

Info Capsule

Friday, July 03, 2020

President : CS Ashish Garg

Vice President : CS Nagendra D. Rao

❖ Latest @ ICSI

• Student Month

ICSI is celebrating July, 2020 as student month, wherein various student related activities are being organised by the ICSI HQ, Regional offices and Chapters across India.

For Details visit:

https://icsi.edu/media/webmodules/student_month_July_2020.pdf

• Extension of time for obtaining mandatory PCH

In the wake of global pandemic and the lockdown imposed as a containment measures and with a view to enable members to make good the shortfall in PCH, the ICSI Council has further extended the time for obtaining the mandatory PCH for the block of 2017-2020 up to September 30, 2020.



**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)

❖ NCLT/NCLAT

- In the matter of *Pankaj Aggarwal Vs. Union of India And Ors.* (Order Dated June 23, 2020), Delhi High Court has stayed the order passed by the National Company Law Tribunal, wherein the proceedings were initiated against a Micro, Small and Medium Enterprise (MSME) under section 9 of the Insolvency and Bankruptcy Code, 2016.

While holding that there is a *prime facie* case in favor of the petitioner, Honorable court relied upon the notification dated March 24, 2020 and observed that *the purpose of the notification under Sec. 4 of IBC, increasing limit to Rs. 1 cr. was to ensure that SMEs and MSMEs are not subjected to Insolvency proceedings during the lockdown or immediately thereafter.*

Detailed Judgment is available at:

<https://ibbi.gov.in/uploads/order/712b14aa4a7d7456bc85ecb7fc552809.pdf>

- In the matter of liquidation of Surana Power Limited, NCLAT observed that secured creditors do not have right to realise secured interest unless they have the requisite 60 percent value of secured interest as per section 13(9) of SARFAESI, as it would be detrimental for other creditors in liquidation of process. (*Surana Power Limited Vs. Bharat Heavy Electricals Limited*).

<https://nclat.nic.in/Useradmin/upload/2549036775eeb4253cba47.pdf>

Suspension of Court work (Virtual hearing) and filing etc. in the NCLAT

NCLAT has notified that the Court work (Virtual hearing) and filing etc. in the NCLAT will remain suspended till 10th July, 2020 due to a staff member was reported to have tested positive for Covid-19.

<https://nclat.nic.in/Useradmin/upload/8895179935efdd965c8e78.pdf>

❖ Economic and Business News

- According to draft ecommerce policy, Ecommerce companies that store or mirror Indian users data overseas will be subject to periodic audit.

https://economictimes.indiatimes.com/news/economy/policy/draft-ecommerce-policy-seeks-to-set-up-regulator-restrict-data-storage/articleshow/76760134.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

- World's fifth-largest reserves buffer gives India some comfort

https://economictimes.indiatimes.com/news/economy/indicators/worlds-fifth-largest-reserves-buffer-gives-india-some-comfort/articleshow/76761478.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

❖ Securities Laws & Capital Market

SEBI (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2020 (July 1, 2020)

SEBI further amended the provisions with respect to the escrow account in case of indirect acquisition towards the consideration payable under the open offer. SEBI further laid down other procedure in case, where the acquirer is unable to make payment to the shareholders who have accepted open offer within given time period.

(For more details, please click on: https://www.sebi.gov.in/legal/regulations/jul-2020/securities-and-exchange-board-of-india-substantial-acquisition-of-shares-and-takeovers-third-amendment-regulations-2020_46990.html)

❖ **Securities Laws & Capital Market**

SEBI (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2020 (July 1, 2020)

SEBI inserted new regulation 164B termed as “optional pricing in preferential issue” under pricing in preferential issue in case of frequently traded shares.

(For more details, please click on: https://www.sebi.gov.in/legal/regulations/jul-2020/securities-and-exchange-board-of-india-issue-of-capital-and-disclosure-requirements-third-amendment-regulations-2020_46991.html)

SEBI ORDERS

1. SEBI imposed monetary penalty of Rs. 1.2 crore on two directors of Beckons Industries Limited for employing fraudulent arrangement with regard to subscription of GDRs and acted in a manner which was fraudulent and deceptive, thereby detrimental to the interest of the investors. (June 30, 2020)

(For more details, please click on: https://www.sebi.gov.in/enforcement/orders/jun-2020/adjudication-order-in-respect-of-mr-gurmeet-singh-mr-i-s-sukhija-and-dr-h-s-anand-in-the-matter-of-issuance-of-gdr-by-beckons-industries-limited_46981.html)

2. SEBI released FAQs on stamp duty collection with the provisions of the amended Indian Stamp Act coming into effect. SEBI in the FAQ, inter alia, prescribed that the units of mutual funds schemes are to be considered as securities for the purpose of applicability of stamp duty whereas redemption of mutual fund units is not liable to duty as it is neither a transfer nor an issue nor a sale.

(For more details, please click on: https://www.sebi.gov.in/sebi_data/faqfiles/jun-2020/1593534237938.pdf)

Compliance requirement for July, 2020 under SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015.

Regulation No.	Compliance Particular	Compliance Period (Due Date)	Revised Due Date
Regulation 33	Quarterly / Annually Relating to Financial Results	Un audited Financial Results within 45 days & Audited finance within 60 days Q. 15.05.2020 A. 30.05.2020	31.07.2020

❖ **Goods and Services Tax**

GST updates

- **Eighth Amendment (2020) to CGST Rules**

Notification No. 58/2020- Central Tax, dated 1st July, 2020

Notification detailing the manner of furnishing of return or details of outward supplies by short messaging service facility for a registered person, who is required to furnish a **Nil** return under section 39 of the CGST Act, 2017 in **FORM GSTR-3B** or a **Nil** details of outward supplies under section 37 of the CGST Act, 2017 in **FORM GSTR-1** for a tax period.

<https://www.cbic.gov.in/resources//htdocs-cbec/gst/notfctn-58-central-tax-english-2020.pdf;jsessionid=E6757821D26285CA511D0D7F59EC577F>

Customs updates

- **Exchange Rate Notification by Customs**

Notification No. 55/2020- Customs (NT), dated 2nd July, 2020

Central Board of Indirect Taxes and Customs determined the rate of exchange of conversion of the foreign currencies.

<https://www.cbic.gov.in/resources//htdocs-cbec/customs/cs-act/notifications/notfns-2020/cs-nt2020/csnt55-2020.pdf;jsessionid=668341D52F78C828F1FCE665D8489187>

❖ **Banking and Insurance**

Credit flow to Micro, Small and Medium Enterprises Sector

After change in criteria of classification of MSME by the Government of India, vide Gazette Notification S.O. 2119 (E) dated June 26, 2020, the Reserve Bank of India has also issued a notification to initiate necessary action for reclassification of enterprises as per the new definition w.e.f. July 1, 2020 and issued necessary instructions to all Commercial Banks/FIs/NBFCs/UCBs/SCBs for their branches/controlling offices in this regard, at the earliest.

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=11934&Mode=0>

Cyber insurance: still at an emerging stage in India

India ranks 3rd amongst top 20 countries that are victims of cybercrimes, according to the Internet Crime Report for 2019, released by FBI's Internet Crime Complaint Centre. According to ICICI Lombard General Insurance, hackers based in China attempted over 40,300 cyber attacks on India in the third week of June, mostly Covid-19 based scams. Even as the cyber security threat growing large in India, cyber insurance covers have not picked up in a big way. While the non-life insurance industry received premiums of Rs 1.89 lakh crore in the last financial year, the share of cyber insurance was a paltry Rs 200-220 crore.

<https://www.financialexpress.com/money/insurance/cyber-insurance-still-at-a-nascent-stage-in-india-email-spoofing-phishing-attacks-icici-lombard-general-insurance-bharti-axa-general-insurance/2011732/>

❖ Valuation

Valuing Valuers : Four recommendations that may standardise valuation practices

The government constituted a committee of experts to examine the need for a comprehensive framework for regulation and development of valuation professionals in India. The Committee submitted its recommendations in April 2020 and proposed the Draft Valuers Bill, 2020 ("Bill"). The primary objectives of the proposed framework are the development and regulation of the valuation profession and a market for valuation services, and protection of interest of users of valuation services. The four recommendations focused upon the following key points: Regulatory Architecture; Development; Regulation and Regulating the market for valuation services.

<https://www.financialexpress.com/opinion/valuing-valuation-four-recommendations-that-may-standardise-valuation-practices/1957012/>

Other related links for further reading :

<https://taxguru.in/company-law/executive-summary-draft-valuation-bill-2020.html>

<https://www.deccanherald.com/opinion/panorama/professionals-valuation-842959.html>

❖ Restructuring and Insolvency

IBC Online Quiz

To promote awareness and understanding of IBC among various stakeholders across the country, the IBBI has launched this online Quiz in collaboration with MyGov. The Quiz is open from 1 July, 2020 to 31 July, 2020. For details, please visit official notification at

<https://ibbi.gov.in/uploads/whatsnew/2020-06-17-192024-zh40x-00a5e0f6e25bd377be09d06020aa6e39.pdf>

❖ Market Watch

Capital Market

S & P BSE Sensex	36021.42
Nifty 50	10607.35

Reference Rate

INR / 1 USD	INR / 1 GBP	INR / 1 EUR	INR / 1 JPY
74.68	93.22	84.06	0.69

❖ Learning from Judicial Pronouncement

In the matter of *Nahalchand Laloochand (P) Ltd. v/s DCIT [2020] ITAT Mumbai*, it is decided that Income from sub-leasing taxable as house property income though assessee was not real owner of premises

Where assessee had taken a premises on lease for a long period of time and further given it on lease to a bank for period of more than 12 years, assessee was to be considered as deemed owner of said premises for purpose of section 27(iii) read with section 269UA(f)(i) and, therefore, lease rental earned by assessee was taxable as income from house property.

<https://www.taxmann.com/topstories/10101000000193810/income-from-sub-leasing-taxable-as-house-property-income-though-assessee-was-not-real-owner-of-premises-caselaws.aspx>

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