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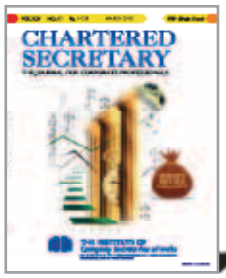

Articles

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09 >> NIRC – Jaipur Chapter - Half day Seminar on Corporate Social Responsibilities & Limited Liability Partnership - CS Tarachand Sharma addressing. Others sitting on the dais from left: CS Sandeep Jain, S.K. Agarwal (Regional Director, MCA), R.K. Meena (ROC-Rajasthan), CS Shyam Agrawal (Member, Central Council, The ICSI) and CS Deepak Arora.

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Dr K. R. Chandratre

Section 188 of the Companies Act 2013, which combines sections 297 and 314 of the Companies Act 1956, has been one of the most debatable provisions of the new Act since beginning. While the object behind the section is laudable, it poses difficulties in its operation. To attract this section, two conditions must be satisfied: (a) The company enters into a contract or arrangement of any one or more of the kinds specified in subsection (1) and (b) the other party to the contract or arrangement is a related party as defined in section 2(76) in relation to the company. Since the definition of 'related party' is exhaustive, only the parties mentioned in the definition can be brought into the definition by implication or for any other reason. Hence section 188 would apply only if a contract or arrangement is strictly between the company and any of the parties mentioned in section 2(76). All companies (including private companies) have to comply with section 188, but listed companies have additionally to comply with clause 49 of the listing agreement. Besides, all companies also have to comply with accounting standard AS-18. A question that is often asked is: Do we really need multiple laws on the same subject?

D.K. Prahlada Rao

Though the Companies Act 1956 has been repealed and replaced by the Companies Act, 2013, there are several areas of concerns in the new Act too which cause difficulties in the implementation of the new law. This article focusses on certain areas of concern to the corporate sector and the professionals alike and to establish clarity regarding certain provisions of the 2013 Act. It also raises issues which are seemingly irreconcilable and this is an opportunity for all concerned to further discuss and debate the issues involved.

T. V. Narayanaswamy

The requirement of listed companies to appoint a small shareholders' director elected by small shareholders, on the requisition of not less than 1000 small shareholders or *suo motu* is a welcome measure. But the Rules prescribed in this regard do not provide as to how such a director would be elected by the small shareholders, and whether the notice contemplated in the Rule should be given by all the 1000 shareholders or by their representative, etc. These go to give an impression that the Government is not serious in the matter.

Dr. Joffy George

The benefits of combining the position of CCO with Company Secretary are many. Company Secretary can complete many, if not all, of the tasks that face a CCO. In fact, many CCOs already share this role. Company Secretary's duty to ensure creation of new board committees and charters makes this arrangement a convenient option. In addition, Company Secretaries are often acquainted with several compliance issues. A good Company Secretary will typically be engaged in assisting the Board in staying current with best practices in compliance, and because Company Secretaries will typically be very active in assisting the Board and senior management with regulatory compliance matters, including those flowing from SEBI Guidelines and the listing agreements, it makes sense to expand the Company Secretary's role to include accountability for specific areas of legal and policy compliance. Combining the CCO and Company Secretary positions would preserve the existing conduit between shareholders, management, and the board of directors.

Prof. J. P. Sharma

Many corporate frauds have come to light only through an insider speaking out or a confession and not through an audit report or a regulatory investigation. US, UK, New Zealand and South Africa have whistle blower protection laws that can truly be considered as comprehensive. Some countries have adopted laws to cover only the public sector (e.g. Romania), others like Japan have a law for the private sector. India at present does not have any law for the corporate sector to protect whistle-blowers, except provisions introduced recently in the revised clause 49. Nevertheless the Whistle Blower Protection Act passed by the Lok Sabha on 27 December 2011 and by Rajya Sabha on 21 February 2014 has received the President's assent on 9 May 2014. However, the Act, 2014 has not been operationalized because Rules have not been notified as yet. It is high time that a whistle blower protection law is enacted in India for corporate sector to formulate and enforce code of conduct to check malpractices, cases of corruption and corporate scams.

at a Glance

Vinay Mishra

Section 196 (3) (c) of the Companies Act, 2013, among other things provides that a person cannot be appointed as a managing director, whole-time director or manager if he has at any time suspended payment to his creditors or makes, or has at any time made, a composition with them. Therefore, it becomes important to understand as to what amounts to "Suspension of Payment to Creditors" and "Composition with Creditors". Will it include a single act of dishonor of payment or continuous dishonor? Will Compromise and arrangement under Chapter XV of the Companies be treated as "Composition with Creditors"? Does a simple arrangement of accord and satisfaction in due course of business amounts to "Composition with Creditors"? And many other questions arise which are important to be addressed.

Legal World P-60

▸ LW: 20:03:2015 Merely because WIPL is impleaded as a party to the proceedings would not empower CLB to direct an investigation into its affairs as permitting so would render the very words "in the course of the proceedings before it" otiose.[Del] ▸ LW: 21:03:2015 The "Memorandum of Association" of a company limited by shares mandatorily prescribes in "Table-B" (Table-B of 1956 Act and Table-A of 2013 Act deals with Company Limited by shares) of the Companies Act mandatorily prescribed that the names, addresses, description, occupation of subscribers shall be given in Memorandum of Association. In this case as the original subscribers of shares were changed in 1994, there was material alteration in the "Memorandum of Association" of respondent no. 1 Company.[SC] ▸ LW: 22:03:2015 It is clear that the clause with regard to arbitration is quite vague and as there are no by-laws framed under the provisions of the Companies Act, no arbitrator can be appointed.[SC] ▸ LW: 23:03:2015 The present suit is for the recovery of the price, which is the outstanding payment raised by way of invoices along with interest; it is an independent supply of goods by the plaintiff to the defendant. In no manner can it be said that the dispute raised in the present suit would be covered by the Joint Venture Agreement.[Del] ▸ LW: 24:03:2015 In our opinion, the amendment application made by the plaintiff should have been granted, especially in view of the fact that it was admitted by the plaintiff that the suit property was initially undervalued in the plaint and by virtue of the amendment application, the plaintiff wanted to correct the error and wanted to place correct market value of the suit property in the plaint. [SC] ▸ LW: 25:03:2015 The Commission is of opinion that the issues arising out of and related to the dealership agreement between the Informant and OP such as unilateral terms and conditions, Bank Guarantee, high penal interest, higher sales target etc., do not disclose any competition concern.[CCI] ▸ LW: 26:03:2015 The Commission holds OP 5 liable for indulging in anti-competitive practices of imposing the condition of NOC for appointment of stockists and mandating payment of PIS charge in contravention of the provisions of section 3(3)(b) read with section 3(1) of the Act.[CCI] ▸ LW: 27:03:2015 Disruption of power supply due to load shedding is not abuse of dominance.[CCI] ▸ LW: 28:03:2015 The Tribunal had considered the conspiracy theory, advanced by the petitioner, and had found no material to support the same. In my view, the said decision of the Tribunal cannot be faulted.[Del] ▸ LW: 29:03:2015 Petitioner's services both with respondent no.1 andrespondent no.2 were only on adhoc basis, and therefore, there does not ariseissue of regularization of the services of the petitioner.[Del]

From the Government P-70

▸ Extension of time for filing of Notice of appointment of the Cost Auditor in Form CRA-2 ▸ Constitution of a High Level Committee to suggest measures for improved monitoring of the implementation of Corporate Social Responsibility policies by the companies under Section 135 of the Companies Act, 2013 ▸ Authorisation of officers in the office of RD (NR) at Noida for the purposes of filing complaint under section 159 of the Companies Act, 2013 ▸ The Companies (Removal of Difficulties) Order, 2015 ▸ The Companies (Indian Accounting Standards) Rules, 2015 ▸ The Companies (Registration Offices and Fees) Amendment Rules, 2015 ▸ The Companies Declaration and Payment of Dividend) (Amendment) Rules, 2015 ▸ Raising Money through Private Placement of Non-Convertible Debentures (NCDs) by NBFCs ▸ Foreign Exchange Management Act, 1999 - Import of Goods into India ▸ Foreign Direct Investment -Reporting under FDI Scheme on the e-Biz platform ▸ External Commercial Borrowings (ECB) Policy - Simplification of Procedure ▸ Overseas Direct Investments by proprietorship concern / unregistered partnership firm in India - Review ▸ Foreign Direct Investment (FDI) in India - Review of FDI policy -Sector Specific conditions- Construction Development

Other Highlights P-84

PMQ COURSE IN CORPORATE GOVERNANCE (MODIFIED STRUCTURE) - A Snapshot

Eligibility → The course is only for the Members of ICSI

Course Structure → Part I comprising of Written Examination (One paper) → Part II comprising of Workshop cum Interview

Preparation for the Course → PMQ Courses are specialized course and the candidates pursuing these courses will be required to have thorough knowledge under each topic of the course curriculum. For this purpose, the candidates will be provided with an illustrative list of readings.

Fee Structure →

(i) Rs. 25,000 for the entire course payable as under:
Rs. 12,500/- payable at the time of registration for the course
Rs. 12,500/- payable at the time of workshop cum interview
(ii) Examination Fee of Rs. 1500
(iii) Change of Examination Centre fee - Rs. 100
(iv) Verification of marks fee - Rs. 250 per paper

Registration →

- Registration of the course will be valid for a period of 5 years during which period the candidate will be required to complete both the parts
- Registration shall be open throughout the year
- A candidate should register at least six calendar month prior to the month in which the examination commences

DIPLOMA CERTIFICATE → Candidates successfully completing the course shall be awarded Diploma Certificate and shall be eligible to use the descriptive letters and bracket "DCG (ICSI)"

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4. The article must not have been published elsewhere, and must not have been or must not be sent elsewhere for publication, in the same or substantially the same form.
5. The article should ordinarily have 2500 to 4000 words. A longer article may be considered if the subject so warrants.
6. The article must carry the name(s) of the author(s) on the title page only and nowhere else.
7. The articles go through blind review and are assessed on the parameters such as (a) relevance and usefulness of the article (from the point of view of company secretaries), (b) organization of the article (structuring, sequencing, construction, flow, etc.), (c) depth of the discussion, (d) persuasive strength of the article (idea/argument/articulation), (e) does the article say something new and is it thought provoking, and (f) adequacy of reference, source acknowledgement and bibliography, etc.
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Every right implies a responsibility; Every opportunity, an obligation, Every possession, a duty.

–John D. Rockefeller

Dear Professional Colleagues,

In a dynamic environment, the professionals are expected to keep up to the mark specially when the dynamism is global. Indeed, the world is now driven by the competition and quality of services and more so the value derived by the service seekers. It was amply clear during my meeting with the Chairmen and Vice Chairmen of Regional Councils and the Chairmen of A+ and A Grade Chapters on February 13-14, 2015 at New Delhi. I appreciate the energy and enthusiasm shown during the meeting by the office bearers of Regional Councils and Chapters in realising the ICSI Vision to be Global Leader in promoting good Corporate Governance. During the deliberations, we have taken various decisions to promote the cause of profession of Company Secretaries. I am sure the Chairmen of Regional Councils will percolate down the decisions taken at this meet to ensure uniform implementation of the policies of the Institute in the best interest of its members and students and the profession as a whole.

In line with the discussions at the meeting with Chairmen of Regional Councils and Chapters, Institute has taken initiatives towards further improving the services being provided to students and members. In this direction the grievance cell is being further strengthened. To provide better academic support to the students and members, a knowledge repository is being developed wherein the presentations made by experts in various programmes and the videos on various topics of interest will be uploaded. A plan is also being drawn up to organise the regular webcasts for the students on various subjects of the curriculum. The Institute is also working towards strengthening the infrastructure at the Regional Councils and Chapters and also the IT enabled services.

With a view to ensure seamless coordination with Regional Councils and Chapters, the Institute has introduced the mentorship programme whereby the Heads of Directorates of the Institute (HODs) have been assigned specific Chapters in four regions. The HODs will visit and regularly monitor the activities of these Chapters and also extend their full support in resolving the issues, if any. I am sure, this mechanism will work well and ensure better coordination between the Headquarters, Regional Councils and Chapters under three tier structure.

In addition, the Institute has also embarked upon an action plan for capacity building of its members in other areas such as banking, insurance, mutual fund, intellectual property, competition law and arbitration. In this direction, the institute is proposing to hold, consultative meetings and national seminar in the areas of banking, insurance, mutual funds, alternate investment funds etc. It was in this context the ICSI-CCGRT organised a seminar on International Trade and Investor Awareness Doing Business in US on February 23, 2015 at Mumbai which was addressed, among others, by Commercial Officer, US Commercial Service, US Consulate General.

From the President

You are aware that the Institute jointly with NISM has introduced a Post Graduate Certificate in Capital Market and Certified Banking Professional course with Indian Institute of Banking & Finance (IIBF). The Institute jointly with Insurance Institute of India (III) is launching a course in Compliance Governance and Risk Management, shortly. I appeal to members to register for these courses for capacity building in these areas.

The training of independent directors has also assumed significance with the implementation of Companies Act, 2013 and in this regard the Institute is developing an action plan for intensive working sessions and activities, to update and deepen the knowledge on the specific duties, responsibilities, and liabilities of the independent directors.

I am pleased to inform you that a delegation comprising myself, Chief Executive and Officiating Secretary, Chairman WIRC and Dean, CCGRT met Chairman of SEBI on February 23, 2015 and discussed the matters of professional interest in capital market.

Compliance is not just a regulatory mandate and Company Secretary is not just a Compliance Officer. We have been witnessing the enhanced profile of Company Secretary from Compliance Officer to Key Managerial Personnel. While Companies Act, 2013 has escalated the role, responsibilities and mandates of Company Secretaries, it is our onerous duty to justify the same in letters and spirit that would create remarkable identity and reputation amongst the corporate and the stakeholders.

Secretarial Audit as mandated by Companies Act, 2013 is one of the thrust areas of Company Secretaries. The institute has taken a number of capacity building initiatives such as Nationwide Programmes on Secretarial Audit covering compliance under the list of laws/applicable laws. The Institute with a view to facilitate the members to conduct Secretarial Audit has compiled list of specific laws applicable to various sectors, from different sources and the same has been uploaded on the website. The Institute has also developed Frequently Asked Questions and their responses, which are also available on the website.

Friends, the opportunity comes with responsibility and responsibility comes with risk that requires continuous updation of knowledge, skills and diligence in one's action. The profession of Company Secretary is not an exception to this. We witness a number of examples that reminds us of the degree of diligence required in our professional services, whether as a Practising Company Secretary or as a Key Managerial Personnel. Indeed, for a Company Secretary, it is not enough to have expertise only in Companies Act, 2013, but also under all the laws that are applicable to a business. As Company Secretary Professional, the responsibility falls either as Key Managerial Personnel who is recognised as "Officer in Default" or as Practising Company Secretary for false statement under Section 448 of the Companies Act, 2013, besides their liability for professional misconduct under Company Secretaries Act, 1980.

If the recent decisions of the regulators are any indicator of the kind of compliance regime required in companies, any negligence in professional services is posing a huge reputational risk for the members as professionals. Therefore, the professional risk management and mitigation of such risk has assumed importance. As part of professional risk mitigation measures, the professionals all over the world use the professional indemnity insurance. I, therefore, urge upon my professional colleagues to take Professional Indemnity Insurance. You may be aware that the Institute also has signed an MOU with The New India Assurance Co. Ltd. covering Professional Indemnity policy and Office Protection Shield Policy for Members of Institute.

The updation of knowledge and skills have assumed significance for maintaining and sustaining the growth and development of the profession and therefore, it should be our constant endeavour to reach the quality of our professional services to continuously update our knowledge and skills. In this direction, the Council has issued guidelines for obtaining programme credit hours by attending professional development programmes. However, it has been noticed that many of our members did not obtain the required number of credit hours during the previous block of three years even after extending the date for completion of the same. Here I wish to emphasise that the system of obtaining credit hours was an initiative of the Institute to keep the members updated in terms of knowledge and professional skills so that they are able to render value added services. The Professional Development Committee of the Council in its recent meeting took a serious view of the fact that the members who have obtained required programme credit hours are less than those who did not. The situation does not appear to be very encouraging, and I urge upon all members to attend maximum number of programmes not only to obtain credit hours but as an essential component of providing better professional services to the stakeholders.

I am pleased to inform you that the Professional Development Committee has also decided to celebrate National Holidays such as Republic Day, Independence Day and Birth Anniversary of Mahatma Gandhi throughout the country. I appeal to all Regional Councils and Chapters to celebrate the National Holidays.

I take this opportunity, through this communication, to welcome Ms. Anjuly Chib Duggal, IAS as our new Secretary of the Ministry of Corporate Affairs, Government of India.

With kind regards,

Yours sincerely,

March 03, 2015.

(CS ATUL H MEHTA)
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Related Party Transactions: Complexity & Ambiguity

Related party transactions are now governed by the Companies Act, the Listing Agreement and the Accounting Standards making the law and procedure more complicated. It is hard to understand why this situation should be allowed to prevail and whether the law on the subject should be so harsh that it adversely affects ease of doing business and creates needless compliances and it should also apply to private companies.

INTRODUCTION

Long time ago, one of the India's great luminaries in the fields of law, taxation and economy, Nani Palkhiwala, was reported as having said that :"The tragedy of India is the tragedy of waste: waste of national time, energy and manpower. Tens of millions of man-hours, crammed with intelligence and knowledge of tax gatherers, taxpayers and tax advisers are squandered every year in grappling with the torrential spate of mindless amendments. The feverish activity achieves no more good than a fever.... The obsessive attitude that the exercise of power must take the form of churning out new laws and regulations is shared by the legislature and the rule-making authority alike. It has become normal to have amendments to Income-tax Rules more than half a dozen times in a single year. Various forms are changed overnight. Can this country, where crores of school children and adults have to go without writing paper, afford the luxury of throwing away millions of pages of printed Forms which are consigned to the scrap heap so nonchalantly?"

What Mr Palkhiwala said several years ago is absolutely true today; in fact, today what we find in India is at least a ten-time increase in the spate of changes in laws, rules, regulations, forms,

* Past President, the Institute of Company Secretaries of India.

etc. in every field and sometimes we start to feel whether we are, unwittingly may be, going backward towards the pre-1991 era of control and regulation.

One of the many irritants of the Companies Act 2013 (the Act) is section 188 and the Rules made under it, besides new Clause 49 of the Listing Agreement (LA).

After the enactment of Companies Act 2013 there are a few matters on which the Act as well as LA contain provisions. One of them is Related Party Transactions (RPT). On this subject we have one more law, i.e. Accounting Standards. Complexities and ambiguities galore in all the three!

STATUTORY PROVISION

Section 188(1) of the Act reads as follows:

"188. (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 special resolution:

Provided further that no member of the company shall vote on such special 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.

Explanation.—In this sub-section,—

(a) the expression "office or place of profit" means any office or place—

(*i*) where such office or place is held by a director, if the director holding it receives from the company anything by way of remuneration over and above the remuneration to which he is entitled as director, by way of salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

(*ii*) where such office or place is held by an individual other than a director or by any firm, private company or other body corporate, if the individual, firm, private company or body corporate holding it receives from the company anything by way of remuneration, salary, fee, commission, perquisites, any rent-free accommodation, or otherwise;

(b) the expression "arm's length transaction" means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest."

This section is the successor to sections 297 and 314 of the Companies Act 1956, but in the process of rewriting those sections, the scope of those sections has been expensed. In particular, contract or arrangement with a related party with respect to clause (d) of sub-section (1), inserting the words 'contract or arrangement … with respect to', in place of the words 'contract for services' in section 297 of the 1956 Act, section 188 has brought within its ambit 'contracts of service' besides 'contract for service', with the result that even employment contracts now fall within section 188, including those of managing directors, whole-time directors and key managerial personnel, as they fall within the definition of 'related party'.

BASIC CONDITIONS TO ATTRACT THE SECTION

The company enters into a contract or arrangement of any one or more of the kinds specified in subsection (1). In other words, the company must be one party and any of the related parties must be

the other party to the contract or arrangement. The other party to the contract or arrangement is a related party as defined in section 2(76) in relation to the company. In other words, there must exist the relationship as per the definition between the company and other party to the contract.

To attract section 188, the contract or arrangement or transaction must be strictly one of the seven kinds mentioned in sub-section (1). No contract or arrangement or transaction which is not one of the seven kinds can be brought within the ambit of this section as that would amount to rewriting the statute.

Since the definition of 'related party' is an exhaustive definition, no party other than those mentioned in the definition can be brought into the definition by implication or for any other reason, as it would amount to rewriting the statutory provision. Accordingly, section188 would apply only if a contract or arrangement is strictly between the company and any of the parties mentioned in section 2(76). The contract or arrangement or transaction must be strictly between the company and a related party specified in the definition given in section 2(76); we cannot rewrite the statutory provision by artificially bringing any other party within the ambit of the definition on any ground whatsoever, not even on the ground of 'abundant precaution' or otherwise. A statutory provision must be construed strictly on its own language.

MEANING OF 'RELATED PARTY'

The term 'related party' is defined in section 2(76) of the Act and according to it, read with the Companies (Specification of Definitions details) Rules, 2014, the following parties (considered in relation to any company, say 'X') are related parties:

- any director of company X;
- any relative of any director of company X;
- any key managerial personnel of company X;
- any relative of any key managerial personnel of company X;
- any partnership firm in which any director of company X is a partner;
- any partnership firm in which the manager of the company X is a partner;
- any partnership firm in which any relative of any director of company X is a partner;
- any partnership firm in which any relative of any manager of company X is a partner;
- any private company in which any director of company X is a member;
- any private company in which any director of company X is a director;
- any private company in which relative of any director of company X is a member;
- any private company in which relative of any director of company X is a director;
- any private company in which the manager of company X is a member;
- any private company in which the manager of company X is a director;
- any private company in which relative of manager of company X is a member;
- any private company in which relative of manager of company X is a director;
- any public company in which any director of company X is a director and holds along with his relatives, more than two per cent of its paid-up share capital;
- any public company in which the manager of company X is a director and holds along with his relatives, more than two per cent. of its paid-up share capital;
- any body corporate whose board of directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions (except in a professional capacity) of any director of company X;
- any body corporate whose board of directors, managing director or manager is accustomed to act in accordance with the advice, directions or instructions (except in a professional capacity) of the manager of company X;
- any person on whose advice, directions or instructions (except in a professional capacity) any director of company X is accustomed to act;
- any person on whose advice, directions or instructions (except in a professional capacity) the manager of company X is accustomed to act;
- a holding company of company X;
- a subsidiary of company X;
- an associate company of company X;
- any other subsidiary of the company (holding company) of which company X is also a subsidiary;
- any director other than an independent director of the holding company of company X;
- any relative of director other than an independent director of the holding company of company X;
- any key managerial personnel of the holding company of company X;
- any relative of the key managerial personnel of the holding company of company X.

CONTRACTS AND ARRANGEMENTS REQUIRING ONLY BOARD APPROVAL

It will be noticed from sub-section (1) that, consent of the Board given by a resolution at a meeting of the Board will be required for a company to enter into any contract or arrangement with a related party with respect to the kinds of transactions mentioned in sub-section (1). In this regard, the conditions as prescribed in rule 15(1) and (2) of the Companies (Meetings of Boards and its Powers) Rules, 2014 ('the Rules') must be complied with.

The words 'at a meeting of the Board' make it impossible to approve any RPT by the board by a circular resolution. However approval given at a meeting in which all or some of the directors participate by videoconference will be valid.

CONTRACTS AND ARRANGEMENTS REQUIRING APPROVAL OF MEMBERS BY SPECIAL RESOLUTION

According to the first proviso to sub-section (1), 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][1] exceeding such sums, as may be prescribed, shall be entered into except with the prior approval of the company by a special resolution. It should be noted that this proviso and hence the requirement of special resolution,shall apply, only if the company has prescribed paid-up share capital or related party transaction is of the prescribed kind and value. In such a case, in addition to the approval of the board of directors, the company must obtain approval of the members of the company by special resolution.

Thus, while the requirement about the board's consent to a contract or arrangement of the kind specified in sub-section (1) with a related party, applies in all cases, the requirement regarding the members' approval by special resolution under the first proviso to sub-section (1) applies in two cases of contracts and arrangements namely :

- Every company having a paid-up share capital in excess of the prescribed amount.
- Every company (regardless of amount of share capital) if the value of transactions involved in contracts and arrangements exceeds the prescribed values.

Rule 15 of the Rules contains the requirements in connection with contracts or arrangements with related parties. For the purpose of prior approval of members of a company by special resolution, rule 15 lays down the following criteria:

(a) as contracts or arrangements with respect to clauses (a) to (e) of sub-section (1) of section 188, with criteria as mentioned below -

(i) sale, purchase or supply of any goods or materials, directly or through appointment of agent, exceeding ten per cent. of the turnover of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (a) and clause (e) respectively of sub-section (1) of section 188;

(ii) selling or otherwise disposing of or buying property of any kind, directly or through appointment of agent, exceeding ten percent of net worth of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (b) and clause (e) respectively of sub-section (1) of section 188;

(iii) leasing of property of any kind exceeding ten percent of the net worth of the company or ten percent. of turnover of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (c) of sub-section (1) of section 188;

(iv) availing or rendering of any services, directly or through appointment of agent, exceeding ten percent of the turnover of the company or rupees fifty crore, whichever is lower, as mentioned in clause (d) and clause (e) respectively of sub-section (1) of section 188.

The limits specified in sub-clauses (i) to (iv) shall apply for transaction or transactions to be entered into either individually or taken together with the previous transactions during a financial year.

(b) is for appointment to any office or place of profit in the company, its subsidiary company or associate company at a monthly remuneration exceeding two and half lakh rupees as mentioned in clause (f) of sub-section (1) of section 188; or

(c) is for remuneration for underwriting the subscription of any

1 The word 'not' in this provision seems to be a drafting error and hence should be ignored.

> Two conditions have to be satisfied to avail exemption under third proviso by a company namely the transactions must be entered into by the company in the ordinary course of its business; and the contract must be on an arm's length basis. If these two conditions are satisfied, the contract or arrangement with the related party in question will stand completely exempted and would not require any compliance under section 188, because this Proviso has the effect of creating an exception.

securities or derivatives thereof, of the company exceeding one percent of the net worth as mentioned in clause (g) of sub-section (1) of section 188.

The turnover or net worth referred in the above sub-rules shall be computed on the basis of the Audited Financial Statement of the preceding Financial year.

Rule 15 of the Rules concerning section 188 requires disclosure of the following details in the explanatory statement to be annexed to the notice of a general meeting relating the special resolution:

(a) name of the related party ;

(b) name of the director or key managerial personnel who is related, if any;

(c) nature of relationship;

(d) nature, material terms, monetary value and particulars of the contract or arrangement;

(e) any other information relevant or important for the members to take a decision on the proposed resolution.

EXEMPTION UNDER THIRD PROVISO

The third proviso to subsection (1) provides 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." Therefore two conditions have to be satisfied to avail of this exemption by a company namely the transactions must be entered into by the company in the ordinary course of its business; and the contract must be on an arm's length basis. If these two conditions are satisfied, the contract or arrangement with the related party in question will stand completely exempted and would not require any compliance under section 188, because this Proviso has the effect of creating an exception. A proviso in a statute, deed, or other legal document is a clause making some condition, exception or stipulation; it seeks to introduce a condition or exception to some other provision, frequently the one immediately preceding the proviso itself. A proviso qualifies the generality of the main enactment by providing an exception and taking it out as it were, from the main enactment, a portion which, but for the proviso would fall within the main enactment and the territory of a proviso is to carve out an exception to the main enactment and exclude something which otherwise would have been within the section. Thus, if the conditions mentioned in this Proviso are fulfilled in respect of any transaction, subsection (1) would not apply to such transaction (and consequently the whole of section 188 would not apply).

As noted before, the effect of the third proviso seems to completely exempt a transaction from the requirements under sub-section (1) (and thereby from the entire section) if the conditions mentioned above are fulfilled, because the third proviso contains the words 'nothing in this sub-section shall apply'. As held by the Supreme Court, the expression "nothing contained in this section shall …" encompasses the entire section and not only some part or some clauses of the section. When a provision specifically uses the words "nothing contained in this section shall", expressing a specific intention to encompass the entire section, reading it otherwise and to confine its relevance and application to only one clause of the section would amount to not only rewriting the statutory provision by the Court, but also doing violence to the plain and simple language used. The Supreme Court said: "This Court has always been reiterating that if the intendment is not in the words used it is nowhere else and so long as there is no ambiguity in the statutory language resort to any interpretative process to unfold the legislative intent becomes impermissible and the need for interpretation arises only when the words in the statute are on their own terms ambivalent and do not manifest the intention of the legislature."[2]

2 Commissioner of Agricultural I. T., Kerala v. Plantation Corpn.of Kerala Ltd. AIR 2000 SC 3714; 2000 AIR SCW 4463.

Accordingly, the phrase 'nothing in this sub-section shall apply' in the third proviso to sub-section (1) seeks to make sub-section (1) inapplicable (and consequently the entire section 188) to any transaction(s) entered into by the company in its ordinary course of business if it is on an arm's length basis.

MEANING OF 'TRANSACTIONS ENTERED INTO BY THE COMPANY IN ITS ORDINARY COURSE OF BUSINESS'

The ordinary meaning of the expression 'in the ordinary course of business' in dictionaries is " part of doing regular business; the regular or customary condition or course of things; as things usually happen". According to the Black's Law Dictionary it means the normal routine in managing a trade or business. In Ramanatha Aiyer's Advanced Law Lexicon, 3rd edition, gives the following meaning of the expression 'ordinary course of trade' as in Anti-Dumping Law: 'Sales are considered to be in the ordinary course of trade when the sales, are not affected by any relationship between the buyer and the seller, are based on commercial considerations and are at arm's length.' It also gives the following meaning: 'The above mentioned expression is explained as follows: "This phrase indicates the current routine of business which was usually followed by the person … and does not apply to any particular transaction of an exceptional kind such as the execution of a deed of mortgage but to the business … in which the declarant was ordinarily or habitually engaged.'

The expression 'in the ordinary course of business' is not the same as the expression 'any goods, materials and services in which … the company … regularly trades or does business' in clause (b) of section 297(2) of the 1956 Act, nor is it qualified by any other words to limit its scope or any particular types of contract or arrangement mentioned in subsection (1). Accordingly, this exemption may be availed in respect of any contract or arrangement or any transaction falling within the ambit of a contract or arrangement to which subsection (1) applies if the two conditions mentioned in the proviso are fulfilled.

As noted before, the Proviso does not contain any specific or express words limiting its application to any or some of the types of contracts and arrangements mentioned in or prescribed under sub-section (1) and hence it should apply to all types of contracts and arrangements mentioned in or prescribed under sub-section (1).

Since the words of the third Proviso are plain and unambiguous, by applying the rule of literal interpretation, the Proviso must be interpreted on its own words without adding or omitting any words. Consequently, the Proviso would apply to all types of contracts and arrangements mentioned in or prescribed under sub-section (1) and its effect is to take away from the ambit of the main provision in sub-section (1) contracts and arrangements mentioned in or prescribed under subsection (1) and exempt them from the requirements under the section subject to fulfillment of the two conditions stipulated in it as mentioned before.

The phrase 'in the ordinary course of business' is usually employed to refer to those things or activities which fall within the normal business carried on by the company. For example, according to section 293(1)(b) of the 1956 Act, the Board of directors of a company shall not, except with the consent of the company in general meeting remit, or give time for the repayment of, any debt due by a director except in the case of renewal or continuance of an advance made by a banking company to its director in the ordinary course of business. According to section 293(1)(d) the Board of directors of a company shall not, except with the consent of the company in general meeting borrow moneys after the commencement of this Act, where the moneys to be borrowed, together with the moneys already borrowed by the company (apart from temporary loans obtained from the company's bankers in the ordinary course of business). Section 297(2)(c) exempted contracts in the case of a banking or insurance company any transaction in the ordinary course of business of such company. Section 372A(8) exempted loan made, any guarantee given or any security provided or any investment made by a banking company, or an insurance company, or a housing finance company in the ordinary course of its business.

Sometimes this phrase is also used to refer to a transaction which is not relating to the business carried on by the company. For example, section 531A of the 1956 Act provided that any transfer of property, movable or immovable, or any delivery of goods, made by a company, not being a transfer or delivery made in the ordinary course of its business, if made within a period of one year before the presentation of a petition for winding up or the passing of a resolution for voluntary winding up of the company, shall be void against the liquidator. Then, section 538(1)(a) provided that if any person, being a past or present officer of a company which, at the time of the commission of the alleged offence, is being wound-up, does not, to the best of his knowledge and belief, fully

> The burden to establish that a transaction was at arm's length would be on the company and there must be sufficient and pertinent material to prove that the terms of the transaction with a related party were purely commercial and the same as in the case of a transaction between the company and a non-related party and there were no extra-commercial considerations.

and truly discover to the liquidator all the property, movable and immovable, of the company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary course of the business of the company. In the same section, clause (o) of sub-section (1) referred to pawn, pledge or disposal of any property of the company which has been obtained on credit and has not been paid for, unless such pawning, pledging or disposing is in the ordinary course of the business of the company. According to section 581R, the Board of directors of a Producer Company shall exercise all such powers and to do all such acts and things, as that company is authorised so to do and one of the specific power mentioned in clause (h) was acquisition or disposal of property of the Producer Company in its ordinary course of business and also investment of the funds of the Producer Company in the ordinary course of its business.

Accordingly it is felt that any transaction which is usually entered into by the company while carrying on a business and which is not of extraordinary or unusual nature or which is directly connected with the business of the company can be said to be a transaction entered into by the company in its ordinary course of business and will therefore be eligible for exemption from the provisions of section 188.

MEANING OF 'ON AN ARM'S LENGTH BASIS'

As noted before, one of the two conditions stipulated in the third Proviso, is that a transaction must be 'on an arm's length basis'. Clause (b) of the Explanation states that the expression "arm's length transaction" means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest.

The phrase 'on an arm's length basis' is in fact 'at arm's length' or 'an arm's length relationship' which means avoiding intimacy or close contact. The phrase 'at arm's length' in relation to dealings between two parties is used to refer to dealings when neither party is controlled by the other.[3] Arm's length is the condition or fact that the parties to a transaction are independent and on an equal footing.[4] Arm's length transaction is a transaction between unrelated persons or organizations, in which there is no improper influence exercisable by one party over another, and no conflict of interests.[5] of or relating to dealings between two parties who are not related or not on close terms and who are presumed to have roughly equal bargaining power; not involving a confidential relationship.[6] Parties are said to deal at "arm's length" when they conduct the business without being subject to the other's control or overmastering influence.[7] An arm's length transaction is a transaction between companies or people that do not have close contact or any financial connections and be or deal at arm's length means without a close relationship with a person or a company.[8]

The burden to establish that a transaction was at arm's length would be on the company and there must be sufficient and pertinent material to prove that the terms of the transaction with a related party were purely commercial and the same as in the case of a transaction between the company and a non-related party and there were no extra-commercial considerations. The company should create and preserve appropriate and adequate documentation indicating that the transaction is an arm's length one, particularly with regard to price and terms of supply (such as credit, discount, etc). In my opinion, comparable prices of the competitor's goods is not necessary to be ascertained but what is necessary is prices charged to other customers (if there is any).

BAN ON VOTING BY RELATED PARTIES AT GENERAL MEETINGS

Rule 15(2) states that, where any director is interested in any contract or arrangement with a related party, such director shall not be present at the meeting during discussions on the subject matter of the resolution relating to such contract or arrangement. While section 2(49) of the Act defines the expression 'interested director', Rule 15(2) does not use the same expression. Whether that definition would apply or not is an ambiguity.

The result of Rule 15(2), is that if in a company there are two or three directors who are each other's relatives and there is a resolution for the appointment of one of them or a relative of one of them as a managing director or whole-time director, the resolution cannot be passed.

Secondly, according to the second Proviso of sub-section (1), no

3 Shorter Oxford English Dictionary, 5th edition, 2002.
4 Merriam-Websters 11th Collgiate Dictionary.
5 Judicial Dictionary by K J Aiyer, 13th edition, page 99.
6 The Black's Law Dictionary, 7th edition, page 103].
7 The Law Lexicon by P RamanathaAiyer, 2nd edition, page 161.
8 Oxford Business Dictionary.

> To attract the provisions of Clause 49 in respect of RPT, two essential conditions must be satisfied. Unless both these conditions are satisfied, the provisions will not apply. These conditions are:the transaction entered into by the listed company must qualify as a RPT within the meaning of sub clause (VII)(A) of clause 49; and such transaction must be entered into by the listed company with a party which is a related party within the meaning of sub clause (VII)(B) of Clause 49.

member of the company shall vote on such special resolution, to approve any contract or arrangement which may be entered into by the company, if such member is a related party.

The validity of this provision is prone to challenge. It amounts to depriving a person of his right to his voting rights and it is a well settled principle of company law that depriving a voting right is depriving the property. The shareholders' vote is a right of property, and prima facie may be exercised by a shareholder as he thinks fit in his own interest.[9] A member can exercise this right even in a manner adverse to what others may think the interests of the company,[10] provided his vote be bonafide and not contrary to public policy.[11] It is settled in company law that the right to vote attached to a share is property.[12]

In Pender v. Lushington[13] Jessel MR said that there is no obligation on a shareholder of a company to give his vote merely with a view to what other persons may consider the interests of the company at large. He has a right, if he thinks fit, to give his vote from motives or promptings of what he considers his own individual interest. Whether or not the object for which the votes were given would bring about the ruin of the company, or whether or not the motive was an improper one which induced the shareholders to give their votes, or whether or not their conduct shows a want of appreciation of the principles on which the company was founded, are wholly irrelevant.

Moreover, a further qualification to the rule that a member may use this votes as he pleases is to be found in the case of meetings of a class of members. While usually a holder of shares or debentures may vote as his interest directs, he is subject to the further principle that where his vote is conferred on him as a member of a class he must conform to the interest of the class itself when seeking to exercise the power conferred on him in his capacity of being a member.[14]

Furthermore, this Proviso is likely to create a practical difficulty where the company has a small number of shareholders and out of them only a few attend the meeting or those who attend do not vote on the resolution. In particular, this difficulty is going to be acute in the case of private companies, wholly-owned subsidiary subsidiaries and closely-held public companies. For example, if a company is a wholly-owned subsidiary of another company, if the contract or arrangement requires consent of shareholder at general meeting, the holding company is barred from voting in respect of related-party transactions between the two and as a result, there will be a situation of impasse. It is also likely to be a source of harassment by minority shareholders. As a result, the company will have to be at the mercy of shareholder(s) who hold a miniscule of shareholding.

INTERPRETATION OF THE SECOND PROVISO

Be that as it may, on literal interpretation of the second Proviso, it is apparent that when a company is entering into a contract or arrangement with a related party as defined in section 2(76) and such contract or arrangement requires a special resolution at a general meeting to approve the contract or arrangement, that related party cannot vote on the resolution in respect of the share(s) held by that related party.

9 Re Imperial Chemical Industries Ltd, per Lord Maugham[1937] AC 707, (1938) 8 Comp Cas 181 (HL).
10 Greenwell v Porter [1902] 1 Ch 530; Puddephat v Leith [1916] 1 Ch 200; Pender v Lushington [1877] 6 Ch D 70; ED Sasoon and Cov Patch (1922) 45 Bom LR 46.
11 Elliot v Richardson [1870] 5 SCP 744; North-West Transportationv Beatty [1887] 12 App Cas 589.
12 Mahaliram Santhariav Fort Gloster Jute Mfg Co Ltd (1954) 24 Comp Cas 311 (Cal), AIR 1955 Cal 132.
13 [1877] 6 Ch D 70.
14 British America Nickel Corporation v O'Brien [1927] AC 373; Goodfellow v Nelson Line [1912] 2 Ch 324.

According to the second Proviso 'no member of the company shall vote on such special resolution, to approve any contract or arrangement which may be entered into by the company, if such member is a related party'. The words 'no member' are qualified by the words 'if such member is a related party'. Those two sets of words mean nothing else but 'a member who is a related party'. Thus, it means only the related party (which is entering into a contract or arrangement) who is member of the company. Furthermore, the words 'if such member is a related party' in the second proviso ought to be read in conjunction with the words 'contract or arrangement with a related party' so that only the related party who or which is a party to the contract or arrangement is prohibited from voting. The second proviso being in the nature of a prohibitory provision has to be interpreted strictly and narrowly, and not liberally. Besides, the second proviso seeks to deprive the member of his proprietary right and hence it cannot be construed liberally.

For example, if a contract or arrangement between a company and a relative of a director is placed before a general meeting for approval under this section, the relative with whom the contract or arrangement is being entered into cannot vote on the special resolution in respect of the share(s) held by him/her in the company. But this prohibition cannot extend to any relative of that related party or any other person who may be connected with or interested in that related party. Likewise, if a contract or arrangement is being entered into between a company and a private company in which a director of the company is a member or director, only the concerned private company (which is a party to the contract or arrangement), and not the concerned director, will be disentitled to vote on the special resolution.

RPT UNDER CLAUSE 49

By its Circular of 17 April 2014, the SEBI replaced Clause 49 of LA, which was amended on 15 September 2014. It became effective on 1 October 2014. Sub clause (VII)(A) of the new Clause 49 defines the term 'related party transaction' as under : "A related party transaction is a transfer of resources services or obligations between a company and a related party, regardless of whether a price is charged." This definition is the same as in the AS-18. According to the Explanation, added on 15 September 2014, a transaction with a related party shall be construed to include a single transaction or a group of transactions in a contract.

Clause 49 adopts the definitions of 'related party' in the Act and AS-18. Therefore every listed company must determine as to whether a party is a related party or not for the purpose of clause 49, by applying both the definitions.

To attract the provisions of Clause 49 in respect of RPT, two essential conditions must be satisfied. Unless both these conditions are satisfied, the provisions will not apply. These conditions are:the transaction entered into by the listed company must qualify as a RPT within the meaning of sub clause (VII)(A) of clause 49; and such transaction must be entered into by the listed company with a party which is a related party within the meaning of sub clause (VII)(B) of Clause 49.

According to the definition of RPT any transaction which involves a transfer of resources, services or obligations from the company to a related party, or *vice versa*, shall be considered as a RPT. This definition is an inclusive definition and is analogous to that in the Accounting Standard 18 (AS-18), according to which a transfer of resources or obligations between related parties, regardless of whether or not a price is charged, shall be a RPT. AS-18 provides the following examples of RPT:

- purchases or sales of goods (finished or unfinished);
- purchases or sales of fixed assets;
- rendering or receiving of services;
- agency arrangements;
- leasing or hire purchase arrangements;
- transfer of research and development;
- licence agreements;
- finance (including loans and equity contributions in cash or in kind);
- guarantees and collaterals; and
- management contracts including for deputation of employees.

COMPLIANCE REQUIREMENTS UNDER CLAUSE 49

Clause 49(VII)(C): The company shall formulate a policy on materiality of RPT and also on dealing with RPT. A transaction with a related party is considered material if the transaction / transactions to be entered into individually or taken together with previous transactions during a financial year, exceeds 10% of the annual consolidated turnover of the company as per the last audited financial statements of the company.

*Clause 49(VII)(D):*All RPTs shall require prior approval of the Audit

Committee. However, the Audit Committee may grant omnibus approval for RPTs proposed to be entered into by the company subject to the following conditions:

a. The Audit Committee shall lay down the criteria for granting the omnibus approval in line with the policy on RPTs of the company and such approval shall be applicable in respect of transactions which are repetitive in nature.

b. The Audit Committee shall satisfy itself the need for such omnibus approval and that such approval is in the interest of the company.

c. Such omnibus approval shall specify (i) the name/s of the related party, nature of transaction, period of transaction, maximum amount of transaction that can be entered into, (ii) the indicative base price / current contracted price and the formula for variation in the price if any and (iii) such other conditions as the Audit Committee may deem fit; But if the need for RPT cannot be foreseen and aforesaid details are not available, Audit Committee may grant omnibus approval for such transactions subject to their value not exceeding Rs.1 crore per transaction.

d. Audit Committee shall review, at least on a quarterly basis, the details of RPTs entered into by the company pursuant to each of the omnibus approval given.

e. Such omnibus approvals shall be valid for a period not exceeding one year and shall require fresh approvals after the expiry of one year.

Clause 49(VII)(E): All material RPTs require approval of the shareholders through special resolution and the related parties shall abstain from voting on such resolutions. However, sub-clause 49 (VII)(D) and (E) do not apply to: (i) transactions entered into between two government companies; (ii) transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.

Explanation (ii):For the purpose of Clause 49(VII), all entities falling under the definition of related parties shall abstain from voting irrespective of whether the entity is a party to the particular transaction or not.

Although one of the objectives of the amendments to Clause 49 was to align clause 49 with section 188 of the Act, it will be observed that there are contradictions between the two. Clause 49 is also not free from ambiguities.

Two major problems as to compliance are: first, members' approval for all material RPTs by special resolution. Thankfully, the word 'prior' or 'previous' has not been used; so such approval can be a *post facto* approval. But section 188 requires 'prior' approval (and it also requires approval of board of directors 'at a meeting'). These are needless restrictions under section 188.

Secondly, the related parties shall abstain from voting on such resolution. Explanation (ii) [which contradicts with section 188] debars all entities falling under the definition of related parties shall abstain from voting irrespective of whether the entity is a party to the particular transaction or not. The word 'entity' is not defined. It may not therefore include individuals and associations of persons, unless the undefined word 'entity' has been used in a broader sense according to dictionary meaning; but this is not clear. This (presumably) means that all parties who fall within the ambit of the two definitions of 'related party', one given in the Act and the other in AS-18, cannot vote. So if in a company there are 100 persons who fall within the ambit of the two definitions, they all are debarred from voting on the special resolution, even they all have nothing to do with a particular RPT. For example, if there is a special resolution for appointment of a director as whole-time director (who is a related party as per the definition in section 2(76) of the Act), all 100 parties will be disentitled to vote.

CONCLUDING REMARKS

It could be observed that the three sets of laws on RPT make the total three laws to be complied with by listed companies and two by unlisted companies (public and private). It is hard to understand why this situation should be allowed to prevail and whether the law on the subject should be so harsh that it adversely affects ease of doing business and creates needless compliances and it should also apply to private companies. A question that is often asked is: Do we really need multiple laws on the same subject and what do we achieve by this? Sometimes, we have heard government and regulatory bodies' officers say that they want stricter regulations (especially for listed companies) to safeguard the interests of the investors and good corporate governance. But does this really justify the approach towards having multiple laws or do we need to change our approach and give up the traditional approach? By having multiple laws, are we not merely increasing compliance requirements and unproductive paper work and complications; and what do we achieve out of this? CS

Corrigenda

Please refer to the list of Committees/ Boards of the Council of the ICSI for the year 2015 – 16 published at pages 136 and 137 of February 2015 issue of Chartered Secretary.
The Place of the following Members be read as under and not what was published in the List:
Sl. No. 3 - Examination Committee – Mahavir Lunawat 'Mumbai'
Sl. No. 7 – Professional Development Committee - Ashish C Doshi '**Ahmedabad**'
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Areas of Concern in the Companies Act, 2013 – A Critical Analysis

This article has focussed attention on certain areas of concern to the corporate sector and the professionals alike and to establish clarity in regard to certain provisions of the 2013 Companies Act. The issues raised in this article will give an opportunity to the professionals to discuss the issues further for better understanding and compliance of law.

BACKGROUND

The Companies Act, 1956 has now been re-codified ,integrating many of the provisions of this Act and also introducing certain new concepts in the Companies Act,2013. This resulted in more freedom being given to the companies without having to seek government approval every now and then. At the same time the new Act has provided better opportunities for growth and thrown open new challenges for compliance of law. The penal provisions are quite harsh and demands better and timely compliance of law. It is taking quite some time for the corporates and the professionals alike to understand the nuisances of the new law. Conferences and workshops are being organised quite frequently to understand the new provisions of the Act and the numerous rules issued by the Central Govt to implement the intent of the new law. This article seeks to examine certain areas of concern to the corporates and the professionals alike which still exist.

PRIVATE COMPANY

The definition of “Private Company" has undergone a radical change with the increase in the number of members from 50 to 200 and deletion of restrictive clause prohibiting acceptance of deposits from the public except from its members, its directors or their relatives. The changes are quite significant and one fall out of this is the acceptance of deposits by a private company from its members subject to the compliance with section 73 of the Act and subject further to the conditions laid down in the deposit rules issued by the Central Govt. However, a public company may accept deposits both from its members and the public pursuant to sections 73 and 76 of the Act. Govt companies may accept deposit from

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> Enough safeguards are built into the law to ensure that the interests of the company are fully safeguarded. It is difficult to ascertain whether a director has exercised his judgement independently in the board meeting in relation to matters that come up for decision. Individual judgements get subsumed in the over-all decision of the board, as board decisions are taken either on the basis of consensus or by majority except where a director wants his vote of dissent is recorded in the board minutes.

the public. Elaborate procedures are laid down for the purpose of issue of circular/deposit advertisement, creation of security, deposit insurance etc. These procedures are alright in respect of public companies, but private companies stand on a different footing having regard to their size and scale of operations. There is a need to carve out a few exceptions by way of simplified form of deposit circular, security creation or alternatively deposit insurance etc. These changes will bring down the cost of raising deposit.

ISSUE OF SECURITIES BY PRIVATE COMPANY

Section 23(2) of the Act provides that a private company may issue rights shares by complying with the provisions of Part II of Chapter III. However, Part II is subject to section 26 of the Act which lists out the matters to be set out in prospectus. This contains a long list of items for disclosure. These are mostly reproduction from Schedule II to the 1956 Companies Act which applied to public companies for raising capital from the public. As the private companies are smaller in size and area of their operation, insistence on compliance of section 26 is quite tortuous. A simplified format may be devised for the use of private companies.

EXEMPTIONS TO PRIVATE COMPANIES

Private companies had enjoyed certain exemptions and privileges under the 1956 Act. However in the 2013 Act a lot of changes have been made. Some of these changes relate exclusively to public companies and these provisions are not applicable to private companies. These are section 27(1)-public offer of securities, section 26-matters to be stated in prospectus, section 67(1)-restriction against grant of loan for purchase of company's shares, section 76-deposit acceptance from public,149(4) Independent directors, etc, to mention a few among many such provisions.

Reference to private companies have been used very sparingly in the 2013 Act. The relevant provisions are section 27(2)- Issue of shares by private company, section 164(3)-proportional representation on the board, section 165(1) and the explanation thereto- number of directorships in private companies, section 103-quorum. These are illustrative items. However, there are a large number of provisions where the word "company" is used significantly and *prima facie* these are applicable to both private and public companies. These are section 62-further issue of share capital, section 187- Loan and investment by companies, section 196-appointment of MD\WD ,section 71-debenture issue for private placement, In regard to these and similar provisions the Govt. may have to carve out exemption to private companies, wholly or partly to lessen the rigour of these provisions as such companies are differently situated in terms of size and scale of operations.

The Central Govt. has power under section 462 of the Act to exempt certain class or classes of companies from the provisions of the Act and the private companies eminently qualify for such exemptions. The present Govt. at the Centre is of the view that law should aid business and it should ensure ease of doing business. A draft notification exempting private limited company from certain provisions of the Companies Act, 2013 has already laid before both the houses of parliament. The same shall be issued once the statutory period of 30 days for laying in parliament is over.

DUTIES OF DIRECTORS

Director means a director appointed to the board of a company. The Board is a collective body of directors .Section 149(1) mandates that every company should have a board of directors and the management of business of a company is in the hands of the board. It is a powerful organ of a company having regard the corporate powers that devolves on it.

Looking at in the above perspective section 166 which prescribes the duties of directors makes an interesting reading. This provision is individual centric as it refers to a director but essentially applies to all the directors on the board of a company. The first duty states that a director shall act in accordance with the articles of a company. While this is important, it is not clear why there is no reference to MOA. Both are constitutional documents and binds the company and the shareholders\directors of a company in equal measure. Corporate boards are business boards and they are bound to observe both MOA and AOA as the covenants contained therein. This is all the more necessary as sub-clause(2) of section 166 says that a director should promote t he objects of a company.

The directors are also required to exercise their duties with reasonable care, skill and diligence and exercise independent judgement. Judicial decisions have already established that the degree of care which a director is expected to bestow is that of a person of ordinary prudence in relation to his own affairs.

It is also stated that a director should not involve in a situation in which he may have a direct or indirect interest that conflicts or possibly may conflict with the interest of the company. This is popularly known as related party transactions. Such transactions are not totally prohibited ,but an interested director is required to disclose to the board and refrain from participating in the decision making process, more fully regulated by section 188 of the Act and rules framed there-under. Such transactions also receive closer scrutiny at the hands of the statutory auditor and he is required to make a report to the shareholders. Enough safeguards are built into the law to ensure that the interests of the company are fully safeguarded. It is difficult to ascertain whether a director has exercised his judgement independently in the board meeting in relation to matters that come up for decision. Individual judgements get subsumed in the over-all decision of the board ,as board decisions are taken either on the basis of consensus or by majority except where a director wants his vote of dissent is recorded in the board minutes.

On the top of what is stated above, there is no mechanism laid down in the Act or the rules there-under to ensure compliance of section 166, in the absence of which no liability fastens on individual directors. In the final analysis, what is stated in section 166 becomes a pious statement of intent of the parliament.

DUTIES OF DIRECTORS *VIS-A-VIS* INDEPENDENT DIRECTORS

Section 149(8) of the Act provides that the company and Independent directors shall abide by the provisions specified in Schedule IV-code for Independent directors. This is a mandatory provision. One of the items in the said Schedule deals with “duties”. A reading of these duties give the impression that the I.Ds look at the company and the board from an external angle, though they are an integral part of the same. In particular, it is curious to note at item 8 under the heading “Duties” that the I.Ds are not unfairly obstruct the functioning of an otherwise proper Board or committees of the board. This is a negative function and makes the position of the chairman of the board dysfunctional. No director can arrogate to himself such a position and this strikes at the collective responsibility of the board to the shareholders. if this duty is carried to the extreme it will become a source of friction and it may lead to dead lock situation at the board meetings. When these “duties” are super imposed on section 166 one gets an impression that the I.Ds are not to observe and adhere to the constitutional provisions contained in the MOA & AOA. This cannot be intention of the Parliament. While the duties specified in section 166 are general in nature applicable to all the directors, those in the said schedule seem to apply exclusively to the independent directors (ID's). Both the provisions should be read harmoniously. However, there is no need to emphasize that the I.Ds form an integral part of the board and they have to function in this manner. If in any particular instance and if there is a conflict between the aforesaid provisions, will section 166 give way?

WOMAN DIRECTOR ON THE BOARD

Section 149 provides for appointment of at least one woman director on the board of every listed company and other public companies having a paid up capital of rupees one hundred crore or more or turnover of rupees three hundred crore or more within one year from the commencement of the Act. A period of one year is given for complying with the requirement. Section 149 came into force on 1-4-2014 and the appointment of woman director will have to be in place before 1-4-2015. In the case of companies incorporated under the new Act, compliance with the provision will have to be done within six months of incorporation. This is expected to bring about gender diversity in the composition of the board and also women’s empowerment. In any case the appointment will have to be purely on the basis of proved merit. While conceptually the provision makes sense, such appointees must have considerable experience and exposure in the corporate

world to be able to effectively participate and contribute to the decision making process at the board meeting. The effectiveness of this provision depends upon proper selection of the person and in the absence of it the provision for women representation on the board becomes ornamental .

Another aspect of the matter which should be of considerable concern is the liability of directors. The appointees may think twice before accepting the appointment having regard to the liability which fastens on the appointment. The definition of the "officer who is in default' has been vastly changed in section 2(60) of the Act which, *inter alia*, penalises a director who is aware of any contravention of the Act by virtue of receipt of any proceedings of the board or participation in such proceedings without objecting for the same or contravention with consent .No person in his senses will consciously consent for possible contravention of the Act and such a presumption in law is preposterous .Experience has shown that any contravention, whether big or small. takes place through series of transactions which many of them in the first instance appear unrelated. To penalise directors on this ground is too scary and will drive away potential aspirants who are persons of integrity and competence.

The offences under the Act are criminal offences and requires an element of mensrea i.e. motive for commission of an offence before the person is charged with an offence under the Act. Contravention resulting in inaction may not sustain the charge. Can a woman director be also an Independent director if the appointee satisfies the requirements of sections 149 & 150 of the Act and the rules thereunder and combines both the positions?

SMALL SHAREHOLDER DIRECTOR

Section 151 gives an option to the listed companies to have one director elected by small shareholders, that is, those shareholders holding nominal value of shares of not more than twenty thousand rupees or such sum as may be prescribed. This is a minority representation on the board. But the shareholding is not a static concept and it keeps changing with the further issue of capital on right basis and bonus shares and accordingly does not provide a stable basis. Be that as it may, the requirement of a director elected by small shareholders runs counter to section 152(2) which mandates that every director should be appointed in the general meeting ,that is by all the shareholders. The rationale behind this provision is that the directors are accountable to the body of shareholders as a whole and not to a section of them. Election of a director by small shareholder is no doubt legally sustainable because of saving provision in section 152(2). However this requires a separate meeting of small shareholders being organised by a listed company with a separate meeting notice etc.

Rule 7 of the aforesaid rules provides for filing of notice of nomination of a candidate for the post of small shareholders' director by not less than one thousand or one tenth of the total number of shareholders, whichever is lower. Curiously the rules do not specify the manner of election of the director in a general meeting. it is also stipulated inrule7(4) that such a director should be treated as an "Independent Director", subject to satisfying the criterion of independence laid down in section 149(6) of the Act. If this is so, can the director representing small shareholders be counted a part of one-third of total strength of the board?

The small shareholder director is an optional provision to represent the interest of the small shareholders. If the notice of nomination of candidate given by the small shareholders is not acted upon by the board of a listed company, what is the remedy open the small shareholders. The Rules are silent on this aspect. There is also no provision for filling up of intermittent vacancy in the case of small shareholders' director similar to the provision envisaged in rule 4 in the case of Independent director

Rule 8 provides that the small shareholder's director should not hold similar position in a competing company or in conflict with the other company. Curiously similar position is not there in the case of independent directors.

NOMINEE DIRECTOR

Section 161(3) provides that the board may appoint any person as a director nominated by an Institution in pursuance of any provision in force or any agreement or by the Central Govt. or the State Govt by virtue of its shareholding in a Govt company. This provision can be given effect if there is a provision in its Articles. Such a nominee cannot be treated as an independent director. Financial Institution is defined as including banks and any other financial institution defined or notified under the RBI Act.

In relation to Public sector undertakings(PSU's),both Central and States, the respective Govt's may nominate its nominees on the board of PSU'S, subject to article provision and no shareholders' approval is required as was the practice being followed hitherto as the Govt. is the single largest shareholder. This provision can be

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operated so long the Govt .holds one hundred percent shares in a PSU. If as a result of disinvestment process the Govt. off loads a portion of its shares in favour of private parties, still holding majority shares, how will this provision be implemented remains to be seen.

INDEPENDENT DIRECTORS

Sections 149,150,schedule IV of the Act and the rules there-under lay down elaborate regulation for selection and appointment of Independent Directors (I.Ds) .The concept of I.Ds has travelled a long way during the last few years starting with clause 49 o f the listing agreement and it has stood the ground ushering in new norms of corporate governance in the case of listed companies. Under the Companies Act,2013,the concept received statutory status with certain refinements.

As per section 149(4) of the Act every listed public company is required to appoint at least one-third of(this is minimum) the total number of directors as I.Ds. This is applicable to the companies existing on or before the date of commencement of the new Act and such companies are required to comply with the provision within one year from such commencement or from the date of notification of the rules in this regard. The aforesaid provisions including the rules came into force with effect from 1-4-2014 and the companies will have to comply before 1-4-2015. Does this also mean that the companies listing their securities after the aforesaid dates will have to comply with section 149(4) with immediate effect.?

Other public companies having a paid up share capital of ten crore of rupees or more or the public companies having a turnover of one hundred crore of rupees or the public companies who have, in the aggregate ,outstanding loans, debentures and deposits exceeding fifty crore rupees are required to have at least two directors as Independent directors. However, if a company is required to appoint a higher number of I.Ds due to composition of its audit committee, such higher number of I.Ds will become applicable, as per Rule 4 of the Companies(Appointment& Qualification)Rules, 2014. There is an exemption In the case of a public company if they cease to fulfil the three criteria mentioned above for three consecutive years, and such companies will not be required to fulfil requirement of rule 4,until such time as they meet any such conditions.

The term of office of I.Ds presents some difficulty in relation to section 149(10) of the Act. Can they be appointed ,by passing a special resolution, for a term of five consecutive years at a time subject to re-appointment for a similar period or they have to be appointed every year? This is again subject to the I.Ds giving a declaration in every financial year about their continued status as Independent directors and that there is no change in their situation and that they meet the criteria of independence as provided in section 149(6). The use of the word "term" indicates a period of five years but it appears that the law leaves it to the board\ shareholders to decide about the duration of appointment of I.Ds within the meaning of section 149(10),subject of course article provision. This aspect is not specifically covered by the Rules.

Another aspect of the matter is that the I.Ds are to be appointed by the shareholders and the special resolution applies on re-appointment. There is lack of clarity in this regard. This means that they are also subject permeating influence of shareholders ,particularly promoter and other shareholders holding bulk shares. In view of this, will the I.Ds be able to secure the shareholders' approval for their appointment and also exercise independent judgement at the board meetings? One argument is that the compliance of sections 149/150 are binding on the board/ shareholders and they should ensure compliance. The I.Ds are not super human beings but they are as human as others on the board. If so, how can they distinguish themselves is the question? They are persons with professional skills and experience and they should bring to bear their expertise during board deliberations and also exercise their independent judgement in the larger interests of the company. What if the board ,with due diligence, is not able

to find suitable persons with required experience and expertise for appointment as I.Ds?

CHANGING PROFILE OF THE BOARD

The board of a company occupies a pivotal position for overseeing the affairs of the company in all its aspects. Corporate entity is a pyramidal in structure and the shareholders form the base of the pyramid. But the directors as the elected representative of shareholders has a larger responsibility of having to guide the destiny of the company The complex nature of modern business, both national and international, has added a new dimension to the boards' responsibility. In keeping with the emerging business scenario, the board's composition has been undergoing radical change ,starting with the introduction of clause 49 of the listing agreement by SEBI in the case of listed companies. This introduced certain new norms of governance including in particular appointment of independent directors, publication of un-audited quarterly financial results, appointment of audit committee etc. These changes introduced greater degree of accountability of the board to the shareholders and the need to carry on the operations of the company in a transparent manner by disclosure both financial and non-financial data through financial statements leading to increase in the shareholders perception of corporate governance. The independent directors are charged with the responsibility of oversight function to monitor the financial health of the company. Corporate boards are business boards and the role and responsibility of the I.Ds should be seen in this backdrop. The cumulative result of all these changes have brought about a significant improvement in the capital market operations and the investors' confidence in securities..

The concept of independent directors has come to stay. It received statutory status under the re-codified company law, with certain refinements as to the term of office of I.Ds, Code of conduct for their observance, providing data of persons who are willing to be appointed as I.Ds for the purpose of selection and appointment of independent directors by the board of companies. In addition, new company law has mandated boards to appoint at least one woman director and a small shareholders' director on the board. These persons represents sectoral interests but these and changes will surly change the profile of the board.

APPOINTMENT OF MANAGERIAL PERSONNEL

Section 196 is worded negatively and says that no company shall at the same time appoint a managing director and a manager as also tenure not exceeding five years at a time. This reflects sections 197A and 317 of the 1956 Act. Under the new Act the appointment of managing or whole time director is required in the case of certain classes of companies but section 269 of the previous Act mandatorily provided compulsory appointment of managing or whole time director in the case of a public company (including its subsidiary) having a paid up share capital of rupees five crore or more. This is a drastic departure from the earlier practice. But there is a caveat in section 203. As per Rule 9 of the Companies (Appt & Remuneration of Managerial Personnel)Rules,2014 every listed company and every other public company having a paid up share capital of ten crore rupees or more should have whole time key managerial personnel like Managing Director or Chief Executive Officer or manager and in their absence a whole Time Director, apart from Company Secretary and Chief Financial Officer. This means that public companies with less than ten crore paid up share are not required appoint managerial personnel but the boards of such companies will have the freedom to appoint managerial personnel best suited to their needs. This is what emerges from a combined reading of sections 196 and 203.

The managing director is an appointee of the Board, duly approved by the shareholders of the company. He functions under the supervision, direction and control of the board and exercises the powers and authorities delegated to him for administrative convenience and is answerable to it. This means that the M.D. exercises delegated powers on behalf of the board. But the definition of Managing Director in section 2(54) of the Act does not reflect the above position and this is a departure from section 2(26) of the 1956 Act. Does this mean that M.D. can function independent of the board?.

DISQUALIFICATION FOR APPOINTMENT OF M.D.

Section 196(3) lists out certain disqualification in the matter of appointment of M.D or W.D. One of the of disqualification relates to whether the proposed appointee has at any time been convicted by a court of an offence and sentenced for a period of more than six months. But Schedule V (referred to in section 196(4) lays down "conditions to be fulfilled for the appointment of MD\WD\ Manager without the approval of the Central Govt. to the effect that no person is eligible for the said appointment if he had been sentenced to imprisonment for any period or to a fine exceeding one thousand rupees in respect of the statutes referred to therein. This provision is conflict with section 196(4) and it is difficult for the companies to reconcile the seemingly conflict provisions.

DISQUALIFICATION UNDER THE STATUTES IN SCHEDULE V

Under the heading "Appointments" a few statutes are mentioned including the Companies Act,2013 but there is reference to the Companies Act,1956 for the purpose of continuity of disqualification. This means that disqualification under the 1956 Act incurred by a managerial personnel cannot be enforced under the 2013 Act, when a person is to be appointed under the new Act.

SUBSIDIARY COMPANY

Subsidiary company is defined in section 2(87) of the Act to mean a holding company which controls, (i) the composition of the board of another company or (ii) controls more than one half of total share capital of another company either of its own or together with one or more of its subsidiary company\s It is also provided that such class or classes of companies as may be prescribed should not have layers of subsidiaries beyond such number as may be prescribed. It appears that this provision was inserted with a view to preventing diversion of funds and protection of interests of minority shareholders. Needless to say that the relationship between the holding and the subsidiary companies arises out of external relationship with reference to the parameters mentioned above.

Investment is a legitimate business activity for the purpose of expansion and diversification of business .investment may be in downstream industries which supplies raw materials and components and such investment brings in better rapport and preferred terms of supplies. Such investment is classified as trade investments.

The control of composition of board of another company means exercise of some power exercisable by the holding company at its discretion to appoint or remove all or majority of directors of the subsidiary company. Such a power may arise out of a specific provision in the articles of subsidiary company or by an agreement in this regard or otherwise. This power constitutes an exception to section 152(2) of the Act which mandates that all directors have to be appointed in a general meeting by virtue of saving provision in the said section.

In regard to the control of more than one half of total share capital, it is to be noted that share capital includes both equity with voting power and variable voting power and the preference capital., as per section 43 of the Act. While computing sixty percent of share capital of the holding company, the aforesaid types of shares have to be counted in so far as they are applicable.

The word "company' is used in section 186 of the Act (Loan & Investment by a company) so as to include both public and private companies and also takes in its sweep" body corporate", that is, companies incorporate outside India i.e. foreign companies. The addition of "body corporate" is a significant departure from section 4 of the 1956 Act and aims to include foreign subsidiary companies set up by Indian companies and the foreign companies setting up their subsidiaries in India.

The philosophy in section 2(87) is more fully described in section 186 of the Act which regulates loan and investment transactions. It provides that a company should make investment though not more than two layers of Investment Company, that is, companies whose principle business is the acquisition of shares, debentures or other securities. Investment in securities is essentially a speculative activity and the law imposes certain restriction as aforesaid. It also means that other investment activities which are not investment companies are not affected by sub-section (1) of section 186. Specifically this restriction does not also apply to (i) acquisition of any other company outside India if the foreign subsidiary has investment subsidiary beyond two layers as per the laws of such country, (ii) a subsidiary company from having any investment subsidiary for meeting the requirements under any law or regulations.

There can be different types of subsidiaries for the purpose promoting business, project subsidiaries or Joint ventures or for any other purpose. Such types of subsidiaries are most common for project execution outside India in the case of construction companies, promotion of export business through a network of subsidiaries by direct investment by an Indian entity .Such ventures are specifically protected by Rule 11 of the Companies(Meetings of the Board & its Powers)Rules,2014-08-21 to the effect that a loan or guarantee given or security provided by a company to its wholly owned subsidiary company or joint venture company or acquisition of securities by a holding company in its wholly owned subsidiary is exempt from section 186(3) of the Act, even if the limit of 60% or 100% mentioned in section 186(3) is exceeded. This also means that the majority owned subsidiaries have to fall in line with the financial limitation of 60% or 100% as the case may be. This is subject to disclosure of such excess limit in the financial statement to the members of the company. This is a far reaching provision.

Rule 11 also clarifies that the expression "business of financing companies" used in section 186(11)(a) of the Act includes NBFC'S registered with the RBI for the purpose of giving any loan to a person or providing any guarantee or security for due repayment of any loan availed by any person in the ordinary course of business. This is re-financing activity.

Another peculiarity of section 186 (which is a reproduction of section 372A of the 1956 Act) is that no grant of loan, provision

of guarantee, acquisition of security can be made unless the resolution sanctioning it is passed at a meeting of the board with the consent of all the directors present at the meeting and prior approval of the financial institution, if applicable is obtained. Normally all decisions in a board meeting are taken either by consensus or by majority but investment resolution is an exception to the general rule of transacting business by a board. This offers additional safeguard against hasty decisions.

From what is discussed above, the following issues arise for consideration:

(a) There is a case of exempting private companies, unless they are subsidiary of a public company, from rigours of section 186 .Such an exemption is in continuation of section 372A(8)(a) (iii) of the 1956 Act which provided exemption to private companies having regard to scale of operations of such companies. Many private companies are family owned concerns.

(b)Section 186(2) provides for grant of loan, giving of guarantee, provision of security or acquisition of securities of any other body corporate. Why is it that schedule III to the Act-General Instruction for preparation of Balance sheet & Statement of profit & Loss Account- provides for disclosure of investment in partnership firms ? .DCA vide its circular No1-81(20-1-81-CL V dated14-9-81 clarified that investment by a company in a partnership firm is ultra vires and a company cannot lawfully employ its funds.

(c)The word "body corporate" is used in an omnibus manner and it applies to both Indian entities and the foreign companies. While Indian entities are subject to certain restrictions, particularly fund limits, foreign companies setting up their subsidiaries in India have no such limitations. However, foreign companies in which not less than fifty percent of the paid up share capital, whether equity or preference or partly equity or partly preference of a foreign company is held by one or more citizens of India or by one or more companies incorporated in India or by one or more citizens of India and one or more companies or bodies corporate incorporated in India,, whether singly or in the aggregate, such companies are required to comply with the provisions of chapter XXII of the Act. (section 379). This is intended to protect the interest of investors in India even though they are not subsidiaries of foreign companies in the strict sense of the term.

(d) LLP'S are differently placed when compared to partners in a partnership firm. It is a body corporate formed and incorporated under the LLP Act and it is a legal entity. A public company may invest in LLP but investment by LLP depends upon the partnership agreement between the partners.

(e) While fully owned subsidiaries of Indian companies are exempt from the limitation 0f 60% or 100%, whichever is more, majority owned Indian subsidiaries abroad will come within the limitations aforesaid. Most of these subsidiaries are formed for the purpose of promoting export business with local participation, there is a case for exempting all subsidiaries without limiting it to only wholly owned subsidiaries.

OFFICER WHO IS IN DEFAULT

Section 2(60) of the Act describes certain officers of a company as "Officers who is in default' for the purpose of the Act and such officers are liable to any penalty or punishment by way of imprisonment, fine or otherwise. Needless to say that this is a penal provision. This conceptual framework has come to stay having regard to the existence of the provision both in the 1956 and 2013 companies Acts .it is a deeming provision applicable to certain identified officers of a company who, by virtue of the position they occupy, are in a position to ensure compliance of law. Failure to do so is recognised as an offence and such officers are liable for prosecution, though they are not privy to the offence in actual practice. This is a unique provision in company law as similar provisions are not there in other corporate laws and it de-links *mensrea* from the offence.

The officers identified for the above purpose are,(i) whole time director,(ii) key managerial personnel,(iii)where there is no managerial personnel, such director\s as may be specified by the board,(iv)any person who, under the authority of the board, or key managerial personnel, is charged with any responsibility including maintenance, filing or distribution of accounts or records, authorises, actively participates in, knowingly permits or fails to take active steps to prevent any default,(v) any person in accordance with whose advice, directions or instructions the board of directors of a company is accustomed to act, except professional advice,(vi) every director who is aware of any contravention of any provision of law by virtue of receipt by him any proceedings of the board or participates in such proceedings of the board without objecting to the same or contravention takes place with his consent or connivance,(vii) in respect o the issue or transfer of any share of a company, the share transfer agent, registrars and merchant bankers to the issue or transfer.

What is stated above is a long list of officers recognised for purpose of prosecution arising out of failure to comply with law or prevent contravention of law. This long list should have undergone a drastic change with the definition of "key managerial personnel" (KYC) in relation to a company in section 2(51) which lists out the chief executive officer or the managing director or the manager, the Company Secretary, the whole time director, the Chief financial officer. This provision read with section 203 of the Act demarcates the persons who are in the management of a company. Section 194 prohibits forward dealings in securities of company by its director or KYC and section 203(2) provides for appointment of KYC by the board by means of resolutions passed by the board containing the terms and conditions of such appointments . It is clear that those who are in the management of the affairs of a company are in a position of responsibility to ensued timely compliance of law and not others.

The following issues arise for consideration:

(a) There is jurisprudential change in the management of public companies. Rule 8 of the Companies (Appointment & Remuneration of Managerial Personnel) Rules, 2014 provides that every listed company and every other public company having a paid up share capital of ten crore rupees or more should have whole time KYC. This consists of C.E.O\ MD\Manager\ and in their absence whole time director, ably assisted by a Company Secretary and the C.F.O. They are being professionals with expert knowledge of law and finance and they should be of considerable assistance to the C.E.O\ MD\WD\Manager in the matter of compliance of law.

(b) In the case of public companies with less than ten crore paid up share capital, the board of such companies have the freedom to appoint the management professional. The private companies, though within the purview of sec 2(60) have to make their own choice of management team. Only those who are in the management team have to be considered as officers in default.

(c) The managerial group who are also on the board of a company are also responsible for legal compliance. The board has an oversight function of the entire operations of a company. Hence the non whole time directors, who form an integral part of the Board should not be singled out for the purpose sec 2(60).

(d) The board of a company is a policy making body and the non whole time directors should not be saddled with liability as officers in default. Such an attempt will unduly enlarge their liability and will scare them, particularly independent directors, woman directors and shareholders' directors from joining the board.

(e) In respect of item (iv) of section 2(60) is concerned relating to a person charged with the certain responsibility, the responsibility fastens on the Company Secretary and the Chief finance Officer and it forms an integral part of their responsibility.

(f) In respect of item (v) is concerned, it is a case of deemed director reflecting the provision in section 7 of the 1956 Act. Looking at it in a positive perspective, an advice from group Chairman by virtue of his experience and exposure should be considered as an expert advice and the responsibility of following such an advice falls on the board of a company.

(g) Item (vi) is a peculiar provision and brings in its sweep those directors who is aware of any contravention by virtue of being privy to the board proceedings is a over-reaching attempt This is an attempt to merge knowledge with an offence. When there is a managing team is in place with experts in the team, they have to provide advice sought by directors. Directors are lay men and impute them with a knowledge of possible contravention of law is to seek intuitive knowledge. All such attempts will only divert their attention from their basic function of taking policy decisions for the benefit of the company. Even the I.D.'S are sought to be roped in by section 149(12) of the Act.

(h) In respect of item (vii) bringing in the fold the share transfer agents, registrars and merchant bankers are concerned, they are registered with SEBI and licensed by them. They are market intermediaries and subject to SEBI regulations. The penal provision in the SEBI Act (section 27) is different from Section 2(60) of 2013 Act in the case of listed companies. How can the aforesaid persons be brought to book under the Companies Act?

In the light of what is stated above there is an imperative need to take a re-look at section 2(6o) of the Act.

COMPANY DEPOSITS

Company deposits have been a source of cheaper finance to companies and it enabled them to bring down their total dependence on bank finance. From the point of view of depositors they will get a little more income by way of interest and this comes in handy to the retired personnel and house wives. However, as company deposits are, by and large, unsecured and in order to protects the interests of the depositors having regard to the failure of some companies to meet their obligations to the depositors under the previous Act, the Companies Act, 2013 has made radical changes in the manner of invitation, acceptance and renewal of deposits both from the members and the public.

DEPOSITS FROM MEMBERS-SECTION 73

Section 73 permits a company to invite, accept and renew deposits from its members subject to the conditions laid down in section 73(2) of the Act. The manner of taking deposits is through securing the approval of the members in a general meeting of a company followed by issue of a circular to the members setting out the terms and conditions of deposits. This is further subject to such rules as may be prescribed by the Central Govt. in consultation with the RBI.

The Circular should include-

(a) terms and conditions subject to which deposits are accepted by the company including provision of security, if any. If accepted by the depositors, this constitutes an agreement between them.

(b) a statement of financial position o f the company, the credit rating obtained, the total number of depositors and the amount due to them in respect of previous deposits, and other details as per FORM DPT-1.

(c) filing a copy of the circular with the ROC within 30 days before the issue of the circular.

(d) depositing such sum not less than 15% of its deposits maturing during the financial year and the next following financial year and kept in a scheduled bank in a separate account called ”deposit repayment reserve account” .The amount in this account should not be used for any other purpose.

(e) providing such deposit insurance in such manner and to such extent as may be prescribed.

(f) certifying that the company has not defaulted in the repayment of deposits, either before or after the commencement of the Act or interest thereon.

(g) providing security, if any, for the due repayment of deposits or interest thereon, including creation of charge on the assets of the company. Where the deposits are not secured, such deposits are to be termed as unsecured deposits and this fact should be quoted in any circular, form, advertisement or in any other document relating thereto.

Rule 3 of the Companies (Acceptance of Deposit) Rules, 2014 which came into force on 1st April, 2014 provide for the following further regulations;

(a) no eligible company (companies having a net worth of not less than one hundred crore or a turnover of not less than five hundred crore) shall accept or renew deposits repayable on demand or upon receiving a notice earlier than six months or more than 36 months from the date of acceptance or renewal of deposits. This applies to public companies accepting deposits under section 76 of the Act.

(b) such deposits should not exceed ten percent of the aggregate of the paid up capital and free reserves of the company. There is a caveat to the effect that the total amount of deposits outstanding including the previous deposits accepted under the 1956 Ac should not exceed twenty five percent of the aggregate of the paid up share capital and free reserves of a company. This is a transitory provision. Such deposits are repayable not earlier than three months from the date of such deposits or renewal thereof. Deposits may be accepted in joint names payable jointly either or survivor or first named survivor

or any one of them.

(c) No company should accept or renew deposits from its members if the amount of such deposits, together with the amount of such other deposits(meaning thereby deposits previously accepted) outstanding as on the date of acceptance or renewal of deposits exceed 25% of the aggregate of the paid up capital and free reserves of the company.

(d) No company should pay interest on deposits or brokerage thereon at a rate exceeding the maximum prescribed by the RBI in respect of NBFC'S. Those who are authorised to solicit deposits are only eligible for brokerage.

(e) No company should alter to the prejudice of the depositors any of the terms and conditions of deposit, deposit trust deed and deposit insurance contract after the issue of the circular.

Rule 4 of the deposit rules further provides-

(a) the circular aforesaid should be issued to all its members by Regd. post AD or speed post or by electronic mode in FORM-DP1.

(b) apart from the circular, it may be published in English language newspaper and vernacular language newspaper having wide circulation in the State in which the registered office of the company is situated.

(c) the circular in the form of advertisement is valid until the expiry of six months from the close of the financial year in which it is issued or until the date on which the financial statement is laid before the company in annual general meeting, whichever is earlier. Thereafter a fresh circular should be issued.

(d) no circular or circular in the form of advertisement shall be issued by or on behalf of a company, unless not less than 30 days before the date of such issue, there has been delivered to the Registrar for registration a copy thereof signed by majority of directors of the company or their agents, duly authorised in writing.

COMPANY DEPOSITS FROM PUBLIC (SECTION 76)

All and sundry cannot invite, accept or renew deposits from the public. Under section 76 o f the Act stricter norms are laid down for the purpose. Both section 73 and section 76 refer to only "Public Company. This means private companies cannot operate section 73 unless specifically permitted.

A public company having a net worth of not less than one hundred crore rupees or a turnover of not less than five hundred crore rupees and which has obtained prior consent of its members in general meeting by means special resolution and filed the same with the Registrar, can invite the public for acceptance of deposits as per section 76(1) of the Act and Rule 2(e) of the Companies(Acceptance of Deposits) Rules, 2014. However,a company exercising borrowing limit within the over-all limit not exceeding aggregate of its paid up capital and free reserves may accept deposit by an ordinary resolution.

The above facility under section 76 is subject to the requirement of observance of section 73(2) of the Act regarding issue of circular and other matters referred to therein.

A Govt. company is eligible to accept deposits including renewal thereof, if the amount of such deposits together with the amount of other deposits outstanding as on the date of acceptance or renewal does not exceed 35% of the aggregate of the paid up share capital and free reserves of the company.

Every public company inviting deposits from the public is required to upload a copy of its circular on its web site, if any.

(c)Section 74-Payment of deposits accepted before the commencement of 2013 Ac t;

Section 74 is a transitory provision. It provides that if a company had accepted deposits under the 1956 Act, the amount of such deposits or part thereof and interest thereon remaining unpaid on commencement of 2013 Act should be repaid within one year from such commencement ,that is 1-4-2014 or from the date of on which such payments are due, whichever is earlier Rule 19 of the said rules stipulate that the provisions of sections 73 and 74 shall, mutatis mutandis apply to the acceptance of deposits from public by eligible companies..

There is a significant clarification by way of explanation to Rule 19 to the effect that in the case of a company which had accepted or invited public deposits under the 1956 Act and the rules there under(hereinafter referred to as "Earlier Deposits") and has been repaying such deposits, interest thereon, the provisions of section 74(1) are deemed to have been complied with, if the company continues to repay such deposits in accordance with the relevant provisions under the 2013 Act and the Rules.

In the background of what is stated above, the following points arise for consideration\clarification;

(a) Private Companies may be permitted to invite, accept and renew deposits from its members with a simplified form of circular under section 73 of the Act.

(b) While section 73(2) (a) provides for issuance of circular to its members, Rule4 (1) of the Companies (Acceptance of Deposits) Rules, 2014 provides for issue of circular to all its members. No purpose is served by sending the circular to all the members of a company, as all of them may not keep deposit. This will unnecessarily increase the cost of compliance without any corresponding benefit to company.

This is more acute in the case of public companies where number of members is exceedingly more.

(c) the said Rule 4(1) also prescribes for issue of circular to the members by registered post\AD, or speed post or any electronic mode. Section 20 of the Act, inter alia, provides for service of documents on any member by post or by courier. This may be permitted, as otherwise the compliance cost will be more.

(d) section 73(1) (a) refers to"previous deposits" (meaning thereby deposits accepted under section 58A of the 1956 Act and the rules there under).However, Rules3 (3), 3(4) (b) and rule 3(5) refer to "other deposits". Rule 19 of the said rules uses the expression" Earlier Deposits". it is necessary for the purpose of better compliance to clarify that the different expression relate to "previous deposits" accepted under section 58A of the 1956 Act and referred to in section 74 of the 2013 Act.

(e) section 73(2) provides that a company may obtain a resolution in general meeting for invitation and acceptance of deposits from its members, whereas section 76 does not refer to any resolution, whether ordinary or special .However, the definition of "Eligible company" which is relatable to section 76 of the Act vide Explanation (e) under Rule2 (ix) of the said rules provides for special resolution for invitation & acceptance of deposits from public. Why any such resolution is required is not clear as the power of borrowing is exercised by the BOD of a company under section 180(1) (c) of the Act which corresponds to section 293(1) (d) of the 1956 Act.

BY a circular issued by MCA on 25-3-2014,it has been clarified that the resolution passed under section 293 of the 1956 Act prior to 12-09-2014 in the matter of borrowing and \or creation of security will be regarded as sufficient compliance under section 180 of 2013 Act for a period of one year when section 180 came into force. Such a resolution under section 180(1) (c) of 2013 Act which corresponds to section 293 of the 1956 Act appears sufficient compliance for the above purpose.

(f) section 180(1)(c) empowers the BOD of a company to borrow money under the authority of a special resolution, if the aggregate of the monies already borrowed together with the monies to be borrowed exceed the paid up share capital and free reserves of a company. Such a resolution is required to specify the total amount up to which monies may be borrowed by the BOD.

Company deposits are a specie of borrowing irrespective whether it is secured or not. If deposits are accepted by a company within the overall financial limit specified in the resolution under section 180(1) (c) read with sub-section (2) of the said section, why another resolution exclusively for deposit acceptance is required is not clear.

(g) Issue of advertisement in English and vernacular languages will serve the purpose of the circular itself. In view of this, issue of circular to all the members of a company may be dispensed with or made optional.

(h) No deposit is repayable on demand or upon receiving a notice within a period of less than six months as per Rule 3(a) of the deposit regulations. However, proviso (b) under the same rule says that such deposits are repayable not earlier than three months. This is contradictory and this should be clarified by the authorities concerned. It is not clear whether three months is relatable to short term deposits.

(i) Can a public company satisfying the requirements of sections 73 and 76 and the rules there under invite, accept and renew deposits from its members and the public up to 35% of the paid up share capital and free reserves of the company in the same way as the Government Companies are permitted to do. This doubt arises as deposits from the above categories are dealt with separately.

CONCLUSION

This article has tried to focus on certain areas of concern to the corporate sector and the professionals alike and to establish clarity in regard to certain provisions of the 2013 Companies Act. The issues raised in this article will give an opportunity to the professionals to discuss the issues further for better understanding and compliance of law. In addition, section 2(60) has far reaching effect and consequence and seeks to bring in its fold all types of persons connected with management of a company including those who are on the board. While those in charge of day to day management of a company should be held accountable for legal compliance, those in the board as non-executive directors should be spared of any liability under the Act, as otherwise liability under section 2(6o) will be hanging on their heads as Damocles sword and divert their attention for better management of companies. CS

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Is the Government Serious in Companies having Small Shareholder Director?

With a view to protect the interests of the small shareholders of companies the new Companies Act has made a provision for the appointment of small sharehlder director on the board of companies. However the statutory provision and the rules suffer from certain deficiencies which need to be addressed by the Government to make the provision a reality.

Section 152(2) of the Companies Act, 2013 (the Act) stipulates that 'save as otherwise expressly provided in this Act, every director shall be appointed by the company in general meeting'. The implication being that unless otherwise provided in the Act the directors have to be appointed by the company in general meeting. Exceptions to this stipulation, *inter alia*, are appointment of independent directors provided for under section 149 read with the provisions of section 150(2) and Schedule IV appended to the Act, by the Boarad of Directors and appointment by the Board of Directors, of, additional director, alternate director, director to fill a casual vacancy and nominee director under section 161 of the Act. With regard to the appointment of small shareholder director it would be seen that he has to be elected by the small shareholders in such manner and with such terms and conditions as may be prescribed. As a corallary to this requirement a question would arise as to who a small shareholder of a company is? This has been answered by the proviso to section 151 of the Act. In terms of this proviso a small shareholder means a shareholder holding shares of nominal value of not more than twenty thousand rupees or such other sum as may be presceibed. To qualify as a small shareholder, a shareholder should have shares the face value of which is not more than twenty thousand rupees. The shares referred to in the said definition of the small shareholder does not confine itself to equity shares. As the general term, 'share' has been used it covers holding of preference shares and equity shares wth differential voting rights even though the former generally do not have any voting rights attached to it except in certain circumstances set out in section 47 of the Act and the latter may have, depending upon the terms and conditions of issue thereof, lesser voting rights as compared to normal equity shares.

APPOINTMENT OF SMALL SHAREHOLDERS' DIRECTORS

As has been seen earlier unless express provision is there in the Act all directors of companies have to be appointed by the company in general meeting. The heading to section 151 of the Act which deals with the small shareholder director reads as 'Appointment of director elected by small shareholders' (emphasis supplied). The said section itself speaks that a company can have a small shareholder director elected by small shareholders. These goes to indicate that the small shareholder director has to be elected by the small sharholders and appointed by the company in general meeting. The terms, 'elect' and 'appoint' has not been defined in the Act. They are not synonyms. Therefore, these terms have to be given normal dictionary meaning attributed to them to understand their true meaning. The normal dictionary meaning of the term 'elect' is 'choose (someone) to hold public office or some other position by voting'. Likewise the meaning of the term, 'appoint' is ' assign a job or role to (some one)'. Thus there are two different processes involved before a small shareholder director takes office in a company. First the person has to be elected by the small shareholders. In this regard it would be significant to note that the person so elected himself need not be a small shareholder. If that had not been so, the section would have stipulated so, by providing either in the Act or in the Rules made thereunder that the small shareholder director has to be elected from amongst the small shareholders. Perhaps the fact that a director of a company need not be its shareholder had been at the back of the draftsman while incorporating section 151 and the Companies (Appointment and Qualification of Directors) Rules, 2014 (the Rules) framed thereunder. Thus the import of the requirement in this regard is that the small shareholders meeting the definition of small shareholder provided in the proviso to section 151 of the Act may elect any person of their choice as their representative and such a representative has to be appointed as a director by the company in general meeting if he is otherwise qualified to be appointed as a director by meeting with the qualification and complying with the requirements stipulated under the Act for appointment as a director. The election, therefore, of a person to be appointed as a small shareholder director should precede the appointment of the small shareholder director.

REQUIREMENTS OF THE RULES

Section 151 postulates that the small shareholders' director (who is incidentally as indicated earlier in the write up need not himself be a small shareholder), has to be elected by small shareholders 'in such manner and with such terms and conditions as may be prescribed'. It would be apparent from the above that the power to determine the manner in which the small shareholder director would be elected and the terms and conditions subject to which he would operate as a director has been delegated to the Central Government. Rightly the Central Government has not enlarged the scope of operation of the Rules to companies other than the listed companies. Even in the case of listed companies, this requirement would be triggered in terms of Rule 7(1) of the Rules only when a notice is served on the company by not less than one thousand small shareholders or one-tenth of the total number of small shareholders of the company, whichever is less. This Rule by its proviso makes it clear that *suo motu* a company can have a small shareholders' director in which event the requirements would not be applicable. While Rule 7(2) in some detail sets out the manner of appointment of a small shareholders' director, it does not set out the procedure for election of a small shareholders' director. This Rule is largely on the lines of section 160 of the Act except that no deposit is required to be made. Even though not spelt out, it is obvious that in respect of the notice received under sub-rule (2) of Rule 7, requirements set out in Rule 13 of the Rules have to be complied with. If it is not so complied with the appointment of small shareholders' director would be vitiated and may become void.

NOTICE

The notice referred to earlier will have to be given by the requisite number of small shareholders' and not by the person who has been elected by the small shareholders of the company as their representative. Rule 3 of the said Rules stipulates that the notice should be accompanied by a signed statement by the person elected to be a small shareholder director giving the following, namely:-

- his director identification number
- he is not disqualified to become a director under the Act, and
- his consent to act as a director.

OTHER IMPLICATIONS

Sub-rule (4) of Rule 7 of the Rules stipulates that the small shareholder director would be deemed to be an independent director if he meets with the qualifications of an independent director set out in sub-section (6) of section 149 of the Act. Sub-rule (5) of this Rule provides that the small shareholder director is not liable to retire by rotation and his term would be for a period of 3 consecutive years and at the end of such period he is not eligible to be re-appointed. Even though not specifically mentioned this dis-qualification for re-appointment would apply only for the re-appointment as small shareholder director and not otherwise for the expression used in clause (c) of sub-rule (5) is 'on the expiry of the tenure, such director shall not be eligible for re-appointment' and this dis-qualification has not been spelt out as a dis-qualification section 164 of the Act. Even though the small shareholders director is not liable to retire by rotation, he would be taken into account in determining the total number of directors for computing the number of directors liable to retire by rotation. This is so because no specific provision has been made in this behalf as has been made in the case of independent director in the explanation appended to sub-secrion (6) of section 152.

Obviously the notice from the small shareholders, which is required to be given fourteen days before the date of the meeting in which the proposal would be considered, has to follow the election of the representative of the shareholders. Even though the power to prescribe the manner of holding this election has been conferred on the Central Government, till date the same have not been prescribed. Even the Rules referred to earlier spells out only the manner of appointment of a small shareholder director by the company in general meeting and not that of election of a small shareholder director. It has also not been spelt out as to who and when the election would be conducted? Who would foot the bill for conduct of the election? It would have facilitated matters if the Rules has prescribed that On a requisition from the prescribed number of small shareholders the company should take steps to amend the Articles of Association to provide for the appointment of small shareholders' director on the Board of the Company and to frame Rules for the conduct of elections from amongst the shareholders through the medium of postal ballot so as to ensure maximum participation of the small shareholders in the election. The Rules should have further prescribed the disqualifications of a person to offer himself for election which should appropriately be the did qualifications set out in section 164 of the Act. Apart from this it should have prescribed that only a small shareholder is eligible to contest the election. It should further be spelt out that a person who has been a small shareholder director of the company immediately before the contest is not eligible to contest the election. In order to prevent an advent of the profession of small shareholders' director it would also be advisable to provide a ceiling on small shareholder directorship. If these are not provided for, no company can induct in real terms a small shareholder director on its Board. In this present dispensation it is not known as to whether all the members comprised in the minimum number of shareholders should sign the requisite notice or it would be signed in a representative capacity and how the name of the person came to be mentioned in the notice in the absence of an election and whether such a person is the real representative of the small shareholders on the Board to look after their interests. Further it is not clearly mentioned as to when a notice is received by the company, is it obligatory on its part to have a small shareholder director from then on up to its life time. Unfortunately the Government that ushered in the measure and the Government presently in office are not serious about companies having a small shareholder director on the Board. If it had been so, it would have addressed to all the foregoing either in the Act or in appropriate Rules framed thereunder earlier or it would have ensured to insert a suitable amendment in the ensuring Companies (Amendment) Bill, 2014 or inserted amendments to the Rules or would have promulgated new Rules to provide for these. CS

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Chief Compliance Officer (CCO): Emerging Role for Company Secretaries

The rise of the CCO function marks a turning point in the way companies deal with compliance. The post of CCO is evolving in a way that spans a variety of roles. It is evolving into an expanded function to the point where it touches upon other roles in the enterprise that were previously distinct, such as those of the Company Secretary and Legal Head. It is also playing a bigger role in managing legal risk in the enterprise.

EVOLUTION OF CCO

In the early 1990s, compliance was not the term or the practice that it is in the 21st century; in fact, many companies did not know what to call it. Today, as we stand on the precipice of a new era, it appears that every business has a compliance division led by a CCO. In many scandals, a CCO with a proactive approach to his job would have mitigated the scandal as it unraveled. Although the role of the CCO has long existed in organizations that operate within heavily regulated sectors, many companies beyond these particular sectors are now reconsidering whether they need such an executive.

There's little novelty to the CCO. After finding themselves pinned against a regulatory wall, companies looked for a new face to depict internal compliance system. It took some time for the trend to catch on. In the absence of a corporate enhancement, marketing blitz or celebrity endorsements, the position garnered less publicity. The same corporate scandals that motivated legislators to pass elaborate statutes also precipitated a rise in CCO hiring. Many embraced the CCO.

As the compliance sector continues to be shaped by the changing regulatory environment, a new question of how best to align the various functional efforts of the CCO has emerged, making it difficult to categorize the role's duties. Reporting lines are also changing: for a long time, the CCO function was seen as a subset of the legal team, but there is a growing move to separate

The responsibilities for CCOs are increasing. New areas are rapidly becoming important, like data privacy, which was once essential mainly for certain companies but is now applicable to nearly all businesses. The growth in regulation is exponential, and companies doing business internationally must be especially aware of the increasing complexity and corresponding compliance risks, which are causing the role to change and increase in scope.

compliance from legal. Most CCOs are now reporting directly to the CEO. In major failures like Enron and Worldcom, individuals with a conflict of interest prevented the organization from dealing with the problem. While there is progress on gaining independence, there are challenges too. Unfortunately, too often, Compliance Officers' reports are filtered such that necessary messages are edited out. Editing for clarity is acceptable, but not for taking the teeth out of a report. If messages are filtered out of reports, then the compliance program is going to be less effective.

The Compliance Department and Compliance Officers are relatively newcomers to the corporate landscape, so much still needs to be clarified about how compliance interacts with other members of senior management. The board needs to be educated about the role of the Compliance Department. Preferably, the board should have a member who is familiar with the compliance function much the way it often includes at least one member familiar with finance. Although the board shouldn't be involved in the day-to-day activities of the Compliance Department, it should have oversight of the major issues associated with the compliance program. Many experts argue that the role of CCO is evolving as opposed to becoming obsolete.

CHANGING ROLE OF CCO

Without a doubt, traditionally the primary responsibility of the Compliance Officer was to ensure that the company was is in compliance with all laws, rules and policies, both nationally and internationally. Beyond that, a crucial function of the position entailed establishing an acceptable 'risk appetite' and developing a mitigation process to manage both inherent and future risks. In nutshell, the CCO was expected to serve as conductor of the orchestra. While the function has existed for some time, it has typically been hamstrung by lack of top-level internal support. This situation is changing, however, as the regulatory framework becomes more complicated and the government and other plaintiffs take a more aggressive stance on compliance violations. Formerly, CCOs were found only at mid-sized and larger corporations, and they oversaw small departments that put in place compliance procedures in common areas. At some companies the CCO did not even really oversee a department, and primarily acted by him or herself.

Today, however, CCOs have a lot to deal with. These days in heavily regulated industries such as financial services, "Chief Compliance Officer" may be the most important figure aside from the CEO & CFO. These legal and ethics specialists work closely with the business to recommend new risk mitigation strategies. Among them could be new or improved controls that include review and authorization protocols, policies, procedures and standards coupled with reengineered workflow, employee training, management training and system controls. Now, the CCO, as a top-level executive, takes on many functions and must collaborate with the finance, risk, legal, information technology, human resources and employee service departments, in order to drive the business to success while fulfilling all of its compliance needs. Additionally, effectively communicating strategy, policy and costs with the board requires significant planning and political agility. A CCO must be able to navigate the shifting landscape with foresight, and have a set of solutions in place in case a crisis hits.

The responsibilities for CCOs are increasing. New areas are rapidly becoming important, like data privacy, which was once essential mainly for certain companies but is now applicable to nearly all businesses. The growth in regulation is exponential, and companies doing business internationally must be especially aware of the increasing complexity and corresponding compliance risks, which are causing the role to change and increase in scope. The rise of the CCO function marks a turning point in the way companies deal with compliance. The post of CCO is evolving in a way that spans a variety of roles. It is evolving into an expanded function to the point where it touches upon other roles in the enterprise that were previously distinct, such as those of the Company Secretary and Legal Head. It is also playing a bigger role in managing legal risk in the enterprise.

As the evolution continues, it is becoming obvious that the CCO is no longer just tasked with compliance but plays an integral role in managing company's overall operations. Risk management and compliance should be conducted by someone who is independent of business pressures. Some companies put this function with the Legal Department, or even with the Human Resources Department but, in general, larger companies are increasingly of the view that compliance deserves the undivided attention of a specialist.

CCO – 'ADVISER' AND NOT JUST 'MONITOR'

It may be time to give Chief Compliance Officers primary responsibility for dealing with data breaches. In many cases the audit, legal, IT or risk departments are put in charge of data security, but it is the Compliance Department that can have the most far-reaching impact on employee behaviour and be most effective at stopping data breaches.

The problem is that everybody thinks privacy and security is the job of IT and data security is about preventing hackers from getting into the system, when in fact most data breaches have nothing to do with hackers. The problem really stems from employees leaving paper out in the open, walking away from computers while they are logged in, using laptops that are not encrypted and doing computer work while others are watching. This is primarily an education, monitoring and auditing issue. That is where the Compliance Department is best suited to help. Any software systems to prevent hacking and other types of electronic data breaches should be handled by IT but overseen by Compliance to make sure that they're working. Then, a good data breach prevention program may be implemented which should be the responsibility of the CCO. An effective Compliance Officer can decrease the data breach risk very efficiently. The key is getting a CCO who knows how to use the tools of a compliance program.

A comprehensive data breach prevention program uses auditing, monitoring, education, investigations, discipline and enforcement. All boards should review their current data breach prevention plans and determine who has the real authority to improve the corporate culture in a way that can prevent data breaches in the future.

Compliance Officers are the trusted advisers and not just monitors. Compliance Officers should have a seat of power with necessary authority and independence to help the company.

FOUR PART APPROACH FOR CCO

The Chief Compliance Officer shall have a four-part approach towards the compliance function:

1. **Structure questions**

   This area consists of questions which will help to determine the fundamental sense of a company's overall compliance program. The questions should begin with the basics of the program.

2. **Culture questions**

   This area should focus on the culture of the organization regarding compliance. CCO should have an understanding of what message is being communicated not only by senior management but also by middle management. Equally important, the CCO needs to understand what message is being heard at the lowest levels of the company.

3. **Areas of risk**

   CCO need to know what process is being used to identify emerging risks. Such risk analysis would be broader than simply a legal or compliance risk assessment; it should be tied to other matters, such as 'business continuity planning and crisis response plans'.

4. **Forecast**

   CCO should know not only where the company stands at the present moment, but also the compliance and ethics programs for future.

DO COMPANIES NEED A CCO?

The size of a company and the operational capacity of its legal department are two leading factors to consider before employing a CCO. The CCO's position in the chain of command will help to define the authority of the office and prompt respect from others. At the instance of CCO, size does matters. Largecap and midcap companies are more likely to benefit from a CCO than smallcap and microcap companies.

CS & CCO - A CONVENIENT COMBINATION

The benefits and detriments of combining the CCO with Company Secretary are many. Company Secretary can complete many, if not

> Combining the CCO and Company Secretary titles would preserve the existing conduit between shareholders, management, and the board of directors. If the company secretary already fulfills multiple roles or oversees numerous reporting duties for multiple subsidiaries, the CCO could alternatively serve within the Company Secretary's Department.

all, of the tasks that face a CCO. In fact, many CCOs already share this role. The Company Secretary's duty to ensure creation of new board committees and charters makes this arrangement a convenient option. In addition, Company Secretaries are often acquainted with several compliance issues. Statutes generally permit a Company Secretary to hold more than one officer position. Therefore, it may be appropriate to create the joint position of "Company Secretary and CCO".

A good Company Secretary will typically be engaged in assisting the Board in staying current with best practices in compliance, and because Company Secretaries will typically be very active in assisting the Board and senior management with regulatory compliance matters, including those flowing from SEBI Guidelines and the listing agreements, it makes sense to expand the Company Secretary's role to include accountability for specific areas of legal and policy compliance. Combining the CCO and Company Secretary titles would preserve the existing conduit between shareholders, management, and the board of directors. If the company secretary already fulfills multiple roles or oversees numerous reporting duties for multiple subsidiaries, the CCO could alternatively serve within the Company Secretary's Department.

FUTURE OF CCO

The future of compliance executives doesn't seem too bleak. CCOs should put efforts to strengthen their companies' ethics and compliance programs. Compliance area is only going to continue to grow in importance as laws regulating corporate conduct continue to become more strict and the costs of non-compliance rise. The days of treating violations of the law as an unlikely source of corporate risk due to infrequent prosecution and low fines are long over and will not be coming back. After all, every company needs a CCO.

The role of the Chief Compliance Officer is rapidly evolving in the wake of heightened regulations, and the demand for these professionals continues to grow. One of the paramount responsibilities and challenges that CCOs often encounter is in building comprehensive compliance programs that can fulfill existing requirements and can withstand the impact of an ever-changing regulatory landscape. As companies build more efficient governance, risk and compliance models, Chief Compliance Officers are sure to be more actively involved with the implementation of these new programs and their value will no doubt continue to grow.

In the hope of instituting genuine reforms that go beyond applying a trendy title, companies should carefully formulate a CCO's role to address compliance hurdles arising in the wake of market meltdowns. Although financial and legal growth may accompany selection of a competent CCO supported by experienced staff, the individual should be trustworthy enough to engage compliance issues. The CCO's role in directing the board away from haphazard decision-making should benefit the company's bottom line. Company Secretaries who are able to demonstrate the ability to add value beyond administrative efficiency with sufficient commercial expertise will be a perfect fit for the post of CCO.

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Whistle Blowing and Corporate Governance

Whistle blowers can play a very important role in providing information about corruption and mal-administration. Public servants working in the same department know better as to who is corrupt in their department but unfortunately, they are not bold enough to convey the said information to higher authorities for fear of reprisals by those against whom complaints are made. If adequate statutory protection is granted, there can be no doubt, that the government will be able to get more information regarding corruption and mal-administration.

Corporate Governance is an essence on whose edifice the contemporary corporate management rests. Studies in various countries across the globe have manifested the importance of Corporate Governance and its ramifications on the profitability and the sustainability of a business organization. However, in order to understand the various intricacies of the Corporate Governance and its aftereffects on the various parameters of a business organization, one has to understand and examine some distinct features related to the term, "Corporate Governance" which if not properly taken up, fosters unwarranted and undesireable image of the organization. One of the most distinct aspect is in this regard is Corruption. In philosophical term corruption is an immoral activity or deviation from an ideal. The word corrupt when used as an adjective literally means, "utterly broken". The word was first used by Aristotle and later by Cicero who added the terms bribe and abandonment of good habits to its existing definition. Today Corruption is widespread throughout the world. It differs only with regards to its extent and form. Bribery is a common practice in countries like China, India, Indonesia, Iran, Afghanistan, Bangladesh, Iraq, North Korea, Russia, Turkey, Cambodia, Georgia, Kenya, Myanmar, Nigeria, Tanzania, Uganda, Ukraine, Venezuela, Zimbabwe and many other small countries. Not only the poor and developing countries witness corruption, but it is also prevalent in the developed world. Leading politicians from U.K, Belgium, France, Spain and Italy have been convicted of corruption in the past few years.

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A whistle blower may be defined as a person who reveals the wrongdoings within an organization to the public or to those in positions of authority. He discloses information about misconduct in the workplace that he feels violates the law or endangers the welfare of others; and speaks out with an intention to expose corruption or dangers to the public or the environment. He provides an early warning system that can alert their colleagues, employers or the public to danger or illegality before it is too late. He can be among the most loyal and public-spirited employees. Unfortunately, there are still some people who believe that "whistle blower" is a dirty word and don't realise how whistle blowing can save lives, jobs, money and reputations.

The United Nation Convention against corruption served as an important step towards spreading the foundation of whistle blowing throughout the world. According to the Article 33 of the UN Convention against corruption, "Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention". UN Convention Articles elaborate that "each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to, in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention".

In providing information about corruption and mal-administration, an important role is played by Whistle blowers. Whistle blower in an ordinary parlance is a person who reveals/discloses the wrongdoing within an organization to the public at large or to those in positions of authority. Generally, the person or an employee working within the organization is aware of all the ins and outs and henceforth the wrongdoing of an organization. However, often due to fear of being reprimanded or terminated from the job, an employee keeps silent on varios wrongdoings within an organization. Mostly, the employees working together very well know about corrupt practices and people involved in them. However, due to their fears such as revenge by co-employees or superiors, they seldom report any such information to the authorities. By providing statutory protection to such whistle blowers the government would be able to extract more information about corruption and mal-administration. In order to protect the person who discloses all such wrongdoings within an organization, many stringent laws have come up mostly in the developed part of the world in order to protect the interest of the public at large and the goodwill and credibility of the organization. For instance, the Whistle Blower Protection Act 1989 in USA and Public Interest Disclosure Act 1998 in the UK are examples of such forms of statutory protection available in the developed world. Also, countries like New Zealand and South Africa also have comprehensive laws in this regard. Apart from the countries mentioned above, such comprehensive and freestanding laws are not that widespread yet. Countries like Romania have adopted laws to cover only the public sector, while Japan has such laws only for the private sector.

India amidst the recent major debacle of Satyam (2009), Coal Allocation scam (2012), 2 G Spectrum scam (2013) have not been able to isolate herself from the rest of the world in bringing a sound Act for the protection of whistle blowers. In India, the Whistle blowers Protection Bill was passed by Lok Sabha on December 11, 2011 and by Rajya Sabha on February 21, 2014, which provides a mechanism for protecting the identity of whistle blowers, got the assent of the President of India and Gazette notification of the Act was issued on May 12, 2014.

ROLE OF WHISTLE BLOWER IN CORPORATE GOVERNANCE

Whistle blowing plays an important role in corporate governance. Indeed, the model of Corporate Governance would not complete

in the absence of whistle blowing mechanism. Mainly, it has been observed that the public value of whistle blowing has been significantly recognized since the early 1960s. For instance, various federal and state statutes and regulations have been enacted since the early 1960s in order to protect the whistle blowers from various forms of retaliation. Countries like the USA and the UK have taken a proactive role with regard to whistle blowing since the evolution of the concept of whistle blowing. The past has witnessed many corporate scandals being public when an insider spoke or through a confession and not through an audit report or a regulatory investigation. Some prominent examples are those of whistle blowers, Sherron Watkins, who was one of the few people inside Enron who voiced concern about accounting five months before its collapse and when Harry Templeton challenging Robert Maxwell's plundering of the pension fund, better known as "the Maxwell Saga" in the U.K. World.Com board of directors discovered the accounting fraud through the efforts of companies' whistle blowers. Cynthia Cooper[1] the internal auditor and her subordinates investigated unusual accounting entries at WorldCom's wireless division in early 2002. Auditors assured her that the aggressive accounting entries in wireless division are being balanced on a corporation wide basis. The CFO, Sullivan asked her not to discuss such matters with Andersen, the auditors. Later, Cooper's team figured out that Sullivan's department had made $3.8 billion in questionable accounting entries that had the effect of inflating WorldCom's earnings. He pleaded guilty to several crimes and testified against CEO Ebbers. CEO was convicted and sentenced for 25 years in prison; CFO got 5 years imprisonment due to his co-operation. The malafide intention of the CEO and the executive members of Enron would have seen a light much before the debacle took place, had there been a strong Whistle blowing protection Act in the United States prior to the date of debacle. However, the emergence of debacles like Enron, World dot com, Satyam, etc. have given prominence to the concept of whistle blowing. The current deliberations on whistle blowing among corporates and governments is however expected to minimize the corporate and government scams and foster the reliability among the different stakeholders for making a rational decision.

THE CONCEPT OF WHISTLE BLOWING

Whistle blowing in its most general form involves calling public attention to the wrong doings in an organization, typically in order to avert harm. It can be defined as raising a concern about the wrong doing within an organization. The word whistle blower originates from 'whistle' as used by a referee to indicate an illegal or foul play. It was coined by US civil activist Ralph Nader in the early 1970's so as to avoid any negative connotations found in words such as 'informers' and 'snitches'. A whistle blower may be defined as a person who reveals the wrongdoings within an organization to the public or to those in positions of authority. He discloses information about misconduct in the workplace that he feels violates the law or endangers the welfare of others; and speaks out with an intention to expose corruption or dangers to the public or the environment. He provides an early warning system that can alert their colleagues, employers or the public to danger or illegality before it is too late. He can be among the most loyal and public-spirited employees. Unfortunately, there are still some people who believe that "whistle blower" is a dirty word and don't realise how whistle blowing can save lives, jobs, money and reputations. Thankfully, more and more people are beginning to realise how invaluable responsible whistle blowing can be.

SPECTRUM OF DEFINITIONS OF WHISTLE BLOWING

There is no single accepted definition of whistle blowing. However, a spectrum of widely used and quoted definitions exist. Some of them have been quoted here as follows.

[a] Bringing an activity to a sharp conclusion as if by the blast of a whistle (Oxford English Dictionary);

[b] Raising a concern about malpractice within an organisation or through an independent structure associated with it (UK Committee on Standards in Public Life);

[c] Giving information (usually to the authorities) about illegal or underhand practices (Chambers Dictionary);

[d] Exposing to the press a malpractice or cover-up in a business or government office (US, Brewers Dictionary);

[e] Police officer summoning public help to apprehend a criminal; referee stopping play after a foul in football (Whistle blowing: A New Perspective,Guy Dehn).

US consumer activist Ralph Nader gave one of the first definitions in the modern history of whistle blowing. He claimed "Whistle blowing is an act of a man or woman who, believing that the public interest overrides the interest of the organization he serves, blows the whistle that the organization is in corrupt, illegal, fraudulent or harmful activity."[2]

One of the most commonly accepted and widely used definitions

1 REFERENCES http://www.usatoday.com/money/companies/regulation/2008-02-14-cynthia-cooper-whistle blower_N.htm

2 Nader, Petkas, and Blackwell, Whistlebowing (1972), quoted in Nicholas M Rongine, "Toward a Coheren Legal Response to the Public Policy Dilemma Posed by Whistle blowing". American Business Law Journal, Summer 1985, Vol 23. 2. Issue; page 28.

in related empirical research is the one propounded by Miceli and Near.[3] They define whistle blowing as "disclosure by organisation members (former or current) of illegal, immoral or illegitimate practices under the control of their employers, to persons or organisations that may be able to effect action." This definition allows for the many types of wrongdoing about which such disclosures might arise and the many forms that whistle blowing can take. Moreover, this definition is inclusive to permit empirical determination of differences among various types of whistle blowing. Many researchers have carried forward their empirical research on the edifice of the definition given by Miceli and Near.

Other definitions of whistle blowing include "Whistle blowing must involve an intentional disclosure of information to which the whistle blower has privileged access. In general, employees have such a privileged access. They know what is going on at work, and specific jobs entail specific information about what an organization is doing. The disclosed information must be about a perceived malpractice in the organisation, or under the responsibility of the organization, and the aim of the disclosure has to be rectification of that malpractice or wrongdoing."[4] ."Whistle blowing systems are mechanisms that enable individuals to report conduct of a member of their organization, which in their opinion is contrary to a law or a regulation or to the basic rules established by their organization." (Belgium Code).[5] "A 'whistle blower' (*avertizor*) is an individual who reveals violation of laws in public institutions made by persons with public powers or executive from these institutions" (Romania Legislation).[6]

MEANING OF 'WRONGDOING' IN THE CONTEXT OF WHISTLE BLOWING

A whistle blower may be an employee, a former employee, or member of an organization, especially a business or government agency, who reports wrongdoing to people or entities that have the power and presumed willingness to take corrective action. Though the whistle blower policies and laws tend to encourage the employees to come forward with necessary information that the employees may have about the wrongdoings of an organization but as per the recent report of the Whistle blower Protections for Federal Employees, not all forms of wrongdoings are protected by the law. There is every likelihood that the wrongdoings perceived by an employee may not be a wrong doing in the eyes of law. It is therefore important to understand that unless an employee violates the law, wrongdoings cannot be actionable. As prescribed in the law the following types of behavious may be regarded as examples of wrongdoing.

- Misconduct for material gain (such as bribery, corruption, theft of money and property, using official position for services/ favours, giving unfair advantage to the contractor, making false/inflated claims for reimbursement, etc.).
- Perverting justice or accountability (such as covering-up corruption, unlawfully altering or destroying official records, hindering an official investigation, etc.)
- Conflict of interest (such as intervening in a decision on behalf of a friend or relative, failing to declare financial interest, etc.)
- Improper or unprofessional behavior (such as sexual assault and sexual harassment, racial discrimination against a member of the public, being drunk/under the influence of illegal drugs at work, misuse of confidential information, etc.).
- Defective administration (such as producing or using unsafe products; acting against public policy, regulations or laws; incompetent or negligent decision making; endangering public health or safety, etc.).
- Personnel or workplace grievances (such as allowing dangerous or harmful working conditions; racial discrimination against a staff member; favoritism in the selection or promotion, etc.).
- Waste or mismanagement of resources (such as negligent purchases or leases, inadequate record keeping, etc.).
- Non compliance of laws and regulations.
- Illegal activities, unethical and improper practices relating to financial and accounting matters and standards.

WHISTLE BLOWERS VERSUS INFORMANTS

Whistle blowing is used in a positive sense while the wired informant has a negative connotation. Whistle blower out of his/her own free will makes an intentional disclosure of information to which

3 Miceli, Marcia P.; Near, Janet Pollex; Dworkin, Terry Morehead: "Whistle blowing in Organizations"; Routledge/Psychpress; 2008, page 6.
4 Tsahuridu Eva E. (2008), VanderkerckhoveWim: "Organisational Whistle blowing Policies: Making Employees Responsible or Liable?" Journal of Business Ethics, 82, page 109.
5 Belgian Data Privacy Commission
6 http://www.assembly.coe.int/Mainf.asp?link=/Documents/WorkingDocs/Doc09/EDOC12006.htm

he/she has privileged access. On the other hand, the informants are usually involved in unethical affairs and use disclosure of information for clarifying their own role, or reduce their own liability. Governments often offer the chance of pardoning the crimes of people who report malpractices which they were involved in. This encourages informants to report malpractices. Thus, employees with the duty to inform cannot be considered as whistle blowers since in their case, disclosing a wrongdoing is not an ethical issue, but an obligation (e.g. employees of civil service, accounting, etc). However, both the whistle blower and the informants works on behalf of the various stakeholders of the organization and promotes to the well-being and credibility of the organization in the eyes of the various stakeholders who are directly or indirectly dependent on the organization. The presence of the whistle blower and the informant in an organization helps to generate the sense of transparency and reliability in an organization.

DISTINCTION BETWEEN MAKING A COMPLAINT AND BLOWING THE WHISTLE

When someone blows the whistle they are raising a concern about danger or illegality that affects others (e.g. customers, members of the public, or their employer). The person blowing the whistle is usually not directly, personally affected by the danger or illegality. Consequently, the whistle blower rarely has a personal interest in the outcome of any investigation into their concern - they are simply trying to alert others. For this reason, the whistle blower should not be expected to prove the malpractice. He or she is a messenger raising a concern so that others can address it. This is very different from a complaint. When someone complains, they are saying that they have personally been poorly treated. This poor treatment could involve a breach of their individual employment rights or bullying and the complainant is seeking redress or justice for themselves. The person making the complaint therefore has a vested interest in the outcome of the complaint and, for this reason, is expected to be able to prove their case.[7]

TYPES OF WHISTLE BLOWERS

Whistle blowers can be categorized as internal or external, open or anonymous, dutiful or freewill on the basis of the following description:

Internal *Whistle Blower and* ***External*** *Whistle Blower:* There are two types of whistle blowers, the internal whistle blowers and the external whistle blowers. Internal whistle blowing entails making allegations internally i.e. an internal whistle blower reports the wrongdoings inside the organization to another person/s working within the place of business, such as another employee, superior or authorities. An external whistle blowing occurs when the whistle blower takes the information outside the organization, to regulators, law enforcement agencies, to the media or to groups concerned with the issues. In other words, when an individual advocates beliefs or revealations outside the organization, it is called as external whistle blowing. External whistle blowers tend to be more effective in bringing about a change in organizational practices. They experience much more extensive retaliation than internal whistle blowers.[8] Practically all wrongdoings that are eventually reported externally is first reported internally, suggesting that responsiveness to an initial complaint is a key factor in avoiding external reporting. (Whistle blowing: Reaping the benefits Marcia P. Miceli and Janet P. Near). From the organizational view point, the external whistle blower is more detrimental to the goodwill of the organization.

Open and Anonymous Whistle blowing: Open whistle blowing is when the identity of the person reporting the wrongdoing is known, while such identity remains unknown in the anonymous whistle blowing. Open whistle blowing makes it easier for the organization to assess the issues, to work out how to investigate the matter, to get more information, to understand any hidden agendas, to avoid witch hunts and to minimize the risk of a sense of mistrust or paranoia developing. (source - PAS 1998:2008; Whistle blowing arrangements, Code of practice) Anonymous whistle blowing is generally considered to be less effective since follow-up with the whistle blower is not possible.

Dutiful and Freewill Whistle blowers – Dutiful whistle blowers are those who are generally given the responsibility to bring to light any wrongdoing in the organization for eg. auditors of the company are expected to report any malpractices in financial statements. Freewill whistle blowers are those who are not bound by any obligation, but they themselves take this step of reporting the wrongdoing.

7 http://www.pcaw.org.uk/faq-answers

8 Terry Morehead Dworkin , Melissa S. Baucus, "Internal vs. External Whistle blowers: A Comparison of Whistle blowing Processes", Kluwer Academic Publishers, Netherlands, pp:1-2

Issues of wrongdoings and unethical conduct which are expected to be grave and serious in nature and may involve many parties at various levels should be covered under the whistle blower policy. Minor and inconsequential matters like complaint of an employees' behavior with the fellow employee of the organization can be considered as a minor matter, but an unwanted behavior of an employee with a client of the business becomes a matter of concern and can be brought to the notice of the authorities. Also baseless claims should not be amplified through this policy.

CONSEQUENCE OF WHISTLE BLOWING: NEGATIVES AND POSITIVES

Although there are some protective measures to protect the whistle blower, it still can be extremely stressful to report the misconduct of officials in the organisation or the employer himself. The whistle blower is not only concerned about future employment opportunities, but also the criticism of colleagues and other pressure groups that look unfavorably on reporting the misconduct. He might have to face legal harassment if the employer takes action against him for reporting the misconduct. As a consequence of all these fears and possible reprisals from their organizations or colleagues whistle blowers often want to hide their identities. The following may be regarded as possible negative consequences of whistle blowing:

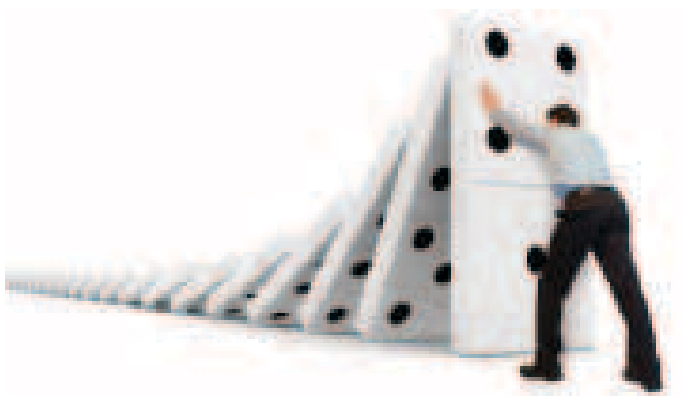
- Abuse and anger from people directly or indirectly involved in the wrongdoing,
- Whistle blowers may face hostility and resentments from peers and superiors,
- He may face an awkward social surroundings and stilted relations with his employers,
- He may be compelled to leave the organization,
- He may be demoted from the position,
- He may be transferred to a less desirable location,
- In extreme situations, his family, health, and/or life might be in jeopardy,
- It may put him into isolation (physical or psychological) from the rest of the organization,
- His credibility and future job opportunities may be at risk,
- Reputation of organisation against whom whistle has been blown may be at stake,
- The whistle blower may feel restless, fatigue, headaches, insomnia, anger, anxiety, and disillusionment
- The organization may experience loss of money

On the other hand, though rare, but possible, positive outcomes of whistle blowing could also be there, a very big example of which is the latest case of Dinesh Thakur of Ranbaxy, who was rewarded for bringing into light the malpractices in the manufacturing of drugs in Ranbaxy. The positive outcomes of whistle blowing could be:

- Promotion of the employee
- Appraisal in salary
- Reputation build-up
- Assignment of responsible work by higher authorities.
- Financial Rewards like bonus
- It can change policies that benefit employees as well as other individuals.
- By encouraging a whistle blowing culure, the organization promotes transparent structure and effective and clear communication.
- The confidence of the shareholders is increased in the organization.
- Encourage all improper, unethical or inappropriate behavious to be identified and challenged at all levels in the organization
- Protect the trust of the various stakeholders in an organization
- Motivate the sincere managers to undertake risky projects

ORGANISATIONAL POLICY ON WHISTLE BLOWING

The internal organisational policy on access to a designated authority, by persons who wish to report on unethical or improper practices within the organisation may be regarded as a whistle blowing policy. The main purpose of this is to create a platform to provide signals to the management and officials responsible for governance about potential issues of serious concern. Such a policy must provide for confidentiality with respect to the information



and the identity of the informer. It should provide for the protection of whistle blowers and quick action against the wrongdoings. This could be achieved when the designated authority dealing with whistle blowers are independent, senior and responsible. The responsible authority to which the communication may be sent, the procedure and way of sending such communication and the mode in which the information received would be processed are clearly defined in the whistle blower policy. Mostly, in the developed part of the world organizations have set up their own policy for whistle blowing.

Issues of wrongdoings and unethical conduct which are expected to be grave and serious in nature and may involve many parties at various levels should be covered under the whistle blower policy. Minor and inconsequential matters like complaint of an employees' behavior with the fellow employee of the organization can be considered as a minor matter, but an unwanted behavior of an employee with a client of the business becomes a matter of concern and can be brought to the notice of the authorities. Also baseless claims should not be amplified through this policy. The severe and genuine issues dealt with in this policy may include compromise of the organisational values (e.g., bribery, unfair trade practices and such similar serious acts); a crime against human rights (e.g., child trafficking, dealing in human organs); corruption of a high order (e.g., accounting fraud); serious disregard for the law of the land (e.g., dealing in narcotics without a licence).

ELEMENTS OF A GOOD WHISTLE BLOWING POLICY

There are laws across countries to protect whistle blowers from retaliation of superiors, peers and subordinates. According to the whistle blowing Law of Florida, "an employer may not take retaliatory personnel action against an employee because the employee has disclosed or threatened to disclose to a government agency an activity, policy or practice that is in violation of a law; or testified before an entity conducting an investigation into possible violations; or refused to participate in an activity, policy or practice that is in violation of a law, rule or regulation. Public employees cannot be discharged, disciplined, or subjected to adverse personnel action for making disclosures involving a violation of state or federal law that creates a substantial and specific danger to the public's health, safety or welfare". Similarly, in Hawaii, the Whistleb lowers Protection Act bars, private and public employers from discharging, threatening or discriminating against an employee regarding compensation, terms and conditions, location or privileges of employment because the employee reports a violation or suspected violation of a state, federal or local law, unless the employee knows the report to be false. Above mentioned are a few examples, which put forward reasons to formulate a good whistle blowing policy that should have the following key features:

Manager should address disclosures of wrongdoing to avoid damage to individual or organizational reputations and other negative consequences.

- Any disclosure to be investigated thoroughly including the interview with all the witnesses and the different parties involved in the wrongdoing.
- Mention in the whistle blowing policy, prominent provisions of the Whistle Blower Act in the country, if any, and the way in which staff who report malpractice will be protected.
- Categorically express employer's concern and commitment in dealing with malpractices and wrongdoings.
- Specify the seriousness and stringency with which such malpractices and wrongdoings will be addressed.
- Explicitly mention the names and contact details of authorities that are designated to deal with concerns of malpractice and the type of issues which should be disclosed to them.
- Specify that all staff would be protected from victimisation, harassment or disciplinary action as a result of any disclosure, where the disclosure is made in good faith and is not made maliciously or for personal gain.
- Recognise that issues may be lawfully raised externally by employees.
- Trade union representative who may also be contacted if employees have a concern to raise must be mentioned.
- Confidentiality for the whistle blower may be ensured, but also the circumstances under which confidentiality cannot be guaranteed must be specified.
- Assurance for feedback about the progress and outcome of the investigation must be provided.
- Must ensure proper recording of the concerns raised.
- Prompt and timely action with time limits established must be a part of a good whistle blowing policy of an organisation.

BENEFITS OF A GOOD WHISTLE BLOWER POLICY

The following may be regarded as benefits of a good whistle blower policy:

- Whistle blowing is relevant for and plays a crucial role in

corporate governance. A good whistle blower policy fosters good governance by encouraging employees to disassociate from dishonest actions of colleagues/ seniors/third parties. When an organisation facilitates and encourages whistle blowing, each and every employee becomes an asset protection and a human resources department representative. They also protect their own ongoing employment, personal savings and superannuation[9] in this way.

- It fosters an environment conducive for promotion of organisational values and a culture of openness and transparency in the organisation.
- Whistle blowing is an important tool in the prevention and detection of corruption and other malpractices.
- Whistle blowing helps in enhancing the Corporate Social Responsibility.
- It increases the confidence of shareholders in an organization
- Effective whistle blower policy helps the entire stakeholders of the organization and protects everyone's interests.
- It signals to the employees and management of an organisation that wrongdoings and unethical conduct will be dealt with seriously and severe action may be taken against such wrong doers.
- Effective whistle blowing policy helps the organization to improve the goodwill and credibility, thereby fostering and attracting investors to make investment decisions in an organization.
- It would discourage employees from committing fraud and being involved in unethical and unlawful activities by disseminating a fear of the specified unfavourable consequences in the event of being caught.

LEGISLATIONS ACROSS COUNTRIES

Many Federal and State whistle blower policies and laws have been adopted across different countries to protect the whistle blower from loss of employment or further retaliation. It would be pertinent to see first the statutory protection for whistle blowers in the United Kingdom and the United States of America to better understand the framework on which the Indian paradigm could be modelled upon.

WHISTLE BLOWER LAWS IN THE UNITED KINGDOM

United Kingdom sets the model in this field of legislation for the European Region including UK and EU zone. The increasing number of scams and debacles mostly among the developed part of the world reverberated the United Kingdom to have a strong Whistle blowing Law. Further inquiries into these incidences revealed the awareness among staff about the danger and mal-intentions, but due to various fears they were unable to raise the matter internally. This led to emergence of the Public Interest Disclosure Act (PIDA) 1998, as an Act of the Parliament of the UK as a means to provide protection to whistle blowers from detrimental treatment by their employer. The PIDA 1998, which came into force on 02 July 1999 protects workers that disclose information about malpractice at their workplace, or former workplace, provided certain conditions are met. The conditions concern the nature of the information disclosed and the person to whom it is disclosed. The Act not only covers the disclosures by employees but also those of workers, contractors, trainees, agency staff, home-workers, and every professional in the National Health Service (NHS). People at work who raise genuine concerns about crimes, civil offences (including negligence, breach of contract, breach of administrative law), miscarriages of justice, dangers to health and safety or the environment and follow up of any of these are covered under the jurisdiction of PIDA. The scope of this Act is quite wide and it is applicable even when the information is of confidential nature and also when the malpractice is occurring outside of UK. One important clause in the Act is the Gagging clause. "Gagging clauses" are clauses in employment contracts or compromise agreements which purport to prohibit a worker from disclosing information about his current or former workplace. This Act protects whistle blowers from any revenge taken by employers such dismissal/loss of job or denial of promotion if and when due. In the event of such vengeance the whistle blowers may put their case before an employment Tribunal, who can then award compensation.

Abundant case law was developed in UK long before Parliament stepped in and enacted the Public Interest Disclosure Protection Act, 1998 (eading cases include *Gartside* v. *Outram* (1857) 26. L.J.Ch. (N.S). From the above judgments of the English courts, it is clear that even without a Statute, the English courts granted protection to disclosures by an employee in regard to the action of his employer, which were detrimental to societal interests.

Initially, there were stray provisions or different rules or Codes giving protection to whistle blowers before the PIDA, 1998 came into force. So far as the Government is concerned, the 'Civil Service

9 http://www.transparency.org.au/documents/bfalconerpaper31jul03.pdf

Management Code' required civil servants, who believed that they were being asked to do something unlawful to report the matter to their senior officers and 'if legal advice confirmed that the action would be likely to be held unlawful, the matter should be reported in writing to the Permanent Head of the Department.'[10]The UK Sex Discrimination Act, 1975 and the UK Race Relations Act, 1976 contain provisions supporting whistle blowing. They further make it an offence to divulge information which has been disclosed by an informer if an investigation is being conducted by either the Equal Opportunity Commission or the Commission for Racial Equality.

THE PUBLIC INTEREST DISCLOSURE ACT, 1998

The Public Interest Disclosure Act is the outcome of the Nolan Committee Report, 1995, the White Paper on Freedom of Information 'Your Right to Know' (Cm 3818, Dec., 1997), the Modern Local Government (July, 1998) and the Freedom of Speech in National Health Services (letter of the Minister, 1997). The entire movement was spear-headed by 'Public Concerns for Work' consisting of Lord Borrie, Q.C., Right Honourable Lord Oliver of Aylmerton and Others. The Act took into account various disasters including the Bank of Credit and Commerce International collapse where the employee knew about mismanagement within the organization.[11]

The PIDA, 1998 aims at protecting whistle blowers from victimization and dismissal, where they have made complaints raising genuine concerns about a range of misconduct and malpractice.[12] The Act covers virtually all employees in the public, private and voluntaries sectors, and certain workers, including agencies, home workers, trainees, contractors, and all professionals in the National Health Service. The usual employment law restrictions on minimum qualifying period and age do not apply. The Act does not cover the army and the police.

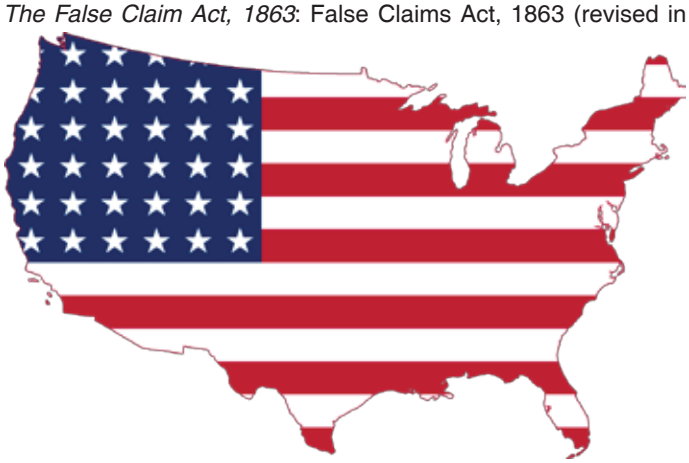
Under PIDA 1998, the workers who blow the whistle will be protected if the disclosure is made in good faith and is about (i) a criminal act, (ii) a failure to comply with a legal obligation, (iii) a miscarriage of justice, (iv) a danger to health and safety, (v) any damage to the environment. Any attempt to cover up any of these could also be covered by the disclosure. Under the scheme of the Act, there are three types of disclosure, namely, Internal disclosure Regulatory disclosure and Wider disclosure. An 'Internal disclosure' to the employer will be protected if the whistle blower has an honest and reasonable suspicion that the malpractice has occurred, or is occurring or is likely to occur. It also applies, where someone in a public body which is subject to appointment by Government (e.g. National Health Service), blows the whistle to the sponsoring department. A 'Regulatory Disclosure' is a disclosure made to a prescribed person. These persons to whom disclosure has to be made are likely to be regulators such as the Health and Safety Executive, the Inland Revenue and the Financial Services Authority. A 'Wider Disclosure' is one to the police, the media, Members of Parliament and non-prescribed regulators. They are not made for personal gain. The whistle blower must, however, meet other preconditions to win protection for this type of 'Wider disclosure'. These are that (a) he reasonably believed that he would be victimized if he had raised the matter internally or with a prescribed regulator; (b) there was no prescribed regulator; and he reasonably believed that evidence was likely to be concealed or destroyed; or (c) the concern has already been raised with the employer or a prescribed regulator. In the case of all these three types of disclosures, if the Employment Tribunal is satisfied that the disclosure is reasonable, the whistle blower will be protected. Full protection is given to the victim - whistle blower upon a claim made by the victim before the Employment Tribunal for compensation.[13]

WHISTLE BLOWER LAWS IN THE UNITED STATES

USA has a large number of whistle blower laws, both at the State and Federal level. It also has separate clauses in legislation designed to achieve health, safety or welfare objectives related to whistle blowing. Some of these enactments are as follows:

- The False Claim Act, 1863)[14]
- IRS Whistle blower Informant Award
- The Occupational Safety and Health Act, 1970
- State Whistle blower Laws
- Whistle Blower Protection Act 1989
- Sarbanes Oxley Act 2002

The False Claim Act, 1863: False Claims Act, 1863 (revised in



10 Principle 4.1.3 of the Civil Service Management Code, UK
11 The PIDA, 1998 adds Part IV A (Protected Disclosures) in the Employment Rights Act, 1996 which contains the new sections 43A to 43L, 47B, 48 (1A), amends section 49, and adds section 103A, amends sections 105, 108, 109, 112, 117, 118.
12 For details see Halsbury's Statutes, 1999, vol. 1, p. 23 (1).
13 Aishwarya Padmanabhan (2011), "Eradication of Corruption and Whistle Blowing" The Chartered Secretary' The Institute of Company Scretaries of India, Articles. September 2011, 1197-1236, p65
14 Because it was passed under the administration of President Abraham Lincoln, the False Claims Act is often referred to as the "Lincoln Law".

The Whistle Blowers Protection Act, 2014 , which is not applicable to corporate sector provides for a system to encourage people to disclose information about corruption or the willful misuse of power by public servants, including ministers.

1986) is widely regarded as the most efficient and effective tool in combating fraud against the federal governemt. This Act was enacted by the Congress during 1863 at the time of the Civil War in the United States and is regarded as the very first law in the United States in combating fraud and corruption against the Government. The False Claim Act provided that any person who knowingly submitted false claims to the government was liable for double the government's damages plus a penalty of $2,000 for each false claim. Since then, the False Claim Act has been amended for several times. The law includes a "qui tam" provision that allows people who are not affiliated with the government, called "relators" under the law, to file actions on behalf of the government (informally called "whistle blowing" especially when the relator is employed by the organization accused in the suit). Persons filing under the Act stand to receive a portion (usually about 15–25 percent) of any recovered damages. As of 2012, over 70 percent of all federal Government FCA actions were initiated by whistle blowers. Claims under the law have typically involved health care, military, or other government spending programs, and dominate the list of largest pharmaceutical settlements. The government recovered $38.9 billion under the False Claims Act between 1987 and 2013 and of this amount, $27.2 billion or 70% was from qui tam cases brought by relators.

IRS Whistle blower Informant Award: Under the IRS Whistle blower Informant Award Programme, the IRS Whistle blower Office pays money to people who blow the whistle on persons who fail to pay the tax that they owe. If the IRS uses information provided by the whistle blower, it can award the whistle blower up to 30 percent of the additional tax, penalty and other amounts it collects. The IRS rewards people who provide specific and credible information if it results in the collection of taxes, penalties, interest or any other amounts from the noncompliant taxpayer.

The Occupational Safety and Health Act, 1970: The Occupational Safety and Health Act is the primary federal law which governs occupational health and safety in the private sector and federal government in the United States. It was enacted by Congress in 1970 and was signed by President Richard Nixonon December 29, 1970. Its main goal is to ensure that employers provide employees with an environment free from recognized hazards. This Act also protects workers against retaliation for complaining about unsafe and unhygienic conditions at the workplace, public safety hazards, environmental concerns, violations of federal provisions related to any form of securities fraud or their engagement in any sort of protected activities. The Act provides protection in case the complaint is made to any of the following agencies: to employers, unions, the Occupational Safety and Health Administration (OSHA), or other government agencies. Whistle blowers tend to be protected against any transfers, denial of a raise in salary when due, having their hours of work reduced, being fired or being punished in any other way.

State Whistle blowers Laws: At the state level in USA, each state has designed distinct laws on whistle blowing, to provide protection to the whistle blowers. It appears that there are more than a hundred statutes in the various States in US which protect different classes of whistle blowers. In some of the States the protection is extended to employees in the private sector also including laws which also deal with the 'right to disobey' illegal orders of superiors.[15]

Whistle Blower Protection Act, 1989: The Whistle Blowers Protection Act, 1989 (as amended in 1994), is a federal law in the United States, which protects federal whistle blowers i.e., persons who work for the government and report about agency misconduct. When a federal agency takes or fails to take (or threatens to take or fail to take) a personnel action in relation to any employee or applicant due to a disclosure of information by him/her it violates the Whistle blower Protection Act. The disclosure may evidence a violation of law, rules or regulations; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety. To facilitate and provide for the hearing and adjudication of matters relating to such whistle blowers a 'Merit Systems Protection Board' has been created. It is composed of three members appointed by the President, by and with the advice and consent of the Senate, and not more than two of whom may be adherents of the same political party. The principal office of the Board is located in the District of Columbia with field offices present in other appropriate locations. The Office of

15 Robert G. Vaughn (1999), "State Whistle Blowers' Statutes and the Future of Whistle Blowers Protection", 51 Administrative Law Review pg. 582.

Special Counsel (OSC) is a part of the protection board, designed specifically to protect the whistle blowers against any retaliatory discrimination in future promotions. This law created the OSC to investigate complaints and grievances of bureaucrats about being punished following reports about waste, fraud, or abuse in their agencies to the Congress. The employees of the U.S. Securities and Exchange Commission (SEC) alleging of whistle blower retaliation are covered under the jurisdiction of OSC. The Office of the Special Counsel (OSC) has jurisdiction over allegations of whistle blower retaliation made by employees of the US Securities and Exchange Commission (SEC).

The employee can also seek 'interim relief under this law. Apart from 'interim relief', the 1989 Act provides a successful employee, i.e., one who obtains reinstatement or other success, to opt to go to another department, on transfer. The other remedies now saved are those under Back Pay Act, Civil Rights Act, 1871, Privacy Act, 1976 and 1997 and the Tucker Act, 1994, the Veterans Preference Act, 1994 and others.

Twenty new amendments were added in 1994 to strengthen protection under this law. After 1994, the employer cannot resort to "any other significant change in duties, responsibilities or working conditions". The 1994 Amendments enable consequential damages, medical expenses also to be paid with a view to restore the employee wholly to the *status quo ante* as if no retaliation had occurred. Since 1994, the complaints (appeals) before the Board have yielded substantial results in favour of the employees. The said protective provisions of the Act of 1989 are therefore of far-reaching importance and are wider than the UK Act of 1998.

Sarbanes Oxley Act, 2002: As an aftermath of the Enron scandal and in an effort to restore public confidence in the securities market, the Congress of the USA adopted the Sarbanes Oxley Act of 2002 (SOX) which was enacted on 30 July, 2002. The Sarbanes Oxley Act was enacted mainly to restore the public confidence in the reliability of financial reporting followed by the Enron debacle. The Act was mainly designed to enhance the reliability of financial reporting and improve the quality of audit report. This Act encourages and protects whistle blowers by providing various channels for anonymous whistle blowing, fixing criminal penalties for those retaliating against whistle blowers, and protection of the work status of whistle blowers. It applies to all publicly registered companies issuing securities in any American secondary exchange market.

The statute primarily deals with officers, employees, contractors, subcontractors and agents of only the public companies. These individuals of covered companies are subject to a liability in their personal (non-official) capacities. Any employee who "assists in any proceeding actually filed or about to be filed relating to securities fraud or fraud against shareholders" is protected under the provisions of this statute. By virtue of protected disclosure such an employee is protected against discharge, demotion, suspension, harassment or discrimination in any other way because the whistle blower is not only protected from potential retaliatory actions of employer/company, but also such actions by any officer, employee, contractor, subcontractor or agent of the company in question. Section 301 of this Act requires the development of whistle blowing procedures of anonymous disclosures relating to accounting and auditing matters by the audit committees of such covered companies. However, the Act has received its share of criticism over the last many years due to the presence of Section 404 which mainly focuses on internal control over the financial reporting.

WHISTLE BLOWER LAWS IN INDIA

The issue relating to protection for whistle blowers in India caught attention of the entire nation in November 2003 when Satyendra Dubey the project director of the National Highways Authority of India (NHAI) got killed. His tragic death came after he had written to the office of then Prime Minister detailing corruption in the Golden quadrilateral highway construction project. In his letter, he had requested for maintaining secrecy in relation to his identity. However, the letter was forwarded to various concerned departments without masking Dubey's identity. Dubey's attempt to fight corruption which is largely prevalent in the country followed by his murder led to a public outcry at the failure to protect him. As a consequence, in April 2004, the Supreme Court of India pressed the government to issue an office order, the Public Interest Disclosures and Protection of Informers Resolution, 2004. This resolution designated the Central Vigilance Commission (CVC) as the nodal agency for handling complaints on corruption.

Another similar incidence of murder of Manjunath Shanmugham, an IIM graduate and a sales manager of the Indian Oil Corporation on Nov 19, 2005 once again shocked India. He got killed for exposing the racket of adulteration of petrol and the mafia behind it. This happening brought renewed focus on the need for a law to protect whistle blowers. The killings of whistle blowers such as Dubey, Shanmugham and many more RTI activists by anti-social elements with vested interests have prompted the government to draft a Bill on Whistle blowers protection, known as the Public Interest Disclosure (Protection of Informers) Bill, 2010. Ultimately,

the Whistle Blowers Protection Bill, 2011 was approved by the Cabinet as part of a drive to eliminate corruption in the country's bureaucracy, passed by the Lok Sabha on 27 December 2011, by the Rajya Sabha on 21 February 2014 and received the President's assent on 9 May 2014.

WHISTLE BLOWERS PROTECTION ACT, 2014

The Whistle Blowers Protection Act, 2014 , which is not applicable to corporate sector provides for a system to encourage people to disclose information about corruption or the willful misuse of power by public servants, including ministers. As per the law, a person can make a public interest disclosure on corruption before a competent authority — which is at present the Central Vigilance Commission (CVC). The government, by notification, can appoint any other body also for receiving such complaints about corruption, the Act provides. The Act, however, lays down punishment of up to two years in prison and a fine of up to Rs 30,000 for false or frivolous complaints. Information related to national security has been kept out of the purview of the Act. The Act is not applicable to Jammu and Kashmir, the armed forces and the Special Protection Group mandated to provide security to the Prime Minister and former Prime Ministers, among others.

MAIN HIGHLIGHTS OF THE WHISTLE BLOWER ACT

Disclosure

The Act seeks to protect whistle blowers, i.e. persons making a public interest disclosure related to an act of corruption, misuse of power, or criminal offense by a public servant. The Act provides that any public servant or any other person, including a non-governmental organization may make a public interest disclosure to a Competent Authority i.e. the Central or State Vigilance Commission. However, the Act restricts the public interest disclosures accepted against defence, police and intelligence personnel. Furthermore, each disclosure shall be accompanied by full particulars and supporting documents. Moreover, the Vigilance Commission is not to entertain anonymous complaints. The Act has a limited definition of disclosure and does not define victimisation. However, other countries such as US, UK, and Canada define disclosure more widely and define victimisation.

Procedure of Inquiry

The Act, under section 6 provides for the procedure of inquiry. The Vigilance Commission, at first, should ascertain the identity of the complainant and has to protect such identity unless the complainant has revealed it to any other authority. Any public servant or any other person including a non-governmental organization may make such a disclosure to the Central or State Vigilance Commission. After conducting the inquiry, if the Commission feels that there is no substantial matter or merit in the case, it shall close the case or if the inquiry substantiates allegation of corruption or misuse of power, it shall recommend certain measures to the public authority within the jurisdiction of the Commission. The Act also provides or the measures to be taken such as it can initiate proceedings against the concerned public servant or it can take steps to redress the loss that has been caused to the government. It can also recommend the initiation of criminal proceedings against the official or necessary corrective measure. Other than these, it can take any other action which is imminent for the purpose of the Act.

Exemptions

The Act exempts certain matter under section 11 from inquiry of the Vigilance Commission such as when it has been decided by a Court or Tribunal, if a public inquiry has been ordered, or if the complaint is made five years after the action. The Act also exempts disclosure of proceedings of the Cabinet if it is likely to affect the sovereignty of India, the security of the state, friendly relations with foreign states, public order, decency or morality which has to be certified by the Secretary to the State or Central Government.

Protection of the Persons Who Make Public Interest Disclosure

The Act has been framed keeping in view the interest of the person who makes the public interest disclosure. In other words, the Act seeks to protect whistle blowers, i.e. persons making a public interest disclosure related to an act of corruption, misuse of power, or criminal offence by a public servant. The Act protects the persons who make public interest disclosures or have assisted in such matters from possible victimization or harassment and the Central Government has to ensure such protection . The Commission has been empowered to give proper direction to the concerned authorities for the protection of the complainant or witness either on an application by the complainant or based on its own information. It can also direct that the public servant who made the disclosure may be restored to his previous position.The Vigilance Commission shall protect the identity of the complainant and related documents, unless it decides against doing so, or is required by a court to do so. Furthermore, the Commission is empowered to pass interim orders to prevent any act of corruption continuing during inquiry.

Penalty

The Act aims to balance the need to protect honest officials from undue harassment with protecting persons making a public interest disclosure. It punishes any person making false complaints. However, it does not provide any penalty for victimising a complainant. The Act lays down that for not furnishing reports to the Vigilance Commission, a fine of up to Rs 250 shall be imposed for each day till the report is submitted. The total penalty amount, however cannot exceed Rs 50,000. The penalty for revealing the

identity of complainant negligently or due to malafide reasons, the penalty is imprisonment for up to 3 years and a fine of up to Rs 50,000. When a person knowingly makes false or misleading disclosures with mala fide intentions, the penalty is imprisonment up to 2 years and a fine of up to Rs 30,000. Any person aggrieved by an order of the Vigilance Commission relating to imposition of penalty for not furnishing reports or revealing the identity of complainant may file an appeal to the High Court within 60 days.

CONCLUSION

Whistle blowers can play a very important role in providing information about corruption and mal-administration. Public servants working in the same department know better as to who is corrupt in their department but unfortunately, they are not bold enough to convey the said information to higher authorities for fear of reprisals by those against whom complaints are made. If adequate statutory protection is granted, there can be no doubt, that the government will be able to get more information regarding corruption and mal-administration. Such provisions exist in developed countries like England, Australia, New Zealand and in the United States of America. Whistle Blowers Protection Bill, 2011 was approved by the Cabinet as part of a drive to eliminate corruption in the country's bureaucracy, passed by the Lok Sabha on 27 December 2011, by the Rajya Sabha on 21 February 2014 and received the President's assent on 09 May 2014. It is high time that a similar type of law is enacted in India for corporate sector to formulate and enforce code of conduct to check malpractices, cases of corruption and corporate scams. Moreover, the law should be strict and facilitate expeditious decision making because quality of law lies in its implementation. CS

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Suspension of Payment to Creditors: Law, Issues and Interpretation

A person, who, at any time has suspended payment to creditors or has made a compromise with them is ineligible to be appointed as a managing director or whole time director or manager in a company. The scope and extent of this disqualification is looked into minutely in the following discussion.

BACKGROUND

Section 196 (3) (c) of the Companies Act, 2013, among other things provides that a person cannot be appointed as a managing director, whole-time director or manager if he has at any time suspended payment to his creditors or makes, or has at any time made, a composition with them. Therefore, it becomes important to understand as to what amounts to "Suspension of Payment to Creditors" and "Composition with Creditors". Will it include a single act of dishonor of payment or continuous dishonor? Will compromise and arrangement under Chapter XV of the Companies Act be treated as "composition with v. reditors"? Does a simple arrangement of accord and satisfaction in due course of business amounts to "composition with creditors"? These and many other questions arise which are important to be addressed.

WHAT IS MEANT BY "SUSPENSION OF PAYMENT"

It happens many a times in the due course of business that materials, equipments, services etc are procured on credit basis i.e by deferment of payment to be paid on a future date or loans and advances are availed from banks/Financial Institutions/firms etc. whose payment is made at a future date. It may also happen

that the deferred payment is satisfied in full, made in part or paid partly but in full satisfaction of the liability or not satisfied at all.

Now, the issue involved is if a person has made payments in part and has not made further payments or paid part of it but in full satisfaction of the liability or has not satisfied at all, can he be treated as not eligible to be appointed as a managing director, whole-time director or manager?Therefore, it becomes important to address what amounts to "suspension of payment".

The Dictionary meaning of "suspend" is "to cause to stop for a period; interrupt or To hold in abeyance; defer". It can be seen that the section uses the words "has at any time suspended payment to his creditors" which implies that the section does not make distinction between part payments and non payments. It is only concerned with suspension of payments whether or not part or full suspension. Therefore, the section will get triggered when the individual has suspended part payments or complete payments.

However, the section does not apply if the person has made part payments in full satisfaction of the claim. The Calcutta High Court in its judgment in S*now View Properties Ltd.* v. *Punjab & Sind Bank* High Court of Calcutta, G.A. No. 6 of 2010, A.P.O.T. No. 6 of 2010, W.P. No. 411 of 2007 made a reference to Illustration (b) to Section 63 of the Indian Contract Act, 1872 which reads as under:

"(b) A owes B 5,000 rupees. A pays to B, and B accepts in satisfaction of the whole debt, 2,000 rupees paid at the time and place at which the 5,000 rupees were payable. The whole debt is discharged."

The court took the view that part payments in full satisfaction of the claim amounts to complete discharge of the claim.

WHAT IS MEANT BY "COMPOSITION WITH CREDITORS"

Companies Act, 2013 nowhere defines "composition with creditors". Therefore reference can be made to the definitions in some legal dictionaries which are as under:

"A contract made by an insolvent or financially pressed debtor with two or more creditors in which the creditors agree to accept one specific partial payment of the total amount of their claims, which is to be divided pro rata among them in full satisfaction of their claims."

"An agreement, made upon a sufficient consideration, between an insolvent or embarrassed debtor and his creditors, whereby the latter, for the sake of immediate payment, agree to accept a dividend less than the whole amount of their claims, to be distributed pro rata, in discharge and satisfaction of the whole."

A composition with creditors is an agreement not only between the debtor and the creditors but also between the creditors themselves to accept less than what was owed. It is a contract and such an arrangement is largely governed by contract law. There must be meeting of the minds or mutual assent between the debtor and the creditors before a composition is made. A debtor must accept an offer by the creditors to accept partial payment of the amounts outstanding for the composition to be binding. The creditors themselves must also agree to the amount they will accept in satisfaction of their claims. They rely on mutual concessions of their rights to full payment in order to further the common purpose of securing their claims.

Like any contract, a composition with creditors must be supported by consideration to be enforceable. Each creditor's promise to accept a *pro rata* share of the partial payment, as opposed to full payment of what is due, is consideration for the other creditors and the debtor. The surrender of debtor's right to file a petition for bankruptcy is deemed consideration for the creditors.

PART PAYMENT

The next question that is to be addressed is does part payment in full satisfaction of the claim amounts to composition with creditors? A composition with creditors is not the same as an accord. Unlike an accord, which is an arrangement between a debtor and a single creditor for the discharge of an obligation by partial payment, a composition is an arrangement between a debtor and a number of creditors acting collectively for the liquidation of their claims.

Indian Laws do not specifically deal with composition with creditors; hence a reference can be made to Common Law. At the Common Law the concept can be understood with reference with *Bank v. McGeoch, 92 Wis. 280, GO N. W. GOG; Crossley v. Moore, 40 N. J. Law, 27; Crawford v. Krueger, 201 Pa. 348, 50 Atl. 931; In re Merriman's Estate, 17 Fed. Cas. 131; Chapman v. Mfg. Co., 77 Me. 210; In re Adler (D. C.) 103 Fed. 444,* in which the judiciary took a view that- *"Composition" should be distinguished from*

debtor and a single creditor for a discharge of the obligation by a part payment or on different terms. The former designates an arrangement between a debtor and the whole body of his creditors (or at least a considerable proportion of them) for the liquidation of their claims by the dividend offered".

Further Section 38 of the Provincial Insolvency Act, 1920 provides as under:

"38. Compositions and schemes of arrangement.-

(1) Where a debtor, after the making of an order of adjudication, submits a proposal for a composition in satisfaction of his debts, or a proposal for a scheme of arrangement of his affairs, the Court shall fix a date for the consideration of the proposal, and shall issue a notice to all creditors in such manner as may be prescribed.

(2) If on the consideration of the proposal, a majority in number and three fourths in value of all the creditors whose debts are proved and who are present in person or by pleader, resolve to accept the proposal, the same shall be deemed to be duly accepted by the creditors.

(3) The debtor may at the time of meeting amend the terms of his proposal if the amendment is, in the opinion of the Court, calculated to benefit the general body of creditors.

(4) Where the Court is of opinion, after hearing the report of the receiver, if a receiver has been appointed, and after considering any objections which may be made by or on behalf of any creditor, that the terms of the proposal are not reasonable or are not calculated to benefit the general body of creditors, the Court shall refuse to approve the proposal.

(5) If any facts are proved on proof of which the Court would be required either to refuse, suspend or attach conditions to the debtor's discharge, the Court shall refuse to approve the proposal unless it provides reasonable security for payment of not less than six annas in the rupee on all the unsecured debts provable against the debtor' s estate.

(6) No composition or scheme shall be approved by the Court which does not provide for the payment in priority to other debts of all debts directed to be so paid in the distribution of the property of an insolvent.

(7) In any other case the Court may either approve or refuse to approve the proposal."

Now from the text of this section, more specifically from the underlined ones, it can be easily inferred that references in the section are made to a group of creditors which in turn means that an "act" in order to be called as composition with creditors, there has to be more than one creditor and there should be a uniformity among all of them (creditors) as to composition. Therefore, as a part of normal business dealing, if a claim is satisfied lesser than what it was due but in full satisfaction with a creditor, it would not amount to composition with creditors. Further, as mentioned earlier, a reference can be made to the decision of The Calcutta High Court in *Snow View Properties Ltd.* v. *Punjab & Sind Bank* in which a reference was made to Illustration (b) to Section 63 of the Indian Contract Act, 1872.

Again the Supreme Court in *National Insurance Co. Ltd.* v. *Boghara Polyfab (P) Ltd.*, (2009) 1 SCC 267, explained the principle of discharge of contract by 'accord and satisfaction'. In paragraph 27 of the decision, it held as follows:

"27. While discharge of contract by performance refers to fulfillment of the contract by performance of all the obligations in terms of the original contract, discharge by "accord and satisfaction" refers to the contract being discharged by reason of performance of certain substituted obligations. The agreement by which the original obligation is discharged is the accord, and the discharge of the substituted obligation is the satisfaction. A contract can be discharged by the same process which created it, that is, by mutual agreement. A contract may be discharged by the parties to the original contract either by entering into a new contract in substitution of the original contract; or by acceptance of performance of modified obligations in lieu of the obligations stipulated in the contract."

> Like any contract, a composition with creditors must be supported by consideration to be enforceable. Each creditor's promise to accept a *pro rata* share of the partial payment, as opposed to full payment of what is due, is consideration for the other creditors and the debtor. The surrender of debtor's right to file a petition for bankruptcy is deemed consideration for the creditors.

Hence, composition with creditors is all together a different thing from accord and satisfaction.

OTHER IMPORTANT ASPECTS

Single act or continuance of it?

It may also be inferred that one single isolated act of suspension of payment or composition with creditors is sufficient, there is no need to establish that the suspension was perennial since the words used are "has at any time".

What if suspension ceases?

If the person suspends payment to its creditors but subsequently makes full payment or makes part payments in full satisfaction of the claim the, will the disqualification continue. It is interesting to note the wordings of Section 196 (3) (c) which reads as under:

"has at any time suspended payment to his creditors or makes, or has at any time made, a composition with them."

The words used in the section are *"has at any time".* Therefore, a person cannot be appointed as a managing director, whole-time director or manager even after he has made complete satisfaction of the claim either by complete payment or part payment in full satisfaction of the claim.

Compromises

Does Compromise or Arrangement under Chapter XV of the Companies Act, 2013 amounts to Composition? The question does not arise since the disqualifications mentioned in Section 196 (3) of the Companies Act, 2013 are in respect to individuals and not the Company.

Partnerships

What if a partnership firm and a Limited Liability Partnership suspend payment to creditors or make composition with them? This is an interesting question and it becomes important to know the relationship between a partner and the partnership firm. In terms of Section 18 of the Partnership Act, 1932 a partner is an agent of the firm and Section 19 of the Partnership Act, 1932 talks about the implied authority of the partner to bind the firm subject to conditions specified in Section 20, 21 and 22 of the Partnership Act, 1932. Further as per Section 25 of the Partnership Act, 1932 the liability of a partner is unlimited. In the first instance it may seem that if a firm has suspended payment to it's creditors or made composition with them, the partners of that firm are disqualified from being appointed as a Managing Director, Whole-time Director or Manager of a Company since in the eyes of Law the firm and the partners are one and the same and the partnership firm does not has a distinct legal identity. However, this is not so. Section 196 (3) (c) reads as under: "has at any time suspended payment to his creditors or makes, or has at any time made, a composition with them." The word used in the section is "his creditors" which implies that the Section is attracted only when the person has suspended payment to only his creditors or made composition with them and not when the same is done by the firm or even when done by him but on behalf of the firm.

Now a question may arise that when the firm and its partners are same in the eyes of law, then why not its partners be disqualified from being appointed under Section 196 of the Companies Act, 2013 if the firm, in which they are partners, has suspended payment to it's creditors or made composition with them? This question should be answered not merely from its legal aspects but also from its "Accounting" and "taxation" aspects.

Accounting aspects

Accounts of the firm are prepared separately than that of the partner. There is a clear distinction between the creditors of the firm and creditors of each individual partner. That is to say that the creditors of the firm are not shown as creditors in the books of the partners. Even though the partners' liability is unlimited for the debts of the firm but this case cannot be treated as that the partners have suspended payment to its creditors or made composition with

them, it is the firm who has done so since those creditors do not exist in the books of those individual partners.

Taxation aspects

Under section 139 of the Income Tax Act, 1961 a partnership firm is treated as a separate assessee distinct from its partners. Further under Section 139A of the Income Tax Act, 1961, separate PAN is allotted to a partnership firm and the partners as individuals. This implies that partners and partnership firm are different assessees.

Further in terms of Section 37 of the Income Tax Act, 1961, general deduction is allowed in respect of bad debts incurred by an assessee. Therefore, a partnership firm cannot claim deductions for the bad debts of the partners; it can claim deductions only for the bad debts of the firm and vice versa.

According to Section 196 (3) (c) of the Companies Act, 2013 and on the basis of above discussion, it can be seen that a person does not becomes ineligible from being appointed as managing director, whole-time director or a manager if the firm, in which he is a partner, has suspended payment to its creditors or has at any time made composition with them.

LIMITED LIABILITY PARTNERSHIP

A limited liability Partnership (LLP) is a separate legal entity distinct from its partners. It is Body Corporate and has a perpetual succession. Therefore, like a Company, the question of disqualifications mentioned in Section 196 (3) of the Companies Act, 2013 does not arise since those disqualifications are in respect to individuals and not a Body Corporate.

TEST OF COMPOSITION WITH CREDITORS

An arrangement between a debtor and creditors will be treated as "Composition" only if following conditions are satisfied:

- There are more than one Creditor
- The Creditors are creditors in the books of that person/ individual
- There is uniformity in application of the Scheme of Composition among all the creditors or classes thereof.

CONCLUSION

On the basis of above discussion it can be concluded that:

- A clear distinction must be made between Composition and accord and satisfaction
- Even a single isolated act of suspension of payment or composition with creditors will attract disqualification.
- The amount involved is immaterial. It may be Re. 1 as well
- The disqualification continues even after cessation of suspension.

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I, **Sutanu Sinha** hereby declare that the particulars given above are true to the best of my knowledge and belief.

Date : 1st March, 2015

Sd/-
Sutanu Sinha
Signature of the Publisher

Corporate Laws

LW: 20:03:2015

WORSHIP IMPEX PVT LTD v. MANORANJANA SINGH & ORS [DEL]

Company Appeal (SB) No.23 of 2014 and Company Appeal(SB) No.25 of 2014

Sanjeev Sachdeva, J. [Decided on 11/02/2015]

Brief facts:

Ms. Manoranjana Singh (respondent no.1 in both the appeals) filed a company petition before the CLB under section 397 – 398 of the Companies Act, 1956 (hereinafter referred to as the "Act") alleging oppression and mismanagement by Mr. Matang Singh and his associates in respect of M/s Positiv Television Pvt. Ltd. (the appellant in Company Appeal No. 25/2014), hereinafter referred to as " PTPL" and other group companies.

In the above said proceedings Worship Impex Pvt Ltd hereinafter referred to as "WIPL" (the appellant in Company Appeal No. 23/2014) was impleaded as a proforma party. The CLB initiated suo motu investigation against the affairs and ownership of WIPL.

The appellants are aggrieved by the exercise of the suo motu powers by the CLB under section 247 (1A) of the Act and the direction to the Central Government to appoint a team of inspectors of unimpeachable integrity for investigating into the affairs of WIPL for the purposes of determining the true persons who are or have been instrumental in providing funds to WIPL to the extent of Rs. 150 Crores and also for determining the true persons who are or have been financially interested in gaining control over PTPL and its group companies through WIPL.

Decision: Appeals allowed.

Reason:

The difference in the scheme of the Act is clearly apparent. While section 235, 237 and 247(1) deal with investigation into affairs of a or any company and section 239 deal with investigation into the affairs of a body corporate connected in the specified manner with the said company whose affairs are being investigated, section 247(1A) deals with investigation into affairs of the company which is subject matter of any proceedings pending before the CLB.

Section 247(1A) uses the expression "the company" in contradistinction to the expression "a company" or "any company" used in sections 235, 237, 239 and 247(1). The expression "the company" in section 247 (1A) has also to be read in conjunction with the expression "in the course of any proceeding before it".

The use of the expression "a" and "any" along with the word "company" signifies the intention of the legislature that it is to operate in respect of a company or any company in general. However, the use of the expression "the" along with the word "company" in section 247(1A) signifies that it refers to a particular company. When the expression "the company" in section 247(1A) is read in conjunction with the expression "in the course of any proceeding before it", it is clear that the provision is applicable in respect of the company which is subject matter of the proceedings before the CLB. The expression "the company" would take colour and be qualified by the expression "in the course of any proceeding before it". The use of the expression "in the course of any proceeding before it" implies that there must be some proceedings pending before the CLB before the power to direct investigation can be ordered. The use of the expression "the company" implies further that it refers to the company in respect of which the proceedings are pending before the CLB. The use of the expression "in the course of any proceeding before it" cannot be read liberally so as to empower the CLB to direct investigation into the affairs of any company connected or unconnected with the proceedings or which is merely a party to the proceedings. In a proceeding under section 397 for oppression and mismanagement, the expression "the company" would refer to the company in respect of which the allegation of oppression and mismanagement has been made and not to other companies that may be party to the proceedings either as petitioner or as proforma respondent. Section 247(1A) would not empower the CLB to direct investigation into the affairs of a company which is merely party to the proceedings but is not the company in respect of which there is any allegation of oppression and mismanagement.

In the case at hand, the CLB has passed the order in the nature of an interim order in an application seeking impleadment. There is clearly no formation of opinion by the CLB that the "true persons who are or have been financially interested in the success or failure of the company, are different from the persons who appear to be the members of the company or the "true persons who are or have been able to control or materially influence the policy of the company, are different from the persons who appear to be in the control of the company and a probe into the company's affairs is desirable in the interest of the company itself, and/or in public interest and that such an investigation was required into the affairs of WIPL. There was admittedly no request or prayer made by the respondent for the same. Parties have not even been put to notice

that such an order was contemplated. Parties have admittedly not been heard on this issue. There is clearly a violation of the principles of natural justice.

Furthermore, the proceedings in which directions have been issued in suo motu exercise of powers under section 247(1A), in respect of WIPL, are not proceedings in respect of WIPL. WIPL is not even a party to the said proceedings. Though an application seeking impleadment of WIPL is pending but it is yet to be decided by the CLB. Even if the said application were to be allowed and WIPL was impleaded as a party, it would make no difference as the proceedings do not relate to the affairs of the company WIPL. Merely because WIPL is impleaded as a party to the proceedings would not empower CLB to direct an investigation into its affairs as permitting so would render the very words "in the course of the proceedings before it" otiose. The proceedings pending before the CLB are not proceedings in respect of WIPL.

Thus, it is clear that the CLB has committed an error and the direction for investigating into the affairs of WIPL in exercise of powers conferred under section 247(1A) is clearly not sustainable. In view of the above, the appeals are allowed. The impugned order dated 09.05.2014 is set aside.

LW: 21:03:2015

U.P.STATE INDUSTRIAL DEVLOPMENT CORPORATION LTD v. MONSANTO MFG. (P) LTD. & ANR [SC]

Civil Appeal No.2731 of 2005

Sudhansu Jyoti Mukhopadhaya & V. Gopala Gowda, JJ. [Decided on 29/01/2015]

Lease agreement – industrial plots – transfer of shares by promoter group of the lessee company – whether results in the alteration/change of MoA and AoA – whether results in transfer of lease – whether liable to pay the transfer fee – Held, Yes.

Brief facts:

Monsanto Manufactures Private Ltd (respondent-Company) applied to appellant-Corporation for grant of lease of plot of land bearing no.38/1-A situated in Sahibabad Industrial Area, Site No.4 of Tehsil and District Ghaziabad admeasuring 14,533 square yards for the purpose of constructing an industrial unit. The appellant-Corporation after receiving part premium of the plot land executed an agreement for licence and the possession of the land was given on 12th June, 1978. After construction of the building of the factory, the respondent-Company and the appellant-Corporation executed a deed of lease on 5th September, 1979 for a period of 90 years. Later, the appellant-Corporation vide letter dated 12th April, 1994 asked the respondent-Company to provide the list of its Directors and shareholders duly certified by the Chartered Accountant. The same was furnished by the respondent-Company to the appellant-Corporation on 7th May, 1994. According to the appellant- Corporation the respondent-Company changed the Directors and shareholders without prior permission and consent of the appellant-Corporation and since the respondent-Company was purchased by the present Directors from the previous Directors. The appellant-Corporation by letter dated 27th May, 1994 asked for details in order to take necessary action in accordance with the terms of the lease deed. The respondent-Company categorically denied the allegations levelled by the appellant-Corporation by their letter dated 27th September, 1994.

By letter dated 1st October, 1999 the appellant-Corporation demanded Rs.25,51,781/- from respondent-Company towards transfer levy charges as the original shareholders of the respondent-Company transferred their entire shareholding and interest to the new shareholders and there was change in the Directors of the respondent-Company. According to the appellant such change makes the shifting of the controlling interest of the respondent-Company and transfer levy for the same was demanded from the respondent-Company as per the rules of the Corporation. The Company submitted its reply vide letter dated 8th December, 1999 and reiterated its earlier stand to the effect that there is no breach of any terms of the lease deed as no transfer or assignment or sale of premises in question has been made. However, it was not accepted by the Corporation, who sent another reminder dated 13th January, 2000 asking the Company to pay a sum of Rs.25,51,781/- towards transfer levy charges.

The aforesaid demand notice was challenged by the respondent-Company before the High Court of Allahabad which by impugned judgment dated 11th May, 2004 allowed the writ petition.

Decision: Appeal allowed.

Reason:

For deciding the issue involved in the present case it is necessary to refer certain clauses of licence agreement, lease deed and guidelines issued by the appellant-Corporation.

Clause 4(h) of the licence agreement prohibits licensee's acts to directly or indirectly transfer, assignment, sale, encumber or part with its interest under the benefit of the said Agreement without previous consent in writing of the Grantor.

Sub-Clause (p) of Clause 3 of lease deed also prohibits any alteration in the Memorandum and Articles of Association or in its capital structure without the written consent of the Lessor.

The Corporation has issued guidelines for transfer/re-construction in respect of the plots in the industrial area of the Corporation. Clause

6.01(E) of the said guidelines prescribes Transfer Levy and Clause 6.01(F) defines transfer.

In the present case the entire shareholding of Goyal family headed by Mr. Amar Nath Goyal in the said company was transferred to the Mehta- Lamba Family. The entire list of shareholders, Managing Director and Board of Directors was provided by Monsanto to the appellant-Corporation vide letter dated 7.5.1994. The record shows that the original subscribers of shares were members of Goyal family and the entire shareholding was transferred to Mehta-Lamba family. Therefore, the original subscribers of shares of respondent No. 1 Company were totally changed.

The "Memorandum of Association" of a company limited by shares mandatorily prescribes in "Table-B" (Table-B of 1956 Act and Table-A of 2013 Act deals with Company Limited by shares) of the Companies Act mandatorily prescribed that the names, addresses, description, occupation of subscribers shall be given in Memorandum of Association. In this case as the original subscribers of shares were changed in 1994, there was material alteration in the "Memorandum of Association" of respondent no. 1 Company.

It was also contended that there was an alteration in "Articles of Association" of respondent no. 1 Company as well. The last column of "Articles of Association" also mandatorily provides for giving names, addresses and description of subscribers. In this case, the subscribers of shares has been completely changed from the Goyal Family to Mehta-Lamba Family and hence there was material alteration of "Articles of Association" of the respondent no. 1 Company.

In this case, the ownership of a huge Industrial plot measuring 14,533 sq. ft. in the prestigious and economically affluent area of Sahibabad (Ghaziabad) has been transferred from Goyal family to the Mehta- Lamba family for material financial gains, by adopting clever means that too without taking written consent of the Lessor i.e. appellant- Corporation. There are many instances/examples in which the lessee gets allotment of huge industrial plots and thereafter sells the same for huge monetary gains. This adversely affects the aims and objectives of appellant- Corporation i.e. the planned development of industrial areas in the State of Uttar Pradesh. The Hon'ble High Court ought not to have interfered in the matter looking into the public interest involved and Clause 3(p) of the lease deed.

LW: 22:03:2015

SYSTEM FOR INTERNATIONAL AGENCIES v. RAHUL COACH BUILDERS P. LTD [SC]

Arbitration Petition No.6 of 2014

Anil R. Dave, J. [Decided on 16/02/2015]

Arbitration and Conciliation Act,1996 read with Companies Act,1956 – arbitration clause provided arbitration under the bye laws of Indian Companies Act,1956 – No such bye laws in the act – whether arbitrator could be appointed – Held, No.

Brief facts:

The arbitration clause incorporated in the agreement regarding sale contract dated 2nd May, 2011 reads as under:

"Disputes: In case of any dispute arising out of this agreement between the parties, the same shall be referred to the arbitration under the by-laws of Indian Companies Act 1956 and all amendments of this Act up to date or shall be settled and decided by arbitration as per International Trade Laws and all amendments of this Act up to date."

The court was required to examine whether the above clause constitutes an arbitration agreement between the parties.

Decision: Application dismissed.

Reason:

Upon perusal of the said clause it is very clear that the parties to the agreement had agreed to refer the dispute to arbitration under the provisions of the "By-laws of Indian Companies Act, 1956".Though an effort was made to show that in a reply to a winding up petition, one of the parties had agreed to refer the matter to arbitration but there also was vagueness and even that willingness to refer the dispute to an arbitrator cannot be said to be an arbitration agreement.

Upon perusal of the aforestated clause, it is clear that the clause with regard to arbitration is quite vague and as there are no by-laws framed under the provisions of the Companies Act, no arbitrator can be appointed.

General Laws

LW: 23:03:2015

INTERNATIONAL HISPACOL S.A v. CASTMASTER ENTERPRISE PVT LTD [DEL]

I.A.No.1455/2014 in CS(OS) No. 1309 of 2012

Indermeet Kaur,J. [Decided on 18/02/2015]

Arbitration and Conciliation Act,1996 – section 8 – joint venture agreement between parties for the incorporation of a JV company – JV agreement contained arbitration clause – JV company was not incorporated – foreign party supplied goods to Indian party – failure to pay – suit filed in the civil court – whether the arbitration clause in the JV agreement applicable to this sale transaction – Held, No.

Brief facts:

A Joint Venture Agreement dated 05.7.2008 was entered into between Castmaster Enterprises Private Limited (plaintiff) and International Hispacold S.A. (defendant).The parties in principle, had agreed to collaborate together in the development of a JV company (Corporation) to serve as a legal entity in order to undertake design, development, manufacture, assemble, market,sale and service of the complete range of Hispacold products,present and future, manufactured or commercialized by Hispacold. This JV agreement contained an arbitration clause.

Though the JV agreement was entered into, the intended Corporation was not incorporated. Meanwhile, on the request of the Defendant, Plaintiff supplied certain goods under four invoices. Defendant failed to make the payment thereof and the Plaintiff filed recovery suit for the recovery of the same. Defendant filed an application seeking arbitration by invoking the arbitration clause contained in the JV agreement.

The scope and applicability of Section 8 of the said Act has been considered by various judicial pronouncements. Essential ingredients for invocation of Section 8 are: (i)That there is an arbitration clause;(ii) A party to the arbitration agreement brings an action in court against other party;(iii) The subject matter of the action be same as subject matter of the arbitration agreement; and(iv) The other party moves the court for referring the parties to arbitration before he submits his first statement on the substance of the dispute. All these conditions must co-exist.

This Court is foremost concerned with sub-clause (iii) i.e. the subject matter of action in the present suit and the subject matter of the arbitration agreement. The Joint Venture Agreement has been detailed above. The gist of this Joint Venture was that the parties had agreed that a third company (Corporation) be created which will sell the goods of the plaintiff in the market i.e. in the territory in India, Nepal, Bhutan, Bangladesh and Srilanka. This agreement even as per the defendant did come into effect, it did not take off.

The ambit of the present suit can in no manner be equated with the terms contained in the arbitration agreement. The arbitration agreement had been entered into between the parties to make a third company i.e. the Corporation to sell the goods of the plaintiff to be marketed by the defendant in India. It was nowhere connected with the independent supply of the goods made by the plaintiff to the defendant on the dates as aforenoted. The relevant language used in Section 8 is - "in a matter which is the subject matter of an arbitration agreement"; therefore, the suit should be in respect of "a matter" which the parties have agreed to refer and which comes within the ambit of arbitration agreement. Where, however, a suit is commenced - "as to a matter" which lies outside the arbitration agreement and even through it is between the same parties, there is no question of application of Section 8. The word "a matter" clearly indicates that the entire subject matter of the suit should be a subject of the arbitration agreement as well.

It is in this backdrop, this Court has to consider the prayer made by the defendant in his application filed under Section 8 of the 1996 Act. This application is filed in a suit filed by the plaintiff for recovery of money. Arbitration clause contained in the Joint Venture Agreement is invoked, but not a single dispute is delineated which would arise out of this agreement. The arbitration clause in the agreement categorically states that those disputes or differences arising between the parties to this agreement or in any way relating to any terms, conditions or provisions having mentioned or in the constructions or interpretation of any of the clauses herein, the same shall be settled by arbitration.

The present suit is a suit for recovery of 1,36,340 Euros which is the outstanding payment raised by way of these invoices along with interest; it is an independent supply of goods by the plaintiff to the defendant. In no manner can it be said that the dispute raised in the present suit would be covered by the Joint Venture Agreement. This is a clear case where the dispute is not covered by the arbitration clause; the suit has to proceed. Application is without any merit. It is dismissed.

LW: 24:03:2015

MOUNT MARY ENTERPRISES v. JIVRATNA MEDI TREAT PVT LTD[SC]

Civil Appeal No. 1323 of 2015 (Arising out of SLP(Civil) No.10161 of 2014)

Anil R. Dave & Kurian Joseph, JJ. [Decided on 30/01/2015]

Order 6 Rule 17 of the Code of Civil Procedure,1908 – amendment of plaint with respect to the upward valuation of the suit property – Trial court and the High Court rejected the amendment – whether correct – Held,No.

Brief facts:

The appellant, who has been described as a plaintiff hereinafter, filed a suit against the present respondent, who has been hereinafter described as a defendant, for specific performance of a contract in relation to the suit property. The suit property was initially valued at Rs.13,50,000/-. The plaintiff, thereafter, realized that market value of the property in question was around Rs.1,20,00,000/- and therefore, filed an application for amending the plaint. The said application for amendment was rejected by the trial court and thereafter, the aforestated writ petition was filed by the plaintiff challenging the order rejecting the amendment application. The said petition has also been dismissed and therefore, the plaintiff has approached this Court and prayed that the impugned judgment confirming the order rejecting the amendment of the plaint be set aside and the plaintiff be permitted to amend the plaint so as to state correct value of the property in question, which is Rs.1,20,00,000/-.

Decision: Appeal allowed.

Reason: In our opinion, as per the provisions of Order 6 Rule 17 of the Civil Procedure Code, the amendment application should be normally granted unless by virtue of the amendment nature of the suit is changed or some prejudice is caused to the defendant. In the instant case, the nature of the suit was not to be changed by virtue of granting the amendment application because the suit was for specific performance and initially the property had been valued at Rs.13,50,000/- but as the market value of the property was actually Rs.1,20,00,000/-, the appellant-plaintiff had submitted an application for amendment so as to give the correct value of the suit property in the plaint.

It is also pertinent to note that the defendant had made an averment in para 30 of the written statement filed in Suit No.1955 of 2010 that the plaintiff had undervalued the subject matter of the suit. It had been further submitted in the written statement that the market value of the suit property was much higher than Rs. 14 lacs. The defendant had paid Rs.13.5 lacs for the said premises in the year 2002 when the said premises had been occupied by a tenant bank. Even according to the defendant value of the suit property had been undervalued by the plaintiff in the plaint. If in pursuance of the averment made in the written statement the plaintiff wanted to amend the plaint so as to incorporate correct market value of the suit property, the defendant could not have objected to the amendment application whereby the plaintiff wanted to incorporate correct value of the suit property in the plaint by way of an amendment. The other contention that the valuation had already been settled cannot also be appreciated since the High Court has held that the said issue was yet to be decided by the trial Court.

The main reason assigned by the trial court for rejection of the amendment application was that upon enhancement of the valuation of the suit property, the suit was to be transferred to the High Court on its original side. In our view, that is not a reason for which the amendment application should have been rejected.

In our opinion, on the basis of the aforestated legal position, the amendment application made by the plaintiff should have been granted, especially in view of the fact that it was admitted by the plaintiff that the suit property was initially undervalued in the plaint and by virtue of the amendment application, the plaintiff wanted to correct the error and wanted to place correct market value of the suit property in the plaint.

We allow the appeal and direct the trial court to permit the appellant-plaintiff to amend the plaint as prayed for in the amendment application so as to change valuation of the suit property. There is no order as to costs.

Competition Laws

LW: 25:03:2015

BHASIN MOTORS (INDIA) PVT LTD v. VOLKSWAGEN GROUP SALES INDIA PVT LTD[CCI]

Case No. 86 of 2014

Ashok Chawla, S. L. Bunker, Sudhir Mital, Augustine Peter & U. C. Nahta

[Decided on 11/02/2015]

Competition Act, 2002 – sections 3 & 4 – anti competitive agreements & abuse of dominance – appointment of additional dealer – whether results in discrimination – Held, No.

Brief Facts:

The Informant is a company which deals with the distribution of cars in Delhi/ NCR regions, is an authorised dealer of the Opposite Party for the territory of Delhi/ NCR regions.

It is stated in the information that a Dealer Agreement dated 10.02.2012 was executed between the parties and after a year another 'Basic Agreement for Sales and Purchase of Volkswagen Products' dated 09.05.2013 was executed between the Informant and OP for marketing, sales and service of the Volkswagen products.

It is further stated that as per the Agreement dated 09.05.2013, the Informant was allotted the territory of Delhi/ NCR Region.

The Informant alleged that OP with a view to increase its sales and to the detriment and loss of the Informant, appointed another dealer viz. M/s Frontier Automobile Pvt. Ltd. in the vicinity of the Informant's showroom despite clearly demarcating the territories as agreed in their agreement. It is alleged that this has impacted the demand for cars from the Informant's showroom and was contrary to the agreed promises between the parties. It is further averred in the information that OP has discriminated between the dealers and has given higher targets to the new dealer as compared to other dealers.

Decision: Case closed.

Reason:

The Commission has perused the material available on record besides hearing the counsel appearing for the Informant.

The Commission notes that the Informant was one of the authorised dealers of OP in respect of passenger cars manufactured by it. Further, the Informant is aggrieved by the termination of its dealership agreement by OP and appointment of another dealer viz. M/s Frontier Automobile Pvt. Ltd. in the same geographical area of its showroom. The Informant also appears to be aggrieved of the fact that its employees left and joined the new dealer.

On a careful consideration of the information and the material available on record, the Commission is of opinion that the issues arising out of and related to the dealership agreement between the Informant and OP such as unilateral terms and conditions, Bank Guarantee, high penal interest, higher sales target to M/s Frontier Automobile Pvt. Ltd. etc., do not disclose any competition concern.

Even otherwise, from the information available in the public domain, it appears that OP has a very negligible share in the passenger car segment in India which is dominated by a number of players. As a result, in dealership network also, OP will not have much spread than that of Maruti, Hyundai, Tata etc. who command significant market share. In such a market construct, OP cannot be said to be a dominant player and as such the question of abuse of dominance will not arise. It may be noted that the Informant has not placed any material on record which may persuade the Commission to hold OP to be dominant in the market.

In view of the above, the Commission is of view that no case is made out against OP for contravention of the provisions of section 4 of the Act and the information is ordered to be closed forthwith in terms of the provisions contained in section 26 (2) of the Act.

LW: 26:03:2015

ROHIT MEDICAL STORE v. MACLEODS PHARMACEUTICAL LTD& ORS [CCI]

Case No. 78 of 2012

Ashok Chawla, S. L. Bunker, Sudhir Mital, & U. C. Nahta [Decided on 11/02/2015]

Competition Act, 2002 – section 4 – abuse of dominance – appointment of stockists by pharma companies – insistence of NOC by the association of chemists before appointment as a precondition – whether results in abuse of dominance – Held, Yes.

Brief Facts:

The present information was filed under Section 19(1)(a) of the Competition Act, 2002 (hereinafter referred to as 'the Act') by M/s Rohit Medical Store (hereinafter referred to as 'Informant') against M/s Macleods Pharmaceuticals Limited (hereinafter referred to as OP 1), M/s FDC Limited (hereinafter referred to as OP 2), M/s Cipla Limited (hereinafter referred to as OP 3), Sh. Sanjeev Pandit (hereinafter referred to as OP 4) and Himachal Pradesh Society of Chemists and Druggists Alliance (hereinafter referred to as OP 5) (hereinafter collectively referred to as 'Opposite Parties') alleging, inter alia, contravention of the provisions of Section 3 of the Act.

Informant alleged that Opposite Parties are engaged in anti-competitive practices of imposing the condition of obtaining No Objection Certificate (NOC) prior to the appointment of stockists in the state of Himachal Pradesh. It is submitted that earlier the Monopolies and Restrictive Trade Practices Commission (MRTP Commission) passed an order in Cases No. 93/2008 and 102/2008 and held that seeking NOC prior to the appointment of stockist is anti-competitive and directed Himachal Pradesh State Chemists & Druggists Association to inform the same to all its members. Informant submitted that Himachal Pradesh State Chemists & Druggists Association changed its name to Himachal Pradesh Society of Chemists and Druggists Alliance i.e., OP 5 in order to avoid the compliance of the said directions of MRTP Commission issued in Cases No. 93/2008 and 102/2008. Informant, in the present case, alleged that OP 4 is continuing the proscribed conduct in complete disregard of the directions issued in such cases by compelling the pharmaceutical companies to obtain NOC from OP 5 prior to the appointment as stockist in the state of Himachal Pradesh.

Decision: Cease and desist order passed. Penalty imposed.

Reason:

The Commission took note of the evidence placed on record with respect to allegations levelled against OP 5. The copies of the e-mails collected by the DG, which were exchanged between

the pharmaceutical companies and OP 4, clearly show that the pharmaceutical companies were seeking NOC from OP 5 through OP 4 prior to the appointment of stockists. Such documentary evidence leads to the conclusion that OP 5 is still following the anti-competitive practice of imposing the condition of obtaining NOC from it prior to the appointment of any new stockist in the state of Himachal Pradesh. Further, the transcript of the telephonic conversation between OP 1 and OP 4 indicates the existence of the practice of obtaining NOC from OP 5 prior to the appointment of any new stockist.

On the basis of evidences collected by the DG, it is quite apparent that OP 5 is indulging in anti-competitive practice of mandating an NOC prior to the appointment of stockists. Further, the PIS charge, required to be made to OP 5, before every launch of a new product by the pharmaceutical companies under the garb of dissemination of product information, is also anti-competitive. The Commission, in earlier cases, has held that the practice of taking PIS charge is anti-competitive. In this regard OP 4 and OP 5 argued that PIS charge is a part of donation which is made to disseminate the information of new products in the market. The justification provided by OP 4 and OP 5 fails to satisfy the Commission since the DG has found sufficient evidence to show that all the products for which PIS charges were collected were not even published in the news bulletin of OP 5.

In view of the above, the Commission holds OP 5 liable for indulging in anti-competitive practices of imposing the condition of NOC for appointment of stockists and mandating payment of PIS charge in contravention of the provisions of section 3(3)(b) read with section 3(1) of the Act.

The Commission, under section 48 of the Act, holds the persons responsible for the conduct of the company/association liable which is held to be in contravention of the provisions of the Act. As regards OP 4, it has been alleged by the Informant that OP 4, in the capacity of President of OP 5, compelled the pharmaceutical companies to grant stockist ship only to those persons who produced NOC from OP 5 in the state of Himachal Pradesh and also instructed to stop supplies of the product to those who fail to produce NOC from OP 5. The Commission has taken note of the evidence collected by the DG against OP 4 in the form of emails exchanged between OP 4 and pharmaceutical companies whereby pharma companies sought NOC, which in a way amounts to obtaining prior approval for the appointment of stockists. Further, the recorded telephonic conversation (for which transcript has also been produced) between OP 1 and OP 4 shows confirmation from OP 4 to OP 1 obtaining prior approval for the appointment of stockists.

Considering the material placed on record, the Commission is of the opinion that OP 4, in the capacity of the President of OP 5, has also played an active role in ensuring that such anti-competitive mandates are followed. Thus, OP 4 is liable under section 48 of the Act for the contravention of the provisions of the Act.

With regard to the AAEC, the Commission is of the view that pharmaceutical companies like OP 1 may be having miniscule market shares individually; the Commission, however, is concerned about their ability to collectively affect the competition in the market. The Commission is concerned about the effect their action will have when seen in aggregation to the actions of their co-players in the market. The Commission has seen in number of previous cases involving chemists and druggists associations where the diktats of the Association are followed by the members without any hesitation. Even though OP 1 acted on the directions and threats of OP 5, the same cannot absolve it of its liability under the Act. OP 1 could have approached the Commission instead of complying with the directions of OP 5 which is in contravention of the provisions of the Act. Such refusal to deal with unauthorized stockists by multiple members of the Association (pharmaceutical companies like OP 1) may adversely and appreciably affect the competition in the market.

In view of the above, the Commission directs OP 5 to cease and desist from indulging in the practices which are found to be anti-competitive in terms of the provisions of section 3 of the Act in the preceding paras of the order.

With regard to the penalty under section 27 of the Act, the Commission feels that the said anti-competitive conducts needs to be penalized in such a way so as to cause deterrence in future among the erring entities engaged in such activities. Keeping these aggravating factors in mind, the Commission feels it appropriate to impose a penalty on OP 5 at the rate of 10% of its receipts based on the financial statements. Resultantly, a penalty of Rs. 2,65,423/- (Rupees two lakh sixty five thousand four hundred and twenty three only)-- calculated at the rate of 10% of the average receipts of OP 5 for three financial years is hereby imposed.

With regard to OP 4, the Commission is of the opinion that penalty under section 48 is warranted for his active involvement in execution of the anti-competitive practices carried on by OP 5. Accordingly, the Commission feels it appropriate to impose a penalty on OP 4 at the rate of 8% of its income based on the income tax returns statements. Resultantly, a penalty of Rs. 28,276/- (Rupees twenty eight thousand two hundred and seventy six only) calculated at the rate of 8% of the average income of OP 4 for three financial years is hereby imposed.

LW: 27:03:2015

BEST v. TATA POWER COMPANY LTD [CCI]

Case No. 76 of 2014

Ashok Chawla, S. L. Bunker, Sudhir Mital, Augustine Peter & U. C. Nahta

[Decided on 29/01/2015]

Competition Act, 2002 – sections 4 –electricity supply – abuse of dominance – reduction in load supplied and

load shedding- whether results in abuse of dominance- Held, No.

Brief facts:

The Informant, a division of Municipal Corporation of Greater Mumbai, has been engaged in distribution of electricity in the Island city of Mumbai (the area from Colaba up to Mahim and Sion) and also providing mass public transportation in the City of Mumbai as well as its extended suburbs for the last several decades. It is stated to be a licensee for distribution of electricity within the meaning of section 2 (17) read with section 14 of the Electricity Act, 2003 and the Maharashtra Electricity Regulatory Commission ("MERC) Regulation, 2007.

The Opposite Party is a company which has been engaged in generation, transmission and distribution of electricity in Mumbai region through its three integrated divisions such as TPC-Generation (hereinafter, 'TPC-G'), TPC-Transmission (hereinafter, 'TPC-T') and TPC-Distribution (hereinafter, 'TPC-D') by virtue of various licenses issued to it under Case No. 76 of 2014 Page | 2 Electricity Act, 2003. The Opposite Party has a wholly owned subsidiary known as Tata Power Trading Company Limited, which is an electricity trader.

As per the information, TPC-T is the transmission company for the areas in Mumbai where the Informant is serving and the Informant is absolutely dependent upon it for transmission of electricity from TPC-G as well as Case No. 76 of 2014 Page | 3 MSEDCL. It is alleged that on 02.09.2014 at about 09.45 a.m., the Opposite Party unilaterally switched off the Informant's 22kV/33kV feeders from the interconnection point on T<>D interface in the TPC Receiving Stations and put breakers on the supply of electricity to the Informant. This caused black out in a major part of island city of Mumbai for more than 5 hours. It was alleged that the said load shedding resorted to by the Opposite Party disrupted public life and caused disturbance to the smooth functioning of the Mumbai city. Subsequently, the Informant's emergency protocol for load shedding was initiated and load shedding was passed on to many areas in rotation. Allegedly, the last normal supply was restored at 21:30 hours in the evening of the same day.

The Informant further alleged that it has a specific load shedding protocol to be carried out in the event of power shortage or other exigencies. This protocol, which is made available in the disaster management plan, is specially devised to ensure that essential services and vital installations are not affected. However, the Opposite Party unilaterally switched off the Informant's feeders without taking its consent before resorting to load shedding on 02.09.2014 on unit 5 failure. The Informant alleged that on the said day when the Opposite Party resorted to load shedding, the capacity of Informant's share was still available.

It is alleged that the Opposite Party abused its dominant position as "transmission licensee and generator" under the one and the same corporate entity to cause serious hardship to the Informant's consumers and effectively to the general public.

Aggrieved by the alleged anti-competitive conduct of the Opposite Party, the Informant, *inter alia*, prayed before the Commission to direct Opposite Party to discontinue the abuse of its dominant position.

Decision: Case closed.

Reason:

Since the allegation pertains to abuse of dominant position by the Opposite Party, it is imperative to define the relevant market i.e., relevant product market and relevant geographic market first before proceeding to analyse the alleged abusive conduct of the Opposite Party. It appears from the facts of the case that the Informant is aggrieved by the alleged anti-competitive conduct of the Opposite Party in the transmission of electricity to it and unilaterally shutting down the transmission points which transmits electricity to the Informant. Thus, the issue pertains to transmission of electricity only. Accordingly, the Commission is of the opinion that the relevant product market in the instant case would be the services of transmission of electricity. Further, the Informant has the licence to distribute electricity only in the Island city of Mumbai (i.e., the area from Colaba up to Mahim and Sion) and has no operation elsewhere. Therefore, the relevant geographic market in the instant case would be the city of Mumbai. Considering the "relevant product market and the "relevant geographic market as defined above, the relevant market in the instant case would be the market for the "services of transmission of electricity in the city of Mumbai".

Evidently, TPC-T holds an extremely high market share in terms of transmission within the city of Mumbai. Therefore, prima facie, it is a dominant enterprise in the relevant market. However, its activities are governed by the terms of the license and regulatory oversight of MERC.

The main grievance of the Informant pertains to unilateral shutting down of the transmission points by TPC-T which transmit electricity to the Informant because of which the Informant could not manage the load shedding. This, as per the Informant, has disrupted public life and caused disturbance to the smooth functioning of the Mumbai city. However, considering the facts available on record, the Commission observes that the Informant has itself stated that within four hours it was able to initiate its emergency protocol for load shedding which helped in load shedding in rotation to many areas. When the load went out, Tata Power quickly picked up the load from Hydro stations based on the buffer available. The company also asked some of its high tension customers to run their standby sets which they had installed in their own premises. Thus the gap of about 200 MW was bridged and thereafter an impending shortage of 300 MW was experienced. This does not appear to be exercise of dominant power in an abusive manner.

Secondly, the allegation of the Informant that the Opposite Party

was under an obligation to comply and has failed to comply with the directives issued by MSLDC does not seem to be well placed, at least with regard to the mandate of the Act. The Informant stated that MSLDC issued a directive to TPC-D under Section 33(1) & (2) of Electricity Act, 2003 to synchronize Unit No. 6 by 8:00 hrs. on 30.08.2014 mentioning the reason that Mumbai demand is expected to be around 3100 MW due to Ganesh Chaturthi festival and Case No. 76 of 2014 Page | 8 unpredicted monsoon. The Informant had further stated that as a transmission licensee and generation utility under regulatory regime, the Opposite Party should have maintained system stability. Its failure to comply with the directive of MSLDC has resulted in a serious default leading to the events of 02.09.2014 causing grave public inconvenience. The Commission is of the opinion that such issue does not raise any competition concerns in the market and may be agitated before the appropriate forum.

Lastly, it may be noted that the Informant has stated that the Opposite Party is having presence in all segments of electricity value chain i.e., generation, transmission and distribution and it is a competitor of the Informant in the distribution segment. The Informant has further alleged that since it is competitor of the Opposite Party and also a consumer as the Informant buys electricity from TPC-G, the Opposite Party has intentionally abused its dominant position by unilaterally putting a brake on the electricity supply to the Informant on 2.9.2014 which caused serious load shedding within the island city of Mumbai and has been responsible for developing the said constraints in transmission network to create a monopolistic market for its generation business. Having perused the material on record, the Commission is of the view that the same are not sufficient to prove this allegation.

Industrial & Labour Laws

LW: 28:03:2015

RAJENDER SINGH v. STATE BANK OF INDIA [DEL]

W.P.(C) 7414 of 2010

Vibhu Bakhru,J. [Decided on 18/02/2015]

Employee misbehaved with lady staff – dismissed after domestic inquiry – whether the punishment of dismissal is tenable – Held, Yes.

Brief facts:

The petitioner has filed the present petition impugning an order dated 12.03.2010 (hereafter the 'impugned award') whereby the Central Government Industrial Tribunal (hereafter the 'Tribunal') held that the charges of misconduct i.e. misbehaviour with a lady staff were proved against the petitioner and imposed the punishment of dismissal of the petitioner from the services of the respondent bank.

By the impugned award, the Tribunal relied on the sole testimony of Ms. Sunita Jain and held that the charges of misconduct, within the meaning of paragraph 19.5(c) and (j) of the Bipartite Settlement dated 19.10.1966, were proved against the petitioner and awarded the punishment of dismissal. This award is challenged by the petitioner.

Decision: Petition dismissed.

Reason: The issue to be considered is whether the Tribunal had considered the facts in correct perspective. According to the petitioner, the Tribunal had segregated the issue of sexual molestation from other controversies pointed out by the petitioner. It was argued that the Tribunal had failed to view the factual matrix in its entirety and had merely focused its attention on the allegations made by Ms. Sunita Jain.

I am unable to accept the above contention as a bare reading of the impugned award would indicate otherwise; the Tribunal had not only evaluated the evidence of the petitioner but also considered his defence.

The Tribunal also considered the petitioner's contention that the. Regional Manager had conspired with Ms Sunita Jain to remove the petitioner from the services of the respondent bank. The petitioner contended that the Regional Manager wanted to accommodate another person in the Delhi Branch and since this was frustrated by the petitioner, a conspiracy was hatched to conjure up a false case against him. The Tribunal rejected the said contention as it found no evidence of conspiracy as claimed by the petitioner. The Tribunal also examined the petitioner's appointment letter and the letters sent by one Sh Raheja and concluded that the same did not indicate any conspiracy. The Tribunal further reasoned that if there was a conspiracy to not post the petitioner at the Chandni Chowk Branch, the same would not have been offered to him. As far as the deduction of amount for subscription from petitioner's salary is concerned, the Tribunal considered the testimony of Ms Sunita Jain and also held that it was done in a routine manner and the same did not benefit Ms Sunita Jain in any manner. In the aforesaid circumstances, the contention that the Tribunal had not considered the facts in the entirety but had only focused its attention on the allegations levelled by Ms Sunita Jain, is bereft of any merit.

In the present case, the Tribunal had considered the conspiracy

theory, advanced by the petitioner, and had found no material to support the same. In my view, the said decision of the Tribunal cannot be faulted. In the present case, there is no evidence of any deep enmity between the petitioner and Ms Sunita Jain or any other official of the respondent bank. The fact that Ms Sunita Jain had been preparing the salary bill of the petitioner along with other employees and had been deducting union subscription which was objected to by the petitioner, cannot possibly lead to the conclusion that there was any deep enmity between the petitioner and Ms Sunita Jain. It is also not possible to accept that there was any animosity between the petitioner and the Regional Manager, which would prompt the officials and Ms Sunita Jain to hatch a conspiracy for petitioner's removal. The Tribunal had found that there was no evidence that Mr P.C. Joshi (Regional Manager, Bhopal) was conspiring with Ms Sunita Jain against the petitioner. It is, in this context, that the Tribunal noted that there was no record that Mr P.C.Joshi had come to Delhi at the material time. The learned counsel for the petitioner is correct in her submission that physical presence of a conspirator is not essential; however, in the present case, there is no material or evidence that could reasonably lead to the conclusion that there was any conspiracy between Mr P.C. Joshi, Mr P.C. Sharma and Ms Sunita Jain to get rid of the petitioner. Thus, the conclusion of the Tribunal cannot be faulted.

In cases where no domestic enquiry is held or if so held has been held to be vitiated, it is necessary that the Tribunal evaluates the evidence adduced before it. The Tribunal has to rule out the possibility that the allegations have been levelled against the workman with ulterior motives or are *mala fide*. Further the Tribunal needs to ensure that the proceedings are not the result of victimisation or an unfair labour practice.

In the present case, the Tribunal has appreciated the evidence and arrived at a conclusion. It is well established that this court, while exercising its powers under Article 226 of the Constitution of India, would not interfere with the findings of fact unless the same are perverse or based on no evidence at all.

In view of the aforesaid, I find no reason to interfere with the impugned award. Accordingly, the present petition is dismissed. No order as to costs.

LW: 29:03:2015

RAM MANN v. DSIDC & ORS.[DEL]

W.P.(C) No.2009 of 2000

Valmiki J. Mehta, J. [Decided on 18/02/2015]

Regularisation of services with retrospective effect – adhoc appointment on compassionate ground – whether liable to be regularised – Held,No.

Brief facts:

Petitioner, an employee of the respondent no.1 and earlier of the Respondent No.2/Delhi State Mineral Development Corporation, by this writ petition, sought regularisation of services and consequential benefits from 17.9.1885 and in the alternative, also claimed that he should be taken in service with the respondent no.1 not from 18.8.1996 but from 1.7.1993.

Decision: Petition dismissed.

Reason:

A reading of the writ petition along with its annexures and the counter-affidavit along with its annexures shows that the petitioner was only appointed on adhoc basis with the respondent no.2 on 26.11.1985. Once the petitioner's appointment was purely on adhoc basis, petitioner cannot claim regularization, that too retrospectively from 1985, in view of the ratio of the Constitution Bench judgment of the Supreme Court in the case of *Secretary, State of Karnataka Vs. Uma Devi& Ors. (2006) 4 SCC 1.*

Petitioner therefore cannot claim regularization, that too retrospectively from the date of his adhoc appointment on 26.11.1985. Imay note that petitioner has been appointed again on adhoc basis with the respondent no.1 in 1996 as a case of compassionate employment in view of the petitioner earlier having filed a writ petition, and thereafter, the Chief Secretary of Delhi Administration, in view of the observations of a Division Bench of this Court, appointed the petitioner on compassionate grounds with the respondent no.1.

Therefore, a reading of the writ petition and the counter-affidavit shows that petitioner's services both with respondent no.1 and respondent no.2 were only on adhoc basis, and therefore, there does not arise issue of regularization of the services of the petitioner i.e. giving permanent appointment to the petitioner much less retrospectively either from 1993 or from 1985 as prayed for in the writ petition. I may state that the petitioner was given only adhoc employment with the respondent no.1 because petitioner at the time of joining of the corporation was 42 years of age and the age limit for direct recruitment in the respondent no.1-corporation was 25 years and for which no relaxation could be given.

A resume of the above shows that petitioner after termination of his adhoc services with the respondent no.2 was purely on compassionate ground given fresh adhoc appointment with the respondent no.1, and subsequently, petitioner has been regularized with respondent no.1 at Assistant Grade (AG)-III in the pay scale of Rs. 3050-4590 w.e.f 25.5.1998. Petitioner therefore now stands regularized, and the petitioner cannot claim regularization from a retrospective date in view of the ratio in the case of Uma Devi (supra). There is hence no merit in the writ petition, and the same is therefore dismissed.

Corporate Laws

01 Extension of time for filing of Notice of appointment of the Cost Auditor in Form CRA-2

[Issued by the Ministry of Corporate Affairs vide general circular No. 2/2015, dated 11.02.2015.]

In continuation to the General Circular No. 42/2014, the last date of filing of Form CRA-2 without any penalty/late fee is hereby extended upto 31st March, 2015.

2. This issues with the approval of competent authority.

Kamna Sharma
Assistant Director

02 Constitution of a High Level Committee to suggest measures for improved monitoring of the implementation of Corporate Social Responsibility policies by the companies under Section 135 of the Companies Act, 2013

[Issued by the Ministry of Corporate Affairs vide General Circular No. 01/2015, dated 03.02.2015.]

Undersigned has been directed to state that a High Level Committee has been constituted under the Chairmanship of Shri Anil Baijal, Former Secretary, Govt. of India to suggest measures for monitoring the progress of implementation of Corporate Social Responsibility (CSR) policies by companies at their level and by the Government under the provisions of Section 135 of the Companies Act, 2013 and Rules thereunder.

2. The composition of the High Level Committee is as under:

Sr.	Name	Role
i.	Shri Anil Baijal Former Secretary to Govt. of India	Chairperson
ii.	Prof. Deepak Nayyar Professor (Emeritus), Jawaharlal Nehru University, New Delhi	Member
iii.	Shri Onkar S Kanwar Chairman & Managing Director, Apollo Tyres Ltd.	Member
iv.	Shri Kiran Karnik Former President-NASSCOMM, New Delhi	Member
V.	Secretary, Department of Public Enterprises (Represented by an officer not below the rank of Joint Secretary)	Member
vi.	Additional Secretary (*) Ministry of Corporate Affairs	Member-Convener

(*) Economic Adviser, MCA will discharge the responsibility in the absence of Additional Secretary, MCA.

3. Terms of Reference of the Committee are as under:

(i) To recommend suitable methodologies for monitoring compliance of the provisions of Section 135 (Corporate Social Responsibility) of the Companies Act, 2013 by the companies covered thereunder,

(ii) To suggest measures to be recommended by the Government for adoption by the companies for systematic monitoring and evaluation of their own CSR initiatives,

(iii) To identify strategies for monitoring and evaluation of CSR initiatives through expert agencies and institutions to facilitate adequate feedback to the Government with regard to efficacy of CSR expenditure and quality of compliance by the companies.

(iv) To examine if a different monitoring mechanism is warranted for Government Companies undertaking CSR, and if so to make suitable recommendations in this behalf.

(v) Any other matter incidental to the above or connected thereto.

4. The Committee shall submit its report within Six months from the date of holding of its first meeting.

5. Ministry of Corporate Affairs and Indian Institute of Corporate Affairs (IICA) shall jointly provide secretarial and technical support to the Committee. The Indian Institute of Corporate Affairs will render the necessary logistic support to the High Level Committee.

6. This issues with the approval of Hon'ble Union Minister for Corporate Affairs.

Dr. Pankaj Srivastava
Director

03 Authorisation of officers in the office of RD (NR) at Noida for the purposes of filing complaint under section 159 of the Companies Act, 2013

[Issued by the Ministry of Corporate Affairs F. No. 1/6/2014-CL-V, dated 12.01.2015. Published in the Gazette of India, Extraordinary, PART II—Section 3—Sub-section (ii), dated 12.01.2015.]

In pursuance of sub-section (2) of Section 439 of the Companies Act, 2013 (18 of 2013), the Central Government hereby authorises the following officers in the office of Regional Director (Northern Region) at Noida for the purposes of filing complaint under section 159 of the said Act in respect of offences under section 155 of the said Act, namely:—

Sl. No.	Name of Officers
1.	Dr. Raj Singh, Joint Director
2.	Shri A. M. Singh, Joint Director
3.	Ms. P. Sheela, Joint Director
4.	Shri R. K. Tiwari, Joint Director
5.	Shri Ch. Jaganadh Reddy, Assistant Director

Amardeep Singh Bhatia
Joint Secretary

04 The Companies (Removal of Difficulties) Order, 2015

[Issued by the Ministry of Corporate Affairs vide F. No, 1/13/2013-CL.V-Part, dated 13.02.2015. To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii)]

Whereas, the Companies Act, 2013 (18 of 2013} (hereinafter referred to as the said Act) received the assent of the President on the 29th August, 2013;

And whereas, clause (85) of section 2 of the said Act provides for definition of the term "small company";

And whereas, clause (b) of sub-section {11} of section 186 of the said Act provides that the requirements of provisions of section 186 [except sub-section (1} of the said section] shall not apply to any acquisition made by a non-banking financial company registered under Chapter IIIB of the Reserve Bank of India Act, 1934 (2 of 1934) and any other company whose principal business is acquisition of securities;

And whereas, such provisions of clause (85) of section 2 and section 186 of the said Act had come into force on the 1st day of April, 2014;

And whereas, the following difficulties have arisen in giving effect to the above provisions of the said Act: -

(a) According to clause (85) of section 2, a company may be treated as a 'small company' if it meets either of the conditions provided therein thereby making the second limit unrestricted or inconsequential. Difficulties have arisen in this regard as companies which, though, meet one of the criteria but exceed the monetary limit in respect of second criteria excessively are also getting classified as 'small companies'; and

(b) in clause (b) of sub-section (11) of section 186, in the absence of provisions for exemption to a banking company or an insurance company or a housing finance company making acquisition of securities in its ordinary course of business, a difficulty has arisen that such companies cannot make any acquisition of securities in their ordinary course of business;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 470 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Order to remove the aforesaid difficulties, namely:-

(1) Short title and commencement.- (1) This Order may be called the Companies (Removal of Difficulties) Order, 2015.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. In the Companies Act, 2013 (hereinafter referred to as the said Act), -

(a) in section 2, in clause (85), in sub-clause (i), for the word "or" occurring at the end, the word "and" shall be substituted; and

(b) in section 186 of the said Act, in sub section (11), in clause (b), after item (iii), the following item shall be inserted, namely :-

"(iv) made by a banking company or an insurance company or a housing finance company, making acquisition of securities in the ordinary course of its business.".

Amardeep Singh Bhatia
Joint Secretary

05 The Companies (Indian Accounting Standards) Rules, 2015

[Issued by the Ministry of Corporate Affairs F. No. 01/01/2009-CLV-Part, dated 16.02.2015. To be published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i)]

In exercise of the powers conferred by section 133 read with section 469 of the Companies Act, 2013 (18 of 2013) and sub-section (1) of section 210A of the Companies Act, 1956 (1 of

1956), the Central Government, in consultation with the National Advisory Committee on Accounting Standards, hereby makes the following rules, namely:-

1. Short title and commencement.- (1) These rules may be called the Companies (Indian Accounting Standards) Rules, 2015.

   (2) They shall come into force on the 1st day of April, 2015

2. Definitions.-

   (1) In these rules, unless the context otherwise requires, -

   (a) "Accounting Standards" means the standards of accounting, or any addendum thereto for companies or class of companies as specified in rule 3;

   (b) "Act" means the Companies Act, 2013 (18 of 2013);

   (c) "Annexure" in relation to these rules means the Annexure containing the Indian Accounting Standards (Ind AS) appended to these rules;

   (d) "entity" means a company as defined in clause (20) of section 2 of the Act;

   (e) "financial statements" means financial statements as defined in clause (40) of section 2 of the Act;

   (f) "net worth" shall have the meaning assigned to it in clause (57) of section 2 of the Act.

   (2) Words and expressions used herein and not defined in these rules but defined in the Act shall have the same meaning respectively assigned to them in the Act.

3. Applicability of Accounting Standards. -

   (1) The accounting standards as specified in the Annexure to these rules to be called the Indian Accounting Standards (Ind AS) shall be the accounting standards applicable to classes of companies specified in rule 4.

   (2) The Accounting standards as specified in Annexure to the Companies (Accounting Standards) Rules, 2006 shall be the Accounting Standards applicable to the companies other than the classes of companies specified in rule 4.

   (3) A company which follows the Indian Accounting Standards (Ind AS) specified in Annexure to these rules in accordance with the provisions of rule 4 shall follow such standards only.

   (4) A company which follows the accounting standards specified in Annexure to the Companies (Accounting Standards) Rules, 2006 shall comply with such standards only and not the Standards specified in Annexure to these rules.

4. Obligation to comply with Indian Accounting Standards (Ind AS). - (1) The Companies and their auditors shall comply with the Indian Accounting Standards (Ind AS) specified in Annexure to these rules in preparation of their financial statements and audit respectively, in the following manner, namely:-

   (i) any company may comply with the Indian Accounting Standards (Ind AS) for financial statements for accounting periods beginning on or after 1st April, 2015, with the comparatives for the periods ending on 31st March, 2015, or thereafter;

   (ii) the following companies shall comply with the Indian Accounting Standards (Ind AS) for the accounting periods beginning on or after 1st April, 2016, with the comparatives for the periods ending on 31st March, 2016, or thereafter, namely:-

   (a) companies whose equity or debt securities are listed or are in the process of being listed on any stock exchange in India or outside India and having net worth of rupees five hundred crore or more;

   (b) companies other than those covered by sub-clause (a) of clause (ii) of sub- rule (1) and having net worth of rupees five hundred crore or more;

   (c) holding, subsidiary, joint venture or associate companies of companies covered by sub-clause (a) of clause (ii) of sub- rule (1) and sub-clause (b) of clause (ii) of sub- rule (1) as the case may be; and

   (iii) the following companies shall comply with the Indian Accounting Standards (Ind AS) for the accounting periods beginning on or after 1st April, 2017, with the comparatives for the periods ending on 31st March, 2017, or thereafter, namely:-

   (a) companies whose equity or debt securities are listed or are in the process of being listed on any stock exchange in India or outside India and having net worth of less than rupees five hundred crore;

   (b) companies other than those covered in clause (ii) of sub- rule (1) and sub-clause (a) of clause (iii) of sub-rule (1), that is, unlisted companies having net worth of rupees two hundred and fifty crore or more but less than rupees five hundred crore.

   (c) holding, subsidiary, joint venture or associate companies of companies covered under sub-clause (a) of clause (iii) of sub- rule (1) and sub-clause (b) of clause (iii) of sub- rule (1), as the case may be:

   Provided that nothing in this sub-rule, except clause (i), shall apply to companies whose securities are listed or are in the process of being listed on SME exchange as referred to in Chapter XB or on the Institutional Trading Platform without initial public offering in accordance with the provisions of Chapter XC of the Securities and Exchange Board of India (Issue of Capital and Disclosure

Requirements) Regulations, 2009.

Explanation 1. - SME Exchange shall have the same meaning as assigned to it in Chapter XB of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009.

Explanation 2. - "Comparatives" shall mean comparative figures for the preceding accounting period.

(2) For the purposes of calculation of net worth of companies under sub-rule (1), the following principles shall apply, namely:-

(a) the net worth shall be calculated in accordance with the stand-alone financial statements of the company as on 31st March, 2014 or the first audited financial statements for accounting period which ends after that date;

(b) for companies which are not in existence on 31st March, 2014 or an existing company falling under any of thresholds specified in sub-rule (1) for the first time after 31st March, 2014, the net worth shall be calculated on the basis of the first audited financial statements ending after that date in respect of which it meets the thresholds specified in sub-rule (1).

Explanation.- For the purposes of sub-clause (b), the companies meeting the specified thresholds given in sub-rule (1) for the first time at the end of an accounting year shall apply Indian Accounting Standards (Ind AS) from the immediate next accounting year in the manner specified in sub-rule (1). Illustration .- (i) The companies meeting threshold for the first time as on 31st March, 2017 shall apply Ind AS for the financial year 2017-18 onwards. (Ii) The companies meeting threshold for the first time as on 31st March, 2018 shall apply Ind AS for the financial year 2018-19 onwards and so on.

(3) Standards in Annexure to these rules once required to be complied with in accordance with these rules, shall apply to both stand-alone financial statements and consolidated financial statements.

(4) Companies to which Indian Accounting Standards (Ind AS) are applicable as specified in these rules shall prepare their first set of financial statements in accordance with the Indian Accounting Standards (Ind AS) effective at the end of its first Indian Accounting Standards (Ind AS) reporting period.

Explanation.- For the removal of doubts, it is hereby clarified that the companies preparing financial statements applying the Indian Accounting Standards (Ind AS) for the accounting period beginning on 1st April, 2016 shall apply the Indian Accounting Standards (Ind AS) effective for the financial year ending on 31st March, 2017.

(5) Overseas subsidiary, associate, joint venture and other similar entities of an Indian company may prepare its standalone financial statements in accordance with the requirements of the specific jurisdiction:

Provided that such Indian company shall prepare its consolidated financial statements in accordance with the Indian Accounting Standards (Ind AS) either voluntarily or mandatorily if it meets the criteria as specified in sub-rule (1).

(6) Indian company which is a subsidiary, associate, joint venture and other similar entities of a foreign company shall prepare its financial statements in accordance with the Indian Accounting Standards (Ind AS) either voluntarily or mandatorily if it meets the criteria as specified in sub-rule (1).

(7) Any company opting to apply the Indian Accounting Standards (Ind AS) voluntarily as specified in sub-rule (1) for its financial statements shall prepare its financial statements as per the Indian Accounting Standards (Ind AS) consistently.

(8) Once the Indian Accounting Standards (Ind AS) are applied voluntarily, it shall be irrevocable and such companies shall not be required to prepare another set of financial statements in accordance with Accounting Standards specified in Annexure to Companies (Accounting Standards) Rules, 2006.

(9) Once a company starts following the Indian Accounting Standards (Ind AS) either voluntarily or mandatorily on the basis of criteria specified in sub-rule (1), it shall be required to follow the Indian Accounting Standards (Ind AS) for all the subsequent financial statements even if any of the criteria specified in this rule does not subsequently apply to it.

5. Exemptions.- The insurance companies, banking companies and non-banking finance companies shall not be required to apply Indian Accounting Standards (Ind AS) for preparation of their financial statements either voluntarily or mandatorily as specified in sub-rule (1) of rule 4.

Ajai Das Mehrotra
Joint Secretary

Annexure [See rule 3]

A. General Instruction. -

(1) Indian Accounting Standards, which are specified, are intended to be in conformity with the provisions of applicable laws. However, if due to subsequent amendments in the law, a particular Indian Accounting Standard is found to be not in conformity with such law, the provisions of the said law shall prevail and the financial statements shall be prepared in conformity with such law.

(2) Indian Accounting Standards are intended to apply only to items which are material.

(3) The Indian Accounting Standards include paragraphs set in bold italic type and plain type, which have equal authority. Paragraphs in bold italic type indicate the main principles. An individual Indian Accounting Standard shall be read in the context of the objective, if stated, in that Indian Accounting Standard and in accordance with these General Instructions.

B. Indian Accounting Standards (Ind AS)

Notifications*	Description
Indian Accounting Standard (Ind AS) 101	First-time Adoption of Indian Accounting Standards
Indian Accounting Standard find AS) 102	Share-based Payment
Indian Accounting Standard (Ind AS) 103	Business Combinations
Indian Accounting Standard find AS) 104	Insurance Contracts
Indian Accounting Standard (Ind AS) 105	Non-current Assets Held for Sale and Discontinued Operations
Indian Accounting Standard find AS) 106	Exploration for and Evaluation of Mineral Resources
Indian Accounting Standard (Ind AS) 107	Financial Instruments: Disclosures
Indian Accounting Standard (Ind AS) 108	Operating Segments
Indian Accounting Standard (Ind AS) 109	Financial Instruments
Indian Accounting Standard (Ind AS) 110	Consolidated Financial Statements
Indian Accounting Standard (Ind AS) 111	Joint Arrangements
Indian Accounting Standard (Ind AS) 112	Disclosure of Interests in Other Entities
Indian Accounting Standard (Ind AS) 113	Fair Value Measurement
Indian Accounting Standard (Ind AS) 114	Regulatory Deferral Accounts
Indian Accounting Standard (Ind AS) 115	Revenue from Contracts with Customers
Indian Accounting Standard (Ind AS)1	Presentation of Financial Statements
Indian Accounting Standard (Ind AS) 2	Inventories
Indian Accounting Standard (Ind AS) 7	Statement of Cash Flows
Indian Accounting Standard (Ind AS) 8	Accounting Policies, Changes in Accounting Estimates and Errors
Indian Accounting Standard (Ind AS) 10	Events after the Reporting Period
Indian Accounting Standard (Ind AS) 12	Income Taxes
Indian Accounting Standard (Ind AS) 16	Property, Plant and Equipment
Indian Accounting Standard (Ind AS) 17	Leases
Indian Accounting Standard (ind AS) 19	Employee Benefits
Indian Accounting Standard (Ind AS) 20	Accounting for Government Grants and Disclosure of Government Assistance
Indian Accounting Standard find AS) 21	The Effects of Changes in Foreign Exchange Rates
Indian Accounting Standard find AS) 23	Borrowing Costs
Indian Accounting Standard find AS) 24	Related Party Disclosures
Indian Accounting Standard find AS) 27	Separate Financial Statements
Indian Accounting Standard find AS) 28	Investments in Associates and Joint Ventures
Indian Accounting Standard find AS) 29	Financial Reporting in Hyperinflationary Economies
Indian Accounting Standard find AS) 32	Financial Instruments: Presentation
Indian Accounting Standard find AS) 33	Earnings per Share
Indian Accounting Standard find AS) 34	Interim Financial Reporting
Indian Accounting Standard find AS) 36	Impairment of Assets
Indian Accounting Standard find AS) 37	Provisions, Contingent Liabilities and Contingent Assets
Indian Accounting Standard find AS) 38	Intangible Assets
Indian Accounting Standard find AS) 40	Investment Property
Indian Accounting Standard find AS) 41	Agriculture

*These notifications have not been reproduced here for want of space. Members may log on to MCA site (mca.gov.in) and then go to the Notifications section to download these Accounting Standards.

06 The Companies (Registration Offices and Fees) Amendment Rules, 2015

[Issued by the Ministry of Corporate Affairs vide Notification F.No. 01/16/2013 (Part-1) CL-V, dated 24.02.2015. To be published in the Gazette of India, Extraordinary, Part-II, section 3, sub-section (i)]

In exercise of the powers conferred by sections 396, 398, 399, 403, and section 404, read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Registration Offices and Fees) Rules, 2014, namely:-

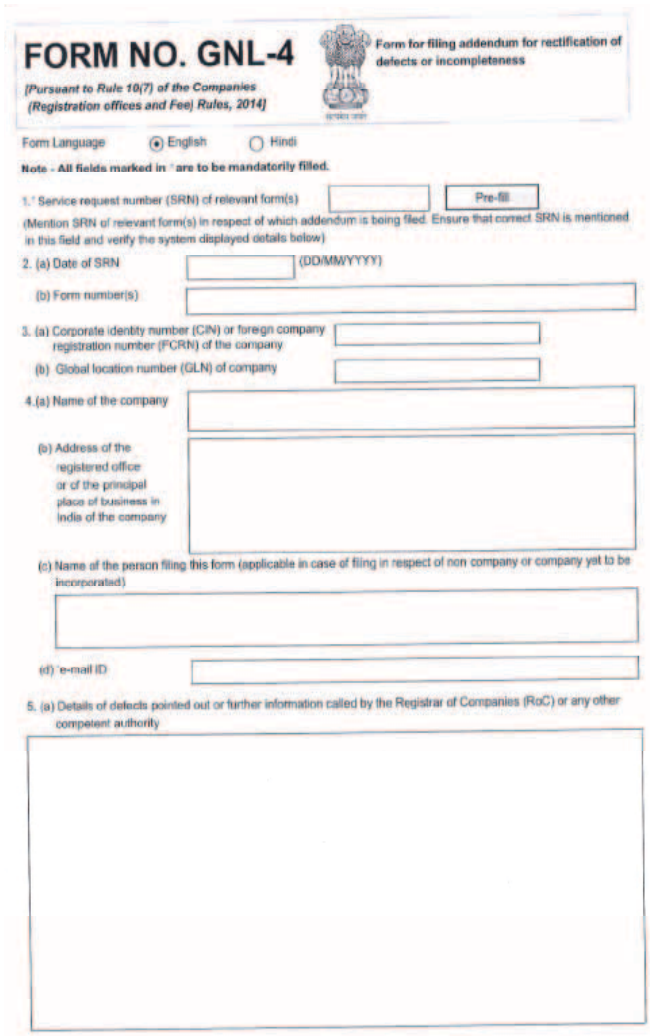
1. (1) These rules may be called the Companies (Registration Offices and Fees) Amendment Rules, 2015.

(2) In the Companies (Registration Offices and Fees) Rules, 2014,-

(a) in rule 10, after sub-rule (6), the following sub-rule shall be inserted, namely:-

"7. Any further information or documents calied for, in respect of application or e-form or document, fifed electronically with the Ministry of Corporate Affairs shall be furnished in Form No. GNL-4 as an addendum"

(b) in the Annexure, after Form No. GNL-3, the following Form shall be inserted, namely:-



FORM NO. GNL-4

(Pursuant to Rule 10(7) of the Companies (Registration offices and Fee) Rules, 2014)

Form for filing addendum for rectification of defects or incompleteness

Form Language (•) English ( ) Hindi

Note - All fields marked in * are to be mandatorily filled.

1.* Service request number (SRN) of relevant form(s) [ ] Pre-fill

(Mention SRN of relevant form(s) in respect of which addendum is being filed. Ensure that correct SRN is mentioned in this field and verify the system displayed details below)

2. (a) Date of SRN [ ] (DD/MM/YYYY)

(b) Form number(s) [ ]

3. (a) Corporate identity number (CIN) or foreign company registration number (FCRN) of the company [ ]

(b) Global location number (GLN) of company [ ]

4.(a) Name of the company [ ]

(b) Address of the registered office or of the principal place of business in India of the company [ ]

(c) Name of the person filing this form (applicable in case of filing in respect of non company or company yet to be incorporated) [ ]

(d) e-mail ID [ ]

5. (a) Details of defects pointed out or further information called by the Registrar of Companies (RoC) or any other competent authority [ ]

(b) Details of rectification of the defects or further information furnished [ ]

6.(a) SRN of additional (differential) stamp duty payment [ ] Pre-fill

Details of additional (differential) stamp duty

(b) (i)Amount of stamp duty [ ] Document name [ ]

(ii) Amount of stamp duty [ ] Document name [ ]

(iii) Amount of stamp duty [ ] Document name [ ]

(Ensure that correct type of document is selected from the list of documents given in the drop down below. Maximum five documents can be attached)

7. (a) Type of document [ ] Attach

(b) Type of document [ ] Attach

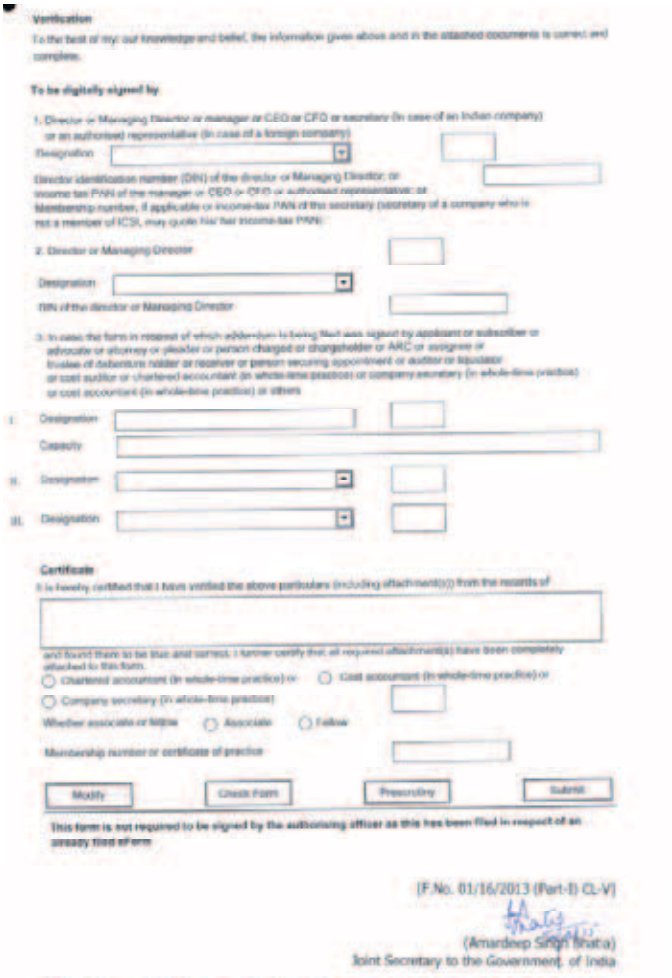
(c) Type of document [ ] Attach

(d) Type of document [ ] Attach

(e) Type of document [ ] Attach

List of attachments [ ]

Remove attachment



Verification

To be digitally signed by

Certificate

(F.No. 01/16/2013 (Part-I) CL-V)

(Amardeep Singh Bhatia)
Joint Secretary to the Government of India

07 The Companies (Declaration and Payment of Dividend) (Amendment) Rules, 2015

[Issued by the Ministry of Corporate Affairs vide F.No. 1/31/2013-CL-V-Part, dated 24.02.2015. To be published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i)]

In exercise of the powers conferred under sub-section (1) of section 123 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Declaration and Payment of Dividend) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Declaration and Payment of Dividend) (Amendment) Rules, 2015.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Declaration and Payment of Dividend) Amendment Rules, 2014, published in the Gazette of India, Extraordinary, Part 11, Section 3, Sub-section (i) vide G.S.R. No. 397(E), dated the 12lh June, 2014, after the words "AMARDEEP SINGH BHATIA, Jt. Secy.", the following Foot Note shall be inserted, namely:-

Amardeep Singh Bhatia
Joint Secretary to the Govt. of India

Banking Laws

08 Raising Money through Private Placement of Non-Convertible Debentures (NCDs) by NBFCs

[Issued by the Reserve Bank of India vide RBI/2014-15/475 DNBR (PD) CC No.021/03.10.001/2014-15, dated 20.02.2015]

Please refer to the circulars DNBS(PD CC.No.330/03.10.001/2012-13 dated June 27. 2013 and the DNBS (PD) CC.No.349/03.10.001/2013-14 dated July 02. 2013 on the subject.

2. In supersession of circulars DNBS(PD CC.No.330/03.10.001/2012-13 dated June 27. 2013 and the DNBS (PD)CC.No.349/03.10.001/2013-14 dated July 02. 2013, the guidelines on private placement of NCDs for NBFCs have been reviewed in the light of the provisions of Companies Act 2013 and the Rules issued thereunder. The notification DNBS (PD) 257/PCGM (NSV-2013 dated June 27, 2013 shall continue to be in force.

3. The revised guidelines are enclosed in the Annex. It may be noted that the provisions of Companies Act, 2013 and Rules issued thereunder shall be applicable wherever not contradictory.

4. Notification amending the NBFCs Acceptance of Public Deposits (Reserve Bank) Directions, 1998 is enclosed.

M.S. Gharde
General Manager - In-charge

A. Guidelines on Private Placement of NCDs (maturity more than 1 year) by NBFCs:

1. NBFCs shall put in place a Board approved policy for resource planning which, inter-alia, should cover the planning horizon and the periodicity of private placement.

2. The issues shall be governed by the following instructions:

   (i) The minimum subscription per investor shall be Rs. 20,000 (Rupees Twenty thousand);

   (ii) The issuance of private placement of NCDs shall be in two separate categories, those with a maximum subscription of less than Rs. 1 crore and those with a minimum subscription of Rs. 1 crore and above per investor;

   (iii) There shall be a limit of 200 subscribers for every financial year, for issuance of NCDs with a maximum subscription of less than Rs. 1 crore, and such subscription shall be fully secured;

   (iv) There shall be no limit on the number of subscribers in respect of issuances with a minimum subscription of Rs. 1 crore and above; the option to create security in favour of subscribers will be with the issuers. Such unsecured debentures shall not be treated as public deposits as defined in NBFCs Acceptance of Public Deposits (Reserve Bank) Directions, 1998.

   (v) An NBFC (excluding Core Investment Companies) shall issue debentures only for deployment of funds on its own balance sheet and not to facilitate resource requests of group entities / parent company / associates.

   (vi) An NBFC shall not extend loans against the security of its own debentures (issued either by way of private placement or public issue).

3. Tax exempt bonds offered by NBFCs are exempted from the applicability of the circular.

4. For NCDs of maturity upto one year, guidelines on Issuance of Non-Convertible Debentures (Reserve Bank Directions, 2010, dated June 23, 2010, by Internal Debt Management Department, RBI shall be applicable.

RESERVE BANK OF INDIA
DEPARTMENT OF NON-BANKING REGULATION
CENTRAL OFFICE, CENTRE I, WORLD TRADE CENTRE,
CUFFE PARADE, COLABA, MUMBAI, 400005.

Notification No. DNBR.(PD) 006 /GM(MSG)-2015 dated February 20, 2015

The Reserve Bank of India, having considered it necessary in public interest and being satisfied that, for the purpose of enabling the Bank to regulate the credit system to the advantage of the country, it is necessary to amend the Non-Banking Financial Companies Acceptance of Public Deposits (Reserve Bank) Directions (Notification No. DFC. 118/DG(SPT)-98 dated January 31, 1998) (hereinafter referred to as the 'said Directions'), in exercise of the powers conferred by section 45J, 45K, 45L and 45 MA of the Reserve Bank of India Act, 1934 (2 of 1934) and of all the powers enabling it in this behalf, hereby directs that the said Directions shall be amended with immediate effect as follows, namely-

1. Insertion of new clause (fa): In paragraph 2, of the said Directions, in sub. paragraph (1), after clause (xii)(f), the following new clause shall be inserted, namely:-

   "(fa) any amount raised by issuance of non-convertible debentures with a maturity more than one year and having the minimum subscription per investor at Rs.1 crore and above, provided that such debentures have been issued in accordance with the guidelines issued by the Reserve Bank as in force from time to time in respect of such non-convertible debentures."

M. S. Gharde
General Manager - In-charge

09 Foreign Exchange Management Act, 1999 - Import of Goods into India

[Issued by the Reserve Bank of India vide RBI/2014-15/467 A. P. (DIR Series) Circular No.76, dated 12.02.2015]

Attention of Authorised Dealer Category - I (AD Category - I) banks is invited to the A.P.(DIR Series) Circular No. 82 dated February 21, 2012 in terms of which applications by persons, firms and companies for making payments, exceeding USD 5,000 or its equivalent towards imports into India must be made in Form A-1.

2. To further liberalise and simplify the procedure, it has been decided to dispense with the requirement of submitting request in Form A-1 to the AD Category -I Banks for making payments towards imports into India. AD Category -I may however, need to obtain all the requisite details from the importers and satisfy itself about the bonafides of the transactions before effecting the remittance.

3. AD Category - I banks may bring the contents of this circular to the notice of their constituents and customers concerned.

4. The directions contained in this circular have been issued under Section 10 (4) and Section 11 (1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

C. D. Srinivasan
Chief General Manager

10 Foreign Direct Investment -Reporting under FDI Scheme on the e-Biz platform

[Issued by the Reserve Bank of India vide RBI//2014-15/468 A.P (DIR Series) Circular No. 77, dated 12.02.2015]

Attention of Authorised Dealers Category-I (AD Category - I) banks is invited to the provisions of the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations 2000, notified by the Reserve Bank vide Notification No. FEMA 20/2000-RB, dated 3rd May 2000, as amended from time to time. Attention of AD Category - I banks is also invited to A.P. (DIR Series) Circular No. 102 dated February 11, 2014 and A.P. (DIR Series) Circular No.6 dated July 18, 2014.

2. With a view to promoting the ease of reporting of transactions under foreign direct investment, the Reserve Bank of India, under the aegis of the e-Biz project of the Government of India has enabled the filing of the following returns with the Reserve Bank of India viz.

   Advance Remittance Form (ARF) - used by the companies to report the foreign direct investment (FDI) inflow to RBI; and

   FCGPR Form - which a company submits to RBI for reporting the issue of eligible instruments to the overseas investor against the above mentioned FDI inflow.

3. The design of the reporting platform enables the customer to login into the e- Biz portal, download the reporting forms (ARF and FCGPR), complete and then upload the same onto the portal using their digitally signed certificates. The Authorised Dealer Banks (ADs) will be required to download the completed forms, verify the contents from the available documents, if necessary by calling for additional information from the customer and then upload the same for RBI to process and allot the Unique Identification Number (UIN). It has been decided that the ARF and FCGPR services of RBI will be operational on the e-Biz platform from February 19, 2015. The user manual for the two services is Annexed to this Circular.

4. It may be noted that for the present, the online reporting on the e-Biz platform is an additional facility to the Indian companies to undertake their ARF and FCGPR reporting and the manual system of reporting as prescribed in terms of A.P. (DIR Series) Circular No. 102 dated February 11, 2014 would continue till further notice.

5. The ADs will be required to access the e-Biz portal (which is hosted on the National Informatics Centre (NIC) servers) using a Virtual Private Network (VPN) Account obtained from NIC. The financial aspects for obtaining/using the VPN accounts is being finalised in consultation with Government of India, DIPP and NIC. The same will be informed in due course.

6. AD Category-I banks may bring the contents of this circular to the notice of their customers / constituents concerned. They are advised to extend due cooperation/assistance to their constituents for uploading the abovementioned forms on the e-Biz platform.

7. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

C D Srinivasan
Chief General Manager

11 External Commercial Borrowings (ECB) Policy - Simplification of Procedure

[Issued by the Reserve Bank of India vide RBI/2014-15/425 A.P. (DIR Series) Circular No.64, dated 23.01.2015]

Attention of the Authorised Dealer (AD) Category-I banks is invited to the following provisions contained in the undernoted A.P. (DIR Series) Circulars through which powers have been delegated to them to deal with cases related to change in drawdown and repayment schedules of ECBs subject to conditions stipulated therein:

i. Provisions contained in the paragraph 3 (a) of A.P. (DIR Series) Circular No. 33 dated February 09, 2010
ii. Provisions contained in paragraphs 3 (a) and (b) of A.P. (DIR Series) Circular No. 75 dated February 07. 2012
iii. Provisions contained in the A.P. (DIR Series) Circular No. 128 dated May 09, 2014.

2. On a review, as a measure of simplification of the existing procedure for rescheduling / restructuring of ECBs and in supersession of aforesaid provisions, it has been decided to delegate powers to the designated AD Category-I banks to allow:

   i. Changes / modifications (irrespective of the number of occasions) in the drawdown and repayment schedules of the ECB whether associated with change in the average maturity period or not and / or with changes (increase/ decrease) in the all-in-cost.

   ii. Reduction in the amount of ECB (irrespective of the number of occasions) along with any changes in draw-down and repayment schedules, average maturity period and all-in-cost.

   iii. Increase in all-in-cost of ECB, irrespective of the number of occasions.

3. This measure is subject to the designated AD Category-I bank ensuring the following:

   i. Revised average maturity period and / or all-in-cost is / are in conformity with the applicable ceilings / guidelines; and

   ii. The changes are effected during the tenure of the ECB.

4. If the lender is an overseas branch subsidiary of an Indian bank, the changes shall be subject to the applicable prudential norms.

5. It has also been decided to delegate powers to the designated AD Category-I banks to permit changes in the name of the lender of ECB after satisfying themselves with the bonafides of the transactions and ensuring that the ECB continues to be in compliance with applicable guidelines. Further, the AD Category-I banks may also allow the cases requiring transfer of the ECB from one company to another on account of re-organisation at the borrower's level in the form of merger / demerger / amalgamation / acquisition duly as per the applicable laws / rules after satisfying themselves that the company acquiring the ECB is an eligible borrower and ECB continues to be in compliance with applicable guidelines.

6. These measures of simplification will be applicable for ECBs raised both under the automatic and approval routes. FCCBs will, however, not be covered within these provisions.

7. These changes in the terms and conditions of ECB and / or any other changes allowed by the AD Category-I banks under the powers already delegated and / or changes approved by the Reserve Bank should be reported to the Department of Statistics and Information Management (DSIM) of the Reserve Bank through revised Form 83 at the earliest, in any case not later than 7 days from the changes effected. While submitting revised Form 83 to the DSIM, the changes should be specifically mentioned in the communication.Further, these changes should also get reflected in the ECB 2 returns appropriately.

8. The modification to the ECB policy will come into force with immediate effect. All other aspects of the ECB policy shall remain unchanged.

9. AD Category-I banks may bring the contents of this Circular to the notice of their constituents and customers.

10. The directions contained in this Circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals required, if any, under any other law.

B P Kanungo
Principal Chief General Manager

12 Overseas Direct Investments by proprietorship concern / unregistered partnership firm in India - Review

[Issued by the Reserve Bank of India vide RBI/2014-2015/419 A.P. (DIR Series) Circular No.59, dated 22.01.2015]

Attention of the Authorised Dealer (AD - Category I) banks is invited to the provisions of the Notification No. FEMA.120/RB-2004 dated July 7, 2004 [Foreign Exchange Management (Transfer or Issue of any Foreign Security) (Amendment) Regulations, 2004] (the Notification), as amended from time to time.

2. Keeping in view the changes in the definition / classification of the exporters as per the Foreign Trade Policy of the Ministry of Commerce and Industry issued from time to time, it has been decided to review the policy framework for Overseas Direct Investments (ODI) by a proprietorship concern / unregistered partnership firm in India. Accordingly, henceforth, the following revised terms and conditions are required to be complied with for considering the proposal of ODI, by a proprietorship concern / unregistered partnership firm in India, by the Reserve Bank under the approval route:

   (a) The proprietorship concern /unregistered partnership firm in India is classified as 'Status Holder' as per the Foreign Trade Policy issued by the Ministry of Commerce and Industry, Govt. of India from time to time;

   (b) The proprietorship concern / unregistered partnership firm in India has a proven track record, i.e., the export outstanding does not exceed 10% of the average export realisation of the preceding three years and a consistently high export performance;

   (c) The Authorised Dealer bank is satisfied that the proprietorship concern / unregistered partnership firm in India is KYC (Know Your Customer) compliant, engaged in the proposed business and has turnover as indicated;

   (d) The proprietorship concern / unregistered partnership firm in India has not come under the adverse notice of any Government agency like the Directorate of Enforcement, Central Bureau of Investigation, Income Tax Department, etc. and does not appear in the exporters' caution list of the Reserve Bank or in the list of defaulters to the banking system in India; and

   (e) The amount of proposed investment outside India does not exceed 10 per cent of the average of last three years' export realisation or 200 per cent of the net owned funds of the proprietorship concern / unregistered partnership firm in India, whichever is lower.

3. Necessary amendments to the Notification ibid has been issued

time to time, may set up / acquire a Joint Venture (JV) / Wholly Owned Subsidiary (WOS) outside India with the prior approval of the Reserve Bank."

4. AD - Category I banks may bring the contents of this Circular to the notice of their constituents and customers concerned.

5. The directions contained in this Circular have been issued under Sections 10(4) and 11(1) of the Foreign Exchange Management Act (FEMA), 1999 (42 of 1999) and are without prejudice to permissions/approvals, if any, required under any other law.

C D Srinivasan
Chief General Manager

RESERVE BANK OF INDIA
FOREIGN EXCHANGE DEPARTMENT
CENTRAL OFFICE
MUMBAI-400 001

Notification No. FEMA. 325/RB-2014 November 12, 2014

Foreign Exchange Management (Transfer or Issue of any Foreign Security) (Fourth Amendment) Regulations, 2014

In exercise of the powers conferred by clause (a) of sub-section (3) of Section 6 and sub-section (2) of Section 47 of the Foreign Exchange Management Act, 1999 (42 of 1999), the Reserve Bank hereby makes the following amendments in the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) Regulations 2004 (Notification No. FEMA.120/RB-2004 dated July 7, 2004), as amended from time to time, (hereinafter called the Principal Regulations or the Notification) namely:-

1. Short Title & Commencement

   (i) These Regulations shall be called the Foreign Exchange Management (Transfer or Issue of Any Foreign Security) (Fourth Amendment) Regulations, 2014.

   (ii) They shall come into force from the date of publication in the Official Gazette.

2. Amendment to Regulation 19A

   The existing Regulation 19A shall be substituted with the following, namely:

   "19A. Overseas Direct Investments by Proprietorship Concern / Unregistered Partnership Firm in India

   A proprietorship concern or an unregistered partnership firm in India, satisfying the criteria for Overseas Direct Investment as prescribed by the Reserve Bank from time to time, may set up / acquire a Joint Venture (JV) / Wholly Owned Subsidiary (WOS) outside India with the prior approval of the Reserve Bank."

3. Amendment to Schedule II

   The existing Schedule II stands deleted.

C D Srinivasan
Chief General Manager

13 Foreign Direct Investment (FDI) in India - Review of FDI policy -Sector Specific conditions- Construction Development

[Issued by the Reserve Bank of India vide RBI/2014-15/420 A.P. (DIR Series) Circular No. 60, dated 22.01.2015]

Attention of Authorised Dealer Category - I (AD Category-I) banks is invited to Annex B of Schedule 1 to the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 notified vide Notification No. FEMA 20/2000-RB dated May 3, 2000, as amended from time to time. In terms of Schedule 1 to the Notification ibid, 100% Foreign Direct Investment (FDI) is permitted under Automatic route in Construction Development sector subject to conditions.

2. The extant FDI policy for Construction Development sector has since been reviewed. Accordingly, effective December 3, 2014 100% FDI under automatic route shall be permitted in construction development sector subject to the conditions specified in the Press Note 10 (2014 Series) dated December 3, 2014.

3. A copy of Press Note No. 10 (2014 Series) dated December 3, 2014 issued in this regard by DIPP, Ministry of Commerce & Industry, Government of India is appended.

4. Reserve Bank has since amended the Principal Regulations through the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) (Sixteenth Amendment) Regulations, 2014 notified vide Notification No. FEMA.329/2014-RB dated December 8, 2014, c.f. G.S.R. No. 906(E) dated December 22, 2014.

5. Authorised Dealer banks may bring the contents of this circular to the notice of their constituents and customers concerned.

6. The directions contained in this circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

B.P. Kanungo
Principal Chief General Manager

Government of India
Ministry of Commerce & Industry
Department of Industrial Policy & Promotion
(FC-I Section)
Press Note No. 10 (2014 Series)

Subject: Review of Foreign Direct Investment (FDI) policy on the Construction Development Sector-amendment to 'Consolidated FDI Policy Circular 2014'.

1.0 Present position:

Paragraph 6.2.11 of the 'Consolidated FDI Policy Circular of 2014', effective from 17th April, 2014, relating to Construction Development Sector, presently reads as below:

Sl. No.	Sector/Activity	% of Equity/ FDI Cap	Entry Route
6.2.11	Construction Development: Townships, Housing, Built-up infrastructure		
6.2.11.1	Townships, housing, built-up infrastructure and construction-development projects (which would include, but not be restricted to, housing, commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure)	100%	Automatic
6.2.11.2	Investment will be subject to the following conditions: (1) Minimum area to be developed under each project would be as under: (i) In case of development of serviced housing plots, a minimum land area of 10 hectares. (ii) In case of construction-development projects, a minimum built-up area of 50,000 sq.mts. (iii) In case of a combination project, any one of the above two conditions would suffice. (2) Minimum capitalization of US $10 million for wholly owned subsidiaries and US $ 5 million for joint ventures with Indian partners. The funds would have to be brought in within six months of commencement of business of the Company. (3) Original investment cannot be repatriated before a period of three years from completion of minimum capitalization. Original investment means the entire amount brought in as FDI. The lock-in period of three years will be applied from the date of receipt of each installment/tranche of FDI or from the date of completion of minimum capitalization, whichever is later. However, the investor may be permitted to exit earlier with prior approval of the Government through the FIPB. (4) At least 50% of each such project must be developed within a period of five years from the date of obtaining all statutory clearances. The investor/investee company would not be permitted to sell undeveloped plots. For the purpose of these guidelines, "undeveloped plots" will mean where roads, water supply, street lighting, drainage, sewerage, and other conveniences, as applicable under prescribed regulations, have not been made available. It will be necessary that the investor provides this infrastructure and obtains the completion certificate from the concerned local body/service agency before he would be allowed to dispose of serviced housing plots. (5) The project shall conform to the norms and standards, including land use requirements and provision of community amenities and common facilities, as laid down in the applicable building control regulations, bye-laws, rules, and other regulations of the State Government/Municipal/ Local Body concerned. (6) The investor/investee company shall be responsible for obtaining all necessary approvals, including those of the building layout plans, developing internal and peripheral areas and other infrastructure facilities, payment of development, external development and other charges and complying with all other requirements as prescribed under applicable rules/ bye-laws/regulations of the State Government/ Municipal/Local Body concerned. (7) The State Government/Municipal/Local Body concerned, which approves the building/ development plans, would monitor compliance of the above conditions by the developer.		
	Note: (i) The conditions at (1) to (4) above would not apply to Hotels & Tourism, Hospitals, Special Economic Zones (SEZs), Education Sector, Old Age Homes and investment by NRIs. (ii) FDI is not allowed in Real Estate Business.		

2.0 Revised position:

The Government of India has reviewed the FDI policy in this regard. Paragraph 6.2.11 of 'Consolidated FDI Policy Circular of 2014' will now read as under:

Sl. No.	Sector/Activity	% of Equity/ FDI Cap	Entry Route
6.2.11	Construction Development: Townships, Housing, Built-up infrastructure		
6.2.11.1	Construction-development projects (which would include development of townships, construction of residential/commercial premises, roads or bridges, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure, townships)	100%	Automatic
6.2.11.2	Investment will be subject to the following conditions: (A) Minimum area to be developed under each project would be as under: i. In case of development of serviced plots, no minimum land area requirement. ii. In case of construction-development projects, a minimum floor area of 20,000 sq. meter. (B) Investee company will be required to bring minimum FDI of US$ 5 million within six months of commencement of the project. The commencement of the project will be the date of approval of the building plan/lay out plan by the relevant statutory authority. Subsequent tranches of FDI can be brought till the period of ten years from the commencement of the project or before the completion of project, whichever expires earlier. (C) (i) The investor will be permitted to exit on completion of the project or after development of trunk infrastructure i.e. roads, water supply, street lighting, drainage and sewerage. (ii) The Government may, in view of facts and circumstances of a case, permit repatriation of FDI or transfer of stake by one non-resident investor to another non-resident investor, before the completion of project. These proposals will be considered by FIPB on case to case basis inter-alia with specific reference to Note (i).		
	(D) The project shall conform to the norms and standards, including land use requirements and provision of community amenities and common facilities, as laid down in the applicable building control regulations, bye-laws, rules, and other regulations of the State Government/Municipal/ Local Body concerned. (E) The Indian investee company will be permitted to sell only developed plots. For the purposes of this policy "developed plots" will mean plots where trunk infrastructure i.e. roads, water supply, street lighting, drainage and sewerage, have been made available. (F) The. Indian investee company shall be responsible for obtaining all necessary approvals, including those of the building/layout plans, developing internal and peripheral areas and other infrastructure facilities, payment of development, external development and other charges and complying with all other requirements as prescribed under applicable rules/bye- laws/ regulations of the State Government/ Municipal Local Body concerned. (G) The State Government/ Municipal/ Local Body concerned, which approves the building / development plans, will monitor compliance of the above conditions by the developer.		

Note:

(i) It is clarified that FDI is not permitted in an entity which is engaged or proposes to engage in real estate business, construction of farm houses and trading in transferable development rights (TDRs).

"Real estate business" will have the same meaning as provided in FEMA Notification No. 1/2000-RB dated May 03, 2000 read with RBI Master Circular i.e. dealing in land and immovable property with a view to earning profit or earning income therefrom and does not include development of townships, construction of residential/ commercial premises, roads or bridges, educational institutions, recreational facilities, city and regional level infrastructure, townships.

(ii) The conditions at (A) to (C) above, will not apply to Hotels & Tourist resorts; Hospitals; Special Economic Zones (SEZs); Educational Institutions, Old Age Homes and Investment by NRIs.

(iii) The conditions at (A) and (B) above, will also not apply to investee/joint venture companies which commit at least 30 percent of the total project cost for low cost affordable housing.

(iv) An Indian company, which is the recipient of FDI, shall procure a certificate from an architect empanelled by any Authority, authorized to sanction building plan to the effect that the minimum floor area requirement has been fulfilled.

(v) 'Floor area' will be defined as per the local laws/regulations of the respective State governments/Union territories.

(vi) Completion of the project will be determined as per the local bye-laws/ rules and other regulations of State Governments.

(vii) Project using at least 40% of the FAR/FSI for dwelling unit of floor area of not more than 140 square meter will be considered as Affordable Housing Project for the purpose of FDI policy in Construction Development Sector. Out of the total FAR/FSI reserved for Affordable Housing, at least one-fourth should be for houses of floor area of not more than 60 square meter.

(viii) It is clarified that 100% FDI under automatic route is permitted in completed projects for operation and management of townships, malls/ shopping complexes and business centres.

3.0 The above decision will take immediate effect.

Atul Chaturvedi
Joint Secretary

INVITATION TO BE FACULTY MEMBERS AT WORKSHOPS ON SECRETARIAL AUDIT

As you are already aware that section 204 requires every listed company and every public company having a paid-up share capital of fifty crore rupees or more or turnover of two hundred fifty crore rupees or more, to annex with its Board's Report made in terms of sub-section (3) of section 134, a secretarial audit report, given by a company secretary in practice, in Form MR-3.

The Secretarial Auditor would be submitting his report in terms of section 204 for the first time which would be carried in the Board's Report for the financial year commencing on or after April 1, 2014.

Realising an underlying need to build capacity in this area as also a need for closer networking amongst the professional fraternity, the Institute would be organizing national seminars and a series of workshops on Secretarial Audit.

In this regard, we require faculty members who can share their experience and expertise on the compliance of various laws which are applicable to companies. We require members from the practice side who have conducted/ carried out secretarial audit as also senior management personnel from the industry who are getting secretarial audit done.

- The major laws the compliance of which is to be reported in MR-3 are:
- Companies Act, 2013,
- Securities Contracts (Regulation) Act, 1956 ('SCRA'),
- Depositories Act, 1996,
- Foreign Exchange Management Act,
- Regulations and Guidelines under the Securities and Exchange Board of India Act, 1992 as enlisted in MR-3;
- 'Other laws as may be applicable specifically to the company'

As you are already aware that the Council view on 'Other laws as may be applicable specifically to the company' is to include all the laws which are applicable to specific industry. In this regard, an indicative list of laws applicable to some industry sectors is available at https://www.icsi.edu/portals/0/SA_1_1_12022015.pdf.

Interested persons may send their profile and also indicate their area of expertise and preference at secretarialaudit@icsi.edu by March 15, 2015.

Institute News

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193	MR. AMIT JAIN	ACS - 38574	NIRC
194	MR. VINEETH T	ACS - 38575	SIRC
195	MR. JITIN CHATURVEDI	ACS - 38576	NIRC
196	MR. SURENDRA KUMAR MITHARWAL	ACS - 38577	NIRC
197	MS. SAKSHI KHANNA	ACS - 38578	NIRC
198	MR. AJAY KUMAR CHAUHAN	ACS - 38579	NIRC
199	MR. VIVEK MEHTA	ACS - 38580	NIRC
200	MR. SUGESH RAM K S	ACS - 38581	SIRC
201	MS. SWATI TIWARI	ACS - 38582	NIRC
202	MS. SUSHMA AGARWAL	ACS - 38583	NIRC
203	MR. PRAVEEN KUMAWAT	ACS - 38584	NIRC
204	MR. RAJESH KUMAR	ACS - 38585	NIRC
205	MS. PALLAVI ARORA	ACS - 38586	NIRC
206	MS. RITU GARG	ACS - 38587	NIRC
207	MS. SHILPA RATHORE	ACS - 38588	NIRC
208	MR. NIKHIL AGARWAL	ACS - 38589	NIRC
209	MS. SUHANI JAIN	ACS - 38590	NIRC
210	MS. KRATIKA TIWARI	ACS - 38591	NIRC
211	MS. SWASHATA PINKI OJAH	ACS - 38592	NIRC
212	MS. NUPUR BANSAL	ACS - 38593	NIRC
213	MS. SAMIKSHA JAIN	ACS - 38594	NIRC
214	MR. SUNIL K	ACS - 38595	SIRC
215	MS. POORNIMA N S	ACS - 38596	SIRC
216	MR. SHIVARAMA NARAHARI HEGDE	ACS - 38597	SIRC
217	MR. RAVI NARAYAN BHAT	ACS - 38598	SIRC
218	MS. BHAGYASREE S	ACS - 38599	SIRC
219	MR. ROHIT SHRIVASTAVA	ACS - 38600	SIRC
220	MR. JAYMEENBHAI MOHANBHAI PATEL	ACS - 38601	WIRC
221	MS. HETAL SURESH NAGRECHA	ACS - 38602	WIRC
222	MR. NIRAJ KUMAR VINOD KUMAR JAIN	ACS - 38603	WIRC
223	MR. RAUNAK SINGH RAHANGDALE	ACS - 38604	WIRC
224	MS. HIRAL VIPUL SHETH	ACS - 38605	WIRC
225	MS. RUJUTA VINOD MEDHEKAR	ACS - 38606	WIRC
226	MR. NIKI VINODKUMAR KIRI	ACS - 38607	WIRC

227	MS. VRUNDA MAHESH BORKAR	ACS - 38608	WIRC
228	MS. ARCHANA KATARIA	ACS - 38609	WIRC
229	MS. SEEMA KISHANCHAND FULWANI	ACS - 38610	WIRC
230	MS. MUGDHA VINAYAK KUDTARKAR	ACS - 38611	WIRC
231	MS. PURVA MAHESH JOSHI	ACS - 38612	WIRC
232	MS. RITIKA	ACS - 38613	EIRC
233	MR. PRATIM PALIT	ACS - 38614	EIRC
234	MR. RAJAT GUPTA	ACS - 38615	WIRC
235	MR. AMIT PURUSHOTAM ABLANI	ACS - 38616	WIRC
236	MR. KAMLESH BANSAL	ACS - 38617	NIRC
237	MS. MANIKA SINGHAL	ACS - 38618	NIRC
238	MS. TASNEEM MARFATIA	ACS - 38619	WIRC
239	MS. BHARTI ADWANI	ACS - 38620	NIRC
240	MRS. RAJESHWARI RAMANATHAN	ACS - 38621	WIRC
241	MS. AANCHAL TEKRIWAL	ACS - 38622	EIRC
242	MR. PRAMOD KUMAR MUNDHRA	ACS - 38623	EIRC
243	MS. NEHA VERMA	ACS - 38624	EIRC
244	MS. NIKITA GUPTA	ACS - 38625	EIRC
245	MS. SNEHA TIBREWAL	ACS - 38626	EIRC
246	MR. ANKUSH SULTANIA	ACS - 38627	EIRC
247	MS. CHANDNI GUPTA	ACS - 38628	EIRC
248	MS. PRIYAM AGARWAL	ACS - 38629	EIRC
249	MS. TARUNA GUPTA	ACS - 38630	NIRC
250	MR. ASHISH JAIN	ACS - 38631	NIRC
251	MR. RAKESH KUMAR	ACS - 38632	NIRC
252	MS. POONAM SHARMA	ACS - 38633	NIRC
253	MR. RINKU JAIN	ACS - 38634	NIRC
254	MR. HRISHIKESH VENKATESH MURTHY	ACS - 38635	SIRC
255	MS. POOJA RAMESH BANGERA	ACS - 38636	WIRC
256	MS. ANITA ASHOK PANDEY	ACS - 38637	WIRC
257	MS. BHAGYASHRI SHANTILAL JAIN	ACS - 38638	WIRC
258	MR. SHREYAS RASHMIN MEHTA	ACS - 38639	WIRC
259	MR. MUDIT KAPOOR	ACS - 38640	WIRC
260	MR. VEDANT ASHISHBHAI BHATT	ACS - 38641	WIRC
261	MS. TANUJA ANAND DESHPANDE	ACS - 38642	WIRC
262	MR. SIDHARTHA MEHRA	ACS - 38643	SIRC
263	MS. KASHISH ARORA	ACS - 38644	EIRC

MEMBERS RESTORED*

Sl.No.	Name	ACS/FCS No.	Region
1	SH. RAJEETA SHANTANU SAHASRABUDHE	ACS 18518	WIRC
2	SH. K VISWANATHAN	ACS 6848	SIRC
3	SH. V LAKSHMINARAYANAN	ACS 4908	F/SIRC
4	SH. CYRUS RAJA	FCS 3138	F/WIRC
5	SH. MEHER CHRISTOPHER DESOUZA	ACS 7167	WIRC
6	SH SAGAR S WAHI	ACS 19817	WIRC
7	SH NAVEEN SINGHAL	ACS 18471	WIRC
8	MS. ANITA SUNIL NAIR	ACS 19014	WIRC
9	SH BIRENDRA KUMAR AGRAWAL	ACS 23943	WIRC
10	MS. KHUSHBOO KUMARI	ACS 33364	NIRC
11	SH. K E RANGANATHAN	ACS 5558	SIRC
12	MR. NIPUN BALDUA	ACS 35352	NIRC
13	MS. RENU KUMARI	ACS 33620	NIRC
14	SH PARUL DUA	FCS 6157	SIRC
15	SH HEMANT P. JUNNARKAR	FCS 2999	F/WIRC
16	SH SREEDHAR NAYANI	ACS 7073	F/SIRC
17	SH P B SATHE	ACS 3154	WIRC
18	MS SHWETA AGGARWAL	ACS 23938	NIRC
19	SH K VENKATESHAM	ACS 14604	SIRC
20	SH A R BANERJEE	FCS 1212	EIRC
21	MS JYOTI MITTAL	ACS 24004	EIRC
22	SH CHINAVENKAREDDY KOTTA	ACS 25281	SIRC
23	MS KINJAL BRIJESH SHAH	ACS 21311	F/SIRC
24	MS KAMALPREET KAUR CHHABRA	ACS 30972	NIRC
25	SH CHAITHANYA KRISHNA MURTHY GOGINENI	ACS 23293	SIRC
26	SH ATLURI RAMESH	ACS 30844	SIRC
27	SH R RAMANATHAN	ACS 10981	SIRC
28	SH GOVIND KUMAR RAJAGOPAL	ACS 4670	SIRC
29	SH RAJENDRA FALOR	ACS 11930	WIRC
30	SH PRAVEEN LAKHERA	ACS 12507	NIRC
31	SH SUNIL KUMAR BAHRI	FCS 1679	F/NIRC
32	SH NIKITA KUMARI SHARMA	ACS 26866	WIRC
33	SH VINAYAK JANARDAN JADHAV	ACS 13299	WIRC
34	SH. DEVENDRA BHANDARI	FCS 1558	WIRC
35	SH DEEPAK KAPOOR	FCS 4405	NIRC
36	MR. V B RAJU	ACS 2810	WIRC
37	SH ASHISH VISHNU PAI	ACS 17317	WIRC
38	MS. RICHA MANUJA	ACS 26415	NIRC
39	SH KAPIL MEHTA	ACS 14802	F/WIRC
40	MS UDAYA KUMAR GODITHI	ACS 34094	SIRC
41	MS KALAVATHI S	ACS 32025	SIRC
42	SH SUBRAMANIAN NARAYAN	ACS 16354	SIRC
43	MR DEEPAK KEWALIYA	ACS 22333	NIRC
44	SH P N HARIDAS	ACS 9206	NIRC
45	SH MANISH SANSI	ACS 10985	NIRC
46	SH VIKASH KUMAR DUBEY	ACS 27268	EIRC
47	SH AMIT R RAIJI	ACS 5403	WIRC
48	SH GAURI SHANKAR GUPTA	ACS 3605	F/NIRC
49	MS SHILKY SINGHAL	ACS 32313	NIRC

*Restored from 21.01.2015 to 20.02.2015.

Certificate of Practice*

SL. No.	NAME	MEMB NO	COP NO.	REGION
1	MR. AMIT KUMAR GUPTA	ACS - 34032	14190	NIRC
2	MR. ABNISH KUMAR	ACS - 37803	14191	NIRC
3	MRS. IBHA KALRA	ACS - 27138	14192	NIRC
4	MS. KALPA RATHI	ACS - 27419	14193	NIRC
5	MS. PRIYA GARG	ACS - 37727	14194	NIRC
6	MS. SONIA REETESH ARORA	ACS - 18943	14195	WIRC
7	MR. MILAN HASMUKHBAI ALON-DRA	ACS - 38085	14196	WIRC

*Issued during the Month of January, 2015.

8	MR. RATAN KUMAR DAS	ACS - 36928	14197	WIRC
9	MR. AVIJIT VASU	ACS - 37968	14198	NIRC
10	SH. VIKRAM SOOD	FCS - 1618	14199	NIRC
11	MS. PREETI GUPTA	ACS - 25907	14200	NIRC
12	MS. NOOPUR SHARMA	ACS - 33452	14201	NIRC
13	MS. ALPI NEHRA	ACS - 38011	14202	WIRC
14	MS. ASTHA CHATURVEDI	ACS - 37369	14203	NIRC
15	MRS. ANKITA GOENKA	ACS - 37776	14204	EIRC
16	MS. ANAMIKA RASTOGI	ACS - 37802	14205	NIRC
17	MS. SHAILJA JAYESHKUMAR PANDYA	ACS - 37665	14206	WIRC
18	MS. POONAM SINGH	ACS - 37785	14207	NIRC
19	MS. SURBHI GOYAL	ACS - 37055	14208	NIRC
20	MS. ESHA A. CHOUDHARY	ACS - 17184	14209	WIRC
21	MS. JAANVI PARTH JOSHI	ACS - 37934	14210	WIRC
22	MR. SUKHMENDRA KUMAR	ACS - 37552	14211	NIRC
23	SH. S K MUKHOPADHYAY	ACS - 6360	14212	EIRC
24	MR. JIGAR DAHYABHAI CHAUDHARI	ACS - 37499	14213	WIRC
25	MR. HEMANT KUMAR SAJNANI	FCS - 7348	14214	NIRC
26	MR. JINANG DINESH KUMAR SHAH	ACS - 38194	14215	WIRC
27	MR. SUSHIL GARG	ACS - 35954	14216	NIRC
28	SH. PARAMESWARAN K P NAMBOODIRIPAD	ACS - 21277	14217	SIRC
29	SH. AJAY JALAN	ACS - 12593	14218	WIRC
30	MS. MONICA SURI	FCS - 7500	14219	NIRC
31	MS. NAMITA CHANDRASHEKHAR PHATAK	ACS - 36514	14220	WIRC
32	MS. SHRUTI JAYANT DESHMUKH	ACS - 36707	14221	WIRC
33	MS. ASHIMA BHATNAGAR	ACS - 25655	14222	NIRC
34	MR. VENKATRAMAN HEGDE	ACS - 38000	14223	SIRC
35	MS. ISHA KAPOOR	ACS - 36740	14224	NIRC
36	MS. POOJA GARG	ACS - 14572	14225	NIRC
37	MS. ARUNA V	ACS - 30387	14226	SIRC
38	MS. NEHA SHARMA	ACS - 38029	14227	EIRC
39	MS. SEEPIKA GUPTA	ACS - 37984	14228	NIRC
40	MS. VARINDER KAUR SEERA	ACS - 34476	14229	NIRC
41	MRS. NIVEDITA TRIPATHI	ACS - 32741	14230	WIRC
42	MS. PRATIBHA SHARMA	ACS - 38211	14231	NIRC
43	MS. CHANDAN	ACS - 33129	14232	NIRC
44	MS. LAVITA	ACS - 38050	14233	NIRC
45	MR. TUSHAR VIJAY BHALSHANKAR	ACS - 35711	14234	WIRC
46	SH. VENKATA RAVI KUMAR MANDAVILLI	FCS - 7095	14235	SIRC
47	MR. KULDIP KUMAR SARMA	ACS - 34157	14236	EIRC
48	SH. ABHISHEK SETHIYA	FCS - 7856	14237	NIRC
49	MR. SUSHANTA PRADHAN	ACS - 29239	14238	EIRC
50	MR. VARUN KUMAR	ACS - 37032	14239	NIRC
51	MR. SHELTON M JOSEPH	ACS - 38252	14240	SIRC
52	MR. BHUPESH MITTAL	ACS - 36188	14241	NIRC
53	MR. PRATIK GHANSHAM NAIK	ACS - 35220	14242	WIRC
54	MR. ANOOP SINGH CHAUHAN	ACS - 37961	14243	NIRC
55	MS. DIPA ATMARAM KUDALKAR	ACS - 22283	14244	WIRC
56	SH. GOKUL R I	ACS - 21269	14245	SIRC
57	MS. PURVI PRASHANT MEHTA	ACS - 24650	14246	WIRC
58	SH. S P DATE	ACS - 2018	14247	WIRC
59	SH. R S KHOLKAR	ACS - 6679	14248	WIRC
60	SH. MANOJ KHAGENDRA SHAH	FCS - 4925	14249	EIRC
61	SH P S SRINIVASA RAGHAVAN	ACS - 21346	14250	SIRC
62	MS. YAMINI AGGARWAL	ACS - 38246	14251	NIRC
63	MS. SHASHI SHARMA	ACS - 20609	14252	EIRC
64	MRS. ALKA MACHHAR	ACS - 23276	14253	EIRC
65	MS. SHITAL MOHAN MANANDHAR	ACS - 31129	14254	WIRC
66	MS. ANSHITA JAIN	ACS - 35239	14255	NIRC
67	MS. MEGHA RAMESHCHANDRA CHOKSHI	ACS - 31428	14256	WIRC
68	MS. PALAK DUTTA	ACS - 36700	14257	NIRC
69	MS. ANUPAMA SHARMA	ACS - 34704	14258	NIRC
70	MS. VIBHUTI MISRA	ACS - 31891	14259	NIRC
71	MS. APARNA SINGH	ACS - 36580	14260	NIRC
72	MS. URVASHI	ACS - 30990	14261	NIRC
73	MRS. ZALAK GHANSHYAM DODIYA	ACS - 34088	14262	WIRC
74	MR. SATISH	ACS - 35238	14263	NIRC
75	SH. RAJESH KUMAR	FCS - 7702	14264	NIRC
76	MR. DHRUVALKUMAR DHIRAJKUMAR BALADHA	ACS - 38103	14265	WIRC
77	MR. ADITYA KUMAR DAGA	ACS - 37778	14266	EIRC
78	MR. NAGARAJ SHETTY	ACS - 38162	14267	SIRC
79	MR. JAI SINGH BOHRA	ACS - 38144	14268	NIRC
80	MR. HARSH VIJAY GOR	ACS - 38377	14269	WIRC
81	SH. PANKAJ DAWAR	ACS - 18157	14270	NIRC
82	MR. ROHIT MEHRA	ACS - 34493	14271	NIRC
83	MS. AMRUTA KRISHNA TENDULKAR	ACS - 33717	14272	WIRC
84	MRS. KIRAN ROHIT RATHI	ACS - 27371	14273	WIRC
85	MR. VIVEK RANJAN SAHU	ACS - 35169	14274	NIRC
86	MS. SANDHYA RANI GUNTHA	ACS - 32010	14275	SIRC
87	MS. S KRITHIKA	ACS - 37001	14276	SIRC
88	MS. NIKITA TANEJA	ACS - 34938	14277	NIRC
89	MS. ASHA RAMESHWARLAL JAIN	ACS - 37605	14278	WIRC
90	MS. SONIA SINGH	ACS - 24442	14279	NIRC
91	MS. SOUNDARYA K	ACS - 27570	14280	SIRC
92	MS. RUCHITA SUNIL SURYAVANSHI	ACS - 36698	14281	WIRC

93	MS. NEHA LOHIYA	ACS - 38394	14282	EIRC
94	SH. V. R. VENKATAKRISHNAN	ACS - 13302	14283	WIRC
95	MR. MURTUZA MANDORWALA KAIZAR	ACS - 38021	14284	WIRC
96	MR. FEFAR JAY KISHAN KANJIBHAI	ACS - 38407	14285	WIRC
97	MR. VINAYAK NARASIMHA BHAT	ACS - 38361	14286	SIRC
98	MR. RAVINDER SINGH	ACS - 37603	14287	NIRC
99	MS. VARSHA KANKANI	ACS - 38311	14288	EIRC
100	MS. MADHAVILATHA LOKIREDDY	ACS - 38359	14289	SIRC
101	MS. ASTHA ARORA	ACS - 33292	14290	NIRC
102	MS PRADEEBHA R	FCS - 7892	14291	SIRC
103	MS. MAHALAKSHMI R	ACS - 25320	14292	WIRC
104	MR. DENNIS AUGUSTINE	ACS - 38296	14293	SIRC
105	MS. DEVIKA ARORA	ACS - 37425	14294	NIRC
106	MRS. NIKITA HEMANSHU PEDH-DIYA	FCS - 7875	14295	WIRC
107	MR. ABHIJEET DEEPAK SHITOLE	ACS - 38276	14296	WIRC
108	MR. MOHIT SURTANI	ACS - 38135	14297	EIRC
109	MS. MEENU JAIN	ACS - 28777	14298	NIRC
110	MR. UTKARSH GUPTA	ACS - 38064	14299	NIRC
111	MR. KOTA SRINIVAS	ACS - 34206	14300	SIRC
112	MR. NARENDRA MEKA	ACS - 38355	14301	SIRC
113	MR. KAUSHIK SONEE	FCS - 7921	14302	EIRC
114	MR. AMIT JAJODIA	ACS - 37613	14303	EIRC
115	MR. ROHIT TANDON	ACS - 33281	14304	NIRC
116	SH. DHARAMVEER DABODIA	ACS - 29365	14305	NIRC

CANCELLED*

SL. No.	NAME	MEMB NO	COP NO.	REGION
1	MS.GAYATRI CHAWLA	ACS 25487	13388	NIRC
2	MR. C K RIJU	ACS 25109	13302	SIRC
3	MR. VINAY HARISHANKER VERMA	ACS 26787	10852	WIRC
4	MR. V J BAALACHANDIRAN	FCS 4386	11709	SIRC
5	MS. C R PADMA	FCS 3414	2537	SIRC
6	MR. RAKESH KUMAR GUPTA	ACS 32018	12104	EIRC
7	MS. NISHA KHATER	ACS 30468	13414	NIRC
8	MS. DEEPTHI T	ACS 36093	13506	SIRC
9	MR. ANKIT KUMAR KANTILAL THAKKER	ACS 34530	12807	WIRC
10	MR. H S SHAH	FCS 2029	12877	WIRC
11	MR. MARIAPPAN KUMAR	ACS 32149	13609	SIRC
12	MS. MANJIRI KEDAR HARISH-CHANDRA	ACS 17547	6504	WIRC
13	MS. RAJNI JINDAL	ACS 36885	13768	NIRC
14	MS. POORNIMA MAHADEV MOOLE	ACS 19990	11145	SIRC
15	MR. LALIT TANEJA	ACS 35662	13520	NIRC
16	MR. KAPIL NAYYAR	ACS 34169	13429	NIRC
17	MR. GIRISH KUMAR GAKHAR	ACS 27170	13040	NIRC
18	MS. ANJALI MALPANI	ACS 30864	11525	WIRC
19	MS. HARVINDER KAUR	ACS 13567	3467	NIRC
20	MS. NISHA JOLY MACHINGAL	ACS 32115	11929	WIRC
21	MS. PRIYA PERIWAL	ACS 34287	12736	NIRC
22	MR. KRITEE ANAND	ACS 25713	13294	NIRC
23	MS. PRIYANKA MADHUSUDAN BORKAR	ACS 33698	12489	WIRC
24	MS. ASHA MITTAL	ACS 32348	12425	NIRC
25	MR. SHIVANSH TIWARI	ACS 33060	12500	NIRC
26	MR. RITESH JAIN	ACS 17350	10719	NIRC
27	MS. AARTI CHAUHAN	ACS 36919	13850	NIRC
28	MS. NEHA GYANCHANDANI	ACS 31421	12474	WIRC
29	MR. RAJESH L SOMANI	FCS 7181	11909	WIRC
30	MS. RASHMI TUSHAR BHATT	FCS 3461	13637	WIRC
31	MR. MANI DEV SADH	ACS 37200	14146	NIRC
32	MR. DINESH KUMAR	FCS 4726	13542	NIRC
33	MR. MANOJ KUMAR PANDEY	ACS 36712	13697	WIRC
34	MR. DEEPAK KUMAR VERMA	ACS 37205	14062	NIRC
35	MS. NAJNEEN DASTGIR FAKIR	ACS 34270	13125	WIRC
36	MR. RAMDAS T RAJGUROO	FCS 2091	2972	WIRC
37	MR. VIKRAMSINGH BABAN MOHITE	ACS 22487	10060	WIRC
38	MS. PRERNA BAJAJ	ACS 36667	13681	NIRC
39	MS. ADITI AGRAWAL	ACS 32103	12274	WIRC
40	MR. SHIVAM SHARMA	ACS 35727	13417	WIRC
41	MS. ANKITA SHARMA	ACS 28043	10155	EIRC
42	MS. SONU DEEPAK PANDEY	ACS 33233	12235	WIRC
43	MR. AVIRAL GOYAL	ACS 31068	13292	NIRC
44	MR. MD. SOHEB ALAM	ACS 36672	14148	NIRC
45	MS. RINI JANGID	ACS 24950	9072	EIRC
46	MS. RACHNA SHARMA	ACS 34636	13194	NIRC
47	MS. MONIKA CHOPRA	ACS 36797	13711	NIRC

*Cancelled during the Month of January, 2015.

LICENTIATE ICSI**

S.No.	NAME	NUMBER	Region
1	SH. ARIF ALI	6721	NIRC
2	MS. MONIKA	6722	NIRC
3	MS. GARIMA GULATI	6723	NIRC
4	SH. SAMEER PANDURANG KULKARNI	6724	WIRC
5	SH. PRADEEP S. M	6725	SIRC
6	SH. SUHAS V	6726	SIRC
7	MS. TARUNA KUKREJA	6727	WIRC
8	MS. RAJATHI S	6728	SIRC
9	SH. MOHIT BHANSALI	6729	NIRC

**Admitted during the Month of January, 2015.

Company Secretaries Benevolent Fund

MEMBERS ENROLLED REGIONWISE AS LIFE MEMBERS OF THE COMPANY SECRETARIES BENEVOLENT FUND*

Region	LM No.	Name	Membership No.	City
EIRC				
1	10721	MS. DEVIKA PANDA	ACS - 38289	BHUBANESWAR
2	10723	MR. MANORANJAN BISWAL	ACS - 31303	VISAKHAPATNAM
3	10730	MR. MD TANWEER ALAM SUNNY	ACS - 38223	HAZARIBAG
4	10748	SH. BANKA BIHARI PRADHAN	ACS - 7866	BHUBANESWAR
NIRC				
5	10720	SH. JATIN PHUTELA	FCS - 7759	GURGAON
6	10727	MR. BIPIN VIVEK	ACS - 35476	NEW DELHI
7	10732	MR. VINOD CHANDRA MAMGAI	ACS - 30118	NEW DELHI
8	10733	MR. DEEPAK KUMAR VERMA	ACS - 37205	NEW DELHI
9	10735	MR. JAYANT SHANTARAM JOSHI	ACS - 38505	NEW DELHI
10	10736	MS. CHARU JINDAL	ACS - 38463	NEW DELHI
11	10737	MR. CHANDER SHEKHAR	ACS - 38455	NOIDA
12	10738	MR. SURENDRA KUMAR BEHERA	ACS - 38487	NEW DELHI
13	10740	SH. R P SHARMA	ACS - 187	BHARATPUR
14	10742	MR. PREM KANT JHA	ACS - 36450	DELHI
15	10743	MR. YATISH BHARDWAJ	ACS - 29932	DELHI
16	10744	MR. PRAKASH	ACS - 38489	NEW DELHI
17	10745	MS. PAYAL SONI	ACS - 37795	BHILWARA
18	10746	MS. BHARTI ADWANI	ACS - 38620	JODHPUR
19	10749	MS. SHIKHA SHARMA	ACS - 31183	GURGAON
SIRC				
20	10724	MS. MONIKA CHALOTRA	ACS - 15291	HYDERABAD
21	10725	MS. VANI VEMULA	ACS - 22412	SECUNDERABAD
22	10726	MR. SAI KRISHNA P	ACS - 37532	KAKINADA
23	10729	MS. NISHA T P	ACS - 38197	MALAPPURAM DISTT
24	10731	MR. B VINAY DAYAL	ACS - 35464	HYDERABAD
25	10734	MS. S KRITHIKA	ACS - 37001	CHENNAI
26	10739	MS. GADILA SABITHA REDDY	ACS - 38471	HYDERABAD
27	10747	MR. SIDHARTHA MEHRA	ACS - 38643	BANGALORE
WIRC				
28	10722	MR. FEFAR JAY KISHAN KANJIBHAI	ACS - 38407	MORBI
29	10728	SH. ABHIJIT RASAMOY BANERJEE	ACS - 8970	NAVI MUMBAI
30	10741	SH. IQBAL JUGARI	FCS - 3762	SINGAPORE

*Enrolled during the period from 21.01.2015 to 20.02.2015.

List of Practising Members Registered For The Purpose of Imparting Training During The Month of January, 2015

Membership No.	Member's Name	AddressLine	CP No.
A13519	ABHIJAAT A. SINHA	D-2/302, HYDE PARK RESIDENCY, BEHIND TATVAGYAN VIDYAPEETH OFF. GHODBUNDER ROAD, THANE (W)	12971
A25215	ABHISHEK AGARWAL	D-118,HARMU HOUSING COLONY, HARMU, RANCHI	14119
A36486	ADARSH KUMAR AGARWAL	VIRDI NIWAS, GROUND FLOOR, M-ROAD, BISTAPUR, JAMSHEDPUR	13658
A33434	AFZAL HUSSAIN	NO 60, MADURAI ROAD, TRICHY MIRROR MART (UPSTAIRS), NEAR RAJA THEATER BUS STOP, TIRUCHIRAPALLI	12597
A34556	AKSHAY DILIP PARANJAPE	C/O V R SAWADKAR, FLAT NO. 21, SHILP NIKET APPTS, NAIK LAYOUT, SUBHASH NAGAR, NAGPUR	12812
A35596	AMIT JAIN	THIRD FLOOR, 307/309, KALBA DEVI ROAD, MUMBAI	13254
A34032	AMIT KUMAR GUPTA	C/O DAYA SHANKAR PRASAD GUPTA, 839 A, SARVODAY NAGAR ALLAHAPUR (AMITABH BACHCHAN ROAD), ALLAHABAD	14190
A33513	ANIL KUMAR B S	T.C. 11/771(3); DRA-67A, POUNAMI, DEVI NAGAR; MOSQUE LANE ROAD KEJAVADASAPURAM, POTTOM P O	12587
A26398	ANIL KUMAR DUBEY	20121, M C GHOSH LANE, HOWRAH	12588
A34346	ANUP AJIT MORE	N/P ASHTA LAXMIBAI, NAIKWAD NAGAR, TAH WALWA, DDIST SANGLI	12986
A36463	ANURADHA ACHARYA	F-221, THE EXCELLENCE APARTMENT, PLOT NO. 4, DWARKA, SECTOR -18-A, NEW DELHI	13828
A28072	ARCHANA HRISHIKESH APTE	1478,SADASHIV PETH, OM CHINTAMANI APARTMENTS, TILAK ROAD PUNE	11833
A32142	ASHIMA SEHJPAL	HOUSE NO. 585 -C, MUNIRKA VILLAGE, NEW DELHI	13979
A25433	ASHISH KUMAR SHRIVASTAVA	C/O. MR.H.P. BATHRI, B-5, PALLAVI NAGAR NEAR RAILWAY, CROSSING BAWADIA KALAN, BHOPAL	13228
A23571	ASHWINI HARSHIT SHAH	OFFICE NO.29, 2ND FLOOR, SINDHI COLONY NO.1, ABOVE KETAN COMPUTER, RAM NAGAR ROAD, BORIVALI (W), MUMBAI	13766
F3176	BAJRANG LAL MUNDHRA	BANGESHWAR APARTMENTS, FLAT NO.34 (5TH FLOOR), 89 SALKIA SCHOOL ROAD, HOWRAH	13452
A20739	BAL KRISHAN PRADHAN	943, 9TH FLOOR, IJMIMA METROPLEX, MALAD WEST, MUMBAI	10179
A27955	BASAVARAJ UDADAR	1806, KELKAR BAG, BELGAUM	10024
A35521	BHIMESWARA RAO APPANA	1-4-27/72/25, PARVATHI NILAYAM, PADMASHALI COLONY, NEAR KALPANA BUS STOP, HYDERABAD	13380
A32550	BHUPESH KUMAR	BLOCK NO-109, HOUSE NO-G, ARAM BAGH, PAHAR GANJ, NEW DELHI	12004
A35534	BITTHAL GANDHI	MAIN MARKET, BAKANI, DIST. JHALAWAR	13814
A36708	CHETAN ISHWARLAL NARWANI	H. NO. 36/A, CLERK COLONY, EXTENSION BEHIND, ELECTRONIC COMPLEX NEAR CHURCH, INDORE	13897
A30850	CHIRAG JAIN	PLOT NO. 69, JAWAHAR NAGAR, ROAD NO.1, GOREGAON (WEST) MUMBAI	13687
A27505	DHANASHREE CHANDRAKANT HADAWALE	PRATHAMESH VILLA, CHAITNYA, PARK, POLT NO.83, SECTOR NO.1 INDRAYANI NAGAR, BHOSARI PUNE, PUNE	11900
A36210	DHRUV PRADIP SAMPAT	201, PANORAMA COMPLEX, OPP. SHIVALIK-VII, NEAR PASSPORT OFFICE, GONDAL ROAD, RAJKOT	13424

A28262	DIVANSHU MITTAL	86, KRISHNA VIHAR, GOPAL PURA BYE PASS, JAIPUR	13800
A32601	GRETA GOVINDBHAI RUPAPARA	PRAMUKH VANDAN, SARDAR CHOWK, MADHAV PARK, JUNAGADH ROAD, JETPUR	12150
A38377	HARSH VIJAY GOR	B3 -001, SHANKHESHWAR NAGAR, MANPADA ROAD, DOMBIVLI EAST THANE	14269
F7785	HARSHIT J SHAH	29, 2ND FLOOR, SINDHI COLONY, BULG NO:1, ABOVE KETAN COMPUTERS, RAM NAGAR ROAD, BORIVALI (W), MUMBAI	8658
A29350	HEENA ARORA	SUITE 4#G, UPPAL'S M6 PLAZA, JASOLA DISTRICT CENTRE, NEW DELHI	10585
A28240	ISHA TAYAL	FF-121, DURGA TOWER, RAJ NAGAR, RDC, GHAZIABAD	10275
A29716	JAGADHEESWARI R	25B, VAZHAI THOTTAM, GANDHI NAGAR, GANAPATHY, COIMBATORE,	12105
A35425	JAMSHED KOKAB KHAN	BESIDE JNG VYSYA BANK, C/O CAPS ACADEMY, NEHRU NAGAR, BHILAI,	13904
A22887	JIGAR SHAH	GROUND FLOOR, NEAR AMBICA APARTMENT, OPP. AMBE MATA TEMPLE, CARTER RD NO.3, BORIVALI (EAST), MUMBAI	13936
A38194	JINANG DINESH KUMAR SHAH	F-2, ASOPALAV FLATS, OPP CAMA HOTEL, KHANPUR, AHMEDABAD	14215
A34340	LAKSHMI NARAYANA NALLURI	FLAT NO401;D.NO 6-3-349/15/17, SAI BRUNDAVAN APARTMENTS, DWARKAPURI COLONY, PUNJA GUTTA, HYDERABAD	
A24724	MANISHA NIRANJANLAL BAJAJ	218A, GULMOHAR ANSAL VIHAR, NR. SHIMPOLI TELEPHONE EXCHANGE, BORIVALI (WEST), MUMBAI	8932
A33126	MAYUR GUJRATI	K 26/9 RANGIL DAS PHATAK, CHOUKHAMBHA, VARANASI	
A16083	MEENAKSHI GUPTA	H NO. 147/2, SECTOR 55, CHANDIGARH	12180
A25762	MITALI RAJENDRA MITTAL	C/O PR BAGDIA, MITALI R MITTAL, RR BUILDING, BELOW SYNDICATE BANK, RP ROAD, JALNA	12165
A31059	MOHAMMED MUNEERALI T	LAILA MANZIL, PO - CALICUT AIRPORT, KONDOTTY, MALAPPURAM	11483
A36880	NAKUL SHARMA	14-D, UIT BLOCK, PAWANPURI, BIKANER	13827
A37538	NARESH KUMAR SEJVANI	114/327, AGARWAL FARM, MANSROVAR, JAIPUR	
A37765	NIHARIKA GINOTRA	D-803, JAIPURIA SURENA, GREENS SOCIETY, 12A, AHINSA KHAND INDRAPURAM, GHAZIABAD	14127
A35692	NILAKANTHA SAMAL	M5/16, ACHARYA VIHAR, BHUBANESWAR	14131
A35348	NITESH SINHA	C/O DR. M P SINHA, CLASSIC APARTMENT, 4TH FLOOR, FLAT NO.4 KC-5/1, ASWINI NAGAR, BAGUATI, KOLKATA	13093
F7327	PANNEER V	# 71/6 , 10TH CROSS, 3RD MAIN, 7TH SECTOR, HSR LAYOUT BANGALORE	7988
A37212	PHANI DATTA D N	# 537/A, `BHAGAVAN KRUPA`, 4TH MAIN, 19TH CROSS, VIDYARANYAPURAM, MYSORE	13959
A30605	POOJA NILAY POPAT	101, SOMESHWAR RESIDENCY, 3/4, PATEL COLONY, ROAD NO. 3 OPP. ARPAN APARTMENT, JAMNAGAR	12311
A25015	PRAFUL KUMAR SHARMA	303, 3RD FLOOR , ROHINI COMPLEX, WA 121,SCHOOL BLOCK SHAKARPUR, DELHI	11291
A31538	PRAKASH C	558E, V M COMPLEX, ERODE ROAD,VELLAKOVIL, TIRUPUR DISTT	11617
A31264	PRASHANTHA LAXMI KALVA	11-12-128 (NEW 11-12-280), SR.K.PURAM, SAROOR NAGAR, RANGA REDDY, HYDERABAD	11518
A34480	PURNIMA SRIVASTAVA	E 3/205, VINAY KHAND, GOMTI NAGAR, LUCKNOW	14164
A35818	RADHIKA MALPANI	103, 24, KAMAL VRINDAVAN APPT, MEERA MARG, BANIPARK, JAIPUR	13614
A29599	RAHUL SINGHAL	95, SARASWATI MANDIR, SURAJ KUND ROAD, MEERUT	10699

A32218	RAM LAL NATH	RAM LAL NATH S/O SUWA NATH, SHOP NO. 131,TOPIWALA CENTRE, JAWAHAR NAGAR RD, GOREGAON W, MUMBAI	12862
A24819	RAVINDRA KUMAR AGARWAL	23A, N S ROAD, 6TH FLOOR, ROOM NO.18, KOLKATA	10715
A35020	REENA	# 641, SECTOR -38 (WEST), CHANDIGARH	13243
A37003	ROHIT ANAND KUDALE	109/52, SWEDESHI MILL COMPANY, QTRS, V N PURAV MARG, SION-CHUNABHATTI, MUMBAI	13832
A23712	RONAKBHAI DHANENDRABHAI DOSHI	16, CHATURAI APPARTMENT, OPP. AIMS HOSPITAL, NARAYANNAGAR ROAD, SHANTIVAN, AHMEDABAD	12725
A27266	RUCHA MILIND PATWARDHAN	7/32, SHREE PAYAL SOCIELTY, DAULAT VASAHAT, KOTHRUD, PUNE	10345
A14706	S YOGINDU NATH	53/3933, SWASTIKA, LAL SALAM ROAD,PONNURUNNI, KOCHI	9137
A24045	SACHIN NAVEEN SINHA	G 404 , REAL AURA APARTMENT, OPP. BALIYADEV TEMPLE, NEAR CHANDLEHEDA NAGAR PALIKA, AHMEDABAD	12811
A31831	SAKET DUBEY	KEDARNATH DUBEY NIWAS, TOKLO ROAD. W.NO. 06, CHAKRADHARPUR SINGHBHUM WEST	11706
A32535	SANKALP PODDAR	30 BIDHAN SARANI, KOLKATA	14101
A37984	SEEPIKA GUPTA	C-1/D, ASHOKA ROAD, ADARSH NAGAR EXTENSION, DELHI	14228
A22792	SHANNU CHATURVEDI	I-103, NEW GOLDEN NEST, SONAM SUVIDHA, NEW GOLDEN NEST, BHAYANDER (E)	10063
A28456	SHRISHA V M	245/39, GROUND FLOOR, 13TH MAIN, BSK I STAGE, II BLOCK, BANGALORE	13608
A30031	SINDHU K.S	CHEMBANADATH HOUSE, P O CHIYYARAM, THRISSUR	11778
A35424	SONAL KUMARI BUPKYA	K S INDUSTRIAL TRADES, C-1, NEW SIYAGANJ, PATTHAR GODAM ROAD, INDORE	14007
A34535	SONECHA CHIRAG RAJENDRA	89(N) SHIVAJI NAGAR, BALAJI MILL ROAD, SANGLI	13779
A34282	SUMAN JEE	SECTOR -1/B, QUARTER NO. 1627, BOKARO STEEL CITY, BOKARO	13519
A36611	SUMIT BHOJWANI	HOUSE NO.14137, STREET NO.1, RAM NAGAR, TIBBA ROAD, NEAR RAM NAGAR, GURUDWARA, LUDHIANA	13772
A24825	SUNIL KUMAR SINGH	4TH FLOOR ROOM NO-4(P), 36, GANESH CHANDRA AVENUE, KOLKATA	11369
A21285	SURINDER VASHISHTHA	UGF, G1/285, STREET NO.10, DAL MILL ROAD, UTTAM NAGAR, NEW DELHI	12313
A21809	TRILOKI NATH VERMA	335/1, STREET NO. 6, SHANKAR MARG, MANDAWALI, NEW DELHI	10374
A24500	UPENDAR KUMAR SHARMA	C/O GOPAL K SHARMA, HOTEL VIKRAM, LAJPAT NAGAR, NEW DELHI	10001
A25313	VENKATESWARA REDDY RACHAMALLU	8-2-268/K/33, PLOT NO. 33, GROUND FLOOR, SAGAR SOCIETY, ROAD NO. 2, BANJARA HILLS, HYDERABAD	12204
A24714	VIDHYA GANDHI	61, GURU ROAD, KAPIL GANDHI C/O MRS. PREM, ARORA, DEHRADUN	10624
F6321	VIJAYABHASKAR PERUNDURU	PLOT#63, FLAT#503 SAI KRUPA, RESIDENCY, BSP COLONY, MOTHI NAGAR, HYDERABAD	12233
A25385	VIPIN MEHTA	OFFICE NO. 12, 14th FL.NAVJIVAN COMM., CO-OP. SOC. LTD., BUILDING NO.3, LAMINGTON ROAD, MUMBAI CENTRAL, MUMBAI	9869
A34062	VISHAL KUMAR GARG	# L-5/123, L BLOCK, 17TH STREET, 2ND FLOOR, ANNA NAGAR EAST, CHENNAI	13089
A12222	VIVEK ARORA	J-72, R.B. ENCLAVE, PASCHIM VIHAR, NEW DELHI	8255
A23657	YOGESH LAXMICHAND CHHUNCHHA	24, 1ST FLOOR, SATYAM STATUS, NR. CHANDAN FARM, RAMDEVNAGAR RAOD, SATELLITE, AHMEDABAD	11005
A32616	YUVARAJ G	NO.3, M.G.COMPLEX, GOLDWINS, CIVIL AERODROME(POST), COIMBATORE	12170
A27324	Z A DANYAL NAQVI	S-4, GRACE TOWER, 57, ZONE- II, M.P. NAGAR, BHOPAL	9796

List of Companies Registered for Imparting Training during the month of January 2015

Interglobe Aviation Limited
Level 1, Tower C, Global Business Park,
M. G. Road, Gurgaon - 122002

Shree Pushkar Chemicals & Fertilisers Limited
202, A Wing, Building No. 3,
Rahul Mittal Industrial Estate,
Sir M.V. Road, Andheri (East)
Mumbai

Jindal Refineries Limited
Gangapur Rakwa, 5 Km Moradabad Stone
Kashipur

Creative Textile Mills Private Limited
212 Cama Industrial Estate,
Sun Mill Compound,
Lower Parel, Mumbai

Tata Ceramics Limited
Plot No. 26, Cochin Special Economic Zone
Kakkanad, Kochi

Roop Polymers Limited
1St Floor, Hasan Building
Near Minerva Cinema, Kashmere Gate
Delhi

Focus Health Services (Tpa) Private Limited
Ab-16, Safdarjung Enclave Community Center
New Delhi-110029

Videocon D2h Limited
1St Floor Tech Web Centre, Oshiwara
Mumbai

Team Pasona India Company Limited
F-127-128, Rectangle One
Saket, Delhi

Lml Limited
C-3, Panki Industrial Estate
Site-II, Kanpur

Photon Interactive Private Limited
Ii Floor, Block 5, Dlf It Sez 1/124,
Mount Poonamallee Road, Manapakkam,
Chennai

K.S.Capital Services Private Limited
National Motors Building,
M. I. Road, Jaipur

Pritish Nandy Communications Ltd
87/88 Mittal Chambers, Nariman Point,
Mumbai 21

Datamatics Global Services Limited
Knowledge Centre, Plot No. 58
Street No. 17, Midc, Andheri (East), Mumbai

Neil Industries Limited
88B, (Ground Floor), Lake View Road, Kolkata

Divya Jyoti Industries Limited
M-19-39, Sector-Iii, Industrial Area
Pithampur-4547775
Indore

Minda Finance Limited
B-64/1, Wazirpur Industrial Area, Delhi

Rhapsody Application Solutions Private Limited
D-42, Navkunj Appartment
87, Ip Extension, Patparganj, New Delhi

Osd Coke Private Limited
Plot 18 Sector 18, Near Maruti Material Gate
Gurgaon

Jindal Aluminium Limited
Jindal Nagar, 16 Km Tumkur Road, Bangalore

L. C. Foods Limited
H-8 Industrial Area, Naini
Allahabad

READERS' WRITE

The erstwhile Points of View column of Chartered Secretary has been re-captioned as Readers' Write. Members are invited to send in their queries and views for consideration for publication in this column for soliciting views/comments from other members of the Institute.

News From the Regions

EASTERN INDIA REGIONAL COUNCIL

CS: Facilitating Strategic Growth

The Eastern India Regional Council of the Institute of Company Secretaries of India (EIRC of the ICSI) organised a Full-Day Seminar on CS: Facilitating Strategic Growth on 31.1.2015 at Kolkata.CS Sunita Mohanty,Chairperson, EIRC of the ICSI in her welcome address said that the theme of the programme has been chosen to state that good governance instills confidence & instigates rapid growth in today's corporate markets. Hence, Professionals, need to adhere to the use of good governance practices and standards to gain the competitive edge required to survive in the dynamic market.

The Chief Guest of the inaugural session was Dhanraj, Member, Technical, Company Law Board, Calcutta Bench who said that professionals need to be honest and should stick to ethical business standards. He then highlighted the role of Company Secretary (CS) in corporate governance and said that company secretary should be careful in certification of records and upkeep of minutes.

CS Mamta Binani, Vice President, the ICSI in her address highlighted the observations of MCA in respect of the ICSI and said that the Institute is always there to safeguard the interests of the students and members.

CS S.K. Agarwala, Council Member, the ICSI spoke on the importance of training and learning for the growth and development of the profession and said that the course structure of the Institute will be at par with that of top level management institutes.

The first Session of the seminar was chaired by CS Amit Sen, Managing Director, East India Pharamaceuticals and Past Vice-President, ICSI. CS T.B. Chatterjee, Sr. Executive Vice President (Corp. & Legal) and Company Secretary, DIC India Limited spoke on the topic "GST-Conception, Issues and Roadmap" where he explained What is GST, the justification of GST, shortcomings of Central and state VAT structure, the expectations from GST and the issues and challenges of GST. CS Vinod Kothari,Past Chairman, ICSI-EIRC spoke on 'Insider Trading Regulations and Other Recent Changes in Corporate Law where he spoke on the changes in the Insider Trading Regulations as notified by the regulatory authorities and gave a detailed presentation in the new domains of Corporate Law.

Prof. Ranjan Das, (Chairman & Chief Mentor – The Strategy Academy), Indian Institute of Management (IIM), Kolkata spoke on "Strategies to be Corporate Leader" where he said that the world of business is changing and managers have to understand that they have to be ready for competition. Today the markets are interrelated and customers have multiple choices. In the globalised world we need to be strategy driven and stated the role of Company Secretary under the new Act which is changed and it is no more routine. The new role of CS is to contribute, advise and guide.

Then there was a panel discussion on 'Corporate Governance in Today's Corporate World where Dr. Arindam Banik was the moderator. The panelists were CS Kaushik Mukherjee, CS & GM (Legal) Philips Carbon Black Ltd, CS Sandeep Lakhotia, SREI Infrastructure Finance Ltd and CS Arvind Jhunjhunwala, Advocate, Khaitan & Co. where they discussed that the Corporate Governance is required to uphold the safe interests of the stakeholders. The Company Secretary as a professional has to guide and advise the company to maintain good corporate governance by protecting investors rights,independent directors are encouraged in their involvement in decision making, promoting diversity in the board. The panel discussion was followed by an Interactive Q & A session.

Half Day Workshop on the Companies Act 2013: Important Aspects

On 7.2.2015 the EIRC of the ICSI organised a Half Day Workshop on The Companies Act 2013: Important Aspects at Kolkata. The Guest speakers were CS R. Kalidas, Vice-President & Company Secretary, Reliance Power Limited and CS Manoj Banthia, Past Chairman, EIRC of the ICSI and Practicing Company Secretary.

The guest speakers threw light on the aspects of the Companies Act, 2013 in connection with Related Party Transactions and Director's Report.

CS R. Kalidas in his presentation to the gathering gave an insight into the related party transactions of the Companies Act 2013, where he specified the definition of "Related Party", List of relatives in terms of Clause 77 of Section 2. Shareholder's Approval, position in case of Listed Companies,dichotomy in Law, etc. He concluded his address after a Question - Answer session.

CS Manoj Banthia in his address on Director's Report said that the Director's report is like a novel and the Company Secretary a novelist with respect to the Act. He pointed that various sections influence the Director's Report. He spoke on the contents of the Director's report, Director's responsibility, policy on remuneration, etc. He said that the Companies Act, 2013 says that it is necessary to provide information about subsidiaries, associates in the Director's report. He concluded his address after a Question - Answer session.

66th Republic Day Celebration

The Eastern India Regional Council of The Institute of Company Secretaries of India celebrated the 66th Republic Day at ICSI-

EIRC premises. The dignitaries present on the occasion were N.K. Bhola, Regional Director (Eastern Region), Ministry Of Corporate Affairs,Chief Guest and CS Mamta Binani, Vice President of The ICSI, CS Sunita Mohanty, Chairperson, CS Sandip Kejriwal, Vice-Chairman,CS Rupanjana De, Secretary, CS Ashok Purohit, Treasurer, CS Gautam Dugar,Member, CS Arun Khandelia and Members of EIRC of ICSI.

N.K. Bhola unfurled the tricolour and read out the preamble of the Constitution along with the dignitaries, professionals and students present. Bhola while addressing explained the importance of the day and talked about the journey from pre independence India to the present day India with a global footprint in almost every possible field.

CS Sunita Mohanty, in her address to the gathering thanked everyone for making it convenient to attend the programme and said that this year the Country is talking about women empowerment and she is proud that she is a part of this movement and said that a nation develops or progresses when the women of the nation are empowered, have the right to make their own decision and are treated equal by their male counterparts.

CS Mamta Binani said that the Vice President, ICSI, Chairperson and the Secretary of EIRC of the ICSI are all women members and it is really a honour to be a part of the team. She also congratulated the new members of EIRC of ICSI and wished them luck. A vibrant cultural programme was held where patriotic songs were sung by the members and students.

On the occasion an in-house Debate on "Has Our Constitution failed or have we" was organised. Both members and students of the ICSI participated in the debate. N.K. Bhola and CS Amar Agarwala were the jury members of the debate. The debate brought forth enthusiastic and passionate speeches from both the teams of members and students.

Saraswati Puja Celebration

The EIRC of the ICSI celebrated Saraswati Puja at its premises. On the occasion Goddess Saraswati, the Goddess of Learning and the embodiment of perfect knowledge, was worshipped at the auditorium of ICSI EIRC House, Kolkata. CS Mamta Binani, Vice President of The ICSI along with new Council of EIRC, CS Sunita Mohanty, Chairperson, CS Sandip Kumar Kejriwal, Vice Chairman, CS Rupanjana De, Secretary, CS Ashok Purohit, Treasurer, immediate past Chairman CS Arun Kumar Khandelia and other members of the Institute were there to worship goddess Saraswati with solemnity and grandeur. The ICSI EIRC building was seen decked up in gorgeous colours and decorations.

Career Awareness Programme

A career awareness programme was conducted at Shree Balkrishna Vithalnath Vidyalaya, by Sreejesh, Section Officer and Rukmani Nag, Assistant on 30.1.2015 where an insight to class XII students on "Career as a Company Secretary" was provided.

The career awareness programme was also held at Vivekananda College, Thakurpukur, Jogamaya Devi College,Hazra and National High School for Boys, Hazra on 17.2. 2015. The speaker informed the students about the ICSI Students Education Fund, the fee concession to reserved classes, ICSI E-Learning and the flexibility of the CS course to study wherever a student wants to in India. The students and the teachers of the school were inquisitive about the CS course like the length of the course, fee structure, contents, opportunities available to the profession, etc.

BHUBANESWAR CHAPTER

Observation of Silence

On 30.01.2015, all employees of the Bhubaneswar Chapter of EIRC of the ICSI observed 2 minutes silence in their work as a mark of respect to those who laid down their lives in the struggle for India's freedom. The observation took place at 11.00 A.M.

Career Awareness Programme

On 19.02.2015, the Chapter organised a career awareness programme at Mahashi Women's College, Bhubaneswar. Leaflets, posters, brochures were distributed amongst the students. During the programme, students were apprised about the CS course, its syllabus, examination pattern, fee structure, library facilities, training structure, oral coaching facilities, online services, etc. ICSI Kit was presented to P.K. Sahoo, College Principal who thanked the ICSI delegation for giving career tips to their students. The Chapter provided all support to the programme.

Training & Placement Activities

Bhubaneswar Chapter undertook training & placement activities during February, 2015 for the students and members. The Chapter apprised the students about the vacancy of training in two PCS Firms i.e. M/s. Rashmi Satapathy & Associates and M/s. SKM Associates, Bhubaneswar including one placement. Further the Chapter also intimated about vacancy of training at M/s. Dhamra Port Company Limited & M/s. Tata Steel ACZ Limited, Bhubaneswar. Resumes of the students were sent to all the above firms and corporates for consideration. Further, members were intimated about the vacancy of Company Secretary at M/s. Pecoso Hotels & Pub, Pvt. Ltd. Bangalore for sending resumes to our member CS Manas Ranjan Sahoo. In addition to the above, all PCS firms in Odisha were also informed about the engagement of PCS firms for M/s. Nilachal Ispat Nigam Limited, Bhubaneswar for which necessary inputs were provided to the organization for consideration.

NORTHERN INDIA REGIONAL COUNCIL

66th Republic Day Celebrations

Northern India Regional Council of the Institute of Company Secretaries of India celebrated 66th Republic Day on 26.1.2015 at ICSI-NIRC building, Prasad Nagar, New Delhi. CS R K Manocha, IAS (Allied), Executive Director, Railway Board, Government of India & Justice Neera Bharihoke, ADJ, Saket were the special Guests on the occasion. CS NPS Chawla, CS Rajiv Bajaj, CS Manish Gupta, CS Dhananjay Shukla, CS Pradeep Debnath & other members were also present on the occasion. The event started with the Flag Hoisting Ceremony and planting of saplings which was followed by the presentation of Certificate of Appreciation to the winners/Runner-ups of the recently held Essay/ Drawing/Slogan Competitions organized by NIRC on 12.1.2015.

205th Batch of MSOP

On 30.1.2015 NIRC-ICSI inaugurated its 205th MSOP at ICSI-NIRC Building, New Delhi. CS Sunil Rai, Executive Director - Finance Viridian Real Estate Development, was the Chief Guest on the occasion. On 17.2.2015 at the Valedictory Session CS A K Rustogi, ED & CS, NTPC Ltd. was Chief Guest. Completion Certificates & medals were distributed to the participants. Participants were given various practical advices & guidance by the Chief Guest & members present.

Inauguration of 206th Batch of MSOP

On 5.2.2015 NIRC-ICSI inaugurated its 206th MSOP at ICSI-NIRC Building, New Delhi. Sanjeev Arora, Managing Director, Ritesh Properties & Industries Ltd., and CS Gurinder Singh, Assistant General Manager (Legal), Godfrey Phillips India Limited, were the Chief Guest & Guest of Honour respectively.

Interactive Session with President & Vice President, ICSI

NIRC-ICSI organized an Interactive Session with CS Atul H Mehta, President, the ICSI and CS Mamta Binani, Vice President, the ICSI and the Technical Session on Secretarial Audit organized by NIRC-ICSI on 12.2.2015 at Chinmaya Mission, Lodhi Road, New Delhi. CS Mahesh A Athavale, Partner, Kanj & Associates & Past President, ICSI and CS Rajendra Chopra, VP & Group Head Corporate Secretarial, Bharti Enterprises were the Guest Speakers for the Technical Session on Secretarial Audit.

Meeting of Chapter Chairmen with NIRC Members

On 20.2.2015 NIRC-ICSI organized the above meeting at IIC, Lodhi Road, New Delhi. CS Atul H Mehta, President, the ICSI, CS Mamta Binani, Vice President, the ICSI, CS NPS Chawla, Chairman, NIRC, Central Council and Regional Council Members & Chapter Chairmen of NIRC-ICSI were Present.

One Day Seminar

On 21.2.2015 NIRC-ICSI organized a One Day Seminar on "Mergers & Acquisitions – A Catalyst for Corporate Growth" at Nehru Place, New Delhi. Lalit Kumar, Partner, JSA, CS Satwinder Singh, Partner, Vaish Associates & Central Council Member, the ICSI, Nitin Savara, Partner, EY, Rajiv Singh, Founder, Explico Consulting and Sanjay Vasudeva, Partner, SC Vasudeva & Co. were the speakers for the Seminar. The Speakers shared their rich knowledge on the topic. A large gathering was present for the seminar and participants were able to update their knowledge from the sessions conducted.

BAREILLY CHAPTER

Full Day Seminar-Cum-PDP

On 14.02.2015 the Bareilly Chapter of NIRC of the ICSI conducted a full day programme at Bareilly. CS Ankit Agarwal, Chapter Chairman in his welcome address informed the members, students, media persons about the overall view and importance of the Companies Act, 2013, various professional opportunities and highlighted the topic (Secretarial Audit, Auditors, and Accounts) to be discussed in detail in the seminar.

In the first technical session on "Certification on Companies Act- Opportunities & Responsibilities" CS Jitesh Gupta explained various notifications and circulars of the Companies Act, 2013 and stated that it is the duty of the Company Secretaries to follow these notifications and circulars. He elaborated that according to Section 203 of the Companies Act, 2013 every company having paid up capital of more than Rs. 5 crore is mandatorily required to appoint a full time company secretary. A penalty of minimum Rs. 1 lac or Rs. 1000 per day can be imposed if the provisions are violated. After completing the Company Secretaryship course according to the new Companies Act there are numerous opportunities for a student to be appointed as Managing Director or CFO as KMP.

In the second technical session on "Inflow of funds, Accounts & Audit under the Companies Act 2013" CS Pramod Jain explained in detail One Person Company, Small Company, NCLT, NCLAT which have been included for the first time in the Companies Act, 2013. He also explained that according to Companies Act, 2013 it is mandatory to appoint female Directors in certain companies. The rules pertaining to Internal Audit, Secretarial Standard, etc. were also discussed in detail. The speaker also explained that according to the Companies Act, 2013 if a company needs to increase its Paid-up Capital then instead of taking application amount in cash it should be taken through bank in a separate company application bank account. Violation of this according to the Companies Act, 2013 attracts penalty. Both the speakers also discussed various other Laws through interactive examples and Case Laws and replied the queries raised by the members and students.A good number of members and students of the Institute attended the programme.

FARIDABAD CHAPTER

Study Circle Meeting

On 7.2.2015 Faridabad Chapter of NIRC of the ICSI organized a

Study Circle Meeting on Recent Amendments in Company Law. CS Rajiv Bajaj, Central Council Member, the ICSI and the speaker of the day had a detailed interaction and discussion on the subject with members present. In all 34 members attended the programme. The technical session was very informative & appreciated by the gathering at large. One (1) PCH was allotted to the members who attended the programme.

GHAZIABAD CHAPTER

Visit of ICSI President to Chapter Office

On 5.02.2015, Ghaziabad Chapter of NIRC of the ICSI was honored by the gracious presence of Atul Hasmukhrai Mehta, President, The ICSI; Vineet K. Chaudhary, Council Member; Sutanu Sinha, Chief Executive & Officiating Secretary (CE & OS), The ICSI, Bhubanananda Pradhan, Director, Infrastructure. President, the ICSI delivered an optimistic speech that energized the members. He also stated the immense opportunities available to Company Secretaries under the New Companies Act, 2013. Vineet Chaudhary extended his support and encouragement to the New Team of Ghaziabad Chapter. Sutanu Sinha informed that the Institute has been utilizing the technological progression for repeaing the benefits to all its stakeholders. Major initiatives have been put forward in the form of eBooks, e-Libraries, mobile applications, free soft copies of the study materials and many more. He also informed about the 24x7 customer care service offered by the Institute for better functioning. Ankit Poddar, Chapter Chairman briefed about the proposal of its new premises at Raj Nagar, Ghaziabad of approx. 6,000 sq. ft. area in which there would be a big, sound proof hall, a bigger library for the students and members of the ICSI. The dignitaries visited the proposed new premises of the Chapter at centrally located HINT House, Raj Nagar, Ghaziabad.

Study Circle Meeting on Companies Act 2013: Certification of E-Forms – Precautions and Best Practices

On 15.02.2015, Ghaziabad Chapter of NIRC of the ICSI organized a Study Circle Meeting on the above topic at its premises. Pranav Kumar, Practicing Company Secretary and Director Alacrity Corporate Solutions Pvt. Ltd. was the speaker who in his address enriched the members about the checklist while certifying e-Forms and highlighted the need to follow the best secretarial practices. He shared his personal experience and also threw light on the risk involved in e-Form certifications by PCS under the provisions of the Companies Act, 2013 and the precautions and safe-guard. He also briefed about the recent changes in emerging Role of Company Secretary in Corporate World. The session was lively, interactive and well received by the members present and their queries were also well addressed.

JAIPUR CHAPTER

Half day Seminar on Corporate Social Responsibilities & Limited Liability Partnership

On 7.2.2015 Jaipur Chapter of NIRC of the ICSI organized a Half day Seminar on the above topic at the Chapter premises. S.K. Agarwal, Regional Director (North West), Ministry of Corporate Affairs was the Chief Guest and R.K. Meena (ROC, Rajasthan) was the Guest of Honour of the programme.Tara Chand Sharma, Chapter Chairman in his address emphasized on continuous learning by members to survive in the ever changing corporate environment.

Guest of Honour R.K. Meena, talked about the success story of LLP by quoting the fact that in less than four year of coming into the existence of LLP Act, around 2000 LLPs so far have got registered. HE stressed on the LLP Act and its relevance to the SMEs, statutory compliance and registration of LLP.

The programme was divided into two sessions. The First Session was addressed by S.K. Agarwal who addressed on Corporate Social Responsibilities. Agarwal in his presentation described various aspects of Corporate Social Responsibility under the Companies Act, 2013. At the end of the session he interacted with the participants and also replied their queries.

In the Second session Advocate Nivedita Sarda spoke on formation and various aspects of Limited Liability Partnership.

KANPUR CHAPTER

Celebration of 'Uday Divas'

Kanpur Chapter of NIRC of the ICSI celebrated 'Uday Divas' at its premises at Kaushalpuri, Kanpur.A general knowledge quiz competition was organized amongst the members and the students and approximately 30 students/members participated in the said programme. It was a good, informative programme done with the true spirit. Taqueer Ahmed was winner of the quiz and Shashank Mishra was the runner up.

Swachta Mission

kanpur Chapter of NIRC of the ICSI Celebrated birth Anniversary of Swami Vivekanand ji andremembered his contributions towards the Indian image in the world.On 12.1.2015 the Chapter participated in the mission through newly elected office bearers and officials of the Chapter and carried out the clean-up exercise of the Chapter premises and nearby areas. CS Ankur Srivastava, CS Kaushal Saxena, CS Vaibhav Shukla and CS Sameer Shukla actively participated in the event along with the Staff of the Chapter Office.

Investor Awareness Programme

On 16.1.2015 an Investor Awareness Programme in association

with National Stock Exchange was organized by the Chapter where Nishant Srivastava from - NSE- Kanpur provided critical information related to securities market and investment strategies with the investors.

Study Circle Meeting

On 24.1.2015 Kanpur Chapter of NIRC of the ICSI organized a study circle meeting on 'Recent Amendments in The Companies Act, 2013 & Corporate Social Responsibilities'. Cs Adesh Tandon was the guest speaker of the programme.

66th Flag Hoisting Ceremony

On 26.1.2015 on the occasion of 66th Republic Day of the Nation the Chapter organized Flag hoisting ceremony at its premises together with a debate competition for the students on 'Make in India and Constitution of India where Divya Gupta, Devika Agarwal and Ishita Tiwari bagged the 1st, 2nd & 3rd positions respectively. CS Ankur Srivastava, CS Kaushal Saxena & CS Vaibhav Shukla were the jury members.

Full day Seminar on Emerging Opportunities for Company Secretaries

On 28.1.2015 the Chapter organized a full day seminar on Emerging opportunities for Company Secretaries under the Companies Act,2013. CS Atul Hasmukhrai Mehta, President, the ICSI was the Chief Guest along with Central Council Members CS Ranjeet Pandey and CS Rajeev Bajaj as the Guest Speakers. The programme started with inaugural address by the President. CS Ranjeet Pandey provided his expert views on "Financial Transaction under the Companies Act, 2013" and CS Rajiv Bajaj explained the "Emerging Opportunities for the Company Secretaries under the Companies Act, 2013".

SOUTHERN INDIA REGIONAL COUNCIL

Two Day Master Class Programme on Service Tax

On 3 and 4.1.2015, the ICSI-SIRC organized a Two Day Master Class Programme on Service Tax in the form of workshop in association with All India Federation of Tax Practitioners (Southern Region) and Indo American Chamber of Commerce at ICSI-SIRC House, Chennai.

Inaugural Session: D.N. Panda, Judicial Member, CESTAT, Chennai was the Chief Guest and Pushya Sitaraman, Senior Advocate, Madras High Court was the Key Note Speaker. Chief Guest D. N. Panda in his address highlighted the scope in Service Tax. He also gave tips on how one can reduce litigation and how the Company Secretaries branch out in Service Tax. Pushya Sitaraman, Senior Advocate, Madras High Court in her key note address complimented the ICSI-SIRC for its efforts in organizing the continuing education programmes, seminars, workshops and meet the regulatory programmes, etc. She also gave classification of Service Tax and contest on Global Service Tax.

Session 1: R. Renugan, Asst. Commissioner, Department of CEC & ST was the speaker for the first session on"Introduction to Service Tax – Positive List to Negative List". Renugan started his presentation with introduction to Service Tax and explained in detail the Constitutional & Jurisdiction aspects. He, then, listed out the Positive, Negative list of service tax and Declared service. Renugan also explained classification of section 66F and Reverse Charge.

Session 2: The second session was handled by Adv. K. Vaitheeswaran, Advocate & Tax Consultant on"Assessment, Recovery, Appeals, etc. and relevant aspects of CENVAT credit pertaining to service tax". Adv. K. Vaitheeswaran in his address gave analysis of provisional and judgment assessment. He then spoke on procedural aspects of Adjudication and Appeal. He also exhaustively covered CENAVAT Rule 2004, input services, CENVAT credit input service,inclusive list and credit on input services. He also explained definition of input, condition forcredit input and procedural & practical aspects of CENVAT credit of service tax.

Session 3: Third session was handled by CA B. Sriram, Partner-Indirect Tax, Ernst & Young, Chennai &his team on "Procedural Aspects (Registration, Invoicing, Payment, Returns, etc.)and Important Notifications". CA Sriram and his team started with introduction to service tax and then highlighted the key features of negative list regime, charges of service tax and gave overview of pre-negative list regime. He then made comparisons of pre-negative list and negative list regime. CA Sriram also exhaustively covered procedural aspects of service tax & CENVAT Credit registration, invoicing, returns and important notifications. He then listed out the mega exemption services and touched upon the interest and penalty for delay in payment of service tax.

Session 4: Karthik Ranganathan, Tax & Corporate Lawyer, Bangalore was the speaker for the fourth session on "Service Tax Rules – PPS Rules, PoT Rules & Valuation Rules". Karthik made a very lucid presentation on Place of Provision of Service Rules, 2012, Point of Taxation Rules, 2011 and Service Tax (Determination of Value of Services) Rules, 2006 with examples and comparisons.

Professional Development Programme on Arbitration – An Effective mode of Resolving Dispute

On 6.1.2015, the ICSI-SIRC organized a Professional Development Programme for members on "Arbitration - An Effective mode of Resolving Disputes" at ICSI-SIRC House, Chennai. Adv. V. In bavijayan, Chennai was the Guest Speaker. Inbavijayan give

an overview of Arbitration and how it works in India and in other countries like Singapore. He dealt on the concept of Lok Adalat, Conciliation and Arbitration and highlighted the advantages of Arbitration, when one can challenge the Arbitration. He also stated that instead of arbitration better go for settlement. There was a lively interaction by members present.

Study Circle Meeting on Copyright Law in Corporate Perspective

On 8.01.2015, SIRC of the ICSI organized a Study Circle Meeting on "Copyright Law in Corporate Perspective" at ICSI-SIRC House. Adv. S. Venugopalan Nair, Senior IPR Attorney &Former Examiner of Trade Marks was the speaker who started his presentation with what is copyright,nature of copyright and also highlighted the opportunities available for CS and the basic features in Copyright. He then dealt with how to protect your client, how to file a copyright, can Company Secretaries sign a copyright application, and terms of copyright. He also spoke on Intellectual Property Right and Intellectual Property v. Intellectual Property Right. There was a lively interaction by members present.

Meet the Regulator Programme on Regulation of CS Profession in India

On 9.1.2015, the ICSI-SIRC organised a Meet the Regulator Programme with CS R. Sridharan, then President, The ICSI and Presiding Officer, Disciplinary Committee on "Regulation of Company Secretary Profession in India". CS Sridharan informed that two Committees of ICSI w.r.t. Discipline as per the Companies Act, 1980 were constituted such as Board of Discipline and Disciplinary Committee. He then elaborated the objectives of Committees and stress on the punishments that can be imposed on the members under each Committee. He also informed that an order passed by the Board/Disciplinary Committee can be appealed at appellate authority which is common to all three professional Institutes.

Special Interactive Meeting

On 9.1.2015, the ICSI-SIRC organised a special interactive meeting and thanks givingto CSR. Sridharan, then President, The ICSI. CS Hari, CS Srinivasan, CS S.Rajendran, CS Mohan Kumar, Members of the Institute honoured CS R. Sridharan for his dedicated service rendered for the CS profession. CSR. Sridharan highlighted recent developments and initiatives taken by the Institute.

Half Day Joint Seminar on Companies Act 2013

On 11.1.2015, SIRC of the ICSI organised a Half Day Seminar on Companies Act at Thiruvananthapuram in association with SIRC of the ICoAIand SIRC of the ICAI. CSANS Vijay from Bangalore and CSR. Ramganesh from Thrissur were the speakers of the Seminar. Topic such as Issue of Securities by a Private Company & FEMA Impact, Practical problems and issues relating to Private & Small Companies under the Companies Act 2013 and Acceptance of Deposits under Companies Act,2013 were covered in the Seminar. In his presentation, CSANS Vijay discussed various issues related to issue of securities of a private limited company under the Companies Act, 2013 and provided for easiest way forward to issue the same. The interaction went on detailing the step by step process involved when considering the preferential allotment route and rights issue route to allot shares and when to choose which type of route to quicken the process of allotment of shares. CSR. Ramganesh in his presentation covered the major amendments in the Companies Act, 2013 with respect to Deposits. The Session also analyzed practical applications on acceptance of deposits and secretarial compliances.

Swaachh Bharat Mission – ICSI Cleanliness Drive

As a part of Swachh Bharat Mission, The Institute of Company Secretaries of India, Southern India Regional Office, Chennai carried out a clean-up exercise on 12.1.2014. The stakeholders of ICSI-SIRC participated in the cleanliness drive at the surroundings of the Institute's premises. The above exercise was done to commemorate the Birth Anniversary of Swami Vivekananda as Rashtriya Yuva Divas (National Youth Day).

Video Discussion Programme

On 12.1.2015, SIRC of the ICSI organized a Video Discussion Programme on"Whale Done – The Power of Positive Relationship" at ICSI – SIRC House in association with Madras Management Association. G Ramasubramaniam, Head-Training, Excel HR, Chennai was the facilitator for the Programme. Ramasubramaniam, explained how the video discussion would enable the members to build the positive relationship. He, then, shared movie clippings related to the subject. Thereafter the participants of the programme discussed and interacted with the facilitator how to create positive relationship. Ramasubramaniam moderated the interactive session.

Inauguration of Chennai North Study Circle of SIRC of the ICSI

On 14.1.2015 the inauguration of Chennai North Study Circle of SIRC of the ICSI was held at ICSI-SIRC House. Dr. CS Baiju Ramchandran, then Chairman, SIRC of the ICSI inaugurated the Study Circle. In his address, he outlined the purpose of study circle for professional development of members and urged the members to strive for achieving the aims and objectives as envisaged by the Institute. CS Dhanapal, Convener of the Chennai Study Circle requested the members to come forward and be part of this Study Circle and get the benefit out of the study Circle.

Professional Development Programme on Companies Act, 2013

On 14.1.2015, after the inaugural Session of Chennai North Study Circle of SIRC of the ICSI a professional development programme

was organised in the ICSI-SIRC House. CSGopal Krishna Raju, Partner - Taxation & Assurance, K. Gopal Rao & Co., Chartered Accountants and Regional Council Member, SIRC of the ICAI and Dr. CS B. Ravi, Practising Company Secretary and Regional Council Member, ICSI - SIRC were the speakers of the programme. CS Gopal Krishna Raju presented the topic "Account & Audit under The Companies Act, 2013". And Dr. CS B. Ravi, highlighted the "Impact of The Companies Act, 2013 on Industry".

Three Day Conference on CS Summit 2014-15: Moving Beyond Aspirations

The ICSI-SIRC organized a Three Day Conference 'CS Summit 2014-15: Moving Beyond Aspirations' on 16, 17 and 18.1.2015 at ICSI-SIRC House. Dr. CS Baiju Ramachandran, then Chairman, SIRC of the ICSI inaugurated the Three Day Conference. He in his address highlighted the initiatives taken by SIRC during the last one year across the Southern Region. Key Note Address was delivered by CS J Sundharesan, Practising Company Secretary, Bangalore wherein he highlighted the importance of theme and sub topics scheduled for the three day conference.

Day – 1 : Technical Session - 1: Secretarial Audit – An overview -CS J. Sundharesan, Partner, J Sundharesan & Associates, Company Secretaries, Bangalore was the speaker of the 1st Technical Session on 'Secretarial Audit – An overview'.CS Sundhareshan shared that Secretarial Audit Report is a challenge both for CS in employment as well as in practice. The Companies Act, 2013 has made it mandatory for every listed company and prescribed unlisted public companies to attach the report to the Directors' report. He explained the contents of the report and in particular the applicable laws and the expertise required by a PCS to handle the reporting.

Technical Session - 2: Secretarial Audit – Compliance of all applicable laws - In the 2nd Technical session a detailed analysis on the applicability and preparedness to handle the issue of all applicable laws was made by CS J. Sundharesan. He also informed that it is not enough that a company secretary is equipped only to handle corporate laws but other laws like the Environment laws, industry specific laws are also required to be reported. If the CS has to impress the regulators on the long term sustenance of this reporting requirement, it is important that an exhaustive coverage of the secretarial audit be submitted to the Board.

Technical Session - 3: Impact of Companies Act 2013 on lending to Corporate - The third technical session was addressed by CS S. Srinivasan, Practicing Company Secretary, Chennai on 'Impact of Companies Act, 2013 on lending to Corporate'. He explained in details various precautions to be taken by the professionals while filing charge related forms with the Registrar of Companies. Participants raised queries and the speakerreplied the queries with practical cases and provisions of 1956 Act and 2013 Act.

Day – 2:Technical Session – 4: FEMA Compliances for Inbound and outbound Investments - CS.R. Sridhar, Founder Partner, Leapridge Advisors LLP, Chennai was the speaker of the 4th Technical Session. He dealt with the topic 'FEMA Compliances for Inbound and outbound Investments'. CS Sridhar covered in detail all FEMA Compliances applicable for inbound and out bound investments in his power point presentation. In the open session, he beautifully clarified all the doubts raised by the delegates.

Technical Session – 5 : Impact of Proposed Amendments to the Companies Act 2013 – CS Prashant Mohan, Chartered Accountant from Kochi was the speaker for the Fifth Technical Session on "Impact of Proposed Amendments to the Companies Act,2013". CS Prashant elucidated the proposed amendments to the Companies Act, 2013 and its impact on the corporates. CS Prashant also solicited attention on Section 117 of the Act which requires companies to intimate the Registrar on approval of certain Resolutions and Agreements and requested the professionals to be vigilant on the applicable areas of the section as the non-compliance provides for heavy penalties.

Technical Session – 6: Foreign Collaboration & Joint Venture with reference to FEMA and Companies Act - With Indian growth recording heights while the global economy is trying to recover and the"make in India" focus, Joint Venture and Foreign Collaboration has become inevitable. CS S Sathyanarayanan, Partner, Wise & Worth Advocates & Consultants, Chennai was the speaker of the 6th Technical Session on 'Foreign Collaboration & Joint Venture with reference to FEMA and the Companies Act'. In his presentation, CS. Sathyanarayanan highlighted the intricacies and legal nuances of FEMA and the requirements to ease some provisions of the Companies Act, 2013.

Technical Session – 7: Drafting of Shareholders Agreement and Private Equity Documentations - The Significance of drafting Share Holders Agreements and Private Equity Documentations are more often than overlooked. The eternal conflict between the shareholders agreement and the articles of association is apparent from the various Supreme Court and High Court judgements which have differing views on the enforceability of the shareholders agreement. In the 7th Technical Session Sricharan Rangarajan, Advocate Chennai while presenting his topic 'Drafting of Shareholders Agreement and Private Equity Documentations' observed that the conflict gets resolved in the coming days with the dawn of the new legislation and the interpretations surrounding the new Companies Act, 2013.

Day – 3: Technical Session – 8: Issue of Securities by a Private Company & FEMA Impact - CS A N S Vijay, Company Secretary, Bangalore was the speaker for the 8th Technical Session. He discussed in details the Issue of Securities by a Private Company & FEMA Impact. In his presentation, CSANS Vijay discussed various issues related to issue of securities of a private limited company under the Companies Act 2013 and provided for easiest way forward to issue the same. The interaction went on detailing the step by step process involved when considering the preferential allotment route and rights issue route to allot shares and when to choose which type

of route to quicken the process of allotment of shares.

Technical Session – 9: Issues relating to Digital Signature Certificates (DSC) and its legal implications – A panel discussion - The last and 9th Technical Session was a panel discussion on Issues relating to Digital Signature Certificates (DSC) and its legal implications. K.S. Raghavan, Senior Technical Director, National Informatics Centre, Govt. of India; P.V. Balasubramoniam, Advocate, Chennai and CSS. Eshwar, Practising Company Secretary, Chennai were the Panelists. Thesession stated with opening remarks by Chairman-SIRC followed by CS S Eshwar. K.S. Raghavan addressed on technical Issues relating to Digital Signature Certificates. Adv.P.V. Balasubramoniam dealt with the issues related to legal perspectives on Digital Signature Certificates with respect to Information Technology Act and Indian Evidence Act. CS S. Eshwar spoke on practicing issues relating to Digital Signature Certificates and requested the professionals to be vigilant while using DSC. He shared live examples when members were dragged into disciplinary matters due to certification of various forms. In the open session,queries of participants were replied by the panelists.

Inaugural Session of 21st MSOP

ICSI – SIRC organized the 21st Management Skills Orientation Programme [MSOP] from 21.1.2015 to 7.2. 2015 at ICSI – SIRC, Chennai. Sridhar Pamarthi, Registrar of Companies, Tamil Nadu, Andaman & Nicobar Islands, Ministry of Corporate Affairs, Chennai inaugurated the 21st MSOP on 21.1.2015 at ICSI-SIRC, Chennai. Sridhar Pamarthi highlighted the views of the MCA and advised the participants to exercise caution and diligence while certification of various forms and be aware of obligations as penalties are high. The ROC explained the participants about the role of CS in the Companies Act, 2013 as a Key Person for Management, Shareholders and Board.

Thereafter CS Ramasubramaniam C, Council Member, the ICSI urged the participants to make it a pleasant learning experience. He also advised the participants to form groups for research & prepare Guidance Notes relevant to the profession.

66th Republic Day Celebrations

The ICSI – SIRC celebrated the Nation's 66th Republic Day at ICSI – SIRC House. Suresh B. Menon, Chief General Manager, SEBI & Regional Head, Southern Regional Office, Chennai hoisted the National Flag. CS Nagendra D Rao, Chairman, ICSI – SIRC hoisted the ICSI flag. Chief Guest in his address highlighted that Governance and Compliance are very important attributes for a professional to ensure corporate governance. He advised members to focus on minority shareholders and assist the management in the compliance of various laws.

Study Circle Meeting on SARFAESI

On 30.1.2015, the ICSI – SIRC organized a Study Circle Meeting on "SARFAESI" at ICSI-SIRC House, Chennai. K.R. Srivarahan, Faculty, Indian Overseas Bank, Staff College, Chennai was the speaker who in his address explained what procedures banks follow for asset recovery and reconstruction before SARFAESI Act 2002 was introduced and that the Act is perceived as facilitating asset recovery and reconstruction. He explained in detail the significance of SARFAESI and that the Act provides three alternative methods for recovery of NPAs, namely: Securitisation, Asset Reconstruction, Exemption from registration of security receipt. He also mentioned that SARFAESI Act will not be applicable to NBFCs and it is applicable only to Banks & Financial Institutions. He, then, highlighted the guidelines for Securitisation Companies and Assets Reconstruction Companies, Broad Guidelines with regard to Securitisation, Broad Guidelines pertaining to Asset Reconstruction and Issues under the SARFAESI.

Half Day Seminar

The ICSI-SIRC organized a Half Day Seminar on "FEMA and Corporate Restructuring – Recent Changes from a Professional Perspective" on 31.1.2015 at ICSI-SIRC House. CS K. Ramesh, Corporate Lawyer, Chennai and H. Karthik Seshadri, Partner, Iyer & Thomas, Attorneys at Law, Chennai were the speakers.

First Technical Session - FEMA - Recent Changes from a Professional Perspective - CS K. Ramesh, Corporate Lawyer, Chennai the Guest Speaker in his address gave an overview of FEMA and highlighted the recent amendments in FDI, ODI, Guarantee, Exports, and Compounding under FEMA.

Second Technical Session - Corporate Restructuring and Schemes - Recent Changes from a Professional Perspective – Guest Speaker of the session H. Karthik Seshadri, Partner, Iyer & Thomas, Attorneys at Law, Chennai in his address highlighted the recent changes in Corporate Restructuring and schemes, need and scope of Corporate Restructuring. He, then, explained planning, formulation and execution of various restructuring strategies and important aspects to be considered while planning or implementing Corporate Restructuring strategies.

Meeting on Secretarial Audit

On 31.1.2015, the ICSI – SIRC organized a Meeting on "Secretarial Audit" with CS Atul H Mehta, President, and CS Sutanu Sinha, Chief Executive & Officiating Secretary, The ICSI. Ashok Kumar Dixit, Director, Discipline & Law and Deepa Khatri, Assistant Director - Professional Development, The ICSI were also present.

CS Atul H. Mehta gave an overview of Secretarial Audit and highlighted the importance of Secretarial Audit. Deepa Khatri made a powerpoint presentation on Secretarial Audit and then CS Atul Mehta requested the members to raise their queries and views/ suggestions one by one. The queries raised by the members were well clarified by CS Atul H Mehtaand CS Sutanu Sinha and also the valuable views/suggestions were taken note for consideration.

BANGALORE CHAPTER

Campus Placement Drive 2014-15

Towards continuing the efforts for providing placement to the members as well as Apprenticeship training to the students, The ICSI-Bangalore Chapter conducted Campus Placement Drive 2014-15 on 9.01.2015 at its premises. For the first time ever brochures on Campus Placement Drive 2014-15 were printed and sent to around 750 Companies falling in the bracket of 5 crore and above paid up share capital in Bangalore and also the e-mail flyers were repeatedly circulated to around 2500 listed companies and 1200 CS Members in Bangalore. In comparison to the previous years' Campus Placement Programme there was a remarkable increase in both the number of employers and shortlisted candidates with around 37 Companies & firms participating in the event as Employers for providing training and employment to around 147 students and fresh members for a total requirement of 34 trainees and 28 qualifieds.

Orientation programme on to "How to Face an Interview" was also conducted by the Chapter on 7.01.2015 at the Chapter Premises where a large number of candidates got the benefit of the orientation programme.

Prolific Campus Placement Drive 2014-15 was successfully conducted with guidance of CSC. Sharada, then Chairman of the Chapter and CS Srinivasan, then Treasurer & Chairman, Placement Committee, Bangalore Chapter with ample support of Student Volunteers, Chapter officials and Event Coordinator Noor Sumayya AEO, Bangalore Chapter.

Joint Programme With ICAI, ICSI & ICMA on Concept of Corporate Management – Ancient Indian Thoughts

The Chapter in association with ICAI and ICoAI organized a Seminar on Concept of Corporate Management – Ancient Indian Thoughts on 10.01.2015 at Bangalore. The Programme was inaugurated by past presidents of all the three professional bodies viz. CS D.K. Prahlada Rao, Past President, The ICSI; CA B.P. Rao, Past President, The ICAI and CMA G.N. Venkataraman, Past President, The ICoAI.

Speaking on the occasion CA B.P.Rao, Past President, The ICAI, said that it was the first time in 30 years that the three professional bodies have come together for organizing the joint programme, and congratulated the chairmen of the professional bodies for conducting such a programme.

Speaking on the occasion CMA G.N. Venkataraman, Past President, The ICoAI congratulated the Chairmen of all the three professional bodies for organizing such a programme, and said that he was overwhelmed with the presence of other two past presidents CA B.P Rao and CS D.K. Prahlada Rao. CMA G.N. Venkataraman said that the three professional bodies should come together and organize such good programmes for the benefit of Members and Students in future.

Speaking on the occasion CS D.K. Prahlada Rao, Past President, The ICSI first congratulated the organizers for coming together in one single platform and organizing such a wonderful programme. CS D.K. Prahlada Rao informed that he liked the theme of the programme "Concept of Corporate Management – Ancient Indian Thoughts" and said that the year has brought a new beginning where all the three professional bodies has come together, which was awaited since long, say about 30 years. CS D.K. Prahlada Rao said that from now onwards such kind of programmes should be organized very often for professional growth and development of all the three institutions.

1st Technical Session: The first technical session during the programme was addressed by CMA B.R. Prabhakara, Past Chairman and Regional Council Member, ICAI on "Cost Management & Taxation". The Speaker started his session by explaining that India is one of the most ancient civilizations of the world, and has excellence in many aspects such as Mathematics, civil engineering, state administration, chemistry, fine arts, music, drama etc…and deliberated that ancient India has a number of entities for business like "gana, pani, puga, vrata, sangha, nigama & sreni and explained them in detail. While explaining 'Sreni' he mentioned that this group was a complex organizational entity that shares many similarities with modern corporate world except the concept of limited liability.

The Speaker while explaining cost management & taxation quoted several examples comparing quotes and terminologies from Mahabharata to the modern corporate culture.

The Speaker concluded his session by saying that our ancestors were great administrators and thinkers, and their approach was no way inferior to the current thinking. The Speaker said that we should welcome new & improved ideas without discounting India's contribution.

2nd Technical Session: During the Second technical session CA Gururaj Acharya, Partner K.G. Acharya & Co. made his presentation on "Reporting Requirements and Investor Protection". The Speaker started his session by recollecting what CA B.P. Rao, Past President, ICAI once mentioned that "When you are in doubt on something – Just don't do it" recollecting the same quote CA Acharya said that we have to follow it as a thumb rule for going ahead in life. The Speaker while explaining reporting requirements in comparison to Mahabharatha, said that none of the great people in Mahabharatha prevented Duryodhana and Dushyasana from doing the wrong things, except Vidura. The Speaker said that because of these irregularities in the reporting system companies like Satyam ended with such kind of a fortune.

3rd Technical Session: The Third Technical session during the programme was taken by CS Gopalakrishna Hegde, Central Council Member, the ICSI on "Ethics & Governance".Addressing the gathering CS Gopalakrishna Hegde, first congratulated all the three professional bodies for coming together in organizing the programme on "Concept of Corporate Management". He in his presentation on "Ancient Indian Approach to Management" explained that Business is called yagna in RIG Veda, while performing yagna the owner (yajaman) makes offerings to Agni, to please his chosen deity who inturn will give what the yajaman desires exclaiming "Thathastu". In the current scenario Swaha is what yajaman or the owner invests i.e. the Goods, Services and ideas & thathastu is return on Investment i.e. revenue, salary and services. He then explained the gathering on ethics in different departments like finance, human resources, production and marketing.The Speaker then informed the gathering that Bhagvad Gita specifies twenty values in Chapter XIII (8 to 12) which are relevant for any manager in the modern day such as: Amanitvam which describes humility;Adambhitvam which describes pridelessness; Ahimsa which describes non-violence;Kshanti which describes tolerance; Arjavam which describes simplicity; Shaucham which describes cleanliness, etc.

The Speaker also explained the gathering the benefits of ethics and governance saying that ethical companies have been shown to be more profitable & making ethical choices results in lower stress for corporate managers and other employees. CS Gopalakrishna Hegde, explained that Corporate Governance is everywhere, and informed that our universe is governed by 5 elements of nature:Land – which makes us understand that one has to be grounded in his approach, Water – to be flexible, Air – Invisible presence, Fire – to destroy evil, Sky – endless possibilities.

The Speaker said that all professionals need to demonstrate transparency, courage and always tell the truth and be honest "Satyam Vada" and governance is a mechanism for monitoring the actions, policies and decisions of organizations, the governance professional indulges in ethical decision making while conducting professional work "Dharmam Chara" doing the right.

Half Day Workshop on Pre-Certification Of E-Forms

The ICSI Bangalore Chapter organized a Half Day workshop on "Pre certification of e forms" on 13.01.2015, at its premises. The Programme was inaugurated and presided over by Chief Guest M.R. Bhat, Registrar of Companies, Karnataka. Speaking on the occasion Bhat congratulated the Chairman, Bangalore Chapter for inviting him and conducting such a kind of a programme. Bhat assured that he is here to reply to all the queries of the participants on pre-certification and said that visiting such platforms will enable him to address various clarifications/queries posed by company secretaries.

1st Technical Session: The First Session of the programme was addressed by CS V. Sreedharan, Past Central Council Member and Member Peer Review Board, The ICSI on "Pre Certification of e forms". He started with the back ground explaining that MCA-21 E Governance Project kicked off in 2006, and Payment method gradually migrated from manual to electronic mode, after which Filings in November, 2014 was 54% higher than November, 2013 and due to which in 4 days of November, 2014, it crossed 1 Lakh filings per day. While explaining the benefits of e filing the Speaker informed that e filing results in Ease of business, Faster provision of services, Paperless filing, Electronic payment facility,Payment later(Pay Later Scheme), Secure electronic repository for storage for Government

The Speaker informed that the benefits of pre certification will lead to better corporate compliance, reduced work load on regulator, Independent check by professionals on documents, enhances credibility, and Regulator's attention can be focussed on other important areas relating to corporate compliances and investors.

While explaining the pre requisites of e filing he said that one should have • Sound understanding of Company Law • Robust computer systems • Internet enabled environment • Adequate software support • Efficient data back-up facility • Trained and competent staff • Verification procedure before uploading.

Explaining the Authentication of Documents the Speaker informed that the authorised signatory and the professional if any, who certify the E-form shall be responsible for the correctness of the contents of e-form and correctness of the enclosures attached with the E- form. The Speaker stressed upon that it shall be the sole responsibility of the person who is signing the form and professional who is certifying the form to ensure that all the required attachments relevant to the form have been attached completely and legibly as per provisions of the Act, and rules made thereunder to the forms or application or returns filed. Rule 8(9)- Where any instance of filing document, application or return etc. containing a false or misleading information or omission of material fact, requiring action under section 448 or section 449 is observed, the person shall be liable under section 448 and 449 of the Act. Rule 8(10)- Without prejudice to any other liability, in case of certification of any form, document, application or return under the Act containing wrong or false or misleading information or omission of material fact or attachments by the person, the Digital Signature Certificate shall be de-activated by the Central Government till a final decision is taken in this regard.

Consequences of wrong Pre-certification: The Speaker while explaining the Consequences of wrong Pre-Certification that comes under

Sections 447-Punishment for fraud if

- Any person who is found to be guilty of fraud stated that he
- shall be punishable with imprisonment for a term which shall

not be less than six months but which may extend to ten years and shall also be liable to fine which shall not be less than the amount involved in the fraud, but which may extend to three times the amount involved in the fraud: Provided that where the fraud in question involves public interest, the term of imprisonment shall not be less than 3 years.
Section 449-Punishment for false evidence

- If any person intentionally gives false evidence upon any examination on oath or solemn affirmation, authorised under this Act; or in any affidavit, deposition or solemn affirmation, in or about the winding up of any company under this Act, or otherwise in or about any matter arising under this Act, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which may extend to ten lakh rupees.

2nd Technical Session: The 2nd technical session during the programme was taken by CS Sumana Rao, Practicing Company Secretary, who took the session on Certification Of e-Forms, e-Forms requiring certification by practicing professional with respect to share capital. While explaining Section 64(1) of the Companies Act, 2013 read with rule 15 of Companies (Share Capital & Debenture) Rules 2014 she informed that one should ensure that the form is filed within 30 days from the date of the event. She further added that the Information that needs to be collected is:

Purpose of the form: Whether the increase in capital is due to decision taken by the company, is by way of Government order, is by way of redemption of preference shares, is increase in number of members OR consolidation/division etc. And the Documents to be checked /attached are as under: 1) Memorandum of Association2) Board resolution3) General meeting resolution. 4) Central Government order/notice. She informed that before proceeding review has to be done on: board resolutions and general meeting resolutions for authenticity, whether copies are attached of altered MOA, Central Government order/notice, relevant resolutions increasing the authorized capital/redeeming preference shares/consolidation/ divisions etc., notice and statement of material facts together with certified copy of general meeting resolution. The speaker also explained the gathering on PAS3 return of allotment, Types of Securities, nature of allotment of shares, and the information that needs to be collected, documents to be checked, etc. The Speaker also explained MGT-14- Filing of Resolutions and Agreements to Registrar of Companies explaining that pursuant to section 117(1) and 179(3)(c) of the Companies Act, 2013. The Board resolution MGT 14 needs to be filed in case of issue of securities under section 179(3) (c).General Meeting resolution (Special) for approval of shareholders by way of special resolution in a general meeting with respect to issue of securities under private placement/preferential allotment, issue of preference shares, issue of shares to employees under stock option scheme (ESOP) and ensure all the resolutions are passed in a duly convened board/general meeting. In case of listed company check if the resolution is passed by postal ballot and choose the button accordingly. Check if notice period of 21 days is given for the meeting. In case of shorter notice, ensure approval for short notice is attached along with the notice/explanatory statement and the resolutions.

The other technical sessions were addressed by CS M. Bhavani and CS T.R Jairam, Practicing Company Secretaries, who explained that Pre-certification essentially implies certification of the veracity and correctness of any event or document. Company Secretary being the ideal professional to ensure compliance of the Companies Act enjoys a very unique and special standing in the fraternity of professionals recognized to certify various forms under the Companies Act, 1956 and now 2013, Act. This casts an additional responsibility on the profession of company secretaries. The ICSI has also come out with an excellent reference on pre-certification of e-forms. While the core compliance details are self-explanatory in the Act and the forms prescribed, yet there are certain practical aspects which if implemented and taken care of, will go a long way in ensuring compliance in both letter and spirit.

Speech Craft, the Capacity Building Programme in Communication & Leadership

First-ever "Speech Craft", the Capacity Building Programme (CBP) in Communication and Leadership commenced on 17.01.2015 in association with IIMB Orators Club in order to provide a structured training in public speaking and leadership, which concluded on 7.2.2015.

The following educational sessions were conducted by the profound speakers from IIMB Orators Club Bangalore throughout the four weeks of "Speech Craft workshop".

Date	Particulars	Speakers
17th Jan 2015	Educational session on selecting the speech topic	TM Prabhakara
24th Jan 2015	Educational session on how to deliver the Introduction of speaker /Playing Master of Ceremonies (MC) role	TM Vivek Tonapi
	Educational session on organizing the speech	TM Arjun Raj URS
31th Jan 2015	Educational session on how to use gestures and body language	TM Tony Francis
	Educational session on how to evaluate a speech	TM Arnold
7th Feb 2015	Educational session on word usage and how to say it	TM Roshan Sathya Sai

It was a continuous learning workshop for the participants in nurturing their public speaking skills which implicit the role one plays in public speaking As a Master of Ceremony (MC), as a

speaker, as an Organiser, as an evaluator which made every participant an improved speaker.

The Speech Craft programme concluded on 7.2. 2015 with a Toastmasters meeting conducted entirely by participants where the participants played the following roles:

Sergeant At Arm: 1. President 2. Master of Ceremonies (MC) 3. General Evaluator 4. Prepared Speakers 5. Table topic Master 6. General Evaluator 7. 'Ah'Counter Role 8. Gramarian Role 9. Time keeper 10. Speech Evaluator.

The meeting was followed by valedictory address by Toastmaster Madhavraju Munuswamy, President, IIMB Orators Club, Bangalore. Prabhakara, Toastmaster, CS Gopalakrishna Hegde, Council Member, the ICSI and H.M Dattatri, Chairman, Bangalore Chapter of the ICSI. The dignitaries shared their views about the programme and was overwhelmed to witness a sea change in participants within the short span of 4 weeks. The coaching and mentor-ship from the speakers had boosted the learning and confidence of participants enabling them to take up speeches and perform all the roles very well in Toastmasters meeting. Certificates were awarded to the participants from Toastmasters International.

COIMBATORE CHAPTER

66th Republic Day Celebration

Coimbatore Chapter celebrated 66th Republic day on 26.1.2015 at the Chapter premises.

Joint Programme on Practical Issues on Taxation

A Joint Programme on "Practical Issues on Taxation" was organised by ICAI [CMA] - Coimbatore Chapter & ICSI-Coimbatore Chapter on 29.1.2015 at Coimbatore.

CA R. Muralidharan Practising Chartered Accountant, Erode was the Speaker. The session was very informative and appreciated by the gathering at large. The queries raised by the participants were well addressed by the Speaker. The programme was well attended by 32 CS members and 22 CS Students.

Career Awareness Programme

On 13.2.2015, a Career Awareness Programme was conducted at Bishop Ambrose College, Coimbatore. CS R Venkateswaran,Chairman, Coimbatore Chapter of SIRC of the ICSI explained about the opportunities and responsibilities of the Company Secretaries. He also narrated about the Institute, the importance of the Company Secretaryship course and procedures for taking up the course. CS G Vasudevan, Past Chairman of Coimbatore Chapter of SIRC of the ICSI explained the salient features of the Companies Act, 2013. The Career Awareness Programme was attended by 110 students and faculty members of the College.

17th Residential Programme

As in the past, the Coimbatore Chapter of SIRC of ICSI conducted its 17th Residential Programme on "Company Secretaries - Attitude, Approach &Achievement – A3" on 20, 21and 22.2.2015, at Ooty, Tamil Nadu. The three days programme was well attended by around 140 participants, including students, spouse and children. On 20.2.2015, the programme was inaugurated by the Chief Guest N Ramanathan, Registrar of Companies, Tamil Nadu, Coimbatore.

On 21.2.2015, K.S. Ravichandran, Partner KSR & Co, LLP, addressed Technical session one and explained about Secretarial Audit and the applicable Secretarial Standards and related forms. He gave a detailed analysis of the subject. The session was very much informative for the members.

The second technical session was handled by D.N. Panda, Member,Customs, Excise and Service Tax Appellate Tribunal (CESTAT) Chennai. He addressed on Role of Company Secretaries in Service tax, Custom and Central Excise Acts. The session was well admired by the participants.

The Third and the Fourth Technical sessions were handled by K.S. Ravichandran, Partner KSR & Co, LLP. He addressed about Independent Directors, Related party transactions with applicable Secretarial Standards and SEBI guidelines. The sessions were very useful and beneficial to the participants.

On 22.2.2015, CS V Guruprasad , ACA, ACMA, ACS, in the Fifth Technical Session addressed on Role of Company Secretaries in relation to FEMA, FDI and DGFT. This was an interactive session and the queries raised by the participants were replied well by the faculty members.

In the last Technical Session, a delightful talk by Dr. M. Rangarajan, Associate Professor in Corporate Secretary ship, PSG College of Arts and Science Coimbatore, for motivating the professionals with the presentation of video clippings was arranged and the session was lively, enjoyable and interesting for the members.

The valedictory session was addressed by CS R Venkateswaran, Chairman, Coimbatore Chapter of SIRC of ICSI. CS A R Ramasubramania Raja Vice Chairman, Coimbatore Chapter of SIRC of the ICSI consolidated the events of the programme. CS P S Shastry, Vice Chairman, SIRC of the ICSI in his valedictory address congratulated Coimbatore Chapter for the success of 17th Residential Programme and for conducting Residential programme continuously. He expressed about the requirements of compliance of law as per the new Companies Act. Some of the participants expressed their appreciation for the programme.

Apart from various technical sessions, the events like sightseeing, Games, etc. were conducted for the participants and everyone was happy and enjoyed the sessions and fun games. The Chapter has received enthusiastic appreciation and complimentary notes from participants of the programme.

SALEM CHAPTER

Career Awareness Programme

On 4.2.2015 a Career Awareness programme was conducted by the Chapter for the students of B.Com (CA) and B.Sc. (Maths.) at Shri Sakthikailassh Women's College, Ammapet, Salem. Around 350 students participated. CS Santhanam N, Chapter Secretary explained briefly the functioning of the Institute and Chapters, structure of the Company Secretaryship course, duration, employment opportunities and scope of Company Secretary in Practice. He also deliberated about Campus Interviews conducted by the Head Quarters and Regional Offices for the Members and Students.

Sundar Swamy S, Chapter In-charge explained Online registration process, e-learning and e-library facilities available at the Institute's website, examination schedules, training structure of the course and also Library and Oral Coaching facility at the Chapter. The queries raised by the students were also clarified.

Study Circle Meeting

On 6.2.2015, Salem Chapter organized a study circle meeting for the Members and Students on Chapter I, Preliminary (Short Title & Definitions) under the Companies Act, 2013. During the meet, a number of queries on Associate Company, Company Secretary in Practice, Chartered Accountant and Body Corporates were put forth by the members and students and were ably clarified at the study meet.

WESTERN INDIA REGIONAL COUNCIL

BHAYANDER CHAPTER

Full Day Seminar on Overview of Competition and Companies Act

On 08.02.2015 Bhayander Chapter of WIRC of the ICSI organized a full day seminar on an Overview of Competition & Companies Act at Bhayander (W). CS Atul Mehta, President, the ICSI, CS Sutanu Sinha, CE & OS, the ICSI, CS Rishikesh Vyas, Chairman, WIRC of the ICSI, CS Mahavir Lunawat, Central Council Member, the ICSI, CS Hitesh Kothari, WIRC Member, CS Praveen Soni, WIRC Member, were present as Guests. Around 130 participants were present in the programme.

CS Atul Mehta, President, the ICSI addressed on future goals of the Institute and also elaborately replied the queries raised by the participants.

Technical Session 1: The session was addressed by CS B Renganathan, on "Capital Market, Private Placements".

Technical Session 2: The Session was addressed by CS Savithri Parekh on"Responsibilities of Directors".

Technical Session 3: This session was addressed by Adv. Nayan Rawal on "Competition Act".

Technical Session 4: This session was addressed by CS Anshul Jain on "Registers under the Companies Act, 2013 & Directors Report."

PUNE CHAPTER

Two Days Residential Workshop on Critical Issues in Corporate Laws

On 20 and 221.2.2015 a Two Days Residential Workshop on Critical Issues in Corporate Laws was held at Saj Resorts, Mahabaleshwar. Dr. K R Chandratre, Past President, the ICSI and Practising Company Secretary was the faculty cum co-ordinator of the programme. The programme was attended by 71 delegates from Pune, Mumbai and out of Maharashtra. Eight (8) PCH were awarded to members who attended the workshop.

VADODARA CHAPTER

One Day Seminar on Challenges ahead in the Backdrop of Exalted Role of Company Secretary

The Vadodara Chapter of WIRC of the ICSI organised a One Day Seminar on 21.2.2015 at Vadodara, on Challenges ahead in the Backdrop of Exalted Role of Company Secretary. During the Inaugural session of the Seminar Amit Patel, President, Federation of Gujarat Industries, Vadodara; CS Atul Mehta, President - ICSI; CS Ashish Doshi, Council Member - ICSI; CS Nishant Javlekar, Chairman and CS HemantNandaniya, Secretary of the Chapter; marked their presence on the dais.

More than one hundred thirty CS Members, Students and Corporate Delegates attended the Seminar and actively participated in the programme.

First Technical Session: The speaker was CS Atul Mehta, President - ICSI. He discussed "Official Stand of ICSI on Secretarial Audit" during the Session. CS V VVachhrajani, Chaired the Session.

Second Technical Session: The speaker was CS Ashok Kumar Dixit, Director (Discipline), The ICSI. He discussed "Misconduct and Disciplinary Mechanism". CS D S Mahajani, Chaired the Session.

Third Technical Session: During the Session CS DeveshPathak, Practicing Company Secretary, Vadodara; discussed "Certification of Annual Return". CS S Samdani, Chaired the Session.

Before conclusion of the programme CS HemantNandaniya, Secretary, Vadodara Chapter, presented the concluding remarks of the entire programme.

COMPANY SECRETARIES BENEVOLENT FUND

The Institute has set up the Company Secretaries Benevolent Fund (CSBF) with an objective of extending financial assistance to its members and their families and their families in times of distress. The members are also provided reimbursement of medical expenses and educational expenses for their children in accordance with the guidelines in place.

In order to maintain the fund sustainable to provide better financial assistance, it is considered necessary to strengthen the financial position of the fund. With a view to achieve the righteous objective, spread the awareness and to undertake Membership Campaign, the CSBF is organizing a Cultural Evening on **Saturday, the 14th of March, 2015 from 6.00 P.M. onwards at Air Force Auditorium, Subroto Park, New Delhi, which will be followed by Dinner.**

During the programme, the internationally renowned singer, music composer, lyricist and actor **Padma Shri Shekhar Sen** will bring live the legendary Swami Vivekananda. Similar Cultural Evenings were organized by the CSBF on 9th January, 2010 and 12th January, 2013 which were a grand success drawing the participation of over 800 members and their families and resulting in substantial fund raising. The glimpses of the previous CSBF cultural evenings organized may be viewed at web link – http://www.icsi.edu/csbf/VideoClippings.aspx

The Managing Committee of CSBF cordially invites all the members to attend and participate in the programme. Entry shall be free for all the Members of CSBF and those who intend to get themselves enrolled as Members of the Fund at the venue, besides the invitees including Donors.

For this event, resources are being mobilised through Corporate Donations/ Donations towards advertisement in Souvenir, Donor Invitation cards as detailed below:

Category of Donor	Amount of Donation
Principal Donor (Jaypee Group)	Rs. 11 lacs
Platinum Donor (upto four)	Rs. 5 lacs each
Diamond Donor (upto five)	Rs. 4 lacs each
Golden Donor (upto eight)	Rs. 3 lacs each
Silver Donor (upto ten)	Rs. 1 lac each

Donation towards Advertisement in Souvenir	Amount of Donation
Back Cover (reserved for Principal Donor)	Rs. 30,000/-
Inside Cover (two) (reserved for Platinum Donors)	Rs. 25,000/- each
Inside Page	
Full Page (Coloured)	Rs. 20,000/-
Full Page (B/W)	Rs. 10,000/-
Half Page (B/W)	Rs. 7,500/-
Quarter Page (B/W)	Rs. 5,000/-
Stall	**On request**

Donor's Card denomination: Rs.1000/-, Rs.2000/- & Rs.5000/-

Contribution to the Fund **qualifies for deduction u/s 80G** of the Income Tax Act, 1961. The contribution and support of donor organisation will be duly recognised and acknowledged in the following manner:

- The Logo of donor organization will be printed on the back drop / panel, Souvenir and other communications issued by the Fund.
- A Standee of the size of 6 x 2.5 feet of donor organization will be displayed at the venue.
- The contribution and support of donor organization will be duly recognised and acknowledged appropriately during the event.
- Representative(s) from the donor organization will be invited to attend the programme

Cheque at par / demand draft be drawn in favour of "Company Secretaries Benevolent Fund" payable at New Delhi and the same may please be sent to Mrs. Meenakshi Gupta, Director (Membership, Training & Placement), The Institute of Company Secretaries of India, ICSI House, 22, Institutional Area, Lodi Road, New Delhi – 110 003.

For queries please contact Mrs. Meenakshi Gupta, Director (Membership, Training & Placement) at 011-45341047 (O), email id; meenakshi.gupta@icsi.edu or Mr. Subhashis Bagchi, Dy. Director (Membership) at 011-45341096(O), Mob.-8527820116, email id: subhashis.bagchi@icsi.edu

Communication to the esteemed members regarding Chartered Secretary Journal

Dear Member,

Greetings from ICSI!!!

This is for the kind information of the members that the Chartered Secretary Journal is generally dispatched to your goodselves by the end of the first week of each month at the mailing address (as extracted from the online database of the Institute 7-8 days before dispatch), by ordinary post. The issue of the journal is also being uploaded at the Institute's website by 5th of every month which can be accessed at the link:-

https://www.icsi.edu/JournalsBulletins/CharteredSecretary.aspx or using the steps www.icsi.edu --> journals and Bulletins --> Chartered Secretary.

We would humbly like to mention that in case of non receipt of any issue of the journal, you may contact us as follows:

1. Members who are not getting the issue of the journal by 15th of each month, may lodge their concern of non receipt with the Call Centre helpline number 011-33132333 (Monday – Friday 7 a.m. to 11 p.m. & Saturday 9 a.m. to 9 p.m.) so that the replacement copy could be sent through Courier or Speed Post.
2. In case no reply is received within 7 days from the date of registering complaint with the call centre, you may please intimate to Membership section at email ID – csjournal@icsi.edu for replacement copies. The request will be processed in 4 working days of receipt of the email.
3. The members may, if they so desire, subscribe the receipt of Chartered Secretary Journal through registered post by making an additional annual payment of Rs.500/- favouring **"The Institute of Company Secretaries of India"** through DD payable at New Delhi or Cheque at par towards the registered postal charges. The request and subscription for registered post is to be sent to the Directorate of Publication at the address:

ICSI HOUSE, 22, INSTITUTIONAL AREA
LODHI ROAD
NEW DELHI - 110003

The members are also advised to maintain updated mailing address, mobile and email address by using online services. All Frequently Asked Question on online services is published on the website homepage itself.

Thanking you
Yours faithfully

(Meenakshi Gupta)
Director (Membership)

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WESTERN INDIA REGIONAL COUNCIL

PCH -4

NATIONAL CONCLAVE ON CRITICAL ASPECTS OF SECURITIES LAWS

FRIDAY, MARCH13, 2015 09.00A.M TO 05.00 P.M

Western India Regional Council of Institute of Company Secretaries of India is organising a National Conclave on "Critical Aspects of Securities Laws" on Friday, March 13, 2015, at Rooftop of Trident, Nariman Point, Mumbai. Eminent Speakers with experience, understanding and practical exposure on the subject matter will deliberate in the Conclave.

The Conclave deliberation shall include:

- Recent changes under the Securities Laws & its impact
- Companies Act 2013 *vis-a-vis* Securities Laws
- Business Aspects *vis-a-vis* Securities Laws
- New Insider Trading Code- Impact Area
- Validity of Shareholders Agreement *vis-a-vis* Companies Act, 2013 & Listing Norms
- SEBI Takeover Code
- Listing Norms
- Landmark Case Laws

There shall also be a panel discussion wherein the panelists shall deliberate on the aforesaid subject matter.

Who Should Attend

- Company Secretaries
- Chartered Accountants
- Cost Accountants
- Chief Financial Officers
- Chief Executive Officers
- Lawyers
- Merchant Bankers
- Other Professionals
- Students

Programme Venue & Registration

- Hotel Trident , Nariman Point, Mumbai
- Friday, March 13, 2015, Registration will start from 09.00 am.
- Members Rs. 5,000/-,Non Members Rs. 7,500/- & Students Rs.4,500/- per participant (includes program kit, lunch and other administrative expenses)
- Residential accommodation available on extra payment
- Limited seats with registration on first come first serve basis.

Online Registration & Payment

Online Registration AND Online Payment (Net banking, credit / debit card), both can be done online at- https://www.eventavenue.com/attReglogin.do?eventId=EVT5621

Online payment is without any extra charge. Upon successful payment, Participants will receive confirmation and receipt by email. Fees are non-refundable.

For Registration Details

Fees may be paid through online mode, cheque, and DD payable at Mumbai in favour of WIRC of ICSI. The registration form duly filled along with fees may be sent to the address given below.

Regional Director, ICSI-WIRC, 13, Jolly Maker Chamber No.2, Nariman Point, Mumbai -400021

- For further details contact: -022 – 61307900 / 01 / 02 / 13
- Email - wiro@icsi.edu

PROGRAMME DIRECTOR

CS Makarand Lele
Council Member, ICSI
makarand.lele@mrmcs.com

COMPANY SECRETARIES BENEVOLENT FUND

(Registered under the Societies Registration Act, 1860)

C/o The Institute of Company Secretaries of India

'ICSI House', 22, Institutional Area, Lodi Road, New Delhi-110 003

"If you want to know India, study Vivekananda.
In him everything is positive and nothing negative."
- Tagore

Dear Friends,

We are back - with a difference!!

Swami Vivekananda had once said :

"Take up one idea. Make that one idea your life - think of it, dream of it, live on that idea. Let the brain, muscles, nerves, every part of your body, be full of that idea, and just leave every other idea alone. This is the way to success."

Following the above thought of Swami Vivekananda, the Managing Committee of CSBF had taken up an idea **"SELFLESSLY SERVE THE MEMBERS OF CSBF"** - and have succeeded to a great extent.

As you are aware, the Managing Committee of CSBF had organized Cultural Evenings in the past to bring together the members of CSBF and also to raise funds to strengthen its corpus to extend financial assistance to its members and their families in times of distress through payment of lump sum amount in the event of unfortunate demise of the members, reimbursement of medical expenses and educational expenses for their children. It has been cherished desire of the members of the Managing Committee to increase the amount of such financial assistance. This is possible only when the corpus of the fund is increased further.

Keeping the above objective in mind, it has been decided to organize another Cultural Evening for members of ICSI and their families on **Saturday, 14th of March, 2015 from 6:00 P.M. onwards at Air Force Auditorium, Subroto Park, New Delhi, which** will be followed by Dinner.

While in the previous programmes which were grand success, we had presented the diversified culture of India through folk dances & music, this time we are presenting before you the internationally renowned Singer, music composer, lyricist and actor **Padma Shri Shekhar Sen**. He will bring live the legendary Swami Vivekananda before our members and invitees. Padma Shri Sen has performed many of his mesmerizing mono act plays all over the world including Indian Parliament and Rashtrapati Bhavan. Padma Shri Sen is presently the Chairman of the Sangeet Natak Akademi, India's National Academy for dance, music and theatre. He was member of Film Censor Board and also served as an expert for various Government bodies.

The Managing Committee of CSBF cordially invites you and your family to join us to watch this mesmerizing play which will take you back to the era of Swami Vivekananda. The participation is free for members of CSBF and those who intend to get themselves enrolled as Members of the Fund, besides the invitees including Sponsors/ Advertisers and donors.

A souvenir will be brought out to mark the occasion. You are requested to extend your whole-hearted and generous support for this noble cause.

Looking forward to meeting you on the 14th of March, 2015.

For **Company Secretaries Benevolent Fund**

(CS Sutanu Sinha)	(CS H.S. Grover)	(CS Harish K. Vaid)
Secretary & Treasurer	Vice-Chairman	Chairman
Managing Committee of CSBF	Core Group for the Event	Core Group for the Event

February 19, 2015

SECRETARIAL AUDIT

SCOPE AND SECTOR WISE INDICATIVE LIST OF LAWS

Section 204 of the Companies Act, 2013 read with the Companies (Appointment and Remuneration of Managerial Personnel) Rules, 2014, provides that every listed company and every prescribed company shall annex with its Board's Report, a Secretarial Audit Report, given by a Company Secretary in Practice, in Form MR- 3.

The Council at its 226th meeting held on November 21, 2014 after deliberating on the views that emerged from consultation meets and taking into consideration the views of members of Corporate Laws and Governance Committee, decided that the Scope of Secretarial Audit includes:

- Reporting on compliance of five laws as mentioned in form MR-3
  - Companies Act, 2013 and the rules made thereunder;
  - Securities Contracts (Regulation) Act, 1956 ('SCRA'), and the rules made thereunder;
  - Depositories Act, 1996, and the rules made thereunder;
  - Foreign Exchange Management Act, 1999 and the rules and regulations made thereunder to the extent of Foreign Direct Investment, Overseas Direct Investment and External Commercial Borrowings;
  - Regulations and Guidelines prescribed under the Securities and Exchange Board of India Act, 1992 ('SEBI Act'):-
    1. The Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011;
    2. The Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992;
    3. The Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;
    4. The Securities and Exchange Board of India (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999;
    5. The Securities and Exchange Board of India (Issue and Listing of Debt Securities) Regulations, 2008;
    6. The Securities and Exchange Board of India (Registrars to an Issue and Share Transfer Agents) Regulations, 1993 regarding the Companies Act and dealing with client;
    7. The Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009; and
    8. The Securities and Exchange Board of India (Buyback of Securities) Regulations, 1998;
  - Reporting on compliance of secretarial standards issued by the Institute of Company Secretaries of India;
  - Reporting on Compliances with the Listing Agreement;
  - Reporting on compliance of 'Other laws as may be applicable specifically to the company' which shall include all the laws which are applicable to specific industry for example for Banks- all laws applicable to Banking Industry; for insurance company-all laws applicable to insurance industry; likewise for a company in petroleum sector- all laws applicable to petroleum industry; similarly for companies in pharmaceutical sector, cement industry etc.
  - examining and reporting whether the adequate systems and processes are in place to monitor and ensure compliance with general laws like labour laws, competition law, environmental laws.
  - Examining and reporting specific observations / qualification, reservation or adverse remarks in respect of the Board Structures/system and processes relating to the Audit period.
  - In case of financial laws like tax laws and Customs Act etc., Secretarial Auditor may rely on the Reports given by statutory auditors or other designated professionals.
  - Other laws as may be specifically applicable to the company (point (vi) as per MR-3)*

For the benefit of members, the Institute is developing a list of various laws specifically applicable to companies in different sectors. An indicative list of sector specific central laws in respect of some of the sectors is placed below for reference.

INDICATIVE SECTOR WISE LIST

1. PHARMACEUTICAL INDUSTRY

- Pharmacy Act, 1948
- Drugs and Cosmetics Act, 1940
- Homeopathy Central Council Act, 1973
- Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954
- Narcotic Drugs and Psychotropic Substances Act, 1985
- Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974
- The Medicinal & Toilet Preparations (Excise Duties) Act, 1955
- Petroleum Act, 1934
- Poisons Act, 1919
- Food Safety And Standards Act, 2006
- Insecticides Act, 1968
- Biological Diversity Act, 2002
- The Indian Copyright Act, 1957
- The Patents Act, 1970
- The Trade Marks Act, 1999

2. COMPUTER PROGRAMMING, CONSULTANCY AND RELATED SERVICES

- The Information Technology Act, 2000
- The Special Economic Zone Act, 2005
- Policy relating to Software Technology Parks of India and its regulations
- The Indian Copyright Act, 1957
- The Patents Act, 1970
- The Trade Marks Act, 1999

3. GAS INDUSTRY

- The Petroleum Act, 1934
- Petroleum and Minerals Pipelines (Acquisition of Right of User Inland) Act, 1962
- Explosives Act, 1884
- The Oil field (Regulation & Development) Act , 1948
- Petroleum and Natural Gas Regulatory Board Act, 2006
- The Oil Industry (Development) Act, 1974
- The Mines Act, 1952

4. OIL & PETROLEUM SECTOR

- The Petroleum Act, 1934
- Petroleum and Minerals Pipelines (Acquisition of Right of User Inland) Act, 1962
- Explosives Act, 1884
- The Oil field (Regulation & Development) Act , 1948
- Petroleum and Natural Gas Regulatory Board Act, 2006
- The Oil Industry (Development) Act, 1974
- The Mines Act, 1952
- Mines and Minerals (Regulations and Development) Act, 1957
- The Territorial Waters, Continental Shelf, Exclusive Economic Zone And Other Maritime Zones Act, 1976
- Offshore Areas Minerals (Development and Regulation) Act, 2002

5. POWER

- The Electricity Act, 2003
- National Tariff Policy
- Essential Commodities Act, 1955
- Explosives Act, 1884
- Mines Act, 1952 (wherever applicable)
- Mines and Mineral (Regulation and Development) Act, 1957 (wherever applicable)

6. SUGAR INDUSTRY

- Sugar Cess Act, 1982
- Levy Sugar Price Equalisation Fund Act, 1976
- Food Safety And Standards Act, 2006
- Essential Commodities Act,1955
- Sugar Development Fund Act, 1982
- Export (Quality Control and Inspection) Act, 1963
- Agricultural and Processed Food Products Export Act, 1986

7. TOBACCO INDUSTRY

- Tobacco Board Act, 1975
- Tobacco Cess Act, 1975
- Beedi and Cigar Workers (Conditions of Employment) Act, 1966 as amended in 1993
- Beedi Workers Welfare Cess Act, 1976
- Beedi Workers Welfare Fund Act, 1976
- Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COPTA)
- The Cable Television Network (Regulation) Act, 1955

8. INSURANCE

- Insurance Act, 1938
- Insurance Regulatory and Development Authority Act, 1999
- General Insurance Business (Nationalisation) Act, 1972
- Industrial Disputes (Banking and Insurance Companies) Act, 1949
- Marine Insurance Act, 1963

9. COMMERCIAL BANKS (OTHER THAN NATIONALISED BANKS AND STATE BANK OF INDIA)

- Reserve Bank of India Act, 1934
- Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
- The Bankers' Books Evidence Act, 1891
- Recovery of Debts due to Banks & Financial Institution Act, 1993
- Credit Information Companies (Regulation) Act, 2005
- Prevention of Money Laundering Act, 2002
- The Deposit Insurance and Credit Guarantee Corporation Act, 1961
- Industrial Disputes (Banking and Insurance Companies) Act, 1949
- Information Technology Act, 2000

10. BEVERAGES (NON- ALCOHOLIC)

- Food Safety and Standards Act, 2006
- The Insecticide Act, 1968
- Export (Quality Control and Inspection) Act, 1963
- Inflammable Substances Act,1952
- Agricultural and Processed Food Products Export Cess Act, 1986
- Agricultural Produce (Grading and Marking) Act, 1937

11. REAL ESTATE SECTOR

- Housing Board Act, 1965
- Transfer of Property Act, 1882
- Building and Other Construction Workers' (Regulation of Employment and Conditions of Services) Act, 1996

12. AUTOMOBILE

- Motor Vehicles Act, 1988
- The Motor Transport Workers Act, 1961
- The Explosive Act, 1884

- The Petroleum Act, 1934
- The Environment (Protection) Act, 1986
- The Water(Prevention and Control of Pollution) Act, 1974
- The Air(Prevention and Control of Pollution) Act, 1981

13. AVIATION SECTOR

- Aircraft Act, 1934
- Airports Authority of India Act, 1994
- Carriage by Air Act, 1972
- Tokyo Convention Act, 1975
- Anti-Hijacking Act, 1982
- Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982
- Airports Economic Regulatory Authority of India Act,2008

14. HUMAN HEALTH SECTOR

- Clinical Establishment (Registration and Regulation) Act, 2010
- Indian Medical Council Act, 1956
- Indian Medical Degrees Act, 1916
- Indian Nursing Council Act, 1947
- The Dentists Act, 1948
- Rehabilitation Council of India Act, 1992
- Drugs and Cosmetic Act, 1940
- The Drugs Control Act, 1950
- Pharmacy Act, 1948
- Narcotics and Psychotropic Substances Act, 1985
- Homoeopathy Central Council Act, 1973
- Insecticide Act, 1968
- Transplantation of Human Organs Act, 1994
- Drugs and Magic Remedies (Objectionable) Advertisements Act, 1954
- Birth and Death and Marriage Registration Act, 1886
- Mental Health Act, 1987
- Ear Drums and Ear Bones (Authority for Use For Therapeutic Purposes) Act, 1982
- Eyes (Authority for Use For Therapeutic Purposes) Act, 1982
- The Epidemic Disease Act, 1897

15. MINING OF METAL ORES

- Mines Act, 1952
- Mines and Minerals (Development and Regulation) Act, 1957
- Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Cess Act, 1976
- Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976

16. EDIBLE OILS

- National Oil Seeds and Vegetable Oils Development Board Act, 1983
- Cotton Copra and Vegetable Oils Cess (Abolition) Act, 1987
- Seeds Act, 1966
- Protection of Plant Varieties and Farmers Right Act, 2001
- Food Safety And Standards Act, 2006

17. ROAD TRANSPORT

- National Highways Act, 1956
- The Multimodal Transportation of Goods Act, 1993
- Control of National Highways (Land and Traffic) Act, 2002
- Carriage by Road Act, 2007
- Road Transport Corporations Act, 1950
- Motor Vehicles Act, 1988

The Parliamentary Standing Committee on Finance in its 21st Report on Companies Bill 2009 has clearly stated that Secretarial Audit gives a necessary comfort to the investors that the affairs of the company are being conducted in accordance with the legal requirements and also protects the companies from non-compliances.

Secretarial Audit is a tool to ensure compliance of **all applicable laws** to the company and good governance. **The proposed Secretarial Standard on Meetings of Board of Directors requires that the list of laws applicable to the company be placed as an item of agenda at the first meeting of the Board in the financial year.**

Secretarial Audit has no doubt presented a great opportunity to the Practising Company Secretaries but more than that, it seeks to ensure the compliances of the laws applicable to the company thereby providing necessary comfort to the Board of directors, particularly the independent directors, the regulators and the investors of the company.

Realising that this is an onerous responsibility, the Institute has developed a set of FAQs on Secretarial Audit which are available on website of the Institute.

***Disclaimer:**

The Institute with a view to facilitate the members to conduct Secretarial Audit has compiled list of specific Central Acts applicable to various sectors. The list is indicative only and not exhaustive.

It may so happen that some of the sector specific laws do not figure in this list. Members are advised to use their own professional judgement and resources in identifying other sector specific Laws/ Rules/ Regulations/ Guidelines/ Orders/ Amendments/ Standards/Policies, as well as State Laws, while conducting Secretarial Audit.

Due care has been taken in the preparation of the list. The Institute shall not be responsible for any loss or damage resulting from any action taken on the basis of these lists. Professional Judgement is advised.

Members may send their suggestions relating to any addition/ deletion from the indicative list of laws applicable to any particular sector at secretarialaudit@icsi.edu.

C. S. EXAMINATIONS, DECEMBER, 2014 — LIST OF TOPPERS

PROFESSIONAL PROGRAMME (NEW SYLLABUS)

FIRST RANK
TANVI JAIN
Roll No. : 417921
Regn. No. 40010778/02/2013
Marks Obtained: 65.55%
KOLKATA

SECOND RANK
MAYURESH VINAYAK DHARAP
Roll No. : 438549
Regn. No. 440031876/02/2013
Marks Obtained: 64.55%
MUMBAI

THIRD RANK
KHUSHBOO SANDEEP SHAH
Roll No. : 434767
Regn. No. 440024715/02/2013
Marks Obtained: 64.22%
AHMEDABAD

PROFESSIONAL PROGRAMME (OLD SYLLABUS)

FIRST RANK
VARSHA AGRAWAL
Roll No. : 284443
Regn. No. 421310811/08/2012
Marks Obtained: 64.13%
MUMBAI

SECOND RANK
RIDDHI KAMLESHKUMAR JHAVERI
Roll No. : 276285
Regn. No. 421373998/08/2012
Marks Obtained: 62.75%
AHMEDABAD

THIRD RANK
BALAJI N.
Roll No. : 269640
Regn. No. 320790669/02/2012
Marks Obtained: 60.75%
CHENNAI

EXECUTIVE PROGRAMME (NEW SYLLABUS)

FIRST RANK
SIMRAN KHATTAR
Roll No. : 370207
Regn. No. : 240224270/02/2014
Marks Obtained: 74.71%
FARIDABAD

SECOND RANK
AKSHAY HEMANT PARANJAPE
Roll No. : 405505
Regn. No. 440111284/02/2014
Marks Obtained: 74.43%
MUMBAI

THIRD RANK
SHILPA K. MURTHY
Roll No. : 387422
Regn. No. : 340055071/02/2014
Marks Obtained: 73.86%
CHENNAI

EXECUTIVE PROGRAMME (OLD SYLLABUS)

FIRST RANK (Joint)
SHUBHAM DAD
Roll No. : 206140
Regn. No. : 221267861/08/2011
Marks Obtained: 67.33%
BHILWARA

FIRST RANK (Joint)
NAMISH CHHAPARWAL
Roll No. : 212651
Regn. No.: 221580073/08/2012
Marks Obtained: 67.33%
JAIPUR

SECOND RANK
NISHA KUMARI SOROT
Roll No. : 210574
Regn. No.: 221520199/08/2012
Marks Obtained: 64.83%
FARIDABAD

THIRD RANK
POOJA
Roll No. : 220936
Regn. No. : 320023553/09/2012
Marks Obtained: 61.17%
HYDERABAD

KEY FEATURES OF BUDGET 2015-2016*

FEBRUARY 28, 2015

KEY FEATURES OF BUDGET 2015-2016

Introduction

- Credibility of Indian economy has been re-established in the last nine months.
- Indian economy about to take-off on a fast growth trajectory.
- Most growth forecasts have upgraded Indian economic growth while downgrading global economic growth.
- Economically empowered States are equal partners to Indian economic growth.
- Round the clock, round the year Government to pursue accelerated growth, enhanced investment for the benefit of all Indians.
- After inheriting an economy with sentiments of "doom and gloom" with adverse macro- economic indicators, nine months have seen at turn around, making India fastest growing large economy in the World with a real GDP growth expected to be 7.4% (New Series).
- Stock market - Second best performing in 2014.
- Macro-economic stability and conditions for sustainable poverty alleviation, job creation and durable double digit economic growth have been achieved.
- Restored the trust of the people on the Government by delivering on different areas.

Three Key achievements:

- Financial Inclusion- 12.5 crores families financiallymainstreamedin 100 days.
- Transparent Coal Block auctions to augment resources of the States.
- Swachh Bharat is not only a programme to improve hygiene and cleanliness but has become a movement to regenerate India.
- Game changing reforms on the anvil:
  - Goods and Service Tax (GST)
  - Jan Dhan, Aadhar and Mobile (JAM) - for direct benefit transfer.

*Source: http://www.indiabudget.nic.in/ub2015-16/bh/bh1.pdf

STATE OF ECONOMY

Inflation

- Inflation declined - a structural shift
- CPI inflation projected at 5% by the end of the year, consequently, easing of monetary policy.
- Monetary Policy Framework Agreement with RBI, to keep inflation below 6%.
- GDP growth in 2015-16, projected to be between 8 to 8.5%.

Amrut Mahotsav - The year 2022, 75th year of Independence Vision for "Team India" led by PM

- Housing for all - 2 crore houses in Urban areas and 4 crore houses in Rural areas.
- Basic facility of 24x7 power, clean drinking water, a toilet and road connectivity.
- At least one member has access to means for livelihood.
- Substantial reduction in poverty.
- Electrification of the remaining 20,000 villages including off-grid Solar Power- by 2020.
- Connecting each of the 1,78,000 un-connected habitation.
- Providing medical services in each village and city.
- Ensure a Senior Secondary School within 5 km reach of every child, while improving quality of education and learning outcomes.
- To strengthen rural economy - increase irrigated area, improve the efficiency of existing irrigation systems, and ensure value addition and reasonable price for farm produce.
- Ensure communication connectivity to all villages.
- To make India, the manufacturing hub of the World through Skill India and the Make in India Programmes.
- Encourage and grow the spirit of entrepreneurship - to turn youth into job creators.
- Development of Eastern and North Eastern regions on par with the rest of the country.

Major Challenges Ahead

- Five major challenges: Agricultural income under stress, increasing investment in infrastructure, decline in manufacturing, resource crunch in view of higher devolution in taxes to states, maintaining fiscal discipline.
- To meet these challenges public sector needs to step in to catalyse investment, make in india programme to create jobs in manufacturing, continue support to programmes with important national priorities such as agriculture, education, health, MGNREGA, rural infrastructure including roads.
- Challenge of maintaining fiscal deficit of 4.1% of GDP met in 2014-15, despite lower nominal GDP growth due to lower inflation and consequent sub-dued tax buoyancy.

Fiscal Roadmap

- Government firm on journey to achieve fiscal target of 3% of GDP.
- Realistic figures shown in fiscal account without showing exaggerated revenue projections.
- With improved economy, pressure to accelerate fiscal consolidation too has decreased.
- Accordingly, journey for fiscal deficit target of 3% will be achieved in 3 years rather than 2 years. The fiscal deficit targets are 3.9%, 3.5% and 3.0% in FY 2015-16, 2016-17 & 2017-18 respectively.
- Additional fiscal space will go to funding infrastructure investment.
- Need to view public finances from a National perspective and not just the perspective of the Central Government. Aggregate public expenditure of the Governments, as a whole can be expected to rise substantially.
- Disinvestment to include both disinvestment in loss making units, and some strategic disinvestment.

Good governance

- Need to cut subsidy leakages, not subsidies themselves. To achieve this, Government committed to the process of rationalizing subsidies.
- Direct Transfer of Benefits to be extended further with a view to increase the number of beneficiaries from 1 crore to 10.3 crore.

Agriculture

- Major steps taken to address the two major factors critical to agricultural production, that of soil and water.
- 'Paramparagat Krishi Vikas Yojana' to be fully supported. 'Pradhanmantri Gram Sinchai Yojana' to provide 'Per Drop More Crop'.
- ₹5,300 crore to support micro-irrigation, watershed development and the 'Pradhan Mantri Krishi Sinchai Yojana'. States urged to chip in.
- ₹25,000 crore in 2015-16 to the corpus of Rural Infrastructure Development Fund (RIDF) setup inNABARD; ₹15,000 crore for Long TermRural Credit Fund; ₹45,000 crore for Short Term Co-operative Rural Credit Refinance Fund; and ₹15,000 crore for Short Term RRB Refinance Fund.
- Target of ₹8.5 lakh crore of agricultural credit during the year 2015-16.
- Focus on improving the quality and effectiveness of activities under MGNREGA.
- Need to create a National Agriculture Market for the benefit of farmers, which will also have the incidental benefit of moderating price rises. Government to work with the States, in NITI, for the creation of a Unified National Agriculture Market.

Funding the Unfunded

- Micro Units Development Refinance Agency (MUDRA) Bank, with a corpus of ₹20,000 crores, and credit guarantee corpus of ₹3,000 crores to be created.
- In lending, priority will be given to SC/ST enterprises.
- MUDRA Bank will be responsible for refinancing all Micro-finance Institutions which are in the business of lending to such small entities of business through a Pradhan Mantri Mudra Yojana.
- A Trade Receivables discounting System (TReDS) which will be an electronic platform for facilitating financing of trade receivables of MSMEs to be established.
- Comprehensive Bankruptcy Code of global standards to be brought in fiscal 2015 -16 towards ease of doing business.
- Postal network with 1,54,000 points of presence spread across villages to be used for increasing access of the people to the formal financial system.
- NBFCs registered with RBI and having asset size of ₹500 crore and above may be considered for notifications as 'Financial Institution' in terms of the SARFAESI Act, 2002.

From Jan Dhan to Jan Suraksha

- Government to work towards creating a functional social security system for all Indians, specially the poor and the under-privileged.
- Pradhan Mantri Suraksha Bima Yojna to cover accidental death risk of ₹2 Lakh for a premium of just ₹12 per year.
- Atal Pension Yojana to provide a defined pension, depending on the contribution and the period of contribution. Government to contribute 50% of the beneficiaries' premium limited to ₹1,000 each year, for five years, in the new accounts opened before 31st December 2015.
- Pradhan Mantri Jeevan Jyoti Bima Yojana to cover both natural and accidental death risk of ₹2 lakh at premium of ₹330 per year for the age group of 18-50.
- Anew scheme for providing Physical Aids and Assisted Living Devices for senior citizens, living below the poverty line.
- Unclaimed deposits of about ₹3,000 crores in the PPF, and approximately ₹6,000 crores in the EPF corpus. The

amounts to be appropriated to a corpus, which will be used to subsidize the premiums on these social security schemes through creation of a Senior Citizen Welfare Fund in the Finance Bill.
- Government committed to the on-going schemes for welfare of SCs, STs and Women.

Infrastructure

- Sharp increase in outlays of roads and railways. Capital expenditure of public sector units to also go up.
- National Investment and Infrastructure Fund (NIIF), to be established with an annual flow of ₹20,000 crores to it.
- Tax free infrastructure bonds for the projects in the rail, road and irrigation sectors.
- PPP mode of infrastructure development to be revisited and revitalised.
- Atal Innovation Mission (AIM) to be established in NITI to provide Innovation Promotion Platform involving academicians, and drawing upon national and international experiences to foster a culture of innovation, research and development. A sum of ₹150 crore will be earmarked.
- Concerns of IT industries for a more liberal system of raising global capital, incubation facilities in our Centres of Excellence, funding for seed capital and growth, and ease of Doing Business etc. would be addressed for creating hundreds of billion dollars in value.
- (SETU) Self-Employment and Talent Utilization) to be established as Techno-financial, incubation and facilitation programme to support all aspects of start-up business. ₹1000 crore to be set aside as initial amount in NITI.
- Ports in public sector will be encouraged, to corporatize, and become companies under the Companies Act to attract investment and leverage the huge land resources.
- An expert committee to examine the possibility and prepare a draft legislation where the need for multiple prior permission can be replaced by a pre-existing regulatory mechanism. This will facilitate India becoming an investment destination.
- 5 new Ultra Mega Power Projects, each of 4000 MW, in the Plug-and-Play mode.

Financial Market

- Public Debt Management Agency (PDMA) bringing both external and domestic borrowings under one roof to be set up this year.
- Enabling legislation, amending the Government Securities Act and the RBI Act included in the Finance Bill, 2015.
- Forward Markets commission to be merged with SEBI.
- Section-6 of FEMA to be amended through Finance Bill to provide control on capital flows as equity will be exercised by Government in consultation with RBI.
- Proposal to create a Task Force to establish sector-neutral financial redressal agency that will address grievance against all financial service providers.
- India Financial Code to be introduced soon in Parliament for consideration.
- Vision of putting in place a direct tax regime, which is internationally competitive on rates, without exemptions.
- Government to bring enabling legislation to allow employee to opt for EPF or New Pension Scheme. For employee's below a certain threshold of monthly income, contribution to EPF to be option, without affecting employees' contribution.

Monetising Gold

- Gold monetisation scheme to allow the depositors of gold to earn interest in their metal accounts and the jewellers to obtain loans in their metal account to be introduced.
- Sovereign Gold Bond, as an alternative to purchasing metal gold scheme to be developed.
- Commence work on developing an Indian gold coin, which will carry the Ashok Chakra on its face.

Investment

- Foreign investments in Alternate Investment Funds to be allowed.
- Distinction between different types of foreign investments, especially between foreign portfolio investments and foreign direct investments to be done away with. Replacement with composite caps.
- Aproject development company to facilitate setting up manufacturing hubs in CMLV countries, namely, Cambodia, Myanmar, Laos and Vietnam.

Safe India

₹1000 crores to the Nirbhaya Fund.

Tourism

- Resources to be provided to start work along landscape restoration, signage and interpretation centres, parking, access for the differently abled, visitors' amenities, including securities and toilets, illumination and plans for benefiting communities around them at various heritage sites.
- Visas on arrival to be increased to 150 countries in stages.

Green India

- Target of renewable energy capacity revised to 175000 MW till 2022, comprising 100000 MW Solar, 60000 MW Wind, 10000 MW Biomass and 5000 MW Small Hydro.
- A need for procurement law to contain malfeasance in public procurement.
- Proposal to introduce a public Contracts (resolution of disputes) Bill to streamline the institutional arrangements for resolution of such disputes.
- Proposal to introduce a regulatory reform Bill that will bring about a cogency of approach across various sectors of infrastructure.

Skill India

- Less than 5% of our potential work force gets formal skill training to be employable. A national skill mission to consolidate skill initiatives spread accross several ministries to be launched.
- Deen Dayal Upadhyay Gramin Kaushal Yojana to enhance the employability of rural youth.
- A Committee for 100th birth celebration of Shri Deen Dayalji Upadhyay to be announced soon.
- A student Financial Aid Authority to administer and monitor the front-end all scholarship as well Educational Loan Schemes, through the Pradhan Mantri Vidya Lakshmi Karyakram.
- An IIT to be set up in Karnataka and Indian School of Mines, Dhanbad to be upgraded in to a full-fledged IIT.
- New All India Institute of Medical Science (AIIMS) to be set up in J&K, Punjab, Tamil Nadu, Himachal Pradesh and Assam. Another AIIMS like institutions to be set up in Bihar.
- A post graduate institute of Horticulture Research & Education is to be set up in Amritsar.
- 3 new National Institute of Pharmaceuticals Education and Research in Maharashtra, Rajasthan & Chattisgarh and one institute of Science and Education Research is to be set up in Nagaland & Orissa each.
- An autonomous Bank Board Bureau to be set up to improve the governance of public sector bank.
- The National Optical Fibre Network Programme (NOFNP) to be further speeded up by allowing willing states to execute on reimbursement of cost basis.
- Special assistance to Bihar & West Bengal to be provided as in the case of Andhra Pradesh.
- Government is committed to comply with all the legal commitments made to AP & Telengana at the time of their re-organisation.
- Inspite of large increase in devolution to state sufficient fund allocated to education, health, rural development, housing, urban development, women and child development, water resources & cleaning of Ganga.
- Part of Delhi-Mumbai Industrial Corridor (DMIC); Ahmedabad-Dhaulera Investment region and Shendra-Bidkin Industrial Park are now in a position to start work on basic infrastructure.
- Made in India and the Buy and the make in India policy are being carefully pursued to achieve greater self-sufficiency in the area of defence equipment including air-craft.
- The first phase of GIFT to become a reality very soon. Appropriate regulations to be issued in March.

BUDGET ESTIMATES

- Non-Plan expenditure estimates for the Financial Year are estimated at ₹13,12,200 crore.
- Plan expenditure is estimated to be ₹4,65,277 crore, which is very near to the R.E. of 2014-15.
- Total Expenditure has accordingly been estimated at ₹17,77,477 crore.
- The requirements for expenditure on Defence, Internal Security and other necessary expenditures are adequately provided.
- Gross Tax receipts are estimated to be ₹14,49,490 crore.
- Devolution to the States is estimated to be ₹5,23,958.
- Share of Central Government will be ₹9,19,842.
- Non Tax Revenues for the next fiscal are estimated to be ₹2,21,733 crore.
- Fiscal deficit will be 3.9 per cent of GDP and Revenue Deficit will be 2.8 per cent of GDP.

TAX PROPOSAL

- Objective of stable taxation policy and a non-adversarial tax administration.
- Fight against the scourge of black money to be taken forward.
- Efforts on various fronts to implement GST from next year.
- No change in rate of personal income tax.
- Proposal to reduce corporate tax from 30% to 25% over the next four years, starting from next financial year.
- Rationalisation and removal of various tax exemptions and incentives to reduce tax disputes and improve administration.
- Exemption to individual tax payers to continue to facilitate savings.
- Broad themes:
  - Measures to curb black money;
  - Job creation through revival of growth and investment and promotion of domestic manufacturing - "Make in India";
  - Improve ease of doing business - Minimum Government and maximum governance;
  - Improve quality of life and public health - Swachh Bharat;
  - Benefit to middle class tax-payers; and
  - Stand alone proposals to maximise benefit to the economy.

Black Money

- Generation of black money and its concealment to be dealt with effectively and forcefully.
- Investigation into cases of undisclosed foreign assets has been given highest priority in the last nine months.
- Major breakthrough with Swiss authorities, who have agreed to:
  - Provide information in respect of cases independently investigated by IT department;
  - Confirm genuineness of bank accounts and provide non-banking information;
  - Provide such information in time-bound manner; and
  - Commence talks for automatic exchange of information.
- New structure of electronic filing of statements by reporting

entities to ensure seamless integration of data for more effective enforcement.
- Bill for a comprehensive new law to deal with black money parked abroad to be introduced in the current session.
- Key features of new law on black money:
  - Evasion of tax in relation to foreign assets to have a punishment of rigorous imprisonment upto 10 years, be non-compoundable, have a penalty rate of 300% and the offender will not be permitted to approach the Settlement Commission.
  - Non-filing of return/filing of return with inadequate disclosures to have a punishment of rigorous imprisonment upto 7 years.
  - Undisclosed income from any foreign assets to be taxable at the maximum marginal rate.
  - Mandatory filing of return in respect of foreign asset.
  - Entities, banks, financial institutions including individuals all liable for prosecution and penalty.
  - Concealment of income/evasion of income in relation to a foreign asset to be made a predicate offence under PML Act, 2002.
  - PMLAct, 2002 and FEMA to be amended to enable administration of new Act on black money.
- Benami Transactions (Prohibition) Bill to curb domestic black money to be introduced in the current session of Parliament.
- Acceptance or re-payment of an advance of ₹20,000 or more in cash for purchase of immovable property to be prohibited.
- PAN being made mandatory for any purchase or sale exceeding Rupees 1 lakh.
- Third party reporting entities would be required to furnish information about foreign currency sales and cross border transactions.
- Provision to tackle splitting of reportable transactions.
- Leverage of technology by CBDT and CBEC to access information from either's data bases.

Make in India

- Revival of growth and investment and promotion of domestic manufacturing for job creation.
- Tax "pass through" to be allowed to both category I and category II alternative investment funds.
- Rationalisation of capital gains regime for the sponsors exiting at the time of listing of the units of REITs and InvITs.
- Rental income of REITs from their own assets to have pass through facility.
- Permanent Establishment (PE) norm to be modified to encourage fund managers to relocate to India.
- General Anti Avoidance Rule (GAAR) to be deferred by two years.
- GAAR to apply to investments made on or after 01.04.2017, when implemented.
- Additional investment allowance (@ 15%) and additional depreciation (@35%) to new manufacturing units set up during the period 01 -04-2015 to 31 -03-2020 in notified backward areas of Andhra Pradesh and Telangana.
- Rate of Income-tax on royalty and fees for technical services reduced from 25 % to 10% to facilitate technology inflow.
- Benefit of deduction for employment of new regular workmen to all business entities and eligibility threshold reduced.
- Basic Custom duty on certain inputs, raw materials, inter mediates and components in 22 items, reduced to minimise the impact of duty inversion.
- All goods, except populated printed circuit boards for use in manufacture of ITA bound items, exempted from SAD.
- SAD reduced on import of certain inputs and raw materials.
- Excise duty on chassis for ambulance reduced from 24% to 12.5%.
- Balance of 50% of additional depreciation @ 20% for new plant and machinery installed and used for less than six months by a manufacturing unit or a unit engaged in generation and distribution of power is to be allowed immediately in the next year.

Ease of doing business -Minimum Government Maximum Governance

- Simplification of tax procedures.
- Monetary limit for a case to be heard by a single member bench of ITAT increase from ₹5 lakh to ₹15 lakh.
- Penalty provision in indirect taxes are being rationalised to encourage compliance and early dispute resolution.
- Central excise/Service tax assesses to be allowed to use digitally signed invoices and maintain record electronically.
- Wealth-tax replaced with additional surcharge of 2 per cent on super rich with a taxable income of over ₹ 1 crore annually.
- Provision of indirect transfers in the Income-tax Act suitably cleaned up.
- Applicability of indirect transfer provisions to dividends paid by foreign companies to their shareholders to be addressed through a clarificatory circular.
- Domestic transfer pricing threshold limit increased from ₹5 crore to ₹20 crore
- MAT rationalised for FIIs and members of an AOP.
- Tax Administration Reform Commission (TARC) recommendations to be appropriately implemented during the course of the year.
- Education cess and the Secondary and Higher education cess to be subsumed in Central Excise Duty.
- Specific rates of central excise duty in case of certain other commodities revised.
- Excise levy on cigarettes and the compounded levy scheme applicable to pan masala, gutkha and other tobacco products also changed.
- Excise duty on footwear with leather uppers and having retail price of more than ₹1000 per pair reduced to 6%.
- Online central excise and service tax registration to be done in two working days.

- Time limit for taking CENVAT credit on inputs and input services increased from 6 months to 1 year.
- Service-tax plus education cesses increased from 12.36% to 14% to facilitate transition to GST.
- Donation made to National Fund for Control of Drug Abuse (NFCDA) to be eligible for 100% deduction u/s 80G of Income-tax Act.
- Seized cash can be adjusted towards assessees tax liability.

Swachh Bharat

- 100% deduction for contributions, other than by way of CSR contribution, to Swachh Bharat Kosh and Clean Ganga Fund.
- Clean energy cess increased from ₹100 to ₹200 per metric tonne of coal, etc. to finance clean environment initiatives.
- Excise duty on sacks and bags of polymers of ethyl ene other than for industrial use increased from 12% to 15%.
- Enabling provision to levy Swachh Bharat cess at a rate of 2% or less on all or certain services, if need arises.
- Services by common affluent treatment plant exempt from Service-tax.
- Concessions on custom and excise duty available to electrically operated vehicles and hybrid vehicles extended upto 31.03.2016.

Benefits to middle class tax-payers

- Limit of deduction of health insurance premium increased from ₹15,000 to ₹25,000 for senior citizens limit increased from ₹20,000 to ₹30,000.
- Senior citizens above the age of 80 years, who are not covered by health insurance, to be allowed deduction of ₹30,000 towards medical expenditures.
- Deduction limit of ₹60,000 with respect to specified decease of serious nature enhanced to ₹80,000 in case of senior citizen.
- Additional deduction of ₹25,000 allowed for differently abled persons.
- Limit on deduction on account of contribution to a pension fund and the new pension scheme increased from ₹1 lakh to ₹1.5 lakh.
- Additional deduction of ₹50,000 for contribution to the new pension scheme u/s 80CCD.
- Payments to the beneficiaries including interest payment on deposit in Sukanya Samriddhi scheme to be fully exempt.
- Service-tax exemption on Varishtha Bima Yojana.
- Concession to individual tax-payers despite inadequate fiscal space.
- Lot to look forward to as fiscal capacity improves.
- Conversion of existing excise duty on petrol and diesel to the extent of ₹4 per litre into Road Cess to fund investment.
- Service Tax exemption extended to certain pre cold storage services in relation to fruits and vegetables so as to incentivise value addition in crucial sector.
- Negative List under service-tax is being slightly pruned to widen the tax base.
- Yoga to be included within the ambit of charitable purpose under Section 2(15) of the Income-tax Act.
- To mitigate the problem being faced by many genuine charitable institutions, it is proposed to modify the ceiling on receipts from activities in the nature of trade, commerce or business to 20% of the total receipts from the existing ceiling of ₹25 lakh.
- Most provisions of Direct Taxes Code have already been included in the Income-tax Act, therefore, no great merit in going ahead with the Direct Taxes Code as it exists today.
- Direct tax proposals to result in revenue loss of ₹8,315 crore, whereas the proposals in indirect taxes are expected to yield ₹23,383 crore. Thus, the net impact of all tax proposals would be revenue gain of ₹15,068 crore.

Others

- Increase in basic custom duty:
  - Metallergical coke from 2.5 % to 5%.
  - Tariff rate on iron and steel and articles of iron and steel increased from 10% to 15%.
  - Tariff rate on commercial vehicle increased from 10 % to 40%.
- Basic custom duty on digital still image video camera with certain specification reduced to nil.
- Excise duty on rails for manufacture of railway or tram way track construction material exempted retrospectively from 17-03-2012 to 02-02-2014, if not CENVAT credit of duty paid on such rails is availed.
- Service-tax to be levied on service provided by way of access to amusement facility, entertainment events or concerts, pageants, non recoganised sporting events etc.
- Service-tax exemption:
  - Services of pre-conditioning, pre-cooling, ripening etc. of fruits and vegetables.
  - Life insurance service provided by way of Varishtha Pension Bima Yojana.
  - All ambulance services provided to patients.
  - Admission to museum, zoo, national park, wild life sanctuary and tiger reserve.
  - Transport of goods for export by road from factory to land customs station.
- Enabling provision made to exclude all services provided by the Government or local authority to a business entity from the negative list.
- Service-tax exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port withdrawn.
- Transportation of agricultural produce to remain exempt from Service-tax.
- Artificial heart exempt from basic custom duty of 5 % and CVD.
- Excise duty exemption for captively consumed intermediate compound coming into existance during the manufacture of agarbathi.

TENTATIVE SCHEDULE OF MSOP FOR THE YEAR 2015

EIRO, Kolkata	i.	02 January 2015 to 17th January 2015
	ii.	09 March 2015 to 25 March 2015
	iii.	15 March 2015 to 29 March 2015 (at Bhubaneshwar)
	iv.	6 April 2015 to 24 April 2015
	v.	28 April 2015 to 15 May 2015
	vi.	17 June 2015 to 3 July 2015
	vii.	22 July 2015 to 12 August 2015
	viii.	1 September 2015 to 17 September 2015
	ix.	6 October 2015 to 24 October 2015
	x.	28 October 2015 to 12 November 2015
	xi.	4 December 2015 to 22 December 2015
NIRO, Delhi	i.	30th January 2015 to 17th February 2015
	ii.	5th February 2015 to 23rd February 2015
	iii.	3rd March 2015 to 21st March 2015
	iv.	23rd March 2015 to 14th April 2015
	v.	27th April 2015 to 15th May 2015
	vi.	25th May 2015 to 11th June 2015
	vii.	22nd June 2015 to 9th July 2015
	viii.	20th July 2015 to 6th August 2015
	ix.	17th August 2015 to 4th September 2015
	x.	31st August 2015 to 17th September 2015
	xi.	21st September 2015 to 9th October 2015
	xii.	19th October 2015 to 6th November 2015
	xiii.	16th November 2015 to 5th December 2015
	xiv.	14th December 2015 to 1st January 2016
	xv.	28th December 2015 to 14th January 2016
SIRO, Chennai	i.	11th March 2015 to 27th March 2015
	ii.	17th June 2015 to 3rd July 2015
	iii.	1st September 2015 to 16th September 2015
	iv.	30th November 2015 to 16th December 2015
WIRO, Mumbai	i.	9th Match 2015 to 26th March 2015
	ii.	6th April 2015 to 22nd April 2015
	iii.	18th May 2015 to 3rd June 2015
	iv.	22nd June 2015 to 8th July 2015
	v.	20th July 2015 to 5th August 2015
	vi.	31st August 2015 to 16th September 2015
	vii.	28th September 2015 to 15th October 2015
	viii.	19th October 2015 to 4th November 2015
	ix.	30th November 2015 to 16th December 2015
	x.	28th December 2015 to 13th January 2016
CCGRT, Navi Mumbai	i.	08 January 2015 to 23 January, 2015
	ii.	03 February 2015 to 18 February, 2015
	iii.	12 March 2015 to 27 March, 2015
	iv.	07 May 2015 to 22 May, 2015
	v.	03 June 2015 to 18 June, 2015
	vi.	16 September 2015 to 01 October, 2015
	vii.	05 October 05 2015 to 20 October, 2015
	viii.	16 November 2015 to 01 December, 2015

Gurgaon Chapter	i.	10th march, 2015 to 26th march, 2015
	ii.	7th April, 2015 to 23rd April, 2015
	iii.	6th May, 2015 to 22nd May, 2015
	iv.	2nd June, 2015 to 18th June, 2015
	v.	01st July, 2015 to 17th July, 2015
	vi.	4th Aug, 2015 to 21st Aug, 2015
	vii.	8th September, 2015 to 24th September, 2015
	viii.	5th October, 2015 to 20th October, 2015 (ix)
	ix.	13th November, 2015 to 02nd December, 2015
	x.	8th December, 2015 to 23rd December, 2015
Jaipur Chapter	i.	1st March 2015 to 17th March 2015
	ii.	22nd March 2015 to 6th April 2015
	iii.	1st June 2015 to 16th June 2015
	iv.	28th August 2015 to 12th September 2015
	v.	26th September 2015 to 11th October 2015
	vi.	15th November 2015 to 30th November 2015
Noida Chapter	i.	3rd February 2015 to 20th February 2015.
	ii.	10th March 2015to 27th March 2015.
	iii.	9th April, 2015 to 28th April, 2015.
	iv.	11th May,2015 to 28th May, 2015.
	v.	7th September, 2015 to 24th September, 2015.
	vi.	5th October, 2015 to 22nd October, 2015.
	vii.	2nd November, 2015 to 19th November, 2015.
	viii.	4th January, 2016 to 21st January, 2016.
Jodhpur Chapter	i.	23rd March 2015 to 6th April 2015
	ii.	12th October 2015 to 26th October 2015
Bangalore Chapter	i.	06th June 2015 to 20th June 2015.
	ii.	05th September 2015 to 19th September 2015.
	iii.	05th December 2015 to 19th December 2015
Hyderabad Chapter	i.	11th March 2015 to 30th March 2015
	ii.	9th September 2015 to 29th September 2015
	iii.	16th November 2015 to 2nd December 2015
Ahmedabad Chapter	i.	09 March 2015 to 25 March 2015
	ii.	14 April 2015 to 30 April 2015
	iii.	01 September 2015 to 16 September 2015
	iv.	05 October 2015 to 21 October 2015
Indore Chapter	i.	17th March 2015 to 3rd April 2015
	ii.	7th September 2015 to 23rd September 2015
Pune Chapter	i.	9th March 2015 to 26th March 2015
	ii.	15th June 2015 to 1st July 2015
	iii.	2nd September 2015 to 16th September 2015
	iv.	2nd December 2015 to 18th December 2015
Thane Chapter	i.	9th March 2015 to 24th March 2015
	ii.	15th June 2015 to 30th June 2015
	iii.	1st September 2015 to 16th September 2015
	iv.	30 November 2015 to 15th December 2015

EMERGING CHANGES IN REGULATORY FRAMEWORK TO BE EFFECTIVE SHORTLY

Chairman, SEBI at a meeting with ICSI delegation expressed the need for sensitisation of members, about the emerging changes such as revised clause 49 of the listing agreement, considering their role as Key Managerial Personnel and the expanded portfolio of practising members as secretarial auditor, advisor and so on.

Towards this it is urged upon all members to advise their companies on the emerging regulatory dispensation/compliances including the following.

1. **Listed Companies and other Prescribed class of Companies to have atleast one woman director with effect from April 01, 2015**

   Second proviso to Section 149(1) of the Companies Act 2013 read with Companies (Appointment and Qualification of Directors) Rules, 2014 requires all listed companies and other public companies having paid up capital of one hundred crore rupees or more ; or turnover of three hundred crores or more and incorporated under Companies Act, 2013 to have woman director within six months from the date of incorporation.

   Section 149(2) mandates every company existing on or before the commencement of Companies Act, 2013 to comply with section 149(1) within one year from the commrencement of the Act i.e. by 1st April, 2015.

   Further, Clause 49(II)(A)(1) of the listing agreement requires the Board of Directors of the Company to have an optimum combination of executive and non-executive directors with atleast one woman director and not less than fifty percent of the Board of directors comprising non-executive directors. The requirement of appointment of woman director is applicable with effect from April 01, 2015(SEBI circular dated September 15, 2014).

2. **Prescribed class of Companies to constitute nomination and remuneration committee with effect from April 01, 2015**

   Section 178(1) read with Companies (Meeting of Board and its Powers) Rules 2014 requires the Board of directors of every listed company, all other public companies with a paid up capital of Rs10 crore or more; all public companies having turnover of Rs 100 crore or more; all public companies, having in aggregate, outstanding loans, or borrowings or debentures or deposits exceeding Rs.50 crore or more to constitute Nomination and Remuneration Committee.

   MCA vide its notification dated June 12, 2014 amended Companies (Meeting of Board and its powers) Rules, 2014 which requiring public companies covered under this rule to constitute Nomination and Remuneration Committee within one year from the commencement of these rules or appointment of independent directors whichever is earlier i.e April 01, 2015.

   Clause 49(IV) (A) already requires the company to constitute the Nomination and Remuneration Committee with specified composition therein. The revised clause 49 has come into force from October 01, 2014.

3. **Companies (Indian Accounting Standards) Rules 2015 has been notified and shall come into force with effect from April 01, 2015**

   The Central Government, in consultation with the National Advisory Committee on Accounting Standards (NACAS) has notified the Companies (Indian Accounting Standards) Rules, 2015 along with 39 Indian Accounting Standards which will come into force on 1st April 2015.

   These Indian Accounting Standards are converged with corresponding International Financial Reporting Standards and are applicable mandatorily to certain classes of companies in a phased manner from the accounting year beginning on or after 1st April, 2016. The companies preparing financial statements applying the Indian Accounting Standards (Ind AS) for the accounting period beginning on 1st April, 2016 shall apply the Indian Accounting Standards (Ind AS) effective for the financial year ending on 31st March, 2017.

4. **SEBI (Prohibition of Insider Trading) Regulations,2015 to be effective from May 15, 2015**

   SEBI(Prohibition of Insider Trading) Regulations,2015 notified on January 15, 2015, effective from 120th day of its notification i.e. May 15, 2015 require the attention on the following:

   - Compliance officer to review the trading plans disclosed by an insider
   - To comply with restrictions on communication of unpublished price sensitive information and trading by insiders
   - Promoter, Key Managerial Personnel, Directors, employees, connected persons etc., to make disclosures on their holdings as prescribed under the Regulations
   - To comply with the Code of Fair Disclosure and Code of Conduct.

5. **Old ESOP schemes under SEBI(ESOP &ESPS) Guidelines 1999 to comply with SEBI(Share Based Employee Benefits) Regulations 2014 by October 28, 2015**

   SEBI (Share Based Employee Benefits) Regulations, 2014 was notified on October 28, 2014. It requires the existing schemes framed under SEBI (ESOP & ESPS) Guidelines, 1999 to comply with these regulations within one year from the date of Notification of these Regulations i.e. October 28, 2015, with some exceptions.

CS EXAMINATIONS - JUNE 2015

TIME-TABLE AND PROGRAMME

COMPUTER-BASED EXAMINATION FOR FOUNDATION PROGRAMME

Day and Date of Examination	Subjects		Batch No.	Examination Timings	
				From	To
Saturday, 6th June, 2015	Paper-1	Business Environment and Entrepreneurship AND	I	9.30 A.M.	11.00 A.M.
			II	12.00 Noon	1.30 P.M.
	Paper-2	Business Management, Ethics and Communication	III	2.30 P.M.	4.00 P.M.
			IV	5.00 P.M.	6.30 P.M.
Sunday 7th June, 2015	Paper-3	Business Economics AND	I	9.30 A.M.	11.00 A.M.
			II	12.00 Noon	1.30 P.M.
	Paper-4	Fundamentals of Accounting and Auditing	III	2.30 P.M.	4.00 P.M.
			IV	5.00 P.M.	6.30 P.M.

COMPANY SECRETARIES EXAMINATIONS, JUNE, 2015

EXAMINATION TIMING : 9.00 A.M. TO 12.00 Noon

Date and Day	Professional Programme (Old Syllabus)	Executive Programme	Professional Programme (New Syllabus)	
01.06.2015 Monday	Company Secretarial Practice (Module - I)	Cost and Management Accounting (Module-I)*(OMR Based Exam.)	Advanced Company Law and Practice (Module - I)	
02.06.2015 Tuesday	Drafting, Appearances and Pleadings (Module-I)	Tax Laws and Practice (Module-I)* (OMR Based Exam.)	Secretarial Audit, Compliance Management and Due Diligence (Module - I)	
03.06.2015 Wednesday	Financial, Treasury and Forex Management (Module-II)	Industrial, Labour and General Laws (Module-II)* (OMR Based Exam.)	Corporate Restructuring, Valuation and Insolvency (Module - I)	
04.06.2015 Thursday	NO EXAMINATION	NO EXAMINATION	Information Technology and Systems Audit (Module - II)	
05.06.2015 Friday	Corporate Restructuring and Insolvency (Module-II)	Company Law (Module-I)	Financial, Treasury and Forex Management (Module - II)	
06.06.2015 Saturday	Strategic Management, Alliances and International Trade (Module-III)	Economic and Commercial Laws (Module-I)	Ethics, Governance and Sustainability (Module - II)	
07.06.2015 Sunday	NO EXAMINATION	NO EXAMINATION	NO EXAMINATION	
08.06.2015 Monday	Advanced Tax Laws and Practice (Module-III)	Company Accounts and Auditing Practices (Module-II)	Advanced Tax Laws and Practice (Module - III)	
09.06.2015 Tuesday	Due Diligence and Corporate Compliance Management (Module-IV)	Capital Markets and Securities Laws (Module-II)	Drafting, Appearances and Pleadings (Module - III)	
10.06.2015 Wednesday	Governance, Business Ethics and Sustainability (Module-IV)	NO EXAMINATION	Elective 1 out of below 5 subjects (Module - III)(OPEN BOOK EXAMINATION)	
			(i)	Banking Law and Practice
			(ii)	Capital, Commodity and Money Market
			(iii)	Insurance Law and Practice
			(iv)	Intellectual Property Rights - Law and Practice
			(v)	International Business - Laws and Practices

*(The three papers, i.e., (i) Cost and Management Accounting; (ii) Tax Laws and Practice; and (iii) Industrial, Labour and General Laws to be held in OMR Mode on 1st, 2nd and 3rd June, 2015 respectively.)

I AM THE FIRST WORD IN COMPLIANCE AND THE LAST WORD IN GOVERNANCE.

Over one million companies in the country are custodians of huge resources of the society and public. They drive the growth of the economy. It is, therefore, imperative that their operations should be so carried out that they exist forever to contribute to prosperity of the society and the economy even as they balance the interests of various stakeholders. This requires care for and adherence to law and justice, ethics, compliance, governance, risk management, conflict resolution etc. A Company Secretary, who is a regulated professional, ensures just that.

I am a CS.
Only I do what I do.

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