

Info Capsule

Thursday
August 05, 2021

President : CS Nagendra D. Rao

Vice President : CS Devendra V. Deshpande

❖ Latest @ ICSI

• EEE 2.0 : Company Incorporation and Related matters

The thirteenth session of the EEE 2.0: Bi-weekly Webinar Series is scheduled on Friday, August 06, 2021 from 03:00 pm to 5:00 pm on the topic: Company Incorporation and Related matters : *Coverage: Formation, Dissolution & Merger (Covering Section 8 Companies)*.

For details:

https://www.icsi.edu/media/web_modules/ICSIFlyer_EEE2_schedule.pdf

• ICSI signs MOU for Academic Collaboration with Bennett University (Times Group), Greater Noida (August 04, 2021)

The ICSI has signed a Memorandum of Understanding (MoU) with Bennett University (Times Group), Greater Noida, under the ICSI Academic Collaborations Initiative.

For details:

https://www.icsi.edu/media/web_modules/PRESS_RELEASE_ICSI_signs_MOU_for_Academic_Collaboration_with_Bennett_University.pdf



**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

Rajya Sabha passed the Limited Liability Partnership (Amendment) Bill, 2021 (August 04, 2021)

The Limited Liability Partnership (Amendment) Bill, 2021 was passed in Rajya Sabha on August 04, 2021, which seeks to encourage the start-up ecosystem and further boost ease of doing business by amending certain provisions of the Limited Liability Partnership Act, 2008.

Major changes proposed by the Limited Liability Partnership (Amendment) Bill, 2021 are:

- (i) to introduce the concept of “small limited liability partnership” in line with the concept of “small company” under the Companies Act, 2013;
- (ii) to amend certain sections of the Act so as to convert offences into civil defaults and to convert the nature of punishment provided in the said sections from fines to monetary penalties;
- (iii) to insert a new section 34A so as to empower the Central Government to prescribe the “Accounting Standards” or “Auditing Standards” for a class or classes of limited liability partnerships;
- (iv) to amend section 39 of the Act relating to “compounding of offences” so as to authorise the Regional Director to compound any offence under this Act which is punishable with fine only;
- (v) to insert a new section 67A empowering the Central Government to establish or designate as many “Special Courts” as may be necessary for the purpose of providing speedy trial of offences under the Act;
- (vi) to amend section 72 of the Act so as to provide more clarity in the provisions when any person aggrieved by an order of “Tribunal” prefers an appeal to the “Appellate Tribunal”;
- (vii) to insert a new section 76A so as to provide that the Central Government may appoint as many officers as Adjudicating Officers as it thinks necessary for the purpose of adjudicating penalties under the Act.

For details:

<http://164.100.47.4/BillsTexts/RSBillTexts/Asintroduced/LLP%20as%20int-E.pdf>

❖ **Securities Laws & Capital Market**

SEBI Notifications

- **SEBI (Portfolio Managers) (Third Amendment) Regulations, 2021 (August 03, 2021)**

SEBI vide its notification dated August 03, 2021, amends the provisions of SEBI (Portfolio Managers) Regulations, 2020, which shall come into force on the date of their publication in the Official Gazette. The amendment introduced a framework for, “accreditation agency”, “accredited investor” and “large value accredited investor”. It inter-alia provided that the requirement of minimum investment amount per client shall not apply to an accredited investor, subject to appropriate disclosures in the disclosure document and the terms agreed between the client and the portfolio manager.

For details: <https://egazette.nic.in/WriteReadData/2021/228701.pdf>

- **SEBI (Alternative Investment Funds) (Third Amendment) Regulations, 2021 (August 03, 2021)**

SEBI vide its notification dated August 03, 2021, amends the provisions of SEBI (Alternative Investment Funds) Regulations, 2012, which shall come into force on the date of their publication in the Official Gazette. The amendment introduced a framework for, “accreditation agency”, “accredited investor” and “large value fund for accredited investors”. As per the notification, the minimum level of investment value i.e., ₹1 crore is not applicable to accredited investors. Further, a proviso to Regulation 15(1)(c) has been inserted which provides large value funds for accredited investors of Category I and II may invest up to fifty percent of the investable funds in an investee company directly or through investment in the units of other Alternative Investment Funds.

For details: <https://egazette.nic.in/WriteReadData/2021/228700.pdf>

- **SEBI (Investment Advisers) (Third Amendment) Regulations, 2021 (August 03, 2021)**

SEBI vide its notification dated August 03, 2021, amends the provisions of SEBI (Investment Advisers) Regulations, 2013 which shall come into force on the date of their publication in the Official Gazette. The amendment introduced a framework for, “accreditation agency” & “accredited investor”. Further, Regulation 15A has been amended which provides that Investment Adviser shall be entitled to charge fees for providing investment advice from a client including an accredited investor in the manner as specified by the Board.

For details: <https://egazette.nic.in/WriteReadData/2021/228696.pdf>

SEBI Circulars

- **Requirement of minimum number and holding of unit holders for unlisted Infrastructure Investment Trusts (InvITs) (August 04, 2021)**

SEBI vide its notification dated July 30, 2021, amended the provisions of SEBI (Infrastructure Investment Trusts) Regulations, 2014 (“InvIT Regulations”) to provide the requirement of minimum number of unit holders in an InvIT. SEBI vide this circular has provided that the registered unlisted InvITs which have already issued units as on the date of this circular, shall comply with the new provisions for the minimum number of unit holders in an InvIT within a period of six months from the date of this circular.

For details:

https://www.sebi.gov.in/legal/circulars/aug-2021/requirement-of-minimum-number-and-holding-of-unit-holders-for-unlisted-infrastructure-investment-trusts-invits_51631.html

- **Maintenance of Current Accounts in multiple banks by Mutual Funds (August 04, 2021)**

Based on the request of mutual fund industry, SEBI has clarified that mutual funds should maintain current accounts in an appropriate number of banks for the purpose of receiving subscription amount and for payment of redemption / dividend / brokerage / commission etc. to facilitate financial inclusion, convenience of investors and ease of doing business. At present, mutual funds maintain current accounts in multiple banks including in banks having presence beyond the top 30 cities (“B-30 cities”), for receiving subscription amount and for payment of redemption proceeds, dividend brokerage and commission.

For details:

https://www.sebi.gov.in/legal/circulars/aug-2021/maintenance-of-current-accounts-in-multiple-banks-by-mutual-funds_51630.html

❖ Market Watch

Stock Market Indices as on 05.08.2021

S & P BSE Sensex	54492.84 (+123.07)
Nifty 50	16294.60 (+35.80)

Foreign Exchange Rates as on 04.08.2021

(<https://www.geojit.com/currency-futures/rbi-reference-rate>)

INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR / 1 JPY
74.11	87.98	103.06	0.68

❖ **Direct Tax**

Notification No. 84 (August 03, 2021)

The Central Government hereby specifies the pension fund, namely, the 2726247 Ontario Inc., as the specified person for the purposes of the sub-clause (iv) of clause (c) of the Explanation 1 to clause (23FE) of section 10 of the Income-tax Act, 1961 in respect of the eligible investment made by it in India on or after the date of publication of this notification in the Official Gazette but on or before the 31st day of March, 2024 subject to the fulfillment of the certain conditions.

For details:

https://www.incometaxindia.gov.in/communications/notification/notification_84_2021.pdf

❖ **Indirect Tax**

Goods and Services Tax

- **Advisory for Taxpayers regarding Blocking of E-Way Bill (EWB) generation facility resume after 15th August, 2021 (August 04, 2021)**

The facility of blocking E-way bill generation had been temporarily suspended due to pandemic, in terms of Rule 138 E (a) and (b) of the CGST Rules, 2017, the E-Way Bill generation facility of a person is liable to be restricted, in case the person fails to file their return in Form GSTR-3B / statement in CMP-08, for a consecutive period of two months / Quarters or more. The government has now decided to resume the blocking of EWB generation facility on the EWB portal, for all the taxpayers in terms of Rule 138 E (a) and (b) of the CGST Rules, 2017, from August 15, onwards.

For details:

<https://www.gst.gov.in/newsandupdates/read/495>

Customs

- **CBIC launches Compliance Information Portal (August 04, 2021)**

The Central Board for Indirect Taxes & Customs (CBIC) launched the Indian Customs Compliance Information Portal (CIP) at www.cip.icegate.gov.in/CIP for providing free access to information on all Customs procedures and regulatory compliance for nearly 12,000 Customs Tariff Items.

For details:

<https://www.pib.gov.in/PressReleasePage.aspx?PRID=1742296>

❖ ***Insolvency and Bankruptcy***

Parliamentary committee calls for overhaul of bankruptcy code (August 05, 2021)

A parliamentary standing committee appointed to examine the workings of the Insolvency and Bankruptcy Code (IBC) has recommended an overhaul of the present system including a threshold rate of haircut for creditors below. It has also recommended a new supervisory body to oversee resolution professionals and suggested that only high court judges be appointed to the National Company Law Tribunal (NCLT) to ensure quicker disposal of cases.

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For details:

<https://economictimes.indiatimes.com/news/economy/policy/parliamentary-committee-calls-for-overhaul-of-bankruptcy-code/articleshow/85040433.cms>

Report of Standing Committee on Finance on Implementation of Insolvency and Bankruptcy Code - Pitfalls and Solutions available at the link:

<https://www.ibbi.gov.in/uploads/whatsnew/fc8fd95f0816acc5b6ab9e64c0a892ac.pdf>

❖ ***Banking & Insurance***

RBI extends current account rules implementation deadline to October 31, 2021 after reports of hassles (August 04, 2021)

The Reserve Bank of India on August 04, 2021 allowed time to banks till October 31 to implement changes on the current account front, following reports of small businesses being hit with account freezes in the last few days. The central bank said the circular is aimed at enforcing credit discipline amongst the borrowers as well as to facilitate better monitoring by the lenders, but made it clear that a graded approach had been prescribed to banks on opening and operating of current accounts and cash credit / overdraft CC / OD facilities.

For details:

<https://www.financialexpress.com/industry/banking-finance/rbi-extends-current-a-c-rules-implementation-deadline-to-oct-31-after-reports-of-hassles/2304380/> &

<https://rbi.org.in/Scripts/NotificationUser.aspx?Id=12137&Mode=0>

❖ **International Business News**

Coming soon: Offshore campuses of Indian Institutes (August 04, 2021)

The government, under the University Grants Commission (UGC), will now allow colleges and universities to set up offshore campuses abroad. Sources said that detailed guidelines on the category of institutes, based on academic history, batch size and courses, will be released by the government in the coming weeks.

For details:

<https://www.moneycontrol.com/news/business/economy/coming-soon-offshore-campus-of-indian-institutes-7271301.html>

❖ **Business and Economic News**

• **ED slaps Rs. 10,600-crore notice on Flipkart for forex violations (August 05, 2021)**

The Enforcement Directorate (ED) has slapped its biggest FEMA show-cause notice of Rs. 10,600 crore on Sachin Bansal and Binny Bansal-founded Flipkart and nine other entities/ individuals linked to the e-commerce major for allegedly flouting foreign exchange rules. The central probe agency has charged these entities by an order issued in July by the adjudicating authority of the Foreign Exchange Management Act (FEMA).

For details:

https://www.business-standard.com/article/companies/ed-slaps-rs-10-600-crore-notice-on-flipkart-for-forex-violations-121080500036_1.html

• **Kumar Mangalam Birla steps down as Voda Idea Chairman (August 05, 2021)**

Vodafone Idea Ltd.'s board accepted Chairman Kumar Mangalam Birla's request to step down, as he distanced himself from the beleaguered telecom operator, underscoring the gravity of the crisis that has engulfed the once-booming strategic sector.

For details:

<https://www.livemint.com/companies/news/kumar-mangalam-birla-steps-down-as-voda-idea-chairman-11628103708065.html>

❖ **Terminology**

Competitive Intelligence

It involves gathering, analyzing, and managing data and information regarding the business environment in which a company operates.

❖ Pronouncement

02.08.2021	Commissioner of Income Tax (Exemption) vs. Batanagar Education and Research Trust	Supreme Court
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Entity which misuses Status under Section 12AA Income Tax Act, 1961 not entitled to retain it

Fact of the case :

The Trust was registered under Section 12AA of the Income Tax Act, 1961 (the Act) and was also accorded approval under Section 80G (vi) of the Act. In a survey conducted on an entity, it was prima facie observed that the Trust was not carrying out its activities in accordance with the objects of the Trust. A show cause notice was, therefore, issued by the CIT.

The CIT (Exemption) cancelled registration of the Trust on the ground that the Trust had received bogus donation from School of Human Genetics and Population Health. The Income Tax Appellate Tribunal dismissed the appeals filed by the Trust. The Calcutta High Court allowed the appeal filed by the Trust and set aside the cancellation order.

Judgement :

In appeal, the bench comprising Justice Uday Umesh Lalit and Ajay Rastogi noted that the answers given to the questionnaire by the Managing Trustee of the Trust show the extent of misuse of the status enjoyed by the Trust by virtue of registration under Section 12AA of the Act.

"These answers also show that donations were received by way of cheques out of which substantial money was ploughed back or returned to the donors in cash. The facts thus clearly show that those were bogus donations and that the registration conferred upon it under Sections 12AA and 80G of the Act was completely being misused by the Trust. An entity which is misusing the status conferred upon it by Section 12AA of the Act is not entitled to retain and enjoy said status. The authorities were therefore, right and justified in cancelling the registration under Sections 12AA and 80G of the Act", the Court said.

For details:

https://www.livelaw.in/pdf_upload/commissioner-of-income-tax-exemption-vs-batanagar-education-and-research-trust-11-2021-sc-337-397805.pdf

Prepared by Directorate of Academics

For any suggestions, please write to academics@icsi.edu, or call at 01204082116

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

ICSII Motto
सत्यं वद। धर्मं चर।
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इष्टार्थं कुरु। कुरु। कुरु।

MISSION
"To develop high calibre professionals
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