

Vision

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

Motto

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

Mission

"To develop high calibre professionals facilitating good corporate governance"

Info Capsule

Thursday, October 26, 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.

❖ Banking

• Appointment of Whole-Time Director(s) (October 25, 2023)

Given the growing complexity of the banking sector, it becomes imperative to establish an effective senior management team in the banks to navigate ongoing and emerging challenges. Establishment of such a team may also facilitate succession planning, especially in the background of the regulatory stipulations in respect of tenure and upper age limit for Managing Director and Chief Executive Officer (MD&CEO) positions. To address these issues and challenges, banks are advised to ensure the presence of at least two Whole Time Directors (WTDs), including the MD&CEO, on their Boards. The number of WTDs shall be decided by the Board of the bank by taking into account factors such as the size of operations, business complexity, and other relevant aspects.

For details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12551&Mode=0>

• Reserve Bank of India (Financial Statements - Presentation and Disclosures) Directions, 2021: Presentation of unclaimed liabilities transferred to Depositor Education and Awareness (DEA) Fund (October 25, 2023)

To ensure consistency in presentation of financial statements, it is advised that all co-operative banks shall present all unclaimed liabilities (where the amount due has been transferred to DEA Fund) under "Contingent Liabilities - Others". These instructions are applicable to all commercial and cooperative banks for preparation of financial statements for the financial year ending March 31, 2024 and onwards.

For details:

<https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12552&Mode=0>

❖ ***Business and Economic News***

High-level Committee on One Nation, One Election holds second meeting (October 25, 2023)

The High-Level Committee constituted by the Government under the chairpersonship of former President Ram Nath Kovind to examine the issue of holding simultaneous elections in the country and make recommendations thereon held its second meeting on wednesday.

The Law Commission of India made a presentation during the meeting elaborating their suggestions and viewpoints on the issue of simultaneous elections in the country.

For details:

<https://timesofindia.indiatimes.com/india/high-level-committee-on-one-nation-one-election-holds-second-meeting/articleshow/104705728.cms?from=mdr>

❖ ***ESG***

CFOs Rank ESG Metrics and Measurement as Their Top Priority, Finds Latest Protiviti Global Finance Trends Survey (October 25, 2023)

The annual Global Finance Trends Survey, conducted by global consulting firm Protiviti, finds that the pressure to implement and report on organization-wide ESG programs has intensified for CFOs, with 60% of finance leaders indicating a substantial increase in the focus and frequency of their reporting related to ESG issues.

Year over year, ESG metrics and measurement have jumped up the priority list, with CFOs and VPs of Finance noting it as their top priority in 2023, compared with it ranking in the 11th position just last year. In fact, 57% of publicly held and 40% of privately held companies report that measuring and reporting ESG risks and issues has become part of their finance team's role in the last year.

For details:

<https://www.prnewswire.com/news-releases/cfos-rank-esg-metrics-and-measurement-as-their-top-priority-finds-latest-protiviti-global-finance-trends-survey-301965651.html>

❖ ***Ministry of Environment, Forest and Climate Change***

India hosting meeting of the United Nations Forum on Forests to deliberate on forest fires and forest certification (October 25, 2023)

The Ministry of Environment, Forest and Climate Change is organising a Country-Led Initiative (CLI) event as part of the United Nations Forum on Forests (UNFF) from 26-28 October, 2023 at the Forest Research Institute (FRI), Dehradun, Uttarakhand.

The United Nations Forum on Forests promotes the management, conservation, and sustainable development of all types of forests. India holds the distinction of being a founding member of UNFF. The UN General Assembly adopted the first-ever UN Strategic Plan for Forests for the period of 2017-2030. This Strategic Plan serves as a global framework for actions at all levels to achieve the sustainable management of all types of forests, including trees outside forests, and to combat deforestation and forest degradation.

For details:

<https://www.pib.gov.in/PressReleasePage.aspx?PRID=1970686->

❖ **Pronouncement**

19.10.2023

M/s Unibros (Appellant) v. All India Radio (Respondent)

Supreme Court

The award without the evidence of Loss of Profit can be said to be against the Public Policy of India

In the above case, the Hon'ble Supreme Court of India referred the case of ONGC Ltd. vs. Saw Pipes Ltd (2003) 5 SCC 705 wherein Supreme Court has been lucidly explained what would constitute "public policy of India":

: "31..., the phrase 'public policy of India' used in Section 34 in context is required to be given a wider meaning. It can be stated that the concept of public policy connotes some matter which concerns public good and the public interest. What is for public good or in public interest or what would be injurious or harmful to the public good or public interest has varied from time to time. However, the award which is, on the face of it, patently in violation of statutory provisions cannot be said to be in public interest. Such award/judgment/decision is likely to adversely affect the administration of justice."

Subsequent decisions of this Court have interpreted "public policy of India" to include, among others, compliance with fundamental policy of Indian law, statutes and judicial precedents, need for judicial approach, compliance with natural justice, Wednesbury unreasonableness and patent illegality. We may refer to the decision in (2015) 3 SCC 49 in this behalf.

The Hon'ble Supreme Court of India held that it fares no better than the First Award, for, it is equally in conflict with the public policy of India. We have noticed from the order dated 20th May, 2002 of the learned Single Judge that while remitting Claim No.12 for reconsideration, the Arbitrator was warned not to be influenced by the factors that weighed in his mind while making the First Award. The Arbitrator was also required to proceed only on the basis of the evidence on record. Yet, regrettably, what we find is that the Arbitrator went on to ignore the judicial decision of the High Court with impunity. He once again emphasized on delay caused by the respondent in completion of the works entrusted to the appellant by not providing complete site and drawings within the stipulated contract period and that non-handing over of site certainly constituted fundamental breach of contract vitiating the entire contract.

For details:

http://scourtapp.nic.in/supremecourt/2020/9376/9376_2020_8_1504_47832_Judgement_19-Oct-2023.pdf

❖ **Market Watch****Stock Market Indices as on
26.10.2023**

S & P BSE Sensex	63148.15 (-900.91)
Nifty 50	18857.25 (-264.90)

Foreign Exchange Rates as on 26.10.2023

(<https://m.rbi.org.in/scripts/ReferenceRateArchive.aspx>)

INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR / 1 JPY
83.24	87.70	100.51	.5522

Prepared by Directorate of Academics

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

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