

CHARTERED SECRETARY

THE JOURNAL FOR CORPORATE PROFESSIONALS



46th
CS Day
Celebrations



**THE INSTITUTE OF
Company Secretaries of India**

IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory body under an Act of Parliament

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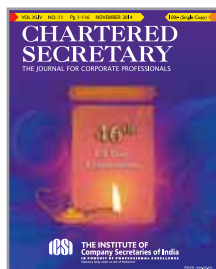


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- 1 >> CS Day Celebrations at The Ashok, New Delhi - From Left: CS Sutanu Sinha, Rajyogini Brahma Kumari Asha, Hon'ble Justice Dilip Raosaheb Deshmukh (Chairman, CLB), CS R. Sridharan, V K Singh (General Retd.), (Hon'ble Union Minister of State (Independent Charge), Development of North Eastern Region; External Affairs; and Overseas Indian Affairs), Dr. Arun Chaturvedi (Hon'ble Minister of Social Justice and Empowerment, Government of Rajasthan), M J Joseph (Additional Secretary, MCA) and CS Sanjay Grover.
- 2 >> Team ICSI seen taking the cleanliness pledge while observing Swacchata Mission at ICSI Head Quarters.
- 3 >> Celebration of 46th CS day at ICSI – SIRO – Conduct of Blood Donation Camp at ICSI – SIRC House, Chennai.
- 4 >> Celebration of 46th CS day at ICSI – CCGRT – Conduct of Blood Donation Camp..
- 5 >> Interactive meeting with International Integrated Reporting Council Representatives -Group photo– Paul Druckman (CEO of the International Integrated Reporting Council, 6th from Left) and Jonathan Labrey (IIRC's Strategy and Policy Director, 4th from Right) seen among others with Alka Kapoor (4th from Left), Sanjay Grover(5th from Left) and Sutanu Sinha (5th from Right).



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6 >> 14th London Global Convention - Plenary Session X on Emerging Role of Company Secretaries in the Boardrooms – R Sridharan addressing.

8 >> Meeting of ICSI delegation with Consul General, Consulate General of India, Sao Paulo, Brazil – standing from Left: Anil Murarka, R Sridharan and Abhilasha Joshi (Consul General, Consulate General of India, Sao Paulo, Brazil).

10 >> Corporate Secretaries International Association (CSIA) Council Meeting held at Sao Paulo, Brazil – Group photo of Council Members.

11 >> From the Archives of ICSI – Group Photo - Standing among others from Left: A M Chakraborty, Y V Subbarao, A V Raghavan, T P Subbaraman (4th from Left), P Sudarsanam (5th from Left), S K Kapoor (6th from Left), R. Krishnan (7th from Left), V G Ramachandran (8th from the Left), Charanjit Singh (5th from Right), K V Suryanarayanan (2nd from Right) and P A S Rao (extreme Right).

7 >> On the sidelines of the 14th London Global Convention - Nirmala Sitharaman, (Hon'ble Minister of State for Commerce and industry (Independent Charge), Finance, and Corporate Affairs) seen interacting with the Indian delegation – Others standing from Left: Lt. Gen. J S Ahluwalia, PVSM Retd. (President, Institute of Directors), Padma Shree Shahnaz Husain CMD, Shahnaz Husain Group), C Sudhir Babu, R Sridharan and Dr. A S Durga Prasad (President, ICoAI).

9 >> 15th Annual Congress of Instituto Brasileiro de Governança Corporativa (IBGC) held at Sao Paulo, Brazil – ICSI representatives attending the meeting – From Left: R Sridharan and Anil Murarka.



at a Glance

Articles

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Controversy as to the Scope of the Term 'Officer' under the SEBI (Prohibition of Insider Trading) Regulations

» P-11

Dr. K. R. Chandratre

Insider trading causes injury or detriment to those who do not possess such information and therefore do not and cannot deal in the securities of the company to which the information relates. Insider trading, as it involves misuse of confidential information, is unethical amounting to breach of fiduciary position of trust and confidence. No fault can be found with any of the orders of the SAT or SEBI in interpreting the definition of 'officer' widely or liberally and not restrictively by including in it employees of a company who occupy the position of responsibility and authority to control one or more activities and issue directions or instructions to other employees except those who have the duty to follow the formers' directions or instructions and work under the control of the former. This interpretation seems to in consonance with the purpose and object of the provisions of the PIT Regulations having regard to the 'mischief rule' of statutory interpretation.

Amended Clause 49: Major Recast of Corporate Governance Norms

» P-20

Vinod Kothari, Nivedita Shankar and Shampita Das

In September 2014, just a fortnight before implementation of the RPT rules under SEBI's Clause 49, the "revised Clause 49" itself was comprehensively revised to bring it in line with the Companies Act, 2013 and recent MCA amendments. The materiality criteria for related party transactions imposed by SEBI has been increased, though it still remains way different from those under the Companies Act, 2013. Not just this, the very definition of "related party" has significantly been changed. Further, provisions with regard to omnibus approvals by the audit committee is also an addition. There are other changes as regards the tenure of appointment of independent directors.

Independent Director's Liability: Relief From Court Would Not be Automatic Under The Companies Act, 2013

» P-28

Delep Goswami and Anirrud Goswami

For good corporate governance and to prevent financial irregularities by public limited companies, provisions have been made in the Companies Act, 2013 for appointment

of Independent Directors and now the Act itself codifies the role, responsibility and liability of Independent Directors. Whereas in the context of the Companies Act, 1956, there was no such rigor and strictness in complying with the provisions of the Companies Act by non-whole time outside Directors and Independent Directors, the entire gamut of this subject has undergone a change because of the specific provisions in the Companies Act, 2013. As a natural consequence, the Independent Directors will not be able to get automatic relief from the Courts which had otherwise been considerate keeping their role as an outside expert, uninvolved in management and control of the affairs of the company on whose Boards such Independent Directors were appointed. This article deals with this important aspect and points out that even though there may be a legal requirement for data bank for prospective Independent Directors, not many people shall voluntarily stick their neck to be saddled with the accompanying liabilities.

CSR Expenditure: Deductible Issues under Income Tax Act

» P-33

Gopal Chandra Mondal and Rajeev Sharma

India is the first country in the world where the voluntary guidelines for CSR have been embedded into the statute. The amendment in the Finance Act, 2014 is a great setback to the Industry as the expenditure incurred in relation to corporate social responsibility will not be allowed as tax deductible and this will defeat the real purpose of bringing CSR related provision in the Companies Act, 2013. Now the disheartened corporates will be Compelled to park their funds with those registered NGOs (either set-up such entities by itself or may use entities set-up by others), where they get maximum tax benefit on the basis of specified projects or programmes, which are of the nature described in sections 30-36 of the Income Tax Act, 1961, subject to fulfilment of conditions, if any, specified therein and can reduce its tax liability.

Legal, Financial and Tax Implications of Buy-Back of Shares

» P-40

Dr. K. C. Goel

There are various tests through which the company arrives at the number of shares to be bought back. To this effect four tests such as paid-up capital and free reserves test, paid-equity capital test, debt equity test and liquidity test



have been discussed. Accounting treatment of buy-back has also been given. Companies can reduce their dividend distribution tax liability by resorting to buy-back. Buy-back affects the fundamentals of a company such as increase in EPS, Market Capitalisation and reduction in the average cost of capital. For unlisted companies, resorting to buy-back of shares, a new section 115QA has been inserted in the Income Tax Act, 1961 whereunder the unlisted companies buying back shares will have to charge additional tax on buy-back treating part of the money paid by the company to its shareholders as distribution of income.

Abuse of Dominant Position



Dr. M. Govindarajan

The Competition Act, 2002 was enacted to provide for, keeping in view the economic development of the country, the establishment of a Commission to prevent practices having adverse effect on competition to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto. The Act prohibits certain agreements, abuse of dominant position and regulation of combination. In this article the abuse of dominant position is discussed in detail with reference to decided case laws.

Incorporation Procedure of Private Limited Company as per Companies Act 2013



Jigarkumar Gandhi

After enactment of the Companies Act, 2013 it would be difficult to incorporate private limited companies compared to incorporation of such companies under the old Companies Act, 1956. There are number of sites / Blogs on various websites which outline the procedure of incorporation but in view of the complex language and the lengthy procedure, an individual gets confused and his mind gets diverted to other forms of business i.e. Limited Liability Partnership (LLP) / Proprietorship / Partnership Firms. This write up accordingly sets out in simple language, the procedure in just 9 points to incorporate private limited companies.

Legal World

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► LW: 91:11:2014 CCI orders investigation into the manner of conducting of trade fairs and exhibitions by ITPO. ► LW: 92:11:2014 CCI rejects the complaint made against builder. ► LW: 93:11:2014 Though this Court in proceedings under Article 226 has the jurisdiction to pass an order directing the respondent no. 1-CCI to hear and decide the preliminary issue of jurisdiction, yet it is of the opinion that

a writ petition is not maintainable as a matter of right for framing of a preliminary issue in any proceeding pending before a statutory or quasi-judicial body. It is pertinent to mention that Section 36 of the Act, 2002 gives power to respondent no.1-CCI to regulate its own procedure. [Del] ► LW: 94:11:2014 The National Commission in exercise of revisional jurisdiction was only concerned about the correctness or otherwise of the order of the State Commission setting aside the relief given by the District Forum and to pass such order as the State Commission ought to have passed. However, the National Commission has gone much beyond its jurisdiction in awarding the relief which was neither sought in the complaint nor before the State Commission.[SC] ► LW: 95:11:2014 When as the result of a member of a Stock Exchange being declared a defaulter, the Income Tax Department has no priority over all debts owed by the defaulter member.[SC] ► LW: 96:11:2014 Delhi High Court declines to revoke the mandate of the arbitrator. ► LW: 97:11:2014 It is directed that the back wages prior to the award shall not be payable to the respondent. However, it is clarified that the reinstatement awarded by the Labour Court shall be given effect to for the purposes of providing continuity of service to the respondent. [Del] ► LW: 98:11:2014 No interference is required in exercise of extraordinary Writ jurisdiction of this Court to interfere with the impugned Award as it was based upon the evidence led before the Court. [Bom] ► LW: 99:11:2014 We are of the view that the decision of the Supreme Court in Alom Extrusions Ltd. applies to employees' contribution as well as employers' contribution. Hence the Tribunal was right in holding that payments thereof are subject to benefits of Section 43B [SC].

From the Government

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► Companies (Appointment and Qualification of Directors) Amendment Rules, 2014 ► Companies (Audit and Auditors) Amendment Rules, 2014 ► Companies (Accounts) Amendment Rules, 2014 ► Companies (Appointment and Qualification of Directors) Amendment Rules, 2014 ► National Advisory Committee on Accounting Standards ► Company Law Settlement Scheme 2014 (CLSS-2014) -Clarification u/s 164(2) of The Companies Act, 2013 ► Company Law Settlement Scheme, 2014 (CLSS-2014) ► Clarification on Matters Relating to Consolidated Financial Statement ► Right of Persons other than Retiring Directors to Stand for Directorship-Refund of Deposit Under Section 160 of the Companies Act, 2013 in Certain Cases ► SEBI (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2014 ► Revision of Proprietary Position Limits of Non-Bank Stock Brokers for Currency Derivatives Contracts ► Modification of Client Codes of Non-Institutional Trades Executed on Stock Exchanges (All Segments) ► Single Registration for Stock Brokers & Clearing Members ► Clarification on Government Debt Investment Limits.

Other Highlights

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► Members Admitted / Restored
► Certificate of Practice Issued / Cancelled
► Licentiate ICSI Admitted
► News From the Regions
► Company Secretaries Benevolent Fund
► Our Members





From the President



“Memory believes before knowing remembers.”

—William Faulkner



Dear Professional Colleagues,

We always eagerly listen, when our elders in the family, share their memories and reminiscences, which are kind of emotional reunion for them with the past and for us, it's kind of charm to know about our culture and ethos. In the same way, I am sure most of us are fascinated to know the history and development of the Institute and it kindles our thoughts further especially, when senior members of our profession share their bygone era memories and happenings. 46th CS Day Celebrations organised throughout the country on 4th October 2014 provided perfect medium to share those wonderful nostalgic moments. When we talk about nostalgia, with reference to the genesis and growth of the profession, it is not merely bringing back the forgotten moments, but I find the strong undercurrent, which could be termed as a historical emotion. Again nostalgia is not always retrospective; it can be prospective as well. It is said that nostalgia are the fantasies of past, determined by the needs of the present, and have a direct impact on the realities of the future. This thought was most elegantly expressed by Margret Fairless Barber - “To look backward for a while is to refresh the eye, to restore it, and to render it the more fit for its prime function of looking forward”.

A mega programme on CS Day Celebration was organised at

New Delhi, amidst galaxy of dignitaries, eminent personalities, past presidents, members and students of the Institute. Shri Vijay Kumar Singh, Gen. (Retd.) Hon'ble Union Minister of State (Independent Charge), Development of North Eastern Region; External Affairs; and Overseas Indian Affairs, Government of India was the Chief Guest at the programme. Hon'ble Justice Shri Dilip Raosaheb Deshmukh, Chairman, Company Law Board, Dr. Arun Chaturvedi, Hon'ble Minister of Social Justice and Empowerment, Government of Rajasthan and Rajyogini Brahma Kumari Asha were the guests of honour and addressed the gathering and wished profession to grow and to scale new crescendos and dazzling future in the service of the nation. During the programme Past Presidents and Past Secretaries were honoured. A special souvenir was released during the occasion. In addition, a memoir about the profession, authored by Shri R Krishnan, first elected president of the Institute, an inhouse ICSI magazine, “Sangachatwam” and the Institute's research publications, referencer on Pre-certification of E-forms and Takeover Code, were also released on the occasion.

In fact, the Institute of Company Secretaries of India – the youngest of the three professional bodies (under MCA) was set



up on 4th October, 1968, which was converted as a statutory body under an Act of the Parliament in 1980. During these years, the institute and the profession have made significant and steady advances in terms of recognition, multidisciplinary expertise, professional excellence and expanse in the nook and corner of the country, finally to participate in the march towards globalization. This day has not only become an important one, in the calendar of events, but also an occasion for self-introspection, self-renewal and an occasion to rededicate ourselves to the lofty ideals and cherished values of the profession. We have come a long way since then and are moving ahead to achieve more milestones in our journey of professional excellence. Reputation of a great institution largely attributed to its members' commitment, attitude and behaviour. It is our utmost responsibility that the rich legacy of the founding fathers of the profession preserved and passed on to the succeeding generation of members. When we talk of reputation of a profession, it has many dimensions and themes, of which often debated and still elusive is the profession and conflict of interest. The topic is quite complex and therefore, I would like to limit myself to the essentials which are germane to the topic. In 1936, F. Scott Fitzgerald wrote that "the test of a first-rate intelligence is the ability to hold two opposed ideas in the mind at the same time, and still retain the ability to function." However, considering the complexity of business and the role of professionals, even the most intelligent find it difficult to sustain opposing beliefs without influencing each other. Professionals are so frequently called upon to fulfill multiple roles; it is easy to find instances where their different roles demand that they pursue conflicting objectives. Although, it might seem desirable that multiple aspects of the self inform each other in judgment and choice, such mutual influence also undermines people's ability to play multiple roles. People's inability to switch between roles without having them influence each other can partly explain the corrosive effect of conflicts of interest on professional judgment. This clash, often leads to Conflict of Professional Interest.

Rules governing conflict of interest are specified by the respective professions in their prescribed standards. They differ from profession to profession. The differences between them tell us much about the profession and about conflict of interest in general. We must also understand what conflict of interest is; what rules concerning conflict of interest do, and how they try to resolve it. Conflict of Interest depends on all the circumstances, including the relative importance of the decision in question; the alternatives available; the wishes of the principal, client, employer, or the like; common knowledge; the law; and relevant code of ethics of the concerned profession or an institution. Generally, conflicts of interest are easier to manage when they are "potential" than when they are "actual". I would like to reproduce the beautiful analogy about conflict of interest provided by Michael Davis "On the standard view, a conflict of interest is like dirt in a sensitive gauge. All gauges contain some dirt, the omnipresent particles

that float in the air. Such dirt, being omnipresent, will be taken into account in the gauge's design. Such dirt does not affect the gauge's reliability. But dirt that is not omnipresent, the unusual bit of grease or sand, can affect reliability, the ability of this gauge to do what gauges of its kind should, and generally do, do. Such "special" dirt might, for example, cause the gauge to stick unpredictably. Insofar as dirt affects a gauge's reliability, it corresponds to the interests that create conflicts of interest."

Recent past, bringing in pleasant memories also has left major path to walk through towards bright opportunities in the form of Companies Act 2013, KMP, Secretarial Audit and so on under the Companies Act 2013. Friends, the present day Company Secretary, a business advisor to the Board of a company which has operations all across the borders, is a global business manager who is an Architect, Strategist and a Coordinator to lead the Corporate India to Global Success. In this context, I wish to re-emphasize on the continuous learning process.

For the past couple years, the Institute has made steady foray in technology and this pace gained momentum during the last few months. I am happy to inform that E-library for ROs/Chapters has been launched on October 04 2014 during the CS Day Celebration at New Delhi. E-library provides free access to members and students from four terminals located in each of the Regional offices and two terminals in each 'A+' and 'A' grade Chapter offices.

On the same occasion, the Mobile Apps was also launched. The mobile app developed for students consists of sections such as eBooks – this section redirects the user to a link in the ICSI website e-books page from where the students can access the ebooks available there, Demo m Learning Course from the eLearning portal – This loads a demo of the m-Learning course on "Drafting Appearances and Pleading" for the eLearning portal of the ICSI, News announcement – this section redirects the user on the home page of the ICSI website, Student enrolment portal – This directs the user to the student enrolment portal, Payment Status– this section takes the user to the payment verification page on the ICSI website. Link for English learning - The ICSI has recently launched online English Learning Programme.

As you are aware, the ICSI National Awards for Excellence in Corporate Governance which was instituted in the year 2001 to award the companies for exemplary governance standards is one of the prestigious initiatives of the Institute. The ICSI selects the awardees through a very rigorous comprehensive evaluation process undertaken by an eminent Jury. The awards for 2014 shall be conferred on two best governed companies and in addition top five companies will also be recognized by way of a Certificate.

You may be aware that the Institute is playing significant role in forging international cooperation amongst the professional bodies, which are sharing our common aspirations and goals.



From the President

Corporate Secretaries International Association (CSIA) Council Meeting was held in Sao Paulo, Brazil on October 10-11, 2014 followed by the 15th Annual Congress of Instituto Brasileiro de Governança Corporativa (IBGC) on the theme "Corporate Governance that Creates Value: An Evolving Process" on October 13-14, 2014. The main focus of the IBGC Congress was to further the discussion on current issues, present solutions and introduce new parameters for a variety of Corporate Governance issues. I along with Mr. Anil Murarka, Past President & Council Member, ICSI represented the Institute in the aforesaid CSIA Meeting and IBGC Annual Congress in Sao Paulo, Brazil.

Institute's vision and mission echo our ambition to become global leader in promoting good corporate governance. The Institute actively collaborates with other institutions in advancing the culture of corporate governance. I am happy to inform that the Institute partnered with Institute of Directors [IOD] in organizing IOD's London Global Convention (2014) on the theme "BOARDS TO LEAD: Effective Corporate Governance & Sustainability" on October 28-31, 2014 at London. On the invitation of IOD, I along with CS Sudhir Babu C., Council Member, ICSI attended the IOD London Global Convention and got the opportunity to share our views, thoughts and goodwill as a speaker at the Plenary Session on "Emerging Role of Company Secretaries in the Boardroom". The convention was addressed by eminent professionals, distinguished academicians, leading industrialists and entrepreneurs, senior officials from British Government. Hon'ble Mrs Nirmala Sitharaman, Union Minister for Commerce and Industry, Minister of State for Finance and Corporate Affairs, Government. of India was the Chief Guest at the Convention.

Hon'ble Minister in her address emphasized that the Government tried removing anomalies in the Companies Act to make it simple, effective and user friendly so that compliance does not become an issue. Speaking about making the directors in the boards of the companies effective, Hon'ble Minister informed that the Government has done a lot to remove various anomalies and emphasized that the board have to be dynamic, think independently and out of box and should have more women. Speaking about the role of independent directors, Hon'ble Minister emphasized that the companies need the advise of independent directors who have international exposure.

In this context, I would like to inform you that the three Institutes ICSI, ICAI & ICoAI jointly launched a Portal on Repository of Independent Directors under the active encouragement of Ministry of Corporate Affairs. I urge all of you to register on the portal to enable the companies to identify and appoint independent directors on their Boards.

During recent interaction with the top officials of MCA, an impression was given to me that quite a few of our members

have not exercised required and requisite care and diligence in validation and attestation work carried out by them. You will appreciate that the hard earned recognitions by the profession was due to its impeccable record of professional excellence of its members at large. It is the duty of every single member to uphold the tenets of this trait. Even single member dilutes the process of compliances, it affects entire body of members. In several interactive meetings across the country, I had re-iterated again and again the need for strict adherence to professional standards. Through this column, I request you once again to exercise greater care and assiduousness, while discharging your professional responsibilities. Let's commit ourselves completely and in full measure for total compliances and in the process, distinguish ourselves.

I am pleased to inform you that the CS Logo has been registered under Section 23(2), Rule 62(1) of the Trade Marks Act, 1999 in the name of The Institute of Company Secretaries of India in respect of providing education and professional qualification and certification services in relation to Company Secretary Course or any other degree, diploma or certificate course including training and content based services in or in relation to books, publication, journals, reports, literary work, written work, seminars, conferences, workshops, etc. in print or electronic media or otherwise. I request all members to inform to the Institute any misuse of CS Logo. The certificate of Registration is published elsewhere in this issue.

You are aware that the polling to elect the highest policy making bodies at the Central and Regional levels will be held on Friday & Saturday, the 12th and 13th December, 2014 at Delhi and Mumbai and Friday, the 12th December, 2014 at other places from 8.00 AM to 8.00 PM. With a view to maintain healthy and peaceful atmosphere during the election process, for ensuring free and fair election and to enhance the glory and prestige of the Institute, I appeal to contesting candidates to exercise restraint and adhere to the Company Secretaries (Election to the Council) Rules, 2006 and the ICSI Election Code of Conduct in true letter and spirit. I also appeal to all the eligible voters to respect their vote and exercise their franchise in large numbers to make the election a grand success. Members are expected to take full advantage of the privilege conferred upon them and should indicate as many preferences as there are candidates for election to the Council and Regional Councils.

Yours sincerely,

(CS R. SRIDHARAN)
president@icsi.edu

October 31, 2014



Dr. K. R. Chandratre*, FCS

Practising Company Secretary
Pune

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Controversy as to the Scope of the Term 'Officer' under the SEBI (Prohibition of Insider Trading) Regulations

- One significant aspect of the scope of the definition of officer as pointed out by courts is that only those who are employees or servants of the company are officers and those who render services to the company but who are not in the employment of the company or who have not the master-servant relationship are not officers. The controversy relating to the meaning of 'officer' under the SEBI Insider Trading Regulations, is analysed here.

Who are 'officers' of listed companies who are required to comply with certain disclosure requirements under the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992 ('the PIT Regulations) in respect of their share dealings? This issue is currently in controversy. The cause of controversy is the ambiguous definition of the expression 'officer' in the Companies Act which has been adopted by the PIT Regulations, which is wide in scope.

DISCLOSURE REQUIREMENTS

The PIT Regulations seek to prohibit insider trading by using any unpublished price sensitive information concerning listed companies. Regulation 3 prohibits two things against an insider while in possession of any unpublished price sensitive information concerning a listed company namely: (i) dealing in securities of the listed company listed; and (ii) communicating, counselling

*Past President, The Institute of Company Secretaries of India





Article

CONTROVERSY AS TO THE SCOPE OF THE TERM 'OFFICER' UNDER THE SEBI (PROHIBITION OF INSIDER TRADING) REGULATIONS

or procuring the unpublished price sensitive information to any person.

These prohibitions apply to any insider who is, or was, connected with the company or is deemed to have been connected with the company.

Regulation 2(e) defines the term “insider” to mean any person who, is or was connected with the company or is deemed to have been connected with the company, and who is reasonably expected to have access to unpublished price sensitive information in respect of securities of a company, or who has received or has had access to such unpublished price sensitive information.”

The term “connected person” is defined in Regulation 2(c) and the term “person is deemed to be a connected person” is defined in Regulation 2(h).

Insider trading is a criminal offence under the SEBI Act and punishable under the said Act by monetary fine or imprisonment, or both. There is also a penalty which SEBI can impose on investigation. Regulation 14 of the PIT Regulations contains a provision regarding punishments. According to sub-regulation (1), a person who violates provisions of regulation 12 shall be liable for action under section 11 or 11B and/or section 24 of the Act.

Regulation 13 requires disclosures. It reads as follows:

“13.

- (1) Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company in Form A, the number of shares or voting rights held by such person, on becoming such holder, within 4 working days of :—
 - (a) the receipt of intimation of allotment of shares; or
 - (b) the acquisition of shares or voting rights, as the case may be.
- (2) Any person who is a director or officer of a listed company, shall disclose to the company in Form B, the number of shares or voting rights held by such person, within 4 working days of becoming a director or officer of the company.
- (3) Any person who holds more than 5% shares or voting rights in any listed company shall disclose to the company in Form C the number of shares or voting rights held and change in shareholding or voting rights, even if such change results in shareholding falling below 5%, if there has been change in such holdings from the last disclosure made under sub-regulation (1) or under this sub-regulation; and such change exceeds 2% of total shareholding or voting rights in the company.
- (4) Any person who is a director or officer of a listed company, shall disclose to the company in Form D, the total number of

shares or voting rights held and change in shareholding or voting rights, if there has been a change in such holdings from the last disclosure made under sub-regulation (2) or under this sub-regulation, and the change exceeds Rs. 5 lakh in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower.

- (5) The disclosure mentioned in sub-regulations (3) and (4) shall be made within 4 working days of :
 - (a) the receipts of intimation of allotment of shares, or
 - (b) the acquisition or sale of shares or voting rights, as the case may be.
- (6) Every listed company, within five days of receipt, shall disclose to all stock exchanges on which the company is listed, the information received under sub-regulations (1), (2), (3) and (4) in the respective formats specified in Schedule III.”

Regulation 14(2) states that a person who violates the provisions of regulation 13 shall be liable for action as specified in regulation 11 or sections 11, 11B or action under Chapter VIA or section 24 of the Act.”

While the disclosure under regulation 13(1) is required by *any person who holds more than 5% shares or voting rights in any listed company*, the disclosure under regulation 13(2) is required by *any person who is a director or officer of a listed company*. In both cases, the disclosure is required regardless of whether such person is an “insider” or not. The two provisions are independent and mutually exclusive.

Then, regulation 13(3) requires a disclosure on recurring basis by *any person who holds more than 5% shares for voting rights in any listed company*. Regulation 13(4) contains one more disclosure requirement by *any person who is a director or officer of a listed company*. These two provisions are independent and mutually exclusive and they apply regardless of whether such person is an “insider” or not.

DEFINITION OF 'OFFICER'

Regulation 2(g) of the Regulations adopts the definition of the expression ‘officer’, referred to in regulations 13(2) and (4), from section 2(30) of the Companies Act 1956, which is inclusively defined as follows:

“officer includes any director, manager or secretary or any person in accordance with whose directions or instructions the Board of directors or any one or more of the directors is or are accustomed to act.”

The definition in the Indian Companies Act 1913 was as follows:

“officer includes any director, managing agent, manager or



➤ Where in a definition clause the word 'includes' is used, it is so done in order to enlarge the meaning of the words or phrases occurring in the body of the statute and when it is so used, these words or phrases must be construed as comprehending not only such things which they signify according to their natural import, but also those things which the interpretation clause declares that they shall include.

secretary but, save in sections 235, 236 and 237, does not include an auditor."

The definition in Companies Act 2013 (although this is not yet substituted in the Regulations) is as follows:

"(59) 'officer' includes any director, manager or key managerial personnel or any person in accordance with whose directions or instructions the Board of Directors or any one or more of the directors is or are accustomed to act."

The original definition of 'officer' in the Companies Act 1956 was substituted by the Companies (Amendment) Act, 1960 consequent to the amendment to the definition of "secretary". The definition was further amended by the Companies (Amendment) Act, 1965. This amendment was explained in the Notes on Clauses thus:

"As recommended in paragraph 24 of Part II of the Report of the Commission of Inquiry on the Administration of Dalmia-Jain Companies (hereinafter referred to as the Commission's Report), it is proposed to expand the definition of "Officer" so as to bring within its ambit any person in accordance with whose instructions the Board or any of the directors of a company is accustomed to act. This is designed to counter the trend whereby dummy directors are appointed on Boards of companies to implement policies of a dubious nature, while masterminds mainly instrumental in evolving these policies remain in the background".

The concept of officer under the Companies Acts has been based with regard to liabilities for offences under the Acts as several provisions of the Acts have made the officers liable for punishments for offences under the Acts.

INCLUSIVE DEFINITION

As noted before, the definition of 'officer' in section 2(30) is an inclusive definition. Where in a definition clause the word 'includes'

is used, it is so done in order to enlarge the meaning of the words or phrases occurring in the body of the statute and when it is so used, these words or phrases must be construed as comprehending not only such things which they signify according to their natural import, but also those things which the interpretation clause declares that they shall include. Where in a definition section of a statute a word is defined to mean a certain thing, wherever that word is used in that statute, it shall mean what stated in the definition unless the context otherwise requires. But, where the definition is an inclusive definition, the word not only bears its ordinary, popular and natural sense whenever that would be applicable but it also bears its extended statutory meaning. At any rate, such expansion definition should be as construed as not cutting down the enacting provisions of an Act unless the phrase is absolutely clear in having opposite effect.¹

In the English case, which is often quoted in this regard, *Dilworth v. Commissioner of Stamps* [1899] A.C. 99, their Lordships of the Privy Council had observed:

"The word 'include' is very generally used in interpretation clauses in order to enlarge the meaning of words or phrases occurring in the body of the statute; and when it is so used these words or phrases must be construed as comprehending, not only such things as they signify according to their natural import, but also those things which the interpretation clause declares that they shall include. But the word 'include' is susceptible of another construction which may become imperative, if the context of the Act is sufficient to show that it was not merely employed for the purpose of adding to the natural significance of the words or expressions defined. It may be equivalent to 'mean and include', and in that case it may afford an exhaustive explanation of the meaning which, for the purposes of the Act, must invariably be attached to those words or expressions."



¹ *S.K.Gupta v. K.P.Jain* [1979] 49 Comp Cas 342 (SC)



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Since the definition of the term 'officer' is an inclusive definition and specifies only director, manager or secretary, it does not throw any light on its meaning; the last part, i.e. or *any person in accordance with whose directions or instructions the Board of directors or any one or more of the directors is or are accustomed to act*, being merely bringing in its fold those persons who issue directions or instructions to the Board of directors or any one or more of the directors, who are accustomed to act in accordance with those directions or instructions. Therefore, one has to explore the true meaning and scope of the said definition in the context of the provisions of the PIT Regulations.

RELEVANT RULES OF INTERPRETATION

The first and foremost principle of interpretation of a statute in every system of interpretation is the literal rule of interpretation. The other rules of interpretation, e.g., the mischief rule, purposive interpretation etc., can only be resorted to when the plain words of the statute are ambiguous and lead to no intelligible results or if read literally would nullify the very object of the statute. Where the words of a statute are absolutely clear and unambiguous, recourse cannot be had to the principles of interpretation other than the literal rule.²

There is however an exception to the 'literal rule' and it is the purposive rule of interpretation (sometimes also referred to as 'mischief rule') which can be resorted to when the words in a statutory provision are ambiguous. This rule of statutory interpretation requires that interpretation of a statutory provision (of which the words are capable of bearing two or more constructions) which suppress the mischief and advance the remedy.

A classic exposition of the two rules is the *Sussex Peerage case*.³ It was said:

"The only rule for the construction of Acts of Parliament is that they should be construed according to the intent of the Parliament which passed the Act. If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in that natural and ordinary sense. The words themselves alone do, in such case, best declare the intention of the lawgiver. *But if any doubt arises from the terms employed by the legislature, it has always been held a safe means of collecting the intention, to call in aid the ground and cause of making the statute....*" [emphasis supplied]

It is a well known rule of interpretation of statutes that the text and the context of the entire Act must be looked into while interpreting any of the expression used in a statute. The Court must look to the object which the statute seeks to achieve while interpreting any of the provisions of the Act. A purposive approach for interpreting the Act is necessary.⁴

In *Union of India v. Hansoli Devi*⁵ the principle was succinctly summarized thus :

"It is a cardinal principle of construction of statute that when language of the statute is plain and unambiguous, then the Court must give effect to the words used in the statute and it would not be open to the Courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act. It is no doubt true that if on going through the plain meaning of the language of statutes, it leads to anomalies, injustices and absurdities, then the Court may look into the purpose for which the statute has been brought and would try to give a meaning which would adhere to the purpose of the statute."

Under the purposive approach, the judge may look beyond the four corners of the statute to find a reason for giving a particular interpretation to its words, and his role is one of active co-operation with the policy of the statute.⁶

As stated by Lord Griffiths in *Pepper v. Hart* [1993] 1 All ER 42, time has come to change the self-imposed judicial rule that forbade any reference to the legislative history of an enactment as an aid to its interpretation. The ever-increasing volume of legislation must inevitably result in ambiguities of statutory language which are not perceived at the time the legislation is enacted. The object of the court in interpreting legislation is to give effect so far as the language permits to the intention of the legislature. The days have long passed when the courts adopted a strict constructionist view of interpretation which required them to adopt the literal meaning of the language. The courts now adopt a purposive approach which seeks to give effect to the true purpose of legislation and are prepared to look at much extraneous material that bears on the background against which the legislation was enacted.

Where the words used in the statutory provision are vague and ambiguous or where the plain and normal meaning of its words or grammatical construction thereof would lead to confusion, absurdity, repugnancy with other provisions, the courts may, instead of adopting the plain and grammatical construction, use the interpretative tools to set right the situation, by adding or omitting or substituting the words in the Statute. When faced with an apparently defective provision in a statute, courts prefer to assume that the draftsman had committed a mistake rather than concluding that the Legislature has deliberately introduced an absurd or irrational statutory provision. Departure from the literal rule of plain and straight reading can however be only in exceptional cases, where the anomalies make the literal compliance of a provision impossible, or absurd or so impractical as to defeat the very object of the provision. We may also mention purposive interpretation to avoid absurdity and irrationality is more readily and easily employed in relation to procedural provisions than with reference to substantive provisions.⁷

2 Northern Projects Ltd. v Blue Coast Hotels and Resorts Ltd. [2007] 140 Comp Cas 300 (CLB).
Swedish Match AB v. Securities and Exchange Board, India, AIR 2004 SC 4219.

3 (1844) 11 Cl&F 85.

4 S. Gopal Reddy v State of A. P. AIR 1996 SC 2184; (1996) 4 SCC 596.

5 2002 AIR SCW 3755.

6 Cross on Statutory Interpretation, 3rd edition, page 19.

7 *Afcons Infrastructure Ltd v Cheria Varkey Construction Co Pvt Ltd* 2010 AIR SCW 4983.



Maxwell on Interpretation of Statutes (12th Edn., page 228), under the caption 'modification of the language to meet the intention' in the Chapter dealing with 'Exceptional Construction' states the position succinctly: "Where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, which can hardly have been intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence. This may be done by departing from the rules of grammar, by giving an unusual meaning to particular words, or by rejecting them altogether, on the ground that the legislature could not possibly have intended what its words signify, and that the modifications made are mere corrections of careless language and really give the true meaning. Where the main object and intention of a statute are clear, it must not be reduced to a nullity by the draftman's unskillfulness or ignorance of the law, except in a case of necessity, or the absolute intractability of the language used."

In *Kirkness v. John Hudson and Co. Ltd.* [1955] 2 All ER 345, Lord Reid pointed out that a provision is ambiguous if it contains a word or phrase which in that particular context is capable of having more than one meaning.

Commenting on the object of section 86F of the Indian Companies Act 1913 (corresponding to section 297/299 of the 1956 Act), Chagla J. observed in *Walchandnagar Industries Ltd v. Ratanchand Khimchand Motishaw* [1953] 23 Comp. Cas. 343 (Bom): AIR 1953 Bom 285, since section 86F was enacted to suppress the mischief of a company director holding the position that he does can obtain undue benefit by entering into profitable contracts with the company, and in order and to achieve the object which the Legislature had in mind, section 86F was enacted. It is a well settled canon of construction that when we are considering a remedial measure, we must give to the provision of law as wide an interpretation as possible, of course, consistently with the language used by the Legislature, and if section 86F is remedial in its nature, which it undoubtedly is, then it would be wrong to give it a restricted construction. On the contrary we should try and give it as wide an interpretation as possible.

In *Walchandnagar Industries* case, Chagla J. further said:

"It is perfectly true that the object of the Legislature must be gathered from the language used by it and that it is not open to the court to alter or amend that language in order to make it consistent with what the court thinks might be the object of the Legislature in passing a particular measure. But when the court is called upon to give a wide or limited interpretation to a particular expression and when that expression is capable of both those interpretations, surely it is open to the court to consider what was the object of the Legislature and what was the mischief aimed at, and the court must try and give that construction to a particular expression which will be more consistent with the suppression of the mischief rather than that mischief being allowed to continue uncontrolled."

Since the object and purpose of the provisions in the SEBI Act and the PIT Regulations was to prevent/suppress the mischief of insider trading, the rules of interpretation discussed would seem to be applicable and hence the provisions must be interpreted liberally or widely and not narrowly although they also are penal provisions.

CASES ON MEANING OF 'OFFICER'

The ordinary literal meaning of the word 'officer' is a person who holds a position of rank or authority in the army, navy, air force, or any similar organization; person who has a position of authority in an organization.

In *Words and Phrases*, Permanent edition, published by West Publishing Co., in volume 29, at page 289, it is observed:

"The words 'office' or 'officer' are terms of vague and variable import, the meaning of which necessarily varies with the connection in which they are used, and, to determine it correctly in a particular instance, regard must be had to the intention of the statute and the subject-matter in reference to which the terms are used."

Similarly, in volume LXVII of *Corpus Juris Secundum*, at page 97, under the head "officer", it is observed:

"Although many definitions of the term 'officer' have been attempted, the meaning thereof varies with the connection in which the term is used, and the courts have questioned the possibility of framing a definition which will be general in its application and meet the requirements of all cases which may be presented."

The first part of the definition of 'officer' refers to any director, manager or secretary. But since the definition is an inclusive one, besides a director, manager or secretary, other persons may also fall within the purview of this definition. At the same time, the use of the words 'director' and 'manager' definition does indicate the intention of the legislature and it is, in my view, that only those persons in the employment of the company who have some authority entrusted in them by the company, and responsibility should be treated as officers.





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Incidentally, it should be noted that the word 'manager' in this definition means the manager as defined in section 2(24) of the Act, that is to say, an individual (not being the managing agent) who, subject to the superintendence, control and direction of the Board of Directors, has the management of the whole, or substantially the whole, of the affairs of a company, and includes a director or any other person occupying the position of a manager, by whatever name called, and whether under a contract of service or not.

In *Mohinder Singh v State of Haryana* (1989) 3 SCC 93; AIR 1989 SC 1367, the Supreme Court held that a person invested with the authority of an office is to be treated as an officer. In service jurisprudence even ministerial employees have been referred to as officers. The terms 'officer' and 'employer' put together obviously signify the grade of the establishment or post held, the officer being higher in grade to employee. Keeping the nature and duty assigned to the Inspector or the Sub-Inspector working in the Food and Supplies Department to whom powers have been delegated under Essential Commodities Act, it cannot be doubted that the holders of posts of Inspector and Sub-Inspector are officers. They would therefore, be entitled to be considered for the selection to the post of District Food and Supplies Officer.

The following persons have been held to be "officers" for the purposes of the Companies Act:

- (a) managing director;⁸
- (b) director;⁹
- (c) liquidator;¹⁰
- (d) secretary, assistant secretary, accountant;¹¹ accountant and cashier of a bank;¹²
- (e) marketing manager.¹³

In *Mallela Suryanarayanan v Vijaya Commercial Bank* [1959] 29 Comp. Cas. 114, it was argued that an agent of a branch and assistant secretary would not answer the description of "an officer" within the purview of section 2(11) of the Indian Companies Act 1913. The court rejected that contention and held that that was an inclusive definition and did not exhaust all persons who come within the ambit of it. To hold that an assistant secretary or an agent of a bank is not an officer was to deprive the expression of its full content. The word "officer" was of wide connotation and included assistant secretaries or agents of all the branches.

⁸ *Shri Ambica Mills Ltd* (1986) 59 Comp Cas 368 (Guj).

⁹ *Assistant Registrar v Southern Machinery Works Ltd* (1986) 59 Comp Cas 670 (Mad); *Poomulli M A Nambudripad v Official Liquidator* (1979) 49 Comp Cas 81 (Ker).

¹⁰ *Official Liquidators, Baroda Batteries Ltd v Registrar* (1978) 48 Comp Cas 120 (Guj); *Prahalad Bai Lath v Registrar* (1979) 49 Comp Cas 317 (Ori); *V P Nanda v Registrar* (1978) 48 Comp Cas 552 (Del).

¹¹ *Re Hanuman Bank Ltd* (1964) 34 Comp Cas 640: (1964) 1 Comp LJ 262 (Mad). In this case, the court applied the rule of 'purposive construction' in respect of a provision of the Companies Act 1913 which made inter alia, officers of a company in winding-up liable for misapplication of the company's property.

¹² *Official Liquidator, Golcha Properties P Ltd v P C Dhadda* (1980) 50 Comp Cas 175 (Raj).

¹³ *Ravinder Kumar Sangal v Auto Lamps Ltd* (1984) 55 Comp Cas 742: (1984) 1 Comp LJ 59 (Del). The Judge in this case rejected the objection that the petitioner could not be treated as an officer of the company, pointing out that s. 2(30) of Companies Act 1956 gave an inclusive definition of the expression "officer" and hence the petitioner as marketing manager could as such be treated as an officer of the company entitled to seek protection under s. 633 of that Act.



In *Official Liquidator, Golcha Properties P. Ltd. (In Liquidation) v. P. C. Dhadda* [1980] 50 Comp Cas 175 (Raj), the Rajasthan High Court held that, the definition of the word "officer" is wide enough and would include anybody on whose instructions the board or any of the directors of the company is accustomed to act. This is designed to counter the practice whereby dummy directors are appointed on boards of companies to implement policies of a dubious nature, while masterminds mainly instrumented in evolving those policies remain in the background. According to Stroud's Judicial Dictionary "office" means a person under a contract of service; a servant of special status holding an appointment to an office which carries with it an authority to give directions to other servants. The secretary, accountant and cashier were held to be officers of the company as per the definition in section 2(30) of the Companies Act 1956.

One significant aspect of the scope of the definition of officer as pointed out by courts is that only those who are employees or servants of the company are officers and those who render services to the company but who are not in the employment of the company or who have not the master-servant relationship are not officers. In other words only those who have contracts of service are officers but those who have contracts for services are not officers of the company. For example, a company secretary in the employment of the company would be treated as officer of the company, but a practising company secretary providing services to the company would not be.

In Halsbury's Laws of England, volume 6, paragraph 638, it is stated thus:

"Any persons who are regularly employed as part of their business or occupation in conducting the affairs of the company may be officers of the company."

Neither bankers nor solicitors are officers of a company within the meaning of the definition, but if the solicitor has other duties and occupies a different position from that of a purely legal adviser, he may come within the definition.¹⁴

As to the question whether the solicitor of a company was an officer

¹⁴ *Liberator Permanent Benefit Building Society In re* [1894] 71 LT 406.



➤ The purpose of the PIT Regulations is prohibition of insider trading. With this objective, the PIT Regulations have provided for various measures one of which is disclosure of information concerning trading in shares of a listed company by its directors, officers and others who have accesses to price-sensitive information concerning the company. Insider trading causes injury or detriment to those who do not possess such information and therefore do not and cannot deal in the securities of the company to which the information relates.

of the company, in *Liberator Permanent Benefit Building Society In re* [1894] 71 LT 406, Cave J. observed: "It seems to me that merely because he was appointed solicitor to the society, without more, the solicitor does not become an officer of the society any more than it has been held that a banker does, if he is appointed banker to the society. All these persons render services to the society, but they cannot be said to be in the employment of the society so as to make them officers."

A broker, a solicitor and a banker who has nothing to do with the management of the company and may have no knowledge of what is being done inside the company's office, cannot be classified as the officer of the company.¹⁵ In this case of the Madras High Court, Leach J. referred to the *Liberator case* (*supra*) and observed:

"I can see no difference in the position of a broker to a company, whose duties are confined to dealing with the shares of the company and the position of the banker who has to deal with the moneys of the company. A broker has nothing to do with the management of the company and may have no knowledge of what is being done inside the company's office. Therefore, to classify him as an officer of the company within the meaning of Sec. 235 of the Act¹⁶ would, in my opinion, be putting too great a strain on the wording of the section. If moneys had been wrongly paid to the brokers the official liquidator had, subject to the law of limitation, other means of recovering them, but he is not entitled to use Sec. 235 for the purpose."

In *Ravinder Kumar Sangal v. Auto Lamps Ltd* [1984] 55 Comp.

¹⁵ *Official Liquidators of National Live Stock Registration Bank Ltd. v. VeluMudaliar* 1938 (8) Comp Case 7 Mad.

¹⁶ This section of the Indian Companies Act 1913 made liable, inter alia, officers of a company in liquidation for misapplication of the company's property or money when it was not in liquidation.

Cas. 742, the Delhi High Court took the view that a marketing manager of a company is an 'officer'. However, the High Court seems to have misconceived the definition because the learned judge's conclusion (that a marketing manager is an 'officer') was based on the hypothesis that the definition includes manager and hence a marketing manager is an officer. The term 'manager' in the definition of 'officer' is not used in the sense in which it is used in ordinary parlance. That term has special meaning as defined in section 2(24) of the Act, that is "manager means an individual (not being the managing agent) who, subject to the superintendence, control and direction of the Board of Directors, has the management of the whole, or substantially the whole, of the affairs of a company, and includes a director or any other person occupying the position of a manager, by whatever name called, and whether under a contract of service or not." Therefore, the view expressed by the learned Judge of the High Court is not convincing.

The Madras High Court's decision in *Hanuman Bank Ltd. In re* [1964] 34 Comp. Cas. 640 (Mad), is significant on this subject. Assistant secretary, accountant and cashier of a bank were held to be falling within the purview of the term 'officer' in section 2(11) of the Indian Companies Act 1913 [similar to the definition in section 2(30)]. The court observed that the question whether a particular person is an officer or not under a particular provision of the Act should be approached with reference to the purpose of the provision having regard to the position occupied by the person in the company and his duties in respect of the transactions in question. The court emphasized that the term 'officer' is inclusively defined, and observed:

"... as a mere matter of grammar the definition of "officer" contained in section 2(11) cannot be taken as exhaustive or conclusive. Thus, if it was meant to be an all-inclusive definition, it would have been unnecessary to repeat in section 235 the words "director" and "manager" besides the words "any officer" and it would have been sufficient simply to say "any officer of the company" without expressly mentioning the words "director" and "manager" because it could be urged that the definition of "officer" itself would include the words "director" and "manager". We have no doubt that the definition is not exhaustive."

The approach adopted by the Madras High Court is based on a





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rule of statutory interpretation that when a word or a provision in a statute is vague or ambiguous, it should be interpreted having regard to the purpose of the relevant provision. This is called 'purposive interpretation/construction'. It is a well-known rule of interpretation of statutes that the text and the context of the entire Act must be looked into while interpreting any of the expressions used in a statute. The courts must look to the object which the statute seeks to achieve while interpreting any of the provisions of the Act.¹⁷ The Supreme Court has said that an interpretation of the statute which harmonises with its avowed object is always to be accepted than the one which dilutes it.¹⁸

It will be noticed that courts have interpreted the definition of 'officer' widely and not restrictively, so as to include in its scope even lower level employees of the companies.

GOVERNMENT'S VIEWS

The erstwhile Department of Company Affairs has, in two of its clarifications, dealt with this definition as under:

(1) Whether or not a person would come within the scope of term 'officer' as contemplated in section 2(30) of the Companies Act, 1956 would depend on the facts and circumstances of each particular case and the relevant provisions of the Companies Act. Thus, if in respect of discharge of any particular duty imposed by the Act any person occupies a position of responsibility in a company, he will be deemed to be an "officer" in relation to that duty and answerable as such. In this connection, attention is also invited to the definition of Officer who is in default in section 2(31) read with section 5 of the Companies Act, 1956. [Letter No. 8/65/2(20)/63-PR, dated 7 October, 1963]

(2) The term "officer", as defined under section 2(30), includes an employee if he has been vested with the powers of financial control over one or more fields of operation of a company and, therefore, such an employee should be deemed to be falling under the category of the term "officer". In view of this position, the employees like chief accountant, works manager, sales manager, purchase manager, estate manager, etc., should be deemed to be officers for the purpose of disclosure of debts/loans or advances in terms of Part 1 of Schedule VI. [Letter No. 8/17/2(30)/76-CL-V, dated 23 August, 1976]

The Government has emphasized the 'position of responsibility' and financial control' and thus interpreted it widely consonant with the interpretation placed on the definition by the courts.

PURPOSE OF THE PIT REGULATIONS

Now, let us ascertain the purpose of the PIT Regulation in general and regulation 13(2) and (4) in particular in which the term 'officer' has been used.

The purpose of the PIT Regulations is prohibition of insider trading. With this objective, the PIT Regulations have provided for various measures one of which is disclosure of information concerning trading in shares of a listed company by its directors, officers and others who have accesses to price-sensitive information concerning the company. Insider trading causes injury or detriment to those who do not possess such information and therefore do not and cannot deal in the securities of the company to which the information relates. Insider trading, as it involves misuse of confidential information, is unethical amounting to breach of fiduciary position of trust and confidence. The misuse of inside unpublished information is bad for several reasons, such as-

- (a) it involves taking a secret, unfair advantage;
- (b) it gives rise to potential conflicts of interests in which the company's best interest may wrongfully take second place to insider's self-interest; and
- (c) it brings the market into disrepute and may be a disincentive to investment.

Regulation 13 of the Regulations imposes obligations, *inter alia*, on directors and officers of a company to disclose information concerning their share dealings and this is consistent with the purpose of the IT Regulations mentioned above. By applying the abovementioned rules of interpretation, a wider interpretation of the provisions in regulation 13(2) and (4) is called for. Secondly, since the IT Regulations aim at prohibiting and curbing insider trading, every requirement under the regulation must be interpreted keeping this purpose in mind. If so, all those employees of the company who are likely to have (directly or indirectly or by having it communicated by other employees) access to unpublished price-sensitive information, must be treated as officers.

ORDERS OF SAT AND SEBI

In *Sundaram Finance Limited v. SEBI* (decided on 16 September 2010), the question before the Securities Appellate Tribunal (SAT) was whether a Senior Vice President of a company is an 'officer'. The SAT answered the question in the affirmative and held:

"A reading of the aforesaid definition makes it clear that it is an inclusive definition. Apart from what the word 'officer' means, it includes all that is stated therein. In other words, the definition does not exhaust all persons who otherwise come within its ambit or scope. While the definition says that it includes the persons specified therein, it does not say who are all those persons who will come within the term. We are of the view that an 'officer' means a person holding an appointment to an office which carries with it an authority to give directions to other employees. Thus, an 'officer' as distinct from a mere employee is a person who has the power of directing any other person or persons to do anything whereas an employee is one who only obeys. Any person who occupies a position of responsibility in a company will be an officer and

¹⁷ *S. Gopal Reddy v State of A. P.* (1996) 4 SCC 596.

¹⁸ *Regional Provident Fund Commissioner v Hoogli Mills Co Ltd* (2012) 2 SCC 489.



this has been clarified by the Department of Company Affairs, Government of India as per its letter dated October 7, 1963. In this background, we shall examine the position of the Senior Vice President in the company. Harsha Viji is the Senior Vice President (Special Projects). He is number four in the hierarchy of the company as is clear from the organizational chart which was prevalent at the relevant time. It is clear from the chart that there is a Managing Director to whom the Deputy Managing Director reports and thereafter we have the Chief Financial Officer and Company Secretary on the one hand and Executive Director (Operations) on the other. Below these two branches there are several officers in the hierarchy and the Senior Vice President (Special Projects) is one of them. There are a few General Managers who are working below the Senior Vice President. Having looked at the organizational chart of the company, we are satisfied that the Senior Vice President occupies a senior management position and, as the very name of the post suggests, he is handling special projects of the company. Surely he has the power and authority to issue directions to those working below him. There is, thus, no room for doubt that he is an officer of the company within the meaning of section 2(30) of the Companies Act."

In *Adjudication order in respect of Mr. Rajat Mathur in the matter of Wipro Ltd. dated August 13, 2014*, SEBI imposed a penalty of Rs. 5 lakhs on 'noticee' (designated employee of Wipro Ltd.) for violation of disclosure of change in shareholdings in excess of benchmark limit under the Regulations. It rejected the noticee's contention that the noticee was not 'director'/'officer' to come under ambit of PIT Regulations, rules noticee held senior position of responsibility. Relying on SAT order in *Sundaram Finance Limited*, the SEBI observed that the noticee was Geography Head of a 128-member team and was authorised to give direction to them and hence was an 'officer'. It also rejected the noticee's plea that he did not buy shares in secondary market, but only sold stock options granted to him, observes immaterial whether shares were bought from secondary market / acquired on exercising ESOP's. Further the Adjudicating Officer rejected the noticee's contention of being covered under

company's internal code but not PIT Regulations, both obligations distinct and independent fulfilment necessary. He observed:

"the Noticee is a designated employee of the company and reports to Chief Executive Officer of the company who is the P&L owner. The Chief Executive Officer has SBU heads for various vertical segments (like manufacturing, telecom, energy and utilities etc) who are the P&L owners under him. Other reportees of Chief Executive Officer are 1) service line heads who are responsible for practice building, 2) geography heads (like the Noticee) who are responsible for sales and building country operations and 3) functional heads (HR, Finance, Administration, Quality, etc.). The Noticee is occupying the position of geography head who is responsible for sales and building country operations across Asia Pacific, Africa and Latin America. His major role is to get large local clients for Wipro through the sales team in the countries of operation. The Noticee's direct reportees are the 3No. heads for Asia Pacific, Africa and Latin America. He has a total team of about 128 employees. By virtue of the position held by the Noticee, it can be said beyond doubt that the noticee is holding a senior position of responsibility and that he has the authority to give directions to other employees of the company. Thus, I conclude that the noticee is an 'officer' within the meaning of provisions of regulation 2(g) of PIT Regulations, 1992 read with section 2(30) of the Companies Act, 1956. Therefore, the provisions of regulation 13(4) read with 13(5) of PIT Regulations, 1992 are applicable to him."

In *Adjudication Order No. EAD-2/DSR/PU/145/2014* In respect of Ms. Chandana Gosh, dated 7 July 2014, the Adjudicating Officer held, relying upon the SAT's Order in the *Sundaram Finance case*:

"Upon perusal of the above chart, I find that the Noticee is the Head-Human Resource & Competency Development. The Divisional Manager - HR Operations, Divisional Manager - Competency Development, District human resources managers (N/S/E/W), the Assistant HR Managers - Operations, Manager - HR Systems and Processes, Manager Skilling & Employability, Asst Manager Training, Asst Manager Training, Asst. HR Managers (N/S/E/W), HR Officer - Frontline Performance are the personnel subordinate to the noticee which means that she is clearly holding a higher position capable of giving directions to her subordinates".

CONCLUSION

It appears that no fault can be found with any of the orders of the SAT or SEBI in interpreting the definition of 'officer' widely or liberally and not restrictively by including in it employees of a company who occupy the position of responsibility and authority to control one or more activities and issue directions or instructions to other employees except those who have the duty to follow the former's directions or instructions and work under the control of the former. This interpretation seems to be in consonance with the purpose and object of the provisions of the PIT Regulations having regard to the 'mischief rule' of statutory interpretation. CS





Article



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Amended Clause 49: Major Recast of Corporate Governance Norms

- Just a fortnight before implementation of the RPT rules under SEBI's clause 49, clause 49 itself has been changed. The RPT trigger imposed by SEBI has been increased, though it still remains way different from those of the MCA. Not just this, the very definition of "related party" has significantly been changed. Major changes effected by the SEBI are closely examined here.

Corporate governance norms in India have been in a state of flux ever since beginning of April 2014. Such important matters as composition of board of directors, approval of related party transactions, etc. have been going back and forth with frequent changes in the rules. Provisions on related party transactions (RPTs) are a case in point. MCA brought in rules¹, just before April, to specify transactions that would require members' approval by a special-special resolution. There were two triggers there – a company-size trigger, and a transaction-size trigger. SEBI came out, in April, 2104², with the text of revised Clause 49, to be effective from 1st October 2014, where the triggers were totally different. Companies prepared to comply with the stricter of the two. AGM resolutions were accordingly proposed. Suddenly, just in the middle of the AGM season, while companies had already printed and circulated their AGM notices, MCA substantially changed the RPT rules, removing the company-size trigger altogether, and increasing the transaction size³. Resultantly, many



companies chose to either amend their AGM notices or ignore resolutions already proposed.

In September 2014, just a fortnight before implementation of the RPT rules under SEBI's Clause 49, the proposed "revised Clause 49" itself has been comprehensively revised⁴. The RPT trigger imposed by SEBI has been increased, though it still remains way

¹ Rule 15 (3) of the Meetings of Board and its Powers Rules deals with related party transactions that need the approval of shareholders by way of a special resolution, without the participation of a "related party".

² SEBI circular ref. CIR/CFD/POLICY CELL/2/2014, dated April 17, 2014

³ Companies (Meetings of Board and its Powers) Second Amendment Rules, 2014, w.e.f.

14-08-2014.

⁴ SEBI circular ref. CIR/CFD/POLICY CELL/7/2014 dated September 15, 2014



different from those of the MCA. Not just this, the very definition of “related party” has significantly been changed.

There are other changes as regards the manner of appointment of independent directors. The definition of “independent director” has been amended to re-introduce the concept of materiality, which is conspicuously missing in the Companies Act definition.

While listed companies are subject to both Listing rules and the Companies Rules, it is regrettable that there should be gaps in the two sets of rules without there being any difference of objective or legislative policy.

This article provides the highlights of changes introduced in the “revised revised Clause 49”, introduced by the Circular of September 15, 2014.

APPLICABILITY

The Clause 49 of the Listing Agreement, as revised on 17th April, 2014 and further amended on 15th September, 2014, has been made non-mandatory for:

- a) Companies having a paid up equity share capital not exceeding Rs. 10 crore and net worth not exceeding Rs. 25 crore, as on the last day of the previous financial year (i.e. (Both the criteria has to be fulfilled); and
- b) Companies whose equity share capital is listed exclusively on SME and SME-ITP platforms.

As Clause 49 is a clause of the equity listing agreement, and there is no corresponding provision in the Debt Listing Agreement, clause 49 provisions do not apply in case of companies whose debt securities are listed, and equity is not listed.

As compared to this, in the Companies Act 2013, a “listed company” is defined in sec. 2 (52) as a company whose securities are listed, irrespective of whether these are debt securities or equity securities, and irrespective of the size of the company.

RELATED PARTY AND RELATED PARTY TRANSACTIONS [CLAUSE 49 (VII)]

A. Simplified definition of ‘Related Parties’

The revised ‘revised’ Clause 49 has synthesized the definition of “related party” as given in the applicable accounting standards [currently AS 18] with the scope of the term as defined in sec. 2 (76). Resultantly, an entity would be considered as a related party if he/it is a related party under Section 2 (76) of the Act or under the applicable accounting standards. Note also that when the applicable accounting standards change, for example, with the introduction of IFRS or IndASes, the definition of “related party” under the listing

agreement with automatically change to incorporate all such parties which are taken to be related, in terms of the accounting standards.

B. Meaning of Related Party Transactions

Related Party Transaction was defined under the revised Clause 49 as ‘a transfer of resources, services or obligations between a company and a related party, regardless of whether a price is charged’. It has been now clarified that a “transaction” with a related party shall be construed to include single transaction or a group of transactions in a contract”.

Thus, while section 188 of the Companies Act is concerned only with specified transactions listed in the section, the provisions of Clause 49(VII) extend to every transaction covered by the definition cited above. The definition is quite wide and comprehensive, and covers most conceivable transactions. For instance, financial transactions such as giving of loans, taking of loans, giving of guarantee, taking of guarantee, subscription to shares, issue of shares etc. are not covered by section 188, they are easily covered by the expansive definition of “transaction” given in Clause 49(VII). It may also be noted that the applicable Accounting Standard AS 18 gives an illustrative list of transactions [see para 24]. Since the definition in the Listing Agreement is admittedly picked from the accounting standard, it may be possible to construe that the word “transaction” as used in clause 49(VII) will include the illustrative transactions enumerated in AS 18.

C. ‘Material’ Related Party Transactions

The materiality of related party transaction was required to be looked into to determine whether the same requires approval of the shareholders through special resolution.

The draft revised clause 49 had prescribed that RPTs would be considered as material if they, either individually or taken together, exceeded 5% of the annual turnover or 20% of the net worth of the company as per the last audited financial statements of the company, whichever is higher. The revised





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'revised' clause 49 has changed the limits to **'exceeding 10% of the annual consolidated turnover of the company'** as per the last audited financial statements of the company'.

With this, the need to seek shareholders' resolution has been rightfully prescribed for large transactions in keeping with the recommendations of the JJ Irani Committee Report and Standing Committee on Finance in their Report in August, 2010. The basic intent behind prescribing shareholder's resolution and that too in the nature of a 'special' special resolution in case of Related Party Transactions was to ensure that shareholders are made an active part in the decisions making. However, the gap between the Companies Rules and the Listing Agreement remains – the Companies Rules put a relative ceiling connecting with turnover or net worth based on the type of contract, and put an absolute ceiling of Rs 100 crores. The listing agreement refers to "consolidated" turnover, and does not distinguish between contracts for purchase/sale of goods or those for services.

D. Prior Audit Committee approval for all related party transactions

One of the important highlights of the Listing Agreement is that while the Companies Act [sec 177 (4)] requires only an approval of RPTs by the audit committee, the Listing agreement insists on a prior approval. The revised-revised Clause 49 contains an important carve-out for this requirement: it permits companies to seek an omnibus approval, that is, without getting a transaction-specific approval, from the audit committee. There are several conditionalities for the audit committee to grant an omnibus approval:

- a) Such RPTs should be repetitive in nature and the Audit Committee shall lay down the criteria for granting the omnibus approval in line with the Related Party Transactions Policy of the company.
- b) Such omnibus approval is needed and is in the interest of the company;
- c) The approval should specify the (i) the name/s of the related party, nature of transaction, period of transaction, maximum amount of transaction that can be entered into, (ii) the indicative base price / current contracted price and the formula for variation in the price if any and (iii) such other conditions as the Audit Committee may deem fit.

In case the need of the RPT and the aforesaid details are not available, an omnibus approval upto the transaction value of Rs. 1 crore may be granted for such RPTs.

- d) Quarterly review of such omnibus approvals by the Audit Committee
- e) Validity of such omnibus approvals shall be for a period of one year.

In our view, one of the most important relaxations in clause 49 is the omnibus approval for *de-minimis* transactions, upto a value of Rs 1 crore per transaction. It may be an interesting issue as to what is the scope of each transaction. For this, the definition given in Explanation to Clause 49(VII)(A) should be relevant – that is, if there are several transactions arising under one contract, they should all be clubbed together to see if the *de minimis* limit of Rs 1 crore is being breached.

E. Voting on 'Material' RPTs

The revised Clause 49 had provided that when RPTs are up for shareholder approval, 'the related parties shall abstain from voting' on such resolutions.

The revised 'revised' Clause 49 has introduced an 'Explanation' to this provision, clarifying that 'all entities falling under the definition of related parties shall abstain from voting irrespective of whether the entity is a party to the particular transaction or not'.

However the requirement of obtaining prior approval of the Audit Committee and the approval of the shareholders for material RPT has been done away with for:

- i. transactions entered into between two government companies; and
- ii. transactions entered into between a holding company and its wholly owned subsidiary whose accounts are consolidated with such holding company and placed before the shareholders at the general meeting for approval.

This provision of the Listing Agreement puts MCA requirements and the Listing Agreements in sharp contrast. MCA issued a clarification, by way of its General Circular dated July 17, 2014⁵ to provide that only such related parties who are related party to the contract or arrangement would abstain from voting on such resolutions i.e. only the related party with whom the RPT is proposed to be entered into by the company, and who is also a member of the company, would not vote on the such resolution. On the contrary, SEBI has gone in line with the global "majority of minority" rule to say that any related party shall abstain from voting.

It is notable that the Indian "majority of minority" rule is much stricter than the global rules⁶. India has provided for a special

5 One may read the entire text of the General Circular at: http://mca.gov.in/Ministry/pdf/Circular_No_30_17072014.pdf

6 Under Delaware General Corporation Law, only disinterested directors can vote on such matters (such matters requiring Board approval only). However participation by interested directors shall not render the resolution void upon fulfillment of the aforementioned criteria. Under UK Listing Rules, a related party and his associates cannot vote. Other related persons may vote. The Swiss Code of Best Practice for Corporate Governance prohibits only the interested party to the resolution from voting.



resolution – which itself provides the minority with a veto right. Excluding therein the majority vote, and still insisting on a special resolution, makes the resolution doubly-special, which is a unique provision in international context.

APPOINTMENT OF WOMAN DIRECTOR

In line with the Act, the appointment of woman director on the Board of the company has been deferred to be applicable from 1st April, 2015.

INDEPENDENT DIRECTORS

A. Definition of Independent Director

The **'material' pecuniary relationship criterion has been re-introduced**, which was missing in the revised Clause 49.

However the Act still provides that an independent director shall have no pecuniary relationship with the company. Needless to say, stricter of the two provisions would apply and in this case the Act would override the Listing Agreement.

B. Tenure of Independent Directors

Clause 49(II)(B)(3)(a) of the revised Clause 49 was more or less in line with the Act. The variance was that a person who had already served as an ID in the company for more than 5 years would have been eligible for appointment for only one more term of 5 years. In this respect the Act did not take into consideration previous tenure served as an ID in the company. This was more so because the concept of having IDs stemmed from the Listing Agreement and not the Act.

However the revised 'revised' Clause 49 substitutes this to be in consonance to the Act. The amendment provides that the maximum tenure of independent directors will be in accordance with the Companies Act, 2013 and clarifications/ circulars issued by the Ministry of Corporate Affairs, in this regard, from time to time.

RISK MANAGEMENT COMMITTEE

The revised Clause 49 of the Listing Agreement required the top 100 listed companies by market capitalization to frame a Risk

The Singapore Exchange Listing Manual requires only disinterested shareholders to vote on any transaction involving interested person. "Interested Person" has been defined to mean a director, CEO or controlling shareholder and an associate of any of these.

Section 208 read with section 224 of the Corporations Act, 2001 of the Commonwealth of Australia provides that at a voting at general meetings on related party transactions, related parties of the public company to whom the resolution would permit a financial benefit must refrain from voting on such resolutions. However the Australian Securities & Investment Commission (ASIC) has the power to make a declaration for the purposes of section 224, allowing a related party or an associate of a related party to vote, if they are satisfied that it will not cause unfair prejudice to the interests of any member of the company.

Rule 14A of Listing Rules of the exchange in Hong Kong abstains any connected person with material interest to vote at the meeting on the resolution approving the transaction.

Management Committee, empowering the Board to define the roles and responsibilities of such Committee.

The amendment in the revised 'revised' Clause 49 brought about clarity that such Risk Management Committee shall primarily be a Committee of the Board, although it may have senior executives in the Committee.

Though this revised 'revised' Circular is a continuation of the SEBI Circular dated 17th April, 2014, the constitution of the Risk Management Committee has become a debatable topic. The question that now arises is that whether the constitution of the Risk Management Committee would still be applicable to only the top 100 listed companies or now, since the applicability provision of the Clause 49 has been changed, the same would be applicable to all listed companies, except such exempt companies, as provided above?

In our view, this revised 'revised' SEBI circular does not seek to exclude the provisions of the Circular dated 17th April, 2014, but intends to make modifications and amendments on the same. Since the applicability of revised Clause 49 (VI) (C) was only to the top 100 listed companies and the same has not been amended or changed, we are of the opinion that its applicability would still be on such 100 top listed companies.

POLICY FOR 'MATERIAL' SUBSIDIARIES

Now, instead of the policy requiring to be disclosed to the stock exchanges and the Annual report, the same needs disclosure on the company's website and a web link thereto shall be provided in the Annual Report.

Disposal of shares and assets of material subsidiaries

Special Resolution was required to be passed by a company where it:

- a) Disposes shares of a material subsidiary which would reduce its shareholding (either on its own or together with other subsidiaries) to less than 50% or cease the exercise of control over the subsidiary; or
- b) Sells, disposes and leases assets amounting to more than 20% of the assets of the material subsidiary. It may be noted in this regard that the threshold limit of 20% of the assets of the material subsidiary has to be reckoned on an aggregate basis during a financial year

The amendment, as introduced in the revised 'revised' Clause 49 is that such special resolution would not be required where such divestment or sale/disposal/lease is made under a scheme of arrangement duly approved by a Court/Tribunal.



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Comparison with the provisions of the Act, 2013

We have also compiled a tabular comparison of the revised 'revised' Clause 49 with the provisions of the Act, 2013. The same is provided hereunder:

Particulars	Revised 'revised' Clause 49 as per SEBI's circular dated September 15, 2014	Provisions of Companies Act, 2013
Applicability of Revised clause 49	Compliance with clause 49 not mandatory for following companies: i. Companies with paid up equity share capital not exceeding Rs. 10 crore; and net worth not exceeding Rs. 25 crore as on the last day of the previous financial year. (Dual criteria to be fulfilled) However, when provisions become applicable to such companies, compliance with clause 49 to be done within 6 months. ii. Companies whose equity share capital is listed exclusively on SME and SME-ITP platforms.	The Act, 2013 is applicable to all companies incorporated under this Act or under any previous company law.
Applicability of appointment of woman director	Provisions regarding appointment of woman director as provided in Clause 49 (II)(A)(1) shall be applicable with effect from April 01, 2015 .	Existing Companies shall comply with the requirements of the provisions 149(1) of the Act within one year from date of commencement of the Act.
Amendment to Clause 49(II)(B) (1) (c) Definition of Independent Director	Clause 49(II)(B)(1)(c) provides - 'apart from receiving director's remuneration, has or had no material pecuniary relationship with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year.'	Section 149(6)(c) of the Act, 2013 provides- who has or had no pecuniary relationship with the company, its holding, subsidiary or associate company, or their promoters, or directors, during the two immediately preceding financial years or during the current financial year;
Amendment to Clause 49(II)(B) (3) (a)- Tenure of Independent Directors	The maximum tenure of Independent Directors shall be in accordance with the Companies Act, 2013 and clarifications/ circulars issued by the Ministry of Corporate Affairs, in this regard, from time to time	Independent director shall hold office for a term up to five consecutive years on the Board of a company, but shall be eligible for re- appointment on passing of a special resolution by the company and disclosure of such appointment in the Board's report.
Amendment to Clause 49(II)(B)(4) (b)- Formal Letter of Appointment to Independent Directors	The terms and conditions of appointment shall be disclosed on the website of the company.	Schedule IV of the Act, 2013 provides – The terms and conditions of appointment shall also be posted on Company's website.
Amendment to Clause 49(II) (B)(7)- Training of Independent Directors	Familiarization programme for Independent Directors: a. The company shall familiarise the independent directors with the company, their roles, rights, responsibilities in the company, nature of the industry in which the company operates, business model of the company, etc., through various programmes. b. The details of such familiarization programmes shall be disclosed on the company website and a web link thereto shall also be given in the Annual Report.	Schedule IV (III) (7) of the Act cast a statutory duty on the independent directors to keep themselves well informed about the company and the external environment in which the Company operates.



Particulars	Revised 'revised' Clause 49 as per SEBI's circular dated September 15, 2014	Provisions of Companies Act, 2013
Amendment to Clause 49(IV) (A)- Nomination and Remuneration Committee	The company through its Board of Directors shall constitute the Nomination and Remuneration committee which shall comprise at least three directors, all of whom shall be non-executive directors and at least half shall be independent. Chairman of the committee shall be an independent director. Provided that chairperson of the company (whether executive or non-executive) may be appointed as member of the Nomination and Remuneration Committee but shall not chair such Committee.	The Board of Directors shall constitute the Nomination and Remuneration Committee consisting of three or more non-executive directors out of which not less than one-half shall be independent directors. Provided that the chairperson of the company (whether executive or non-executive) may be appointed as a member of the Nomination and Remuneration Committee but shall not chair such Committee.
Amendment to Clause 49(V) (F)- Subsidiary Companies	No company shall dispose of shares in its material subsidiary which would reduce its shareholding (either on its own or together with other subsidiaries) to less than 50% or cease the exercise of control over the subsidiary without passing a special resolution in its General Meeting except in cases where such divestment is made under a scheme of arrangement duly approved by a Court/Tribunal.	No such requirement for subsidiaries under the Act. However, Section 180 (1) (a) of the Act, 2013 requires companies to pass a special resolution to sell, lease or otherwise dispose of the whole or substantially the whole of the undertaking of the company. Explanation: "undertaking" shall mean an undertaking in which the investment of the company exceeds 20% of its net worth as per the audited balance sheet of the preceding financial year or an undertaking which generates 20% of the total income of the company during the previous financial year
Amendment to Clause 49(V) (D)- Subsidiary Companies	The company shall formulate a policy for determining 'material' subsidiaries and such policy shall be disclosed on the company's website and a web link thereto shall be provided in the Annual Report.	No such requirement under the Act.
Amendment to Clause 49(V)(G) - Sale, disposal or lease of assets of material subsidiary	Clause 49(v)(G) requires listed companies to seek prior approval of shareholders for sale, disposal and leasing of assets of amounting to more than 20% of the assets of material subsidiaries on an aggregate basis during a financial year. This clause shall however not be applicable if the sale, disposal or leasing is pursuant to a scheme of arrangement which has been approved by a Court/ Tribunal.	The Act, 2013 does not contain any particular provision pertaining to sale, disposal or lease of the assets of a subsidiary. Section 180(1)(a) of the Act, 2013 requires the company to seek the approval of its shareholders for sale, disposal of its own undertaking.
Amendment to Clause 49(VI) - Constitution of risk management committee	Revised Clause 49(VI)(C) provides that the company through its Board of Directors shall constitute a Risk Management Committee. The Board shall also define the roles and responsibilities of the Risk Management Committee and may delegate monitoring and reviewing of the risk management plan to the committee and such other functions as it may deem fit. Further, two more clauses have been inserted which are enumerated below: i. That majority of the Committee will consist of member of the Board of Directors. ii. Senior executives can be members of the Committee provided that the Chairman shall be a Director	Under section 134(3)(n) of the Act, 2013, companies which have a risk management policy in place, the Board's report of such companies should a statement indicating development and implementation of a risk management policy for the company including identification therein of elements of risk, if any, which in the opinion of the Board may threaten the existence of the company.



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Particulars	Revised 'revised' Clause 49 as per SEBI's circular dated September 15, 2014	Provisions of Companies Act, 2013
Amendment to Clause 49(VII) (A) -Meaning of 'transaction' for the purpose of related party transaction	Explanation has been inserted after Clause 49(VII)(A) that 'transaction' with a related party shall include a single transaction or a group of transactions in a contract.	The threshold limits mentioned in Rule 15 of Companies (Meetings of Board and its Powers) Rules, 2014 shall be applicable to transaction(s) entered into either individually or taken together with the previous transactions during a FY.
Amendment to Clause 49(VII)(B) - Meaning of 'related party'	Clause 49(VII)(B) which defined a related party shall now include the following: i. Any entity is a related party if the relation arises out of section 2(76). ii. Any entity is a related party if the relation arises out of applicable accounting standards.	Section 2(76) is the only section which defines a 'related party'
Amendment to Clause 49(VII) (C) - Definition of materiality with respect to material Related Party Transactions ('RPTs') amended	The meaning of 'materiality' has been amended to mean transaction(s) proposed to be entered into individually or with other previous transactions exceeds 10% of the annual consolidated turnover as per the last audited financial statements of a company.	The term material has not been defined. However the amended ⁷ Rule 15 of the Companies (Meetings of Board and its Powers) Rules, 2014 read with Section 188 (1) of the Act, 2013 requires companies to pass a special resolution prior to entering into transactions under Section 188 (1) of the Act, 2013 exceeding the following limits: i. Sale, purchase or supply of any goods or materials, directly or through appointment of agents exceeding 10% of the turnover of the company or Rs. 100 crores, whichever is lower; ii. Selling or otherwise disposing of, or buying, property of any kind directly or through appointment of agents exceeding 10% of the net worth of the company or Rs. 100 crores, whichever is lower; iii. Leasing of property of any kind exceeding 10% of the net worth or 10% of turnover or Rs. 100 crores, whichever is lower; iv. Availing or rendering of any services directly or through appointment of agents exceeding 10% of the turnover of the company or Rs. 50 crores, whichever is lower; v. Appointment to any office or place of profit in the company, its subsidiary company or associate company at monthly remuneration exceeding Rs. 2.5 Lakh; vi. Remuneration for underwriting the subscription of any securities or derivatives thereof of the company exceeding 1% of the net worth of the company.

⁷ Amended vide MCA Notification dated 14th August, 2014



Particulars	Revised 'revised' Clause 49 as per SEBI's circular dated September 15, 2014	Provisions of Companies Act, 2013
Amendment to Clause 49(VII)(D) - Grant approval to RPTs by Audit Committee	The following changes have been incorporated w.r.t. approval of RPTs by the Audit Committee: Prior approval of RPTs is mandatory; however, omnibus resolution may be passed by the Audit Committee subject to the following: a. Omnibus approval shall be for transactions which are repetitive and the Audit Committee has to lay down the criteria for granting approval which has to be in line with the RPT Policy b. The same is in the best interests of the Company c. Omnibus approvals shall carry certain specifications, which if not available then approval may still be granted if the value does not exceed Rs. 1 crore per transaction d. Audit Committee to quarterly review the details of RPTs entered pursuant to each omnibus approval e. Omnibus approvals to be valid for only 1 year and shall require fresh approval every year	Section 177 of the Act, 2013 requires the approval of the Audit Committee for every related party transaction
Amendment to Clause 49(VII)(E) - Applicability of need to seek approval of Audit Committee and shareholders in case of material RPTs	Shall not be applicable to: Transactions between two Government companies Transactions between a holding and its wholly owned subsidiary and approval of the shareholders of the holding company is sought	Explanation 2 of Rule 15 of Companies (Meetings of Board and its Powers) Rules, 2014 states in case of wholly owned subsidiaries the special resolution has to be passed by the holding company only.
Amendment to Clause 49(VII)(E) - Voting on RPTs	All entities falling under the definition of related parties shall abstain from voting irrespective of whether the entity is a party to the particular transaction or not.	The MCA by way of its General Circular dated July 17, 2014 clarified that only parties which are related to the contract or arrangement shall abstain from voting on the special resolution
Amendment to Clause 49(VIII)(A) (2) - Disclosure of policy on RPTs at the website	The policy on dealing with RPTs shall be disclosed on the website of the Company and a web link shall be provided in the Annual Report	Nothing in particular
Amendment to Clause 49(VIII) (F), (G) and (H) - Deletion of certain clauses	The following Clauses have been deleted: i. Detailed reasons of resignation provided by the director ii. Disclosure of letter of appointment within 1 working day from the date of appointment of independent directors iii. Disclosure of training imparted to independent directors in the annual report, establishment of vigil mechanism in the website and in the annual report iv. Disclosure regarding remuneration policy and evaluation criteria in the annual report	i. Section 168 of Act, 2013 and allied Rules require the resignation letter to be put up on the website of a company ii. Schedule IV of the Act, 2013 requires the terms and conditions of appointment of independent directors to be put up on the website of the company iii. Section 178 requires remuneration policy to be disclosed in the Board's report
Amendment to clause 49(IX) - CEO/ CFO certification	It has been clarified that the CEO/MD/manager and in their absence WTDs and CFO shall certify.	No specific requirement



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Independent Director's Liability: Relief From Court Would Not be Automatic Under The Companies Act, 2013

- For good corporate governance and to prevent financial irregularities by public limited companies, provisions have been made in the Companies Act, 2013 for appointment of Independent Directors and now the Act itself codifies the role, responsibility and liability of Independent Directors. Even though there may be a legal requirement for data bank for prospective Independent Directors, not many people shall voluntarily stick their neck to be saddled with the accompanying liabilities.

Prior to the enactment of the Companies Act, 2013 ("the Act" or "the Act of 2013"), the term 'Independent Director' ("ID" or "IDs") was not defined in the Act itself, nor were there specific duties, responsibilities and liabilities of such IDs. However, the new Act has brought about far reaching changes and codified the duties of directors and also defined who could be "IDs", and stipulated the procedure for their appointment, their duties, responsibilities and liabilities. With Section 150 of the Act prescribing the creation of a Data Bank containing the names, addresses and qualifications of persons who could be eligible for appointment as IDs, there tired bureaucrats, retired bank officials and senior professionals have been hoping to be enlisted in the Data Bank for post-retirement appointment in companies as IDs.





This article analyses some of the important provisions of the “code” forming part of the Act of 2013 concerning IDs and also analyses the difficulty the IDs will henceforth face in getting quick relief from Courts when the IDs are prosecuted for defaults and legal non-compliance, more so, when it entails criminal liability.

For a long time, the non-whole-time directors, including IDs/nominee directors were getting relief from Courts by citing, inter-alia, the decision of the Delhi High Court in *O.P. Khaitan v. Shree Keshariya Investment Limited and Others* (1977)2 CLJ 37 Delhi where the High Court distinguished the duties of an executive director (whole-time director) from that of a non-whole-time director, who was inducted on the Board of Directors of a company by virtue of his special professional skill and expertise and refused to fasten liability on such a director for non-compliances and defaults committed by the company on whose Board such a person was appointed as a director. Therefore, the relief was rather automatic, if such accused director could plead/show that he did not participate in the Board meeting where the concerned decision was taken and/or that he acted reasonably and diligently and had no role in the act complained of.

The legal support to such outside non-whole-time directors/IDs also came from judgement of the Supreme Court of India which also supported the line of reasoning of the Delhi High Court in the above mentioned judgement in *O.P. Khaitan's* case. A three-Judge Bench of the Supreme Court of India in *SMS Pharmaceuticals Ltd. v. Neeta Bhalla* (2005) 6 CLJ 144(SC), had analysed the provisions of the Negotiable Instruments Act (“NI Act”) in the context of the liability of non-whole-time directors for bouncing of cheques. Since the charging sections of most of the economic legislations, including the Companies Act are worded *parimateria*, the judgement of the Supreme Court in this case came to be relied upon heavily to the rescue of non-whole-time/IDs and saved them from criminal prosecutions. To appreciate the reasoning of this judgement, it is necessary to look at Section 141 of the NI Act, which stipulates as under:

“141. Offences by Companies – (1) If the person committing an offence under Section 138 is a company, every person who, at the time the offence was committed, was in charge of and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

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...

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the

part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.”

In the aforesaid case of *SMS Pharmaceuticals*, the three-Judge Bench of the Supreme Court came up with an analysis of the liability of non-whole-time directors and it held as under:

“While analysing Section 141 of the Act, it will be seen that it operates in case where an offence under Section 138 is committed by a company. The key words which occur in this section are ‘every person’. These are general words and take every person connected with the company within their sweep. Therefore, these words have been rightly qualified by the use of the words ‘who, at the time the offence was committed, was in charge of or and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence, etc.’ What is required is that the persons who are sought to be made criminally liable under Section 141 should be at the time the offence was committed in charge of and responsible to the company for the conduct of the business of the company. Every person connected with the company shall not fall within the ambit of the provision. It is only those persons who were in charge of and responsible for conduct of business of the company at the time of commission of an offence, who will be held liable for criminal action. It follows from this that if a director of a company who was not in charge of and was not responsible for the conduct of the business of the company at the relevant time, will not be liable under the provision. The liability arises from being in charge of and responsible for conduct of business of the company at the relevant time when the offence was committed and not on the basis of merely holding a designation or office in a company. Conversely, a person not holding any office or designation in a company may be liable if he satisfies that main requirement of being in charge of and responsible for conduct of business of a company at the relevant time. Liability depends on the role one plays in the affairs of a company and not on designation or status. If being a director





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➤ the Act of 2013 stipulates in no uncertain terms that an independent director shall be held liable for defaults and non-compliances as enumerated in Section 149(12) of the Act. The ambiguity and confusion having been removed in the Act of 2013, the escape route for independent directors has virtually been blocked.

or manager or secretary was enough to cast criminal liability, the section would have said so. Instead of 'every person', the section would have said 'every director, manager or secretary in a company is liable...etc. The legislature is aware that it is a case of criminal liability which means serious consequences so far as the persons sought to be made liable is concerned.'

In *National Small Industries Corporation Ltd. v. Harmeet Singh Paintal* (2010) 2 CLJ 304 (SC), the Supreme Court held that:

"Section 141 is a penal provision creating vicarious liability, and which, as per settled law, must be strictly construed. It is therefore, not sufficient to make a bald, cursory statement in a complaint that the director (arrayed as an accused) is in charge of and responsible to the company for the conduct of the business of the company without anything more as to the role of the director. But the complaint should spell out as to how and in what manner Respondent No. 1 was in charge of or was responsible to the accused company for the conduct of its business. This is in consonance with strict interpretation of penal statutes, especially, where such statutes create vicarious liability. A company may have a number of directors and to make any or all the directors as accused in a complaint merely on the basis of a statement that they are in charge of and responsible for the conduct of the business of the company without anything more is not sufficient or adequate fulfilment of the requirements under Section 141."

However, the Act of 2013 makes a radical departure from the position of directors in the Companies Act, 1956 and that is where the provisions of the Act of 2013 would adversely affect the otherwise protective legal umbrella of the IDs. For example, Section 149(8) of the Act of 2013 stipulates that "*the company and independent directors shall abide by the provisions specified in Schedule IV*". Further, Section 149(12) of the Act of 2013 stipulates that "*notwithstanding anything contained in this Act – (i) an independent director; and (ii) a non-executive director not being promoter or key managerial personnel, shall be held liable, only in respect of such acts of omission or commission by a company which had occurred with his knowledge, attributable through Board processes, and with his consent or connivance or where he had not acted diligently.*" Thus, the Act of 2013 stipulates in no

uncertain terms that an independent director shall be held liable for defaults and non-compliances as enumerated in Section 149(12) of the Act. The ambiguity and confusion having been removed in the Act of 2013, the escape route for independent directors has virtually been blocked.

Additionally, Schedule IV to the Act of 2013 now prescribes the "Code for Independent Directors" ("Code") and it states that "*The Code is a guide to professional conduct for independent directors. Adherence to these standards by independent directors and fulfilment of their responsibilities in a professional and faithful manner will promote confidence of the investment community, particularly minority shareholders, regulators and companies in the institution of independent directors.*"

To amplify and elaborate further, Part I of the Code gives guidelines for professional conduct and it stipulates that the ID shall: (i) uphold ethical standards of integrity and probity; (ii) act objectively and constructively while exercising his duties; (iii) exercise his responsibilities in a bona fide manner in the interest of the company; (iv) devote sufficient time and attention to the professional obligations for informed and balanced decision making; (v) not allow any extraneous considerations that will vitiate his exercise of objective independent judgement in the paramount interest of the company as a whole, while concurring in or dissenting from the collective judgement of the Board in its decision making; (vi) not abuse his position to the detriment of the company or its shareholders or for the purpose of gaining direct or indirect personal advantage or advantage for any associated person; (vii) refrain from any action that would lead to loss of his independence; (viii) where circumstances arise which make an independent director lose his independence, the independent director must immediately inform the Board accordingly; (ix) assist the company in implementing the best corporate governance practices.

Further, Part II of the said Code stipulates that the IDs shall: (i) help in bringing an independent judgement to bear on the Board's deliberations especially on issues of strategy, performance,





risk management, resources, key appointments and standards of conduct; (ii) bring an objective view in the evaluation of the performance of Board and management; (iii) scrutinise the performance of management in meeting agreed goals and objectives and monitor the reporting of performance; (iv) satisfy themselves on the integrity of financial information and that financial controls and the systems of risk management are robust and defensible; (v) safeguard the interest of all stakeholders, particularly the minority shareholders; (vi) balance the conflicting interest of stakeholders; (vii) determine appropriate levels of remuneration of executive directors, key managerial personnel and senior management and have a prime role in appointment and where necessary, recommend removal of executive directors, key managerial personnel and senior management; (viii) moderate and arbitrate in the interest of the company as a whole, in situations of conflict between management and shareholders' interest.

Again, Part III of the Code is most important and it deals with the duties of IDs. It states that the IDs shall: (i) undertake appropriate induction and regularly update and refresh their skills, knowledge and familiarity with the company; (ii) seek appropriate clarification or amplification of information and, where necessary, take and follow appropriate professional advice and opinion of outside experts at the expense of the company; (iii) strive to attend all meetings of the Board of Directors and of the Board committees of which he is a member; (iv) participate constructively and actively in the committees of the Board in which they are chairpersons or members; (v) strive to attend the general meetings of the company; (vi) where they have concerns about running of the company or a proposed action, ensure that these are addressed by the Board and, to the extent that they are not resolved, insist that their concerns are recorded in the minutes of the Board meeting; (vii) keep themselves well informed about the company and external environment in which it operates; (viii) not to unfairly obstruct the functioning of an otherwise proper Board or committee of the Board; (ix) pay sufficient attention and ensure that adequate deliberations are held before approving related party transactions and assure themselves that the same are in the interest of the company; (x) ascertain and ensure that the company has an adequate and functional vigil mechanism and to ensure that the interest of a person who uses such mechanism are not prejudicially affected on account of such use; (xi) report concerns about unethical behaviour, actual or suspected fraud or a violation of the company's code of conduct or ethics policy; (xii) acting within his authority, assist in protecting the legitimate interest of the company, shareholders and its employees; (xiii) not disclose confidential information including commercial secrets, technologies, advertising and sales promotion plans, unpublished price sensitive information, unless such disclosure is expressly approved by the Board or required by law.

Also, Part IV of the Code mandates, *inter-alia*, that the appointment of IDs shall be formalised through a letter of appointment, which shall set out (a) the terms of appointment; (b) the expectation of the

Board from the appointed Director; the Board level committee(s) in which the Director is expected to serve and its tasks; (c) the fiduciary duties that come with such an appointment along with accompanying liabilities; (d) provision for Directors and Officers (D&O) insurance, if any; (e) the code of business ethics that the company expects its directors and employees to follow; (f) the list of actions that a director should not do while functioning as such in the company and (g) the remuneration, mentioning periodic fees, reimbursement of expenses for participation in the Board's and other meetings and profit related commission, if any.

The Act has made one more significant change namely as per Para 5 of Part IV of the Code, now the terms and conditions of the appointment of IDs shall be open for inspection at the registered office of the company by any member during normal business hours and Para 6 thereof mentions that the terms and conditions of appointment of IDs shall also be posted on the company's website. So, the terms and conditions of appointment of IDs will henceforth in the public domain and will, thus, make it difficult for the company and the IDs to change/shift stand at a later point of time to suit their defence during prosecutions.

Further, to ensure that the IDs play an active role in the management decision making processes of the concerned company where they are appointed, Part VII of the Code stipulates that the IDs of the company shall hold at least one meeting in a year, without the attendance of non-independent directors and members of management and all the IDs of the company shall strive to be present at such meeting. The meeting shall (a) review the performance of non-independent directors and the Board as a whole and (b) review the performance of the chairperson of the company, taking into account the views of executive directors and non-executive directors; (c) assess the quality, quantity and timeliness of flow of information between the company management and the Board that is necessary for the Board to effectively and reasonably perform their duties.





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To ensure active involvement of IDs in the overall decisions and management of the concerned company, Part VIII of the said Code deals with evaluation mechanism and it states that: (i) the performance evaluation of IDs shall be done by the entire Board of Directors, excluding the director being evaluated and (ii) on the basis of the report of performance evaluation, it shall be determined whether to extend or continue the term of appointment of the ID.

A bare perusal of the aforesaid legal provisions for the appointment of IDs and their functional Code in Schedule IV of the Act of 2013 will make it easier for the prosecutors to show how and where the ID failed in following the Code and failed to exercise due diligence and caution in performing his duties, thereby reducing the scope of his defence while being hauled up for defaults/non-performance entailing even criminal prosecution. Since the ID is expected to attend, participate and deliberate on all matters coming up before the Board or its committees, it will be very difficult for the ID to wriggle out from the prosecution net, on the plea that a decision was taken without his concurrence, knowledge and that the Board process for such decision making was not known to him. Therefore, even if the ID is not in-charge of or responsible to the company for the conduct of its business, which came to his rescue in Court as per the provisions of the Companies Act, 1956, after the enactment of the Act of 2013 he can be prosecuted for practically each and every type of offence/default committed by the company or for any and every type of non-compliance of the Act.

As per Section 177 of the Act of 2013, the ID has a very well defined role in the crucial "Audit Committee" of the company and Section 178 of the Act of 2013 mandates him to be part of the "Nomination and Remuneration Committee and Stakeholders Relationship Committee" all very important key functions in the company. Therefore, it will rather be very difficult for the ID to convince the Court that he did not take part in the key-decision making processes of the company and/or that it happened without his knowledge or consent, because the relevant provisions of the Act of 2013 and the relevant Code are quite comprehensive, exhaustive and unambiguous about his role, responsibilities and liabilities. Thus, relief from the Court will not be easy and this is where the position of ID significantly differs from that of the Companies Act, 1956 and will create difficulty in getting persons of integrity and experience to fill up the positions of IDs in the specified companies.

Additionally, even though Section 463 of the Act of 2013 empowers the court to grant relief in certain cases, in view of what has been elaborated in Section 149 read with Schedule IV to the Act of 2013, it would also be difficult for the IDs to take advantage of the power of the Court to grant relief in certain cases. This is more so because sub-section (1) of Section 463 of the Act stipulates that relief to the accused director can be granted by the Court "*if in any proceeding for negligence, default, breach of duty, misfeasance or breach of trust against an officer of a company, it appears to the court hearing the case that he is or may be liable in respect of the negligence, default, breach of duty, misfeasance or breach of trust, but that he has acted honestly and reasonably, and that having regard to all*

the circumstances of the cases, including those connected with his appointment, he ought fairly to be excused, the court may relieve him, either wholly or partly, from his liability, on such terms, as it may deem fit." By definition, a director is, *inter-alia*, an "officer" of the Company (as per clause 2(59) of the Act) and since Section 463 of the Act of 2013 mentions grant of relief to an "officer" of the company, it is likely that there will be no quick relief for the ID by invoking the provisions of Section 463 of the Act which he could do in the previous regime. Prior to enactment of the Act of 2013, though the non-wholetime directors/non-executive directors of companies facing the threat of prosecution were generally getting relief from the Court by invoking the provisions of Section 633 of the Companies Act, 1956, the doors for such quick relief for IDs under the new Act of 2013 have rather been blocked.

Though the regulatory authorities expect to plug all the loopholes in financial matters and corporate functioning of the public companies by mandating the appointment of IDs to function more as a watchdog and even the Act of 2013 codifying their functional guidelines, yet, it is too early to comment as to how far it will yield the desired results and as to how far its efficacy and effectiveness can be vouched, only time will tell. With unlimited liability and meagre/restricted financial rewards, who will want to function as an ID is a big question. Already the companies are facing shortage of IDs and how to comply with this legal requirement is bothering many companies.

The only saving grace for the IDs is to insulate themselves from possible prosecutions by liberally using the powers made available in Section 177(6) of the Act and in Part III(2) of the Code in Schedule IV to the Act to take and follow appropriate outside professional advice and opinion of outside experts at the expense of the company, wherever deemed necessary, which can guide them and rescue them from possible pitfalls unseen and unknown to the IDs. On the other hand, to genuinely utilise the professional expertise of such IDs, the companies appointing them would do well to facilitate the IDs to liberally make use of such enabling provisions so that their performance evaluation matches the expectation of the investors and stakeholders as well as the regulatory authorities.

CONCLUSION

To prevent fraud and financial irregularities and to ensure good corporate governance norms in companies where IDs are appointed, the new approach of regular training sessions for them and to train them how to perform well within the prescribed parameters, the Ministry of Corporate Affairs and all the three Professionals Institutes should come forward to formulate and implement a viable practical mechanism. Co-operation from all concerned sectors will make the role of IDs effective and useful and save them from possible threat of prosecutions for default and non-compliances.

CS



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CSR Expenditure: Deductible Issues under Income Tax Act

- While introduction of provision in the new Companies Act providing for compulsory spending by certain companies in discharge of their Corporate Social Responsibilities was indeed a welcome and appreciable one, the recent amendment of section 37 of the Income-tax Act, by Finance Act, 2014 to deny deduction of such spending is an unwelcome one. Read on this article to know why.

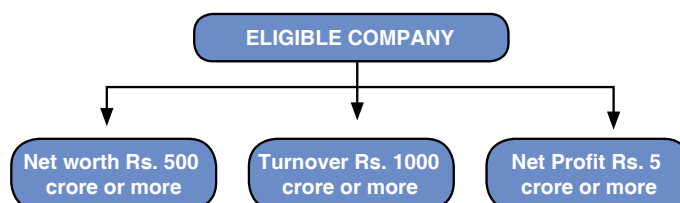
BACKGROUND

India is the first country in the world where the voluntary guidelines for CSR has embedded into a statutory legislation. The debate started after implementing the Section 135 of the Companies Act, 2013 with effect from April 1, 2014, whether the CSR expenditure so mandated to be incurred by every eligible company would be considered as an expense for the purpose of Income Tax Act, 1961. In other words, an urgency was felt to incorporate amendments in the Income Tax Act, 1961 allowing CSR expenditure in correspondence with the related amendment in Section 135 of the Companies Act, 2013. As the excitement over the tax benefit among the corporates impounded because of the expectation from the new government was very high to see "Acche Din Aa Gaya Hain". Before July 10, 2014, Industry was hoping that the government would clear the confusion over CSR expenditure and propose a new clause in the Finance Bill 2014, which would

allow as deduction under section 37 of the Income tax Act, 1961. But the recent amendment in the Finance Act, 2014 has defeated the real purpose of bringing CSR related provision in the Companies Act, 2013. A great setback to Industry as the CSR spending will not be allowed as tax deductible expenditure.

ELIGIBLE COMPANY

The Section 135 of the Companies Act 2013 is not applicable to all Companies. Only a few Companies, who satisfy either of the following conditions, would come under the CSR net:





Article

CSR EXPENDITURE: DEDUCTIBLE ISSUES UNDER INCOME TAX ACT

Every eligible company has to spend in every financial year, at least 2% of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its CSR Policy. Average net profit shall be calculated in accordance with the provisions of Section 198 which includes profit before tax excluding certain capital gains. Accordingly FY 2014-15 is the first year of utilisation of CSR expenditure and the disclosure will be made in next year.

CSR EXPENDITURE: DEDUCTIBLE ISSUES

Under the existing provisions of the Income Tax Act, 1961, there is no provision exists, where the expenditure incurred in relation to Corporate Social Responsibility (CSR) of the Company is allowed as deduction for computing the taxable business income. The reason being the CSR expenditure not wholly and exclusively incurred for the purpose of business of the assessee. Section 37(1) of the Income tax Act, 1961 is the residual section for expenses, which is not specifically covered in Section 30 to 36 of the Act, but subject to conditions that it is incurred wholly and exclusively for business purposes only and not of the capital nature.

In several cases wherein the courts have held that expenses incurred on social benefit will be tax deductible based on the ground that such expenses have incurred on commercial expediency and has business connectivity with the Company.

In the case of **CIT Anr. v. Infosys Technologies Ltd.** (2014) (360 ITR 714), the Karnataka High Court held that expenditure incurred on social initiative by Infosys for installing the traffic signal near an establishment in Bannerghata Circle in Karnataka could be expended wholly and exclusively for the business u/s 37(1) of the Act and is allowed for deduction as business expenses as it helps 500 employees of the Company to reach office on time. The general public also benefited by the said expenditure.

Also in several cases, the Courts have disallowed the expenses incurred in social benefit due to lack of direct nexus with the tax payer's normal course of business.

In the case of **CIT and Anr. v. Wipro Ltd.** (360 ITR 658) (kar), the Court held that expenditure was incurred by Wipro for community development near its factory which was located in backward area and could not be claimed as business expenditure. The Court found that Company was not able to provide any supporting documents to substantiate its claim and the said expenditure on community development do not satisfy the commercial expediency and therefore the said expenditure will not be allowed under section 37(1) of the Act.

THE FINANCE ACT, 2014: CSR EXPENDITURE

The Finance Act, 2014 has inserted an explanation below Section 37(1) with effect from the Assessment year 2015-16:

"Explanation 2- For removal of doubts, it is hereby declared that the purpose of sub-section (1), any expenditure incurred by the assessee on the activities relating to corporate social responsibility referred to Section 135 of the Companies Act, 2013 shall not deemed to be an expenditure incurred by the assessee for the purpose of business or profession".

This amendment is a great setback to the Industry as the expenditure incurred in relation to corporate social responsibility will not be allowed as tax deductible expenditure and defeat the real purpose of bringing CSR related provision in the Companies Act, 2013.

The memorandum of the Finance bill explained the rationale behind not-deductibility of the said expenditure. It states that the objective of the CSR is to share the burden of the Government in providing social services and therefore allowing such expenditure will result in subsidizing of around one-third of such expenses by the Government.

IMPLEMENTING AGENCY

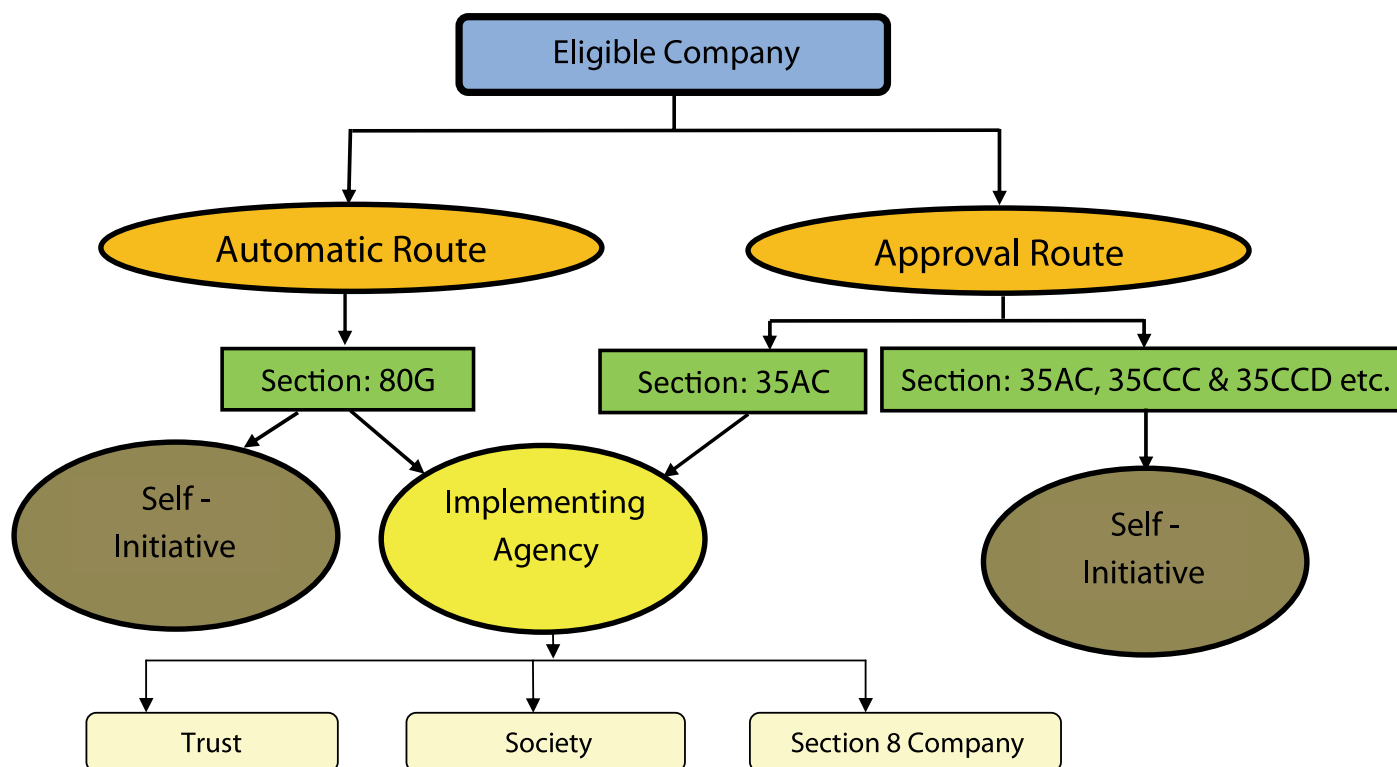
The Board of Directors of eligible companies shall undertake its CSR activities either as its own initiative or through registered NGOs (such as trust or society or a section 8 company) established by the company or its holding or subsidiary or associate company for this purpose. The company may also collaborate with other registered NGOs (i.e. trust, society or section 8 company) which have established track record of three years in undertaking the projects or programmes.

AUTOMATIC v. APPROVAL ROUTE

The disheartened corporates will now be motivated to contribute towards organisations or registered NGOs where maximum tax benefit is available. The present provisions of the Act provide for allowability of CSR spending which are of the nature described in section 30 to 36 of the Income Tax Act, 1961 subject to fulfillment of conditions, if any, specified therein.

By analysing the existing provisions of the Income Tax Act, there are two ways, wherein the eligible corporate can take benefit either as its own or through implementing agency (such as registered trust, society or section 8 company):

- (1) Automatic route, and
- (2) Approval route



Automatic Route	Approval Route
No specific approval is required. One time registration with tax authorities is needed	Specific approval is required on specific project
Example: Section 80G	Example: Section 35AC, 35CCC & 35CCD
Quantum of deduction restricted to 50% - 100%	Quantum of deduction restricted to minimum 100% and in some cases weighted deduction of 150% of sum paid
One time registration with tax authorities	Project-wise specific approval from the authority is needed which is a time consuming process
Liberal process. No requirement of yearly reporting	Stringent control process. Requirement of yearly reporting to the specific authority
No specific time limit until the registration is cancelled by the Tax Authorities	Limited period approval. Normally for 3 years with renewable option

Some of the instruments such as Section 80G and Section 35AC can be used by NGOs (i.e registered trust, society or section 8 company) as an effective tool of fund raising for meeting social obligation. These instruments can also lead to mutually beneficial relationship between NGOs and corporate sector.



Article

CSR EXPENDITURE: DEDUCTIBLE ISSUES UNDER INCOME TAX ACT

ALLOWABILITY OF CSR EXPENDITURE

The existing provisions of the Income Tax Act are not frequently discussed or applied in the following section while claiming deduction in computation of profit and gains from business or profession by the corporate assessee. The importance of these sections has gained momentum after the Finance Act 2014 became enacted. Impact of some of these Sections has been discussed with respect to CSR spending:

TAX DEDUCTIONS UNDER INCOME TAX ACT 1961 (SECTION 80G)

I. Following donations allowed subject to a maximum of 10% of the adjusted Gross Total Income:

- A. Donations to government for promoting family planning, etc., 100% allowed
- B. Eligible for 50% deduction:
 - Donations to government for other charitable purposes
 - Donation made for housing accommodation/ improvement of cities, towns or villages etc..

II. Eligible for 100% deduction w/o maximum limit:

- Donation to PM's National Relief Fund
- Donation to State Government Fund for Medical Relief to the Poor
- Chief Minister's or Lt. Governor's Relief Fund
- Approved University or Educational Institution of national eminence, etc..

IMPACT OF SECTION 80G IN VIEW OF CSR

In terms of Section 135 of Companies Act, 2013, CSR activities are carried out either by eligible corporate itself or through registered NGOs. Donations under section 80G are covered under general or automatic route as the NGOs then get registered with the income tax authorities, who will use it as fund raising instrument until the registration is cancelled by the tax authorities. In case, where the approval route (i.e. Section 35AC, 35CCC & 35CCD etc.) for executing projects or programmes are not to be practically feasible, the corporate can contribute to the registered NGOs for carrying out the CSR activities and also be claimed as deduction for eligible donation to the extent of 50% under the Income Tax Act. Also the eligible corporate can directly contribute to PM National Relief Fund or other Funds as specified in schedule VII of the Companies Act, 2013. No interpretation is required and no direct benefit may accrue as such to eligible corporate.

SECTION 35AC: ELIGIBLE PROJECTS OR SCHEMES

Eligible expenditure: Contribution by any assessee to a public sector company, local authority, association or institution approved

by the National Committee for carrying out any eligible project or scheme.

Corporate assessees have an option to either contribute to registered NGOs as above or directly expend on the eligible projects or schemes.

Eligible project or scheme: Such project/scheme for promoting the social & economic welfare of the public as the CG may, by notification in the Official Gazette, specify in this behalf on the recommendations of the National Committee **Quantum of deduction:** 100% of sum paid during the previous year.

Expenditure made under section 35AC normally qualifies as CSR under various items as specified in Schedule VII of the Companies Act, 2013:-

Schemes specified u/s 35AC (Not exhaustive)	Corresponding item under Schedule VII where the scheme is likely to fall
<ul style="list-style-type: none"> • Construction and maintenance of drinking water projects • Construction of dwelling units for the economically weaker sections • Construction of school buildings • Establishment and running of non-conventional and renewable sources of energy systems • Promotion of sports • Pollution control • Any other programme for uplift of the rural poor or the urban slum dwellers 	<ul style="list-style-type: none"> • Item (i) – making available safe drinking water • Item (iii) – measures for reducing inequalities faced by socially and economically backward groups • Item (ii) – promoting education • Item (iv) – conservation of natural resources • Item (vii) – training to promote sports • Item (iv) – ensuring environmental sustainability and maintaining quality of soil, air and water • Item (x) & (xi) – rural development & slum development projects

Any other programme for uplift of the rural poor or the urban slum dwellers, as the National Committee may consider fit for support, like:-

- 1) Family welfare and immunization
- 2) Tree plantation
- 3) Social forestry
- 4) Development of irrigation resources
- 5) Rural sanitation - construction of low -cost latrines
- 6) Medical camps in rural areas



- 7) Rural health programmes
- 8) Land development and reclamation of waste land or degraded land.
- 9) Soil and water conservation
- 10) Non -formal education and literacy, especially for women & children.
- 11) Rural non- farm activities
- 12) Creation of employment opportunities for urban and rural population
- 13) Supportive services for women to engage in productive work
- 14) Leprosy eradication

IMPACT OF SECTION 35AC IN VIEW OF CSR

Expenditure made under section 35AC should mostly qualify as CSR under different projects as specified in Schedule VII of the Companies Act 2013. It is an important tax saving instrument which is available both to the eligible corporate and registered NGOs subject to the approval from the Central Government. Government will notify the eligible project in the official gazette and the contribution to ensure the 100% deduction against business income to each eligible corporate. Normally no interpretation is needed for matching up the activities specified in Section 35AC and the activities covered in Schedule VII of the Companies Act, 2013. It comes under the approval route.

SECTION 35CCC : AGRICULTURAL EXTENSION PROJECT

Eligible expenditure: Expenditure incurred on any agricultural extension project notified by the Board.

Notified agricultural extension project: Any project shall be notified by board upon satisfaction of all of the following conditions:

Project should be for training, education and guidance of farmers;

- Project shall have prior approval of Ministry of Agriculture; and
- Expenditure (excluding land & building) exceeding Rs. 25 lakhs is expected to be incurred.

Quantum of deduction: 150% of sum paid.

Any company directly or indirectly connected with agriculture or farmers may pursue this option – agro processing companies, chemicals & pesticides company, etc.

IMPACT OF SECTION 35CCC IN VIEW OF CORPORATE SOCIAL RESPONSIBILITY (CSR)

Expenditure made under section 35CCC (applicable from the

assessment year 2013-14) should qualify as CSR under item (x) i.e. “**rural development project**” as specified in Schedule VII of the Companies Act, 2013. It is an important tax saving instrument which is available **only** to the eligible corporate (not to registered NGOs) subject to prior approval from the Ministry of Agriculture, Government of India. CBDT will notify the eligible project in the official gazette and the contribution to ensure the weighted deduction of 150% of sum paid. More interpretations are needed for matching up the activities specified in Section 35CCC and the activities covered in Schedule VII of the Companies Act, 2013. It comes under approval route.

SECTION 35CCD

Section 35CCD – Skill Development Project:

- Eligible expenditure – Expenditure incurred (excluding on land and building) on any skill development project notified by CBDT.
- A skill development project may be notified if it is undertaken by an eligible company and is undertaken in separate facilities in a training institute.
- Eligible Company is a company which is engaged in the business of manufacture or production of any article or thing or is engaged in providing certain specified services.
- Illustrations of skill development project – vocational training, training to newly recruited employees.
- Quantum of deduction – 150% of the expense incurred.

IMPACT OF SECTION 35CCD IN VIEW OF CORPORATE SOCIAL RESPONSIBILITY (CSR)

Assessee may need to strategize their expenditure made under section 35CCD (applicable from the assessment year 2013-14) so as to qualify as CSR under item (ii) i.e. “**promoting education/ vocational skills**” as specified in Schedule VII of the Companies Act, 2013. It is an important tax saving instrument which is available





Article

CSR EXPENDITURE: DEDUCTIBLE ISSUES UNDER INCOME TAX ACT

only to the eligible corporate (not to registered NGOs) to incur any expenditure on any notified skill development project. CBDT will notify the skill development project in the official gazette and the contribution to ensure the weighted deduction of 150% of sum paid. More interpretation are needed for matching up the activities specified in Section 35CCD and the activities covered in Schedule VII of the Companies Act, 2013. It comes under approval route.

TAX IMPACT OF CSR ACTIVITIES

(i) If eligible company undertakes CSR activities through registered NGOs, having 50% or 100% tax benefit instrument (like Section 80G or 35AC), the company will get 50% or 100% tax benefit on CSR spending and will save the tax liability. In case the eligible company undertakes CSR spending directly on its own, the company will have to pay additional taxes on disallowance of CSR spending.

So it would be encouraging for the eligible company to park their CSR money only through the registered NGOs where they get maximum tax benefit.

(ii) As per Companies (Corporate Social Responsibility Policy) Rules 2014, every eligible company may build CSR capacities of their own personnel as well as of their implementing agencies through Institutes, such expenditure will not be allowed as deduction under the Income Tax Act in view of the latest amendment in the Finance Act, 2014 but can be factored into CSR project cost as part of the CSR expenditure in view of Section 135 of the Companies Act, 2013.

(iii) The case laws where CSR expenditure were held as admissible expenditure, are mentioned below:-

- *CIT v. Madras Refinery Ltd. [266 ITR 170]*: Fund provided for establishing of drinking water facilities and providing aid to school meant for residents of the locality in which the tax payer operated.
- *CIT v. Madura Coats Ltd. [24 DTR 24]*: Expenditure on community assistant programmes and welfare measures undertaken in the vicinity of taxpayer's manufacturing unit.
- *ITO v. Velu Manickam Lodge [123 ITD 25]*: construction of hockey stadium for use of local residents.

Now all such judicial precedence will be nullified in view of the inserted section 37 (1) with explanation 2.

iv. Meeting dual objective is now a big

challenge for the eligible corporate. In other words, same expenditure should be qualified as CSR spending under the Companies Act, 2013 as well as getting tax relief under any Section 30-36 of the Income Tax Act, 1961. So it is expected that eligible corporate would now re-align to their CSR activities to areas where tax relief may be available.

v. Besides the analysis of Section 80G, 35AC, 35CCC & 35CCD, the eligible corporate can also explore other existing sections of the Income Tax Act, [such as 35 (1)(ii),(ia),(iii) & 35 (2AA) etc.] where they can contribute funds directly or through other entities for carrying out their CSR activities specified in schedule VII of the Companies Act, 2013.

OTHER IMPORTANT ISSUES

Some of the other following issues, where Ministry of Corporate Affairs (MCA) should come up with clarification for the benefit to the Industries:

(a) The treatment of expenses incurred beyond the mandated CSR spend e.g. if any eligible company incurs cost in relation to CSR activities that are in the project mode which require fund beyond mandated 2% in the initial year of the project, such spending beyond 2%, wherever incurred, be counted in subsequent financial years as part of CSR expenditure.

The words used in Section 135 of the Companies Act, 2013 read with CSR Rules 2014 are 'at least 2% of average net profit of the company'. Therefore, any expenditure over 2% could be considered as voluntary spending beyond that of mandated





- Enactment of the Finance Act, 2014, keeping the CSR spending out of the business expenses periphery, the eligible corporate would not be able to take the tax benefit. The CSR spending not being a valid business expense, the eligible Corporate would now be motivated to park their funds to only those registered NGOs (either set-up such entities by itself or may use entities set-up by others for its CSR), where they get maximum tax benefit.

CSR spend. Company may state its Directors' Report for such over spending or under spending in any particular year, but, overspending cannot carry forward in subsequent financial year.

It should be clarified that the treatment of CSR spending beyond that of mandated 2% in one financial year and eligible company can take benefits of excess spending in subsequent financial year like CENVAT credit in the existing Indirect Tax Regime.

- (b) CSR contribution to be permitted in kind other than cash, for example- a company can donate building for an old age home.

Nowhere in Section 135 of the Companies Act 2013 read with CSR Rules 2014, clarifies that CSR contribution may be permitted in kind. We need further clarification on the same.

- (c) As per Foreign Contribution Regulation Act, 2010 (FCRA), definition of foreign source include an Indian company wherein one-half or more share capital is held by the citizen of a foreign country or a foreign corporation or a foreign company. Any contribution with respect to CSR provision under Section 135 of the Companies Act, 2013 received by the registered NGO from foreign source will come within the purview of FCRA; hence the approval or permission by the Ministry of Home Affairs (MHA) is required. So the CSR provision may give rise to inter-regulatory issues within the broader context of CSR and foreign contribution regime in India. We need further clarification on the same.
- (d) Calculation of average profit where the eligible company incurs loss in first & second year of Rs. 1 and Rs. 2 crore respectively and makes profit of Rs. 8 crore in third year. Section 135(1) of the Companies Act, 2013 talks about the profit only but not the loss. So in case of loss in any of the three preceding financial

years, we can treat it as a zero profit year. To calculate the average profit, we can treat zero profit for first and second year and Rs.8 crore for third year. Further clarification is required on the same.

CONCLUSION

Introduction to CSR provision in the Companies Act, 2013 is an important move where the eligible corporate have to spend the CSR money on the activities mentioned in the list of schedule VII of the Companies Act, 2013. But with the enactment of the Finance Act, 2014, keeping the CSR spending out of the business expenses periphery, the eligible corporate would not be able to take the tax benefit. The CSR spending not being a valid business expense, the eligible Corporate would now be motivated to park their funds to only those registered NGOs (either set-up such entities by itself or may use entities set-up by others for its CSR), where they get maximum tax benefit. In other words, registered NGOs can use the potential tools (such as Section 80G and 35AC etc.) to mobilise their financial resources for socially relevant CSR projects.

Tax benefit on CSR spending is not clearly negative in the Income Tax Act as the eligible corporate (either directly itself or through registered NGOs) can take tax benefit on the basis of pre-approval route on specified projects or programmes from the tax authorities which are of the nature described in sections 30-36, subject to fulfillment of conditions, if any, specified therein and can reduce its tax liability.

Requirement of Section 135 of the Companies Act, 2013 indicates appropriation of surplus net income for the activities specified in schedule VII of the Act. Ideally being a legal requirement, CSR spending should be allowed to be deducted as expenditure otherwise it would be a big disincentive to the corporate.

The Government should re-align the various legislations to provide eligible corporates a level playing ground for all kind of CSR spending.

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Legal, Financial and Tax Implications of Buy-Back of Shares

- The repeal of the Companies Act, 1956, introduction of the Companies Act, 2013, Amendment to Securities and Exchange Board of India (Buy-back of Securities) Regulations, 1998, as also the insertion of Section 115QA of the Income Tax Act, 1961 have impacted the Buy-Back scenario. The Article discusses the change in the definition of free reserves, listed companies coming out with buy-back have to ensure that at least 50% of the amount earmarked for buy-back is utilised for buy-back, unlisted companies shall now be liable to pay an additional income-tax at the rate of 20 percent on 'distributed income'. Buy-back also affects the fundamentals of the company resorting to buy-back.

INTRODUCTION

Until 31st October, 1998, buy-back of shares was not permitted by the Companies Act, 1956. Reduction of capital is strictly prohibited under section 66 of the Companies Act, 2013, the reason being that the capital of a company works as a cushion for creditors of the company. Buying shares back would mean payment to the owners prior to the redemption of outside liabilities. Outsiders lend money to the company on the strength of its paid up capital and reserve. In winding up, equity shareholders are paid after all liabilities have been paid. Buy-back would mean paying the shareholders in priority to all the liabilities whether secured, unsecured and even before redemption of Preference Share Capital. Thus reduction of capital by paying off to the shareholders is neither legal nor logical.

The buy-back provisions under Companies Act, 2013 allowed buy-back of shares to a limited extent and subject to following conditions:

*Ex-Dean, CCS University, Meerut.





1. PRE-REQUISITES FOR BUY-BACK: (Section 68 of the Companies Act, 2013) No company shall purchase its own shares or other specified securities unless-

1. The buy-back is authorized by its Articles of Association.
2. A special resolution has been passed by the company authorizing buy-back. However if the buy-back is 10 % or less of the Paid-up Capital and Free Reserves, the board resolution will suffice. There cannot be more than one such offer of buy-back in a period of 365 days under section 68(2) of Companies Act, 2013. The definition of free reserve under clause 43 of the Companies Act, 2013 has been amended. Henceforth, free reserves will be those which are available for distribution as dividend as per latest audited balance sheet without including therein any amount representing unrealized gains, notional gains or revaluation of assets. Now share premium money will not be included in free reserves. However, prior to the Companies Act, 2013, the term 'free reserves' was interpreted differently for different purposes.
3. The buy-back is or less than 25% of the total paid up capital (Equity and Preference Share Capital, both included) and free reserves of the company: Provided that the buy-back of equity shares in any financial year shall not exceed 25% of its total paid up equity capital in that financial year.
4. The Ratio of debt owed by the company is not more than twice the share capital and its free reserves (2:1) after such buy-back, provided that the Central Government may prescribe a higher ratio of the debt than specified under this clause for a class or classes of companies.
5. All the shares or other specified securities for buy-back are fully paid up.
6. The buy-back of the shares of Listed Company should be in accordance with the SEBI Guidelines.
7. Every buy-back should be completed within 12 months from the date of passing Special Resolution or the Board Resolution.
8. After completion of buy-back the company cannot make any further issue of same kind of shares within a period of six months.
9. There is no prohibition for issue of bonus shares or issue of shares in the discharge of subsisting obligations such as conversion of warrants, stock option scheme, sweat equity or conversion of preference shares or debentures into equity shares.
10. Declaration of Solvency by the Board of Directors of the

Company to be file with ROC and SEBI (listed companies) and with an affidavit signed by at least 2 directors, one of whom should be an Managing Director, if any, to the effect that the company is capable of meeting its liabilities and will not be rendered insolvent within one year from the date of declaration adopted by the Board.

SEBI's Regulation on Buy-back of Securities

- i. No offer of buy-back for fifteen per cent or more of the paid up capital and free reserves of the company shall be made from the open market.
- ii. It has also been observed by SEBI that many companies took shareholders/board approval for buy-back proposals and in some cases even published public notice but did not take a single step to buy the shares. Henceforth, therefore, companies shall ensure that at least 50% of the amount earmarked for buy-back, as specified in resolutions referred to in regulation 5 or regulation 5A, is utilized for buying-back shares or other specified securities.
- iii. The buy-back offer shall open not later than seven working days from the date of public announcement and shall close within six months from the date of opening of the offer.
- iv. The Company shall, before opening of the offer, create an escrow account towards security for performance of its obligations under these regulations, and deposit in escrow account 25% of the amount earmarked for the buy-back as specified in the resolutions referred to in regulation 5 and 5A.

It has also been observed by SEBI that many companies took shareholders/board approval for buy-back proposals and in some cases even published public notice but did not take a single step to buy the shares. Henceforth, therefore, companies shall ensure that at least 50% of the amount earmarked for buy-back, as specified in resolutions referred to in regulation 5 or regulation 5A, is utilized for buying-back shares or other specified securities.

SHARES CANNOT BE BOUGHT BACK OUT OF THE PROCEEDS OF AN EARLIER ISSUE OF THE SAME KIND OF SHARES

No buy-back of any kind of shares or specified securities shall be made out of the proceeds of an earlier issue of the same kind of shares or other specified securities. It would be interesting to note that Reliance Power Limited issued its shares @ Rs. 440 per share during the year 2007. Later on the company issued bonus



Article

LEGAL, FINANCIAL AND TAX IMPLICATIONS OF BUY-BACK OF SHARES

➤ As per section 70 of the Companies Act, 2013 now a company can make buy-back even if it had at any time default in repayment of deposit or interest thereon, redemption of debentures or Preference shares or payment of dividend to any shareholder or repayment of any term loan or interest payable thereon to any Financial Institution or Bank provided the default must have been remedied and a period of three years must have elapsed after such default ceased to subsist. Under the old provisions the prohibition was to cease immediately when default cease to exist.

shares from out of the securities premium that it received by issue of Rs.10 per share @ Rs.440. Rs. 430 going to the securities premium account. It is a unique example and for the first time in the corporate history that a company issues bonus shares, without any business being done, out of securities premium account.

Section 68(c) of Companies Act, 2013 (Section 77A(iii), Companies Act, 1956) mentions that shares cannot be bought back out of the proceeds of an earlier issue of the same kind of shares. Had this provision not been there it would have been a joke that Reliance Power could buy-back its own shares around Rs. 80-100 from the market which had costed Rs. 269 to the shareholders (after adjustment of bonus shares). Consider that a company buys back its shares @ Rs. 100 (Market rate being 80) which it had just issued @ Rs. 269. A hefty profit arises to the company even without doing any business.”

OTHER LEGAL PROVISIONS FOR BUY-BACK OF SHARES

If the buy-back is more than 10% of the paid-up capital and free reserves of the company, then special resolution should be passed. The special resolution and the explanatory statement annexed to the notice of the general meeting must disclose certain specific information as mentioned below:-

- A special resolution can be passed either at the Annual General Meeting or at the Extra-ordinary General Meeting of the company.

- In the special resolution, power can be granted to the Board of Directors either to buy-back shares by using methods of tender offer or open offer at their discretion at appropriate time.
- The company shall send to its shareholders along with the notice of the meeting at which a special resolution is proposed, an explanatory statement which shall contain the following:-
- Full and complete disclosures of all material facts.
- The reason & necessity for the buy-back.
- The class of security proposed to be bought back.
- The total amount to be invested under the buy-back.
- The time limit for completion of buy-back.
- The explanatory statement should also conform to the requirements of Section 102 of the Companies Act, 2013 and it should also disclose the information as specified in Schedule I to the Securities and Exchange Board of India (Buy-back of Securities) Regulations, 1998.
- If the buy-back of securities are to be made by way of tender offer, then the explanatory statement should contain additional disclosures as mentioned in Regulation 7 of SEBI.

PROHIBITION FOR BUY-BACK OF SHARES

As per Section 70 of the Companies Act, 2013 a company shall not buy-back its shares or other specified securities:

- a) through any subsidiary company, including its own subsidiary company;
- b) through any investment company or group of investment companies;
- c) if default subsists in repayment of public deposits accepted or interest payable thereon, redemption of debentures or preference shares or payment of dividend to any shareholder or repayment of any term loan or interest payable thereon to any financial institution or bank;

The prohibition is lifted if the default has been remedied and a period of 3 year has elapsed after such default ceased to exist, whereas, under Companies Act, 1956 prohibition on buy-back was to cease immediately when default ceased to subsist.

- d) No company shall, directly or indirectly, purchase its own shares or other specified securities in case such company has not complied with the provisions of section 92, 123, 127 and section 129 of the Companies Act, 2013.

As per section 70 of the Companies Act, 2013 now a company



can make buy-back even if it had at any time default in repayment of deposit or interest thereon, redemption of debentures or Preference shares or payment of dividend to any shareholder or repayment of any term loan or interest payable thereon to any Financial Institution or Bank provided the default must have been remedied and a period of three years must have elapsed after such default ceased to subsist. Under the old provisions the prohibition was to cease immediately when default cease to exist.

BUY-BACK WHEN FEASIBLE :

1. High net cash position
2. High dividend yield
3. Low debt/equity ratio
4. Low capital expenditure requirements

SOURCES OF FUNDS FOR BUY-BACK

A company may purchase its own shares or other specified securities out of (a) its free reserves; or (b) the securities premium account; or (c) the proceeds of any shares or other specified securities. A company proposing to buy-back its shares must have, at the time of buy-back, a balance sufficient to accommodate the total value of the buy-back in any of the aforesaid accounts. A company cannot buy-back its shares out of the proceeds of an earlier issue of the same kind of shares. For e.g. a company cannot buy-back its equity shares out of the money that was raised by issuing of equity shares. But it can use the proceeds to buy-back preference shares or any other securities.

USE OF IDLE CASH RESOURCES

If a company has idle cash resources and are not required in the company, the same can be used in buying back the shares provided the Internal Rate of Return (IRR) on capital employed in business is lesser than the market rate of return, shareholders would be benefitted by investing their funds received through buy-back by the company. The same can be invested elsewhere to fetch a higher rate of return. Whether a company should declare higher or lower dividend is decided by the expected share price after dividend. For the computation of share price after and before dividend Walters's formula or Gordon's formula maybe resorted to. Both the concepts enunciated by Walter and Gordon conclude that an optimal dividend policy is one which maximizes the market price per share. If the Internal Rate of Return (IRR) generated in the company is lower than market rate of return, the share price would be high when payout ratio is high. The same theory can also be applied here. If the funds are not required in the company or the yield lesser return compared with the market, it would be better if the same is returned to the shareholders.

MODES OF BUY-BACK

The company can buy-back the shares differently such as (i) Odd Lots, however with the dematerialisation of shares, the concept of odd lot has lost its significance ii) proportionately from the shareholders, iii) from the employees of the company and iv) from the secondary market

BUY-BACK : PRACTICAL ASPECTS

Table - 1

Hypothetical Balance Sheet of Buy-Back Ltd. As on 31-03-2014
– Before buy-back

	(Rs.)	(Rs.)
	Pre Buy-back	Post Buy-back
Shareholders' Fund		
Equity Share Capital (Nominal Value Rs. 100 per share)	70,00,00,000	57,50,00,000
10% Preference Share Capital	10,00,00,000	10,00,00,000
Reserves & Surplus		
Free Reserves	30,00,00,000	15,00,00,000
Securities Premium	10,00,00,000	10,00,00,000
Revaluation Reserve	15,00,00,000	15,00,00,000
Capital Redemption Reserve	-	12,50,00,000
Non-current liabilities		
Debt	1,85,00,00,000	1,85,00,00,000
Current Liabilities	14,50,00,000	14,50,00,000
Total	3,34,50,00,000	3,19,50,00,000
Assets		
Non-Current Assets	2,90,50,00,000	2,90,50,00,000
Current Assets		
Inventory	14,50,00,000	14,50,00,000
Trade Payables	4,00,00,000	4,00,00,000
Cash and Bank	25,50,00,000	10,50,00,000
Total	3,34,50,00,000	3,19,50,00,000

Table - 2

Statement Showing Computation of Earnings after Interest and Tax of Buy-Back Ltd.

PARTICULARS	AMOUNT (Rs. in Crores) (Pre Buy-back)	AMOUNT (Rs. in Crores) (Post Buy-back)
Sales	900	900
Less: Variable cost @60%	(-)720	(-)720
Contribution	180	180
Less: Fixed cost	(-)138	(-)138



Article

LEGAL, FINANCIAL AND TAX IMPLICATIONS OF BUY-BACK OF SHARES

EBIT	42	42
Less: Interest	(-)18.50	(-)18.50
Earnings after Interest	23.50	23.50
Less: Tax@33.99%	(-)7.99	(-)7.99
Earnings after Int. & tax	15.51	15.51
Preference Dividend including DDT	(-)1.16	(-)1.16
Earnings available for Equity Share holders	14.35	14.35
No of shares (in lakhs)	70	57.50
EPS (Rs.)	20.50	24.96
P/E Ratio (assumed)	5	5*
Market Price per share	102.50	124.80

* However, P/E Ratio comes down with increase in debt equity ratio due to increase in risk to the shareholders. In the illustrative example it has been maintained at 5 because it was already not very high, also because 2:1 debt equity ratio is normal.

DETERMINING THE NUMBER OF SHARES TO BE BOUGHT BACK

To determine the maximum number of shares to be bought back, compliance of all the following test is required. The least the number of shares (computed under steps 1 to 4) only can be bought back.

Step 1: Paid-up Capital and Free Reserves Test:

(Capital (Equity + Preference)) + Free Reserves)	x 25%	(80 crore + 30 crore)	x 25% =	22,91,667 shares
Buy-back Price	=	120		

Step 2 : Paid-up Equity Capital Test

No. of paid-up equity shares x 25%	=	70,00,000 x 25%	=	17,50,000 shares
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Thus, the shares to be bought should be brought down to **17,50,000 instead of 22,91,667**.

Step 3 : Debt-Equity Test

After buy-back of shares the debt-equity ratio should not exceed 2:1, if it exceeds the standard of 2:1, the amount of buy-back of shares may be brought down to the level of 2:1. Under step 2, the number of shares to be buy-back has been determined as 17,50,000. Here the ratio comes to 2.08:1, therefore, the number of shares to be bought should be brought down to **15,41,666 shares** as computed below:

Debt = Rs. 185 crores (given)

Equity required to bring down the debt equity ratio to 2:1, $185 / 2 = 92.5$ crores

Existing Equity and Pref. Capital = Rs. 120 crores

Required Equity = Rs. 92.50 crores

Value wise maximum amount for which shares can be bought = Rs. 120 - 92.50 crores = Rs. 18.50 Crores

Buy-back Rate Rs. 120 per share

Number of shares to be bought back

= Rs. 18.50 crores divided by Rs. 120/-

= 15,41,666/- Shares

Thus, the shares to be bought should be brought down to **15,41,666 instead of 17,50,000**.

Post buy-back Debt Equity Ratio :

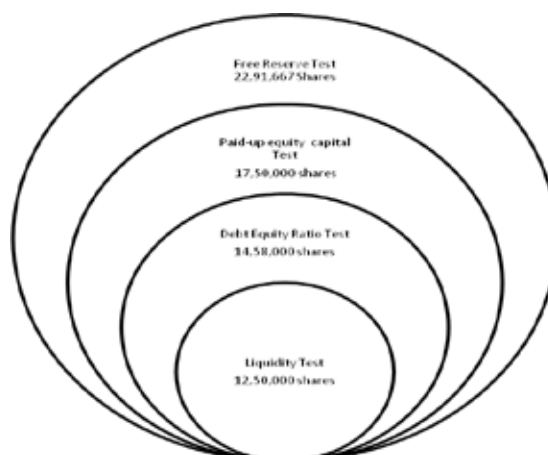
Debt	=	1,85,00,00,000		
Shareholders' Fund		92,50,00,000	=	2 : 1

STEP 4 : LIQUIDITY TEST

It should also be ensured that there should be adequate funds with the company to buy-back 15,41,667 shares. The company cannot avail loans etc. to be used for buy-back. The bank balance in the balance sheet of the company is Rs. 28,50,00,000/-. Naturally the whole of it cannot be utilised to finance the buy-back. For working capital the company should have some liquid funds. Suppose

Cash Available for buy-back	=	15,00,00,000	=	12,50,000 shares
Buy-back Price		120		

Even after buy-back the company will be left with a bank balance of Rs. 10,50,00,000/- which might be sufficient for meeting the working capital needs. The post buy-back current ratio would be 2:1 and quick ratio will be 1:1. Finally, the number of shares to be bought settle down to 12,50,000 shares.





ACCOUNTING TREATMENT OF BUY-BACK OF SHARES

Section 69 of the Companies Act, 2013 states that where a company purchases its own shares out of free reserves or securities premium, then a sum equal to the nominal value of the shares so purchased shall be transferred to the Capital Redemption Reserve Account. However, the corresponding section 77A of the Companies Act, 1956 did not include the word Securities premium. This is possible to adjust against free reserves. This is possible to adjust against balance of general reserve or profit and loss account or any other free reserve or against securities premium account. Nominal amount redeemed out of free reserves or securities premium account should be earmarked as capital redemption reserve by making transfer from the respective sources.

Free Reserve A/c Dr.	12,50,00,000	
To Capital Redemption reserve A/c		12,50,00,000
(Being transfer of free reserve to CRR)		
Free Reserve A/c Dr.	2,50,00,000	
Equity share capital A/c Dr.	12,50,00,000	
To Equity Share holders' A/c		15,00,00,000
(Being the amount payable to equity holders on buy-back)		
Equity Shareholders A/c Dr.	15,00,00,000	
To Bank		15,00,00,000
(being payment of buy-back amount to equity holders)		

TAX IMPLICATIONS OF BUY-BACK – DIVIDEND DISTRIBUTION TAX

The tax aspect has three facets, namely, Capital gain tax, Security transaction tax and dividend tax on company's buying the shares back. Buy-back of shares may prove to be a boon to many companies provided they have adequate free reserves and cash balances. The following benefits may accrue to the company resorting to buy-back. After buy-back the reduction in Dividend Distribution Tax liability would be as follows:

- a) **Dividend Distribution Tax-** After buy-back the reduction in DDT would be as follows:

Table - 3

Particulars	DDT before Buy-back	DDT after Tax
No. of Equity Shares Outstanding	70,00,000	58,50,000
Face value per share	Rs. 100	Rs. 100

Rate of dividend	10%	10%
Dividend distributed	Rs. 7 Crores	Rs. 5.85 Crores
Rate of dividend distribution tax	16.2225%	16.2225%
Dividend Distribution Tax	Rs. 1.14 Crores	Rs. 0.95 Crores
Tax saving	Rs. 19,00,000	

EFFECTS OF BUY-BACK ON THE FUNDAMENTALS OF THE COMPANY.

Enhancing market price per share, market capitalization and reduction in average cost of capital- due to buy-back the remaining number of shares would come down resulting in a higher EPS making the share attractive for investors.

Table - 4

No. of Shares	70,00,000/-	57,50,000/-
Tax Rate assumed	33.99%	
Cost of Capital ($K_d \cdot D/E+D$) + ($K_e \cdot E/D+E$)		
Average cost of capital (K_a)	$6.6 \times 185 + 10 \times 10 + 15 \times 110 = 305$ 305 $4 + 0.33 + 5.41 = 9.74\%$	$6.6 \times 185 + 10 \times 10 + 15 \times 95 = 290$ 290 290 $4.21 + 0.34 + 4.91 = 9.46\%$
Value of the firm = $EBIT/K_a$ (Net Income Approach to Capital Structure)	Rs. 42 Crores / $9.74\% =$ Rs. 431.21 Crores	Rs. 42 Crores / $9.46\% =$ Rs. 443.98 Crores
Amount paid to equity holders on buy-back		Rs. 15.00 Crores
Market Capitalisation	70 lakhs x 102.50 = Rs. 71.75 Crores	57.5 lakhs x Rs. 124.80 = Rs. 71.76 Crores

(where, K_e = Cost of Equity Capital – assumed 15%, K_d = After Tax Cost of Debt, K_a = Average Cost of Capital)

Table – 5

IMPACT OF Buy-back ON THE WEALTH OF A SHAREHOLDER HOLDING 1000 SHARES



Article

LEGAL, FINANCIAL AND TAX IMPLICATIONS OF BUY-BACK OF SHARES

Particulars	Pre Buy-back	Post Buy-back
Market value of shares(Rs.) *(1,000 shares – 178)	1,02,500/- (1000 x 102.50)	94,382/- (822* x 114.82)
Cash received	-	21,360 (178 x 120)
Shareholder's Wealth (Rs.) original holding being 1000 shares	1,02,500/-	1,15,742/-
Net increase in Shareholder's wealth (Rs.)		13,242/-

The floating stock of the shares would decline to 57,50,000 shares from the present level of 70,00,000 shares. This reduction in floating stock would naturally result in increase in the market price of the share as also the shareholders wealth and market capitalization.

POSITIVE EFFECTS OF BUY-BACK OF SHARES

1. The market generally interprets share buy-backs as positive signals.
2. Shareholders have a choice of deciding whether or not to receive the payout by selling or holding their shares, unlike a dividend payout.
3. Returning excess cash by way of share buy-back gives a company greater flexibility with regard to its dividend policy
4. Share buy-backs could enable a company to achieve its desired capital structure more quickly or facilitate a major restructuring. A share buy-back could avert a hostile takeover bid by reducing the number of shares in circulation.
5. Increase in EPS.
6. Increase in shareholders' wealth. (Rs. 13,242/-) (refer to table no. 5)
7. Decrease in Dividend Distribution Tax amount. (Rs. 19,00,000 to the company) (refer to table no. 3)
8. Floating stock comes down.(refer to table no.3)
9. Increase in market capitalisation. (refer to table no.4)
10. Increase in promoters' holding
11. Saving in stamp duty

NEGATIVE ASPECTS OF BUY-BACK OF SHARES.

1. The repurchase of its own shares may conversely have a negative signalling effect as the market may think that the

company has fewer growth opportunities after a share buy-back due to erosion of cash resources. Management may not seek to utilise any existing excess cash effectively by acquiring new investment or developing profitable markets.

2. Possible mismanagement may arise if too high a price is paid for the re-purchased shares, to the detriment of remaining shareholders, or if cash resources are eroded to the level that could give rise to a risk of insolvency at the expenses of its creditors.
3. A return of funds by way of a share buy-back is less certain than an annual dividend stream.

CAUTION TO INVESTORS

- (i) If the trend of the share price movement immediately before the buy-back is on the rise, then the prima facie assumption is that the promoters are trying to play tricks and the buy-back offer should be looked at with suspicion.
- (ii) Investors should look at the debt-equity ratio. If the company has huge debts, then it is unlikely that it will have surplus cash.
- (iii) Companies which have just come to the capital markets or which have just completed their IPO are not good companies for buy-back.
- (iv) When the Board/shareholders have passed the respective resolutions as the case may be with lot of publicity empowering the Board to buy-back whenever allowed, then there is enough scope that it should be looked with suspicion as anybody with genuine intention of buy-back shares to enhance the shareholders' wealth would try to do so with minimum publicity so that the share price does not flare up due to speculation in the market.





PLUGGING THE LOOPHOLE – CURB ON TAX AVOIDANCE BY UNLISTED COMPANIES

Unlisted companies, as part of tax avoidance scheme, were resorting to buy-back of shares instead of payment of dividends in order to avoid dividend distribution tax, particularly where the capital gain arising to the shareholders are either not chargeable to tax or are taxable at lower rate, because of exemption available under section 45 to 55 of the Income Tax Act or because of operation of avoidance of double taxation agreements. Chapter XII – DA (i.e. sections 115QA, 115QB and 115QC) has been introduced by the Finance Act, 2013, with effect from June 1, 2013 to curb the aforesaid practice.

A company having distributable reserves, has two options to distribute the same to its shareholders:

Option 1: Distribute Dividend: The Company declares dividend to shareholders. Dividend distribution is subject to dividend distribution tax under section 115-O. In the hands of shareholders, dividend income is exempt from tax. Dividend distribution tax under section 115-O is not subject to the provisions of avoidance of double taxation agreements.

Option 2: Repurchase of Shares: Here, the company purchases its own shares (i.e. buy-back of shares) at a consideration fixed by it. There is no dividend distribution tax. Shareholders are taxed on income by way of capital gains by virtue of section 46A. Capital gains tax is subject to the provisions of avoidance of double taxation agreements.

Section 115QA – Section 115QA is applicable as follows

1. A domestic company distributes income to shareholders on buy-back of its shares.
2. These shares are not listed in any recognised stock exchange in India.
3. Such company shall be liable to pay an additional income-tax at the rate of 20 percent (+SC+EC+SHEC) on distributed income.
4. For this purpose, 'buy-back' means purchase by the company of its own shares in accordance with the provisions of section 70 of the Companies Act, 2013, "Distributed Income" means the consideration paid by the company on buy-back of shares as reduced by the amount received by the company for issue of such shares.
5. The additional income-tax under section 115QA shall be in addition to the income-tax chargeable in respect of the total income of such company.
6. The additional income-tax shall be payable irrespective of the fact whether regular income-tax is payable by the company on its total income or not.
7. The amount of tax under section 115QA shall be remitted within 14 days of the date of payment of consideration.
8. The about tax shall be final payment of tax and no credit shall be claimed either by the company or by any other person in respect of the tax paid.
9. No deduction under any provision of the Income Tax Act shall be allowed to the company or to any shareholder in respect of the above tax.

NON-TAXABILITY OF INCOME IN THE HANDS OF THE SHAREHOLDERS.

As per section 10(34A) the income arising to the shareholders in respect of such buy-back by the company would be exempt where the company is liable to pay the additional income-tax on the buy-back of shares. Section 115QB – Section 115QB provides for the levy of interest, if the above tax is not paid within the time-limit given above, the principal officer of the company and the domestic company shall be liable for interest for short payment or non-payment of additional income tax. Interest will chargeable at the rate of 1 percent per month (or part of month), for the period beginning immediately after the last date on which tax was payable and ending with the date of actual payment. Section 115QC – Section 115QC provides that in case of failure of payment of tax, the principal officer of the company and the company shall be deemed to be an assessee in default in respect of the amount of tax payable.

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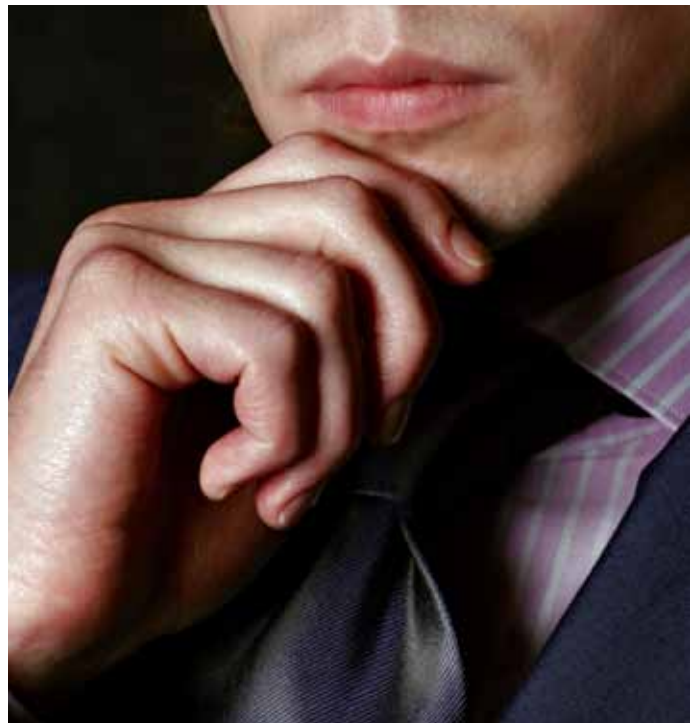
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Abuse of Dominant Position

- The Competition Act prohibits certain agreements which abuse dominant position and regulates combination. In this article the abuse of dominant position has been discussed with reference to decided cases .

Section 4 of the Competition Act, 2002 ('Act' for brevity) prohibits the abuse of dominant position. Section 4(1) provides that no enterprise or group shall abuse its dominant position. Section 4(2) explains which will amount to abuse of dominant position. There shall be an abuse of dominant position if an enterprise or a group-

- (a) directly or indirectly, imposes unfair or discriminatory-
 - (i) condition in purchase or sale of goods or services; or
 - (ii) price in purchase or sale (including predatory price) of goods or service; or (the above two shall not include such discriminatory conditions or prices which may be adopted to meet the competition)
- (b) limits or restricts-
 - (i) production of goods or provision of services or market therefor; or
 - (ii) technical or scientific developments relating to goods or services to the prejudice of the consumers; or
- (c) indulges in practice or practices resulting in denial of market access in any manner;
- (d) makes conclusion of contracts subject to acceptance by other parties of supplementary obligations which, by their nature or





➤ The term 'predatory price' is defined as the sale of goods or provision of services, at a price which is below the cost, as may be determined by regulations, of production of the goods or provision of services, with a view to reduce competition or eliminate the competitors.

according to commercial usage, have no connection with the subject of such contracts; or

- (e) uses its dominant position in one relevant market to enter into, or protect, other relevant market.

DOMINANT POSITION

The term 'dominant position' is defined as a position of strength, enjoyed by an enterprise, in the relevant market, in India, which enables it to-

- operate independently of competitive forces prevailing in the relevant market; or
- affect its competitors or consumers or the relevant market in its favor.

For the purpose of deciding the dominance both the product market as well as geographical market would be taken into consideration as held by Competition Appellate Tribunal in *Kanazic Digital Systems (P) Limited v. CCI and others'* – (2013) 113 CLA 233 (CAT). The relevant product market is defined under Section 2(t) as a market comprising all those products or services which are regarded as interchangeable or substitutable by the consumer, by reason of characteristics of the products or services, their prices and intended use. The relevant geographical market is defined under Section 2(s) of the Act as a market comprising the area in which the conditions of competition for supply of goods or provision of services or demand of goods or services are distinctly homogenous and can be distinguished from the conditions prevailing in the neighboring areas.

PREDATORY PRICE

The term 'predatory price' is defined as the sale of goods or provision of services, at a price which is below the cost, as may be determined by regulations, of production of the goods or provision of services, with a view to reduce competition or eliminate the competitors.

In *HLS Asia Limited v. Schlumberger Asia Services Limited and another'* – (2013) 115 CLA 401 (CCI) it was held that predatory

pricing essentially means quoting price below the cost in order to throw out the competitors from the market in the initial stage of competition with an eye on the later stage of the market to increase price later so as to recoup losses made during the initial stage of the market. Normally predatory pricing is resorted to have sole control over the market power at that time. Thus in order to make out a case for predatory pricing it is necessary for a party to show as to what was the cost of providing services to the party who resorted to the predatory pricing and how the cost at which service was being provided to the customer was lower than the cost to the party.

GROUP

The term 'group' means two or more enterprises which, directly indirectly, are in a position to-

- exercise 26% or more of the voting rights in the other enterprise; or
- appoint more than 50% of the members of the Board of Directors in the enterprise; or
- control the management or affairs of the other enterprise.

INQUIRY BY COMMISSION

Section 19 of the Act provides that the Commission may inquire into any alleged contravention of Section 4(1) either on its own motion or on-

- Receipt of any information in such manner and accompanied by such fee as may be determined by regulations from any person, consumer or their association or trade association; or
- A reference made to it by the Central Government or a State Government or a statutory authority.

The Commission shall, while inquiring whether an enterprise enjoys a dominant position or not under Section 4, have due regard to all or any of the following factors, namely:-

- market share of the enterprise;
- size and resources of the enterprise;
- size and importance of the competitors;
- economic power of the enterprise including commercial advantage over competitors;
- vertical integration of the enterprise or sale or service network of such enterprises;
- dependence of consumers on the enterprise;
- monopoly or dominant position whether acquired as a result of any status or by virtue of being a Government company or a public sector undertaking or otherwise;
- entry barriers including barriers such as regulatory barriers, financial risk, high capital cost of entry, marketing entry



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barriers, technical entry barriers, economies of scale, high cost of substitutable goods or services for consumers;

- countervailing buying power;
- market structure and size of the market;
- social obligations and social costs;
- relative advantage by way of the contribution to the economic development by the enterprise enjoying a dominant position having or likely to have appreciable adverse effect of competition;
- any other factor which the Commission may consider relevant for the inquiry.

POWER TO ISSUE INTERIM ORDER

Section 33 provides that where during an inquiry, the Commission is satisfied that an act in contravention of Section 4(1) has been committed and continue to be committed or that such act is about to be committed, the Commission may, by order, temporarily restrain any party from carrying on such act until the conclusion of such inquiry or until further orders, without giving notice to such party, where it deems it necessary.

ORDER OF THE COMMISSION

Section 27 provides for the orders to be issued by Commission after inquiry into abuse of dominant position. Where after inquiry by the Commission find that the action of an enterprise in a dominant position is in contravention of Section 4 it may pass all or any of the following orders, namely:-

- Direct any enterprise or association of enterprises or person or association of persons, as the case may be involved in abuse of dominant position, to discontinue such abuse of dominant position;
- Impose such penalty, as it may deem fit which shall be not more than 10% of the average of the turnover for the last three preceding financial years upon each of such person or enterprises which are parties to such abuse;
- Direct the enterprise concerned to abide by such other orders as the Commission may pass and comply with the directions, including payment of costs, if any;
- Pass such other order or issue such directions as it may deem fit;

While passing orders under Section 27, if the Commission comes to a finding, that an enterprise in contravention to Section 4 of the Act is a member of a group as defined in clause (b) of the explanation to Section 5 of the Act, and other members of such a group are also responsible for, or have contributed to, such a contravention, then it may pass orders, under this Section, against such members of the group.

Section 28 of the Act provides that the Commission may, notwithstanding anything contained in any other law for the time

being in force, by order in writing, direct division of an enterprise enjoying dominant position to ensure that such enterprise does not abuse the dominant position. The order may provide for all or any of the following matters, namely:-

- The transfer or vesting of property, rights, liabilities or obligations;
- The adjustment of contracts other by discharge or reduction of any liability or obligation or otherwise;
- The creation, allotment, surrender or cancellation of any shares, stocks or securities;
- The formation or winding up of an enterprise or the amendment of the memorandum of association or articles of association or any other instruments regulating the business of any enterprise;
- The extent to which, and the circumstances in which, provisions of the order affecting an enterprise may be altered by the enterprise and the registration thereof;
- Any other matter which may be necessary to give effect to the division of the enterprise.

Notwithstanding anything contained in any other law for the time being in force or in any contract or any memorandum or articles of association, an officer of a company who ceases to hold office as such in consequence of the division of an enterprise shall not be entitled to claim any compensation for such ceaser.

In the following paragraphs some case laws are discussed in relation to abuse of dominant position, passed by Competition Commission of India and Competition Appellate Tribunal.

FRANCHISEE AGREEMENT

The issue of dominance would not arise in a franchisee agreement. This has been substantiated in *M/s Official Beverages v. Sab Miller India, SKDL Brewages Limited & Others (CCI)* – LW 73.08.2013. The informant with the opposite party entered into a franchisee agreement valid for a period of three years, further renewable by mutual consent. The opposite party granted licence to the informant for manufacture of packaged drinking water, sparkline





water, packaged soda etc., in pet bottles of different sizes under the trade mark of the opposite party.

The opposite party terminated the franchisee agreement before the stipulated period of 3 years for breach of terms of agreement for non payment of Rs.80 lakhs outstanding towards royalty and for wrongly not placing orders for supply of bottled waters to enterprises from which informant had taken money. The informant complaints to Competition Commission of India alleging that the opposite party was in a dominant position and adopted an unfair practice of predatory pricing by fixing uncontrolled royalty and brand promotion charges. The Commissioner held that a franchiser can reasonably ask the franchisee to maintain quality hygiene and other standards to do business in such a manner so that the reputation of the franchiser does not suffer. If there is a breach of franchise agreement, the aggrieved party can claim damages under the law of contract from the other. In the present case there is no competitor for the opposite party and therefore was able to operate independent of competition. The technology of manufacture of drinking water and soda is not a secret technology. The informant wanted to take the benefit of the name and goodwill of the trade name of the opposite party. The Commissioner held that there is no case of abuse of dominance.

COLLECTIVE ACTION

In *Advertising Agencies Limited v. Indian Broadcasting Foundries & its members* LW 74.08.2013 (CCI) the informant was an association of advertising agencies to look after the interest of small and medium sized agencies besides interacting with the professional bodies. The informant alleged formation of a cartel by the members of the opposite party. They acted as a cartel for a long time. They wanted to shift the time tested and industry wide practice of gross billing basis to a net billing to the advertising agencies and the informant was forced to adopt the new method. The informant group boycotted and did not succeed. They had no other option except to agree the new method of billing.

The opposite party was claimed to be India's premium apex body of television broadcasts with more than 250 channels enjoying a unique position as the accredited spokesman of the broadcasting industry. The Commission held that there has been a collective action by the opposite party and its members but primarily the trade association are building consensus among the members on policy/other issues affecting the industry and to promote these policy interests with the Government and with other public/private players. Such collection action cannot by itself amount to violation of competition law.

The issue involved in the change of the billing system in which only the net bill or the charges of the broadcaster are to be indicated and the trade discount is no longer to be mentioned in the invoices. The informant further alleged violation of Section 3(1) read with Section 3(3) of the Act. Section 3(3), the Commission held, is applicable

when there is a horizontal agreement between players operating at the same level in a particular market. Such market may be in the form of price fixation, market sharing, collusive bidding etc., which will have an applicable adverse effect on competition within the market in which they are operating. Collective action will not contravene Section 3(3) of the Act. There is no *prima facie* case for directing the Director General to investigate the matter. The case deserves to be closed under Section 26(2) of the Act and accordingly closed.

VIOLATION OF SECTION 4 BY RAILWAYS

In *Arshiya Rail Infrastructure Limited v. Ministry of Railways* – (2012) 112 CLA 297 (CCI) with the increase in trade volumes and resultant growth of container traffic in India, it was decided by the Ministry of Railway to open rail container freight department to private parties through the Public Private Partnership (PPP). The informant is the licence holder in this regard. The informant alleged that the Indian Railway, holding a monopoly in the relevant market by indulging in the following abusive behavior-

- Exclusionary non price conduct/discrimination;
- Exclusionary price discrimination/exploitative pricing;
- Unfair trade conditions in violation of Section 4(2)(a)(i) and Section 4(2)(c);
- Refusal to deal in violation of Section 4(2)(c);
- Leveraging dominance in one market (rail service) to protect another market (rail freight services) to protect another market (rail freight charge) in violation of Section 4(2)(e) of the Act;
- Imposition of supplementary obligation in violative of Section 4(2)(d) of the Act.

Since it was considered that there existed merit in the information the Commission directed Director General to investigate the matter. Director General investigated and submitted its report to the Commission. The summary of the findings of Director General are-

- Prohibition to carry coal, coke, ores and minerals to private operators;
- Increase in haulage charges;
- Issue of private sidings;
- Increase in stalling charges;
- Delay in granting approvals;
- Preferential treatment to Container Corporation of India on number of wagons;
- Concession agreement in favor of Railways;
- Conflict of interests.

Conclusively the Director General found that Ministry of Railways is found to engage in anti competitive practice and violated Section 4 of the Act.

The Commission analyzed the following-

- Jurisdictional issues;



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- Whether Ministry of Railway and Container Corporation of India constitute a 'group' within the framework of the Act?
- Is there any dominant enterprise that enjoys a position of strength to enable it to operate independently of competitive forces?

The Commission noted that Railways are not a competitor in the relevant market after the incorporation of Container Corporation of India. Further the Corporation is not a dominant player in the market and there has been no indication that it enjoys a position of strength to influence either the competitors or the customer in its favor. Therefore the allegation of dominant position shall not sustain. The Commission further observed that there is a conflict of interest inasmuch as Railway Board/Indian Railways exercised multiple roles as a licensor and operator, apart from owing the Railway network. In view of this the Commission held that it is desirable to these functions may be delegated to independent entities.

In *Travel Agents Association of India v. Balmer Lawrie & Co., and others* – (2013) 113 CLA 415 (CAT) the appellant assailed the Government Memo. No. 19024/1/E-IV/2005 dated 24.03.2006 issued by Ministry of Finance, Department of Expenditure, Government of India, wherein it was directed that the Government officials to purchase travel tickets/tour exclusively from Balmer & Lawrie & Co., Limited and/or Ashok Travel & Tours Limited. The appellant averred that the office Memo was in contravention of provision of Section 4 of the Act. In short it was averred that the Government had position of dominance. It was held that Government can be termed as a consumer and person when it is seeking the services for securing air ticket on the reasonable rates. Government can be treated as a consumer and person as definition of 'person' cannot be unnaturally restricted. However once the Government of India is held to be 'consumer' it cannot be said to be a dominant enterprise in the relevant market. There is no question of dominance merely because the government officials purchased larger number of air tickets, the Government itself is not being in the business of travel agency. Hence there would be no question of contravention of Section 4.

In *Sunder Singh Barmi v. Board for Control of Cricket in India* (2013) 113 CLA 579 (CCI) Board for Control of Cricket in India ('BCCI') is a society registered under Tamil Nadu Societies Registration Act, 1975 with the objectives of-

- Controlling the game of cricket in India;
- Promoting the game in India;
- Framing the laws of cricket in India;
- Selecting teams to represent in India in test matches, one day international and 'twenty-20' matches played in India or abroad;

It is also a full member of International Cricket Council (ICC).

The informant centre alleged in the following dimensions of organization of Indian Premier League (IPL) a 'twenty-20' professional cricket league tournament conducted by BCCI:

- Irregularities in the grant of franchisee rights for team ownership;
- Irregularities in the grant of media rights for coverage of the league;
- Irregularities in the award of sponsorship rights and other local contracts to organization of IPL.

The Director General investigated the matter with respect to the following issues:

- Whether the Act is applicable to BCCI or not? and whether BCCI is an 'enterprise' as defined in Section 2(h) of the Act?
- What would be the relevant market in the said case?
- Whether BCCI has a dominant position in the relevant market as determined?
- If so, whether BCCI has abused its dominant position in the relevant market in contravention of the provisions of Section 4 of the Act?

The Commission considered the investigation submitted by the Director General and submissions made by the BCCI and concluded that-

- BCCI is a *de facto* regulator of sport of cricket in India;
- BCCI is an 'enterprise' for the purpose of the Act and therefore within the jurisdiction of the Commission;
- Owing to regulatory roll, monopoly status, control over infrastructure, control over players, ability to control entry of other leagues, historical evidence, BCCI is to be in a dominant position in the market for organizing private professional league cricket events in India;
- BCCI has abused its dominant position in contravention of Section 4(2)(c) of the Act.

The Commission under Section 27 of the Act directed BCCI-

- To cease and desist from any practice in future denying market access to potential competition, including inclusion of similar clauses in any agreement in future;
- To cease and desist from its regulatory powers in any way to the process of considering and deciding on any matters relating to the commercial activities;





- To ensure this, BCCI will set up an effective internal control system in its own satisfaction in good faith and after due diligence;
- To delete the violative clause 9.1.(c)(1) in the Media Rights Agreement;
- To pay a penalty of Rs.52.24 crores.

The Commission directed that BCCI shall comply with the above said order within 90 days from the date of receipt of the order.

DISCRIMINATION DISTORTING COMPETITION

In *Kapoor Glass (P) Limited v. Schott Glass India (P) Limited* – (2012) 111 CLA 157 (CCI) the information brings about allegation of various anti-competitive practices by Schott Glass India in the market of 'Neutral USP-1 borosilicate glass tubes' and 'glass ampoules' made out of such glass tubes in India. According to the informant, the anti-competitive practices being carried out by the opposite party can be divided into two broad categories:

- Practices affecting the State of competition in the market for 'neutral USP type-1 borosilicate glass tube' in India; and
- Practices affecting the state of competition in market for downstream product of glass ampoules and other containers.

Further the informant alleged that-

- The practices of the opposite party of charging unfair prices granting quantity discounts and loyalty rebates are inconsistent with the provisions of Section 4(2)(a) of the Act.
- Hiring of the informant's employee in order to strengthen its market in the downstream market for glass ampoules is in violation of Section 4(2)(e) of the Act.
- The practice of refusal to deal with glass ampoule manufacturers may be inconsistent with the provisions of Section 3(4) of the Act.

The Commission ordered Director General to investigate the matter. The Director General submitted the report to the Commission. The Commission considered the reports of Director General, submissions of the opposite party and informant, framed the following issues to be decided-

- On the basis of facts involved in the case what is the relevant market in the case?
- Is opposite party having a position of dominance in the relevant market in terms of provision of Section 4 of the Act?
- Whether the opposite party has indulged in the act of predatory pricing in violation of the provisions of Section 4(2) (a)(ii) of the Act?
- Whether the opposite party has imposed unfair and discriminatory condition or price in the sale of USP-1 borosilicate glass tubes through the discount policies, trade mark licence agreement, marketing support agreement and sale purchase agreement in contravention of the provisions of Section 4(2)(a)(i) and (ii) of the Act?

- Whether the aforesaid policies of opposite party are exclusionary and limit and restrict the market in violation of provisions of Section 4(2)(b)(i) and are also causing denial of market access in terms of Section 4(2)(c) of the Act?
- Whether the opposite party has leveraged its position of dominance in relevant upstream market of neutral USP-1 glass tubes to enter into or protect the relevant downstream market containers, i.e., ampoules, vials, dental cartridges and syringes made out of 'neutral USP-1 borosilicate glass tubes'?
- Whether the opposite party has engaged in the practice of making the sale of amber tubes contingent upon converters buying clear tubes from it in contravention of provisions of Section 4(2)(d) and any other provisions of Section 4 of the Act?
- Whether the opposite party has refused to deal with the informant as has been alleged denying market access to it and if yes, has the opposite party contravened the provisions of Section 4(2)(c) of the Act?
- Whether the opposite party has indulged in the practice of predatory hiring of employees of the informant and if yes, can the practice be called inconsistent with the requirement under Section 4(2) of the Act? Further can this act be said to be violative of provision of Section 42(b)(i) since it is limiting and restricting the ability of the informant to produced goods as alleged by the informant?

The Commission discussed the above said issue elaborately and found that the opposite party was in contravention of various provisions of Section 4 of the Act. Its acts and conducts have adversely affected competition on the relevant market(s) delineated in the instant case. Due to unfair and dissimilar discounts of the opposite party, the converters in the downstream market have been impacted adversely and their margins have also declined. As a dominant player in the market there was special onus on the part of the opposite party to ensure fair competition in the market. Due to the abusive acts and conduct of the opposite party the small converters are not able to compete on equal footing with the joint venture of the opposite party.

The Commission imposed penalty of Rs.5.46 crores on the opposite party for its act of distorting competition in the market. It also issued cease and desist order on the opposite party from applying dissimilar conditions while giving discounts and the terms of transactions for supply of tubes should be similar and non discriminator and the discount on both amber and clear tubes should not be contingent upon sale of each other.

CONCLUSION

The Competition Act, 2002 replaced the MRTP Act to accommodate the changes in economic conditions prevailing in the country. The present economy is towards the liberalized policy. The Act is in tune with the present economic scenario. The role of the Competition Commission of India and the judicial system is well discussed in this article.

CS



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Incorporation Procedure of Private Limited Company as per Companies Act 2013

➤ Consequent to the enactment of the Companies Act, 2013 in place of the Companies Act, 1956, the procedure for incorporation of a private limited company has undergone change. This article briefly enumerates the various procedures and their compliance.

1. Minimum requirements for the Private Limited Company
Minimum 2 Directors - every company shall have at least one director on its board of directors, who has stayed in India for a total period of not less than one hundred and eighty two (182) days in the previous calendar year.
2. Minimum 2 Shareholders The directors and shareholders can be the same person.
3. Minimum Share Capital shall be Rs.100,000 (INR One Lac).
4. Application of allotment Director Identification Number (DIN) for all the Directors.
5. For DIN application both the directors need to avail DSC (Digital Signature Certificate).

**THE COMPLETE PROCEDURE IS
PRIMARILY DIVIDED INTO FOLLOWING 9
STEPS.**

Step – 1

- A. Application for Director Identification Number (DIN) in form DIR-3 & DSC (Digital Signature Certificate)**



What is a Director Identification Number(DIN)?

Director Identification Number (DIN) is a unique identification number issued by the Ministry of Corporate Affairs (MCA), for an existing director or a person intending to become a director of a company.



Documents required for DIR-3 Application in case of Indian National

- Identity Proof: Copy of PAN Card (*Income Tax Permanent Account Number (PAN) is mandatory incase of Indian National and in such cases applicant details should be as per Income tax PAN*)
- Address Proof: Copy of Passport or Election/Voter ID or Ration Card or Driving license (address having pin code) or Electricity/telephone (Utilities) bill or AADHAR Card. All this should be in the "Name of Applicant" only and it should not be older than 2 months from the date of filing of the e-form.
- Passport Size Photograph (latest) : 1 photocopy or a soft-copy in (.JPEG format)
- Current Occupation
- Email Address of the Applicant
- Mobile/Cell Number
- Educational qualification
- Verification to be signed by the Applicant. (In DIR 4

In case of Foreign National

- Identity Proof: Copy of Passport (mandatory)
- Address Proof: Address proof should not be older than 1 year from the date of filing of the e-Form.
- Passport Size Photograph (latest): 1 photocopy or a soft-copy (in .JPEG format)
- Current Occupation
- E-mail Address of the Applicant
- Mobile/Cell Number
- Educational qualification
- Verification to be signed by the Applicant. (DIR 4 format)

Important Notes:

1. All the documents require "Self attestation".
2. In case, the director is residing outside India, the attached supporting documents should be attested by the Consulate of the Indian Embassy, Foreign Public Notary. In case of director, supporting documents can also be attested by Company secretary in full time employment / CEO / Managing director of the Indian company in which he / she proposed to be a director.
3. DIR-3 shall be digitally signed by the same person i.e. applicant who is filing the application and certified by either of the following:
 - a) Company Secretary (in whole-time practice) or a
 - b) Chartered accountant (in whole-time practice) or
 - c) Cost accountant (in whole-time practice)
 - d) Company secretary in full time employment or Director of the company in which the applicant is to be appointed as a director

4. While making DIR-3 Application following details are mandatory: First Name, Middle Name, Last Name, Details of father of an applicant (even in case of a married woman) In case of a Married woman, a photocopy of the Marriage Certificate is required (If DIN needs to be in the "Changed Name")

B. What is a Digital Signature Certificate (DSC)

Digital Signature Certificate (DSC) is the digital equivalent (i.e. electronic format) of physical or paper certificates. Examples of physical certificates are driver's license, passport. Certificates serve as proof of identity of an individual for a certain purpose; for example, a driver's license identifies someone who can legally drive in a particular country. Likewise, a digital certificate can be presented electronically to prove your identity, to access information or services on the Internet or to sign certain documents digitally. Since MCA accepts electronic submission of Forms on its website the DSC is mandatory for all the users.

Documents required for obtaining DSC

- a) Digital Signature Certificate application Form (duly signed by an applicant). An applicant is required to sign across the photo.
- b) All other documents are same as required for the DIR-3 Application

Note: All the documents require "Self attestation" and identity proof and address proof should be attested by either a Gazetted officer (Class I) or Bank manager or Post Master.

Step – 2

Search for the Company Name availability and Application for the Name availability

The Promoters have to provide at least 6 names in the order of their preference/priority.

After drafting of Main Object of the proposed company, need to file e-Form INC-1 (Application for reservation of name) with Registrar of Companies for name availability. The Applicant needs to give 6 proposed names in preference/priority along with their meaning and significance of each word.

Also refer rules / guideline issued by the ministry of Corporate Affairs (MCA) on Use of specific word 'National', 'Bank', 'Exchange', 'Stock-Exchange' in the names of Companies.

Upon receipt of a Name application, the Registrar may, on the basis of information and documents furnished along with the application, reserve the name for a period of sixty days from the date of the application.



Article

INCORPORATION PROCEDURE OF PRIVATE LIMITED COMPANY AS PER COMPANIES ACT 2013

Step – 3

a. Drafting of Memorandum of Association (MOA) & Articles of Association(AOA) and other documents

- A. Memorandum of Association: Memorandum of Association covers fundamental provisions of the company's constitution. It covers main object and ancillary objects of the company along with Share capital and liability clause.
- B. Articles of Association: Articles of Association contain rules and regulations governing the internal management of the company. It is a binding contract between company and its members and members among themselves defining their rights and duties.
 1. Where the subscriber to the memorandum is a body corporate, the memorandum and articles of association shall be signed by director, officer or employee of the body corporate duly authorized in this behalf by a resolution of the board of directors of the body corporate and where the subscriber is a Limited Liability Partnership, it shall be signed by a partner of the Limited Liability Partnership, duly authorized by a resolution approved by all the partners of the Limited Liability Partnership:
 2. Where subscriber to the memorandum is a foreign national residing outside India-
 - o In a country in any part of the Common-wealth, his signatures and address on the memorandum and articles of association and proof of identity shall be notarized by a Notary (Public) in that part of the Common-wealth.
 - o in a country which is a party to the Hague Apostille Convention, 1961, his signatures and address on the memorandum and articles of association and proof of identity shall be notarized before the Notary (Public) of the country of his origin and be duly apostilled in accordance with the said Hague Convention.
 - o in a country outside the Common-wealth and which is not a party to the Hague Apostille Convention, 1961, his signatures and address on the memorandum and articles of association and proof of identity, shall be notarized before the Notary (Public) of such country and the certificate of the Notary (Public) shall be authenticated by a Diplomatic or Consular Officer empowered in this behalf under section 3 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (40 of 1948) or, where there is no such officer by any of the officials mentioned in section 6 of the Commissioners of Oaths Act, 1889 (52 and 53 Vic.C.10), or in any Act amending the same;

- o Visited in India and intended to incorporate a company, in such case the incorporation shall be allowed if, he/she is having a valid Business Visa. Explanation.- For the purposes of this clause, it is hereby clarified that, in case of Person is of Indian Origin or Overseas Citizen of India, requirement of business Visa shall not be applicable.

b. Declaration by professionals.

For the purposes of clause (b) of sub-section (1) of section 7, the declaration by an advocate, a Chartered Accountant, Cost accountant or Company Secretary in practice shall be in Form No. INC.8

c. Affidavit from subscribers and first directors.-

The affidavit shall be submitted by each of the subscribers to the memorandum and each of the first directors named in the articles in Form No.INC.9

- d. Specimen signature and latest photograph duly verified by the banker or notary shall be in the prescribed Form No.INC.10.

Step – 4

Filing of e-forms with ROC (Registrar of Companies)

i. Form INC-7: For application of Incorporation of the Company

A. Mandatory attachments to e-form INC-7)

- o Memorandum of Association
- o Articles of Association
- o Declaration by Professional in INC-8
- o Affidavit from the subscriber to the Memorandum in Form No. INC-9
- o Proof of residential address which should not be older than two months
- o Proof of identity
- o Verification of signature of subscribers i.e. Form No. INC-10, in case the company is not having share capital.
- o It is mandatory to attach entrenched Articles of association if any of the articles are entrenched.

B. Optional attachments depending upon case

- o Copy of in principle approval granted by the Reserve Bank of India or any concerned authority in case proposed company shall be conducting NBFI (Non-Banking Financial Institution) activities
- o NOC in case there is change in the promoters (first subscribers to Memorandum of Association)
- o Proof of nationality in case the subscriber is a foreign national
- o PAN card (in case of Indian national)
- o Copy of certificate of incorporation of the foreign body corporate and proof of registered office address



- o Certified true copy of board resolution/consent by all the partners authorizing to subscribe to MOA
- ii. Form INC-22 : For Notice of situation of registered office Attachments to e-form INC-22
 - o Proof of Registered Office address(Conveyance/Lease deed/ Rent Agreement along with the rent receipts) etc.
 - o Copies of the utility bills (proof of evidence of any utility service like telephone, gas,electricity etc. depicting the address of the premises not older than two months is required to be attached)
 - o No Objection Certificate or permission to use
 - o Certification of e-form INC-22 by CS/CA/CWA (in Whole Time Practice)
- iii. Form DIR-12 : For providing information about particulars of appointment of Directors of the company and Key Managerial Personnel Attachments to e-form DIR-12

Following are the **Mandatory attachments** in case of first appointment of Director / Manager / Company Secretary / CEO / CFO.

- o Letter of appointment
- o Declaration by first director in Form INC-9
- o Declaration of the appointee director, managing director, in Form No. DIR-2

Step – 5

Payment of ROC Fees & Stamp Duty

After filing of documents online, we need to make payment of ROC fees and Stamp Duty electronically which is based upon the Authorized Capital of the Company.

Step – 6

Verification of documents / forms by ROC

After payment of all ROC Fees & Stamp duties, ROC verifies/ scrutinizes all the documents and forms and may suggest few changes to be made in the attachments or form itself. We need to make necessary changes accordingly.

Step – 7

Issue of Certificate of Incorporation by ROC

Once all the Forms are duly approved by ROC, the digitally signed “Certificate of Incorporation” is e-mailed to the Directors. As part of the Green Initiative by the MCA (Ministry of Corporate Affairs), few Certificates including “Certificate of Incorporation” are now issued only in the electronic format i.e. soft-copy (having digital signature of ROC Registrar). Once the Incorporation Certificate is received the company needs to file declaration in INC-21, to commence the business.

Step – 8

Commencement of business

The declaration filed by a director shall be in **Form No. INC. 21** along with the fee as and the contents of the form shall be verified by a Company Secretary in practice or a Chartered Accountant or a Cost Accountant in practice:

- o a declaration is filed by a director in such form and verified in such manner as may be prescribed, with the Registrar that every subscriber to the memorandum has paid the value of the shares agreed to be taken by him and the paid-up share capital of the company is not less than five lakh rupees in case of a public company and not less than one lakh rupees in case of a private company on the date of making of this declaration; and
- o The company has filed with the Registrar a verification of its registered office as provided in sub-section (2) of section 12.
- o Provided that in the case of a company requiring registration from sectorial regulators such as Reserve Bank of India, Securities and Exchange Board of India etc, the approval from such regulator shall be required to be annexed.

Step – 9

RBI Requirements if company incorporated by foreign national / foreign entity

India's foreign trade policy has been formulated with a view to invite and encourages FDI in India. The Reserve Bank of India has prescribed the administrative and compliance aspects of FDI. A foreign company planning to set up business operations in India has the following options:

A. Procedure under automatic route

FDI in sectors/activities to the extent permitted under automatic route does not require any prior approval either by the Government or RBI. The investors are only required to notify the Regional office concerned of RBI within 30 days of receipt of inward remittances through AD and file the FC-GPR with that office within 30 days of allotment of shares to foreign investors.

B. Procedure under Government approval

FDI in activities not covered under the automatic route, requires prior Government approval and are considered by the Foreign Investment Promotion Board (FIPB). Approvals of composite proposals involving foreign investment/foreign technical collaboration are also granted on the recommendations of the FIPB. Application for all FDI cases, except Non-Resident Indian (NRI) investments and 100% Export Oriented Units (EOUs), should be submitted to the FIPB Unit, Department of Economic Affairs (DEA), Ministry of Finance. Application for NRI and 100% EOU cases should be presented to SIA in Department of Industrial Policy & Promotion.

CS



Competition Laws

LW: 91:11:2014

INDIAN EXHIBITION INDUSTRY ASSOCIATION v. MINISTRY OF COMMERCE & INDUSTRY & ANR [CCI]

Case No. 74 of 2012

Ashok Chawla, H. C. Gupta, Dr. Geeta Gouri, Anurag Goel, M.L.Tayal, S. N. Dhingra & S.L. Bunker [Decided on ____/10/2014]

Competition Act, 2002- sections 3, 4, 19 and 26 - CCI orders investigation into the manner in which the OPs organise and conduct exhibitions.

Brief facts:

The main grievance of the informant is that ITPO, besides being a regulator for conducting exhibition and framing guidelines for the Trade Fairs and Exhibition Industry also conducts exhibitions, trade shows in Pragati Maidan. It not only adopts different parameters for itself as 'exhibition organizer' *vis-a-vis* other exhibition organizers but also applies stringent and arbitrary guidelines for other players in the 'exhibition industry'.

It is alleged by the informant that ITPO re-issued guidelines for 'Licensing of Exhibition Space and Facilities in Pragati Maidan' in July 2006. Clause 6.2 of the said guidelines prescribed a time gap restriction of 15 days between two events having similar profiles/ coverage while in case of ITPO fairs, a time gap restriction of 90 days before and 45 days after the fair was prescribed. It further amended it clarifying that normally a gap of 15 days between two events having similar product profiles/ coverage was to be observed but in case of ITPO show and 3rd party show having similar product profile, a gap of 90 days before ITPO show and 45 days after ITPO show was to be maintained. ITPO further amended the said time gap restriction clause on 15.02.2011, thereby altering the said restriction to 90 days prior and after the event/ show of ITPO and third party event in case of similar product profile.

The informant alleged that ITPO, without a valid reason, in the guise of amending the guidelines virtually killed the exhibitions of other market players in the exhibition industry. In the exhibition industry, a particular event gets institutionalized by its place, month and timings as the exhibitors worldwide plan their calendar much in advance to participate in the same. However, ITPO, without conducting any study about the size, potential and growth of an exhibition, announces its exhibition. ITPO fixes its own unrecognized exhibitions and refuses permission to other players by virtue of the guidelines thereby destabilizing the institutionalized exhibitions of other players/ organizers. ITPO had in the past announced various exhibitions that stood subsequently cancelled. As a result, the other players, wanting to hold their exhibitions at Pragati Maidan, were refused the allocation of space Competition Commission of India because of conflict of events in terms of time gap restrictions. This demonstrated the non-application of mind and whimsical conduct of ITPO, which, coupled with the guidelines issued by ITPO, destabilizes the institutionalized exhibitions of other organizers. The informant also cited instances to substantiate its allegations.

It is alleged by informant that ITPO imposed unreasonable and arbitrary conditions on the exhibitors such as making it compulsory for the exhibitor to take 'foyer area' along with the allocated area, though not at all desired or required by it. The organizers were not at liberty to engage House Keeping Agency of their choice to ensure proper hygiene and cleanliness. They were constrained to use only the agency empanelled by ITPO. Every organizer had to include in its costing the additional rental as charged by the ITPO, whereas the costing of ITPO (as an organizer) did not include this factor. Thus, the cost charged by other organizers becomes very high in comparison to the cost charged by ITPO, a competitor in the field.

On the basis of above averments and allegations, the informant has contended that the activities of ITPO were 'anti-competitive' in nature and adversely affected the competition *inter se* the opposite party and the members of informant. That ITPO abused its dominant position in contravention of section 4 of the Act and was adversely affecting the competition and the interest of the players in the exhibition industry. The informant prayed *inter alia*, to inquire into the contraventions of the provisions of section 3(1) and section 4(1) of the Act.

Decision: Investigation ordered.

Reason:

The Commission carefully perused and considered the information and the documents on record as well as the oral submissions of the informant and ITPO.

It appears from the information and material available on record that ITPO, in the role of manager of Pragati Maidan, requires organizers to compulsorily avail foyer area along with the allocated area and to engage only ITPO's empanelled House Keeping agency, even if the organizers do not require or desire the same. Thus, the said conduct of ITPO *prima facie* appears to be in contravention of the provisions



of section 3(1) of the Act read with section 3(4) of the Act.

Even though there are other venues available for holding exhibitions or international trade fairs across India and NCR, Pragati Maidan is not substitutable due to the factors mentioned supra. So, the relevant geographic market in the instant case would be the geographic area of Delhi and the relevant product market would be the market of providing venue for trade fairs/ exhibitions etc.. Accordingly, the relevant market in the instant case would be the market of providing venue for trade fairs/ exhibitions within the geographic area of Delhi.

It is noted that in case of PDA Trade Fairs v. India Trade Promotion Organization, Case No. 48 of 2012 decided on 11.10.2012, the Commission held ITPO to be dominant in the relevant market for providing venue for trade fairs/ exhibitions within geographic area of Delhi. Moreover, the multiple roles of ITPO namely that of a regulator and policy formulator of exhibition Competition Commission of India industry, managing Pragati Maidan and organizer of trade fairs and exhibitions i.e. a competitor of members of informant, appear to strengthen its dominance.

On the basis of the information and material on record it appears that ITPO was abusing its dominant position *prima facie* in the following manners:

- By imposing discriminatory conditions of time gap restrictions, it was abusing its dominant position in contravention of section 4(1) read with section 4(2) (a) (i) of the Act.
- By the time gap restriction and preferential treatment given to itself for organizing trade fairs and exhibitions over other organizers, it was limiting the provision of services of holding trade show/ exhibition at Pragati Maidan in contravention of section 4(1) read with section 4(2) read with section 4(2) (c) of the Act.
- By altering the guidelines coupled with phenomenal delay in confirmation of allotment dates to other organizers, it was denying access to use the venue in contravention of section 4(1) read with section 4(2) (c) of the Act.
- By allotting the venue subject to acceptance of supplementary obligations such as conditions of compulsorily taking of foyer area, engaging of empanelled House Keeping agency, it was in contravention of section 4(1) read with section 4(2) (d) of the Act.

Resultantly, the Commission is of the opinion that *prima facie* there is sufficient material to refer the case to the Director General (DG) to cause an investigation to be made into the matter under section 26(1) of the Act.

LW: 92:11:2014

KONIKA MUKHERJEE & ORS v. HIMALAYA REAL ESTATE PVT LTD & ANR [CCI]

Case Nos. 21, 22 & 23 of 2014

Ashok Chawla, Anurag Goel, S.L.Bunker, Sudhir

Mittal, Augustine Peter [Decided on 24/09/2014]

Competition Act, 2002- sections 3,4,19 and 26- CCI dismisses the complaint made against the builder.

Brief facts:

The present information(s) relate to same allegations against the OP filed by 3 different set of informants u/s 19(1) (a) of the Act. Briefly, the case pertains to alleged abuse of dominant position under section 4 of the Act by OP with respect to its residential project in Greater Noida, UP. Since the matters pertain to same allegations, they are hereby clubbed and disposed of through a common order.

Briefly, OP, a real estate company incorporated under the Companies Act, floated a brochures for offering booking of flats in its residential project namely Himalaya Pride in Greater Noida West, UP ('the Project'), comprising of 2/3 bedroom apartments. Through the brochure circulated by OP, flats of four different super areas in Tower A & B were offered in the said Project. Relying on the representations made by OP in its various advertisements, the informants booked a flat each in OP's Project by opting construction linked plan ('CLP') on 28.09.2012 through an application cum registration form.

The Informants alleged that OP abused its dominant position by replacing the original application-cum registration form dated 28.09.2012 by the new application-cum registration form dated 04.03.2013 which contained unfair and onerous terms and conditions.

Decision: Case closed.

Reason:

The Commission has perused the material placed on record and heard the counsel of the informant at length. It was urged by the counsel of the informant that the interpretation given to the word 'dominance' by the Commission in earlier orders has not been in accordance with the law. While dealing with the definition of the term 'Dominance' as provided under explanation to section 4 of the Act, the counsel advocated that whenever an enterprise indulges in an exploitative conduct and is affecting its customers, it amounts to an abuse of dominant position. It was further contended that in cases where an agreement has already been entered into between a customer and provider of goods/services (real estate developer in this case), the latter becomes dominant by virtue of the locked in position of the former. The counsel of the informant cited the supplementary order in Case No. 19/2010 (Belaire Owners' Association v. DLF Limited, HUDA & Ors.) to support this contention. It was argued every consumer has to be taken independently to test the position of the enterprise in the market. In such cases section 19(4) of the Act is irrelevant as the exploitative (abusive) conduct has to be seen qua a consumer.

The informant is primarily aggrieved by abuse of dominant position by the OPs. The allegation pertaining to abuse of dominant position



covered under section 4 of the Act requires determination of relevant market. Although the informants have alleged abuse of dominant position by OPs, relevant market has not been proposed. It is apparent that the informants were interested in buying an apartment in Gurgaon and for this reason they approached the OP to book an apartment each in OP's project. Therefore, the relevant product market in the present case appears to be market for development and sale of residential apartments'.

With regard to the relevant geographic market, it may be noted that the conditions of competition in Noida and Greater Noida seem homogeneous. The consumer can substitute between these geographic areas owing to their close proximity, which however may not be feasible with regard to areas outside Noida and Greater Noida. Therefore, the relevant geographic market in the present case would be 'Noida and Greater Noida'. Consequently, the relevant market in the present case would be the market for "development and sale of residential apartments in Noida and Greater Noida."

Since the case under section 4 of the Act depends primarily on the position of the OP i.e. whether the OP held a dominant position or not, the relevant market needs to be analysed to assess OP's dominance/position. The contention of the informant's counsel with regard to assessment of dominance of an enterprise in case of exploitative abuses seems misconceived. The factors stated under section 19(4) of the Act needs to be considered while assessing dominance of an enterprise. Such an analysis cannot be avoided as contended by the informant's counsel. The dominance of an enterprise is always seen with regard to the state of competition in its own relevant market and not with regard to the individual consumer it is dealing. As per OP's own website, it had only one residential project in the relevant market. The informants did not submit any information on the presence of other players in the relevant market in which OP was operating. However, as per the information available in public domain, there are many other real estate developers such as Supertech, Amrapali Group, K.V. Developers, Nirala Group, Earth Infrastructure Group etc. which are operating in the relevant market. Further the size and resources of OP does not seem to be much in comparison to these other players in the relevant market. Also there seems to be no entry barriers or any dependence of buyers on OP for any reason whatsoever. Therefore, *prima facie*, it does not appear that OP held a dominant position in the relevant market.

Since OP, *prima facie*, does not appear to be in a dominant position in the relevant market, there seems to be no question of abuse of its dominant position within the meaning of the provisions of Section 4 of the Act.

LW: 93:11:2014

DLF HOME DEVELOPERS LTD v. COMPETITION COMMISSION OF INDIA & ORS [DEL]

W.P.(C) No. 6361/2014 & 6362/2014

Manmohan, J. [Decided on 10/10/2014]

Article 226 of the constitution of India read with Competition Act, 2002- whether CCI had jurisdiction over the agreements entered into before the date of enforcement of the Act- Held, yes.

Brief facts

Present writ petitions have been filed seeking a direction to respondent No.1-CCI to frame and decide the issue of jurisdiction prior to passing of orders on merits of the cases and deferring the matters until final adjudication by the Supreme Court in Civil Appeals Nos. 6328, 6451 and 6487 of 2014 involving the same jurisdictional issue.

Both the learned senior counsel for petitioner submitted that respondent no. 1-CCI ought to have determined the question of jurisdiction before fixing the hearing on merits. They stated that, in fact, the Competition Appellate Tribunal (for short "COMPAT") had in petitioner's own case held that respondent no. 1-CCI did not have jurisdiction in respect of agreements entered into prior to the enforcement of The Competition Act, 2002 (for short "Act, 2002"), i.e., 20th May, 2009.

They also pointed out that respondent no. 1-CCI had also filed an application for clarification before the Supreme Court seeking stay of the observations and findings in the order dated 19th May, 2014 passed by the COMPAT to the extent that respondent no. 1-CCI could not examine and suggest modification in the Agreements entered into prior to 20th May, 2009, i.e., before coming into force of Section 4 of the Act, 2002. The petitioner contended that it was the respondent no. 1-CCI's case in its application that COMPAT had failed to appreciate that the effect of such an anti-competitive agreement was subsisting and continuing post 20th May, 2009.

Decision: Petition dismissed.

Reason:

Upon a perusal of the paper book, this Court finds that initially the matters had been adjourned by respondent no. 1-CCI on the request of the petitioner to await the decision of COMPAT. As of now, both respondent no. 1-CCI and COMPAT have held that petitioner is guilty of violation of Section 4 of the Act, 2002 in similar matters.

In view of the aforesaid findings of COMPAT as well as the fact that it is the petitioner's case that the issue of jurisdiction of respondent no. 1-CCI *vis-a-vis* Section 4 of the Act, 2002 has been settled, this Court is of the opinion that it would be futile to ask respondent no. 1-CCI to re-decide the issue of jurisdiction and that too as a preliminary issue. Consequently, no preliminary issues are warranted in the facts of the present cases.



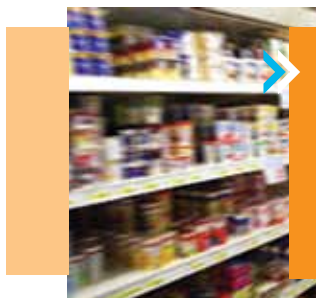
Though this Court in proceedings under Article 226 has the jurisdiction to pass an order directing the respondent no. 1-CCI to hear and decide the preliminary issue of jurisdiction, yet it is of the opinion that a writ petition is not maintainable as a matter of right for seeking framing of a preliminary issue in any proceeding pending before a statutory or quasi-judicial body. It is pertinent to mention that Section 36 of the Act, 2002 gives power to respondent no.1-CCI to regulate its own procedure.

As far as the argument of deferring the hearing until final decision of the Supreme Court in Civil Appeal Nos. 6328, 6451 and 6487 of 2014 is concerned, this Court is of the view that such a prayer should have been made before the Apex Court at the time of admission of the aforesaid Civil Appeals.

This Court is also of the opinion that present writ petitions have been filed to prevent the respondent no. 1-CCI from passing orders on merits. The intent of the petitioner in filing the present writ petitions is to get the issue of jurisdiction decided against them and then to challenge it by way of writ petitions and to ensure that in the meantime matters are not heard on merits.

This Court is confident that the respondent no. 1-CCI would deal with all the arguments advanced by petitioner while finally deciding the matters. In any event, if the petitioner is aggrieved by the final decision of respondent no. 1-CCI, it shall be at liberty to challenge the same by way of an appeal.

Consequently, present writ petitions and applications are dismissed. However, it is clarified that the aforesaid observations are in the context of the present writ petitions and the respondent no. 1-CCI would decide the matters on their own merits.



Consumer Protection Laws

LW: 94:11:2014

General Motors (I) Pvt Ltd v. Ashok Ramnik Lal Tolat & Anr [SC] on 9 October, 2014

Civil Appeal Nos. 8072-8073 of 2009

V. Gopala Gowda & Adarsh Kumar Goel, JJ. [Decided on 09/10/2014]

Consumer Protection Act, 1986- awarding of punitive damages by National Commission which was not at all prayed for- whether tenable-Held, No.

Brief facts:

The main question raised in these appeals is whether in the absence of any prayer made in the complaint and without evidence of any loss suffered, the award of punitive damages was permissible. Apart from the said main question, the appellant has also called in question the refund ordered and other relief granted in favour of the respondent-complainant.

Decision: Appeal allowed.

Reason:

The concurrent finding recorded by the District Forum, the State Commission and the National Commission to the effect that "unfair trade practice" was committed by the appellant which is based on adequate material on record, does not call for any interference by this Court and the same is affirmed.

What survives for consideration is the submission that there was no claim before the National Commission for the punitive damages nor the appellant had an opportunity to meet such claim and that part of the order needs to be set aside.

We have already set out the relief sought in the complaint. Neither there is any averment in the complaint about the suffering of punitive damages by the other consumers nor the appellant was aware that any such claim is to be met by it. Normally, punitive damages are awarded against a conscious wrong doing unrelated to the actual loss suffered. Such a claim has to be specially pleaded. The respondent complainant was satisfied with the order of the District Forum and did not approach the State Commission. He only approached the National Commission after the State Commission set aside the relief granted by the District Forum. The National Commission in exercise of revisional jurisdiction was only concerned about the correctness or otherwise of the order of the State Commission setting aside the relief given by the District Forum and to pass such order as the State Commission ought to have passed. However, the National Commission has gone much beyond its jurisdiction in awarding the relief which was neither sought in the complaint nor before the State Commission. We are thus, of the view that to this extent the order of the National Commission cannot be sustained. We make it clear that we have not gone into the merits of the direction but the aspect that in absence of such a claim being before the National Commission and the appellant having no notice of such a claim, the said order is contrary to principles of fair procedure and natural justice. We also make it clear that this order will not stand in the way of any aggrieved party raising a claim before an appropriate forum in accordance with law.

Accordingly we allow these appeals and set aside the order of the



National Commission to the extent of award of punitive damages.



General Laws

LW: 95:11:2014

BOMBAY STOCK EXCHANGE v. V.S. KANDALGAONKAR & ORS [SC]

Civil Appeal No.4354 of 2003

R.M. Lodha (CJI), Kurian Joseph & R.F. Nariman JJ.
[Decided on 25/09/2014]

Income Tax Act, 1961 read with Securities Contracts (Regulation) Act, 1956- membership of stock exchange-defaulter member- assets vests with stock exchange-whether revenue has priority over other dues- Held, No.

Brief facts:

The present matter arises as the result of a member of a Stock Exchange being declared a defaulter. The Income Tax Department claims that it has priority over all debts owed by the defaulter member, whereas the Stock Exchange, Bombay claims otherwise.

The Stock Exchange raised essentially three submissions. The first submission is that by virtue of the judgment in *Stock Exchange, Ahmedabad v. Asstt. Commissioner of Income Tax, Ahmedabad*, 2001 (3) SCC 559, the sale proceeds of a membership card and the membership card itself being only a personal privilege granted to a member cannot be attached by the Income Tax Department at any stage. The moment a member is declared a defaulter all rights qua the membership card of the member cease and even his right of nomination vests in the Stock Exchange. The High Court was therefore not correct in saying that though a membership card is only a personal privilege and ordinarily the Income Tax Department cannot attach the sale proceeds, yet since these amounts came into the hands of the Stock Exchange for and on behalf of the assessee they were attachable. The second submission, based on conjoint reading of Rule 38 and 44, is that all securities in the form of shares that are given by a member shall be transferred and held either in the name of the trustees of the Stock Exchange or in the name of a Bank which is approved by the Governing Board. By operation of Rule 44,

on termination of the membership of a broker, whatever remains by way of security after clearing all debts has to be "transferred" either to him or as he shall direct or in the absence of such direction to his legal representatives. The argument therefore is that what is contemplated is a transfer of these shares by virtue of which the member ceases to be owner of these shares for the period that they are "transferred" and this being so, the Income Tax Department cannot lay their hands on these shares or the sale proceeds thereof as the member ceases to have ownership rights of these shares. It is also submitted that by virtue of Rule 43, the Stock Exchange has a first and paramount lien for any sum due to it, and that this made it a secured creditor so that in any case income tax dues would not to be given preference over dues to secured creditors.

Per contra, the Revenue refuted these contentions and stated that on a conjoint reading of the Rules and the Bye-Laws a membership card may not be directly attachable but that the High Court's reading of Rule 16 is correct. Further, on a conjoint reading of the various Rules relating to member's security, it is clear that the expression "transferred" would not refer to transfer of ownership but would refer only to the delivery made of shares for the purpose of realization in case a member defaults. It has been further argued that the mere fact that a lien was provided in the Rules did not make such lien a statutory lien and that therefore Government dues would have a first preference over all the dues of the Stock Exchange.

Decision: Appeal allowed.

Reason:

As this Civil Appeal raises important questions of law both from the point of view of the Bombay Stock Exchange and the Income Tax Department, we are going into the matter in some detail. We will deal with each one of the contentions *seriatim*.

Re.: (1) A reading of Rules 5 and 9 lead to the conclusion that a membership card is only a personal permission from the Stock Exchange to exercise the rights and privileges that may be given subject to Rules, Bye-Laws and Regulations of the Exchange. Further, the moment a member is declared a defaulter, his right of nomination shall cease and vest in the Exchange because even the personal privilege given is at that point taken away from the defaulting member. The matter is no longer *res integra*.

Further, the rules and the bye-laws also make this clear. Under Rule 16(iii), whenever the Governing Board exercises the right of nomination in respect of a membership which vests in the Exchange, the ultimate surplus that may remain after the membership card is sold by the Exchange comes only to the Exchange - it does not go to the member. This is in contrast with bye-law 400 (ix) which, as has been noted above deals with the application of the defaulting member's other assets and securities, and in this case ultimately the surplus is paid only to the defaulting member, making it clear that these amounts really belonged to the defaulting member.



In the present case Rule 16 was properly applied by the Stock Exchange. The membership right in question was not the property of the assessee and, therefore, it could not be attached under Section 281-B of the Income Tax Act. No amount on account of Rajesh Shah was due from or held by the Stock Exchange and, therefore, Section 226(3) could not be invoked. We are unable to sustain the judgment under appeal holding that in substance the right of membership or membership card was a right of property which could be attached under Section 281-B of the Income Tax Act. It is clear therefore that the conclusion of the High Court that the proceeds of a card which has been auctioned can be paid over to the Income Tax Department for the dues of the member by virtue of Rule 16 (iii) is incorrect as such member at no point owns any property capable of attachment, as has been held in the Ahmedabad Stock Exchange case. On this point therefore Shri Datar is on firm ground and must succeed.

Re: (2) Rules 36 to 46 belong to a Chapter in the Rules entitled "Membership Security". Rule 36 specifies that a new member shall on admission provide security and shall maintain such security with the Stock Exchange for a determined sum at all the times that he carries on business. Rule 37 deals with the form of such security and states that it may be in the form of a deposit of cash or deposit receipt of a Bank or in the form of security approved by the Governing Board. Rule 38 deals with how these securities are held. Rule 41 enables the member to withdraw any security provided by him if he provides another security in lieu thereof of sufficient value to the satisfaction of the Governing Board. Rule 43 states that the security provided shall be a first and paramount lien for any sum due to the Stock Exchange and Rule 44 deals with the return of such security under certain circumstances.

The assets of a defaulting member can broadly be divided into two categories, namely, card membership and other assets. There cannot, however, be any doubt that so long as the claims of the awardees, both of members as also non-members, are dealt with by the Defaulters' Committee, the Exchange or the Defaulters' Committee would not be a debtor in relation to an awardee. But once the Defaulters' Committee determines such claims and a surplus is available in the hands of the Defaulters' Committee, as the surplus amount would become payable to the defaulting members, the same would become an asset of the defaulting member. In other words, other assets continue to remain assets of the defaulting members subject to the vesting thereof for the purposes mentioned in Bye-law 326 and as soon as the purpose is satisfied, the ownership which was under animated suspension or eclipsed would again revive to the defaulting member. The awardees, however, so long as the assets remain under the control of the Defaulters' Committee would be entitled to get their claim on a *pro rata* basis and not in its entirety.

After the assets of the defaulting member are pooled together and amounts are realized, the payments that would be made from such pool would be from the assets of the defaulting member. Stock Exchange's second contention must therefore fail.

Re: (3) It is settled law that Government debts have precedence only

over unsecured creditors.

In the present case, the first and paramount lien given to the Stock Exchange is by Rule 43 of the Rules made under Section 8 of the Securities Contract Act. Sections 7A, 8 and 30 of the Securities Contracts (Regulation) Act 1956 deal with the power of recognized Stock Exchanges making rules restricting voting rights; rules relating to Stock Exchanges generally including membership thereof; and rules to carry out the purposes of the Securities Contracts (Regulation) Act respectively. Whereas, the rules made under Section 7A and Section 8 are made by recognized Stock Exchanges with the approval of the Central Government and published in the Official Gazette, rules made under Section 30 are made by the Central Government itself for purposes of carrying into effect the objects of the Securities Contracts (Regulation) Act. Sub-section (3) of Section 30 is material.

It will be seen that whether a rule is made under section 7-A, Section 8 or Section 30, all rules made under the Act are to be laid before Parliament, making it clear thereby that rules made under each of these provisions are statutory in nature. The fact that the Stock Exchange makes these rules under Sections 7A and 8 as opposed to the Central Government making them under Section 30 does not take the matter very much further. Section 3(51) of the General Clauses Act defines "Rules" as meaning "a rule made in exercise of power conferred by law and shall include a Regulation made as a rule under any enactment". It is clear from this definition of "Rule" that Stock Exchanges which make rules in exercise of powers conferred by the Securities Contracts (Regulation) Act are equally "Rules" and therefore subordinate legislation. This makes it amply clear that the lien spoken of by Rule 43 is a lien, conferred by Rules under a statute.

In the present case, as has been noted above, the lien possessed by the Stock Exchange makes it a secured creditor. That being the case, it is clear that whether the lien under Rule 43 is a statutory lien or is a lien arising out of agreement does not make much of a difference as the Stock Exchange, being a secured creditor, would have priority over Government dues.

The three issues are answered as above. The Stock Exchange's appeal is allowed and the impugned judgment passed by the Division Bench of the Bombay High Court is set aside.

LW: 96:11:2014

UNISON HOTELS PVT LTD v. VALUE LINE INTERIORS PVT LTD & ANR[DEL]

O.M.P.No. 1248/2014 and IA No.20154/2014

Rajiv Shakhder, J. [Decided on 15/10/2014]

Arbitration and conciliation Act, 1996- claimant respondent filed the statement of claim after the date fixed by the



arbitrator- copy was served on the petitioner respondent- petitioner failed to appear before the arbitrator on one or other pretext- petitioner claimed the termination of the mandate of the arbitrator-whether tenable-Held,No.

Brief facts:

This is a petition under Section 14(2) read with Section 25(a) and 32(2) (c) of the Arbitration and Conciliation Act, 1996 (in short the Act). The prayer made in the petition is that this court should intervene under Section 14(2) of the Act and terminate the mandate of respondent No.3 i.e., the learned arbitrator.

A sole arbitrator was appointed by the High Court on the arbitration petition moved by the respondent, which is the original claimant, in the matter. The arbitrator on 28.10.2012 issued a communication directing parties to appear before him on 09.11.2012. It is not disputed by the learned counsel for the petitioner that the petitioner was not represented on that date.

On 05.02.2013, respondent No.2 i.e., Delhi International Arbitration Centre (DIAC) wrote to the counsel for the claimant, i.e., the respondent herein, that it should file its statement of claim within 15 days, failing which it would be presumed that it is not interested in proceeding with the matter and, accordingly, the file in the case would be closed. The respondent filed the statement of claim on 22.01.2014. Copy of the same was sent to the petitioner by DIAC along with its letter dated 27.01.2014. By this letter, the petitioner was called upon to file its reply/ counter-claim within 30 days.

In response to the letter dated 27.01.2014, the petitioner sought to know whether arbitration proceedings were closed upon failure of the respondent to file its statement of claim for a long period of time. The DIAC responded, whereby it was indicated that the statement of claim filed by the respondent had been served on the petitioner herein on 31.01.2014 alongwith a letter dated 27.01.2014. It was indicated that 30 days' time was given to the petitioner herein to file its reply / counter claim, which expired on 02.03.2014.

In response to the aforementioned letter, the petitioner's counsel wrote a yet another letter dated 29.03.2014 to DIAC. By this letter, he sought, broadly, copies, of proceedings from DIAC. 3.2 The letter dated 29.03.2014 was replied by the DIAC vide communication dated 15.04.2014. In this letter, DIAC reiterated that the petitioner was required to deposit the arbitrator's fee and expenses within 15 days and that if, there is any contention of the petitioner, which impacts a limitation, the same may be placed before the arbitral tribunal. In so far as the request made for grant of copies of proceedings was concerned, it was stated that since, there are no proceedings on record prior to the filing of the statement of claim by the respondent herein, the same could not be supplied. 3.3 The DIAC, followed the aforesaid letter with a letter dated 31.05.2014, whereby the petitioner, as also its counsel, was informed that the next date of hearing before the arbitrator was 16.07.2014 at 11.00 a.m. It is in this background,

that on 16.07.2014, the matter was taken up by the arbitrator. It is the order dated 16.07.2014, which is impugned before me.

Decision: Petition dismissed.

Reason:

The learned counsel for the petitioner submits that by virtue of the respondent failing to file a statement of claim within a reasonable period of time, arbitration proceedings stood terminated automatically and, therefore, the proceedings before the learned arbitrator have been rendered infructuous.

I have heard the learned counsel for the petitioner. A perusal of the record and the impugned order does reveal that the petitioner has not placed his objections to the continuation of arbitration proceedings in the matter, on account of purported failure of the respondent to file the statement of claim within a reasonable period of time before the learned arbitrator.

There is no doubt in my mind that the arbitrator is empowered to consider such an objection, if raised, under Section 25 of the Act. If, on facts and in the circumstances of a case, the arbitrator comes to the conclusion that the delay in filing the statement of claim is of such a nature that he ought to terminate the proceedings, he would proceed to pass such an order.

The learned arbitrator in the proceedings of 16.07.2014 has made a specific observation to the effect that the petitioner would be free to take all objections in its statement of defence. At this stage, the learned counsel for the petitioner says that under Section 14 of the Act, this court should pass an order terminating the mandate of the learned arbitrator.

In my view, the petitioner if not more, to some extent has contributed to the delay in the prosecution of the proceedings or should I say its termination. Mr. Aggarwal, as indicated above, informed the court that the petitioner was not represented before the learned arbitrator, on 09.11.2012, for the reason that the counsel for the opposite side i.e., the respondent had informed him that the respondent did not intend to file a statement of claim. Mr. Aggarwal says that this assertion is made in the pleadings. There is, undoubtedly, no document placed on record which would show that the respondent's counsel had made any such representation. Under Rule 3(6) of the DIAC Rules, on a fresh request being made by claimant, the proceedings can be re-opened. It appears, on statement of claim being filed, the process, at DIAC's end, was re-commenced.

The record would shows, as indicated above, that the petitioner did not move the learned arbitrator between November, 2012 and January, 2014 for closure of proceedings. Whether in the given circumstances, the learned arbitrator should terminate the proceedings, is an aspect, that the learned arbitrator may examine on an objection being taken in that behalf.



In these circumstances, I decline to exercise powers under Section 14 of the Act, at this stage, in the facts of this case as the proceedings before the learned arbitrator have been, so to speak, reignited.

The petition and the captioned application are accordingly dismissed. The petitioner will appear before the learned arbitrator on the designated date i.e., 31.10.2014 and comply with the directions issued by the learned arbitrator vide order dated 16.07.2014.



Industrial & Labour Laws

LW: 97:11:2014

DELHI TRANSPORT CORPORATION v. JAI PRAKASH SHARMA [DEL]

W.P. (C) 4069/2012 & CM No. 8531/2012

Vibhu Bakhru, J. [Decided on 09/10/2014]

Industrial Disputes Act, 1947- absention from work- termination of services- whether punishment proportionate to the misconduct-Held, No.

Brief facts:

By the order dated 12.05.2010, the Labour court had held that the enquiry held against the respondent was vitiated on account of violation of principles of natural justice. Although the labour court upheld the allegation of misconduct, it found the punishment of dismissal from service disproportionate and shocking. Accordingly, the Labour Court passed the impugned award setting aside the order terminating the services of the respondent and directed reinstatement of the respondent with full back wages, continuity of service and all consequential benefits along with a payment of Rs.50, 000/- as cost to the respondent.

Decision: Partly allowed.

Reason:

It is to be noted that neither parties have impugned the findings of the Labour Court that the charge of misconduct of absention without leave was proved against the respondent. Therefore, the limited controversy to be decided in the present case is whether the Labour

Court had erred in holding that that enquiry against the respondent was vitiated for non-observance of the principles of natural justice and whether the punishment of termination of services of the respondent was excessive and disproportionate to the charges proved.

Admittedly, the enquiry against the respondent was proceeded ex parte. The respondent had stated that he had not received any notice of the enquiry and thus, could not participate in the enquiry. The respondent was examined and he deposed that he had not received any notice of the enquiry proceedings. The Labour Court also noted that respondent was not confronted with any document indicating service of notice. He also noted that the enquiry proceedings had not recorded that the respondent had been served. After appreciating the evidence, the Labour Court concluded that the enquiry had not proceeded in accordance with the principles of natural justice. The finding of the Labour Court was arrived at after considering all evidence. The findings are informed by reason and material on record and accordingly, the order dated 12.05.2010 warrants no interference.

However, the decision of the Labour Court in awarding back wages is not sustainable. The Supreme Court in the case of *J.K. Synthetics Ltd. v. K.P. Agrawal*, (2007) 2 SCC 433 had made a distinction in cases where an employee has been reinstated on account of his termination being found to be illegal and in cases where an employee is directed to be reinstated by reducing the punishment meted out to the employee. In such cases where the punishment inflicted on an employee is reduced and the employee is reinstated with retrospective effect, i.e. from the date of his termination, he would be entitled to continuity of his service and in cases where he is not reinstated with retrospective effect he would be reinstated in service from the date of the award. Following the aforesaid decision, the impugned award to the extent that it grants back wages to the respondent, is liable to be set aside.

In the given circumstances, the present writ petition is disposed of by modifying the impugned award to the extent that it directs payment of back wages to the respondent. It is directed that the back wages prior to the award shall not be payable to the respondent. However, it is clarified that the reinstatement awarded by the Labour Court shall be given effect to for the purposes of providing continuity of service to the respondent.

LW: 98:11:2014

PRADIP SAMRAVAJI PATIL v. FIRST LABOUR COURT, NAGPUR & ANR [BOM]

Writ Petition No. 6144 of 2006

A.P. Bhangale, J. [Decided on 13/10/2014]

Industrial Disputes Act, 1947- retrenchment- closure of establishment- termination of employee- whether retrenchment –Held, No.



Brief facts:

Yugantar Education Society is carrying on activities such as running of educational institutions, hospital etc. in Nagpur. The petitioner was appointed as a peon in the Office of said Yugantar Education Society, Nagpur pursuant to letter dt.10.9.1980 on a consolidated salary of Rs.200/-per month. The petitioner was promoted to the post of clerk w.e.f. 1.9.1983 and was posted as a Storekeeper-cum-Clerk in the Family Welfare Centre in Smt. Nimbunabai Tirpude Hospital, Kamptee Road, Nagpur. He was serving in the pay scale of Rs.950-20-1150-EB-25-1550 plus allowances as admissible and was paid Rs.4700/- per month. He was working under the supervision of Medical Officer at the Centre and under over all incharge of the Medical Superintendent of the hospital. It is the case of the petitioner that his services were terminated pursuant to notice No.YES/2004-2005/30th June/06 dt.30.6.2004 mentioning that, in view of the public notice dt.31.3.2004 in respect of closing down Family Welfare Centre, the petitioner's services with the Centre will come to an end w.e.f. 30.6.2004 after working hours.

The petitioner approached the Conciliation Officer at Nagpur seeking his intervention in the matter. The Conciliation ended in failure. Reference was made for adjudication of industrial dispute relating to reinstatement, full backwages and continuity of service to the Labour Court, Nagpur vide Reference No.IDA-53 of 2005.

According to the petitioner, he was working continuously for more than 240 days in the year preceding the date of termination and the respondent/employer had not prepared and displayed any seniority list of the cadre of clerks in the organisation and notice of one month or notice pay was not paid to the petitioner and the principle of last come and first go was not complied with as contemplated u/s. 25-G of the Industrial Disputes Act. According to the petitioner, he remained unemployed and idle and thus, he was victimised. He is entitled to be reinstated by setting aside the impugned Award with full backwages and continuity of service.

Decision: Petition dismissed.

Reason:

I have heard the rival submissions advanced in the facts and circumstances of the case with reference to the Statement of Claim before the Labour Court. The learned Labour Court Judge, Nagpur went through the affidavit by way of evidence and the contents of notice indicating closure of establishment and information to the petitioner to collect his dues and considering the reason of closure of the Family Welfare Centre, the Labour Court held that it will not be proper to direct party no.1 to reinstate this petitioner in service. The Labour Court held that the petitioner was not entitled for reinstatement with continuity of service and backwages. However, looking into the facts and circumstances of the case, the petitioner was held entitled to the relief of retrenchment compensation, notice pay and his legal dues as per law. The petitioner was, in fact, called upon to collect his legal dues. Under these circumstances, the Award by the Court below

is sustainable in the absence of any serious infirmity. No interference is required in exercise of extra-ordinary Writ jurisdiction of this Court to interfere with the impugned Award as it was based upon the evidence led before the Court. Hence, the petition appears meritless and liable to be dismissed. The petition is accordingly dismissed with no order as to costs.



LW: 99:11:2014

**COMMISSIONER OF INCOME TAX v. GHATGE
PATIL TRANSPORT LTD [BOM]**

Income Tax Appeals No.1002 & 1034 of 2012

**S.C. Dharmadhikari & A.K. Menon, JJ. [Decided on
14/10/2014]**

Income Tax Act, 1961- section 43B - business expenditure- PF, ESI contributions- disallowance- whether correct-Held,No.

Brief facts:

The assessee had filed a return of income declaring a total loss of Rs.1, 88, 71,600/-. A Notice came to be issued under section 148 of the Income Tax Act, 1961 ('the I.T. Act') on and while completing the assessment, additions were made on account of payment of employees contribution towards provident fund, ESI and pension fund in a sum of Rs.32,03,947/-.

While disallowing the claim for deduction, the department contended that payment of employees' contribution had to be made within the due date viz. on or before the 15th of every succeeding month. Admittedly, these payments were not so made but were paid after the due dates. The Assessing Officer, therefore, disallowed the deduction made to the extent of Rs.32, 03,547/-. The assessee lost in the first appeal but the Tribunal set aside the addition. Revenue approached the High Court.

Decision: Appeals dismissed.



Reason:

The question arising, therefore, is (a) whether the Tribunal was right in ignoring the distinction between the employees contribution and employer's contribution and whether the decision of the Hon'ble Supreme Court in the case of *Commissioner of Income Tax v. Alom Extrusions Ltd. reported in [2009] 319 ITR 306* would apply only in the cases of employee's contribution and (b) whether the Tribunal was right in holding that payment of employees contribution is subject to the provisions of section 43B of the I.T. Act entailing that amendment to section 43B would lead to the inclusion of the employers' contribution as well.

It is clear that the employer-assessee would be entitled to deduction only if the contribution to the employee's welfare fund stood credited on or before the due date and not otherwise. It transpires that Industry once again made representations to the Ministry of Finance to remove this anomaly. The result was that an amendment was inserted which came into force with effect from 1st April, 2004 and two changes were made in section 43B firstly by deleting the second proviso and further amendment in the first proviso.

In this manner, the amendment provided by Finance Act, 2003 put on par the benefit of deductions of tax, duty, cess and fee on the one hand with contributions to various Employees' Welfare Funds on the other. All this came up for consideration before the Hon'ble Supreme Court in the case of *Alom Extrusions Ltd. (supra)*. The Tribunal in the case at hand relied upon the said judgment. There is no reason to fault the order passed by the Tribunal. We are of the view that the decision of the Supreme Court in *Alom Extrusions Ltd.* applies to employees' contribution as well as employers' contribution.

The facts in Income Tax Appeal No.1034 of 2012 are similar, except for the change in the assessment year and the questions arise out of the common order of the Tribunal dated 29th July, 2011 and accordingly the questions are answered in favour of the assessee and against the revenue. We hold that both employees' and employer's contributions are covered under the amendment to Section 43B of I.T. Act and the *Alom Extrusions* judgment. Hence the Tribunal was right in holding that payments thereof are subject to benefits of Section 43B. Both the appeals are disposed of accordingly. No order as to costs.

KIND ATTENTION MEMBERS!

Elections to the Councils and Regional Councils-2014

As you are aware ICSI Elections to the Council and Regional Councils-2014 are scheduled to be held on Friday and Saturday, the 12th and 13th December, 2014 at Delhi and Mumbai and on Friday, the 12th December, 2014 at other places from 8.00 AM to 8.00 PM.

Members are requested to respect their vote and exercise their franchise in large numbers to make the election a success. Members should also take full advantage of the privilege conferred upon them and may indicate as many preferences as there are candidates for election to the Council and Regional Councils.

CS Sutanu Sinha

Returning Officer and Chief Executive & Officiating Secretary

Dated: 28th October, 2014



01 Amendment in Schedule VII of the Companies Act, 2013

[Issued by the Ministry of Corporate Affairs vide F. No.1/18/2013-CL-V, dated 24.10.2014. To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-Section (i)]

In exercise of the powers conferred by sub-section (1) of section 467 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following further amendments to Schedule VII of the said Act, namely:-

- (i) In item (i), after the words "and sanitation", the words "including contribution to the Swach Bharat Kosh set-up by the Central Government for the promotion of sanitation" shall be inserted;
 - (ii) In item (iv), after the words "and water", the words "including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga;" shall be inserted.
2. This notification shall come into force on the date of its publication in the Official Gazette.

Amardeep Singh Bhatia
Joint Secretary

02 Companies (Audit and Auditors) Amendment Rules, 2014.

[Issued by the Ministry of Corporate Affairs vide F. No. 1/33/2013-CL-V-Part, dated 14.10.2014. To be published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i)]

In exercise of powers conferred by sub-sections (1), (2) and (4) of section 139, sub-sections (1) and (2) of section 140, sub-section (3) of section 141, sub-sections (2), (3), (8) and (12) of section 143, sub-section (3) of section 148 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 to amend the Companies (Audit and Auditors) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Audit and Auditors) Amendment Rules, 2014.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Audit and Auditors) Rules, 2014, after rule 10, the following shall be inserted, namely:-

"10A. For the purposes of clause (i) of sub-section (3) of section 143, for the financial years commencing on or after 1st April, 2015, the report of the auditor shall state about existence of adequate internal financial controls system and its operating effectiveness:

Provided that auditor of a company may voluntarily include the statement referred to in this rule for the financial year commencing on or after 1st April, 2014 and ending on or before 31st March, 2015."

Amardeep Singh Bhatia
Joint Secretary

03 Companies (Accounts) Amendment Rules, 2014

[Issued by the Ministry of Corporate Affairs vide F.No. 1/19/2013-CL-V-Part, dated 14.10.2014. To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)]

In exercise of the powers conferred by sub-sections (1) and (3) of section 128, sub-section (3) of section 129, section 133, section 134, sub-section (4) of section 135, sub-section (1) of section 136, section 137 and section 138 read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules to amend the Companies (Accounts) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Accounts) Amendment Rules, 2014.
- (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Accounts) Rules, 2014, in rule 6, after the existing proviso, the following provisos shall be inserted, namely:-

"Provided further that nothing in this rule shall apply in respect of preparation of consolidated financial statement by an intermediate wholly-owned subsidiary, other than a wholly-owned subsidiary whose immediate parent is a company



incorporated outside India:

Provided also that nothing contained in this rule shall. subject to any other law or regulation, apply for the financial year commencing from the 1st day of April, 2014 and ending on the 31st March, 2015, in case of a company which does not have a subsidiary or subsidiaries but has one or more associate companies or joint ventures or both, for the consolidation of financial statement in respect of associate companies or joint ventures or both, as the case may be."

Amardeep Singh Bhatia
Joint Secretary

04 Companies (Appointment and Qualification of Directors) Amendment Rules, 2014

[Issued by the Ministry of Corporate Affairs vide F.No. 01/9/2013 (Part-II) CL-V, dated 18.09.2014. To be published in the Gazette of India, Extraordinary, Part-II, section 3, sub-section (i)]

In exercise of the powers conferred by second proviso to sub-section (1), sub-section (4) and clause (f) of sub-section (6) of section 149, subsections (3) and (4) of section 150, section 151, sub-section (5) of section 152, section 153, section 154, section 157, section 160, sub-section (1) of section 168 and section 170 read with section 469 of the Companies Act, 2013, the Central Government hereby makes the following rules to amend the Companies (Appointment and Qualification of Directors) Rules, 2014, namely:-

1. Short title and commencement.-
 - (1) These rules may be called the Companies (Appointment and Qualification of Directors) Amendment Rules, 2014.
 - (2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Companies (Appointment and Qualification of Directors) Rules, 2014-
 - (1) in rule 6, -
 - (a) in sub-rule (2) -
 - (i) clause (c) shall be omitted;
 - (ii) in clause (d), the words "and mother's name and Spouse's name (if married)" shall be omitted;
 - (b) in sub-rule (4), the words letters and figure "in Form DIR-1" shall be omitted;
 - (2) in rule 9, in sub-rule (3),
 - (a) (i) in clause (a), for the words "therein and sign the form", the words "therein, verify and sign the form" shall be substituted;
 - (ii) sub-clause (iv) shall be omitted.
 - (b) after sub-rule (3), the following sub-rule shall be

inserted, namely:-

"(4) In case the name of a person does not have a last name, then his or her father's or grandfather's surname shall be mentioned in the last name along with the declaration in Form No. **DIR-3A**.";

- (3) in rule 10,-
 - (a) in sub-rule (1), for the words and letters "the provisional DIN shall be generated by the system automatically which shall not be utilised till the DIN is confirmed by the Central Government", the words "an application number shall be generated by the system automatically" and letters shall be substituted;
 - (b) in sub-rule (2), for the words and letters "the provisional DIN" the words "application number" shall be substituted;
 - (c) in sub-rule (4), the words and letters "the provisional DIN so allotted by the system shall get lapsed automatically and" shall be omitted;
 - (4) after rule 10, the following rule shall be inserted, namely:-

"10A. (1) Every director, functioning as a director in one or more companies on or before the 30th June, 2007 and who has not yet intimated his DIN to such company or companies shall, within one month of the receipt of Director Identification Number from the Central Government, intimate his Director Identification Number to the company or all companies wherein he is a director as per Form **DIR-3B**.

(2) The intimation by the company of Director Identification Number of its directors under section 157 of the Act shall be furnished in Form **DIR-3C** within fifteen days of receipt of intimation under section 156.";

- (5) in rule 11, after the words "application received", the words "alongwith fee as specified in Companies (Registration Offices and Fees) Rules, 2014" shall be inserted
- (6) in rule 12, in sub-rule (1), for sub-clause (i), the following sub-clause shall be substituted, namely:-

"(1) The applicant shall download Form DIR-6 from the portal, fill in the relevant changes, verify the Form and attach duly scanned copy of the proof of the changed particulars and submit electronically.";
- (7) the existing Form DIR-1 shall be omitted;
- (8) for the existing Forms DIR-3, the following Form shall be substituted, namely:-



From the Government

FORM NO. DIR-3

Application for allotment of Director Identification Number

(Pursuant to section 203 of the Companies Act, 2013 & Rule 10(1) of the Companies (Appointment and Qualification of Directors) Rules, 2014 & Rule 10 of Limited Liability Partnership Rules, 2009)

All fields marked in * are to be mandatorily filled.

Notice: For Permanent Account Number (PAN) is mandatory in case of Indian nationals and in such case applicant details should be as per Income Tax PAN. In case the details as per Income Tax PAN are incorrect, applicant is advised to first correct the details in Income Tax PAN, before submitting this form.

In case of foreign nationals, Passport number is mandatory.

1. Applicant's name (donor full name and as not yet identified):

(a) First name

(b) Middle name

(c) Last name

2. Father's name (Donor must write his father's name):

(a) First name

(b) Middle name

(c) Last name

3. Other name:

4. Nationality: ☐ Indian ☐ Foreign

5. *Whether resident in India is Yes/No

6. *Occupation: ☐ Self-employed as Professional, a Practitioner or a Scientist ☐ Employee ☐ Retired ☐ Other

7. *Date of birth: DD/MM/YYYY

8. *Gender: ☐ Male ☐ Female ☐ Transgender

9. Place of birth:

10. Income Tax permanent account number: (Mandatory for Indian residents)

11. Voter's identity card number:

12. Passport number:

13. Driving license number:

14. Aadhaar number:

15. Permanent residential address:

16. *Whether present residential address is same as permanent residential address: ☐ Yes ☐ No

17. Present residential address:

18. *Declaration:

I hereby declare that the information given in this form is true and correct and I am not aware of any criminal proceedings against me.

19. *Signature of applicant:

20. *Date:

4. I have not been already allotted a Director Identification Number (DIN) under section 104 of the Companies Act, 2013, and

5. I further declare that I have read and understood the provisions of Sections 154, 203, 447 and 448 read with Sections 403, 430 and 431 of the Companies Act, 2013, and

6. I solemnly declare that the declaration given herein is true and correct to the best of my knowledge and belief and that it contains nothing and that no part of it is false.

To be digitally signed by Applicant: DIN BOX

Certification

I declare that I have been duly engaged for the purpose of certification/verification of this form. It is hereby certified that:

(1) "I have satisfied myself about the identity of the applicant based on the genuineness of the original of the attached document.

Note: In case where the applicant is residing outside India the particulars have to be verified from the documents duly attested by the attesting authority as prescribed.

(2) I also verify having attached the photograph of the said person:

(a) who is personally known to me; or

(b) who met me in person along with the original of the attested documents;

(3) "I have further certified that all required attachments have been completely attached to this application.

(4) "I have kept a copy of this form and attachments thereto, in my custody for future reference.

(5) "It is understood that I shall be liable for action under Section 449 of the Companies Act, 2013 for wrong certification, if any found at any stage.

To be digitally signed by: DIN BOX

*Category:

In case of **chartered accountant or company secretary or cost accountant (in whole time practice)**

Membership Number:

Certificate of Practice Number:

In case of **company secretary (in whole time employment) or director of existing company in which the applicant is proposed to be director**

DIN of the Director or membership number of Company Secretary:

CIN of company with which secretary or director is associated and in which applicant is proposed to be a director:

Name of company:

FORM DIR-3B

Information of allotment of Director Identification Number (DIN) to the Company by the Director

(Pursuant to rule 10(A) of the Companies (Appointment and Qualification of Directors) Amendment Rules, 2014)

To:

Date:

Subject: Information of allotment of Director Identification Number (DIN) to the Company by the Director

39. Reference section 203 of the Companies Act, 2013 and the Rules made thereunder, I am submitting the information regarding DIN allotted to me along with additional information as prescribed:

Sr. No.	Subject	Particulars
1.	Director Identification Number (DIN)	
2.	Name	
3.	Father's Name	
4.	Present residential address	
5.	e-mail ID	
6.	Designation (Director or Managing Director or Alternate Director or Additional Director or Director appointed in casual vacancy or Nominee Director or Whole time director) (Please specify)	
7.	Specify whether Chairman, Executive Director, Non-Executive Director (in case more than one, specify both)	
8.	Category (Professional or Non-Professional)	
9.	Name of the company or institution where appoints the director is	
10.	Date of Appointment	
11.	Details of the companies in which appointed as director (MMP)	
12.	Name of the CIN	Designation
13.	Date of appointment	
14.	Specimen Signature	

A copy of the DIN Allotment Letter is enclosed. Please acknowledge the receipt.

18. *Declaration:

I hereby declare that the information given in this form is true and correct and I am not aware of any criminal proceedings against me.

19. *Signature of applicant:

20. *Date:

VERIFICATION

I, Son/Daughter of

born on resident of

I hereby confirm and verify that the particulars given in this form are true and correct and I am not aware of any criminal proceedings against me.

I hereby confirm and declare that:

1. The photograph and documents being attached to the Form DIR-3B belong to me. I further confirm that all required documents have been duly certified by the respective government authority and are being attached to the said Form DIR-3B, and

2. I am not restrained, disqualified, removed, or for being appointed as Director of a company under the provisions of the Companies Act, 2013 including sections 154 and 161, and

3. I have not been declared as proclaimed offender by any Economic Offence Court or Judicial Magistrate Court or High Court or any other Court, and

Notes: Attention is drawn to provisions of Section 448 and 449 which provide for punishment for false statement / certificate and punishment for false evidence respectively.

For officer only:

When taken under section 448, 449 and 450 of the Companies Act, 2013

Signature of the attesting officer:

Place of issue:

Date of issue:

This document is valid only for the purpose of certification/verification of the form and is not to be used for any other purpose.

(E) after form DIR-3 is submitted, the forms: DIR-3A, DIR-3B and DIR-3C shall be submitted, namely:-

"FORM DIR-3A Declaration"

(Pursuant to rule 9(4) of the Companies (Appointment and Qualification of Directors) Rules, 2014)

If the name of a person does not have a last name, then his/her father's first name should be filled in the mandatory "Last Name" field. In such a case, declaration should also be submitted along with DIN application, in the format given below:

Specimen/format of declaration: (If ID proof has single name for applicant)

I, (Applicant name as per ID proof) son/daughter of (Name) (Surname) residing at (Address as per address proof) do solemnly affirm and state as follows:

I do not use my Family Name/Surname as my last name. However, as this is a mandatory requirement for DIN application, I am using my father's surname as last name.

I solemnly declare that the statements given above are true to the best of my knowledge and belief and that I am not aware of any criminal proceedings against me.

I further declare that I have read and understood the provisions of sections 154, 161, 203, 447 and 448 read with sections 403, 430 and 431 of the Companies Act, 2013.

(If ID proof has single name for applicant's father)

I, and my father's name as appearing on the enclosed ID proof, above which have this specimen: (Applicant's name as per ID proof) do hereby declare that I have read and understood the provisions of sections 154, 161, 203, 447 and 448 read with sections 403, 430 and 431 of the Companies Act, 2013.

I further declare that I have read and understood the provisions of sections 154, 161, 203, 447 and 448 read with sections 403, 430 and 431 of the Companies Act, 2013.

Signature of the applicant:

Declaration

I hereby declare that:-

(a) I was appointed as director since incorporation i.e. with effect from

(b) I was appointed as director by the Board on with board resolution number dated or by the shareholders resolution number dated (copy of the said resolution shall be attached).

(c) Copy of form 32 filed with the ROC to the effect of such appointment.

FORM DIR-3C

Information of Director Identification Number (DIN) by the company in the Register

Note: All fields marked in * are to be mandatorily filled.

1. *Company name (DIN of company):

2. *Name of the company:

3. *Details of the company:

4. *Date of incorporation:

5. *Date of filing of this form:

6. *Date of filing of this form:

7. *Date of filing of this form:

8. *Date of filing of this form:

9. *Date of filing of this form:

10. *Date of filing of this form:

11. *Date of filing of this form:

12. *Date of filing of this form:

13. *Date of filing of this form:

14. *Date of filing of this form:

15. *Date of filing of this form:

16. *Date of filing of this form:

17. *Date of filing of this form:

18. *Date of filing of this form:

19. *Date of filing of this form:

20. *Date of filing of this form:

[illegible][illegible]

Certification

I declare that I have been duly engaged for the purpose of certification/verification of this form.
It is hereby certified that:

- ☐ I have certified myself about the identity of the applicant based on the photograph of the original of the attached documents.
- ☐ I have seen the applicant is residing outside India (the particulars have to be verified from the documents duly obtained by the attending authority as per record).
- ☐ I also verify having attached the photograph of the said person:
 - ☐ who is personally known to me; or
 - ☐ who would me in person along with the original of the attached documents.
- ☐ All required attachments have been completely attached to this application.
- ☐ I have gone through the provisions of The Companies Act, 2013 and rules thereunder for the subject matter of this form and declare incidental therein and I have verified the above attachments (including attachments) from the original records maintained by the Company/individual which is subject matter of this form and found them to be true, correct and complete and no information material to this form has been suppressed.
- ☐ I further certify that:
 - ☐ All the required attachments have been completely and rightly attached to this form;
 - ☐ I have kept a copy of this form and attachments thereto, in my records for future reference.
 - ☐ It is understood that I shall be liable for action under Section 449 (A) of the Companies Act, 2013 for wrong certification, if any found at any stage.

***To be digitally signed by** [Signature]

***Category** [Category]

***Whether association or firm:** ☐ Yes ☐ No

***Membership Number:** [Membership Number]

***Certificate of Practice Number:** [Certificate of Practice Number]

Note: Attention is drawn to provisions of Section 448 and 449 which provide for punishment for false statement / certificate and punishment for false evidence respectively.

For office use only:

Where Service received number (S/N): [S/N] after this date: [Date] (DDMMYY)

Digital signature of the authorizing official: [Signature]

The following terms approved:

The following terms, needed: [Terms] (DDMMYY)

Date of signing: [Date]

Amardeep Singh Bhatia
Joint Secretary



05 National Advisory Committee on Accounting Standards

[Issued by Ministry of Corporate Affairs vide Notification No. S.O. 2425(E), F.No. 1/5/2001 -CL. V (Part V), dated 18.09.2014. Published in the Gazette of India, Extraordinary, Part-II, Section-3, Sub-section (ii), dated 18.09.2014]

In exercise of the powers conferred by sub-section (1) of Section 210A of the Companies Act, 1956 (1 of 1956), the Central Government hereby constitutes an Advisory Committee to be called the National Advisory Committee on Accounting Standards, consisting of the following persons to advise the Central Government on the formulation and laying down of accounting policies and accounting standards for adoption by companies or class of companies under the said Act, namely.—

1.	Shri Amarjit Chopra, Chartered Accountant	Chairperson, [Nominated under clause (a) of sub-section(2) of section 210A]
2.	Dr, A.S. Durga Prasad, President, Nominee of The Institute of Cost and Works Accountants of India	Member, [nominated under clause (b) of sub-section (2) of section 210A]
3.	Shri R. Sridharan, President, Nominee of The Institute of Company Secretaries of India	Member, [nominated under clause (b) of sub-section (2) of section 210A]
4	CA. K. Raghu, President, Nominee of The Institute of Chartered Accountants of India	Member, [nominated under clause (b) of sub-section (2) of section 210A]
5.	Joint Secretary, Ministry of Corporate Affairs	Member, [Nominated under clause (c) of sub-section (2) of section 210A]
6.	Shri Sudarshan Sen, Chief General Manager- in-Charge, Nominee of Reserve Bank of India	Member, [nominated under clause (d) of sub-section (2) of section 210A]
7.	Shri P Sesh Kumar, Director General (Commercial), Nominee of Comptroller and Auditor General of India	Member, [nominated under clause (e) of sub-section (2) of section 210A]

8.	Prof. I.M Pandey, Ex-faculty, Indian Institute of Management, Ahemdabad	Member, [nominated under clause (f) of sub- section (2) of section 210A]
9.	Joint Secretary, Tax Policy Law-II Nominee of Central Board of Direct Taxes.	Member, [nominated under clause (g) of sub- section (2) of section 210A]
10.	Shri Rostow Ravanam, Nominee of Confederation of Indian Industry.	Member, [nominated under clause (h) of sub-section (2) of section 210A]
11.	Shri Adesh Gupta, Nominee of Federation of Indian Chambers of Commerce and Industry	Member, [nominated under clause (h) of sub-section (2) of section 210A]
12.	Dr. Ashok Haldia, Nominee of Associated Chambers of Commerce and Industry of India	Member, [Nominated under clause (h) of sub-section (2) of section 210A].
13.	Shri S. Ravindran, Executive Director, Nominee of Securities Exchange Board of India.	Member, [nominated under clause (i) of sub-section (2) of section 210A]

2. The Chairperson and members shall hold office for a period of one year from the date of publication of this notification in the Official Gazette or till the constitution of National Financial Reporting Authority under Section 132 of the Companies Act, 2013 (18 of 2013) whichever is earlier.

3. This notification shall come into force on 18th September, 2014.

Amardeep Singh Bhatia
Joint Secretary

06 Company Law Settlement Scheme 2014 (CLSS-2014) -Clarification u/s 164(2) of The Companies Act, 2013

[Issued by Ministry of Corporate Affairs vide General Circular No. 41/2014, No. 2/13/2014-CL-V, dated 15.10.2014.]

Representations have been received from stakeholders seeking clarification as to whether immunity from disqualification of directors pursuant to clause (a) of sub-section (2) of section 164 of the Companies Act, 2013 will be applicable with respect to companies who have filed Balance Sheets and Annual Returns on or after 01/04/2014, but before coming into force of CLSS-2014 with effect from 15.08.2014



as contained in General Circular No. 34/2014 dated 12/08/2014.

2. The matter has been examined and it is hereby clarified that in case of companies, who have filed their balance sheets and annual returns on or after 01/04/2014 but prior to launch of CLSS-2014, disqualification under clause (a) of sub-section (2) of section 164 of the Companies Act, 2013 shall apply only for prospective defaults, if any, by such companies.
3. This issues with the approval of the competent authority.

KMS Narayanan
Assistant Director

07 Company Law Settlement Scheme, 2014 (CLSS-2014)

[Issued by Ministry of Corporate Affairs vide General Circular No. 40/2014, F.No. 02/13/2014 CL-V, dated 15.10.2014.]

In continuation to the Ministry's General Circular No. 34/2014 dated 12.08.2014 on the subject cited above, this Ministry has, on consideration of requests received from various stakeholders, has decided to extend the Company Law Settlement Scheme (CLSS 2014) upto 15th November, 2014.

KMS Narayanan
Assistant Director

08 Clarification on Matters Relating to Consolidated Financial Statement

[Issued by Ministry of Corporate Affairs vide General Circular No. 39/2014, No. 4/2/2014-CL-I, dated 14.10.2014.]

Government has received representations from stakeholders seeking clarifications on the manner of presentation of notes in Consolidated Financial Statement (CFS) to be prepared under Schedule III to the Companies Act, 2013(Act). These representations have been examined in consultation with the Institute of Chartered Accountants of India (ICAI) and it is clarified that Schedule III to the Act read with the applicable Accounting Standards does not envisage that a company while preparing its CFS merely repeats the disclosures made by it under stand-alone accounts being consolidated. In the CFS, the company would need to give all disclosures relevant for CFS only.

2. This issues with the approval of the competent authority.

KMS Narayanan
Assistant Director

09 Right of Persons other than Retiring Directors to Stand for Directorship- Refund of Deposit Under Section 160 of the Companies Act, 2013 in Certain Cases.

[Issued by Ministry of Corporate Affairs vide General Circular No. 38/2014, No. 1/22/2013-CL-V, dated 14.10.2014.]

Clarity has been sought by companies registered under section 8 of the Companies Act, 2013 (corresponding to section 25 of Companies Act, 1956) about the manner in which the amount of deposit of rupees one lakh received by them under sub-section (1) of section 160 of the Companies Act, 2013 (Act) is to be handled if the depositor fails to secure more than twenty five per cent of the total valid votes. It has been noted that the relevant provision is silent on such issue.

2. The matter has been examined in the Ministry and it is clarified that in such cases, the Board of directors of a section 8 company is to decide as to whether the deposit made by or on behalf of the person failing to secure more than twenty-five percent of the valid votes is to be forfeited or refunded.

This issues with the approval of the competent authority.

KMS Narayanan
Assistant Director

10 SEBI (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2014

[Issued by the Securities and Exchange Board of India vide No. LAD-NRO/GN/2014-15/15/1671, dated 08.10.2014. Published in The Gazette of India, Extraordinary, Part-III, Section-4, dated 08.10.2014]

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 (Stock Brokers and Sub-Brokers) Regulations, 1992, namely,-

1. These regulations may be called the Securities and Exchange Board of India (Stock Brokers and Sub-Brokers) (Amendment) Regulations, 2014.
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 (Stock Brokers and Sub-Brokers) Regulations, 1992,-



From the Government

- (I) in regulation 3, -
 (i) for sub-regulation (1), the following shall be substituted, namely-

"(1) No person shall act as a stock broker, unless he obtains a certificate of registration from the Board:

Provided that no separate registration shall be required for a clearing member registered with the Board to act as a stock broker in a stock exchange of which he is admitted as a member, subject to grant of approval by the concerned stock exchange.

Explanation.- For the purpose of this sub-regulation, it is clarified that no separate registration shall be required for a stock broker registered with the Board to operate in more than one stock exchange, of which he is admitted as a member, subject to grant of approval by the concerned stock exchange.";

- (ii) in sub-regulation (2) and sub-regulation (3) the alphabet and symbol "(s)", wherever appearing shall be omitted;

- (II) for regulation 10, the following shall be substituted, namely, -

"Approval for operation in other stock exchange(s) or segment(s) of stock exchange.

10. (1) A stock broker registered with the Board, who desires to operate in any other stock exchange or any other segment(s) of the stock exchange of which it holds a membership, shall apply to the concerned stock exchange, in the manner specified by the Board.

(2) A clearing member registered with the Board, who desires to operate in any stock exchange or any segment(s) of the stock exchange, shall apply to the concerned stock exchange in the manner specified by the Board.

(3) On receipt of an application under sub regulation (1) or sub-regulation (2), the stock exchange shall, on being satisfied with the compliance of provisions of the regulations and other relevant eligibility requirements specified by the Board, grant approval to operate in that stock exchange or segment(s) thereof and shall inform the Board about such grant of approval."

- (III) in regulation 10A, -

- (i) for sub-regulation (1), the following shall be

substituted, namely, -

"(1) No person shall act as a clearing member, unless he obtains a certificate of registration from the Board:

Provided that no separate registration shall be required for a stock broker registered with the Board to act as a clearing member in a clearing corporation of which he is admitted as a member, subject to grant of approval by the concerned clearing corporation.

Explanation.- For the purpose of this sub-regulation, it is clarified that no separate registration shall be required for a clearing member registered with the Board to operate in more than one clearing corporation, of which he is admitted as a member, subject to grant of approval by the concerned clearing corporation." ;

- (ii) in sub-regulation (2) and sub-regulation(3) the alphabet and symbol "(s)", wherever appearing shall be omitted;

- (IV) for regulation 10D, the following shall be substituted, namely, -

"Approval for operation in other clearing corporation(s) or segment(s) of clearing corporation.

10D. (1) A clearing member registered with the Board, who desires to operate in any other clearing corporation or any other segment(s) of the clearing corporation of which it holds a membership, shall apply to the concerned clearing corporation in the manner specified by the Board.

(2) A stock broker registered with the Board, who desires to operate in any clearing corporation or any segment(s) of the clearing corporation, shall apply to the concerned clearing corporation in the manner specified by the Board.

(3) On receipt of an application under sub regulation (1) or sub-regulation (2), the clearing corporation shall, on being satisfied with the compliance of provisions of the regulations and other relevant eligibility requirements specified by the Board, grant approval to operate in that clearing corporation or segment(s) thereof, and shall inform the Board about such grant of approval."

- (V) In Schedule I, -

- (i) in Form A, -

(A) in Table 1-

(a) in Serial No. 7, after the words "financial institution" the words and symbols ",others (please specify)" shall be inserted;



- (b) after Serial No. 8, the following Serial No. shall be inserted, namely-

9.	PAN of the applicant	
----	----------------------	--

- (B) Table 3 shall be omitted;
(C) In 'Other details' para 2 shall be omitted;

(ii) Form AA shall be omitted;

(iii) in Form AD,-

(A) in Table 1-

- (a) in Serial No. 7, after the words "financial institution" the words and symbols ",others (please specify)" shall be inserted;

- (b) after Serial No. 8, the following Serial No. shall be inserted, namely-

9.	PAN of the applicant	
----	----------------------	--

- (B) Table 3 shall be omitted;

(iv) for Form D the following shall be substituted, namely-

"FORM D

[Regulations 6 and 10B]

CERTIFICATE OF REGISTRATION

In exercise of the powers conferred by sub-section (1) of section 12 of the Securities and Exchange Board of India Act, 1992, read with the rules and regulations made thereunder, the Board hereby grants a certificate of registration to..... as a stock broker/ proprietary trading member/ clearing member for carrying on the activities of buying, selling or dealing in securities/ clearing and settlement of trades and for carrying on such other activities as are permitted by stock exchange(s)/ clearing corporation(s), subject to the conditions specified therefor, from time to time, by the Board.

Registration number allotted is as under:

This certificate shall be valid till it is suspended or cancelled in accordance with the Regulations.

Date :.....

By order
For and on behalf of Securities and Exchange Board of India"

U.K. Sinha
Chairman

June 20, 2014, wherein, revised position limits in the USD-INR, EUR-INR, GBP-INR and JPY-INR contracts were specified.

2. Based on the feedback received from market participants with regard to the proprietary positions limits of stock brokers in the exchange traded currency derivatives contracts, it has been decided to clarify the following:

(i) Position limits stated at para 12. (a) of SEBI circular CIR/MRD/DP/20/2014 dated June 20, 2014 shall be the total limits available to the stock brokers for taking positions on proprietary basis and for positions of their clients.

(ii) Para 12.(b) of SEBI circular CIR/MRD/DP/20/2014 dated June 20, 2014 shall be read as under:

Proprietary open position limits of a stock broker, who is not a bank, across all contracts in a permitted currency pair shall be higher of (a) 15% of the total open interest in the currency pair, or (b) USD 50 million / EUR 25 million / GBP 25 million / JPY 1000 million, as applicable.

3. Stock Exchanges and Clearing Corporations are directed to:

(a) take necessary steps to put in place systems for implementation of this circular, including necessary amendments to the relevant bye-laws, rules and regulations;

(b) bring the provisions of this circular to the notice of the stock brokers / clearing members and also disseminate the same on their website;

(c) communicate to SEBI the status of implementation of the provisions of this circular.

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.

Maninder Cheema
Deputy General Manager

11 Revision of Proprietary Position Limits of Non-Bank Stock Brokers for Currency Derivatives Contracts

[Issued by the Securities and Exchange Board of India vide Circular No. CIR/MRD/DP/30/2014, dated 22.10.2014.]

This is further to SEBI circular no. CIR/MRD/DP/20/2014 dated

12 Modification of Client Codes of Non-Institutional Trades Executed on Stock Exchanges (All Segments)

[Issued by the Securities and Exchange Board of India vide Circular No. CIR/MRD/DP/29/2014, dated 21.10.2014.]

SEBI had issued circular CIR/DNPD/6/2011 dated July 05, 2011





From the Government

pertaining to client code modifications of non-institutional trades on stock exchanges.

2. Upon receipt of various representations from stock brokers and stock exchanges to review the penalty structure specified in the aforementioned circular, it has been decided to partially modify the circular as under:
 - (i) Stock exchanges may waive penalty for a client code modification where stock broker is able to produce evidence to the satisfaction of the stock exchange to establish that the modification was on account of a genuine error.
 - (ii) Not more than one such waiver per quarter may be given to a stock broker for modification in a client code. Explanation: If penalty waiver has been given with regard to a genuine client code modification from client code AB to client code BA, no more penalty waivers shall be allowed to the stock broker in the quarter for modifications related to client codes AB and BA.
 - (iii) Proprietary trades shall not be allowed to be modified as client trade and vice versa.
 - (iv) Stock exchanges shall submit a report to SEBI every quarter regarding all such client code modifications where penalties have been waived.
3. Stock exchanges shall undertake stringent disciplinary actions against stock brokers who undertake frequent client code modifications.
4. All other conditions as specified in the SEBI Circular dated July 05, 2011 remain unchanged.
5. Stock Exchanges and Clearing Corporations are directed to:
 - a) take necessary steps to put in place systems for implementation of this circular, including necessary amendments to the relevant bye-laws, rules and regulations;
 - b) bring the provisions of this circular to the notice of the stock brokers / clearing members and also disseminate the same on their website;
 - c) communicate to SEBI the status of implementation of the provisions of this circular.
6. 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.

Maninder Cheema
Deputy General Manager

13 Single Registration for Stock Brokers & Clearing Members

[Issued by the Securities and Exchange Board of India vide Circular No. CIR/ MIRSD/ 4/ 2014, dated 13.10.2014.]

1. Please find enclosed the Notification No. LAD-NRO/GN/2014-15/15/1671 dated October 08, 2014 amending the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 (hereinafter referred to as Broker Regulations). As per the amendment, the existing requirement of obtaining registration as stock broker/ clearing member for each stock exchange/ clearing corporation has been done away with and instead a single registration with any stock exchange/ clearing corporation shall be required. For operating in any other stock exchange(s)/ clearing corporation(s), approval will be required from the concerned stock exchange or clearing corporation.
2. For the purpose of implementing the revised registration requirements, the following guidelines are being issued:
 - a. If a new entity desires to register as a stock broker or clearing member with any stock exchange or clearing corporation, as the case may be, then the entity shall apply to SEBI through the respective stock exchange or clearing corporation in the manner prescribed in the Broker Regulations. The entity shall be issued one certificate of registration, irrespective of the stock exchange(s)/ clearing corporation(s) or number of segment(s).
 - b. If the entity is already registered with SEBI as a stock broker with any stock exchange, then for operating on any other stock exchange(s) or any clearing corporation, the entity can directly apply for approval to the concerned stock exchange or clearing corporation, as per the procedure prescribed in the Broker Regulations for registration. The stock exchange/ clearing corporation shall report to SEBI about such grant of approval.
 - c. Similarly, if any entity is already registered with SEBI as a clearing member in any clearing corporation, then for operating in any other clearing corporation(s) or any stock exchange, the entity shall follow the procedure as prescribed in Clause 2b above.
 - d. Fees shall be applicable for all the stock brokers, self clearing members and clearing members as per Schedule V of the Broker Regulations. As per current requirement, the entity shall continue to be liable to pay fees for each segment approved by the stock exchange or clearing corporation, as per the Schedule to the Brokers Regulations.
3. The stock exchange or clearing corporation shall grant approval for operating in any segment(s) or additional segment(s) to the



SEBI registered stock broker, self-clearing member or clearing member, as the case may be, after exercising due diligence and on being satisfied about the compliance of all relevant eligibility requirements, and shall also, *inter alia* ensure:

- a. The applicant, its directors, proprietor, partners and associates satisfy the Fit and Proper Criteria as defined in the SEBI (Intermediaries) Regulations, 2008;
 - b. The applicant has taken satisfactory corrective steps to rectify the deficiencies or irregularities observed in the past in actions initiated/ taken by SEBI/ stock exchange(s) or other regulators. The stock exchange or clearing corporation may also seek details whether the Board of the applicant is satisfied about the steps taken. They may also carry out inspection, wherever considered appropriate; and
 - c. Recovery of all pending fees/ dues payable to SEBI, stock exchange and clearing corporation;
4. The stock exchange(s) and clearing corporation(s) shall coordinate and share information with one another, about their members.
 5. The Stock Exchanges and Clearing Corporations are directed to -
 - a. bring the provisions of this circular to the notice of the Stock Brokers, Proprietary Trading Members, Self Clearing members and Clearing members as the case may be, and also disseminate the same on their websites;
 - b. make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision in co-ordination with one another; and
 - c. communicate to SEBI, the status of the implementation of the provisions of this circular through Monthly Development Report of the following month.
 6. This circular is issued in exercise of powers conferred under Section 11(1) of the Securities and Exchange Board of India Act, 1992 and Regulation 29 & 30 of the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992 to protect the interests of investors in securities and to promote the development of, and to regulate the securities markets.

A S Mithwani
Deputy General Manager

1. SEBI had issued a circular CIR/IMD/FIIC/ 17/2014 dated July 23, 2014 whereby the investment limit in government securities available to all FPIs was enhanced by USD 5 billion by correspondingly reducing the amount available to long term FPIs from USD 10 billion to USD 5 billion within the overall limit of USD 30 billion. It was also stated in the aforesaid circular that all future investments in this USD 25 billion debt limit shall be required to be made in government bonds with a minimum residual maturity of three years.
2. It is clarified that all investments by Long Term FPIs (Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks) in the USD 5 billion Government debt limit shall continue to be made in Government bonds having a minimum residual maturity of 1 year.
3. Accordingly, the Government debt investment limits shall be as follows :

S. No.	Type of limit	Cap (US\$ bn)	Cap (INR Crore)	Eligible Investors	Remarks
1	Government Debt	25	124,432	FPIs	Available on demand. The incremental investment limit of USD 5 billion (INR 24,886 cr) shall be required to be invested in government bonds with a minimum residual maturity of three years. Further, all future investment against the limit vacated when the current investment by an

14 Clarification on Government Debt Investment Limits

[Issued by the Securities and Exchange Board of India vide Circular No. CIR/IMD/FIIC/19/2014, dated 09.10.2014.]



From the Government

					FPI runs off either through sale or redemption shall also be required to be made in government bonds with a minimum residual maturity of three years.
3	Government Debt-Long Term	5	29,137	FPIs which are registered with SEBI under the categories of Sovereign Wealth Funds (SWFs), Multilateral Agencies, Endowment Funds, Insurance Funds, Pension Funds and Foreign Central Banks	Available on demand. Eligible investors may invest only in dated securities of residual maturity of one year and above.
Total		30	153,569		

4. In accordance with SEBI circular CIR/IMD FIIC/15/2013 dated September 13, 2013, FPIs shall be permitted to invest in the USD 25 billion Government debt limit till the overall investment reaches 90% after which the auction mechanism would be initiated for allocation of the remaining limits.
5. In the event the overall FPI investment exceeds 90% in either of the debt limit categories (as indicated by the debt utilisation status updated daily on the websites of NSDL and CDSL), the following procedure shall be followed:
 - a. The depositories (NSDL and CDSL) shall direct the DDPs to halt all FPI purchases in debt securities in that category
 - b. The depositories shall then inform NSE (since the last auction was held on BSE) regarding the unutilised debt limits for conduct of auction. Upon receipt of information from the depositories, NSE shall conduct an auction for the allocation of unutilised debt limits on the second working day

- c. The auction would be held only if the free limit is greater than or equal to INR 100 cr. The auction shall be conducted in the following manner :

Particulars	Details
Duration of bidding:	2 hours (15:30 to 17:30 hrs)
Access to platform	Trading members or custodians
Minimum bid	INR 1 crore
Maximum bid	One-tenth of free limit being auctioned
Tick Size	INR1 crore
Allocation Methodology	Price time priority
Pricing of bid	Minimum flat fee of INR 1000 or bid price whichever is higher
Time period for utilization of the limits	15 days from the date of allocation

- d. Once the limits have been auctioned, the FPIs will have an utilisation period of 15 days within which they have to make the investments. The limits not utilised within this period would come back to the pool of free limits.
- e. Upon sale/redemption of debt securities, the FPI will have a re-investment period 5 days. If the reinvestment is not made within 5 working days, then the limits shall come back to the pool of free limits.
- f. The subsequent auction would be held 20 days after the previous auction, subject to the fulfilment of the condition mentioned at Point (C) above. The auction mechanism shall be discontinued and the limits shall be once again available for investment on tap when the debt limit utilisation falls below 85%.
- g. In order to provide operational flexibility to FPIs, it is clarified that there would be no other re-investment restrictions

This circular shall come into effect immediately. This circular is issued in exercise of powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act, 1992.

A copy of this circular is available at the web page "Circulars" on our website www.sebi.gov.in. Custodians are requested to bring the contents of this circular to the notice of their FPI clients.

S Madhusudhanan
Deputy General Manager



Institute News

Members Admitted

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20	SH DEEPAK OMPRAKASH AGRAWAL	FCS - 7770	NIRC
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24	SH. YOGESH KUMAR TYAGI	FCS - 7774	NIRC
25	SH. DEBABRATA NATH	FCS - 7775	NIRC
26	SH. SURESH KUMAR	FCS - 7776	NIRC
27	MR. JIGAR RUPANI	FCS - 7777	EIRC
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29	SH. DEEPAK PANDEY	FCS - 7779	SIRC
30	DR. MANOJ KUMAR AGARWAL	FCS - 7780	NIRC
31	SH. DHARM NATH PRASAD	FCS - 7781	NIRC
32	MR. MANISH MANOHAR	FCS - 7782	EIRC
33	DR. GIRISH GOYAL	FCS - 7783	NIRC

*Admitted during the period from 16.09.2014 to 15.10.2014.

34	SH. TUSHAR SUDHIR PAHADE	FCS - 7784	WIRC
35	SH. HARSHIT J SHAH	FCS - 7785	WIRC
36	MS. GAURI SURENDRA BALANKHE	FCS - 7786	SIRC
37	SH. ZAFAR AHMAD KHAN	FCS - 7787	NIRC
38	SH. NAVNEET KUMAR	FCS - 7788	NIRC
39	SH. JASPAL SINGH	FCS - 7789	NIRC
40	SH. DEBENDRA BANTHIYA	FCS - 7790	EIRC
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70	MS. SURBHI GOYAL	ACS - 37055	EIRC	121	MS. GAYATRI VALAN	ACS - 37106	WIRC
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73	MS. VAISHALI SHARMA	ACS - 37058	NIRC	124	MS. PAYAL HIRACHAND JAIN	ACS - 37109	WIRC
74	MS. SHIVANI GUPTA	ACS - 37059	NIRC	125	MS. AAREFA OANALI DUDHWALA	ACS - 37110	WIRC
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76	MR. MOHIT GUPTA	ACS - 37061	NIRC	127	MS. VAISHALI VITHAL NAIK	ACS - 37112	WIRC
77	MS. BUNTY JETHANI	ACS - 37062	NIRC	128	MR. PRAMOD CHINTAMANI DATAR	ACS - 37113	WIRC
78	MS. RITI	ACS - 37063	NIRC	129	MS. UMA SHARMA	ACS - 37114	NIRC
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80	MR. NIKHIL DAGA	ACS - 37065	NIRC	131	MS. NEHA GOYAL	ACS - 37116	NIRC
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84	MR. ANUP PRAMODKUMAR HEBSUR	ACS - 37069	WIRC	135	MS. ANJU PANICKER	ACS - 37120	SIRC



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5	MS. SUPRIYA THAKUR	ACS - 22716	NIRC
6	MS. SHYNI CHATTERJEE	ACS - 26539	NIRC
7	MR. BHARAT BHUSHAN	ACS - 31951	NIRC
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11	MR. R AJITH KUMAR	ACS - 20693	SIRC
12	MR. K ELANGO VAN	FCS - 1808	SIRC
13	MR. SURENDRA SINGH SETH	ACS - 693	NIRC
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54	MS. SONAL JAIN	ACS - 29825	WIRC
55	MR. S G SHEMBAVNEKAR	ACS - 7041	WIRC
56	MS. V PARIMALA	FCS - 6685	WIRC
57	MR. E S SRIVATSAN	ACS - 3585	SIRC
58	MR. S NAGARAJAN	ACS - 5442	SIRC
59	MR. SANJAY KANSAL	ACS - 17966	EIRC
60	MR. HARISH CHANDRA YADAV	ACS - 22773	WIRC
61	MR. DASARI RAMA PRASAD	ACS - 12727	SIRC
62	MR. PROADYOT KUMAR GHOSH	ACS - 10667	EIRC
63	MR. NARAYAN BANERJEE	FCS - 1047	EIRC
64	MS. AJITA KHAITAN	ACS - 14911	EIRC
65	MR. ANIL CHIRANIA	ACS - 10458	WIRC
66	MR. G AKILA	ACS - 18642	SIRC
67	MS. ANITA KAKAR	FCS - 7373	NIRC
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69	MR. SUDHIR ASNANI	ACS - 17376	NIRC
70	MR. SHUBHAM AGGARWAL	ACS - 28867	NIRC
71	MS. POOJA HIRANANDANI	ACS - 16767	NIRC
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74	G S R SOMAYAJI	ACS - 2707	SIRC
75	NEHA GUPTA	ACS - 31998	NIRC
76	DWARAKA PRASAD ASAWA	ACS - 20636	SIRC
77	NEELAM NARENDRA KUMAR TEKWANI	ACS - 35023	WIRC
78	DISHA NARENDRA TEKWANI	ACS - 26128	WIRC
79	RAJENDRA BABULAL UPADHYOY	FCS - 2233	WIRC
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82	PRIYANKA BHANDARI	ACS - 33612	WIRC
83	VIDYA VIKAS KAMATH	ACS - 26735	WIRC
84	MOHD SHAKEEL KAYAMKHANI	ACS - 27495	WIRC
85	S SARASWANI	ACS - 6280	WIRC
86	TEJAL DEVANG GORADIA	ACS - 11548	WIRC
87	MEDHA PARSHURAM GHARPURE	ACS - 13417	WIRC
88	JITENDRA S APHALE	ACS - 15001	WIRC
89	JAYANT MANOHAR PATIL	ACS - 14418	NIRC
90	SANJIV KISHORCHANDRA ADHVARYU	ACS - 6284	WIRC
91	SHYAM UTTAMRAO DIKKATWAR	ACS - 33003	WIRC
92	MANISHA THAKUR	ACS - 10855	WIRC
93	VINOD KUMAR RAINA	FCS - 5668	NIRC
94	L RAJAN	FCS - 3035	SIRC
95	NEHA VERMA	ACS - 26624	WIRC
96	REENA JAKHODIA	FCS - 6435	NIRC
97	S KRISHNAN	ACS - 34964	NIRC
98	P GANESH	ACS - 2627	SIRC
99	Y VENKATESH	ACS - 16548	SIRC
100	P SREENIVASULU	ACS - 11992	SIRC
101	K RAMADOSS	ACS - 11786	SIRC

* Restored from 21/09/2014 to 20/10/2014.





News From the Institute

102	N SRINIVASAN	ACS - 1452	SIRC
103	RANJIT NAIR	ACS - 30970	SIRC
104	MR. M KANNAN	FCS - 2215	SIRC
105	MR. BHARAT KEDIA	ACS - 10053	WIRC
106	MS. ANKITA MADANLAL JAIN	ACS - 31400	WIRC
107	MR. PRITESH SANJAY SONAWANE	ACS - 34943	WIRC
108	MS. SEEMA MAHESH PHADNIS	ACS - 18335	WIRC
109	MR. PRADEEP SHEKARA SALIAN	ACS - 18480	WIRC
110	MR. RAJESH DWARKADAS BHATIA	ACS - 24510	WIRC
111	MR. ATUL KUMAR MITTAL	ACS - 7602	NIRC
112	MR. V SELVAKUMAR	ACS - 14597	SIRC
113	MS. PRIYA SUBARAMAN	ACS - 10563	WIRC
114	MS. VYOMA VIJAY MANEK	ACS - 20384	WIRC
115	MR. SHIVENDRA KUMAR SUMAN	ACS - 18339	NIRC
116	MS. RUCHI RAJENDRA BIYANI	ACS - 24070	WIRC
117	MR. SAURABH MAHESHWARI	ACS - 32026	NIRC
118	MR. RAJ KUMAR SINGH	ACS - 5222	EIRC
119	MS. POOJA RANI	ACS - 14296	NIRC
120	MR. AJAY AGGARWAL	FCS - 4497	SIRC
121	MR. SANDEEP SHARMA	ACS - 18208	NIRC
122	MR. RAVINDRA KASTIA	FCS - 2583	WIRC
123	MS. LATIKA MITTAL	ACS - 18454	NIRC
124	MR. N PADMANABHAN	ACS - 7157	SIRC
125	MR. V V BHATIA	FCS - 1268	WIRC
126	MR. K PRAKASH	ACS - 11844	SIRC
127	MR. K RAGHU	ACS - 1552	SIRC
128	MR. D K PANKHI	ACS - 7227	WIRC
129	MS. SUDHA V	ACS - 33783	SIRC
130	MR. SANJEEV KUMAR DHIMAN	ACS - 25879	WIRC
131	MR. SANDEEP KUMAR MEHENDIRATTA	FCS - 5107	NIRC
132	MS. PARUL GUPTA	ACS - 23739	WIRC
133	MR. RAKESH MUNDRA	FCS - 3472	NIRC
134	MS. SUVARNA ABHIJEET BHASKAR	ACS - 27460	WIRC
135	MR. MANOJ JOSHI	ACS - 23829	WIRC
136	MR. V SUNDERESAN	ACS - 12320	SIRC
137	MR. HARSH SINHA	ACS - 8195	NIRC
138	MR. A K MUKHOPADHYAY	ACS - 7428	WIRC
139	MS. NEHA RAMPRAKASH KABRA	ACS - 34558	WIRC
140	MR. ASHWANI KUMAR SHARMA	ACS - 14214	NIRC
141	MS. PRITI ASHUTOSH VAIDYA	ACS - 19824	WIRC
142	MS. DEEPTI DHEBANE	ACS - 19826	WIRC
143	MR. A VELLIANGIRI	FCS - 6953	SIRC
144	MR. VINAY T M	ACS - 26702	SIRC
145	MS. PRIYANKA CHAUDHARY	ACS - 31710	NIRC
146	MR. R SUBRAMANYAM	ACS - 5977	WIRC
147	MR. TEJINDER PAL SHARMA	FCS - 1408	NIRC
148	MR. VIVEK AGRAWAL	ACS - 11809	NIRC
149	MR. CHAITANYA KUMAR JHA	ACS - 34367	NIRC
150	MR. HARISH CHANDER DHAMIJA	ACS - 6940	NIRC

Certificate of Practice*

SL. No.	NAME	MEMB NO	COP NO.	REGION
1	SH. JITENDRA KUMAR	ACS - 17529	13734	NIRC
2	MS. DEEPA MALIK	ACS - 35664	13735	NIRC
3	MS. NIKITA PURIA	ACS - 35481	13736	EIRC
4	MR. ABHISHEK KUMAR PANDEY	ACS - 31218	13737	NIRC
5	MS. AARTI ARORA	ACS - 27726	13738	NIRC
6	MRS. NEHA TODI	ACS - 29267	13739	NIRC
7	SH. S HARI KRISHNAN	ACS - 29583	13740	SIRC
8	MS. NUPUR RATHI	ACS - 35876	13741	WIRC
9	MS. NEHA MAHAJAN	ACS - 27469	13742	NIRC
10	MS. VINEETA GULGULIA	ACS - 36867	13743	EIRC
11	MS. PRABHDEEP KOUR	ACS - 36341	13744	NIRC
12	MR. ARUN KUMAR PANDEY	ACS - 36811	13745	EIRC
13	MS. JAHNAVI GANDHI HARISH	ACS - 36473	13746	WIRC
14	MR. SOORAJ SONI	ACS - 36771	13747	WIRC
15	MS. POOJA BANSAL	ACS - 22444	13749	NIRC
16	MRS. SEJAL HARIT PALAN	ACS - 31310	13750	WIRC
17	MS. KAVITA NAHATA	ACS - 36286	13751	EIRC
18	MR. MOHIT AGRAWAL	ACS - 36871	13752	NIRC
19	SH. ANIL SHARMA	ACS - 22227	13753	NIRC
20	MR. ABHISHEK LAMBA	ACS - 36853	13754	NIRC
21	MS. KIRTI AGARWAL	ACS - 27117	13755	EIRC
22	MS. SNEHA GUPTA	ACS - 31855	13756	EIRC
23	MS. HEMALI SURESHBHAI PATEL	ACS - 35714	13758	WIRC
24	MS. RAMYA S	ACS - 27826	13759	SIRC
25	MR. S ASHOKKUMAR	ACS - 36877	13760	SIRC
26	SH. S CHANDRASEKAR	FCS - 6773	13761	SIRC
27	MS. MAKHIMASRI SRIRANGASWAMY	ACS - 36108	13762	SIRC
28	SH. ASHOK KUMAR MONGA	FCS - 3828	13763	NIRC
29	MS. SHALU PANSARI	ACS - 34873	13764	NIRC
30	MS. ALKA JUNEJA	ACS - 35859	13765	NIRC
31	MRS. ASHWINI HARSHIT SHAH	ACS - 23571	13766	WIRC
32	MS. PAYAL MANGLA	ACS - 33521	13767	NIRC
33	MS. RAJNI JINDAL	ACS - 36885	13768	NIRC
34	MS. SALONI AJAY SHARMA	ACS - 32243	13769	WIRC
35	MS. SHRUTI AGARWAL	ACS - 36578	13770	NIRC
36	MR. MAHESH MADHUKAR THAKAR	ACS - 23137	13771	WIRC
37	MR. SUMIT BHOJWANI	ACS - 36611	13772	NIRC
38	MR. AMRITANSHU BALANI	ACS - 33746	13773	NIRC
39	MR. PATEL DIP GIRISHBHAI	ACS - 36900	13774	WIRC
40	MR. YOGESH KUMAR	ACS - 31980	13775	NIRC
41	MR. DEEPAK DEEWAN SINGH	ACS - 36436	13776	NIRC
42	MR. V RAMESH	FCS - 7678	13777	SIRC
43	SH. SAGAR RAMESH KHANDELWAL	ACS - 25781	13778	WIRC
44	MR. SONECHA CHIRAG RAJENDRA	ACS - 34535	13779	WIRC
45	MS. DIVYA AGARWAL	ACS - 36602	13780	WIRC
46	MS. MRUNAL RAMCHANDRA PADHYE	ACS - 32999	13781	WIRC

*Issued during the month of September, 2014.



47	SH. VIJAY KUMAR GUPTA	FCS - 2816	13782	NIRC	98	MS. NEHA PUNDEER	ACS - 31709	13834	NIRC
48	MR. SATISH SHARMA	ACS - 28706	13783	WIRC	99	MS. SAMPOORNA M L	ACS - 23286	13835	SIRC
49	SH. PRAMOD S M	ACS - 19195	13784	SIRC	100	MR. PRAVEEN KUMAR BIRSINGH SAHARAN	ACS - 36396	13836	WIRC
50	SH. BRIJESH KUMAR	ACS - 12285	13785	NIRC	101	MR. ASHUTOSH AGRAWAL	ACS - 36869	13837	NIRC
51	MS. SHIKHA MEHRA	ACS - 34986	13786	NIRC	102	MS. MADHU CHOPRA	ACS - 36221	13838	NIRC
52	MS. SUCHITA TIWARI	ACS - 36229	13787	EIRC	103	MS. APARNA UPARKAR	ACS - 30071	13839	WIRC
53	MR. ASHUTOSH SHUKLA	ACS - 36890	13788	NIRC	104	MR. SUJIT POPATRAO KOKATE	ACS - 35679	13840	WIRC
54	MR. JISHNU R G	ACS - 32820	13789	SIRC	105	SH. PANKAJ KHANNA	ACS - 27867	13841	EIRC
55	MS. SHILPA NAIK	ACS - 18808	13790	SIRC	106	MS. KHYATI ROHITKUMAR SHAH	ACS - 31995	13842	WIRC
56	SH. RAJINDER KUMAR	FCS - 7581	13791	NIRC	107	MS. REKHA KEJRIWAL	FCS - 5978	13843	NIRC
57	SH. GIRISH BHATIA	FCS - 3295	13792	EIRC	108	SH. ARUN VIRMANI	ACS - 8855	13844	NIRC
58	MR. PRASAD GOPAL JAHAGIRDAR	ACS - 29150	13793	WIRC	109	RAJESH SAMPATKUMAR MODANI	ACS - 25589	13845	WIRC
59	MS. MEGHA GANDHI	ACS - 30798	13794	NIRC	110	SH. NYGIL KURIAKOSE	ACS - 26676	13846	SIRC
60	MS. ADITI JAIN	ACS - 32523	13795	NIRC	111	MS. NITASHA GUPTA	ACS - 17327	13847	EIRC
61	MR. ANURAG GOURISARIA	ACS - 34466	13796	EIRC	112	MR. BIPIN VIVEK	ACS - 35476	13848	NIRC
62	MR. RUPESH RAGHUNATH MAHADESHWAR	ACS - 36933	13797	WIRC	113	MR. PANKESH HIRABHAI SUTARIYA	ACS - 36959	13849	WIRC
63	MR. MAHESH T N	ACS - 36422	13798	SIRC	114	MS. AARTI CHAUHAN	ACS - 36919	13850	NIRC
64	SH. RAJEEV BABEL	ACS - 23679	13799	NIRC	115	SH MANOJ KUMAR RAJAN	ACS - 19865	13851	SIRC
65	MR. DIVANSHU MITTAL	ACS - 28262	13800	NIRC	116	MR. AMIT JAGDISH NEGANDHI	ACS - 37046	13852	WIRC
66	MR. ANIL DEVILAL HINGAD	ACS - 35849	13801	WIRC	CANCELLED*				
67	SH. SUSANTA KUMAR NAYAK	ACS - 20883	13802	EIRC	SL. No.	NAME	MEMB NO	COP NO.	REGION
68	MS. ASTHA MOHAN	ACS - 36419	13803	NIRC	1	MRS. PRINCY ANAND	ACS 26294	12885	NIRC
69	MRS. NIRUPAMA DILIP JOSHI	ACS - 24736	13804	WIRC	2	MR. SAHIL PATPATIA	ACS 33290	12348	NIRC
70	MS. ANISHA JAISANI	ACS - 34017	13805	NIRC	3	MS. KANIKA SHARMA	ACS 30953	11630	NIRC
71	MS. BINU HRIDAY NARAYAN SINGH	ACS - 32440	13806	WIRC	4	MS. RUCHI SEKSARIA	ACS 18694	13126	EIRC
72	MS. SANGEETHA S T	ACS - 32120	13807	SIRC	5	MR. B SHIVARAAM PRASAD	ACS 22427	12728	SIRC
73	MR. UDBHAV PRATAP SINGH	ACS - 36638	13808	NIRC	6	MR. RONAK MURLIDHARBHAI KHANVANI	ACS 34836	12933	WIRC
74	MR. ARUN KUMAR	FCS - 7521	13809	NIRC	7	MS. MOHINI AGARWAL	ACS 33546	12412	NIRC
75	MR. SATISH SHIDGONDA PATIL	ACS - 36932	13810	WIRC	8	MS. MEGHA GUPTA	ACS 27204	10444	NIRC
76	MR. DEEPAK KUMAR	ACS - 36861	13811	NIRC	9	MS. PAYAL DAGA	ACS 31599	11758	NIRC
77	MS. DIVYANI	ACS - 36674	13812	NIRC	10	MS. AKANSHA GAMBHIR	ACS 26216	9544	EIRC
78	MS. DARSHINI THAPA	ACS - 34288	13813	NIRC	11	MR. KRISHNA KUMAR	ACS 17977	6228	WIRC
79	MR. BITTHAL GANDHI	ACS - 35534	13814	NIRC	12	MS. KUMARI ASTHA	ACS 31775	12537	NIRC
80	MS. MEENAKSHI GUPTA	ACS - 22112	13815	NIRC	13	MR. APARNA RAI	ACS 36060	13323	NIRC
81	MS. RIMPI JAIN	ACS - 37018	13816	NIRC	14	MR. AJINKYA SADASHIV KULKARNI	ACS 26301	12188	WIRC
82	DR SATYA PAL NARANG	FCS - 3350	13817	NIRC	15	MR. RITESH KALRA	ACS 27651	9964	NIRC
83	MS. JYOTI	ACS - 35184	13818	NIRC	16	MRS. POOJA PRASAD GODSE	ACS 25928	13600	WIRC
84	MS. GEETIKA VERMA	ACS - 34329	13819	NIRC	17	MR. MAYANK BANSAL	ACS 34865	12934	NIRC
85	MS. TEJASWI KALRA	ACS - 35275	13820	NIRC	18	MR. MANSIJ ARYA	ACS 22505	9553	NIRC
86	MR. CHANDER KANT	ACS - 36886	13821	NIRC	19	MR. ABHIJIT SINHA	ACS 30773	11240	EIRC
87	MR. NISHANT KAMNANI	ACS - 36625	13822	NIRC	20	MR. SUMIT KUMAR JAISWAL	ACS 34371	12788	EIRC
88	MS. ANJALI ASIJA	ACS - 35701	13824	NIRC	21	MR. NARENDAR KUMAR SINGH	ACS 29144	10988	EIRC
89	MS. SURBHI BANSAL	ACS - 36448	13825	NIRC	22	MR. ANKUR SHARMA	ACS 31833	13403	EIRC
90	MR. PARAMESWARAN VISWANATHAN	ACS - 30845	13826	SIRC	23	MR. RAVINDRA KUMAR JAIN	ACS 32928	12137	NIRC
91	MR. NAKUL SHARMA	ACS - 36880	13827	NIRC	24	MRS. HASMIMA BHAKOO	ACS 32753	12001	NIRC
92	MS. ANURADHA ACHARYA	ACS - 36463	13828	NIRC	25	MS. PRERANA BOTHRA	ACS 24754	9184	EIRC
93	MR. PRASHANT AGARWAL	ACS - 36633	13829	NIRC	26	MR. SAMALA CHANDRAMOULI	FCS 434	4174	SIRC
94	MS. SWATI GARG	ACS - 32807	13830	NIRC	27	MR. AKHILESH KEWALRAM KHARABE	ACS 35006	12953	WIRC
95	MS. SANGEETA NASSA	ACS - 20546	13831	NIRC	28	MS. SAMPADA SURESH NANDGAONKAR	ACS 32410	12077	WIRC
96	MR. ROHIT ANAND KUDALE	ACS - 37003	13832	WIRC					
97	MS. SHOBHA SUDHAKAR ACHARYA	ACS - 23262	13833	SIRC					

*Cancelled during the month of September, 2014.





News From the Institute

29	MR. RAHUL	ACS 31972	11721	NIRC	6	MR ADITYA JANAKKUMAR PANDYA	6688	WIRC
30	MR. KAPIL	ACS 29508	11017	NIRC	7	MR AMIT NAWANI	6689	NIRC
31	MS. SHREYA BHANDARI	ACS 30045	11179	NIRC	8	MS RITU MITTAL	6690	EIRC
32	MS. MANJU SRI A	ACS 33266	12249	SIRC	9	MS LAVINA MANGHNANI	6691	WIRC
33	MR. ROHIT PRAKASH PRIT	ACS 33602	12592	EIRC	10	MR NIMESH VINOD PATEL	6692	WIRC
34	MS. NEHA GUPTA	ACS 28625	10757	NIRC	11	MR HARISH ASNANI	6693	NIRC
35	MS. SHUCHI SHARMA	ACS 18712	11868	SIRC	12	MS SNEHA GHURIANI	6694	NIRC
36	MRS. ASTHA GANDHI	ACS 28124	10815	WIRC	13	MR CHAND TULSIYAN	6695	WIRC
37	MS. PUNEETA AHUJA	ACS 33470	12706	NIRC	14	MS. PRIYAVARSHINI V	6696	SIRC
38	MS. PRIYANKA	ACS 33608	12801	NIRC	15	MR AMIT JINDAL	6697	NIRC
39	MS. DEEPTI GAURAV SRIVASTAV	FCS 7334	7925	NIRC	16	S. RAVI KUMAR	6698	SIRC
40	MR. AJITH JOHN	ACS 19371	13171	SIRC	17	MR. RAHUL JAISWAL	6699	NIRC
41	MR. ANIRUDH KUMAR TANVAR	ACS 23145	13535	NIRC	18	MS SNEHA RUIYA	6700	WIRC
42	MR. SANJAY DILIPKUMAR TALATI	ACS 27144	12476	WIRC	W			
43	MR. SHYAM LAL SHARMA	ACS 29993	11158	NIRC				
44	MR. NITIN KUMAR GARG	ACS 17034	7904	NIRC				
45	MR. BABU RAM DHIMAN	FCS 437	4817	NIRC				
46	MS. NITI NILESH JAIN	ACS 35060	12991	WIRC				
47	MS. JYOTI SINGH	ACSS 18215	6315	NIRC				
48	MS. ADITI DHANUKA	ACS 34659	12859	EIRC				
49	MS. RUCHI MAHESHWARI	ACS 25438	10599	NIRC				
50	MR. APAR SINGH	ACS 27003	9692	NIRC				
51	MS. VEDANT MANALI KISHOR	ACS 36433	13723	WIRC				
52	MR. SUMAN CHATAKONDU	ACS 34190	12715	SIRC				
53	MR. G V GOPALA RAO	FCS 543	4083	SIRC				
54	MRS. SHIKHA GINORIA	ACS 24238	10469	EIRC				
55	MR. VAIBHAV AGNIHOTRI	ACS 36594	13610	NIRC				
56	MRS. NEHA ASHISH PIMPALWAR	ACS 26648	9623	WIRC				
57	MR. B PRABAKAR	ACS 13914	13722	SIRC				
58	MR. SETHUMADHAVA K G	ACS 34095	12768	SIRC				
59	MR. VIMAL S V	ACS 25061	10062	SIRC				
60	MR. SURYAKANT LAXMAN KHARE	ACS 8270	12300	WIRC				
61	MS. VANDANA BHATIA	ACS 26252	9495	NIRC				
62	MR. MADHVENDRA PRAKASH	ACS 33190	13529	EIRC				
63	MR. NARESH KISHANCHAND SENANI	ACS 34143	12867	WIRC				
64	MR. BIJENDER SHARMA	ACS 31698	13757	NIRC				
65	MR. SHAILESH KUMAR	ACS 29564	11028	EIRC				
66	MS. AKSHITA SURANA	ACS 32571	11974	SIRC				
67	MS. SWATI JAIN	ACS 20116	8062	NIRC				
68	MR. GOURAV KUMAR GUPTA	ACS 36581	13823	NIRC				
69	MS. SHILPI OJHA	ACS 29704	11760	NIRC				
70	MR. HARJINDER SINGH	ACS 14363	12388	NIRC				
71	MS. SHALINI B	ACS 28817	12246	SIRC				

**Admitted during the month of September, 2014.

Corrigendum

List of Members /List of Voters

[Rule 6(6) of the Company Secretaries (Election to the Council) Rules 2006 read with Regulation 114 and 161 of the Company Secretaries Regulations 1982]

The professional address of Shri SUNIL MEHRA ACS, 4782 was inadvertently published in the List of Members (as on 1st April 2014) of SIRC (Hyderabad). His correct professional address borne on the Register of members as on 1st April 2014 is indicated below :-

MEHRA SUNIL
ACS 4782

Partner

Sehgal KhannaMundra, Mehra & Co
INA COLONY, Adjoining HOTEL
MOHAN INTERNATIONAL
AMRITSAR -143001

Accordingly his name stands deleted from List of Members as well as List of Voters of Southern Region at Sr. No. 506 and added in the List of Voters of Northern Region at Sr. No.7119A.

(Sutanu Sinha)

Returning Officer, Chief Executive & Officiating
Secretary

The Institute of Company Secretaries of India
New Delhi

LICENTIA TE ICSI**

S.No.	NAME	NUMBER	Region
1	MS MONIKA JAIN	6683	NIRC
2	MR ARUN KANNAN V B	6684	SIRC
3	MS. SURABHI AGRAWAL	6685	NIRC
4	MS. DEEPIKA AGARWAL	6686	WIRC
5	MR SIDDHANT DAMANI	6687	WIRC



Company Secretaries Benevolent Fund



MEMBERS ENROLLED REGIONWISE AS LIFE MEMBERS OF THE COMPANY SECRETARIES BENEVOLENT FUND*

Region	LM No.	Name	Member Number	City
NIRC				
1	10527	MS. MADHURI JINDAL	ACS - 32229	KOTA
2	10528	MR. BHARAT BHUSHAN	ACS - 31951	DELHI
3	10529	MS. ANUBHA SHARMA	ACS - 35407	JAIPUR
4	10539	MR. RAMESH CHANDRA GIRI	ACS - 34456	JHALAWAR
SIRC				
5	10524	MR. NALLASAMY K	ACS - 32747	ERODE
6	10530	MS. TIWARI KOMAL	ACS - 37092	HYDERABAD
7	10531	MS. POOJA JAIN	ACS - 37091	HYDERABAD
8	10532	MR. KRUPANIDHI A V	ACS - 37067	BANGALORE
9	10533	MR. GURAJALA DAMODAR NAIDU	ACS - 37089	HYDERABAD

Region	LM No.	Name	Member Number	City
10	10534	SH. N KRISHNASWAMY	FCS - 582	TIRUCHIRAPALLI
11	10537	MR. RAJKUMAR SHIVAGOUDA HARIJAN	ACS - 34063	BELGAUM DISTT
12	10538	SH. G RAMASUBRAMANIAN	FCS - 6728	BANGALORE
13	10540	MR. PERI V V S L SURYA NAGESH	ACS - 37139	HYDERABAD
WIRC				
14	10522	SH PRASAD ARUN OAK	FCS - 6736	MUMBAI
15	10523	MRS. POOJA PRASAD OAK	FCS - 7129	MUMBAI
16	10525	SH. NITIN KASHINATH JAGE	ACS - 8084	THANE (W)
17	10526	MS. NEELAM JAYESH DESAI	ACS - 9503	MUMBAI
18	10535	MR. SANDIP SHARAD DADKAR	ACS - 37118	PUNE
19	10536	MR. AMIT JAGDISH NEGANDHI	ACS - 37046	MUMBAI

*Enrolled during the period from 21.09.2014 to 20.10.2014.





News From the Institute & Regions



List of Practising Members Registered For The Purpose of Imparting Training During The Month of September, 2014

CS PRADEEP KUMAR GAUR COMPANY SECRETARY IN PRACTICE A-409, MAIN CIRCULAR ROAD SONIA VIHAR, DELHI – 110 094	PCSA- 4189	CS JEYA RAJA SINGH. A COMPANY SECRETARY IN PRACTICE NO: IIC, NORTH CAR STREET NAGAR KANYA KUMARI TAMILNADU – 629 001	PCSA- 4197
CS RAJEEV RAWAT COMPANY SECRETARY IN PRACTICE H.NO. 64, BRAHUMPURI SARAN VILLAGE, NIT FARIDABAD – 121 005	PCSA- 4190	CS VEDANG UPENDRA SHEVADE COMPANY SECRETARY IN PRACTICE 35, UNITED WESTERN SOCIETY NAVASAHYADRI PUNE – 411 052	PCSA- 4198
CS HARSHAL ARUN LAHAMGE COMPANY SECRETARY IN PRACTICE 2225, RAMCHANDRA KHUNT ABOVE KATARIYA STORES AHMEDNAGAR – 414001	PCSA- 4191	CS KIMMI JASSAL COMPANY SECRETARY IN PRACTICE C/O RAJNEESH SOOD & CO. B-82, IIND FLOOR NARAINA VIHAR NEW DELHI – 110 028	PCSA- 4199
CS RAJESHKUMAR JOGANI COMPANY SECRETARY IN PRACTICE 32, SATADHAR NAGAR VARACHHA, SURAT	PCSA- 4192	CS SEEMA SHARMA COMPANY SECRETARY IN PRACTICE 32, E2RA STREET, SOUTH BLOCK ROOM NO. 903 9TH FLOOR KOLKATA – 700 001	PCSA- 4200
CS VAIBHAV AGNIHOTRI COMPANY SECRETARY IN PRACTICE 55/19 KAHOO KOTH KANPUR – 208 001	PCSA- 4193	CS KUSHALKUMAR HARISHCHANDRA RAO COMPANY SECRETARY IN PRACTICE 2ND FLOOR, MANDAR SWUARE NR. SHREE SIDHI VINAYAK TEMPLE DANDIA BAJAR MAIN ROAD VADODARA -390 001	PCSA- 4201
CS VIJAI KUMAR BAJPAI COMPANY SECRETARY IN PRACTICE FLAT NO - 115, BLOCK NO – 1 EXPRESS GARDEN, VAIBHAV KHAND GHAZIABAD – 201 014	PCSA- 4194	CS PRITEE AGARWAL COMPANY SECRETARY IN PRACTICE H.NO. F-1, BLOCK –B MEGHA RESIDENCY, GAROKUCHI PATH BHAGADUTTA PUR, BELTOLA TINALI GUWAHATI – 781 028	PCSA- 4202
CS ASTHA DALUJA COMPANY SECRETARY IN PRACTICE C/O M/S O K SHOES S S ROAD, LAKHTOKIA GUWAHATI – 781 001	PCSA- 4195	CS DEPURU RAGHAVENDAR RAO COMPANY SECRETARY IN PRACTICE FLAT NO. 311, BLOCK È GULITOHAR GARDENS SURYA NAGAR, MALLAPUR HYDERABAD – 500 076	PCSA- 4203
CS JAYA YADAV COMPANY SECRETARY IN PRACTICE LGF 152, SECTOR 38 GURGAON – 122 002	PCSA- 4196	CS BIJAY AGARWAL PCSA- 4204 COMPANY SECRETARY IN PRACTICE 7 MANGOE LANE 1ST FLOOR, ROOM NO. 105 KOLKATA – 700 001	



CS S. RAJAGOPAL COMPANY SECRETARY IN PRACTICE 'SRIVATSAM', 11/108, 4TH FLOOR KARPAGAM AVENUE RAJA ANNAMALAIPURAM CHENNAI – 600 028	PCSA- 4205	CS ADITI PANT COMPANY SECRETARY IN PRACTICE 1ST FLOOR, VAYNU'S, AMERI ROAD NEHRU NAGAR, BILASPUR CHHATTISGARH – 495 001	PCSA- 4213
CS SOURAV AGARWAL COMPANY SECRETARY IN PRACTICE 23 B.N.S.ROAD, SECURITY HOUSE, ROOM- M3, 2ND FLOOR OPP-COAL BHAVAN HOWRAH	PCSA- 4206	CS MEHUL RAVAL COMPANY SECRETARY IN PRACTICE 304/A2, PUSHKAR RESIDENCY B/H. ANNAPURNA RESTAURANT, JASODANAGAR AHMEDABAD – 382 445	PCSA- 4214
CS NIKITA GOEL COMPANY SECRETARY IN PRACTICE G-23, HOUSE NO. 251 SECTOR 7, ROHINI DELHI – 110 085	PCSA- 4207	CS SUSHIL CHOUDHARY COMPANY SECRETARY IN PRACTICE F-141, TIME SQUARE CENTRAL SPINE VIDHYADHAR NAGAR JAIPUR – 302 023	PCSA- 4215
CS NITIN KUMAR SINGHAI COMPANY SECRETARY IN PRACTICE 203/A EVEREST GRAND MAHAKALI CAVES ROAD, ANDHERI(E) MUMBAI – 400 093	PCSA- 4208	CS DIPTI NAGORI COMPANY SECRETARY IN PRACTICE A 09/10, KANISHKA BUILDING, RM-94, NEAR MAMTA HOSPITAL MIDC AREA DOMBIVALI EAST -421 203	PCSA- 4216
CS TABASSUM RUWABALI KHAN COMPANY SECRETARY IN PRACTICE 307, 3RD FLOOR, K P TOWER, GEETANAGAR CROSSWAY, OPP CIRCUT HOUSE, NR RLY STN. VAPI DAMAN ROAD VAPI- 396 191	PCSA- 4209	CS CHAITALI DOSHI COMPANY SECRETARY IN PRACTICE 405, BUSINESS SUITES 9, S.V.ROAD, SANTACRUZ (WEST) MUMBAI – 400 054	PCSA- 4217
CS SWATI JAIN COMPANY SECRETARY IN PRACTICE 236, MAHAVEER NAGAR II MAHARANI FARM DURGA PURA JAIPUR – 302 018	PCSA- 4210	CS NIKHIL MIDHA COMPANY SECRETARY IN PRACTICE PLOT NO. 201, SECTOR -8, PART -I KARNAL – 132 001	PCSA- 4218
CS MEGHA KHANDELWAL COMPANY SECRETARY IN PRACTICE "SHREEDHAM" R-20,YUDHISTER MARG C-SCHEME JAIPUR – 302 005	PCSA- 4211	CS MANISHA CHOUDHARY COMPANY SECRETARY IN PRACTICE 58, VIJAY SINGH PATHIK NAGAR KALWAR ROAD JAIPUT -302 012	PCSA- 4219
CS GAMINI SRI LAKSHMI NARAYANA GUPTA COMPANY SECRETARY IN PRACTICE 13-1-185/4,FLAT -A 1, SREE NILAYAM SNEHAPURI COLONY MOTINAGAR HYDERABAD—500 018	PCSA- 4212	CS SNEHA JAIN COMPANY SECRETARY IN PRACTICE NO. 9, TREVELYAN BASIN STREET GAURAV TOWERS CHENNAI – 600 079	PCSA- 4220
		CS KAMLESH PURVIYA COMPANY SECRETARY IN PRACTICE 152, RADIO COLONY RESIDENCY AREA INDORE	PCSA- 4221



News From the Regions

EASTERN INDIA REGIONAL COUNCIL

BHUBANESWAR CHAPTER Workshop on Companies Act, 2013

On 01.09.2014, 03.09.2014 and 7.09.2014, Bhubaneswar Chapter organized a workshop on Companies Act, 2013 at its premises. In the workshop held on 01.09.2014, CA & CS Vijaya Batth, Practising Chartered Accountant, Bhubaneswar addressed on "Accounts & Audit covering Reopening of Accounts, Voluntary Revision of Financial Statements & Accounting and Auditing Standards". On 03.09.2014, in the evening Dr. CS PVS Jagan Mohan Rao, Past President, the ICSI addressed on "Appointment; qualifications; Rotation of Auditors; Removal; Not to render certain services, Internal Audit". Further on 07.09.2014, the Chapter conducted a full day programme on "Powers of the Board, Disclosure of interest, Loans to Director, Loans and investment, Related Party Transactions, Meetings, Appointment & Remuneration of Managerial Personnel, Appointment of Managerial Personnel, Penal Provisions, Charges, Deposits, Acceptance of deposits, E Voting and also various latest circulars of MCA. In the programme CA & CS Manoj Banthia, Past Chairman, EIRC addressed the participants of the programme. Around 150 members and students taken together attended the programmes.

Investor Awareness Programme

On 13.09.2014, the Chapter organized an Investor Awareness Programme at Bhubaneswar. The programme was held under the aegis of IEPF, MCA, Govt. of India and also supported by the Regional Director (Eastern Region) and Registrar of Companies, Odisha, MCA. Investors/ general public, school/college teachers, retired persons, housewives, members of the Institute, small traders and businessmen numbering more than 100 were present in the programme. Investor related information booklet, writing kits & other relevant information were provided to the investors free of cost. There was a question hour session for the investors wherein queries raised by the participants were replied by the speakers of the programme.

Celebration of 33rd Foundation Day of The Chapter

On 13.09.2014, Bhubaneswar Chapter celebrated its 33rd Foundation Day at Bhubaneswar amidst the presence of invited distinguished guests, dignitaries, members, students, members' family. The foundation day celebration started with devotional speech and songs performed by the students of the Chapter. While addressing the august gathering of more than 200 members and students Dr. P.K. Mishra, IAS (Retd.), Former Secretary, Coal, Govt. of India who was the Chief Guest on the occasion, said that Company Secretaries are the conscience keeper of the Companies and they guide the Board of the Directors on various matters of the Companies. They are the good adviser to the Board of Directors and their professional services help the Company for its growth and prosperity. Further he said that with the Amendment of Company Law, the Demand of Company Secretaries is increasing. He advocated for quality of Company Secretaries. He further said that the number of Company Secretaries is small as compared to the students. He advocated for more awareness of the professional and its utility. He advised the students to renounce negativity and charge with positivity and also wished them for an excellent career.

While highlighting the Profession of Company Secretaries, Dr. Bijay Kumar Sahoo, Co-founder Chairman, Sai International School, said that the Company Secretaries should strive hard to take care of the Company's interest and its investors. Further he said that the New Companies Act, provided more opportunities to the Company Secretary and they are the key to bring more reforms in the Corporate Sector.

In his opening remarks Chairman, Bhubaneswar Chapter elaborated various activities of the Chapter and its commitment to take various measures for capacity building of the members and students. He expressed that the students are the backbone of the Institute. Among others, Vice Chairman and Secretary & Treasurer of the Chapter addressed the gathering and highlighted various activities of the Chapter. The proceedings of the foundation day programme were undertaken by the students of the Chapter. During the celebration students of the Chapter who topped this year's National Company Law Quiz was awarded with cash prize and memento. Further, Students of the oral coaching classes were also awarded for their excellent presentation on "General Laws" held on 12.09.2014.

90th Management Skills Orientation Programme

The 90th MSOP of ICSI-EIRC (6th MSOP of the Bhubaneswar Chapter) was organized from 14.09.2014 to 28.09.2014 at Bhubaneswar Chapter. The programme was inaugurated on 14.09.2014 and the dignitaries attended the programme wished all the passed out students a bright and prosperous career ahead. The speaker also apprised the students about various activities of the Chapter being undertaken for the students as well as members. During the 15 days programme, practical session on board meeting, personality development and leadership skills and other related topics of the programmes were taken by the distinguished speakers. Members of the ICSI, ICAI & ICMAI, Management Consultant,



Academicians took the session on various topics and provided practical tips to the students. The students also visited public sector undertakings and attended AGM of Nalco, Bhubaneswar. They also made project presentation on various topics allotted to them. On 28.09.2014, the valedictory session was conducted wherein Chairman, EIRC attended as the Chief Guest of the session. In his address to the students, Chairman, EIRC congratulated all for completing the course and also wished them a successful and bright career ahead. He said that changes in life is inevitable but we have to create opportunity and face the challenges. He advised the students to behave professionally and also apart from being a professional hoped that all will become a successful human being in life. Vice Chairperson, EIRC also chaired the valedictory session of the programme. Invited faculties and students also shared their experience during the 15 days training programme. In his address to the students, Chapter Chairman highlighted the activities of the Chapter and also wished a successful career for all the participating students. Course completion certificates were distributed amongst the participating students. Sucharitra Sahoo adjudged as the best participant of the training programme. Santanu Mukherjee, Regional Director, EIRC was the course coordinator of the programme. Dr. Tapas Kumar Ray, Asstt. Director, EIRC provided logistic support to the programme for its success. Staff members of Bhubaneswar Chapter also contributed a lot for the entire 15 days programme.

Celebration of Swachh Bharat Mission Day

On 02.10.2014, on the auspicious day of 'Gandhi Jayanti', Bhubaneswar Chapter joined with the Institute in celebrating the day as "Swachh Bharat Mission". On this occasion, all the Employees of the Chapter attended office. It was also proposed that the office premises will be neat and clean for the entire year and each and every staff member should take initiative in this regard. It was also suggested that the employees should motivate members and students of the Institute in this regard.

HOOGHLY CHAPTER 2 Day Workshop on 'A Practical Approach to CS Management Training'

A two day Workshop was organized by Hooghly Chapter of ICSI on 20-21 .9.2014 at Hooghly Chapter Conference Hall, Rishra, on 'A Practical Approach to CS Management Training'. Guest Speaker CS Hansraj Jaria, DGM & Company Secretary- Ratnabali Capital Markets Ltd deliberated on 'A Practical approach to Compliance under SEBI Listing Agreement, Insider Trading and Takeover Regulations' in a very interactive and lucid manner which was enjoyed by the participants. CS Anil Dubey, Practising Company Secretary, deliberated on 'Introduction to Statutory Registers, e-Filing of Forms with MCA'. CS Shikha Gupta, Company Secretary, Bhubaneswar Coal Mining Limited, An Aditya Birla Group Company gave his presentation on Work Culture Ethics and Professional Etiquette. CS Ravi Varma Asst. Manager-Compliance, Adventz

Group shared his experience on A practical approach to Drafting of Minutes, Notice, Agenda, Letter, Official E-mail etc. CS Narendra Singh GM & Company Secretary, Essel Mining & Industries Ltd. gave his presentation on A practical approach to Conduct Meetings under the Companies Act, 2013 (Including preparations of Supporting Agenda Papers). CS Jamshed Alam, Chairman, Hooghly Chapter of EIRC of ICSI and Company Secretary, Tanta Constructions Limited discussed How to keep oneself updated and Expectation of ICSI from a Company Secretary.

CS Arun Kumar Singhania CFO, Paharpur Cooling Towers Limited was the Chief Guest of the whole session who concluded the workshop and appreciated and motivated all for organizing such significant workshop which is the present need for all the Management Trainees. The participants took the benefit of the session and raised several queries to the Speakers of the session. A total of 27 participants were present at the workshop.

Half Day Workshop on the Companies Act, 2013

A Half Day Workshop was organized by Hooghly Chapter of ICSI on 21.9. 2014 at Chandannagar, Hooghly on the Companies Act, 2013. Guest speaker CS Hansraj Jaria, DGM & Company Secretary, Ratnabali Capital Market Ltd. deliberated on Rights and Privileges of a Member under the Companies Act, 2013. The participants took the benefit of the session and raised several queries to the Speakers of the session. Around 20 participants were present on the occasion. Chairman, Hooghly Chapter coordinated the programme.

Inaugural Ceremony of Renovated and Updated Library Facility at Chapter Conference Hall

The Hooghly Chapter inaugurated its renovated and updated Library facilities on 21.9.2014 at the Chapter Conference Hall. The Chief Guest on the occasion was Dr. Sudipto Roy, Hon'ble Member of Legislative Assembly, West Bengal (Serampore) and along with some senior members and students of the institution were present. Dr. Sudipto Roy appreciated the initiative taken by the Chapter for the development of the ICSI Students and Society on the whole.

Celebration of CS Day on Saturday, 4th October, 2014 at Hooghly Chapter Conference Hall, Rishra.

Hooghly Chapter of EIRC of ICSI organizes "46th CS Day Celebration" on 4th October, 2014 at Hooghly Chapter Conference Hall, Rishra Hooghly. At this occasion many senior members of the institute were present along with students of the institute for celebrating CS Day. CS Rahul Harsh deliberated on 'History of ICSI' which was praised by everyone present on the occasion.

Chairman, Hooghly Chapter explained the significant of the prefix word i.e. CS. He also explained the growth of ICSI during the last 45 years. At present there are more than 35000 qualified



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members of ICSI and over 3 lakhs students. He also shares the status and position of Company Secretary after the enforcement of the new Companies Act, 2013. He has also taken an oath with all the members and students that they will work together for the development of the rising profession i.e. Company Secretary.

The Chapter on CS Day has also done a noble work 'Helping the Disable' by supporting the moral Ethics at a Blind School in Rishra, Hooghly.

On this occasion one of the senior members CS Hansraj Jaria, DGM & Company Secretary- Ratnabali Capital Markets Ltd and a student Mohit Sharma shared their experiences and thought as member and student respectively.

NORTHERN INDIA REGIONAL COUNCIL

Inauguration of 197th of MSOP

On 28.8.2014 NIRC-ICSI inaugurated its 197th MSOP at ICSI-NIRC Building, New Delhi. CS M K Aggrawal was the Chief Guest & CS Devinder Jain was Guest of Honour on the occasion. On 15.9.2014 at the valedictory session CS M Balwani was the Chief Guest & Surender Gupta was Guest of Honour.

Study Circle Meeting

On 28.8.2014 NIRC-ICSI organized a Study Circle Meeting on "Fund Raising under Companies Act 2013 (Share Capital & Debentures)". CS Lalit Kumar was the speaker on the occasion.

One Day Seminar

NIRC-ICSI organized a One Day Seminar on "Company Secretaries - Enhanced Responsibilities" on 30.8.2014. Speakers from the Institute and Government authorities shared their rich knowledge on the topic.

One Day Workshop

NIRC-ICSI organized a One Day Workshop on "Companies Act, 2013 - Directors and Board Meeting" on 31.8.2014. Experts from Corporate fields enhanced the knowledge of the participants.

Inauguration of 198th MSOP

On 5.9.2014 NIRC-ICSI inaugurated the 198th MSOP at ICSI-NIRC Building, New Delhi. CS S K Sakhiyawas the Chief Guest on the occasion.

One Day Seminar

NIRC-ICSI organized a One Day Seminar on "Companies Act, 2013- Regulatory Aspects & Contentious Issues" on 6.9.2014. Speakers from Institute and Regulators share their rich knowledge

on the topic.

One Day Workshop

NIRC-ICSI organized One Day Workshop on the topic "Company Law Settlement Scheme, Latest Developments in Accounts & Audit and Conversion of a Company into LLP" on 13.9.2014. Ashish Makhija and Karan Jasuja were the speakers.

Two Day Workshop

NIRC-ICSI organized Two Day Workshop for Members on "Communication Skills" on 19 and 20.9.2014. Guest speaker Suneel Keswani addressed the participants.

Swatch Bharat Abhiyan

Northern India Regional Council of Institute of Company Secretaries of India organized Swatch Bharat Abhiyan on 2.10.2014. All employees of NIRC-ICSI participated in the Swatch Bharat Abhiyan by taking SwatchhtaShapath. Sanjay Kumar Nagar, Regional Director, NIRC imparted training on 5 'S' and gave the briefing of ICSI Guidelines on Retention and Weeding Out of Records, 2014. Competitions like Slogan Writing and Drawing was arranged for the NIRC employees. Rajni Sharma was announced Winner for the Slogan Writing Competition and Suman Iyer was the Winner of the Drawing Competition. Nagar explained the importance of Swatch Bharat Abhiyan and various tools and techniques to ensure proper housekeeping to staff, Security and Canteen Staffs. The programme.

Inauguration of 200th Batch of MSOP

On 30.9.2014 NIRC-ICSI inaugurated its 200th MSOP at ICSI-NIRC Building, New Delhi. S K Nagar, Regional Director, NIRC in his welcome address advised that each participant must look out to build a good team and solid business partners. He said that everyone should keep long-term vision. He emphasized on Theme of NIRC for the year 2014 i.e. "Change, Emerge & Lead". He said that CS professionals must remain vigilant and follow best practices of Corporate Governance. He also offered the participants to come forward & give suggestions for the Topics/Session they require in this MSOP, so that NIRC is able to deliver the need based specific trainings. He said that entire corporate world is looking up towards CS professionals.

On 18.10.2014 at the Valedictory session of 200th MSOP CS Yogesh Gupta, Past Chairman, NIRC was the Chief Guest on the occasion. Completion Certificates & medals were distributed to the participants. Participants were given various practical advices & guidance by the Chief Guest and by S K Nagar, Regional Director, NIRC.

GHAZIABAD CHAPTER Study Circle Meeting

On 27.9.2014, Ghaziabad Chapter of NIRC of the ICSI organized a Study Circle Meeting on "Loans, Investments and Deposits under



Companies Act, 2013". Guest Faculty CS J K Chowdhery, Sr. Vice President- ISGEC Heavy Engineering Limited explained in detail the sections of the new Companies Act pertaining to Loans, Investments and Deposits. The queries raised by the members were replied satisfactorily.

One Day Seminar

On 30.9.2014, Ghaziabad Chapter of NIRC of the ICSI conducted a One day Seminar on "Securities Fraud". R Sridharan, President, The ICSI graced the session with his presence as Chief Guest. He interacted freely with members and students and motivated them to excel in the CS profession. His interaction was applauded and gave a boost to the morale of the students, members and employees. Vikas Gupta, Assistant Professor of Law, Amity Law School NOIDA, took an interactive and interesting session as speaker and gave in-depth knowledge on Securities Fraud through various case studies. The session was well attended by the members and students.

Swach Bharat Mission

On 2.10. 2014, SwachtaShapath (Pledge) was given to the students, faculty, ICSI Employees by CS Deepa Singhal, Chapter Chairperson.

JAIPUR CHAPTER 13th Management Skill Orientation Programme

On 27.09.2014 ICSI- Jaipur Chapter organized its 13th MSOP Batch at Jaipur Chapter premises. Anil Goyal, Practicing Company Secretary & Past Chairman, Jaipur Chapter, was the chief guest of the programme and in his inaugural address advised the participants that knowledge of various laws are more important to company secretaries for better efficiency in work and need to be developed continuously. He also advised the participants to improve their presentation & drafting skills. On 13.10.2014 the Valedictory session of 13th MSOP was organized. Rekha Rakhi, Renowned Educationist was the chief Guest of the valedictory session. She quoted that in this competitive world one should always be updated with changes and should try to improve their skills. He said that opportunity is always available for those who struggle with times and ready to grab that. The successful participants were also awarded certificate of participation.

JALANDHAR CHAPTER Interactive Session of Members and Students with President of The Institute

On 23.09.2014 Jalandhar Chapter of NIRC of the ICSI organized a half-day Seminar and an Interactive session for members and students of the chapter with CS R. Sridharan, President, the ICSI. Chief Guest CS R. Sridharan explained the aspect and relevance of

Key Managerial Personnel, role of Company Secretary in Corporate Governance, the scope of Company Secretary in Practice as well as in employment, as per the New Companies Act, 2013. He interacted with the members and students of the Jalandhar Chapter and responded to their queries. This was followed by Inauguration of Upgraded Accounting Lab, DAV College, Jalandhar. The programme was attended by more than 100 members and students..

SOUTHERN INDIA REGIONAL COUNCIL

SWACHH BHARAT MISSION

The Swachh Bharat Mission was observed in ICSI-SIRC on 2.10.2014. The employees took up the cleanliness of the entire building of the SIRC and surroundings. They also took the 'SwachhtaShapath' pledge in English.

Study Circle Meeting on Service Tax & CENVAT - What it means to Company Secretaries

On 15.10.2014, the SIRC of the ICSI conducted a Study Circle Meeting on "Service Tax & CENVAT-What it means to Company Secretaries". Karthik Ranganathan, Tax & Corporate Lawyer, Bangalore was the Chief Guest who initially spoke on the constitutional validity of the Service Tax and cited landmark judgments. He listed out the sources of Service Tax and the administrative set up and relevant authorities for Service Tax. He touched upon the scope of Service Tax, Declared Services and chargeability of Service Tax. The Speaker also clarified the Point of Service Tax Rules, 2011 and difference between taxable event and point of taxation to demonstrate the place of provision of Tax. Karthik said Service Tax is leviable only if services are rendered in a 'Taxable Territory'. He also brought out the important notification on Mega Exemption, Abatement and Reverse/Joint Charge Notification. He then made a presentation on CENVAT Credit and on the generation of CENVAT, the procedure relating to maintenance of separate account for inputs and to pay an amount to proportionate to CENVAT Credit attributable to exempted output services. Throughout his presentation, the Speaker emphasized on the scope of practice under Service Tax and CENVAT Credit for the Professional like Company Secretary and urged upon them to take up practice under Service Tax, apart from the traditional role played by the Company Secretary under Company Law.

Inaugural session of the 20th Management Skills Orientation Programme [MSOP]

The 20th Management Skills Orientation Programme [MSOP] of the ICSI – SIRC was inaugurated by CS Sridharan R, President, The ICSI. R Sridharan, complimented the SIRC for organizing the recently



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concluded First Residential MSOP which provided tremendous exposure to the participants. The role of Company Secretary is very significant since from day one he is required to perform, he observed. He pointed out that the MSOP is practical oriented and The Institute attaches a lot of importance to it. He then spoke in detail the importance given in the Companies Act, 2013 to the profession of Company Secretaries. He advised the participants to uphold the code of conduct and ethics laid down by the ICSI and live up to the expectation of the Government. The President, ICSI drew the attention of the participants on the efforts taken by the Council of the ICSI to restore the glory of the profession in the New Act. However he said that the appointment of Company Secretaries should be more of conviction than compulsion since the role of CS is multifarious in the Companies Act, 2013. Sridharan was optimistic that the Company Secretary is now on an elevated position than a mere Compliance Officer. He concluded by congratulating the participants for having chosen the profession of Company Secretaries.

At the valedictory session Dr. A. E. Chelliah, Designated Senior Advocate, Chennai was the Chief Guest who in his initial remarks stated to avoid Courts and litigation and advise the corporates they represent to settle disputes amicably. He observed that one should be vigilant and study the case for being successful in the Court of Law. Dr Chelliah explained from his experience that ethics and honesty in presenting before the judiciary pays great dividends in the long run. He elaborately spoke on how to project a case so as to get a favourable order and quoted various judicial pronouncements and Court room proceedings. The participants thoroughly enjoyed the speech of Dr.Chelliah and expressed that it would greatly benefit them in improving their advocacy skills.

The participation certificates were distributed by the Chief Guest.

Sarah Arokiaswamy, Regional Director, ICSI – SIRO congratulated the participants and invited them to attend the professional development programmes of the Institute and thereby earn the required credit hours apart from being updated. She also stressed on the need to become members of CSBF and express their solidarity to the members in times of distress.

BANGALORE CHAPTER Teachers Day Celebration

The Bangalore Chapter of the ICSI for the first time in its history celebrated Teachers Day on 5.9. 2014. The programme was presided over by Chief Guest Dr.MalathiHolla, Chairperson, Mathru Foundation, Bangalore who speaking on the occasion informed the gathering that for her, life is the biggest teacher, as it taught her how to be strong, confident and determined one has to be in the journey of life. She informed the gathering that there were many obstacles many failures but as and when she faced obstacles life made her much stronger and more determined. CS S.C Sharada Chairman, Bangalore Chapter of the ICSI acknowledged the Contribution made by the Immediate Past Chairman CS M. Manjunatha Reddy in steering

the Bangalore Chapter this past year. A memento was presented to CS M. Manjunatha Reddy Immediate Past Chairman, Bangalore Chapter of the ICSI, as a token of gratitude and appreciation for his contribution to the Profession and the Chapter during his tenure as Chairman of the Managing Committee of the Bangalore Chapter of the ICSI. The program was followed with felicitation of the meritorious students of Foundation / Executive / Professional programmes students along with the winners of the sports day event. Chief Guest Dr.MalathiHolla felicitated the meritorious students and distributed prizes to the winners.

One Day UGC Sponsored State Level Seminar on an Overview of The Companies Act 2013

The Bangalore Chapter of the ICSI in association with St. Josephs College of Commerce organized a One Day UGC Sponsored State Level Seminar on “An Overview of The Companies Act 2013” on 12.9.2014. The Program was inaugurated by Gururaj Acharya and CS S.C. Sharada, Chairman, Bangalore Chapter of the ICSI. The programme started with a key note address by Gururaj Acharya on “Need to Revamp Companies Act and Broad Overview of New Act”, followed by a technical Session on “Types of Companies - Existing and New concepts, Incorporation, Navigating MCA website” by CS Dwarakanath, Past Chairman, SIRC of ICSI.

The Second technical session was addressed by Amrith Raj, from PWC who while addressing on “Raising of Capital” informed the participants on Eligibility Criteria, Investor Protection, Regulatory Overview of SEBI & Stock Exchanges and Private Placement.

The Third technical Session was addressed by CS G.V. Srinivasa Murthy on “Audit and Auditors” wherein he explained Accounting Standards, Board's Report & Disclosures, Appointment and Rotation of Auditors, NFRA & Internal Audit.

The Seminar was followed by a panel discussion on “ Management, Administration & Corporate Governance, Board of Directors & Committees (Audit Committee, Nominations & Remuneration Committee, Stakeholders Committee), Independent Directors – roles and responsibilities, Board evaluation & Risk Management Policy, KMP & Related Party Transactions, CSR regulations and policies”. The panelists were CS AshmitaDhore, CS Pramod SM, CS Bhavani, and CS AnupKulkarni.

Capacity Building Program in Service Tax

The Bangalore Chapter of the ICSI for the first time ever in India organized a Capacity Building Program in Service Tax. This program is a comprehensive practical course on Service Tax spread over 9 Saturdays i.e. 13.9.2014 to 22.11.2014 culminating in a full day programme on Service Tax and GST on 29.11. 2014. The program was inaugurated on 13.9.2014, which was presided over by Chief Guest D.P.Nagendra Kumar, Additional Director General (Audit), Bangalore, followed by technical Sessions by CA Madhukar



Hiregange, and Adv. Karthik Ranganathan.

D.P. Nagendra, addressing the gathering congratulated Bangalore Chapter for the initiative taken. He stated that the Service tax is a major component which is levied everywhere from beauty parlour services to very high end services, and each and every department is levied with service tax. The programme was followed by release of book on Service Tax by Chief Guest D.P. Nagendra.

First Technical Session: CA Madhukar Hiregange, during his technical session on "Introduction to Service Tax" briefed the participants on Service Tax and its overview. He briefed on how to make the best use of hand book and other suggested books. He emphasized on ST based opportunities in employment and practice. The Alteration, Entrenchment provisions, Registered Office, its verification, Commencement of Business etc. under Companies Act, 2013 were also dealt with in detail.

Second Technical Session: The Second technical session was taken by Advocate Karthik Ranganathan, on Introduction to Service Tax Part-1 wherein he threw light on Finance Act 1994 (including changes effected by Finance Acts up to 2014). He then made section-wise analysis of Constitutional Aspects, Section 64, 65B (interpretations), 66A (charge on import of services) + history & notifications, 66B (charge on service tax). The Session ended with review, announcements and conclusion.

SECOND DAY: The Second Day of Capacity Building Program in Service Tax was held on 20.9.2014. The 1st Technical Session was taken by CA Vishnu Murthy, Vishnuram who enumerated the topic "66D Negative List and 66E Declared Services". He explained various litigation with regard to the power of CG to levy service tax on certain services, by explaining section 66E, which has been introduced to cover such specific services which are deemed to be taxable services despite the facts that it doesn't conform to main definition of services under section 65B(44). Later he informed that some of the services mentioned under section 66E are composite services and few of them overlap with List II of the Seventh Schedule of the Indian Constitution where only the State Governments have right to tax them. He also informed that Section 66F deals with classification of services and has replaced section 65A vide the FA, 2012. 66F also deals with classification of bundled services. The cornerstone provision for negative list is section 66D which lists out various services which are excluded from the service tax net. The Central Government is empowered to issue Notification under section 93 to exempt any service from service tax and the CG has issued Notification No. 25/2012(mega exemption notification) which further exempts several services from the levy of service Tax.

The 2nd Technical Session was taken by Kodandaram, Supdt, NACEN, who took session on topic "66F (Classification under service tax and Bundled service)".

THIRD DAY: The Third Day of Capacity Building Programme in Service Tax was held on 27.9.2014. The 1st Technical Session was

taken by Advocate Raghavendra C.R on Point of Taxation Rules, 2011 wherein he explained the participants that the concept behind these Rules is anti-deferral of payment of service tax. He explained that prior to introducing these Rules, service tax was payable invariably on receipt basis which led to Service tax evasion in the guise of tax planning. The POT Rules, which determines deemed date for payment of tax, results in collection of tax at the earliest point in time i.e. when the invoice is raised or when the service is completed or when any advance amount is received. By this, deferral of service tax payment is streamlined.

The 2nd Technical Session was addressed by Advocate G.Venkatesh on "Place of provision of Service Rules, 2012" wherein he explained the participants on Section 66B which is the charging section, allowing the CG to levy service tax only if the service is provided from taxable territory (TT). The PPS Rules, 2012 has been issued to determine the deemed place of provision in various situations. Section 66C allows CG to issue rules to determine such place of provision. By the introduction of POP Rules, the Export of Service Rules, 2006 and Import of Service Rules, 2005 (paraphrased) have been rescinded.

18th Mangement Skills Orientation Programme

The Bangalore Chapter of the ICSI organised the inaugural function of the 18th Management Skills Orientation Programme (MSOP) on 15.9.2014. CS Ashok Tandon, Executive Director & Company Secretary, HAL, Bangalore was the Chief Guest who inaugurated the programme. Tandon in his address stated that every Company Secretary needs to recognize the basic qualities required and to be nurtured for a fruitful career. He highlighted that the power of thinking and being a solution provider are the qualities looked out in a CS. He insisted all the participants to refresh their knowledge every often, rather than believing on their memory itself and keep oneself abreast with the happenings and cultivate habit of continuous learning as it takes one a long way. Emphasising on leadership qualities, 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.

On 1.10.2014 at the valedictory session CA, CMA & CS K.S. Kasturirangan was the Chief Guest who in his address highlighted some of the important aspects of the New Companies Act 2013. Giving an insight on emerging employment prospects for CS he emphasized on the new duties and responsibilities as a Key Managerial personnel. He advised the participants to grab every opportunity and hone their skills through constant learning and up-gradation. The Chief Guest then distributed the Best Participant award to Nandan D. Shanbag and the prizes for the Best Project to the team comprising Nandan D Shanbhag, RishadKalembeth, S. Danabal and PayalBhansali for the Project on "Merger, Amalgamation, Takeover and its Relevance In Corporate Governance". Pavithra M and Nandan D Shanbag, Participants, shared their feedback about the MSOP Programme. The course completion certificates were distributed to all the 55 participants present.



News From the Institute & Regions

Two Day Induction Programme For Company Secretaries in Employment

The Bangalore Chapter of the ICSI organised a Two Day Induction Programme for Company Secretaries in Employment on 20 and 21.9.2014. Chief Guest CS Satish Menon, Principal Consultant, Menon Associates, Bangalore inaugurated the programme. CS Sudhir Babu C, Central Council Member and Programme Director gave an overview of the Programme. The Chief Guest in his address to the gathering set the right tone by emphasising on the importance of programme of this genre and its usefulness. The 2 day long programme was engulfed with various sessions on technical topics and soft skills as tabled below:

Topic	Speakers
Compliance Management in an organisation	K. Vijay Shyam Acharya, Director - Legal & Compliance, OnMobile Global Ltd, Bangalore
Practical Aspects of Handling General Meetings	CS C.P. Sounderajan, Chief Secretarial Officer.
Code of Conduct ; ICSI Guidelines pertaining to Company Secretary in Employment	CS Sudhir Babu C, Central Council Member, The ICSI & Programme Director.
Role of KMP and his liabilities	CS T.P. Subramanian, Former President & CS, JSW ISPAT Steel Limited.
Art of Managing Yourself Work Ethics & integrity; Pressure, Time Lines, Dilemmas	RajdeepManwani, Toast Master & Co-ordinator, Department of Commerce, Jain University, Bangalore.
Personal Confidence & Motivation; Developing Strategic Thinking Skills	RashmiShetty, Director, Third Eye, Bangalore.

Sudhir Babu C, Central Council Member, The ICSI and Programme Director delivered the concluding remarks and was followed with distribution of certificate to all the 30 participants.

COIMBATORE CHAPTER Career Awareness Programmes

On 02.09.2014, Coimbatore Chapter of SIRC of the ICSI conducted a Career Awareness Programme at Shri Nehru MahaVidyalaya College of Arts & Science, Coimbatore. Sreejith.P, Executive Officer, ICSI-Coimbatore Chapter was the speaker. Nearly 350 students from Dept. of Commerce and Dept. of Corporate Secretaryship attended the Career Awareness Programme. Again on 03.09.2014, the Chapter conducted a Career Awareness Programme at VidyaVikasini Matriculation Higher Secondary School, Thudayullur, Coimbatore. CS G Vasudevan, Past Chairman, ICSI-Coimbatore Chapter was the Chief Guest and Speaker. Nearly 90 students from 10+2 Commerce students attended the Career Awareness Programme. Yet again on 26.09.2014, a Career Awareness Programme was held at KovaiKalaimagal College of Arts and Science, Narasipuram Post,

Coimbatore. Sreejith.P, Executive Officer, ICSI-Coimbatore Chapter was the speaker. Nearly 400 students from Dept of Commerce attended the Career Awareness Programme.

In the programmes the speakers explained the CS course in detail and also elaborated 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. They elaborated the course in detail and also highlighted the importance of CS course in the new economic scenario. Further he enumerated the emerging areas of practice and the changing role of Company Secretary and the opportunities under compulsory appointment of company secretary and Key managerial personnel as per new Companies Act, 2013.

The speakers also explained prospects of the profession, placement services, course contents, fee structure and oral coaching facilities being provided to the students. During these programmes, various queries were raised by the students about the CS course which were ably replied by the speakers.

Study Circle Meeting on Standard Board Meetings & General Meetings Procedures – Companies Act 2013

A Study Circle Meeting was organized by the Coimbatore Chapter of SIRC of ICSI on 05.09.2014 at the Chapter premises on the above topic. The session was attended by around 42 participants, including members and students and carried one programme credit hour for members. The speaker also replied the queries raised by the participants.

Study Circle Meeting on Compliances Under Fema with Special Reference to Secretarial Audit

A Study Circle Meeting was organized by the Coimbatore Chapter of SIRC of ICSI on 19.09.2014 at the Chapter premises on the above topic. CS G VASUDEVAN, Past Chairman, ICSI-Coimbatore Chapter & Company Secretary in Practice, Coimbatore was the speaker who in his address explained in detail provisions and compliances required under FEMA and points to be checked for "Secretarial Audit".

The queries raised by the participants were replied satisfactorily by the Speaker. The session was attended by total 25 participants, including members and students and the session carried one programme credit hour for members.

Investor Awareness Programme

Coimbatore Chapter of SIRC of ICSI organized "Investor Awareness Programme" jointly with Avinashi Lingam Deemed University at the premises of Avinashi Lingam Deemed University, Coimbatore on 26.09.2014. The programme was held under the aegis of Investor Education & Protection Fund, Ministry of Corporate Affairs, Govt. of India. The Past Chairman, Coimbatore Chapter of SIRC of



ICSI introduced the Chief Guest and Speaker and welcomed the gatherings. J Seshagiri Rao, Deputy General Manager [Zonal Manager], Andhra Bank, Zonal Office, Coimbatore was the Chief Guest. In his inaugural address he explained the necessity of Investor Awareness Programme and also highlighted the importance of the awareness amongst students, inculcating savings habit in the interest of family and nation. He also suggested need of proper investigation before investing in any schemes. He also explained with examples different ways in which investors are being generally misguided. He also briefed the dos and don'ts for making investment decisions by which investors can protect their funds.

K Annamalai, Former President, Coimbatore Stock Exchange & MD, Annamalai Capital Services (Pvt.) Ltd, Coimbatore was the speaker who in his address elaborated various avenues available for Investors and the need for awareness while making in shares and other securities. He gave an overview of the Indian economy and the types of investment made by Indians for various purposes, further, 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. He further briefed about the changing trends of investment habits of investors, derivatives, currency trading, etc. He 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.

The programme was very interactive and the queries raised by the participants were addressed by the speaker and the programme was attended by 130 participants including PG students, Research Scholars and Faculty Members of Avinashilingam Deemed University, Coimbatore.

Study Circle Meeting

Coimbatore Chapter of SIRC of ICSI organized a Study Circle Meeting on "PROMOTING SOCIAL SECURITY - EMPLOYEES PROVIDENT FUND MISCELLANEOUS PROVISIONS ACT, 1952 – AN OVERVIEW WITH HIGHLIGHTED AMENDMENTS " on 18.10.2014 at ICSI- Coimbatore Chapter premises.

A. KaleelurRahman, Assistant PF Commissioner, Regional Office, Coimbatore, Employees' Provident Fund Organization (EPFO), [Trainer, Zonal Training Institute, Chennai (A unit of National for Training & Research in Social Security, New Delhi)] was the speaker who in his address elaborated the Act from Social Security perspective and explained the important provisions and obligations of Employers/ employees of the establishments, including applicability, duties of employers, rights of employees, rate of deductions, due dates for payment of the contribution, consequence on non-compliances of the provisions etc., with practical examples. The queries raised by the participants were ably replied by the speaker with citation of recent cases and provisions of the Act. The session was very useful and appreciated by the gathering at large.



WESTERN INDIA REGIONAL COUNCIL

AHMEDABAD CHAPTER 13th Management Skills Orientation Programme

The Ahmedabad Chapter of WIRC of ICSI organized its 13th Management Skills Orientation Programme from 29.9.2014 to 18.10.2014 at the Chapter premises. Around 55 participants who had come from different parts of Gujarat attended the programme. Two prospective CS members were appointed as the co-ordinators of the 13th MSOP batch. The Inaugural session of the 13th MSOP was graced by the presence of Yamal Vyas, a fellow member of ICSI and ICAI and a Whole Time Member of Gujarat State Third Finance Commission and Chairman, TEFC Committee, ICSI Ahmedabad Chapter. The dignitaries and Executive Officer welcomed 13th MSOP participants and addressed them with their heartening speech. During the 13th MSOP, many renowned faculties deliberated sessions including senior Company Secretaries on various topics as per training guidelines of the ICSI. The participants cherished and benefited with 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 7.10.2014. 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, Gujarat Ambuja Exports Ltd. and Dishman Group of Companies. The participants benefitted from the guidance provided by the Company Secretary of the concerned company regarding the Dos and Don'ts in the board meeting. On 16.10.2014, the participants were taken for a visit to the High Court of Gujarat. The participants were accompanied by the two co-coordinators, the Executive Officer and 1 staff member of the ICSI Ahmedabad Chapter. During the visit, the participants attended 3-4 case proceedings and in one case proceeding, the participants got the opportunity to hear the Honorable P. Chidambaram, who was prosecuting a CST matter. 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 Alok Choudhary, General Manager, State Bank of India and the Treasurer, Managing Committee, Ahmedabad Chapter. The Guest congratulated the participants for successfully completing their 15 days training and wished them to do their best in their professional career. Kapil Dighe was awarded with the title of "Best Participant" of the 13th MSOP Batch. The MSOP completion certificate was distributed to all the participants before conclusion of the programme. The 15 days training programme was indeed a success and a great learning



News From the Institute & Regions

experience for all the participants as well as the coordinators.

Investor Awareness Programme

An Investor Awareness Programme was organized on 30.8.2014 at M. S. University, Vadodara by The Ahmedabad Chapter of WIRC of ICSI and Ministry of Corporate Affairs. The speaker of the programme was CS Yamal Vyas, M. K. Sahu, Dy. ROC, Gujarat, Prof. R. C. Patel, Dean, Law Faculty, MSU, Vadodara & Prof. S. P. Rathor, Law Faculty, GU, Ahmedabad. The Treasurer, Ahmedabad Chapter was the Co-ordinator for this programme. The Investor Awareness Programme was attended by 88 participants. The investors were given knowledge about how to invest the fund and were briefed about the different savings and schemes beneficial for the investors.

12th Management Skills Orientation Programme

The Ahmedabad Chapter of WIRC of ICSI organized its 12th Management Skills Orientation Programme from 9.9.2014 to 25.9.2014 at the Chapter premises. During the inauguration session Ex-Chairman, WIRC, Secretary, Ahmedabad Chapter and Chairman, TEFC Committee, Ahmedabad Chapter were present. A CS Member was appointed as Co-ordinator for the 12th MSOP Batch. The dignitaries welcomed MSOP 12th Batch participants and addressed them with occasional speech. The total participants at the MSOP were fifty who had come from different parts of Gujarat and India. During the MSOP, galaxy of faculties including senior Company Secretaries deliberated on various topics as per training guidelines of the ICSI. The participants cherished and benefited from the knowledge and practical experiences of the seniors. The Mock Board Meetings were held on 12.09. 2014 in the Board Room of the Companies like Adani Group of Companies, Zydus & Cadila, Dishman & CLP Powers Pvt. Ltd., Ahmedabad. The participants also gave Project Presentations on various topics which enabled them to come out with their own ideas, views, presentation skills and knowledge. The Valedictory Session was held in the presence of Chairman, Ahmedabad Chapter & S. N. Misra, ROC, Gujarat, Guest of the Day. The speakers congratulated the participants for completing the 15 days training and to become a fresh member of ICSI. Sneha Chinchli was honoured with the title of "Best Participant", of MSOP 12th Batch during the Valedictory session. The certificates were distributed to all the MSOP 12th batch participants and with efficient co-ordination of Co-ordinator, MSOP 12th Batch. The fifteen days training was successful with great learning and fun.

Study Circle Meeting at Gandhinagar

Gandhinagar Study Circle of Ahmedabad Chapter organised a Study Circle Meeting on "Open House Discussion on Secretarial Audit" on 11.9.2014 at the Conference Room of Guj Info Petro Limited, Udhog Bhavan, Gandhinagar with PCH=1 & PDP=2. A Senior Practising Company Secretary was the faculty of the meeting. Senior CS members, PCS & students attended the meeting. A presentation was made on various aspects of Secretarial Audit with practical examples. The meeting was appreciated by the gathering at large. A total of 25 members and 13 students attended the meeting.

Consultation Meet on Scope of Secretarial Audit

The Ahmedabad Chapter of WIRC of ICSI organised a Consultation Meet on "Scope of Secretarial Audit, Companies Act, 2013" on 29.09.2014 at the Chapter office. The meeting was appreciated by the gathering. The Chairman, Ahmedabad Chapter of WIRC of ICSI, Senior CS members & PCS attended the meeting. Total 11 members attended the programme.

INDORE CHAPTER 2nd Management Skills Orientation Programme

Indore Chapter of WIRC of the ICSI organized its 2nd Management Skills Orientation Programme (MSOP) from 10.9.2014 to 24.9.2014 at Indore. The Programme on 10.9.2014 was inaugurated in the presence of senior Members and Students of the Programme. Many senior and experienced Faculties came to guide the Students and sharing their knowledge. During the programme CS (Dr.) D.K. Jain conducted the Mock Board Meeting, CS M.K. Apte educated the students about the Corporate Compliance Management, CS R.K. Vijay educated about the Sick Industrial Companies, CS Ashok Mehta educated the students about the Art of Advocacy and Role of Company Secretary, CS Rajendra Kewaliya talked about Due Diligence for Private Equity, Provisions of Companies Act, 2013 related Small Medium and Private Limited Company, Dr. Kamlesh Bhandari took the session on Case Study on election campaign, CS Ajit Jain shared his knowledge about Capital Market related topics, Regulatory insight, Exchange related issues, CS D.K. Sharma guided the students about Private Equity, Venture Capital, Hedge Funds, CS Prabhanjan Maheswari educated students about International Trade and Policy, CS Prateek Tripathi educated about Preferential Allotment, CS Naveen Khandelwal explained the provisions of Major tax laws, Double Taxation Treaty Agreements, Service Tax, CS Pinky Srivastava spoke about Global Business Scenario, CS Rajesh Lohia discussed Office Automation, CS Dipika Kataria guided students about How to Manage Personal and Professional Life, CS Kushal Kumar apprised the student about the ICSI Code of Conduct, CA Naveen Khandelwal and CA Poonam Patni spoke about Business Ethics, CS Anurag Gangrade educated about Taxation, CS Pallavi Parihar took the Introduction and shared her views, CS Sumit Jaitley took the session on Corporate Taxation - Understanding TDS/TCS - Filing of Returns, Harsh Vardhan Phatak told the students about Behavioral Science, CA Pratik Uppal discussed latest trends in management thoughts and Nidhi Hasija talked about Business Communication.

The Chapter also arranged a Visit of the Secretarial Department of Flexituff International Limited and also Industry Visit at Taneja Iron And Steel Company Limited and to the Office of the Official Liquidator for the students of MSOP.

On 23.9.2014 the Students made their Power Point Presentation. The Valedictory session was held on 24.9.2014. Thirty-two participants attended the Management Skills Orientation Programme and successfully completed the said Programme.

ICSI ELECTIONS TO COUNCIL AND REGIONAL COUNCILS-2014

(LIST OF CONTESTING CANDIDATES)

ELECTION TO THE COUNCIL

FROM

Eastern India Regional Constituency-2014

LIST OF CONTESTING CANDIDATES- in alphabetical order (by surname)

1.	AGRAWALA S K FCS 1323
2.	BARIK BIRA KISHORE FCS 5696
3.	BINANI MAMTA (Ms.) FCS 4525
4.	GUPTA SANJAY KUMAR FCS 2574
5.	ROY ANJAN KUMAR FCS 5684

ELECTION TO THE REGIONAL COUNCIL

FROM

Eastern India Regional Constituency-2014

LIST OF CONTESTING CANDIDATES - in alphabetical order (by surname)

1.	DE RUPANJANA (Ms.) FCS 7530
2.	DUGAR GAUTAM FCS 7139
3.	GOENKA MOHAN RAM FCS 4515
4.	KEJRIWAL SANDIP KUMAR FCS 5152
5.	KHEMKA SUSHIL KUMAR FCS 3315
6.	MOHANTY SUNITA (Ms.) FCS 5056
7.	MURARKA SIDDHARTHA FCS 7527
8.	PUROHIT ASHOK KUMAR FCS 7490

ELECTION TO THE COUNCIL

FROM

Northern India Regional Constituency-2014

LIST OF CONTESTING CANDIDATES - in alphabetical order (by surname)

1.	AGRAWAL SHYAM FCS 6624
2.	BAJAJ RAJIV FCS 3662
3.	CHAUDHARY VINEET K. FCS 5327
4.	GUPTA JITESH FCS 3978
5.	GUPTA SUSHIL KUMAR FCS 3151
6.	JUNEJA ASHOK KUMAR FCS 1532
7.	KUKREJA DEEPAK FCS 4140
8.	KUMAR HARISH FCS 6752
9.	KUMAR SUMAN FCS 5824
10.	MEHTA HITENDER KUMAR FCS 3946
11.	MITTAL ATUL FCS 4498
12.	PANDEY RANJEET KUMAR FCS 5922
13.	PURI ARUN DEV FCS 4007
14.	RUSTAGI PAWAN KUMAR FCS 3815
15.	SHARMA B K FCS 6206
16.	SINGH K K FCS 4092
17.	SINGH SATWINDER FCS 2752

ELECTION TO THE REGIONAL COUNCIL

FROM

Northern India Regional Constituency-2014

LIST OF CONTESTING CANDIDATES - in alphabetical order
(by surname)

1.	AGGARWAL MANISH FCS 6714
2.	AGGARWAL VISHAL LOCHAN FCS 7241
3.	AHUJA KAMAL FCS 4867
4.	AHUJA SANDEEP FCS 2875
5.	ARORA DEEPAK FCS 5104
6.	ARORA NAVNEET KUMAR FCS 3214
7.	BANSAL ASHWANIE KUMAR (Dr.) FCS 6675
8.	BANSAL MANISH KUMAR FCS 5044
9.	BHAMBRI RAJEEV FCS 4327
10.	CHANDALIA ABHAY KUMAR FCS 7418
11.	CHAWLA N P S FCS 6987
12.	DAGAR SANJIV FCS 4772
13.	DEBNATH PRADEEP KUMAR FCS 6654
14.	GAHRANA AISHWARYA MOHAN FCS 6896
15.	GARG KAPOOR CHAND FCS 7145
16.	GOEL AMIT KUMAR FCS 6976
17.	GOEL NARESH KUMAR FCS 3760
18.	GUPTA AMIT FCS 5478
19.	GUPTA ASHISH KUMAR FCS 6433
20.	GUPTA BHUPESH FCS 4590
21.	GUPTA MANISH FCS 5123
22.	GUPTA SACHIN FCS 5313
23.	KALIA SAURABH FCS 7331
24.	KAUSHAL AMIT FCS 6230
25.	KHORANIA SATYENDRA PRASAD FCS 5989

26.	KOHLI MONIKA (Ms.) FCS 5480
27.	KUMAR PRANAV FCS 5013
28.	KUMAR RAJEEV FCS 5027
29.	NAYAN NISHANT FCS 6737
30.	SHARMA HARI PRAKASH FCS 4010
31.	SHARMA MANOJ FCS 7516
32.	SHARMA MUKESH FCS 2554
33.	SHARMA SATYENDRA FCS 5476
34.	SHUKLA DHANANJAY FCS 5886
35.	SINGH AVTAAR FCS 5905
36.	SINGHAL PANKAJ KUMAR FCS 6385
37.	SINHA NITESH KUMAR FCS 7536
38.	SURI MONICA (Ms.) FCS 7500
39.	VERMA RANJEET KUMAR FCS 6814

ELECTION TO THE COUNCIL

FROM

Southern India Regional Constituency-2014

LIST OF CONTESTING CANDIDATES - in alphabetical order
(by surname)

1.	AHALADA RAO V FCS 5019
2.	C RAMASUBRAMANIAM FCS 6125
3.	DIRAVIAM S FCS 4463
4.	HEGDE GOPALAKRISHNA FCS 6153
5.	JAGANNATHAM PUTTAPARTHI FCS 4500
6.	MARTHI SOMA SEKHAR FCS 1989
7.	RAMASAMY K FCS 6859
8.	SEETARAMAYYA B C FCS 1501

ELECTION TO THE REGIONAL COUNCIL

FROM

Southern India Regional Constituency-2014

LIST OF CONTESTING CANDIDATES - in alphabetical order
(by surname)

1.	DAMODARAN M FCS 5837
2.	DHANAPAL S FCS 6881
3.	GANAPATHI G M FCS 5659
4.	KANNAN R FCS 6718
5.	KUMARARAJAN S FCS 3562
6.	MOHAN KUMAR A FCS 4347
7.	RAMAKRISHNA GUPTA RACHARLA FCS 5523
8.	RAO NAGENDRA D FCS 5553
9.	SHANKARARAMANN V K FCS 5592
10.	SHASTRY P S FCS 4454
11.	SIVAKUMAR P FCS 3050
12.	SUBASH V S FCS 3907

ELECTION TO THE COUNCIL

FROM

Western India Regional Constituency-2014

LIST OF CONTESTING CANDIDATES - in alphabetical order
(by surname)

1.	BUCH HITESH D FCS 3145
2.	CHOKSHI RAGINI K (Ms.) FCS 2390
3.	DOSHI ASHISH C FCS 3544
4.	GALANDE SUDHIR MUKUND FCS 6325
5.	GARG ASHISH FCS 5181
6.	JAIN SHUBH KARAN (Dr.) FCS 1473
7.	KHARE VIKAS YASHWANT FCS 3541

8.	LELE MAKARAND M FCS 3453
9.	LUNAWAT MAHAVIR FCS 5751
10.	MEHTA ATUL HASMUKHRAI FCS 5782
11.	NAUTIYAL AMRITA D C FCS 5079
12.	VED UMESH HARJIVANDAS FCS 4411

ELECTION TO THE REGIONAL COUNCIL

FROM

Western India Regional Constituency-2014

LIST OF CONTESTING CANDIDATES - in alphabetical order
(by surname)

1.	ANASINGARAJU ANAGHA (Ms.) FCS 6630
2.	BHATT SWATI YASH (Ms.) FCS 7323
3.	DESHPANDE DEVENDRA VASANT FCS 6099
4.	DIXIT SHILPA KEDAR (Ms.) FCS 5819
5.	JAIN AMIT KUMAR FCS 6522
6.	JAIN ANSHUL KUMAR FCS 5547
7.	JOSHI KAMLESH FCS 5096
8.	KARODIA ASHISH FCS 6549
9.	KOTHARI HITESH FCS 6038
10.	MONDAL UMA SUNIL (Ms.) FCS 4687
11.	PADIA RAJSHREE SWADHIN (Ms.) FCS 6804
12.	PANDYA PRAKASH K FCS 3901
13.	PATEL CHETAN BABALDAS FCS 5188
14.	SAHASRABUDDHE RAHUL PADMAKAR FCS 6254
15.	SONI PRAVEEN FCS 6495
16.	TARPARA RAJESH CHHAGANBHAI FCS 6165
17.	VITHALANI JAYESH CHANDULAL FCS 4661
18.	VYAS RISHIKESH FCS 7424

46TH CS DAY CELEBRATIONS

HELD ON 4TH OCTOBER 2014 AT THE ASHOK, NEW DELHI

Address by Chief Guest Vijay Kumar Singh General (Retd.) {Hon'ble Union Minister of State (Independent Charge), Development of North Eastern Region; External Affairs; and Overseas Indian Affairs, Govt. of India}

Hon'ble Justice Shri Dilip Raosaheb Deshmukhi, Chairman, Company Law Board, Dr. Arun Chaturvedi, hon'ble Minister of Social Justice and Empowerment, Government of Rajasthan, Shri M J Joseph, additional secretary, Ministry of Corporate Affairs, Raj Yogini Bhrahm Kumari Ashaji, Director, Om Shanti Retreat Center, Shri R Shridharan, President, ICSI, Shri Sanjay Grover, Council member ICSI, Shri Sutanu Sinha, Chief Executive and Officiating Secretary, ICSI, students, officials past presidents and members of the governing councils and members of the Institute and members of the media; A very good evening to all of you.

It is an honor to be amongst you on the 46th Foundation Day, now called Company Secretaries Day. I feel privileged, because this is one profession which is not only growing but it is also getting the type of recognition that it should, and one thing that has been proved by the bill that came out in 2013, where you have been empowered to be performing a much greater role than what you were performing otherwise. Many institutions, all corporates do require somebody who can be somewhat of an ombudsman, somebody who can guide them, somebody who can monitor them, somebody who can provide the right advice and that is why company secretaries in lot of nations are called corporate secretaries; because they guide the corporates to be correct and it won't be a farfetched idea if we call you as chief governance officer of a corporate in which you are working; because you would be entrusted in working in the governance module that the organization follows.

There are a couple of things which come to one's mind and one is; what is the difference between a profession and professional. We all are in the profession. Everybody can be in a profession, but for you to be professional and to be practicing professionalism is the most important part of you. If you are a professional, if you are practicing professionalism you will maintain the highest standards of integrity. It comes with being professional and being imbued with the spirit that you will uphold the law, you will guide people correctly and you will ensure that everything functions in a manner it should. However, I think in your job, you are entrusted with ensuring that the corporates function in a manner in which

they can leverage the law for the betterment of the corporate. They can leverage their law in a manner in which they can ensure that they get maximum benefit by legally going right and not by using the legal means to go, and that is something which probably you will have to ensure. Today when you are carrying a super computer in your hand as part of your mobile and today when the population of mobiles has become so grown, probably in another year or so, you will have more mobiles than human beings in this world, each mobile being much more powerful than what it was yesterday. Technology is something which we need to use, and technology in your profession has to be used to ensure that there is greater transparency and assistance to you in ensuring that corporate affairs are governed well. And let me tell you, technology is changing every day. It has its own pitfalls, it has its own problems, but if you can utilize it correctly in your profession; I think we can give a fillip to the corporate affairs that you will be looking on.

Our Hon'ble Prime Minister has given the call for Make in India. The reason is very simple. Our economy has not been doing as well as it should have. We have been relying more on service sector and not on manufacturing. We have been very good at giving out statistics as to how our economy did very well, while it was all dependent on the service sector at the time. Although my personal opinion is that, statistics are figures which have been tortured enough to give desired results. I think statistics have to be taken with a pinch of salt. But this call that has come for "Make in India" is basically for the manufacturing sector. I think that you all will have a great role to play in that because more the manufacturing sector develops more industrial output, more jobs are available, more number of people get the fruits of this benefit and I think the country grows. But in all of these when we look at our manufacturing sector we have to look at the competitiveness of the manufacturing sector. In the world today if you cannot maintain quality, if you cannot compete with the type of trade regime that persists then whatever you may produce, it cannot really be contributing towards quality and therefore, I think you are all as part of your duties will have to ensure that this is something which you focus on as to how you can bring in competitiveness, how you can bring in quality control, how you can ensure that things which go out can compete with the best in the world. That is the only way that our economy will come up. That is the only way in which our corporates will grow. Otherwise we will find it a problem.

You have a very strong cadre; I am told 36,000 company secretaries and almost 4 ½ lakh students who are working. I

think with the doors having been opened for more things which will come into your sphere of influence, whether it is insolvency, whether it is winding up of businesses, whether it is how exactly you will restructure the business regimes, there is a lot that is there available for the large number who is taking on to this profession. I am quite sure, in the world where we want to do well, there is enough place for the type of human resources that we require and human resource development is the most important aspect of any organization.

We have a great responsibility in terms of taking the nation forward and you have a great responsibility in ensuring that you contribute towards nation building in a manner in which our economy can prosper and we can become what we want.

Thank you very much. Jai Hind.

Address by Justice Dilip Raosaheb Deshmukh (Chairman, Company Law Board)

Esteemed dignitaries on the dais, hon'ble invitees including past presidents and office bearers of the Institute of Company Secretaries of India and my dear company secretaries; I pray that may God give us the strength that the righteousness within us shall destroy the evil within us for all times to come and give us strength to take the nation to highest level of prosperity.

As you all know, I am always extremely happy to be here amongst all of you and I must express that I am always delighted and feel honored whenever I am with you, because I firmly believe that the company secretaries as key managerial persons have the ability to bring in the required transformation in the corporate world. The Institute of Company Secretaries of India deserves complements for making all out efforts for providing outstanding leadership, not only in the academic campus but also for the legal fraternity in the corporate world. It is through professional development programs and such other activities that the institute has been imparting continued education to its members to keep them updated in various developments in the relevant laws, as well as corporate and business environment. On the Foundation day of the ICSI, it is therefore necessary for all of you to remember the hard work and untiring effort for over four decades done by this Institute to instill greater confidence, skill and knowledge base in all of you.

The Companies Act, 2013, as you all know, presents a paradigm shift in the way every stakeholder in the corporation has to think, act and perform. It transports India into the big league in corporate governance and corporate democracy. It also transforms company secretaries as key managerial persons and holds them responsible for implementation of all relevant laws applicable to the companies. It envisages a multi dimensional role for them in areas of secretarial audit, restructuring, liquidation, valuation and much more in as much as applicability

of secretarial standards, revised framework for regulation of mergers and amalgamations, insolvency, rehabilitation, liquidation and winding up of companies offer great scope for company secretaries not only to act as liquidator or administrator but also to represent the present the various stakeholders before the tribunal. It is quite visible that to promote good governance, detailed disclosures are contemplated under the Companies Act, 2013, for the compliance of which the companies would look forward to the professionals including company secretaries.

I also hope and trust that the company secretaries salute none else but their duties and emerge as winners at the end. Shri APJ Abdul Kalam the then Hon'ble President of India had said, "If you salute your duty you do not require to salute anybody else, but if you pollute your duty you must salute everybody else". Company secretaries are required to adopt a righteous attitude while discharging their functions.

The human in order to adapt to the nature should adapt to the change also. This is even more true in case of professionals who work amidst constantly changing environment. With the opening of floodgates of international competition exposing the Indian industry to the world trade, the challenges faced by the business houses have increased manifold. In order to cope up with the unseen and hitherto un-experienced business situations, the professional who advises the management, is bound to learn new things with different backgrounds. The primary need of the hour is that every professional should not only live up to the standards and position himself to safeguard the policies, rules, regulations and the intention of the law but should also ensure righteousness and enforcement of all such rules by all concerned.

In the corporate world the elements of good governance encompasses all and transcends all boundaries of time and space. Corporate governance is usually understood to apply to organizations. However, in broader context governance can be at the state level, at the organizational level, institutional level as well as at the family level, with the each lower level embedded in the higher one. Corporate governance is, therefore, dependent on the efficacy of governance at the institutional and state level as well as individual integrity. Company secretaries as governance professionals can play an important role by developing an understanding of the needs and expectations of various stakeholders who provide the resources tangible and intangible for the corporate world to work and succeed. They can strike a balance amongst conflicting demand expectations. They need to own their responsibility to ensure that the corporate sector creates a governance culture that is sustainable, ethical and socially beneficial and fulfills its obligations to all the stakeholders.

What I expect of a company secretary is not only to excel individually in the field, not only to have the righteous attitude in whatever they do not only to be honest and have absolute

integrity, but also to carry the entire Institution and the reputation and integrity of the institution as a whole with them and emerge as winners at the end. I also expect the Institute to come to the rescue of any company secretary, who during the course of his tenure as a company secretary with any corporation has had to face any kind of humiliation, just because he was righteous, he maintains his integrity and he did what according to the law was right. I expect that the institute will formulate some policies so that it comes to the rescue of such company secretaries.

Before I close I give all of you my blessings and expect that each one of you would do your very best in life, notwithstanding any initial failure or lapse. A sincere effort shall continue always, aspire high, give it your very best and keep trying. It is said that not failure but low ambition is a crime. As practicing company secretaries you would advance the law and provide leadership and innovation to the corporate world. Remember, in the end all of you would assess the sum total of your legal career not by what you got but what you gave. I recall the stirring words of wisdom from the Nobel laureate Gurudev Rabindranath Tagore in Gitanjali "where the mind is without fear and the head is held high, where the knowledge is free, where the world has not been broken up into fragments by narrow domestic walls, where words come out from the depth of truth, where the tireless striving stretches its song towards perfection, where the clear stream of reason has not lost its way into the dreary desert lands of dead habit, where the mind is led forward by deed into that heaven of freedom, my father, let my country awake".

Excerpts from the Address of Dr. Arun Chaturvedi, (Hon'ble Minister of Social Justice and Empowerment, Government of Rajasthan)

It is a matter of pride for me to be here. Institute of Company Secretaries of India is amongst the reputed Institutes of India.

Although Company Secretary used to be the backbone of any company, but after the Companies Act, 2013, a Company Secretary has to play a major role, from policy making to execution. In today's scenario, companies are facing global challenges in terms of financing, management etc. We have to prepare our self for all these challenges. World is looking at India for human talents. We have to nurture students, prepare Company Secretaries by providing quality curriculum with necessary exposure through conferences/seminars, to meet up the requirements.

The Prime Minister has talked about Corporate Social Responsibility in his vision, which is also there in the Companies Act, 2013. Companies should not only focus on profits rather they should think beyond. In Corporate Social Responsibility, both donor and beneficiaries are in confused state; particularly donor companies do not know to whom they can donate grants.

Company secretaries can play an important role here by helping companies in discharging their Corporate Social Responsibility and thus contribute for a larger cause towards society and country. I hail from the Social Justice Ministry, where a large number of NGO's are active. Funding to these NGO's are generally based on their audit. For instance, Government of Rajasthan is spending about Rs10 crore on "Nasha Bandi" but we are not getting the type of results. Company Secretaries can also contribute something in this direction; they can suggest the government on how to put checks and balances to monitor the functioning of such NGO's. As Mr. Joseph has said, we have around 9 lakh active companies registered in India; we therefore need to prepare Company Secretaries in sufficient numbers, to accept the challenges posed.

I wish you again a Happy CS Foundation Day.

Excerpts from the Address by M J Joseph (Additional Secretary, Ministry of Corporate Affairs)

It is an honor for me to be present at such an important occasion as to celebrate the 46th Anniversary of the Institute of Company Secretaries of this country and indeed the noble profession of company secretaries in this country.

We are also fortunate here to have some of the leading lights and Past President of the Institute. Going back to pre-independence days, then after independence the New Companies Act, 1956 was being framed. Back then, there were not more than 30,000 companies in India. Today we have more than 9 lakh active companies, totally about 13 lakh companies do exist but indifferent forms, but in any given point of time there are about 9 lakhs. You could see the exponential growth, as Indian corporate sector grows, both public and private sector grow. With it grew the demands and the challenges on the profession of company secretaries.

Unanimous bipartisan support cutting across 44 political parties in both houses of parliament gave this country a new law, the New Companies Act, 2013. Here comes the institution, as the profession of the Company Secretaries is recognized as the key managerial personnel and along with it come all the important responsibilities, duties and challenges. It is equally important for company secretaries to understand the profession, the operations of the company in every respect, both technical and managerial and then contribute to the discussions that take place. This poses an enormous responsibility and I am sure, you all will rise to the challenge of this profession.

With these words I think it is a great privilege and thank you very much.

Excerpts from the Address of Rajyogini

Brahma Kumari Asha Ji

Respected Chief Guest of this evening and my dear brothers and sisters.

I am indeed glad to be a part of the celebrations of Institute of Company Secretaries of India. It is a happy moment and while I was sitting here I was thinking; is happiness an achievement or it is a journey? I think it is a journey, and happiness is our daily decision. This is what tells us, if I want to be a good administrator, be a part of good governance then I am to be a master of everything that is around me. It is not the external world that makes me happy, but it is my own decisions. What I am here today is my own decision.

General V.K. Singh very correctly said that if one aspect we must give attention to, is Human Resource Development. I recall, when United Nations were celebrating its 50th anniversary they said, it would be best to place the human being on the centre stage, because everything that is being done is through human beings. But we have been giving attention to other things and not human beings. I live at a place where I see a lot of groups from corporate world and when I interact with them, what I find they need human touch. What is more important is your heart.

I would like to say, encourage, empathize and empower and most important is enrichment. Enrichment with values; do it first for you. If you think the way you have been thinking you will always do the way you have been doing. If you always do the way you have been doing you will always get what you have been getting. The choice is yours. Listen to the voice of your conscience.

Finally, don't interfere in anyone else's life. Write your own script. If you start writing the script of others, your own business will go bankrupt. Better don't interfere. Similarly develop the art of acceptance. If you want to enjoy the ability to influence others, if you want to encourage and empower others, if you want to resolve conflicts in any relationships then accept. Similarly if you want to be a leader, accept your people as they are.

Excerpts from the Address of CS R. Sridharan (President, ICSI)

Foundation Day of a Professional Institute is an occasion to rejoice. It is also an occasion to be reborn, to unlearn and relearn; in a way, to rediscover and rejuvenate. I deem it a proud privilege to welcome you all to this year's Foundation Day Celebration. It is a day when we not only exchange pleasantries, but also re-dedicate ourselves to professional values, share our achievements and prepare ourselves for the future challenges.

Global industry across all sectors is experiencing extraordinary transformation and radical changes. Amidst these waves of change, Company Secretaries have to seize opportunities and achieve competitive breakthrough to position for leadership. Our competitive position in this highly demanding environment would

largely depend on the speed with which we climb the learning curve, seize new opportunity zones and create innovative ways to transform convergence into a value delivery proposition and finally the speed with which we deliver our services.

The Institute and the profession have made steady advances in terms of recognition, multidisciplinary expertise, professional excellence and expanse in the nook and corner of the country. The Institute has come a long way – emerging as a tiny acorn to convert into a mighty oak – a premier professional body. Now the responsibility lies with the present Company Secretaries to set new benchmarks of professionalism and excellence.

Friends, on this solemn occasion of the Institute's birthday, we see many a sweet dream supported solidly by our iron will to move ahead. And it is the singular privilege and prerogative of our distinguished guests today to give us the green signal for greener future and to put it on the fast track, the bullet track.

Excerpts from the Welcome Address by Sanjay Grover (Council Member of ICSI)

On behalf of the Council of the Institute I take the privilege of extending a very cordial welcome to all present here. ICSI's glorious ongoing journey has reached another milestone today as we are celebrating CS day. On this day the Institute completes 46 years of its existence as a prominent institution of great legacy of professional excellence to corporate compliances, corporate governance and service to the nation. Indeed it is an occasion of pride to us and to cherish and carry forward the professional values and the targets set out by the torch bearers of the profession. It is our paramount duty and responsibility to preserve this legacy and pass it on to our next generation in a much bigger way.

The Institute today probably boasts of being the largest Company Secretaries body in the world with about 37,000 members and more than 4 lakh students, whose needs are being catered through a central council, four regional councils and 66 chapters PAN India. Today's CS enjoys an extraordinary position in the corporate and professional order of the country. The traditional role of company secretaries has now changed into governance professional, the role of company secretary has shifted from back room to board room. There are still many challenges to be met, many frontiers to be conquered and histories to be created. Newer and newer opportunities are emerging in the garb of challenges particularly in the spheres of Companies Act, 2013.

The CS Day is not just an occasion for professionals to rejoin but also to set standards, reinvent and renew our resolve for selfless and value added services to the nation. I urge you all to take a pledge on this historic day to recommit yourself to enhance the level of corporate governance in the country.

GLIMPSES OF 46TH CS DAY CELEBRATIONS AT HEADQUARTERS, REGIONAL AND CHAPTER OFFICES ON 4TH OCTOBER, 2014

The ICSI celebrated its 46th Foundation Day as CS Day all over the country through its Regional and Chapter offices by organizing seminars, investor awareness programmes, quiz competitions, blood donation camps, painting competitions, debates etc. A mega programme was organised at hotel The Ashok, New Delhi on 4th October, 2014 which was attended by a huge number of members, students and employees of ICSI. Shri Vijay Kumar Singh, Gen. (Retd.), Hon'ble Union Minister of State (Independent Charge), Development of North Eastern Region; External Affairs; and Overseas Indian Affairs, Government of India was the Chief Guest. Hon'ble Justice Shri Dilip Raosaheb Deshmukh, Chairman, Company Law Board, Dr. Arun Chaturvedi, Hon'ble Minister of Social Justice and Empowerment, Government of Rajasthan, Shri M J Joseph, Additional Secretary, Ministry of Corporate Affairs were the Guests of Honour. Rajyogini Brahma Kumari Asha delivered a motivational discourse at the programme. Former Presidents and former Secretaries of the Institute present on the occasion were felicitated for their distinguished contribution to the profession of Company Secretaries and the Institute. Various research publications and e-initiatives of the Institute were released / launched on the occasion.

EASTERN INDIA REGIONAL OFFICE

EIRO celebrated the CS day with great enthusiasm and fervour. Students recalled the advancement of the Institute through stages. A number of programmes were organized on the day including a workshop on Soft Skills and Personality Development. Active group participation by the Members and Students made the programme lively. Video projection on positive attitude and marvels of determination was also made on the occasion.

The programme started with a brief introduction by Ms. Neetu Poddar, student of CS course on the formation of the Institute and its journey through stages followed by a workshop on Soft Skills & Personality Development conducted by CS Mohit Shaw. CS Shaw also conducted interactive sessions through Group Discussion with the participants. The topics for discussion included 'politicians should have a retirement age', 'it's easier to cover the distance of Mars rather than the closer distance' and few more. Inspirational videos were shown and the motive behind it was nicely highlighted by CS Mohit. Queries from the audience regarding career and future aspects were duly replied. The programme ended with a vote of thanks by Mr. Nihar, CS Student and was followed by tea and light refreshments.

BHUBANESWAR CHAPTER

On 04.10.2014, Bhubaneswar Chapter celebrated CS day at its premises by organizing programmes on Personality Development, Public Speaking, Quiz/Debate competition amongst the students and members of the ICSI, a Panel discussion on "GDP and Environment" was also held. In addition, the Chapter also set up a separate stall for CSBF awareness wherein CSBF forms along with brochures were distributed for enrolment in CSBF. CS A. Acharya, Chairman, CS P

Nayak, Secretary & Treasurer of the Chapter, CS Biswajit Bedamata, Practising Company Secretary, P.K. Acharya, Chief Manager (Finance), Tata Power Company Limited, and Dr. Mangesh Dash, HR Consultant (Twaran) Acceleration, Bhubaneswar addressed on the occasion. A good number of members, students and faculties of the CS course the programme on the CS Day.

HOOGHLY CHAPTER

Hooghly Chapter of EIRC of ICSI organized "46th CS Day Celebration" on 4th October, 2014 at Hooghly Chapter Conference Hall, Rishra, Hooghly. On this occasion many senior members of the Institute were present along with students for celebrating CS Day. CS Rahul Harsh spoke about the 'History of ICSI' which was praised by everyone present on the occasion.

CS Jamshed Alam, Chairman, Hooghly Chapter explained the significance of the prefix word i.e. CS. He also explained the growth of ICSI during the last 45 years. He also shared the status and position of Company Secretary after the enforcement of the Companies Act, 2013. CS Jamshed Alam also took oath with all the members and students that they will work together for the growth and development of the profession of Company Secretaries.

The Chapter also participated in community service 'Helping the Disabled' by supporting the moral Ethics at a Blind School in Rishra, Hooghly.

On this occasion CS Hansraj Jaria, DGM & Company Secretary-Ratnabali Capital Markets Ltd and Mr. Mohit Sharma, student of CS course shared their thoughts and experiences as member and student respectively.

CS Jamshed Alam, coordinated the programme and thanked every one for making 4th October, 2014 a special Day in the history of ICSI and Hooghly Chapter.

RANCHI CHAPTER

The Ranchi Chapter of EIRC of ICSI celebrated the CS Day to facilitate the vision & mission of the Institute of Company Secretaries of India by organising an essay writing competition for the CS students on "Company Secretary and his role in India's Economic Development". Upkeeping the importance of the day for the members of Team ICSI the officials at Ranchi Chapter took the initiative to celebrate the day with its stakeholders. Students of CS Executive and Professional stream participated in this competition and expressed their gratitude to the Institute for providing them such opportunities on this significant day.

NORTHERN INDIA REGIONAL OFFICE

Northern India Regional Office of the Institute of Company Secretaries of India celebrated 46th CS Day on 3rd and 4th October 2014. Various programmes and competitions for students, members and employees were organized as part of the celebration.

On 3rd October 2014, a talk on Leadership & Motivation, Communication & Public Speaking was addressed by Mr. Praveen Narang, Corporate Trainer at NIRC – ICSI Building.

On 4th October 2014, the Inaugural function of 46th CS Day was organized at ICSI-NIRC Building. CS R Sridharan, President, ICSI, CS R. Krishnan, CS (Dr.) G.B. Rao, CS Nesar Ahmad, Past Presidents of ICSI graced the occasion with their presence and addressed the gathering. They informed the members and students present on the occasion about the history & journey of the Institute and also mentioned that it is because of the hard work put in by the predecessors, that the Institute has reached to the present level. They informed the participants about various international recognitions given to the CS profession. They advised them to maintain the dignity of the Institute and follow the code of conduct & professional ethics. They also informed about various developments during the recent past at the Institute's level. A Blood Donation Camp by Rotary Blood Bank and Medical Check Up by BLK Super Speciality Hospital were also organized at the NIRC premises.

Competitions like Essay Writing Competition on the topic 'Role of Company Secretary in present scenario' and Painting Competition 'CSR/ Governance/ Sustainable Development' were conducted where a large number of students actively participated. Ms. Kanika Kapoor won the first prize in Essay Writing Competition. Mr. Palak Middha and Ms. Ekta Jain won second and third prizes respectively. Ms. Ayushi Jain, won the first prize in Painting Competition. Ms. Kanika Kapoor and Ms. Garima Singh secured second and third prizes respectively.

Career Awareness Program were conducted in 6 schools across Delhi: Dhanpat Mal Virmani Sr. Sec. School – Roop Nagar, Sarvodaya Vidyalaya No. 4 – Roop Nagar, Govt. Boys. Sr. Sec. School – Magazine Road, Govt. (Co.Ed) Sr. Sec. School – Mayur Vihar, Govt. Girls Sr.

Sec. School – Dilshad Garden and Govt. Boys Sr. Sec. School – Mayur Vihar I.

An Investor Awareness Program on the topic 'Recent Trends in Capital Market' was organized at Bharati College, University of Delhi and around 100 participants attended the program. CS J K Bareja was the speaker for the program.

AJMER CHAPTER

The Chapter organised an Essay writing & Speech Competition on C S Day. The topics that served the programme were: Blood Donation, Women Empowerment, Economic Globalization, Role and opportunities for CS and Role of media in current scenario.

An interactive session was thoroughly judged by CA Alok Sethi and Mr. Mukesh Bharti (Personality Development Faculty). CS Kishan Maheshwari, Chapter Chairman inaugurated the session and warmly welcomed all the participants. The dignitaries highlighted the importance of CS in today's competitive world. The Institute is determined to serve the students in profoundly holding the CS title. Prizes were distributed to the winners and consolation prizes were given to all the participants. After the session, refreshments were offered to the members, guests & participants.

FARIDABAD CHAPTER

The Chapter celebrated 46th CS Day on 4th Oct 2014. The programme was chaired by CS Vinit Sikka, Former Chairman of the Chapter. CS Sahil Girdhar and CS Atul Arora were the Guests of the programme. More than 60 students and members gathered on this auspicious day and participated in the following activities:

- (1) Talk on leadership and Motivation.
- (2) Talk on Public Speaking.
- (3) Debate Competition.

As a motivation and encouragement, the Best Speakers amongst students were awarded the certificates of appreciation.

GHAZIABAD CHAPTER

Ghaziabad Chapter celebrated CS Day by organizing Essay Competition on the topic "Role of Company Secretary in present scenario". The Programme was attended by members, students and employees of the ICSI.

JAIPUR CHAPTER

The CS day was celebrated at Jaipur Chapter premises. On this occasion Poster competition, Essay writing competition, Slogan Competition, Drawing & Painting competition, Tree Plantation, Motivational Lectures & Talk were organized. Members and students

showed their creativity in various activities. A large number of members, students, other Managing Committee members and staff participated in this program.

LUCKNOW CHAPTER

The Lucknow Chapter celebrated CS Day at the Chapter's premises. CS Anuj Kumar Tiwari, inaugurating the events reminded the gathering of students and members that 46 years ago Institute was established as Section 25 Company. Since then we have traversed a long distance and shown high level of professionalism in tackling corporate matters. Students of the Chapter took a pledge in keeping the spirit of Prime Minister Narendra Modi's call for "Swachh Bharat". A debate competition on the same topic was held at Chapter premises. The celebrations continued the next day with a Free Medical Checkup Camp and Blood Donation Camp being held at the Chapter.

SOUTHERN INDIA REGIONAL OFFICE

Southern India Regional office of the ICSI conducted a number of programmes on 4th October, 2014 at "ICSI-SIRC House", Chennai. It included programmes on Personality development, BLOOD DONATION CAMP, Quiz Programme, and Investor Awareness Programme as under:

Personality Development Programme: SIRC of the ICSI conducted a special programme on Personality Development on the theme "Personal Growth and Success" on 4th October, 2014 at "ICSI-SIRC House", Chennai. Mr.S. N. Padmaja of Victory Insights, Chennai addressed the participants. In her address, he explained about Personality Development, Communication Skills and Interpersonal relationships. Mr. M. Keshav, Founder-CEO of Mantra, Attitude Consultant, Chennai addressed on "Goal Setting" and Mr. V. Mukund, Chennai spoke on "Team Working Skills"

Blood Donation Camp: A Blood Donation Camp was organised in association with Rotary Central, TTK VHS, Blood Bank, Chennai. 37 persons including members, students and SIRO officials donated Blood towards this noble cause.

Quiz Programme: Five teams participated in the quiz Competition held on the occasion. Mr. R. Arvind, Manager - Secretarial, Dr. Agarwal's Health Care Ltd., Chennai was the Quiz Master.

Mr. M. Manikandan, and Mr. S. Syed Fazil Shariq, students of CS programme were declared as winners of the Competition. Ms. S. Vinodha and Ms. I. Urmila Yadav, were declared as Runner-up of the Competition.

Investor Awareness Programme: An Investor Awareness Programme on "Current Trends in Securities Markets" was also

organised. Mr. Shyam Sekhar, President, Tamilnadu Investors Association, Chennai was the speaker. Mr. S. Srikanth, Secretary, Tamilnadu Investors' Association, Chennai welcomed and introduced the speaker to the gathering. Mr. Shyam Sekhar spoke in detail on the present scenario of the securities market and shared his experiences on the nuances of trading in securities. He observed that the investors have to exercise caution while investing in high value shares and study the industry as a whole before investing. He enlightened the audience on the current trends in securities market which was greatly appreciated by the participants. There was a lively interaction amongst the participants. Various queries raised by the participants were suitably replied by the speaker.

Special programmes were also organized at some chapters under SIRC. Particularly a Blood Donation Camp was organised by the ICSI- Bangalore Chapter on 04-10-2014 at New Building Premises. CS S.C. Sharada, Chairperson of the Chapter presented the appreciation Certificate to the Donors.

COIMBATORE CHAPTER

ICSI-Coimbatore Chapter also celebrated 'CS Day' with fervour and enthusiasm. The Chapter created a visibility among public by celebrating the 'CS Day' by organising programmes like, Blood Donation Camp, General Medical Camp, Free Eye Camp, Essay Writing Competition for Students, and Special Programme on 'Stress Management'.

Chapter invited all CS students, members and their family members and also general public to attend the programme. The programme was recorded and was telecast by the 'Sankara TV', a Tamil local TV channel. An Essay Writing Competition was also organized for CS students on the Topic of 'Role of CS under the Companies Act 2013'.

At the special programme on Stress Management Dr. V Sukumar, [mNemonic learning Institute, Coimbatore] was the speaker. He gave various tips to manage the human stress with the help of 'Various Exercises'. The Live Interaction Programme was attended by 35 participants including CS Members and students.

HYDERABAD CHAPTER

The ICSI-Hyderabad Chapter celebrated by organising a Talk on "Branding ICSI- Bonding with CS" and felicitating senior members of the profession. CS C. Sudhir Babu, Council Member welcomed the participants and gave introduction about ICSI's glorious ongoing journey since inception. He also talked on various achievements of ICSI and different phases of progress made by the Institute during the last four decades. CS Dr. P.V.S. Jagan Mohan Rao, Past President, the ICSI also talked on the occasion and shared his wonderful experiences with the Institute and briefed about the long journey. He also praised the initiative of the Institute to celebrate CS Foundation Day across India in all ROs and Chapters.

CS Balachandra Sunku also spoke on the occasion and praised the Institute for the progress made over the years and complimented the members. Senior members present on the occasion were felicitated with mementoes. Further Students and Members who participated in the Swachh Bharat Abhiyan held on 2nd October, 2014 were also honoured with mementoes and gifts.

KOCHI CHAPTER

Kochi Chapter also celebrated CS Day at ICSI House, Kochi. The programme was followed by a seminar on 'CSR'. CS Rajesh Kumar K, Ernakulam led the session. On the occasion a memento was presented to Mr. Aswin Sharma, who won 4th rank in all India Professional level examination held in 2014, by CS P.C. Jose and CSP. K. Krishnamurthy. The programme was well attended by members and students.

MANGALORE CHAPTER

The Chapter celebrated CS day by planting saplings in the surrounding areas of Mangalore City Corporation. CS Ullas Kumar Melinamogaru, Chapter Chairman along with Sankara Rao Badi, In-charge Chapter Office, students of the Chapter and residents of the surrounding areas participated in the programme.

SALEM CHAPTER

The Salem Chapter celebrated CS Day with over 50 Members and Student participating in the function on the eventful Day. CA V. Jayaprakash, Chairman of the Salem Branch of the Institute of Chartered Accountants of India presided over the function. A Quiz Programme was conducted to mark the Day and students evinced interest and showed enthusiasm and spirit.

Chairman of the Salem Chapter welcomed the participants and recalled the growth of the Institute since its inception in 1968 and how the past Presidents and Central Council Members, past Chairmen of the Southern India Regional Council of the Institute and their Regional Council Members contributed to the mite of the Institute.

Secretary of the Salem Chapter remembered the efforts made by all the Presidents, Council members and Secretaries of the Institute in nurturing the Institute and its activities and envisioned the future growth of the Institute as what we see today. He impressed upon the students the care taken by the Institute in bringing out the Chartered Secretary Magazine and the Student Chartered Secretary which is a treasure for its members and student members carrying current topics and latest pronouncements. The Institute has represented in various Government forums, RBI, the SEBI and other regulatory bodies and has instituted the Corporate Governance Awards to the Corporates and the Company Secretary who initiated Corporate Governance Norms in the Corporates enhancing the values of the Institute.

CA V. Jayaprakash, Chairman of the ICAI informed the participants

that he is also a student of the ICSI and due to preoccupations could not pursue the course and he is still interested to pursue the course if time permits. His ambition in life is to be a Company Secretary also and he is happy that a small Chapter like Salem Chapter of ICSI could bring good results in the Company Secretaryship Examination conducted by the Institute by coaching students. He advised the students to concentrate on their studies and complete the course as early as possible so that more number of CS would come up in Salem Region to serve the corporate.

WESTERN INDIA REGIONAL OFFICE

AHMEDABAD CHAPTER

The Ahmedabad Chapter organised a Panel Discussion on "Importance of Youth" and A Lecture Meeting on "Brand You" on the occasion of CS Day Celebrations at the Chapter office. Ms. Kruti Jadawala, Corporate Trainer guided the participants including CS Members and Students in the Panel Discussion on "Importance of Youth". The Lecture Meeting on "Brand You" was addressed by Mr. Snehal Desai, AGM, Adani Enterprises Ltd. The Celebration was appreciated by one and all present. The Secretary, Ahmedabad Chapter of WIRC of ICSI, Senior CS members, PCS and students attended the programme.

INDORE CHAPTER

Indore Chapter celebrated "CS Day" by organising a General Knowledge Quiz and Cake Cutting Ceremony. The Members and Students of Indore Chapter celebrated CS Day with full enthusiasm.

VADODARA CHAPTER

The Vadodara Chapter organized a Lecture Meeting on the occasion at the Chapter premises. CS J J Gandhi, Practicing Company Secretary, Vadodara, apprised the Members and Students on the theme of "Related Party Transaction under The Companies Act – 2013 and Revised Clause 49". Members and Students actively participated in the discussions and exchanged views and question answers. The Meeting provided knowledge enrichment of the participants on the subject.

ICSI-CCGRT

CS Foundation Day Celebrations on 4th October, 2014 began with caring for environment by planting flower plants with the hope that in the years to come as these plants will grow, it will result into blossoming of wisdom. The plantation was carried out by Shri Gopal Chalam, Dean, Dr. Rajesh Kumar Agrawal, Director, Shri DVNS Sarma, Deputy Director, Shri Akinchan B Sinha, Assistant Director, Staff and the most important, the budding Company Secretaries, i.e. the students of ICSI-CCGRT.

Among the three P's of Corporate Governance, the two important P's, i.e. Planet and People got exhibited, first by undertaking plantation activities and second by donation of blood by the Integrated CS students whose fervour to serve the society was an exemplar for many. Another key activity that displayed the Institute's caring approach towards the society was visit to an NGO, named Kanchan Foundation, where Team CCGT spent quality time with the children and NGO staff. As a token of service for mankind, pencils, notepads and biscuits were distributed among the children.

Taking the celebration further, a program was organized jointly with the MSOP batch (undergoing training at WIRO) and Integrated Company Secretary Course students of CCGRT at Western India Regional Office. The program comprised of cultural events and presentations on Companies Act, 2013 on the theme, "New Companies Act- A Lighthouse for the Corporate World". Mr. Krishna Gupta and Mr. Vinay

Pandey, students of Integrated Company Secretary Course gave the presentation on the mentioned theme. The opening speech of the ceremony was given by Dr. Rajesh Kumar Agrawal, Director, ICSI-CCGRT, wherein he conveyed heartfelt gratitude to MSOP batch and WIRO (Western India Regional Office) for providing an esteemed opportunity to participate in the CS-Foundation Day program.

The vote of thanks proposed by senior Practicing Company Secretary, CS Pramod Shah, wherein he gave inspirational speech to the students. He advised that students should always keep themselves updated with latest developments taking place in various laws pertaining to corporate so that they can serve their clients in the best possible way.

The Foundation Day celebration concluded with visit to Girgaum Chaupati and Queen's Necklace.



THE INSTITUTE OF Company Secretaries of India

IN PURSUIT OF PROFESSIONAL EXCELLENCE

Statutory body under an Act of Parliament

ICSI House , 22 , Institutional Area, Lodi Road, New Delhi –110 003

Phones : 41504444, 45341000 Fax : 91-11-24626727

E-Mail : info@icsi.edu Website : www.icsi.edu

CAREER OPPORTUNITIES


The ICSI, a premier professional body constituted under an Act of Parliament, invites applications for the following posts at its Headquarters, Regional Offices & ICSI-CCGRT, Navi Mumbai :-

Name of the Post	Pay Band & Grade Pay (Rs.)	Max. Age (as on 01.11.2014)	Total No. of Posts
Director (HR)	37400-67000 with Grade Pay-8700/-	45 years	1
Joint Director (Internal Audit)/ Director (Internal Audit)	15600-39100 with Grade Pay-7600/- 37400-67000 with Grade Pay-8700/-	45 years	1
Assistant Professor/ Associate Professor	15600-39100 with Grade Pay-6000/- 37400-67000 with Grade Pay-9000/-	40 years 45 years	2 3
Junior Programmer	5200-20200 with Grade Pay- 2400/-	35 years	1

For further details viz. qualification, experience, procedure for submission of application, etc., please visit our website www.icsi.edu/career with effect from **1st November, 2014**. Interested candidates must **apply only through electronic application form (On-line)**. Last date for submission of application (On-line) is **20th November, 2014**. The "ICSI" reserves the right to increase/decrease or even not to fill up any posts as per its requirement.

(P K Grover)
Joint Secretary (SG)-HR

प्रारूप ओ - 2
FORM O-2


संघीय लोकतान्त्रिक गणतन्त्र भारत
भारत सरकार
GOVERNMENT OF INDIA
व्यापार चिन्ह रजिस्ट्री
TRADE MARKS REGISTRY
व्यापार चिन्ह अधिनियम, 1999
Trade Marks Act, 1999
क्रमांक
No. 1189211

व्यापार चिन्ह के रजिस्ट्रीकरण का प्रमाणपत्र, धारा 23 (2) नियम 62 (1)
Certificate of Registration of Trade Mark, Section 23 (2), Rule 62 (1)

व्यापार चिन्ह संख्या / Trade Mark No. 2158566 दिनांक / Date 13/06/2011 ज.संख्या / J.No. 1638


यह प्रमाणित किया जाता है कि जिस प्रकार चिन्ह की समाकृति इसके साथ संलग्न है, वह के बारे में दिनांक नाम से रजिस्ट्रीकृत हो चुका है।

Certified that the Trade Mark / a representation is annexed hereto, has been registered in the name(s) of

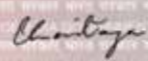
THE INSTITUTE OF COMPANY SECRETARIES OF INDIA, ICSI HOUSE, 22 INSTITUTIONAL AREA, LODI ROAD, NEW DELHI - 110003, SERVICE, (Body Incorporate)

In Class 41 Under No. 2158566 as of the Date 13 June 2011 In respect of

Good Description As Annexed


व्यापार चिन्ह रजिस्ट्री
TRADE MARKS REGISTRY
संघीय लोकतान्त्रिक गणतन्त्र भारत
MUMBAI
मुंबई

मेरे निदेश पर आज के 20th मास के 10th दिनांक को इस पर मुद्रा लगायी गई।
Sealed at my direction, this 20th day of October, 2014


व्यापार चिन्ह रजिस्ट्री, DELHI
Trade Marks Registry, DELHI
व्यापार चिन्ह रजिस्ट्रार
Registrar of Trade Marks

रजिस्ट्रीकरण अवधि की अवधि 10 वर्ष के लिए है और अनुपचार्य वह 10 वर्ष की अवधि के लिए और प्रत्येक 10 वर्ष की अवधि के अवधि पर ही नवीनीकृत किया जा सकता है।
Registration is for 10 years from the date of application and may then be renewed for a period of 10 years and also at the expiration of each period of 10 years.

यह प्रमाणपत्र सिर्फ कानूनी कार्य के लिए या विदेश में रजिस्ट्रीकरण अधिग्रहण करने के लिए नहीं है।
This certificate is not for use in Legal proceedings or for obtaining Registration abroad.

टिप्पणी - इस व्यापार चिन्ह के स्वामित्व में कोई परिवर्तन होने पर, या कारखाने के पता में या भारत में नमूने के स्थानों में परिवर्तन होने पर परिवर्तन के लिए आवेदन तुरंत किया जाना चाहिए।
Note - Upon any change of ownership of this Trade Mark, or change in address, of the principal place of business or address for service in India a request should AT ONCE be made to register the change.

Annexure of Certificate No.: 1189211
Trade Mark No. 2158566 Date 13/06/2011

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Class	Goods Description
41	PROVIDING EDUCATION & PROFESSIONAL QUALIFICATION AND CERTIFICATION SERVICES IN RELATION TO THE COMPANY SECRETARY COURSE OR ANY OTHER DEGREE, DIPLOMA OR CERTIFICATE COURSE INCLUDING TRAINING AND CONTENT BASED SERVICES IN OR IN RELATION TO BOOKS, PUBLICATION, JOURNALS, REPORTS, LITERARY WORKS, WRITTEN MATTERS, SEMINARS, CONFERENCES, WORKSHOPS ETC. IN PRINT OR ELECTRONIC MEDIA OR OTHERWISE



ICSI ELECTIONS TO COUNCIL AND REGIONAL COUNCILS-2014

(List of Polling Booths)

LIST OF POLLING BOOTHS SET UP IN EASTERN REGION

Booth No.	Address
E-1	Eastern India Regional Office of the ICSI, ICSI-House 3A, Ahiripukur, 1st Lane Kolkata-700 019
E-2	The Park Institution, 12, Mohanlal street Shyambazar Kolkata - 700004
E-3	Anglo-Arabic Secondary School 46/7, Mahatma Gandhi Road Kolkata - 700009
E-4	Khalsa High School 73, Paddapukur Road Bhowanipur, Kolkata - 700 020
E-5	Sarada Prasad Institution 108/18 Bidhan Nagar Road Kolkata - 700067
E-6	Bhubaneswar Chapter of EIRC of the ICSI ICSI House Plot No. 70, VIP Colony IRC Village Bhubaneswar - 751015
E-7	North Eastern (Guwahati) Chapter of EIRC of the ICSI, ICSI House, Opp AIDC, LKRB Road Bye Lane No. 1 House No. 14, Nabin Nagar Guwahati-781024
E-8	Hooghly Chapter of EIRC of the ICSI Krishikunj Apartment 89/114/2 D N Banerjee Street, Rishra Hooghly-712 248
E-9	Howrah Akshaya Sikshayatan, 1, Joynarayan Santra lane, (Opposite of Howrah 'Sarat Sadan') Howrah-711101
E-10	Patna Chapter of EIRC of the ICSI B-27, 2nd floor, Luv-Kush Tower Exhibition Road Patna-800001.
E-11	Ranchi Chapter of EIRC of the ICSI 2-C, OM Shanti Apartment O.C.C Bangla Lane Main Road Ranchi-834 001.
E-12	Jamshedpur Chapter of EIRC of the ICSI Room No. 9, Russi Modi Centre for Excellence Jubilee Road PO : Bistupur, Jamshedpur -831001.

LIST OF POLLING BOOTHS SET UP IN NORTHERN REGION

Booth No.	Address
N-1	Northern India Regional Office of the ICSI, ICSI-NIRC Building Plot No 4, Institutional Area, Prasad Nagar New Delhi-110 005
N-2	Banga Sanskriti Bhawan 18-19, Bhai Veer Singh Marg, Gole Market New Delhi-110 001
N-3	Delhi Tuberculosis Association 9, Institutional Area, Lodhi Road New Delhi-110 003
N-4	The College of Vocational Studies Triveni Nagar, Sheikh Sarai Phase II New Delhi-110 017
N-5	Jagan Institute of Management Studies 3, Institutional Area, Sector-5, Rohini Delhi-110 085
N-6	AVB Public School Near Bathla Apartment, 43, I P Extension Delhi-110 092
N-7	Gurgaon Chapter of NIRC of the ICSI (1st Floor), Deenbandhu Sir Chhoturam Bhawan, Jharsa Road Behind Shiv Mandir, Sector-32 Gurgaon- 122 002
N-8	Alpine Convent School Behind Jalvayu Towers, Sector - 56 Gurgaon-122 011
N-9	DLF City Club Moulisari Road, DLF City Phase III, Near Ambience Mall Gurgaon-122 002
N-10	St. John College M G Road Agra- 282 002
N-11	Allahabad Chapter of NIRC-ICSI, 30A/9/2A, Cooper Road, 2nd Floor, Near Hari Masjid, In Front of HT Media Office Civil Lines, Allahabad-211001
N-12	Manohar Bhushan Inter College Nainital Road Bareilly-243122
N-13	Bhilwara Chapter of NIRC of the ICSI B-2-3,Basement, Lok Peeda Complex, Near Love Garden Bhilwara-311 001
N-14	Chandigarh Chapter of NIRC of the ICSI GGDSD College, Sector 32 C Chandigarh-160 047
N-15	Dehradun Chapter of NIRC of the ICSI Shop No.3, First Floor, J.N.Plaza, Opp. District Compound, Haridwar Road, Dehradun-248006
N-16	DAV Centenary College NH-3, N.I.T Faridabad-121001
N-17	Ghaziabad Chapter of NIRC of the ICSI 23B, Nehru Apartments, Nehru Nagar, Near Nasirpur Railway Crossing Ghaziabad-201 001
N-18	Vaishali Public School Plot No.216 &216/01, Sector-III A, Rachna Vaishali Ghaziabad-201 010
N-19	Jaipur Chapter of NIRC of the ICSI ICSI House, A-5/A, Institutional Area, Jhalana Doongri Jaipur- 302 004
N-20	University Maharani's College, Ram Singh Road Jaipur- 302 001
N-21	Maulana Abul Kalam Azad College Pal Link Road, Kamla Nehru Nagar Jodhpur-342 008
N-22	Kanpur Chapter of NIRC-ICSI 118/90, Gumti Plaza, 2nd floor, Kaushal Puri, Gumti No.5 Kanpur-280 012
N-23	Lucknow Chapter of NIRC of the ICSI 1/157, Vivek Khand, Gomti Nagar Lucknow- 226 010
N-24	Ludhiana Chapter of NIRC-ICSI 11B, 2nd Floor, Gurudwara Saheedan, Pheruman Complex, G.T. Road Ludhiana-141 003
N-25	Meerut Chapter of NIRC of the ICSI Central Gallery, Department of Commerce, Room No. 12, Meerut College Meerut - 250 001
N-26	DAV Public Senior Secondary School Phase. X Mohali-160 055
N-27	Jaipuria Institute of Management A-32/A, Sector - 62 Noida- 201 301

* The Returning Officer may change the address of one or more pooling booths, if in his opinion, the compelling reasons so demand. Change in address of polling booth, would be communicated to all concerned through e-mail and would also be hosted on the website of the Institute.



N-28	Rockwood School B-67, Sector 33 Noida-201 303
N-29	Sood Bhawan Opposite Police Post Sector 10 Panchkula-134 109
N-30	Udaipur chapter of NIRC-ICSI, C/o M.V Shramjeevi College Department of Business Management Studies Shakti Nagar Corner Udaipur-313 001.
N-31	Citizen Co-operative Bank Limited 506, New Jawahar Nagar Near Shangrila Hotel Jalandhar-144 001
N-32	Dayanand Post Graduate College Hisar-125001
N-33	Doon Valley Group of Institutes, Sec.-17, Near- Fire Brigade Station Karnal-132 001
N-34	Karnal-Panipat Chapter of NIRC-ICSI 1st and 2nd Floor, 6, Geeta Market Geeta Mandir Road, Opposite Galaxy Hotel Panipat-132 103
N-35	Hindu Institute of Management Behind Railway Station, Rohtak Road Sonapat-131 001
N-36	SISE Computer Institute Near Gopal Mandir, Kashmir Avenue Amritsar-143 001
N-37	Ajmer Chapter of NIRC of the ICSI 270/09, Pokharna House, Near Old Ice Factory, Hathi Bhata Ajmer -305 001
N-38	Rajasthan Bal Mandir Senior Secondary School Outside Nathusar Gate Bikaner-334 004
N-39	Kota Bal Vidya Mandir School 6-A-10, Teen Batti Circle, Mahaveer Nagar Extension Kota- 324 005
N-40	Akansa Vidyapeeth Inter College Milan Vihar, Delhi Road, Moradabad-244 001
N-41	Little Flower House 442,Kakarmatta, Varanasi- 221 010
N-42	ACCMAN Institute of Management 46-A/2, Knowledge Park-III Greater Noida-201 308
N-43	Sanatan Dharma College (Lahore) Jagdhari Road, Ambala Cantt, Ambala
N-44	Modinagar Chapter of NIRC of ICSI Opp. MM Printers Near Modi Steels, Delhi-Meerut G.T Road ,Modinagar-201204
N-45	Jain Public School Shantinagar, Circular Road Rewari

LIST OF POLLING BOOTHS SET UP IN SOUTHERN REGION

Booth No.	Address
S-1	Madras Stock Exchange Limited, New No. 30, Old No. 11 Second Line Beach Chennai -600 001
S-2	Southern India Regional Office of the ICSI, ICSI House No 9, Wheat Crofts Road Nungambakkam Chennai - 600 034
S-3	Shanmugasundaram Hall Gokhale Shastri Institute 16, Karpagambal Nagar Mylapore Chennai - 600 004
S-4	The Industrial Estate Manufacturers' Association R V Tower 10 GST Road, (Adj. to SBI SISI) Guindy Chennai - 600 032
S-5	Bangalore Chapter of SIRC of the ICSI No. 5, 1st Main Road Rajaji Nagar Industrial Estate West of Chord Road Rajajinagar Bangalore - 560 044
S-6	Institution of Agricultural Technologists No. 15 Queen's Road Bangalore - 560 052
S-7	The Institute of Cost Accountants of India Bangalore Chapter No. 81, Mallikarjuna Temple Street Basavanagudi Bangalore - 560 004
S-8	Rotary Bangalore Indiranagar Rotary House of Service 2143, 16th E Main, HAL II Stage (Opp. BDA Park & Near Lohit Hospital) Indiranagar Bangalore - 560 008
S-9	Hyderabad Chapter of SIRC of the ICSI No.6-3-609/5 Anandnagar Colony Khairatabad Hyderabad - 500 004
S-10	Hyderabad Chapter of the Institute of Cost Accountants of India CMA Bhavan Beside Dena Bank Post Office Road Sanath Nagar Industrial Estate, Hyderabad-500018
S-11	YMCA S P Road, Secunderabad - 500003
S-12	ICSI- Coimbatore Chapter No.209, KSG Complex Door No. 1 & 2 IInd Floor, Sastri Road Ramnagar Coimbatore -641009 Tamilnadu
S-13	Kochi Chapter of SIRC of The ICSI, ICSI House No:36/1567 Judges Avenue, RBI Qtrs Road Behind Indian Express Kaloor Kochi-682017
S-14	Madurai Chapter of SIRC of ICSI C3, III Floor A.R.Plaza 16/17,NorthVeli street Madurai - 625001
S-15	Mysore Chapter of ICSI ICSI House, #125 NHCSL Layout, Off KRS Road Opp. JK Tyres Metagalli Mysore -570016
S-16	Thrissur Chapter of SIRC of The ICSI Ist Floor Becos Square Machingal Lane M G Road Thrissur-680001.
S-17	Thiruvananthapuram Chapter T.C3/2342 Padmasree (1st Floor) Behind Indian Bank Pattom Thiruvananthapuram - 695004.
S-18	Singar Academy III Floor Rockfort Towers 52, Salai Road Worur Tiruchirapalli - 620003
S-19	Visakhapatnam Chapter of SIRC of the ICSI Door No. 48-3-3 1st Floor Opposite Street of B.V.K. College Srinagar Street Visakhapatnam - 530 016
S-20	Bhaurao Kakatkar College Add: Jyoti College Compound Club Road Camp Belgaum - 590001
S-21	Calicut Chapter of SIRC of ICSI 29/2084,A-3, 2nd Floor Rahiyan Building K.T. Gopalan Road Kotooli Calicut-673016.
S-22	Mangalore Chapter of ICSI Grace Towers, 2nd floor Bejai Mangalore - 575004

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LIST OF POLLING BOOTHS SET UP IN WESTERN REGION

Booth No.	Address
W-1	Western India Regional Office of the ICSI 13, Jolly Maker Chambers No II First Floor and Nos. 56 & 57 (5th floor) Nariman Point, Mumbai 400 021
W-2	Indian Merchants' Chamber, Churchgate IMC Building, Churchgate, Mumbai 400 020
W-3	Maharashtra Chambers of Commerce & Industries Oricion House, 6th Floor, 12, K .Dubhas Marg Kala Goda, Opp. Lion Gate, Fort, Mumbai- 400 001
W-4	Hindalco Industries Limited Century Bhawan, 3rd Floor, Annie Besant Road, Worli, Mumbai -400 018
W-5	Pinge's Classes Pvt. Ltd. Janardhan Building, Near Ideal Book Depot, Opp.Chhablidas School, Near Shri Krishna Wada Center, Dadar (West), Mumbai-400 028
W-6	Mehta Institute 202, B-Laran Centre, M A Road, Near Andheri Railway Station, Andheri (West), Mumbai - 400 058
W-7	Smt. P N Doshi Women's College Cama Lane, Ghatkopar (West), Mumbai 400 086
W-8	Mulund College of Commerce Sarojini Naidu Road, Mulund (West), Mumbai 400 080
W-9	Kandivli Education Society's, Annexe (First Floor), Bhulabhai Desai Road Kandivali (West), Mumbai - 400067
W-10	Pune Chapter of WIRC of the ICSI 23, Mukund Nagar, Corner of Lane No.1, Above Dr. Joshi Hospital, Gupte Market, Pune 411037
W-11	Mahratta Chamber of Commerce, Industries & Agriculture, Bhosari Pimpri Chinchward Wing Building, Plot No J-462, Telco Road MIDC Area, Ganesh Nagar, Bhosari, Pune 411 026
W-12	SNDT Arts & Commerce College for Women, Pune Karve Road, Pune-411038
W-13	Ahmedabad Chapter of WIRC of the ICSI Maneklal Mills Complex, S-2, B-Tower, Chinubhai Towers, Opp. Handloom House, Ashram Road, Ahmedabad - 380 009
W-14	Idea Institute of Management & Technology, Maninagar, 4th Floor, Nakshatra Building, Above HDFC Bank, Maninagar Char Rasta, Maninagar, Ahmedabad - 380008
W-15	Gandhinagar State Bank of India, Sector 11 Branch, Block No. 13, Udhog Bhavan, Sector 11, Gandhinagar-382017
W-16	Aurangabad, Aurangabad Chapter of WIRC of ICSI, Fr-9, 1st Floor, Kuber Avenue- B, Rana Nagar, Jalna Road, beside Seven Hills Flyover, Aurangabad - 431005
W-17	Bhopal, Bhopal Chapter of WIRC of ICSI, Plot No. 148, 2nd Floor, Anchor Mansion, Zone-II, M.P.Nagar, Bhopal-462011
W-18	Indore, Indore Chapter of WIRC of ICSI, B/1-2-3, Ashray Apartment, 2/1, Manoramaganj, Indore - 452001
W-19	Kolhapur, Kolhapur Chapter of WIRC of ICSI, R.S.No.1108 C, 34 C, Jaduban Plaza, Office Unit No. F-04, Panch Bunglow, Shahupuri, Kolhapur - 416001
W-20	Nagpur, Nagpur Chapter of WIRC of ICSI, 3A, 3rd Floor, Avinisha Towers, Mehadia Square, Dhantoli, Nagpur-440012
W-21	Nashik, Nashik Chapter of WIRC of ICSI, 2nd Floor, Prasanna Arcade, Near Hotel Mazda, Old Agra Road, Nashik - 422 002
W-22	Rajkot, Rajkot Chapter of WIRC of ICSI 216, Krishna Con Arch - II, 2nd Floor, Tagore Road, Rajkot - 360002
W-23	Surat, Surat Chapter of WIRC of ICSI B-209, Tirupati Plaza, Near Collector Office, Athwalines, Surat - 395001
W-24	Thane, Thane Chapter of WIRC of ICSI, 201-202, Sai Plaza Complex, Above Vijay Sales, Kapurbavdi Junction, Ghodbandar Road, Thane (West), Thane - 400607
W-25	Vadodara Chapter of WIRC of the ICSI Office No-1, IInd Floor, Stop-N-Shop Plaza (Offtel Tower-II), R. C. Dutt Road, Vadodara - 390 007
W-26	Raipur Chapter of WIRC of ICSI 1st Floor, Above Little Star Play School, C-67, Sector-2, Devendra Nagar, Raipur(C.G.)492001
W-27	Dombivli, Dombivli Chapter of ICSI Satchidanand Apartment, Ground Floor, Near Old Post Office, Opp. HDFC Bank Ltd., Madan Thakrechowk, Phadke Road, Dombivli (East) -421201
W-28	ICSI-CCGRT Plot No. 101, Sector-15, Institutional Area, Palm Beach Road, CBD Belapur, Navi Mumbai-400 614
W-29	Panjim Goa Chapter of WIRC of ICSI Indraprastha Building, 6th Floor, Menezes Braganza Road, Panjim, Goa-403 001
W-30	Bhayander, Bhayander Chapter of WIRC of ICSI 3, Roop Razat Plaza, 150 Feet Road, Nr. Reena Mehta College, Bhayander-West, Thane-401 101
W-31	Kalyan K.M. Agrawal College of Arts Commerce & Science Kalyan-Padgha Road, Gandhare Kalyan (west) - 421301
W-32	Vasai Vidyavandhini's Annasaheb Vartak College of Arts, Near Primary Health Centre, Next to Vasai Railway Station, Vasai Road (West) - 401202

* The Returning Officer may change the address of one or more pooling booths, if in his opinion, the compelling reasons so demand. Chage in address of polling booth, would be communicated to all concerned through e-mail and would also be hosted on the website of the Institute.



Our Members

ADVISORY TO MEMBERS

Kind attention of the Members is drawn to Regulation 3 of the Company Secretaries Regulations, 1982 which reads as under-

3. Register

The Register of members of the Institute shall be maintained in the proforma as provided in Schedule A and every member shall be required to communicate to the Institute any change of professional address, within one month of such change.

Further, attention of the Members of the Institute is also drawn to Clause (1) of the PART II of the Second Schedule of the Company Secretaries Act, 1980, which reads as under-

Professional misconduct in relation to members of the Institute generally

A member of the Institute, whether in practice or not, shall be deemed to be guilty of professional misconduct, if he—

(1) contravenes any of the provisions of this Act or the regulations made there under or any guidelines issued by the Council;

It has been observed that many a times members of the Institute are not communicating change of their professional address, within one month of such change to the Institute, which is in violation of regulation 3 of the Company Secretaries Regulations, 1982 and this violation attracts the Clause (1) of the Part II of the Second Schedule of the Company Secretaries Act, 1980, *supra*.

The Members are therefore requested to comply with the aforesaid regulation to avoid action under the Company Secretaries Act, 1980 for the violation of the same.

Chief Executive & Officiating Secretary

The ICSI

SPECIAL ISSUE OF CHARTERED SECRETARY

It is proposed to bring out a special issue of Chartered Secretary on the following topic in December, 2014.

Direct Taxes Code, 2013

Members and others having expertise on the aforesaid subject are welcome to contribute articles for consideration by the Editorial Advisory Board for publication in the said special issue. kindly send your articles latest by **20th November 2014 to:**

The Joint Director (Publications)
The ICSI, 22, Institutional Area
Lodhi Road, New Delhi 110003.
E.Mail: ak.sil@icsi.edu

Appointment

REQUIRED

A COMPANY SECRETARY

Company Secretary required for **KHUBCHANDANI HOSPITALS PRIVATE LIMITED**, a Company engaged in the healthcare business. The applicant should be an ACS with an LLB qualification, with 4-5 years of relevant working experience. Salary will commensurate with experience and qualifications.

Please apply in confidence within 15 days stating, age, qualifications, experience and details of salary drawn and expected, to:-

The HRD, KHUBCHANDANI HOSPITALS PRIVATE LIMITED

508, Ceejay House, Dr. A.B. Road,
Worli, Mumbai 400018

Or email to: neeraj.kumar@gkh.net.in

OBITUARIES

“Chartered Secretary” deeply regrets to record the sad demise of the following members:

Shri D KRISHNAMURTI (15.09.1942 – 24.10.2014), a Fellow Member of the Institute from New Delhi.

Shri JAWAHAR LAL KUMAR, (10.04.1942 – 15.07.2012), a Fellow Member of the Institute from Gurgaon.

Shri M S LAKSHMANAN, (12.06.1930 – 26.07.2014), a Fellow Member of the Institute from Pune.

Shri SANDEEP DAGA, (29.07.1973 – 14.10.2014), an Associate Member of the Institute from Kolkata.

May the almighty give sufficient fortitude to the bereaved family members to withstand the irreparable loss.

May the Departed souls rest in peace.



Secure Board Portal for the Paperless Boardroom

- Permission-driven access
- Online-offline syncing
- Annotation sharing
- eSignatures
- Secure email
- Voting

boardvantage.com

Room 3B, 235 Wing Lok Street Trade Centre,
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I AM THE FIRST WORD IN COMPLIANCE AND THE LAST WORD IN GOVERNANCE.

Over one million companies in the country are custodians of huge resources of the society and public. They drive the growth of the economy. It is, therefore, imperative that their operations should be so carried out that they exist forever to contribute to prosperity of the society and the economy even as they balance the interests of various stakeholders. This requires care for and adherence to law and justice, ethics, compliance, governance, risk management, conflict resolution etc. A Company Secretary, who is a regulated professional, ensures just that.

**I am a member of ICSI.
Only I do what I do.**



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