

Info Capsule

Friday
March 19, 2021

President : CS Nagendra D. Rao

Vice President : CS Devendra V. Deshpande

❖ Insurance Law

Rajya Sabha passes bill to hike FDI in insurance sector to 74% (March 18, 2021)

The Bill to hike the foreign direct investment (FDI) limit in the insurance sector to 74% provides adequate safeguards so that control, ownership, and money collected from policyholders stays within the country. The decision to increase the FDI limit from the current 49% was taken after the sector's regulator Insurance Regulatory and Development Authority of India (IRDAI) held detailed consultations with stakeholders.

For details:

https://www.business-standard.com/article/economy-policy/fm-promises-safeguards-rajya-sabha-passes-bill-to-hike-fdi-in-insurance-121031801435_1.html



THE INSTITUTE OF
Company Secretaries of India

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

(Under the jurisdiction of Ministry of Corporate Affairs)

❖ Ministry of Corporate Affairs

- **The MCA notified the commencement date of sections 32 & 40 of the Companies (Amendment) Act, 2020 (March 18, 2021)**

The MCA has appointed March 18, 2021 as the commencement date of section 32 & 40 of the Companies (Amendment) Act, 2020 for implementation of changes brought in the Section 149(9) and Section 197(3) of the Companies Act, 2013 which is related to the Remuneration of the Independent Director in case of absence or inadequate profits & inclusion of Non-Executive Director and Independent Director within the scope of remuneration payable following Schedule V in the event of absence or inadequate profits respectively.

For details:

<http://www.egazette.nic.in/WriteReadData/2021/225990.pdf>

- **The MCA notified amendments pertaining to Remuneration in Schedule V of the Companies Act, 2013 (March 18, 2021)**

The MCA vide notification dated March 18, 2021 has amended Schedule V of the Companies Act, 2013 by inserting the provisions w.r.t. the maximum limit of remuneration payable by companies to other directors (non-executive director or an independent director). Earlier the limit was only for managerial person.

For details:

<http://www.egazette.nic.in/WriteReadData/2021/225997.pdf>

- **Establishment of Central Scrutiny Centre (CSC) (March 18, 2021)**

The Central Government vide notification dated March 18, 2021 hereby has established a Central Scrutiny Centre (CSC) for carrying out scrutiny of Straight Through Processes (STP) e-forms filed by the companies under the Companies Act, 2013 and the rules made thereunder which shall come into force from March 23, 2021.

- The CSC shall function under the administrative control of the e-governance Cell of the Ministry of Corporate Affairs.
- It shall carry out scrutiny of the aforesaid forms and forward findings thereon, wherever required, to the concerned jurisdictional Registrar of Companies for further necessary action under the provisions of the Companies Act, 2013 and the rules made thereunder.
- It shall be located at the Indian Institute of Corporate Affairs (IICA), Plot No. 6, 7, 8, Sector 5, IMT Manesar, District Gurgaon (Haryana), Pin Code- 122050.

For details : <http://www.egazette.nic.in/WriteReadData/2021/225985.pdf>

❖ **Securities Laws and Capital Markets**

SEBI Orders

- **Adjudication Order in the matter of Visu International Ltd. (March 18, 2021)**

SEBI imposed a penalty of Rs.1.65 crore on Visu International Ltd. (Company) and three individuals for fraudulent trading activities with respect to Global Depository Receipt (GDR) issued by the Company back in 2006. It was alleged that the company had a pre-meditated plan to provide financial assistance by means of pledge of entire GDR subscription proceeds for the purpose of ensuring the issuance and subscription of its GDRs.

For details:

https://www.sebi.gov.in/enforcement/orders/mar-2021/adjudication-order-in-respect-of-4-entities-in-the-matter-of-visu-international-ltd_49545.html

- **Interim Order in the matter of M/s Profit Money Advisor (March 18, 2021)**

SEBI barred M/s Profit Money Advisor (PMA) and its proprietor from the securities market for carrying out unauthorised investment advisory activities. Further, PMA and its proprietor have been directed to cease and desist from acting as an investment advisor. It was observed that PMA was acting as an investment adviser without a certificate of registration from the SEBI and thereby violated SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 and SEBI (Investment Advisers) Regulations, 2013.

For details:

https://www.sebi.gov.in/enforcement/orders/mar-2021/interim-order-in-the-matter-of-m-s-profit-money-advisor-proprietor-shri-prateek-singh_49543.html

❖ **Business and Economic News**

• **Government announces details of vehicle scrappage policy (March 19, 2021)**

Union minister for road transport and highways Shri Nitin Gadkari announced the details for the country's long-awaited vehicle scrapping policy in Parliament, explaining that the absence of a fitness certificate will mean an automatic cancellation of registration for commercial vehicles that turn 15, and that the registration of a private vehicle will be for 20 years, with renewal requiring proof of fitness. The minister added that the government plans to incentivise owners of old vehicles to scrap these through registered scrap centres. The policy also recommends the mandatory scrapping of all government vehicles over 15 years old, applies only to four-wheeled vehicles.

For details: <https://www.hindustantimes.com/india-news/govt-to-provide-tax-incentives-against-vehicle-scrappage-gadkari-101616057294684.html>

• **DFI bond subscribers to get tax reimbursement from Centre's Rs 5K crore grant (March 19, 2021)**

The government-owned development finance institution (DFI) will not issue tax-free bonds, but subscribers will get reimbursement for the taxes paid from a Rs 5,000-crore grant from the Centre.

For details:

https://www.business-standard.com/article/economy-policy/dfi-bond-subscribers-to-get-tax-reimbursement-from-centre-s-rs-5k-cr-grant-121031900047_1.html

• **MCA21 Version 3.0 : Government's automated system to keep an eye on firms (March 19, 2021)**

Financial ratios of companies such as debt to turnover, inventory to turnover, or loan to assets will soon come under closer government scrutiny through an automated system under the soon-to-be-launched portal MCA21 Version 3.0. The central scrutiny centre being set up by the government will pull up companies if it detects any suspicious activity based on a list of parameters that are being finalised by the Ministry of Corporate Affairs (MCA).

For details: https://www.business-standard.com/article/economy-policy/mca21-version-3-0-govt-s-automated-system-to-keep-an-eye-on-firms-121031801693_1.html

• **In relief for Amazon, Delhi HC puts Future-Reliance deal on hold (March 19, 2021)**

In a win for e-commerce firm Amazon, the Delhi High Court upheld the Emergency Award passed against the \$3.4-billion Future-Reliance deal. The order, passed by a single-judge Bench of Justice J R Midha, will restrain Future Retail from going ahead with the deal. The court also imposed a penalty of Rs 20 lakh on Future and the money will go to the Prime Minister's Relief Fund.

For details : https://www.business-standard.com/article/companies/delhi-high-court-puts-3-4-billion-future-retail-reliance-deal-on-hold-121031900061_1.html

❖ *Pronouncement*

March 15, 2021

Shri Tek Chand v/s ITO

ITAT Chandigarh Bench

The Income Tax Appellate Tribunal (ITAT), Chandigarh bench, while granting relief to a 70-year old taxpayer, quashed re-assessment under Section 148 of the Income Tax Act, 1961 since the same was passed mechanically without application of mind.

Fact of the Case

The Assessing Officer (A.O.), on the basis of the information that the assessee (Shri Tek Chand aged 70 year old, Farmer) deposited cash amounting to Rs. 125,00,000 in his saving bank account during the period relevant to the A.Y. under consideration, was of the view that the aforesaid amount escaped assessment within the meaning of Section 147 of the Income Tax Act, 1961 as the assessee had not filed his return of income. The A.O. after obtaining the approval of the Principal CIT, Karnal issued notice under section 148 of the Income Tax Act, 1961. Since, the assessee had not filed the return of income, the A.O. made the addition of Rs. 125,00,000.

Though this was challenged before the CIT (A), Karnal, the submissions of the appellant were turned down by citing the ruling of the Supreme Court in *Raymond Woolen Mills Ltd. vs. ITO and other* (1999) 236 ITR 34, wherein it was held that in determining whether commencement of reassessment proceedings was valid, it has only to be seen whether there was, prima facie, some material on the basis of which the department could reopen the case. In the appeal preferred against the aforesaid order of the CIT(A), vide additional grounds challenged the jurisdiction of the Assessing Officer assumed under section 148 of the Income Tax Act, 1961 was challenged alleging that the proceeding was initiated on borrowed satisfaction, without applying his own mind.

The Income Tax Appellate Tribunal 'ITAT' found that the approval granted by the Principal CIT read as "Yes, satisfied, it is a fit case for issue of notice under section 148". This according to the ITAT was a mechanical way of recording sanction, with no application of mind. This ratio was substantiated by citing an extract from the case of *CIT Jabalpur Vs. S. Goyanka Lime & Chemical Ltd.* [(2015) 56 Taxmann.com 390], decided by the High Court of M.P following the decision in *Arjun Singh Vs. ADIT* (2000) 246 ITR 363 (M.P).

ITAT further observed that the decision in *Goyenka Lime & chemical Ltd.* was upheld by the Supreme Court and held, "that where Joint Commissioner recorded satisfaction in a mechanical manner and without application of mind to accord sanction for issuing notice under section 148, reopening of assessment was invalid."

Judgements

The Income Tax Appellate Tribunal held that the reopening under section 148 of the Income Tax Act, 1961 on the basis of mechanical approval without applying the mind by the Principal CIT was not valid, wherefore; the reopening of assessment by issuing notice under Section 148 of the Income Tax Act, 1961 was quashed.

For details:

<https://itat.gov.in/files/uploads/categoryImage/1615892708-TEK%20CHAND-255-CHD-2020.pdf>

❖ Terminology for today

Strategic Risk Profile

The current and prospective risk to earnings or capital raising from adverse business decisions, improperly implemented decisions, or lack of responsiveness to industry changes.

❖ Market Watch

Stock Market Indices as on 19.03.2021

S & P BSE Sensex	49858.24 (+641.72)
Nifty 50	14744.00 (+186.15)

Foreign Exchange Rates as on 18.03.2021

(<https://www.fbil.org.in/#/home>)

INR / 1 USD	INR / 1 GBP	INR / 1 EUR	INR/ 1 JPY
72.5248	101.2688	86.8117	.6661

Prepared by Directorate of Academics

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