

VOL 46 | NO. : 12 | Pg. 1-164 | DECEMBER 2016 | ₹100/- (Single Copy)

# CHARTERED SECRETARY

THE JOURNAL FOR CORPORATE PROFESSIONALS

FOCUS ON...

**Social Audit &**

CSR



**THE INSTITUTE OF  
Company Secretaries of India**  
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ISSN 0972-1983<sup>®</sup>

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## Annual Subscription

Inland : Rs. 1000 (Rs. 500 for Students of the ICSI)  
Foreign : \$100; £60 (surface mail) Single Copy : Rs. 100

'Chartered Secretary' is normally published in the first week of every month. ■ Non-receipt of any issue should be notified within that month. ■ Articles on subjects of interest to company secretaries are welcome. ■ Views expressed by contributors are their own and the Institute does not accept any responsibility. ■ The Institute is not in any way responsible for the result of any action taken on the basis of the advertisements published in the journal. ■ All rights reserved. ■ No part of the journal may be reproduced or copied in any form by any means without the written permission of the Institute. ■ The write ups of this issue are also available on the website of the Institute.

### Edited, Printed & Published by

**Dr. S.K.Dixit** for The Institute of Company Secretaries of India,  
'**ICSI House**', 22, Institutional Area, Lodi Road, New Delhi- 110 003.

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E-Mail : [info@icsi.edu](mailto:info@icsi.edu)

Website : <http://www.icsi.edu>

Mode of Citation: CSJ (2016)(12)/--- (Page No.)



### Design & Printed at

#### M. P. Printers

B-220, Phase II, Noida-201305  
Gautam Budh Nagar, U. P. - India  
[www.mpprinters.co.in](http://www.mpprinters.co.in)



- 1 ▶ Meeting of ICSI delegation with Hon'ble Minister of Finance and Corporate Affairs –Seen in the picture from Left: CS Vineet K Chaudhary, CS Mamta Binani and Arun Jaitley (Hon'ble Union Minister of Finance and Corporate Affairs).
- 2 ▶ Interaction with Hon'ble Minister of State with Independent Charge for Power, Coal, New and Renewable Energy and Mines – CS Mamta Binani and CS Vineet K Chaudhary among others seen interacting with Piyush Goyal (Hon'ble Minister of State with Independent Charge for Power, Coal, New and Renewable Energy and Mines).
- 3 ▶ ICSI President's Meeting with Hon'ble Union Minister of State for Finance and Corporate Affairs – CS Mamta Binani seen presenting a bouquet to Arjun Ram Meghwal (Hon'ble Union Minister of State for Finance and Corporate Affairs).
- 4 ▶ ICSI President's Meeting with Member of Parliament – CS Mamta Binani seen with Meenakshi Lekhi (Member of Parliament).
- 5 ▶ Meeting with Justice, Supreme Court of India and Chairman, 21<sup>st</sup> Law Commission of India – Standing from Right CS Mamta Binani, Justice Balbir Singh Chauhan (Former Justice, Supreme Court of India and Chairman, 21<sup>st</sup> Law Commission of India) and Dr. S Sivakumar ( Member, Law Commission of India).
- 6 ▶ Startovation – Startup and innovation Summit, 2016 –Dr. Raj Singh (RoC, MCA) lighting the lamp to mark the inauguration of Startovation. Others standing from Left: Digbijoy Chakraborty (Global Director, Frost and Sullivan), CS G S Sarin, CS Mamta Binani and CS Vineet K Chaudhary.
- 7 ▶ CS Mamta Binani addressing. 8 ▶ A view of the invitees, dignitaries and delegates.
- 9 ▶ Sitting on the dais from Left: CS K V Singhal, CS Mamta Binani, CS Vineet K Chaudhary, CS G S Sarin, CS Nitin Kumar and CS Manish Aggarwal.



- 10 ▶ ICSI Insolvency Professional Agency Certificate receiving ceremony – Standing among others from Left: CS Dinesh C Arora, CS (Dr.) Shyam Agrawal, Arun Jaitley (Hon'ble Union Minister of Finance and Corporate Affairs), CS Mamta Binani, CS Vineet K Chaudhary (Chairman, Corporate Laws and Governance Committee of ICSI) and Tapan Ray (Secretary, MCA).
- 11 ▶ Seen from Left: CS Vineet K Chaudhary (Chairman, Corporate Laws and Governance Committee of ICSI), CS (Dr.) M S Sahoo, Amardeep Singh Bhatia (JS, MCA) and CS Mamta Binani.
- 12 ▶ NIRC - Two Days Regional Conference on PCS - Empower, Emerge & Excel (Host: Agra Chapter) Sitting from Left: CS Amit Gupta, CS Pradeep Debnath, CS Ranjeet Pandey, CS Manish Gupta, Vijay Jhalani (Government Nominee on the Central Council of ICSI), CS Atul Mehta, CS Ashish Garg, CS Akash Jain and CS Priyanka.
- 13 ▶ SIRC – Mysore Chapter – Joint Awareness Programme on GST – Standing from Left: Ramannavar S.S. (Secretary-MCCI), CS Bhansali M.C., Ravi Kiran Edara (IRS, Joint Commissioner, Central Excise), A.S. Satish (President-MCCI), S. Raj Kumar (IRS, Chief Commissioner, Central Excise), Sudhakar S. Shetty (Vice President-FKCCI, Bangalore), Dr. N Muthukumar (Chairman-CII, Mysore), G.V. Krishna Rao (IRS, Commissioner, Central Excise), R. SundaraRaju (IRS, Joint Commissioner, Central Excise).
- 14 ▶ SIRC - Salem Chapter – Full day seminar on GST – CS C Ramasubramaniam addressing. Others sitting on the dais from Left: CS Santhanam N, Chief Guest Arokia Raj (IRS, Jt. Commissioner Dept. of CE&ST, Salem), Guest of Honour Padmavathi (Dty. Commissioner, Deptt. of Commercial Tax, Coimbatore) and CS Solaiyappan.
- 15 ▶ EIRC - 27<sup>th</sup> Regional Conference of Company Secretaries on Governance with Excellence – Release of Quarterly Newsletter of EIRC - Standing From Left: CS Ashok Purohit, CS Siddhartha Murarka, CS Sandip Kumar Kejrival, Alok Samantrai (RD, MCA); Manorama Kumari (Member (Judicial), NCLT), CS Mamta Binani, Dr. Navrang Saini (DII, DGCoA, MCA), CS Santosh Kumar Agrawala, CS Rajesh Sharma (Central Council Member (Govt. Nominee), ICSI) and CS Gautam Dugar.
- 16-21 ▶ Address by CS Anil Murarka, CS Sanjay Kumar Gupta, Nitin Ambure (Vice President, NSDL), CA Sushil Goyal, CS Manoj Banthia and Dr. Navrang Saini (DII, DGCoA, MCA).

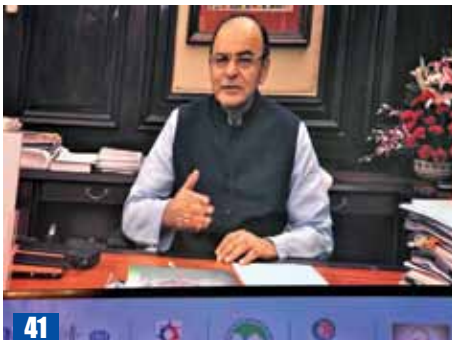


**ICSI President's Visit to Thiruvananthapuram**



- 22 ▶ ICSI Convocation at Eastern Region – Standing from Left: CS Sandip Kumar Kejriwal, CS Mamta Binani, Chief Guest Gyanesh Chaudhary (MD & CEO, Vikram Solar Pvt. Ltd.) and CS Santosh Kumar Agrawala.
- 23 ▶ Meeting of ICSI delegation with Hon'ble Chief Minister of Kerala – Standing from Left: CS Jayashree, CS Sivakumar P, CS Suresh, CS Mamta Binani, CS C Ramasubramaniam, PinarayiVijayan (Hon'ble Chief Minister of Kerala), CS Arun K Kamalolbhavan and CS Jeevan Varghese.
- 24 ▶ Meeting of ICSI delegation with Hon'ble Minister of Industries, Govt. of Kerala – Standing from Left: CS Suresh, CS Jayashree, CS Rakesh Ranjan, A C Moideen (Hon'ble Minister of Industries, Govt. of Kerala), CS C Ramasubramaniam, CS Mamta Binani, CS Sivakumar P, CS Jeevan Varghese and CS Arun K Kamalolbhavan.
- 25 ▶ Meeting of ICSI delegation with Hon'ble Speaker of Kerala Legislative Assembly – Standing from Left: CS Jayashree, CS Arun K Kamalolbhavan, CS Ahalada Rao V, CS Jeevan Varghese, CS C Ramasubramaniam, CS Suresh and P Sreeramakrishnan (Hon'ble Speaker, Kerala Legislative Assembly).
- 26 ▶ Meeting of ICSI delegation with Additional Chief Secretary of Kerala – Standing from Left: CS Jayashree, CS Suresh, CS C Ramasubramaniam, CS Sivakumar P, CS Mamta Binani and Tom Jose (IAS, Additional Chief Secretary, Deptt. of Labour, Govt. of Kerala.)
- 27 ▶ Meeting of ICSI delegation with Law Secretary, Govt. of Kerala – Standing from Left: CS Jeevan Varghese, CS Suresh, CS C Ramasubramaniam, CS Sivakumar P, CS Mamta Binani and B G Harindranath (Law Secretary, Govt. of Kerala.)
- 28 ▶ Meeting of ICSI delegation with Hon'ble Labour Minister, Govt. of Kerala – T P Ramakrishnan (Hon'ble Labour Minister, Govt. of Kerala) seen interacting with CS Mamta Binani, CS C Ramasubramaniam, CS Sivakumar P and CS Jayashree.

**44<sup>th</sup> National Convention of Company Secretaries (November 17 - 19, 2016) held at Gandhinagar, Gujarat**



- 29 ▶ Curtain raiser to 44th National Convention of Company Secretaries on Powering Governance – Empowering Stakeholders: CS the Governance Professional – Sitting on the dais from Left: CS Tushar Shah, CS Ashish Garg, CS (Dr.) Shyam Agrawal, CS Mamta Binani, CS Ashish Doshi, Yamal Vyas and CS Dinesh C Arora.
- 30 ▶ Inaugural Session – Sitting on the dais from Left: CS Tushar Shah, CS Prakash P Pandya, Bimal Choudhary ( MD, Anmol Biscuits Ltd.), CS (Dr.) Shyam Agrawal, Vijaybhai R Rupani(Hon'ble Chief Minister, Govt. of Gujarat), CS Mamta Binani, CS (Dr.) M S Sahoo (Chairman, The Insolvency and Bankruptcy Board of India), M M Paranjape (MD & CEO, Multi Commodity Exchange of India Ltd.), CS Ashish C Doshi, CS Ashish Garg and CS Dinesh C Arora.
- 31 ▶ CS Mamta Binani in conversation with Hon'ble Chief Minister, Govt. of Gujarat.
- 32-40 ▶ Address by: CS Ashish C Doshi, CS Ashish Garg, CS (Dr.)Shyam Agrawal, CS Mamta Binani, Bimal Choudhary, M M Paranjape, CS (Dr.) M S Sahoo, Vijaybhai R Rupani and CS Dinesh C Arora.
- 41-43 ▶ Video Messages by Arun Jaitley (Hon'ble Union Minister of Finance and Corporate Affairs), Suresh Prabhakar Prabhu (Hon'ble Union Minister of Railways) and Arjun Ram Meghwal( Hon'ble Minister of State for Finance and Corporate Affairs).



- 44-45 ▶ Release of ICSI publications Saathi and Premier on Company Law by Hon'ble Chief Minister, Govt. of Gujarat.
- 46 ▶ Vijaybhai R Rupani being honoured with a Traditional Pagri by CS Mamta Binani.
- 47-49 ▶ Presentation of Mementoes – CS Mamta Binani and CS (Dr.) Shyam Agrawal seen presenting a memento to CS (Dr.) M S Sahoo, CS Ashish Doshi presenting a memento to Bimal Choudhary and CS Ashish Garg presenting a memento to M M Paranjape.
- 50 ▶ Session – I ( Looking Glass to 2022 – India at 75 – Role of Professionals –Yamal A Vyas addressing. others sitting on the dais from Left: CS Makarand M Lele, John E. Matheson (Managing Partner, IP Policy Services LLP), Joy Saxena (ED, Vikram Solar Private Limited), Dr. R H Dholakia (Professor, IIM Ahmedabad), Devesh Bansal (Director, Skipper Limited), Saurabh Soparkar (Sr. Advocate, Gujarat High Court) and CS S K Agrawala.
- 51-57 ▶ Address by CS Makarand M Lele, Dr. R H Dholakia, Devesh Bansal, John E Matheson, Saurabh Soparkar, Joy Saxena and CS S K Agrawala.





58 ▶ Release of ICSI publication titled Guide to Transfer Pricing.

59-63 ▶ B2B Session – Address by Puja Mathur (Diligent), Paroon Chadha (Co-founder & CEO, Passage Ways), Joy Richard (Passage Ways), Harinder Singh (Director, Proind Business Solutions Private Limited) and Sachin Aghor (OneDelta Synergies Pvt. Ltd.).

64 ▶ Yoga Session in Association with Ministry of Ayush – Sangeeta Thawani (Chief Yoga Trainer, Sivananda Ashram) and her Associates seen conducting the session.

65-66 ▶ Glimpses of the Yoga Session in progress.

67-68 ▶ Special Session Towards Meaningful Life – CS Atul H Mehta addressing. Others sitting from Left: Gaur Gopal Das (ISKON, Mumbai) and CS Satwinder Singh.

69-70 ▶ Address by Gaur Gopal Das and CS Satwinder Singh.

44<sup>th</sup> National Convention of Company Secretaries (November 17 - 19, 2016) held at Gandhinagar, Gujarat



71▶ Session II – Panel Discussion (CEO’s Speak – Emulate Governance from Corporate Leaders) – Standing from Left: CS Ahalada Rao V, Uday Khanna (Chairman, Bata India Ltd.), Ashok Barat (Chief Operating Officer, Cyril Amarchand Mangaldas), CS Mamta Binani, Sunil Mathur (MD &CEO, Siemens India Ltd.) and CS Ranjeet Pandey.

72-76▶ Address by CS Ahalada Rao V, Uday Khanna, Ashok Barat, Sunil Mathur and CS Ranjeet Pandey.

77▶ Release of ICSI publication titled CG Certification under Listing Regulations.

78▶ Session III - (Panel Discussion on Digital Drive – Empowering Knowledge Economy) – Release of ICSI Publication titled Risk Management – Standing from Left: CS Ramasubramaniam C, Pramod Mulani (Head, Product and Digital Initiative, NSDL), Rajesh Sharma (Govt. Nominee on the Central Council of the ICSI), CS Pavan Kumar Vijay, Apurva Mehta, Paroon Chadha (Co-founder and CEO, Passageways) and CS Mahavir Lunawat.

79-85▶ Address by Rajesh Sharma, CS Ramasubramaniam C, Pramod Mulani, CS Pavan Kumar Vijay, Apurva Mehta, Paroon Chadha and CS Mahavir Lunawat.

86▶ Purvi Dave presenting a memento to Rajesh Sharma.



87> Session IV – Learning from the Experience of Royal Majesties – Sitting from Left: Yuvraj S M Jadeja of Rajkot and CS Gopalakrishna Hegde.

88-89 > Address by Yuvraj S M Jadeja and CS Gopalakrishna Hegde.

90> President ICSI presenting a memento to Yuvraj S M Jadeja.

91> Run for a cause for CSBF in association with Ministry of Ayush–Gautambhai Navalchand Shah (Mayor, Ahmedabad Municipal Corporation) seen with Members ICSI.

92> Address by Gautambhai Navalchand Shah.

93-95> Glimpses of run for a cause for CSBF.

96> Interactive session for Members of ICSI with Council Members – A view of the dais.



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- 97 ▶ Session V (Enhancing Skills – Finding the Way Beyond Compliance)– CS Vineet K Chaudhary addressing. Others sitting on the dais from Left: Gopal Krishna Agarwal (Govt. Nominee on the Central Council of the ICSI), Dr. P D Vagela (Commissioner, Commissionerate of Commercial Tax), CS (Dr.) U K Chaudhary, Vijay K Jhalani (Govt. Nominee on the Central Council of the ICSI) and CS Rajiv Bajaj.
- 98-101 ▶ Address by Gopal Krishna Agarwal, CS (Dr.) U K Chaudhary, Vijay K Jhalani and Rajiv Bajaj.
- 102 ▶ CS Chetan Patel presenting a memento to Dr. P D Vagela.
- 103 ▶ Closing Plenary : Sitting on the dais from Left: CS Tushar Shah, CS Ashish Doshi, CS(Dr.) Shyam Agrawal, Guest of Honour Vinay K Saxena (Chairman, KVIC, Ministry of MSME), CS Mamta Binani, Chief Guest Smriti Z Irani (Hon'ble Union Minister of Textiles), CS Ashish Garg and CS Dinesh C Arora.
- 104 ▶ CS Mamta Binani in conversation with Chief Guest Smriti Z Irani.
- 105-106 ▶ Address by: Vinay K Saxena and Smriti Z Irani.
- 107 ▶ Prize distribution of Best Regional Council and Chapter Awards –NIRC representatives receiving the Best Regional Council Award from the Chief Guest Smriti Z Irani.
- 108-112 ▶ Visakhapatnam, Bhubaneswar, Nagpur, Indore and Hyderabad Chapter representatives receiving best Chapter award in Grade D, Grade C, Grade B, Grade A and Grade A+ categories respectively from the Chief Guest.



- 113 ▶ Hyderabad Chapter representatives receiving the National Best Chapter award from the Chief Guest.

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- 114 ▶ CS Ashish Doshi presenting a memento to Vinay K Saxena.

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- 115 ▶ CS Mamta Binani and CS (Dr.) Shyam Agrawal presenting a memento to Smriti Z Irani.

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- 116 ▶ Meenakshi Datta Ghosh (IAS, Retd., Former Secretary to Govt. of India) announcing the names after draw of lots for free participation in ICGD programme of the Institute.

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- 117-119 ▶ Appearance of Ameesha Patel in cultural evening and glimpses of cultural programmes conducted at the Convention.



120 ▶ A view of some of the stalls set up at the Convention venue.

121-123 ▶ Glimpses of distinguished invitees, dignitaries and delegates attending various sessions of the Convention.

124 ▶ Group photo of team ICSI with President, Vice President and Council Members of the Institute.

## CSR in the Indian Context – the Past, Present and the Future >> P-25

**Hemant Gupta**

The article traces the history of Indian CSR right from the initial days of Philanthropy to Corporate Sustainable Development. It describes key drivers for this journey and outlines them both from an Indian and a Global context. The article starts with a structural description of the Indian and global Corporate philanthropy and the paradigm shift towards Corporate Social Responsibility. It dwells upon how the Companies Act 2013 was a key driver in the changes and making Indian CSR more inclusive. Parallely, developments in global CSR landscape are also traced along with their impact on Indian CSR. The article then moves on to maturing of Indian CSR and the shift to Corporate Sustainable Development. It concludes with the key factors that drive decision making in Indian Corporates from a CSR/CSD perspective.

## Statutory Corporate Social Responsibility– A Philosophical Shift in Decolonized Company Law >> P-28

**Dr. Indrajit Dube**

The article while explaining the reasons for transformation of economic model of India also highlights the attempts made for formalization of Corporate Social Responsibility in India.

## CSR – Rethinking the phenomenon >> P-33

**Bhavesh A. Kinkhabwala**

Origin of CSR can be traced from the ancient scriptures and it is not a concept borrowed from the foreign country. Theory of “Trusteeship” coined by Late Shri M K. Gandhi is the cornerstone of the modern concept - CSR. Looking to the overall need for the holistic growth and development of India, since CSR is in the larger interest, implementation of the same by compulsion through legal compliance seems justifiable to certain extent. ISO certification and CSR standards are the future lessons that can be helpful for sharpening the overall attitude for taking CSR in its right perspective. Now, it’s right time to ensure that while dealing with CSR, approach should be that of participatory and not a contributory. Let, CSR be part of company strategy and budget and be treated like an actionable business agenda. CSR agenda should carry the stakeholder approach by a corporate and not a charity oriented approach.

## Social Audit and Corporate Social Responsibility >> P-38

**Dipti Shah**

Social auditing is the process of assessing and reporting a business’s performance in fulfilling the economic, legal, ethical, and philanthropic social responsibilities expected of it by its stakeholders. The social audit provides an objective approach for an organization to demonstrate its commitment to improving strategic planning, including social accountability. There are many reasons companies choose to understand, report on, and improve their social responsibility performance. A social audit can satisfy stakeholder demands for increased transparency and greater disclosure; this can help amend and advance relationships with investors, customers, suppliers, regulators, the media, and the community while helping these stakeholders better understand the firm’s goals and operations. Whereas corporate social responsibility (CSR) can be described as embracing responsibility and encouraging a positive impact through the company’s activities related to the environment, consumers, employees, communities, and other stakeholders. The CSR activities shall be undertaken by the company, as per its stated CSR Policy, as projects or programs or activities (either new or ongoing), excluding activities undertaken in pursuance of its normal course of business.

## Corporate Social Responsibility - Priceless Contribution of Corporates towards Prosperity of People and Planet >> P-43

**Komal Jain & Karuna Jain**

CSR has gone through many phases in India. Mandatory provision of CSR under Companies Act, 2013 has brought in abundant scope and opportunities for professionals. Company secretary being KMP of the company should ensure that CSR issues are adhered in true letter and spirit. With globalization and industrialization, progressive and irreparable damage was caused to citizens and environment, therefore our legislators thought of adopting retaliatory action by introducing the concept of “Corporate Social Responsibility” which mandates wealthy corporates to set aside some part of their profits to compensate and contribute towards the upliftment of society and the environment.

## Corporate Social Responsibility is not charity, but a responsibility >> P-48

**Kausik Nath**

Corporate Social Responsibility (CSR) which was earlier voluntary and more of a philanthropic exercise for corporates have now become strategic. So from a tick the

box exercise it is now investing corporate's hard earned capital and resources to serve the society and build a company's reputation. CSR is now a vital component for success in the modern business world. It is a responsibility and not charity. It is more of a collective responsibility to build a society along with the government. As years go by, corporates in India would spend more in CSR, since the benefits of strategic CSR are twofold, for the corporate as well as to the society at large. Corporates have risen to the challenge to do it in a strategic, systematic and thoughtful manner.

## **Audit of Corporate Social Responsibility** ➤ P-51

**Meenu Gupta**

With the Companies Act, 2013 mandating the Corporate Social Responsibility rules and the constitution of CSR committee to monitor the CSR policy of company and its compulsory obligation of reporting CSR Policy, a need has been felt to conduct social audit of CSR for identifying the environmental, social or governance risks faced by the organization and to suggest appropriate remedies accordingly. Effective CSR audit seeks to help formulate sound operating framework for CSR implementation – same as is done under the financial audit. The article focuses on role of social audit under CSR for undertaking impactful CSR activities.

## **Efficacy of Social Audit in Contemporary Statutory Enforcement of Corporate Social Responsibility in India** ➤ P-55

**Bharatsinh Chandrasinh Parmar**

Social Audit is an instrument to gauge the contribution of an organization towards the society. It is conducted to check how well an organization has performed in discharging its social responsibilities and meeting the needs of the targeted beneficiaries of a given project. Corporate Social Responsibility (CSR) is a strategy of a company to integrate social, environmental and economic concerns in its values and operations to improve the welfare of society and stakeholders. In compliance with the statutory requirement, the relevant companies in India do design and implement their CSR initiatives. However, to check how far the benefits of CSR reach to the beneficiaries for whom they were designed, an instrument called social audit can be very useful. In this context, this article aims to understand the concepts of Social Audit, CSR, the value of Social Audit as a tool to appraise CSR projects, the resultant advantages, etc.

## **Social Audit under Companies Act, 2013** ➤ P-60

**Parthasarathy R**

Social Audit is an assessment of the performance of a Corporate on Corporate Social Responsibility (CSR) objectives. It evaluates measurable goals intended to help the business to meet the expectations the stakeholder groups have regarding the social and environmental responsibilities. Community development, diversity, environment, international relationships, marketplace practices, fiscal responsibilities, and accounting and financial monitoring are commonly assessed social responsibility components. CSR audit is based on the comprehensive ISO 26000 standard. In this article an attempt has been made to envisage the meaning of social audit and how it has indirectly been enforced by the Companies Act, 2013.

## **Social Audit in the Context of CSR** ➤ P-63

**C.B.Prabhumirashi**

Social Audit in the context of CSR activities in India will play a very pivotal role. Nowadays it is very difficult for the Government to discharge all its social welfare functions on its own without the help of any Non-government organisations, particularly a country like India. Considering the inherent problems of India particularly high population & poverty level, lower level of education, wide disparity of income, etc. coupled with environmental issues, the Government of India has rightly enacted the provision of involving certain companies, compelling them to come forward & help the Government in discharging its Social Obligations. This provision has been enacted in section 135 of the Companies Act, 2013. The present Article makes an attempt to bring out the actual progress made in this direction in the Financial Year 2014-15 and the necessity to carry out Audit of "such CSR Activities & the expenditure made over them".

## **Social Responsibility of Enterprises need for Social Audit** ➤ P-68

**S. Rajarathinam**

The article gives more details of the aspects of social accountability of corporate enterprises which have of late become a global issue. Public accountability of the corporate sector can be analysed in terms of the degree to which the companies have fulfilled their social obligations in the following four identified areas:- a) Social responsibility to the consumers b) Social responsibility to their own employees c) Social responsibility to the shareholders d) Social responsibility to the Society and to the local community.(e.g. environment, pollution etc.).



It is hoped that the provisions made in the Companies Act, 2013 will make the enterprises statutorily responsible to highlight their social performance in their Annual Report followed by a reporting by the Secretarial Auditors.

PART-2 : ARTICLE ON GST

## Levy of GST on E-Commerce & Aggregators

» P-71

Dr. Sanjiv Agarwal

“Under the provisions of the Model GST ACT, terms like “aggregator” and “Electronic commerce operator” have been introduced. Various provisions regarding their liability of collection and deposit of Tax at Source and taking credit thereof have been provided and highlighted in this Article.”

### LEGAL WORLD

P-75

- **LMJ: 14:12:2016** Shares are not goods before allotment. [SC]
- **LW: 74:12:2016** The High Court ought not to have disturbed the findings in favour of the Second Respondent as they were not in challenge in the Writ Petition filed by the First Respondent. [SC]
- **LW: 75:12:2016** It is the provisions of the SARFAESI Act of 2002, which do not contain any embargo on the category of persons to whom mortgaged property can be sold by the bank for realisation of its dues that will prevail over the provisions contained in Section 187 of the Tripura Act of 1960.[SC]
- **LW: 76:12:2016** A categorical finding was recorded by the respondents that the appellant/writ petitioner failed to produce required documents. Therefore, the respondents cannot be said to have committed any error in imposing the penalty in exercise of the powers conferred by Section 11(2) of FTDR Act, 1992. [Del-DB]
- **LW: 77:12:2016** It cannot be said that the defendant has raised a substantial defence to the claim made in the suit. In our opinion, the defendant will be granted leave to defend the suit only if it deposits in the Bombay High Court the principal sum of Rs.418 crores invested by FMO, or gives security for the said amount of Rs.418 crores. [SC]
- **LW: 78:12:2016** Supreme Court issues directions to improve the functioning and administration of consumer forums, State Commission and National Commission.
- **LW: 79:12:2016** Nine Judge Constitution Bench of the Supreme Court upholds the validity of the power of the States to impose entry tax.[SC]

- **LW: 80:12:2016** on a conjoint reading of Section 5 of the OST Act, Section 4 of the OET Act and Rule 18 of the Rules, we are of the considered opinion that the amount of surcharge under Section 5A of the OST Act is to be levied before deducting the amount of entry tax paid by a dealer.[SC]
- **LW: 81:12:2016** The holding company would not, because of the fact that it is a holding company, be a necessary or proper party to the litigation between the subsidiary company and its employees.[Del-DB]

### FROM THE GOVERNMENT

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- Clarification Regarding Filing of Offline Challans with IEPF Authority under Companies Act.
- Special Court for the purposes of providing speedy trial of offences punishable with imprisonment of two years or more under the Companies Act, 2013.
- Amendments to Schedule II of the Companies Act, 2013
- National Advisory Committee on Accounting Standards
- Notification of Sick Industrial Companies (Special Provisions) Repeal Act, 2003
- Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016
- Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016
- Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016
- Insolvency and Bankruptcy Board Of India (Insolvency Resolution Process For Corporate Persons) Regulations, 2016

### OTHER HIGHLIGHTS

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- Members Admitted/Restored
- Certificate of Practice Issued/cancelled
- Licentiate ICSI Admitted
- Company Secretaries Benevolent Fund
- List of Practising Members/Companies Registered for Imparting Training
- Regional News
- Revision in the Annual Membership fee, Entrance Fee and Certificate of Practice fee for Associate and Fellow Members
- Revolving Fund Schemes for becoming life members of CSBF
- Ethics & Sustainability Corner
- GST Corner
- CG Corner
- Proceedings of 44<sup>th</sup> National Convention of Company Secretaries
- Exposure Drafts of Secretarial Standards on Dividend and Report of the Board of Directors for Public Comments
- Readers' Write



काममय एवायं पुरुष इति।  
स यथाकामो भवति तत्कृतुर्मवति।  
यत्कृतुर्मवति तत्कर्म कुरुते।  
यत्कर्म कुरुते तदभिसंपद्यते ॥

You are what your deep, driving desire is. As your desire is, so is your will. As your will is, so is your deed. As your deed is, so is your destiny.



### Esteemed Professional Colleagues

On behalf of the ICSI, Council Members, Students and Team Members of the ICSI, we extend our heartiest congratulations to Hon'ble Prime Minister of India, Shri Narendra Modi Ji for his stupendous, daring, path breaking and historical decision to demonetize Rs. 1,000 and Rs. 500 currency notes, in order to root out the menace of Black Money for the economic development of the Country in general and poor in particular. As an Institute, we firmly believe that the resolve of our Government against corruption, black money and counterfeit notes will go a long way in cleansing the Nation's economic system.

In India, along with our real legal economic structure, a shadow economy of black money is in existence since long. This parallel economy has become drastically huge and hindering national development with sobriety. Cash currency in this illegal system acts similar to blood in the body. Corruption, benami transactions, hawala, money laundering, unaccounted cash transactions, Swiss banks deposits, election expenses, dowry and many more evils have crept in due to this and developed a symbiotic mutualistic relationship with black money and growing in a mass. As in India, more than 80 per cent of cash is in the form of 500 and 1,000 notes and around 20-25 per cent of it is in the form of black money kept as wealth. The stunning ruling of the Government to declare these notes a non legal tender and making it a piece of paper from

immediate effect has snatched away scope of money laundering or conversion into other currency notes, gold, property etc. As per Deputy Governor of RBI, the number of 500 notes in economy is estimated to be around 16.5 billion while 1,000 notes to be around 7.5 billion. Replacement of such a huge quantity of notes in one of the largest economies of world is not a cake walk. But this time, people, Banks, Government/s have joined hands to make it a success.

The timing of this announcement seems clearly in hindsight with massive rollout of the Pradhan Mantri Jan-Dhan Yojana (PMJDY) in India. This move by the Prime Minister has also followed the Income Disclosure Scheme 2016, where people were given a window of opportunity to declare their wealth piled through a number of means. It was most apropos time, therefore, to make credible the threat of a clampdown on black money and corruption in India.

On the same time, it is pertinent to mention that as an economy, we should aim to go 'less-cash', and not 'cash-less'. The elementary idea behind this exogenous shock is to elevate the cost of illegal transactions. Cash greases the wheels of crime because it is anonymous and big currency is most convenient to carry. Besides, the new notes have been designed with new security features, ensuring much more than just new money replacing old money in the system.

I am also pleased to know that this issue of Chartered

Secretary has its special focus on Social Audit and Corporate Social Responsibility. I find this theme to be very apt and enriching the knowledge base of our readers as the quality of contributions is really promising. Moving ahead, I will now take you all to the voyage of ICSI towards excellence in the month of November hereunder:

### Meeting with Dignitaries

'Growth is never by mere chance; it is the result of forces working together'. We are determined to take our revered profession to the next level and leave no stone unturned to extend our whole hearted support in flagship Government initiatives. With this objective, ICSI representatives met following dignitaries in the month of November:

- Sh. Arun Jaitley, Hon'ble Union Minister of Finance & Corporate Affairs
- Sh. Piyush Goyal, Hon'ble Minister of Power
- Sh. Pinarayi Vijayan, Hon'ble Chief Minister of Kerala
- Sh. Arjun Ram Meghwal, Hon'ble Minister of State for Corporate Affairs and Finance
- Justice (Dr.) Balbir Singh Chauhan, Chairman, Law Commission of India
- Sh. T. P Ramakrishnan, Hon'ble Minister of Labour, State of Kerala
- Sh. A.C Moideen, Hon'ble Minister of Industries, State of Kerala
- Dr. S Siva Kumar, Member, Law Commission of India
- Sh. B.G Harindranath, Law Secretary, State of Kerala
- Sh. Tom Jose IAS, Chief Secretary - Department of Labour, State of Kerala

### Submission of Suggestions/Representations

With a view to explore professional opportunities for our esteemed members, ICSI submitted its suggestions and representations on:

- Draft Medical Devices Rules, 2016
- Draft Rules for prescribing the method of valuation of fair market value in respect of the trust or the institution-Chapter XII-EB of the Income-Tax Act, 1961
- Draft Telecommunication (Broadcasting and Cable Services) Interconnection (Addressable Systems) Regulations, 2016

### 44th National Convention of Company Secretaries

In order to deliberate and discuss true empowerment of our country, we need to initiate deliberations on the challenges such as poverty elimination, agricultural reforms, transparency, judicious delivery of services, job creation, development of infrastructure and setting up of business with ease and convenience etc. we are pleased to share that we organised our 44th National Convention of Company Secretaries on the theme: "Powering Governance-Empowering Stakeholders: The Role of CS Professionals" at Gandhinagar, Gujarat from November 17-19, 2016. This Convention witnessed wondrous

participation of precious delegates who rolled in from all parts of the country to widen their horizon of knowledge.

The Chief Guest of Inaugural Session was Hon'ble Chief Minister of Gujarat, Sh. Vijaybhai R. Rupani. CS (Dr.) Madhusoodan Sahoo, Chairman, The Insolvency and Bankruptcy Board of India; Sh. Mrugank M. Paranjape, MD & CEO of MCX of India Limited and Sh. Bimal Chaudhary, MD & CEO, Anmol Biscuits graced the event as the Guests of Honor.

The Valedictory Session witnessed the cordial presence of Smt. Smriti Zubin Irani, Hon'ble Union Minister of Textile as Chief Guest along with Sh. Vinai Kumar Saxena, Chairman, Khadi and Village Industries Commission, Guest of Honor. To commemorate this Convention, following valuable publications were released:

- Challenging Opportunities for Practicing Company Secretaries in Labour Laws
- Corporate Governance Certification under Listing Regulations: A Referencer
- CS Sathi: A Referencer for Corporate Leaders
- Cyber Crime: Law & Practice
- Delisting of Equity Shares: Law and Practice
- E-learning Module on Banking Terminology
- Guide to Transfer Pricing
- Handbook on Arbitration, Conciliation and Mediation
- Independent Directors – A Handbook
- Risk Management: A Tool for Good Corporate Governance
- SEBI (LODR) Regulations, 2015 and Companies Act, 2013: A Comparison
- Technical Analysis
- Souvenir – 44th National Convention of Company Secretaries

### ICSI Insolvency Professionals Agency

We are happy to share with you that The Insolvency and Bankruptcy Board of India (IBBI) has granted registration to 'ICSI Insolvency Professionals Agency' to act as Insolvency Professional Agency (IPA) under the IBBI (Insolvency Professional Agencies) Regulations, 2016. The Registration Certificate of IPA as a Section 8 Company was awarded to ICSI by the Hon'ble Union Finance and Corporate Affairs Minister Sh. Arun Jaitley on 28 November, 2016 in New Delhi. The Notification of The Insolvency and Bankruptcy Code, 2016 and the Regulations/Rules made there under has opened an ocean of opportunities for the professionals in area of Corporate Insolvency Resolution Process, Corporate Liquidation Process and Individual insolvency resolution process. The Institute sees tremendous professional opportunities for its members to act as Insolvency Professionals. The ICSI Insolvency Professionals Agency has already started enrolling professional members. To begin with, this registration can be availed by Company Secretaries, Chartered Accountants, Cost Accountants and Advocates who are in practice for A minimum period of 15 years. IBBI has also introduced examinations, I request our members to real this opportunity to excel in this area.

## E-book on Companies Act, 2013

Technology has two faces. We all feel it, but sometimes can't find words to describe it. E-books are the best example to show the 0-1 nature of emotions the technology evokes. Keeping in view, the ease provided by technology in the modern world, the Institute has launched an e-book portal on updated Companies Act, 2013. The features of this e-book portal include:

- Updated Sections and Rules in view of recent MCA Notifications, Circulars and RODs
- Arrangement of Sections and Rules under appropriate Chapter heads
- Chronological arrangement of all Notification, Circulars, Orders & Clarifications
- Date wise search facility of all Notifications, Circulars and Orders
- Specified links in text of Section with the Rules
- linking of Sections with MCA Notifications, Circulars and Orders
- Search Engine for Rules and Sections

This e-book was launched at the National Convention and has been hosted on the website of Ministry of Corporate Affairs as it is a joint initiative and also on ICSI website. This can be availed without any cost and is a gigantic step towards bringing in ease of reference to the Act.

## ICSI Company Law Premier

We are completely aware that Company Secretaries in practice and employment must sharpen their axe from time to time. Therefore, ICSI has come out with a unique and innovative publication on Companies Act, 2013, "ICSI Premier on Company Law". The takeaways from the book will be a treasure forever, as it will not prove to be a helping hand to a person in gaining understanding on the subject, but, will also provide deep insights after reading the Commentaries and Case Laws. This book is a must possess for each desk, popularly known as 'blue book' has also been launched at the National Convention.

## Compliance Management and Audit Configuration (CMAC) Software for Members

With a view to facilitate our esteemed members, the Institute has got developed a tool for facilitating conduct of Secretarial Audit 'Compliance Management and Auditing Configuration (CMAC)' having checklists for around 35 Industry Verticals and 50 Industry sub-verticals. Further, a detailed checklist of applicable laws covering the Central and State Acts has been made available in downloadable form to act as a ready reckoner for Compliance Management in Companies. In the first phase, all Manufacturing and Services Industry Laws are available in the tool covering more than 400 Acts and Rules etc.

## Global Congruence to promulgate International Corporate Governance Day

With the current global changes and with the objective to re-iterate and create further sensitization with respect to adoption of Good Governance practices, the Institute has

conceptualized the idea of having a day declared as "International Corporate Governance Day". As an important initiative, and to profess and create international consensus for "International Corporate Governance Day", the Institute is hosting its first ever Global Congruence on 8-9 December in the city of Hyderabad to promulgate International Corporate Governance Day.

## 1st Weekend Management Skills Orientation Program (WE-MSOP)

The Co-founder of Google, Larry Page believes in "Always deliver more than expected." We fathom the limitations of our professionals who are not able to spare time for full time participation in MSOPs. Keeping this in view, a special Weekend Management Skills Orientation Program (WE-MSOP) for Senior Professionals having passed the Professional examination of the Institute, but not able to join MSOP at a continuous stretch of 15 days, has been introduced by the Institute for the very first time.

## Exposure Drafts of Secretarial Standards

The exposure draft of Secretarial Standard on 'Dividend and Secretarial Standard on Report of the Board of Directors' were hosted on our website soliciting valuable views and suggestions from the stakeholders.

## 16th ICSI National Awards for Excellence in Corporate Governance and 1st ICSI CSR Excellence Awards

Every year, the Institute recognises the Best Governance Practices amongst the Indian Corporates through its National Awards for Excellence in Corporate Governance. This year, the Institute has also initiated CSR Awards. The presentation ceremony of the 16<sup>th</sup> ICSI National Awards for Excellence in Corporate Governance and 1<sup>st</sup> ICSI CSR Excellence Awards is scheduled to be held on 24 December, 2016 at Vigyan Bhawan, New Delhi. The meeting of the eminent Jury chaired by Hon'ble Justice Shri V N Khare, Former Chief Justice of India was held on 27 November, 2016 for finalising the awardees of the 16<sup>th</sup> ICSI National Awards for Excellence in Corporate Governance and 1<sup>st</sup> CSR Excellence Awards.

## Start-O-Vation Punjab

The Institute collaborated with Indian Chamber of Commerce as Strategic Knowledge Partner in Startup and Innovation Summit, 2016 titled "Start-O-Vation" organized on November 29 at Chandigarh. The Summit had deliberations on guiding the entrepreneurs to build a strong base in terms of financing, leadership and strategies. The Ministry of Corporate Affairs were gracious to put up a big pavilion in the event which was manned by the officials of ICSI, where the concepts of OPC, small company, SPICE, incorporated body etc. were explained to the start-ups and reading material and pamphlets were also distributed to the participants both in English and Hindi languages.

## Vigilance Awareness Week, 2016

The Institute was invited to participate at the National Seminar addressed by the Hon'ble Prime Minister of India in its Valedictory Session on the occasion of Vigilance Awareness Week, 2016 organized by Central Vigilance Commission on November 7 at Vigyan Bhawan, New Delhi. The programme enriched the awareness of the participants in deliberations during technical sessions on "Public participation in promoting integrity and eradicating corruption" and "Public Procurement".

## Knowledge Series on GST

It is the supreme art of the teacher to awaken joy in creative expression and knowledge- Albert Einstein. The Institute collaborated as an Associate Partner with PHD Chamber for conducting second Knowledge Series on Goods & Services Tax. In the month of October, two full day seminars in this series were conducted on November 17 and 24 to analyze detailed provisions under GST vis-à-vis the provisions under existing Indirect Tax regime.

## CS Olympiad

After successful completion of two phases of CS Olympiad, next phase of CS Olympiad was conducted on an International platform in more than 10 Schools in Gulf Region, Bhutan, Srilanka, Singapore, Uganda etc. Besides, the result of CS Olympiad has also been declared. Muskan Yadav of RPS Public School, Narnaul, Haryana and Harini from Pushpalata Vidya Mandir, Tirunelveli, Tamilnadu attained the top rank amongst the participants from Class XI and XII respectively.

## Baal Sahbhagita on Children's Day, 2016

'Children are the world's most valuable resource and its best hope for the future.' Ministry of Corporate Affairs, had announced celebration of "Baal Sahbhagita", an event scheduled with an objective of initiating massive engagement of students through debate, painting competitions, quizzes and marathons with special drives in girls' schools on Children's Day 2016. The Institute also participated in the same by organising a painting competition and quiz competition in a School for Under-privileged Children in Noida.

## Convocation

The Institute is organising region-wise bi-annual Convocations at Kolkata, Chennai, Mumbai and Delhi in the months of November, December and January for awarding Certificate of Membership to the Associate members and also to award prizes/medals to meritorious students (National) and winners of National level student competitions. The first Convocation in the series was held on November 26 at Kolkata. To my new members my message would be Seize each moment, seize each opportunity to grow, and to live your passion. Love your work and it will give you an impressive identity.

## Run for the Cause of CSBF

'A marathon is like life with its ups and downs, but once you've

done it, you feel you can do anything.' A unique event "Run for the cause of CSBF", for promotion of the cause of CSBF, was organised at the Sabarmati Riverfront, Ahmedabad on during the last day of National Convention for promoting the philanthropic cause of CSBF witnessing the zestful participation from esteemed members. Sh. Gautambhai Navalchand Kishore, the Mayor of Ahmedabad Municipal Corporation, the Chief Guest of this event flagged off the run. Ministry of Ayush was the co-host for this zestful event. A session on Yoga was also hosted on this occasion.

## Propagation for Enrolment to CSBF

'He that does good to another does good also to himself' - *Lucius Annaeus Senec.* In the month of November, 64 new members enrolled for the CSBF Fund. We are trying our level best to circulate information concerning enrolment to CSBF via SMS, emails etc. with a view to apprise members of increment in financial assistance w.e.f. January 1, 2017 in case of sad demise of any life member of CSBF. I request all esteemed members to enrol themselves for CSBF. We introduced the scheme of 'Each One Get One' and this has really picked up well. I once again mention that the increment of financial assistance is from Rs. 5 lakh to Rs. 7.50 lakh.

## 'CS Touch' Mobile App revamp

The Institute had launched 'CS Touch', a Android based mobile application for students, members and other users to access the required information via smart phones which is a Mobile Application for Web based Content Management System for iOS and Android platforms. Based on the response of the users and stakeholders, the app has been revamped with enhanced features to serve the users more efficiently.

## ICSI Study Centre Scheme

In the month of November, the Institute has opened one study centre at Bharathidasan Government College for Women, Puducherry taking the total count to 30.

## Success Stories of Top 10 Rank Holders of June 2016 Examination

The Institute has shared the video bytes of the Top Ten rank holders of the Institute who have brought laurels to the Institute in June 2016 examination. The video link is available at the website of the Institute.

## Epilogue

### The Joy of Little Things

This time, I came across a simple but wonderfully narrated real story authored by Donna Marie Todd, 'The Joy of Little Things', that touched my heart, which really made me to comprehend deeply about what matters really in our lives and how we take our zillion blessings for granted and never realized grace of God been showered upon us every day. She articulated very beautifully how a simple physical act of 'eating' was really a

blessing until her husband who suffered from a massive stroke in the age of 23 made her to realize, as this stroke took away the 'pleasure' of eating anything from him. And, when his speech therapist finally gave him permission to eat after months and how he savoured the simple little act of eating carrots and broccoli. I was really moved by her narration as:

"When we got home, he opened the fridge and pointed at the carrots and broccoli. He went to the hutch and took out a fancy, ironed linen napkin and put it at the head of the dining room table. He carefully carried one of my mother's bone china plates to me, the ones edged in gold with a pale pink rose in the middle. The ones reserved for very special occasions.

I steamed the carrots and broccoli and then lifted them out of the pan and placed them on his plate. He took the plate to the table and rearranged the vegetables until they were just so and said "join... me." So I put some vegetables on a plate and sat down next to him.

With an air of utter reverence, he gently took my hand in his and very slowly said "Thank... you...God. Amen." Then he flashed a lopsided grin, flapped his napkin open with a flourish and spread it on his lap. He grasped his fork with his weak right hand and speared a carrot with determination. He held it up and looked at it, admired the color and sniffed it. And then very slowly he opened his mouth, closed his lips around the fork, pulled the carrot into his mouth and began to chew.

It took him 45 minutes to eat that plate of vegetables. He savoured every moment of that meal. **I have never seen anything as beautiful as my husband's gratitude for a soft carrot in all my life.** My husband taught me a great lesson that day:

"The joy of life is in the little things and we realize this only when we are forced to realize so."

Our lives are so busy these days, too busy really. Everything is on the go! We get up from the bed and have thousand tasks to complete in our mind while getting ready, we grab our breakfast in a hurry and become a part of million other commuters on the busy paths that lead to nowhere actually. We come home and go to sleep having very little time to listen to what our life partner has to say or the cute little tales of the day our amazing kids have to tell us. We wait for the weekends and still find no joy while spending these as we are occupied with our electronic gadgets. We keeping waiting for big things to happen, and in this wait, forget to cherish so many beautiful moments that just happened or are happening to us! And, in waiting that something big to happen...complete life just slips by!! There are innumerable such tiny little moments, which we

overlook when we sit down to "evaluate" whether we are happy in life or not. So many years have passed and many more will similarly pass...and we, keep waiting for those big moments that may never come.

This story taught me that one of the easiest ways to support our own mental and emotional health is remembering to slow down and appreciate the joy of plenty of little things in our life unfolding every moment. Without slowing down to appreciate these little things, what is the rest of life made of? It winds up being nothing more being a slave of our circumstances as we postpone our happiness.

Sometimes, we become so focused on the finish line, that we fail to find joy in the journey. While heading towards a brand new year, let us make a New Year resolution of not missing the joy of these little things in our life. When we affirm to enjoy the little things that come alive in each moment, our life becomes a growing mosaic of happy moments. Let's be mindful of the simple pleasures that we're blessed with every day.

- Let us enjoy the magic, the purity, the wonder, the mystery and the innocence of a child's heart; it is said there are no seven wonders of the world in a child's eyes, there are seven million, let us treasure those wonders
- Let us relish home food cooked by our Maa or Grandma
- Let us feel joy while watching our better half setting the things before we go to our workplaces fully prepared and our kids tiffin box is duly packed without any expectation; let us kiss the hands today who do all this selflessly and without fail for most of their lives
- Let us value the bear hug by some loved one when we are in worst of our moods and spirit

Beautiful...heart warming moments... indeed joy is not in things, it is in us. The little things, the little moments, they aren't little, they are the pearls of our life. Let us learn to find joy and laughter in everything we happen to come across, like a three year old does always. So, let us raise our vision to become a microscope that is able to discover and appreciate these little but most jewelled moments.

To quote Noah Benshea: "A miracle is often the willingness to see the common in an uncommon way." The slightest shift in perception (from fear to love) equates to a miracle.

Happy Miracles!!  
Best wishes.

Yours sincerely



December 05, 2016  
New Delhi

(CS MAMTA BINANI)  
president@icsi.edu

# 1

# ARTICLES



- CSR IN THE INDIAN CONTEXT – THE PAST, PRESENT AND THE FUTURE
- STATUTORY CORPORATE SOCIAL RESPONSIBILITY– A PHILOSOPHICAL SHIFT IN DECOLONIZED COMPANY LAW
- CSR – RETHINKING THE PHENOMENON
- SOCIAL AUDIT AND CORPORATE SOCIAL RESPONSIBILITY
- CORPORATE SOCIAL RESPONSIBILITY - PRICELESS CONTRIBUTION OF CORPORATES TOWARDS PROSPERITY OF PEOPLE AND PLANET
- CORPORATE SOCIAL RESPONSIBILITY IS NOT CHARITY, BUT A RESPONSIBILITY
- AUDIT OF CORPORATE SOCIAL RESPONSIBILITY
- EFFICACY OF SOCIAL AUDIT IN CONTEMPORARY STATUTORY ENFORCEMENT OF CORPORATE SOCIAL RESPONSIBILITY IN INDIA
- SOCIAL AUDIT UNDER COMPANIES ACT, 2013
- SOCIAL AUDIT IN THE CONTEXT OF CSR
- SOCIAL RESPONSIBILITY OF ENTERPRISES NEED FOR SOCIAL AUDIT
- LEVY OF GST ON E-COMMERCE & AGGREGATORS

# Articles in Chartered Secretary

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1. Articles on subjects of interest to the profession of company secretaries are published in the Journal.
2. The article must be original contribution of the author.
3. The article must be an exclusive contribution for the Journal.
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.
5. The article should ordinarily have 2500 to 4000 words. A longer article may be considered if the subject so warrants.
6. The article must carry the name(s) of the author(s) on the title page only and nowhere else.
7. The articles go through blind review and are assessed on the parameters such as (a) relevance and usefulness of the article (from the point of view of company secretaries), (b) organization of the article (structuring, sequencing, construction, flow, etc.), (c) depth of the discussion, (d) persuasive strength of the article (idea/argument/articulation), (e) does the article say something new and is it thought provoking, and (f) adequacy of reference, source acknowledgement and bibliography, etc.
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9. The Institute/the Editor of the Journal has the sole discretion to accept/reject an article for publication in the Journal or to publish it with modification and editing, as it considers appropriate.
10. The article shall be accompanied by a summary in 150 words and mailed to ak.sil@icsi.edu
11. The article shall be accompanied by a 'Declaration-cum-Undertaking' from the author(s) as under:

### Declaration-cum-Undertaking

1. I, Shri/Ms./Dr./Professor..... declare that I have read and understood the Guidelines for Authors.
2. I affirm that:
  - a. the article titled "....." is my original contribution and no portion of it has been adopted from any other source;
  - b. this article is an exclusive contribution for Chartered Secretary and has not been / nor would be sent elsewhere for publication; and
  - c. the copyright in respect of this article, if published in Chartered Secretary, shall vest with the Institute.
  - d. the views expressed in this article are not necessarily those of the Institute or the Editor of the Journal.
3. I undertake that I:
  - a. comply with the guidelines for authors,
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(Signature)



# CSR in the Indian Context – the Past, Present and the Future



**Hemant Gupta**

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## BACKGROUND

As is common wisdom, Indian companies have been engaged in CSR / Charity / Philanthropy since time immemorial. Whether it was the factories investing in the communities around them to reduce dependence on a migratory workforce and for having happier families and hence happier employees; or businessmen giving back to their communities or causes near and dear to their hearts; or foundations building places of worship to bring communities together; or a whole host of other methods through which we had corporates giving back to the society in some shape or form. In most instances these were treated as acts of charity or philanthropy, or the owners giving back to society.

Through this article the author is endeavouring to trace the journey of Corporate India moving from Philanthropy to Corporate Social Responsibility (CSR) to Corporate Sustainable Development (CSD) and conclude with some of the drivers influencing the behaviour of today's Corporate India in this space.

Similarly, in the west, what originated as a "tithe" (a tax levied by the church, the proceeds of which were not only used to support the religious establishment, but also a fund that would be used for social causes and also be drawn upon at times of social stress), continues in the form of fund raisers / charity drives either led by the church or by communities. The larger organizations, some of whom assumed global stature, created their own foundations that were used to by the founders as vehicles for causes they wanted to champion. Other corporates also spent money for the up-liftment of localities they operated in or for communities they came from.

Whether it was the east or the west, corporates engaged in what we would call philanthropy or charity and not exactly what we would today recognize as Corporate Social Responsibility. One reason for that was that the so called decision makers or the management of the corporates typically viewed themselves as "givers" and not "participants" and the recipients of the charity were viewed purely as "beneficiaries", rather than "stakeholders". This distance between the givers and the beneficiaries widened further as the employees of the corporate had little or no role to play in this charity, with the reins being firmly in the hands of the owners.

## MOVING FROM CHARITY TO CSR

Fast forward to the present and, globally as well as within India, the buzzwords are CSR and Sustainability. Nowadays, charity is something done more by Individuals (keyword here being "more", corporate charity is still alive and kicking, but is reducing in impact). Even in the sphere of CSR or Sustainability, the discussion threads are no longer just about social impact, but also include Corporate Strategic Alignment and Brand building using CSR. Let us examine what caused this paradigm shift and what is the path going forward.

The early winds of change in this direction were propelled with the decision making expanding from being localized with the owners (as mentioned before) to others in the management. With that the sphere of "stake holders" expanded, and so did the causes in which the funds were invested. Managers in turn, encouraged employees to participate and volunteerism also started increasing.

This more inclusive form of charity, changed the very nature of corporate giving over

\* The views expressed herein are personal. views of the author.

time. The same was true in the east and in the west, corporate charity was evolving and assuming a broader context.

As CSR became more mainstream, it also became the subject of greater academic debate and research, in addition to being added as a subject to the curriculum of a lot of very respected educational institutions. The debate and research also resulted in several theories and best practices being published on the subject.

In 1981, Freer Spreckley first articulated the triple bottom line in a publication called 'Social Audit - A Management Tool for Co-operative Working'. In this work, he argued that enterprises should measure and report on social, environmental and financial performance. The phrase "triple bottom line" was articulated more fully by John Elkington in his 1997 book 'Cannibals with Forks: the Triple Bottom Line of 21st Century Business'.

The United Nations Industrial Development Organisation (UNIDO) puts forward the following definition of Corporate Social Responsibility (CSR) –

"Corporate Social Responsibility is a management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders. CSR is generally understood as being the way through which a company achieves a balance of economic, environmental and social imperatives ("Triple-Bottom-Line-Approach"), while at the same time addressing the expectations of shareholders and stakeholders."

There are several other equally important research works and publications on CSR that are applicable, however, in the interest of staying with the topic at hand, these are not discussed here. Concomitant with these developments in west, the Indian economy was being opened up, licenses and controls were being relaxed by the Government. This allowed Indian Corporates to operate with more liberty, providing them opportunities to grow and prosper and be more willing to contribute to the society. Globalization also gave them a greater exposure to the trends in CSR in the west, which resulted in greater alignment in the CSR trends in India and overseas.

Social development, that had long been treated as a Government subject, or something that came in the purview of the "Tatas and Birlas", increasingly became a more mainstream corporate subject.

The icing on the cake was the enactment of Section 135 of the Companies Act, 2013. Suddenly CSR was propelled into being a Corporate Responsibility and not just a coffee table discussion or a nice to do activity.

Companies that traditionally undertook CSR anyway – with or without the law – used this opportunity to streamline the investments they made in this regard. For these firms, this was a chance to re-review and re-strategise what they had already been doing in order to fit into the requirements of the law. For other companies, this was an opportunity to re-align their CSR spends with their corporate objectives. The law gave corporates a couple of options in participating in CSR –



- a) Scaling up initiatives that they already had, replicating their solutions and benefits to a wider population
- b) Choosing to look at new areas and pilot some initiatives in the first year that were aligned with their Corporate objectives.

The immediate impact of the law was the subject of a study by IAS of BSE 100 companies' disclosures in FY2015. "The CSR spend of these 100 companies, aggregated to Rs. 52.4bn

“ Companies invest in CSR and increasingly CSD to manage their risk, recruit employees, bolster their brand in the eyes of investors and consumers, ease their supply chains, save money, increase access to capital, differentiate themselves from competitors etc. ”



for FY15. Although the spend was 26 per cent lower than the prescribed amount, it was up almost 75 per cent from Rs. 30bn in FY13. This amount is further expected to increase to Rs. 85bn in the current financial year,” the study said.

The law was very significant for several reasons, one of them being the fact that India has access to a huge demographic dividend. There is an urgent need for the creation of the right infrastructure to reap its rewards and not have the dividend turn into a source of social division. Investment in education, health, skill development and social infrastructure will result in improving the nutritional, skill and educational level of youth, which in turn will better their employment prospects.

As mentioned earlier, traditionally, the development of this infrastructure has been the responsibility of the Government, but there is widespread recognition (including within the government), that since public delivery of goods and services has been riddled with corruption and bureaucratic inefficiency, CSR not only provides a more efficient and cost-effective channel for delivery of these services and goods, but will also bring innovation to this sector thereby resulting in enhanced efficacy and a more scalable infrastructure being implemented. It's now been two years since the law was enacted and most corporates have already gone through the process of figuring out their CSR strategy and identifying suitable partners to implement the same. Tools such as the BSE Sammaan

platform (that provides a wide array of verified Implementation Agencies) have helped corporates in achieving this objective. So where does the CSR journey lead to in the near future ?

## CSR TO SUSTAINABLE DEVELOPMENT

As CSR matures in corporate India, we are coming across more and more references to what is called “Corporate Sustainable Development (CSD)”. Interestingly enough, the origins of the phrase “Sustainable Development” are from 18th Century forestry. It meant cutting down only so many trees, so that the overall tree population is preserved. A more recent definition is “development that meets the needs of the present without compromising the ability of future generations to meet their own needs”.

In the context of our discussion, this would be applicable to all the stakeholders in CSD and it will be interesting to understand the underlying factors that are making Corporate India move from CSR to CSD.

## WHY CSD

Companies invest in CSR and increasingly CSD to manage their risk, recruit employees, bolster their brand in the eyes of investors and consumers, ease their supply chains, save money, increase access to capital, differentiate themselves from competitors etc. etc.. Some of the key drivers are given below -

1. Impact – Making a tangible effect is important for every leader. Given the sums of money can be significant, companies want to ensure they create impact that can be seen and talked about.
2. Employee engagement – Companies have realised that there is significant value in engaging their employees both in conceptualizing and in the execution of CSR programmes. This not only enhances employee morale and reduces attrition, but can significantly enhance the benefit accruing from their investments.
3. Long-term projects – They wish to establish long-term projects that not only serve the purpose of benefiting the stakeholders, but also establish a strong recall for their brand whenever a particular issue is talked about.
4. Partnerships – There is a lot of discussion being held in forums with regard to the strategies, approaches and inclinations of various companies. Also, there seems to be a strong alignment among the companies with each other's vision and priorities. They see the value that's in collaborative efforts and wish to leverage it to create a collective and sustained impact. Additionally, there is a lot of focus on Public-Private partnerships with the Central and State Governments also stepping in to contribute to more effective delivery of CSR at the ground level.

In conclusion, the Indian Corporates' CSR journey has come a long way from the days of philanthropy. Assisted by the introduction of the Companies Act, 2013, CSR today is not only a mainstream activity for Corporates, but is being leveraged by them to their strategic advantage and for Sustainable Development. Clearly, different Corporates are at different stages of this journey, but almost all recognize the Strategic value of the same.

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# Statutory Corporate Social Responsibility– A Philosophical Shift in Decolonized Company Law

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## INTRODUCTION

India is the first country in the world to introduce Statutory Corporate Social Responsibility (CSR) through the new Companies Act 2013 (CA 2013). Prior to this landmark development, CSR was not a new concept in India and can be traced with historical evidences. There has been multiple drivers leading to this law, including moral, ethical, cultural and strategic reasons. Post – independent governance of India was an instrumental catalyst for Corporate Social Responsibility (CSR) initiatives. India was governed by the mandate to achieve social and economic justice and aimed at economic pluralism. The role of business in nation building was readily recognised, and this philosophical approach was echoed in the reports of various expert committees appointed to recommend company law and industrial reforms in the post-independence era. Translation of this philosophy was nationalization of major companies in different industrial segments. The objective was to use the corporation as a vehicle for

The article while explaining the reasons for transformation of economic model of India also highlights the attempts made for formalization of Corporate Social Responsibility in India.

development and to utilize the profit for socio-economic upliftment. The Government emerged as a major equity holder by 60's, with all the government companies advocating a strong CSR mandate prior to the enactment of the new Companies Act 2013.

## SHIFT IN ECONOMIC PHILOSOPHY

The end of 1980 and beginning of 1991 marked a transformation in the economic model of India. The changes initiated in the economy were due to several factors, i.e., inefficiency in the model of Public Sector Undertaking (PSU), slow growth in the economy which is popularly known as 'Hindu Rate of Growth', the heavy balance of payment deficit and sinking balance of foreign currencies, (Cerra & Saxena, 2002; Sharma, 2009, p. 1523; Singh, 2002, pp. 3–5; Van Zile, 2011, p. 285) etc. New Economic Policy (NEP) introduced in 1991 sought to integrate India with the world economy. Centralized bureaucratic control over resource allocation (which was popularly known as licence-raj), control over accessing the capital market, and overdependence on PSU were done away with under NEP. This encouraged private equities to participate in different sectors, which was until then dominated or only accessed by the PSUs. The de-regularization of different sectors increased the expansion of non-PSU domestic companies and investment by foreign companies. The objective was to move towards holistic growth from Hindu rate of growth through more and more private participation. To support this growth through a market economy, ("Economic Survey of India: 2007, OECD Policy Brief (2007)," n.d., p. 3) several institutional reforms were initiated by repealing, enacting, and amending several legislations. (See generally, Gokarn, 1996)

To initiate market reforms under NEP, capital market regulator, Securities and Exchange Board of India (SEBI), was established. The mandate to SEBI was to develop and regulate the Capital Market. SEBI initiated reforms in market practice, initiated and developed several norms and prescribed rules for market participants, reforms in trading practice in stock exchanges. (Shah, 1999) This was to bring

transparency, predictability, and openness in the market practices. The reforms generated investor confidence, strengthened the regulatory institutions and minimized bureaucratic control, which facilitated the development of the business. (“Growth of Companies in Operation in India (1994 to 2000).doc,” n.d.; See generally, Patil, 2006; Shah, 1999; Sharma, 2009, p. 1524).

After reforms, the economy became more diverse, complex and dynamic. Companies, mainly private equity, emerged as the preferred business vehicle for economic and commercial activities. The number of incorporations at this time was phenomenal. Companies now entered the new segment of service and productions and cherished international ambition. They contributed significantly to the economy and created space in world business. In this backdrop, it was felt that India needed to introduce reforms in the policy, institutional and legal framework. (Lok Shaba Secretariat, n.d.) To that end, the Companies Act 1956 was amended in 1999, 2000, 2001, 2002 (twice) and 2006. It was felt that mere amendments would be inept to meet the need of the hour.

SEBI aggressively concentrated on market reforms and investor protection. It appointed several expert committees to advise on the reforms. One of the significant reforms of this time was on Corporate Governance. The first initiative was by the Confederation of Indian Industry (CII) by setting up a committee to examine corporate governance issues, and to recommend a voluntary code of best practice. The committee submitted the report which borrowed heavily from Anglo-American philosophy. Consequently, in 1999, SEBI set up Kumar Mangalam Birla Committee to make recommendations for raising the standards of Good Corporate Governance. Out of several recommendations, the Committee felt that Board has a responsibility not only towards shareholders but the stakeholders as well. (Gopalan & Kamalnath, 2015, p. 57) The recommendation of the Birla Committee incorporated provision on Corporate Governance (Clause 49) of Listing Agreement. Subsequently, several committees have been set up to strengthen the Corporate Governance further.

The Department of Company Affairs, Ministry of Finance, appointed a committee under Chairmanship of Sri Naresh Chandra on 10<sup>th</sup> Jan., 2003 to suggest a more scientific and rational regulatory environment with particular reference to the Companies Act, 1956 and Indian Partnership Act, 1932. (Department of Corporate Affairs, Ministry of Finance, 2003) The Committee observed that keeping in mind economic reforms, regulatory environment should ‘...providing a structural environment that is conducive to the growth and prosperity of the entities [companies], being mindful of the impact on various stakeholders, ...’ (Department of Corporate Affairs, Ministry of Finance, 2003, para. 1.22(b)) The Committee emphasized on recognition of different stakeholders’ rights in the functioning of the company.

On 4<sup>th</sup> August 2004, the Ministry of Corporate Affairs placed a concept paper on its website to seek suggestions from stakeholders about reframing of Companies Act. On 2<sup>nd</sup> December 2004, Dr. J.J. Irani, Director, Tata Sons Ltd., and a noted corporate leader of the country was appointed as Chairman of the Expert Committee (popularly known as Irani

Committee) to examine the suggestions received on the Concept Paper. This Committee included representatives of various industries and trade bodies/associations, statutory professional bodies, experts and representatives from regulatory bodies and the concerned ministries.

The concept paper didn’t open any discussion on stakeholder protection or CSR. (See, Gopalan & Kamalnath, 2015, p. 58) Subsequently, Irani Committee submitted its report which covered different aspects like the classification of companies, adoption of e-governance in company administration, Management and Board Governance, related party transactions, minority interests, investor education and protection, access to capital, merger and acquisitions, investigation under the Companies Act, offences and penalties. (Ministry of Corporate Affairs, 2005) The Committee didn’t deliberate anything on the non-shareholder interest. (Gopalan & Kamalnath, 2015, p. 58) Also, discussion about corporate social responsibility didn’t find a place in the report. Following the Irani Committee, a new Companies Bill, 2008 was introduced on 23<sup>rd</sup> October 2008. The bill also did not include any clause about CSR. It lapsed due to the dissolution of 14<sup>th</sup> Lok Sabha. Subsequently, the Government introduced the Bill in Lok Sabha on 3<sup>rd</sup> August 2009 as Companies Bill, 2009.

## ATTEMPT TO FORMALISATION OF CORPORATE SOCIAL RESPONSIBILITY

While the Ministry, on one hand, was busy placing the Companies Bill, 2009, it also published the ‘Corporate Social Responsibility Voluntary Guideline 2009’ (“Corporate Social Responsibility Voluntary Guideline 2009,” n.d.) to be adopted by the Indian Companies. The then Minister of State, Ministry of Corporate Affairs, Mr. Salman Khurshid, in his forwarding note, commented that,

‘We have seen the business sector generating wealth and value for the shareholders in the last sixty years, but simultaneously we also have the problem of poverty, unemployment, illiteracy, malnutrition, etc., facing the nation. The corporate growth is something seen as widening the gap between the India and Bharat<sup>1</sup> through its income-skewing capability. This gap needs to be bridged. While the government undertakes extensive development initiatives through a series of sectoral programmes, the business sector also needs to take the responsibility of exhibiting socially responsible business practices that ensures the distribution of wealth and well-being of the communities in which the business operates’ (“Corporate Social Responsibility Voluntary Guideline 2009,” n.d., p. 05)

He further added,

‘The Indian business has traditionally been socially responsible. From inactive philanthropy to the incorporation of the stakeholder’s interest in the business model, the Indian business sector practices various methods of discharging its social responsibility. While a lot of human and economic energy is available for utilization in this area, a suitable mechanism is required to channelize this energy for which the Government, corporate sector and communities need to partner together’ (“Corporate Social Responsibility Voluntary

<sup>1</sup> ‘India’ indicated as increasing prosperous and developed Urban India whereas Bharat indicated as underdeveloped rest of India.

Guideline 2009,” n.d., p. 06)

The Preamble of the Voluntary Guidelines attempted to summarisethe business ethos which author of this paper have attempted to highlight in the previous paragraph.

‘Indian entrepreneurs and business enterprises have a long tradition of working within the values that have defined our nation’s character for millennia. India’s ancient wisdom, which is still relevant today, inspires people to work for the larger objective of the well-being of all stakeholders. These sound and all-encompassing values are even more relevant in current times, as organizations grapple with the challenges of modern-day enterprise, the aspirations of stakeholders and of citizens eager to be active participants in economic growth and development.’(“Corporate Social Responsibility Voluntary Guideline 2009,” n.d., p. 9)

The Guidelines emphasised upon the formulation of CSR policy for each business entity, ‘which should be an integral part of the overall business policy and aligned with its business goals’.(“Corporate Social Responsibility Voluntary Guideline 2009,” n.d., p. 11) It suggested the involvement of various levels of executives for the development of the policies which should be approved by the Board. The CSR policy also needed to identify the implementation strategy, organizational mechanism and responsibility, time schedules and monitoring. The ‘core elements’ like, care for all stakeholders, ethical functioning, respect for workers’ rights and welfare, respect for human rights, respect for environment, activities for social and inclusive development were well defined.(“Corporate Social Responsibility Voluntary Guideline 2009,” n.d., pp. 11–12; See generally, Gopalan & Kamalnath, 2015, pp. 59–60)

### CONCERN OF INDIAN PARLIAMENT ON CSR

The argument regarding the India and Bharat became intense in the floor of the Parliament. On, 25<sup>th</sup> April 2008, Mrs. Maneka Gandhi, MP, Lok Sabha, asked the question, ‘whether the Government has made it mandatory for every company to have a corporate social policy; If so, the checks that have been instituted to see that the Corporate Social Responsibility is being honoured; and The manner in which the Government is encouraging corporate social responsibility among industries?’(Question No. 4627, Question on Corporate Social Responsibility, [Lower House of the Parliament], “Lok Sabha (Questions),” n.d.)

The then Minister of Corporate Affairs, Mr. Prem Chand Gupta, answered that the Government did not have any such plan. He said, ‘companies being encouraged to address their social responsibility voluntarily through good Corporate Governance practices in the interest of a stakeholder’.(“Lok Sabha (Questions),” n.d.)

On 1<sup>st</sup> December 2011, Mr. Asaduddin Owaisi and Mr. P. R. Natarajan, MP, Lok Shaba asked the question, ‘whether the Government has made it mandatory for Corporate Sector to spend two percent of companies’ net profit under Corporate Social Responsibility (CSR); if so, the details thereof; whether the Corporate Sector has expressed their reservations/ objections in this regard; and if so, the details thereof and the reaction of the government thereto?’(Question No.151, Corporate Social Responsibility,

“Lok Sabha (Questions),” n.d.)

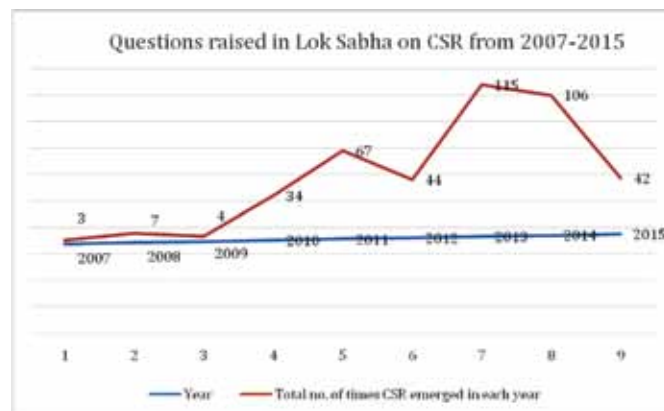
The then Minister of Corporate Affairs, Dr. M Veerappa Moily, said:

‘Government has not made it mandatory for the corporate sector to spend two percent of companies’ net profit under Corporate Social Responsibility (CSR). However, the Department of Public enterprises has issued Guidelines for Central Public Sector Enterprises in April 2010, wherein these enterprises, except those making losses, have to create mandatorily, through a board resolution, a CSR budget as a specified percentage of the net profit of the previous year.’(“Lok Sabha (Questions),” n.d.)

It seems that the process of mandatory CSR got firmly embedded with the parliamentarians and Government seems to be tilted towards that.(Subsequently in 24.02.2011 (Unstarred question no. 630) and 10.03.2011 (Starred question no. 216) similar questions regarding mandatory CSR and fund spend again raised by the Members [Ms. Priya Sunil Dutt, Mr. Lalubhai Patel and Mr. M. Krishnaswamy, Mr. Anantha Venkatarami Reddy] of Lok Sabha. Then the Minister of Corporate Affairs Mr. Murli Deora summarized the position of the government and said, “The Companies Act, 1956 does not have a provision to mandate Corporate Social Responsibility (CSR) activities. The Parliamentary Standing Committee on Finance, after examination of the Companies Bill, 2009 introduced in Lok Sabha, has recommended spending of 2% of average net profits during the three immediately preceding financial years on Corporate Social Responsibility (CSR) activities by a class of companies along with sufficient disclosure in the Directors’ report to the members. The report is under examination. This Ministry has issued Corporate Social Responsibility Voluntary Guideline in 2009 for adoption by companies voluntarily.’ “Lok Sabha (Questions),” n.d.)

The graph below represents the number of the questions raised on CSR in Lok Sabha between 2007 to 2015.

Table 1

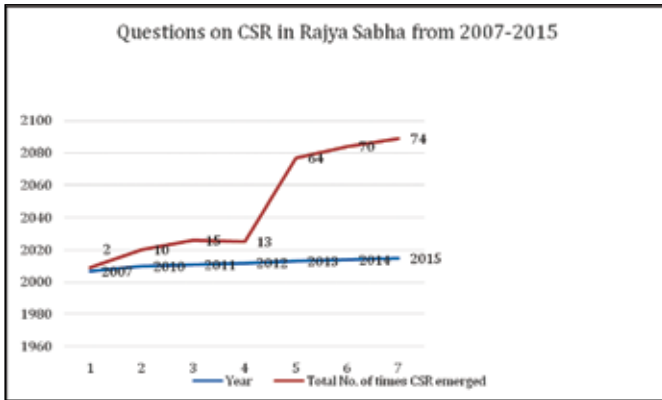


The Rajya Sabha was equally active over CSR development and inclusion in the new Act (See Table 2). In the Rajya Sabha, on 22<sup>nd</sup> November 2010, Mr. Ishwar Singh, asked: ‘whether the Department-related Parliamentary Standing Committee on Finance has recommended to make it compulsory for companies to spend 2 percent of their net profits towards Corporate Social Responsibility commitments; whether Governments feels that the corporate sector on its own do a lot of CSR contributions and it would be cumbersome

to make it mandatory as the corporate sector rightly resents policing of their books;...’ (Question No. 1256, Dated 22.11.2010 “Rajya Sabha (Question),” n.d.)

The then Minister of Corporate Affairs, Mr. Salman Khurshid, acknowledged that the recommendation of Parliamentary Standing Committee was on 2% spending but informed that the Ministry did not maintain any database on the corporate spending on CSR. On the question of failure of voluntary CSR, the Minister responded that there were no such data mentioned by the concerned ministry due to its voluntary nature. (Question 829, Dated 08.08.2011 “Rajya Sabha (Question),” n.d.)

**Table 2**



## PROCEEDING AND RECOMMENDATION OF STANDING COMMITTEE

The Parliament referred the Companies Bill, 2009 to the Standing Committee on Finance in September 2009 to examine the proposed legal framework and whether the Bill harmonized with the framework of other sectoral regulators. The Committee opened a Press Communique dated 18<sup>th</sup> September 2009, to invite suggestions from institutions/experts/interested individual. In response to that, the Committee received more than 100 Memoranda comprising numerous suggestions for modifications/inclusions in the Bill. (Lok Shaba Secretariat, n.d., para. 11) The Parliamentary questions on the bill were sent to nodal Ministry Corporate Affairs for response.

The Ministry of Corporate Affairs accepted the suggestions in 500 cases made by the Committee. And about 125 cases were modified, altered and formulated. (Lok Shaba Secretariat, n.d., p. 14) After deliberation, the Committee developed guiding principles of the Bill and the most innovative of them was CSR as a concept in the Bill. (To quote from the report “Introduction of Corporate Social Responsibility (CSR) as a concept in the Bill, requiring bigger companies to make disclosure about their CSR policies and activities thereunder.” Lok Shaba Secretariat, n.d., p. 14) While the Secretary, Ministry of Corporate Affairs, deposed before the Committee and stated, ‘There was no mention in the earlier Companies Act about corporate social responsibility. ... there will be a Corporate Social Responsibility policy in each and every company beyond a certain limit, which are profitable companies and which are certain size’. He added further ‘2 per cent of the last 3 years should be spent on corporate social responsibility’. On inquiry of committee about

monitoring the social obligation, he replied, ‘The whole emphasis of the Act is disclosure method. Whatever is being done, what is being done will be in public domain. ... It will be given in the report’. He added, ‘This is the first time and historically it may be the first time in the world – is that we are putting the Corporate social responsibility which the Chairman directed to us. We are putting it in the law itself that every company beyond the certain limit should have a corporate social responsibility policy. This is something we cannot mandate beyond that, but we are making a provision in the law itself’. The Committee recommended insertion of a statutory provision for a separate heading in the Director Report regarding Corporate Social Responsibility which was accepted by the Ministry.

While defending the bill, the Minister of Corporate Affairs, Mr. Sachin said, there are two countries in the world, i.e. France and Indonesia, who have some sort of regulation on CSR. (“I am happy to inform the House that we have undergone a large study globally and we have learnt there are only two countries in the world where there is some sort of CSR regulation. The countries are France and Indonesia. But we believe that in India we must have the corporate entities contribute meaningfully and while they do that, it is for the first time and India perhaps will be the first country that will have Corporate Social responsibility as a statute. I must thanks the Standing Committee on Finance and all its Members for having really forced this issue to be part of this bill.” “Discussion on the motion for consideration of the Companies Bill, 2011 (Bill Passes),” 2012) He added that the payment of the tax is the responsibility of the company but they ‘must also give back to the society’. The divide between the rich and the poor is getting bigger and bigger. (“Sir, the CSR provision in this bill is the following. It is now mandatory for certain class of companies to contribute 2 per cent of their profit into the communities in which they function. It is because every company, be it manufacturing or production companies, they work in certain areas and we believe that it is these companies who must also give back to the society. Giving taxes is a responsibility of the company, but to have a corporate social responsibility as a part of their functioning, I Think, will go a long way in clearing the air as we go forward. We have seen a big division in this country, the divide between the rich and the poor is getting bigger and bigger. It is about time that we do a perception correction. That can only be done if the companies themselves move forward and show that they are responsible, sensitive and they want to give back to the society. Therefore. CSR has now become a mandatory part of this bill.” “Discussion on the motion for consideration of the Companies Bill, 2011 (Bill Passes),” 2012) He went back to the debate on India and Bharat from the perspective of development. On the issues of the stringent CSR compliance, he told, the Government would like to give enough freedom to the companies about their choice and place of activities. (“Discussion on the motion for consideration of the Companies Bill, 2011 (Bill Passes),” 2012) On the question of what should be the delivery programme of CSR, the Minister commented that it will be based on the principle of disclosure, not on policing. The lower house suggested amendment in the Clause 135 (i.e. Clause for Corporate Social Responsibility) in the Bill and inserted, ‘Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities.’ (“Discussion on the motion for consideration of the

Companies Bill, 2011 (Bill Passes),” 2012)


The Rajya Sabha passed the Companies Bill, 2011 on 8<sup>th</sup> August 2013 and the Bill was sent for Presidential assent. Section 135 was notified on 12th September 2013. (“Ministry Of Corporate Affairs - The Companies Act,” n.d.)

## THE COMPANIES ACT, 2013 ON CSR

The Companies Act 2013 incorporates the provision relating to the Company’s Corporate Social Responsibility in Section 135 (“Companies Act 2013,” n.d.) and Schedule VII. (“Companies Act 2013,” n.d.) Section 135 provides the substantive law on CSR while Schedule VII explains the heads where the CSR activities may be undertaken by the companies. The act institutionalises CSR within companies by constituting a mandatory board committee which will be comprised of three or more directors, out of which one director shall be an independent director. (Sub - Section 1, Section 135 “Companies Act 2013,” n.d.) The Statutory CSR is only restricted to those companies having net worth of rupees five hundred crores or more or turnover of rupees one thousand crores or more or a net profit of rupees five crores or more during any financial year. (“Companies Act 2013,” n.d.) The committee responsible for formulating policies shall indicate the activities the company will undertake, expenditure for implementation of the activities and propose the mechanism for monitoring the activities. (Sub - Section 3, Section 135 “Companies Act 2013,” n.d.) The Board needs to ensure that the company spends, ‘in every financial year, at least, two percent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy’. (Sub - Section 5, Section 135 “Companies Act 2013,” n.d.) The Board needs to disclose the composition of the CSR committee and activities in the Board’s report. Both the Section and the Schedule have undergone amendment under the New Government and inserted a modification in the year 2014. The Government framed the rules on CSR in 2014, i.e., The Companies (Corporate Social Responsibility Policy) Rules, 2014. The rule has again been amended in 2015. In addition to the Board reports, the rules specify that the CSR activities of the company need be placed in the company’s website.

## CONCLUSION

It has been informed in Parliament that India is the first country which has incorporated corporate social responsibility in the statute book; but factually, there are other Asian countries (e.g. China, Indonesia etc.) who have amended their laws to adopt mandatory Corporate Social Responsibility. The modalities of implementation of mandatory CSR differ from one country to another.

According to the author, this is a new development within Corporate Law Philosophy with reference to developing countries. The government in these countries are increasingly recognizing that the businesses (read as companies) have a role to play in resource allocation and economic pluralism. 

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# CSR – Rethinking the phenomenon



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## BACKGROUND

In the year 2009, an article in “Chartered Secretary” was published by the same author with a title “Company Secretary and Corporate Social Responsibility [CSR]” carrying basics of CSR when CSR was in nascent stage and was somewhat concern for few premier corporate houses only. With the applicability of new Companies Act, 2013 and with a passage of time now, the phenomenon CSR can be imbibed with a different sensible outlook. It will be also be interesting to take note of the report of the High Level Committee set up by the Ministry of Corporate Affairs [MCA], Government of India which was submitted in September, 2015 so as to suggest measures for improved monitoring of the implementation of Corporate Social Responsibility Policies.

Looking to the overall need for the holistic growth and development of India, CSR implementation by compulsion through legal compliance seems justifiable to certain extent. ISO certification and CSR standards are the future lessons that can be helpful for sharpening the overall attitude for taking CSR in its right perspective.

## ORIGINATED IN ANCIENT INDIA AND NOT A CONCEPT BORROWED FROM FOREIGN COUNTRY

While doing web search about CSR and CSR policies apparently one feels that lot many things have been done in foreign countries and India has borrowed the concept from the foreign countries. But, the fact is that the concept of CSR has existed in ancient India and our ancient wisdom has framed a platform for CSR and the proud moment is such ancient wisdom has given direction to the corporate houses and industries. Our rich ancient knowledge and tradition is the very basis of modern corporate level CSR practices.

### **The Origin of CSR can be traced from our Upanishadas, Puranas and Vedic literatures like Ramayana, Mahabharata and Bhagvat Gita.**

Since the time of ancient India, CSR practice in India has been mainly altruistic in nature which was mainly guided by religious teachings. The Vedas propounded and nurtured four goals of life viz, Dharma (ethics), Artha (economics), Kama (desires) and Moksha (deliverance). The Hindu Neetishastras (treatises on statecraft), Dharma Shastras (treatises on law) and epics (Ramayana and Mahabharata) contain frequent discussions as to the restraints on royal autocracy, the responsibility of ministers and the authority of the people. At present most of concepts and theories are put forward in piecemeal whereas our ancient scriptures and holy texts repeatedly espouses the notions of “Dharma” [balancing act between own duties and other rights] and “Satkarma” [good acts]. Upanishadas have coined a very unique and comprehensive concept of “Vasudhaiva Kutumbakam” [entire universe belongs to the same family]. Such rich heritage of holy scriptures also carries rules and regulations for preservation of environment aimed for the sustainable living. Several verses in Taittiriya Upanishad, Rig Ved, Atharva Ved carry the basics of modern term CSR. Few verses are as follows :-

- A man shall strive to win wealth by the righteous path. (Rig Veda Samhita x 312)
- Help others to win wealth. (Rig Veda Samhita iv509)
- One shall not be selfish and consume all by itself. (Rig Veda Sam x1176)
- The leader is the distributor of wondrous wealth. (Vajasaneya Samhita xxx4)
- Let the rich satisfy the poor with a broader vision. (Rig Veda Samhita x1175)
- One shall produce fair wealth for today and tomorrow. (Rig Veda Samhita vi716)
- Earth, atmosphere, sky, sun, moon, stars, waters, plants, trees, moving creatures,

“ The rationale behind CSR legislation is not to generate financial resources for social and human development since the resource gap, if any, for such development or social infrastructure, could as well have been met by levying additional taxes/cess on these corporates. The objective of this provision is indeed to involve the corporates in discharging their social responsibility with their innovative ideas and management skills and with greater efficiency and better outcomes. ”

swimming creatures, creeping creatures all are hailed and offered oblations. (Taittiriya Samhita i813)

- One should protect the habitation. (Rig Veda Samhita vi713)
- Air is God (vayu devta) and it should be free from pollution. (Atharva Veda)
- Yajna should be performed by everyone to purify the air. (Atharva Veda)
- One should not destroy the trees. (Rig Veda Samhita vi4817)
- Plants are mothers and Goddesses. (Rig Veda Samhita x974)
- Trees are homes and mansions. (Rig Veda Samhita x975)
- Nature has to be protected from man's exploitation (Rig Veda Samhita vii758)
- Plants and waters are treasures for generations. (Rig Veda Samhita vii704)
- Waters bear off all defilements and cleanse people. (Vajasaneya Samhita iv2)
- Whoever injures the forests and mountains is a robber who sinks both himself and his offspring into destruction. (Rig Veda Samhita vii10410)
- Offerings should be dedicated to waters of wells, pools, clefts, holes, lakes, morasses, ponds, tanks, marshes, rains, rime, streams, rivers and ocean. (Taittiriya Samhita vii413)
- Waters and herbs should have no poison. (Rig Veda Samhita vi395)
- Waters are to be freed from defilement. (Atharva Veda Samhita x524)
- Isha vasyam idam sarvam yat kim cha jagatyam jagat tena tyaktena bhunjitha ma gridhah kasyasid dhanam. (Ishavasya Upanishad)  
(Everything animate or inanimate that is within the universe is controlled and owned by the Lord. One should therefore accept things necessary for him as it is set aside as his quota and must not accept otherwise knowing it well as to whom does it belong.)

- Wealth accumulated through 100 hands should be distributed to 1000 hands (Atharva Veda Samhita).
- One shall not be selfish and consume all by himself. (Rig Veda Samhita).

(<https://www.ukessays.com/essays/business/corporate-social-responsibility-through-spiritual-leadership-business-essay.php>)  
The *Bhagavad-Gita* coins the concept of *nishkama karma*; an outlook for an action and implementation of decisions emphasizes performing one's deeds without attachment to the fruits thereof— and where both the action and the fruits are offered to the divine. In the CSR context, the societal contribution must not have any expectations in return but rather needs to be done as a duty to the society with a mindset and emotion of sharing with all concerned and equal distribution to among the entire society.

As said earlier our Vedic tradition has identified four objectives to be sought in the human life, these are “Dharma”→value system, “Artha”→Money, “Kama”→urges and “Moksha”→salvation and they are in hierarchy and the ultimate goal is to attain “Moksha”. “Artha” is given utmost importance as it serves needs of human being and the society. There are three ways to use the money – spending money on self, donation and disruption of money.

In addition to above, there are many genesis found in our holly texts which carries the origin of Corporate Governance. Kautilya's Arthashastra, roots found in Rig Veda, written in 4th century BC also carries genesis of CSR. Vedic literature carries “sarva loka hitam” which offers the pillar of serving the society and a concept of sustainability. In other words it narrates the well being of all stakeholders. He stated that happiness is obtained not only by wealth and profit, but also by doing things rightly and doing right things (sukhasya moolam dharma). Dharma without wealth according to Kautilya is toothless (dharmasya moolam artha), and wealth without dharma is useless because a poor person cannot support the entire society.

## GANDHIAN PRINCIPLE OF TRUSTEESHIP AND CSR

A very valuable small book written by Late Shri M K. Gandhi – “Trusteeship” is really worthwhile to read and grasp. After going through the said booklet it appears that there are lot many things for corporate to learn from the book . Following quote by J. R. D. Tata signifies the “Trusteeship” and in turn CSR:

“No success or achievement in material terms is worthwhile unless it serves the needs or interests of the country and its people “

According to Gandhiji, the wealth, in excess of one's needs is held by oneself in trust for society and used accordingly. The modern genesis of CSR is also routed in the Gandhian principle of trusteeship of surplus wealth. It will be useful to go through the following excerpts from the booklet “ Trusteeship” :

“...I must know that all that wealth does not belong to me; what belongs to me is the right to an honourable livelihood, no better than that enjoyed by millions of others. The rest of my wealth belongs to the community and must be used for the welfare of the community...”

“.. Take what you require for your legitimate needs, and use the remainder for society...”

Some points and concepts coined in the book “Trusteeship” are debatable and may sound outdated or unjustified but, the essence which is reflected capture the starting point of today's modern concept called the “Corporate Social Responsibility”.

## COMPULSION REALLY NEEDED ? IF YES, PENALTY CLAUSE

India is the first and only country across the globe having mandatory enforcement provisions relating to CSR for certain corporate entities vide Companies Act, 2013.

The High Level Committee [HLC] set up by the MCA in its report has suggested not to take actions against companies, at least for the initial two to three years, for non compliance of CSR provisions of the Companies Act, 2013.

Further, in the aforesaid report it has been mentioned that the rationale behind CSR legislation is not to generate financial resources for social and human development since the resource gap, if any, for such development or social infrastructure, could as well have been met by levying additional taxes/cess on these corporates. The objective of this provision is indeed to involve the corporates in discharging their social responsibility with their innovative ideas and management skills and with greater efficiency and better outcomes. Therefore, CSR should not be interpreted as a source of financing the gaps in inclusive growth. Use of corporate innovations and management skills in the delivery of 'public goods' is at the core of CSR implementation by the companies.

Further, the said Report suggests that CSR activities must be for larger public good and for any activity that serves public purpose and / or promotes the wellbeing of the people, with special attention to the needs of underprivileged. The mandatory provision of CSR is likely to generate substantial funds for the benefit of the deserving poor and under-privileged sections of society. To ensure that this opportunity is not frittered away by thinly spreading the resources so generated and that only sustainable programmes / projects are taken up for optimal benefits of the poor and under-privileged sections of the society, the Committee strongly felt that there is a need to ring-fence the companies' CSR resources so that this objective is not defeated.

In general it is said that instead of driving anything out of compulsion it is good if causing anything to be done by self motivation. This should be the case but, when the object and vision is for sustainable development at macro level and a push is required then initially a sort of compulsion by implementing relevant rules and regulations should be welcomed because it would be in the interest of the society at large and for being a means to the end of sustainable living. In India we still face difficulties in meeting the very basic necessities like water, food, shelter, cloth, sanitation as a challenge for many and a reasonable portion of the entire population regional disparities have not been exploited to the benefit of large and regional underdevelopment along with less access to the opportunities to the development and growth to all are still a big challenge. In India we perceive a descent living and a possession of materialistic things as an achievement whereas it is the basic birth right for a human being to have an access to the decent living. In such a type of environment we cannot leave everything under the domain and to the mercy of politicians and Government. For the societal good cause Corporates should come forward and share their dynamic skills and profound knowledge for the betterment of society and underprivileged segment of the nation.

## EXPECTATIONS TO EARN RETURNS

Many perceive CSR spends as an expense, cost [burden] and

get carried away by the opportunity cost of the amount of CSR spent. However Corporate Stakeholder theory has coined a concept that a firm's value depends on both explicit and implicit claims and a high CSR driven image may lower the cost of implicit claims thus leading to higher financial performance. Mostly, companies falling into FMCG and retail segment with an approach of strategic marketing activities views CSR as a part of societal marketing, cause related marketing and uses CSR tool as a means to promote their brands. CSR spends certainly will not earn returns directly in financial terms but, in today's era of cut throat competition such a vision of CSR definitely supports building up an image of loyal business house and attracts the consumers considering the firm that stands for a noble cause which goes beyond the profits and money making base.

## EFQM FRAMEWORK FOR CSR

In 2004 EFQM (formerly known as the European Foundation for Quality Management) produced the framework for CSR to provide organisations with a framework to help assess and improve the approaches they had adopted to managing their Corporate Social Responsibilities. This framework drew together the expertise from a number of leading companies, as well as including the then formed United Nations Global Compact. The UN Global Compact asks companies to embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labour standards, the environment and anticorruption.

### Human Rights

*Principle 1:* Businesses should support and respect the protection of internationally proclaimed human rights.

*Principle 2:* make sure that they are not complicit in human rights abuses.

### Labour

*Principle 3:* Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.

*Principle 4:* the elimination of all forms of forced and compulsory labour.

*Principle 5:* the effective abolition of child labour.

*Principle 6:* the elimination of discrimination in respect of employment and occupation.

### Environment

*Principle 7:* Businesses should support a precautionary approach to environmental challenges;

*Principle 8:* undertake initiatives to promote greater environmental responsibility;

*Principle 9:* encourage the development and diffusion of environmentally friendly technologies.

### Anti-Corruption

*Principle 10:* Businesses should work against corruption in all its forms, including extortion and bribery.

### ISO 26000

ISO 26000 on Social Responsibility is a guidance standard and is not mandatory but, on voluntary basis can be adopted. ISO 26000 was prepared by ISO/TMB Working group on Social Responsibility released on 1st November, 2010. It was one of



the most comprehensive standards ever developed by ISO and received global attention and acceptance. The International Standard ISO 26000 provides guidance on understanding, implementing and continuously improving the social responsibility of organizations, which is understood as the impacts of an organization's actions on society and the environment. The ISO 26000 standard is expected to set the norm for Social Responsibility in the time to come.

#### Seven principles of social responsibility enshrined in ISO 26000

- **Accountability:** Being answerable for decisions and activities and their impacts on society, the economy and the environment.
- **Transparency:** Openness about decisions and activities that impact on society and the environment.
- **Ethical behavior:** In accordance with accepted principles of right or good conduct
- **Respect for stakeholder interest:** Respect, consider and respond to the interests of its stakeholders.
- **Respect for rule of law:** mandatory
- **Respect for international norms of behavior**
- **Respect for human rights**

The Seven Core Subjects, which every user of ISO 26000 should consider, are:

- Organizational governance
- Human rights
- Labor practices
- Environment
- Fair operating practices
- Consumer issues
- Community involvement and development

### AN EEL ESCAPES FROM THE GOOD FISHERMAN

Experience all over the world suggests that while governments' efforts are necessary, they are not sufficient to provide optimal levels of merit goods. This deficiency gets dovetailed by private sector, where a company may see CSR activity both as

a virtuous action of a responsible corporate citizen and a value creating proposition for strategic brand building exercise (Deodhar, 2015).

As per "India Secretarial Practice 2015 - Nifty 50 Annual Reports Analysis" published by CimplifyFive Corporate Secretarial Services Pvt. Ltd. in December, 2015 : Nifty companies spent 79% of the amount mandated under the Companies Act. Against the recommended amount of Rs.5046 crores, the 47 companies had spent Rs.3989 crores. Further, said report carries : 32 (64%) of the Nifty companies did not spend the mandated amount on CSR. The top 3 reasons stated for not spending the mandated amount was:

Sr. No.	Reason for not spending the Mandated Amount	Number of Companies	%
1)	First year of CSR mandate, capacity to spend being built	12	38
2)	CSR projects sanctioned, implementation spilling into the next financial year	9	28
3)	CSR projects amount sanctioned, multiyear project being executed	4	13

In response to Rajya Sabha unstarred question no. 999 answered by the Minister of Finance Shri Arun Jaitley on 3rd May, 2016 CSR expenditure of 460 listed companies, which have placed annual returns on CSR on their websites is estimated at Rs. 6337 crores during the year 2014-15, as per following details :

#### CSR expenditure during 2014-15 (in Rs. Crore)

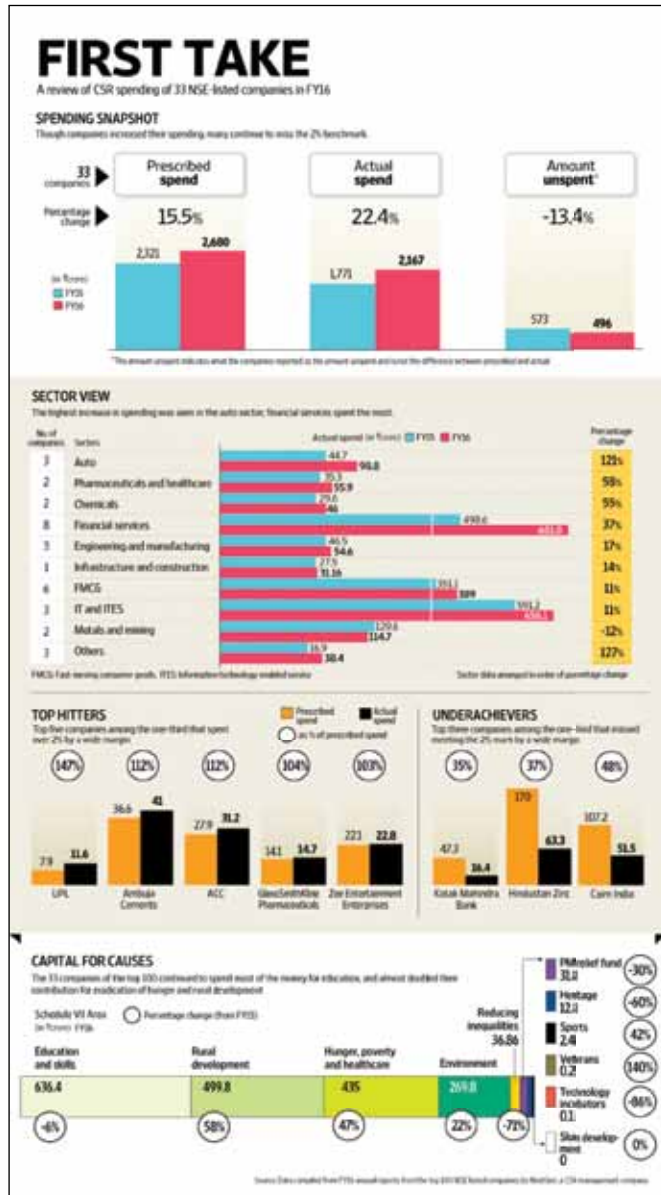
Sr. No.	Company Type	No. of Companies	Amount spent Rs.	Mandated CSR Expenditure Rs.
1)	PSUs	51	2386.60	3359.84
2)	Private Sector Companies	409	3950.76	4987.63
	Total :-	460	6337.36	8347.47

From the above table it is clear that total amount spent was nearly 76% of the mandated CSR expenditure. PSUs spent 71% of the mandated CSR expenditure whereas private sector companies spent 76% of the mandated CSR expenditure. At the same time the Economic Times dated 16th July, 2016 carries a news that 100 companies were served with notice on CSR spend and that letters have been issued under section 206(1) to show cause under section 450 of the Companies Act, 2013.

From the above facts pertaining to the financial year 2014-15, it is clear that the participation is not much encouraging. However, NextGen, a Bengaluru-based CSR management company, undertook the exercise, with a cut-off date of 8 July, 2016 in an effort to understand how the second year of CSR Rules played out, what the early trends are and whether or not the legacy of FY15 continues. Its preliminary analysis shows that companies partnered with more than 150 non-governmental organizations (NGOs) across 450 projects during the year. A first look at the CSR spending of the 33 companies shows that when compared to FY15, their spend rose 22% to Rs.2,167 crore in FY16. Among the lot, information technology (IT) services company Tata Consultancy Services Ltd (TCS)

spent Rs.294 crore and emerged as the biggest spender. ITC Ltd and Infosys Ltd were the other top two spenders. In all, 16 of the 33 companies surveyed did not meet the 2% benchmark. And some, like Kotak Mahindra Bank Ltd and Hindustan Zinc Ltd missed by a huge margin. The quantum of CSR capital spent by companies has increased by Rs.350 crore for the 33 companies and the average ticket size has gone up by about 15% as companies are focusing on larger and longer-term projects. On the whole, experts believe the first two years of CSR have seen companies headed in the right direction.

(<http://www.livemint.com/Companies/3WShLVqdonhIbh6bMRvFO/CSR-gets-greater-acceptance-in-year-two.html>)  
 From the above it seems that the old proverb “An eel escapes from the good fisherman” may see the turning point in future so far as CSR stratum is concerned in India. It could be a matter of time for Corporate to fully grasp the essence of CSR and with an optimistic approach stakeholders can expect a better picture in years to come. However, continuous education, sensitizing the need for CSR by MCA is expected so as to witness CSR as one of the catalyst for the transformation of the country into a welfare state.



**SUGGESTIONS**

Strategic approach to Corporate Social Responsibility should be the instrument to overcome any hurdles to the pathway. Strategic CSR is all about integrating the societal issues into the core business strategies to gain competitive advantage. While dealing with CSR approach should be that of participatory and not contributory. CSR should be part of company strategy and budget and be treated like an actionable business agenda. CSR agenda should carry the stake holder approach by a corporate and not a charity oriented approach. Well being and uplifting the target group should be an integral part of agenda. Just like social audit CSR audit should be introduced which examines the sustainability of the work done. In addition, benchmarking, ratings and various standards should be adhered to for the sensible implementation of CSR agenda.

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# Social Audit and Corporate Social Responsibility



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*“Social audit is based on the principle that democratic local governance should be carried out, as far as possible, with the consent and understanding of all concerned. It is thus a process and not an event.”*

## INTRODUCTION OF SOCIAL AUDIT

Social audit is a process by which an organization / government accounts for its social performance to its stakeholders and seeks to improve its future social performance. The concept was pioneered by Charles Medawar in 1972.

In any business CSR is imperative. No business can afford to ignore the CSR aspect if it wants to sustain its competitive advantage. It has a lot more strategic significance. The Companies Act, 2013, which repealed the old company law, i.e. The Companies Act, 1956, has made CSR mandatory.

A social audit helps to narrow the gaps between vision/goal and reality; and between efficiency and effectiveness. It allows us to measure, verify, report on and to improve the social performance of any government effort or organization.

Social Audit is different from development audit. The key difference between development audit and social audit is that a social audit focuses on the neglected issue of social impacts, while a development audit has a broader focus including environment and economic issues, such as the efficiency of a project or programme. It Monitors, appraises and measures social contribution of business.

## DEFINITION

A corporate social audit is an assessment of a company's performance on corporate social responsibility objectives. It evaluates measurable goals intended to help your business meet the expectations your stakeholder groups have regarding your social and environmental responsibilities.

## SCOPE

The identification of the stakeholders is generally the first task of an audit. However, a Social Auditor does not study each group of stakeholders separately. Stakeholders have to be considered as a whole, because their concerns are not limited to the defence of their immediate interest. As a result, the Social Auditor will work on the components of a company's Social Policy (Ethics, Labor, Environmental, Community, Human Rights, etc.), and for each subject, the Social Auditor will analyze the expectations of all stakeholders.

## OBJECTIVES

- Assessing the physical and financial gaps between needs and resources available for local development.
- Creating awareness among beneficiaries and providers of local social and productive services.
- Increasing efficacy and effectiveness of local development programmes.
- Scrutiny of various policy decisions, keeping in view stakeholder interests and priorities, particularly of rural poor.
- Estimation of the opportunity cost for stakeholders of not getting timely access to public services.

## BENEFITS

Corporate social audits are often pursued by key management personnel in the organization who seek details about its operations. Such an audit results in a good public image along with giving vital information to the executives about the company's shortcomings and possible areas and methods of improvement. Working environments might become safer, and employees might gain motivation when companies perform corporate social audits. Additionally, customers might more favorably view organizations that appear to be ethically conscience. These companies, for example, don't exploit children for manufacturing their products.

## STAKEHOLDERS

Those with a vested interest in a company are stakeholders, and it is important to identify and involve them in the audit. They help assess core areas of operations while identifying benefits that are received by society at large. Obtaining relevant points of view from all parties in each stage and audit area is vital. These view points must represent the applicable department or segment of society so that the organization receives the correct information and recognize its social impact in the community.

## CORPORATE SOCIAL RESPONSIBILITY (CSR)

### Introduction

Corporate Social Responsibility (CSR) is a management concept. It refers to strategies and activities through which companies integrate social and environmental concerns in their business.

The idea of CSR first came up in 1953 when it became an academic topic in HR Bowers, Social Responsibilities of the Business.. Since then, there has been continuous debate on the concept and its implementation.

The concept of socially responsible organizations is not new to India. Traditionally, in India, big corporate houses have adopted CSR and others have helped building the society through philanthropic activity. Post Companies Act 2013, the practice of CSR in India still remains within the philanthropic space, but has included, in addition to institutional building (educational, research and cultural), community development and environment protection through various projects and programmes.

### What is CSR

Corporate Social Responsibility (CSR) means and includes but is not limited to Projects or programs relating to activities specified in Schedule VII to the Act or Projects or programmes relating to activities undertaken by the board of directors of a Company (board) in pursuance of recommendations of the CSR Committee of the Board as Per declared CSR policy of the company subject to the condition that such policy will cover subjects enumerated in Schedule VII of the Act.

### Four Types of Corporate Social Responsibility

The idea behind corporate social responsibility is that companies have multiple responsibilities to maintain. These responsibilities can be arranged in a pyramid, with basic responsibilities closer to the bottom. As a business meets lower-level responsibilities that obligate it to shareholders and the law, it can move on to the higher level responsibilities that benefit society.

#### Philanthropic Responsibilities

If a company is able to meet all of its other responsibilities, it can begin meeting philanthropic responsibilities. Philanthropic

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responsibilities are responsibilities that go above and beyond what is simply required or what the company believes is right. They involve making an effort to benefit society -- for example, by donating services to community organizations, engaging in projects to aid the environment or donating money to charitable causes.

#### Ethical Responsibilities

Economic and legal responsibilities are the two big obligations of a company. After a company has met these basic requirements, a company can concern itself with ethical responsibilities. Ethical responsibilities are responsibilities that a company puts on itself because its owners believe it's the right thing to do -- not because they have an obligation to do so. Ethical responsibilities could include being environmentally friendly, paying fair wages or refusing to do business with oppressive countries.



#### Legal Responsibilities

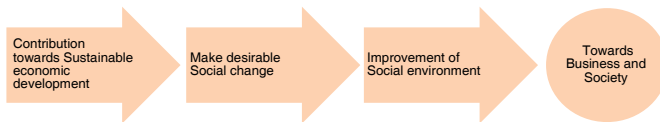
A company's legal responsibilities are the requirements that are placed on it by the law. Next to ensuring that company is profitable, ensuring that it obeys all laws is the most important responsibility,

according to the theory of corporate social responsibility. Legal responsibilities can range from securities regulations to labor law, environmental law and even criminal law.

**Economic Responsibilities**

A company’s first responsibility is its economic responsibility -- that is to say, a company needs to be primarily concerned with turning a profit. This is for the simple fact that if a company does not make money, it won’t last, employees will lose jobs and the company won’t even be able to think about taking care of its social responsibilities. Before a company thinks about being a good corporate citizen, it first needs to make sure that it can be profitable.

**Basic constituents of CSR**



Phases of Evolution of CSR			
Phase 1 (1850 - 1914)	Phase 2 (1910 - 1960)	Phase 3 (1950 - 1990)	Phase 4 (1980 onwards)
Purely philanthropy and charity during industrialisation; corporation is only responsible to owners and managers.	CSR as social development during the Independence struggle; corporation is responsible to owners, managers and employees.	CSR under the "mixed economy paradigm"; corporation is responsible to owners, managers and other target environments.	CSR in a globalized world is in a confused state; corporation is responsible to owners, managers, other target environments and the public at large.

**Importance of Corporate Social Responsibility to societies**

Corporate social responsibility generates direct and indirect business benefits and advantages to the corporation that adopt it. In synthesis, the benefits and advantages that corporations adopting corporate social responsibility initiatives may obtain the following

- Increased employee loyalty and retention.
- Gaining legitimacy and access to markets.
- Less litigation.
- Increased quality of products and services.
- Bolstering public image and reputation and enhanced brand value.
- Less volatile stock value.
- Avoiding state regulation.
- Increased customer loyalty.

**National Voluntary Guidelines (NVG)**

National voluntary guidelines are applicable to all businesses irrespective of size, sector or location. These guidelines were designed with the aim of assisting enterprises to become responsible entities much before the CSR Act (Companies Act-2013) came into force. In fact various propositions from NVG have been taken into consideration for structuring the Companies Act.

**Applicability of CSR Provision under Companies Act 2013**

Section 135(1) of Companies Act 2013 mandates the CSR expenditure for the following companies– Every company having-

- a) Net worth of Rs.500 crore, or
- b) Turnover of Rs.1000 crore or

c) net profit of Rs.5.00 crore  
Need to formulate the CSR Committee; it shall have minimum 3 directors out of which 1 shall be independent director.

Net Profit to be calculated under Section 198 of Companies Act 1956, excluding profit arising from overseas branch of the company and dividend received from other companies received in India covered under Section 135.

If any company on which CSR provisions were applicable ceases to come in above criteria for consecutive three years, they are not required to follow the provision of CSR.

Foreign Company or Holding or Subsidiary Company having a branch office or project office in India shall also comply with Section. 135 and related Rules.

Turnover, Net profit or Net worth of such Company for the purpose of this calculation shall be made as per Section 198 and Section 381 of Companies Act 2013.

**CSR Committee**

Every qualifying company will be required to constitute a CSR Committee ("Committee") of the Board of Directors ("Board") consisting of three or more directors. The Committee shall formulate and recommend to the Board, a CSR policy which shall indicate the activities to be undertaken; recommend the amount of expenditure to be incurred on the activities referred and monitor the CSR policy of the company. The Board shall take into account the recommendations made by the CSR Committee and approve the CSR policy of the company.

The Committee shall institute transparent monitoring mechanism.

Types of the company	Nature and number of committee members
Listed Company	Minimum 3 Directors out of which ATLEAST 1 should be an Independent Directors (ID).
Unlisted Public Company	3 Directors , ID not necessary
Private Limited Company	2 Directors, ID not necessary
Foreign Company	2 Persons, out of which 1 should be resident in India and the other nominated by Foreign Company.

**CSR activities**

The CSR activities shall be undertaken by the company, as per its stated CSR Policy, as projects or programs or activities (either new or ongoing), excluding activities undertaken in pursuance of its normal course of business.

The Board of a company may decide to undertake its CSR activities approved by the CSR Committee, through

- (a) A company established under section 8 of the Act or a registered trust or a registered society, established by the company, either singly or along with any other company, or
- (b) A company established under section 8 of the Act or a registered trust or a registered society, established by the Central Government or State Government or any entity established under an Act of Parliament or a State legislature:

Provided that- if, the Board of a company decides to undertake its CSR activities through a company established under section 8 of the Act or a registered trust or a registered society, other than those specified in this sub-rule, such company or trust or society shall have an established track record of three years in undertaking similar programs or projects; and the company has specified the projects or programs to be undertaken, the modalities of utilisation of funds of such projects and programs and the monitoring and reporting mechanism.]

A company may also collaborate with other companies for



undertaking projects or programs or CSR activities in such a manner that the CSR Committees of respective companies are in a position to report separately on such projects or programs in accordance with these rules.

Subject to provisions of sub-section (5) of section 135 of the Act, the CSR projects or programs or activities undertaken in India only shall amount to CSR Expenditure.

Companies may collaborate or pool resources with other companies to undertake CSR activities and any expenditure incurred on such collaborative efforts will qualify for computing CSR spending.

#### **CSR Activities doesn't include the activities undertaken**

- in the normal course of business.
- outside India
- for the benefit only of the employees and their families
- To contribution of any amount directly or indirectly to any political party.

Any Surplus arise in CSR Project is not a part of the business income.

#### **CSR Policy**

CSR Policy is the Charter for CSR Activates of the Company. It includes a list of CSR Projects or programs which a company plans to undertake and monitoring process of the project.

CSR policy should specify that the CSR corpus will include the following: a) 2% of average net profit; b) any income arising thereof; c) Surplus arising out of CSR activities.

#### **CSR Policy will include the following:**

Projects or programmes which a company plans to undertake within Sch – VII, modalities of execution of such projects, implementation schedule, monitoring process, excluding activities under normal course of business.

Board to ensure that activities under CSR Policy are included in Sch – VII.

CSR Policy to specify that surplus arising out of CSR activities shall not form part of business profits of the company.

CSR policy as approved by the committee and Board shall be displayed in the Company's website, if any.

#### **Core Elements of CSR Policy**

- Care for all Stakeholders
- Ethical functioning
- Respect for Workers' Rights and Welfare
- Respect for Human Rights
- Respect for Environment
- Activities for Social and Inclusive Development

#### **Yearly Annual Compliances / disclosure**

The Board Report shall include an annual report on CSR in the format as prescribed in the Companies (Corporate Social Responsibility Policy) Rules, 2014, which contains particulars pertaining to Overview of CSR Policy, Composition of the Committee, Avg. Net Profit, prescribed expenditure and details of its spending, reason in case of failure etc.

The content disclosing the CSR in Board Report should also be displayed on The Company's Website.

The Board shall ensure that the activities included in the CSR Policy and the prescribed expenditure of the Company is

undertaken /spent by the Company in the respective manner.

#### **Clarifications on Corporate Social Responsibility – Financial year**

Earlier a view was being formed that for the purposes of determining the eligibility criteria, i.e., whether a company fulfils the net worth, or turnover, or net profit criteria in this financial year (i.e. F.Y. 2014-15) and consequently, requiring compliance with the provisions of the aforesaid section read with Companies CSR Rule, 2014, such company would have been required to wait until the determination of the financial position of the company in F.Y. 2014-15. In other words, the compliance action would have commenced from the next financial year (i.e. F.Y. 2015-16).

However, Ministry of Corporate Affairs, Government of India vide its General Circular No. 21/2014 dated June 18, 2014 (the "Circular") has clarified certain issues with regard to provisions of Corporate Social Responsibility ("CSR") under section 135 of the Act which, *inter alia*, include:

"Any financial year" referred under Sub-Section (1) of Section 135 of the Act read with Rule 3(2) of Companies CSR Rules, 2014, implies 'any of the three preceding financial years'."

Resultantly: Companies having net worth of INR 5 billions or more; or turnover of INR 10 billions or more or net profit of INR 50 millions or more, in any of the three preceding Financial years are immediately required to comply with the provisions of section 135 of the Act read with the Companies CSR Rule, 2014. Even the companies who are not meeting any of the threshold criteria in the financial year 2013-14 but were meeting the same in the financial year 2011-12 and/or 2012-13 are also required to comply with the provisions of sub-section (1) of Section 135 of the Act.

#### **Clarifications with respect to other issues relating to CSR:**

- (i) The activities undertaken in pursuance of the CSR policy must relate to Schedule VII of the Act and the activities mentioned in the Schedule VII must be interpreted liberally capturing the essence of the subjects enumerated therein. The items enlisted in the Schedule VII of the Act, are broad-based and are intended to cover a wide range of activities as illustratively mentioned in the Annexure to the Circular.
- (ii) CSR activities should be undertaken by the companies in project/ programme mode (as referred in Rule 4 (1) of Companies CSR Rules, 2014). One-off events such as marathons/ awards/ charitable contribution/ advertisement/ sponsorships of TV programmes etc. would not be qualified as part of CSR expenditure.
- (iii) Expenses incurred by companies for the fulfillment of any Act/ statute of regulations (such as Labor Laws, Land Acquisition Act etc.) would not count as CSR expenditure under the Act.
- (iv) Salaries paid by the companies to regular CSR staff as well as to volunteers of the companies (in proportion to company's time/hours spent specifically on CSR) can be factored into CSR project cost as part of the CSR expenditure.
- (v) Expenditure incurred by foreign holding company for CSR activities in India will qualify as CSR spend of the Indian subsidiary if, the CSR expenditures are routed through Indian subsidiaries and if the Indian subsidiary is required to do so as per section 135 of the Act.
- (vi) Registered Trust (as referred in Rule 4(2) of the Companies CSR Rules, 2014) would include trusts registered under



Income Tax Act, 1961 (which has been inadvertently referred to as the "Income Tax Act 1956" in the Circular) for those States where registration of trust is not mandatory.

- (vii) Contribution to corpus of a trust/ society/ section 8 companies etc. will qualify as CSR expenditure as long as (a) the trust/ society/ section 8 companies etc. is created exclusively for undertaking CSR activities; or (b) where the corpus is created exclusively for a purpose directly relateable to a subject covered in Schedule VII of the Act.

#### Schedule VII under Companies Act 2013

Eradicating hunger, poverty and malnutrition, promoting health care including preventive health care and sanitation including contribution to the Swachh Bharat Kosh set-up by the Central Government for the promotion of sanitation and making available safe drinking water;

Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently abled and livelihood enhancement projects;

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;

Ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agroforestry, conservation of natural resources and maintaining quality of soil, air and water including contribution to the Clean Ganga Fund set-up by the Central Government for rejuvenation of river Ganga;

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;

Measures for the benefit of armed forces veterans, war widows and their dependents;

Training to promote rural sports, nationally recognised sports, paralympic sports and Olympic sports;

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;

Contributions or funds provided to technology incubators located

within academic institutions which are approved by the Central Government

Rural development projects.

Slum area development.

Explanation.— For the purposes of this item, the term 'slum area' shall mean any area declared as such by the Central Government or any State Government or any other competent authority under any law for the time being in force.

#### Penal Provision

The Act does not prescribe any penal provision if a company fails to spend the stated amount on CSR activities. The Board will need to explain reasons for non-compliance in its report.

#### Tax Benefits

No specific tax exemptions have been extended to CSR expenditure *per se*. The finance Act, 2014 also clarifies that expenditure on CSR does not form part of business expenditure. While no specific tax exemption has been extended to expenditure incurred on CSR, spending on several activities like contributions to Prime Minister's Relief Fund, Scientific Research, Rural development projects, skill development projects, agricultural extension projects, etc. which find place in Schedule VII, already enjoy exemptions under different sections of the Income Tax Act, 1961.

#### Legal Update in CSR

		Particular of Update
1	Section	⇒ Section 135 [Effective from 1st April, 2014]
		⇒ Clarifications with regard to provisions of Corporate Social Responsibility under section 135 of the Companies Act, 2013.  General Circular No. 21/2014, Dated: 18th June, 2014
		⇒ Frequently Asked Questions (FAQs) with regard to the Corporate Social Responsibility under Section 135 of the Companies Act, 2013 General Circular No. 01/2016
		⇒ Clarification with regard to provisions of Corporate Social Responsibility under section 135 of the Companies Act, 2013 General Circular No. 05/2016 dated 16th May 2016
2	Rules	⇒ Companies (Corporate Social Responsibility Policy) Rules, 2014  Effective from 01.04.2014
		⇒ Companies (Corporate Social Responsibility Policy) Amendment Rules, 2014  Effective from 12th September, 2014
		⇒ Companies (Corporate Social Responsibility Policy) Amendment Rules, 2015.  Effective from 19th January, 2015
3	Schedule	⇒ Schedule VII  Effective from 27th February, 2014
		⇒ Amendment via Corrigenda Effective from 31st March, 2014
		⇒ Amendment via notification dated 6th August, 2016
4	Notification	⇒ Companies (Corporate Social Responsibility Policy) Amendment Rules, 2016. Notification number G.S.R. 540 (E) dated 23.05.2016

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# Corporate Social Responsibility - Priceless Contribution of Corporates towards Prosperity of People and Planet



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## INTRODUCTION

Corporate social responsibility is an action or strategy to take a responsibility for company's effect on environment and social wellbeing. This is an effort which is undertaken by big corporates beyond the legal compliances, rules and regulations. The concept of company cannot be separated from entity. However, for "company" a society is a place within which it operates and defines the number of stakeholders for which it is directly or indirectly responsible. Every business needs some place called "society" to operate and every society needs "business" for growth. Therefore CSR is a mutual benefit bridge between business and society.

The Mandatory provision of CSR under Companies Act, 2013 has brought in fresh opportunities for professionals. Company Secretary in employment being the 'Key Managerial Personnel' of the company assumes significant responsibilities for various legal compliances in true letter and spirit.

CSR is a means of analyzing the inter-dependent relationships that exist between businesses and economic systems, and the communities within which they are based. CSR is a means of discussing the extent of any obligations a business has to its immediate society; a way of proposing policy ideas on how those obligations can be met; as well as a tool by which the benefits to a business for meeting those obligations can be identified.



Displaying the CSR policy on the website is statutory requirement. Display of other information on the website of the company is a recommended practice. Hence, the company which are covered under the CSR criteria are required to have their website, in case, they are not having one.

The World Business Council for Sustainable Development defines CSR as “the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large”.

Charity is a legitimate aspect of CSR as long as it is approached from a strategic perspective. It requires that a responsible company take into full account its impact on all stakeholders and on the environment when making decisions. This requires that company to balance the needs of all stakeholders with its need to make a profit and reward shareholders adequately.

## ORIGIN OF CORPORATE SOCIAL RESPONSIBILITY

The history of CSR is as old as the history of business itself and, even though the concept was not formally formulated until recently every major policy formulated by our government shows concern about under privileged, underdeveloped and backward people by focusing on fulfillment of their fundamental rights, equality and overall human development. But differential regional growth and unequal asset distribution has led to disparity, inequality and the growing divide in our societies. The inclusion of the CSR mandate under the Companies Act, 2013 is an attempt to supplement the government's efforts of equitably delivering the benefits of growth and to engage the Corporate World with the country's development agenda.

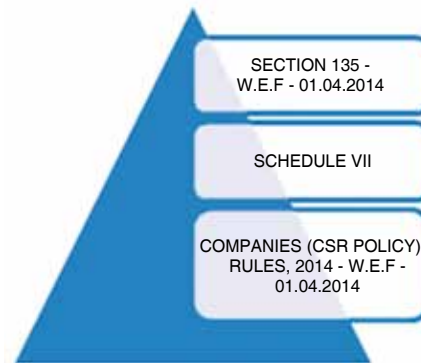
Even before 19th century various laws were enacted for the protection of environment and society like accused person was hanged to death if any negligence, harm, inconvenience was caused to local citizens or environment.

After independence when socio-economic conditions of Indian economy was worsening, corporates like Tata, Aditya Birla etc. group have been involved in serving community through charity and donations. With globalization and industrialization, impact of business on society and environment assumed entirely new dimension. Looking after progressive and irreparable damage caused to citizens and environment, our legislators thought of adopting retaliatory action by introducing the concept of “Corporate Social Responsibility” which mandates corporates to set aside some part of their profits to compensate and contribute towards the upliftment of society and environment.

Since the Companies Act, 1956 did not mandate companies for making contribution towards corporate social responsibility, CSR practices were regularly not practiced or done only for namesake.

This paved the way for an urgent need to introduce proper legislation for ensuring proper CSR. Hence, the Companies Act, 2013 has mandated compulsorily contribution of 2% of average net profits made during the three immediately preceding financial years by specified corporates towards corporate social responsibility.

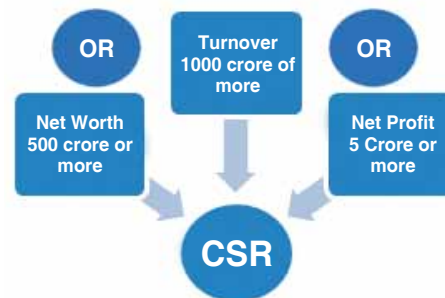
Provisions Relating to CSR as per Companies Act, 2013 are contained in the following sections-



Section 135 (1) of Companies Act, 2013 shall be applicable to all companies including foreign companies having registered office situated in India and provides that if any of the

below mentioned conditions are triggered during any time in a financial year, the CSR would be applicable:

## APPLICABILITY OF CSR



Further section 135 (1) provides that specified companies shall constitute a committee known as “Corporate Social responsibility Committee” comprised of three or more directors and at least one

should be independent director.

## COMPOSITION AND MEETINGS OF COMMITTEE

Committee members and the Committee Chairman will be appointed annually by the Board on the recommendation of the Corporate Governance and Nominating Committee and serve at the pleasure of the Board. Where a vacancy occurs at any time in the membership of the Committee, it may be filled by the Board, and shall be filled by the Board if the membership of the Committee is less than three (3) members as a result of the vacancy.

The Committee may form sub-committees for any purpose and may delegate to such subcommittees or to members of the Corporation's management such powers and authority as it deems appropriate.

The Committee shall meet as frequently as necessary to fulfill its duties and responsibilities, but not less than three times per year. A meeting of the Committee may be called by its Chairman or any two members. Minutes of its meetings will be approved by the Committee and maintained by the Corporation on behalf of the Committee. The Committee will

report its activities to the Board.

Section 135 (2) provides that the board of directors report of the company shall specifically mention and disclose the composition of committee, CSR policy developed or implemented by the company. It shall specify the reasons for not spending specified percentage of profits as provided under the section.

#### Format for the Annual Report on CSR Activities to be included in the Board's Report

1. A brief outline of the company's CSR policy, including overview of projects or programs proposed to be undertaken and a reference to the web-link to the CSR policy and projects or programs.
2. The Composition of the CSR Committee.
3. Average net profit of the company for last three financial years
4. Prescribed CSR Expenditure (two percent of the amount as in item 3 above)
5. Details of CSR spent during the financial year.
  - (a) Total amount to be spent for the financial year;
  - (b) Amount unspent, if any;
  - (c) Manner in which the amount spent during the financial year is detailed below.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Sr. no.	CSR project or activity identified	Sector in which the project is covered	Projects or programs I. local area II. other area	Amount outlay	Amount actually spent on projects	Amount not incurred along with the reasons	Name of agency or Trust
1.							
2.							

6. A responsibility statement of the CSR Committee that the implementation and monitoring of CSR Policy, is in compliance with CSR objectives and Policy of the company.

Section 135 (3) states functions of Corporate Social responsibility Committee which are as under:-

- To promote a culture that emphasizes and sets high standards for corporate social responsibility and reviews corporate performance against those standards
- To consider the impact of the Corporation's businesses, operations and programs from a social responsibility perspective, taking into account the interests of shareholders, clients, employees, communities and regulators
- To engage in the expanding dialogue with NGOs, charitable trusts and other external stakeholders
- To keep members informed of current developments relating to all aspects of the practice, including employment law, human rights, environmental and energy issues, ethical and governance issues, disclosure requirements, risk management assessment and best practices
- To ensure that the corporate is proactively addressing CSR issues and is making CSR a part of its vision, values and practices
- To formulate and recommend to board about various activities which shall be undertaken by the company as per Schedule VII
- To recommend the board the amount of expenditure to be incurred on the activities
- To monitor whether policy formulated has been duly executed and implemented.

## MEANING OF NET PROFIT

In accordance with section 135(1) of the 2013 Act, one of the criteria for the CSR applicability is that a company has a net profit of Rs. 5.00 crore or more during any financial year. The section does not specifically explain the meaning of net profit for this purpose.

An explanation to the section 135(5) states that for the purpose of this section, the average net profit will be calculated in accordance with section 198. Section 198 deals with calculation of profit for managerial remuneration and requires specific addition/deduction to be made in the profit for the year.

"Net profit" means the net profit of a company as per its financial statement prepared in accordance with the applicable provisions of the Act, but shall not include the following, namely:

- Any profit arising from any overseas branch or branches of the company, whether operated as a separate company or otherwise; and
- Any dividend received from other companies in India, which are covered under and complying with the provisions of section 135 of the Act.

## COMPUTATION OF NET PROFITS:

Particulars	Amount
Profit before tax as per profit & Loss Account	XXX
<b>Credit to be provided for:-</b>	
Bounties and subsidies received from government	XXX
<b>Credit not to be provided for:-</b>	
Profit of capital nature	XXX
Profit/premium on issue of shares	XXX
Profit on sale of fixed assets/immovable property	XXX
<b>Permissible deductions</b>	
Director remuneration	XXX
Bonus or commission payable	XXX
Tax notified by Central Government	XXX
Usual Working charges	XXX
Interest on loans, debentures, mortgages or advances	XXX
Depreciation and Bad debts written off	XXX
<b>Non permissible deductions</b>	
Income tax or super tax paid under Income Tax Act, 1961	XXX
Loss of capital nature	XXX
Compensations/damages paid	XXX
<b>Net profits as per section 198</b>	XXX



## ROUTES THROUGH WHICH COMPANY CAN IMPLEMENT CSR ACTIVITIES

The CSR Rules appear to widen the ambit for compliance obligations to include the holding and subsidiary companies as well as foreign companies whose branches or project offices in India fulfil the specified criteria. The company can implement its CSR activities through the following methods:-

- Company can directly spend the CSR amount on the activities as specified under schedule VII of Companies Act, 2013.
- Through its own non-profit foundation set-up so as to facilitate this initiative.
- Through company under section 8, registered trust, society established by Centre, State Government or other entity established under an act of parliament or a state legislature.
- Through non registered organizations, trust, society provided that entity would need to have an established track record of three years undertaking similar activities.
- Collaborating or pooling their resources with other companies. Companies can also collaborate with each other for jointly undertaking CSR activities, provided that each of the companies are able individually report on such projects.

As per recent notification dated 23.05.2016 Rule 4(2) was substituted with new rule which includes company registered under section 8 whether established by central, state or any other entity or not.

As per section 135 (5) of the act, company shall give preference to the local areas within which it operates. A company can build CSR capabilities of its personnel or implementation agencies through institutions with established track records of at least three years, provided that the expenditure for such activities does not exceed 5% of the total CSR expenditure of the company in a single financial year.

## ACCOUNTING TREATMENT OF EXPENSES INCURRED ON CSR ACTIVITIES

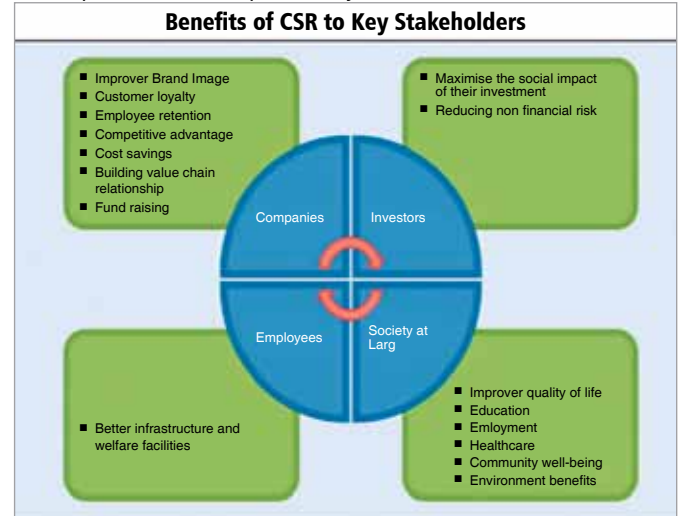
Accounting treatment usually differs with route which the company adopts for CSR activities. Depending upon the policy, accounting treatment is given in the books of accounts of the company. Various accounting treatment are as follow:-

1. Expenses incurred by the company itself-  
Under this situation, the first classification is required to be made in relation to whether it is revenue or capital expenditure. When an expenditure does not give rise to an asset it would be treated as revenue expenditure which is a charge against profit of the company and when an asset is generated i.e. when the company has controlling power and derives future economic benefits out of that asset, it would be treated as capital expenditure in the books of accounts.
2. Expenses incurred by the company through trust, NGOs or society-  
Under this situation, amount spent on CSR activities would be treated as expense and charged to profit and loss account.
3. Expenses in relation to supply of goods manufactured by the company

Where the company supplies the goods manufactured by it or renders the services as CSR activities, treatment in the books of account shall be provided when the control of goods is transferred. Manufactured goods shall be valued at cost or market price whichever is lower as per AS-2 and services to be valued at cost.

## REPORTING REQUIREMENT OF FOREIGN COMPANIES

In case of foreign companies under Rule 8(2), a foreign company is also required to file an annexure on CSR along with its balance sheet under Section 381(1)(b). In addition to the above requirement the foreign company should also disclose the CSR related information in its India specific website. Further, It is recommended that all foreign companies should provide CSR detail as per the prescribed format provided in Annexure 1 in the India specific annual report, if any.



## DISPLAY OF CSR POLICY & INFORMATION ON WEBSITE

As per Section 135(4)(a) of the Act, all companies are required to display the CSR policy and other information on the website of the company. Therefore, displaying the CSR policy on the website is statutory requirement. Display of other information on the website of the company is a recommended practice. Hence, the company which are covered under the CSR criteria are required to have their website, in case, they are not having one.

## FACTS AND FINDINGS

1. The study was conducted which was an unbiased, quantitative and analytical examination of the sustainability reports, annual reports and business responsibility reports of various companies in India.

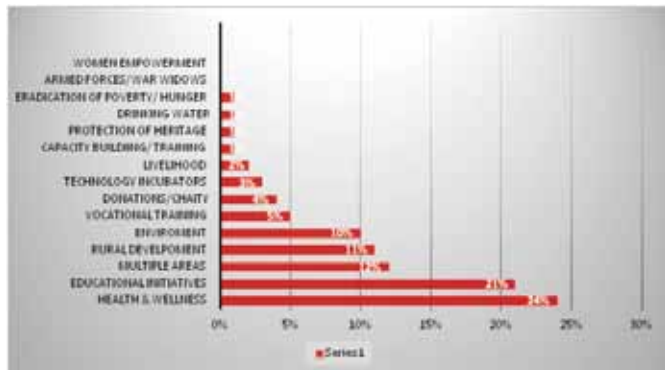
The study looks at top 217 companies to arrive at the ranking based on 2014-2015 reports. Some highlights from top 10 companies are:-

Rank (2015)	Name of company	Rank (2014)	Name of company
1	Tata Steel Limited	1	Mahindra & Mahindra Limited
2	Tata Power Company Limited	2	Tata Power Company Limited
3	Ultratech Cement Limited	3	Tata Steel Limited
4	Mahindra & Mahindra Limited	4	Larsen & Toubro Limited
5	Tata Motors Limited	5	Tata Chemicals Limited
6	Tata Chemicals Limited	6	Tata Motors Limited
7	ITC Limited	7	GAIL (India) Limited

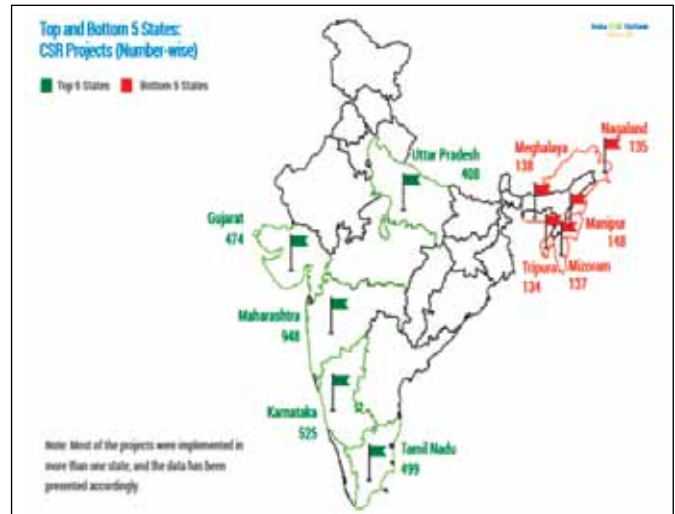
8	Shree Cement Limited	8	Bharat Petroleum Corporation Limited
9	Bharat Petroleum Corporation Limited	9	Infosys Limited
10	Larsen & Toubro Limited	10	Jubilant Life Sciences Limited

3	UPL Limited	3.1%	Ushdev International Limited	2.1%
4	Reliance Industries Limited	2.9%	Wipro Limited	2.1%
5	Ambuja Cements Limited	2.8%	Adani Ports & Special Economic Zone Limited	2.0%

- Many companies had set aside 2% or more of average profits for CSR Activities but could spend only part of it. As per the survey conducted, companies have spent only 69% of their committed CSR Amount; rest 31% of the committed CSR is yet to be spent. Their board report stated the reasons for not spending the amount.
- Health, wellness and education are the areas where majority of the companies have spent their part of average profits. Following is the chart depicting areas where the CSR amount has been spent:-



- Prescribed CSR budget increases by 13.8% from 2014-15 to 2015-16.
- Top and bottom states of India where CSR amount is spent by the company:-



- Private companies spent more amount than public companies on CSR activities. The study reveals top five public and private spenders:-

Sr. No.	Public Company	% of CSR spent	Private company	% of CSR spent
1	Oil India Limited	2.7%	Bombay Burmah Trading Corporation	5.5%
2	Neyveli Lignite Corporation	2.3%	Tech Mahindra Limited	3.3%
3	Rashtriya Chemicals & Fertilizers Limited	2.1%	Bharat Forge Limited	3.2%
4	Coal India Limited	2.0%	UPL Limited	3.1%
5	Indian Oil Corporation Limited	2.0%	Reliance Industries Limited	2.9%

- Manufacturing sector companies spend more amount on CSR activities than service sector companies. Study reveals top five manufacturing and service companies in terms of CSR spent as a percentage of average previous three years profit after tax:-

Sr. No.	Manufacturing Company	% of CSR spent	Service company	% of CSR spent
1	Bombay Burmah Trading Corporation	5.5%	Tech Mahindra Limited	3.3%
2	Bharat Forge Limited	3.2%	Adani Enterprises Ltd.	2.4%

### POSITION OF COMPANY SECRETARY

Mandatory provision of CSR under Companies Act, 2013 has brought in fresh opportunities for professionals. Company Secretary in employment being the 'Key Managerial Personnel' of the company assumes significant responsibilities for various legal compliances in true letter and spirit. Being a compliance officer he should ensure that CSR issues are properly addressed, adhered and accorded through the CSR Committee members and their Meetings. Further, he should ensure full compliance in respect of convening, conducting and constituting meetings i.e. notices, agendas, passing of resolutions, preparation and signing of Minutes, etc.

### CONCLUSION



In March, this year Shri Arun Jaitley has said as many as 460 companies have disclosed spending of Rs. 6337.36 crores towards CSR activities during 2014-2015. CSR has gone through many phases in India. The ability to make a significant difference in the society and improve the overall quality of life has clearly been proven

by the corporates. Not one but all corporates should try and bring about a change in the current social situation in India in order to have an effective and lasting solution to the social woes. CS

# Corporate Social Responsibility is not charity, but a responsibility



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The Companies Act, 2013 (Act) ushered in the requirement of Corporate Social Responsibility (CSR) by introducing the provisions of Section 135 of the Act, read with Schedule VII and the CSR Policy Rules 2014. This along with general circular dated 18th January 2014, issued by the Ministry of Corporate Affairs (MCA) provides the broad contours within which eligible companies are required to formulate their CSR policies, including the activities they wish to undertake and implement the same in right earnest. Boards of all eligible companies in terms of the Act have approved their CSR policies, including CSR projects or programs as recommended by the CSR committees. How is corporate India fulfilling the responsibility so given by the government? By and large, corporates have responded positively, with participation across the public and private sector, Indian and multinational companies.

Building a society by providing equal access to opportunities reduces disparities. It is a collective responsibility with the Government. The unique provisions of section 135 of the Companies Act, 2013 has provided an opportunity to corporates in India to stand up to this challenge and fulfill its responsibilities.

Before the introduction of CSR by the Act, CSR activities by corporates were voluntary, driven directly or through various NGOs. It was more of a philanthropic exercise and had nothing to do with business. It was more like an institution building exercise like building research and educational institutes. The thinking has now changed, and corporates have started to view CSR as strategic philanthropy linked with responsibility and veering towards community development through various projects. The thought process is spending should achieve results, and this needs to be done strategically, systematically and thoughtfully. Corporates have realized if it is a "Strategic CSR" then they can build future resources by securing new employees, new markets, new clients and at the same time build their reputation as a company which cares. So, it is not only the right thing to do, but also good for the business- the benefits are many, from attracting and retaining talent to mitigating risk and increasing competitiveness. So, the thinking now is that it is no longer a forced philanthropy or tick the box responsibility. It is investing hard capital /resources to serve the society and build a company's reputation.

The change in the thought process is because CSR, though being a responsibility is not compulsory. It is "comply or explain." It is not they "must do it" but "will do it or explain why we failed to do it." This has been widely accepted. As we all know that the CSR contribution by corporates is unique to India. No other country in the world has introduced this provision. In short, India can now be taken as the pioneer of CSR being driven by corporate legislation. It is an attempt on the part of the government to supplement its efforts of equitability by delivering the benefits of growth through corporates in India with the country's overall development agenda.

Corporates that were traditionally undertaking CSR anyway, as a philanthropic initiative or otherwise with the onset of the Act streamlined whatever spending they were doing in a more strategic manner. For these companies, it was not increasing their expenditure, but to re-strategize whatever they were doing within the parameters of the Act. For corporates who were not in CSR, there arose the need to look at areas to fund, pilot such initiatives in line with the Act. Corporates have realized that India is a country of myriad contradictions. On one hand, we are one of the largest economies of the world, and on the other hand, we have many people living in abysmal poverty. So, we have a picture of uneven distribution of wealth and the benefits of growth. This leads to social upheaval. Corporates have been the targets of those perturbed by this skewed

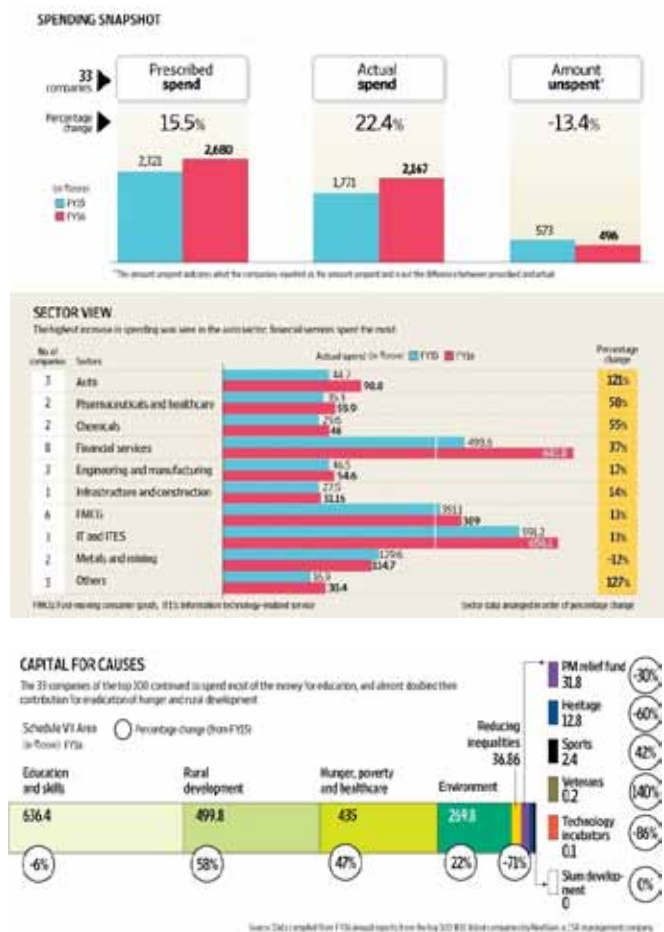
\* The views expressed here are personal and don't reflect those of Bennett Coleman & Co. Limited.



development, growth in the country. The civil society, on the other hand, is watching as to what corporates are doing to bridge this gap between have and have-nots. Many companies have been quick to understand this and proactively pushed their CSR initiatives while some small companies are now being pushed to contribute in terms of the new legislation.

Let us now look at the areas in which corporates in India is spending. It is mainly in education, women empowerment, skill development, rural development, elimination of hunger and poverty and so on. Corporates are also moving to spend in areas like road safety, pollution control, slum development. Some corporates have even aligned their CSR spends with the broad objectives of the government in its various social impact schemes like "Skill India," "Swachh Bharat." Some have spent through the Prime Minister Relief Fund. The question one may ask is why only in these areas and say why not in areas like arts and culture or conservation of animals which are getting extinct, conservation of national heritage or say development of rural sports or sports which are dying or say building new technologies for the benefit of the poor. The answer to this is that there is a need to spend on the traditional areas as it tends to be beneficial to the larger group / community.

The chart below explains the CSR expenditure for Financial Year 14 - 15 and Financial Year 15 - 16, the amount remaining unspent, the sector wise expenditure for the said financial years and the areas so spent:



\*Source: www.livemint.com dated 3rd August, 2016

“ CSR is no longer just a public convenient relationship tool mandated by the Act. It is more than that. It is now a vital component for success in the modern business world. It is a responsibility. Companies have also understood that consumers and the people at large in the country are highly tuned to the fact whether a business house is a responsible co-citizen of the world or not.”

## HOW TO TAKE THIS RESPONSIBILITY FORWARD?

As reiterated above companies have understood that CSR is no longer just a public convenient relationship tool mandated by the Act. It is more than that. It is now a vital component for success in the modern business world. It is a responsibility. Companies have also understood that consumers and the people at large in the country are highly tuned to the fact whether a business house is a responsible co-citizen of the world or not. Same goes with a potential client of the company. They also have the power to choose after assessing a company's responsible behavior to the world at large. Some of the key areas one should focus upon to take this responsibility to its logical conclusion are:

### • Impact Assessment

There is a growing need for corporates to carry out an impact assessment of the CSR spends. Mainly because the amount to be spent is as large as 2% of the profits of a company. As such, there is an immediate need to ensure that the quantified amount should create an impact. The impact should be such which can be visible by all and can be communicated to a larger audience. For example, the recent advertisement on road safety by a corporate in the automobile sector.

### • Partnership

As the Act permits, corporates can channelize the CSR spends as a team. In such partnerships, there is an immediate need to align with each other's vision and priorities. So, a collaborative effort by leveraging each other's expertise, to create a collective impact on the society at large is beneficial to all. For example, small and medium enterprises (SMEs) can pool their resources in a specific geographic cluster to create a sizeable CSR fund. Individual contribution by SMEs may be very less. The collective impact on a cause chosen by SMEs getting together will be very high and will be well accepted. The operational costs are also reduced significantly while partnering with other companies.

### • Long Term Projects

As the Act mandates a recurring spend year after year, corporates should thus take up larger projects and communicate the same as a part of their CSR identity. For eg- building



schools, larger sanitation projects for the entire village or group of villages. By aligning the CSR funds to such long projects, it helps in brand recall to the public at large. Communities by and large have started to realize the importance of the support of these long-term projects in making their lives better. It also builds better community relationship say in a tribal area where a large manufacturing plant is being set up. It helps in avoiding community unrest that may hamper business activities. Although a major obstacle in developing long term projects is the uncertainty in the CSR budgets of companies from year to year. This again is dependent on the financial performance of the company. A fluctuating budget can jeopardize a long-term program so initiated. Partnership or pooling resources by corporates to some extent can address this issue as other partners can increase their contribution; if anyone is constrained to contribute .

#### • **Engaging Employees**

There is a need to engage employees with the company's CSR projects. This helps in gaining wider acceptance. Employees feel empowered and may come out with innovative ideas. Further, among the new generation employees, there is an inherent wish to give back to the society. Being associated with the Company's CSR projects, one can channelize such aspirations. So apart from generation of pride in CSR work among employees, it also promotes CSR as an obligation to be a Socially Responsible Corporate in all aspects. However, monetization of the pro-bono services of employees cannot be accounted as CSR expenditure.

#### • **Community Development**

There is also a need to make CSR expenditure an impact on the company's immediate surroundings so that one can be seen to be actively engaged with the local community. Companies should always look for opportunities to participate in community events so that the community sees the company's name at important local events. Events such as promoting arts and culture. Events promoting traditional festivals, Kala Ghoda and Celebrate Bandra festival in Mumbai, etc. These can be turned into soft marketing events and public relations exercise and can thus be construed as an act of a responsible citizen. Employees should be encouraged to take up such mandates as representatives of the employer. There are other innovative CSR initiatives like investing in enhancing community livelihood by incorporating the community into the company's supply chain. This not only increases their income, but at the same

time for corporate it becomes an additional and secure supply chain for its finished products.

#### • **Engage with NGOs**

Companies should deploy more manpower if they wish to run CSR initiatives on a large scale, longer duration and over extensive geographic reach. Realizing this many corporates have started to identify appropriate NGOs to implement their CSR scheme. In this context, it needs to be pointed out that in recent years many new NGOs or one can say Startups with a focus on social sectors have set up operations. These NGOs / Startup have people with skill set coming from IITs / MBA etc. The new set of people have the passion to invest, but also the skill set to implement, monitor, deploy modern technological and analytical tools to measure and quantify and ensure the success of a project / program. They are also managed professionally and are answerable to their stakeholders. There is a need for Corporates to rely on such new entities for measurable success of the CSR expenditures so being made.

## WHAT ARE THE CHALLENGES CORPORATES MAY FACE OR MAY BE FACING?

The challenges for a successful CSR implementation are many. To list a few:

- How to make CSR expenditure more measurable?
- How to make CSR expenditure more qualitative?
- How to carry out an assessment of the impact of the CSR say on the area, its people, the society at large and so on.
- Is there a need to ensure a geographical spread of the CSR expenditure in areas like North East?
- Is there a requirement of an audit of the CSR expenditure to make it more relevant.? If so by whom?
- How to start a mechanism of rating of NGOs? So, that larger part of the Corporate money goes to the right NGO, which can be assessed through a rating mechanism.
- Should a Government body be setup to monitor CSR?
- Is Ministry of Corporate Affairs the right institution to monitor CSR by the reports being filed by companies with their annual financial statements?
- How to improve the reporting mechanism by corporates to convey the intent and spirit of the CSR?
- Can the culture of CSR be embedded through our education system at the grass root levels to make the future generation more embedded to the concept of CSR?

Answers to these questions may not be forthcoming. Till now we have seen only two financial years i.e. ( 14-15 and 15-16) about CSR spends by corporates. It is felt that CSR in India will evolve and develop over the years. It may become a model for responsible business to grow not only economically but also socially.

To conclude, challenges are many but to take a step backward; we may say overall corporates have responded well. The expenditures are increasing; the intent and focus is now more strategic. So, we can say we have genuinely moved from philanthropy to responsibility, and now one may say there is an opportunity as well. Building a society by providing equal access to opportunities reduces disparities. It is a collective responsibility with the government. This unique legislation has provided an opportunity to corporates in India to stand up this challenge and fulfill its responsibilities. CS

# Audit of Corporate Social Responsibility



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***“Corporate Social Responsibility is a hard-edged business decision. Not because it is a nice thing to do or because people are forcing us to do it because it is good for our business.”***

**- By Niall FitzGerald**

The implementation of mandatory CSR spending for companies with specific networth, turnover and profits under the Companies Act, 2013, has unleashed an amount of Rs. 6,300 crore in 2014-15 as a spending on social sector programmes. It is a game changer for Indian Philanthropy. However, it is less clear if CSR spending is creating the impact it seeks as many companies do not base their decisions on rigorous evidence.

Social auditing facilitates a transparent control and monitoring mechanism of individual companies. This allows stakeholders to evaluate a corporation’s social performance against particular standards or expectations, ultimately taking the role of instruments of social accountability for an organisation similarly to a financial audit. Also, like financial audits, the purpose of social audits is not to place judgement on the performance of a company but instead, to focus on the data verification, and evidence gathering, for all significant assertions in the report.

By definition, companies affected by CSR rules are healthy and profitable. In such successful companies, business decisions are based on hard data and return on investment calculations. CSR decisions need to be as rigorous as other business decisions. Before launching new products, successful companies conduct due diligence: exploring the market and understanding competition. This rigorous approach is equally critical to CSR investments. Growing evidence from impact evaluation can guide companies towards implementing and solutions with proven impact and allow them to steer clear of well-intentional, but ultimately ineffective, ideas. For instance, a substantial amount of CSR spending in India around 23% of total CSR spending in 2014-15 has been directed towards education, an understandable cause given that nearly half of Class 5 children cannot read a Class 2 textbook, according to the Annual Status of Education Report 2014. Yet, several rigorous evaluations have shown that many of traditional investment in educational inputs (like more textbooks or computers) have had little impact on learning outcomes.

Since the introduction of CSR rules, much of the debate has revolved around whether companies are meeting their minimum spending requirements. An equally important focus ought to be in whether these investments can be made more impactful. Companies should adopt the same approach they use to make important business decisions—understanding what works, what can be scaled and what still needs to be tested— to their CSR portfolio. An evidence-informed approach can help achieve these objectives.

While a financial audit provides verification of financial statements provided by a company, and provides an assurance that financial statements are true and accurate, thus increasing the value and credibility of statements, a social audit can verify the CSR of a company by demonstrating how social and environmental programs are being arrived at and will focus on data verification and evidence gathering for all significant assertions in the CSR reports. As per Section 135 of Companies Act, 2013, every company having net worth of Rs. 500 crore or more or turnover of Rs. 1,000 crore or more or net profit of Rs. 500 crore or more during any financial year shall constitute a CSR committee to assist Board to frame and monitor the CSR policy of the company from time to time and recommend the amount of expenditure to be incurred on the activities referred. This requires internal auditor to perform CSR Audit for identifying environment, social or governance risks faced by the organization and suggest appropriate remedies accordingly. Effective CSR audit helps to formulate sound operating



framework for CSR implementation. The article seeks to highlight the importance of social audit under CSR ambit, to evaluate its impact on society's development.

## SOCIAL AUDIT AND ITS IMPORTANCE

Social Audit may be broadly defined as a way of analysing, measuring and reporting an organisation's social and ethical performance by scrutinising its non-financial activities which, directly or indirectly, impact stakeholders. In other words, it is a means of formally measuring and recording the level of a company's social and environmental performance with regular monitoring through the collection of data from interviews, documents and inspections gathered within an organisation.

The real purpose of social audit is also interpreted differently depending on the corporation or jurisdiction. For example, one justification for a corporation to gather sufficient information about its own social performance, would be to directly determine the extent to which it is able to meet the values and objectives it has committed itself to. Alternatively, a company with high CSR performance may release the collated social performance data to its stakeholders so that they may compare such data with equivalent data from other companies, possibly raising the profile and popularity of the well performing company. Lastly, social audit is seen as a means of assurance, relied upon by governments, to ensure that companies are collecting social and environmental data and disclosing it in a satisfactory manner.

Social auditing facilitates a transparent control and monitoring mechanism of individual companies. This allows stakeholders to evaluate a corporation's social performance against particular standards or expectations, ultimately taking the role of instruments of social accountability for an organisation similarly to a financial audit. Also, like financial audits, the purpose of social audits is not to place judgement on the performance of a company but instead, to focus on the data verification, and evidence gathering, for all significant assertions in the report.

The manner in which social and environmental information is gathered and processed in a social audit varies significantly. Data may be collected and verified by the company itself, by a hired external and independent consultant, by a NGO representative or even by a dedicated government entity. Each of these different bodies has started to recognise the importance and value of social audits and is promoting their uptake. The auditing process may be conducted internally by company. However, it can choose to have one conducted by an outside consultant who will impose minimal

biases, which may prove to be more beneficial to company. Consider that fact as with a financial audit, an outside auditor brings credibility to evaluation. This credibility is essential if management is to take the results seriously and if the general public is to believe company's public relations, social cause activities, and social cause marketing.

Social auditing plays a fundamental role in upholding Corporate Social Responsibility and is proving direct and indirect benefits to both the company and its stakeholders. Reviewing the socially responsible practices and impact on stakeholders, and comparing the level of social performance in relation to pre-set social, environmental and community goals, provides valuable information and insight to a company. This, in turn, leads to a better self-assessment and establishment of the strengths and deficiencies present within a corporate strategy. Further, research has shown that integrating business strategy and CSR contributes to positive brand awareness; increased employee satisfaction; reduced operating costs; improved community relations; corporate accounting. Infact, where a company has a good social performance, a social audit has the potential to safeguard its image in the case of a particular event leading to negative publicity, or simply, enhance a company's reputation, image and relationship with stakeholders by demonstrating its social performance and its commitment to social objectives.

Furthermore, regular yearly social audits allow companies to compare their own social performance over time as well as against external norms and standards and competing companies. In addition to allowing companies to increase their image and performance by providing valuable data, social audits also play an important role in increasing an organisation's transparency and accountability to its stakeholders, much like a financial audit does. They inform the community, the public, as well as other organisations, about the allocation of companies' resources invested in the organisation itself: such as the sustainability of the company, the treatment of its employees and impact on environment. This, in turn, stimulates healthy competition between companies to increase their social performance as stakeholders and investors rely on the social responsibility reports to establish whether a corporation is achieving the goals it has set itself and how it is performing against other companies. This leads companies to a race of maintaining the best reputation and thus maintaining or gaining an increased market share.

In addition to allowing companies to analyse and determine the practicality and efficiency of their corporate social and environmental strategy and providing stakeholders with accurate non-financial data, social audits also play an important role in helping governments monitor companies and hold them accountable when breaching certain social, ethical and environmental standards. In fact, social audits are very important means of assessing the success or failure of a particular CSR regulation and thus serve purpose of meeting regulatory requirements. This is a growing trend, which relies heavily on the assurance that social accounts are audited by qualified and objective social auditors which are independent from management and with no vested interests in the outcome of audit. However, this is not the norm and very often, social audits are either conducted by companies themselves or by an external accountant paid by the company being audited, which could potentially threaten the unbiased nature of the report.

Since the CSR regulation is enforced, CSR symbolism represented by corporate managed hospitals and technical institutions, pictures of smiling villagers, mobile health vans and class room full of well-oiled little children is no longer adequate proof of CSR activity.

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Civil society organisations are demanding that the living conditions of the communities affected by an industry improve and in no case worsen. Affected citizens are questioning the extent of work done in the name of CSR. How were the beneficiaries selected? What did they have to say about the impact of the CSR efforts? They are demanding a social audit of the processes and outcomes something which until now was only reported to shareholders – but never discussed. A system of social audits would necessarily have to be put in place to oversee the fulfillment of the rules.

Recent years have seen a rise in the general uptake of CSR reporting. This rise has been attributed partly to the voluntary commitment of companies, but, more importantly, it has been linked to the constant increase of legislation and regulation and a direct stakeholder action, which has taken place across the world. Countries have begun to realise, that solely relying on market forces to increase corporate social reporting, and, more importantly, social performance, is not bringing the anticipated results. In fact, a lack of mandatory obligations to conduct business activities in a socially responsible manner has the tendency to lead companies to avoid focusing too much attention to, or neglecting altogether any CSR related matters as they do not directly provide an enhancement of profit. However, the imposition of regulations relating to CSR and the monitoring and enforcement of such regulations is clearly challenging and not necessarily the only method to compel companies to behave in a socially responsible manner. A balanced solution has emerged where governments regulate the disclosure of CSR reports which ensures companies disclose all of their CSR activities, whatever their perceived impact. This could have the desired effect of placing pressure on the company to try to increase their CSR performance to attract investors and raise its profile and reputation above that of its competitors.

## AUDIT OF CORPORATE SOCIAL RESPONSIBILITY

Since CSR became mandatory, there is every need to ensure that money spent in name of CSR is subjected to independent social audits. Social Responsibility is concerned with doing the 'right thing' and also protecting the reputation of an organization beyond short-term considerations of profit maximization. For the purpose of addressing the scope of a CSR audit, CSR is about managing and taking into consideration organisation's operational processes and behavioral impact on society's stakeholders from a broad perspective. In order to ascertain an organisation's effective CSR policy, practices and culture, the notion of auditing CSR is becoming key.

The risks of not paying attention to CSR are clear-reputation

damage, lawsuits and government scrutiny. Internal audit should focus on these risks and assist management to identify appropriate actions. This called for a different approach to audit and in part an audit that takes into consideration health, safety, environment, reputational and business probity not to mention CSR governance. The auditor should develop a general understanding of social responsibility issues that affect their organization and industry. The challenge of developing a socially responsible organization is creating the balance between profitability and other public goods. Management must reconcile sometimes these contrary needs. On one hand, management is responsible to shareholders and investors to deliver a financial return. Conversely, management is responsible to the society that invests the modern corporation with control over its resources and employees.

A CSR audit program covers:

- Effectiveness of the operating framework for CSR implementation
- Effectiveness of implementation of specific, large CSR projects
- Adequacy of internal control and review mechanisms
- Reliability of measures of performance
- Management of risks associated with external factors like regulatory compliance, management of potential adverse NGO attention, etc

An organization's social responsibility initiative may include many component programs addressing both internal and external considerations including:

- i. **Donating Funds & Resources** – Management should ensure that donations are carefully reviewed and based upon sound judgment. Although this is a very common type of community involvement the timing, amount of funds, and type of gifts should be considered. Some companies allow personnel to volunteer in the community on paid time.
- ii. **Project Implementation** – Companies often embark on large CSR projects that are aimed at delivering high Brand or business impact. These projects may typically run over a long time horizon and involve significant investment of time and resources, both monetary and people. Setting of clear objectives, adequate resourcing, effective monitoring and independent review of project performance are critical to success.
- iii. **Communications** – Establish effective plans to communicate to employees and the public to describe the organizations actions and the related impact to the community. Assess public relations and the adequacy of the PR function in addressing social issues.

- iv. Social Responsibility Analysis** – Organizations can allocate dedicated resources to identify, evaluate, and research social responsibility issues. Establishing liaisons with community groups and working with those responsible for public welfare or the environment will help the organization understand and address appropriate issues.
- v. Managerial Policies & Decision Support** – All organizational levels and objectives should incorporate social responsibility plans. These intentions may be included in policy and procedures, statements to the public, marketing campaigns, and made transparent to the public. Management decisions should incorporate social responsibility considerations especially those that directly impact the community. For example, operations or plants that create noise, traffic, or pollution, or that impinge on any part of the community should include a social responsibility component.
- vi. Research & Development** – Organizations can conduct research into alternative methods or approaches to operations or products that reduce or remove undesirable impacts or byproducts. For example, manufacturing companies can support recycling programs for printer ink cartridges and other products to ensure proper disposal or reuse.
- vii. Government Program Participation** – Companies collaborate with government agencies to provide research on issues often along with their industry competitors. Organizations that better understand the problems at issue and the governments responsibilities can help ensure they are part of the solution rather than part of the problem. Companies can also ensure related legislation and regulatory mandates are sound, effective, and incorporate common interests.

CSR programs can operate at different levels according to the policy adopted by the organization. At the basic level, organizations have some level of community awareness, public service, or charitable contributions as part of good corporate citizenship. Examples include scholarships for students, adoption of parks or highways, sponsorship of charity events, and gifts to the arts. Such initiatives are also subject to internal controls and should be considered for periodic review of their accounting and oversight processes.

CSR activities cover a variety of additional issues including:

- i. Protection of Human Rights** – Denial or prevention of legal or social rights of workers. Examples include fair wages for factory workers with reasonable work conditions, including restrictions on child labor.
- ii. Destruction of Natural Habitat or Resources** – Depletion of natural habitats, wildlife, and land surfaces. Examples include strip mining, protection of endangered species, deforestation and pollution.
- iii. Free Market Development** – The mega corporations that significantly impact developing market economies are under fire regarding fair trade policies. Less developed countries and their marketplace communities should have opportunities for healthy economic growth that do not exacerbate wealth disparities or exploit people. Examples include exploitation of poor country labor or agricultural markets.

At the highest level, the CSR strategy is closely integrated with the business objectives, creating a 'virtuous circle' for all the stakeholders. This is a highly sustainable model as the success of the business is integrated with the CSR initiatives and there is high commitment from the business at all levels.

The CSR audit is a tool for decision making and for strategic management. Just like a financial audit, there are various CSR standards against which a CSR Audit can take place such as:

- Global Compact
- Global Reporting Initiative
- Good Business Framework

These standards although vary in style and depth cover the basics of CSR and enable organization's to be audited against them. However, following are organizations different approaches to CSR and how a CSR audit can facilitate a better understanding of an organization:

- CSR goals and objectives;
- CSR practices, policies and culture; and
- Approach to CSR related issues with respect to its internal decision making process;

Traditionally organization's prime focus is to do business. With the increased hype of CSR, organizations started to undertake certain CSR related activities whereby they undertake responsible activities independent of their business operations, their impact on society and how they affect society or can be affected by society at large.

This evolved into a more integrated approach of CSR in organizations whereby organizations started to do what they do but doing it in a more responsible manner i.e. embedding societal considerations in their decision making process etc. A higher evolution finally led organizations to doing responsible things in a responsible manner a closer definition to what we now call today "sustainability". It is no longer simply a matter of doing good things to society, or operating one's organization in a responsible manner but a further step of integrating CSR with the organization's objectives, creating a 'virtuous circle' for all the stakeholders.

#### Following are CSR issues that a CSR Audit should cover:

- i. Human Rights: Fundamental Human Rights, Freedom of association and Collective bargaining, Nondiscrimination, Forced labor, Child labor.
- ii. Business Behavior: Relations with clients, suppliers and sub-contractors, Prevention of corruption and anti-competitive practices.
- iii. Human Resources: Labor relations, Working conditions, health and safety, career development and training, Remuneration system.
- iv. Corporate Governance: Board of Directors, Audit and internal controls, Treatment of shareholders, Executive remuneration.
- v. Environment: Incorporation of environmental considerations into the manufacturing and distribution of products, and into their use and disposal.
- vi. Community Involvement: Impacts on local communities, contribution to social and economic development, General interest causes.

## CONCLUSION

Even after decades of development, current social and environmental auditing practices are still in their infancy stage. The lack of a reliable meaningful system is threatening the potential benefits gained from the current increased trend of adopting CSR reporting practices by not being able to guarantee the level of quality of CSR reports. The most effective way of achieving a social auditing system which can be trusted and relied upon by stakeholders is to implement specific regulation and guidelines which help to ensure a satisfactory collation of data as well as a high level of impartiality by auditor. With the implementation of CSR legislation, it is required to consider the implementation of social auditing legislation to have the desired effect of ensuring a substantial improvement in global CSR.

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# Efficacy of Social Audit in Contemporary Statutory Enforcement of Corporate Social Responsibility in India



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## INTRODUCTION

Social Audit is an instrument of social accountability of an organization, a process to find out whether the benefits of the relevant projects and activities reach the beneficiaries for whom they were directed. It provides critical inputs to correctly assess the impact of government activities on the social well being of citizens, determines the social cost and measures the benefit accruing to the society.

Corporate Social Responsibility (CSR) represents an ideology whereby companies along with carrying out their economic obligation for profitability also consider the interests of society as well as environment by taking responsibility for the negative impacts emanating

Social audit process is an instrument for social engagement, transparency and communication of information resulting in greater accountability of decision-makers, representatives, managers and officials. Essentially socio-cultural, administrative, legal and democratic settings shape the base for operationalizing social audit. This article aims to understand the concept of Social Audit and CSR and also to check the usefulness and efficiency of Social Audit of CSR projects in the post Statutory CSR era in India.

from their business activities. Companies encourage societal growth and eliminate practices which harm the community and environment. CSR is a strategy of a company to integrate social, environmental and economic concerns in its values and operations to improve the welfare of society and stakeholders. On this backdrop, this article aims to understand the concept of Social Audit and CSR and also to check the usefulness, efficiency of Social Audit of CSR projects in the post Statutory CSR era in India.

## SOCIAL AUDIT - MEANING & DEFINITION

The term 'Audit' is said to have derived from the Latin "Audire" means 'to hear'. Belief is that ancient emperors, to get feedback on their activities, engaged some persons to go to public places and listen to citizens' opinions regarding various matters, who were designated as auditors.

Social Audit is also linked with the concept of CSR followed by corporate entities the world over. Social Audit is a term used to describe the process of examining, measuring and reporting on the social and ethical performance of an organization. It's a process to find out whether the benefits of the projects/activities reach the people for whom the same were designed, thus it proves to be an instrument of social accountability of an organization. Social audit may be defined as an in-depth scrutiny and analysis of the working of any public utility *vis-à-vis* its social relevance.

- Grameen Bharat, a bulletin of Ministry of Rural Development defines it as "a public assembly where all the details of the project are scrutinized".
- National Institute of Rural Development defines it as "a way of measuring, understanding, reporting and ultimately improving an organization's social and ethical performance".<sup>1</sup>

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<sup>1</sup>Swapan Kumar Roy, "Social Audit in India: An Overview" 1 IJSR 16 (2012) available at - [http://www.worldwidejournals.com/international-journal-of-scientific-research-IJSR/file.php?val=October\\_2012\\_1349177858\\_07f3d\\_06.pdf](http://www.worldwidejournals.com/international-journal-of-scientific-research-IJSR/file.php?val=October_2012_1349177858_07f3d_06.pdf) ( Last visited on October 26, 2016)



## HISTORICAL BACKGROUND

Social Audit was in its nascent stages in 1940s when Kreps Theodore J-regarded as its founding father-called on companies to acknowledge responsibility towards citizens. Howard R. Bowen developed it in USA in 1950s. Charles Medawar pioneered it in 1972 with the application of the idea in medicine policy, drug safety issues and on matters of corporate, governmental and professional accountability. According to Medawar, Social Audit starts with the principle that in a democracy the decision makers should account for the use of their powers, which should be used as far as possible with the consent and understanding of all concerned. The concept at that moment developed among corporates as an instrument for reporting their contribution to society as well as obtaining public feedback on their activities to supplement their market and financial performance. In the United States and Europe during the 60s, public repudiation of the war in Vietnam triggered a movement to boycott the goods and shares of some companies that were associated with the conflict. Society demanded a new ethical attitude and some companies began to provide accounts for their social actions and objectives. The publication of Annual Reports containing information of a social nature led to what is known as 'Social Audit'. In Brazil, the idea began in the 1970s and by 1980s the first social audits were published. However, since the 1990s, corporations started publishing their results annually.<sup>2</sup> In the United Kingdom and Europe in the mid 1970s, it was used to describe evaluations that focused on the likely impact on jobs, community and the environment, in order to emphasize that these evaluations had a social angle to them and were not concerned with the economic function of government policies, industry trends or actions of trade unions. In India, the initiative was taken by Tata Iron and Steel Company Limited (TISCO) Jamshedpur in the year 1979. It gained significance after the 73rd Amendment of the Constitution of India relating to Panchayat Raj institutions.<sup>3</sup>

## SOCIAL AUDIT IN INDIA

In India, the concept of social audit is by and large targeted in the cases of public works by the government applying the methodology of involving public through physical verification

of works, records assessment, public hearing and mass mobilization etc. Production of Social Audit Report by Indian Corporates regarding their CSR project is comparatively a lesser practiced phenomenon. There are some legislative supports available to Social Audit in India, like:

- The 73rd amendment of the Constitution of India: It empowered the Gram-Sabhas to conduct Social Audits in addition to other functions.
- Right to Information Act 2005: It is a kind of support for Social Audit system in India. The Act requires every public authority to computerize records for wide dissemination and to proactively publish certain categories of information so that the citizens need minimum resources to make a request for information formally.
- Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), 2005: The State Government is made responsible for conducting Social Audit as per the pre-designed schedule through the trained agencies, to ensure transparency and accountability in the scheme.
- The approach paper to the Ninth Five Year Plan (1997-2002) emphasized social audit for the effective functioning of the Panchayat Raj institutions as well as achieving the object of decentralization in the country.<sup>4</sup>

## SOCIAL AUDIT & OTHER AUDITS

Social Audit covers a wider spectrum since it examines the performance of a programme *vis-a-vis* its stated core values in the light of community values and the distribution of benefits among different social groups reached through good governance principles. It provides an impact assessment of non-financial objectives through systematic and regular monitoring based on stakeholder's views.

Financial audit is conducted to provide reasonable assurance that the financial statements are presented fairly in all material respects, and the same give a true and fair view of its state of affairs in accordance with the financial reporting framework. Operations audit involves establishing standards of operation, measuring performance against standards, examining and analyzing deviation, taking corrective actions and based on this experience, reappraising standards.

The main difference between social audit and other audits is that it is an internally generated process whereby the organisation shapes the social audit process according to its stated objectives. It covers a wide horizon of stakeholders and its reports revolve around ethics, labour, environment, human rights, community, society and statutory compliances.<sup>5</sup>

## CORPORATE SOCIAL RESPONSIBILITY

CSR is an ideology whereby companies along with shouldering economic obligation for profitability also consider the interests of society as well as environment by taking responsibility for the negative impacts of business activities. Companies encourage societal growth and eliminate practices that harm the community, environment. The fundamental belief for this phenomenon is that when the corporations get bigger in size, in addition to their economic responsibility of earning profits, there are several other responsibilities of non-financial and social in nature. These are expectations of the society from these

<sup>2</sup>Ibid. ct 2012o 2277 - 8179

<sup>3</sup>Sushmita Gahlot, "Social Audits in India" 2(11) IRJSS 41 (2013) ISSN 2319-3565 available at 9.ISCA-IRJSS-2013-157httpwww.isca.inIJSSArchivev2i119.ISCA-IRJSS-2013-157.pdf ( Last visited on September 04, 2016).

<sup>4</sup>Supra 2 at p.18.

<sup>5</sup>Supra 3 at p. 43.



corporates to give something in return to the society with whose explicit and implicit help these entities stand where they are.<sup>6</sup>

## DEFINITION

The World Business Council for Sustainable Development defines CSR as “Corporate Social Responsibility is the continuing commitment by business to contribute to economic development while improving the quality of life of the workforce and their families as well as of the community and society at large.”<sup>7</sup>

## STATUTORY ASPECTS OF CSR – THE COMPANIES ACT, 2013 (THE ‘ACT’)

Section 135 of the Act makes provisions for CSR and Schedule VII describes CSR activities. Accordingly, every company having:

- Net worth-Rs. 500 crores/more- or
- Turnover-Rs. 1000 crores/more-or
- Net profit-Rs. 5 crores/more during “any of the three preceding<sup>8</sup> financial years” shall constitute a CSR Committee consisting of three or more directors and the Board’s report shall disclose the composition. The CSR Committee shall formulate/recommend to the board a CSR Policy indicating CSR activities to be undertaken by the company as specified in Schedule VII, recommend amount of expenditure to be incurred on CSR activities and monitor the CSR policy.

The Board shall-

- Approve the CSR policy and disclose contents in Board’s Report and place on the company’s website
- Ensure that CSR-activities are undertaken and CSR amount- i.e. at least 2% of average net profits made during the three immediately preceding financial years- is spent. If it fails to spend such amount, the Board shall in its report specify the reasons for not spending the amount. For spending the CSR amount, the company shall give preference to local areas and areas around it where it operates. Average net profit shall be calculated in accordance with the provisions of 198 of the Act (i.e. PROFIT BEFORE TAXATION (PBT)).<sup>9</sup>

## SCHEDULE VII OF THE ACT

It prescribes broad categories of CSR activities relating to-Eradication of Poverty-hunger, Sanitation-health care/Education /Addressing gender discrimination/Environmental Sustainability and ecological balance / Protection of National heritage-arts-culture/those beneficial to Armed forces, veterans, war widows /Sports/contribution to PM National Relief fund, Welfare of SC-ST-Minority-Women/Technology incubators/Rural development. Amount spent on these categories will qualify for CSR.

## THE COMPANIES (CORPORATE SOCIAL RESPONSIBILITY POLICY) RULES, 2014

The Central Government has notified these Rules & also

‘ Social Audit of CSR projects creates a space for civil society’s contribution, ensures social relevance of programmes, improves the satisfaction of people about services provided and thus contributes to social capital. The company in turn gets valuable feedback based on which it can reshape its CSR activities programmes / policies. ’

Format for the Annual Report on CSR activities to be included in Board’s Report.

## NEED AND EFFICACY OF SOCIAL AUDIT IN STATUTORY CSR REGIME IN INDIA

The rationale for the thrust for social audit is the vast divide between what people want and what do they get.<sup>10</sup> Under the Government of India’s Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) 2005, conduct of social audit has been made mandatory, further ensuring accountability from those involved in the implementation of the scheme. Andhra Pradesh has been successful in institutionalizing social audit with best practiced model. Social Audit generates room for civil society’s contributions, ensures social relevance of programmes, improves satisfaction of people about services provided and ultimately contributes to social capital.<sup>11</sup>

The Companies Act, 2013 makes it mandatory for the companies covered under Section 135 of the Act, to ensure that CSR amount -i.e. at least 2% of average net profits made during the three immediately preceding financial years- is spent on CSR activities prescribed under Schedule VII of the Act, thereby extending the boundaries of companies into the society at large. For CSR, many Indian companies engage with local communities in surrounding areas, so the beneficiaries of CSR activities are generally from the local population. So to ascertain how these CSR activities bring changes in the lives of community at large and specifically the disadvantaged and deprived people, social audit may become imperative.

## ILLUSTRATIVE CASE STUDY

For eg. the Mid Term Social Audit Report of CSR & Sustainability Projects for FY 2014-15, Commissioned by Rail Vikas Nigam Ltd. -RVNL- New Delhi, and conducted by National Corporate Social

<sup>6</sup>CSI-Professional Programme-Module IV-‘Governance, Business Ethics & Sustainability’ p. 199

<sup>7</sup>available at <http://www.icsi.inStudy%20Material> (last visited on December 11, 2013)

<sup>8</sup>Ministry of Corporate Affairs’ General Circular No. 01/2016, No. 05/19/2015-CSR, dtd. 12/01/2016, FAQ , available at FAQ\_CSR [http://www.mca.gov.inMinistrypdfFAQ\\_CSR.pdf](http://www.mca.gov.inMinistrypdfFAQ_CSR.pdf) (last visited on March 23, 2016)

<sup>9</sup>Ibid.

<sup>10</sup> Sushmita Gahlot, “Social Audits in India” 2(11) IRJSS 42 (2013) ISSN 2319–3565 available at 9.ISCA-IRJSS-2013-157<http://www.isca.in/JSSArchivev21119.ISCA-IRJSS-2013-157.pdf> ( Last visited on September 04, 2016)

<sup>11</sup>P. K Mohanty Dr., V. K. Parigi, Kurian Thomas and Vivek Misra, “Social Audit : A Toolkit”, Centre for Good Governance, Government of Andhra Pradesh, p. 25 available at Social Audit Toolkit Final- <http://www.cgg.gov.in/publicationdownloads2a/Social%20Audit%20Toolkit%20Final.pdf>(last visited on October 26, 2016)

Responsibility Hub, Tata Institute of Social Sciences, Mumbai (by a research team led by Prof. B. Venkatesh Kumar- Director) revealed that- "at RVNL, CSR is envisaged as a commitment to meet its social obligations by playing an active role to improve the quality of life of the communities and stakeholders on a sustainable basis, in its vicinity. RVNL is committed to execute its CSR activities in a time bound manner."

## RVNL'S CSR PROJECTS-

- (i) Institute for the Handicapped and Backward People (IHBP) Kolkata provides quality education and training to differently abled children of underprivileged backward and weaker section of the society. During the interaction the parents praised & asked for further support of RVNL as they were very happy with the performance of their children who were moving towards self dependent stage. It was advised to RVNL to continue the support to IHBP for long run to get positive impacts in the weaker section of the society from the project.
- (ii) Educational Support to underprivileged children and health support to the downtrodden villages in the Naora –West Bengal by Ramakrishna Math.  
From the feedback obtained from parents, it is seen that parents are extremely satisfied with the overall development of their children. Needy people from the villages have immensely benefited from the health support provided to them.
- (iii) Providing Solar home lighting system in some backward districts of West Bengal being implemented by Ramakrishna Math, Naora.  
Approximately 350 solar lights have been provided to the families living around the villages of Jalangi and Bhangar blocks of 24 Paragana district of West Bengal where there is no electricity. A great boon to school going children who used to study under kerosene lamps. In view of positive impact and demand of the stakeholders, the audit team is of the opinion that RVNL should identify more such households and continue the project in the year 2015-16.<sup>12</sup>

Thus, as can be seen from the above RVNL-case, Social Audit of CSR projects creates a space for civil society's contribution, ensures social relevance of programmes, improves the satisfaction of people about services provided and thus contributes to social capital. The company in turn gets valuable feedback based on which it can reshape its CSR activities programmes / policies.

## ADVANTAGES

Conducting Social Audit of a CSR project is advantageous in several respects as stated below:

- **Enhancement of Organisational Reputation:**  
It provides information about organisation's ethical performance and stakeholders' perception which in turn is helpful to the organisation in reshaping its priorities in tune with people's expectations. It promotes community participation, social awareness and local democracy resulting in to company's fulfilment of social responsibility,

<sup>12</sup>B. Venkatesh Kumar Prof. "Mid Term Social Audit Report of CSR & Sustainability Projects for FY 2014-15", Commissioned by Rail Vikas Nigam Ltd-RVNL- New Delhi, conducted by National Corporate Social Responsibility Hub, Tata Institute of Social Sciences, Mumbai, pp.13-49 available at 20150501133527\_Social\_audit\_report\_kolkata\_\_2014-15httpwww.rvnl.orgadminuploaded1leftdocument20150501133527\_Social\_audit\_report\_kolkata\_\_2014-15.pdf(last visited on September 04, 2016)

accountability and thereby the reputation and financial performance of the concerned company also increases.

- **Organisational Change:**  
It pinpoints certain improvement goals and emphasizes progress on the same, leading towards positive organisational changes.
- **Increased confidence:**  
It helps organisation to act with greater confidence in social areas neglected so far or having been given low priority.<sup>13</sup>

## PRINCIPLES OF SOCIAL AUDIT

To achieve continuously improving performance relating to social objectives through social auditing practices, the following principles have been recognized, i.e. social audit is-

- **Multi-Perspective/Polyvocal :**  
Since it reveals views and voices of the totality of stakeholders of organisation.
- **Comprehensive :**  
Since it covers reporting of all aspects of organisation's work and performance.
- **Participatory :**  
It encourages participation and sharing of values by stakeholders.
- **Multi directional :**  
Since stakeholders share and give feedback on several aspects.
- **Regular :**  
Since it enables the organisation to produce social accounts on a regular basis, the concept and the practice become ingrained in the organizational culture covering all the activities.
- **Comparative :**  
Since it not only enables the organization to compare its own performance each year and against appropriate external norms or benchmarks but also provides for comparisons with organizations doing similar work and reporting in similar fashion.
- **Verified:**  
Because social accounts are audited by some reasonably experienced person or agency having no vested interests in the concerned organisation.
- **Disclosed:**  
Since the audited accounts are disclosed to stakeholders and the community at large, this demonstrates the accountability and transparency.

Thus, social audit process is an instrument for social engagement, transparency and communication of information resulting in greater accountability of decision-makers, representatives, managers and officials. Essentially socio-cultural, administrative, legal and democratic settings shape the base for operationalising social audit.<sup>14</sup>

## PURPOSE OF SOCIAL AUDIT

It is conducted to check how well the concerned organization has performed in meeting the needs of the targeted beneficiaries of a given CSR project and the improvements required if any and thereby to increase the efficacy/ effectiveness of concerned development programmes carried out by the company.

## DIFFICULTY

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<sup>13</sup>Supra 11 at pp. 22-23.

<sup>14</sup>Id. at pp. 19-20.

Several difficulties arise in conduct of Social Audit, like due to lack of education people tend to remain indifferent about their rights, suitable social accounting reporting system does not exist, lack of legal action in case of non compliance of social audit principles etc. prove to be hindrances in the efficient introduction of social audit system.<sup>15</sup>

## USERS OF SOCIAL AUDIT

Being a flexible tool can be used by many users like the-

- Government Departments, Funding Agencies or those implementing CSR programmes, for performance appraisal of a given project,
- Private Corporate Enterprises, for balancing the financial viability with impact on the community and environment,
- NGOs/Civil Society etc. as a tool to force their intervention programme and effective advocacy and analysis about the CSR projects.<sup>16</sup>

## STEPS FOR SOCIAL AUDIT PROGRAMME

The Social Audit Programme for a given CSR Project may include the following steps:

- 1 Preparatory Activities- Collecting primary information of the concerned CSR programme, its objectives, delivery system, budgets and allotment of responsibility for conducting the social audit etc.
- 2 Defining Audit boundaries and Stakeholders- Determining purpose, key issues and stakeholders for consultation.
- 3 Social Accounting and Book-keeping- Deciding about the use of existing data, additional data to be collected, selection of performance indicators for social accounting and preparation of social accounting plan and time line.
- 4 Preparing and Using Social Accounts- Based on data collection, views of stakeholders, social accounts to be prepared with key issues for action and the future targets.
- 5 Social Audit Dissemination- Presenting social accounts to social auditors for their verification, recommendations and then to disseminate the social auditor's consolidated report.
- 6 Feedback and Institutionalization of Social Audit- Feedback to fine-tune the CSR policies-programmes towards social ends, follow up actions, reviewing stakeholders' reports for their participation ultimately resulting in institutionalization of social audit process.

Such a social audit programme of company's CSR activities may subscribe to good governance principles of participation, inclusiveness and consensus.<sup>17</sup>

## CONCLUSION

Thus, the concept of Social Audit by implication goes parallel with the concept of CSR, both focusing on welfare of the ultimate beneficiaries of a given project. The basic assumption for conducting social audit is not to discover mistakes but to gauge the performance of the company in terms of its social, environmental and community goals. The efficient social audit programme pertaining to a given CSR project shall include the views of stakeholders/beneficiaries on the service delivery



mechanism of the company and the concerned project. Since the appropriation of prescribed amount for CSR is now a statutory and mandatory requirement in India, there may be possibility for emergence of gap resulting from the statutory allocation of amount for CSR and utilisation of the same in execution of concerned projects, due to various controllable/uncontrollable reasons. To map such gaps and execute companies' CSR programmes objectively, social audit may prove to be an efficient instrument. CS

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<sup>16</sup>Supra 14 at pp. 32-33.

<sup>17</sup>Id. at pp. 46-49.

# Social Audit under Companies Act, 2013



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## INTRODUCTION

Audit is a systematic and independent examination of books, accounts, statutory records, documents and vouchers of an organization to ascertain how far the financial statements as well as non-financial disclosures present a true and fair view of the concern.

Social audit is an official evaluation of an organization's involvement in social responsibility

Social Audit is an assessment of the performance of a Corporate on Corporate Social Responsibility (CSR) objectives. It evaluates measurable goals intended to help the business to meet the expectations of the stakeholder groups having regard to the social and environmental responsibilities. Community development, diversity, environment, international relationships, marketplace practices, fiscal responsibilities and accounting and financial monitoring are commonly assessed social responsibility components. CSR audit is based on the comprehensive ISO 26000 standard. This article explains the meaning of social audit and how it has been enforced by the Companies Act, 2013.

projects or endeavors. Social audit authenticates the efficient utilization of grants, transparency, timeliness, accounting and statutory compliances.

Six key steps are identified for effective Social audit which are:

- (i) Presenting social accounts to social auditors
- (ii) Verification of the data used, assess the interpretation and comment on the quality of social accounting and reporting.
- (iii) Revision of social accounts in accordance with social auditors' recommendation.
- (iv) Collection of information from the stakeholders regarding the implementation and the benefits accrued.
- (v) Dissemination of the consolidated report to the decision making committee.
- (vi) Dissemination of the report to authorities concerned.

## SOCIAL AUDITS HAVE SEVERAL AIMS VIZ.,

- to assess the type of social and environmental influence that the donor has in its local community,
- to make a judgment of the material and monetary shortfalls between the needs of the community and the assets that are available for the development of the local society,
- to make local social service providers and other beneficiaries aware of the needs of the community,
- to provide information needed to improve the effectiveness of programs designed to enhance community development.

## CSR audit program can cover all or any of the following risks: <sup>2</sup>

- i) Effectiveness of the operating framework for CSR implementation –
- ii) Effectiveness of implementation of specific, large CSR projects –
- iii) Adequacy of internal control and review mechanisms –
- iv) Reliability of measures of performance –
- v) Management of risks associated with external factors like regulatory compliance, management of potential adverse NGO attention, etc.

## SOCIAL AUDITS – A BOON OR A BANE

- General belief among the Corporates is that social audits are an imposition to divulge the information which they think internal and confidential.
- Yet another opinion is that social contributions should be left to the social conscience of the individual corporates.

## ADVANTAGES OF SOCIAL AUDITS INCLUDE THE FOLLOWING

- Helping the community with planning
- Supporting democracy in the local community
- Promoting community involvement
- Benefiting individuals and families that are poor or disadvantaged
- Promoting decision-making as a community and the sharing of the responsibilities
- Assisting with human resources growth and development
- Enhancing the company's image in the eyes of the public

## QUALIFICATIONS OF SOCIAL AUDITORS

Though no statutory qualification is prescribed under any of the statute, the following may be taken as the recommendatory qualifications

- 1) Expert Knowledge about the activities of Social Work
- 2) Expert Accounting knowledge
- 3) Expert Knowledge about the compliance of various provisions viz., Companies Act, 2013, Income Tax Act, 1961, Foreign Contribution Regulation Act, 2010 etc.

According to Geoffrey Lantos, there are three kinds of CSR as under:

- i) Ethical CSR – which is about the responsibility to avoid harms or social injuries?
- ii) Altruistic CSR – which is contributing to the common good at the possible expenses of the business for altruistic, humanitarian or philanthropic causes?
- iii) Strategic CSR – Social Welfare Responsibilities that benefit both the companies and the stakeholders.



The conditions in Section 135(1) are alternative and not cumulative. Thus a company whose net profit crossed Rs.5 crores will still be under the purview though its net worth or turnover would not have crossed the limits prescribed therein. The intention of the legislature is thus to spread the wings of the CSR to as wide as possible bringing a large section of the Corporates under its purview.

## SOCIAL AUDIT UNDER COMPANIES ACT, 2013

Social audit is not specifically defined in the Companies Act. On perusal of Section 135, we can find the intention of the legislature in indirectly enforcing the social audit.

How Social audit is indirectly enforced by the Companies Act, 2013:

Stress on CSR Committee:

Section 135(1) envisages that every company having:

- i) net worth of rupees five hundred crore or more; or
  - ii) turnover of rupees one thousand crore or more; or
  - iii) a net profit of rupees five crore or more
- during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director. Insistence of independent director stresses the importance of an independent observation of the activities of the CSR Committee. The conditions in Section 135(1) are alternative and not cumulative. Thus a company whose net profit crossed Rs.5 crores will still be under the purview though its net worth or turnover would not have crossed the limits prescribed therein. The intention of the legislature is thus to spread the wings of the CSR to as wide as possible bringing a large section of the Corporates under its purview.

## INFORMATION REGARDING CSR COMMITTEE

Can the company just form a CSR committee and remain silent? No. Section 135(2) mandates that, the composition of CSR Committee shall be mentioned in the Board's Report under Section 134(3). This stresses the importance of CSR Committee as envisaged under the Act.

For what purpose the CSR Committee is formed. The answer comes from the provisions of Section 135(3).

Section 135(3) envisages the roles of the CSR Committee as under:

- (a) 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;
- (b) recommend the amount of expenditure to be incurred on the



- activities referred to in clause (a); and  
(c) monitor the Corporate Social Responsibility Policy of the company from time to time.

### DISCLOSURE OF CSR POLICY

Responsibility is cast on the Board to ensure that the contents of the CSR Policy so formed, shall be, in addition to be mentioned in its Report, disclosed in the website of the company. Thus Companies Act, 2013 ensures the transparent CSR Policy as evident from sub-section 4 to Section 135 as under:

- The Board of every company referred to in sub-section (1) shall,—
- (a) after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and
  - (b) ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.

### QUANTUM OF CSR SPENDING

Sub-section 5 of Section 135 envisages that the Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy.

#### The conditions are:

- 1) Spent in every financial year  
As long as the company comes within the purview of subsection (1) of Section 135, it shall spend the amount in every financial year.
- 2) At least 2%  
Quantum prescribed is not 2% but "at least 2%". In other words, company is at its liberty to spend more but shall not fall below the 2% of the net profits.
- 3) Net profits calculated under Section 198  
Net profits is not the Profit after tax mentioned in the Profit and Loss Account. It is clear that the net profits shall be recalculated taking into account the adjustments required under Section 198. Section 198 prescribed for calculation of net profits for the purpose of managerial remuneration is prescribed for the purpose of CSR spending also.
- 4) Average of the net profits for 3 immediately preceding

financial years.

Again it is not the net profit for the single year alone. Taking into account, the fluctuations in the business of the company as a whole, the Act envisages average of the net profits for the three immediately preceding financial years. Average, though not explained in the Act, means the simple average. There is a drafting error that "average net profit" should have been "average of the net profit" in as much the Section 198 prescribes the method for calculating the net profit.

### SCOPE OF THE CSR ACTIVITIES

The Proviso to sub-section (5) of Section 135 says that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities.

The intention of the legislature is obvious. Existence of the company has its impact on the social surroundings, natural resources and the life of the people living around it. To mitigate the pains of the people on the surroundings, the Act stresses that the local areas shall be given preference.

### NON-COMPLIANCE OF SECTION 135

Second Proviso says that if the company fails to spend such amount, 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.

Section 135 do not prescribe any penalty for non-compliance viz., non-spending or short spending. It only envisages that the same shall be reported by the Board in its report. Intention of the legislature in this proviso is that the members of the company shall come to know of the default. In such a case, can the company just do away with the non-compliance by a mere mentioning in its Board report ?

The answer is absolute no. In such a case, Section 450 of the Act becomes operative, which reads as under:

If a company or any officer of a company or any other person contravenes any of the provisions of this Act or the rules made thereunder, or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, and for which no penalty or punishment is provided elsewhere in this Act, the company and every officer of the company who is in default or such other person shall be punishable with fine which may extend to ten thousand rupees, and where the contravention is continuing one, with a further fine which may extend to one thousand rupees for every day after the first during which the contravention continues.

Social auditing thus enables an organization to assess and demonstrate its social, economic, and environmental benefits and limitations. It is a way of measuring the extent to which an organization lives up to the shared values and objectives it has committed itself to.<sup>3</sup>

### ACKNOWLEDGEMENTS

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# Social Audit in the Context of CSR



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In the context of Welfare State in a country like India, Social Audit has become a key component of evaluating democratic governance and a tool to implement anti-corruption strategies. It is also one of the ways of understanding the quantity and quality of public resources including public services, policies and decisions.

The Centre for Good Governance in its social audit toolkit defines Social Audit as “an independent evaluation of the performance of an organization as it relates to the attainment of its social goals. It is an instrument of social accountability of an organization” In the governance process, the executive and the legislature are evaluating newer ways of Social Audit to evaluate their performance.

Social Audit refers to a process for measuring, understanding and improving the social performance of an activity of the organization. It also measures and reports the social performance in order to achieve improvement and suggest course correction. Social Audit has become a key component of evaluating democratic governance and a tool to implement anti-corruption strategies. It is also one of the ways of understanding the quantity and quality of public resources including public services, policies and decisions.

In general, Civil Society Organizations undertake ‘Social Audit’ to monitor and track achievements of the institutions that claim social development. Community Based Organizations use Social Audit as an information tool to influence in governments’ decision making processes. In the historical context, Social Audit has been associated with measuring the impact of an organization’s non-financial objectives through systematic and regular monitoring processes and interacting with key stakeholders. These stakeholders include, funders, employees, volunteers and the beneficiaries impacted by the intervention.

The World Bank considers Social Audit as a process, that collects information on the resources of an organization. The information is analyzed and shared publicly in a participatory fashion.

Although the term ‘Audit’ is used, Social Auditing does not merely consist in examining costs and finance – the central concern of a social audit is how resources are used for social objectives.

The current note examines various aspects of Social Audit with special reference to Companies Act, and provides a rough road map to structure and plan Social Audits for CSR projects.

## SOCIAL AUDIT

Social Audit refers to a process for measuring, understanding and improving the social performance of an activity of the organization. It also measures and reports the social performance in order to achieve improvement and suggest course correction. It is also an independent evaluation of the performance of an organization and an instrument to measure social accountability.

Social Auditing enables an organization to assess and demonstrate its social, economic and environmental benefits. It is a way of measuring and evaluating the extent to which an organization or an entity has lived up to the agreed common social objectives.

Section 135 of the Companies Act, 2013 has mandated certain Companies to undertake the programs on a project mode in accordance with its approved CSR policy. Therefore, under this Section, these companies (to whom the above Section is applicable) have to evolve mechanisms to track and report the progress of social development programs as mentioned under Schedule VII of the Act.

The said Section & Schedule thereof of the Companies Act, 2013 are reproduced below for better understanding the concept of Social Responsibility of a Corporate Sector.

*“Section 135. Corporate Social Responsibility*

*(1) Every company having net worth of rupees five hundred crore or more, or turnover of*

The essentials for an unbiased social audit lies with the company sharing as much information about the project with the social auditor such as, CSR policy, background of the project, objectives, agreed milestones and budget allocations. The Social Auditor will use a mixture of techniques that will facilitate the researcher in capturing both quantitative and qualitative information. The Social Auditor will also verify books with respect to the specific CSR project *vis-à-vis* sanctioned budget.

*rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall constitute a Corporate Social Responsibility Committee of the Board consisting of three or more directors, out of which at least one director shall be an independent director.*

- (2) *The Board's report under sub-section (3) of section 134 shall disclose the composition of the Corporate Social Responsibility Committee.*
- (3) *The Corporate Social Responsibility Committee shall, —*
  - (a) *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;*
  - (b) *recommend the amount of expenditure to be incurred on the activities referred to in clause (a); and*
  - (c) *monitor the Corporate Social Responsibility Policy of the company from time to time.*
- (4) *The Board of every company referred to in sub-section (1) shall,—*
  - (a) *after taking into account the recommendations made by the Corporate Social Responsibility Committee, approve the Corporate Social Responsibility Policy for the company and disclose contents of such Policy in its report and also place it on the company's website, if any, in such manner as may be prescribed; and*
  - (b) *ensure that the activities as are included in Corporate Social Responsibility Policy of the company are undertaken by the company.*
- (5) *The Board of every company referred to in sub-section (1), shall ensure that the company spends, in every financial year, at least two per cent. of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy: Provided that the company shall give preference to the local area and areas around it where it operates, for spending the amount earmarked for Corporate Social Responsibility activities:*

*Provided further that if the company fails to spend such amount, 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.*

*Explanation. —For the purposes of this section "average net profit" shall be calculated in accordance with the provisions of section 198.*

#### **Schedule VII (Section 135):-**

This Schedule pertains to the activities which may be included by companies in their Corporate Social Responsibility Policies Activities relating to: —

- (i) eradicating extreme hunger and poverty;
- (ii) promotion of education;
- (iii) promoting gender equality and empowering women;
- (iv) reducing child mortality and improving maternal health;
- (v) combating human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;
- (vi) ensuring environmental sustainability;
- (vii) employment enhancing vocational skills;
- (viii) social business projects;
- (ix) contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government or the State Governments for socio-economic development and relief and funds for the welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities and women; and
- (x) such other matters as may be prescribed.

### **REASONS FOR CARRYING OUT THE SOCIAL AUDIT**

Considering the huge amount spending on various social activities by the Corporate Sector as well as the depth involved with respect to the social activities, Social Audit becomes even more prominent to track and report the progress.

In the context of Section 135 & Schedule VII of the Companies Act, 2013, Social Audit is a tool through which companies can plan, manage and measure CSR sponsored social development projects. It also helps to monitor consequences of the intended and unintended impacts of social development projects their geographies. Social Audit initiated by the Corporates may also include financial audit geared towards verification of reliability and integrity of financial information.

### **SCOPE AND OBJECTIVES OF THE SOCIAL AUDIT**

Social Audit is a transparent process to measure and report the social objectives of the CSR project. It is expected to identify inconsistencies between agreed objectives and the final implementation of the CSR project.

It will aid Companies to understand the current impact and limitations to expected impact. It will also provide multi-stakeholder perception of CSR projects and inputs to the CSR policy. Internally, it helps ensure greater verifiability of data and accountability.

It's important to have strict and accurate monitoring and evaluation plan as part of any successful project implementation and CSR projects are no exception. It not only helps to be assured of implementation of policies as planned but also helps address intense public scrutiny and legal compliance. Social Audit should aim to:

1. Track, assess and report the progress of the sponsored project and undertake course corrections.
2. Facilitates CSR team to understand how each stakeholder has met assigned responsibilities.
3. Assist CSR Sub-Committee plan and execute CSR activities in a transparent and fair way.



4. Assess the capabilities of implementing partners and plan future CSR projects based on their strengths.

## IMPLICATIONS OF POLICY, PROGRAM AND IMPLEMENTATION

The essentials for an unbiased social audit lies with the company sharing as much information about the project with the social auditor such as, CSR policy, background of the project, objectives, agreed milestones and budget allocations. The Social Auditor will use a mixture of techniques that will facilitate the researcher in capturing both quantitative and qualitative information. The Social Auditor will also verify books with respect to the specific CSR project *vis-à-vis* sanctioned budget.

## SOCIAL AUDITOR

The auditing process may be conducted internally by the donor company. However, it is advisable to have conducted by an outside consultant (like Practising Cost Accountant or Company Secretary or Chartered Accountant) or agency to reduce biases. Social Auditor could be a not for profit organization or a private entity specialized in conducting social audits. It is a matter of fact that the financial audit conducted by an outside auditor will bring credibility to the evaluation. The credibility is essential if the donation tranches are subject to audit reports.

It would be appropriate to hire an agency that has worked with United Nation bodies or World Bank or large scale organization that has undertaken impact assessments as they have one of the strongest and detailed social audit tools built in to undertake audits. The audit report also helps in drafting Board of Directors report in compliance to the Companies Act, 2013 and an integral part of company's annual report devoted to social responsibility activities.

## SOCIAL AUDIT REPORT

The Government is required to decide to have a framework of the social audit report containing some of the following components:

1. **Context of the social audit** - This shall contain the legal backing by which the Government can seek the Corporate Sector to share the Social Responsibility. For that purpose, Section 135 & Schedule VII of the Companies Act, 2013 shall be helpful to the Government. The base of this section can be widened to bring all the companies under the scope of CSR activities, and as a result of this, the scope of Social Audit can also be widened.
2. **Techniques of analysis** - The Government is required to carry out analysis of the contributions made by the Corporate Sector during the Financial Years since when this Section was made applicable to them. This will enable to prepare the data-base as well as the statistics and also to take action to develop the particular part of Social activity or programme.
3. **Status of social accounting and book keeping** - The reports submitted by the Statutory Auditor as well as the Secretarial Auditor can be helpful. The documentation / papers and accounting of expenses submitted to these auditors can be the base of whether the amount actually spent on social activities. These expenses accounting can be checked with the budget, if any, prepared by the corporate entity for that particular Financial Year.
4. **Perception of the Company and implementing stakeholders**- Corporate sector on its own can decide the

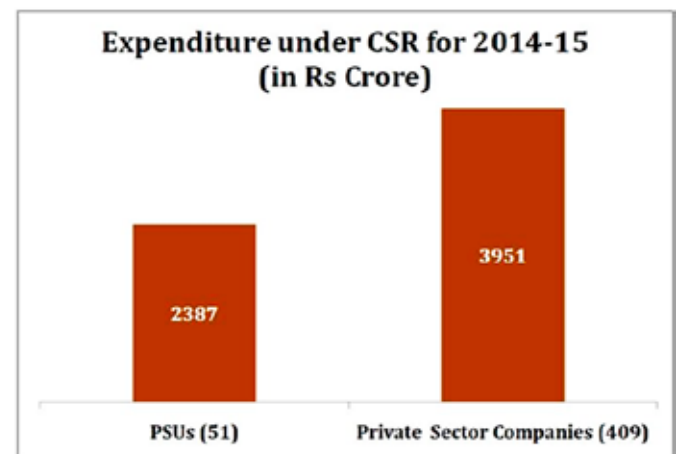
depth of the social problem and can select any of these social activities but after considering the amount to be spent as per the Section of Companies Act, 2013. The implementation of the programme can also be as per the discretion of the Management of the Companies. They may take into the confidence of the relevant stakeholders & the areas for implementation of such social activities and programmes. All these programmes and activities are required to be disclosed by the Management of the company in its Annual Report to the Shareholders.

5. **Perception of the beneficiaries** - The management of the company is also required to take into account the likely benefits of such social programmes and activities to the relevant stakeholders. For that purpose, each & every activity is required to be properly planned. It should go into details of requirements as stated in Section 135 and the activities that are clearly stated in the said section. This will help the company to concentrate on particular areas where it can effectively contribute.
6. **Summary and conclusion** - After going through the above points, the Social Auditor can make summary of the findings / observations he has confronted while carrying out the audit of Social & CSR Activities of the corporate sector. The conclusion of this type of audit can be in the form of sensitivity of the corporate sector about the social problems of India and their contribution to these problems to solve the same to some extent alongwith the Central Government. The conclusion of this Audit shall be addressed to the Shareholders of the company as well as to the Central Government in the form of a Report as is now mandatory for companies which are covered under Section 135 of Companies Act, 2013.

## ACTUAL POSITION OF CSR SENSITIVITY IN INDIA

The Ministry of Corporate Affairs has released information on the total expenditure incurred on CSR Activities by the Corporate Sector during the Financial Year 2014-15 which is amounting to Rs.8802.90 Crores and the total no. of Companies is 7334 which have incurred such a big amount of CSR Activities.

According to the data released by MCA, a total of 6338 crore rupees were spent on CSR activities by 51 Public Sector Undertakings (PSUs) and 409 Private companies. The 51 PSUs spent a total of 2387 crores while the 409 private companies spent 3951 crore rupees. PSUs on an average spent 46.8 crore while Private Companies spent 9.7 crores on average.



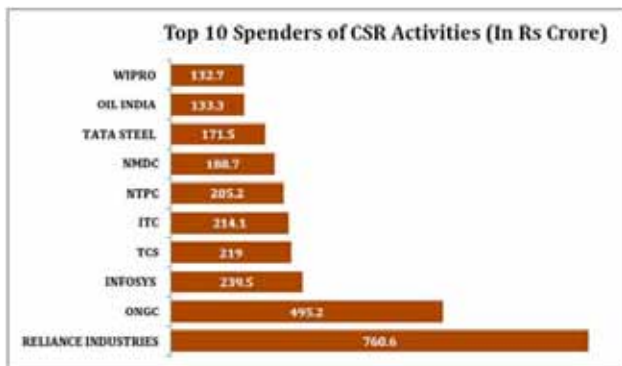
Following is the list of Top 20 such companies which have tried to help to carry out CSR activities in India during the Financial Year 2014 -15.

Sr. No.	Name	CSR Spent (In Crores)
1	RELIANCE INDUSTRIES LIMITED	760.6
2	OIL AND NATURAL GAS CORPORATION LIMITED	495.2
3	INFOSYS LIMITED	239.5
4	ITC LIMITED	214.1
5	TATA CONSULTANCY SERVICES LIMITED	210.4
6	NTPC LIMITED	205.2
7	NMDC LIMITED	188.7
8	TATA STEEL LIMITED	171.5
9	ICICI BANK LIMITED	156.0
10	OIL INDIA LIMITED	133.3
11	WIPRO LIMITED	132.7
12	AXIS BANK LIMITED	123.2
13	HDFC BANK LIMITED	118.6
14	INDIAN OIL CORPN. LIMITED	113.8
15	BHARAT HEAVY ELECTRICALS LIMITED	102.1
16	NORTHERN COALFIELDS LIMITED	101.6
17	MAHINDRA AND MAHINDRA LIMITED	83.0
18	HINDUSTAN UNILEVER LIMITED	82.4
19	LARSEN AND TOUBRO LIMITED	76.5
20	CAIRN INDIA LIMITED	70.3
	TOTAL	3778.5

#### 9 of the Top 20 spenders are PSUs

Out of the top 20 spenders under CSR, 9 are PSUs and the remaining 11 are private companies. Reliance Industries spent the most with 760.6 crore rupees followed by ONGC with 495.2 crores. Three out of the top 10 are companies from the IT Sector (Infosys, TCS & Wipro). State owned NTPC, NMDC & Oil India are also in the top 10 spenders. The top 10 spenders accounted for 43.5% of the total CSR spend while the top 20 companies accounted for 56% of the total CSR spend.

#### Top 10 Spenders of CSR Activities (is in Rs. Crores) -



#### Maharashtra & Gujarat account for more than 1/6th of all the Projects

A total of 1790 projects were undertaken under CSR in 2014-15 in 36 different States/UTs. Maharashtra leads in the number of projects with 202 followed by Gujarat (111 projects). 97 projects were in Tamil Nadu while 95 projects were in Karnataka. Rajasthan (89), Uttar Pradesh (80), Andhra Pradesh (79), West Bengal (79), Madhya Pradesh (71) and Delhi (66) are the other states in the top 10. Surprisingly, Telangana that has a large presence of IT Companies had only 47 projects and is in the 15th position.

Following are some of the Big Corporates which have specified

their own "Key CSR Areas" & "Flagship Programme" under CSR Activities in the Financial Year ending 31.03.2015.

#### 1. Mahindra & Mahindra

**Key CSR Areas:** Focus on the girl child, youth and farmers through programmes in the domains of education, public health and environment. Mahindra Pride Schools provide livelihood training to youth from socially and economically disadvantaged communities and have trained over 13,000 youth in Pune, Chennai, Patna, Chandigarh and Srinagar. M&M sponsors the Lifeline Express trains that take medical treatment to far flung communities. Then there's Project Hariyali, which has planted 7.9 million trees till date, including four million trees in the tribal belt of Araku Valley. M&M has constructed 4,340 toilets in 1,171 locations across 11 states and 104 districts specifically for girls in government schools as part of Swachh Bharat Swachh Vidyalaya. Expenditure on CSR in the last fiscal was Rs 83.24 crore — 2% of PAT.

**Flagship Programme:** Set up by Anand Mahindra in 1996, Project Nanhi Kali supports the education of over 11 Lacs underprivileged girls in ten states, providing material support (uniforms, bags, notebooks, shoes and socks) and academic support (workbooks, study classes). The key outcomes of the project include an increase in both enrolment of girls in schools and curtailing dropouts to less than 10%.

#### 2. Tata Power

**Key CSR Areas:** Education, environment, community development, health, safety, security, resource and energy conservation, women empowerment, skill development and livelihood generation. Its total CSR spending in FY15 stood at Rs 31.10 Crores as against the 2% of PAT requirement of Rs 29.8 Crores. Further, the CSR spending of subsidiaries and joint ventures of the company was Rs 18.20 Crores as against the requirement of Rs 17.2 Crores.

**Flagship Programme:** 'Act for Mahseer', a conservation initiative started in 1975 for saving endangered species. Tata Power set up a breeding centre in Lonavala as part of its eco-restoration and eco-development project for the lakes. The programme has produced and distributed in various water bodies seeds of Mahseer in excess of 10 Million in India and internationally.

#### 3. Tata Steel

**Key CSR Areas:** Education, healthcare, facilitation of empowerment and sustainable livelihood opportunities, preservation of ethnicity and culture of indigenous communities and sports. Initiatives run across ten districts in Jharkhand, Odisha and Chhattisgarh, covering nearly 500 core villages. Total spending in 2014-15 on CSR was Rs 171.50 Crores, which is 2.04% of the average net profit of the last three fiscals.

**Flagship Programme:** Maternal and Newborn Survival Initiative (MANSI), a public-private initiative, is being implemented in 167 villages of the Seraikela block of Jharkhand's Seraikela-Kharsawan district since 2009. The project goals are to reduce child and infant mortality. MANSI has achieved improvement in all process and outcome indicators, such as reduction in neonatal mortality by 32.7%, reduction in infant mortality (up to the age of one year) rate by 26.5%, increase in institutional delivery from 58% to 81%. Based on the early evidence of success and learnings from the MANSI project, Tata Steel is scaling up the project to cover 1,500 villages.

#### 4. L&T

**Key CSR Areas:** Water and sanitation, education, healthcare and skill building. L&T partners with local governments on health programmes focused on reproductive health, tuberculosis & leprosy control, integrated counselling & testing centres for HIV/AIDS. L&T's community health centres are located at Mumbai, Thane, Ahmednagar, Hazira, Vadodara, Coimbatore, Chennai, Lonavala and Kansbahal. L&T's Construction Skills Training Institutes (CSTIs), established in 1994, provide skills training to rural youth. In the last fiscal, L&T spent Rs 76.50 Crores on CSR, amounting to 1.44% of the average net profit for the preceding three years.

**Flagship Programme:** L&T recently committed to the construction of 50 check dams in Talasari block of Palghar district in Maharashtra, taking the total number of check dams constructed over the years to 150. This will benefit over 75,000 villagers.

#### 5. Tata Chemicals

**Key CSR Areas:** Focused on sustainable community development and preserving the ecosystem. The company has a climate change policy that maps its carbon footprint and is creating an abatement strategy for sustainable manufacturing. In the last fiscal, it spent Rs 12.76 Crores on CSR, amounting to 2.93% of standalone PAT.

**Flagship Programme:** 'Save the Whale Shark Campaign', started in 2004, aims to spread awareness about the whale shark, the world's largest fish, which was fast depleting because of slaughter by fishermen along the Gujarat coast for export. After a decade of campaigning through street plays, games, posters, inflated shark flotillas, community meets, postage stamps and engaging with fishermen and school communities, more than 498 whale sharks have been saved. The company is now involved in the scientific study of the species to ensure its long-term survival.

#### 6. Tata Motors

**Key CSR Areas:** Education and employability (skill development). Most programmes are in the vicinity of manufacturing locations but employability programmes focused on building skill of youth in automotive trades are implemented across India. The company has created a CSR Committee of the board under the chairmanship of RA Mashelkar, which monitors CSR performance. It spent Rs 18.62 Crores on CSR in 2014-15, despite reporting a net loss.

**Flagship Programme:** Learn, Earn and Progress (LEAP) for mechanic motor vehicle training, a year-long programme where theoretical learning is supplemented through 'on-the-job' exposure at service centres. Tata Motors' Dealers, implementation partners (NGOs and Technical Training Institutes) are partners. Dealers provide the training and contribute two-thirds of monthly stipend of the trainee while Tata Motors contributes the rest. The implementation partner provides theory training.

#### 7. GAIL

**Key CSR Areas:** Supporting communities in multiple thrust areas like health, sanitation, education, skill development, livelihood, and environment. Through GAIL Utkarsh, the company has helped over 500 students from economically backward communities join India's premier engineering institutes. They are provided residential coaching programmes and given monthly scholarships once they get into IITs/NITs. The GAIL Institute of Skills (GIS) is also working towards bridging the skill gap faced by

the oil and gas industry. GAIL's CSR programme operates in 25 states and UTs. In the Financial Year 2014-15, it spent Rs 43.0 Crores on CSR activities.

**Flagship Programme:** GAIL has established GIS which addresses the issue of unemployment and skill gap, by providing job-linked skill training to local youth of communities in and around its areas of operation.

#### 8. Bharat Petroleum

**Key CSR Areas:** Quality education (strengthening primary, secondary education and empowering teachers), water conservation, skill development (employment linked skill training to the underprivileged with an inclusive approach for women, unemployed youth and persons with disabilities), health/hygiene and rural development. In 2014-15, BPCL had a CSR allocation of Rs 76 Crores, of which it spent Rs 34.0 Crores. The balance has been carried to the current fiscal, and has been spent on Swachh Bharat Swachh Vidyalaya projects.

**Flagship Programme:** Project BOOND, which has evolved from the construction of rain water harvesting structures to making villages drought-free. It began with four villages in Maharashtra, which were along BPCL's product pipeline. In the past 6 years, it has been extended to over 140 villages in Maharashtra, Tamil Nadu, Karnataka, Rajasthan, Uttar Pradesh and Andhra Pradesh, making them water positive. In 2014-15, 40 villages were made water positive by creating 7 Crores Litres of water benefitting over 5,500 families.

#### 9. Infosys

**Key CSR areas:** Works with Infosys Foundation, headed by Sudha Murty, towards removing malnutrition, improving healthcare infrastructure, supporting primary education, rehabilitating abandoned women and children and preserving Indian art and culture. Infosys Foundation USA is focused on bridging the digital divide in America by supporting computer science education and training in underrepresented communities. In Financial Year 2014-15, Infosys spent 239.50 Crores on CSR activities.

**Flagship program:** The Infosys Foundation mid-day meal program, an initiative in partnership with the Akshaya Patra Foundation, spans several states across India.

### CONCLUSION

In the context of managing of large scale projects & the position of actual CSR activities in India, it is time that the CSR personnel have to level-up their conceptual clarity in differentiating traditional ways of monitoring and evaluation *vis-a-vis* social audit practices for better project management. It is essential for every CSR personnel to understand the significance of Social Audit in the context of managing CSR projects.

It also helps in providing timely project updates to CSR Sub-Committee, senior management and inputs to CSR policy. Extracts from the Social Audit report are an excellent way of updating internal communication channels. It's time to incorporate CSR project proposals with built-in components for regular tracking, monitoring and reporting for successful social development projects. CS

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# Social Responsibility of Enterprises need for Social Audit



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## INTRODUCTION

Albert Einstein in his famous book "The world as I see it" wrote; A hundred times every day, I remind myself that my inner and outer life are based on the labours of other men, living and dead, and that I must exert myself in order to give in the same measure as I have received and am still receiving'. These words came from deep feeling for humanity of the greatest Physicist of the twentieth century who was also a philosopher. Left alone, an individual cannot make even a pin or a pen; He is totally dependent on others and totally indebted to the society. Similarly, all organizations, big or small, are dependent on the society for their existence and the organization should be mindful of the needs to repay their debts to the society.

No mechanism exists to bring into focus the performance of enterprises in discharging their social responsibilities. This is possible only through a system of public accountability. In this context the concept of Social Audit which can enforce the enterprises to fulfil their social obligation assumes great importance.

While the wheel of the industrial and technological progress cannot be stopped and it has brought immense benefits and prosperity to the Society, the industries have been worst social offenders, nobody could perhaps portray the baneful effects of industrialisation than D. H. Lawrence; Now though perhaps nobody knew it, it was ugliness which really betrayed the spirit of man in the nineteenth century. The great crime which the moneyed classes and promoters of Industry committed in the palmy Victorian days was the condemning of the workers to ugliness, meaningless and formless and ugly surroundings, ugly ideals, ugly religion, ugly hope, ugly love, ugly clothes, ugly furniture, ugly houses, ugly relationship between workers and employers. The human soul needs beauty even more than bread.

The confrontation which began between industry and environment from the birth of industrial revolution is still going on, though in subtler form. Greater awareness among the people has forced the industries and governments to take certain preventive measures. Public resistance in Edinburg has not allowed the British Government, to establish a nuclear power plant at Edinburg. Unfortunately, genuine concern and greater awareness of their social responsibilities in this area is hardly a serious agenda with the enterprises. Environment is only one aspect of responsibility. Equally important are: protection of consumers' rights, safeguard of interest of workers and protection of Shareholders' rights. No mechanism exists to bring into focus the performance of enterprises in discharging these social responsibilities. This is possible only through a system of public Accountability. In this context the concept of Social Audit which can enforce the enterprises to fulfil their social obligation assumes great importance.

## DISTINCTION BETWEEN GOVERNMENT FUNDS AND PRIVATE FUNDS

Accountability of Enterprises is essential because of two main factors. First, there is hardly any distinction between Government funds and private funds. Government spending is under strict scrutiny because it is tax payers' money which must be in public interest and should not be frittered away. Public accountability of Government funds has been ensured through strict system of control. Scrutiny by the Comptroller and Auditor General, the examination by the Public Accounts Committee and the Public Undertakings Committees and the Parliament in general through questions, motions etc. But spending by the private company escapes any such public scrutiny while the funds used by the

private companies are hardly private. Bulk of the funds in the private are contributed by the common people in favour of shares, debentures and deposits; a large part of the funds are held by the public financial institutions like banks, L.I.C etc, and only a small portion is held by the owners. In to-day's corporate world there is hardly any distinction between public funds and private funds. Therefore, a system of public accountability as it exists for Government funds is required to be introduced.

Secondly, and most importantly the private organization owe their existence to the society and earn their profits from the society. A large number of organizations are multi-nationals who influence the lives of millions of people all over the world by their policies and actions and products. Some of them are more resourceful and powerful than many governments. Even in advanced industrial countries, they considerably influence and control the policies of the government. It is, therefore, essential to assess as to how they have discharged the social obligations and how the society has benefited or has been affected by the operations of these organizations. The Bhopal gas tragedy which is the biggest industrial disaster has shown how the operations if go wrong, can affect the lives for generations and how the government, the public and the workers were kept in dark about the lethal material the company was handling. All the organizations have an obligation to repay their debt to the society. While people are constantly watching and regulating governmental activities, the activities of big private organizations are outside the public purview. The society has a right to know about their actions, their operations, their impact and how the community in general have been affected by their existence. The Sachar Panel headed by Justice Rajinder Sachar recommended (1978) "Acceptance of concept of social responsibilities must be reflected in the information, and disclosure that the company make available for creditors, workers and community". Openness in 'corporate affairs is the first principle in securing responsible behavior.

## ASPECTS OF SOCIAL ACCOUNTABILITY

Public Accountability of the corporate sector can be analysed in terms of the degree to which the companies have fulfilled their social obligations in the following four identified areas:

- 1) Social responsibility to the consumer.
- 2) Social responsibility to their own employees.
- 3) Social responsibility to the shareholders.
- 4) Social responsibility to the Society and local community (e.g.-environment, pollution etc.)

## THE PIONEERS

Social Audit Limited, London, a non-profit making organization has been a pioneer in creating greater awareness of government and corporate responsiveness to the society. In his pioneering work 'the Social Audit Consumer Hand book (1978)', Charles Medawar says " effective accountability depends not only on provision of information, but on a system which sets appropriate standards and which then ensures that a company has much to gain by observing them and much to lose by not. And clearly depends on their being effective public pressure-pressure which includes the law as a formal, if perhaps imperfect, expression of public interest, and also effective and open channels for public approval or criticism, as an informal and perhaps oblique expression of it. The fact that public

Public Accountability of the corporate sector can be analysed in terms of the degree to which the companies have fulfilled their social obligations in the following four identified areas: Social responsibility to the consumer, Social responsibility to their own employees, Social responsibility to the shareholders and Social responsibility to the Society and local community (e.g.-environment, pollution etc.).

criticism is oblique (and also unwelcome in its effect), does not mean it is not effective. Pain is an oblique way of telling the human body that something is wrong with it. Public criticism may tell the corporate body the same thing in the same way'. What goes on in business and other centres of power? What standards of behaviours the society can reasonably expect from business and with what guarantee? What is the real worth of the product? These are some of questions Medawar has raised in his consumer Hand book. Medawar thinks consumer interest are of overriding importance and full accountability of the corporate sector should be achieved by social audit.

Another pioneering work in the field of Social Audit has been Maurice Frankel's 'Social Audit Pollution Handbook' (1978). In this hand book Frankel explains how to make in depth investigation into the hazards and collect evidence and information on toxic chemicals and substances used in factories and found in environment. In many western countries including U.K, there is veil of secrecy about the harmful substances used in factories. Under the British Health and safety at Work Act 1974, an employer should give the employee the information about the known and suspected hazards of the substances at the workplace and the monitoring he does. But the employer is more often than not unwilling to do so. Therefore, the information will have to be obtained from other sources- the Factory Inspectorate, the manufacturers, the trade union research departments or the British Society for Social Responsibility in Science, London. As regards air pollution (emission of Smoke, gas, dust) and water pollutions( discharge of city waster, sewers, industrial pollutants ) social Audit must find out whether the company or organization has complied with the legal requirements, standards or objectives and the steps it has taken to reduce the level of discharge, emission or to treat the wastes. In India, the standards of quality of air and water are required to be regulated according to Water (Prevention and control of Pollution) Act, 1974 and Air (Prevention and control of Pollution) Act, 1981.



## INDIAN EXPERIENCE

While the industrialized nations of the west were still groping with the concept of Social responsibilities of the Corporate Bodies, Tata Iron and Steel Company (TISCO), in their characteristic style of enlightened business management, adopted the concept of Social Audit far ahead of other leaders in Industry .In 1979, the TISCO amended their Articles of Association and added a new clause 3A which reads as follows:- "The Company shall be mindful of its social and moral responsibilities to the consumer, employees ,share holders ,society and the local community."

By a resolution in 1979, , a social Audit team was appointed consisting of Justice S.P Kotval, retired Chief Justice of Bombay High Court as Chairman, Prof. Rajni Kothari-,Director of the Centre for the study of Developing Societies, Delhi and Prof. P.G. Mavlankar, Director of Harold Laski Institute of Political Sciences, Ahmedabad as members. The terms of reference of the Committee were to examine and report whether, and the extent to which the company has fulfilled the objective contained in Clause 3A of its Articles of Association regarding its social and moral responsibilities to the consumers, employees, shareholders, society and the local community. The social Audit Report submitted by the expert committee in July 1980 is a landmark in the history of Indian Industry. It was the first reports of its kind which was not known before .Notwithstanding the initial handicaps and lack of literature on the subject the committee did commendable work and the reporting standard was comparable to the best in the west. According to the Report, TISCO has fulfilled their social obligations to the shareholders, employees, the consumers and the local community in general except to some extent, environmental and work place pollution where the Company had shown laxity. The shareholders of TISCO have always received their dividends on time and have been provided with all necessary information and opportunities as regards shares of the Company. The Company's wage structure and other benefits offered to the employees were perhaps, the best in country "The Company has fulfilled its obligations" to the consumers, says the Report .The products of TISCO are highly rated in terms quality, safety, and price. The committee was highly impressed by the good work done by the company to the local community in providing housing, roads, schools, hospitals, markets, playgrounds and clubs for which, the company spends Rs.10 Crores annually. The committee was also impressed by the ideal Labour-management relations. "There has been no strike in Jamshedpur over an industrial dispute for more than

fifty years".

However the Committee was critical of the internal working condition in the siltering plant and disappearance of Notice advising workers of the plant to take fresh air for half an hour after every two hours of work. The Audit committee expressed concern about the atmospheric pollution caused by smoke from the plants "charged with particles of coal and possibly iron and different types of noxious gases including the deadly carbon monoxide" TISCO fully accepted the Social Audit Report Presented in 1980. On August 1980, The Chairman of TISCO announced "one of the major sources of such air pollutions at Jamshedpur lies in the Steel Melting Shops. I am glad to inform the shareholders that the new shop we shall build as part of our Modernization Programme in replacement of the old Steel Melting Shop No.2 will include, at a cost of some Rs.10 crores, all modern design features and devices to make it virtually free from the discharge of any objectionable matter of gas into the air. We shall, in keeping with the committee's recommendations, maintain a continuing study and assessment of social performance and its cost benefit ratio.

## CONCLUSION

TISCO has shown the way. Unfortunately no other company has come forward to introduce social audit which only can judge the extent to which a company has fulfilled its social and moral responsibilities. One obstacle may be, absence of any such provision in the Articles of Association. It may be pointed out here that the Ministry of Corporate Affairs have amended and incorporated both in the earlier Companies Act of 1956 and in the new Companies Act of 2013 and made it mandatory to mention in the annual report of the company a specific mention regarding the activities undertaken by them in the area of social performance and social community welfare. This activity report of the Company is subject to a Secretarial Audit Report by a Secretarial auditor (practicing Company Secretary), whose report should be presented to the shareholders in its annual general meeting (A.G.M) along with Company's Annual Report together with the Report of the Auditors' on the audited accounts (profit and loss account and balance sheet) as an attachment to the report. This provision in the Companies Act of 2013, will make the companies' management statutorily liable to bring out the social activities under taken by them for the benefit of public at large in the social and community field and the companies can play a vital role in the social and community sector development.

CS

# Levy of GST on E-Commerce & Aggregators



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Chapter XI B of Model GST Act contains provisions in relation to taxation of E-commerce including aggregators in section 43B and 43C. Presently, e-commerce companies face five indirect taxes including service tax, central sales tax (CST), value-added tax (VAT) and customs duty. At present the centre taxes the sale of services and states tax the sales of goods. Therefore service tax, CST and customs duty have to be paid to the centre while VAT has to be remitted to the state governments. After the implementation of GST, it will become simple. Sellers on e-commerce will have to pay tax in the state where the delivery happens. In the long-run the creation of a unified market place may reduce the tax burden, inventory cost and logistical issues, and ensure seamless movement of goods across the country.

Under the provisions of the Model GST ACT, terms like “aggregator” and “Electronic commerce operator” have been introduced. Various provisions regarding their liability of collection and deposit of Tax at Source and taking credit thereof have been provided and highlighted in this Article.

Many producers, sellers and consumers will have easy access to an all-India market as there will be development of seamless national supply chain.

In case of e-commerce operators, no tax liability has been imposed upon them in respect of supplies made by actual suppliers through them except for the liability to discharge tax on the services rendered in relation to such supplies. Their obligation is restricted to provide information to the government regarding the details of supplies made by the actual suppliers and to deduct and deposit a percentage of taxes from the collection payable to the suppliers.

## MEANING OF ‘AGGREGATOR’

As per section 43 B(a) of the model GST law, ‘aggregator’ means a person, who owns and manages an electronic platform and by means of the application and a communication device, enables a potential customer to connect with the persons providing service of a particular kind under the brand name or trade name of the said aggregator.

An ‘aggregator’ should satisfy the following conditions –

Aggregator should be a person (as defined in section 43B(a) of model GST law.

- Aggregator should own and manage an electronic platform.
- It should enable a potential customer to connect with persons providing service of a particular kind (say, car rentals).
- Such connecting shall be by means of the web application and a communication device (say, mobile)
- Services should be provided under the brand name or trade name of the aggregator.

Examples of the aggregators include Uber, Ola cabs, Airbnb, Expedia, Groupon, Blabla car, Tripda etc. The aggregators would include online service providers that own and manage a web based software application.

There must also exist a communication device between aggregator and service providers for communication.

## BRAND NAME OR TRADE NAME

‘Brand name or trade name’ is defined in clause (b) of section 43B. Accordingly, ‘brand name or trade name’ means a brand name or a trade name, whether registered or not, that is to say, a name or a mark, such as an invented word or writing, or a symbol, monogram, logo, label, signature, which is used for the purpose of indicating, or so as to indicate a connection, in the course of trade, between a service and some other person using the name or mark with or without any indication of the identity of that person.

\* Also ACIS (UK). Former Chairman, NIRC of ICSI.

Brand name or trade name (like ola, uber, taxi for sure and so on) can be a name or a mark such as –

- (i) invented word or writing.
  - (ii) a symbol,
  - (iii) monogram,
  - (iv) logo,
  - (v) label, or
  - (vi) signature,
- which is -
- (i) registered or otherwise
  - (ii) used for the purpose of indicating or indicate a connection
  - (iii) a connection between service and person using name or mark in course of trade and such connection is with or without indication of identify of that person.

## BRANDED SERVICES

In terms of clause (c) of section 43B of model GST law, 'branded Services' means services which are supplied by an electronic commerce operator under its own brand name or trade name, whether registered or not.

Branded services are provided by e-commerce operator (and not by aggregators). The brand name or trade name of such branded services may or may not be registered. If an electronic commerce operator provides service under its own brand name or trade name, it will be treated as branded services. Examples could be services provided by hotels, airlines etc.

It may be noted that E-commerce operators are different from aggregator and do not include persons engaged in supply of goods or services on their own behalf. Where e-commerce operators are engaged in supply of goods or services of their own brand, they will not be treated as e-commerce operator for such supply. They will be taxed as a normal supplier and TCS will not be applicable.

### Meaning and scope of electronic commerce (e-commerce)

According to clause (d) of section 43B of the model GST law, 'electronic commerce' shall mean the supply or receipt of goods and / or services, or transmitting of funds or data, over an electronic network, primarily the internet, by using any of the applications that rely on the internet, like but not limited to e-mail, instant messaging, shopping carts, Web services, Universal Description, Discovery and Integration (UDDI), File Transfer Protocol (FTP), and Electronic Data Interchange (EDI), whether or not the payment is conducted online and whether or not the ultimate delivery of the goods and/or services is done by the operator.

To understand e-commerce, following are the essential features to be covered under the meaning and scope of electronic commerce:

- (a) It should involve –
  - (i) supply or receipt of goods / services, or
  - (ii) transmitting of funds, or
  - (iii) transmitting of data
- (b) Such supply or transmission shall be over an electronic network (primarily internet)
- (c) Such network should use any application that relies on the internet [not limited to] like any of the following –
  - (i) e-mail
  - (ii) instant messaging
  - (iii) shopping carts
  - (iv) web services
  - (v) universal description
  - (vi) discovery and integration (UDDI)
  - (vii) file transfer protocol (FTP)
  - (viii) electronic data interchange (EDI)
- (d) It may or may not involve conduct of payment online

- (e) It may or may not result in ultimate delivery of goods / services by the ecommerce operator.

Transactions carried out by an e-commerce operator

Following transactions/events take place generally, when a transactions carried out by an e-commerce operators :

- (a) Various products and services available with e-commerce operator are displayed on his electronic platform.
- (b) Customer visits the e-commerce platform with his requirement.
- (c) Customer chooses the product and price and terms of e-commerce operator
- (d) Customer chooses the various vendors registered with e-commerce for supply to customer.
- (e) Customer pays to e-commerce operator by one of the payment options
- (f) E-commerce operator informs the respective vendor of the order
- (g) The vendor concerned supplies to customer and informs to e-commerce operator
- (h) E-commerce operator settles the vendors payment periodically.

### Meaning of Electronic Commerce Operator

As per section 43B (e) of the model GST law, an e-commerce operator is a person who directly or indirectly, owns, operates or manages an electronic platform, which facilitates the suppliers of goods and /or services to supply their goods and services. E-commerce operators should:

- (a) own, operate or manage any electronic platform
- (b) facilitate the supply of goods and / or services,
- (c) provide any information or any other services incidental to or in connection with electronic platform
- (d) provide services to others or on behalf of others

Examples of e-commerce operators are Amazon, Flipkart or Paytm etc. The orders for goods and services are booked on such platforms and these platforms also receive the payment. Such orders in turn may be supplied by different suppliers and payment to them is made by e-commerce operator. There are different business models under e-commerce.

## REGISTRATION REQUIREMENTS

Section 19 of the model GST law read with clause 5 of its Schedule-III stipulate that irrespective of the aggregate threshold limit for the purpose of registration under GST, every electronic commerce operator and an aggregator who supplies services under his brand name or trade name shall be required to be registered. Threshold exemption of Rs. 9 lakh or Rs. 18 lakh will not apply to them. Thus, obtaining registration is mandatory for e-commerce operator and an aggregator.

In following cases (section 19, Schedule-III), registration under GST shall be mandatory irrespective of threshold exemption -

- (i) person making inter-state supplies;
- (ii) person supplying goods and / or services, other than branded services, through e-commerce operator;
- (iii) every electronic commerce operator;
- (iv) aggregator providing branded services under his brand name or trade name.

The definition of e-commerce operator in clause (e) of section 43B of the model GST law specifically excludes persons who are engaged in supply of goods and / or services on their own behalf, i.e. goods and services being supplied are owned by such operators.

## COLLECTION OF TAX AT SOURCE

According to section 43 C of the model GST law, every e-commerce operator is required to deduct tax (GST) i.e. collect an amount



called TCS from the payments to be made to supplier of goods and / or services, who have supplied such goods and / or services using the electronic platform of such e-commerce operator. The tax so deducted is known as tax collected at source (TCS), similar to tax deducted at source (TDS).

E-commerce operators will have to collect tax at source (TCS) in addition to what GST is payable in the states in respect of supply of their own goods and services. This tax will have to be collected on payment to vendors which will be subject to reconciliation at a later stage.

In terms of section 43C(5), TCS collected from the supplier and deposited with the Government shall be deemed to be the payment of tax on behalf of the supplier and supplier shall claim credit in his electronic cash ledger, as per entries reflected in the statement / return filed by the e-commerce operator.

#### *Collection and Deposit of TCS*

An e-commerce operator is required to collect (by way of deduction) tax from the payment to be made to the suppliers of goods and services, who had supplied such goods and services using e-commerce operator's platform. Such amount is required to be collected on earlier of the following two events

- (a) time of credit of amount to the accounts of actual supplier of goods and / or services
- (b) time of payment of amount to such suppliers

Such tax has to be collected from the amount payable or paid to the supplier, representing consideration towards the supply of goods and / or services made through it.

As per section 43C(3), TCS is required to be deposited by the e-commerce operator by 10th day of the following month in which the amount of TCS was so collected i.e., within ten days after the end of the month in which collection is made. Such TCS amount shall be paid to the credit of appropriate Government by the e-commerce operator.

The rate of TCS shall be notified by the Central or State Government on the recommendation of GST Council.

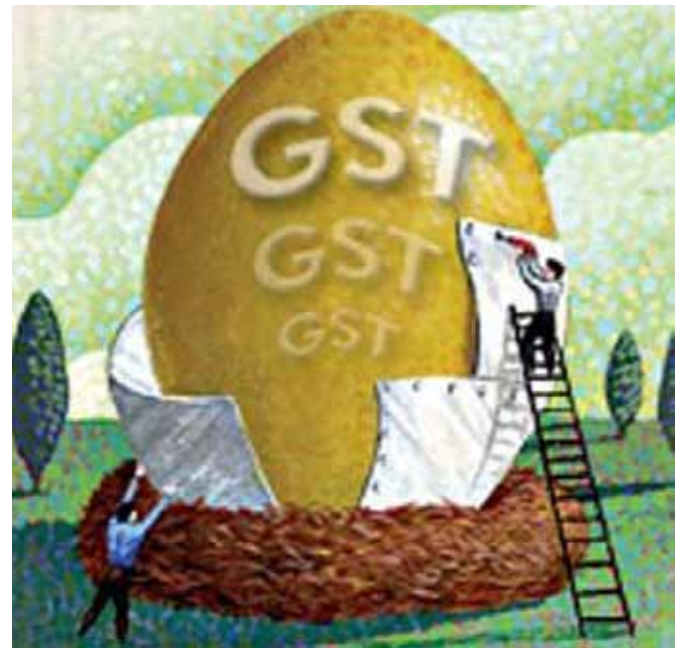
#### *Filing of return in relation to TCS*

Under section 43C(4), the e-commerce operator besides collecting and depositing tax by 10th of following month, has also the obligation to furnish a statement of all amounts collected by him from the payments made by him for outward supplies made using his portal and furnish such statement within 10 days of the following month for any calendar month.

#### *Taking credit of TCS*

According to section 43C (6), the suppliers of goods and services on whose behalf the payment of TCS is collected and deposited by e-commerce operator will be eligible to claim credit of such amount in their electronic cash ledger. The details of supplies, deductions and deposit furnished by e-commerce operator will be matched with the periodical returns furnished by such supplier. On its matching with the details declared by the supplier, the electronic cash ledger of such supplier will be credited with an amount deposited by e-commerce operator on their behalf.

The statement filed by operator shall contain the details of the amount collected on behalf of each supplier in respect of all supplies of goods and/or services effected through the operator and the details of such supplies during the said calendar month. Any amount collected and paid to the credit of the appropriate Government by e-commerce operator shall be deemed to be a payment of tax on behalf of the concerned supplier and the supplier shall claim credit in his electronic cash ledger.



The value of supply relating to any payment in respect of which any discrepancy is communicated and which is not rectified by the supplier in his valid return for the month in which discrepancy is communicated shall be added to the output liability of the said supplier for the calendar month succeeding the calendar month in which the discrepancy is communicated.

#### *Responsibilities of e-commerce operator for TCS*

According to section 43 of model GST law, the operator is responsible to collect/deduct the specified percentage of amount out of the proceeds payable to the actual suppliers, pay such amount to the government and file a statement containing respective details. The time available to the operator to deposit the collected amount on behalf of suppliers and to file the respective Statement containing the details of such collection is 10 days after the end of the month to which such collection relates. The operator is responsible to provide the information sought by the Government relating to the details of the supplies made by the actual suppliers using the portal of operator.

#### *Additional Information to be Submitted*

In terms of sub-section (10) of section 43C, any tax authority of the rank of Joint Commissioner or above may require, by way of notice in writing, before or during any proceedings under the model GST law to furnish the following details –

- (a) supplies of goods and/or services effected through such operator during any period, or
- (b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operators and declared as additional places of business by such suppliers - as may be specified in the notice.

The operator on receipt of notice as aforesaid shall be under an obligation to furnish the required information within five working days from the date of service of notice. Failure to do so shall attract action under section 66 of the model GST law, i.e. liable to penalty which may extend up to rupees twenty five thousand for such failure.

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# 3

# LEGAL WORLD



- MORGAN STANLEY MUTUAL FUND V. KARTICK DAS [SC]
- PRESIDENT/SECRETARY J.K. SYNTHETICS MAZDOOR UNION (CITU), KOTA V. ARFAT PETROCHEMICALS PVT.LTD & ORS [SC]
- UCO BANK & ANR V. DIPAK DEBBARMA & ORS [SC]
- ROTOMAC ELECTRICALS LTD V. UNION OF INDIA & ANR [DEL]
- IDBI TRUSTEESHIP SERVICES LTD V. HUBTOWN LTD [SC]
- STATE OF U.P. & ORS V. ALL U.P. CONSUMER PROTECTION BAR ASSOCIATION [SC]
- JINDAL STAINLESS LTD & ANR V. STATE OF HARYANA & ORS [SC]
- COMMISSIONER OF COMMERCIAL TAX & ORS V. BAJAJ AUTO LTD & ANR [SC]
- GLOBE GROUND INDIA EMPLOYEES UNION V. LUFTHANSA GERMAN AIRLINES & ORS [DEL]



## Corporate Laws

CS:LMJ: 14:12:2016

MORGAN STANLEY MUTUAL FUND v. KARTICK DAS [SC]

Civil appeal No.4584 of 1994 (arising out of SLP (C) No.272 of 1994)

M.N.Venkatachalliah, A.S.Anand & S.Mohan, JJ. [Decided on 20/05/1994]

Equivalent citations: 1994 SCC (4) 225; JT 1994 (3) 654; 1994 SCALE (2) 1121; (1994) 81 Comp CAS 318.

Consumer protection Act, 1985 read with Sale of Goods Act, 1930- goods- whether shares before allotment is goods-Held, No.

### Brief facts:

Though this case relate to consumer protection qua unfair trade practice with respect to the issue of shares/debentures/ units etc., the crucial and interesting question which arose, to decide the correctness or otherwise of the decision of the High Court, was "When the shares/debentures/ units etc., become 'goods' so as to maintain a consumer complaint". We are concerned with this aspect of law laid down by the Supreme Court of India.

The appellant made a public issue inviting subscription from the public to its mutual fund scheme "Morgan Stanley Growth Fund". The respondent moved the Calcutta District Consumer Disputes Redressal Forum seeking to restrain the public issue from being floated. The principal grounds taken were that the appellant's Offering Circular was not approved by the SEBI. There are several irregularities in the same. The basis of allotment is arbitrary and unfair. The appellant was seeking to collect money by misleading the public. The consumer forum passed and interim order restraining the appellant to raise funds from the public on the scheme. Aggrieved by this order, civil appeal arising out of SLP (C) No. 272 of 1994 has come to be preferred.

Decision: Appeal allowed.

### Reason:

The consumer as the term implies is one who consumes. As per the definition, consumer is the one who purchases goods for private use or Consumption. The meaning of the word 'consumer' is broadly stated in the above definition so as to include anyone who consumes goods or services at the end of the chain of production. The comprehensive definition aims at covering every man who pays money as the price or cost of goods and services. The consumer deserves to get what he pays for in real quantity and true quality. In every society, consumer remains the centre of gravity of all business and industrial activity. He needs protection from the manufacturer, producer, supplier, wholesaler and retailer.

In the light of this, we will have to examine whether the 'shares' for which an application is made for allotment would be 'goods'. Till the allotment of shares takes place, "the shares do not exist". Therefore, they can never be called goods. Under the Sale of Goods Act, all actionable claims and money are excluded from the definition of goods since Section 2(7) of the Sale of Goods Act, 1930 is as under: "(7) '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." It will be useful to refer to clause (6) of Section 2 of the Sale of Goods Act, 1930. That reads:

"(6) 'future goods' means goods to be manufactured or produced or acquired by the seller after the making of the contract of sale."

As to the scope of this clause, reference may be made to *Maneckji Pestonji Bharuclia v. Wadilal Sarabhai & Co.* AIR 1926 PC 38. It was observed thus:

"The Company is entitled to deal with the shareholder who is on the register, and only a person who is on the register is in the full sense of the word owner of the share. But the title to get on the register consists in the possession of a certificate together with a transfer signed by the registered holder. This-is what Bharucha had. He had the certificates and blank transfers, signed by the registered holders. It would be an upset of all Stock Exchange transactions if it were suggested that a broker who sold shares by general description did not implement his bargain by supplying the buyer with the certificate and blank transfers, signed by the registered holders of the shares described. Bharucha sold what he had got. He could sell no more. He sold what in England would have been choses in action, and he delivered choses in action. But in India, by the terms of the Contract Act, these choses in action are goods. By the definition of goods as every kind of moveable property it is clear that not only registered shares, but also this class of choses in action, are goods. Hence equitable considerations not applicable to goods do not apply to shares in India."

Again in *Madholal Sindhu of Bombay v. Official Assignee of Bombay* AIR 1950 FC 21 it was held thus:

"A sale according to the Sale of Goods Act (and in India goods include shares of joint stock companies) takes place when the property passes from the seller to the buyer."

Therefore, at the stage of application it will not be goods. After allotment different considerations may prevail.

A fortiori, an application for allotment of shares cannot constitute goods. In other words, before allotment of shares whether the applicant for such shares could be called a consumer? In *CIT v. Standard Vacuum Oil Co.* AIR 1966 SC 1393 while defining shares, this Court observed:

"A share is not a sum of money; it represents an interest measured by a sum of money and made up of diverse rights contained in the contract evidenced by the articles of association of the Company."

Therefore, it is after allotment, rights may arise as per the contract (Article of Association of Company). But certainly not before allotment. At that stage, he is only a prospective investor (sic in) future goods. The issue was yet to open on 27-4-1993. There is no purchase of goods for a consideration nor again could he be called the hirer of the services of the company for a consideration. In order to satisfy the requirement of above definition of consumer, it is clear that there must be a transaction of buying goods for consideration under Section 2(1) (d) (i) of the said Act. The definition contemplates the pre-existence of a completed transaction of a sale and purchase. If regard is had to the definition of complaint under the Act, it will be clear that no prospective investor could fall under the Act.

What is that he could complain of under the Act? This takes us to the definition of complaint under Section 2(1) (c) which reads as follows: "2. (1)(c) 'complaint' means any allegation in writing made by a complainant that- (i) as a result of any unfair trade practice adopted by any trader, the complainant has suffered loss or damage; (ii) the goods mentioned in the complaint suffer from one or more defects; (iii) the services mentioned in the complaint suffer from deficiency in any respect; (iv) a trader has charged for the goods mentioned in the complaint a price in excess of the price fixed by or under any law for the time being in force or displayed on the goods or any package containing such goods, with a view to obtaining any relief provided by or under this Act."

Certainly, clauses (iii) and (iv) of Section 2(1) (c) of the Act do not arise in this case. Therefore, what requires to be examined is, whether any unfair trade practice has been adopted. The expression 'unfair trade practice' as per rules shall have the same meaning as defined under Section 36-A of Monopolies and Restrictive Trade Practices Act, 1969. That again cannot apply because the company is not trading in shares. The share means a share in the capital. The object of issuing the same is for building up capital. To raise capital, means making arrangements for carrying on the trade. It is not a practice relating to the carrying of any trade. Creation of share capital without allotment of shares does not bring shares into existence. Therefore, our answer is that a prospective investor like the respondent or the association is not a consumer under the Act.

There is an increasing tendency on the part of litigants to indulge in speculative and vexatious litigation and adventurism which the for a seem readily to oblige. We think such a tendency should be curbed. Having regard to the frivolous nature of the complaint, we think it is a fit case for award of costs, more so, when the appellant has suffered heavily. Therefore, we award costs of Rs 25,000 in favour of the appellant. It shall be recovered from the first respondent. C.A. No. 4584 of 1994 arising out of SLP (C) No. 272 of 1994 is allowed accordingly.

## LW: 74:12:2016

PRESIDENT/SECRETARY J.K. SYNTHETICS MAZDOOR UNION (CITU), KOTA v. ARFAT PETROCHEMICALS PVT.LTD & ORS [SC]

Civil Appeal No. 8597 of 2010 & Civil Appeal No. 8598 of 2010 with Civil Appeal No. 8599 of 2010.

Anil R. Dave & L. Nageswara Rao, JJ. [Decided on 18/11/2016]

SICA, 1985- sale of unit by sick company to purchaser- purchaser is not a sick company- whether BIFR issues directions to the purchaser-Held, No.

### Brief facts:

J.K. Synthetics Limited (now Jay Kay Enterprises Ltd.), who is the Second Respondent was declared a sick industrial company and the Rehabilitation Scheme recommending the de- merger of cement units was accepted.

In the meanwhile, the Second Respondent entered into a Memorandum of Understanding (MoU) with M/s Arafat Petrochemicals Pvt. Ltd. (APPL), the First Respondent herein. According to the said MoU the assets of the Kota Units of Respondent No. 2 were to be sold to Respondent No.1 for a total consideration of Rs. 15 crores.

The liability towards payment to the workmen was to be borne by APPL. on 07.01.2005, the AAIFR sanctioned a Scheme for transfer of the Kota units to the First Respondent in terms of the MoU dated 19.10.2001.

On 24.03.2008 a sale deed was executed by the Second Respondent in favour of the First Respondent for sale of the assets of the Kota units. In the review meeting held on 05.05.2008, the BIFR took note of the complaints that were made regarding the sale of assets of the Kota units as waste/scrap by the First Respondent. The BIFR held that the interest of the workmen have to be safeguarded in accordance with the Sanctioned Scheme of 2005. The BIFR also held that the Second Respondent cannot escape responsibility towards the rehabilitation of the Kota unit on the ground that there is change in management. The First Respondent participated in the next review meeting held by the BIFR and informed the BIFR that it is not a sick company and no directions can therefore be issued to it. The BIFR held that the First Respondent was not right in contending so.

The orders dated 05.05.2008 and 30.06.2008 of the BIFR were assailed by the First and Second Respondents before the AAIFR. The AAIFR by its order dated 11.12.2008 dismissed the Appeals filed by the First Respondent and directed the BIFR to re-examine the exact position relating to the payment of dues to the workmen. The BIFR was also directed to continue the monitoring of the Scheme and review the efforts made by the First Respondent towards revival of the Kota units. The contention of the First Respondent that the BIFR has no jurisdiction over a company which is not a sick company was rejected.

Aggrieved by the order dated 11.12.2008 of the AAIFR, the First Respondent filed a Writ Petition in the Rajasthan High Court. The High Court allowed the Writ Petition by holding that the BIFR and the AAIFR do not have jurisdiction to issue directions to a company which is not a sick industrial company under Section 22 A of the Act. Being aggrieved by the said judgment of the High Court, the Labour Unions filed Civil Appeal No. 8597 and 8598 of 2010. Civil Appeal No. 8599 of 2010 is filed by JK Synthetics Limited aggrieved by the judgment in so far as it set aside the findings in its favour which were not challenged in the Writ Petition.

**Decision:** Appeals of the trade union dismissed and the appeal of the company allowed.

### Reason:

The only point that falls for consideration in these Appeals is regarding the scope of Section 22 A of the Act.

It is clear from a plain reading of Section 22 A of the Act that the Board can issue a direction not to dispose of assets only to a sick industrial company. There is no dispute that the First Respondent is not a sick industrial company and that it purchased the assets from a sick industrial company in accordance with the Sanctioned Scheme. The BIFR was not correct in passing an order of status quo and directing the First Respondent not to alienate/transfer the assets by its orders dated 05.05.2008 and 30.06.2008. We agree with the findings of the High Court in the impugned judgment that the BIFR does not have competence to issue directions to a company which is not a sick industrial company under Section 22 A of the Act. We are fortified in this view by a judgment of this Court in U.P. State Sugar Corporation Ltd. v. U.P. State Sugar Corporation Karamchari Association & Anr reported in (1995) 4 SCC 276 wherein it was held as follows:

"It runs counter to the express terms of Section 22 A of the Act which confers a limited power on the Board to pass an order prohibiting a sick industrial company from disposing of its assets only during the period specified in Clause (a) and (b)."

Several contentions have been raised by both sides during the course of hearing of these Appeals which we have not adverted to as they are not relevant for adjudication of the dispute in these appeals. We express no opinion on the jurisdiction of BIFR under other provisions of the Act. It is open to the BIFR to review the implementation of the Sanctioned Scheme and pass suitable directions.

As stated supra, the AAIFR held that the Second Respondent has no liability in respect of Kota units which have been sold to the First Respondent. The said findings were not challenged by the First Respondent in the Writ Petition filed in the High Court. The High Court set aside the entire order dated 11.12.2008 without taking note of the findings in favour of the Second Respondent. The petition filed for clarification by the Second Respondent was also dismissed by the High Court. The High Court ought not to have disturbed the findings in favour of the Second Respondent as they were not in challenge in the Writ Petition filed by the First Respondent.

For the aforesaid reasons, Civil Appeal Nos. 8597 and 8598 of 2010 are dismissed. Civil Appeal No. 8599 of 2010 is allowed. No costs.

## LW: 75:12:2016

### UCO BANK & ANR v. DIPAK DEBBARMA & ORS [SC]

Civil Appeal No. 11247 of 2016 (arising out of S.L.P. (C) No.36973 of 2012)  
With Civil Appeal No.11250 of 2016 (arising out of S.L.P. (C) No.33671 of 2016)

Ranjan Gogoi & Abhay Manohar Sapre, JJ. [Decided on 25/11/2016]

SARFAESI Act, 2002 read with Tripura Land Revenue and Land Reform Act, 1960- enforcement of security interest- sale of mortgaged assets of the borrower by the bank – whether prohibited by the provisions of the Tripura Act- Held, No.

### Brief facts:

The writ petition out of which these appeals have arisen was instituted before the Agartala Bench of the Gauhati High Court. The writ petitioners, who are the respondents herein, are members of Scheduled Tribe(s) of the State of Tripura. They had contended that the Sale Notification dated 26.06.2012 issued by the appellant Bank under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the “Act of 2002”) was in infraction of Section 187 of the Tripura Land Revenue and Land Reforms Act, 1960 (hereinafter referred to as the “Tripura Act of 1960”) as under the Tripura Act there is a legislative embargo on the sale of mortgaged properties by the bank to any person who is not a member of a scheduled tribe. The auction purchasers in the present case happened to be the persons who are not members of any scheduled tribe.

The High Court by the impugned order answered the writ petition in favour of the respondents/writ petitioners on the ground that the Tripura Act of 1960 being included in the Ninth Schedule to the Constitution and, therefore, enjoying the protection of Section 31-B of the Constitution, would prevail over the Act of 2002 so as to invalidate the sale Notification dated 26.06.2012, the same being contrary to the provisions of Section 187 of the Tripura Act of 1960.

**Decision:** Appeal allowed.

### Reason:

It will not require much appreciation or scrutiny to come to the conclusion that the High Court was wholly incorrect in answering the

writ petition and striking down the sale Notification dated 26.06.2012 on the above basis. Article 31-B of the Constitution, on the very face of the language contained therein, is self-explanatory and provides protection/immunity to a legislation from challenge on the ground that it violates any of the provisions of Part III of the Constitution. Inclusion of the Tripura Act of 1960 in the Ninth Schedule by itself, would, therefore, not confer immunity to the said legislation from being overridden by the provisions of a Parliamentary statute. This is a question, therefore, that this Court will have to deal with notwithstanding the fact that the proceedings before the High Court did not proceed on the aforesaid basis.

In the present case the conflict between the Central and the State Act is on account of an apparent overstepping by the provisions of the State Act dealing with land reform into an area of banking covered by the Central Act. The test, therefore, would be to find out as to which is the dominant legislation having regard to the area of encroachment. The provisions of the Act of 2002 enable the bank to take possession of any property where a security interest has been created in its favour. Specifically, Section 13 of the 2002 Act enables the bank to take possession of and sell such property to any person to realise its dues. The purchaser of such property acquires a clear title to the property sold, subject to compliance with the requirements prescribed.

Section 187 of the Tripura Act of 1960, on the other hand, prohibits the bank from transferring the property which has been mortgaged by a member of a scheduled tribe to any person other than a member of a scheduled tribe. This is a clear restriction on what is permitted by the Act of 2002 for the realisation of amounts due to the bank.

The Act of 2002 is relatable to the Entry of banking which is included in List I of the Seventh Schedule. Sale of mortgaged property by a bank is an inseparable and integral part of the business of banking. The object of the State Act, as already noted, is an attempt to consolidate the land revenue law in the State and also to provide measures of agrarian reforms. The field of encroachment made by the State legislature is in the area of banking. So long there did not exist any parallel Central Act dealing with sale of secured assets and referable to Entry 45 of List I, the State Act, including Section 187, operated validly. However, the moment Parliament stepped in by enacting such a law traceable to Entry 45 and dealing exclusively with activities relating to sale of secured assets, the State law, to the extent that it is inconsistent with the Act of 2002, must give way. The dominant legislation being the Parliamentary legislation, the provisions of the Tripura Act of 1960, pro tanto, (Section 187) would be invalid. It is the provisions of the Act of 2002, which do not contain any embargo on the category of persons to whom mortgaged property can be sold by the bank for realisation of its dues that will prevail over the provisions contained in Section 187 of the Tripura Act of 1960.

The decision of this Court in *Central Bank of India v. State of Kerala & Ors* (2009) 4 SCC 94, holding that the provisions of the Bombay Sales Tax Act, 1959 and the Kerala General Sales Tax Act, 1963 providing for a first charge on the property of the person liable to pay sales tax, in favour of the State, is not inconsistent with the provisions contained in the Recovery of Debts Due to Banks and Financial Institutions, Act 1993 (for short the “DRT Act”) and also the Act of 2002 must be understood by noticing the absence of any specific provision in either of the Central enactments containing a similar/parallel provision of a first charge in favour of the bank. The judgment of this Court holding the State enactments to be valid and the Central enactments not to have any overriding effect, proceeds on the said basis i.e. absence of any provision creating a first charge in favour of the bank in either of the Central enactments.

LW: 76:12:2016

ROTOMAC ELECTRICALS LTD v. UNION OF INDIA & ANR  
[Del]

LPA No. 363 of 2016

G.Rohini &amp; Sangita Dhingra Sehgal, JJ. [Decided on 08/11/2016]

Foreign Trade (Development and Regulation) Act, 1992- advance licence- export obligations- failure to discharge – penalty proceedings- failure to produce documents- penalty imposed- whether tenable-Held, yes.

## Brief facts:

The appellant/writ petitioner was granted an advance licence dated 22.12.1999 under Duty Exemption Scheme under the Foreign Trade (Development and Regulation) Act, 1992 (for short 'FTDR Act'). As per the conditions of the licence, the appellant was required to complete the export obligation of Rs.1,07,58,600/- as Free On Board (FOB) value within a period of 18 months from the date of the issue of advance licence. The appellant failed to fulfil this obligation and the penal proceedings were initiated against it and penalty was imposed. The appellant challenged the imposition of the penalty.

Decision: Appeal dismissed.

## Reason:

I have examined the documents and gone through the facts of the case. The appellant was granted various opportunities of personal hearing as detailed in above paras to produce requisite evidence of fulfilment of export obligation but the appellant has failed to do so. From the documents (only photocopies) submitted by the firm with their letter dated 03.09.2014 and also with their appeal, it is observed that Part-2 of DEEC Book has been not logged by Customs. They have not been able to produce shipping bills showing authorization No/File No. Further, it is observed that appellant has not produced Duplicate/Bank Certificate copy of BRC. They were repeatedly advised to provide the documents required as per Policy/Procedure but they failed to do so. From the above, it is clear that the appellant did not have the requisite documents required to prove that they have fulfilled export obligation in respect of advance licence No.0131276 dated 22.12.1999.

As rightly held by the learned Single Judge, such finding of fact recorded by the statutory authorities regarding the failure of the appellant to furnish the documents to establish the fulfilment of the export obligation warrants no interference by this Court in exercise of the writ jurisdiction under Article 226 of the Constitution of India. We have observed that the dispute was not with regard to the interpretation of clause 4.12 as to whether the exports that had taken place even before the grant of advance licence can be considered or not, but the issue was whether the appellant could produce authenticated documents to prove the fulfilment of export obligation as required under the terms and conditions of the advance licence. A categorical finding was recorded by the respondent Nos.1 & 2 that the appellant/writ petitioner failed to produce. Therefore, the respondents cannot be said to have committed any error in imposing the penalty in exercise of the powers conferred by Section 11(2) of FTDR Act, 1992.

We do not find any substance even in the contention that the show cause notices being silent about the proposed levy of penalty, it is not open to the respondents to invoke Section 11(2) of FTDR Act, 1992. On a perusal of the show cause notices, we found that the

petitioner was put on notice that it failed to submit the documents to prove the fulfilment of export obligation. It is also relevant to note that the show cause notice dated 01.12.2009 was in fact issued under Section 14 of the FTDR Act proposing to take action under Section 11(2) for non-fulfilment of export obligation against the advance licence dated 22.12.1999. Hence, the allegation that the show cause notices were silent about the action proposed has no factual basis. Therefore, the decisions cited on behalf of the appellant, i.e., Commissioner of Customs, Mumbai v. Toyo Engineering India Ltd. (2006) 7 SCC 592; Commissioner of Central Excise, Nagpur v. Ballarpur Industries Ltd. (2007) 8 SCC 89 and Commissioner of Central Excise v. Gas Authority of India Limited(2007) 15 SCC 91 are not relevant for adjudicating the case on hand.

The contention that the Directors of the appellant company should not have been made liable also deserves no consideration since none of the Directors approached this Court. For the aforesaid reasons, the appeal is devoid of merit and the same is accordingly dismissed.



## General Laws

LW: 77:12:2016

IDBI TRUSTEESHIP SERVICES LTD v. HUBTOWN LTD [SC]

Civil Appeal No.10860 of 2016 (arising out of SLP (C) No.31439 of 2015)

Kurian Joseph &amp; R.F.Nariman, JJ. [Decided on 15/11/2016]

Investment in debentures- appointment of debenture trustee- failure to pay interest- Enforcement of corporate guarantee- summary suit filed against the guarantor- court allowed unconditional leave to defend – whether correct-Held, No.

## Brief facts:

The present appeal arises out of a Summons for Judgment in a summary suit filed on the original side of the Bombay High Court, by the Petitioner, a debenture trustee, to enforce rights that arise out of a Corporate Guarantee executed by the Respondent-defendant.

Nederlandse Financierings-Maatschappij voor Ontwikkelingslanden N.V. ("FMO") invested in certain equity shares and compulsorily convertible debentures (hereinafter referred to as the "CCDs") of Vinca Developer Pvt Ltd ("Vinca"). The value of this investment is about Rs.418 crore. Vinca invested this sum in certain optionally partially convertible debentures ("OPCDs") issued by Amazia Developers Pvt Ltd ("Amazia") and Rubix Trading Pvt Ltd ("Rubix"). Securing the above investment, Amazia and Rubix executed two debenture trust deeds where the Petitioner is the debenture trustee.

In order to secure the said OPCDs, and to ensure the due and punctual payment by Amazia and Rubix of all dues to Vinca under the debenture trust deeds, the Respondent had issued an unconditional, absolute and irrevocable corporate guarantee in favour of the Petitioner for the benefit of Vinca ("Guarantee"). Consequent upon the Defaults by Amazia and Rubix in payment of interest on the OPCDs, the petitioner issued redemption notice which was not responded. Therefore, the Petitioner issued demand certificate notice on the Respondent enforcing the corporate guarantee, which was also not responded. In these circumstances the Petitioner filed a summary suit before the Bombay High Court for the enforcement of the corporate guarantee in which the court has granted leave to defend the suit. Hence the appeal.

**Decision:** Appeal allowed.

### Reason:

It is clear that a sum of Rs. 418 crores has been paid by FMO, the Dutch company, to Vinca for purchase of shares as well as compulsorily convertible debentures. This transaction by itself is not alleged to be violative of the FEMA regulations.

The suit is filed only on invocation of the Corporate Guarantee which on its terms is unconditional. It may be added that it is not the defendant's case that the said Corporate Guarantee is wrongly invoked. Payment under the said Guarantee is to the debenture trustee, an Indian company, for and on behalf of Vinca, another Indian company, so that *prima facie* again there is no infraction of the FEMA Regulations. Since FMO becomes a 99% holder of Vinca after the requisite time period has elapsed, FMO may at that stage utilise the funds received pursuant to the overall structure agreements in India. If this is so, again *prima facie* there is no breach of FEMA Regulations.

At the stage that FMO wishes to repatriate such funds, RBI permission would be necessary. If RBI permission is not granted, then again there would be no infraction of FEMA Regulations. The judgment in *Immami Appa Rao v. G. Ramalingamurthi*, (1962) 3 SCR 739 would be attracted only if the illegal purpose is fully carried out, and not otherwise.

Based on the aforesaid, it cannot be said that the defendant has raised a substantial defence to the claim made in the suit. Arguably at the highest, as held by the learned Single Judge, even if a triable issue may be said to arise on the application of the FEMA Regulations, nevertheless, we are left with a real doubt about the Defendant's good faith and the genuineness of such a triable issue. Rs.418 crores has been stated to be utilized and submerged in a building construction project, with payments under the structured arrangement mentioned above admittedly being made by the concerned parties until 2011, after which payments stopped being made by them. The defence thus raised appears to us to be in the realm of being 'plausible but improbable'. This being the case, the plaintiff needs to be protected.

In our opinion, the defendant will be granted leave to defend the suit only if it deposits in the Bombay High Court the principal sum of Rs.418 crores invested by FMO, or gives security for the said amount of Rs.418 crores, to the satisfaction of the Prothonotary and Senior Master, Bombay High Court within a period of three months from today. The appeal is accordingly allowed, and the judgment of the Bombay High Court is set aside.

We further direct that the suit be tried expeditiously, preferably within a period of one year from the date of this judgment, uninfluenced by any observations made by us herein.



LW: 78:12:2016

STATE OF U.P. & ORS v. ALL U.P. CONSUMER PROTECTION BAR ASSOCIATION [SC]

Civil Appeal No. 2740 of 2007 with Writ Petition (C) No. 164 of 2002

T.S. Thakur, D.Y. Chandrachud & L. Nageswara Rao, JJ. [Decided on 21/11/2016]

Consumer Protection Act, 1985- deficiency in the administration of the law- Supreme Court issues directions to improve.

### Brief facts:

The deficiency of infrastructure in the adjudicatory fora constituted under the Consumer Protection Act, 1986 has led to several directions of this Court in the course of the proceedings in this case. On 14 January 2016, the Supreme Court constituted a Committee presided over by Mr Justice Arijit Pasayat, a former judge of this Court, to examine:

- the infrastructural requirements of the State Commissions, deficiencies in infrastructure and remedial measures;
- the position of vacancies of members at the national, state and district level;
- the need for additional Benches at the national, state and district level;
- conditions of eligibility for appointment of non-judicial members;
- administrative powers which have been or should be conferred on the presiding officers of the state and district fora;
- service conditions including pay scales governing the presiding officers and members;
- requirements of staff;
- creation of a separate cadre of staff at the national, state and district level; and other relevant issues.

**Decision:** Directions issued.

### Directions:

The Supreme Court issued the following directions:

- (i) The Union Government shall for the purpose of ensuring uniformity in the exercise of the rule making power under Section 10(3) and Section 16(2) of the Consumer Protection Act, 1986 frame model rules for adoption by the state governments. The model rules shall be framed within four months and shall be submitted to this Court for its approval;
- (ii) The Union Government shall also frame within four months model rules prescribing objective norms for implementing the provisions of Section 10(1)(b), Section 16(1)(b) and Section 20(1)(b) in regard to the appointment of members respectively of the District fora, State Commissions and National Commission;
- (iii) The Union Government shall while framing the model rules have



due regard to the formulation of objective norms for the assessment of the ability, knowledge and experience required to be possessed by the members of the respective fora in the domain areas referred to in the statutory provisions mentioned above. The model rules shall provide for the payment of salary, allowances and for the conditions of service of the members of the consumer fora commensurate with the nature of adjudicatory duties and the need to attract suitable talent to the adjudicating bodies. These rules shall be finalized upon due consultation with the President of the National Consumer Disputes Redressal Commission, within the period stipulated above; Upon the approval of the model rules by this Court, the State Governments shall proceed to adopt the model rules by framing appropriate rules in the exercise of the rule making powers under Section 30 of the Consumer Protection Act, 1986; The National Consumer Disputes Redressal Commission is requested to formulate regulations under Section 30A with the previous approval of the Central Government within a period of three months from today in order to effectuate the power of administrative control vested in the National Commission over the State Commissions under Section 24(B)(1)(iii) and in respect of the administrative control of the State Commissions over the District fora in terms of Section 24(B)(2) as explained in this Judgment to effectively implement the objects and purposes of the Consumer Protection Act, 1986.



LW: 79:12:2016

JINDAL STAINLESS LTD & ANR v. STATE OF HARYANA & ORS  
[SC]

Civil Appeal No. 3453 of 2002 with batch of appeals

T.S. Thakur, A.K. Sikri, S.A. Bobde, Shiva Kirti Singh, N.V. Ramana, D.Y.Chandrachud, Ashok Bushan, R.Banumathi & A.M.Khanwilkar, JJ [Decided on 11/11/2016]

Constitution of India- List II- entry 52- articles 301-304- free trade throughout the country- levy of Entry Tax by States- whether impedes the free trade- constitutional validity thereof- SC answers the reference in affirmative.

## Brief facts:

These appeals bring to fore for our determination vexed questions touching the interpretation of Articles 301 to 307 comprising Part XIII of the Constitution which have been the subject matter of several Constitution Bench decisions of this Court, all but one, decided by majority. The questions assume in a great measure considerable public importance not only because the same deal with the powers of the State legislatures to levy taxes but also because any pronouncement of this Court is bound to impact the federal character of our polity and the Centre-State relationship in legislative

and fiscal matters. There is no gainsaying that it is the importance of the questions that lies at the bottom of the present reference to a larger Bench made in the following circumstances.

Various States had enacted legislation levying entry tax on goods entering into the State. These legislation were challenged before various High Courts which resulted in conflicting judgements that were based on the judgements rendered in the case of *Atiabari Tea Co. Ltd. v. State of Assam & Ors.* (AIR 1961 SC 232) and *M/s. Bhagatram Rajeev Kumar v. Commissioner of Sales Tax, M.P. & Ors.* (1995 Supp [1] SCC 673). Therefore, all these matters were ultimately referred to the constitution bench of the Supreme Court (consisting of 9 judges) to have a relook on the issues, questions raised and to decide and determine the law relating to the levy of entry tax.

Issues: The questions formulated by the Court for determination by the Constitution Bench were in the following words:

- (1) Whether the State enactments relating to levy of entry tax have to be tested with reference to both clauses (a) and (b) of Article 304 of the Constitution for determining their validity and whether clause (a) of Article 304 is conjunctive with or separate from clause (b) of Article 304?
- (2) Whether imposition of entry tax levied in terms of Entry 52 List II of the Schedule VII is violative of Article 301 of the Constitution? If the answer is in the affirmative whether such levy can be protected if entry tax is compensatory in character and if the answer to the aforesaid question is in the affirmative what are the yardsticks to be applied to determine the compensatory character of the entry tax?
- (3) Whether Entry 52 List II, Schedule VII of the Constitution like other taxing entries in the Schedule, merely provides a taxing field for exercising the power to levy and whether collection of entry tax which ordinarily would be credited to the Consolidated Fund of the State being a revenue received by the Government of the State and would have to be appropriated in accordance with law and for the purposes and in the manner provided in the Constitution as per Article 266 and there is nothing express or explicit in Entry 52 List II, Schedule VII which would compel the State to spend the tax collected within the local area in which it was collected?
- (4) Will the principles of *quid pro quo* relevant to a fee apply in the matter of taxes imposed under Part XIII?
- (5) Whether the entry tax may be levied at all where the goods meant for being sold, used or consumed come to rest (standstill) after the movement of the goods ceases in the "local area"?
- (6) Whether the entry tax can be termed a tax on the movement of goods when there is no bar to the entry of goods at the State border or when it passes through a local area within which they are not sold, used or consumed?
- (7) Whether interpretation of Articles 301 to 304 in the context of tax on vehicles (commonly known as "transport") cases in *Atiabari* case and *Automobile Transport* case apply to entry tax cases and if so, to what extent?
- (8) Whether the non-discriminatory indirect State tax which is capable of being passed on and has been passed on by traders to the consumers infringes Article 301 of the Constitution?
- (9) Whether a tax on goods within the State which directly impedes the trade and thus violates Article 301 of the Constitution can be saved by reference to Article 304 of the Constitution alone or can be saved by any other article?
- (10) Whether a levy under Entry 52 List II, even if held to be in nature of a compensatory levy, must, on the principle of equivalence demonstrate that the value of the quantifiable benefit is represented by the costs incurred in procuring the facility/

services (which costs in turn become the basis of reimbursement/ recompense for the provider of the services/facilities) to be provided in the "local area" concerned and whether the entire State or a part thereof can be comprehended as local area for the purpose of entry tax?"

## Answers to the reference:

After elaborate discussions on the issue and referring to catena of case laws the Supreme Court rendered the following answers to the reference:

1. Taxes simpliciter are not within the contemplation of Part XIII of the Constitution of India. The word 'Free' used in Article 301 does not mean "free from taxation".
2. Only such taxes as are discriminatory in nature are prohibited by Article 304(a). It follows that levy of a non-discriminatory tax would not constitute an infraction of Article 301.
3. Clauses (a) and (b) of Article 304 have to be read disjunctively.
4. A levy that violates 304(a) cannot be saved even if the procedure under Article 304(b) or the proviso there under is satisfied.
5. The compensatory tax theory evolved in Automobile Transport case and subsequently modified in Jindal's case has no juristic basis and is therefore rejected.
6. Decisions of this Court in Atiabari Automobile Transport and Jindal cases (supra) and all other judgments that follow these pronouncements are to the extent of such reliance over ruled.
7. A tax on entry of goods into a local area for use, sale or consumption therein is permissible although similar goods are not produced within the taxing State.
8. Article 304 (a) frowns upon discrimination (of a hostile nature in the protectionist sense) and not on mere differentiation. Therefore, incentives, set-offs etc. granted to a specified class of dealers for a limited period of time in a non-hostile fashion with a view to developing economically backward areas would not violate Article 304(a). The question whether the levies in the present case indeed satisfy this test is left to be determined by the regular benches hearing the matters.
9. States are well within their right to design their fiscal legislations to ensure that the tax burden on goods imported from other States and goods produced within the State fall equally. Such measures if taken would not contravene Article 304(a) of the Constitution. The question whether the levies in the present case indeed satisfy this test is left to be determined by the regular benches hearing the matters.
10. The questions whether the entire State can be notified as a local area and whether entry tax can be levied on goods entering the landmass of India from another country are left open to be determined in appropriate proceedings.

LW: 80:12:2016

COMMISSIONER OF COMMERCIAL TAX & ORS v. BAJAJ AUTO LTD & ANR [SC]

Civil Appeal Nos. 5913-5920 of 2008 with Civil Appeal Nos. 5921 of 2008

Shiva Kirti Singh & R.K. Agrawal, JJ. [Decided on 28/10/2016]

Orissa Sales Tax Act read with Orissa Entry Tax Act- surcharge on gross sales tax- adjustment of entry tax against gross sales tax- whether the surcharge to be paid on the gross sales tax- Held, yes.

## Brief facts:

The respondents are engaged in the sale and purchase of Motor Vehicles and are registered dealers under the Orissa Sales Tax Act (in short 'the OST Act') as well as under the Central Sales Tax Act. The respondents had been paying entry tax on the goods when they were bought into the State of Orissa under Section 3(3) of the Orissa Entry Tax Act, 1999 (in short 'the OET Act').

Under the OST Act, there is a provision to deduct the entry tax. Again there is a provision to pay surcharge also on the OST. The respondents calculated the surcharge payable on OST after deducting entry tax, while the department contended that surcharge on OST has to be calculated without deducting the entry tax from the OST.

Decision: Appeal allowed.

## Reason:

The sole question for consideration is whether the 'Surcharge' under Section 5A of the OST Act is to be computed on the gross amount of sales tax or on the net amount of sales tax after setting of or deducting the amount of entry tax?

It is well settled that an illustration given under the Rules does not exhaust the full content of the section which it illustrates but equally it can neither curtails nor expands its ambit. Further, surcharge is nothing but an additional tax and is payable on the sale of goods in the manner laid down for levy of surcharge. In view of the provisions contained in the OET Act, a dealer is not entitled for reduction of the amount of entry tax from the amount of tax payable before the levy of surcharge under Section 5A of the OST Act.

On a plain reading of the provisions of the OST Act as well as the OET Act and the Rules, it can be seen that Section 5A of the OST Act creates a charge and imposes liability on every dealer under the OST Act to pay surcharge @ 10% on the amount of tax payable by him under the OST Act. Section 4(1) of the OET Act, in the same way, prescribes for reduction of the tax amount payable by the dealer to the extent of entry tax already paid for the same article for which sales tax is payable. The Section, does not specifically contemplate anything, which would indicate that the provisions of the OET Act or the Rules have to be taken into consideration while assessing the sales tax or surcharge. In essence, the provisions made in the Rules lay down the modality of 'set off'. It is important to mention here that OST Act was enacted in the year 1947 whereas OET Act was enacted in 1999. The provision of set off has been made in the OET Act and the Rules framed thereunder and not in the OST Act. The heading of Section 4 of the OET Act gives a broad idea regarding the provision of set off by way of "reduction in tax liability". Sub-Sections 1 and 2 of Section 4 of the OET Act provide for reduction of liability under the OST Act.

Section 5A of the OST Act is a self-contained provision and the surcharge, as already seen above, is liveable at the specified per centum of tax payable under the OST Act. Tax payable under the OST Act is independent of the provisions of OET Act. The assessment or quantification or computation of surcharge shall have to be made in accordance with the provisions of the OST Act.

Thus, on a conjoint reading of Section 5 of the OST Act, Section 4 of the OET Act and Rule 18 of the Rules, we are of the considered opinion that the amount of surcharge under Section 5A of the OST Act is to be levied before deducting the amount of entry tax paid by a dealer.

In view of the forgoing discussion, the impugned judgment and order passed by the High Court cannot be sustained and is liable to be set aside.



## Industrial & Labour Laws

LW: 81:12:2016

GLOBE GROUND INDIA EMPLOYEES UNION v. LUFTHANSA GERMAN AIRLINES & ORS [DEL]

LPA No. 107 of 2016

Sanjiv Khanna & Sunita Gupta, JJ. [Decided on 24/11/2016]

Industrial Disputes Act, 1947- reference of dispute to tribunal- workers of subsidiary company raised the dispute- impleadment of the holding company in the proceedings as proper / necessary party was sought- whether tenable- Held, No.

### Brief facts:

Appellant is the workers' Union of the second respondent, which is the subsidiary of the first respondent. The first respondent had started its operations at the Delhi International Airport in 1999 and had employed about 230 workmen. The second respondent provided ground handling and ancillary services to the first respondent. On 9th December, 2009, the first respondent informed the second respondent that they would stop availing ground handling services from them at the International Airport at Delhi with effect from 15th December, 2009. The appellant union raised an industrial dispute and the Central Government made the following reference to the Tribunal to decide: "Whether the action of the Management of M/s Globe Ground India Private Ltd., New Delhi, a subsidiary of Lufthansa German Airlines (Carrier), in closing down their establishment on 15.12.2009 and retrenching the services of 106 workmen (as per annexure) is justified and legal? To what reliefs are the workmen concerned entitled?"

It is pertinent that the order of the reference was sent only to the second respondent. The appellant sought to implead the first respondent i.e. the holding company in the lis which was declined by the Tribunal. On appeal High Court also refused to implead the first respondent. Hence this letters patent appeal to the division bench.

**Decision:** Appeal dismissed.

### Reason:

It is apparent from the impugned order passed by the single Judge that the appellant union had predicated and defended their assertion for impleadment of the first respondent on the dictum that the holding company is a necessary party. On the said aspect, we agree with the single Judge that the holding company would not, because of the fact that it is a holding company, be a necessary or proper party to the litigation between the subsidiary company and its employees. If the aforesaid principle is not accepted, then in every litigation against a subsidiary or holding company and its workers, the holding or the subsidiary company, as the case may be, would be impleaded and made a party. This, as a general or universal proposition, would be unacceptable and legally untenable.

The second issue which arises for consideration is, whether in the facts of the

present case, the holding company, i.e. the first respondent, can and should be impleaded as a necessary or proper party to the industrial dispute, which is pending before the Industrial Tribunal? The first respondent would not be a necessary party for obvious reasons. The appellant union does not claim that the employees of the union, on whose behalf the claim is raised, were the employees or should be treated as employees of the first respondent. Piercing of the corporate veil regarding employment of the retrenched employees of the second respondent has not been pleaded or expounded. No prayer to the said effect has been made. What has been pleaded and asserted in the claim statement is the fact that the first respondent continues to operate flights from Indira Gandhi International Airport at Delhi and, secondly, the second respondent, who is the employer, should not have terminated and retrenched the workers. It is also pleaded and alleged that the second respondent has transferred its business and assets by setting up another company, namely, Bird Worldwide Flights Services Ltd. and this company has engaged services of employees of the second respondent, except of those who were involved in trade union activities. It is an accepted and admitted fact that the first respondent is no longer a shareholder of the second respondent and was never a shareholder in Bird Worldwide Flights Services Ltd. The appellant-union seeks employment or rather continuity of employment with the second respondent.

In the present case, as noticed above, there is no factual dispute between the appellant union and the second respondent. The factual position relating to the first respondent in the lis or dispute between the appellant union and the second respondent is uncontroverted and an admitted position. We do not think that the relief claimed will directly affect the first respondent or the presence of the first respondent is necessary to prevent multiplicity of actions or to ensure complete and effective adjudication.

The first respondent is also not a party whose presence and appearance is required for settling all the questions involved in the controversy. Once again we observe that there is no lis or dispute between the appellant union and the second respondent on the factual matrix relating to the first respondent. The issue and the lis between the appellant union and the second respondent is different.

It is pertinent to mention, and an accepted position, that the second respondent is an existing company and has not been dissolved. During the course of hearing, learned counsel for the appellant union has stated that the second respondent continues to provide ground handling services in other parts India, except for Delhi. The second respondent has pleaded that it is a French company which provides ground handling and ancillary facilities to international airlines as per the policy of the Government of India. The second respondent-company, it has been asserted, was not floated by the Bird Group. Further, the Delhi International Airport stands privatized and the private operator has its own policy of awarding contracts for ground handling as an operator. They are bound by the said policy. The defense of the second respondent and the plea of the appellant union is the cardinal issue which has to be adjudicated and decided.

As an additional reason though not the primary ground, we would note, are the terms of reference quoted above, which are lucid and clear. The Government of India while making the reference never felt or regarded the first respondent was a proper and necessary party. The aforesaid expression of opinion by the Central Government may not be conclusive or binding, but is an indication of their opinion and belief. The adjudication has to be confined to the specific points and matters incidental to the reference made to it. In the context of the present matter, we do not think that the first respondent is required to be impleaded as a proper party to the proceedings before the Industrial Tribunal.

In the aforesaid circumstances we would not accept the present appeal and dismiss the same. Nothing stated in this judgment would be treated as expression of opinion on the merits of the industrial dispute between the appellant and the second respondent. In the facts of the case, there will be no order as to costs.



# THE INSTITUTE OF Company Secretaries of India

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Section 138 of the Companies Act, 2013 introduced the concept of internal audit to the forefront and has widened its scope to a great extent. The Company Secretaries being Governance professionals are aptly suitable to perform the role of internal auditors. Therefore, with a view to further develop the skills of Company Secretaries to conduct internal audit including compliance and operational audits, the Institute has launched Diploma in Internal Audit (DIA). This course will open a vast area of opportunities for Company Secretaries in the field of internal auditing.

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# 4

## FROM THE GOVERNMENT



- CLARIFICATION REGARDING FILING OF OFFLINE CHALLANS WITH IEPF AUTHORITY UNDER COMPANIES ACT.
- SPECIAL COURT FOR THE PURPOSES OF PROVIDING SPEEDY TRIAL OF OFFENCES PUNISHABLE WITH IMPRISONMENT OF TWO YEARS OR MORE UNDER THE COMPANIES ACT, 2013.
- AMENDMENTS TO SCHEDULE II OF THE COMPANIES ACT, 2013
- NATIONAL ADVISORY COMMITTEE ON ACCOUNTING STANDARDS
- NOTIFICATION OF SICK INDUSTRIAL COMPANIES (SPECIAL PROVISIONS) REPEAL ACT, 2003
- INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (MODEL BYE-LAWS AND GOVERNING BOARD OF INSOLVENCY PROFESSIONAL AGENCIES) REGULATIONS, 2016
- INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY PROFESSIONAL AGENCIES) REGULATIONS, 2016
- INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY PROFESSIONALS) REGULATIONS, 2016
- INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION PROCESS FOR CORPORATE PERSONS) REGULATIONS, 2016



## Corporate Laws

### 01 Clarification Regarding Filing of Offline Challans with IEPF Authority under Companies Act.

[Issued by the Ministry of Corporate Affairs [vide no. 05/05/2016 – IEPF dated 05.12.2016]

- In accordance with Investor Education & Protection Fund (Accounting, Audit, Transfer and Refund) Rules, 2016. Notified on 05.09.2016, it is mandatory for the companies depositing amounts to IEPF under section 125 of Companies Act, 2013 to:-
  - Generate challan online only;
  - File form IEPF – I mentioning the SRN No. of challan (online mode only)
- All companies transferring the amount to IEPF are, therefore, requested to ensure that the above procedure is followed. The challans not generated on MCA 21 portal will not be accepted after 15.12.2016
- This issues with the approval of the Competent Authority

**MONIKA GUPTA**  
Deputy Director

### 02 Special Court for the purposes of providing speedy trial of offences punishable with imprisonment of two years or more under the Companies Act, 2013.

[Issued by the Ministry of Corporate Affairs vide [ F.No. 01/12/2009-CL-I(Vol.-IV) dated 17.11.2016. To be published in Gazette of India, Extraordinary, Part-II, Section(3) Sub-section(ii)]

- In exercise of the powers conferred by sub-section (1) of section 435 of the Companies Act, 2013 (18 of 2013), the Central Government, with the concurrence of the Chief Justice of the High Court of Meghalaya, hereby designates the following Court as Special Court for the purposes of providing speedy trial of offences punishable with imprisonment of two years or more under the Companies Act, 2013, namely:-

**TABLE**

Sl. No. (1)	Existing Court (2)	Jurisdiction as Special Court (3)
1	Court of District and Sessions Judge, Shillong.	State of Meghalaya

- The aforesaid Court mentioned in column number (2) shall exercise the jurisdiction as Special Court in respect of jurisdiction mentioned in column number (3).

**AMARDEEP SINGH BHATIA**  
Joint Secretary

### 03 Amendments to Schedule II of the Companies Act, 2013

[Issued by the Ministry of Corporate Affairs vide [F. No. 17/60/2012 CL-V) dated 17.11.2016. To be published in Gazette of India, Extraordinary, Part-II, Section(3) Sub-section(i)]

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

- In the Companies Act, 2013, in Schedule II, under Part 'A', in para 3, in sub-paragraph (ii), for the brackets, letters and words starting with "(ii) For intangible" and ending with the words "force shall apply", the following brackets, letters and words shall be substituted, namely:-  
"(ii) For intangible assets, the relevant Indian Accounting Standards (Ind AS) shall apply. Where a company is not required to comply with the Indian Accounting Standards (Ind AS), it shall comply with relevant Accounting Standards under Companies (Accounting Standards) Rules, 2006."
- This notification shall be applicable for accounting period commencing on or after 01st April, 2016.

**AMARDEEP SINGH BHATIA**  
Joint Secretary

### 04 National Advisory Committee on Accounting Standards

[Issued by the Ministry of Corporate Affairs vide [F.No. 01/16/2013CL-V (Pt-I)) dated 07.11.2016. To be published in Gazette of India, Extraordinary, Part-II, Section(3) Sub-section(i)]

In exercise of the powers conferred by sections 396, 398, 399, 403 and 404 read with sub-sections (1) and (2) of Section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following Rules further to amend the Companies (Registration Offices and Fees) Rules, 2014, namely:-

- (1) These rules may be called the Companies (Registration Offices and fees) Second Amendment Rules, 2016.  
(2) They shall come into force from the date of their publication in the Official Gazette.
- In the Companies (Registration Offices and Fees) Rules, 2014, (herein after refer to as the principle rules), in the principle rules, in rule 8, in sub-rule (12), in clause (b) (for sub-clause (iv), the following shall be substituted, namely:-  
"(iv) AOC-4 certification by the Chartered Accountant or the Company Secretary or as the case may be by the Cost Accountant, in whole-time practice."

3. In the principal rules, in the Annexure, in item II, for sub-item (vi), the following sub-item shall be substituted, namely;-

For Application made	Other than OPC and Small Companies	OPC and Small Companies
“(vi) For allotment of Director Identification Number (DIN) under section 153 of the Act	500	500
“(vii) For surrender of Director Identification Number under rule 11(f) of the Companies (Appointment and Qualification of Directors) Rules 2014	1000	1000

AMARDEEP SINGH BHATIA  
Joint Secretary

## 05 Notification of Sick Industrial Companies (Special Provisions) Repeal Act, 2003

[Issued by the Ministry of Finance Vide S.O. 3568(E) and S.O. 3569(E) dated 25.11.2016. Published in G.O.I. Extraordinary Part – II Section – 3 Sub Section – (ii) dated 28.11.2016]

In exercise of powers conferred by sub-section (2) of section 1 of the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 (1 of 2004), the Central Government hereby appoints the 1<sup>st</sup> day of December, 2016, as the date on which the provisions of the said Act shall come into force.

R.N. DUBEY  
Economic Adviser

In exercise of powers conferred by clause (b) of section 4 of the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 (1 of 2004), the Central Government hereby notifies the 1<sup>st</sup> day of December, 2016, as the date for the purposes of clause (b) of section 4 of the said Act.

R.N. DUBEY  
Economic Adviser

## 06 Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016

[Issued by the Insolvency and Bankruptcy Board of India Vide Circular No: [IBBI/2016-17/GN/REG001, dated 21.11.2016. Published in G.O.I. Part-III Section-4 dated 22.11.2016]

In exercise of the powers conferred by sections 196, 203 and 205 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following Regulations, namely -

### CHAPTER I PRELIMINARY

#### Short title and commencement.

1. (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016.

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

#### Definitions.

2. (1) In these Regulations, unless the context otherwise requires-
- “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
  - “Governing Board” means the Board of Directors, as defined under section 2(10) of Companies Act, 2013 (18 of 2013), of the company registered as an insolvency professional agency;
  - “model bye-laws” means the model bye-laws as contained in the Schedule to these Regulations.
- (2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations shall have the meanings assigned to them in the Code.

### CHAPTER II BYE LAWS

#### Insolvency professional agencies to have Bye-Laws.

3. (1) A company shall submit to the Board its bye-laws along with the application for its registration as an insolvency professional agency.
- (2) The bye-laws shall provide for all matters specified in the model bye-laws.
- (3) The bye-laws shall at all times be consistent with the model bye-laws.
- (4) The insolvency professional agency shall publish its bye-laws, the composition of all committees formed, and all policies created under the bye-laws on its website.

#### Amendment of Bye-Laws.

4. (1) The Governing Board may amend the bye-laws by a resolution passed by votes in favour being not less than three times the number of the votes, if any, cast against the resolution, by the directors.
- (2) A resolution passed in accordance with sub-regulation (1) shall be filed with the Board within seven days from the date of its passing, for its approval.
- (3) The amendments to the bye-laws shall come into effect on the seventh day of the receipt of the approval, unless otherwise specified by the Board.
- (4) The insolvency professional agency shall file a printed copy of the amended bye-laws with the Board within fifteen days from the date when such amendment is made effective.

### CHAPTER III GOVERNING BOARD

#### Composition of the Governing Board.

5. (1) The Governing Board shall have a minimum of seven directors.
- (2) More than half of the directors shall be persons resident in India at the time of their appointment, and at all times during their tenure as directors.
- (3) Not more than one fourth of the directors shall be insolvency professionals.
- (4) More than half of the directors shall be independent directors at the time of their appointment, and at all times during their tenure as directors:

*Provided that no meeting of the Governing Board shall be held without the presence of at least one independent director.*

- (5) An independent director shall be an individual-
- who is a person of ability and integrity;
  - who has expertise in the field of finance, law, management or insolvency.
  - who is not an insolvency professional;

- (d) who is not a relative of the directors of the Governing Board;
  - (e) who had or has no pecuniary relationship with the insolvency professional agency, or any of its directors, or any of its shareholders holding more than ten percent of its share capital, during the two immediately preceding financial years or during the current financial year;
  - (f) who is not a shareholder of the insolvency professional agency;
  - (g) who is not a member of a governing council of any of the shareholders holding more than ten percent of the share capital of the insolvency professional agency; and
- (6) The directors shall elect an independent director as the Chairperson of the Governing Board.

*Explanation* - For the purposes of this Regulation, any fraction contained in

- (a) 'more than half' shall be rounded off to the next higher number; and
- (b) 'not more than one-fourth' shall be rounded down to the next lower number.

**SCHEDULE**  
**MODEL BYE-LAWS OF AN INSOLVENCY**  
**PROFESSIONAL AGENCY**  
**[Under Regulation 3 read with Regulation 2(1)(c)]**

**I. GENERAL**

1. The name of the Insolvency Professional Agency is "\_\_\_\_\_" (hereinafter referred to as the 'Agency').
2. The Agency is registered as a company under section 8 of the Companies Act, 2013 with its registered office situated at \_\_\_\_\_ [provide full address].
3. These bye-laws may not be amended, except in accordance with the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016.

**II. DEFINITIONS**

4. (1) In these bye-laws, unless the context otherwise requires -
  - (a) "certificate of membership" means the certificate of membership of the Agency granted under bye-law 10;
  - (b) "Code" means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
  - (c) "Governing Board" means the Board of Directors of the Agency as defined under section 2(10) of Companies Act, 2013 (18 of 2013);
  - (d) "professional member" means an insolvency professional who has been enrolled as such, in accordance with Part VI of these bye-laws;
  - (e) "relative" shall have the same meaning as assigned to it in section 2(77) of the Companies Act, 2013.
- (2) Unless the context otherwise requires, words and expressions used and not defined in these bye-laws shall have the meanings assigned to them in the Code.

**III. OBJECTIVES**

5. (1) The Agency shall carry on the functions of the insolvency professional agency under the Code, and functions incidental thereto.
- (2) The Agency shall not carry on any function other than those specified in sub-clause (1), or which is inconsistent with the discharge of its functions as an insolvency professional agency.

**IV. DUTIES OF THE AGENCY**

6. (1) The Agency shall maintain high ethical and professional standards in the regulation of its professional members.

- (2) The Agency shall -
  - (a) ensure compliance with the Code and rules, regulations and guidelines issued thereunder governing the conduct of insolvency professional agencies and insolvency professionals;
  - (b) employ fair, reasonable, just, and non-discriminatory practices for the enrolment and regulation of its professional members;
  - (c) be accountable to the Board in relation to all bye-laws and directions issued to its professional members;
  - (d) develop the profession of insolvency professionals;
  - (e) promote continuous professional development of its professional members;
  - (f) continuously improve upon its internal regulations and guidelines to ensure that high standards of professional and ethical conduct are maintained by its professional members; and
  - (g) provide information about its activities to the Board.

**V. COMMITTEES OF THE AGENCY**

**Advisory Committee of Professional Members.**

7. (1) The Governing Board may form an Advisory Committee of professional members of the Agency to advise it on any matters pertaining to-
  - (a) the development of the profession;
  - (b) standards of professional and ethical conduct; and
  - (c) best practices in respect of insolvency resolution, liquidation and bankruptcy.
- (2) The Advisory Committee may meet at such places and times as the Governing Board may provide.

**Other Committees of the Agency.**

8. (1) The Governing Board shall constitute-
  - (a) one or more Membership Committee(s) consisting of such members as it deems fit;
  - (b) a Monitoring Committee consisting of such members as it deems fit;
  - (c) one or more Grievance Redressal Committee(s), with not less than three members, at least one of whom shall be a professional member of the Agency;
  - (d) one or more Disciplinary Committee(s) consisting of at least one member nominated by the Board.
- (2) The Chairperson of each of these Committees shall be an independent director of the Agency.

**VI. PROFESSIONAL MEMBERSHIP**

**Eligibility for Enrolment.**

9. No individual shall be enrolled as a professional member if he is not eligible to be registered as an insolvency professional with the Board: *Provided* that the Governing Board may provide additional eligibility requirements for enrolment:

*Provided* further that such additional requirements shall not discriminate on the grounds of religion, race, caste, gender, place of birth or professional affiliation.

**Process of Enrolment as Professional Member.**

10. (1) An individual may apply for enrolment as a professional member by submitting an application in such form, in such manner and with such fees as may be specified by the Agency.
- (2) The Agency shall examine the application in accordance with the applicable provisions of the Code, and rules, regulations and guidelines thereunder.
- (3) On examination of the application, the Agency shall give an opportunity to the applicant to remove the deficiencies, if any, in the application.
- (4) The Agency may require an applicant to submit additional



- documents, information or clarification that it deems fit, within reasonable time.
- (5) The Agency may reject an application if the applicant does not satisfy the criteria for enrolment or does not remove the deficiencies or submit additional documents or information to its satisfaction, for reasons recorded in writing.
  - (6) The rejection of the application shall be communicated to the applicant stating the reasons for such rejection, within thirty days of the receipt of the application, excluding the time given for removing the deficiencies or presenting additional documents or clarification by the Agency, as the case may be.
  - (7) The acceptance of the application shall be communicated to the applicant, along with a certificate of membership in Form A of the Annexure to these bye-laws.
  - (8) An applicant aggrieved of a decision rejecting his application may appeal to the Membership Committee of the Agency within thirty days from the receipt of such decision.
  - (9) The Membership Committee shall pass an order disposing of the appeal in the manner it deems expedient, within thirty days of the receipt of the appeal.

#### Professional Membership Fee.

11. The Agency may require the professional members to pay a fixed sum of money as its annual membership fee.

#### Register of Professional Members.

12. (1) The Agency shall maintain a register of its professional members, containing their-
  - (a) name;
  - (b) proof of identity;
  - (c) contact details;
  - (d) address;
  - (e) date of enrolment and professional membership number;
  - (f) date of registration with the Board and registration number;
  - (g) details of grievances pending against him with the Agency;
  - (h) details of disciplinary proceedings pending against him with the Agency; and
  - (i) details of orders passed against him by the Board or Disciplinary Committee of the Agency.
- (2) The records relating to a professional member shall be made available for inspection to-
  - (a) the Board,
  - (b) the Adjudicating Authority,
  - (c) the committee of creditors in a corporate insolvency resolution process where the professional member has been appointed as an interim resolution professional, or
  - (d) any other person who has obtained the consent of the member for such inspection.

#### VII. DUTIES OF MEMBERS

13. (1) In the performance of his functions, a professional member shall-
  - (a) act in good faith in discharge of his duties as an insolvency professional;
  - (b) endeavour to maximize the value of assets of the debtor;
  - (c) discharge his functions with utmost integrity and objectivity;
  - (d) be independent and impartial;
  - (e) discharge his functions with the highest standards of professional competence and professional ethics;
  - (f) continuously upgrade his professional expertise;
  - (g) perform duties as quickly and efficiently as reasonable, subject to the timelines under the Code;

- (h) comply with applicable laws in the performance of his functions; and
- (i) maintain confidentiality of information obtained in the course of his professional activities unless required to disclose such information by law.

14. The Agency shall have a Code of Conduct that shall be consistent with, and that shall provide for all matters in the Code of Conduct as specified in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

#### VIII. MONITORING OF MEMBERS

15. The Agency shall have a Monitoring Policy to monitor the professional activities and conduct of professional members for their adherence to the provisions of the Code, rules, regulations and guidelines issued thereunder, these bye-laws, the Code of Conduct and directions given by the Governing Board.
16. A professional member shall submit information, including records of ongoing and concluded engagements as an insolvency professional, in the manner and format specified by the Agency, at least twice a year.
17. The Monitoring Committee shall review the information and records submitted by the professional members in accordance with the Monitoring Policy.
18. The Monitoring Policy shall provide for the following -
  - (a) the frequency of monitoring;
  - (b) the manner and format of submission or collection of information and records of the professional members, including by way of inspection;
  - (c) the obligations of professional members to comply with the Monitoring Policy;
  - (d) the use, analysis and storage of information and records;
  - (e) evaluation of performance of members; and
  - (f) any other matters that may be specified by the Governing Board.
19. The Monitoring Policy shall –
  - (a) have due regard for the privacy of members,
  - (b) provide for confidentiality of information received, except when disclosure of information is required by the Board or by law, and
  - (c) be non-discriminatory.
20. The Agency shall submit a report to the Board in the manner specified by the Board with information collected during monitoring, including information pertaining to -
  - (a) the details of the appointments made under the Code,
  - (b) the transactions conducted with stakeholders during the period of his appointment;
  - (c) the transactions conducted with third parties during the period of his appointment; and
  - (d) the outcome of each appointment.

#### IX. GRIEVANCE REDRESSAL MECHANISM

21. (1) The Agency shall have a Grievance Redressal Policy providing the procedure for receiving, processing, redressing and disclosing grievances against the Agency or any professional member of the Agency by-
  - (a) any professional member of the Agency;
  - (b) any person who has engaged the services of the concerned professional members of the Agency; or
  - (c) any other person or class of persons as may be provided by the Governing Board.
- (2) The Grievance Redressal Committee, after examining the grievance, may-
  - (a) dismiss the grievance if it is devoid of merit; or

- (b) initiate a mediation between parties for redressal of grievance.
- (3) The Grievance Redressal Committee shall refer the matter to the Disciplinary Committee, wherever the grievance warrants disciplinary action.
22. The Grievance Redressal Policy shall provide for-
- the format and manner for filing grievances;
  - maximum time and format for acknowledging receipt of a grievance;
  - maximum time for the disposal of the grievance by way of dismissal, reference to the Disciplinary Committee or the initiation of mediation;
  - details of the mediation mechanism
  - provision of a report of the grievance and mediation proceedings to the parties to the grievance upon dismissal or resolution of the grievance;
  - action to be taken in case of malicious or false complaints;
  - maintenance of a register of grievances made and resolutions arrived at; and
  - periodic review of the Grievance Redressal Mechanism.

#### X. DISCIPLINARY PROCEEDINGS

23. The Agency may initiate disciplinary proceedings by issuing a show-cause notice against professional members-
- based on a reference made by the Grievances Redressal Committee;
  - based on monitoring of professional members;
  - following the directions given by the Board or any court of law; or
  - suo moto*, based on any information received by it.
24. (1) The Agency shall have a Disciplinary Policy, which shall provide for the following -
- the manner in which the Disciplinary Committee may ascertain facts;
  - the issue of show-cause notice based on the facts;
  - disposal of show-cause notice by a reasoned order, following principles of natural justice;
  - timelines for different stages of disposal of show cause notice; and
  - rights and obligations of the parties to the proceedings.
- (2) The orders that may be passed by the Disciplinary Committee shall include-
- expulsion of the professional member;
  - suspension of the professional member for a certain period of time;
  - admonishment of the professional member;
  - imposition of monetary penalty;
  - reference of the matter to the Board, which may include, in appropriate cases, recommendation of the amount of restitution or compensation that may be enforced by the Board; and
  - directions relating to costs.
- (3) The Disciplinary Committee may pass an order for expulsion of a professional member if it has found that the professional member has committed-
- an offence under any law for the time being in force, punishable with imprisonment for a term exceeding six months, or an offence involving moral turpitude;
  - a gross violation of the Code, rules, regulations and guidelines issued thereunder, bye-laws or directions given by the Governing Board which renders him not a fit and proper person to continue acting as an insolvency professional.

*Explanation:* The violations referred to in sub-clause (b) include-

- making a false representation or indulging in fraud for the purpose of obtaining creditors' approval under sections 28, 31, 111 or 153 of the Code;
  - contravening provisions of the Code in a manner which is actionable in accordance with sections 70(2) or 185 of the Code;
  - knowingly or wilfully committing or authorizing or permitting contravention of sections 14, 96, 101 or 124 of the Code;
  - contravening provisions of the Code inviting action in accordance with sections 71 or 187 of the Code;
  - aiding or abetting any activity which is actionable in accordance with Chapter VII of Part II or Chapter VII of Part III of the Code,
  - providing unequal or differential treatment to the disadvantage of a party which cannot be justified with reference to the interests of the insolvency resolution, liquidation or bankruptcy process; or
  - in any other case it deems fit.
- (4) Any order passed by the Disciplinary Committee shall be placed on the website of the Agency within seven days from passing of the said order, and a copy of the order shall be provided to each of the parties to the proceeding.
- (5) Monetary penalty received by the Agency under the orders of the Disciplinary Committee shall be credited to the Insolvency and Bankruptcy Fund constituted under section 224 of the Code.
25. (1) The Governing Board shall constitute an Appellate Panel consisting of one independent director of the Agency, one member from amongst the persons of eminence having experience in the field of law, and one member nominated by the Board.
- (2) Any person aggrieved of an order of the Disciplinary Committee may prefer an appeal before the Appellate Panel within thirty days from the receipt of a copy of the final order.
- (3) The Appellate Panel shall dispose of the appeal in the manner it deems expedient, within thirty days of the receipt of the appeal.

#### XI. SURRENDER OF PROFESSIONAL MEMBERSHIP AND EXPULSION FROM PROFESSIONAL MEMBERSHIP

##### Temporary Surrender of Professional Membership.

26. (1) A professional member shall make an application for temporary surrender of his membership of the Agency at least thirty days before he-
- becomes a person not resident in India;
  - takes up employment; or
  - starts any business, except as specifically permitted under the Code of Conduct;
- and upon acceptance of such temporary surrender and on completion of thirty days from the date of application for temporary surrender, the name of the professional member shall be temporarily struck from the registers of the Agency, and the same shall be intimated to the Board.
- (2) No application for temporary surrender of professional membership of the Agency shall be accepted if -
- there is a grievance or disciplinary proceeding pending against the professional member before the Agency or the Board, and he has not given an undertaking to cooperate in such proceeding; or
  - the professional member has been appointed as a

# 07 Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016

resolution professional, liquidator or bankruptcy trustee for a process under the Code, and the appointment of another insolvency professional may be detrimental to such process.

- (3) A professional member may make an application to revive his temporarily surrendered membership when the conditions for temporary surrender as provided in sub-clause (1) cease to be applicable, and upon acceptance of the application for revival, the name of the professional member shall be re-inserted in the register of the Agency, and the same shall be intimated to the Board.

## Surrender of Professional Membership

27. (1) A professional member who wishes to surrender his membership of the Agency may do so by submitting an application for surrender of his membership.
- (2) Upon acceptance of such surrender of his membership, and completion of thirty days from the date of such acceptance, the name of the professional member shall be struck from the registers of the Agency, and the same shall be intimated to the Board.
28. Any fee that is due to the Agency from a professional member surrendering his membership shall be cleared prior to his name being struck from the registers of the Agency.
29. The Agency may refuse to accept the surrender of membership by any professional member if -
- there is any grievance or disciplinary proceeding pending against the professional member before the Agency or the Board; or
  - the professional member has been appointed as a resolution professional, liquidator or bankruptcy trustee for a process under the Code, and the appointment of another insolvency professional may be detrimental to such process.

## Expulsion from Professional Membership.

30. A professional member shall be expelled by the Agency -
- if he becomes ineligible to be enrolled under bye-law 9;
  - on expiry of thirty days from the order of the Disciplinary Committee, unless set aside or stayed by the Appellate Panel;
  - upon non-payment of professional membership fee despite at least two notices served in writing;
  - upon the cancellation of his certificate of registration by the Board;
  - upon the order of any court of law.

## ANNEXURE FORM A

### CERTIFICATE OF PROFESSIONAL MEMBERSHIP

(Under bye-law 10 of the Agency's bye-laws)

No. ....

- This is to certify that [insert name] residing at [insert address] is enrolled as a professional member of [insert name of insolvency professional agency] with professional membership no. [insert number].
- This certificate shall be valid from [insert date].

Sd/-

For and on behalf of [name of insolvency professional agency]

Place:

Date:

DR. M. S. SAHOO  
Chairperson

[Issued by the Insolvency and Bankruptcy Board of India Vide Circular No: [IBBI/2016-17/GN/REG002, dated 21.11.2016. Published in G.O.I. Extraordinary Part-III Section - 4 dated 22.11.2016]

In exercise of the powers conferred by sections 196, 201, 202, 219, and 220 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Board hereby makes the following Regulations to provide a framework for regulation of insolvency professional agencies in terms hereof, namely-

## CHAPTER I PRELIMINARY

### Short title and commencement.

- (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016.
- (2) These Regulations shall come into force on the date of their publication in the Official Gazette.

### Definitions.

- (1) In these Regulations, unless the context otherwise requires -
  - "Code" means the Insolvency and Bankruptcy Code, 2016;
  - "control" shall have the same meaning as assigned to it in section 2(27) of the Companies Act, 2013;
  - "certificate of registration" means a certificate of registration granted or renewed by the Board under these Regulations;
  - "net worth" shall have the same meaning as assigned to it under section 2(57) of the Companies Act, 2013.
- (2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations, shall have the meanings assigned to them in the Code.

## CHAPTER II REGISTRATION

### Eligibility for registration.

- No person shall be eligible to be registered as an insolvency professional agency unless it is a company registered under section 8 of the Companies Act, 2013, and -
  - its sole object is to carry on the functions of an insolvency professional agency under the Code;
  - it has bye-laws and governance structure in accordance with the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies), 2016;
  - it has a minimum net worth of ten crore rupees;
  - it has a paid-up share capital of five crore rupees;
  - it is not under the control of person(s) resident outside India, not more than 49% of its share capital is held, directly or indirectly, by persons resident outside India; and
  - it is not a subsidiary of a body corporate through more than one layer:
 

*Explanation:* "layer" in relation to a body corporate means its subsidiary;
  - itself, its promoters, its directors and persons holding more than 10% of its share capital are fit and proper persons.
 

*Explanation:* For determining whether a person is fit and proper

under these Regulations, the Board may take account of any consideration as it deems fit, including but not limited to the following criteria-

- (i) integrity, reputation and character,
- (ii) absence of convictions and restraint orders, and
- (iii) competence including financial solvency and net worth.

**Application for registration or renewal thereof.**

4. (1) A company eligible for registration as an insolvency professional agency, may make an application to the Board in Form A of the Schedule to these Regulations, along with a non-refundable application fee of ten lakh rupees.
- (2) An insolvency professional agency who has been granted registration under Regulation 5, may six months before the expiry of such registration, make an application for renewal in Form A of the Schedule to these Regulations, along with a non-refundable application fee of five lakh rupees.
- (3) The Board shall acknowledge an application made under this Regulation within seven days of its receipt.
- (4) The Board shall examine the application, and give an opportunity to the applicant to remove the deficiencies, if any, in the application.
- (5) The Board may require the applicant to submit, within reasonable time, additional documents, information or clarification that it deems fit.
- (6) The Board may require the applicant to appear, within reasonable time, before the Board in person, or through its authorised representative for clarifications required for processing the application.

**Grant of certificate of registration.**

5. (1) If the Board is satisfied, after such inspection or inquiry as it deems necessary and having regard to the principles specified in section 200 of the Code, that the applicant:—
  - (a) is eligible under Regulation 3;
  - (b) has adequate infrastructure to perform its functions under the Code;
  - (c) has in its employment, persons having adequate professional and other relevant experience, to enable it to perform its functions under the Code; and
  - (d) has complied with the conditions of the certificate of registration, if he has submitted an application for renewal under Regulation 4(2)

it may grant or renew a certificate of registration to the applicant to carry on the activities of an insolvency professional agency in Form B of the Schedule to these Regulations, within sixty days of receipt of the application, excluding the time given by the Board for removing the deficiencies, or presenting additional documents, information or clarification, or appearing in person, as the case may be.

- (2) The registration shall be subject to the conditions that the insolvency professional agency shall -
  - (a) abide by the Code, rules, regulations, and guidelines thereunder and its bye-laws;
  - (b) at all times after the grant of the certificate continue to satisfy the requirements under sub-regulation (1);
  - (c) pay a fee of five lakh rupees to the Board, payable every year after the year in which the certificate is granted or renewed;
  - (d) seek approval of the Board when a person, other than a statutory body, seeks to hold more than ten percent, directly or indirectly, of the share capital of the insolvency professional agency;
  - (e) take adequate steps for redressal of grievances; and
  - (f) abide by such other conditions as may be specified.

- (3) The certificate of registration shall be valid for a period of five years from the date of issue.

**Procedure for rejecting application.**

6. (1) If, after considering an application made under Regulation 4, the Board is of the prima facie opinion the registration ought not be granted or renewed, or be granted or renewed with additional conditions, it shall communicate the reasons for forming such an opinion and give the applicant an opportunity to explain why its application should be accepted, within fifteen days of the receipt of the communication from the Board, to enable it to form a final opinion.
  - (2) The communication under sub-regulation (1) shall be made to the applicant within forty five days of receipt of the application, excluding the time given by the Board for removing the deficiencies, presenting additional documents, information or clarifications, or appearing in person, as the case may be.
  - (3) After considering the explanation, if any, given by the applicant under sub-regulation (1), the Board shall communicate its decision to-
    - (a) accept the application, along with the certificate of registration, or
    - (b) reject the application by an order, giving reasons thereof within thirty days of receipt of explanation.
  - (4) The order rejecting an application for renewal of registration shall require the insolvency professional agency to-
    - (a) discharge pending obligations;
    - (b) continue its functions till such time as may be specified, to enable the enrolment of its members with another insolvency professional agency; and
    - (c) comply with any other directions as considered appropriate.

**CHAPTER III**

**SURRENDER OR CANCELLATION OF REGISTRATION**

**Surrender of registration.**

7. (1) An insolvency professional agency may submit an application for surrender of a certificate of registration to the Board, providing -
  - (a) the reasons for such surrender;
  - (b) the details of all the pending or on-going engagements under the Code of the insolvency professionals enrolled with it;
  - (c) details of its pending or on-going activities; and
  - (d) the manner in which it seeks to wind-up its affairs as an insolvency professional agency.
- (2) The Board shall within seven days of receipt of the application, publish a notice of receipt of such application on its website and invite objections to the surrender of registration, to be submitted within fourteen days of the publication of the notice.
- (3) After considering the application and the objections submitted under sub-regulation (2), if any, the Board may within thirty days from the last date of submission of objections, approve the application for surrender of registration subject to such conditions as it deems fit.
- (4) The approval under sub-regulation (3) may require the insolvency professional agency to-
  - (a) discharge any pending obligations; or
  - (b) continue its functions till such time as may be specified, to enable the enrolment of its members with another insolvency professional agency.
- (5) The Board, after being satisfied that the requirements of sub-regulation (4) have been complied with, shall publish a notice on

its website stating that the surrender of registration by the insolvency professional agency has taken effect.

#### **Disciplinary proceedings.**

8. (1) Based on the findings of an inspection or investigation, or on material otherwise available on record, if the Board is of the prima facie opinion that sufficient cause exists to take actions permissible under section 220, it shall issue a show-cause notice to the insolvency professional agency.
- (2) The show-cause notice shall be in writing, and shall state-
  - (a) the provisions of the Code under which it has been issued;
  - (b) the details of the alleged facts;
  - (c) the details of the evidence in support of the alleged facts;
  - (d) the provisions of the Code, rules, regulations or guidelines thereunder allegedly violated, or the manner in which the public interest is allegedly affected;
  - (e) the actions or directions that the Board proposes to take or issue if the allegations are established;
  - (f) the manner in which the insolvency professional agency is required to respond to the show-cause notice;
  - (g) consequences of failure to respond to the show-cause notice; and
  - (h) procedure to be followed for disposal of the show-cause notice.
- (3) The show- cause notice shall enclose copies of relevant documents and extracts of relevant portions from the report of investigation or inspection, or other records.
- (4) A show-cause notice issued shall be served on the insolvency professional agency in the following manner-
  - (a) by sending it to the insolvency professional agency at its the registered office, by registered post with acknowledgement due; or
  - (b) by an appropriate electronic means to the email address provided by the insolvency professional agency to the Board.
- (5) The Board shall constitute a Disciplinary Committee for disposal of the show- cause notice.
- (6) The Disciplinary Committee shall dispose of the show-cause notice assigned under (5) by a reasoned order in adherence to principles of natural justice.
- (7) The Disciplinary Committee shall endeavour to dispose of the show-cause notice within a period of six months of the assignment.
- (8) The Disciplinary Committee shall consider the submissions, if any, made by the insolvency professional agency.
- (9) After considering the relevant material facts and circumstances and material on record, the Disciplinary Committee shall dispose of the show-cause notice by a reasoned order.
- (10) The order in disposal of a show-cause notice may provide for-
  - (a) no action;
  - (b) warning;
  - (c) any of the actions under section 220(2) to (4); or
  - (d) a reference to the Board to take any action under section 220(5).
- (11) The order passed under sub-regulation (10) shall not become effective until thirty days have elapsed from the date of issue of the order unless the Disciplinary Committee states otherwise in the order along with the reason for the same.
- (12) The order passed under sub-regulation (10) shall be issued to the insolvency professional agency immediately, and published on the website of the Board.
- (13) If the order passed under sub-regulation (10) suspends or cancels the registration of the insolvency professional agency, the Disciplinary Committee shall require the insolvency

professional agency to-

- (a) discharge pending obligations;
- (b) continue its functions till such time as may be specified, to enable the enrolment of its members with another insolvency professional agency; and
- (c) comply with any other directions as considered appropriate.

#### **Appeal.**

9. An appeal may be preferred under section 202 of the Code, within a period of thirty days of receipt the impugned order in the manner prescribed in Part III of the National Company Law Tribunal Rules, 2016.

### **CHAPTER IV**

#### **IN-PRINCIPLE APPROVAL**

#### **Grant of in-principle approval.**

10. (1) Any person who seeks to establish an insolvency professional agency may make an application for an in-principle approval, demonstrating that the conditions in sub-regulation (2) are satisfied, along with a nonrefundable application fee of ten lakh rupees.
- (2) If the Board is satisfied, after such inspection or inquiry as it deems necessary, that:-
  - (a) the applicant is a fit and proper person; and
  - (b) the proposed or existing company which may receive registration would be able to meet the requirements for grant of registration under Regulation 5(1),
 it may grant in-principle approval which shall be valid for a period not exceeding one year and be subject to such conditions as it deems fit.
- (3) During the validity of in-principle approval, the company referred to sub-regulation 2(b) may make an application for a certificate of registration as an insolvency professional agency to the Board in accordance with Regulation 4(1), but shall not be required to pay the application fees for registration.

### **SCHEDULE**

#### **FORM A**

#### **Application for Certificate of Registration**

(Under Regulation 4 of the Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016)

To

The Chairperson

The Insolvency and Bankruptcy Board of India

[Insert address]

From

[Name and address]

Subject: Application for grant or renewal of certificate of registration as insolvency professional agency

Madam/Sir,

1. I, being duly authorized for the purpose, hereby apply on behalf of [name and address of the applicant] for
  - (a) grant of certificate of registration as insolvency professional agency, or
  - (b) renewal of certificate of registration as insolvency professional agency, and enclose a copy of the board resolution authorizing me to make this application and correspond with the Board in this respect.
2. Copies of the memorandum of association, articles of association and the bye-laws, as applicable, of the applicant are enclosed.
3. I, on behalf of [insert name], affirm that the applicant is eligible to be registered as an insolvency professional agency.
4. I, on behalf of [insert name], hereby affirm that –
  - (a) all information contained in this application is true and correct in all material respects,

- (b) no material information relevant for the purpose of this application has been suppressed, and
  - (c) registration granted or renewed in pursuance of this application may be cancelled summarily if any information submitted is found to be false or misleading in material respects at any stage.
5. If granted registration, I, on behalf of [insert name], undertake to comply with the requirements of the Code, the rules, regulations or guidelines issued thereunder, and such other conditions and terms as may be contained in the certificate of registration or be specified or imposed by the Board subsequently.

Yours faithfully,  
Sd/-  
Authorized Signatory  
(Name)  
(Designation)

Date :  
Place :

**ANNEXURE TO FORM A  
PART I  
GENERAL**

1. Name of the applicant.
2. Address of registered office and principal place of business of the applicant.
3. Corporate Identification Number (CIN).
4. PAN.
5. Name, designation and contact details of the person authorized to make this application and correspond with the Board in this respect.

**PART II  
MEMORANDUM OF ASSOCIATION, ARTICLES OF ASSOCIATION  
AND BYE-LAWS**

6. Please state if the memorandum of association, articles of association and bye-laws provide for all matters as required in, and are consistent with the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016, and the Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016. (Yes/ No)
7. Please specify the clause number of the provisions of the bye-laws which are in addition to the provisions of the model bye-laws specified in the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 (if any).

**PART III  
SHAREHOLDING AND FINANCIAL STRENGTH**

8. Please provide details of the persons holding more than 10%, directly or indirectly, of the share capital of the applicant.

Sl. No.	Name and address of the shareholder	PAN / Passport No and country of issue/ company registration number	Percentage of shareholding in the applicant company and/ or holding company

9. Do persons resident outside India in aggregate hold more than 49% of the share capital of the applicant?  
Please provide details.
10. Who exercises control over the applicant? Please provide details.
11. Do persons resident outside India exercise control over the management or policy decisions of the applicant?  
If so, please provide details.
12. Please provide audited financial statements of:
  - (a) a company holding more than 10% of the share capital of the applicant (if any),

- (b) a company who is in control of the applicant (if any),
  - (c) promoter company (if any),
  - (d) the applicant,
- of the last three years or from the date of incorporation of the company, whichever is less.
13. Please provide any other information to demonstrate that the persons holding more than 10% of the share capital of the company, and the promoters of the company are fit and proper persons.

**PART IV  
DIRECTORS AND EMPLOYEES**

14. Please state the details of the applicant's Board of Directors:

Sl. No.	Name and address of the director	DIN and PAN	Details of any pending or concluded criminal proceedings against the directors

15. Please provide any other information to demonstrate that the directors are fit and proper persons.
16. Please provide number of employees, category-wise.

**PART V  
INFRASTRUCTURE**

17. Please state the infrastructure the applicant currently has and proposes to have to enable it to discharge its functions as an insolvency professional agency, including:
  - (a) the number and locations of offices,
  - (b) infrastructure in respect of enrolment, monitoring, grievance redressal and disciplinary proceedings,
  - (c) IT and other computer facilities, and
  - (d) library and training facilities.

**PART VI  
COMPLIANCE**

[For applications for renewal of registration]

18. Please provide details of the insolvency professional agency's compliance with the conditions of its certificate of registration.
  19. Please provide details of the insolvency professional agency's compliance with the Board's requirements in respect of reporting.
  20. Please provide details of any grievance redressal proceedings instituted against the insolvency professional agency or by it under its bye-laws, any regulations of the Board or the Code.
- Please provide any other details you consider relevant in support of the application.

Sd/-  
Authorized Signatory  
(Name)  
(Designation)

Date :  
Place :

**SCHEDULE  
FORM B**

THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA  
**Certificate of Registration No. \_**

The Insolvency and Bankruptcy Board of India hereby grants/ renews this certificate of registration to/of \_\_\_\_\_[insert name and address] to act as an insolvency professional agency in accordance with the Insolvency

and Bankruptcy Code, 2016.

The certificate of registration shall be valid from [insert start date] to [insert end date] and may be renewed.

Sd/-

(Name and Designation)

(For and on behalf of Insolvency and Bankruptcy Board of India)

Place :

Date:

DR. M. S. SAHOO

Chairperson

# 08 Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016

[Issued by the Insolvency and Bankruptcy Board of India Vide Circular No: [IBBI/2016-17/GN/REG003, dated 23.11.2016. Published in G.O.I. Extraordinary III Section-4 dated 22.11.2016]

In exercise of the powers conferred by sections 196, 207 and 208 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Board hereby makes the following Regulations, namely-

## **CHAPTER I GENERAL**

### **Short title and commencement.**

1. (1) These Regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.
- (2) These Regulations shall come into force on 29th November, 2016.

### **Definitions.**

2. (1) In these Regulations, unless the context otherwise requires -
  - (a) "Bar Council" means a Bar Council constituted under the Advocates Act, 1961 (25 of 1961);
  - (b) "certificate of registration" means a certificate of registration granted by the Board under section 207 of the Code read with these Regulations;
  - (c) "Code" means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
  - (d) "Institute of Chartered Accountants of India" means the Institute constituted under the Chartered Accountants Act, 1949 (38 of 1949);
  - (e) "Institute of Cost Accountants of India" means the Institute constituted under the Cost and Works Accountants Act, 1959 (23 of 1959);
  - (f) "Institute of Company Secretaries of India" means the Institute constituted under the Institute of the Company Secretaries Act, 1980 (56 of 1980); and
  - (g) "professional member" means an individual who has been enrolled as a member of an insolvency professional agency;
- (2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations, shall have the meanings assigned to them in the Code.

## **CHAPTER II INSOLVENCY EXAMINATIONS**

3. (1) The Board shall, either on its own or through a designated

agency, conduct a 'National Insolvency Examination' in such a manner and at such frequency, as may be specified, to test the knowledge and practical skills of individuals in the areas of insolvency, bankruptcy and allied subjects.

- (2) The Board shall, either on its own or through a designated agency, conduct a 'Limited Insolvency Examination' to test the knowledge and application of knowledge of individuals in the areas of insolvency, bankruptcy and allied subjects.
- (3) The syllabus, format and frequency of the 'Limited Insolvency Examination', including qualifying marks, shall be published on the website of the Board at least one month before the examination.

## **CHAPTER III**

### **REGISTRATION OF INSOLVENCY PROFESSIONALS**

#### **Eligibility.**

4. No individual shall be eligible to be registered as an insolvency professional if he-
  - (a) is a minor;
  - (b) is not a person resident in India;
  - (c) does not have the qualification and experience specified in Regulation 5 or Regulation 9, as the case may be;
  - (d) has been convicted by any competent court for an offence punishable with imprisonment for a term exceeding six months or for an offence involving moral turpitude, and a period of five years has not elapsed from the date of expiry of the sentence: *Provided* that if a person has been convicted of any offence and sentenced in respect thereof to imprisonment for a period of seven years or more, he shall not be eligible to be registered;
  - (e) he is an undischarged insolvent, or has applied to be adjudicated as an insolvent;
  - (f) he has been declared to be of unsound mind; or
  - (g) he is not a fit and proper person;

*Explanation:* For determining whether an individual is fit and proper under these Regulations, the Board may take account of any consideration as it deems fit, including but not limited to the following criteria-

  - (i) integrity, reputation and character,
  - (ii) absence of convictions and restraint orders, and
  - (iii) competence, including financial solvency and net worth.

#### **Qualifications and experience.**

5. Subject to the other provisions of these Regulations, an individual shall be eligible for registration, if he-
  - (a) has passed the National Insolvency Examination;
  - (b) has passed the Limited Insolvency Examination, and has fifteen years of experience in management, after he received a Bachelor's degree from a university established or recognized by law; or
  - (c) has passed the Limited Insolvency Examination and has ten years of experience as -
    - (i) a chartered accountant enrolled as a member of the Institute of Chartered Accountants of India,
    - (ii) a company secretary enrolled as a member of the Institute of Company Secretaries of India,
    - (iii) a cost accountant enrolled as a member of the Institute of Cost Accountants of India, or
    - (iv) an advocate enrolled with a Bar Council.

#### **Application for certificate of registration.**

6. (1) An individual enrolled with an insolvency professional agency as a professional member may make an application to the Board in Form A of the Second Schedule to these Regulations, along with a non-refundable application fee of ten thousand

- rupees to the Board.
- (2) The Board shall acknowledge an application made under this Regulation within seven days of its receipt.
  - (3) The Board may require the applicant to submit, within reasonable time, additional documents, information or clarification that it deems fit.
  - (4) The Board may require the applicant to appear, within reasonable time, before the Board in person, or through his authorised representative for clarifications required for processing the application.

#### **Certificate of registration.**

7. (1) If the Board is satisfied, after such inspection or inquiry as it deems necessary that the applicant is eligible under these Regulations, it may grant a certificate of registration to the applicant to carry on the activities of an insolvency professional in Form B of the Second Schedule to these Regulations, within sixty days of receipt of the application, excluding the time given by the Board for presenting additional documents, information or clarification, or appearing in person, as the case may be.
- (2) The registration shall be subject to the conditions that the insolvency professional shall -
  - (a) at all times abide by the Code, rules, regulations, and guidelines thereunder and the bye-laws of the insolvency professional agency with which he is enrolled;
  - (b) at all times continue to satisfy the requirements under Regulation 4;
  - (c) pay a fee of ten thousand rupees to the Board, every five years after the year in which the certificate is granted;
  - (d) not render services as an insolvency professional unless he becomes a partner or director of an insolvency professional entity recognised by the Board under Regulation 13, if he is not a citizen of India;
  - (e) take prior permission of the Board for shifting his professional membership from one insolvency professional agency to another, after receiving no objection from both the concerned insolvency professional agencies;
  - (f) take adequate steps for redressal of grievances;
  - (g) maintain records of all assignments undertaken by him under the Code for at least three years from the completion of such assignment;
  - (h) abide by the Code of Conduct specified in the First Schedule to these Regulations; and
    - (i) abide by such other conditions as may be imposed by the Board.

#### **Refusal to grant certificate.**

8. (1) If, after considering an application made under Regulation 6, the Board is of the prima facie opinion that the registration ought not be granted, it shall communicate the reasons for forming such an opinion and give the applicant an opportunity to explain why his application should be accepted, within fifteen days of the receipt of the communication from the Board, to enable it to form a final opinion.
- (2) The communication under sub-regulation (1) shall be made to the applicant within forty five days of receipt of the application, excluding the time given by the Board for presenting additional documents, information or clarifications, or appearing in person, as the case may be.
- (3) After considering the explanation, if any, given by the applicant under sub-regulation (1), the Board shall communicate its decision to-

- (a) accept the application, along with the certificate of registration, or
- (b) reject the application by an order, giving reasons thereof, within thirty days of receipt of the explanation.

#### **Registration for a limited period.**

9. (1) Notwithstanding any of the provisions of Regulation 5, an individual shall be eligible to be registered for a limited period as an insolvency professional if he-
  - (a) has been 'in practice' for fifteen years as-
    - (i) a chartered accountant enrolled as a member of the Institute of Chartered Accountants of India,
    - (ii) a company secretary enrolled as a member of the Institute of Company Secretaries of India,
    - (iii) a cost accountant enrolled as a member of the Institute of Cost Accountants of India, or
    - (iv) an advocate enrolled with a Bar Council; and
  - (b) submits an application for registration in Form A of the Second Schedule to these Regulations to the insolvency professional agency with which he is enrolled on or before 31st December, 2016 along with a non-refundable application fee of five thousand rupees which shall be collected by such insolvency professional agency on behalf of the Board.
- (2) The insolvency professional agency shall submit to the Board the fee collected and the details of the applications received under sub-regulation (1)(b).
- (3) An individual referred to sub-regulation (1) shall be registered for a limited period upon submission of the details and fee to the Board under sub-regulation (2), which shall be valid for a period of six months from the date of such submission.
- (4) An insolvency professional registered under sub-regulation (3) shall not undertake any assignment as an insolvency professional after the expiry of his registration:
 

*Provided that he may complete the pending assignments undertaken before the expiry of his registration, and his registration shall be deemed to be valid for this limited purpose.*

### **CHAPTER IV**

#### **TEMPORARY SURRENDER AND DISCIPLINARY PROCEEDINGS**

##### **Temporary surrender.**

10. (1) An insolvency professional agency shall inform the Board if any of its professional members has temporarily surrendered his certificate of membership or revived his certificate of membership after temporary surrender, not later than seven days from approval of the application for temporary surrender or revival, as the case may be.
- (2) The Board shall take note of the information received under sub-regulation (1).

##### **Disciplinary proceedings.**

11. (1) Based on the findings of an inspection or investigation, or on material otherwise available on record, if the Board is of the prima facie opinion that sufficient cause exists to take actions permissible under section 220, it shall issue a show-cause notice to the insolvency professional.
  - (2) The show-cause notice shall be in writing, and shall state-
    - (a) the provisions of the Code under which it has been issued;
    - (b) the details of the alleged facts;
    - (c) the details of the evidence in support of the alleged facts;
    - (d) the provisions of the Code, rules, regulations and guidelines thereunder allegedly violated, or the manner in which the public interest is allegedly affected;
    - (e) the actions or directions that the Board proposes to take or issue if the allegations are established;



- (f) the manner in which the insolvency professional is required to respond to the show-cause notice;
  - (g) consequences of failure to respond to the show-cause notice; and
  - (h) procedure to be followed for disposal of the show-cause notice.
- (3) The show-cause notice shall enclose copies of documents relied upon and extracts of relevant portions from the report of investigation or inspection, or other records.
  - (4) A show-cause notice issued shall be served on the insolvency professional in the following manner-
    - (a) by sending it to the insolvency professional, at the address provided by him or provided by the insolvency professional agency with which he is enrolled, by registered post with acknowledgement due; or
    - (b) by an appropriate electronic means to the email address of the insolvency professional, provided by him or provided by the insolvency professional agency with which he is enrolled.
  - (5) The Board shall constitute a Disciplinary Committee for disposal of the show-cause notice.
  - (6) The Disciplinary Committee shall endeavour to dispose of the show-cause notice within a period of six months of the assignment.
  - (7) The Disciplinary Committee shall dispose of the show-cause notice assigned under sub-regulation (5) by a reasoned order in adherence to principles of natural justice, and after considering the submissions, if any, made by the insolvency professional, the relevant material facts and circumstances, and the material on record.
  - (8) The order disposing of a show-cause notice may provide for-
    - (a) no action;
    - (b) warning;
    - (c) any of the actions under section 220(2) to (4); or
    - (d) a reference to the Board to take any action under section 220(5).
  - (9) The order passed under sub-regulation (7) shall not become effective until thirty days have elapsed from the date of issue of the order unless the Disciplinary Committee states otherwise in the order along with the reason for the same.
  - (10) The order passed under sub-regulation (7) shall be issued to the insolvency professional, with a copy issued to the insolvency professional agency with which he is enrolled immediately, and be published on the website of the Board.

## **CHAPTER V**

### **RECOGNITION OF INSOLVENCY PROFESSIONAL ENTITIES**

#### **Recognition of Insolvency Professional Entities.**

12. (1) A limited liability partnership, a registered partnership firm or a company may be recognised as an insolvency professional entity if-
  - (a) a majority of the partners of the limited liability partnership or registered partnership firm are registered as insolvency professionals; or
  - (b) a majority of the whole-time directors of the company are registered as insolvency professionals, as the case may be.
- (2) A person eligible under sub-regulation (1) may make an application for recognition as an insolvency professional entity to the Board in Form C of the Second Schedule to these Regulations.
13. (1) If the Board is satisfied, after such inspection or inquiry as it deems necessary that the applicant is eligible under

these Regulations, it may grant a certificate of recognition as an insolvency professional entity in Form D of the Second Schedule to these Regulations.

- (2) The recognition shall be subject to the conditions that the insolvency professional entity shall-
  - (a) at all times continue to satisfy the requirements under Regulation 12;
  - (b) inform the Board, within seven days, when an insolvency professional ceases to be its director or partner, as the case may be,
  - (c) inform the Board, within seven days, when an insolvency professional joins as its director or partner, as the case may be, and
  - (d) abide by such other conditions as may be specified.
- (3) An insolvency professional entity shall be jointly and severally liable for all acts or omissions of its partners or directors as insolvency professionals committed during such partnership or directorship.
14. Where the Board is of the opinion that sufficient cause exists for de-recognition of an insolvency professional entity, it may do so by passing a reasoned order.

### **FIRST SCHEDULE**

[Under Regulation 7(2)(g)]

### **CODE OF CONDUCT FOR INSOLVENCY PROFESSIONALS**

#### **Integrity and objectivity.**

1. An insolvency professional must maintain integrity by being honest, straightforward, and forthright in all professional relationships.
2. An insolvency professional must not misrepresent any facts or situations and should refrain from being involved in any action that would bring disrepute to the profession.
3. An insolvency professional must act with objectivity in his professional dealings by ensuring that his decisions are made without the presence of any bias, conflict of interest, coercion, or undue influence of any party, whether directly connected to the insolvency proceedings or not.
4. An insolvency professional appointed as an interim resolution professional, resolution professional, liquidator, or bankruptcy trustee should not himself acquire, directly or indirectly, any of the assets of the debtor, nor knowingly permit any relative to do so.

#### **Independence and impartiality.**

5. An insolvency professional must maintain complete independence in his professional relationships and should conduct the insolvency resolution, liquidation or bankruptcy process, as the case may be, independent of external influences.
6. In cases where the insolvency professional is dealing with assets of a debtor during liquidation or bankruptcy process, he must ensure that he or his relatives do not knowingly acquire any such assets, whether directly or indirectly unless it is shown that there was no impairment of objectivity, independence or impartiality in the liquidation or bankruptcy process and the approval of the Board has been obtained in the matter.
7. An insolvency professional shall not take up an assignment under the Code if he, any of his relatives, any of the partners or directors of the insolvency professional entity of which he is a partner or director, or the insolvency professional entity of which he is a partner or director is not independent, in terms of the Regulations related to the processes under the Code, in relation to the corporate person/ debtor and its related parties.
8. An insolvency professional shall disclose the existence of any pecuniary or personal relationship with any of the stakeholders entitled to distribution under sections 53 or 178 of the Code, and the concerned corporate person/ debtor as soon as he becomes aware

- of it, by making a declaration of the same to the applicant, committee of creditors, and the person proposing appointment, as applicable.
9. An insolvency professional shall not influence the decision or the work of the committee of creditors or debtor, or other stakeholders under the Code, so as to make any undue or unlawful gains for himself or his related parties, or cause any undue preference for any other persons for undue or unlawful gains and shall not adopt any illegal or improper means to achieve any *mala fide* objectives.

#### Professional competence.

10. An insolvency professional must maintain and upgrade his professional knowledge and skills to render competent professional service.

#### Representation of correct facts and correcting misapprehensions.

11. An insolvency professional must inform such persons under the Code as may be required, of a misapprehension or wrongful consideration of a fact of which he becomes aware, as soon as may be practicable.
12. An insolvency professional must not conceal any material information or knowingly make a misleading statement to the Board, the Adjudicating Authority or any stakeholder, as applicable.

#### Timeliness.

13. An insolvency professional must adhere to the time limits prescribed in the Code and the rules, regulations and guidelines thereunder for insolvency resolution, liquidation or bankruptcy process, as the case may be, and must carefully plan his actions, and promptly communicate with all stakeholders involved for the timely discharge of his duties.
14. An insolvency professional must not act with *mala fide* or be negligent while performing his functions and duties under the Code.

#### Information management.

15. An insolvency professional must make efforts to ensure that all communication to the stakeholders, whether in the form of notices, reports, updates, directions, or clarifications, is made well in advance and in a manner which is simple, clear, and easily understood by the recipients.
16. An insolvency professional must ensure that he maintains written contemporaneous records for any decision taken, the reasons for taking the decision, and the information and evidence in support of such decision. This shall be maintained so as to sufficiently enable a reasonable person to take a view on the appropriateness of his decisions and actions.
17. An insolvency professional must not make any private communication with any of the stakeholders unless required by the Code, rules, regulations and guidelines thereunder, or orders of the Adjudicating Authority.
18. An insolvency professional must appear, co-operate and be available for inspections and investigations carried out by the Board, any person authorised by the Board or the insolvency professional agency with which he is enrolled.
19. An insolvency professional must provide all information and records as may be required by the Board or the insolvency professional agency with which he is enrolled.
20. An insolvency professional must be available and provide information for any periodic study, research and audit conducted by the Board.

#### Confidentiality.

21. An insolvency professional must ensure that confidentiality of the information relating to the insolvency resolution process, liquidation or bankruptcy process, as the case may be, is maintained at all times. However, this shall not prevent him from disclosing any information with the consent of the relevant parties or required by law.

#### Occupation, employability and restrictions.

22. An insolvency professional must refrain from accepting too many assignments, if he is unlikely to be able to devote adequate time to

each of his assignments.

23. An insolvency professional must not engage in any employment, except when he has temporarily surrendered his certificate of membership with the insolvency professional agency with which he is registered.
24. An insolvency professional must not conduct business which in the opinion of the Board is inconsistent with the reputation of the profession.

#### Remuneration and costs.

25. An insolvency professional must provide services for remuneration which is charged in a transparent manner, is a reasonable reflection of the work necessarily and properly undertaken, and is not inconsistent with the applicable regulations.
26. An insolvency professional shall not accept any fees or charges other than those which are disclosed to and approved by the persons fixing his remuneration.
27. An insolvency professional shall disclose all costs towards the insolvency resolution process costs, liquidation costs, or costs of the bankruptcy process, as applicable, to all relevant stakeholders, and must endeavour to ensure that such costs are not unreasonable.

#### Gifts and hospitality.

28. An insolvency professional, or his relative must not accept gifts or hospitality which undermines or affects his independence as an insolvency professional.
29. An insolvency professional shall not offer gifts or hospitality or a financial or any other advantage to a public servant or any other person, intending to obtain or retain work for himself, or to obtain or retain an advantage in the conduct of profession for himself.

## SECOND SCHEDULE

### FORM A

[Under Regulation 6 or Regulation 9 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

To

The Chairperson

Insolvency and Bankruptcy Board of India

*Subject: Application for registration as an insolvency professional / insolvency professional for limited period*

**Sir/Madam,**

I, having been enrolled as a professional member with the (please write the name of the insolvency professional agency), hereby apply for registration as

- (a) an insolvency professional /  
(b) an insolvency professional for limited period (strike off which is not applicable)

under section 207 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 6 or Regulation 9 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

My details are as under:

#### A. PERSONAL DETAILS

1. Title (Mr/Mrs/Ms):
2. Name:
3. Father's Name:
4. Date of Birth:
5. Place of Birth:
6. PAN No.:
7. AADHAAR No.:
8. Passport No.:
9. Address for Correspondence:
10. Permanent Address:

11. E-Mail Address:

12. Mobile No.:

**B. EDUCATIONAL, PROFESSIONAL AND INSOLVENCY EXAMINATION QUALIFICATIONS**

**1. Educational Qualifications**

[Please provide educational qualifications from Bachelor's degree onwards]

Educational Qualification	Year of Passing	Marks (%)	Grade/ Class	University/ College	Remarks, if any

**2. Professional Qualifications**

Professional Qualification	Institute / Professional Body	Membership No. (if applicable)	Date of enrolment	Remarks, if any

**3. Insolvency Qualifications**

3. 1. Have you passed Limited Insolvency Examination? (Yes / No)

3. 2. Have you passed National Insolvency Examination? (Yes / No)

**C. WORK EXPERIENCE**

1. Are you presently in practice / employment? (Yes/ No)

2. Number of years in practice (in years and months):

3. If in practice, address for professional correspondence:

4. Number of years in employment (in years and months):

5. Experience Details (from the date of enrolment as Advocate / Chartered Accountant / Company Secretary / Cost Accountant/ Bachelors' Degree)

Sl. No.	From Date	To Date	Employment/ Practice	If employed, Name of Employer and Designation	If in practice, practice as Advocate / Chartered Accountant / Company Secretary / Cost Accountant	Area of work

**D. INSOLVENCY PROFESSIONAL AGENCY**

1. Please give details of the insolvency professional agency with which you are enrolled as a professional member.

2. Please state your professional membership number.

**E. ADDITIONAL INFORMATION**

1. Have you ever been convicted for an offence? Yes/ No.

If yes, please give details.

2. Are any criminal proceedings pending against you? (Yes/ No)

If yes, please give details.

3. Have you ever been declared as an undischarged insolvent, or applied to be declared so? (Yes/ No)

If yes, please give details.

4. Please provide any additional information that may be relevant for your application.

**F. ATTACHMENTS**

1. Copy of proof of residence.

2. Copies of documents in support of educational qualifications, professional qualification and insolvency examination qualifications.

3. Copies of documents demonstrating practice as -

i. a chartered accountant enrolled with the Institute of

Chartered Accountants of India;

ii. a company secretary enrolled with the Institute of Company Secretaries of India;

iii. a cost accountant enrolled with the Institute of Cost Accountants of India; or

iv. an advocate enrolled with the Bar Council of any State in India;

4. Copies of certificate of employment from the employer(s), specifying the period of such employment.

5. Financial statement / Income Tax Returns for the last three years.

6. Copy of certificate of professional membership with an insolvency professional agency.

7. Passport-size photo.

8. Evidence of deposit / payment of five thousand rupees / ten thousand rupees, as applicable.

**G. AFFIRMATIONS**

1. Copies of documents, as listed in section F of this application form have been attached/ uploaded. The documents attached/ uploaded are .....

I undertake to furnish any additional information as and when called for.

2. I am not disqualified from being registered as an insolvency professional under the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016.

3. This application and the information furnished by me along with this application is true and complete. If found false or misleading at any stage, my registration/ registration for limited period shall be summarily cancelled.

4. I hereby undertake to comply with the requirements of the Insolvency and Bankruptcy Code, 2016, the rules, regulations and guidelines issued thereunder, the bye-laws of the insolvency professional agency with which I am enrolled, and the resolutions passed and directions given by the Board and the Governing Board of such insolvency professional agency.

5. The applicable fee has been paid.

Name and Signature of applicant

Place:

Date:

**VERIFICATION BY THE INSOLVENCY PROFESSIONAL AGENCY**

We have verified the above details submitted by ... who is our professional member with professional membership no. ... and confirm these to be true and correct. We recommend registration of ... as an insolvency professional.

(Name and Signature)

Authorised Representative of the Insolvency Professional Agency

Seal of the Insolvency Professional Agency

Place:

Date:

**SECOND SCHEDULE**

**FORM B**

**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA**

**CERTIFICATE OF REGISTRATION**

IP REGISTRATION NO. \_\_\_

[Under Regulation 7 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

1. In exercise of the powers conferred by Regulation 7 of the

Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 the Board hereby grants a certificate of registration to [insert name], to act as an insolvency professional in accordance with these Regulations.

2. This certificate shall be valid from [insert start date].

Sd/-

(Name and Designation)

For and on behalf of Insolvency and Bankruptcy Board of India

Place:

Date:

**SECOND SCHEDULE  
FORM C**

[Under Regulation 12 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

To  
The Chairperson

Insolvency and Bankruptcy Board of India

**Sub.: Application for recognition as an insolvency professional entity**  
Sir/Madam,

- I, being duly authorized for the purpose, hereby apply on behalf of [name and address of the applicant] for recognition as an insolvency professional entity under the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016, and enclose proof that I am authorized to make this application and correspond with the Board in this respect.
- I, on behalf of [insert name], affirm that the applicant is eligible to be recognised as an insolvency professional entity.
- I, on behalf of [insert name], hereby affirm that –
  - all information contained in this application is true and correct in all material respects,
  - no material information relevant for the purpose of this application has been suppressed, and
  - recognition granted in pursuance of this application may be cancelled summarily if any information submitted herein is found to be false or misleading in material respects at any stage.
- If granted recognition, I, on behalf of [insert name], undertake to comply with the requirements of the Code, the rules, regulations or guidelines issued thereunder, and such other terms and conditions as may be imposed by the Board while granting the certificate of recognition or subsequently.

Yours faithfully,  
Authorized Signatory  
(Name)  
(Designation)

Place :

Date :

**ANNEXURE TO FORM C  
PART I  
GENERAL**

- Name of the applicant:
- Address of registered office and principal place of business of the applicant:
- Corporate Identification Number (CIN)/ Certificate of Registration:
- PAN:
- Name, designation and contact details of the person authorized to make this application and correspond with the Board in this respect:

**PART II  
DIRECTORS/ PARTNERS**

- Please state the details of all directors/ partners of the applicant:

Sl. No.	Name and Address of the director/ partner	DIN	PAN	Registration No. as an insolvency Professional	Professional Membership No.

Yours faithfully,  
Authorized Signatory  
(Name)  
(Designation)

Place :

Date :

**SECOND SCHEDULE  
FORM D  
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA  
CERTIFICATE OF RECOGNITION  
INSOLVENCY PROFESSIONAL ENTITY RECOGNITION NO. \_\_**

[Under Regulation 13 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016]

- In exercise of the powers conferred by Regulation 13 of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 the Board hereby grants a certificate recognising [insert name], as an insolvency professional entity.
- This certificate of recognition shall be valid from [insert start date].

Sd/-  
(Name and Designation)

For and on behalf of Insolvency and Bankruptcy Board of India

Place:

Date:

DR. M. S. SAHOO,  
Chairperson

09

**Insolvency and Bankruptcy Board  
Of India (Insolvency Resolution  
Process For Corporate Persons)  
Regulations, 2016**

[Issued by the Insolvency and Bankruptcy Board of India. Published in G.O.I. Part - III Section-4 dated 30.11.2016]

**IBBI/2016-17/GN/REG004** In exercise of the powers conferred under sections 5, 7, 9, 14, 15, 17, 18, 21, 24, 25, 29, 30, 196 and 208 read with section 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following Regulations, namely-

**CHAPTER I  
PRELIMINARY**

- Short title and commencement.**
  - These Regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
  - These Regulations shall come into force on 1st December, 2016.
  - These Regulations shall apply to the corporate insolvency resolution process.
- Definitions.**
  - In these Regulations, unless the context otherwise requires-

- (a) “applicant” means the person(s) filing an application under sections 7, 9 or 10, as the case may be;
- (b) “Code” means the Insolvency and Bankruptcy Code, 2016;
- (c) “Code of Conduct” means the code of conduct for insolvency professionals as set out in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
- (d) “committee” means a committee of creditors established under section 21;
- (e) “corporate insolvency resolution process” means the insolvency resolution process for corporate persons under Chapter II of Part II of the Code;
- (f) “dissenting financial creditors” means the financial creditors who voted against the resolution plan approved by the committee;
- (g) “electronic form” shall have the meaning assigned to it in the Information Technology Act, 2000 (21 of 2000);
- (h) “electronic means” mean an authorized and secured computer programme which is capable of producing confirmation of sending communication to the participant entitled to receive such communication at the last electronic mail address provided by such participant and keeping record of such communication.
- (i) “identification number” means the Limited Liability Partnership Identification Number or the Corporate Identity Number, as the case may be;
- (j) “insolvency professional entity” means an entity recognised as such under the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016;
- (k) “liquidation value” means the amount determined in accordance with Regulation 35;
- (l) “participant” means a person entitled to attend a meeting of the committee under section 24 or any other person authorised by the committee to attend the meeting;
- (m) “registered valuer” means a person registered as such in accordance with the Companies Act, 2013 (18 of 2013) and rules made thereunder;
- (n) “Schedule” means the schedule to these Regulations;
- (o) “section” means section of the Code;
- (p) “video conferencing or other audio and visual means” means such audio and visual facility which enables the participants in a meeting to communicate concurrently with one another and to participate effectively in the meeting.
- (2) Unless the context otherwise requires, words and expressions used and not defined in these Regulations, but defined in the Code, shall have the meanings assigned to them in the Code.

## **CHAPTER II** **GENERAL**

### **3. Eligibility for resolution professional.**

- (1) An insolvency professional shall be eligible to be appointed as a resolution professional for a corporate insolvency resolution process of a corporate debtor if he, and all partners and directors of the insolvency professional entity of which he is a partner or director, are independent of the corporate debtor.

*Explanation— A person shall be considered independent of the corporate debtor, if he:*

- (a) is eligible to be appointed as an independent director on the board of the corporate debtor under section 149 of the Companies Act, 2013 (18 of 2013), where the corporate debtor is a company;
- (b) is not a related party of the corporate debtor; or
- (c) is not an employee or proprietor or a partner:

- (i) of a firm of auditors or company secretaries in practice or cost auditors of the corporate debtor; or
- (ii) of a legal or a consulting firm, that has or had any transaction with the corporate debtor amounting to ten per cent or more of the gross turnover of such firm, in the last three financial years.
- (2) A resolution professional shall make disclosures at the time of his appointment and thereafter in accordance with the Code of Conduct.
- (3) A resolution professional, who is a director or a partner of an insolvency professional entity, shall not continue as a resolution professional in a corporate insolvency resolution process if the insolvency professional entity or any other partner or director of such insolvency professional entity represents any of the other stakeholders in the same corporate insolvency resolution process.

### **4. Access to books.**

- (1) Without prejudice to section 17(2)(d), the interim resolution professional may access the books of account, records and other relevant documents and information, to the extent relevant for discharging his duties under the Code, of the corporate debtor held with-
- (a) depositories of securities;
- (b) professional advisors of the corporate debtor;
- (c) information utilities;
- (d) other registries that records the ownership of assets;
- (e) members, promoters, partners, board of directors and joint venture partners of the corporate debtor; and
- (f) contractual counterparties of the corporate debtor.

### **5. Extortionate credit transaction.**

A transaction shall be considered extortionate under section 50(2) where the terms:

- (1) require the corporate debtor to make exorbitant payments in respect of the credit provided; or
- (2) are unconscionable under the principles of law relating to contracts.

## **CHAPTER III** **PUBLIC ANNOUNCEMENT**

### **6. Public announcement.**

- (1) An insolvency professional shall make a public announcement immediately on his appointment as an interim resolution professional.

*Explanation: ‘Immediately’ means not later than three days from the date of his appointment.*

- (2) The public announcement referred to in sub-regulation (1) shall:
- (a) be in Form A of the Schedule;
- (b) be published-
- (i) in one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, of the corporate debtor and any other location where in the opinion of the interim resolution professional, the corporate debtor conducts material business operations;
- (ii) on the website, if any, of the corporate debtor; and
- (iii) on the website, if any, designated by the Board for the purpose,
- (c) provide the last date for submission of proofs of claim, which shall be fourteen days from the date of appointment of the interim resolution professional.

- (3) The applicant shall bear the expenses of the public announcement which may be reimbursed by the committee to the extent it ratifies them.

*Clarification- The expenses on the public announcement shall not form part of insolvency resolution process costs.*

#### **CHAPTER IV PROOF OF CLAIMS**

##### **7. Claims by operational creditors.**

- (1) A person claiming to be an operational creditor, other than workman or employee of the corporate debtor, shall submit proof of claim to the interim resolution professional in person, by post or by electronic means in Form B of the Schedule: *Provided* that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.
- (2) The existence of debt due to the operational creditor under this Regulation may be proved on the basis of-
- (a) the records available with an information utility, if any; or
  - (b) other relevant documents, including -
    - (i) a contract for the supply of goods and services with corporate debtor;
    - (ii) an invoice demanding payment for the goods and services supplied to the corporate debtor;
    - (iii) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any; or
    - (iv) financial accounts.

##### **8. Claims by financial creditors.**

- (1) A person claiming to be a financial creditor of the corporate debtor shall submit proof of claim to the interim resolution professional in electronic form in Form C of the Schedule: *Provided* that such person may submit supplementary documents or clarifications in support of the claim before the constitution of the committee.
- (2) The existence of debt due to the financial creditor may be proved on the basis of -
- (a) the records available with an information utility, if any; or
  - (b) other relevant documents, including -
    - (i) a financial contract supported by financial statements as evidence of the debt;
    - (ii) a record evidencing that the amounts committed by the financial creditor to the corporate debtor under a facility has been drawn by the corporate debtor;
    - (iii) financial statements showing that the debt has not been repaid; or
    - (iv) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any.

##### **9. Claims by workmen and employees.**

- (1) A person claiming to be a workman or an employee of the corporate debtor shall submit proof of claim to the interim resolution professional in person, by post or by electronic means in Form D of the Schedule: *Provided* that such person may submit supplementary documents or clarifications in support of the claim, on his own or if required by the interim resolution professional, before the constitution of the committee.
- (2) Where there are dues to numerous workmen or employees of the corporate debtor, an authorised representative may submit one proof of claim for all such dues on their behalf in Form E of the Schedule.
- (3) The existence of dues to workmen or employees may be proved

by them, individually or collectively on the basis of -

- (a) records available with an information utility, if any; or
- (b) other relevant documents, including -
  - (i) a proof of employment such as contract of employment for the period for which such workman or employee is claiming dues;
  - (ii) evidence of notice demanding payment of unpaid dues and any documentary or other proof that payment has not been made; or
  - (iii) an order of a court or tribunal that has adjudicated upon the non-payment of a dues, if any.

##### **10. Substantiation of claims.**

The interim resolution professional or the resolution professional, as the case may be, may call for such other evidence or clarification as he deems fit from a creditor for substantiating the whole or part of its claim.

##### **11. Cost of proof.**

A creditor shall bear the cost of proving the debt due to such creditor.

##### **12. Submission of proof of claims.**

- (1) Subject to sub-regulation (2), a creditor shall submit proof of claim on or before the last date mentioned in the public announcement.
- (2) A creditor, who failed to submit proof of claim within the time stipulated in the public announcement, may submit such proof to the interim resolution professional or the resolution professional, as the case may be, till the approval of a resolution plan by the committee.
- (3) Where the creditor in sub-regulation (2) is a financial creditor, it shall be included in the committee from the date of admission of such claim: *Provided* that such inclusion shall not affect the validity of any decision taken by the committee prior to such inclusion.

##### **13. Verification of claims.**

- (1) The interim resolution professional or the resolution professional, as the case may be, shall verify every claim, as on the insolvency commencement date, within seven days from the last date of the receipt of the claims, and thereupon maintain a list of creditors containing names of creditors along with the amount claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims, and update it.
- (2) The list of creditors shall be -
  - (a) available for inspection by the persons who submitted proofs of claim;
  - (b) available for inspection by members, partners, directors and guarantors of the corporate debtor;
  - (c) displayed on the website, if any, of the corporate debtor;
  - (d) filed with the Adjudicating Authority; and
  - (e) presented at the first meeting of the committee.

##### **14. Determination of amount of claim.**

- (1) Where the amount claimed by a creditor is not precise due to any contingency or other reason, the interim resolution professional or the resolution professional, as the case may be, shall make the best estimate of the amount of the claim based on the information available with him.
- (2) The interim resolution professional or the resolution professional, as the case may be, shall revise the amounts of claims admitted, including the estimates of claims made under sub-regulation (1), as soon as may be practicable, when he comes across additional information warranting such revision.

##### **15. Debt in foreign currency.**

The claims denominated in foreign currency shall be valued in Indian currency at the official exchange rate as on the insolvency

commencement date.

*Explanation - "official exchange rate" is the reference rate published by the Reserve Bank of India or derived from such reference rates.*

## **CHAPTER V**

### **COMMITTEE OF CREDITORS**

#### **16. Committee with only operational creditors.**

- (1) Where the corporate debtor has no financial debt or where all financial creditors are related parties of the corporate debtor, the committee shall be set up in accordance with this Regulation.
- (2) The committee formed under this Regulation shall consist of members as under -
  - (a) eighteen largest operational creditors by value:  
*Provided* that if the number of operational creditors is less than eighteen, the committee shall include all such operational creditors;
  - (b) one representative elected by all workmen other than those workmen included under sub-clause (a); and
  - (c) one representative elected by all employees other than those employees included under sub-clause (a).
- (3) A member of the committee formed under this Regulation shall have voting rights in proportion of the debt due to such creditor or debt represented by such representative, as the case may be, to the total debt.

*Explanation - For the purposes of this sub-regulation, 'total debt' is the sum of-*

- (a) the amount of debt due to the creditors listed in sub-regulation 2(a);
- (b) the amount of the aggregate debt due to workmen under sub-regulation 2(b); and
- (c) the amount of the aggregate debt due to employees under sub-regulation 2(c).
- (4) A committee formed under this Regulation and its members shall have the same rights, powers, duties and obligations as a committee comprising financial creditors and its members, as the case may be.

#### **17. First meeting of the committee.**

- (1) The interim resolution professional shall file a report certifying constitution of the committee to the Adjudicating Authority on or before the expiry of thirty days from the date of his appointment.
- (2) The interim resolution professional shall convene the first meeting of the committee within seven days of filing the report under this Regulation.

## **CHAPTER VI**

### **MEETINGS OF THE COMMITTEE**

#### **18. Meetings of the committee.**

**A resolution professional may convene a meeting of the committee as and when he considers necessary, and shall convene a meeting if a request to that effect is made by members of the committee representing thirty three per cent of the voting rights.**

#### **19. Notice for meetings of the committee.**

- (1) Subject to this Regulation, a meeting of the committee shall be called by giving not less than seven days' notice in writing to every participant, at the address it has provided to the resolution professional and such notice may be sent by hand delivery, or by post but in any event, be served on every participant by electronic means in accordance with Regulation 20.
- (2) The committee may reduce the notice period from seven days

to such other period of not less than twenty four hours, as it deems fit.

#### **20. Service of notice by electronic means.**

- (1) A notice by electronic means may be sent to the participants through e-mail as a text or as an attachment to e-mail or as a notification providing electronic link or Uniform Resource Locator for accessing such notice.
- (2) The subject line in e-mail shall state the name of the corporate debtor, the place, if any, the time and the date on which the meeting is scheduled.
- (3) If notice is sent in the form of a non-editable attachment to an e-mail, such attachment shall be in the Portable Document Format or in a non-editable format together with a 'link or instructions' for recipient for downloading relevant version of the software.
- (4) When notice or notifications of availability of notice are sent by an e-mail, the resolution professional shall ensure that it uses a system which produces confirmation of the total number of recipients e-mailed and a record of each recipient to whom the notice has been sent and copy of such record and any notices of any failed transmissions and subsequent re-sending shall be retained as "proof of sending".
- (5) The obligation of the resolution professional shall be satisfied when he transmits the e-mail and he shall not be held responsible for a failure in transmission beyond its control.
- (6) The notice made available on the electronic link or Uniform Resource Locator shall be readable, and the recipient should be able to obtain and retain copies and the resolution professional shall give the complete Uniform Resource Locator or address of the website and full details of how to access the document or information.
- (7) If a participant, other than a member of the committee, fails to provide or update the relevant e-mail address to the resolution professional, the non-receipt of such notice by such participant of any meeting shall not invalidate the decisions taken at such meeting.

#### **21. Contents of the notice for meeting.**

- (1) The notice shall inform the participants of the venue, the time and date of the meeting and of the option available to them to participate through video conferencing or other audio and visual means, and shall also provide all the necessary information to enable participation through video conferencing or other audio and visual means.
- (2) The notice of the meeting shall provide that a participant may attend and vote in the meeting either in person or through an authorised representative:  
*Provided* that such participant shall inform the resolution professional, in advance of the meeting, of the identity of the authorised representative who will attend and vote at the meeting on its behalf.
- (3) The notice of the meeting shall-
  - (a) contain an agenda of the meeting with the following-
    - (i) a list of the matters to be discussed at the meeting;
    - (ii) a list of the issues to be voted upon at the meeting; and
    - (iii) copies of all documents relevant to the matters to be discussed and the issues to be voted upon at the meeting; and
  - (b) state that a vote of the members of the committee shall not be taken at the meeting unless all members are present at such meeting.
- (4) The notice of the meeting shall-

- (a) state the process and manner for voting by electronic means and the time schedule, including the time period during which the votes may be cast;
- (b) provide the login ID and the details of a facility for generating password and for keeping security and casting of vote in a secure manner; and
- (c) provide contact details of the person who will address the queries connected with the electronic voting.

## 22. Quorum at the meeting.

- (1) A meeting of the committee shall be quorate if members of the committee representing at least thirty three percent of the voting rights are present either in person or by video conferencing or other audio and visual means:  
*Provided* that the committee may modify the percentage of voting rights required for quorum in respect of any future meetings of the committee.
- (2) Where a meeting of the committee could not be held for want of quorum, unless the committee has previously decided otherwise, the meeting shall automatically stand adjourned at the same time and place on the next day.
- (3) In the event a meeting of the committee is adjourned in accordance with sub-regulation (2), the adjourned meeting shall be quorate with the members of the committee attending the meeting.

## 23. Participation through video conferencing.

- (1) The notice convening the meetings of the committee shall provide the participants an option to attend the meeting through video conferencing or other audio and visual means in accordance with this Regulation.
- (2) The resolution professional shall make necessary arrangements to ensure uninterrupted and clear video or audio and visual connection.
- (3) The resolution professional shall take due and reasonable care-
  - (a) to safeguard the integrity of the meeting by ensuring sufficient security and identification procedures;
  - (b) to ensure availability of proper video conferencing or other audio and visual equipment or facilities for providing transmission of the communications for effective participation of the participants at the meeting;
  - (c) to record proceedings and prepare the minutes of the meeting;
  - (d) to store for safekeeping and marking the physical recording(s) or other electronic recording mechanism as part of the records of the corporate debtor;
  - (e) to ensure that no person other than the intended participants attends or has access to the proceedings of the meeting through video conferencing or other audio and visual means; and
  - (f) to ensure that participants attending the meeting through audio and visual means are able to hear and see, if applicable, the other participants clearly during the course of the meeting:  
*Provided* that the persons, who are differently abled, may make request to the resolution professional to allow a person to accompany him at the meeting.
- (4) Where a meeting is conducted through video conferencing or other audio and visual means, the scheduled venue of the meeting as set forth in the notice convening the meeting, which shall be in India, shall be deemed to be the place of the said meeting and all recordings of the proceedings at the meeting shall be deemed to be made at such place.

## 24. Conduct of meeting.

- (1) The resolution professional shall act as the chairperson of the

meeting of the committee.

- (2) At the commencement of a meeting, the resolution professional shall take a roll call when every participant attending through video conferencing or other audio and visual means shall state, for the record, the following, -
  - (a) his name;
  - (b) whether he is attending in the capacity of a member of the committee or any other participant;
  - (c) whether he is representing a member or group of members;
  - (d) the location from where he is participating;
  - (e) that he has received the agenda and all the relevant material for the meeting; and
  - (f) that no one other than him is attending or has access to the proceedings of the meeting at the location of that person.
- (3) After the roll call, the resolution professional shall inform the participants of the names of all persons who are present for the meeting and confirm if the required quorum is complete.
- (4) The resolution professional shall ensure that the required quorum is present throughout the meeting.
- (5) From the commencement of the meeting till its conclusion, no person other than the participants and any other person whose presence is required by the resolution professional shall be allowed access to the place where meeting is held or to the video conferencing or other audio and visual facility, without the permission of the resolution professional.
- (6) The resolution professional shall ensure that minutes are made in relation to each meeting of the committee and such minutes shall disclose the particulars of the participants who attended the meeting in person, through video conferencing, or other audio and visual means.
- (7) The resolution professional shall circulate the minutes of the meeting to all participants by electronic means within forty eight hours of the said meeting.

## **CHAPTER VII** **VOTING BY THE COMMITTEE**

### 25. Voting by the committee.

- (1) The actions listed in section 28(1) shall be considered in meetings of the committee.
- (2) Any action other than those listed in section 28(1) requiring approval of the committee may be considered in meetings of the committee.
- (3) Where all members are present in a meeting, the resolution professional shall take a vote of the members of the committee on any item listed for voting after discussion on the same.
- (4) At the conclusion of a vote at the meeting, the resolution professional shall announce the decision taken on items along with the names of the members of the committee who voted for or against the decision, or abstained from voting.
- (5) If all members are not present at a meeting, a vote shall not be taken at such meeting and the resolution professional shall-
  - (a) circulate the minutes of the meeting by electronic means to all members of the committee within forty eight hours of the conclusion of the meeting; and
  - (b) seek a vote on the matters listed for voting in the meeting, by electronic voting system where the voting shall be kept open for twenty four hours from the circulation of the minutes.

### 26. Voting through electronic means.

- (1) The resolution professional shall provide each member of the



committee the means to exercise its vote by either electronic means or through electronic voting system in accordance with the provisions of this Regulation.

*Explanation- For the purposes of these Regulations-*

- (a) the expressions “voting by electronic means” or “electronic voting system” means a “secured system” based process of display of electronic ballots, recording of votes of the members of the committee and the number of votes polled in favour or against, such that the voting exercised by way of electronic means gets registered and counted in an electronic registry in a centralized server with adequate cyber security;
- (b) the expression “secured system” means computer hardware, software, and procedure that –
  - (i) are reasonably secure from unauthorized access and misuse;
  - (ii) provide a reasonable level of reliability and correct operation;
  - (iii) are reasonably suited to perform the intended functions; and
  - (iv) adhere to generally accepted security procedures.
- (2) Once a vote on a resolution is cast by a member of the committee, such member shall not be allowed to change it subsequently.
- (3) At the end of the voting period, the voting portal shall forthwith be blocked.
- (4) At the conclusion of a vote held under this Regulation, the resolution professional shall announce and make a written record of the summary of the decision taken on a relevant agenda item along with the names of the members of the committee who voted for or against the decision, or abstained from voting.
- (5) The resolution professional shall circulate a copy of the record made under sub-regulation (4) to all participants by electronic means within twenty four hours of the conclusion of the voting.

**CHAPTER VIII**  
**CONDUCT OF CORPORATE INSOLVENCY RESOLUTION PROCESS**

**27. Appointment of registered valuers.**

The interim resolution professional shall within seven days of his appointment, appoint two registered valuers to determine the liquidation value of the corporate debtor in accordance with Regulation 35:

*Provided* that the following persons shall not be appointed as registered valuers:

- (a) a relative of the interim resolution professional;
- (b) a related party of the corporate debtor;
- (c) an auditor of the corporate debtor in the five years preceding the insolvency commencement date; or
- (d) a partner or director of the insolvency professional entity.

**28. Transfer of debt due to creditors.**

- (1) In the event a creditor assigns or transfers the debt due to such creditor to any other person during the insolvency resolution process period, both parties shall provide the interim resolution professional or the resolution professional, as the case may be, the terms of such assignment or transfer and the identity of the assignee or transferee.
- (2) The resolution professional shall notify each participant and the Adjudicating Authority of any resultant change in the committee within two days of such change.

**29. Sale of assets outside the ordinary course of business.**

- (1) The resolution professional may sell unencumbered asset(s) of the corporate debtor, other than in the ordinary course of business, if he is of the opinion that such a sale is necessary for a better realisation of value under the facts and circumstances of the case:

*Provided* that the book value of all assets sold during corporate insolvency resolution process period in aggregate under this sub-regulation shall not exceed ten percent of the total claims admitted by the interim resolution professional.

- (2) A sale of assets under this Regulation shall require the approval of the committee.
- (3) A bona fide purchaser of assets sold under this Regulation shall have a free and marketable title to such assets notwithstanding the terms of the constitutional documents of the corporate debtor, shareholders’ agreement, joint venture agreement or other document of a similar nature.

**30. Assistance of local district administration.**

The interim resolution professional or the resolution professional, as the case may be, may make an application to the Adjudicating Authority for an order seeking the assistance of the local district administration in discharging his duties under the Code or these Regulations.

**CHAPTER IX**  
**INSOLVENCY RESOLUTION PROCESS COSTS**

**31. Insolvency resolution process costs.**

“Insolvency resolution process costs” under Section 5(13)(e) shall mean-

- (a) amounts due to suppliers of essential goods and services under Regulation 32;
- (b) amounts due to a person whose rights are prejudicially affected on account of the moratorium imposed under section 14(1)(d);
- (c) expenses incurred on or by the interim resolution professional to the extent ratified under Regulation 33;
- (d) expenses incurred on or by the resolution professional fixed under Regulation 34; and
- (e) other costs directly relating to the corporate insolvency resolution process and approved by the committee.

**32. Essential supplies.**

The essential goods and services referred to in section 14(2) shall mean-

- (1) electricity;
  - (2) water;
  - (3) telecommunication services; and
  - (4) information technology services,
- to the extent these are not a direct input to the output produced or supplied by the corporate debtor.

*Illustration-* Water supplied to a corporate debtor will be essential supplies for drinking and sanitation purposes, and not for generation of hydro-electricity.

**33. Costs of the interim resolution professional.**

- (1) The applicant shall fix the expenses to be incurred on or by the interim resolution professional.
- (2) The Adjudicating Authority shall fix expenses where the applicant has not fixed expenses under sub-regulation (1)
- (3) The applicant shall bear the expenses which shall be reimbursed by the committee to the extent it ratifies.
- (4) The amount of expenses ratified by the committee shall be treated as insolvency resolution process costs.

*Explanation-* For the purposes of this Regulation, “expenses” mean the fee to be paid to the interim resolution professional and other

expenses, including the cost of engaging professional advisors, to be incurred by the interim resolution professional.

#### 34. Resolution professional costs.

The committee shall fix the expenses to be incurred on or by the resolution professional and the expenses shall constitute insolvency resolution process costs.

*Explanation-* For the purposes of this Regulation, "expenses" mean the fee to be paid to the resolution professional and other expenses, including the cost of engaging professional advisors, to be incurred by the resolution professional.

### **CHAPTER X RESOLUTION PLAN**

#### 35. Liquidation value.

- (1) Liquidation value is the estimated realizable value of the assets of the corporate debtor if the corporate debtor were to be liquidated on the insolvency commencement date.
- (2) Liquidation value shall be determined in the following manner:
  - (a) the two registered valuers appointed under Regulation 27 shall submit to the interim resolution professional or the resolution professional, as the case may be, an estimate of the liquidation value computed in accordance with internationally accepted valuation standards, after physical verification of the inventory and fixed assets of the corporate debtor;
  - (b) if in the opinion of the interim resolution professional or the resolution professional, as the case may be, the two estimates are significantly different, he may appoint another registered valuer who shall submit an estimate computed in the same manner; and
  - (c) the average of the two closest estimates shall be considered the liquidation value.
- (3) The resolution professional shall provide the liquidation value to the committee in electronic form.

#### 36. Information memorandum.

- (1) Subject to sub-regulation (4), the interim resolution professional or the resolution professional, as the case may be, shall submit an information memorandum in electronic form to each member of the committee and any potential resolution applicant containing-
  - (a) at least the matters listed in paragraphs (a) to (i) of sub-regulation (2), before its first meeting; and
  - (b) matters listed in paragraphs (j) to (l) of sub-regulation (2), within fourteen days of the first meeting.
- (2) The information memorandum shall contain the following details of the corporate debtor-
  - (a) assets and liabilities, as on the insolvency commencement date, classified into appropriate categories for easy identification, with estimated values assigned to each category;
  - (b) the latest annual financial statements;
  - (c) audited financial statements of the corporate debtor for the last two financial years and provisional financial statements for the current financial year made up to a date not earlier than fourteen days from the date of the application;
  - (d) a list of creditors containing the names of creditors, the amounts claimed by them, the amount of their claims admitted and the security interest, if any, in respect of such claims;
  - (e) particulars of a debt due from or to the corporate debtor

- with respect to related parties;
- (f) details of guarantees that have been given in relation to the debts of the corporate debtor by other persons, specifying which of the guarantors is a related party;
- (g) the names and addresses of the members or partners holding at least one per cent stake in the corporate debtor along with the size of stake;
- (h) details of all material litigation and an ongoing investigation or proceeding initiated by Government and statutory authorities;
- (i) the number of workers and employees and liabilities of the corporate debtor towards them;
- (j) the liquidation value;
- (k) the liquidation value due to operational creditors; and
- (l) other information, which the resolution professional deems relevant to the committee.

- (3) A member of the committee may request the resolution professional for further information of the nature described in this Regulation and the resolution professional shall provide such information to all members within reasonable time if such information has a bearing on the resolution plan.
- (4) The interim resolution professional or the resolution professional, as the case may be, shall share the information memorandum after receiving an undertaking from a member of the committee or a potential resolution applicant to the effect that such member or resolution applicant shall maintain confidentiality of the information and shall not use such information to cause an undue gain or undue loss to itself or any other person and comply with the requirements under section 29(2).

#### 37. Resolution plan.

- (1) A resolution plan may provide for the measures required for implementing it, including but not limited to the following-
  - (a) transfer of all or part of the assets of the corporate debtor to one or more persons;
  - (b) sale of all or part of the assets whether subject to any security interest or not;
  - (c) the substantial acquisition of shares of the corporate debtor, or the merger or consolidation of the corporate debtor with one or more persons;
  - (d) satisfaction or modification of any security interest;
  - (e) curing or waiving of any breach of the terms of any debt due from the corporate debtor;
  - (f) reduction in the amount payable to the creditors;
  - (g) extension of a maturity date or a change in interest rate or other terms of a debt due from the corporate debtor;
  - (h) amendment of the constitutional documents of the corporate debtor;
  - (i) issuance of securities of the corporate debtor, for cash, property, securities, or in exchange for claims or interests, or other appropriate purpose; and
  - (j) obtaining necessary approvals from the Central and State Governments and other authorities.

#### 38. Mandatory contents of the resolution plan.

- (1) A resolution plan shall identify specific sources of funds that will be used to pay the -
  - (a) insolvency resolution process costs and provide that the insolvency resolution process costs will be paid in priority to any other creditor;
  - (b) liquidation value due to operational creditors and provide for such payment in priority to any financial creditor which shall in any event be made before the expiry of thirty days after the approval of a

- resolution plan by the Adjudicating Authority; and
  - (c) liquidation value due to dissenting financial creditors and provide that such payment is made before any recoveries are made by the financial creditors who voted in favour of the resolution plan.
- (2) A resolution plan shall provide:
- (a) the term of the plan and its implementation schedule;
  - (b) the management and control of the business of the corporate debtor during its term; and
  - (c) adequate means for supervising its implementation.

**39. Approval of resolution plan.**

- (1) A resolution applicant shall endeavour to submit a resolution plan prepared in accordance with the Code and these Regulations to the resolution professional, thirty days before expiry of the maximum period permitted under section 12 for the completion of the corporate insolvency resolution process.
- (2) The resolution professional shall present all resolution plans that meet the requirements of the Code and these Regulations to the committee for its consideration.
- (3) The committee may approve any resolution plan with such modifications as it deems fit.
- (4) The resolution professional shall submit the resolution plan approved by the committee to the Adjudicating Authority with the certification that:
  - (a) the contents of the resolution plan meet all the requirements of the Code and the Regulations; and
  - (b) the resolution plan has been approved by the committee.
- (5) The resolution professional shall forthwith send a copy of the order of the Adjudicating Authority approving or rejecting a resolution plan to the participants and the resolution applicant.
- (6) A provision in a resolution plan which would otherwise require the consent of the members or partners of the corporate debtor, as the case may be, under the terms of the constitutional documents of the corporate debtor, shareholders' agreement, joint venture agreement or other document of a similar nature, shall take effect notwithstanding that such consent has not been obtained.
- (7) No proceedings shall be initiated against the interim resolution professional or the resolution professional, as the case may be, for any actions of the corporate debtor, prior to the insolvency commencement date.
- (8) A person in charge of the management or control of the business and operations of the corporate debtor after a resolution plan is approved by the Adjudicating Authority, may make an application to the Adjudicating Authority for an order seeking the assistance of the local district administration in implementing the terms of a resolution plan.

**40. Extension of the corporate insolvency resolution process period.**

- (1) The committee may instruct the resolution professional to make an application to the Adjudicating Authority under section 12 to extend the insolvency resolution process period.
- (2) The resolution professional shall, on receiving an instruction from the committee under this Regulation, make an application to the Adjudicating Authority for such extension.

**SCHEDULE FORM A  
PUBLIC ANNOUNCEMENT**

[Under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016]

**FOR THE ATTENTION OF THE CREDITORS OF**

[Name of Corporate Debtor]

RELEVANT PARTICULARS	
1.	NAME OF CORPORATE DEBTOR
2.	DATE OF INCORPORATION OF CORPORATE DEBTOR
3.	AUTHORITY UNDER WHICH CORPORATE DEBTOR IS INCORPORATED / REGISTERED
4.	CORPORATE IDENTITY NUMBER / LIMITED LIABILITY IDENTIFICATION NUMBER OF CORPORATE DEBTOR
5.	ADDRESS OF THE REGISTERED OFFICE AND PRINCIPAL OFFICE (IF ANY) OF CORPORATE DEBTOR
6.	INSOLVENCY COMMENCEMENT DATE IN RESPECT OF CORPORATE DEBTOR
7.	ESTIMATED DATE OF CLOSURE OF INSOLVENCY RESOLUTION PROCESS
8.	NAME, ADDRESS, EMAIL ADDRESS AND THE REGISTRATION NUMBER OF THE INTERIM RESOLUTION PROFESSIONAL
9.	LAST DATE FOR SUBMISSION OF CLAIMS

Notice is hereby given that the National Company Law Tribunal has ordered the commencement of a corporate insolvency resolution process against the [name of the corporate debtor] on [insolvency commencement date]. The creditors of [name of the corporate debtor], are hereby called upon to submit a proof of their claims on or before [insert the date falling fourteen days from the appointment of the interim resolution professional] to the interim resolution professional at the address mentioned against item 8.

The financial creditors shall submit their proof of claims by electronic means only. The operational creditors, including workmen and employees, may submit the proof of claims by in person, by post or electronic means.

Submission of false or misleading proofs of claim shall attract penalties.

Name and Signature of Interim Resolution Professional :

Date and Place :

**SCHEDULE FORM B  
PROOF OF CLAIM BY OPERATIONAL CREDITORS EXCEPT  
WORKMEN AND EMPLOYEES**

[Under Regulation 7 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016]  
(Date)

To  
The Interim Resolution Professional / Resolution Professional  
[Name of the Insolvency Resolution Professional / Resolution Professional]  
[Address as set out in public announcement]  
From  
[Name and address of the operational creditor]  
*Subject: Submission of proof of claim.*

Madam/Sir,  
[Name of the operational creditor], hereby submits this proof of claim in respect of the corporate insolvency resolution process in the case of [name of corporate debtor]. The details for the same are set out below:

PARTICULARS		
1.	NAME OF OPERATIONAL CREDITOR	
2.	IDENTIFICATION NUMBER OF OPERATIONAL CREDITOR (IF AN INCORPORATED BODY PROVIDE IDENTIFICATION NUMBER AND PROOF OF INCORPORATION. IF A PARTNERSHIP OR INDIVIDUAL PROVIDE IDENTIFICATION RECORDS* OF ALL THE PARTNERS OR THE INDIVIDUAL)	
3.	ADDRESS AND EMAIL ADDRESS OF OPERATIONAL CREDITOR FOR CORRESPONDENCE	
4.	TOTAL AMOUNT OF CLAIM (INCLUDING ANY INTEREST AS AT THE INSOLVENCY COMMENCEMENT DATE)	
5.	DETAILS OF DOCUMENTS BY REFERENCE TO WHICH THE DEBT CAN BE SUBSTANTIATED.	
6.	DETAILS OF ANY DISPUTE AS WELL AS THE RECORD OF PENDENCY OR ORDER OF SUIT OR ARBITRATION PROCEEDINGS	
7.	DETAILS OF HOW AND WHEN DEBT INCURRED	
8.	DETAILS OF ANY MUTUAL CREDIT, MUTUAL DEBTS, OR OTHER MUTUAL DEALINGS BETWEEN THE CORPORATE DEBTOR AND THE CREDITOR WHICH MAY BE SET-OFF AGAINST THE CLAIM	
9.	DETAILS OF ANY RETENTION OF TITLE ARRANGEMENTS IN RESPECT OF GOODS OR PROPERTIES TO WHICH THE CLAIM REFERS	
10.	DETAILS OF THE BANK ACCOUNT TO WHICH THE AMOUNT OF THE CLAIM OR ANY PART THEREOF CAN BE TRANSFERRED PURSUANT TO A RESOLUTION PLAN	
11.	LIST OF DOCUMENTS ATTACHED TO THIS PROOF OF CLAIM IN ORDER TO PROVE THE EXISTENCE AND NON- PAYMENT OF CLAIM DUE TO THE OPERATIONAL CREDITOR	

Signature of operational creditor or person authorised to act on his behalf

[Please enclose the authority if this is being submitted on behalf of an operational creditor]

Name in BLOCK LETTERS

Position with or in relation to creditor

Address of person signing

\*PAN number, passport, AADHAAR Card or the identity card issued by the Election Commission of India

#### AFFIDAVIT

I, [name of deponent], currently residing at [insert address], do solemnly affirm and state as follows:

- [Name of corporate debtor], the corporate debtor was, at the insolvency commencement date, being the.....day of .....20...., justly and truly indebted to me in the sum of Rs. [insert amount of claim].
- In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below:  
[Please list the documents relied on as evidence of claim]
- The said documents are true, valid and genuine to the best of my knowledge, information and belief.
- In respect of the said sum or any part thereof, I have not nor has any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:  
[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim.]  
Solemnly, affirmed at [insert place] on..... day, the.....day of.....20 .... Before me,

Notary / Oath Commissioner

Deponent's signature

#### VERIFICATION

I, the Deponent hereinabove, do hereby verify and affirm that the contents of paragraph to of this affidavit are true and correct to my knowledge and belief and no material facts have been concealed therefrom.

Verified at.....on this.....day of.....201 .....

Deponent's signature

#### SCHEDULE FORM C PROOF OF CLAIM BY FINANCIAL CREDITORS

[Under Regulation 8 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016]  
[Date]

To

The Interim Resolution Professional / Resolution Professional,  
[Name of the Insolvency Resolution Professional / Resolution Professional]  
[Address as set out in public announcement]

From

[Name and address of the registered office and principal office of the financial creditor]

**Subject: Submission of proof of claim.**

Madam/Sir,

[Name of the financial creditor], hereby submits this proof of claim in respect of the corporate insolvency resolution process in the case of

[name of corporate debtor]. The details for the same are set out below:

PARTICULARS		
1.	NAME OF FINANCIAL CREDITOR	
2.	IDENTIFICATION NUMBER OF FINANCIAL CREDITOR (IF AN INCORPORATED BODY PROVIDE IDENTIFICATION NUMBER AND PROOF OF INCORPORATION. IF A PARTNERSHIP OR INDIVIDUAL PROVIDE IDENTIFICATION RECORDS* OF ALL THE PARTNERS OR THE INDIVIDUAL)	
3.	ADDRESS AND EMAIL ADDRESS OF FINANCIAL CREDITOR FOR CORRESPONDENCE.	
4.	TOTAL AMOUNT OF CLAIM INCLUDING ANY INTEREST AS AT THE INSOLVENCY COMMENCEMENT DATE)	
5.	DETAILS OF DOCUMENTS BY REFERENCE TO WHICH THE DEBT CAN BE SUBSTANTIATED	
6.	DETAILS OF HOW AND WHEN DEBT INCURRED	
7.	DETAILS OF ANY MUTUAL CREDIT, MUTUAL DEBTS, OR OTHER MUTUAL DEALINGS BETWEEN THE CORPORATE DEBTOR AND THE CREDITOR WHICH MAY BE SET-OFF AGAINST THE CLAIM	
8.	DETAILS OF ANY SECURITY HELD, THE VALUE OF THE SECURITY, AND THE DATE IT WAS GIVEN	
9.	DETAILS OF THE BANK ACCOUNT TO WHICH THE AMOUNT OF THE CLAIM OR ANY PART THEREOF CAN BE TRANSFERRED PURSUANT TO A RESOLUTION PLAN	
10.	LIST OF DOCUMENTS ATTACHED TO THIS PROOF OF CLAIM IN ORDER TO PROVE THE EXISTENCE AND NON-PAYMENT OF CLAIM DUE TO THE PERATIONALCREDITOR	

Signature of financial creditor or person authorised to act on his behalf

[Please enclose the authority if this is being submitted on behalf of an operational creditor]

Name in BLOCK LETTERS

Position with or in relation to creditor

Address of person signing

\*PAN number, passport, AADHAAR Card or the identity card issued by the Election Commission of India.

**AFFIDAVIT**

I,[name of deponent], currently residing at [insert address], do solemnly affirm and state as follows:

1. [Name of corporate debtor], the corporate debtor was, at the insolvency commencement date, being the.....day of.....20....., justly and truly indebted to me in the sum of Rs. [insert amount of claim].
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: [Please list the documents relied on as evidence of claim]
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief.
4. In respect of the said sum or any part thereof, I have not nor has any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim.]

Solemnly, affirmed at [insert place] on.....day, the..... day of .....20..... Before me,

Notary/Oath Commissioner

Deponent's signature

**VERIFICATION**

I, the Deponent hereinabove, do hereby verify and affirm that the contents of paragraph to of this affidavit are true and correct to my knowledge and belief and no material facts have been concealed therefrom.

Verified at.....on this.....day of .....20.....

Deponent's signature

**SCHEDULE FORM D**

**PROOF OF CLAIM BY A WORKMAN OR AN EMPLOYEE**

[Under Regulation 9 of the Insolvency and Bankruptcy (Insolvency Resolution Process for Corporate Persons) Regulations, 2016]

[Date]

To

The Interim Resolution Professional / Resolution Professional  
[Name of the Insolvency Resolution Professional / Resolution Professional]  
[Address as set out in public announcement]

From

[Name and address of the workman / employee]

**Subject: Submission of proof of claim.**

Madam/Sir,

[Name of the workman / employee], hereby submits this proof of claim in respect of the corporate insolvency resolution process in the case of [name of corporate debtor]. The details for the same are set out below:

PARTICULARS		
1.	NAME OF WORKMAN / EMPLOYEE	
2.	PAN NUMBER, PASSPORT, THE IDENTITY CARD ISSUED BY THE ELECTION COMMISSION OF INDIA OR AADHAAR CARD OF WORKMAN / EMPLOYEE	

3.	ADDRESS AND EMAIL ADDRESS (IF ANY) OF WORKMAN / EMPLOYEE FOR CORRESPONDENCE	
4.	TOTAL AMOUNT OF CLAIM (INCLUDING ANY INTEREST AS AT THE INSOLVENCY COMMENCEMENT DATE)	
5.	DETAILS OF DOCUMENTS BY REFERENCE TO WHICH THE CLAIM CAN BE SUBSTANTIATED.	
6.	DETAILS OF ANY DISPUTE AS WELL AS THE RECORD OF PENDENCY OR ORDER OF SUIT OR ARBITRATION PROCEEDINGS	
7.	DETAILS OF HOW AND WHEN CLAIM AROSE	
8.	DETAILS OF ANY MUTUAL CREDIT, MUTUAL DEBTS, OR OTHER MUTUAL DEALINGS BETWEEN THE CORPORATE DEBTOR AND THE CREDITOR WHICH MAY BE SET-OFF AGAINST THE CLAIM	
9.	DETAILS OF THE BANK ACCOUNT TO WHICH THE AMOUNT OF THE CLAIM OR ANY PART THEREOF CAN BE TRANSFERRED PURSUANT TO A RESOLUTION PLAN	
10.	LIST OF DOCUMENTS ATTACHED TO THIS PROOF OF CLAIM IN ORDER TO PROVE THE EXISTENCE AND NON-PAYMENT OF CLAIM DUE TO THE OPERATIONAL CREDITOR	

Signature of workman / employee or person authorised to act on his behalf

[Please enclose the authority if this is being submitted on behalf of an operational creditor]

Name in BLOCK LETTERS

Position with or in relation to creditor

Address of person signing

**AFFIDAVIT**

I, [name of deponent], currently residing at [insert address], do solemnly affirm and state as follows:

- [Name of corporate debtor], the corporate debtor was, at the insolvency commencement date, being the .....day of .....20....., justly and truly indebted to me in the sum of Rs. [insert amount of claim].
- In respect of my claim of the said sum or any part thereof, I

have relied on the documents specified below: [Please list the documents relied on as evidence of claim]

3. The said documents are true, valid and genuine to the best of my knowledge, information and belief.

4. In respect of the said sum or any part thereof, I have not nor has any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim.]

Solemnly, affirmed at [insert place] on .....day, the.....day of .....20....Before me,  
Notary/Oath Commissioner

Deponent's signature

**VERIFICATION**

I, the Deponent hereinabove, do hereby verify and affirm that the contents of paragraph to of this affidavit are true and correct to my knowledge and belief and no material facts have been concealed therefrom.

Verified at.....on this.....day of .....20.....

Deponent's signature

**SCHEDULE FORM E**

**PROOF OF CLAIM SUBMITTED BY AUTHORISED REPRESENTATIVE OF WORKMEN AND EMPLOYEES**

(Under Regulation 9 of the Insolvency and Bankruptcy (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

To  
The Interim Resolution Professional / Resolution Professional,  
[Name of the Insolvency Resolution Professional / Resolution Professional]  
[Address as set out in public announcement]  
From

[Name and address of the duly authorised representative of the workmen / employees]

**Subject:** Submission of proofs of claim.

[Date]

Madam/Sir,

I, [name of authorised representative of the workmen / employees], currently residing at [address of authorised representative of the workmen / employees], on behalf of the workmen and employees employed by the above named corporate debtor and listed in Annexure A, solemnly affirm and say:

- That the above named corporate debtor was, at the insolvency commencement date, being the..... day of .....20....., justly truly indebted to the several persons whose names, addresses, and descriptions appear in the Annexure A below in amounts severally set against their names in such Annexure A for wages, remuneration and other amounts due to them respectively as workmen or/ and employees in the employment of the corporate debtor in respect of services rendered by them respectively to the corporate

debtor during such periods as are set out against their respective names in the said Annexure A.

- That for which said sums or any part thereof, they have not, nor has any of them, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim.]

Deponent  
**ANNEXURE**

has any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim.]

Solemnly, affirmed at [insert place] on.....day, the.....day of.....20.... Before me,

Notary/Oath Commissioner

Deponent's signature

**VERIFICATION**

I, the Deponent hereinabove, do hereby verify and affirm that the contents of paragraph to of this affidavit are true and correct to my knowledge and belief and no material facts have been concealed therefrom. Verified at on this .....day of.....20.....

Deponent's signature

Dr. M. S. SAHOO,  
Chairperson

1. Details of Employees/Workmen

S. NO.	NAME OF EMPLOYEE/ WORKMAN	IDENTIFICATION NUMBER (PAN NUMBER, PASSPORT OR AADHAAR CARD)	TOTAL AMOUNT DUE (RS.)	PERIOD OVER WHICH AMOUNT DUE
1.				
2.				
3.				
4.				

- Particulars of how debt was incurred by the corporate debtor, including particulars of any dispute as well as the record of pendency of suit or arbitration proceedings (if any).
- Particulars of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim.

**ATTACHMENTS:**

- Documents relied as evidence as proof of debt and as proofs of non-payment of debt.
- Affidavit in the form set out in this Form E.

**AFFIDAVIT**

[PLEASE SUBMIT IF APPLICATION SUBMITTED BY AUTHORISED REPRESENTATIVE ON BEHALF OF WORKMEN / EMPLOYEES]

I, [name of deponent], currently residing at [insert address], do solemnly affirm and state as follows:

- [Name of corporate debtor], the corporate debtor was, at the insolvency commencement date, being the.....day of.....20..., justly and truly indebted to me in the sum of Rs. [insert amount of claim].
- In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: [Please list the documents relied on as evidence of claim]
- The said documents are true, valid and genuine to the best of my knowledge, information and belief.
- In respect of the said sum or any part thereof, I have not nor

# APPOINTMENT

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# 5

## NEWS FROM THE INSTITUTE & REGIONS



- MEMBERS ADMITTED/RESTORED
- CERTIFICATE OF PRACTICE ISSUED/CANCELLED
- LICENTIATE ICSI ADMITTED
- COMPANY SECRETARIES BENEVOLENT FUND
- LIST OF PRACTISING MEMBERS/COMPANIES REGISTERED FOR IMPARTING TRAINING
- REGIONAL NEWS



Training Programme  
on

**“The Sexual Harassment of Women at Workplace  
(Prevention, Prohibition and Redressal) Act, 2013”**

The Parliament enacted the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 to provide protection to Women against Sexual Harassment at workplace and for the prevention and redressal of complaints of Sexual Harassment and matters connected therewith or incidental thereto.

The ICSI, to promote good Governance, is also commemorating its efforts towards creating awareness on the critical aspects of provisions of the Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013. In furtherance to the efforts of the Institute to sensitize the participants on the subject and to understand the implementation level of the Act in various organizations, the Institute of Company Secretaries of India (ICSI) is organizing a full day training programme on the subject with the following tentative schedule:

**Date: Friday, 23rd December, 2016**

**Time : 09:30 AM to 04:00 PM**

**Venue : ICSI House, 22, Institutional Area, Lodi Road, New Delhi – 110 003**

*\* For updates, please visit [www.icsi.edu](http://www.icsi.edu)*

**Timings: 09:30 AM to 04:00 PM tentative**

**Four PCH would be awarded to members for attending the Training Programme**

**All are cordially invited to participate**

For Online Registration, please click the link mentioned below:

<https://www.icsi.in/student/DelegateRegistration/tabid/137/ctl/ViewEventDetails/mid/454/EventId/47/Default.aspx>

**Programme Schedule**

Day & Date : Friday, 23 December 2016,  
Venue : ICSI house, 22, Institutional Area, Lodi Road, New Delhi-110003

9:30AM - 10:00AM	<b>Registration</b>
10:00 AM - 11:30AM	<p><b>Introduction &amp; Background of Law</b></p> <ul style="list-style-type: none"> <li>- The Evolution of law</li> <li>- Salient features</li> <li>- Important definitions including sexual harassment</li> </ul> <p><b>Identifying Sexual Harassment</b></p> <ul style="list-style-type: none"> <li>- Types of Sexual harassment: Quid Pro Quo &amp; Hostile Work Environment</li> <li>- Unwelcome &amp; Intent v/s Impact</li> <li>- Sexual Harassment involving third parties &amp; varying authorities</li> </ul>
11:30AM - 11:45AM	<b>Tea Break</b>
11:45 AM - 1:00PM	<p><b>Recourse against Sexual harassment</b></p> <ul style="list-style-type: none"> <li>- Redressal options and procedure, rights of Aggrieved Women</li> <li>- Corresponding options and procedure, rights of Respondent</li> </ul>
1:00 PM - 2:00PM	<b>Lunch</b>

2:00 PM - 3:30PM	<p><b>Inquiry and Conciliation procedure</b></p> <ul style="list-style-type: none"> <li>- Conciliation</li> <li>- Inquiry process</li> <li>- Interim Relief</li> <li>- Monetary Compensation</li> <li>- Possible recommendations &amp; outcomes</li> </ul> <p><b>Judicial Precedence</b></p> <ul style="list-style-type: none"> <li>- Case Study</li> <li>- The law has been interpreted by several courts over the last 2 year.</li> </ul> <p>Discussion with regards to a few important judgments</p>
3:30 PM - 4:00PM	<p>Question &amp; Answer</p> <p>Networking Tea</p>

**Trainer : Mr. Vishal Kedia, Founder & Director, Complykaro Services Pvt. Ltd.**

**Registration Fee: -**  
Rs. 5000/- for a single delegate

**For Online Registration please click the link mentioned below:-**  
<https://www.icsi.in/student/DelegateRegistration/tabid/137/ctl/ViewEventDetails/mid/454/EventId/47/Default.aspx>



## Members Admitted

### FELLOWS\*

Sl. NO.	NAME	MEMB. NO.	REGN.
1	MRS. SAPNA KHANDLWAL	FCS - 8947	NIRC
2	MS. VARSHARANI RAJARAM KATRE	FCS - 8948	WIRC
3	MRS. RITIKA AGRAWAL	FCS - 8949	WIRC
4	SH. V GOPALAKRISHNA	FCS - 8950	SIRC
5	MS VEENA TUSHAR VAIDYA	FCS - 8951	WIRC
6	MR. PANKAJ KUMAR MITTAL	FCS - 8952	NIRC
7	MRS. SHIKHA GINORIA	FCS - 8953	NIRC
8	MS. PRACHI GARG	FCS - 8954	NIRC
9	MR. DHAWAL CHHAGANLAL GADDA	FCS - 8955	WIRC
10	MS. DEEPAAROP PRADEEP MITRA	FCS - 8956	WIRC
11	MS. AMRUTA ANIL BILGI	FCS - 8957	WIRC
12	MS. ANU NIJHARA	FCS - 8958	NIRC
13	MS. PRIYANKA SAXENA	FCS - 8959	NIRC
14	MR. SUKHWINDER SINGH	FCS - 8960	NIRC

### ASSOCIATES\*

Sl. NO.	NAME	MEMB. NO.	REGN.
1	MS. PUJA JHUNJHUNWALA	ACS - 47503	EIRC
2	MS. VINITA KABRA	ACS - 47504	EIRC
3	MR. GEORGE KUMAR DAS	ACS - 47505	EIRC
4	MS. SHRISTI GARG	ACS - 47506	EIRC
5	MS. NEHA AGARWAL	ACS - 47507	EIRC
6	MS. MADHURI JHAWAR	ACS - 47508	EIRC
7	MS. HENY PAHUJA	ACS - 47509	SIRC
8	MS. ARADHANA TIWARY	ACS - 47510	EIRC
9	MR. MADAN MOHAN MISHRA	ACS - 47511	EIRC
10	MS. SUSHMA PANWAR	ACS - 47512	NIRC
11	MR. NAMAN SETHI	ACS - 47513	NIRC
12	MS. JASMEET CHAWLA	ACS - 47514	NIRC
13	MS. SHIVANI SANGHI	ACS - 47515	NIRC
14	MS. DEEPIKA AGRAWAL	ACS - 47516	NIRC
15	MR. ABHISHEK PATHAK	ACS - 47517	NIRC
16	MR. VAIBHAV GARG	ACS - 47518	NIRC
17	MS. SHALINI SINGH	ACS - 47519	NIRC
18	MR. VARUN MEHRA	ACS - 47520	NIRC
19	MS. YUMA PANDEY	ACS - 47521	NIRC
20	MR. AMAN KUMAR VERMA	ACS - 47522	NIRC
21	MS. PRIYANKA MISHRA	ACS - 47523	NIRC
22	MR. UTKARSH DUBEY	ACS - 47524	NIRC
23	MS. ANNU GUPTA	ACS - 47525	NIRC
24	MS. KHUSHBOO CHAWLA	ACS - 47526	NIRC
25	MR. SHEKHAR SHARMA	ACS - 47527	NIRC

26	MS. GARIMA GIROTRA	ACS - 47528	NIRC
27	MR. AMANDEEP SINGH	ACS - 47529	NIRC
28	MR. RISHI SINGH DHAKAR	ACS - 47530	NIRC
29	MR. BALRAM PANDEY	ACS - 47531	NIRC
30	MR. RAJENDAR SINGH	ACS - 47532	NIRC
31	MS. PRACHI KHARE	ACS - 47533	NIRC
32	MS. KHWAISH KAMLANI	ACS - 47534	NIRC
33	MS. ADITI MEHTA	ACS - 47535	NIRC
34	MS. DEEPIKA BHARDWAJ	ACS - 47536	NIRC
35	MS. YUSRA FATIMA	ACS - 47537	NIRC
36	MR. RAJAT MISHRA	ACS - 47538	NIRC
37	MS. DEEPALI KAKKAR	ACS - 47539	NIRC
38	MR. ANUJ SHARMA	ACS - 47540	NIRC
39	MR. SEMANT JUNEJA	ACS - 47541	NIRC
40	MR. PARAMVIR RAJPUT	ACS - 47542	NIRC
41	MS. PARUL BANSAL	ACS - 47543	NIRC
42	MR. VIJAYA KUMAR CHOWTI SHIVANANDA	ACS - 47544	SIRC
43	MR. CHINI MALLIKARJUNA	ACS - 47545	SIRC
44	MS. AISHWARYA A	ACS - 47546	SIRC
45	MS. TIRANDASU GEETA	ACS - w47547	SIRC
46	MR. SUDARSHAN SHRIKANT GAWADE	ACS - 47548	WIRC
47	MS. TRUPTI LALJI PATEL	ACS - 47549	WIRC
48	MR. ALOK SURYAKANT DESAI	ACS - 47550	WIRC
49	MS. SHEETAL MANOHAR MUSALE	ACS - 47551	WIRC
50	MS. DARSHI SANJAY SANGANI	ACS - 47552	WIRC
51	MS. KOMAL KANAIYALAL TOLANI	ACS - 47553	WIRC
52	MS. HETI DHIMANTBHAI SHAH	ACS - 47554	WIRC
53	MR. NITIN SUDAM YADAV	ACS - 47555	WIRC
54	MR. SAMARLA SUMAN	ACS - 47556	SIRC
55	MR. SUMIT MADAN	ACS - 47557	NIRC
56	MS. AVANTIKA SHUKLA	ACS - 47558	NIRC
57	MR. AWANISH KUMAR	ACS - 47559	NIRC
58	MR. GITESH KUMAR PRASAD	ACS - 47560	EIRC
59	MS. CHANCHAL LUNIA	ACS - 47561	EIRC
60	MS. DIMPLE GAUR	ACS - 47562	NIRC
61	MR. KARTHIK B	ACS - 47563	SIRC
62	MR. CHETAN KUMAR A	ACS - 47564	SIRC
63	MR. NIKHILESH AGARWAL	ACS - 47565	SIRC
64	MR. BALA KRISHNA NUVVULA	ACS - 47566	SIRC
65	MR. SAMBAIAH	ACS - 47567	SIRC
66	MR. SRIDHAR O	ACS - 47568	SIRC
67	MS. ANUPAMA RADHAKRISHNAN	ACS - 47569	SIRC
68	MS. FARIDHA M	ACS - 47570	SIRC
69	MS. RUCHI BHANGADIA	ACS - 47571	SIRC
70	MR. BHAVINKUMAR ARVINDKUMAR PATEL	ACS - 47572	WIRC
71	MR. HARDIK HEMANT PAWAR	ACS - 47573	WIRC
72	MR. KULDIPSINH JAYENDRASINH ZALA	ACS - 47574	WIRC
73	MR. DWIREF LAXMIPRASAD VORA	ACS - 47575	WIRC
74	MS. POOJA NITYANAND MISHRA	ACS - 47576	WIRC
75	MS. TUNDIYA KINJAL NIRMALKUMAR	ACS - 47577	WIRC
76	MR. RAJU KEDAR PRASAD	ACS - 47578	WIRC
77	MR. KAMAL KIRIT KUMAR KHATRI	ACS - 47579	WIRC
78	MR. JAY BHAVESH PAREKH	ACS - 47580	WIRC
79	MS. RUTWA BHARATKUMAR SHAH	ACS - 47581	WIRC
80	MS. JENNY GHANSHAM CHHABADA	ACS - 47582	WIRC
81	MR. JIGAR KIRITBHAI GADESHA	ACS - 47583	WIRC
82	MR. VIRENDRA CHHATWANI	ACS - 47584	WIRC

\* ADMITTED DURING THE PERIOD FROM 20.10.2016 TO 19.11.2016

83	MS. PRERNA KAKKAR	ACS - 47585	NIRC	140	MR. VINEET GUPTA	ACS - 47642	NIRC
84	MR. SMIT HITEN SHAH	ACS - 47586	WIRC	141	MR. KAPIL KUMAR GUPTA	ACS - 47643	NIRC
85	MS. SAPNA JAGDISH TOLANI	ACS - 47587	WIRC	142	MS. NIDHI BHUTANI	ACS - 47644	NIRC
86	MR. DHRUVAL ALKESHBHAI PATEL	ACS - 47588	WIRC	143	MS. AAYUSHI MALANI	ACS - 47645	NIRC
87	MS. URVI HASMUKHBHAI KESARIYA	ACS - 47589	WIRC	144	MR. SOURABH BATRA	ACS - 47646	NIRC
88	MR. AVNEESH MISHRA	ACS - 47590	WIRC	145	MR. RAHUL KUMAR	ACS - 47647	NIRC
89	MS. NEHA DEVIDAS KOLAPKAR	ACS - 47591	WIRC	146	MR. GOURAV GOYAL	ACS - 47648	NIRC
90	MS. SNEHA ANANDKUMAR BHARATIA	ACS - 47592	WIRC	147	MS. PINKY KUMARI	ACS - 47649	NIRC
91	MS. HEENAL PRATAP THAKKAR	ACS - 47593	WIRC	148	MS. RITIKA WASSON	ACS - 47650	NIRC
92	MR. YASH PRASHANT KUMAR MEHTA	ACS - 47594	WIRC	149	MR. VED PRAKASH	ACS - 47651	NIRC
93	MS. KRISA RUPALKUMAR PATEL	ACS - 47595	WIRC	150	MS. NIKITA GOYAL	ACS - 47652	NIRC
94	MR. AHSAN ALI HUSSAIN AJANI	ACS - 47596	WIRC	151	MS. URMIL KAKKAR	ACS - 47653	NIRC
95	MS. PARUL DWIVEDI	ACS - 47597	WIRC	152	MR. SAMEER KANCHAN	ACS - 47654	WIRC
96	MS. RUCHI PAREKH	ACS - 47598	WIRC	153	MS. MEENAKSHI MOONDRA	ACS - 47655	NIRC
97	MR. ANIL AGARWAL	ACS - 47599	NIRC	154	MR. RAKESH KUMAR JANGIR	ACS - 47656	WIRC
98	MR. DILIP KUMAR	ACS - 47600	WIRC	155	MS. NEHA MAHENDRU	ACS - 47657	NIRC
99	MS. AMRUTA DESHPANDE	ACS - 47601	WIRC	156	MS. MANICA GUPTA	ACS - 47658	WIRC
100	MS. RAJVI VINODCHANDRA UPADHYAY	ACS - 47602	WIRC	157	MR. SAURABH TIWARI	ACS - 47659	NIRC
101	MS. MRUNMAYEE SANJEEV GADGIL	ACS - 47603	WIRC	158	MR. KARTIK SETHI	ACS - 47660	NIRC
102	MR. PARTH HARILAL JOSHI	ACS - 47604	WIRC	159	MR. PANKAJ NAVANI	ACS - 47661	NIRC
103	MS. GAURI B DIGHWA	ACS - 47605	WIRC	160	MR. ROHIT JAIN	ACS - 47662	NIRC
104	MS. SHRISHTI PANDEY	ACS - 47606	WIRC	161	MS. NISHA	ACS - 47663	NIRC
105	MR. RAJAN GHAI	ACS - 47607	NIRC	162	MS. BHAGYASHREE SADHWANI	ACS - 47664	NIRC
106	DR. CHIDAMBARA IYER J	ACS - 47608	SIRC	163	MS. DIPIKA JAIN	ACS - 47665	NIRC
107	MR. JUGAL KISHOR SHARMA	ACS - 47609	NIRC	164	MS. SHWETA GUPTA	ACS - 47666	NIRC
108	MS. KANIKA LADIA	ACS - 47610	SIRC	165	MS. ISHA JAISWAL	ACS - 47667	NIRC
109	MS. SAMRIDHI BHALLA	ACS - 47611	NIRC	166	MR. RAJAT KUMAR MITTAL	ACS - 47668	NIRC
110	MR. AMAN ARORA	ACS - 47612	NIRC	167	MR. SARATH SASIDHARA	ACS - 47669	SIRC
111	MS. SANJANA SURI	ACS - 47613	NIRC	168	MR. SIVA PRASAD GOPA KUMAR KUNNATH	ACS - 47670	SIRC
112	MS. K RAJALAKSHMI	ACS - 47614	SIRC	169	MR. ARJUN R	ACS - 47671	SIRC
113	MR. JAYAPRAKASH L	ACS - 47615	SIRC	170	MS. SREERAMYA DWARAM	ACS - 47672	SIRC
114	MS. RESHMA M C	ACS - 47616	SIRC	171	MR. VINOD KUMAR M	ACS - 47673	SIRC
115	MR. BHARAT NARANG	ACS - 47617	WIRC	172	MR. DEEPAK M	ACS - 47674	SIRC
116	MS. MONIKA GOYAL	ACS - 47618	WIRC	173	MR. MUHAMMED RIYAS A T	ACS - 47675	SIRC
117	MS. MAITRI DEEPAK BHATT	ACS - 47619	WIRC	174	MS. SUSRI MULUKALAPPELLY	ACS - 47676	SIRC
118	MR. HELI HITESHKUMAR MODI	ACS - 47620	WIRC	175	MR. SKANDAN P JAIN	ACS - 47677	SIRC
119	MR. SHIVAM BAGHEL	ACS - 47621	WIRC	176	MS. SUBASHREE M	ACS - 47678	SIRC
120	MR. RICHI MINESHBHAI SHAH	ACS - 47622	WIRC	177	MR. CHINMAY ASHOK HANUMANTE	ACS - 47679	WIRC
121	MR. JAGADISH PRASAD DAS	ACS - 47623	EIRC	178	MS. REKHA DINESH JAISWAL	ACS - 47680	WIRC
122	MR. JITIN WASAN	ACS - 47624	NIRC	179	MR. MAYANK VERMA	ACS - 47681	WIRC
123	MR. PRATAP KUMAR DASH	ACS - 47625	SIRC	180	MS. NIKITA JAIN	ACS - 47682	WIRC
124	MS. SIMPI BORAH	ACS - 47626	EIRC	181	MS. PAYAL ASHOKBHAI DODIA	ACS - 47683	WIRC
125	MR. PRIYANGSHU SARMA	ACS - 47627	EIRC	182	MR. ANKUR SEN	ACS - 47684	WIRC
126	MS. SWETA AGARWAL	ACS - 47628	EIRC	183	MR. SUMIT KUMAR JAYANTIBHAI PATEL	ACS - 47685	WIRC
127	MR. AMAR KUMAR	ACS - 47629	NIRC	184	MR. RAHIM BABU SHAIKH	ACS - 47686	WIRC
128	MS. NITU GUPTA	ACS - 47630	SIRC	185	MR. RAJPUT MEHUL GANESH	ACS - 47687	WIRC
129	MS. SOMALI TIWARI	ACS - 47631	EIRC	186	MR. YOGESH RAGHAVBHAI MUDSHA	ACS - 47688	WIRC
130	MS. SAREEKA JAIN	ACS - 47632	EIRC	187	MS. RICHA GUPTA	ACS - 47689	WIRC
131	MS. SANCHITA AGARWAL	ACS - 47633	EIRC	188	MS. AANAL BHARATBHAI PATEL	ACS - 47690	WIRC
132	MS. SEJAL TEJAWAT	ACS - 47634	EIRC	189	MS. PRIYANKA RAJESH PANJWANI	ACS - 47691	WIRC
133	MS. A TRISHA	ACS - 47635	EIRC	190	MS. SHRADDHA SUNIL SAINKAR	ACS - 47692	WIRC
134	MS. ASHA AGARWAL	ACS - 47636	EIRC	191	MR. NIRMAL CHAITANYA PANCHAL	ACS - 47693	WIRC
135	MR. PARTH ARYA	ACS - 47637	NIRC	192	MS. POOJA MANOHAR DEVLEKAR	ACS - 47694	WIRC
136	MS. GARIMA MALIK	ACS - 47638	NIRC	193	MS. SONAM GOYAL	ACS - 47695	WIRC
137	MS. ALPNA GALGAT	ACS - 47639	SIRC	194	MS. ANITA VASANT PAGARE	ACS - 47696	WIRC
138	MS. MANSI	ACS - 47640	NIRC	195	MR. ANEESH PARWANI	ACS - 47697	WIRC
139	MS. POOJA CHOTANI	ACS - 47641	NIRC	196	MS. PAYAL SINGH	ACS - 47698	NIRC

197	MS. RASHMI DILIP BHALEROO	ACS - 47699	WIRC	254	MS. GAZAL AGRAWAL	ACS - 47756	EIRC
198	MR. HARDIK HASMUKHLAL DARJI	ACS - 47700	WIRC	255	MS. SUHASI BANTHIA	ACS - 47757	EIRC
199	MR. HINALKUMAR VISHNUBHAI PATEL	ACS - 47701	WIRC	256	MS. SNIGDHA TRIPATHI	ACS - 47758	EIRC
200	MS. KOMAL SURESHKUMAR SHRIMANKAR	ACS - 47702	WIRC	257	MS. MONIKA AGARWAL	ACS - 47759	EIRC
201	MS. RINKUBEN AMRUTABHAI PATEL	ACS - 47703	WIRC	258	MR. PRADEEP KUMAR SAHOO	ACS - 47760	EIRC
202	MR. DHARMIK RIPINBHAI SOLANKI	ACS - 47704	WIRC	259	MS. JAYA SINGH	ACS - 47761	EIRC
203	MS. MEENAL KEEJA	ACS - 47705	WIRC	260	MS. PRITHA BOSE	ACS - 47762	EIRC
204	MS. VARTALI RAKESH MEHTA	ACS - 47706	WIRC	261	MR. SANJIT BHAGAT	ACS - 47763	EIRC
205	MS. AYUSHI HEMENDRA SHAH	ACS - 47707	WIRC	262	MS. PRITI PANDEY	ACS - 47764	EIRC
206	MR. MAHATAV KUMAR	ACS - 47708	NIRC	263	MS. FRENNY PAREKH	ACS - 47765	EIRC
207	MS. MUKTI SURAVI PATRA	ACS - 47709	SIRC	264	MS. SUMAN GUPTA	ACS - 47766	EIRC
208	MR. NISHANT KUMAR SWAMI	ACS - 47710	NIRC	265	MS. DIPPON SEN	ACS - 47767	EIRC
209	MS. LEENA CHITTI	ACS - 47711	WIRC	266	MS. SHIKHA RAI	ACS - 47768	EIRC
210	MR. VARGHESE THOMAS	ACS - 47712	SIRC	267	MS. PAYAL MITTAL	ACS - 47769	EIRC
211	MS. SNEHA BAJAJ	ACS - 47713	EIRC	268	MR. MOHAMMAD MENAUDDIN	ACS - 47770	EIRC
212	MS. NEHA GUPTA	ACS - 47714	NIRC	269	MS. SONU AGARWAL	ACS - 47771	EIRC
213	MS. BARKHA JAIN	ACS - 47715	NIRC	270	MR. A MANISH KUMAR	ACS - 47772	EIRC
214	MS. NISHA GULWANI	ACS - 47716	NIRC	271	MR. NISHIT RANJAN	ACS - 47773	EIRC
215	MS. SHIVANGI SINGHAL	ACS - 47717	NIRC	272	MS. NIKITA SUREKA	ACS - 47774	EIRC
216	MR. SANJAY YADAV	ACS - 47718	NIRC	273	MS. GINNI LOHARIWALA	ACS - 47775	EIRC
217	MR. MOHIT WILKINSON	ACS - 47719	NIRC	274	MR. NAVEEN MISHRA	ACS - 47776	NIRC
218	MS. PUSHPANJALI ARORA	ACS - 47720	NIRC	275	MS. RITI GARG	ACS - 47777	NIRC
219	MR. ABDUL QUADIR	ACS - 47721	NIRC	276	MS. CHETNA AGARWAL	ACS - 47778	NIRC
220	MS. PRIYANKA JAIN	ACS - 47722	NIRC	277	MS. PALLAVI SHARMA	ACS - 47779	NIRC
221	MR. ADITYA JAIN	ACS - 47723	NIRC	278	MS. MEGHA CHADHA	ACS - 47780	NIRC
222	MS. MOHINI SINGHAL	ACS - 47724	NIRC	279	MR. SIMRAN SINGH	ACS - 47781	NIRC
223	MS. PURNIMA CHOPRA	ACS - 47725	NIRC	280	MR. SANCHIT MATHUR	ACS - 47782	NIRC
224	MS. JYOTI	ACS - 47726	NIRC	281	MS. SHILPA SHARMA	ACS - 47783	WIRC
225	MR. ANKUR PATWA	ACS - 47727	NIRC	282	MS. MEENAKSHI KAUSHIK	ACS - 47784	NIRC
226	MR. TANUJ KUMAR SAXENA	ACS - 47728	NIRC	283	MS. PRITI SHARMA	ACS - 47785	NIRC
227	MS. NEHA DOSI	ACS - 47729	NIRC	284	MR. SANTU MUKHERJEE	ACS - 47786	NIRC
228	MS. MAMTA JAIN	ACS - 47730	NIRC	285	MR. MANDEEP SINGH	ACS - 47787	NIRC
229	MS. MONICA NANDA	ACS - 47731	NIRC	286	MS. NEHA SHARMA	ACS - 47788	NIRC
230	MS. AKSHITA SETH	ACS - 47732	NIRC	287	MS. KANIKA AGARWAL	ACS - 47789	NIRC
231	MR. KHILESH BHATIA	ACS - 47733	NIRC	288	MS. BHANUPRIYA SHARDA	ACS - 47790	NIRC
232	MR. MANAN JOSHI	ACS - 47734	NIRC	289	MR. TARUN CHAKARWARTY	ACS - 47791	NIRC
233	MR. ANKIT JAIN	ACS - 47735	NIRC	290	MS. NEELAM VATS	ACS - 47792	NIRC
234	MS. AKANKSHA RAKESH KUMAR GUPTA	ACS - 47736	NIRC	291	MS. MANISHA GOSWAMI	ACS - 47793	NIRC
235	MR. RAGHAVENDRA LAXMINARAYANA BHAT	ACS - 47737	SIRC	292	MS. YAMINI JAIN	ACS - 47794	NIRC
236	MR. SUBHRANSU SEKHAR SAHOO	ACS - 47738	EIRC	293	MS. PRIYANKA WALIA	ACS - 47795	NIRC
237	MR. VIPIN HARIKISANJI ZANWAR	ACS - 47739	WIRC	294	MR. MANISH KUMAR	ACS - 47796	NIRC
238	MS. ANITA NAGAR	ACS - 47740	NIRC	295	MS. MEGHA BISHT	ACS - 47797	NIRC
239	MR. RAHUL DNYANESHWAR DAHAPUTE	ACS - 47741	WIRC	296	MR. MOHD SHARIQ	ACS - 47798	NIRC
240	MR. GAUS ISMAIL KAMIRKAR	ACS - 47742	WIRC	297	MS. SHIPRA SONI	ACS - 47799	NIRC
241	MR. MAYANK AGRAWAL	ACS - 47743	WIRC	298	MS. JAYATI GROVER	ACS - 47800	NIRC
242	MR. SANDIP SUMTILAL CHORDIYA	ACS - 47744	WIRC	299	MS. MANJU JANGID	ACS - 47801	NIRC
243	MR. NISARG NILESH SHAH	ACS - 47745	WIRC	300	MS. NANDANI BHARDWAJ	ACS - 47802	NIRC
244	MS. NISHA KIRAN SHARMA	ACS - 47746	WIRC	301	MS. APOORVA SRIVASTAVA	ACS - 47803	NIRC
245	MS. SHRADDHA BANKESHBHAI SHAH	ACS - 47747	WIRC	302	MS. EKTA RAWAT	ACS - 47804	NIRC
246	MS. BISHAKHA DEVI JALAN	ACS - 47748	EIRC	303	MS. KIRAN PANDEY	ACS - 47805	NIRC
247	MS. SHIVANI THAKRAL	ACS - 47749	NIRC	304	MR. UDIT DUA	ACS - 47806	NIRC
248	MR. RAJA P	ACS - 47750	SIRC	305	MR. SIDDHARTHA SRIVASTAVA	ACS - 47807	NIRC
249	MR. KAPIL SINGLA	ACS - 47751	SIRC	306	MS. SAKSHI PHERWANI	ACS - 47808	NIRC
250	MR. HIMANSHU SHARMA	ACS - 47752	NIRC	307	MR. AKHILESH KUMAR	ACS - 47809	NIRC
251	MR. BALJIT SINGH	ACS - 47753	NIRC	308	MS. DEEPIKA BANSAL	ACS - 47810	NIRC
252	MS. NEETU SHUKLA	ACS - 47754	NIRC	309	MS. PRIYA MALHOTRA	ACS - 47811	NIRC
253	MS. ANKITA SAXENA	ACS - 47755	EIRC	310	MS. ANKITA PANDEY	ACS - 47812	NIRC

311	MS. MUKTA DEBNATH	ACS - 47813	NIRC	368	MS. AYUSHI JAIN	ACS - 47870	NIRC
312	MS. HEMLATA SHARMA	ACS - 47814	NIRC	369	MS. SHIVANI SHARMA	ACS - 47871	NIRC
313	MR. ATUL KRISHNA PANDEY	ACS - 47815	NIRC	370	MS. NISHA KHATTAR	ACS - 47872	NIRC
314	MS. SWETA SHARMA	ACS - 47816	NIRC	371	MS. RICHA GOYAL	ACS - 47873	NIRC
315	MR. PARTH SHARMA	ACS - 47817	NIRC	372	MR. SHUBHAM SHUKLA	ACS - 47874	NIRC
316	MS. YASHIKA AGRAWAL	ACS - 47818	NIRC	373	MR. VINEET KUMAR	ACS - 47875	NIRC
317	MR. ARPIT LODHA	ACS - 47819	NIRC	374	MS. MANISHA YADAV	ACS - 47876	NIRC
318	MR. HITESH JAIN	ACS - 47820	NIRC	375	MS. BHAGYASHREE VASWANI	ACS - 47877	NIRC
319	MR. VIKAS AGRAWAL	ACS - 47821	NIRC	376	MR. YASPAL SINGH	ACS - 47878	NIRC
320	MR. PRATUL AGRAWAL	ACS - 47822	NIRC	377	MS. PRIYANKA	ACS - 47879	NIRC
321	MS. BHAVNA SETH	ACS - 47823	NIRC	378	MR. U BHARAT KURUP	ACS - 47880	SIRC
322	MR. AMIT VERMA	ACS - 47824	NIRC	379	MR. N SIVARAM	ACS - 47881	SIRC
323	MS. NAMRATA VASHISTHA	ACS - 47825	NIRC	380	MR. BETHI REDDY TATA REDDY	ACS - 47882	SIRC
324	MS. SWETA RAJPUT	ACS - 47826	NIRC	381	MR. SHAIKH AMAR HUSSAIN	ACS - 47883	SIRC
325	MS. SWATI CHOUDHARY	ACS - 47827	NIRC	382	MR. KIRAN M KRISHNAN	ACS - 47884	SIRC
326	MR. SIDDHARTH AGGARWAL	ACS - 47828	NIRC	383	MS. PRADEEPTHI SUNKU	ACS - 47885	SIRC
327	MS. SURUCHI AGARWAL	ACS - 47829	NIRC	384	MR. RAMKUMAR JAGANNATHAN	ACS - 47886	SIRC
328	MR. NARAYAN DUTT TIWARI	ACS - 47830	NIRC	385	MS. ISHA M EKLASPUR	ACS - 47887	SIRC
329	MS. TANYA GROVER	ACS - 47831	NIRC	386	MR. MAMILAPALLI RAVINDRA	ACS - 47888	SIRC
330	MS. ANVI PARAKH	ACS - 47832	WIRC	387	MS. AMREEN GULNAAZ	ACS - 47889	SIRC
331	MS. SWATI JAIN	ACS - 47833	NIRC	388	MR. RAVI B S G	ACS - 47890	SIRC
332	MS. SHITAL YADAV	ACS - 47834	NIRC	389	MR. JOFIN JOHN	ACS - 47891	SIRC
333	MR. ANKUR SHARMA	ACS - 47835	NIRC	390	MS. M NEEHARIKA	ACS - 47892	SIRC
334	MS. PURVA DWIVEDI	ACS - 47836	NIRC	391	MR. S VENKATESH	ACS - 47893	SIRC
335	MR. MILAN SINGH SHEKHAWAT	ACS - 47837	NIRC	392	MR. SHRIDHAR	ACS - 47894	SIRC
336	MR. KARAN GULATI	ACS - 47838	NIRC	393	MR. R PRAMOD KUMAR	ACS - 47895	SIRC
337	MR. RAHUL SINGH	ACS - 47839	NIRC	394	MR. ILLA NAVEEN SEKHAR	ACS - 47896	SIRC
338	MS. AMANPREET KAUR	ACS - 47840	NIRC	395	MR. DHEERAJ TIWARI	ACS - 47897	EIRC
339	MR. YOGESH MATHUR	ACS - 47841	NIRC	396	MR. VENKATA NARESH G	ACS - 47898	SIRC
340	MR. ABHISHEK	ACS - 47842	NIRC	397	MR. HARISH	ACS - 47899	NIRC
341	MR. ANUBHHAV RAIZADA	ACS - 47843	NIRC	398	MR. R CHANDRA SEKHAR	ACS - 47900	SIRC
342	MR. MANISH SHARMA	ACS - 47844	NIRC	399	MR. PRASADA RAO KALLURI	ACS - 47901	SIRC
343	MS. SWINKEY	ACS - 47845	NIRC	400	MR. NIHARIKA V	ACS - 47902	SIRC
344	MR. ASHUTOSH SHARMA	ACS - 47846	NIRC	401	MS. NUTIKA JAIN	ACS - 47903	SIRC
345	MR. PRINCE MALHOTRA	ACS - 47847	NIRC	402	MS. ARPITHA A PATTAR	ACS - 47904	SIRC
346	MR. ARJUN SHARMA	ACS - 47848	NIRC	403	MS. MANISHA GAJANAN JAWALE	ACS - 47905	SIRC
347	MS. NAMARTA VASHISHT	ACS - 47849	NIRC	404	MS. HARSHINI M	ACS - 47906	SIRC
348	MS. SONIA TANDON	ACS - 47850	NIRC	405	MS. SNEKHA S	ACS - 47907	SIRC
349	MR. AKARSHIT KAPOOR	ACS - 47851	NIRC	406	MS. GAYATHRI S	ACS - 47908	SIRC
350	MR. DEEPAK SINGH	ACS - 47852	NIRC	407	MS. RAMYA INALA	ACS - 47909	SIRC
351	MS. SHWETA GUPTA	ACS - 47853	NIRC	408	MS. KALPANA M	ACS - 47910	SIRC
352	MR. ANKIT SHARMA	ACS - 47854	NIRC	409	MS. SOUMYA SAHOO	ACS - 47911	SIRC
353	MS. RADHA SHARMA	ACS - 47855	NIRC	410	MS. NIRMALA LAKSHMI V	ACS - 47912	SIRC
354	MS. DEEKSHA VERMA	ACS - 47856	NIRC	411	MR. MOHAMMED GOUS CHANDPASSHA SHAIKH	ACS - 47913	WIRC
355	MR. ASHU SACHDEVA	ACS - 47857	NIRC	412	MR. YOGENDRA OMPRAKASH SHARMA	ACS - 47914	WIRC
356	MS. RADHIKA AGGARWAL	ACS - 47858	NIRC	413	MS. KAVITA ARUN BACHATE	ACS - 47915	WIRC
357	MR. VISHWAS JAIN	ACS - 47859	NIRC	414	MR. PRAVIN MAHADEV PANHALKAR	ACS - 47916	WIRC
358	MS. BHANU PRIYA BAJAJ	ACS - 47860	NIRC	415	MR. PARAG ACHYUTKUMAR BHATT	ACS - 47917	WIRC
359	MS. SAKSHI PASRICHA	ACS - 47861	NIRC	416	MR. REKHA RAJARAM DHEKALE	ACS - 47918	WIRC
360	MS. GUNJAN PANDEY	ACS - 47862	NIRC	417	MS. SUJATA KORVI	ACS - 47919	WIRC
361	MS. DAMINI JAIN	ACS - 47863	NIRC	418	MR. ROHITKUMAR VIKAS PINGALE	ACS - 47920	WIRC
362	MS. NEHA ARVIND	ACS - 47864	NIRC	419	MR. SWAROOP PRAKASH KALE	ACS - 47921	WIRC
363	MS. SHWETA JETHWANI	ACS - 47865	NIRC	420	MS. BHAKTI HEMANT SHUKLA	ACS - 47922	WIRC
364	MS. CHANCHAL GAUR	ACS - 47866	NIRC	421	MR. ROHIT TEKCHAND JHAMNANI	ACS - 47923	WIRC
365	MS. NIKITA MARWAH	ACS - 47867	NIRC	422	MS. NIDHI NITINKUMAR SHAH	ACS - 47924	WIRC
366	MS. ANUBHA	ACS - 47868	NIRC	423	MR. SHANTANU DATTATRAYA JAGTAP	ACS - 47925	WIRC
367	MS. CHANDNI K MOOLCHANDANI	ACS - 47869	NIRC	424	MS. PRIYANKA SENGAR	ACS - 47926	WIRC

425	MS. NEHA AVINASH MARATHE	ACS - 47927	WIRC	482	MS. ANKITA GUPTA	ACS - 47984	WIRC
426	MR. VAIBHAV KANTILAL DODIA	ACS - 47928	WIRC	483	MR. AMAN RAI	ACS - 47985	WIRC
427	MS. MAHAJAN ANITA SRIKANT	ACS - 47929	WIRC	484	MR. DARSHIL ANIL HIRANANDANI	ACS - 47986	WIRC
428	MR. JAYDEV BHARATBHAI SHUKLA	ACS - 47930	WIRC	485	MS. DHARA PARIN PATEL	ACS - 47987	WIRC
429	MS. PRIYANKA HARSUKHBHAI GOHEL	ACS - 47931	WIRC	486	MS. SAKSHI MEHTA	ACS - 47988	WIRC
430	MS. SNEHAL RAJGOPAL HEDA	ACS - 47932	WIRC	487	MS. PHALAK MAMTA HIRAMAN	ACS - 47989	WIRC
431	MR. RAVI GUPTA	ACS - 47933	WIRC	488	MR. AMAN JAYESH DESAI	ACS - 47990	WIRC
432	MR. ANKIT MITTAL	ACS - 47934	WIRC	489	MS. NIKITA MUKESH BARBHAYA	ACS - 47991	WIRC
433	MR. NARENDRA KUMAR GUPTA	ACS - 47935	WIRC	490	MS. PRITI NITYANANDA ROY	ACS - 47992	WIRC
434	MS. MEETALI UMESH MISTRY	ACS - 47936	WIRC	491	MS. NUPUR SURESH BHATTAD	ACS - 47993	WIRC
435	MR. HEMIL MUKESH KUMAR SHAH	ACS - 47937	WIRC	492	MR. TANMAY PRASHANTKUMAR MEHTA	ACS - 47994	WIRC
436	MR. VIJAY RAMCHANDRA ALIMKAR	ACS - 47938	WIRC	493	MS. DEVIKA SINGH	ACS - 47995	WIRC
437	MR. PARTH MUKESH MEHTA	ACS - 47939	WIRC	494	MS. SHALAKA CHOUDHARY	ACS - 47996	WIRC
438	MR. SANDEEP AWDHESH DUBEY	ACS - 47940	WIRC	495	MR. RONAK JAYESHBHAI DHRUVE	ACS - 47997	WIRC
439	MR. MOHAMMAD NADEEM	ACS - 47941	WIRC	496	MR. ROHAN SUBHASH ANAND	ACS - 47998	WIRC
440	MR. ANIKET AMRUT KARMALI	ACS - 47942	WIRC	497	MS. DRASHTI PRAGNESH SURTI	ACS - 47999	WIRC
441	MS. RASNA RAGHU PATEL	ACS - 47943	WIRC	498	MS. ARCHANA KANYALAL GOPLANI	ACS - 48000	WIRC
442	MR. CHETAN RAMNIKBHAI PUMBHADIYA	ACS - 47944	WIRC	499	MR. KRUNAL HIRALAL JAIN	ACS - 48001	WIRC
443	MR. VINOD KUMAR SHARMA	ACS - 47945	WIRC	500	MR. BHAVIN NILESH PANDYA	ACS - 48002	WIRC
444	MR. DASHANG MANHARLAL KHATRI	ACS - 47946	WIRC	501	MS. KAJAL SHAM HANDE	ACS - 48003	WIRC
445	MS. YASHODHARA ULHAS AGASHE	ACS - 47947	WIRC	502	MR. SUNIL KHATRI	ACS - 48004	NIRC
446	MS. BHAIRAVI ANIL KULKARNI	ACS - 47948	WIRC	503	MR. CHANDRA SEKHAR TUMULA	ACS - 48005	SIRC
447	MR. GANESH MITTHULAL GARKATE	ACS - 47949	WIRC	504	MR. E V VIJAYAPHANI PRATAP	ACS - 48006	SIRC
448	MS. KASHISH VIJAYVARGIYA	ACS - 47950	WIRC	505	MR. BINEESH KUMAR P S	ACS - 48007	SIRC
449	MR. NILESH CHANDRAKANT PARKAR	ACS - 47951	WIRC	506	MR. KETAN KISHOR SHEVDE	ACS - 48008	WIRC
450	MS. SURBHI LALIT BOHARA	ACS - 47952	WIRC	507	MR. MEDAM CHOWDA REDDY	ACS - 48009	SIRC
451	MR. NILESH BHAGWAT TAYADE	ACS - 47953	WIRC	508	MR. SRIRAM POLAMRAJU	ACS - 48010	SIRC
452	MR. JAYESH LAXMAN BHAWASAR	ACS - 47954	WIRC	509	MR. PRATIK ROHIT TOPRANI	ACS - 48011	WIRC
453	MR. VISMAY KIRTANKUMAR SHAH	ACS - 47955	WIRC	510	MR. MILIND SURYAKANT RAO	ACS - 48012	WIRC
454	MS. TANVIKA NAVIN RAICHANA	ACS - 47956	WIRC	511	MS. ANJU BANSAL	ACS - 48013	NIRC
455	MS. ANKITA KIRITBHAI POPAT	ACS - 47957	WIRC	512	MR. SUMIT KUMAR BHATTACHARJEE	ACS - 48014	EIRC
456	MR. GANESH SAMPAT BHANDURE	ACS - 47958	WIRC	513	MR. ANJANI KUMAR SUREKA	ACS - 48015	EIRC
457	MS. PREETI ROHIT BHALA	ACS - 47959	WIRC	514	MR. ANKURKUMAR DINESHCHANDRA GANDHI	ACS - 48016	WIRC
458	MR. JEETENDRA ROCHIRAM KESWANI	ACS - 47960	WIRC	515	MS. KRISHNABEN JAYASHBHAI PAREKH	ACS - 48017	WIRC
459	MR. DEVESH SURESHBHAI JOSHI	ACS - 47961	WIRC	516	MR. HASMUKH BHUDARBHAI PRAJAPATI	ACS - 48018	WIRC
460	MS. THAKKAR HIMALI MAHESHKUMAR	ACS - 47962	WIRC	517	MS. POOJA CHAUHAN	ACS - 48019	WIRC
461	MR. VINOD KANUBHAI RANA	ACS - 47963	WIRC	518	MS. PAYAL VIG	ACS - 48020	NIRC
462	MS. SUCHETA RAGHUVENDRA CHATURVEDI	ACS - 47964	WIRC	519	MR. NITISH KUMAR	ACS - 48021	EIRC
463	MR. NITESH ARUNRAO UMATE	ACS - 47965	WIRC	520	MS. ANU SIDANA	ACS - 48022	NIRC
464	MS. KARISHMA NARAYAN MAKHIJA	ACS - 47966	WIRC	521	MS. RASHMI	ACS - 48023	NIRC
465	MR. NIRANJAN KUMAR	ACS - 47967	WIRC	522	MR. DEEPAK ASWANI	ACS - 48024	NIRC
466	MR. SOMESHCHANDRA SHEKHAR KALE	ACS - 47968	WIRC	523	MR. SOURABH SHARMA	ACS - 48025	NIRC
467	MS. CHEMMEEN ANSHUMALI RUPAREL	ACS - 47969	WIRC	524	MR. SATPREET SINGH	ACS - 48026	NIRC
468	MS. RANDEEP KAUR PURI	ACS - 47970	WIRC	525	MS. SIDDHI ANAND	ACS - 48027	NIRC
469	MS. SONAM RAGHUVANSHI	ACS - 47971	WIRC	526	MR. CHETAN KUMAR	ACS - 48028	NIRC
470	MS. AKANKSHA RAI	ACS - 47972	WIRC	527	MR. MUSTI V S A M KRISHNA	ACS - 48029	SIRC
471	MR. PARIN NAYAN KUMAR SHAH	ACS - 47973	WIRC	528	MR. T VENKATESHULU TALURI	ACS - 48030	SIRC
472	MR. JAGDISH SHAMJIBHAI KANZARIYA	ACS - 47974	WIRC	529	MS. RATIKA RAJKUMAR BATHAM	ACS - 48031	WIRC
473	MS. ANJALI SURESHCHAND KHABANI	ACS - 47975	WIRC	530	MS. YOGINI MILIND GOKHALE	ACS - 48032	WIRC
474	MS. MADHUR DAYARAM MITTAL	ACS - 47976	WIRC	531	MR. SHIVDARSHAN ANNARAO MORKHANDE	ACS - 48033	WIRC
475	MS. LATA PARMANAND BHATT	ACS - 47977	WIRC	532	MS. MONA MODY	ACS - 48034	WIRC
476	MR. TOSHIK HITENDRA SHAH	ACS - 47978	WIRC	533	MR. BHAVESH SHAMJI CHHEDA	ACS - 48035	WIRC
477	MS. MANPREET KAUR HORA	ACS - 47979	WIRC	534	MR. ARJAV HIRENBHAI TRIVEDI	ACS - 48036	WIRC
478	MS. SEJAL MOTI BHAI KANABI	ACS - 47980	WIRC	535	MS. NISHA KAMLESH MEGHRAJANI	ACS - 48037	WIRC
479	MS. SHAH NIHARIKA RAJESHBHAI	ACS - 47981	WIRC	536	MS. PURVI NARENDRA SHAH	ACS - 48038	WIRC
480	MS. SURABHI TANTED	ACS - 47982	WIRC	537	MR. RADHAKANTA DAS	ACS - 48039	EIRC
481	MS. SHWETA BHAMARE	ACS - 47983	WIRC	538	MR. ABHIJIT ROY	ACS - 48040	EIRC

539	MS. NEHA GUPTA	ACS - 48041	EIRC	596	MS. MEENAL ANIL DABHADE	ACS - 48098	WIRC
540	MR. MANOJ RAWNIAR	ACS - 48042	EIRC	597	MR. PINAK SHASHIKANT SONI	ACS - 48099	WIRC
541	MS. PAYAL AGARWAL	ACS - 48043	EIRC	598	MR. VATSALYA SHARMA	ACS - 48100	WIRC
542	MS. NEHA GUPTA	ACS - 48044	EIRC	599	MS. PRERNA JAIN	ACS - 48101	WIRC
543	MS. RACHITA MURARKA	ACS - 48045	EIRC	600	MR. DHRUMIL SUDHIRBHAI KOTHARI	ACS - 48102	WIRC
544	MS. PAMMY JAISWAL	ACS - 48046	EIRC	601	MR. CHETAN BHARAT KHALADKAR	ACS - 48103	WIRC
545	MR. HITESH KAKANI	ACS - 48047	NIRC	602	MR. PRATHAMESH RAMCHANDRA PENDHARKAR	ACS - 48104	WIRC
546	MR. DEVENDRA SINGH	ACS - 48048	NIRC	603	MR. NIKUNJ VASANTBHAI PATEL	ACS - 48105	WIRC
547	MS. RITIKA AHUJA	ACS - 48049	NIRC	604	MS. KOMAL RAMKISHOR SHARMA	ACS - 48106	WIRC
548	MS. JYOTI ARYA	ACS - 48050	NIRC	605	MS. HIRAL KANUBHAI GEDIYA	ACS - 48107	WIRC
549	MR. SANDEEP SOMANI	ACS - 48051	NIRC	606	MS. POOJA PANKAJBHAI SEJPAL	ACS - 48108	WIRC
550	MR. ASHUTOSH SHARMA	ACS - 48052	NIRC	607	MR. SONESH JAIN	ACS - 48109	WIRC
551	MS. NEHA JAIN	ACS - 48053	NIRC	608	MR. TEJUS RAMCHANDRA PITHADIYA	ACS - 48110	WIRC
552	MR. HARPREET SINGH	ACS - 48054	NIRC	609	MS. RAMYA NAIR	ACS - 48111	WIRC
553	MS. GURMEET KAUR	ACS - 48055	NIRC	610	MS. SHUBHIKA MODI	ACS - 48112	WIRC
554	MS. MANILA MEHTA	ACS - 48056	NIRC	611	MS. SUJATA GIRIDHAR PARAB	ACS - 48113	WIRC
555	MR. BHAVESH AGAL	ACS - 48057	NIRC	612	MS. AVANI MANOJ MAKWANA	ACS - 48114	WIRC
556	MR. RANJEET SINGH	ACS - 48058	NIRC	613	MR. KIRIT KANTILAL DHAROD	ACS - 48115	WIRC
557	MS. ASHA	ACS - 48059	NIRC	614	MS. TARLEEN SURINDERPALSINGH ANAND	ACS - 48116	WIRC
558	MS. ISHA MAINI	ACS - 48060	NIRC	615	MS. JINAL AJAYBHAI MEHTA	ACS - 48117	WIRC
559	MS. RITIKA PANDEY	ACS - 48061	NIRC	616	MR. BHUPENDRA KUMAR GUPTA	ACS - 48118	WIRC
560	MS. AARTI	ACS - 48062	NIRC	617	MS. RADHIKA VIMAL TIBREWALA	ACS - 48119	WIRC
561	MR. SONU LOHAR	ACS - 48063	NIRC	618	MS. SHEFALI BHARAT THAKKAR	ACS - 48120	WIRC
562	MR. PRAVESH CHHATANI	ACS - 48064	NIRC	619	MS. ZIL JITENDRA BHAVSAR	ACS - 48121	WIRC
563	MS. CHESTA EXPERTO	ACS - 48065	NIRC	620	MS. FORAM BHUPENDRABHAI PARMAR	ACS - 48122	WIRC
564	MS. MADHURI MATTA	ACS - 48066	NIRC	621	MR. AKASH GANESH ANCHAN	ACS - 48123	WIRC
565	MR. ANKIT RAWAL	ACS - 48067	NIRC	622	MS. SHREYA MILANKUMAR SHAH	ACS - 48124	WIRC
566	MR. MAHESH KUMAR PANDEY	ACS - 48068	NIRC	623	MR. SHIVAM PRAKASHBHAI BHATT	ACS - 48125	WIRC
567	MR. NISTHA SRIVASTAVA	ACS - 48069	NIRC	624	MS. SHREYA RAJENDRABHAI THAKKAR	ACS - 48126	WIRC
568	MR. MRIGANK SINGH	ACS - 48070	NIRC	625	MR. RATHORE JAIOM NARENDRA	ACS - 48127	WIRC
569	MS. REKHA GUPTA	ACS - 48071	NIRC	626	MS. PRIYA PRAGNESH SHAH	ACS - 48128	WIRC
570	MR. SHIKHAR CHITRANSH	ACS - 48072	NIRC	627	MS. SHILPI KAMLESHBHAI SHETHWALA	ACS - 48129	WIRC
571	MS. SHILPI	ACS - 48073	NIRC	628	MR. P VIVIN MALLY	ACS - 48130	EIRC
572	MR. SORAV AHUJA	ACS - 48074	NIRC	629	MR. BHUSHAN KISHOR JOSHI	ACS - 48131	WIRC
573	MS. PARIDHI AGARWAL	ACS - 48075	NIRC	630	MR. KEWAL KUNTI ANAND	ACS - 48132	NIRC
574	MS. SHEFALI N MEHTA	ACS - 48076	SIRC	631	MR. VIPIN KUMAR KATIYAR	ACS - 48133	NIRC
575	MS. PRIYANKA BALDEWA	ACS - 48077	SIRC	632	MR. LOKHANDE SAGAR SHRINATH	ACS - 48134	WIRC
576	MS. ANUSHA RAO SURABHI	ACS - 48078	SIRC	633	MR. PARESH DEVIDAS DESHPANDE	ACS - 48135	WIRC
577	MR. BALAJI B	ACS - 48079	SIRC	634	MS. DURGA	ACS - 48136	NIRC
578	MR. A VISHWAK	ACS - 48080	SIRC	635	MR. SAGARKUMAR NATVARLAL TAILOR	ACS - 48137	WIRC
579	MR. JAYESH S	ACS - 48081	SIRC	636	MS. NIKITA LODHA	ACS - 48138	EIRC
580	MS. SIREESHA PRAKHYA	ACS - 48082	SIRC	637	MS. KALPANA RAWAT	ACS - 48139	EIRC
581	MR. K VAMSIKRISHNA	ACS - 48083	SIRC	638	MS. REKHA JINDAL	ACS - 48140	NIRC
582	MR. N MEHER PRASAD	ACS - 48084	SIRC	639	MR. ARJUN BANSAL	ACS - 48141	NIRC
583	MR. BALAKRISHNAN A P	ACS - 48085	SIRC	640	MR. ARUN KUMAR	ACS - 48142	NIRC
584	MS. ANJU KUMARI	ACS - 48086	NIRC	641	MS. DIVYA AGRAWAL	ACS - 48143	NIRC
585	MR. MANMOHAN SHARMA	ACS - 48087	SIRC	642	MS. PRIYA GUPTA	ACS - 48144	NIRC
586	MS. SRIJA S	ACS - 48088	SIRC	643	MR. NARENDRA DEVNATH OJHA	ACS - 48145	NIRC
587	MS. PRIYANKA AGARWAL	ACS - 48089	SIRC	644	MR. CHINMAY MAYANK KUMAR METHIWALA	ACS - 48146	WIRC
588	MR. YOGESH KANKANI	ACS - 48090	SIRC	645	MR. VINIT VIRAG DESHMUKH	ACS - 48147	WIRC
589	MS. JEEGESHA JAGDISH DOSHI	ACS - 48091	WIRC	646	MS. ANAMIKA GUPTA	ACS - 48148	WIRC
590	MS. PRACHI UMESH SHAH	ACS - 48092	WIRC	647	MR. AMEY SURESH NAIK	ACS - 48149	NIRC
591	MS. SHEETAL AMIT MARATHE	ACS - 48093	WIRC	648	MR. MANEESH VERMA	ACS - 48150	NIRC
592	MR. MANISH KUMAR JAIN	ACS - 48094	WIRC	649	MR. ABHILASH DAS	ACS - 48151	EIRC
593	MS. HIRAL BHUPENDERA KUMAR SHAH	ACS - 48095	WIRC	650	MS. BARSHA DIKSHIT	ACS - 48152	EIRC
594	MS. BHAGYASHREE SUBHASH DESHMUKH	ACS - 48096	WIRC	651	MS. SNEHA AGARWAL	ACS - 48153	EIRC
595	MS. ASHEEBA PEREIRA	ACS - 48097	WIRC	652	MS. MADHURI PANDEY	ACS - 48154	EIRC



653	MS. BARSHA AGARWAL	ACS - 48155	EIRC
654	MS. CHAHAT DHAWAN	ACS - 48156	NIRC
655	MR. ADITYA SHROTRIYA	ACS - 48157	NIRC
656	MS. GEETA RANI GUPTA	ACS - 48158	SIRC
657	MR. ROHIT CHOPRA	ACS - 48159	NIRC
658	MS. BEENA RANI	ACS - 48160	NIRC
659	MR. RAVI TRIPATHI	ACS - 48161	NIRC
660	MR. GANESH PARSAD	ACS - 48162	NIRC
661	MR. CHANDER SHEKHAR	ACS - 48163	NIRC
662	MS. SHWETA SHARMA	ACS - 48164	NIRC
663	MS. DOLLY SHARMA	ACS - 48165	NIRC
664	MS. BHAWNA SRIVASTAVA	ACS - 48166	NIRC
665	MS. KHUSHBOO JAISWAL	ACS - 48167	EIRC
666	MS. KOMAL	ACS - 48168	NIRC
667	MS. SHIVANI ARYA	ACS - 48169	NIRC
668	MR. GAURAV MATHUR	ACS - 48170	NIRC
669	MS. NEHA ANUJ	ACS - 48171	NIRC
670	MS. RENU PANDEY	ACS - 48172	NIRC
671	MS. SWEETY CHAUHAN	ACS - 48173	NIRC
672	MS. SAKSHI BANGAR	ACS - 48174	NIRC
673	MR. AKHIL GUPTA	ACS - 48175	NIRC
674	MR. GURUPRASADA BHAT	ACS - 48176	SIRC
675	MR. SANTOSH SANGANNA SHADADAL	ACS - 48177	SIRC
676	MR. PRAVEEN M	ACS - 48178	SIRC
677	MR. SHANKAR MALAGI	ACS - 48179	SIRC
678	MS. NETHRA J	ACS - 48180	SIRC
679	MS. GARIMA TIWARI	ACS - 48181	WIRC
680	MS. PRITI BHANDARI	ACS - 48182	WIRC
681	MR. LEKHPAL	ACS - 48183	WIRC
682	MS. SHRUTI SUBHASH NILEKANI	ACS - 48184	WIRC
683	MR. MANISH TARACHAND PANDE	ACS - 48185	WIRC
684	MS. MAMTA KABRA	ACS - 48186	WIRC
685	MR. TEJAS PRAKASH WADKE	ACS - 48187	WIRC
686	MS. ANITA SHRIKANT DONGRE	ACS - 48188	WIRC
687	MS. KIRTI ARJUN BHARTIYA	ACS - 48189	WIRC
688	MS. GARGI NATH	ACS - 48190	WIRC
689	MS. KAJAL VISHNUKUMAR MEWADA	ACS - 48191	WIRC
690	MS. ANUESHKA VILAS PAVASKAR	ACS - 48192	WIRC
691	MR. VARUN SURENDRAKUMAR AGRAWAL	ACS - 48193	WIRC
692	MS. PARITA DAVE	ACS - 48194	WIRC
693	MR. NITIN PATIDAR	ACS - 48195	WIRC
694	MS. PAYAL ANIL MALHOTRA	ACS - 48196	WIRC
695	MS. MITALI RAJENDRA SHAH	ACS - 48197	WIRC
696	MS. ANKITA AJIT BHATIA	ACS - 48198	WIRC
697	MS. NIKITA PRAKASH BHATIA	ACS - 48199	WIRC
698	MS. POONAM VILAS KADAM	ACS - 48200	WIRC
699	MS. RUTU PANKAJBHAI SHAH	ACS - 48201	WIRC
700	MS. KALYANI RAMESH RASANE	ACS - 48202	WIRC
701	MS. DIMPLE AMRIT PARMAR	ACS - 48203	WIRC
702	MS. CHARMI NARSHI VASANI	ACS - 48204	WIRC
703	MS. NIDHI BIPIN POPAT	ACS - 48205	WIRC
704	MS. VINITA BANSILAL BHOJWANI	ACS - 48206	WIRC
705	MS. MANALI RAJENDRAKUMAR KOTHARI	ACS - 48207	WIRC
706	MS. KUMARILEKHA SHARMA SHIVDHANIBHAI	ACS - 48208	WIRC
707	MR. MUSINAM NAGARAJU	ACS - 48209	SIRC
708	MR. VENKATESH P C	ACS - 48210	SIRC
709	MR. SANJEEV KUMAR	ACS - 48211	NIRC

710	MS. LAKSHMI ELESWARAPU	ACS - 48212	SIRC
711	MR. ABHISHEK KUMAR	ACS - 48213	NIRC
712	MS. SHAMAL ANANT MAHAPADI	ACS - 48214	WIRC
713	MR. AJAY MISHRA	ACS - 48215	EIRC
714	MR. AMIT CHAKRABORTY	ACS - 48216	EIRC
715	MS. RADHIKA RAMESH	ACS - 48217	SIRC
716	MS. MADHU ASHOKKUMAR KOTWANI	ACS - 48218	WIRC
717	MS. RADHIKA DAVE	ACS - 48219	WIRC

**RESTORED\***

S. NO.	A/F	MEM. NO.	MEM. NAME	PLACE
1	A	19438	APARNA DATTATRYA KARMASE	WIRC
2	A	36112	PRIYANKA AGARWAL	EIRC
3	A	9125	A PAZHANI RAJU	SIRC
4	F	2168	K SUNDARASATAGOPAN	SIRC
5	A	17549	JYOTI KABRA	SIRC
6	A	17143	AJIT RAMAMURTHY VARANASI	WIRC
7	A	10354	YASHPAL	WIRC
8	A	6616	NATARAJAN SUBBARAMAN	SIRC
9	A	8357	SANJAI MAHESHWARI	NIRC
10	A	16104	ARVIND KUMAR	NIRC
11	A	12603	S. RAMESH	SIRC
12	A	33888	DEEPKUMAR VINITCHANDRA AGRAWAL	WIRC
13	A	5043	R B KABRA	NIRC
14	A	15567	SANJAY KHATTRY	WIRC
15	F	1147	KUMAR D KAPASI	WIRC
16	A	600	R SUBRAMANIAN	SIRC
17	A	20119	RACHNA AGARWAL	NIRC
18	A	5325	DEOKINANDAN DEORA	WIRC
19	A	7145	S V RAJA VAIDYANATHAN	SIRC
20	A	23261	KARTHIK KRISHNAN	SIRC
21	A	11291	JAYAPRAKASH M PAI	SIRC
22	A	31506	RADHIKA YOGESH KABADE	WIRC
23	F	4669	SHARAT CHANDRA ROONGTA	WIRC
24	A	13720	I SREEDEVI	SIRC
25	A	16266	ANUMEHA SONI	NIRC
26	A	10199	MOHAMMAD SALIM	NIRC
27	A	28089	MANGALA SACHIN SAVLA	WIRC
28	A	6194	SUDHIR MAHESHWARI	EIRC
29	F	2582	ANAND SWARUP VARMA	WIRC
30	A	21714	SANTOSH KUMAR MISHRA	NIRC

**CERTIFICATE OF PRACTICE****ISSUED\***

SI. NO.	NAME	MEMBNO	REGN.	COP NO.
1	SH. UMESHKUMAR VASANTRAY BHATT	FCS - 8961	WIRC	17308
2	MS. MANALI SHIRISHBHAI SHAH	ACS - 32329	SIRC	17309
3	MR. SONDIP GOSWAMI	ACS - 32710	EIRC	17310
4	MS. VISHAKHA TANWAR	ACS - 40517	NIRC	17311
5	MR. DHANANJAY JITESH PANDEY	ACS - 45587	NIRC	17312
6	MR. ROHIT JAGDISH ASRANI	ACS - 46540	WIRC	17313
7	MS. DISHA MAHESHWARI	ACS - 46783	NIRC	17314
8	MR. RUTESH KISHORBHAI CHOKSI	ACS - 47196	WIRC	17315

\*RESTORED FROM 01.10.2016 TO 31.10.2016  
\*ISSUED DURING THE MONTH OF OCTOBER, 2016

9	MR. MURALEEDARAN GAURAV NAYAK	ACS - 47202	SIRC	17316	66	MS. KAMINI KUMAWAT	ACS - 43230	NIRC	17373
10	MS. PRAMESH RAJKUMAR PANWAR	ACS - 47227	NIRC	17317	67	MS. ANJALI AILAWADHI	ACS - 43350	NIRC	17374
11	MR. ROHAN ANAND VATS	ACS - 27735	EIRC	17318	68	MS. POOJA DATTA	ACS - 43697	EIRC	17375
12	SH. B P BHARGAWA	FCS - 3410	WIRC	17319	69	MS. DEEPIKA	ACS - 43934	SIRC	17376
13	MS. ASTHA BARANAWAL	ACS - 38506	NIRC	17320	70	MR. VISHAL THAWANI	ACS - 43938	WIRC	17377
14	MS. ANISA SUHENA	ACS - 44042	SIRC	17321	71	MR. GAURAV AGGARWAL	ACS - 43997	NIRC	17378
15	MS. NEHA SOMANI	ACS - 44522	EIRC	17322	72	MR. CHAITANYA CHANDRASHEKHAR KULKARNI	ACS - 44189	WIRC	17379
16	MRS. ANJANA SHOMIK GHOSAL	ACS - 46066	EIRC	17323	73	MS. SAKSHI RAJPUT	ACS - 44290	NIRC	17380
17	MS. RITIKA GOEL	ACS - 47130	NIRC	17324	74	MS. DIPIKA DILIP KOTHARI	ACS - 44596	WIRC	17381
18	SH. MOHANRAO PONNAGANTI	FCS - 4643	SIRC	17325	75	MS. SUKRITI MANNA	ACS - 45394	NIRC	17382
19	MS. KANCHAN ANIRUDHA LIMAYE	ACS - 28790	WIRC	17326	76	MR. PRITESH KUMAR PRIYADARESEE	ACS - 46024	NIRC	17383
20	MS. PALLAVI GUPTA	ACS - 36646	NIRC	17327	77	MR. ASHISH KUMAR	ACS - 47263	NIRC	17384
21	MR. VIPIN MAHENDRA KUMAR TIWARI	ACS - 40765	WIRC	17328	78	MR. HARSH SEHRAWAT	ACS - 46337	NIRC	17385
22	MR. JATINDER KUMAR	ACS - 44082	NIRC	17329	79	MR. MITHAIWALA RAHUL SURENDRABHAI	ACS - 46686	WIRC	17386
23	MS. RAJNI SHARMA	ACS - 47139	NIRC	17330	80	MS. POOJA SONI	ACS - 46766	NIRC	17387
24	MS. NIDHI ARORA	ACS - 47238	NIRC	17331	81	MR. SACHIN HUKUMCHAND SHARMA	ACS - 46900	WIRC	17388
25	SH. LALIT NARAYAN SINGH	ACS - 16623	NIRC	17332	82	MR. ARUN KUMAR	ACS - 46918	NIRC	17389
26	MS. SRIKANTA PUGALIA	ACS - 43471	EIRC	17333	83	MR. SPARSH MAHESH GUPTA	ACS - 46986	WIRC	17390
27	MS. ANUBHA MAHESHWARI	ACS - 45361	NIRC	17334	84	MR. ABHISHEK AGARWAL	ACS - 47316	EIRC	17391
28	MR. ASHWINDER SINGH	ACS - 46111	NIRC	17335	85	MS. AKANSHA SINGHAL	ACS - 47333	NIRC	17392
29	MR. RAHUL SHARMA	ACS - 46122	NIRC	17336	86	MS. PALANISAMY SATHYASUNDARI	ACS - 47341	SIRC	17393
30	MR. PRATEEK NAHATA	ACS - 47009	NIRC	17337	87	MR. BATCHU KALYAN	ACS - 47378	SIRC	17394
31	MS. PALLAVI KETAN THAKUR	ACS - 47246	WIRC	17338	88	MR. DHRUV BHARATBHAI PATEL	ACS - 47383	WIRC	17395
32	MR. THIRUVALLUVAN THULASIRAMAN	ACS - 47284	SIRC	17339	89	MR. KAMLESH YADAV	ACS - 47395	WIRC	17396
33	SH. DILIPKUMAR CHUNILAL SHAH	ACS - 2678	WIRC	17340	90	MS. RIDDHI GOVIND KHANEJA	ACS - 35651	WIRC	17397
34	SH. PRASHANT S MEHTA	ACS - 5814	WIRC	17341	91	MR. NANDKUMAR DADASO PATIL	ACS - 34904	WIRC	17398
35	MS. K S SUNITHA	ACS - 15358	SIRC	17342	92	MRS. SHIFA BADRI	FCS - 7965	NIRC	17399
36	MS. RIDDHI BADIYANI	ACS - 28686	WIRC	17343	93	MR. SUNIL MULCHANDANI	ACS - 36327	WIRC	17400
37	MS. PINKY DINESH SHETHIA	ACS - 29237	WIRC	17344	94	MS. AARTI MAHENDRA KUMAR JAIN	ACS - 37004	WIRC	17401
38	MS. ADITI BANSAL	ACS - 30121	NIRC	17345	95	MS. HEENA PUKHRAJ JAIN	ACS - 40005	WIRC	17402
39	MS. SHRUTIKA KHANNA	ACS - 31229	NIRC	17346	96	MR. SHASHI KANT RANJAN	ACS - 44636	NIRC	17403
40	MR. SINGH SANDEEPAKUMAR AWADESH	ACS - 36352	WIRC	17347	97	MS. NEHA SHARMA	ACS - 44854	NIRC	17404
41	MR. SHOBHIT KUMAR KUSHWAHA	ACS - 46660	NIRC	17348	98	MS. JYOTI VINODKUMAR AGARWAL	ACS - 46386	WIRC	17405
42	MS. POONAM SHARMA	ACS - 38633	WIRC	17349	99	MS. RENU JAIN	ACS - 46454	NIRC	17406
43	MS. TANIKA BHARGAVA	ACS - 38112	NIRC	17350	100	MS. NEHA GOYAL	ACS - 46898	NIRC	17407
44	MR. VIJAY KUMAR	ACS - 40118	NIRC	17351	101	MS. ANJALI GOYAL	ACS - 47220	NIRC	17408
45	MS. GEETHIKA J	ACS - 42996	SIRC	17352	102	MR. AYUSH GUPTA	ACS - 47453	NIRC	17409
46	MR. JOBIN JOSE	ACS - 43406	SIRC	17353	103	SH. VINOD KUMAR RUNGTA	FCS - 417	EIRC	17410
47	MR. JATIN LAKHISARANI	ACS - 44996	WIRC	17354	104	MR. HEMANT SHARMA	ACS - 42264	EIRC	17411
48	MS. SHIVANI DHASMANA	ACS - 45445	NIRC	17355	105	MS. POONAM MOHTA	FCS - 8877	NIRC	17412
49	MS. MISHIKA CHHABRA	ACS - 46214	WIRC	17356	106	SH. YOGESH KUMAR CHOUHAN	ACS - 18669	NIRC	17413
50	MR. AVINASH RAJU V	ACS - 46429	EIRC	17357	107	MR. MANISH MADHUKAR RAJVAIDYA	ACS - 29168	WIRC	17414
51	MS. SHAH KAJAL DILIPKUMAR	ACS - 39934	WIRC	17358	108	MR. SANJAY KISHOR DINGARE	ACS - 28541	WIRC	17415
52	MS. SWATI JAGATI	ACS - 47034	WIRC	17359	109	MS. DEEPA BISHT	ACS - 31179	NIRC	17416
53	MR. SUMAN KUMAR MISHRA	ACS - 47065	EIRC	17360	110	MS. RADHIKA YOGESH KABADE	ACS - 31506	WIRC	17417
54	MR. DILIP KUMAR CHOUDHARY	ACS - 47140	NIRC	17361	111	MS. AAREFA OANALI DUDHWALA	ACS - 37110	WIRC	17418
55	MR. KARUPPIAH BUVALENDHAN	ACS - 47306	SIRC	17362	112	MS. NIDHI BAGLIKAR	ACS - 40094	WIRC	17419
56	MR. DAYASHANKAR	ACS - 47307	EIRC	17363	113	MR. ANANDKUMAR CHAINSUKH KASAT	ACS - 42078	SIRC	17420
57	MS. ROOPA SIDDAPPA	ACS - 27844	SIRC	17364	114	MS. BHAVYA SHARMA	ACS - 44168	NIRC	17421
58	MS. GURDEEP SALUJA	ACS - 24396	NIRC	17365	115	MS. DIVYA JAIN	ACS - 44985	WIRC	17422
59	MS. USHA GANAPATHY SUBRAMANIAN	ACS - 26293	SIRC	17366	116	MS. SHIRIN KAUR KOHLI	ACS - 45132	NIRC	17423
60	MS. PINKY	ACS - 32150	NIRC	17367	117	MR. PARTH PIYUSH SHARMA	ACS - 47480	WIRC	17424
61	MS. KANIKA CHHABRA	ACS - 34996	NIRC	17368	118	MS. SNEHA AGARWAL	ACS - 45611	EIRC	17425
62	MS. NIDHI KHANDELWAL	ACS - 37896	SIRC	17369	119	MS. NIDHI AGARWAL	ACS - 46078	EIRC	17426
63	MS. PRIYANKA KOTHARI	ACS - 39879	NIRC	17370	120	MS. ARPITA NAND KUMAR JALNAWALA	ACS - 46258	WIRC	17427
64	MS. NEHA GUPTA	ACS - 42016	EIRC	17371	121	MS. AAYUSHI AGRAWAL	ACS - 46297	SIRC	17428
65	MR. RAMESH A	ACS - 42943	SIRC	17372	122	MS. RAMA SHARMA	ACS - 46463	NIRC	17429
					123	MS. KAMIYA	ACS - 46500	NIRC	17430

124	MS. MONIKA RATHORE	ACS - 46925	WIRC	17431
125	MR. VICKY JAIN	ACS - 47194	WIRC	17432
126	MR. SHAILESH KUMAR JAIN	ACS - 47424	WIRC	17433
127	MS. HIMANI KAMALKUMAR TRIPATHI	ACS - 47477	WIRC	17434
128	MR. VIHANG PHALGOON DESAI	ACS - 47479	WIRC	17435
129	MR. PANKAJ YADAV	ACS - 47262	NIRC	17436
130	MR. VIKAS JAIN	ACS - 45532	WIRC	17437
131	MS. MEGHNA JHAWAR	ACS - 27200	NIRC	17438
132	MR. RAJESH BADAMI	ACS - 30389	SIRC	17439
133	MS. THIRUMAGAL A	ACS - 39422	SIRC	17440
134	MS. SEJALBEN GIRISHBHAJ SONI	ACS - 47193	WIRC	17441
135	MS. NIDHI SHARMA	ACS - 25505	NIRC	17442
136	MR. VIKAS SHARMA	ACS - 27430	NIRC	17443
137	MR. SAURABH PANDE	ACS - 37698	NIRC	17444
138	MS. RADHIKA MEENAKAR	ACS - 39528	NIRC	17445
139	MS. RICHA AGARWAL	ACS - 47418	EIRC	17446
140	MS. SHRISTI GARG	ACS - 47506	EIRC	17447
141	MR. VAIBHAV GARG	ACS - 47518	NIRC	17448
142	MR. NITIN SUDAM YADAV	ACS - 47555	WIRC	17449
143	MR. KULDIPSINH JAYENDRASINH ZALA	ACS - 47574	WIRC	17450
144	MR. ANIL AGARWAL	ACS - 47599	NIRC	17451

**CANCELLED\***

SL. No	NAME	MEMB. NO.	COP NO	REGN.
1	MS. IYAPPAN KANNAN	ACS 40603	16226	SIRC
2	MR. M ASISH	FCS 7146	8241	SIRC
3	MR. PAWAN SHARMA	FCS 5641	5127	NIRC
4	MR. NEERAJ PURI	ACS 45591	16657	NIRC
5	MS. NEELAM KUMARI JAIN	ACS 44887	17234	WIRC
6	MR. ROHIT SUDARSHAN KASAT	ACS 41612	15928	WIRC
7	MS. RAMANDEEP KAUR	ACS 35850	15376	WIRC
8	MS. REENA ANEJA	FCS 6688	13712	NIRC
9	MS. ANJALI GROVER	FCS 5349	13675	NIRC
10	MR. ANSHUMAN BARUAH	ACS 30632	11282	EIRC
11	MR. UNNIKRISHNAN VENUGOPALAN	FCS 8129	9095	SIRC
12	MR. ADWAIT SANJAY WALUNKAR	ACS 22918	8341	WIRC
13	MS. ANKITA BAHETY	ACS 42177	17146	SIRC
14	MR. SANJEEV NAHATA	ACS 17374	8309	EIRC
15	MS. SHALINI VIJAY KUMAR KOTA	ACS 42656	15774	WIRC
16	MS. YUKTI MORE	ACS 36427	15809	WIRC
17	MS. MEGHNA SURESH MISTRY	ACS 43683	16100	WIRC
18	MR. KULDEEP KUMAR DANGI	FCS 1701	4310	NIRC

**LICENTIATE ICSI****ADMITTED#**

S. NO.	LICENTIATE NO.	NAME	REGION
1	6885	MR. DEEPAK N	SIRC
2	6886	MS. DEEKSHA JANIANI	NIRC
3	6887	MR. YASH SUNIL KABRA	WIRC
4	6888	MS. AVANTIKA SARDA	SIRC
5	6889	MR. VISHAL MALHOTRA	EIRC
6	6890	MS. PRANEETHA KOTRA	WIRC
7	6891	MR. ANKIT KUMAR JAIN	WIRC
8	6892	MS. SUSOVITA TRIPATHY	EIRC
9	6893	MS. KAVYAA G	SIRC

\*CANCELLED DURING THE MONTH OF OCTOBER, 2016

#ADMITTED DURING THE MONTH OF OCTOBER, 2016

**ATTENTION MEMBERS**

**From 1st January, 2017, Financial Assistance from CSBF increases from Rs. 5 lakh to Rs.7.5 lakh; subscription increases from Rs.7500 to Rs. 10000. Enrol Quickly, on or before 31st December, 2016 !!**

Effective from 1st January, 2017, the quantum of financial assistance to the dependent(s) of the life members of CSBF has been increased from Rs. 5 lakh to Rs. 7.5 lakh in the unfortunate death of a life member (upto the age of 60 years).

In case of unfortunate death of a life member of CSBF (above the age of 60 years), the quantum of financial assistance has also been increased from Rs. 2 lakh to Rs. 3 lakh, payable to the dependent spouse only (in deserving cases).

Effective from 1st January, 2017, one-time subscription to the CSBF will be Rs. 10000.

Members of the Institute who are yet to become a life member of CSBF may avail opportunity to subscribe to CSBF by making a one-time online/offline payment of Rs. 7,500 by 31st December, 2016.

The subscription / contribution to CSBF qualify for deduction under Section 80G of the Income Tax Act, 1961.

For further information, members can write at email id: saurabh.bansal@icsi.edu or contact on Telephone: 011-45341088.

**ATTENTION MEMBERS**

The Institute has brought out a CD containing List of Members of the Institute as on 1st April, 2016. The CDs are available at the headquarters of the Institute for a cost of Rs. 250/- for members and Rs. 500/- for non-members. Request along with the payment may please be sent to the Membership section at email id rajeshwar.singh@icsi.edu.

For queries if any, please contact on telephone no: 011-45341063.

## ANNUAL MEMBERSHIP FEE

### Revision in the Annual Membership fee, Entrance Fee and Certificate of Practice fee for Associate and Fellow Members w.e.f. 1st April, 2017

The Council of the Institute has decided revision in Annual Membership fee, Entrance fee and Certificate of Practice fee for Associate and Fellow Members w.e.f. 1st April, 2017, as under:

Particulars	Associate		Fellow	
	Existing fee	Revised fee	Existing fee	Revised fee
Annual Membership fee	Rs. 1125	Rs. 2500	Rs. 1500	Rs. 3000
Entrance fee	Rs. 1500	Rs. 2000	Rs. 1000	Rs. 2000
Certificate of Practice fee	Rs. 1000	Rs. 2000	Rs. 1000	Rs. 2000

**The existing facility for payment of fee in advance/concessional fee shall remain in vogue for the revised fee structure.**

## ATTENTION MEMBERS

### Revolving Fund Schemes for becoming life members of CSBF

The Managing Committee of Company Secretaries Benevolent Fund (CSBF) has launched the following schemes for enrolling the members of the Institute as life members of the CSBF. The members may take benefit out of these schemes.

#### Employer's Revolving Fund Scheme for their employees:

Under this scheme, the Companies, Practising Company Secretaries (PCS) and other organizations where the members of the Institute are working may create a Revolving Fund, to provide financial assistance out of this fund to their employee(s) by paying his/her one time subscription amount (Rs.7500/-) to CSBF to enable them to become life member of the CSBF. This amount so disbursed as financial assistance to the member may be deducted from the monthly salary of the member employee in instalments or as per the mutually agreed terms between the employer and the employees. The employer companies, PCS and other organizations will be given proper recognition by CSBF and their names will be hosted at the webpage of CSBF as well as published in the Chartered Secretary journal.

#### General Revolving Fund Scheme for the Members of the Institute :

This scheme will be administered by the Individual Members ("Contributory Member") of the Institute to enable the eligible members ("Beneficiary Member") of the Institute to become members of CSBF. The financial assistance will be provided at the discretion of the contributory member but in no case it should be more than 80% of the one-time subscription amount (Rs.7500/-) to be paid by the beneficiary member for becoming a Life member of CSBF. Members having less than five years standing as an Associate member shall only be eligible for this scheme. The financial assistance so provided by the Individual Members will be refunded in instalments as per the terms and conditions mutually agreed between them. The Contributory Members will be given proper recognition by CSBF and their names will be hosted at the webpage of CSBF as well as published in the Chartered Secretary journal.

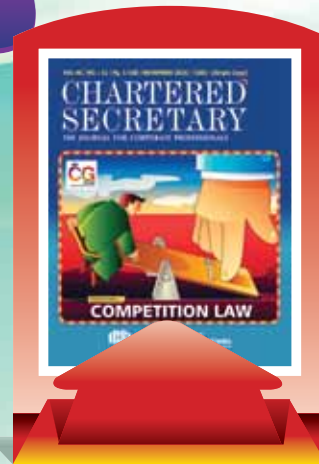
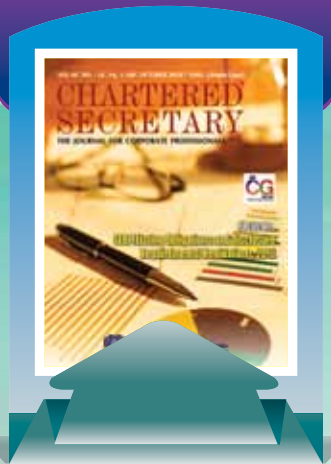
#### Revolving Fund Scheme administered by CSBF:

Under this scheme any company, individual (member or non-member) or entity may contribute any amount towards the Revolving Fund Scheme to be administered by the CSBF. The CSBF will administer this revolving fund scheme for the new members of the Institute to enable them to become member of the CSBF. Members having less than five years standing as an Associate shall only be eligible for this scheme. This scheme shall be administered out of the contributions received by the CSBF specifically for this scheme only and earmarked for the scheme: "CSBF Membership Assistance Fund". Beneficiary Members shall have to contribute at least 20% of the one-time subscription amount to be paid by them for becoming a Life-member of CSBF. They shall refund the amount to the Fund in not more than four quarterly instalments by way of Post dated cheques within a period of one year. Amount refunded by the beneficiaries would be credited to the CSBF. Beneficiary Members shall be required to submit an undertaking to refund the amount.

*Note: In the above schemes, no interest or other amount shall be charged from the members seeking financial assistance.*

# CHARTERED SECRETARY

## ADVERTISEMENT TARIFF



(With Effect from 1<sup>st</sup> April 2012)

BACK COVER (COLOURED)			COVER II/III (COLOURED)		
Non – Appointment			Non – Appointment		
Per Insertion		₹75,000	Per Insertion		₹ 50,000
4 Insertions		₹2,70,000	4 Insertions		₹ 1,80,000
6 Insertions		₹3,96,000	6 Insertions		₹ 2,64,000
12 Insertions		₹7,65,000	12 Insertions		₹ 5,10,000
FULL PAGE (COLOURED)			HALF PAGE (COLOURED)		
	Non – Appointment	Appointment		Non – Appointment	Appointment
Per Insertion	₹ 40,000	₹10,000	Per Insertion	₹ 20,000	₹ 5,000
4 Insertions	₹1,44,000	₹ 36,000	4 Insertions	₹ 72,000	₹18,000
6 Insertions	₹ 2,11,000	₹ 52,800	6 Insertions	₹1,05,600	₹26,400
12 Insertions	₹4,08,000	₹1,02,000	12 Insertions	₹ 2,04,000	₹ 51,000
PANEL (QTR PAGE) (COLOURED)			EXTRA BOX NO. CHARGES		
Per Insertion	₹ 10,000	₹ 3,000	For 'Situation Wanted' ads		₹ 50
(Subject to availability of space)			For Others		₹ 100

### MECHANICAL DATA

Full Page - 18X24 cm

Half Page - 9X24 cm or 18X12 cm

Quarter Page - 9X12 cm

- ✳ The Institute reserves the right not to accept order for any particular advertisement.
- ✳ The Journal is published in the 1<sup>st</sup> week of every month and the advertisement material should be sent in the form of typed manuscript or art pull or open file CD before 20<sup>th</sup> of any month for inclusion in the next month's issue.

For further information  
write to:  
**The Editor**  
CHARTERED SECRETARY



**THE INSTITUTE OF  
Company Secretaries of India**

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

Website : [www.icsi.edu](http://www.icsi.edu)

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E-Mail: [info@icsi.edu](mailto:info@icsi.edu); Website: <http://www.icsi.edu>





List of Practising  
Members Registered  
For The Purpose of  
Imparting Training During The  
Month of October, 2016

**ABHINAY KUMAR**

F-23 ASHOKA APPARTMENTS, POCKET 11A, SECTOR 23, ROHINI,  
NEW DELHI -110085

**ADITYA AGRAWAL**

D-27 KAMLA TOWER, VIBHUTI KHAND, GOMTI NAGAR,  
LUCKNOW-226010

**AKANKSHA NILAY MOTA**

B-702, PRIYAMVADA SOCIETY, NEHRU ROAD, BEHIND ASHOK  
NAGAR, MULUND (WEST) MUMBAI-400080

**AMIT NAMDEV PATIL**

C S NO. 1592, SAI GURU, APT. OFFICE 1, GROUND FLOOR,  
RAJARAMPURI 5TH LANE, E WARD, KOLHAPUR-416008

**AMOL SATAPPA PATIL**

PLOT NO 39, KALARANG BUILDING SHIVPRASAD HOUSING  
SOCIETY, GANESH MALA, SINHGAD ROAD, PUNE-411030

**ANIL MOTILAL PANDYA**

102, SHREE LAXMI APARTMENT, ZENDA CHOWKDHARAMPETH,  
NAGPUR-440010

**ANKIT KUMAR SINGH**

202/3, 1ST FLOOR, TAGORE TOWN, ALLAHABAD-211002

**ANKITA CHAUHAN**

B-22, KRISHNA NAGAR, AGRA ROAD, (OPP JAMES GARDEN),  
JAIPUR-302031

**ANKUSH KUMAR GUPTA**

20, USHA VIHAR, RIDHI SIDDIHI, JAIPUR-302015

**ANOOB KUMAR PANDEY**

FLAT C/7 NAGAR APARTMENT, GALI NO. 3, MAIN ROAD,  
MANDAWALI, PATPAR GANJ, DELHI-110092

**ANUJ KUMAR**

N-2, LOWER GROUND FLOOR, MALVIYA NAGAR, NEW  
DELHI-110017

**ARDESHNA PRATIKKUMAR SHANTILAL**

702/7, SILVERLINE COMPLEX, OPP. BBC TOWER SAYAJIGUN,  
VADODARA-390005

**ARPITA SANDIP PATIL**

FLAT-201, 2ND FLOOR, AASAMANT, S NO  
62/8/1+62/9/7, DATTANAGAR JAMBHULWADI ROAD, AMBEGAON  
KH, PUNE-411046

**ARUNSREENIVAS RAMADOSS**

B-8, GEMS COURT, SECOND FLOOR 25/14, KHADER NAWAZ  
KHAN RAOD, NUNGAMBAKKAM, CHENNAI-600006

**BHASKARJIT GOSWAMI**

OPPOSITE CHANDAN NAGAR NAMGHAR, SURVEY, BILTOLA,  
GUWAHATI-781028

**CHETAN RAJGOPAL BHUTADA**

FLAT NO. 13, 3RD FLOOR, B WING, SOBA TOWER, NEAR POONA  
HOSPITAL, LBS ROAD, SADASHIV PETH, PUNE-411030

**DEBABRATA DUTT**

SWASTIC CENTRE, P-8, CHOWRINGHEE SQUARE ROOM NO. 3E,  
3RD FL., NR. AAYKAR BHAWAN, KOLKATA-700069

**DEEPAK**

102, TIME HOUSE, PLOT NO. 5, COMMERCIAL COMPLEX,  
WAZIRPUR INDUSTRIAL AREA, NEW DELHI-110052

**FALGUNI BIPIN SHAH**

D-106, SANSKRUTI BLDG, ABOVE UCO BANK, VASAI  
-NALASOPARA, LINK ROAD, NALASOPARA (EAST), THANE-401209

**HERAMB VISHWANATH CHARATI**

GROUND FLOOR, A P HEIGHTS, BEHIND GOPAL CULTURAL HALL,  
OSMANPURA AURANGABAD-431005

**JAYANTH VISWANATHAN**

FLAT NO. 7, DOOR NO. 10, MADHANS, SOUTH CANAL BANK ROAD,  
MANDAVELIPAKKAM, CHENNAI-600006

**JITENDER SINGH**

9/2, G-3, EAST PATEL NAGAR, NEW DELHI-110008

**JYOTI SHARMA**

G-34, KARDHANI SCHEME, KALWAR ROAD, JAIPUR-302012

**JYOTSNA CHATURVEDI**

B-7/1, SAFDARJUNG ENCLAVE EXTENSION, NEW DELHI-110029

**KETANA SHIRISH GHARPURE**

PLOT NO.9, VASANTBAUG SOCIETY SWAMI VIVEKANANDA  
ROAD, BIBWEWADI PUNE-411037

**KIRTI HAMIRBASIA**

51, BHUPEN BOSE AVENUE, KOLKATA-700004

**KOTA SRINIVAS**

PLOT NO. 101, D.NO.5-3-160, GOWTHAMINAGAR,  
VANASTHALIPURAM, HYDERABAD-500070

**KUSHANG SURENDRAKUMAR THAKKAR**

43, SNEHKUNJ SOCIETY, OPP. NUTAN NAGRIK BANK,  
ISANPUR, AHMEDABAD-382443

**LALIT CHAUDHARY**

OFFICE NO 31/34, BASEMENT, OLD RAJINDER NAGAR, NEW  
DELHI-110060

**LAVINA KESWANI**

141, SINDHU NAGAR, BHILWARA-311001

**MALAY MUKESHBHAI SHAH**

E- 9, SARDAR PATEL SOCIETY, NEHRU ROAD, VILE-PARLE (EAST),  
MUMBAI-400057

**MEDHA GOKHALE**

THIRUMALA NIVAS, 1ST FLOOR, 9/22, 5TH CROSS, HANUMAGIRI  
LAYOUT, SUBRAHMANYAPURA, BANGALORE-560061

**MOHIT BAJAJ**

72/1, GROUND FLOOR, GOVIND PURI, KALKAJI, NEW DELHI-110019

**MUKESH SUTHAR**

30, FRIENDS COLONY, CHAMTI KHEDA ROAD, M P SETU MARG,  
CHITTORGARH-312001

**NAVEEN KUMAR**

H. NO. 626, STREET NO. 2, PATEL NAGAR, NEAR SECTOR -6,  
BAHADURGARH-124507

**PRAVEEN KUMAR BIRSINGH SAHARAN**

PLOT NO. 55, SHOBHARAMBH SOCIETY. DATTAWADI WADI,  
NAGPUR-

**PRIYANKA AGARWAL**

74/O, MANU VIHAR PHASE II, HANUMAN NAGAR, MARUTI ESTATE  
BODLA, AGRA-282004

**RAHUL JAISWAL**

6/3/28A, SEAL'S GARDEN LANE, 1ST FLOOR, KOLKATA-700002

**RAHUL SHARMA**

F-5/1, WEST KARAWAL NAGAR, NEW DELHI-110094

**RAJ NARAYAN NAVIK**

T-74, B IIND FLOOR, KHIRKI EXTN., MALVIYA NAGAR, NEW  
DELHI-110017

**RENU**

C-1, 640A SHALIMAR GARDEN EXT -1, SAHIBABAD,  
GHAZIABAD-201005

**RITESH RAWAT**

C-8/78 B, KESHAV PURAM, NEW DELHI-110035

**ROHIT PRAKASH PRIT**

ROOM NO. 309, VIKASH BHAWAN, AIADA BUILDING, ADITYAPUR  
JAMSHEDPUR, RANCHI-834001

**S V SRINIVASAN**

NO.1, FIRST CROSS ST, IV AVENUE (WEST), DHANDEESWARAM  
VALACHERY, CHENNAI-600042

**SANDEEP KULKARNI**

NO:15 GROUND FLOOR, 2ND CROSS TECHERS COLONY,  
BANASHANKARI 2ND STAGE , BANGALORE-560070

**SANDEEP KUMAR**

D-30, 2ND FLOOR, WEST PATEL NAGAR, NEW DELHI-110008

**SARITA YADAV**

H. NO. 36/28, DLF PHASE -I, GURGAON-122002

**SATYA PRADEEP ROY**

MIG 67, ANANTA VIHAR, POKHARIPUT, BHUBANESWAR-751020

**SHAIKENDRA KUMAR ROY**

O -40 BASEMENT, LAJPAT NAGAR -II, NEW DELHI-110024

**SHIVAM GARG**

WZ-157/2, 3RD FLOOR (LEFT), RANJEET NAGAR, NEW  
DELHI-110008

**SHOBHIT TANDON**

F-144 B, 4TH FLOOR, MANGAL BAZAR, LAXMI NAGAR ,  
DELHI-110092

**SHYAM ARORA**

96, ARAVALI APARTMENTS, ALAKNANDA, NEW DELHI-110019

**SHYAMSINGH RANSINGH TOMAR**

306, SHAPATH-3, NEAR GNFC TOWER, PAKWAN CROSS ROAD, S  
G HIGHWAY

BODAKDEV , AHMEDABAD-380054

**SMRUTHI SREE CHUNDRUI**

54-11-16/1/1, SWEET HOME APTS, MADDILAPALEM, ISUKATHOTA,  
VISAKHAPATNAM-530022

**SNEHLATA MISHRA**

UNIT NO. 7, 14TH FLOOR, BUILDING 9B, DLF CYBER CITY PHASE 3,  
GURGAON-122002

**STUTI SAXENA**

OFFICE NO. 10, FIRST FLOOR, 37, KRISHNA PLAZA, PRATAP  
NAGAR, MAYUR VIHAR PHASE -1, DELHI-110091

**SUNNY GULATI**

F-202, SUDERSHAN PARK, NEAR MOTI NAGAR, NEW DELHI-110015

**TANMAY CHATTERJEE**

01-MAY, T.B.SAPRU ROAD, CIVIL LINES, ALLAHABAD-211002

**V S NAGARAJU NARAMSETTI**

D. NO. 41-9-27, RAMALAYAM STREET, NEAR FIRE STATION,  
KRISHNA LANKA VIJAYAWADA-520013



List of Companies Registered  
for Imparting  
Training during the month  
of October, 2016

**ACE MANUFACTURING SYSTEMS LIMITED**

PLOT NO.467-469, 12TH CROSS, 4TH PHASE, PEENYA INDUSTRIAL  
AREA, BANGALORE - 560058

**AXIS TRUSTEE SERVICES LTD**

AXIS TRUSTEE SERVICES LIMITED, AXIS HOUSE, BOMBAY DYEING  
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SUBHAM HEIGHTS, NEXT TO IDBI BANK,MUMBAI-BANGALORE  
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**DMICDC LOGISTICS DATA SERVICES LIMITED**

ROOM NO. 341B, 03RD FLOOR, MAIN BUILDING, ASHOKA HOTEL,  
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# Company Secretaries Benevolent Fund

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



S. NO.	LM NO.	NAME	MEMB. NO.	CITY	S. NO.	LM NO.	NAME	MEMB. NO.	CITY
<b>EIRC</b>					25	11522	MS. N SHARMILA	ACS - 41318	CHENNAI
1	11504	MS. MINAKSHI BANTHIA	ACS - 39673	KOLKATA	26	11528	MS. HEMALATHA KOREY	ACS - 19148	HYDERABAD
2	11506	MR. VIVEK KUMAR SHARMA	ACS - 38127	BILASPUR	27	11530	MR. RAGHAVENDAR REDDY M	ACS - 36172	HYDERABAD
3	11513	MR. SAKET KUMAR	ACS - 40686	KOLKATA	28	11535	MS. P JAGADEESWARI	ACS - 46473	COIMBATORE
4	11527	MR. DHEERAJ TIWARI	ACS - 47897	HYDERABAD	29	11536	SH. M SRINIVASAN	ACS - 10980	CHENNAI
5	11550	MS. PRITI ARORA	ACS - 31236	RANCHI	30	11537	SH. N SREEJITH	ACS - 19810	THIRUVANANTHAPURAM
<b>NIRC</b>					31	11538	SH. N NARAYANAN	ACS - 9589	CHENNAI
6	11508	MR. JITIN WASAN	ACS - 47624	NEW DELHI	32	11540	SH. PRADEEP KUMAR JAIN	FCS - 8853	CHENNAI
7	11511	MR. ANAND ROCHLANI	ACS - 32633	KANPUR	33	11541	MR. PAGATUR ASHOKKUMAR VISHNUKUMAR	ACS - 44772	BELLARY
8	11515	SH. PRAVASH CHANDRA NAYAK	FCS - 4541	NEW DELHI	34	11543	MR. NARASIMHARAJU OBALADEVARAHALLI RANGEGOWDA	ACS - 46150	BANGALORE
9	11521	MS. ANITA NAGAR	ACS - 47740	GR. NOIDA	35	11544	MR. SAMBAIAH	ACS - 47567	BANGALORE
10	11523	MS. KALPANA SHARMA	ACS - 27195	NEW DELHI	36	11546	MS. LAKSHMI KAKUMANI SANDHYA	ACS - 16597	BANGALORE
11	11524	SH. SANJEEV GOEL	ACS - 6079	NOIDA	37	11547	MR. PAVAN KUMAR KURUMADDALI	ACS - 44761	HYDERABAD
12	11525	MR. VARUN VINOD KUMAR GUPTA	ACS - 40969	AJMER	38	11548	MR. VINAYAK NARASIMHA BHAT	ACS - 38361	BANGALORE
13	11526	MS. MEGHA BISHT	ACS - 47797	GHAZIABAD	<b>WIRC</b>				
14	11531	MR. ARJUN SINGH PATWAL	ACS - 43460	DELHI	39	11503	MR. HARSHIT KESHARWANI	ACS - 37217	SAGAR
15	11532	MR. SHANTANU BANSAL	ACS - 38156	FIROZABAD	40	11512	MS. HINAL NARENDRA SHAH	ACS - 41256	THANE
16	11542	MR. AMIT JOHRI	ACS - 42767	JANAKPURI	41	11514	MR. RAJENDRA SHRIRANG NIKAM	ACS - 33025	MUMBAI
17	11549	MR. ANIL KUMAR	FCS - 8023	CHANDIGARH	42	11518	MS. RANI RAI	ACS - 39581	SAGAR
<b>SIRC</b>					43	11519	MS. NAMRATA NISAR	ACS - 29441	MUMBAI
18	11502	MR. SATHASIVAM ASHOK KUMAR	ACS - 36877	ERODE	44	11520	SH. PARESH MUKUNDRAY SHUKLA	ACS - 20815	AHMEDABAD
19	11505	MS. SWETHA R	ACS - 41291	CHENNAI	45	11529	SH. PRASAD SHANKAR TILVE	ACS - 21326	MUMBAI
20	11507	MR. MANKALA SHARATH CHANDRA	ACS - 46146	HYDERABAD	46	11533	MR. ADITYA VIKRAMBHAI PATEL	ACS - 41204	AHMEDABAD
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22	11510	MR. JUSTIN PAUL	ACS - 47422	KOCHI	48	11539	MS. DHRUTI JANAKKUMAR JARIWALA	ACS - 40004	SURAT
23	11516	MR. KISHORE KATHRI	ACS - 32947	HYDERABAD	49	11545	MR. RAJIVKUMAR NITINBHAI PANDYA	ACS - 43620	AHMEDABAD
24	11517	SH. V SENTHIL KUMAR	FCS - 3001	CHENNAI	50	11551	MR. NILESH SHARMA	ACS - 43178	RAJNANDGAON


\* ENROLLED DURING THE PERIOD 20.10.2016 TO 19.11.2016






## NEWS FROM THE REGIONS


### EASTERN INDIA REGIONAL COUNCIL

Programme	QR Code/Weblink
Half Day Workshop on GST and Appearances before NCLT on 31st October, 2016.	<a href="https://www.icsi.edu/eiro/Archive.aspx">https://www.icsi.edu/eiro/Archive.aspx</a> 
27th Regional Conference of Company Secretaries on Saturday, 5th November, 2016 at J W Marriott, Kolkata.	
ICSI Convocation 2016 – Eastern Region on Saturday, 26th November, 2016 at Vidya Mandir, Kolkata.	


### BHUBANESWAR CHAPTER


Programme	QR Code/Weblink
Investor Awareness Programme on 01.11.2016 at Rourkela	<a href="https://www.icsi.edu/bhubaneswar/NewsEvents.aspx">https://www.icsi.edu/bhubaneswar/NewsEvents.aspx</a> 
Swachh Bharat Mission on 15.11.2016	

### GUWAHATI CHAPTER


Programme	QR Code/Weblink
Study Circle Meeting / PDP on Hedging with Commodity Futures held on 7.9.2016.	<a href="http://www.icsi.edu/guwahati/NewsEvents.aspx">http://www.icsi.edu/guwahati/NewsEvents.aspx</a> 
Full Day Workshop on GST organized on 2.10.2016.	
Study Circle Meeting on Due Diligence and Vigilance Report held on 5.11.2016.	

### NORTHERN INDIA REGIONAL COUNCIL


Programme	QR Code/Weblink
PCS Help Line on IPR - Trade Mark held on 02.11.2016	<a href="http://www.icsi.edu/Portals/70/NEWS%20FROM%20NIRC29.11.2016.pdf">http://www.icsi.edu/Portals/70/NEWS%20FROM%20NIRC29.11.2016.pdf</a> 
Two Day PCS Regional Conference on the theme "PCS - Empower, Emerge & Excel" (Host: Agra Chapter) held on 05-06.11.2016	



Campus Placement for 245th to 250th batch of MSOP participants (on the verge of getting CS Membership) held on 10.11.2016	<a href="http://www.icsi.edu/guwahati/NewsEvents.aspx">http://www.icsi.edu/guwahati/NewsEvents.aspx</a> 
Seminar on the theme Corporate Fraud – Litigation and Reporting held on 12.11.2016	
Meeting of Regional Council Members with Past Chairmen of NIRC held on 12.11.2016	
Study Session on Annual Filing held on 15.11.2016	
PCS Help Line on Annual Filing held on 16.11.2016	
Workshop on Valuation – Approaches & Method held on 19.11.2016	
Participation in the Airtel Delhi Half Marathon, 2016 (Great Delhi Run -6 km) - participation by 130 + Company Secretaries held on 20.11.2016	
Study Session on Currency Demonetization - Impact & Way Forward held on 21.11.2016	
PCS Help Line on Annual Filing held on 23.11.2016	
PCS Help Line on Annual Filing held on 28.11.2016	

### ALLAHABAD CHAPTER






Programme	QR Code/Weblink
Programme held on Demonetization of Indian Currency Notes of Rs.1000 and Rs.500	<a href="http://www.icsi.edu/allahabad/Home.aspx">http://www.icsi.edu/allahabad/Home.aspx</a> 

### SOUTHERN INDIA REGIONAL COUNCIL


Programme	QR Code/Weblink
Half Day seminar on " GST: Compliance and Opportunities & latest updates on Managerial Remuneration" held on 1.10.2016 at ICSI-SIRC House, Chennai.	<a href="https://www.icsi.edu/docs/webmodules/CS_Month_of_October_2016.pdf">https://www.icsi.edu/docs/webmodules/CS_Month_of_October_2016.pdf</a> 
Study Circle Meeting on "Stress Management & Work Life Balance" held on 14.10.2016 at ICSI-SIRC House, Chennai.	

41st Regional Conference of Company Secretaries on 14-15.10. 2016 at Hotel Ramada Cochin Resorts, Kochi.	<a href="https://www.icsi.edu/docs/web-modules/CS_Proceeding_for_Nov_05112016_and_15112016.pdf">https://www.icsi.edu/docs/web-modules/CS_Proceeding_for_Nov_05112016_and_15112016.pdf</a>
Half-day seminar on "Business Analytics: A New Opportunity for CS and All you want to know on Insolvency & Bankruptcy Code, 2016 held on 22.10.2016 at ICSI-SIRC House, Chennai	
One Day Seminar on "Latest updates in Companies Act & Practical Issues in XBRL" held on 5.11.2016 at ICSI-SIRC House, Chennai.	
Half Day Seminar on "All you want to know on Fraud – Provisions, Investigation & Reporting" held on 15.11.2016 at ICSI-SIRC House, Chennai	
Programme on Competition Law and Competition Compliance on 29.11.2016 (Tuesday) at ICSI-SIRC House, Chennai.	<a href="https://www.icsi.edu/WebModules/Prg_CompetitionLawandCompetitionCompliance_29112016.pdf">https://www.icsi.edu/WebModules/Prg_CompetitionLawandCompetitionCompliance_29112016.pdf</a>
	


## BENGALURU CHAPTER

Programme	QR Code/Weblink
Programmes for Members	<a href="http://bit.ly/2eYYPMD">http://bit.ly/2eYYPMD</a> 
Campus Recruitment Drive – 2016	<a href="http://bit.ly/2eEIVgA">http://bit.ly/2eEIVgA</a> 
Study circle meeting for members	<a href="http://bit.ly/2eYY7iM">http://bit.ly/2eYY7iM</a> 
CS Day Celebrations	<a href="http://bit.ly/2fEiX8v">http://bit.ly/2fEiX8v</a> 
Activity Report for the Month of October 2016	<a href="http://bit.ly/2ffecBI">http://bit.ly/2ffecBI</a> 


## MYSORE CHAPTER

Programme	QR Code/Weblink
Joint Seminar on GST	<a href="http://www.icsi.edu/mysore/ChapterActivities/SeminarPDP.aspx">http://www.icsi.edu/mysore/ChapterActivities/SeminarPDP.aspx</a> 


## PALAKKAD CHAPTER

Programme	QR Code/Weblink
One Day Seminar on Goods & Services Tax held on 12th November 2016	<a href="http://www.icsi.edu/palakkad/NewsEvents.aspx">http://www.icsi.edu/palakkad/NewsEvents.aspx</a> 


## SALEM CHAPTER

Programme	QR Code/Weblink
Full Day Seminar on GST held at Salem on 5.11.2016	<a href="http://www.icsi.edu/salem/Activities/SeminarPDPs.aspx">http://www.icsi.edu/salem/Activities/SeminarPDPs.aspx</a> 


## THIRUVANANTHAPURAM CHAPTER

Programme	QR Code/Weblink
On 02.11.2016 "Seminar-Legal Conclave on Real-Estate Laws"	<a href="http://www.icsi.edu/thiruvananthapuram/ChapterActivities.aspx">http://www.icsi.edu/thiruvananthapuram/ChapterActivities.aspx</a>
On 23.11.2016 "High level ministerial meeting with State Government of Kerala Ministers By ICSI President and Central Council Members."	

## WESTERN INDIA REGIONAL COUNCIL PUNE CHAPTER

Programme	QR Code/Weblink
Workshop on "Knowledge Refresher Course on Critical Aspects of Companies Act, 2013 - II" (First Workshop among a Series of four Workshops) held on 25.11.2016 at Pune.	<a href="http://www.icsi.edu/portals/32/Chartered_Secretary_21_11_2016_to_30_11_2016.pdf">http://www.icsi.edu/portals/32/Chartered_Secretary_21_11_2016_to_30_11_2016.pdf</a>
Workshop on "Knowledge Refresher Course on Critical Aspects of Companies Act, 2013 - II" (Second Workshop among a Series of four Workshops) held on 26.11.2016 at Pune.	

## VADODARA CHAPTER

Programme	QR Code/Weblink
Lecture Meeting held on 25.11.2016 at Vadodara on Proposed Secretarial Standards	<a href="http://www.icsi.edu/Portals/37/Write-up_25112016.pdf">http://www.icsi.edu/Portals/37/Write-up_25112016.pdf</a> 

# 6

## MISCELLANEOUS CORNER



- ETHICS & SUSTAINABILITY CORNER
- GST CORNER
- READERS' WRITE
- EXPOSURE DRAFTS OF SECRETARIAL STANDARDS ON DIVIDEND AND REPORT OF THE BOARD OF DIRECTORS FOR PUBLIC COMMENTS
- CG CORNER
- PROCEEDINGS OF 44TH NATIONAL CONVENTION OF COMPANY SECRETARIES

# FACING CHALLENGES & SUSTAINING GROWTH

Contributed by Brahma Kumaris, Om Shanti Retreat Centre, Gurugram

Present time of uncertainty is posing new challenges for each one of us. These challenges may be at a personal level, sometimes at the organizational level, or at societal level or even at global level, ranging on various grounds like health, environmental, professional, economical, behavioral, ethical etc. Under such strained circumstances when one doesn't know why did that challenge arouse or who is responsible for it, or for how long will it last- whether it will just go away and things will be alright or whether it is going to last for quite long or maybe for your lifetime- the level of stress rises high, fading the vision to move ahead, diluting hope of success and discoloring the portrait of happiness that was to be achieved through our now seemingly futile efforts. When all options fail, the patience and ethical strength of an individual often declines and they are tempted to adopt 'quick fixes' to mend up the situation by hook or by crook. Even though it seems that the challenge has subsided for a moment, but the individual enters into an endless loop of stress, fear, distrust, unethical behavior, which will ultimately accumulate for a later time, as a multi-fold times bigger challenge.

To deal with such a challenge and still sustain the ethical behavior, self respect, honor, inner strength, growth and success, let's first understand the meaning of challenge from a new perspective, the very reason of its existence and ways to deal with it.

## What is a Challenge?

- Any change that we are not used to- is a challenge. Like for a small child riding a bicycle might be a challenge until he has learnt it. Once he knows how to ride a cycle, he can do it comfortably and riding that bicycle is no more a challenge for him.
- Any change is a challenge only till you have gained the inner strength or skills to face it and cope up with it. Like in the case of the child who has mastered the skill to ride a cycle, even the change of cycle will not be a challenge because cycle itself was never the challenge.
- No journey is without speed-breaker. Similarly, no life is without challenge. I can't avoid a road with speed-breakers; what I need is a strong internal shock absorbing suspension system in my car. Similarly, I can't avoid or escape challenges; I need a higher amount of internal shock absorbing stability system. Just as our speed reduces upon encountering a speed breaker, our pace for achieving success reduces momentarily when there comes a challenge. Through a better or enhanced coping ability or skills, that act as shock absorbing suspension system, we can overcome the challenge and regain our speed... the journey never halts...

Thus, challenges come our way and is a means to enhance our knowledge and increase our coping ability. Looking through this perspective, we realize that we are just one step

away from overcoming even the biggest of the challenges, by acquiring the appropriate skills or the coping ability. Events are what one makes of them. How you look at challenge makes a lot of difference as it determines how you cope with it. After this understanding, of what a challenge is, it would be beneficial for us to know the silent message a challenges brings forth us.

## Challenges are indicative of progress

- When we are driving on a straight road- there are a number of turns. But this number increases drastically (with more of blind turns) when we are going up the slope of a mountain. Higher the slope- more the turns- higher is the acceleration needed. Similarly, greater the target or learning, bigger is the challenge awaiting us and stronger is the determination and effort needed. And the best result is derived not from large scale efforts, but from well focused and elevated efforts.

## Challenges indicate that there is a need to transform

Any challenge that comes our way brings along 2 choices for us. One of the choices is that you alter the difficulties in order to remove the challenge; which is not always possible or feasible as every challenge is not within the purview of modification or manipulation. Another choice is that you alter yourself to overcome the challenge. There have been various cases in the history of mankind where rulers were defeated, dynasties were doomed, kingdoms were lost, businesses perished and organizations became extinct due to complacency in the face of challenge and inefficiency to transform as per the challenge approaching them. There is a possibility that a challenge removed or avoided or altered can come back to you and haunt you later. But the challenge that you had overcome by up-skilling yourself, can never rise back to disturb you. Thus, challenge is an opportunity for us to transform.

## Challenges indicate the quality of our choice

*"If you always do what you have always done, you will always get what you have always got"*

Challenges born out of our past actions or decisions are indicative of the quality of our choices as the challenge I am experiencing at this moment is the result of choices and decisions made in the past. Thus, choice of action one has and that one executes while dealing with a situation is something in one's control, while the challenge born out of it is out of the scope of control. Moreover, the challenge I may experience in the future depends on the choices and decisions I make now. Thus, these challenges are a means for self evaluation of our quality of choice.

## How to face challenges and ensure sustainable growth?

### Facing the Challenge || Acceptance over Resistance & Embracing over Fleeing –

Acceptance of the change is the first step towards the change. Resisting a change or adopting an ostrich approach to ignore it doesn't help. It has to be understood distinctly that unless we accept the problem, we cannot look for the right solution.

Fleeing from a situation could be like dose of pain-killer at the time of challenge, not making us realize the pain and plight of the situation but it cannot eliminate it. The situation has to be analyzed, examined, operated and conquered! This change of choice requires serious daring. Start this daring from within and it will be easily extended to others.

But it is also to be appreciated that we all are at different levels of readiness for change. Being sensitive to the underlying feelings of others is the acceptance that they seek and if there is resistance, it has to be understood.

### Facing the Challenge || Self transformation doesn't mean to lose away

*"It is better to bend than to break"*

Whenever there arises a question of implementing a change, there is a hesitation to transform the self or adjust to the change. The main reason is that each one of us has a personal comfort zone and even the very thought of coming out of it makes a person feel not only uncomfortable but also susceptible to failure because adjustment to a change is often considered as losing away one's choice or freedom or giving up one's comfort. It has to be made very clear that through transformation of the self, there could be something to gain from the impending change.

Self transformation doesn't necessarily mean to completely do away with the roots of the self. It means to fill up the gaps in one's personality and skills- which may require breaking the orthodox or rudimentary belief systems and delegation of present responsibilities by realizing that the old ways aren't going to work any longer, giving way for new and better things to take its place. But when instead of this, we tend to leave our roots and try to superficially polish the self to avoid a challenge; it degrades the self by creating craters and scars on our personality.

Moreover, when we take the pressure off, we often tend revert to our old behaviour. Thus, we need to understand the benefit of the transformation, create a vision and an action plan to follow and therefore completely rule out the possibility of the challenge boomeranging in future.

### Facing the Challenge || Sense of cooperation

"As such I may be a drop, but together we are an ocean!" "Why always Me?!" "When will it end?" These are a few thoughts that pop up in our mind when we face a challenge.

This is mainly because we feel that we are the only one who has to transform in the face of challenge or combat the change. However, we fail to recognize that we are not alone as everyone in the system is going through the same change or similar challenge. And even if the challenge we are facing is exclusive, others too have their own challenge. Being compassionate towards others and aware of the strengths and weaknesses of the self, we can develop a mutual sense of cooperation with everyone in the system so that even the biggest of the challenge can be dealt by bringing together the specialities of all; which further enhances the good will and team spirit in the system.

### Facing the Challenge || Understanding the Law of Karma

Every cause has an effect. Sometimes the effect is pleasant and sometimes it isn't. Usually, a good effect or outcome is referred to as 'luck' and the undesired outcome is termed as 'challenge'. By observing the effect, we can estimate the quality of cause.

Understanding this law of cause and effect (law of karma), we are able to face challenges with strength knowing that it is somewhere linked to our decisions or actions of the past. This develops patience and tolerance to flow with the change and let the hard phase of life pass smoothly.

The awareness of this law also alerts us to sow fruitful seeds of elevated actions to prepare ground for desired outcomes.

### Facing the Challenge || Building Up the Armour of Values

To overcome any challenge, we need the ability to discern the situation, take the right decision and while doing that, maintain our value system. Discerning the purpose of the situation or challenge and the purpose of my being is the first step of finding the solution. Next is to create a vision and bring our values into action to overcome the hurdles. The ability to bring your vision and values into actions rests on our mental powers. As the external environment becomes more unpredictable, awareness of our inner powers becomes more important.

Rajyoga Meditation is the technique to connect with the self, which is a reservoir of virtues that we seek to establish outside. We expect the virtues to be implemented and practiced for sustainable growth, but seldom realize that just as whatever we see in the mirror is our reflection; similarly, whatever happens with us is a reflection of whatever has been done through us. It gives us the opportunity to explore ourselves to find out what is it that I stand for and what are those strengths that I possess through which I can overcome the challenge. It enhances our salient qualities like introspection, flexibility, creativity, self confidence, determination, truthfulness, cooperation and many more. Thus, Rajyoga Meditation helps us to first go within to touch base with the virtuous self, enhance our inner powers, build up the armour of values to prepare ourselves to face the challenges.

## GST UPDATES

- The fourth GST Council meeting which was held on November 3, 2016, concluded with the following :
  - The four slabs of tax rates have been fixed at 5 percent, 12 percent, 18 percent and 28 percent
  - Higher tax between 40 percent and 65 percent may be imposed on luxury goods like luxury cars, pan masala, aerated drinks and tobacco products
  - Most white goods, like washing machines, air conditioners, refrigerators, shampoo, shaving stuff and soap, will be taxed at 28 percent
  - Food grains to be zero-rated to insulate people from inflationary pressures
  - A cess, in order to raise funds to compensate states for the revenue loss to be levied
  - No consensus yet on tax rate for gold
  - The matter of jurisdiction of assessee under GST regime remains unresolved
- The debate of jurisdiction administration of assessees has now narrowed down to two options:
  - To divide the tax base horizontally, so that taxpayers below a threshold of Rs 1.5 crore are administered by the states and those above this threshold are equally divided between the centre and the states
  - To divide the entire tax-base vertically, wherein taxpayers are divided between the centre and states in a fixed proportion—a solution favored by the Centre
- GSTN to borrow Rs. 250 crore for working capital needs and another Rs. 550 crore as long-term loan from domestic lenders
- Government to include the rates of the tax and the cess under GST in the model legislations, which may be introduced in ongoing Winter Session of Parliament
- There would be a provision to allow the GST Council to notify changes in the rate structure to give more flexibility to change rates in case of a crisis.
- GST Portal - [www.gst.gov.in](http://www.gst.gov.in) is readying the IT backbone for the new regime. For service tax, migration will be open from January 1, 2017 to 31st January, 2017
- Gujarat Government began migrating commercial tax payers from existing tax platform such as value added tax (VAT) to the new goods and service tax (GST) platform
- The Centre had shared the draft model GST law with the states, which were redrafted after taking into account the comments of stakeholders
- The Centre had circulated draft GST Bills and draft compensation Bill with the states but it does not contain the four-slab rates agreed to by the GST Council
- Both Central and State Government tax officers discussed aspects of Draft GST Laws, tax rates on various goods

- and services, exemptions under indirect tax regime chaired by Revenue Secretary, to finalise draft GST Laws
- Government plans to introduce all three GST-related Bills as money bills
- 48 firms including Kotak, TCS to become service providers for GST Network
- Few key highlights of Revised Draft Model GST Law :
  - “Securities” will not attract any tax under GST Law
  - Supplies made to SEZ units will be treated as ‘zero-rated supplies’ under the revised GST law
  - Perquisites enjoyed by employees will not attract GST, irrespective of whether they are used for business purposes or personal consumption
  - New place of supply provisions for services, almost similar to the Place of Provision of Service (POPS) rules present under the current service tax law, introduced
  - An anti-profiteering clause has been introduced in the revised GST law which casts the responsibility of every company to pass on the benefit of GST to its end consumers
  - Highest tax slab will not exceed 28% in the GST regime
  - The revised draft GST Bills outlines mixed and composite goods, which was not there in the earlier draft
  - E- Commerce Players Amazon, Flipkart Need To Register in each State Under GST and would have to deduct one per cent tax at source each for Centre and State tax

## GST IN NEWS

- GST Network to borrow Rs 800cr from banks to fund GST infra building cost
- ASSOCHAM urges against cess, suggests GST rate hike by 1-2%
- IRS Officers demand GST assessments by Centre
- Ahead of Council meet, States yet to come up with options for cess on GST
- Goa Government to convene special session on GST
- GST Council’s decision to impose five per cent tax on essential items would bring down inflation : Finance Minister
- GST Rates on consumer durables should be 18%: CEAMA
- GST Portal goes live, GSTN Software almost ready : GSTN Chairman
- GST Implementation can’t be delayed beyond September 16, 2017: Finance Minister
- Parliament Winter Session Agenda: From GST to Corruption, Government looks to get key bills cleared
- No consensus on draft laws as GST Council meet

- postponed to December 2-3
- GST to spur double digit growth in hiring across sectors
  - Demonetization may delay GST

## REGISTRATION UNDER GST

### List of forms specified under registration rules:

S. No.	Form No.	Description
1.	REG-01	Application for Registration u/s 19(1) GST Act, 20--
2.	REG-02	Acknowledgement
3.	REG-03	Notice for Seeking Additional Information/ Clarification/Documents relating to Application for Registration / Amendments / Cancellation
4.	REG-04	Application for filing clarification/additional information/document for Registration / Amendment / Cancellation / Revocation of Cancellation
5.	REG-05	Order of Rejection of Application for Registration / Amendment / Cancellation / Revocation of Cancellation
6.	REG-06	Registration Certificate issued u/s 19(8A) of the GST Act, 20--
7.	REG-07	Application for Registration as Tax Deductor or Tax Collector at Source u/s 19(1) of the GST Act, 20--
8.	REG-08	Order of Cancellation of Application for Registration as Tax Deductor or Tax Collector at Source u/s 21 of the GST Act, 20--
9.	REG-09	Application for Allotment of Unique ID to UN Bodies/ Embassies /any other person u/s 19(6) of the GST Act, 20--
10.	REG-10	Application for Registration for Non Resident Taxable Person
11.	REG-11	Application for Amendment in Particulars subsequent to Registration
12.	REG-12	Order of Amendment of existing Registration
13.	REG-13	Order of Allotment of Temporary Registration/ <i>Suo Moto</i> Registration
14.	REG-14	Application for Cancellation of Registration under GST Act ,20--

15.	REG-15	Show Cause Notice for Cancellation of Registration
16.	REG-16	Order for Cancellation of Registration
17.	REG-17	Application for Revocation of Cancelled Registration under GST Act, 20--
18.	REG-18	Order for Approval of Application for Revocation of Cancelled Registration
19.	REG-19	Notice for Seeking Clarification / Documents relating to Application for Revocation of Cancellation
20.	REG-20	Application for Enrolment of Existing Taxpayer
21.	REG-21	Provisional Registration Certificate to existing taxpayer
22.	REG-22	Order of cancellation of provisional certificate
23.	REG-23	Intimation of discrepancies in Application for Enrolment of existing taxpayer
24.	REG-24	Application for Cancellation of Registration for the Migrated Taxpayers not liable for registration under GST Act, 20--
25.	REG-25	Application for extension of registration period by Casual / Non-Resident taxable person.
26.	REG-26	Form for Field Visit Report

## CONGRATULATIONS

“Ms. NIRJA SARAF, FCS, working as Company Secretary & Executive Director (CA, HR & Legal) of Braithwaite and Co. Ltd., Kolkata on her being appointed as the Managing Director of Hindustan Antibiotics Ltd. (A Govt. of India Enterprises), Pune, w.e.f. 01-10-2016.”

## Ambiguities in section 186

Presently the Inter corporate loans & Investment is regulated by section 186 of the Companies Act, 2013 ("The Act") which is corresponding to section 372A of erstwhile Companies Act, 1956. Though the intention of both sections are identical, additional restrictions under the 2013 Act results in the provisions under Section 186 becoming more rigorous.

Section 186 prohibits investment through more than 2 layers of investment companies. However this restriction is not applicable for investment in company incorporated outside India which has investment subsidiaries beyond two layers as per laws of that country. This restriction also does not cover existing companies having multiple layers in India prior to April 1, 2014. This restriction is brought in to prevent draining off of funds through investment subsidiary companies. "Layer" in relation to a holding company means its subsidiary or subsidiaries (section 2(87)).

Transaction under section 186 can be entered by the board only if the aggregate of all such existing and proposed transactions does not exceed the following limit:

- a) 60% of its paid up share capital, free reserve and securities premium account; or
- b) 100% of its free reserves and securities premium account.

Prior approval of shareholders by way of special resolution is required in case the above limit is exceeded. However as per rule 11 of Companies (Meetings of Board and its powers) Rules, 2014 when a loan or guarantee is given or where a security has been provided by a Company to its wholly owned subsidiary Company or a Joint Venture Company, or acquisition of securities of wholly owned subsidiary company is made by a Holding Company, requirement of taking shareholders approval is not required. One more restriction that is striking compared to the provisions of section 372A of the 1956 Act is that while a loan could have been given even at nil interest under the 1956 Act, Section 372A prescribes a minimum of a rate equivalent to the government security rate. Therefore, even Holding Company can't give loan to its Wholly owned Subsidiary at a rate less than prevailing rate of interest linked to Government securities as per Section 186(7).

Unlike Section 372A of Companies Act, 1956, Section 186 is applicable without prejudice to other provisions in the Companies Act, 2013, and Sections 185 states that 'Save as otherwise provided in this Act'. If Section 186 states differently from 185 then 186 could prevail. However, if there is no conflict both Section 185 and 186 have to be complied with. Therefore Section 185 needs to be read and complied independently. This has resulted in the inability of the Company to fund its own group companies as section 185 bars a holding company to give loan to its own subsidiary (except to its 100% owned subsidiaries and in the ordinary course of business at bank interest rate). The rationale for this restrictions needs to be questioned more so when the 1956 Act did not have any such restriction and had a specific exemption for such loans to any subsidiary under Section 295(2)(b). Now the only way by which a holding company can help in funding of its non wholly owned subsidiary is by letting it borrow from a third party including banks and the holding company to provide guarantee for repayment of such loans/ bank loans taken by its subsidiary. If companies are not allowed to lend to its own subsidiaries where will they go for funds? Is it helping the ability of companies to do business normally? Forget about ease in doing such businesses, the mantra of the present Govt to attract foreign investments. Though exemption is given to private companies, provided they fulfil the prescribed condition, it is not helping the large section of the companies. Therefore Section 185 needs an amendment to bring back the exemption to all subsidiaries as contained.

Another haziness is in interpreting the meaning of 'in ordinary course of business'. As per Section 185(1)(b), section 185(1) is not applicable to loan advanced or guarantee given or security provided by a company in the ordinary course of its business at rate not less than bank rate declared by the Reserve Bank of India. Therefore it is clear that a holding company can advance loan or give guarantee or provide security in the ordinary course of business. Problem here is MCA has not clarified the meaning of 'ordinary course of business', is it the business mentioned in the MoA or even practice, custom can also be considered as ordinary course of business.

### Example:

Company B is a non wholly owned subsidiary of company A. B has no revenue and since its incorporation it depends wholly on the financial assistance given by com A for doing business. So is this considered as ordinary course of business?

Auditors (CAs) are by and large applying the following principles (one or more of these principles) for testing Ordinary course of business both under section 188 and under Section 185/ 186-

- Transaction forms part of the regular activity of the company
- Transaction forms part of the Main Objects / Incidental / Ancillary Objects of the Memorandum of Association
- Transaction forms part of the Other Objects of the MoA , subject to shareholder's approval
- Transactions are necessary for continuation of business uninterruptedly
- Transactions are frequent / regular in nature
- Transaction forms part of the revenue from operations (not from other income)
- Transaction forms part of cost of goods sold or operating expenses
- Transaction forms part of capital asset like fixed assets, Plant and machinery, real estate etc
- Transaction forms part of current assets or loans and advances where by the income earned is reflected in revenue from operation
- Transaction forms part of liabilities where by the expenses are reflected in cost of goods sold or operating expenses
- Materiality of the transaction.

### "Loan" as per section 186

Section 372A of Companies act, 1956 was explaining the term loan as; "Loan" includes debentures or any deposit of money made



by one company with another company, not being banking company. Therefore it was clear that Deposit with Bank (in various accounts like current account, deposit accounts etc) was exempted while calculating the limits under section 372A of Companies Act, 1956, however same is not exempted under Companies Act, 2013 which creates an additional restriction forcing one to include deposit made with the banks for the purpose of calculating the limit under section 186 of Companies Act, 2013. Another question which follows is, if Deposit with banks are not excluded for calculating the limit under section 186, whether Bank Deposit made under Companies Act 1956 should be exempt since such deposits were made prior to the commencement of Section 186? Or they should also be considered while calculating the limit under Section 186? This makes the calculation complicated since both existing loans as on March 31, 2014 and loans provided from April 1, 2014 including bank deposits have to be considered while calculating the limits.

## Penalty for Contravention

Violation of this section is not Compoundable under section 441 read with Section 186 of the Act as it involves fines on the company and its officers and Imprisonment to officers. The confusion gets further confounded since Section 441 is not yet notified and it takes one back to Section 621A of the Companies Act, 1956.

### Penalty for Company:

Every Company which contravenes the provisions of this Section shall be liable to a penalty which shall not be less than Rs. 25,000/- but which may extend to Rs. 5 lacs.

### Penalty for Officers:

Every officer of the Company who is default shall be punishable with imprisonment for a term which may extend to two years and fine which shall not be less than Rs. 25,000/- but which may extend to Rs. 1 lacs.

## Conclusion:

The ambiguities under this section needs to be clarified and to be interpreted carefully as violation of this section is not compoundable and may put the directorship of directors at stake, if it results in fine under the Act, it may result in vacation of their office as per section 167 of the Act and in case of Whole time Directors, as per Part I to Schedule V of Companies Act, 2013 they become ineligible to be appointed as such in any company. A cursory analysis shows many Companies in the sensex and Nifty have crossed the limits and it remains to be seen how the company's and regulatory authorities interpret these provisions in letter and spirit for a meaningful conclusion.

## Quick analysis on few Company's Loans and Investment along with the applicable limits

Below table is presented allowing the readers to interpret the tabulated details as it appears, based on a preliminary finding, that many of the Companies in India do not appear to be including the amount deposited with bank while calculating the Limits for Section 186 of the Companies Act, 2013. It is not clear from the Annual reports of these companies if approval of shareholders has been taken for exceeding these limits.

Sl.No	Company Name	Amount of Loan and Investment Including Guarantee (Rs. In Crs)	Amount of Bank Deposit (Rs. In Crs)	Total Loans and Investment (Rs. In Crs)	Limit under section 186	
					60% of its paid up share capital, free reserve and securities premium account	100% of its free reserves and securities premium account
1	Bajaj Auto Limited	3746.78	370.2	4116.98	6415.29	10402.78
2	Dr. Reddy's Laboratories Limited	746.3	895.5	1641.8	6319.8	10447.8
3	Tata Motors Limited	1410.79	31692.29	33103.08	8276.094	13149.71
4	Jet Airways (India) Limited	4758.18	2067.35	6825.53	2179.12	3442.53
5	Asian Paints Limited	162.07	22.58	184.65	2537.856	4133.84
6	Mangalore Refinery and Petrochemicals Limited	1753.63	7169.06	8922.69	3177.468	3543.11
7	Hindustan Unilever Limited	2095.49	2444.52	4540.01	2197.158	3445.58
8	Infosys Limited	3833	27722	31555	28807.2	47438
9	Mahindra & Mahindra Limited	1543.4	7778.97	9322.37	11433.654	18760.39

### Disclaimer:

Details presented in the table above are taken from the Annual Report of the respective Companies during 2014-15. Though honest effort is made in collecting the figures, this requires further analysis. The above loan excludes loans to wholly owned subsidiaries and it may include bank deposits made prior to April 1, 2014 which were exempted under the 1956 Act. Banking Companies, Insurance companies, and housing finance companies are not considered in samples due to exemption available to them both under the Companies Act, 1956 and Companies Act, 2013.

Sowrabh S Rao, ACS,  
Company Secretary, Jupiter Capital Pvt. Ltd.,  
Bengaluru.

# EXPOSURE DRAFTS OF SECRETARIAL STANDARDS ON DIVIDEND AND REPORT OF THE BOARD OF DIRECTORS FOR PUBLIC COMMENTS

(Last Date for comments: December 25, 2016)

The Secretarial Standards Board (SSB) of the Institute of Company Secretaries of India (ICSI) has revised its Secretarial Standard on Dividend and Secretarial Standard on Report of the Board of Directors as per the Companies Act, 2013, Rules made thereunder and other applicable regulations, and hosted the Exposure Drafts thereon for public comments on ICSI website ([www.icsi.edu](http://www.icsi.edu)).

Based on public comments, these two Standards would be finalised.

While sincere efforts have been made by SSB to address multiple grey areas in the law and incorporate best practices being followed by the corporates in the country; simultaneously facilitating the professionals and benefitting the industry, your comments, views and suggestions on the same is vital in order to bring out effective and acceptable Standards.

In the light of the above, your specific comments or suggestions are solicited on the Exposure Drafts of:

1. Secretarial Standard on Dividend and
2. Secretarial Standard on Report of the Board of Directors

Comments/suggestions should be sent under the following heads for better analysis:

## 1. Drafting Improvements

Under this, we are concerned with deviations from the standard use of English as understood by a company. If you feel that the communication at any place is not effective or the Standard is not clear and concise, and can be improved further, kindly suggest the manner in which it should be expressed.

## 2. Areas not covered in law, suggested to be covered in the Standard

Under this, we are concerned with the situations where neither the Act nor the Rules make provisions to cover a given situation or the Rules have not provided to make an exception where it is otherwise warranted.

## 3. Contradictions with the Act or Rules

Under this, you may point out any aspect of the Standard which is not consistent with or contradicts any of the provisions of the Companies Act, 2013 or Rules made thereunder.

## 4. Contradictions with any other law

Under this, you may point out any aspect of the Standard which is not consistent with or contradicts any of the provisions of any other Act, Rules or Regulations.

## 5. Multiple or diverse interpretations of any part of the Standard

The attempt of the Standard is to have only one interpretation i.e. the endeavour is to make the Standard unambiguous. Kindly point out in this section, if you find any part of the standard which is capable of multiple or diverse interpretations or ambiguity.

## 6. Conflict with Judicial Pronouncements

Under this, you may point out if any part of the Standard differs from or contradicts or is conflicting with any judgement of either the Supreme Court or High Court or any clarification by a regulatory authority like MCA, SEBI, Stock Exchange, etc.

## 7. Best Secretarial/Industry Practices

Under this, you can share the good practices being followed by your organisation or industry, in respect of any of the areas which the Standard seeks to cover, which removes the barriers that might have been hindering industry from complying with any of the provisions of the Act or Rules and/or facilitates better corporate governance.

## 8. Typical Situations/Scenarios not addressed in the Standard

Under this, you can list any critical issues or special circumstances encountered by you, which you consider are not addressed in the Standard and which could be added.

## 9. Any other Suggestions not covered above

If you have any other suggestions or if you feel that the standard is not accurate or complete, you may respond under this. Otherwise, please confine your suggestions under the points enumerated above.

**Please arrange to send your suggestion in the following format specifying the above categories:**

Suggestions on Exposure Drafts of Secretarial Standards (SS) on Dividend / Report of the Board of Directors				
Sl. No.	Para No. / Page No.	Existing Text of SS	Suggestions	Rationale for the Suggestion

The texts of the Exposure Drafts are placed on pages 139 onwards.

The last date for giving comments is **Sunday, December 25, 2016**. Please do not wait for the last date to give your comments.

Your comments in the above format may be sent through e-mail at [ssb@icsi.edu](mailto:ssb@icsi.edu) with a copy to [ssbicsi@gmail.com](mailto:ssbicsi@gmail.com) or may also be sent in hard copy to the following address:

Institute of Company Secretaries of India  
(Secretariat-SSB)  
ICSI House, 22,  
Institutional Area, Lodhi Road,  
New Delhi – 110003  
011-45341055

Chairman

Issue Date: November 28, 2016 Secretarial Standards Board

# Exposure Draft

## SECRETARIAL STANDARD ON DIVIDEND

The following is the text of the Secretarial Standard-3 (SS-3) on "Dividend", issued by the Council of the Institute of Company Secretaries of India.

Adherence to this Secretarial Standard is recommendatory for all companies to facilitate uniform practices in distribution of profits by way of "Dividend".

**(In this Secretarial Standard, the Standard portions have been set in bold type. These shall be read in the context of the background material which has been set in normal type. Both the Standard portions and the background material have equal authority).**

### INTRODUCTION

Dividend is a return on the investment made in the share capital of a company, as distinct from the return on borrowed capital, which is in the form of interest.

In commercial usage, the term "Dividend" refers to the share of profits of a company that is distributed amongst its Members.

The term "Dividend" has been inclusively defined in the Act to the effect that it includes Interim Dividend. The Act neither specifically defines the term Dividend nor makes any distinction between Interim and Final Dividend.

For the purposes of this Standard, capitalization of profits in the form of bonus shares is not Dividend.

A company licensed under Section 8 of the Companies Act, 2013 or corresponding provisions of any previous enactment thereof are prohibited by their constitution from paying any dividend to its members.

### SCOPE

This Standard prescribes a set of principles in relation to the declaration and payment of Dividend and matters related thereto.

The principles enunciated in this Standard are in conformity with the provisions of the Act. In addition, the provisions of the Securities Contracts (Regulation) Act, 1956 and the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 are applicable to listed companies. Any specific provision relating to Dividend in the Income-tax Act, 1961 or under any other statute shall also be applicable.

The principles set out herein relate to declaration and payment of dividend on equity as well as preference share capital in accordance with the provisions of the Act and are in respect of Dividend as it relates to a going concern. These are equally applicable to final as well as interim dividend unless otherwise stated.

This standard shall not apply to a company limited by guarantee not having share capital and does not deal with Dividend, if any declared by companies under liquidation.

### DEFINITIONS

The following terms are used in this Standard with the meaning specified:

"Act" means the Companies Act, 2013 (Act No. 18 of 2013) or any previous enactment thereof, or any statutory modification thereto or re-enactment thereof and includes any Rules and Regulations framed thereunder.

"Dividend" means a distribution of any sums to Members out of profits or free reserves available for the purpose.

"Final Dividend" means the Dividend recommended by the Board of Directors and declared by the Members at an Annual General Meeting.

"Interim Dividend" means the Dividend declared by the Board of Directors at its meeting.

"Free Reserves" means such reserves which, as per the latest audited balance sheet of a company, are available for distribution as Dividend. However, the following amount shall not be treated as free reserves:

- (i) any amount representing unrealised gains, notional gains or revaluation of assets, whether shown as reserve or otherwise, or
- (ii) any change in carrying amount of an asset or of a liability recognised in equity, including surplus in profit and loss account on measurement of the asset or the liability at fair value.

"Interim Financial Statements" means the financial statements prepared for an interim period shorter than a full financial year, comprising of following:

- (a) a balance sheet;
- (b) a statement of profit and loss;
- (c) a statement of Cash flow statement;
- (d) a statement of changes in equity; and
- (d) explanatory notes thereon.

"Member", in relation to a company, means—

- (i) the subscriber to the memorandum of the company who shall be deemed to have agreed to become member of the company, and on its registration, shall be entered as member in its register of members
- (ii) every other person who agrees in writing to become a member of the company and whose name is entered in the register of members of the company;
- (iii) every person holding shares of the company and whose name is entered as a beneficial owner in the records of a depository;

"Preference Shareholder" means a holder of such shares as carry a preferential right, in respect of Dividend, to a fixed amount or an amount calculated at a fixed rate and, in respect of capital, to repayment of capital.

"Shareholder" means a Member as defined above and, where the context requires or admits, includes a Preference Shareholder.

Words and expressions used and not defined herein shall have the meaning respectively assigned to them under the Act.

### SECRETARIAL STANDARDS

#### 1. Ascertainment of amount available for payment/distribution as Dividend.

##### 1.1 Out of profits

**1.1.1 Dividend shall be paid out of the profits of the financial year for which such dividend is sought to be declared and/or out of profits for any previous financial year(s) which remains undistributed after providing for depreciation in accordance with the provisions of the Act. Dividend may also be declared out of money provided by the Central Government or the State Government in pursuance of a guarantee given by such Government for this purpose.**

Dividend shall not be declared unless carried over previous losses and depreciation not provided in the

previous year(s) are set off against the profit of the company for the current year. The company may, before declaration of Dividend, transfer such percentage of profits, as it may consider appropriate, to its reserves.

Dividend, being a portion of the profits of the company, is distributable amongst the Members of the company in accordance with the provisions of the Act. The Act requires a company to prepare a statement of profit and loss, which should give a true and fair view of the profit or loss of the company for a financial year. The terms 'profit' and 'true and fair' have not been defined by the Act, therefore, these terms should be understood in their natural and proper sense. The statement of profit and loss shall be prepared in accordance with the generally accepted accounting principles and presented in conformity with the requirements set out in the Act.

The depreciation shall be provided in the books of account of the company as computed in accordance with Schedule II to the Act, which prescribes useful lives of various assets for the purpose of such computation. The useful life of an asset shall not ordinarily be different from that prescribed under the Act. However where a company adopts useful life different from that prescribed under the Act, or uses residual value of more than five percent of original cost, the financial statement of the company shall disclose such difference with justification for the variance duly supported by technical advice.

**1.1.2 A company shall not declare Dividend on its equity shares in case of non-compliance of provisions relating to the acceptance of deposits under the Act, till such time the deposits accepted have been repaid with interest in accordance with the terms and conditions of the agreement entered with the depositors.**

A company shall also not declare any Dividend, if –

- (a) it has defaulted in redemption of debentures or payment of interest thereon or creation of debenture redemption reserve,
- (b) it has defaulted in redemption of preference shares or creation of capital redemption reserve,
- (c) it has defaulted in payment of dividend declared in the current or previous financial year(s), or
- (d) it has defaulted in repayment of any term loan to a bank or financial institution or interest thereon, till such time the default is subsisting.

No dividend shall be declared by the company during the extended time, if any, granted by the Tribunal/Court for repayment of above liabilities, since the default is still subsisting during such period.

**1.1.3 Dividend shall not be declared out of the Securities Premium Account or the Capital Redemption Reserve or Revaluation Reserve or Amalgamation Reserve or out of profits on re-issue of forfeited shares or out of profits earned prior to incorporation of the company.**

**1.1.4 Interim Dividend shall be declared and paid only out of the surplus in the profit & loss account and/or out of the profit for the financial year in which such Dividend is sought to be declared.**

The Board of Directors of a company may declare interim dividend during any financial year. While declaring the Interim Dividend out of profits of the

current financial year, the Board shall consider the Interim Financial Statements for the period for which Interim Dividend is to be declared and should be satisfied that the financial position of the company justify and support the declaration of such Dividend. The Interim Financial Statements so prepared shall take into account depreciation for the full year, tax on profits of the company including deferred tax and other anticipated losses for the financial year. The Interim Financial Statements shall also take into account the Dividend that would be required to be paid at the fixed rate on preference shares.

The Interim Financial Statements shall also take into account the losses incurred, if any, during the current financial year upto the end of the quarter, immediately preceding the date of declaration of Interim Dividend. Further, in such a case Interim dividend shall not be declared at a rate higher than average dividend declared during the immediately preceding three financial years.

**1.1.5 Where a company has issued equity shares with differential rights as to Dividend, Interim Dividend may, at the option of the Board, be declared on all or any one or more of the classes of such shares in accordance with the terms of issue.**

In case Interim Dividend is declared on only one class of equity shares, the Board shall ensure that the profit as shown in the interim financial statements is adequate to meet the Dividend that would have to be paid on the other classes of equity shares in accordance with the terms of issue.

Where a company has issued equity shares with differential rights as to voting only, no differentiation shall be made in the declaration of Interim Dividend on such shares.

**1.2 Out of Free Reserves**

**1.2.1 In a year in which the profits are inadequate or there are no profits, the company may declare Dividend out of Free Reserves subject to the fulfilment of the following conditions:**

- (a) The rate of Dividend declared by the company shall not exceed the average of the rates at which Dividend was declared by it in the three financial years immediately preceding the financial year of declaration of Dividend. This shall not be applicable where a company has not declared any Dividend in each of the three preceding financial years.
- (b) Total withdrawal from the accumulated profits shall not exceed one tenth of the paid up share capital and free reserves of the company as per the latest audited financial statements.
- (c) The amount so withdrawn shall first be utilised to set off the losses, if any, incurred in the financial year in which Dividend is proposed to be declared.
- (d) The balance of Free Reserves after such withdrawal shall not fall below 15% of the paid up share capital of the company as per the latest audited financial statements.

**1.2.2 Interim Dividend shall not be declared out of Reserves.**

In the event of a loss or inadequacy of profits, no Interim Dividend shall be paid out of Free Reserves. However, Final Dividend may be paid out of Free Reserves.

## **2. Declaration of Dividend**

### **2.1 Dividend shall be declared only on the recommendation of the Board, made at a meeting of the Board.**

The recommendation for declaration of Dividend shall neither be made by a Committee of the Board nor by way of a Resolution passed by circulation.

Unless the Dividend has been recommended by the Board, Members in Annual General Meeting cannot on their own declare any Dividend.

Where a company has an Audit Committee, this Committee shall consider the annual financial statements before submission to the Board. Dividend shall be recommended by the Board after consideration and approval of said financial statements. All requisite approvals shall be obtained before declaration of Dividend. Dividend shall not be declared subject to any condition such as the approval of financial institutions/banks or foreign collaborators or compliance with any other contractual obligation.

### **2.2 Dividend shall be declared only at an Annual General Meeting.**

Dividend shall relate to a financial year and shall be declared by the Members at the Annual General Meeting of the company after consideration of the financial statements of the company. Members may declare a lower rate of Dividend than the rate recommended by the Board but have no power to increase the amount or rate of Dividend recommended by the Board.

The members may also decide not to declare the dividend recommended by the Board. The dividend, if declared, should be disclosed on per share basis.

### **2.3 No Dividend shall be declared on equity shares for previous years in respect of which annual financial statements have already been adopted at the respective Annual General Meetings.**

Arrears of Dividend on cumulative preference shares for previous years may, however, be declared and paid.

### **2.4 Interim Dividend shall be declared at a meeting of the Board.**

Declaration of Interim Dividend shall neither be made by a Committee of the Board nor by way of a Resolution passed by Circulation.

While Final Dividend is recommended by the Board and declared by the Members, approval of Members is not required for declaration of Interim Dividend. However, as a measure of good practice, payment of Interim Dividend should be recorded at the Annual General Meeting.

Where a company has an Audit Committee, this Committee shall consider the interim financial statements which shall thereafter be submitted to the Board for its consideration and declaration of Interim Dividend.

### **2.5 Distribution of discount coupons to all the shareholders shall not be treated as deemed dividend.**

### **2.6 A company is prohibited to issue Bonus shares in lieu of dividend.**

## **3. Entitlement to Dividend**

### **3.1 Dividend to be paid only to the registered holders of shares entitled to Dividend or to their order or to their bankers.**

Dividend shall be paid (i) in respect of shares held

in electronic form, to those Members whose names appear as beneficial owners in the statement of beneficial ownership furnished by the Depository(ies) as on the record date fixed by the company for this purpose; (ii) in respect of shares held in physical form, to those Members whose names appear in the company's Register of Members after giving effect to all valid share transfers in physical form lodged with the company before the date of book closure or as on the record date, as the case may be and (iii) in respect of share warrants, to the holders of such warrants.

The dividend may also be paid to the order of the member or to his banker.

### **3.2 Preference Shareholders shall be paid Dividend before Dividend is paid to the equity Shareholders of the company.**

Preference shares carry a preferential right as to Dividend in accordance with the terms of issue. However, this right is subject to the availability of distributable profits. Since the dividend on preference shares is governed by the terms of issue already approved by the shareholders, the Board may declare Dividend on such shares in accordance with the terms of issue.

If there are two or more classes of preference shares, the holders of the class which has priority are entitled to their preference Dividend before any Dividend is paid in respect of the other class, if the terms of issue so provide. However, if the terms of issue are silent, Dividend shall be distributed on pro-rata basis.

In the case of Interim Dividend, while Preference Shareholders need not necessarily be paid Dividend before Interim Dividend is paid to equity shareholders, the Board should set aside such sum as would be necessary to pay Dividend to the Preference Shareholders before consideration of Interim Dividend.

### **3.3 Arrears of Dividend on cumulative preference shares shall be paid before payment of any Dividend on equity shares.**

Preference shares may be cumulative or non-cumulative. Dividend in arrears on cumulative preference shares can be paid in a later year where there are profits to justify such payment. In the case of non-cumulative preference shares, if no Dividend can be paid in a year, there is no right to receive the same in future years.

After paying the Dividend on preference shares and any arrears of Dividend on cumulative preference shares, residual profit may be utilised for payment of Dividend to equity Shareholders. However, where participating preference shares have been issued, the holders thereof also have the right to participate in such residual profit, subject to the terms of issue of such shares.

### **3.4 Dividend on equity shares shall be paid in accordance with the rights of the respective classes, if any, of such shares.**

Where a company issues equity shares with differential rights as to Dividend, the terms of issue of such shares shall govern the rights of each such class of holders as to receipt of Dividend.

## **4. Dividend in Abeyance**

### **4.1 The amount of Dividend in respect of shares for which an instrument of transfer has been delivered to the company but which have not been registered for any valid reason shall be transferred**

### **to the Unpaid Dividend Account.**

If a Member authorises the company in writing to pay the Dividend to the transferee specified in the instrument of transfer, the company shall act upon such authorisation. However, where such instrument is not valid for any reason, the company shall not act upon such authorisation and intimate the concerned Member accordingly.

In case of shares which have not been transferred because the ownership thereof is in dispute, or where attachment/prohibitory orders have been passed by a court or statutory authority, Dividend should be kept in abeyance by transferring to the Unpaid Dividend Account.

## **5. Payment of Dividend**

**5.1 Dividend shall be deposited in a separate bank account within five days from the date of declaration and shall be paid within thirty days of declaration. The intervening holidays, if any, falling during such period shall be included.**

The amount deposited in such bank account shall be utilised only for the payment of dividend or for transfer to unpaid dividend account/Investor Education and Protection Fund and for no other purpose.

**5.2 Where a tax on distribution of Dividend is levied on the company, such tax shall be paid within the prescribed time.**

**5.3 Dividend shall be paid in cash and not in kind.**

Dividend payable in cash may be paid through payable at par cheque or warrant or in any electronic mode of payment approved by the Reserve Bank of India.

To curb the practices of fraudulent encashment of Dividend, the company shall endeavour to pay Dividend directly to the bank accounts of the Members through any one of the electronic modes specified by the Reserve Bank of India viz. electronic clearing services (local, regional or national), direct credit, real time gross settlement, national electronic funds transfer etc. Where Dividend is remitted through electronic mode, the company shall send to the member, a statement in writing showing the amount of Dividend paid.

Where payment of Dividend is not possible through any electronic mode, such dividend shall be paid by way of cheque payable at par or dividend warrant.

The cheque or warrant shall be sent to the registered address of the Member and, in the case of joint holders, to the registered address of the member named first in the Register of Members or to such person or to such address as the Member or the joint holders have directed, in writing.

When payment is made by Dividend warrant, the name of the bank and account number, if available, shall be mentioned in the warrant after the name. In case these are not available, address of the member shall be printed after the name.

In case of payment of dividend through warrant or cheque payable at par, if the amount of dividend exceeds one thousand and five hundred rupees, the company shall ensure to despatch such dividend warrant or cheque either by speed post or registered post to the concerned Member at his registered

address.

**5.4 Initial validity of the Dividend cheque or warrant shall be for three months.**

A cheque or warrant for payment of Dividend shall be valid for a period of three months from the date of issue. Where such cheque or warrant remains unpaid after the initial period of validity, a fresh instrument shall be issued in lieu thereof, within fifteen days of the receipt of a valid request in this regard and such instrument shall also have a validity of three months from the date of its issue.

Particulars of every fresh cheque or warrant issued by the company shall be entered in a Register of Dividend Warrants kept for the purpose indicating the name of the person to whom the instrument is issued the number and amount of such instrument and the date of issue.

**5.5 A duplicate Dividend cheque or warrant shall be issued only after obtaining requisite indemnity/declaration from the concerned member and after ascertaining the encashment status of the original Dividend cheque or warrant.**

In case of defaced, torn or decrepit Dividend cheque or warrant, a duplicate instrument may be issued on surrender of such defaced, torn or decrepit instrument to the company. In case of non-receipt of dividend warrant by the shareholder and if the same is not returned undelivered to the company, a duplicate warrant may be issued by the company after verifying the encashment status.

Particulars of every duplicate Dividend cheque or warrant issued as aforesaid shall be entered in a Register of Duplicate Dividend Warrants kept for the purpose, indicating the name of the person to whom the instrument is issued, the number and amount of the instrument in lieu of which the duplicate instrument is issued and the number & date of issue of such duplicate instrument.

**5.6 The Dividend cheque or warrant shall be accompanied by a statement in writing showing the amount of Dividend paid, Folio no./DP ID and Client ID nos., number of shares held by the concerned Member as on the record date, amount paid up on each share and the financial year to which the Dividend pertains.**

**5.7 Dividend shall be paid proportionately on the paid-up value of shares.**

Unless the Articles provide otherwise, Dividend shall be paid in proportion to the amount paid-up on the shares and for the portion of the period of the financial year in respect of which it is paid. If any shares are issued in between the financial year on the terms that they shall rank for Dividend from a particular date, Dividend on such shares shall be paid accordingly.

**5.8 Calls in arrears and any other sum due from a Member in relation to the shares of the company may be adjusted against Dividend payable to the Member.**

In the case of listed companies, calls in arrears or any other sum due from a Member in relation to the shares of the company, may be adjusted against the Dividend payable to him after giving such notice, as may be required. In the case of other companies, unless the Articles provide otherwise, any other sums

due from a Member, in a capacity other than as a Member, may also be adjusted against the Dividend payable to him.

**5.9 No dividend shall bear interest against the company except in case of default in payment of dividend or despatch of dividend warrant/cheque within the prescribed period.**

However, no default shall be deemed to have been committed, if-

- (a) the Dividend could not be paid by reason of the operation of any law;
- (b) a Shareholder has given directions to the company regarding the payment of Dividend and those directions cannot be complied with and the same has been communicated to the concerned shareholder;
- (c) there is a dispute regarding the right to receive the Dividend;
- (d) the Dividend has been lawfully adjusted by the company against any sum due to it from the Shareholder; or
- (e) for any other reason, the failure to pay the Dividend or to post the cheque or warrant within the prescribed period was not due to any default on the part of the company.

## **6. Unpaid Dividend**

**6.1 The amount of Dividend which remains unpaid or unclaimed after thirty days from the date of its declaration shall be transferred to a special bank account titled as 'Unpaid Dividend Account' to be opened by the company in that behalf with any scheduled bank. Such transfer shall be made within seven days from the date of expiry of the thirty days period from the date of declaration of dividend.**

The company shall within a period of ninety days of transferring such amount to 'Unpaid Dividend Account' prepare a statement containing the names, last known addresses and the amount of Dividend to be paid to each of the Members. Such statement shall be uploaded on the website of the company, if any, and also on the website specified by the Central Government for this purpose. Such statement shall remain on the website(s) till such time the unpaid or unclaimed Dividend is transferred to the Fund and be updated by the company at regular intervals, atleast on a quarterly basis.

Any person claiming to be entitled to any amount transferred to the Unpaid Dividend Account may apply to the company for payment of such amount.

**6.2 Any amount in the Unpaid Dividend Account of the company which remains unpaid or unclaimed for a period of seven years from the date of transfer of such amount to the Unpaid Dividend Account, along with interest accrued, if any, shall be transferred to the Investor Education and Protection Fund.**

Any transfer to the Fund shall be made within thirty days from the expiry of seven years from the date of transfer of unpaid or unclaimed Dividend to the Unpaid Dividend Account.

With respect to transfer of unpaid or unclaimed Dividend to the Fund, the company shall ensure compliance with the following requirements:

- (a) It shall send a statement to the Investor Education and Protection Fund (IEPF) Authority in the prescribed form containing the details of transfer of unpaid or unclaimed Dividend to the Fund and obtain a receipt from the IEPF Authority in evidence of such transfer. Such statement shall be furnished within thirty days of transfer of unpaid or unclaimed Dividend to IEPF.
- (b) It shall maintain record consisting of name, last known address, amount, Folio no., DP ID / Client ID no., certificate number, beneficiary details etc. of the persons in respect of whom unclaimed or unpaid Dividend is transferred to the Fund.
- (c) It shall not transfer any Dividend to the Fund where there is a specific order of Court or Tribunal or any other statutory authority restraining such transfer. It shall furnish details of such unpaid Dividend to the IEPF Authority in the prescribed form within thirty days from the end of the financial year.
- (d) It shall file with the IEPF Authority within thirty days of the end of a financial year, a statement in the prescribed format containing the details of the unclaimed or unpaid Dividend due to be transferred to the Fund in the next financial year.
- (e) Within thirty days of closure of financial statements for a financial year, the company shall furnish another statement to the IEPF Authority stating therein reasons for deviation, if any, between the unclaimed or unpaid Dividend detailed in the earlier statement under (d) above and the actual Dividend transferred to the Fund.

Any claimant of unpaid or unclaimed dividend transferred to the fund, shall be entitled to apply for refund from the Investor Education and Protection Fund, after following the prescribed procedure.

**6.3 Before transferring any unclaimed or unpaid Dividend to the Investor Education and Protection Fund, the company shall give an individual intimation to the Members in respect of whom such unclaimed Dividend is being transferred, at least three months before the due date of such transfer.**

The company shall intimate the concerned Members individually of the amount of Dividend remaining unclaimed or unpaid which is liable to be transferred to the Fund and advise the Members to claim such amount of Dividend from the company before such transfer.

**6.4 Any interest earned on the Unpaid Dividend Account shall also be transferred to the Investor Education and Protection Fund.**

If the Unpaid Dividend Account is kept as a fixed deposit or in any account on which interest is earned, the interest earned shall also be transferred to the Fund.

**6.5 All shares in respect of which dividend has not been paid or claimed for seven consecutive years or more shall be transferred by the company in the name of Investor Education and Protection Fund.**

In case any dividend is paid or claimed for any year during the said period of seven consecutive years, such shares shall not be transferred to the Fund. Before transfer of such shares to the Fund, the company shall send individual notice to the concerned

members at least three months in advance at his latest available address registered with the company giving details of the Members and the shares due for transfer to the Fund. Such details shall also be uploaded on the website of the company, if any.

A notice shall also be simultaneously published in leading newspapers in English and regional language circulating in the district and having wide circulation in the place where the registered office of the company is situated.

Any claimant of shares transferred to the Fund, shall be entitled to claim such shares in accordance with such procedure and on submission of such documents as prescribed.

The company shall not transfer any shares or dividend amount to the Fund, where there is a specific order of Court or Tribunal or any other statutory authority restraining any transfer of shares and payment of Dividend.

## **7. Revocation of Dividend**

**7.1 Dividend, once declared, becomes a debt and shall not be revoked.**

## **8. Preservation of Dividend Cheques, Warrants and Dividend Registers**

**8.1 Dividend cheques or warrants returned by the Bank, after payment thereof, and the Dividend Registers shall be preserved by the company for a period of eight years.**

Where the company has given an undertaking to the Bank for preservation or safe keeping of paid Dividend cheques or warrants for a specified period, the said instruments shall be preserved for such specified period or eight years from the date of the instrument, whichever is longer.

The dividend cheques or warrants so preserved shall be destroyed only with the approval of the Board or in accordance with the policy approved by the Board for this purpose.

## **9. Disclosure**

**9.1 The Balance Sheet of the Company shall disclose the aggregate amount of Dividend proposed to be distributed to equity and preference shareholders for the financial year and the related amount of Dividend per share. Arrears of fixed cumulative dividend on preference shares shall also be disclosed separately.**

**9.2 The Balance Sheet of the company shall also disclose under the head 'Current Liabilities and Provisions', the amount lying in the Unpaid Dividend Account together with interest accrued thereon, if any.**

**9.3 The amount of interim dividend, if any, paid during the financial year and final Dividend recommended by the Board of directors shall be disclosed in the Board's Report.**

**9.4 The Annual Report of the company shall disclose the total amount lying in the Unpaid Dividend Account of the company in respect of the last seven years. The amount of Dividend, if any, transferred by the company to the Investor Education and Protection Fund during the year**

**shall also be disclosed.**

## **10. Additional Compliances for Listed Company**

In addition to the above, a Listed Company shall ensure compliance with the requirements covered under Annexure-A.

**EFFECTIVE DATE: This Standard shall come into effect from \_\_\_\_\_**

### **Annexure A**

A Listed Company shall conform to the following:

- (i) The equity shares allotted by the company shall rank pari passu with the existing equity shares for the purpose of payment of Dividend, if the same are in existence as on the record date/book closure.
- (ii) The company shall not issue shares in any manner which may confer on any person, superior rights as to voting or Dividend vis-à-vis the rights on equity shares that are already listed.
- (iii) The company shall give prior intimation to the Stock Exchange(s) about the Board meeting in which Dividend is proposed to be recommended / declared, atleast two working days in advance excluding the date of the meeting and the date of the intimation.
- (iv) The company shall intimate the Stock Exchange(s), the record date fixed for the purpose of declaration of Dividend at least seven working days in advance excluding the date of the intimation and the record date.
- (v) The company shall recommend or declare dividend at least five working days before the record date fixed for the purpose. The said period of five working days is excluding the date of declaration/recommendation of dividend and the record date fixed for the purpose.
- (vi) The company shall disclose the outcome of the Board Meeting held to consider the dividend matters, to the Stock Exchange(s) within 30 minutes of closure of the meeting. In case of recommendation / declaration of Dividend, the intimation shall also include the date on which such Dividend shall be paid.
- (vii) In case of payment of Dividend through warrant or cheque payable at par, if the amount of dividend exceeds one thousand and five hundred rupees, the company shall despatch such dividend warrant or cheque by speed post to the concerned Member at the registered address.
- (viii) The Company shall declare and disclose Dividend on per share basis only.
- (ix) The Company shall not forfeit unclaimed Dividends before the claim becomes barred by law and such forfeiture, if effected, shall be annulled in appropriate cases.
- (x) Top five hundred Listed Companies based on market capitalisation as on 31st March every financial year, shall formulate a Dividend Distribution Policy covering the prescribed parameters by Securities and Exchange Board of India (SEBI). Such policy shall be disclosed in the Annual Report of the Company and also be placed on its website.
- (xi) The Company shall disclose in its Corporate Governance Report the Dividend payment date under the General Shareholder Information Section.



# Exposure Draft

## SECRETARIAL STANDARD ON REPORT OF THE BOARD OF DIRECTORS

The following is the text of Secretarial Standard on “Report of the Board of Directors”, issued by the Council of the Institute of Company Secretaries of India.

Adherence by a company to this Secretarial Standard is recommendatory.

**(In this Secretarial Standard, the Standard portions have been set in bold type. These shall be read in the context of the background material which has been set in normal. Both the Standard portions and the background material have equal authority)**

### INTRODUCTION

The Companies Act, 2013 requires the Board of Directors of every company to present Financial Statements to the shareholders alongwith their Report known as the “Report of the Board of Directors” or “Board’s Report”.

The Board’s Report is the most important means of communication by the Board of Directors of a company with its stakeholders. The Board’s Report should, so far as it is material for the appreciation of the state of the company’s affairs by its shareholders, deal with any changes which have occurred during the financial year. The Board’s Report should cover such information that would assist the stakeholders in understanding the business operations, prospects of the company’s business and quality of management. This Report serves to provide the stakeholders with both financial and non-financial information, including the performance and prospects of the company, relevant changes in the management, capital structure, major policies, recommendations as to the distribution of profits, future and ongoing programmes of expansion, modernization and diversification, capitalization of reserves, further issue of capital and other relevant information. The Companies Act, 2013 (“**the Act**”) mandates certain disclosures in the Board’s Report. Further, certain additional disclosures, as applicable, are also required to be made in the Board’s Report under various other enactments viz. SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (“**Listing Regulations**”), SEBI (Share Based Employee Benefits) Regulations, 2014, Disclosure under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 etc.

However, companies which are governed by/registered under a separate enactment shall be required to make additional disclosures in their Board’s Report as stated in the respective enactments. For companies whose securities are listed on an overseas stock exchange, they shall be required to comply with additional requirements as may be specified by such stock exchanges.

### SCOPE

This Standard prescribes a set of principles for preparation and presentation of the Report of the Board of Directors of a company and matters relating thereto.

The principles enunciated in this Standard are in conformity with the provisions of the Act and other laws as mentioned above. However, if, due to subsequent changes in the Act or any other laws, a particular Standard or any part thereof becomes inconsistent with the Act or other laws, the provisions of the Act or other laws shall prevail.

### DEFINITIONS

The following terms are used in this Standard with the meaning specified:

“Act” means the Companies Act, 2013 (Act No. 18 of 2013) or any previous enactment thereof, or any statutory modification thereto or re-enactment thereof and includes any Rules and Regulations framed there under.

“Associate company”, in relation to another company, means a company in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company.

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

Term ‘total share capital’ means aggregate of the (a) the paid-up equity share capital and (b) convertible preference share capital.

“Board of Directors” or “Board” in relation to a company, means the collective body of the directors of the company.

“Body Corporate” or “Corporation” includes a company incorporated outside India, but does not include—

- (i) a co-operative society registered under any law relating to co-operative societies; and
- (ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf.

“Committee” means a Committee of Directors mandatorily required to be constituted by the Board under the Act.

“Company” means a company incorporated under the Act or under any previous company law.

“Employees’ Stock Option” means the option given to the directors, officers or employees of a company or of its holding company or subsidiary company or companies, if any, which gives such directors, officers or employees, the benefit or right to purchase, or to subscribe for, the shares of the company at a future date at a pre-determined price.

“Financial Year” in relation to any company or body corporate, means the period ending on the 31st day of March every year, and where it has been incorporated on or after the 1st day of January of a year, the period ending on the 31st day of March of the following year, in respect whereof financial statement of the company or body corporate is made up.

Provided that on an application made by a company or body corporate, which is a holding company or a subsidiary of a company incorporated outside India and is required to follow a different financial year for consolidation of its accounts outside India, the Tribunal may, if it is satisfied, allow any period as its financial year, whether or not that period is a year.

“Financial Statement” in relation to a company, includes -

- (i) a balance sheet as at the end of the financial year;
- (ii) a profit and loss account, or in the case of a company carrying on any activity not for profit, an income and expenditure account for the financial year;
- (iii) cash flow statement for the financial year;
- (iv) a statement of changes in equity, if applicable; and
- (v) any explanatory note annexed to, or forming part of, any document referred to in sub-clause (i) to sub-clause (iv).

“Holding Company” in relation to one or more other companies, means a company of which such companies are subsidiary companies.

“Housing Finance Company” means a company as defined under the Housing Finance Companies (National Housing Bank) Directions, 2010.

“Key Managerial Personnel” (KMP), in relation to a company, means—

- (i) the Chief Executive Officer or the Managing Director or the Manager;
- (ii) the Company Secretary;
- (iii) the Whole-time Director;
- (iv) the Chief Financial Officer; and
- (v) such other officer as may be prescribed.

“Listed Company” means a company which has any of its securities listed on any recognised stock exchange.

“Member” in relation to a company, means—

- (i) the subscriber to the memorandum of the company who shall be deemed to have agreed to become member of the company, and on its registration, shall be entered as member in its register of members;
- (ii) every other person who agrees in writing to become a member of the company and whose name is entered in the register of members of the company;
- (iii) every person holding shares of the company and whose name is entered as a beneficial owner in the records of a depository;

“Miscellaneous Non-Banking Company” means a company as defined under Miscellaneous Non-Banking Companies (Reserve Bank) Directions, 2016.

“Non-Banking Financial Company” or “NBFCs” means a company as defined in the Reserve Bank of India Act, 1934.

“Other Laws” means any law other than the Act which requires disclosures in the Board’s Report and as mentioned in this Standard.

“Preference Share Capital”, with reference to any company limited by shares, means that part of the issued share capital of the company which carries or would carry a preferential right with respect to—

- (a) payment of dividend, either as a fixed amount or an amount calculated at a fixed rate, which may either be free of or subject to income-tax; and
- (b) repayment, in the case of a winding up or repayment of capital, of the amount of the share capital paid-up or deemed to have been paid-up, whether or not, there is a preferential right to the payment of any fixed premium or premium on any fixed scale, specified in the memorandum or articles of the company.

“Producer Company” means a body corporate having objects or activity specified in Section 581B and registered as Producer Company under the Companies Act, 1956.

“Promoter” means a person -

- (a) who has been named as such in a prospectus or is identified by the company in the annual return; or
- (b) who has control over the affairs of the company, directly or indirectly whether as a shareholder, director or otherwise; or
- (c) in accordance with whose advice, directions or instructions the Board of Directors of the company is accustomed to act.

Provided that nothing in sub-clause (c) shall apply to a person who is acting merely in a professional capacity.

“Report” means Board’s Report or the Report of the Board of Directors.

“Residuary Non-Banking Company” means a company as defined under Residuary Non-Banking Companies (Reserve Bank) Directions, 2016.

“Securities” means the securities as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956; Words and expressions used and not defined herein shall have the meaning respectively assigned to them under the Act.

## SECRETARIAL STANDARDS

It is the Board’s responsibility to prepare and submit its Report to the shareholders with reference to the matters set out in the Act and other laws, and attach the said Report to the Financial Statements laid before the company at its annual general meeting.

## 1. FUNDAMENTAL DISCLOSURES

The Board’s Report shall be prepared based on the Standalone Financial Statements of the company and shall relate to the financial year in relation to which such Statements are prepared. It should include the following disclosures:

### 1.1 Financial summary and highlights

Key highlights of financial performance of the company viz. Turnover, Profit Before Tax and Profit After Tax.

### 1.2 Details of revision of Financial Statements or Board’s Report

In case the company has voluntarily revised its Financial Statements or Board’s Report in respect of any of the three preceding financial years, the detailed reasons for such revision should be disclosed in the Board’s Report of the relevant financial year in which such revision is being made.

### 1.3 Amount, which the Board proposes to carry to any reserves

The Report should disclose the amount, if any, proposed by the company to be transferred to its reserves. If no amount is proposed to be transferred to reserves, a statement to that effect should be incorporated in the Board’s Report.

### 1.4 Dividend

The Board’s Report shall disclose the amount per share and the percentage which the Board recommends to be paid as dividend. If any interim dividend has been paid during the year, details of the amount per share and percentage of such interim dividend should also be disclosed in the Board’s Report. The total amount to be utilized for payment of dividend (both interim and final) should be disclosed, stating separately the total outgo on account of dividend and the dividend distribution tax thereon, along with the corresponding figures of the previous year.

If no dividend has been recommended or declared during the year, a statement to that effect should be incorporated in the Board’s Report.

Details of transfer of dividend or shares to the Investor Education and Protection Fund, if any, shall also be disclosed in the Board’s Report.

### 1.5 Major events during the year

#### a) State of the company’s affairs

The state of affairs of the company should relate to the period for which the Financial Statements have been prepared. Information and data which are usually considered pertinent and necessary for the purpose of proper appreciation of the state of affairs of a company relating to the period for which the Financial Statements have been prepared must be disclosed in the Report. Illustrative list of information that may be included in the Report are as follows -

- change in status of the company, if any;
- change in financial year, if any;
- major capital expenditure programmes;
- details and status of acquisition, mergers, expansion, modernization and diversification;
- development, acquisition and assignment of Intellectual Property Rights (IPRs);
- any other material event which has an impact on the affairs of the company.

#### b) Change in the nature of business

In case the company has commenced any new business or discontinued any of its existing business during the year, the Board’s Report should disclose the details of such business and the reasons for the same.

#### c) Material changes and commitments, if any, affecting the financial position of the company which have occurred between the end of the financial year of

**the company to which the Financial Statements relates and the date of the Report**

The Board's Report shall include material changes and commitments, if any, affecting the financial position of the company and occurring between the date of the Balance Sheet and the date of the Report. The effect of such material events and an estimate of their financial impact should also be disclosed in the Report. If evaluation of such an estimate cannot be explicitly made, a statement may be incorporated in the Report to that effect. It is also desirable to mention the causes for such material events and the remedial measures in the Report.

## **2. GENERAL INFORMATION**

- 2.1 Brief history of the company, overview of the industry and important changes in the industry during the last financial year;
- 2.2 Brief description of business segments and geographic segments;
- 2.3 External environment and economic outlook;
- 2.4 Induction of strategic and financial partners during the last financial year;
- 2.5 Brief description of the whistleblower mechanism and mechanism evolved for redressal of stakeholder's grievances.

## **3. CAPITAL STRUCTURE**

The Board's Report shall contain details of any changes in the capital structure of the company during the financial year viz. issue of shares with differential rights, issue of sweat equity, ESOP, issue/redemption of debentures etc.

### **3.1 Details of preference and equity shares issued**

During the financial year, if the company has issued any equity shares or preference shares, including shares issued upon conversion of securities, the following disclosures should be made in the Report:

- Date of allotment
- Method of allotment (QIP, FPO, GDRs, Rights, preferential, private placement, ESOP, conversion of securities etc.)
- Issue Price/Conversion Price
- Number of shares allotted
- Number of shares allotted to promoter group (including shares represented by Depository Receipts)
- In case shares are issued for consideration other than cash, a confirmation that price of such shares was determined on the basis of valuation report of the registered valuer.

### **3.2 Issue of equity shares with differential rights**

During the financial year, if the company has issued equity shares with differential rights as to dividend, voting or otherwise, the following disclosures should be made in the Report of the financial year in which such issue is completed:

- (a) the total number of shares allotted with differential rights;
- (b) the details of the differential rights relating to voting rights and dividend;
- (c) the percentage of the shares with differential rights to the total post issue equity share capital with differential rights issued at any point of time and percentage of voting rights which the equity share capital with differential voting rights shall carry to the total voting rights of the aggregate equity share capital;
- (d) the price at which such shares have been issued;
- (e) the particulars of Promoters, Directors or Key Managerial Personnel to whom such shares are issued;
- (f) the change in control, if any, in the company consequent to the issue of equity shares with differential voting rights;

- (g) the diluted Earnings Per Share pursuant to the issue of each class of shares, calculated in accordance with the applicable accounting standards;
- (h) the pre and post issue shareholding pattern alongwith voting rights in the format specified under the Act.

### **3.3 Issue of Sweat Equity Shares**

During the financial year, if the company has issued sweat equity shares, the following disclosures should be made in the Report of the financial year in which such shares are issued:

- (a) the class of Directors or employees to whom sweat equity shares are issued;
- (b) the class of shares issued as sweat equity shares;
- (c) the number of sweat equity shares issued to the Directors, Key Managerial Personnel or other employees showing separately the number of such shares issued to them, if any, for consideration other than cash and the individual names of allottees holding 1% or more of the issued share capital;
- (d) the reasons or justification for the issue;
- (e) the principal terms and conditions for issue of sweat equity shares, including pricing formula;
- (f) the total number of shares arising as a result of issue of sweat equity shares;
- (g) the percentage of the sweat equity shares to the total post issued and paid up share capital;
- (h) the consideration (including consideration other than cash) received or benefit accrued to the company from the issue of sweat equity shares;
- (i) the diluted Earnings Per Share pursuant to issue of sweat equity shares.

### **3.4 Issue of employee stock options**

#### **Listed Companies**

Listed Companies shall make the following disclosures in the Board's Report as required under the SEBI (Share Based Employee Benefits) Regulations, 2014 as detailed below:

- (a) Material change(s) to the employee stock options scheme(s).
- (b) Whether such scheme(s) is in compliance with the SEBI (Share Based Employee Benefits) Regulations, 2014.

Listed Companies shall also make additional disclosures, as detailed in Annexure 1, on their websites with web-link being disclosed in the Board's Report.

#### **Unlisted Companies**

Unlisted Companies shall disclose the following details in their Board's Report with respect to its Employee Stock Option Scheme(s):

- (a) options granted;
- (b) options vested;
- (c) options exercised;
- (d) the total number of shares arising as a result of exercise of options;
- (e) options lapsed;
- (f) the exercise price;
- (g) variation of terms of options;
- (h) money realized by exercise of options;
- (i) total number of options in force;
- (j) employee wise details of options granted to:
  - i. Key Managerial Personnel;
  - ii. any other employee who receives a grant of options in any one year of options amounting to 5% or more of total options granted during that year.
  - iii. identified employees who were granted options, during any one year, equal to or exceeding 1% of the issued capital (excluding outstanding warrants and conversions) of the company at the time of grant.

### **3.5 Issue of shares to trustees for benefit of employees**

A company may introduce scheme(s) for purchase/

subscription of the company's shares to be held by trustees for the benefit of employees. In such cases, where the voting rights are not exercised directly by the employees in respect of shares to which the scheme relates, the Board's Report shall disclose the following details:-

- a. the names of the employees who have not exercised the voting rights directly;
- b. the reasons for not voting directly;
- c. the name of the person who is exercising such voting rights;
- d. the number of shares held by or in favour of such employees and the percentage of such shares to the total paid up share capital of the company;
- e. the date of the general meeting in which such voting power was exercised;
- f. the resolution(s) on which votes have been cast by persons holding such voting power;
- g. the percentage of such voting power to the total voting power on each resolution;
- h. whether the votes were cast in favour of or against the resolution.

### 3.6 Issuance of any other securities which carries a right or option to convert into equity shares

During the financial year, if the company has issued any securities which carry a right or option to convert such securities into equity shares, the following disclosures should be made in the Report:

- Date of issue and allotment
- Method of allotment (QIP, FPO, GDRs, Rights, preferential, private placement etc.)
- Issue Price
- Conversion Price
- Number of equity shares to be allotted in case the option is exercised by all the holders of such securities
- Number of securities allotted to promoter group
- In case such securities are issued for consideration other than cash, a confirmation that price of such securities was determined on the basis of valuation report of a registered valuer.

### 3.7 Credit Rating

The Board's Report shall state the details of any new credit rating or revision in the rating obtained for various securities of the company during the year. In case of a downward revision in ratings, the company should also intimate the reasons provided by the rating agency for such downward revision.

## 4. MANAGEMENT

### 4.1 Directors and Key Managerial Personnel

The Report should disclose the name(s) of person(s) who have been appointed as/ceased to be Directors, including Independent Directors, and Key Managerial Personnel of the company during the year. In case of resignation of a Director during the year, such fact shall also be disclosed in the Board's Report.

Further, in case an Independent Director is re-appointed after completion of a term of five years by passing a special resolution, the Board's Report should contain a disclosure of such appointment.

Companies should also disclose names of the Directors retiring by rotation at the concerned annual general meeting and whether or not they offer themselves for re-appointment, and the names of Directors who have incurred any disqualification or who have vacated their office (during the reporting period) pursuant to the provisions of the Act or other laws.

The Board may voluntarily disclose such changes that took place after the end of the financial year but before

the date of the Report.

Systemically Important Non-Deposit taking NBFCs and Deposit taking NBFCs may state in the Board's Report that appointment / re-appointment of Directors has been done in accordance with the Policy for ascertaining fit and proper criteria of the Directors.

### 4.2 Statement on declaration by Independent Directors

The Report shall contain a statement that necessary declaration with respect to independence, as required under the Act, has been received from all the Independent Directors of the company.

### 4.3 Number of Board & Committee Meetings

The number and dates of Meetings of the Board and its Committees held during the financial year should be disclosed in the Board's Report, indicating the number of Meetings attended by each Director/Committee Member.

### 4.4 Composition of Committees and details of changes, if any

The Board's Report should disclose composition of various Committees constituted by the Board of the company and changes in their composition during the year.

The following Committees are required to be constituted by prescribed class of companies under the Act:

- (a) Audit Committee
- (b) Nomination and Remuneration Committee
- (c) Corporate Social Responsibility Committee
- (d) Stakeholders Relationship Committee

Further, in cases where the Board has not accepted any recommendation of the Audit Committee, the same shall be disclosed in the Report along with the reasons therefore.

### 4.5 Company's Policy on Director's appointment and remuneration

The prescribed class of companies shall formulate a Policy relating to the remuneration of Directors, Key Managerial Personnel and other employees and disclose the said Policy either in the Report or by way of an annexure thereto. Such Policy should be recommended by the Nomination and Remuneration Committee and approved by the Board.

The prescribed class of companies should also disclose the criteria for determining qualifications, positive attributes and independence of Directors, as approved by the Nomination and Remuneration Committee.

### 4.6 Board Evaluation

The prescribed class of companies shall include a statement in the Report indicating the manner in which formal annual evaluation has been made by the Board of its own performance and that of its Committees and individual Directors, on an annual basis. Such evaluation should be based on criteria approved by the Nomination and Remuneration Committee.

### 4.7 Details of remuneration of Directors of Listed Companies

Every Listed Company shall make the following disclosures relating to the remuneration of Directors, either in the body of the Report or by way of an annexure thereto:

- (a) The number of permanent employees on the rolls of the company;
- (b) The ratio of remuneration of each Director to the median remuneration of the employees of the company for the financial year;  
[(i) The expression "median" means the numerical value separating the higher half of a population from the lower half and the median of a finite list of numbers may be found by arranging all the observations from lowest value to highest value and picking the middle one; (ii) if there is an even number of observations, the median shall be the average of the two middle values.]
- (c) The percentage increase in remuneration of each

Director, Chief Financial Officer, Chief Executive Officer, Company Secretary or Manager, if any, in the financial year;

- (d) The percentage increase in the median remuneration of employees in the financial year;
- (e) Average percentile increase already made in the salaries of employees other than managerial personnel in the last financial year and its comparison with the percentile increase in the managerial remuneration and justification thereof and point out if there are any exceptional circumstances for increase in the managerial remuneration;
- (f) Affirmation that the remuneration is as per the remuneration policy of the company.

#### **4.8 Remuneration received by Managing / Whole time Director from holding or subsidiary company**

In case the Managing/Whole time Director of the company receives any commission from the company, he/she shall not be disqualified from receiving any remuneration or commission from the holding company or subsidiary company of such company subject to disclosure of such remuneration or commission in the Board's Report of the company.

Thus, a company should disclose in its Board's Report remuneration or commission from any holding company or subsidiary company received by Managing/Whole time Director.

#### **4.9 Directors' Responsibility Statement**

The Report shall include a Directors' Responsibility Statement which shall set out the following details:

- (a) in the preparation of the Annual Accounts, the applicable Accounting Standards have been followed along with proper explanation relating to material departures;
- (b) the Directors have selected such accounting policies and applied them consistently and made judgments and estimates that are reasonable and prudent so as to give a true and fair view of the state of affairs of the company at the end of the financial year and of the profit and loss of the company for that period;
- (c) the Directors have taken proper and sufficient care for the maintenance of adequate accounting records in accordance with the provisions of the Act for safeguarding the assets of the company and for preventing and detecting fraud and other irregularities;
- (d) the Directors have prepared the Annual Accounts on a going concern basis;
- (e) the Directors, in the case of a listed company, have laid down internal financial controls to be followed by the company and that such internal financial controls are adequate and are operating effectively; and
- (f) the Directors have devised proper systems to ensure compliance with the provisions of all applicable laws and that such systems are adequate and operating effectively.

The disclosure as stated under clause (e) above is applicable only to Listed Companies, whereas the other disclosures are applicable to all companies.

The Directors' Responsibility Statement should form part of the Report and should not be given as an Annexure to the Report.

#### **4.10 Internal financial controls**

All companies should disclose in the Board's Report, the details of internal financial controls laid in the companies with respect to the Financial Statements.

Listed Companies, in addition, should also confirm, as part of the Directors' Responsibility Statement, as to whether they have laid down internal financial controls and whether such controls are adequate and operating effectively.

#### **4.11 Disclosure regarding frauds**

If an Auditor (including Statutory Auditor, Secretarial Auditor and Cost Auditor) of a company in the course of performance of his duties as Auditor, has reason(s) to believe that an offence of fraud is being or has been committed in the company by its officers or employees, the Auditor shall report such frauds to the Audit Committee or to the Board (in cases where the company does not have an Audit Committee). Frauds involving amounts exceeding the prescribed ceilings are also required to be reported to the Central Government.

The following details of frauds reported by the Auditor (other than the frauds required to be reported to the Central Government) shall be disclosed in the Board's Report:-

- (a) Nature of Fraud with description;
- (b) Approximate amount involved;
- (c) Parties involved, if remedial action not taken; and
- (d) Remedial action taken.

If there are no frauds reported by the Auditor to the Audit Committee or to the Board, a statement to this effect may be given by the Board in the Report as a good practice.

### **5. DISCLOSURES RELATING TO SUBSIDIARIES, ASSOCIATES AND JOINT VENTURES**

#### **5.1 Report on performance and financial position of each of the subsidiaries, associates and joint ventures**

In case of companies having subsidiaries, associates and joint ventures, the Report shall contain a separate section highlighting the performance of each of the subsidiaries, associates and joint venture companies and their contribution to the overall performance of the company during the reporting period. The said separate section may be given by the companies in Form AOC-1.

#### **5.2 Companies which have become or ceased to be subsidiaries, associates and joint ventures**

During the year, if the company has acquired or formed any new subsidiary, associate or joint venture, the details of such companies should be disclosed. Similarly, if any of the subsidiary, associate or joint venture of the company has ceased to be subsidiaries, associates or joint ventures by way of sale of shares, amalgamation, winding up etc., the names of such companies should also be disclosed in the Report.

### **6. DETAILS OF DEPOSITS**

The following disclosures relating to Deposits shall be made in the Report:

- (a) details of Deposits accepted during the year;
- (b) Deposits remaining unpaid or unclaimed as at the end of the year;
- (c) whether there has been any default in repayment of Deposits or payment of interest thereon during the year and if so, the number of such cases and the total amount involved:
  - at the beginning of the year;
  - maximum during the year;
  - at the end of the year;
- (d) details of Deposits which are not in compliance with the requirements of the Act;
- (e) Details of revision, if any, in ratings assigned by credit rating agencies.

The Board's Report should also disclose the following details with respect to Deposits:

- Credit Rating obtained;
- Name of the Credit Rating Agency;
- Date on which the Credit Rating was obtained.

## 7. PARTICULARS OF LOANS, GUARANTEES AND INVESTMENTS

The Board's Report shall disclose full particulars of the loans given, investments made, guarantees given or securities provided during the year and the purpose for which the loan / guarantee / security is proposed to be utilised by the recipient of such loan/guarantee/security. A company may provide the aforesaid disclosures in the Notes to the Financial Statements and give reference thereto in the Report.

## 8. PARTICULARS OF CONTRACTS OR ARRANGEMENTS WITH RELATED PARTIES

A company shall disclose details of the following contracts/arrangements/transactions with its related parties:

- (a) contracts / arrangements / transactions with related parties which are not at arm's length; and
- (b) material contracts / arrangements / transactions with related parties which are at arm's length.

Such disclosure should be made in the prescribed Form AOC-2.

Companies may determine the materiality threshold for the purpose of clause (b) above.

For this purpose, Listed Companies may refer to the materiality threshold prescribed under SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

## 9. DISCLOSURES PERTAINING TO CORPORATE SOCIAL RESPONSIBILITY

The Board's Report of the prescribed class of companies shall disclose the details of corporate social responsibility initiatives undertaken by companies during the year.

Such disclosure should contain the following:

- (a) Brief outline of the company's CSR Policy, including overview of the projects or programs proposed to be undertaken and a reference to the web link of such Policy being put up on the website of the company.
- (b) Composition of the CSR Committee.
- (c) Average net profits of the company for the last three financial years.
- (d) Prescribed CSR expenditure [i.e. 2% of Clause (c) above].
- (e) Details of CSR spend during the financial year including total amount to be spent, amount unspent and manner in which the amount has been spent.

In case the prescribed CSR expenditure has not been made, the Board should specify the reasons for not spending the amount.

Further, the aforesaid disclosure should also contain a responsibility statement from the CSR Committee that the implementation and monitoring of the CSR Policy is in compliance with the CSR objectives and policy of the company.

The aforesaid information can be given by way of an Annexure to the Report.

## 10. DETAILS OF REMUNERATION OF EMPLOYEES

The Board's Report shall include a statement showing the names of top ten employees in terms of remuneration drawn and the name of every employee who:

- (a) if employed throughout the financial year, was in receipt of remuneration for that year which, in the

aggregate, was not less than rupees one crore and two lakh rupees;

- (b) if employed for a part of the financial year, was in receipt of remuneration for any part of that year, at a rate which, in the aggregate, was not less than rupees eight lakh fifty thousand per month;
- (c) if employed throughout the financial year or part thereof, was in receipt of remuneration in that year which, in the aggregate, is in excess of that drawn by the Managing Director or Whole-time Director or Manager and held by himself or along with his spouse and dependent children, not less than 2% of the equity shares of the company.

The aforesaid Statement should also indicate the following –

1. Designation of the employee;
2. Remuneration received;
3. Nature of employment, whether contractual or otherwise;
4. Qualifications and experience of the employee;
5. Date of commencement of employment;
6. The age of such employee;
7. The last employment held by such employee before joining the company;
8. The percentage of equity shares held by the employee in the company within the meaning of Clause (c) as stated above;
9. Whether any such employee is a relative of any Director or Manager of the company and if so, name of such Director or Manager.

The particulars of employees posted and working in a country outside India, not being Directors or their relatives, drawing more than sixty lakh rupees per financial year or five lakh rupees per month, as the case may be, as may be decided by the Board, shall not be circulated to the members in the Board's Report, but such particulars shall be filed with the Registrar of Companies while filing the Financial Statements and the Board's Report.

## 11. CONSERVATION OF ENERGY, TECHNOLOGY ABSORPTION, FOREIGN EXCHANGE EARNINGS AND OUTGO

The Report should disclose the following information:

- (a) Conservation of energy -
  - (i) the steps taken or impact on conservation of energy;
  - (ii) the steps taken by the company for utilising alternate sources of energy;
  - (iii) the capital investment on energy conservation equipments.
- (b) Technology absorption -
  - (i) the efforts made towards technology absorption;
  - (ii) the benefits derived like product improvement, cost reduction, product development or import substitution;
  - (iii) in case of imported technology (imported during the last three years reckoned from the beginning of the financial year under reference) –
    - the details of technology imported;
    - the year of import;
    - whether the technology has been fully absorbed and if not, areas where absorption has not taken place, and the reasons thereof;
  - (iv) the expenditure incurred on Research and Development.
- (c) Foreign exchange earnings and Outgo – The Foreign

Exchange earned in terms of actual inflows during the year and the Foreign Exchange outgo during the year in terms of actual outflows.

In cases where such disclosures are not applicable, the Report should contain a statement to that effect.

## 12. RISK MANAGEMENT

The Board's Report shall contain a statement indicating development and implementation of a risk management policy for the company which shall, inter alia, disclose various elements of risk, if any, which in the opinion of the Board may threaten the existence of the company and the mitigation strategies adopted by the company to handle and manage such risks.

Every company shall frame a risk management policy which should include the risk management framework and processes adopted by the company. The highlights of the said policy may be disclosed in the Report.

Listed Companies and certain classes of NBFCs are required to constitute a Risk Management Committee to monitor and review the risk management plan and process in such companies.

## 13. MATERIAL ORDERS OF REGULATORS

The company should disclose the details of significant and material orders passed by the Regulators, Courts and Tribunals impacting the going concern status of the company and its future operations.

## 14. DETAILS OF ESTABLISHMENT OF VIGIL MECHANISM

The Board's Report of prescribed class of companies shall disclose the details as to establishment of vigil mechanism in the companies. Such mechanism which shall provide for adequate safeguards against victimization of Director(s) or employee(s) or any other person who avails the mechanism and also provide for direct access to the chairperson of the Audit Committee in appropriate or exceptional cases.

The Audit Committee of such companies shall oversee the vigil mechanism. In case of companies which are not required to constitute Audit Committee, the Board shall nominate a Director to play the role of Audit Committee for the purpose of vigil mechanism to whom other Directors and employees may report their concerns.

The listed companies shall devise an effective whistle blower mechanism enabling stakeholders, including individual employees and their representative bodies, to freely communicate their concerns about illegal or unethical practices.

The Audit Committee of the listed companies shall be responsible to periodically review the functioning of this mechanism.

## 15. AUDITORS

Names of the Auditors including Statutory Auditors, Cost Auditors and Secretarial Auditors should be stated in the Report.

The name of Statutory Auditors proposed for ratification by the Members at the concerned annual general meeting and their remuneration proposed for approval of the Members should also be stated in the Report.

## 16. SECRETARIAL AUDIT REPORT

The prescribed class of companies should annex with the Board's Report, the Secretarial Audit Report which should be in Form MR-3.

## 17. EXPLANATIONS IN RESPONSE TO AUDITORS' QUALIFICATIONS

The Report should contain the information and explanations on every reservation, qualification or adverse remark contained in the:

- Statutory Auditor's Report
- Secretarial Auditor's Report

The Report shall provide explanations or comments by the Board on each such reservation, qualification or adverse remark alongwith the circumstances necessitating the such reservation, qualification or adverse remark, its likely impact on the Financial Statement and the corrective measures that are proposed to be taken.

If there are no qualifications, reservations or adverse remarks made by the Statutory Auditors/Secretarial Auditors in their respective Report, a statement to this effect may be given by the Board in the Report as a good practice.

## 18. COMPLIANCE WITH SECRETARIAL STANDARDS

The Board's Report of every company shall include a statement on compliance of Secretarial Standards.

## 19. DETAILS OF SICKNESS OF THE COMPANY

In case the company has become a sick company, the Report should provide the factors leading to such sickness and the steps proposed to be taken in this connection.

## 20. FAILURE TO COMPLETE BUY BACK

In case the company has failed to complete buy-back of its securities within the time prescribed under the Act, the Report should disclose the reasons for the same.

Similarly, the Report should also disclose the reasons for failure to implement any proposal relating to preferential allotment or failure to pay interest or redeem debentures or preference shares on the respective due date and the remedial measures taken or proposed to be taken by the company in this connection. The Report should also specify the reasons for failure, if any, to transfer dividend or shares to the Investor Education and Protection Fund and the remedial measures taken by the company.

## 21. EXTRACT OF ANNUAL RETURN

The Report of every company shall include an Extract of Annual Return in Form MGT-9. The same may be given by way of an Annexure to the Report.

The details to be disclosed in Form MGT-9 should be as on the close of the Financial Year of the company.

The company may also place a copy of the annual return on the website of the company, if any, and the web-link of such annual return may be disclosed in the Board's Report.

## 22. OTHER DISCLOSURES

22.1 The Report should state, wherever applicable, that the consolidated financial statements are also being presented in addition to the standalone financial statements of the company.

22.2 The Report should also include the following:

- (a) reasons for delay, if any, in holding annual general meeting;
- (b) key business developments during the year.
- (c) key initiatives with respect to the following
  - Stakeholders relationship;
  - Customers relationship;
  - Environment;
  - Sustainability;
  - Health and safety.

## 23. DISCLOSURES UNDER SEBI (LISTING OBLIGATIONS AND DISCLOSURE REQUIREMENTS) REGULATIONS, 2015

### 23.1 Statement of deviation(s) or variation(s)

Listed Companies are required to submit to Stock Exchanges the following statement(s) on a quarterly basis in connection with public issue, rights issue, preferential issue etc.-

- Statement indicating deviations, if any, in the use of proceeds from the objects stated in the offer document or explanatory statement to the notice for the general meeting, as applicable;
- Statement indicating category wise variation (capital expenditure, sales and marketing, working capital etc.) between projected utilisation of funds made by the company in its offer document or explanatory statement to the notice for the general meeting, as applicable and the actual utilisation of funds.

Listed companies shall also furnish explanations for the aforesaid variations in the Board's Report.

### 23.2 Management Discussion and Analysis Report

Listed Companies should prepare, as part of the Board's Report or as an addition thereto, a Management Discussion and Analysis Report which should include discussion on the following matters:

- Industry structure and developments;
- Opportunities and Threats;
- Segment wise and product wise performance;
- Outlook;
- Risks and concerns;
- Internal control systems and their adequacy;
- Discussion on financial performance with respect to operational performance;
- Material developments in Human Resources / Industrial Relations front, including number of people employed.

### 23.3 Certificate on compliance of conditions of corporate governance

Listed companies shall obtain a certificate from either the Statutory Auditors or practicing company secretaries regarding compliance of conditions of corporate governance as stipulated in the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2014 and annex the certificate with the Board's Report.

## 24. DISCLOSURES UNDER THE SEXUAL HARASSMENT OF WOMEN AT THE WORKPLACE (PREVENTION, PROHIBITION & REDRESSAL) ACT, 2013

The following details of sexual harassment cases filed, if any, in the company during the financial year, should be disclosed in the Board's Report:-

- Number of complaints of sexual harassment received in the year;
- Number of complaints disposed off during the year;
- Number of cases pending for more than ninety days;
- Number of workshops or awareness programmes carried out in connection with sexual harassment
- Remedial measures taken by the company.

## 25. ADDITIONAL DISCLOSURES PURSUANT TO DIRECTIONS OF RESERVE BANK OF INDIA

### 25.1 Systemically Important NBFCs and Deposit taking NBFCs

Systemically Important Non-Deposit taking NBFCs and Deposit taking NBFCs should make the following disclosures either in the Board's Report or in the Annual Report:

- (a) Details of all material transactions with related parties and Policy on dealing with Related Party Transactions.
- (b) All pecuniary relationship or transactions of the Non-Executive Directors vis-à-vis the company.
- (c) In connection with loans given against security of gold jewellery, details of auction conducted during the financial year including the number of loan accounts, outstanding amounts, value fetched and whether any of its sister concerns participated in the auction.
- (d) In case of issue of Perpetual Debt Instruments (PDIs), the following:
  - 1) Amount of funds raised through PDIs during the year and outstanding at the close of the financial year;
  - 2) Percentage of the amount of PDIs to the amount of its Tier I Capital;
  - 3) Financial year in which interest on PDIs has not been paid in accordance with the Lock-in clause.

Further, the aforesaid classes of NBFCs should prepare either as part of the Board's Report or as an addition thereto, a Management Discussion and Analysis Report which should include discussion on all the matters as specified in Clause 23.2 above, as applicable to Listed Companies.

### 25.2 NBFCs, Miscellaneous Non-Banking Companies and Residuary Companies

The Report should include the information on:

- (a) the total number of depositors with the company whose deposits have not been claimed by the depositors or not paid by the company after the date on which the deposit became due for repayment or renewal, as the case may be, according to the contract with the depositor or the Miscellaneous Non-Banking Companies (Reserve Bank) Directions, 2016 or the Residuary Non-Banking Companies (Reserve Bank) Directions, 2016, as applicable; and
- (b) the total amounts due under such accounts remaining unclaimed or unpaid beyond the due date for repayment;
- (c) compliance with the Residuary Non-Banking Companies (Reserve Bank) Directions, 2016, if applicable.

The said particulars or information should be furnished with reference to the position as on the last day of the financial year to which the Report relates and if the amounts remaining unclaimed or undisbursed as referred to above exceed in the aggregate Rs. 5 lakhs, there should also be included in the Report a statement on the steps taken or proposed to be taken by the Board for the repayment of the amounts due to the depositors remaining unclaimed or undisbursed.



## 26. ADDITIONAL DISCLOSURES PURSUANT TO NATIONAL HOUSING BANK DIRECTIONS

The Report should include information on:

- (a) the total number of accounts of public deposit of the housing finance company which have not been claimed by the depositors or not paid by the housing finance company after the date on which the deposit became due for repayment; and
- (b) the total amounts due under such accounts remaining unclaimed or unpaid beyond the due date for repayment.

The said information should be furnished with reference to the position as on the last date of the financial year to which the Report relates. If the amounts remaining unclaimed or undisbursed, as referred to in point (b) above, exceed in the aggregate Rs. 5 lakhs, the Report should also include a statement on the steps taken or proposed to be taken by the Board for the repayment of the amounts due to the depositors or group of joint depositors and remaining unclaimed or undisbursed.

## 27. ADDITIONAL DISCLOSURES PURSUANT TO FEMA REGULATIONS

Companies owned or controlled by non-resident entities should obtain a certificate from the Statutory Auditors on an annual basis as regards status of compliance with the instructions on downstream investment, as provided in Foreign Exchange Management (Transfer or Issue of Security by A Person Resident Outside India) (Ninth Amendment) Regulations, 2013. The fact that Statutory Auditors have certified that the company is in compliance with the aforesaid Regulations will be duly mentioned in the Board's Report of such companies.

## 28. ADDITIONAL DISCLOSURES BY PRODUCER COMPANY

The Board's Report of a Producer Company shall contain the following disclosures:

- (a) Amounts to be paid as limited return on share capital.
- (b) Amounts, if any, proposed to be disbursed as patronage bonus.

## 29. APPROVAL OF THE REPORT

The Report should be considered and approved by means of a resolution passed at a duly convened meeting of the Board. The same cannot be approved by circulation. It shall also not be dealt with in a Board meeting held through video conferencing or other audio visual means.

## 30. SIGNING AND DATING OF THE REPORT

The Report should be signed by the Chairman of the company, if any, authorised in that behalf by the Board, or, by not less than two Directors of the company, one of whom should be Managing Director, where there is one. In case the company has only one Director, the Report should be signed by the said Director.

If the Auditor's Report is available for consideration at the time of approving the Board's Report, the Board's Report

may bear the same date as that of the Auditor's Report or a later date as authorised by the Board. However, if the Auditor's Report is dated subsequent to the date of Board's Report, then the Board's Report may bear the same date or a date after the date of the Auditor's Report. The following are required to be annexed to the Board's Report:

- Particulars of prescribed contracts / arrangements with related parties in Form AOC-2. This Form shall be signed by the persons who have signed the Board's Report.
- Prescribed particulars of remuneration of Directors and employees
- Secretarial audit report for the relevant financial year in Form MR-3
- Extract of Annual Return in Form MGT-9
- Annual report on CSR activities. This Report shall be signed by Chief Executive Officer/Managing Director/Director and by the Chairman of CSR Committee.
- Policy relating to remuneration of Directors, Key Managerial Personnel and other employees.
- Prescribed details of conservation of energy, research and development, technology absorption, foreign exchange earnings and outgo
- Auditors' certificate on Corporate Governance in case of Listed Companies.

## 31. COLLECTIVE RESPONSIBILITY OF THE BOARD

- 31.1 The Report should be the collective responsibility of all the Directors though the Report may have been approved only by a majority of the Directors.
- 31.2 The Board should be collectively responsible for any statement in its Report which is materially false or for any omission of a material fact, knowing it to be material.

## 32. FILING OF THE BOARD'S REPORT

The Report alongwith the audited Financial Statements of the company should be filed with the Registrar of Companies within the prescribed time limit.

The resolution passed by the Board approving such Report shall also be filed with the Registrar of Companies.

## 33. CONSISTENCY

The Board should ensure consistency of information given in the Report, the Report on Corporate Governance and the explanatory statements to resolutions.

## 34. RIGHT OF MEMBERS TO COPIES OF REPORT

- 34.1 A copy of the Report alongwith the Financial Statements and the Auditor's Report should be sent, either physically or in electronic form, so as to reach every Member not less than 21 days before the date of the annual general meeting.
- 34.2 The Report should be supplied to each Member of the company.

The Report should also be put up on the website of the company. Every Non-Banking Financial Company, Miscellaneous Non-Banking Company and Residuary Company should deliver to the Reserve Bank of India, its audited Financial Statements together with a copy of the Board's Report.

Every Housing Finance Company should deliver to the National Housing Bank, its audited Financial Statements together with a copy of the Board's Report.

**EFFECTIVE DATE**

This Standard is effective from .....

**Annexure 1**

**Disclosures under the SEBI (Share Based Employee Benefits) Regulations, 2014**

Listed Companies shall make the following disclosures on their website with web link being disclosed in the Board's Report:

- A.** Relevant disclosures in terms of the 'Guidance note on accounting for employee share-based payments' issued by ICAI or any other relevant accounting standards as prescribed from time to time.
- B.** Diluted Earnings per Share on issue of shares pursuant to all the schemes covered under the regulations shall be disclosed in accordance with 'Accounting Standard 20 - Earnings Per Share' issued by ICAI or any other relevant accounting standards as prescribed from time to time.
- C.** Details related to Employee Stock Options Scheme(ESOS)
  - (i) A description of each ESOS that existed at any time during the year, including the general terms and conditions of each ESOS, including -
    - (a) Date of shareholders' approval
    - (b) Total number of options approved under ESOS
    - (c) Vesting requirements
    - (d) Exercise price or pricing formula
    - (e) Maximum term of options granted
    - (f) Source of shares (primary, secondary or combination)
    - (g) Variation in terms of options
  - (ii) Method used to account for ESOS - Intrinsic or fair value.
  - (iii) Where the company opts for expensing of the options using the intrinsic value of the options, the difference between the employee compensation cost so computed and the employee compensation cost that shall have been recognized if it had used the fair value of the options shall be disclosed. The impact of this difference on profits and on EPS of the company shall also be disclosed.
  - (iv) Option movement during the year (For each ESOS):

Particulars	Details
Number of options outstanding at the beginning of the period	
Number of options granted during the year	
Number of options forfeited / lapsed during the year	
Number of options vested during the year	
Number of options exercised during the year	
Number of shares arising as a result of exercise of options	
Money realized by exercise of options (INR), if scheme is implemented directly by the company	
Loan repaid by the Trust during the year from exercise price received	
Number of options outstanding at the end of the year	
Number of options exercisable at the end of the year	

- (v) Weighted-average exercise prices and weighted-average fair values of options shall be disclosed separately for options whose exercise price either equals or exceeds or is less than the market price of the stock.
- (vi) Employee wise details (name of employee, designation, number of options granted during the year, exercise price) of options granted to -
  - (a) senior managerial personnel;
  - (b) any other employee who receives a grant in any one year of option amounting to 5% or more of option granted during that year; and
  - (c) identified employees who were granted option, during any one year, equal to or exceeding 1% of the issued capital (excluding outstanding warrants and conversions) of the company at the time of grant.
- (vii) A description of the method and significant assumptions used during the year to estimate the fair value of options including the following information:
  - (a) the weighted-average values of share price, exercise price, expected volatility, expected option life, expected dividends, the risk-free interest rate and any other inputs to the model;
  - (b) the method used and the assumptions made to incorporate the effects of expected early exercise;
  - (c) how expected volatility was determined, including an explanation of the extent to which expected volatility was based on historical volatility; and
  - (d) whether and how any other features of the option grant were incorporated into the measurement of fair value, such as a market condition.

**Disclosures in respect of grants made in three years prior to IPO under each ESOS**

- (i) Until all options granted in the three years prior to the IPO have been exercised or have lapsed, disclosures of the information specified above in respect of such options shall also be made.

**D. Details related to Employee Stock Purchase Scheme (ESPS)**

- (i) The following details on each ESPS under which allotments were made during the year:
  - (a) Date of shareholders' approval
  - (b) Number of shares issued
  - (c) The price at which such shares are issued
  - (d) Lock-in period
- (ii) The following details regarding allotment made under each ESPS, as at the end of the year :

Particulars	Details
The details of the number of shares issued under ESPS	
The price at which such shares are issued	
Employee-wise details of the shares issued to;	
(i) senior managerial personnel;	
(ii) any other employee who is issued shares in any one year amounting to 5% or more shares issued during that year;	
(iii) identified employees who were issued shares during any one year equal to or exceeding 1% of the issued capital of the company at the time of issuance;	
Consideration received against the issuance of shares, if scheme is implemented directly by the company	

Loan repaid by the Trust during the year from exercise price received	
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#### E. Details related to Stock Appreciation Rights (SAR)

- (i) A description of each SAR scheme that existed at any time during the year, including the general terms and conditions of each SAR scheme, including -
- Date of shareholders' approval
  - Total number of shares approved under the SAR scheme
  - Vesting requirements
  - SAR price or pricing formula
  - Maximum term of SAR granted
  - Method of settlement (whether in cash or equity)
  - Choice of settlement (with the company or the employee or combination)
  - Source of shares (primary, secondary or combination)
- (i) Variation in terms of scheme
- (ii) Method used to account for SAR - Intrinsic or fair value.
- (iii) Where the company opts for expensing of SAR using the intrinsic value of SAR, the difference between the employee compensation cost so computed and the employee compensation cost that shall have been recognized if it had used the fair value of SAR, shall be disclosed. The impact of this difference on profits and on EPS of the company shall also be disclosed.
- (iv) SAR movement during the year (For each SAR scheme):

Particulars	Details
Number of SARs outstanding at the beginning of the year	
Number of SARs granted during the year	
Number of SARs forfeited / lapsed during the year	
Number of SARs vested during the year	
Number of SARs exercised / settled during the year	
Number of SARs outstanding at the end of the year	
Number of SARs exercisable at the end of the year	

- (v) Employee-wise details (name of employee, designation, number of SAR granted during the year, exercise price) of SAR granted to -
- senior managerial personnel;
  - any other employee who receives a grant in any one year of amounting to 5% or more of SAR granted during that year; and
  - identified employees who were granted SAR, during any one year, equal to or exceeding 1% of the issued capital (excluding outstanding warrants and conversions) of the company at the time of grant.

#### Disclosures in respect of grants made in three years prior to IPO under each SAR scheme

- (i) Until all SARs granted in the three years prior to the IPO have been exercised or have lapsed, disclosures of the information specified above in respect of such SARs shall also be made

#### F. Details related to General Employee Benefits Scheme (GEBS) / Retirement Benefits Scheme (RBS)

- (i) A description of each GEBS / RBS scheme that existed at any time during the year, including the general terms and conditions of each such scheme, including -
- Date of shareholders' approval
  - Kind of benefits to be granted under the scheme
  - Beneficiaries of the scheme
  - Total assets of the scheme
  - Quantum of holding in own shares / listed holding company shares (both absolute and in percentage)
  - Whether scheme is in compliance of regulation 26(2) / 27(3) of the regulations, as applicable
  - Variation in terms of scheme

#### G. Details related to Trust

The following details, *inter alia*, in connection with transactions made by the Trust meant for the purpose of administering the schemes under the regulations are to be disclosed:

#### (i) General information on all schemes

Sl. No.	Particulars	Details
1.	Name of the Trust	
2.	Details of the Trustee(s)	
3.	Amount of loan disbursed by company / any company in the group, during the year	
4.	Amount of loan outstanding (repayable to company / any company in the group) as at the end of the year	
5.	Amount of loan, if any, taken from any other source for which company / any company in the group has provided any security or guarantee	
6.	Any other contribution made to the Trust during the year	

#### (ii) Brief details of transactions in shares by the Trust

- Number of shares held at the beginning of the year;
- Number of shares acquired during the year through (i) primary issuance (ii) secondary acquisition, also as a percentage of paid up equity capital as at the end of the previous financial year, along with information on weighted average cost of acquisition per share;
- Number of shares transferred to the employees / sold along with the purpose thereof;
- Number of shares held at the end of the year.

#### (iii) In case of secondary acquisition of shares by the Trust

Number of shares	As a percentage of paid-up equity capital as at the end of the year immediately preceding the year in which shareholders' approval was obtained
Held at the beginning of the year	
Acquired during the year	
Sold during the year	
Transferred to the employees during the year	
Held at the end of the year	

# Proceedings of 44th National Convention

## Opening Plenary

The 44th National Convention of Company Secretaries on the theme "Powering Governance - Empowering Stakeholders: CS - The Governance Professional", commenced with a grand opening at Mahatma Mandir Convention Centre, Gandhinagar, Gujarat.

Shri Vijaybhai R. Rupani, Hon'ble Chief Minister of Gujarat graced the occasion as the Chief Guest. While inaugurating the 44th National Convention, he congratulated the ICSI for creating a massive platform to deliberate strategies and methodologies for powering Governance in order to empower Stakeholders.

Shri Rupani appreciated the Institute's initiative in this direction and said, "True empowerment of our country needs appropriate strategy to embark upon the challenges like poverty alleviation, agricultural reforms, co-operation between Centre and States, transparency, judicious delivery of services, job creation, development of infrastructure and setting up of business with ease and convenience etc. In short, the nation should be directed to empower its stakeholders along with the goal of Self Sufficient and Self Reliant India".

The companies are run by company secretaries and only when a company runs on rules and regulations, will progress. We all have one role and that is to run our organisations smoothly.

Shri Arun Jaitley, Hon'ble Minister of Finance and Corporate Affairs and Shri Suresh Prabhakar Prabhu, Hon'ble Union Minister for Railways and Shri Arjun Ram Meghwal, Hon'ble Union Minister of State for Finance and Corporate Affairs through their video message congratulated the ICSI for an enormous effort in advocating the cause of good Corporate Governance. They addressed the august gathering through aired message.

CS (Dr.) M.S. Sahoo, Chairman, The Insolvency and Bankruptcy Board of India also addressed the gathering of eminent professionals and said that, "*Company Secretaries have a pivotal role to play in areas of Insolvency and Bankruptcy*". Taking the concept of unbiased approach towards stakeholders, Dr. M. S. Sahoo, said that there is a need to have an unbiased approach which is not easy to maintain. "*It is not possible for the government to keep a tab on every activity of the number of companies and there comes the role of the CS. The CS are the professionals to whom this work has been delegated. CS are the governance professionals of the Government in each and every institution,*" added Dr. Sahoo.

"Government cannot be present inside each company like

*God cannot be present in each family. God has created mothers, similarly government has created institutes like ICSI whose members are emerging as governance professional in each company. CS can claim to be governance professionals if they are able to balance interest of all stakeholders. According to me, institutes of corporate governance are the most important institutes",* concluded Dr. Sahoo.

Shri Bimal Kumar Choudhary, MD & CEO, Anmol Biscuits Ltd., emphasised on the Role of Company Secretaries as Governance Professionals who can lead India into becoming a world leader in terms of ease of doing business.

Shri Mrugank M. Paranjape, MD & CEO, Multi Commodity Exchange of India while addressing mentioned that there is a wide range of stakeholders to cater to. This is a huge responsibility and a task that the CS have to hand.

In her presidential address, CS Mamta Binani, President, ICSI, said, "*The factual empowerment requires realization of real intents of the government's initiatives through serious involvement of citizens, focussed industrial development, promoting ease of doing business, endorsement of digital India, innovative technologies and many more. This needs well structured governance for stakeholders to come together with a view to accomplish the consolidated end through brightening means*".

"Power-driven governance is a key to empower the people of the nation and the nation as a whole. To attain the goal of powered governance and in turn the stakeholders' empowerment. The reach of such schemes among the remotest masses as well can be made possible through professionally enabled channels", she added.

"Globally, services afforded under the expertise of professionals and alike have been the greatest enabler in causing remarkable positive transformation. India's story is not different, and the utilisation of professional resources in the form of Company Secretaries and others have been seen as a game-changer", she reiterated.

Company Secretaries play a pivotal role in multi-faced functional dynamics. Their encompassing role in the varied areas like corporate governance, compliance management of laws including Company Law, Competition law, Bankruptcy and Insolvency Law, Goods and Services Tax etc. are contributing towards empowering stakeholders. Indeed, Company Secretaries have the necessary competence to handle all issues concerning governance and ensuring compliances. A facilitator of legal compliance, Company Secretaries can enable all citizens to reap the benefits of

government's schemes and initiatives in more effective and efficient manner. It will be apt to state that the role of entire professional community is more crucial and decisive in ensuring 'Powering Governance along with Empowering Stakeholders,' she further explained.

CS (Dr.) Shyam Agrawal, Vice President, ICSI introduced the theme of 44th National Convention and said, "Globally, services afforded under the expertise of professionals and alike have been the greatest enabler in causing remarkable positive transformation. India's story is not different, and the utilisation of professional resources in the form of Company Secretaries and others have been seen as a game-changer".

He said, as a professional, we should be unbiased to all stakeholders and develop the ability to work with integrity. We must have the power of decisive leadership. The theme of this convention - Powering Governance & Empowering Stakeholders -- is apt as our role is that of governance professional. He further quoted PM Narendra Modi, -- "Putting people at the centre of development process is called good governance."

CS Ashish C. Doshi, Council Member, ICSI and Chairman, 44th National Convention Organising Sub-Committee said that Company Secretaries are the professionals to guide the channelization of all Government initiatives in right direction with their competencies in Corporate Governance, Due Diligence and Legal Compliance. With the tint of proficiency of the company secretaries in taking forward these initiatives, the day is not far when these opportunities will make significant improvements in the direction of inclusive India with exclusive growth.

CS Ashish Garg, Council Member, ICSI and CS Tushar Shah, Chairman, Ahmedabad Chapter of ICSI and CS Prakash K. Pandya, Vice Chairman, WIRC of the ICSI were also present.

CS Dinesh C. Arora, Secretary, ICSI delivered the formal vote of thanks. While delivering vote of thanks, he informed the participants that, as an important initiative to profess and create international consensus for "International Corporate Governance Day" there is a necessity to bring all the nations together under one platform. Hence, the Institute is hosting 1st Global Congruence to promulgate International Corporate Governance Day on December 8-9, 2016 at Hyderabad International Convention Centre (HICC) in the pearl city of Hyderabad. He urged delegates to register and participate in the event.

#### **First Technical Session- 'Looking Glass to 2022- India at 75- Role of Professionals'**

The first technical session was on the topic 'Looking Glass to 2022- India at 75- Role of Professionals'. The session focused on the opportunities and expectations from professionals in India in the coming years and the

impact of initiatives like 'Make in India', 'Digital India' and 'Demonetisation' on economy and people. The session was chaired by Dr. Ravindra H. Dholakia, Professor, IIM- Ahmedabad and the guest speakers comprising Shri Devesh Bansal, Director, Skipper India Ltd, Shri John E Matheson, Managing Partner, IP Policy Services LLP, Shri Joy Saxena, Executive Director, Vikram Solar Pvt. Ltd, Shri Saurabh Soparkar, Senior Advocate, Gujarat High Court, Shri Yamal A Vyas, Shri S. K. Agrawala and CS Makarand M Lele, Central Council Members of Institute of Company Secretaries of India (ICSI).

Dr. Ravindra H. Dholakia spoke about how India is going through a turnaround phase and laid the emphasis on role of professionals during this period. "*From 2007 to 2016, our growth rate has been around 7% and we have not been able to accelerate which is our major failure. Now we are seeing the environment of fast change and fast reforms. It is in these times, the role of professionals is of significance as corporate governance is going to take front seat,*" added Dr. Dholakia.

In his address, Shri Devesh Bansal spoke on how recruiting professionals for particular jobs has led to evolution in many MSMEs and small businesses. "Looking at 2022, we look forward to companies which are built on processes and professionalism. A strong company secretary vertical can not only do statutory compliance but also bring in corporate governance," said Bansal.

Shri John E Matheson congratulated Prime Minister Narendra Modi on taking the bold step of demonetisation in the face of corruption. "*This sends a very strong message that there is a complete no nonsense approach towards corruption,*" said Matheson. Talking about his experiences of collaboration in India, Matheson said that if a foreign investor wants to be successful in India, it has to understand how the system works. Shri Matheson concluded by saying that CS professionals should embrace technology and step-up and lead.

Shri Joy Saxena also hailed the demonetisation move by government and said that it will lead to higher growth in next 2-3 years, GST rates will fall and the fiscal deficit will come down.

Shri Saurabh Soparkar, Senior Advocate, Gujarat High Court also threw light on the subject with his vast experience and knowledge.

The first technical session also saw release of two books- 'SEBI (LODR) Regulations, 2015 and Companies Act, 2013' and 'Guide to Transfer Pricing'.

A B2B Session was organised after the technical session. The day ended with Cultural programme which was graced by Mr. Bhumik Shah, Singer and Star cast of Gujarati Movie "Passport"

**DAY-2**

The day started with yoga session at Sabarmati River front in association with Ministry of Ayush, Government of India. The yoga session was conducted by Ms. Sangeeta Thawani, Chief Yoga Trainer, Sivananda Ashram at Sabarmati River Front, Ahmedabad.

**Special Session- Towards Meaningful Life**

Gaur Gopal Das in a very mesmerizing session – “Towards Meaningful Life” shared secrets to have a quality life. Beginning with a simple explanation that Life is a journey from B to D, i.e., from Birth to Death. In between this journey there is C- the C of choice.

It is very important to make the right choice to have a quality life. Sharing a number of stories from the real lives of people and the Holy Scriptures, he told the audience about three secrets of life that will help make right choices.

The first secret he shared is “Don’t just go through life, Grow through life”. Explaining this first secret Swami ji insisted on having a purpose in life. He said “People, who are consumed by purpose, do not have time for trivialities. Purpose helps us rise above the trivialities, situations, happenings in life that are beyond our control.” Mocking at the materialistic insight of the people today, Swami ji said that people just focus on what the others see. “People buy what they don’t need; with the money they don’t have and to show to people who anyways they hate”, he added further explaining that if you focus on what is seen by the world, you end up in stressful situations as the external growth is not in proportions to the internal growth. Any individual is facing nervous breakdown and stressful situation, he or she has not grown internally. It is exactly how if a body builder focuses only on the upper part of the body and neglects the lower part; there is a possibility of a number of health issues like slip disc and others. Thus, to have a meaningful quality life balance is very important. “Choose to grow internally as well as externally to have a sustainable life,” he explained. Questioning the audience as to why do we cry over the same issue if we cannot laugh at the same joke again and again, he highlighted how we focus on what we can’t rather than what we can. In this context, he explained how people misuse the most powerful asset, the best gift of God – the gift of free will, the gift of choice.

Situations are not in our control but the response to it is definitely under our control. “Do not react to situations, respond to situations,” saying this he put forth his **second secret** to a meaningful life – Don’t try to prove, try to improve. “Comparison is a horrible disease where we try to prove ourselves. Why not work on ourselves and give our 200 per cent. Prove, but based on your potential and not to impress under performance pressure,” said Swami ji. Now, Swami ji moved to the third secret through the word PLAN. Taking the perspective of how people react when plans do not pan out the way they should, he explained that despite

the element of extreme uncertainty, we plan years. This is the root cause of all the mental anxiousness that most people are plagued with.

Thus, the third secret – Every cloud has a silver lining. The third secret is of perspective, how we look at situations and believe that something better is there in store, waiting to unleash at the right moment. Towards the end of the session, Swami ji asked all to be content with what we have and make that better rather than cribbing over what isn’t there.

Responding to questions from the audience, Swami ji explained how he became a monk not because something someday happened but because he responded to his calling. The calling within that told him he wanted to contribute towards the, world better and more, which was not possible with the liabilities of normal social life. Towards the end of the session, he affirmed his belief on a life after death and appealed to all present to rise above the trivialities and focus on the three secrets – the keys to have a meaningful life and not just another life.

CS Atul H. Mehta and CS Satwinder Singh were also present at the dais during the session.

**Technical Session-2- ‘CEOs Speak-Emulate Governance from Corporate Leaders’**

The panel discussion on ‘**CEOs Speak-Emulate Governance from Corporate Leaders**’ on the second day of 44th National Convention focused on the needs and impact of corporate governance and role of company secretaries in it. The panel discussion was moderated by Shri Ashok Barat, Chief Operating Officer, Cyril Amarchand Mangaldas, Law Firm and guest panelists comprised of Shri Uday Khanna, Chairman, Bata India Ltd and Shri Sunil Mathur, Managing Director and Chief Executive Officer, Siemens India Ltd. CS Ranjeet K Pandey and CS V Ahalada Rao, Central Council Members of Institute of Company Secretaries of India (ICSI) were also present during the panel discussion.

Shri Ashok Barat kicked off the panel discussion by defining corporate governance which is true for any corporate like trust, society, co-operative etc. “Corporate governance has come to be defined as compliance but it is much more than that. I define corporate governance as doing the right thing, right way and being seen doing it so,” said Shri Barat. He explained that corporate governance is more than just compliance. Compliance is just external manifestation, like a thermometer to measure fitness. Corporate Governance must ensure that, all stakeholders must feel that they have been fairly treated. He said that corporate governance is a good infection to have, and spread. If organisation is governed well, it spreads to others in the eco system and all concerned including vendors, employees and others are governed well. Lastly, he said that CG is responsibility of all and not just the top management.

In his address, Shri Uday Khanna talked about how good governance and good ethics is not just good for the organization, but is good for the country and all individuals. *"If companies are governed well, it creates loyal customers. Good governance attracts better employees which in turn results in better productivity. Also well governed companies grow better than competitors. And overall it is good for country,"* said Shri Khanna. CS must grow from just legal compliance and must ensure training and moulding the culture of company. He also advised the present professionals in audience on important qualities of leadership. *"There's a saying in Rig Veda, let good thoughts come from every side. When this happens, corporate governance will be reality,"* concluded Shri Khanna.

Shri Sunil Mathur took up a case study of Siemens, as to how 4 managers of the company were booked for cartel activity, which resulted in serious introspection by the company in form of in house investigation which ended up in setting up of standard system and procedures to ensure that decisions are taken based on greater good and not based on preference of managers with no standard processes. He spoke on how his company overcame a systemic collapse. He said that the systemic failure happened because of lack of corporate governance. *"Corporate governance is now a necessity; companies can get closed down if they are not governed well. It is up to the company secretaries to keep the companies straight and narrow,"* added Shri Mathur.

### Technical Session- 3- Digital Drive- Empowering Knowledge Economy

In the wake of India being in the cusp of a digital revolution, the role of the company secretaries (CS) has gained immense criticality. It is one profession through which one can contribute more towards the society than any other profession. This upcoming dynamism in the role of the CS was well explained in the words of Shri Rajesh Sharma, Council Member (Government Nominee), ICSI. He said: *"The CS are the closest to the whole hierarchy of the top management. We are the key managerial persons amongst the board of directors. We sense for the corporate structure and therefore we are very important."*

Dynamics of the business are changing very fast. It is a complete consumer driven economy where consumer is the king. Talking on these lines, Shri Pramod Mulani – Head, Product and Digital Initiative Division, NSDCL, talked about the 4 traits of technology. Efficiency, Effectiveness, Contextuality and Entertainment. He talked how technology has empowered customers. Now customers mantra is "I want what I want when I want, where I want and so on...". Digital payments have further empowered customers.

This is a unique profession, said Shri Paroon Chadha, Co-founder & CEO of Passageways. CS is a profession that fuels the journey of this digital transformation. A transformation that when converted to numbers reflects that there will be

520 million smart phone users by 2020 and close to \$500 billion payments will flow electronically by 2020. Dynamic social media changes are changing relationships. As per the predictions, there would be as many as 200 billion apps by 2020. Tracing history we find that it took 38 years for radio to percolate down social threads and 14 years for television but if we look at the recent past, iphones did it in 3 years, Instagram in two years and the game Angry bird reached millions in just 35 days. So from decades it has become days. To be able to keep up with this fast paced growth, the CS also need to be updated. Aim towards a paperless office, be more connected through technology.

*"The recent changes in digitization are changing business and therefore, to maintain the new development in the technological tsunami, the ways have to be change"* explained CS Pavan Kumar Vijay, Managing Director, Corporate Professionals Capital Pvt Ltd & Past President, ICSI. CS Vijay in his futuristic presentation, claimed that 80% of the present CS work which is procedural in nature would be taken away by Technology in the form of Artificial Intelligence. He urged the professionals to be future ready by increasing their productivity with use of technology. He also predicted that technology and market dynamics will force merger of existing professions. He gave out the success mantra as *"Knowing is not enough, you must apply. Willing is not enough, do it. Don't be afraid of change, it leads to new beginning."*

Mr. Apurva Mehta, Commercial Attorney, Microsoft India Ltd briefed the participants about the SMAC – The New Trends in Technology & the evolving role of Compliance, Data Privacy and Risk professionals.

CS Mahavir Lunawat and CS Ramasubramaniam C. Central Council Members ICSI graced the occasion with their presence at the dais during the session.

### Technical Session- 4-Learning from the Experience of Royal Majesties

CS Mamta Binani, President ICSI introduced the guest speaker Maharao Raghbir Singhji Bahadur, Sirohi, Rajasthan. Maharao ji took the audience on a time travel and shared his experiences and memories. He gave the message that there is lot to learn from our own history.

The day ended with colourful cultural evening with performance of Gujarati folk dance 'Pangha' and cast of Comedy Factory. The event was graced by the presence of Ms. Ameesha Patel, Bollywood Actress.

### Day- 3 Run for the Cause

The day started with Run for the cause of CSBF in association with Ministry of Ayush, Government of India. Guest of Honour for the event was Shri Gautambhai Navalchand Shah, Mayor, Ahmedabad Municipal Corporation.

### Interactive Session

CS Mamta Binani, President ICSI informed about the developments made by the institute. She asked the members to interact with students who come to them for training for survival in the ruthless corporate sector. She informed that centre of excellence in Hyderabad would be coming up very soon and the Kolkata centre is expected to be coming up within two years.

Many members interacted with the council during the session. Suggestion was made that the syllabus of CS course should focus on core areas and that quality should be emphasised rather than quantity while drafting the syllabus. The concern relating to new members was raised, and it was felt that there is a need for a forum for CS in employment where their concerns could be addressed.

CS Pavan Vijay stated that the institute should have a vision plan and the institute should work towards becoming a visionary oriented institution. He also highlighted the need for investing in digital infrastructure by the institute.

During the interaction, the president candidly answered the queries of members and noted the various suggestions made.

### Technical Session 5- Enhancing Skills- Finding the Way beyond Compliance

The guest speaker, Dr. P. D. Vaghela, Commissioner, Commissionerate of Commercial Tax, Gujarat talked about GST legislation in detail and invited the Company Secretaries to practice in the area of GST.

CS (Dr.) U.K. Choudhary, Senior Advocate, Supreme Court of India & Past President ICSI, spoke about the skills to acquire. He emphasised that Compliance should be ensured in both letter and spirit. Noting the recent changes in regulatory environment, he spoke about the huge scope of representative services before NCLT and NCALT. He also spoke about the skills for presenting effectively. In representative capacity the professional should keep himself emotionally detached from the client, the professional must maintain balance equilibrium between duty to client and duty to court. He also focused on the opportunities available under the Bankruptcy code of India and advised the professionals to register themselves as Insolvency Professionals. He concluded by saying that the professional should always strive to become a good human being first and that the strength of character is the biggest strength.

Shri Gopal Krishna Agarwal (Government Nominee), Shri Vijay Kumar Jhalani (Government Nominee), CS Vineet K. Chaudhary and CS Rajiv Bajaj Central Council Members, ICSI were also present at the Dias.

### Closing Plenary

Company secretaries are the conscience keepers of

the nation, they are those professionals who protect the interest of the average shareholders and therefore are the Saarthis of Indian Businesses, mentioned by Hon'ble Union Minister for Textiles, Mrs. Smirti Zubin Irani in her address. Applauding the CS fraternity, Ms Irani said, *"These CS are those who hold up the banner of law in a business set up that entirely sustains on the profit-making model. While all focus on money, it is the CS who wave off the flag to draw attention towards the compliances."* Speaking on the role of the CS in developing the economy, the minister said that Legacy of Indian Business is entwined with Philanthropy. As per the modern concept of Philanthropy, it gives an opportunity to serve the needy. India is now an emerged nation and thus comes the responsibility. We cannot afford to be a "Jugaad Economy" and here comes the role of a CS. *"You have the power to change the small stories of women and men in remotest areas of the nation to achieve their best potentials"*.

Sharing views on the same lines, Shri Vinai Kumar Saxena, Chairman, Khadi and Village Industries Commission said as artisans are the backbone of khadi industry, CS are the backbone of Indian Businesses. Khadi is an industry where hand holding is done in the true sense and now is the time for the CS to help companies to hold hands of the khadi businesses and help them achieve their true potentials. *"The mood of the country is right and the industry that had been neglected for last two decades is now come into the mainstream,"* said Saxena appealing to the nation to buy at least one khadi cloth every year to make a difference in the lives of those artisans who are weaving the cloth in one of our villages.

Taking pride in the fact that of the 75,000 Company Secretaries across the globe, 50,000 are from India and of these 50,000, 50 per cent are women, Ms Irani reminded of the potentials of the Indian CS. She said that with the strength, another important part is the timing. The speed of governance is equally important. *"As this Mahatma Mandir – the biggest convention centre of the country was built in just 9 months; our ventures should also be time bound"*. Towards the end, the Union Minister put forth three appeals to the ICSI and the CS fraternity. First, to help those who do not understand their potential and help them optimize their economic potential. Second, we have a vision to look at corporate Governance at 75. Document what India will be in terms of business in next 5 to 15 years down the line. The third, she requested that the ICSI to prepare a document on what the corporate government looks like the face of corporate governance at 75. This will work as a visionary document or a roadmap to help achieve these visions. She also advised the institute to bring forward the stories of CS who started from the scratch and now are stalwarts. The convention concluded on a positive and enthusiastic note to propel the Indian economy from emerged to developed.

During the session, Best Regional Council and Chapter



awards for the year 2015 was declared and presented through the gracious hands of Smt. Smriti Zubin Irani, Hon'ble Union Minister of Textiles as under:

1. Best Regional Council Award was presented to Northern India Regional Council of the ICSI
2. Category wise Best Chapter Award were presented as under:

Sl. No.	Category	Name of the Chapter
1.	National Best Chapter	Hyderabad
2.	Grade A +	Hyderabad
3.	Grade A	Indore
4.	Grade B	Nagpur
5.	Grade C	Bhubaneswar
6.	Grade D	Visakhapatnam

List of Publications released during the Convention is as follows:-

1. Challenging Opportunities for Practicing Company Secretaries in Labour Laws
2. Corporate Governance Certification Under Listing Regulations: A Referencer
3. Cyber Crime: Law & Practices
4. Delisting of Equity Shares: Law and Practice
5. E-learning Module on Banking Terminology
6. Guide to Transfer Pricing

7. Handbook on Arbitration, Conciliation and Mediation
8. Independent Directors – A Handbook
9. Risk Management: A Tool for Good Corporate Governance
10. SEBI (LODR) Regulations, 2015 and Companies Act, 2013: A Comparison
11. Technical Analysis
12. ICSI Premier on Company Law
13. CS Saathi

The release of E- Book on Companies Act, 2013 and Compliance Audit Configurator (CAC) for Secretarial Audit were arranged by CS Vineet K. Chaudhary, Council Member, ICSI and Chairman, Corporate Laws and Governance during the convention. The e-book seamlessly incorporates all the Sections, rules, notifications and circulars at one place, making it most user friendly to go through the provisions of the Company law. The release of Publication ICSI Premier on Company Law was arranged by CS Ahalada Rao V., Council Member ICSI and Chairman, Research Committee. CS Mamta Binani, President, CS (Dr.) Shyam Agrawal, Vice President, CS Ashish Doshi, Council Member & Chairman Convention Organising Sub-Committee and CS Ashish Garg, Council Member & Co-Chairman Convention Organising Sub-Committee were present at the Dias during the closing plenary. The convention ended with a hearty Vote of Thanks by CS Dinesh C. Arora, Secretary ICSI.

## PLANNING FOR EFFECTIVE AND ATTRACTIVE

# WAGE STRUCTURE

A Seminar for decision makers who are splitting wages into allowances for Employees' Provident Fund contributions

Many establishments are bifurcating the wages into various allowances ignoring the dictum of the Gujarat, Madhya Pradesh and Madras High Courts holding that all allowances other than house rent allowance will form part of 'basic wages' to attract provident fund contributions. Some of such allowances include as under :

\*Special Allowance, \*City Compensation Allowance, \*Tiffin Allowance, \*Night Shift Allowance, \*Hardship Allowance, \*Supplementary Allowance, \*Punctuality Allowance, \*Attendance Allowance, \*Children Education Allowance, \*Travelling Allowance, \*Uniform Allowance, \*Washing Allowance, \*Tea Allowance, \*Canteen Allowance, \*Leave Travel Allowance, \*Milk Allowance, \*Make Up Allowance, \*Newspaper Allowance, \*Regularity Allowance, \*Suspension Allowance, \*Medical Allowance, \*Production Allowance, \*Heat Gas and Dust Allowance, \*Meal/Food Allowance, \*Overtime Allowance, \*Wellness Allowance, \*Performance Allowance, \*Field Working Allowance, \*Location Allowance, \*Compensatory Allowance, \*Cash Handling Allowance, \*Supervisory Allowance, \*Steno Typist Allowance, \*Computer Allowance, \*Conveyance Allowance, \*Area Allowance, \*Driver Allowance, \*Cycle Allowance, \*Entertainment Allowance, \* Additional allowance, \*Club Allowance, etc. etc.

[The above list is only illustrative and not exhaustive. Out of above allowances, some are being paid universally (all the employees)].

Be it known to all that the provident fund contributions can be demanded upto any past period since there is no limitation period fixed for it and the employers are held liable to pay not only employees' share of contributions, interest thereon but penal damages also.

The team of Labour Laws Institute has been surveying and collecting data from various establishments in different sectors. The participants will be enlightened by the well-known subject experts and those advocates including Mr. H.L. Kumar Author of the 'Practical Guide to Employees' Provident Funds Act, Rules & Schemes' who will be arguing the appeals in the Supreme Court wherein the judgments of the High Courts have been challenged.

This Seminar is essentially for the subscribers of the Labour Law Reporter but others can also apply. Preference will be given only to those who would be found capable of making decisions. Such valuable information from eminent experts can't be obtained even by spending for hefty consultation fee.

DATE & TIME

20<sup>th</sup> Jan., 2017 from 10 am to 5 pm  
(Registration : 9.00 am to 9.40 am)

VENUE

SCOPE, Core No.8, CGO Complex,  
Lodhi Road, New Delhi-110 003.  
(Nearest Metro Station :  
Jawahar Lal Nehru Stadium)

PARTICIPATION FEE

**For first participant Rs.5405**  
(inclusive of service tax).

**For the second participant from the same organization Rs.4830 each**  
(inclusive of service tax, written material and lunch).

PAYMENT DETAIL

Through Cheque/DD to be drawn in favour of Labour Laws Institute. The amount can be transferred/deposited in Kotak Mahindra Bank A/c No.9891110000, Branch : Lajpat Nagar-4, New Delhi-24, RTGS/NEFT/IFSC : KKBK0004589 in any branch all over India in favour of Labour Laws Institute with an intimation to us by e-mail : labourlawsinstitute@gmail.com

LABOUR LAWS INSTITUTE, A-43, Lajpat Nagar – 2, New Delhi – 110 024. Phone. : 011-29842984, 29842222.

E-Mail : labourlawsinstitute@gmail.com Website : www.labourlawsinstitute.com. Helpline No. +919891114444, +918468000000

## Developments – November 2016

### King IV report on corporate governance released, South Africa

The King Committee on Corporate Governance in South Africa and the Institute of Directors in Southern Africa (IoDSA) released the King IV report on corporate governance (King IV) on 1 November 2016.

Hailed as the first outcomes-based governance code in the world and modelled on the International Integrated Reporting Framework, King IV reduces the 75 principles contained in King III to 16 and has an additional 17th principle applicable to institutional investors.

King IV will come into effect for organisations whose financial years start on or after 1 April 2017, which means those with a year-end of 31 March 2018 will be the first to report under the new Code.

King IV builds on the foundations of King III as far as the content goes, but it introduces extensive innovations in the area of implementation. Professor Mervyn King Chairperson of the King Committee in South Africa says that the overarching objective of King IV is to make corporate governance more accessible and relevant to a wider range of organisations and to be the catalyst for a shift from a compliance-based mindset to one that sees corporate governance as a lever for value creation.

King IV has been revised to bring it up to date with international governance codes and best practice; to align it to shifts in the approach to capitalism (towards inclusive, integrated thinking across the six capitals) and to take account of specific corporate governance developments in relation to effective governing bodies, increased compliance requirements, new governance structures (e.g. Social and Ethics Committee), emerging risks and opportunities from new technologies and new reporting and disclosure requirements e.g. Integrated Reporting.

### Applicability of King IV

King IV is structured as a Report that includes a Code, with additional, separate sector supplements for SME's, NPO's, State-Owned Entities, Municipalities and Retirement Funds. The King Code contains both principles and recommended practices aimed at achieving governance outcomes. Whilst King IV is voluntary (unless prescribed by law or a stock exchange Listings Requirement) it is envisaged that it will be applicable to all organisations irrespective of their form or manner of incorporation. The King Code principles of good governance are presumed to apply, whilst the practices should be applied on a 'proportionality' basis depending on the nature, size and complexity of the organization.

There are several differences between King III and King IV, specifically but not exhaustively they are:-

- King IV is outcomes oriented. It places accountability

on the governing body (e.g. the board in companies) to attain the governance outcomes of an ethical culture, good performance and effective control within the organisation and legitimacy with stakeholders.

- King IV aims to reduce the 'tick box' or compliance approach to applying governance practices.
- King IV requires an "Apply AND Explain" approach to disclosure, as opposed to King III which was 'Apply or Explain'. This means that application of the principles is assumed and that an explanation is disclosed on the practices that have been implemented and how these support achieving the associated governance principle. The governing body can choose where and how to make its King IV disclosures which should be publically accessible. Use of cross-referencing between reports is encouraged to avoid duplication.
- King IV is more succinct than King III. It contains 16 principles applicable to all organisations, and a 17th principle applicable to institutional investors. Against the 16 principles there are 208 recommended practices, and for the 17th principle applicable to institutional investors there are an additional 6 recommended practices.
- King IV also provides 'sector' supplements to guide different types of organisations on how to apply the King IV Code within their contexts. There are five sector supplements covering — Municipalities — Non-Profit Organisations — Retirement Funds — Small and Medium Enterprises — State-owned Entities The sector supplements provide terminology in the context of King IV (e.g. how certain definitions are translated into a particular environment) and guidance on the interpretation of specific principles considered most relevant, and possibly challenging, to the sector

### For details, please visit-

<http://www.internationalaccountingbulletin.com/news/king-iv-report-on-corporate-governance-released-5654840/>

### For full report, please visit-

[https://www.michalsons.com/wp-content/uploads/2016/11/King\\_IV\\_Report\\_Final.pdf](https://www.michalsons.com/wp-content/uploads/2016/11/King_IV_Report_Final.pdf)

### Remember!!

9 December - International Anti-Corruption Day  
10 December- Human Rights Day

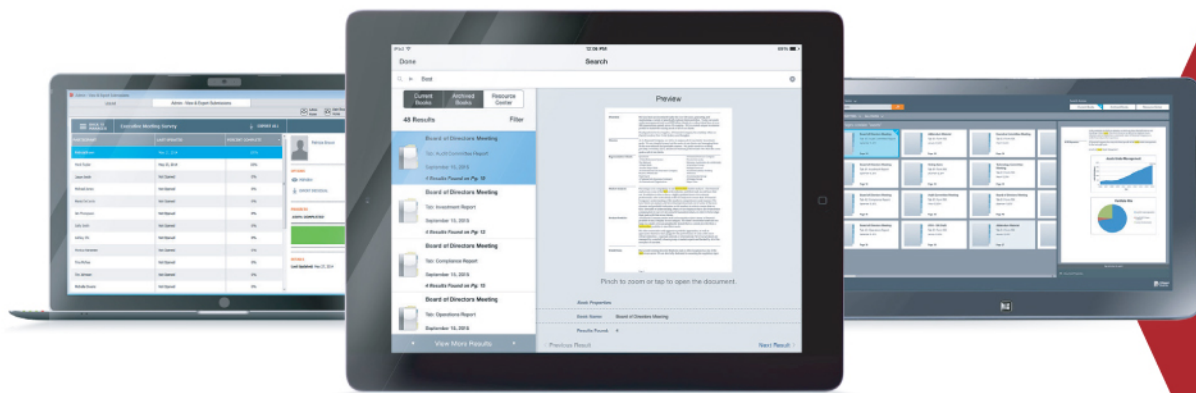
### Feedback & Suggestions

Readers may give their feedback and suggestions on this page to Ms. Banu Dandona, Joint Director, ICSI (banu.dandona@icsi.edu)

### Disclaimer:

The contents under 'Corporate Governance Corner' have been collated from different sources. Readers are advised to cross check from original sources.

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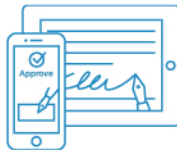


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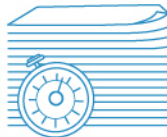
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