

Info Capsule

Tuesday, August 22, 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

CBDT notifies Rule for determination of value of perquisite in respect of residential accommodation provided by employer [Notification No. 65 dated August 18, 2023]

The Finance Act, 2023 brought in an amendment for the purposes of calculation of "perquisite with regard to the value of rent-free or concessional accommodation provided to an employee, by his employer". Accordingly, CBDT has modified Rule 3 of the Income-tax Rules, 1961 to provide for the same. This is summarized as under:

Previous Categorisation and Rates		New Categorisation and Rates	
Population	Perquisite Rate	Population	Perquisite Rate
More than 25 lakh	15%	More than 40 lakh	10%
Between 10 lakh and 25 lakh	10%	Between 15 lakh and 40 lakh	7.5%
Less than 10 lakh	7.5%	Less than 15 lakh	5%

The Rule has also been further rationalized so as to compute a fair tax implication of the same accommodation being occupied by an employee for more than one previous year.

For details:

<https://incometaxindia.gov.in/communications/notification/notification-65-2023.pdf>

❖ **Banking**

RBI nudges banks to settle UAE trades in rupee, dirham: Report (August 21, 2023)

India's central bank is nudging local banks to ask their clients to settle trade between the United Arab Emirates and India using the dirham (AED) or Indian rupee (INR) to reduce U.S.-dollar-based transactions, five sources told Reuters. The move is part of the Reserve Bank of India's broader aim of promoting settlement in local currencies with countries with which India has a trade deficit, with the knock-on effect of boosting the rupee's global reach, three banking sources said.

For details:

<https://indianexpress.com/article/business/banking-and-finance/reserve-bank-nudges-banks-settle-uae-trades-rupee-dirham-8902476/>

❖ **Business and Economics News**

Corporate Affairs Ministry assessing need to ramp up bench strength of NCLT (August 20, 2023)

The Ministry of Corporate Affairs (MCA) is contemplating an increase to the existing strength of the National Company Law Tribunal (NCLT) benches to handle the growing case load. The Ministry is currently analysing the time taken by each bench to dispose of matters and the total number of cases being handled by each bench.

For details:

https://www.business-standard.com/india-news/corporate-affairs-ministry-assessing-need-to-ramp-up-bench-strength-of-nclt-123082000315_1.html

❖ **ESG**

Passive ESG ETF inflows slowed in first half, but assets grew faster than non-ESG (August 21, 2023)

Net flows into passively managed environmental, social and governance ETFs globally slowed in the first half of 2023 but still grew at a faster pace than passive non-ESG ETFs, according to a report by STOXX, a global index provider.

For details: <https://www.pionline.com/esg/passive-esg-etf-inflows-slowed-first-half-assets-grew-faster-non-esg>

❖ *Terminology for Today*

Shapley Values

Shapley values are a concept borrowed from game theory. Regarding the latter, the game constitutes a setting in which players contribute to an overall outcome (payoff). In terms of this, Shapley values are used to distribute the gains or costs fairly across several players cooperating in coalitions. Effectively, they are the average marginal contributions (gains or costs) for all players, when all possible coalitions have been taken into account.

❖ *Pronouncements*

<i>Judgment (Date: 14.7.2023)</i>	<i>Reliance Industries Ltd. (Appellant) VS. Registrar of Companies (Respondent)</i>	<i>National Company Law Appellate Tribunal Principal Bench, New Delhi Company Appeal (AT) No. 109 of 2023</i>
---	---	---

Dispensation of Class Meeting under Section 230 and 232 of the Companies Act, 2023

In the above case Hon'ble NCLAT noted that in Section 232(1) of the Companies Act it is left to the discretion of the Tribunal, as the word used is "may", regarding the holding of meeting of the creditors or class of creditors or members or class of members in the manner directed by the Tribunal.

Further, Appellate Tribunal observed that this discretion given in section 232(1) to the Tribunal has been interpreted by Hon'ble Bombay High Court in the matter of *Mahaamba Investments Limited vs. IDI Limited vs. IDI Limited*, (2001 SCC Online Bom 1174) and *Eurokids India Pvt. Ltd. (C.S.D.No. 911 of 2014)* and also by this Tribunal in the matter of *Patel Hydro Power Private Limited in Company Appeal (AT) No. 137 of 20221 (2021 SCC OnLine NCLAT 420)* that if the Transferor Company is wholly owned subsidiary of the Transferee Company and there is no reorganization of the share capital of Transferee Company and the creditors and shareholders of the Transferee Company are not affected by the implementation of the Scheme as the assets of the Transferee Company and the Transferor Company far exceed their liabilities, the requirement for holding meetings of the shareholders, secured and unsecured may be dispensed with.

18.08.2023	<i>Experion Developers Private Limited (Appellant)</i> v. <i>Himanshu Dewan and Sonali Dewan and Others</i> (Respondents)	Supreme Court
------------	--	---------------

Precedents cannot decide the question of facts

The Supreme Court in this case has decided that we are clearly of the view that the order of this Court dismissing the appeal in the case of Pawan Gupta (supra) cannot be read as a precedent and applied to the cases in hand. In fact, precedents cannot decide questions of fact. The decision in the case of Pawan Gupta (supra) was based on evidence adduced by the appellant/builder/developer, which in the said case was not found to be sufficient and cogent to justify and substantiate the demand raised in view of the increased sale area....

The order passed by this Court dismissing the appeal in the case of Pawan Gupta is confined to the facts of the said case, including the evidence led by the parties before the National Commission. The National Commission was therefore required to consider and examine the contentions of the appellant and not overrule the same on the grounds of the principle of *res judicata* and on the rule of binding precedent, which do not apply. An order of remand on the question of merits as to the stipulation and increase in the sale area is therefore required.

For details:

https://main.sci.gov.in/supremecourt/2023/6758/6758_2023_3_1502_46202_Judgement_18-Aug-2023.pdf

❖ Market Watch

Stock Market Indices as on 22.08.2023	
S & P BSE Sensex	65220.03 (+3.94)
Nifty 50	19396.45 (+2.85)

Foreign Exchange Rates as on 22.08.2023 (https://www.rbi.org.in/scripts/ReferenceRateArchive.aspx)			
INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR/ 1 YEN
83.06	90.69	106.24	56.93

Prepared by Directorate of Academics

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

Disclaimer : Although due care and diligence have been taken in preparation and uploading this info capsule, the Institute shall not be responsible for any loss or damage, resulting from any action taken on the basis of the contents of this info capsule. Anyone wishing to act on the basis of the material contained herein should do so after cross checking with the original source.