

Tuesday, February 07, 2023

Info Capsule

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❖ Latest @ICSI

Feedback on Company Forms in MCA21-V3 Portal

As you are aware, the Ministry of Corporate Affairs w.e.f. August 31, 2022 migrated filing of 9 Company Forms from MCA 21 V2 to V3 Portal.

The Ministry of Corporate Affairs w.e.f. January 23, 2023, has launched second set of Company Forms covering 56 forms on MCA21-V3 Portal for filing purposes. The list of all 56 Company Forms is available on MCA website.

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:

<https://forms.gle/m5NGoCbt4TibuD196>

We thank you for your continued support and hope for association in the future as well.

❖ Business and Economics News

• 1.28 lakh companies struck off from records for non-compliance: Government (February 06, 2023)

Over one lakh companies in India have been struck off from the records for failing to submit their financial statements for two continuous financial years, according to the government.

"A number of 1,27,952 companies have been struck off in last 3 years," the Minister of State for Corporate Affairs Shri Rao Inderjit Singh told Lok Sabha on February 06, 2023. He was responding to a query on whether the government has implemented any safeguard measures for firms that unknowingly conduct business with the shell companies.

For details:

<https://economictimes.indiatimes.com/news/india/1-28-lakh-companies-struck-off-from-records-for-non-compliance-govt/articleshow/97655442.cms>

• Institutional Traders Shifting Attention from Blockchain to AI: JP Morgan (February 06, 2023)

More than half of the institutional traders surveyed by global financial services giant JP Morgan said that artificial intelligence (AI) and machine learning will be the most influential technology in shaping the future of trading over the next three years—cited four times more often than blockchain and distributed ledger technology.

For details:

<https://decrypt.co/120639/institutional-trader-survey-jp-morgan-crypto-artificial-intelligence>

❖ ***Banking & Insurance***

- **RBI framework for invoicing and payments for international trade in Indian Rupee (February 06, 2023)**

The Reserve Bank of India (RBI) has allowed invoicing and payments for international trade in Indian Rupee vide A.P (DIR Series) Circular No. 10 RBI/2022-2023/90 dated 11.07.2022 on “International Trade Settlement in Indian Rupees (INR)”. This was stated by the Union Minister of State for Finance, Dr Bhagwat Kisanrao Karad, in a written reply to a question in Lok Sabha on February 06, 2023. Giving more information, the Minister stated that the Circular lays down that all exports and imports under the arrangement may be denominated and invoiced in Rupee (INR) and the settlement of trade transactions under the arrangement shall take place in INR. RBI has put in place the arrangement to promote growth of global trade with emphasis on exports from India and to support the increasing interest of global trading community in INR.

For details: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1896727>

- **Pradhan Mantri Mudra Yojana generated 1.12 crore net additional employment from 2015 to 2018 (February 06, 2023)**

As per the results of a large sample survey conducted at the national level by Ministry of Labour and Employment (MoLE) to assess employment generation under Pradhan Mantri Mudra Yojana (PMMY), the scheme helped in generating 1.12 crore net additional employment during a period of approximately 3 years (i.e. from 2015 to 2018).

For details: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1896725>

- **84 DBUs are operational across the country (February 06, 2023)**

Prime Minister Shri Narendra Modi dedicated 75 Digital Banking Units (DBUs) to the service of the nation on October 16, 2022. the Union Minister of State for Finance, Dr Bhagwat Kisanrao Karad stated that as on date, 84 DBUs are operational across the country.

For details: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1896726>

- **Central Bank Digital Currency (CBDC): e₹-R is in the form of a digital token that represents legal tender (February 06, 2023)**

The Reserve Bank of India (RBI) launched the first pilot of Digital Rupee- Retail segment (e₹-R) on December 01, 2022. The e₹-R pilot currently covers the five cities of Mumbai, New Delhi, Bengaluru, Bhubaneswar and Chandigarh. The e₹-R is in the form of a digital token that represents legal tender. It is being issued in the same denominations that paper currency and coins are currently issued.

For details: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1896721>

❖ International Business News

PM Modi : Despite global crisis, India a bright spot for the World (February 06, 2023)

Prime Minister Narendra Modi said on Monday, February 06, 2023 that India has been a global bright spot in 2022 despite the impact of the pandemic and war. He stated that India has overcome every challenge due to its internal resilience which has helped India to overcome all challenges.

For details:

<https://timesofindia.indiatimes.com/business/industry-business/pm-modi-despite-global-crisis-india-is-a-bright-spot-for-the-world/articleshow/97639462.cms>

❖ Ministry of Finance

Sovereign Green Bonds of Rs.16,000 crore proposed to be issued in the current FY for mobilising resources for green infrastructure projects (February 06, 2023)

Sovereign Green Bonds (SGBs) amounting Rs.16,000 crore are proposed to be issued in the current financial year for mobilising resources for green infrastructure projects. Rs. 8,000 crore has already been raised in the first tranche of the SGBs. This was stated by the Union Minister of State for Finance, Shri Pankaj Chaudhary, in a written reply to a question in Lok Sabha on February 06, 2023.

For details: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1896724>

❖ Competition Law

Centre sets up committee to prepare draft digital competition law (February 06, 2023)

The Centre has ordered setting up a committee that will review whether existing antitrust laws in the country are equipped to deal with the challenges that have emerged from the digital economy, and submit to the government a draft Digital Competition Act within three months. Last year, a Parliamentary panel also proposed to frame '*ex-ante*' regulations to curb the market dominance of large tech companies.

The committee will be headed by the Secretary of the Ministry of Corporate Affairs (MCA), and will include eight other members including the Chairperson of the Competition Commission of India. The joint secretary for competition at the MCA will join the committee as a member secretary. The remaining seven members of the committee are from the private sector and various law firms.

For details:

<https://indianexpress.com/article/technology/centre-sets-up-committee-to-prepare-draft-digital-competition-law-8428005/>

❖ **Securities Laws & Capital Market**

SEBI statement on Market Stability (Press Release dated February 04, 2023)

The Indian financial market as represented by Sensex and Nifty has demonstrated ongoing stability and is continuing to function in a transparent, fair and efficient manner. On a longer term basis also, Indian markets have been viewed positively by investors. A cross country comparison of dollar adjusted market returns with both peer and developed countries, during the past 3 years till date, places the Indian Market as a positive outlier. During the past week, unusual price movement in the stocks of a business conglomerate has been observed. As part of its mandate, SEBI seeks to maintain orderly and efficient functioning of the market and has put in place a set of well defined, publicly available surveillance measures (including the ASM framework) to address excessive volatility in specific stocks. This mechanism gets automatically triggered under certain conditions of price volatility in any stock. Further, in all specific entity related matters, if any information comes to SEBI's notice, then, as per extant policies, the same is examined and after due examination, appropriate action is taken. SEBI has consistently followed this approach on entity level issues and would continue to do so in future as well.

For details:

https://www.sebi.gov.in/media/press-releases/feb-2023/sebi-statement-on-market-stability_67831.html

SEBI Circular

Manner of achieving minimum public shareholding (February 03, 2023)

SEBI, vide circular No. SEBI/HO/CFD/CMD/CIR/P/43/2018 dated February 22, 2018 on the captioned subject, had permitted different methods that may be used by listed entities to achieve compliance with the minimum public shareholding (MPS) requirements mandated under Rule 19(2)(b) and 19A of the Securities Contracts (Regulation) Rules, 1957 ("SCRR"). To facilitate listed entities achieve MPS compliance, few of the existing methods have been reviewed and rationalized and two additional methods have been introduced. The Stock Exchange(s) shall monitor the methods adopted by listed entities to increase their public holding and comply with MPS requirements in terms of this circular. Non-compliance, if any, observed by the Stock Exchange(s) with respect to the method(s) and / or conditions prescribed herein, shall be reported to SEBI on a quarterly basis.

For details:

https://www.sebi.gov.in/legal/circulars/feb-2023/manner-of-achieving-minimum-public-shareholding_67801.html

SEBI News

SEBI circular builds up burden of responsibilities and obligations for QSBs (February 07, 2023)

SEBI has released a circular detailing enhanced responsibilities and obligations that will now be incumbent on select stock brokers, who will be identified as Qualified Stock Brokers (QSBs). A set of criteria has been defined by the market regulator which will determine if a stock broker will be deemed to be QSB or not. These parameters include the total number of active clients of the stockbroker, the available total assets of clients with the stockbroker, the trading volumes of the stockbroker (excluding the proprietary trading volume of the stockbroker) and the end-of-day margin obligations of all clients of a stockbroker (excluding the proprietary margin obligation of the stockbroker in all segments). The circular prescribes a modality for calculating scores of stock brokers based on the said parameters, and any stock broker with a score equal to or greater than 5 will be identified as a QSB.

For details:

<https://www.moneycontrol.com/news/business/markets/sebis-new-circular-adds-heavier-responsibilities-and-obligations-load-for-qsb-10016961.html>

❖ Governance

Indian Government to push primary steel mills to use scrap as minimum 50% of input by 2047 (February 06, 2023)

The Indian government will push primary domestic steel producers to use 50 percent of their input from ferrous scrap by 2047 to achieve a faster movement into the circular economy, minister of steel said in a statement on Monday, February 06, 2023.

For details:

<https://www.steelorbis.com/steel-news/latest-news/indian-government-to-push-primary-steel-mills-to-use-scrap-as-minimum-50-of-input-by-2047-1277722.htm>

❖ Terminology for today

Chronic risks

Physical risks that result in long-term shifts and patterns, such as rising sea levels, extended droughts, decreased precipitation, and increasing average temperatures

❖ Market Watch

| Stock Market Indices as on 07.02.2023 | |
|---------------------------------------|--------------------|
| S & P BSE Sensex | 60286.04 (-220.86) |
| Nifty 50 | 17721.50 (-43.10) |

| Foreign Exchange Rates as on 06.02.2023 (https://www.geojit.com/currency-futures) | | | |
|--|-------------|-------------|-------------|
| INR / 1 USD | INR / 1 EUR | INR / 1 GBP | INR / 1 JPY |
| 82.49 | 89.02 | 99.39 | 0.63 |

❖ Pronouncement

| | | |
|------------|---|---|
| 30.01.2023 | <i>Ambrosia Corner House Private Limited vs. Hangro S Foods</i> | <i>Delhi High Court (2023/DHC/000622)</i> |
|------------|---|---|

Right to prefer objections to the Arbitral Award under Section 34 of the Arbitration Act is a valuable right. The same cannot be denied unless the party concerned has clearly failed to file the objection petition within the strict period of limitation prescribed under the Act

A petition was filed under Section 34 of the Arbitration and Conciliation Act, 1996 ('Act') challenging the Arbitral Award dated 14.03.2022 passed by the Sole Arbitrator. The learned senior counsel for the respondent had raised a preliminary objection on the maintainability of the petition contending that the same has been filed beyond the period prescribed in Section 34(3) of the Act, including the maximum period of delay that can be condoned by Delhi High Court in filing of the petition.

The learned senior counsel for the respondent submits that the period of three months prescribed for filing of the petition under Section 34 of the Act having expired on 13.06.2022, which is during the summer vacation of this Court, the petition, in terms of Section 4 of the Limitation Act, 1963 (hereinafter referred to as the 'Limitation Act'), could have been filed on the date of the re-opening of the Court after the summer vacation, which was 04.07.2022. As the filing of the petition on 04.07.2022 was '*non-est*', the petitioner is not entitled to seek benefit of Section 4 of the Limitation Act.

The learned counsel for the petitioner *inter alia* submitted that in terms of the Notification dated 20.05.2022 issued by the High Court of Delhi, it was prescribed that the limitation will not run during the vacation period for the purposes of institution of civil and criminal cases. He submits that therefore, the entire period of summer vacation has to be excluded for purposes of calculating the three months' period as prescribed in Section 34(3) of the Act. He submits that, excluding the period of the summer vacation, the petition filed even on 26.07.2022 would be within the period of limitation of three months.

In the present case, the learned counsel for the petitioner has submitted that the petition filed on 26.07.2022 was the same as the petition filed on 04.07.2022. The petition as filed on 04.07.2022 was duly signed by the Director of the petitioner Company on all pages of the petition, and even by the counsel for the petitioner, whose vakalatnama was also filed with the petition. From the perusal of the index of the petition filed on 04.07.2022, as supplied by the learned counsel for the petitioner during the course of the hearing, it appears that the petitioner also was to file the documents, including copy of the Impugned Award, in a separate e-folder, that is, part IV as prescribed in the Delhi High Court (Original Side) Rules, 2018. The same appears to have not been filed. The petitioner has thereafter re-filed the petition after removing the defects on 26.07.2022, wherein all documents, including the Impugned Award was filed. In my opinion, therefore, the first filing on 04.07.2022 cannot

be treated as '*non-est*' filing. At best, the petitioner committed an error in not filing the documents in a separate folder as prescribed in the Delhi High Court (Original Side) Rules, 2018.

As observed by the Division Bench in Oriental Insurance Co Ltd. (Supra), the right to prefer objections to assail the Arbitral Award under Section 34 of the Act, though extremely limited, is a valuable right; the same cannot be denied unless the party concerned has clearly failed to file the objection petition within the strict period of limitation prescribed under the Act. In the present case, in my opinion, the conduct of the petitioner clearly evidences its endeavour to file a proper petition under Section 34 of the Act on 04.07.2022, that is, the date of re-opening of the Court for the purposes of limitation in terms of Section 4 of the Limitation Act. The petition was, therefore, filed within the period prescribed under Section 34(3) of the Act.

For details:

http://164.100.69.66/jupload/dhc/NAC/judgement/30-01-2023/NAC300120230MPCOMM3232022_184525.pdf

Prepared by Directorate of Academics

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

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