

### Vision

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

### Motto

सत्यं वद। धर्मं चर। इष्टार्थं कुरु। त्वात्तेः श्रेयते इत्यु कुरु।

### Mission

"To develop high calibre professionals facilitating good corporate governance"

Tuesday, June 13, 2023

# Info Capsule

**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.

## ❖ Banking

- **RBI permits banks to undertake compromise settlement of wilful defaults, fraud accounts (June 12, 2023)**

All Regulated Entities (REs) will be required to put in place board-approved policies for undertaking compromise settlements, with the borrowers as well as for technical write-offs laying down the process to be followed for all compromise settlements and technical write-offs, with specific guidance on the necessary conditions precedent, the RBI has said in a notification.

*For details:*

<https://economictimes.indiatimes.com/industry/banking/finance/banking/rbi-permits-banks-to-undertake-compromise-settlement-of-wilful-defaults-fraud-accounts/articleshow/100939162.cms>

- **Bank deposits of 1-3 years a hit due to interest rate hikes (June 13, 2023)**

With interest rates on deposits rising on the back of the repo rate hikes by the Reserve Bank of India (RBI), the share of term deposits with original maturity period of 'one year to less than three years' soared to 64.2 per cent as at end-March 2023 from 50.4 per cent a year ago. According to RBI data, term deposits under the interest rate bucket of 6 per cent to less than 8 per cent recorded a significant surge in their share to total deposits and moved to 57.6 per cent as at end-March 2023 from 12.6 per cent in previous year. The RBI hiked repo rate by 250 basis points to 6.50 per cent since March 2022.

*For details:*

<https://indianexpress.com/article/business/banking-and-finance/rbi-interest-rate-hikes-repo-rate-hike-rbi-data-8659531>

## ❖ **Ministry of Corporate Affairs**

### **MCA calls meetings on website snags (June 13, 2023)**

The Government has called a series of stakeholder meetings to discuss the ongoing issues with MCA 21, the website of the Ministry of Affairs (MCA). In a tweet, the Ministry said these meetings will be attended by representatives from LTIMindtree that maintains the site. Apart from four metro cities, meetings will be held in Ahmedabad, Hyderabad and Guwahati. The Ministry, along with LTIMindtree, will strive towards resolution of the issues by June 30, 2023.

*For details:*

<https://timesofindia.indiatimes.com/business/india-business/mca-calls-meetings-on-website-snags/articleshow/100950856.cms?from=mdr>

## ❖ **Insolvency and Bankruptcy**

### **IBBI issued the Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2023 (June 12, 2023 )**

**Introduction** The Insolvency and Bankruptcy Board of India (“the Board”) is required to recommend the name of an Insolvency Professional (IP) on receiving reference from the National Company Law Tribunal and Debt Recovery Tribunal (Adjudicating Authority), in respect of the Corporate Insolvency or Individual Insolvency, as the case may be, for appointment as an Interim Resolution Professional (IRP), Resolution Professional (RP), Liquidator and Bankruptcy Trustee (BT) under Sections 16(4), 34(6), 97(4), 98(3), 125(4), 146(3), 147(3) of the Insolvency and Bankruptcy Code, 2016 (“Code”). Further, Rule 8(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 and Rule 8(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019 enables the Board to share a Panel of IPs, who may be appointed as resolution professionals or bankruptcy trustee, with the Adjudicating Authority. The need was felt to prepare the panel of IPs in advance and share with the Adjudicating Authority (AA) to avoid administrative delays in appointment of the IP.

These guidelines provide the procedure for preparing panel of Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees.

*For details:*

<https://ibbi.gov.in/uploads/whatsnew/687c952472c361766b7d99aeea97215c.pdf>

## ❖ **Market Watch**

### **Stock Market Indices as on 13.06.2023**

S & P BSE Sensex	63143.16 (+418.45)
Nifty 50	18716.15 (+114.65)

### **Foreign Exchange Rates as on 12.06.2023**

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

INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR/ 1 JPY
82.42	88.59	103.67	0.59

❖ **NCLAT**

May 25, 2023	<i>Union Bank of India (Erstwhile Corporation Bank) v. Dinkar T. Venkatasubramanian &amp; Ors.</i>	<i>National Company Law Appellate Tribunal, Principal Bench, New Delhi</i>
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**NCLAT cannot review its judgment but can recall its Judgment**

In this order, NCLAT *inter alia* answered the question whether NCLAT not being vested with any power to review the judgment can entertain an application for recall of judgment on sufficient grounds?

It was noticed by NCLAT that Rule 11(NCLAT Rule, 2016) is akin to Section 151 of the Code of Civil Procedure. The Court as well as Tribunals exercise juridical power of the State while performing adjudicatory functions. The Hon'ble Supreme court has held in "AIR 1961 SC 1669, Harinagar Sugar Mills Ltd. vs. Shyam Sunder Jhunjhunwala & Ors." that procedures of Court and Tribunal may differ but the functions are not essentially different.

NCLAT stated that the inherent power of the Courts and that of the Tribunals are the powers which are not conferred to it but those powers are inherent in the Courts and Tribunals by strength of duty to do justice to parties before it.

NCLAT said that the judgments of the Hon'ble Supreme Court in case (2018) 11 SCC 470, SERI Infrastructure Finance Ltd. vs. Tuff Drilling Pvt. Ltd, clearly lays down that there is a distinction between review and recall. The power to review is not conferred upon this Tribunal but power to recall its judgment is inherent in this Tribunal since inherent power of the Tribunal are preserved, powers which are inherent in the Tribunal as has been declared by Rule 11 of the NCLAT Rules, 2016. Power of recall is not power of the Tribunal to rehear the case to find out any apparent error in the judgment which is the scope of a review of a judgment. Power of recall of a judgment can be exercised by this Tribunal when any procedural error is committed in delivering the earlier judgment; for example; necessary party has not been served or necessary party was not before the Tribunal when judgment was delivered adverse to a party. There may be other grounds for recall of a judgment. Well known ground on which a judgment can always be recalled by a Court is ground of fraud played on the Court in obtaining judgment from the Court....

NCLAT *inter alia* answered the question referred in following manner:

This Tribunal is not vested with any power to review the judgment, however, in exercise of its inherent jurisdiction this Tribunal can entertain an application for recall of judgment on sufficient grounds.

**Prepared by Directorate of Academics**

For any suggestions, please write to [academics@icsi.edu](mailto:academics@icsi.edu).

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