

Vision

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

Motto

सत्यं वद। धर्मं चर। इष्टार्कं कुरु। त्वाक्रेः अवेदं ह्यु कुरु।

Mission

"To develop high calibre professionals facilitating good corporate governance"

Info Capsule

Friday, June 09, 2023

President

CS Manish Gupta

Vice President

CS B Narasimhan

❖ 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.

❖ Direct Tax

Pension fund 2743298 Ontario Limited notified for exemption u/s 10(23FE) of Income Tax Act, 1961 [Notification No. 36 Dated June 7, 2023]

The Central Government specifies the pension fund, namely, 2743298 Ontario Limited (PAN: AACCCZ0130B), (hereinafter referred to as the assessee) 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 (hereinafter referred to as the said investments) subject to the fulfilment of the certain specified conditions.

For details:

<https://incometaxindia.gov.in/communications/notification/notification-36-2023.pdf>

❖ Technology and Automation

Google launches 4 generative artificial intelligence consulting offerings (June 08, 2023)

Google launched four new generative AI consulting offerings designed to help customers activate their AI deployments. The offerings will help customers use AI to discover trends within their company data using AI-enhanced search engines and assistive experiences, summarize information from large volumes of content, automate time-consuming and expensive business processes, and assist in creating new content that's more personalized.

For details:

https://www.business-standard.com/technology/tech-news/google-launches-4-generative-artificial-intelligence-consulting-offerings-123060800536_1.html

❖ **Securities Laws and Capital Market**

• **SEBI to digitise processing of investor service requests, complaints by RTAs (June 08, 2023)**

SEBI decided to provide a mechanism for processing of investors' service requests and complaints through online mode by RTAs and thereafter track the status as well as obtain periodical updates. Looking to digitise the process in two phases, SEBI said that the mechanism would provide benefits such as a database for service requests and complaints, online acknowledgement and intimation to the investor and online tracking of status of service requests and complaints by investors. At present, holders of physical security certificates are required to submit various documents to the registrars to an issue and share transfer agents (RTAs) with respect to various service requests such as issuance of duplicate security certificates, folio consolidation and services through depository participants such as dematerialisation and rematerialisation.

For details:

<https://economictimes.indiatimes.com/markets/stocks/news/sebi-to-digitise-processing-of-investor-service-requests-complaints-by-rtas/articleshow/100854732.cms>

• **SEBI releases framework for stock brokers, clearing members to upstream client funds (June 08, 2023)**

The market regulator has released the framework for stock-brokers and clearing members for the upstreaming of client funds. SEBI had decided on the upstreaming of all client funds held by stock-brokers (SBs) and clearing members (CMs) to protect client funds. In the latest circular, SEBI has said that the client funds have to be upstreamed to the clearing corporation (CCs) only in the form of cash, lien on fixed-deposits receipts (FDRs) or the pledge of units of Mutual Fund Overnight Schemes (MFOs). Upstreaming via FDRs and MFOs units are subject to certain conditions.

For details:

<https://www.moneycontrol.com/news/business/markets/sebi-releases-framework-for-stock-brokers-clearing-members-to-upstream-client-funds-10766951.html>

• **MFs can now participate in repos on Commercial Papers, Certificate of Deposits (June 09, 2023)**

To develop the corporate bond market from the perspective of mutual funds, SEBI has allowed asset management companies to participate in repos on Commercial Papers (CPs) and Certificate of Deposits (CDs). Repo is borrowing or lending on collateral of a security such as a bond. So, when a security is being bought or sold today, it will be reversed tomorrow or as per the contract, and the rate is decided today. Further, CP is an unsecured, short-period debt tool issued by a company, usually for the finance and inventories and temporary liabilities, while the CD is a fixed-income financial instrument governed under the Reserve Bank and India (RBI) issued in a dematerialized form.

For details:

<https://www.moneycontrol.com/news/business/personal-finance/mfs-can-now-participate-in-repos-on-commercial-papers-certificate-of-deposits-10767531.html>

❖ **Banking**

• **Guidelines on Default Loss Guarantee (DLG) in Digital Lending (June 08, 2023)**

Arrangements between Regulated Entities (REs) and Lending Service Providers (LSPs) or between two REs involving default loss guarantee (DLG), commonly known as FLDG, has since been examined by the Bank and it has been decided to permit such arrangements subject to the guidelines. DLG arrangements conforming to these guidelines shall not be treated as 'synthetic securitisation' and/or shall also not attract the provisions of 'loan participation'.

For details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12514&Mode=0>

• **Framework for Compromise Settlements and Technical Write-offs (June 08, 2023)**

The Reserve Bank of India has issued various instructions to Regulated Entities (REs) regarding compromise settlements in respect of stressed accounts from time to time, including the Prudential Framework for Resolution of Stressed Assets dated June 7, 2019 ("Prudential Framework"), which recognises compromise settlements as a valid resolution plan. With a view to provide further impetus to resolution of stressed assets in the system as well as to rationalise and harmonise the instructions across all REs, as announced in the Statement on Developmental and Regulatory Policies released on June 8, 2023, it has been decided to issue a comprehensive regulatory framework governing compromise settlements and technical write-offs covering all the REs.

For details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12513&Mode=0>

❖ **ESG**

ESG study reveals benefits of modern IT service management (June 08, 2023)

Gone are the days when IT service management was solely associated with the help desk, characterized by manual processes and reactive problem-solving that relied on the expertise of a small group of individuals tasked with solving IT-related problems. In response to today's rapidly advancing compute landscape, ITSM has undergone a dramatic transformation.

For details:

<https://www.techtarget.com/searchitoperations/opinion/ESG-study-reveals-benefits-of-modern-IT-service-management>

❖ **Market Watch**

Stock Market Indices as on 09.06.2023

S & P BSE Sensex	62625.63 (-223.01)
Nifty 50	18563.40 (-71.15)

Foreign Exchange Rates as on 08.06.2023

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

INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR / 1 JPY
82.56	88.32	102.68	0.59

❖ **Pronouncement**

08.06.2023	Rajashree Polyfil (Appellant) vs. Commissioner of Central Excise & ST, Surat-ii (Respondent)	CESTAT, West Zonal Bench : Ahmedabad
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Certificates issued by Qualified Professional have to be followed unless a patent inaccuracy or error is shown

Facts of the Case:

The appellant is inter-alia engaged in the manufacture of Nylon Chips, & Pet chips falling under Chapter 39 of the First Schedule to the Central Excise Tariff Act, 1985. It is claimed by the appellant that the nylon chips are hygroscopic in nature, i.e., they absorb moisture from the atmosphere and these chips are cleared in wet form immediately after it passes through the centrifugal machine, i.e. containing around 10% moisture content. The appellant discharged excise duty, claiming a 9.5% discount from the per-unit cost of production of nylon chips and pet chips determined in CAS-4 issued by the cost accountant towards the weight of moisture contained in the nylon chips and PET chips to arrive at the value of wet nylon chips cleared to its sister units.

Order:

The Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench: Ahmedabad (CESTAT, West Zonal Bench : Ahmedabad) inter alia observed that certificate clearly states that the certificate has been issued by the Cost Accountant after checking cost records, excise records, production records and other related records of the appellant. It is a settled principle of law that the certificates issued by qualified professionals like Cost Accountants, Chartered Accountants, Chartered Engineers should not be brushed aside merely with the statement that corroborative evidence was not produced. They need to be accepted by the department unless investigation is undertaken in doubtful cases and the data is re-verified by appointing its own cost accountant or producing another material on record.

Further, in this Order, the Appellate Tribunal referred the earlier order of Tribunal in the matter of Commissioner of C. EX., Tirupathi vs. Elgi Tyres & Tubes (P) LTD. - 2009 (248) E.L.T. 574 (Tri. - Bang.) where in the Tribunal held as under:-

“The Appellants in the present matter has produced a Certificate dated 24-12-96 from the Chartered Accountant wherein the cost structured of a montego car was given and it included “selling, general and other overheads” also. Except alleging that the overhead, is on the higher side, Revenue has not brought on record any material in support of that contention and to falsify the Certificate given by the Chartered Accountant. The Chartered Accountant has given the Certificate after verifying the books of accounts produced and information furnished to them. The Revenue has to controvert the Certificate by adducing material or evidence based on records. It cannot simply brush aside the Certificate by observing that the details of overheads were not furnished.”

Prepared by Directorate of Academics

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

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