

Vision

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

Motto

सत्यं वद। धर्मं चर। इच्छते क्रेतुनामः अवेदं ह्यु क्रेतुः इव

Mission

"To develop high calibre professionals facilitating good corporate governance"

Wednesday, August 09, 2023

Info Capsule

President

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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>

❖ Securities Laws and Capital Market

SEBI puts in place mechanism to reverse erroneous, off-market securities' transfer (August 08, 2023)

The market regulator has set in place a new mechanism to reverse erroneous transfer of securities made to a demat account. SEBI had said, in an earlier circular, that depositories were asked to put in place a one-time-password (OTP) authenticated system to get the client's consent for off-market transfer of securities. But depository representatives appraised the regulator of the difficulty of getting the OTP confirmation when they have to reverse wrongly made transfers. Taking these concerns into account, SEBI has now put in place an alternative mechanism that does not include an OTP verification.

For details:

<https://www.moneycontrol.com/news/business/markets/sebi-puts-in-place-mechanism-to-reverse-erroneous-off-market-securities-transfer-11126581.html>

❖ Banking

Banks may soon have all Saturdays off; 5-day workweek possible: Report (August 07, 2023)

According to a report by the Business Line, the demand put forward by bank employee unions to declare all Saturdays as a bank holiday has been accepted by India's Bank Association on the 28th July meeting. Now, the representative body of management of Indian banks has forwarded the petition to the Ministry of Finance for its approval.

For details:

<https://www.livemint.com/industry/banking/indian-banks-bank-holidays-5-day-working-psbs-private-banksnews-11691381793006.html>

❖ **Indirect Tax**

Goods & Services Tax

28% GST on casinos, online gaming, racing to up revenue collection: Finance Minister (August 08 2023)

Finance Minister on Tuesday (August 08), said the 28% GST on full face value of supplies in casinos, race courses and online gaming will result in higher revenues. The online gaming segment grew by 28% in 2021 to reach USD 1.9 billion, as per NITI Aayog estimates referred in the Draft National Policy for Growth of Animation, Visual Effects, Gaming, Comic & Extended Reality sector in India prepared by the Information and Broadcasting Ministry. Finance minister said online gaming companies supplying actionable claims and some horse race clubs paying 18% on platform fee/commission are disputing the 28% levy on actionable claims in the form of betting and gambling before various legal fora. "It is anticipated that the levy of 28% on full face value, as recommended in the 50th GST Council meeting, will result in increase of revenue from current levels," FM added.

For details:

https://www.business-standard.com/finance/news/28-gst-on-casinos-online-gaming-racing-to-up-revenue-collection-fm-123080800421_1.html

❖ **Competition Law**

CCI approves merger of Tata Cleantech Capital Limited (TCCL) and Tata Capital Financial Services Limited (TCFSL) into Tata Capital Limited (TCL) (August 08, 2023)

The proposed combination is a merger of TCFSL and TCCL into TCL.

TCL is registered with the Reserve Bank of India (RBI) as a Systematically Important NonDeposit Accepting Core Investment Company (CIC) and primarily holds investments in its subsidiaries, which are engaged in lending and offering a wide array of services and products in the financial services sector, including advising and / or management of private equity funds, as are permitted under the directions and guidelines issued by the RBI for CICs from time to time.

TCFSL is a wholly-owned subsidiary of TCL and is registered with the RBI as a Systemically Important Non-Deposit Accepting Non-Banking Financial Company and is mainly engaged in the lending services and offering services and products in the financial services sector.

TCCL is a subsidiary of TCL and is registered with the RBI as a Systemically Important Non-Deposit Accepting Non-Banking Financial Company. TCCL engages in the business of providing cash flow-based finance and advisory services for projects in renewable energy, energy efficiency, waste management, water management and other infrastructure projects.

For details: <https://www.cci.gov.in/media-gallery/press-release/details/308/0>

❖ Pronouncement

Order Delivered on: 02.08.2023	Mr. Natwar Agrawal (HUF) (Financial Creditor) v/s. Ms. Ssakash Developers & Builders Pvt. Ltd. (Corporate Debtor)	National Company Law Tribunal Mumbai Bench-IV CP (IB) No.21/MB-IV/2023
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An allottee in Real Estate Project, who subsequently becomes a Decree Holder under RERA Act, continues to be a creditor in the class of Home Buyers and shall continue to be governed by the threshold limit prescribed under second proviso to section 7(1) of the Code.

Hon'ble National Company Law Tribunal noted that the Hon'ble Madras High Court in the case of *Cholamandalam Investment and Finance Company Ltd. V. Navrang Roadlines Private Limited (O.S.A (CAD) no. 115 of 2022*, following the decision of Hon'ble Supreme Court in case of *Kotak Mahindra Bank v. A. Balakrishnan & Anr. Civil Appeal No. 689 of 2021* held at para 12 that – “A mere perusal of the above observations of the Hon'ble Supreme Court in the decisions cited supra, shows that the liability in respect of a claim arising out of a recovery certificate issued by the DRT would be considered as “financial debt” within the ambit of Section 59(8) of Insolvency and Bankruptcy Code, 2016. It has also held that the underlying claim of the Bank/Claimant under the lending documents would have to be categorised as a “financial debt” under Insolvency and Bankruptcy Code, 2016. Therefore, a recovery certificate issued in respect of the same claim, which is essentially a crystallization of the claim through the process of adjudication, had also be classified as a “financial debt” under Insolvency and Bankruptcy Code, 2016. Consequently, the nature of the underlying claim of the creditor, would determine the categorization of the amount payable under the final decree passed adjudication of the same claim. The liability arising out of an arbitral award or a court proceedings”.

At this juncture, NCLT considers appropriate whether an allottee holding a decree from RERA would fall under the class of Home Buyers within category of Financial Creditor or it would cease to be an allottee under the class of Home Buyers, but shall remain a Financial Creditor, to determine whether the threshold limit prescribed under second proviso to section 7(1) of the Code or under section 4 of code would apply. This bench finds that second proviso to section 7(1) prescribes the threshold limit specifically in relation to Home Buyers Class so as to discourage multiple applications being filed by the allottees in a Real Estate Project. This bench feels that an allottee in Real Estate Project, who subsequently becomes a Decree Holder under RERA Act, continues to be a creditor in the class of Home Buyers and shall continue to be governed by the threshold limit prescribed under second proviso to section 7(1) of the Code.

❖ **Information Technology and Automation**

Use of AI for checking frauds under AB-PMJAY (August 08, 2023)

The Government of India uses Artificial Intelligence (AI) and Machine Learning (ML) technologies to detect suspicious transactions / potential frauds under Ayushman Bharat - Pradhan Mantri Jan Arogya Yojana (AB-PMJAY). These technologies are used for prevention, detection and deterrence of healthcare frauds in the scheme implementation and are helpful in ensuring appropriate treatment to the eligible beneficiaries. Technology partners are engaged for development & deployment of anti-fraud measures using AI/ML.

For details: <https://pib.gov.in/PressReleasePage.aspx?PRID=1946706>

❖ **Terminology**

Green Asset Ratio

EU credit institutions are required to disclose what proportion of the assets in their banking book are aligned to the EU Taxonomy, which is also referred to as their Green Asset Ratio or GAR. The GAR is a ratio that shows EU Taxonomy-aligned financial assets as a percentage of a lender's banking book.

❖ **Market Watch**

Stock Market Indices as on 09.08.2023	
S & P BSE Sensex	65995.81 (+149.31)
Nifty 50	19632.55 (+61.70)

Foreign Exchange Rates as on 08.08.2023 <i>(https://www.geojit.com/currency-futures)</i>			
INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR / 1 JPY
82.74	90.97	105.54	0.58

Prepared by Directorate of Academics

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

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