

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 Environment, Forest, and Climate Change

Central Government notified the Battery Waste Management (Amendment) Rules, 2023(October 26, 2023)

Battery Waste Management (Amendment) Rules, 2023 inter alia provides that every Producer shall have the obligation of Extended Producer Responsibility for the Battery that they introduce in the market and the Battery which they put to self-use, to ensure the recycling or refurbishing obligations as per Schedule II.

Every Producer shall have the obligation for environmentally sound management of pre consumer waste battery generated during manufacturing or assembling or import of a Battery or Battery pack and every Producer shall file the annual returns in Form 3 in respect of pre consumer waste battery generated in the preceding financial year.

Every Producer shall meet the collection and recycling and refurbishment targets as mentioned in Schedule II for Battery or Battery pack made available in the market including the Battery which they put for self-use.

Every Producer shall obtain registration from the Central Pollution Control Board through online centralised portal in Form 1(A).

The Central Pollution Control Board on registration of the Producer shall issue a certificate of registration in Form 1(B) to such Producer which shall be valid until it is cancelled or withdrawn.

For details:

<https://egazette.gov.in/WriteReadData/2023/249699.pdf>

❖ **Banking**

- **Framework for compensation to customers for delayed updation/ rectification of credit information (October 26, 2023)**

In exercise of the powers conferred by sub-section (1) of section 11 of the Credit Information Companies (Regulation) Act, 2005 (CICRA, 2005), the Reserve Bank of India directs CICs and CIs to implement the compensation framework for delayed updation/rectification of credit information by Credit Institutions (CIs) and Credit Information Companies (CICs).

For details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12554&Mode=0>

- **Non-Callable Deposits - Master Direction on Interest Rate on Deposits (October 26, 2023)**

In terms of Section 7 of the Master Direction (MD) on Interest Rate on Deposits dated March 03, 2016 and Master Direction - Reserve Bank of India (Co-operative Banks - Interest Rate on Deposits) Directions, 2016 dated May 12, 2016, banks have been permitted to offer domestic term deposits (TDs) without premature withdrawal option, provided that all TDs accepted from individuals for an amount of Rupees fifteen lakh and below shall have premature-withdrawal-facility. Further, the banks have also been permitted to offer differential rate on interest on TDs based on non-callability of deposits (i.e., non-availability of premature withdrawal option) in addition to tenor and size of deposits.

On a review, it has been decided that (i) the minimum amount for offering non-callable Term Deposits (TDs) may be increased from Rupees fifteen lakh to Rupees one crore i.e., all domestic term deposits accepted from individuals for amount of Rupees one crore and below shall have premature-withdrawal-facility and (ii) these instructions shall also be applicable for Non-Resident (External) Rupee (NRE) Deposit / Ordinary Non-Resident (NRO) Deposits.

For details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12555&Mode=0>

- **Joining the Account Aggregator Ecosystem as Financial Information User (October 26, 2023)**

It has been observed that certain entities, which are eligible to join Account Aggregator (AA) ecosystem as Financial Information Provider (FIP), have onboarded as Financial Information User (FI-U) only. Consequently, such entities are accessing financial information from other FIPs but are not providing the financial information held by them. As such, with a view to ensure efficient and optimum utilisation of the AA ecosystem, it has been decided that regulated entities of the Bank joining the AA ecosystem as FI-U shall necessarily join as FIP also, if they hold the specified financial information and fall under the definition of FIP.

For details: <https://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12558&Mode=0>

❖ **Market Watch**

Stock Market Indices as on 27.10.2023	
S & P BSE Sensex	63782.80 (+634.65)
Nifty 50	19047.025 (+190.00)

Foreign Exchange Rates as on 27.10.2023 (https://m.rbi.org.in/scripts/ReferenceRateArchive.aspx)			
INR / 1 USD	INR / 1 EUR	INR / 1 GBP	INR/ 1 JPY
83.25	87.89	100.91	.5542

❖ **Competition law**

- **Central Government notified the Competition (Form of Publication of Guidelines) Rules, 2023**

According to the Competition (Form of Publication of Guidelines) Rules, 2023, the Commission shall issue guidelines under section 64B of the Act through publication on its official website. The guidelines issued by the Commission shall specify the following:- (a) title of the guidelines; (b) date from which such guidelines shall be effective; (c) one paragraph shall contain only one sentence and one aspect of guidelines and should not have multiple sentences and aspects; (d) one paragraph shall contain one subject matter of policy; (e) the provisions shall be drafted in precise, clear and in a simple language; and (f) any other details relevant to any particular guidelines. The language of the guidelines shall be English. The Secretary shall publish the guidelines issued by the Commission in the Official Gazette for information to the public in general.

For details:

<https://egazette.gov.in/WriteReadData/2023/249704.pdf>

- **Commission approves proposed combination involving re-balancing of the existing cross shareholdings between Renault and Nissan (October 26, 2023)**

The proposed combination, inter alia, relates to the re-balancing of the existing cross-shareholdings between Renault S.A. (Renault) and Nissan Motor Co. Ltd. (Nissan) (Rebalancing) and certain changes to the shareholding of two of their joint ventures in India, i.e., Renault Nissan Automotive India Private Limited (RNAIPL) and Renault Nissan Technology & Business Centre India Private Limited (RNTBCI). As part of the Rebalancing, Nissan, through Nissan Finance Co. Ltd. (NFC), will retain its 15% shareholding in Renault. Renault will transfer 28.4% of its Nissan shares into a trust estate administered by a trustee governed by French law, where the entrusted shares will be voted neutrally, subject to limited exceptions. Renault would continue to fully benefit from the economic rights from the entrusted shares until such shares are sold. Accordingly, Renault and Nissan will have a cross-shareholding of 15% of the total issued share capital and freely exercisable voting rights in each other, i.e., both Renault and Nissan will hold 15% shareholding in each other.

For details:

<https://www.cci.gov.in/antitrust/press-release/details/324>

❖ Pronouncement

11.10.2023	<p><i>Amrop India Private Limited(Appellant)</i></p> <p>Vs.</p> <p><i>The Hi-Tech Gears Limited(Respondent)</i></p>	<p><i>National Company Law Appellate Tribunal Principal Bench, New Delhi</i></p> <p><i>Company Appeal (AT)(Insolvency) No. 1251 of 2023 & I.A. No.4417, 4356 of 2023</i></p>
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A pre-existing dispute to be a ground to nullify an application under Section 9 of IBC

The Hon'ble NCLAT inter alia observed that from a plain reading of the above provisions, it is clear that the existence of dispute and its communication to the Operational Creditor is therefore statutorily provided for in Section 8. In the present case, it is an undisputed fact that the demand notice was issued by the Operational Creditor on 30.07.2018 and notice of dispute raised by the Corporate Debtor on 09.08.2018. It is also an undisputed fact in the present matter that the Operational Creditor did not receive any payment from the Corporate Debtor and therefore proceeded to file an application under Section 9 of IBC.

It is a well settled proposition that for a pre-existing dispute to be a ground to nullify an application under Section 9, the dispute raised must be truly existing at the time of filing a reply to notice of demand as contemplated by Section 8(2) of IBC or at the time of filing the Section 9 application.

In the present factual matrix, the defence raised by the Corporate Debtor therefore cannot be held to be moonshine, spurious, hypothetical or illusory. The tone and tenor of the emails exchanged between the two parties clearly manifest existence of dispute which antedates Section 8 demand notice. It is well settled that in Section 9 proceeding, there is no need to enter into final adjudication with regard to existence of dispute between the parties regarding operational debt. For such disputed operational debt, Section 9 proceeding under IBC cannot be initiated at the instance of the Operational Creditor. The Adjudicating Authority has therefore correctly noted that the conditions laid down in section 9 having not been fulfilled, the application deserved to be rejected.

For details:

https://nclat.nic.in/display-board/view_order

Prepared by Directorate of Academics

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

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