

Info Capsule

Friday
October 28, 2022

President

CS Devendra V. Deshpande

❖ Latest @ ICSI

Feedback on Company Forms in MCA21-V3

As you are aware, 9 Company forms (DIR3-KYC, DIR3-KYC web, CHG-1,4,6,8,9, DPT-3, DPT-4) are available in V3 portal of MCA for filing purposes.

The Institute of Company Secretaries of India, in its attempt to further facilitate the stakeholders and ensure smooth transition and implementation, is sharing your feedback to the Ministry of Corporate Affairs (MCA) on regular basis. Such feedback is constantly and closely monitored by MCA at all levels for timely resolution.

We request you to share your inputs/ issues/suggestions on filing of Company Forms in MCA V3 at the link given below:

For details:

<https://forms.gle/nJsPM1psPWuqnYtt6>



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भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

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Azadi Ka
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❖ Securities Laws & Capital Markets

SEBI News

SEBI clarifies on block mechanism facility pertaining to demat accounts (October 27, 2022)

Capital markets regulator SEBI said block mechanism facility pertaining to demat accounts will not be applicable for clients having arrangements with custodians for clearing and settling trades. In order to safeguard investors' demat accounts, the Securities and Board of India (SEBI) in August said the facility of block mechanism will be mandatory for all early pay-in transactions from November 14, 2022. Currently, the facility is optional for investors. The early pay-in mechanism is used by traders to reduce their margin obligations. Under the block mechanism, shares of a client intending to make a sale transaction will be blocked in the client's demat account in favour of the clearing corporation concerned.

For details:

<https://www.moneycontrol.com/news/business/markets/sebi-clarifies-on-block-mechanism-facility-pertaining-to-demat-accounts-9400751.html>

❖ Banking and Insurance

RBI reviewing regulation of banks' non-core business (October 28, 2022)

The Reserve Bank of India (RBI) is planning to tweak its regulatory framework governing non-banking businesses, including insurance and asset management, undertaken by banks and their group entities. An internal panel, set up by the central bank for this purpose, has recommended a clearer and more explicit segregation of core and non-core businesses of banks and the group entities.

For details:

<https://www.financialexpress.com/industry/banking-finance/rbi-reviewing-regulation-of-banks-non-core-business/2753025/>

❖ *Indirect Tax*

Goods and Services Tax

• **Tax tribunal asks CBIC to issue rules for cases Under IBC (October 28, 2022)**

The Ahmedabad bench of the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) has asked the Central Board of Indirect Taxes and Customs (CBIC) to issue proper guidelines to its officials on cases where Insolvency and Bankruptcy Code (IBC) proceedings are in progress. The CESTAT said that in the absence of any guideline, departmental representatives are unaware as to what stand is to be taken in such cases that are at the bankruptcy court or the appellate body.

For details:

<https://economictimes.indiatimes.com/industry/banking/finance/banking/tax-tribunal-asks-cbic-to-issue-rules-for-cases-under-ibc/articleshow/95130653.cms>

❖ *Pronouncement*

19/10/2022	M/S New Noble Educational Society {Appellant(s)} vs. The Chief Commissioner of Income Tax 1 and Anr {Respondent (s)}	Supreme Court of India Civil Appeal No. 3795 of 2014
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Where the objective of the charitable institution appears to be profit-oriented such institutions would not be entitled to approval under Section 10(23C) of the Income-tax Act, 1961

Brief Facts:

The subject matter of these appeals is the rejection of the appellants' claim for registration as a fund or trust or institution or any university or other educational institution (hereinafter collectively referred to as "institution / trust") set up for the charitable purpose of education, under the Income Tax Act, 1961 (hereinafter, "IT Act"). The Andhra Pradesh High Court, by its detailed impugned judgment held that the appellant trusts which claimed benefit of exemption under Section 10 (23C) of the IT Act were not created 'solely' for the purpose of education, and that to determine that issue, the court had to consider the memorandum of association or the rules or the constitution of the concerned trust.

Judgement

The conclusions of Supreme Court of India *inter-alia* are summarized as follows:

It is held that the requirement of the charitable institution, society or trust etc., to 'solely' engage itself in education or educational activities, and not engage in any activity of profit, means that such institutions cannot have objects which are unrelated to education. In other words, all objects of the society, trust etc., must relate to imparting education or be in relation to educational activities.

Where the objective of the institution appears to be profit-oriented, such institutions would not be entitled to approval under Section 10(23C) of the IT Act. At the same time, where surplus accrues in a given year or set of years per se, it is not a bar, provided such surplus is generated in the course of providing education or educational activities.

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While considering applications for approval under Section 10(23C), the Commissioner or the concerned authority as the case may be under the second proviso is not bound to examine only the objects of the institution. To ascertain the genuineness of the institution and the manner of its functioning, the Commissioner or other authority is free to call for the audited accounts or other such documents for recording satisfaction where the society, trust or institution genuinely seeks to achieve the objects which it professes.....

In a knowledge based, information driven society, true wealth is education – and access to it. Every social order accommodates, and even cherishes, charitable endeavour, since it is impelled by the desire to give back, what one has taken or benefitted from society. Our Constitution reflects a value which equates education with charity. That it is to be treated as neither business, trade, nor commerce, has been declared by one of the most authoritative pronouncements of this court in *T.M.A Pai Foundation (supra)*. The interpretation of education being the ‘sole’ object of every trust or organization which seeks to propagate it, through this decision, accords with the constitutional understanding and, what is more, maintains its pristine and unsullied nature.

For details:

https://main.sci.gov.in/supremecourt/2012/25090/25090_2012_1_1502_39247_Judgement_19-Oct-2022.pdf

❖ Market Watch

Stock Market Indices as on 28.10.2022	
S & P BSE Sensex	59959.85 (+203.01)
Nifty 50	17786.80 (+49.85)

Foreign Exchange Rates as on 27.10.2022 (https://www.geojit.com/currency-futures)			
INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR / 1 JPY
82.18	82.37	94.94	0.56

Prepared by Directorate of Academics

For any suggestions, please write to academics@icsi.edu,

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