF Recommendation. The amended instructions of Section 64 of the MD on KYC are provided in the annexure for reference. Further, definitions of the relevant terms used in the amended Wire Transfer instructions are being added in Section 2 ("Definitions") of the MD on KYC.
3. The amended provisions shall come into force with immediate effect.

SANTOSH KUMAR PANIGRAHY
Chief General Manager

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NEWS FROM THE INSTITUTE



- MEMBERS RESTORED DURING THE MONTH OF APRIL 2023
- CERTIFICATE OF PRACTICE SURRENDERED DURING THE MONTH OF APRIL 2023
- LIST OF PEER REVIEWED UNITS
- NEW ADMISSIONS
- UPLOADING OF PHOTOGRAPH AND SIGNATURE
- PAYMENT OF ANNUAL LICENTIATE SUBSCRIPTION FOR THE YEAR 2023-2024
- OBITUARIES
- PAYMENT OF ANNUAL MEMBERSHIP AND CERTIFICATE OF PRACTICE FEE FOR THE YEAR 2023-2024
- CHANGE / UPDATION OF ADDRESS



Institute News

MEMBERS RESTORED DURING THE MONTH OF APRIL 2023

SL. NO	NAME	MEMB NO	REGION
1	CS PARTHASARATHI KANNAN	ACS - 10750	SIRC
2	CS MAHADEV RAMCHANDRA JOSHI	ACS - 13032	WIRC
3	CS RITU GOYAL	ACS - 13313	NIRC
4	CS SANDEEP KUMAR SULTANIA	ACS - 13546	EIRC
5	CS NUPUR KRISHNAMA	ACS - 15454	SIRC
6	CS MANOJ JAIN	ACS - 16764	NIRC
7	CS NIRANJAN KUMAR SINGH	ACS - 18843	NIRC
8	CS ATUL MALHOTRA	ACS - 19319	NIRC
9	CS RUCHIKA TANDON	ACS - 19322	NIRC
10	CS ANURAG SHARMA	ACS - 20691	NIRC
11	CS SHIVANI SHARMA	ACS - 20966	SIRC
12	CS SAVIO FRANCIS SEQUEIRA	ACS - 22911	WIRC
13	CS ARBIND KUMAR JAIN	ACS - 23017	EIRC
14	CS VANDANA	ACS - 24631	NIRC
15	CS PREETI BHAVIK MEHTA	ACS - 26328	WIRC
16	CS ABIRA DEY	ACS - 27207	SIRC
17	CS PRIYANKA LAHOTY	ACS - 27350	WIRC
18	CS KRUPA SHAILESH MANIAR	ACS - 27732	WIRC
19	CS AMIT PAREEK	ACS - 28139	WIRC
20	CS AKANSHA MITTAL	ACS - 28211	NIRC
21	CS NISHA PANDEY	ACS - 28897	SIRC
22	CS SHARDUL SUDHIR KAMALAPURKAR	ACS - 29416	SIRC
23	CS NEHA MOHTA	ACS - 31404	EIRC
24	CS PRIYANKA SHARMA	ACS - 32767	EIRC
25	CS SONU SINGHAL	ACS - 33059	NIRC
26	CS BHAMWANI PRIYA LAKHMICHAND	ACS - 34267	WIRC

27	CS PRATIBHAA ANNAND	ACS - 35016	NIRC
28	CS MINAZ MEHBOOB RAHEMANI	ACS - 35446	WIRC
29	CS ASMITA GHANSHYAM BHATT	ACS - 35864	SIRC
30	CS URVASHI KOTHARI	ACS - 36709	WIRC
31	CS DIVYA RAI	ACS - 37877	WIRC
32	CS SNEHA SHARMA	ACS - 37986	NIRC
33	CS PULKIT RATHI	ACS - 38037	EIRC
34	CS KRITI GUPTA	ACS - 38497	NIRC
35	CS SONAL GOEL	ACS - 38678	NIRC
36	CS PRATAP KUMAR SAMANTARAY	ACS - 40993	SIRC
37	CS JAMSHED FRAMJI SOONAWALLA	ACS - 41035	SIRC
38	CS AMANPREET	ACS - 41305	SIRC
39	CS ANKUR AGRAWAL	ACS - 45157	WIRC
40	CS NANDINI AMIT CHAVAN	ACS - 45504	WIRC
41	CS ANIL VASANT GOKHALE	ACS - 4681	WIRC
42	CS VASHU MITTAL	ACS - 47025	NIRC
43	CS ANKIT KALRIA	ACS - 48938	NIRC
44	CS RIMPY GHOSH	ACS - 49649	WIRC
45	CS UTKARSH SHUKLA	ACS - 49959	NIRC
46	CS AJAY AGRAWAL	ACS - 51105	NIRC
47	CS SONAM SHARMA	ACS - 52445	WIRC
48	CS VIBHAS DUTTA	ACS - 54310	EIRC
49	CS MEHA SHARMA	ACS - 54757	WIRC
50	CS SWETA SINGH	ACS - 56061	NIRC
51	CS SHREVIDYA B S	ACS - 61269	SIRC
52	CS HEMANT KUMAR R. SHUKLA	ACS - 6141	WIRC
53	CS ADITYA	ACS - 61736	NIRC
54	CS NEHA BEHAL	ACS - 62054	NIRC
55	CS SANTOSH TUKARAM SAVANT	ACS - 62305	WIRC
56	CS BHAGYASHREE NAVNEET BHERE	ACS - 63013	WIRC
57	CS RUCHA MANOJ BITTURWAR	ACS - 67968	WIRC
58	CS CHITRA SREENIVAS	ACS - 7106	WIRC
59	CS PANKAJ MISRA	ACS - 8411	NIRC
60	CS SUNDARAM BRINDA	ACS - 9656	SIRC
61	CS MOSALKANTI VASUDEV RAO	FCS - 4657	WIRC
62	CS MAMTA MITTAL	FCS - 5258	NIRC
63	CS RAKESH KUMAR SHEKHAR	FCS - 6287	EIRC
64	CS SHARAD CHANDRA SHARMA	FCS - 6518	NIRC

**CERTIFICATE OF PRACTICE SURRENDERED
DURING THE MONTH OF APRIL 2023**

SL. NO	NAME	MEMB NO	COP NO	REGION
1	CS ABHINAV LEEKHA	FCS - 7850	18670	NIRC
2	CS ABHISHEK JAIN	FCS - 11940	18585	NIRC
3	CS ANJESH VIDYAKANT PANDIT	ACS - 66802	26339	WIRC
4	CS ANKIT KUMAR GABA	ACS - 67863	25355	NIRC
5	CS ARUSHI BHARDWAJ	ACS - 61402	26416	NIRC
6	CS ASTHA GANDHI	ACS - 28124	22889	WIRC
7	CS BHAGYASHREE PERIWAL	ACS - 50954	18802	NIRC
8	CS BRAJENDRA KUMAR MISHRA	FCS - 5244	19143	NIRC
9	CS CHANDRAPPA MARIYAPPA	FCS - 2109	3677	SIRC
10	CS CHIMANLAL AGRAWAL	ACS - 59169	22305	EIRC
11	CS DEEPAK CHAND BHAGAT	ACS - 67619	25817	NIRC
12	CS EVA SRIVASTAVA	ACS - 45048	18057	NIRC
13	CS FAREHA NAWAZ	ACS - 61798	25138	NIRC
14	CS FRANCISCO DIAS	FCS - 2225	3765	WIRC
15	CS GEETA	ACS - 57137	21857	NIRC
16	CS GEETHIKA JAYASREE	ACS - 42996	22921	SIRC
17	CS GEETIKA MONGA	ACS - 43218	15923	NIRC
18	CS GULSHAN LAMBA	ACS - 40691	26218	NIRC
19	CS HETAL HIRAL GORADIA	ACS - 23840	8572	WIRC
20	CS HIMANSHU GROVER	FCS - 8965	10398	NIRC
21	CS HINA SIDDIQUI	ACS - 47491	23440	WIRC
22	CS KAPI MAHESHWARI	ACS - 68512	25859	NIRC
23	CS KARISHMA KAPOOR	ACS - 58727	24084	NIRC
24	CS KHUSHBU MAHESH GADA	ACS - 66326	26174	WIRC
25	CS KHYATI ANIKET RAVAL	ACS - 65462	25125	WIRC
26	CS KISHORE LAKSHMI RADHA AVULA	ACS - 60421	24700	SIRC
27	CS KRISHNA PATEL	ACS - 64017	24900	SIRC

28	CS NEERALI ANAND NAGADA	ACS - 44554	25622	WIRC
29	CS NIKITASHA MANGAL	ACS - 30641	15751	WIRC
30	CS NISHA AGARWAL	ACS - 49216	20174	EIRC
31	CS NITIN BHATIA	ACS - 50392	19468	NIRC
32	CS PARAMESWARAN RAMANATHAN	ACS - 8613	24678	SIRC
33	CS PARINEETA SHIVAPRASAD POONJA	ACS - 38082	22545	WIRC
34	CS POOJA DHEER	ACS - 29852	23844	NIRC
35	CS PRAVIN KUMAR JAIN	FCS - 4031	4101	EIRC
36	CS PRIYANKA PRAJAPATI	ACS - 58203	23086	NIRC
37	CS RAMKUMAR JAGANNATHAN	FCS - 12319	21916	SIRC
38	CS RASHMI	ACS - 62535	23374	SIRC
39	CS REETIKA THAKUR	ACS - 69309	26103	NIRC
40	CS RICHA GUPTA	ACS - 38346	25023	NIRC
41	CS RIDDHI SANKET MODI	ACS - 24218	22437	WIRC
42	CS ROCHIT AGARWAL	ACS - 57975	21922	EIRC
43	CS SATYAPAL SINGH BHATI	FCS - 8252	9387	NIRC
44	CS SHARADCHANDRA SHANKARRAO PATIL	ACS - 21225	7771	WIRC
45	CS SHIPRA MAHESHWARI	ACS - 28209	25925	NIRC
46	CS SHRIMANT VAMAN KESKAR	ACS - 57851	24999	WIRC
47	CS SNEHA AGARWAL	ACS - 65500	25480	EIRC
48	CS SONAM SHARMA	ACS - 52445	24620	WIRC
49	CS SUBHAJEET KAR	ACS - 56138	25918	EIRC
50	CS SUDISH KUMAR GUPTA	FCS - 11627	17608	NIRC
51	CS SWATI MITTAL	ACS - 60360	22644	EIRC

LIST OF PEER REVIEWED UNITS

The List of Peer Reviewed Units is updated on ICSI Website from time to time and can be accessed at <https://tinyurl.com/PRList2023>

We request members to visit the list for their reference and records.

Peer Review Secretariat

ICSI

NEW ADMISSIONS

For latest admission of Associate and Fellow Members, Life Members of Company Secretaries Benevolent Fund (CSBF), Licentiates and issuance of Certificate of Practice, kindly refer to the link <https://www.icsi.edu/member>



UPLOADING OF PHOTOGRAPH AND SIGNATURE

Members are requested to ensure that their latest scanned passport size front-facing colour photograph (in formal wear) and signature in .jpg format (each on light-colored background of not more than 200 kb file size) are uploaded on the online portal of the Institute.

Online Steps for Uploading of photo and signature.

- Use ONLINE SERVICES tab on www.icsi.edu
- Select Member Portal from dropdown
- Login using your membership number e.g. A1234/F1234
- Enter your password
- Under My Profile --- Click on View and Update
- Upload/update the photo and signature as required
- Press Save button

PAYMENT OF ANNUAL LICENTIATE SUBSCRIPTION FOR THE YEAR 2023-2024

The annual Licentiate subscription for the year 2023-2024 has become due for payment w.e.f. 1st April, 2023. The last date of making payment is 30th June, 2023. The Licentiate subscription payable is Rs.1180/- inclusive of applicable GST@18%. The subscription will be paid ONLINE only using the link - <http://stimulate.icsi.edu/> with your student login credentials.

Log in to the link - <http://stimulate.icsi.edu/> with your student credentials.

Username – Will be your registration number.

You may reset the new password at <https://smash.icsi.in/Scripts/GetPassword.aspx> and login at <https://smash.icsi.in/Scripts/login.aspx> and <https://stimulate.icsi.edu/>.

Click Renew option and make the payment.

For any further queries, please write to member@icsi.edu or raise query at <http://support.icsi.edu>

OBITUARIES

Chartered Secretary deeply regrets to record the sad demise of the following members:

CS R Venkataraman (20.12.1933 – 07.01.2023), a Fellow Member of the Institute from Mumbai.

CS Lavina Lohithaksha Salian (24.07.1986 – 12.03.2023), an Associate Member of the Institute from Mumbai.

CS Arvind Kumar Srivastava (16.09.1967 – 03.10.2022), an Associate Member of the Institute from Delhi.

CS Annaswami Raghavan (28.10.1945 – 28.04.2023), a Fellow Member of the Institute from Chennai.

CS Yatendra Bhargava (22.09.1965 – 26.04.2023), an Associate Member of the Institute from Daman & Diu.

CS Rajiv Kumar Adlakha (23.04.1967 – 20.04.2023), an Associate Member of the Institute from Gurugram.

CS Sunkara Venkateswara Rao (16.06.1966 – 03.05.2023), a Fellow Member of the Institute from Visakhapatnam.

CS Mukesh Kumar Heda (28.07.1983 – 21.05.2023), a Fellow Member of the Institute from Jaipur.

CS Sadashiv Vasudev Shet (22.02.1951 – 22.03.2023), a Fellow Member of the Institute from Goa.

May the Almighty give sufficient fortitude to the bereaved family members to withstand the irreparable loss.

May the departed souls rest in peace.

PAYMENT OF ANNUAL MEMBERSHIP AND CERTIFICATE OF PRACTICE FEE FOR THE YEAR 2023-2024

The annual membership fee and certificate of practice fee for the year 2023-24 has become due for payment w.e.f. 1st April, 2023. The last date for the payment of annual membership fee and certificate of practice fee will be **30th June, 2023**.

The membership and certificate of practice fee payable are as follows:

Particulars	Associate*	Fellow*
Annual Membership fee	Rs. 2950	Rs. 3540
Annual Membership fee (Opting out to receive the physical copy of Chartered Secretary Journal)	Rs.2360	Rs. 2950
Annual Certificate of Practice fee	Rs. 2360	Rs. 2360
Entrance fee** (Restoration of Associate and Fellow Membership)	Rs. 2360	Rs. 2360
Restoration fee***	Rs. 295	Rs. 295

* All Fee inclusive of applicable GST@18%.

** Applicable if annual membership fee is not received by 30th June, 2023.

*** Applicable if annual membership fee and certificate of practice fee is not received by 30th June, 2023

A member who is of the age of seventy years or above can claim 75% concession in the payment of Associate/ Fellow Annual Membership fee.

A member who is Divyangjan can seek concession in annual membership fee @ 50% w.e.f. 1st April, 2021. Concession of 50% is also applicable additionally to members who are of the age seventy years or above. The member needs to submit a medical certificate to this effect for seeking this concession.

MODE OF REMITTANCE OF FEE

The fee can be remitted through **ONLINE** mode only using the payment gateway of the Institute's website www.icsi.edu → Online Services through Members Portal login.

1. Use ONLINE SERVICES tab on www.icsi.edu
2. Select Member Portal from dropdown
3. Login using your membership number e.g. A1234/F1234
4. Enter your password
5. Click on renew link under Notifications on your Home Page
6. Check the details and pay the fee

Payment made through any other mode is not acceptable.

The following are to be done while making online payment of annual membership fee:

1. ***Declaration of PAN & AADHAAR***
2. ***Verification of your address as per Regulation 3 of the CS (Amendment) Regulations, 2020 by clicking on the given check box***
3. ***Declaration of eCSIN (if applicable)***
4. ***Declaration of UDIN (if applicable)***
5. ***Declaration of GSTIN number (optional)***

For more detail kindly refer FAQs on home page of www.icsi.edu , if unclear raise query at <http://support.icsi.edu>

Team ICSI

CHANGE / UPDATION OF ADDRESS

The members are requested to check and update (if required) your professional and residential addresses ONLINE only through Member Login. Please indicate your correspondence address too.

The steps to see your details in the records of the Institute:

1. Go to www.icsi.edu
2. Click on **MEMBER** in the menu
3. Click on **Member Search** on the member home page
4. Enter your membership number and check
5. The address displayed is your Professional address (Residential if Professional is missing)

The steps for online change of address are as under:

1. Go to www.icsi.edu
2. On the Online Services ----select **Member Portal** from dropdown menu
3. Login using your membership number e.g. A1234/F1234
4. Under **My Profile** --- Click on View and update option and check all the details and make the changes required and save
5. To change the mobile number and email id click the side option "**Click Here to update Mobile Number and E-mail Id**"
6. Check the residential address and link the Country-State-District-City and check your address in the fields Add. Line1/Add. Line2 & Add. Line3 (Click Here to change residential address)
 - a) Select the Country[#]
 - b) Select the State
 - c) Select the City
 - d) Submit the Pincode which should be 6 digits without space.
 - e) Then click on "Save" button.
7. Select the appropriate radio button for Employment Status and check your address in the fields Add. Line1/ Add. Line2 & Add. Line3 click the link on the right (Click Here to change Professional address)
 - a) Select the Country[#]
 - b) Select the State
 - c) Select the City
 - d) Submit the Pincode which should be 6 digits without space.
 - e) Then click on "Save" button.
8. Go back to the Dashboard and check if the new address is being displayed.

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6

MISCELLANEOUS CORNER



- GST CORNER
- ETHICS IN PROFESSION
- CG CORNER

NOTIFICATION NO. 05/2023-CENTRAL TAX (RATE) DATED 9TH MAY, 2023

The last date for exercise of option by Goods Transport Agency (GTA) to pay GST under forward charge for the FY 2023-24 has been extended till May 31, 2023.

As per Notification No. 11/2017-Central Tax (Rate) dated 28th June, 2017, GTA means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called. This means, while others might also hire out vehicles for goods transportation, only those issuing a consignment note are considered as a GTA. Thus, a consignment note is an essential condition to be considered as a GTA.

A consignment note is a document issued by a GTA against the receipt of goods for the purpose of transporting the goods by road in a goods carriage. Issue of consignment note means that the lien on the goods has been transferred to the transporter and he is responsible for the safe delivery of the goods to the consignee.

GTA has an option to pay GST under forward charge (5% without ITC or 12% with ITC) or reverse charge (5% without ITC). GTA has to exercise the option to pay GST under forward charge for a financial year by making a declaration in Annexure V by 15th March of the preceding financial year [Notification No. 11/2017-Central Tax (Rate) dated June 28, 2017 amended vide Notification No. 3/2022-Central Tax (Rate) dated July 13, 2022].

GTA who commences new business or crosses threshold for registration during any Financial Year, may exercise the option to itself pay GST on the services supplied by it during that Financial Year by making a declaration in Annexure V before the expiry of forty-five days from the date of applying for GST registration or one month from the date of obtaining registration whichever is later.

Note: Similar notification has also been issued under Union Territory Tax (Rate) and Integrated Tax (Rate).

Source: [Explore \(cbic.gov.in\)](http://cbic.gov.in)

NOTIFICATION NO. 10/2023 –CENTRAL TAX DATED 10TH MAY, 2023

The threshold limit of aggregate turnover for the applicability of e-invoicing provisions has been reduced from Rs. 10 crores to Rs. 5 crores with effect from August 1, 2023.

Therefore, registered persons having an aggregate turnover of more than Rs. 5 crores in any preceding financial year from 2017-18 onwards will be liable to

generate e-invoice with effect from August 1, 2023 (initially this aggregate turnover limit was Rs. 500 crores applicable from October 01, 2020 which was then reduced to Rs. 100 crores from January 01, 2021, Rs. 50 crores from April 01, 2021, Rs. 20 crores from April 01, 2022 and Rs. 10 crores from October 1, 2022).

E-invoice is required for invoices, credit notes, and debit notes issued by a registered person, other than

- SEZ units,
- Insurer/ banking company/ financial institution, including a NBFC,
- Goods Transport Agency (GTA),
- Suppliers of passenger transportation service,
- Suppliers of services by way of admission to exhibition of cinematograph films in multiplex screens,
- Government department, and
- Local authority.

Source: [Explore \(cbic.gov.in\)](http://cbic.gov.in)

GUIDELINES FOR SPECIAL ALL-INDIA DRIVE AGAINST FAKE REGISTRATIONS

The CBIC vide Instruction No. 01/2023-GST dated May 4, 2023 has issued the guidelines for Special All-India Drive against fake registrations.

In the National Co-ordination Meeting held on 24th April 2023, it was agreed that a nation-wide effort in the form of a Special Drive should be launched on All-India basis to detect suspicious/ fake registrations and to conduct requisite verification for timely remedial action to prevent any further revenue loss to the Government. It was decided that common guidelines may be issued to ensure uniformity in the action by the field formations and for effective coordination and monitoring of the action taken during this Special Drive.

Accordingly, the following guidelines are issued for such concerted action on fake dealers/ fake billers in a mission mode:

- (i) **Period of Special Drive:** A Special All-India Drive may be launched by all Central and State Tax administrations during the period 16th May 2023 to 15th July 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.

- (ii) **Identification of fraudulent GSTINs:** Based on detailed data analytics and risk parameters, GSTN will identify such fraudulent GSTINs for State and Central Tax authorities. GSTN will share the details of such identified suspicious GSTINs, jurisdiction wise, with the concerned State/ Central Tax administration (through DGARM in case of Central Tax authorities) for initiating verification drive and conducting necessary action subsequently.

Besides, field formations may also supplement this list by data analysis at their own end using various available analytical tools like BIFA, ADVAIT, NIC Prime, E-Way analytics, etc., as well as through human intelligence, Aadhar database, other local learnings and the experience gained through the past detections and modus operandi alerts. GSTN may separately provide a note to the field formations, regarding the tools available in BIFA which may be useful during this drive.

- (iii) **Information Sharing Mechanism:** Successful implementation of the Special Drive would require close coordination amongst the State Tax administrations, and between State and Central tax administrations. For this purpose, a nodal officer shall be appointed immediately by each of the Zonal CGST Zone and State to ensure seamless flow of data and for coordination with GSTN/ DGARM and other Tax administrations.

The Nodal officer of the State/ CGST Zone will ensure that the data received from GSTN/ DGARM/ other tax administrations is made available to the concerned jurisdictional formation within two days positively. The Nodal officer shall also ensure that any cooperation required by other jurisdictions under his control is promptly provided.

- (iv) **Action to be taken by field formations:** On receipt of data from GSTN/DGARM through the Nodal Officer, a time bound exercise of verification of the suspicious GSTINs shall be undertaken by the concerned jurisdictional tax officer(s). If, after detailed verification, it is found that the taxpayer is non-existent and fictitious, then the tax officer may immediately initiate action for suspension and cancellation of the registration of the said taxpayer in accordance with the provisions of section 29 of CGST Act, read with the rules thereof.

Further, the matter may also be examined for blocking of input tax credit in Electronic Credit Ledger as per the provisions of Rule 86A of CGST Rules without any delay. Additionally, the details of the recipients to whom the input tax credit has been passed by such non-existing taxpayer may be identified through the details furnished in FORM GSTR-1 by the said taxpayer. Where

the recipient GSTIN pertains to the jurisdiction of the said tax authority itself, suitable action may be initiated for demand and recovery of the input tax credit wrongly availed by such recipient on the basis of invoice issued by the said non-existing supplier, without underlying supply of goods or services or both. In cases, where the recipient GSTIN pertains to a different tax jurisdiction, the details of the case along with the relevant documents/ evidences, may be sent to the concerned tax authority, as early as possible, through the Nodal Officer.

Action may also be taken to identify the masterminds/ beneficiaries behind such fake GSTIN for further action, where ever required, and also for recovery of Government dues and/ or provisional attachment of property/ bank accounts, etc. as per provisions of section 83 of CGST Act. Further, during the investigation/ verification, if any linked suspicious GSTIN is detected, similar action may be taken/ initiated in respect of the same.

- (v) **Feedback and Reporting Mechanism:** An action taken report will be provided by each of the State as well as CGST Zones to GST Council Secretariat on weekly basis on the first working day after completion of the week. If any novel modus operandi is detected during the verification/ investigation, the same may also be indicated in the said action taken report. On conclusion of the drive, GSTIN-wise feedback on the result of verification of the shared suspicious GSTINs, will be provided by the field formations to GSTN/ DGARM.

- (vi) **National Coordination Committee:** A National Coordination Committee headed by Member [GST], CBIC and including Principal Chief Commissioners/ Chief Commissioners Delhi and Bhopal CGST Zones and Chief Commissioners/ Commissioners of State Tax of Gujarat, West Bengal and Telangana shall monitor the progress of this special drive. National Coordination Committee will meet periodically for this purpose. GST Council Secretariat will act as the secretariat of this National Coordination Committee. The Committee will also be assisted by GSTN and Principal Commissioner, GST Policy Wing, CBIC.

GST Council Secretariat will compile the reports received from various formations and make it available to the National Coordination Committee immediately. The unique modus operandi found during this special drive will be compiled by GST Council Secretariat and presented before National Coordination Committee, which will be subsequently shared with Central and State Tax administrations across the country.

For detailed guidelines please refer <https://taxinformation.cbic.gov.in/view-pdf/1000474/ENG/Instructions>

Professional Misconduct By The Company Secretaries in Practice Under Part I of The Second Schedule To The Company Secretaries Act, 1980

As per Section 22 of the Company Secretaries Act, 1980 expression “professional and other misconduct” in relation to Company Secretaries shall be deemed to include any act or omission provided in any of the Schedules i.e. First and Second Schedule to the Company Secretaries Act, 1980, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Director (Discipline) under sub-section (1) of Section 21 of the Company Secretaries Act, 1980 to inquire into the conduct of any member of the Institute under any other circumstances.

The First Schedule to the Company Secretaries Act, 1980 –

PART I It deals with the Professional misconduct in relation to Company Secretaries in Practice. It contains eleven clauses.

PART II It deals with the Professional misconduct in relation to members of the Institute in service. It contains two clauses.

PART III It deals with the Professional misconduct in relation to members of the Institute generally. It contains three clauses.

PART IV It deals with other misconduct in relation to members of the Institute generally. It contains two clauses.

The Second Schedule to the Company Secretaries Act, 1980 -

PART I It deals with the Professional misconduct in relation to Company Secretaries in Practice. It contains ten clauses.

PART II It deals with the Professional misconduct in relation to members of the Institute generally. It contains four clauses.

PART III It deals with the other misconduct in relation to members of the Institute generally.

Part I of the Second Schedule to the Company Secretaries Act, 1980 contains 10 clauses on acts or omissions of professional misconduct which are applicable to Company Secretaries in Practice. A member of the Institute in practice, shall be deemed to be guilty of professional misconduct under Part I of the Second Schedule to the Company Secretaries Act, 1980, if he: -

- (1) discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of his client, or otherwise than as required by any law for the time being in force;
- (2) certifies or submits in his name, or in the name of his firm, a report of an examination of the matters

relating to company secretarial practice and related statements unless the examination of such statements has been made by him or by a partner or an employee in his firm or by another Company Secretary in practice;

- (3) permits his name or the name of his firm to be used in connection with any report or statement contingent upon future transactions in a manner which may lead to the belief that he vouches for the accuracy of the forecast;
- (4) expresses his opinion on any report or statement given to any business or enterprise in which he, his firm, or a partner in his firm has a substantial interest;
- (5) fails to disclose a material fact known to him in his report or statement but the disclosure of which is necessary in making such report or statement, where he is concerned with such report or statement in a professional capacity;
- (6) fails to report a material mis-statement known to him and with which he is concerned in a professional capacity;
- (7) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;
- (8) fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion;
- (9) fails to invite attention to any material departure from the generally accepted procedure relating to the secretarial practice;
- (10) fails to keep moneys of his client other than fees or remuneration or money meant to be expended in a separate banking account or to use such moneys for purposes for which they are intended within a reasonable time.

CASE STUDY

1. A complaint has been filed against two Company Secretaries in Practice. The Complainants alleged that the Respondents have accepted the payment for closure of a company but did not rectified the error pointed by the MCA 21. Despite constant follow up, the Respondents were assuring the clients that the matter being successful done; after many years, the Respondent denied the payment of fees. However, after bank statements shown to the Respondents, they are taking plea that they were on marriage leave, and that now login is disabled and they cannot do

anything; if the Respondents were not sure of stamp duty applicable, they should not have accepted the assignment; and the Respondent accepted money for closure of the company but did not carry out exercise. The company never opened bank account or conducted any business. The Respondent 1 has uploaded documents without obtaining the signatures of all the directors; uploaded document without appropriate stamp duty; and uploaded affidavit in a format which differs from the required format. The Respondent 1 had just 'filed', and not 'completed' the closure of the company. There is gross negligence on the part of both, the Respondent 1 for uploading wrong documents and the Respondent 2 for not acting with due diligence after receiving emails from MCA. These emails from the MCA were also sent at the email id of the company, but email id of the company was not attended since the company was not doing any business; and the Respondent 1 had informed that no further action needs to be done by any director and all formalities are completed and the company will now be closed automatically. The directors were under the impression that the company has been closed successfully as per the representation made by the Respondent 1. From February, 2016 to May, 2016, the Respondent 1 did not respond. When approached with unknown mobile number, she told that no further action needs to be done by any director and all formalities are completed. However, the filing for closure of company was marked for resubmission by the MCA and two emails to this effect were sent at the email id of the Respondent 1 which was being accessed by the Respondent 2. But both these emails were ignored by the Respondents.

2. The Complainant submitted that both the Respondents are sisters. The Respondent 1 was non-reachable and they were receiving notices from the Income Tax Department as the company was not closed. Till they talked to the Respondent 2 in the year 2019, they were not aware that Respondent 1 after her marriage has left the practice and moved abroad. The Respondent 2 did not provide the telephone number of Respondent 1, but she assured them that she will resolve the issue, if proof of payment made to Respondent 1 is provided to her. When proof of bank transfer and emails of MCA were provided to Respondent 2 in March, 2020, she had no clue as to when the company closure was filed and why it was not completed. The Complainants submitted that in the year, 2015, the Respondent 1 should have checked the documents regarding signatures before uploading. Notarization of the documents was also done by her and now they are trying to shift the blame to the notary which was appointed by her. In November, 2015, when the indemnity bond was created and uploaded by her, the stamp duty had already changed as of April, 2015. The date of change in amount of stamp duty is publicly available information. The Respondent 1 being a professional should have paid attention to the entire process of the closure of the company as she had accepted the overall assignment and the fee for the same.
3. The Respondents submitted that the company was incorporated by the Respondent 1 for one of the directors, who also approached her in November, 2015 for closure of the said company. She was paid the professional fee and ROC/Stamp duty fees. Thereafter, the directors forgot about whole transaction and did not approach the Respondents till August, 2019. Once pinged the Respondent 1 on whatsapp in February, 2016, but due to her sudden marriage decision, it was skipped to be replied. The Respondent 2 came to know about entire matter only in August, 2019, when they approached her on whatsapp to know about the status of the company. After 5 months they again approached in January, 2020 and they were replied and the master data of the company and DIN status of all the 4 directors was also shared (DIN of 3 directors were deactivated due to non-filing of DIR KYC and DIN of one director was active). The Respondent 2 asked them to complete KYC and filings. She dropped email twice but no response was received till March, 2020. In March, 2020, the Complainant messaged the Respondent 2 for knowing the truth and that till that time they were not aware about their directorship in the company. They wanted to incorporate a new company but their DINs were disqualified by that time. The Respondent 2 was trying to help them but, they were not providing proofs/documents. When the Respondent 2 sent estimates, they started abusing them. The company's email address was not even opened by them till time, the Respondent 2 told them that resubmission email would have dropped on directors email Id as well. The Complainant opened the resubmission email after four years in March, 2020. The Respondent 2 had tried to help them for rectification of error, since August, 2019, but by March, 2020, all the directors were disqualified, nothing could be done and then lockdown started. It is not a case that wrong documents or nothing is attached to e-form for closure of the company or that more stamp duty fee is charged but paid less. It is just that there may have been changes in the Stamp Duty Act during the period of filing and period of notice of resubmission, as closure generally takes three months to one year. The directors sent the documents without signing. If directors have not signed the bonds, then there is possibility that all the directors were not aware that they are directors or they were not serious to perform their duties till the times they started receiving notices from the MCA against their DINs. The complaint is beyond the period of limitation. There was no representation made by Respondent 1 that the company has been closed successfully and in fact the directors did not have time till 2020 when the Complainant realised that they have received emails from the MCA on company's email id.
4. The Respondents submitted that the Respondent 1 filed Form FTE in November, 2015 with required documents (affidavits, board resolution, Pan Cards, residential proof, statement of solvency & indemnity bond) and paid Rs. 5,000/- w.r.t filing for closure of company. Since, in the indemnity bond, the signatures

of three persons were pending, the onus of checking the same is on the Notary and not on Respondent 1. There was short fall of stamp duty of Rs. 300/- on one indemnity bond due to the amendment in the Stamp Act of Bombay/Maharashtra, which was changed in year 2015 from Rs. 200 to Rs. 300/-. Further, the affidavit was never uploaded but was attached to e-form and also re-submission comments by the MCA official has not mentioned that the affidavit was uploaded in wrong format. The Complainants were the clients of the Respondent 1 and not of the Respondent 2 and there was no transfer of business or handover of the business from Respondent 1 to Respondent 2. She was just trying to help them. The Complainants themselves are responsible for the entire mess-up as they slept over from the filing of closure in November, 2015 and did not approach the Respondents till August, 2019 and even they did not remember about the mode of payment and bank details.

5. The Disciplinary Committee observed that filing for closure of company done by the Respondent 1 in November, 2015 which had been marked for resubmission by the MCA and two emails to this effect were sent at the email id of the Respondent 1 and also at the email id of the company with remarks w.r.t. resubmission that bond is not signed by all the directors, and it should be required on Rs. 500/- stamp paper; and the affidavit point related to the bank account should be according to Ministry's circulars. Being a practising professional, the Respondent 1, before the filing of the closure of the company was required to check that all the required documents are complete in all the aspects including the signatures of all the directors and to ensure that accurate stamp fee has been paid and that affidavit is in proper format. The Respondent 1 is trying to fasten her accountability on the directors of the company, who availed her professional services and expertise for the specialized assignment of closure of company and paid her professional fee. It cannot be expected from a practising member of the Institute to treat the professional assignment of e-filing as a clerical job and to file / upload the documents in the same mode as it is received from the client without checking and verifying the same.
6. The Respondents have admitted that there was short fall of stamp duty of Rs. 300/- on one indemnity bond due to the amendment in Stamp Act of Bombay/ Maharashtra, which was changed in the year 2015 from Rs. 200 to Rs. 500/-. However, it is claimed by the Complainants that as per the Maharashtra Government Gazette dated 24th April, 2015 submitted by them, the amount of stamp duty was already changed as of April, 2015, whereas, indemnity bond was created and uploaded by Respondent 1 in November, 2015. This clearly shows that Respondent 1 at the time of filing was unaware about the revised amount of stamp duty payable on the indemnity bond, though she was required to keep herself updated on amended law. It is also admitted by the Respondents that the complainants sent whatsapp message to Respondent 1 enquiring about the status of closure of her company and that due to her sudden marriage decision, said message was skipped to be replied by her and she also could not attend the resubmission emails of the MCA. It is claimed by the Complainants that it was confirmed by Respondent No. 2 to them that Respondent 1 has left the practice and has gone to Dubai after her marriage and her practice is taken over by her. It is admitted by the Respondents that Respondent 1 is not in active practice from May, 2016 but she was always reachable through her whatsapp number, which was active till the year 2020, email address and her office address and even on the ICSI, her international number was updated in 2020. As per ICSI's records, Respondent 1 is in practice and holding office at Mumbai. However, it is important to note that under the Company Secretaries Act, 1980 and Rules and Regulations made thereunder, there is no such concept of active practice or non-active practice. A member of the ICSI holding certificate of practice is a Company Secretary in Practice. Hence, it was the professional duty of Respondent 1 to ensure the completion of the assignment i.e., closure of the company for which her professional services was availed and professional fee was paid and she was required to do necessary follow-up with the client and MCA.
7. From the transcription of the telephonic conversation held between Complainant and the Respondent 2 it is clear that Respondent 2 was acting for and behalf of the Respondent 1 with respect to the same initial assignment i.e. closure of the company and not for the some new assignment as claimed by her. After the Complainants approached the Respondent 2 in August, 2019, all the communications with the directors of the company w.r.t. uncompleted assignment was done by her for and on behalf of the Respondent 1. From this, it is clear, that the Respondent No. 2 had put herself in the place of the Respondent 1 who had left the assignment incomplete. The Respondent 2 is unjustified in claiming that the Complainants were the clients of the Respondent 1 and she was just trying to help them for closure of the company. Once, the Respondent 2 accepted the assignment, which had been left incomplete by the Respondent 1 and decided not to share the contact number of the Respondent 1 to the directors of the company despite their several request, she cannot escape from the duties and obligations attached with her professionalism as a Practising Company Secretary. The objection that the complaint is beyond the period of limitation, is not tenable.
8. The Disciplinary Committee held both the Respondents 'Guilty' of professional misconduct under clause (7) and (9) of Part I of Second Schedule to the Company Secretaries Act, 1980 for not exercising due diligence and being grossly negligent in the conduct of their professional duties; and failed to invite attention to material departure from the generally accepted procedure relating to the secretarial practice w.r.t. filing for the closure of the company. The Disciplinary Committee passed an order of Reprimand against both the Respondents.

EU Carbon Credit Rules- Are Halcyon Days for Global Trade Over?

April 18, 2023, may be considered as cessation of halcyon days for India and many other countries, as it marked the passage of the legislation for the implementation of a Carbon Border Adjustment Mechanism (CBAM) as part of the European Union's (EU) Green Deal, which aims to reduce greenhouse gas emissions by 55 percent before 2030. CBAM will be rolled out in four phases and will enable the EU to impose a Carbon Border Tax (CBT) on specific imports, such as steel, aluminum, fertilizer, electricity, cement, and hydrogen, from January 2026.

CBAM, or the Carbon Border Adjustment Mechanism, is designed to ensure fair competition by addressing the cost of carbon paid by EU installations that follow the EU Emissions Trading System (ETS), and imported products. It works by applying a fee on the carbon emissions in certain imports that is equal to the fee imposed on domestic products under the ETS. By doing so, CBAM helps prevent carbon leakage, where companies relocate their manufacturing operations outside the EU to avoid the expenses of adhering to climate regulations.

The chronological development of CBAM and its future trajectory is as under:

Years	Developments in CBAM
December 2019	European Commission adopted Communication on the European Green Deal envisaging a carbon border adjustment mechanism (CBAM) for selected sectors.
July 2021	European Commission adopted its proposal for a CBAM. The key objective of the measure is to reduce risk of carbon leakage by equalising the price of carbon between domestic products and imports in selected sectors
March 2022	The EU Council adopted its general approach on the CBAM, introducing relatively minor changes to the original proposal.
June 2022	After the European Parliament had postponed its vote, it has now adopted its position on the CBAM, introducing substantial amendments to the original proposal.
July 2022	The negotiations between the European Commission, Council of the European Union and European Parliament on the final text of the CBAM began.



December 2022	The EU Parliament reached a provisional agreement with the EU Council on the CBAM. The agreement still needs to be confirmed by ambassadors of the EU member states, by the European Parliament, and then adopted by both institutions before it is final.
April 2023	The EU Parliament passed the legislation on CBAM.
October 2023	CBAM transitional period will start from October 1, 2023.
January 2026	Starting from January 2026, exporters to EU will start paying carbon border tax on aluminium, steel and other covered products.
January 2034	All goods and materials imported in EU will be taxed under CBAM.

CBAM has been criticized as a trade-restrictive policy, especially by developing countries like India, which has set a target of becoming carbon neutral by 2070. India has expressed concerns about CBAM at various international forums, including the World Trade Organization (WTO), emphasizing the importance of non-discriminatory treatment for the same products and warning that such measures could lead to protectionist practices.

The embedded nihilism in CBAM is evident from the actions that are required to be taken by EU and Indian importers due to the onset of CBAM is provided in the figure below-

Action for EU Importers and Indian Exporters

CBAM Implementation Roadmap	EU Importers	Indian Exporters
October 1, 2023 - December, 2025	<p>EU firms importing goods covered under CBAM will register with national authorities.</p> <p>They have to track and report emissions of imported goods.</p> <p>EU importers have to ensure that total embedded emissions declared in CBAM declaration are verified by an accredited verifier.</p> <p>EU importers will have to maintain a balance of carbon certificates throughout the year.</p>	<p>Indian exporters will have to provide such information to EU importers.</p>
From January 1, 2026	<p>2026 onwards, the purchase of CBAM certificates will be mandatory to cover GHG emissions, with the cost of these certificates linked to carbon prices under the EU ETS.</p> <p>EU member countries would sell CBAM certificates to EU importers who will act as authorized CBAM declarants.</p> <p>The EU customs authorities will allow the imports only through authorized CBAM declarants.</p> <p>Each year by May 31, the EU importers must declare the quantity of goods and the embedded emissions in these.</p>	<p>Indian exporters will share this information with the EU based importers. If this information is not provided, EU importers will use default values on CO2 emissions for each product to determine the number of certificates they need to purchase.</p>

Source: *India Briefing*

In order to surmount the challenges posed by EU's carbon regime, India is working to develop standards to measure the carbon embedded in products, and expects the European Union and other developed countries to recognize these in order to avoid disputes. Moreover, India is pressing the European Union for a mutual recognition agreement for its carbon certificates and exempt MSMEs in certain sectors to insulate the domestic industry from the burden of the EU's carbon tax, which would kick in from October this year.

India is dealing with the issue at both bilateral and multilateral levels. At bilateral level, India is having dialogue with EU to ink a mutual recognition agreement and make a carve-out for MSMEs and if possible for the country as has been done in the case of some other countries. At the multilateral level, as mentioned India and certain other countries have flagged their concerns to the World Trade Organisation (WTO) on Carbon Border Adjustment Mechanism.

In light of the fact that trade between India and EU have been soaring as evident from the fact that in 2022, India's 27 per cent exports of iron, steel and aluminium products worth USD 8.2 billion went to the EU, it is imperative that the issue of carbon tax be resolved amicably so that it does not exert a debilitating impact on India's trade.

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- <https://www.india-briefing.com/news/eu-carbon-border-adjustment-mechanism-impact-india-business-exports-27901.html/>



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7

BEYOND GOVERNANCE

Case Study

In order to make the Chartered Secretary Journal (CSJ) more interactive for the members and students, the Case Study section has been introduced from April issue. Each Case Study is followed by question(s) which are to be solved by member(s)/student(s). The answer(s) are to be sent to cs.journal@icsi.edu latest by 25th of each month.

The answer(s) will be reviewed by a Panel of reviewer(s). The winner will be given:

- (i) Certificate of Appreciation.
- (ii) His/Her name will be published in the next issue of the Journal.
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Crossword

A new section 'Crossword' containing terminologies/concepts from Companies Act, IBC, NCLT and such related areas of profession is introduced. Members/ students are to send the answers of Crossword to cs.journal@icsi.edu latest by 25th of each month.

- The answer(s) will be published in the next issue of CSJ.
- The winners will be selected randomly.
- The name of three winners will be published in the next issue of CSJ.



AMN Bank (secured creditor) vs. MSME

The Division Bench of the High Court allowed the appeal preferred by MSME and quashed and set aside the judgment and order passed by the learned Single Judge and observed and held that Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as 'MSMED Act') will prevail over Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'SARFAESI Act'). The AMN ("secured creditor") – preferred appeal to the Apex Court and prayed to quash and set aside the impugned judgment and order passed by the Division Bench and restore the judgment and order passed by the learned Single Judge by holding that the recoveries under SARFAESI Act shall be accorded priority over recoveries under MSMED Act.

Facts:

Debtor advanced various credit facilities by the appellant bank – secured creditor on mortgage of certain fixed assets. On account of default in payment of loan / debt, the bank-initiated recovery proceedings in respect of the secured assets contemplated under Section 13(2) of the SARFAESI Act. The bank – secured creditor filed an application before the District Magistrate under Section 14 of the SARFAESI Act seeking assistance from taking possession of the secured assets. District Magistrate allowed the said application by directing the SDM, District, to take vacant possession of the secured assets. However, no action was taken and therefore, the bank submitted applications to the District Magistrate and the SDM complaining non-compliance of the order to take possession of the secured assets. Finally, SDM issued direction to the Naib Tehsildar to comply the order of the District Magistrate and obtain the possession by taking police assistance. Thereafter, Naib Tehsildar refused to take possession and to comply the order on the ground that one recovery proceeding is pending for recovery of certain amounts from the secured assets. The recovery certificates were issued in favour of MSME pursuant to the award passed by the Facilitation Council under provisions of MSMED Act. While refusing to take possession of the secured assets pursuant to the order passed by the District Magistrate under Section 14 of the SARFAESI Act, Naib Tehsildar observed that MSMED Act being a special enactment enacted subsequent to SARFAESI Act would have overriding effect and therefore, MSMED Act would prevail over the SARFAESI Act.

The learned Single Judge allowed the writ petition preferred by the bank – secured creditor and set aside the order passed


by the Naib Tehsildar by observing that the provisions of SARFAESI Act would prevail and if aggrieved from order passed by District Magistrate under Section 14 of the SARFAESI Act or the measures taken under Section 13(4) of the SARFAESI Act, an appeal/application under Section 17 of the SARFAESI Act can be filed before the Debts Recovery Tribunal.

MSME filed writ petition before the Division Bench of High Court. The Division Bench of the High Court allowed the said appeal and set aside the judgment and order passed by the learned Single Judge. Division Bench observed and held that MSMED Act being the later enactment, the same shall prevail over the SARFAESI Act.

The bank – secured creditor preferred the appeal to Apex Court stating any such 'priority' over and above the dues of secured creditors or government dues has to be expressly and unambiguously provided for in MSMED Act and cannot be read by implication.

Submission

The submission on behalf of MSME were -Section 24 of the MSMED Act which provides that the provisions of Sections 15 to 23 of the MSMED Act would have overriding effect and shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force and in view of the fact that the MSMED Act being a later enactment than the SARFAESI Act, the MSMED Act would prevail over the SARFAESI Act. As per the law laid down by this Court in catena of decisions, if two enactments have competing non-obstante provision and nothing repugnant, then the non-obstante clause of the subsequent statute would prevail over the earlier enactments. The principle therefore would be that the court must look into the objectives of the two Special Acts. If the legislature still confers the later enactment with a non-obstante clause, it means the legislature wanted the enactment to prevail. Therefore, non-obstante clause in MSMED Act, i.e. Section 24 would prevail over the recovery mechanism of SARFAESI Act, being enacted later in point of time, overriding all other laws being in force at that point of time. SARFAESI Act does not provide that it will have precedence over a decree / award of the decree holder. Section 240A of the IBC, 2016 provides exception of certain provisions of Section 29A of the IBC to MSME. It is a settled law that IBC, 2016 would override SARFAESI Act and therefore, in the said context also, MSMED Act may have precedence over SARFAESI Act.

- Q1. Whether the Naib Tehsildar was at all justified in not taking possession of the secured assets / properties as per order passed by the District Magistrate under Section 14 of the SARFAESI Act?
- Q2. Whether recovery proceedings / recoveries under the MSMED Act would prevail over the recoveries made / recovery proceedings under provisions of the SARFAESI Act in view of the non-obstante clause of section 24 of the MSMED Act?
- Q3. Whether there is conflict between scheme of SARFAESI Act and the MSMED Act? 

BEST ANSWER CASE STUDY MAY 2023

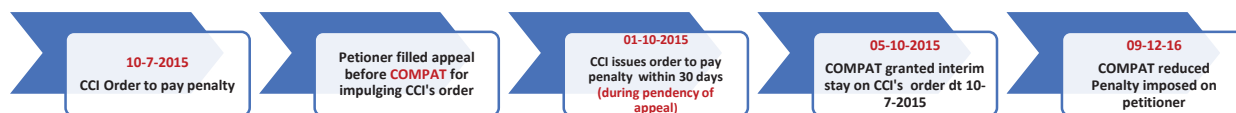
Q 1 Whether the demand notice dated 01. 10. 2015 was illegal and therefore, unpersuasive?

Answer: The contention that the demand notice dated 01.10.2015 was illegal, is unpersuasive. In fact the order of CCI dt 01.10.2015 had merged with the final order passed by COMPAT.

The COMPAT had merely reduced the penalty and had modified CCI's order dated 10.07.2015 to that extent. Such modification would, obviously, relate back to CCI's order, that is, the order dated 10.07.2015. The COMPAT order reaffirmed CCI's decision to levy penalty and that decision, having been sustained, cannot be considered as inoperative or non-existent for the period during which it was suspended on account of the stay order.

Case Brief:

On 05.10.2015, COMPAT granted an interim stay on the order dated 10.07.2015 and subsequently, by an order dated 09.12.2016, reduced the penalty imposed on the petitioner. During the pendency of the appeal, a demand notice dated 01.10.2015 was issued to the petitioner to pay the penalty within a period of thirty days, failing which the petitioner would be liable to pay interest at the rate of 1.5% per month.



Reason and Conclusion:

1. The demand notice was served on the petitioner during the pendency of the appeal in COMPAT.
2. COMPAT had stayed the operation of the order passed by CCI; it had not obliterated the same. By virtue of the said order, the petitioner was not obliged to immediately pay penalty subject to depositing 10% of the said amount
3. Thus, the petitioner availed the benefit of the said order. However, on vacation of the stay, the order passed by CCI as well as the consequential demand notice became operative, albeit, to a reduced extent.
4. The successful party at the end would be justified with all expediency in demanding compensation and being placed in the same situation in which it would have been if the interim order would not have been passed against it.
5. It is evident that enterprises penalized by CCI which have the benefit of a stay order by the appellate court are also liable to pay interest on penalty for the period during which the stay was operational.

Supporting case law:

In the State of Rajasthan and Anr. v. J.K. Synthetics Limited (supra), the Supreme Court had examined several other decisions and had authoritatively reiterated the position that wherever an interim order or stay is granted, the beneficiary of the interim order is bound to pay interest on the amount withheld or not paid by virtue of the interim order unless the final order indicates otherwise. The relevant extract of the said decision is set out below

Conclusion:

The interest to be a statutory levy which has to be paid, especially since COMPAT had re-affirmed CCI's decision to levy penalty. Thus the demand notice as well as CCI's demand for interest shall be operative albeit to a reduced extent, as soon as the stay is lifted by the COMPAT.

Q 2 Whether the demand of Interest on the penalty imposed by CCI, is sustainable?

Answer: Yes, the demand of Interest on the Penalty imposed by CCI, is sustainable.

Factual Background:

1. The CCI had found the petitioner to be falling foul of Section 3 of the Competition Act, 2002.
2. This finding was not disturbed by COMPAT.
3. The COMPAT had merely reduced the penalty and had modified CCI's order dated 10.07.2015 to that extent.
4. Such modification would, obviously, relate back to CCI's order, that is, the order dated 10.07.2015.
5. However, the COMPAT order reaffirmed CCI's decision to levy penalty and that decision, having been sustained, cannot be considered as inoperative or non-existent for the period during which it was suspended on account of the stay order.
6. The said stay order having been lifted, the CCI's order imposing penalty, albeit to a reduced extent, would require to be enforced.
7. The interest on such penalty being a statutory levy is required to be paid.
8. Regulation 5 of the Recovery Regulations contended that interest on delayed penalty was statutorily

payable. If the penalty was reduced or modified and interest had been collected on the entire penalty, an amount commensurate with the reduction was required to be refunded to the concerned enterprise.

Relevant Section: Regulation 5 of the Recovery Regulations, reads as “Interest on penalty states the following:

“If the amount specified in any demand notice is not paid within the period specified by the Commission, the enterprise concerned shall be liable to pay simple interest at one and one half per cent, for every month or part of a month comprised in the period commencing from the day immediately after the expiry of the period mentioned in demand notice and ending with the day on which the penalty is paid

Provided that the Commission may reduce or waive the amount of interest payable by the enterprise concerned if it is satisfied that default in the payment of such amount was due to circumstances beyond the control of the enterprise concerned:

Provided further that where as a result of an order of the Competition Appellate Tribunal or the High Court or the Supreme Court of India, the amount of penalty payable has been reduced, the interest shall be reduced accordingly and the excess interest paid, if any, shall be refunded in accordance with regulation 14.”

Case law:

1. In the State of Rajasthan and Anr. v. J.K. Synthetics Limited (supra), the Supreme Court had examined

several other decisions and had authoritatively reiterated the position that wherever an interim order or stay is granted, the beneficiary of the interim order is bound to pay interest on the amount withheld or not paid by virtue of the interim order unless the final order indicates otherwise. The relevant extract of the said decision is set out below: - “may refer to the decisions of this Court that have categorically laid down about the liability to pay interest for the period of stay when the stay is ultimately vacated.

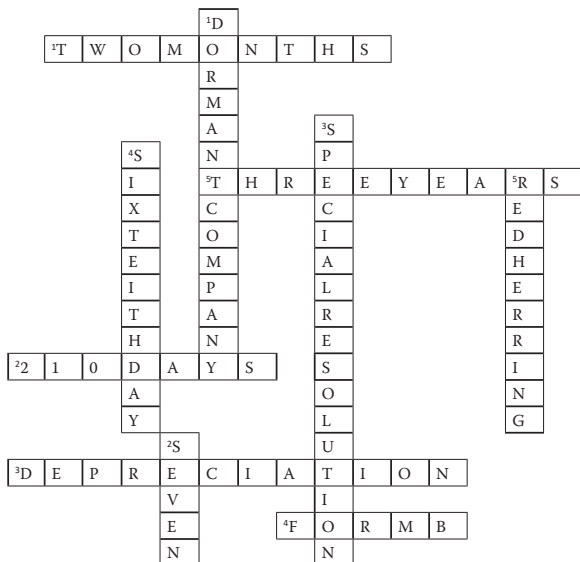
2. In Kanoria Chemicals and Industries Ltd. V. U.P. SEB: [(1997) 5 SCC 772] this Court held that grant of stay of a notification revising the electricity charges does not have the effect of relieving the consumer of its obligation to pay interest (or late payment surcharge) on the amount withheld by them by reason of the interim stay, if and when the writ petitions are dismissed ultimately.

Conclusion: The contention that since the order passed by CCI had been stayed, there was no delay in making the penalties, is unjustifiable. Thus, the **petitioner cannot be absolved of its payment liability solely for the reason that it had preferred an appeal against the said demand.**

Winner of Case Study – May 2023

CS Leena Pagaria(Vardia) FCS - 6735

CROSSWORD PUZZLE – MAY 2023 ANSWERS



Winners - Crossword May 2023

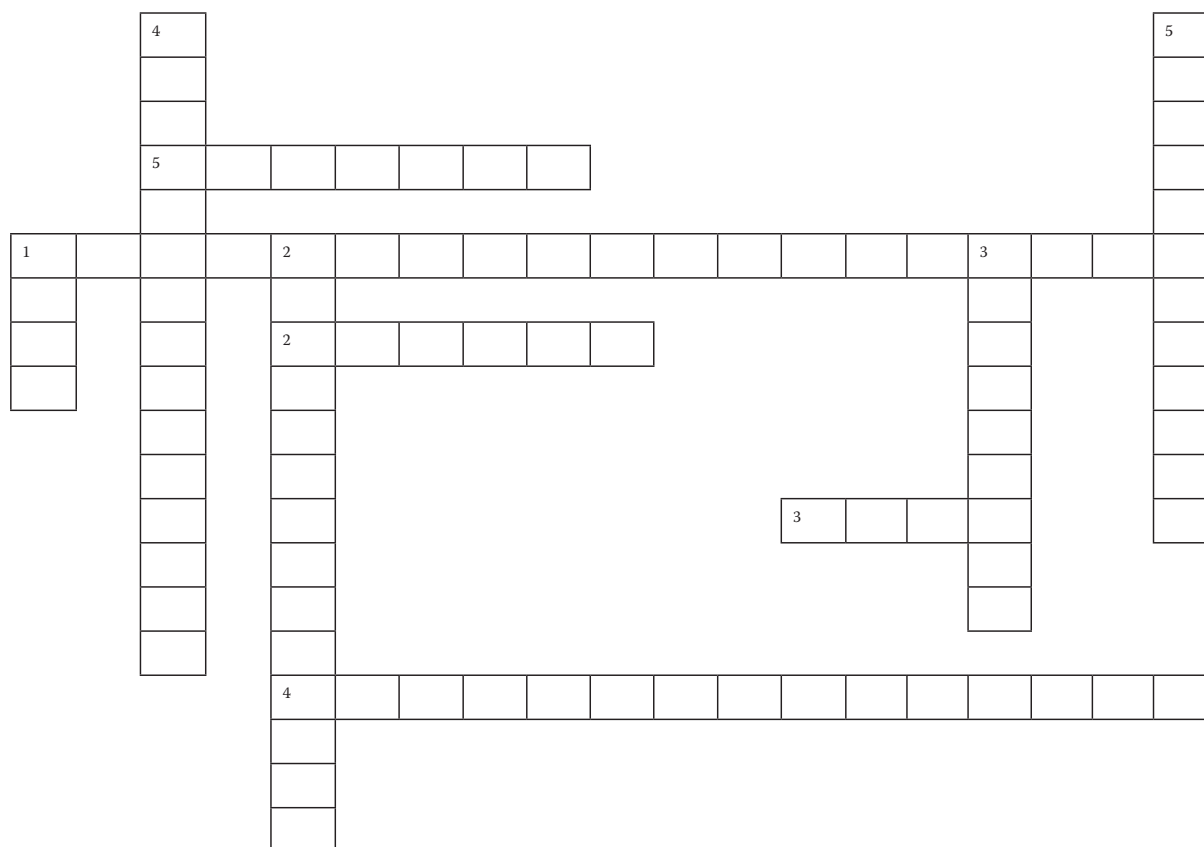
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2nd CS Deepika Gupta - ACS - 49974

3rd CS Chandrashekhar Bhargav Prabhumirashi - ACS - 12504

CROSSWORD PUZZLE – COMPANY LAW

JUNE 2023



ACROSS:

1. The securities premium can be used in writing off **such expenses**.
2. A person claiming to be a creditor in a class shall submit claim with proof to the interim resolution professional in electronic form in **such form** under Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
3. A producer company shall have at least **such number** of directors.
4. Every unlisted public company having- turnover of **such rupees/amount** or more during the preceding financial year is required to appoint internal auditor.
5. The resolution professional shall issue the final list of prospective resolution applicants within such days of the last date for receipt of objections, to the committee.

DOWN:

1. A company filing a shelf prospectus shall be required to file an information memorandum with the registrar in **such form**.
2. A company may issue preference shares for a period exceeding twenty years for **such projects**.
3. A creditor, who fails to submit claim with proof within the time stipulated in the public announcement, may submit the claim with proof to the interim resolution professional or the resolution professional, as the case may be, on or before the **such day** of the insolvency commencement date.
4. The authorised representative of creditors in a class shall be entitled to receive **such fee** for every meeting of the committee attended by him where number of creditors in class are between 10-100.
5. The resolution professional shall, within seven days of his appointment but not later than such day from the insolvency commencement date, appoint two registered valuers to determine the fair value and the liquidation value of the corporate debtor.

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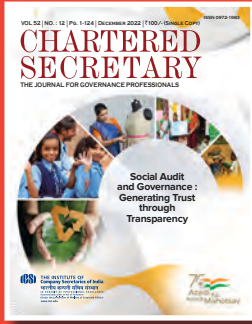
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