

CHARTERED SECRETARY

THE JOURNAL FOR CORPORATE PROFESSIONALS



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Company Secretaries of India**
IN PURSUIT OF PROFESSIONAL EXCELLENCE
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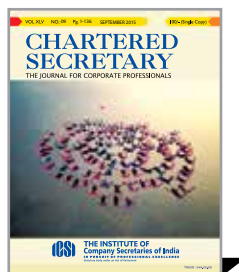


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01 >>> Meeting of ICSI delegation with Hon'ble Union Minister of Home Affairs- CS Atul H Mehta greeting Rajnath Singh (Hon'ble Union Minister of Home Affairs).

02 >>> Meeting of ICSI delegation with Hon'ble Union Minister of Home Affairs – Sitting from Left: CS Satwinder Singh, CS Vineet K Chaudhary, CS Sutanu Sinha, CS Atul H Mehta and Rajnath Singh (Hon'ble Union Minister of Home Affairs).

03 >>> Meeting of ICSI delegation with Hon'ble Union Minister of State I/C of Labour and Employment – Group photo – Standing from Left: CS Sutanu Sinha, CS Vineet K Chaudhary, CS Ramasubramaniam C, Bandaru Dattatreya (Hon'ble Union Minister of State I/C of Labour & Employment), CS Atul H Mehta and CS Shyam Agrawal.

04 >>> Meeting of ICSI delegation with Hon'ble Minister of State I/C for Power, Coal and New & Renewable Energy – Group photo – Standing from Left: CS Ranjeet Pandey, CS Vineet K Chaudhary, Piyush Goyal (Hon'ble Minister of State I/C for Power, Coal and New & Renewable Energy), CS Atul H Mehta and CS Rajiv Bajaj.

05 >>> Meeting of ICSI delegation with Member Secretary, Empowered Committee of State Finance Ministers on GST - Group photo – Standing from Left: Bashir Ahmed (Advisor, EC), CS Atul H Mehta, Satish Chandra (Member Secretary, Empowered Committee of State Finance Ministers on GST), CS Ramasubramaniam C and CS Rajiv Bajaj.

06 >>> 16th National Conference of Practising Company Secretaries - Justice P Sathasivam (Hon'ble Governor of Kerala and Chief Guest) addressing. Others sitting on the dais from Left: CS S P Kamath, CS Ramasubramaniam C, CS Ahalada Rao V, Ashishkumar Chauhan (MD & CEO, BSE Ltd.), CS Atul H Mehta, CS Ashish Garg, CS Nagendra D Rao and CS Sutanu Sinha.



07 >> 16th National Conference of Practising Company Secretaries - Oommen Chandy (Hon'ble Chief Minister of Kerala) addressing. Others sitting from Left: CS Sutanu Sinha, CS Arun K Kamalolbhavan, CS P Sivakumar, CS Ashish Garg, CS Ahalada Rao V, Benny Behanan (Member of Legislative Assembly), CS Atul H Mehta, CS Ramasubramaniam C, CS Nagendra D Rao and CS S P Kamath.

09 >> A view of the invitees, dignitaries and delegates.

11 >> National Seminar on Companies Act, 2013: Secretarial Standards – Sitting on the dais from Left: CS Ranjeet Kumar Pandey, CS Pavan Kumar Vijay, CS Mamta Binani, CS Vineet K Chaudhary, CS Alka Kapoor and CS G P Madaan.

08 >> 16th National Conference of Practising Company Secretaries - Launch of ICSI – III Joint Certificate Programme on Compliance, Governance and Risk Management in Insurance during the inaugural session of the Conference.

10 >> National Seminar on Secretarial Standards - Chief Guest Dhan Raj (Member (Technical) CLB, Kolkata Bench) addressing. Others sitting on the dais from Left: CS S K Agrawala, Vijay Kumar Jhalani, CS Atul H. Mehta, CS Mamta Binani, CS Pavan Kumar Vijay and CS Sunita Mohanty.

12 >> SIRC – Bangalore Chapter – 40th Regional Conference of Company Secretaries on Meeting the Challenges – Setting the Standards – Inauguration – Standing from Left: Chief Guest N. Sivasailam (Additional Chief Secretary to Govt. Public Enterprises Department, Govt. of Karnataka), CS Nagendra D. Rao, CS Mamta Binani, Suresh Senapathy (Board Member of Wipro Enterprises Pvt. Ltd. & Wipro GE Health Care Ltd., Bangalore), CS Gopalakrishna Hegde, CS Ahalada Rao V and CS Dattatri H.M.



Articles

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Vicarious liability of Directors under Various Laws: Offence under Companies Act 1956 and applicability of Companies Act, 2013

» P-11

P. K. Mittal

In this Article an attempt has been made to define the liability of Directors under the Companies Act, 2013. A reference has also been made to the latest judgment of the Supreme Court wherein, the Supreme Court, for the first time, has given substantial relief from prosecution of Directors in the event of contravention of the provisions of the Companies Act and also in the Complaint under section 138 of Negotiable Instruments Act on account of dishonour of cheque. Prior to this judgment, the Supreme Court has been directing the Director to prove his innocence at the time of leading evidence even if his case is that he has resigned as Director even before the accrual of cause of action.

Decoding Related Party Transactions under Companies Act 2013.

» P-17

Anagha Anasingaraju & Hrishikesh Wagh

The Companies Act, 2013 has brought about a sea change in the approach to related party transactions under corporate laws. With the tremendous widening of the scope of transactions covered by the Act, it will not be an exaggeration to say that almost no transaction with a related party is left out from the scope of the section. Is that so? Let us try and understand the nature, scope and nuances of related party transactions under the Companies Act, 2013.

Judicial Intervention against Arbitral Award and Power of Court to Grant Interim Protection

» P-28

Vineet Sawhney

This article has been scripted mainly to highlight the inordinate delays befalling execution of the awards granted by the arbitrators, jointly appointed by both parties with mutual consent. The main objective of having an Alternate Dispute Resolution was to have an effective redressal mechanism which can take the load off the Indian judiciary. On the contrary, it has been witnessed that the parties against whom the verdict has been given misuses the provisions of section 34 to appeal against the award given. The article also cogently explains the finer attributes of a domestic and a foreign award and how unlike a domestic award there is no procedure for setting aside a foreign

award. It further elucidates how it is challenging to enforce the foreign award in India. Nonetheless, judicial intervention is vital to restrain the arbitrator from surpassing his powers and to annul the award in case the arbitrator has assumed jurisdiction not possessed by him. The interim measures of the Court, however, in all such cases are subject to restrictions as stated in section 9 of the Arbitration and Conciliation Act, 1996. The same has been illustrated in the article.

Accounting for Business Combinations: An IFRS & Ind-AS Perspective

» P-34

Prof. J P Singh

This article provides an analysis of the current status and methodology of merger accounting as prescribed by the International Accounting Standards Board. Taking up the issue from IFRS 3 (2004), the author has critically evaluated the provisions of the various pronouncements on the subject. The points of up-gradation introduced by IFRS 3 (2008) over its prior version were highlighted and the contentious and controversial issues emanating from IFRS 3 (2008) were also discussed. Issues related to the convergence of IFRS 3 (2008) with SFAS 141(R) of the United States and various strategic implications of IFRS 3 (2008) are also presented.

Vicarious Liability of Directors in Case of Dishonor of Cheque By a Company: Critical Analysis of Gunmala Sales Case

» P-44

Murtuza Bohra

The article contemplates to present up-to-date analysis of the cases relating to the vicarious liability of the directors in cases of dishonor of cheques by companies. The trend is increasing where the cheques which are issued by a corporate body is dishonoured and complaints under section 138 read with section 141 of Negotiable Instruments Act, 1881 are being filed implicating directors of the company. The supreme court has recently in matter of Gunmala Sales case discussing plethora of cases upon the subject has laid down new principles as to when the complaints implicating the directors in such cases can be quashed against the director.

The Black Money Act - is It a Panacea?

» P-50

Sudipto Banerjee & Abhishek Anand

The Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 has attracted criticism and appreciation alike. Experts have mostly embraced extreme positions i.e., either it has been branded as draconian piece of law or completely ineffective. Yet, the fact of the matter is that the Act has come into operation from July 1, 2015. This article



attempts to take a balanced approach to understand the finer nuances of this legislation and to decipher what exactly we stand to gain from this enactment. The article tries to understand the reason why tax evasion has been brought within the scope of money laundering and whether it has any relationship with international conventions. The grey areas in the legislation and the ground realities are also briefly analyzed in this article for holistic understanding of the subject.

Legal World

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▶ LW:72:09:2015 Having considered the illegality and irregularity committed in the auction sale of the property, the entire process is vitiated. Further we are of the view that the Company Judge also failed to exercise its judicial discretion to see that the properties are sold at a reasonable price.[SC]

▶ LW:73:09:2015 The Division Bench in our view came to a correct conclusion that the Official Liquidator does not have jurisdiction to ascertain or adjudicate the claim of a secured creditor who has been permitted by the Company Judge to stand outside the liquidation proceeding with liberty to pursue its remedy as per statutory rights available under the SFC Act, subject only to the conditions imposed by the court.[SC]

▶ LW:74:09:2015 The highest bid of the appellant herein was accepted by the Company Court and all the stake-holders of the company in liquidation were heard before such an acceptance. Nobody ever objected including the first respondent herein at that stage on any ground whatsoever, such as, that there was any fraud or irregularity in the sale nor was there any objection from any one of them that the price offered by the appellant herein was inadequate. No doubt, the property in question became more valuable in view of the subsequent development. In our opinion, it is not a relevant consideration in determining the legality of the order dated 17.12.2013.[SC]

▶ LW:75:09:2015 CCI dismisses the complaint of the dealer of automobiles. LW:76:09:2015 On proper construction of this indenture of mortgage it can safely be regarded as 13 distinct transactions which falls under Section 5 of the Act. [SC]

▶ LW:77:09:2015 We uphold the High Court's finding that the subject Regulatory Fees intended to prevent the conversion of alcoholic liquor for industrial use to that for human consumption is legal, and need not be strictly quid pro quo as long as it is not excessive.[SC]

▶ LW:78:09:2015 It is on this basis, a finding of fact is arrived at by all the three Authorities that the activity undertaken by the appellant

amounts to "manufacture" since the end result of the process or activity resulted in new and different commercial product.[SC]

▶ LW:79:09:2015 The upshot of the aforesaid discussion would be to hold that Close-Up Whitening dental cleaner is not a 'toothpaste' but other form of dental hygiene and, therefore will have to be classified as such.[SC]

▶ LW:80:09:2015 Considering the number of years which the appellant worked with the respondent and the facts and circumstances of the case, we are of the view that the interest of justice would be met if the compensation of Rs.1,00,000/- is enhanced to Rs.5,00,000/- which is inclusive of the compensation awarded by the High Court.[SC]

From the Government

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▶ The Companies (Management and Administration) Amendment Rules, 2015

▶ Implementation of the Multilateral Competent Authority Agreement and Foreign Account Tax Compliance Act

▶ Guidance Note on SEBI (Prohibition of Insider Trading) Regulations, 2015

▶ SEBI Board Meeting

▶ Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2015

▶ Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2015

▶ Securities and Exchange Board of India (Delisting of Equity shares) (Second Amendment) Regulations, 2015

▶ Securities and Exchange Board of India (Alternative Investment Funds) (Amendment) Regulations, 2015

▶ Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Fifth Amendment) Regulations, 2015

▶ Securities And Exchange Board of India (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2015

▶ Monthly Report For Clearing Corporations

▶ Formats under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (Regulations)

▶ Introduction of Composite Caps for Simplification of Foreign Direct Investment (FDI) policy to attract foreign investments

Other Highlights

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- ▶ Members Admitted / Restored
- ▶ Certificate of Practice Issued / Cancelled
- ▶ Licentiate ICSI Admitted
- ▶ Company Secretaries Benevolent Fund
- ▶ Our Members



From the President



“Every day is a new opportunity. You can build on yesterday's success or put its failures behind and start over again. That's the way life is, with a new game every day..”

- Bob Feller



Dear Professional Colleagues,

Today, the world economy is experiencing remarkable transformations, primarily due to the increased competition coupled with intertwined trade paradigms. In last two weeks we have witnessed how sluggish growth expectations in the Chinese economy are having spiraling effect on the global economy leading to volatility in major currencies and stock markets across the globe.

As an initiative to explore emerging areas of practice and enhance the quality of services provided by Company Secretaries, the Institute organizes National Conference of Practicing Company Secretaries, every year. I am happy to inform that this year, the 16th National Conference of Practicing Company Secretaries on the theme "PCS - Calibrating Competence for Achieving Excellence" was successfully organized at Kochi on August 13-14, 2015. The Conference was attended by 350 delegates and other dignitaries. Shri Justice (Retd.) P. Sathasivam, Hon'ble Governor of Kerala was the Chief Guest and inaugurated the

Conference. Shri Oommen Chandy, Hon'ble Chief Minister of Kerala was the Chief Guest and Shri Benny Behanan, Member of Legislative Assembly, Kerala was the Guest of Honour at a Special Session on grooming for startups - Role of CS organised on August 14, 2015. Prof. K. V. Thomas, Member of Parliament, Ernakulam Constituency was the Chief Guest and Shri Ali Asgar Pasha, IAS, Managing Director, Kerala Tourism Development Corporation Ltd. (KTDC) was the Guest of Honour at the Valedictory Session. The technical sessions at the Conference were very informative, offering insights and perspectives about the emerging opportunities for Practicing Company Secretaries. The Conference served as a platform for mutual exchange of ideas and sharing of experiences among the professionals from across the country.

To spread awareness in respect of Secretarial Standards, the Institute proposes to organise various programmes including Seminars, Webinars, etc. In this direction, the



Institute has organised National Seminars on Secretarial Standards at Delhi on August 8, 2015 and at Kolkata on August 22, 2015 and a Webinar on Secretarial Standards with focus on General Meetings and Small Companies on August 19, 2015.

The Institute has also launched a free online assessment for members on “Secretarial Standards” in collaboration with NSEIT. This online assessment was launched by the gracious hands of Shri Oommen Chandy, Hon’ble Chief Minister of Kerala on August 14, 2015 at Kochi at the 16th National Conference of PCS. A Member successfully completing the assessment test shall be granted Programme Credit Hours as per ICSI Guidelines. I am sure the online assessment would be beneficial for our members.

The Institute is in the process of bringing out the Guidance Notes on Secretarial Standards. The Board’s Report for the financial year 2014-15 of most companies are now available and therefore, the Secretarial Audit Report is also available. The Institute is analysing the Secretarial Audit Reports and it observed that most of them have adhered to the MR-3 format. However, as regards the scope with reference to other laws applicable specifically to the company, the preliminary analysis indicates a divergent practice. We need to address these issues.

I would like to re-emphasize, that as reporting on compliance of ‘Other laws as may be applicable specifically to the Company’ shall include all the laws which are applicable to specific industry for example for Banks – all laws applicable to Banking Industry; for insurance company – all laws applicable to insurance industry; likewise for a company in petroleum sector – all laws applicable to petroleum industry; similarly for companies in pharmaceutical sector, cement industry, etc. We should ensure that this opportunity of Secretarial Audit must be tapped in the best manner so that there is value creation for the corporates as well as the Company Secretaries in Practice. The onus of this is both on Company Secretaries in Practice and the Company Secretaries in Employment.

With numerous regulatory changes likely to take place, the time has come for practising members to strengthen the quality of services to provide requisite assurance to the

corporate sector and the regulatory authorities. It is hoped that Peer Review mechanism will rejuvenate Practising Company Secretaries and help them raise the bar and usher in an improved level of professional excellence. The ICSI has been organizing Training Programs for Peer Reviewers across the country. A Resource Pool of Reviewers is being created. I am pleased to inform that a Training Programme for Peer Reviewers is scheduled to be held at Jaipur on 6th September, 2015. Members fulfilling the criteria to be empanelled as a Peer Reviewer may participate in the training programme and take benefit from this knowledge enhancing initiative of the Institute.

Continuing Professional Education (CPE) facilitates the members in keeping them abreast of latest developments, widening their knowledge base and improving their skills to maintain the cutting edge by providing training and expertise in critical areas. ICSI, with a view to enable its members to maintain high standards of professional services, had issued Guidelines for Compulsory Attendance of Professional Development Programmes by the Members which came into effect from January 1, 2003. Keeping in view the growing importance of CPE the Council of the Institute has adopted and implemented Continuing Professional Education (CPE) Policy for its members with effect from April 1, 2014. All members in practice; All members in employment [in respect of whom Form 32 (in terms of the provisions of the Companies Act, 1956)/DIR-12 (in terms of the provisions of the Companies Act, 2013) has been filed by the companies] are required to meet the CPE credit requirement.

It has been observed that many of the members are yet to complete the mandatory programme credit hours for the first year of the block ended on March 31, 2015. Accordingly, members are advised to obtain the mandatory PCH by attending approved learning programmes or undertaking unstructured learning activities.

I am happy to inform that the results of the Company Secretaries Executive and Professional Examination held in June 2015 have been declared. This time, the first rank holder for Professional and Executive programme are Ms. Avani Mishra and Ms. Eti Agarwal respectively. It is encouraging to note that both the first rank holders are girl candidates. I congratulate them and all the candidates who



From the President

have cleared the examinations. However, for those who could not succeed this time, I would quote the motivating words by Robert Kiyosaki “Losers quit when they fail. Winners fail until they succeed.” I advise the students to keep up the spirits, I am sure you will succeed eventually. All the best!

The Companies Act, 2013 has conferred a special status to Company Secretary as the ‘Key Managerial Personnel’. CS professionals are in great demand and to cater to these requirements, ICSI has launched a “15 days Academic Program” to provide industry ready CS professionals to the corporate world. This shall be applicable for all CS students who have passed their Executive Program on or after 25th August, 2015.

The Institute is committed to the promotion of corporate governance and it has been recognizing the governance initiatives of the corporate and presenting Awards for Excellence in Corporate Governance every year. In its fifteenth year the ICSI National Awards for Excellence in Corporate Governance unfolds another edition to identify, foster and cherish the culture of good governance, by recognising best governed companies, in the categories; Two awards for best governed listed Companies, two awards for best governed listed SMEs and three Certificates

of Recognition to Listed Companies for adoption of exemplary corporate governance practices. The Institute is inviting the participation from corporates. Companies are required to respond to a questionnaire which has been completely simplified and are available on the website of the Institute. The last date for sending nominations is September 15, 2015. I urge all of you to ensure the participation of the companies you are associated with.

Friends, as I have earlier mentioned that India has lot of opportunities, the need of the hour is to provide conducive environment to promote new entrepreneurs, business models and ways of doing businesses. Special emphasis is also required to be placed on the corporate governance, transparency, corporate sustainability and digitisation. New paradigm necessitates us to develop our understanding about the prevailing forces of change so that we are able to provide high value services to our stakeholders.

With kind regards,

September 4, 2015.

Yours sincerely,

(CS ATUL H MEHTA)
president@icsi.edu

ATTENTION MEMBERS

43RD NATIONAL CONVENTION OF COMPANY SECRETARIES

Days & Dates: Thursday-Friday-Saturday, December 17-18-19, 2015

Venue: Kempinski Ambience Hotel, 1, CBD, Maharaja Surajmal Road, Near Yamuna Sports Complex, Delhi - 110032

All Members are requested to block these dates. The details are being finalised and will be hosted on the ICSI website in due course.



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Vicarious Liability of Directors under Various Laws: Offence under Companies Act 1956 and applicability of Companies Act, 2013

- In this Article, an attempt has been made to amplify and explain the extent of vicarious liability of non-executive ordinary director of a Company not only under the Companies Acts, 1956, 2013 but also under various other Corporate Laws.

The Blacks Law Dictionary defines 'vicarious liability' as follows: "Liability that a supervisory party (such as an employer) bears for the actionable conduct of a subordinate or associate (such as an employee) because of the relationship between the two parties. So, through the above definition, it can be inferred that the person supervising the driver through the principle of respondent superior should pay for the damages of the victim."

The Delhi High Court in the case of *Moongipa Securities Ltd v. ACIT* MANU/DE/4327/2013 has explained the principle of "vicarious liability" as under:-

"Jurisprudentially, the person is actionable and responsible for himself, for what he does and not for what others do or for events or acts of others. Family *per se* or a spouse is not actionable or responsible for other family members and for the spouse. Doctrine of vicarious liability is not of general application and is applied in cases of statutory crimes. Normally, there are specific provisions



in the statute which imposes an obligation which are invoked to fasten vicarious liability."

* Immediate Past Central Council Member, the ICSI.



Article

Vicarious Liability of Directors under Various Laws: Offence under Companies Act 1956 and applicability of Companies Act, 2013

➤ The certified copy of Form No.32, if brought on record of the case it establishes that the person has resigned as a Director. In case the offence has been committed after the date of cessation as a Director, that person cannot be arrayed as accused person in the criminal complaint by the complainant by invoking the principle of vicarious liability.

RESIGNED DIRECTOR: ACCEPTABILITY OF FORM 32

Often, it is seen that prosecuting agencies, without carefully examining as to who are the directors of company against whom complaint is required to be filed, make all the directors as “accused” in the complaint and such accused persons shall have to undergo trial before the Metropolitan Magistrate although one may have already resigned as a Director of such company. In fact, in the past, there were a number of judgments which invariably say that the fact of filing Form No.32 is required to be proved during trial and such director shall have faced the whole trial. The petition so filed, for quashing of criminal complaint, at this stage, were held not maintainable and were dismissed. Of late, the Supreme Court has appreciated the difficulties of such Directors and has accepted Form No.32 as undisputed fact about his cessation as a Director of the company and have given the benefit of his cessation as a Director of such Company. There are two judgments of the Court.

The Supreme Court in the case of *Gunmala Sales (P) Ltd v. Anu Mehta* MANU/SC/0959/2014 has observed thus on the issue of filing of Form No.32 by company upon resignation of a director of such Company:

“It is fairly settled now that while exercising inherent jurisdiction under Section 482 or revisional jurisdiction under Section 397 of the Code in a case where complaint is sought to be quashed, it is not proper for the High Court to consider the defence of the accused or embark upon an enquiry in respect of merits of the accusations. However, in an appropriate case, if on the face of the documents which are beyond suspicion or doubt placed by the accused, the accusations against him cannot stand, it would be travesty of justice if the accused is relegated to trial and he is asked to prove his defence before the trial court. In such a matter, for promotion of justice or to prevent injustice or abuse of process, the High Court may look into the materials which have significant bearing on the matter at *prima facie* stage.

Criminal prosecution is a serious matter; it affects the liberty of

a person. No greater damage can be done to the reputation of a person than dragging him in a criminal case. In our opinion, the High Court fell into grave error in not taking into consideration the uncontroverted documents relating to the Appellant's resignation from the post of Director of the Company. Had these documents been considered by the High Court, it would have been apparent that the Appellant has resigned much before the cheques were issued by the Company.”

The Delhi High Court in case of *Kamal Goyal v. United Phosphorus Ltd.* MANU/DE/0285/2010 has relied upon Form No.32 to establish cessation of a person as a Director of the Company. In taking a view that certified copy of Form 32 being a public document, authenticity of which had not been disputed, it could be considered in proceedings under Section 482 of the Code of Criminal Procedure, the Court also relied upon the decision of the Supreme Court in *All Cargo Movers (I) Pvt. Ltd. v. Dhanesh Badarmal Jain and Anr.* (2007) 12 SCALE 39, *V.Y. Jose and Anr. v. State of Gujarat and Anr.* 2009 I AD SC 567, and *Minakshi Bala v. Sudhir Kumar* MANU/SC/0702/1994 : (1994) 4 SCC 142.

The analysis of these judgments would reveal that where the certified copy of Form No.32, if brought on record of the case it establishes that the person has resigned as a Director. In case the offence has been committed after the date of cessation as a Director, that person cannot be arrayed as accused person in the criminal complaint by the complainant by invoking the principle of vicarious liability.

The principle of vicarious liability has been succinctly explained by the Supreme Court in some of the landmark cases viz. (a), *SMS Pharmaceuticals Ltd v. Neeta Bhala* MANU/SC/0622/2005 (b) *Saroj Kumar Poddar v. NCT of Delhi* MANU/SC/0711/2007 (c) *N.K. Wahi v. Shekhar Singh* MANU/SC/1198/2007, (d) *K.K. Ahuja v. V K Arora* MANU/SC/1111/2009 and (e) *National Small Industries Corporation Limited v. H S Paintal* MANU/SC/0112/2010. The





position which emerges can be summarized thus:

- (i) The primary responsibility is on the complainant to make specific averments as are required under the law in the complaint so as to make the accused vicariously liable. For fastening the criminal liability, there is no presumption that every Director knows about the transaction.
- (ii) Section 141 does not make all the Directors liable for the offence. Criminal liability can be fastened only on those who, at the time of the commission of the offence, were in charge of and were responsible for the conduct of the business of the company.
- (iii) Vicarious liability can be inferred against a company registered or incorporated under the Companies Act, 1956 only if the requisite statements, which are required to be averred in the complaint/petition, are made so as to make the accused therein vicariously liable for offence committed by the company along with averments in the petition containing that accused were in-charge of and responsible for the business of the company and by virtue of their position they are liable to be proceeded with.
- (iv) Vicarious liability on the part of a person must be pleaded and proved and not inferred.
- (v) If the accused is a Managing Director or a Joint Managing Director then it is not necessary to make specific averment in the complaint and by virtue of their position they are liable to be proceeded with.
- (vi) If the accused is a Director or an Officer of a company who signed the cheques on behalf of the company then also it is not necessary to make specific averment in complaint.
- (vii) The person sought to be made liable should be in charge of and responsible for the conduct of the business of the company at the relevant time. This has to be averred as a fact as there is no deemed liability of a Director in such cases.

VIOLATION OF COMPANIES ACT, 1956

The Delhi High Court in the case of *Vikas Pahwa v. State* MANU/DE/1076/1996 has made very interesting observations on the liability of a person who has been arrayed as Accused person in the complaint/charge sheet:

"I have repeatedly gone through the record. Attentively and minutely. I find nothing which may go to suggest even obliquely that the petitioner is the Director of the company. But then let us take it that he is the Director. I have not been able to discern any material which may go to suggest, directly or indirectly, that he was in charge of and was responsible to the company for the conduct of the business. I must say that I have also failed to discern any material which may go to show that the alleged offence was committed with

the consent or connivance of, or was attributable to any neglect on the part of the petitioner. I confess being myopic. Age seems to have taken its toll. But then even the learned counsel for the parties young in age and bright of eyes, have failed to discern any such material. How can, under the circumstances, the roping in of the petitioner be justified? As if all this was not enough I have failed and so also the counsel for the parties to find any material which might implicate the petitioner in the theft of electricity. This being the position the charge framed against the petitioner must fail. In short thus, the petition succeeds with the result that the charge as framed against the petitioner is hereby quashed".

The Delhi High Court in the case of *Luk Auto Ancillar India Ltd v. Laxmi Narain Raina* MANU/DE/1065/1999 discharged the ex-director of the company from his obligation when the company was in liquidation although Form No.32 was not filed but on record of the ROC, the resignation of such director was lying. In view of the fact that the letter of resignation, as sent to the Registrar of Companies, was not rejected and the fact that after the receipt of the said letter no prosecution is stated to have been launched against him, presumably in terms of the aforesaid circular issued by the Department of Company Affairs, the non-furnishing of Form No. 32 by applicant No. 2 was held to be of no consequence.

LIABILITY OF DIRECTORS UNDER SECTION 415 AND 409 AND OTHER PROVISIONS OF INDIAN PENAL CODE

In the case of *GHCL Employees Stock Option Trust v. Kranti Sinha* MANU/SC/0271/2013 : (2013)4 SCC 505, the Managing Director and Joint Managing Director, and the Company along with its Directors were prosecuted for the offences punishable under Sections 120-B,415 and 409 read with Section 34 of the Indian Penal Code. A process was issued by the Metropolitan Magistrate against all the accused including the Managing Director. The Managing Director and Directors filed a petition before





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the High Court of Delhi challenging the issuance of summons against the Company, the Managing Director of the Company, Company Secretary and Directors of the Company. The High Court of Delhi quashed the process issued against the Managing Director, Company Secretary and Directors of the Company and upheld the order of process issued against the Company. The matter was carried to the Supreme Court by the complainant. The Supreme Court while disposing of the appeal had made following observations in paragraph 19 of the said judgment:

"19. In the order issuing summons, the learned Magistrate has not recorded his satisfaction about the *prima facie* case as against Respondents 2 to 7 and the role played by them in the capacity of Managing Director, Company Secretary or Directors which is *sine qua non* for initiating criminal action against them. Recently, in *Thermax Ltd. v. K.M. Johny* while dealing with a similar case, this Court held as under : (SCC p.429, paras 38 and 39):

"38. Though Respondent No. 1 has roped all the appellants in a criminal case without their specific role or participation in the alleged offence with the sole purpose of setting his dispute with the appellant Company by initiating the criminal prosecution, it is pointed out that Appellants 2 to 8 are the ex-Chairperson, ex-Directors and senior managerial personnel of Appellant 1 Company, who do not have any personal role in the allegations and claims of Respondent 1. There is also no specific allegation with regard to their role.

39. Apart from the fact that the complaint lacks necessary ingredients of Sections 405, 406, 420 read with Section 34 IPC, it is to be noted that the concept of 'vicarious liability' is unknown to criminal law. As observed earlier, there is no specific allegation made against any person but the members of the Board and senior executives are joined as the persons looking after the management and business of the appellant Company."

The Supreme Court in the case of *Maksud Saiyed v. State of*



Gujarat and Ors. MANU/SC/7923/2007 : (2008) 5 SCC 668 first examined the question of vicarious liability in criminal cases and summed up the legal position in the following words:

"Where a jurisdiction is exercised on a complaint petition filed in terms of Section 156(3) or Section 200 of the Code of Criminal Procedure, the Magistrate is required to apply his mind. The Penal Code does not contain any provision for attaching vicarious liability on the part of the Managing Director or the Directors of the Company when the accused is the Company. The learned Magistrate failed to pose unto himself the correct question viz. as to whether the complaint petition, even if given face value and taken to be correct in its entirety, would lead to the conclusion that the Respondents herein were personally liable for any offence. The Bank is a body corporate. Vicarious liability of the Managing Director and Director would arise provided any provision exists in that behalf in the statute. Statutes indisputably must contain provision fixing such vicarious liabilities. Even for the said purpose, it is obligatory on the part of the complainant to make requisite allegations which would attract the provisions constituting vicarious liability".

LIABILITY UNDER SECURITIES EXCHANGE BOARD OF INDIA ACT

The Delhi High Court in the case of *S.S. Thakur v. SEBI MANU/DE/1024/2013*, dealing with the issue of vicarious liability of ordinary director for violation of SEBI Act, has observed as under:

"As far as the appellant Mr. P.S. Chaudhary, he being the Managing Director of the Company, was the person primarily concerned with managing the business of the Company. Being the Managing Director, he would be involved in day-to-day business of the Company and raising funds from the investors under the Collective Investment Scheme floated by the Company. Therefore, he would certainly be a person in-charge of and responsible to the Company for conduct of its business. Mr. Chaudhary does not even claim that the contravention of sub section (1B) of Section 12 of SEBI Act and the CIS Regulation of SEBI was committed by the company without his knowledge or that he had exercised all due diligence to prevent the commission of the said offence by the company. In these circumstances, it can hardly be disputed that being the Managing Director and person in-charge and responsible to the Company for conduct of its business, he is vicariously liable for the contravention of the provisions of SEBI Act and the Regulations framed thereunder. Therefore, no fault can be found with his conviction".

"22. However, as far as the other appellants are concerned though there is evidence in the form of the reply sent by the Company through Shri P.S. Chaudhary to show that they were Directors of the Company, there is no evidence which would show that they were also in charge of and responsible to the Company for conduct of its business. For conviction of the appellants other than Shri P.S.



➤ Section 465(2) (b)(d) of the Companies Act, 2013 clearly saves what has been done under the Companies Act, 1956. Sub-Section (3) of Section 465 of 2013 further says that if anything is not mentioned in sub-section (2) of Section 465, it shall not effect the applicability of Section 6 of General Clauses Act. In other words, the full effect has been given to Section 6 General Clauses Act.

Chaudhary, SEBI was required to prove not only that they were Directors of the Company at the relevant time, but also that they were the persons in charge of and responsible to the Company for conduct of its business. No evidence to this effect, however, has been led by SEBI this is also not the case of the SEBI that the offence by the Company was committed with the consent and connivance of the appellants other than Mr. P.S. Chaudhary and is attributable to some neglect on their part. In these circumstances the conviction of the appellants, Mr. D.S. Thakur, Mr. S.S. Thakur and Mr. Roop Lal Kaundal cannot be sustained”.

VICARIOUS LIABILITY UNDER FERA

The Delhi High court in the case of *Arun Sood v. P K Roy* MANU/DE/4062/2012 has observed as under:-

“A perusal of the Section 68 FERA would show that in case the amount of penalty remains unrealized then all the persons who are in-charge or responsible for the conduct of the business are liable to be proceeded against under Section 68(2) of the Act. The said provision is at *pari materia* with Section 141 of the Negotiable Instruments Act. This necessarily takes the Court back to the complaint which has been filed by the respondent no. 1 against the present petitioner. In case one sees the complaint filed by the respondent no. 1, the name of the present petitioner has been mentioned in the title which has been shown as a Director then his name is to be mentioned in the complaint. There is not even an iota of averment that the present petitioner was in-charge of and responsible for the conduct of the business of the company at the time when the contravention, in respect of which the penalty was imposed, took place”.

The Delhi High Court in the case *Rakesh Jain v. Union of India* MANU/DE/2380/2014, while dealing with the provisions of Foreign Exchange Regulation Act, has observed as under:-

“The wording of Section 68 FERA is identical to the wording of Section 141 of the Negotiable Instruments Act, 1881 ('NI Act') with

the only difference being that the above provision in the NI Act is penal in nature whereas Section 68 FERA, although its title 'Offences by Companies' talks of contravention by companies. It was explained by the Supreme Court in *Aneeta Hada v. Godfather Travels and Tours (P) Ltd.* MANU/SC/0335/2012 : (2012) 5 SCC 661, in the context of Section 141 NI Act that in the absence of making the company, which issued the dishonoured cheque, an accused, vicarious liability cannot be fastened under that provision on the directors of the company. On the same analogy it can be concluded that for the purposes of Section 68 FERA, where the contravention is by a company, liability cannot be fastened on its directors if the company itself is not proceeded against.

LIABILITY UNDER DRUG & COSMETICS ACT

The Bombay High Court in the case of *State of Goa v. Shivani Laboratories* (Criminal Appeal No.46 of 2012) while dealing with the liability of director under the Drugs & Cosmetics Act, has observed as under:

“19. it is clear beyond doubt that it was mandatory to make averment in the complaint to the effect that the accused no. 5 was in charge of and responsible to the accused no. 1 for the conduct of its business. The extent of the responsibility/control, etc., if found necessary, could have been brought in oral evidence and proved. In the absence of said mandatory averment in the complaint, the question of proceeding against the accused no. 5, did not at all arise. Section 34(1) of the Act requires that every person, who at the time the offence was committed, was in charge of and was responsible for the conduct of the business of the company as well as the company should be proceeded against. Proceedings cannot lie only against the Company.

DATE OF COMMISSION OF OFFENCE – WHICH LAW SHALL APPLY

The Supreme Court in *S.M.S. Pharmaceuticals v. Neeta Bhalla* MANU/SC/7125/2007 had occasion to consider the liability of a Director of an accused company. The Apex Court therein held as follows:

“The liability of a Director must be determined on the date on which the offence is committed. Only because Respondent 1 herein was a party to a purported resolution dated 15-2-1995 by itself does not lead to an inference that she was actively associated with the management of the affairs of the Company. This Court in this case has categorically held that there may be a large number of Directors but some of them may not associate themselves in the management of the day-to-day affairs of the Company and, thus, are not responsible for the conduct of the business of the Company.

In *CIT v. Shah Sadiq & Sons* MANU/SC/0351/1987: 1987 (3) SCC 516, it was observed by the Supreme Court that "a right which had accrued and had become vested continued to be capable of



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being enforced notwithstanding the repeal of the statute under which that right accrued unless the repealing statute took away such right expressly or by necessary implication." The Supreme Court further held " In other words, whatever rights are expressly saved by the 'savings' provision stand saved. But, that does not mean that rights which are not saved by the 'savings' provision are extinguished or stand *ipso facto* terminated by the mere fact that a new statute repealing the old statute is enacted. Rights which have accrued are saved unless they are taken away expressly. This is the principle behind Section 6(c) of the General Clauses Act, 1897."


In *State of Punjab v. Mohar Singh Pratap Singh*: AIR 1955 SC 84 wherein, the Supreme Court held:-

"8. But when the repeal is followed by fresh legislation on the same subject we would undoubtedly have to look to the provisions of the new Act, but only for the purpose of determining whether they indicate a different intention..."

In *Jayantilal Amrathlal v. The Union of India*: MANU/SC/0043/1971: 1972 (4) SCC 174, the Supreme Court observed as under:

"In order to see whether the rights and liabilities under the repealed law have been put to an end by the new enactment, the proper approach is not to, enquire if the new enactment has by its new provisions kept alive the rights and liabilities under the repealed law but whether it has taken away those rights and liabilities. The absence of a saving clause in a new enactment preserving the rights and liabilities under the repealed law is neither material nor decisive of the question".

It may be seen that Section 465(2) (b)(d) of the Companies Act, 2013 clearly saves what has been done under the Companies Act, 1956. Sub-Section (3) of Section 465 of 2013 further says that if anything is not mentioned in sub-section (2) of Section 465, it shall not effect the applicability of Section 6 of General Clauses Act. In other words, the full effect has been given to Section 6 of General Clauses Act.

In substance, provisions fastening the liability of director by invoking the principle of vicarious liability is almost similar in all laws. The vicarious liability of a director depends upon the allegations made in the complaint against such director and *prima-facie* sought to be proved by way of documents filed along with the complaint. 

Appointment

REQUIRED

A FULL TIME

“ COMPANY SECRETARY & FINANCIAL CONTROLLER”

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Qualification and Experience : Membership of Institute of Company Secretaries of India is a mandatory requirement. Membership of the Institute of Chartered Accountants of India (ICAI) or ICWA or Inter CA with strong Accounting knowledge with 8-10 years of total experience, including at least 5 years in a manufacturing environment.

Job Location : Sanand, Gujarat (80 Kms from Ahmedabad)

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Decoding Related Party Transactions under Companies Act 2013

- Related Party Transactions are covered by the provisions of section 188 of the Companies Act 2013 and the Companies (Meetings of Board and its powers) Rules, 2014. There are two essentials for transactions to get hit by this section. Firstly, the transaction should be between a company on one side and a 'related party' on the other. Secondly, the transaction should be one that is covered by the type of transactions listed under this section. It can thus be said that any of the specified transactions with a related party is a related party transaction.

WHO IS A 'RELATED PARTY'

The term 'related party' is defined under section 2(76) of the Companies Act 2013. On a detailed analysis of the section, one can infer that the following are related parties for the purposes of the Companies Act 2013:

1. A director
2. Relative of director
3. KMP
4. Relative of KMP
5. Firm in which director is a partner
6. Firm in which manager is a partner
7. Firm in which relative is a partner
8. Private company in which director is a member
9. Private company in which director is a director
10. Private company in which manager is a member

11. Private company in which manager is a director
12. Private company in which relative is a member
13. Private company in which relative is a director





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14. Public company in which director is a director and holds more than 2% of paid up capital, along with relatives
15. Public company in which manager is a director and holds more than 2% of paid up capital, along with relatives
16. Body corporate whose BOD / MD / Manager accustomed to act in accordance with instructions of director / manager#
17. Person on whose advise director or manager is accustomed to act
18. A holding company*
19. A subsidiary company*
20. An associate company*
21. A subsidiary of a holding company to which it is also a subsidiary i.e. a fellow subsidiary*
22. Director of holding company
23. KMP of holding company

*Attention is drawn to this category of related party which is likely to be overlooked. To understand this category with the help of an example.

X Private Limited is a wholly owned subsidiary of XY GmbH Co & KG, Germany, which is a registered partnership. The owner of XY GmbH, Mr. X, is a director of X Private Limited. In this case, XY GmbH is the body corporate whose Board of directors / Managing Director / Manager is accustomed to act in accordance with instructions of director of X Private Limited, Mr. X and hence a related party.

* Not applicable to a private company with effect from 05 June 2015.

Thus, with effect from 05 June 2015, a holding / subsidiary / associate / fellow subsidiary company of a private company shall not be its related party. This will make it easier for private companies to do about their daily operations.

Comparison with definition under AS-18

Accounting Standard 18 about Related Party Disclosures defines the term 'related party' as:

"parties are considered to be related if at any time during the reporting period one party has the ability to control the other party or exercise significant influence over the other party in making financial and / or operating decisions."

Thus, it can be seen from the definition that for the purposes of AS-18, the most important factor in deciding whether a party is related or not, is control or significant influence. Under AS-18, the terms 'control' and 'significant influence' are defined as below:

"Control – (a) ownership, directly or indirectly, of more than one half of the voting power of an enterprise, or (b) control of the composition of the board of directors in the case of a company or

of the composition of the corresponding governing body in case of any other enterprise, or (c) a substantial interest in voting power and the power to direct by statute or agreement, the financial and/ or operating policies of the enterprise."

"Significant Influence – participation in the financial and / or operating policy decisions of any enterprise, but not control of those policies."

Companies Act 2013 defines the term 'control' in section 2(27) as under:

"Control shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner."

The term 'significant influence' has been explained with reference to the definition of 'associate company' in section 2 (6) of Companies Act 2013:

"Explanation – For the purposes of this clause, "significant influence" means control of at least twenty per cent of total share capital, or of business decisions under an agreement."

Thus, while Companies Act 2013 gives a list of parties which may be said to be related parties with reference to a company, AS-18 refrains from making such a list. Whether a party is a related party or not for the purposes of AS-18 is decided on the facts of the case. Further, the Companies Act 2013 defines the term "control" in a manner which is similar to that under AS-18, while not restricting the shareholding to minimum 50% as under AS-18. The definition of "significant influence" however, is linked to shareholding in a company as against the definition in AS-18 which does not have any reference to shareholding.





Further, the meaning of a fellow subsidiary under Accounting Standard 18 (AS-18) is much wider than that envisaged by section 2 (76). This is because AS-18 includes all fellow subsidiaries which are bodies corporate, incorporated outside India also. AS-18 uses the term 'enterprise' to describe related party transactions. Whereas, clause (viii) of section 2(76) starts with the words "any company which is.....". This means that the scope of a related party for the purposes of clause (viii) is restricted to a company incorporated under the Companies Act.

Similarly, under clause (viii), a holding body corporate i.e. one which is incorporated outside India, would not be a related party for the purposes of section 2 (76).

The Companies Act 2013 has narrowed the list of relatives and now only the following are considered as relatives under Section 2(77) of the Act:

1. Spouse
2. Members of HUF
3. Father, including step father
4. Mother, including step mother
5. Son, including step son
6. Son's wife
7. Daughter (*please note that daughter does not include step daughter, as per definition*)
8. Daughter's husband
9. Brother, including step brother
10. Sister, including step sister

The reciprocal relationships and previous and second generation relationships which were covered under Schedule IA to Companies Act 1956 do not find place under the definition of 'relative' under Companies Act 2013 and as such the list of relatives has been curtailed. For example, father's father, son's son, sister's husband, brother's wife, etc.

WHICH ARE RELATED PARTY TRANSACTIONS

The Act, in section 188, lists out the categories of transactions which are classified as related party transactions. These are:

1. Sale, purchase, supply of goods or materials
2. Sell or otherwise dispose of, buy, property of any kind
3. Lease property of any kind
4. Avail or render any service
5. Appointment of agent for purchase or sale of goods/materials/ services/property
6. Related party's appointment to office or place of profit in the

- company / its subsidiary / its associate company
7. Underwriting subscription of any securities or derivatives of the company

Any specified transaction as above between a company and a related party would become a related party transaction governed by the provisions of Section 188 and the Rules made thereunder.

COMPARISON OF SECTIONS 297 AND 188

We are well versed with the provisions of Section 297 of the Companies Act 1956 which governed related party transactions. To understand the scheme of section 188, let us try and understand the difference between provisions of section 297 and the provisions of section 188.

1. Section 297 was applicable to transactions between two private companies; transactions between one private company and another public company – but not to transactions between two public companies.

Now, section 188 is applicable to transactions between two Public companies.

2. The main trigger under Section 297 was the presence of one or more common directors between the two parties.

Section 188 is not limited only to common directors. In fact, a director is just one of the related parties as seen in the definition. Thus, the scope of related party has been widened.

3. Section 297 did not cover transactions related to immovable property [Clarification vide Letter no. 9/41/90-CL.V dated 27 March 1990] and appointments to office or place of profit.

Section 188 specifically covers all properties – movable and immovable and also appointments to office or place of profit.

4. Section 297 stipulated government approval for transactions beyond the paid up capital of Rs. one Crore.





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➤ In cases where all the directors of a company are interested in a particular transaction, the directors should obtain shareholders' approval. This is because the directors exercise their powers by way of casting their vote at the board meeting in taking decisions. Since the directors who are interested cannot vote on the particular resolution, the directors cannot exercise their powers. The shareholders are the owners of the company and have inherent powers to do all acts and things which are delegated to the board of directors.

Companies Act 2013 has done away with government approval in this regard. There is no relation to the paid up capital. Transactions beyond specified limits require shareholders' prior approval by way of special resolution.

5. Transactions for supply / purchase of goods for cash at prevailing market rates was exempted. Similar transactions for supply / purchase of services were not exempted under section 297.

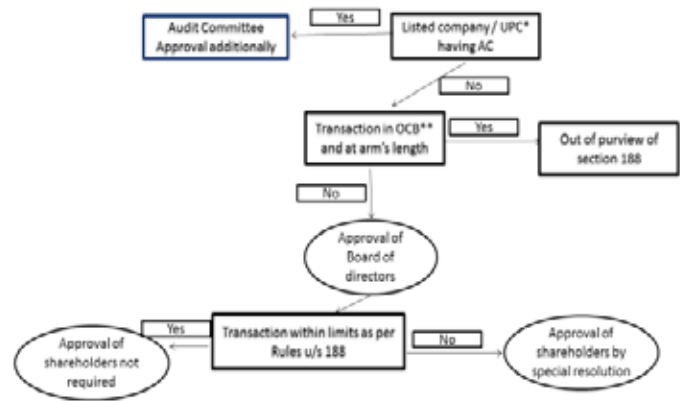
Transactions which are in ordinary course of business and at Arm's length whether for goods and services, are totally exempt from the applicability of section 188.

6. The provisions of section 297 about ratification of the contract/ arrangement within 3 months in cases of urgency, the consequences of non-disclosure of interest by the director and voidability of the contract continue to find place in section 188 also.

SCHEME OF THE SECTION

A company can enter into a specified transaction with a related party only after obtaining approval of the board / shareholders, as the case may be.

The following diagrammatic representation depicts the scheme of the section:



*UPC – Unlisted Public Company

**OCB – Ordinary Course of Business

By virtue of Amendment Act, 2015, special resolution is no longer required; the companies may pass ordinary resolution for approval of related party transactions.

APPROVAL OF THE BOARD OF DIRECTORS

The resolution of the board approving a related party transaction must be passed at a board meeting. Circular resolution is not allowed for these transactions. [Section 188 (1)]

Where the company is required to obtain approval of the board of directors, the agenda calling the board meeting should contain





➤ In cases where the company has entered into transactions without obtaining consent of the board or the shareholders, as the case may be, such transactions can be ratified by the requisite authority – board or the shareholders – within three months from the date of entering into the contract or arrangement. If the company fails to even obtain such ratification, the contract shall be voidable at the option of the Board. If such contract is with a party related to any director, or is authorized by any other director, such directors shall indemnify the company against any loss incurred by it.

particulars as stated in the section and the rules made thereunder. [Rule 15 (1)] Further, the director who is interested in the transaction, is not allowed to remain present in the meeting. [Rule 15 (2)] This means that there should be disinterested quorum at the board meeting to approve related party transactions. By virtue of Exemption to private companies, w.e.f 05 June 2015, interested directors in private companies can participate in the meeting after disclosure of interest [Section 184 (2)].

In cases where all the directors of a company are interested in a particular transaction, the directors should obtain shareholders' approval. This is because the directors exercise their powers by way of casting their vote at the board meeting in taking decisions. Since the directors who are interested cannot vote on the particular resolution, the directors cannot exercise their powers. The shareholders are the owners of the company and have inherent

powers to do all acts and things which are delegated to the board of directors [Section 179(1)]. Thus, in case of a particular resolution in which all the directors of the company are interested, the shareholders shall have the right to approve the said transaction.

APPROVAL OF THE SHAREHOLDERS

The company is required to obtain prior approval of the shareholders in cases where the transactions exceed following sums: [Proviso 1 to Sub-section 1 of Section 188 read with Rule 15 (3)]

Sr. no.	Nature of transaction	Limit prescribed
1	Sale, purchase or supply of any goods or materials directly or through appointment of agents	10% of turnover or Rs. 100 crores, whichever is lower
2	Selling or otherwise disposing of, or buying property of any kind directly or through appointment of agents	10% of net worth of the company or Rs. 100 crores, whichever is lower
3	Leasing of property or any kind	10% of net worth or 10% of turnover or Rs. 100 crores, whichever is lower
4	Availing or rendering of any services directly or through appointment of agent	10% of turnover or Rs. 50 crores, whichever is lower
5	Appointment to any office or place of profit in the company, its subsidiary company or associate company	Monthly remuneration exceeding Rs. 250,000
6	Underwriting subscription of any securities or derivatives of the company	Remuneration exceeding 1% of net worth

Turnover and net worth are to be computed as per the audited financial statements of the preceding financial year.

Turnover is defined in section 2(91) as “turnover means the aggregate value of the realization of amount made from the sale, supply or distribution of goods or on account of services rendered, or both, by the company during a financial year.” Here again the question arises about the treatment to be given to sales returns and credit sales while computing turnover. The word used is “realization” and hence the question.

The term “net worth” is defined in section 2(57) as “net worth means the aggregate value of the paid up share capital and all reserves created out of the profits and





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securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write back of depreciation and amalgamation.”

The limits apply for transactions to be entered into either individually or taken together with previous transactions during a financial year. This means that, all transactions put together of a particular nature with one related party are to be taken into account for determining the limits.

Also, the limits apply to transactions with each related party for each kind of transaction. This means that the limit is to be computed separately for each related party for each type of transaction.

Where the company is required to obtain prior approval of the shareholders, the explanatory statement annexed to the notice calling the general meeting should disclose particulars as stated in section 102, 188 and the rules made thereunder. The explanatory statement should be such as to enable the shareholders to make a decision about the proposed resolution.

A lot of confusion prevailed about the proviso 2 to section 188 (1) which states that a member who is a related party shall not vote on the resolution for approving the transaction. This means that only the member who is a related party for the particular transaction cannot vote on that resolution. Other member or members present at the meeting which is otherwise a related party but not a party to that particular transaction can vote on the resolution. [General Circular no. 30 / 2014 dated 17th July 2014]. For an ordinary resolution to be passed, the votes cast in favour should be more than the votes cast against. In such cases, if there is only one member who is eligible to vote on the resolution, such member's votes cast in favour would be more than the votes cast against which would be nil. Thus, the resolution would be passed.

But this will not work in case where all the members are related parties involved in the transactions.

With effect from 05 June 2015, the second proviso to sub section 1 of section 188 shall not apply to a private limited company.

Example –

A private limited company with two shareholders – Mr. A and Mrs. A. The company proposes to enter into a contract with a firm in which Mrs. A is a partner. In this case, Mr. A and Mrs. A – both are related parties and both were not allowed to vote on the resolution. This was a deadlock situation which is addressed by the exemption to private companies.

In case of public companies which are

required to form an Audit Committee, the related party transactions or subsequent modifications are to be approved by the Audit Committee. [Section 177(4)]. By virtue of the Amendment Act, 2015, Audit Committee may give omnibus approval to the related party transactions.

RATIFICATION AND PENALTY

In cases where the company has entered into transactions without obtaining consent of the board or the shareholders, as the case may be, such transactions can be ratified by the requisite authority – board or the shareholders – within three months from the date of entering into the contract or arrangement. If the company fails to even obtain such ratification, the contract shall be voidable at the option of the Board. If such contract is with a party related to any director, or is authorized by any other director, such directors shall indemnify the company against any loss incurred by it. [Section 188(3)].

The company is however free to initiate action for any loss sustained by the company due to such lapse against a director or an employee who entered into the transaction without appropriate approval in contravention of the provisions of section 188 and the Rules. [Section 188(4)].

Further, such director or employee is liable to the following:

1. In case of a listed company – punishable with imprisonment upto one year or with fine of not less than Rs. 25,000 extending up to Rs. 5 lakhs, or both
2. In case of other company – punishable with fine of not less than Rs. 25,000 extending up to Rs. 5 lakhs

[Section 188(5)]

TRANSACTIONS BETWEEN HOLDING COMPANY AND WOS

For transactions between holding company and its wholly owned





subsidiary, it is sufficient compliance if the resolution is passed by the holding company only. [Explanation to Rule 15]

This would mean that in case where board resolution is required for entering into the transactions, both companies are required to pass the board resolution. Relaxation is given only for resolution to be passed in the general meeting.

OFFICE OR PLACE OF PROFIT

Previously, appointments to office or place of profit were not considered as related party transactions under section 297 of the Companies Act 1956. Under Section 188 of the Companies Act 2013, appointment of a person to an office or place of profit is considered as a related party transaction and the provisions of the section and the Rules made thereunder are required to be followed.

The term 'office or place of profit' is not a new concept and it has remained unchanged from section 314 of the Companies Act 1956. Section 314 (1) did not cover in its ambit appointment of managing director or manager, banker or trustee for the holders of debentures of the company under the company or under any subsidiary of the company. Section 188 of the Companies Act 2013 does not grant exemption to appointment of managing director or manager as above; in fact it covers appointment of related party to any office or place of profit in the company, its subsidiary company or associate company.

DISCLOSURES

All transactions entered into under section 188 are to be disclosed in the directors' report along with justification for entering into such contract or arrangement. [Section 188(2)]

The company is required to maintain a register giving separately particulars of all contracts to which section 188 applies and such register to be placed before the next board meeting and signed by all the directors present at the meeting. Contracts for sale, purchase or supply of goods, materials or services where the value of such goods or material or cost of such services does not exceed Rs. 5 lakhs in aggregate in any year, are not required to be entered into in the register. [Section 189]

EXCEPTIONS

Section 188 is completely not applicable to:

- transactions which are in the ordinary course of business
- transactions which are at arm's length

What is meant by 'ordinary course of business'

Whether an activity is in the "ordinary course of business" will

depend on the nature of particular business. For most businesses, it will be obvious whether an activity they carry on is in the "ordinary course of business". For example, it is in the ordinary course of business for a construction company to buy cement.

Business Dictionary defines the term 'ordinary course of business' as: A term for activities that are necessary, normal, and incidental to the business. These are common practices and customs of commercial transactions.

To decide whether an activity which is carried on by the business is in the "ordinary course of business", the following factors may be considered:

- a. Whether the activity is normal or otherwise unremarkable for your particular business (i.e. features in your systems, processes, advertising, staff training etc)
- b. Whether the activity is frequent
- c. Whether the activity is regular
- d. What is the financial scale of activity with regard to operations of business
- e. Revenue generated by the activity
- f. Resources committed to the activity:

The list is not exhaustive.

Whether a particular activity is in the ordinary course of business or not would thus depend upon the facts of every case. To understand what is in the ordinary course of business, the following cases which held – what is NOT in the ordinary course of business – will be resourceful:

1. **Seksaria Biswan Sugar Factory v. Commissioner of Income-Tax, AIR 1950 Bom 200: (1950) 52 Bom. L. R. 91**

In this case, the amount lent by the company to a third party was held as not to be in the ordinary course of business. The Court observed that just because an activity is included in the Memorandum of Association, the activity *per se* does not





become an activity in the ordinary course of business of the company.

The extract of the judgment giving the rationale is as under:

"I am not prepared to accept the proposition for which Sir Jamshedji is contending that if a particular act is permissible to a company under its memorandum of association and the company performs the act, necessarily that act must be deemed to have been performed in the course of its business. Of course, company can never perform an act which it is not permissible to do under its memorandum of association, because if it does so, it would be *ultra vires*. But I am not prepared to accept that every act which is *intra vires* of the company is necessarily done in the course of the business of the company. Whether a particular act is done in the course of business or not is really to my mind a question of fact and that fact must be determined according to the evidence led and the circumstances of the case. It must be found as to whether the particular act has any connection with the normal business that the company is carrying on and whether it is so related to the business of the company that it can be considered to be performed in the ordinary course of the business of that company.

It is perfectly true that in the case of the company before us, one of its objects is money-lending; it could have carried on the business of money-lending. But what we have to determine is whether the company has been pursuing that object and carrying on that business or not, and it is impossible to hold on the facts of this case that by a solitary transaction of an advance of Rs. 6,00,000 to Agrawal and Co., it could be said that in doing so it was pursuing one of its objects and carrying out that business. Therefore, in my opinion, even if we assume that the question referred to us is a question of law, on the facts and circumstances of this case the Tribunal was right in coming to the conclusion that the moneys lent by the company to Agarwal and Co., were not in the ordinary course of business, that that transaction did not constitute part of the business of the company, and therefore the company was not entitled to rely on Rule 1 (1) (b) of Schedule II Excess Profits Tax Act.

The answer therefore to the question submitted to us will be in the negative. The assessee to pay the costs.

Notice of motion dismissed with costs."

2. **Gosri Dairy, Vyttila v. The State of Kerala [1961] 12 S.T.C. 683(Ker)].**

In this case it was held that even though a sale is made by the company for its business, the said sale may not be in the ordinary course of business. The Court observed as follows:

"In that case the assessee-firm which was registered as a

dealer in daily products sold away a part of its live-stock and replaced the same by fresh live-stock. The question that arose for consideration was whether the annual sale of live-stock could be treated as part of the turnover of the assessee liable to sales tax, and it was held by the Full Bench of the Kerala High Court that the frequency, regularity and the volume of sales of cattle by the assessee were such that they could be regarded as an activity in the course of the business of the assessee and therefore the assessee's sales of cattle were part of its business, constituting it a dealer within the meaning of the Sales Tax Act, and attracted liability to taxation in respect thereof. The sale of dry cattle was a regular annual feature and was carried on continuously from year to year by the assessee-company. It was not a case of casual or isolated transaction but constituted acts systematically and regularly carried on in the course of the business of the assessee-firm itself. The sale of the dry cattle was co-extensive with the business of manufacture of dairy products. It was in those circumstances that the view was taken by the Court that the transactions constituted sales in the course of business activity of the assessee. Frequency, regularity and volume of the transactions will no doubt be factors relevant and helpful in determining whether any particular transactions are in the course of business or not, but the mere existence of these factors will not by themselves be sufficient to hold that the transactions are business transactions."

3. **Commissioner of Sales Tax, Madhya Pradesh, Indore v. Ram Dulare Balkishan and Bros.[1963] 14 S.T.C. 202(MP)**





“The true test is not whether the selling activity is continuous or repeated but whether the carrying on of continuous operations is with a view to earn profit. In that case the question to be considered was whether the sales of unserviceable vehicles and motor accessories by the assessee, which was a transport undertaking, were sales by a dealer in the course of its business activity. The sales had been continuous and large, and it was contended that because of these features they constituted an activity coming within the definition of a dealer given in the Act. It was held that while these features were no doubt relevant for the consideration of the question, they were by no means conclusive and the true test was whether the selling activity was with a view to earn profit”.

4. A. Ebrahim and Company v. State of Bombay ([1962] 13 S.T.C. 877) :

"The test, in our opinion, then is to ascertain whether in the circumstances and on the facts of the case it can be said that a particular sale is a sale in the course of business of a dealer. If the sale has a reasonable connection with the nature of the business carried on by a dealer, then the sale would be in the course of his business. If there is no such reasonable connection between the sale effected and the nature of the business carried on by the dealer, then the sale cannot be said to be in the course of the business of the dealer and its sale proceeds cannot therefore be included in his turnover."

5. Commissioner of Sales Tax v. Hindoostan Spinning and Weaving Mills (1964) 15 STC 69 Bom

"Now, according to the findings of the Tribunal in the present case, the sale of the old machinery by the respondent-company has not been done with a view to make profit on the said sale but only with a view to replace it by new machinery, the old machinery having become unserviceable or less serviceable. The Tribunal has also observed, "we are satisfied that the sale of the old machinery and its substitution by the new one is not the business of the appellants though these transactions are necessary for the effective carrying on of their business." In view of these findings of the Tribunal, although the sale of the Roto Coner and High Speed Warming Machine has been an item of several such transactions of sale of old machinery of considerable volume which have been effected by the respondent-company during the years 1953-54 to 1956-57, the sale could not be said to have been done in the course of its business activity and, therefore, the respondent-company would not be a dealer as regards the said transaction. The business of the respondent-company was the manufacture of cloth. For the said business the company had from time to time replaced its old and unserviceable machinery by new machinery although such replacements of the old machinery by new machinery may have been necessitated for the purposes of the business of the company. The disposal of the old machinery for the purposes of replacing it by new

machinery cannot be said to be a part of business of the respondent-company.”

ARM’S LENGTH PRICING

A transaction in which the buyers and sellers of a product act independently and have no relationship to each other is known as an arm's length transaction. The concept of an arm's length transaction is to ensure that both parties in the deal are acting in their own self interest and are not subject to any pressure or duress from the other party.

What may be considered as being at Arm’s Length is subjective and is a question of fact. Usually, the transfer pricing regulations would be a reasonable reference to decide whether a transaction is at arm’s length or otherwise.

The following cases will help to understand the concept of arm’s length pricing:

1. Iljin Automotive Private Limited v Asstt. CIT (2011) 16 Taxmann.Com 225

“The determination of ‘arm’s length price’ seeks answer to the question – What would have been the price if the transactions were between two unrelated parties, similarly placed as the related parties in so far as nature of product, conditions and terms and conditions of the transactions are concerned? – For that purpose, methodology and modalities to compare the results under perspective domestic laws of a given country have been formulated.....The basis thesis is that transfer pricing legislation is to treat each of the individual members of a commonly controlled group as a separate entity, the transactions between whom are taxable events to be conformed to the economic realities obtaining between independent entities entering into similar and identical transactions, at arm’s length.”





Article

Decoding Related Party Transactions under Companies Act 2013

2. Maruti Suzuki India Limited v. Addl. CIT, TPO (2010) 192 Taxman 317 Delhi:

“The arm’s length principle of transfer pricing is based on the premise that the amount charged by one related party to another for a product must be the same as if the parties were not related. An arm’s length price, therefore, is the price which that transaction would obtain in the open market. Determination of arm’s length price, when dealing with proprietary goods and services or intangibles, can be a much more complicated matter, as compared to determining such price in case of commodities. A controlled transaction normally would meet the arm’s length standard, if the results of the transaction are consistent with the results that would have been obtained if an uncontrolled entity was engaged in the same transaction, under the same circumstances.”

3. Serdia Pharmaceuticals (India) P Ltd v. ACIT (2011) 44 SOT 391 Mum.

“When associated enterprises enter into a transaction at such conditions in commercial and financial terms, which are different from commercial and financial terms imposed in comparable transaction between independent enterprises, the differences in these two sets of conditions in financial and commercial terms are attributed to inter relationship between the associated enterprises, and it is this impact of inter relationship between the associated enterprises that is sought to be neutralized by the transfer pricing regulations.”

The arms’ length pricing is to be determined by any one or more of the following methods:

- Comparable Uncontrolled Price Method
- Resale Price Method
- Cost plus Method
- Profit Split Method
- Transactional Net Margin Method

The most appropriate method taking into account various factors is to be selected for determining the arm’s length price.

Where the transaction is in the ordinary course of business and is at arm’s length, the provisions of section 188 are not applicable.

In cases where tailor-made products and services are exclusively provided to a sole customer or are bought from a sole supplier or service provider in the ordinary course of business of the concerned company and there is no way in which a single method can be identified by which it can be decided whether the transaction is an arm’s length transaction, the Company would be left with no other alternative but to comply with the provisions of Section 188.

Detailed study of arm’s length pricing and ordinary course of business is a subject matter for another article altogether.

- Section 188 is not applicable to transactions arising out of compromises, arrangements and amalgamations [Circular 30 / 2014 dated 17th July 2014]
- Section 188 is not applicable to transactions / contracts which were entered into before commencement of the Companies Act 2013. Any modification / renewal etc of such contract or arrangement after 01st April 2014 would be subject to compliances under section 188. [Circular 30 / 2014 dated 17th July 2014]

POSERS FOR DELIBERATIONS AS TO WHETHER PROVISIONS OF SECTION 188 WOULD APPLY

- X Limited has accepted deposits from Y Private Limited. Both Companies have common Directors. However, none of the Directors of Y Private Ltd hold more than 20% in X Ltd. Therefore Section 185 is not applicable. Y Private Limited is not a NBFC. Lending money is not its business. Since it had surplus funds and X Limited was in need of money, ICD was accepted by X Limited.

QUESTIONS

- Whether Y Pvt. Ltd. needs to comply with Section 188.
- Whether X Ltd. has to comply with Section 188.

In our view, the transaction does not fall under the scope of Section 188 since it is not a transaction with respect to any of the categories specified in sub section 1.

- X Limited has organised a workshop for marketing its brand. The participation in the workshop is free of cost for all. X Limited has come out with a souvenir on the occasion of the workshop. Y Limited is a related party of X Limited which has co-sponsored that workshop, in the form of sharing 20% of the expenses against which banner of Y Limited was displayed in the hall. This is treated as a service for Service Tax purposes. Whether the same comes under the purview of services under the Companies Act?

In our view, this will be a related party transaction since X Limited has availed the services of Y Limited in sponsoring the workshop.

- Presuming transactions are not at arm’s length and not in the ordinary course of business, whether following would be covered under services / related party transaction for the



purposes of section 188:

1. Payment of sitting fees to Director in the Board Meeting – *In our view, this is not a related party transaction envisaged by section 188 (1).*
2. Re-imbusement of expenses for attending Board Meeting - *In our view, this is not a related party transaction envisaged by section 188 (1).*
3. Increase in the sitting fees - *In our view, this is not a related party transaction envisaged by section 188 (1).*
4. Payment of guarantee commission - *In our view, this is a related party transaction envisaged by section 188 (1) as it is availing a service rendered by the director to the company.*
5. Leave and Licence Agreement - *In our view, this is not a related party transaction envisaged by section 188 (1) since Section 188 (1) (c) covers only leasing of property of any kind.*
6. Remuneration to director for conducting in house training programmes in the company - *In our view, this is a related party transaction envisaged by section 188 (1) as it is availing a service rendered by the director to the company.*
- d. In the month of December 2013, PQR Limited entered into a contract by which it agreed to purchase a particular product from ABC Ltd, which is a related party. It was a rate contract with a stipulation that the exact quantity and other terms of delivery etc. would be mentioned with the specific purchase order to be issued by ABC Ltd to PQR Ltd. From the month of January onwards, a Purchase order was issued on a monthly basis. No entry was made in the Register of contracts for individual Purchase orders. Only the rate contract which was omnibus in nature was entered into in the Register. Issuing monthly Purchase Order continues even after 1st April 2014 which always had a reference to the rate contract.

QUESTIONS

1. Whether there is a need to comply with Section 188 for the purchase orders – *In our view, there is no need to comply with Section 188 for individual purchase orders till such time as there is no modification / amendment to the rate contract. Recourse may be taken to Circular no. 30 / 2014 dated 17th July 2014 by which contracts entered into before 01st April 2014 are exempt till such time as there is no modification to such contracts.*
2. Whether the transactions should find place in the Directors' Report – *In our view, there is no need to disclose the transactions in the Directors' Report till such time as the*

contracts are under the existing omnibus rate contract. However, the Board may opt for a voluntary disclosure stating that these contracts were entered into before commencement of Companies Act 2013.

3. How to reconcile such transactions with the disclosures under AS-18 – *In our view, AS18 would include these transactions as it did before commencement of Companies Act 2013. There is no additional disclosure under AS18 after commencement of the 2013 Act. There is no need for reconciliation with AS-18 as the rate contract is already entered into in the register of contracts.[Readers may like to respond to these posers].* CS

Appointment

Manitowoc India Private Limited, Pune, requires dynamic, diligent & result oriented Company Secretary

A prospective Candidate should be a qualified Company Secretary with 2 Years of experience preferably worked in Company or similar industry. Candidate should have good knowledge of Secretarial and legal matters such as compliances with various laws and capable of liaising with various Government Authorities, should have flair for writing, drafting and vetting of legal documents, agreements, contracts etc. A Law degree would be an added advantage. Interested candidates fulfilling the above criteria can email their CVs to **Shahejad.Desmukh@manitowoc.com**



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Judicial Intervention against Arbitral Award and Power of Court to Grant Interim Protection

- Countless applications have been filed under section 34 of the Arbitration and Conciliation Act, 1996, in various courts all over India. Since the award cannot be enforced till the application under section 34 is determined, the eventual sufferer would be individuals or entities in whose favour the award was granted but remained superfluous due to pending section 34 application.

INTRODUCTION

The objective of The Arbitration and Conciliation Act, 1996, as mentioned therein, state that it is an Act *to consolidate and amend* the law relating to domestic arbitration, international commercial arbitration and enforcement of foreign awards as also to define the law relating to conciliation and for matters connected therewith or incidental thereto.

The Arbitration Act, 1940 was enacted to bring a comprehensive law covering all important aspects of arbitration. But this Act had provisions which delayed the arbitration process and liberally allowed the Courts to interfere in the arbitration process. The United Nations Commission on International Trade Law (UNCITRAL) adopted the UNCITRAL Model Law on International Commercial Arbitration in 1985. The UN General Assembly recommended that all countries give due consideration to the said Model Law, in view of the desirability of uniformity of law of arbitral procedures and the specific needs of international commercial arbitration practice.

India responded to this recommendation and enacted the present Arbitration and Conciliation Act, 1996 (hereinafter referred to as Act) which is based on UNCITRAL Model Law of Arbitration. The Statement of Objects and Reasons of the present Act recognizes that India's economic reforms will become effective only if the nations' dispute resolution provisions are in tune with international regime and indicated *that there should be minimum interference and supervisory role of courts in the arbitral process.*





➤ An arbitral tribunal means a sole arbitrator or a panel of arbitrators and an arbitrator is a person appointed to settle a dispute. The parties are free to determine the number of arbitrators, provided that such number shall not be an even number and if the parties fail to do so then the arbitral tribunal shall consist of a sole arbitrator.

WHAT IS ARBITRATION

The justice dispensing system in India has come under great stress for several reasons, chief of them being the huge pendency of cases in courts underlining the need for Alternate Dispute Resolution (ADR) methods. Arbitration is a form of Alternate Dispute Resolution where the parties settle their dispute, out of court, through an arbitral tribunal. An arbitral tribunal means a sole arbitrator or a panel of arbitrators and an arbitrator is a person appointed to settle a dispute. The parties are free to determine the number of arbitrators, provided that such number shall not be an even number and if the parties fail to do so then the arbitral tribunal shall consist of a sole arbitrator.

Any commercial matter including an action in tort if it arises out of or relates to a contract can be referred to arbitration. However, public policy would not permit matrimonial matters, criminal proceedings, insolvency or anti-corruption matters and matters of public rights to be referred to arbitration. Employment contracts also cannot be referred to arbitration but director-company disputes are arbitrable. Generally, matters covered by statutory reliefs through statutory tribunals would be non-arbitrable.

The arbitrators are required to set out the reasons on which their award is based, unless the parties agree that no reasons are to be given or if it arises out of the agreed terms of settlement. The



tribunal may make an interim award on matters followed by a final award. The tribunal is free to award costs including the cost of any institution supervising the arbitration, interest on the award from the date of award till the date of payment or any other expense incurred in connection with the arbitration proceedings.

As per section 35 of the Act an arbitral award shall be final and binding on the parties and persons claiming under them respectively. Where the time for making an application *to set aside the arbitral award under section 34* has expired, or such application having been made has been refused, the award shall be enforced under the Code of Civil Procedure, 1908 *in the same manner as if it were a decree of the court.*

RECOURSE AGAINST ARBITRAL AWARD

Ordinarily in any judicial system, a first appeal against a Court Judgment is a right of the party and hence the first appellate court needs to re-examine the merits of the case and pass a reasoned judgment. This is because the parties never have the right to choose their judge with knowledge in a particular field of business. But in the arbitration cases, the parties choose their arbitrators on the basis of their subject expertise and qualification and hence there need not be another appreciation of merits of the case. That is why the UNICITRAL model law as well as Indian Arbitration and Conciliation Act, 1996 restrict the scope of appeal against an arbitral award. The objective of such a restriction is to avoid wastage of time and to ensure finality of an arbitral award. The Supreme Court has observed that “an arbitrator is a judge appointed by the parties and as such an award passed by him is not to be lightly interfered with.”

But this does not mean that there is no check on the arbitrator's conduct. In order to ensure proper conduct of proceedings, the law allows certain remedies against an award. The grounds for setting aside an *award rendered in India i.e. domestic award under Part-1* (in a domestic or international arbitration) are provided for under section 34 of the Act. These are materially the same as in Article 34 of the Model Law for challenging an enforcement application.

The more significant provisions of the Act are contained in Part I and Part II thereof. Part I contains the provisions for domestic and international commercial arbitration in India. All arbitration conducted in India would be governed by Part I, irrespective of the nationalities of the parties. Part II provides for enforcement of foreign awards.

‘*International Commercial Arbitration*’ as per section 2(1)(f) means an arbitration relating to disputes arising out of legal relationships, whether contractual or not, considered as commercial under the law in force in India and where at least one of the parties is-

- (i) an individual who is a national of, or habitually resident in any country other than India; or



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Judicial Intervention against Arbitral Award and Power of Court to Grant Interim Protection

- (ii) a body corporate which is incorporated in any country other than India; or
- (iii) a company or an association or a body of individuals whose central management and control is exercised in any country other than India; or
- (iv) the Government of a foreign country

In an international commercial arbitration, parties are free to designate the governing law for the substance of the dispute. If the governing law is not specified, the arbitral tribunal shall apply the rule of law it considers appropriate in view of the surrounding circumstances. For *domestic arbitration* (i.e. between Indian parties), however, the tribunal is required to decide the dispute in accordance with the substantive laws of India.

Application for setting aside arbitral award is reproduced as under (section 34):

“(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award in accordance with sub-section (2) and sub-section (3).

(2) An arbitral award may be set aside by the Court only if-

(a) the party making the application furnishes proof that-

- (i) a party was under some incapacity, or*
- (ii) the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law for the time being in force; or*
- (iii) the party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or*

(iv) the arbitral award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration:

Provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the arbitral award which contains decisions on matters not submitted to arbitration may be set aside; or

(v) the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this Part from which the parties cannot derogate, or, failing such agreement, was not in accordance with this Part; or

(b) the Court finds that-

- (i) the subject-matter of the dispute is not capable of settlement by arbitration under the law for the time being in force, or*
- (ii) the arbitral award is in conflict with the public policy of India.*

Explanation-Without prejudice to the generality of sub-clause (ii) it is hereby declared, for the avoidance of any doubt, that an award is in conflict with the public policy of India if the making of the award was induced or affected by fraud or corruption or was in violation of section 75 or section 81.

(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal: Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.

(4) On receipt of an application under sub-section (1), the Court may, where it is appropriate and it is so requested by a party, adjourn the proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the opinion of arbitral tribunal will eliminate the grounds for setting aside the arbitral award. “

It is necessary that an aggrieved party makes an application under Section 34 stating the grounds of challenge. There is no special form prescribed for making an application except that it has to be a written statement filed within the period of limitation.

If a party to arbitration is not capable of looking after his own interests (e.g. a minor or a person of unsound mind), and he





is not represented by a person who can protect his interests, the award will not be binding on him and may be set aside on his application.

Section 34(2)(a)(iii) permits challenge to an award if the party was not given proper notice of the appointment of an arbitrator, or the party was not given proper notice of the arbitral proceedings, or the party was for some reasons unable to present his case.

Under Section 23(1) the Arbitral Tribunal has to determine the time within which the statements must be filed. This determination must be communicated to the parties by a proper notice. Section 24(2) mandates that the parties shall be given sufficient advance notice of any hearing or meeting of the Tribunal for the purpose of inspection of documents, goods or other property.

If for any good reason a party is prevented from appearing and presenting his case before the Tribunal, the award will be liable to be set aside as the party will be deemed to have been deprived of an opportunity of being heard the principle of natural justice.

In *Dulal Podda v. Executive Engineer, Dona Canal Division [(2004) 1 SCC 73]*, the court held that appointment of an arbitrator at the behest of the appellant without sending notice to the respondent, *ex parte* award given by the arbitrator was illegal and liable to be set aside.

In *Vijay Kumar v. Bathinda Central Co-operative Bank and Ors*, the court observed "it is a typical case where the arbitrator misconducted the proceedings and also misconducted himself. Arbitrator held the first and only hearing on May 17, 2010. No points for settlement or issues were framed. The bank filed affidavits of four employees. Appellant was not given opportunity to cross examine them. He was denied the opportunity to produce evidence. A complete go bye was given to the provisions of law, procedure and rules of justice. It would thus be seen that appellant was unable to present his case.

The reference of a dispute under an agreement defines the limits of the authority and jurisdiction of the arbitrator. If the arbitrator had assumed jurisdiction not possessed by him, the award to the extent to which it is beyond the arbitrator's jurisdiction would be invalid and liable to be set aside.

Section 16 of the Arbitration and Conciliation Act, 1996 provides that the initial decision as to jurisdiction lies with the Tribunal. The party should immediately object as to excess of jurisdiction, if that be the case. If the Tribunal rejects the objection, the aggrieved party may apply under Section 34(2) (a)(iv) for setting aside on the ground of excess of jurisdiction.

As per Section 34(2)(a)(v) an award can be challenged if the composition of the Tribunal was not in accordance with the agreement, or the procedure agreed to by the parties was not followed in the conduct of proceedings, or in the absence of agreement as to procedure, the procedure prescribed by the Act was not followed.

Section 12(3)(a) provides that an arbitrator may be challenged if there justifiable doubt as to his independence or impartiality. Section 13 says that if the challenge is not successful and the award is made, the party challenging the arbitrator may apply to the court under Section 34 for setting aside the award.

In *State Trading Corp. v. Molasses Co. [AIR 1981 Cal.440]*, the Bengal Chamber of Commerce, a permanent arbitral institution, did not allow a company to be represented by its Law Officer, who was full time employee of the company. The Court held that it was not only misconduct of the arbitrator but also misconduct of the arbitration proceedings.

In *ONGC Ltd v. Saw Pipe Ltd [AIR 2003 SC 2629]*, the Supreme Court held that in exercising jurisdiction, the Arbitral Tribunal cannot act in breach of some provisions of substantive law or the provision of the Act. In Section 34(2)(a)(v) of the Act, the composition of the Arbitral Tribunal should be in accordance with the agreement. The procedure which is required to be followed by the arbitrator should also be in accordance with the agreement. If there is no such agreement then it should be in accordance with the procedure prescribed in Part 1 of the Act. In this case, the losses caused by delay were deducted from the supplier's bill. The direction of the Arbitral Tribunal that such deduction should be refunded with interest was held to be neither in accordance with law, nor contract. The award was set aside to that extent.

Section 34(2)(b)(ii) provides that an application for setting aside an arbitral award can be made if the arbitral award is in conflict with the public policy of India. The Court can interfere with any arbitral award where there is such a conflict with public policy. The explanation to clause (b) clarifies that an award obtained by fraud or corruption would also be an award against the public policy of India. An award obtained by suppressing facts, by misleading or deceiving the arbitrator, by bribing the arbitrator, by exerting pressure on the arbitrator, etc. would be liable to be set aside. The concept of public policy connotes some matter which concerns public good and public interest. In *Venture Global Engg v. Satyam Computer Service Ltd [2008 (4) SCC 190]*, it was held that an award could be set aside if it is contrary to fundamental policy of Indian law, or the interest of India, or justice or morality, or it is patently illegal.

If the award is contrary to the substantive provisions of law or the provisions of the Act or against the terms of the contract, it would be patently illegal, which could be interfered under



Article

Judicial Intervention against Arbitral Award and Power of Court to Grant Interim Protection

➤ A foreign award is enforceable under Part II of the Act if it is rendered in a country that is a signatory to the New York Convention or Geneva Convention and that territory is notified by the Central Government of India. Once an award is held to be enforceable it is deemed to be a decree of the court and can be executed as such.

Section 34. Award could also be set aside if it is as unfair and unreasonable as to shock the conscience of the court as it is against public policy.

In a recent Judgment dated 04.09.2014 a three Judge Bench of the Supreme Court of India in *ONGC v. Western Geo International Ltd (2014) 9 SCC 263* further expanded the scope of "Public policy" including reasonableness, fundamental principles providing a basis for administration of justice and enforcement of law in addition to what has been covered earlier under public policy.

As per The Arbitration and Conciliation Act, 1996, arbitral award includes final and interim awards passed by the arbitrator. Both interim as well as final awards can be challenged under section 34. The Supreme Court of India confirmed the powers of the courts to entertain section 34 applications while dealing with the case *McDermott International Inc. v. Burn Standards Co. Ltd [(2006) 11 SCC 181]*. The only recourse against any arbitral awards as per the Act is by filing an application for setting aside arbitral awards under section 34.

INTERIM PROTECTION MEASURES BY THE COURT

The power under section 9 is not unrestrained. It is subject to certain limitations and restrictions, such as, firstly, it could be exercised by the court to the same extent and in the same manner as it could for the purpose of and in relation to any proceeding before it and, secondly, the exercise of the power to make interim arrangements should not militate against any power which may be vested in an Arbitral Tribunal. Section 9 reads thus:

"Interim measures, etc. by court : - A party may, before or during arbitral proceedings or at any time after the making of the arbitral award but before it is enforced in accordance with section 36, apply to a court-

(i) for the appointment of a guardian for a minor or a person of

unsound mind for the purposes of arbitral proceedings; or

(ii) for an interim measure of protection in respect of any of the following matters, namely-

(a) the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;

(b) securing the amount in dispute in the arbitration;

(c) the detention, preservation or inspection of any property or thing which is the subject-matter of the dispute in arbitration, or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party, or authorising any samples to be taken or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence;

(d) interim injunction or the appointment of a receiver;

(e) such other interim measure of protection as may appear to the court to be just and convenient, and the Court shall have the same power for making orders as it has for the purpose of, and in relation to, any proceedings before it."

FOREIGN AWARD

A foreign award is enforceable under Part II of the Act if it is rendered in a country that is a signatory to the New York Convention or Geneva Convention and that territory is notified by the Central Government of India. Once an award is held to be enforceable it is deemed to be a decree of the court and can be executed as such. Under the Act, there is no procedure for setting aside a foreign award. A foreign award can only be enforced or refused to be enforced but it cannot be set aside.

The Supreme Court of India delivered a definitive ruling on the role of Indian courts in international arbitrations seated outside India in case of *Bharat Aluminium Co. v. Kaiser Aluminium Technical Services, Inc. (2012)*. Overruling the controversial decision of *Bhatia International v. Bulk Trading (2002)*, the Supreme Court held that Indian courts do not have supervisory authority over international arbitrations taking place outside India. The Court examined and defined the scope of The Arbitration and Conciliation Act, 1996 and clarified the concept of seat of arbitration under the Indian law. The Court also unequivocally affirmed that the Arbitration Act adopted the territorial principle of the UNCITRAL Model Law and accepted the views of leading experts in international arbitration on Article V(1)(e) of the New York Convention.

Bharat Aluminium Co. v. Kaiser Aluminium Technical Services, Inc. (2012) involved several appeals but the same broader legal question: was *Bhatia International* correctly decided? The issue was whether courts of India can perform supervisory functions



relating to arbitrations seated outside India? The Supreme Court replied to this question with an emphatic “no” on 6 September 2012. *This effectively means that the courts of India can no longer make interim orders regarding arbitrations with seats outside India or entertain annulment challenges to foreign arbitration awards.*

The decision of *Bharat Aluminium* is crucial for understanding the difference between the foreign and domestic awards under the Arbitration Act. The Court clarified that Part I of Arbitration Act applies not only to arbitrations in India where both parties are Indian, but also to international commercial arbitrations which take place in India. The awards in arbitrations seated in India are *domestic awards*, distinguishable from *foreign awards*, for the purposes of Arbitration Act. The difference is significant because domestic awards can be challenged and annulled under Section 34 of Arbitration Act. The Indian courts also cannot make interim orders relating to arbitrations seated outside India under Section 9 of Arbitration Act and applications for interim orders relating to foreign arbitration proceedings are not maintainable.

However, it may be noted that as Part I of the Act would not apply to arbitration's seated outside India, a foreign party obtaining interim relief against an Indian party (from the arbitral tribunal or a foreign court) - may be left with no efficacious remedy to enforce the same. The interim order would not qualify as a “judgement” or “decree” for the purpose of Section 13 and Section 44A of the Code of Civil Procedure 1908 and execution proceedings would not be maintainable.


The law laid down by *Bharat Aluminium* would apply prospectively to all arbitration agreements executed after 6 September 2012.

CONCLUSION

The Arbitration and Conciliation Act, 1996 envisages minimum supervisory role of courts in the arbitral process. Accordingly, it is provided that any matter before a judicial authority containing an arbitration agreement shall be referred to arbitration as per section 8 of the Act. Notwithstanding anything contained in any other law being in force, no judicial authority shall intervene except as provided for under the Act in section 5. However, in the past countless applications have been filed under section 34 in various courts all over India. Since the award cannot be enforced till the application under section 34 is determined, the eventual sufferer would be individuals or entities in whose favour the award was granted but remained superfluous due to pending section 34 application. For a growing economy like India an efficient and effective Alternate Dispute Resolution mechanism which enables quick settlement of all kinds of civil disputes at reduced cost and time, ensuring party autonomy and transparency and a less intrusive judicial authority would be certainly advantageous. With increased institutional arbitration forums, trained arbitrators, increased use of expert witnesses and disclosure procedures with regard to conflict of interest of arbitrators, there is likelihood

of reduced intervention by the courts in the arbitral process and setting aside of the awards.

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Appointment

Required

A Practising Company Secretary

A Practising Company Secretary firm, having its registered office in New Delhi, requires a Practising Company Secretary with 3-4 years relevant experience. A prospective candidate should be well versed with the Companies Act, 2013 and should have good knowledge of Secretarial and legal matters such as compliances with various laws, filing of various documents/ returns with ROC, drafting of minutes/ agreements, and must have handled work related to secretarial formalities and regulations. Interested candidates may send their resume indicating expected remuneration to: The HR head Ms. Bhawana, Email id: hr@uccglobal.in



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Accounting for Business Combinations: An IFRS & Ind-AS Perspective

- This article provides an analysis of the current status and methodology of merger accounting as prescribed by the International Accounting Standards Board. Taking up the issue from IFRS 3 (2004), it critically evaluates the provisions of the various pronouncements on the subject and highlights the points of upgradation introduced by IFRS 3 (2008) over its prior version and discusses the contentious and controversial issues emanating from IFRS 3 (2008). Issues related to the convergence of IFRS 3 (2008) with SFAS 141(R) of the United States have also been discussed.

INTRODUCTION

The Indian Government has notified, on 16th February, 2015, the Companies (Indian Accounting Standards) Rules, 2015. These rules contain the roadmap for the phase-wise adoption of Indian accounting standards (Ind-AS hereinafter) that are converged with the International Financial Reporting Standards (IFRS hereinafter) by companies. As per the provisions of these Rules, the Ind-AS shall be made applicable to companies in a phased manner depending on their respective listing status and net worth. In the first phase, companies with a net worth equal to or exceeding INR 5000 million shall prepare their financial statements beginning 1st April 2016 in conformity with Ind-AS and also provide disclosure on comparative Ind-AS information for the period of 1st April 2015 to 31st March 2016. In the second phase these new accounting norms are required to be followed from 1st April 2017 onwards

by (i) all listed companies and (ii) other companies with a net worth equal to or exceeding INR 2500 million. Ind-AS will also apply to subsidiaries, joint ventures, associates as well as holding companies of the entities covered in the roadmap.





Mergers, acquisitions and other forms of business combinations constitute cardinal ingredients of the “business strategy” toolbox. The incredible diversity of these corporate restructurings provides abundant business opportunities for the vigilant entrepreneur. Consequently, the frequency of such “business combinations” has grown manifold in the recent past. Furthermore, these restructurings have become immensely complex with the evolution of commercial wisdom. It is, therefore, imperative that accounting provisions worldwide get rationalized, streamlined and coordinated in context of “business combinations accounting” to facilitate undistorted dissemination of information to the relevant stakeholders. This sets out the perspective of the current exposition.

THE IND-AS STANDARDS

The “convergence” program of Indian Accounting Standards with IFRSs was initiated way back in 2007, when the Accounting Standards Board of the Institute of Chartered Accountants of India (ICAI hereinafter) constituted a Task Force which released a Concept Paper on this issue. This was followed by a public commitment by ICAI in July 2007 and the Indian Government to converge to IFRS before 31st December 2011. The commitment to usher in convergence by that date was reiterated publically by the Indian Government in May 2008. A press release issued by the Indian Government in 2010 notified the roadmap for the adoption of the Ind-AS in three phases, with companies being required to implement these standards with effect from 1st April 2011, 2013 or 2014 depending on a number of criteria related to their net worth. By a subsequent press release in February 2011, the implementation of Ind-AS was put on hold pending resolution of various issues, including some related to taxation.

In February 2011, thirty five Ind-AS corresponding to IFRS in force (with the exception of IFRS 9 – Financial Instruments, IAS 26 – Accounting and Reporting for Retirement Benefit Plans, and IAS 41 – Agriculture) were posted on the Indian Government’s website. However, the standards were not notified at that time for implementation in view of certain tax and other inconsistencies, as mentioned above.

In the years 2012 & 2013, towards clearing the impediments to the implementation of Ind-AS, Ministry of Finance issued draft Tax Accounting Standards to remove inconsistencies between the Ind-AS and taxation rules while the Ministry of Corporate Affairs requested the ICAI to perform an impact assessment of Ind-AS on various sectors of the economy (including their application to small and medium sized companies) and to suggest a roadmap for implementation. The assignment was duly completed by the ICAI and published as the Report on Impact Analysis of Indian Accounting Standards (Ind-AS) and One set of Standards v. Two sets of Standards. In the meanwhile, the upgrading of the issued Ind-AS and the processing of fresh ones in line with the issue of new or revised IFRSs were being continued by the ICAI. A fresh roadmap for the implementation of Ind-AS was suggested by the

ICAI in March 2014. This roadmap proposed that (a) the Ind-AS should be applied to the consolidated financial statements of (i) entities listed or in the process of listing on any financial market, (ii) unlisted companies having a net worth in excess of INR 5000 million and (iii) holding or subsidiaries of companies covered under (i) or (ii) for the reporting periods starting on or after 1st April 2016. This roadmap was marginally revised by the ICAI in August 2014. The notification of 16th February 2015 has finally cleared the air for the full fledged adoption of Ind-AS. The timeline stipulated therein for implementation of Ind-AS is in line with the revised roadmap of the ICAI of August 2014.

THE BACKDROP: IFRS 3 (2004)

The first formal pronouncement on the accounting for business combinations from the International Accounting Standards Board (IASB hereinafter) took the form of IFRS 3 issued in March 2004 and made applicable in respect of business combinations having the agreement date on or after March 31, 2004. The said standard took cognizance of several shortcomings of the “pooling” method of accounting for business combinations and prohibited the use of this method forthwith, explicitly providing that all business combinations be accounted for using the “purchase” method. Additional features of IFRS 3 that merit mention to facilitate continuity of this exposition included (a) costs that were expected to be incurred to restructure an acquired entity’s activities or the acquirer’s activities were to be accounted for as post-combination expenses, to the extent that the





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➤ IFRS 3 (2008) portrays a paradigm shift by providing reporting entities the option to follow the “entity” theory in consolidation accounting. The entity theory emphasizes the economic unity of the group. The entire group is deemed to be a single economic entity for the purposes of consolidation. In line with this philosophy, the consolidated accounts report the aggregate resources of the group. Thus, irrespective of the proportion of ownership, the entire assets and liabilities of the subsidiaries are aggregated with those of the parent for the purpose of consolidation.

acquired entity did not have a pre-existing liability for restructuring its activities; (b) intangible items that were acquired in a business combination were to be recognized as assets separately from goodwill if (i) they met the definition of an asset, (ii) they were either separable or arose from contractual or other legal rights, and (iii) their fair value could be measured reliably; (c) identifiable assets acquired, and liabilities and contingent liabilities assumed, were to be initially measured at fair value; (d) amortization of goodwill and intangible assets with indefinite useful lives was prohibited and they were, instead, to be tested for impairment annually, or more frequently if events or changes in circumstances indicated a possible impairment.

IFRS 3 (2004) received a mixed response from industry and several inconsistencies surfaced during the post-implementation review. To address these issues and carry forward the “harmonization” program, a joint project was initiated by IASB with the US Financial Accounting Standards Board (FASB hereinafter) that culminated in the issue of revised standards by FASB (SFAS 141(R) in December 2007) and IASB (IFRS 3 (2008) in January 2008). The revised standards viz. IFRS 3 (2008) and SFAS 141(R) show significant convergence. Business combinations that have acquisition date on or after the beginning of the first annual reporting period beginning on or after July 1, 2009 are covered within the ambit of IFRS 3 (2008).

IFRS 3 (2008): THE BASIC PHILOSOPHY

IFRS 3 (2008) seeks to enhance the relevance, reliability and comparability of information reported about business combinations (e.g. acquisitions and mergers) and their effects. It sets out the

principles for the recognition and measurement of acquired assets and liabilities, the determination of goodwill and necessary disclosures.

IFRS 3 (2008) reflects a paradigm shift in the conceptual underpinnings of accounting for business combinations in the sense that it allows the reporting entity, the additional option to account for business combinations on the premise that such entity is the entire economic enterprise created by the combination. The consolidated balance sheet may, thus, report either the full goodwill or only the purchased goodwill depending on the option adopted by the reporting entity. As such, under IFRS 3 (2008), the whole goodwill of the acquired business may be recognized or just the part of goodwill relating to the share acquired, as was stipulated under IFRS 3 (2004). Nevertheless, goodwill continues to be measured as a residual account and, as such, its value (full goodwill) is given by $GW = CT + NCI + EI - NAL$ where CT is the consideration transferred, NCI, the non-controlling interest, EI, the equity interests held by the acquirer prior to the acquisition of control in the acquiree and NAL, the total identifiable assets net of liabilities of the acquiree. All valuations of CT, NCI & EI for this purpose are to be made at fair values on the acquisition date. In contrast, the purchased goodwill is computed as $GW = CT + EI - NAL$, where NAL is the acquirer’s share of the identifiable assets net of liabilities in the acquiree on the acquisition date. Further, IFRS 3 (2008) allows non-controlling interests to be measured in either of two ways corresponding to the full goodwill and the purchased goodwill approach respectively. Under the former, such interests would be reported at their fair value while in the latter case the valuation of non-controlling interests would be at the minority’s proportionate share of the acquiree’s identifiable net assets. This archetypical shift is, perhaps, the most radical of several amendments introduced by IASB in IFRS 3 (2008). In view of its strategic importance, we elaborate it further.

There are, in fact, several approaches to the accounting for and reporting of business combinations and the preparation of consolidated accounts varying essentially due to the perceived objectives of such reporting. In the “proprietary” approach, the proprietors’ standpoint forms the basis of consolidation, the primary objective thereof being the depiction of the cumulative interest of the parent through its various holdings in the subsidiaries. Goodwill is obtained as the excess of the consideration transferred by the acquirer over the book value of the net assets acquired on the acquisition date. Consolidation is carried out by aggregating the amounts of assets and liabilities of the acquiree that are acquired with the corresponding accounts of the acquirer. No minority interest appears in the consolidated statements and goodwill is shown at the purchased value. The “parent” approach, on the other hand, consolidates accounts but disregards the proportion of holding of the parent in the subsidiaries. The assets and liabilities of the individual constituents of the group are aggregated in entirety. The group’s liabilities include exposition (albeit separately) of the equity interest of the minorities. Nevertheless, goodwill is presented



only at the acquirer's share thereof i.e. the controlling shareholders' ownership and not at full value. Accordingly, it is calculated as the excess of cost of business combination (comprising the consideration transferred and the value of any prior equity interests) over the fair value of the assets acquired less liabilities assumed by the acquirer in the acquiree (purchased goodwill approach) on the acquisition date. An extension of the "parent" theory requires the presentation of the non-controlling interest as a mezzanine item, in between equity and liabilities, treating it as part of neither of these two account heads. In fact, IFRS 3 (2004) mandated the adoption of this theory with the variation that equity shall include presentation of non-controlling interest, although separately disclosed therein.

However, as indicated above, IFRS 3 (2008) portrays a paradigm shift by providing reporting entities the option to follow the "entity" theory in consolidation accounting. The entity theory emphasizes the economic unity of the group. The entire group is deemed to be a single economic entity for the purposes of consolidation. In line with this philosophy, the consolidated accounts report the aggregate resources of the group. Thus, irrespective of the proportion of ownership, the entire assets and liabilities of the subsidiaries are aggregated with those of the parent for the purpose of consolidation. Minority interests are shown as part of equity of the group, although separately disclosed and goodwill is calculated as the excess of the fair value of the full acquiree over its total net equity. Thus, under the "entity" approach, the acquiree's whole goodwill is recognized and not just the acquirer's share. While this approach has the merit of consolidating the full extent of resources at the control of the group's management, it may, on the flip side, result in greater impairment losses. The option of using either the purchased goodwill approach or the full goodwill approach available under IFRS 3 (2008) represents a divergence from SFAS 141(R) of the FASB that permits only the full goodwill approach.

In an apparently self contradicting resolve, the IASB, while deliberating on IFRS 3 (2004), despite acknowledging that "core goodwill" did satisfy the IFRS's criterion of an asset and was, therefore, a resource managed by the entity, decided to stick with the purchased goodwill philosophy. The anomaly has, now, substantively been removed in IFRS 3 (2008) by enabling the reporting entity the option to follow the full goodwill approach allowing consolidation of the entire goodwill as explained above like any other asset controlled by the parent. This is also, in fact, in furtherance of one of the basic principles embedded in IFRSs that all controlled assets and assumed liabilities should be consolidated to the full extent and not to the extent of the percentage of ownership only, by the controlling entity. The push towards upstaging fair value based reporting is given a further impetus in IFRS 3 (2008). We provide an illustration showing the explicit

computation of the purchased goodwill and full goodwill in the Appendix.

Under FAS 141(R), the measurement of the entire non-controlling interest must be at fair value on the acquisition date. It may be noted that this is clearly in distinction of the corresponding provision of IFRS 3 (2008) that enables (as an option to the full goodwill approach) the measurement of non-controlling interest not at the full fair value but at the proportionate share of the identifiable net assets.

IFRS 3 (2008): PERIPHERAL UPGRADATIONS

IFRS 3 (2008) also provides extended accounting and practical directives in implementing the purchase method (renamed as "acquisition" method) over IFRS 3 (2004), on several issues. A summary of the salient upgradations introduced by IFRS 3 (2008) over its preceding version seems to be in order at this point.

(a) Accounting for Intangible assets acquired in business combination

Subtle changes were introduced by IFRS 3 (2008) in the accounting philosophy for intangible assets acquired in a scheme of acquisition. The prior version, IFRS 3 (2004), prescribed recognition of such assets if (a) they met the defining criteria of IAS 38 and (b) their fair value could be measured reliably. IFRS 3 (2008) has, however, removed clause (b) as recognition pre-requisite i.e. it mandates recognition of all such intangible assets that meet only the defining criteria of IAS 38 irrespective of whether their fair value can be ascertained reliably or otherwise. Thus, reliability of measurement is no longer a pre-requisite for initial recognition of the intangible asset. The implication is that, initial recognition of intangible assets that fall within the definition of IAS 38 cannot be avoided on the premise that their valuation cannot be reliably achieved. The reliability of measurement is a subsequent requirement of accounting after the initial recognition stage. The initial recognition is, therefore, not affected by the extent of reliability of measurement of acquired intangible assets.





➤ The shift in the accounting philosophy for step acquisitions follows from the fact that the character of the investment undergoes a significant modification due to alteration from a non-controlling interest to a controlling interest. IFRS 3 (2008), accordingly, stipulates a revision in the classification and measurement of the investment. The recognition of a gain/loss in the case of step acquisition is simply a deferred recognition, when control is achieved, of fair value that was not reported due to the valuations of blocks of investments on the basis of historical cost.

(b) Accounting for Acquisition-related costs

IFRS 3 (2004) prescribed a three pronged treatment for various costs and expenses incurred in relation to business combinations viz. (a) professional fees of lawyers & solicitors, accountants, valuers and other experts incurred to facilitate the business combination and other transaction costs of like nature that can be directly attributed to the acquisition scheme were to be considered as part of the cost of the combination; (b) costs that could not be directly attributed to the acquisition arrangement and costs in the nature of general administrative expenses were to be recognized as an expense when incurred; and (c) costs of arranging and issuing financial liabilities were capitalized to the said accounts on the premise that such costs constituted an essential part of issuing the liability. Such costs were made part of the initial measurement of the liability as required by IAS 39.

The treatment allowed at (a) above implied that the amount of goodwill was increased by like amount. The entire goodwill was subjected to impairment testing as prescribed by IAS 36. This treatment was strongly contended on the premise that such costs do not result in any asset creation or value addition to acquired assets and, as such, should neither be classified as assets in their own right nor aggregated with goodwill. Accepting the argument, IASB, in IFRS 3 (2008), now requires the costs at (a) as well as at (b) to be expensed forthwith and only costs attributable to issuing of equity instruments or debt covered within the ambit of IAS 39 shall be allowed to be capitalized. The opposing school contends that (i) the expensing of these costs is inconsistent with the standard accounting practice in respect of costs of similar

nature that are incurred in new project implementation e.g. capitalization of preoperative costs and (ii) such costs are given due weightage in formulating a purchase price and, as such, these costs should form part of investment and should not be expensed.

(c) Accounting for Contingent Considerations in business combinations

Sometimes, as part of negotiation of acquisition deals, the parties thereto agree to contingent consideration arrangements. In such cases, the parties agree to a further transfer of funds, depending on future events that may take the form of the achievement of some predetermined performance indicators. Even though some uncertainty existed when the business combination was initially accounted for, the acquirer was required to make an adjustment on the basis of an estimation at that time, unless the occurrence of the stimuli that related to such an adjustment were either not probable or the impact thereof could not have been measured reliably. In such a case, if that adjustment subsequently became probable and could have been measured reliably, it was to be treated as an adjustment to the cost of the business combination, in general. This was the treatment for contingent considerations mandated by IFRS 3 (2004).

IFRS 3 (2008) has radically changed this treatment. It debars capitalization of contingent considerations that are determined post-acquisition. The initial cost of the business combination is not to be adjusted for such contingent considerations that are determined after acquisition. On the contrary, the relevant IASB standards shall apply in the accounting for such adjustments depending on the nature of the consideration. It follows that goodwill will not be affected by subsequent changes in the value of contingent considerations. Such adjustments may be written off as a post-combination profit or loss adjustment or IASB standards such as IAS 37 and IAS 39 would govern the treatment (re-measurement) of contingent considerations classified as liabilities etc.





SFAS 141(R) is at a subtle variation on this aspect. Like IFRS 3 (2008), SFAS 141(R) also calls for subsequent recognition and measurement of adjustments to value of contingent considerations. However, all such contingent considerations classified as a liability need to be re-measured at fair value through earnings unless they represent hedging instruments whence the differentials are carried to other comprehensive income.

(d) Accounting for Step Acquisitions

“Step acquisition” relates to those instances where the acquirer acquires the controlling stake in small bits and pieces i.e. the acquisition is achieved in small steps. IFRS 3 (2004) provided that goodwill be calculated by considering each exchange transaction independently i.e. a step-by-step comparison was to be made of the cost of each disjoint investment with the acquirer’s interest created by the respective investment in the fair value of the acquiree’s net identifiable assets. Thus, the total consideration may not have been the same as aggregate fair value of the total acquisition at the acquisition date. In essence, IFRS 3 (2004) led to a valuation that was a cost-based measure which was not reflective of the fair value of gaining control. This was so because the cost based value of the holdings included costs of acquisition made at different points in time and hence, in different market conditions. In times of escalating prices, this could have led to short-valuing the consideration for gaining control and thus, understating value of goodwill than its fair value. Not only this, there could have been situations in which the actual (not fair) value of this consideration was less than the fair value of net assets’ acquired. This would imply that these assets be booked at below their intrinsic value.

IFRS 3 (2008) recognizes this flaw. It, therefore, requires that, on the date of achieving control, adjustment to fair value must be made for each block of investment in the acquiree by the acquirer by re-measuring all its prior equity interests to fair value. The differentials emanating from such adjustments are to be transferred to the income statement for the present period. It is pertinent to point out that, in view of the revised methodology for goodwill computations, the amount of goodwill may increase due to a possible increase in the minority stake compared to its carrying amount on account of the fair value re-measurement of such stake.

The shift in the accounting philosophy for step acquisitions follows from the fact that the character of the investment undergoes a significant modification due to alteration from a non-controlling interest to a controlling interest. IFRS 3 (2008), accordingly, stipulates a revision in the classification and measurement of the investment. The recognition of a gain/loss in the case of step

acquisition is simply a deferred recognition, when control is achieved, of fair value that was not reported due to the valuations of blocks of investments on the basis of historical cost.

There is some diversity of opinion as to whether other comprehensive income or current income statement should reflect the adjustments due to bringing up the step acquisitions to fair value since unrealized gains/losses related adjustments on available-for-sale securities are carried to other comprehensive income. However, the cardinal point here is that, in step acquisitions, a de-recognition of the investment asset by the acquirer in its consolidated financial statements takes place when it achieves control. Now, when the securities are derecognized, changes in the value of available-for-sale securities are recognized not to other comprehensive income but to current income.

(e) Accounting for Contingencies & indemnification Assets

Indemnification contracts in business combinations usually take the form of clauses that require the seller to indemnify the acquirer for the outcome of contingencies or uncertainties in relation to specific assets or liabilities. There existed no specific guidance as to the accounting treatment of such contingent assets in IFRS 3 (2004) resulting in divergence in implementation. Explicit accounting procedure has been provided by IASB in IFRS 3 (2008) on indemnification agreements. The said standard requires the acquirer to recognize an indemnification asset and measure it on a basis that is consistent with the basis of measurement of the asset/liability that such indemnification asset purports to indemnify, even if that measure is other than fair value. This provision, of an exception to the universal fair value recognition principle advocated by IASB, was necessary to resolve inconsistencies that could arise in cases where the underlying asset/liability would have been measured using an attribute other than fair value whereas the corresponding indemnification asset would, but for this provision, have been required to be measured at fair value. Furthermore, IFRS 3 (2008) also instructs the acquirer’s management to adopt mutually consistent assumptions in





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ascertaining the value of the indemnifying asset and the asset/liability being indemnified, subject to its assessment of the collectibility of the indemnification asset and any contractual limitations on the indemnified amount.

Like IFRS 3 (2008), SFAS 141(R) provides explicit directives in respect of several types of contingencies. SFAS 141(R) provides *inter alia* that (i) all contractual contingent assets and liabilities be recorded at estimated fair values on the acquisition date and reported as such by the acquirer; (ii) if it is more likely than not that an asset or liability exists under the elements definition in Concepts Statement 6, in relation to other contingencies, such contingencies be also recorded at estimated fair values. Further, such contingencies are to be re-measured conservatively until they are finally settled. Thus, contingent assets (liabilities) are to be valued at the lower (higher) of their original or later value. In essence, SFAS 141(R) stipulates that the criterion of “more likely than not” must necessarily be met for the recognition of non-contractual contingent liabilities. However, contractual contingent liabilities be recognized forthwith. IFRS 3 (2008) mandates recognition of all contingent liabilities.

(f) Fair Value of Consideration Transferred

In situations where control is achieved over the net assets of the acquiree through transfer of consideration, such consideration being other than cash or other monetary assets, IFRS 3 (2008) visualizes two possible scenarios viz. (a) the acquirer has no longer control over the non-monetary assets and liabilities since these have been transferred to the former owners, in which case, the standard mandates that these transferred assets and liabilities be re-measured to their fair value as at the date of acquisition and differentials arising from the process of such re-measurement be recognized to the income statement and (b) the acquirer has control over the non-monetary assets or liabilities and they remain within the combined entity after the business combination since they have been transferred to the acquiree and not to its former owners, in which case, the acquirer is required to carry these assets and liabilities at their book values immediately prior to the date of acquisition. On such assets and liabilities that it controls both before and after the business combination, the acquirer shall not recognize any differential to the income statement.

IFRS 3 (2008) V. SFAS 141(R)

The issue of complete convergence between the standards issued by IASB and the FASB is still quite distant. This is despite the fact that IFRS 3 (2008) & SFAS 141(R) were outcomes of a cooperative project between the two standard setting bodies. As mentioned above, some instances of divergence include *modus operandi* for valuation of non-controlling interest, measurement and reporting of

contingency considerations, and valuation and treatment of assets and liabilities arising from contingencies. Some of the differences between IASB and FASB standards were allowed on the necessity of these standards to be consistent with other standards of the same authority. Furthermore, it was also felt that most of these differences would be addressed as part of current or future joint projects of the IASB and the FASB.

One of the cardinal changes introduced in SFAS 141(R) is the change in the philosophy underlying the accounting for business combinations from the parent theory to the full economic-unit theory. This has significantly bridged its divergence with IFRS 3 (2008) although the latter standard allows the acquirer entity the option to adopt either the same treatment or to use the purchased goodwill approach that is an extension of the parent theory. SFAS 141(R) requires the measurement yardstick of fair value for non-controlling interests, whereas the corresponding IFRS allows the discretion to use either proportionate interest in the identifiable assets or fair value for the measurement of such interests.

IASB standards define fair value in terms of exchange value of the item whereas the FASB ones define the same in terms of the exit value. The IASB and FASB standards also differ with regard to the definition of “control”. Thus, there may be situations in which a transaction that constitutes a business combination under IFRS 3 (2008) might not be so classified under SFAS 141(R).

Although IASB & FASB have similar provisions governing accounting for assets and liabilities arising from contingencies, both initially and after a business combination, there do exist certain differences e.g. in the criteria for initial recognition for non-contractual liabilities. IFRS 3 (2008) has a “reliable” measurement threshold requirement whereas SFAS 141(R) has a “more likely than not” threshold stipulation. There are also instances e.g. in the accounting for contingent considerations, indemnification assets





(elaborated in the preceding section) etc. where the business combination standards make reference to or prescribe accounting for certain items as per the other applicable standards of the same family. In such cases, disharmony may arise from the *inter se* divergences of the standards that are referred to.

There is also some divergence between SFAS 141(R) and the corresponding IAS 38 as regards the treatment of in-process R & D costs. Although treatment of acquired in-process R&D is identical, non-acquired in-process R&D is treated differently under the two standards. As per IAS 38, (i) expenditures relating to the research portion of a project are to be forthwith expensed as incurred, with no recognition as an intangible asset; (ii) expenditures on developmental activities may be recognized as intangible assets. The treatment of in-process R & D costs under SFAS 141(R) requires such costs to be accounted for at fair value, recorded as an intangible asset in the consolidated statements and then tested for impairment on a regular basis. SFAS 141(R) is inconsistent with SFAS 2 that relates to accounting for other in-process R & D. SFAS 2 requires all other in-process R&D to be expensed. However, SFAS 2 and SFAS 142 respectively will continue to govern future investments in R&D following the acquisition date. Here lies the source of an anomaly. The acquired in-process R&D has value (SFAS 141(R)), whereas future additions to the acquired in-process R&D as well as internally developed in-process R&D do not have value. It is emphasized that the method for reporting should be independent of the manner of acquisition of the asset.

A bargain purchase acquisition is an acquisition deal wherein the aggregate of (i) the consideration transferred and (ii) fair value of any non-controlling interest in the acquiree on the date of acquisition is less than total fair value (on the date of acquisition) of the identifiable *net* assets acquired. SFAS 141(R) requires that companies record this excess value received as a gain in the income statement (net of deferred taxes). Thus, the assets acquired continue to remain at fair market value. Nevertheless, these provisions met with strong dissent on the premise that fictitious or manipulative gains could enter the income statement emanating from deliberate and/or premeditated inaccuracies in the estimation of the relevant fair values or even the use of measures that, although permitted by statute, do not represent fair values. IFRS 3 (2008), on the other hand, prohibits the recording of this excess value as an extraordinary gain in the income statement. The Ind-AS 103 that deals with the accounting and reporting of business combinations in India differs from the IFRS 3 (2008) on an important aspect of the recognition of bargain purchase. Accounting for the excess value of net assets acquired over purchase consideration as per Ind-AS 103 requires recognition of the excess in equity through other comprehensive income or directly depending on whether clear evidence for the underlying reason for classification of the transaction as a bargain purchase subsists or not and not in profit or loss.

ORGANIZATIONAL IMPLICATIONS OF IFRS 3 (2008)

No additional systems and processes are explicitly prescribed under IFRS 3 (2008). However, several repercussions do flow from the standard as to the requirements of the entity's systems and controls and the level of expertise required therein. Some of the contextual provisions in this regard are discussed below:

- (a) The provisions of the standard in relation to step acquisitions prescribe that, on the date of acquiring control, the various blocks of existing stakes be re-measured to fair value. Any differential arising from such re-measurement as well as any previously recorded fair value adjustments that have been taken to reserves are required to be charged off to income. Implementation of these provisions requires comprehensive tracking on an investment-by-investment basis. The trail must also cover information on the carrying amount and subsequent re-measurements.
- (b) IFRS 3 (2008) has significantly enhanced the ambit of fair value based reporting with more assets and liabilities being required to be measured and reported at fair value. These include intangible assets and contingent liabilities. Furthermore, the recognition criterion for intangibles has also been amended by the revised standard such that very few intangibles are, now, excluded from identification and valuation. Such recognition and valuation of intangible assets would, obviously, affect post-deal earnings. As such, it is desirable that the potential impact on earnings be modeled pre-acquisition. In fact, this exercise may be incorporated as a constituent of an acquirer's due-diligence exercise.
- (c) All the hedge relationships of the acquiree are required to be re-designated and tested for effectiveness post-acquisition as per the provisions of IFRS 3 (2008).





- (d) There may be cases of acquisitions wherein share-based payment awards of the acquirer substitute the share-based payment awards of the acquiree. IFRS 3 (2004) did not provide specific guidance on this aspect. However, the revised IFRS 3 requires exchanges of share-based payment awards taking place as part of a transaction of business combination be accounted for as modifications of share based payment awards under IFRS 2. Furthermore, the acquirer's awards granted as replacement as well as the acquiree awards as of the acquisition date are to be measured by the acquirer in accordance with IFRS 2.

In order to segregate the replacement award into components that are to be accounted for as portion of the transaction of business combination and the component not to be so accounted for, detailed guidance is provided by IFRS 3 (2008) on the manner in which the identification and accounting of the following constituents of the replacement award is to be carried out viz. (i) the part that is ingredient of the consideration for the acquisition, and (ii) the part that is compensation for post-combination service. The former constitutes the return attributable to pre-combination service.

The portion of the award that represents remuneration for post-acquisition services to the acquirer to be provided by former owners of the acquiree or other employees thereof shall not constitute consideration for the acquisition.

The aspects that need to be considered in identifying the capitalizable component of the award includes *inter alia* (i) whether the vesting period has been completed before the business combination, in the case of acquiree awards; (ii) whether employees are required to provide additional services after the acquisition date, in the case of replacement awards; (iii) how the replacement has affected the vesting period of the awards.

Thus, to facilitate implementation of these provisions, systems will need to be set in place that keep track of the replacement awards as well as the acquiree awards that they seek to replace, providing for the timely calculations of their respective values.

- (e) IFRS 3 (2008) requires the initial measurement of contingent considerations at fair value on acquisition and their maintenance at fair value through subsequent re-measurements through earnings rather than capitalization (unless it is equity). Thus, appropriate systems for maintenance of fair value measurement details and records in respect of such accounts and the tracking thereof need to be placed in the acquiring entity's set up.
- (f) The disclosure requirements in relation to business combinations have been substantially enhanced by IFRS 3

(2008) e.g. disclosure of annualized revenue and profit as if the business combination had been completed at the start of the financial year, analysis of acquired receivables' gross contractual amounts and fair values and estimates of the range of outcomes on contingent considerations. Furthermore, in case the fair value measurement or reporting mandates, as required by the standard, are not completed, the said standard stipulates disclosure of the items concerned, the reasons for such failure and any adjustments made to prior reported fair values. Information systems for these disclosures are required as part of the strategic inputs in relation to business acquisitions.

- (g) As mentioned above, numerous provisions of IFRS 3 (2008) involve fair value ascertainment of various items which may call for sophisticated valuation expertise. It may, often, be the case that obtaining such expertise in an outsourcing mode may prove to be cost effective in contrast to developing such highly specialized skills in house, particularly so in view of the limited applicability of such capabilities in the day to day operations of the entity. Nevertheless, a systematic cost-benefit analysis of this aspect is in order.

CONCLUSION

There is no debating the fact that, through the issuance of IFRS 3 (2008), substantial progress has been achieved by the IASB in upgrading the quality, relevance and representational faithfulness of financial reporting for business combinations. However, a study of the responses received to the Exposure Draft equally unequivocally testifies that issues subsist wherein divergence of opinion is strong. In particular, it is, now, opportune to undertake an analysis of feedback from stakeholders accompanied by a fresh and extended review of e.g. (i) the traditional parent v. the revolutionary economic-unit view of the post-acquisition entity; (ii) the principles and methodology governing recognition and measurement of contingencies; (iii) treatment of contingent considerations; (iv) the accounting and reporting of R&D activities. The cost aspect associated with the compliance of IFRS 3 (2008) needs also to be assessed. Besides, the issue of harmonization between the standards issued by IASB and FASB needs to be finally settled.

APPENDIX

We assume that on April 1, 20XX, the entity X acquires a α_1 fraction ($=100\alpha_1\%$) equity stake in entity Y for E_1 units of money. Prior to this acquisition, X had a α_0 fraction equity holding in Y. This holding had a fair value of E_0 immediately before the acquisition of this additional α_1 fraction equity stake. The acquirer, X, has determined the fair value of the minority interest (which represents a holding of $\alpha_m = (1 - \alpha_0 - \alpha_1)$) as E_m and the fair value of the net identifiable assets of Y as A.

CS



	IFRS 3 (2008)		IFRS 3 (2004)
	NCI measured at Fair Value	NCI measured at proportionate share of the acquiree's identifiable net assets.	NCI measured at proportionate share of the acquiree's identifiable net assets.
Fair Value of consideration paid (α_1)	E_1	E_1	E_1
Value of NCI (α_m)	E_m	$\alpha_m A$	-
Fair Value of the acquirer's previously held equity interest in the acquiree (α_0)	E_0	E_0	-
Total	$E_1 + E_m + E_0$	$E_1 + \alpha_m A + E_0$	E_1
Fair value net identifiable assets	A	A	$\alpha_1 A$
Goodwill	$E_1 + E_m + E_0 - A$	$E_1 + E_0 - (1 - \alpha_m) A$	$E_1 - \alpha_1 A^*$
NCI (α_m)	E_m	$\alpha_m A$	$\alpha_m A$

* In this figure, the goodwill relating to the prior stake (α_0) needs to be added to obtain the total goodwill.

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Vicarious Liability of Directors in Case of Dishonor of Cheque by a Company: Critical Analysis of Gunmala Sales Case

- Instances of cheques issued by companies getting dishonored and consequently filing of complaints under section 138 read with section 141 of Negotiable Instruments Act, 1881 implicating directors of the company are on increase. The Supreme Court has recently examined a plethora of cases upon the subject and has laid down new principles as to when complaints implicating the directors can be quashed against the director.

INTRODUCTION

The use of cheques is a well recognized method for payment in daily business and it is desired that the commitment made by the payer be honored in all occasions. To encourage the use of cheques and with an intention to save the interest of the unpaid payee/holder of cheque the 17th Chapter of the *Negotiable Instruments Act, 1881* containing Sections 138 to 142 was introduced into the statute book in the year 1988 by the Parliament which provided for punishment of imprisonment and fine for dishonor of cheque.¹ Though a remedy was available to the unpaid payee through institution of civil suit for recovery of money, the remedy contemplated under section 138 is different with certain special features which are less time consuming and troublesome for complainants. With rampant use of cheques the law under section 138 underwent wide



interpretations by the courts. So much so that section 138 has become the most common litigation in every area and the courts are flooded with the complaints. The trend suggests that the complaints nowadays are increasing against the companies. The problem with such complaints arises while drafting the complaint and

¹ It was based on the Report of the Committee on Banking Laws by Dr. Rajamannar, submitted in 1975, which suggested, inter alia, penalizing the issuance of cheque without sufficient funds.



it is difficult to find a face on which the accusations under section 138 could be made apart from the signatory. In view of this the legislation has specifically inserted section 141 dealing with Offences by companies which imposes vicarious liability upon every person who at the time of the offence, when the cheque was issued, was in charge of and was responsible to the company for the conduct of the business. The law in this regard has been interpreted more than once and recently in the case of *Gunmala Sales Pvt. Ltd. v. Anu Mehta*². The law in that case has been almost settled by the Apex Court; however without fixing any formulae it has been observed as to what is the modicum requirement to implicate a director of the company.

VICARIOUS LIABILITY

Vicarious liability is a form of strict secondary liability that arises under the common law doctrine of agency respondent superior - the responsibility of the superior of the acts of their subordinate - or in a broader sense the responsibility of any third party that had the right, ability or duty to control the activities of a violator. The concept of the vicarious liability has been deep rooted in civil jurisprudence but such a concept is alien to the criminal jurisprudence. There is no vicarious liability in criminal law unless the statute takes that also within its fold.³ In dealing with such a matter in *Maksud Saiyed v. State of Gujarat*⁴ the Apex Court observed that the penal code does not contain any provision for attaching vicarious liability on the part of the Managing Director or the Directors of the Company when the accused is the Company. The Bank is a body corporate. Vicarious liability of the Managing Director and Director would arise provided any provision exists in that behalf in the statute. Statutes indisputably must contain provision fixing such vicarious liabilities. Even for the said purpose, it is obligatory on the part of the complainant to make requisite allegations which would attract the provisions constituting vicarious liability.

VICARIOUS LIABILITY UNDER NEGOTIABLE INSTRUMENTS ACT

Under Negotiable Instruments Act the proposition for imposing vicarious liability with regard to offence created under section 138 has been particularly laid down by section 141. In *Sabitha Ramamurthy v. R. B. S. Channabaasavaradhya*⁵ it was held that Section 141 raises a legal fiction by reason of which a person although is not personally liable for commission of such an offence would be vicariously liable therefore. Such vicarious liability can be inferred against the company only if the requisite statement is

made in the complaint. The proviso⁶ to section 141(1) gives teeth to counter the inference that could be drawn under section 141(1) wherein every person so implicated under the offence could raise plea and prove that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. The provision does not stop there and empowers the complainant to implicate such other director, manager persons by whose consent, connivance or negligence the offence was committed.

MODICUM OF AVERMENT REQUIRED IN A COMPLAINT TO TAKE COGNIZANCE

Under Section 190 of the Code, any Magistrate of first class (and in those cases where Magistrate of the second class is specially empowered to do so) may take cognizance of any offence under the following three eventualities:

- (a) upon receiving a complaint of facts which constitute such offence;
- (b) upon a police report of such facts; and upon information received from any person other than a police officer, or upon his own knowledge, that such offence has been committed.

This Section which is the opening section of Chapter XIV is subject to the provisions of the said Chapter. The expression "taking cognizance" has not been defined in the Code. However, when the Magistrate applies his mind for proceeding under Sections 200-203 of the Code, he is said to have taken cognizance of an offence.

This legal position was explained in *S. K. Sinha, Chief Enforcement Officer v. Videocon International Ltd & Ors.*⁷ in the following words:



2 AIR 2015 SC1072
 3 *Sham Sunder v. State of Haryana*, (1989) 4 SCC 630; *Hira Lal Bhagwati v. CBI* (2003) 5 SCC 257
 4 (2008) 5 SCC 668.
 5 (2006) 10 SCC 581; AIR 2006 SC 3086

6 S.141(1) Proviso - Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence.
 7 (2008) 2 SCC 492.



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Vicarious Liability of Directors in Case of Dishonor of Cheque by a Company: Critical Analysis of Gunmala Sales Case

“19. The expression “cognizance” has not been defined in the Code. But the word (cognizance) is of indefinite import. It has no esoteric or mystic significance in criminal law. It merely means “become aware of” and when used with reference to a court or a Judge, it connoted “to take notice of judicially”. It indicates the point when a court or a Magistrate takes judicial notice of an offence with a view to initiating proceedings in respect of such offence said to have been committed by someone.

20. “Taking Cognizance” does not involve any formal action of any kind. It occurs as soon as a Magistrate applies his mind to the suspected commission of an offence....”

The Apex Court in the matter of *Sunil Bharti Mittal v. CBI*⁸ observed that at the stage of taking cognizance, the only consideration before the Court remains to consider judiciously whether the material on which the prosecution proposes to prosecute the accused brings out a *prima facie* case or not. The Court further observed that cognizance of an offence and prosecution of an offender are two different things. Section 190 of the Code empowered taking cognizance of an offence and not to deal with offenders. Therefore, cognizance can be taken even if the offender is not known or named when the complaint is filed or FIR registered. Their names may transpire during investigation or afterwards. A wide discretion has been given as to grant or refusal of process and it must be judicially exercised. A person ought not to be dragged into Court merely because a complaint has been filed. If a *prima facie* case has been made out, the Magistrate ought to issue process and it cannot be refused merely because he thinks that it is unlikely to result in a conviction.

TAKING COGNIZANCE IN A COMPLAINT UNDER SECTION 141 OF NI ACT

The observation by *three judge bench* judgment in *SMS Pharmaceuticals*⁹ was that as per section 141 it is necessary to specifically aver in a complaint under section 141 that at the time the offence was committed the person accused was in charge of and responsible for the conduct of business of the company. In the matter of *N.K. Wahi*¹⁰, it was held that to launch a prosecution a clear and unambiguous allegation as to how the directors are incharge and responsible for the conduct of the business of the company. Following the observations made by Apex Court in plethora of cases the Apex Court resounded the same in the latest case of *Gunmala Sales*¹¹ that basic averment is required that a particular director was in charge of and responsible for the conduct of the business of the company at the relevant time when the offence was committed so that the Magistrate could issue process under section 203 and 204 CrPC.

8 Criminal Appeal NO. 34 OF 2015 (arising out of Special Leave Petition (Crl.) No. 2961 of 2013)

9 *SMS Pharmaceuticals v. Neeta Bhalla* (2005) 8 SCC 89 : AIR 2005 SC 3512

10 AIR 2007 SC 1454.

11 *Supra* Note 3 Para 33(a).

WHERE NOT QUASHED

Person on Position of Signatory And Managing Director / Joint Director :

In the matter of *SMS Pharmaceuticals*¹² it was held that the managing director or joint managing director would be admittedly in charge of the company and responsible to the company for the conduct of its business. Similarly, the signatory of the dishonored cheque in question would be clearly liable for the incriminating act and will be covered under section 141 (2). The mindset of the court in not extending much of the protection to the managing director or joint director was that it was by the virtue of their offices they are liable vicariously. Similarly in matter of *K.K. Ahuja*¹³, wherein the accused is the Managing Director or Joint Managing Director the court held that because the prefix ‘Managing’ to the word ‘Director’ makes it clear that they were in charge of and are responsible to the company for the conduct of the business of the company. It was further observed that looking to the position of the signatory it would give rise to responsibility under sub section (2) of S.141. It was also held that other officers of the company could not be made responsible under S.141 (1) but only after disclosing their consent, connivance or negligence under S.141(2). Therefore, the court has drawn distinction between two sets of persons while discussing two kinds of responsibilities.

In *KK Ahuja case* the Court has considered the position of law as given in the Companies Act and considered provisions of Sections 5 and 291 of Companies Act, 1956 with the definitions in clauses (24), (26), (30), (31), (45) of section 2. The court summed up that following persons are considered to be the persons who are responsible to the company for the conduct of the business of the company :



12 *Supra* note 9.

13 AIR 2011 SC (Cri) 2259.



- (a) the managing director/s;
- (b) the whole-time director/s;
- (c) the manager;
- (d) the secretary;
- (e) any person in accordance with whose directions or instructions the Board of directors of the company is accustomed to act;
- (f) any person charged by the Board with the responsibility of complying with that provision (and who has given his consent in that behalf to the Board); and
- (g) where any company does not have any of the officers specified in clauses (a) to (c), any director or directors who may be specified by the Board in this behalf or where no director is so specified, all the directors. It follows that other employees of the company, cannot be said to be persons who are responsible for the conduct of the company.

PERSON HOLDING HONORARY POST

In the matter of *N. Rangachari*¹⁴, the appellant therein stated that he was honorary chairman of the company without any remuneration. He was never assigned with the financial and business activities. The High Court while dismissing the application said that the court cannot decide such pleas under section 482 CrPC. Those pleas have to be established at the trial. The Apex Court while affirming the judgment of the High Court held that a person having business dealing with the company may not be aware of the arrangement within the company in regard to its management. It was further observed that in the commercial world a person having a transaction with a company is entitled to presume that the Director of the company are in charge of the affairs of the company and it is for the director to prove to the contrary at the trial. The Court observed that from reading of the complaint it is clear that the appellant therein was director of the company and was in charge of the affairs of the company when the dishonored cheques were issued.

Similarly, in the matter of *Malwa Cotton & Spinning Mills Ltd.*¹⁵, it was held that a person in the commercial world having a transaction with a company is entitled to presume that the Directors of the company are in charge of the affairs of the company and if any restriction on their power is placed by the memorandum of articles of the company, it is for the director to establish that in the trial.

In *Paresh P. Rajda v. State of Mah.*¹⁶, it was observed that the specific allegations had been leveled against the appellant that he being responsible officer of the company was equally liable and that if it is ultimately found that he had, in fact, no role to play, he

would be entitled to acquittal. Further, that at a stage where the trial had not yet started it is inappropriate to quash the proceedings against them.

WHERE QUASHED

In *K. Srikanth Singh v. North East Securities Ltd*¹⁷, it was held that mere fact that at some point of time, an officer of a company had played some role in the financial affairs of the company, will not be sufficient to attract the constructive liability under section 141 of the Act.

EFFECT OF RESIGNATION

The court in the matter of *Saroj Kumar Poddar v. State*¹⁸, held that the accused person has resigned from the directorship of the company. There is no averment in the complaint as to how and in what manner the appellant was responsible to it for the conduct of the business of the company or otherwise responsible to it in regard to its functioning. However, in that matter the court has also observed that exactly on what date the said resignation was accepted by the company is not known. In matter of *Anita Malhotra*¹⁹ while discussing similar issue it was observed since the cheque was signed in the year 2004 and the director resigned on 20.01.98 the complaint was quashed.

FINDING OF COURT IN GUNAMALA SALES

BRIEF FACTS : The present case came up before the Apex Court in special leave petitioner being aggrieved by the order of the High Court by which the complaint under section 138 read with section 141 against the directors of the company were quashed. The company issued cheques which were dishonored on 02.08.11. With regard to one director *Siddharth Mehta* it was argued that he resigned on 30.09.10 and with regard to other directors plea was



14 AIR 2007SC1682.

15 AIR 2008 SC 3273.

16 (2008) 7 SCC 422 : AIR 2008 SC 2357.

17 2007 (12) SCC 788.

18 (2007) 3 SCC693.

19 AIR 2012 SC 31.



Article

Vicarious Liability of Directors in Case of Dishonor of Cheque by a Company: Critical Analysis of Gunmala Sales Case

➤ In Gunmala Sales case the Apex Court has brought some clarity in law while holding that it is *sine qua non* to state basic averment that the Director was in charge of and responsible for the conduct of the business of the company at the relevant time when the offence was committed and the complaint could only be quashed *qua* the director if he can prove while producing on record unimpeachable, uncontrovertible evidence which is beyond suspicion or doubt or totally acceptable circumstances which may clearly indicate that the Director could not have been concerned with the issuance of cheques.

taken that they were not in charge of and not responsible for the conduct of the business of the company. The High Court allowed the application for quashing of the complaint and observed that in the complaint except the averments that the Directors were in charge of and responsible to the company at the relevant time, nothing has been stated as to what part was played by them and how they were responsible regarding the finances of the company, issuance of cheque and control over the funds of the company.

FINDINGS - The court after considering the judgments delivered recorded the following two important findings which are in brief stated hereunder :-

- a. Once in a complaint filed under Section 138 read with Section 141 of the NI Act the basic averment is made that the Director was in charge of and responsible for the conduct of the business of the company at the relevant time when the offence was committed, the Magistrate can issue process against such Director;
- b. In the facts of a given case, on an overall reading of the complaint, the High Court may, despite the presence of the basic averment, quash the complaint because of the absence of more particulars about role of the Director in the complaint. It may do so having come across some unimpeachable, uncontrovertible evidence which is beyond suspicion or doubt or totally acceptable circumstances which may clearly indicate that the Director could not have been concerned with the issuance of cheques.

The Apex Court in appeal held that the High Court did not

go into question (b) as to whether the director who resigned has been prosecuted after his resignation has been accepted by the board of directors of the company. It merely stated that Siddharth Mehta had resigned from the directorship on 30.09.10 but no unimpeachable or uncontrovertible evidence was brought on record. The Apex Court therefore, set aside the order of the High Court and remitted the matter to it for fresh consideration.

CRITICAL ANALYSIS/ CONCLUSION

In the cases discussed above it appears that the law under section 141 has been the bone of contention very frequently. The intention of the legislature while including such a provision appears to be to give teeth to the complaint of the complainant who is a victim of non-payment of his dues by the corporate bodies while extending the liability to every such officer who at the time when the alleged cheque was dishonoured was in charge of and was responsible to the company for the conduct of the business of the company. The concept of vicarious liability has been imported here. Further the legislation has given protection in view of section 141 proviso by saying to every such person who has been implicated under a complaint that the effect of inference of liability under section 141 (1) would not touch the person who proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of the offence. The legislation has also provided further in section 141(2) that if complainant proves along with the responsible person under section 141(1) that if the offence was committed with the consent, connivance of, or negligence of any director, manager, secretary or other officer of company would also be deemed to be liable to be proceeded against. The legislation has favored the complainant and has been tough on company while saying that if you are a company and if you are persons holding responsible positions in a company you should be aware that cheques issued from the desk of the company should be honoured by your banks or the dagger of prosecution would hang over all of you.

In Gunmala Sales case the Apex Court has brought some clarity in law while holding that it is *sine qua non* to state basic averment that the Director was in charge of and responsible for the conduct of the business of the company at the relevant time when the offence was committed and the complaint could only be quashed *qua* the director if he can prove while producing on record unimpeachable, uncontrovertible evidence which is beyond suspicion or doubt or totally acceptable





circumstances which may clearly indicate that the Director could not have been concerned with the issuance of cheques. Till now as per the cases discussed above only fact of resignation or terminal illness have been classified as cases where the complaints have been quashed on the basis of second finding as discussed above.

The Apex Court has commented that no fixed formulae can be imposed and no fetters can be imposed upon the inherent powers of High Courts and it depends upon the facts of the case but has also said that at this stage the High Court could not go for mini trial or roving inquiry. The Apex Court also observed that role of a director in a company is a question of fact depending on the peculiar facts in each case and that there is no universal rule that a director of a company is in charge of everyday affairs.

Two questions are still open – one whether any more such instances apart from resignation or terminal illness could be considered for quashing of complaint as required by the second finding of the Apex Court and second whether more fact apart

from basic averment that the directors were in charge of and responsible for the conduct of business of the company would be required for inference of liability. As observed in *KK Ahuja's* case some particulars will be desirable; in case of *Anita Malhotra* it was observed that complaint ought to have specified her role in day to day affairs; in matter of *A.K. Singhania* it was observed that it is not necessary to reproduce language of section 138 but substance of complaint should disclose that the accused was in charge of and responsible. But, leverage has been shown towards complainant in the case of *N. Rangachari* while observing that a person having business dealings with the company may not be aware of the arrangement within the company. This observation appears logical that a layman complainant could not have known the arrangement within company, role of a particular director, daily meeting leading to daily affairs, the directors involving in decision. Therefore, the second question becomes pertinent. Gunmala Sales case should serve as a guiding light for various courts in country and a more clearer pronouncement would soon be available to bring more transparency in the law.

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The Black Money Act - is It a Panacea?

- The Black Money Act has come into operation from July 1, 2015. The Act is primarily a taxation statute but with severe criminal sanctions for evasion of tax on undisclosed asset or income located abroad. In other words, the Act has no application with respect to domestic assets or income. This article analyses the finer nuances of this legislation and attempts to understand why tax evasion has been brought within the scope of money laundering and whether it has any relationship with international conventions.

INTRODUCTION

The generation of black money is a mutating phenomenon and hence, the expression 'black money' is extremely difficult to be defined. Broadly, it means income earned either from illegal sources like crime, extortion, bribery or from legal sources on which no tax has been paid. The insurmountable pressure on the Government from all corners of the society to combat black money and bring back the income stashed abroad has finally led to enactment of the Black Money (Undisclosed Foreign Assets and Income) And Imposition of Tax Act, 2015 (Black Money Act or the Act). The genesis of the Act lies in the recommendations of the Special Investigation Team (SIT) constituted by the Supreme Court. Recently, the Black Money Act along with the one-time tax compliance scheme got notified which has invited intense debate on this subject. This Act for the first time makes tax evasion on foreign income and assets, a predicate offence. This article analyses the finer nuances of this legislation and attempts to understand why tax evasion has been brought within the scope of money laundering and whether it has any relationship with international conventions. The grey areas in the legislation and the ground realities are also briefly analyzed for holistic understanding of the subject.

OVERVIEW OF BLACK MONEY ACT

Taxing foreign income and assets

The Black Money Act has come into operation from July 1, 2015. The Act is primarily a taxation statute but with severe criminal sanctions for evasion of tax on undisclosed asset or income *located abroad*. In other words, the Act has no application with respect to domestic assets or income. Section 3 is the charging section which





➤ The cardinal principle of criminal jurisprudence is that there should be culpable state of mind before one can be held guilty. However, this requirement of proving *mens-rea* is excepted in the context of economic offences. There is presumption of culpable mental state in legislations like Narcotic Drugs and Psychotropic Substances Act, 1985 and Customs Act, 1962. Therefore, similar statutory presumption of culpable state of mind is also provided in the Black Money Act.

levies tax at the rate of 30% on such undisclosed foreign assets and income belonging to a resident assessee but excludes not ordinarily residents as per Section 6 of the Income Tax Act, 1961 (IT Act). The tax liability to be computed without any deduction, exemption or set off against carry forward losses which is otherwise allowed under the IT Act. The assets and income taxed under this statute will no longer be brought to tax under the IT Act. While the term 'asset' has not been defined in the Act, however, if one looks at the definition of 'undisclosed assets' in Section 2(11), it means an asset which includes financial interest in any entity. However, the expression 'financial interest' remains undefined and the only available guidance can be found in the instructions to the income tax returns. The definition also clarifies that person need not have ownership of such assets but even beneficial ownership would suffice. While it is not specifically mentioned anywhere, but it can be safely inferred that assets would include both moveable and immovable assets for the purpose of disclosure under this Act. The value of the undisclosed assets shall be calculated on the basis of market value as on the date it came in notice of the AO. This means that if Mr. A holds a property in London bought in 2000, fails to disclose the same in his return, and it came to notice of the AO in 2017, then the tax would be calculated on the market value of the property in 2017. While the term market has not been defined in the Act, but it appears to be the market value in the concerned foreign country where the asset is located. However, an asset can be considered as undisclosed, only when there is no explanation for the source of investment in such asset or the explanation is not satisfactory in the opinion of the Assessing Officer (AO).

Penalty and offences

Section 41 provides penalty which is three times the amount of tax so calculated on undisclosed foreign income and assets.

In other words, the quantum of tax and the penalty combined exceeds the total income which has evaded tax which raises the obvious question on recovery. The Black Money Act provides an exemption from any declaration in the return if the aggregate amount in the foreign bank accounts does not exceed INR five lakhs. Chapter V of the Act deals with offences and prosecution and provides under Section 51 that if an assessee willfully fails to furnish return within the stipulated time or files a return willfully not disclosing such assets or income, the same amounts to an offence for which imprisonment ranging from minimum six months to seven years with fine can be imposed. This section is identical to Section 276C of the IT Act. Further, it provides that if an assessee willfully attempts to evade in *any manner whatsoever* to pay tax, penalty or interest under this Act, then the assessee shall be liable to imprisonment ranging from minimum three years to ten years with fine. The expression *any manner whatsoever* clearly shows the expansive interpretation intended by the legislature so as to capture any possibility or manner of tax evasion. The Act also provides powers for confiscation and attachment of property located in India of value equivalent to the amount due under the Act.

Culpable state of mind

The cardinal principle of criminal jurisprudence is that there should be culpable state of mind before one can be held guilty. However, this requirement of proving *mens-rea* is excepted in the context of economic offences. There is presumption of culpable mental state in legislations like Narcotic Drugs and Psychotropic Substances Act, 1985¹ and Customs Act, 1962². Therefore, similar statutory presumption of culpable state of mind is also provided in the Black Money Act. The implication of this presumption is that when the prosecutor manages to furnish sufficient evidence for commission of offence under Chapter V of the Black Money Act, the statutory presumption of mental state shall be invoked i.e., the assessee has willfully committed such offence. In other words, the onus



1 Section 35 and 54.
2 Section 102.



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shifts onto the assessee to rebut such presumption and prove that there was no such motive or intention or knowledge to commit the offence. While this may appear ensuring better rate of prosecution, but the undisclosed assets or income would be located abroad, so the information would have to be obtained from the foreign authorities and without their sufficient assistance, establishing even *prima-facie* case would remain a far-fetched possibility. One must also remember that since the offences are strictly criminal in nature, the test of proof would remain 'beyond reasonable doubt'. Presently, when we are already struggling to obtain substantial evidence in income tax proceedings which is civil in nature, it would be a greater challenge to meet the standard of evidence in criminal prosecution.

Criminal liability of Corporations

The vicarious liability of director, manager, secretary or any other officer of the company features as an essential part of this Act. For any offence committed by a company, every person who was responsible for the conduct of the business of the company at the time when the offence was committed shall be deemed to be guilty of such offence. Further, Section 56(3) clearly mentions that for an offence which is punishable with both fine and imprisonment, the company shall pay the fine whereas such director or manager or secretary or officer of the company shall be liable to be punished i.e., imprisoned for the prescribed term under the Act. Section 35 also provides that the 'manager' shall be liable to pay the amount if the amount due cannot be recovered from the company. *The present Act overrides the provisions of the Companies Act, 2013 with respect to the liability of the 'manager', in the event of any conflicting provisions.*

Charges for Abetment

Similar to any criminal legislation, the Black Money Act punishes for abetment, if a person abets or induces in any manner the assessee to provide a false declaration relating to tax payable under this Act. Therefore, the deterrent element under this Act is not merely confined to the assessee and even entities like, banks, financial institutions, *consultants like lawyers, Chartered Accountants, Company Secretaries, etc.* can be punished under this Act for abetting clients in concealment of foreign income or assets. The punishment is for minimum six months and can be upto seven years. Therefore, this certainly calls for higher degree of vigilance and compliance at the end of financial institutions and consultants while advising their respective clients.

Compliance Window

Interestingly, Section 59 of the Act provides a one-time compliance window to such persons who have undisclosed foreign assets and income, to come forward and make a declaration before the Principal Commissioner of Income Tax. Such person availing this compliance window would be exempted from criminal prosecution under the Black Money Act but such person would still have to

pay tax at the rate of 30% and a penalty of 100% of such tax.³ Further, the tax and penalty paid under the scheme would be non-refundable, which means that even if there are any errors in the computation of quantum of tax and penalty, the declarant has no right to claim refund. The one-time tax compliance window which has been notified recently starts from July 1, 2015 and ends on September 30, 2015 with December 31, 2015 as the deadline for payment of tax by the declarants.

Assessment proceedings & prosecution

The assessment proceedings under this Act would follow the same mechanism given under the IT Act, however, the appeal filed before the High Court has to be heard by Division Bench. Once the tax demand is confirmed by the Tribunal, the entire tax has to be paid by the assessee, irrespective of the appeal pending before the High Court or Supreme Court. This will act as further deterrent and also add to assessee's cost of litigation. The assessment or reassessment has to be completed within two years from the time of notice issued to the person for the production of documents or accounts. However, the time taken in obtaining information from the foreign authorities shall be excluded for computation of this time period. The Act has taken away the cap of 16 years for reopening any assessment (as given in the IT Act) and therefore, the AO has the power to go back as many as any number of years which certainly adds to the deterrent element. As far as prosecution is concerned, the same can be launched only after the prior permission of Principal Commissioner or Commissioner or Commissioner (Appeals) is obtained. Right now, the Act is silent on the court where the prosecution would be launched. However, it is likely that the Government would constitute 'Special Courts' as done under the PMLA for trial of complex economic offences.

PREDICATE OFFENCE - SIGNIFICANT CHANGE

Section 88 of the Black Money Act provides that the offence of willful attempt to evade any tax, penalty or interest shall be considered as scheduled offence (predicate offence) under the Prevention of Money Laundering Act, 2002 (PMLA). This



3 Section 60 and 61.



is a significant change brought in by this Act which means that tax evaded on income earned even from a legal source will be treated at par with the proceeds of crime.⁴ Predicate offence has been defined in the United Nation Convention Against Corruption which means any offence or crime from which proceeds or money have been generated.⁵ Under the PMLA, all offences listed in the schedule are considered as predicate offence.⁶ The White Paper on Black Money, 2012 has clearly clarified that black money not only includes wealth earned from illegal means but also from legal sources. Considering the cancerous growth of black money, the ambit of PMLA has been expanded to include legal income concealed from the public authorities like evasion of customs duty.⁷ But with this amendment, the evasion of income tax with respect to foreign assets and income has been brought within the scope of money laundering. The repercussion of this would be that investigation can be carried on by both income tax authorities and Enforcement Directorate (ED) which may lead to simultaneous prosecution under the respective laws. Under the PMLA, the onus of proof again lies upon the person who claims that the proceeds of crime alleged to be involved in money laundering, are not involved in money laundering. Also, there are separate provisions for confiscation of property and imprisonment upto seven years, if a person is convicted. Additionally, the principle of vicarious liability of directors and officers of the company is equally applicable.

PREDICATE OFFENCE - LINKAGE BETWEEN BLACK MONEY ACT & INTERNATIONAL CONVENTIONS

There are severe criminal sanctions and deterrent factors under the Black Money Act. Further, the Act makes tax evasion as predicate offence under the PMLA. But is this sufficient? The obvious question arises where the evidence would come from when the bank accounts and assets are located abroad. Under the IT Act, there has not been a single case of successful prosecution with respect to such foreign assets. In 2008, list of the Indian citizens holding accounts in HSBC Bank was shared by the French Government, however, prosecution could be launched only in 2015. Besides, as per Section 5 of the IT Act, an ordinarily resident assessee has to disclose his global income in India. Further, the Finance Act, 2012 introduced the requirement for an ordinarily resident to disclose the assets and bank accounts located abroad in the income tax return. Therefore, the moot question arises what objective are we going to achieve by linking tax evasion to predicate offence? Does this amendment provide the tax authorities with any new recourse to obtain information? For understanding these questions, one has to look at the international scenario.

Many countries treat tax evasion as civil offence and therefore,

- 4 With this amendment, India joins the club of 25 member nations like U.S., Australia, France, etc. who treat tax evasion as money laundering offence.
- 5 Article 2(h) of United Nation Convention Against Corruption.
- 6 Proceeds of Crime is defined in Section 2(U) of PMLA.
- 7 Schedule A Paragraph 12 - Entry 135

whenever the Indian authorities sought information from foreign counterparts with respect to Indian resident having foreign bank accounts or assets, the same was turned down on the ground of confidentiality obligations either on the account of bank secrecy laws or skewed provisions of the Double Taxation Avoidance Agreements (DTAAs). *To counter this inability, the said amendment in the PMLA was mooted through the route of Black Money Act to make tax evasion as predicate offence, so the tax authorities can be given a new recourse to gather vital information from their foreign counterparts.* Following are the important options which are now possibly available to the Indian tax authorities to counter black money.

Financial Action Task Force (FATF): After many years of battling, India could acquire the privileged membership of FATF in 2012.⁸ Every member of the FATF is under an obligation to share information with the other members, if it is a money laundering offence. This is where the Black Money Act comes as facilitating agent. Since offence under the Black Money Act is now a scheduled offence under the PMLA, prosecution would be launched not only under the Black Money Act, but also under the PMLA. Once PMLA gets triggered, India would be in a position to seek co-operation from FATF member nations because money laundering is a criminal offence in each of these members of the FATF. With this, members would be under an obligation to co-operate with a requesting country (like India) as per the FATF recommendations. The request could be for host of assistance like legal assistance in investigation, prosecution and related proceedings. Since the offence is in the nature of money laundering, such request can no longer be refused on the grounds of secrecy or confidentiality obligations.⁹ But most importantly, assistance can also be sought for identifying, freezing, seizing and confiscating of such undisclosed assets which are located abroad.¹⁰

United Nations Convention against Corruption (UNCAC): The next pertinent question is how does the Black Money Act help us in the repatriation of the undisclosed foreign assets or income stashed away abroad. To answer this question, one has to understand in the context of UNCAC which treats money laundering as serious offence and provides an international framework for curbing the same. As explained earlier, since the Black Money Act treats tax evasion as money laundering, India being a member of UNCAC can avail the co-operation of the member nations for establishing title of property or income belonging to any resident assessee. Further, there is a specific *Chapter -V Asset Recovery (Article 51-59)* which constitutes a fundamental principle of the UNCAC and

- 8 FATF is an inter governmental organization founded to harmonize the legal and regulatory approach of its member countries to combat against money laundering and terrorism financing. FATF has acknowledged the proximity between money laundering and terrorism financing and has therefore, prescribed detailed recommendations which have to be implemented by all the member nations. India has incorporated these recommendations in the PMLA vide amendments. For instance, insider trading and market manipulation, human trafficking, smuggling of migrants, over-invoicing and under-invoicing under customs etc. have been made offences under the PMLA.
- 9 See, International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation, FATF Recommendation 37. Mutual Legal Assistance.
- 10 Id.



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helps in confiscation and repatriation of assets linked to offences like money laundering. Article 54(1)(a) of the UNCAC requires each member country to give effect to the order confiscation of property issued by a Court in another member country. This means that, if a competent court in India passes an order under the Black Money Act or PMLA for confiscation of property of the assessee which is situated in Germany, the authorities in Germany shall co-operate in execution of such order.

However, for seeking any co-operation or repatriation of any such assets, India would have to establish atleast *prima-facie* ownership i.e., tax has been evaded under the Act. Further, India would have to make specific request for seeking information. Therefore, while tax evasion has acquired the status of predicate offence, the problem of black money can be effectively countered, only when there is *sharing of information on real time basis between all taxation authorities without the need of specific requests*. The solution to this problem probably lies in the automatic exchange of information regime.

Automatic Exchange of Information (AEOI): The Organization for Economic Co-operation and Development (OECD) has piloted Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information which has been signed by 61 nations till date, including India.¹¹ It is expected that by September 2017, all the signing member nations would incorporate the requirements under this declaration in their domestic legislations, which would provide real time information from every other country, including offshore financial centers, as and when any banking transaction happens, without making any specific request. Somewhat similar to this regime, US has already signed the Foreign Account Tax Compliance Act (FATCA) with India and many other countries which requires both US and the signing country to share all information related to banking transaction with the respective revenue authorities. Presently, bilateral agreements like Tax Information Exchange Agreements are in place where tax information are shared but only on requests. But these bilateral agreements have several limitations and plagued with confidentiality obligations which are expected to be overcome by the AEOI regime. Therefore, the possibility of successful prosecution for tax evasion under the Black Money Act or for committing predicate offence under PMLA would be largely dependent on the efficacy of the AEOI regime.

GREY AREAS UNDER THE ACT

Subjective Opinion of Assessing Officer

Section 2(11) of the Act provides that if the explanation provided by the assessee about the source of investment in the foreign assets is not satisfactory in the opinion of the AO, then such assets shall be treated as undisclosed foreign assets. In other words, the explanation of the assessee would have to meet the satisfaction of

the AO which could be subjective in nature. This is the point where there is a possibility of arbitrary discretion being exercised by the AO. Immediate inference can be drawn from the experience of Section 147 of the IT Act which has witnessed amendments and several interpretational conflicts over the years. The earlier form of Section 147 empowered the AO to reopen assessment when 'in his opinion' there was a case of income escaping assessment. However, the 'opinion' has resulted in several arbitrary orders leading to heavy litigations, which finally gave way to amendment of this section in 1989, wherein the words 'his opinion' were substituted with 'reasons to believe'. The Supreme Court has already held in the context of Section 147 that AO must exercise due care and caution and should not reopen assessment on mere change in opinion or for reviewing purpose.¹² The present language of Section 2(11) may lead to potential disputes.

Compliance Window - Is it Amnesty Scheme ?

The compliance window for the defaulters has already generated lot of news and the Government is playing extremely cautious in ensuring that the compliance window is not perceived as amnesty scheme, because the constitutionality of the last scheme i.e., VDIS was challenged for violation of Article 14 of the Constitution.¹³ While the constitutionality of VDIS scheme was upheld after some modifications which were in violation of Article 14, the basic argument still remains that amnesty schemes discriminates between honest and unscrupulous assessee and promotes tax payers to be dishonest. The Government of India had also submitted an affidavit before the Supreme Court for not coming out with any such amnesty schemes in the future. Moreover, if one looks at the past income tax disclosure schemes, they have certainly not performed well, first, because of lack of visible seriousness on the part of the Government, and secondly, due to absence of real deterrence of facing prosecution. The last scheme Voluntary Disclosure of Income Scheme, 1997 (VDIS) could garner only 0.9% black money of the GDP as against the estimated 30% prediction.¹⁴ The experience of amnesty schemes all across the globe suggests two important lessons ? first, tax offenders respond to such schemes only when it either offers high concessional rates or when there is clear and present deterrence of prosecution. However, under the present scheme, there are no concessions besides exemption from criminal prosecution. Secondly, due to absence of relevant information with the authorities, the deterrence factor may not be present.

Declaration under Compliance Window

The one-time tax compliance scheme has raised several practical complications with respect to valuation of bank accounts, shares of listed shares, meeting all compliances within too stringent deadlines, etc. Further, upon combined reading of Section 59 of the Act and

11 <http://www.oecd.org/ctp/exchange-of-tax-information/MCAA-Signatories.pdf> (last visited on August 10, 2015).

12 Commissioner of Income Tax, Delhi v. Kelvinator of India Limited, [2010-TIOL-06-SC-IT-LB].

13 All India Federation Of Tax Practitioners v. Union Of India & Ors., [2002-TIOL-826-SC-IT].

14 Black money law is no magic, S. S. Khan, Financial Express, March 19, 2015.



➤ The Black Money Act focuses only on foreign assets and offshore funds, whereas there is incessant generation of black money in the domestic set up through practices like trade mispricing in Special Economic Zones, huge cash transactions in real estate sector, bribery, narcotics, betting, etc. Unless holistic amendments are made in domestic laws and more importantly, overhauling of the present defunct enforcement mechanism is undertaken, the flight of black money cannot be curbed.

Circulars issued pursuant to one-time tax compliance scheme, one may get an impression that even non-residents are allowed to participate i.e., declare their undisclosed foreign assets under the compliance window, although the Act excludes not ordinarily residents. The compliance window is also not clear on the aspect whether a declarant would also have to disclose the source of the assets and what would constitute satisfactory explanation, which is always subjective in interpretation. Also, the Act provides that if any declaration is found to be made by misrepresentation or suppression of facts, the same shall be rendered to have been never made. However, there is no timeline provided beyond which the authorities cannot consider such declaration as void, in other words, the matter will not come to rest. It would also be interesting to see how the revenue authorities treat a declarant whose declaration is rejected. To sum up, with so many uncertainties in place, any prospective declarant would find it difficult to make the cost-benefit analysis before making the final decision to avail the option of compliance window.

Impact on offshore-companies

The Finance Act, 2015 has introduced the concept of place of effective management (POEM) for determining the residential status of offshore companies. It has amended Section 6 of the IT Act which provides that if key managerial and commercial decisions are taken in India, then such company shall be considered as resident company for the purpose of IT Act. Therefore, several offshore companies operating in India may feel apprehensive over the applicability of the Black Money Act and repercussions thereafter, if they are treated as resident company by virtue of the test of POEM.

Meaning of financial interest

The expression financial interest has not been defined either in the Black Money Act or in the IT Act. The only guidance for this

expression can be drawn from the instructions provided along with the form for filing of income tax return. The instructions provides an inclusive definition which includes a trust where the resident has beneficial or ownership interest. Therefore, while it is not expressly clarified in the Act, but it is quite likely that the Act would target foreign trusts since usually persons hold foreign bank accounts or assets through circuitous structures of trusts as they are difficult to trace. However, this may also raise a question for testamentary trusts where a person would have been included as beneficiary without his knowledge. The repercussion of failing to disclose interest in such trusts still remains a question.¹⁵

Co-ordination between ED & Revenue Authorities

The Black Money Act creates a confluence of tax evasion and money laundering which means parallel investigation and proceedings both under the said Act and PMLA, which means constant co-ordination between the two independent authorities. Theoretically, there seems no problem with such exercise, but unfortunately co-ordination between investigative authorities in India remains a big concern. The 2014 report of Taxation Administration Reforms Commission clearly highlights the glaring lacuna in co-ordination even within the revenue department. Therefore, the Government would have to bring out clear administrative procedures not only to ensure proper co-ordination between the authorities but also to avoid any scope of jurisdictional conflict.

WAY FORWARD

The Black Money Act in isolation can neither ensure better chances of prosecution nor guarantee repatriation of undisclosed foreign assets. It is quite clear that the success of this legislation to a large extent hinges upon the information India may receive from the foreign authorities and host of many other factors. However, since for the first time, evasion of tax partakes the character of predicate offence, the Act allows us to avail options available under international conventions. The AEOI may help the taxation authorities to build a stronger case. Since tax evasion on foreign assets would now classify as criminal offence, the confidentiality obligation under the DTAA's would no longer act as impediment in sharing of information.¹⁶ Even though the DTAA's are getting renegotiated to overcome these confidentiality obligations; however, these bilateral or multilateral agreements may not help an information recipient country in handling the past cases i.e., the information sharing would be on prospective basis. Similarly, the Black Money Act also cannot be applied retrospectively. In other words, the possibility of retrieving money already lost to tax havens and offshore bank accounts still appears bleak.

GROUND REALITY

While it would not be wrong to say that the provisions in the Act

¹⁵ India Cracks Down on Black Money, Nishith Desai - Research and Articles, March 24, 2015.
¹⁶ Ram Jethmalani v. Union of India, [2011-TIOL-57-SC-PIL].



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looks reassuring with some semblance of real deterrence; however, our past experience with detection and prosecution both under the PMLA and IT Act has been visibly dismal. More disappointing has been our efforts to obtain information from foreign counterparts regarding bank accounts or asset details of Indian residents, whereas countries like U.S., France have obtained the same either through diplomatic channels or arm twisting strategies.¹⁷ The HSBC Swiss bank account list stands testimony to the non-serious approach adopted by the Government in prosecuting the tax evaders. The list was handed over to us in 2008 and out of approximately 1900 Indian names obtained till date, prosecution could be launched only against 60 persons.¹⁸ The final outcome of the prosecution could take another decade or so. Further, had it not been for the intervention of the Apex Court in the landmark PIL, SIT would never have been constituted. As far as the compliance window is concerned, there are some serious challenges like its constitutionality, and the Government may have to convince the Supreme Court that this scheme is meant for offshore funds and should be treated differently from domestic disclosure schemes.

The Black Money Act focuses only on foreign assets and offshore funds, whereas there is incessant generation of black money in the domestic set up through practices like trade mispricing in Special Economic Zones, huge cash transactions in real estate sector, bribery, narcotics, betting, etc. Unless holistic amendments are made in domestic laws and more importantly, overhauling of the present defunct enforcement mechanism is undertaken, the flight of black money cannot be curbed. It is appreciable that the Black Money Act links tax evasion on foreign assets and income with money laundering, but this opportunity should have been made applicable for the domestic tax evasion as well. This would have created the much required palpable deterrence among the tax evaders.

Finally, the Act contains several safeguards like issuing of notices, grant of opportunity of being heard, recording reasons for various actions and written orders, but considering the long track record of adversarial approach followed by the tax authorities, there is a genuine concern over the misuse of enormous power given under the Act. There are numerous instances of capricious orders passed by the revenue authorities in the past. The misuse of powers would only invite aggressive filing of writ petitions clogging the already overburdened judiciary.

CONCLUSION

The majority of the provisions of the Black Money Act have been taken from the IT Act.¹⁹ In other words, the changes brought in by the Act could also have been addressed by necessary amendments in the IT Act and PMLA. Therefore, it would not be

¹⁷ India and Tax Havens, Need for a Proactive Approach Vol. 8(10), May 2013.

¹⁸ It's Raining Black! Chronicles of Black Money, Tax Havens and Policy Response, Shailendra Kumar, Lexis Nexis, May, 2015.

¹⁹ Income Tax Act, Section 271(1)(c) and Section 276C. These two sections already provide penalty @ upto 300% and rigorous imprisonment upto seven years for willful evasion of tax.

wrong to mention that one of the primary reasons for bringing a new legislation is an attempt to create fresh air of psychological deterrence among the tax evaders. The urgency of gaining political mileage also cannot be ruled out. However, the Black Money Act has made tax evasion a predicate offence which has opened new options for seeking co-operation and assistance from the foreign authorities. The AEOI is also expected to equip the authorities with better information which may lead to swifter investigation and probably successful prosecution of the tax evaders. Moreover, the Black Money Act has already come into operation. Therefore, what matters is whether the Government would demonstrate the political will to enforce the spirit of the new law? Whether the tax authorities would take recourse to the options available under the international conventions for obtaining information and concrete evidence? In a nutshell, the question is now less of legal authority and power, but more of political and institutional will to act. We already have superfluity of laws and investigative bodies to combat generation of black money. So, it would be highly naive on our part to assume that any legislation like Black Money Act on stand-alone basis can address the problem. Yet, positive changes can be definitely expected, if we are ready to tide over the vested interests and act pro-actively. Right now, all eye-balls are hooked upon the outcome of the one-time tax compliance scheme. CS

Appointment

REQUIRED

Company Secretary for a Multinational Company

A leading multinational company located in Andheri, Mumbai requires Company Secretary having 1 to 2 years of experience with working knowledge of Companies Act, FEMA, RBI and other statutory regulations. The ideal candidate should have excellent communication and computer skills. Salary is not a constraint for the right candidate.

The candidate(s) having CA Inter as an additional qualification will be preferred.

Interested candidates please mail their resume in word format to : csripl@gmail.com.



Corporate Laws

LW:072:09:2015

TECH INVEST INDIA PVT LTD v. ASSAM POWER AND ELECTRICALS LTD & ORS [SC]

Civil Appeal Nos. 6055 – 6056 OF 2015 (Arising out of SLP (Civil) Nos. 27113 – 27114 of 2013)

M.Y. Eqbal & Arun Mishra, JJ. [Decided on 11/08/2015]

Companies Act, 1956 – liquidation proceedings – sale of property through public auction – valuation of property – sold at lower value – sale confirmed by court – allegation of undervaluation of assets and plea to set aside the sale – whether tenable – Held, Yes.

Brief facts:

The respondent no. 1 had filed a winding up petition against the appellant-company alleging that the appellant-company had failed to repay a loan of Rs. 6 lakhs. The appellant-company was alleged to have, however, initiated measures to shut down its operations and sell its assets and issued closure notices in May, 1999 without repaying the dues to the respondent.

The Company Judge appointed an Official Liquidator on 14.10.1999 and the possession of the assets of the appellant-company was taken over by the Official Liquidator. The value of the assets was about 7 crores and the valuer appointed by the OL had valued the assets at Rs.6.25 crore. However this report was not submitted to the court. Later another valuation was done through another valuer who valued the assets @ Rs.76.80 lacs. Further no minimum reserve price was fixed for the public auction. However the court allowed the public auction and the property was sold to the 3rd Respondent. The objections raised by the appellant were not properly considered by the Company Judge as well as the Division Bench.

Decision: Appeals allowed.

Reason:

Prima facie, it appears that the objections raised by the appellant were not properly considered inasmuch as the objections were not heard on merit and the auction sale was confirmed. Be that as it may, the conduct of the Official Liquidator in selling the property at a price of Rs. 45.45 lakhs without proper publicity through advertisement or fixing any reserve price for the assets cannot be sustained in law, particularly, when the predecessor Official Liquidator reported that the property put in auction is of much higher valuation.

Having considered the illegality and irregularity committed in the auction sale of the property, the entire process is vitiated. Further we are of the view that the Company Judge also failed to exercise its judicial discretion to see that the properties are sold at a reasonable price.

Apart from that, when the valuation report was submitted before the Company Judge, it ought to have been disclosed the secured creditors and other interested persons in order to ascertain the market value of the property before property was auction sold. Since the same has not been done, the auction sale and the order confirming the sale are liable to be set aside.

We, therefore, allow these appeals and set aside the judgment and order passed by the Company Judge and also the order passed by the High Court in appeal. Consequently the Official Liquidator is directed to forthwith recover the possession of the properties and proceed with a fresh auction after obtaining the fresh valuation report and fixing the reserve bid. Needless to say that all further actions shall be taken in accordance with the procedure established by law.

LW:073:09:2015

LAXMI FIBRES LTD v. A.P. INDUSTRIAL DEVELOPMENT CORPORATION LTD. & ORS [SC]

Civil Appeal No.5805 of 2005

Vikramajit Sen & Shiva Kirti Singh, JJ. [Decided on 07/08/2015]

Companies Act, 1956 – liquidation proceedings – secured creditor – sale of property through public auction – workmen dues deposited with the OL – whether the secured creditor has to prove his claim before the OL – Held, No.

Brief facts:

In this appeal preferred by the appellant-company under liquidation represented by the Official Liquidator the question of law arising for consideration is whether the Official Liquidator can claim any power



or jurisdiction in itself to adjudicate and quantify the claim of statutory corporations such as respondent No.1, A.P. Industrial Development Corporation and respondent No.2, A.P. State Financial Corporation when the Company Judge has permitted them to stand outside the liquidation proceeding subject to certain conditions under which the respondent Corporations may pursue the powers available to them under Section 29 of the State Financial Corporations Act, 1959 (for brevity referred to as 'the SFC Act').

The sale of the assets of the company was conducted by first respondent as per conditions imposed by the High Court. The company judge in his order imposed two conditions that (i) the respondent company has to prove its claim before the Official liquidator and; (ii) it should deposit the dues of the workmen with Official Liquidator.

Aggrieved only with the first condition, the respondent No.1 preferred an intra-court appeal bearing OSA No.85 of 2003. The learned Division Bench disposed of the appeal by directing that the confirmation of sale of the properties in favour of the highest bidder would be subject to only one condition that the Official Liquidator shall quantify the amounts liable to be paid to the workmen. The Division Bench accepted the objection raised by respondent-corporation that there could be no question of establishing the claim of the corporation before the Official Liquidator as the corporation was a secured creditor.

Decision: Appeal dismissed.

Reason:

The Division Bench in our view came to a correct conclusion that the Official Liquidator does not have jurisdiction to ascertain or adjudicate the claim of a secured creditor who has been permitted by the Company Judge to stand outside the liquidation proceeding with liberty to pursue its remedy as per statutory rights available under the SFC Act, subject only to the conditions imposed by the court.

In *A.P. State Financial Corporation v. Official Liquidator (2000) 7 SCC 291* this Court had the occasion to examine the extent of powers available to a Financial Corporation under the SFC Act in the light of proviso to Section 529(1) and 529A of the Companies Act which were intended to protect the dues of the workmen. This Court held that the power available to a corporation under Section 29 to sell the property of a debtor company under liquidation is not absolute but is subject to the proviso to Section 529(1) and *non obstante* clause in Section 529A of the Companies Act providing for *pari passu* charge of the workmen.

In *International Coach Builders Ltd v. Karnataka State Finance Corporation (2003) 10 SCC 482* this Court not only followed the view taken in A.P. State Financial Corporation case (*supra*) but went on to explain as to how the view adopted would not obliterate the difference between a creditor opting to stay outside winding up and

one who opts to prove his debt in winding up.

A three Judges' Bench in the case of *Rajasthan State Financial Corporation v. Official Liquidator (2005) 8 SCC 190* approved and followed the earlier views in A.P. State Financial Corporation and in *International Coach Builders Ltd.*

In view of law noticed above, we find no error in the impugned order of the Division Bench. The appeal is, therefore, dismissed but without any order as to costs.

LW:074:09:2015

VEDICA PROCON PVT LTD v. BALLESHWAR GREENS PVT LTD & ORS [SC]

Civil Appeal No. 6165 of 2015 (Arising out of SLP(C) No.2198 of 2015)

J. Chelameswar & Abhay Manohar Sapre, JJ.
[Decided on 13/08/2015]

Companies Act, 1956 – liquidation proceedings – sale of property through public auction – second highest bidder increased the bid value – court cancels the earlier sale made to the first highest bidder – whether tenable – Held, No.

Brief facts:

M/s Omex Investors Ltd. was ordered to be wound up and the Official Liquidator attached to the Gujarat High Court was appointed as the Liquidator of the said company. By order dated 26.3.2013, the official liquidator was directed to put the freehold land of the company admeasuring 13895 sq. mtr. to auction for sale by inviting offers from the intending purchasers in sealed covers. On 17.12.2013, an auction was held in the open court. After *inter-se* bidding of 12 rounds, the appellant became the highest bidder with an offer of Rs.148 crores whereas the first respondent made the second highest bid. The High Court accepted the bid of the appellant. The Appellant deposited an amount of Rs.37 crores being 25% the purchase money on 06.01.2014 and the balance on 16/04/2014.

Meanwhile, the first respondent by way of an appeal before the Division Bench expressed its willingness to raise its offer to an amount of Rs.160 crore for the land in question and also offered to deposit the said amount within 72 hours, which directed the first respondent to apply to the Company Judge, who allowed the application. The appeal of the appellant to the division bench was dismissed. Hence the present appeal before the Supreme Court.



Decision: Appeal allowed.

Reason:

A survey of the judgments i.e. *Navalkha & Sons v. Sri Ramanya Das & Others*, (1969) 3 SCC 537, *Divya Manufacturing Company (P) Ltd. v. Union Bank of India & Others*, (2000) 6 SCC 69, *FCS Software Solutions Ltd. v. LA Medical Devices Ltd. & Others*, (2008) 10 SCC 440, *Shradhha Aromatics Pvt. Ltd v. Official Liquidator for Global Arya Industries Limited & Others*, (2011) 6 SCC 207 and *Manoj I Naik & Associates v. Official Liquidator*, (2015) 3 SCC 112, relied upon by the first respondent does not indicate that this Court has ever laid down a principle that whenever a higher offer is received in respect of the sale of the property of a company in liquidation, the Court would be justified in reopening the concluded proceedings. The earliest judgment relied upon by the first respondent in *Navalkha & Sons (supra)* laid down the legal position very clearly that a subsequent higher offer is no valid ground for refusing confirmation of a sale or offer already made. Unfortunately, in *Divya Manufacturing Company (supra)* this Court departed from the principle laid down in *Navalkha & Sons (supra)*. We have already explained what exactly is the departure and how such a departure was not justified.

Coming to the decision in *FCS Software Solutions Ltd.*, we have already noticed that this Court rightly reopened the finalized sale on the ground that there was material irregularity in the conduct of the sale. *Shradhha Aromatics (supra)*, as already noticed, is a decision rendered on the peculiar facts of the case and, in our opinion, does not lay down any principle applicable across the board. Whereas in *Manoj I Naik (supra)* the Company Court itself declined to accept the highest offer, therefore, it has no relevance in the context of the case on hand.

In our opinion, in the case on hand, the High Court was not justified in recalling the order dated 17.12.2013 for following reasons:

The highest bid of the appellant herein was accepted by the Company Court and all the stake-holders of the company in liquidation were heard before such an acceptance. Nobody ever objected including the first respondent herein at that stage on any ground whatsoever, such as, that there was any fraud or irregularity in the sale nor was there any objection from any one of them that the price offered by the appellant herein was inadequate. No doubt, the property in question became more valuable in view of the subsequent development. In our opinion, it is not a relevant consideration in determining the legality of the order dated 17.12.2013. Imagine, if instead of increasing the floor space index for construction from 1.0 to 1.8 the State of Gujarat had decided to reduce it below 1.0 subsequent to 17.12.2013, could the appellant be heard to argue that it would be legally justified in resiling from its earlier offer which was accepted by the Court and not bound by the contractual obligation flowing from such an offer and acceptance?

Certain incidental questions raised by the first respondent are required to be answered at this stage.

The first respondent submitted that the order dated 17.12.2013 only accepted the highest bid but it did not confirm the sale and, therefore, the Court is at liberty to decline confirmation of the sale in view of the subsequent developments. In our opinion, the said submission is to be rejected because there is no specific format in which a sale conducted by the official liquidator is to be confirmed by the Company Court. The mere absence of the expression "that the sale is confirmed" in the order dated 17.12.2013 is not determinative of the question.

The other submission made before the Division Bench of the High Court and before us by the first respondent that there was a change in the share- holding pattern of the appellant company subsequent to the order dated 17.12.2013 and that such a change would virtually amount to a nomination by the successful bidder in favour of a third party contrary to the conditions of the tender notice, in our opinion, does not deserve any consideration.



Competition Laws

LW:075:09:2015

K. RAJARAJAN v. MAHINDRA & MAHINDRA LTD. & 17 ORS [CCI]

Case No. 20 of 2015

Ashok Chawla, S. L. Bunker, Sudhir Mital, Augustine Peter, U. C. Nahta & M. S. Sahoo. [Decided on 30/06/2015]

Competition Act, 2002 – sections 3 and 4 – anti competition agreements and abuse of dominance – dealership for automobiles – allegations of restrictive clauses and abuse of dominance – whether complaint maintainable – Held, No.

Brief facts:

The present information has been filed by Shri K. Rajarajan ("Informant") alleging, *inter- alia*, contravention of the provisions of sections 3 and 4 of the Act by the Opposite Parties who are manufacturers of passenger cars, two wheelers, trucks, buses, three



wheelers and tractors in India.

The Informant has filed the present information alleging restrictive trade practices being followed by OPs which have appreciable adverse effect on competition (AAEC) in India. It is alleged that the dealership agreements between the automobile manufacturers and authorized dealers are completely one-sided and in favour of the automobile manufacturers. The Informant has alleged that the dealership agreements are in violation of the provisions of the Act, especially in relation to the following:

- a) Creation of barriers to new entrants in the market,
- b) Foreclosure of competition by hindering entry into the market,
- c) Accrual of benefits to the consumer; and
- d) Restricting the dealer not to deal other Products/ Services to make the dealership viable.

Based on the above allegations, the Informant has prayed, *inter alia*, for restraining OPs from imposing restrictive/ anti-competitive conditions which are contrary to the provisions of sections 3(1), 3(4) (a) to (d) in their LOIs and dealership agreements.

Decision: Case closed.

Reason:

At the outset, the Commission notes that though the Informant has made allegations of contravention of the provisions of the Act against all the OPs, he has entered into dealership agreements with OP 1 and OP 14 only.

From the facts of the case, it is revealed that the Informant is primarily aggrieved by the imposition of alleged anti-competitive terms and conditions by OPs in their LOIs and dealership agreements. The Informant has alleged that the terms of the agreements entered with OP-1 and OP-14 are one-sided and loaded in favour of these two manufacturers only.

So far as the huge investment incurred for setting-up of a showroom for the sale of automobiles of a specific manufacturer is concerned, the Commission observes that the same is dependent on the brand, goodwill of the manufacturer and the nature of product. Every prospective dealer, who wishes to become an authorized dealer, is well aware of the requirements in terms of investment, infrastructure, stock of minimum vehicles, promotional activities etc., thus the dealer has the choice of selecting the automobile manufacturer after weighing out the cost and other conditions. Therefore, the stringent criteria adopted by the automobile manufacturers in terms of technical expertise, infrastructure, investment etc. while appointing their authorized dealers may not be considered as unreasonable.

As regards the practices which have been alleged by the Informant to be contrary to the provisions of the Act, the Commission is of the view

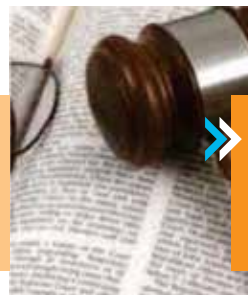
that such practices which have been highlighted by the Informant like non-compete clauses, maintenance of minimum stock in showroom, incurring expenditure in promotion of sales etc. are standard business practices being followed by the automobile manufacturers and do not by themselves appear to be contrary to the provisions of section 3 of the Act. As far as the issue of maintenance of minimum stock in dealer's showroom and promotion of sales, it is observed that such practices are trade customs and usages which are prevalent in the market and also do not appear to create any AAEC. Further, it is observed that OPs are competing with each other in order to obtain the patronage of a large number of customers.

The Commission notes that the Informant has not provided any evidence to establish that OP1 and OP14 have compelled the Informant to accept any anti-competitive terms and conditions, which are contrary to the provisions of the Act. Essentially, the grievances of the Informant appear to be monetary disputes for which Informant has already initiated civil suits and arbitration proceedings before the appropriate authorities.

Lastly, it may be observed that in order to buttress his allegations, the Informant has placed reliance upon *Automobile Dealers Association v. Global Automobiles Limited (Case No.33 of 2011)* and *Shri Shamsher Kataria v. Honda Siel Cars &Ors. (Case No. 03 of 2011)*. However, it is noted that the issues/ allegations involved in both the said cases were distinct from the present case.

Considering the facts and circumstances of the present case, the Commission is of the view that the Informant has not been able to even prima facie establish AAEC in the market with respect to the impugned terms and conditions contained in the LOI or dealership agreements of the OPs.

In light of the above, the Commission finds that no prima facie case of contravention of the provisions of sections 3 and 4 of the Act is made out against OPs in the instant matter. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.



General Laws

LW:076:09:2015

CHIEF CONTROLLING REVENUE AUTHORITY v. COASTAL GUJARAT POWER LTD & ORS [SC]





Civil Appeal No.6054 of 2015 (Arising out of SLP(C) No.32319 of 2013)

M.Y. Eqbal & Arun Mishra, JJ. [Decided on 11/08/2015]

Gujarat Stamp Act, 1958 – sections 4, 5 and 54 (1A) – company availed loan facility from 13 lenders – single mortgage deed was executed with the security trustee – whether this instrument is a single transaction instrument – Held, No.

Brief facts:

The respondent company availed loan from 13 lender banks. These 13 lender institutions constituted a single Security Trustee i.e. State Bank of India to which the respondent company mortgaged its property as security to the loan availed from these 13 lenders. The respondent considered the mortgage deed as a single transaction instrument and paid stamp duty of Rs. Rs.4,21,000/- whereas the Department considered this as a multiple transaction instrument and demanded a duty of Rs.54,63,800/- , as if the mortgage was made with all of these 13 lenders. The respondent approached the High Court in reference and the Full Bench decided the issue in favour of the respondent. Aggrieved the appellant appealed to the Supreme Court.

Decision: Appeal allowed.

Reason:

It is manifest that the instrument of mortgage came into existence only after separate loan agreements were executed by the borrower with the lenders with regard to separate loan advanced by those lenders to the respondent borrower. The mortgage deed which recites at length as to how and under what circumstances property was mortgaged with the security trustee for and on behalf of lender bank.

From bare reading of these provisions, it is clear that Section 4 deals with single transaction completed in several instruments, whereas Section 5 deals only with the instrument which comprises more than one transaction and it is immaterial for the purpose whether those transactions are of the same category or of different categories.

It appears from the trustee document that altogether 13 banks lent money to the mortgagor, details of which have been described in the schedule and for the repayment of money, the borrower entered into separate loan agreements with 13 financial institutions. Had this borrower entered into a separate mortgage deed with these financial institutions in order to secure the loan there would have been a separate document for distinct transactions. On proper construction of this indenture of mortgage it can safely be regarded

as 13 distinct transactions which falls under Section 5 of the Act.

We have also gone through the provisions contained in Sections 33, 39, Article 6 and 6(b) of the Act as also Bombay Stamp (Gujarat Second Amendment) Rules, 2007 and the Circular dated 2.4.2007. After giving out anxious consideration to those provisions and also in the light of the ratio decided by the Constitution Bench of this Court in *The Member, Board of Revenue v. Arthur Paul Benthall, 1955 SCR 84*, we are of the definite opinion that the High Court has committed serious error of law in interpreting the provisions of Sections 5 and 6 of the Act. Consequently, the answer given by the High Court on the Reference cannot be sustained in Law. As a result, this appeal is allowed, the impugned order is set aside.

LW:077:09:2015

KALYAN CHEMICALS v. GOVERNMENT OF A.P. & ORS [SC]

Civil Appeal Nos. 5307 – 5308 of 2005

Vikramajit Sen & Shiva Kirti Singh, JJ. [Decided on 12/08/2015]

Andhra Pradesh Denatured Spirit and Denatured Spirituous Preparations Rules, 1971 – levy of administrative charges – whether tenable – Held, Yes.

Brief facts:

The Appellant is a manufacturer of Ethyl Acetate, the basic raw material for which is industrial alcohol. The Appellant has been receiving allotments of denatured spirit from the Respondents since 1972. By way of an amendment to Rule 3 of the Andhra Pradesh Denatured Spirit and Denatured Spirituous Preparations Rules, 1971 (1971 Rules for brevity), the collection of a gallonage fee, under the head of privilege fees, at the rate of Re.1 per bulk litre was introduced. The Appellant filed a writ petition in 1995 contending that the levy and collection of such an amount without rendering any service is illegal, arbitrary and without justification. The High Court disposed of the writ petition, directing the Appellant to approach the concerned authorities seeking a refund and with a direction to the authorities to consider the same in accordance with the law. In pursuance of G.O.M. No. 147 dated 6.3.1998, the Government introduced the collection of Administrative Fee of 50 paise per bulk litre in lieu of withdrawal of collection of the above mentioned privilege fees as per the orders of the Seven Judge Bench of the Supreme Court in *Synthetics & Chemicals Limited v. State of U.P. (1990) 1 SCC 109*. This Rule was given retrospective effect from 25.10.1989. The Government therefore responded to the Appellant by issuing G.O.Rt. No. 313 dated 13.3.2000, whereby in accordance with G.O.M. No. 147, the Commissioner of



Prohibition and Excise was permitted to adjust the excess amount of privilege fees paid with effect from 25.10.1989 towards future allotments of alcohol for industrial purposes against Administrative Fee. Since the Appellants had paid an amount of Rs.2,09,500, it was to get a refund of Rs.1,04,750 after the adjustment of an equal amount towards administrative fees. Aggrieved by this order, the Appellant approached the High Court once again, seeking the issuance of a writ of Mandamus declaring that the amendment of Rule 3 of the 1971 Rules as amended by G.O.M. No. 147 is arbitrary, illegal, ultra vires and unenforceable, and a further declaration that the Appellant is entitled to the refund of the entire amount collected as gallonage fees with interest at 18% per annum. The Appellant's case was that the State cannot make any law in purported exercise of its legislative competence with reference to Entry 8 of List II to levy privilege fees or any other fees in respect of alcoholic liquors which are not meant or fit for human consumption. The High court dismissed the petition and the review petition was also dismissed as well.

Decision: Appeal dismissed.

Reason:

The Appellant has now filed these Appeals before us, contending that the abovementioned amendment cannot be given retrospective effect, and that the fees should be levied at the rate of 7 paise per litre, since this amount was found to be "reasonable and proper" in Vam Organics Chemicals Ltd. We find no force behind either of these contentions. No ground has been made out for the former contention, and Section 72(3) of the Andhra Pradesh Excise Act, 1968 specifically allows that – "Any rules under this Act may be made with retrospective effect and when such a rule is made the reason for making the rule shall be specified in a statement to be laid before both Houses of the State Legislature." Regarding the latter contention, 7 paise was deemed to be reasonable on the facts of that case which does not in any way indicate that a larger amount would be excessive especially with the passage of time. We have discussed when administrative and service charges can be recovered along with the relevant case law in some detail in our judgment of even date in the Appeal titled as State of Tamil Nadu vs. Tvl. South Indian Sugar Mills, which should be adverted to in the interests of avoiding prolixity. We uphold the High Court's finding that in light of Synthetics and Chemicals Limited and Vam Organics Chemicals Ltd., the subject Regulatory Fees intended to prevent the conversion of alcoholic liquor for industrial use to that for human consumption is legal, and need not be strictly *quid pro quo* as long as it is not excessive. We find no merit in these Appeals and they are accordingly dismissed.



LW:078:09:2015

POONAM SPARK (P) LTD v. COMMISSIONER OF CENTRAL EXCISE [SC]

Civil Appeal No. 6692 of 2004

A.K. Sikri & N.V. Ramana, JJ. [Decided on 29/07/2015]

Central Excise Act, 1944 – section 2(f) – manufacture – assembling of water purification filtration systems – components purchased from various sources mounted on a platform to make the water filter – whether amounts to manufacture – Held, yes.

Brief facts:

One M/s Perfect Drug Limited (PDL) had been purchasing/importing various components of WPFS classifiable under Tariff Heading 8421. PDL, after importing these materials, supplied the same to the appellant herein. The appellant then assembled these parts on a base frame and sold as Water Purifying Filtration System (WPFS) to the consumers.

The question of law which arises for consideration in the present case is whether the activity of mounting of Water Purification and Filtration System (WPFS) on a base frame carried out by M/s Poonam Spark (P) Ltd. amounts to manufacture or not.

Decision: Appeal dismissed.

Reason:

Dubbing the aforesaid decision of the Authorities below as erroneous, it was argued that each WPFS used by the appellant independently fulfils the function described in Heading 8421. The appellant only undertakes job work of mounting the imported WPFS on base frame which can also be undertaken by the customers at their end. It was pleaded that interconnection done by the appellant merely



facilitates use of filtration system by the customers, otherwise, WPFS retains the same characteristics as that of various items which have been imported by PDL and, therefore, there is no change in the characteristics of various imported items under Heading 8421.

In fact, we find that the Tribunal was conscious of this very principle and, therefore, the entire inquiry surrounded the issue as to whether new product, different from earlier one had come into existence after the process that was undertaken by the appellant.

The Tribunal has recorded the finding that PDL supplied (i) Filter Housing Cartridges; (ii) U.V. Units; (iii) Timer; (iv) Mounting Plate & Screws; (v) Tubings and Fittings to the appellant:

The appellants then make (i) WPFS with Dual Cartridges; (ii) WPFS with Single Cartridge and (iii) WPFS with Single Cartridge & Electronic Control Unit.

It is also pointed out that Filter Housing and Cartridges are imported by PDL through M/s Cuno Asia Pte Ltd, Singapore and UV based Filtration and Purification unit from Rathi Brothers/ IWT Poona. The choice of cartridge depends upon the basis of filtration, the operating conditions and the customer's ability to afford the particular type of cartridge, etc. The appellants undertake the job of assembling all the items received from M/s. Perfect Drug Ltd on a base plate and thus brings into existence a new and commercially different commodity known as Water Purification & Filtration System.

It is on this basis, a finding of fact is arrived at by all the three Authorities that the activity undertaken by the appellant amounts to "manufacture" within the meaning of Section 2(f) of the Central Excise Act, 1944, since the end result of the process or activity resulted in new and different commercial product. We, thus, are of the opinion that on the basis of the aforesaid findings which are concurrent findings of all the Courts below, the correct legal principle has been applied.

Accordingly, no merit is found in these appeals, which we hereby dismiss with cost.

LW:079:09:2015

COMMISSIONER OF CENTRAL EXCISE v. GLOBAL HEALTH CARE PRODUCTS & ORS [SC]

Civil Appeal Nos. 5902 – 5909 of 2005

A.K. Sikri & R.F. Nariman, JJ. [Decided on 28/07/2015]

Central Excise Tariff Act, 1985 – classification of goods – close-up whitening classified as other cleaner – revenue alleged it is a tooth paste – whether revenue is correct – Held, No.

Brief facts:

The respondent No.1 (hereinafter referred to as the 'assessee') is engaged in the manufacture of different brands of toothpaste and these are manufactured exclusively for M/s. Hindustan Lever Limited, Mumbai (for short, 'HLL') since 1998. Major brands of HLL manufactured by the assessee are Close-Up Red, Close-Up Blue, Close-Up Green and Pepsodent falling under Chapter 33 of the Excise Tariff. The assessee is registered with the appellant/Revenue and has been paying the excise duty on the aforesaid products under Chapter sub-heading 3306.10 of the tariff as tooth paste. There is no dispute about these products.

From July 01, 2001, a new product known as 'Close-Up Whitening' was introduced by the assessee. The assessee classified this product under Chapter sub-heading 3306.90 i.e. not as "tooth paste" but as "other cleaner". The Revenue treated the aforesaid classification as erroneous as according to it Close-Up Whitening also falls under Chapter sub-heading 3306.10 and not 3306.90. Accordingly higher duty was imposed, which was set aside by the Tribunal in appeal. Against the order of the Tribunal Revenue appealed to the Supreme Court.

Decision: Appeal dismissed.

Reason:

There is no dispute that most of the ingredients of the product Close-Up Whitening are the same which are used in the manufacture of the other products, namely, Close-Up Red/Blue/ Green, which are treated as toothpaste by the assessee itself. There are, however, additional ingredients used in the manufacture of the product in question, which are accepted by the Revenue also and noticed above. Apart from additional presence of Silicon Agglomerate and Bluer Agglomerate of specified percentage and absence of Tri Chloro 2 hydroxy Diphenyl Ether, there is a presence of uniformity dispersed blue speckles in Close-Up Whitening. There is also additional step of 'addition of silica agglomerates'. In fact, it is this ingredient which facilitates at getting uniformity dispersed speckles. It is on the basis of these additional factors, one has to determine as to whether Close-Up Whitening loses the character of toothpaste and assumes the characteristics of another product, namely, dental cleaner.

We may record that a finding is arrived at by the Tribunal to the effect that Close-Up Whitening is not a toothpaste but a dental cleaner. We are convinced that this finding is perfectly just and proper for the following reasons:

- (a) The Tribunal has pointed out the differences which are noted above and accepted by the Department itself. From these differences, it is held that ingredients and ratio of all the inputs which go into the manufacturing of a toothpaste and dental cleaner are different and varying. The dental cleaner, in addition, has two more ingredients, namely, Silicon Agglomerate and Bluer Agglomerates, which play an active role as abrasive.



- (b) Even the manufacturing process of Close-Up toothpaste and Close-up Whitening is different. While the total stages for manufacturing toothpaste were nine, the number of stages for manufacture of Close-Up Whitening were eleven. It takes 120 minutes to manufacture a toothpaste tube, while it takes 155 minutes to effect the manufacture of Close-Up Whitening.
- (c) Statement of one Mr. N.H. Bijlani, the only expert in this case and whose statement was recorded on January 09, 2002, was referred to by the Tribunal. In this statement, Mr. Bijlani has explained the difference between toothpaste and dental cleaners and has opined that Close-Up Whitening dental cleaner cannot be equated with toothpaste.
- (d) The Tribunal has also found that as per records, classification of the same product in an earlier avatar/brand was acceptable to the Department as the same was classified under a different name for all these years when the rate of duty under Heading 3306.90 were higher than that under Heading 3306.10. It, thus, observed that mere change of duty and brand name cannot be the reason to alter classification.
- (e) Another important aspect, in conjunction with aforesaid features which has to be kept in mind, is that in the instant case even Food and Drug Authorities (FDA) from where prior permission is needed for manufacturing 'toothpaste' and sale thereof, had not registered the product in question as 'toothpaste' but as a dental cleaner. It becomes a supporting factor along with other features of the product, which have been taken note of and discussed above.

The upshot of the aforesaid discussion would be to hold that Close-Up Whitening dental cleaner is not a 'toothpaste' but other form of dental hygiene and, therefore will have to be classified under sub-heading 3306.90 as a consequence. These appeals are found bereft of any merits and are, accordingly, dismissed.



Industrial & Labour Laws

LW:080:09:2015

TALUKDAR SINGH v. TATA ENGINEERING AND LOCOMOTIVE CO LTD [SC]

Civil Appeal No. 5701 of 2015 (Arising out of SLP(C)

No. 26629/2014)

T.S. Thakur, V. Gopala Gowda & R. Banumathi, JJ.
[Decided on 24/07/2015]

Industrial Disputes Act, 1957 – dismissal of workman for misconduct – High court awarded compensation – On appeal, Supreme Court increased the compensation.

Brief facts:

This appeal arises out of the order passed by the High Court of Bombay in Writ Petition No.3646 of 2001 dated 19.06.2014, in and by which, the High Court enhanced the retrenchment compensation of Rs.6,049/- awarded by the Labour Court to Rs. 1,00,000/- without any interest. Still aggrieved, the appellant has preferred this appeal.

Decision: Appeal allowed.

Reason:

The short question is whether the compensation of Rs.1,00,000/- awarded by the High Court is to be enhanced. Appellant who was an ex-serviceman was employed with the respondent-company as a Turner in the Auto Division w.e.f. 09.01.1978 drawing monthly wage of Rs.2,621/- and he worked till he was terminated on 07.05.1990. It is seen from the record that Mr. Kunjumon used harsh words and shoved the appellant towards the door and evidence would show that it was not a premeditated attack on Mr. Kunjumon. Both the Labour Court as well as the High Court recorded concurrent findings of fact that the misconduct of the appellant was proved on the basis of the evidence and that the punishment of dismissal was shockingly disproportionate. When the Labour Court passed the award, the appellant was about 59 years and he attained the age of superannuation in the year 2002. Considering the number of years which the appellant worked with the respondent and the facts and circumstances of the case, we are of the view that the interest of justice would be met if the compensation of Rs.1,00,000/- is enhanced to Rs.5,00,000/- which is inclusive of the compensation awarded by the High Court. The judgment of Bombay High Court is accordingly modified and the compensation is enhanced to Rs.5,00,000/- which shall be payable by the respondent within a period of eight weeks and in the event of default the same shall be payable with interest at the rate of 9% p.a. and the appeal is partly allowed. No order as to costs.



Corporate Laws

01

The Companies (Management and Administration) Amendment Rules, 2015

[Issued by the Ministry of Corporate Affairs vide F. No. 1/34/2013-CL-V-Part-I, dated 28.08.2015. To be published in the Gazette of India, extraordinary, Part II, Section 3, Sub-section (i)]

Notification

In exercise of the powers conferred under sub-section (1) of section 88, sub-section (4) of section 88, sub-section (1) of section 89, sub-section (2) of section 89, sub-section (6) of section 89, sub-section (1) of section 91, sub-section (2) of section 92, sub-section (3) of section 92, section 93, sub-section (1) of section 94, sub-section (4) of section 100, sections 101, 102, 105, 108, sub-section (5) of section 109, sections 110, 112, 113 sub-section (2) of section 114, section 115, sub-section (1) of section 117, sub-section (1) of section 118, sub-section (2) of section 119, section 120 and sub-section (1) of section 121 and sub-section (3) of section 186, read with sub-sections (1) and (2) of section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Management and Administration) Rules, 2014, namely:-

1. Short title and commencement.--(1) These rules may be called the Companies (Management and Administration) Amendment Rules, 2015.
 - (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Management and Administration) Rules, 2014,-
 - (i) in rule 23, in sub-rule (1) for the words "not more than five lakh rupees", the words "not less than five lakh rupees" shall be substituted.
 - (ii) For Form No. MGT-7, the following form shall be

substituted, namely:-

FORM NO. MGT-7 **Annual Return**

[Pursuant to sub-section(1) of section 92 of the Companies Act, 2013 and, sub-rule (1) of rule 11 of the Companies (Management and Administration) Rules, 2014]

Form language: English Hindi
Refer the instruction kit for filling the form.

I. REGISTRATION AND OTHER DETAILS

(i) *Corporate Identification Number (CIN) of the company **Pre-fill**
Global Location Number (GLN) of the company

(ii) (a) Name of the company
(b) Registered office address

(c) *email-ID of the company
(d) *Telephone number with STD code
(e) Website

(iii) Date of Incorporation

(iv)

Type of the Company	Category of the Company	Sub-category of the Company
<input type="text"/>	<input type="text"/>	<input type="text"/>

(v) Whether company is having share capital Yes No

(vi) *Whether shares listed on recognized Stock Exchange(s) Yes No

(a) Details of stock exchanges where shares are listed

S. No.	Stock Exchange Name	Code
1	<input type="text"/>	<input type="text"/>
2	<input type="text"/>	<input type="text"/>

(b) CIN of the Registrar and Transfer Agent **Pre-fill**
Name of the Registrar and Transfer Agent
Registered office address of the Registrar and Transfer Agents

(vii) *Financial year From (DDMMYYYY) To (DDMMYYYY)

(viii) *Whether Annual General Meeting (AGM) held Yes No

(a) If yes, date of AGM
(b) Due date of AGM
(c) Whether any extension for AGM granted Yes No
(d) If yes, provide the Service Request Number of the application form filed for extension
(e) Extended due date of AGM after grant of extension **Pre-fill**
(f) Specify the reasons for not holding the same

II. PRINCIPAL BUSINESS ACTIVITIES OF THE COMPANY

*Number of business activities

S. No.	Main Activity group code	Description of Main Activity group	Business Activity Code	Description of Business Activity	% to total turnover of company
1	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
2	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

III. PARTICULARS OF HOLDING, SUBSIDIARY, JOINT VENTURES AND ASSOCIATE COMPANIES

*No. of Companies for which information is to be given **Pre-fill All**

S. No.	Name of the company	CIN / FCIN	Holding / Subsidiary / Joint Ventures / Associate	% of shares held
1	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
2	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

IV. SHARE CAPITAL, DEBENTURES AND OTHER SECURITIES OF THE COMPANY

(i) *SHARE CAPITAL

(a) Equity share capital

Particulars	Face Value	Authorized Capital	Issued Capital	Subscribed Capital	Paid Up Capital
Total number of equity shares	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Total amount of equity shares (in rupees)	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>



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Number of classes

Class of shares	Authorized Capital	Issued capital	Subscribed Capital	Paid Up capital
Number of equity shares				
Nominal value per share (in rupees)				
Total amount of equity shares (in rupees)				

(b) Preference share capital

Particulars	Authorized Capital	Issued capital	Subscribed capital	Paid Up capital
Total number of preference shares				
Total amount of preference shares (in rupees)				

Number of classes

Class of shares	Authorized Capital	Issued capital	Subscribed capital	Paid Up capital
Number of preference shares				
Nominal value per share (in rupees)				
Total amount of preference shares (in rupees)				

(c) Unclassified share capital

Particulars	Authorized Capital
Total amount of unclassified shares	

(d) Break-up of paid-up share capital

Class of Shares	Number of shares	Total Nominal Amount	Total Paid-up amount	Total premium
Equity shares				
At the beginning of the year				
Increase during the year				
I. Public Issues				
II. Rights Issue				
III. Bonus Issue				
IV. Private Placements/ Preferential allotment				
V. ESOPs				
VI. Sweat equity shares allotted				
VII. Conversion of Preference share				
VIII. Conversion of Debentures				
IX. GDRs/ADRs				
X. Others, Specify <input type="text"/>				

Decrease during the year				
I. Buy-back of shares				
II. Shares forfeited				
III. Reduction of share capital				
IV. Others, Specify <input type="text"/>				
At the end of the year				
Preference shares				
At the beginning of the year				
Increase during the year				
I. Issues of shares				
II. Re-issue of forfeited shares				
III. Others, Specify <input type="text"/>				
Decrease during the year				
I. Redemption of shares				
II. Shares forfeited				
III. Reduction of share capital				
IV. Others, Specify <input type="text"/>				
At the end of the year				

(ii) Details of stock split/consolidation during the year (for each class of shares)

Class of shares	(i)	(ii)	(iii)
Before split / Consolidation	Number of shares		
	Face value per share		
After split / consolidation	Number of shares		
	Face value per share		

(iii) Details of shares/Debtures Transfers since closure date of last financial year (or in case of the first return at any time since the incorporation of the company)*

Nil

[Details being provided in a CD/Digital Media] Yes No Not applicable

Separate sheet attached for details of transfers Yes No

Note: In case list of transfer exceeds 10, option for submission as a separate sheet attachment or submission in a CD/Digital Media may be shown.

Date of Previous AOP			
Date of Registration of Transfer of Shares			
Type of Transfer	1 - Equity, 2 - Preference Shares, 3 - Debentures, 4 - Stock		
Number of Shares/ Debentures Transferred	Amount per Share (in Rs.)		
Ledger Folio of Transferee			
Transferor's Name			
	To Name	With Name	For Name
Ledger Folio of Transferor			
Transferor's Name			
	To Name	With Name	For Name

Date of Registration of Transfer of Shares			
Date of Registration of Transfer of Shares			
Type of Transfer	1 - Equity, 2 - Preference Shares, 3 - Debentures, 4 - Stock		
Number of Shares/ Debentures Transferred	Amount per Share (in Rs.)		
Ledger Folio of Transferee			
Transferor's Name			
	To Name	With Name	For Name
Ledger Folio of Transferor			
Transferor's Name			
	To Name	With Name	For Name

(iv) *Indebtedness including debentures (Outstanding as at the end of financial year)

Particulars	Number of units	Nominal value per unit	Total value
Non-convertible debentures			
Partly convertible debentures			
Fully convertible debentures			
Secured Loans excluding deposits			
Unsecured Loans excluding deposits			
Deposit			
Total			

Details of debentures

Class of Debentures	Outstanding as at the beginning of the year	Increase during the year	Decrease during the year	Outstanding as at the end of the year
Non-convertible debentures				
Partly convertible debentures				
Fully convertible debentures				

(v) Securities (other than shares and debentures)

Type of Securities	Number of Securities	Nominal Value of each Unit	Total Nominal Value	Paid up Value of each Unit	Total Paid up Value
Total					

V. *Turnover and net worth of the company (as defined in the Companies Act, 2013)

- (i) Total Turnover
 (ii) Net worth of the Company

VI. (a) *SHARE HOLDING PATTERN - Promoters

S. No.	Category	Indian		Foreign	
		Number of shares	Percentage	Number of shares	Percentage
I.	Individual/HUF				
	(i) Indian				
	(ii) Non-resident Indian (NRI)				



	(iii) Foreign national (other than AIFs)			
2.	Government			
	(i) Central Government			
	(ii) State Government			
	(iii) Government companies			
3.	Insurance companies			
4.	Banks			
5.	Financial institutions			
6.	Foreign Institutional Investors			
7.	Mutual funds			
8.	Venture capital			
9.	Body corporate (Not mentioned above)			
10.	Others			
	Total			

Total number of shareholders

(b) SHARE HOLDING PATTERN - Public

S. No.	Category	Indian		Foreign	
		Number of shares	Percentage	Number of shares	Percentage
1.	Individual/HUF				
	(i) Indian				
	(ii) Non-resident Indian (NRI)				
	(iii) Foreign national (other than AIFs)				
2.	Government				
	(i) Central Government				
	(ii) State Government				
	(iii) Government companies				
3.	Insurance companies				
4.	Banks				
5.	Financial institutions				
6.	Foreign Institutional Investors				
7.	Mutual funds				
8.	Venture capital				
9.	Body corporate (not mentioned above)				
10.	Others				
	Total				

Total number of shareholders

Total number of shareholders (Promoters + Public)

(c) *Details of Foreign institutional investors* (FIIs) holding shares of the company

Name of the FII	Address	Date of Incorporation	Country of Incorporation	Number of shares held	% of shares held

VII *NUMBER OF PROMOTERS, MEMBERS, DEBENTURE HOLDERS

Details	As at beginning of the year	Addition during the year	Cessation during the year	As at end of the year
Promoters				
Members (other than promoters)				
Debenture holders				

VIII DETAILS OF DIRECTORS AND KEY MANAGERIAL PERSONNEL

(A) *Composition of Board of Directors

Category	Number of directors at the beginning of the year		Number of directors at the end of the year		Percentage of shares held by directors as at the end of year	
	Executive	Non-executive	Executive	Non-executive	Executive	Non-executive
A. Promoters						
B. Non-Promoter						
(i) Non-Independent						
(ii) Independent						
C. Nominee Directors representing						
(i) Banks & FIs						
(ii) Insurance institutions						
(iii) Government						
(iv) Small share holders						
(v) Others						
Total						

Number of Directors and Key managerial personnel (who is not director) as on the financial year end date

(B) (i) *Details of directors and Key managerial personnel as on the closure of financial year

Name	DIN/PAN	Designation	Number of equity shares held	Date of cessation (after closure of financial year : if any)

(ii) Particulars of change in director(s) and Key managerial personnel during the year

Name	DIN/PAN	Designation at the beginning / during the financial year	Date of appointment / change in designation / cessation	Nature of change (Appointment / Change in designation / Cessation)

IX. MEETINGS OF MEMBERS/CLASS OF MEMBERS/BOARD/COMMITTEES OF THE BOARD OF DIRECTORS

A. MEMBERS/CLASS /REQUISITIONED/CLB/NCLT/COURT CONVENED MEETINGS

Number of meetings held

Type of meeting	Date of meeting	Total Number of Members entitled to attend meeting	Attendance	
			Number of members attended	% of total shareholding

B. BOARD MEETINGS

*Number of meetings held

S. No.	Date of meeting	Total Number of directors as on the date of meeting	Attendance	
			Number of directors attended	% of attendance
1				
2				

C. COMMITTEE MEETINGS

Number of meetings held

S. No.	Type of meeting	Date of meeting	Total Number of Members as on the date of meeting	Attendance	
				Number of members attended	% of total shareholding
1					



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D. *ATTENDANCE OF DIRECTORS

S. No.	Name of the Director	Board Meetings			Committee Meetings			Whether attended last AGM held on [] (Y/N/NA)
		No. of Meetings which were entitled to attend	No. of Meetings attended	% of attendance	No. of Meetings Held	No. of Meetings attended	% of attendance	
1.								
Total								

X. *REMUNERATION OF DIRECTORS AND KEY MANAGERIAL PERSONNEL.

Nil

Number of Managing Director, Whole-time Directors and/or Manager whose remuneration details to be entered []

S. No.	Name	Designation	Gross salary	Commission	Stock Option/Sweat equity	Others	Total Amount
1.							
Total							

Number of CEO, CFO and Company secretary whose remuneration details to be entered []

S. No.	Name	Designation	Gross salary	Commission	Stock Option/Sweat equity	Others	Total Amount
1.							
Total							

Number of other directors whose remuneration details to be entered []

S. No.	Name	Designation	Gross salary	Commission	Stock Option/Sweat equity	Others	Total Amount
1.							
Total							

XI. MATTERS RELATED TO CERTIFICATION OF COMPLIANCES AND DISCLOSURES

A. CERTIFICATION OF COMPLIANCES

Whether company has made all compliances and disclosures during the year. Yes No
If No, give details along with the reasons and supporting documents.

[]

XII. PENALTY AND PUNISHMENT - DETAILS THEREOF

(A) DETAILS OF PENALTIES / PUNISHMENT IMPOSED ON COMPANY/DIRECTORS/OFFICERS Nil []

Name of the company/directors/officers	Name of the court/concerned Authority	Date of Order	Name of the act and section under which penalized / punished	Details of penalty/punishment	Details of appeal (if any) including present status

(B) DETAILS OF COMPOUNDING OF OFFENCES Nil []

Name of the company/directors/officers	Name of the court/concerned Authority	Date of Order	Name of the act and section under which offence committed	Particulars of offence	Amount of compounding (in rupees)

XIII. Whether complete list of shareholders, debenture holders has been enclosed as an attachment Yes No
(In case of "No", submit the details separately through method specified in instruction kit)

XIV. COMPLIANCE OF SUB-SECTION (2) OF SECTION 92, IN CASE OF LISTED COMPANIES

In case of a listed company or a company having paid up share capital of Ten Crore rupees or more or turnover of Fifty Crore rupees or more, details of company secretary in whole time practice certifying the annual return in form MGT-8.

Name []

Whether associate or fellow Associate Fellow

Certificate of practice number []

I/We certify that:

- (a) The return states the facts, as they stood on the date of the closure of the financial year aforesaid correctly and adequately.
- (b) Unless otherwise expressly stated to the contrary elsewhere in this Return, the Company has complied with all the provisions of the Act during the financial year.
- (c) The company has not, since the date of the closure of the last financial year with reference to which the last return was submitted or in the case of a first return since the date of the

incorporation of the company, issued any invitation to the public to subscribe for any securities of the company.

(d) Where the annual return discloses the fact that the number of members, (except in case of a one person company), of the company exceeds two hundred, the excess consists wholly of persons who under second proviso to clause (ii) of sub-section (68) of section 2 of the Act are not to be included in reckoning the number of two hundred.

Declaration

I am authorized by the Board of Directors of the company vide resolution no. [] dated [] (DD/MM/YYYY) to sign this form and declare that all the requirements of the Companies Act, 2013 and the rules made thereunder in respect of the subject matter of this form and matters incidental thereto have been complied with. I further declare that:

- 1. Whatever is stated in this form and in the attachments thereto is true, correct and complete and no information material to the subject matter of this form has been suppressed or concealed and is as per the original records maintained by the company.
- 2. All the required attachments have been completely and legibly attached to this form.

Note: Attention is also drawn to the provisions of Section 447, section 448 and 449 of the Companies Act, 2013 which provide for punishment for fraud, punishment for false statement and punishment for false evidence respectively.

To be digitally signed by

Director DSC BOX

DIN of the director []

To be digitally signed by DSC BOX

- Company Secretary
- Company Secretary in practice

Membership number [] Certificate of practice number []

Attachments

- 1. list of share holders, debenture holders;
- 2. Approval letter for extension of AGM;
- 3. Copy of MGT-8;
- 4. Optional Attachment(s), if any.

List of attachments

Attach
Attach
Attach
Attach

[]

Remove Attachment

[] [] Check Form [] []

This eForm has been taken on file maintained by the registrar of companies through electronic mode and on the basis of statement of correctness given by the company

[F. No. 01/34/2013-CL-V- Part-I]

Amardeep S. Bhatia
28/08/2015
(AMARDEEP S. BHATIA, Jt. Secy.)



02 Implementation of the Multilateral Competent Authority Agreement and Foreign Account Tax Compliance Act

[Issued by the Securities And Exchange Board of India vide No. CIR/ MIRSD/2/2015, dated 26.08.2015.]

1. It is brought to the attention of all the intermediaries that India has joined the Multilateral Competent Authority Agreement (MCAA) on Automatic Exchange of Financial Account Information on June 3, 2015. In terms of the MCAA, all countries which are a signatory to the MCAA, are obliged to exchange a wide range of financial information after collecting the same from financial institutions in their country/jurisdiction.
2. Further, on July 9, 2015, the Governments of India and United States of America (USA) have signed an agreement to improve international tax compliance and to implement the Foreign Account Tax Compliance Act (FATCA) in India. The USA has enacted FATCA in 2010 to obtain information on accounts held by U.S. taxpayers in other countries. As per the aforesaid agreement, foreign financial institutions (FFIs) in India will be required to report tax information about U.S. account holders/taxpayers directly to the Indian Government which will, in turn, relay that information to the U.S. Internal Revenue Service (IRS).
3. For implementation of the MCAA and agreement with USA, the Government of India has made necessary legislative changes to Section 285BA of the Income-tax Act, 1961. Further, the Government of India has notified Rules 114F to 114H (herein after referred as "the Rules") under the Income Tax Rules, 1962 and form No. 61B for furnishing of statement of reportable account as specified in the Rules. The Rule is available at <http://www.incometaxindia.gov.in/communications/notification/notification%20no.%2062%20dated%2007-08-2015.pdf>.
4. All registered intermediaries are advised to take necessary steps to ensure compliance with the requirements specified in the aforesaid Rules after carrying out necessary due diligence.

The Stock Exchanges and Depositories are directed to bring the contents of this circular to the notice of the Stock Brokers and Depository Participants respectively and also disseminate the same on their websites.

5. This Circular is being issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992 (SEBI Act).
6. This Circular is available on the SEBI website www.sebi.gov.in under the section SEBI Home > Legal Framework > Circulars.

Debashis Bandyopadhyay
Deputy General Manager

03 Guidance Note on SEBI (Prohibition of Insider Trading) Regulations, 2015

[Issued by the Securities and Exchange Board of India dated 24.08.2015.]

SEBI (Prohibition of Insider Trading) Regulations, 2015 ("the Regulations") were notified vide notification dated 15th January, 2015. The regulations came into effect from May 15, 2015. Subsequently SEBI received certain queries from the market participants seeking guidance on the interpretation of some provisions of the Regulations. Under regulation 11 of the Regulations, SEBI may provide guidance to the market to remove any difficulties in the interpretation or application of the provisions of these regulations. The queries received and the guidance sought is detailed below for the guidance of market participants:

ESOPs:

1. Does the contra trade restriction (for a period not less than six months) under clause 10 of Schedule B of the Regulations also apply to the exercise of ESOPs and the sale of shares so acquired?

Guidance: Exercise of ESOPs shall not be considered to be "trading" except for the purposes of Chapter III of the Regulations. However, other provisions of the Regulations shall apply to the sale of shares so acquired.

For Example:

- (i) If a designated person has sold/ purchased shares, he can subscribe and exercise ESOPs at any time after such sale/ purchase, without attracting contra trade restrictions.
- (ii) Where a designated person acquires shares under an ESOP and subsequently sells/pledges those shares, such sale shall not be considered as contra trade, with respect to exercise of ESOPs.
- (iii) Where a designated person purchases some shares (say on August 01, 2015), acquires shares later under an ESOP (say on September 01, 2015) and subsequently sells/pledges (say on October 01, 2015) shares so acquired under ESOP, the sale will not be a contra trade but will be subject other provisions of the Regulations, however, he will not be able to sell the shares purchased on August 01, 2015 during the period of six months from August 01, 2015.
- (iv) Where a designated person sells shares (say on August 01, 2015), acquires shares later under an ESOP (say on September 01, 2015) the acquisition under ESOP shall not be a contra trade. Further, he can sell/pledge shares so acquired at anytime thereafter without attracting contra trade restrictions. He,



From the Government

however, will not be able to purchase further shares during the period of six months from August 01, 2015 when he had sold shares.

CONTRA TRADE:

- In case an employee or a director enters into Future & Option contract of Near/Mid/Far month contract, on expiry will it tantamount to contra trade? If the scrip of the company is part of any Index, does the exposure to that index of the employee or director also needs to be reported?

Guidance: Any derivative contract that is cash settled on expiry shall be considered to be a contra trade. Trading in index futures or such other derivatives where the scrip is part of such derivatives, need not be reported.

- Whether contra trade is allowed within the duration of the trading plan?

Guidance: Any trading opted by a person under Trading Plan can be done only to the extent and in the manner disclosed in the plan, save and except for pledging of securities (Refer question 6).

- Whether the restriction on execution of contra trade in securities is applicable in case of buy back offers, open offers, rights issues FPOs etc by listed companies?

Guidance: Buy back offers, open offers, rights issues, FPOs, bonus, etc. of a listed company are available to designated persons also, and restriction of 'contra-trade' shall not apply in respect of such matters.

- Whether restriction on execution of contra trade is applicable only to designated persons of a listed company or whether it would also apply to the designated employees of market intermediaries and other persons who are required to handle UPSI in the course of business operations?

Guidance: The code prescribed by the Regulations is same for listed companies, market intermediaries and other persons who are required to handle UPSI in the course of business operations. Therefore, restrictions with regard to contra trade forming part of clause 10 of code of conduct shall apply to all according to the Regulations.

PLEDGE:

- Whether SEBI's intent is to prohibit creation of pledge or invocation of pledge for enforcement of security while in possession of UPSI?
 - Whether creation of pledge or invocation of pledge is allowed when trading window is closed?

Guidance: Yes. However, the pledgor or pledgee may

demonstrate that the creation of pledge or invocation of pledge was bona fide and prove their innocence under proviso to sub-regulation (1) of regulation 4 of the Regulations.

- What should be the value of the pledge / revoke transaction for the purpose of disclosure? Is it the market value on date of the pledge / revoke transaction or is it the value at which the transaction has been carried out between the pledgor and pledgee? For instance, if the pledgor has availed a loan of Rs 10 Lacs against which he has pledged shares worth Rs 15 Lacs, would the transaction value be Rs 10 Lacs or Rs 15 Lacs.

Guidance: For the purpose of calculation of threshold for disclosures relating to pledge under Chapter III of the Regulations, the market value on the date of pledge/revoke transaction should be considered. In the above illustration, the value of transaction would be considered as fifteen lakh rupees.

MISCELLANEOUS:

- Who will be approving authority for trades done by the Compliance Officer or his immediate relatives, as Insiders?

Guidance: The board of directors of the company shall be the approving authority in such cases and may stipulate such procedures as are deemed necessary to ensure compliance with these regulations.

- Whether separate code of conduct can be adopted for listed company and each of intermediaries in a group?

Guidance: In case of a group, separate code may be adopted for listed company and each of intermediaries, as applicable to the concerned entity.

- Whether Chief investor relations officer will also be responsible along with compliance officer for not disseminating information or non-disclosure of UPSI?

Guidance: Regulation 2 (c) clearly provides the functions and responsibilities of the compliance officer. Specific responsibilities to deal with dissemination of information and disclosure of unpublished price sensitive information are given to Chief Investor Relations Officer (CIRO) under clause 3 of Schedule A.

It is company's discretion to designate two separate persons as CIRO and Compliance Officer, respectively for fulfilling specified responsibilities. In cases where both CIRO and CO have been designated for overlapping functions, they shall be jointly and severally responsible.

- If a spouse is financially independent and does not consult an insider while taking trading decisions, is that spouse exempted



from the definition of 'immediate relative'?

Guidance: A spouse is presumed to be an 'immediate relative', unless rebutted so.

04 SEBI Board Meeting

[Issued by the Securities and Exchange Board of India vide PR No. 216/2015, dated 24.08.2015.]

The SEBI Board met in Mumbai on 24.08.2015 and took the following decisions:

A. FMC – SEBI merger – Proposals for commodity derivatives exchanges and their members

- (1) The Board approved the draft amendment to the regulations to be notified on September 28, 2015 pursuant to the proposed repealing of the Forward Contracts Regulation Act, 1952 (FCRA) making way for merger of Forward Market Commission with SEBI. These regulations will enable functioning of the commodities derivatives market and its brokers under SEBI norms and integration of commodities derivatives and securities trading in an orderly manner.
- (2) The draft regulations provide for compliance of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012 (SECC Regulations) which are currently required to be complied with by stock exchanges.
- (3) The major compliances include norms related to net-worth, shareholding norms, composition of board, corporatisation and demutualisation and setting up of various committees, turnover, infrastructure etc. To ensure non-disruptive transition, SEBI has prescribed following timelines for aligning to the different provisions of SECC Regulations:
 - (i) Corporatization and demutualization of regional commodity derivatives exchanges – 3 years from the date of merger.
 - (ii) Availing services of a clearing corporation – 3 years from the date of merger. Till then, clearing may continue with the current arrangement. However, the Commodity Exchanges shall ensure guarantee for the settlement of trades including good delivery.
 - (iii) Net-worth -timeline as provided by FMC, i.e. May 05, 2017, for national commodity derivatives exchanges and within 3 years from the date of merger for regional ones.

(iv) Shareholding -timeline as provided by FMC, i.e., May 05, 2019, for national exchanges and within 3 years from the date of merger for regional exchanges.

(v) Governing board norms -within 1 year from the date of merger for national exchanges and within 3 years for regional exchanges.

(4) The proposed norms also emphasize on strengthening of risk management of the exchanges. Further, investor protection norms similar to the equity markets would be provided by strengthening the arbitration mechanism and investor grievance redressal mechanism.

(5) The Board has also approved amendments to SEBI (Stock Broker and Sub-Broker) Regulations, 1992 to provide for registration of the members of the commodity exchanges. The existing members of these exchanges shall be required to make an application for registration with SEBI within 3 months from the date of notification in this regard. In such a case, they will be allowed to continue their activity unless their application is rejected by SEBI.

(6) The members shall be required to comply with the requirements for registration as members of exchange, as specified in Securities Contracts Regulation Rules, 1957 and SEBI (Stock Broker and Sub-Broker) Regulations, 1992 such as constitution, number of directors, experience, networth etc. within a period of one year from the date of notification by the Central Government for the transfer and vesting of rights and assets of the FMC to SEBI.

(7) For the new members, the above regulations will apply ab-initio.

B. Anchor investors in public issues

The Board approved the removal of current restriction on the maximum number of anchor investors (currently 25) for anchor allocation of above Rs.250 crore public issue. While the requirement of number of anchor investors for allocation of upto Rs.250 crore remains the same, in case of allocation beyond Rs.250 crore there can be 10 additional investors for every additional allocation of Rs.250 crore, subject to minimum allotment of Rs.5 crore per anchor investor.

C. Amendments to the SEBI (Share Based Employee Benefits) Regulations, 2014

The Board approved the following proposals to amend the provisions of SEBI (Share Based Employee Benefits) Regulations, 2014 ("SBEBS Regulations") so as to align these with the new rule 19A(4) of the Securities Contracts (Regulation) Rules, 1957, formulated by the Government of India:



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- (1) Listed companies with employee benefit Trusts existing as on the date of notification of the SBEB Regulations shall have to re-classify the shareholding of Trust as 'non-promoter and non-public' category and ensure compliance with the requirement of minimum public shareholding within 3 years (as against 5 years presently) from the date of notification of the SBEB Regulations.
 - (2) The time period for exercise of voting rights by employee benefit Trusts, existing as on the date of notification of the SBEB Regulations, has been increased from 1 year to 3 years after considering the representations of the market participants.
 - (3) In line with the amendments to the Companies (Share Capital and Debentures) Rules, 2014, formulated by the Government of India, employees of 'associate company' shall not be eligible as beneficiaries of the employee benefit schemes framed under the SBEB Regulations.
 - (4) Pursuant to recent amendments to the SEBI Regulations on takeover, buy-back and delisting, the employee benefit Trusts will now be allowed to offer shares (under the tender offer route) through the stock exchange platform, without any requirement of minimum holding period.
- D. Clarification on exercise of options / applicability of contra-trade norms, etc. in light of SEBI (Prohibition of Insider Trading) Regulations, 2015

The Board was apprised of the representations received from industry bodies/ law firms and others on the above matter. The Board noted the Guidance Note under Regulation 11 of SEBI (Prohibition of Insider Trading) Regulations, 2015 (Regulations) placed before it.

The Guidance Note, inter alia, clarifies that exercise of ESOPs is not considered as 'trading' for the purpose of the Regulations, except provisions relating to disclosures. This will remove the difficulties of the designated persons with regard to exercise of ESOPs and the sale of shares so acquired.

- E. Review of policy relating to forfeiture of partly paid-up shares -Amendments to SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.

The Board decided that a discussion paper shall be placed on SEBI website for seeking public comments on the proposal to provide general exemption from the open offer obligations under SEBI (SAST) Regulations, 2011 in the cases of increase in voting rights as a result of expiry of call notice period and forfeiture of shares.

- F. Report of the expert Committee on Clearing Corporations

SEBI had constituted an expert committee, the 'Committee

on Clearing Corporation' under the Chairmanship of Shri K V Kamath, to inter-alia examine viability of Single Clearing Corporation or interoperability between Clearing Corporations and other issues relating to Clearing Corporations (CC).

The committee submitted its final report to SEBI in July 2015 with recommendations on the following issues:

- (1) Interoperability between Clearing Corporations.
- (2) Investment by Clearing Corporation.
- (3) Review of Transfer of 25% profits every year by recognised Stock Exchanges to recognised Clearing Corporations.
- (4) Review of Transfer of 25% profits every year by Depositories to their Investor Protection Fund (IPF).
- (5) Liquid assets for the purpose of calculation of Net worth of a Clearing Corporation.

The Board recommended that public comments may be sought on the recommendations of the Committee on Clearing Corporations.

05 Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2015

[Issued by the Securities And Exchange Board of India vide No. SEBI/LAD-NRO/GN/2015-16/008, dated 14.08.2015. Published in the Gazette of India Extraordinary Part – III – Section 4, dated 14.08.2015.]

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to further amend the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, namely:-

- 1 These regulations may be called the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2015.
- 2 They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009,
 - (i) in regulation 60, after sub-regulation (3) and before sub-regulation (4), the following proviso shall be inserted, namely:

"Provided that requirements of this sub-regulation shall



not be applicable in case of product advertisements of the issuer."

(ii) for Chapter XC, the following shall be substituted, namely:-

**"CHAPTER XC
LISTING ON INSTITUTIONAL TRADING PLATFORM**

Applicability.

106W. (1) The provisions of this chapter shall apply to entities which seek listing of their specified securities exclusively on the institutional trading platform either pursuant to a public issue or otherwise.

- (2) The provisions of these regulations, in respect of the matters not specifically dealt or excluded under this Chapter, shall apply mutatis mutandis to any listing of specified securities under this Chapter: Provided that the provisions of sub-regulation (4) of regulation 4, sub-regulations (1) and (2) of regulation 26 of these regulations shall not apply to listing of specified securities made under this Chapter.
- (3) The institutional trading platform shall be accessible to institutional investors and non-institutional investors.

Definitions.

106X (1) In this chapter, unless the context otherwise requires,-

- (a) "institutional trading platform" means the trading platform for listing and trading of specified securities of entities that comply with the eligibility criteria specified in regulation 106Y;
- (b) "institutional investor" means:
 - (i) qualified institutional buyer; or
 - (ii) family trust or systematically important NBFCs registered with Reserve Bank of India or intermediaries registered with the Board, all with net-worth of more than five hundred crore rupees, as per the last audited financial statements;
- (c) "persons acting in concert" shall have the same meaning as assigned to it under regulation 2(1)(q) of the SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011.
 - (2) All other words and expressions used in this Chapter but not defined under sub-regulation (1) shall derive their meaning from regulation 2 of these regulations.

Eligibility.

106Y. (1) The following entities shall be eligible for listing on the

institutional trading platform,-

- (a) an entity which is intensive in the use of technology, information technology, intellectual property, data analytics, bio-technology or nano-technology to provide products, services or business platforms with substantial value addition and at least twenty five per cent of its pre-issue capital is held by qualified institutional buyer(s) as on the date of filing of draft information document or draft offer document with the Board, as the case may be; or
 - (b) any other entity in which at least fifty per cent of the pre-issue capital is held by qualified institutional buyers as on the date of filing of draft information document or draft offer document with the Board, as the case may be.
- (2) No person, individually or collectively with persons acting in concert, shall hold twenty five per cent or more of the post-issue share capital in an entity specified in sub-regulation (1).

Listing without public issue.

106Z. (1) An entity seeking listing of its specified securities without making a public issue shall file a draft information document along with necessary documents with the Board in accordance with these regulations along with fee as specified in Schedule IV of these regulations.

- (2) The draft information document shall contain the disclosures as specified for draft offer document in these regulations.
- (3) Regulations relating to the following shall not be applicable in case of listing without public issue:
 - (i) allotment;
 - (ii) issue opening / closing;
 - (iii) advertisement;
 - (iv) underwriting;
 - (v) sub-regulation (5) of regulation 26;
 - (vi) pricing;
 - (vii) dispatch of issue material;
 - (viii) and other such provisions related to offer of specified securities to public.
- (4) The entity shall obtain in-principle approval from the recognised stock exchanges on which it proposes to get its specified securities listed.
- (5) The entity shall list its specified securities on the recognised stock exchange(s) within thirty days:
 - (a) from the date of issuance of observations by the Board; or
 - (b) from the expiry of the period stipulated in sub-regulation (2) of regulation 6, if the Board has not issued any such observations.



- (6) The entity which has received in-principle approval from the recognised stock exchange for listing of its specified securities on the institutional trading platform, without making a public issue, shall be deemed to have been waived by the Board under sub-rule (7) of rule 19 from the requirement of clause (b) of sub-rule (2) of rule 19 of Securities Contracts (Regulation) Rules, 1957 for the limited purpose of listing on the institutional trading platform.
 - (7) Provisions relating to minimum public shareholding shall not apply to entities listed on institutional trading platform without making a public issue.
 - (8) The draft and final information document shall be approved by the board of directors of the entity and shall be signed by all directors, the Chief Executive Officer, i.e., the Managing Director or Manager within the meaning of the Companies Act, 2013 and the Chief Financial Officer, i.e., the Whole-time Finance Director or any other person heading the finance function and discharging that function.
 - (9) The signatories shall also certify that all disclosures made in the information document are true and correct.
 - (10) In case of mis-statement in the information document or any omission therein, any person who has authorized the issue of information document shall be liable in accordance with the provisions of the SEBI Act, 1992 and regulations made thereunder.
- (7) The mode of allotment to institutional investors, i.e., whether discretionary or proportionate, shall be disclosed prior to or at the time of filing of the Red Herring Prospectus.
 - (8) In case of discretionary allotment to institutional investors, no institutional investor shall be allotted more than ten per cent of the issue size.
 - (9) The offer document shall disclose the broad objects of the issue.
 - (10) The basis of issue price may include disclosures, except projections, as deemed fit by the issuers in order to enable investors to take informed decisions and the disclosures shall suitably caution the investors about basis of valuation.

Lock-in.

106ZB. (1) The entire pre-issue capital of the shareholders shall be locked-in for a period of six months from the date of allotment in case of listing pursuant to public issue or date of listing in case of listing without public issue:

Provided that nothing contained in this regulation shall apply to:

- (i) equity shares allotted to employees under an employee stock option or employee stock purchase scheme of the entity prior to the initial public offer, if the entity has made full disclosures with respect to such options or scheme in accordance with Part A of Schedule VIII;
- (ii) equity shares held by a venture capital fund or alternative investment fund of Category I or a foreign venture capital investor:

Provided that such equity shares shall be locked in for a period of at least one year from the date of purchase by the venture capital fund or alternative investment fund or foreign venture capital investor.
- (iii) equity shares held by persons other than promoters, continuously for a period of at least one year prior to the date of listing in case of listing without public issue:

Explanation.-For the purpose of clause (ii) and (iii), in case such equity shares have resulted pursuant to conversion of fully paid-up compulsorily convertible securities, the holding period of such convertible securities as well as that of resultant equity shares together shall be considered for the purpose of calculation of one year period and the convertible securities shall be deemed to be fully paid-up, if the entire consideration payable thereon has been paid at the time of their conversion.

- (2) The specified securities held by promoters and locked-in may be pledged with any scheduled commercial bank or public financial institution as collateral security for loan

Listing pursuant to public issue.

106ZA. (1) An entity seeking issue and listing of its specified securities shall file a draft offer document along with necessary documents with the Board in accordance with these regulations along with fees as specified in Schedule IV of these regulations.

- (2) The minimum application size shall be ten lakh rupees.
- (3) The number of allottees shall be more than two hundred.
- (4) The allocation in the net offer to public category shall be as follows:
 - (a) seventy-five per cent to institutional investors:
Provided that there shall be no separate allocation for Anchor Investors;
 - (b) twenty-five per cent to non-institutional investors;
- (5) Any under-subscription in the non-institutional investor category shall be available for subscription under the institutional investors' category.
- (6) The allotment to institutional investors may be on a discretionary basis whereas the allotment to non-institutional investors shall be on a proportionate basis.



granted by such bank or institution if the pledge of specified securities is one of the terms of sanction of the loan.

- (3) The specified securities that are locked-in may be transferable in accordance with regulation 40 of these regulations.
- (4) All specified securities allotted on a discretionary basis shall be locked-in in accordance with the requirements for lock-in by Anchor Investors on main board of the stock exchange, as specified under clause 10(j) in Part A of Schedule XI.

Trading lot.

106ZC. The minimum trading lot shall be ten lakh rupees.

Exit of entities listed without making a public issue.

106ZD. (1) An entity whose specified securities are listed on the institutional trading platform without making a public issue may exit from that platform, if-

- (a) its shareholders approve such exit by passing a special resolution through postal ballot where ninety per cent of the total votes and the majority of non-promoter votes have been cast in favor of such proposal; and
 - (b) the recognised stock exchange where its shares are listed approve of such an exit.
- (2) The recognised stock exchange may delist the specified securities of an entity listed without making a public issue upon non-compliance of the conditions of listing and in the manner as specified by the stock exchange.
- (3) No entity promoted by promoters and directors of an entity delisted under sub-regulation (2), shall be permitted to list on institutional trading platform for a period of five years from the date of such delisting: Provided that the provisions of this regulation shall not apply to another entity promoted by the independent directors of such a delisted entity.

Migration to main board.

106ZE. An entity that has listed its specified securities on a recognised stock exchange in accordance with the provisions of this Chapter may at its option migrate to the main board of that recognised stock exchange after expiry of three years from the date of listing subject to compliance with the eligibility requirements of the stock exchange.

Repeal and saving.

106ZF. The provisions of Chapter XC and all directions, guidelines, instructions or circulars, issued by the Board as applicable to small and medium enterprises which are listed on the institutional trading platform, as on the date of

commencement of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2015 shall continue to remain in force for the period such companies are listed on the institutional trading platform or till such time as specified by the Board, whichever is earlier, as if Chapter XC had not been repealed.

Explanation.-Under this Chapter, the phrases 'pre-issue' and 'post-issue', wherever they occur shall be construed as 'pre-listing' and 'post-listing', respectively, in case of listing without public issue.

(iii) in Schedule IV,

- (a) in reference title, the word, number and symbol " and 91E(3)", shall be substituted with the word, numbers and symbols ", 91E(3), 106Z(1) and 106ZA(1)";
- (b) in Part A, in para (1), after sub-para (b), the following shall be inserted, namely:
- (c) In case of listing without public issue:

Paid up capital of the entity	Amount / Rate of fees
Less than or equal to ten crore rupees.	A flat charge of one lakh rupees (₹1,00,000/-).
More than ten crore rupees, but less than or equal to five thousand crore rupees.	0.1 per cent of the paid up capital
More than five thousand crore rupees.	Five crore rupees (₹5,00,00,000/-) plus 0.025 percent of the portion of the paid up capital in excess of five thousand crore rupees (₹5000,00,00,000/).

(iv) in Schedule VI, in Form A, after clause 17, the following shall be inserted, namely:-

"(18) We certify that the entity is eligible under 106Y (1) (a) or (b) (as the case may be) to list on the institutional trading platform, under Chapter XC of these regulations. (if applicable)"

(v) in Schedule VIII,

(a) the recital before Part A, shall be substituted with the following, namely:-

"(i) The words "group companies", wherever they occur, shall include such companies as covered under the applicable accounting standards and also other companies as considered material by



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the board of the issuer.

(ii) The policy on materiality shall be disclosed in the offer document."

(b) in Part A , in para (2), in sub-para (X), in clause (A),

(I) sub-clauses (1) and (2) shall be substituted with the following, namely:

"(1) Litigations involving the issuer/ its directors/ promoters/group companies/ subsidiaries:

- (i) All criminal proceedings;
- (ii) All actions by statutory / regulatory authorities;
- (iii) Taxation -Separate disclosures regarding claims related to direct and indirect taxes, in a consolidated manner giving details of number of cases and total amount;
- (iv) Other pending litigations -As per policy of materiality defined by the board of the issuer and disclosed in the offer document.

(2) Outstanding dues to creditors:

- (i) Based on the policy on materiality of the board of the issuer and as disclosed in the offer document, disclosure for such creditors;
- (ii) Consolidated information on outstanding dues to small scale undertakings and other creditors, separately giving details of number of cases and amount involved;
- (iii) Complete details about outstanding dues to creditors as per (i) and (ii) above shall be disclosed on the webpage of the company with a web link thereto in the offer document."

(II) sub-clause (3) shall be omitted.

(vi) Schedule XIX A shall be omitted.

U. K. Sinha
Chairman

06 Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2015

[Issued by the Securities and Exchange Board of India vide No. SEBI/LAD-NRO/GN/2015-16/009, dated 14.08.2015. Published

in the Gazette of India Extraordinary Part – III – Section 4, dated 14.08.2015.]

In exercise of the powers conferred under section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following Regulations to amend the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, namely:-

- 1 These regulations may be called the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) (Third Amendment) Regulations, 2015.
- 2 They shall come into force on the date of their publication in the Official Gazette.
- 3 In the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, in regulation 1, in sub-regulation (3), the proviso shall be substituted by the following, namely:

"Provided that these regulations shall not apply to direct and indirect acquisition of shares or voting rights in, or control over a company listed without making a public issue, on the institutional trading platform of a recognised stock exchange."

U. K. Sinha
Chairman

07 Securities and Exchange Board of India (Delisting of Equity shares) (Second Amendment) Regulations, 2015

[Issued by the Securities and Exchange Board of India vide No. SEBI/LAD-NRO/GN/2015-16/010, dated 14.08.2015. Published in the Gazette of India Extraordinary Part – III – Section 4, dated 14.08.2015.]

In exercise of the powers conferred by section 31 read with section 21A of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), section 30, sub-section (1) of section 11 and sub-section (2) of section 11A of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following Regulations to further amend the Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2009, namely:-

- 1 These regulations may be called the Securities and Exchange Board of India (Delisting of Equity Shares) (Second Amendment) Regulations, 2015.
- 2 They shall come into force on the date of their publication in the Official Gazette.
- 3 In the Securities and Exchange Board of India (Delisting of Equity



Shares) Regulations, 2009, in regulation 3, in sub-regulation (1), the proviso shall be substituted with the following namely:

"Provided that these regulations shall not apply to securities listed without making a public issue, on the institutional trading platform of a recognised stock exchange."

U. K. Sinha
Chairman

08 Securities and Exchange Board of India (Alternative Investment Funds) (Amendment) Regulations, 2015

[Issued by the Securities and Exchange Board of India vide No. SEBI/LAD-NRO/GN/2015-16/011, dated 14.08.2015. Published in the Gazette of India Extraordinary Part – III – Section 4, dated 14.08.2015.]

In exercise of the powers conferred by sub-section (1) of section 30 read with sub-section (1) of section 11, clause (ba) and clause (c) of sub-section (2) of section 11 and sub-section (1) and (1B) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to amend the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, namely,–

- 1 These regulations may be called the Securities and Exchange Board of India (Alternative Investment Funds) (Amendment) Regulations, 2015.
- 2 They shall come into force on the date of their publication in the Official Gazette.
- 3 In the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, in regulation 15, in sub-regulation (1), after clause (g), the following shall be inserted, namely:

“(h) Investment by Category I and Category II Alternative Investment Funds in the shares of entities listed on institutional trading platform after the commencement of Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Fourth Amendment) Regulations, 2015 shall be deemed to be investment in ‘unlisted securities’ for the purpose of these regulations.”

U. K. Sinha
Chairman

09 Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) (Fifth Amendment) Regulations, 2015

[Issued by the Securities and Exchange Board of India vide No.

SEBI/LAD-NRO/GN/2015-16/012, dated 14.08.2015. Published by the Gazette of India Part - III - Section 4, dated 14.08.2015]

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to further amend the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, namely:

- 1 These regulations may be called the SEBI (Issue of Capital and Disclosure Requirements) (Fifth Amendment) Regulations, 2015.
- 2 They shall come into force on the first day of January, 2016.
3. In the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009:
 - (I) In regulation 12, after the words and symbol “syndicate members,” and before the word “underwriters”, the words and symbols “registrar to issue and share transfer agents, depository participants, stock brokers,” shall be inserted.
 - (II) In regulation 58, sub-regulation (5) shall be substituted with the following, namely:-

“(5) In all, -

 - (i) Public issues, the issuer shall accept bids using only ASBA facility in the manner specified by the Board;
 - (ii) Rights issues, where not more than one payment option is given, the issuer shall provide the facility of ASBA in accordance with the procedure and eligibility criteria specified by the Board:

Provided that in case of qualified institutional buyers and non-institutional investors the issuer shall accept bids using ASBA facility only.”
 - (III) In regulation 65, sub-regulation (1) and (2) shall be substituted with the following, namely:
 - “(1) In public issue, the lead merchant banker shall submit final post-issue report as specified in Part C of Schedule XVI, within seven days of the date of finalization of basis of allotment or within seven days of refund of money in case of failure of issue.
 - (2) In rights issue, the lead merchant banker shall submit post-issue reports as follows:
 - (a) initial post issue report as specified in Part B of Schedule XVI, within three days of closure of the issue;
 - (b) final post issue report as specified in Part D of



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Schedule XVI, within fifteen days of the date of finalization of basis of allotment or within fifteen days of refund of money in case of failure of issue.”

(IV) In Schedule VIII, in Part A, in Para (2),

(1) in sub-para (VI), in clause (B), in sub-clause (6), after the words and symbol “Self-Certified Syndicate Banks,” and before the word “etc.,” the words and symbols “registrar to issue and share transfer agents, depository participants,” shall be inserted;

(2) in sub-para (XII), in clause (B), in sub-clause (3), item (f), sub-item (ii), after the word “SCSBs” and before the word “and”, the words and symbols “/ RTAs / DPs / stock brokers” shall be inserted.

(V) In Schedule VIII, in Part D, in para (II), after clause (F), following new clause shall be inserted, namely:

“(FA) Details regarding website address(es)/link(s) from which the investor can obtain list of registrar to issue and share transfer agents, depository participants and stock brokers.”

(VI) In Schedule XI, in Part A,

(1) in item 6,

(i) in the proviso to sub-item (a), after the words and symbols “Self-Certified Syndicate Banks,” and before the words “shall also”, the words and symbols “Registrar to Issue and Share Transfer Agents, Depository Participants, Stock brokers” shall be inserted;

(ii) sub-item (b) shall be substituted with the following namely,

“(b) The stock brokers, Self Certified Syndicate Bank, Registrar to Issue and Share Transfer Agents and Depository Participants accepting applications and application monies shall be deemed as ‘bidding/collection centres’.”

(iii) in sub-item (c), for the words and symbols “book runners/syndicate members/stock brokers/Self Certified Syndicate Banks a”, the words “SEBI registered intermediaries” shall be substituted;

(2) in item 12,

(i) in sub-item (d), for the words and symbols “on-line system or Self Certified Syndicate Banks”, the words “on-line system, Self Certified Syndicate Banks, Registrar to Issue and Share Transfer Agents or Depository Participants,” shall be substituted;

(ii) in sub-item (e), after the words “Self-Certified

Syndicate Bank” and before the words “shall accept”, the words and symbols “, Registrar to Issue and Share Transfer Agents or Depository Participants” shall be inserted;

(iii) in sub-item (i), for the words “finalization of allotment”, the words “closure of the issue” shall be substituted.

(VII) In Schedule XIII,

(1) in Part A, under the items of the heading “AVAILABILITY OF APPLICATION FORMS”, after the words “Self Certified Syndicate Banks” and before the words and symbols “(as the case may be)”, the words and symbols “,Registrar to Issue and Share Transfer Agents, Depository Participants” shall be inserted;

(2) in Part B, under the items of the heading “AVAILABILITY OF APPLICATION FORMS”, after the words “Self Certified Syndicate Banks” and before the words and symbols “(as the case may be)”, the words and symbols “, Stock Brokers, Registrar to Issue and Share Transfer Agents, Depository Participants” shall be inserted;

(3) in Part C, under the items of the heading “AVAILABILITY OF APPLICATION FORMS”, after the words “Self Certified Syndicate Banks” and before the words and symbols “(as the case may be)”, the words and symbols “, Stock Brokers, Registrar to Issue and Share Transfer Agents, Depository Participants” shall be inserted;

(VIII) In Schedule XVI,

(1) Part A shall be omitted;

(2) In Part C,

(i) in reference title, the number and symbol “65(2)(b)” shall be substituted with the number and symbol “65(1)”.

(ii) item No. I (5) shall be omitted.

U. K. Sinha
Chairman

10 Securities And Exchange Board of India (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2015

[Issued by the Securities And Exchange Board of India vide No. SEBI/LAD-NRO/GN/2015-16/007, dated 11.08.2015. Published



in the Gazette of India Extraordinary Part – III – Section 4, dated 11.08.2015.]

In exercise of the powers conferred by section 30 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), the Board hereby makes the following regulations to further amend the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009, namely:-

1. These regulations may be called the SEBI (Issue of Capital and Disclosure Requirements) (Third Amendment) Regulations, 2015.
2. They shall come into force on the date of their publication in the Official Gazette.
3. In the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009:-

(a) in Regulation 10, in sub-regulation (1), -

I. in clause (b), for the words “three thousand crore rupees”, the words “one thousand crore rupees in case of public issue and two hundred and fifty crore rupees in case of rights issue” shall be substituted;

II. in clause (e), -

- a. in the first proviso, for the symbol “;”, the symbol “:” shall be substituted;
- b. after the first proviso, the following new proviso shall be inserted, namely:-

“Provided further that imposition of only monetary fines by stock exchanges on the issuer shall not be a ground for ineligibility for undertaking issuances under this regulation;”;

III. after clause (g) and before clause (h), following new clause shall be inserted, namely:-

“(ga) the issuer or promoter or promoter group or director of the issuer has not settled any alleged violation of securities laws through the consent or settlement mechanism with the Board during three years immediately preceding the reference date;”;

IV. in clause (h), for the symbol “.” the symbol “,” shall be substituted;

V. after clause (h), the following new clauses shall be inserted, namely:-

“(i) in case of a rights issue, promoters and promoter group shall mandatorily subscribe to their rights entitlement and shall not renounce their rights, except to the extent of

renunciation within the promoter group or for the purpose of complying with minimum public shareholding norms prescribed under Rule 19A of the Securities Contracts (Regulation) Rules, 1957;

(j) the equity shares of the issuer have not been suspended from trading as a disciplinary measure during last three years immediately preceding the reference date;

(k) the annualized delivery-based trading turnover of the equity shares during six calendar months immediately preceding the month of the reference date has been at least ten per cent of the weighted average number of equity shares listed during such six months' period;

(l) there shall be no conflict of interest between the lead merchant banker(s) and the issuer or its group or associate company in accordance with applicable regulations.”

(b) In Schedule VIII, -

I. in Part A, Para (2), in item (VII), sub-item (I) shall be replaced with the following, namely:-

“Interim Use of Funds: Net issue proceeds pending utilization (for the stated objects) shall be deposited only in the scheduled commercial banks included in the Second Schedule of Reserve Bank of India Act, 1934.”

II. in Part E, in Para (5), in item (VII), sub-item (J) shall be replaced with the following, namely:-

“Interim Use of Funds: Net issue proceeds pending utilization (for the stated objects) shall be deposited only in the scheduled commercial banks included in the Second Schedule of Reserve Bank of India Act, 1934.”

(c) In Schedule XIX, in Part A, after para (11) and before para (12), a new para shall be inserted, namely:-

“(11A) Interim Use of Funds: The issuer company shall keep funds in a bank having a credit rating of 'A' or above by an international credit rating agency.”

(d) In Schedule XXI, in Part A, in para (2), in Item (VIII), sub-item (B) shall be replaced with the following, namely:-

“(B) Interim Use of Funds: The issuer company shall keep funds in a bank having a credit rating of 'A' or above by an international credit rating agency.”

U. K. Sinha
Chairman



11 Monthly Report For Clearing Corporations

[Issued by the Securities and Exchange Board of India vide CIR/MRD/DRMNP/16 /2015, dated 06.08.2015.]

1. The Clearing Corporations are advised to submit a Monthly Report, as per the prescribed format, from the month of August 2015 onwards and ensure the same reaches SEBI within 10 calendar days from the close of each month.
2. The format for the Monthly Report is provided at Annexure-A
3. Information sought from the Clearing Corporation, in the prescribed format at Annexure A, may henceforth be discontinued from the Stock Exchange Monthly Development Report.
4. This circular is being issued in exercise of powers conferred under Section 11
(1) of the Securities and Exchange Board of India Act, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
5. This Circular is available on SEBI website at www.sebi.gov.in.

Maninder Cheema
Deputy General Manager

Annexure A

MONTHLY REPORT

CLEARING, SETTLEMENT & RELATED FUNCTIONS

1. Clearing and Settlement for Segments -

Sr. No.	Name of Segment	Average Daily Settlement Value (INR Crores)*	Highest Settlement Value for the Month (INR Crores)
1	Equity market	Funds	
		Securities	
2	Equity Derivatives		
3	Currency Derivatives		
4	Debt Market	Funds	
		Securities	
5	ITP	Funds	
		Securities	

*Average Daily Settlement Value - Total Settlement Value for the Month|Total number of trading days Total Settlement Value shall include settlement value of normal trades, trade for trade and block deals

2. Top 10 Settlement Shortages for each segment

Sr. No.	Name of Member	Shortage in Segment	Date of Settlement (for which there was a shortage)	Number of times the Member had settlement shortages in the previous 6 months	Shortage Type (Funds/ Securities)	Amount (INR Crores)

Note : In cases of repetitive shortages by members, action taken by the Clearing Corporation, if any -



3. Penalty Imposed on Short / Non-Collection of Margins / Margin Violation/ Settlement Shortages and other penalties Imposed/ collected by Clearing Corporation -

Sr. No.	Type of Penalty Collected	Number of members	Amount of Penalty	Interest on Penalty	To which fund it is transferred (IPF/ SGF)

Note:

IPF - Investor Protection Fund

SGF - Settlement Guarantee Fund

4. Securities lending and borrowing

Sr. No.	Particulars	Figures
1	Number of securities permitted	
2	Number of securities traded	
3	Turnover for the month (INR)	
4	Lending fees collected (INR)	

5. Members declared Defaulter/Expelled

Sr. No	Name of Member declared defaulter/ Expelled	Date of default/ Expulsion	Reason for declaring defaulter/ Expulsion

6. Corpus of core SGF (for the Month of , 20XX)

Sr No	Segment	Minimum Required Corpus (INR crores)*	Contributions towards MRC by			Other Contributions**	Total SGF Available with the Clearing Corporation
			Clearing Corporation (INR crores)	Stock Exchange (INR crores)	Members (INR crores)		
1	Equity market						
2	Equity Derivatives						
3	Currency Derivatives						
4	Debt Market						
Total							

* Minimum Require Corpus (MRC) as applicable for the month

**Other Contributions shall include Penalties, Interests and other accruals to SGF

7. Investment of Core SGF

Sr No	Instrument of Investment	Amount (INR crores)	Tenure of Investment



CLEARING CORPORATION ADMINISTRATION

1. Composition of Governing Board (To be reported in case of change):

Sr. No	Name	Category	Date of Appointment	Date of Last Renewal of the term	No. of terms completed	Date of Expiry of current term

2. Composition of Statutory/Standing Committees (To be reported in case of change):

Sr. No.	Names	Category	Date of Appointment	Date of Last Renewal of the term	No. of terms completed	Date of Expiry of current term

3. Board Meeting / Annual General Meeting / Extra Ordinary General Meeting Held During the Month:

Sr. No.	Date of the Meeting	Names of Members who attended the Meeting	Board Meeting/ AGM/EGM	Main Heading of Agenda

4. Important Decisions taken by governing board in the meeting(s).

MISCELLANEOUS

1. Net worth as on March/ June/ September/ December 20XX (INR crores) -

2. Shareholding pattern as on date -

Sr. No.	Entity	Shares	% Equity

3. Implementation status of SEBI Circulars

Circular No. & date	Provisions in the circular (Subject)	Implemented (Y/N)	Date of implementation of the provisions	In case not implemented, reasons for non-implementation

4. No. of Clearing Member/Self Clearing Member/Professional Clearing Member segment wise.

Segments	SCM		TMCM		PCM		Custodian	
	Total	Enabled	Total	Enabled	Total	Enabled	Total	Enabled
Total								

5. Top 10 Clearing Members based on highest 'Daily Average Pay-In' obligation for each segment:

Sr. No.	Name of Clearing Member	Category (CM/SCM/PCM)	Segment	Amount (INR crores)*

Note: Separate tables for each segment

*Daily Average pay-in = Daily average value of Funds + Securities

6. Inspections of Clearing Members



Sr. No	Number of Clearing member inspected during the period	Cumulative number of Clearing members inspected during the current Financial Year

7. Major Observations in Clearing Member Inspections, if any -
8. Any other matter that the Clearing Corporation would like to report.

12 Formats under SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 (Regulations).

[Issued by the Securities and Exchange Board of India vide CIR/CFD/POLICYCELL/3/2015, dated 05.08.2015.]

1. The formats for the reports/disclosures to be filed under the Regulations have been prescribed by SEBI vide circular No SEBI/CFD/OCR/SAST/ 1/2011/09/23 dated September 23, 2011, SEBI/CFD/OCR/SAST/ 2/2011/10/20 dated October 20, 2011 and CIR/CFD/POLICYCELL/11/2013 dated October 21, 2013.
2. In order to ensure that adequate disclosures are made to help investors in taking an informed decision, it has been decided to modify the formats for disclosures under regulation 31 of the Regulations.
3. The format for disclosures under regulation 31(1)/(2) of the Regulations is placed as Annexure-1.
4. A copy of this circular and the above stated formats are available on SEBI website at www.sebi.gov.in under the categories "Legal Framework" and "Takeovers".
5. This circular will come into force with immediate effect.

Amit Tendon
Deputy General Manager

ANNEXURE - 1

Format for disclosure by the Promoter(s) to the stock exchanges and to the Target Company for encumbrance of shares / invocation of encumbrance/ release of encumbrance, in terms of Regulation 31(1) and 31(2) of SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011				
Name of the Target Company(TC)				
Names of the stock exchanges where the shares of the target company are listed				
Date of reporting				
Name of the promoter or PAC on whose shares encumbrance has been created/released/invoked				
Details of the creation of encumbrance				
Name of the promoter (s) or PACs with him*	Promoter holding in the target company (1)	Promoter holding already encumbered (2)	Details of events pertaining to encumbrance (3)	Post event holding of encumbered shares (creation [(2)+(3)] / release [(2)-(3)] / invocation



	Number	% of total share capital	Number	% of total share capital	Type of event (creation / release / invocation)	Date of creation/ release/ invocation of encumbrance	Type of encumbrance (pledge/ lien/ non disposal undertaking/	Reasons for encumbrance **	Number	% of share capital	Name of the entity in whose favor shares encumbered ***	Number	% of total share capital
Signature of the Authorized Signatory													
Place :													
Date :													

*The names of all the promoters, their shareholding in the target company and their pledged shareholding as on the reporting date should appear in the table irrespective of whether they are reporting on the date of event or not.

** For example, for the purpose of collateral for loans taken by the company, personal borrowing, third party pledge, etc.

***This would include name of both the lender and the trustee who may hold shares directly or on behalf of the lender.



13 Introduction of Composite Caps for Simplification of Foreign Direct Investment (FDI) policy to attract foreign investments

[Issued by the Ministry of Commerce & Industry, Department of Industrial Policy & Promotion (FC-I Section) vide Press Note No. 8 (2015 Series) dated 30.07.2015]

The Government of India has reviewed the extant FDI policy on various sectors and made following amendments in the Consolidated FDI Policy Circular of 2015, effective from May 12, 2015, by introducing composite caps, so that uniformity and simplicity are brought in across the sectors in FDI policy for attracting foreign investments.

2. Para 3.6.2 (vi) of the Consolidated FDI Policy Circular of 2015, is amended to read as under:

3.6.2 (vi) It is also clarified that Foreign investment shall include all types of foreign investments, direct and indirect, regardless of whether the said investments have been made under

Schedule 1 (FDI), 2 (FII), 2A (FPI), 3 (NRI), 6 (FVCI), 8 (QFI), 9 (LLPs) and 10 (DRs) of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations. FCCBs and DRs having underlying of instruments which can be issued under Schedule 5, being in the nature of debt, shall not be treated as foreign investment. However, any equity holding by a person resident outside India resulting from conversion of any debt instrument under any arrangement shall be reckoned as foreign investment.

3. Para 4.1.2 of the Consolidated FDI Policy Circular of 2015, is amended to read as under:

4.1.2 For the purpose of computation of indirect foreign investment, foreign investment in an Indian company shall include all types of foreign investments regardless of whether the said investments have been made under Schedule 1 (FDI), 2 (FII holding as on March 31), 2A (FPI holding as on March 31), 3 (NRI), 6 (FVCI), 8 (QFI holding as on March 31), 9 (LLPs) and 10 (DRs) of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations. FCCBs and DRs having underlying of instruments which can be issued under Schedule 5, being in the nature of debt, shall not be treated as foreign investment. However, any equity holding by a person resident outside India resulting from conversion of any debt instrument under any arrangement shall be reckoned as foreign investment.

4. Para 3.1.4 (i) of the Consolidated FDI Policy Circular of 2015, is amended to read as under:

3.1.4 (i) An FII/FPI/QFI (Schedule 2, 2A and 8 of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations, as the case may be) may invest in the capital of an Indian company under the Portfolio Investment Scheme which limits the individual holding of an FII/FPI/QFI below



10% of the capital of the company and the aggregate limit for FII/FPI/QFI investment to 24% of the capital of the company. This aggregate limit of 24% can be increased to the sectoral cap/statutory ceiling, as applicable, by the Indian company concerned through a resolution by its Board of Directors followed by a special resolution to that effect by its General Body and subject to prior intimation to RBI. The aggregate FII/FPI/QFI investment, individually or in conjunction with other kinds of foreign investment, will not exceed sectoral/statutory cap.

5. Para 6.2 of the Consolidated FDI Policy Circular of 2015 is amended to read as under:

a) In the sectors/activities as per Annexure, foreign investment up to the limit indicated against each sector/activity is allowed, subject to the conditions of the extant policy on specified sectors and applicable laws/regulations; security and other conditionalities. In sectors/activities not listed therein, foreign investment is permitted up to 100% on the automatic route, subject to applicable laws/regulations; security and other conditionalities.

Wherever there is a requirement of minimum capitalization, it shall include share premium received along with the face value of the share, only when it is received by the company upon issue of the shares to the non-resident investor. Amount paid by the transferee during post-issue transfer of shares beyond the issue price of the share, cannot be taken into account while calculating minimum capitalization requirement.

b) Sectoral cap i.e. the maximum amount which can be invested by foreign investors in an entity, unless provided otherwise, is composite and includes all types of foreign investments, direct and indirect, regardless of whether the said investments have been made under Schedule 1 (FDI), 2 (FII), 2A (FPI), 3 (NRI), 6 (FVCI), 8 (QFI), 9 (LLPs) and 10 (DRs) of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations. FCCBs and DRs having underlying of instruments which can be issued under Schedule 5, being in the nature of debt, shall not be treated as foreign investment. However, any equity holding by a person resident outside India resulting from conversion of any debt instrument under any arrangement shall be reckoned as foreign investment under the composite cap. Sectoral cap is as per Annexure referred above.

c) Foreign investment in sectors under Government approval route resulting in transfer of ownership and/or control of Indian entities from resident Indian citizens to non-resident entities will be subject to Government approval. Foreign investment in sectors under automatic route but with conditionalities, resulting in transfer of ownership and/or control of Indian entities from resident Indian citizens to non-resident entities, will be subject to compliance of

such conditionalities.

- d) The sectors which are already under 100% automatic route and are without conditionalities would not be affected.
 - e) Notwithstanding anything contained in paragraphs a) and c) above, portfolio investment, upto aggregate foreign investment level of 49% or sectoral/statutory cap, whichever is lower, will not be subject to either Government approval or compliance of sectoral conditions, as the case may be, if such investment does not result in transfer of ownership and/or control of Indian entities from resident Indian citizens to non-resident entities. Other foreign investments will be subject to conditions of Government approval and compliance of sectoral conditions as laid down in the FDI policy.
 - f) Total foreign investment, direct and indirect, in an entity will not exceed the sectoral/statutory cap.
 - g) Any existing foreign investment already made in accordance with the policy in existence would not require any modification to conform to these amendments.
 - h) The onus of compliance of above provisions will be on the investee company.
6. It is clarified that there are no sub-limits of portfolio investment and other kinds of foreign investments in commodity exchanges, credit information companies, infrastructure companies in the securities market and power exchanges.
 7. In Defence sector, portfolio investment by FPIs/FIIs/NRIs/QFIs and investments by FVCIs together will not exceed 24% of the total equity of the investee/joint venture company. Portfolio investments will be under automatic route.
 8. In Banking- Private sector, where sectoral cap is 74%, FII/ FPI/ QFI investment limits will continue to be within 49% of the total paid up capital of the company.
 9. There is no change in the entry route i.e. Government approval requirement to bring foreign investment in a particular sector/activity. Further, subject to the amendments mentioned in this Press Note, there is no change in other conditions mentioned in the Consolidated FDI Policy Circular of 2015 and subsequent Press Notes.
 10. Relevant provisions of the FDI policy and subsequent Press Notes will be read in harmony with the above amendments in Consolidated FDI Policy Circular of 2015.
 11. The above decision will take immediate effect.

Atul Chaturvedi
Joint Secretary



ANNEXURE

Foreign investments caps and entry routes in various sectors as per Consolidated FDI Policy Circular of 2015

Para No. of Consolidated FDI Policy Circular of 2015	Sector/Activity	Foreign Investment	
		Cap (%)	Route
Agriculture			
6.2.1	Agriculture & Animal Husbandry		
	a) Floriculture, Horticulture, Apiculture and Cultivation of Vegetables & Mushrooms under controlled conditions; b) Development and Production of seeds and planting material; c) Animal Husbandry (including breeding of dogs), Pisciculture, Aquaculture, under controlled conditions; and d) Services related to agro and allied sectors Note: Besides the above, FDI is not allowed in any other agricultural sector/activity	100%	Automatic
6.2.2	Tea Plantation		
6.2.2.1	Tea sector including tea plantations Note: Besides the above, FDI is not allowed in any other plantation sector/activity	100%	Government
Mining and Petroleum & Natural Gas			
6.2.3	Mining		
6.2.3.1	Mining and Exploration of metal and non-metal ores including diamond, gold, silver and precious ores but excluding titanium bearing minerals and its ores; subject to the Mines and Minerals (Development & Regulation) Act, 1957.	100%	Automatic
6.2.3.2	Coal and Lignite		
	(1) Coal & Lignite mining for captive consumption by power projects, iron & steel and cement units and other eligible activities permitted under and subject to the provisions of Coal Mines (Nationalization) Act, 1973.	100%	Automatic
	(2) Setting up coal processing plants like washeries subject to the condition that the company shall not do coal mining and shall not sell washed coal or sized coal from its coal processing plants in the open market and shall supply the washed or sized coal to those parties who are supplying raw coal to coal	100%	Automatic



Para No. of Consolidated FDI Policy Circular of 2015	Sector/Activity	Foreign Investment	
		Cap (%)	Route
	processing plants for washing or sizing.		
6.2.3.3	Mining and mineral separation of titanium bearing minerals and ores, its value addition and integrated activities		
6.2.3.3.1	Mining and mineral separation of titanium bearing minerals & ores, its value addition and integrated activities subject to sectoral regulations and the Mines and Minerals (Development and Regulation Act 1957).	100%	Government
6.2.4	Petroleum & Natural Gas		
6.2.4.1	Exploration activities of oil and natural gas fields, infrastructure related to marketing of petroleum products and natural gas, marketing of natural gas and petroleum products, petroleum product pipelines, natural gas/pipelines, LNG Regasification infrastructure, market study and formulation and Petroleum refining in the private sector, subject to the existing sectoral policy and regulatory framework in the oil marketing sector and the policy of the Government on private participation in exploration of oil and the discovered fields of national oil companies.	100%	Automatic
6.2.4.2	Petroleum refining by the Public Sector Undertakings (PSU), without any disinvestment or dilution of domestic equity in the existing PSUs.	49%	Automatic
6.2.5	Manufacturing	100%	Automatic
6.2.6	Defence		
6.2.6.1	Defence Industry subject to Industrial license under the Industries (Development & Regulation) Act, 1951	49% (Portfolio investment by FPIs/FIIs/NRIs/QFIs and investments by FVCIs up to 24%)	Government route up to 49% Above 49% to Cabinet Committee on Security (CCS) on case to case basis, wherever it is likely to result in access to modern and 'state-of-art' technology in the country.



From the Government

Para No. of Consolidated FDI Policy Circular of 2015	Sector/Activity	Foreign Investment	
		Cap (%)	Route
Services Sector			
Information Services			
6.2.7 Broadcasting			
6.2.7.1 Broadcasting Carriage Services			
6.2.7.1.1	(1) Teleports (setting up of up-linking HUBs/Teleports); (2) Direct to Home (DTH) ; (3) Cable Networks (Multi System operators (MSOs) operating at National or State or District level and undertaking upgradation of networks towards digitalization and addressability); (4) Mobile TV ; (5) Headend-in-the Sky Broadcasting Service(HITS)	74%	Automatic up to 49% Government route beyond 49% and upto 74%
6.2.7.1.2	Cable Networks (Other MSOs not undertaking upgradation of networks towards digitalization and addressability and Local Cable Operators (LCOs))	49%	Automatic
6.2.7.2 Broadcasting Content Services			
6.2.7.2.1	Terrestrial Broadcasting FM (FM Radio) , subject to such terms and conditions, as specified from time to time, by Ministry of Information & Broadcasting, for grant of permission for setting up of FM Radio stations	26%	Government
6.2.7.2.2	Up-linking of 'News & Current Affairs' TV Channels	26%	Government
6.2.7.2.3	Up-linking of Non-'News & Current Affairs' TV Channels/ Down-linking of TV Channels	100%	Government
6.2.8 Print Media			
6.2.8.1	Publishing of newspaper and periodicals dealing with news and current affairs	26%	Government
6.2.8.2	Publication of Indian editions of foreign magazines dealing with news and current affairs	26%	Government
6.2.8.3	Publishing/printing of scientific and technical magazines/ specialty journals/ periodicals, subject to compliance with the legal framework as applicable and guidelines issued in this regard from time to time by Ministry of Information and Broadcasting.	100%	Government
6.2.8.4	Publication of facsimile edition of foreign newspapers	100%	Government
6.2.9 Civil Aviation			
6.2.9.2 Airports			
	(a) Greenfield projects	100%	Automatic



Para No. of Consolidated FDI Policy Circular of 2015	Sector/Activity	Foreign Investment	
		Cap (%)	Route
	(b) Existing projects	100%	Automatic up to 74% Government route beyond 74%
6.2.9.3	Air Transport Services		
	(1) Scheduled Air Transport Service/ Domestic Scheduled Passenger Airline	49% (100% for NRIs)	Automatic
	(2) Non-Scheduled Air Transport Service	74% (100% for NRIs)	Automatic up to 49% Government route beyond 49% and upto 74%
	(3) Helicopter services/seaplane services requiring DGCA approval	100%	Automatic
6.2.9.3.1	Foreign airlines in the capital of Indian companies, operating scheduled and non-scheduled air transport services	49% (100% for NRIs)	Government
6.2.9.4	Other services under Civil Aviation sector		
	(1) Ground Handling Services subject to sectoral regulations and security clearance	74% (100% for NRIs)	Automatic up to 49% Government route beyond 49% and upto 74%
	(2) Maintenance and Repair organizations; flying training institutes; and technical training institutions.	100%	Automatic
6.2.10	Courier services for carrying packages, parcels and other items which do not come within the ambit of the Indian Post Office Act, 1898 and excluding the activity relating to the distribution of letters.	100%	Automatic
6.2.11	Construction Development: Townships, Housing, Built-up infrastructure		
6.2.11.1	Construction-development projects (which would include development of townships, construction of residential/commercial premises, roads or bridges, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure, townships)	100%	Automatic



Para No. of Consolidated FDI Policy Circular of 2015	Sector/Activity	Foreign Investment	
		Cap (%)	Route
6.2.12	Industrial Parks – new and existing	100%	Automatic
6.2.13	Satellites - establishment and operation		
6.2.13.1	Satellites- establishment and operation, subject to the sectoral guidelines of Department of Space/ISRO	74%	Government
6.2.14	Private Security Agencies	49%	Government
6.2.15	Telecom Services (including Telecom Infrastructure Providers Category-I) All telecom services including Telecom Infrastructure Providers Category-I, viz. Basic, Cellular, Unified Access Services, Unified License (Access Services), Unified License, National/International Long Distance, Commercial V-Sat, Public Mobile Radio Trunked Services (PMRTS), Global Mobile Personal Communications Services (GMPCS), All types of ISP licenses, Voice Mail/Audiotex/UMS, Resale of IPLC, Mobile Number Portability Services, Infrastructure Provider Category-I (providing dark fibre, right of way, duct space, tower) except Other Service Providers.	100%	Automatic up to 49% Government route beyond 49%
6.2.16	Trading		
6.2.16.1	Cash & Carry Wholesale Trading/Wholesale Trading (including sourcing from MSEs)	100%	Automatic
6.2.16.2	B2B E-commerce activities	100%	Automatic
6.2.16.3	Single Brand product retail trading	100%	Automatic up to 49% Government route beyond 49%
6.2.16.4	Multi Brand Retail Trading	51%	Government
6.2.17	Railway infrastructure		
	Construction, operation and maintenance of the following: (i) Suburban corridor projects through PPP, (ii) High speed train projects, (iii) Dedicated freight lines, (iv) Rolling stock including train sets, and locomotives/coaches manufacturing and maintenance facilities, (v) Railway Electrification, (vi) Signaling systems, (vii) Freight terminals, (viii) Passenger terminals, (ix) Infrastructure in industrial park pertaining to railway line/sidings including electrified railway lines and connectivities to main railway line and (x) Mass Rapid Transport Systems.	100%	Automatic



Para No. of Consolidated FDI Policy Circular of 2015	Sector/Activity	Foreign Investment	
		Cap (%)	Route
Financial Services			
6.2.18	Financial Services Foreign investment in other financial services, other than those indicated below, would require prior approval of the Government:		
6.2.18.1	Asset Reconstruction Companies		
6.2.18.1.1	'Asset Reconstruction Company' (ARC) means a company registered with the Reserve Bank of India under Section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act).	100%	Automatic up to 49% Government route beyond 49%
6.2.18.2	Banking- Private Sector		
6.2.18.2.1	Banking- Private Sector This 74% limit will include investment under the Portfolio Investment Scheme (PIS) by FIIs/FPIs, NRIs and shares acquired prior to September 16, 2003 by erstwhile OCBs, and continue to include IPOs, Private placements, GDR/ADRs and acquisition of shares from existing shareholders.	74% (FII/FPI/QFI upto 49%)	Automatic up to 49% Government route beyond 49% and upto 74%
6.2.18.3	Banking- Public Sector		
6.2.18.3.1	Banking- Public Sector subject to Banking Companies (Acquisition & Transfer of Undertakings) Acts 1970/80. This ceiling (20%) is also applicable to the State Bank of India and its associate Banks.	20%	Government
6.2.18.4	Commodity Exchanges		
6.2.18.4.2	Commodity Exchange	49%	Automatic
6.2.18.5	Credit Information Companies (CIC)		
6.2.18.5.1	Credit Information Companies	74%	Automatic
6.2.18.6	Infrastructure Company in the Securities Market		
6.2.18.6.1	Infrastructure companies in Securities Markets, namely, stock exchanges, depositories and clearing corporations, in compliance with SEBI Regulations	49%	Automatic
6.2.18.7	Insurance		
6.2.18.7.1	(i) Insurance Company (ii) Insurance Brokers (iii) Third Party Administrators (iv) Surveyors and Loss Assessors (v) Other Insurance Intermediaries appointed under the provisions of Insurance Regulatory and Development Authority Act, 1999 (41 of 1999)	49%	Automatic up to 26% Government route beyond 26% and upto 49%



From the Government

Para No. of Consolidated FDI Policy Circular of 2015	Sector/Activity	Foreign Investment	
		Cap (%)	Route
6.2.18.7 <i>bis.</i>	Pension Sector	49%	Automatic up to 26% Government route beyond 26% and upto 49%
6.2.18.8	Non-Banking Finance Companies (NBFC)		
6.2.18.8.1	Foreign investment in NBFC is allowed under the automatic route in only the following activities: (i) Merchant Banking (ii) Under Writing (iii) Portfolio Management Services (iv) Investment Advisory Services (v) Financial Consultancy (vi) Stock Broking (vii) Asset Management (viii) Venture Capital (ix) Custodian Services (x) Factoring (xi) Credit Rating Agencies (xii) Leasing & Finance (xiii) Housing Finance (xiv) Forex Broking (xv) Credit Card Business (xvi) Money Changing Business (xvii) Micro Credit (xviii) Rural Credit	100%	Automatic
	Others		
6.2.19	Pharmaceuticals		
6.2.19.1	Greenfield	100%	Automatic
6.2.19.2	Brownfield	100%	Government
6.2.20	Power Exchanges		
6.2.20.1	Power Exchanges registered under the Central Electricity Regulatory Commission (Power Market) Regulations, 2010.	49%	Automatic



Members Admitted

S. No.	Name	Membership No.	Region
FELLOWS*			
1	SH. DILIP KUMAR JHAJARIA	FCS - 8171	EIRC
2	MS. PUNITI SHARMA	FCS - 8172	NIRC
3	MRS. URVI TAPAN POTTA	FCS - 8173	WIRC
4	MS HARSIMRAN KAUR	FCS - 8174	NIRC
5	SH. SATYA PRAKASH	FCS - 8175	NIRC
6	MR. RONAK KR SHANKARLAL SHAH	FCS - 8176	WIRC
7	MS. SATYA JYOTHI	FCS - 8177	SIRC
8	MS. HEEMA PITHADIA	FCS - 8178	WIRC
9	MR. SHREY RUSTAGI	FCS - 8179	NIRC
10	MR. TANNIRU SRIRAM	FCS - 8180	SIRC
11	MS. POONAM RAMCHANDRA SHUKLA	FCS - 8181	NIRC
12	MR. RADHABALLAV MANDAL	FCS - 8182	EIRC
13	MR. RUDRA MADHAB SAHOO	FCS - 8183	EIRC
14	SH. MUKESH PANDEY	FCS - 8184	EIRC
15	MS. SARIKA JAIN	FCS - 8185	NIRC
16	MS. SWATI JAIN	FCS - 8186	NIRC
17	MS. AMUDHA LAKSHMI ARUCHSWAMY	FCS - 8187	SIRC
18	SH. ANKIT JAIN	FCS - 8188	NIRC
19	SH. DEBASISH SAHA	FCS - 8189	EIRC
20	MR. AYUSH GOYAL	FCS - 8190	NIRC
21	MS. NEHA ADHIKARI	FCS - 8191	NIRC
22	MS. SHUBHAM AGARWAL	FCS - 8192	NIRC
23	SH. AMRISH N GANDHI	FCS - 8193	WIRC
24	SH BRIJESH KUMAR SINGH	FCS - 8194	WIRC
25	SH. PANKAJ CHANDRAKANT DHAMNE	FCS - 8195	WIRC
26	SH. RAMAKRISHNA KURRA	FCS - 8196	SIRC
27	SH. A B SINGH	FCS - 8197	NIRC
28	MR. MANAS RANJAN DAS	FCS - 8198	NIRC
29	SH. JEYA RAJA SINGH A.	FCS - 8199	SIRC
30	SH. C DHARMARAJAN	FCS - 8200	SIRC
31	MS. MUKTA SUYAL	FCS - 8201	NIRC
32	MS. KONICA KHURANA	FCS - 8202	NIRC
33	SH. SUNDARAMURTHY S	FCS - 8203	SIRC
34	SH. KOMPAL SHARMA	FCS - 8204	NIRC
35	MS. ANKITA SHARADCHANDRA JOSHI	FCS - 8205	WIRC
36	SH. KUL BHUSHAN BAJAJ	FCS - 8206	NIRC
37	MS. MANISHA SABOO	FCS - 8207	EIRC
38	MS. MONIKA GUPTA	FCS - 8208	NIRC
39	SH. SHAILENDRA KUMAR GUPTA	FCS - 8209	NIRC
40	MS. DHWANI VITHALANI	FCS - 8210	WIRC

*Admitted during the period from 20.07.2015 to 19.08.2015.

41	SH. G. V. S. SUBRAHMANYAM	FCS - 8211	SIRC
ASSOCIATES*			
1	MR. PANKAJ MITTAL	ACS - 40511	NIRC
2	MS. KHUSHBOO MALPANI	ACS - 40512	WIRC
3	MR. JEETENDRA ADVANI	ACS - 40513	NIRC
4	MS. PREETI JUYAL	ACS - 40514	NIRC
5	MS. SPANA GUPTA	ACS - 40515	NIRC
6	MS. SAKSHI GAUTAM	ACS - 40516	NIRC
7	MS. VISHAKHA TANWAR	ACS - 40517	NIRC
8	MR. SARAL SHARMA	ACS - 40518	NIRC
9	MS. ABHILASHA POKHRA	ACS - 40519	NIRC
10	MR. ROHIT BABBAR	ACS - 40520	NIRC
11	MS. PREKSHA SALECHA	ACS - 40521	NIRC
12	MR. KANDAN SARAVANAN	ACS - 40522	SIRC
13	MR. DAINI SANTOSH KUMAR PATRO	ACS - 40523	SIRC
14	MR. VIGNESH V	ACS - 40524	SIRC
15	MS. S VARDHINI	ACS - 40525	SIRC
16	MS. CHITRA K	ACS - 40526	SIRC
17	MS. DEEPIKA K	ACS - 40527	SIRC
18	MS. POONAM RAVINDRA PACHARNE	ACS - 40528	WIRC
19	MR. RAVI VIJAYBHAI KHANDHADIYA	ACS - 40529	WIRC
20	MR. PRANAY DATTAKUMAR VAIDYA	ACS - 40530	WIRC
21	MS. POOJA GOPAL SHIRODKAR	ACS - 40531	WIRC
22	MS. NISHITA NARESH JAIN	ACS - 40532	WIRC
23	MR. MANDAR CHINTAMAN JOSHI	ACS - 40533	WIRC
24	MS. PRAJAKTA NARENDRA SURVE	ACS - 40534	WIRC
25	MS. AAKANSHA BHARAT PARMAR	ACS - 40535	WIRC
26	MR. RAJENDRA MANKER	ACS - 40536	WIRC
27	MS. HEMA LAKHMICHAND ADWANI	ACS - 40537	WIRC
28	MR. SOURABH AGRAWAL	ACS - 40538	WIRC
29	MS. AVNI RAJESH GANDHI	ACS - 40539	WIRC
30	MR. JAY RAHUL SHAH	ACS - 40540	WIRC
31	MS. LEKHA G	ACS - 40541	SIRC
32	MR. SURESH KUMAR R JAKHOTIYA	ACS - 40542	WIRC
33	MS. NAMITA JAISWAL	ACS - 40543	EIRC
34	MR. NIMESH RASIKLAL PALA	ACS - 40544	WIRC
35	MS. ANKITA GHAMBIR	ACS - 40545	EIRC
36	MS. MONICA GIDRA	ACS - 40546	EIRC
37	MS. RICHA SHUKLA	ACS - 40547	EIRC
38	MS. AJANTA SEN	ACS - 40548	EIRC
39	MS. AASTHA KUMARI	ACS - 40549	EIRC
40	MR. PANKAJ MISHRA	ACS - 40550	NIRC
41	MR. KAPIL KAUSHIK	ACS - 40551	NIRC
42	MS. RIA MAINGI	ACS - 40552	NIRC
43	MS. PRIYANKA GUPTA	ACS - 40553	NIRC
44	MS. DIANA POONAWALA	ACS - 40554	WIRC
45	MR. YOGESH KUMAR	ACS - 40555	NIRC
46	MR. UDAI SHANKAR PATHAK	ACS - 40556	NIRC
47	MR. PRABHJOT SINGH	ACS - 40557	NIRC
48	MR. NAVNEET JAIN	ACS - 40558	NIRC
49	MR. SARTHAK DHINGRA	ACS - 40559	NIRC
50	MR. CHIRAG GARG	ACS - 40560	NIRC



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52	MR. AVNEET SINGH KOHLI	ACS - 40562	NIRC	104	MR. NIKHIL RAMNIKAL SUCHAK	ACS - 40614	WIRC
53	MR. DEEPAK KUMAR KEWALIA	ACS - 40563	NIRC	105	MS. HANSHA SHIVRATAN GANGGAR	ACS - 40615	WIRC
54	MS. VEENU MOTWANI	ACS - 40564	NIRC	106	MS. NAMRATA BHASKAR PATIL	ACS - 40616	WIRC
55	MS. PURTI SINGHAL	ACS - 40565	NIRC	107	MS. MINAL TARUN GOSAR	ACS - 40617	WIRC
56	MS. SARITA YADAV	ACS - 40566	NIRC	108	MS. RAMAA ADITYA DIXIT	ACS - 40618	WIRC
57	MS. SAKSHI SRIVASTAVA	ACS - 40567	NIRC	109	MS. NALINI CHANDRAN PILLAI	ACS - 40619	WIRC
58	MS. K RAMANI	ACS - 40568	NIRC	110	MS. URVI DEEPAK CHOKSI	ACS - 40620	WIRC
59	MR. GURPREET SINGH SIAL	ACS - 40569	NIRC	111	MS. URMU VINOD DWIVEDI	ACS - 40621	WIRC
60	MS. SHOBHA BHARTI	ACS - 40570	NIRC	112	MS. PREETI YOGESH SINGH	ACS - 40622	WIRC
61	MS. NUPUR GUPTA	ACS - 40571	NIRC	113	MS. RITHIKA RAMESH SHETTY	ACS - 40623	WIRC
62	MS. SHIWALI JHANWAR	ACS - 40572	WIRC	114	MS. ANITA SHREESUBEDAR GUPTA	ACS - 40624	WIRC
63	MR. GULSHAN KUMAR	ACS - 40573	NIRC	115	MS. VIDHI JAGDISH JOSHI	ACS - 40625	WIRC
64	MR. NEERAJ ARORA	ACS - 40574	NIRC	116	MS. NENA RAMESH KUMAR PABARI	ACS - 40626	WIRC
65	MR. SACHIN KUMAR	ACS - 40575	NIRC	117	MR. GAGAN KHANDELWAL	ACS - 40627	WIRC
66	MS. SRISHTI SAXENA	ACS - 40576	NIRC	118	MS. POONAM LAKHIPRASAD PAREEK	ACS - 40628	WIRC
67	MS. PRIYANKA VIJH	ACS - 40577	NIRC	119	MS. SABA SHIREEN	ACS - 40629	NIRC
68	MR. SATIN KATYAL	ACS - 40578	NIRC	120	MS. NEHAL MAGANLAL SAVALA	ACS - 40630	WIRC
69	MS. AAYUSHI SINGAL	ACS - 40579	NIRC	121	MS. ANKITA SUNIL CHAUDHARY	ACS - 40631	WIRC
70	MS. AGAM SANDHA	ACS - 40580	NIRC	122	MR. VINAYAK NARAHAR DESHPANDE	ACS - 40632	WIRC
71	MS. KRUTIKA JAIN	ACS - 40581	NIRC	123	MR. SIDDHESH VINAY GAOKAR	ACS - 40633	WIRC
72	MS. PRAMILA CHOPRA	ACS - 40582	NIRC	124	MS. SONAM AJIT SINGH	ACS - 40634	WIRC
73	MR. NITIN SINGH	ACS - 40583	NIRC	125	MS. NAMITA TRIPATHI	ACS - 40635	WIRC
74	MS. DIVYA JAJOO	ACS - 40584	NIRC	126	MR. SIDDHANTH DEEPAK NIMBALKAR	ACS - 40636	WIRC
75	MR. PRIYANK KUKREJA	ACS - 40585	NIRC	127	MR. MOHAMMED ARKAM GULAMKADER SHAIKH	ACS - 40637	WIRC
76	MS. SHWETA ARORA	ACS - 40586	NIRC	128	MR. SAHANI KARAN SUDHIR	ACS - 40638	WIRC
77	MS. AMRIT KAUR	ACS - 40587	NIRC	129	MS. KANCHANA C N	ACS - 40639	SIRC
78	MS. MINI GUPTA	ACS - 40588	NIRC	130	MR. DEBASIS DEY	ACS - 40640	EIRC
79	MS. CHANDNI JAIN	ACS - 40589	NIRC	131	MR. MANINDER SINGH GULATI	ACS - 40641	NIRC
80	MS. AKANSHA SINGHVI	ACS - 40590	NIRC	132	MR. S R NANDHAKUMAR	ACS - 40642	SIRC
81	MS. MADHURI GOYAL	ACS - 40591	NIRC	133	MS. POMPA MUKHERJEE	ACS - 40643	EIRC
82	MS. RAZIA TABASSUM	ACS - 40592	NIRC	134	MR. VISHWANATH SHANKARLAL SHARMA	ACS - 40644	WIRC
83	MS. KIRTI BALAJI	ACS - 40593	NIRC	135	MR. PRINCE JAIN	ACS - 40645	NIRC
84	MS. SWATI KHATTER	ACS - 40594	NIRC	136	MS. EKTA CHAWLA	ACS - 40646	NIRC
85	MS. RUCHI BANSAL	ACS - 40595	NIRC	137	MR. AJAY G PRASAD	ACS - 40647	SIRC
86	MR. PRATEEK CHANDER MANWANI	ACS - 40596	NIRC	138	MS. SNEHA SHIVDAYAL SHARMA	ACS - 40648	WIRC
87	MS. SHRUTI	ACS - 40597	NIRC	139	MR. PALLAB DAS	ACS - 40649	EIRC
88	MR. VIKRAMJIT SINGH	ACS - 40598	NIRC	140	MR. ANKIT AGARWAL	ACS - 40650	EIRC
89	MR. ROHIT KUMAR	ACS - 40599	NIRC	141	MS. KINJAL ARVIND VORA	ACS - 40651	EIRC
90	MS. SHRUTI JAIN	ACS - 40600	NIRC	142	MR. LINGRAJ PATRA	ACS - 40652	EIRC
91	MS. RAJANI RAWAT	ACS - 40601	NIRC	143	MR. SANDEEP SARAWGI	ACS - 40653	EIRC
92	MS. SWETHA KAMLESH JAIN	ACS - 40602	SIRC	144	MS. SURBHI CHOUDHRY	ACS - 40654	EIRC
93	MR. IYAPPAN K	ACS - 40603	SIRC	145	MS. NEELAM CHOURASIA	ACS - 40655	EIRC
94	MS. NANCY M JAIN	ACS - 40604	SIRC	146	MR. MD TAUSIF	ACS - 40656	EIRC
95	MR. R VENKATRAMAN	ACS - 40605	SIRC	147	MS. EKTA GOSWAMI	ACS - 40657	EIRC
96	MR. EDIGA SRAVAN KUMAR GOUD	ACS - 40606	SIRC	148	MS. AMRITA MAHESHWARI	ACS - 40658	NIRC
97	MS. SUKHADA UDAY KANGO	ACS - 40607	WIRC	149	MS. PRAGYA SINGHAL	ACS - 40659	NIRC
98	MS. POOJA KISHOREBHAI SHAH	ACS - 40608	WIRC	150	MS. SIMRAN DANG	ACS - 40660	NIRC
99	MS. SHRUTI NARENDRA ZOPE	ACS - 40609	WIRC	151	MR. ROHIT KUMAR	ACS - 40661	WIRC
100	MS. SARIKA SAKHARAM SHINDE	ACS - 40610	WIRC	152	MS. SAVITA BANSAL	ACS - 40662	SIRC
101	MS. RIDDHI SUDHIR SURTI	ACS - 40611	WIRC	153	MR. RACHIT DHINGRA	ACS - 40663	NIRC
102	MR. ANILKUMAR AMBADAS DUSSE	ACS - 40612	WIRC	154	MR. AVNISH DHINGRA	ACS - 40664	NIRC



155	MS. PRAGATI JAIN	ACS - 40665	NIRC	206	MR. ASEEM MAHAJAN	ACS - 40716	WIRC
156	MR. VIJAY KUMAR JHA	ACS - 40666	NIRC	207	MS. VANDANA MARKANDEY YADAV	ACS - 40717	WIRC
157	MS. SHAIFFY SHIENH	ACS - 40667	NIRC	208	MS. MANISHA SHYAM LONARE	ACS - 40718	WIRC
158	MS. SHILPI MANGLIK	ACS - 40668	NIRC	209	MR. BHAVIK PARESH PARIKH	ACS - 40719	WIRC
159	MR. SAURABH KUMAR SHUKLA	ACS - 40669	NIRC	210	MR. DEEPAK RAMAKANT KAMATH	ACS - 40720	WIRC
160	MS. NANCY GULATI	ACS - 40670	NIRC	211	MR. PRATIK PURUSHOTTAM NAIKSATAM	ACS - 40721	WIRC
161	MS. TANUJA SHARMA	ACS - 40671	NIRC	212	MS. JINKAL ASHWIN SHAH	ACS - 40722	WIRC
162	MS. PRIYA KHANDELWAL	ACS - 40672	NIRC	213	MR. ABBAS KAIZAR JAWADWALA	ACS - 40723	WIRC
163	MS. DIVYA MARWAH	ACS - 40673	NIRC	214	MS. KESHMIRA BEHRAM BEHRAMKAMDIN	ACS - 40724	WIRC
164	MS. CHETNA MEHRA	ACS - 40674	NIRC	215	MS. NAINA MALVIYA	ACS - 40725	WIRC
165	MS. ALPANA SHRIPAD KHALE	ACS - 40675	WIRC	216	MS. SHAH MANALI MANOJKUMAR	ACS - 40726	WIRC
166	MR. SUSHIL MADHUKARRAO LENEKAR	ACS - 40676	WIRC	217	MS. ANKITA RAJENDRA PEDNEKAR	ACS - 40727	WIRC
167	MR. RAJENDRA KUMAR JATAV	ACS - 40677	WIRC	218	MS. JAIN SONU MANGILAL	ACS - 40728	WIRC
168	MR. MANISH BHARAT PATEL	ACS - 40678	EIRC	219	MR. HIMANSHU BASANTLAL GAJRA	ACS - 40729	WIRC
169	MS. VINITA PANCHOLI	ACS - 40679	EIRC	220	MS. SHEETAL HUSMUKH JAIN	ACS - 40730	WIRC
170	MR. ANJUL KUMAR SINGHANIA	ACS - 40680	EIRC	221	MR. SATISH VIRJIBHAI BHANUSHALI	ACS - 40731	WIRC
171	MS. GITIKA SARMA	ACS - 40681	EIRC	222	MS. AMI DIVYESH PATEL	ACS - 40732	WIRC
172	MR. NILADREE CHAKRABORTY	ACS - 40682	EIRC	223	MS. SNEHA CHAUBEY	ACS - 40733	SIRC
173	MR. UTTAM ANURAG	ACS - 40683	EIRC	224	MR. JITENDRA SINGH PARIHAR	ACS - 40734	WIRC
174	MS. AYUSHI DOKANIA	ACS - 40684	EIRC	225	MR. AMIT KUMAR SHARMA	ACS - 40735	EIRC
175	MR. VIKHYAAT ROY	ACS - 40685	EIRC	226	MS. SANGEETHA LAXMI SALVER	ACS - 40736	SIRC
176	MR. SAKET KUMAR	ACS - 40686	EIRC	227	MS. SEEMA RAJESH KOLWADKAR	ACS - 40737	WIRC
177	MS. RAVINA JAISWAL	ACS - 40687	EIRC	228	MS. LEENA PRAKASH TONGAONKAR	ACS - 40738	WIRC
178	MS. HIMA GOEL	ACS - 40688	NIRC	229	MS. PREETI AGARWAL	ACS - 40739	EIRC
179	MS. VIDHI JHALANI	ACS - 40689	NIRC	230	MS. BINDU SHARMA	ACS - 40740	NIRC
180	MR. DEEPAK SAINI	ACS - 40690	NIRC	231	MR. SANTOSH KUMAR	ACS - 40741	EIRC
181	MR. GULSHAN LAMBA	ACS - 40691	NIRC	232	MR. SIVANANTHAN B	ACS - 40742	SIRC
182	MS. MANPREET CHAWLA	ACS - 40692	NIRC	233	MR. PANKAJ SHARMA	ACS - 40743	EIRC
183	MR. BHANU SHARMA	ACS - 40693	NIRC	234	MS. RUCHIKA KALYANI	ACS - 40744	SIRC
184	MS. HARSHITA GARG	ACS - 40694	NIRC	235	MS. MADHURI KUMARI CHANDAK	ACS - 40745	EIRC
185	MR. ASHISH SHARMA	ACS - 40695	NIRC	236	MS. NEHA AGARWAL	ACS - 40746	EIRC
186	MS. MAHAK JAIN	ACS - 40696	NIRC	237	MS. PRACHI PODDAR	ACS - 40747	EIRC
187	MR. ANIL KUMAR PANCHARIYA	ACS - 40697	NIRC	238	MR. MANOHAR MISHRA	ACS - 40748	EIRC
188	MS. VEDIKA GUPTA	ACS - 40698	NIRC	239	MR. PANKAJ JAISWAL	ACS - 40749	EIRC
189	MS. ANIT AHUJA	ACS - 40699	NIRC	240	MS. SWEETY HISSARIA	ACS - 40750	EIRC
190	MR. BATUK NARAYAN PUROHIT	ACS - 40700	NIRC	241	MR. VINA V AGARWAL	ACS - 40751	NIRC
191	MR. PANKAJ MALHOTRA	ACS - 40701	NIRC	242	MS. RADHIKA SHARMA	ACS - 40752	NIRC
192	MS. SHIMPY GOYAL	ACS - 40702	NIRC	243	MS. SURBHI AGRAWAL	ACS - 40753	NIRC
193	MS. BEENA SADHWANI	ACS - 40703	NIRC	244	MS. SUNAINA NAGAR	ACS - 40754	NIRC
194	MS. SUMATHI R	ACS - 40704	SIRC	245	MS. PUSHPA GHOSH	ACS - 40755	NIRC
195	MR. RISHABH RAJA	ACS - 40705	SIRC	246	MR. VIJAYA KUMAR B G	ACS - 40756	SIRC
196	MR. VIGNESHWARAN B	ACS - 40706	SIRC	247	MR. KARTHICK J	ACS - 40757	SIRC
197	MS. PERISETLA BHASKARUDU GAJALAKSHMI	ACS - 40707	SIRC	248	MR. RAGHAVENDRA RAO MEDATATI	ACS - 40758	SIRC
198	MS. SUPRIYA	ACS - 40708	SIRC	249	MS. NIVEDITHA B	ACS - 40759	SIRC
199	MS. JULLY HASMUKH JIVANI	ACS - 40709	SIRC	250	MS. KRISHNA MADHAVAN	ACS - 40760	SIRC
200	MS. SHRUTI N	ACS - 40710	SIRC	251	MS. SNEHA AHUJA	ACS - 40761	WIRC
201	MR. VIPUL PREM Shankar DUBEY	ACS - 40711	WIRC	252	MR. KUSHAL VIJAY RAHATE	ACS - 40762	WIRC
202	MR. ANKIT NITIN ANJARIA	ACS - 40712	WIRC	253	MR. SACHIN KAILAS HASE	ACS - 40763	WIRC
203	MS. AAFRIN MEHDEE SAMNANI	ACS - 40713	WIRC	254	MR. SATISH VILAS CHAVAN	ACS - 40764	WIRC
204	MS. VAISHALI MANOHAR UMATHE	ACS - 40714	WIRC	255	MR. VIPIN MAHENDRA KUMAR TIWARI	ACS - 40765	WIRC
205	MS. SAWANI PRADEEP SADALAGE	ACS - 40715	WIRC	256	MR. RAKESH NARAYAN TODKARI	ACS - 40766	WIRC



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258	MR. SUNIL RAMYAGYA GIRI	ACS - 40768	WIRC	309	MR. ISHWAR DAYAL SHARMA	ACS - 40819	NIRC
259	MS. HETI JAYEN PATRAWALA	ACS - 40769	WIRC	MEMBERS RESTORED*			
260	MS. TRUPAL ASHOK TRIVEDI	ACS - 40770	WIRC	Sl.No.	Name	ACS/FCS No.	Region
261	MS. MILI PINAKIN DESAI	ACS - 40771	WIRC	1	MR. PRAMOD KUMAR NANDA	FCS 624	NIRC
262	MS. REENA KUMARI	ACS - 40772	NIRC	2	MR. C. RAMAGOPAL	FCS 2348	SIRC
263	MS. PALLAVI ASHOK CHAVAN	ACS - 40773	WIRC	3	MR. K S SUNDARAVARDAN	FCS 3109	SIRC
264	MS. BABITA KUMARI	ACS - 40774	NIRC	4	MR. PUNEET KHURANA	FCS 4046	WIRC
265	MR. SHADAB SHABBIR ABBASI	ACS - 40775	EIRC	5	MS. ANSHUL AGRAWAL	FCS 4407	NIRC
266	MS. HONEY KUMARI AGARWAL	ACS - 40776	EIRC	6	MR. S HARIHARAN	ACS 1723	WIRC
267	MS. RUCHI	ACS - 40777	NIRC	7	MR. OM PRAKASH KAPOOR	ACS 2780	NIRC
268	MS. GARIMA BHANDULA	ACS - 40778	EIRC	8	MR. SUBIR KUMAR BANERJEE	ACS 2977	WIRC
269	MR. DEVASHISH PAREEK	ACS - 40779	EIRC	9	MR. KODALI HARESH BABU	ACS 4452	SIRC
270	MR. KAMALJIT SINGH	ACS - 40780	NIRC	10	MR. DENNIS A M SORES	ACS 5123	NIRC
271	MS. URVASHI SHARMA	ACS - 40781	NIRC	11	MR. G B SHAH	ACS 5362	WIRC
272	MR. UMESH KUMAR GUPTA	ACS - 40782	NIRC	12	MR. PRADIP KUMAR GHOSH	ACS 5529	EIRC
273	MS. GEETIKA SHARMA	ACS - 40783	NIRC	13	MR. V K PARAMESHVARAN	ACS 6024	SIRC
274	MS. ROSHNEE MADAN	ACS - 40784	NIRC	14	MR. S S AGARWAL	ACS 6177	EIRC
275	MR. ASHISH GUPTA	ACS - 40785	NIRC	15	MR. KS NAGARAJA	ACS 6981	SIRC
276	MS. RIMA DAHRA	ACS - 40786	NIRC	16	MS. RUCHI SETHI	ACS 7987	WIRC
277	MS. MONISA GUPTA	ACS - 40787	NIRC	17	MR. HIMANSU SEKHAR MOHAPATRA	ACS 8499	WIRC
278	MR. SUJIT SINGH	ACS - 40788	NIRC	18	MR. NARIMAN DARABSHAW KHAN	ACS 8792	WIRC
279	MR. SARAL NAITHANI	ACS - 40789	NIRC	19	MR. CHANDER VEER JAIN	ACS 8971	NIRC
280	MS. EKTA ASHWANI	ACS - 40790	NIRC	20	MR. PANKAJ KUMAR KILLA	ACS 9897	EIRC
281	MR. SHARUL AGARWAL	ACS - 40791	NIRC	21	MR. B SHIVADUTT	ACS 10136	SIRC
282	MS. MANISHA KHARKWAL	ACS - 40792	NIRC	22	MR. RAMESH DAMANI	ACS 11517	WIRC
283	MS. SHRUTI VAISHNAV	ACS - 40793	NIRC	23	MR. VIJAY CHOWDHERY	ACS 11669	NIRC
284	MR. ANKIT SINGH	ACS - 40794	NIRC	24	MR. NARENDRA Y GANGAN	ACS 11770	WIRC
285	MS. NANDINI MITTAL	ACS - 40795	NIRC	25	MR. SANJEEV KUMAR SAPRA	ACS 11912	NIRC
286	MS. RITIKA JAISWAL	ACS - 40796	NIRC	26	MR. S SREENIVASARAO	ACS 13874	SIRC
287	MR. RISHABH SAXENA	ACS - 40797	NIRC	27	MR. VINEET PODDAR	ACS 15657	WIRC
288	MS. PRIYANKA AGARWAL	ACS - 40798	NIRC	28	MR. KALVA VENKATA SUBBARAO	ACS 17736	SIRC
289	MS. VIDYA P	ACS - 40799	WIRC	29	MS. SEEMA GUPTA	ACS 17888	NIRC
290	MR. VIKRAMAN J	ACS - 40800	SIRC	30	MR. PARIMAL SADANAND DEUSKAR	ACS 18151	WIRC
291	MS. ASHWINI ARUN KALBURGI	ACS - 40801	SIRC	31	MR. SANDEEP KUMAR SINGH	ACS 18588	NIRC
292	MR. ANOOP INANI	ACS - 40802	SIRC	32	MR. SANJAY KUMAR KHEMANI	ACS 18729	WIRC
293	MR. PRADEEP NEELKANTHSA BADI	ACS - 40803	SIRC	33	MS. G VIDHYA	ACS 19218	SIRC
294	MS. GARGI SURESH SAWANT	ACS - 40804	WIRC	34	MR. ABHISHEK MOHAN YADAV	ACS 19233	WIRC
295	MS. BHOOMI VINODCHANDRA SHAH	ACS - 40805	WIRC	35	MS. RENU SHARMA	ACS 19281	NIRC
296	MS. RUCHIKA SUKANRAJ JAIN	ACS - 40806	WIRC	36	MS. DEEPTI GUPTA	ACS 20358	NIRC
297	MS. POOJA BABUL SUTRADHAR	ACS - 40807	WIRC	37	MS. KAVITA OMPRAKASH CHUDIWALA	ACS 20721	WIRC
298	MR. SANDEEP RAMESH BHANDARI	ACS - 40808	WIRC	38	MR. SUJEET KUMAR	ACS 20961	NIRC
299	MR. KUNJAL SAWAN DESAI	ACS - 40809	WIRC	39	MR. RAJESH SRINIVASAN	ACS 21291	NIRC
300	MS. MEGHA ASHWIN SHAH	ACS - 40810	WIRC	40	MR. MADHUSUDAN B P	ACS 22377	SIRC
301	MR. JAYANT SHARAD SAGADE	ACS - 40811	WIRC	41	MR. SANDEEP CHOPRA	ACS 23715	NIRC
302	MR. LAL BAHADUR DEEPNARAYAN PAL	ACS - 40812	WIRC	42	MS. NISHA PATWARI	ACS 23994	EIRC
303	MS. VRUSHALI PRASAD KARNIK	ACS - 40813	WIRC	43	MS. YUKTI ARORA	ACS 24800	NIRC
304	MS. NAMRATA UDAYKUMAR VANMALA	ACS - 40814	WIRC	44	MS. RAJINDER KAUR	ACS 25918	EIRC
305	MS. PRATIKSHA VIJAYANAND MANGAONKAR	ACS - 40815	WIRC	45	MR. MANISH KUMAR PAL	ACS 26440	NIRC
306	MR. SAURABH VIJAY PATKAR	ACS - 40816	WIRC				
307	MS. NIKITA BHUTORIA	ACS - 40817	EIRC				

*Restored from 1.07.2015 to 31.07.2015.





46	MR. PANKAJ GUPTA	ACS 27228	NIRC	41	MS. JASMEET KAUR	ACS - 39575	14977	NIRC
47	MS. ROHINI MANCHANDA	ACS 33960	NIRC	42	MS. SMITA JHAWAR	ACS - 18128	14978	EIRC
48	MS. CHANDANA BABAGOWDA PATIL	ACS 34129	SIRC	43	MR. PRITESH JAIN	ACS - 39961	14979	NIRC
49	MS. MRIDULA DHOOT	ACS 34238	NIRC	44	MS. SONAM ASHOKKUMAR GANDHI	ACS - 40086	14980	WIRC

Certificate of Practice*

SL. No.	NAME	MEMB NO	COP NO.	REGION
1	MS. POOJA MALHOTRA	ACS - 24434	14937	NIRC
2	MS. SHAGUN KISHORE DAGA	ACS - 37643	14938	NIRC
3	MS. KANCHAN YADAV	ACS - 39862	14939	EIRC
4	MR. V S NAGARAJU NARAMSETTI	ACS - 37767	14940	SIRC
5	MS. MEENAKSHI N	ACS - 22255	14941	SIRC
6	SH. SANCHIT NANDAKUMAR RANADE	ACS - 28464	14942	WIRC
7	MS. PRACHI AGARWAL	ACS - 36591	14943	NIRC
8	MS. DIMPLE BANSAL	ACS - 38339	14944	NIRC
9	MR. HOSHI DHUNJISHA BHAGWAGAR	FCS - 2945	14944	WIRC
10	MRS. JYOATICA MAKHIJANI	ACS - 21914	14946	WIRC
11	MS. SEEMA MAHAWAR	ACS - 38032	14947	WIRC
12	MR. BHALCHANDRA CHIDAMBAR JOSHI	ACS - 40263	14948	WIRC
13	MRS. LEENA VERMA	ACS - 39674	14949	NIRC
14	SH. VINOD KUMAR SHARMA	FCS - 1940	14950	WIRC
15	MS. HEENA PUKHRAJ JAIN	ACS - 40005	14951	WIRC
16	MS. AYUSHI AGARWAL	ACS - 39955	14952	NIRC
17	MS. SONALI SURESH MALLYA	ACS - 40369	14953	SIRC
18	MS. KARISHMA SINGH	ACS - 40360	14954	NIRC
19	MS. SWEETI SHAIKALI	ACS - 39892	14955	NIRC
20	SH. SATISH PANDITRAO BHATTU	FCS - 3981	14956	WIRC
21	MS. JUHI RATHI	ACS - 31860	14957	NIRC
22	MS. HARITA ISHWARBHAI SHAH	ACS - 39484	14958	WIRC
23	SH. SHAILESH KUMAR	ACS - 29564	14959	EIRC
24	MS. DOLLY JITENDRA MEHTA	ACS - 38116	14960	WIRC
25	MS. RICHA HINGLE	ACS - 32094	14961	NIRC
26	MS. PREETI YOGESH PANDE	ACS - 36778	14962	WIRC
27	MR. VIRANI JAVEDABBAS SHAB-BIRALI	ACS - 40413	14963	WIRC
28	MS. PREETI JAIN	ACS - 29541	14964	NIRC
29	MS. SAPNA	ACS - 39887	14965	NIRC
30	MR. SYED ZARGHAM HAIDER ZAIDI	ACS - 37527	14966	NIRC
31	MR. M FRANCIS	ACS - 39610	14967	SIRC
32	MS. SWATI VIJAN	ACS - 39179	14968	NIRC
33	MS. SHWETA LATHI	ACS - 37258	14969	WIRC
34	MR. PRATIK JAIN VINODKUMAR	ACS - 40282	14970	WIRC
35	MS. RUCHI JOSHI	ACS - 26307	14971	WIRC
36	MRS. PADMA LOYA	ACS - 25349	14972	WIRC
37	MS. JANKI KISHINCHAND JETHWANI	ACS - 36696	14973	WIRC
38	MS. VANDANA SANGHI	ACS - 16180	14974	WIRC
39	MS. MEGHA CHANDAK	ACS - 38350	14975	NIRC
40	MRS. ANUPAMA DHIREN	ACS - 22156	14976	SIRC
41	MS. JASMEET KAUR	ACS - 39575	14977	NIRC
42	MS. SMITA JHAWAR	ACS - 18128	14978	EIRC
43	MR. PRITESH JAIN	ACS - 39961	14979	NIRC
44	MS. SONAM ASHOKKUMAR GANDHI	ACS - 40086	14980	WIRC
45	MR. YOGESH MAHESHWARI	ACS - 39675	14981	NIRC
46	MR. SRIKANTA MOHANTY	ACS - 39420	14982	EIRC
47	MS. HEERAL SATISH CHAUHAN	ACS - 31217	14983	WIRC
48	SH. NARESH KUMAR SINHA	FCS - 1807	14984	NIRC
49	MR. RAHUL MALHOTRA	ACS - 39518	14985	NIRC
50	MS. ARUNA KANNAN	ACS - 40374	14986	SIRC
51	MR. NITISH VISHWANATH SHETTY	ACS - 40067	14987	SIRC
52	MR. VIKAS BANSAL	ACS - 40309	14988	NIRC
53	MR. PRAKASH SINGH ALOK	ACS - 39953	14989	NIRC
54	MS. NIKITA JAIN	ACS - 40038	14990	NIRC
55	MS. RADHA VIJAYARAGHAVAN	FCS - 2880	14991	SIRC
56	MR. DEEPAK SADHU	ACS - 39541	14992	SIRC
57	MS. SURBHI BASANTANI	ACS - 39452	14993	NIRC
58	MRS. ASHWINI ASHISH BHATE	ACS - 28829	14994	WIRC
59	MS. CHARU	ACS - 40298	14995	NIRC
60	MR. AMIT TIWARI	ACS - 36588	14996	NIRC
61	MR. ROHIT LAXMIKANT MORDE	ACS - 36023	14997	WIRC
62	MR. ANKIT GERA	ACS - 37526	14998	NIRC
63	MR. NEERAJ MISHRA	ACS - 36569	14999	EIRC
64	MS. YATI GUPTA	ACS - 40306	15000	NIRC
65	MR. LAVKUSH YADAV	ACS - 38573	15001	NIRC
66	MS. GUNJAN BANSAL	ACS - 30126	15002	NIRC
67	MR. LAKSHMEENARAYAN BHAT	ACS - 35993	15003	SIRC
68	MR. ADARSH SUBHASH PANDEY	ACS - 36805	15004	WIRC
69	SH. HEMANT RAJNIKANT KOTHARI	ACS - 20872	15005	WIRC
70	MS. DHANYA THAZHY PUNNADATH	ACS - 34131	15006	SIRC
71	SH. JAYESH PARMAR	ACS - 27055	15007	NIRC
72	MR. ANAND VIJAY	ACS - 32006	15008	EIRC
73	MR. JAY KIRITBHAI MEHTA	ACS - 39929	15009	WIRC
74	MS. PAYAL KIRIT TACHAK	ACS - 38016	15010	WIRC
75	MR. PARIMAL VASANTRAO JADHAV	ACS - 40441	15011	WIRC
76	MR. JANMEJAY SINGH RAJPUT	ACS - 28403	15012	NIRC
77	MS. MEHAK GUPTA	ACS - 38897	15013	NIRC
78	SH. SUMIT MAHESHWARI	ACS - 25777	15014	NIRC
79	MS. USHA M	ACS - 40420	15015	SIRC
80	MR. VIKASH KUMAR ALOK	ACS - 34168	15016	NIRC
81	MS. ISHVINDER KAUR	ACS - 39436	15017	NIRC
82	MS. VRUSHALI GIRISH GADGIL	ACS - 32791	15018	WIRC
83	MS. SHRAYA JAISWAL	ACS - 40296	15019	NIRC
84	MR. ANKIT MANUBHAI SHAH	ACS - 39480	15020	WIRC
85	MS. PRIYANKA AGARWAL	ACS - 26316	15021	NIRC
86	MS. POOJA CHANDANI	ACS - 36978	15022	NIRC
87	MS. KAVITHA BAJAJ N	ACS - 37317	15023	SIRC
88	MS. REKHA KEJRIWAL	FCS - 5978	15024	NIRC
89	MS. ISHRAT SIDDIQUI	ACS - 32551	15025	NIRC
90	MR. GHANSHYAM SHARMA	ACS - 36666	15026	NIRC
91	MR. DIVYESHKUMAR ANUPBHAI PATEL	ACS - 33921	15027	WIRC

*Issued during the Month of July, 2015.





News From the Institute

92	MR. ANAND S	ACS - 40481	15028	SIRC	12	MR. GAURAV KUMAR JAIN	ACS 39085	14592	WIRC
93	MRS. CHARUL PAHUJA	ACS - 22598	15029	NIRC	13	MS. ALKA RANI	ACS 30930	12334	NIRC
94	MR. V PRASANNA	ACS - 37578	15030	SIRC	14	MR. YOGENDRA SHARMA	ACS 36035	13325	WIRC
95	MR. YASH GUPTA	ACS - 40508	15031	WIRC	15	MS. MAHALAKSHMI R	ACS 25320	14292	WIRC
96	MS. DINKAL BIPINCHANDRA SHAH	ACS - 40378	15032	WIRC	16	MR. B K PRASAD	FCS 2163	11906	SIRC
97	MS. NAINA JINDAL	ACS - 36826	15033	NIRC	17	MS. PREETI BALYAN	ACS 38681	14589	NIRC
98	MS. DHARABEN BHUPENDRABHAI PUROHIT	ACS - 37924	15034	WIRC	18	MR. ARJUNN KUMAR TYAGI	ACS 39237	14893	NIRC
99	SH. VIMAL KUMAR GUPTA	FCS - 6582	15035	NIRC	19	MR. NITIN DASHARATH KARANDE	ACS 38199	14460	WIRC
100	SH. AMIT KUMAR JAIN	ACS - 15486	15036	NIRC	20	MR. VIJAY KUMAR	ACS 34779	12955	NIRC
101	MS. AISHWARYA RAMESH	ACS - 40473	15037	SIRC	21	MS. HEMKUNVARBA RANJITSINH GOHIL	ACS 27291	10388	WIRC
102	MR. ABHISHEK CHAUDHARY	ACS - 39435	15038	NIRC	22	MR. KAVINDRA KUMAR GUPTA	ACS 33533	12816	NIRC
103	MRS. SHEETAL DIWAN	ACS - 35751	15039	WIRC	23	MS. REKHA GADWAL	ACS 28335	10213	SIRC
104	MS. G AKILA	ACS - 18642	15040	SIRC	24	MS. CHETNA HURIA	ACS 33745	13072	NIRC
105	MRS. RISHBHA AHLUWALIA	ACS - 20710	15041	NIRC	25	MR. SHUBHAM GANDHI	ACS 37363	14079	WIRC
106	MR. ANUJ MAKOL	ACS - 40319	15042	NIRC	26	MS. RUCHIKA GULATI	ACS 35232	13179	NIRC
107	MS. VANDANA JAYANTILAL PATEL	ACS - 33313	15043	WIRC	27	MR. SANJAY SUKHRAM LAKKHAN	ACS 27412	9896	WIRC
108	MR. PALADUGU VENKATA SUBBA RAO	ACS - 35469	15044	SIRC	28	MS. BHARTI GUPTA	ACS 26891	9695	NIRC
109	MS. NEHA BATRA	ACS - 40310	15045	NIRC	29	MR. RENU YADAV	ACS 28184	10266	NIRC
110	MS BHAVIKA BHAGAT	ACS - 21352	15046	WIRC	30	MRS RUCHI NARANG	AC S 31253	11728	NIRC
111	MS. AMRITA GHOSH	ACS - 30883	15047	SIRC	31	MS. SASHI BHATTER	ACS 28870	10402	NIRC
112	MS. NOOPUR JAIN	ACS - 36026	15048	WIRC	32	MR. RAJ KISHOR CHOURASIA	ACS 33445	12445	EIRC
113	MS. ABHILASHA POKHRA	ACS - 40519	15049	NIRC	33	MR. SUDHIR KUMAR GARG	ACS 16823	10302	NIRC
114	MRS. JAYATA AGARWAL	ACS - 29551	15050	NIRC	34	MS. NISHA SHARMA	ACS 35518	13933	NIRC
115	MS. NIDHI MISHRA	ACS - 39430	15051	NIRC	35	MS. ARUNA BAWRI	ACS 32393	11950	EIRC
116	MS. JYOTHI RAMAIIH KOMMIDI	ACS - 24461	15052	SIRC	36	MS. MEENAKSHI GUPTA	ACS 22112	13815	NIRC
117	MS. ARUNA PANDEY	ACS - 30943	15053	NIRC	37	MR. AKASH GUPTA	ACS 32338	12117	WIRC
118	MS. NAVALAKSHMI N	ACS - 39973	15054	SIRC	38	MR. S RAJARAMAN	FCS 3514	13691	WIRC
119	MS. ANSHIKA SHROFF	ACS - 38390	15055	EIRC	39	MS. DEEPA GANAPATHI SHENOY	ACS 34074	14042	SIRC
120	MR. SIDHARTH ARORA	ACS - 40405	15056	NIRC	40	MS. AMRITA SARAF	ACS 32889	12585	EIRC
121	SH. PRASHANT SHIRISH DALAL	ACS - 9862	15057	WIRC	41	MS. SATRASALA SRUTHI	ACS 38356	14418	SIRC
					42	MS. RITIKA SINGH	ACS 22516	10888	WIRC
					43	MR. SANDEEP KUMAR	ACS 33273	13662	NIRC
					44	MS. RINKI	ACS 29799	11008	NIRC
					45	MS. SARITA LALWANI	ACS 28875	11198	NIRC
					46	MR. TAPAN KUMAR PANDEY	ACS 35857	13373	EIRC
					47	MR. SUDHIR R SINGH	FCS 4880	13592	WIRC
					48	MR. KRISHNAMOORTHY S	ACS 31130	13007	SIRC
					49	MR. P L N VIJAYANAGAR	ACS 507	4591	SIRC
					50	MR. P B AGARWAL	FCS 109	3739	WIRC
					51	MR. M C BARUAH	ACS 1585	5245	EIRC

CANCELLED*

SL. No.	NAME	MEMB NO	COP NO.	REGION
1	MS. MEENAKSHI SHARMA	ACS 30481	12250	NIRC
2	MS. SHWETA JAIN	FCS 7152	11895	NIRC
3	MS. VARSHA VINAY SHENOY	ACS 33522	12461	WIRC
4	MS. MEENAKSHI	ACS 30113	12547	NIRC
5	MS. ANKITA GUPTA	ACS 27518	10128	NIRC
6	MR. ABDUL LATIF	ACS 17009	13513	WIRC
7	MR. AMIT KUMAR	ACS 31692	13541	WIRC
8	MS. JYOTI AGGARWAL	ACS 34421	12779	NIRC
9	MS. RIDDHI BADIYANI	ACS 28686	11232	WIRC
10	DR. CHANDRAPATY VENKATA KRISHNAIAH	FCS 882	5782	SIRC
11	MR. SATHYANARAYANAN S	FCS 7999	8098	SIRC

LICENTIATE ICSI**

Sl. No.	L.No.	NAME	Region
1	6766	MR. PRATIK BHARAT TRIVEDI	WIRC
2	6767	MR. RAHUL JHA	EIRC
3	6768	MR. VIKAS KUMAR GAUTAM	WIRC
4	6769	MR. BALA KRISHNA NUUVULA	SIRC
5	6770	MS. ARUNIMA RAKESH AWASTHI	WIRC
6	6771	MS. NEHA SHIVKUMAR AGRAWAL	WIRC

*Cancelled during the Month of July, 2015

**Admitted during the Month of July, 2015.



Company Secretaries Benevolent Fund



MEMBERS ENROLLED REGIONWISE AS LIFE MEMBERS OF THE COMPANY SECRETARIES BENEVOLENT FUND*

Region	LM No.	Name	Membership No.	City	Region	LM No.	Name	Membership No.	City
NIRC					SIRC				
1	10955	SH. GAGNISH ARORA	ACS - 14821	NOIDA	11	10958	MR. C S SATHYAN	ACS - 40489	THIRUVANANTHAPURAM
2	10956	MR. VIKAS AGGARWAL	ACS - 30989	DELHI	12	10963	MS. PERISETLA BHASKARUDU GAJALAKSHMI	ACS - 40707	CHENNAI
3	10957	MS. KHYATI BANSAL	ACS - 26234	DELHI	13	10965	MR. ESHWAR SHARMA	ACS - 37135	HYDERABAD
4	10959	MS. DIVYA	ACS - 32513	NEW DELHI	14	10968	MR. GOPIMOHAN MURISHETTY	ACS - 40509	HYDERABAD
5	10961	MR. BUNNY SEHGAL	ACS - 39598	AMBALA	WIRC				
6	10964	MR. SHIVAM MAHESHWARI	ACS - 38467	MEERUT	17	10960	MR. NIRANJAN SHASTRI	ACS - 37366	INDORE
7	10966	MS. MEENAKSHI	ACS - 32267	NOIDA	18	10962	SH. VIRAG YOGESH KUMAR JOSHI	ACS - 15728	AHMEDABAD
8	10967	SH. SUNIL SHARMA	FCS - 6351	NOIDA					
9	10970	MR. DEV MANI SHARMA	ACS - 27544	GHAZIABAD					
10	10972	MR. BHANU PRAKASH PANT	ACS - 32809	DELHI					

*Enrolled during the period from 21/07/2015 to 20/08/2015.



News From the Institute



List of Practising Members Registered For The Purpose of Imparting Training During The Month of July, 2015

PCS Name	AddressLine1	AddressLine2	AddressLine3	City	Membership No.
ABHISHEK KUMAR JAIN	MIG-88, M P HOUSING BOARD, INDUSTRIAL ESTATE, Pincode:490026, BHILAI				A24513
AJMAL P PORORA	32, IDA MANSION, 18, VAJU KOTAK MARG, FORT Pincode:400001, MUMBAI				A28945
ANAND BHAGWAN SOMAN	FLAT NO. 3, BLDS NO. E-II, SHANTI HEIGHTS, GURUGANESHNAGAR, NEAR EKLRYA COLLEGE, KOTHRUD Pincode:411038, PUNE				A25799
ANJALI GUPTA	H- BLOCK, 8-Apr, KRISHNA NAGAR Pincode:110051, DELHI				A32062
ANKIT DINESH SETHI	D -2, ADITYA APARTMENT, OLD NAGARDAS ROAD, ANDHERI (E) Pincode:400069 MUMBAI				A25415
ANKITA UNIYAL	C/O SH S R SHARMA, SATYAM NIWAS, POWER HOUSE ROAD, SAPRON, Pincode:173211, SOLAN				A32515
ANKUSH THEREJA	H.NO. 1202/30, GOPAL NAGAR, BEHIND HINDU COLLEGE, Pincode:131001 SONEPAT				A40059
BHUSHAN SOHANLAL KOTTECHA	OFFICE NO - 10, D WING, SECOND FLOOR, K K MARKET, DHANKAWADI, SATARA ROAD Pincode: 411043, PUNE				A32686
C PRABHAKAR	NEW NO. 74, OLD NO. 62, AKSHAYA FLATS, 12TH AVENUE, ASHOK NAGAR Pincode:600083, CHENNAI				A30433
CHE TAN	1ST FLOOR, W.S. 191, BASTI SHEIKH, NEAR OLD DIVISION NO. 5 Pincode: 144002 JALANDHAR				a34805
DHIRAV RAMESH SHAH	NO. 289 / 71, PURASAIWAKAM HIGH ROAD, WAIKIKI COMPLEX, FLAT NO. 101 Pincode:600007, CHENNAI				A29976
DINESH SHIVNARAYAN BIRLA	A-503, DWARKA SAI HERITAGE, OPP. LOTUS HOSPITAL, SHIVSAI RASTA PIMPLE, SAUDAGAR Pincode:411027, PUNE				F7658
DOLLY JHABAK	26, P K TAGORE STREET, MATHURESH SADAN, 1ST FLOOR, ROOM NO. 28, Pincode:700006, KOLKATA				A32260
DON BANTHIA	8/33, 3RD FLOOR, SATBHRAVA SCHOOL MARG, KAROL BAGH Pincode: 110005 NEW DELHI				A33869
DURGA BANSAL	R-14/110, SECTOR -14, RAJ NAGAR, Pincode:201002, GHAZIABAD				A34249
GEETANJALI DUA	H.NO. 1092, SEC 25, HUDA, PHASE II, NEAR DAYS HOTEL, Pincode:132103, PANIPAT				A38330
GIRISH M NADKARNI	SAUDAMINI, BLD NO. B1, FLAT NO.1, BHUSARI COLONY, PAUD ROAD, Pincode:411038, PUNE				F8114
HARMEET SINGH	H.NO. 1607, ST NO. 14, JANAKPURI, Pincode:141003, LUDHIANA				A34121
HIMANI SHARMA	M P SHARMA, G-1, BLOCK -3, TYPE 2, KALYAN VAS, OPP. MAYUR VIHAR PHASE II Pincode:110091, DELHI				A29851
HOSHI DHUNJISHA BHAGWAGAR	201, SAI PRABHA, PLOT NO.140, 10TH ROAD, KHAR (WEST), Pincode:400052, MUMBAI				F2945
JASNEET KAUR SAHDEV	H. NO. 2, KALAON WALI GALI, NEW ROAD, Pincode:248001, DEHRADUN				A25606
JIGNESH KUMAR J SUKHADIA	OFFICE NO. 406, 4TH FLOOR, ABHISHEK COMPLEX, OPP. HOTEL HAVELI INN, SECTOR 11 Pincode:382011, GANDHINAGAR				A39417
K G LOKESHA	'AASARE', NO. 218, 11TH MAIN, PRASANNA LAYOUT, MAHADESHWARA, NAGAR MN RD, VISHWANEEDAM PO Pincode:560091, BANGALORE				A26892
K L JAYAKRISHNA	# 9, 1ST AND 2ND FOOR, 9TH MAIN, JAYANAGAR 2ND BLOCK, Pincode:560011 BANGALORE				F7297



MOHIT AGGARWAL	2-L MODEL TOWN, NEAR VIVEK JAIN HOSPITAL, Pincode:123401	REWARI	A39180
MOHSIN KHAN	H.NO. 109, ADARSH COLONY, BAMBA ROAD, MURAD NAGAR GHAZIABAD Pincode:201206		A39046
N CHANDRASEKHARAN NAIR	FLAT NO 10E, SFS RICHMOND, TEMPLE ROAD, SASTHAMANGALAM, Pincode:695010, THIRUVANANTHAPURAM		f750
NIDHI SINGH	D-2217, INDIRA NAGAR, Pincode:226016 LUCKNOW		A31638
NIKITA SHEKHAR	POST OFFICE BUILDING, JAMAL ROAD, Pincode:PATNA		A35158
NITESH KUMAR RANGA	DAGA CHOWK, NEAR NURSHING TEMPLE, Pincode:334001, BIKANER		A33166
PARUL JAIN	387, FIRST FLOOR, SHAKTI KHAND 3, INDIRAPURAM Pincode: 201010 GHAZIABAD		A22726
PRABHAKAR KUMAR	A1/90, MIG FLATS, SECTOR-7,ROHINI Pincode:110085, DELHI		F5781
PRAMOD S M	#926, 20TH MAIN, BANASHANKARI, 2ND STAGE, Pincode:560070, BANGALORE		F7834
PRAN NATH KUMAR	HOUSE NO.7, DAKSHIN MARG, DLF PHASE II, (NEAR SAHARA MALL), Pincode:122 002, GURGAON		F1223
PREETI ANAND BHANGLE	ROOM NO. 12,14TH FLOOR, NAVJIVAN COMM. PREMISES CO-OPERATIVE SOCIETY LTD., LAMINGTON ROAD, MUMBAI CENTRAL Pincode:400008 MUMBAI		A21856
PULKITA RAJVANSHI	3-14, 4TH FLOOR, ASAF ALI ROAD, Pincode:110002, NEW DELHI		A33298
RAHUL DHRAFANI	OFF 82, 1ST FLOOR, SARDAR COMPLEX, GUJARAT GAS CIRCLE, ADAJAN Pincode:395009, SURAT		A39501
RAHUL PADMAKAR SAHASRABUDDHE	D-703,ORCHID CHS, UNNATI GARDENS, OFF POKHARAN ROAD 1, PRABHAKAR KUNTE MRG Pincode:400606, THANE (W)		F6254
RAJ PAL SEHGAL	283, ANARKALI COMPLEX, LNEAR VIDEOCON, TOWER, JHANDEWALAN Pincode:110055, NEW DELHI		F1468
RAJESH KUMAR JHA	216, TAGORE GARDEN EXTN. Pincode:110027, NEW DELHI		A28085
RAVI TIRTHANI	4, LAST FLOOR, B-5, MURTIKALA, COLONY, NEAR HELMET POINT, GOPALPURA BYPASS, GOPALPURA Pincode:302018, JAIPUR		A40128
RICHA KUMAR	M-49, IIND FLOOR, KALKAJI, Pincode:110019, NEW DELHI		A24872
ROHIT	88/9, 3RD FLOOR, GALI NO.1, SHAKARPUR Pincode:110092, NEW DELHI		A39749
ROHIT ANIL GHASAS	RL 83, SHREE NIWAS MILAP, NAGAR MIDL ROAD NO.17, DOMBIVLI(e), Pincode:421203, MUMBAI		A30073
SACHIN KUMAR	JAI SHREE HATIA ROAD, JHANDA CHOWK, JHUMRI TELAIYA Pincode:825409 KODERMA		A37957
SAHIL MALHOTRA	# 1494, SECTOR 42 -B, Pincode:160036, CHANDIGARH		A38204
SANHITA GAJANAN GODKAR	21/702 TULSIDHAM AMRAPALI, B/H TATWAGYAN VIDYAPITH, KAPURBAWDI, G B ROAD Pincode:400610, THANE (W)		A33417
SHIVALI GUPTA	687 PREM NAGAR, BRINDABAN ROAD, CIVIL LINES Pincode:141001, LUDHIANA		A30617
SHIVAM RASTOGI	28/307 MASJID KAITH, NEAR S D INTER COLLEGE, Pincode:244901, RAMPUR		A39199
SIDHARTH BAID	BE -61, 1ST FLOOR, SECTOR 1, SALT LAKE Pincode:700064, KOLKATA		A17677
SNEHAL AMOL PHIRANGE	ROW HOUSE NO. B6, SUNSHINE, VILLAS, NEAR HOTEL SHIVAR, GARDEN, PIMPLE SAUDAGAR Pincode:411027, PUNE		F8103
SUMAN R	NO.41, PATALAMMA TEMPLE ROAD, BASAVANAGUDI, NEAR SOUTH END, CIRCLE, Pincode:560004, BANGALORE		A38904
SUNIL ASHOK KUMAR THAKUR	SHOP NO.1, NEAR TIPCO HEIGHT, BLDG. GATE 4, RANI SATI MARG, MALAD EAST Pincode:400097, MUMBAI		A24713
SUNIL BALASAHEB DHOKCHAULE	KRUPAPRASAD APT,2FLOOR, S.133, PARVATI DARSHAN SOCY, NR SANE, GURUJI SMARAK, SINHGAD RD, Pincode:411030, PUNE		A39392
SWETA AGARWAL	4/ 154, NUNHAI STREET, Pincode:209625, FARRUKHABAD		A32705



News From the Institute

VANITA ARORA	B-519-520, NEHRU GROUND, IST FLOOR, Pincode:121001, FARIDABAD	A30408
VIBHUTI MISRA	S-40,SECOND FLOOR, MAHANAGAR, GOLE MARKET, Pincode:226006, LUCKNOW	A31891
VIKAS MEHTA	101, FIRST FLOOR, GOPAL TOWER 32, GOPAL BARI, LANE NO. 1, Pincode:302021, JAIPUR	A28964
VINAY SONI	643,NAGARVADO, LAKHA PATEL'S POLE, MANEK CHOWK Pincode:380001, AHMEDABAD	A39138
VISHAL RAMESHBHAI DHOLIYA	441, GOLDEN POINT, NR. FALSA WADI, RING ROAD Pincode:395003, SURAT	A36465
ZAHEERUDDIN M SHAIKH	278,UDAY NAGAR, FISH MARKET, OPP.S.B.I, SAKINAKA, ANDHERI(E), Pincode:400072, MUMBAI	A38731



List of Companies Registered for Imparting Training during the month of July, 2015

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331-A, BADAMWADI, SHOP NO. 74, 1ST FLOOR, KALBADEVI ROAD, MUMBAI-MICROTEK URBANDEVELOPERS PRIVATE LIMITED H-41, UDYOG NAGAR, MAIN ROHTAK ROAD, NEW DELHI

ADITYA INFOTECH LIMITED
KHEMKA SQUARE, A-12, SECTOR - 4, NOIDA, DELHI

ALANKIT ASSIGNMENTS LIMITED
205-208 ANARKALI COMPLEX JHANDEWALAN EXT, DELHI

ALBANY MOLECULAR RESEARCH HYDERABAD RESEARCH CENTRE PRIVATE LIMITED
REG OFF: PLOT NO.9, SY NO. 230-243, PHASE - 1, ALEXANDRIA KNOWLEDGE PARK, GENOME VALLEY, TURKAPALLY, SHAMEERPET, HYDERABAD

ASA LEGAL SERVICES LLP
3, BIRBAL ROAD, GROUND AND FIRST FLOOR, JANGPURA EXTENSION DELHI

BHARTI AXA GENERAL INSURANCE COMPANY LIMITED
FIRST FLOOR, FERNS ICON, SURVEY NO 28, NEXT TO AKME BALLET, DODDANEKUNDI, OFF OUTER RING ROAD, BANGALORE

BMM ISPAT LIMITED
NO101, 1ST FLOOR, PRIDE ELITE NO.10, MUSEUM ROAD, BANGALORE, KARNATAKA - 560001, BANGALORE

CENZER INDUSTRIES LIMITED
P-54, MAPUSA INDUSTRIAL ESTATE, MAPUSA, GOA

CONSULTLANE PROFESSIONAL SERVICES LLP
UNIT NO.604, ECO HOUSE PREMISES, CHS LTD.,AAREY RD, 1STCROSS RD,CTS NO176,VISHESHWAR NAGAR,GOREGAON(E) MUMBAI-

DS AGRIFOODS PRIVATE LIMITED
DS AGRIFOODS PRIVATE LIMITED, ASSAM ROAD, PILIBHIT

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ERNST & YOUNG LLP
TIDEL PARK, 6TH & 7TH FLOOR, A BLOCK (MODULE 601, 701-702), NO. 4 RAJIV GANDHI SALAI, TARAMANI, CHENNAI

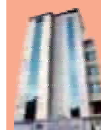
ERNST & YOUNG LLP
6TH, 12TH & 13TH FLOOR, UB CITY, CANBERRA BLOCK, NO. 24, VITTAL MALLYA ROAD, BANGALORE

ERNST & YOUNG LLP
C-401, 4TH FLOOR, PANCHSHIL TECH PARK, YERWADA (NEAR DON BOSCO SCHOOL), PUNE

ERNST & YOUNG LLP
14TH FLOOR, THE RUBY 29TH SENAPATI BAPAT MARG, ADAR (W), MUMBAI-

GDA TRUSTEESHIP LTD
OFFICE NO. 1,2,AND 3; 4TH FLOOR,REHEMATOOLA HOUSE, 7TH HOMJI STREET, OFF, P.M.ROAD, FORT, MUMBAI

GLOBE ECOLOGISTICS PVT LTD
62/6 FLOOR, "A WING" NEW YORK TOWER,THALTEJ, CROSS ROAD, S.G. HIGHWAY AHMEDABAD



HYDERABAD MEDIA HOUSE LIMITED
PLOT NO 6, ANUPURAM EXTENSION, DR A S RAO NAGAR,
HYDERABAD

IDBI INTECH LIMITED
IDBI BUILDING PLOT NO. 39-41, SEC 11, CBD BELAPUR, NAVI MUMBAI
NAVI MUMBAI

INDIA INFOLINE FINANCE LIMITED
12A-10, 13TH FLOOR, PARINEE CRESCENZO, C-38 & 39, G-BLOCK,
BANDRA KURLA COMPLEX, BANDRA (EAST), MUMBAI

INTERNATIONAL RECREATION PARKS PRIVATE LIMITED
METRO WALK, SECTOR-10, ROHINI, NEAR RITHALA METRO STATION
DELHI

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CRECHE SITE, PLOT NO 21A, J BLOCK, SECTOR 51, MAYFIELD
GARDEN-122002, GURGAON

Ireo PRIVATE LIMITED
A-11, FIRST FLOOR NEETI BAGH, DELHI

JHARKHAND BIJLI VITRAN NIGAM LIMITED
ENGINEERING BUILDING, HEC, DHURWA, RANCHI

KB CAPITAL MARKETS PVT. LTD.
THE LEGACY , UNIT31, 25A SHAKESPEARE SARANI, KOLKATA

KERALA STATE DEVELOPMENT CORPORATION FOR SCHEDULED
CASTES AND SCHEDULED TRIBES LIMITED
TOWN HALL ROAD, PB NO: 523, THRISSUR

KINECO KAMAN COMPOSITES INDIA PVT LTD
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LORD PASHUPATI SEEDS PRIVATE LIMITED, PURANPUR ROAD,
PILIBHIT

MAX HEALTHCARE INSTITUTE LIMITED
MAX HOUSE, 1, DR. JHA MARG OKHLA, NEW DELHI

MEHSONS XL CARE LIMITED
B-49/50, PARSAKHERA INDUSTRIAL AREA, BAREILLY

NEWGEN SOFTWARE TECHNOLOGIES LIMITED
E-44/13 OKHLA PHASE- 2, NEAR C.LAL CHOWK, DELHI

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201, AGGARWAL OKHLA PLAZA, 2ND FLOOR BUILDING 15,
COMMUNITY CENTRE, OKHLA INDUSTRIAL AREA, PHASE-1, DELHI

P & P LEGAL
201 APEX CHAMBERS 2ND FLOOR, 75 JANMABHOOMI MARG, FORT
MUMBAI 400001

PACIFIC HOLIDAYS PRIVATE LIMITED
212, DLF GALLERIA, MAYUR VIHAR PHASE 1 EXTENSION, DELHI

PACIFICA (INDIA) PROJECTS PVT LTD
311, ISCON MALL, ABOVE STAR INDIA BAZAR, SATELLITE, AHMEDABAD

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T- 15, SECOND FLOOR, GREEN PARK MAIN, NEW DELHI 110016

REGISTRAR OF COMPANIES CUM OFFICIAL LIQUIDATOR,
HIMACHAL PRADESH, OFFICE OF THE REGISTRAR OF COMPANIES
CUM OFFICIAL LIQUIDATOR, (ATTACHED TO HIGH COURT OF
HIMACHAL PRADESH) CORPORATE BHAWAN PLOT NO, 4 B, SECTOR
278, CHANDIGARDH

ROBERT BOSCH AUTOMOTIVE STEERING PRIVATE LIMITED
GAT NO. 184, GLOBAL RAISONI INDUSTRIAL PARK, ALANDI MARKAL
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SAHAJ MILK PRODUCER COMPANY LIMITED
CROSS ROADS MALL, SECOND FLOOR PLOT NO. 5 & 6 SECTOR 13,
AWAS VIKAS COLONY, SIKANDRA YOJNA, SIKANDRA BODLA ROAD,
AGRA

SAHARA PRIME CITY LIMITED
SAHARA INDIA CENTRE, 2, KAPOORTHALA COMPLEX, ALIGANJ,
LUCKNOW

SAIMOHN LE ASSOCIATES
6-3-248/A, FLAT NO 202, MAHESWARI TOWERS, ROAD NO 1, BANJARA
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C-18, PUSHPANJALI FARMS, NEAR INTERNATIONAL AIRPORT
BIJWASAN, NEW DELHI – 110061

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STAR CITY BUILDHOME PRIVATE LIMITED
64, SCINDIA HOUSE CANNAUGHT PLACE NEW DELHI-110001
DELHI-RO

SWATI ENERGY & PROJECTS (P) LTD
1101, KRUSHAL COMMERCIAL COMPLEX, ABOVE SHOPPERS STOP,
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SHANTI NAGAR, BANGALORE



News From the Institute

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VISAKHAPTNAM PORT TRUST, VISAKHAPATNAM

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A 401/402, MANGALYA, 4TH FLOOR, OPPOSITE MAROL MAROSHI
ROAD, ANDHERI (EAST), MUMBAI

VTS TF AIR SYSTEMS PRIVATE LIMITED
PLOT NO. 222 TO 224 AND 229 TO 232, KIADB INDUSTRIAL AREA, 3RD
PHASE MALUR, BANGALORE

ZEHN LEGAL CONSULTANTS AND ADVISORS
11/3-5, 2ND FLOOR, PALACE LOOP ROAD, VASANTH NAGAR,
BANGALORE

A.K.G SECURITIES AND CONSULTANCY LIMITED
3776/309 NIRMAL MARKET, NETAJI SUBHASH MARG DARYA GANJ,
DELHI

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4TH FLOOR, GODREJ COLISEUM, SOMAIYA HOSPITAL ROAD, OFF
EASTERN EXPRESS HIGHWAY, SION (EAST), MUMBAI

HONDA SIEL POWER PRODUCTS LIMITED
PLOT NO. 5, SECTOR 41 (KASNA), GREATER NOIDA INDUSTRIAL
DEVELOPMENT AREA, DISTT. GAUTAM BUDH NAGAR, U.P.-201310

INTERNATIONAL CONVEYORS LIMITED
10, MIDDLETON ROW, KOLKATA-700071, KOLKATA

KILBURN ENGINEERING LIMITED
PLOT NO. 6, MIDC SARAVALI, VILLAGE PIMPALGHAR, KALYAN
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MONTE CARLO FASHIONS LIMITED
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FLOOR, HYDERABAD

RICOH INDIA LIMITED
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AHMEDABAD

UNIMODE OVERSEAS LIMITED
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BAGH, DELHI

UPSURGE INVESTMENT & FINANCE LIMITED
OFFICE NO 303 MORYA LANDMARK I, BEHIND CRYSTAL PLAZA, OFF
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VISCO TRADE ASSOCIATES LTD
18, BRITISH INDIAN STREET, 3RD FLOOR, KOLKATA- 700069

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AZIMGANJ HOUSE, 7, CAMAC STREET, 1ST FLOOR, KOLKATA

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News From the Regions

➤ EASTERN INDIA REGIONAL COUNCIL

Full Day Seminar on Compliance Reporting and Market Regulatory Trends

The Eastern India Regional Council of the Institute of Company Secretaries of India (EIRC of ICSI) organised a Full Day Seminar on Compliance Reporting and Market Regulatory Trends on 11.7.2015 at Hotel Hindustan International, Kolkata. Girija Choudhary, Chief Financial Officer, Emami Infrastructure Limited was the Chief-Guest of the Seminar. CS Sandip Kejriwal, Vice Chairman, EIRC of ICSI in his welcome address introduced the theme of the seminar and wished that the participants would be able to reap benefits from the deliberations of the speakers. CS Ashok Purohit, Treasurer, EIRC of the ICSI introduced the special AMS scheme of EIRC, and requested the participants to provide more productive suggestions to strengthen the profession.

Chief Guest Girija Choudhary in his inaugural address said that 'fraud' is defined in Indian Contract Act also and now it is included in Companies Act, 2013. He in his speech spoke on the importance of compliance reporting and said that compliance of laws is a must. He outlined the repercussions of non-compliance.

CA M. Sathya Kumar, International Taxation Consultant & Economic Thinker, deliberated on "Fraud Reporting under The Companies Act 2013 – Impact on Professionals" in the first technical session. He said that a person shall be treated as guilty of an offence involving fraud under the Act if he furnishes false information or suppresses material fact in documents, gives mis-statements in prospectus, commits fraud in documents necessary for investments and so on. He further said that under Companies Act, 2013 the Serious Fraud Investigation Office (SFIO) has been given a status and power of investigation and can share information or documents available with it.

The first speaker for the second technical session was Dipan Mitra, Asst. Manager, Business Development-SME, NSE on "Capital Issue by SMEs". He said that SME, NSE are providing a platform for small entrepreneurs to develop called EMERGE. He highlighted the support provided by the EMERGE platform to MSMEs and emphasized that financial support provided to small entrepreneurs can bring in huge change in the economy. Further he discussed the regulatory framework of SEBI and so on.

Abhishek Kumar, Manager, National Stock Exchange India Limited, dwelt on "Risk Management – Hedging of Foreign Currency Risk Through Exchange Traded Currency Derivatives". He highlighted benefits of Exchange Traded Currency Derivatives and said that it will equate one with a large corporate in which Credit limits are not required and placing of margin allows participation, there is no price discrimination, uniform price across all client, high price transparency with access to real time price and best 5 orders in the market, high accessibility with internet based trading, where futures and options contracts are available for trading.

Ajay Laddha, Vice President, Sumedha Fiscal Services Limited – Merchant Banker dwelt on "Capital Issue by SMEs". He said that transfer of unlisted shares attracts long term capital gain at the rate of 20%. While a company is listed in SME exchange, the same rate is 'Nil'. The same unlisted transaction attracts a short term capital gain tax upto 30%. In case of SME exchange, the same has been reduced to 15%. However STT is applicable on listed securities. He further said that under Due diligence & DRHP Preparation Merchant Banker would be closely associated in preparing the new applicant's prospectus and other related listing documents. Merchant banker conducts a due diligence on the applicant and provide due diligence certificate as per Form A of Schedule VI of the ICDR including additional confirmations as provided in Form H of Schedule VI along with the offer document to the exchange.

The speaker for the third Technical Session of the seminar on "Practical Aspects of SEBI (Prohibition of Insider Trading Regulation), 2015" was CS Anup Kumar Sharma, Vice President, VC Corporate Advisors Private Limited, SEBI registered category I merchant Banker. The topic and the speaker was introduced by CS N K Khurana, Vice - President & Company Secretary, Rossell Tea Limited and he also chaired the session. CS Anup Kumar Sharma, said that the listed company, market intermediary and other persons formulating a code of conduct shall identify and designate a compliance officer. The sessions were followed by interactive question-answer session in which the queries raised by the participants were replied by the speakers. The programme was attended by a large number of members both in employment and practice, corporate executives, company directors, and other professionals.

National Seminar on Competition Compliance

The EIRC of ICSI organised a National Seminar on Competition Law Compliances by Enterprises on 20.7.2015 at Kolkata.

CS Santosh Agarwala, Council Member, ICSI, in his welcome address expressed that, "Competition authorities, the world over, encourage companies to seek advice from professional experts in compliance of competition law to assist them in designing, implementing and maintaining an effective compliance programme. Company secretaries are required to manage companies within the framework of many of the regulations and at the same time ensure that firms remain competitive and profitable. Therefore, compliance with competition law is crucial.



News From the Institute & Regions

CS Mamta Binani, Vice-President, ICSI in her address said that a competition law enforcement regime cannot operate in isolation. It has to be shaped and transformed by the existing socio-economic ideology and by other available policy tools. She further added that Competition law Compliance is also a critical component of good governance. There are huge penalties and fines for non-compliance. Companies also lose credibility if found violating competition law. The costs of violation are extremely high. Thus, the compliance is the need of hour. It had also organised various advocacy programmes jointly with CCI. The ICSI is looking forward to organise more seminars and conferences in association with the Competition Commission of India on competition compliance, she informed.

CS M.S. Sahoo, Member, Competition Commission of India (CCI) was the Chief Guest on the occasion and while inaugurating the programme said that the Competition is driving today's global business environment, and is as old as evolution of human beings. He further added that the fundamental objective of Competition Law is to promote and sustain market competition as its rationale lies in the proposition that competition yields social benefits and therefore needs to be nurtured. The process of competition is, however, not automatic, as vested interest groups, incumbent monopolistic firms, collusive businesses and other stakeholders may distort the process of competition or capture the benefits of market-oriented economic reforms.

Sunil Kanoria, Vice Chairman, SREI Infrastructure Finance Ltd. and Sr. Vice President, ASSOCHAM while delivering the special address spoke about the challenges faced by Competition Commission of India (CCI) in the enactment of Competition Act. He referred to the advocacy and awareness challenges of the CCI, with various trade associations, regulators, professionals, corporate, etc. He congratulated CCI for effectively carrying out its activity through their orders with effective time line that does not delay an economic activity, waiting for bureaucratic approval. He referred to certain areas where CCI may provide clarifications, especially with reference to merger control. He concluded by stating that Company Secretary can play important role in compliance of Competition Law as section 205 of Companies Act 2013 requires disclosures in Board report.

CS Sandip Kejriwal, Vice Chairman, EIRC of ICSI, introduced the topic for first technical session and the speakers were G. R. Bhatia, Partner, Luthra and Luthra Law Offices, Ved Prakash Mishra, Director, Competition Commission of India and Shouvik Kumar Guha, Assistant Professor, WB National University of Juridical Sciences.

G. R. Bhatia chaired and introduced the first technical session on "Agreements, Abuse of dominance and Combinations". He said that In India, the determination of dominance is based on a qualitative assessment of the prevalent market dynamics and the relative position of strength enjoyed by the market participants. He further stated that under Competition Regimes no one wants Competition, it is not stable. On the same topic Speaker Shouvik Kr. Guha stated that market price gain by any enterprise via IPR must not be abused. IPR and Competition have common goal mainly enhancement of general

welfare by promoting dynamic efficiency. He further stated that the focus of these restraints is typically a licensing agreement which could adversely affect competition by artificially dividing markets among enterprises and possibly impeding the development of new goods and services. Ved Prakash Mishra said that the basic objective is to provide a law relating to competition among enterprises that will ensure that the process of competition left free without stronger trading enterprises manipulating the market to their advantage and following from that to the disadvantage of consumers.

Professor (Dr.) P. Ishwara Bhat, Vice-Chancellor, WB National University of Juridical Sciences, chaired and introduced the second technical session on "Investigations, Enforcement and Adjudications". CS Rupanjana De, Secretary EIRC of the ICSI was the moderator. K. K. Sharma, Advocate, Former Director General, CCI, Commissioner of Income Tax and Tarun Mathur, Manager, Ernst and Young were the speakers. Dr. Bhat said that no market would be regarded as a perfect market and productive efficiency occurs when the equilibrium output is supplied at minimum average cost. This is attained in the long run for a competitive market. Tarun Mathur, Manager, Ernst and Young, said that with structural data representation according to senior officials at the CCI the Commission is receiving an average of 10 notices a month since May 2015 seeking its approval for M&A deals, as against 2-3 notices a month earlier. CCI has approved 267 Combination transactions till date. K. K. Sharma said that Investigation is a tool of enforcement and Director General is empowered to investigate and has power of civil court. He further said that Central or State Government can refer policy or law relating to competition or any other matter for opinion- not bidding in 60 days and provision for mutual consultation between commission and regulators to be made within 60 days.

There was an interactive session with CS B Mohanty, ROC, West Bengal, who said that the Ministry has also brought out for public discussion a Draft National Competition Policy to provide a level-playing field and imbibe the spirit of competition. The Ministry has been sensitive to issues of investor protection and conducted several awareness programmes during the current year at various cities across India, in partnership with the professional institutes. The National Conference was attended by corporate executives, Company Secretaries, and other distinguished professionals.

Independence Day Celebration

The EIRC of ICSI celebrated Independence Day at the ICSI-EIRC Building on 15.8.2015. N. K. Bhola, RD (East), MCA, Govt. of India hoisted the National Flag in the presence of Eastern India Regional Council Members, other members of the Institute, students and EIRO officials. It was followed by a brief address of the Chief Guest Bhola and Chairperson CS Sunita Mohanty and rendition of the National Anthem.

CS Sunita Mohanty, while addressing said that the country's freedom has come at a huge cost and it is our duty to put in our bit and work hard unitedly and untiringly for the cause of the country's growth and development. N.K. Bhola spoke about the sacrifices of all the freedom fighters and said that we should never forget their contributions and



always hold them in high esteem. A vibrant cultural programme comprising patriotic songs, presentations and dance was performed by the young members and students. CS Rupanjana De, Secretary, EIRC also sang a patriotic song. It was really a memorable event for members and students equally. A Blood Donation Camp was organized on the occasion wherein members and students came forward and donated blood. On the occasion of 69th Independence Day of India members above the age of 69 years were honoured.

Study Circle Meetings

EIRC of the ICSI organized a Study Circle Meeting on Exemptions to Private Limited Companies under the Companies Act 2013 on 25.7.2015, at ICSI-EIRC House, Kolkata. CS Sumit Binani, Member of the institute, CS Nivedita Shankar, Member were the guest experts and CS Rupanjana De, Secretary, EIRC of ICSI was the moderator for the meet.

CS Sumit Binani in his address indicated the exemptions provided to private companies and dealt at length with the various exemptions. CS Nivedita Shankar added a few points and observations. The queries raised and clarifications sought were responded to by the speakers to the satisfaction of the participants.

Again on 8.8.2015 another Study Circle Meeting was conducted by the Regional Council on Limited Liability Partnership (LLP) and Its Compliances (Part-II) at ICSI-EIRC House, Kolkata. CA Vishnu Tulsyan, Practicing Chartered Accountant and member of the Institute was the guest expert and CS Rupanjana De, Secretary, EIRC of ICSI were the moderator for the meeting.

CA Vishnu Tulsyan stated that LLPs are also essentially required to maintain proper and accurate books of accounts on yearly basis in the manner prescribed, using the double entry systems of accounting. Again, every LLP in India, whose annual turnover exceeds the magnitude of INR 40 Lakhs or the total contribution of its partners gets above the limit of INR 25 Lakhs, is mandatorily needed to get its accounts audited every financial year, strictly in accordance with the rules and provisions provided in the LLP Rules. After a detailed discussion and explanation by Tulsyan, there was a question-answer round, wherein queries raised were ably replied by the speaker.

Career Awareness Programmes

Career Awareness Programmes (CAP) were conducted at K V Ballygunge, Shaw Public School, La Martiniere For Boys, K V Barrackpore (Army), Barrackpore, Barrackpore Wellesely Hindi High School, Gokhale Memorial Girls School, St Xaviers School Panihati, Bankim Ghosh Memorial Girls School, Binodini Girls School, A K Ghosh Memorial School, Khalsa High School Dunlop, Bhavans Gangabaux Kanoria Vidyamandir, Tantia High School, Pailan World School, Mangalam Vidya Niketan and Khidderpore Academy by S.Sreejesh, Section Officer, ICSI-EIRO. Career Awareness Programmes (CAP) were also conducted at Daulatram Nopany Vidyalaya, Marias Day School, Maheshwari High School, St Xavier's Collegiate School by CS Gautam Dugar, Member, EIRC of ICSI and S.Sreejesh, Section

Officer. During the programmes the speakers explained the students of Class XI and XII on 'Career as a Company Secretary'. They informed the students about the ICSI Students Education Fund, the fee concession given to reserved classes, ICSI E-Learning and the flexibility of the CS course in terms of possibility of studying wherever a student wants to in India. Detailed information about the career options as a Company Secretary was provided to the students. The response from students and teachers was very encouraging.

Annual General Meeting and Foundation Day Celebration

The Annual General Meeting of the Eastern India Regional Council of the Institute of Company Secretaries of India (EIRC of ICSI) was held on 31.7.2015 at the Institute's premises. CS Sunita Mohanty, Chairperson, EIRC of the ICSI, CS Sandip Kejriwal, Vice-Chairman, CS Rupanjana De, Secretary, CS Ashok Purohit, Treasurer and CS Siddhartha Murarka, Member of Regional Council of EIRC and senior members CS Amit Sen, Managing Director, East India Pharmaceutical Works Ltd., CS S. Gangopadhyay, Past President, The ICSI, CS Subrata Kr. Ray and CS Rajesh Poddar, both Past Chairmen, EIRC of ICSI were present along with other members of the Institute. At the AGM the Annual Report & the Audited Accounts of EIRC were placed for approval through the members. Members proposed and seconded the resolutions and accordingly the annual report for the financial year 2014-2015 was approved.

The meeting was followed by the celebration of the 40th Foundation Day of EIRC in which the second newsletter of the current year was released. Tree Plantation was also held wherein senior members planted saplings.

98th Management Skills Orientation Programme (MSOP)

The Eastern India Regional Council of the Institute of Company Secretaries of India organized its 98th Management Skills Orientation Programme (MSOP) for a period of 15 days from 31.7.2015 to 18.8.2015. CS Sunita Mohanty, Chairperson in her welcome address informed the students to take full advantage of the 15-days' journey and get benefited by eminent faculties and get more from them through social networking by taking advantage of today's available technology. Chief Guest CS H. M. Choraria, Past President, the ICSI in his address urged upon the students to set their goals in life and put their foot print in the path of CS fraternity and create history.

ON 18.8.2015 at the Valedictory Session Dr. G C Dutt, IPS, Inspector General of Police, (Police Directorate), West Bengal, was the Chief Guest. Earlier Dr. Dutt took a special session on Ethical Corporate Governance through Krishna consciousness and Chanakyaniti. He gifted Bhagvad Gita to all the participants of 98th MSOP. Dr. Dutt emphasized the importance of emotional and spiritual quotient in order to be a successful corporate leader and also mentioned few theories like the Danah Zohar Theory, William Ouchi and Erickson theory to illustrate his point. The programme concluded with rendition of National Anthem.



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Best Participant Awards: Harshit Gupta, Shreya Kar, and Smita Chakraborty were adjudged as the first, second and third best participants of the 98th MSOP respectively.

BHUBANESWAR CHAPTER **Study Circle Meeting on Companies Act, 2013**

On 14.07.2015, Bhubaneswar Chapter organized a study circle meeting on the Companies Act, 2013. CS Debadatta Mohapatra, Chairman and CS Priyadarshi Nayak, Secretary of the Chapter briefed the participants that the objective of the programme is to collect the views/suggestions of the members about the act for sending the same to the EIRC. Members present actively participated in the discussion and provided their valuable views/suggestion on the Act. CS K.N. Ravindra, Executive Director & Company Secretary, NALCO, Bhubaneswar also participated in the entire discussion and provided his valuable suggestion. The programme was well attended by the members of the Chapter.

Independence Day Celebration

On 15.08.2015, Bhubaneswar Chapter celebrated the 69th Independence Day of the Nation at its premises amidst the presence of the Office Bearers of the Managing Committee, Members of the Chapter, Faculty of Oral tuition classes, students and staff members. CS Priyadarshi Nayak, Chapter Secretary unfurled the tri-colour followed by rendition of National Song and National Anthem. Members, faculties, students present on the occasion addressed during the programme and also remembered the sacrifices of the freedom fighters of the Country. After the unfurling of the National Flag, the Chapter also hosted the ICSI flag.

Interactive Session with the Counsellors

On 17.08.2015, Bhubaneswar Chapter organized an interactive session of the Counsellors appointed in Odisha for organizing career awareness programmes. While welcoming all the Counsellors, CS Debadatta Mohapatra, Chapter Chairman read out the list of counsellors appointed and cited the role and responsibilities of the counsellors and urged their support for highlighting the CS course and the profession in each and every district of Odisha.

In her address to the Counsellors, CS Sunita Mohanty, Chairperson, EIRC apprised the expectation of the Institute from the counsellors and also highlighted the initiative taken by the Institute and the EIRC for strengthening the students' activities in the Eastern Region. She also elaborated the duties of each counsellor and stressed upon the need for increasing the students' registration and achieving the targets. She further encouraged the counsellors to organize career awareness programmes in their allotted districts and send their action plan to the Institute on regular basis. She thanked the Bhubaneswar Chapter for taking the initiative in appointing 9 counsellors in Odisha. Queries raised by the counsellors were well attended to during the session.

HOOGLY CHAPTER **Full-Day Workshop**

On 19.7.2015 the Chapter organised a Full-Day Workshop at its Conference Hall. CS Sanjay Kumar Gupta (Past Chairman, EIRC of ICSI), Practising Company Secretary, addressed the participants on Profession of Company Secretaries in the Company Law Board & NCLT and CS Subhabrata Talukdar, Company Secretary & Compliance Officer, Peerless Financial Products Distribution Limited, addressed the participants on Compliance of The Companies Act, 2013 & Allied Laws in terms of Section 134(5) (f) & Sec.205(a) of The Companies Act, 2013 and the Rules made thereto. There was a question-answer session and the queries raised by the participants were suitably replied by the speakers. More than 36 members/students and office bearers/members of the Managing Committee were present during the workshop.

Half-Day Workshops

On 5.7.2015 the Chapter organised a Half-Day Workshop at its Conference Hall. CS T. B. Chatterjee, Sr. Executive Vice-President (Corporate Affairs & Legal) & Company Secretary, DIC India Limited addressed the participants as Guest Speaker on "GST" and CS Tarun Chatterjee, Practising Company Secretary, addressed the participants as Guest Speaker on "Service Tax". There was a question-answer session and the queries raised by the participants were suitably replied by the speakers. More than 29 members/students and office bearers/members of the Managing Committee were present during the workshop.

Again on 28.6.2015 the Chapter organised a Half-Day Workshop wherein Guest Speakers, CS Maloy Kumar Gupta Company Secretary & Compliance Officer, Bata India Limited addressed the gathering on "Board Meeting & various Committee Meetings under The Companies Act, 2013" and CS Pawan Marda, Asstt. Vice-President & Company Secretary, Linde India Limited, addressed on "Role of Independent Directors". There was question-answer session and the queries raised by the participants were suitably replied by the Speakers. More than 34 members/students and office bearers/members of the Managing Committee were present during the workshop.

Yet again on 14.6.2015 the Chapter organised a Full-Day Workshop at ICWAI Bhawan, Howrah. CA Amar Agarwala, Practising Chartered Accountant and CS Dilip Shah, Dean of Students Affairs, The Bhawanipur Educational Society College, addressed the participants as Guest Speakers on "Ethics, Motivation & Stress Management". The programme was very interactive and the queries raised by the participants were addressed by both the Speakers in their respective sessions. More than 35 members/students and office bearers/members of the Managing Committee were present during the workshop.

Investor Awareness Programmes

On 31.5.2015 the Chapter organised an Investor Awareness Programme, under the aegis of Investor Education and Protection



Fund, Ministry of Corporate Affairs, at ICWAI Bhawan, Howrah. Again on 24.5.2015 the Investor Awareness Programme was held at the Conference Hall of Hooghly Chapter and on the same day in the evening at Govind Nagar Housing Complex, Hooghly.

During these programmes CS Hansraj Jaria, (Chairman, Hooghly Chapter), General Manager & Company Secretary, Ratnabali Capital Markets Limited, severally and jointly with CS Aditya Purohit, (Vice-Chairman, Hooghly Chapter), Company Secretary, Nilachal Refractories Limited, addressed the participants as to how to read a Prospectus highlighting specific areas such as Management of the company, financial capabilities, nature of the product, current scenario and future prospects of the company; opening of Demat Account; filling of Application forms; guidance about Book Building process; access to intermediary like stock brokers, depository participants; mode of payment; possible course of action in case of non-receipt of communication regarding credit of dematerialized shares/refund order; rights of investors in general; nomination of shares or other securities etc. An Interactive question-answer session on the topic was held at the end of each programme wherein the speakers suitably replied the queries raised by the participants.

Career Awareness Programmes

During the month of July, 2015, the Chapter organised nine (9) Career Awareness Programmes (CAPs) in different schools at Hooghly & Howrah districts as under: On 22.7.2015 at Mahesh Sri Ramkrishna Ashram School, on 25.7.2015 at Rishra Anjuman High School, Radhika Town High School all at Rishra and at Howrah Hindi High School, Howrah. On 27.7.2015 at Rishra Swatantra Hindi Vidyalaya, Rishra and at Howrah Siksha Sadan High School, Howrah. On 29.7.2015 at Salkia Vikram Vidyalaya, Salkia; Ratnakar NorthPoint School and at Howrah Janata Adarsh Vidyalaya both at Howrah. The Career Awareness Programmes were conducted for the Class XI & XII students of the schools. Brochures of the CS Course were distributed among the students for their readymade information about the CS Course. During the CAPs, eligibility criteria for admission into Foundation Programme, Executive Programme and Professional Programme; Course fees; Course fees for reserved categories; online admission procedure; cut-off dates of registration; subjects of each stage of Foundation, Executive & Professional Programmes; training procedure; distance learning; examination schedule; medium of examinations, prospects of the profession including employment and practising opportunities, etc. were elaborately explained to the students. There were open interaction between the Speakers and the students. The Speakers of the above CAPs jointly and severally were CS Rajan Singh, Practising Company Secretary; CS Arvind Bajpai, Practising Company Secretary; Neha Pansari, Student of Professional Course and Tamal Kar, Executive Officer of the Chapter Office.

JAMSHEDPUR CHAPTER

Career Awareness Programme

On 12 and 13.8.2015 Jamshedpur Chapter of EIRC of the ICSI conducted a Career Awareness Programme at Motilal Nehru

Public School for 12th Standard Commerce and Science students. Around 200 students taken together attended the programme. At the Awareness Programme Tapas Kumar Mazumdar, Chapter Official was the Speaker who in his address informed the students regarding importance, prospects of the CS Course along with qualification required, way of online registration, duration, employment opportunities, etc. Subrata Basak clarified the queries raised by the students.

NORTH EASTERN (GUWAHATI) CHAPTER

Career Awareness Programmes

On 1.8.2015 the Chapter conducted a career awareness programme at St. Anthony's College, Shillong. On 4.8.2015 the Career Awareness Programme was held at Shillong Commerce College, Shillong and at Shillong College, Shillong. On 5.8.2015 the programme was held at Guwahati Public School, Guwahati on 6.8.2015 at Kampur HS & MP School, Kampur, Madhab Kandali Junior College, Kampur, Gurukul Junior College, Kampur and at Kampur College, Kampur. On 7.8.2015 the programme was held at Angelika HS School, Guwahati, Army Public School Basistha, Guwahati. On 12.8.2015 at Vivekananda Kendra Vidyalaya, Dibrugarh, DHSK Commerce College, Dibrugarh, Gurukul Junior College, Dibrugarh. On 17.8.2015 at Army Public School, Narengi, Guwahati. On 20.8.2015 at PR Govt. HS & MP School, Goalpara, Goalpara College, Goalpara. On 21.8.2015 at Kendriya Vidyalaya Khanapara, Guwahati.

The speakers of the programmes jointly and severally were CS Biman Debnath, Vice-Chairman of the Chapter, CS Vivek Sharma, Chapter Secretary, CS Pravin Kumar Chhajjer, Chapter Treasurer, CS Indraneel Baruah, Company Secretary, MCCL, Shillong, CS Jyoti Chetri, Practising Company Secretary, Shillong, CS Abhinom Rong, Assistant Company Secretary, NEEPCO, Shillong, CA Prerna Dugar, Faculty Member, NE Chapter of EIRC of ICSI; CS Niti Choudhury, CS Neha Lohiya, Archita Agarwala, CS Professional passed student, Chiranjeeb Sarma Roy, SSB, ICSI and Hemanta Das, SSA, ICSI.

RANCHI CHAPTER

Career Awareness Programmes

The Chapter conducted a series of career awareness programmes as under: On 13.8.2015 the career awareness programme was held at Vivekananda Vidya Mandir, Sector-II, Ranchi, at DAV Public School, Pundag, Ranchion 10.8.2015, at Lala Lajpat Rai Senior Secondary School, Pundag, Ranchion 30.7.2015, at Kendriya Vidyalaya, Hinoo, Ranchion 04.8.2015 and at DAV Alok, Pundag, Ranchion 11.8.2015. The speakers were S.B. Prasad, and Sumanta Dutta. The officials of ICSI gave a presentation to the students of Class XII on "Career as a Company Secretary" and also replied the queries raised by the about the CS course, subjects, prospects of the profession. The Principal and other teachers of the institutions appreciated the efforts



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of ICSI for creating awareness about CS course and the profession. In all 61,46, 50, 25 and 39 students respectively participated in these Career Awareness Programmes.

Again on 26.8.2015 the programme was held at Ranchi Women's College. ACS Rajeev Ranjan, Chapter Chairman, FCS Vinay Kumar Jalan, S.B. Prasad and Sumanta Dutta addressed the gathering of students from B.Com(Hons.) stream of the college on "Career as a Company Secretary" and also replied the queries raised by the students about the CS course, subjects, prospects of the profession. The Principal and other teachers of the school appreciated the efforts of ICSI for creating awareness on CS course and profession. In the venue around 600 students were present out of which only 296 students could only be accommodated in the hall provided by the college authorities for the Career Awareness Programme. As a consequence of request from the Principal the Chapter is committed to organise another Career Awareness Programme at the college soon.

Investor Awareness Programme

The Chapter organised an Investor Awareness Programme under the aegis of Investor Education and Protection Fund, Ministry of Corporate Affairs, Govt. of India at Ranchi on 08.8.2015. CS Rajeev Ranjan, Chapter Chairman in his opening address put focus on the importance and objectives of Investor Awareness Programme which is to create awareness, to identify and distinguish between genuine and fraudulent schemes, to inform about Investors' Grievance Redressal system available with SEBI, BSE, CLB, information on Sensex and other Indices, Derivatives etc. and various investment avenues.

Krishna N. Narnolia, CMD, Narnolia Securities, gave an overall idea about several beneficial and safer investment policies and methods like Fixed deposits (mostly in Nationalised banks), Government Insurance Policies and Schemes, Investment in shares, Tax free bonds, Public Provident Fund, Senior Citizens Savings scheme, etc. He said that these types of programmes serve as a message to the public about the importance of making safe investment choices. Narnolia also said that Investors being the backbone of the Capital Market, it becomes essential that they are well informed about the various technicalities and are equally educated to understand the nuances of Capital Market. The Investor Awareness Programme helps the investors in taking right investment decisions and enables them to protect their interest, this in turn helps in better governance of the Capital Market, he added.

NORTHERN INDIA REGIONAL COUNCIL

Talk on Effective Communication

NIRC-ICSI organized a Talk on Effective Communication on 21.7.2015 at ICSI-NIRC Building, New Delhi. Praveen Narang, Corporate Trainer was the speaker who shared his rich knowledge on the topic.

Two Day Induction Programme for

Members in Employment

ON 22 and 23.7.2015 NIRC-ICSI organized a two day Induction Programme for Members in Employment at ICSI-NIRC Building, New Delhi. Preeti Singal, Corporate Trainer; CS (Dr.) S Kumar, Advocate; CS Sharad Tyagi, Company Secretary in Practice; CS N K Jain, Partner, GlobFin Serve LLP; CS Rajiv Bajaj, Council Member, ICSI were the speakers for the Session.

Interactive Session with Regulators

NIRC-ICSI organized an interactive session with Regulators on 24.7.2015 at New Delhi YMCA Tourist Hostel, New Delhi. D. Bandopadhyay, Registrar of Companies, Delhi & Haryana, D.P. Ojha, Official Liquidator attached to Delhi High Court and Amit Pradhan, Regional Director, SEBI, New Delhi were the speakers for the Session.

Seminar on NCLT – A New Era to Corporate Adjudication & AGM of NIRC

NIRC-ICSI organized Seminar on NCLT – A New Era to Corporate Adjudication on 25.7.2015 at New Delhi. Hon'ble Justice A.K. Sikri, Judge, Supreme Court of India was the Chief Guest and Hon'ble Justice M.M. Kumar, Chairman, Company Law Board was the Guest of Honour. Amit Sibal, Senior Advocate, CS Satwinder Singh, Partner, Vaish Associates and Council Member, ICSI and Krishnendu Datta, Advocate were the speakers who shared their rich knowledge on the topic. A large gathering was present for the Seminar and participants were able to update their knowledge from the sessions conducted.

Annual General meeting of NIRC was organized on 25.7.2015 at New Delhi. CS NPS Chawla, CS Manish Gupta, CS Dhananjay Shukla, CS Pradeep Debnath, CS Manish Aggarwal, CS Monika Kohli, CS Nitesh Sinha, CS Rajeev Bhambri, CS Saurabh Kalia, CS Rajiv Bajaj, CS Ranjeet Pandey, CS Satwinder Singh and CS Vineet Chaudhary were present.

Moot Court Competition for Members

On 26.7.2015 NIRC-ICSI organized a Moot Court Competition for members at ICSI-NIRC Building, New Delhi. CS Sanjiv Dagar and CS Mukesh Sukhija were the Judges.

CS Job Fair for Members

On 27.7.2015 NIRC-ICSI organized CS Job Fair for members at ICSI-NIRC Building, New Delhi.

Corporate Law Quiz for Members

On 28.7.2015 NIRC-ICSI organized Corporate Law Quiz Competition for members at ICSI-NIRC Building, New Delhi. CS Vishal Arora was the quiz master & Judge.

Pooja Ceremony for renovation of Auditorium of NIRC

On 30.7.2015 NIRC-ICSI had a Pooja Ceremony for renovation of Auditorium of NIRC at ICSI-NIRC Building, New Delhi. CS Ranjeet Pandey and CS NPS Chawla were present on the occasion.



Valedictory Function of 215th MSOP

On 6.8.2015 NIRC-ICSI organized the Valedictory function of 215th batch of MSOP at ICSI-NIRC Building, New Delhi. CS Manish Gupta, CS Pradeep Debnath, CS Nitesh Sinha, CS Alka Arora were also present on the occasion and gave various tips for achieving professional heights to the participants.

Study Sessions

NIRC-ICSI organized Study Sessions on 7, 10, 22 and 23.8.2015 at AMDA, August Kranti Road, New Delhi, ICSI-NIRC Building, New Delhi, CMC Ltd., Janak Puri, New Delhi and at Tecnia Institute of Advanced Studies, Rohini, New Delhi.

CS S M Sundaram CA Jitender Diwan, CS Ranjeet Pandey, Council Member, ICSI and Member, SSB and CS Kartik Jain, Senior Associate, J Sagar Associates were the speakers respectively. A large gathering was present for the sessions and the participants were able to update their knowledge from the sessions conducted.

National Seminar on Companies Act, 2013: Secretarial Standards

The Institute (Host: NIRC) organized National Seminar on Companies Act, 2013: Secretarial Standards on 8.8.2015 at New Delhi. CS Pavan Kumar Vijay, CS Mamta Binani, CS G P Madaan, CS Savithri Parekh, CS Lalit Jain and CS Alka Kapoor were the speakers for the Seminar. The Speakers shared their rich knowledge on the topic. A large gathering was present on the occasion and participants were able to update their knowledge from the sessions conducted.

Interactive Session and Panel Discussion on Secretarial Standards

NIRC-ICSI organized Interactive Session & Panel Discussion on Secretarial Standards on 8.8.2015 at New Delhi. CS Ilam C Kamboj, CS Subhash C Setia, CS Sanjay Grover, and CS Ranjeet Pandey were the speakers for the Session who shared their rich knowledge on the topic.

69th Independence Day Celebration

On 15.8.2015 NIRC-ICSI celebrated 69th Independence Day at ICSI-NIRC Building, New Delhi. CS Virender Ganda, Past President, ICSI was the Chief Guest and CS Paramjeet Singh, Past Chairman, NIRC was the Guest of Honour. A good number of managing committee members, other members and students were present on the occasion. The event started with the Flag Hoisting Ceremony.

AGRA CHAPTER

Seminar on NCLT- An Emerging Area for Company Secretaries

Agra Chapter of NIRC of ICSI organized a Full day Seminar on 1.8.2015 at Agra on NCLT- An Emerging Area for Company Secretaries. The Chief Guest of the programme was CS Ranjeet Kumar Pandey, Central

Council Member of ICSI. In his address CS Ranjeet Kumar Pandey discussed in detail the Constitutional Set-up & the Validity of NCLT (National Company Law Tribunal). He also discussed the process to present the Case in NCLT (National Company Law Tribunal) and focused on the difference between the new & old Companies Act. CS Pankaj Jain, Advocate gave additional information about the NCLT (National Company Law Tribunal) and said that the New Companies Act has several provisions by which shareholders can take action against companies. Example: Class Action Suits. This Suit gives power to shareholders and depositors to file case against unfair activities of Company and get several types of reliefs. The programme was hosted By CS Anju Jain. Around 70 Members and Students participated in the Programme. At the End PDP Certificates were distributed amongst the students by CS Ranjeet Kumar Pandey, CS Pankaj Jain, CS Pramod Kumar Sharma, Chapter Chairman and CS Akash Jain, Vice Chairman of the Chapter. The Members who attended the programme was awarded 4 PCH and Students got 8 PDP Hours.

CHANDIGARH CHAPTER

Study Circle Meeting on SEBI (Prohibition of Insider Trading) Regulations, 2015

Chandigarh Chapter of NIRC of The ICSI organized a Study Circle Meeting on SEBI (Prohibition of Insider Trading) Regulations, 2015 on 27.08.2015. CS Meena Rohilla, Chairperson, CS G.S.Sarin, Vice-Chairman and CS Nitin Kumar, Treasurer of the Chapter discussed and explained the following Regulations with the members present in the meeting. What is Insider Trading, Legislative History, Significance, Role of Compliance Officer, What is New? What is Unpublished Price Sensitive information? Meaning of Connected Person Connected Person (Deeming Fictions), Restrictions of Communication, Restrictions of Trading & Defences, Onus of Proof, Trading Plans, Disclosure of Trading by Insiders, Initial Disclosures Code of Fair Disclosure, Code of Conduct, Minimum Standards of Code, Practical Aspects & Challenges and Role of Company Secretary. A good number of Company Secretaries attended the meeting and also participated in the discussions.

JODHPUR CHAPTER

7th Management Skills Orientation Programme

Jodhpur Chapter of NIRC of ICSI organized 07th MSOP between 27-07-2015 and 11-08-2015 at the Chapter premises. CS R K Punglia, Chapter Chairman in his welcome address informed about various new initiatives taken by the Chapter. He also briefed about achievement of Jodhpur Chapter since January 2015. He said that they are entering the profession when it is well known to everybody and there is no doubt in the minds of people regarding CS, earlier for people it was difficult to differentiate between personal Secretary & Company Secretary. Rajesh Gupta, Executive Officer while congratulating all



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the participants said that the MSOP training programme is designed to hone the skills of qualified professionals and acquaint themselves to work in corporate environment. The resource persons for the programmes included B K Sharma, Deepak Arora, Susshil Daga, Mohit Singhvi, P M Bhardwaj, K L Banarjee, Nipun Singhvi, Devendra Soni, Praveen Sharma, Susheel Choudhary and other academicians and industry representatives.

On 11.08.2015 at the Valedictory session CS R K Punglia congratulated all the participants for completing their last leg of Training i.e. MSOP. He said that the participants should learn the implications of New Companies Act, 2013. He also suggested that one should prepare in advance for facing the upcoming competition.

Arun Mehta, Senior Company Secretary was the Chief Guest of the valedictory session. While addressing the participants he quoted that in this competitive world the participant should always be updated with changes and try to improve their skills. He said that while discharging their duties the participants should also follow the moral and ethical values. He suggest them to diversify their area of work and not to be restricted only to a single law or field. At the End of the Programme the successful participants were awarded the certificate of participation and also various awards.

Professional Development Programme for Members

The ICSI Jodhpur Chapter organized a PDP for members on 6.8.2015 on "Secretarial Standards, Board Report & Annual Return". CS B.K. Sharma was the speaker of the session who in his address apprised the gathering about latest updates in the Companies Act 2013 & Secretarial Standards and also stated the Disclosures to be made in the Annual Return. He also stated the various precautions to be taken while preparing the Annual Return.

KANPUR CHAPTER Lecture on Financial Literacy

A session on Financial Literacy was addressed by the team of National Stock Exchange headed by Nishant Srivastava and Arun Shukla of Securities Exchange Board of India, Lucknow office.

Career Awareness Programme

On 16.07.2015 Kanpur Chapter of NIRC of the ICSI organized a Career Awareness programme at Purna Chand Vidya Niketan, School at Barra-2, Kanpur. CS Vaibhav Shukla, Vice-Chairman of the Chapter explained the recognition as well as role/position of Company Secretaries in a Company. CS Sameer Shukla, Coaching Director explained employment opportunities, avenues in practice, fee structure etc. Pamphlets explaining the CS course were distributed amongst the students and they were invited for registration in the CS Course and oral coaching facilities provided by the Chapter.

Webcast Seminar

One day Mega Seminar on "NCLT-A New Era to Corporate Adjudication" was held on 25.7.2015 at New Delhi. The Chapter webcast the same at its premises in Kanpur for the benefit of its members. A large number of members attended the programme.

Study Circle Meeting on E-Voting

On 31.7.2015 Kanpur Chapter organized a Study Circle Meeting (SCM) on Revised procedure of E-Voting. CS Ankur Srivastava, Chairman and CS Vaibhav Shukla collectively explained the revised concept read with the provisions of the Secretarial Standard-2 to the members and replied the queries raised by the members present.

NOIDA CHAPTER Classroom Series on Foreign Exchange Management Act

Noida Chapter of NIRC of the ICSI organized its Classroom Series on Foreign Exchange Management Act at Jaipuria Institute of Management Studies from 16.5.2015 to 13.6.2015. The Classroom Series was divided into 5 Classes on various topics of Interest of Members of the Institute. In the classroom series eminent faculty members came and shared their expertise on various topics with the Members. The sessions were interactive and Members actively participated and raised queries. As Foreign Exchange Management Act is an interesting topic and is having wide scope of good Learning, the Classes were prolific and fertile for Members of the ICSI.

In the 1st Class CS T. R. Ramamurthy shared his knowledge about FEMA Historical Perspective - FERA v. FEMA - differences; definitions under FEMA, Why FERA was draconian and FEMA is not so. Structure of FEMA - Current and Capital Account Transactions - adjudication procedures, offences by companies, sunset clause etc., overview of Provisions of FEMA.

In the 2nd Class CS Atul Mittal shared his knowledge about Establishment of Place of Business in India - e.g. setting up LO/ BO / PO / LLP/ Co. & Other Inbound Investment Policy framework in India and Opportunities of CS Foreign Domestic Investment - approval route procedures (companies, LLP) Foreign Domestic Investment - automatic route procedures including compliances.

In the 3rd Class CS T. R. Ramamurthy shared his knowledge on Raising of Foreign Currency Loans.

In the 4th Class CS T. R. Ramamurthy shared his knowledge about Overseas Domestic Investment - Automatic and Approval Route procedures External Commercial Borrowings.

In the 5th Class CS Atul Mittal shared his knowledge about Other regulations (Property acquisitions in India, outside India and individual transactions) Compounding of offences under FEMA.

Corporate Drive - Reach the Member of the Chapter



Noida Chapter of NIRC of the ICSI started Corporate Drive – Reach the Member for the benefits of Members and Students of Noida Chapter region. CS Alok Kumar Kuchhal, Chairman, CS Ravi Bhushan Kumar, Vice Chairman, CS Nisid Kumar Singh, Secretary and CS Kushal Kumar, Executive Officer of the Chapter visited the Offices of Companies and Practicing Company Secretaries for promoting the profession like training opportunities for the students and Job opportunities for the Members of the Institute and also Restoration of Membership of the defaulting members, promoting the Company Secretaries Benevolent Fund(CSBF) scheme by requesting the Non Members of CSBF to take the Membership of the benevolent fund.

VARANASI CHAPTER Career Awareness Programme

On 8.8.2015 Varanasi Chapter of NIRC of ICSI conducted Career Awareness Programme at Sunbeam School at their Campus. There were about 250 students from 10+2 Commerce and Science streams. Ashish Tiwari, In-Charge was the speaker who began his address with the role of Key Managerial Personnel (KMP) under the Companies Act, 2013. He also detailed the students about qualification, duration, structures, employment, importance, prospects of the CS Course and role of Company Secretaries and clarified the queries raised by the students during interaction session. Shefali Srivastava, Vice Principal also shared her views on emerging opportunities of CS Profession. The session was lively, interactive and well received by the students, faculties and doubts raised by them on the occasion were clarified.

SOUTHERN INDIA REGIONAL COUNCIL

Study Circle Meeting on Tamilnadu Vat Audit – Step by Step Approach

The ICSI-SIRC organized a Study Circle Meeting on Tamilnadu Vat Audit – Step by Step Approach on 3.7.2015 at ICSI-SIRC House, Chennai. CA Sampath-kumar V V, Chartered Accountant, Chennai was the speaker. A Synopsis about the TNVAT Audit presented is as under: Section 63-A, inserted by Act 18 of 2012 mentions about the VAT audit by an Accountant. The term "Accountant" means, a Chartered Accountant as defined in the Chartered Accountants Act, 1949 (Central Act 38 of 1949) or a Cost Accountant as defined in the Cost Accountants Act, 1959 (Central Act 23 of 1959). Section 63-A was made effective from 30.8.2012. According to this, a registered dealer whose total turnover including zero rated sales and interstate sales exceeds Rs. One Crore in a year shall get his accounts audited by a Chartered Accountant or Cost Accountant and submit a report before his assessing officer in the format WW within nine months from the end of the year and hence the due date expires in December every year. The format of audit report is to be in form WW. For the purpose of VAT Audit the Turnover limit is Rs One Crore which includes the TNVAT and CST turnovers. Taxable turnover and exempted turnover

under the TNVAT Act is to be aggregated with that under the CST Act 1956. The Audit report on form WW has to express opinion on various matters in the following manner: the books of accounts and other related records and registers maintained by the dealer are sufficient for the verification of the corrections and completeness of the returns filed for the year; the total turnover of sales declared in the returns included all the sales effected during the year, the total turnover of purchase declared in the return includes all the purchases made during the year; the deductions from the total turnover including deduction on account of sales return claimed in the returns are in conformity with the provision of the law; the adjustment to turnover of sales and purchase is based on the entries made in the books of accounts maintained for the year; the classification of goods sold rate of tax applicable and computation of output tax and net tax payable as shown in the return is correct; the computation of classification of goods purchased the amount of input tax paid and deduction of input tax credit claimed and reversed in the return is correct and in conformity with the provision of laws; the utilization of statutory forms under the Tamil Nadu Value Added Tax Act, 2006 and Central Sales Tax Act, 1956 is for valid purposes; and other information given in the returns is correct and complete. In addition to the above, the report to contain the summary of the results of Audit comparing the data like turnover ITC claim, reversal, etc. and the adjustment of ITC claimed towards VAT liability and CST liability etc. reported in the returns and that is in the books of accounts. The Audit report contains annexures. The annexures to the form WW Audit report contains general details format (part A), and in Part B various tables are prescribed. The details are

Table	Contains
12	Details of TNVAT taxable sales turnover rate of tax wise , purchases taxable turnover and exempted turnover
13	Details purchases taxable turnover and exempted purchases from all sources i.e., local inter-state etc.
14	Format of table showing details of each of the input tax credit reversals
15	Details of Inter-State taxable sales turnover rate of tax wise and exempted turnover
16	Details of Capital goods input tax credit claim
17	Details about dates filing returns and payment and for the delay if nay the workings for the delay and interest
18	Quantitative details
19	Ratios workings

The Auditor is also required to enclose (1) Descriptive Report of Non-compliance, Shortcomings and Deficiencies in the returns filed by the dealer (2) Copies of Trading and Profit and Loss account and Balance Sheet.

Video Discussion on Leadership Reach for the Stars

The ICSI-SIRC in association with Madras Management Association organized Video discussion on Leadership reach for the Stars on 16.7.2015 at ICSI-SIRC House, Chennai. The Session facilitator was K



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Parasuraman, Trainer. The video talks are about the leadership lessons from the Apollo mission that was put across by President Kennedy and NASA. It draws parallel and similarities on how the leadership principles for the Apollo mission can be used in any business environment with equal effectiveness. Leadership had always been thought to be a result of position but in reality it is a quality that can be learnt and developed over a period of time. This video teaches us how it is possible for individual to become a leader through his actions if he resolves to do so. He can achieve leadership status if he firmly believes in himself and his vision and if he is further able to communicate his belief to his people they would help him make it a reality. The video further adds how by giving hope to your people, being persuasive, being positive at times of struggle and by being persistent in your approach it can help you achieve success in any endeavour we attempt. The speaker mentioned that Leader gains authority and Manager gives authority. To become a leader one should visualize, raise expectations, commitment to goal, develop a bond of trust, clear definition, strong sense of purpose, be positive, more persuasive, be persistent. He highlighted that inspired Management is leadership and leadership means idealism in action.

National Seminar on Secretarial Standards

Inaugural Session: CS Ramasubramaniam C, Council Member, The ICSI & Programme Director in his welcome address, indicated that to advocate the need, concept, scope of Secretarial Standards amongst corporates, the seminar is organized at ICSI-SIRC House, Chennai on 18.7.2015. He emphasized that Section 118(10) of the Companies Act, 2013 mandates every company to observe Secretarial Standards with respect to General and Board Meetings specified by the Institute of Company Secretaries of India and approved as such by the Central Government. The Ministry of Corporate Affairs has accorded its approval to the Secretarial Standards on Meetings of the Board of Directors (SS-1) and General Meetings (SS-2) specified by the Institute of Company Secretaries of India (ICSI). The Secretarial Standards have been notified vide Notification No. ICSI No. 1(SS) of 2015 dated 23.4.2015 and published in the Gazette of India Extraordinary Part III Section 4 effective from 1.7.2015. CS Pavan K Vijay Past President, ICSI and Chairman Secretarial Standards Board, ICSI briefed the gathering on formulating of Secretarial Standards and informed that the Secretarial Standards have been formulated after wide consultation and there are representatives of RBI, SEBI, MCA, CII, FICCI, ASSOCHAM, BSE, NSE, ICAI and ICWAI on the Secretarial Standards Board.

CS Ahalada Rao V, Council Member, The ICSI addressed on value creation by Secretarial Standard.

CS Mamta Binani, Vice - President, ICSI while delivering the inaugural address said that around 9 lakh active companies in India will have to comply with these Secretarial Standards to be fully compliant under The Companies Act 2013. The Secretarial Standards would help ease of doing business, improved governance, confidence building in minds of investors, improved compliance level, ultimately leading to flow of capital in India, new projects, more modernization and expansion. The

Companies Act, 2013 casts duty on the Company Secretary to ensure that the company complies with the applicable Secretarial Standards. Further the Companies (Management and Administration) Rules, 2014 provide that Report on Annual General Meeting shall contain the details in respect to confirmation with respect to compliance of the Act and the Rules, secretarial standards made there under with respect to calling, convening and conducting the meeting, she added. Even the Secretarial Audit Report has to mention about compliance or non-compliance of Secretarial Standards. She also informed that with sound and reliable corporate procedures in the area of decision making, these Standards will boost the confidence of Investors and will help the corporate world in achieving the Prime Minister's initiative – "Make in India" and "Ease of doing business" in India by providing a benchmark on good governance.

The First Technical Session on An Analysis of Secretarial Standard on Meetings of the Board of Directors (SS-1): paving way for better Board processes was addressed by CS Ahalada Rao V., Council Member, ICSI and Member SSB. He emphasized that the Company Secretaries play a vital role in implementing various provisions of the new Act, which has dilated the opportunities of profession of Company Secretary. Company Secretaries in Practice have to ensure compliance of the secretarial standards for its clients. In an age of ever increasing regulation and demands on Boards, the importance of the governance role to be played by the company secretary is apparent. He added that it is critical that there be a skilled governance professional in place who can help the directors navigate fiduciary duties and facilitate Board effectiveness by allowing the board to focus on decision making and strategy, knowing that there is someone who is taking care of the day to day governance arrangements.

The Second Technical Session on Secretarial Standards: Enhanced Role of Company Secretaries & usefulness of Standards to Corporates & Professionals was addressed by CS Pavan Kumar Vijay, Past President ICSI and Chairman, Secretarial Standards Board. He said that Secretarial Standards issued by ICSI is an area in furtherance of good governance and would benefit the industry and the regulators and would help repose more confidence in the institutional investors about the adoption of robust board processes and systems in companies. All the active Companies (except One Person Company) in India will have to follow these standards, he informed.

The Third Technical Session on An Analysis of Secretarial Standard on General Meetings (SS-2): heralding positive changes in the decision making processes was handled by CS G P Madaan, Member, SSB and Founder & CEO, Corporate Knowledge Foundation and CS Alka Kapoor, Joint Secretary, ICSI. The speakers dealt at length on the Applicability of Secretarial Standards, Convening a meeting, Notice, Period for Sending of Notice, Quorum, Presence of Directors and Auditors, e-voting, Content of Notice for e-voting, Postal ballot, Withdrawal of Resolutions, Reading of Reports, Distribution of Gifts, Adjournment of meetings, Minutes, Specification of Report on Annual General Meeting by Listed Companies, Report on AGM, Recognition to CS under the Standards, Impact of exemption notification of private companies, Impact of exemption notification of government



companies etc.

There was an active participation by the Members and the clarifications sought were ably given by the speakers.

Study Circle Meeting on Practical Issues in Acceptance of Deposits

The ICSI-SIRC organized a Study Circle Meeting on Practical Issues in Acceptance of Deposits on 21.7.2015 at ICSI-SIRC House, Chennai. CS Ranjeet Kumar Pandey, (Council Member, The ICSI), Practising Company Secretary, New Delhi was the Speaker. The speaker dealt at length with Deposits – Glossary of Provisions/Amendments, Under Exempted Deposits – Key Issues the speaker explained Amount Received from CG/SG/ Statutory Authority [Rule 2(1)(c)(i)]; Amount received from Foreign Govt. International Banks, ADBs, etc. [Rule 2(1)(c)(ii)]; Amount received from Banks, Banking Companies or Co-operative [Rule 2(1)(c)(iii)]; Amount received from PFIs, Insurance Cos, Scheduled Banks [Rule 2(1)(c)(iv)]; Commercial papers or other Instruments [Rule 2(1)(c)(v)]; Inter Company Loan [Rule 2(1)(c)(vi)]; Shares application money or Advance against Shares [Rule 2(1)(c)(vii)]; Amount received from Director [Rule 2(1)(c)(viii)]; Bond/ Debentures [Rule 2(1)(c)(ix)]; Amount received from Employee [Rule 2(1)(c)(x)]; Amount received or held in trust [Rule 2(1)(c)(xi)]; Business advances/Security Deposit/for supply of Capital Goods [Rule 2(1)(c)(xii)]; Amount Received from Promoters [Rule 2(1)(c)(xiii)]; Amount received by Nidhi Company [Rule 2(1)(c)(xiv)]; Amount accepted prior to 01.04.2014 [Section 74]. He highlighted Permitted Deposits; Acceptance of Deposits; Conditions for Acceptance; Impact on Compliances as per the amended provisions; Forms & Particulars; Return of Deposit and Deposit/Loan – Summary. There was an active participation by the Members and the clarifications sought were ably given by the speaker.

Half Day Seminar on Negative Language under Company Law and its Impact and Related Party Transactions under the Companies Act 2013

The ICSI-SIRC organized a Half Day Seminar on the above topic on 25.7.2015 at ICSI-SIRC House, Chennai. CS Sridharan A M, Practising Company Secretary in Chennai was the speaker who dealt with at length the following topics and quoted various case studies.

Rules of Interpretation, several provisions in the Companies Act, 2013 which employ a negative language under sections 12(5), 19(1), 42(8), 55(1), 63(2), 67(1), 68(2), 70(1), 70(2), 71(2), 71(5), 73(1), 185(1), 186(2), 186(6), 186(8), 188(1), 192(1), 196(1), 196(2) and 196(3). Negative language under section 108(1) of the 1956 Act; section 56(1) of 2013; Transfer and transmission of securities; section 19(1); section 162(1); section 162(2); section 166(6); Section 17 in The Hindu Marriage Act, 1955.

CS Dwarakanath C, Past Chairman, ICSI-SIRC was the Speaker for the topic Related Party Transactions under the Companies Act

2013. He dealt with Relevant Provisions under Sections 2(76), 2(77), 134, 184, 188, 189, 192 and 193; The Companies (Specification of definitions details) Rules, 2014; The Companies (Meetings of the Board and its Powers) Rules, 2014 Circulars/Notifications/Removal of Difficulties Order and Secretarial Standards; Who is a Related Party and who is not a Related Party under Section 2(76); Who is a Relative – Section 2(77); who is a related party and who is not a related party – Section 2(76); Related Party Transactions – Threshold Limits, Restriction on Non-cash Transaction involving Directors [Section 192]; Prior approval of members required at a general meeting, for acquisition of assets for consideration other than cash by: a director of the company OR director of holding/subsidiary/associate OR persons connected with him, from the company; or the company, from such director or person connected with him. If director or person connected with him is a director of holding company, then prior approval by way of resolution passed at general meeting of holding company also required. Value of such assets shall be calculated by registered valuer. Notice of the general meeting shall include the particulars of such arrangement and value of the asset; Disclosure Norms and Consequences of Non-compliance. There was an active participation by the Members and the clarifications sought were ably given by the speakers.

Foundation Day Celebrations of ICSI-SIRC

The ICSI-SIRC celebrated its Foundation Day on 31.7.2015 at ICSI-SIRC House, Chennai. CS Nagendra D Rao, Chairman, ICSI-SIRC in his welcome address gave a brief background of the genesis of the SIRC being formed on 31.7.1971 and the journey travelled from then on till 2015; the various milestones in the history of SIRC, the dignitaries visited and the Members who occupied the Chair of the President and Chairman of SIRC. He recalled the contributions made by his predecessors due to which the Members are able to have a predominant position in the corporate world. He thanked all those who have contributed for the development of SIRC and Members and well-wishers of the profession. He then introduced the Chief Guest Hon'ble Justice P N Prakash, Judge, Madras High Court, Chennai to the Members and remarked that it was a great honour for the Members to have the Justice to preside over the Foundation Day Celebrations on an auspicious Day of the Guru Purnima, since the Justice himself is a person with passion for teaching.

Hon'ble Justice in his Foundation Day address expressed his gratitude for having been invited to be the Chief Guest for the Foundation Day Celebrations of ICSI-SIRC. While appreciating the role played by Company Secretaries, he said that the Company Secretaries are the custodian of all the legal framework of Corporates. He touched upon the important provisions of the Companies Act, 2013 which has given an exalted position to the profession of Company Secretaries. He also observed that the Companies Act has come at a stage when the businesses are at stake and ethics and governance are the hallmarks of good companies. He discussed the definition of fraud as envisaged under Section 447 of the Companies Act, which is wider than the definition provided in the Indian Penal Code and hence cautioned the



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professionals to be diligent while discharging their professional duties. He complimented the SIRC for the various activities as outlined by the Chairman and wished the profession great heights in the years to come. Hon'ble Justice also distributed prizes to the winners of various sports events conducted by SIRC on 19 and 25.7.2015.

BANGALORE CHAPTER **Full Day Seminar on Focus on Shareholders**

Bangalore Chapter of SIRC of ICSI organized a full day seminar on Focus on Shareholders on 11.7.2015 at the Chapter premises.

First Technical Session: CS Gururaj, Deputy General Counsel & Company Secretary, ABB India Ltd, Speaker for the First Technical Session on "Power of Shareholders under New Companies Act, 2013" informed the gathering that in Indian Scenario, Shareholder Activism is largely driven by the shareholding pattern of the Company. He informed that shareholdings in most of the Indian giants is characterized by block holders – mainly of three categories, viz., Promoters, Financial Institutions and Corporates, explaining Controlling v. non-controlling. Generally block holders are able to push their agenda hurting the interest of minority shareholders as minority shareholders have little or no access to crucial information which would support or oppose any decision. He explained that in the Indian scenario legal recourse for protection is cumbersome and costly. Explaining the emergence and trends of shareholder activism the speaker informed Corporate Governance in Clause-49 is focused on protecting non-promoters' interest, transparency and adequacy of information to shareholders/investors and are main pillars of Corporate Governance requirements which encouraged non-promoter shareholders voicing their concern in the general meetings. He informed except Clause-49, till the new Companies Act came into force, there was no other law specifically focused on shareholder protection. The Speaker while explaining the legal framework for ensuring powers to shareholders stated that New Companies Act, 2013, provides various powers to shareholders, by way of new provisions and by enlarging the scope which existed in 1956 Act. He informed SEBI Act, 1992 Streamlining Rules for issue of securities, Regulating share acquisitions – SAST Regulation, Listing Agreement – in particular Clause-49. The speaker also explained the gathering on various sections of Companies Act 2013 with respect to shareholders. The Speaker informed the Role of Company Secretaries – both in employment and as a practicing professional to make sure Legislation relies on CS profession for good governance. Management relies on the knowledge and skills of CS. For CS – both promoters' interest and non-promoters' interest is of equal importance. He urged the gathering present that the thumb rule of CS profession is to be always on the right side of the law and maintain good relations with Investors/Associations/groups.

Second Technical Session: The Second Technical Session of the programme was addressed by C S Harisha, Manager, CSDL on topic "E Voting". The Speaker started the session with introduction of CSDL and CSDL e voting System. The speaker informed the gathering on the

scope, registration, managing users, reports, benefits to shareholders, and all information with respect to the entire e voting process before concluding his session.

Third Technical Session: The Third Technical Session during the programme was taken by CS Rajesh S Narang, Corporate Management Advisor, on "Conducting Shareholders Meetings in light of SS 2". He explained that every Member entitled to vote on a Resolution and present in person shall, on a show of hands, have only one vote irrespective of the number of shares held by him. He continued if a resolution proposed undergoes modification pursuant to a motion by shareholders, the minutes shall contain the details of voting for the modified Resolution. The Speaker informed that the corporates have to follow stringent norms such as providing detailed explanation on implications of particular resolutions while conducting shareholder's meetings.

Study Circle Meeting on Key Principles of Investment Contracts

Bangalore Chapter of SIRC of ICSI organized a Study Circle Meeting on Key Principles of Investment Contracts on 16.7.2015 at the Chapter premises. The Study Circle Meeting was presided over by CS Haribabu Thota, Vice Chairman, Bangalore Chapter, CS Ranganath Chenna, Partner, Ranga & Associates, Bangalore. Speaking on the occasion the speaker informed the gathering on purpose and uses of Investment Contracts, explaining that the Companies Act provides for rules and regulations which may be specified in the Articles of a company. It also provides that certain companies may lay their own rules and regulations as close as possible to the provisions of the Companies Act or within the exemptions provided in the Companies Act. Investment Contracts is used to provide for a different set of regulations to the extent permitted by the Companies Act and any other legislations. Certain confidential matters may be specified in the Investment Contracts, rather than in Articles. Articles being a public document, it doesn't protect confidentiality, regulate any special rights, for instance, further financing, parties to Investment Contracts may require a few activities to be undertaken prior to incorporation of a company. In the absence of company, these terms could only be specified in Investment Contracts. Explaining the gathering on Rights to Shareholders the speaker informed Pre-emptive rights/ Right of First Refusal are anti-dilution rights, usually given to the minority shareholders to protect their shareholding from being diluted. Tag along rights are rights which minority shareholders seek in the Investment Contract. Tag along gives them a right to tag their shares and sell to the same purchaser to whom majority shareholder has its shareholding. Drag along rights are sought by majority shareholders to enhance liquidity and valuation of shares. Drag along gives a right to majority shareholders to seek minority shareholders to sell their shares to the same purchaser to whom they are selling their shares. Call Options are rights available to majority shareholders. These options provide a right, but not an obligation; to seek the sale of shares held by minority shareholders. Put Options rights are available to minority shareholders. These provide a right, but not an obligation, to seek majority shareholders to buy the shares of minority shareholders. The Speaker also informed



the gathering on affirmative rights, representation and warranties, indemnity, remedies for breach of terms of the Investment contracts, arbitration before concluding his session.

Peer Reviewers Training Programme

The ICSI and Bangalore Chapter organized Peer Reviewers Training on 25.7.2015 at the Chapter premises. The Programme was presided over by CS Dattatri H M, Chairman, Bangalore Chapter and CS Vivek Hegde, Chairman, PCS Committee & Member Managing Committee, Bangalore Chapter. The Programme was attended by 17 Practicing Company Secretaries from Bangalore.

The first half of the programme was addressed by CS V Sreedharan who took sessions on Overview of Peer Review, Office Administration and Systems in the Office of PCS, Carrying out actual attestation assignments covering: Certification and/or Signing of Annual Return under the Companies Act, 2013 & Issuance of Secretarial Audit Report in terms of Section 204 of the Companies Act, 2013, Compliance Approach & Substantive Approach.

The 2nd Half of the programme was addressed by CS Sudhir Babu C, Former, Central Council Member of the Institute who took sessions on Carrying out actual attestation assignments, Issuance of Certificate of Securities Transfers in Compliance with the Listing Agreement with Stock Exchanges & Certification under Clause 49 of the Listing Agreement, and ICSI Code of Conduct and significance of the same.

After the session CS Sudhir Babu C interacted with the participants and replied the queries raised by them. Certificates were given to the participants at the end of the programme.

Career Awareness Programmes

The Bangalore Chapter of SIRC of the ICSI conducted six Career Awareness Programmes at various institutions. On 4.7.2015 at SSRVM College attended by nearly 200 B.Com first year students. Addressed by Vivek Hegde, Member, Managing Committee, Bangalore Chapter; Maitreya Juluri, Executive Officer and Noor Sumayya, Asst. Education Officer. On 23.7.2015 at MS Ramaiah College for BBA first year students - attended by around 85 students. Again on the same day another programme was held at MS Ramaiah College attended by 75 students of BBA 1st year. Maitreya Juluri, Executive Officer and Noor Sumayya, Asst. Education Officer addressed the participants of both the institutions. On 11.7.2015 the career awareness programme was held at Sri Medha Degree College, Bellary for BBM and B.Com students - attended by 190 students. CSVP.R. Krishna Murthy- Member ICSI & P.A. Vishnu Kumar- Pursuing CS were the speakers. The Speakers explained in detail the course offered by the Institute, eligibility criteria for admission to the course, examination, requirements of training etc., the role of a Company Secretary and importance of the profession of Company Secretary in the changing economic scenario. They also highlighted the opportunities available to anyone who has completed the Company Secretaryship course and further enumerated the emerging areas of practice and the changing role of Company Secretary in relevance to the Companies

Act 2013. The speakers also focused on what would be the mindset and preparation required from a student who wanted to pursue the Company Secretaryship Course. Brochures explaining brief details of the Company Secretaryship Course were distributed to the students.

Times Education Boutique Career Fair

Bangalore Chapter of ICSI participated in Times Education Boutique Career Fair on 9 and 10.5.2015 at BIEC, Bangalore. The Exhibition had around 30 stalls from various colleges and universities like Hindustan Avionics, Indiana University of Pennsylvania, Singhad University, Pune, Amity University, etc. who participated in the Career Fair. The ICSI stall was decorated with banners, posters and standees of ICSI. Pamphlets and brochures explaining CS course were displayed in the stall. The Stall was manned by Maitreya, Executive Officer and V S Raju Sr. Assistant, on both the days. Brochures were also distributed to those who did not visit the ICSI stall, for information and brand building of ICSI and CS Course.

Open House Session – Revisiting Companies Act 2013

The Open House Sessions on revisiting Companies Act 2013 was presided over by CS G V Srinivasa Murthy, Past Chairman, Bangalore Chapter on 30.5.2015 & 4.6.2015 on “Appointment and Remuneration of Managerial Personnel”.

The Programme was presided over by CS Hari Babu Thota, Vice Chairman & CS Rekha Kamath, Treasurer of Bangalore Chapter who invited the speaker to the dais.

Guest Speaker CS G V Srinivasa Murthy started his session by explaining Section 196 - Appointment of managing director, whole time director or manager by informing that the section applies to both public and private limited companies. The Speaker while explaining the tenure of appointing and re-appointing informed that Tenure of appointment or re-appointment of MD/WTD/Manager shall not exceed a period of 5 years at a time, and re-appointment can be made 1 year before the expiry of the term. He informed that the individual should be of minimum 21 years of age and should not be older than 70 years. An individual older than 70 years be appointed if approved by a special resolution passed by shareholders at a general meeting, and an explanatory Statement should be given as justification for the appointment. The Speaker informed subject to Section 297 and Schedule V, the appointment, terms and conditions and remuneration payable should be approved by the Board at a meeting which shall be subject to approval by a Resolution at the next general meeting. The Speaker while explaining Notice of Board Meeting and General Meeting informed that the notice of board meeting shall include terms and conditions of appointment, remuneration payable and such other matters including interest of a director or directors in such appointments. The Speaker also informed that e-form No. MR-1 needs to be filed with ROC within 60 days of appointment. The Speaker while explaining remuneration informed that Remuneration payable to directors (including Managing Director, Whole Time Director and Manager) in a financial year shall not exceed 11% of the Net Profit of



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that year, and a company may pay remuneration in excess of 11% of the Net Profit with the approval of the shareholders at a general meeting and the Central Government subject to Schedule V of the Act. The Speaker also informed a company may pay remuneration with the approval of shareholders at a general meeting: to any one managing director or whole time director or manager in excess of 5% of the net profit in a financial year and if there is more than one such director (MD/WTD) to all of them put together in excess of 10% of the net profit in a financial year. Remuneration paid to non-executive directors shall not exceed 1% of the net profit in a financial year if the company has appointed a MD/WTD or Manager. Maximum remuneration paid to non-executive directors if there is no MD/WTD or Manager is 3% of the net profit in a financial year, Sitting Fee may be paid over and above the % remuneration mentioned above as per Rules - Chapter XIII-Rule No. 4. The Speaker informed that in the event of loss or inadequacy of profits in any financial year remuneration to the managing or whole time director or manager may be paid only in accordance with the provisions of Schedule V of the Act. If a company is unable to comply with the provisions of Schedule V then it shall obtain prior approval of the Central Government. Payment of sitting fee may be paid even in the event of loss or inadequacy of profits. Remuneration payable to MD/WTD/Manager may be determined subject to or in accordance with provisions of Section 197 by Articles or by ordinary resolution or a special resolution passed at a General Meeting. The remuneration payable to MD/WTD/Manager shall be inclusive of the remuneration payable to him for the services rendered by him in any other capacity except under certain cases. The Speaker informed that if a director is paid remuneration in excess of the limit stipulated in this Section or without the prior approval of the Central Government where required, he shall hold it in trust for the company until refunded to the company. The Speaker also informed that a Listed Company in its Directors' report shall include the ratio of the remuneration of each director to the median employee's remuneration and other details as prescribed in Rule 5 of the Companies (Appointment & Remuneration of Managerial Personnel) Rules, 2014 and Insurance premium paid for policy taken for indemnifying any of them against any liability in respect of any negligence, default, misfeasance, breach of duty or breach of trust for which they may be guilty in relation to the company shall not be treated as part of the remuneration unless he is proved guilty. The Speaker also explained the participants on disclosures, SECTION IV: Perquisites not included as part of Remuneration, Provisions applicable to Parts I and II of Schedule V, payment of compensation for loss of office, factors for approving managerial remuneration before concluding his session.

Another Open House Session on revisiting Companies Act 2013 was held on 5 and 6.6.2015 on "Dividend and Accounts and Audit and Auditors". The session was presided over by CS Gopalakrishna Hegde, Council Member, The ICSI and CS Hari Babu Thota, Vice Chairman, Bangalore Chapter.

CS Gopalakrishna Hegde, Speaking on the occasion informed the gathering on Analysis of provisions relating to Accounts under Companies Act, 2013 wherein he explained all the points of Chapter

IX (from Section 128 to 138 and Rules made thereunder) of the Companies Act 2013 which deals with the provisions relating to Accounts of Companies. The Speaker also made an analysis of the provisions relating to Dividend under Companies Act, 2013 wherein he explained all the points of Chapter VIII (from Section 123 to 127 and Rules made there under) of the Companies Act 2013 which deals with the provisions relating to Dividends.

Seminar on Transfer Pricing

Bangalore Chapter of ICSI conducted Seminar on "Transfer Pricing" on 13.6.2015 at the Chapter premises. The Programme was presided over by CS Dattatri H M, Chairman, Bangalore Chapter, CS Rekha Kamath, Treasurer, Bangalore Chapter and Chief Speakers CA Suchint Majumdar, Partner, BMR & Associates, LLP and CA Mahendra Kumar, Associate Director, BMR & Associates, LLP.

CA Suchint Majumdar and CA Mahendra Kumar, speaking on the occasion made an overview of Transfer pricing informing that India is ranked as No. 2 toughest tax authority in the world for transfer pricing & India is estimated to account for about 70% of all global TP disputes by volume. They informed that on an average Transfer Pricing adjustments are made on > 50% of cases picked up for scrutiny. The Speakers informed since the introduction of transfer pricing regulation in 2001 – the Revenue authorities have made adjustments of approximately USD 20 billion. The Speakers also informed the gathering on the statistics of Transfer Pricing Adjustments from the year 2004 to 2015 informing that in the year 2004-05 the number of Transfer pricing Audits completed were 1061 out of which 239 cases were adjusted. They informed that 4021 transfer pricing audits were completed in the year 2014-15 out of which 2352 cases were adjusted. Transfer pricing refers to the pricing of cross-border transactions between entities in a group of companies (associated enterprises), It applies to transactions between associated enterprises operating in different tax jurisdictions, when two related entities enter into any cross-border transaction, the price at which they undertake the transaction is 'transfer price', Price between unrelated parties in uncontrolled conditions is known as the "arm's length" price (ALP). The Speakers also informed the gathering on International transactions, specified domestic transactions, overview of transfer pricing methods, comparability analysis, methodologies along with case studies before concluding their session.

Campus Recruitment

Towards bridging the career gap for CS students in getting Apprenticeship/ Management training, the Bangalore Chapter conducted Campus Recruitment specifically for trainees on 16.6.2015 at the Chapter premises. There were a record number of 36 companies and firms who participated in the recruitment drive for a total requirement of 61 trainees all together. Around 75 candidates participated in the event. Every student was given an option of attending interview in any 8 companies/firms of their choice. Most of the students were shortlisted in more than 2 to 4 companies/firms. There was plethora of options for both students and employers to choose, which was very well appreciated by the participants and also Employers. Prolific



Campus Recruitment of Trainees was successfully conducted under the guidance of CS H.M Dattatri, Chairman of the Chapter & CS Hari Babu Thota, Vice –Chairman& Chairman, Placement Sub-Committee of Bangalore Chapter along with the intrinsic support of Maitreya Juluri, Executive Officer; Chapter staff and Event Coordinator Noor Sumayya Assistant Education Officer of the Chapter Office.

Career Awareness Programme

Bangalore Chapter of ICSI conducted a Career Awareness Program at GRV Academy on 30.6.2015 which was attended by 80 12th standard students. Maitreya, Executive Officer, Bangalore Chapter and V.S.Raju, Sr. Asst., Bangalore Chapter were present on the occasion. Presentation was made about the CS course and its prospects. Brochures and Pamphlets explaining CS Course were also distributed among the students and posters were also displayed in the collegenotice board.

21st Mangement Skills Orientation Programme

The Bangalore Chapter of the ICSI inaugurated the 21st Management Skills Orientation Programme (MSOP) on 4.6.2015. Binu Verghese, Chief Executive Officer, The Pilgrim Walk, Training & Development Centre, Bangalore was the Chief Guest who inaugurated the programme. The Chief Guest during his address shared his journey of being a Sales Executive at the start of his career to a position of Managing Director of a Company. He shared with the candidates how his hard work and dedication towards job responsibilities took him to the greater heights of his career to serve one of the reputed companies as Managing Director. He also shared with the candidates various occasions in his life where adherence to ethics played a vital role in his rapid career growth, he insisted that at any given point of time professional ethics is something you should never compromise with. He then advised the participants to be solution oriented and to ensure no conflict of interest and insisted to be polite and firm as ones attitude decides altitude.

The 15 days MSOP was concluded on 20.7.2015, where Swetha Jiana and Namratha Maheshwari participants, shared their feedback about the MSOP Programme. CS H. M Dattatri, Chairman, Bangalore Chapter of the ICSI distributed the prizes for the Best Project to the team consisting of Ruchika Kalyani, Vijayalakshmi V Patil, Aruna Kannan and Sriram Venkatraman for their Project on “Directors Report”. The Best Presenter Male & Female award went to Sriram Venkatraman and Eti Basaniwal respectively. Lastly the Best participant award was bagged by Aruna Kannan and course completion certificates distributed to all the 32 participants.

40th Regional Conference of Company Secretaries on Meeting the Challenges - Setting the Standards

Inaugural Session: The ICSI – SIRC organized the 40th Regional Conference of Company Secretaries on “Meeting the Challenges – Setting the Standards” on 19 and 20.6.2015 at Bangalore. The

Chief Guest was N. Sivasailam, IAS, Additional Chief Secretary to Govt. Public Enterprises Department, Govt. of Karnataka and Suresh Senapathy, Board Member of Wipro Enterprises Pvt. Ltd. and Wipro GE Health Care Ltd., Bangalore was the Key-note speaker. CS Mamta Binani, Vice President, The ICSI, delivered the special address.

CS Gopalakrishna Hegde, Central Council Member, The ICSI while introducing the theme of the Conference gave a call to challenge one’s limitations and overcome challenges in the journey of transforming as an evolved professional.

CS Mamta Binani, Vice President, The ICSI in her special address rightly pointed out that the theme “Meeting the Challenges – Setting the Standards” is not only the theme for the day or for the conference, but the theme has impact on lifetime. Stating this she set the right tone for the two day 40th Regional Conference. She also rightly pointed out that CS members are fully equipped to meet the standards of the industry and commerce and the need of the hour is that CS members are required to rebound themselves so as to face challenges with confidence and poise.

N. Sivasailam, IAS released the souvenir brought out on the occasion of the 40th Regional Conference of Company Secretaries.

Suresh Senapathy, Board Member of Wipro Enterprises Pvt. Ltd. and Wipro GE Health Care Ltd., Bangalore while addressing called upon Company Secretaries to play a proactive role in guiding start-ups and big companies alike and highlighted the need for value added services by Company Secretaries who are now elevated as Key Managerial Personnel under the new Act. He raised many issues impacting the economy and society ranging from infrastructure, digital India, Social Media, 3D Manufacturing, Innovation etc. He also highlighted how disruptive technologies are changing our lives, how demographic dividend could turn into demographic liabilities if we do not gear up. He also emphasized the need for Company Secretaries to rise upto the challenges in the global economy.

N. Sivasailam, IAS, Additional Chief Secretary to Government Public Enterprises Department, Government of Karnataka in his inaugural address raised many critical issues concerning the role of Company Secretaries as a Key Managerial Personnel and as a practitioner. He called upon Company Secretaries to devise ways and means to provide assistance and guidance to small businesses and MSMEs to provide professional support at competitive prices. Sivasailam advised Company Secretaries to be cautious while auditing and certifying decisions and opinions which could eventually be subject to scrutiny under RTI and called upon the Institute to set standards that are pragmatic to implement and add value to the business.

First Technical Session – Board of Directors Report and Annual Return: Dr. CS B. Ravi, (Past Chairman, ICSI - SIRC), Practising Company Secretary, Chennai was the speaker who in his address elaborated the compliance and consequences of Board’s Report and caution to be exercised in preparation and certification of Annual Return.



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Second Technical Session – Secretarial Standards- 1 & 2: CS Sethuraman K, Chief Compliance Officer and Group Company Secretary, Reliance Industries Limited, Mumbai was the speaker of the session who in his address explained why Secretarial Standards and Advantages of Secretarial Standards. He then explained in detail the Secretarial Standards - 1 and 2.

Third Technical Session – Recent Changes in Foreign Exchange Management Act, 2000: CS R. Sridhar, Partner, LeapRidge Advisors LLP, Chennai was the speaker who in his address started with changes in structure of FEMA. He then highlighted the recent changes in current account transactions, capital account transactions and Overseas Direct Investments.

Cultural Programme: Coinciding with the Regional Conference a Cultural Programme was organized in the evening on 19.6.2015. Yakshagana: Kalayavana Kalaga by Vinayak Hegde and Team and Bharatanatyam by the students of CS - Maitri Bhat, Pooja Hegde and Ashwini Bhat.

Fourth Technical Session – Panel Discussion on Proposed Clause 36 and revised Clause 49 of the Listing Agreement: P.K. Nagpal, Executive Director, Security Exchange Board of India, Mumbai chaired the session and Dr. V.R. Narasimhan, Chief – Regulations, NSE, Mumbai was the key-note speaker.

First Panel Discussion on “Critical Evaluation of Clause 49” - Dr. V.R. Narasimhan, Chief – Regulations, NSE, Mumbai, B.N. Sahoo, General Manager, SEBI and CS Parvatheesam Kanchinadham, Company Secretary, Tata Steel, Mumbai were the panelists.

Second Panel Discussion on “Disclosure based on Materiality and Prize Sensitiveness” (Proposed Clause 36) - Harini Balaji, Deputy General Manager Security Exchange Board of India, Mumbai, CS Savithri Parekh, Chief Legal & Secretarial, Pidilite Industries Ltd., Mumbai and CS Shailashri Bhaskar, Practising Company Secretary, (Former DGM, SEBI) Mumbai were the panelists. Jayanth Jash, Chief General Manager, SEBI gave closing remarks.

Fifth Technical Session – Secretarial Audit and Board Evaluation: CS Savithri Parekh, Chief Legal & Secretarial, Pidilite Industries Ltd., Mumbai and Sandip Ghose, Director, National Institute of Securities Markets (NiSM), Mumbai were the speakers.

CS Savithri Parekh began her address with responsibility and that with power comes greater responsibility. She advised to be an expert on structural level and not on individual level, and be aware of the application of laws to industries sector, the responsibility of Board. CS Savithri Parekh also observed that MR 3 is only a format.

Sandip Ghose, in his address explained the need for Board Evaluation, Legal Framework in India, Board Evaluation Methodologies. He also listed out the disclosures and steps for board evaluation and briefed on the Evaluation process adopted in the West.

Valedictory Session: His Holiness Sri Veereshananda Saraswathi

Swamiji, Ramakrishna Vivekananda Ashram, Tumkur was the Chief Guest for the Valedictory Session of the 40th Regional Conference of Company Secretaries.

His Holiness Sri Veereshananda Saraswathi Swamiji shared his blissful thoughts in relation to education, humanity, spirituality, wisdom, etc. Swamiji beautifully enumerated how human thoughts lead to Habit; Habit leads to Character; and how character leads to the ultimate destiny of a man.

CALICUT CHAPTER

Professional Development Programme

Calicut Chapter of SIRC of ICSI conducted a one day Professional Development Programme on 1.8.2015. The morning session covered “Duties and liabilities of KMPs and other Directors in the ERA of Secretarial Audit” handled by Dr. KS Ravichandran, FCS. The Afternoon Session on “Changes in Directors report and annual report with regard to Companies Act 2013” was addressed by KP Satheeshan, FCS. A good number of members and students benefitted from the programme.

Independence Day Celebrations

India's 69th Independence Day was celebrated by the Chapter with great devoutness. On the day Members and students numbering around 30 gathered at the Chapter premises to commemorate the day. CS Utham Kumar U K, Chapter Chairman unfurled the National Flag which was followed by rendition of National Anthem. Chairman, Vice-Chairman and Students Facilitation Committee Chairman addressed the gathering and shared their views on values of freedom and patriotism.

Onam Celebration

On 22.8.2015, the Calicut Chapter of SIRC of ICSI celebrated Onam. Onam is the most popular festival of Kerala, celebrated with a great enthusiasm throughout Kerala. Every year this festival falls on the Malayalam month of Chingam - between August and September and also known as the harvest festival of Kerala. On the occasion senior members, newly qualified members and students who won accolades for extracurricular activities were honoured on the day. As part of the celebrations, various cultural programmes were organised by students and the day also saw a variety of games in which members also participated. The main highlights of the celebrations were Chendamelam and Orchestra. This by far, was one of the best programmes organised at the Chapter with students and members totalling to more than 80 numbers attending the function.

COIMBATORE CHAPTER

Career Awareness Programmes

On 24.07.2015, Coimbatore Chapter of SIRC of ICSI conducted a Career Awareness Programme at Nirmala College for Women, Coimbatore. CS G. Balasubramaniam, Past Chairman of the Chapter



explained about the opportunities and responsibilities of the Company Secretaries. He also explained the CS course in detail, the mode of registration, syllabus, structure of the course and the opportunities available after completion of the Company Secretaryship Course both in employment and in practice. He also highlighted the recent changes in Companies Act and stressed upon the importance and role of Company Secretary under the clause Key managerial personnel under Companies Act 2013. Nearly 300 students from all B. Com stream of the college attended the Career Awareness Programme. The queries raised by the students were aptly replied by the speaker.

Again on 21.08.2015, the Chapter conducted a Career Awareness Programme at Rathinam College of Arts and Science, Coimbatore. CS R Venkateswaran, Chairman, Coimbatore Chapter of SIRC of ICSI and CS R Hariram, Company Secretary, Suguna Holdings Pvt Ltd. addressed the students. The opportunities available after completion of the Company Secretaryship Course both in employment and in practice and also the new opportunities available under the Companies Act 2013 were explained in detail. The mode of registration, syllabus, course contents, fee structure, placement services and oral coaching facilities being provided to the students were also explained. Around 300 students from Dept. of Commerce attended the Career Awareness Programme. The queries raised by the students were aptly replied by the speaker.

Independence Day Celebration

Coimbatore Chapter celebrated Independence Day on 15.08.2015 at its premises.

Investor Awareness Programme

Coimbatore Chapter of SIRC of ICSI organized "Investor Awareness Programme" jointly with Nehru Arts & Science College, Coimbatore at their college premises on 18.08.2015. The programme was held under the aegis of Investor Education & Protection Fund, Ministry of Corporate Affairs, Government of India. N Ramanathan, Registrar of Companies, Coimbatore was the Chief Guest and the special address was given by V.E. Josekutty, Deputy Registrar of Companies, Coimbatore.

CS R Venkateswaran, Chapter Chairman explained the objective of the programme and the role of the Institute in organising Investor Awareness Programmes across the country with the support from the Ministry.

CS AR Ramasubramania Raja, Vice Chairman of the Chapter while introducing the Chief Guest briefed the necessity of Investor Awareness Programme and also highlighted the importance of awareness amongst students, inculcating savings habit in the interest of family and nation.

Chief Guest N Ramanathan, Registrar of Companies, Coimbatore provided a clear view on Indian Economy and its growth. He also suggested various stages, when and what amount to invest depending upon the risk appetite of the investors. He also highlighted basic pros and cons to be considered before taking any investment decision and

suggested the gathering to visit the site of MCA at an interval to get better understanding about the different policies of Ministry of Corporate Affairs towards common investors.

V.E. Josekutty, Deputy Registrar of Companies, gave an introduction regarding the need of Investor Awareness Programme throughout the nation and the role of Government in spreading the awareness amongst general public. He further emphasized the need of awareness for investments among public, especially the students in proper channels and wise decisions to be taken depending upon the requirements. He also focused on and explained the investment opportunities, financial planning, precautions to be taken by the investor before making investment, mode of making complaints to SEBI, role of SEBI towards investor protection, the redressal agencies, etc. There was a question hour session for the investors wherein various queries raised by the participants were ably replied by the speakers of the programme.

KOCHI CHAPTER Independence Day Celebrations

The 69th Independence day was celebrated by the Kochi Chapter of SIRC of ICSI on 15.8.2015. The programme started with the rendition of "Vandematharam" followed by the flag hoisting by Nagendra D Rao, Chairman, SIRC. He also addressed on the occasion and shared his experiences and thoughts. Kochi Chapter Chairman CS S.P Kamath and CS Jayan K gave the Independence Day message. The response to the event was overwhelming.

Onam Celebrations

Kochi Chapter of ICSI along with the Student's Forum of Kochi Chapter convened the Onam celebrations on 24.8.2015 at the Chapter premises. The programme was graced by CS S.P Kamath with his enlightening words. After lighting of the lamp ceremony, CS Arun K Kamalobhavan also shared his Onam experience and briefed about the importance of Onam and the true meaning of the celebration. The programmes included Onapattu, Dance, and lots of informal games like arm wrestling, musical chair, Bun eating contest etc. to mention a few.

SALEM CHAPTER Investor Awareness Programme on Fundamentals of Stock Market

On 31.7.2015, an Investor Awareness Programme on Fundamentals of Stock Market was organized by the Salem Chapter of the ICSI jointly with National Stock Exchange of India Ltd., Chennai at MCA Conference Hall, Sengunthar Arts and Science College, Tiruchengode, Namakkal District. About 150 persons participated in the programme. Er. R. Rajasekaran, Secretary & Correspondent of the College presided over the programme and explained the need for conducting such type of awareness programmes. He also explained the right investment options by analyzing the company before investing the money. Sivaraman, Asst. Manager, National Stock Exchange of India



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Ltd., Chennai in his key note address explained the role and functions of the National Stock Exchange of India Limited. He also explained the fundamental concepts of stock market and highlighted the ETF, Gold ETF, Mutual Fund, NSE CPSE Index, derivatives trading, Currency trading, etc. to the gathering. The online trading introduced for the first time in India and how the stock exchanges played a key role in the securities market in enhancing the speed and accurate delivery of instruments and cash and how it helped the buyers and sellers of instruments through the stock exchange portal were also explained. The speaker also explained the role of SEBI in the present market. The presentation was more informative to the participants. There was a good and lively interaction from the participants and their doubts were clarified.

Career Awareness Programme

On 31.7.2015 a Career Awareness Programme about CS Course was conducted by the Chapter for the Students of MBA, M.Com (CS) & BBA at Sengunthar Arts and Science College, Tiruchengode, Namakkal District. During the programme a Power-point presentation was made which highlighted all the details about the CS course viz., stages, duration, eligibility, fee details, dates for registration, subjects, mode of registration, etc. Also the details of oral coaching, scholarship for deserving candidates, paper wise exemption and awards for outstanding performance in the examinations for eligible candidates and availability of placement service after passing the CS examinations were explained. The scope of employment opportunities available and salary package offered by employers were also explained. After completion of the CS course there are two options – either go for employment or go for practice. Practicing Company Secretaries can play a vital role in the corporate field, banking and insurance sectors, legal issues, valuer, etc. During the interaction it was explained that the syllabus is in tune with the challenging scenario in the globalized economy and determination, hard work and self-confidence will certainly help them to attain their goal of becoming efficient Company Secretaries.

THIRUVANANTHAPURAM CHAPTER

National Seminar on Secretarial Audit and Secretarial Standards

The Chapter conducted the National Seminar on Secretarial Standards and Audit on 19.7.2015 at Thiruvananthapuram. The programme started with the welcome address by the Chairperson of the ICSI Thiruvananthapuram Chapter CS Jayasree C.O.

The Chief Guest of the National Seminar was A.Sampath, Member of Parliament who inaugurated the Seminar. Thereafter President Atul Mehta, CS Pavan Kumar Vijay, CS Ramasubramanyam, CS Ahalada Rao, the Chairperson CS Jayasree and the Thiruvananthapuram Chapter Secretary CS Jeevan Varghese addressed the gathering.

After the inaugural address by A. Sampath, the Opening remarks were made by CS Ahalada Rao, Council Member of ICSI and a Member of the Secretarial Standards Board. The Key Note address was given by CS Pavan Kumar Vijay, Chairman of the Secretarial Standards Board and Former President of ICSI. The inaugural session ended with the Presidential Address by CS Atul Mehta.

After the inaugural session five past Chairmen and Secretaries before 1990 of the Chapter were honored. The members who were honoured on the occasion were CS Raman Pillai (absent due to ill health), CS Harshan, CS Narayanan Nair, CS Hariharan and CS N.C Nair.

The next session on “Secretarial Audit: Board Procedures in line with SS-1” was handled by CS R. Venkata Ramana, Practicing Company Secretary and proprietor of RVR Associates, Hyderabad. The next was a Question-Answer session on Secretarial Standards and the queries raised therein were replied by CS Ahalada Rao. During the break for lunch, in between a musical fusion program was conducted by the musical band “Rhythm Divine”.

The next technical session on “Secretarial Audit which included Fraud Reporting, Ensuring compliance with SEBI Regulations and Audit Principles” was handled by CS Ramakrishna Gupta Racharla, a member of SIRC, a Practicing Company Secretary and senior partner of M/s R & A Associates in Hyderabad.

The final session of the seminar on “An Analysis of Secretarial Standards on General Meetings (SS-2) heralding positive changes in the decision making processes” was held by CS Lalit Jain, member of the Secretarial Standards Board and a Practicing Company Secretary from Delhi.

The Program was a resounding success for the Chapter and was attended by more than 160 participants comprising members, reputed professionals from the corporate world and students.

WESTERN INDIA REGIONAL COUNCIL

AHMEDABAD CHAPTER Capital Markets Week 2015

The Institute of Company Secretaries of India (ICSI) has been actively engaged in promoting the interest of investors and the orderly development of the capital market in India. As part of its continuous initiative towards investor education and good governance in Capital Markets, the ICSI observes Capital Markets Week every year. This year ICSI has observed Capital Markets Week from 25 to 31.5.2015 under the main theme Capital Markets – the Engine for Economic Growth. As a part of that continuous effort and under the guidance and help of CS Ashish Doshi, Central Council Member the ICSI and Programme Director, Ahmedabad Chapter of WIRC of the Institute



of Company Secretaries of India organized one MEGA Programme at Ahmedabad on 30.5.2015. Eminent guest and faculty like CS Ashish Doshi, Central Council Member The ICSI and Programme Director, Yamal Vyas Central Council Member The ICSI nominated by Central Government, CS Narayan Shankar, Sr. Vice President and Company Secretary, Mahindra & Mahindra, Shree Jayshreeben Vyas, Managing Director - SEWA Bank, CS M. C. Gupta, Practising Company Secretary, CA Dishant Sagwaria, CEO – Bizex Advisors, CS Chetan Patel, Treasurer, WIRC of ICSI, CS V. K. Sharma, Chairman – Ahmedabad Chapter of WIRC of ICSI and other Office Bearers of Ahmedabad Chapter of WIRC of ICSI remained present and graced the event.

The Programme was inaugurated by dignitaries like CS Ashish Doshi, Yamal Vyas, CS Chetan Patel and CS V. K. Sharma who also gave the inaugural speech.

CS Narayan Shankar thereafter spoke on the role of Company Secretary as a custodian of Governance in capital market. He threw light on New Insider Trading Regulations with some real life examples and enlightened the participants with his valuable knowledge.

As we all are aware the contribution of micro, small and medium enterprises sector in our total GDP is noteworthy the role of CS in this segment cannot be neglected. Hence it is important for our members to be well versed with the functioning of this sector. This sector also required finance for the smooth functioning and government is keen to make them available with finance at favourable rate. Jayshreeben Vyas, MD – SEWA Bank spoke on micro finance and enlightened the participants with her great knowledge.

CS M. C. Gupta spoke on convergence of Company Law and Securities Laws while CA Dishant Sagwaria covered the topics like Crowd Funding, Venture Capital, Private Equity, SME/ITP Listing, etc. Over 150 delegates participated in this mega event and all enjoyed the event throughout.

15th Management Skills Orientation Programme

The Ahmedabad Chapter of WIRC of ICSI organized the 15th Management Skills Orientation Programme from 06.4.2015 to 22.4.2015 at the Chapter premises. The total participants were 50 who had come from different parts of Gujarat and India. Two CS members were appointed as the co-ordinators of the 15th MSOP batch. During the MSOP, many renowned faculties including senior Company Secretaries addressed on various topics as per training guidelines of the ICSI. The participants cherished and benefitted from the knowledge and experience of the faculties and were motivated to put their best foot forward in their professional life.

The Mock Board meeting was held on 10.4.2015. The participants were divided into 4 groups and accordingly Mock Board meetings were conducted in the Board Room of the companies like Adani Group of Companies, CLP Power Pvt. Ltd, Dishman Group of Companies and in the premises of Ahmedabad Chapter. The participants benefitted from

the guidance provided by the Company Secretaries of the concerned company regarding the Dos and Don'ts in the Board meeting.

On 16.4.2015, the participants were taken for a visit to the Link in Time. The participants were accompanied by the two co-coordinators. During the visit, the participants learned about the Transfer and transmission of Shares by Registrar of Share Transfers.

On 21.4.2015, the participants were taken for a visit to the High Court of Gujarat. The participants were accompanied by the two co-coordinators. During the visit, the participants attended 3-4 case proceedings.

The participants also gave PPT PRESENTATIONS on various topics like Amalgamation and Merger, Takeover and Insider Trading, Service Tax, Critical Aspects of Companies Act, 2013, FEMA, NBFC and Intellectual Property Rights which enabled them to come out with their own views, improve their presentation skills and also increase their knowledge on the topic.

The Valedictory session was graced by the presence of CS Chetan Patel, Treasurer of WIRC of ICSI, CS V. K. Sharma, Chairman of Ahmedabad Chapter and CS Vatan Brahmabhatt, TEFC Chairman of Ahmedabad Chapter. The Dignitaries congratulated the participants for successful completion of 15 days training and wished them to do their best in their professional career. Jyot Shukla was awarded the title of "Best Participant" of the 15th MSOP Batch and MSOP completion certificate was distributed to all the participants. The 15 days training was indeed a success and a great learning experience for all the participants as well as the coordinators.

Times Education Boutique 2015, an Education Fair

The "Times Education Boutique 2015", an Education Fair was organized on 18 and 19.4.2015 at "Rajpath Club, Ahmedabad" by Education Times (Times of India). CS Rashmi Aahuja and 2 (two) CS students were present to guide and to manage the crowd for two days at the venue. The staff of Ahmedabad Chapter were also present on the first day to counsel the visitors. The co-ordinators/members manned the counters and put their endeavours to make the event a grand success and prospective. The co-ordinators/members represented the Institute of Company Secretaries of India during the presentations of all registered participants. They briefed about the new online registration for students and few initiatives of the ICSI. Around 110 visitors comprising students and parents visited the ICSI Stall for enquiry about the CS Course and to understand its utility in their current stream. The queries about the CS course were counselled and the Company Secretaryship course was presented as one of the best career options. They were briefed about the CS course benefits being a distance learning programme. The Brochures were circulated to the visitors along with visiting cards for future reference. The fair was fruitful in building the brand image and propagating the importance and awareness of CS Programmes to all. The certificate was also issued to by Education Times (Times of India) to the ICSI for participating in



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the two days "Times Education Boutique 2015". The event was successful with the help and guidance of CS V. K. Sharma, Chairman, CS Tushar Shah, Secretary and CS Nevil Savjani, Chairman, Career Awareness & Student Services Committee of the Chapter.

Study Circle Meeting at Gandhinagar

Gandhinagar Study Circle of Ahmedabad Chapter organised Study Circle Meeting on Board Report and Disclosures Therein on 24.4.2015 at Gandhinagar with PCH=1 & PDP=2. CS Manoj Hurkat was the faculty of the Meeting. He made a detailed presentation covering disclosures required under various provisions of Companies Act, 2013 as well as other applicable laws. The Presentation was highly appreciated and the participants deliberated on various provisions concerning disclosures in the Board Report. The meeting was appreciated by the gathering at large. Around 45 members and 25 students attended the meeting.

Open House Discussions

The Ahmedabad Chapter of WIRC of ICSI organised Open House Discussion [Knowledge Clinic- An Initiative towards capacity building] on "Adjudicating the penalties and analysis of Sections -447 and 448 of Companies Act, 2013 on 02.5.2015 at Chapter office with PCH=2. The Open House Discussion was led by CS Dilip Motwani and CS Dhiren Chavda. The discussion was appreciated by the gathering at large. The Senior CS members & PCS of Ahmedabad attended the meeting. A total of 90 members attended the Open House Discussion.

Again on 16.5.2015 another open house discussion was held on "Quality of Attestation Services by PCS & CS in Employment" at Chapter office premises with PCH=2. The Open House Discussion was led by CS Premnarayan Tripathi and CS Jignesh Shah. A total of 100 members attended the Open House Discussion. The Discussions were successful with the support and guidance of CS Jignesh Shah, Chairman, PDC Committee, Ahmedabad Chapter of WIRC of ICSI.

Two Days Induction Programme for CS in Employment

The Ahmedabad Chapter of WIRC of ICSI arranged 2 Days Induction Programme for CS in Employment, CS in Practice and MSOP cleared CS students at Ahmedabad Chapter premises on 9 and 10.5.2015 with PCH=8. The Inaugural session was graced by the presence of the Chief Guest, CS Jatin R. Jalundhwala, Chief Legal Officer, Adani Group of Companies. The total strength of the Programme was 34 members.

The first session of 1st day was deliberated by Snehal Desai, AGM, Adani Group on "Join Organisation with Ordinary Profile". The second session of 1st day was deliberated by Aditya Naria, Sr. Manager, E & Y on "Legal Compliance Management". The third session of 1st day was deliberated by CS Upen Shah, Zydus Cadilla on "Role of KMP and their Liabilities". After this session, the fourth and final session of 1st day was delivered by CS Umesh Ved, PCS on "Guidance Note on Board's Report".

The first session of 2nd day was deliberated by CS M. C. Gupta, PCS on "Evaluation of Board under CA, 2013". The second session of 2nd day was deliberated by Vivek Nihlani, a Soft Skill Trainer on "Communication

Skills, Body Language & Etiquettes", the third session by Ashish Thakar, CEO, Vihag Advisor & Consultants Pvt. Ltd. on "Board Effectiveness & Building Rapport" and the fourth and final session was delivered by Sidharth Bhandari, a Soft Skill Trainer on "Skills to Excel". The members were credited with 8 programme credit hours.

16th Management Skills Orientation Programme

The Ahmedabad Chapter of WIRC of ICSI organized the 16th Management Skills Orientation Programme from 28.4.2015 to 14.5.2015 at the Chapter premises. The total participants were 30 who had come from different parts of Gujarat and India. Two CS members were appointed as the co-ordinators of the 16th MSOP batch.

During the 16th MSOP, many renowned faculties deliberated during the sessions on various topics as per training guidelines of the ICSI. The participants cherished and benefitted from the knowledge and experience of the faculties and were motivated to put their best foot forward in their professional life.

The Mock Board meeting was held on 01.5.2015. The participants were divided into 4 groups and accordingly Mock Board meetings were conducted in the Board Room of the companies like Adani Group of Companies, CLP Power Pvt. Ltd., Dishman Group of Companies and Gujarat Ambuja Exports Limited. The participants benefitted from the guidance provided by the Company Secretaries of the concerned company regarding the Does and Doesn't in the Board meeting.

On 2.5.2015, Company Law Quiz was held where 12 participants were selected and divided into 4 groups. Quiz was held with three rounds and on minus marking grades on each wrong answer. Group-3 comprising Bilal Topia and Ashish Thakur was declared winner of the quiz at the end of third round with highest score.

On 06.5.2015, the participants were taken for a visit to the High Court of Gujarat. The participants were accompanied by the two co-coordinators. During the visit, the participants attended 3-4 case proceedings.

On 12.5.2015, the participants were taken for a visit to the Link in Time. The participants were accompanied by the two co-coordinators. During the visit, the participants learned about the Transfer and transmission of Shares by Registrar of Share Transfers.

The participants also gave PPT presentations on various topics like Takeover and Insider Trading, Service Tax, Directors Report, Annual Return and Secretarial Audit report, FEMA and Intellectual Property Rights which enabled them to come out with their own views, improve their presentation skills and also increase their knowledge on the topic.

During the Valedictory session Bilal Abdulkadar Topia was adjudged as the "Best Participant" of the 16th MSOP Batch. The MSOP completion certificate was distributed to all the participants. The 15 days training was indeed a success and a great learning experience for all the participants as well as the co-ordinators.



Study Circle Meetings

The Ahmedabad Chapter of WIRC of ICSI organised Study Circle Meeting (Discussion) [Knowledge Clinic- An Initiative towards capacity building] on "Secretarial Standards" on 06.6.2015 at the Chapter premises with PCH=1. The Discussion was led by CS Umesh Ved and CS Arvind Gaudana. CS Umesh Ved and CS Arvind Gaudana made presentation on Secretarial Standards. The discussion was appreciated by the gathering at large. The Senior CS members and PCS of Ahmedabad attended the meeting. A total of 79 members attended the discussion.

On 13.6.2015 the Study Circle Meeting (Discussion) was held on "Notification issued by MCA for giving exemption to Pvt. Ltd. Company" at Chapter premises with PCH=1. The Discussion was led by CS Manoj Hurkat who made presentation on Notification issued by MCA for giving exemption to Pvt. Ltd. Company. A total of 120 members attended the discussion.

Again on 20.6.2015 the Study Circle Meeting (Discussion) was held on "CARO-2015" at the Chapter premises with PCH=1 and PDP=2. The Discussion was led by D. P. Shah, CA & CS who made presentation on CARO-2015. A total of 41 members and 11 students attended the Discussion.

Yet again on 13.7.2015 the Study Circle Meeting (Discussion) was held on "New Era-XBRL Filing of Shareholding Pattern with BSE" at the Chapter premises with PCH=1 & PDP=2. The Discussion was led by Malav Dalwadi who made presentation on New Era-XBRL Filing of Shareholding Pattern with BSE. A total of 76 members and 42 students attended the discussion.

Another Study Circle Meeting (Discussion) on "Filing of Balance Sheet under XBRL & Other forms" was held on 28.7.2015 at the Chapter premises with PCH=1 & PDP=2. The Discussion was led by Ankit Varshney who made presentation on Filing of Balance Sheet under XBRL & Other forms. A total of 16 members and 26 students attended the Discussion.

The topic "Law relating to Sexual Abuse" was discussed on 25.7.2015 at the Chapter premises with PCH=1 & PDP=2. The Meeting was led by CS Dr. Dhruvi Trivedi who made presentation on The Law relating to Sexual Abuse. A total of 30 members and 15 students attended the Meeting. The Meetings were successful with the support and guidance of CS Jignesh Shah, Chairman, PDC Committee, Ahmedabad Chapter of WIRC of ICSI.

Study Circle Meeting at Gandhinagar

Gandhinagar Study Circle of Ahmedabad Chapter organised Study Circle Meeting on "Insider Trading Regulations 2015" on 19.6.2015 at Gandhinagar with PCH=1 & PDP=2. CS Reena Desai was the faculty of the Meeting. Detailed presentation was made by CS Reena Desai on new Insider Trading Regulations 2015 along with notable changes vis a vis old regulations, case laws on the subject, etc. The meeting was appreciated by the gathering at large. A total of 13 members and 7 students attended the meeting.

Full Day Seminar at Gandhinagar

Gandhinagar Study Circle of Ahmedabad Chapter organised full day seminar on "Exemptions to Government & Private Companies & Secretarial Standards" on 27.6.2015 at Gandhinagar with PCH=4 & PDP=8. CS Arvind Gaudana made a presentation on exemptions to private limited companies, section 8 companies (Government Companies) and

way forward for Government Companies, while Vishvesh Vachhrajani covered exemptions to Government Companies under Companies Act, 2013 vis a vis Listing Agreement. CS Manoj Hurkat and CS Nikish Patel made presentation on Secretarial Standards - 1 and 2 respectively. CS Members and students have shown great interest on the topics of the seminar and deliberated on various issues and suggestion to address difficulties faced in implementing Companies Act, 2013. The seminar was appreciated by the gathering at large. A total of 32 members and 47 students attended the meeting.

PUNE CHAPTER

Career Awareness Programme

On 28.7.2015 the Chapter conducted a Career Awareness Programme at MMCC College, Pune to apprise the students about CS course, its scope, prospects, etc. CS Amit Atre, Chapter Chairman was the faculty who addressed around 110 students. Brochures were distributed amongst all the students present.

Study Circle Meeting on Board and General Meeting Process in Companies

Pune Chapter of WIRC of the ICSI organized a Study Circle Meeting on Board and General Meeting Process in Companies which was held on 1.08.2015 at Pune. The programme was attended by 170 delegates. CS Bhuvanesh Sharma was the faculty for the programme. The session was very informative and well appreciated by the gathering. One (1) PCH was awarded to members attending the same and students were awarded two (2) PDP for the same.

Study Circle Meeting on Related Party Transactions Under New Companies Act 2013

Pune Chapter of WIRC of the ICSI organized a Study Circle Meeting on Related Party Transactions under new Companies Act 2013 which was held on 8.08.2015 at Pune. The programme was attended by 121 delegates. CS Aditi Balpathak was the faculty for the programme. The session was very informative and well appreciated by the gathering. One (1) PCH was awarded to the members who attended the same and students were awarded two (2) PDP for the same.

Study Circle Meeting on Board's Report under Companies Act 2013

Pune Chapter of WIRC of the ICSI organized a Study Circle Meeting on Board's Report under Companies Act 2013 which was held on 22.08.2015 at Pune. This programme was attended by 50 delegates. CS Jayavant Bhave was the faculty for the programme. The session was very informative and well appreciated by the gathering. One (1) PCH was awarded to members attending the same and students were awarded two (2) PDP for the same.

Celebration of 69th Independence Day

The Chapter celebrated 69th Independence day by Flag hoisting at its premises on 15.8.2015.



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ANNUAL REGIONAL CONFERENCE 2015

“MAKE IN INDIA” - COMPANY SECRETARY AS A NATION BUILDER

“KNOWLEDGE - SKILLS - VISIBILITY”

Introduction

In today's highly competitive and cost conscious business environment Compliance Governance and Ethics are pivotal. The Company Secretaries bring with them unique blend of Knowledge, Skills & Visibility on the table without which the business world cannot be sustainable.

The make in India program initiated by Government of India is an innovative policy driven by our Charismatic, Nationalist, Futuristic and Visionary Prime Minister Shri Narendra Modi Ji. The Make in India includes major new initiatives design to facilitate Investment, faster Innovation, protect Intellectual Investment and build best in class Manufacturing Infrastructure.

New Process	Special focus on ease of doing business, De-licensing & Deregulation.
New Infrastructure	Industrial Corridors, Industrial Clusters, Smart Cities, Nurturing & Skill Development.
New Sectors	Opening of critical sectors like defense, construction and railways for FDI.
New Mind Set	Dedicated teams that will guide and assist first-time investors from time of arrival, Focused targeting of companies across sector.

The Company Secretaries are only of its kind professional who have a unique deliverable towards various stakeholders on an equal terms. In cognizance of this, the Role and Responsibility of the Company Secretaries have been evolving and at the current times he is required to be Futuristic, Strategist and Value multiplier. The Company Secretaries now also have to contribute at the Board and Strategy level by being the Key Managerial Person, yet have also to be responsible towards the investors and the regulators at the same time and in process have to ensure high standard of Ethics and Governance.

In order to build Nation, Economy has to be accelerated and this can be done by the way of Capital Infusion & Capital Multiplication for which the Business Community should have confidence. The Company Secretary provide much required confidence by way of Ethics and Governance on one hand and on another hand Strategies and Value to drive the process of Nation Building.

The Western India Regional Council Annual Regional Conference 2015 is being hosted in the Mumbai, the Commercial and Entertainment Capital of India at Hotel Trident, Nariman Point, Mumbai, and the Business Hub of India.

The Conference will be touching areas which are Essential and Momentous which can be offered and contributed towards Make in India and Nation Building by the CS Fraternity. The Conference will provide professionals the required proficiency in the domain of Companies Act, Securities Laws, Real Estate, FDI and future of profession.

The conference deliberations shall include mix of technical sessions and panel discussion by eminent speakers.

Online Registration AND Online Payment

(Net banking, credit / debit card), both can be done online at -
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Western India Regional Council

13, 56 & 57, Jolly Maker Chambers No. 2 (1st & 5th floor) Nariman Point, Mumbai - 400 021
RSVP - Mr. Pramod Keot - 91 22 61307913 E mail :- pdcsiwirc@gmail.com

Regional Symposium Venue & Registration

Venue :

The Regal, Trident, Nariman Point, Mumbai
Date : Saturday, October 03, 2015
& Sunday, October 04, 2015

Registration Type	Fees Early Bird Till 07.09.2015	Standard Fees Regular from 08.09.2015
Member	7,000 /-	8,500/-
Student	7,000 /-	8,500/-
Non Member	10,000 /-	10,000 /-

(Fee Inclusive of breakfast, lunch & dinner on 3rd October, 2015 & breakfast & lunch on 4th October, 2015 and other administrative expenses plus including all taxes)

Hotel Accommodation	Total Amount
Single Sharing (inclusive of tax)	8,880 /-
Double Sharing (inclusive of tax)	4,736 /-

CS Rishikesh Gagan Vyas
Chairman WIRC

CS Kamlesh Joshi
Vice Chairman, WIRC and
Regional Conference Director

CS Shilpa Dixit
Secretary WIRC

CS Devendra Deshpande
Chairman (PDC Outside Mumbai)
and Regional Conference Coordinator

CS Praveen Soni
Chairman PDC Mumbai

Dr. S. K. Jena
Regional Director, WIRC

Keynote Speaker: M. Damodaran - Past Chairman, SEBI

Distinguished Speakers:

- CS Atul Mehta - President, ICSI
- CS B. B. Chatterjee - Executive Vice President & Company Secretary, ITC Limited
- CS Harish Kumar Vaid - Company Secretary, Jaypee Group
- CS Keyoor Bakshi - Past President, ICSI
- Dr. K. R. Chandratte - Practicing Company Secretary
- CS Makarand Lele - Central Council Member, ICSI
- Mayur R Shah - Managing Director, Marathon Realty
- CS Nagendra D. Rao - Chairman, SIRC
- Prakash Iyer - Ex Managing Director of Kimberly-Clark Lever
- Prem Rajani - Managing Partner, Rajani, Singhania & Partners, Solicitors and Advocates
- CS Pavan Kumar Vijay - Past President, ICSI
- Ramesh Nair - Chief Operating Officer & International Director Jones Lang LaSalle
- CS Sunita Mohanty - Chairperson, EIRC
- CS Satwinder Singh - Partner, Vaish Associates Advocates, Central Council Member, ICSI
- CS Sutanu Sinha, Chief Executive & Officiating Secretary
- Dr. S. D. Israni - Partner, S D Israni Law Chambers
- Shyam Grover - CEO and Group Editor at Lex Witness
- Tapas Das - Head- Real Estate & Administrative Services, L'Oreal India Pvt Ltd
- CS V. S. Datey - Practicing Company Secretary



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METHODOLOGY

Phase I: Proficiency Session

In the 1st phase, participants would be provided a paper containing Multiple Choice Questions (MCQs), Fill in the blanks, Short Questions and Case Studies pertaining to Secretarial Standard on Meetings of the Board of Directors (SS-1) and Secretarial Standard on General Meetings (SS-2) for solving. Since this is an Open Book Competition, participants can refer to SS-1 and SS-2 or any other books during the session. Participants may also refer any material available online.

Phase II: Assessment Session

Proficiency Session would be followed by panel discussion with SSB Members; wherein the Multiple Choice Questions (MCQs), Fill in the blanks, Short Questions and Case Studies would be addressed. During the session, assessment of each participant's paper will be done by his / her peer participant by interchanging the papers with coding. The papers solved by the participants would be examined and marks would be awarded. Qualifying marks would be 50%. This assessment will be through panel discussion on each question.

COVERAGE

- 1 Secretarial Standard on Meetings of the Board of Directors (SS-1)
- 2 Secretarial Standard on General Meetings (SS-2)



PANELISTS

- CS Pavan Kumar Vijay, Chairman, SSB
- CS V Ahalada Rao, Chairman, Research Committee of ICSI and Member, SSB
- CS G P Madaan, Member, SSB
- CS Milind B Kasodekar, Member, SSB

DATE, TIME AND VENUE

Day & Date: 12th September, 2015(Saturday); Time: 09:30 to 05.00 pm Venue: ICSI-CCGRT Auditorium, Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai –400 614 (ICSI-CCGRT, Navi Mumbai). Tel No.022-41021501/15.

REQUIREMENTS

- Participants have to carry Bare Act / Companies Act, 2013, Laptop and other relevant books for reference
- SS-1 and SS-2 Booklets and One-time Wi-Fi password will be provided by CCGRT

FEE DETAILS (INCLUSIVE OF SERVICE TAX@14%)

Rs. 1500/-Member of ICSI Rs. 1000/-Student of ICSI Rs. 2000/-for CA, CMA, Advocates, Corporate Executives and others

Fees if registration and payment is received after Saturday, September 05, 2015 as follows:-

Rs. 2000/-Member of ICSI Rs. 1250/-Student of ICSI Rs. 2500/-for CA, CMA, Advocates, Corporate Executives and others
Above cost is for Programme kit, Breakfast & Lunch & tea coffee.

ANNUAL MEMBERS OF ICSI-CCGRT CAN ATTEND THE PROGRAMME FREE OF COST

For Registration contact

Dr. Rajesh Agrawal, Director, ICSI-Centre for Corporate Governance, Research & Training (ICSI-CCGRT), Plot No. 101, Sector 15, Institutional Area, CBD Belapur, Navi Mumbai –400 614.

Tel: 022-4102 1534/32, Fax: 022-27574384; email: ccgrt@icsi.edu

AWARDS WILL BE ANNOUNCED SHORTLY

(CS Pavan Kumar Vijay)
Chairman, SSB
Programme Chairman

(CS Ahalada Rao)
Central Council Member
Programme Director

(CS Makarand Lele)
Central Council Member
Programme Co-ordinator

(CS Ashish Doshi)
Central Council Member
Programme Facilitator

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CHARTERED SECRETARY

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September 2015

Appointments



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The ICSI, a premier professional body constituted under an Act of Parliament, invites applications for the following posts at its Headquarters, Regional Offices, Chapter offices & ICSI-CCGRT, Navi Mumbai :-

Name of the Post	Pay Band & Grade Pay (Rs.)	CTC per Annum (Rs. in Lakh)	Max. Age (as on 01.09.2015)	Total No. of Posts
DEAN (on Contractual basis for two years at CCGRT, Belapur, Navi Mumbai)	Compensation: Rs. 24 lakh per annum approx.		55 years	1
Joint Secretary (HR)	37400-67000 with Grade Pay-10000/-	24.2	45 years	1
Joint Secretary (Finance & Accounts)	37400-67000 with Grade Pay-10000/-	24.2	45 years	1
Director (Liasioning & Placement)	37400-67000 with Grade Pay-8700/-	21.4	45 years	1
Director (Academics)	37400-67000 with Grade Pay-8700/-	21.4	45 years	1
Director (Strategies)	37400-67000 with Grade Pay-8700/-	21.4	45 years	2
Director (Research)	37400-67000 with Grade Pay-8700/-	21.4	45 years	1
Deputy Director (Research)	15600-39100 with Grade Pay-6600/-	12.6	45 years	3
Deputy Director (Secretarial Standards Board)	15600-39100 with Grade Pay-6600/-	12.6	45 years	1
Research Associate	15600-39100 with Grade Pay-5400/-	10.7	35 years	6
Assistant Director (Finance & Accounts)	15600-39100 with Grade Pay-5400/-	10.7	35 years	1
Assistant Education Officer	9300 - 34800 with Grade Pay - 4800/-	9.1	35 years	6
Junior Programmer	5200-20200 with Grade Pay- 2400/-	5.6	35 years	2

For further details viz. qualification, experience, procedure for submission of application, etc., please visit our website www.icsi.edu/career with effect from **01.09.2015**. Interested candidates must **apply only through electronic application form (Online)**. Last date for submission of application (Online) is **20.09.2015**. Reservation policy will be applicable as adopted by the "ICSI" in its Service Rules. The "ICSI" reserves the right to increase/decrease or even not to fill up any posts as per its requirement.

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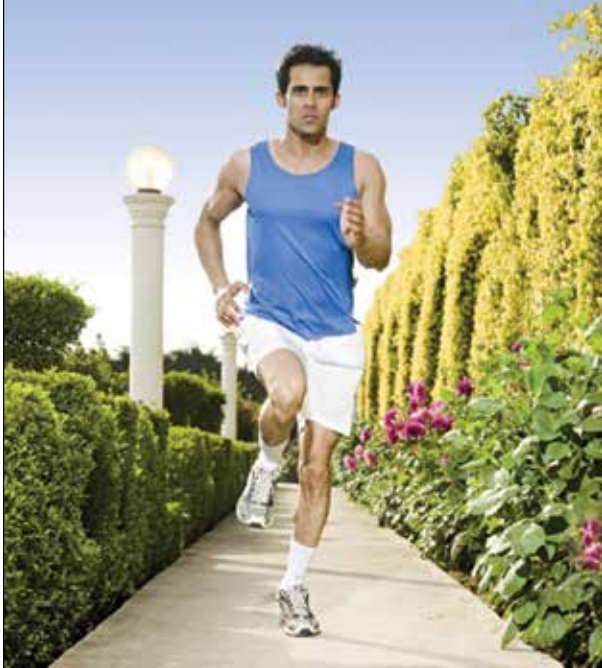
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The Rt Hon. Lord Swraj Paul
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Melanie McLaren
 Executive Director Codes & Standards, Financial Reporting Council



Prof. Sir Andrew Likierman
 Dean, London Business School



Ravi Parthasarathy
 Chairman, Infrastructure Leasing & Financial Service Limited



Andrew Harding
 Managing Director, CIMA



Dr. Tajeib Kamali
 former Vice Chancellor, Higher Colleges of Technology (HCT), UAE



CS Atul Hasmukhlal Mehta
 President, The ICSI

▲ **CONFERENCE HIGHLIGHTS**

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Our Members

Congratulations

Mamta Binani, FCS, Vice President of the ICSI, on her becoming a Member of the Eastern and North Eastern Region Development Council of the Associated Chambers of Commerce and Industry of India (ASSOCHAM).

J Sridhar, FCS, Past President, ICSI and Company Secretary, Bajaj Auto Ltd. on his being appointed as a Member of the CII National Committee on Regulatory Affairs.

SPECIAL ISSUES OF CHARTERED SECRETARY

It is proposed to bring out special issues of Chartered Secretary on the following topics during the remaining period of 2015.

- **Capital Market** (October, 2015) and
- **Ease of Doing Business in India** (November, 2015).

Members and others having expertise on the aforesaid subjects are welcome to contribute articles for consideration by the Editorial Advisory Board for publication in the said special issues.

The articles may kindly be forwarded to :

The Joint Director (Publications), The ICSI, 22, Institutional Area, Lodhi Road, New Delhi 110003.

E-Mail: ak.sil@icsi.edu

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ATTENTION MEMBERS

The Institute has brought out a CD containing List of Members of the Institute as on 1st April, 2015. The CDs are available at the headquarters of the Institute for a cost of Rs. 250/- for members and Rs. 500/- for non-members. Request along with the payment may please be sent to the Membership section at email id rajeshwar.singh@icsi.edu.

For queries if any, please contact on telephone no: 011-45341063.

OBITUARIES

“Chartered Secretary” deeply regrets to record the sad demise of the following Members:

CS RAMESH KUMAR KOCHAR (17.04.1952 – 25.06.2015), a Fellow Member of the Institute from New Delhi.

CS VIPIN KUMAR GUPTA (15.09.1957–31.07.2015), an Associate Member of the Institute from Chandigarh.

May the almighty give sufficient fortitude to the bereaved family members to withstand the irreparable loss.

May the Departed souls rest in peace.

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