

### Vision

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

### Motto

सत्यं वद। धर्मं चर। इष्टार्थं कुरु। तृणैः शोभते ह्यु कुरु।

### Mission

"To develop high calibre professionals facilitating good corporate governance"

Wednesday, October 25, 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.

## ❖ Ministry of Corporate Affairs

### • Ministry of Corporate Affairs-Update (October 23, 2023)

The stakeholders are informed that Ministry of Corporate Affairs has integrated with National Single Window System (NSWS) for the Incorporation of Companies and LLPs. Incorporation services can also be availed through NSWS portal.

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=c r9F9%252F8lGDiypPxTWd6oQw%253D%253D&type=open>

### • The Companies (Incorporation) Third Amendment Rules, 2023 (October 23, 2023)

The Ministry of Corporate Affairs (MCA) vide its notification dated October 20, 2023 has notified "The Companies (Incorporation) Third Amendment Rules, 2023" which came into force with effect from October 21, 2023. According to the amendment, under Rule 30(9) (Shifting of Registered Office from one State or Union Territory to another State), a proviso is inserted stating:

"Provided further that where the management of the company has been taken over by new management under a resolution plan approved under section 31 of the Insolvency Bankruptcy Code, 2016 and no appeal against the resolution plan is pending in any Court or Tribunal and no inquiry, inspection, investigation is pending or initiated after the approval of the said resolution plan, the shifting of the registered office may be allowed."

For details:

<https://www.mca.gov.in/bin/dms/getdocument?mds=uqnggXxHARXXjysr4uSRjQ%253D%253D&type=open>

## ❖ *Business and Economic News*

### **India set to be world's third-largest economy by 2030, says S&P Global (October 24, 2023)**

India will become the world's third-largest economy, overtaking Germany and Japan, by 2030 on the strength of its youthful demographic profile and rapidly rising urban household incomes, S&P Global Market Intelligence has projected. Now India is in fifth position.

That will result in India becoming the second-largest economy in the Asia-Pacific region, after China. Only the US is a bigger economy than China now.

"India's nominal GDP measured in USD (\$) terms is forecast to rise from USD 3.5 trillion in 2022 to USD 7.3 trillion by 2030. This rapid pace of economic expansion would result in the size of (Indian GDP) exceeding Japanese GDP by 2030, making India the (second-largest) economy in the Asia-Pacific region," S&P Global Market Intelligence said in its latest issue of PMI.

*For details:*

[https://www.business-standard.com/economy/news/india-set-to-overtake-japan-as-third-largest-economy-by-2030-s-p-global-123102400804\\_1.html](https://www.business-standard.com/economy/news/india-set-to-overtake-japan-as-third-largest-economy-by-2030-s-p-global-123102400804_1.html)

## ❖ *ESG*

### **India emerging as a global trendsetter in ESG disclosures (October 25, 2023)**

The Indian ethos for millennia has considered the plants and animals as the cousins of humans and the Earth as a nourishing mother. The emerging ESG reporting landscape of the Indian market regular Securities Exchange Board of India (SEBI) seems to be intent on reflecting these ethos, leading to a search towards a golden balance between growth and environment, and social parameters, away from sterile shareholder capitalism which considers the ecology and the earth and the society as resources available for exploitation rather than for co-existence.

*For details:*

<https://www.moneycontrol.com/news/opinion/india-emerging-as-a-global-trendsetter-in-esg-disclosures-11594431.html>

## ❖ *Market Watch*

<b>Stock Market Indices as on 25.10.2023</b>	
S & P BSE Sensex	64049.06 (-522.82)
Nifty 50	19122.15 (-159.60)

<b>Foreign Exchange Rates as on 25.10.2023</b> ( <a href="https://m.rbi.org.in/scripts/ReferenceRateArchive.aspx">https://m.rbi.org.in/scripts/ReferenceRateArchive.aspx</a> )			
INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR / 1 JPY
83.15	88.12	101.14	.5549

## ❖ Pronouncement

October 06, 2023	Vishal Chelani & Ors{Appellant(s)} Vs. Debashis Nanda{Respondent(s)}	Supreme Court of India Civil Appellate Jurisdiction Civil Appeal No. 3806 of 2023
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### Brief Facts

Appellants are home buyers, who had opted for allotment in a real estate project of the respondent company (*hereinafter referred to as "Bulland Buildtech Pvt. Ltd." or "the respondent"*). Aggrieved by the delay in the completion of the project, the appellants approached the Uttar Pradesh Real Estate Regulatory Authority (UPRERA) which by its orders upheld this entitlement to refund amounts deposited by the, together with interest. In the meantime, proceedings under the Insolvency and Bankruptcy Code, 2016 were initiated. In the course of proceedings after due consultations by the Committee of Creditors, a resolution plan was presented to the adjudicating authority. In that plan, a distinction was made between home buyers, who had opted or elected for other remedies such as i.e. applying before the RERA and having secured orders in their favor, and those who did not do so. Home buyers who did not approach authorities under RER Act were given the benefit of 50% better terms than that given to those who approached RERA or who were decree holders. The appellants felt aggrieved; their applications were rejected by the adjudicating authority. Their appeals too were unsuccessful. Consequently, they have approached Supreme Court.

### Judgement

The Resolution Professional's view appears to be that once an allottee seeks remedies under RERA, and opts for return of money in terms of the order made in her favour, it is not open for her to be treated in the class of home buyer. Supreme Court is unpersuaded by the submission. Further, the Apex Court observed that it is only home buyers that can approach and seek remedies under RERA – no others. In such circumstances, to treat a particular segment of that class differently for the purposes of another enactment, on the ground that one or some of them had elected to take back the deposits together with such interest as ordered by the competent authority, would be highly inequitable. As held in *Natwar Agarwal (HUF) (Supra)* by the Mumbai Bench of National Company Law Tribunal the underlying claim of an aggrieved party is crystallized in the form of a Court order or decree. That does not alter or disturb the status of the concerned party - in the present case of allottees as financial creditors. Furthermore, Section 238 of the IBC contains a non obstante clause which gives overriding effect to its provisions. Consequently, its provisions acquire primacy, and cannot be read as subordinate to the RERA Act. In any case, the distinction made by the R.P. is artificial; it amounts to "hyper classification" and falls a foul of Article 14. Such an interpretation cannot therefore, be countenanced.

For details:

<https://ibbi.gov.in/uploads/order/b7079b4ba769aa4b0c8624cda717cc4d.pdf>

**Prepared by Directorate of Academics**

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

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