

### Vision

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

### Motto

सत्यं वद। धर्मं चर। इष्टार्थं कुरु। तृप्तये। अस्मिन्।

### Mission

"To develop high calibre professionals facilitating good corporate governance"

Wednesday, July 19, 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.

## ❖ Securities Laws and Capital Market

### SEBI, exchanges ease trading rule for stocks under enhanced surveillance framework (July 18, 2023)

The Securities and Exchange Board of India (SEBI) in a discussion with the stock exchanges decided to ease rules for trading in stocks that remain under the enhanced surveillance measures (ESM) framework. Under the existing ESM framework rule, stocks were allowed to trade only once a week. However, trading in them will now be allowed on all days, the exchanges said in a circular. In trade-for-trade settlement with a price band of 2%, trading in stocks will be allowed on all days. However, the rule of 100% margin remains unchanged, the exchanges said.

For details:

<https://economictimes.indiatimes.com/markets/stocks/news/sebi-exchanges-ease-trading-rule-for-stocks-under-enhanced-surveillance-framework/articleshow/101881187.cms>

## ❖ Banking

### Universal Postal Union to evaluate UPI platform for cross-border remittances (July 19, 2023)

The Universal Postal Union will evaluate UPI for integrating the Unified Payment Interface with cross-border remittances using global postal network, an official release said on July 18, 2023. Director General of Universal Postal Union (DG UPU) Masahiko Metoki, who is on a three-day visit to India for the inauguration of UPU Regional Office, also met Minister of Communications, Electronics and IT Ashwini Vaishnaw on July 18, 2023. "During the interaction, DG UPU appreciated India's expansion of physical post offices riding on the waves of digital infrastructure and advocated the replication of similar models in other countries. He also agreed to evaluate UPI platform for integrating it with cross-border money remittance through postal channels," the release added.

For details:

<https://indianexpress.com/article/business/banking-and-finance/universal-postal-union-evaluate-upi-platform-cross-border-remittances-8847603/>

## ❖ ***Insolvency and Bankruptcy***

### **NCLAT stays insolvency proceedings against Container Corporation of India (July 18, 2023)**

The National Company Law Appellate Tribunal (NCLAT) has stayed the insolvency proceedings initiated against Container Corporation of India. On July 12, the New Delhi-based Principal bench of the National Company Law Tribunal (NCLT) had admitted the petition filed by Roadwings International, an operational creditor of the public sector enterprise, and ordered to initiate Corporate Insolvency Resolution Proceedings (CIRP). The order was challenged by the Container Corporation of India Ltd (CONCOR) before the appellate tribunal, which passed an order on July 14 to stay the NCLT's decision. The appellate tribunal also issued notices to the operational creditor Roadwings International and the interim resolution professional (IRP), which was accepted by their counsel present in the hearing.

*For details:*

[https://economictimes.indiatimes.com/industry/transportation/shipping/-/transport/nclat-stays-insolvency-proceedings-against-container-corporation-of-india/articleshow/101870887.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/industry/transportation/shipping/-/transport/nclat-stays-insolvency-proceedings-against-container-corporation-of-india/articleshow/101870887.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

## ❖ ***Information Technology and Automation***

### **India and the United States jointly launched a call for proposals on Critical and Emerging Technology: Quantum Technologies and Artificial Intelligence for Transforming Lives (July 18, 2023)**

US Secretary, Department of Energy, Ms Jennifer M. Granholm called on Union Minister of State (Independent Charge) Science & Technology; MoS PMO, Personnel, Public Grievances, Pensions, Atomic Energy and Space Dr Jitendra Singh at North Block and discussed bilateral collaboration between the two countries. Dr Jitendra Singh said, through this competitive grant program, the USISTEF selects and supports promising joint U.S.-India technology innovation and entrepreneurial initiatives that are commercially viable and socially relevant. He said, these joint initiatives can originate from U.S. and Indian entities including StartUps, government, academic, or commercial endeavours, and any combination thereof provided they focus on applied R&D, incorporate a business plan and proof of commercial concept, and have significant sustainable commercial potential.

*For details:*

<https://pib.gov.in/PressReleasePage.aspx?PRID=1940458>

## ❖ Ministry of Commerce & Industry

### DGFT implements the Advance Authorisation Scheme, allows duty-free import of inputs for export purposes (July 18, 2023)

Directorate General of Foreign Trade (DGFT) implements the Advance Authorisation Scheme under the Foreign Trade Policy, which allows duty-free import of inputs for export purposes. The eligibility of inputs is determined by Sector-specific Norms Committees based on input-output norms. To make the norms fixation process more efficient, the DGFT has created a user-friendly and searchable database of Ad-hoc Norms fixed in the previous years. These norms can be used by any exporter without requiring a Norms Committee review as outlined in the Foreign Trade Policy 2023. The database is hosted on the DGFT Website (<https://dgft.gov.in>) and allows users to search using Export or Import Item Description, Technical Characteristics, or Indian Tariff Classification ITC (HS) codes.

To access the database, the exporter or public may visit the DGFT Website under Services --> Advance Authorisation/DFIA --> Ad-hoc norms. If an ad-hoc norm matches the item description, specified wastages, and complies with the provisions outlined in the Handbook of Procedures (HBP), applicants may choose to apply for an Advance Authorisation under the "No-Norm Repeat" basis. This option allows users to obtain an advance authorisation without approaching the Norms Committee again, reducing the workload and enabling faster processing, subject to provisions as outlined in FTP/HBP.

This trade facilitation measure simplifies the advance authorisation and norms fixation process, resulting in shorter turnaround times for exporters, improved ease of doing business, and reduced compliance burden.

*For details:*

<https://pib.gov.in/PressReleasePage.aspx?PRID=1940171#:~:text=Directorate%20General%20of%20Foreign%20Trade,based%20on%20input%20output%20norms>.

## ❖ Market Watch

### Stock Market Indices as on 19.07.2023

S & P BSE Sensex	67097.44 (+302.30)
Nifty 50	19833.15 (+83.90)

### Foreign Exchange Rates as on 18.07.2023

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

INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR / 1 JPY
82.08	92.19	107.37	0.59

## ❖ **Direct Tax**

### • **Income tax 12<sup>th</sup> Amendment Rules 2023 [Notification No. 50 Dated July 17, 2023]**

The Central Board of Direct Taxes introduces the twelfth amendment to the Income Tax Rules 1962, specifically addressing proposals related to International Financial Services Centers (IFSC) mentioned in the Finance Act 2023. Notification amends Income Tax rule 21AK and rule 114AAB. The amendment primarily focuses on provisions related to non-resident income, offshore banking units, alternative investment funds, and reporting requirements. It provides exemptions for income accrued from non-deliverable forward contracts or offshore derivative instruments, subject to specified conditions. The amendment also revises reporting form (FORM NO. 10CCF Report under section 80LA (3) of the Income-tax Act, 1961) and clarifies the eligibility criteria for deductions under section 80LA.

*For details:*

*[incometaxindia.gov.in/communications/notification/notification-50-2023.pdf](https://incometaxindia.gov.in/communications/notification/notification-50-2023.pdf)*

### • **Income tax 13<sup>th</sup> Amendment Rules 2023 [Notification No. 51 Dated July 18, 2023]**

The Central Board of Direct Taxes introduces the Income-tax (Thirteenth Amendment) Rules, 2023 wherein a new sub-rule has been inserted in rule 11UAC. This sub-rule pertains to movable property, such as shares or units, received by the fund management entity of the resultant fund in exchange for shares or units held by the investment manager entity in the original fund during relocation. The sub-rule outlines specific conditions for this exchange to take place, including the proportion of shares or units held by the same entities or persons. Definitions for terms like “relocation,” “original fund,” “resultant fund,” “fund management entity,” and “investment manager entity” are also provided.

*For details:*

*[notification-51-2023.pdf \(incometaxindia.gov.in\)](https://incometaxindia.gov.in/notification-51-2023.pdf)*

## ❖ **Terminology for today**

### **Climate Change Mitigation**

It refers to efforts to reduce or prevent the emission of greenhouse gases. Mitigation can mean using new technologies and renewable energies, making older equipment more energy efficient, or changing management practices or consumer behaviour. It can be as complex as a plan for a new city, or as simple as improvements to a cookstove design. Efforts underway around the world range from high-tech subway systems to bicycling paths and walkways.

## ❖ Pronouncement

July 17, 2023	<p><i>Paschimanchal Vidyut Vitran Nigam Ltd. [(Appellant(S))</i></p> <p>Vs.</p> <p><i>Raman Ispat Private Limited &amp; Ors. [Respondent(S)]</i></p>	<p><i>Supreme Court of India</i></p> <p><i>Civil Appellate Jurisdiction</i></p> <p><i>Civil Appeal No. 7976 of 2019</i></p>
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### **Section 238 of the IBC overrides the provisions of the Electricity Act, 2003**

#### **Judgement**

The Hon'ble Supreme Court of India inter alia observed that the views expressed by the present judgment finds support in the decision reported as *Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs* 2022 SCC Online SC 1101. In that case, Section 142A of the Customs Act 1962 was in issue – authorities had submitted that dues payable to it were to be treated as 'first charge' on the property of the assessee concerned. In the resolution process, it was argued that the Customs Act, 1962 acquired primacy and had to be given effect to. This court, after noticing the overriding effect of Section 238 of the IBC, held as follows:

*"55. For the sake of clarity following questions, may be answered as under:*

*(a) Whether the provisions of the IBC would prevail over the Customs Act, and ifso, to what extent?*

*The IBC would prevail over the Customs Act, to the extent that once moratorium is imposed in terms of Sections 14 or 33(5) of the IBC as the case may be, the respondent authority only has a limited jurisdiction to assess/determine the quantum of customs duty and other levies. The respondent authority does not have the power to initiate recovery of dues by means of sale/confiscation, as provided under the Customs Act.....*

Similarly, in *Duncans Industries Ltd. v. AJ Agrochem*, (2019) 9 SCC 725, Section 16G of the Tea Act, 1953 which required prior consent of the Central Government (for initiation of winding up proceedings) was held to be overridden by the IBC. In a similar manner, it is held that Section 238 of the IBC overrides the provisions of the Electricity Act, 2003 despite the latter containing two specific provisions which open with non-obstante clauses (i.e., Section 173 and 174). The position of law with respect to primacy of the IBC, is identical with the position discussed in *Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs*, 2022 SCC Online SC 1101.

*For details:*

*[https://main.sci.gov.in/supremecourt/2019/30356/30356\\_2019\\_8\\_1501\\_45243\\_Judgement\\_17-Jul-2023.pdf](https://main.sci.gov.in/supremecourt/2019/30356/30356_2019_8_1501_45243_Judgement_17-Jul-2023.pdf)*

**Prepared by Directorate of Academics**

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

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