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ICSI - WIRC

FOCUS

ICSI – WIRC e-newsletter

Compliance



**THE INSTITUTE OF
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IN PURSUIT OF PROFESSIONAL EXCELLENCE
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Chairman's Blog



Just as the highest tower needs a deep foundation, so too our higher thinking is based on going deep within.

Dear Professional Colleagues,

The winter is settling down and we are heading towards busy schedule in the professional front. Gone are the days where Company Secretary can excel if he had mastery in Companies Act and the coming days are expecting a 360 degree mastery in varied legislations. Name any segment, the need of Company Secretary is felt from a multinational company to municipal establishments to a small OPC. The year 2016 has seen three important milestones viz. Start-up India, Make in India and Smart City. It will not be an exaggeration if I mention that Company Secretaries are going to play a vital role in these initiatives.

Last month was a rewarding month for WIRC with number of activities for both members as well as students. We had some good seminars with topical relevance like Limited Liability Partnership, Merger and Amalgamations etc. We have also come out with a Master class for GST and NCLT which were well received by the members. In the days to come you will see more such initiatives.

It gives me tremendous satisfaction that the Council of ICSI, considering the request of Regional Council has reinstated Dombivli Chapter of ICSI. I compliment the efforts taken by members of Dombivli and Kalyan region to take active steps to rejuvenate the Chapter. I must mention here that the initiative would not have seen the light without the support of our Central Council members and Vice President CS Makarand Lele in particular who along with me was indulged in regular follow up with good offices of ICSI at Head office. I am confident that the Chapter will regain spontaneously the past glory and work with zeal for the development of the profession. On behalf of the Regional Council I assure the Dombivli Chapter all support in their new initiatives and good wishes to achieve larger heights.

It was a privilege for me to attend the Regional Chairmen meeting with President and Vice-President at New Delhi. It was a platform where all the Regional

Chairmen could share their views for the overall development of the profession. The President, Vice President and Secretary has assured all support to us in our initiatives.

The growth of a region is not only based on how the Regional office functions, but also on how the Chapters are functioning as they are the cardinal organs of the region.

It was equally proud moments to be with the President, Vice President of ICSI in meeting with Chairmen, Secretaries and office Incharge of all Chapters of the region in charting out the strategies for the profession and holding various programs across WIRC of ICSI. I am thankful to all of them for their whole hearted support and very active participation, due to which we could chart out time bound mutually agreed milestones.

Though alphabetically placed in the tail my maiden visit to Chapter as a Chairman was to Vadodara Chapter and I had the influence and impact of interacting with young blood, full of enthusiasm and views. I will be visiting the other chapters in the months to come.

Appeal to Members:

I invite suggestions from the members for the overall development of profession in various aspects. We are in the process of strengthening our research arm and request members who give their valuable inputs in making research initiatives more meaningful and helpful.

We are also in the process of identifying suitable faculty members who are interested in teaching in our Oral Teaching classes. Those who are well versed in subject of their choice with an inclination to deal and mingle with the student community can come forward and write to me with their updated resume.

Similarly those who are interested in the preparation of reading materials for seminars can also forward their details to me.

Appeal to Students:

Start dreaming for the future, have aspirations and also start dreaming on how to achieve the dreams. Mere acquaintance of books and chapters learned in class room alone will not constitute education. Think that you are future Company Secretaries and the Future of Companies lie in you all. Start thinking that you are future Governance Professionals and Ethics Officers of various mighty organisation and the foundation stone has to be laid at once. You might have realised that the profession of Company Secretary should excel not only in writing skills but also in other soft skills. Today Company Secretaries have proved their mettle in appearing before NCLT and judicial bodies. As Swami Vivekananda Said "Arise, awake, and stop not till the goal is reached"

The year is awaiting you with lot of competitions viz. Company Law Quiz, Essay Writing Competition, Moot Court ,Elocution competition and many more. I look forward for a splendid participation in these events from across the region.

Vande Mataram; Jai Hind

Professionally yours,

CS Prakash K. Pandya
Chairman
ICSI-WIRC

Authorized Representative & AGM



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Whether an authorized representative duly appointed by the member body corporate can attend/participate/vote at an Annual General Meeting (“AGM”) particularly when the said authorized representative (and not the member body corporate) is personally interested in the resolution proposed to be transacted at the AGM?

For the first time the Companies Act, 2013 introduced the notion of interested shareholders. Directors being trustees they were not allowed to vote on the items in which they are interested at the Board Meeting and this notion was not extended to the shareholders’ meetings till 1-4-2014 the date on which the newly enacted Companies Act, 2013 was made effective. Section 188 makes deviation in the established principle that shareholder is free to exercise voting right at the general meeting even though he is interested in the item.

Relevant provisions of Section 188 are extracted below:-

188. Related party transactions.

(1) Except with the consent of the Board of Directors given by a resolution at a meeting of the Board and subject to such conditions as may be prescribed, no company shall enter into any contract or arrangement with a related party with respect to—

- (a) sale, purchase or supply of any goods or materials;*
- (b) selling or otherwise disposing of, or buying, property of any kind;*
- (c) leasing of property of any kind;*

- (d) availing or rendering of any services;*
- (e) appointment of any agent for purchase or sale of goods, materials, services or property;*
- (f) such related party's appointment to any office or place of profit in the company, its subsidiary company or associate company; and*
- (g) underwriting the subscription of any securities or derivatives thereof, of the company;*

Provided that no contract or arrangement, in the case of a company having a paid-up share capital of not less than such amount, or transactions not exceeding such sums, as may be prescribed, shall be entered into except with the prior approval of the company by a resolution:

Provided further that no member of the company shall vote on such resolution, to approve any contract or arrangement which may be entered into by the company, if such member is a related party:

Provided also that nothing in this sub-section shall apply to any transactions entered into by the company in its ordinary course of business other than transactions which are not on an arm's length basis.

Aforementioned provisions are selective in nature as regards to the kinds of business and shareholder is allowed or free to vote on the interested transactions if the said transactions are to be entered into in its ordinary course of business and at arm's length. In the facts of the case the member body corporate is not interested in the business relating to approval of the item (ESOP) in which authorized representative is not a sole beneficiary. He is interested as one of the employees of the Company and governed by the rules and regulation of the evaluation norms. It is not the straight jacket benefits. Hence, interest is not specific but general. Shareholder voting on a proposal for approving dividend is an example of how interested party votes on a resolution where he is a direct beneficiary.

The relations between the member body corporate and the authorized representative are governed under the Contract Act, 1872 as amended from time to time.

Section 182 of the said Act is extracted below:-

182. "Agent" and "principal" defined

An "agent" is a person employed to do any act for another, or to represent another in dealing with third persons. The person for whom such act is done, or who is so represented, is called the "principal".

The authorized representative (agent) acts at the instruction of the member body corporate (principal) and it is his duty to safeguard the interest of the Principal and thereby exercise the voting rights according to the instructions given by the Principal. Such instructions may either be in favour of the resolution or against the resolution. The principal has the power to revoke the authority if the agent is interested and agent's involvement is detrimental to the interest of the Principal.

The Bombay High Court re: *Firestone Tyre And Rubber Co. vs Synthetics And Chemicals Ltd. And ... on 7 November, 1969 1971 41 Comp Cas 377* (as extracted from the website of indiankanoon.org) has very succinctly summarized the position of the authorized representative as under:-

Under section 203 of the Indian Contract Act, 1872, except where an agent has an interest in the subject-matter of the agency, the principal may revoke the authority given to his agent at any time before the authority has been exercised so as to bind the principal, and under section 207, revocation may either be expressed or implied, and under section 208, so far as regards third persons, termination of the authority takes effect when it becomes known to them.

The authority has not been revoked by the Principal and hence the agent "exercising the voting rights of the said body corporate in favour of the resolution" has not been considered as detrimental to the interest of the Principal.

Section 113 of the Act, 2013 authorizes the Body corporate to bestow the right of the voting to any individual and it is reproduced below:-

113. Representation of corporations at meeting of companies and of creditors.

- (1) A body corporate, whether a company within the meaning of this Act or not, may, –
- (a) if it is a member of a company within the meaning of this Act, by resolution of its Board of Directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the company, or at any meeting of any class of members of the company;
 - (b) if it is a creditor, including a holder of debentures, of a company within the meaning of this Act, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of any creditors of the company held in pursuance of this Act or of any rules made thereunder, or in pursuance of the provisions contained in any debenture or trust deed, as the case may be.
- (2) A person authorised by resolution under sub-section (1) shall be entitled to exercise the same rights and powers, including the right to vote by proxy and by postal ballot, on behalf of the body corporate which he represents as that body could exercise if it were an individual member, creditor or holder of debentures of the company.

However, it is not mandatory that the Article of the Association should contain the clause similar to that of the provisions contained in Section 113 of the Companies Act, 2013 but it is advisable to have the article in the Articles of Association of the Company in line with the provisions of Section 113 of the Companies Act, 2013 (Section 187 in the previous Companies Act, 1956) in order to grant freedom to body corporate to give mandate to individual member as it may think fit.

Unless otherwise provided by the Articles of a company, a Shareholder is not debarred from voting by having a particular interest in the subject- matter of the vote. (Macdonalds Bros v. Godson 91917) 1 WWR 233:23 BCR 166(Can).

It may be as under:-

A body corporate (whether a company within the meaning of the Act or not) may if it is a Member, by resolution of its Board of Directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Company in accordance with the provisions of Section 113 of the Act. The production at the meeting of a copy of such resolution duly signed by one Director of such body corporate or by a member of its governing body and certified by him as being a true copy of the resolution shall on production at the Meeting be accepted by the Company as sufficient evidence of the validity of his appointment.

Once the person is appointed as an authorized representative and document appointing him does not prescribe any terms and conditions or does not give any direction as to how the voting right is to be exercised, the said authorized representative is free to exercise his voting rights in the manner as he thinks fit and it may be in his own interest.

Conclusion:-

Participation of and exercising of voting rights at the Annual General Meeting (AGM) or any general meeting by the interested authorized representative duly appointed by the member body corporate which is not interested in the said item, is valid and within the four corners of the law and his participation and voting does not vitiate the proceedings of the AGM/GM. Resolution passed thereat is validly passed and does not become non-existent and is legally enforceable.

Business Responsibility Reporting & Integrated Reporting



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Business Responsibility Reporting:-

In today's modern and commercial era, one cannot survive in isolation, in order to achieve the predetermined goals one has to mingle up with others. Earning profit is not merely the criteria for business entities these days. Therefore the business entities are not only considering their profitability and growth, but also the interests of society and the environment by taking responsibility for the impact of their activities on stakeholders, environment, consumers, employees, communities, and all other members of the public sphere. The concepts of Corporate Social Responsibility and Corporate Sustainability have become indispensable part of any business organization these days. Adoption of responsible business practices in the interest of environment has become as imperative as their financial performance. This becomes more relevant for listed entities which, have accessed funds from the public, and are obligated to make continuous disclosures on a regular basis. Therefore the concept of Business Responsibility Reporting has emerged.

"Business Responsibility Report is a disclosure of adoption of responsible business practices by a listed Company to all its stakeholders."

The concept of Business Responsibility Reporting (BRR) was first promulgated in India by the 'National Voluntary Guidelines on Social, Environmental and Economic Responsibilities of Business' (NVG's) notified by the Ministry of Corporate Affairs in July, 2011. Through these Guidelines, the Ministry urged the business sector to adopt the principles contained in the Guidelines for responsible business practices. As the guidelines were voluntary in nature it did not fulfill the real objective of the guidelines.

Securities Exchange Board of India (SEBI) *vide* circular CIR/CFD/DIL/8/2012 dated August 13, 2012 inserted a new Clause 55 in the listing agreement by mandating inclusion of Business Responsibility Report as part of the Annual Reports for listed entities. As per the circular, the requirement to include Business Responsibility Reports as part of the Annual Reports shall be mandatory for top 100 listed entities based on market capitalization at BSE and NSE as on March 31, 2012. Other listed entities may voluntarily disclose Business Responsibility Report as part of their Annual Reports. The Clause 55 prescribed that listed entities shall submit, as part of their Annual Reports, Business Responsibility Reports, describing the initiatives taken by them from an environmental, social and governance perspective, in the prescribed format.

SEBI (Listing Obligations & Disclosure Requirements) Regulations, 2015 which came into effect on December 1, 2015 rescinded the SEBI's circular no. CIR/CFD/DIL/8/2012 dated August 13, 2012 relating to Business Responsibility Reporting and as per Regulation 34(2)(f) of the SEBI (Listing Obligations & Disclosure Requirements) Regulations, 2015, top 100 listed entities based on market cap as on March 31 of every year has to prepare business responsibility report describing the initiatives taken by them from an environmental, social and governance perspective and this report should be attached to the Annual Report of the Company. SEBI *vide* its Notification No. SEBI/LAD-NRO/GN/2015-16/27 dated December 22, 2015, has amended Regulation 34(2)(f) of the SEBI (LODR) Regulations, 2015, and has extended the applicability of Business Responsibility Reporting to top 500 listed entities based on market cap as on March 31 of every year. SEBI *vide* its circular no. CIR/CFD/CMD/10/2015 dated November 4, 2015, has also provided format for Business Responsibility Report. Further Securities Exchange Board of India (SEBI) *vide* its Circular No. SEBI/HO/CFD/CMD/CIR/P/2017/10 dated February 6, 2017 has mandated to submit the BRR to the Stock Exchange(s) where the security of the Company is listed for the top 500 listed entities.

Listed entities which have been submitting sustainability reports to overseas regulatory agencies/ stakeholders based on internationally accepted reporting frameworks (like Global Reporting Initiative (GRI), UN Global Compact (UNGC) need not prepare a separate report for the purpose of these guidelines but only furnish the same to their stakeholders along with the details of the framework under

which their Business Responsibility Report has been prepared and a mapping of the principles contained in these guidelines to the disclosures made in their sustainability reports.

Conclusion (for Business Responsibility Reporting):-

Often the concept of Corporate Social Responsibility (CSR) and Business Responsibility Reporting (BRR) are understood in a same way, however the concept of BRR is wider than the concept of CSR and includes CSR within it. The underlying idea of CSR as per the provisions of Companies Act, 2013 is to spend certain percentage of profit of company for activities as listed in Schedule VII to the Act. BRR has also increased the responsibility of board of the company and the director who has been shouldered with responsibility of the BRR. As on today BRR is applicable to top 500 listed entities based their market cap, however it is strongly urged that, this phenomenon should be made applicable more widely.

Integrated Reporting:-

Capital market stakeholders are finding it valuable when companies provide information on environmental, social, and governance issues impacting their businesses. Stakeholders are increasingly considering internal and external non-financial factors, such as resource scarcity or demographic shifts, when assessing companies' long-term prospects. Integrated reporting builds on the existing financial reporting model to incorporate non-financial information that can help stakeholders understand how a company creates and sustains value over the long-term. This is in line with the continued growth of sustainability rating systems and investment policy disclosure requirements. The trend toward reporting non-financial information is increasing and will likely continue. Integrated Reporting in India is at the initial stage but it has already grown universally. In India, the concept of Integrated Reporting has emerged and thus the Securities Exchange Board of India (SEBI) vide its Circular No. SEBI/HO/CFD/CMD/CIR/P/2017/10 dated February 6, 2017 has requested the top 500 listed entities based on market capitalization as on 31st March every year, to adopt Integrated Reporting from the financial year 2017-18.

The information related to Integrated Reporting may be provided in the annual report separately or by incorporating in Management Discussion & Analysis or by preparing a separate report (annual report prepared as per IR framework). In case the company has already provided the relevant information in any other report

prepared in accordance with national / international requirement / framework it may provide appropriate reference to the same in its Integrated Report so as to avoid duplication of information. As a green initiative, the companies may host the Integrated Report on their website and provide appropriate reference to the same in their Annual Report.

Guiding Principles for Integrated Reporting as prescribed by the International Integrated Reporting Council (IIRC):

- **Strategic Focus & Future Orientation:**
An integrated report should provide insight into the organization's strategy and how it relates to the organization's ability to create value in the short, medium and long term, and to its use of and effects on capital
- **Connectivity of Information:**
An integrated report should show a holistic picture of the combination, interrelatedness and dependencies between the factors that affect the organization's ability to create value over time
- **Stakeholder Relationship:**
An integrated report should provide insight into the nature and quality of the organization's relationships with its key stakeholders, including how and to what extent the organization understands, takes into account and responds to their legitimate needs and interests
- **Materiality:**
An integrated report should disclose information about matters that substantively affect the organization's ability to create value over the short, medium and long term
- **Conciseness:**
An integrated report should be concise
- **Reliability & Completeness:**
An integrated report should include all material matters, both positive and negative, in a balanced way and without material error
- **Consistency & Comparability:**
The information in an integrated report should be presented: (a) on a basis that is consistent over time; and (b) in a way that enables comparison with other organizations to the extent it is material to the organization's own ability to create value over time.

Conclusion (for Integrated Reporting):-

Integrated Reporting is expected to help companies and investors make more informed decisions and help companies communicate clearly how they create value. The framework is based on three fundamental concepts. First, it recommends companies focus on the ways they create value in the short, medium, and long-term. Second, it asks companies to provide an overview of their business model, including a full value chain perspective. Finally, it emphasizes the relationship between companies and the resources, both financial and non-financial, that underpin their success. The IIRC envisions an integrated report including information on key environmental, social, and governance topics, which are also included in a sustainability report but an integrated report would include additional non-financial information, such as information about strategy and resource allocation, that can help stakeholders understand how value is created. Integrated reporting is more than combining existing disclosures into a single report. Elements of both financial reporting and sustainability reporting would be included in an integrated report if the information is relevant to how an organization creates and sustains value. This would require assessing the connectivity and interdependencies between the organization's business model, the context in which the organization operates, and the resources and relationships on which it relies and that it affects.

NCLT - Constitution, Functioning and Landmark Cases



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After a decade-long wait, the National Company Law Tribunal ('NCLT') and its appellate body, the National Company Law Appellate Tribunal ('NCLAT') have finally been constituted under sections 408 and 410 of the Companies Act, 2013 ('Act') with effect from June 1, 2016. Such a setup heralds a new era for resolution of corporate law disputes in India and provides for a beneficial consolidation of corporate litigation. The National Company Law Tribunal (NCLT) is a quasi-judicial body in India that adjudicates issues relating to companies in India.

The NCLT has eleven benches, two at New Delhi (one being the principal bench) and one each at Ahmedabad, Allahabad, Bengaluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai.

The NCLT has the power under the Companies Act to adjudicate proceedings:

1. Initiated before the Company Law Board under the previous act (the Companies Act 1956);
2. Pending before the Board for Industrial and Financial Reconstruction (BIFR), including those pending under the Sick Industrial Companies (Special Provisions) Act, 1985;
3. Pending before the Appellate Authority for Industrial and Financial Reconstruction; and
4. Pertaining to claims of oppression and mismanagement of a company, winding up of companies and all other powers prescribed under the Companies Act.

The First test the NCLT faced was before its establishment itself. The constitutional validity of the NCLT was challenged before the Madras High Court in Thiru R. Vs Gandhi v. Union of India for being violative of the doctrine of separation of powers and independence of the Judiciary. The Court found certain defects as to the qualification of the members of the Tribunal in the impugned provisions which offended the basic structure of the Constitution. Partly upholding the constitutionality, the Court remarked that unless these provisions are appropriately amended by removing the defects, it would be unconstitutional to vest the jurisdiction in NCLT and NCLAT. The matter was raised before the Constitution Bench of the Supreme Court of India which affirmed the position taken by the High Court. The Court laid down guidelines for correction of qualification and selection criteria for technical members. Pursuant to these observations, the necessary changes were incorporated in the new Companies Act, 2013.

While the CLB was functioning with only five benches, the NCLT will commence action with eleven benches. It is expected to eventually have benches across each state in India. With the constitution of the NCLT, shareholders and creditors can now file class action suits against the company for breaching the provisions of the Act.

While shareholders have always been allowed to protest against the wrong doings of the management, class action suits takes this a step further. The key difference between oppression, mismanagement (Sections 241-244) and class action suits (Section 245) can be summed up in the following points:

- Under Section 245, members as well as deposit holders can file an application as opposed to only member;
- Application can be filed, in addition to company and its statutory appointees, against audit firms and any other independent consultants;
- Application can be filed for future activities as well in addition to current or past activities.

Under the old regime, there was no express provision ousting the jurisdiction of the Civil Courts, and various judicial pronouncements have time and again reiterated the requirement of an express provision for ousting Civil Court jurisdiction. Putting an end to the debate, Section 430 the Act expressly ousts the jurisdiction of Civil Courts.

Section 422, by mandating an expeditious disposal mechanism, comes as a harbinger of hope to the litigants who suffer due to long drawn out civil actions. It directs the tribunals to endeavour to dispose off the matter within three months from the date of presentation of application. Any departure from the stated time frame must be explained in writing and, in any case, should not exceed 90 days. Further, a greater number of benches is in place to assure timely disposal.

By providing for a simplified dispute adjudication process, India's reputation as a destination for doing business will also be enhanced. Small investors who have deposited their hard-earned money in companies are safeguarded against prolonged civil actions.

Earlier there was apprehension about the success of the NCLT given its wide scope of operations and its new structure. But the performance of the NCLT in hearing the case of Tata Sons Ltd vs Cyrus Investments and Others has put an end to such speculation. In the case of Tata Sons Ltd vs Cyrus Investments and Others, the petitioners Cyrus Investments Pvt Ltd alleged oppression and mismanagement of minority shareholders by the majority shareholders of Tata Sons and its top management. The petitioners wanted to abate the proceedings of the EGM called by Tata Sons Ltd. With its agenda to oust Mr. Cyrus Mistry, former Group Chairman as Director of Tata Sons Ltd. The matter now being heard by the NCLT has raised the stature of the NCLT as a one stop shop for deciding Company Law related cases.

Under Section 245, the provision for class-action suits has been incorporated. It enables one or more plaintiffs to represent the rights and interests of a larger class of people by filing and prosecuting a suit on their behalf before the tribunal. The relief sought may extend to restraining the company from performing any act contrary to any resolution passed, its charters or the provisions of the Act. The tribunal can also award damages for any fraudulent, unlawful act of the company, its auditor or any other person associated with it.

Another important function of resolving disputes concerning oppression and mismanagement has been conferred upon the tribunal. The eligibility norms for invoking the jurisdiction of the tribunal under Section 241 in oppression cases have

been relaxed by allowing a member below the eligibility criteria to apply with the permission of the tribunal. Further, the tribunal has been empowered to waive any or all such requirements on an application made to it. Therefore, the members who do not meet the criteria can still proceed against oppressive acts and mismanagement of affairs without getting authorisation from the Central Government as was required under the 1956 Act.

As per the provisions of Section 233 of the New Act, a notice with regard to the proposed Scheme of Amalgamation/Merger/Demerger is to be placed before the Registrar of Companies, the Central Government, and the Official Liquidator to invite objections to the Scheme. The objections and suggestions received by the companies should be considered in the respective general meetings and the Scheme must be approved by shareholders at the general meetings holding at least 90 percent in value and creditors representing nine-tenths of debt in value.

In the event of there being no objection, the Scheme will be approved and each of the Companies involved will be required to file a declaration of solvency with Registrar of Companies of the place where the Registered office of the Company are situated. The Transferee Company shall file a copy of Scheme so approved with Registrar of Companies, the Central Government and the Official Liquidator where the registered office of the Company is situated

However, in the event of any objection being raised against the proposed Scheme, or in case of the Central Government being of the view that the Scheme is not in public interest, the Central Government may file an application before NCLT stating its objections and request NCLT to consider the proposed Scheme under the normal M&A process. The exclusivity of fast-track mergers is expected to reduce the time elapsed during court proceedings, and will result in faster disposal of matters. This is definitely a welcome step, as its intention is to reduce the administrative burden, timelines and cost for smaller companies when carrying out M&A's. The relaxation to fast track M&A's also includes dispensation from sending out notices to regulatory authorities to seek clearance or submission of compliance reports from the auditors.

Conclusion:-

Establishment of NCLT is expected to help in reduce the time that is usually taken in obtaining sanctions from High Court in M&A cases. The constitution of the NCLT is undoubtedly a welcome measure. Taking another step towards tribunalization of justice, this move has paved way for speedy and more effective dispensation of justice. What remains to be seen is whether the provisions will be implemented in letter and spirit.

In view of the aforesaid discussions on the provisions of the New Act, the idea or proposal behind introducing certain simple and forward-looking concepts is to simplify and enable the process of M&A's and get speedy justice in other cases.

Member's Right to Inspection



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In a recent case of Anilkumar Poddar vs Futura Commercials (P) Ltd. [2017] 136 CLA 1 (NCLT), the National Company Law Tribunal, Mumbai Bench, interpreted the provisions of section 163(2) of the Companies Act, 1956 ("CA 1956") with reference to the right of any person to inspect the registers, indexes, returns and copies of certificates and other documents mentioned in sub-section (1) of section 163 ("Inspection Documents"). This right of inspection also extends to the right to obtain copies of any such Inspection Documents.

The NCLT held that the words '*any other person*' mentioned in section 163 cannot be construed to mean that any person can seek inspection and supply of copies of the Inspection Documents. A person who is a rank outsider having no interest in the company cannot be covered by the words any other person, and such a person can be called aggrieved only where such person's interest is affected by the affairs of the company. The petition was therefore dismissed.

Section 94(3) of the Companies Act, 2013 ("CA 2013") corresponds to section 163(2) of CA 1956 and also contains the words 'any other person' in relation to the inspection of the Inspection Documents. Section 304 of the CA 1956, also contained the words 'any other person', with respect to right of inspection of registers and information of directors.

Section 94(2) and (3) of CA 2013 states as under -

(2) The registers and their indices, except when they are closed under the provisions of this Act, and the copies of all the returns shall be open for inspection by any member, debenture-holder, other security holder or beneficial owner, during business hours without payment of any fees and by any other person on payment of such fees as may be prescribed.

(3) Any such member, debenture-holder, other security holder or beneficial owner or any other person may—

(a) take extracts from any register, or index or return without payment of any fee; or

(b) require a copy of any such register or entries therein or return on payment of such fees as may be prescribed.

Due to use of the words “Any such member” in sub-section (3) of Section 94 of the CA 2013, a view may be taken that a member can request the company for extracts and copies only after first inspecting the register. However, practically, members send written requests and ask for extracts and copies of the registers, without ever inspecting them in advance.

Under the CA 2013, Rules 14 and 16 of the Companies (Management and Administration) Rules, 2014, state that copies of the registers maintained under section 88 or entries therein and annual return filed under section 92 shall be furnished to any member, debenture-holder, other security holder or beneficial owner of the company or any other person on payment of such fee as may be specified in the articles of association of the company but not exceeding rupees ten for each page and such copy shall be supplied by the company within a period of seven days from the date of deposit of fee to the company. The Ministry of Corporate Affairs had vide General Circular No. 22/2014 dated 25th June, 2014 clarified in para 2 that until the requisite fee is specified by companies, inspections could be allowed without levy of fee. Companies are also permitted to impose reasonable restrictions on the right of inspection under their articles of association.

While some companies did alter their articles of association post commencement of the CA 2013, many others, including listed companies, have only recently

undertaken the exercise of replacement of the entire articles of association to bring them in line with the provisions of the CA 2013. It is interesting to note that section 171 of the CA 2013 which governs the right of inspection of the register required to be maintained under section 170 of CA 2013, is different from the corresponding section 304 of the CA 1956.

The register to be maintained under section 170 of the CA 2013, apart from personal identification details of directors and key managerial personnel like DIN, date of birth, nationality, occupation, etc., and particulars of appointments and cessation of office with reasons therefor, also contains details in relation to securities held by them in the company, its holding company, subsidiaries, subsidiaries of the company's holding company and associate companies. Corresponding provisions under the CA 1956 required such a register to be maintained under section 307 of that Act. Further, the register under section 170 needs to *inter alia* contain details of cumulative balance and number of securities held after each transaction, whether securities held in physical or in dematerialized form, and whether securities have been pledged or any encumbrance has been created on the securities.

Section 170 of the CA 2013 is therefore wide in its coverage, and the register to be maintained in terms of the section requires personal details of the directors and other key managerial personnel of a company as well as details of the securities purchased and sold by them in the company in the company or its holding, subsidiary, subsidiary of company's holding company or associate companies.

Section 171 of CA 2013 states as under -

171. (1) The register kept under sub-section (1) of section 170,—

- (a) shall be open for inspection during business hours and the members shall have a right to take extracts therefrom and copies thereof, on a request by the members, be provided to them free of cost within thirty days; and*
- (b) shall also be kept open for inspection at every annual general meeting of the company and shall be made accessible to any person attending the meeting.*

(2) If any inspection as provided in clause (a) of sub-section (1) is refused, or if any copy required under that clause is not sent within thirty days from the date of receipt of such request, the Registrar shall on an application made to him order immediate inspection and supply of copies required thereunder.

Therefore, as may be seen from a review of the section above, the right of inspection under section 171 of the CA 2013 is not a general right available to “all persons”, but is restricted to only members and those persons who attend an annual general meeting. The deletion of the words ‘any other person’ is relevant in line of the NCLT decision referred to above, as well as other such orders passed under the CA 1956. Further, the said section provides for copies of the register maintained under section 170 which was not available under section 304 of the CA 1956. Members can make a request for copies, which the company is bound to provide free of cost, and within 30 days of receipt of such request.

However, in addition to maintenance of the register, details of directors and KMP are also required to be filed with the ROC as per section 170 of the CA 2013. Hence, these details are available to the public at large, and it is only that the public does not have a direct right to avail of them from the company/ request the company to provide them the information; but nothing stops them from obtaining these details from the records of the ROC.

If any inspection as provided in clause (a) of sub-section (1) is refused, or if any copy required under that clause is not sent within thirty days from the date of receipt of such request, the ROC has the power to, on an application made to him in this regard, order immediate inspection and supply of copies required thereunder. Additionally, the company and every officer of the company who is in default is punishable with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees.

The Company needs to keep this register at its registered office open for inspection during business hours by the members. The register is also required to be kept open for inspection at every annual general meeting of the company (“AGM”). Again, with respect to the AGM, the register must be made available to any person attending the AGM apart from any member. A person attending the AGM should

be understood to mean any person who, being lawfully entitled to, attends the AGM. These will typically include valid proxies and authorized representatives of bodies corporate. However, since under section 146 of the CA 2013, an auditor has the right to receive notices of and attend the AGM, the auditor of the company will also be entitled to inspect the register, though not for copies or extracts.

Conclusion:-

In view of the ongoing debates on the drop in the level of corporate governance norms being followed by leading corporate houses, it is important for each member of a company to understand and wherever necessary to exercise the right of inspection provided under CA 2013. Members should also be aware of the provisions of law under which copies of registers and documents are available free of cost.

Voluntary Winding up and Easy Exit



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With the initiative of Our Honourable Prime Minister Mr. Narendra Modi on ease of doing business in India, incorporating a Company in India is very easy and fast now. It can nowadays happen in a day or two along with the generation of PAN and TAN. This is a good sign for Industry and we can say India can compete with other Countries w.r.t. Incorporation.

Though incorporation of Companies is easy in process, however, there are lot of challenges in closing or shutting down a Company in India. It is difficult to survive in the today's fast and competitive world of business. There are lot of defunct Companies in India which becomes burden on promoters plus Government. Promoters find it difficult to cope up with compliances and filings for such companies. Government has to put its manpower and infrastructure to send notices, follow-ups and maintenance of data base for such Companies. There can be various reasons for closure or shutting down of business due to which the promoter opts for this last resort of closure of business. It may be losses, not starting of business due to market or the idea was not well conceived or lack of innovative idea or lack of effective implementation etc.

For closure or shutting down of business of company, the options for voluntarily ending the legal existence of Company are:-

(a) Fast Track Exit and (b) Voluntary Winding up or Liquidation

(a) Fast Track Exit:-

Section 560 of the Companies Act, 1956 contains the provisions of "Power of Registrar to strike defunct company off register". The Ministry of Corporate Affairs

notified Guidelines for Fast Track Exit mode for defunct companies vide General Circular No.36/2011, dated 7th June 2011 for fast track exit of defunct companies. The main object of these guidelines was to give easy way to companies for closure in cost effective manner. Those guidelines were easy to follow for defunct companies and lot of such companies availed the benefit of easy exit. The burden on the Portal of Ministry of Corporate Affairs for administration and regulation also minimised.

Section 248 of the Companies Act, 2013 was notified vide notification S.O. 4167(E) dated 26th December 2016.

A Company may apply to Roc for Strike off name of Company under Section 248 (2) of the Act as follows:-

1. Conditions to be satisfied before making an application for striking off are as follows
 - a. Extinguishment of all liabilities
 - b. Special resolution or consent of 75% members in terms of paid-up share capital

2. Grounds of application for striking off
 - a. A company which has failed to commence its business within one year of its incorporation; **OR**
 - b. A company which is not carrying on any business or operation for a period of two immediately preceding financial years and has not made any application within such period for obtaining the status of a dormant company under section 455;

The Rules under Chapter XVIII were also notified vide notification G.S.R. 1174(E) dated 26th December 2016.

The rules contains formats of forms which are required to be filed for filing application under section 248 of the Companies Act, 2013.

The E-Form STK-2 is the Form in which the Company can apply for strike off. However the said form is not available on the Ministry of Corporate Affairs portal.

The Ministry of Corporate Affairs vide general circular no., 16/2016 dated 26th December, 2016 has also conveyed its inability to deploy e-form STK-2 for making application under fast track exit mode.

(b) Winding up or Liquidation (Voluntary):-

The other mode available for exit or closure is voluntary winding up. Part VII of Chapter III of the Companies Act, 1956 contains the provisions for voluntary winding up of a Company. Sections 484 to Sections 520 fall under this Chapter.

Chapter XX Part II of the Companies Act, 2013 was containing provisions for voluntary winding up. Sections 304 to section 323 fall under this Chapter.

The Insolvency and Bankruptcy Code 2016 (hereinafter referred to as "the Code") was enacted on 28th May 2016. There are different dates on which different sections of the Code were notified.

Part V of the Code deals with miscellaneous provisions. Section 255 of the Code falls under this Part which states as follows:-

"The Companies Act, 2013 shall be amended in the manner specified in the Eleventh Schedule."

The said Eleventh Schedule of the Code omitted sections 304 to 323 of the Companies Act, 2013 w.e.f. 15th November 2016 vide notification S.O. 3453(E) dated 15th November 2016.

Section 59 of the Insolvency and Bankruptcy Code, 2016 contains the provisions for voluntary liquidation for Companies. This section is not yet notified.

Further clause (a) to clause (d) of [section 2](#) (except with regard to voluntary liquidation or Bankruptcy) of the code was notified w.e.f. 1st December 2016 vide notification S.O. 3594(E) dated 30th November 2016.

As on today, if any Company wants to go for voluntary liquidation then the Company has to follow provisions of the Companies Act, 1956. The Company has to follow the Companies Court Rules, 1959 till section 59 of the code and relevant rules under the Code are notified.

Conclusion:-

- (i) Fast Track Exit under section 248 is easy and cost effective for Companies which are defunct and meeting criteria stated under the aforesaid section and rules made thereunder.
- (ii) But, E-Form STK-2 is not yet made available by the Ministry of Corporate Affairs. Hence such defunct companies are not able to file application to strike off its name from records of the Registrar of Companies.
- (iii) Further, Registrar of Companies recently started sending show cause notices to all companies which have not filed annual return and/ or finance statements.
- (iv) Such Companies are willing to file application for striking off but due to non-availability of e-form, they are unable to do so.
- (v) Such Companies really needs proper advice and guidance from Professional about replying to such show cause notices received till the form STK-2 is notified.
- (vi) Since, Part VII of Chapter III was containing provisions for voluntary winding up of a Company in the Companies Act, 1956 are still in force. The Companies not meeting criteria mentioned under section 248 can go for closure under Part VII Chapter III of the Companies Act, 1956 till the relevant sections and rules of the Code are notified.
- (vii) Such Companies which are passing resolution for voluntary winding up under Part VII of Chapter III was containing provisions for voluntary winding up of a Company in the Companies Act, 1956 needs to comply with the Companies (Court) Rules, 1959
- (viii) The Ministry of Corporate Affairs needs to take quick steps make available e-form STK-2
- (ix) Further the Ministry of Corporate Affairs along with Insolvency and Bankruptcy Board needs to take quick steps to notify voluntary liquidation section and rules under the Code.

Legal Updates - Research, Circulars and Notifications

SEBI COLUMN:

SEBI Column compiled by - Ms. Heena Vicahre of Suvan Law Advisors

SEBI makes the amendments to the Settlement Regulations

SEBI *vide* notification dated 27.02.17 has amended the Settlement of Administrative and Civil Proceedings Regulations, 2014. The important changes are:

- a. If the settlement application is made after the expiry of sixty days from the limitation period prescribed under the Settlement Regulations, SEBI will levy simple interest at the rate of 6% per annum.
- b. Even if an application has been rejected by SEBI in the past for the same default, a new application may be considered in exceptional circumstances and subject to payment of additional fees and/or interest.
- c. SEBI may issue a settlement notice before issuing a Show-Cause Notice, to provide an opportunity to file settlement application, except in cases which are excluded from settlement.

Evolving Jurisprudence on Self-trades in India

Recently, Securities Appellate Tribunal has passed a Common Order dated 10.02.17, on the issue of self-trades remanding back orders passed against 11 entities to SEBI. The SAT Order also observes that SEBI has decided to take a fresh look in the matters of self-trades. These orders show a positive change in SEBI's stand on self-trades. With a new Chairman at the helm, the brokers have reason to be optimistic about a reasonable policy view being taken by SEBI

Amendment to Investor Grievance Redressal Mechanism of Stock Exchanges & Depositories

SEBI *vide* circular dated 23.02.17 has made certain amendments and reviewed the existing Investor Grievance Redressal Mechanism at Market Infrastructure Institutions ("MIIs"), in order to enhance the effectiveness and protect the interests

of investors in Securities Market. Stock Exchanges ("SE") and Depositories are now required to revamp their grievance redressal mechanism as under:

1. They have to modify existing Investor Grievance Resolution Panel/ arbitration mechanism by *inter-alia*: disseminating information of the arbitrators on their website, providing soft copies to the arbitrators, reviewing the performance of the arbitrators annually and submit the review report to the board etc.
2. Amendments have also been made relating to Investor Protection fund ("IPF"), Investor Service fund ("ISF"), interest on IPF and Interest on ISF subject to their policy, utilization of IPF, admissibility of the claims and so on.
3. Further, certain amendments have also been made regarding handling functions and compositions of Disciplinary Action Committee, Defaulters' Committee, Investors Service Committee, Arbitration Committee and IPF Trust.

Foreign Investors may now acquire shares directly through Primary Markets

SEBI *vide* two notifications dated 15.02.17 has now allowed Foreign Investors to acquire securities of Clearing Houses and Depositories through the Primary Markets. This move came from SEBI just before the expected launch of IPO for Central Depository Services Ltd. Although such an investment is capped by an FDI limit of 49% it can now be routed through the Primary Markets, thereby increasing the participation in the upcoming IPO.

A trend in the making: SEBI tightens bolts on Statutory Auditors fabricating accounts

Subsequent to the extended jurisdiction that SEBI received upon Chartered Accountants from the Bombay High Court after the Satyam Scam - *Price Waterhouse & Co v/s SEBI (WP: 5249 of 2010, Bom HC)* a trend seems to have emerged upon close observation of SEBI's actions in cases relating to false and frivolous Financial Reporting and Auditing. In a recent WTM Order in the matter of *Arvind Remedies Ltd* ("ARL") following SEBI investigation that went on to unearth large scale fabrication and manipulation of accounts also concluded misconduct on part of the Statutory Auditor for the Company "M/s Doshi, Chatterjee, Bagri & Co". SEBI has gone ahead to issue a show cause notice to the auditors although such

action is not unusual considering that SEBI has kept a similar stance tightening bolts on Auditors for such misconduct.

SEBI empowers Stock Exchanges to take action against Listed Companies on contravention with the Provisions of ICDR Regulations.

SEBI has amended Issue of Capital and Disclosure Requirements Regulations, 2009 vide notification dated 15.02.17, empowering Stock Exchanges to take action against listed entity or any other person thereof contravening any of the provisions of ICDR Regulations. The amendments shall in addition to those under the Securities laws, raise action from Exchanges like imposition of fines, suspension of trading, freezing of promoter/promoter group holding of designated securities, as may be applicable, in coordination with depositories and any other action as may be specified by the Board from time to time.

SEBI allows mutual funds to invest in InvITs and REITs subject to certain restrictions

SEBI amended Mutual Funds ("MF") Regulations, 1996 vide notification dated 15.02.17, allowing MFs to invest in Real Estate Investment Trust ("REITs") and Infrastructure Investment Trust ("InvIT") subject to certain restrictions. However, an exemption has been granted to MF schemes from investing in index fund or sector or industry specific scheme pertaining to REIT and InvIT.

Ajay Tyagi named new SEBI chairman:

Shri Ajay Tyagi has been appointed as the 9th chairman of SEBI on February 10, 2017 for a period of 3yrs starting 1st March 2017. Tyagi, 59, is an Indian Administrative Officer (IAS) from the 1984 batch, Himachal Pradesh cadre. Prior to this appointment, he served as the Additional Secretary, Department of Economic Affairs in the finance ministry.

SEBI permits Foreign Portfolio Investors to Invest in Unlisted Corporate Bonds

SEBI notified on 28.02.17, Foreign Portfolio Investors (Second Amendment) Regulations, 2017. Continuing the applicability of all other terms and conditions it permits FPI to invest in:

- Unlisted corporate debt securities in the form of non-convertible debentures/bonds issued by public or private Indian companies
- Securitized debt instruments
- Investment by FPIs in the unlisted corporate debt securities and securitized debt instruments shall not exceed INR 35,000cr within the extant Corporate debt limit which currently is INR 2,44,323 cr.
- Investment by FPIs in securitized debt instruments shall not be subject to the minimum 3-year residual maturity requirement.

CAPITAL MARKET COLUMN:

Prepared by Dr. Aditya Srinivas, Chief Operating Officer and Chief Economist, BSE Broker's Forum

INDIAN ECONOMY HAVING MIXED MACRO DATA

The Indian Economy has mixed bag of data with macro economic indicators giving positive and negative signals. The RBI monetary policy was a surprise as the market had expected a rate cut but the RBI has changed its stand from accommodative stance to neutral stand. The Central bank has reduced the interest rates by 175 basis point in the last one and half years and now it is for the banks to pass the benefit of lower interest rates to the end user. Economic survey has already indicated that the GDP growth may be around 6.2 % from the current rate of 7.3 %. The World Bank has also reduced the GDP forecast from 7.6 % to 7.1%. This is largely due to the effect of demonetization. Though the long term benefits are many from demonetization, it has give the economy a knee jerk reaction in the short term as demand and consumption in the rural areas has completely dried up.

Budget was welcomed as the Government was able to ensure that Fiscal Prudence was maintained and the target was kept at 3.2 % and the revenue deficit at 1.9%. The entire thrust was on the rural sector with lot of emphasis given on empowering

the farmers and giving thrust on rural consumption. The steps taken in the budget would have the positive effect on the economy in the coming months.

On the inflation front, Jan retail inflation slows to 3.17% on note ban led demand fall. India's retail inflation rate slowed to 3.17 percent in January, from 3.41 percent in December, and lowest reading since November, 2014, confirming fears of weak demand as households, hit by a demonetization-induced cash crunch, appears to have put off spending.

The WPI inflation came to surprise 30 month high of 5.25 % in January as the rising global crude prices spiked the cost of domestic fuel though the food prices have moderated. The WPI last reading was 3.39 %. The rise in the WPI index may put brakes on the RBI for any quick reduction in the interest rate scenario. The RBI has already adopted the wait and watch approach.

The top 8 banks loan recovery has also taken a hit in the economy with loan recovery which was Rs. 10,177 crore in September 2016 has come down to Rs. 7099 crores in December 2016. The housing sector has seen house sale fall by 23 % between June to December 2016 and the Auto mobile sector sales is down 18 % which is the lowest sales in the last 16 years.

At the Global Front, Trump administration taking steps for H1B visa and other norms for creating first jobs for Americans may hit the world economy and markets in a big way. The likely announcement of tax breaks for the American Corporate houses in the next few days may create jitters in the world economy and affect the flow of capital to the stock markets. The protectionist policies adopted by the world largest economy USA may lead to several geo political tension for the world. The WTO head had predicted the world trade to grow at 1.7% which is the lowest since the Global Financial crisis of 2008 and the future prediction is also that the world trade may be subdued.

The only silver lining is that Indian Economy is far stable and due to its demographic dividend, domestic consumption and high saving rate would be able to perform far better as compared to the world economies.



CENTRAL EXCISE:

Central Excise, Service Tax & Customs Updates compiled by - CS Piyush Bindal, PCS, Bhopal

1. Seeks to further amend notification No. 02/2011-Central Excise dated 1st March, 2011.

Notification

In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 2/2011-Central Excise, dated the 1st March, 2011, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide G.S.R. 117 (E), dated the 1st March, 2011, namely:-

In the said notification, in the Table, serial number 49 and the entries relating thereto shall be omitted.

2. Seeks to further amend Notification No. 12/2012-Central Excise dated 17.03.2012 to prescribe an effective rate of excise duty of 12.5% on Motor Vehicles falling under heading 8702 90 21, 8702 90 22, 8702 90 28 and 8702 90 29 of the First Schedule of the Central Excise Tariff Act, 1985.

Notification

In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.12/2012-Central Excise, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 163(E), dated the 17th March, 2012, namely: -

In the said notification, in the Table, after serial number 277 and the entries relating thereto, the following serial number and entries shall be inserted, namely:

(1)	(2)	(3)	(4)	(5)
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"277A	8702 90 21, 8702 90 22, 8702 90 28 or 8702 90 29	All goods	12.5%	-"
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3. Notification under Section 11C of the Central Excise Act on Plain (un-modified) Tamarind Kernel Powder falling under heading 1302.

Notification

Whereas the Central Government is satisfied that according to a practice that was generally prevalent regarding levy of duty of excise (including non-levy thereof) under section 3 of the Central Excise Act, 1944 (1 of 1944), (hereinafter referred to as the said Act), on Plain (Un-modified) Tamarind Kernel Powder falling under heading 1302 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) (hereinafter referred to as the said goods), was not being levied according to the said practice, during the period commencing on the 19th day of July, 2011 and ending with the 18th day of July, 2016;

Now, therefore, in exercise of the powers conferred by section 11C of the said Act, the Central Government hereby directs that the whole of the duty of excise payable under section 3 of the said Act on the said goods but for the said practice, shall not be required to be paid in respect of the said goods on which the said duty of excise was not levied during the period aforesaid in accordance with the said practice.



SERVICE TAX:

1. Seeks to amend notification No. 25/2012-ST dated 20.06.2012 so as to (i) withdraw the exemption from service tax for services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India; (ii) exempts

ervices provided by a business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch.

Notification

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.25/2012-Service Tax, dated the 20thJune, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 467 (E), dated the 20thJune, 2012, namely:-

In the said notification, in the opening paragraph,-

(i) in entry 29, for item (g), the following item shall be substituted, namely:-

“(g) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch.”

(ii) in entry 34, for the proviso, the following proviso shall be substituted with effect from 22nd day of January, 2017, namely,-

“Provided that the exemption shall not apply to -

(i) online information and database access or retrieval services received by persons specified in clause (a); or

(ii) services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India;”.

2. Seeks to amend Service Tax Rules, 1994 so as to, (i) exclude such persons from the definition of aggregator who enable a potential customer to connect with persons providing services by way of renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes subject to fulfillment of certain conditions; (ii) Specify the person complying with the sections 29, 30 or 38 read with section 148 of the Customs Act, 1962 (52 of 1962) as the person liable for paying service tax in case of services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of

goods by a vessel from a place outside India up to the customs station of clearance in India.

Notification

In exercise of the powers conferred by sub-section (1), read with sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely:-

1. (1) These rules may be called the Service Tax (Amendment) Rules, 2017.
- (2) They shall come into force on the 22nd day of January, 2017.

2. In the Service Tax Rules, 1994, in rule 2, in sub-rule (1),-

(i) in clause (aa), the following proviso shall be inserted, namely:-

“Provided that aggregator shall not include such person who enables a potential customer to connect with persons providing services by way of renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes subject to following conditions, namely:-

(a) the person providing services by way of renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes has a service tax registration under provision of these rules; and

(b) whole of the consideration for services provided by such service provider is received directly by such service provider and no amount, which forms part of the consideration of services of such service provider, is received by the aggregator directly from either recipient of the service or his representative.”;

(ii) in clause (d), in sub-clause(i), after item (EEB), the following item shall be inserted, namely:-

“(EEC) in relation to services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, the person in India who complies with sections 29, 30

or 38 read with section 148 of the Customs Act, 1962 (52 of 1962) with respect to such goods;”.

3. Seeks to amend notification No. 30/2012-ST dated 20.06.2012 so as to specify the person complying with the sections 29, 30 or 38 read with section 148 of the Customs Act, 1962 (52 of 1962) as the person liable for paying service tax in case of services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.

Notification

In exercise of the powers conferred by sub-section (2) of section 68 of the Finance Act, 1994 (32 of 1994), the Central Government, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No. 30/2012-Service Tax, dated the 20th June, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 472 (E), dated the 20th June, 2012, namely:-

1. In the said notification,-

(i) in paragraph I, in clause (A), after the sub-clause (vi), the following sub-clause shall be inserted, namely:-

“(vii) provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India;”;

(ii) in paragraph (II), in the Table, after Sl. No. 11 and the entries relating thereto, the following Sl. No. and entries shall be inserted, namely:-

12.	in respect of services provided or agreed to be provided by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India	Nil	100%”
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(iii) after Explanation III, following Explanation shall be inserted, namely:-

“Explanation IV.- For the purposes of this notification, in respect of services provided or agreed to be provided by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India, person liable for paying service tax other than the service provider shall be the person in India who complies with sections 29, 30 or 38 read with section 148 of the Customs Act, 1962 (52 of 1962) with respect to such goods.”.

2. This notification shall come into force on the 22nd day of January, 2017.

4. Seeks to amend notification No. 26/2012-ST dated 20.06.2012 so as to rationalize the abatement for tour operator services.

Notification

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.26/2012- Service Tax, dated the 20thJune, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 468 (E), dated the 20thJune, 2012, namely:-

1. In the said notification, in the first paragraph, in the TABLE, for Sl. No. 11 and the entries relating thereto, the following shall be substituted, namely:-

(1)	(2)	(3)	(4)
"11	Services by a tour operator	60	(i) CENVAT credit on inputs and capital goods used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The bill issued for this purpose indicates that it is inclusive of charges of accommodation and

			<p>transportation required for such a tour and the amount charged in the bill is the gross amount charged for such a tour including the charges of accommodation and transportation required for such a tour.”.</p>
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2. This notification shall come into force on the 22nd day of January, 2017.

5. Seeks to amend notification No. 25/2012-ST dated 20.06.2012 so as to withdraw the exemption from service tax for online information and database access or retrieval services provided by a person located in non-taxable territory to an entity in India registered under section 12AA of the Income Tax Act, 1961 (43 of 1961).

Notification

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue) No.25/2012- Service Tax, dated the 20thJune, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 467 (E), dated the 20thJune, 2012, namely:-

In the said notification, in the opening paragraph, in entry 34, in the proviso, for the word, brackets, and letter “clause (a)”, the words, brackets and letters “clause (a) or clause (b)” shall be substituted.

6. Seeks to amend Service Tax Rules, 1994 so that in case of online information and database access or retrieval services provided or agreed to be provided by any person located in a non-taxable territory and received by non-assesse online recipient, the service tax payable for the month of December, 2016 and

January, 2017, shall be paid to the credit of the Central Government by the 6th day of March, 2017.

Notification

In exercise of the powers conferred by sub-section (1), read with sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely:-

1. (1) These rules may be called the Service Tax (Second Amendment) Rules, 2017.
- (2) They shall come into force on the date of publication in the Official Gazette.
2. In the Service Tax Rules, 1994, in rule 6, in sub-rule (1), after the last proviso, the following proviso shall be inserted, namely,-
 "Provided also that in case of online information and database access or retrieval services provided or agreed to be provided by any person located in a non-taxable territory and received by non- assess online recipient, the service tax payable for the month of December, 2016 and January, 2017, shall be paid to the credit of the Central Government by the 6th day of March, 2017."



CUSTOMS:

1. Regarding Extending the Single Window Interface For Facilitation of Trade (SWIFT) to Exports *Circular No. 976/10/2013-CX Dated 04.01.2017. (Circular No. 1/2017-Customs).*

1. Kind reference is invited to Board's Circulars No. 03/2016 dated 03.02.2016 and No. 09/2015 dated 31.03.2015 regarding the Indian Customs Single Window(SWIFT).This project envisages that the importers and exporters would electronically lodge their Customs clearance documents at a single point only with the Customs. The required permission, if any, from other regulatory agencies would be obtained online without the importer/exporter having to separately approach these agencies. The Single Window provides the importers/exporters a single point interface for Customs clearance of

import and export goods thereby reducing interface with Governmental agencies, dwell time and cost of doing business.

2. With the successful implementation of SWIFT for import, it is proposed to implement online-release from Partner Government Agencies (PGAs) for exports from 05/1/2017 onwards as a pilot at Chennai, Delhi and Mumbai Air cargo complexes for CITES/ wildlife items. Under the pilot, Shipping Bills filed online on ICEGATE or through the Service Centre will be referred to the concerned agency, namely WCCB, online for a 'No Objection Certificate' (NOC), if any required. The selection of items to be referred to any agency will be based on criteria specified by the agencies. As in the case of imports, the list of Customs Tariff Heads (CTHs) for which goods require NOC from the Wildlife Crime Control Bureau, shall be published on ICEGATE.
3. For granting NoC for goods entered for export, the offices of the Wildlife Crime Control Bureau are connected to the ICES. The Officers of Wild Life Crime Control Bureau may use the same role in ICES used for import, to process NOC in exports. Once a Shipping Bill is filed, the system will determine whether the consignment contains items requiring NOC from the agency. The system will then automatically re-route the Shipping Bill to the concerned WCCB office for granting NOC. Should the Shipping Bill require processing by Customs, it will happen in parallel.
4. Based on the list of Shipping Bills marked to the WCCB, the Agency's officer will retrieve the Shipping Bill online, and record the decision online on ICES. Should any documents be required for verification, for the time being, the Customs Broker or Exporter would have to produce hard copies of check-lists, export licenses, permits and other certificates/documents as required by the agency, until customs infrastructure is upgraded to provide uploading of soft copies of such documents. At this stage, the Agency's office may record any of the following:
 - (i) **Release** - No Objection Certificate
 - (ii) **Out of Scope**: Item does not require the Agency's NOC

- (iii) **Reject:** Item is not permitted for clearance for "Let Export". Agency's office may make a suitable recommendation in respect of the item such as no-export or destruction. (The Agency will record this remark online.) Customs shall take further necessary action on the Shipping Bill.
 - (iv) **Withhold NOC:** NOC has been temporarily withheld for want of further documentation and/or testing after entering suitable remarks in the system by the Agency. These SBs can be retrieved by Agency's office for a further decision (Release/Provisional NOC/Out-of-Scope/Reject) after the information is received.
 - (v) **Provisional NOC:** Presently, WCCB does not grant NOC on a provisional basis. [Note, if this option can be easily disabled, it may be disabled.]
5. Once NOC [Release/Out of Scope/ or Provisional NOC] is obtained from the concerned agency and assessment by Customs (in cases where assessment is required) is completed, the exporter may register goods or present them for stuffing into containers (in case of containerized cargo). In cases where a sample needs to be drawn, the concerned agency will arrange with the exporter to collect them prior to the issuance of NOC. The rest of the procedure for registration of goods, examination (where required) and 'Let Export Order' will remain as at present. Since, the agency's officer records the NOC online, Customs shall not insist on the physical copy of the NOC.
 6. Where the concerned officer of the Agency prefers to reject NOC by choosing option at 4(iii) above, the officer will also enter his remarks online on ICES, which will include a brief note on the basis for rejection so that the concerned Assistant/Deputy Commissioner of Customs can take further action, including adjudication under the provisions of the Customs Act, 1962. In cases where the samples fail to meet the qualifying criteria upon testing, the Agency's officer will also record the same on the system while rejecting the NoC.
 7. Chief Commissioners are requested to sensitize staff, other agencies, trade and Customs brokers working under their jurisdiction to ensure the smooth implementation of the SWIFT online clearance in exports.

8. Difficulty faced, if any, may be brought to the notice of the Board at the earliest. Further, a suitable Public Notice may be issued for the information of the Trade with a copy to the local offices of the Agencies.

2. Regarding Amendments Effective From 15-01-2017 To The All Industry Rates of Duty Drawback Dated 13.01.2017 (*Circular No. 02/2017-CUSTOMS*)

1. The Government considered representations; feedback and data related to the All Industry Rates (AIR) of Duty Drawback that took effect on 15.11.2016 and has notified certain changes vide Notification No. 03/2017-Customs (N.T.) dated 12.01.2017. These changes take effect from 15.01.2017. The notification should be downloaded from www.cbec.gov.in and perused. The changes made, inter-alia, include -
 - (a) Tariff entry for 'Surimi Fish Paste' under tariff item 160401 has been shifted to 030402 and description of tariff item 160401 has been amended to read as 'Surimi Analogue Product' to address classification issue;
 - (b) Drawback cap is being increased for tariff item 500799 (other Silk fabric);
 - (c) Drawback rates/caps are being changed for Man-made fibre floor coverings covered under tariff items 570104, 570203, 570303, 570402 & 570503 and for babies garments covered under tariff items 611101 & 620901;
 - (d) Drawback rates are being decreased for Gold jewellery, Silver jewellery and silver articles covered under tariff items 711301, 711302 and 711401.

2. The amendments in the First Schedule to the Customs Tariff Act, 1975 notified in Section 141 of the Finance Act, 2016 regarding the changes from the WCO Harmonized System Nomenclature 2012 edition to the 2017 edition have been implemented with effect from 01.01.2017. As the tariff items and description of goods in the AIR Drawback Schedule are aligned with the tariff items and description of goods in the First Schedule to the Customs Tariff Act at the Four Digit Level, the tariff items and description of goods in the AIR Drawback Schedule have been accordingly amended. The changes made, inter-alia, include -

- (a) Descriptions of tariff items 1211, 2206, 2853, 2939, 6907, 8205, 8308, 8442, 8466, 8473, 8439 and 8541 are amended;
 - (b) Tariff items 690701, 690702, 690703 and 690799 have been created to cover both glazed and unglazed tiles. Tariff item 6908, 690801, 690802 and 690899 for glazed tiles have been deleted.
 - (c) Tariff items 2848 and 8469 are omitted.
 - (d) New entry with AIR is being created separately for "Monopods, bipods, tripods and similar articles" under tariff item 9620;
3. Notes and conditions No. 3 (ii) of the AIR Notification No. 131/2016-Cus (N.T.) has been amended so that the parts or components of agriculture equipment (of tariff item 8432, 8433 and 8436) remain classifiable under respective tariff items only.
 4. Suitable public notices/standing orders should be issued for guidance of the Trade/field formations. Difficulties faced, if any, in implementation of the changes may be brought to the notice of the Board.

3. Regarding Import of Point of Sale (Pos) Terminal Devices, Its Cells and Batteries And Labelling Requirements Thereof Dated 16.01.2017 (*Circular No. 03/2017-Customs*)

1. The government has vide notification No. 35/2016-Central Excise, dated 28.11.16 exempted excise duty on Point of Sale (PoS) devices and also goods required for their manufacture. These devices are already exempted from customs duty. PoS devices are indispensable in a cashless digital payment ecosystem
2. Ministry of Electronics and Information Technology (MeitY) have stated that Point of sale (PoS) Terminal devices and sealed secondary cell/batteries containing alkaline or other non-acid electrolytes for use in portable applications are covered under the scope of Electronics and Information Technology Goods (Requirement for Compulsory Registration) Order, 2012 with effect from 13.5.2015 & 1.6.2016 respectively for mandatory BIS registration.

3. MeitY have relaxed the import conditions of Point of Sale (PoS) terminal devices and cells/ batteries fitted in these devices to the following extent.

(a) Import of non-labelled registered PoS devices shall be allowed subject to the condition that the importer shall put standard logo on each carton at the port instead of each separate PoS Terminal device along with the declaration to the Customs confirming that each terminal device would be labelled after clearance but before sale /distribution in the Indian market. Customs may release the consignments of PoS devices based on the declaration along with the details of model/ Serial nos. of the PoS terminal devices inside the cartons.

(b) Special permission for import of batteries and cells coming along (fitted) with the BIS registered PoS terminals if the said cells /batteries are either registered with BIS as per IS 16046 or are certified as per the International standard IEC 62133: 2012. Spares shall not be allowed under this relaxation.

Both the above exemptions from the regulatory requirements shall be valid till 31.3.17 or till further orders issued by MeitY.

4. Difficulties, if any in the implementation of this Circular may be brought to the knowledge of the Board.

4. Seeks to Further Amend Notification No.153/93- Customs, Dated 13th August, 1993 (*Notification No. 1/2017-CUSTOMS*)

G.S.R (E) In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 153/93-Customs, dated the 13th August, 1993, namely:-

In the said notification,

1) in the paragraph for the conditions, the following conditions shall be substituted,-

- (i). "the importer (hereinafter referred to as the Infrastructure Service Provider or the ISP) shall produce a certificate to the Assistant Commissioner or the Deputy Commissioner of Customs from the concerned Director of the Software Technology Parks Society set up by the Government of India, Department of Electronics, to the effect that the said imported goods are to be installed or used in the premises of the ISP and that the importer of such goods has been authorised by the said Inter-Ministerial Standing Committee for Hundred Percent Export Oriented Units in the Electronics Hardware Technology Parks (EHTP) and Software Technology Parks (STP) appointed by the notification of the Government of India in the Ministry of Industry, Department of Industrial Development No. S.O. 117(E), dated the 22nd February, 1993;
- (ii). the goods shall only be used for the purpose of export of software by the STP Units located in the premises of the ISP;
- (iii). the ISP executes a bond before the Assistant Commissioner or the Deputy Commissioner of Customs binding himself to,-
 - (a) install the said goods in his premises and use them in connection with the export of software by the STP Units located in the premises;
 - (b) not to remove the said goods from the premises without the approval of Assistant Commissioner or Deputy Commissioner of Customs;
 - (c) pay on demand, an amount equal to the duty leviable on the said goods as are not proved to the satisfaction of the Assistant Commissioner or Deputy Commissioner of Customs to have been used for the purposes for which the said goods were imported; and (d) follow the procedure as may be prescribed by the Assistant Commissioner or Deputy Commissioner of Customs for the receipt, storage, use and removal of the goods; subject to the permission being granted by the Director of the Software Technology Park, the Assistant Commissioner or Deputy Commissioner of Customs, may allow an ISP to re-export the said goods;

- (v) without prejudice to any other provision contained in this notification, the Assistant Commissioner of Customs or Deputy Commissioner of Customs may, in accordance with the Foreign Trade Policy, allow the ISP to clear the goods specified in the Annexure to this notification on payment of duty on the depreciated value thereof and at the rate in force on the date of clearance. The depreciation shall be allowed in straight line method as specified below, namely: -

for every quarter in the first year @ 4%

for every quarter in the second year @ 3%

for every quarter in the third year @ 3%

for every quarter in the fourth and fifth year @ 2.5 %

and thereafter for every quarter @ 2%

Compliance Calendar - March 2017

Sr. No.	Things you need to do	Sections / Rules / Clauses prescribing the activities to be done	Acts / Regulations / Circulars under which the Sections / Rules/ Clauses is covered	Due Date before which you need to comply the activity	You need to submit this to
CENTRAL EXCISE ACT RELATED COMPLIANCE					
1	Pay excise duty on the goods removed from the factory or warehouse for the	Rule 8(1)	Central Excise Rules, 2002	Mar-05	Excise Authorities
2	Pay excise duty on the goods removed from the factory or warehouse for the previous month(E-	Rule 8(1)	Central Excise Rules, 2002	Mar-06	Excise Authorities
3	Submit monthly central excise E.R.1 Return (E.R. 2 return for 100% EOU /units in FTZ / SEZ)	Rule 12 (1) / 17 (3)	Central Excise Rules, 2002	Mar-10	Excise Authorities
4	Submit monthly return by manufacturer of Final Product (N.A. for SSI)	Rule 9(7)	CENVAT Credit Rules, 2004	Mar-10	
5	Submit return containing information of principal input for the preceding month E.R.6	Rule 9A	CENVAT Credit Rules, 2004	Mar-10	Superintendent of Central Excise
6	Submit monthly return for receipt of inputs & capital goods for the preceding month in	Rule 9(7) & Rule 12	CENVAT Credit Rules, 2004 & Central Excise Rules, 2002	Mar-10	

7	Submit monthly return for availment of CENVAT Credit for preceding month in Form No. ER 1	Rule 9(7) & Rule 12	CENVAT Credit Rules, 2004 & Central Excise Rules, 2002	Mar-10	Superintendent of Central Excise
8	Pay excise duty for the quarter ended March 2017 (for SSI Unit)	Rule 8(1) Proviso	Central Excise Rules, 2002	Mar-31	Excise Authorities
9	Pay excise duty for the month of March(for non SSI)	Rule 8(1)	Central Excise Rules, 2002	Mar-31	Excise Authorities
INCOME TAX RELATED COMPLIANCE					
1	Deposit TDS from salaries for the previous month	Section 192	Income Tax Act, 1961	Mar-07	Designated Bank/ Income Tax Authorities
2	Deposit TDS on interest on Securities, Dividends other than dividends referred to in Section 115O, Interest other than interest on Securities, Winnings from Lotteries & crossword puzzles, Winning from Horse Races	Section 193, Section 194 to Section 194BB	Income Tax Act, 1961	Mar-07	Designated Bank/ Income Tax Authorities
3	Deposit TDS on Contractor's Bill/ Rent Advertising / Professional Service Bill deducted in the	Section 194C to Section 194H	Income Tax Act, 1961	Mar-07	Designated Bank/ Income Tax Authorities

4	Deposit TDS on payment to non-resident, Foreign company being holder of mutual fund units, Units held by an offshore fund, Income from foreign currency bond, Income of FIs	Section 195, Section 196 A to 196 D	Income Tax Act, 1961	Mar-07	Designated Bank/ Income Tax Authorities
5	Payment of Tax Collected at Source	Section 206C	Income Tax Act, 1961	Mar-07	Designated Bank/ Income Tax Authorities
6	Submit declaration for no TCS obtained from manufacturer in form No. 27C	Section 206C (1A)	Income Tax Act, 1961	Mar-07	Designated Bank/ Income Tax Authorities
7	Payment of tax on transfer of certain immovable property other than agricultural land	Section 194-IA and Rule 30 (2A)	Income Tax Act, 1961	Mar-07	Designated Bank/ Income Tax Authorities
8	Payment of Advance Income Tax in case of company	Chapter XVII Part C	Income Tax Act, 1961	Mar-15	Designated Bank/ Income Tax Authorities
9	Payment of Advance Income Tax in case of non-corporate assessee.	Chapter XVII Part C	Income Tax Act, 1961	Mar-15	Designated Bank/ Income Tax Authorities

FINANCE ACT & SERVICE TAX RELATED COMPLIANCE

1	Pay Service tax collected during the previous month by persons other than individuals, proprietors and partnership firms in G.A.R-7	Section 68 read with Rule 6	The Finance Act, 1994 read with The Service Tax Rules, 1994	Mar-05	Service Tax Authorities
2	Pay Service tax collected during the previous month by persons other than individuals, proprietors and partnership firms in G.A.R-7 (E-payment)	Section 68 read with Rule 6	The Finance Act, 1994 read with The Service Tax Rules, 1994	Mar-06	Service Tax Authorities
3	Pay Service tax collected during the month of March	Section 68 read with Rule 6	The Finance Act, 1994 read with The Service Tax Rules, 1994	Mar-31	Service Tax Authorities

THE MAHARASHTRA STATE TAX RELATED COMPLIANCE

1	Submit monthly return and payment of tax for the previous month in Form 209 by Dealer to whom a certificate of entitlement has been granted for availing incentives by way of exemption	Rule 18	The Maharashtra Value Added Tax Act, 2005 read with the Rules thereunder	Mar-01	Sales Tax Authorities
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2	Submit monthly return and pay tax for the previous month.	Rules 17 / 18 and 41	The Maharashtra Value Added Tax Act, 2005 read with the Rules thereunder	Mar-21	Sales Tax Authorities
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3	Submit monthly return of Professional Tax if tax liability is Rs. 20 thousand or more in Form No. III (Return-cum- challan)	Rule 11 (3) (c)	The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 read with The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975	Mar-31	Profession tax
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4	Credit Professional Tax deducted in the previous month in Form III	Rule 17	The Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975 read with The Maharashtra State Tax on Professions, Trades, Callings and Employments Rules, 1975	Within 15 days of such deduction	Profession Tax Authorities
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ECONOMIC, INDUSTRIAL & LABOUR LAW RELATED COMPLIANCES

1	Pay monthly Provident Fund dues (non-corporate)	Paragraph 38	Employees' Provident Funds Scheme, 1952	Mar-15	Provident Fund Authorities
2	File monthly return for employees leaving / joining during the previous month.	Paragraph 20(2) read with Paragraph 36(1) & (2)	The Employees Pension Scheme, 1995 (For exempted establishments under Employees Provident Fund and Misc.	Mar-15	Provident Fund Commissioner

3	File monthly return of employees entitled for membership of Insurance Fund	Paragraph 10	The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)	Mar-15	Provident Fund Commissioner
4	File monthly return for members of Insurance Fund leaving service during the previous month.	Paragraph 10	The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)	Mar-15	Provident Fund Commissioner

5	File monthly return in Form no. F4(PS) of members joining service during the month	Paragraph 10	The Employees Deposit Linked Insurance Scheme, 1976 (For exempted establishments under Employees Provident Fund and Misc. Provisions Act, 1952)	Mar-15	Provident Fund Commissioner
6	Pay ESI contribution for previous month.	Regulation 31	Employee State Insurance Act, 1948 Employees State Insurance (Gen) Regulations,	Mar-21	ESIC Authority
7	Submit monthly return of Provident Fund for the previous month	Paragraph 38	Employees' Provident Funds Scheme, 1952	Mar-25	Regional Provident Fund Commissioner
RBI (NBFC) RELATED COMPLIANCES					
1	File return of exposure to capital markets in Form NBS-6	Para 22	NBFC-D Prudential Norms Directions, 2007	Mar-07	RBI

2	File monthly return on important financial parameters of NBFCs not accepting/holding public deposits and having asset size of Rs.100 crore and above	Circular No. DNBS (RID) CC No. 57/02.02.15/2005-6	Department of Non-Banking Supervision, RBI	Mar-07	RBI
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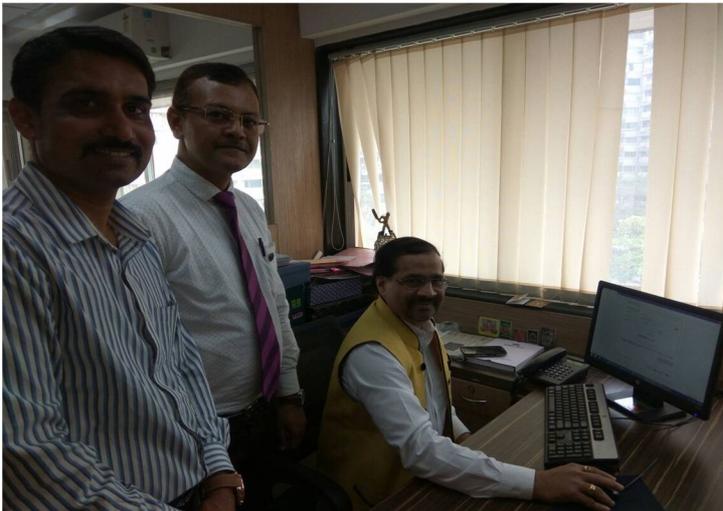
3	Statement of Short Term Dynamic Liquidity [NBS-ALM1]	Circular No. DNBS (PD). CC. No. 125/03.05.002 / 2008-2009	Department of Non-Banking Supervision, RBI	Mar-10	RBI
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Note: Though all precautions have been taken in compiling this calendar, WIRC of ICSI should not be held responsible in case of any discrepancy. In case of doubt, please refer to relevant law/rules.

WIRC Photo Gallery



President, ICSI, Vice President, ICSI and the Regional Chairmen of ICSI taking Oath in the presence of Shri Arjun Ram Meghwal, Hon'ble Union Minister for Finance and Corporate Affairs.



CS Makarand Lele, Vice President, ICSI inaugurating the ICSI-WIRC initiative by making the maiden payment of "Small Drops of Water makes the Mighty Ocean"- A voluntary contribution to CSBF . Others seen are CS Prakash K.Pandya, Chairman, ICSI-WIRC and CS Amit Kumar Jain, Regional Council Member and Editor-FOCUS.

CS Prakash K. Pandya, Chairman, ICSI-WIRC and CS Amit Kumar Jain, Regional Council Member and Editor-FOCUS handing over the receipt to CS Makarand Lele, Vice President, ICSI who made the maiden payment towards "Small Drops of Water makes the Mighty Ocean".



TIMES CITY

THE TIMES OF INDIA, AHMEDABAD | MONDAY, FEBRUARY 20, 2017

'After NCLT's constitution, scope of CS has increased manifold'

WIRC Chairman Talked About Changing Role OF CS In The Country

TIMES NEWS NETWORK

Vadodara: The scope for company secretaries (CS) has increased tremendously since the formation of National Company Law Tribunal (NCLT) in June last year.

"There are 60,000 cases filed in a year with NCLT while 3.5 lakh cases are pending with the tribunal. In all major cases, the role of CS has become important as they are the ones who have to issue legal notices to recover funds, look into operation mismanagement, file petition in court and act as liquidator as well," Prakash Pandya, chairman of Western India Regional Council



Pandya was in the city to take part in a seminar organized by Vadodara chapter of WIRC of ICSI

cil (WIRC) of The Institute of Company Secretaries of India (ICSI), said here on Sunday.

Pandya was in the city to take part in a seminar on the theme of 'Dimensional role of CS in economic reforms under GST, SEBI and Company Laws' organized by Vadodara chapter of

WIRC of ICSI.

He said the institute has more than 3.5 lakh students enrolled in the CS programme across the country while around 300 students become CS every year.

"As an institute, which has nearly 50,000 CS registered as members, our challenge is to provide them better skills as the role of CS is changing," he said.

ICSI, which has already formulated secretarial standards for conducting board meeting and general meetings, is now setting new secretarial standards for declaration of dividends.

"Companies follow diverse secretarial practices and therefore there is a need to integrate, harmonize and standardize such practices so as to promote uniformity and consistency," he said, adding that the secretarial standards for declaration of dividends are meant to avoid the prevalent practice of insider trading among others.

Press Coverage of Vadodara Chapter Seminar

વડોદરા, સોમવાર, 20 ફેબ્રુઆરી, 2017 | 5

સિદ્ધી લાસર

કંપની સેક્રેટરીઓનો સેમિનાર યોજાયો નેશનલ કંપની લો ટ્રિબ્યુનલ બાદ સીએસનો રોલ હવે વધી ગયો છે ટાટાના વિવાદમાં સીએસની ભૂમિકા મહત્વની રહી છે

સિદ્ધી લાસર | વડોદરા

કંપની સેક્રેટરી જીએસટી માટે એડવાઈઝ પૂરું કરી શકે છે, નેશનલ કંપની લો ટ્રિબ્યુનલ બાદ સીએસનો રોલ હવે વધી ગયો છે. ટાટાના વિવાદમાં પણ કંપની સેક્રેટરીની ભૂમિકા મહત્વની રહી હતી, કંપની સેક્રેટરીઓ માટે યોજાયેલા એક સેમિનારમાં ૫ ઈન્સ્ટિટ્યૂટ ઓફ કંપની સેક્રેટરીઝ ઓફ ઈન્ડિયાની વેસ્ટર્ન ઈન્ડિયા રીજનલ કાઉન્સિલના ચેરમેન પ્રકાશ પંડ્યાએ આ પ્રમાણે જણાવ્યું હતું.

વધુમાં તેમણે જણાવ્યું હતું કે કંપનીને ફડયામાં લઈ જવા, રિકવરીનો પ્રોબ્લેમ કંપની સેક્રેટરી એનસીએલટીમાં લઈ જઈ કેસ દાખલ કરી શકે છે. ટાટાના વિવાદમાં

સીએસનો રોલ મહત્વનો રહ્યો હતો. કંપની અંગેના દર વરસે 60 હજાર કેસ થાય છે. હાલ પાંચ લાખ કેસ પેનિંગ છે. મિશન મોદીનું સપનું સાકાર કરવા માટે અમારી સંસ્થાએ કેટલાક સ્પેશિયલ કોર્સ શરૂ કર્યા છે. જીએસટી માટે સીએસ મેમ્બર પણ

બની શકે છે અને એડવાઈઝ પણ કરી શકે છે. જીએસટી માટે સરકારે બોર્ડની રેગ્યુલર બેઠક થાય તે માટે ગાઈડ લાઈન પણ નક્કી કરી છે. સેમિનારમાં વેસ્ટર્ન ઈન્ડિયાના 152 પ્રતિનિધિઓ સહિત 60 જેટલા સ્ટુડન્ટ્સ હાજર રહ્યાં હતાં.

09

MONDAY, 20-02-2017

સિદ્ધી

VADODARA

ICSIના વેસ્ટર્ન રિજીયોનલ કાઉન્સિલના પ્રમુખ સેમિનારની મુલાકાતે NCLTમાં CSની ભૂમિકા નિર્ણાયક બનતા વિદ્યાર્થીઓ માટે તકો વધશે

- કાસદાનો ચોગ્ગ સમય લઈ કરવાથી વર્ષે ૬૦ હજારથી વધુ કેસોના વિવાદ
- વિદ્યાર્થીઓ માટે ઇન્ટરવેન્ટરી બેંકરટસી કોર્સને અભ્યાસક્રમ દાખલ કરશે

વડોદરા, તા. 19

દેશમાં નવી નેશનલ કંપની લો ટ્રિબ્યુનલ(એનસીએલટી)ને કારણે સીએસની ભૂમિકા નિર્ણાયક બનશે. હાલમાં કાયદાનો યોગ્ય અમલ ન થવાને કારણે વર્ષે ૬૦ હજાર કંપનીઓ પર કેસો ચલાવવામાં આવે છે. દેશમાં આવા પેનિંગ કેસોની સંખ્યા સાદા ત્રણ લાખથી વધુ છે. આવી સ્થિતિમાં સીએસ કોર્સ કરીને સહાય થતાં વિદ્યાર્થીઓ માટે તકો વધશે. એમ આઈસીએસઆઈના વેસ્ટર્ન રિજીયોનલ કાઉન્સિલના પ્રમુખ પ્રકાશ પંડ્યાએ જણાવ્યું હતું. તેઓ

વડોદરામાં આઈસીએસઆઈ દ્વારા આયોજિત એક સેમિનારમાં હાજરી આપવા વડોદરાની મુલાકાતે આવ્યા હતા.

તેમણે જણાવ્યું હતું કે, કંપની સેક્રેટરીનું કામ કંપનીઓમાં કાયદાઓનો અમલ થાય છે કે નહીં તેની દેખરેખ અને કાળજી રાખવાનું છે. કંપની જ્યારે ઠંડામાં જાય છે ત્યારે, રૂપિયા રિકવર કરવામાં અને એનસીએલટીમાં પિટિશન દાખલ કરવાની હોય ત્યારે સીએસની ભૂમિકા નિર્ણાયક બને છે. બેંક અને ઈન્સ્ટિટ્યૂશન વચ્ચે કડીરૂપ ભૂમિકા સીએસની છે. જો ઠંડામાં જતી કંપનીની એસેટનો ઠપી નિકાલ આવે તો નવી તકો કંપની માટે પણ સર્જની હોય છે.

સીએસ જીએસટી ઓથોરિટીમાં અને જીએસટીના કાયદામાં સલાહકાર તરીકે પણ કામ કરી શકે છે. સીએસની પરીણામાં પાસ થતાં

જો વિદ્યાર્થી જોમ કરે તો કોર્પોરેટ લો એડવાઈઝર તરીકે અને પ્રેક્ટિસ કરે તો સેક્રેટરીયલ ઓફિસર તરીકે કારિયર બનાવી શકે છે.

હવે ઈન્સ્ટિટ્યૂટ ઈન્ટરવેન્ટરી બેંકરટસી કોર્સ જેવો એડવાન્સ કોર્સ દાખલ કરવા જઈ રહી છે જે વિદ્યાર્થીઓને એડવાન્સ લેવલના સીએસના અભ્યાસ માટે ઉપયોગી થશે. હાલમાં સિક્ક કંપની અને રિકવરી કંપની લોના અભ્યાસક્રમો શીખવવામાં આવે છે. નવા સેક્રેટરીયલ સ્ટાન્ડર્ડસના કાયદાઓ વિશે પણ તેમણે વાત કરી હતી.

આજના સેમિનારમાં અમદાવાદ, સુરત, વલસાડ અને રાજકોટથી ૧૫૦થી વધુ રેલિગેટ્સ હાજર રહ્યાં હતા. આ સેમિનારમાં ચેતન ભુમકિયાએ સેબી વિશે અને અમદાવાદના સીએસ મનો હુરકતે કંપની લો રિસન્ટ એમેન્ડમેન્ટ્સ વિશે લેક્ચર્સ આપ્યાં હતા.

WIRC Program Gallery

Kandivali Study Circle of WIRC - ICSI and Western India Regional Council - ICSI In association with Investors' Grievances Forum

Study Circle Meeting on Budget Meeting 2017

Date	Thursday, February 02, 2017
Venue	Kandivali Recreation Club, Near S. V. P. College, S. V. P. Road, Kandivali (West), Mumbai - 400 067
Topics	Budget Meeting 2017
Chief Guest / Speakers	Dr. Manjushree Ghodke , Economist
	Mr. Ashesh Safi , Partner, Deloitte Haskins & Sells
	Mr. S. S. Gupta , S. S. Gupta & Company
	Mr. Manish Chokshi
Delegates	148

ICSI-WIRC

Study Circle Meeting on Budget 2017 Analysis

Date	Saturday, February 04, 2017
Venue	ICSI-WIRC, A/C Auditorium, 5th Floor, Jolly Maker Chambers, No. 2, Nariman Point, Mumbai - 400021
Topics	Budget 2017 Analysis
Speakers	CA Uday Ved , Chartered Accountant
	Mr. M. S. Mani , Senior Director, Deloitte Haskins & Sells
Delegates	112

**Ghatkopar Study Circle of WIRC - ICSI and Western India Regional Council - ICSI
In association with Forum of Free Enterprise & Other 10 esteemed Associations**

Study Circle Meeting on Public Budget Meeting on Union Budget

Date	Sunday, February 05, 2017
Venue	5th Floor Auditorium, SNDT College, above SNDT Dome, Ghatkopar (West), Mumbai - 400 086
Topics	Public Budget Meeting on Union Budget-2017
Chief Guest/ Speakers	Mr. Kumar Aanand CA Mehul Shah CA Rajiv Luthia
Delegates	138



CS Hitesh Kothari welcoming CS Makarand Joshi

Cross Section of audience

ICSI-WIRC

Half Day Program on LLP

Date	Friday, February 10, 2017
Venue	Senate Banquets Hall, 208, Regent Chambers, Nariman Point, Mumbai- 400 021
Topics	Limited Liability Partnership (LLP)
Speakers	CS Makarand Joshi , Practising Company Secretary, MMJC Advisory Service Private Limited Mr. Abhay Kamat , Partner, Mukund M. Chitale & Co., Chartered Accountants
Delegates	107



L-R Mr.Rajiv Luthia, CS Prakash K Pandya, Chairman, ICSI-WIRC & CS Amit Kumar Jain, Regional Council Member

Mr.Ashit Sheth welcomed by the participants

ICSI-WIRC

Master Class on GST

Date	February 15 to February 19, 2017
Venue	ICSI-WIRC, A/C Auditorium, 5th Floor, Jolly Maker Chambers, No. 2, Nariman Point, Mumbai - 400021
Topics	Master Class on GST
Chief Guest / Speakers	CA S. S. Gupta, CA Rajiv Luthia, CA Ashit Shah, CA Naresh Sheth, CA Sheel Bhanushali
Delegates	62



CS Hitesh Kothari addressing

Mr.Yasheesh Ashar addressing

ICSI-WIRC Program on Practical Aspects of Mergers & Amalgamations

Date	Saturday, February 18, 2017
Venue	ICSI-WIRC, A/C Auditorium, 5th Floor, Jolly Maker Chambers, No. 2, Nariman Point, Mumbai - 400021
Topics	Practical Aspects of Mergers & Amalgamations
Speakers	CS Rahul Sahasrabudhe , Practicing Company Secretary Mumbai, CS Surendra Kanstiya , Practicing Company Secretary, Mumbai, Mr. Yasheesh Ashar , Senior Manager Deloitte Haskins and Sells, Ms. Pooja Patel , Associate Director, Khaitan & Co., CA (Ms.) Jyoti Bhatia , Senior Manager, Deloitte Haskins and Sells
Delegates	120

ICSI-WIRC Dadar Knowledge Centre

Date	Friday, February 24, 2017
Venue	Indokem Limited, Khatau House, e-Mugal Lane, Plot No. 410-411, Mahim, Mumbai
Topics	Business Responsibility Reporting
Speakers	CS Manoj Sonawala , Principal Consultant, Manoyog GRC Advisors, Mumbai
Delegates	41

Openings for Company Secretary/ Interns

Sagar Tourist Resorts Limited, Listed Company - CS Required

A qualified company secretary is required by Sagar Tourist Resorts Limited, a mid-sized Listed Company on Bombay Stock Exchange having its registered office at Manali, Himachal Pradesh and Corporate Office at Mumbai, Parle West. Incumbent should have at least one year's experience in dealing with company law, secretarial matters and Listing regulations as also knowledge in the legal matters particularly dealing with the laws as are applicable to Hotels. Additional areas such as accounts, finance, taxation and admin may be assigned to the Company Secretary. Please email your resume addressed to the Managing Director at sagarresort@yahoo.co.in

Private Limited Company - CS Required

A qualified Company Secretary for a Private Limited Company based at Mumbai. Please apply with full details and experience to:
A. U. Thakurdesai & Co. 4, May Queen, 33rd Road, Bandra (West), Mumbai - 400 050. Email: aartithakurdesai@gmail.com

Members enrolled in CSBF from Western Region

Sr. No.	Name	Membership No.	City
1	MS. CHARANCHIT KAUR BAGGA	ACS - 36078	NAGPUR
2	SH. JAYANTILAL RAGHUNATHRAM SUTHAR	FCS - 8779	VAPI
3	MR. MILIND SURYAKANT RAO	ACS - 48012	NAGPUR
4	MR. SHRIKANT SHARAD HUDDAR	ACS - 38910	NAGPUR
5	MR. ANUP MANOHAR MATE	ACS - 43410	NAGPUR
6	MR. SHYAMSINGH RANSINGH TOMAR	ACS - 36530	AHMEDABAD
7	MR. AHSAN ALI HUSSAIN AJANI	ACS - 47596	NAGPUR
8	MR. SHANTANU PRAMOD JOG	ACS - 27894	NAGPUR
9	MS. DEEPIKA AGARWAL	ACS - 19588	PUNE
10	MR. YASH DILIP KUMAR SHETH	ACS - 36328	AHMEDABAD
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12	MR. RAKESHKUMAR ASHOKKUMAR JAIN	ACS - 42389	MUMBAI
13	MS. ANKITA DINESHKUMAR SONI	ACS - 45262	AHMEDABAD
14	SH. RAHUL JAGANNATH JOSHI	ACS - 15782	MUMBAI
15	MS. POOJA SHAH	ACS - 39708	AHMEDABAD
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18	MR. SMIT SHAILESH SHAH	ACS - 35952	AHMEDABAD
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23	MR. SAURABH BRIJRAJ SINGH	ACS - 44811	MUMBAI
24	MR. JITENDRA KUMAR PRADEEPBHAI PARMAR	ACS - 41977	JUNAGADH
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26	MS. SHEETAL GIRISH PANDYA	ACS - 26138	AHMEDABAD
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48	SH. S S K SASTRY GARIMELLA	ACS - 23023	MUMBAI
49	MR. GANESH SAMPAT BHANDURE	ACS - 47958	NASHIK
50	MR. NIKUNJ VASANT PATEL	ACS - 48105	VISNAGAR
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54	MR. RAJ KISHORBHAI KANANI	ACS - 47032	JAM KHAMBHALIA

55	MR. SUMIT JAITELY	ACS - 29954	INDORE
56	MR. AMAR ANANDRAO PATIL	ACS - 45835	KOLHAPUR
57	MS. VAISHALI RISHABH UPADHYAY	ACS - 45291	VADODARA
58	MS. JYOTI NARAYAN KHOLIA	ACS - 33237	MUMBAI
59	MR. GOKULANANDA SAHU	ACS - 43068	MUMBAI
60	MR. DEVDUTTA DILIP KHIRE	ACS - 30048	SATARA
61	MS. MASTER TARNNUM AKHTARHUSEN	ACS - 43640	VADODARA
62	MS. REGAL RAMANLAL PATEL	ACS - 31511	MUMBAI
63	SH. NISHANT JAWASA	FCS - 6557	MUMBAI
64	MS. PRIYA GANDHI	ACS - 45561	RAJNANDGAON
65	MRS. SWATI BOCHGERI MANISH PAWAR	ACS - 23016	PUNE
66	MS. SOWMYA SURESH PRABHU	ACS - 41322	MUMBAI
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69	MR. SAMIR JAYESHBHAI MEHTA	ACS - 42362	JAMNAGAR
70	MS. MEENU MAHESHWARI	FCS - 7087	AHMEDABAD
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90	MR. MANDAR DEEPAK SARDESAI	ACS - 24412	PUNE
91	SH. MANOJ R KOHOK	ACS - 13108	PUNE
92	MR. SIDDHARTH SHARMA	ACS - 33578	-
93	MS. NEHA RAMESH BORKAR	ACS - 41891	MUMBAI
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106	MS. VINALA KESWANI	ACS - 35875	PUNE
107	MR. JITENDRA MADHUKAR BHAMARE	ACS - 33073	NASHIK
108	MS. BHAVINI KENIL GANDHI	ACS - 46849	MUMBAI
109	MS. POOJA RAUNAK ANAND	ACS - 47112	MUMBAI
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114	MR. RAVI JAYESH KUMAR DAXINI	ACS - 42070	SURENDRANAGAR
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118	MR. SHASHIKANT SHARMA	ACS - 35843	PUNE
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120	MR. ROHIT RAVIKIRAN KULKARNI	ACS - 33568	PUNE
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