

Vision

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

Motto

सत्यं वद। धर्मं चर। इष्टार्थं कुरु। तृणैः क्लेशं विदुः।

Mission

"To develop high calibre professionals facilitating good corporate governance"

Monday, July 24, 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

Banks write off over ₹2.09 lakh crore bad loans in FY23, ₹10.57 lakh crore written off in the last five years (July 24, 2023)

Banks in India wrote off bad loans totaling more than ₹2.09 lakh crore during the FY23, according to information obtained through Right to Information (RTI) queries. This brings the total loan write-offs by the banking sector to a significant ₹10.57 lakh crore in the past five years, as per data provided by the Reserve Bank of India (RBI) to The Indian Express.

For details:

<https://www.livemint.com/industry/banking/banks-write-off-over-rs-2-09-lakh-crore-bad-loans-in-fy23-rs-10-57-lakh-crore-written-off-in-the-last-five-years-11690172407086.html>

❖ Technology and Automation

Use of Technology in Judicial Institutions (July 21, 2023)

As part of the National eGovernance Plan, the eCourts Mission Mode Project is under implementation for ICT development of the Indian Judiciary based on the "National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary". eCourts project is being implemented in association with e-Committee Supreme Court of India and Department of Justice. Phase I of the project was implemented between 2011-2015. Phase II of the project extended from 2015-23. The Government has taken the various e-initiatives to make justice accessible and available for all.

For details:

<https://pib.gov.in/PressReleasePage.aspx?PRID=1941500>

❖ **ESG****82% of Business Leaders Confident in Meeting New Sustainability Disclosure Requirements: Honeywell Survey (July 20, 2023)**

Over 80% of business leaders globally report being confident that their companies' reporting processes will meet emerging disclosure requirements, according to a new survey released by industrial products, solutions and technologies company Honeywell.

The results were unveiled with the latest release of Honeywell's Environmental Sustainable Index. Honeywell launched the index in Q4 2022, with updated releases planned quarterly, aimed at providing insight into how business leaders feel about the progress that's being made toward their organizations' sustainability commitments. For the report, produced in collaboration with Futurum Research, Honeywell surveyed more than 750 business, technology, and sustainability professionals directly involved in the planning, strategic development, implementation, or oversight of environmental sustainability goals and initiatives, at companies across multiple regions and economic sectors.

For details:

<https://www.esgtoday.com/82-of-business-leaders-confident-in-meeting-new-sustainability-disclosure-requirements-honeywell-survey/>

❖ **NCLT/ NCLAT****NCLAT checklists for filing appeals under Companies, Act, 2013, Insolvency and Bankruptcy Code, 2016 and Competition Act, 2002**

Checklists for filing appeal under the Companies, Act, 2013, Insolvency and Bankruptcy Code, 2016 and Competition Act, 2002 have been issued by National Company Law Appellate Tribunal (NCLAT). These checklists may be accessed from the below mentioned links:

1. For Appeals under the Companies Act, 2013 & the Insolvency and Bankruptcy Code, 2016:
https://nclat.nic.in/sites/default/files/2023-05/Latest%20checklist%20of%20e%20filing%20for%20Companies%20Act%202013%20and%20IBC%202016_0.pdf
2. For Appeals under the Competition Act, 2002:
https://nclat.nic.in/sites/default/files/2023-05/Latest%20checklist%20of%20e%20filing%20for%20Companies%20Act%202013%20and%20IBC%202016_0.pdf

The user manual for filing appeals before NCLAT can also be accessed from the link <https://efiling.nclat.gov.in/helpInner.drt>.

For details: <https://nclat.nic.in/whats-new>

Market Watch

Stock Market Indices as on 24.07.2023	
S & P BSE Sensex	66384.78 (-299.48)
Nifty 50	19672.35 (-72.65)

Foreign Exchange Rates as on 21.07.2023 <i>(https://www.geojit.com/currency-futures)</i>			
INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR/ 1 JPY
82.08	91.71	105.80	0.59

❖ **Pronouncement**

17 July, 2023	T. Sudhakar Pai & Ors (Appellants) Vs. M/S Manipal Academy of Higher Education & Ors (Respondent)	Karnataka High Court Commercial Appeal No.404 of 2022
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To pass an Order for Civil Imprisonment under Order XXXIX Rule 2A of the Code of Civil Procedure, 1908, the Court has to Consider Certain Factors or Circumstances.

Hon'ble Karnataka High Court in the aforesaid case *inter alia*, observed that considering the object of the provision, an order directing civil imprisonment should not be passed as a matter of course. To pass an order for civil imprisonment, the Court has to consider one or more factors or circumstances namely;

- (a) the nature/gravity of the disobedience or breach, and the manner in which order is violated,
- (b) the loss caused to the party on account of disobedience or breach,
- (c) whether the damage caused can be restored in some way or the other or is something irreversible,
- (d) circumstances under which the breach or disobedience is committed,
- (e) whether the breach or disobedience complained is an isolated act or it is a continuous act,
- (f) previous history, if any, where the contemnor is held guilty of breach or disobedience of the Court order,
- (g) whether the case calls for a situation where the message is to be sent, by passing an order of civil imprisonment, that willful breach or disobedience of the Court order will be viewed seriously,
- (h) and more importantly, the Court has to consider whether civil imprisonment is an effective way to prevent a further breach,
- (i) the timing of the apology if any, tendered by the contemnor, the tenor and tone of the language used in the affidavit tendering the apology,
- (j) the compliance if any, made to undo the disobedience or breach complained,
- (k) to an extent, the educational qualifications/ positions of the contemnor and whether the acts committed by the contemnor make mockery of the Court order.

Further, the High Court also makes it clear that the criteria mentioned above are not exhaustive but are illustrative and this Court is not saying that all the criteria have to be satisfied before ordering attachment of the property or civil imprisonment of the contemnor.

After considering the aforementioned factors or circumstances, if the Court is of the view, that the evidence led before it warrants civil imprisonment, then the Court can impose civil imprisonment on the contemnor for such duration not exceeding three months. Again, the duration of civil imprisonment depends on the circumstances referred to above.

For details: <https://indiankanoon.org/doc/27620104/>

Prepared by Directorate of Academics

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

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