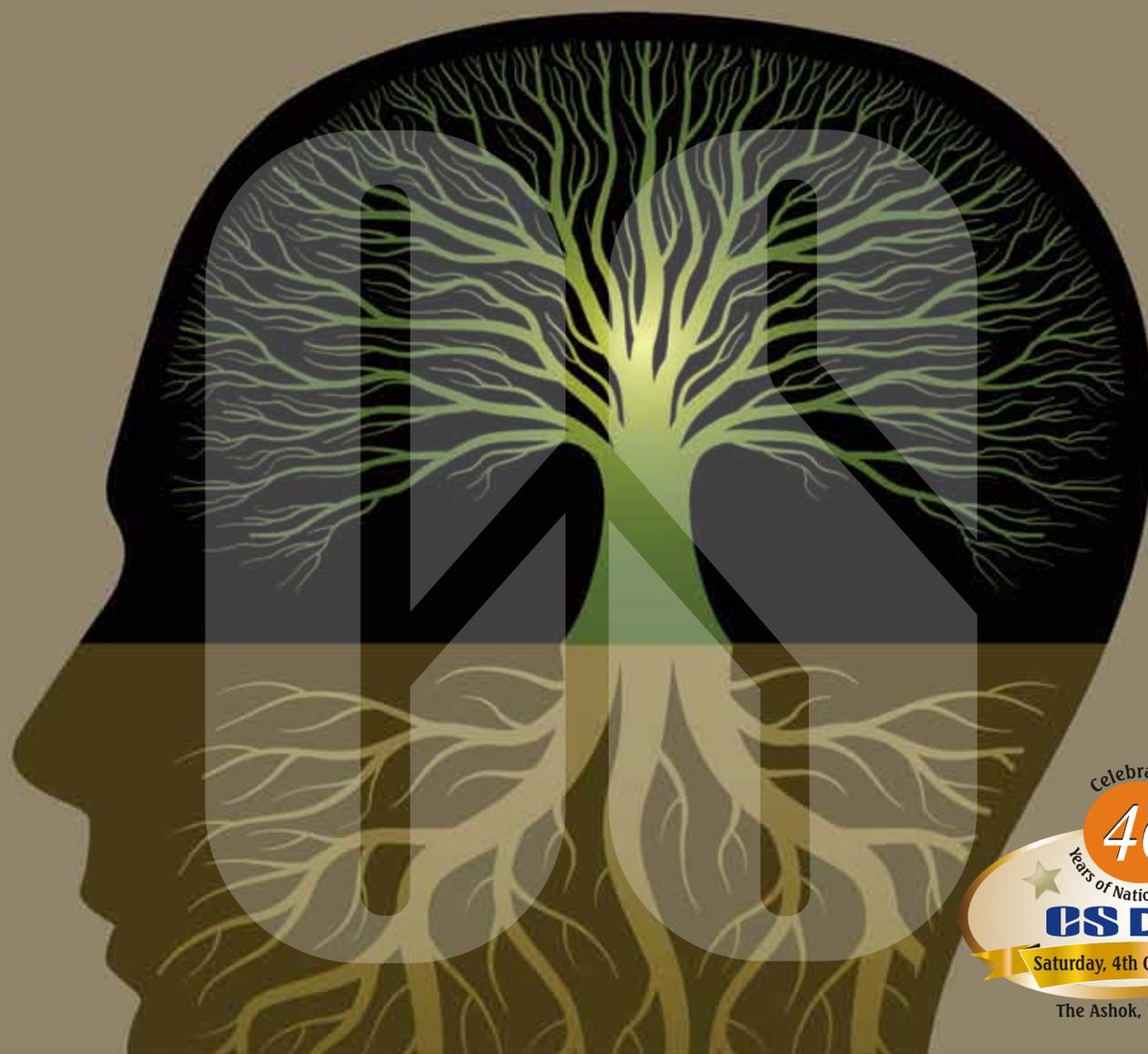


# CHARTERED SECRETARY

THE JOURNAL FOR CORPORATE PROFESSIONALS



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Company Secretaries of India**

**IN PURSUIT OF PROFESSIONAL EXCELLENCE**

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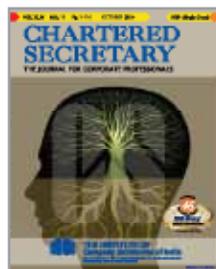


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- 1 >>> Hyderabad Chapter - Foundation Stone Laying Ceremony of ICSI Centre of Excellence at Hyderabad - M. Venkaiah Naidu (Hon'ble Minister for Urban Development, Housing and Poverty Alleviation and Parliamentary Affairs) unveiling the plaque.
- 3 >>> Picture of the proposed building of ICSI Centre of Excellence at Hyderabad.
- 5 >>> Salem Chapter: Seminar on The Companies Act, 2013 & Capital Market –Sitting on the dais from Left: S. Mohan (Chairman, CII Salem District Council, Salem), S. Balasubramanian (Chairman, City Union Bank Ltd., Kumbakonam) and CS R. Sridharan.

- 2 >>> Hyderabad Chapter - Foundation Stone Laying Ceremony of ICSI Centre of Excellence at Hyderabad - CS Sanjay Grover and CS R. Sridharan presenting a memento to M. Venkaiah Naidu (Hon'ble Minister for Urban Development, Housing and Poverty Alleviation and Parliamentary Affairs).
- 4 >>> Udaipur Chapter – Bhoomi Poojan Ceremony of ICSI Bhawan at Udaipur –Kiran Maheshwari (MLA, Rajsamand & National V.P., BJP) addressing. Others sitting on the dais from Left: CS Sutanu Sinha, CS P. K.Mittal, CS R. Sridharan, CS Sanjay Grover and CS C. Sudhir Babu.
- 6 >>> Amritsar Chapter: Seminar on The Companies Act, 2013, Changes Affecting Pvt. Companies – CS R. Sridharan, addressing.



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### Related Party Transactions:

A Critical Study of the Scope and Coverage

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#### P. K. Mittal

Section 188 of Companies Act, 2013 read with Rule 15 of Companies (Meetings of Board and its Powers) Rules, 2014, at best, envisage approval of the shareholders by way of special resolution and needless to say approval of the board of directors in a duly convened meeting but does not require any approval of the Central Government. It may be seen that in Section 297 of the Companies Act, 1956, in case of companies having paid up share capital of Rs. 1 Crore or more, the contract for sale, purchase or supply of goods, materials or services could be entered into only with the approval of the Central Government save and except where the sale, supply and purchase of goods and materials were only in cash and at the prevailing market price. However, in relation to services in excess of Rs.5,000/- per year, the approval of the Central Government was called for. Section 188 applies to both public and private companies. The author strongly feels that there is no reason as to why the rigors of Section 188 be applied to purely private companies where neither public is interested nor any public funds are infused.

Whether Tax Benefit Can be Claimed under Section 80G of the Income-Tax Act for Contribution to the Prime Minister's National Relief Fund in Discharge of Corporate Social Responsibility?

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#### T. N. Pandey

'CSR' is a new statutory concept in the context of social responsibilities which the Corporate Sector is expected to shoulder. The Companies Act 2013 contains a provision which requires specified Companies to spend at least 2% of their average net profits during the three immediately preceding financial years in pursuance of their Corporate Social Responsibilities. An issue in this context is whether such expenditure could be deducted in computing the taxable income. That such 'expenditure' is not deductible has been clarified by the Finance (No.2) Act 2014 by adding Explanation 2 to Section 37(1) of the Income-tax Act, 1961. However, 'contributions' to PM National Relief Fund can also be made in discharge of CSR obligations. According to author, 'contribution' being different from 'expenditure', such contribution will not be hit by the explanation to section 37(1) and a company by contributing to such a Fund can meet the CSR obligation as well as avail of tax benefit under section 80G of the Income-tax Act.

Risk Management and the Role of Company Secretary

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#### R. Balakrishnan

Risk management is growing in importance due to legislation

becoming tougher and tougher and transfer of risk by way of insurance is becoming more expensive and more difficult to obtain. Such risks are to be managed through appropriate and effective systems and the key process to manage the risk is the regular review at the board meetings of the risks facing the enterprise. Strategies to mitigate the risks are to be discussed and agreed and the outcome of these reviews needs to be incorporated into a RISK REGISTER. Each of the risks needs to be assessed by the enterprise for its impact on profit and cash flow, likelihood of occurrence and scope for mitigation or reduction. In short, the larger are more complex the business, the more it will benefit from risk assessment providing maximum sustainable value to all the activities of the organization. Company secretary being top level officer and board confidante can play an important role in ensuring that a sound risk management system is in place in the company and that the same is effective throughout the company.

Celebrity Endorsement of Products and Services: Need for Rules to Protect the Gullible Customers and Ensure Fair Competition

» P-31

#### Neeraj Gupta

It has been observed in many cases that the celebrities participate in advertisements making exaggerated claims regarding quality of the sponsored products or services and pretend themselves as the real users thereof. Such advertisements, known as Celebrity Endorsement, tend to exploit the sentiments of consumers who have an emotional bond with these celebrities and go for the purchase of such products and services without giving a second thought about the genuineness of such claims. This article is an attempt to study the nature and forms of Celebrity Endorsement, vulnerability of innocent people to fall prey to exaggerated claims by the celebrities, position of existing laws in India for seeking relief by the aggrieved consumers, chances of restricting competition by limiting the level playing field for all manufacturers and traders, need for specific regulations to be framed to curb the menace and alternative suggestions to regulate the practice.

Roadblocks For Call / Put Options Arrangements Included in Investment Agreements Under Earlier & Present Regulatory Framework

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#### Yadvinder Goyal

The position regarding the jurisdiction of the courts in India to order interim measures under Part I of the Arbitration and Conciliation Act, 1996, in international commercial arbitrations held outside India, is to be finally settled by legislation. The decisions of the Supreme Court of India in Bhatia International v. Bulk Trading S. A. & Anr., Venture Global Engineering v. Satyam Computer Services Ltd. & Anr., Shreejee Traco (I) Pvt. Ltd. v. Paperline International Inc. and Bharat Aluminium are to be read in that order to understand where the parties stand today. In Bhatia International, the Supreme



# at a Glance

Court held that in cases of international commercial arbitrations held out of India the provisions of Part I would apply, unless the parties by agreement, express or implied, excluded all or any of its provisions. In *Venture Global*, the Supreme Court conformed to its ruling in *Bhatia*. In *Shreejee Traco*, the Supreme Court ruled that where the place of arbitration was not in India, Part I of the Act would not apply. In *Bharat Aluminium* the Supreme Court ruled that Part I of the Act was limited to arbitrations that take place in India. An amendment to the Act expressly providing that Part I of the Act, which includes section 9 providing for interim measures that may be ordered by courts in India, will apply only if the place of arbitration is in India, would bring about certainty.

**Employee Stock Option Plan: An Overview** >> P-42

### Minender Boga

The real advantage of ESOPs is that, the exercise price remains fixed over the term of the option. So, the employee would exercise his option when the market price of the shares goes substantially high and he would gain on the difference between the market price and exercise price. However, ESOP may be attractive in a booming market but it is not the same story in a falling market both for the individuals and to the companies offering ESOPs. Hence, employees should take sound decision on timing of exercise of options and Companies need to know what cost they are paying for the human capital before deciding on ESOPs. This article broadly covers the meaning of Employee Stock Option Plan (ESOP), important definitions related to ESOP, drafting of ESOP Scheme, legal provisions related to ESOP, advantages and disadvantages of ESOP, procedure for granting shares under ESOP, impact of taxes, problems faced by the organizations adopting ESOPs, etc.

**To Curb "Insider Trading", SEBI Expands Scope of The Term "Officer" Defined in The Companies Act** >> P-47

### Delep Goswami & Anirrud Goswami

Recently, SEBI passed adjudication orders against officers of listed companies for violations of the Prohibition of Insider Trading Regulations, 1992. Such decisions have significantly expanded the definition of "Officer" given under the Companies Act (both 1956 Act and the 2013 Act). Whereas the definition of "Officers" in the Companies Act would cover only officers one level below the Board, the SEBI decisions extends the definition to cover any employees who have the power to issue instructions or directions to other employees. Thus the coverage extends to many levels below the Board level. This article deals with this problem and emphasizes the need for harmonious interpretation of the provisions of the Companies Act as well as the SEBI Act and Regulations, especially because recently, the SEBI Act has been amended and SEBI has been given substantial power of search and seizure of company records, information and data and may lead to anomaly.

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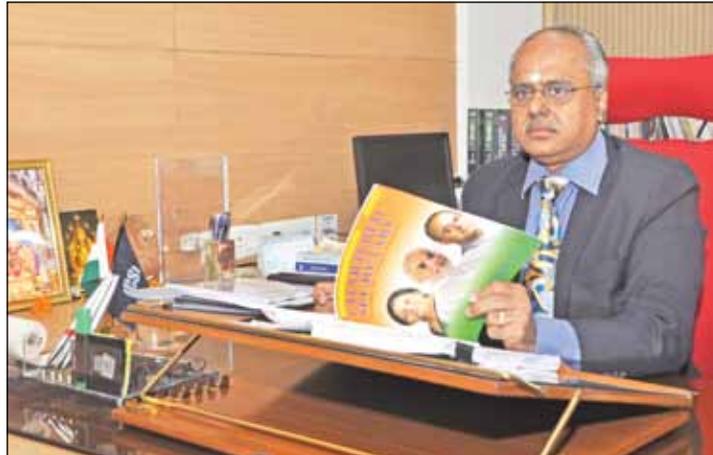
- ▶ LW: 83:10:2014 Competition Commission of India indicts automobile manufacturers for adopting anti competition practices and abusing their dominance with respect to after-market operations.[CCI] ▶ LW: 84:10:2014 Where activity of a public body is hazardous, highest degree of care is expected and breach of such duty is actionable. This obligation is also referable to Article 21. We reiterate the need for a comprehensive legislation dealing with tortious liability of the State and its instrumentalities in such cases for certainty on the subject. We request the Law Commission to look into the matter and take such steps as may be found necessary. [SC] ▶ LW: 85:10:2014 Supreme Court restates and explains the law as to which is the principal court that could entertain the challenge to an arbitral award. [SC] ▶ LW: 86:10:2014 Concededly through its predecessors-in-interest abbot has inherited the good will and reputation in its trademark 'ANAFORTAN' and would be entitled to protect the same.[Del] ▶ LW: 87:10:2014 The Labour Court has failed to exercise its statutory power coupled with duty by not going into the merits of the case and adjudicating the points of dispute referred to it while answering the additional issue framed by it regarding limitation.[SC] ▶ LW: 88:10:2014 Admittedly, the Amnesty Scheme is for the settlement. If the other party is not interested to settle the issue then the case will be dealt as per law.[Del] ▶ LW: 89:10:2014 In view of my conclusion as above, coupled with the fact that two authorities below have held that the petitioner establishment is in continuity of Daily Vir Arjun, it is surely not a case where the findings of the Commissioner and the conclusion of the Tribunal can be interfered with.[Del] ▶ LW: 90:10:2014 It is well settled that this court, in exercise of powers under Article 226 of the constitution of India, will not sit in appeal over the findings of fact, which are returned by the Industrial Adjudicator after appreciating the evidence and supplant its opinion over that of the said authority.[Del]

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**“Knowledge is the new capital, but it’s worthless unless it’s accessible, communicated, and enhanced.”**

— Hamilton Beazley, Strategic Leadership Group



Dear Professional Colleagues,

Hope by the time this issue of the Chartered Secretary reaches, you might have enjoyed festivities and a long week end. Of course, there are numerous festivals till end of October. The month of October begins with Gandhi Jayanthi, which is also observed as International Day of Non-violence and Prime Minister's call for *Swachh Bharat...* Ahimsa, is the highest ideal of mankind, advocated by Mahatma. When we talk of Mahatmaji, my memory bounces back to the famous remarks of Albert Einstein – **“Generations to come will scarcely believe that such a one as this walked the Earth in flesh and blood”**. This month is also significant for us, since the **CS Day** falls on 4th October and we have planned a number of activities. This is a day of thanksgiving to the founding fathers of this noble profession and also a day of re-dedication for nation building. Indeed it’s an occasion of happiness but at the same time, it is also an occasion for us

to introspect as how well, we can preserve this rich legacy handed over to us by the founding fathers and pass it on to our succeeding generations.

Knowledge management is the main component of knowledge-driven society. Learning organizations are aware of the potential of human resources, and in the process they are developing new concepts of leadership, where hierarchy and pyramid structured decision making no longer play the main role. The new concept is built on partnership between professionals from different sectors of the organization. Partnership alliances depend on quality of human relations. Human relations are built around emotions. Emotions play a larger role in our decision making, despite the fact that we are guided by the intellect and reason. Regardless of the technical nature of the occupation or



## From the President

discipline, professionals have become interdependent on each other. In a company a number of line and staff functions are interdependent. Even in practice, though our functions and responsibilities are unique and distinct, yet we may have to deal or interact with fellow professionals of various disciplines and other stakeholders, while servicing the clients. Emotional Intelligence [EI] is the ability to identify, understand, and manage moods and feelings of ourselves and other people. Self-awareness, Self-direction and Interpersonal savvy are the three important elements of EI. It is often said that the only difference that distinguishes winners from losers is their mental state. Our emotions largely depend upon our perceptions, thoughts and judgments. I like to recall the remarks of George Bernard Shaw – **“Better keep yourself clean and bright; you are the window through which you must see the world”**.

The effective management opportunities are increasingly seen as an important competitive differentiator, helping businesses and professions to achieve success despite challenging times. The management of opportunities lies in knowledge management through strategic capacity building initiatives at individual and institutional level.

Adequate infrastructure is essential for any organisation. It is all the more necessary for a professional institution like ours to pay greater attention in this regard. One of the top goals of Vision 2020 of the Institute, articulates Improving Infrastructure with Special Attention to Regional Offices and Chapters. In tune with this goal, the institute has embarked upon improving the infrastructure facilities.

I have participated at the inaugural function of ICSI-Centre of Excellence, at Hyderabad on September 14, 2014. Chief Guest who graced the occasion was Shri M Venkaiah Naidu, Hon'ble Minister of Urban Development, Housing and Poverty Alleviation and Parliamentary Affairs, Government of India. Shri N V S S Prabhakar, Member of Legislative Assembly of Uppal, Hyderabad participated at the Inaugural Session. This Centre of Excellence will grow over the years and will become a nucleus for knowledge sharing activities of the institute in future.

As continuance of the infrastructure activity as mentioned above, the foundation stone for ICSI House at Udaipur was laid on September 29, 2014 at a grand gathering. Smt Kiran

Maheshwari, Member of Legislative Assembly, Rajasthan was the Chief Guest at this function.

Professional knowledge should be made to be accessible for all the members so as to enable them to stay relevant. In this regard, the Institute is also in the process of building close relationship with the professional institutions at home as well as on a global scale.

On 10th September 2014, I attended MAICSA Annual Conference 2014 at Kuala Lumpur on the theme “Challenges of the Changing Corporate and Regulatory Landscape”, which has sensitized the intensity and the amount of global opportunities and the regulatory challenges for Corporate Secretaries across the world, that calls for continuous learning.

During the last week of September, I have visited the Chapters at Agra, Lucknow, Kanpur, Sonapat, Ghaziabad, Jalandhar, Amritsar, Madurai and Salem and had fruitful interaction with the members. At Lucknow, I had attended an interesting seminar on the topic "Corporate Governance in the Context of Changing Business Dynamics" on 20th of September 2014, covering the wide range of areas of Company Secretaries such as competition Law, IPR, Capital markets etc. in addition to Companies Act 2013. These meetings were rewarding experience for me to share the view points of the members and I had also put forth the Institute's views, especially concerning the need for capacity building and adherence to professional code. I had prevailed upon them the need to enlist large number of members for CSBF, which is a kind of safety net. I had also addressed the 200th MSOP participants of NIRC on September 30, 2014 and the meeting was extremely absorbing.

Shri M S Sahoo had resigned from the post of Secretary of the Institute recently. He distinguished himself in every aspect and in the process added glory to the post he had occupied. On behalf of the Council of the Institute, members and students of this great institution, I record our appreciation for his yeomen services and wish him all the best in his endeavours.

As you are aware that, the Institute has been promoting best governance practices amongst the Indian Companies, is now inviting participation for 14th ICSI National Awards for Excellence in Corporate Governance. I urge upon



the companies to participate in the National Awards for Excellence in Corporate Governance, 2014 and I also request the governance professionals – the company secretaries to encourage participation of their companies, whether listed or unlisted, for the Awards. This will also enable companies to enhance their governance practices and to compete in international market.

From the information provided to me by the secretariat, I find that quite substantial names of the members are not in the Register of Members of the Institute, due to non-payment of Annual Fee. We always believe that once a member is always a member. In the recent past, we have sent individual communications twice to such members and we have also closely followed up with them on the matter. I request such members to keep their membership renewed by remitting the Annual Membership Fee. The institute is providing a number of options and facilities for payment of annual fee. We also find that quite a number of members are not intimating their registered address, latest e-mail ids and mobile numbers, with the result, we find it difficult to get in touch with them. Therefore, through this column I request them to inform their latest addresses and contacts to the Institute and they may also use the Institute's website to record change of address.

The Corporate Laws and Governance Committee at its 9th meeting held on September 5, 2014 while considering as to what should be the scope of Secretarial Audit decided that there should be consultation with the stakeholders to get the views of corporates through Company Secretaries in employment as well as of Company Secretaries in practice in this regard. Accordingly consultations are being organized pan India through Regional Councils/Chapters.

Institute expresses its concern to the people of Jammu and Kashmir, who have suffered due to unprecedented floods. As a token of our solidarity to our brethren over there, the Council of the Institute, employees of the Institute,

Regional Councils, Chapters and individual members have contributed towards Prime Minister's National Relief Funds [PMNRF]. We are consolidating these contributions for forwarding the same to PMNRF. I express my sincere thanks to all of them for this noble cause.

At the cost of repetition, I would like to mention that during the month of October demands of professional work will be quite heavy, especially certification of Annual Returns. Governance through self-regulation is one of the objectives of the Companies Act, 2013 and as professionals we have to play a significant role to ensure the process of self-regulation without any dilution in its content. Having been bracketed as KMP under the Act, it becomes a sacrosanct duty for us to uphold the cherished values by adhering to the prescribed standards and practices and exercising due care and diligence. I would also like to highlight once again, that during frequent interactions with MCA, it has been understood that quite a few members have not exercised required care and assiduousness in validation and attestation work carried out by them. Let's commit ourselves completely and in full measure for total compliances and in the process distinguish ourselves.

Standing of a profession is not merely technical competency of members but more lies with ethical conduct of its members and I conclude this column with a quote from Aristotle **"Educating the mind without educating the heart is no education at all"**.

My festive greetings to you and to your family!

Yours sincerely,

1st October, 2014

(CS R. SRIVIDHARAN)  
president@icsi.edu



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1. Articles on subjects of interest to the profession of company secretaries are published in the Journal.
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4. The article must not have been published elsewhere, and must not have been or must not be sent elsewhere for publication, in the same or substantially the same form.
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6. The article must carry the name(s) of the author(s) on the title page only and nowhere else.
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# Related Party Transactions: A Critical Study of The Scope and Coverage

- Section 188 of Companies Act, 2013 read with Rule 15 of Companies ( Meetings of Board and its Powers) Rules, 2014, at best, envisage approval of the shareholders by way of special resolution and needless to say approval of the board of directors in a duly convened meeting but does not require any approval of the Central Government.

**U**nder the Companies Act, 2013, the scope and coverage of related party transactions has been made more complex and intricate. Besides strict procedural compliances have been foisted. Section 188 is still liberal as compared to previous Section 297 of Companies Act, 1956. In this Article, an attempt has been to explain and amplify the coverage, scope and intent of 'related party transactions'.

It would be beneficial to first understand the scope and intent of Sections 184, 188 and other applicable provisions of Companies Act, 2013 (hereinafter called Act) and rules made there under. Section 2(76) defines 'related party' with reference to a company, means:-

- i): a director or his relative;
- ii): a key managerial personnel or his relative;
- iii): a firm, in which a director, manager or his relative is a partner;
- iv): a private company in which a director or manager is a member or director;

\*Council Member, ICSI.





# Article

RELATED PARTY TRANSACTIONS : A CRITICAL STUDY OF THE SCOPE AND COVERAGE

- v): a public company in which a director or manager is a director and holds along with his relatives, more than two percent of its paid up share capital;
- vi): a body corporate whose Board of Directors, Managing Director or manager is accustomed to act in accordance with the advice, directions or instructions of a Director or Manager;
- vii): any person whose advice, directions or instructions a director or manager is accustomed to act;

Provided that nothing in sub-clauses (vi) and (vii) shall apply to the advice, directions or instructions given in a professional capacity;

viii): A company which is :-

- (A) A holding, subsidiary or associate company of such company or;
- (B) A subsidiary of a holding company to which it is also a Subsidiary;

As per section 2(77) of Act, a person shall be treated as a 'relative' to another if (i) they are members of HUF (ii) they are husband and wife (iii), they are related to each other in any of the following manner:-

1. Father (including step-father)
2. Mother (including step-mother)
3. Son (including step-son)
4. Son's wife
5. Daughter (including step-daughter)
6. Daughter's husband
7. Brother (including step-brother)
8. Sister (including step-sister)

In Section 2(76), sub-clause (vi) and (vii), (i.e. in the definition of the term 'related party'), the three words i.e. "accustomed to act" are appearing and one needs to know the meaning and scope of these words. To some extent, two judgments, as follows, amplify these three words.

The SEBI in its final order in the case of *Sahara India Real State Corporation Ltd.* [MANU/SB/0045/2011] observed, while defining the words "accustomed to act", in the following words:

11. In reply to Show Cause Notice dated May 20, 2011 Mr. Subrata Roy Sahara, *inter alia* stated that he is only a shareholder and neither a director nor hold any executive, managerial or other position in either of the said two companies. Hence, he mentioned that the notice is unwarranted and liable to be withdrawn. However, Mr. Subrata Roy Sahara, apart from being the founder of Sahara India Group, is admittedly a major shareholder (holding about 70% of capital in each of the two companies). He can be reasonably regarded as a person in accordance with whose directions or instructions, the Board of Directors of the two Companies were

accustomed to act and therefore fall within the ambit of "officer in default". Furthermore, with the 70% ownership or holding in the two Companies, he is definitely in a position of control and has the power direct the management policy and appoint the majority of directors to the Board.

The Supreme Court in the case of *K. K. Birla v. R. S. Lodha* [MANU/SC/1693/2008], while defining "accustomed to act" has observed as under:

- a) After the death of late Madhav Prasad Birla in or about July, 1990 the deceased who has had no formal education relied and continued to rely on the petitioner and reposed and continued to repose complete trust and confidence in the petitioner in the matters pertaining to all her financial affairs by reason whereof, the petitioner was at all material times, privy to all information concerning the personal and financial affairs of the deceased. The deceased also sought and obtained advice from the petitioner with regard to her assets, savings and investments and with regard to and in the management and affairs of several companies and institutions where the deceased had a stake in the shareholding and/or management and the deceased was at all material times accustomed to act as per the wishes and dictates of the petitioner. The petitioner is and was at all material times aware of the same.

Further, The Ministry of Corporate Affairs, has also come out with The Companies (Accounting Standards) Rules, 2006 dated 07.12.2006, (*Accounting Standards -18*) which, *inter-alia*, as is relevant for our purposes reads as under:-

- 14. Key management personnel are those persons who have the authority and responsibility for planning, directing and controlling the activities of the reporting enterprise. For example, in the case of a company, the managing director(s), whole time directors), manager and any person in accordance with whose directions or instructions the board of directors of the company is accustomed to act, are usually considered key management personnel.

A non-executive director of a company is not considered as a key management person under this Standard by virtue of merely his being a director unless he has the authority and responsibility for planning, directing and controlling the activities of the reporting enterprise. The requirements of this Standard are not applied in respect of a non executive director even if he participates in the financial and/or operating policy decisions of the enterprise, unless he falls in any of the categories in paragraph 3 of this Standard.

## SCOPE OF SECTION 188(1)

Section 188(1) says that no company (both public or private) shall enter into "contract" or "arrangement", except with the consent of



the Board of Directors of the company, with a related party. The contract or arrangement of a company may be with respect to any of the following in terms of section 188(1):-

- (a) sale, purchase or supply of any goods or materials.
- (b) selling or otherwise disposing of, or buying, property of any kind.
- (c) leasing of property of any kind.
- (d) availing or rendering of any services.
- (e) appointment of any agent for purchase or sale of goods, materials, services or property.
- (f) appointment to any office or place of profit in the company or its subsidiary or associate company as defined and reproduced in the illustration above.
- (g) underwriting the subscription of any securities or derivatives thereof of the Company.

## WHAT IS THE MEANING OF WORD 'ARRANGEMENT'

In Section 188(1), the words appearing are "contract or arrangement". Difficulty arises in understanding the meaning of the word "arrangement". The Bombay High Court in the case of *Bank of India v. Ahmadabad Manufacturing & Calico Printing Co Ltd.* [MANU/MH/0077/1971 : 1972 (42) Comp. Cas. 211 (Bom)] while interpreting the word 'arrangement' as appearing in section 390 of the Companies Act, 1956, has observed as under:-

"The word 'arrange' has, as one of its meaning, in the Shorter Oxford Dictionary, 3rd Edition, "to come to an agreement or understanding", and the word 'arrangement' has, as its primary meaning, "the action of arranging". As a matter of plain language it would, therefore, follow that the term 'arrangement' means any agreement or understanding between the parties concerned".

The Division Bench of Karnataka High Court in the case of *KV Kuppa Raju v. Government of India* [MANU/KA/0624/1999] has noted the report of an Expert Group to rationalize and simplify Income Tax law had given the following report [see MANU/TN/0288/1996 : [1997]224 ITR 169 (Mad) ] : In the said report, the word "arrangement" has been defined thus:-

"Sub-section (2) : In this section, 'arrangement' means any scheme, trust, grant, understanding, covenant, agreement, disposition, transaction and includes all steps by which it is carried into effect".

## WHAT IS THE MEANING OF WORD 'GOODS'

The Supreme Court in the case of *Vikas Sales Corporation v. Commissioner of Commercial Taxes* [MANU/SC/0519/1996 : AIR 1996 SC 2082] has explained the words 'Goods' and 'Property' in the following words:-

13. Clause (7) in Section 2 of the Sale of Goods Act, 1930 defines the expression 'goods' thus: 'goods' means every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale" (Emphasis added). Since the said definition defines the 'goods' to mean, "every kind of movable property other than actionable claims and money", it would be appropriate to notice the definition of 'property' in Clause (11). It reads : 'property' means the general property in goods, and not merely a special property. It is noteworthy that both these definitions seek to spread the net as wide as possible. While the definition of goods includes every kind of movable property within its ambit, the definition of property says that it includes not merely special property, but general property in goods as well.

The General Clauses Act, 1897 defines "movable property" to mean "property of every description except immovable property". The expression "immovable property" is defined to "include land, benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth".

## MEANING OF THE WORD 'SERVICE'

One will have to understand the meaning of the word 'service'. 'Service' has been defined in various judgments delivered by the Supreme Court.

The term 'service' as appearing in the Consumer Protection Act, 1986, came up for consideration before the Supreme Court in *Lucknow Development Authority v. M.K. Gupta* [MANU/SC/0178/1994 : AIR 1994 SC 787] wherein it was observed as under:-

The term has variety of meanings. It may mean any benefit or any act resulting in promoting interest or happiness. It may be contractual, professional, public, domestic, legal, statutory etc. The concept of service thus is very wide. How it should be understood and what it means depends in the context in which it has been used in an enactment.

The Supreme Court in the case of *Union of India & Ors. v. M/s. Martin Lottery Agencies Ltd.* [MANU/SC/0739/2009 : (2009) 12 SCC 209], noticed the dictionary meaning of the word 'Service', *inter alia*, meaning as "work done or duty performed for another or others; a serving; as, professional services, repair service, a life devoted to public utility service".

Section 65B (44) of Finance Act, 2012 defines 'Service', (for the purpose of levy of Service Tax) as follows:

- (44) Service means any activity carried out by a person for another for consideration, and includes detailed service, but shall not include



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- a) An activity which constitutes merely:
  - (i) a transfer of title in goods or immoveable property, by way of sale, gift, or in any other manner, or
  - (ii) such transfer, delivery or supply of any goods which is deemed to be a sale within the meaning of Clause (29A) of Article 366 of Constitution or;
  - (iii) a transaction in money or actionable claim;

In view of the above discussions, it is manifestly clear that the definition of word 'Service' is extremely wide and expansive and would include any 'act' 'deed' or 'step' done by a person for another on payment of consideration either in cash or kind or for forbearance. Hence, 'service' so defined in the preceding paras would fall under section 188(1)(d) Companies Act, 2013.

## WHAT IS THE MEANING OF THE WORD 'PROPERTY'

As per Salmond's Jurisprudence, the word 'property' means - in its widest sense, property includes a person's legal rights, of whatever description. A man's property is all that is his in law. This usage however, is obsolete at the present day, though it is common enough in the older books.

Section 2(v) of Prevention of Money Laundering Act defines 'property' to read as follows:-

'property' means any property or assets of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible and includes deeds and instruments evidencing title to, or interest in, such property or assets, wherever located.

Section 2(1)(t) of SARFAESI Act defines 'property' and read as under:-

"(t) 'property' means-

- (i) immovable property;
- (ii) movable property;
- (iii) any debt or any right to receive payment of money, whether secured or unsecured;
- (iv) receivables, whether existing or future;
- (v) intangible assets, being know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature;"

The eleven Member Bench of the Supreme Court in the case of *R C Cooper v. Union of India* [MANU/SC/0111/1970 :AIR 1970 SC 564], has defined the 'property' as under:-

"In its normal connotations, 'property' means the highest right a man can have to anything, being that right which one has to lands or

tenements, goods or chattels which does not depend on others' courtesy. It includes ownership, estates, and interests in corporeal things and also rights, such as, trade-marks, copyrights, patents and even right in personam capable of transfer or transmission, such as debts, and signifies a beneficial to, or a thing considered as having a money value, especially with reference to transfer or succession, and to their capacity of being injured.

## WHAT IS THE MEANING OF THE WORDS "IMMOVEABLE PROPERTY"

The Supreme Court in the case of *DLF Universal Ltd v. Appropriate Authority* [MANU/SC/0350/2000 : AIR 2000 SC 1985] has defined 'Immoveable Property' thus:

"If we concentrate on the relevant provisions of Chapter XX-C as applicable in the present appeals, it will be seen that immovable property means any right in or with respect to any building or part of a building which is yet to be constructed which right accrues or arises from any transaction including that by way of any agreement or any arrangement of whatever nature or being a transaction by way of sale exchange or lease of such building or part of a building. 'Transfer' in relation thereto means the doing of anything including by way of an agreement or arrangement which has the effect of transferring or enabling the enjoyment of such immovable property."

Rule 15 (3) of the Companies (Meetings of Board and its Powers) Rules, 2014 (as amended vide Notification dated 14<sup>th</sup> August, 2014) provides as under:-

"(3) For the purposes of first proviso to sub-section (1) of Section 188, except with the prior approval of the company by a special resolution, a company shall not enter into a transaction or transaction, where the transaction or transactions to be entered into:-

- (a) as contracts or arrangements with respect to clauses (a) to (e) of sub-section (1) of Section 188 with criteria, as mentioned below:-
  - (i) sale, purchase or supply of any goods or materials directly or through appointment of agents exceeding ten percent of the annual turnover or rupees one hundred crore, whichever is lower, as mentioned in clause (a) and clause (e) respectively of sub-section (1) of section 188;
  - (ii) selling or otherwise disposing of, or buying, property of any kind directly or through appointment of agents exceeding ten percent of net worth, or rupees one hundred crore, whichever is lower, as mentioned in clause (b) and clause (e) respectively of sub-section (1) of Section 188;
  - (iii) leasing of property of any kind exceeding ten percent of the net worth of the company or ten percent of turnover



➤ The word 'interest' appearing in sections 184 and 188 means personal interest. However, it may not be restricted to financial interest only but may also include interest arising out of fiduciary duties or closeness of relationship. The interest may be direct or indirect.

of the company or rupees one hundred crore, whichever is lower, as mentioned in clause (c) of sub-section (1) of Section 188;

- (iv) availing or rendering of any services directly or through appointment of agents exceeding ten percent of the turnover of the company or rupees fifty crore, whichever is lower, as mentioned in clause (d) and clause (e) of sub-section (1) of Section 188;

**Explanation:** It is hereby clarified that the limits specified in sub-clauses (i) to (iv) shall apply for transaction or transactions to be entered into either individually or taken together with the previous transaction during a financial year.

- (b) appointment to any office or place of profit in the company, its subsidiary company or associate company at a monthly remuneration exceeding two and half lakh rupees as mentioned in clause (f) of sub-section (1) of section 188; or
- (c) is remuneration for underwriting the subscription of any securities or derivatives thereof of the company exceeding one percent of the net worth as mentioned in clause (g) of sub-section (1) of section 188.

## EXPLANATION

- (1) The turnover or net worth referred in the above sub-rules shall be on the basis of the Audited Financial Statement of the preceding financial year.
- (2) In case of a wholly owned subsidiary, the special resolution passed by the holding company shall be sufficient for the purpose of entering into the transactions between the wholly owned subsidiary and the holding company.
- (3) The explanatory statement to be annexed to the notice of a general meeting pursuant to Section 101 shall contain the following particulars.
  - (a) Name of the Related party;
  - (b) Name of the Director or KMP who is related, if any

- (c) Nature of relationship;
- (d) Nature, material terms, monetary value and particulars of the contract or arrangement;
- (e) Any other information relevant or important for the members to take a decision on the proposed resolution;

## MEANING OF THE WORD 'INTEREST'

The word 'interest' appearing in sections 184 and 188 means personal interest. However, it may not be restricted to financial interest only but may also include interest arising out of fiduciary duties or closeness of relationship. The interest may be direct or indirect. In simple words, the interest should be an 'interest' conflicting with that of his duty as a Director [Public Prosecutor v. T.P. Khaitan (1957) 27 Comp. Cas. 77 (Mad.)].

A reference may be made to the case reported as *Needles Industries Ltd v. Needles Industries Newey (India) Holding Ltd* AIR 1982 SC 1298.

The next question that arises is as to whether all the transactions with related party have to bear the scrutiny and compliances of Section 188 of Act. To find an answer, one may have to look to the third proviso to Section 188 (1) of the Act which is in the nature of exemption clause. The same is reproduced below:-

"Provided also that nothing in this sub-section shall apply to any transactions entered into by the company *in its ordinary course of business other than transactions which are not on an arm's length basis.*





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The word “in its ordinary course of business” has not been defined under the Companies Act, 2013 and hence its meaning, intent and scope has to be gathered from judgments of various High Courts.

The Division Bench of Delhi High Court in the case of *Onassis Axles (P) Ltd v. Commissioner of Income Tax* [MANU/DE/0445/2014], was examining the genuineness of the investments made in shares by three independent entities and after examination, negated the contentions of the assessee that the investment by way of shares are genuine in the following words:-

“It is not mere co-incidence that all the three parties located at two different places in Delhi went to the same Bank on the same day at the same time and got the Pay Orders for requisite amounts in the same series. It will not be possible in the ordinary course of business that all the three persons would go to Noida for purchase of pay orders from the same bank at the same time and with the same running serial numbers. M/s. Hub Services P. Ltd. is located at Laxmi Nagar, New Delhi. There is no dearth of banks in Laxmi Nagar or Pusa Road Delhi. It has to be understood as to why anyone would go for purchase of pay orders from a bank located at long distance in Noida.”

The Division Bench of Karnataka High Court, in the case of *BNP Paribas v. United Breweries Ltd* [MANU/KA/3008/2013] while dealing with Section 562 of Companies Act, 1956, on the issue of disposition of property, during the pendency of winding up petition before the Company Judge, has defined the words “in the ordinary course of business, and observed as under:-

Honest dispositions made in the ordinary course of business are usually allowed. While passing orders, the Court considers whether the transaction in question is in furtherance of the company's business and/or in the interest of the company in liquidation and/or its creditors. Before a winding up petition is presented, it is in the ordinary course of business for a company to pay all its debts and incidentally to give security to its bankers for any overdraft or loan it may arrange. But after a petition is presented the situation is different. Prima facie all debts will have to be paid paripassu. Therefore, it is no longer in the ordinary course of business to pay one creditor in full to the detriment of his fellow creditors. However, it is difficult to lay down that all dispositions of property made by a company during the interregnum i.e., between the presentation of a petition for winding up and the passing of the order for winding up would be null and void. If such a view is taken the business of the company would be paralyzed, for, the company may have to deal with very many day-to-day transactions, make payments of salary to the staff and other employees and meet urgent contingencies.

The Allahabad High Court in the case of *Darshan Agroils Ltd v. Commissioner of Trade Tax* [MANU/UP/0060/2014] has observed as under:-

“In the present case the purchases were shown to have been made by firms at Ghaziabad and Noida but the said firms were

found closed when subsequent queries were made and the notices were issued to them. The transaction of payment through bank account is also not in the ordinary course of business inasmuch as the firms claiming their addresses at Noida and Ghaziabad, opened their accounts at Aligarh, collected cheque money and withdrawn the same in quick succession of two to three days and that too in cash. Thirdly the alleged transport companies whereby huge quantity of oil and tin containers were claimed to have been transported from Ghaziabad and Noida to Aligarh, were found non-existing and bogus.”

The Division Bench of Orissa High Court in the case of *Dilip Kumar Swain v. Executive Engineer, Cuttack Municipal Corporation* [MANU/OR/0136/1996] has defined “ordinary course of business” in the following words:

“In the context Section 32(2) of Indian Evidence Act, 1872 (in short, 'Evidence Act') may be noted. Expression "in the ordinary course of business" means "on the ordinary course of a professional avocation or current routine of business" which was usually followed by the person whose declaration it is sought to be introduced. Expression "in the ordinary course of business" means in the usual course of routine of business. It is used to detect current routine of business. It is trite law that definition or interpretation given in respect of a particular entry has to be judged in the background of that statute itself and cannot always throw a guiding light in respect of other statutes. It has to be judged in the background and context in which it is used in a particular statute.”

At the same time, one may also examine another point which may also come for interpretation as to what is the meaning of the words “arms length transaction”? The “arms length transactions” have been defined as follows:-

According to 'Black's Law Dictionary', 8th Edition, the phrase "arm's length" means, "of or relating to dealings between two parties who are not related or not on close terms and who are presumed to have roughly equal bargaining power.". In the 'Advanced Law Lexicon' by Ramanatha Aiyar, the phrase "arm's length" is defined as "a transaction negotiated and entered into by unrelated parties, each of whom acts in his or her own best interest using fair market values", and the phrase "arm's length price" is defined as "the price at which a willing seller and an unrelated willing buyer will freely agree to a transaction".

A Three Member Bench of Income Tax Appellate Tribunal, in the case of *IndusInd Bank v. Addl. Commissioner of Income Tax* [MANU/IU/0262/2012], has defined “arms length transaction” in the following words.

'The amount for which an asset could be exchanged between a knowledgeable, willing buyer and a knowledgeable, willing seller in an arm's length transaction.'

The Division Bench of the CESTAT in the case of *Commissioner*



of *Central Excise v. TFL Quinn India (P) Ltd.* 2011(267) ELT 641 has observed as under:-

“Their lordships had ordered that prompt payment discount did not form part of the assessable value in terms of Section 4. We find that in an arms length transaction, conditions for payment & delivery remaining same, the value for assessment of excisable goods did not undergo change on introduction of the 'transaction value'. The relevant value is the net consideration exchanged for delivery of the goods at the place of removal in an arms length transaction”.

The Ministry of Corporate Affairs has issued a Notification No GSR 179(E) dated 03.03.2011 Companies (Accounting Standards) (Amendment) Rules, 2011 in which “arms length transaction” has been implicitly explained in the following words:

“Fair value is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction.

(b) The expression "arm's length transaction" means a transaction between two related parties that is conducted as if they were unrelated, so that there is no conflict of interest”.

## PROCEDURAL COMPLIANCES

A contract or arrangement can be entered into by company with a related party, only with the prior consent of the Board given at a meeting subject to such conditions as may be prescribed. It needs to be noted that the contract can either be oral or in writing [ Section 7 Indian Contract Act,1872]. In other words, the approval of the Board of Directors cannot be obtained by way of passing of resolution by circulation. The law specifically requires that resolution can be passed in a duly convened meeting of the Board of Directors and only thereafter contract or arrangement can be entered into. The Agenda Note must contain full details and disclosure as specified in Rule 15 of the Companies (Meetings



of Board and its Powers) Rules, 2014. In case any director is interested in any contract or arrangement with a related party, such director shall not be present at the meeting during discussions on the subject matter of the resolution relating to such contract or arrangement.

When the Companies Act, 2013 was notified initially, it provided that in case of company having paid up share capital of Rs.10 Crore or more, such contract or arrangement shall be entered into only after seeking prior approval of the shareholders of the company by way of Special Resolution – first proviso to Section 188(1). However, the above limits of Rs.10 Crores stood deleted vide Notification dated 14<sup>th</sup> August, 2014. After deletion, if a contract or arrangement exceeds the limits as indicated in Rule 15 of the Companies (Meetings of Board and its Powers) Rules, 2014, approval of the shareholders by way of special resolution would be required. The Ministry of Corporate Affairs, vide their Circular No. 30/2014 dated 17<sup>th</sup> July, 2014 has clarified that “ the related party, if he is a member of the Company, shall not take part in the voting on Special Resolution – second proviso of Section 188 (1). It is clarified that 'related party' referred to in the second proviso has to be construed with reference only to the contract or arrangement for which the said special resolution is being passed. Thus, the term 'related party' in the above context refers only to such related party as may be a related party in the context of the contract or arrangement for which the said special resolution is being passed.

## PAST TRANSACTIONS

The Ministry of Corporate Affairs has, vide above Circular, has further clarified that contracts entered into by companies, after making necessary compliances under Section 297 of the Companies Act, 1956, which have already come into effect before the commencement of Section 188 of the Companies Act, 2013 (i.e. before 1.04.2014), will not require fresh approval under the said Section 188 till the expiry of the original term of such contracts. Thus, if any modification in such contract is made on or after 1st April, 2014, the requirements under section 188 will have to be complied with.

## EXEMPT CONTRACTS/ARRANGEMENTS

The following contracts/arrangements shall fall outside the purview of Section 188 of the Companies Act, 2013 by virtue of third proviso to Section 188.

- a) The “Contract” or “Arrangement” has been entered into “in the ordinary course of business” or are “arms length transactions”. The “ordinary course of business” and “arms lengths transactions” have been extensively discussed in the preceding paras.
- b) Where a contract or arrangement has been entered into between two companies and any of the directors of one



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company or two or more of them together holds or hold not more than two percent paid up share capital in the other company.

- c) If a contract or arrangement is sought to be entered into between a company (be a public or private) on the one hand and the "related party" on the other hand and so long as the value of such contract or arrangement does not exceed the limits as prescribed in Rule 15 of Companies (Meetings of Board and its Powers) Rules, 2014 as amended vide Notification dated 14<sup>th</sup> August, 2014, (limits also shown in para 6 of this Article), no Special Resolution shall be necessary.

## CONSEQUENCES OF NON-COMPLIANCES

Section 188(3) lays down the consequences arising out of non-compliances. In the event a director or the other employee enters into a contract or arrangement with a related party (a) without obtaining the consent of the Board of Directors by way of a resolution in a meeting of the Board of Director or (b) without obtaining prior approval of the shareholders by way of Special Resolution at a general meeting or (c) where contract or arrangement has not been ratified within a period of three months from the date of entering into contract or arrangement, the following consequences shall ensue:-

- i) The contract or arrangement is not void but voidable. The contract or arrangement shall be voidable at the option of the company.
- ii) In terms of Section 188(4) of the Act, the directors or other employees shall indemnify the company against any loss incurred by the company. In the event of company initiating any legal proceedings, i.e. suit for recovery of money in the court of law for claiming losses and damages, the directors shall be liable to pay the amount adjudicated and determined by the court.
- iii) A person shall not be entitled to be appointed as a Director by virtue of Section 164(1)(g) of the Companies Act, 2013 upon such director being convicted of an offence dealing with related party transactions under Section 188 of the Act at any time during the preceding five years.
- iv) In case of a listed company, both on directors and employee of company shall be liable to (a) imprisonment up to one year or fine up to Rs.5 lac but not less than Rs.25,000/- or both (b) in case of company whose shares are not listed, fine up to Rs.5 lacs but not less than Rs.25,000/-.However, there is no imprisonment prescribed.

## CONCLUSIONS

Section 188 of Companies Act, 2013 read with Rule 15 of Companies ( Meetings of Board and its Powers) Rules, 2014, at best, envisage approval of the shareholders by way of special resolution and needless to say approval of the board of directors in a duly convened meeting but does not require any approval of the Central Government. It may be seen that in Section 297 of the Companies Act, 1956, in case of having paid up share capital of Rs. 1 Crore or more, the contract for sale, purchase or supply of goods, materials or services could be entered into only with the approval of the Central Government save and except where the sale, supply and purchase of goods and materials were only in cash and at the prevailing market price. However, in relation to services in excess of Rs.5,000/- per year, the approval of the Central Government was called for. As pointed out earlier, the Section 188 applies to both public and private companies. It is strongly felt that there is no reason as to why the rigors of Section 188 be applied to purely private companies where neither public is interested nor any public funds are infused.

CS

## Appointment

**EVEREST GROW MORE FINANCE PVT. LTD.**

*(A Non Banking Finance Company)*

104 Harsha House, Karampura Commercial Complex, New Delhi - 110 015

**Requires**

**COMPANY SECRETARY**

*A young dynamic with experience of 1 to 2 years*

**The candidate should be able to independently handle all the secretarial matters, compliance under Corporate Laws with analytical vision & writings, as per RBI directions, guidelines, liaison with RBI for their compliance and Listing formalities with Stock Exchanges will be preferred.**

**Interested candidate can email their C.V.**

**With Photograph to:**

**everestgrowmore@gmail.com**

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## Whether Tax Benefit Can be Claimed under Section 80G of the Income-Tax Act for Contribution to the Prime Minister's National Relief Fund in Discharge of Corporate Social Responsibility?

- The Companies Act, 2013, for the first time has mandated spending of certain percentage of the profits by companies towards discharging corporate social responsibility. When a company contributes such sum to the P.M's National Relief Fund it will be entitled to claim deduction of the same in terms of section 80G of the Income-tax Act and the disallowance contemplated by the amended section 37(1) would not be attracted.

**T**he concept of Corporate Social Responsibility (CSR) has been introduced in the Companies Act, 2013 ('Act' for short) for the first time. Perhaps, this is going to be first experience of this kind in the global context. Section 135 of the Act, *inter alia*, provides for incurring of expenditure by Companies as CSR. The section has 5 sub-sections, two provisos and an explanation. The salient aspects of these provisions are summarized as under:

- (i) A company will have to spend 2% of its average net profit during three preceding years on Corporate Social Responsibility. The explanation to the clause provides that 'average net profit' shall be calculated in accordance with the provisions of section 198 (section 198 of the Act mentions the method relating to calculation of profits).
- (ii) The requirement of spending of 2% amount will apply to the following categories of companies, namely:-



\*Former Chairman, CBDT & Special Secretary, Ministry of Finance.



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WHETHER TAX BENEFIT CAN BE CLAIMED UNDER SECTION 80G OF THE INCOME-TAX ACT FOR CONTRIBUTION TO THE PRIME MINISTER'S NATIONAL RELIEF FUND IN DISCHARGE OF CORPORATE SOCIAL RESPONSIBILITY?

- Having net worth of more than Rs. 500 crore; or
  - Having turnover of Rs. 1000 crore or more; or
  - Having net profit of Rs. 5 crore or more.
- (iii) The company falling in any of the categories referred to earlier shall have to constitute a Corporate Social Responsibility Committee (CSRC) to formulate and recommend to the Board, a Corporate Social Responsibility Policy which shall indicate the activities to be undertaken by the company as specified in Schedule VII.
- (iv) The Board of Directors of the company shall ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.
- (v) The Board of every company falling in the categories specified earlier has to ensure spending of the amount as prescribed and if the Company fails to do so, the Board shall, in its report made under clause (o) of sub-section(3) of section 134 specify the reasons for not spending the amount.
- (vi) Section 134(3) of the Act mandates that with financial statements to be presented, there shall be a statement showing the details about the policy developed and implemented by the company on corporate social responsibilities initiatives taken during the year. Sub-section(8) of this section provides that if it is not done, the company shall be punishable with fine which shall not be less than fifty thousand rupees but which may extend to twenty-five lakh rupees and every officer of the company who is in default shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees, or with both.

Briefly the section provides that every company having specified network or turnover or net profit during any financial year shall constitute the Corporate Social Responsibility Committee of the Board. The composition of the Committee shall be included in the Board's Report. The Committee shall formulate policy including the activities specified in Schedule VII of the 2013 Act. The Board shall disclose the content of policy in its report and place on website, if any of the company. This section further provides that the Board shall ensure that at least 2% of average net profits of the company made during three immediately preceding financial years shall be spent on such policy in every financial year. If the company fails to spend such amount, the Board shall give in its report the reasons for not spending. There was no provision along these lines for mandatory CSR policy and CSR spends in the 1956 Act.

## CSR EXPENDITURE

The phrase 'CSR Expenditure' has been defined in Rule 2 of the Companies (Corporate Social Responsibility Policy) Rules, 2014 thus:

"CSR expenditure shall include all expenditure including to corpus, or on projects or programs relating to CSR activities approved by the

Board on the recommendation of the CSR committee, but does not include any expenditure on an item not in conformity or not in line with activities which fall within the purview of Schedule VII of the Act."

## MANDATED AREAS ON WHICH CSR EXPENDITURE IS TO BE INCURRED

In spending the funds, the company is to give preference to the local area and areas around it where it operates and the activities to be undertaken will be those specified in Schedule VII of the Act of 2013 which are as under:

- (i) eradicating hunger, poverty and malnutrition, promoting preventive health care and sanitation and making available safe drinking water;
- (ii) Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently able and livelihood enhancement projects;
- (iii) Promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centres and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups;
- (iv) Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agro forestry, conservation of natural resources and maintaining quality of soil, air and water;
- (v) Protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional arts and handicrafts;
- (vi) Measures for the benefit of armed forces veterans, war widows and their dependents;
- (vii) Training to promote rural sports, nationally recognized sports, Paralympics sports and Olympic sports;
- (viii) Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women;
- (ix) Contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government;
- (x) Rural development projects.
- (xi) slum area development



## CSR EXPENDITURE CANNOT BE CLAIMED AS DEDUCTION

The position in this regard has been clarified by adding an explanation to section 37(1) of the Income-tax Act, 1961 by the Finance (No.2) Act 2014 which reads as under:

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

### WHAT SECTION 37(1) PROVIDES?

Section 37(1) provides for claiming deduction under the Act for computation of taxable income which cannot be claimed under other sections i.e. 30 to 36 of the Act. The Act does not tax 'gross' incomes. It taxes incomes after deducting the expenses incurred in earning the income provided in the IT Act or those deductible as per the prevalent commercial norms and practices. Section 28 defines various incomes which are chargeable to tax under the head "Profits and gains of business or profession". Section 29 permits deductions and allowances laid down by sections 30 to 37 while computing profits or gains of a business or profession. Section 29 is to be read with reference to other provisions of the Act. Sections 40, 40A and 43B give a list of expenses which are not deductible.

### CONDITIONS FOR CLAIMING DEDUCTION UNDER SECTION 37(1).

Section 37(1) is a residuary section. In order to claim deduction under this section, the following conditions should be satisfied:

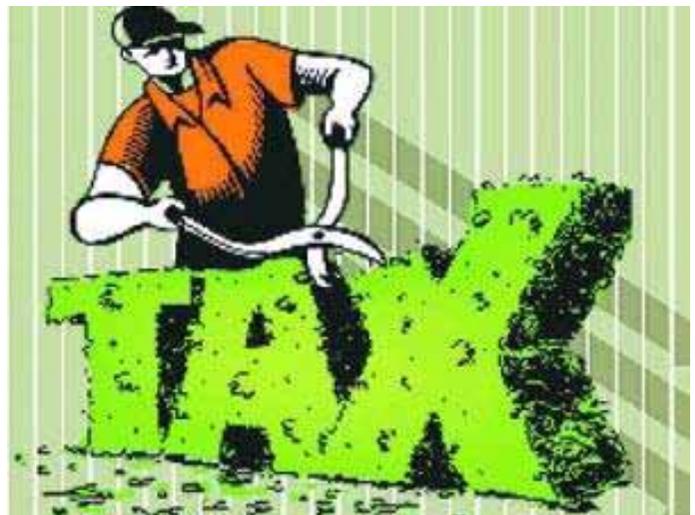
- (i) The expenditure should not be of the nature described under sections 30 to 36.
- (ii) It should not be in the nature of capital expenditure.
- (iii) It should not be personal expenditure of the assessee.
- (iv) It should have been incurred in the previous year.
- (v) It should be in respect of business carried on by the assessee.
- (vi) It should have been expended wholly and exclusively for the purpose of such business.
- (vii) It should not have been incurred for any purpose which is an offence or is prohibited by any law.

### EXPENDITURE- WHAT DOES IT CONNOTE

Section 37(1) provides for deduction of 'expenditure' in the circumstances stated earlier. There is no definition of the term 'expenditure' in the Act. Hence its meaning has to be understood

generally by those who deal with the subject in question (See *Axkash Films v. CIT(1991) 190 ITR 32(Karn.)*). According to *Indian Molasses Co. (P) Ltd. v. CIT (1959) 37 ITR 66(SC)* 'expenditure' is equal to 'expense' and 'expense' is money laid out by calculation and intention even though in many uses of the word this element may not be present, as when one speaks of a joke at another's expense. But the idea of 'spending' in the sense of 'paying out or away' money is the primary meaning which is relevant and an 'expenditure' is what is 'paid out or away' and is something which is gone irretrievably. See also *M.P. Financial Corpn. v. CIT(1987) 165 ITR 765(MP)*.

'Expenditure' primarily denotes the idea of 'spending' or 'paying out or away' of money. It is something which is gone irretrievably, but it should not be in respect of an unascertained liability of the future. It must be an actual liability at present as opposed to contingent liability of the future – vide *Mysore Krloskar Ltd. v. CIT (1987) 166 ITR 836 (Karn.)*. However, for claiming deduction, the expenditure must be related to business i.e. it must be incurred for the purpose of business. New explanation 2 provides that CSR expenditure incurred by a company shall not be deemed to be an expenditure for the purpose of the business or profession. The reason given is that the existing provisions of section 37(1) of the Act provide that deduction for any expenditure, which is not mentioned specifically in section 30 to section 36 of the Act, shall be allowed if the same is incurred wholly and exclusively for the purposes of carrying on business or profession. As the CSR expenditure (being an application of income) is not incurred for the purposes of carrying on business, such expenditure cannot be allowed under the existing provisions of section 37 of the Income-tax Act. Therefore, in order to provide certainty on this issue, it is proposed to clarify that for the purposes of section 37(1) any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to have been incurred for the purpose of business and hence shall not be allowed as deduction under section 37. However, the CSR expenditure which is of the nature described in section 30 to section 36 of the Act





# Article

WHETHER TAX BENEFIT CAN BE CLAIMED UNDER SECTION 80G OF THE INCOME-TAX ACT FOR CONTRIBUTION TO THE PRIME MINISTER'S NATIONAL RELIEF FUND IN DISCHARGE OF CORPORATE SOCIAL RESPONSIBILITY?

➤ when a company contributes from its CSR Fund to PM National Relief Fund, it cannot be said to be incurring any expenditure for the purposes of its business. It is simply a voluntary contribution. The business can be continued even without making such contribution. Hence it will not be covered by the prohibition contained in the nearly introduced explanation 2 to section 37(1) of the Act

shall be allowed deduction under those sections subject to fulfillment of conditions, if any, specified therein

Another reason given for not permitting deduction of CSR expenditure in Explanatory Memorandum to the Finance (No.2) Bill 2014 is that the objective of CSR is to share burden of the Government in providing social services by companies having net worth/turnover/ profit above a threshold. If such expenses are allowed as tax deduction, this would result in subsidizing of around one-third of such expenses by the Government by way of tax expenditure.

On this ground, the deduction for contribution to PM National Relief Fund, as a part of CSR expenditure cannot be denied. Strict rule of construction has to be followed in considering such claim. Such a rule has been laid down by Rowlatt J. in the *Cape Brandy* case in 1921 *Cape Brandy Syndicate v. Inland Revenue Commissioners* – 1 KB 64 P. 71). This legendary decision runs as follows-

*"In a taxing statute one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to a tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the languages used."*

This has been quoted by the Supreme Court with approval in several judgements.

## WHETHER CONTRIBUTION TO P.M'S NATIONAL RELIEF FUND COULD BE CONSIDERED AS 'EXPENDITURE'

The reply to this query, has to be in the negative. The word 'contribution' is derived from the word 'contribute' which implies giving or granting something in 'common with others' generally for a common purpose, *inter alia*, as contribution for a charitable purpose or fund. For example in section 293A (corresponding

section in Companies Act 2013 is section 183) of the Companies Act, 1956 the word 'contribute' has been used in the context of 'prohibition and restrictions' regarding political contributions. The spirit behind 'contribution' i.e. giving for a common cause is founded on doctrine of equity – not contract, where common cause or charity are concerned. However, in certain situations, it could be based on contract like contributions to Provident Funds, Pension Funds etc. by employers or other authorities.

## CONTRIBUTION TO PM NATIONAL RELIEF FUND CANNOT BE EQUATED WITH EXPENDITURE.

From the foregoing discussion, it is clear that when a company contributes from its CSR Fund to PM National Relief Fund, it cannot be said to be incurring any expenditure for the purposes of its business. It is simply a voluntary contribution. The business can be continued even without making such contribution. Hence it will not be covered by the prohibition contained in the nearly introduced explanation 2 to section 37(1) of the Act (extracted earlier). Hence benefit for such contributions from corporation tax can be claimed under section 80G of the Act (explained in later paragraphs).

## SECTION 80G OF THE ACT

Section 80G allows deduction to any taxpayer (may be individual, firm, HUF, company, resident or non-resident) on gross qualifying amount which is the aggregate of the donations to any of the institutions/bodies mentioned in section 80G which, *inter alia*, includes PM National Relief Fund. The 10% ceiling is applicable in respect of some donations. But the ceiling is not applicable to contributions to PM National Relief Fund along with some other Funds. 100% contributions to PM National Relief Fund are deductible from gross total income for arriving at the taxable income along with other admissible deductions. By such deduction tax to the extent of 30% of deduction + applicable surcharge of 3% cess could be saved.

## CONCLUDING COMMENTS

Explanation 2 being applicable in cases where 'expenditure' has been incurred (and not where contributions are made) a company which makes contributions to PM National Relief Fund can claim 100% deduction in terms of section 80G of the Act. The distinction between 'expenditure' and 'contribution' is quite obvious and the two expressions are not synonymous or interchangeable. Thus by making contribution to PM National Relief Fund (or other funds notified by the Central or State Governments as stipulated in Annexure VII), a company can comply with the requirement of section 135 of the Companies Act concerning CSR as well as avail of tax benefit u/s 80G as indicated earlier. CS



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# Risk Management and the Role of Company Secretary

- With reference to section 177 (4) (iii) of the Companies Act 2013 and also with Clause 49 of the Listing Agreement, the role expected of a company secretary in the matter of risk management is examined here.

## DEFINITION OF RISK

**R**isk as defined by the Oxford dictionary is a chance or possibility of danger, loss, injury or other adverse consequences.

## RISK MANAGEMENT

An organization is subject to a variety of internal and external risks. As business leaders seek new ways to build shareholder value, they are discovering a connection between value and risk management. Enterprise risk management (ERM) has emerged as an important means of identifying the critical risks the organization faces - including, for example, reputation, ethics, e-business and health, safety and environmental risks (not just financial or insurable hazards) - and then managing and optimizing that portfolio of risks such that commensurate financial rewards are realized.

Business risks that are not managed have clear consequences for an organization - potential shareholder wealth erosion, exposure to the viability and success of the organization and exposure to financial consequences of unexpected events - all of which can affect a company's financial reporting. ERM can provide



business with tools for monitoring the processes in place to identify significant business risks at the organization, ensuring that those risks are being managed and reporting the organization's risk management activities to shareholders.

Risk management is a process by which the possible risks are identified and then tries to manage threats that could severely impact or bring down the organization. Risk management, by and large involves reviewing the operations of the organization,



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RISK MANAGEMENT AND THE ROLE OF COMPANY SECRETARY

followed by identifying potential threats to the organization and the likelihood of their occurrence, and then taking appropriate actions to address the most likely threats.

## REGULATORY PROVISIONS ON RISK MANAGEMENT

Paragraph (C) of sub-clause IV of clause 49 of Listing Agreement states as under:-

“The company shall lay down procedures to inform board members about the risk assessment and minimization procedures. These procedures shall be periodically reviewed to ensure that executive management controls risk through means of a properly defined framework”

## CORPORATE GOVERNANCE VOLUNTARY GUIDELINES 2009

The Ministry of Corporate Affairs, Government of India has also accepted the concept of risk management and its relevance to the smooth functioning of the corporate sector in India and has therefore introduced a specific provision on risk management under paragraph (II) (C) of Corporate Governance Voluntary Guidelines, 2009

## COMPANIES ACT 2013 ON RISK MANAGEMENT

Sub-section (iii) of Section 177(4) of the Companies Act 2013 while spelling out the functions of the audit committee states that every audit committee shall act in accordance with the terms of reference specified in writing by the Board which shall, *inter alia*, includes the “ evaluation of internal financial controls and risk management systems”.

The Companies Act further prescribes that the report of the board of directors , should include a statement indicating development and implementation of a risk management policy for the company. Though the definition of risk management is not stated in the Companies Act, it is understood that the company may have to address the definition and the meaning of risk management, types of risks, risk management per se, risk assessment, risk identification activities, risk handling, monitoring and reporting of risk.

## RISK AND CORPORATE GOVERNANCE

Risk management is very much relevant to corporate governance which is now regulated by the regulator across the globe and every organization is marching towards achieving excellence in corporate governance

It is the responsibility of the Board of directors to look after the assets of their company and to protect the value of their shareholders' investment. This includes a duty to take measures to prevent losses through error, omission, fraud and dishonesty. Control measures are provided through a system of internal control. A principle of the UK Combined Code is that “ *The board should maintain a sound system of internal control to safeguard Shareholders' investment and the company's assets*”

It is also argued that the Board of directors should be responsible for making sure that all risks are managed properly. A company should protect itself against serious downside risks, such as losses through fire damage, flood damage, theft, accident claims by employees, and so on, and the Board should be satisfied that a management system is in place for monitoring and controlling the risks. Executive management takes many business decisions where returns are difficult to produce, and there is upside risk as well downside risk. The Board should be satisfied that in their decision-making, managers take risk into account as well as expected returns. Similarly when the board takes major investment decisions or decides on corporate strategy, risks as well as expected returns should be properly assessed. The risk assessment component of the framework relates to management's understanding of these risks and management policies related to them.

## CADBURY COMMITTEE'S REPORT ON RISK

In U.K., the Cadbury Committee described risk management as “*the process by which executive management, under board supervision, identifies the risk arising from business..... And establish the priorities for control and particular objectives*”

The Committee took the view that risk management should be systematic and embedded in the company's procedures and that there should be a culture of risk awareness. The importance of risk management for a company is that a failure to monitor, control and contain risks could lead to financial collapse.

The Cadbury Committee argues the need not just for an effective system of internal control but also for broader risk management. The view was not generally accepted at that time, but the significance of risk management, and the Board's responsibility to shareholders for proper risk management, was eventually accepted “officially” in the United Kingdom as an element of corporate governance with the publication of the Combined Code in 1998.

In relation to corporate governance, there are three main areas relating to controls and risk management

1. The Board's responsibility for the system of internal control, and reviewing internal financial controls
2. The responsibility of the audit committee for reviewing all the company's internal control systems and risk management systems
3. Internal audit

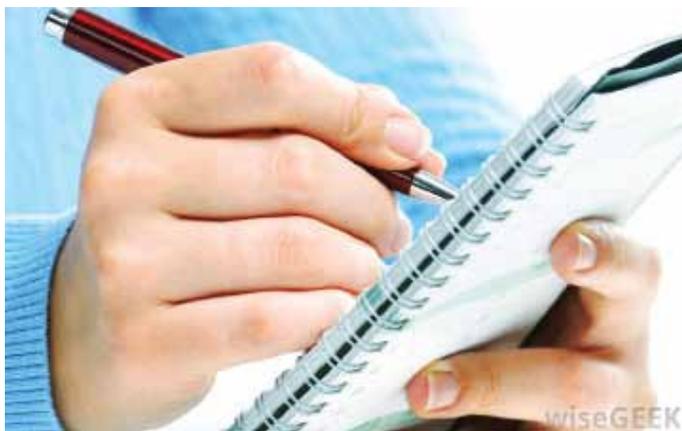


- The risk management process involves identifying the risks an organization is subject to, deciding how to manage it, implementing the management technique, measuring the ongoing effectiveness of management and taking appropriate correction action. Therefore the company secretary needs to work closely with the audit committee and ensure that the audit committee considers all the important issues in relation to risk management.

## COMPANY SECRETARY'S ROLE

It is recognized that the “governance” role is best played by the company secretary not only in India but also across the world. Principle 2.21 of King III (King’s Committee) states that the board of the company should be assisted by a competent, suitably qualified and experienced company secretary”. In addition, Paragraph 101 of King III emphasizes that the individual directors and the board collectively, should look to the company secretary for guidance on their responsibilities and duties and how such responsibilities and duties should be properly discharged in the best interests of the company. Further Paragraph 102 states that the company secretary should provide a central source of guidance and advice to the board, and within the company, on matters of good governance and of changes in legislation.

It follows from the above that the Board and senior management would look to the company secretary to assist them in the exercise



of their risk management responsibilities. Needless to mention that the company secretary needs to be equipped with the necessary expertise in order to become the risk management “knowledge manager” in the organization

## COMPANY SECRETARY AS PER COMPANIES ACT 2013

Under section 2(38) of the Companies Act, the company secretary is recognized as an “expert” and under section 2(51) the company secretary is recognized as one of the “Key Managerial Personnel”. Further by virtue of section 2 (59) company secretary is also an “officer” since the definition of officer includes or key managerial personnel amongst others and by virtue of section 2 (60), the company secretary is also “officer who is in default”

Under the Companies Act, 2013, while spelling out the functions of company secretaries for the first time, the role of the company secretary has been considerably widened inasmuch as now he is not only responsible for the compliances under the Company law but also in respect of compliances under all other applicable laws. As we all know, more the regulations, more the risk and the company secretary has got a pivotal role to play.

## ROLE EXPECTED TO BE PLAYED BY C.S. IN RISK MANAGEMENT

Basically, the risk management process involves identifying the risks an organization is subject to, deciding how to manage it, implementing the management technique, measuring the ongoing effectiveness of management and taking appropriate correction action. Therefore the company secretary needs to work closely with the audit committee and ensure that the audit committee considers all the important issues in relation to risk management.

Let us look into the basic steps in risk management where the audit committee and company secretary could work together.

## BASIC STEPS IN RISK MANAGEMENT PROCESS

- (a) Identify risks and quantify impact on an ongoing basis

For example, fraud, theft, professional negligence, product liability claims, fire, earthquake, IT failure, debtor default, strike and so on.

- (b) Categories of risk

Categories vary from industry to industry and risk practitioners but common ones include, catastrophe, attrition, political, market, operational, credit and so on.



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## RATING OF RISK

Once the categorization of risk is done it could be rated in a scale based on the control needs and the suggested scale of risk is given below for the benefit of the readers. One may also like to have the scale further categorized 1A, 1B, 1C, 2A, 2B & 2C so on depending the need and control mechanism place.

## SUGGESTED SCALE OF RISK ( RISK SCALE)

Scale	Impact	Probability
1	Catastrophic	Certain
2	High	Almost Certain
3	Moderate	Probable
4	Low	Somewhat
5	Very Low	Unlikely

- (a) Decide on risk management technique by category and by individual risk

Common techniques include, ignore, insure, transfer, avoid, control and so on...

- (b) Implement the chosen risk management technique

Following are some of the examples in this context

1. For risk avoidance, one needs not to buy a property or business in order to not take on the liability that comes with it. One more example is not flying in order to avoid the risk that the airplane was to be hijacked. Avoidance may seem the answer to all risks, but avoiding risks also means losing out on the potential gain that accepting (retaining) the risk may have allowed. Not entering a business to avoid the risk of loss also avoids the possibility of earning the profits.
2. Example for risk reduction could be, sprinklers designed to put out a fire to reduce the risk of loss by fire. This method may cause a greater loss by water damage and therefore may not be suitable. Halon fire suppression systems may mitigate that risk, but the cost may be prohibitive as a strategy.
3. Example for risk retention could include self insurance and risk retention is a viable strategy for small risks where the cost of insuring against the risk would be greater over time than the total losses sustained. All risks that are not avoided or transferred are retained by default. This includes risk that is so large or catastrophic that they either cannot be insured against or the premiums would be infeasible. War is an example since most property and risks are not insured against war, so the loss attributed by war is retained by the insured.
4. Example of risk transfer could be causing another party to accept the risk - typically by contract or by hedging. Insurance is one type of risk transfer that uses contracts. Offsetting

positions in derivative securities is typically how firms use hedging to financial risk management; financially manage risk.

## CREATE AN APPROPRIATE PLAN

The enterprise has to decide a plan for mitigating the risk and decide on the combination of methods to be used for each type of risk.

Financial risk could be identified based on the financial instruments, other than derivatives, bank loans, overdrafts, finance leases and hire purchase contracts and short term deposits etc. Various other financial instruments may include trade receivables and trade payables which arise directly from the operations of an enterprise.

Forward currency contracts are another area which is to manage the interest rate and currency risk arising from the enterprise operations and its source of finance.

To summarize, the main risks arising for an enterprise in this area would be interest rate risk, foreign currency risk, liquidity risk and credit risk.

The enterprise may have the policy document in place in financial risk management area with a set objectives so that monitoring the risk and taking appropriate required action for mitigation would be on an ongoing basis.

## IMPLEMENTATION OF THE CHOSEN PLAN

The enterprise has to follow all of the planned methods for mitigating the effect of the risks. The enterprise may purchase insurance policies for risks that have been decided to be transferred to an insurer, the enterprise can avoid all risks that can be avoided without sacrificing the entity's goals, and decide to reduce others, and retain the rest of the risk, depending upon the category and impact of the risk.

- (a) Measure and monitor effectiveness and respond according to results

Initially, risk management plans will never be perfect. Practice, experience and actual loss results will necessitate changes in the plan and contribute information to allow possible different decisions to be made in dealing with the risks being faced. In view of this, constant review of the plan and its implementation needs to be monitored.

## LIMITATIONS

If risks are improperly assessed and prioritized, time can be wasted in dealing with risk or losses that are not likely to occur. Spending too much time assessing and managing unlikely risks can divert resources that could be used more profitably. Unlikely events do occur, but if the risk is unlikely enough to occur, it may be better to simply retain the



risk, and deal with the result if the loss does in fact occur. Prioritizing too highly the risk management processes itself could potentially keep an organization from ever completing a project or even getting started. This is especially true if other work is suspended until the risk management process is considered complete.

An efficient internal control system coupled with the internal audit could greatly contribute in identifying the risk and its categorization and suggesting ways and means to mitigate / reduce / transfer the risks. In this context, let us examine the internal control and how effectively the control could be implemented with the help of internal audit.

## RISK MANAGEMENT POLICY

Risk management is growing in importance due to legislation becoming tougher, insurance becoming more expensive and more difficult to obtain, customer attitudes changing coupled with the more critical public. Further, every management is aiming to become global and becoming more professional coupled with the learnings from other firms' disasters. The company secretary could bring out a comprehensive risk management policy for consideration by the audit committee and the board members as a starting point.

A suggested risk management policy (an illustrative one) could be in the following lines/

### Strategic risk management policy (suggested – by way of illustration)

#### Business Purpose

The ...(company's name).....operates..... globally / nationally..... with manufacturing and.....(if global representation in countries)..... with developed..... (business / services).....industries. The.....name of the company .....marketing and technology led business-to-business product sales are managed via regional management. ....name of the company or division..... supplies .....products / services..... that are designed to improve process capability, yield efficiency and resource utilisation in the .....type of industry where supplies are made.....process. Main product areas include (i).....(ii).....(iii)..... (iv).....materials. A unique level of technical and commercial service support differentiates.....name of the company's..... product offering.

#### Strategic Objectives

The primary .....company / group .....Strategic Risk Management Objective is to protect the value of the..... company / group .....on behalf of the shareholders. Within this policy there is a requirement to protect the generation of cash

flows and profits through the supply of products and services to customers.

### Benefits

It is recognized that, through effective management of risk and uncertainty, including both upside and downside risks, benefits accrue to all areas of the .....company / group ..... through maximizing of opportunities and minimization of threats.

### Resources

.....(name of the company) .....through its Finance, Human Resources, Marketing, Operational, Technical, Intellectual Property, Insurance and Risk Management personnel provide functions and services to the group. The.....(name of the company / division) .....possesses significant risk embedded in its existing management processes. To facilitate an effective process, existing risk management processes should be incorporated into the .....company / division..... framework where appropriate.

### Management of Risk Process: Frameworks and Techniques

Appropriate, tailored frameworks that relate to key features of the business processes and are compatible with existing Company culture and management processes should be used as a basis for:

- Analyzing (identifying, describing and estimating) risks
- Identification of risk owners
- Setting of acceptable levels of risk
- Evaluating the risks against acceptable levels of risk
- Identification and implementation of controls
- Monitoring of residual risks and the effectiveness of controls
- Reviewing and reporting on the Risk Management process at appropriate intervals, at least annually.

Risk Management techniques should be appropriate to the context and should take into account costs and benefits. Group Risk Management should be developed on a consistent and repeatable basis through the adoption and transfer of best practice in line with business needs.

### Risk Appetite

The exposure of the company to risks should be maintained at a level acceptable to the Board of Directors, on behalf of the shareholders. Depending on availability and cost effectiveness, risk may be transferred or retained as appropriate.

## RESPONSIBILITIES AND OWNERSHIP

- .....(name of the company)..... should manage global level strategic, high impact risks and interdependencies between businesses and policies.



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➤ As a responsible officer for coordination and communication for effective corporate functioning and governance, the company secretary can ensure that there is an integrated framework on which a strong system of internal control is built. Such a framework will become a model for discussing and evaluating risk management efforts in the organization. Risk and control consciousness should spread throughout the organization.

- The Executive for each SBU should manage SBU specific strategic risks.
- Regional management should manage region specific strategic risks, programme and project risks.
- Operating Company management teams should manage operational risks.

## Escalation and Reporting

Criteria and thresholds for escalating and reporting risks and occurrences to a strategic level should be reviewed and notified at least annually. Reporting on key risks to the Board of Directors and the Executives should be carried out on a regular basis at a frequency determined by the Board of Directors or their nominees at least annually.

## DOCUMENTATION

Risk Registers and Summary Risk Profiles should be maintained covering all significant risks capable of impacting on the Group / Operating Company at Strategic and Operational levels respectively. The Board of Directors or their nominees should review the Registers and thresholds for impact and probability at appropriate intervals, at least annually.

## AUDITING

Group Risk Management should be subject to internal and external audits at a frequency determined by the context and external and internal requirements.

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**Company secretary could ensure that risk**

## management is effective

The company secretary being a top level officer and board confidante can play a role in ensuring that a sound risk management process which is effective throughout the company is in place. The policy could be put in the intranet server of the company, accessible by anyone from their computer.

The company secretary, based on the advice of the board of directors may constitute a risk management sub-committee assisted by a risk management officer, if necessary and required. As a responsible officer for coordination and communication for effective corporate functioning and governance, the company secretary can ensure that there is an integrated framework on which a strong system of internal control is built. Such a framework will become a model for discussing and evaluating risk management efforts in the organization. Risk and control consciousness should spread throughout the organization.

The company secretary can ensure that this happens so that the risk factor will come into consideration at the every stage of formulation of a strategy. It will also create awareness about inter-relationships of risks across business units and at every level of the organization. The company secretary can ensure that the following questions (this is only an illustrative list) are effectively addressed at the board level at every meeting of the board and deliberated so that the risk management is effective in an organization.

- What is the organization's risk management philosophy?
- Is that philosophy clearly understood by all personnel?
- What are the relationships among enterprise risk management performance, and value?
- How is enterprise risk management integrated within organizational initiatives?
- What is the desired risk culture of the organization and at what point has its risk appetite been set?
- What strategic objectives have been set for the organization and what strategies have been or will be implemented to achieve those objectives?
- What related operational objectives have been set to add and preserve value?
- What internal and external factors and events might positively or negatively impact the organization's ability to implement its strategies and achieve its objectives?
- What is the organization's level of risk tolerance?
- Is the chosen risk response appropriate for and in line with the risk tolerance level?
- Are appropriate control activities (i.e., approvals, authorizations, verifications, reconciliations, reviews of operating performance, security of assets, segregation of duties) in place at every level throughout the organization?
- Is communication effective — from the top down, across, and from the bottom up the organization?
- How effective is the process currently in place for exchanging information with external parties?



- What is the process for assessing the presence and performance quality of all eight enterprise risk management components over time

## REGULATORY COMPLIANCE

The company secretary being a compliance officer, needs to ensure the regulatory compliance under the listing agreement for the listed companies which are as under.

## DISCLOSURE REQUIRED IN CEO /CFO CERTIFICATION

The company secretary needs to ensure that the CEO/CFO certification place to the board declared the following in the certificate amongst others

“There are, to the best of CEO/CFO knowledge and belief, no transactions entered into by the Company during the financial year 2013 which are fraudulent, illegal or violative of the Company’s Code of Conduct.

The CEO CFO accept responsibility for establishing and maintaining internal controls for financial reporting and that the CEO/CFO have evaluated the effectiveness of the internal control systems of the company pertaining to financial reporting and the CEO/CFO have disclosed to the auditors and the audit committee those deficiencies, of which the CEO / CFO are aware, in the design or operation of the internal control systems, if any, and that the CEO / CFO have taken the required steps to rectify these deficiencies.”

Though not mandatory, the company secretary could suggest to the board of directors to publish the CEO / CFO certification in the annual report for transparent disclosure and many organizations are already publishing the CEO / CFO certification.

## DISCLOSURE IN MANAGEMENT DISCUSSION AND ANALYSIS REPORT

The company needs to state that there is a risk management system in place in the company and regular reporting is being made. As a compliance officer, the company secretary needs to ensure that necessary disclosures are brought out in the MD & A report. The short suggested paragraph could be as under (illustrative one)

## “INTERNAL CONTROL SYSTEMS AND THEIR ADEQUACY

The Company maintains adequate internal control system, which provides, among other things, reasonable assurance of recording

the transactions of its operations in all material aspects and of providing protection against misuse or loss of Company’s assets. In addition, the Company has a well structured system of risk management and risk reporting.”

## DISCLOSURE IN CORPORATE GOVERNANCE REPORT

The Listing Agreement requires disclosure in the annual report that the risk management system is being reviewed by audit committee for its effectiveness. The Company secretary, from the disclosure compliance point needs to ensure that under a heading of Risk Management – the necessary disclosure stating that the Audit Committee regularly reviews the risk management strategy of the Company to ensure the effectiveness of risk management policies and procedures needs to be brought out.

## DISCLOSURE IN DIRECTORS’ REPORT

The company secretary also needs to ensure proper disclosure in directors’ report stating that the Board of directors have taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of the Companies Act, 2013 for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities under the heading directors responsibility statement. Further, the Board of directors also needs to disclose under internal control systems that the Company’s internal control systems are audited by (in house whole time internal auditor or outsourced firm of auditors) the auditor independently evaluates the adequacy of internal controls and reviews major transactions and the Internal Auditor reports directly to the Audit Committee to ensure complete independence.





# Article

RISK MANAGEMENT AND THE ROLE OF COMPANY SECRETARY

## 10.5. DISCLOSURE OF STRATEGIC RISK MANAGEMENT POLICY IN THE ANNUAL REPORT

The company secretary also could ensure that the company's strategic risk management policy is disclosed in the annual report, though not mandatory by regulation, but for the transparent disclosure purposes to the stakeholders of the company.

## CONCLUSION

Risk management by an enterprise has to be defined as identification, assessment and economic control of those risks that endanger the assets and earning capacity of the enterprise's business. Risk can either be tolerated if it is not severe and its occurrence is sufficiently remote, risk can be eliminated or reduced by changes in the processes or transferring all or part of the risk. Each company's risk management system would differ due to their risks being different, operations and organizations being unique and the corporate culture followed would be unique for that enterprise. As discussed earlier, the basic activities in any risk management system are (i) risk identification, (ii) risk assessment and finally (iii) risk control.

An enterprise is required to identify the risks and assess the significant risks to the value of social environmental and ethical

matters to the business. Such risks are to be managed through appropriate and effective systems and the key process to manage the risk is the regular review at the Board meetings of the risks facing the enterprise. Strategies to mitigate the risks are to be discussed and agreed and the outcome of these reviews needs to be incorporated into a **RISK REGISTER**, which sets out key risks facing the enterprise which may affect its value in the short, medium or long term. The risks might cover a wide range of areas including - pricing - cost pressures - loss of major customer - loss of major supplier - competitor activity – growth - technological change - currency exposure - strategies for developing markets - failure to identify or manage Safety Health & Environmental issues and so on.

Each of the risks needs to be assessed by the enterprise for its impact on profit and cash flow, likelihood of occurrence and scope for mitigation or reduction. In order to verify the right working process, the operating units are required to confirm annually in a letter of assurance the risks that have been identified and the planned actions have been taken to mitigate those risks. The Board will have to regularly review the risk register and selects a number of items each year for more detailed review. The risks are required to be monitored until they are either wholly mitigated or no longer present a significant risk.

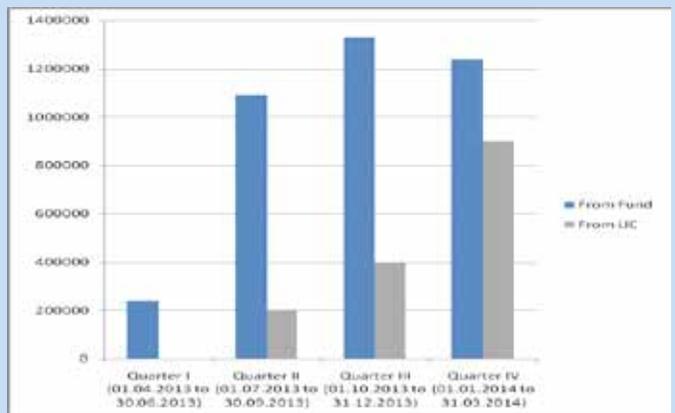
In short, the larger or more complex the business, the more it will benefit from risk assessment providing maximum sustainable value to all the activities of the organization. CS

## COMPANY SECRETARIES BENEVOLENT FUND

### FINANCIAL ASSISTANCE FROM FUND & LIC (Financial Year 2013-14)

F.Y. 2013-14	From Fund	From LIC
Quarter I (01.04.2013 to 30.06.2013)	240000	0
Quarter II (01.07.2013 to 30.09.2013)	1090000	200000
Quarter III (01.10.2013 to 31.12.2013)	1330000	400000
Quarter IV (01.01.2014 to 31.03.2014)	1239350	900000
Total	3899350	1500000

### GRAPHICAL REPRESENTATION OF QUARTER-WISE AMOUNT OF FINANCIAL ASSISTANCE PROVIDED DURING THE F.Y. 2013-14 FROM THE FUND AND LIC



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# Celebrity Endorsement of Products and Services: Need for Rules to Protect the Gullible Customers and Ensure Fair Competition

- This is a study of the nature and forms of Celebrity Endorsement of products and services, reasons of businesses resorting to this expensive means of sales promotion, vulnerability of innocent people falling prey to exaggerated claims made by the celebrities, chances of restricting competition by limiting the level playing field for other manufacturers and traders, position of existing laws in India for seeking relief by the aggrieved consumers, need for specific legal provisions to curb the menace and suggestions to regulate the practice.

**S**ales promotion through advertisements is a well established practice in modern business world and there is no point in going in to its merits and demerits. Also, much has been written on the need to regulate the advertisement sector as such in order to protect the gullible customers from falling prey to misleading advertisements. So much so that most of the countries have framed rules in this regard and India is no exception to this. Advertising Standards Council of India (ASCI) was established in the year 1985 to deal with complaints against such advertisements which are indecent, false, misleading, illegal and leading to unsafe practices or unfair to competition. There are many laws which contain provisions regulating certain type of advertisements. Also there are certain laws like, The Indian Contract Act, 1872, The Sale of Goods Act, 1930 and the Consumer





# Article

CELEBRITY ENDORSEMENT OF PRODUCTS AND SERVICES: NEED FOR RULES TO PROTECT THE GULLIBLE CUSTOMERS AND ENSURE FAIR COMPETITION

➤ Common people have a strong emotional bond towards their favourite personalities whom they treat as their ideal. They are deeply impressed by their words and when they get the message of these celebrities recommending some product or service, they become inclined to purchase it without going in to merits or demerits thereof.

Protection Act, 1986, which tend to protect the interests of deceived consumers and provide cause of action to them apart from the guidelines prescribed by the Supreme Court of India through a series of decisions.

However, these legal provisions as well as judicial decisions may come to the rescue of the consumers only when these are invoked. But there is an area which is considered sacrosanct like a holy cow and nobody wants to have even a discussion on it, what to say about seeking relief from a judicial forum. This area is the 'Celebrity Endorsement' of products and services. Taking advantage of the situation, marketing strategists of big businesses hire services of celebrities, make them endorse their products or services with slogans apparently playing with the sentiments of the target audience and get their sales increased manifold. While doing so, neither they nor the celebrities, think even for once about their responsibility towards those getting affected by it. How this type of advertisements are playing havoc with the interests of various stakeholders, the present position of relevant laws in India and the need to make a strong regulatory framework to create a safety network to protect interests of not only consumers but also of other competitors, are being discussed in the following sections.

## WHAT IS CELEBRITY ENDORSEMENT

When eminent personalities, recognized for their contribution in any area directly connected to the public at large, like Cinema, Television, Music (Classical also, of late), Sports (mostly Cricket and Tennis) etc., take some deliberate action on their part, aiming at the target audience, with an intention to encourage the sale of the sponsored products or services through them, such act may fall into the category of Celebrity Endorsement. It may be in any one or more of the following ways .

### 1. Through messages in personal capacity

This is the most controversial form of celebrity endorsement when the celebrities try to convey the message that the sponsored products or services are being personally used by

them and have contributed in development of one or more traits in them, which is usually one, they are known in the public for. TV advertisements showing a famous athlete getting tired on the ground, then regaining strength after consuming some health drink and claiming it to be the source of his energy and thereby secret of his success, is an example of such endorsements.

### 2. Through messages as model

In this form of endorsement, celebrities give a direct message to target audience, recommending use of the sponsored products or services but as an actor not as a person. TV advertisement showing an actress in the role of a house maid, praising the qualities of a washing powder, falls in to this category.

### 3. Giving public appearances

In some cases, celebrities give a deliberate public appearance with an intention to attract the attention of the viewers at the sponsored products or services. Using car of a particular brand with its logo prominently inscribed on it, in a manner which is not usual, while arriving to participate in some public function, falls in to this category.

### 4. Attending events

Inaugurating factories, show-rooms, offices etc. by celebrities, on special invitation, to spread an impression among public, of some connection of the celebrity with that factory, showroom, or office, is covered under this category. This is the least controversial form of celebrity endorsement, if nothing is specifically suggested by the celebrity regarding goods or services.

### 5. Authorizing use of name etc.

Authorizing use of their names, photographs or messages by the celebrities in relation to such products or services is covered under this category.

## HOW IT BOOSTS THE SALES OF PRODUCTS OR SERVICES

Common people have a strong emotional bond towards their favourite personalities whom they treat as their ideal. They are deeply impressed by their words and when they get the message of these celebrities recommending some product or service, they become inclined to purchase it without going in to merits or demerits thereof.

Also, the fans of these celebrities, specially the youngsters, get mesmerized with the glamour surrounding them and want to follow the footsteps of their role models in a bid to become one like them overnight. Hence when the celebrities claim in the advertisements



that they have been able to achieve success after using the given product or service, they are induced to procure the same in order to achieve the same level of success as the celebrity has acquired.

## SOME EXAMPLES OF OFFENDING CELEBRITY ENDORSEMENTS

The list of such type of offending advertisements in which the statements or actions of the participating celebrities seem to show clear intention of exploiting the public sentiments or encash the faith reposed in them by public, to serve the interests of the businesses retaining them and ultimately of their own, is very large. Here some examples may be sufficient to bring the point home –

1. A renowned Cricketer claiming some health drink to be the source of his energy, while the background he comes from, clearly indicates that he has been brought up in a natural environment which appears to be the real source of his energy. Had the celebrity merely claimed that this drink contains elements needed to keep the body in a state of fitness, it could have been accepted for once. But claiming that he has got his energy from that drink is a clear case of misleading the public who may purchase the same under mistaken belief that they will get the same level of strength by using that drink as that sportsman has.
2. A famous Actor claiming some steel bar to be strong enough to withstand any pressure, vowing by the credibility of the brand and his words as a guarantee for its strength. Had the celebrity merely claimed that the steel bar is very strong in quality, it could have been accepted for once. But stating that he stands guarantee for its strength without making it clear as to how he proposes to act on this guarantee, if some consumer is aggrieved finding the steel not strong enough as claimed, is a clear case of making a promise without any intention to fulfil it and made only to exploit the public sentiments.
3. A renowned Action Hero, showing extraordinary stunts, purporting to have been possible for him after consuming some cold drink, which is not otherwise possible for a common man without getting trained for it and having no such link with consumption of that cold drink. This type of statements and acts not only endanger the safety of innocent people but also convey a wrong impression on them that by using such products, they will also acquire such extraordinary powers, their hero use to demonstrate in the advertisement.
4. A middle aged famous actor of yesteryears shown in the state of despair with a series of unsuccessful bouts, then some of his friends suggesting to wear a pendant marketed by some particular firm, the actor regaining his lost ground and giving credit of his second stint to the supernatural powers contained in the pendant, is an example, how some celebrities do not hesitate even in endorsing some products or services knowing

fully well that these are based on no logic and endorsement thereof is going to spread superstitions in the common folks.

5. A renowned Film Star claiming to use some middle segment car being his favourite, though looking in to his extravagant lifestyle, it does not seem likely that he might have used that Car for more than once that too for getting photographed for its endorsement. This type of statements fall in to the category of misrepresenting the facts.

## PRESENT LEGAL POSITION *vis-a-vis* SUCH ADVERTISEMENTS

The position of legal provisions, as they stand today, with respect to such type of advertisements, may be discussed in brief as under.

### THE INDIAN CONTRACT ACT, 1872

In those cases, where the celebrities give a message in the advertisement as a 'person' and not as a 'model', there seems to be a 'privity of contract' among - the firm who is interested in advertisement, the celebrity taking part in it and the buyer purchasing goods or services relying on the words of the celebrity.

From the facts contained in example 2 above, it may be gathered that the advertisement being a public offer, falls into the definition of 'Proposal' under section 2(a) of the Indian Contract Act, 1872 to which the consumer signifies his assent by purchasing the steel. Hence the proposal turns into a promise under section 2(b) read with section 8 and 9 of the Act.

Further, since the celebrity has stated in no uncertain terms that he stands guarantee for the quality of Steel, he becomes a 'Surety' under section 126 of the Act read with Section 127 and he stands liable to the buyer of steel along with the seller under Section 128.

Moreover, the consent of the purchaser in such transactions may also be proved to have been taken either through 'fraud' as defined under section 17 or through 'misrepresentation' as defined under section 18 of the Act, depending upon the facts and circumstances of each case.

### THE SALE OF GOODS ACT, 1930

In the facts contained in above examples, the sellers clearly state, through the advertisements, the use and effect of their products, hence the provisions of the Sale of Goods Act, 1930 as contained in Section 12 & 13 read with section 59 regarding conditions and warranty of goods sold and breach thereof comes into play.

### CONSUMER PROTECTION ACT, 1986

If in any of the above cases, it is found that the products or services are not of the quality as claimed through the advertisements involving



# Article

CELEBRITY ENDORSEMENT OF PRODUCTS AND SERVICES: NEED FOR RULES TO PROTECT THE GULLIBLE CUSTOMERS AND ENSURE FAIR COMPETITION

➤ Taking recourse to legal process is not simple as it appears to be. For a common man, it is very difficult to fight a case even against the manufacturer or trader alone, what to say about adding the celebrity also on the other side of the fence. Even the sufferer sometimes does not like to put the celebrity, he is influenced so much from, in to an embarrassing position. And if at all he somehow proceeds further, the resistance would be so strong that he will not be able to withstand the pressure.

the celebrity, the goods may be deemed to have "defect" as defined under section 2(g) of the Consumer Protection Act, 1986 which include any shortcoming in the quality, quantity, or standard which is required to be maintained by or under any law for the time being in force or under any contract, express or implied, or **as is claimed by the trader in any manner whatsoever in relation to any goods.**

Further, the practice may fall in the category of "unfair trade practice" within the meaning of Section 2 (r) (1) of the Act which includes a trade practice which, for the purpose of promoting the sale of any goods or for the provision of any service, adopts any unfair method or deceptive practice including making any statement, (whether orally or in writing or by visible representation) which falsely represents that the goods are of a particular quality, or falsely represents that the services are of a particular standard or represents that the goods or services have benefits which these do not have; or makes a false or misleading representation concerning the usefulness of any goods or services; or gives to the public any warranty or guarantee of the performance or length of life of a product that is not based on proper test thereof (though where a defence is raised to the effect that such warranty or guarantee is based on proper test, the burden of proof of such defence shall lie on the person raising such defence); or makes to the public a representation in a form that purports to be a warranty or guarantee or promise, of a product or services, which is materially misleading or **if there is no reasonable prospect that such warranty, guarantee or promise will be carried out.**

The Explanation to this sub-section further clarifies that for the purposes of above clause, a statement that is expressed on an article offered or displayed for sale, or on its wrapper or container or on anything attached to, or accompanying such article, or in any other manner whatsoever made available to a member of the public, shall be deemed to be a statement made to the public by the person who had caused the statement to be so expressed, made or contained.

The aggrieved consumer may file his complaint at the appropriate consumer forum as per the procedure laid down in the Act.

## PRACTICAL DIFFICULTIES IN INVOKING THE ABOVE LAWS

All the above noted laws, though provide a remedy against fraudulent advertisements such remedy is normally available against the manufacturer or seller of goods and not against the celebrity who takes an active part in it. Though in criminal cases, any person who instigates a crime is deemed guilty of abetment of a crime under section 107 of the Indian Penal Code, 1860, and is liable to be prosecuted along with the main offender, however, since the complaint of a consumer against misleading celebrity endorsement is rarely treated as a criminal case, whether the celebrity endorsing such products or services can be held liable as an 'abetter' or the 'corroborator' of the misrepresentation is a remote possibility.

Moreover, taking recourse to legal process is not so simple as it appears to be. For a common man, it is very difficult to fight a case even against the manufacturer or trader alone, what to say about adding the celebrity also on the other side of the fence. Even the sufferer sometimes does not like to put the celebrity, he is influenced so much from, in to an embarrassing position. And if at all he somehow proceeds further, the resistance would be so strong that he will not be able to withstand the pressure.

## NEED FOR STRONG REGULATIONS

As elaborated above, since there is no specific control of any regulatory body on celebrity endorsements, and taking legal action is not practically possible for a common consumer, the celebrities usually escape being held accountable by the courts of law. The cases, if any, filed by the consumers or competitors against misleading advertisements, are against the manufacturer or the trader but the celebrity taking part in these are not involved in it. However, since the celebrities get consideration for endorsing the products or services, they should be made a party to the case and bear their share of responsibility. In fact, the intention of the manufacturer or trader for inducing the consumers to go for the product or service is got accomplished by the celebrities (otherwise what is the point in getting the products or services endorsed by them after paying hefty sums of money) and they cannot and must not escape responsibility towards fraudulent advertisements. Hence, the aggrieved consumer should have a right to move not only against the defaulting manufacturer or trader but against the concerned celebrity as well.

Moreover the hefty sums paid by the manufacturers or traders to such celebrities use to increase the price of these products or services tremendously, the impact of which is also to be borne by the hapless buyers, without getting benefit of any extra value addition against such increase in price. It also gives them an edge over other competitors without bringing any extra qualities in their



products or services or reducing price thereof.

Also, in the cases, where celebrities, while recommending certain products or services, use to pretend as if they are personally using these in their real life and even go to the extent of claiming that their special achievements for which the masses loves, regards or recognizes them, is the result of their use of such products or services, though no proof can be given by the celebrities confirming the veracity of such statements, there is no way either in which it can be proved the other way round. Hence it becomes obligatory on the part of law makers to frame clear guidelines to protect the interests of consumers from this type of rampant emotional exploitation.

In this way, it ultimately becomes the duty of the State to frame rules and regulations in such a way that the celebrities are restrained from making false statements in first place to save the interests of common man as well as other business competitors and there remain very few chances of consumers or competitors confronting them in courts.

## HOW TO REGULATE THE MENACE

The following suggestions may be made in this regard –

1. Complete prohibition of direct endorsement of products or services by celebrities It may be one of the ways to prohibit direct involvement of celebrities in advertisements for which a scheme may be framed on these lines –

- a) Endorsement of products and services may be put under the exclusive domain of the professional models who must not be engaged in any other profession, trade, business or occupation which involves some personal expertise, giving rise to personal name and fame, at the time of acting as such, and also from some time earlier, say for one or two years.

When such models make any statement, it will be taken by the audience as of the manufacturer or the trader as the model will not have any personal image of his or her own in the mind of the audience, eliminating chances of any undue influence over the mind of innocent viewers.

- b) There may be an autonomous body where such professional models may get themselves registered after a suitable enquiry as to their antecedents.
- c) However, indirect involvement of celebrities like attending events, (as explained hereinbefore) which is very difficult to control on one hand and contains minimal chances of misrepresentation of facts on the other, may be continued.

The above seems to be the ideal solution being just and equitable for all, eliminating chances of emotional exploitation and also providing level playing field to all the entities involved in the manufacturing and trading of goods and services.

2. Regulating endorsement of products or services by celebrities

Since the practice of getting the products or services endorsed by celebrities is a world-wide phenomenon and India is not the only exception, it may be pleaded why to put a complete ban on it in India alone. In that case, some comprehensive regulations may be formed including, *inter alia*, the following –

- a) No such person, taking part in an advertisement or any other sales promotion activity, should make a statement that he has personally used the sponsored product or service and vouch for the result thereof. If he does so, he must not only be made directly responsible to the complainants but subjected to fine by the Regulatory Body in a *suo-moto* action and restricted for future from repeating the statement.
- b) No person should pretend that his or her or some other person's particular achievement is in any way connected to the use of the product or availment of service being endorsed.
- c) There must be a declaration given by the celebrities in the advertisement itself that the statements being made by them are not their personal views but are being made on behalf of their clients and that they do not have any responsibility, if the sponsored product or service does not give the results being claimed in the advertisement.
- d) While making endorsement for such products, the results of which cannot be proved through scientific means, there must be a declaration, by the celebrity himself, during the course of endorsement, that the results claimed in respect of products or services are based only on personal faith and there is no guarantee of the buyers also getting benefitted from these. Likewise, in cases where celebrity is shown performing stunts, there must be a declaration that the stunt is being shown for entertainment of viewers and it has got no connection with the quality of the product or service, being endorsed, in any way.
- e) It may be made obligatory on the part of celebrities, to check the *prima-facie* authenticity of the statements, proposed to be made by them in the advertisement, before release thereof, and in case there is need to get the opinion of some expert, it must also be obtained by them and submitted to the regulatory authority before release of advertisement.
- f) Last but not the least, the responsibility for proper compliance of rules so made, against misuse of celebrity endorsements, must lie with the regulatory body only, as the common man or the competitors, may not be in a position to take up the matter, in the way it requires to be tackled. The regulatory body must act as a watch dog for the menace and must also be made a party in default along with the concerned manufacturer or trader and the celebrity, in case some consumer or competitor, being aggrieved, lodges a complaint.



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## Roadblocks For Call / Put Options Arrangements Included in Investment Agreements Under Earlier & Present Regulatory Framework

- This Article explains the position of 'Option Contracts', resorted as an exit mechanism under Investment Agreements in India before and after the enactment of Companies Act, 2013.

**T**oday, more and more business entities, may be startups, early-stage and established existing companies, those need growth capital are approaching private equity investors, for meeting their capital requirements with more ease and clarity on various related issues. These private equity players/investors are leading providers of growth capital, all over the world.

It is common for those investors to secure their exit rights before making an investment. In order to secure their interest, many private equity funds are seeking exit rights and guarantee of fixed returns from promoters through inclusion of suitable clauses in Investment Agreements such as Joint Ventures and Private Equity and Venture Capital investments. These clauses i.e. Exit mechanisms generally include an Initial Public Offer (IPO), buy back of shares by the investee company and Put Option / Call Option or ROFR/Tag Along / Drag Along Rights.

It must be noted that very few start-ups and mid-size companies eventually are able to go public. Further, buy back of shares by the company is again a cumbersome process and too difficult to



resort. Moreover, liquidating or winding-up a company in India is a long-drawn out and unviable process. In this background, Put and Call Options against or with Promoters assume importance, as a feasible exit option, apart from the sale by such funds of their securities to other third party financial or strategic investors. In view of complexities involved in other kinds of Exit Rights, Call and Put Options become extremely popular exit mechanisms for



such investors in India. However, the enforceability of Call and Put Options has always been a matter of debate with conflicting views on this subject in India.

## BACKGROUND

*Drag-along Right* is a legal concept in corporate law. The right assures that if the majority shareholder sells his stake, the minority holders are forced to join the deal. This right protects the majority shareholders. A Drag along right gives the investing shareholder the right to force the other investor(s) to exit should the investing shareholder exit, once again, usually on the same price and terms.

*Tag-along right* assures that if the majority shareholder sells his stake, minority holders have the right to join the deal and sell their stake at the same terms and conditions as would apply to the majority shareholder. This right protects minority shareholders.

*Option* is a right or entitlement, but not an obligation, of a person to buy or sell, as the case may be, an underlying asset in future at a predetermined price. Such asset for our discussion purposes is 'shares'. Generally, Options are of two types:

*Put Option* is the right of a shareholder of a company to sell those shares to another existing shareholder at a specified price at the time such holder wishes to exit its investments in the investee company. Such other shareholder shall have an obligation to purchase those shares at the said predetermined price.

*Call Option* grants a shareholder of a company the right to acquire shares in the company from another existing shareholder at a predetermined price. Such other shareholder shall have an obligation to sell the shares to the shareholder exercising his call option. To put it simply, call option is converse of a put option.

*Right of First Refusal (ROFR)* is a contractual right that gives its holder the option to enter a business transaction with the owner of something, according to specified terms, before the owner is entitled to enter into that transaction with a third party. In brief, the Right of First Refusal is similar in concept to a call option.

## POSITION PRIOR TO THE COMPANES ACT, 2013

### Regulatory framework

In India, the aforesaid exit rights are subject to jurisdiction of multiple statutes and therefore their Regulators, namely:

1. Securities Contracts (Regulations) Act, 1956- Regulator is SEBI
2. Companies Act, 1956 & Companies Act, 2013 –Regulator is Ministry of Corporate Affairs
3. Foreign Exchange Management Act – Regulator is RBI

Let us examine the enforceability of these exit rights under different Statutes one by one.

### Validity of 'option contracts' under SCRA

The SCRA was enacted in 1956 with the objective of preventing undesirable transactions in securities by regulating the business of dealing therein. After that various amendments were introduced in the statute.

Initially Section 20 of the SCRA, which provided that all options in securities entered into after the commencement of SCRA or those entered before SCRA but remained to be performed were illegal. This provision specifically prohibited Options under SCRA

Thereafter in the Year 1961, The Central Government issued a Notification which provided that, "*specified contracts for pre-emption or similar rights contained in the promotion or collaboration agreements or in the Articles of Association of limited companies as contracts to which SCRA shall not apply.*"

Although simple interpretation of options suggested that Options Contracts are of the same nature as of 'Preemption Contracts', it was unclear whether aforesaid Notification applied to 'Option Contracts' or not. Since section 20 of SCRA was in force one view was that this notification will not apply to 'Option Contracts'.

Further, in the Year 1969, the Central Government in exercise of its powers conferred by sub-section(1) of section 16 of the Securities Contract (Regulation) Act 1956 being of opinion that it is necessary to prevent undesirable speculation in securities in the whole of India, declared that no person in the territory to which the said Act extends shall save with the permission of the Central Government enter into any contract for the sale or purchase of securities *other than such spot delivery contract or contract for cash or hand delivery or special delivery in any securities* as is permissible under the said act and the rules, bye laws and regulations of a recognized Stock Exchange.

Hence all contracts except *spot delivery contract or contract for*





# Article

ROADBLOCKS FOR 'CALL / PUT OPTIONS ARRANGEMENTS INCLUDED IN INVESTMENT AGREEMENTS UNDER EARLIER & PRESENT REGULATORY FRAMEWORK

*cash or hand delivery or special delivery in any securities were declared illegal and void unless permitted by Central Govt.*

The term '*spot delivery contract*' as defined in Section 2(i) of the SCRA means a contract which provides for:

- (a) actual delivery of securities and the payment of a price therefore either on the same day as the date of the contract or on the next day, the actual period taken for the dispatch of the securities or the remittance of money therefore through the post being excluded from the computation of the period aforesaid if the parties to the contract do not reside in the same town or locality;
- (b) transfer of the securities by the depository from the account of a beneficial owner when such securities are dealt with by a depository;

The said notification specifically ruled out the enforceability of Options in Contracts

In the year 1995 *section 20 was deleted by the Securities Laws (Amendment) Act, 1995* thereby leaving the issue for judicial interpretation.

This was further followed by other amendments in SCRA in year 2000, whereby section 18A was inserted which provided that - *Notwithstanding anything contained in any other law for the time being in force, derivatives contracts will be valid and legal, if they are traded and settled through the stock exchange.*

Thereafter, in the same year, the Central Govt. rescinded the earlier 1969 Notification.

BUT, SEBI in the same year namely, 2000, issued a new Notification on same lines, as the 1969 notification. Thus, this SEBI Notification read with section 18A of the SCRA, created an ambiguous situation for the enforceability of Option Contracts, traded other than through stock exchange.

After issuance of circular in year 2000, SEBI took a view that Put option and Call option arrangements and the Right of First Refusal do not conform to the requirements of a Spot delivery contract nor with that of a contract of derivatives as provided under Section 18A of the SCRA and, therefore, 'Options arrangement' along with the 'Right of First Refusal' are illegal.

Thereafter, SEBI at the time of takeover of *Cairn India Limited* where the parties had entered into put and call options arrangements, has clearly ruled that put and call options are invalid and unenforceable, and will not be given effect to by the regulator.

Moreover, SEBI provided an informal guidance to *Vulcan Engineers Limited* whereby it clearly stated that a pre-agreed buy-back of shares through put or call option is not valid under the SCRA. The grounds on which this view was taken was the same as that in case of the public takeover of *Cairn India Limited*.

## Enforceability under Companies Act, 1956

The very first question was whether Options on shares of a public company and a private company are permissible under the Companies Act, 1956 (the "**Companies Act**")?

One obstacle for enforceability of Option Contracts was Section 111 A of the Companies Act, 1956, which provided that shares or debentures and any interest therein of a public company shall be freely transferable.

In a number of cases, these provisions came up before courts for interpretation and applicability. Some of relevant judgements of various courts are summarized below for better understanding of the provisions of section 111A in relation to shareholders rights to enter into a private arrangement with respect to shares of a company.

## Judicial precedents

A synopsis of the law as it stood prior to the decision of the Division Bench in *Messer Holdings Limited v. Shyam Madanmohan Ruia*, [2010] 159 Comp. Cas. 29 (Bombay High Court).

- The Supreme Court in 1992 in its decision in *V.B. Rangaraj v. V.B. Gopalakrishnan*, AIR 1992 SC 453, [1992] Comp. Cas. 201 held that a restriction on the transfer of shares not contained in the Articles of Association of a private company was not binding on the private company or its shareholders.
- The Delhi High Court in 2005 in its decision in *Pushpa Katoch v. Manu Maharani Hotels Limited*, [2006] 131 Comp. Cas. 42 (Delhi High Court) held that as per the provisions of Section 111A of the Act, there could not be any fetters on the right of a shareholder to transfer his/her shares in a public company and observed that a right of pre-emption, even if found in the articles of association, would be ultra vires the provisions of the Act
- The Single Bench of the Bombay High Court (Court) Court in 2010 in its decision in *Western Maharashtra Development Corporation Ltd. Vs. Bajaj Auto Ltd.*, [2010] 154 Comp. Cas. 593 (Bombay High Court) in relying on the decision of the Delhi High Court in *Pushpa Katoch* held that pre-emptive rights over shares in a public company are a fetter on the transferability of such shares and therefore patently illegal.

Therefore prior to the decision of the Division Bench of Bombay High Court in *Messer Holdings Ltd. v. Shyam Madanmohan Ruia*, [2010] 159 Comp. Cas. 29, the position of option contracts under section 111A of Companies Act, 1956 on Public and Private Companies was as under:

**Private Company:** In view of the judgment of Supreme Court in *V.B. Rangaraj* case, private arrangement of shares entered into between shareholders of Private Company (i.e. restriction on free transferability of shares) was held valid only if suitable provisions



were contained in Articles of Association of the Company.

But in case of a Public Company, there striction on free transferability of shares was treated as Illegal even if said provisions were contained in Articles of Association of the Company.

Thereafter, the Division Bench of the Bombay High Court has analysed this premise in its judgment of Messer Holdings Limited v. Shyam Madanmohan Ruia and Ors, [2010] 159 Comp. Cas. 29 where *inter alia* the validity of a Right of First Refusal in a share purchase agreement between shareholders was called to question. The Division Bench in this decision held that such a private arrangement would not violate section 111A of the Act.

The said judgment provided some relief to the private equity Investors regarding enforceability of their rights arising from the private arrangements entered into by them. However, since this decision was that of a High Court, the relief granted by this judgment was deemed to be temporary as it was still subject to the affirmation of the Supreme Court

The second question was regarding the applicability of SCRA over different types of companies prescribed under Companies Act, 1956. i.e. Public Listed Company, Public Unlisted Company and Private Limited Company

*Public Listed Companies* were directly covered under SCRA and therefore Option Contracts were held illegal in these companies.

**Public Unlisted Companies :** Relying upon the BOI Finance case [1997] 10 SCC 488 12 SCL99 and a decision of the Bombay High Court in the case of Mysore Fruit Products Ltd. and Others v. The Custodian and Others, [(2005), 107 BOMLR 955] the SEBI in its order on the application of MCX Stock Exchange Limited examined the applicability of the SCRA to unlisted securities and held that it is a settled legal position that buy-back (forward contracts) arrangements in unlisted shares of public company are illegal under the SCRA. So it is deemed that SCRA is applicable to Unlisted Public Companies.

**Private Companies–** The Single Judge and thereafter the Division Bench of the Bombay High Court in the case of Norman J Hamilton v. Umedbhai S. Patel MANU/MH/0008/1982: (1983) 85 BOMLR 275 took a view that the scheme of the SCRA was not intended to apply to the shares of a Private Limited Company and hence Private companies are outside the scope of SCRA. Accordingly, Options Contracts are enforceable in Private Companies. However as per ruling of Supreme Court in the case of V.B. Rangaraj, option contracts to be enforceable must be contained in the Articles of Association of the Private Company.

## TREATMENT OF 'OPTION CONTRACTS' FOR FDI PURPOSES

Since 2010, the Government of India has been issuing a consolidated FDI policy that consists of press notes and policies

and regulations as provided under the FEMA provisions. In the FDI Policy released on September 30 2011 and effective from October 1 2011 , the DIPP inserted new clause 3.3.2.1 in FDI Policy prohibiting FDI instruments with call & put options in securities of Indian companies held by foreign investors. Clause 3.3.2.1 stated that:

*Only equity shares, fully, compulsorily and mandatorily convertible debentures and fully, compulsorily and mandatorily convertible preference shares, with no inbuilt options of any type, would qualify as eligible instruments for FDI. Equity instruments issued/transferred to non-residents having in-built options or supported by options sold by third parties would lose their equity character and such instruments would have to comply with the extant ECB guidelines.*

This clause was too broad and covered all types of options within its ambit including both put and call options and even extends to tag along and drag along rights and other similar rights exercisable by an investor in future.

Such a change would have greatly affected private equity players, which have a limited capital interest in an investee company and seek to exit through means exercisable on the occurrence of certain pre-determined and contractually agreed triggers.

There were other areas of concern as well. Consequently, if it was deemed as debt, then onerous restrictions, such as an end-use requirement under ECB guidelines, would come into play.

## PRESENT POSITION UNDER FEMA

Clause 3.3.2.1 referred above raised a lot of criticism by foreign and other investors and accordingly, the Department decided to review the contentious clause. Within 30 days of its introduction, the Department issued a corrigendum dated October 31 2011 whereby said Clause 3.3.2.1 was deleted.

A plausible interpretation of this deletion is that the options in equity instruments are now permissible. However, since it is unclear





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ROADBLOCKS FOR 'CALL / PUT OPTIONS ARRANGEMENTS INCLUDED IN INVESTMENT AGREEMENTS UNDER EARLIER & PRESENT REGULATORY FRAMEWORK

➤ Although section 58(2) of Companies Act, 2013 has paved the smooth way for enforceability of private arrangements between two parties related to its shares, side by side the Act of 2013 introduced new section 194, which prohibits Directors and Key Managerial Personnel (i.e. CEO/ MD/ Manager/WTD/CS/CFO etc.) from entering into Call and Put Options arrangements in respect of shares and debentures of the Company.

whether the deletion sets out a new policy or merely intends to maintain a *status quo*, ambiguity in the position still prevails and, thus, caution is imperative.

However, the RBI has had a negative attitude towards put and call options under investment agreements for quite some time, and the restoration of the earlier position could indicate that the regulator has still not taken a conclusive stand.

Still RBI is treating FDI instruments with call & put option as ECBs.

## PRESENT POSITION UNDER COMPANIES ACT, 2013

The controversy over enforceability of Exit rights of investors in Private arrangements under section 111A of Companies Act, 1956 has been put to rest by Companies Act, 2013 by incorporating suitable provisions under section 58(2) which reads:

“ Without prejudice to sub-section (1), the securities or other interest of any member in a public company shall be freely transferable:

Provided that any contract or arrangement between two or more persons in respect of transfer of securities shall be enforceable as a contract.”

From the above it is clear that any private arrangement between two or more persons in respect of transfer of securities shall be enforceable as a contract.

However for the purpose of enforcing such contract in case of it breach, the parties can approach the courts either for specific performance of contract and obtaining injunction for restraining other party not to breach the contract OR to claim the damages from other party.

With a view to clear the roadblocks in enforceability of Exit Rights by Foreign and other investors, SEBI on 3<sup>rd</sup> October, 2013, in exercise of its powers conferred by section 28 and section 16 of the Securities Contracts (Regulation) Act, 1956, rescinded the notification, dated the 1st March, 2000 and issued a new notification stating that contracts for pre-emption rights including ROFRs, Drag & Tag Along Rights and Call and Put options are permitted in Shareholder Agreements and Articles of Association.

This Notification further provides that all these contracts are prospectively. Which means that all such contracts, entered into prior to this notification, do not stand validated.

It however imposed some conditions on Call & Put options. In terms of above Notification of SEBI contracts in shareholders agreements for purchase or sale of securities pursuant to exercise of an option contained therein must satisfy :

1. Securities must be held for a minimum period of 1 year
2. Price of securities shall be in compliance with all laws.
3. Contract to be settled by actual deliveries.

It further provides that all types of contracts as specified in clause (a) to(d) of notification (i.e. pre-emption rights including ROFRs, drag & tag along rights and call and put options) must comply with the provisions of FEMA.

In order to clear further road blocks for enforceability of aforesaid EXIT rights and to comply with requirements of FEMA, as expected Reserve Bank of India, RBI has issued Notification No.- FEMA. 294/2013-RB dated November 12, 2013 and in exercise of the powers conferred by clause (b) of sub-section (3) of Section 6 and Section 47 of the Foreign Exchange Management Act, 1999, the Reserve Bank of India has amended the Foreign Exchange Management (Transfer or Issue of Security by a Person Resident outside India) Regulations, 2000 and put an end to long pending controversy with regard to its position on Put/Call Options.

Amendment by way of addition of following in Regulation 5(1)(i)

“Further, shares or convertible debentures containing an optionality clause but without any option/right to exit at an assured price shall be reckoned as eligible instruments to be issued to a person resident outside India by an Indian company.....”

Amendment by way of addition of following in Regulation 9(1)

“Further, subject to minimum lock-in period of one year or minimum lock-in period as prescribed under Annex-B of Schedule 1 whichever is higher, a person resident outside India holding the shares or debentures of an Indian company containing an optionality clause in accordance with these Regulations and exercising the option/right, may exit without any assured return, subject to the following conditions:

- (i) In case of listed company, at the market price determined on the floor of the recognised stock exchanges;



- (ii) In case of equity shares of unlisted company, at a price not exceeding that arrived on the basis of Return on Equity (RoE) as per latest audited balance sheet. Any agreement permitting return linked to equity as above shall not be treated as violation of FDI policy.

Explanation - RoE shall mean Profit After Tax / Net Worth; Net worth would include all free reserves and paid up capital.

- (iii) In case of Preference shares or debentures, at a price worked out as per any internationally accepted pricing methodology at the time of exit, duly certified by a Chartered Accountant or a SEBI registered Merchant Banker. The guiding principle would be that the non-resident investor is not guaranteed any assured exit price at the time of making such investment/agreements and shall exit at the price prevailing at the time of exit, subject to lock-in period requirement.”

So in terms of above stated Notification of RBI:

Exit of Foreign Investor (i.e. person resident outside India) from Investment should not be at assured price

In case of Listed Indian Company, Foreign Investor (i.e. person resident outside India) to enter into at a price calculated as per guidelines issued by SEBI and Exit at a price based on market price determined on recognized stock exchange.

In case of Unlisted Indian Company, Foreign Investor (i.e. person resident outside India) to enter into at a price based on calculation based on discounted cash flows and if there remains an option clause than EXIT price to be arrived on the basis of Return on Equity (RoE).

Further, RoE is to be calculated as per latest audited balance sheet. Since period of audited accounts is not specified so it can be presumed that latest audited balance sheet may relate to quarter, half year or financial year.

In case of Preference shares and debentures, the EXIT price is to be worked out as per any internationally accepted pricing methodology, provided it is certified by CA or SEBI registered Merchant Banker.

## RIDER ON CALL AND PUT OPTION ARRANGEMENTS

Although section 58(2) of Companies Act, 2013 has paved the smooth way for enforceability of private arrangements between two parties related to its shares, side by side the Act of 2013 introduced new section 194, which prohibits Directors and Key Managerial Personnel (i.e. CEO/MD/ Manager/WTD/CS/CFO etc.) from entering into Call and Put Options arrangements in respect of shares and debentures of the Company.

Section 194 reads:

- (1) No director of a company or any of its key managerial personnel shall buy in the company, or in its holding, subsidiary or associate company—
  - (a) a right to call for delivery or a right to make delivery at a specified price and within a specified time, of a specified number of relevant shares or a specified amount of relevant debentures; or
  - (b) a right, as he may elect, to call for delivery or to make delivery at a specified price and within a specified time, of a specified number of relevant shares or a specified amount of relevant debentures.
- (2) If a director or any key managerial personnel of the company contravenes the provisions of sub-section (1), such director or key managerial personnel shall be punishable with imprisonment for a term which may extend to two years or with fine which shall not be less than one lakh rupees but which may extend upto five lakh rupees, or with both.

Call and Put options are generally exercised against or with the promoters (Generally they act as director/KMP) But section 194 is a prohibition on this practice.

Section 194 is too wide in its scope and it covers all types of companies whether Public Listed Company, Public unlisted Company or Private Company and further extends its reach to Holding, Subsidiary and Associate companies of that company.

Furthermore, this section does not differentiate between the Derivative Contract available on Trading Platform of Stock Exchange AND Call / PUT Option contract included in Shareholder Agreements.

An important consequence of non-compliance with provisions of section 194 is that the offence under this section is criminal in nature attracting imprisonment of 2 years. Therefore one should be very careful while entering into Call and Put Option Agreement with Investors.

## CONCLUSION

In a nutshell, confusion is still there in respect of enforceability of Put and Call Options against or with Promoters (those who are Directors and KMP's) as contained in Shareholder Agreements or Articles of Association of Company.

It would have been better if section 194 of Companies Act, 2013 had included an exception regarding its non-applicability to 'Contracts in Shareholder Agreements or Articles of Association for sale or purchase of securities pursuant to exercise of Option contained therein'.

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## Employee Stock Option Plan: An Overview

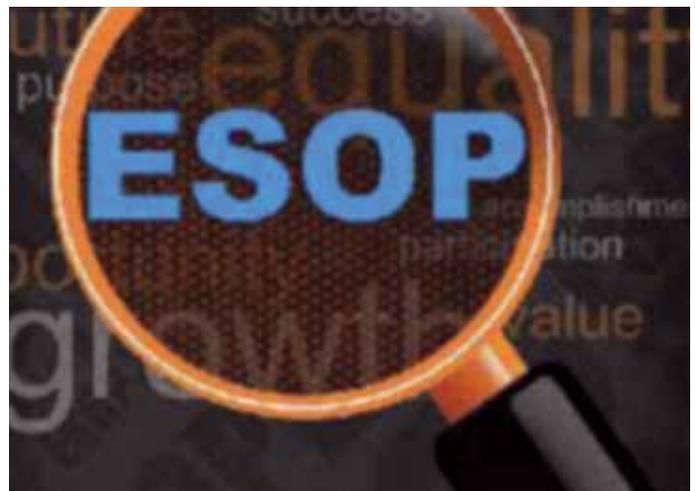
- ESOP is a very good tool to retain the best manpower in the company. Though ESOP may be attractive in a booming market, it is not the same story in a falling market both to the individuals and to the companies offering ESOPs. Hence, employees should take sound decision on timing of exercise of options and companies need to know what cost they are paying for the human capital before deciding on ESOPs.

### MEANING OF EMPLOYEE STOCK OPTION PLAN (ESOP)

**A**n Employee Stock Option Plan (ESOP) is a benefit plan for employees which makes them owners of stocks in the company. ESOPs have several features which make them unique compared to other employee benefit plans. Most companies, both at home and abroad, are utilizing this scheme as an essential tool to reward and retain their employees. Currently, this form of restructuring is most prevalent in IT companies where manpower is the main asset.

Abroad, ESOP (where the 'O' often stands for ownership) is seen when employees buy over the stock of an owner or promoter who is relinquishing charge. In India, ESOP is used largely to motivate employees to put in their best and in turn, help the company to retain its talent pool. These two uses probably account for over two-thirds of all ESOPs now in existence, and their numbers are expected to increase with time.

Interestingly, many companies abroad use ESOPs as a technique



of corporate finance for a variety of purposes -- to finance expansion, to make an acquisition, to spin off a division, to take a company private, and so on. This has yet to catch on in India, perhaps because the scale of ESOP so far is too small for many of these uses.



So far as the future of ESOPs in India is concerned, as more and more companies realize the need to retain their best talent in a world which would be dominated by companies with the best intellectual capital, this management technique would be the phenomenon of the new century.

The real advantage of ESOPs is that, the exercise price remains fixed over the term of the option. So, the employee would exercise his option when the market price of the shares goes substantially high and he would gain on the difference between the market price and exercise price.

## IMPORTANT DEFINITIONS

Some of the important definitions one should know before moving further are -

- 1) **Grant** :The date on which the company grants an option to its employees.
- 2) **Vesting date** :An ESOP would provide for a date on which an option is vested with employees and time frame over which the stock option would vest with employees ("Vesting period"). There shall be a minimum period of one year between the grant of options and vesting of option.
- 3) **Employee Stock Option or Option**: Means the option granted to employees, which gives such employees the right, but not an obligation, to purchase or subscribe at a future date the shares underlying the option at a pre-determined price.
- 4) **Exercise of an Option** : Means an expression of an intention by an employee to the company to purchase the shares underlying the Options vested in him, in pursuance of the ESOP Scheme. The employee shall not have right to receive any dividend or to vote or in any manner enjoy the benefits of a shareholder in respect of option granted to him, till shares are issued on exercise of option.
- 5) **Exercise Period**: Means such time period after vesting within which the employee should exercise the options vested in him. The company shall have the freedom to specify the lock-in period for the shares issued pursuant to exercise of option.

## DRAFTING OF AN ESOP SCHEME

The drafting of an ESOP scheme is initial and foremost important work. Scheme includes various clauses as mentioned below;

- 1) Eligibility criteria of the employees
- 2) Grant, vesting, vesting period, exercise and exercise price
- 3) Number and type of shares under the Scheme

- 4) Exercise period in case of separations of an employees
- 5) Quantum of discount on market price of shares.
- 6) Vesting schedule and lock in period
- 7) Administration of the scheme and date of approval of scheme by shareholders
- 8) Applicability of the acts or guidelines
- 9) Other terms and conditions.

## METHODS IN WHICH A COMPANY CAN SET UP AN ESOP

- (a) Create a Trust (Special Purpose Vehicle)

Depending on the number of options to be given to the employees, the company will issue shares or options to the trust. The trust would need funds to buy these shares. For this, the company can either give soft loans from its own funds or the trust can raise loans through other sources to meet its financial requirement. The company can act as a guarantee to the lender to the trust. With the funds so raised, the trust then acquires shares/options required. The trust repays its loans as and when the employees purchase the options offered and when they exercise their options by paying the exercise price.

- (b) Give options directly to employees

The selection of the employees can be based on performance of the employee, indicated by the annual performance appraisal, minimum period of service, present and potential contribution of the employees, and such other factors deemed to be relevant for the success of the company. Number of options per employee can be determined taking into





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➤ In a 1987 study by the National Center for Employee Ownership, it was found that participative ESOP firms grew 8% to 11% faster with their plans than they would have without them. Several subsequent studies have confirmed this relationship. Of course, there are risks for workers, since not all employee ownership plans succeed. About 0.8% of all ESOPs have gone bankrupt, for instance, harming workers' retirement savings.

consideration, the grade, level, years of service, salary, etc. These selections would entirely depend upon the objective of the company for setting up the ESOP.

## LEGAL PROVISIONS RELATED TO ESOP

The following are the prevailing laws which regulate the Employee Stock Option Plan:

- The Companies Act, 1956 / The Companies Act, 2013
- Foreign Exchange Management Act, 1999
- SEBI (Employee Stock Option Scheme and Employee Stock Purchase Scheme), Guidelines, 1999
- Income Tax Act, 1961
- SEBI Guidelines are applicable only in case of listed companies. However, generally unlisted companies also voluntarily comply with these guidelines.

## ADVANTAGES OF ESOP

ESOPs provide advantages like aligning the interest of the managers with those of the owners. It is a non-cash compensation tool to compete for the best human resources.

The main advantage is the accounting advantage that gives an opportunity to corporate to pay without a reduction in book profits.

One can observe the following advantages of ESOPs:

- Sense of ownership and belongingness amongst the employees.
- Lower attrition rates
- Boosting the morale of employees
- Greater effort on the part of employees

- More equitable distribution of profits.

As we don't have much of empirical data related to ESOPs in the Indian context, we can observe the performance of ESOPs in the U.S. Employee stock ownership plans have gained popularity in the United States. There are more than 10,000 employee ownership enterprises in the United States; of those, about 1,500 are plans in which employees hold 50 percent or more of the stock. In general, the average is about 30 percent. Studies by the General Accounting Office have shown that such plans are most successful when employee owners participate in management decisions.

In a 1987 study by the National Center for Employee Ownership, it was found that participative ESOP firms grew 8% to 11% faster with their plans than they would have without them. Several subsequent studies have confirmed this relationship. Of course, there are risks for workers, since not all employee ownership plans succeed. About 0.8% of all ESOPs have gone bankrupt, for instance, harming workers' retirement savings.

## PROCEDURE FOR GRANTING OF SHARES UNDER ESOP

1. Hold board meeting for
  - a. Approving the ESOP
  - b. Calling and approving the notice of AGM/EGM for passing special resolution.
  - c. Constituting the compensation committee
2. In case of listed company advance notice to the Stock Exchanges and after the Board Meeting, outcome of the Board Meeting is also to be notified immediately.
3. Send three copies of notice to the Stock Exchanges.
4. Make disclosures to the grantees.
5. Hold general meeting and pass required special resolution.
6. Intimation to Stock Exchanges along with the certified copy of special resolution.
7. The company shall appoint a registered merchant banker for the implementation of ESOP as per SEBI guidelines till the stage of framing the ESOP and obtaining in principal approval from the stock exchanges.
8. File Form 23 within 30 days of the special resolution to register the resolution with ROC.
9. Obtain in principal approval from Stock Exchanges.
10. Prepare a list of options exercised by employees.



➤ There are various types of employee stock remuneration plans. Restricted stock plans, employee stock option plans and shadow option plans are some of them. The features and characteristics of each are quite different and accordingly, the taxation treatment also differs.

11. Hold board meeting for allotment of shares.
12. File a return of allotment in Form 2 to the ROC within 30 days.
13. Give intimation to NSDL/CDSL regarding corporate actions.
14. Application in schedule VI for listing of shares to the stock exchanges.

## HOW EMPLOYEE STOCK OPTIONS ARE TAXED?

The Income Tax Appellate Tribunal had held that ESOPs are capital assets and that the proceeds from an ESOP would be taxable as capital gains. It further stated that ESOPs were likely to become more popular as a means of employee compensation on account of the fact that the employee could treat the income from such ESOPs as capital gains, which are taxed at a lower rate of tax. How far is this correct?

Let's examine the facts of this decision. The tribunal decision referred to in this report is that of the Delhi bench of the tribunal in the case of Abhiram Seth, [ITA No. 2302/Del/2010 for Assessment Year 2004-05] an employee of PepsiCo India. He was given the stock of PepsiCo Inc., the US parent company, by way of a stock

option plan on various dates from 1995 till 2000. The cost of the shares was to be at the market price. It appears that the options were exercised at that time and shares allotted to the ESOP Trust appointed by the company, which held them on behalf of the employee, but no payment was made for the shares by the employee. The shares were subject to a lock-in period of three years and the cost of the shares was to be recovered at the time of sale of the shares. The shares were sold by the employee in February 2004 through the ESOP Trust and the difference between the sales proceeds and cost was received by the employee through the ESOP Trust. The tribunal, therefore, held that the shares were long-term capital assets and the gains on the sale of the shares were taxable as long-term capital gains.

There are various types of employee stock remuneration plans. Restricted stock plans, employee stock option plans and shadow option plans are some of them. The features and characteristics of each are quite different and accordingly, the taxation treatment also differs.

Restricted stock plan: When one looks at the facts of this case, the ratio of the Tribunal decision does appear justified. This was really a restricted stock plan—a case of allotment of restricted stock through a trust, which also had a cashless element to it. Further, the grant was at the market price of the shares. Therefore, the entire difference received by the employee represented the appreciation of the shares of the allotment of the shares.

The tax treatment of employee stock option plans is quite different. This decision cannot therefore be regarded as applicable across the board to all stock remuneration plans, leave alone ESOPs where the grant of shares is not at market price.

It also needs to be kept in mind that the law has been amended with effect from April 2009. Under the amended law for ESOPs, the difference between the market value of the shares on the date of exercise of the option and the grant price of the shares is taxable as a perquisite, as a part of the salary income, and the subsequent appreciation is taxable as capital gains. Similarly for restricted stock plans, the difference between the market price on the date of allotment and the price payable for the shares is taxable as a perquisite while subsequent appreciation is taxable as a capital gain. Even today, if the shares are allotted at the market price, the entire appreciation would be attributable to the post allotment period and would, therefore, be taxable as capital gains.

The tax treatment of shadow option plan is, however, quite different. Here, the employee does not really have the right to receive actual shares of the employer company by exercising the option. A notional purchase is assumed as well as a notional sale and the difference is paid to the employee. The Tribunal decision has held that such a difference paid to the employee is really in the nature of a bonus, which is linked to the performance of the





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stock prices of the company and the entire amount is, therefore, taxable as salary since there is really no actual option to acquire the shares.

From April 2007 to March 2009, stock options were taxable, though not in the hands of the employee. The employer was liable to pay fringe benefit tax (FBT) on the value of such stock options, the value being determined by the difference between the market price and the exercise price (price at which the shares were allotted to the employee), such difference being determined on the date of vesting of the option. When the employee sells such shares on which the employer has paid FBT, the market price of the shares on the date of vesting is to be taken as the cost of such shares for the purpose of computing the capital gains on the sale of the shares.

The tax treatment of employee stock remuneration plans, therefore, depends upon the type of plan, its structure and the point of time at which the vesting or exercise of the option has taken place.

## CAVEATS

Following can be a few of problems faced by the organizations adopting ESOPs:

- There can be a feeling of dejection and disappointment amongst the employees who fail to get ESOPs.
- Only profit-making companies can use this tool in a big way.
- It can dilute the equity of the company.
- In multi-business companies, ESOPs might end up rewarding even employees in businesses which haven't performed as well as the rest.
- ESOPs are complicated and expensive. Even if the company is successful, management gets frustrated and confused in maintaining the ESOPs.
- ESOPs don't just go away when management wants them to. After the Principal owners sell out to the ESOP, the remaining employees and Management must live with it. Terminating an ESOP can be prohibitively expensive
- Companies, which have ESOPs, are harder to sell to outsiders. Since company an ESOP holder holds shares.
- Stock options can also be inherently unfair. A company's stock price can go up not because its performance has improved but because the market as a whole is moving up. So employees can exercise their options at a profit although their company has not benefited from their work.

## APPREHENSIONS

There is a lot of enthusiasm regarding the ESOPs but there are a lot of apprehensions also. Few of these have been listed below:

*Incorrect projection of the financial position:* Legendary investor Warren Buffet is downgrading companies that choose to reward their employees this way. The world's most celebrated stock picker is put off by American conventions that allow companies to post earnings unaffected by the cost of stock options. In its annual report for 1997-98, Infosys Technologies, which initiated stock options in 1994-95, mentions in the notes that it accounts for stock options using the intrinsic value method. Accordingly, no compensation cost has been recognized for stock options issued to employees in 1997. The compensation cost related to the company's 70,000 vested employee stock options at December 31, 1997, and based on the fair value of the options at the grant date, was determined not to be material to the company's results of operations or financial position. Now that there has been a significant change in the price of Infosys shares, the company can no longer call this cost immaterial.

*ESOPs as Exit Policy:* ESOPs can be the exit strategy of the 21st century. ESOPs have been around for years, but they have been rediscovered by the financial services industry. ESOPs are being pushed as a magic wand for selling a business. If the owner cannot find someone to buy the business, no problem. Simply make one: an ESOPs. Every business owner has "the dream": to sell his business for big money and live the good life in retirement. There are certainly plenty of buyers out there for that business. The problem, however, is that most of those buyers don't have any money. Everyone wants to own a business, but no one has the cash to do it. Quite frequently, the prospective buyer is an employee of the company. In these circumstances, the ESOPs are frequently introduced as the way to get it done. The ESOPs can work the magic.

## CONCLUSION

Over all ESOP is a very good tool to retain the best manpower in the company. However, ESOP may be attractive in a booming market but it is not the same story in a falling market both to the individuals and to the companies offering ESOPs. Hence, employees should take sound decision on timing of exercise of options and Companies need to know what cost they are paying for the human capital before deciding on ESOPs. In practical scenario, instead of granting ESOPs by the company, some of the employees will not avail such grant as there is need to be a demat account and knowledge of stock market to deal with the shares. So it is obvious that all of the employees in the organization will not have account and knowledge to deal with the shares in the market. Hence, employees whose knowledge is limited in financial market will not be interested to avail such grant of the ESOPs. Therefore it doesn't work for everybody, but in some cases it is a perfect fit.

CS



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## To Curb "Insider Trading", SEBI Expands Scope of The Term "Officer" Defined in The Companies Act

- In recent times SEBI has passed adjudication orders against officers of listed companies for violation of the Insider Trading Regulations. Such decisions have significantly expanded the definition of the term 'officer' given in Companies Act. In such a scenario this article emphasises the need for harmonious interpretation of the provisions of the Companies Act and the SEBI Act/Regulations.

Companies in India, be they listed or non-listed, are governed by the provisions of the Companies Act which has recently undergone substantial change to match the global best corporate practices. While the provisions of the new Companies Act, 2013 (in short "the New Act") are being enforced in phased manner and the operating Rules thereunder are being framed/alterd to remove difficulties, the New Act has already imposed newer challenges on the corporate professionals.

While the professionals associated with the implementation and enforcement of the provisions of the New Act are grappling with its ramifications, the recent decision of the Securities and Exchange Board of India (SEBI) in the context of curbing of insider trading by officers of the listed companies, has virtually expanded the scope of the definition of term "officer" given in the New Act. Although, such enlarged definition of "officer" by SEBI no doubt signals positive message towards curbing the malpractices surreptitiously going on in the garb of "insider trading", corporate law commentators



feared that given the enlarged sweeping powers of SEBI after the recent amendments to the SEBI Act, such adjudications by SEBI may create inroads into the arena which was otherwise within the domain of the law enforcement authorities under the New Act.

In this article, an analysis is being made on the responsibility of the



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TO CURB "INSIDER TRADING", SEBI EXPANDS SCOPE OF THE TERM "OFFICER" DEFINED IN THE COMPANIES ACT

listed companies to comply with the Prohibition of Insider Trading Regulations, 1992 ("PIT Regulations"). The article also addresses the potential problem areas that require immediate attention of listed companies in view of the stringent enforcement of the PIT Regulations by SEBI and its appellate authority, the Securities Appellate Tribunal (SAT).

As per Sub-Regulation (2) of Regulation 2 of the PIT Regulations, an insider means any person who:

- (i) is or was connected with the company or is deemed to have been connected with the company and is reasonably expected to have access to unpublished price sensitive information in respect of securities of a company, or
- (ii) has received or has had access to such unpublished price sensitive information

Further, Regulation 3 of the said PIT Regulations which relates to prohibition on dealing, communicating or counselling on matters relating to insider trading, stipulates that "no insider shall:

- (i) either on his own behalf or on behalf of any other person, deal in securities of a company listed on any stock exchange when in possession of any unpublished price sensitive information; or
- (ii) communicate or counsel or procure directly or indirectly any unpublished price sensitive information to any person who while in possession of such unpublished price sensitive information shall not deal in securities:

Provided that nothing contained above shall be applicable to any communication required in the ordinary course of business or profession or employment or under any law."

Now, let us examine the definition of the term "Officer" as is given in Section 2(59) the Companies Act, 2013 which reads as under:

"'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."

If one has to look at the definition of "Officer" under the Companies Act, 1956, it stated under Section 2(30) that:

"'Officer' includes any director or 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."

A plain reading of the definition of "Officer" both in the 1956 Act and the Companies Act, 2013 suggest that only those officers who give directions or instructions to the Board of Directors or any one or more of the Directors or any one (or more) directors who is (or are) accustomed to act shall be construed as "Officers". In other words we are looking only at officers at one level below the Board.

Now let us examine the relevant definition under the PIT Regulations. According to Regulation 2(g) of the PIT Regulations,

*"Officer of a company" means any person as defined in Clause (30) of Section 2 of the Companies Act, 1956, including an auditor of the company".*

Further, PIT Regulations entail certain disclosures requirements to be complied with by listed companies. Regulation 13 deals with disclosure of interest or holding by directors and officers and substantial shareholders in a listed company. The initial disclosure in Reg. 13(4) stipulates that:

*"Any person who is a director or officer of a listed company, shall disclose to the company and the stock exchange where the securities are listed, 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 of such person and his dependent (as defined by the company) from the last disclosure made under Sub Regulation (2) or under this Sub-Regulation and the change exceeds Rs.5 lakhs in value or 25,000 shares or 1% of total shareholding or voting rights, whichever is lower."*

## REGULATION 13(5) STATES THAT:

*"The disclosure mentioned in Sub Regulations (3), (4) and (4A) shall be made within two working days of*

- (a) The receipt of intimation of allotment of shares; or
- (b) The acquisition or sale of shares or voting rights, as the case may be."

Furthermore, under Sub Regulation (6) of Regulation 13 of the PIT Regulations, every listed company, within two working 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) of Reg. 13 in the respective formats specified in Schedule III of the PIT Regulations. Thus in respect of all holdings and transactions which fall within Reg.13(4), even the listed company concerned has to make the aforesaid disclosure as stated in Reg.





➤ Recently the Parliament has amended the SEBI Act and enhanced SEBI's power and conferred upon it the right to carry out searches and seizures. Now SEBI is empowered to easily call for and have access to data and records of listed companies, which will make it easier for SEBI to prove any insider trading charges.

13(6) of the PIT Regulations.

In this context it is also important to note that under Section 15A(b) of the SEBI Act, 1992, imposition of monetary penalty is envisaged:

**"15A. Penalty for failure to furnish information, return, etc.**  
– If any person, who is required under this Act or any rules or regulations made thereunder...

(b) to file any return or furnish any information, books or other documents within the time specified thereunder in the regulations, fails to file return or furnish the same within the time specified therefor in the regulations, he shall be liable to a penalty of one lakh rupees for each day during which such failure continues or one crore rupees, whichever is less."

Further, listed companies, as per the Reg.12(1) of the PIT Regulations, are also required to frame a code of internal procedures and conduct as near thereto the Model Code specified in Schedule I of the PIT Regulations without diluting it in any manner and ensure compliance of the same.

Recently the Parliament has amended the SEBI Act and enhanced SEBI's power and conferred upon it the right to carry out searches and seizures. Now SEBI is empowered to easily call for and have access to data and records of listed companies, which will make it easier for SEBI to prove any insider trading charges. It may be noted that access to call for information, records and data from listed companies is a very significant power and listed companies shall be subjected to stricter scrutiny by SEBI to ensure compliance with, inter alia, PIT Regulations.

While curbing the use of unpublished price sensitive information by company officials (which is termed as "Insider Trading"), SEBI has, in its adjudication order dated July 7, 2014 (in Re: *Ms. Chandana Gosh (ITC Limited)* Adjudication Order No. EAD-2/DSR/PU/145/2014) has relied on the decision of SAT in *Sundaram Finance Ltd. v. SEBI (2010 – SAT 286)* decided by a three-member Bench, wherein it was observed that "...a reading of the aforesaid definition of "officer" 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 the persons who will come within the term. We are of the view that an "Officer" means a person holding an appointment of 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 this has been clarified by the Department of Company Affairs, Government of India as per its letter dated 7<sup>th</sup> October 1963." (emphasis supplied)

While adjudicating the aforesaid case of Ms. Chandana Gosh, the SEBI also noted that in Appeal No. 66 of 2003 – *Milan Mahendra Securities Pvt. Ltd. v. SEBI*, the SAT had observed that "The purpose of these disclosures is to bring about transparency in the transactions and assist the regulator to effectively monitor the transactions in the market." Therefore, even though in the aforementioned case, Ms. Chandana Gosh was holding the position of a "Manager" in the Human Resources function of the trade and marketing distribution vertical of the tobacco division of ITC Ltd., SEBI held her to be an "Officer" covered under the PIT Regulations and imposed penalty on her holding her failure to disclose share transactions above the value of Rs. 5 lakh as mandated in the PIT Regulations.

The aforesaid definition of "Officer" followed by SEBI in the case stated above covers officers many levels below the Board, whereas the scope and coverage of the term "Officer" in the Companies Act (both the 1956 Act and the New Act) purportedly do not extend to more than one level below the Board and covers only very senior officers of companies who have the capacity to instruct and advise the Board or any Director(s). As a consequence, now, as per SEBI's extended definition of persons who are construed as "Officers" for the purposes of PIT Regulations, virtually any employee who is in the position to issue any directions or advise to not only the Board but to any other employee, shall fall within the ambit of persons required to make disclosures under the PIT Regulations if the threshold limits are triggered. This results in a lot of ambiguity in dealing with the officers of the company who are defined in one manner under the Companies Act and in a different and stricter manner by SEBI and SAT.

Therefore, it can be stated that the SAT decision in *Sundaram Finance* was misinterpreted by SEBI in its adjudication order of *Mrs. Chandana Gosh*. It is interesting to note that *Sundaram Finance (Civil Appeal No.9523-9524 of 2003 Judgment dated 23<sup>rd</sup> May 2006)* is a decision which relies on the Supreme Court decision in *SEBI v. Shri Ram MF* wherein the Supreme Court had *inter alia* observed that "once the violation of statutory regulations is established, imposition of penalty becomes *sine qua non* of violation...". The aforesaid view of the Supreme Court has been strictly followed by SEBI and SAT in enforcing the PIT Regulations. As a consequence, even such persons who are not in senior positions in companies are also likely to be hauled up for negligence to disclose any share transactions above the threshold



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limits prescribed under the PIT Regulations.

It is pertinent to note that, in other similar cases, SEBI has already imposed monetary penalties on middle-level and junior level employees of listed companies who failed to comply with the aforesaid disclosure requirements. Merely because their transactions exceeded the threshold limits for making disclosures under the PIT Regulations, such middle-level and junior level employees were held to be in default and penalised, even though there have been no conclusive evidence on their either possessing unpublished price sensitive information or misusing the same.

Therefore, listed companies operating in India need to disseminate the importance of the aforesaid SEBI decision to all they employees who may remotely be in a position to issue orders or directions to other employee and who may, therefore, be termed as "Officers" falling under the ambit of PIT Regulations. It is possible that many of the junior-level employees of listed companies may not be aware

of the PIT Regulations or the implications of violating the disclosure requirements contained therein.

## CONCLUSION

Although, SEBI's decisions are welcome as they indicate SEBI's intention to take strict action against any insider trading, however, as observed hereinabove, SEBI may need to reconsider the scope of persons who can be charged under the PIT Regulations. The legislative intent behind these regulations was to prohibit company promoters and Director-level persons who possessed unpublished price sensitive information from misusing the same and thereby make illegal gains. Therefore, it needs to be examined in each case, whether there is any substantial insider trading per se or a mere technical violation resulting from non-disclosures. There is also an imperative need to harmonize the concept of "officer" under the PIT Regulations vis-à-vis the Companies Act, 2013.

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## Competition Laws

**LW: 83:10:2014**

**SHAMSHER KATARIA v. HONDA SIEL CARS INDIA LTD & ORS [CC]**

Case No. 03/2011

**Ashok Chawla, Anurag Goel & M. L. Tayal [Decided on 25/08/2014]**

Competition Act, 2002 – anti competition practices and abuse of dominance – restrictions on aftermarket operations by automobile manufacturers – CCI finds anti competition and imposes penalty on the manufacturers.

### Brief facts:

The complaint was made against 14 automobile manufacturers with respect to the anti-competitive measures adopted by them in the aftermarket segment. Once the automobile is sold, the servicing of the vehicle falls under the aftermarket segment in which there are automobile repairers, spare part dealers etc. these manufacturing companies imposed various kinds of restrictions so as to dominate this after market segment in such a manner that the consumer has to come to them and/or use their spare parts only.

**Decision: Complaint allowed.**

### Reason:

In deciding the remedies in this case, the Commission's primary objective is to correct the distortions in the aftermarket, to provide corrective measures to make the market more competitive, to eradicate practices having foreclosure effects and to put an end to the present anti-competitive conduct of the parties. The aim of the Commission is to provide more freedom to Original Equipment Suppliers (OESs) in sale of spare parts, and more choice to consumers and independent repairers. The Commission considers it necessary to\_\_

enable the consumers to have access to spare parts and also be free to choose between independent repairers and authorized dealers;

enable the independent repairers participate in the aftermarket and provide services in a competitive manner and to have access to essential inputs such as spare parts and other technical information for this purpose, as part of a more competitive eco-system which is equally fair to the OPs and their authorized network also.

In view of the foregoing, the Commission, therefore, orders the following under section 27 of the Act:-

- i) The parties are hereby directed to immediately cease and desist from indulging in conduct which has been found to be in contravention of the provisions of the Act.
- ii) OPs are directed to put in place an effective system to make the spare parts and diagnostic tools easily available through an efficient network.
- iii) OPs are directed to allow OESs to sell spare parts in the open market without any restriction, including on prices. OESs will be allowed to sell the spare parts under their own brand name, if they so wish. Where the OPs hold intellectual property rights on some parts, they may charge royalty/fees through contracts carefully drafted to ensure that they are not in violation of the Competition Act, 2002.
- iv) OPs will place no restrictions or impediments on the operation of independent repairers/garages.
- v) The OPs may develop and operate appropriate systems for training of independent repairer/garages, and also facilitate easy availability of diagnostic tools. Appropriate arrangements may also be considered for providing technical support and training certificates on payment basis.
- vi) The OPs may also work for standardization of an increasing number of parts in such a manner that they can be used across different brands, like tyres, batteries etc. at present, which would result in reduction of prices and also give more choice to consumers as well as repairers/service providers.
- vii) OPs are directed not to impose a blanket condition that warranties would be cancelled if the consumer avails of services of any independent repairer. While necessary safeguards may be put in place from safety and liability point of view, OPs may cancel the warranty only to the extent that damage has been caused because of faulty repair work outside their authorized network and circumstances clearly justify such action.
- viii) OPs are directed to make available in public domain, and also host on their websites, information regarding the spare parts, their MRPs, arrangements for availability over the counter, and details of matching quality alternatives, maintenance costs, provisions regarding warranty including those mentioned above, and any such other information which may be relevant for full exercise of consumer choice and facilitate fair competition in the market.



As regards imposition of penalty, the Commission notes that the OPs have violated the provisions of both sections 3 & 4 of the Act. It is further noted that cars are an intrinsic part of life and living in today's world, and the owners have to take care of their maintenance over a long period of time with significant financial implication. As such, anti-competitive conduct of the opposite parties impacts a very large number of consumers in the country estimated to be around 2 crore. Further, as noted in earlier paragraphs, the anti-competitive conduct of the opposite parties has restricted the expansion of spare parts and independent repairers segment of the economy to its full potential, at the cost of the consumers, service providers and dealers. It is also noted that despite the fact that most attractive markets for the automobile manufacturers and some OPs have made consumer-friendly commitments in other jurisdictions like Europe, they have failed to adopt similar practices in India which would have gone a long way in significantly diluting their present anti-competitive conduct. This makes their conduct even more deplorable.

In view of the foregoing, the Commission imposes a penalty of 2% of total turnover in India of the opposite parties.



## General Laws

### LW: 84:10:2014

#### VADODARA MUNICIPAL CORPORATION v. PURSHOTTAM V.MURJANI & ORS [SC]

Civil Appeal No.3594-3611 of 2010

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

Municipal Corporation appointed contractor for boat riding in the lake – overloading in boats – non provision of life jackets etc. – mishap in boat riding resulting in death of passengers – whether corporation is liable – Held, Yes.

### Brief facts:

Sursagar Lake is under the control and management of the

Corporation which has been plying boats for joy rides and boating club. During the period in question, the contract for plying the boats was given to Ripple Aqua Sports vide licence agreement dated 26th September, 1992 for managing the affairs of the Boating Club at the Lake for purposes of entertainment. The agreement, inter alia, provided that the facility of boating was to be given to the public. It was necessary that the contractor shall be taking insurance policies to cover the risk liability of all persons using the equipment of the club. The Corporation had the right to supervise the boating club. Accordingly, the Contractor took insurance policy dated 1st November, 1992. On 11th August, 1993, against the capacity of 20 persons, 38 passengers were allowed to ride in the boat which capsized resulting in the death of 22 passengers.

The victims approached the State Commission on 30th March, 1994 and around under the provisions of Consumer Protection Act, 1986 claiming compensation alleging deficiency of service on the part of the Contractor and the Corporation. The State Commission allowed the claims. It held that even a public authority exercising statutory power was not exempt from liability for negligent actions. As regards liability of the Insurance Company, it was held that its liability under the policy was Rs.20 lakhs for one incident which meant one death.

Accordingly, the State Commission held the Aqua Sports and the Corporation to be jointly and severely liable. The State Commission awarded total compensation of Rs.30,18,900/- with interest @ 10% per annum from the date of the incident till payment. The State Commission determined the quantum of compensation ranging from Rs.50,000/- to Rs.10,76,000/- in respect of claims for death of 22 passengers.

The decision of the State Commission has been upheld by the NCDRC with the enhancement in quantum of compensation in some of the cases keeping in mind principles for determining compensation under the Motor Vehicles Act, 1988. Hence the present petition to the Supreme Court.

Learned counsel for the Corporation submitted that the Corporation was not a service provider and had no privy contract with the victims. It was only facilitating the plying of boating and the liability was of the contractor. As per the licence agreement dated 26th September, 1992, control and responsibility for the boating activities was completely of the contractor. The Corporation had no direct control over the contractor or its employees. Learned counsel for the Insurance Company submitted that its liability was limited to Rs.1 lakh as per policy issued on 1st December, 1992 and the policy dated 1st November, 1992 could not be taken into account. Learned counsel for the Contractor, submitted that it was not responsible for the accident and liability was of the Manager individually or of the Corporation for whom the boat was being plied. Learned counsel for the victims supported the impugned order.



## Decision: Appeals dismissed.

### Reason:

On due consideration, we do not find any ground to interfere. It is not in dispute that the boat was carrying 38 passengers as against the capacity of 22 passengers. Neither any life guards were deployed nor any lifesaving jackets were provided to the passengers. The finding of negligence concurrently recorded by the State Commission and the NCDRC does not call for any interference. Primary liability of the contractor stands established. The victims were consumers and the contractor was service provider. Deficiency of service stood established. The stand of the Insurance Company based on second policy dated 1st December, 1992 limiting its liability is untenable. Having issued policy dated 1st November, 1992 covering loss to the extent of Rs.20 lakhs per accident with Rs.80 lakhs as maximum in one year, the Insurance Company could not avoid its responsibility, as rightly held concurrently by the State Commission and the NCDRC. Risk was required to be statutorily covered under the Public Liability Insurance Act, 1991. The Insurance Company was bound by the Insurance Regulatory and Development Authority (Protection of Policyholders Interest) Regulation, 2002 framed under the Insurance Regulatory and Development Authority Act, 1999 and the law laid down in M.J.K. Corporation, Pushpalaya Printers and Asha Goel (supra), rightly referred to by the NCDRC in its order.

We do not find any ground to exonerate the Corporation. Admittedly, the activity in question was covered by the statutory duty of the Corporation under Sections 62, 63 and 66 of the Bombay Provincial Municipal Corporation Act, 1949. Mere appointment of a contractor or employee did not absolve the Corporation of its liability to supervise the boating activities particularly when there are express stipulations in the contract entered into with the contractor. The Corporation was not only discharging its statutory duties but also was acting as service provider to the passengers through its agent. The Corporation had a duty of care, when activity of plying boat is inherently dangerous and there is clear foreseeability of such occurrence unless precautions are taken like providing lifesaving jackets.

Public authorities are now made liable in damages in UK under the Human Rights Act, 1998. Section 6 of the Human Rights Act, 1998 makes a public authority liable for damages if it is found to have committed breach of human rights. The Court of Appeal in England in Anufrijeva v. Southwark London Borough Council, 2004 QB 1124 : (2004) 2 WLR 603 : (2004) 1 All ER 833 (CA), attempted to answer certain important questions as to how damages should be awarded for breach of human rights and how should damages be assessed. Further, such claims are also dealt by Ombudsmen created by various statutes: they are independent and impartial officials, who investigate complaints of the citizens in cases of maladministration. Experience shows that majority of the Ombudsmen's recommendations are complied with in practice, though they are not enforceable in courts. The European Court of

Justice has developed a sophisticated jurisprudence concerning liability in damages regarding liability of public bodies for the loss caused by administrative acts.

We have highlighted all these facts only to indicate that rapid changes are taking place all over the world to uphold the rights of the citizens against the wrong committed by statutory authorities and local bodies. Despite the concern shown by this Court, it is unfortunate that no legislation has been enacted to deal with such situations. We hope and trust that utmost attention would be given by the legislature for bringing in appropriate legislation to deal with claims in public law for violation of fundamental rights guaranteed to the citizens, at the hands of the State and its officials.

In view of above discussion, while upholding the liability of the Corporation, we reiterate that not only Constitutional Courts have to, in suitable cases, uphold claims arising out of loss of life or liberty on account of violation of statutory duties of public authorities, in private law remedies, just and fair claims of citizens against public bodies have to be upheld and compensation awarded in Tort. Where activity of a public body is hazardous, highest degree of care is expected and breach of such duty is actionable. This obligation is also referable to Article 21. We reiterate the need for a comprehensive legislation dealing with tortious liability of the State and its instrumentalities in such cases for certainty on the subject. We request the Law Commission to look into the matter and take such steps as may be found necessary.

Accordingly, we do not find any merit in the appeals filed by the contractor, the Corporation and the Insurance Company against the award of compensation by the State Commission as affirmed/modified by the NCDRC. The appeals are accordingly dismissed.

## LW: 85:10:2014

### STATE OF WEST BENGAL v. ASSOCIATED CONTRACTORS [SC]

Civil Appeal No. 6691 of 2005

R.M.Lodha, Kurian Joseph & R. F. Nariman, JJ.  
[Decided on 10/09/2014]

Arbitration and Conciliation Act, 1996 – sections 2(1)(e), 9, 34 and 42 – arbitral award – challenge before the court – which is the appropriate court – Supreme Court reinstates and clarifies the law.

### Brief facts:

The Petitioner entered into an Item Rate Tender with the respondent Associated Contractors for execution of the work of excavation and lining of Teesta- Jaldhaka Main Canal in Jalpaiguri, which contained



an arbitration clause. As disputes arose between the parties, the respondent filed an application under Section 9 of the Arbitration Act, 1996 for interim orders in the High Court of Calcutta, which was granted. Meanwhile, in an application under Section 11 of the Arbitration Act, Justice B.P. Banerjee (retired), was appointed as an Arbitrator to adjudicate upon the disputes between the parties.

The arbitration proceedings culminated in an Award dated 30th June, 2004, against which the State of West Bengal filed an application under Section 34 of the 1996 Act to set aside the arbitral Award before the Principal Civil Court of the learned District Judge at Jalpaiguri. Against this, the respondent filed an application under Article 227 of the Constitution challenging the jurisdiction of the court of the learned District Judge at Jalpaiguri, in which a Single Judge of the High Court of Calcutta allowed the petition holding that the High Court of Calcutta in its ordinary original civil jurisdiction is the only principal court which can entertain an application for setting aside the said award.

The State of West Bengal challenged this before the Supreme Court.

## Decision: Appeals dismissed.

### Reason:

Our conclusions on Section 2(1)(e) and Section 42 of the Arbitration Act, 1996 are as follows:

- (a) Section 2(1)(e) contains an exhaustive definition marking out only the Principal Civil Court of original jurisdiction in a district or a High Court having original civil jurisdiction in the State, and no other court as 'court' for the purpose of Part-I of the Arbitration Act, 1996.
- (b) The expression 'with respect to an arbitration agreement' makes it clear that Section 42 will apply to all applications made whether before or during arbitral proceedings or after an Award is pronounced under Part-I of the 1996 Act.
- (c) However, Section 42 only applies to applications made under Part-I if they are made to a court as defined. Since applications made under Section 8 are made to judicial authorities and since applications under Section 11 are made to the Chief Justice or his designate, the judicial authority and the Chief Justice or his designate not being court as defined, such applications would be outside Section 42.
- (d) Section 9 applications being applications made to a court and Section 34 applications to set aside arbitral awards are applications which are within Section 42.
- (e) In no circumstances can the Supreme Court be 'court' for the purposes of Section 2(1)(e), and whether the Supreme Court does or does not retain seisin after appointing an Arbitrator, applications will follow the first application made before either a High Court having original jurisdiction in the State or a Principal Civil court having original jurisdiction in the district as the case may be.

(f) Section 42 will apply to applications made after the arbitral proceedings have come to an end provided they are made under Part-I.

(g) If a first application is made to a court which is neither a Principal Court of original jurisdiction in a district or a High Court exercising original jurisdiction in a State, such application not being to a court as defined would be outside Section 42. Also, an application made to a court without subject matter jurisdiction would be outside Section 42.

The reference is answered accordingly.

On the facts of the present case, nothing has been shown as to how the High Court of Calcutta does not possess jurisdiction. It has been mentioned above that leave under Clause 12 has been granted. In the circumstances of the present case, therefore, the judgment dated 11th April, 2005 passed by the High Court of Calcutta is correct and does not need any interference.

## LW: 86:10:2014

RAJ KUMAR PRASAD & ANR v. ABBOTT HEALTHCARE PVT LTD [DEL]

FAO(OS) 281/2014

Pradeep Nandrajog & Mukta Gupta, JJ. [Decided on 10/09/2014]S

Trade Marks Act, 1999- section 28 and 124 – two registered trademarks – infringement of former trademark “Anafortan” by the latter trademark “Amaforten” – whether injunction could be granted – Held, Yes.

### Brief facts:

It is the case of Abbott that the predecessor-in-interest of the registered trademark 'ANAFORTAN' used the same extensively and widely for the medicines manufactured and sold in the market and since September, 2010 Abbott had been doing so. Thus, Abbott had established a good will and reputation in the mark 'ANAFORTAN'. As per Abbott it had sold pharmaceutical products under said trademark in sum of Rs.7.84 crores between September to December, 2010 and 23.047 crores between January and December, 2011. The grievance was that Raj Kumar Prasad, carrying on business as a sole proprietor of Birani Pharmaceuticals, was selling pharmaceutical products containing Camylofin Dihydrochloride under the brand name 'AMAFORTEN'. Concerning the second defendant Alicon Pharmaceuticals Pvt. Ltd. the grievance was that it was manufacturing the medicinal preparations for Raj Kumar Prasad, to be sold under the mark 'AMAFORTEN'. It



is the case of Abbott that Raj Kumar Prasad surreptitiously obtained, vide registration No.1830060 under class 5, the registration of the mark 'AMAFORTEN' for which Abbott intends to file rectification proceedings.

**Decision:** Appeal dismissed.

## Reason:

The view taken by the learned Single Judge is based upon a reading of Section 124 of the Trademarks Act, 1999. The learned Single Judge has held that a registered proprietor of a trademark is entitled to sue a registered proprietor of a trademark if the latter is identical with or nearly resembles the other. Holding that the suit would be maintainable, the learned Single Judge has held that the trademark used by the defendants 'AMAFORTEN' is ex-facie phonetically and visually deceptively similar to that of Abbott 'ANAFORTAN'. The learned Single Judge has noted that through its predecessors Abbott had been using the trademark 'ANAFORTAN' extensively since the year 1988 and thus has enjoined the defendants from selling its product under the trademark 'AMAFORTEN' or any other mark deceptively similar to that of Abbott.

Ex-facie there is visual and phonetic deceptive similarity in the trademark 'AMAFORTEN' in comparison with the trademark 'ANAFORTAN'. It has to be kept in mind that the competing goods are pharmaceutical preparations, the class of the goods is the same; the consumer is the same and the trade channel is the same. Concededly through its predecessors-in-interest Abbott has inherited the good will and reputation in its trademark 'ANAFORTAN' and would be entitled to protect the same. Whereas through its predecessors-in-interest Abbott is in the market since the year 1988 defendant entered the market somewhere in the year 2012 when the suit was filed. We note that the defendant has consciously not disclosed in the written statement the day it started selling the goods in the market. From the documents filed by the defendants we find that it applied to the Registrar of Trademarks for registration of the trademark 'AMAFORTEN' on June 17, 2009 and was granted registration on July 12, 2011.

Tested on the legal principles laid down by the Supreme Court in the case of *Wander Ltd. & Anr. Vs. Antox India P.Ltd* reported as 1990 (Supp.) SCC 727, we find no infirmity in the view taken by the learned Single Judge and thus would dismiss the appeal.



## Industrial & Labour Laws

**LW: 87:10:2014**

**RAGHUBIR SINGH v. GENERAL MANAGER, HARYANA ROADWAYS CORPORATION [SC]**

Civil Appeal No. 8434 of 2014 (Arising out of SLP(C) No. 22487 of 2012)

**S.J. Mukhopadhaya & V. Gopala Gowda, JJ.**

[Decided on 03/09/2014]

Industrial Disputes Act, 1947- section 10 – dismissal from services – reference of dispute by State Government – Labour Court held that the reference was time barred – High Court also concurred- is there any limitation for a State Government to refer an industrial dispute for adjudication – Held, No.

## Brief facts:

In 1976, the appellant joined the Haryana Roadways as a conductor. On 10.08.1993, the appellant was charged under Section 409 of the Indian Penal Code in a criminal case at the instance of the respondent for alleged misappropriation of the amount collected from tickets and not depositing the cash in relation to the same in time. The appellant was arrested by the Jurisdictional police and sent to judicial custody on 15.09.1994. Further, on 21.10.1994 the services of the appellant were terminated. On 15.11.1994, the appellant upon being released on bail was given an oral assurance by the respondent that he will be reinstated to the post after his acquittal by the Court. On 11.07.2002, upon being acquitted by the Court, the appellant reported to join his duty, but he was informed by the respondent that his services stood terminated w.e.f. 21.10.1994.

The appellant served the demand notice upon the respondent which was not acceded to and therefore, the industrial dispute with regard to order of termination from his services was raised before the conciliation officer. On failure of the conciliation proceedings before him, the industrial dispute was referred by the State Government to the Labour Court. After adjudication of the points of dispute referred to it, the Labour Court vide its award dated 22.05.2009 declared that the termination of the appellant from his services was illegal and passed an award of reinstatement of the appellant with 60% back wages from the date of issuance of demand notice till publication of the award and full back wages thereafter, till reinstatement.

The respondent challenged the above award before the High Court, which vide its order dated 01.04.2010 set aside the award dated 22.05.2009 and remanded the case back to the Labour Court for fresh adjudication in the light of the applicability of the provisions of Article 311(2)(b) of the Constitution of India, to the appellant/workman.



The Labour Court vide its award dated 17.05.2011 answered the reference by passing an award against the appellant on the ground that the reference of the industrial dispute is time barred. The appellant challenged the correctness of the said award before the High Court, which was dismissed on 14.11.2011 by the learned single Judge of the High Court holding that the decision of the disciplinary authority of the respondent is in the public interest and therefore, the same does not warrant interference.

The appellant thereafter filed Letters Patent Appeal No. 20 of 2012 before the Division Bench of the High Court which was dismissed. Aggrieved by the impugned judgment and order dated 09.01.2012 of the High Court of Punjab and Haryana, the appellant has filed this appeal urging various grounds.

**Decision: Appeal allowed.**

## Reason:

In our view of the facts and circumstances of the case on hand, the reference was made by the State Government to the Labour Court for adjudication of the existing industrial dispute; it has erroneously held it to be barred by limitation. This award was further erroneously affirmed by the High Court, which is bad in law and therefore the same is liable to be set aside. According to Section 10(1) of the Act, the appropriate government 'at any time' may refer an industrial dispute for adjudication, if it is of the opinion that such an industrial dispute between the workman & the employer exists or is apprehended.

In the case on hand, no doubt there is a delay in raising the dispute by the appellant; the Labour Court nevertheless has the power to mould the relief accordingly. At the time of adjudication, if the dispute referred to the Labour Court is not adjudicated by it, it does not mean that the dispute ceases to exist. The appropriate government in exercise of its statutory power under Section 10(1) (c) of the Act can refer the industrial dispute, between the parties, at any time, to either the jurisdictional Labour Court/Industrial Tribunal. Therefore, the State Government has rightly exercised its power under Section 10(1)(c) of the Act and referred the points of dispute to the Labour Court as the same are in accordance with the law laid down by this Court.

We are of the opinion, having regard to the fact and circumstances of the case that there is no delay or laches on the part of the workman from the date of his acquittal in the criminal case. Thereafter, upon failure of the respondent in adhering to the assurance given to the workman that he would be reinstated after his acquittal from the criminal case, the workman approached the conciliation officer and the State Government to make a reference to the Labour Court for adjudication of the dispute with regard to the order of dismissal passed by the respondent. Keeping in mind the date of acquittal of the appellant and the date on which he approached the conciliation officer by raising the dispute, since the respondent had not adhered to its assurance, the State Government had rightly referred the

dispute for its adjudication. Therefore it cannot be said that there was a delay on the part of the appellant in raising the dispute and getting it referred to the Labour Court by the State Government.

Further, the Labour Court on an erroneous assumption of law framed the additional issue regarding the limitation in raising the dispute and its reference by the State Government to the Labour Court. Thus, the Labour Court has ignored the legal principles laid down by this Court. The award passed by the Labour Court was accepted erroneously by both the learned single Judge and the Division Bench of the High Court by dismissing the Civil Writ Petition & the Letters Patent Appeal without examining the case in its proper perspective, keeping in view the power of the State Government under Section 10(1)(c) and the object and intendment of the Act. Not adjudicating the existing industrial dispute on merits between the parties referred to it may lead to disruption of industrial peace and harmony, which is the foremost important aspect in Industrial Jurisprudence as the same would affect the public interest at large.

The Labour Court has failed to exercise its statutory power coupled with duty by not going into the merits of the case and adjudicating the points of dispute referred to it while answering the additional issue No. 2 framed by it regarding limitation. Therefore, it is a fit case for us to exercise the jurisdiction of this Court for the reason of non-adjudication of dispute on merits between the parties with regard to the justifiability of the order of dismissal passed by respondent.

It is an undisputed fact that the dispute was raised by the workman after he was acquitted in the criminal case which was initiated at the instance of the respondent. Raising the industrial dispute belatedly and getting the same referred from the State Government to the Labour Court is for justifiable reason and the same is supported by law laid down by this Court. Even assuming for the sake of the argument that there was a certain delay and laches on the part of the workman in raising the industrial dispute and getting the same referenced for adjudication, the Labour Court is statutorily duty bound to answer the points of dispute referred to it by adjudicating the same on merits of the case and it ought to have moulded the relief appropriately in favour of the workman. That has not been done at all by the Labour Court. Both the learned single Judge as well as the Division Bench of the High Court in its Civil Writ Petition and the Letters Patent Appeal has failed to consider this important aspect of the matter. Therefore, we are of the view that the order of termination passed by the respondent, the award passed by the Labour Court and the judgment & order of the High Court are liable to be set aside. When we arrive at the aforesaid conclusion, the next aspect is whether the workman is entitled for reinstatement, back wages and consequential benefits. We are of the view that the workman must be reinstated. However, due to delay in raising the industrial dispute, and getting it referred to the Labour Court from the State Government, the workman will be entitled in law for back wages and other consequential benefits from the date of raising the industrial dispute i.e. from 02.03.2005



till reinstatement with all consequential benefits.

For the foregoing reasons, we grant the following reliefs to the workman by allowing this appeal:

## LW: 88:10:2014

**DELHI TRAVELS & TOURS v. EMPLOYEES STATE INSURANCE CORPORATION [DEL]**

W.P.(C) 5740/2014

**Suresh Kait, J. [Decided on 09/09/2014]**

ESIC Act, 1957 – amnesty scheme- employer failed to produce records despite court’s order to do so – corporation raised demand against him – employer applied under amnesty scheme – rejected- whether the rejection is tenable – Held, Yes.

### Brief facts:

It appears that initially the Corporation had made a demand against the petitioner. The petitioner approached the civil court for quashing the demand which was quashed by the court on 16/09/2011. The court directed the petitioner to produce all relevant records to the corporation for deciding the demand and fixed a time period for doing so. The petitioner did not produce any records /documents to the Corporation inspite of availing umpteen opportunities. In these circumstances Dy. Director of the corporation on 26.08.2013 passed an order raising a demand of Rs. 11,05,790/- on the ground that the petitioner had failed to produce records and documents.

Thereafter the petitioner moved an application under the amnesty scheme to the Corporation which was rejected by passing the impugned order dated 21.07.2014 passed by Deputy Director of the respondent corporation.

**Decision: Petition dismissed.**

### Reason:

Admittedly, the Amnesty Scheme is for the settlement. If the other party is not interested to settle the issue then the case will be dealt as per law. In the present case, the petitioner has defaulted to produce the record. Therefore, under the compelling circumstances, the learned Judge passed the order and directed the petitioner to deposit the amount. Though the application mentioned above is pending as recorded in order dated 20.08.2014 has no bearing when the other party is not interested to settle the amount. Moreover, order dated 26.08.2013 has attained finality. Therefore, in passing impugned order dated 21.07.2014, I find no discrepancy.

## LW: 89:10:2014

**VIR ARJUN NEWSPAPERS PVT LTD v. THE REGIONAL PROVIDENT FUND COMMISSIONER, DELHI & ANR [DEL]**

W.P.(C) 3014/2000

**V. Kameswar Rao, J. [Decided on 05/09/2014]**

Employees Provident fund and Miscellaneous Provisions Act, 1952 – section 16 – infancy protection – new unit continued the business of the old unit – newspaper registration number was same – whether the latter unit to be granted infancy protection – Held, No.

### Brief facts:

The challenge in this writ petition is to the order dated July 12, 1999 passed by the Regional Provident Fund Commissioner, Delhi (Commissioner) and order dated May 09, 2000 passed by the Employee’s Provident Fund Appellate Tribunal (‘Tribunal’ in short), whereby the Commissioner has concluded that the petitioner herein i.e. M/s Vir Arjun Newspapers Pvt. Ltd. and M/s Sandhya Vir Arjun are not entitled to infancy protection as envisaged under Section 16 of the Act as these are a continuation of the old establishment M/s Daily Vir Arjun. They were directed to report compliance in respect of the employees of M/s Daily Vir Arjun and M/s Sandhya Vir Arjun with effect from January, 1983 after excluding the amount deposited by the establishment earlier, and the appeal against the order of Commissioner was dismissed by the Tribunal.

**Decision: Petition dismissed.**

### Reason:

Having heard the learned counsel for parties, the only issue which arises is whether the petitioner is entitled to the benefit of infancy under Section 16(2) of the Act.

It is clear that a conclusion whether two units should be considered as one establishment or otherwise is a question of fact. In the present case, I note that the petitioner company was incorporated in the year 1987 and it relied upon the certificate issued by the Registrar of Newspapers dated June 16, 1988 evidencing publication of newspaper after that. The registration number was 511/57. The registration number is relevant. The number is same as that was allotted to Daily Vir Arjun. Suffice to state, there is no mention of the name of the petitioner company in the certificate. It is not known, whether it was in fact, allotted to the petitioner company. The name of the publisher, printer and the editor has been mentioned as Mr. Anil Narendra. Surely if the company is owning it,



the publisher's name must be of the petitioner company. Daily Vir Arjun which is said to have been established in the year 1971 as a proprietorship concern of Mr.K.Narendra and said to have been closed down in the year 1981 was also publishing the newspaper with the same registration number i.e. 511/57. Identical numbers could not have been issued for publishing two newspapers. The later digits denotes the year of registration. From a common registration number, it is clear that the petitioner company was publishing the newspaper under the registration number allotted to respondent No.2. The petitioner/nor the respondent No.2 has filed the registration certificate issued to respondent No.2.

I am further strengthened in my view by the arguments advanced by the department. It has rightly been pointed out by the department that burden of proof of claim of infancy as a separate establishment lies squarely on Daily Veer Arjun under proprietorship of Shri Anil Narendra or on M/s Veer Arjun Newspaper Pvt. Ltd. The establishment M/s Veer Arjun Newspaper Pvt. Ltd. has failed to discharge the onus as enjoined upon them by law. Several opportunities were granted to them. The enquiry continued to be adjourned to different dates on one plea or the other as put forward by the Advocate/Representative of the establishment. The establishment as a custodian of the relevant records maintained by them had every opportunity to bring in evidence any of the documents in defence of its own case that it wasn't a continuation of M/s Daily Veer Arjun, but the establishment M/s Veer Arjun Newspaper Pvt. Ltd. didn't bring on record even an iota of evidence to prove its case. The strong presumption in the circumstances remains that the establishment is nothing else but continuation of Daily Veer Arjun.

In view of my conclusion as above, coupled with the fact that two authorities below have held that the petitioner establishment is in continuity of Daily Vir Arjun, it is surely not a case where the findings of the Commissioner and the conclusion of the Tribunal can be interfered with. The interference by High Court in exercise of power under Article 226 of the Constitution is very limited more particularly if it is a case of no evidence, which this Court is of the view, is not. I do not see any merit in the writ petition. The same is, accordingly, dismissed.

## LW: 90:10:2014

### CHAHAT RAM VERMA v. UNITECH LTD. & ANR [DEL]

W.P.(C) 3622/2010

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

Industrial Disputes Act, 1947 – dismissal of workman – workman assailed the award upholding his dismissal on the ground that he was promoted and reinstated as

“Assistant store Keeper” but given the work of a “Peon” – whether the objection to award tenable – Held, No.

### Brief facts:

The petitioner impugns an award dated 25.08.2009 passed by the Labour Court (hereinafter referred to as the 'impugned award') whereby the disputes referred to the Labour Court were decided against him and in favour of respondent no.1 company (hereinafter referred to as 'Unitech').

The principal grievance of the petitioner is that even though an award reinstating him with continuity of service was passed by the Labour Court on 16.08.2001 in I.D. No.418/1987, he has not been reinstated in the position as he was holding prior to his removal from service. It is contended that although, in compliance with the aforementioned award, the petitioner was taken back in service, he has not been paid wages as per his entitlement. According to the petitioner, he had been reinstated at the post of an 'Assistant Store Keeper' but was being paid the salary of a 'Peon'.

### Decision: Petition dismissed.

**Reason:** It was contended by the learned counsel for the petitioner that although the petitioner had joined the services of Unitech as an office boy, he was subsequently promoted as an Assistant Store Keeper. It was contended that the Labour Court in I.D. No. 98/2008 had erred in not appreciating the letter dated 29.09.1982 which purportedly offered the position of an Assistant Store Keeper in a sister concern of Unitech (Unitech Builders Pvt. Ltd.), to the petitioner. The learned counsel for the petitioner also contended that the petitioner had been reinstated as an Assistant Store Keeper by virtue of the award dated 16.08.2001.

The Labour Court in I.D. No. 98/2008, noted that the question, i.e. whether the petitioner had been promoted as an Assistant Store Keeper, had been decided against the petitioner after considering the documentary and other evidence, in the earlier round. The witness on behalf of Unitech also deposed that there was no post of an Assistant Store Keeper and the petitioner had never worked in that capacity. The Appointment letter produced by Unitech also undermines the petitioner's contention that he was working as an Assistant Store Keeper. The Labour court appreciated the said evidence, before rejecting petitioner's claim. It is well settled that this court, in exercise of powers under Article 226 of the constitution of India, will not sit in appeal over the findings of fact, which are returned by the Industrial Adjudicator after appreciating the evidence and supplant its opinion over that of the said authority.

In the present case, neither the findings returned in the impugned award are erroneous nor the decision making process flawed. I find no reason to interfere with the impugned award.



## Corporate Laws

### 01 Amendments in Schedule II of Companies Act, 2013.

[Issued by the Ministry of Corporate Affairs vide G.S.R. 627(E), dated 29.08.2014. Published in the Gazette of India, Extraordinary Part-II—Sec.3(i), dated 29.08.2014]

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 amendments further to amend Schedule II of the said Act with effect from the date of publication of this notification in the Official Gazette, namely:—

1. In Schedule II of the Companies Act, 2013,—

(a) in Part 'A', in paragraph 3, for sub-paragraph (i), the following sub-paragraph shall be substituted, namely:—

"(i) The useful life of an asset shall not ordinarily be different from the useful life specified in Part C and the residual value of an asset shall not be more than five per cent, of the original cost of the asset:

Provided that where a company adopts a useful life different from what is specified in Part C or uses a residual value different from the limit specified above, the financial statements shall disclose such difference and provide justification in this behalf duly supported by technical advice",.

(b) after Part 'C' under the heading Notes,—

(i) for paragraph 4 the following paragraph shall be substituted namely:—

"4(a) Useful life specified in Part C of the Schedule is for whole of the asset and where cost of a part of the asset is significant to total cost of the asset and useful life of that part is different from the useful life of the remaining asset, useful life of that significant part shall be determined separately.

(b)The requirement under sub-paragraph (a) shall be voluntary in respect of the financial year commencing on or after the 1st April, 2014 and mandatory for financial statements in respect of financial years commencing on or after the 1st April, 2015."

(c)in paragraph 7, in sub-paragraph (b) for the words "shall be recognized", the words "may be recognized" shall be substituted.

Amardeep Singh Bhatia  
Joint Secretary

**Note:** Schedule II of the Companies Act, 2013 came into force with effect from the 1st April, 2014 and was amended (with effect from 1st April, 2014) vide notification number S. 0.237(E), dated the 31st March, 2014.

### 02 Companies (Corporate Social Responsibility Policy) Amendment Rules, 2014.

[Issued by the Ministry of Corporate Affairs vide F. No. 1/18/2043-CL-V-Part, dated 13.09.2014. To be published in the Gazette of India, Extraordinary, Part II, section 3, subsection (i)]

In exercise of the powers conferred under section 135 and 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 (Corporate Social Responsibility Policy) Rules, 2014, namely:-

1. (1) These rules may be called the Companies (Corporate Social Responsibility Policy) Amendment Rules, 2014.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Companies (Corporate Social Responsibility Policy) Rules, 2014, in rule 4, in sub-rule (6), after the words "but such expenditure" the words and comma "including expenditure on administrative overheads," shall be inserted.

Manoj Kumar  
Joint Secretary

### 03 Companies (Removal of Difficulties) Seventh Order, 2014.

[Issued by the Ministry of Corporate Affairs vide, S.O. 2226(E), dated 4.09.2014. Published in Gazette of India, Extraordinary, Part II, section 3, subsection (ii), dated 04.09.2014.]

Whereas the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the said Act) received the assent of the President on the 29th August, 2013 and section 143 of the Act, which provides



for the powers and duties of the auditors and auditing standards, came into force with effect from 1st April, 2014;

And whereas sub-sections (5) and (7) of section 139 of the said Act provide for power of the Comptroller and Auditor-General of India to appoint an auditor duly qualified to be appointed as an auditor in a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments;

And whereas sub-section (5) of Section 143 of the said Act which provides for power of the Comptroller and Auditor-General of India to conduct supplementary audit does not specifically cover companies 'owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments';

And whereas difficulties have arisen in implementation of the provisions of sub-section (5) of section 143 for companies referred to in sub-sections (5) and (7) of section 139 of the said Act;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 470 of the Companies Act, 2013, the Central Government hereby makes the following Order to remove the aforesaid difficulties, namely :—

1. Short title and commencement.—

- (1) This order may be called the Companies (Removal of Difficulties) Seventh Order, 2014.
- (2) It shall come into force on the date of its publication in the Official Gazette.

2. In section 143 of the Companies Act, 2013 in sub-section (5), for the portion beginning with the words "In the case of a Government company" and ending with the words "required to be audited and", the following shall be substituted, namely:—

"In the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, the Comptroller and Auditor-General of India shall appoint the auditor under sub-section (5) or sub-section (7) of Section 139 and direct such auditor the manner in which the accounts of the company are required to be audited and".

Amardeep Singh Bhatia  
Joint Secretary.

## 04 Clarification with Regard to Provisions of Corporate Social Responsibility (CSR) Under Section 135 of The Companies Act, 2013.

[Issued by Ministry of Corporate Affairs vide General Circular No.36/2014, F. No. 05/01/2014-CSR, dated 17.09.2014.]

In continuation of the General Circular No. 21 of 2014 dated 18.06.2014, the following clarifications are hereby issued:

- (i) Rule 4(6) of the Companies (Corporate Social Responsibility Policy) Rules, 2014 as notified on 27.02.2014 has been amended by notification dated 12.09.2014; and
- (ii) Consequently, clarification (iv) in General Circular No. 21 of 2014 dated 18.06.2014, stands omitted.

2. This issues with the approval of Competent Authority.

Seema Rath  
Assistant Director

## 05 Clarification Accounting Standards (AS) 10 - Capitalization of Cost - regarding.

[Issued by Ministry of Corporate Affairs vide General Circular No. 35/2014, F. No. 17/66/2013/CL-V, dated 27.08.2014.]

Government has received a number of representations seeking clarifications on capitalization of costs in cases of Competitive Bid power projects. The clarifications sought were with regard to capitalization of borrowing costs incurred during extended delay in commercial production for reasons beyond the developer's control, and whether capitalization of power plant should be unit-wise or project-wise. The matter has been examined in consultation with the Accounting Standards Board (ASB) of the Institute of Chartered Accountants of India (ICAI).

2. Accounting Standards AS-10 and AS-16 prescribe the principles of capitalization of various costs based on the underlying concept that only such expenditure should be capitalized as form a part of the cost of fixed assets which increase the worth of the assets. Cost incurred during the extended delay in commencement of commercial production after the plant is otherwise ready does not increase the worth of fixed assets. Such costs cannot, therefore, be capitalized.

Accounting Standard AS 16, *inter alia* provides guidance with regard to part capitalization where some units of a project are complete. In case one of the units of the project is ready for commercial production and is capable of being



used while construction continues for the other units, costs should be capitalized in relation to that part once the part is ready for commercial production.

It is further clarified that AS 10 and AS 16 are applicable irrespective of whether the power projects are 'Cost Plus projects' or 'Competitive Bid projects'.

This issues with approval of the competent authority.

S.K. Verma  
Assistant Director

## 06 SEBI (Settlement of Administrative and Civil Proceedings) (Amendment) Regulations, 2014

[Issued by the Securities and Exchange Board of India vide No. LAD-NRO/GN/2014-15/08/1491, dated 15.09.2014. Published in the Gazette of India, Extraordinary Part - III - Section 4, dated 15.09.2014]

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 amend the Securities and Exchange Board of India (Settlement of Administrative and Civil Proceedings) Regulations, 2014, namely,-

1. These regulations may be called the Securities and Exchange Board of India (Settlement of Administrative and Civil Proceedings) (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 (Settlement of Administrative and Civil Proceedings) Regulations, 2014, in Schedule I, in Part B, the word "five " shall be substituted with the word "ten".

U.K. Sinha  
Chairman

## 07 Securities and Exchange Board of India (Research Analysts) Regulation 2014

[Issued by the Securities and Exchange Board of India vide No. LAD-NRO/GN/2014-15/07/1414, dated 01.09.2014, Extraordinary Part-III-Section 4. dated 01.09.2014.]

In exercise of the powers conferred by sub-section (1) of section 30 read with clause (b) of sub-section (2) of section 11 of the Securities and Exchange Board of India Act, 1992(15 of 1992),

the Securities and Exchange Board of India hereby, makes the following regulations, to put in place a framework to register and regulate research analysts, namely;-

### CHAPTER-I PRELIMINARY

Short title and commencement.

1. (1) These regulations may be called the Securities and Exchange Board of India (Research Analysts) Regulations, 2014.
- (2) These regulations shall come into force on the ninetieth day from the date of their publication in the Official Gazette.

### Definitions.

2. (1) In these regulations, unless the context otherwise requires, the terms defined herein shall bear the meanings assigned to them below, and their cognate expressions shall be construed accordingly,-
  - (a) "Act" means the Securities and Exchange Board of India Act, 1992 (15 of 1992);
  - (b) "asset management company" means a company as defined under clause(d) of Regulation 2 of Securities and Exchange Board of India ( Mutual Funds) Regulations, 1996;
  - (c) "associate" means an associate as defined in Securities and Exchange Board of India (Intermediaries) Regulations, 2008;
  - (d) "Board" means the Securities and Exchange Board of India established under section 3 of the Act;
  - (e) "certificate" means a certificate of registration granted under these regulations;
  - (f) "control" means control as defined under the Companies Act, 2013;
  - (g) "fund manager" includes fund managers of a mutual fund or alternative investment fund or venture capital fund or portfolio manager;
  - (h) "independent research analyst" means a person whose only business activity is research analysis or preparation and/or publication of research report;
  - (i) "inspecting authority" means any one or more persons appointed by the Board to exercise powers conferred under regulation 27;
  - (j) "investment adviser" means any person registered under Securities and Exchange Board of India (Investment Advisers) Regulations, 2013;
  - (k) "limited liability partnership" means a partnership formed and registered under The Limited Liability Partnership Act, 2008(6 of 2009);
  - (l) "merchant banking or investment banking or brokerage services" includes,-



# From the Government

- i. acting as an underwriter;
  - ii. participating in a selling or an offering for the issuer or otherwise acting in furtherance of a public offer of the issuer;
  - iii. acting as an adviser in a merger or acquisition;
  - iv. providing or arranging venture capital or equity or debt;
  - v. serving as placement agent for the issuer or otherwise acting in furtherance of a private offering of the issuer;
  - vi. offering brokerage or market making services;
- (m) "NBFC" means a Non-Banking Financial Company registered by Reserve Bank of India;
- (n) "NISM" means the National Institute of Securities Market established by the Board;
- (o) "price target" means expectations of research analyst on the future performance of specific securities;
- (p) "proxy adviser" means any person who provide advice, through any means, to institutional investor or shareholder of a company, in relation to exercise of their rights in the company including recommendations on public offer or voting recommendation on agenda items;
- (q) "public appearance" means any participation in a conference call, seminar, forum (including interactive and non-interactive electronic forum), radio or television or internet or web or print media broadcast, authoring a print media article or other public speaking activity in public media in which a research analyst makes a recommendation or offers an opinion, concerning securities or public offer:

Provided that it does not include a password protected webcast, conference call or such other events with the clients, if all of the event participants previously received the research report or other documentation that contains the required applicable disclosures and that the research analyst appearing at the event corrects and updates during the public appearance any disclosures in the research report that are inaccurate, misleading or no longer applicable;

- (r) "public media" means any media source available to the general public and includes a radio, television, internet, web or print media;
- (s) "public offer" includes initial public offer, further public offer, offer for sale, disinvestment, takeover, buy-back or delisting of securities;

(t) "relative" means a person as defined in sub section (77) of section 2 of the Companies Act, 2013 and who is financially dependent on independent research analyst or individual research analyst employed by research entity;

(u) "research analyst" means a person who is primarily responsible for,-

- i. preparation or publication of the content of the research report; or
- ii. providing research report; or
- iii. making 'buy/sell/hold' recommendation; or
- iv. giving price target; or
- v. offering an opinion concerning public offer, with respect to securities that are listed or to be listed in a stock exchange, whether or not any such person has the job title of 'research analyst' and includes any other entities engaged in issuance of research report or research analysis.

**Explanation:** The term also includes any associated person who reports directly or indirectly to such a research analyst in connection with activities provided above;

(v) "research entity" means an intermediary registered with Board who is also engaged in merchant banking or investment banking or brokerage services or underwriting services and issue research report or research analysis in its own name through the individuals employed by it as research analyst and includes any other intermediary engaged in issuance of research report or research analysis;

(w) "research report" means any written or electronic communication that includes research analysis or research recommendation or an opinion concerning securities or public offer, providing a basis for investment decision and does not include the following communications:-

- (i) comments on general trends in the securities market;
- (ii) discussions on the broad-based indices;
- (iii) commentaries on economic, political or market conditions;
- (iv) periodic reports or other communications prepared for unit holders of mutual fund or alternative investment fund or clients of portfolio managers and investment advisers;
- (v) internal communications that are not given to current or prospective clients;



- (vi) communications that constitute offer documents or prospectus that are circulated as per regulations made by the Board;
  - (vii) statistical summaries of financial data of the companies;
  - (viii) technical analysis relating to the demand and supply in a sector or the index;
  - (ix) any other communication which the Board may specify from time to time;
  - (x) "securities" means securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956;
  - (y) "significant news or event" means any news or event which is expected to have a material impact on, or that reflects a material change to, the subject company's earnings, operations or financial condition, other than unpublished price sensitive information, as specified in the internal policies and procedures of the research analyst or research entity;
  - (z) "subject company" means the company whose securities are the subject of a research report or a public appearance;
  - (za) "stock exchange" means a stock exchange recognised under section 4 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956);
  - (zb) "third party research report" means a research report produced by a person or entity other than the research analyst or research entity.
- (2) The words and expressions used and not defined in these regulations but defined in the Act, the Securities Contracts (Regulation) Act, 1956 (42 of 1956), the Companies Act, 1956 and 2013, or any rules or regulations made thereunder shall have the same meanings respectively assigned to them in those Acts, rules or regulations made thereunder or any statutory modification or re-enactment thereto, as the case may be.

## CHAPTER II REGISTRATION OF RESEARCH ANALYSTS Application for grant of certificate.

3. (1) On and from the commencement of these regulations, no person shall act as a research analyst or research entity or hold itself out as a research analyst unless he has obtained a certificate of registration from the Board under these regulations:

Provided that any person acting as research analyst or research entity before the commencement of these regulations may continue to do so for a period of six months from such commencement or, if it has made

an application for a certificate of registration under sub-regulation (2) within the said period of six months, till the disposal of such application:

Provided further that an investment adviser, credit rating agency, asset management company or fund manager, who issues research report or circulates/distributes research report to public or its director or employee who makes public appearance, shall not be required to seek registration under regulation 3, subject to compliance of Chapter III of these regulations.

- (2) An application for grant of certificate of registration shall be made in Form A as specified in the First Schedule to these regulations and shall be accompanied by a non-refundable application fee to be paid in the manner specified in Second Schedule.

### Issuance of research report by a person located outside India.

4. Any person located outside India engaged in issuance of research report or research analysis in respect of securities listed or proposed to be listed on a stock exchange shall enter into an agreement with a research analyst or research entity registered under these regulations.

### Furnishing of further information, clarification and personal representation.

5. (1) The Board may require the applicant to furnish further information or clarification for the purpose of consideration of the application filed under sub-regulation (2) of regulation 3.
- (2) The applicant or his authorised representative, if so required, shall appear before the Board for personal representation.

### Consideration of application and eligibility criteria.

6. For the purpose of the grant of certificate the Board shall take into account all matters which are relevant to the grant of certificate of registration and in particular the following, namely: -
- (i) whether the applicant is an individual or a body corporate or limited liability partnership firm;
  - (ii) whether in case the applicant is an individual, he is appropriately qualified and certified as specified in regulation 7;
  - (iii) whether in case the applicant is a body corporate, the individuals employed as research analyst are qualified and certified as specified in regulation 7;
  - (iv) whether in case the applicant is a partnership firm or a



## From the Government

limited liability partnership, partners engaged in issuance of research report or research analysis are qualified and certified as specified in regulation 7;

- (v) whether in case the applicant is a research entity, the individuals employed as research analyst are qualified and certified as specified in regulation 7;
- (vi) whether the applicant fulfills the capital adequacy requirements as specified in regulation 8;
- (vii) whether the applicant, individuals employed as research analyst and partners of the applicant, if any, are fit and proper persons based on the criteria as specified in Schedule II of the Securities and Exchange Board of India (Intermediaries) Regulations, 2008;
- (viii) whether the applicant has the necessary infrastructure to effectively discharge the activities of research analyst;
- (ix) whether the applicant or any person directly or indirectly connected with the applicant has in the past been refused certificate by the Board and if so, the grounds for such refusal;
- (x) whether any disciplinary action has been taken by the Board or any other regulatory authority against the applicant or any person directly or indirectly connected to the applicant under the respective Act, rules or regulations made thereunder.

### Qualification and certification requirement.

7. (1) An individual registered as research analyst under these regulations, individuals employed as research analyst and partners of a research analyst, if any, engaged in preparation and/or publication of research report or research analysis shall have the following minimum qualifications, at all times:
- (i) A professional qualification or post-graduate degree or post graduate diploma in finance, accountancy, business management, commerce, economics, capital market, financial services or markets provided by:
    - (a) a university which is recognized by University Grants Commission or by any other commission/ council/board/body established under an Act of Parliament in India for the purpose; or
    - (b) an institute/association affiliated with such university; or
    - (c) an institute/ association/university established by the central government or state government; or

(d) autonomous institute falling under administrative control of Government of India; or

- (ii) professional qualification or post-graduate degree or post graduate diploma which is accredited by All Indian Council for Technical Education, National Assessment and Accreditation Council or National Board of Accreditation or any other council/board/body set up under an Act of Parliament in India for the purpose; or
  - (iii) a graduate in any discipline with an experience of at least five years in activities relating to financial products or markets or securities or fund or asset or portfolio management.
- (2) An individual registered as research analyst under these regulations, individuals employed as research analyst and partners of a research analyst, if any, shall have, at all times, a NISM certification for research analysts as specified by the Board or other certification recognized by the Board from time to time:

Provided that research analyst or research entity already engaged in issuance of research report or research analysis seeking registration under these regulations shall ensure that it or the individuals employed by it as research analyst and/or its partners obtain such certification within two years from the date of commencement of these regulations:

Provided further that fresh certification must be obtained before expiry of the validity of the existing certification to ensure continuity in compliance with certification requirements.

### Capital adequacy.

8. (1) A research analyst who is individual or partnership firm shall have net tangible assets of value not less than one lakh rupees.
- (2) A research analyst who is body corporate or limited liability partnership firm shall have a networth of not less than twenty five lakh rupees.
- (3) All existing research analysts shall comply with the capital adequacy requirement within one year from the date of commencement of these regulations.

*Explanation* — For the purposes of this regulation, "networth" means the aggregate value of paid up share capital plus free reserves (excluding reserves created out of revaluation) reduced by the aggregate value of accumulated losses.



### Grant of certificate of registration.

9. The Board on being satisfied that the applicant complies with the requirements specified in regulation 6, shall send intimation to the applicant and on receipt of the payment of registration fees as specified in Second Schedule, grant certificate of registration in Form B under First Schedule, subject to such terms and conditions as the Board may deem fit and appropriate.

### Period of validity of certificate.

10. The certificate of registration granted under regulation 9 shall be valid for a period of five years from the date of its issue.

### Renewal of certificate.

11. (1) Three months before the expiry of the period of validity of the certificate, the research analyst may, if he so desires, make an application in Form A for grant of renewal of certificate of registration.
- (2) The application for renewal under sub-regulation (1) shall be dealt with in the same manner as if it were an application made under sub-regulation (2) of regulation 3 for grant of certificate.

### Procedure where registration is refused.

12. (1) After considering an application made under regulation 3, if the Board is of the opinion that a certificate should not be granted to the applicant, it may reject the application after giving the applicant a reasonable opportunity of being heard.
- (2) The decision of the Board to reject the application shall be communicated to the applicant within thirty days of such decision.
- (3) Where an application for a certificate is rejected by the Board, the applicant shall forthwith cease to act as a research analyst:

Provided that nothing contained in this regulation shall affect the liability of the applicant under the law.

### Conditions of certificate.

13. The certificate granted under regulation 9 shall, *inter alia*, be subject to the following conditions:-
- (i) the research analyst shall abide by the provisions of the Act and these regulations;
- (ii) the research analyst shall forthwith inform the Board in writing, if any information or particulars previously submitted to the Board are found to be false or misleading

in any material particular or if there is any material change in the information already submitted;

- (iii) research analyst registered under these regulations shall use the term 'research analyst' in all correspondences with its clients.

### Recognition of body or body corporate for regulation of research analysts.

14. (1) The Board may recognize any body or body corporate for the purpose of regulating research analysts.
- (2) The Board may, at the time of recognition of such body or body corporate, delegate administration, supervision and regulation of research analysts to such body or body corporate on such terms and conditions as may be specified by the Board.
- (3) The Board may specify that no person shall act as research analyst unless he is a member of a recognized body or body corporate and in such event, provisions of these regulations and bye-laws or articles of such body or body corporate shall apply *mutatis mutandis* to such research analyst.

### MANAGEMENT OF CONFLICTS OF INTEREST AND DISCLOSURE REQUIREMENTS

#### Establishing Internal policies and procedures.

15. (1) Research analyst or research entity shall have written internal policies and control procedures governing the dealing and trading by any research analyst for:
- (i) addressing actual or potential conflict of interest arising from such dealings or trading of securities of subject company;
- (ii) promoting objective and reliable research that reflects the unbiased view of research analyst; and
- (iii) preventing the use of research report or research analysis to manipulate the securities market.
- (2) Research analyst or research entity shall have in place appropriate mechanisms to ensure independence of its research activities from its other business activities.

#### Limitations on trading by research analysts.

16. (1) Personal trading activities of the individuals employed as research analyst by research entity shall be monitored, recorded and wherever necessary, shall be subject to a formal approval process.
- (2) Independent research analysts, individuals employed as research analyst by research entity or their associates shall not deal or trade in securities that the research



analyst recommends or follows within thirty days before and five days after the publication of a research report.

- (3) Independent research analysts, individuals employed as research analysts by research entity or their associates shall not deal or trade directly or indirectly in securities that he reviews in a manner contrary to his given recommendation.
- (4) Independent research analysts, individuals employed as research analysts by research entity or their associate shall not purchase or receive securities of the issuer before the issuer's initial public offering, if the issuer is principally engaged in the same types of business as companies that the research analyst follows or recommends.
- (5) Provisions of sub-regulations (2) to (4) shall apply *mutatis mutandis* to a research entity unless it has segregated its research activities from all other activities and maintained an arms-length relationship between such activities.
- (6) Notwithstanding anything contained in sub regulations (2) to (4), such restrictions to trade or deal in securities may not apply in case of significant news or event concerning the subject company or based upon an unanticipated significant change in the personal financial circumstances of the research analyst, subject to prior written approval as per the terms specified in the approved internal policies and procedures.

### Compensation of research analysts.

17. (1) Research entity shall not pay any bonus, salary or other form of compensation to any individual employed as research analyst that is determined or based on any specific merchant banking or investment banking or brokerage services transaction.
- (2) The compensation of all individuals employed as research analyst shall be reviewed, documented and approved annually by board of directors/committee appointed by board of directors of the research entity, which does not consist of representation from its merchant banking or investment banking or brokerage services divisions.
- (3) The board of directors/committee appointed by board of directors of the research entity approving or reviewing the compensation of individual employed as research analyst shall not take into account such individual's contribution to the research entity's investment banking or merchant banking or brokerage services business.
- (4) An individual employed as research analyst by research entity shall not be subject to the supervision or control

of any employee of the merchant banking or investment banking or brokerage services divisions of that research entity.

### Limitations on publication of research report, public appearance and conduct of business, etc.

18. (1) Research analyst or research entity shall not publish or distribute research report or research analysis or make public appearance regarding a subject company for which he has acted as a manager or co-manager at any time falling within a period of:
  - (a) Forty days immediately following the day on which the securities are priced if the offering is an initial public offering; or
  - (b) Ten days immediately following the day on which the securities are priced if the offering is a further public offering:

Provided that research analyst or research entity may publish or distribute research report or research analysis or make public appearance within such forty day and ten day periods, subject to prior written approval of legal or compliance personnel as specified in the internal policies and procedures.

- (2) A research entity who has agreed to participate or is participating as an underwriter of an issuer's initial public offering shall not publish or distribute a research report or make public appearance regarding that issuer before expiry of twenty five days from the date of the offering.

Explanation.- For the purposes of sub-regulations (1) and (2), the date of the offering refers to the first date on which the security was offered to the public.

- (3) Research analyst or research entity who has acted as a manager or co-manager of public offering of securities of a company shall not publish or distribute a research report or make a public appearance concerning that company within fifteen days prior to date of entering into and fifteen days after the expiration/waiver/termination of a lock-up agreement or any other agreement that the research analyst or research entity has entered into with a subject company that restricts or prohibits the sale of securities held by the subject company after the completion of public offering of securities:

Provided that research analyst or research entity may publish or distribute research report or research analysis or make public appearance regarding that company within such fifteen days subject to prior written approval of legal or compliance personnel as specified in the internal policies and procedures.



- (4) Research analyst or individuals employed as research analyst by research entity shall not participate in business activities designed to solicit investment banking or merchant banking or brokerage services business, such as sales pitches and deal road shows.
- (5) Research analyst or individuals employed as research analyst by research entity shall not engage in any communication with a current or prospective client in the presence of personnel from investment banking or merchant banking or brokerage services divisions or company management about an investment banking services transaction.
- (6) Investment banking or merchant banking or brokerage services division's personnel of research entity shall not direct the individuals employed as research analyst to engage in sales or marketing related to an investment banking or merchant banking or brokerage services and shall not direct the research analyst to engage in any communication with a current or prospective client about such division's transaction:
- Provided that sub-regulations (4) to (6) shall not prohibit research analyst or research entity from engaging in investor education activities including publication of pre-deal research and briefing the views of the research analyst on the transaction to the sales or marketing personnel.
- (7) Research analyst or research entity shall have adequate documentary basis, supported by research, for preparing a research report.
- (8) Research analyst or research entity shall not provide any promise or assurance of favourable review in its research report to a company or industry or sector or group of companies or business group as consideration to commence or influence a business relationship or for the receipt of compensation or other benefits.
- (9) Research analyst or research entity shall not issue a research report that is not consistent with the views of the individuals employed as research analyst regarding a subject company.
- (10) Research entity shall ensure that the individuals employed as research analyst are separate from other employees who are performing sales trading, dealing, corporate finance advisory or any other activity that may affect the independence of its research report:

Provided that the individual employed as research analyst by research entity can receive feedback from sales or trading personnel of brokerage division to ascertain the impact of research report.

#### Disclosures in research reports.

19. A research analyst or research entity shall disclose all material information about itself including its business activity, disciplinary history, the terms and conditions on which it offers research report, details of associates and such other information as is necessary to take an investment decision, including the following:
- (i) Research analyst or research entity shall disclose the following in research report and in public appearance with regard to ownership and material conflicts of interest:
- (a) whether the research analyst or research entity or his associate or his relative has any financial interest in the subject company and the nature of such financial interest;
- (b) whether the research analyst or research entity or its associates or relatives, have actual/beneficial ownership of one per cent, or more securities of the subject company, at the end of the month immediately preceding the date of publication of the research report or date of the public appearance;
- (c) whether the research analyst or research entity or his associate or his relative, has any other material conflict of interest at the time of publication of the research report or at the time of public appearance;
- (ii) Research analyst or research entity shall disclose the following in research report with regard to receipt of compensation:
- (a) whether it or its associates have received any compensation from the subject company in the past twelve months;
- (b) whether it or its associates have managed or co-managed public offering of securities for the subject company in the past twelve months;
- (c) whether it or its associates have received any compensation for investment banking or merchant banking or brokerage services from the subject company in the past twelve months;
- (d) whether it or its associates have received any compensation for products or services other than investment banking or merchant banking or brokerage services from the subject company in the past twelve months;
- (e) whether it or its associates have received any compensation or other benefits from the subject company or third party in connection with the research report.
- (iii) Research analyst or research entity shall disclose the



following in public appearance with regard to receipt of compensation:

- (a) whether it or its associates have received any compensation from the subject company in the past twelve months;
- (b) whether the subject company is or was a client during twelve months preceding the date of distribution of the research report and the types of services provided:

Provided that research analyst or research entity shall not be required to make a disclosure as per sub-clauses (c), (d) and (e) of clause (ii) or sub-clauses (a) and (b) of clause (iii) to the extent such disclosure would reveal material non-public information regarding specific potential future investment banking or merchant banking or brokerage services transactions of the subject company,

- (iv) Whether the research analyst has served as an officer, director or employee of the subject company;
- (v) Whether the research analyst or research entity has been engaged in market making activity for the subject company;
- (vi) Research analyst or research entity shall provide all other disclosures in research report and public appearance as specified by the Board under any other regulations.

### Contents of research report.

- 20. (1) Research analyst or research entity shall take steps to ensure that facts in its research reports are based on reliable information and shall define the terms used in making recommendations, and these terms shall be consistently used.
- (2) Research analyst or research entity that employs a rating system must clearly define the meaning of each such rating including the time horizon and benchmarks on which a rating is based.
- (3) If a research report contains either a rating or price target for subject company's securities and the research analyst or research entity has assigned a rating or price target to the securities for at least one year, such research report shall also provide the graph of daily closing price of such securities for the period assigned or for a three-year period, whichever is shorter.

### Recommendations in public media.

- 21. (1) Research analyst or research entity including its director or employee shall disclose the registration status and

details of financial interest in the subject company, if he makes public appearance.

- (2) If any person including a director or employee of an investment adviser or credit rating agency or asset management company or fund manager, makes public appearance or makes a recommendation or offers an opinion concerning securities or public offers through public media, all the provisions of regulations 16 and 17 shall apply *mutatis mutandis* to him and he shall disclose his name, registration status and details of financial interest in the subject company at the time of, -

- (i) making such recommendation or offering such opinion in personal capacity;
- (ii) responding to queries from audiences or journalists in personal capacity;
- (iii) communicating the research report or substance of the research report through the public media.

### Distribution of research reports.

- 22. (1) A research report shall not be made available selectively to internal trading personnel or a particular client or class of clients in advance of other clients who are entitled to receive the research report.
- (2) Research analyst or research entity who distributes any third party research report shall review the third party research report for any untrue statement of material fact or any false or misleading information.
- (3) Research analyst or research entity who distributes any third party research report shall disclose any material conflict of interest of such third party research provider or he shall provide a web address that directs a recipient to the relevant disclosures.
- (4) Provisions of sub-regulations (2) and (3) shall not apply to a research analyst or research entity if he has no direct or indirect business or contractual relationship with such third party research provider.

### Additional disclosures by proxy adviser.

- 23. (1) All the provisions of Chapter II, III, IV, V and VI shall apply *mutatis mutandis* to the proxy adviser:

Provided that the employees of proxy advisors engaged in providing proxy advisory services shall be required to have a minimum qualification of being a graduate in any discipline:

Provided further that certification requirements for employees of proxy advisors engaged in providing proxy



advisory services shall be as specified by the Board:

Provided further that time period for compliance with capital adequacy as provided in sub-regulation (3) of regulation 8, for proxy advisors shall be three years.

- (2) The proxy adviser shall additionally disclose the following:
  - (i) the extent of research involved in a particular recommendation and the extent and/or effectiveness of its controls and procedures in ensuring the accuracy of issuer data;
  - (ii) policies and procedures for interacting with issuers, informing issuers about the recommendation and review of recommendations;
- (3) Proxy adviser shall maintain the record of his voting recommendations and furnish the same to the Board on request.
- (4) In case of any inconsistency or difficulty in respect of applicability of provisions of these regulations to proxy advisers, the Board may issue such clarifications or exemptions as may be deemed appropriate.

#### General responsibility.

24. (1) Research analyst or research entity shall maintain an arms-length relationship between its research activity and other activities.
- (2) Research analyst or research entity shall abide by Code of Conduct as specified in Third Schedule.
- (3) In case of change in control of the research analyst or research entity, prior approval from the Board shall be taken.
- (4) Research analyst or research entity shall furnish to the Board information and reports as may be specified by the Board from time to time.
- (5) It shall be the responsibility of the research analyst or research entity to ensure that its employees or partners, as may be applicable, comply with the certification and qualification requirements under regulation 7 at all times

#### Maintenance of records.

25. (1) Research analyst or research entity shall maintain the following records:
  - (i) research report duly signed and dated;
  - (ii) research recommendation provided;
  - (iii) rationale for arriving at research recommendation;

(iv) record of public appearance.

- (2) All records shall be maintained either in physical or electronic form and preserved for a minimum period of five years:

Provided that where records are required to be duly signed and are maintained in electronic form, such records shall be digitally signed.

- (3) Research analyst or research entity shall conduct annual audit in respect of compliance with these regulations from a member of Institute of Chartered Accountants of India or Institute of Company Secretaries of India.

#### Appointment of compliance officer.

26. Research analyst or research entity which is a body corporate or limited liability partnership firm shall appoint a compliance officer who shall be responsible for monitoring the compliance of the provisions of the Act, these regulations and circulars issued by the Board.

#### CHAPTER IV INSPECTION

##### Board's right to inspect.

27. The Board may *suo motu* or upon receipt of information or complaint appoint one or more persons as inspecting authority to undertake inspection of the books of accounts, records and documents relating to research analyst or research entity for any of the following reasons, namely: -
  - (i) to ensure that the books of account, records and documents are being maintained in the manner specified in these regulations;
  - (ii) to inspect into complaints received from any person, on any matter having a bearing on the activities of a research analyst;
  - (iii) to ascertain whether the provisions of the Act and these regulations are being complied with by the research analyst or research entity;
  - (iv) to inspect into the affairs of research analyst or research entity in relation to research activities, in the interest of the securities market or in the interest of investors.

##### Notice before inspection.

28. (1) Before ordering an inspection under regulation 27, the Board shall give not less than seven days notice to research analyst or research entity.

Notwithstanding anything contained in sub-regulation (1), where the Board is satisfied that in the interest of the investors no such notice should be given, it may by an



order in writing direct that the inspection of the affairs of the research analyst or research entity be taken up without such notice.

- (2) During the course of an inspection, the research analyst or research entity against whom the inspection is being carried out shall be bound to discharge its obligations as provided in regulation 29.

### **Obligation of research analyst on inspection.**

29. (1) It shall be the duty of every research analyst or research entity in respect of whom an inspection has been ordered under the regulation 27 and any other associate person who is in possession of relevant information pertaining to conduct and affairs of such research analyst or research entity including their representative, if any, to produce to the inspecting authority such books, accounts and other documents in his custody or control and furnish him with such statements and information as the inspecting authority may require for the purposes of inspection.
- (2) It shall be the duty of research analyst or research entity and any other associate person who is in possession of relevant information pertaining to conduct and affairs of the research analyst to give to the inspecting authority all such assistance and shall extend all such co-operation as may be required in connection with the inspection and shall furnish such information as sought by the inspecting authority in connection with the inspection.
- (3) The inspecting authority shall, for the purposes of inspection, have power to examine on oath and record the statement of any employee, director, partner or person responsible for or connected with the activities of research analyst or research entity or any other associate person having relevant information pertaining to such research analyst or research entity.
- (4) The inspecting authority shall, for the purposes of inspection, have power to obtain authenticated copies of documents, books, accounts of research analyst or research entity, from any person having control or custody of such documents, books or accounts.

### **Submission of report to the Board.**

30. The inspecting authority shall, as soon as possible, on completion of the inspection submit an inspection report to the Board:

Provided that if directed to do so by the Board, the inspecting authority may submit an interim report.

### **Action on the inspection report.**

31. The Board may after consideration of the inspection report and after giving reasonable opportunity of hearing to research analyst or research entity or its authorized representatives, without prejudice to any other action under the Act, issue such directions as it deems fit in the interest of securities market or the investors including requiring research analyst or research entity not to provide research recommendation for a particular period;
  - (i) requiring the research analyst or research entity to refund any money collected as fees, charges or commissions or otherwise to the concerned clients along with the requisite interest.
  - (ii) prohibiting the research analyst or research entity from operating in the capital market or accessing the capital market for a specified period.

### **CHAPTER V PROCEDURE FOR ACTION IN CASE OF DEFAULT Liability for action in case of default.**

32. Research analyst or research entity who:
  - (i) contravenes any of the provisions of the Act or any regulations or circulars issued thereunder;
  - (ii) fails to furnish any information relating to its activity as a research analyst as required by the Board;
  - (iii) furnishes to the Board information which is false or misleading in any material particular;
  - (iv) does not submit periodic returns or reports as required by the Board;
  - (v) does not co-operate in any enquiry, inspection or investigation conducted by the Board;
  - (vi) fails to resolve the complaints or fails to give a satisfactory reply to the Board in this behalf, shall be dealt with in the manner provided under the Act or the Securities and Exchange Board of India (Intermediaries) Regulations, 2008.

### **CHAPTER VI MISCELLANEOUS Power of the Board to issue clarifications etc.**

33. In order to remove any difficulties in the application or interpretation of these regulations, the Board may issue clarifications and guidelines in the form of circulars.

Power of the Board over body or body corporate recognized under regulation 14.

34. The Board reserves the right to alter, modify and overrule any decision, action taken or penalties imposed by the body



or body corporate recognized under regulation 14.

## FIRST SCHEDULE

### FORM A

## Securities and Exchange Board of India (Research Analysts) Regulations, 2014

[See Regulations 3(2) and 11]

### Application for Grant of Certificate of Registration/Renewal as Research Analyst

## Securities and Exchange Board of India

SEBI Bhavan, C4-A, G Block, Bandra Kurla Complex, Bandra  
(East), Mumbai-400051, India

## INSTRUCTIONS

1. This form is meant for use by the applicant for grant of certificate of registration as a research analyst.
2. The applicant should complete this form, and submit it, along with all supporting documents to the Board at its head office at Mumbai.
3. This application form should be filled in accordance with these regulations.
4. The application shall be considered by the Board provided it is complete in all respects.
5. All answers must be legible and all the pages must be numbered with signature/ stamp on each page of the form.
6. Information which needs to be supplied in more detail may be given on separate sheets which should be attached to the application form and appropriately numbered.
7. The application must be signed.
8. The application must be accompanied by an application fee as specified in the Second Schedule to these regulations.

### 1. GENERAL INFORMATION

- (a) Name, address of the registered office, address for correspondence and principal place of business, telephone number(s), fax number(s), e-mail address of the applicant.
- (b) PAN of the applicant.
- (c) Whether application is for registration renewal. Provide registration number if the application is for renewal of certificate.
- (d) Name, direct line number, mobile number and e-mail of the

contact person(s).

- (e) Date and place of incorporation establishment, if any. If the applicant is incorporated outside India, details of such incorporation.
- (f) Whether the applicant is engaged in preparation of research reports or research analyses prior to making application under these regulations.
- (g) Whether the applicant is registered with SEBI, RBI, IRDA or PFRDA in any capacity. If so, details of such registration.
- (h) Name and activities of associate companies/ concerns of the applicant,
- (i) Write-up on the activities of the applicant.

### 2. DETAILS OF APPLICANT:

- (a) Legal structure of applicant - Whether the applicant is an individual, body corporate (including company), partnership firm or limited liability partnership.
- (b) Shareholding pattern/beneficial ownership pattern of the applicant, if applicant is other than individual (Enclose identity proof and address proof of the applicant/directors/ partners/beneficial owners).
- (c) Whether the applicant or research analysts employed by the applicant or partners of the applicant has/have necessary qualification as specified in regulation 7.
- (d) Number of research analysts employed by the applicant who shall engage in research analysis and/or research report preparation under these regulations on behalf of the applicant. (Provide details thereof, including self certified copies of supporting documents in respect of qualification for such research analysts employed).
- (e) Declaration by the applicant that the research analysts employed, partners of the applicant, if any, currently comply with the qualification requirements under regulation 7. (Provide self certified copies of supporting documents)

(If the applicant is an existing research analyst applying for fresh registration, then he shall provide a declaration stating that the applicant shall comply with the certification requirements for research analysts employed under these regulations and partners of the applicant, if any, within two years from the date of commencement of these regulations and shall submit a copy of the certification to the Board within fifteen days of receipt of such certification.)

- (f) Declaration by the applicant that it shall ensure that the



research analyst employed and partners of the applicant, if any, comply with the certification and qualification requirements under the regulation 7 at all times including obtaining fresh certification before expiry of existing certification.

- (g) Copy of Income Tax Return/ Copy of Form 16 for the last 3 years in case of individual applicant.
- (h) Networth certificate or certified copy of assets and liabilities statement or certification of net tangible assets of the applicant certified by a chartered accountant, not more than six months old at the time of filing of application. Please note that membership number of the Chartered accountant must be included in the certificate.

### 3. DETAILS OF RESEARCH SERVICES

- (a) Details of the proposed research services
- (b) Details about internal policies and procedures to effectively address conflict of interest
- (c) Details about the standard disclosures to be provided
- (d) Any other relevant information pertaining to research services provided

### 4. DETAILS OF INFRASTRUCTURE

- (a) Details of office space, office equipment, furniture and fixtures, communication facilities, research capacity, research software for undertaking research analysis.
- (b) Declaration that the applicant has the necessary infrastructure to effectively discharge the activities of research analyst.

### 5. OTHER INFORMATION/DECLARATIONS/ REGULATORY ACTIONS

- (a) Details of all settled and pending disputes in the last 5 years.
- (b) Whether any previous application for grant of certificate made by any person directly or indirectly connected with the applicant has been rejected by the Board; If yes, provide details of the same.
- (c) Whether any disciplinary action has been taken by the Board or any other regulatory authority against any person directly or indirectly connected with the applicant under the Act or the regulations made there under in the last 5 years. If yes, provide details of the action.
- (d) Whether the applicant/directors promoters/ partners have been indicted/involved in any economic offence in the last 5 years. If yes, provide details of the same.
- (e) Declaration that the applicant, research analyst' employed by it, its representatives and partners, if any, are fit and proper persons based on the criteria as specified in Schedule II of the Securities and Exchange Board of India

(Intermediaries) Regulations, 2008.

- (f) Declaration that the applicant shall comply with Chapter of III of the Regulations.
- (g) Any other information considered relevant to the nature of services to be rendered by the applicant.

### 6. DECLARATION STATEMENT

I/We hereby agree and declare that the information supplied in the application, including the attachment sheets, is complete and true. AND I/ we further agree that, I/we shall notify the Securities and Exchange Board of India immediately any change in the information provided in the application.

I/ We further agree that I/ we shall comply with, and be bound by the Securities and Exchange Board of India Act, 1992, and the Securities and Exchange Board of India (Research Analysts) Regulations, 2014, guidelines/instructions as may be issued by the Securities and Exchange Board of India from time to time. I/ We further agree that as a condition of registration, I/ we shall abide by such operational instructions/ directives as may be issued by the Securities and Exchange Board of India from time to time.

**For and on behalf of  
(Name of the applicant)  
Authorized signatory/ Applicant  
(Signature) (Date and Place)**

### **Form B Securities and Exchange Board of India (Research Analysts) Regulations, 2014**

[See Regulation 9]

#### **Certificate of registration as Research Analyst**

- I. In exercise of the powers conferred by sub section (1) of section 12 of the Securities and Exchange Board of India Act, 1992 (15 of 1992), read with the regulations made there under, the Board hereby grants a certificate of registration to \_\_\_\_\_ as a research analyst subject to the conditions specified in the Act and in the regulations made thereunder.
- II. The Registration Number is IN/RA/.....
- III. Unless renewed, the certificate of registration is valid from... to .....

Date :  
Place : MUMBAI  
By Order  
Sd/-



For and on behalf of Securities and Exchange Board of India

## SECOND SCHEDULE

### Securities and Exchange Board of India (Research Analysts) Regulations, 2014)

[See Regulation 3(2) and Regulation 9]

#### FEES

- Every individual applicant including partnership firms shall pay non-refundable application fees of five thousand rupees and others shall pay non-refundable application fees of fifty thousand rupees along with the application for grant or renewal of certificate of registration.
- Applicants who are individuals or partnership firms shall pay a sum of ten thousand rupees as registration/ renewal fee at the time of grant or renewal of certificate by the Board.  
  
A body corporate including limited liability partnership firm shall pay a sum of five lakh rupees as registration renewal fee at the time of grant or renewal of certificate by the Board.
- Every applicant who is engaged in providing proxy advisory services shall pay non-refundable application fees of five thousand rupees with the application for grant or renewal of certificate of registration.
- Applicants who are engaged in providing proxy advisory services shall pay a sum of ten thousand rupees as registration/ renewal fee at the time of grant or renewal of certificate by the Board.
- The fee referred to in paragraph 1, 2, 3, 4 and 5 shall be paid by the applicant within fifteen days from the date of receipt of intimation from the Board by a demand draft in favor of 'Securities and Exchange Board of India' payable at Mumbai.

#### THIRD SCHEDULE

### [See sub-regulation (2) of regulation 24]

#### CODE OF CONDUCT FOR RESEARCH ANALYST

- Honesty and Good Faith**  
Research analyst or research entity shall act honestly and in good faith.
- Diligence**  
Research analyst or research entity shall act with due skill, care and diligence and shall ensure that the research report is prepared after thorough analysis.
- Conflict of Interest**  
Research analyst or research entity shall effectively address conflict of interest which may affect the impartiality of its research analysis and research report and shall make

appropriate disclosures to address the same.

- Insider Trading or front running**  
Research analyst or research entity or its employees shall not engage in insider trading or front running or front running of its own research report.
- Confidentiality**  
Research analyst or research entity or its employees shall maintain confidentiality of report till the report is made public.
- Professional Standard**  
Research analyst or research entity or its employees engaged in research analysis shall observe high professional standard while preparing research report.
- Compliance**  
Research analyst or research entity shall comply with all regulatory requirements applicable to the conduct of its business activities.
- Responsibility of senior management**  
The senior management of research analyst or research entity shall bear primary responsibility for ensuring the maintenance of appropriate standards of conduct and adherence to proper procedures.

U.K. Sinha  
Chairman

## 08 Modification to Investor Protection Fund (IPF) / Customer Protection Fund (CPF) Guidelines

[Issued by the Securities and Exchange Board of India vide Circular No. CIR/MRD/DP/28/2014, dated 29.09.2014.]

- SEBI vide Circular No. MRD/DoP/SE Cir-38/2004 dated October 28, 2004 prescribed the Comprehensive Guidelines for Investor Protection Fund (IPF) / Customer Protection Fund (CPF) at Stock Exchanges. Subsequently SEBI vide Circular No. MRD/DoP/SE/Cir-21/2006 dated December 14, 2006 and Circular No. CIR/MRD DP/06/2011 dated June 16, 2011, modified the above guidelines.
- Based on the representations received from the stock exchanges and recommendations of the Secondary Market Advisory Committee (SMAC), it has been decided to modify certain clauses in the aforesaid guidelines:
  - Clause 13 shall be substituted with the following -
    - If any eligible claim arises within three years from the date of expiry of the specified period, such claim
      - shall be considered eligible for compensation from IPF/



# From the Government

CPF in case where the defaulter member's funds are inadequate. In such cases, IPF/CPF Trust shall satisfy itself that such claim could not have been filed during the specified period for reasons beyond the control of the claimant.

- ii. shall not be considered eligible for compensation from IPF/CPF in case where the surplus funds of the defaulter member is returned to the defaulter member. The same shall be borne by the stock exchange after scrutinizing and satisfying itself that such claim could not have been filed during the specified period for reasons beyond the control of the claimant.

Provided that any claim received after three years from the date of expiry of the specified period may be dealt with as a civil dispute.

b) Following para shall be inserted under clause 24 -

"Provided further that in cases where any litigations are pending against the defaulter member, the residual amount, if any, may be retained by the stock exchange until such litigations are concluded."

### 3. Exchanges are advised to

- a) make necessary amendments to the relevant bye-laws, rules and regulations for the implementation of the above decision.
- b) bring the provisions of this Circular to the notice of the member brokers/clearing members of the Exchange and also to disseminate the same on the website.
- c) communicate the status of the implementation of this Circular in the Monthly Development Report to SEBI.

### 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

[Issued by the Securities and Exchange Board of India vide Circular No. CIR/MRD/DP/ 27/2014, dated 18.09.2014.]

1. It is observed from the information provided by the depositories that the companies listed in Annexure 'A' have established connectivity with both the depositories.
2. The stock exchanges may consider shifting the trading in these securities to normal Rolling Settlement subject to the following:
  - a) At least 50% of other than promoter holdings as per clause 35 of Listing Agreement are in dematerialized mode before shifting the trading in the securities of the company from TFTS to normal Rolling Settlement. For this purpose, the listed companies shall obtain a certificate from its Registrar and Transfer Agent (RTA) and submit the same to the stock exchange/s. However, if an issuer company does not have a separate RTA, it may obtain a certificate in this regard from a practicing company Secretary/Chartered Accountant and submit the same to the stock exchange/s.
  - b) There are no other grounds/reasons for continuation of the trading in TFTS.
3. The Stock Exchanges are advised to report to SEBI, the action taken in this regard in the Monthly/Quarterly Development Report.

Maninder Cheema  
Deputy General Manager

## Annexure A

Sr. No.	Name of the Company	ISIN
1.	Salem Erode Investments Limited	INE894E01028
2.	Tinnevely Tuticorin Investments Limited	INE902E01029
3.	Dalmia Industrial Development Limited	INE642P01019
4.	Positive Electronics Limited	INE813P01016
5.	Vegetable Products Limited	INE761D01013
6.	Denim Developers Limited #Formerly Oriental Vinyls Ltd.	INE956N01018
7.	Virat Leasing Limited	INE347L01014
8.	Kaushal Investments Limited	INE612E01016
9.	Crescent Leasing Limited	INE767G01013
10.	Fraser and Company Limited	INE184Q01010
11.	Synergy Bizcon Limited	INE945O01019
12.	Durgesh Merchants Limited	INE616Q01011

# 09 Establishment of Connectivity with both Depositories NSDL and CDSL - Companies Eligible for Shifting from Trade for Trade Settlement (TFTS) to Normal Rolling Settlement



# 10 Position Limits for Mutual Funds in 10-year Interest Rate Futures (IRF)

[Issued by the Securities and Exchange Board of India vide Circular No. CIR/MRD/DRMNP/26/2014, dated 15.09.2014.]

1. SEBI vide circulars CIR/MRD DRMNP/35/2013 dated December 5, 2013 and CIR/MRD/DRMNP/ 2/2014 dated January 20, 2014 prescribed framework for trading of Cash settled Interest Rate Futures (IRF) on 10-year Government of India Security on Stock Exchanges. Further SEBI vide circular CIR/MRD/DP/15/2014 dated May 15, 2014 clarified position limits applicable to Foreign Portfolio Investors (FPIs) in IRF.
2. In continuation of these circulars and in light of the queries received, it is clarified that the following position limits in IRF shall be applicable for Mutual Fund level and scheme level:
  - a. Mutual Funds shall have position limits as applicable to trading members presently.
  - b. Schemes of Mutual Funds shall have position limits as applicable to clients presently.
3. This circular is issued in exercise of the powers conferred under Section 11 (1) of the Securities and Exchange Board of India Act 1992, read with Section 10 of the Securities Contracts (Regulation) Act, 1956 to protect the interests of investors in securities and to promote the development of, and to regulate the securities market.
4. This circular is available on SEBI website at [www.sebi.gov.in](http://www.sebi.gov.in), under the category "Circulars" .

Shashi Kumar  
General Manager

# 11 Corporate Governance in Listed Entities - Amendments to Clause 49 of the Equity Listing Agreement

[Issued by the Securities and Exchange Board of India vide Circular CIR/CFD/POLICY CELL/7/2014, dated 15.09.2014.]

1. This circular is in continuation to circular No. CIR/CFD/POLICY CELL/2/2014 dated April 17, 2014 on amendments to Clauses 35B and 49 of the Equity Listing Agreement. In terms of the said circular, the revised Clause 49 would be applicable to all listed companies with effect from October 01, 2014.
2. The Ministry of Corporate Affairs has issued the following circulars on matters related to Corporate Governance clarifying

certain provisions of the Companies Act, 2013:

Sr. no.	Reference	Date	Subject matter
1.	Circular No. 14/2014	June 09, 2014	Clarification on rules prescribed under the Companies Act, 2013- matters relating to appointment and qualification of directors and independent directors
2.	Circular No.30/2014	July 17, 2014	Clarifications on matters relating to related party transactions
3.	Notification	August 14, 2014	Amendment to Company (Meetings of board and its powers) Rules, 2014

3. Post issuance of the SEBI circular dated April 17, 2014, SEBI vide letter dated August 12, 2014, sought the status of preparedness of top 500 listed companies by market capitalization, for ensuring timely compliance with the revised Clause 49.
4. Meanwhile, SEBI has received representations from market participants including companies and industry associations, highlighting certain practical difficulties in ensuring compliance, seeking clarifications on interpretation of certain provisions and suggesting various options to ease the process of implementation.
5. The aforesaid issues were examined and discussed in the Primary Market Advisory Committee of SEBI.
6. In order to address the above mentioned concerns and facilitate the listed companies to ensure compliance with the provisions of the revised Clause 49, it has been decided to make certain amendments to Clause 49. The amendments are given as Annexure to the circular.
7. It is reiterated that the provisions of Clause 49 as specified in Circular dated April 17, 2014, as amended through this circular would be applicable with effect from October 01, 2014 except Clause 49 (II)(A)(1).
8. The above amendments are carried out in exercise of the powers conferred under Section 11 read with Section 11A of the Securities and Exchange Board of India Act, 1992.
9. All Stock Exchanges are advised to ensure compliance with this circular and carry out the amendments to their Listing Agreement as per the Annexure.
10. This circular is available on SEBI website at [www.sebi.gov.in](http://www.sebi.gov.in) under the categories "Legal Framework" and "Issues and Listing".



Amit Tandon  
Deputy General Manager

Encl : Annexure - Amendments to Clause 49 of the Listing Agreement

## Annexure Amendments to Clause 49 of the Listing Agreement

### 1. Applicability of Clause 49

The Clause 49 of the Listing Agreement shall be applicable to all companies whose equity shares are listed on a recognized stock exchange. However, compliance with the provisions of Clause 49 shall not be mandatory, for the time being, in respect of the following class of companies:

- a. Companies having 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;

Provided that where the provisions of Clause 49 becomes applicable to a company at a later date, such company shall comply with the requirements of Clause 49 within six months from the date on which the provisions became applicable to the company.

- b. Companies whose equity share capital is listed exclusively on the SME and SME-ITP Platforms.

### 2. Clarification on applicability of appointment of woman director

The provisions regarding appointment of woman director as provided in Clause 49 (II)(A)(1) shall be applicable with effect from April 01, 2015.

### 3. Amendment to Clause 49(II)(B)(1 )(c)

The clause shall be substituted with the following:

"(c) 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."

### 4. Amendment to Clause 49(II)(B)(3)(a)

The clause shall be substituted with the following:

*"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."*

### 5. Amendment to Clause 49(II)(B)(4)(b)

The clause shall be substituted with the following:

"(b) The terms and conditions of appointment shall be disclosed on the website of the company."

### 6. Amendment to Clause 49(II)(B)(7)

The clause shall be substituted with the following:

### 7. Familiarisation 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 familiarisation programmes shall be disclosed on the company's website and a web link thereto shall also be given in the Annual Report."*

### 7. Amendment to Clause 49(IV)(A)

The clause shall be substituted with the following:

"A. 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 the chairperson of the company (whether executive or nonexecutive) may be appointed as a member of the Nomination and Remuneration Committee but shall not chair such Committee."

### 8. Amendment to Clause 49(V)(D)

The clause shall be substituted with the following:

"(D)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."

### 9. Amendment to Clause 49(V) (F)

The clause shall be substituted with the following:

"(F). 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."

### 10. Amendment to Clause 49(V)(G)

The clause shall be substituted with the following:

"(G). Selling, disposing and leasing of assets amounting to more than twenty percent of the assets of the material subsidiary on an aggregate basis during a financial year



shall require prior approval of shareholders by way of special resolution, unless the sale/disposal/lease is made under a scheme of arrangement duly approved by a Court/Tribunal."

**Explanation (i):** For the purpose of sub-clause (V)(A), the term "material non-listed Indian subsidiary" shall mean an unlisted subsidiary, incorporated in India, whose income or net worth (i.e. paid up capital and free reserves) exceeds 20% of the consolidated income or net worth respectively, of the listed holding company and its subsidiaries in the immediately preceding accounting year.

**Explanation (ii):** For the purpose of sub-clause (V)(C), the term "significant transaction or arrangement" shall mean any individual transaction or arrangement that exceeds or is likely to exceed 10% of the total revenues or total expenses or total assets or total liabilities, as the case may be, of the material unlisted subsidiary for the immediately preceding accounting year.

**Explanation (iii):** For the purpose of sub-clause (V), where a listed holding company has a listed subsidiary which is itself a holding company, the above provisions shall apply to the listed subsidiary insofar as its subsidiaries are concerned."

#### 11. Amendment to Clause 49(VI)

The clause 49(VI)(C) shall be substituted with the following:

"(C) The company through its Board of Directors shall constitute a Risk Management Committee. The Board shall 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."

The following clauses shall be inserted after Clause 49(VI)(C):

"(D) The majority of Committee shall consist of members of the Board of Directors.

(E) Senior executives of the company may be members of the said Committee but the Chairman of the Committee shall be a member of the Board of Directors."

#### 12. Amendment to Clause 49(VII)(A)

The following explanation shall be inserted after Clause 49(VII)(A):

"Explanation: A "transaction" with a related party shall be construed to include single transaction or a group of transactions in a contract."

#### 13. Amendment to Clause 49(VII)(B)

The clause shall be substituted with the following:

"B. For the purpose of Clause 49 (VII), an entity shall be considered as related to the company if:

- (i) such entity is a related party under Section 2(76) of the Companies Act, 2013; or
- (ii) such entity is a related party under the applicable accounting standards."

#### 14. Amendment to Clause 49(VII)(C)

The clause shall be substituted with the following:

"(C)The company shall formulate a policy on materiality of Related Party Transactions and also on dealing with Related Party Transactions.

Provided that a transaction with a related party shall be considered material if the transaction / transactions to be entered into individually or taken together with previous transactions during a financial year, exceeds ten percent of the annual consolidated turnover of the company as per the last audited financial statements of the company."

#### 15. Amendment to Clause 49(VII)(D)

The clause shall be substituted with the following:

"(D) All Related Party Transactions shall require prior approval of the Audit Committee. However, the Audit Committee may grant omnibus approval for Related Party Transactions proposed to be entered into by the company subject to the following conditions:

- a. The Audit Committee shall lay down the criteria for granting the omnibus approval in line with the policy on Related Party Transactions of the company and such approval shall be applicable in respect of transactions which are repetitive in nature.
- b. The Audit Committee shall satisfy itself the need for such omnibus approval and that such approval is in the interest of the company;
- c. Such omnibus approval shall specify (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;

Provided that where the need for Related Party Transaction cannot be foreseen and aforesaid details are not available, Audit Committee may grant omnibus approval for such transactions subject to their value not exceeding Rs. 1 crore per transaction.

- d. Audit Committee shall review, atleast on a quarterly



basis, the details of RPTs entered into by the company pursuant to each of the omnibus approval given.

- e. Such omnibus approvals shall be valid for a period not exceeding one year and shall require fresh approvals after the expiry of one year"

## 16. Amendment to Clause 49(VII)(E)

The following proviso and explanations shall be inserted after Clause 49(VII)(E):

"Provided that sub-clause 49 (VII)(D) and (E) shall not be applicable in the following cases:

- (i) transactions entered into between two government companies;
- (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.

**Explanation(i):**For the purpose of Clause 49(VII), "Government company" shall have the same meaning as defined in Section 2(45) of the Companies Act, 2013."

**Explanation(ii):**For the purpose of Clause 49(VII), 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."

## 17. Amendment to Clause 49(VIII)(A)(2)

The clause shall be substituted with the following:

"(2) The company shall disclose the policy on dealing with Related Party Transactions on its website and a web link thereto shall be provided in the Annual Report."

## 18. Amendment to Clause 49(VIII)(F), (G) and (H)

These clauses shall stand deleted.

## 19. Amendment to clause 49(IX)

The words " The CEO, i.e. the Managing Director or Manager appointed in terms of the Companies Act, 1956 and the CFO i.e. the whole-time Finance Director or any other person heading the finance function discharging that function shall certify to the Board that:"

shall be substituted with:

"The CEO or the Managing Director or manager or in their absence, a Whole Time Director appointed in terms of Companies Act, 2013 and the CFO shall certify to the Board that:"

# 12 Amendments to SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 - Increasing the Investment Bucket for Anchor Investor and Regulations Concerning the Preferential Issue Norms

[Issued by the Securities and Exchange Board of India vide Circular No. CIR/CFD/POLICYCELL/6/2014, dated 15.09.2014.]

1. SEBI Board in its meeting held on June 19, 2014 undertook a review of the extant regulatory framework in the primary market and approved certain reforms to revitalize the market including increasing the investment bucket for anchor investor and making certain amendments to regulations concerning the preferential issue norms.
2. Accordingly, SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009 have been amended vide SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2014 with effect from August 25,2014.
3. In order to remove any difficulties in the application or interpretation of SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2014, it is clarified that :-
  - I. The revised sub-regulation (3) of regulation 43 on anchor investor allocation, shall be applicable to issuers filing offer documents with the Registrar of Companies on or after the date of notification of SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2014.
  - II. The new and revised regulations under Chapter VII viz. regulations 71A, 76, 76A and 76B on preferential issue, shall be applicable for the preferential issuances where notice for the general meeting for passing of special resolution by the shareholders is issued on or after the date of notification of SEBI (Issue of Capital and Disclosure Requirements) (Second Amendment) Regulations, 2014.
4. This circular has been issued in accordance with Section 11 (1), 11A of SEBI Act, 1992 read with regulation 108 of SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009.
5. This circular is available on SEBI website at [www.sebi.gov.in](http://www.sebi.gov.in) under the categories "Legal Framework" and "Issues and Listing".

Amit Tandon  
Deputy General Manager



# 13 Information Regarding Grievance Redressal Mechanism

[Issued by the Securities and Exchange Board of India vide Circular No. CIR/MIRSD/3/2014, dated 28.08.2014.]

- SEBI has been taking various measures to create awareness among investors about grievance mechanisms available to them through workshops as well as through print and electronic media.
- As an additional measure and for information of all investors who deal/ invest/ transact in the market, it has now been decided that offices of all Stock Brokers (its registered Sub-Broker(s) and Authorized Person(s)) and Depository Participants shall prominently display basic information, as provided in Annexure-A, about the grievance redressal mechanism available to investors. For other intermediaries, the information as provided in Annexure-B shall be prominently displayed in their offices.
- The intermediaries shall take necessary steps to implement the provisions of this circular and ensure its full compliance in respect of all its offices on or before 60 days from the date of this circular.
- This Circular is 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.
- This circular is available on SEBI website at [www.sebi.gov.in](http://www.sebi.gov.in) under the categories "Legal Framework" and "Circulars".

A.S.Mithwani  
Deputy General Manager

## Encl: Annexure-A & Annexure-B Annexure A FOR STOCK BROKERS / DEPOSITORY PARTICIPANTS

Dear Investor,

In case of any grievance / complaint against the Stock Broker / Depository Participant:

- Please contact Compliance Officer of the Stock Broker/ Depository Participant (Name) / email-id (xxx.@email.com) and Phone No. - 91-XXXXXXXXXXXX.
- You may also approach CEO/ Partner/ Proprietor (Name) / email-id (xxx.@email.com) and Phone No. - 91-XXXXXXXXXXXX.
- If not satisfied with the response of the Stock Broker/ Depository Participant, you may contact the concerned Stock Exchange /

Depository at the following -

	Web Address	Contact No	Email-id
BSE	<a href="http://www.bseindia.com">www.bseindia.com</a>	xxxxxxx	xxx@bseindia.com
NSE	<a href="http://www.nseindia.com">www.nseindia.com</a>	xxxxxxx	xxx@nse.co.in
MCX-SX	<a href="http://www.mcx-sx.com">www.mcx-sx.com</a>	xxxxxxx	xxx@mcx-sx.com
	Web Address	Contact No	Email-id
CDSL	<a href="http://www.cdslindia.com">www.cdslindia.com</a>	xxxxxxx	xxx@cdslindia.com
NSDL	<a href="http://www.nsdl.co.in">www.nsdl.co.in</a>	xxxxxxx	xxx@nsdl.co.in

You can also lodge your grievances with SEBI at <http://scores.gov.in>. For any queries, feedback or assistance, please contact SEBI Office on Toll Free Helpline at 1800 22 7575 / 1800 266 7575.

## Annexure-B FOR OTHER INTERMEDIARIES

Dear Investor,

In case of any grievance / complaint against the Intermediary:

- Please contact Compliance Officer of the Intermediary (Name and Address) / email-id (xxx.@email.com) and Phone No. - 91- xxxxxxxxxx.
- You may also approach CEO/ Partner/ Proprietor (Name) / email-id (xxx.@email.com) and Phone No. - 91-XXXXXXXXXXXX.
- If not satisfied with the response of the intermediary you can lodge your grievances with SEBI at <http://scores.gov.in> or you may also write to any of the offices of SEBI. For any queries, feedback or assistance, please contact SEBI Office on Toll Free Helpline at 1800 22 7575 / 1800 266 7575.

# 14 Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014\*

[Issued by the Securities and Exchange Board of India vide No. LAD-NRO/GN/2014-15/11/1576, dated 26.09.2014. Published in the Gazette of India, Extraordinary, Part - III, Section 4, dated 26.09.2014]

# 15 Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014\*

[Issued by the Securities and Exchange Board of India vide No. No. LAD-NRO/GN/2014-15/10/1577, dated 26.09.2014. Published in the Gazette of India, Extraordinary, Part - III, Section 4, dated 26.09.2014]

\* Not reproduced here for want of space.



# News From the Institute



## Institute News

### Members Admitted

S. No.	Name	Membership No.	Region
<b>FELLOWS*</b>			
1	SH. ARVIND GUPTA	FCS - 7690	NIRC
2	MS. KIRTI SINGHAL	FCS - 7691	NIRC
3	SH. MANOJ KUMAR PANDEY	FCS - 7692	NIRC
4	SH. ANKIT GUPTA	FCS - 7693	NIRC
5	SH. ARVIND KUMAR CHAUHAN	FCS - 7694	NIRC
6	MR. RAKESH KUMAR	FCS - 7695	NIRC
7	SH. GHANASHYAM D. BHINGE	FCS - 7696	WIRC
8	SH DEBTOSH DEY	FCS - 7697	EIRC
9	MS. SHEFALY KOTHARI	FCS - 7698	WIRC
10	SH. SANTOSH KUMAR JHA	FCS - 7699	EIRC
11	MRS. PURVI JATIN JAJAL	FCS - 7700	WIRC
12	MS. JYOTI AGGARWAL	FCS - 7701	NIRC
13	SH. RAJESH KUMAR	FCS - 7702	NIRC
14	SH. HANSRAJ JARIA	FCS - 7703	EIRC
15	MRS. TANVEER KOUR TUTEJA	FCS - 7704	WIRC
16	SH. PRITAM MARUTI KHAWALE	FCS - 7705	WIRC
17	MS. PURNIMA SHARMA	FCS - 7706	NIRC
18	MS NEHA MITTAL	FCS - 7707	WIRC
19	MR. VIVEK MANJUNATH BHAT	FCS - 7708	SIRC
20	MR. MAHALINGAM R	FCS - 7709	SIRC
21	MS. GARIMA MAHAWAR	FCS - 7710	NIRC
22	MR. NITESH RAJ SINHA	FCS - 7711	NIRC
23	MR. SAJU PHILIP MANALEL	FCS - 7712	NIRC
24	MS. KANCHAN JALAN	FCS - 7713	EIRC
25	MR. SUMIT KUMAR BATRA	FCS - 7714	NIRC
26	SH. SACHIN AGARWAL	FCS - 7715	NIRC
27	SH VICKY MADHAVDAS KUNDALIYA	FCS - 7716	WIRC
28	SH. AVINASH KUMAR	FCS - 7717	NIRC
29	SH. MANISH GUPTA	FCS - 7718	NIRC
30	MS. KUSUM GUPTA	FCS - 7719	NIRC
31	MR. VISHAL VISHWAS VYAS	FCS - 7720	WIRC
32	SH. ARUNESH KUMAR DUBEY	FCS - 7721	NIRC

33	SH. S VENKATACHALAM	FCS - 7722	WIRC
34	SH. C DWARAKANATH	FCS - 7723	SIRC
35	MS. SALONI VERDIA	FCS - 7724	NIRC
36	MRS. JAYSHRI TULSYAN	FCS - 7725	EIRC
37	MR. ASHISH KULKARNI	FCS - 7726	WIRC
38	SH SANTOSH KRISHNA PARDESHI	FCS - 7727	WIRC
39	SH. ISHIT VYAS	FCS - 7728	WIRC
40	SH. SANJAY KUMAR GUPTA	FCS - 7729	WIRC
41	SH. PANKAJ JAIN	FCS - 7730	NIRC
42	SH. RAVI BHUSHAN KUMAR	FCS - 7731	NIRC
43	MR. ALOK KUMAR	FCS - 7732	NIRC
44	MS. ANSHIKA GUPTA	FCS - 7733	NIRC
45	MS. MAHIMA JAIN	FCS - 7734	NIRC
46	MS. RADHIKA MUNDRA	FCS - 7735	WIRC
47	SH. SATYENDU PATTNAIK	FCS - 7736	NIRC
48	MS. AMITA GUPTA	FCS - 7737	NIRC
49	SH. RITESH DEEPAK PATEL	FCS - 7738	WIRC
50	MS. SAYANTANI DE	FCS - 7739	EIRC
51	MRS. SHWETA SAPRA	FCS - 7740	NIRC
52	MR. M V KUMAR	FCS - 7741	WIRC
53	Sh ASHOK KUMAR PANIGRAHI	FCS - 7742	NIRC
54	SH. ANIL KUMAR TEKALKOTE	FCS - 7743	SIRC
55	SH. PAWAN AGRAWAL	FCS - 7744	WIRC
56	MS. SAVITA SINGLA	FCS - 7745	WIRC
57	SH. RAJESH KUMAR SINGHANIA	FCS - 7746	EIRC
58	SH. BHAVIK VINODRAI HARIYANI	FCS - 7747	WIRC
59	SH BIRABHADRA ACHARYA	FCS - 7748	NIRC
60	MS. ANJALI YADAV	FCS - 7749	NIRC
61	MR. DILIP NARENDRA VAIDYA	FCS - 7750	WIRC

#### ASSOCIATES\*

1	MR. ARUN KUMAR PANDEY	ACS - 36811	EIRC
2	MS. BHAWNA DAGA	ACS - 36812	EIRC
3	MS. SMRITI SUHASARIA	ACS - 36813	EIRC
4	MR. OBAIDUR RAHMAN	ACS - 36814	NIRC
5	MS. ANUBHA SHARMA	ACS - 36815	NIRC
6	MR. HIMANSHU KHANNA	ACS - 36816	NIRC
7	MR. SAHIL AGARWAL	ACS - 36817	NIRC
8	MR. BHARAT CHOUDHARY	ACS - 36818	NIRC
9	MS. PRIYANKA NEGI	ACS - 36819	NIRC
10	MS. ANCHAL NAYYAR	ACS - 36820	NIRC
11	MS. NUPUR GUPTA	ACS - 36821	NIRC
12	MS. NEHA OJHA	ACS - 36822	NIRC
13	MS. ANJALI SINGH	ACS - 36823	NIRC
14	MS. NIKITA GOYAL	ACS - 36824	NIRC
15	MR. SIDHARTH SHARMA	ACS - 36825	NIRC
16	MS. NAINA JINDAL	ACS - 36826	NIRC
17	MS. C SAI SHARANYA	ACS - 36827	SIRC
18	MR. ABHIJEET SHAHAJI MODAK	ACS - 36828	WIRC
19	MS. JHANVI PANKAJ SHAH	ACS - 36829	WIRC
20	MS. MINAL RAMNIK VICHHIVORA	ACS - 36830	WIRC

\*Admitted during the period from 20.08.2014 to 19.09.2014.



21	MS. NISHITA MAHESH NAGRECHA	ACS - 36831	WIRC	71	MS. SHWETA GUPTA	ACS - 36881	NIRC
22	MR. SHASHI PRAKASH TRIPATHI	ACS - 36832	NIRC	72	MS. TAMANNA CHUGH	ACS - 36882	NIRC
23	MR. SHEKHAR SHUKLA	ACS - 36833	EIRC	73	MS. SHUDODHANI	ACS - 36883	NIRC
24	MS. RUKHSAR PERWEEN	ACS - 36834	EIRC	74	MS. MEENAKSHI BHARGAVA	ACS - 36884	NIRC
25	MS. SONIA HARISH SHAHDADPURI	ACS - 36835	EIRC	75	MS. RAJNI JINDAL	ACS - 36885	NIRC
26	MR. NEERAJ KUMAR	ACS - 36836	NIRC	76	MR. CHANDER KANT	ACS - 36886	NIRC
27	MR. VED PRAKASH	ACS - 36837	NIRC	77	MR. SHASHANK VASHISHTA	ACS - 36887	NIRC
28	MS. JYOTI BHARTI	ACS - 36838	NIRC	78	MR. KANAK SINGHAL	ACS - 36888	NIRC
29	MS. EKTA SAXENA	ACS - 36839	NIRC	79	MS. ISHU JAIN	ACS - 36889	NIRC
30	MR. RAHUL THAKUR	ACS - 36840	NIRC	80	MR. ASHUTOSH SHUKLA	ACS - 36890	NIRC
31	MS. PREETI VARSHNEY	ACS - 36841	NIRC	81	MR. SHREYASH MAHENDRABHAI DOSHI	ACS - 36891	WIRC
32	MR. RONI SONI	ACS - 36842	NIRC	82	MR. DARSHAN JAI PRAKASH WADKE	ACS - 36892	WIRC
33	MS. MEENAKSHI GUPTA	ACS - 36843	NIRC	83	MS. MADHURI SUDHIR SARANGDHAR	ACS - 36893	WIRC
34	MS. MAHAK BAJAJ	ACS - 36844	NIRC	84	MR. DEVENDRASINH JADUVENDRASINH JADEJA	ACS - 36894	WIRC
35	MS. SHAFFALI	ACS - 36845	NIRC	85	MR. PRASHANT PRAMOD PADHYE	ACS - 36895	WIRC
36	MR. DINESH SAINI	ACS - 36846	NIRC	86	MS. PRAGYAPAROMITA PRADEEP KUMAR BANERJEE	ACS - 36896	WIRC
37	MR. IQBAL SINGH	ACS - 36847	NIRC	87	MS. JAYATI BHADURI	ACS - 36897	WIRC
38	MR. ARUN MATHUR	ACS - 36848	NIRC	88	MS. BOTHRA TRESHILA VINOD	ACS - 36898	WIRC
39	MS. JASLEEN ARORA	ACS - 36849	NIRC	89	MS. SHWETA PUSHKARAJ KOLE	ACS - 36899	WIRC
40	MS. NEHA GUPTA	ACS - 36850	NIRC	90	MR. PATEL DIP GIRISHBHAI	ACS - 36900	WIRC
41	MR. KAPIL DATTA	ACS - 36851	NIRC	91	MS. DSILVA RAINA	ACS - 36901	WIRC
42	MS. PRAPTI DHINGRA	ACS - 36852	NIRC	92	MR. RAJAT BIMAL PODDAR	ACS - 36902	WIRC
43	MR. ABHISHEK LAMBA	ACS - 36853	NIRC	93	MS. NIDHI AGARWAL	ACS - 36903	EIRC
44	MS. SHIVANGI AGARWAL	ACS - 36854	NIRC	94	MR. SAURAV KUMAR JAIN	ACS - 36904	WIRC
45	MR. M SHRIKANTH	ACS - 36855	SIRC	95	MS. RADHA KUMARI	ACS - 36905	NIRC
46	MS. NATASHA P RAO	ACS - 36856	SIRC	96	MS. PALLAVI AGARWAL	ACS - 36906	NIRC
47	MS. RASHMI MANSUKH SHAH	ACS - 36857	WIRC	97	MS. BHAGGYA MAKKAR	ACS - 36907	NIRC
48	MR. NEERAJ KUMAR KHATRI	ACS - 36858	NIRC	98	MS. S NEHA	ACS - 36908	WIRC
49	MR. SAJEEVAN G	ACS - 36859	SIRC	99	MS. SHIKHA GOYAL	ACS - 36909	NIRC
50	MR. MANISH NAMA	ACS - 36860	NIRC	100	MS. BAJAJ PRITI PAWANKUMAR	ACS - 36910	WIRC
51	MR. DEEPAK KUMAR	ACS - 36861	NIRC	101	MS. VARSHA SINGH	ACS - 36911	EIRC
52	MR. RAHUL MURTHY	ACS - 36862	SIRC	102	MR. KUNTAL ROY	ACS - 36912	EIRC
53	MR. SHUBHAM VEDI	ACS - 36863	NIRC	103	MS. NEHA YADAV	ACS - 36913	EIRC
54	MS. SUKANYA PAUL	ACS - 36864	EIRC	104	MS. AASHIKA BANKA	ACS - 36914	EIRC
55	MS. KAVITA LALIT KUMAR BIHANI	ACS - 36865	EIRC	105	MR. GIRISH KUMAR SHARMA	ACS - 36915	NIRC
56	MS. PRATEEKSHA KHEMKA	ACS - 36866	NIRC	106	MS. RHEA RATHORE	ACS - 36916	NIRC
57	MS. VINEETA GULGULIA	ACS - 36867	EIRC	107	MR. NEERAJ KUMAR	ACS - 36917	NIRC
58	MS. ISHA ARORA	ACS - 36868	WIRC	108	MS. TANU CHOUDHARY	ACS - 36918	NIRC
59	MR. ASHUTOSH AGRAWAL	ACS - 36869	NIRC	109	MS. AARTI CHAUHAN	ACS - 36919	NIRC
60	MS. PRIYANKA	ACS - 36870	NIRC	110	MR. ANSHUL MALHOTRA	ACS - 36920	NIRC
61	MR. MOHIT AGRAWAL	ACS - 36871	NIRC	111	MR. RISHABH NAHATA	ACS - 36921	NIRC
62	MR. SRINIVASAN NARASIMHAN	ACS - 36872	SIRC	112	MR. ANAND KANKANI	ACS - 36922	EIRC
63	MR. MAHENDRA KUMAR NAREDI	ACS - 36873	WIRC	113	MS. SHASHI KANT SINGH	ACS - 36923	NIRC
64	MR. KANTI KIRAN KARE	ACS - 36874	NIRC	114	MS. SHIKHA SACHDEVA	ACS - 36924	NIRC
65	MR. NIKHIL BANSAL	ACS - 36875	NIRC	115	MS. VANDANA SHARMA	ACS - 36925	NIRC
66	MS. RAJESHRI JAIKISHAN KANOJIA	ACS - 36876	WIRC	116	MR. MANISH KUMAR GOYAL	ACS - 36926	NIRC
67	MR. S ASHOKKUMAR	ACS - 36877	SIRC	117	MS. YADAV SWATI SHIVKUMAR	ACS - 36927	SIRC
68	MS. NEHA	ACS - 36878	NIRC	118	MR. RATAN KUMAR DAS	ACS - 36928	WIRC



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119	MS. TEJASWI MAHALING HIEMATH	ACS - 36929	WIRC	169	MS. HARSHA JOSHI	ACS - 36979	WIRC
120	MS. KHUSBU ATUL JASANI	ACS - 36930	WIRC	170	MR. YASHWANT PANDIT KAKADE	ACS - 36980	WIRC
121	MR. YUVRAJ MACHINDAR BADAVANE	ACS - 36931	WIRC	171	MS. NEESHA MALLESHAM NALLA	ACS - 36981	WIRC
122	MR. SATISH SHIDGONDA PATIL	ACS - 36932	WIRC	172	MS. ANJALI GYANDEV CHATURVEDI	ACS - 36982	WIRC
123	MR. RUPESH RAGHUNATH MAHADESHWAR	ACS - 36933	WIRC	173	MS. VIDHI HIMANSHU DEVANI	ACS - 36983	WIRC
124	MR. SUNNY PREM PARIKH	ACS - 36934	WIRC	174	MS. SONIA RANI	ACS - 36984	NIRC
125	MR. RAJESHKUMAR BRINDAVAN PANDEY	ACS - 36935	WIRC	175	MR. PANKAJ T MAYDEO	ACS - 36985	WIRC
126	MR. BRAJ RAJ	ACS - 36936	EIRC	176	MR. GAURAV VIJAYVERGIYA	ACS - 36986	WIRC
127	MS. SHEETAL DINESH JAIN	ACS - 36937	WIRC				
128	MS. SWEETY SHARMA	ACS - 36938	NIRC				
129	MR. R LAKSHMANAN	ACS - 36939	SIRC				
130	MR. SUNIL KUMAR JALAN	ACS - 36940	EIRC				
131	MS. PRIYANKA KAILASH TOTLA	ACS - 36941	WIRC				
132	MS. RITU AGARWAL	ACS - 36942	NIRC				
133	MS. VIBHA SWAMINATHAN	ACS - 36943	WIRC				
134	MS. PRITI S MURARKA	ACS - 36944	WIRC				
135	MR. SAKET GOENKA	ACS - 36945	EIRC				
136	MR. VIVEK JAIN	ACS - 36946	EIRC				
137	MS. SHIVANI SINGH BHATI	ACS - 36947	NIRC				
138	MR. MUMTAJ	ACS - 36948	NIRC				
139	MR. RAVINDER MENDIRATTA	ACS - 36949	NIRC				
140	MRS. MITTAL M MEHTA	ACS - 36950	WIRC				
141	MS. SANIYA HUSSAIN	ACS - 36951	NIRC				
142	MS. FARHA NAAZ	ACS - 36952	NIRC				
143	MS. SHILPY AGGARWAL	ACS - 36953	NIRC				
144	MS. MEGHA	ACS - 36954	NIRC				
145	MS. BHAVNA SAXENA	ACS - 36955	NIRC				
146	MR. HIMANSHU MANCHANDA	ACS - 36956	NIRC				
147	MS. GAZAL CHITTLANGIA	ACS - 36957	NIRC				
148	MS. ZARNA BHARATH SHINGALA	ACS - 36958	SIRC				
149	MR. PANKESH HIRABHAI SUTARIYA	ACS - 36959	WIRC				
150	MS. RIDDHI PRADIP KUMAR DOSHI	ACS - 36960	WIRC				
151	MS. NEHA KRISHNAGOPAL SOMANI	ACS - 36961	WIRC				
152	MS. KALYANI KISHOR KHUPERKAR	ACS - 36962	WIRC				
153	MR. RUPESH SURESHCHANDRA AGARWAL	ACS - 36963	WIRC				
154	MR. CHIRAG PRAKASHCHANDRA HOJIWALA	ACS - 36964	WIRC				
155	MR. AMDAVADI ASHISH ANILKUMAR	ACS - 36965	WIRC				
156	MS. UPMA U K CHANDA	ACS - 36966	WIRC				
157	MR. ASHISH NAYAK	ACS - 36967	WIRC				
158	MS. NIKITA SHARAD SATHE	ACS - 36968	WIRC				
159	MR. MANOJIT DUTTA	ACS - 36969	EIRC				
160	MS. SHRUTI PARESH SHAH	ACS - 36970	EIRC				
161	MS. GARIMA AGARWAL	ACS - 36971	NIRC				
162	MS. SONAM JAIN	ACS - 36972	NIRC				
163	MR. AMIT KUMAR SAHA	ACS - 36973	EIRC				
164	MS. SONAL MALHOTRA	ACS - 36974	NIRC				
165	MS. SNEHA ADLAKHA	ACS - 36975	NIRC				
166	MR. ANUJ RASTOGI	ACS - 36976	NIRC				
167	MS. PAYAL BANSAL	ACS - 36977	NIRC				
168	MS. POOJA CHANDANI	ACS - 36978	NIRC				

## MEMBERS RESTORED\*

Sl.No.	Name	ACS/FCS No.	Region
1	MS. MALVIKA SAINI	ACS-30432	EIRC
2	MS. S SANDHYALAKSHMI	ACS-13781	EIRC
3	MS. DEEPTI JAIN	ACS-26215	NIRC
4	SH. RAJENDER KUMAR	ACS-21021	NIRC
5	SH. RAMESH SESHAN IYER	ACS-18521	WIRC
6	SH. H SRINIVASAN	ACS-9857	SIRC
7	SH. SURESH CHANDRA OSWAL	ACS-434	NIRC
8	MS. POOJA MALHOTRA	ACS-24434	NIRC
9	SH. RAKESH NIHALANI	ACS-28115	WIRC
10	SH. RAM RUKKAYA MALLAR	FCS-1029	WIRC
11	SH. AJAY JALAN	ACS-12593	SIRC
12	SH. THAKUR UDHAWDAS KHATRI	FCS-242	WIRC
13	MS. RENU JAGDISH	ACS-10747	NIRC
14	MRS. SNEHAL AMOL PHIRANGE	ACS-19987	WIRC
15	SH. SUNIL KUMAR CHOUDHARY	ACS-19427	EIRC
16	SH. S S JANGID	ACS-8638	WIRC
17	SH. AMISH HAMIR MEHTA	ACS-5093	WIRC
18	MS. KALPANA UMAKANTH	ACS-6984	WIRC
19	MS. PALLAVI YESHWANT REGE	ACS-19840	WIRC
20	SH. N J PUROHIT	ACS-7581	WIRC
21	MS. SALONI SHARMA	ACS-27314	EIRC
22	SH. SIVAKUMAR KRISHNAMURTHY	ACS-11748	WIRC
23	SH. K K RATHI	ACS-6385	WIRC
24	SH. ANAND D MEHTA	ACS-12440	WIRC
25	SH. RAJAT T DUTTA	FCS-3187	WIRC
26	SH. SUBRAMANIAN SRIDHARAN	ACS-21025	SIRC
27	SH. R P CHAUDHARY	ACS-1593	NIRC
28	SH. ABHISHEK ANAND	ACS-18089	NIRC
29	MS. SHILPA NAIK	ACS-18808	SIRC
30	DR. R SUBRAMANIAN	ACS-5567	SIRC
31	SH. SUSHIL KUMAR	ACS-2032	NIRC
32	SH. DAVENDRA UJLAYAN	ACS-8125	NIRC
33	SH. SUDHANSHU SHEKHAR THAKUR	ACS-20709	EIRC
34	SH. AMARJIT SINGH LALL	ACS-4746	NIRC
35	SH. PRATIK GANDHI	ACS-11219	NIRC
36	SH. ARUN CHANDRAN KANJIRAMPARAMBATH	ACS-27184	SIRC
37	SH. SACHIN BHARDWAJ	ACS-23232	NIRC
38	SH. PRASHANT MAHADEO MANOHAR	ACS-8284	WIRC
39	SH. AMIT MAHESHWARI	ACS-20578	WIRC

\* Restored from 21/08/2014 to 20/09/2014.



40	SH. RAVINDER NATH SHARMA	ACS-6007	NIRC	39	MR. JEETU AHUJA	ACS - 36543	13644	NIRC
41	SH.S KRISHNASWAMY	ACS-4391	SIRC	40	MRS. KRITIKA SATARDEKAR	ACS - 25448	13645	WIRC
42	MRS. KEERTHI KARNANI	ACS-30183	NIRC	41	MRS. POONAM HEMANT JOSHI	ACS - 22766	13646	SIRC
43	SH. S V SUBRAHMANYAM	ACS-12234	SIRC	42	MS. BINACA VERMA	FCS - 5066	13647	WIRC
44	SH. MADHU SOODAN TAPURIAH	ACS-6606	EIRC	43	MR. MIDHASAYA KAILASH PUROHIT	ACS - 32991	13648	WIRC
45	MS. V MAHESHWARI	ACS-14331	SIRC	44	SH. ABHISHEK BHARADWAJ A B	ACS - 24229	13649	SIRC
46	SH. SURAJ KUMAR VISHWAKARMA	ACS-14110	NIRC	45	MR. AKASH BOTHRA	ACS - 36662	13650	NIRC
47	SH. SANDEEP SHARMA	ACS-18208	NIRC	46	MR. NITIN CHANDRAKANT KULKARNI	ACS - 36713	13651	WIRC
48	SH. MOHANLAL LAHIRY	FCS-2423	EIRC	47	MR. ANKIT HIRAN	ACS - 36410	13652	NIRC

## Certificate of Practice\*

SL. No.	NAME	MEMB NO	COP NO.	REGION
1	MS. NEELU DASLANA	ACS - 35566	13606	NIRC
2	MR. SAURABH MISHRA	ACS - 34147	13607	NIRC
3	MR. SHRISHA V M	ACS - 28456	13608	SIRC
4	MR. MAYANK ARORA	ACS - 33328	13609	WIRC
5	MR. VAIBHAV AGNIHOTRI	ACS - 36594	13610	NIRC
6	MR. ASHISH KUMAR AGRAWAL	ACS - 36479	13611	EIRC
7	MRS. VIDUSHI AGARWALLA	ACS - 27105	13612	EIRC
8	MR. VAIBHAV SINGHAI	ACS - 23667	13613	WIRC
9	MS. RADHIKA MALPANI	ACS - 35818	13614	NIRC
10	MS. RITIKA SHAW	ACS - 36589	13615	NIRC
11	MS. NEHA JAIN	ACS - 22814	13616	NIRC
12	SH. PRASANT KUMAR SWAIN	ACS - 24833	13617	EIRC
13	SH. SRIKANTH REDDY KOLLI	ACS - 25290	13618	SIRC
14	MR. MARIAPPAN KUMAR	ACS - 32149	13619	SIRC
15	MR. A AJAY KUMAR BANTIA	ACS - 35956	13620	SIRC
16	MS. JYOTI SHARMA	ACS - 36607	13621	NIRC
17	MR. YOGESH MAHESHBHAI SOMAIYA	ACS - 33963	13622	WIRC
18	SH. PRAMOD RAJAN GUPTA	ACS - 1871	13623	EIRC
19	MS. ASHIMA ARORA	ACS - 29515	13624	NIRC
20	MS. KHUSHBOO ROURAY	ACS - 34377	13625	EIRC
21	MS. MANSI SAMDANI	ACS - 35697	13626	NIRC
22	MS. RENU SANTOSH AGRAWAL	ACS - 32014	13627	WIRC
23	MR. SANJAY BANGANI V	ACS - 30743	13628	SIRC
24	SH. RAKESH SODANI	ACS - 19109	13629	WIRC
25	MS. PREMA PARTHASARATHI	FCS - 2363	13630	SIRC
26	MS. USHA SHARMA	ACS - 28669	13631	SIRC
27	SH. SADAN KUMAR	ACS - 25639	13632	EIRC
28	MRS. RASHMI GANESH AGRAWAL	ACS - 32071	13633	WIRC
29	MR. BHUSHAN TAMBE	ACS - 35353	13634	WIRC
30	MR. NITIN MADAAN	ACS - 36368	13635	NIRC
31	MR. VISHAL DHONA	ACS - 35413	13636	EIRC
32	MS. RASHMI TUSHAR BHATT	FCS - 3461	13637	WIRC
33	SH. VASUDEV BINDURAO SAVALGI	ACS - 23965	13638	WIRC
34	MRS. APEKSHA NAGORI	ACS - 21952	13639	SIRC
35	MS. SHWETA SADAKA	ACS - 36226	13640	EIRC
36	MR. MOHIT KUMAR JHA	ACS - 36711	13641	WIRC
37	SH. OMKAR CHANDRAKANT MHAMUNKAR	ACS - 26645	13642	WIRC
38	MS. BIJAL KANTILAL GADA	ACS - 26296	13643	WIRC
39	MR. JEETU AHUJA	ACS - 36543	13644	NIRC
40	MRS. KRITIKA SATARDEKAR	ACS - 25448	13645	WIRC
41	MRS. POONAM HEMANT JOSHI	ACS - 22766	13646	SIRC
42	MS. BINACA VERMA	FCS - 5066	13647	WIRC
43	MR. MIDHASAYA KAILASH PUROHIT	ACS - 32991	13648	WIRC
44	SH. ABHISHEK BHARADWAJ A B	ACS - 24229	13649	SIRC
45	MR. AKASH BOTHRA	ACS - 36662	13650	NIRC
46	MR. NITIN CHANDRAKANT KULKARNI	ACS - 36713	13651	WIRC
47	MR. ANKIT HIRAN	ACS - 36410	13652	NIRC
48	MR. DHAVALKUMAR PARESHKUMAR MASTER	ACS - 34204	13653	WIRC
49	MR. KAPIL S CHAAND	ACS - 36673	13654	NIRC
50	SH. BAGA REDDY METTU	ACS - 30197	13655	SIRC
51	MR. DEEPAK GUPTA	ACS - 36248	13656	NIRC
52	MR. KARMBIR SINGH	ACS - 27551	13657	NIRC
53	MR. ADARSH KUMAR AGARWAL	ACS - 36486	13658	EIRC
54	MR. DANISH PUTHIYA PURAYIL	ACS - 36552	13659	SIRC
55	MR. NEERAJ MANGAL	ACS - 32576	13660	NIRC
56	MR. SRINIVASAN VS	ACS - 36612	13661	SIRC
57	MR. SANDEEP KUMAR	ACS - 33273	13662	NIRC
58	SH. ARUN CHANDRAN KANJIRAMPARAMBATH	ACS - 27184	13663	SIRC
59	MS. PRATIBHA VIJAY	ACS - 35746	13664	NIRC
60	MRS. MINITABEN RITESH CONTRACTOR	ACS - 24418	13665	WIRC
61	MS. SAMIKSHA KHANDELWAL	ACS - 32023	13666	NIRC
62	MS. VIVIDHA SALAMPURIA	ACS - 35074	13667	EIRC
63	MRS. NILAM ANAND CHANDAK	ACS - 30390	13668	WIRC
64	MRS. SAMPADA ASHUTOSH DHAYGUDE	ACS - 34209	13669	WIRC
65	MS. KHUSHBOO HASMUKH SIKOTRA	ACS - 36557	13670	WIRC
66	MS. AKSHITA KOTHARI	ACS - 35700	13671	NIRC
67	MS. PRIYANKA JAIN	ACS - 32487	13672	NIRC
68	MS. SWATI KABRA	ACS - 36418	13673	NIRC
69	MS. SHILPI JAIN	ACS - 34022	13674	NIRC
70	MS. ANJALI GROVER	FCS - 5349	13675	NIRC
71	MS. PRABHJOT KAUR GANDHI	ACS - 36665	13676	NIRC
72	MS. MEGHA CHHABRA	ACS - 36106	13677	NIRC
73	MS. IQBAL KAUR	ACS - 36663	13678	NIRC
74	MS. SHAHINA PYARALI LALANI	FCS - 7660	13679	WIRC
75	MS. SHREELAXMI BHAT	ACS - 32610	13680	SIRC
76	MS. PRERNA BAJAJ	ACS - 36667	13681	NIRC
77	MS. RICHA PRASHAR	ACS - 36753	13682	NIRC
78	MS. ISHA MOHANLAL JAIN	ACS - 36697	13683	WIRC
79	MS. KAVITA GUPTA	ACS - 36634	13684	NIRC
80	MS. SWETA AGARWAL	ACS - 34202	13685	EIRC
81	MRS. SHIKHA SARAF	ACS - 22832	13686	EIRC
82	MR. CHIRAG JAIN	ACS - 30850	13687	WIRC
83	MS. NISHA SARAF	ACS - 36262	13688	EIRC
84	MS. SHALINI MURTI	ACS - 17576	13689	WIRC
85	MS. NANCY AGARWAL	ACS - 32206	13690	EIRC
86	SH. S RAJARAMAN	FCS - 3514	13691	WIRC
87	SH. S RAJAGOPAL	ACS - 2825	13692	SIRC
88	SH. MUKESH D PARAKH	FCS - 4343	13693	WIRC
89	MS. HONEY GOENKA	ACS - 36238	13694	NIRC
90	MS. SMRITI MUKERJI	ACS - 33702	13695	NIRC

\*Issued during the month of August, 2014.





# News From the Institute

91	MS. SHIVANI JAIN	ACS - 34115	13696	NIRC	12	MR. ASHOK KUMAR SHUKLA	ACS 29673	12996	NIRC
92	MR. MANOJ KUMAR PANDEY	ACS - 36712	13697	EIRC	13	MS. KHAN REHANA KAMIL	ACS 34833	12972	WIRC
93	MS. RAKHI RAMESH KABRA	ACS - 28351	13698	WIRC	14	MR. SAMEER KOLI	ACS 34080	12737	NIRC
94	MR. VIVEK VIJAYAN POTTAKANAYAM	ACS - 36802	13699	SIRC	15	MR. ANKUR GUPTA	ACS 28253	13374	NIRC
95	SH. DEVESH KUMAR VASISHT	ACS - 22901	13700	NIRC	16	MR. VINAY KUMAR JALAN	FCS 4294	3130	EIRC
96	MS. KAMLESH RANOTE	ACS - 36747	13701	NIRC	17	MS. NEHA GUPTA	ACS 34337	12762	NIRC
97	MRS. PADMA PRIYANKA VANGALA	ACS - 23027	13702	SIRC	18	MR. SIDHARTH YADAV	ACS 35095	13021	NIRC
98	MRS. PRAJAKTA DINKAR GOKHALE	ACS - 36767	13703	WIRC	19	MS. V S MANGALA	ACS 14247	6535	SIRC
99	MS. SWETA ASHOK THAKOR	ACS - 36159	13704	WIRC	20	MR. R SIVARAM	FCS 6744	12657	SIRC
100	MS. REKHA S JAGDALE	FCS - 4097	13705	WIRC	21	MS. PAVEET	ACS 35743	13368	NIRC
101	MR. VEDANG UPENDRA SHEVADE	ACS - 36706	13706	WIRC	22	MS. PALAK SETHI	ACS 32728	12128	NIRC
102	MR. HARSHAL ARUN LAHAMGE	ACS - 36695	13707	WIRC	23	MR. BHAVIK KANTI LAL SUDRA	ACS 35227	13067	WIRC
103	SH. LALIT CHATURVEDI	FCS - 5961	13708	NIRC	24	MR. GURMUKH SINGH	FCS 7072	9865	NIRC
104	MS. NUPUR CHOPRA	ACS - 17963	13709	EIRC	25	MR. P NALLA SENAPATHI	ACS 30805	11302	SIRC
105	MS. NISHA KHATTER	ACS - 36742	13710	NIRC	26	MS. PREETI VIJAY PACHERIWALA	FCS 7502	8226	WIRC
106	MS. MONIKA CHOPRA	ACS - 36797	13711	NIRC	27	MR. KETAN SANJEEV NAVLIHALKAR	ACS 34560	12870	WIRC
107	MS. REENA ANEJA	FCS - 6688	13712	NIRC	28	MRS. SMITA TRIPATHI	ACS 23438	12838	SIRC
108	MS. BARNITA CHAKRABORTY	ACS - 33036	13713	NIRC	29	MR. SOHIT DINESHCHANDRA MEHTA	ACS 33096	12749	WIRC
109	MR. PRASENJIT DAS	ACS - 35430	13714	EIRC	30	MR. SANJIV KUMAR	ACS 29990	10803	NIRC
110	MS. NEHA AGARWAL	ACS - 34936	13715	NIRC	31	MS. SHWETA GARG	ACS 34258	13301	NIRC
111	MS. NIKITA AGGARWAL	ACS - 36586	13716	NIRC	32	MR. HIMANSHU PANCHAL	ACS 30994	13358	NIRC
112	MR. DURGA PRASAD YADAV	ACS - 36395	13717	WIRC	33	MS. RAMYA P	ACS 34597	12799	SIRC
113	MRS. SHRUTI SIDDHARTH SINGH	ACS - 25044	13718	NIRC	34	MR. GOPABANDHU MISHRA	ACS 28383	10327	NIRC
114	MR. Y N Y SUBRAHMANYA SARMA	ACS - 33775	13719	SIRC	35	MR. C SRIDARAN	FCS 7474	8055	SIRC
115	SH. CHANDRA PRAKASH LOHIA	ACS - 2934	13720	EIRC	36	MS. PUNITA SAHAL	ACS 36258	13543	NIRC
116	SH. R L SHENOY	ACS - 1888	13721	WIRC	37	MR. ARUN KUMAR	FCS 7521	13156	NIRC
117	SH. B PRABAKAR	ACS - 13914	13722	SIRC	38	MS. VARSHA JALORA	ACS 33719	12599	NIRC
118	MR. PRAKASH RAWAT	ACS - 35324	13724	NIRC	39	MS. RASHMI RAMJHIM	ACS 27070	9986	EIRC
119	MR. LAKHAN GUPTA	ACS - 36583	13725	NIRC	40	MS. SONU SARAF	ACS 27093	12428	WIRC
120	SH. E VEDAGIRI	FCS - 5173	13726	SIRC	41	MR. K MADHAVAN NAIR	FCS 2596	3936	SIRC
121	MS. NIKITA GOYAL	ACS - 36824	13727	NIRC	42	MR. MINENDER POSHETTY BOGA	ACS 25528	12284	WIRC
122	MS. RATHOD JANKIBEN BALWANT SINH	ACS - 36702	13728	WIRC	43	MS. REKHA KEJRIWAL	FCS 5978	4857	NIRC
123	MR. NITIN ATMARAM SARFARE	ACS - 36769	13729	WIRC	44	MS. SONAL SURENDRA DANDEKAR	ACS 31472	11583	WIRC
124	MR. NEERAJ KUMAR KHATRI	ACS - 36858	13730	NIRC	45	MR. PRAVEEN KUMAR	ACS 32898	12092	NIRC
125	MS. NAFISA RAMPURAWALA	ACS - 27766	13731	WIRC	46	MR. NITIN SHARMA	ACS 35048	13037	NIRC
126	MS. ZARNA PRABHALADBHAI SOLANKI	ACS - 31389	13732	WIRC	47	MS. RUCHITRA JOSHI	ACS 28865	10534	NIRC
127	SH. VIKASH MITTAL	ACS - 25853	13733	NIRC	48	MR. UMESH KUMAR AGRAWAL	FCS 7121	7655	NIRC
					49	MR. SRINIVASA RAMANUJAN G	ACS 34715	12939	SIRC
					50	MR. PRADEEP KUMAR RAY	ACS 15367	10729	NIRC

## CANCELLED\*

SL. No.	NAME	MEMB NO	COP NO.	REGION
1	MS. ARCHANA JOSHI	ACS 33940	13352	NIRC
2	MR. PRAVAT KUMAR SAHU	FCS 2151	10294	EIRC
3	MR. SUNIL KUMAR MISHRA	ACS 33253	12641	EIRC
4	MS. SUMAN SHARMA	FCS 7416	13154	NIRC
5	MR. MOHIT KANOJIA	ACS 32853	12293	NIRC
6	MS. POOJA VINOD MODI	ACS 27456	11589	WIRC
7	MS. ANTAREEPA GOSWAMI	ACS 27201	12016	EIRC
8	MS. MONIKA AGRAWAL	ACS 31258	12699	NIRC
9	MR. SANDIP AMRATLAL MISTRY	ACS 6548	13074	WIRC
10	MR. SAIENDRA KUMAR JHA	ACS 35394	13227	NIRC
11	MS. SANGEETA THAKUR	ACS 16849	13258	WIRC

\*Cancelled during the month of August, 2014.

## LICENTIATE ICSI\*\*

S.No.	NAME	NUMBER	Region
1	MR. MANISH GUPTA	6675	EIRC
2	MR. B G SANTOSH	6676	SIRC
3	MS. ARCHANA A	6677	SIRC
4	MS. VIDHI MITTAL	6678	NIRC
5	MS. DEEPA JOSEPH KOKKANDATHIL	6679	SIRC
6	MS. SWETA CHUGH	6680	NIRC
7	MR. E NARASIMHAN	6681	SIRC
8	MR. SURESH NAMBOODIRI K	6682	SIRC

\*\*Admitted during the month of August, 2014.



# Company Secretaries Benevolent Fund



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

Region	LM No.	Name	Member Number	City
<b>EIRC</b>				
1	10511	MR. SUNIL KUMAR JALAN	ACS - 36940	CUTTACK
<b>NIRC</b>				
2	10500	MR. BALA JI	ACS - 33952	DELHI
3	10501	MR. SHASHI SHEKHAR	ACS - 30145	NEW DELHI
4	10502	SH. MUNISH JAIN	ACS - 17750	CHANDIGARH
5	10503	MS. CHETNA TYAGI	FCS - 7156	DELHI
6	10504	MS. SAPNA	ACS - 33053	JAIPUR
7	10516	SH. RAJENDRA KUMAR GUPTA	FCS - 753	KOTA DISTT
8	10517	MR. RAVINDER MENDIRATTA	ACS - 36949	NEW DELHI
9	10518	SH. ASHISH MITTAL	ACS - 25169	LUCKNOW
10	10519	MS. NIDHI VAID	ACS - 36789	NEW DELHI
11	10520	MR. SAGAR GAUR	ACS - 33283	NEW DELHI
<b>SIRC</b>				
12	10494	MS. SUJANI VASIREDDI	ACS - 36640	HYDERABAD
13	10496	MR. DHAVAL PRADIP DAVEY	ACS - 30450	CHENNAI
14	10498	MS. P P SUREKHA	ACS - 11475	HYDERABAD
<b>WIRC</b>				
15	10499	MR. SRINIVASAN VS	ACS - 36612	HOSUR
16	10505	MR. A S UMA MAHESH	ACS - 33335	MADURAI
17	10506	SH. V RAMANUJAM	FCS - 2433	PONDICHERRY
18	10507	SH. V RAVICHANDRAN	ACS - 15661	CHENNAI
19	10512	SH. S V SRINIVASAN	ACS - 10258	CHENNAI
20	10513	MR. RAVI GAJANAN HEGDE	ACS - 34058	SIRSI
21	10514	SH. RAJESH DWARKA SHARMA	ACS - 27936	BANGALORE
22	10515	SH. MANIKANTHA A G S	ACS - 21918	BANGALORE
23	10521	SH. M.P. MUTHUKUMARASWAMY	ACS - 14293	CHENNAI
<b>WIRC</b>				
24	10495	MR. MUKESH PRAKASHKUMAR PAMNANI	ACS - 34357	AHMEDABAD
25	10497	MR. GOPAL GHANSHYAMBHAI VAIRAGI	ACS - 36032	AHMEDABAD
26	10508	MR. MAULIK JAGDISHBHAI SHETH	ACS - 31148	RAJKOT DISTT
27	10509	SH. S SHYAM SUNDAR	ACS - 4165	SOUTH AFRICA
28	10510	MR. MEHULSINH DIGRAJSINH JADEJA	ACS - 32283	KUTCH

\*Enrolled during the period from 21.08.2014 to 20.09.2014.





# News From the Institute



## List of Companies/ Organizations Registered During August, 2014 For Providing Training To The Students of ICSI

Name of the Company	Training Period	Stipend	
Mr. P Rajesh Company Secretary Suryadev Alloys And Power Private Limited 497 &498, 8Th Floor, Isana Building, P.H. Road, Arumbakkam, Chennai-600106	15/03 Months	Suitable	The Authorised Signatory Mehta Securities Limited 2, Law Garden Apt., Scheme-1, Opp Law Garden, Ellisbridge, Ahmedabad-380006
Mr. Vikash Kumar Jha Company Secretary J.S.S. Steellitalia Limited Plot No.64, 2Nd Floor, Udyog Vihar, Phase-IV, Gurgaon-122016 Haryana	15 Months	Suitable	The Authorised Signatory Estonia Investment Private Limited Citi Tower, 61, Dr. S S Rao Road Near Gandhi Hospital Parel (E) Mumbai-400012
The Company Secretary Delta International Limited 4, Council House Street Kolkata-700001	15/03 Months	Suitable	Mr. D H Savarkar Sr. Vice President- Human Resources Tata Consuting Engineers Limited Matulya Centre A 249, Senapati Bapat Marg, Lower Parel Mumbai-400051
Ms. Manisha Thakur Chief Regulatory Officer Indian Clearing Corporation Limited Floor 25, P J Towers, Dalal Street, Mumbai-400001	15/03 Months	Suitable	Ms. Shivangni Sinha Senior Manager- Hr & Administration Sara International Limited A-31, Hauz Khas, New Delhi-110016
Mr. M G Patel Managing Director Lincoln Pharmaceuticals Ltd. Lincoln House, Science City Road, Sola Ahmedabad-380060, Gujarat	15/03 Months	Suitable	Mr. Nagesh Kumar Compliance Officer Maxgrowth Capital Pvt Ltd. Sco 207, First Floor, Sector 36-D, Chandigarh-16003
Mr. Arvind K Chauhan Company Secretary Fiem Industries Limited D-34, Dsidc Packaging Complex Kirti Nagar, New Delhi-110015	15 Months	Suitable	Mr/Ms. Apurva Maheshwari Director Iswar Ganga Pvt Ltd 24, Hemanta Basu Sarani, Mangalam- A, Room No. 309, Kolkata-700001
Mr. Chandrashekhara Alse Company Secretary Maiyas Beverages And Foods Pvt Ltd. New No.49, Old No.540, 10Th Main, 32Nd Cross, 4Th Block, Jayanagar Bangalore-560011	15/03 Months	Suitable	Mr. Bipin C Phuloria Company Secretary Kribhco Shyam Fertilizers Limited A-60, Kailash Colony, New Delhi-110048
			The Authorised Signatory Experion Developers Pvt Ltd. F-9, First Floor, Manish Plaza-1 Plot No.7, Mlu, Sector 10 Dwarka, New Delhi-110075
			Mr. K M Thatte Company Secretary B.G. Shirke Construction Technology Pvt Ltd. 72-76, Mundhwa, Pune-411036
			Mr. Umesh Soni Company Secretary Nuevo Polymers Pvt. Ltd. W6/13, Dlf Phase-III, Gurgaon-122002



Mr. N A Srinivasan Partner Genicon & Associates Advocates & Legal Consultants No.34, 1St Floor, Padmanabhan Street, T Nagar, Chennai-600017	15 Months	Suitable	Ms. Raj Rani Bhalla Senior Consultant Lex Indis B-3/12, Vasant Vihar, New Delhi-110057	15 Months	Suitable
Chief Executive Officer Bwe Energy India (P) Ltd Guna Towers, No.2, North Boag Road, T Nagar, Chennai-600017	15 Months	Suitable	Mr. Vikram Agarwal Assistant Company Secretary Saraswati Print Factory Private Ltd 789, Chowbhaga West, Kolkata-700105	15/03 Months	Suitable
Mr. Himanshu Harbola Managing Partner Corporate Juris Advocates & Corporate Law Advisors K-40, IInd Floor, B K Dutt Colony, Near Jor Bagh, New Delhi-110003	15 Months	Suitable	Mr. Hari Ram Saraf Director Nilanjana Designs Pvt Ltd. 111A, Park Street, 4Th Floor, Kolkata-700016	15/03 Months	Suitable
Ms. Monika Choukse Company Secretary Ujaas Energy Limited, 701, NRK Business Park, Vijay Nagar Square, Indore-452010	15 Months	Suitable	Mr. Kaushalkumar S Gupta Chairman & Managing Director Bansal Roofing Products Limited 3/2, Labdhi Industrial Estate Acid Mill Compund, Ranmukteshwar Road, Pratapnagar, Vadodara-390004	15 Months	Suitable
Mr. Narendra N Patel President & Company Secretary Cera Sanitaryware Limited Madhusudan House Opp Navrangpura Telephone Exchange, Ahmedabad-380006	15/03 Months	Suitable	Dr. Avinash Bhosale Managing Director Kumuda Sugar & Agro Products Ltd. 4837/29A, 1St Main 2Nd Cross, Sadashiv Nagar Belgaum-10	15/03 Months	Suitable
Mr. Sanjay Kulkarni General Manager & Unit Head Ima-Pg India Private Limited Plot No.R-677, T.T.C Indl Area M I D C, Rable, Navi, Mumbai-400701	15 Months	Suitable	Mr. Piyush Shah Company Secretary Aditya Birla Capital Advisors Private Limited One Indiabulls Centre, Tower1, 18Th Floor, Jupiter Mill Compound, 841, Senapati Bapat Marg Elphinstone Road, Mumbai-400013	15/03 Months	Suitable
Mr. Mukesh Bansal Company Secretary K K Securities Limited 76-77, Scindia House, 1st Floor, Janpath, Connaught Place, New Delhi-110001	15/03 Months	Suitable	Mr. Ashwin Lodha Director Crest Steel And Power Pvt Ltd. Joratarai Village, P O Mangatta, Dist. Rajnandgaon-491441	15 Months	Suitable
Mr. Shailendra Pathak Company Secretary Ajcon Global Services Limited 101, Samrath Lt. P N Kotnis Road Off. Hinduja Hospital, Mahim (W), Mumbai-400016	15 Months	Suitable	Mr. Sarath S Partner Profico Corporate Solutions 36/1287- A, IInd Floor Vaidyar Lane, Judges Avenue Kaloore, Cochin-682014	15 Months	Suitable
Ms. Bina Bhageria Company Secretary Brg Iron & Steel Co. Pvt. Ltd. Godrej Waterside, Suit #402/403/404 Plot No.5, Block – Dp, Sector V Salt Lake City, Kolkata-700091 West Bengal	15/03 Months	Suitable	Mr. Mayank Jain Executive Director Naresh Build And Home Pvt. Ltd. A/1 Shree Balaj Avenue Rajiv Nagar, Vidisha Indore-464001	15/03 Months	Suitable



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

CS Saurabh Talwar Company Secretary In Practice E-215-C, Gtb Enclave, Lig Flats, Delhi – 110 093	PCSA- 4145	CS Anjana Varghese Company Secretary In Practice 20/773 A, Market Roadtripunithura Ernakulam – 682 301	PCSA- 4155
CS Ajay Kumar Mittal Company Secretary In Practice B-101, Sector 22, Noida - 201 301	PCSA- 4146	CS Rachana Agarwal Company Secretary In Practice 206 Block 'A', 3Rd Floor Bangur Avenue, Kolkata – 700 055	PCSA- 4156
CS Ashi Jain Company Secretary In Practice B-108, 1st Floor, Rampuri Near Surya Nagar Police Chowki Ghaziabad -201 010	PCSA- 4147	CS B. Surender Company Secretary In Practice 8-2-601/ A, Plot No. 14 , Ground Floor Achuta Co -Op Hsg Society, Road No. 10, Banjara Hills, Hyderabad – 500 034	PCSA- 4157
CS Rajeev Saxena Company Secretary In Practice B-206, Sagar Apartments C-58/15 , Sector 62, Noida – 201 307	PCSA- 4148	CS Deepak Amarshibhai Variya Company Secretary In Practice A-402/3/4, Sainathwadi Chs. Andheri-Ghatkopar Link Road Asalpha, Ghatkopar (West) Mumbai – 400 084	PCSA- 4158
CS Jalpa Jignashu Shah Company Secretary In Practice 808, Span Trade Center Paldi Cross Roads, Ahmedabad – 380 006	PCSA- 4149	CS Amir Farooq Khan Company Secretary In Practice House No. 24, Lane No. -1 Johri Farm, Jamia Nagar, New Delhi – 110 025	PCSA- 4159
CS Madhav Jayprakashbha Company Secretary In Practice "Annpurna". 1-Rajnagar B/H Virat Plaza, Nana Mauva Main Road Rajkot – 360 004	PCSA- 4150	CS Pravin Appasaheb Ningnure Company Secretary In Practice 2Nd Floor Patel Building Nr Datta Roadlines, Bundlow Road Ichalkaranji, Kolhapur Distt – 416 115	PCSA- 4160
CS Monali Kumar Shah Company Secretary In Practice 218/401, 4Th Floor, Road No. 14 Jawahar Nagar, Goregaon (West), Mumbai - 400 062	PCSA- 4151	CS Kiran Kumari Company Secretary In Practice 319 A, Swarn Park, Mundka, New Delhi – 110 004	PCSA- 4161
CS Ritika Agarwal Company Secretary In Practice 5801, Neha Apartment Athgaon Guwahati – 781 001	PCSA- 4152	CS Apaksha Kekre Company Secretary In Practice 213 - Sunrise Tower, 579 - M.G. Road, Indore – 452 001	PCSA- 4162
CS Karishma Sharma Company Secretary In Practice F-42, Dwarika A-12, Central Spine Vidhyadhar Nagar Jaipur – 302 039	PCSA- 4153	CS Vishal Dhona Company Secretary In Practice 74, Cotton Street, 1St Floor, Kolkata – 700 007	PCSA- 4163
CS Foram Bharat Goradia Company Secretary In Practice 23- Ab , Shiv Sagar, Ram Bang Lane S.V. Road Borivali (W), Mumbai – 400 092	PCSA- 4154	CS Sumeet Kumar Company Secretary In Practice Madhu Apartment, 15/1 Dakshin Para Road, Baguiati, Kolkata - 700028	PCSA- 4164
		CS Sunil Sankar P. Company Secretary In Practice "Chaithram", 14/22, Canal Road Tripunithura, Ernakulam – 682 301	PCSA- 4165
		CS Amrsh Kumar Chourasia Company Secretary In Practice 204 A, Prakrati Corporate Y.N. Road, Indore – 452 003	PCSA- 4166



CS Uma Company Secretary In Practice H. No. 1850/5, Aggarwal Mandi Gate Near Railway Station, Panipat – 132 103	PCSA- 4167	CS Mohit Kumar Jha Company Secretary In Practice B 8/502, Bramha Majestic Nibm Road, Kondhwa, Pune	PCSA- 4179
CS Ankit Jain Company Secretary In Practice Basement Of H-15, Chitrangan Marg C-Scheme, Jaipur – 302 001	PCSA- 4168	CS Pooja Maheshwari Company Secretary In Practice H.No. 270 Near Sector-40 Gurgaon – 122 002	PCSA- 4180
CS Deepak Goel Company Secretary In Practice H.No. 1100, Sector -7C, Faridabad – 121 006	PCSA- 4169	CS Sarvesh S. Srivastava Company Secretary In Practice 117/Q/454, 209, Indrapuri Sharda Nagar Kanpur – 208 025	PCSA- 4181
CS Sharad Kumar Kabra Company Secretary In Practice 1401 Panchvati A Block, Behind S.M. Sheety School, Near Hiranandani Gardens, Powai, Mumbai – 400 072	PCSA- 4170	CS Lalit Goel Company Secretary In Practice 1548 , New Housing Board Colony Panipat – 132 103	PCSA- 4182
CS Dillip Chandra Maharathi Company Secretary In Practice 126, Gupta Palace, 1St Floor, A-2/14 Rajouri Garden, New Delhi – 110 027	PCSA- 4171	CS Shankar Kumar Jha Company Secretary In Practice 211-212, Risal Complex, Shiva Market Pitam Pura New Delhi -110 034	PCSA- 4183
CS Abhishek Bharadwaj A B Company Secretary In Practice No. 382, G Block, 12Th Cross Ramakrishna Nagar, Mysore – 570 022	PCSA- 4172	CS Pratibha Vijay Company Secretary In Practice 60, Geej Garh Viharcolony Hawa Sarak, 22 Godown Jaipur – 302 019	PCSA- 4184
CS Vipul Kumar Dahyalal Bheda Company Secretary In Practice 110, 1St Floor, 21St Century Business Centre, Ring Road, Surat – 395 002	PCSA- 4173	CS Chaitra K Company Secretary In Practice "Habitat"# 277, 1St Main Near Rayan Circle, 2Nd Floor, Above Srinidhi Convention Marg, Chamrajpet Bangalore – 560 018	PCSA- 4185
CS R.Nithya Company Secretary In Practice 151/24, D.R.Avenue 1, Nethaji Nagar, Moolapalayam, Erode – 638 002	PCSA- 4174	CS Bandana Rai Company Secretary In Practice C/O Shailav Pratap, Odt 3/19 Btps, Dvc, Bokaro Thermal Bokaro – 829 107	PCSA- 4186
CS Prashant David Nath Company Secretary In Practice Green Valley, 51/11 Rajpur Road Dehradun – 248 001	PCSA- 4175	CS Raghavendra Narayan Bhat Company Secretary In Practice 169, Sona Tapovan 18 Cross, M C Layout Vijay Nagar Bangalore – 560 040	PCSA- 4187
CS Chintan Harendrakumar Vakil Company Secretary In Practice B-6, Matrikunj Apartment Near Alkapuri Post Office Alkapuri, Vaoddara- 390 007	PCSA- 4176	CS Amar Kumar Nayak Company Secretary In Practice "Prabhatjyoti" , Plot No-583 Hanuman Statue Jagannathpur , P.O-Bhadrak Bhadrak -756 100	PCSA- 4188
CS Sarita Bhatt Company Secretary In Practice C-65, Loweer Ground Floor Malviya Nagar, New Delhi -110 017	PCSA- 4177		
CS Sheetal Agrawal Company Secretary In Practice C/O. Mr. Gs Rathore Nr. Shiv Mandir, 1St Floor Danteswari Ward Jagdarpuri – 494 001	PCSA- 4178		



## News From the Regions

### EASTERN INDIA REGIONAL COUNCIL

#### 68<sup>th</sup> Independence Day Celebration

Eastern India Regional Council of The ICSI celebrated 68<sup>th</sup> Independence Day of India on 15.8.2014 at ICSI-EIRC House, Kolkata. The programme started with hoisting of National Flag by Chief Guest Usha Ganguly, a renowned Dramatist of National fame followed by National Anthem. A Hindi Drama titled "MIRZA SAHEBAN" was performed by Kolkata Star Stage Troop followed by "KAVITA PAATH" by Girish N. Pande, IRS, Principal Chief Commissioner of Income Tax, West Bengal & Sikkim, and Ravel Pushpa, renowned Poets. A large number of members and students attended and enjoyed the programme.

#### Seminar on Conducting General Meeting and New Companies Act, 2013 and Revised Clause 49 of the Listing Agreement including Recent SEBI Notifications

On 30.8.2014 ICSI-EIRC organized a Seminar on Conducting General Meeting and New Companies Act, 2013 and Revised Clause 49 of the Listing Agreement including Recent SEBI Notifications. During deliberation guest speaker of the seminar extensively covered the areas of Annual General Meeting and the provisions of Listing Agreement under the Companies Act, 2013. A good number of students and members attended the seminar.

#### Seminar on Related Party Transactions under the Companies Act, 2013 and Audit Committee and Independent Director and Sections 49 & 177 under the Companies Act, 2013

On 31.8.2014 ICSI-EIRC organized a Seminar on Related Party Transactions under The Companies Act, 2013 and Audit Committee and Independent Director and Sections 49 & 177 of the Companies Act, 2013. The faculties of the day covered the areas like requirement of approval of Board of Directors for entering into any related party transaction, role of Audit Committee to enhance the confidence in the integrity of the company's financial

reports, etc. A good number of students and members attended the seminar.

#### Study Circle Meeting

On 3.9.2014 ICSI-EIRC organized a Study Circle Meeting on Section 107, Section 108 & Section 110 of the Companies Act, 2013 & Rules made thereunder at ICSI-EIRC House, Kolkata. The faculty of the programme addressed on the advantage of e-voting system highlighting the basic difference with voting system by ballot or polling, concept of Proxy Voting, provisions under Section 108 and the accompanying Rules of the new company law, etc. Around 36 members and students attended the meet.

#### Six compact and focused Workshops

ICSI-EIRC organized Six compact and focused Workshops of two and half hours duration from 6.9.2014 to 13.9.2014 covering critical aspects of The Companies Act, 2013, followed by Past President – ICSI, Late B. P. Dhanuka Memorial Group Discussion on FAQ on The Companies Act, 2013 on 14.9.2014. During the mega event faculties having extensive experiences on different areas on the Companies Act, 2013 were invited to share their practical knowledge to the participants. The entire programme covered areas like, "Disclosure Requirements, Board and Committee Meetings, Company Law Settlement Scheme, Corporate Social Responsibility and the Chapter V (Deposits) & Chapter VIII (Dividend), Chapter XII (Managerial Remuneration), Chapter XI (Appointment & Qualification of Directors), Chapter VII (AGM, E-Voting, Postal Ballot), etc. under the Companies Act, 2013.

On 14.9.2014 there was a panel of professionals at the Group Discussion on FAQ on The Companies Act, 2013. The main focus of the programme was to address on the critical aspects of the Act by a panel of experts from Eastern Region.

#### Investor Awareness Programme

EIRC-ICSI in association with the Department of Commerce & Commerce Alumni Association, University of Calcutta, organized an Investor Awareness Programme on 18.9.2014 at University of Calcutta, College Street Camus, Kolkata. Prof. Arun Kumar Basu, Senior Professor, Dept of Commerce and President, Commerce Alumni Association, University of Calcutta chaired the programme. Chandan Kumar, Assistant Registrar of Companies, Eastern Region, Ministry of Corporate Affairs and Dr. Ashish Kumar Sana, Professor, Dept. of Commerce, University of Calcutta were the Guest Speakers. There was a question-answer session where the Guest Speakers replied the queries raised by the participants. A background material titled "Guide to Investors" along with programme kit was distributed to the participants. Around 110 professors and lecturers from different colleges under university of Calcutta attended the programme. The programme was sponsored by Investor Education & Protection Fund, Ministry of Corporate Affairs, Government of India.



## Career Awareness Programmes (CAP)

ICSI-EIRC conducted two Career Awareness programmes at Nipendra Nath Girls High School, Tollygunge, Kolkata and Netaji Nagar College, N.S.C. Bose Road P.O.-Regent Estate, Kolkata on 25.7.2014 and 30.8.2014 respectively. During the programme the participants were addressed and informed about the Profession of Company Secretaries and the structure of the course, enrolment procedure, fees structure, duration of course, requirement of training and examination procedure and various online processes relating to registration, examination enrolments, e-learning & e-library facilities of the Institute and also oral coaching facilities at the Eastern India Regional Office. A brochure on Career as a Company Secretary was distributed to all the participants and the teachers who attended the session. The queries raised by the participants were also clarified by the speaker. A large number of students attended the programme.

On 15.9.2014 the Heritage School, Kolkata organised Career Awareness Fair and Seminar on professional Education targeting students of classes XI & XII in and around Kolkata. CSI-EIRC attended the Fair. The official from institute shared the professional know-how with students for conscious decision-making about their careers with reference to CS Course while addressing the students at the seminar. He also touched upon various areas including Goal setting & stepwise guide - how to proceed and prepare from now; about ICSI and CS Course; Study support provided by ICSI for pursuing CS course; Job opportunities; the cut off marks/ Entrance requirements to get admission into course, etc. by Power Point Presentation to name a few. A brochure explaining Career on Company Secretary was distributed to all the participants.

## RANCHI CHAPTER Investor Awareness Programme

On 24.9.2014, Ranchi Chapter of EIRC of the ICSI organised an Investor Awareness Programme under the aegis of Investor Education and Protection Fund, Ministry of Corporate Affairs, Govt. of India at Oxford Public School, Samlong, Ranchi. Jacob C. J. Principal, Oxford Public School, Ranchi in his opening address put focus on the importance and benefits of investment in proper channels and avenues. Swadhin Barua, Official Liquidator, Ministry of Corporate Affairs, Government of India gave an overall idea about several beneficial and safer investment policies and methods like Fixed deposits (mostly in Nationalised banks), Government Insurance Policies and Schemes, Demat Account, Investment in shares etc. He emphasised the participants to keep themselves abreast of the information about their investments and read the prospectus and other important materials before making investments. He said that these type of programmes serve as a message to the public about the importance of making safe investment choices and asked the participants to pass on this message to others so that they can also be prudent in their investment choices.

## NORTHERN INDIA REGIONAL COUNCIL

### GURGAON CHAPTER Full Day Webinar

Gurgaon Chapter organized a Full Day Webinar on 29.08.2014. The topic of the Webinar was 'Company Secretaries – Enhanced Responsibilities.' The Webinar was attended by Members and Students.

## SOUTHERN INDIA REGIONAL COUNCIL

### BANGALORE CHAPTER Investor Awareness Programme

An Investor Awareness Programme was organized at Hospet on 2.8.2014 at Rotary Hall Auditorium, Station Road, Hospet. Around 28 persons attended the meeting. A representative of Bangalore Chapter of ICSI in his welcome address briefly explained about the Investor Awareness Programme, the purpose of organizing such programmes which is largely in the interest of small investors and to educate them about the various investment options available and the precautions to be taken while investing in stock market.

The Managing Director, Ultimate Investments Private Limited, Bangalore while talking on the topic Investment Need, Options and Precautions explained the audience the difference between Savings and Investments, Investment and Trading, about the stock market, various types of investment options available. He also explained when one should invest in the stock market and when exit from it. He also dealt in detail with the precautions an investor should take since the money invested by the investor is hard earned and hence should be carefully invested for appropriate growth.

President, Karnataka Mutual Fund Advisors Association, Bangalore spoke on various schemes and options available under Mutual Fund which is more beneficial to an ordinary retail investor who is unable to understand the market mechanism clearly. The speaker dealt with in detail about investment in "Growth" Funds and "Dividend" yielding funds. He explained the difference and importance of different kinds of mutual fund scheme.

Thereafter, the speakers replied the queries raised from the audience. The question- answer session was participative and interactive. The participants appreciated the programme and efforts taken in this regard.



# News From the Institute & Regions

## Joint Half Day Seminar on “GST”

On 5.8.2014 Bangalore Chapter of the ICSI and Bangalore Chamber of Industry & Commerce jointly organised a Half Day Seminar on “GST”. Kameswari Subramanian, IRS Chief Commissioner, Central Excise & Customs, Bangalore was the Chief Guest. The Seminar started with welcome Address by A N Chandramouli, President, BCIC and P V Srinivasan, Chairman, Indirect Taxes Expert Committee, BCIC gave the Introductory Remarks.

Sumit Dutt Mazumder, Former Chairman, Central Board of Excise and Customs delivered the Keynote Address on 'GST implementation - Current Status and Challenges Ahead'.

Suresh Senapaty Executive Director & CFO, Wipro Limited and Ajay Seth, IAS Commissioner of Commercial Taxes, Government of Karnataka addressed the delegates on Industry Perspective and State's Perspective, respectively.

D.P. Nagendra Kumar, IRS Additional Director General, Audit - National Academy of Customs Excise and Narcotics, Bangalore gave a Presentation on: "Challenges in GST with Regard to Supply of Services and Interstate Movement of Goods and Services".

G Shivadass Co-Chairman, Indirect Taxes Expert Committee, BCIC was the Chairman of the Panel Discussion. Sumit Dutt Mazumder, Suresh Senapaty, Ajay Seth, IAS, D.P. Nagendra Kumar, IRS, P V Srinivasan and S Venkataramani were the panelists.

The Seminar ended with Concluding Remarks by the Chairperson, Bangalore Chapter of the ICSI.

## Investor Awareness Programme

Bangalore Chapter of the ICSI organized an Investor Awareness Programme under the aegis of Investor Education and Protection Fund, Ministry of Corporate Affairs on 11.8.2014 wherein around 48 persons were present. The Programme was presided over by Chief Guest M.R. Bhat, ROC, Karnataka, and Chief Speaker K.G. Krupal, Author, Stock Broker and Columnist. Past Chairman and Management Committee Member in his welcome address thanked the participants from Bangalore Chapter of ICSI for attending the Programme. He opined that this programme will go a long way to educate young minds on the necessity of savings and good investment. The representative of the Bangalore Chapter of the ICSI briefly explained about the Investor Awareness Programme, the purpose of organizing such programmes which is largely in the interest of small investors and to educate them about the various investment options available and the precautions to be taken while investing in stock market.

M.R. Bhat, ROC, speaking on the occasion appreciated Bangalore Chapter for Conducting such Programs for the benefit of Investors.

Chief speaker Krupal, speaking on the occasion explained the

audience about the stock market, various types of investment options available, how to choose a good investment, the basic features of a good investor. He also explained when one should invest in the stock market and when exit from it. His talk was filled with updated statistics on the stock market and full of information to the audience. His address was well received by the audience which was also evident from the various questions and doubts raised by the audience. He further explained on the various steps taken by the Ministry of Corporate Affairs and the Office of the Registrar of Companies, Karnataka to help, assist the small and retail investors in making their investment safe. He advised the people to visit the websites of Ministry of Corporate Affairs, Investors Education and Protection Fund for information about the companies, promoters and others involved in the stock market activities. He said that if there is any complaint against any company, the investor can visit the MCA website and upload his complaint without any fees or charges which will be taken up by the respective Registrar of Companies for proper and appropriate disposal. Thereafter, the speaker replied several queries asked by the 48 persons present at the Programme.

## Study Circle Meeting on Critical Analysis of Acceptance of Deposits Rules, 2014 and Its Impact on Industry

On 19.8.2014, the Bangalore Chapter of the ICSI organised a Study Circle Meeting on “Critical Analysis of Acceptance of Deposits Rules, 2014 and its impact on industry” at the Chapter premises. DGM & Company Secretary, ACE Designers Limited, Bangalore was the speaker who started his presentation with Funding Options and explained the provisions of public deposits applicable to a Company, applicability of deposit rules. He then dwelt on Exclusion of deposit definition and new definition and its impact. He also touched upon who can accept deposits and its differentiation and procedure. Later he explained the penalty, practical issues, compliances of outstanding deposits and also explained the recent notifications. The session was lively, interactive and well received by the members present.

## Inauguration of New Building of Bangalore Chapter

Bangalore Chapter of the ICSI has constructed a spacious building measuring about 20,686 sq.ft. at No.5, 1st Main Road, Rajajinagara Industrial Estate, West of Chord Road, Rajajinagara, Bangalore – 560 044. It has a large Auditorium with state-of-the-art facilities and a seating capacity for about 150 persons. Spread over 3 floors the new building has six class rooms each to accommodate about 50 students. The new building also has an exclusive library, meeting room and cafeteria.

The new building was inaugurated by D V Sadananda Gowda, Hon'ble Minister for Railways, Government of India in the presence of Padma Vibhushan M N Venkatachaliah, Hon'ble Former Chief Justice of India who was the Guest of Honour.



Congratulating the Bangalore Chapter and CS fraternity, D V Sadananda Gowda wished that the building becomes a landmark building for learning and corporate governance in not only in Bangalore but also in the entire country. He assured full support from the Government for the Institute, whenever required. He urged the Company Secretaries to be the 'legal and moral compass' of not only corporates but also the Society and Nation as a whole.

M N Venkatachaliah, Former Chief Justice of India in his address said that he is honored to be a witness at the inauguration of the new building of Bangalore Chapter of ICSI. Congratulating the members on this achievement, he said, in this technology driven environment, it is necessary for corporate administrators and managers like Company Secretaries to keep pace with the developments and 'grow up in hurry' for a better future. He also confirmed that there is no dearth of potential to achieve it.

Speaking on the occasion, CS R Sridharan, President, ICSI congratulated the team of Bangalore Chapter for building a big, spacious and one of its kind buildings of the ICSI said that, with over 1400 members and over 10000 students, Bangalore Chapter is poised to grow faster and he hoped that the new building will be a Centre of Learning for all those who intend to take up the study of Company Secretary ship. He also said the Central Council of ICSI is planning to start an Integrated full time CS course at the new building of Bangalore Chapter on the lines of the newly launched full time course at CCGRT, Navi Mumbai. He promised to take appropriate steps in this direction.

## COIMBATORE CHAPTER Independence Day Celebration

Coimbatore Chapter celebrated 68<sup>th</sup> Independence Day on 15.08.2014 at its premises.

## Professional Development Programme – Lecture on RTI Act

On 20.08.2014 the Chapter organized a Professional Development Programme - Lecture on RTI Act at its premises. M Ravi Sundar, Advisor- Media and Process, 5<sup>th</sup> Pillar, Coimbatore Chapter explained the need for use of Right to Information Act. He also explained the procedures for seeking information under the Act like forms to be used, the authority to whom the application be submitted, time limit for getting the information, appeal procedures, etc. The session was very informative and appreciated by the gathering at large. The queries raised by the participants were well addressed by the Speaker. The programme was well attended by 32 participants.

## Career Awareness Programmes

Coimbatore Chapter conducted Career Awareness Programmes in the following Colleges & Schools during the month of August 2014. Sreejith. P, Executive Officer, ICSI-Coimbatore Chapter was the speaker in all the Career Awareness Programmes. The speaker

explained the course in detail and also highlighted the importance of CS course in the new economic scenario. The students were apprised of the mode of registration, syllabus, structure of the course and also the avenues available after completion of the Company Secretaryship Course both in employment and in practice. Further, the speaker enumerated the emerging areas of practice and the changing role of Company Secretary, the profession of CS and its wide opportunities in various sectors were also explained by him. Sreejith also highlighted the compulsory appointment of company secretary and Key managerial personnel as per Companies Act 2013. He also informed the OMR and Online examination mode for CS Foundation Programme, placement services and oral coaching facilities being provided to the students. More than 1100 students attended the Career Awareness Programmes which were held as under: On 21.8.2014 at Government Arts College, Race Course Road, Gopalapuram, Coimbatore and at Bishop Ambrose College, Ghungam Bye- Pass, Ramnathapuram, Coimbatore. Nearly 80 students from M.com [1<sup>st</sup> & 2<sup>nd</sup> year] and 400 students from Dept. of Commerce and Dept. of Corporate Secretaryship respectively attended the programmes. On 22.8.2014 at Michael Job College of Arts and Science For Women, Ravathur P.O, Near Sulur Boat Lake, Sulur, Coimbatore and at VLB Janakiammal College of Arts and Science for women, Ravathur. PO, Sulur, Coimbatore. Nearly 250 students from Dept. of Commerce including B. Com & M. Com and 90 students from M.com [1<sup>st</sup> & 2<sup>nd</sup> year] respectively attended the programme. On 27.8.2014 at Chinmaya Vidyalaya Matriculation Higher Secondary School, Vadavalli, Coimbatore and at the Suburban Higher Secondary School, Ramnagar, Coimbatore. Around 140 students from 11<sup>th</sup> & 12<sup>th</sup> Std. Commerce stream and 170 students from 11<sup>th</sup> & 12<sup>th</sup> Std. Commerce stream respectively attended the programmes.

## Professional Development Programme on Companies Act, 2013

On 26.08.2014, Coimbatore Chapter of SIRC of ICSI organized a one day Professional Development Programme on various topics of the Companies Act, 2013 at Coimbatore. The topics covered were as under: "Directors, Meeting & New concepts under the Companies Act 2013" "Circulars & Notifications under the Companies Act 2013" "Committees & Policies under the Companies Act 2013" "Issue of Securities – Issues". Eminent speakers with practical exposure handled the topics. The programme was actively attended by about 90 participants including members, students and other corporate executives.

## KOCHI CHAPTER Meet the Regulator Programme

Kochi Chapter of SIRC of the ICSI organized a Meet the regulator Programme on 4.9.2014, at Kochi. N. Gopalakrishnan, Regional Provident Fund Commissioner, Kochi, made a detailed deliberation on the various compliances under EPF.



# News From the Institute & Regions

## Participation at Young Entrepreneur's Summit 2014 (YES)

Kochi Chapter made its participation at Young Entrepreneur's Summit 2014 (YES). The summit, ventured by Government of Kerala with the support of Kerala State Industrial Development Corporation (KSIDC) and Industries Department, was organised on 12.9.2014 at Kochi. This international summit is a flagship event to establish Kerala as a vibrant Entrepreneurial State, and aimed at fostering the growth of entrepreneurship in young minds and creating an enabling environment for start-ups in the state across all sectors. The summit was inaugurated by K. Babu, Hon'ble Minister (Fisheries, Ports & Excise), Government of Kerala. Thirty students participated from the Chapter.

## Professional Development Programme

Kochi Chapter in association with the Cochin Chapter of Institute of Cost Accountants of India, organized a Professional Development Programme on Changes in Service Tax Law by Finance Act 2014 on 16.9.2014, at Kaloor. CA Veeramani P.M., RGN Price and Co, delivered an excellent speech on the topic.

## MADURAI CHAPTER Half A Day Seminar on FEMA

On 27.09.2014 CS R. Sridharan, President, the ICSI inaugurated the half Day Seminar on FEMA and its various facts. President in his inaugural address explained in-depth capacity building, opportunities available for the students and for the Members in non-core areas of practice that are gaining importance off late. He insisted that members should also focus and concentrate in non-core areas like FEMA, Labour Laws, SEBI related matters, etc., to succeed in the professional career. The speaker on the occasion elaborately dealt with various facets of FEMA including the practical aspects relating to day to day business activities. The seminar was attended by around 60 delegates including members and students.

## Career Awareness Programme

On 12.09.2014 Madurai chapter organized a Career Awareness Programme at Madurai Madura College, Madurai. Chairman, Madurai chapter was the speaker on the occasion who in his address explained about the CS course, structure, fees, employment opportunities and avenues in practice for the students. Again on 13.09.2014 the career awareness programme was held at Madurai Senthamari College of Arts & Science. Kumararajan, (Former Chief Manager, Indian Bank) in his address threw light on the importance of CS Programme, Role of Company Secretaries and Career Opportunities in the same field. Around 150 Students from B.com and BBA first year courses attended the career awareness programme. Yet again on 15.9.2014 the career awareness programme was held at Madurai Senthamari

College of Arts & Science. Around 100 students from BA and B.Sc. courses participated. Another career awareness programme was held on 16.9.2014 at Madurai Thyagarajar College. Special Address was given by Kumararajan, (Former Chief Manager, Indian Bank). In his address he explained about CS course - new syllabus, pattern of examination and new training structure for the CS course and employment opportunities for the students. Around 150 students participated from B.Com., B.B.A. courses. In all the career awareness programmes T. Raja, Chapter office in charge, explained the Course structure and facilities available in the chapter office, on-line admission procedures. Around 150 students participated from B.Com., B.B.A. courses.

## Investor Awareness programme

An Investor awareness programme was held on 19.9.2014 at Alagappa Institute of Management, Karaikudi which was organised by Madurai Chapter of ICSI and the programme was sponsored by Investor Education and Protection Fund, Ministry of Corporate Affairs, New Delhi. The programme was inaugurated by Kaliyamoorthy, Convener, Vice Chancellor Officiating Committee, Alagappa University, Karaikudi. The First session was handled by Financial advisor VEEYAAR & Co., Karaikudi who in his address explained the techniques to be adopted by the Fresh Investors and by the seasoned investors. He also spoke about the procedure for demat account opening, associated risks and opportunities in capital market. The Second Session was handled by Director, M/s Alice Blue, Chennai. The speaker explained the advantages of Commodity Market products for the benefit of investor community as a whole. The programme was attended by around 160 persons including student community of management studies, lecturers, professors, etc.

## MYSORE CHAPTER Career Awareness Programmes

On 22.08.2014 Mysore Chapter of SIRC of the ICSI organised a Career Awareness Programme at Basudev Somani College, Mysore. Around 60 students from various streams attended the programme. Chairman, Mysore Chapter explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc. He also highlighted the importance of making the right career choice so as to be successful in life. Brochures containing brief details of the Company Secretaryship Course were distributed to the participants.

On 26.08.2014 the Career Awareness Programme was held at Vidya Vardhaka PU College, Mysore. Around 100 students from various streams attended the programme. Past Chairman of the Mysore Chapter explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc. Institute's video on the CS course and opportunities was played during the session. Brochures containing brief details of the Company Secretaryship Course were distributed



to the participants. Chapter Chairman also clarified various doubts and issues those were raised by the participants. He also thanked the management for providing the Institute this opportunity.

On 04.09.2014 the career awareness programme was held at Mysore Institute of Commerce & Arts, Mysore. Around 60 students from various streams attended the programme. The speaker explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training, etc. She also highlighted the importance of making the right career choice so as to be successful in life. She then spoke about the role of Company Secretary and importance of the profession of Company Secretary in the changing economic scenario. Brochures explaining brief details of the Company Secretaryship Course were distributed to the participants. On the occasion various doubts and issues those were raised by the participants were also clarified by the speaker who also thanked the management for providing the Institute this opportunity.

On 11.09.2014 the Career Awareness Programme was held at Marimallappa's PU College, Mysore. Around 113 students from Commerce stream attended the programme. Past Chairman, Mysore Chapter of ICSI explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc. He also highlighted the importance of making the right career choice so as to be successful in life. He then spoke about the role of a Company Secretary and importance of the profession of Company Secretary in the changing economic scenario. Brochures explaining brief details of the Company Secretaryship Course were distributed to the participants. He speaker also clarified various doubts and issues those were raised by the participants and thanked the management for providing the Institute this opportunity.

On 16.09.2014 the Career Awareness Programme was held at Seshadripuram Degree College, Mysore. Around 50 students from B. Com., & BBM attended the programme. Chairman, Mysore Chapter of ICSI was the speaker who explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training etc. He also highlighted the importance of making the right career choice so as to be successful in life. He then spoke about the role of a Company Secretary and importance of the profession of Company Secretary in the changing economic scenario. Brochures containing brief details of the Company Secretaryship Course were distributed to the participants. The speaker also clarified various doubts and issues those were raised by the participants and thanked the management for providing the Institute this opportunity.

On 17.09.2014 the Career Awareness Programme was held at MCM First Grade College, Mysore. Students from B. Com., & B.B.M., streams attended the programme. Chairman, Mysore Chapter of ICSI was the speaker on the occasion who explained in detail the course offered by the Institute and the criteria for eligibility for the course, examination, requirements of training, etc. He also

highlighted the importance of making the right career choice so as to be successful in life. He also explained the role of a Company Secretary and importance of the profession of Company Secretary in the changing economic scenario. Brochures containing brief details of the Company Secretaryship Course were distributed to the participants. The speaker also clarified the doubts and issues those were raised by the participants and thanked the management for providing the Institute this opportunity.

## Seminar on Companies Act 2013

Mysore Chapter of the ICSI conducted a One Day Seminar on the Companies Act, 2013 at its premises on 31.08.2014. Amithraj A N, Senior Manager, PWC and the Executive Chairman, 6<sup>th</sup> Energy Technologies Pvt. Ltd., were the resource persons for the seminar.

The Seminar covered the topics such as Raising Funds, Loans, Investments, Overview of Managerial Remuneration & Corporate Social Responsibility under the Companies Act 2013. The programme was quite interactive with active participation from various participants. The programme was well attended by the Members & Students from various parts of Karnataka.

## SALEM CHAPTER Seminar on the Companies Act, 2013 and Capital Market

Salem Chapter of the ICSI organised a one day Seminar on 26.09.2014 at Salem on The Companies Act, 2013 and Capital Market.

**Inaugural Session:** Chairman, City Union Bank Ltd., Kumbakonam the Chief Guest on the occasion in his address, emphasised that even though there are some lapses in the Companies Act, 2013, most of the provisions in general require more compliances by the corporates. In respect of Banks, there are three regulators viz. Ministry of Corporate Affairs, SEBI and RBI.

In his presidential address, CS R. Sridharan, President, The ICSI stressed that the introduction of the provisions of the Companies Act, 2013 is the need of the hour. He outlined various provisions introduced in the new Companies Act. He said that Company Secretaries should use the opportunities available in the new Act and get benefit out of it. He further narrated the efforts taken by the Central Council of the Institute to solve certain anomalies those were required to be addressed. DGM, The Karur Vysya Bank Ltd., Karur delivered the key note address while Chairman, CII Salem District Council, Salem delivered the special address. On this occasion a student of Salem by name S. Sri Ra, who was All India Topper (Rank 1) in Executive Programme (New Syllabus) Examination held in June 2014 was honoured and received a shield from the President.

**Technical Session 1:** P.S. Suman, Corporate Attorney, A.K. Mysamy & Associates LLP, Coimbatore & Chennai presented a



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paper on Compromises, Arrangements & Amalgamations. The presentation explained the difference in the provisions between the Companies Act, 1956 and 2013. The queries raised by the delegates were satisfactorily replied by the paper presenter.

**Technical Session 2:** Practising Company Secretary, JMACS Associates, Coimbatore presented a paper on Creation, Modification and Satisfaction of Charges and e – filing of Returns under the Companies Act, 2013. The speaker explained the steps to be followed by the Bankers while getting the charges created and modified and more vigil to be taken care of. The delegates raised several queries and got the clarification.

**Technical Session 3:** R. Krupa Sankar, Assistant Manager, National Stock Exchange of India Ltd., Chennai presented a paper on Capital Market in the New Scenario. He explained the Capital Market aspects in perfect manner and made to understand clearly. About 100 delegates participated in the seminar.

## Career Awareness Programmes

In the afternoon of 26.09.2014, CS R. Sridharan, President, The ICSI had been to Vivekanandha College of Arts and Sciences for Women (Autonomous), Tiruchengode where he addressed the students about the prospects and the details of the Company Secretaryship course. About 500 girl students attended the programme. Chairman, Salem Chapter also spoke on the occasion.

Again on 21.8.2014, the Salem Chapter of the ICSI organised a Career Awareness programme at Mahendra Arts & Science College, Kalippatti (Po), Tiruchengode (TK.), Namakkal District for Commerce Department Students. Secretary of the Chapter explained briefly about the Institute, Regional Offices and Chapter and its functions. In addition, he also explained about the roles and responsibilities of Company Secretary, Prospects in employment and in Practice. Chapter In – Charge explained the stages & duration of the course, eligibility, fees structure, various cut-off dates, course curriculum, online registration, exam enrolments, oral coaching & library facilities available at the Chapter and the e-mode facilities available at the Institute’s website.

Around 275 students from B. Com., B.B.A., & M.B.A. participated and their doubts were clarified. The programme was presided over by Prof. Dr. Sundaravel, Principal of the College. All the arrangements for the programme was co-ordinated by Dr. B. Sudha, HoD and Dr. Selvaraj, Asst. Professor of Commerce Department of the college along with R. Sugavanam, Academic coordinator of Mahendra Institute of Engineering & Technology, Tiruchengode.

## Members and Students Meet with President

In the evening of 26.09.2014, CS R. Sridharan, President, The ICSI addressed the Members and Students of Salem Chapter. He in his address advised the students to take utmost care and devote more attention in the study of CS Course and come out successfully.

He also advised the members to use the opportunities available under the new Companies Act, 2013 and get benefit out of it. He appreciated the efforts taken by the members and students of the Salem Chapter in conducting the seminar by planning meticulously and other programmes and advised them to be together always to achieve their goals. Treasures, Salem Chapter read out the activities undertaken by the Chapter during the Year 2013-14. Chairman, Salem Chapter also spoke on the occasion. Around 35 Members & Students participated in the meet.

## Professional Development Programme on CSR – Role of Professionals & Annual Returns

A Professional Development Programme on CSR – Role of Professionals and Annual Returns was organized by the Salem Chapter of SIRC of the ICSI on the 3.9.2014 at Salem. Around 35 members and students participated in the programme. The programme was inaugurated by the Chairman, SIRC of the Institute as the Chief Guest followed by two Technical Sessions – one on “CSR – Role of Professionals” by Secretary of Salem Chapter and the other on “Annual Returns” jointly by Members of the Salem Chapter. Chairman, SIRC of the ICSI, in his inaugural address drew the attention of the student members as how to get through the examinations. He gave some tips like dreaming that they have become the Company Secretary so that they could get the motivation which will push them further towards success. He also advised them to attend various programmes which will give an identity to them among those present and people could easily remember them for their talents and placements. He then advised the members of the Chapter to make the visibility of the profession by reaching out to the schools and colleges beyond the town limits so that the rural students would be aware of the Company Secretaryship Course and interested students could pursue with ease. He also stated that the Chapter need not confine its activities at the Chapter premises alone but to reach out to the students say in college premises on Sundays or other holidays based on convenience of both the students and the members of the Chapter. He felt that this would go a long way in enhancing the visibility of the Institute and also enlarge the number of students pursuing the Company Secretaryship course. He was happy that small chapters like Salem could do well because of the cohesive student strength and their relationship with the Chapter. Secretary of the Salem Chapter highlighted the concept of Corporate Social Responsibility with particular reference to the public sector. Started as a Government directive to the public sector to take care of the development of their peripheries, gradually the concept gets extended to the private sector also owing to the huge funds available, professional management of the schemes to be implemented, freedom of the Board to identify schemes, etc. The Corporate Social Responsibility under section 135 of the Companies Act, 2013 read with Schedule VII, reporting of details of implementation of CSR



activities out of 2% of average net profits earned by the corporates during the previous consecutive three years would go a long way in the development of the rural areas in the country and would substitute the efforts of the Government in addressing key issues like eradication of poverty, preventive health, etc.

Members of the Chapter jointly gave a presentation on the “Annual Returns” and highlighted various aspects of the Annual Return like, the nature, the form in which such returns are to be filed with the ROC, the details to be furnished, the time of completion and filing, filing fees, consequences of non-filing etc. Reference to the Companies Act 1956 provisions as a cross reference were also made and the participants appreciated the same.

## VISAKHAPATNAM CHAPTER

### Investor Awareness Programme on Recent Developments in Capital Markets

An Investor Awareness Programme on “Recent Developments in Capital Markets” was organized by the Visakhapatnam Chapter of SIRC of the ICSI on 27.8.2014 at BVK College, Visakhapatnam in which around 100 persons participated. Chairman of SIRC of the ICSI presented the key note address. He described the situation that has changed with the introduction of online trading in stock exchanges and investors need not visit the stock exchanges but need only to key in online or trade through the stock brokers through demat account. He also highlighted the role and functions of the National Stock Exchange of India Limited and stated that the investors have to be very careful in identifying the type of investment they are interested, understand the instrument and the pros and cons and take a final decision without being influenced by others. There was a good and lively interaction from the participants and their doubts were clarified.

### Half Day Seminar on Board Committees and Loans to Directors

A half-day Seminar on “Board Committees and Loans to Directors” was held on 19.9.2014 organized by Visakhapatnam Chapter of SIRC of the ICSI at Chapter premises. CS Jagan Mohan Rao PVS, Past President, the ICSI was the speaker who started with Section 149, Section 149[6], women director, Section 149[12], Director, Board & Board Committees. Also explained Audit Committees, Section 178, CRS Section 135, Full Time Director, Section 161, Code of Conduct, Independent Directors, Re appointment, Resignation or Removal, Internal Audit Section 138 Rules – R-IX, Auditor to attend AGM Section 146 and concluded with Section 185, Rule – XII-10. The session was very lively and interactive and well received by the Members present and their doubts were clarified.

## Career Awareness Programmes

The Chapter conducted a number of career awareness programmes as under:

On 23.8.2014 at MR College for Women, Vizianagaram, PRV Sivaramakrishna, Chapter in-charge addressed the gathering. On 27.8.2014 at NBM Law College, Visakhapatnam, PRV Sivaramakrishna, Chapter in-charge and PVG Rao addressed the gathering. Again on 27.8.2014 Chairman of SIRC of the ICSI and PRV Sivaramakrishna, Chapter in-charge addressed the programme at DVK Degree and PG College, Visakhapatnam. On 8.9.2014 the programme was held at Sri Gayatri Degree College, Bobbili, PRV Sivaramakrishna, Chapter in-charge addressed the programme. On 16.9.2014 in Bobbili at Indiragandhi Degree College and at Vidwan Degree College, PVR Sivaramakrishna, Chapter in-charge addressed the programmes. On 18.9.2014 at Dr. L. Bullayya Degree College, Visakhapatnam, CS [Dr.] Jagan Mohan Rao PVS, Past President the ICSI and PRV Sivaramakrishna, Chapter in-charge addressed the participants. On 20.9.2014 PRV Sivaramakrishna, Chapter in-charge and PVG Rao, addressed the programme at CDS Junior & Degree College Nellimarla.



## WESTERN INDIA REGIONAL COUNCIL

### AHMEDABAD CHAPTER Investor Awareness Programmes

An Investor Awareness Programme was organized by the Chapter on 7.8.2014 at School of Commerce, Gujarat University, Ahmedabad by The Ahmedabad Chapter of WIRC of ICSI and Ministry of Corporate Affairs. The speaker of the programme was S. N. Misra, ROC, Ahmedabad, Dr. M. N. Patel, VC, Gujarat University, Senior CS Member & M. H. Sahoo, Registrar, Gujarat University. The Treasurer, Ahmedabad Chapter was the Co-ordinator for the programme. The Investor Awareness Programme was attended by 114 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.

Again on 23.8.2014 an Investor Awareness Programme was organized at Veer Narmad South Gujarat University, Surat. The speakers of the programme were Senior CS Member and S. N. Misra, ROC, Gujarat. The Treasurer, Ahmedabad Chapter was the Co-ordinator for the programme. The Investor Awareness Programme was attended by 104 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.



# News From the Institute & Regions

## Independence Day Celebration

The Ahmedabad Chapter of WIRC of the ICSI celebrated 68th Independence Day on 15.8.2014, at the Chapter premises. The National Flag and ICSI Flag were hoisted in presence of senior members, past chairmen, managing committee members, students and staff members of Ahmedabad Chapter. The Senior CS Member of Ahmedabad Chapter and Treasurer, Ahmedabad Chapter of WIRC of ICSI, unfurled the National Flag & ICSI flag. Thereafter, the National Anthem was sung by one and all present.

## Professional Development Programme (PDP) on Industry Analysis

On 22.8.2014 the Chapter organized Professional Development Programme at its premises. Around 110 CS students registered for the programme. The session on the "Industry Analysis" was addressed by Belur Baxi, Professor, Gujarat Law Society, Ahmedabad. The session was very informative and was a great learning experience to all the participants. 01 PDP certificate was given to all the participants.

## Career Awareness Programmes

The Ahmedabad Chapter of WIRC of ICSI conducted its 1st Series of Career Awareness Programmes from 04.08.2014 to 09.08.2014 in different Schools and Colleges of Ahmedabad by CS Members as per the details given hereunder: On 4.8.2014 the career awareness programme was held at A-One Xavier's English College, Naroda, Ahmedabad, at Sabarmati Arts and Commerce College. On 5.8.2014 at A-One Xavier's English College, Naroda, Ahmedabad, at Airport School, Ahmedabad, at Sarvajani Madhyamik Shala, Sarkhej and A G High School & G D Parikh Higher Secondary School. On 6.8.2014 at Kendriya Vidyalaya Ahmedabad Cantt. On 7.8.2014 at Diwan Ballubhai Madhyamik Shala, Paldi, at Swami Vivekanand Vidyalaya, Naroda, at Sheth Shri H H Patel High School, at Arjun English High School and at Smt. A P Patel Arts & Late Shree N P Patel Commerce College. On 8.8.2014 at Sheth Shri H H Patel High School, at Arjun English High School and at Smt. A P Patel Arts & Late Shree N P Patel Commerce College. On 9.8.2014 at Shaleen Vidyalaya, Naroda. During the Career Awareness Programmes, the Ahmedabad Chapter got an opportunity to impart knowledge about Company Secretaryship course to the students of different Schools and Colleges. The career awareness with regard to CS course was given to the students and CS Members shared the knowledge and importance of Company Secretaries Course in the development of the Company Secretary profession. They also expressed their views on the course contents and future prospects and also its importance in the present time. They informed students regarding the fee structure and benefits of CS course. The students were also briefed about the placement assistance provided by the Chapter/RC/ICSI. They briefed about the cut off dates for registration and examination enrolment and about various trainings. The students were given awareness

regarding the website of the ICSI for information regarding online registration to CS courses and other details.

## INDORE CHAPTER Programme on XL in Excel

On 2.8.2014 the Chapter conducted a programme on XL in Excel. The speaker explained the need and importance of the use of excel to the Members of the ICSI. He also stated various Formulae of Excel which are general but which many Professionals are not aware of and their usages. He also stated the general errors being made by the Professionals and also the precautions to be taken.

## Intellectual Property Rights

On 26.7.2014, Indore Chapter of WIRC of the ICSI organized a programme on Intellectual Property Rights. The speaker explained various provisions of Intellectual property Rights in a very simple Language. He also explained the practical difficulties being faced by the Practicing Professionals working in this area. He also educated the members about various offices of the concerned authorities and its Jurisdiction.

## PUNE CHAPTER Master Classes on Company Law

Continuing with the sessions of Master Class series, next session of the class was organized on 30.8.2014 on Corporate Governance & Corporate Social Responsibility. The Programme was organized at MCCIA, Pune which was attended by 67 delegates. Two (2) PCH were awarded to the members who attended the session & students were awarded four (4) PDP hours.

Another session was organized on 20.9.2014 in which topics viz. Opportunities and Threats for Company Secretaries & Registration of Charges were covered. The Programme was organized at MCCIA, Pune which was attended by 26 delegates. Two (2) PCH were awarded to members who attended the session and students were awarded four (4) PDP hours.

## Full Day Workshop on Labour Laws

Pune Chapter organized a Full Day seminar on "Labour Laws" which was held on 13.09.2014 at Pune. This programme was attended by 71 delegates. The session was very informative and well appreciated by the gathering. Four (4) PCH was awarded to the members and students were awarded eight (8) PDP for attending the programme.

## Campus Placement for Articleship

Pune Chapter organized Campus placement for CS Final/ Intermediate/Executive Programme students on 20.9.2014 at Pune Chapter of ICSI, Pune. Many PCS Firms/Companies participated in the campus placement.



# भारत का राजपत्र The Gazette of India

असाधारण

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NEW DELHI, TUESDAY, SEPTEMBER 9, 2014/HADHA 18, 1936

## THE INSTITUTE OF COMPANY SECRETARIES OF INDIA

### NOTIFICATION

New Delhi, the 9th September, 2014

#### Elections to the Council and the Regional Councils, 2014

**No. 1 of 2014.**—Whereas the duration of the 11th Council and the Regional Councils shall expire on 18th January, 2015, the elections for constitution of a new Council and Regional Councils shall be held as notified hereunder:

1. In pursuance of Section 9(2) (a) of the Company Secretaries Act, 1980 (hereinafter 'the Act') read with Rules 3 and 4 and other applicable Rules of the Company Secretaries (Election to the Council) Rules, 2006 (hereinafter 'the Rules') and the relevant provisions of the Company Secretaries Regulations, 1982 (hereinafter 'the Regulations'), the timelines for various activities for the conduct of elections to the Council and Regional Councils in the year 2014 shall be as under:

Sl. No.	Activity	Time, Day and Date	Place/Venue
1	Issue of notification for purposes of Rule 4 of the Rules.	Tuesday, the 9th September, 2014	Gazette of India
2	Filing of nominations [Rules 4 (2) (a) and 9]	Not later than 6.00 PM on Monday, the 6th October, 2014	Office of the Returning Officer
3	Scrutiny of nominations [Rule 4 (2)(b)]	Saturday, the 18th October, 2014 at 11.00 AM	ICSI House, 22 Institutional Area, Lodi Road, New Delhi-110 003
4	Withdrawal of nominations [Rules 4(2) (c) and 14]	Not later than 6.00 PM on Tuesday, the 28th October, 2014	Office of the Returning Officer
5	Polling [Rule 4 (2) (d)]	<b>Delhi and Mumbai:</b> Friday and Saturday, the 12th and 13th December, 2014 from 8.00 AM to 8.00 PM <b>Other Places:</b> Friday, the 12th December, 2014 from 8.00 AM to 8.00 PM	Assigned election booths
6	Receipt of applications for permission to vote by post [Rules 4(2) (e) and 28]	Monday, the 13th October, 2014 upto 6.00 PM	Office of the Returning Officer
7	Receipt by post of ballot papers back from voters [Rule 4 (2) (f)]	Friday, the 12th December, 2014 upto 4.00 PM	Post Box
8	Commencement of counting of votes [Rules 4(2) (g) and 32]	Monday, the 22nd December, 2014 at 10.00 AM	ICSI-NIRC, 4, Prasad Nagar Institutional Area, New Delhi-110005
9	Declaration of results [Rules 4(2) (h), 35 and 36]	Thursday, the 25th December, 2014 or after counting is over, whichever is later.	Gazette of India

2. In pursuance of sub-rule (1) of Rule 9 of the Rules, the number of persons to be elected to the Council from different constituencies shall be as under:

Sl. No.	Persons to be elected	No. of Persons to be elected
1	Persons to be elected to the Council under Section 9(2)(a) of the Act	15 (Fifteen)
2	Persons to be elected to the Council under Schedule 3 read with Rule 8 and Schedule 1 read with Rule 3 from: Eastern India Regional Constituency Northern India Regional Constituency Southern India Regional Constituency Western India Regional Constituency	2 (Two) 5 (Five) 3 (Three) 5 (Five)

3. In pursuance of sub-regulation (1) of regulation 115 read with sub-regulation (1) of regulation 114 of the Regulations, the number of persons to be elected to different Regional Councils and reservation for seats for various States and Union Territories shall be as under:

Sl. No.	Regional Council	No. of Persons to be elected	Reservation
1	Eastern India Regional Council Comprising the States of Arunachal Pradesh, Assam, Bihar, Jharkhand, Manipur, Meghalaya, Mizoram, Nagaland, Odisha, Sikkim, Tripura and West Bengal.	6 (Six)	One seat each reserved for the States of West Bengal and Odisha
2	Northern India Regional Council Comprising the States of Delhi, Haryana, Himachal Pradesh, Jammu & Kashmir, Punjab, Rajasthan, Uttar Pradesh and Uttarakhand and the Union Territory of Chandigarh.	12 (Twelve)	One seat each reserved for the States of Delhi, Haryana, Punjab, Rajasthan, Uttar Pradesh and Union Territory of Chandigarh

3	Southern India Regional Council Comprising the States of Andhra Pradesh, Karnataka , Kerala, and Tamil Nadu and the Union Territories of Andaman and Nicobar Islands, Puducherry and Lakshadweep.	7(Seven)	One seat each reserved for the States of Andhra Pradesh, Karnataka, Kerala and Tamil Nadu
4	Western India Regional Council Comprising the States of Chattisgarh, Gujarat, Madhya Pradesh, Maharashtra and Goa and the Union Territories of Dadra and Nagar Haveli and Daman & Diu.	11 (Eleven)	One seat each reserved for the States of Gujarat, Madhya Pradesh and Maharashtra

4. In pursuance of Rules 9, 10 and 11 of the Rules, a member who is eligible and desirous to stand for election to the Council or a Regional Council of the Institute shall file nomination(s) in the form, as at **Annexure I** or **Annexure II**, as the case may be, so as to reach the Returning Officer, 'ICSI House' 22, Institutional Area, Lodi Road, New Delhi-110 003, not later than 6.00 PM on Monday, the 6th October, 2014 along with the statement in **Annexure III**, three passport size photographs and the demand drafts drawn in favour of the Institute of Company Secretaries of India towards the fees and deposits as under:

Sl. No.	Fees/Deposits payable along with nomination	Amount (₹)	
		For Council	For Regional Council
1	Fees (Rule 10)	25,000 (Twenty Five thousand only)	20,000 (Twenty thousand only)
2	Security Deposit (Rule 11)	20,000 (Twenty thousand only)	20,000 (Twenty thousand only)

**Clarification:** A member may file any number of nominations not exceeding ten for the Council and irrespective of the number of nomination(s) he has to pay a sum of Rs. 25,000 along with the nomination. A member may file any number of nominations not exceeding ten for the Regional Council and irrespective of the number of nomination(s) he has to pay a sum of Rs. 20,000 along with the nomination.

5. In pursuance of sub-rule (4) of Rule 9 read with Schedule 4 of the Rules, the following qualifications have been recognised by the Council for the purpose of sub-clause (a) of Para (2) of Schedule 4:

All degrees awarded by the universities recognised by Government; Certified Associate of Indian Institute of Banking & Finance; Member of the Institute of Chartered Accountants of India, the Institute of Cost Accountants of India and the Institute of Chartered Secretaries and Administrators, London.

6. In pursuance of Rule 12(1) of the Rules, the Panel for scrutiny of nominations shall comprise as under:

- Mr. Ardhendu Sen, Government Nominee on the Council
- Mr. P. K. Mishra, Government Nominee on the Council & Director General (Commercial)-I, Office of Comptroller and Auditor General of India
- CS Sutanu Sinha, Chief Executive & Officiating Secretary and Returning Officer, The Institute of Company Secretaries of India.

7. In pursuance of sub-rule (3) of Rule 6 of the Rules, the list of members eligible to vote (list of voters) from the various constituencies for elections to the 12th Council and the four Regional Councils of the Institute of Company Secretaries of India shall be available for sale from ICSI House, 22, Institutional Area, Lodi Road, New Delhi 110003 and also from respective Regional offices at Chennai, Delhi, Kolkata and Mumbai and the Chapter offices from 9th September, 2014 on payment of the prices as under:

Sl. No.	List of Voters	Price (₹)
1	Eastern Region	150
2	Northern Region	300
3	Southern Region	200
4	Western Region	300

8. In pursuance of sub-rules (1) and (2) of Rule 41 of the Rules, a candidate, whose name has been included in the final list of nominations under Rule 15, shall not incur an expense in excess of the amount as specified hereunder and shall file an account of expenses incurred for the election in the format (Annexure IV) within fifteen days of the notification issued under Rule 36:

Election	Ceiling on Expenditure (₹)
Council	5,00,000
Regional Council	3,00,000

9. In pursuance of sub-rule (3) of Rule 41 or sub-rule (1) of Rule 42 of the Rules, a member shall be deemed to have brought disrepute to the Council under Item (2) of Part IV of the First Schedule of the Act if, in connection with an election to the Council or Regional Council of the Institute, he is found to have contravened the provisions of sub-rules (1) or (2) of Rule 41 or sub-rules (2), (3) or (4) of Rule 42.
10. In pursuance of sub-rules (2) and (3) of Rule 42 of the Rules, a candidate shall issue only one manifesto or circular in relation to the election in the manner specified therein.
11. In pursuance of sub-rule (2) of Rule 16 of the Rules, the Election Code of Conduct for candidates that has been published on the web-site of the Institute, shall come into force from the date of issue of this notification and this Code shall be deemed to be a guideline of the Council under item (1) of Part II of the Second Schedule of the Act and it is obligatory for each candidate and his authorised representative to comply with this Election Code of Conduct.
12. In pursuance of Rule 4(2) (e) and 4(2)(f) of the Rules, a voter eligible and desirous to cast vote by post may send an application to the Returning Officer in form as at **Annexure V** seeking permission to do so by 13th October, 2014 and must return the ballot papers in the specified envelope so as to reach the Returning Officer by 12th December, 2014.
13. In pursuance of Rules 5, 21 and 28 read with Schedule 2 of the Rules, Polling Booths have been assigned to each voter. A voter may cast his vote at the polling booth assigned to him. A member, whose name is not shown under any Polling Booth, shall be permitted to vote by post. A list of Polling Booths has been published on the website of the Institute.
14. The relevant provisions of the Company Secretaries Act, 1980, the Company Secretaries (Election to the Council) Rules, 2006 and the Company Secretaries Regulations, 1982 and other applicable laws, though not specified herein, shall apply to these elections.

**By Order of the Council of the Institute of Company Secretaries of India,**

C. S. SUTANU SINHA, Returning Officer and Chief Executive & Officiating Secretary of the ICSI

[ADV T III/4/Exty./121/34]

**FORM OF NOMINATION FOR ELECTION TO THE COUNCIL**

(See Rules 5, 9, 10 and 11)

**NOMINATION**

We, the undersigned members of the Institute of Company Secretaries of India, not being in arrears this day in respect of our respective annual membership fee for the current year and being eligible to vote under Rule 5 of the Company Secretaries (Election to the Council) Rules, 2006 in the election of members to the Council of the Institute notified to be held during the calendar year 2014 do hereby nominate,.....who is a Fellow Member of the Institute belonging to .....India Regional Constituency, as a candidate for election to one of the seats to be filled up from.....India Regional Constituency in accordance with the provisions contained in the Company Secretaries (Election to the Council) Rules, 2006.

1. Signature of Proposer :  
Name :  
Membership No. :  
Address :  
Date :
2. Signature of Seconder :  
Name :  
Membership No. :  
Address :  
Date :

**CONSENT**

I, ....., being a Fellow Member of the Institute belonging to the.....India Regional Constituency, not being in arrears this day in respect of my annual membership fee for the current year, and being eligible to stand for election agree to stand as a candidate for election to one of the seats to be filled up from the said constituency in the election notified to be held during the calendar year 2014.

I enclose herewith a demand draft No.....dated..... for Rs. 25,000 (Rupees Twenty Five Thousand only) drawn on ..... Bank in favour of 'The Institute of Company Secretaries of India', payable at New Delhi towards nomination fee.

I enclose herewith a demand draft No.....dated.....for Rs. 20,000 (Rupees Twenty Thousand only) drawn on ..... Bank in favour of 'The Institute of Company Secretaries of India', payable at New Delhi towards security deposit.

I agree to abide by the provisions of the Company Secretaries Act, 1980, and the Company Secretaries (Election to the Council) Rules, 2006, and forward herewith the statement pursuant to schedule 4 of the Company Secretaries (Election to the Council) Rules, 2006 as annexed to this nomination form along with three passport size photographs.

Signature of candidate

Name in full:  
Membership No.:  
Address  
Mobile No.:  
E-mail ID:

Dated.....day of.....2014



**FORM OF NOMINATION FOR ELECTION TO THE \_\_\_\_\_ INDIA REGIONAL COUNCIL**

(See Regulations 114 and 115 read with Rules 5, 9, 10 and 11)

**NOMINATION**

We, the undersigned members of the Institute of Company Secretaries of India, not being in arrears this day in respect of our respective annual membership fee for the current year and being eligible to vote under Rule 5 of the Company Secretaries (Election to the Council) Rules, 2006 read with Regulation 114 (1) of the Company Secretaries Regulations, 1982 in the election of members to the.....India Regional Council of the Institute to be held during the calendar year 2014 do hereby nominate....., who is a Fellow Member of the Institute belonging to.....India Regional Constituency, as a candidate for election to one of the seats to be filled up for ..... India Regional Council in accordance with the provisions contained in the Company Secretaries (Election to the Council) Rules, 2006 and the Company Secretaries Regulations, 1982.

1. Signature of Proposer :  
 Name :  
 Membership No. :  
 Address :  
 Date :

2. Signature of Seconder :  
 Name :  
 Membership No. :  
 Address :  
 Date :

**CONSENT**

I, ....., being a Fellow Member of the Institute belonging to the.....India Regional Constituency, not being in arrears this day in respect of my annual membership fee for the current year, and being eligible to stand for election agree to stand as a candidate for election to one of the seats to be filled up for the said Regional Council in the election notified to be held during the calendar year 2014.

I enclose herewith a demand draft No.....dated.....for Rs.20,000 (Rupees Twenty Thousand only) drawn on .....Bank in favour of 'The Institute of Company Secretaries of India', payable at New Delhi towards nomination fee.

I enclose herewith a demand draft No.....dated.....for Rs. 20,000 (Rupees Twenty Thousand only) drawn on .....Bank in favour of 'The Institute of Company Secretaries of India', payable at New Delhi towards security deposit.

I agree to abide by the provisions of the Company Secretaries Act, 1980, the Company Secretaries (Election to Council) Rules, 2006 and the Company Secretaries Regulations, 1982, and forward herewith the statement pursuant to Schedule 4 of the Company Secretaries (Election to the Council) Rules, 2006 as annexed to this nomination form along with three passport size photographs.

Signature of candidate

Name in full :  
 Membership No. :  
 Address :  
 Mobile No. :  
 E-mail ID :

Dated.....day of.....2014

**STATEMENT PURSUANT TO SUB-RULE (4) OF RULE 9 READ WITH SCHEDULE 4**

(To be annexed to the Nomination Form for Election to the Council / Regional Council of the Institute of Company Secretaries of India).

- a. Name, Membership No., Professional Address and voter's serial number as published in the List of Voters :
- b. Date of birth :
- c. Whether Fellow and the date on which became Fellow :
- d. Date of Enrolment as an Associate member :
- e. Whether citizen of India :
- f. Whether found guilty of any professional or other misconduct and consequently whether he has been reprimanded or the name has been removed from the Register or has been awarded penalty of fine as on the date of nomination; :
- g. If the answer to (f) above is in affirmative, please provide the following details, wherever applicable (separately for each misconduct for which found guilty) :
- (i) the offence for which found guilty
- (ii) the date of reprimand
- (iii) the date from which the name was removed on account of above disqualification from the Register :
- (iv) the total period of removal
- (v) the date on which the period of removal expires
- (vi) whether the removal was on account of misconduct falling under the First Schedule or Second Schedule :
- (vii) the date on which the penalty of fine was awarded
- (viii) amount of penalty of fine
- (ix) the date on which the payment was made for penalty of fine awarded;
- h. Whether appointed as the auditor of the Institute and, if so, whether a period of three years had already expired after he has ceased to be the auditor of the Institute, along with dates of appointment and cessation as auditor; :
- i. If the period under (h) has not yet expired, the date on which it shall expire
- j. Details of past and present membership of the Council including the Office of the President and/or Vice-President of the Institute :
- k. Whether holding a post under the Central or State Government as per Section 9 (3) of the Company Secretaries Act, 1980 :
- l. The candidate may provide at his option the information concerning the candidate in respect of the following :

- a) Academic qualifications (diplomas including post qualification diploma(s) and degrees recognised by Government/Council and membership of professional bodies recognized by the Council); :
- b) Merit awards (limited upto first three positions) in the examinations of recognised universities and the examinations conducted by the Institute; :
- c) Particulars of occupation:-
  - (i) Employment (designation with name of present employer) :
  - (ii) Practice (sole proprietor or in partnership including the name of the firm) :
  - (iii) Particulars of other occupation/ engagement, if not covered by (i) and (ii) above; :
- (d) Past and present membership of Regional Councils and Managing Committees of Chapters of Regional Councils and office of Chairman, Vice-Chairman, Secretary and/or Treasurer in the case of Regional Councils and/or Chapters of Regional Councils. :

Signature

### VERIFICATION

I,.....FCS.....do hereby verify that the information provided in the foregoing statement are true and correct to the best of my knowledge and belief and nothing relevant has been concealed thereof.

Verified on this.....day of.....2014.

Signature

## ANNEXURE IV

### Format for providing the expenses incurred by the candidate for election to the Council/Regional Councils

[To be submitted within fifteen days of issue of notification under Rule 36]

The Returning Officer  
The Institute of Company Secretaries of India  
ICSI House  
22, Institutional Area, Lodi Road,  
New Delhi- 110 003

Dear Sir,

#### Re: Filing of account of expenses incurred for election to the Council/Regional Councils.

In accordance with the provisions of Rule 41 of the Company Secretaries (Election to the Council) Rules, 2006, I,....., a candidate for election to the Council/Regional Council from.....India Regional Constituency, hereby file an account of expenses incurred by me in connection with the election to the Council/Regional Council of the Institute held in December, 2014.

Sl. No.	Item of Expenditure	Amount (Rs.)
1	Total Cost of Stationery including paper purchased for printing circular/manifesto/ Visiting Cards/ Pamphlets/ Hand-out/Letters and the like.	
2	Total Printing cost (excluding stationery cost as above).	
3	Total cost of vehicle used (excluding cost of travel by air, train, bus and the like).	
4	Total Travel cost	
5	Total cost of stay, food etc.	
6	Total cost of Postage.	
7	Total cost of Telephone, Mobile, SMS, Fax, E-mail and the like.	
8	Total cost of any other items not covered by the above. (Please specify the names of items also)	
9	Other expenses (Please specify)	
10	Total (1 to 9)	

I have noted that the ceiling fixed by the Council under Rule 41 of the Company Secretaries (Election to the Council) Rules, 2006 on election expenses (in aggregate under all possible heads)..... Further, I have not incurred any expenditure as a candidate for the election other than those stated in the statement above.

I declare that the aforesaid statement of expenses is true to the best of my knowledge and belief.

Yours faithfully,

(Signature of the Candidate)

Place :

Date :

Name:

Membership No.:

Address:



**FORM H-1**  
**FORM OF APPLICATION SEEKING PERMISSION TO VOTE BY POST**

Returning Officer  
The Institute of Company Secretaries of India  
New Delhi 110 003

Dear Sir,

**Subject: ICSI Elections 2014**

I hereby apply for permission to vote by post under Rule 28 of the Company Secretaries (Election to the Council) Rules, 2006 and give below the necessary particulars:

1. Full name
2. Membership No.
3. Serial No. in the list of voters, if known
4. Serial No. and address of the polling booth allotted
5. Reason for seeking permission to vote by post

(a) there has been a permanent change in my professional address\* from the address published in the list of voters to another place beyond a radius of 30 kilometres from the polling booth allotted to me as given below:.....  
.....  
.....

(b) I am suffering from a permanent infirmity \*\*, particulars of which are given below on account of which I shall not be able to exercise my vote on the date of election at the polling booth allotted to me.

Particulars of permanent infirmity.  
.....  
.....

6. Address to which the voting papers should be sent:

Date :  
Place :

Signature of the Member

**VERIFICATION**

I declare that the particulars given above are correct to the best of my knowledge and belief.

Date:  
Place:

Signature of the Member

\*duly certified by an authorized person of the organization where the member is employed.

\*\*The application in this case must be supported by a certificate from a medical practitioner, not below the rank of a surgeon in any Government Hospital, confirming such permanent infirmity.

.....

## 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 Sikhayatan, 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 NewDelhi-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 Mousari 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 GGSDS 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

\* The Returning Officer may change the address of one or more polling 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-27	Jaipuria Institute of Management A-32/A, Sector - 62 Noida- 201 301
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	Akansha 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	Visakahapatnam 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

\* 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.

## 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.Chhablidias 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.



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# ATTENTION MEMBERS

## ANNUAL MEMBERSHIP AND CERTIFICATE OF PRACTICE FEES FOR 2014-15

The last extended date for payment of annual membership fee for the year 2014-15 was 1st September, 2014 (31st August, 2014 being a Sunday). The names of members who could not remit their annual membership fee for the year 2014-15 by the last extended date i.e. 1st September, 2014 stand removed from the Register of Members w.e.f. 2nd September, 2014. The members may get their names restored by making an application in Form BB (available on the Institute's website [www.icsi.edu](http://www.icsi.edu)) and making payment of the annual membership fee, entrance fee and restoration fee as per details given below:

For Associate members: Rs.2875/- (Annual membership fee of Rs.1125 + entrance fee of Rs.1500 + restoration fee of Rs.250)

For Fellow members: Rs.2750/- (Annual membership fee of Rs.1500 + entrance fee of Rs.1000 + restoration fee of Rs.250)

The Certificate of Practice of the members who could not remit their annual Certificate of Practice fee for the year 2014-15 by the prescribed date i.e. on or before 30th September, 2014 stand cancelled w.e.f 1st October, 2014. They may restore their Certificate of Practice by making an application in Form-D (available on the Institute's website [www.icsi.edu](http://www.icsi.edu)) and payment of annual certificate of practice fee of Rs.1000 alongwith restoration fee of Rs.250/-

The fee can be remitted by way of online mode (through payment gateway at the Institute's website [www.icsi.edu](http://www.icsi.edu)) or through cash/cheque payable at par/Demand draft/Pay-Order in favour of 'The Institute of Company Secretaries of India' payable at Delhi (indicating name and membership no. on the reverse side)

For queries, if any, the members may please write at email ids: [Saurabh.bansal@icsi.edu](mailto:Saurabh.bansal@icsi.edu), [Rajeshwar.singh@icsi.edu](mailto:Rajeshwar.singh@icsi.edu) or contact at telephone nos.-011-45341062/63 or mobile no.9868128682.

## MEMBERS IDENTITY CARD

Members who have not yet obtained their Identity card, in their own interest are requested to apply for the same by sending an email (indicating their name and membership number) alongwith a scanned image of their latest photograph in .jpeg format at email id: [memberidcard@icsi.edu](mailto:memberidcard@icsi.edu). The ID-card may be used as one of the identity proof for casting of vote in The Election to the Council/Regional Councils - 2014.

## SPECIMEN SIGNATURE/PHOTOGRAPH

Members are also requested to check their image and signature on the website of the Institute. The members, whose image/ signature are not available on the website of the Institute, may upload the same on the website of the Institute by following the steps available on the link:-[http://www.icsi.edu/webmodules/member/steps\\_imageupload.htm](http://www.icsi.edu/webmodules/member/steps_imageupload.htm)

For queries, if any, please write at email id: [meena.bisht@icsi.edu](mailto:meena.bisht@icsi.edu)



## Our Members

### CONGRATULATIONS

**Abhijit Mukhopadhyay**, FCS, President (Legal), Hinduja Group, London on his appointment as Vice Chairman of International Chamber of Commerce's Commission on Arbitration and ADR, Paris as also a Member of its Steering Committee.

### ANNOUNCEMENT

In line with the Green Initiatives and the Ministry of Corporate Affairs' Circular No. 18/2011 (No. 17/95/2911-CL.V dated April 29, 2011) requiring companies to send Balance Sheet and Auditors Report etc. to their members through electronic mode and pursuant to the decision of the Council of the Institute, the Annual Report of the Council for the Financial Year 2013-14 has been sent to all the members of the Institute through Electronic Mode on 26 Sept. 2014. Annual Report has also been hosted on the website of the Institute on link

<https://www.icsi.edu/Docs/Webmodules/ICSI%2034th%20Annual%20Report%202013-14.pdf>

### SPECIAL ISSUE OF CHARTERED SECRETARY

It is proposed to bring out a special issue of Chartered Secretary on the following topic during the remaining period of 2014.

- Direct Taxes Code, 2013 (December, 2014).

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](mailto:ak.sil@icsi.edu)

### Appointment

## REQUIRED

### A COMPANY SECRETARY

A Company Secretary is required for TGS investment and Trade Private Limited, a Non Banking Financial Company (NBFC).

The candidate should be a member of the Institute of Company Secretaries of India with 2-3 years of post-qualification experience, preferably in an NBFC Company.

Please send your application to: The Board of Directors, TGS Investment and Trade Private Limited, 212, TV Industrial Estate, 52, S K Ahire Marg, Worli, Mumbai - 400 030.

### OBITUARIES

“Chartered Secretary” deeply regrets to record the sad demise of the following members:

**Shri A M LALVANI**, (26.05.1928-17.06.2014), an Associate Member of the Institute from Bangalore.

**Shri G K SHARMA**, (14.06.1952-03.01.2014), a Fellow Member of the Institute from Jammu.

May the almighty give sufficient fortitude to the bereaved family members to withstand the irreparable loss.

May the Departed souls rest in peace.



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**I am a member of ICSI.  
Only I do what I do.**



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